

**REPORT ON THE IMPLEMENTATION OF
THE 1954 HAGUE CONVENTION FOR THE PROTECTION
OF CULTURAL PROPERTY
IN THE EVENT OF ARMED CONFLICT
AND ITS TWO 1954 AND 1999 PROTOCOLS**

**REPORT ON THE ACTIVITIES
FROM 1995 TO 2004**



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INTRODUCTION

Article 26, paragraph 2, of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted at The Hague in 1954 (“Convention”), stipulates that at least every four years, the High Contracting Parties “shall forward to the Director-General a report giving whatever information they think suitable concerning any measures being taken, prepared or contemplated by their respective administrations in fulfilment of the present Convention and of the Regulations for its execution”.

Reports were received by the Director-General in 1962, 1965-1966, 1969-1970, 1977-1978, 1984, 1989 and 1995, and published in documents UNESCO/CA/RBC/1/3 and Add. 1-6, SHC/MD/1 dated 19 May 1967, SHC/MD/6 dated 30 April 1970, CC/MD/41 of July 1979, CLT/MD/3 of December 1984, CC/MD/11 of December 1989 and CLT-95/WS/13 of December 1995.

In October 1998 the Director-General again invited the High Contracting Parties to forward to him the reports referred to in Article 26 of the Convention. By 31 December 2004, the Director-General received a total of 27 reports from Argentina, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Burkina Faso, Egypt, Finland, Germany, Holy See, the Islamic Republic of Iran, Italy, Kuwait, Liechtenstein, the former Yugoslav Republic of Macedonia, Mexico, the Netherlands, Norway, Poland, Slovakia, Slovenia, Spain, Sweden, Switzerland, Thailand, Tunisia and Turkey. The summary of those reports is published in the present document, together with an overview of the Secretariat’s activities on the implementation up until 31 December 2004, the date on which this report was finalized.

I. HISTORICAL BACKGROUND

Adoption of the Convention

1. The Convention and the Protocol for the Protection of Cultural Property in the Event of Armed Conflict were adopted by an intergovernmental conference convened by the Executive Board of UNESCO in pursuance of a resolution of the General Conference. At the invitation of the Netherlands Government, this Conference met at The Hague from 21 April to 14 May 1954.

2. All Member States of UNESCO, together with a number of non-Member States, as decided by the Executive Board (33 EX/Decision 8.3.1), were invited to send delegations furnished with the necessary powers to enable them, if required, to sign international agreements. Of the 86 States thus invited, 56 were represented at the Conference.

Signature

3. The Convention and Protocol remained open for signature by all States invited to the Conference, from

14 May to 31 December 1954. By this latter date, the Convention had been signed by 50 States and the Protocol by 40 States.

Entry into force

4. In accordance with the provisions of Article 33, the Convention entered into force on 7 August 1956, that is, three months after five instruments of ratification had been deposited. It enters into force, for each State which has ratified or acceded to it, three months after the deposit of its instrument of ratification or accession. This is subject, however, to the provisions of Article 33, paragraph 3, which stipulates that ratifications and accessions shall take effect immediately when the States ratifying or acceding are parties to a conflict as defined in the Convention.

States invited to accede

5. The Convention contains a clause stipulating that from the date of its entry into force it shall be open for accession by all States invited to the Hague Conference which have not signed it, as well as by any other State invited to accede by the Executive Board. Availing itself of this clause, the Board adopted at its 53rd session a resolution inviting all States becoming Members of UNESCO which had not been invited to the Hague Conference in 1954 to accede to the Convention.

6. As at 31 December 2004, 113 States are party to the Convention and 89 of them are party to the Protocol. A list of those States, together with the dates of deposit of the instruments of ratification, accession or succession and those of entry into force is contained in the present report. Since the last periodic report (1995) on the implementation of the Convention, the following 28 States have become party to the Convention: Barbados, Bolivia, Botswana, Canada, China, Colombia, Costa Rica, Denmark, El Salvador, Equatorial Guinea, Eritrea, Honduras, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Paraguay, Portugal, Republic of Moldova, Rwanda, Serbia and Montenegro, Seychelles, South Africa, Sri Lanka, the former Yugoslav Republic of Macedonia, Uruguay, Uzbekistan and Zimbabwe; of those 28 States the following 16 States have joined the Protocol: China, Colombia, Costa Rica, Denmark, Dominican Republic, El Salvador, Honduras, Kazakhstan, Latvia, Lithuania, Panama, Paraguay, Republic of Moldova, Serbia and Montenegro, the former Yugoslav Republic of Macedonia and Uruguay. In addition, during the March 1999 Hague Diplomatic Conference on the Second Protocol to the Hague Convention, Denmark, Ireland, the United Kingdom and the United States of America announced progress towards their participation in the Convention. Of those four States, Denmark joined the Convention and the 1954 Protocol on 26 March 2003.

II. SECRETARIAT'S ACTIVITIES WITH RESPECT TO THE IMPLEMENTATION OF THE CONVENTION (1995-2003)

II.(i) GENERAL INFORMATION

International list of persons

7. Article 1 of the Regulations for the Execution of the Convention ("Regulations") provides that on the entry into force of the Convention, the Director-General "shall compile an international list consisting of all persons nominated by the High Contracting Parties as qualified to carry out the functions of Commissioner-General for Cultural Property". In accordance with this Article, the list must also be periodically revised on the basis of the requests formulated by the High Contracting Parties. Revised lists were published on 24 May 1984, 9 October 1984, 14 October 1985 and 12 September 1986. Since then no such list has been published. The review of the Convention which led to the adoption of the Second Protocol has proved the limited efficiency of the system of Commissioners-General, in particular in conflicts that are not of an international character. For this reason, the Second Protocol emphasizes the role of the Intergovernmental Committee set up under the Second Protocol to the Convention in monitoring compliance with the Convention. The question of periodic revision of the list will be submitted for consideration of the first meeting of the Committee.

8. In December 2004, the Norwegian authorities designated Mr Nils Marstein, Director-General of the Directorate for Cultural Heritage, as being qualified to carry out the functions of Commissioner-General for Cultural Property, thus replacing Dr Øivind Lunde.

International Register of Cultural Property under Special Protection

9. Article 8 of the Convention provides that subject to certain conditions, "a limited number of refuges intended to shelter movable cultural property in the event of armed conflict, of centres containing monuments and other immovable cultural property of very great importance" may be placed under special protection and that such protection is granted by their entry in the "International Register of Cultural Property under Special Protection".

10. Article 12 of the Regulations further stipulates that the Director-General shall maintain this Register and that he shall furnish copies to the Secretary-General of the United Nations and to the High Contracting Parties. Under Article 9 of the Convention, the High Contracting Parties undertake to ensure the immunity of cultural property entered in the Register by refraining from "any act of hostility directed against such property and, except for the cases provided for in paragraph 5 of Article 8, from any use of such property or its surroundings for military purposes". Article 13 of the Regulations provides that any High Contracting Party may submit an application for entry in the Register.

11. The following entries have been made on the Register in accordance with the provisions of the Convention and Regulations, namely:

- the whole of the Vatican City State, effective 11 March 1960;
- the Alt-Aussee Refuge in Upper Austria, effective 7 January 1968;
- six refuges for cultural property in the Netherlands, effective 2 July 1969;
- the Oberried Mine Drift Central Refuge in Germany, effective 26 July 1978.

12. In May 1993, the Executive Board adopted, at its 141st session 141 EX/Decision 5.5.1 inviting States Parties to both the Hague Convention and the 1972 Convention concerning the Protection of World Cultural and Natural Heritage which had sites listed on the World Heritage List to consider the possibility of nominating them for the Register. In August and September 1993, the Secretariat contacted more than 40 States which had cultural or mixed sites on the World Heritage List inviting them to register the sites for special protection under the Convention. This invitation, however, has not resulted in the entry of any cultural site in the Register.

13. In January 1994, the Netherlands authorities requested the Director-General to cancel the registration of three of the six refuges in the Register. Such cancellation was subsequently carried out in accordance with the provisions of the Convention and the Regulations. In August 2000, the Austrian authorities requested the Director-General to cancel the entry of the Alt-Aussee Refuge in Upper Austria in the Register. The entry of this Refuge in the Register was cancelled on 12 September 2000 and, in accordance with Article 16(2) of the Regulations, a certified copy of the cancellation was despatched on 26 October 2000 and the cancellation took effect on 25 November 2000. Thus, currently the Register contains one monumental complex and four refuges, situated on the territory of three High Contracting Parties.

Commemorative symposium on the fiftieth anniversary of the Hague Convention

14. On 14 May 2004, the Secretariat organized the commemorative symposium on the fiftieth anniversary of the 1954 Hague Convention with the participation of some eminent scholars in the field of international humanitarian and cultural heritage law as well as ICRC and International Committee of the Blue Shield representatives.

15. The symposium, attended by over 45 Member States, was divided into three parts: (i) the 1954 Hague Convention – the legal framework for the protection of cultural property in the event of armed conflict; (ii) the development of the legal protection of cultural property in the event of armed conflict; and (iii) the protection of cultural property in the event of armed conflict: institutional questions.

16. The symposium's proceedings will be published at a later stage and the December 2005 issue of the Museum International will cover the issue and publish some of the contributions presented at the symposium.

17. During the symposium, the United Kingdom made an official announcement stating that it intends to become party to the Hague Convention and its two 1954 and 1999 Protocols.

National meetings on the protection of cultural property in the event of armed conflict

18. A member of the Secretariat participated in the Second Partnership for Peace Workshop on the Protection of Cultural Property, organized by the Austrian Federal Ministry of Defence and the Austrian Society for the Protection of Cultural Property, held in Klagenfurt (Austria) in October 1999, aimed at harmonizing cooperation on the protection of cultural property during theoretical and practical defensive operations between military professionals and reservists with cultural property protection background.

19. A member of the Secretariat participated in the Study Day on the Protection of Cultural Property and the Evolution of the Cultural Property Protection Law, organized by the International Society for Military Law and the Law of War, which took place in Brussels (Belgium) on 27 October 2000.

20. A member of the Secretariat participated in the meeting on "Heritage under Fire: The Protection of Cultural Property in Wartime" organized by the British Red Cross (London, United Kingdom, 26 June 2001), which focused on different legal instruments for the protection of cultural property in the event of armed conflict and the need for the participation of the United Kingdom in the Convention.

21. A member of the Secretariat participated in the NATO/Partnership for Peace Seminar on the "Protection of Cultural Property in the Event of Armed Conflict – a Challenge in Peace Support Operations", organized by the Austrian Federal Ministry of Defence with the active cooperation of the Austrian Society for the Protection of Cultural Property (Bregenz, Austria, 24-28 September 2001). This Seminar provided an example of practical cooperation between military and civilian professionals in the application of the Convention in field conditions. The participants assessed ways of safeguarding local museum collections in case of armed conflict among different groups within the framework of a United Nations peacekeeping operation closely modelled on the experience of the Austrian Army in the former Yugoslavia.

22. Finally, a member of the Secretariat took part in an International Conference on the Protection of Cultural Property (Berne, Switzerland, 23-25 September 2002), organized by the Section of the Protection of Cultural Property of the Swiss Federal Office for Civil Protection under UNESCO patronage. The main purpose of the Conference, attended by more than

75 participants (mainly civil protection experts, cultural heritage professionals and international humanitarian law specialists) from over 60 countries was to discuss the implementation of Article 5 on the *Safeguarding of cultural property* of the Second Protocol to the Hague Convention and to exchange national experiences in this field.

Dissemination of the Convention and its two Protocols

23. In order to make the Convention and its two Protocols better known, the Secretariat prepared in English, French and Spanish an Information Kit on the 1954 Hague Convention and its 1954 and 1999 Protocols. The Kit was widely distributed on different occasions to target groups such as military and cultural heritage professionals as well as to the general public. It is also available on the Internet. Finally, following the publication of Professor Toman's article-by-article commentary in French in 1994, the Secretariat published the English version of the commentary in 1996 and the Spanish version in 2004. The Russian version of the commentary is under way.

24. The Czech authorities published, with UNESCO assistance, the Czech version of the leaflet on the Convention and distributed it widely within the Czech Army.

Meetings of States Parties to the Hague Convention

25. Since the second meeting of States Parties to the Hague Convention (Paris, 13 November 1995), the Secretariat has organized three other meetings of States Parties (1997, 1999 and 2001). The third and fourth meetings mainly dealt with issues related to the review of the Hague Convention while the fifth meeting essentially focused on the promotion and dissemination of the Hague Convention and its Second Protocol, national implementation of those agreements and the marking of cultural property with the distinctive emblem of the Convention. The final reports of those meetings are contained in documents. CLT-97/CONF.208/3 of November 1997, CLT-99/CONF.206/4 of December 1999 and CLT-01/CONF/204/4 of 26 November 2001.

Online availability of information

26. In order to make the information on UNESCO's conventions for the protection of cultural heritage as accessible as possible, the website of the Culture Sector includes a page on standard-setting activities which may be visited at: <http://www.unesco.org/culture/chlp>.

II.(ii) COOPERATION WITH THE UNITED NATIONS

A – General information

27. The Secretariat has been in contact with the United Nations with regard to the implementation of the Hague Convention by the United Nations peacekeeping forces and has kept the United Nations informed of UNESCO's activities. In addition, the Secretariat has

prepared a one-page list of basic principles of the Convention based mainly on Article 4 of the Convention and which can be carried in a peace-keeper's breast pocket.

28. On 6 August 1999, the Secretary-General of the United Nations issued a Bulletin on *Observance by United Nations forces of international humanitarian law*. Section 6.6 of this bulletin prohibits the United Nations forces from attacking cultural monuments and objects, archaeological sites, museums, libraries and places of worship. Furthermore, the United Nations forces are prohibited from using cultural property or their immediate surroundings for purposes which might expose them to destruction or damage. The Bulletin also prohibits theft, pillage, misappropriation, any act of vandalism and reprisals directed against cultural property.

B – The International Criminal Court

29. The June 1998 Rome Statute of the International Criminal Court establishes in Articles 8(2)(b)(ix) and 8(2)(e)(iv) its jurisdiction over intentional attack “against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives”, occurring both in international and non-international armed conflicts.

II.(iii) COOPERATION WITH THE ICRC AND OTHER INTERNATIONAL ORGANIZATIONS

30. Taking into account the interrelationship between the four 1949 Geneva Conventions for the protection of war victims and their two 1977 Additional Protocols 1977, on the one hand, and the Hague Convention and its 1954 Protocol, on the other hand, the Secretariat, jointly with the International Committee of the Red Cross (ICRC), organized a Regional Seminar on the Implementation of International Humanitarian and Cultural Heritage Law in Kathmandu (Nepal) from 19 to 23 May 1997. This Seminar was attended by the representatives of seven South Asian countries (Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka) and contributed to raising awareness of the need to implement basic agreements of international humanitarian and cultural heritage law.

31. A member of the Secretariat participated in an ICRC Expert Meeting on the National Implementation of Rules for the Protection of Cultural Property in the Event of Armed Conflict (Chavannes-de-Bogis (Geneva) from 5 to 6 October 2000), aimed at considering Draft Guidelines for the Protection of Cultural Property in the Event of Armed Conflict and proposing measures for the improvement of such protection.

32. Another joint UNESCO-ICRC regional seminar on international humanitarian and cultural heritage protection law, which brought together civil servants, scholars, cultural heritage protection specialists and

other target groups, took place in Pretoria (South Africa), from 19 to 21 June 2001. It was attended by the 14 States of the Southern Africa Development Community (SADC) (Angola, Botswana, Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe) and Madagascar. The Seminar introduced the participants to the basic instruments of international humanitarian and cultural heritage protection law, thus making them aware of rights and obligations under those instruments; encouraged States which are not yet party to those instruments to join them; and provided them with advice on the implementation of those instruments. The ICRC regional office in Pretoria has published the proceedings of the Seminar for wide distribution.

33. The Secretariat gave its moral support to the joint British Government-British Red Cross collective pledge on the fiftieth anniversary of the 1954 Hague Convention presented at the 28th International Red Cross/Crescent Conference (Geneva, Switzerland, 2-6 December 2003).

34. In addition, the Secretariat has been cooperating with the International Committee of the Blue Shield (ICBS), a coordinating body composed of representatives of the International Council on Archives, the International Council of Museums, the International Council on Monuments and Sites and the International Federation of Library Associations and Institutions. Two members of the Secretariat participated in the November 1998 ICBS Radenci (Slovenia) Seminar for Personnel Intervening following Armed Conflict or other Disasters, organized together with the International Institute for Archival Science of Slovenia, which helped to exchange experience of experts from the region.

35. A member of the Secretariat participated in the ICRC Regional Expert Meeting for Latin American Countries on the subject “To Protect Cultural Property in the Event of Armed Conflict: Implementation of International Regulations in this Field at National Level” (Peru, Lima, 13-14 May 2002). This was the second expert meeting on the protection of cultural property in the event of armed conflict organized by the ICRC; the first such meeting took place in Chavannes-de-Bogis (Geneva) on 5 and 6 October 2000. The May 2002 Lima regional expert meeting on the protection of cultural property in the event of armed conflict has contributed to better knowledge of the Convention and its Second Protocol and allowed for information-sharing and networking of cultural heritage professionals, civilian and military lawyers and civil servants of the region.

36. A member of the Secretariat participated in the ICRC international course on international humanitarian law for civil servants and representatives of academic circles whose agenda included a module on the protection of cultural property in the event of

armed conflict (Moscow, Russian Federation, 26-27 September 2002).

37. A member of the Secretariat participated in the ICRC meeting of representatives of Euro-Asian Commissions on implementation of international humanitarian law for civil servants of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Lithuania, the Republic of Moldova, the Russian Federation, Tajikistan and Ukraine (Minsk, Republic of Belarus, 19-20 June 2003). The meeting was also attended by international experts from Belgium and Slovenia. The Minsk meeting showed an increasing interest of the Community of Independent States and other post-Soviet countries in the implementation of the Second Protocol and the original Convention in different fields. It has contributed to better knowledge of the Second Protocol and the Convention and allowed for information-sharing and networking of cultural heritage professionals and civil servants of the participating countries.

38. Two members of the Secretariat participated in the International Conference of the fiftieth anniversary of the Hague Convention organized jointly by the Egyptian Commission for International Humanitarian Law, ICRC and other bodies (Cairo, 14-16 February 2004). The meeting, attended by a number of Arab countries, resulted in the adoption of the Cairo Declaration which, among other things, called upon States not yet party to the Hague Convention and its two 1954 and 1999 Protocols to join them, to promote the identification of cultural property and the preparation of national inventories of such property or to harmonize their national legislation with a view to punishing offences against cultural property.

