

# **2011-2012 National Report of Finland on the Implementation of the 1954 Hague Convention and its two Protocols**

## **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.

**Finland is actively structuring its readiness for the implementation of the Hague 1954 Convention and its two protocols.**

**The Ministry of Education and Culture has set up an advisory body for the protection of cultural property for the period of time of 19 May 2010 - 31 December 2012. The advisory body includes representation from: Ministry of Education and Culture, Ministry of Defence, Ministry of the Interior, Ministry of the Environment, Ministry for Foreign Affairs, National Board of Antiquities, National Archives, Finnish National Gallery, Defence Command of the Finnish Defence Forces, Association of Finnish Local and Regional Authorities, Evangelical Lutheran Church of Finland, Orthodox Church of Finland, ICOM Finland, ICOMOS Finland, and Finnish National Rescue Association.**

**The advisory body promotes cooperation between various stakeholders and deals with issues involving several branches of administration. This includes implementation of the international instruments on protection of cultural property, like the 1954 Hague Convention.**

**One of the reference documents for the advisory body is a publication called "Protection of Cultural Property; Implementation of the 1954 Hague Convention in Finland and as part of international crisis management", published in 2007 by a working group of the Ministry of Education and Culture. Different kinds of threats are charted in the publication and many suggestions put forward for the ways to protect the cultural heritage.**

**Publication:**

**[http://www.minedu.fi/OPM/Julkaisut/2007/Kulttuuriomaisuuden\\_uhat\\_ja\\_suojelu?lang=fi&extra\\_locale=en](http://www.minedu.fi/OPM/Julkaisut/2007/Kulttuuriomaisuuden_uhat_ja_suojelu?lang=fi&extra_locale=en)**

### **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.

**The Convention is mentioned in the instruction manual given to conscripts. It is made clear in the manual that Finland has ratified the Convention, that it is part of Finnish legislation and that action contrary to the provisions of the Convention is punishable by law. In addition, instructions concerning the personnel of the Finnish defence forces require that international humanitarian law, including the Convention, is observed.**

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

YES:

NO:

If yes, please provide more specific information.

**No service has been created or specialists appointed in the Finnish defence forces to secure respect for cultural property. The observance of international humanitarian law is compulsory for the personnel of the Finnish defence forces, and in particular for the leaders.**

### **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.

**The work of compiling the national inventory on potential sites is under preparation. The question on possible marking the sites with emblem will be decided after the completion of the inventory.**

**The advisory body, mentioned in the question 1, will present its views on how to proceed with the national inventory process on relevant cultural property. According to the plan, the inventory will combine both movable and immovable property. The latter one includes built heritage, archaeological heritage, museums, libraries and archives. In addition to the military threats, the Finnish inventory will serve also for the safeguarding of cultural property against daily civil emergencies (like fire and natural hazards of various kinds).**

**The inventory will be compiled by the National Board of Antiquities in cooperation with other major stakeholders. There is a special need to strengthen cooperation between the heritage sector, the Defence Forces and the rescue services.**

**A hearing has been arranged about the proposed inventory for the regional heritage authorities. The owners of the cultural property will also be contacted about the inventory.**

One part of the discussion is the question of the relationship between of the national Hague inventory and the official domestic legal protection for movable and immovable heritage. Apart from the Act and Decree on Restrictions to the Export of Cultural Objects there is no domestic legislation to protect movable heritage.

The proposed inventory will be restricted to individual monuments and groups of buildings, archaeological sites, art collections, archives and libraries of national importance and significance. All six World Heritage Cultural Sites are included in the Haag inventory.

#### **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.

**The Finnish Defence Forces give training on international humanitarian law including the Convention to conscripts, reservists and its personnel through lessons and exercises.**

There are also several other educational activities for various target groups. The Emergency Services College (Pelastusopisto) provides education and training in its special field under the supervision of the Ministry of the Interior. The College plans and arranges basic and advanced education and training in fire and rescue work, civil defence training and other training in emergence operations. As part of its work, the College has also arranged special education on the protection of cultural heritage.

Protecting cultural property is part of preparedness training in the education and cultural sector also at the municipal level. In recent years, a number of regional training courses have been organised for the representatives of education and cultural services, including museums, archives and libraries.

Protecting cultural property is also an established part of humanitarian law training provided by the Finnish Red Cross for the Defence Forces.

Preparedness concerning cultural property is not governed by specific legislation in Finland, and practical action to safeguard such property would be taken under the Emergency Powers Act and the Rescue Act. The Emergency Powers Act guides the actions of the authorities in emergency conditions and includes the duty to secure the performance of vital activities in all circumstances.

