

AGNIESZKA WEDEŁ-DOMARADZKA*

On the Need To Protect Cemeteries and Memorials in Europe: The Perspective of the Convention on the Protection of the World Cultural and Natural Heritage and Hungarian and Polish Regulations

- **ABSTRACT:** *The issue of the protection of cemeteries and memorials is fundamental from a legal and historical perspective because it often touches on sensitive issues of complex and tragic past events. However, it is imperative that the remembrance of burial sites and memorials is nurtured and protected. This involves two aspects. The first is the personal well-being of relatives who are buried at a particular place or whose memory is cultivated at a particular place. The second concerns the sense of identity of a given people and awareness of their traditions, cultural values, and history. Therefore, it seems necessary to reflect on the extent to which international instruments, such as the Convention on the Protection of the World Cultural and Natural Heritage, support the protection of cemeteries and places of remembrance. It is also necessary to analyze the interactions between international regulations and national law solutions. Finally, it is worth considering whether this twofold nature of protection is compelling or requires the formulation of de lege ferenda conclusions for both or one of the systems.*
- **KEYWORDS:** international law, protection of the world cultural heritage, cemeteries, memorials

1. Introduction

This study addresses the legal regulations of cemeteries and memorials inscribed on the United Nations Educational, Scientific, and Cultural Organization (UNESCO) World Heritage List. The purpose of UNESCO and the list maintained

* Assistant Professor, Institute of Law and Economy, Kazimierz Wielki University in Bydgoszcz, Poland, awedel@ukw.edu.pl, ORCID: 0000-0001-8128-9536.



under its auspices is to preserve the memory of places of exceptional importance for preserving the cultural heritage of humankind. Such places include cemeteries and memorials. The former reflects the respect that most cultures have for their deaths. The manner of burial may be influenced by the religion followed, circumstances surrounding the death, cultural circle of residence of the deceased, or position held by the deceased in the community.¹ The latter, on the other hand, are evidence of the memory of tragic events associated with death and, the circumstances of that death. Two sites are on the World Heritage List: the cemetery in the present-day town of Pécs, Hungary, and the memorial site of the Auschwitz–Birkenau Camp, Poland. Their conservation status and significance are analyzed below.

2. Convention concerning the protection of the World Cultural and Natural Heritage and its relevance to the protection of cemeteries and memorials

The Convention concerning the Protection of the World Cultural and Natural Heritage was adopted at the General Conference of UNESCO.² The impulse to start work on the text was the establishment of UNESCO (*fr: Organisation des Nations Unies pour l'éducation, la science et la culture*) on 16 November 1945 acting as a successor to the League of Nations' International Committee on Intellectual Cooperation.³ UNESCO's initial objectives were 'to develop and maintain mutual understanding and appreciation of the life and culture, the arts, the humanities and the sciences of the peoples of the world, as a basis for effective international organization and world peace' and 'to co-operate in extending and in making available to all peoples for the service of common human needs the world's full body of knowledge and culture, and in assuring its contribution to the economic stability, political security, and general well-being of the peoples of the world.'⁴ Ultimately, however, it was recognized that the organization should

1 Innes, 1996, p. 61; Tokarczyk, 2000, pp. 361–363.

2 UN Educational, Scientific, and Cultural Organisation (UNESCO), Convention Concerning the Protection of the World Cultural and Natural Heritage, 16 November 1972 [Online]. Available at: <https://www.refworld.org/docid/4042287a4.html> (Accessed: 11 August 2022).

3 UNESCO, 1987. A Chronology of UNESCO, 1945–1987: Facts and events in UNESCO's history with references to documentary sources in the UNESCO Archives and supplementary information in the annexes 1-21, Document code: LAD.85/WS/4 REV [Online]. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000079049> (Accessed: 11 August 2022).