39. A member of the Secretariat participated in the regional seminar on the fiftieth anniversary of the Hague Convention for certain Central and Latin American countries organized by ICRC (San Salvador, 21-23 June 2004). The Seminar resulted in the adoption of conclusions which, among other things, reiterated the importance of compiling national inventories of cultural property and preparing the relevant documentation, the significance of using distinctive signs for the marking of cultural property, the need to identify the relevant personnel for the protection of cultural property or the necessity of updating the relevant national legislation penalizing offences against cultural property.

40. A member of the Secretariat took part in the regional conference on the fiftieth anniversary of the Hague Convention for the Commonwealth of Independent States organized jointly by the Inter-Parliamentary Assembly of the Commonwealth of Independent States and ICRC (Saint Petersburg, Russian Federation, 14-15 October 2004). The Conference was attended by participants from Armenia, Azerbaijan, Austria, Belarus, Kyrgyzstan, Moldova, the Russian Federation, Slovenia, Tajikistan, Ukraine and Uzbekistan. The participants adopted a Declaration which, among other things, called upon the

States of the Commonwealth of Independent States not yet party to the Hague Convention and/or its two Protocols to join them, urged them to bring their national legislation in line with the provisions of the Hague Convention and its two Protocols in order to reinforce their penal aspects, invited them to establish national inventories of cultural property, called their attention to the need to mark immovable cultural property with the Convention's emblem and stressed the need for the creation of a specialized service for the protection of cultural property within armed forces.

41. Two members of the Secretariat participated in the UNESCO-ICRC Regional Expert Meeting on "The Protection of Cultural Property in the Event of Armed Conflict" (Phnom Penh, Cambodia, 6-8 December 2004). This meeting was attended by 21 States of the Asian and Pacific region (Afghanistan, Australia, Bangladesh, Bhutan, Cambodia, Democratic People's Republic of Korea, Indonesia, Islamic Republic of Iran, Japan, Lao People's Democratic Republic, Mongolia, Myanmar, Nepal, New Zealand, Philippines, People's Republic of China, Republic of Korea, Singapore, Sri Lanka, Thailand and Viet Nam). It resulted in the adoption of the final conclusions which, among other things, proposed the adoption of the necessary preparatory safeguarding measures to ensure the protection of cultural property in the event of armed conflict or other situations of emergency, including the preparation of documentation and identification of refuges for movable cultural property; proposed that immovable cultural property be considered for marking with the distinctive emblem of the Hague Convention; insisted on the training of specialized civilian and military personnel responsible for the protection of cultural property in the event of armed conflict; and called for the introduction of the IHL provisions for the protection of cultural property in the event of armed conflict into military manuals and the widest possible dissemination of the rules protecting cultural property in the event of armed conflict both within concerned target groups such as the armed forces, law enforcement officers, civil servants and cultural heritage professionals, as well as civil society as a whole.

II.(iv) SPECIFIC COUNTRY ACTIVITIES

The Federal Republic of Yugoslavia

A – General part

42. Following NATO intervention in the Federal Republic of Yugoslavia in March 1999, the Director-General issued appeals in April and again in May 1999 calling for respect of cultural property and the implementation of the Hague Convention. This position has been reiterated on a number of occasions when the Secretariat received complaints about the destruction of cultural property.

43. In March 1999 the Permanent Delegate of the Federal Republic of Yugoslavia to UNESCO requested the Secretariat to initiate the inclusion of cultural

property in Kosovo and Metohija in the International Register of Cultural Property under Special Protection. This request was repeated again in April 1999. However, in view of the contestation of the status of the Federal Republic of Yugoslavia as a party to the Hague Convention by a number of other States Parties to the Hague Convention, expressed on several occasions such as the fourth meeting of States Parties to the Hague Convention (Paris, 18 November 1999), as well as of the lack of the information required for the nomination, the request has not been the subject of action.

44. In order to clarify the status of the Federal Republic of Yugoslavia with regard to the Hague Convention, the Secretariat included this issue in the provisional agenda of the fourth meeting of States Parties to the Convention (Paris, 18 November 1999) and proposed an alternative solution of requesting, via UNESCO's General Conference, an advisory opinion of the International Court of Justice under Article X(2) of the Agreement between the United Nations and the United Nations Educational, Scientific and Cultural Organization (1946). Article X concerns *Relations with the International Court of Justice* and UNESCO is authorized to request advisory opinions of the Court on legal questions arising within the scope of its activities, provided that such a request is addressed to the Court by the General Conference or by the Executive Board acting in pursuance of an authorization by the Conference. However, the meeting of States Parties has declined this proposal.

45. In response to alarming news about the increasing destruction of cultural property in Kosovo, received from various governmental and non-governmental sources, an evaluation mission to Kosovo was undertaken in July 1999. In addition, the Secretariat has prepared a three-language leaflet in Albanian, English and Serb containing basic principles for the protection of cultural property. This leaflet, based mainly on the rules of Article 4 of the Hague Convention, is intended to raise awareness of the importance of protecting cultural heritage in Kosovo, regardless of the ethnic origin of its creators, thus contributing to the establishment of civic society in Kosovo. The leaflet has been distributed mainly through the United Nations Interim Administration Mission in Kosovo (UNMIK).

B – The International Criminal Tribunal for the former Yugoslavia (“ICTY”)

46. Following the atrocities that occurred during the armed conflicts at the moment of the break-up of the Socialist Federal Republic of Yugoslavia, the United Nations Security Council decided by its resolution 808, adopted on 22 February 1993, that an International Tribunal shall be established “for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991”.

47. Article 3(d) of the Statute of the ICTY establishes the jurisdiction of the Tribunal over violations concerning “seizure of, destruction or wilful damage done to institutions dedicated to religion, charity and education, the arts and sciences, historic monuments and works of art and science”. The ICTY Statute together with its case-law and other relevant documents is available online at <http://www.un.org/icty/index.html>.

48. The principal ICTY case-law on the *protection* of cultural property in the event of armed conflict may be summarized as follows:

In the *Blaskic* Trial Judgement (ICTY, *Prosecutor v. Tihomir Blaskic, Judgement, 3 March 2000*), the Tribunal stated, in paragraph 185, that the “damage or destruction must have been committed intentionally to institutions which may clearly be identified as dedicated to religion or education and which were not being used for military purposes at the time of the acts. In addition, the institutions must not have been in the immediate vicinity of military objectives”.

In the *Kordic* Trial Judgement (ICTY, *Prosecutor v. Durio Kordic and Mario Cerkez, Judgement, 26 February 2001*), the Tribunal dealt with the issue of the destruction or wilful damage to institutions dedicated to religion or education in paragraphs 354-362. In particular, it referred to Article 1 of the Hague Convention defining cultural property, Article 27 of the 1907 Hague Regulations and Article 53 of Additional Protocol I.

In the *Naletilic* Trial Judgement (ICTY, *Prosecutor v. Mladen Naletilic and Vinko Martinovic, Judgement, 31 March 2003*), the Chamber considered in paragraph 605 that a crime under Article 3(d) of the Statute has been committed when:

- “(i) the general requirements of Article 3 of the Statute are fulfilled;
- (ii) the destruction regards an institution dedicated to religion;
- (iii) the property was not used for military purposes;
- (iv) the perpetrator acted with the intent to destroy the property.”

Prosecutor v. Miodrag Jokic

The Trial Chamber found that the law of armed conflict criminalizes the destruction or wilful damage done to institutions dedicated to religion, charity, education, and the arts and sciences, and to historic monuments and works of art and science. The Trial Chamber considered this crime to represent a violation of values especially protected by the international community.

The Trial Chamber interpreted the Additional Protocols to the Geneva Conventions to prohibit direct attacks against “the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples”, whether or not the attacks result in actual damage. The Trial Chamber also stated that “this immunity is clearly additional to the protection attached to civilian objects.”

Trial Chamber found that, “since it is a serious violation of international humanitarian law to attack civilian buildings, it is a crime of even greater seriousness to direct an attack on an especially protected site [that was] constituted of civilian buildings and resulting in extensive destruction within the site.”

49. Article 3(d): Destruction or wilful damage done to institutions dedicated to religion

The *Strugar* Trial Chamber held that the elements of this crime are satisfied if: (1) the damage or destruction has been committed to institutions which may clearly be identified or regarded as dedicated to religion; (2) the property was not used for military purposes at the time of the acts and must not have been in the immediate vicinity of military objectives; and (3) the perpetrator acted with the intent to destroy the property.

In the cases *Strugar*, *Blaskic*, *Naletilic and Martinovic*, and *Kordic and Cerkez*, the Trial Chamber did not require pleading or proof of the nature of the armed conflict to satisfy the elements of this crime.

Afghanistan

50. Following the pillage of cultural heritage in Afghanistan resulting from conflict, notably the losses suffered by the National Museum in Kabul, the Secretariat received enquiries from art dealers, museum curators and potential purchasers regarding the provenance of certain cultural objects then on sale which might have originated in that country. The objects stolen from the Kabul Museum were entered in 2004 in the Internet database of Interpol and hence accessible to all police forces.

51. UNESCO has established contracts with the Society for the Preservation of Afghanistan’s Cultural Heritage (SPACH), the Cultural Heritage Foundation (presided by Professor Hirayama) in Japan, the Archaeological Museum in Lattes (France) and the Swiss Afghanistan Museum in Bubendorf (Switzerland) with a view to safeguarding Afghan cultural heritage. One of the main aspects of its efforts is to provide protective custody for Afghan cultural objects found on the international market and, in particular, objects stolen from museums or found during recent illicit excavations. Such objects will be returned to Afghanistan as soon as the situation permits.

52. Following the request of the Afghan authorities to UNESCO to play a coordinating role in all international activities aimed at the safeguarding of Afghanistan’s cultural heritage, UNESCO has established an International Coordination Committee, composed of Afghan and leading international experts from the most important donor countries and organizations providing funds or scientific assistance for the safeguarding of Afghanistan’s cultural heritage. The 165th session of the Executive Board of UNESCO (Paris, October 2002) approved its establishment.

53. The International Coordination Committee identified the prevention of illicit excavations and the fight against the illicit traffic in cultural property as one of its major priorities. UNESCO supports the efforts of the Afghan Government to prohibit illicit excavations and to adopt the relevant border control to prevent the illicit traffic in cultural property. The Organization is promoting already existing and developing new standard-setting instruments for the protection of cultural property and provides assistance to Afghanistan in this respect.

Azerbaijan

54. The Government of Azerbaijan has informed the Secretariat of its concern over the protection of cultural property in Nagorno-Karabakh and other occupied territories adjacent to it, and has requested the despatch of a fact-finding mission. However, the Secretariat has been prevented from sending a mission to verify the state of cultural property in the area, as other specialized agencies of the United Nations have not been able to enter these territories since their occupation by Armenian military forces. The Secretariat will reconsider sending a mission once a peaceful settlement has been reached by Armenia and Azerbaijan.

Iraq

55. For the sake of clarity, it should be emphasized that the Hague Convention was not applicable during the Iraqi conflict to the extent that two of the principal protagonists of the conflict (the United Kingdom and the United States of America) are not States Parties to it. A completely different issue is whether the fundamental principles of protecting and preserving cultural property in the event of armed conflict could also be considered part of international customary law (cf. part IV, para. 70 below).

56. As a reaction to looting of cultural property and its illicit export, the United Nations Security Council adopted on 22 May 2003 paragraph 7 of Resolution 1483 which states the following:

“7. *Decides* that all Member States shall take appropriate steps to facilitate the safe return to Iraqi institutions of Iraqi cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance illegally removed from the Iraq National Museum, the National Library, and other

locations in Iraq since the adoption of resolution 661 (1990) of 6 August 1990, including by establishing a prohibition on trade in or transfer of such items and items with respect to which reasonable suspicion exists that they have been illegally removed, and *calls upon* the United Nations Educational, Scientific, and Cultural Organization, Interpol, and other international organizations, as appropriate, to assist in the implementation of this paragraph;”

II.(v) IMPLEMENTATION OF THE 1954 PROTOCOL

57. The Secretariat has been informed of a case in one State Party to the Convention involving possible application of the 1954 Protocol. The Court established that, since no implementation legislation had been provided, the Protocol could not be relied upon in Court.

III. REVIEW OF THE CONVENTION AND ADOPTION OF THE SECOND PROTOCOL

58. The gradual change of contemporary conflicts in the past decade from interstate warfare to internal conflicts and the increasing scale of damage to cultural property have shown deficiencies in the implementation of the Convention such as the interpretation of the notion of military necessity, efficiency of the overall concept of special protection, protection of cultural property in conflicts not of an international character, efficiency of sanctions for breaches of the Convention and the control system of the Convention.

59. For this reason, at the beginning of the 1990s, the Secretariat, together with the Netherlands Government and other interested Member States, initiated a review of the Convention. Professor Patrick Boylan, Vice-Chairperson of ICOM, analysed the implementation of the Convention since 1954 and proposed practical steps for its improvement. The study, published in English and French by UNESCO in 1993 and widely distributed, contained a number of recommendations addressed to UNESCO, to the United Nations, to States Parties, as well as to non-Parties to the Convention and to the non-governmental organizations concerned. Those recommendations included various practical measures such as changes in national legislation, preventive measures to be taken in peacetime and dissemination of the provisions of the Convention within armed forces as well as new provisions to adjust to developments which had occurred since 1954.

60. To proceed further with the review of the Convention, five expert meetings (The Hague, July 1993; Lauswolt (Netherlands), February 1994; Paris, November, December 1994; Paris, March 1997; and Vienna, May 1998) and three meetings of States Parties (Paris, November 1995, 1997 and 1999, respectively) took place. The Lauswolt meeting resulted in the drafting of detailed legal provisions for an

improvement of the working of the Convention. These were considered and redrafted at the March 1997 Paris meeting and were subject to extensive discussions and comments by States Parties to the Convention as well as States not parties. The draft Second Protocol distributed before the Diplomatic Conference was substantially redrafted.

61. The main points of discussion during the review of the Convention were the following: the form of the instrument which would incorporate the new provisions; the definition of the notion of “military necessity” with regard to cultural property under general as well as special protection; improvements in the regime of special protection; sanctions for grave breaches and other violations against cultural property and other related issues such as individual criminal responsibility, responsibility of States and mutual assistance in criminal matters; improvement in the protection of cultural property in conflicts not of an international character; and establishment of a supervisory body which would monitor the implementation of the Convention and the new agreement.

62. At the meeting in Vienna in May 1998, the Netherlands authorities invited States Parties as well as States not party to the Convention to participate in a Diplomatic Conference on a supplementary instrument to the Convention scheduled to take place at The Hague from 15 to 26 March 1999.

63. Of the then current 95 States Parties, 74 participated in the work of the Conference, which was convened jointly by the Government of the Netherlands and UNESCO. Nineteen States not party to the Convention as well as Palestine were represented as Observers at the Conference. Of intergovernmental organizations, the International Committee of the Red Cross participated in the Conference. Finally, the International Committee of the Blue Shield (ICBS), a four-member non-governmental organization (representing the International Council on Archives, International Council of Museums, International Council on Monuments and Sites and International Federation of Library Associations and Institutions), also participated.

64. The Conference, at the invitation of the Chairman, Dr Adriaan Bos of the Netherlands, negotiated the provisions of the most controversial chapters in a spirit of compromise in ad hoc working groups. Following 12 days of intense work, the Conference adopted the Second Protocol to the Convention, which was signed at The Hague on 17 May 1999 by the representatives of the following 27 countries: Albania, Austria, Belgium, Cambodia, Côte d’Ivoire, Croatia, Estonia, Finland, the former Yugoslav Republic of Macedonia, Germany, Ghana, Greece, Holy See, Hungary, Indonesia, Italy, Luxembourg, Madagascar, Netherlands, Nigeria, Pakistan, Qatar, Spain, Sweden, Switzerland, Syrian Arab Republic and Yemen. This Protocol is open to participation by all States Parties to the Convention. A copy of the Second Protocol in Arabic, Chinese, English, French, Russian and Spanish together with the

list of States signatories (available in English and French) and the final report of the March 1999 Hague Diplomatic Conference (available in English and French) may be obtained from the International Standards Section of UNESCO's Division of Cultural Heritage. The Secretariat is also preparing, in English and French, the Records of the March 1999 Hague Diplomatic Conference.

65. The Second Protocol represents a considerable advance on the level of protection in the Convention in the following respects: it provides for conditions in which the notion of "military necessity" may be applied, thus preventing possible extensive interpretations or abuses; it creates a new category of enhanced protection for cultural heritage of the greatest importance for humanity which is protected by relevant national legislation and is not used for military purposes; it elaborates sanctions for serious violations against cultural property and defines conditions when individual criminal responsibility applies. Finally, a further important advance is the establishment of a 12-member Intergovernmental Committee, which will have functions related to the implementation of the Second Protocol. The Convention itself made no provision for such a body. It should be noted that the Second Protocol is supplementary to, and in no way replaces, the Convention.

66. In accordance with the terms of its Article 43(1), the Protocol enters into force three months after twenty instruments of ratification, acceptance, approval or accession have been deposited. Following the deposit of the instrument of accession by Costa Rica with the Director-General on 9 December 2003, the Costa Rican instrument being the twentieth, the Protocol entered into force three months thereafter on 9 March 2004.

67. Following Article 23(1) of the Second Protocol, the Secretariat will organize a first meeting of States Parties on the occasion of the 33rd session of the General Conference (Paris, 3-21 October 2005). The main purpose of that meeting will be to elect the Members of the Intergovernmental Committee. UNESCO will provide the secretariat for the Intergovernmental Committee, promote participation in the Convention and both Protocols and consult with States on the appropriate measures for proper performing of its functions.

68. To promote the national implementation of the Second Protocol, the Secretariat has commissioned a series of studies on different legal, military and institutional aspects of this agreement. The insert on military aspects of the Second Protocol into military manuals and the study on national implementation of Chapter 4 of the Second Protocol were finalized in 2002; the former was distributed in 2002 and the latter in 2003. Other studies are being prepared.

69. To assist Member States in better understanding the national implementation of the Second Protocol, the Secretariat commissioned an article-by-article commentary on the Second Protocol.

IV. REMARKS ON THE POSSIBLE SIGNIFICANCE OF THE HAGUE CONVENTION AND THE 1954 PROTOCOL FOR CUSTOMARY HUMANITARIAN INTERNATIONAL LAW

70. The 27th session of the General Conference of UNESCO (October-November 1993) adopted 27 C/Resolution 3.5, which among other things, stated that "the fundamental principles of protecting and preserving cultural property in the event of armed conflict could also be considered part of international customary law".

