

**Romania's national report on measures taken for the implementation of the provisions of the 1954 Hague Convention for the protection of cultural property in the event of armed conflict and of the 1999 Second Protocol to the 1954 Hague Convention for the protection of cultural property in the event of armed conflict**

**General remarks**

1. The protection of cultural property in Romania is ensured through a complex and extensive normative system (*please see annex*), based on the concept of "cultural property", with special legal status and protection regime.

2. The central authority in the field of protection of cultural heritage is the Ministry of Culture and National Heritage. The Directorate for Cultural Heritage is the specialized department within this ministry, which is directly responsible for the coordination, at national level, of the strategies for the protection of cultural heritage. For each area of the cultural heritage, the Ministry of Culture and National Heritage takes decisions based on the expertise of advisory scientific bodies structures, constituted in the so called National Commissions (National Commission of Historical Monuments, National Archaeological Commission, National Commission of Museums and Collections). A system of de-concentrated services of the Ministry of Culture and National Heritage ensures, at territorial level, the implementation of the policies and strategies, fulfilling specific attributions of inspection, control and approval. The area of protection of cultural heritage equally benefits of institutions and structures, at central level, which ensure the registration and specific documentation of cultural goods, including by administering maintaining databases (National Institute of Heritage) and by providing specialized training (Center of Professional Training in Culture), as well as research (Center for Research and Consultancy on Culture).

3. Romania is a party to the 1954 Hague Convention for the protection of cultural property in the event of armed conflict and to the 1999 Second Protocol to the 1954 Hague Convention for the protection of cultural property in the event of armed conflict

According to the legislation in force, the main institutions responsible for the protection of cultural property in the event of armed conflict are the Ministry of Culture and National Heritage, the Ministry of Administration and Interior and the Ministry of National Defence.

In 2010, Romania has submitted the national report on measures taken for the implementation of the provisions of the 1954 Hague Convention for the protection of cultural property in the event of armed conflict and the national report on measures taken for the implementation of the provisions of the 1999 Second Protocol to the 1954 Hague Convention for the protection of cultural property in the event of armed conflict.

4. In view of the above, the information submitted in the present report reflects, in particular, the recent developments in the field which took place from the moment of submission of the previous reports. To this end, in order to avoid the repetition of the information already submitted, short references to the previous reports have been made.

## **I. The 1954 Hague Convention**

### **1. Article 3 – Safeguarding of cultural property**

In accordance with article 3 of the Convention and with article 5 of the Second Protocol, the Romanian authorities have adopted a number of preparatory measures in order to protect cultural property in the event of armed conflict, such as:

- the elaboration, approval and conclusion, between the Territorial Inspectorates for Emergency Situations, the Territorial Police Inspectorates, the Territorial Directorates for Culture and for National Heritage and the Territorial Inspectorates in Constructions, of common action plans containing measures with a view to protecting historical monuments;
- the update of the evacuation plans in the event of armed conflict, through the insertion of concrete measures for protection of cultural property;
- the designation of specialized officers within the Territorial Inspectorates for Emergency Situations for protecting the historical monuments in their area of competence.

These measures were implemented in a significant number of counties from Romania.

The inventory of cultural property represents a technical measure which is adequately regulated for all components which constitute the national cultural heritage. A particular attention is given to classified cultural property, which includes those cultural goods which, based on their cultural and scientific value and following an administrative procedure, acquire special legal status and benefit of the special protection regime. The Romanian authorities strive to permanently update the inventory of the national cultural heritage and to inform the competent authorities on their legal obligations.

As regards historical monuments and sites, the legislation provides for the establishment of a national registration system of classified cultural property (which is structured in 3 legal categories: monuments, sites, protected areas), reflected in the List of Historical Monuments, official document updated every 5 years.

The archaeological sites are included in the List of Historical Monuments (following classification), as well as in the National Archaeological Record Database (which includes archaeological sites irrespective of classification)

The national movable cultural heritage, composed of the classified movable cultural goods, is included in the Inventory of the national movable cultural heritage. As regards museums, public collections, memorial houses, cultural centers and other institutions in this field, there is an obligation to ensure the analytical evidence of cultural goods through the Record Database for analytical recording of cultural goods. The museums and public collections are under the obligation to equally maintain a digital database.

The legislation in force equally provides for the obligation to protect the cultural goods against any acts that may result in the damage, destroy, loss, theft or illegal export of the cultural goods.

