

**National implementation of the 1954 Hague Convention for the
Protection of Cultural Property in the Event of Armed Conflict
and its two (1954 and 1999) Protocols**

PERIODIC REPORT BY ESTONIA

2011-2012

**The report has been prepared in co-operation of the Ministry of Culture,
the Ministry of Defence and Estonian National Commission for UNESCO**

Tallinn
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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 measures have been described under the reply concerning the implementation of the 1999 Second Protocol: 1. General provisions (i) Article 5 – Safeguarding of cultural property. However, these safeguarding measures are of a more general nature i.e they are relevant not only in time of an armed conflict, but also in time of peace.

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.

See previous report (2004-2008). In Estonian legal order international law is considered as part of the national legal order (monistic approach), therefore there is no need to transfer international law norms into internal legal acts and regulations. In the training of military personnel of all levels international humanitarian law including the provisions related to protection of cultural property are covered.

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

YES:

NO:

If yes, please provide more specific information.

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.

If not, please state the reasons you have not done so.

Estonia does not mark cultural property with the distinctive emblem of the Convention. However, according to the Heritage Conservation Act, monuments are marked with appropriate signs: Estonia has a tradition to use an old runic symbol for that, and using the emblem of the Convention has not been under discussion.

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.

See previous report (2004-2008) about the military training session „Protecting cultural heritage in times of armed conflict“ (2008) and international conference „Protecting cultural heritage in times of armed conflict. Second Protocol to The Hague Convention – How To Make It Work? (2008). The conference materials were made public in digital format. These activities were undertaken in the framework of the Memorandum of Cooperation between the Ministry of Culture and the Ministry of Defence.

At the meeting of Ministry and Culture, Ministry of Defence and Estonian National Commission for UNESCO for preparing the present report a suggestion was made to work also with Estonian Defence League for disseminating the information. The Estonian Defence League is a voluntary militarily organised national defence organisation operating in the area of government of the Ministry of Defence. It is a part of the Defence Forces and offers training for its members.

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?

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.

Please see the reply below on the implementation of articles 15 and 21 of the Second Protocol (1999)

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.

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.

The information has been provided in the previous report (2004-2008). National Joint Commission (NJC) that brings together 13 representatives of different ministries and organizations was created in 2005. Its task is the national implementation of the 1954 Hague Convention and its Protocols and coordinating different development activities related to this subject. In recent years the commission has not been very active and its membership should be renewed.

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:

The likelihood of Estonian Defence Forces participating in military occupation is very low, therefore no specific measures in that respect have been taken. However if such an occasion should arise Estonia is bound to fulfil the relevant obligations under the Convention.

The more general issue of return of cultural objects that have been unlawfully removed or exported illegally from another state has been regulated in national legislation.

*The return of unlawfully removed cultural objects is legally regulated with regard to EU member states. **The Act on the return of cultural objects unlawfully removed from the territory of an EU Member State** (RT I 2003, 51, 351; 2005, 39, 308) was harmonized with European Council Directive 93/7/EEC on the return of cultural objects unlawfully removed from the territory of a Member State. The National Heritage Board implements the necessary measures described in the Act. The Police and Border Guard Board and the Estonian Tax and Customs Board are to assist within their jurisdiction in finding cultural objects unlawfully removed from the territory of EU member states to Estonian territory.*

*Section (§) 16 of the **Museums Act** states the principles for replenishing museum collections. According to § 16 part 2, upon replenishment of a museum collection, the museum shall, within available means, ascertain the origin of a thing of cultural value such that the museum collection would not contain things which have been acquired illegally in Estonia or in another state or have been exported illegally from another state.*

According to § 19 part 1(5) of the Museums Act, a museum object shall be excluded from a museum collection if the museum object has been acquired in good faith in violation of the provisions of subsection 16 (2) of the Museums Act and is transferred to the owner or another state.

Have you have 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.

IV. The 1999 Second Protocol (to be filled in only by the States party to the 1999 Protocol):

1. General provisions

(i) 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 undertaken these preparatory measures?

YES:

NO:

If yes, please provide more specific information.

Much of the information provided in the previous report (2004-2008) is still relevant, but due to some changes please find below the updated version in its entirety.