71. It should be noted that the *Report of the United Nations Secretary-General pursuant to paragraph 2 of Security Council resolution 808* (United Nations document S/25704, 3 May 1993, para. 35, p. 9) stated that "[T]he part of conventional international humanitarian law which has beyond doubt become part of international customary law is the law applicable in armed conflict as embodied in: the Geneva Conventions of 12 August 1949 for the Protection of War Victims; the Hague Convention (IV) Respecting the Laws and Customs of War on Land and the Regulations annexed thereto of 18 October 1907; the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948; and the Charter of the International Military Tribunal of 8 August 1945" [reference to footnotes omitted – the UNESCO Secretariat]. As the 1907 Regulations contain Articles 27 and 56 on the protection of cultural property, it may be argued that the above statement extends to the protection of cultural property as well.

72. In addition, Article X on "The applicability of international conventions" of "Model agreement between the United Nations and Member States contributing personnel and equipment to United Nations peace-keeping operations" (United Nations document A/46/185 of 23 May 1991) states that: "[The United Nations peace-keeping operation] shall observe and respect the principles and spirit of the general international conventions applicable to the conduct of military personnel. The international conventions referred to above include the four Geneva Conventions of the 12 August 1949 and their Additional Protocols of 8 June 1977 **and the UNESCO Convention of 14 May 1954 on the Protection of Cultural Property in the event of armed conflict** [Emphasis added – UNESCO Secretariat]. [The Participating State] shall therefore ensure that the members of its national contingent serving with [the United Nations peacekeeping operation] be fully acquainted with the principles and spirit of these Conventions".

V. UNESCO DECLARATION CONCERNING THE INTENTIONAL DESTRUCTION OF CULTURAL HERITAGE

73. Following the tragic destruction of the Buddhas of Bamiyan in March 2001, the 31st session of the General Conference (Paris, October-November 2001)

adopted 31 C/Resolution 26 inviting the Director-General to formulate, for the 32nd session of the General Conference, a “Draft Declaration concerning the Intentional Destruction of Cultural Heritage”.

74. Pursuant to this resolution, the Director-General convened in Brussels in December 2002, with the generous support of the Belgian authorities, a meeting of experts invited in their personal capacity. The meeting resulted in the adoption of a Draft Declaration concerning the Intentional Destruction of Cultural Heritage which was subsequently redrafted by the Secretariat during the 32nd session of General Conference (Paris, September-October 2003). The Declaration was finally adopted by the plenary session of the General Conference in Paris on 17 October 2003.

75. While the Declaration is not specifically focused on the protection of cultural heritage during hostilities, Part V on the *Protection of cultural heritage in the event of armed conflict, including the case of occupation* provides for the obligation of States to conduct their wartime activities in conformity with “customary international law and the principles and objectives of international agreements and UNESCO recommendations concerning the protection of such heritage during hostilities”.

76. The provision on the *Individual criminal responsibility* (VII) stresses the need for States to establish jurisdiction over, and provide effective sanctions for persons who committed or ordered to be committed acts of intentional destruction.

77. The provision on *State responsibility* (VI) provides, insofar as international law grants such responsibility, for the principle of State responsibility for the intentional destruction of cultural heritage if the State concerned either intentionally destroys or intentionally fails to prevent such destruction.

VI. NATIONAL REPORTS

MILITARY MEASURES

Article 7 of the Convention deals with the High Contracting Parties’ obligations, during times of peace, to include in their military instructions provisions which ensure the observance of the Convention and foster the spirit of respect for the cultural property of all peoples. This Article also requires that the High Contracting Parties plan, or establish within their armed forces, services or specialist personnel to secure respect for cultural property and to cooperate with the civilian authorities responsible for safeguarding it.

Austria nominated an official in charge of protection of cultural property in the Federal Ministry of Defence. It provided also for training of cadre officers in protection of cultural property by the armed forces in case of armed conflict and inclusion of the subject in the training programme of liaison officers on the basis of a decree issued in 1996. Furthermore, the

Austrian Army has prepared information material on the protection of cultural property in case of deployment and is increasingly integrating issues of cultural property protection in military exercises.

In **Belgium**, the text of the Convention has been widely disseminated among the armed forces by means of a general order, military regulations and an explanatory brochure describing the distinctive protective emblems. Furthermore, the protection of cultural property is one of the subjects taught in law courses on armed conflicts to all levels and grades in the military hierarchy during basic and further training, both for the active corps and for the reserve corps. It will also be geared to the new provisions of the Second Protocol to the Convention.

Bosnia and Herzegovina passed the *Law on Defence* in 1996. However, services within the military of the kind envisaged in Article 7 of the Convention have not yet been established, although Regulations on this point are in the process of being passed.

The military measures taken by the Ministry of Defence in **Burkina Faso** include:

- Decree No. 94-159/PRES/DEF of 28 April 1994 concerning the institution of international humanitarian law within the armed forces; and
- the establishment of an Arts and Culture Directorate within the armed forces which is responsible, *inter alia*, for the protection of cultural property in the event of armed conflict.

Egypt reiterates the need to disseminate provisions of the Convention within the military.

Finland has not yet established a separate unit within its armed forces to ensure respect for cultural property. The matter has, however, been discussed and an initial agreement reached on the training of military lawyers on questions relating to the Convention.

In **the former Yugoslav Republic of Macedonia** there is no provision which creates a service within the armed forces, although the *Defence Law* is in the process of being amended so that it will reflect the provisions of the Convention.

Germany points out that as early as 1964, the Federal Minister of Defence issued *Zentrale Dienstvorschrift (General Service Regulation) 15/9 “Kriegsvölkerrecht – Leitfaden für den Unterricht (Teil 6) – Der Schutz von Kulturgut bei bewaffneten Konflikten (Lehrschrift)”* (International Law of War – Classroom Guidelines (Part 6) – The Protection of Cultural Property in the Event of Armed Conflict (instructional material) which was available right down to unit level and at the German Armed Forces training facilities. It was replaced in August 1992 by *Zentrale Dienstvorschrift 15/2 “Humanitäres Völkerrecht in bewaffneten Konflikten – Handbuch”* (Humanitarian Law in Armed Conflicts – Manual), an overview which devotes one chapter to the protection of cultural property. This manual is the basis for training all

soldiers in international law issues and is the result of international cooperation. Government experts from 18 countries and representatives of the International Committee of the Red Cross as well as the International Institute of Humanitarian Law, San Remo, Italy, were involved in producing this publication. An English-language version is also available.

It was supplemented in August 1991 by Zentrale Dienstvorschrift 1573 “Humanitäres Völkerrecht in bewaffneten Konflikten – Textsammlung” (Humanitarian Law in Armed Conflicts – Texts and Documents) which gives soldiers and civilian employees at all command levels access to the pertinent international treaties including the Convention for the Protection of Cultural Property and the Regulations for its execution.

Cultural property lists are compiled at regional level by the Military District Commands on the basis of information provided by the civilian Cultural Heritage Protection Authorities of the Länder. Cultural property is marked on the military district maps, which show the location of several thousand objects. The maps are kept up to date and are available in all units upon request.

The German Armed Forces service publications relevant to international law are currently being updated to take account of the changes in international humanitarian law introduced by the Second Protocol of 26 March 1999 to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict.

In the **Holy See**, the Papal Armed Forces consist of the Swiss Guard. General security maintenance and the enforcement of laws, regulations and decrees are the responsibility of the Security Corps of the State of the Vatican City. A training course is provided for the Papal Swiss Guard which is aimed at making them more aware of the protection and security of movable and immovable cultural property. Instructions on this subject also form an integral part of the “Rules and Regulations of the Papal Swiss Guard” which are distributed to all members of the corps. They also receive special training in the protection of cultural property in the event of natural disaster or armed conflict. The Security Corps carry out surveillance and the maintenance of security, particularly in the context of the protection of cultural property. Candidates must pass an examination that tests, amongst other things, knowledge of the legal system of the Vatican and the location of various monuments.

In **Italy**, the “Principles of Military Discipline” formally require all servicemen to comply with the legal standards governing armed conflicts applicable under the Italian legal system, which includes the provisions of the Convention. Italy has also established – within the Carabinieri Corps – a section for the protection of the artistic heritage, attached to the Ministry of Cultural Property. The Carabinieri Corps is comprised of an institutional network located

throughout the entire national territory. In times of peace it performs regular police duties in crime prevention and control and provides military police support services for military contingents engaged in operations.

Liechtenstein has not adopted any measures concerning Article 7 of the Convention: however, it does not maintain its own military forces.

The Cultural Heritage Section of the Operational Staff of the Royal **Netherlands** Army was established in 1993. The management of the Section is in the hands of the commanding officer (a civilian/lieutenant-colonel), and seconded by a staff assistant and a civilian with an academic degree in history or art history. The management:

- designs the policy for the implementation of the Convention in cooperation with the Ministry of Foreign Affairs and the Ministry of Education, Culture and Sciences;
- advises the Commander-in-Chief and the Operational Staff on the cultural-historical backgrounds of conflicts;
- represents the Netherlands with NATO, UNESCO, ICOMOS, ICOM and other governmental or non-governmental organizations during relevant workshops or symposia
- develops a “Manual for the Protection of Cultural Heritage”.

The Section has eight research and lecture officers who are all reserve officers with the rank of major, university-trained in a specific field or geographical area and mostly connected to scientific institutions in their civilian jobs. They ensure direct and rapid access to scientifically correct information. On request, they carry out research and give “Cultural awareness” lessons at the various military training institutions. The 12 culture protection officers (reserve officers) deal with Dutch heritage and are the liaisons in the event that the army has to take action in times of calamities on Dutch territory. There is one cultural protection officer for each province. The Section organizes three meetings a year especially for these officers. These meetings are used to inform them about the latest developments in the national and international field of cultural heritage protection in the event of armed conflict and disasters.

In **Norway**, in 1997, the armed forces established a permanent Cultural Heritage Management Section which was the result of a four-year project in the Norwegian Defence Construction Service. The purpose of the project was to formulate a protection plan for the military establishments and buildings which could be classified as cultural monuments. Work is currently being done as to the means of incorporating this management strategy into wartime organizations of the armed forces, in addition to defining its tasks and determining how to manage the protected establishments during wartime.

In 1998, the Central Staff of the Armed Forces designated the environmental officers of the different units to act also as cultural heritage protection officers exercising the functions required by the Convention. The programme is still in the implementation phase as the environment officers require instruction and training.

In **Poland**, provisions ensuring the observance of the rules of international law in relation to the protection of cultural property have been included in the *Regulations of Tactical Actions of the Ground Forces* issued by the Polish Army General Staff in 1994. The Defence Ministry has also established a Cultural Property Protection Department. This specialized body, which operates on a permanent basis, coordinates actions in the field of the protection of cultural heritage in the armed forces, including the implementation of decisions resulting from the ratification of the Convention.

Special services for the protection of cultural heritage in the event of armed conflict have not yet been established in **Slovenia**. However, the Slovene Army has paid special attention to the planning of locations for military facilities, taking account of security elements and locating military sites at some distance from cultural monuments. Military facilities are also being systematically relocated away from historical city centres to the outskirts and the suburbs. Moreover, many former military facilities have been subject to a change in function and are used for cultural and similar activities. This involves the renovation and adaptation of former military buildings as museums, libraries, cultural centres, galleries, archives and secondary school centres. The majority of border watch posts have been transformed into mountain huts, recreation centres for disabled children, or cultural centres in border areas.

In **Spain**, *Law 85/1978* prescribes moral standards for the military and expressly stipulates that during combat the military shall, *inter alia*, show respect for buildings of religious, cultural or artistic character, provided that they are not being used for military purposes. The "Guidelines: The Law of Armed Conflict" which are for the internal use of the military recognize and emphasize the special protected nature of cultural property during armed conflict and the limitations which must be observed in relation to it (i.e. abstaining from directing hostile acts against such property, or using it or the immediate vicinity as a base for military operations, and restrictions on the application of the principle of military necessity). In addition, *Royal Decree 111/1986* has instituted a special group for the protection of Spanish heritage as part of the General Directorate of Police. There is, however, neither a service nor specialist personnel in the armed forces responsible for respecting and safeguarding cultural property.

In **Sweden**, education in international humanitarian law is conducted at all levels of the Swedish Armed Forces. In addition, within their organization, they have

access to international legal advisers, both in peacetime and in the event of armed conflict.

SPECIAL PROTECTION

Article 8 of the Convention deals with the granting of special protection to a limited number of refuges intended to shelter cultural property in the event of armed conflict, of centres containing monuments and other immovable cultural property of very great importance, providing that certain conditions are satisfied.

Azerbaijan informs the Secretariat that at the present time, the plan to build refuges for the protection of movable property is being held up due to financial difficulties and the difficult conditions laid down in Article 8 of the Convention. This problem will be solved following the establishment of a national advisory committee for the implementation of the Convention.

Belgium announces that special protection has been requested neither for refuges for movable cultural property nor for centres containing monuments and other immovable cultural property on its territory. It states that the ambiguities and the shortcomings in the provision of the Convention in this matter have obviously been an obstacle which the Second Protocol should, however, help to overcome. Nevertheless, Belgium stresses the fact that the sites inscribed on the World Heritage List should enjoy priority protection in the event of armed conflict. Finally, it states that the authorities concerned are considering how to implement the provisions laid down in the Second Protocol, particularly with regard to enhanced protection.

The Commission for the Protection of National Monuments in **Bosnia and Herzegovina**, which was established in accordance with Annex 8 of the Dayton Agreements, has not yet completed a list of cultural property to be placed under special protection. An assessment, however, of cultural property in Bosnia and Herzegovina is under way and will be submitted for inclusion in the list.

Since the beginning of 1999, the **Finnish** National Board of Antiquities has:

- established a network of authorities for the implementation of the Convention;
- drawn up a preliminary list of cultural property for general protection (which includes built-up areas, individual buildings, archaeological sites and movable cultural collections);
- prepared the information systems required for their protection; and
- proposed cultural property requiring special protection.

Finland intends to request the inclusion of six sites for special protection. Two concern the protection of moveable cultural property and the other four are immovable World Heritage Sites. Also, Finland intends

to prepare an inventory of cultural property for future special protection and to secure the protection of those sites, in addition to drafting guidelines for the care and protection of cultural property.

In accordance with the Constitution of **the former Yugoslav Republic of Macedonia**, objects and buildings of particular cultural and historic importance are properties of general interest and enjoy special protection. The State guarantees the protection, advancement and enhancement of the historical and artistic wealth of the Macedonian people as well as the property of which it is comprised. The protection of immovable and movable cultural property is regulated by the Ministry of Culture in a number of laws in accordance with international conventions, including the Hague Convention. The *Law on the Protection of the Monuments of Culture* provides special protection for cultural property including monuments and movable and immovable objects which have artistic, scientific and other significant value.

The State Institute for the Protection of Monuments of Culture keeps a central Registry of all monuments in the former Yugoslav Republic of Macedonia which are deemed to have the attributes of a monument of culture. In addition, the State Institute and the Ministry of Culture of **the former Yugoslav Republic of Macedonia** are in the process of preparing measures for the protection of cultural property in the event of war and which will be incorporated into existing legislation.

When the Vatican City in the **Holy See** was entered in the International Register of Cultural Property under Special Protection, Saint Peter's Basilica, the Papal Palace including the museums and the Secret Archives and the Papal Library were identified as its "principal cultural property". A suitable surveillance system has been adopted to protect the entire territory and the monuments included in the "principal cultural property"; special peacetime precautions also have been taken which could be effective in the event of an armed conflict in the vicinity of the Vatican. They include:

- internal radio and telephone communication systems;
- video surveillance;
- electronic alarm and security systems;
- fire detection systems;
- training for security guards (including detection of explosive devices, surveillance and training techniques, fire prevention and control, and first aid);
- restoring and micro-filming entire sets of texts from the Secret Archives and the Papal Library;
- workshops on the preservation, restoration and reproduction of seals; and
- establishing a digitized database of over 60,000 images which would allow the electronic restoration of illuminated manuscripts and miniature codices.

In the **Islamic Republic of Iran**, the Technical/Engineering Subcommittee of the National Advisory Committee deals with safeguarding cultural property. In 1999, the Subcommittee met with armed forces personnel to prioritize the recording of cultural and historic monuments and sites for special protection. Steps have also been taken by cultural heritage officers of border provinces towards the preparation of a list of cultural and historical monuments and sites with a view to making an application for special protection. The Subcommittee has prepared a project for the evacuation and prevention of new constructions in the vicinity of cultural and historical sites. The designation and creation of regional public shelters capable of housing cultural property is also being undertaken.

Liechtenstein has not placed any item of its cultural property under special protection. However, this aspect will be considered along with the ongoing reorganization within the Unit for Cultural Property.

In the **Netherlands** current operations are focusing on:

- further integration into existing general disaster relief schemes of the operational activities concerning the protection of cultural property in emergencies; and
- re-evaluation of the existing list of protected cultural property and a possible update.

Norway is planning to revise the list of cultural objects under special protection by the Convention, as the current list dates from 1969.

Poland has found it difficult to choose a number of even the most valuable Polish historical buildings for inclusion in an application for enhanced protection. Nevertheless, particularly valuable cultural property recognized by the President as "Monuments of History" will be submitted for entry in the International Register of Cultural Property under Special Protection.

In **Slovakia**, in 1995, the legal regulation under the previous regime for the protection of monuments in the event of military conflict was abolished. Subsequently, the Institute of Historical Monuments was extensively involved in drafting new legislation and actively participated in other related expert activities. A draft text for a new Decree of the Ministry of Culture has been prepared. The new legal norms reflecting the principles of the implementation of the Convention in Slovakia will be compatible with the new act on the protection of cultural monuments.

Slovakia has made a national expert selection of monuments, which in the event of emergencies will be designated as having special protection. The list of selected monuments has been referred to the Ministry of Culture which is authorized to deal with them in accordance with the current legislation, and in cooperation with the State administration which is the executive element in the field of monument protection. The Institute of Historical Monuments is involved also

in gathering expert material related to immediate action for the protection of, and making provision for, selected cultural monuments in the event of an emergency.

In **Slovenia**, special protection of individual monuments or areas of special cultural value is not determined by a specific act. However, the new *Law on Protection of Cultural Heritage* defines the status of cultural monuments of national significance and monuments of local and regional significance. It will allow the formulation of proposals for the determination of special protection under the Convention and enhanced protection on the basis of the Second Protocol.

When the **Swedish** Government ratified the World Heritage Convention and the Hague Convention, the intention was to nominate the same objects for both Conventions at the same time and as soon as possible. The National Heritage Board has not, however, followed up the nominations for the Hague Convention since the nominations for the World Heritage were put forward. The Board will prioritize this issue over the next few years. In doing so, the fact that the two Conventions have different definitions of the relevant objects as well as different requirements for registration will be taken into account.

The **Swiss** Committee for the Protection of Cultural Property has prepared a list of cultural property in particular need of protection. The Committee intends to submit the list for inclusion in the International Register of Cultural Property under Special Protection.