4 Conference for the Establishment of the United Nations Educational, Scientific and Cultural Organisation. Available at: the Institute of Civil Engineers, London, from the 1st to the 16th November, 1945, ECO/CONF/29, p. 1.

contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.⁵

In pursuit of this objective, UNESCO adopted a resolution in 1966,⁶ the content of which included an indication that the director-general should ensure coordination and see to it that the international community adopts appropriate principles and scientific, technical, and legal criteria for the adequate protection of cultural property, monuments, and sites. This resolution was part of the parallel initiatives of the United States of America presented at the Washington Conference to initiate international cooperation on the protection of the world's nature and landscapes, and places of historical significance for the present and future of citizens of the whole world.⁷ At the same time, these measures met with a positive response from the international community, given the earlier successful joint action taken to save the monuments of Egypt and Sudan.⁸ Similar proposals were presented at the United Nations Conference on the Human Environment in Stockholm. Furthermore, as part of the recommendations of the Action Plan for Human Environment, the need for the UN Secretary-General, the Food and Agriculture Organization, the United Nations Educational and Cultural Organization, and other interested international and regional intergovernmental and non-governmental agencies to continue initiatives and conventions to protect the world's natural resources and cultural heritage were made clear.⁹

Work on the Convention lasted several years and resulted in a welter of alternative proposals,¹⁰ from which it was finally possible to produce a single

5 Constitution of the United Nations Educational, Scientific and Cultural organisation adopted in London on 16 November 1945 and amended by the General Conference at its 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 12th, 15th, 17th, 19th, 20th, 21st, 24th, 25th, 26th, 27th, 28th, 29th, and 31st sessions, Article 1.

6 UNESCO. General Conference, 14th, 1966, 14 C/Resolutions, CFS.67/VII.4/A/F/S/R, point 3.342 [Online]. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000114048.locale=en> (Accessed: 11 August 2022).

7 Slatyer, 1983, p. 138.

8 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage [Online]. Available at: <https://whc.unesco.org/en/conventiontext/> (Accessed: 11 August 2022).

9 Report of the United Nations Conference on the Human Environment, Stockholm, 5–16 June 1972, Recommendation 98, p. 25 [Online]. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/NL7/300/05/IMG/NL730005.pdf?OpenElement> (Accessed: 11 August 2022).

10 These included Convention on Conservation of the World Heritage (IUCN), Convention Concerning the International Protection of Monuments, Groups of Buildings and Sites of Universal Value (UNESCO) and Convention on the Establishment of a World Heritage Trust (American proposition).

document based on the one prepared by UNESCO, albeit incorporating elements of other proposals. As a result, the Convention concerning the Protection of World Cultural and Natural Heritage was adopted on November 16, 1972, at a conference in Paris.

The Convention included provisions on the subject matter to be protected. This was considered an aspect of cultural heritage, which included three elements:

1. Monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, that are of outstanding universal value from the point of view of history, art, or science;
2. Groups of buildings: groups of separate or connected buildings which, because of their architecture, homogeneity, or place in the landscape, are of outstanding universal value from the point of view of history, art, or science;
3. Sites: human works or the combined works of nature and humankind, and areas including archaeological sites of outstanding universal value from the historical, aesthetic, ethnological, or anthropological points of view.¹¹

The obligation to protect heritage, which has international and national dimensions, was emphasized. The adopted regulation was also in line with the solution proposed in 1968, that the protection of heritage consisted of two systems, international and national, which should interact harmoniously.¹² The convention also included solutions to support its implementation. The first is the creation of the Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage site, which administers an inventory of properties that form part of the cultural and natural heritage. The second supportive arrangement is the Fund for the Protection of the World Cultural and Natural Heritage site, whose funds come primarily from compulsory and voluntary contributions made by the states' parties. This fund is administered by the committee, allowing a state to apply for international assistance for cultural and natural heritage assets of outstanding universal value that are located on its territory. The convention also requires states to establish educational programs to promote awareness of the convention and the objects protected by it. They must also submit periodic reviews that contain information on the legislative and administrative provisions they have adopted.

