

2011-2012 Report
on the implementation of the 1954 Hague Convention
for the Protection of Cultural Property in the Event of Armed Conflict
and its two Protocols (from 1954 and 1999)
in the Republic of Poland

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:

NO:

If yes, please provide more specific information.

The basis for the system of peacetime safeguarding measures against the foreseeable effects of an armed conflict is provided in the *Act of 23 July 2003 on the protection and safeguarding of monuments [Ustawa z dnia 23 lipca 2003 roku w sprawie ochrony zabytków i opieki nad zabytkami]* which in the art. 88 para 2 pledges the minister responsible for culture and national heritage to determine, by way of regulation, the organization and protection of monuments in the event of an armed conflict and emergency situations, including the administrative tasks of an appropriate level of organizational units having monuments in their territory and indicating how to conduct safeguarding work.

On the basis of the above-mentioned Act, the *Regulation of the Minister of Culture of 25 August 2004 on the organizational and safeguarding measures of protecting monuments in the event of an armed conflict and emergency situations* was issued which obliges the public authorities of relevant level and the heads of organizational units having monuments in their territory to plan, prepare and carry out preventive, documentary, safeguarding, rescue and restoration measures, aimed at saving monuments from destruction, damage or disappearance in the event of an armed conflict and other emergency situations. Plans for safeguarding monuments in the event of an armed conflict and emergency situations, carried out in the organizational units having monuments in their territory and at the levels of municipalities [*gmina*], counties [*powiat*], provinces [*województwa*], as well as at the national level, encompass the state of the cultural resources to be protected, the risks, the intention to act, the methods of implementing safeguarding measures, the forces, resources time and costs necessary for their implementation. These documents are subject to annual update.

The adopted safeguarding measures are complemented by systematic training of all those involved in the activities aimed at safeguarding of cultural property and national heritage.

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:

NO:

If yes, please provide more specific information.

The Minister of National Defence issued:

- 1) *Decision No. 250/MON of the Minister of National Defence of 4 August 2005 on the principles of safeguarding of cultural property in the activities of the Polish Armed Forces (Official Journal of the Ministry of National Defence No. 15, item 135),*
- 2) *Decision No. 288/MON of the Minister of National Defence of 29 July 2011 on the introduction to the official use of the "Guidelines on the protection and safeguarding of historic military properties" (Official Journal of the Ministry of National Defence No. 16, item 225)*

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

YES:

NO:

If yes, please provide more specific information.

The Department of Education and Promotion of Defence within the Ministry of National Defence [*Departament Wychowania i Promocji Obronności MON*] – officer for the implementation of international humanitarian law (IHL) in the event of an armed conflict;

The Infrastructure Department within the Ministry of National Defence [*Departament Infrastruktury MON*] – team responsible for the maintenance of historic military properties

3. Chapter V – The distinctive emblem

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

YES:

NO:

If yes, please provide more specific information.

The rules for marking the objects listed in the Polish Register of Relics with the distinctive emblem are set out in the *Regulation of the Minister of Culture of 9 February 2004 on the distinctive emblem placed on immovable cultural properties listed in the Polish Register of Relics* (Journal of Laws No. 30, item 259).

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:

NO:

If yes, please provide more specific information.

- 1) Publishing of training materials for soldiers, including the manual under the aegis of the Ministry of National Defence entitled "The principles of safeguarding and protecting monuments in national and international law".
- 2) Providing training by the Military Centre for Civic Education [*Wojskowe Centrum Edukacji Obywatelskiej*] on cultural property safeguarding and protection aimed at different groups of soldiers and military employees.
- 3) Introducing the issues of safeguarding and protection of cultural property into the training programmes for the Polish Army soldiers as an integral part of international humanitarian law (IHL) in the event of an armed conflict.
- 4) Organization and co-organization of conferences, workshops, seminars and meetings

- 5) **Conducting training on the principles of safeguarding and protecting cultural property aimed at soldiers going on military missions abroad.**

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:

NO:

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

The official translation of the provisions of the Convention and of the Regulations for its execution was provided by Poland when submitting the previous reports.

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:

NO:

If yes, please provide more specific information.

In the Polish law, sanctions against persons who have committed violations of the provisions of the Hague Convention shall be governed by the Act of 6 June 1997 – Penal Code (Journal of Laws No. 88, item 553, as amended), Chapter XVI – crimes against peace, crimes against humanity and war crimes:

Art. 125. § 1. Whoever destroys, damages, takes or appropriates property or cultural property in the area occupied or in the territory of ongoing military operations, in violation of international law, shall be punished by imprisonment of 1 to 10 years.

§ 2. If the punishable offence concerns property of significant value or of special cultural importance, the perpetrator shall be punished by imprisonment for not less than 3 years.

Art. 126. § 1. Whoever illegally uses, in the course of warfare, the emblem of the International Red Cross and Red Crescent Movement, shall be punished by imprisonment up to 3 years.

§ 2. The same penalty shall apply to a person who, in the course of warfare, illegally uses the emblem of protection of cultural property or any other sign protected by international law, or uses a national flag or a military badge of the enemy, of a neutral country or of an international organization or commission.

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

The copies of the above-mentioned articles of the Criminal Code were provided by Poland when submitting the previous reports.

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:

NO:

If yes, please provide more specific information.

In accordance with the Resolution II of the 1954 Hague Convention, there is an advisory body, in Poland, appointed by the Regulation of the Council of Ministers of 27 April 2004 on the Polish Advisory Committee (Journal of Laws No. 102, item 1066).

The Polish Advisory Committee is a subsidiary, collegial and inter-ministerial body of the Council of Ministers. The Committee is chaired by the Secretary of State in the Ministry of Culture and National Heritage – the general relics' conservator. The committee is composed of the representatives of the Ministry of Culture and National Heritage, of the Ministry of National Defense, of the Ministry of Interior and Administration, of the Ministry of Justice, of the Ministry of Foreign Affairs, of the Ministry of Science and Higher Education, of the Ministry of National Education and of experts dealing with the issue of safeguarding and protection of cultural heritage.

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

YES:

NO:

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:

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

YES:

NO:

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