

## **Report by France on the implementation of the Convention for the Protection of Cultural Property in the Event of Armed Conflict – 1954 Hague Convention**

**(April 2010)**

This report presents the measures taken by France in accordance with the provisions of the 1954 Hague Convention and its First Protocol (ratified on 7 June 1957). France has not ratified the Second Protocol to this Convention.

### **Convention for the Protection of Cultural Property in the Event of Armed Conflict**

The purpose of the 1954 Convention is to introduce national and international measures in time of peace to protect cultural property in the event of armed conflict.

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

##### **A. General framework**

The reference text that governs security and prevention interventions is Act No. 2004-811 of 13 August 2004 on the modernization of civil security, which aims to prevent all kinds of risks, to inform and alert populations, and to protect persons, property and the environment from disasters and accidents, by reorganizing the implementation of preventive action and emergency planning.

The Act gives priority to the protection of persons, but its first article states clearly that this solemn function also concerns the protection of property through the preparation and implementation of appropriate resources and measures by the State, territorial authorities and other public and private bodies.

In this context, reference should be made to the *Plan Vigipirate*, – the implementation of which, in 1995, was made necessary by a growing threat, as the fear of terrorist attacks replaced that of a ground invasion of the territory. The Plan consists of a series of preventive measures (where VIGI stands for antiterrorist vigilance) related to the fight against terrorism.

The purpose of the *Plan Vigipirate* is to monitor the facilities and sites within the territory considered vulnerable because they are likely to be the object of an attack, and to deter terrorists (through visible military presence) from action. *Vigipirate* also contributes to centralizing intelligence in the field.

##### **B. Immovable cultural property**

In France, the Act of 31 December 1913 on historical monuments, codified under the Heritage Code by decree of 20 February 2004, introduced a number of legal regulations to identify property to be protected on account of their historical, artistic or archaeological interest, without regard to situations of armed conflict.

French law provides for two levels of protection: classification as historical monuments (inalienable property banned from export), and listing in a supplementary inventory (preventive mechanism that confers a duty of information on the owner if he or she intends to transform the property for example).

### **C. Movable cultural property – museum collections**

The evacuation plan for national museum collections in the event of armed conflict, implemented from 1955 to 1980, is no longer in effect, as it had become obsolete.

However, the Ministry of Culture and Communication is conducting prevention, training and remedial action in the field of heritage. To make this action more effective, it has assembled all the potential safety and security resources made available by the Ministry of the Interior within a department that reports directly to the Director-General of Heritage.

Supporting the senior defence official to the Minister, the department of project ownership, security and safety is tasked with assisting that official in urging institutions under the authority of the Ministry of Culture and Communication to take any measures to anticipate disasters that may threaten the integrity of the national heritage.

Within this framework, a very specific awareness-raising campaign has been undertaken, and will be pursued, with institutions in order to implement plans for the safeguarding and protection of collections which provide, institution by institution, for the inventorying making an inventory of the objects to be protected, the setting of evacuation and identification of emergency storage areas and appropriate means for their evacuation.

For example, in Ile-de-France, there is now an evacuation plan for museums should a one-hundred-year flood of the Seine River occur, but priority objects have been classified according to the risks posed by their location and not only according to their heritage value.

The updating of an evacuation plan in the event of war may, however, benefit from being based on this classification and combined with the anti-flooding measures already provided for by museums.

With regard to the list of priority objects, their identification will be facilitated by the results obtained in the framework of the 10-year inventory check established by the Act on French museums, which must be finalized by the latter by 2014.

## **II. Article 7 – Military measures**

### **Military and institutional measures to secure respect for cultural property within the armed forces**

While there is no “service” tasked specifically with securing respect for cultural property within the armed forces, as set forth in Article 7 of the 1954 Hague Convention, it is generally the responsibility of the “Legal Adviser” (Legad) to advise the Commander-in-chief of the forces in the theatre of operations and to promote respect for cultural property.

The joint directive on legal advisers in external theatres of operation of 8 February 2006<sup>1</sup> states that the general role of these advisers is to advise the theatre Command and its staff on all legal matters, both in the planning and execution phases. The Legal Adviser helps to determine as accurately as possible the international, French and local legal standards applicable to the operation.

In accordance with French joint military doctrine,<sup>2</sup> the Legal Adviser is consulted during the targeting procedure to provide a legal appraisal of the possible designation of targets.

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<sup>1</sup> Joint Directive on legal advisers in external operations of 8 February 2006 No. 11101/DEF/SGA/DAJ/DIE/DCA.

<sup>2</sup> Directive No. 515 /DEF/EMA/EMP.1 of 13 June 2003 – Provisional Joint Military Targeting Doctrine.

The Hague Convention is one of the texts which underpins the recommendations made in terms of targets.

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

To date, France does not use the distinctive emblems proposed by the Convention to protect cultural property.

### **IV. Article 25 – Dissemination of the Convention**

#### **Dissemination/training/awareness-raising**

#### **Ministry of Culture and Communication**

The Convention is disseminated mainly through the training of heritage professionals.

At the *Institut National du Patrimoine (INP)* (National Heritage Institute), which trains curators and restorers, modules on heritage legislation refer to the 1954 Convention. It is mentioned in the documentary file and bibliography distributed to students.

