Four-year cycle 2013-2016

Romania

Contents

I. Hague Convention of 1954 .......................................................................................................................... 3
   1. Article 3 - Safeguarding of cultural property .......................................................................................... 3
   2. Article 7 - Military measures ................................................................................................................ 3
   3. Use of the distinctive emblem to indicate cultural property (Chapter V) ............................................. 4
   4. Article 25 – Dissemination of the Convention ..................................................................................... 4
   5. Article 26 (1) – Official translations ..................................................................................................... 5
   6. Article 28 – Sanctions ............................................................................................................................ 5

II. Resolution II of the Conference of 1954 .................................................................................................. 6

III. 1954 First Protocol ................................................................................................................................. 7

IV. 1999 Second Protocol ............................................................................................................................ 7
   1. General provisions (Chapter 2) ............................................................................................................. 7
      Article 5 - Safeguarding of cultural property ....................................................................................... 7
      Article 9 - Protection of cultural property in occupied territory ......................................................... 8
   2. Enhanced protection (Chapter 3) ......................................................................................................... 8
      MONITORING OF CULTURAL PROPERTY UNDER ENHANCED PROTECTION ......................... 8
   3. Criminal responsibility and jurisdiction (Chapter 4) ......................................................................... 9
      Article 15 – Serious violations of the Second Protocol ...................................................................... 9
      Article 16 – Jurisdiction ..................................................................................................................... 9
      Article 21 – Measures regarding other violations ............................................................................. 10
   4. Dissemination of information and international assistance ............................................................... 11
      Article 30 – Dissemination ............................................................................................................... 11
      Articles 32 – International assistance ............................................................................................... 11

V. Miscellaneous questions regarding the Hague Convention of .......................................................... 12

1954 and its two Protocols ......................................................................................................................... 12
   1. National focal point ............................................................................................................................ 12
   2. National practice regarding the implementation of the Hague Convention and its Two Protocols .... 12

VI. Self-assessment forms ........................................................................................................................... 14

VII. Granting of enhanced protection – Opinion Survey ......................................................................... 15
I. Hague Convention of 1954

1. Article 3 - Safeguarding of cultural property

This article sets out the obligation for High Contracting Parties to adopt in time of peace the appropriate safeguarding measures against the foreseeable effects of an armed conflict.

Have you adopted such measures?

Yes.

2. Article 7 - Military measures

This article sets out the obligations of High Contracting Parties to introduce into their military regulations or instructions such provisions as may ensure observance of the Convention. As well as the preparation or establishment, within their armed forces, of services or specialist personnel whose purpose will be to secure respect for cultural property and to co-operate with the civilian authorities responsible for safeguarding it. These obligations must be implemented in time of peace.

Have you introduced into your military regulations or instructions such provisions as may ensure observance of the Convention?

If this information is available in a previously submitted report, you may refer to it.

Yes. The Romanian authorities have continued the implementation of preparatory measures adopted in accordance with article 3 of the Convention, with a view to protecting cultural property in the event of armed conflict; these measures have been already presented in the previous reports submitted to the UNESCO Secretariat.

Moreover, in 2016, the Ministry of Culture and National Identity and the Ministry of Internal Affairs have concluded a Protocol of Cooperation, which contains provisions related to common procedures, norms and instructions in the field and to the instruction of personnel specialized for the risk-prevention and intervention for safeguarding the national heritage in emergency situations.

Have you established within your armed forces, services whose purpose will be to secure respect for cultural property?

No. Within the Romanian Armed Forces, there is no specialized structure which has as main mission the dissemination, observance and implementation of the relevant IHL instruments related to the particular field of protection of cultural property in the event of armed conflict.

The personnel of the military institutions is instructed in the IHL field in the framework of the general process of military instruction, as well as during the instruction activities in view of participating to missions and operations abroad and during these missions and operations. The instruction is ensured by the legal counsellors from the military units and from the structures which participate to missions and operations abroad.
In the framework of these activities, particular attention is given to the main legal aspects related to the protection of cultural property in the event of armed conflict. Please refer also to the previous reports on the implementation of the 1954 Hague Convention submitted to the UNESCO Secretariat by the Romanian authorities.

