

## **National Report on the Implementation of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its First Protocol**

During the last years more than one hundred decrees and directives have been issued by the President of the Republic of Azerbaijan for the purpose of development and worldwide promotion of the culture. In 2004-2008 about 71 international agreements and conventions have been signed in this direction. The leadership of the country considers the development of the national culture as one of the priorities of the state policy.

### **Article 3. Protection of Cultural Property**

During the last five years buildings and expositions of the most important museums of the Republic have been reconstructed in accordance with advanced international experience. These museums are as follows: **the Museum of National History of Azerbaijan, the Nizami Ganjavi Museum of Azerbaijan Literature and the State Museum of Azerbaijan Carpet and Applied Art.**

In accordance with the order of the President of the Republic of Azerbaijan the monuments of **“Icherisheher” Historic and Architectural Preserve**, included in the UNESCO’s World Heritage List, are being restored. Development measures such as the construction of the tourism infrastructure objects, repairing of the buildings and changing of the engineering communications are intended and implemented on the territory of Icherisheher in the places of the buildings of no historical and architectural importance, which have been disintegrated or are under danger of disintegration, while maintaining the traditional street patterns. Also, security issues of cultural property in the event of armed conflict will take an important place in the process of renovation.

At the same time, a number of important works concerning the **Gobustan Historical and Art Reservation** included in the said List have been implemented under the order of the President of the Republic of Azerbaijan. The most important among them has been the organization of a competition concerning the design of the administrative building and expositions of its 5 halls on the territory of the reservation. The reconstruction of the building is intended to be finished by the middle of the current year. For the protection of rock art engravings experts from Moscow (Russia) have been involved, and an appropriate report has been prepared.

In 2008 the “first open air archaeological and ethnographical museum complex” was created on the territory of the **Qala Historical and Ethnographical Reservation**. Archaeological monuments found out on the Absheron peninsula have been collected in the complex, architectural monuments have been restored on the territory of the Reservation. The complex meets the requirements of

modern international museum management, and all exhibits can be protected by the most modern equipment while exposed to natural and military danger.

It is noteworthy that a **Museum of Modern Art** has started operating in Azerbaijan since the last year. Outstanding, however sometimes forgotten works of Azerbaijani artists are demonstrated in this museum for the first time. More importantly, the works, which previously were not exhibited and kept in the workshops of artists are presented in the exposition of the museum. The collection contains about 50 avant-garde style works of the most talented painters and sculptors. The majority of the more than 800 demonstrated works pertaining to the rich school of arts of Azerbaijan belonged previously to private collections. Also, the works of young painters are demonstrated in the exposition alongside the works created in the 1940s.

**In addition to the protection of tangible cultural heritage, the Republic of Azerbaijan also implements plenty of measures concerning the comprehensive protection of intangible cultural heritage.**

Regarding the protection of the **Mugham Art** included in the UNESCO's Representative List of the Intangible Cultural Heritage of Humanity, a **Music Album "Garabagh Singers"** containing performances of 24 outstanding mugham masters has been prepared in the framework of the project "Azerbaijani Mughams" implemented by the Heydar Aliyev Foundation since 2005. A "**Mugham Encyclopedia**" prepared in 2008 by the Foundation is valued as an authoritative publication for protecting and developing the ancient music heritage of Azerbaijan.

Other successful projects aimed at protecting and promoting the mugham include the "**Azerbaijani Mugham**" **interactive audiovisual multimedia collection** and the publication of "**Mugham World**"

The "Azerbaijani Mugham" multimedia collection presented as an educational supply in the frame of the project "Azerbaijani Mughams" explains in details the types, genres, origin, structure, music content and composition characteristics of mugham. "Azerbaijani Mugham" interactive audiovisual multimedia collection consists of **8 discs**. The collection has been prepared in Azerbaijani and in English.

At the same time, it is intended to digitize all the old sound recordings preserved in the National Sound Recordings Archive, while including them in the Mugham Anthology Collection (UNESCO. Japanese Funds-in-Trust).

The Azerbaijani Ashiq Art, another type of art included in the UNESCO's Representative List of the Intangible Cultural Heritage of Humanity, is also protected by the state. Thus, it is planned to clean all sound recordings concerning the Ashiq Art preserved in the republic and abroad, to copy them to modern sound record carriers and to publish the Encyclopedia of Ashiq Art.

