

**Hungary's national report
concerning 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**

2010-2012

High Contracting Party:**I. The 1954 Hague Convention****1. Article 3 – Safeguarding of cultural property**

This Article provides for the obligation of the High Contracting Parties to adopt relevant peacetime safeguarding measures against the foreseeable effects of an armed conflict.

Have you undertaken such measures?

YES: X

NO:

If yes, please provide more specific information.

1. Competences

Compared to the previous National Report of Hungary, as for the competences of the authorities the following changes have been made:

Within the Ministry of Human Resources it is the State Secretariat for Culture that is responsible for the execution of the 1954 Hague Convention and its Protocols. As for the bylaws on the museum field it is the Department for Public Collections that “takes part and cooperates in the preparation of the inter-governmental international conventions”.

The National Directorate General for Disaster Management is the institution responsible for determining and approving the series of action to be followed in case of emergency.

Act CXXVIII of 2011 on the disaster management with all related amending acts prescribes contribution in defense of cultural property as a civil protection task relating disaster management.

2. Promulgation

The promulgation of the Hague Convention as well as its two Protocols have been effected as detailed in the 2010 National Report.

3. Special protection

Ministerial Decree 29/2007(VII.23.) was issued by the Minister of Education and Culture to publish the international list of cultural property subject to special protection.

2. Article 7 – Military Measures (in peace time)

This Article provides for the obligations of the High Contracting Parties to introduce into their military regulations or instructions provisions that may ensure observance of the Convention, as

well as to plan or establish within their armed forces services or specialists whose purpose will be to secure respect for cultural property.

(i) Have you introduced such provisions into your military regulations and instructions?

YES: X

NO:

If yes, please provide more specific information.

The Convention and its two Protocols are respected in all relevant military regulations and instructions such as the Hungarian Defense Service Regulation as the appendix of the Decree 24/2005. (VI.30) Ministry of Defense contains obligations of the principles of international humanitarian law concerning to military personnel. It regulates the general protection of cultural objects but also the perfidious usage of the international convention's distinctive emblem.

In addition, confidential "rules of engagement" (ROE) are prepared for the military personnel when posting for specific mission, in which the Convention and its Protocols are likewise contained.

(ii) Have you created such services or appointed specialists in your country?

YES:

NO: X

If yes, please provide more specific information.

3. Chapter V – The distinctive emblem

Do you mark cultural property with the distinctive emblem of the Convention?

YES: X

NO:

If yes, please provide more specific information.

Ministerial Directive No 7001/1998.(MK 22.) MKM on the distinctive emblems related to the Hague Convention was issued by the Minister of Public Education in 1998. Its scope applies to the central state and local public collections, ecclesiastic collections and any higher educational institutions the library or archive of which is holding irreplaceable cultural goods.

If not, please state the reasons you have not done so

4. Article 25 – Dissemination of the Convention

Knowledge of the laws of armed conflict is of capital importance for the civilian and military personnel required to apply them. Have you disseminated the provisions of the Convention within armed forces as well as among target groups and the general public?

YES: X

NO:

If yes, please provide more specific information.

COURSES AND TRAININGS

The Hague Convention and its Protocols are integrated to military education in the National University of Public Service, Faculty of Military Sciences and Officer Training. As part of “history of philosophy and culture” as well as “law of armed conflict” courses the candidate-officers focus on Hague Convention and its Protocols, also in the final program of students there are fictive scenarios carried out relating to the protection and safeguarding of cultural heritage.

A NATO ISAF PRT CIMIC Course (NIPCC) was organized on 10-14 October in 2011 by the Hungarian Defense Forces Civil-Military Cooperation and Psychological Operations Centre (HDF CMCPOC) with the cooperation of the NATO Civil-Military Cooperation Centre of Excellence, The Netherlands. After getting up-to-date, mission-oriented training in CIMIC work, students were able to carry out CIMIC-related duties in NATO ISAF operations. (http://www.cimic-coe.org/te/ncbc_hungary.php)

Basic knowledge is spread about the Hague Convention in the universities, for instance at the Catholic University Péter Pázmány is in the official programs for law and art history students. At faculties of law international humanitarian law has been taught.