There are several reasons why Switzerland has not yet requested the Director-General of UNESCO to include such property in the list.

First, the strict application of Article 8(1) of the Convention makes it difficult to select this type of property in a country where all the built-up areas are extremely close together.

Secondly, it is very difficult for art historians to select those few items which truly deserve to appear on the International Register.

Thirdly, to date UNESCO has not yet issued any precise instructions and recommendations regarding the procedure for declaring and registering cultural property of international importance.¹

In **Turkey**, information and documentation from the Governors which concern areas to be considered for special protection is being collected. This information will then be assessed and added to the cultural inventory which exists in Turkey, after which it will be

included in an application for special protection. In addition, it is intended that the sites on the World Heritage List will also be included in the application.

In this respect, the subjects of some of the studies carried out to date by the Defence Secretary and the Ministry of Culture are:

- preserving of historical buildings where the units of the Ministry of Culture are situated and buildings currently used by the General Directorate of State Theatres;
- adopting measures to preserve documents in the General Directorate of Investigation and Developing Folk Cultures;
- preserving of materials such as film, poster, voice and music records which relate to Turkish culture, and objects and manuscripts in the General Directorate of National Library collection; and
- providing the requisite storage conditions for documents, books and other materials of the libraries under the General Directorate, in addition to appropriate security and the transportation of written art and crafts.

THE DISTINCTIVE EMBLEM

Chapter 5 of the Convention prescribes the form of the distinctive emblem and the circumstances in which it may be utilized.

In **Belgium**, the Regions adopted regulations on affixing a distinctive emblem on classified cultural properties under their responsibility. The properties forming part of the “protected military heritage” bear a distinctive red and green emblem, as provided for in the armed forces’ internal regulations on protection of the natural environment and monuments in the military domain.

Bosnia and Herzegovina marked its cultural property with the distinctive emblem of the Convention both before and during the 1992-1995 war. Following the war, on the basis of the conclusions of the Commission for the Protection of National Monuments established by Annex 8 of the Dayton-Paris Agreement, and in particular its President, Mr Pressouyre, “to protect the sites of destroyed cultural property by hedges”, the Federal Ministry for Urban Development issued an Ordinance on the marking of such sites with the distinctive emblem.

Egypt stresses the importance of marking cultural property with the distinctive sign of the Convention and proposes sharing of maps with cultural property included therein between different countries.

Finland has not made a decision in respect to the marking of cultural property, although the intention is that cultural property under special protection and publicly owned sites under general protection will be marked during peacetime. For privately owned sites, the marking will be at the discretion of the owner.

¹ To facilitate the nomination and entry of property in the International Register of Cultural Property under Special Protection, the Secretariat prepared an information note on the Register which has been widely distributed. The note is available upon request.

Within the territory of the former **Federal Republic of Germany**, some 8,000 historic buildings and centres containing monuments, as well as 2,000 museums, archives, libraries and archaeological sites have been marked with the distinctive emblem described in Article 16 of the Convention.

In the former German Democratic Republic, immovable cultural property was identified by a sign combining the distinctive emblem of Articles 16 and 17 of the Hague Convention with an additional symbol and the designation “Baudenkmal” (historic building). Some 2,200 items of immovable cultural property will thus over the next few years also have to be uniformly marked with the Hague Convention emblem used alone.

As the entire State of the Vatican City in the **Holy See** is entered in the International Register of Cultural Property under Special Protection, it is deemed to obviate the need to identify it with the distinctive emblem which would ordinarily be done in time of peace. Similarly, recognition of the entire State as a “centre containing monuments” means that it is not necessary to identify security guards within the State itself with armbands, identity cards or by any other means.

Liechtenstein has not used the distinctive emblem of the Convention to mark cultural property so far, but will consider marking its cultural property at least temporarily when needed. It is situated in a very stable political environment, connected with Switzerland through the Customs Union Treaty of 1923 and politically well integrated in Europe through the European Economic Area, and therefore does not consider the marking of cultural property as a matter of immediate urgency.

With regard to natural disasters, such marking could be of value along with an effective organization of the protection of cultural property. Collecting and naming all cultural property is recognized as the first step in this direction, as it will help to obtain a realistic image of what objects are to be protected. A list of all cultural property in Liechtenstein is now being prepared by the working group, similar to the existing national list containing all historic monuments.

In **Norway**, cultural monuments have not been marked with the distinctive emblem. Signs marking cultural emblems are seldom used in Norway mainly for reasons of principle. Rather, the use of registers is considered more efficient. There is, however, interest in local heritage management in relation to using the emblem for specially designated monuments. Further discussions will take place with the provincial governments on this issue.

There is no legislative requirement in **Poland** to mark cultural property permanently with the distinctive emblem in time of peace. However, many historical monuments carry various informative plaques which also use the distinctive emblem. The principle of marking cultural property with the sign of the

Convention where State security is endangered, and in the event of armed conflict, is regulated by an ordinance of the Culture and Art Minister (No. 23 of 23 April 1995). The Ordinance obliges the owners and users of movable and immovable cultural property to mark it with the distinctive emblem.

In 1986, the Ministry of Culture in **Slovenia** adopted the *Regulations on the Design and Placement of Marking Plaques on Immovable Monuments and Sites*. The design of these plaques is, however, rather complicated as it involves three individual plaques, namely:

- the Blue Shield;
- the State emblem; and
- information on the significance of the monument.

Due to the complexity of the design, the Regulations have not been widely applied. Nevertheless, of 7,110 declared cultural monuments in **Slovenia**, 310 have been marked with the distinctive emblem of the Convention. The marking has been carried out for the purpose of informing the public of the distinctive value of the monument and, to a lesser extent, for preventive purposes in the event of military conflict. The Regulations on marking will be adapted and drawn up in accordance with the *Law on Protection of Cultural Heritage*, taking into consideration the marking principles and goals defined by the Convention and Second Protocol.

In **Spain**, there has never been any support for marking cultural property with the distinctive emblem for the purposes of protection owing to the belief that, in the absence of thorough knowledge of the Convention, marking may unnecessarily alarm the civilian population.

In **Sweden**, an advisory report entitled “Denoting property of cultural interest in accordance with the 1954 Hague Convention” has been prepared. The discussions arising out of the report led to a decision to plan for sign-posting of selected property in peacetime, but to put this into effect in times of heightened alert. Consideration has also been given to introducing the emblem in informational material, regular sign-posting programmes, etc. in an effort to make the emblem more widely known.

The task of selecting objects for special protection lies with the National Heritage Board although the country administration boards prepare proposals for objects which may be chosen. The final selection is approved by the **Swedish** Armed Forces at command level before the National Heritage Board gives its final approval.

In **Switzerland**, by order of the Swiss Government (Federal Council) if the situation so requires, the approximately 1,650 cultural items classified as being of national importance and the shelters for cultural property will have the single shield emblem attached to

them. Cultural property is to be marked in the event that Switzerland runs the risk of becoming involved in armed conflict. However, for military reasons it is not possible to identify with the shield, whole sites such as towns, villages or large building complexes. **Switzerland** believes that it would be a mistake to make a large number of items of cultural property visible by marking them with the shield. In addition, in view of the number of cultural items, it would be extremely difficult to provide adequate protection as it would require unachievable funding and staffing levels.

In **Turkey**, all palaces and pavilions must be marked with the distinctive emblem. In respect of other cultural property, following a study in 1999, it was discovered that there are distinctive emblems on 79 monuments in 12 different provinces. The study was also aimed at providing information on the selection and determination of immovable cultural property which should be protected in the first instance and on property that does not have the distinctive emblem affixed to it. Those who contributed to the study included the Governors of the provinces, private art galleries and museums, and art collectors.

The Central Department of **Turkey** and the Cultural and Natural Property Protection Committees also carry out studies for an inventory of cultural property and the development of activities to ensure the effective protection of cultural property. This includes the issue of marking property with the distinctive emblem.

DISSEMINATION OF THE CONVENTION

Article 25 of the Convention concerns the High Contracting Parties' obligation to disseminate, in times of peace, the text of the Convention and Regulations as widely as possible, and in particular for armed forces and personnel involved in the protection of cultural property.

In **Argentina**, the armed and security forces instruct their personnel on the obligations under the Convention. The information is adapted to the specific operational requirements of the service concerned.

In **Austria**, the non-governmental "Austrian Society for the Protection of Cultural Property" organized lectures on the protection of cultural property in the framework of vocational training of schoolteachers and information functions at schools. Furthermore, in cooperation with the Federal Ministry of Education, Science and Culture as well as the "Austrian Society for the Protection of Cultural Property", the Federal Ministry of Defence organized relevant internationally-attended seminars with practical field exercises within the framework of Partnership for Peace (PfP) in 1997, 1999 and 2001 (see section on military measures).

In **Azerbaijan**, the texts of the Convention and its Regulations have been translated into Azerbaijani and distributed to the population and national armed forces. The list of historic and cultural monuments containing

7,000 objects adopted by the Council of Ministers has been submitted to the General Staff of the Azerbaijani Army. Training courses on the Convention are held for students at the military academies. Copies of the distinctive emblem have been produced and will be used to identify cultural property located in military action zones.

In **Belgium**, the Convention was disseminated chiefly at higher education level, namely in the courses provided in the fields of law and protection of cultural heritage. Furthermore, in disseminating international humanitarian law, the Belgian Red Cross placed considerable emphasis on promoting awareness of the rules governing the protection of civil property, and in particular cultural property. Furthermore, a Belgian Committee of the Blue Shield is about to be established (see section on military measures).

In **Bosnia and Herzegovina**, dissemination of information about the Convention is carried out at all levels of education. The provisions of the Convention also figure in special programmes for civilian and military personnel in relation to defence procedures and measures for protection and rescue in emergencies, immediate threats of war, and in times of war.

In **Burkina Faso**, the dissemination of the Convention is being carried out in the following manner:

- training of instructors;
- establishment of a Unit assisting in the implementation of international humanitarian law;
- appointment of a Coordinator within the Unit; and
- instruction in all Conventions applicable in the event of armed conflict through courses, lectures, seminars and practical exercises for the armed forces.

In **Finland**, both prior to and since the ratification of the Convention, its contents have formed part of the training of regular and conscript armed forces personnel. The training is being developed to focus on special key groups, the most important of which are officers from the rank of lieutenant to that of major. In respect of the civilian population, training is planned for those who deal professionally with questions concerning cultural property and other groups such as the national network of the UNESCO Associated Schools and museology undergraduates. In addition, the idea of special campaigns has been mooted, as have opportunities for ordinary citizens to participate in, and exert influence over, the protection of cultural heritage.

In the former Yugoslav Republic of Macedonia, the content and spirit of the Convention is included in the curricula of the educational institutions (i. e. the Police College and Faculty of Defence) where future staff of the Ministry of Internal Affairs receive their education. The provisions of the Convention are also included and elaborated on in the normative acts of the

Ministry which are available to, and used by, Ministry personnel.

In **Germany**, the Federal Civil Defence Agency is responsible for disseminating the text of the Convention and Regulations for its execution in accordance with Article 25 of the Convention. As early as 1966, this Agency published a brochure containing a German translation of the text of the Convention, the Regulations for its execution and the Protocol. The fourth, revised edition of this brochure (100,000 copies) was published in 1997.

The brochure is distributed to federal, Land and municipal agencies, and schools, universities, museums, galleries, churches, the press and, on request, other bodies. A fifth revised edition appeared in 2001.

Since 1997, the Academy for Emergency Planning and Civil Protection within the Federal Civil Defence Agency in Bad Neuenahr-Ahrweiler has conducted seminars lasting several days for the managerial and administrative staff of museums, archives, libraries, and castles on the implementation of administrative measures to protect cultural property.

There are approximately 750 persons residing in the State of the Vatican City in the **Holy See**. They are aware of the status of the State under the Convention. In addition, the directors of the museums there are conversant with the terms of the Convention and the staff therein are aware of their responsibilities in respect of cultural property. Information on the Convention is also contained in illustrated brochures available to tourists.

In the **Islamic Republic of Iran**, the dissemination of the Convention to the armed forces is carried out by the Educational Subcommittee of the National Advisory Committee. Cultural heritage courses are provided to all levels of the armed forces with the aim of familiarizing them with the national wealth and the objectives of the Convention. The education process has also involved the following:

- equipping military education centre libraries with cultural books and publications which encourage military personnel to study history, art and culture;
- organizing group visits for military personnel by direct invitation or free of charge for museums and historic sites;
- publishing articles and interviews in the various publications of the armed forces;
- printing and publishing posters of historic relics for display in military locales;
- encouraging the establishment of military museums and providing substantial assistance in promoting such an undertaking;
- securing the cooperation of the Radio and Television Organization in broadcasting films concerning cultural heritage;

- printing and publishing a guide book containing an illustrated preface entitled “Education in the Cultural Heritage” which expounds the necessity of preservation and is accompanied by the text of the Convention; and
- instituting a course for officers in charge of barracks with a view to training them as cultural heritage educators as ratified by the Committee.

The Educational Subcommittee is also responsible for providing cultural heritage courses for the **Iranian Cultural Heritage Organization**.

In **Italy**, the dissemination of the provisions of the Convention to the armed forces takes place by way of specific courses in international and humanitarian law which are based upon the direct expression of the will of the international community to recognize and support the value of cultural property as a common and universal heritage that must be protected by all of humanity. In addition, there are a number of publications, namely:

- Combatant’s manual;
- Collection of international conventions on ground warfare;
- “Elementary rules on the laws of war” (F. De Mulinen);
- Manual on humanitarian law – “Usages and conventions relating to warfare”; and
- Collection of national laws on armed conflicts and neutrality.

For public information, two works have been disseminated, namely:

- A research paper on international law for naval officers; and
- “Elements of humanitarian law of armed conflict” (A. Marcheggiano).

Programmes of awareness-building analogous to those already instituted regularly in the area of national heritage will be provided in Liechtenstein. Instruction courses on the protection of cultural property as well as general education and information programmes on measures of protection in case of natural disasters are also planned.

In **Mexico**, the handbook “Conduct in Combat” was distributed in April 1994. In July 1994 the “Guide to the Settlement of Specific Cases in the Application of the Laws of Warfare” was issued covering, among other things, the following: “Rules of Bombardment: Military Targets and Objectives, Protected Facilities and Objects”, and “Rules of Bombardment regarding Cultural and Religious Property”. It was prepared as a supplement to the “Conduct in Combat” handbook for use in training.

The Convention was published in full in the form of a manual, together with the “Conventions concerning the Laws and Customs of War” and their Regulations, in order to make them available to all military

personnel interested in further study of those instruments.

This topic is addressed in the officer training and higher education establishment of the armed forces education system, both of which are included in the curriculum and are covered in lectures and seminars.

Since 1993 in the **Netherlands**, all Dutch military personnel in NATO and United Nations-peacekeeping missions have received cultural awareness lessons. Similar training is also provided to the Air Force, the Military Police and the Marines. Specific programmes have been designed for the Special Forces which are more in-depth and include local knowledge and sometimes classified information. The message given to the military is of a practical nature, specifically:

“Optimize your management by understanding the cultural and historical backgrounds; habits; dos and don’ts; religion; ethics; morals and codes of the people or peoples of the target-country.”

- “Respect the cultural heritage of all conflicting parties (dependent on military necessity). Try, when opportune, to transfer this respect to the different rival parties in an attempt to counter the damage and destruction of the cultural heritage and thus to preserve the people’s own identity.”

In addition, all lessons are based upon three military aims, which are:

- knowledge of the local religion, culture, habits, history and cultural heritage, leading to a better understanding of the local situation and improving communication with the population;
- realization that cultural heritage might be the target of all conflicting parties with the preconceived intention to destroy it by all possible military means; and
- a basic knowledge of the architecture and meaning of symbols and codes to help in taking one’s bearings on location.

In **Poland**, the provisions of the Convention have been disseminated in various forms including:

- the Provincial Civil Defence exercise of 1995-1996 which included the protection of cultural property in the event of armed conflict and threats to peace;
- an international conference on the “Protection of Cultural Property in case of war and peacetime threats” at Krakow and Wieliczka in 1996 which was attended by delegations from 15 countries and international organizations, including NATO and UNESCO;
- a training centre for civilians and armed forces personnel for the protection of cultural property in case of peace and wartime threats, was established at the State Fire Brigade School in Krakow at which a series of courses for representatives of cultural institutions,

museums, the Monument Protection Service and the armed forces have been organized;

- international workshops on the “Protection of Cultural Property in case of threats, in particular floods” were organized in Warsaw, Wroclaw, Klodzko and Brzeg with delegations from international organizations and NGOs from 21 different countries;
- a proposal to include issues relating to the protection of cultural property in case of threats in the plan of activity of the Civil Planning Committee in Emergency of NATO Headquarters. An international conference in 1996 and workshops in 1998 were held as part of the Partnership for Peace programme, with the participation of NATO Headquarters;
- the inclusion of the protection of cultural property in the event of armed conflict in the training curricula conducted by the civil defence, and in civil defence lessons in secondary schools;
- the inclusion of the protection of cultural property in case of particular threats in higher defence courses for high-ranking state officials which are conducted at the National Defence Academy;
- the inclusion of the protection of cultural property in the event of armed conflict in the armed forces curricula as part of troops and staff training;
- courses on the law of armed conflict for officers of Poland’s armed forces organized with the cooperation of representatives of the International Committee of the Red Cross for Central and South-Eastern Europe. Starting in December 1997, four courses were organized in which 72 officers took part;
- publication of a new edition of the textbook *War-time law for armed forces*, of which 6,000 copies were sent to military units; and
- popularizing issues relating to cultural property protection in the event of armed conflict in the military and specialist press (e.g. publishing in 1998 a collection of regulations relating to the protection of cultural property in case of special threats, comprising the Hague Convention, the Paris Convention, Additional Protocols to the Geneva Conventions and Polish Law Regulations).

The *Slovene Armed Forces Rules of Service*, which regulate the obligations of military persons in international martial and humanitarian law, represent the basis for regularly acquainting soldiers, officers and non-commissioned officers of the Slovene Army with the content, provisions and purposes of international and humanitarian law, including the Convention. The contents of the Convention are also disseminated through lectures on international humanitarian law.

In respect of the general public, primary and secondary students in **Slovenia** are provided with

special programmes on the Convention which are being implemented in accordance with the process of the introduction of the reformed schools programme.

In **Spain**, international law, including the Convention, is incorporated into the military education curricula of military academies and schools. The courses vary in length and scope according to educational level (i.e. basic, secondary or higher, and rank-troops, non-commissioned officers and officers). The Spanish Red Cross, as an auxiliary of the State, is also required to disseminate and teach international humanitarian law.