Please refer also to point II.1 of the previous report on the implementation of the 1954 Hague Convention.

## **2. Article 7 – Military measures (in peace time)**

Within the Ministry of National Defence, specific regulations and manuals, which provide for the obligation of military and civil personnel to respect the international humanitarian law norms, including the rules related to the protection of cultural property, were elaborated, such as:

- General Staff Disposition no. 101/24 December 2008 on the instruction in the field of International Humanitarian Law;
- International Humanitarian Law Handbook no.1, for military training in international humanitarian law (individual, group, platoon, company-related);
- International Humanitarian Law Handbook no. 2, for training the Romanian armed forces on the status of the captured persons;
- International Humanitarian Law Handbook no. 3 for the Romanian armed forces training, addressing the officers and NCOs;
- National Defence Minister's Order no. MS 66/2009 on the instruction of the personnel of the Ministry of National Defence which participates to individual missions abroad;
- National Defence Minister's Order no. MS 99/2011 on the competences of central structures on the engagement, planning, preparation, participation, management and support of the Romanian armed forces to missions and operations abroad;
- National Defence Minister's Order no. MS 58/2012 approving the Instructions on the rules of engagement of the Romanian armed forces.

Within the Ministry of National Defence, 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 institution 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 counselors 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. At the same time, the personnel of the Ministry of National Defence have the obligation to know and observe the dispositions of the IHL instruments to which Romania is a party.

Please refer also to point II.2 of the previous report on the implementation of the 1954 Hague Convention.

## **3. Chapter V – The distinctive emblem**

Romania has partially implemented the relevant provisions of the Convention. The activity with respect to this matter will continue.

#### **4. Dissemination of the Convention**

Romania has adopted measures in accordance with article 25 of the Convention and article 30 of the Second Protocol, in order to disseminate the relevant provisions of the 1954 Hague Convention and 1999 Second Protocol, 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 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 organization of annual sessions for the instruction of the officers responsible with the protection of historical monuments from the Territorial Inspectorates for Emergency Situations;
- the presentation of specialized themes on the implementation of the 1954 Hague Convention and its two Protocols during the training sessions of the personnel of the General Inspectorate for Emergency Situations;
- the presentation of the relevant dispositions of the 1954 Hague Convention during the activities carried out at territorial level to the civil personnel responsible for the implementation of the provisions of the Convention and of its two Protocols;
- the organization of information sessions and round tables on the protection of cultural property in the event of armed conflict;
- the publication of articles on the 1954 Hague Convention and its two Protocols in the specialized reviews edited by the Territorial Inspectorates for Emergency Situations and by the Territorial Directorates for Culture and National Heritage.

Please refer also to point I.2 of this report and to point II. 4 of the previous report on the implementation of the 1954 Hague Convention.

#### **5. Article 26 (1) Official translations**

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. Sanctions**

Please refer also to point II.6 and to annex III of the previous report on the implementation of the 1954 Hague Convention.

#### **II. Resolution II of the 1954 Conference**

The Government Decision no. 420/2006 on the establishment and functioning of the National Committee on International Humanitarian Law (NCIHL) was modified and completed through Government Decision no. 408/2011.

The most significant amendments refer to:

- the inclusion, within the NCIHL, of the representatives of the Ministry of Culture and National Heritage and of the Ministry of Environment;

- the expansion of the competences of the NCIHL, by taking over the competences of the Advisory Committee provided in Resolution II of the 1954 Hague Conference.

The latter amendment has been adopted, by taking into account the following aspects:

- the attributions and expertise of this structure in the field of IHL;
- the composition of the NCIHL, in light of the recent inclusion of the representatives of the Ministry of Culture and National Heritage;
- the avoidance of a 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**

Romania was not engaged in any occupation of territory during an armed conflict. It did not take into custody cultural property, on its territory, in context of any armed conflict, as there are no records of such cases.

### **IV. The 1999 Second Protocol**

#### **1. General provisions**

Article 5 of the Second Protocol is complementary to article 3 of the Convention.

Please also refer to point II.1 of the previous report on the implementation of the 1999 Second Protocol.

#### **2. Enhanced protection (Chapter 3)**

Until now, 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 which could benefit of enhanced protection, taking into account the requirements that need to be fulfilled under article 10 of the Second Protocol.

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

Please refer to point II.3 and annex III of the previous report on the implementation of the 1999 Second Protocol.

