SECOND PROTOCOL TO THE HAGUE CONVENTION OF 1954 FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT

COMMITTEE FOR THE PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT

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The present document reports on the challenges met by the High Contracting Parties when implementing the 1954 Hague Convention and its two Protocols (1954 and 1999) and suggests to the High Contracting Parties specific measures to address those challenges.
Introduction


2. In the first part, the Secretariat presents to the Committee the methodology conducted to identify the challenges met by the High Contracting Parties in implementing the 1954 Hague Convention and its two (1954 and 1999) Protocols.

3. In the second part, the Secretariat highlights the challenges that the High Contracting Parties experienced and, in the third part, proposes measures to address those challenges.

4. Finally, in the fourth part of the report, the Secretariat recalls the possibility to resort to the Fund for the Protection of Cultural Property in the Event of Armed Conflict for the funding of recommended actions.


5. Under its article 23, the 1954 Hague Convention provides that "the High Contracting Parties may call upon the United Nations Educational, Scientific and Cultural Organization for technical assistance in organizing the protection of their cultural property, or in connexion with any other problem arising out of the application of the present Convention or the Regulations for its execution. The Organization shall accord such assistance within the limits fixed by its programme and by its resources."

6. Article 33 of the 1999 Second Protocol stipulates that "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."

7. The existence of these provisions mandates the Secretariat to provide assistance to the High Contracting Parties in the implementation of the 1954 Hague Convention and of its two (1954 and 1999) Protocols. As a result, in the preparation of this report, the Secretariat drew, primarily, from its own institutional memory and from its experience in this field, to identify the challenges that High Contracting Parties face.

8. In addition, the Secretariat also based its understanding on the empirical results of the self-assessment questionnaire submitted for the attention of the High Contracting Parties, as part of national reporting cycle for the period 2013-2016. It should be recalled that by means of that questionnaire, the High Contracting Parties were requested to provide information on the following:

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It is to be noted that the self-assessment questionnaire was filled out by 22 High Contracting Parties and may provide a valid and representative sample of the challenges met by the Parties in the implementation of the 1954 Hague Convention and its two (1954 and 1999) Protocols.²

II. Challenges faced by the High Contracting Parties

10. Based on the conducted methodology, the Secretariat reports that challenges are experienced in the following areas, in relation to the implementation of the 1954 Hague Convention and its two (1954 and 1999) Protocols:

- Adoption of preparatory measures, in peacetime, to protect cultural property from foreseeable effects of armed conflict;
- Training of military personnel on the rules of protection of cultural property in the event of armed conflict;
- Adoption, at the national level, criminal legislation, in compliance with Chapter IV of the 1999 Second Protocol;
- Organization of activities for target audiences to raise awareness on the need to protect cultural property in the event of armed conflict.

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III. Measures to be taken to address the challenges met by the High Contracting Parties

11. Prior to any observation, the Secretariat would like to stress that, for any recommendation – to address the challenges met by the High Contracting Parties – to produce expected results, financial and human resources must be mobilized. Failing that, any recommendation, however relevant from a theoretical standpoint, may not improve the implementation on the ground of the 1954 Hague Convention and its two Protocols.

12. This being stated, the Secretariat underlines that the measures it proposes, in accordance with decision 12.COM.5 of the Committee, are grounded in the practice of the High Contracting Parties, as reflected in national reports.

a) Measures to be implemented to address challenges relating to the protection of cultural property from foreseeable effects of armed conflict

13. Based on the information available to the Secretariat, it appears that the following measures should be implemented as a matter of priority to address the challenges relating to the protection of cultural property from foreseeable effects of armed conflict:

- draw up inventories, in digital and print formats, of the cultural property under the jurisdiction of the State and disseminate such inventories to civilian and military actors entrusted with the protection of cultural property;
- design measures to move cultural property to safe areas, in case of emergency, using response and risk assessment plans prepared in advance by civilian and military actors entrusted with the protection of cultural property;
- draw up a national map to localize cultural property and share it with civilian and military actors entrusted with the protection of cultural property;
- place systematic signage for cultural property using the Blue Shield.

14. As regards signage for cultural property, it is important to note that it can only be done coherently if an inventory of cultural property is carried out at the national level. On a practical level, listing a cultural property in a national inventory and providing signage for it may simultaneously be perfectly feasible.

b) Measures to be implemented to address the challenges in the framework of training for military personnel

15. Based on the information available to the Secretariat, it appears that the following measures should be implemented, as a priority, to address the challenges that emerge in the context of military training:

- development of engagement rules specifically tailored for the protection of cultural property in areas of military operations and dissemination of such rules to members of armed forces;
- development of a military manual, on the protection of cultural property, or dissemination of an existing one, for military officers in command so that they may have a broad grasp of the rules that govern the protection of cultural property in the event of an armed conflict;³

³ Reference may be made to the military manual developed under the auspices of UNESCO Protection of Cultural Property: Military Manuel, available here: https://unesdoc.unesco.org/ark:/48223/pf0000246633
• appointment of persons to develop a training programme for military personnel in the protection of cultural property, as well as, in the conduct of hostilities, respect for cultural property at all stages in the planning of military operations;

• based on the training tools above, provide systematic theoretical and practical training to military personnel, taking into account their ranks and duties;

• and finally, the holding, on a periodic basis, of activities to raise awareness among military personnel so that they may maintain the knowledge acquired during the training.

c) **Measures to be implemented to address the challenges of enacting a relevant criminal legislation**

16. The enactment of a relevant legislative framework deter and sanction crimes committed against cultural property is one of challenges that the High Contracting Parties experience. The Secretariat noted this on several occasions when conducting the preliminary assessment of requests submitted for the granting of enhanced protection.

17. In that respect, the only measure that needs to be implemented with the view to address the challenge is to ensuring that the right legislative framework has indeed been promulgated, in compliance with Chapter IV of the Second Protocol.

18. To assist the High Contracting Parties in the implementation of this measure, the Secretariat invites them to draw inspiration from the publication developed to that effect with the generous support of the Swiss authorities:

19. The Secretariat provides, in the publication, a concise and didactic review of the various aspects relating to the adoption of national legislation in compliance with Chapter IV of the Second Protocol.

20. In addition, it must be noted that it is the priority to the Secretariat to provide necessary technical assistance, upon the request of the High Contracting Parties.
d) Measures to be implemented to address challenges relating to outreach activities targeting specific audiences

21. Based on the information available to the Secretariat, it appears that the following measures should be implemented, as a priority, to address the challenges that emerge in the context of outreach activities targeting specific audiences:

- develop outreach material for the general public, in digital or paper format, in order to foster the respect for the protection of cultural property and the prevention of illicit trafficking of cultural property;
- hold outreach activities for civilian and military personnel with the purpose of creating a collaborative momentum between all players involved in the protection of cultural property in the event of armed conflict.

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

22. It must be noted that the measures, recommended to address the challenges arising from the implementation of the 1954 Hague Convention and its two Protocols, may require substantial financial resources.

23. Therefore, it is worth recalling that it is possible, for the High Contracting Parties, in accordance with the provisions of the 1999 Second Protocol, to seek financial assistance from the Fund for the Protection of Cultural Property in the Event of Armed Conflict.

24. In this regard, paragraph 1 of Article 29 of the Second Protocol provides that:

   “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 sub-paragraph (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 sub-paragraph (a).”

25. Therefore, there is a possibility of financing, through the Fund, measures recommended to address the challenges met by the High Contracting Parties when implementing the 1954 Hague Convention and its two (1954 and 1999) Protocols.