11 UNESCO, Convention Concerning the Protection of the World Cultural and Natural Heritage, Article 1.

12 Cameron and Rössler, 2016, p. 38; Final report of meeting of experts to co-ordinate, with a view to their international adoption, principles and scientific, technical and legal criteria applicable to the protection of cultural property, monuments and sites, UNESCO, Paris, 31 December 1968, SCH/CS/27/8, para. 49, point 15 [Online]. Available at: <http://whc.unesco.org/archive/1968/shc-cs-27-8e.pdf> (Accessed: 11 August 2022).

The reports must also contain information on the actions they have taken for the application of this convention, together with details of the experience acquired in this field.

It should be recognized that the World Heritage Convention contains legal solutions typical of international agreements. These solutions allow for the protection of cemeteries and memorials. Although they are not explicitly indicated as objects of protection, the definition of 'cultural heritage' is so broad that cemeteries and places of remembrance are included. Therefore, these can be protected as designated elements of the definition, such as monuments; architectural works; works of monumental sculpture and painting; elements or structures of an archaeological nature; inscriptions that are of outstanding universal value from the point of view of history, art, or science; groups of separate or connected buildings that are of outstanding universal value from the point of view of history, art, or science; and works of humankind that are of outstanding universal value from historical, aesthetic, ethnological, or anthropological points of view. Thus, national and international legal systems must provide solutions that, depending on the characteristics of the object, will be subject to protection.

3. List of UNESCO World Heritage sites and the principles of their protection vs. cemeteries and memorials

The Intergovernmental Committee for the Protection of World Cultural and Natural Heritage, which was based on the World Heritage Convention, maintains the World Heritage List, which contains sites considered world heritage. This list has been in operation since 1978.¹³ Following the provisions of the convention,¹⁴ states' parties shall prepare and submit to the committee a list of those cultural and natural heritage properties located in their territory that, in the opinion of the state concerned, merit inclusion on the list. As part of the list, the state concerned shall include information on the location of the assets and the significance. This list is referred to as a tentative list. For a property to be included in the World Heritage List, it must first be included in the tentative lists. Entry on the tentative lists is decided by the state, and the entry at this stage is not subject to verification by the international community.¹⁵

The listing rules are comprehensive and set out in the Operational Guidelines for the Implementation of the World Heritage Convention. The operational guidelines are subject to periodic updating. They emphasize, among other things, that preparing the state list should involve extensive consultation. This should be

13 Piotrowska-Nosek, 2014, Article 11, Article 12.

14 UNESCO, Convention Concerning the Protection of the World Cultural and Natural Heritage, Article 11.

15 Piotrowska-Nosek, 2014, Article 11, Article 12.

done with the participation of the parties and rights-holders, the managers of the sites submitted to the list, the local and regional authorities of the location of the object of submission, local communities, indigenous peoples, non-governmental organizations, and other stakeholders.¹⁶ Based on a list comprised of the proposals submitted by states' parties, the committee shall establish, update, and circulate a list of those it considers to be of exceptional universal value. The lists shall be updated at least every two years. An entry shall be made after verification that the property in question meets the required criteria defined by the committee. A given property must fulfill the following criteria:

1. represent a masterpiece of human creative genius;
2. exhibit an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town-planning, or landscape design;
3. bear a unique or at least exceptional testimony to a cultural tradition or to a civilization that is living or that has disappeared;
4. be an outstanding example of a type of building, architectural or technological ensemble, or landscape that illustrates a significant stages in human history;
5. be an outstanding example of a traditional human settlement, land use, or sea use that is representative of a culture (or cultures), or human interaction with the environment, especially when it has become vulnerable under the impact of irreversible change;
6. be directly or tangibly associated with events or living traditions, ideas, or beliefs with artistic and literary works of outstanding universal significance. (The committee considers that this criterion should preferably be used in conjunction with other criteria.)¹⁷

Concerning cemeteries and places of remembrance, it should be considered that they certainly fulfill the criteria shown in points 2, 3, 5, and 6, of which 6 is particularly relevant. It cannot be ruled out that cemeteries fulfill the conditions shown in point 4, particularly in the context of sepulchral art.

