



Four-year cycle 2005-2010

Switzerland

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

I. The 1954 Hague Convention

1. Article 3 – Safeguarding of cultural property

This Article provides that the High Contracting Parties shall undertake to prepare in time of peace for the safeguarding of cultural property against the foreseeable effects of an armed conflict, by taking such measures as they consider appropriate. Please inform us if such measures have already been adopted or envisaged.

Switzerland has a Federal Law on the Protection of Cultural Property (FL PCP) which sets out the structure, measures and financial resources required for the safeguarding of cultural property, as provided for under Article 3 of the 1954 Hague Convention (hereinafter “Convention”).

The Swiss inventory of cultural property is a list of cultural property based on Article 1 of the Convention. The Swiss Confederation grants subsidies for the preparation of security documentation relating to the objects listed in the Swiss inventory of cultural property.

The purpose of PCP (protection of cultural property) security documentation is to make it possible to restore damaged cultural property and to provide the necessary frame of reference for making decisions to that effect. PCP security documentation is in principle composed of seven parts:

1. classification system,
2. blueprint documents,
3. photographic documents,
4. documentary texts,
5. archaeological documents,
6. documents concerning movable cultural property,
7. microfilm.

The importance, type, size and complexity of the object nevertheless determines the extent of the documentation required. While it is, generally speaking, necessary to provide all the items on the list for immovable cultural property (churches, monasteries, official buildings, bridges and so on), the items mentioned under headings 6 and 7 above are sufficient for movable cultural property (church treasures, archives, collections and so on).

Construction of shelters/reassignment

Over a period of 40 years, 280 shelters for movable cultural property have been constructed in Switzerland. Today they offer an area of 110,000 m³ for the protected shelter of objects.

In the context of inspection of military installations which the Armed Forces no longer need (for example, protected military hospitals) and of civilian shelters which will no longer be used, consideration is also being given to the possibility of turning such facilities into protected storage sites for collections.

PCP civil protection personnel carry out on-site evacuation planning for movable cultural property.

2. Article 7 – Military measures

This Article provides that the High Contracting Parties to the Convention shall undertake to introduce into their military regulations or instructions such provisions as may ensure

observance of the Convention. The High Contracting Parties also undertake to establish, within their armed forces, services whose purpose will be to secure respect for cultural property. Please inform the Secretariat whether such services exist in your country.

Respect for the Convention is ensured by the section on the international law of armed conflict of the staff to the Chief of the Armed Forces. In the event of armed conflict, the military justice system is responsible for instigating penal proceedings arising from violations of the Convention. The provisions of Articles 110 and 111 of the military penal code are applicable in the case of damage to the cultural heritage caused by persons subject to that code.

3. Chapter V – The distinctive emblem

Does your country mark cultural property with the distinctive emblem of the Convention? If not, for what reasons?

Switzerland has provided the cantons with the number of shields needed to mark the different objects in question. These shields may however only be affixed on the order of the Federal Council. Once the Swiss inventory of cultural property has been reviewed, the question of a new evaluation of the situation will be considered.

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. Please inform us how the provisions of the Convention and the Regulations for its execution are being disseminated in your country.

For civilians, various sources provide information on the subject of protection of cultural property:

PCP Forum Review;
PCP guidelines;
PCP brochure (g/f/i/e);
leaflet;
reports;
exhibitions;
scientific publications and articles in the press;
aide-mémoire;
presentations for specialized agencies;
annual report with PCP officials in each canton;
Internet site (g/f/i);
DVD.

In the Armed Forces, the provisions of the Convention are dealt with under military regulations:

aide-mémoire 51.007/III: the ten basic rules of international law of armed conflict;
Regulation 51.997/IV: legal bases of conduct during engagement;
online training programme at www.pfp.ethz.ch.

The text of the Convention can be consulted on the Internet in three national languages. Members of the Armed Forces also have at their disposal educational material on CD-ROM:

CD-ROM International law of armed conflict I and II.

The issue of the protection of cultural property is regularly addressed as part of tactical training for officers.

5. Article 26 (1) – Official translations

To date, the Secretariat has received 22 official translations of the Convention and of the Regulations for its execution (Arabic, Bulgarian, Czech, Dutch, English, Farsi, Finnish, French, German, Hebrew, Hungarian, Greek, Italian, Kyrgyz, Polish, Romanian, Russian, Serbo-Croatian, Slovak, Slovenian, Spanish and Thai). If an official translation in the language of your country has not yet been received by the Secretariat, we should be grateful if you would provide us with a copy.