In **Sweden**, international humanitarian law, including the Convention, is a component of the education of military personnel at all levels. In addition all civilian staff who are part of Swedish Total Defence are provided with a similar education.

In **Switzerland**, the Department for the Protection of Cultural Property is responsible for dissemination of the Convention. Its main task is to describe and explain the relevant principles in classes and exercises for armed forces and civil defence specialists. Switzerland recognizes cultural property of national, regional and local importance. The Department has provided all commanders, including commanders of riot police, with the updated version of the 1988 edition of the Swiss Inventory of Cultural Property of National and Regional Significance. The publication was revised by the cantons in conjunction with the Swiss Committee for the Protection of Cultural Property and approved by the Federal Council in 1995. Commanders also received in 1995, a map of cultural property with a list of items and detailed maps reprinted by the Federal Bureau of Topography. In the armed forces, warrant officers, who are responsible for disseminating the principles of the Convention, also regularly use other information materials on the protection of cultural property, designed for both civilians and military personnel, namely:

- a brochure on the protection of cultural property;
- a colour leaflet explaining the protection of cultural property;
- protection of cultural property in the event of an accident or disaster; and
- a summary of a talk on the protection of cultural property.

The following documents also provide information on the protection of cultural property for the military:

- information on tactical action for all commanders;
- basic instructions for all officers and non-commissioned officers; and
- Administrative Regulations (1995) and vademecum (1995) for all members of the armed forces.

In accordance with the Geneva Conventions on humanitarian law, every serviceman is issued with an

identity card stating that he is a member of the Swiss Armed Forces. On the back of the card is a memorandum which describes the laws and customs of war and explains the meaning of the protection of cultural property emblem. In addition in 1996 the Department concerned with the international law of armed conflict published a CD-ROM entitled “Droit des gens en temps de guerre” (“Law of nations in time of war”) designed for members of the military. One of the topics is international protection emblems.

The **Swiss** Inventory has been widely distributed among concerned civilian parties, including the Federal bureaux and cantonal departments concerned with culture, all Swiss communes, all organizations concerned with the protection of cultural heritage and fire, safety and public works authorities. Cultural institutions have helped produce a document on the protection of cultural property during accident or disaster and in particular, the precautions to be taken in the event of fire, water damage, flooding, vandalism, attack or theft. It serves as a checklist when carrying out emergency action plans. This publication is also of interest to private individuals, as it informs them how to salvage their cultural property. In addition, a series of four posters designed by an artist form part of the informational material available to the general public.

In **Thailand**, the provisions of the Convention are disseminated through the Joint Staff Course for Armed Forces organized by the National Defence Studies Institute. The Joint Staff Course for Armed Forces participants comprises high-ranking military officers at the level of colonel or equivalent of each service from units all over the country. Some of these units have cultural heritage as part of their responsibility.

At the level of the Royal Thai Navy the Convention is taught in the Naval Ratings Course (Naval Ratings School, Naval Education Department), Naval Cadets Course (Naval Academy) and different courses at the Institute of Advanced Naval Studies; at the level of the Royal Thai Air Force participants in the courses in Professional Military Education and operational courses at the Air War College, Air Command and Staff College, Squadron Officers School and Operations Officers Course (Squadron Level) are provided with information on the Convention.

In **Tunisia**, the Ministry of Defence has taken the following measures with respect to dissemination of the Convention:

- provided instruction on the text of the Convention in international humanitarian law courses given to the various categories of military personnel;
- created museums (National Military Museum, Mareth Line Museum);
- restored cultural property (including Bortal Haydar, the Rose Palace, the ramparts of a barracks enclosing the former Mint, the Military Academy, Borj Khadija, the Baron d’Erlenger music centre); and

- created halls of honour in military establishments.

In **Turkey**, a five-year plan has been launched for the protection of cultural property against smuggling and destruction including publicly-directed, visually-guided education seminars and conferences for related public institutions and organizations, and information to primary schools nation-wide. In addition, the Museum Directorate has carried out the following:

- a radio broadcast on the meaning of cultural property, its importance and how to protect it in a state of emergency;
- documentary films for each province; and
- civil defence courses supplemented by the Ministry with courses on protective security, fires, first aid and evacuation.

Studies have also been carried out for the purpose of including lessons on the preservation of cultural property in basic education programmes. Education and awareness seminars were held in 1998 and it is intended to make the general public, civil community organizations and local administration aware of the provisions of the Convention. Copies of the Convention and related documentation have been sent to civil community organizations and information provided to museum and private directorates, galleries and art collectors related to the Ministry's museums.

OFFICIAL TRANSLATION

Article 26(1) of the Convention provides for the obligation of States Parties to communicate to one another, through the Director-General, the official translations of the Convention and the Regulations.

Official translations of the Convention have been provided by **Finland, Norway, Poland** and **Sweden**. The translation of the Convention and the 1954 Protocol is under way in **Bosnia and Herzegovina**.

Belgium is of the view that the official translation previously carried out and transmitted to the depository by the Netherlands was sufficient to meet the need to group translations of the Convention. It recalls, however, that the French and Dutch texts of the Convention were published back in 1960, whereas there is still no official German text of the Convention in Belgium. It states that the text of the Second Protocol will be translated into Dutch and German as part of the ratification procedure for this instrument.

SANCTIONS

Article 28 of the Convention deals with the States Parties' undertaking to take, within the context of their own criminal jurisdiction, all necessary steps to prosecute and impose penalties upon persons who commit, or order to be committed, a breach of the Convention.

The sanctions provided for in **Argentina** are as follows:

Penal Code

- Article 184(5) deals with wilful damage to archives, registers, libraries, museums, statutes, pictures and other art items which are located in a public building or place.
- Article 186(3) prescribes punishment of between three to fifteen years' imprisonment for anyone causing a fire, explosion or flooding which endangers a public archive, library or museum.

Code of Military Justice

- Article 746 provides that the destruction of churches, convents, libraries, museums, archives or notable art works where the destruction is not justified by military necessity is punishable by an ordinary medium-term prison sentence.

Other legislation in place in **Argentina** concerning cultural property is:

- Law 12.665 which establishes the National Commission on Museums and Historic Monuments and Sites (30.9.40);
- Law 19.943 which approves the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (13.11.72);
- Law 23.578 which provides for membership of the International Centre for the Study of the Preservation and the Restoration of Cultural Property (20.7.88);
- Law 24.668 which provides for the recognition of the competence of the International Fact-Finding Commission pursuant to Article 90 of the Additional Protocol to the Geneva Convention of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (3.7.96);
- Decree 84.005 which regulates the National Commission on Museums and Historic Monuments and Sites (7.2.41); and
- Decree 1.063 which deals with state property of cultural value (31.5.82).

In **Austria**, an amendment to the Federal Monuments Protection Act (Denkmalschutzgesetz, Federal Law Gazette No. I.170/1999) entered into force on 1 January 2000. Besides setting the criteria for selecting cultural property which is to be protected in accordance with the Convention and setting a time limit (31 December 2009) for the completion of a national list of all immovable cultural property, this law introduces legal sanctions on the basis of the Convention for misuse or omission of the emblem foreseen by the Convention.

Even the federated entities (Communities and Regions) in **Belgium** have some jurisdictional competence regarding the protection of cultural property. To date, however, only the Federal State has

adopted penal measures in this field. In respect of Article 28 of the Convention, no specific legislation has been enacted. Therefore, only the following law is applicable:

Geneva Conventions of 1949 and their Additional Protocols

Articles 53 and 85(4) of Additional Protocol I to the Geneva Conventions, which apply to international armed conflicts, prohibit a series of acts against cultural property. In Belgian law, these provisions are covered by the law of 16 June 1993, as amended by the law of 10 February 1999 (law imposing sanctions for serious violations of international humanitarian law) and by the Penal Code.

- Article 1, paragraph 1, subparagraph 20, of the law of 1993 makes it a serious offence “to direct attacks against clearly recognized historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples, to which special protection has been granted under a specific arrangement, where there is no evidence of a violation by the opposing party of the prohibition against using such places in support of the military effort and such properties are not located in the immediate vicinity of military objectives”.
- Article 1, paragraph 1, subparagraph 8, of the law of 1993 makes it an offence “to destroy or appropriate property where not justified by military requirements as allowed by the law of nations and where executed on a large scale in an illicit and arbitrary manner”. This provision concerns the destruction or the appropriation of all properties, and hence cultural property.
- The Penal Code, Book II, Part IX, Chapter II, prohibits the destruction, harming of or damage caused to property, comprising Article 510 *et seq.* These provisions, such as the law of 1993, do not, however, directly cover the stipulation laid down in Article 53 of Additional Protocol I.

Article 16 of Additional Protocol II to the Geneva Conventions provides for the protection of cultural objects and of places of worship in the event of non-international armed conflicts. The two prohibitions contained in Article 16 are not made offences by any specific provisions in Belgian law.

In view of the Belgian ratification of the Second Protocol to the Hague Convention, which, in its Article 15, provides for a range of new offences, the Interministerial Commission for Humanitarian Law (CIDH) is examining to what extent Belgian law will be revised accordingly. The offences that will be incorporated into Belgian law when bringing it into conformity with the requirements of the Second Protocol to the Hague Convention will cover not only the offences listed in this Protocol, but also those contained in the Convention of 1954.

As regards the Statute of the International Criminal Court, which contains provisions relating to the protection of cultural property, Belgium adopted on 25 May 2000 a law approving the Statute and deposited its instrument of ratification of the Statute on 28 June 2000.

Finally, the Disciplinary Regulations of the armed forces contain provisions aimed at ensuring that military personnel comply with the provisions of international humanitarian law pertaining to cultural property.

In **Bosnia and Herzegovina**, the relevant penal provisions are contained in the *Criminal Law of the Federation of Bosnia and Herzegovina* (“Official Gazette of FBiH”, No. 43/88°). In particular, Article 164 provides for the punishment of a person who has destroyed cultural or historic monuments and buildings, or institutions used for scientific, cultural, educational or humanitarian purposes in breach of international law during wartime. Article 166 provides for the punishment of a person who has misused the United Nations flag or symbol, the Red Cross flag or symbols or similar symbols, or other recognized symbols used for marking specific objects for the purposes of protection from military operations. In addition, the Law on Defence of the Federation of Bosnia and Herzegovina provides for pecuniary sanctions for failure to carry out safeguarding measures to protect and rescue citizens, material, cultural and other property in accordance with the regulations.

In **Burkina Faso**, measures concerning penal and disciplinary sanctions have been adopted to punish any breach of the various Conventions applicable in the event of armed conflict. They include provisions in the *Code of Military Justice* (Articles 204, 205 and 231), the *Penal Code* (Article 195) and the *General Disciplinary Regulations* (Articles 35 and 73).

Egypt underscores the need to criminalize and punish countries misusing cultural property for military purposes.

In **Finland**, breaches of the Convention are punishable under the provisions of the *Finnish Penal Code*, either as offences involving public danger, or as war crimes.

In the **former Yugoslav Republic of Macedonia** the *Criminal Code* was adopted in 1996. The relevant provisions are:

- Article 414(1) which prescribes imprisonment for at least one year where during times of war or armed conflict, the rules of international law are violated by destroying cultural or historical monuments and structures, or institutions intended for science, the arts, education or humanitarian needs;
- Article 414(2) which concerns the destruction of clearly recognizable structures (i.e. those under special protection) and prescribes a penalty of at least five years’ imprisonment;

- Chapter 34 (“Criminal Acts Against Humanity and International Law”) which deals with the destruction of cultural and historical properties of national and international significance by means of bombing, ruining, burning and dispersion and prescribes a penalty of one and five years’ imprisonment;
- Article 119(2) and 120(4) which deal with criminal acts by foreigners.
- Article 264 which concerns the damage and destruction of monuments of cultural and historical importance, and usurpation of monuments of culture or archaeological materials; and
- Article 266 which prescribes a penalty of imprisonment of one to ten years for the transportation abroad of a monument of culture.

Article 1 of the *Law on Internal Affairs* also deals with the protection of cultural property from fire and explosion. In addition, to prevent such crimes the Ministry of Internal Affairs of **the former Yugoslav Republic of Macedonia** carries out frequent controls of archaeological excavations; collects information on persons participating in illegal excavations; has taken measures to detect and protect objects which have already been excavated; and carries out regular patrols at border crossings and additional patrols when auctions of such objects are organized in neighbouring countries.

Liechtenstein has not adopted any legislative, administrative or disciplinary measures to suppress violation of the Convention because such violation is sanctioned on the basis of general legislation.

There are no provisions in the national penal laws of **Norway** which deal with sanctions or persons who commit, or order to be committed, breaches of the Convention. However, cultural monuments protected by the Convention are also protected by the *Cultural Heritage Act*. In accordance with paragraph 27, any person who wilfully or negligently violates any prohibition, order, or condition in, or pursuant to, this Act, may be punished by fines or imprisonment of up to one year, and in serious cases by imprisonment of up to two years. This Act is being revised: however, the wording of this paragraph will not be changed.

In addition, paragraph 152(b) of the General Civil Penal Code states that any person who wilfully or by serious negligence violates cultural monuments or cultural milieus of special national or international importance, may be imprisoned for up to ten years. This provision does not mention the Convention, but **Norway** believes that it could be used in cases where cultural monuments protected by the Convention are damaged.

In **Poland**, sanctions against persons who infringe the provisions of the Convention during armed conflict are defined by the *Penal Code* (Journal of Law No. 88, item 553 with amendments – Chapter XVI, “Crimes against peace, humanity and war crimes”). The *Penal Code* permits prosecution of a perpetrator regardless of

his/her citizenship if the crime was committed on the territory of Poland. The relevant provisions are:

- Article 125(1) which provides that those who destroy, damage or take a cultural property item from the occupied or seized area, or where armed conflict is taking place, are liable to a prison sentence of between one and ten years;
- Article 125(2) which states that if the crime relates to an item which has special significance for culture, its perpetrator is liable to a prison sentence of up to three years; and
- Article 126(2) which prescribes the same punishment for those who during armed operations use, contrary to international law, a protective sign for cultural property or other sign protected by international law, or who use a state flag or the military badge of an enemy, neutral state or an international organization or commission.

The new *Penal Code* in **Slovenia** (in force since 1 January 1995) contains a chapter on criminal offences against humanity and international law. The offences created include the destruction of cultural and historical monuments, and buildings and institutions designed for scientific, cultural, educational or humanitarian purposes, which is in violation of the rules of international law in times of war or armed conflict. A more severe form of this criminal offence, the destruction of a clearly identifiable entity which as a site of cultural and spiritual, national or natural heritage is under special protection by international law, is also subject to legal sanction. A second offence – the abuse of international symbols – also includes the abuse of recognized international symbols used to protect cultural property and other buildings from military operations.

The **Spanish Military Penal Code** contains regulations governing offences against rules and customs of law. The relevant provisions are:

- Article 77 which prescribes two to eight years’ imprisonment for any member of the armed forces who destroys or damages cultural or historical heritage unless it is required by the necessities of war, or commits any act of looting, vandalism or seizure of such property which is located on the territory under military occupation; and
- Article 78 which prescribes imprisonment of from three months and one day to two years for any member of the armed forces who commits or orders to be committed, any act contrary to the provisions of international conventions ratified by Spain and which relate to, *inter alia*, the protection of cultural property in the event of armed conflict.

Minor violations may also be punished as a simple disciplinary offence under more general provisions such as “failure to perform military duty” (*Organic Law 8/1998*).

The **Spanish Penal Code**, promulgated by Organic Law 10/1995, also lists offences against persons or property protected in the event of armed conflict. The provisions which specifically deal with the protection of cultural property in this context are:

- Article 613 which imposes a sentence of from four to ten years upon any person who, during armed conflict, attacks or directs acts of reprisal against cultural property that causes extensive damage unless it is located in the immediate vicinity of military targets or is used in support of military activities by the enemy. A more severe penalty may be imposed in the event that the cultural property is under special protection.
- Article 614 which is a generic provision that punishes, with a lesser degree of severity, simple infringements or acts that are contrary to international law in respect of armed conflict, but which are not expressly regarded as war crimes. This Article applies to acts of theft, looting, concealment, appropriation, vandalism or seizure of cultural property committed during an armed conflict by persons not within the jurisdiction of military law.

In **Sweden**, serious violations of international humanitarian law are crimes penalized in accordance with Chapter 22, Section 6 of the *Swedish Penal Code*. Other violations are subject to disciplinary measures.

In **Switzerland**, the Federal Law of 6 October 1966 on the *Protection of Cultural Property in the Event of Armed Conflict*, which is based on the Convention, provides sanctions in the event of an impediment or obstacle to the implementation of the protective measures, and any misuse of the protective emblem for commercial gain (Articles 26 to 31). Cantonal laws also apply in addition to national laws.

In **Turkey** the provisions dealing with sanctions are as follows:

- Article 65 of the *Cultural and Natural Property Preservation Law* which deals with crimes committed by persons who purposefully cause damage to, deterioration or destruction of immovable cultural property which is required to be protected;
- Article 75 of the *Cultural and Natural Property Preserving Law* provides that a greater penalty shall be imposed where the crime committed is against cultural property; and
- Articles 516 and 517 of the *Criminal Code*.

FIRST PROTOCOL

In **Bosnia and Herzegovina**, the export and removal of cultural property outside the borders of Bosnia and Herzegovina, without adequate approval, is a punishable act.

Finland ratified the First Protocol at the same time as the Convention. Its provisions are included in the

promulgated law (1135/94) by which cultural property as defined by the Convention can be confiscated and returned to the original owners. The body responsible for defining such cultural property is the National Board of Antiquities.

Kuwait has requested the return of its missing archaeological objects through the United Nations. Pursuant to United Nations Security Council resolution 686 (1991), Kuwait has regularly notified UNESCO of the removal of archaeological objects from the Kuwaiti National Museum. Some of these objects have been returned in the period since 24 September 1991.

Liechtenstein has adopted the following legal provisions with regard to the Protocol: the Law on the Return of Illegally Removed Cultural Heritage and the related Ordinance (both adopted in 1999), the Law on Disaster Prevention which includes an Article on the protection of cultural property (adopted in 1992), and the Preservation of Historic Monuments Act (adopted in 1944, revised in 1977). In addition to the Hague Convention, Liechtenstein ratified the Convention for the Protection of the Archaeological Heritage of Europe 1985 and the European Convention on the Protection of the Archaeological Heritage 1969 (revised in 1992).

In 1995, **Slovenia** adopted the *Regulations on the Export Procedure for Objects of Cultural Heritage*, although these do not specifically deal with the situation relating to the export of cultural heritage from occupied territories.