Where, in the opinion of the committee, a suggested property does not fulfill the conditions for inclusion on the list, the committee shall reject the application, but this shall be done without consulting the state party on whose territory the property of cultural heritage in question is located.

16 Operational Guidelines for the Implementation of the World Heritage Convention, WHC.21/01 31 July 2021, point 64 [Online]. Available at: <https://whc.unesco.org/en/world-heritage-centre> (Accessed: 11 August 2022).

17 Operational Guidelines for the Implementation of the World Heritage Convention, point 77. Four separate ones have been formulated for natural heritage, also Albert and Ringbeck, 2013, pp. 23–26.

Listed assets must also meet the condition of authenticity.¹⁸ According to the criteria formulated at the Nara Conference,¹⁹ authenticity exists when a cultural property is rooted in values. Knowledge of these values must be reliable and genuine. Protection itself must also meet the condition of ensuring that each culture recognizes the specific nature of its heritage values and that they are credible and authentic. Moreover, it is also required that cultural heritage be considered and assessed primarily in the cultural context to which it belongs. Information on the authenticity of goods can come from various sources, including different forms and designs, materials and substances, use and function, traditions and techniques, location and setting, spirit and feeling, and other internal and external factors. Another necessary condition is integrity. Determining whether a particular property meets this condition includes indicating whether the property: a) includes all elements necessary to express its outstanding universal value; b) is of adequate size to ensure the complete representation of the features and processes that convey its' significance; c) suffers from adverse effects of development and/or neglect.

This should be presented in a statement of integrity.²⁰

It is also required that the cultural asset in question be preserved in a good condition. The last required condition is to ensure that cultural assets are appropriately managed. This stewardship ensures that the conditions of integrity and authenticity that exist at the time of inscription are maintained or enhanced over time. This is fostered by regular reviews of heritage assets, long-term protection, and appropriate regulation.²¹

It should be emphasized that inscription on the World Heritage List is only possible with the consent of the country concerned. If the territory in which a potential object of protection is located is claimed by more than one state, an inscription in favor of one of the states does not prejudice the settlement of the dispute.

A separate procedure applies to the List of World Heritage Sites in Danger, which was also created by the Intergovernmental Committee for the Protection of World Cultural and Natural Heritage Sites. The list contains assets on the World Heritage List for which significant works are required, and a request for assistance has been made under the provisions of the World Heritage Convention. It contains information on the cost of relief operations and includes assets that are

18 Operational Guidelines for the Implementation of the World Heritage Convention, point 79.

19 The Nara Document on Authenticity, drafted by the 45 participants of the Nara Conference on Authenticity in Relation to the World Heritage Convention, held at Nara, Japan, from 1–6 November 1994. The Nara Conference was organized in cooperation with UNESCO, ICCROM, and ICOMOS. The World Heritage Committee examined the report of the Nara meeting on Authenticity at its 18th session, Phuket, Thailand, 1994, WHC-94/CONF.003/16.

20 Operational Guidelines for the Implementation of the World Heritage Convention, point 88.

21 Operational Guidelines for the Implementation of the World Heritage Convention, points 96 and 97.

threatened by serious and specific dangers, such as the threat of disappearance caused by accelerated deterioration, large-scale public or private projects or rapid urban or tourist development projects; destruction caused by changes in the use or ownership of the land; major alterations due to unknown causes; abandonment for any reason whatsoever; the outbreak or the threat of an armed conflict; calamities and cataclysms; serious fires, earthquakes, landslides; volcanic eruptions; changes in water level, floods and tidal waves.²²

A given property can be listed at any time in the event of an emergency or a growing threat.