3. Use of the distinctive emblem to indicate cultural property (Chapter V)

The Hague Convention of 1954 created a distinctive emblem for the exclusive marking of cultural property with the aim of ensuring its recognition, particularly in the event of armed conflict. The marking of cultural property constitutes one of the preparatory measures that may be taken in time of peace.

**Have you indicated cultural property through the use of the distinctive emblem of the Convention?**

Yes. Romania has partially implemented the relevant provisions of the Convention.

4. Article 25 – Dissemination of the Convention

The regulations relating to the protection of cultural property in time of war must be incorporated into programmes for military, and where possible, civil training. The aim is to ensure that the principles of the Convention are made known to the whole population, and especially the armed forces and personnel engaged in the protection of cultural property.

**Have you disseminated the provisions of the Convention within the armed forces as well as among target groups and the general public?**

Yes. The dissemination of the international humanitarian law norms within the armed forces and the other structures with responsibilities in this field, as well as within civil society remains one of the most important objectives of the Romanian National Strategy on Implementation of International Humanitarian Law.

Moreover, the Romanian Parliament has adopted Law no. 177/2013, through which it declares the 14th of May as day of international humanitarian law, at national level. In order to mark this day, a series of events were organized in the last years for the dissemination and promotion of IHL.

In accordance with article 25 of the Convention, Romania has adopted different measures, in order to disseminate the relevant provisions of these treaties, such as:

- the integration of the international humanitarian law norms within the specific regulations, the military doctrine and manuals, the training and educational programs; the curricula of the educational institutions belonging to the Ministry of Internal Affairs also contain relevant IHL themes, including the presentation of the 1954 Hague Convention and of its Additional Protocols;
- the instruction of the members of armed forces in order to know, observe and implement the IHL provisions;
- the insertion and study of specific IHL themes during the instruction of the personnel of armed forces participating to missions and operations abroad;
- the coordinated instruction of the officers responsible with the protection of historical monuments from the Territorial Inspectorates for Emergency Situations,
through sessions organized by experts within the General Inspectorate for Emergency Situations;
• the presentation of the 1954 Hague Convention and its two Protocols within the framework of the IHL course organized by the Police Academy “Alexandru Ioan Cuza” of Bucharest.

Within this framework, what awareness-raising activities have you organized, and what awareness-raising activities do you plan to organize in the future? Please indicate the target groups for each activity.

No answer.

5. Article 26 (1) – Official translations

The Secretariat has received a certain number of official translations of the Convention and of the Regulations for its execution. For reference, please consult:


Does your country have its national translation(s) there?

Yes. Romania has already communicated to UNESCO Secretariat the Romanian official translation of the 1954 Hague Convention for protection of cultural property in the event of armed conflict.

6. Article 28 – Sanctions

This article sets out the obligations of 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 established as criminal offences under your domestic law conduct contrary to the obligations set out by the Convention?

Yes. The New Criminal Code entered into force on the 1st of February 2014. The Romanian authorities have established as criminal offences conduct contrary to the obligations set out by the Convention.

Art. 229 Aggravated theft (2) If the theft was committed under the following circumstances: a) on an asset that is part of the cultural heritage; it shall be punishable by no less than 2 and no more than 7 years of imprisonment.

ART. 253 Destruction (1) The act of destroying, damaging or making unfit for use of an asset belonging to another, or hindering the taking of measures of preservation or rescue for such an asset, as well as removing the measures taken, shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine.
If the act set out in par. (1) concerns assets forming part of the cultural heritage, it shall be punishable by no less than 1 and no more than 5 years of imprisonment.

The act of destroying, damaging or making unfit for use of an asset, committed by arson, explosion or by any such means and, if it endangers human life or other property, shall be punishable by no less than 2 and no more than 7 years of imprisonment.

The stipulations of par. (3) and par. (4) apply even if the asset belongs to the perpetrator.

For the acts set out in par. (1) and par. (2) criminal action shall be initiated based on a prior complaint filed by the victim.

The attempted acts set out in par. (3) and par. (4) shall be punished.