RESOLUTION II

In **Argentina**, the Commission on the Application of International Humanitarian Law was established on 16 June 1994 for the explicit purpose of promoting the implementation and dissemination of international humanitarian law treaties to which the Argentine Republic is a party. The Commission is composed of the representatives of the Ministries of Defence, the Interior, Justice and External Relations, International Trade and Religion. The aim of the Commission is to conduct studies and propose appropriate measures for:

- the application and implementation of international humanitarian law by means of legislative or regulatory norms and measures which ensure that the treaties, including the Convention, are put into effect; and
- the teaching and dissemination of the norms in force in the Argentine Republic.

The instruments applicable at the national level include the Hague Convention.

The Committee has recently commenced a preliminary survey in each province of cultural property for protection in the event of armed conflict.

Following the presidential decree of 13 November 2000, a national commission on the Convention was established in **Azerbaijan**.

In **Belgium**, the Interministerial Commission for Humanitarian Law (CIDH), which is an advisory body of the Federal Government in the general field of humanitarian law, currently acts as the national advisory committee in accordance with Resolution II of the Convention. The role of CIDH in the study of the implementing measures concerning cultural property in the event of armed conflict was confirmed by the Prime Minister in 1998. The body with supervisory control over CIDH is the Ministry of Foreign Affairs.

In **Bosnia and Herzegovina**, an advisory committee has not yet been established. The Commission for the Protection of National Monuments, established under Annex 8 to the Dayton Agreements, however, has been very active and has assessed a significant number of cultural properties and dealt with related issues. It is likely that the Commission will have a role in any such advisory committee given its experience.

The Ministry of Education in **Finland** established a national working group to coordinate the implementation of the Convention upon ratification in 1994. The group works under the leadership of the National Board of Antiquities and its Chair is the Board's Director-General. The other members are from the Ministries of Education (including the Finnish National Commission for UNESCO), Foreign Affairs, Defence, Environment, Justice and the General Staff, the Finnish National Gallery, the National Archives and the Helsinki University Library. The group supervises and monitors the implementation of the Convention and functions as a contact and information channel among various authorities.

The National Advisory Committee was created in the **Islamic Republic of Iran** in 1990 and is constituted of representatives of the Armed Forces General Headquarters, the Joint Headquarters of the Army of the Islamic Republic of Iran, the Joint Headquarters of the Islamic Revolution Guards, the Ministry of Foreign Affairs, the Legal and International Services Bureau of the Islamic Republic of Iran, the Iranian National Commission for UNESCO and the Iranian Cultural Heritage Organization. The Committee is entrusted with the following duties:

- submitting suggestions to governmental authorities in relation to the taking of necessary technical, military and legal measures to implement the contents of the Convention in times of peace or in the event of war;
- notifying the armed forces of the need to respect the regulations of the Convention in regard to the preservation of cultural property at the national level, and in other countries in times of war; and
- communicating and cooperating with similar national committees and relevant international institutions with the assent of governmental authorities.

- In addition to the Secretariat, the Committee has constituted four Subcommittees, namely:
- Educational Subcommittee;
- Technical/Engineering Subcommittee;
- Legal Subcommittee; and
- Military Subcommittee.

The Subcommittees operate under the supervision of the main Advisory Committee and with at least one member of that committee. The Subcommittees carry out relevant tasks within their expertise, and submit their results to the Committee for examination and ratification.

Recently **Liechtenstein** has established a working group comparable to the national advisory committee. This group prepares the concept and the legal foundation for the protection of cultural property. In addition, the Council of Culture, an advisory commission established in 1964, consults the Government with regard to promotion and coordination of cultural affairs, including the presentation of information and documentation about cultural activities.

In **Poland**, the Council of Ministers Law No. 54/96 of 14 May 1996, established the Polish Advisory Committee for Cultural Property Protection in the Event of Armed Conflict. The Committee is an inter-ministerial organ, headed by the Culture Minister, and it is made up of 13 to 16 persons, including two representatives each of the Defence Minister, Interior Minister, Justice Minister and Foreign Minister. Other members of the Committee include the General Conservator of Monuments, Director of the Department of Museums, Director of the Office of Defensive Issues at the Culture Ministry, as well as persons appointed by the head of the Committee. Its tasks include:

- giving its opinion to the government on legislative, technical or military actions that should be taken to ensure the implementation of the Convention;
- lodging motions with the Council of Ministers which are designed to ensure, in the event of armed conflict, familiarity with, observance and protection by Poland's armed forces of cultural property both in Poland and in other countries;
- ensuring, in agreement with organs of the government administration, contacts and cooperation with committees of a similar character in other countries and appropriate international organizations; and
- providing an explanation of the provisions of the Convention to state institutions and organs, local government organs and social organizations.

Slovenia has not yet established a national advisory board, although the protection of cultural heritage in times of armed conflict is entrusted to the National

Committee for International Humanitarian Law which was established in April 1999. Representatives of the Ministries of Foreign Affairs, Defence, the Interior, Justice, Culture and Education are members of the Commission.

A national advisory committee has not yet been set up in **Spain**, although the steps necessary for the creation of such a committee could be taken in the framework of Law 30/1992 which relates to the legal regulations for public administration and general administrative procedures.

The **Swiss** Committee for the Protection of Cultural Heritage is an advisory body for matters concerning cultural property at the national level. Its tasks correspond to those of the national advisory committee envisaged in Resolution II. The Committee consists of a maximum of 25 members, including a delegate from each of the following institutions: Federal Department of Foreign Affairs, Federal Department of Home Affairs, Federal Department of Justice and Police, Federal Department for Military and Civil Defence and Sport (“DDPS”), Federal Department of Finance, Swiss Conference of Cantonal Directors of Education, Swiss Conference of Directors of Civil Engineering, Land-use Planning and Environmental Protection, Conference of Heads of Cantonal Departments for Military and Civil Affairs and Federal Commission for Historic Monuments. The following institutions are also represented on the Committee: cantonal departments for the protection of cultural property, cantonal civil defence departments and cantonal authorities for general defence, as well as the main organizations working in the fields of the conservation of historic monuments, history of art, archaeology, museums, libraries and archives. The Committee has the following main tasks:

- advising the Federal Council, DDPS and Federal Civil Defence Bureau (“OFPC”), at their request, on all matters relating to the protection of cultural property;
- submitting proposals and making requests to the Federal Council, DDPS and OFPC on all matters relating to the protection of cultural property; and
- when requested by the Federal Council, DDPS or OFPC, appointing experts from among its members to assess and deal with specific issues concerning the protection of cultural property.

There is no advisory council in **Turkey**, however studies are being undertaken to establish such a council. It is envisaged that the body will work with representatives of the Chief of General Staff, the Ministries of Foreign Affairs and Justice, the head of the Ataturk Cultural Language and History High Institute and the General Directorate of Foundations.

VII. LIST OF ISSUES SUBMITTED TO STATES PARTIES FOR THE PREPARATION OF NATIONAL REPORTS

With a view to systematizing the information communicated to it by States Parties to the Convention, the Secretariat had compiled a list of issues which the national authorities may wish to take into account when preparing their national report. This list is intended purely as guidance and any information concerning other aspects of implementation will be welcome.

1. Article 7 – Military measures

This Article provides that States Parties to the Convention undertake to introduce into their military regulations or instructions such provisions as may ensure observance of the Convention. The States Parties also undertake thereby to establish, within their armed forces, services whose purpose will be to secure respect for cultural property. Please inform the Secretariat whether such services exist in your country.

2. Article 8 – Special protection

We should like to know whether you plan to place cultural property under special protection and, if not, what prevents you from doing so.

3. Chapter V – The distinctive emblem

Does your country mark cultural property with the distinctive emblem of the Convention? If not, for what reasons?

4. Article 25 – Dissemination of the Convention

Knowledge of the laws of armed conflict is of capital importance for civilian and military personnel required to apply them. Please inform us how the provisions of the Convention and the Regulations for its execution are being disseminated in your country.

5. Article 26 (1) – Official translations

To date, the Secretariat has received 22 official translations of the **Convention** and of the Regulations for its execution (Arabic, Bulgarian, Czech, Dutch, English, Farsi, Finnish, French, German, Hebrew, Hungarian, Greek, Italian, Kyrgyz, Polish, Romanian, Russian, Serbo-Croatian, Slovak, Slovenian, Spanish and Thai). If an official translation in the language of your country has not yet been received by the Secretariat, we should be grateful if you would provide us with a copy.

6. Article 28 – Sanctions

This Article provides that the States Parties to the Convention undertake to take, within the framework of their ordinary criminal jurisdiction, all necessary steps

to prosecute and impose penal or disciplinary sanctions upon those persons, of whatever nationality, who commit or order to be committed a breach of the Convention. Please inform us how this provision has been taken into account in your penal code. Would you also kindly provide us with a copy in English or French, if possible, of the relevant provision or provisions.

7. Protocol

The Protocol provides that each State Party undertakes to prevent the exportation of cultural

property from a territory occupied by it and requires the return of such property to the territory of the State from which it was removed. Please inform us whether the provisions of the Protocol have been applied by your country.

8. Resolution II of the 1954 Hague Conference

Would you kindly inform us whether there is a national advisory committee in your country in accordance with the hope expressed by the Conference in this Resolution. If so, please provide us with some background information.

VIII. LIST OF STATES PARTIES TO THE CONVENTION AND ITS 1954 PROTOCOL HAVING DEPOSITED AN INSTRUMENT OF RATIFICATION, ACCESSION OR SUCCESSION



**Convention for the Protection of Cultural Property in the Event of Armed Conflict.
The Hague, 14 May 1954¹**

	States	Date of deposit of instrument	Type of instrument
1	Egypt	17/08/1955	Ratification
2	San Marino	09/02/1956	Ratification
3	Myanmar	10/02/1956	Ratification
4	Mexico	07/05/1956	Ratification
5	Hungary	17/05/1956	Ratification
6	Poland	06/08/1956	Ratification
7	Bulgaria	07/08/1956	Accession
8	Ecuador	02/10/1956	Ratification
9	Russian Federation	04/01/1957	Ratification
10	Ukraine	06/02/1957	Ratification
11	Belarus	07/05/1957	Ratification
12	France	07/06/1957	Ratification
13	Jordan	02/10/1957	Ratification
14	Israel	03/10/1957	Ratification
15	Libyan Arab Jamahiriya	19/11/1957	Ratification
16	Cuba	26/11/1957	Ratification
17	Monaco	10/12/1957	Ratification
18	Holy See	24/02/1958	Accession
19	Syrian Arab Republic	06/03/1958	Ratification
20	Romania	21/03/1958	Ratification
21	Thailand	02/05/1958	Accession
22	Italy	09/05/1958	Ratification
23	India	16/06/1958	Ratification
24	Brazil	12/09/1958	Ratification
25	Netherlands	14/10/1958	Ratification
26	Pakistan	27/03/1959	Accession
27	Iran (Islamic Republic of)	22/06/1959	Ratification
28	Nicaragua	25/11/1959	Ratification
29	Dominican Republic	05/01/1960	Accession
30	Liechtenstein	28/04/1960	Accession
31	Lebanon	01/06/1960	Ratification
32	Spain	07/07/1960	Ratification
33	Ghana	25/07/1960	Accession
34	Belgium	16/09/1960	Ratification

¹ This Convention entered into force on 7 August 1956. It subsequently entered into force for each State three months after the date of deposit of that State's instrument, except in cases of notifications of succession, where the entry into force occurred on the date on which the State assumed responsibility for conducting its international relations.

	States	Date of deposit of instrument	Type of instrument
35	Guinea	20/09/1960	Accession
36	Malaysia	12/12/1960	Accession
37	Albania	20/12/1960	Accession
38	Democratic Republic of the Congo	18/04/1961	Accession
39	Mali	18/05/1961	Accession
40	Nigeria	05/06/1961	Accession
41	Norway	19/09/1961	Ratification
42	Luxembourg	29/09/1961	Ratification
43	Cameroon	12/10/1961	Accession
44	Madagascar	03/11/1961	Accession
45	Gabon	04/12/1961	Accession
46	Cambodia	04/04/1962	Ratification
47	Switzerland	15/05/1962	Accession
48	Panama	17/07/1962	Accession
49	Austria	25/03/1964	Ratification
50	Cyprus	09/09/1964	Accession
51	Mongolia	04/11/1964	Accession
52	Turkey	15/12/1965	Accession
53	Indonesia	10/01/1967	Ratification
54	Germany	11/08/1967	Ratification
55	Iraq	21/12/1967	Ratification
56	Morocco	30/08/1968	Accession
57	Kuwait	06/06/1969	Accession
58	Burkina Faso	18/12/1969	Accession
59	Yemen	06/02/1970	Accession
60	Sudan	23/07/1970	Accession
61	Saudi Arabia	20/01/1971	Accession
62	United Republic of Tanzania	23/09/1971	Accession
63	Qatar	31/07/1973	Accession
64	Niger	06/12/1976	Accession
65	Oman	26/10/1977	Accession
66	Côte d'Ivoire	24/01/1980	Ratification
67	Tunisia	28/01/1981	Accession
68	Greece	09/02/1981	Ratification
69	Australia	19/09/1984	Ratification
70	Sweden	22/01/1985	Accession
71	Guatemala	02/10/1985	Accession
72	Senegal	17/06/1987	Accession
73	Argentina	22/03/1989	Accession
74	Peru	21/07/1989	Accession
75	Croatia	06/07/1992	Notification of succession
76	Tajikistan	28/08/1992	Notification of succession
77	Georgia	04/11/1992	Notification of succession

	States	Date of deposit of instrument	Type of instrument
78	Slovenia	05/11/1992	Notification of succession
79	Czech Republic	26/03/1993	Notification of succession
80	Slovakia	31/03/1993	Notification of succession
81	Bosnia and Herzegovina	12/07/1993	Notification of succession
82	Armenia	05/09/1993	Notification of succession
83	Azerbaijan	20/09/1993	Accession
84	Finland	16/09/1994	Accession
85	Estonia	04/04/1995	Accession
86	Kyrgyzstan	03/07/1995	Accession
87	Uzbekistan	21/02/1996	Accession
88	Kazakhstan	14/03/1997	Notification of succession
89	The former Yugoslav Republic of Macedonia	30/04/1997	Notification of succession
90	Costa Rica	03/06/1998	Accession
91	Zimbabwe	09/06/1998	Accession
92	Colombia	18/06/1998	Accession
93	Lithuania	27/07/1998	Accession
94	Canada	11/12/1998	Accession
95	Uruguay	24/09/1999	Ratification
96	Republic of Moldova	09/12/1999	Accession
97	China	05/01/2000	Accession
98	Portugal	04/08/2000	Ratification
99	Rwanda	28/12/2000	Accession
100	El Salvador	19/07/2001	Ratification
101	Serbia and Montenegro	11/09/2001	Notification of succession
102	Botswana	03/01/2002	Accession
103	Barbados	09/04/2002	Accession
104	Honduras	25/10/2002	Accession
105	Denmark	26/03/2003	Ratification
106	Seychelles	08/10/2003	Accession
107	Equatorial Guinea	19/11/2003	Accession
108	South Africa	18/12/2003	Accession
109	Latvia	19/12/2003	Accession
110	Sri Lanka	11/05/2004	Accession
111	Eritrea	06/08/2004	Accession
112	Paraguay	09/11/2004	Accession
113	Bolivia	17/11/2004	Accession



**Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict.
The Hague, 14 May 1954¹**

States	Date of deposit of instrument	Type of instrument
1 Egypt	17/08/1955	Ratification
2 San Marino	09/02/1956	Ratification
3 Myanmar	10/02/1956	Ratification
4 Mexico	07/05/1956	Ratification
5 Poland	06/08/1956	Ratification
6 Hungary	16/08/1956	Accession
7 Russian Federation	04/01/1957	Ratification
8 Ukraine	06/02/1957	Ratification
9 Belarus	07/05/1957	Ratification
10 France	07/06/1957	Ratification
11 Jordan	02/10/1957	Ratification
12 Libyan Arab Jamahiriya	19/11/1957	Ratification
13 Cuba	26/11/1957	Ratification
14 Monaco	10/12/1957	Ratification
15 Holy See	24/02/1958	Accession
16 Syrian Arab Republic	06/03/1958	Ratification
17 Romania	21/03/1958	Ratification
18 Israel	01/04/1958	Accession
19 Thailand	02/05/1958	Accession
20 Italy	09/05/1958	Ratification
21 India	16/06/1958	Ratification
22 Brazil	12/09/1958	Ratification
23 Bulgaria	09/10/1958	Accession
24 Netherlands	14/10/1958	Ratification
25 Pakistan	27/03/1959	Accession
26 Iran (Islamic Republic of)	22/06/1959	Ratification
27 Nicaragua	25/11/1959	Ratification
28 Liechtenstein	28/04/1960	Accession
29 Lebanon	01/06/1960	Ratification
30 Ghana	25/07/1960	Accession
31 Belgium	16/09/1960	Ratification
32 Malaysia	12/12/1960	Accession
33 Albania	20/12/1960	Accession
34 Ecuador	08/02/1961	Ratification
35 Democratic Republic of the Congo	18/04/1961	Accession
36 Mali	18/05/1961	Accession
37 Nigeria	05/06/1961	Accession

¹ This Protocol entered into force on 7 August 1956. It subsequently entered into force for each State three months after the date of deposit of that State's instrument, except in cases of notifications of succession, where the entry into force occurred on the date on which the State assumed responsibility for conducting its international relations.