The National Directorate General for Disaster Management provides a training program for its own employees.

PUBLICATIONS, MEDIA

Red Cross distributes publications and information pamphlets concerning international humanitarian law regulations.

INTERNET SOURCES

The wording of the Convention is available on general legal databases as well as – listed among the legal sources of relevance - on dedicated websites, such as:

- *the Hungarian National Committee for UNESCO*
(<http://www.unesco.hu/ratifikalt-egyezmények>)
- *the Ministry of Human Resources*
(<http://www.nefmi.gov.hu/kultura/jogszabalyok/jogszabalyok>)
- *the Ministry Foreign Affairs*
(http://www.kulugyminiszterium.hu/kum/hu/bal/Kulpolitikank/nemz_hum_jog/egyezmények_dokumentumok/)
- *some cultural institutions like the National Office of Cultural Heritage*
(<http://www.koh.hu/tartalom.php?id=20080819150206>)
- *various museums such as the the Hungarian Museum of Science, Technology and Transport*
(www.km.iif.hu/OKIRAT/jogszabaly_lista.doc)

If not, please state the reasons you have not done so.

5. Article 26(1) – Official translations

To date, the Secretariat has received 32 official translations of the Convention and of the Regulations for its execution (Arabic, Azerbaijani, Bulgarian, Burmese, Cambodian, Chinese, Czech, Danish, Dutch, Estonian, Finnish, German, Hebrew, Hungarian, Greek, Italian, Japanese, Kyrgyz, Latvian, Lithuanian, Montenegrin, Nepali, Norwegian, Persian, Polish, Romanian, Serbo-Croatian, Slovak, Slovenian, Swedish, Thai, and Turkish).

Have you officially translated the Convention and the Regulations for its execution?

YES: X

NO:

If yes, could you please provide the Secretariat with an electronic copy of the translation, if you have not already done so?

6. Article 28 – Sanctions

This Article provides for the obligations of the High Contracting Parties 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.

Have you introduced this provision into your penal code?

YES: X

NO:

If yes, please provide more specific information.

Section 160/B concerning the ‘Violation of international protection of cultural property’ of Act IV of 1978 on the Criminal Code stipulates the following:

*Violation of international protection of cultural property
(Official translation)*

Section 160/B

(1) Any person who, at the time of war:

- a) makes cultural property under international protection the object of attack;*
- b) uses cultural property under international protection in support of military action;*
- c) makes cultural property under international protection the object of theft or pillage;*
- d) makes cultural property under international protection the object of destruction or vandalism,*
is guilty of a felony punishable by imprisonment between five to ten years.

(2) Any person who uses the immediate surroundings of cultural property under international protection in support of military action shall be punishable in accordance with Subsection (1).

(3) *The punishment shall be imprisonment between five to fifteen years if the crime referred to in Subsection (1) is committed in connection with cultural property placed under special or enhanced protection by international convention.*

(4) *Any person who uses the immediate surroundings of cultural property under special or enhanced protection in accordance with international convention in support of military action shall be punishable in accordance with Subsection (3).*

(5) *For the purposes of Subsections (1)-(4):*

1. *'cultural property' shall mean the cultural property defined in Article 1 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict signed in the Hague on 14 May 1954, and promulgated by Law-Decree No. 14 of 1957;*

2. *'cultural property under special protection' shall mean the cultural property defined in Article 8 of the Convention referred to in Point 1;*

3. *'cultural property under enhanced protection' shall mean the cultural property defined in Article 10 of the Second Protocol to the Convention referred to in Point 1.*

In the new Criminal Code, Act C of 2012 that is in force from July 2013, Article 153 on 'Attacks on protected property' will contain the relevant provisions, with modifications in the title and the actual content as well compared to the above regulation in force. An important difference is that the new regulation encompasses non-international armed conflicts as well.

*Attacks on protected property
(Unofficial translation)*

Article 153

(1) *Any person who, in the case of wartime, instigates or continues an attack against a non-military target and militarily defenceless establishment, or instigates or continues an attack which causes injury in such establishments or possible wide-spread, long-term or severe damage in the natural environment as an obviously excessive form when comparing the direct military advantage, is guilty of a felony punishable by imprisonment between two to eight years.*

(2) *The punishment shall be imprisonment between five to ten years if the committed crime is against*

a) a hospital, other housing or treatment locations for patients and wounded individuals

b) cultural property protected by an international convention.