A New Criminal Code was adopted through Law no. 286/2009, which will enter into force at a later date, specified in the *law for the application of the New Criminal Code and for the modification and completion of normative acts in the criminal field*, which is currently under parliamentary debate. The Romanian Ministry of Justice intends to propose, during the parliamentary debates of the abovementioned draft law, an amendment to the New Criminal Code, in order to establish as offences *all* deeds set forth in article 15, paragraph 1 of the Second Protocol.

#### **4. Jurisdiction**

Please refer to point II.3 and annex III of the previous report on the implementation of the 1999 Second Protocol.

## **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)**

At present, Romania does not benefit of international assistance from the Fund for the Protection of Cultural Property in the Event of Armed Conflict. During the relevant period, the Romanian authorities were not requested, at bilateral or multilateral level, for granting technical assistance, according to the relevant provisions of the Convention and of its two protocols.

## **6. Dissemination (Article 30)**

Please refer to points I. 2 and I. 4 of the present report, as well as to point II.4 of the previous report on the implementation of the 1999 Second Protocol.

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

Until now, Romania has not contributed to the Fund for the Protection of Cultural Property in the Event of Armed Conflict.

## **8. National focal point**

The national focal point with respect to the implementation of the 1999 Second Protocol is the Ministry of Culture and National Heritage, Directorate for Cultural Heritage.

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

The English translation of the national legislation in the field of protection of cultural property, submitted by the Romanian authorities, is on the UNESCO website

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

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

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**National legislation**

- The Romanian National Strategy on Implementation of International Humanitarian Law, approved by Decision no. 298 from 17 December 2007;
- Law no. 182/2000 regarding the protection of the movable national cultural heritage, republished, with modifications and completions;
- Law no. 422/2001 on the protection of historical monuments, republished;
- Law no. 311/2003 on museums and public collections, republished, with modifications;
- Law no. 481/2004 on civil protection, republished;
- Law no. 307/2006 on protection against fire, with modifications and completions;
- Law no. 6/2008 on the legal status of the technical and industrial heritage;
- Law no. 121/2011 regarding the participation of armed forces in missions and operations outside the Romanian territory;
- Law no. 122/2011 on the status of weapons, military devices and ammunition in possession of the National Defense Ministry and of the foreign armed forces on Romanian territory;
- Criminal Code;
- Government Ordinance no. 43/2000 on the protection of the archaeological heritage and declaring certain archaeological sites as national interest areas, republished;
- Government Ordinance no. 47/2000 on establishing certain protection measures for the historical monuments included in the World Heritage List, approved with modifications and completions by Law no. 564/2001;
- Government Decision no. 493/2004 for the approval of the Methodology on the monitoring of the historical monuments included in the World Heritage List and of the Methodology for the elaboration and framework-content of the Plans for the protection and administration of historical monuments included in the World Heritage List;

- Government Decision no. 518/2004 for the approval of the Methodology on the temporary or definitive export of cultural movable property, with modifications and completions
- Government Decision no.1222/2005 on principles of evacuation in the event of armed conflict;
- Government Decision no. 420/2006 on the establishment and functioning of the National Committee on International Humanitarian Law, modified and completed through Government Decision no. 408/2011;
- Order no. 2035/2000 of the Minister of Culture and Religious Affairs on the approval of the Methodological Norms on the registration, administration and inventory of the cultural objects owned by museums, public collections, memorial houses, cultural centres and other institutions in the field, with modifications and completions;
- Order no. 2237/2004 of the Minister of Culture and Religious Affairs for the approval of the Methodological norms on marking the historical monuments;
- Order no. 2314/2004 of Minister of Culture and Religious Affairs for the approval of the List of Historical Monuments, modified through Order no. 2361/2010 for the modification of Annex 1 to Order no. 2314/2004 of Minister of Culture and Religious Affairs for the approval of the List of Historical Monuments and of the List of disappeared Historical Monuments;
- Order no. 1184/2006 of the Minister of the Administration and Interior for the approval of the Norms on the organization and ensurance of the evacuation in emergency situations;
- Order no. 1352/2006 of the Minister of Administration and Interior for the approval of the Methodological norms of organization and ensurance of the evacuation of persons, property, documents and materials which contain classified information, in the event of an armed conflict.
- Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods
- Commission Regulation (EEC) No 752/93 of 30 March 1993 laying down provisions for the implementation of Council Regulation (EEC) No 3911/92 on the export of cultural goods