At the *Ecole de Chaillot* for heritage architects, study of the Convention is on the curriculum.

However, there are no specific awareness-raising initiatives for museum personnel on the protection of cultural property in the event of armed conflict. This may be envisaged with the *Institut National du Patrimoine* and the *Ecole de Chaillot*. If a protection plan in the event of armed conflict were to be updated, these aspects could also be incorporated into the various heritage security training activities for museum personnel.

#### **Ministry of Defence**

With regard to awareness-raising of the 1954 Convention among the armed forces, the Ministry of Defence has implemented internal measures to ensure observance of the Convention. These are:

- of a regulatory nature. Article D.4122-10 of the Defence Code states that soldiers have an obligation to respect cultural property wherever it is located, unless military demands imperatively requires the waiver of such an obligation;
- of a practical nature. The Legal Affairs Department has thus developed teaching materials concerning the protection of cultural property by the armed forces during external operations;

Furthermore, there is a handbook on the law of armed conflict which explains the procedure to follow with regard to this type of property, as well as an interactive CD-ROM on the subject. It describes, among other things, the rules concerning the protection of cultural property, the definition of protected cultural property, the use and protection of property marked with the distinctive emblem, and contains the full text of the Convention.

Lastly, an awareness-raising day, organized on 7 December 2007 by the French Committee of the Blue Shield<sup>3</sup> at the Paris National History Museum brought this issue to the attention of a wider public.

## **V. Article 26 (1) – Official translations**

N/A

## **VI. Article 28 – Sanctions**

### **Penal sanctions**

France has not adopted any other provisions since it ratified the 1954 Convention. Sanctions are already provided for under French penal law, in Article L322-2, for instance, which states that the destruction, degradation or deterioration of property belonging to others “shall be punishable by three years of imprisonment and a fine of €45,000 if the property (...) is (...) a classified or listed building or movable object”.

The Code of Military Justice covers only the misappropriation of distinctive emblems (Article L.322-16) and incitement to commit acts contrary to duty (Article L.322-18), with Article L.322-16 stating that “all persons, whether soldiers or civilians, who, during wartime, in the theatre of operations of armed forces or a formation, violate the laws or customs of war by unduly using the distinctive emblems and signs designated by international conventions to ensure respect for people, property and places protected by these conventions, shall be punished by five years of imprisonment”.

A bill transposing the Rome Statute which established the International Criminal Court is to be examined shortly by the National Assembly<sup>4</sup> and will impose sanctions for offences against immovable cultural property.<sup>5</sup>

### **Military disciplinary sanctions**

Article R.4137-13 of the defence code states that all “senior officers have the right and duty to request that their subordinates be sanctioned for wrongful acts or misconduct. Article D.4122-10 of the Defence Code provides that soldiers must respect cultural property wherever it is located, unless military demands imperatively require the waiver of such respect (...)”.

It is therefore considered that soldiers have a duty to respect cultural property and non-compliance with this duty may lead to disciplinary sanctions.

## **VII. (First) Protocol of 1954**

The protection of cultural property during export has long been covered by special provisions in France. The European Community Regulation of 1992, codified under reference 116/2009 of 18 December 2008, which harmonizes the rules of all Member States for monitoring the export of cultural property to third-party countries, is implemented and provides for the issue of an export permit.

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<sup>3</sup> Blue Shield Committees have been or are being set up in several countries. They bring together professionals from a variety of backgrounds, local and national government authorities, emergency services and the army.

<sup>4</sup> After being voted by the Senate at the first reading on 10 June 2008.

<sup>5</sup> Article 461-13 of the bill transposes as is Article 8 § 2) b) ix of the Rome Statute, without adding any other offences.

Furthermore, as part of the monitoring of cultural property leaving the national territory, France also introduced export authorizations (certificates) under Articles L. 111-2 to L. 111-7 of the Heritage Code and decree No. 93-124 of 29 January 1993 (amended). This provision enables it to be more attentive to the protection of cultural property coming from other States that may have been illegally trafficked or stolen. It may also be applied for special monitoring during wartime.

In addition, directive No. 93/7 of 15 March 1993 of the Council of the European Communities on the return of cultural objects unlawfully removed from the territory of a Member State implements inter-State cooperation mechanisms and imposes the creation of a central authority by States.

The Central Office for the Fight against Trafficking in Cultural Goods (OCBC), under the responsibility of the Ministry of the Interior, has been designated as the central authority. It is in charge of implementing the claims and restitution procedures as well as conservation measures for national treasures unlawfully moved from the territory of one Member State to that of another. Though confined to the Community level, this system, transposed into national law, may be considered as a translation of the restitution obligation provided for by the 1954 Convention, by enabling the institution of legal proceedings to claim full ownership before French courts.

Restitutions are part of the broader framework of the fight against the illicit trafficking of cultural property. Strong international cooperation exists, based in particular, on the 1970 Convention. Specific controls are performed on the trade of cultural property to prevent the trafficking of stolen objects: all professionals are therefore checked through the use of a police register which they shall keep. Under the 2008 Act on Archives, aggravating circumstances must be recognized in cases of stolen cultural property and the penalty would accordingly be substantially increased.