(3) *Any person who uses the immediate surroundings of cultural property protected by an international convention in support of military action or steals, loots, damages or destroys such property shall be punishable in accordance with Subsection (2).*

(4) *The punishment shall be imprisonment between five to fifteen years if the crime referred to in Subsection (2) Point b) or the crime stipulated by Subsection (3) is committed in connection with cultural property placed under special or enhanced protection by international convention or the immediate surroundings of such property.*

For the purposes of this Article:

1. 'cultural property' shall mean the cultural property defined in Article 1 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict signed in the Hague on 14 May 1954, and promulgated by Law-Decree No. 14 of 1957;

2. 'cultural property under special protection' shall mean the cultural property defined in Article 8 of the Convention referred to in Point a);

3. 'cultural property under enhanced protection' shall mean the cultural property defined in Article 10 of the Second Protocol to the Convention referred to in Point a).

If yes, we would be grateful if you could kindly provide the Secretariat with a copy of the relevant provision(s) in English or French.

II. Resolution II of the 1954 Conference

Have you established a national advisory committee in accordance with the wish expressed by the Conference in Resolution II?

YES: X

NO:

If yes, please provide more specific information.

Decree 2/1958 (III. 9.) MM, issued by the Ministry for Education and Culture, created a Hungarian Advisory Committee to ensure international protection for cultural property, however it was rendered ineffective.

17/2012. (II.16.) Ministerial Decree on the Hungarian National Commission for UNESCO establishes a Cultural Expert Committee that in cooperation with the Ministry of Human Resources plans to establish a special committee distinctly on the enforcement of the Hague Convention and its Protocols.

Is such a committee a part of the national commission on the implementation of international humanitarian law?

YES:

NO: X

III. 1954 (First) Protocol (to be filled in only by the High Contracting Parties party to the 1954 Protocol):

The Protocol provides for the obligation of the High Contracting Parties 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.

Have you complied with this provision? In particular, have you implemented its provisions in your national legislation?

YES:

NO: X

Have you have taken into custody cultural property imported into your territory from an occupied territory?

YES:

NO: X

If yes, please provide more specific information, including what steps you have taken to return this property at the close of a conflict.

IV. The 1999 Second Protocol(to be filled in only by the States party to the 1999 Protocol):

1. General provisions

(i) Article 5 - Safeguarding of cultural property

Article 5 of the Second Protocol complements Article 3 of the Hague Convention by providing concrete examples of peacetime preparatory measures, such as the preparations of inventories of cultural property or the designation of competent authorities responsible for the safeguarding of cultural property.

Have you undertaken these preparatory measures?

YES: X

NO:

If yes, please provide more specific information.

The Ministry of Culture is in charge of the inventory of cultural property not under special protection, under which the Ministry created several categories of cultural objects in relation to which the distinctive emblem alone is to be used.

The Annex of Act XLIV of 2001 on the protection of cultural heritage contains the list of national monuments and that of accentuated national memorials. (Please find the definitions in the unofficial translation of the Act attached to the questionnaire in the Annex.) These itemized lists were added to the Act in 2011 and are in force from the 1st January 2012, being the new category of cultural objects of great national significance.

The basic military and disaster management regulations have been changed in 2011-2012. The preparation of new ministerial decrees regulating defensive tasks and the reorganization of the defensive management plans at regional and local levels have been started as well. These plans already contain preparatory measures suggested by Article 5 of the Second Protocol.

The competent authority, the National Directorate General for Disaster Management is responsible for the safeguarding of cultural property in a state of emergency. It also sets up the plans for the defense and mobilization of the country which as a part of the disaster management, oversee the removal of cultural property and appoints a shelter for that.

Furthermore, each public collection is obliged to create the planning of emergency measures and guidelines concerning the protection of its cultural property.

(ii) Article 9 – Protection of cultural property in occupied territory

Article 9 of the Second Protocol complements the provisions in Article 5 of the Hague Convention by imposing a number of prohibitive measures on the occupying power. If applicable, please describe the implementation of such measures

Not applicable.