**Art. 441 War crimes against property and other rights**

(1) The act of a person who, as part of an armed conflict, with or without an international character, robs or, in violation of international law and without it being justified by military necessity, destroys, appropriates or commandeers assets belonging to the enemy side which are under the power of the side the perpetrator is a member of, shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights. (...)

**Art. 443 Use of forbidden methods in combat operations**

(1) The act of a person who, as part of an armed conflict with or without an international character:

h) makes use of cultural assets protected as such by international humanitarian law, especially historic monuments, buildings devoted to religious worship, education, art or science, to launch an attack on the enemy side by military means, shall be punishable by no less than 7 and no more than 15 years of imprisonment and a ban on the exercise of certain rights.

**Art. 445 Punishing the attempt**

The attempt to commit the offenses stipulated in this Title shall be punishable.

---

II. Resolution II of the Conference of 1954

*Have you established a National Advisory Committee in accordance with the hope expressed by the Conference in its Resolution II?*

No. The competences of the Advisory Committee provided in Resolution II of the 1954 Hague Conference are exercised by the National Commission on International Humanitarian Law.

According to the Government Decision no. 420/2006 on the creation and organization of the National Commission on International Humanitarian Law, this structure fulfills the attributions provided for the National Advisory Committee by Resolution II of the Conference of 1954.

This decision has taken into account the following reasons:

- the competences and the expertise of the National Commission in the field of IHL;
- the composition of the National Commission on International Humanitarian Law;
- avoiding duplication of competences in the field of protection of cultural property in the event of armed conflict, with a potential new structure.
III. 1954 First Protocol

[To be completed by the High Contracting Parties to the 1954 Protocol only]

The main objective of the 1954 Protocol is the protection of cultural property in occupied territory. As such, it organizes, among others, a system of:
✓ taking into custody;
✓ return of illegally exported cultural property; and
✓ finally indemnity to the holders in good faith.

Have you adopted measures to implement the 1954 First Protocol? In particular, have you adopted national legislation providing for the custody of cultural property imported either directly or indirectly from any occupied territory?

No. There is no provision in the national legislation dealing explicitly with cultural property imported either directly or indirectly from Occupied Territory. However, Law no. 182/2000 on the protection of movable national heritage provides the following, which may be relevant in this context:

Art. 85 – (1) The act of introducing, on the Romanian territory, as well as possessing, selling, organizing exhibitions or performing any operation related to the movement of movable cultural objects or resulted from dismantling of immovable cultural property, which are part of cultural heritage of a foreign state, according to the legislation of that State and which have been illegally exported, shall be punished with imprisonment from six months to three years or with fine.

(2) The objects referred to in paragraph (1) shall be seized and shall be remitted to specialized institutions, with a view to preserving and restituting them to the state whose cultural heritage they belong to.

(3) The attempt shall be punishable.

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

No.

IV. 1999 Second Protocol

[To be completed by the High Contracting Parties to the 1999 Protocol only]

The 1999 Second Protocol complements the Hague Convention of 1954 in many aspects. If this information has already been presented within the framework of the questions regarding the Hague Convention of 1954, you may refer to it directly.

1. General provisions (Chapter 2)

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 adopted such measures?**

Yes. Please refer to the information provided in relation to the implementation of Article 3 of the Hague Convention of 1954 and to the previous reports on the implementation of the 1999 Second Protocol submitted by the Romanian authorities.

**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. Paragraph 102 of the Guidelines for the Implementation of the Second Protocol requests Parties that are an Occupying Power to provide information in their national reports on the way in which the provisions regarding the protection of cultural property in occupied territory are observed.

Do you **ensure compliance with the provisions regarding the protection of cultural heritage under military occupation?**

No applicable.

2. Enhanced protection (Chapter 3)


Do you **intend to request** the granting of enhanced protection for cultural property in the next four years or, where applicable, do you have a [national tentative list within the framework of Article 11 (1) of the Second Protocol?]

Romania has not requested the granting of enhanced protection for any cultural property. Romania plans to initiate a process of selection of the cultural property that could benefit of the enhanced protection, taking into account the requirements that need to be fulfilled under article 10 of the Second Protocol.