## **2. Article 7. Military measures**

In order for the the military employees of the Armed Forces of the Republic of Azerbaijan to learn about provisions pertaining to international law norms, more exactly to observe the norms of international humanitarian law while fulfilling the requirements of the leading documents related to battle regulations and battle orders, a relevant order on the “Application of the International Humanitarian Law Norms in the Armed Forces of the Republic of Azerbaijan” has been signed on 30.12.2005 by the Minister of Defense of the Republic of Azerbaijan. Moreover, an “Instruction on the Application of the Law of Armed Conflict in the Armed Forces of the Republic of Azerbaijan” has been approved on 29.12.2009 by a relevant order of the Minister of Defense of the Republic of Azerbaijan in order to provide a better quality of teaching of the international humanitarian law in the Armed Forces of the Republic of Azerbaijan. The said instruction contains the notion of cultural resources, their recognition and distinctive emblem, and other important issues.

The Ministry of Defense of the Republic of Azerbaijan has put forward a proposal to add the following new article to the “Law on Defense” of the Republic of Azerbaijan for the purpose of the protection of cultural property in the event of military operations: “The Armed Forces of the Republic of Azerbaijan takes measures to protect historical monuments, art works, temples, movable and immovable property on the territory of the Republic of Azerbaijan or on the aggressor’s territory while pursuing him (as well as while conducting anti-terrorist operations), and for this very purpose establishes special designation divisions”. The content of the proposed article has been discussed with the relevant bodies of the National Assembly of the Republic of Azerbaijan.

### **Chapter V Distinctive Emblem**

As a result of the Armenian aggression against Azerbaijan since 1988 about 22 museums containing more than 100.000 exhibits, 927 libraries with 4,6 million books, 808 clubs, 4 picture galleries, 4 theatres, 2 concert halls, 8 culture and recreation parks, 85 musical schools, 5649 musical instruments, 481 cinema units, 20 movie cameras, 423 various technical equipments, 5920 national male and female costumes, 40 loudspeakers, 25 large, and 40 small attractions have remained on the occupied territories, 600 religious monuments have been totally destroyed.

Moreover, prior to the war only the city of Shusha had 248 historical monuments under state protection, 8 museums and 1 picture gallery, but the majority of them have been looted and destroyed to date. For the purpose of changing the cultural heritage of Shusha the aggressors have been erasing the traces of Azerbaijani culture there, translating the Azerbaijani toponyms into Armenian, and rubbing off the writings on the Christian monuments pertaining to the Caucasian Albania in

Nagorno-Karabakh while replacing them with Armenian writings. Around 500 Albanian monuments have been granted the status of the Armenian Church.

The Republic of Azerbaijan and the Republic of Armenia are among the states which have joined the **1954 Hague Convention and its Second Protocol**. Nevertheless, the calls for the protection and return of our cultural property, which have been voiced repeatedly during the bilateral and multilateral negotiations with the aggressor, continue to remain unanswered. The monuments remaining on the occupied territories are being exposed to a deliberate and ruthless destruction and armenianization on a daily basis. Despite numerous appeals addressed to relevant international organizations since 1992 by the Ministries of Culture and Foreign Affairs of the Republic of Azerbaijan, National Commission of the Republic of Azerbaijan for UNESCO, and Azerbaijani National Committee of the International Council of Museums, our cultural property in the occupied regions is being misappropriated, destroyed and armenianized. All these create difficulties for the country, which has been subjected to a war of aggression, to mark and thus protect its unique cultural objects from such a brutal and deliberate destruction. In this sense, the marking of cultural property can be conducted with the support of international organizations to the protection of the rights of the Republic of Azerbaijan and to the process of marking.

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

Study of the provisions of international conventions joined by the Republic of Azerbaijan, including the Convention for the Protection of Cultural Property in the Event of Armed Conflict has been included in the annual battle and humanitarian training curricula of the military units and military education institutions in the framework of studying the “International Humanitarian Law”. The subject “Protection of cultural property in the event of armed conflict” has been taught since 2004 in the framework of the discipline “Political Science and International Relations” in the military institutes of higher education of the Ministry of Defense.

In accordance with an order of the Minister of Defense of the Republic of Azerbaijan the commanders of unions, associations and military units have been instructed to teach the requirements of the Convention to personnel.

Furthemore, it is a rule established by the state that each civilian and armed person serving in the state service must be aware of the provisions of the 1954 Convention as well as of other international law documents.

#### **Article 26. (1) Official translation**

We present to your attention the Azerbaijani translations of the Convention and its two protocols (annexed).