2. Enhanced protection (Chapter 3)

The Second Protocol establishes an enhanced protection regime for cultural property, provided that the property is cultural heritage of the greatest importance for humanity, is properly protected by administrative and legal measures, and is not and will not be used for a military purpose or to shield military sites.

(i) Do you intend to request the granting of enhanced protection for a cultural property?

YES:

NO: X

For the incitement of UNESCO the Museum of Fine Arts prepared a comprehensive recommendation to the cultural State Secretariat relating placement under enhanced protection of cultural properties in Hungary. Based on that documentation the aforementioned Cultural Expert Committee to the Hungarian National Commission for UNESCO is considering this question and its possible proposals concerning a tentative list to the Ministry of Human Resources and State Secretariat responsible for culture.

(ii) Do you intend to use the distinctive emblem to mark cultural property under enhanced protection?

YES:

NO: X

If not, please state the reasons you have not done so.

Not applicable.

3. Articles 15 and 21 - Serious violations of this Protocol and measures regarding other violations, respectively

Article 15 obligates Parties to establish certain acts listed under its first paragraph as criminal offences under domestic law and to make them punishable by appropriate penalties.

Article 21 obligates Parties to adopt relevant legislative, administrative or disciplinary measures to suppress any intentional use of cultural property, illicit export, or other removal or transfer of ownership of cultural property from occupied territory, in violation of the Hague Convention or the Second Protocol.

Have you penalized each of these offences and adopted the above-mentioned measures?

YES: X

NO:

If yes, please provide more specific information.

In addition to the answer given in point 6 concerning Article 28 of the Hague Convention, Act XCV of 2001 applicable to military personnel in the Hungarian Army is to be mentioned. Offences are penalized based on Article 75 (1) of the aforementioned Act, with reference to the Hungarian Defense Service Regulation.

Finally Act 2 of 2012 on infractions regulates the following:

177.§ (1) Any person who negligently destroys, damages, removes, relocates or displaces the protected items of cultural heritage (...) commits an infraction.

If not, please state the reasons you have not done so.

4. Article 16 – Jurisdiction

Have you taken the necessary measures to establish jurisdiction over offences mentioned in Article 15?

YES: X

NO:

If yes, please provide more specific information.

Hungary has adequate criminal jurisdiction concerning the personal and territorial scopes (Section 3 and Section 4) of Act IV of 1978 on the Criminal Code as follows:

Territorial and Personal Scope

(Official translation)

Section 3.

(1) Hungarian law shall be applied to crimes committed in Hungary, as well as to any conduct of Hungarian citizens abroad, which

are deemed criminal in accordance with Hungarian law.

(2) Hungarian law shall also be applied to criminal acts committed on board of Hungarian ships or Hungarian aircraft situated

outside the borders of the Republic of Hungary.

Section 4.

(1) Hungarian law shall be applied to any act committed by non-Hungarian citizens in a foreign country, if:

a) it is deemed a felony in accordance with Hungarian law and is also punishable in accordance with the laws of the country where

committed;

b) it is a crime against the state (Chapter X), excluding espionage against allied armed forces (Section 148), regardless of

whether or not it is punishable in accordance with the law of the country where committed;

c) it is crime against humanity (Chapter XI) or any other crime that is to be prosecuted under the strength of an international treaty.

(2) Espionage (Section 148) against allied armed forces by a non-Hungarian citizen in a foreign country shall be punishable

according to Hungarian penal laws, provided that such offence is also punishable by the law of the country where committed.

(3) In the cases described in Subsections (1)-(2) the indictment shall be ordered by the Attorney General.

In the new Criminal Code, Act C of 2012 that is in force from July 2013, the related regulations are the following:

Hungarian Criminal Jurisdiction

Territorial and Personal Scope

(Unofficial translation)

Section 3.

(1) Hungarian criminal law shall be applied

a) to crimes committed in Hungary

b) to criminal acts committed on board of Hungarian ships or Hungarian aircraft situated outside the borders of the Republic of Hungary,

c) to any conduct of Hungarian citizens abroad, which are deemed criminal in accordance with Hungarian law.