**MONITORING OF CULTURAL PROPERTY UNDER ENHANCED PROTECTION**

[If certain cultural property(ies) in your State benefit from enhanced protection, please also complete this section of the questionnaire].

The benefit of enhanced protection implies continued compliance with the conditions set out in Article 10 of the Second Protocol.
Is there a specific mechanism in place to monitor cultural property under enhanced protection? As an example, are the measures adopted to ensure the highest level of protection periodically reviewed so as to ensure they are fully effective in all circumstances?

No.

Pursuant to paragraph 102 of the Guidelines, the Parties must inform on the use of the distinctive emblem for cultural property under enhanced protection.

Have you used the new distinctive emblem adopted by the 2015 Meeting of Parties to mark cultural property under enhanced protection?

No.

Pursuant to paragraph 65 of the Guidelines for the Implementation of the 1999 Second Protocol, the Parties must notify the Committee of any change affecting the cultural property concerned to meet the criteria set out in Article 10 of the Second Protocol.

Does the Committee need to be notified of a change regarding cultural property in your territory benefiting from enhanced protection?

No.

3. Criminal responsibility and jurisdiction (Chapter 4)

Article 15 – Serious violations of the Second Protocol

Article 15 requires the Parties to establish as criminal offences under its domestic law a series of behaviours constituting serious violations of the Second Protocol, by punishing them by appropriate penalties.

What measures have been taken to ensure the implementation of this obligation?

The New Criminal Code, which entered into force on the 1st of February 2014, established, as criminal offences, the deeds provided in article 15 of the Second Protocol. Please refer to the information provided above in relation to the implementation of Article 28 of the Hague Convention of 1954.

Article 16 – Jurisdiction

Article 16 requires the Parties to establish the jurisdiction of their courts over serious violations of the 1999 Second Protocol.

What measures have been taken to confer jurisdiction on your courts over serious violations of the Second Protocol?
ART. 11 Universality of criminal law

(1) Romanian criminal law also applies to other violations than those stipulated at Art. 10, committed outside Romanian territory by a foreign citizen or a stateless person who is located voluntarily on Romanian territory, in the following cases:

   a) an offense was committed that the Romanian State has undertaken to repress on the basis of an international treaty, irrespective of whether it is stipulated by the criminal law of the State on whose territory it was committed;
   b) extradition or surrender of the offender has been requested and denied.

(2) The stipulations of par. (1) lett. b) do not apply when, under the law of the state on whose territory the violation was committed, there is a cause to prevent the start of criminal action or the continuing of the criminal trial or the serving of the sentence or when the sentence has been served or when the sentence is considered as having been served.

(3) When the sentence has not been served or has only been served in part, the applicable procedure is that of the law on the recognition of foreign judgments.

ART. 12 Criminal law and the international treaties

The stipulations of Art. 8 – 11 shall apply unless otherwise required under an international treaty Romania is a party to.

Article 21 – Measures regarding other violations

The Second Protocol also requires the Parties to adopt legislative, administrative or disciplinary measures to prevent the occurrence of behaviours that adversely affect the integrity of cultural heritage.

Have you adopted such measures?

Yes. Besides the measures mentioned above, the Romanian authorities have adopted supplementary measures, in accordance with article 21 of the Second Protocol, in order to prevent the occurrence of behaviours that adversely affect the integrity of cultural heritage. The following deeds are considered offences, according to Law no. 182/2000 on the protection of movable national heritage:

Art. 82 – The act of degrading, making unfit for use or destroying, by negligence, a classified movable cultural object, shall be considered offence and shall be punished with imprisonment from one month to one year or with fine.

Art. 83 – The act of performing illegal export operations shall be punished with imprisonment from six months to three years or with fine.

(2) If the deed referred to in paragraph 1 has caused the loss of a classified movable cultural object, the punishment shall be imprisonment between one year and five years.

(3) The attempt shall be punishable.

Art. 84 – (1) The act of performing, without the right to do so, any export operation of a classified movable cultural object shall be considered offence and shall be punished with imprisonment from one year to five years.