States	Date of deposit of instrument	Type of instrument
38 Norway	19/09/1961	Ratification
39 Luxembourg	29/09/1961	Ratification
40 Cameroon	12/10/1961	Accession
41 Madagascar	03/11/1961	Accession
42 Gabon	04/12/1961	Accession
43 Guinea	11/12/1961	Accession
44 Cambodia	04/04/1962	Accession
45 Switzerland	15/05/1962	Accession
46 Austria	25/03/1964	Ratification
47 Cyprus	09/09/1964	Accession
48 Turkey	15/12/1965	Accession
49 Indonesia	26/07/1967	Ratification
50 Germany	11/08/1967	Ratification
51 Iraq	21/12/1967	Ratification
52 Morocco	30/08/1968	Accession
53 Yemen	06/02/1970	Accession
54 Kuwait	17/02/1970	Accession
55 Niger	06/12/1976	Accession
56 Tunisia	28/01/1981	Accession
57 Greece	09/02/1981	Ratification
58 Sweden	22/01/1985	Accession
59 Burkina Faso	04/02/1987	Accession
60 Senegal	17/06/1987	Accession
61 Peru	21/07/1989	Accession
62 Spain	26/06/1992	Accession
63 Croatia	06/07/1992	Notification of succession
64 Tajikistan	28/08/1992	Notification of succession
65 Georgia	04/11/1992	Notification of succession
66 Slovenia	05/11/1992	Notification of succession
67 Czech Republic	26/03/1993	Notification of succession
68 Slovakia	31/03/1993	Notification of succession
69 Bosnia and Herzegovina	12/07/1993	Notification of succession
70 Armenia	05/09/1993	Notification of succession
71 Azerbaijan	20/09/1993	Accession
72 Guatemala	19/05/1994	Accession
73 Finland	16/09/1994	Accession
74 Kazakhstan	14/03/1997	Notification of succession
75 The former Yugoslav Republic of Macedonia	30/04/1997	Notification of succession
76 Costa Rica	03/06/1998	Accession
77 Colombia	18/06/1998	Accession
78 Lithuania	27/07/1998	Accession
79 Uruguay	24/09/1999	Ratification
80 Republic of Moldova	09/12/1999	Accession

States	Date of deposit of instrument	Type of instrument
81 China	05/01/2000	Accession
82 Panama	08/03/2001	Accession
83 Serbia and Montenegro	11/09/2001	Notification of succession
84 Dominican Republic	21/03/2002	Accession
85 El Salvador	27/03/2002	Accession
86 Honduras	25/10/2002	Accession
87 Denmark	26/03/2003	Ratification
88 Latvia	19/12/2003	Accession
89 Paraguay	09/11/2004	Accession
90 Estonia	17/01/2005	Accession

IX. TEXT OF THE SECOND PROTOCOL TO THE HAGUE CONVENTION
Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property
in the Event of Armed Conflict
The Hague, 26 March 1999

The Parties,

Conscious of the need to improve the protection of cultural property in the event of armed conflict and to establish an enhanced system of protection for specifically designated cultural property,

Reaffirming the importance of the provisions of the Convention for the Protection of Cultural Property in the Event of Armed Conflict, done at the Hague on 14 May 1954, and emphasizing the necessity to supplement these provisions through measures to reinforce their implementation,

Desiring to provide the High Contracting Parties to the Convention with a means of being more closely involved in the protection of cultural property in the event of armed conflict by establishing appropriate procedures therefor,

Considering that the rules governing the protection of cultural property in the event of armed conflict should reflect developments in international law,

Affirming that the rules of customary international law will continue to govern questions not regulated by the provisions of this Protocol,

Have agreed as follows:

Chapter 1 Introduction

Article 1 Definitions

For the purposes of this Protocol:

- (a) “Party” means a State Party to this Protocol;
- (b) “cultural property” means cultural property as defined in Article 1 of the Convention;
- (c) “Convention” means the Convention for the Protection of Cultural Property in the Event of Armed Conflict, done at The Hague on 14 May 1954;
- (d) “High Contracting Party” means a State Party to the Convention;
- (e) “enhanced protection” means the system of enhanced protection established by Articles 10 and 11;
- (f) “military objective” means an object which by its nature, location, purpose, or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage;
- (g) “illicit” means under compulsion or otherwise in violation of the applicable rules of the domestic law of the occupied territory or of international law.

- (h) “List” means the International List of Cultural Property under Enhanced Protection established in accordance with Article 27, subparagraph 1(b);
- (i) “Director-General” means the Director-General of UNESCO;
- (j) “UNESCO” means the United Nations Educational, Scientific and Cultural Organization;
- (k) “First Protocol” means the Protocol for the Protection of Cultural Property in the Event of Armed Conflict done at The Hague on 14 May 1954;

Article 2 Relation to the Convention

This Protocol supplements the Convention in relations between the Parties.

Article 3 Scope of application

1. In addition to the provisions which shall apply in time of peace, this Protocol shall apply in situations referred to in Article 18 paragraphs 1 and 2 of the Convention and in Article 22 paragraph 1.

2. When one of the parties to an armed conflict is not bound by this Protocol, the Parties to this Protocol shall remain bound by it in their mutual relations. They shall furthermore be bound by this Protocol in relation to a State party to the conflict which is not bound by it, if the latter accepts the provisions of this Protocol and so long as it applies them.

Article 4 Relationship between Chapter 3 and other provisions of the Convention and this Protocol

The application of the provisions of Chapter 3 of this Protocol is without prejudice to:

- (a) the application of the provisions of Chapter I of the Convention and of Chapter 2 of this Protocol;
- (b) the application of the provisions of Chapter II of the Convention save that, as between Parties to this Protocol or as between a Party and a State which accepts and applies this Protocol in accordance with Article 3 paragraph 2, where cultural property has been granted both special protection and enhanced protection, only the provisions of enhanced protection shall apply.

Chapter 2 General provisions regarding protection

Article 5 Safeguarding of cultural property

Preparatory measures taken in time of peace for the safeguarding of cultural property against the foreseeable effects of an armed conflict pursuant to Article 3 of the Convention shall include, as appropriate, the preparation of inventories, the

planning of emergency measures for protection against fire or structural collapse, the preparation for the removal of movable cultural property or the provision for adequate *in situ* protection of such property, and the designation of competent authorities responsible for the safeguarding of cultural property.

Article 6 Respect for cultural property

With the goal of ensuring respect for cultural property in accordance with Article 4 of the Convention:

- (a) a waiver on the basis of imperative military necessity pursuant to Article 4 paragraph 2 of the Convention may only be invoked to direct an act of hostility against cultural property when and for as long as:
 - (i) that cultural property has, by its function, been made into a military objective; and
 - (ii) there is no feasible alternative available to obtain a similar military advantage to that offered by directing an act of hostility against that objective;
- (b) a waiver on the basis of imperative military necessity pursuant to Article 4 paragraph 2 of the Convention may only be invoked to use cultural property for purposes which are likely to expose it to destruction or damage when and for as long as no choice is possible between such use of the cultural property and another feasible method for obtaining a similar military advantage;
- (c) the decision to invoke imperative military necessity shall only be taken by an officer commanding a force the equivalent of a battalion in size or larger, or a force smaller in size where circumstances do not permit otherwise;
- (d) in case of an attack based on a decision taken in accordance with subparagraph (a), an effective advance warning shall be given whenever circumstances permit.

Article 7 Precautions in attack

Without prejudice to other precautions required by international humanitarian law in the conduct of military operations, each Party to the conflict shall:

- (a) do everything feasible to verify that the objectives to be attacked are not cultural property protected under Article 4 of the Convention;
- (b) take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental damage to cultural property protected under Article 4 of the Convention;
- (c) refrain from deciding to launch any attack which may be expected to cause incidental damage to cultural property protected under Article 4 of the Convention which would be excessive in relation to the concrete and direct military advantage anticipated; and

(d) cancel or suspend an attack if it becomes apparent:

- (i) that the objective is cultural property protected under Article 4 of the Convention;
- (ii) that the attack may be expected to cause incidental damage to cultural property protected under Article 4 of the Convention which would be excessive in relation to the concrete and direct military advantage anticipated.

Article 8 Precautions against the effects of hostilities

The Parties to the conflict shall, to the maximum extent feasible:

- (a) remove movable cultural property from the vicinity of military objectives or provide for adequate *in situ* protection;
- (b) avoid locating military objectives near cultural property.

Article 9 Protection of cultural property in occupied territory

1. Without prejudice to the provisions of Articles 4 and 5 of the Convention, a Party in occupation of the whole or part of the territory of another Party shall prohibit and prevent in relation to the occupied territory:

- (a) any illicit export, other removal or transfer of ownership of cultural property;
- (b) any archaeological excavation, save where this is strictly required to safeguard, record or preserve cultural property;
- (c) any alteration to, or change of use of, cultural property which is intended to conceal or destroy cultural, historical or scientific evidence.

2. Any archaeological excavation of, alteration to, or change of use of, cultural property in occupied territory shall, unless circumstances do not permit, be carried out in close cooperation with the competent national authorities of the occupied territory.

Chapter 3 **Enhanced Protection**

Article 10 Enhanced protection

Cultural property may be placed under enhanced protection provided that it meets the following three conditions:

- (a) it is cultural heritage of the greatest importance for humanity;
- (b) it is protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring the highest level of protection;
- (c) it is not used for military purposes or to shield military sites and a declaration has been made by

the Party which has control over the cultural property, confirming that it will not be so used.

Article 11 The granting of enhanced protection

1. Each Party should submit to the Committee a list of cultural property for which it intends to request the granting of enhanced protection.
2. The Party which has jurisdiction or control over the cultural property may request that it be included in the List to be established in accordance with Article 27, subparagraph 1(b). This request shall include all necessary information related to the criteria mentioned in Article 10. The Committee may invite a Party to request that cultural property be included in the List.
3. Other Parties, the International Committee of the Blue Shield and other non-governmental organizations with relevant expertise may recommend specific cultural property to the Committee. In such cases, the Committee may decide to invite a Party to request inclusion of that cultural property in the List.
4. Neither the request for inclusion of cultural property situated in a territory, sovereignty or jurisdiction over which is claimed by more than one State, nor its inclusion, shall in any way prejudice the rights of the parties to the dispute.
5. Upon receipt of a request for inclusion in the List, the Committee shall inform all Parties of the request. Parties may submit representations regarding such a request to the Committee within sixty days. These representations shall be made only on the basis of the criteria mentioned in Article 10. They shall be specific and related to facts. The Committee shall consider the representations, providing the Party requesting inclusion with a reasonable opportunity to respond before taking the decision. When such representations are before the Committee, decisions for inclusion in the List shall be taken, notwithstanding Article 26, by a majority of four fifths of its members present and voting.
6. In deciding upon a request, the Committee should ask the advice of governmental and non-governmental organizations, as well as of individual experts.
7. A decision to grant or deny enhanced protection may only be made on the basis of the criteria mentioned in Article 10.
8. In exceptional cases, when the Committee has concluded that the Party requesting inclusion of cultural property in the List cannot fulfil the criteria of Article 10, subparagraph (b), the Committee may decide to grant enhanced protection, provided that the requesting Party submits a request for international assistance under Article 32.
9. Upon the outbreak of hostilities, a Party to the conflict may request, on an emergency basis, enhanced protection of cultural property under its jurisdiction or control by communicating this request to the Committee. The Committee shall transmit this request

immediately to all Parties to the conflict. In such cases the Committee will consider representations from the Parties concerned on an expedited basis. The decision to grant provisional enhanced protection shall be taken as soon as possible and, notwithstanding Article 26, by a majority of four fifths of its members present and voting. Provisional enhanced protection may be granted by the Committee pending the outcome of the regular procedure for the granting of enhanced protection, provided that the provisions of Article 10, subparagraphs (a) and (c) are met.

10. Enhanced protection shall be granted to cultural property by the Committee from the moment of its entry in the List.

11. The Director-General shall, without delay, send to the Secretary-General of the United Nations and to all Parties notification of any decision of the Committee to include cultural property on the List.

Article 12 Immunity of cultural property under enhanced protection

The Parties to a conflict shall ensure the immunity of cultural property under enhanced protection by refraining from making such property the object of attack or from any use of the property or its immediate surroundings in support of military action.

Article 13 Loss of enhanced protection

1. Cultural property under enhanced protection shall only lose such protection:
 - (a) if such protection is suspended or cancelled in accordance with Article 14; or
 - (b) if, and for as long as, the property has, by its use, become a military objective.
2. In the circumstances of subparagraph 1(b), such property may only be the object of attack if:
 - (a) the attack is the only feasible means of terminating the use of the property referred to in subparagraph 1(b);
 - (b) all feasible precautions are taken in the choice of means and methods of attack, with a view to terminating such use and avoiding, or in any event minimizing, damage to the cultural property;
 - (c) unless circumstances do not permit, due to requirements of immediate self-defence:
 - (i) the attack is ordered at the highest operational level of command;
 - (ii) effective advance warning is issued to the opposing forces requiring the termination of the use referred to in subparagraph 1(b); and
 - (iii) Reasonable time is given to the opposing forces to redress the situation.

Article 14 Suspension and cancellation of enhanced protection

1. Where cultural property no longer meets any one of the criteria in Article 10 of this Protocol, the Committee may suspend its enhanced protection status or cancel that status by removing that cultural property from the List.
2. In the case of a serious violation of Article 12 in relation to cultural property under enhanced protection arising from its use in support of military action, the Committee may suspend its enhanced protection status. Where such violations are continuous, the Committee may exceptionally cancel the enhanced protection status by removing the cultural property from the List.
3. The Director-General shall, without delay, send to the Secretary-General of the United Nations and to all Parties to this Protocol notification of any decision of the Committee to suspend or cancel the enhanced protection of cultural property.
4. Before taking such a decision, the Committee shall afford an opportunity to the Parties to make their views known.

Chapter 4 Criminal responsibility and jurisdiction

Article 15 Serious violations of this Protocol

1. Any person commits an offence within the meaning of this Protocol if that person intentionally and in violation of the Convention or this Protocol commits any of the following acts:
 - (a) making cultural property under enhanced protection the object of attack;
 - (b) using cultural property under enhanced protection or its immediate surroundings in support of military action;
 - (c) extensive destruction or appropriation of cultural property protected under the Convention and this Protocol;
 - (d) making cultural property protected under the Convention and this Protocol the object of attack;
 - (e) Theft, pillage or misappropriation of, or acts of vandalism directed against cultural property protected under the Convention.
2. Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law the offences set forth in this Article and to make such offences punishable by appropriate penalties. When doing so, Parties shall comply with general principles of law and international law, including the rules extending individual criminal

responsibility to persons other than those who directly commit the act.

Article 16 Jurisdiction

1. Without prejudice to paragraph 2, each Party shall take the necessary legislative measures to establish its jurisdiction over offences set forth in Article 15 in the following cases:
 - when such an offence is committed in the territory of that State;
 - when the alleged offender is a national of that State;
 - in the case of offences set forth in Article 15, subparagraphs (a) to (c), when the alleged offender is present in its territory.
2. With respect to the exercise of jurisdiction and without prejudice to Article 28 of the Convention:
 - (a) this Protocol does not preclude the incurring of individual criminal responsibility or the exercise of jurisdiction under national and international law that may be applicable, or affect the exercise of jurisdiction under customary international law;
 - (b) except insofar as a State which is not Party to this Protocol may accept and apply its provisions in accordance with Article 3, paragraph 2, members of the armed forces and nationals of a State which is not Party to this Protocol, except for those nationals serving in the armed forces of a State which is a Party to this Protocol, do not incur individual criminal responsibility by virtue of this Protocol, nor does this Protocol impose an obligation to establish jurisdiction over such persons or to extradite them.

Article 17 Prosecution

1. The Party in whose territory the alleged offender of an offence set forth in Article 15 subparagraphs 1(a) to (c) is found to be present shall, if it does not extradite that person, submit, without exception whatsoever and without undue delay, the case to its competent authorities, for the purpose of prosecution, through proceedings in accordance with its domestic law or with, if applicable, the relevant rules of international law.
2. Without prejudice to, if applicable, the relevant rules of international law, any person regarding whom proceedings are being carried out in connection with the Convention or this Protocol shall be guaranteed fair treatment and a fair trial in accordance with domestic law and international law at all stages of the proceedings, and in no cases shall be provided guarantees less favourable to such person than those provided by international law.

Article 18 Extradition

1. The offences set forth in Article 15 subparagraphs 1(a) to (c) shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the Parties before the entry into force of this Protocol. Parties undertake to include such offences in every extradition treaty to be subsequently concluded between them.

2. When a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, the requested Party may, at its option, consider the present Protocol as the legal basis for extradition in respect of offences as set forth in Article 15 subparagraphs 1(a) to (c).

3. Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in Article 15, subparagraphs 1(a) to (c) as extraditable offences between them, subject to the conditions provided by the law of the requested Party.

4. If necessary, offences set forth in Article 15, subparagraphs 1(a) to (c) shall be treated, for the purposes of extradition between Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the Parties that have established jurisdiction in accordance with Article 16 paragraph 1.

Article 19 Mutual legal assistance

1. Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in Article 15, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. Parties shall carry out their obligations under paragraph 1 in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, Parties shall afford one another assistance in accordance with their domestic law.

Article 20 Grounds for refusal

1. For the purpose of extradition, offences set forth in Article 15 subparagraphs 1(a) to (c), and for the purpose of mutual legal assistance, offences set forth in Article 15 shall not be regarded as political offences nor as offences connected with political offences nor as offences inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such offences may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

2. Nothing in this Protocol shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance if the requested Party has substantial grounds for believing that the request for extradition

for offences set forth in Article 15 subparagraphs 1 (a) to (c) or for mutual legal assistance with respect to offences set forth in Article 15 has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 21 Measures regarding other violations

Without prejudice to Article 28 of the Convention, each Party shall adopt such legislative, administrative or disciplinary measures as may be necessary to suppress the following acts when committed intentionally:

- (a) any use of cultural property in violation of the Convention or this Protocol;
- (b) any illicit export, other removal or transfer of ownership of cultural property from occupied territory in violation of the Convention or this Protocol.

Chapter 5 The protection of cultural property in armed conflicts not of an international character

Article 22 Armed conflicts not of an international character

1. This Protocol shall apply in the event of an armed conflict not of an international character, occurring within the territory of one of the Parties.

2. This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature.

3. Nothing in this Protocol shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.

4. Nothing in this Protocol shall prejudice the primary jurisdiction of a Party in whose territory an armed conflict not of an international character occurs over the violations set forth in Article 15.

5. Nothing in this Protocol shall be invoked as a justification for intervening, directly or indirectly, for any reason whatever, in the armed conflict or in the internal or external affairs of the Party in the territory of which that conflict occurs.

6. The application of this Protocol to the situation referred to in paragraph 1 shall not affect the legal status of the parties to the conflict.

7. UNESCO may offer its services to the parties to the conflict.

Chapter 6 Institutional Issues

Article 23 Meeting of the Parties

1. The Meeting of the Parties shall be convened at the same time as the General Conference of UNESCO, and in coordination with the Meeting of the High Contracting Parties, if such a meeting has been called by the Director-General.
2. The Meeting of the Parties shall adopt its Rules of Procedure.
3. The Meeting of the Parties shall have the following functions:
 - (a) to elect the Members of the Committee, in accordance with Article 24 paragraph 1;
 - (b) to endorse the Guidelines developed by the Committee in accordance with Article 27, subparagraph 1(a);
 - (c) to provide guidelines for, and to supervise the use of the Fund by the Committee;
 - (d) to consider the report submitted by the Committee in accordance with Article 27, subparagraph 1(d);
 - (e) to discuss any problem related to the application of this Protocol, and to make recommendations, as appropriate.
4. At the request of at least one fifth of the Parties, the Director-General shall convene an Extraordinary Meeting of the Parties.