Self-preparedness under the Rescue Act, on the other hand, in practice concerns everyone, obliging the owners and occupants of buildings to prevent and prepare for accidents and hazardous situations as far as their resources allow.

Within the administrative branch of the Ministry of Education and Culture, the National Archives Services is the organisation that has the authority to issue regulations and to direct preparedness activities concerning archives. As regards museums, libraries and buildings of cultural history value, there are no similar means of control. Key regulative measures include various types of guidelines and recommendations as well as training, and possibly also grants for the owners. In other words, safeguarding cultural property in practical terms to a great extent depends on self-preparedness and cooperation between the authorities.

In the reform of the Rescue Act (2011), the impacts of accidents on cultural property were highlighted as one complex issue. For sites where a fire or other accident would put property of cultural history value at risk, an emergency plan must be drawn up. In addition, sites of cultural history value will also be accounted for in regional risk analyses drawn up by the rescue services in the future. Cultural history sites have similarly also been taken into consideration as a special group in the national implementation of the EU Floods Directive. The Floods Directive contains the requirement of taking national cultural heritage into account in regional risk assessments.

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.

The Penal Code of Finland provides for the war crimes in its chapter 11, section 5:

“ Section 5 - War crime

(1) A person who in connection with a war or other international or domestic armed conflict or occupation in violation of the Geneva conventions on the amelioration of the condition of the wounded and sick in armed forces in the field, the amelioration of the condition of wounded, sick and shipwrecked members of armed forces at sea, the treatment of prisoners of war or the protection of civilian persons in time of war (Treaties of Finland 8/1955, Geneva conventions) or the additional amendment protocols done in 1949 to the Geneva Conventions, on the protection of victims of international armed conflicts and the protection of victims of non-international armed conflicts (Treaties of Finland 82/1980, I and II protocols) or other rules and customs of international law on war, armed conflict of occupation,

...

10) attacks undefended civilian targets or bombs them, attacks places used for religious worship, science, art, medical treatment or charity or historical monuments or attacks persons who are using the symbols referred to in the Geneva conventions or the I or III protocol to the Geneva conventions,

(2) Also a person who commits another act defined under article 8 of the Rome Statute of the International Criminal Court (Treaties of Finland 56/2002) or in another manner violates the provisions of an international agreement on war, armed conflict or occupation that is binding on Finland or the generally recognized and established laws and customs of war in accordance with international law shall be sentenced for a war crime.”

The 1954 Hague Convention is mentioned explicitly in the Penal Code of Finland in its chapter 1, section 11, concerning dual criminality:

“ Even if the offence is not punishable under the law of the place of commission, Finnish law applies to it if it has been committed by a Finnish citizen or a person referred to in section 6, subsection 3(1), and the penalty for it has been laid down in (1) sections 5 or 6 of chapter 11, if the act is a war crime or aggravated war crime referred to in article 15 of the second protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict or an act of participation into said acts (212/2008).”

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.

<http://www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf>

**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.

**See the answer in question I 1.**

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:   **(In terms of confiscating and returning objects imported illegally to Finland, taking also into account the provisions of the Hague Convention.)** NO:

**“ The Act on the implementation of certain provisions of the Protocol for the Protection of Cultural Property in the Event of Armed Conflict and on the application of the Protocol” 1135/1994:**

**<http://www.eui.eu/Projects/InternationalArtHeritageLaw/Documents/NationalLegislation/Finland/1135of1994.pdf>**

**See also the reply in the question V.**

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.

**The preparatory work for the inventory is going on, as described above, and the cooperation between various stakeholders for the implementation of the Hague 1954 Convention has been activated within the advisory body, mentioned in question I 1.**

(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.

**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:  **(for the moment)**

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

YES:

NO:  **(for the moment)**

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

**The preparatory work for the inventory is going on.**

**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.

**See the reply I 6 on the Article 28 of the Convention (above) and the provision on the war crime in the Penal Code of Finland.**

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

#### **4. Article 16 – Jurisdiction**

Have you taken the necessary measures to establish jurisdiction over offences mentioned in Article 15?

YES:

NO:

If yes, please provide more specific information.

**See the reply I 6 on the Article 28 of the Convention (above) and the provision on dual criminality in the Penal Code of Finland.**

#### **8. 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.



## 8. 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.

**See the answer in question I 4 on the Article 25 of the Convention (above).**

## 8. 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.

**Finland has contributed 48 000 € 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.

**All correspondence is to be addressed through the Permanent Delegation of Finland to UNESCO in Paris.**

## 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.

Closely related laws (protection of cultural heritage) can be found at the websites of UNESCO and European University Institute:

<http://www.unesco.org/culture/natlaws/>

<http://www.eui.eu/Projects/InternationalArtHeritageLaw/Finland.aspx>

## **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?

**Enclosed.**