(2) The attempt shall be punishable.

Art. 85 – (1) The act of introducing, on the Romanian territory, as well as possessing, selling, organizing exhibitions or performing any operation related to the movement of movable cultural objects or resulted from dismantling of immovable cultural property, which are part of cultural heritage of a foreign state, according to the legislation of that State and which have been illegally exported shall be punished with imprisonment from six months to three years or with fine.

(2) The objects referred to in paragraph (1) shall be seized and shall be remitted to specialized institutions, with a view to preserving and restituting them to the state whose cultural heritage they belong to.

(3) The attempt shall be punishable.
4. Dissemination of information and international assistance

Article 30 – Dissemination

Article 30 complements Articles 7 and 25 of the Hague Convention of 1954. In this regard, it requests the Parties to, among other things, strengthen appreciation and respect for cultural property by their entire population, ensure the dissemination of the Protocol, and incorporate guidelines and instructions on the protection of cultural property in their military regulations.

Have you disseminated the provisions of the 1999 Second Protocol within the armed forces as well as among target groups and the general public?

Yes. Please refer to the information provided in relation to the implementation of Article 25 of the Hague Convention of 1954 and to the previous reports on the implementation of the 1999 Second Protocol submitted by the Romanian authorities.

Within this framework, what awareness-raising activities have you organized, and what awareness-raising activities do you plan to organize in the future? Please indicate the target groups for each activity.

No answer.

Articles 32 – International assistance

Pursuant to paragraph 102 of the Guidelines for the Implementation of the Second Protocol, the Parties are invited to present their activities at bi- or multilateral level, within the framework of technical assistance in order to share their experiences or best practices.

Have you shared, particularly via the Secretariat of UNESCO, your experiences in the implementation and best practices?

No.


Pursuant to Article 37 of the Second Protocol, the Parties shall translate this standard-setting instrument into their official languages and shall communicate these official translations to the Director-General. To date, the Secretariat has received a certain number of official translations of the Second Protocol. For reference, please consult:

Language versions of the 1999 Second Protocol
Does your country have its national translation(s) there?

Yes. Romania has already communicated to UNESCO Secretariat the Romanian official translation of the 1999 Second Protocol.

V. Miscellaneous questions regarding the Hague Convention of 1954 and its two Protocols

1. National focal point

According to paragraph 103 of the Guidelines for the Implementation of the Second Protocol: "Unless a Party requests otherwise, the presumed focal point would be its Permanent Delegation to UNESCO". If you do not wish to consider the Permanent Delegation as the focal point, please provide the Secretariat with the name and address of a national focal point that will receive all official documents and correspondence relating to the implementation of the Second Protocol.

<table>
<thead>
<tr>
<th>Institution: Ministry of Culture and National Identity</th>
<th>Email: <a href="mailto:mircea.angelescu@gmail.com">mircea.angelescu@gmail.com</a></th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: Mircea-Victor Angelescu</td>
<td>Tel.: +40720072023</td>
</tr>
<tr>
<td>Address: 22 Bvd. Unirii, 030833, Bucharest, Romania</td>
<td>Fax: +40212233157</td>
</tr>
</tbody>
</table>

2. National practice regarding the implementation of the Hague Convention and its Two Protocols

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

- the relevant administrative civil and military regulations:
  
  PDF Document [click]  Website [click]

- the national laws on the protection of cultural property, as well as the criminal provisions made within the framework of the implementation of Article 28 of the Hague Convention and Articles 15, 16 and 21 of the Second Protocol, and any case-law on the protection of cultural property in the event of armed conflict.

  PDF Document [click]  Website [click]

- Documents regarding awareness-raising activities (seminar schedule, brochures, etc.), as well as any other relevant documents (legislative, legal, or administrative) within the framework of the implementation of the Hague Convention of 1954 and its 1999 Second Protocol.

  PDF Document [click]  Website [click]

Have you **contributed to the Fund**?

No.

If no, do you plan to contribute to the Fund in the Future?