- preparation of inventories

MONUMENTS

Information relating to monuments is entered in the National Register of Cultural Monuments (hereinafter register). The register was established and the statutes for its maintenance were approved by the Government of the Republic pursuant to the procedure provided in the Databases Act. The location of immovable monuments and their protected zones is entered in the land cadastre.

The register is accessible for the public from the internet. In addition to usual browsing capabilities of the alphanumerical information, the user can see and browse the objects in the map window. By clicking the button "Ava kaardil" ("show on map"), mapping application based on Estonian Land Board Web Map Server is started. The application shows monuments with selected map layers (base maps, cadastral units, administrative boundaries, etc.) on background. The user has standard web map application zooming and panning functions as well as options to query more monuments or change background map layers. The same web map application is also available directly from Estonian Land Board's homepages.

MUSEUM OBJECTS

The procedure for the registration and preservation of museum objects is established by the regulation of the Minister of Culture.

In 2005, the development of the Information System for Estonian Museums “MuIS” started, in order to create a system meeting the needs of Estonian museums, to provide a comprehensive overview of museum collections and to allow tracking down collection items in and outside museums. By now, 62 museums are using “MuIS” and data for ca 2,12 million museum objects (out of ca 8,3 million objects) has been computerized, incl. ca 473 000 digital images.

- planning of emergency measures for protection against fire or structural collapse

In 2006, “Benchmarks in Collection Care for Museums, Archives and Libraries. A Self-assessment Checklist” that includes Emergency Preparedness was translated into Estonian.

In 2007-2008, Estonian Ministry of Culture drafted an example of the crisis management plan for its institutions, First Reaction Teams and Crisis Management Teams were formed in state and county museums, 3 flood pumps were bought for 3 biggest state museums (covering Northern and Southern part of the country) and protection and work equipment was stored up for First Reaction Teams.

In the framework of the state programme „Conservation and development of places of worship“ all confessions may apply, inter alia, for funding for the protection against fire (alarm systems etc)

- preparation for the removal of museum objects or the provision for adequate in situ protection

*Building new **storage facilities** and/or renovating the old ones:*

- Pärnu County Museum (renovation completed in 2012)

- Estonian Maritime Museum: Seaplane Hangars (renovation completed in 2012)

- New building (incl. storages ca 8000 m²) for the Estonian National Museum (construction work started in 2013, will be completed in 2015) – could be also used as an emergency storage for other museums

- Storage facilities for the Estonian History Museum (in the planning phase)

- Storage facilities for the Estonian Open Air Museum (in the planning phase) – could be also used as an emergency storage for other museums

- designation of competent authorities responsible for the safeguarding of cultural property

The Heritage Conservation Act (HCA) regulates the rights and obligations of state and local government authorities and owners and possessors of cultural monuments in organising the protection of monuments and heritage conservation areas and in ensuring the preservation of monuments and heritage conservation areas.

According to the HCA, heritage conservation in Estonia is organised by the Ministry of Culture, the National Heritage Board and rural municipality and city governments.

The Emergency Preparedness Act establishes the duties of the ministries. But the new Emergency Act (2009) does not mention protection of cultural property as a vital service any more.

(ii) 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. If applicable, please describe the implementation of such measures.

Not applicable.

2. Enhanced protection (Chapter 3)

The Second Protocol establishes an enhanced protection regime for cultural property, provided that the property is cultural heritage of the greatest importance for humanity, is properly protected by administrative and legal measures, and is not and will not be used for a military purpose or to shield military sites.

(i) Do you intend to request the granting of enhanced protection for a cultural property?

YES:

NO:

At present Estonia does not see a need to apply for enhanced protection for a cultural property.

(ii) Do you intend to use the distinctive emblem to mark cultural property under enhanced protection?

YES:

NO:

If not, please state the reasons you have not done so.

As stated above Estonia has no plan to apply for the enhanced protection at the moment. According to the Heritage Conservation Act, monuments listed in the National Register of Cultural Monuments are marked with appropriate signs: Estonia has a tradition to use an old runic symbol for that, and using the emblem of the Convention has not been under discussion.