When analyzing the practice of inscribing to cultural property on the World Heritage List, it should be pointed out that necropolises and memorials are not numerous. Necropolises, tombs, or cemeteries appear only a few times, and in Central and Eastern Europe one can identify the Thracian Tomb of Kazanlak and Thracian Tomb of Sveshtari in Bulgaria and Early Christian Necropolis of Pécs (Sopiana) in Hungary. It should be emphasized that only Bulgaria has reported on the tentative lists of burial sites as potentially protected in the future.²³

In the case of memorials (fr: *lieu de mémoire*), the situation is even more complicated as the World Heritage List does not use this term. The term *lieu de mémoire* applies to those significant tangible or intangible entities that, through the action of human will or the action of time, have become a symbolic element of the commemorative heritage of any community.²⁴ This term is familiar to Polish practice and international agreements concluded by Poland with countries on whose territories Polish cemeteries or places of death of Poles are located. Thus, this study strictly identifies places of remembrance with death. The Auschwitz–Birkenau concentration camp, which is now on the heritage list, is one such example. From non-European examples, one can point to the ruins left by the explosion in Hiroshima. These sites are similar in tone, drawing attention to a tremendous collective tragedy and the deaths of thousands or millions of people.

22 UNESCO, Convention Concerning the Protection of the World Cultural and Natural Heritage, Article 11, point 4, Tentative Lists [Online]. Available at: <https://whc.unesco.org/en/tentativelists/?action=listtentative&state=bg&order=states> (Accessed: 11 August 2022).

23 UNESCO, World Heritage Convention, Tentative Lists [Online]. Available at: <https://whc.unesco.org/en/tentativelists/?action=listtentative&state=bg&order=states> (Accessed: 11 August 2022).

24 Nora, 1996, p. XVII.

4. National measures to protect UNESCO-listed heritage—Hungary

The early Christian cemetery of the Roman provincial town of Sopianae (now Pécs) was declared and subsequently placed on the UNESCO heritage list from the Hungarian side. This cemetery was built in the fourth century and consists of richly decorated tombs with above-ground chapels. The assemblage represents a rich collection of structural grave monuments that reflect the diversity of cultural sources. The monument was inscribed on the World Heritage List based on the two criteria identified in the guidelines. The first is criterion three, indicating that the tomb chambers and above-ground chapels bore witnesses to the faith of the Christian communities of the late Roman Empire. The second being criterion four, indicating the unique early Christian grave art and architecture of northern and western Roman provinces. The spread of the new religion Christianity determines the uniqueness of the place as a cemetery in Pécs. This religion presupposed rebirth and promised immortality. Consequently, early Christians attached great importance to burial preparation and the burial itself. As a result, burial sites simultaneously became places of worship, which was not typical of the religions of the time.²⁵ The site combines temple and burial elements, which is also evidence of its uniqueness. It should also be noted that it represents the most significant early Christian necropolis after the Roman necropolis. Given the importance of Christianity in Europe and its continued development as the dominant religion, it was undoubtedly worth commemorating this site on the World Heritage List.

This heritage site also fulfills other indicated requirements. It is integrated as it represents 16 tombs. Their attributes and historic interrelationships were preserved. They were also authentic. They have been preserved at the place where they were found and secured using techniques available at the time of discovery. It should be emphasized that the requirements for protection and conservation management have also been met in relation to the collection of gravestone monuments. This protection includes the qualification of the cemetery as an archaeological site and appropriate legal arrangements at both national and local levels. The ownership structure varies; two grave monuments belong to the Hungarian state, thirteen to the city of Pécs, and one to the district of Baranya.

The primary document related to protecting World Heritage at the national level is Act LXXVII of 2011 on World Heritage.²⁶ This piece of legislation was enacted with a view toward the effective implementation of the said Convention and to define provisions required for preserving outstanding universal values. The content of this piece of legislation deals with world heritage areas and tentative

25 Szûcs, 2009, p. 56.

26 Act LXXVII of 2011 on World Heritage, 2011. évi LXXVII. törvény [Online]. <https://njt.hu/jogszabaly/2011-77-00-00> (Accessed: 11 August 2022).

world heritage areas, activities relating to world heritage and tentative world heritage areas, activities relating to the outstanding universal value of world heritage areas and tentative world heritage areas. The regulation also included provisions for organizations and individuals associated with world heritage and tentative world heritage areas. The conservation of World Heritage is considered a public value and is subject to the protection provided by the cooperation of state and local governmental bodies, churches, non-governmental organizations, and natural persons. It is important to note that under this legislation, World Heritage areas will be presented, used, and developed according to the following principles:

- a) the site preserving its original values, uniform landscape, embeddedness in the historical environment, and unique appearance, especially in the case of daytime and night-time sight, spatial relations, and proportions;
- b) not threatening the authenticity of the site, its intact preservation, and not damaging world heritage treasures or putting these at risk to damages;
- c) worthy alignment to the region's cultural, historical and natural values;
- d) not directly or indirectly diminishing universal and national values, causing loss of values;
- e) Maintaining an authentic function and character aligned to public interest and worthy of the World Heritage Site;
- f) ensuring access to and the opportunity to freely visit world heritage treasures.²⁷

The state's activities related to world heritage are mainly the creation and implementation of strategies for its management, monitoring of the implementation of these strategies, as well as the care of legal regulations concerning them, and reports covering the activity of local and national authorities regarding the protective measures taken. The care of world heritage at the national level is subordinated to the minister responsible for the protection of cultural heritage in agreement with ministers.²⁸ Cooperation between local and central authorities is essential from the perspective of the tasks related to the protection and management of world heritage. To this end, legislation and heritage protection management plans are reviewed at least once every seven years and harmonized. The World Heritage Protection Act also addresses financial issues. It indicates which activities are financed or financially supported by the state from the central budget. In particular, the state is financially involved in preparing heritage management plans and reviewing land use plans for World Heritage locations.

27 Article 3(4) of Act LXXVII of 2011 on World Heritage.

28 In the case of the Pécs cemetery, these are: Minister responsible for construction, Minister responsible for the use of EU funds, Minister responsible for the coordination of public administration, Minister responsible for spatial planning, Minister responsible for municipal development and planning and Minister responsible for tourism.

Consequently, it must be considered that all elements required by UNESCO are included in this act. These include the management strategy, its implementation, reporting, and the provision of resources so that these activities can have the desired effect.

5. National solutions protecting UNESCO-listed heritage—Poland

There is no Polish necropolis on the UNESCO heritage list. However, the Auschwitz–Birkenau German Nazi Concentration Camp memorial site was included. Although it is not a typical cemetery, the International Council on Monuments and Sites submitted an opinion on its inclusion in the list as part of its recommendation, stating that it is the largest cemetery in the world.²⁹ Considering that, a cemetery is a place for burying corpses, remains, or ashes, one must agree with this statement.

The Auschwitz–Birkenau camp is living proof of the conditions under which the genocide was planned and systematically carried out by Nazi Germany. It is also the main and most famous concentration camp, which was initially built as a labor camp for Poles to become a place for the systematic extermination of Jews, Roma, and Sinti. The camps (Auschwitz I and Auschwitz II–Birkenau) are proof of the cruel and inhumane treatment of the population and as living testimony to the brutal nature of the anti-Semitic and racist policies of the Nazis.

The camp's inclusion was based on only one of the eligibility criteria: criterion six. It recognized the concentration camp as a memorial to the genocide of Jews and representatives of other nationalities and as evidence of some of the greatest crimes committed against humanity. It was considered necessary to commemorate this place as a memorial to the Holocaust and racist policies, as well as a place to be passed on to future generations. Inclusion of the extermination camp on the World Heritage List caused some debate because the places that were inscribed were usually examples of positive activity, positive values, and human greatness. In this case, however, it was concluded that human heritage does not always have a positive dimension but can also have a negative dimension, and that an inscription should be made as a warning to future generations, as it were.