Article 24 Committee for the Protection of Cultural Property in the Event of Armed Conflict

1. The Committee for the Protection of Cultural Property in the Event of Armed Conflict is hereby established. It shall be composed of twelve Parties which shall be elected by the Meeting of the Parties.
2. The Committee shall meet once a year in ordinary session and in extraordinary sessions whenever it deems necessary.
3. In determining membership of the Committee, Parties shall seek to ensure an equitable representation of the different regions and cultures of the world.
4. Parties members of the Committee shall choose as their representatives persons qualified in the fields of cultural heritage, defence or international law, and they shall endeavour, in consultation with one another, to ensure that the Committee as a whole contains adequate expertise in all these fields.

Article 25 Term of office

1. A Party shall be elected to the Committee for four years and shall be eligible for immediate re-election only once.
2. Notwithstanding the provisions of paragraph 1, the term of office of half of the members chosen at the

time of the first election shall cease at the end of the first ordinary session of the Meeting of the Parties following that at which they were elected. These members shall be chosen by lot by the President of this Meeting after the first election.

Article 26 Rules of procedure

1. The Committee shall adopt its Rules of Procedure.
2. A majority of the members shall constitute a quorum. Decisions of the Committee shall be taken by a majority of two thirds of its members voting.
3. Members shall not participate in the voting on any decisions relating to cultural property affected by an armed conflict to which they are parties.

Article 27 Functions

1. The Committee shall have the following functions:
 - (a) to develop Guidelines for the implementation of this Protocol;
 - (b) to grant, suspend or cancel enhanced protection for cultural property and to establish, maintain and promote the List of Cultural Property under Enhanced Protection;
 - (c) to monitor and supervise the implementation of this Protocol and promote the identification of cultural property under enhanced protection;
 - (d) to consider and comment on reports of the Parties, to seek clarifications as required, and prepare its own report on the implementation of this Protocol for the Meeting of the Parties;
 - (e) to receive and consider requests for international assistance under Article 32;
 - (f) to determine the use of the Fund;
 - (g) to perform any other function which may be assigned to it by the Meeting of the Parties.
2. The functions of the Committee shall be performed in cooperation with the Director-General.
3. The Committee shall cooperate with international and national governmental and non-governmental organizations having objectives similar to those of the Convention, its First Protocol and this Protocol. To assist in the implementation of its functions, the Committee may invite to its meetings, in an advisory capacity, eminent professional organizations such as those which have formal relations with UNESCO, including the International Committee of the Blue Shield (ICBS) and its constituent bodies. Representatives of the International Centre for the Study of the Preservation and Restoration of Cultural Property (Rome Centre) (ICCROM) and of the

International Committee of the Red Cross (ICRC) may also be invited to attend in an advisory capacity.

Article 28 Secretariat

The Committee shall be assisted by the Secretariat of UNESCO which shall prepare the Committee's documentation and the agenda for its meetings and shall have the responsibility for the implementation of its decisions.

Article 29 The Fund for the Protection of Cultural Property in the Event of Armed Conflict

1. A Fund is hereby established for the following purposes:

- (a) to provide financial or other assistance in support of preparatory or other measures to be taken in peacetime in accordance with, *inter alia*, Article 5, Article 10, subparagraph (b) and Article 30; and
- (b) to provide financial or other assistance in relation to emergency, provisional or other measures to be taken in order to protect cultural property during periods of armed conflict or of immediate recovery after the end of hostilities in accordance with, *inter alia*, Article 8, subparagraph (a).

2. The Fund shall constitute a trust fund, in conformity with the provisions of the financial regulations of UNESCO.

3. Disbursements from the Fund shall be used only for such purposes as the Committee shall decide in accordance with the guidelines as defined in Article 23, subparagraph 3(c). The Committee may accept contributions to be used only for a certain programme or project, provided that the Committee shall have decided on the implementation of such programme or project.

4. The resources of the Fund shall consist of:

- (a) voluntary contributions made by the Parties;
- (b) contributions, gifts or bequests made by:
 - (i) other States;
 - (ii) UNESCO or other organizations of the United Nations system;
 - (iii) other intergovernmental or non-governmental organizations; and
 - (iv) public or private bodies or individuals;
- (c) any interest accruing on the Fund;
- (d) funds raised by collections and receipts from events organized for the benefit of the Fund; and
- (e) all other resources authorized by the guidelines applicable to the Fund.

Chapter 7 Dissemination of Information and International Assistance

Article 30 Dissemination

1. The Parties shall endeavour by appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect for cultural property by their entire population.

2. The Parties shall disseminate this Protocol as widely as possible, both in time of peace and in time of armed conflict.

3. Any military or civilian authorities who, in time of armed conflict, assume responsibilities with respect to the application of this Protocol, shall be fully acquainted with the text thereof. To this end the Parties shall, as appropriate:

- (a) incorporate guidelines and instructions on the protection of cultural property in their military regulations;
- (b) develop and implement, in cooperation with UNESCO and relevant governmental and non-governmental organizations, peacetime training and educational programmes;
- (c) communicate to one another, through the Director-General, information on the laws, administrative provisions and measures taken under subparagraphs (a) and (b);
- (d) communicate to one another, as soon as possible, through the Director-General, the laws and administrative provisions which they may adopt to ensure the application of this Protocol.

Article 31 International cooperation

In situations of serious violations of this Protocol, the Parties undertake to act, jointly through the Committee, or individually, in cooperation with UNESCO and the United Nations and in conformity with the Charter of the United Nations.

Article 32 International assistance

1. A Party may request from the Committee international assistance for cultural property under enhanced protection as well as assistance with respect to the preparation, development or implementation of the laws, administrative provisions and measures referred to in Article 10.

2. A party to the conflict, which is not a Party to this Protocol but which accepts and applies provisions in accordance with Article 3, paragraph 2, may request appropriate international assistance from the Committee.

3. The Committee shall adopt rules for the submission of requests for international assistance and shall define the forms the international assistance may take.

4. Parties are encouraged to give technical assistance of all kinds, through the Committee, to those Parties or parties to the conflict who request it.

Article 33 Assistance of UNESCO

1. A Party may call upon UNESCO for technical assistance in organizing the protection of its cultural property, such as preparatory action to safeguard cultural property, preventive and organizational measures for emergency situations and compilation of national inventories of cultural property, or in connection with any other problem arising out of the application of this Protocol. UNESCO shall accord such assistance within the limits fixed by its programme and by its resources.

2. Parties are encouraged to provide technical assistance at bilateral or multilateral level.

3. UNESCO is authorized to make, on its own initiative, proposals on these matters to the Parties.

Chapter 8 Execution of this Protocol

Article 34 Protecting Powers

This Protocol shall be applied with the cooperation of the Protecting Powers responsible for safeguarding the interests of the Parties to the conflict.

Article 35 Conciliation procedure

1. The Protecting Powers shall lend their good offices in all cases where they may deem it useful in the interests of cultural property, particularly if there is disagreement between the Parties to the conflict as to the application or interpretation of the provisions of this Protocol.

2. For this purpose, each of the Protecting Powers may, either at the invitation of one Party, of the Director-General, or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for the protection of cultural property, if considered appropriate, on the territory of a State not party to the conflict. The Parties to the conflict shall be bound to give effect to the proposals for meeting made to them. The Protecting Powers shall propose for approval by the Parties to the conflict a person belonging to a State not party to the conflict or a person presented by the Director-General, which person shall be invited to take part in such a meeting in the capacity of Chairman.

Article 36 Conciliation in absence of Protecting Powers

1. In a conflict where no Protecting Powers are appointed the Director-General may lend good offices or act by any other form of conciliation or mediation, with a view to settling the disagreement.

2. At the invitation of one Party or of the Director-General, the Chairman of the Committee may propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for the protection of cultural property, if considered appropriate, on the territory of a State not party to the conflict.

Article 37 Translations and reports

1. The Parties shall translate this Protocol into their official languages and shall communicate these official translations to the Director-General.

2. The Parties shall submit to the Committee, every four years, a report on the implementation of this Protocol.

Article 38 State responsibility

No provision in this Protocol relating to individual criminal responsibility shall affect the responsibility of States under international law, including the duty to provide reparation.

Chapter 9 Final Clauses

Article 39 Languages

This Protocol is drawn up in Arabic, Chinese, English, French, Russian and Spanish, the six texts being equally authentic.

Article 40 Signature

This Protocol shall bear the date of 26 March 1999. It shall be opened for signature by all High Contracting Parties at The Hague from 17 May 1999 until 31 December 1999.

Article 41 Ratification, acceptance or approval

1. This Protocol shall be subject to ratification, acceptance or approval by High Contracting Parties which have signed this Protocol, in accordance with their respective constitutional procedures.

2. The instruments of ratification, acceptance or approval shall be deposited with the Director-General.

Article 42 Accession

1. This Protocol shall be open for accession by other High Contracting Parties from 1 January 2000.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General.

Article 43 Entry into force

1. This Protocol shall enter into force three months after twenty instruments of ratification, acceptance, approval or accession have been deposited.

2. Thereafter, it shall enter into force, for each Party, three months after the deposit of its instrument of ratification, acceptance, approval or accession.

Article 44 Entry into force in situations of armed conflict

The situations referred to in Articles 18 and 19 of the Convention shall give immediate effect to ratifications, acceptances or approvals of or accessions to this Protocol deposited by the parties to the conflict either before or after the beginning of hostilities or occupation. In such cases the Director-General shall transmit the communications referred to in Article 46 by the speediest method.

Article 45 Denunciation

1. Each Party may denounce this Protocol.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General.
3. The denunciation shall take effect one year after the receipt of the instrument of denunciation. However,

if, on the expiry of this period, the denouncing Party is involved in an armed conflict, the denunciation shall not take effect until the end of hostilities, or until the operations of repatriating cultural property are completed, whichever is the later.

Article 46 Notifications

The Director-General shall inform all High Contracting Parties as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, approval or accession provided for in Articles 41 and 42 and of denunciations provided for Article 45.

Article 47 Registration with the United Nations

In conformity with Article 102 of the Charter of the United Nations, this Protocol shall be registered with the Secretariat of the United Nations at the request of the Director-General.

IN FAITH WHEREOF the undersigned, duly authorized, have signed the present Protocol.

DONE at The Hague, this twenty-sixth day of March 1999, in a single copy which shall be deposited in the archives of the UNESCO, and certified true copies of which shall be delivered to all the High Contracting Parties.

X. LIST OF STATES PARTIES TO THE SECOND PROTOCOL TO THE HAGUE CONVENTION



Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict. The Hague, 26 March 1999.¹

	States	Date of deposit of instrument	Type of instrument
1	Bulgaria	14/06/2000	Ratification
2	Qatar	04/09/2000	Ratification
3	Belarus	13/12/2000	Ratification
4	Panama	08/03/2001	Accession
5	Azerbaijan	17/04/2001	Ratification
6	Cyprus	16/05/2001	Ratification
7	Nicaragua	01/06/2001	Accession
8	Spain	06/07/2001	Ratification
9	Libyan Arab Jamahiriya	20/07/2001	Accession
10	Argentina	07/01/2002	Accession
11	Austria	01/03/2002	Ratification
12	Lithuania	13/03/2002	Accession
13	El Salvador	27/03/2002	Accession
14	The former Yugoslav Republic of Macedonia	19/04/2002	Accession
15	Serbia and Montenegro	02/09/2002	Accession
16	Honduras	26/01/2003	Accession
17	Gabon	29/08/2003	Accession
18	Mexico	07/10/2003	Accession
19	Equatorial Guinea	19/11/2003	Accession
20	Costa Rica	09/12/2003	Accession
21	Slovakia	11/02/2004	Ratification
22	Slovenia	13/04/2004	Accession
23	Switzerland	09/07/2004	Ratification
24	Ecuador	02/08/2004	Ratification
25	Finland	27/08/2004	Acceptance
26	Paraguay	09/11/2004	Accession
27	Estonia	17/01/2005	Approval
28	Guatemala	04/02/2005	Accession

¹ This Protocol entered into force on 9 March 2004. It subsequently will entered into force for each State three months after the date of deposit of that State's instrument, except in cases of notifications of succession, where the entry into force occurred on the date on which the State assumed responsibility for conducting its international relations.

XI. TEXT OF THE UNESCO DECLARATION CONCERNING THE INTENTIONAL DESTRUCTION OF CULTURAL HERITAGE

UNESCO DECLARATION CONCERNING THE INTENTIONAL DESTRUCTION OF CULTURAL HERITAGE

The General Conference of the United Nations Educational, Scientific and Cultural Organization meeting in Paris at its thirty-second session in 2003,

Recalling the tragic destruction of the Buddhas of Bamiyan that affected the international community as a whole,

Expressing serious concern about the growing number of acts of intentional destruction of cultural heritage,

Referring to Article I(2)(c) of the Constitution of UNESCO that entrusts UNESCO with the task of maintaining, increasing and diffusing knowledge by “assuring the conservation and protection of the world’s inheritance of books, works of art and monuments of history and science, and recommending to the nations concerned the necessary international conventions”,

Recalling the principles of all UNESCO’s conventions, recommendations, declarations and charters for the protection of cultural heritage,

Mindful that cultural heritage is an important component of the cultural identity of communities, groups and individuals, and of social cohesion, so that its intentional destruction may have adverse consequences on human dignity and human rights,

Reiterating one of the fundamental principles of the Preamble of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict providing that “damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world”,

Recalling the principles concerning the protection of cultural heritage in the event of armed conflict established in the 1899 and 1907 Hague Conventions and, in particular, in Articles 27 and 56 of the Regulations of the 1907 Fourth Hague Convention, as well as other subsequent agreements,

Mindful of the development of rules of customary international law as also affirmed by the relevant case law, related to the protection of cultural heritage in peacetime as well as in the event of armed conflict,

Also recalling Articles 8(2)(b)(ix) and 8(2)(e)(iv) of the Rome Statute of the International Criminal Court, and, as appropriate, Article 3(d) of the Statute of the International Criminal Tribunal for the former Yugoslavia, related to the intentional destruction of cultural heritage,

Reaffirming that issues not fully covered by the present Declaration and other international instruments concerning cultural heritage will continue to be governed by the principles of international law, the principles of humanity and the dictates of public conscience,

Adopts and solemnly proclaims the present Declaration:

I – RECOGNITION OF THE IMPORTANCE OF CULTURAL HERITAGE

The international community recognizes the importance of the protection of cultural heritage and reaffirms its commitment to fight against its intentional destruction in any form so that such cultural heritage may be transmitted to the succeeding generations.

II – SCOPE

1. The present Declaration addresses intentional destruction of cultural heritage including cultural heritage linked to a natural site.
2. For the purposes of this Declaration “intentional destruction” means an act intended to destroy in whole or in part cultural heritage, thus compromising its integrity, in a manner which constitutes a violation of international law or an unjustifiable offence to the principles of humanity and dictates of public conscience, in the latter case in so far as such acts are not already governed by fundamental principles of international law.

III – MEASURES TO COMBAT INTENTIONAL DESTRUCTION OF CULTURAL HERITAGE

1. States should take all appropriate measures to prevent, avoid, stop and suppress acts of intentional destruction of cultural heritage, wherever such heritage is located.
2. States should adopt the appropriate legislative, administrative, educational and technical measures, within the framework of their economic resources, to protect cultural heritage and should revise them periodically with a view to adapting them to the evolution of national and international cultural heritage protection standards.
3. States should endeavour, by all appropriate means, to ensure respect for cultural heritage in society, particularly through educational, awareness-raising and information programmes.
4. States should:
 - (a) Become parties to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two 1954 and 1999 Protocols and the Additional Protocols I and II to the four 1949 Geneva Conventions, if they have not yet done so;
 - (b) Promote the elaboration and the adoption of legal instruments providing a higher standard of protection of cultural heritage; and
 - (c) Promote a coordinated application of existing and future instruments relevant to the protection of cultural heritage.

IV – PROTECTION OF CULTURAL HERITAGE WHEN CONDUCTING PEACETIME ACTIVITIES

When conducting peacetime activities, States should take all appropriate measures to conduct them in such a manner as to protect cultural heritage and, in particular, in conformity with the principles and objectives of the 1972 Convention for the Protection of the World Cultural and Natural Heritage, of the 1956 Recommendation on International Principles Applicable to Archaeological Excavations, the 1968 Recommendation concerning the Preservation of Cultural Property Endangered by Public or Private Works, the 1972 Recommendation concerning the Protection, at National Level, of the Cultural and Natural Heritage and the 1976 Recommendation concerning the Safeguarding and Contemporary Role of Historic Areas.

V – PROTECTION OF CULTURAL HERITAGE IN THE EVENT OF ARMED CONFLICT, INCLUDING THE CASE OF OCCUPATION

When involved in an armed conflict, be it of an international or non-international character, including the case of occupation, States should take all appropriate measures to conduct their activities in such a manner as to protect cultural heritage, in conformity with customary international law and the principles and objectives of international agreements and UNESCO recommendations concerning the protection of such heritage during hostilities.

VI – STATE RESPONSIBILITY

A State that intentionally destroys or intentionally fails to take appropriate measures to prohibit, prevent, stop, and punish any intentional destruction of cultural heritage of great importance for humanity, whether or not it is inscribed on a list maintained by UNESCO or another international organization, bears the responsibility for such destruction, to the extent provided for by international law.

VII – INDIVIDUAL CRIMINAL RESPONSIBILITY

States should take all appropriate measures, in accordance with international law, to establish jurisdiction over, and provide effective criminal sanctions against, those persons who commit, or order to be committed, acts of intentional destruction of cultural heritage of great importance for humanity, whether or not it is inscribed on a list maintained by UNESCO or another international organization.

VIII – COOPERATION FOR THE PROTECTION OF CULTURAL HERITAGE

1. States should cooperate with each other and with UNESCO to protect cultural heritage from intentional destruction. Such cooperation should entail at least: (i) provision and exchange of information regarding circumstances entailing the risk of intentional destruction of cultural heritage; (ii) consultation in the event of actual or impending destruction of cultural heritage; (iii) consideration of assistance to States, as requested by them, in the promotion of educational programmes, awareness-raising and capacity-building for the prevention and repression of any intentional destruction of cultural heritage; (iv) judicial and administrative assistance, as requested by interested States, in the repression of any intentional destruction of cultural heritage.

2. For the purposes of more comprehensive protection, each State is encouraged to take all appropriate measures, in accordance with international law, to cooperate with other States concerned with a view to establishing jurisdiction over, and providing effective criminal sanctions against, those persons who have committed or have ordered to be committed acts referred to above (VII – Individual criminal responsibility) and who are found present on its territory, regardless of their nationality and the place where such act occurred.

IX – HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

In applying this Declaration, States recognize the need to respect international rules related to the criminalization of gross violations of human rights and international humanitarian law, in particular, when intentional destruction of cultural heritage is linked to those violations.

X – PUBLIC AWARENESS

States should take all appropriate measures to ensure the widest possible dissemination of this Declaration to the general public and to target groups, *inter alia*, by organizing public awareness-raising campaigns.

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