(2) Hungarian criminal law shall be applied

a) to any act committed by non-Hungarian citizens in a foreign country, if:

aa) it is deemed criminal in accordance with Hungarian law, and is also punishable in accordance with the laws of the country where committed,

ab) it is a crime against the State- excluding espionage against allied armed forces- regardless of that is punishable in accordance with the laws of the country where committed ,

ac) it is a crime determined in Chapter XIII or XIV, or any other crime that is to be prosecuted under the strength of an international treaty.

c) to any conduct of non-Hungarian citizens abroad, which are deemed criminal in accordance with Hungarian law to the detriment of Hungarian citizens, legal persons and other legal entities constituted under Hungarian law.

(2) In the cases described in Subsections (2) the indictment shall be ordered by the Attorney General.

5. Articles 29 (The Fund for the Protection of Cultural Property in the Event of Armed Conflict), 32 (International assistance) and 33 (Assistance of UNESCO)

Are you currently receiving international assistance from the Fund?

YES:

NO: X

If yes, please describe the project for which funds were received.

Are you currently providing or planning to provide international or technical assistance on a bilateral or multilateral level?

YES:

NO: X

If yes, please provide more details.

If not, please state the reasons you have not done so.

6. Dissemination (Article 30)

Article 30 calls for, among other things, the strengthening of the appreciation and the respect for cultural property, the dissemination of the Protocol and the establishment of military instructions, training and communication facilities.

Please describe the measures taken concerning the above-mentioned obligations.

See Point 4., Article 25 on the Dissemination of the Convention

7. The Fund for the Protection of Cultural Property in the Event of Armed Conflict

Have you contributed to the Fund?

YES:

NO: X

If yes, please provide detailed information concerning your contribution.

If not, would you consider the possibility of contributing to the Fund in the future?

YES:

NO: X

8. National focal point

Please provide us with the name and address of a single national focal point for all official documents and correspondence related to the implementation of the Second Protocol.

*Dr. Annamária Vígh
Head of Department
The Department of Public Collections
Ministry of Human Resources*

Email: annamaria.vigh@emmi.gov.hu

V. Other issues related to the implementation of the Hague Convention and its two Protocols

The Secretariat would appreciate it if you could provide us with a copy of the following documents in English and/or French:

- the relevant administrative civilian and military regulations;
- national laws on the protection of cultural property as well as penal provisions not covered by Article 28 of the Hague Convention and Articles 15, 16, 21 of the Second Protocol; and, case-law on the protection of cultural property related to the implementation of the Hague Convention and its two Protocols.

Please find attached:

- *Extracts from 24/2005. (VI. 30.) HM Regulation (unofficial translation)*
- *Extracts from Act IV of 1978 on the Criminal Code (official version)*
- *Extracts from Act C of 2012 on the Criminal Code (unofficial version)*
- *Act LXIV of 2001 on Cultural heritage protection (unofficial version)*

VI. Official Translations of the Second Protocol to the 1954 Hague Convention

To date, the Secretariat has received 18 official translations of the Second Protocol (Armenian, Brazilian Portuguese, Burmese, Croatian, Czech, Danish, Dutch, Estonian, German, Greek, Italian, Japanese, Latvian, Nepali, Persian, Romanian, Slovak and Slovenian).

Have you officially translated the Second Protocol?

YES: X

NO:

If yes, could you please provide the Secretariat with an electronic copy of the translation, if you have not already done so?

Please find attached the Act XXIX of 2006 on the promulgation of the Second protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and the modification of the Act IV of 1978 on the Criminal Code.

List of Annexes to Hungary's national report:

- 1. Extracts from 24/2005. (VI. 30.) HM Regulation (unofficial translation)*
- 2. Extracts from Act IV of 1978 on the Criminal Code (official translation)*
- 3. Extracts from Act C of 2012 on the Criminal Code (unofficial translation)*
- 4. Act LXIV of 2001 on Cultural heritage protection (unofficial translation)*
- 5. Act XXIX of 2006 on the promulgation of the Second protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and the modification of the Act IV of 1978 on the Criminal Code (official translation)*