Making an entry also requires that other criteria be met. These criteria include integrity. Its fulfillment is supported by the fact that all the events that testify to the significance of the site for humanity took place in the territory of both camps. The Auschwitz I camp, which was the main camp, housed the camp administration and political and prisoner offices, as well as workshops. Auschwitz II–Birkenau was primarily a place for the execution of murders. Sick prisoners and those selected to be killed were gathered there. It is assumed that most prisoners

29 Conseil International des Monuments et des Sites ICOMOS, World Heritage List No 31, p. 1.

of the Auschwitz–Birkenau complex died in this camp. The camp is also considered to meet the criteria of authenticity. Authenticity stems from the fact that the entire Auschwitz–Birkenau complex has remained unchanged since the day it was liberated in 1945. The buildings, architecture, and spatial layout at Auschwitz have remained, and modifications were made only to adapt them for commemorative purposes while keeping them as unchanged as possible. The personal belongings of prisoners and other camp relics, such as documents, photographs, and survivors' messages are also housed here. In the case of Birkenau, only some of the buildings have been preserved owing to the weakness of the construction materials. However, efforts have been made to preserve and protect these materials from decay.

As part of the state's efforts to preserve the heritage of humanity, that is the Auschwitz–Birkenau camp, several legal acts have been adopted to protect it. The entire site of the camp is protected based on national heritage legislation, spatial planning, legislation dedicated to the camps, and local legislation. A museum area was established for the Auschwitz–Birkenau site. Therefore, it is subject to the Museum Act.³⁰ This act states that its purpose is

to collect and permanently protect the natural and cultural heritage of mankind of a tangible and intangible nature, to inform about the values and contents of the collected collections, to disseminate the fundamental values of Polish and world history, science and culture, to shape cognitive and aesthetic sensitivity and to enable the use of the collected collections.

The museum is subordinate to the minister responsible for cultural and national heritage protection. Following the legal solutions adopted in the act, musealia—that is, movable and immovable objects owned by the museum and entered into the inventory of musealia as well as national treasures—are subject to protection.

In addition to the Museum Act, the provisions for the Protection of the Sites of the Former Nazi Death Camps also apply to Auschwitz–Birkenau Camps.³¹ The subject of this act is the rules for protecting the sites of former Nazi extermination camps, referred to as 'extermination memorials'.³² Their protection consists of the creation of protection zones and the introduction of protection zones with special rules relating to the holding of assemblies, conduct of economic activities,

30 Act of 21 November 1996 on museums (consolidated text Journal of Laws of 2022, item 385).

31 Act of 7 May 1999 on the protection of the sites of former Nazi extermination camps (consolidated text Journal of Laws of 2015, item 2120).

32 In addition to the Auschwitz Martyrdom Memorial, the following are also protected: The Martyrdom Memorial at Majdanek, the 'Stutthof' Museum in Sztutowo, the Gross-Rosen Museum in Rogoźnica, the Mausoleum of Struggle and Martyrdom in Treblinka, the Martyrdom Museum—Camp in Chełmnonad Nerem, the Museum of the Former Death Camp in Sobibor, and the former death camp in Belzec.

construction of buildings, temporary buildings, and construction facilities, and expropriation of real estate. According to the act, the protection of extermination memorials is a public objective and a task of the government administration. Under this, a protection zone is also created around the area, which constitutes the camp. The area and boundaries of the protection zones are defined in such a way as to provide the memorial site with the necessary protection. They are defined in such a way as to be as unobtrusive as possible to third parties. A protected zone clearly indicates that the designated strip of land is protected. The protection envisaged includes issues of spatial planning, holding meetings, and conducting economic activities. Regarding spatial planning, local authorities (municipalities) are obliged to adopt a local spatial development plan for this area. This plan must be agreed upon by the minister responsible for culture and national heritage protection. With regard to the organization of assemblies on the grounds of the extermination memorial or in the protection zone, it is stipulated that they may be organized on the condition that they obtain the consent of the voivode (a local ruler or official in various parts of central and eastern Europe), issued by way of a decision. The provincial governor may delegate his/her representative to the assembly, the organization of which he/she has authorized, to control the assembly's correctness. A representative has the right to dissolve an assembly.