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

Article 15 obligates Parties to establish certain acts listed under its first paragraph as criminal offences under domestic law and to make them punishable by appropriate penalties.

Article 21 obligates Parties to adopt relevant legislative, administrative or disciplinary measures to suppress any intentional use of cultural property, illicit export, or other removal or transfer of ownership of cultural property from occupied territory, in violation of the Hague Convention or the Second Protocol.

Have you penalized each of these offences and adopted the above-mentioned measures?

YES:

NO:

If yes, please provide more specific information.

The information provided in the previous report (2004-2008) concerning Penal Code and Heritage Conservation Act is still relevant, only paragraph 2, article 7 of the Penal Law (Applicability of penal law by reason of person concerned) has been amended as follows:

“(2) The penal law of Estonia applies:

1) to an act committed outside the territory of Estonia if such act constitutes a criminal offence pursuant to the penal law of Estonia and the offender is a member of the Defence Forces performing his or her duties;

2) to giving gratuities or bribe to officials of foreign states, influence peddling by officials of foreign states and any criminal offence related to such criminal offences which were committed by an Estonian citizen or an alien who has been detained in Estonia and is not extradited, or a legal person registered in Estonia.”

[RT I 2008, 33, 200 - entry into force 28.07.2008]

If not, please state the reasons you have not done so.

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)

Are you currently receiving international assistance from the Fund?

YES:

NO:

If yes, please describe the project for which funds were received.

Are you currently providing or planning to provide international or technical assistance on a bilateral or multilateral level?

YES:

NO:

If yes, please provide more details.

If not, please state the reasons you have not done so.

Lack of human resources as the number of relevant experts is limited. We value the information network that the Convention provides and have cooperated with Finland, Austria, Switzerland and Poland, among others.

6. Dissemination (Article 30)

Article 30 calls for, among other things, the strengthening of the appreciation and the respect for cultural property, the dissemination of the Protocol and the establishment of military instructions, training and communication facilities.

Please describe the measures taken concerning the above-mentioned obligations.

Strengthening the appreciation and the respect for cultural property at state level is the duty and mission of the Estonian Ministry of Culture and the National Heritage Board. There are several relevant state programmes: thematic (conservation and development of places of worship, public schools in manors, rural architecture and landscapes etc. Digitisation of cultural heritage is described in more detail under safeguarding measures. The envisaged programmes include, for instance, an inventory of military architecture. Special promotional activities are organised, e.g. year 2013 has been designated as the National Year of Cultural Heritage with the aim to focus public attention on the richness and diversity of the heritage.

Ministry of Culture is preparing a new policy document „Cultural Policy 2020“ (to be adopted by Riigikogu (Estonian Parliament). The document states, inter alia, that international conventions and European legal acts and initiatives will be taken into account when designing Estonian cultural policy.

See previous report (2004-2008) about the military training session „Protecting cultural heritage in times of armed conflict“ (2008) and international conference „Protecting cultural heritage in times of armed conflict. Second Protocol To The Hague Convention – How To Make It Work? (2008). Conference materials were made public in digital format. These activities were undertaken in the framework of the Memorandum of Cooperation between the Ministry of Culture and the Ministry of Defence.

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

Have you contributed to the Fund?

YES:

NO:

If yes, please provide detailed information concerning your contribution.

The Ministry of Culture of Estonia has contributed 10 000 EUR to the Fund in 2010.

If not, would you consider the possibility of contributing to the Fund in the future?

YES:

NO:

8. National focal point

Please provide us with the name and address of a single national focal point for all official documents and correspondence related to the implementation of the Second Protocol.

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

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

- the relevant administrative civilian and military regulations;
- national laws on the protection of cultural property as well as penal provisions not covered by Article 28 of the Hague Convention and Articles 15, 16, 21 of the Second Protocol; and, case-law on the protection of cultural property related to the implementation of the Hague Convention and its two Protocols.

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

To date, the Secretariat has received 18 official translations of the Second Protocol (Armenian, Brazilian Portuguese, Burmese, Croatian, Czech, Danish, Dutch, Estonian,

German, Greek, Italian, Japanese, Latvian, Nepali, Persian, Romanian, Slovak and Slovenian).

Have you officially translated the Second Protocol?

YES:

NO:

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