



United Nations
Educational, Scientific and
Cultural Organization



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

Four-year cycle 2013-2016

Brazil

National report on the implementation of the Hague Convention of 1954
and its two Protocols (1954 and 1999)

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)	3
4. Article 25 – Dissemination of the Convention	4
5. Article 26 (1) – Official translations	4
6. Article 28 – Sanctions	4
II. Resolution II of the Conference of 1954	4
III. 1954 First Protocol	5
IV. 1999 Second Protocol	5
1. General provisions (Chapter 2)	5
Article 5 - Safeguarding of cultural property	5
Article 9 - Protection of cultural property in occupied territory	6
2. Enhanced protection (Chapter 3)	6
MONITORING OF CULTURAL PROPERTY UNDER ENHANCED PROTECTION	6
3. Criminal responsibility and jurisdiction (Chapter 4)	7
Article 15 – Serious violations of the Second Protocol	7
Article 16 – Jurisdiction	7
Article 21 – Measures regarding other violations	7
4. Dissemination of information and international assistance	7
Article 30 – Dissemination	7
Articles 32 – International assistance	8
5. Official translation of the 1999 Second Protocol to the Hague Convention of	8
1954	8
V. Miscellaneous questions regarding the Hague Convention of 1954 and its two Protocols	8
1. National focal point	8
2. National practice regarding the implementation of the Hague Convention and its Two Protocols	9
3. The Fund for the Protection of Cultural Property in the Event of Armed	10
Conflict (Article 29 of the Second Protocol)	10
VI. Self-assessment forms	11
VII. Granting of enhanced protection – Opinion Survey	12

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. Working as a central office of the Federal Police, the Divisão de Repressão a Crimes contra o Meio Ambiente e Patrimônio Histórico - DMAPH (Environment and cultural heritage crimes Division) had informed and capacitated other units about the theme, and how to investigate. The major difficulty is identify cultural property. So, some images were send to the units, including the borders units.

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.

No.

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

No.

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?*

No.

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.

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.

Yes.

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:

Language versions of the Hague Convention and its 1954 Protocol

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

Yes.

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.

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?

Yes.

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. Our legislation already have measures to deal with the Protocol.

*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?

No.

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**?*

Federal Policy do not have activities under military occupation.

2. Enhanced protection (Chapter 3)

The Second Protocol establishes an enhanced protection regime. Enhanced protection is granted by the Committee for the Protection of Cultural Property in the Event of Armed Conflict (composed of 12 Parties). Paragraph 102 of the Guidelines for the Implementation of the Second Protocol requests that Parties express their intention to request the inscription of cultural property on the List of Cultural Property under Enhanced Protection.

*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?*

No.

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?*

Yes. The federal agencies are making lots of efforts to monitor the cultural property under enhanced protection.

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?*

Yes.

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**?*

Creating national committee and discussing measures to avoid the crime.

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?*

Explaining to the judges the whole theme, and all the aspects.

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?

No. The national legislation already have elements to deal.

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?

No. Federal Policy do not have links with military activities.

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**?

Yes.

5. Official translation of the 1999 Second Protocol to the Hague Convention of 1954

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.

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.

Institution: POLÍCIA FEDERAL	Email: dmaph.cgpfaz@dpf.gov.br
Name: RENATO MADSEN ARRUDA	Tel.: +556120248564
Address: SAS QUADRA 6 LOTES 9/10 SALA 518	Fax: +556120248564

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  Website 

- 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  Website 

- 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  Website 

3. The Fund for the Protection of Cultural Property in the Event of Armed Conflict (Article 29 of the Second Protocol)

Have you **contributed to the Fund**?

No.

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

No.

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	4
Training of military personnel on the regulations relating to the protection of cultural heritage	1
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	3
Adoption of relevant criminal legislation	4
<i>For Parties with cultural property under enhanced protection only.</i> Establishment of a system to monitor cultural property under enhanced protection at national level	3

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	4
Training of military personnel on the regulations relating to the protection of cultural heritage	1
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	5
Adoption of relevant criminal legislation	5
<i>For Parties with cultural property under enhanced protection only.</i> 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"

No answer.

Article 10, paragraph (b) – "Highest level of protection"

No answer.

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.

No answer.