## **Article 28. Sanctions**

Plunder of subjects being a cultural resource or having cultural value, their smuggling through the country as well as socially dangerous acts such as the deliberate destruction or defacement of historical and cultural monuments under the state protection are criminalized as crimes against the property, in economic sphere and against public morality pursuant to the articles 183, 206 and 246 of the Criminal Code of the Republic of Azerbaijan.

Moreover, under the article 209 of the Criminal-Processual Code of the Republic of Azerbaijan, the prosecutor leading the primary investigation must instantly begin the criminal proceedings on the known fact, in cases of desecration of historical and cultural monuments as well as graves.

### **The Criminal Code of the Republic of Azerbaijan**

December 30, 1999

The Code has entered into force on September 1, 2000

(Extract)

### **Article 183. Plunder of subjects which have special value (is criminalised as an offence against property)**

**183.1** Plunder of subjects or documents having special historical, scientific, art or cultural value, irrespective of the way of plunder -

- is punished by imprisonment for the term from five up to eight years with confiscation of property or without it.

**183.2** The same acts committed:

**183.2.1.** on preliminary arrangement by group of persons or by organized group;

**183.2.2.** repeatedly;

**183.2.3.** entailed destruction, defacement or destruction of subjects or documents envisaged in article 183.1 of the present Code-

- is punished by imprisonment for the term from eight up to fifteen years with confiscation of property or without it.

Pursuant to the **Article 18 of the Chapter III** of the “Law on the Protection of Historical and Cultural Monuments” from April 10, 1998 (**Protection of monuments in the event of war and armed conflict**),

-the relocation of movable monuments from territories under the danger of battle and from battle zones is carried out by the relevant body of the executive branch.

Pursuant to the **Article 7 of the Chapter II of the “Law on Museums”** signed by the President of the Republic of Azerbaijan on March 24, 2000 (**relocation of museums**),

-the museums and their items and collections must be relocated on the basis of a decision by the relevant body of the executive power to safe zones or to the places determined by the civil defense agencies in cases of natural disasters, fire, armed conflict, war and emergence of other forms of danger

### **Criminal-Processual Code of the Republic of Azerbaijan**

July 14, 2000

The Code has entered into force on September 1, 2000

(Extract)

**Article 209.** Immediate commencement of criminal proceedings

209.2. The prosecutor in charge of the procedural aspects of an investigation shall also instantly institute criminal proceedings on the basis of the known facts under the following circumstances:

209.2.8. where historical or cultural monuments or graves have been desecrated.

### **The Second Protocol of the 1954 Hague Convention**

Pursuant to the order No. 569 issued by the President of the Republic of Azerbaijan on November 13, 2000, a Commission on the Implementation of Provisions of the Convention on the Protection of Cultural Property in the Event of Armed Conflict was established (the document is annexed).

## **II. National reports on the implementation of the 1954 Hague Convention and 1999 Second Protocol**

### **1. Article 5. Protection of Cultural Property**

A list of movable historical and cultural monuments under state protection on the territory of the Republic of Azerbaijan has been approved by a Decision No. 132 of the Cabinet of Ministers of the Republic of Azerbaijan dated August 2, 2001. 6308 monuments are indicated on the list.

Movable historical and cultural monuments under state protection are categorized in accordance with their (1) world, (2) country and (3) local importance.

Taking into account the experiences of advanced countries of the world in the field of culture, the Ministry of Culture and Tourism of the Republic of Azerbaijan has started reforms concerning the protection and support of the intangible cultural heritage of Azerbaijan. Currently, a monitoring of cultural and political safeguarding mechanisms of the sphere is being conducted. Activities are carried out concerning the concept of intangible cultural heritage of Azerbaijan, establishment of a State Register of intangible cultural monuments of Azerbaijan, establishment of an Inventory Passport System of intangible cultural monuments of Azerbaijan, creation of international cultural tourism routes Mugham-Tour, Ashiq-Tour, Carpet-Tour and Nowruz-Tour, establishment of a Database of subjects of intangible cultural heritage of Azerbaijan, creation of a web page [www.intangible.az](http://www.intangible.az) dedicated to this sphere, and other conceptual programs and projects.

### **Chapter 3. Enhanced protection**

The Republic of Azerbaijan has identified its cultural property for the inclusion in the List of Cultural Property under Enhanced Protection, and intends to present the list of the said cultural property to the Committee.