Romania will consider contributing to the Fund for the Protection of Cultural Property in the Event of Armed Conflict.
VI. Self-assessment forms

In order to reflect the status of implementation of the Hague Convention of 1954 and its 1999 Second Protocol in key areas within the summary document of national reports, please complete the two tables below.

1. Assessment of the level of implementation
   [Please use the following assessment scale]

   1: not implemented;
   2: partially implemented, the process has come to a standstill;
   3: partially implemented, the process is ongoing; and,
   4: fully implemented.

| Implementation of the safeguarding obligation through the adoption of preparatory measures | 3 |
| Training of military personnel on the regulations relating to the protection of cultural heritage | 4 |
| Use of the distinctive emblem to mark cultural property | 2 |
| Implementation of the dissemination obligation, through the establishment of awareness-raising activities for target audiences | 3 |
| Adoption of relevant criminal legislation | 4 |

For Parties with cultural property under enhanced protection only.

Establishment of a system to monitor cultural property under enhanced protection at national level

2. Assessment of difficulties encountered
   [Please use the following assessment scale]

   1: difficulties have been encountered, but there are no plans to request technical assistance from the Secretariat of UNESCO;
   2: difficulties have been encountered, however there are plans to request technical assistance from the Secretariat of UNESCO;
   3: difficulties had been encountered, but thanks to the technical assistance of the Secretariat they have been resolved;
   4: difficulties had initially been encountered, but they turned into challenges that we have overcome; and,
   5: No difficulties have been encountered.

| Implementation of the safeguarding obligation through the adoption of preparatory measures | 1 |
| Training of military personnel on the regulations relating to the protection of cultural heritage | 5 |
| Use of the distinctive emblem to mark cultural property | 1 |
| Implementation of the dissemination obligation, through the establishment of awareness-raising activities for target audiences | 4 |
| Adoption of relevant criminal legislation | 4 |

For Parties with cultural property under enhanced protection only.

Establishment of a system to monitor cultural property under enhanced protection at national level
VII. Granting of enhanced protection – Opinion Survey

Pursuant to Chapter 3 of the 1999 Second Protocol, enhanced protection is granted by the Committee for the Protection of Cultural Property in the Event of Armed Conflict if three conditions are cumulatively met:

- The cultural property is of the greatest importance for humanity;
- The cultural property is protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring the highest level of protection; and,
- The cultural property is not used for military purposes or to shield military sites, and the Party which has control over it has made a declaration that it will not be used for such purposes.

As these conditions are set out within the framework of an international treaty, their full understanding cannot be separated from state practice, which is of fundamental importance with regard to the International Law of treaties. As such, this national report is an opportunity for the national authorities of the Parties to express their views on the conditions under which enhanced protection is granted.

For each of the conditions set out in Article 10 of the Second Protocol, please answer the following questions, taking into account the relevant paragraphs of the Guidelines for the Implementation of the Second Protocol.

- **Article 10, paragraph (a) – “Greatest importance for humanity”**

As the criterion “Greatest importance for humanity” entails a significant degree of subjectivity, it would be difficult to define it. The existing content of the Guidelines for the Implementation of the 1999 Second Protocol to the 1954 Hague Convention (in particular, paragraphs 33-34) seem to allow satisfactorily for the evaluation of this criteria.

- **Article 10, paragraph (b) – “Highest level of protection”**

The Ministry of Culture and National Identity, the Ministry of Internal Affairs, the Ministry of National Defence and the Ministry of Justice.

Romania supports the recommendation of the Committee for the Protection of Cultural Property in the Event of Armed Conflict addressed to the Meetings of the Parties to the Second Protocol to insert a guide in annex I of the Guidelines for the Implementation of the 1999 Second Protocol to the 1954 Hague Convention. This guide (in the form of a checklist, as set out in the annex to the document C54/16/11.COM/7) would be a useful tool in order to evaluate the implementation of the measures of protection provided in paragraphs 38-41 of the Guidelines.

- **Article 10, paragraph (c) – "Non-use for military purposes"**
Please indicate the national authorities to be consulted with a view to taking the decision not to use the cultural property submitted for the granting of enhanced protection for military purposes or to shield military sites.