Regarding the conduct of business, the legal solutions are similar. It is permitted to conduct only such economic activity in the area of the extermination memorial and its zone that, to the extent necessary, protects the site from destruction or damage, ensures order and cleanliness on its territory, permanent maintenance or marking of its borders or the borders of the protective zone, and necessary service for visitors to the Memorial. The governor shall grant permission to carry out such activities by way of a decision. It should also be noted that the site of the extermination camp, as a monument, is subject to conservation protection, which means that all activities must be consulted with the Provincial Conservator of Monuments. Any administrative proceedings whose consequences could affect the extermination memorial or its protective zone must immediately (at the stage of initiation of the proceedings) be reported to the minister in charge of culture and national heritage protection. There is also an appropriate conservation policy funded by the Auschwitz–Birkenau Foundation, which is supported by states worldwide, businesses, and private individuals as well as the Polish state.

This wide-ranging protection is evidence of a serious approach to ensuring respect due to this place and to the people who suffered martyrdom, and death here. In organizational matters concerning the establishment and management of the Auschwitz–Birkenau site, appropriate legal solutions have been adopted, dividing the tasks between the government and local authorities following UNESCO guidelines. The World Heritage Committee's congratulations on the delivery and implementation of the 'Conservation Strategy for the World Heritage Site of Auschwitz–Birkenau, German Nazi Concentration and Extermination Camp

(1940–1945)’ and its assurance that the Polish state will continue to pursue this strategy are confirmation of the effectiveness of the work.³³

6. Conclusions

Given the importance of death for human beings and that most cultures and societies regard it as a sacred sphere and hold the dead in high esteem, it is surprising that many famous necropolises are absent from the World Heritage List. Some of them, such as Montmartre, Père Lachaise in Paris, Cimitero Monumentale in Madrid, Fontanelle in Naples, Merry Cemetery in Sapanta, Ross Cemetery in Vilnius, Old Powązki in Warsaw, or Szatmarcseke Cemetery, are assets of considerable architectural value and expressions of the cemeteries of a particular period. Moreover, they showed how much the community valued the deceased and tried their best to commemorate them.

Necropolises and memorials are essential for nurturing values and ensuring that mistakes and tragic events in the past are not repeated. However, this does not mean that every cemetery has to be inscribed as a memorial, especially as some of them—such as Auschwitz–Birkenau—have a symbolic value, and the committee itself considered it appropriate to restrict the inscription of other sites of a similar nature.

It should also be emphasized that cemeteries and the activities carried out in them as part of the cult of the dead may also constitute the intangible heritage of humanity. Burial sites, therefore, combine tangible elements (location, structure, appearance of gravestones, inscriptions) and intangible elements (human behavior, ways of worshipping the dead, celebration of festivals dedicated to the dead or a particular influence on culture, tradition, and preservation of memory). Consequently, these intangible elements could also be protected under the Convention for the Safeguarding of Intangible Cultural Heritage.³⁴ An example is the inclusion of non-European practices related to the Day of the Dead in Mexico (el Día de los Muertos).

Extending the list to include the indicated sites could also remedy the contemporary tendency to ignore or remove death, gravestones, and cemeteries from the public consciousness. Gardens or forests of remembrance often replace them. In many cases, they are merely places for anonymous scattering of ashes. This is probably an expression of modern people’s departure from previous cultural and religious practices.

33 Report of the Joint World Heritage Centre/ICOMOS Advisory mission to the World Heritage property ‘Auschwitz Birkenau, German Nazi Concentration and Extermination Camp (1940–1945)’ Poland, 12–14 October 2021, p. 16.

34 The Convention for the Safeguarding of the Intangible Cultural Heritage, 17 October 2003 [Online]. Available at: <https://ich.unesco.org/en/convention> (Accessed: 11 August 2022).

An analysis of legal solutions and cooperation models between central and local authorities shows that states can take adequate care of world heritage. For example, they comply with the guidelines of the World Heritage Convention, improve legal solutions, or provide adequate funding with similar models.³⁵ This indicates that the legal systems—at least of the countries analyzed—are prepared to provide adequate protection for other cemeteries or memorials for which protection could be requested in the future.

35 Wiśniewski, 2021, pp. 22, 30.

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