The said list will contain in the first place the Icherisheher Historical and Architectural Reservation, Maiden Tower, the complex of Shirvanshahs' Palace and Gobustan National Historical and Art Reservation, which have all been included in the World Heritage List of UNESCO.

#### **Article 15. Serious violations of this Protocol (See Article 28 of the Convention)**

#### **Article 21. Measures regarding other violations**

In accordance with the "Law on Culture" of the Republic of Azerbaijan and the decree of the President of the Republic of Azerbaijan regarding the implementation of the "Law on Culture" dated 16 April 1998 the price of the cultural property, the degree of its safeguarding and the possibility of its export is determined by the Ministry of Culture and Tourism by means of expert examination.

In this regard, currently several expert commissions exist in the Ministry of Culture and Tourism of the Republic of Azerbaijan.

1. Works of fine art, archaeological and historical materials in Azerbaijan State Museum of Arts;
2. Carpets and other carpet types, craft and decorative applied art the State Museum of Azerbaijani Carpets and Decorative Applied Arts;
3. Musical instruments and note manuscripts in the State Museum of Azerbaijani Musical Culture;
4. Expert examination of manuscripts and print products is conducted in the National Library of Azerbaijan named after M.F.Akhundov.

The expert commissions on determining the history, artistic and scientific value of cultural property, on conduction of special artistic expert examinations and granting of safeguard certificates act in accordance with the Regulations approved by the Minister of Culture and Tourism of the Republic of Azerbaijan.

The Certificate models presented by the expert commissions after the refinement of the cultural property have been prepared on the basis of the models compiled for export of the cultural property proposed by UNESCO and World Customs Organization

If the cultural property presented to the expert commissions are assumed to be of historical, artistic and scientific importance irregardless their date of creation, it is not allowed to take them out of the Republic of Azerbaijan.

Elevation of the quality of databases of museums to high world standards, and application of various electronic programs in the museums is of special importance in an informatized society.

A Complex Automated Museum Information System (CAMIS), which is one of the best systems applied by a Russian center specializing in the cultural sphere informatics in over 300 museums in Russia, Ukraine, Belarus, including the Tretyakov Gallery and Pushkin Fine Arts Museum, has also been applied in the State Museum of Azerbaijani Musical Culture in 2008.

Currently, a work is being conducted in the direction of establishing electronic databases of collections of other Azerbaijani museums. An electronic database server of collections of Azerbaijani museums will be established in the near future.

This will create huge opportunities for preserving full information on the cultural property of our people in any emergency situation and for passing this information to future generations.

**Customs Code of the Republic of Azerbaijan**  
July 25, 1997 (Extracts)



## **Article 10. Major functions of customs authorities of the Republic of Azerbaijan**

9) combating customs crimes, violations of customs regulations and tax legislation, prevent illegal transportation through the customs border of the Republic of Azerbaijan of narcotic substances, weapons, articles representing artistic, historical and archaeological property of the people of Azerbaijan and other countries, objects of intellectual property...;

## **Article 30. Dissemination**

As the subject in discussion is of special importance for the people of Azerbaijan, public and state television and radio channels regularly inform the population through educational and informational programs.

On January 27, 2010 a conference on the topic of “Protection of cultural property in the event of armed conflict” was organized jointly by the Ministry of Culture and Tourism of the Republic of Azerbaijan and the International Red Cross Committee. Conference participants included the members of the “Commission on the Implementation of the Convention on the Protection of Cultural Property in the Event of Armed Conflict”, representatives of the Ministries of Internal Affairs, Foreign Affairs, Defense, Justice, Emergency Situations, and Education, State Customs Committee, National Academy of Sciences of Azerbaijan, Ombudsman’s Office, UN, OSCE, as well as directors and employees of all museums and reservations of Baku.

Representatives of the Polish National Centre for Historical Monument Studies and Documentation, Austrian Society for the Protection of Cultural Property, Austrian Ministry of Defense, Dutch Ministry of Foreign Affairs, and Ministry of Culture of the Republic of Belarus and Ministry of Justice of the Republic of Belarus made presentations on the most successful practices in the world regarding the protection of the cultural property in the event of armed conflict. The Azerbaijani translation of the instructions concerning the implementation of the II Protocol was distributed to all participants of the conference. The work of the conference was covered by the most important TV and radio programs of the country.

## **Article 37. Translations and reports**

The Azerbaijani translation of the II Protocol is presented to your attention.