The Hague Convention has been provided to Switzerland in the three official languages, namely German, French and Italian.

6. Article 28 – Sanctions

This Article provides that the High Contracting Parties to the Convention shall take, within the framework of their ordinary criminal jurisdiction, all necessary steps to prosecute and impose penal or disciplinary sanctions upon those persons who commit or order to be committed a breach of the Convention. Please inform us how this provision has been taken into account in your penal code. Would you also kindly provide us with a copy, in English or French if possible, of the relevant provision or provisions.

No provision exists under the Swiss penal code (in the case of armed conflict, Articles 110 and 111 of the military penal code; see para. 2 above).

7. (First) Protocol of 1954

The Protocol provides that each High Contracting Party shall undertake 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. Please inform us whether the provisions of the 1954 Protocol have been applied by your country.

No provisions.

8. Resolution II of the 1954 Hague Conference – National Advisory Committee

Would you kindly inform us whether there is a national advisory committee in your country in accordance with the hope expressed by the Conference in this resolution. If so, please provide us with some background information.

Pursuant to the text of the resolution, Switzerland has a Swiss Committee for the Protection of Cultural Property, the establishment of which is governed by Article 9 of the Federal Law on the Protection of Cultural Property in the Case of Armed Conflict. The enforcement order sets out the composition and the tasks of the Committee. All the federal and cantonal offices and professional organizations involved in the protection of cultural property (museums, archives, libraries, preservation of historical monuments and archaeology) are represented on the Committee.

By virtue of Article 34 of the enforcement order, the Committee exercises in particular the following functions:

- (a) to advise the federal government, the department and the federal office, and
- (b) to ensure a specialized service in the field of protection of cultural property.

As an extra-parliamentary commission, the Committee is established by the Federal Council for a period of four years. Its secretariat is ensured by the section for the protection of cultural property (Art. 32, enforcement order).

II. National reports on the implementation of the Second Protocol to the Hague Convention of 1954

1. Article 5 – Safeguarding of cultural property

Article 5 of the Second Protocol supplements Article 3 of the Hague Convention by providing examples of preparatory measures taken in time of peace, such as the preparation of inventories or the designation of competent authorities responsible for the safeguarding of cultural property. Please inform the Secretariat of any preparatory measures that your country has taken, prepared or envisaged in time of peace.

The measures set out in Article 5 serve in fact as guidelines for civilian measures to be taken in Switzerland. Significant efforts have been made to analyse the various documents existing within the framework of cultural property inventories. With respect to the classification of cultural property of national importance, a matrix has been designed for the purpose of comparing different types of Swiss construction. For the first time, evaluation and classification has been concerned not only with buildings such as churches, monasteries, aristocratic residences, administrative or official buildings, or even farmhouses, but also with the collections of archives, libraries, museums and sacred buildings. Thanks to this process, the specialized service for the protection of cultural property now has information that is vital to the planning and implementation of additional protection measures.

For the past 20 years, cultural institutions and cantons have received financial support for the preparation of security documents and for making microfilms of cultural property of national or regional importance. The Swiss Confederation today stocks some 61,000 pieces of microfilm in a protected site.

A recent expert report on the subject of earthquakes analyses the situation from the perspective of buildings and collections, and makes recommendations aimed at reinforcing security for cultural property in Switzerland in case of an earthquake. Also noteworthy is the funding of a thesis specially dedicated to sacred buildings, their structures and possible measures of protection, which has made it possible to identify weak points in some historical buildings. The manner in which collections are stored is also a matter of concern.

Switzerland has, moreover, drawn up in conjunction with fire-fighting brigades a set of minimum standards to ensure cooperation, in the case of fire, between the different actors involved. This has meant, for example, devising mechanisms for firefighters to help them to make initial tactical decisions and providing expert advice while the fire is being brought under control.

In addition to the risk of fire, rising water levels and floods can also endanger cultural property. In the event of a disaster, the systematic inclusion of experts in federal and cantonal operational teams ensures that warning and safeguarding mechanisms at the national and cantonal level cover not only civilians in danger but also cultural institutions.

The information acquired in conjunction with the above-mentioned procedure lays the groundwork for the preparation and implementation of additional measures in the area of staff, organization, training and construction in the event of armed conflict.

2. Chapter 3 – Enhanced protection

Please inform the Secretariat whether your country plans to designate cultural property to be placed under enhanced protection and, in particular, to be included among the items on the list of cultural property that meet the conditions set out in Article 10.

Switzerland plans to complete the review of its inventory of cultural property of national importance (2008-2009) before addressing the question of possibly placing cultural property under enhanced protection.

3. Article 15 – Serious violations of this Protocol

This Article provides that each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law the five categories of offences set forth in

paragraph 1 of said Article and to make such offences punishable by appropriate penalties. Please inform the Secretariat how this provision has been taken into account in your national legislation. We should be grateful if you would send us a copy, in English or in French if possible, of the relevant provisions.

No provisions (aside from those under the military penal code; see para. 2 above).

4. Article 16 – Jurisdiction

This Article provides that each Party shall take the necessary legislative measures to establish its jurisdiction over the offences set forth in Article 15. Please inform the Secretariat how this provision has been taken into account in your relevant national legislation. We should be grateful if you would send us a copy, in English or in French if possible, of the relevant provisions.

No provisions (aside from those under the military penal code; see para. 2 above).

5. Article 21 – Measures regarding other violations

This Article provides that each Party shall adopt such legislative, administrative or disciplinary measures as may be necessary to suppress acts committed intentionally in violation of the Convention or the Second Protocol. Please inform the Secretariat how this provision has been taken into account in your relevant national legislation. We should be grateful if you would send us a copy, in English or in French if possible, of any relevant provisions.

No provisions (aside from those under the military penal code; see para. 2 above).

6. Article 30 – Dissemination

Article 30 lays down a number of obligations relating to the dissemination of the provisions of the Second Protocol, and in particular, the communication, through the Director-General, of information on the laws and administrative provisions adopted to ensure the application of the Second Protocol. Please inform the Secretariat how this provision has been taken into account in your national legislation.

Most of the measures laid down in Article 30 have been implemented. The full text of the Second Protocol can be consulted on the Internet at <http://www.admin.ch/ch/d/sr/0.5.html#0.520>. PCP brochures (in German, French, Italian and English) and a leaflet are used to keep the public informed and are disseminated to citizens in conjunction with national or regional events (Heritage Day, and so on). A DVD has also been produced and presents in five sequences the practical measures applied in Switzerland for the protection of cultural property. With regard to staff training, the PCP manual was updated in 2006 and a series of online fact sheets provide succinct documentation on cultural property.

Within the Swiss Armed Forces, the question of the protection of cultural property is treated as an integral part of the international law of armed conflict. Knowledge in the field of international law of armed conflict falls under armed forces basic readiness and is transmitted to all members of the Armed Forces. Training for soldiers includes in particular the 10 basic rules of international law of armed conflict. During combat exercises and decision-making exercises, issues relating to international law of armed conflict and the protection of cultural property are raised, in order to transmit knowledge based on practice.

An important detail in relation to the previous service instructions has been added to the regulation entitled “Legal bases of conduct during engagement”, which came into force under the Chief of the Armed Forces on 1 July 2006. Point 207 of the regulation, addressed to all officers and senior non-commissioned officers, clearly prohibits the building of military facilities or the establishment of combat posts within a perimeter of 500m of protected cultural property. As part of their training, commanding officers and staff are made aware of how important it is to protect cultural property and to integrate that aspect in planning, decision-making and military operations.

7. Article 37 – Translations and reports

Paragraph 1 of this Article provides that the Parties shall translate the Second Protocol into the official languages of their country and shall communicate these official translations to the Director-General. To date, the Secretariat has received the translation of the Second Protocol into Armenian, German and Slovenian. If the Secretariat has not yet received the official translation of the Second Protocol in the language of your country, we should appreciate it if you would send us a copy.

The Second Protocol to the Hague Convention is available in German, French and Italian, respectively, at the following addresses:

<http://www.admin.ch/ch/d/sr/0.5.html#0.520>

<http://www.admin.ch/ch/f/rs/0.5html#0.520>

<http://www.admin.ch/ch/i/rs/0.5html#0.520>