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Protection of
Cultural Property in
the Event of Armed Conflict

**Four-year cycle
2017-2020**

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

GENERAL INFORMATION

1. Region:

State Party:

Italy

2. Submission of previous national reports

Yes

No

2.1. 2013-2016 cycle

3. Actors involved in the preparation of the national report

3.1. Government institutions responsible for the protection of cultural property

3.2. National Commission for UNESCO

3.3. Military expert

3.4. Independent experts

If other actors have been involved, please indicate them

4. National Focal Point

According to paragraph 120 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 consider the Permanent Delegation as a focal point, you are invited to provide the Secretariat with the name and address of a national focal point who will receive all official documents and correspondence related to the national periodic reporting.

Institution: <input type="text"/>	Email: <input type="text"/>
Name: <input type="text"/>	Tel.: <input type="text"/>
Address: <input type="text"/>	Fax: <input type="text"/>

I. The Hague Convention of 1954

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.

- *Has your State undertaken such measures?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

As Ministry of Culture, there are several safeguarding measures of cultural property. Among them, it is possible to underline the role of two specific offices, whose aim is the digitalization of cultural heritage, that is ICCD (Central Institute for Catalogue and Documentation) and the Digital Library. They both are involved into the process of digitalization of the whole Italian cultural heritage. Since 2020, there is also a General Direction for Security of cultural Heritage, whose aim is to protect cultural heritage by the coordination of interventions of risk preventing and security implementations of cultural heritage. The General Direction also is involved into the interventions in case of natural disasters and other emergency events.

2. Article 6 - Use of the distinctive emblem for the marking of cultural property

The 1954 Hague Convention creates a distinctive emblem for the exclusive marking of cultural property, with a view to ensure its recognition, particularly in the event of armed conflict. The marking of cultural property is one of the preparatory measures that can be undertaken in time of peace.

- *Has your State **marked cultural property** by using the distinctive emblem of the Convention?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

3. Article 7 - Military measures

This Article provides for the obligations of the High Contracting Parties with regard to the introduction in their regulations or instructions for the use of their armed forces of provisions to ensure compliance with the Convention, as well as to plan or establish within their armed forces, 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 such property. These are obligations to be implemented in time of peace.

- *Has your State introduced provisions in the **regulations and instructions for your armed forces** to ensure compliance with the Convention?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

Military Criminal Law of War (Chapter III, Title of Matter IV) Directive on the Protection of Cultural Property in the Event of Armed Conflict

- *Has your State established **services** or designated specialist personnel *within your armed forces* to ensure respect for cultural property?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

Within the framework of the Italian Defense General Staff, the General Office for Legal Affairs shall appoint a representative in charge of liaising with the Ministry of Foreign Affairs, the Ministry of Cultural Heritage and UNESCO as regards all relevant updates, as well as diffusion of regulations within the Armed Forces. Service Staffs shall appoint a representative in charge of liaising with the General Office for Legal Affairs of Defense General Staff and with their respective General Headquarters to ensure that national and international laws are respected.

4. Article 25 - Dissemination of the Convention

Regulations relating to the protection of cultural property in time of armed conflict must be included into the programmes of military and, if possible, civilian training. The objective is to ensure that the principles of the Convention are known by the whole population, especially the armed forces and personnel engaged in the protection of cultural property.

- *Has your State **disseminated the provisions of the Convention** within the armed forces as well as among target groups and the general public?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

In peacetime Military Authorities commit themselves to: - include the subject in courses dealing specifically with legal matters (for ex., the Course for Military Legal Advisors or courses held in preparation for foreign operations); - incorporate guidelines and instructions for military personnel in order to ensure observance of the above regulations and respect of culture and cultural property by the Armed Forces; - develop and implement, in cooperation with UNESCO and governmental and non-governmental

organizations, training and educational programs, in particular, with the International Committee of the Red Cross (CICR) in Geneva and the International Institute of Humanitarian Law (IIHL) in Sanremo; - establish within their armed forces, 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. In wartime, they commit themselves to incorporate guidelines and instructions on the protection of cultural property into military regulations, doctrine and educational material.

5. Article 26(1) - Official translations

This Article requires that the High Contracting Parties communicate to one another, through the Director-General of the United Nations Educational, Scientific and Cultural Organization, the official translations of the present Convention and of the Regulations for its execution:

Please submit a copy / copies of such translation(s), in electronic format, if possible, to the Secretariat"

Please annex an *electronic copy of your translation(s) to this report*:

Attach the document

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, regardless of their nationality, who commit or order a breach of the Convention.

- *Has your State introduced in your domestic legislation all necessary steps to prosecute and impose penal or disciplinary sanctions against a conduct contrary to the obligations set out in the Convention?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

The Ministry of Culture has provided, within its Legislative Decree 42/2004 (Cultural Heritage and Landscape Code), a specific section dedicated to sanctions (4th Section). Furthermore, Criminal provisions introduced by Ratification Law, n. 45/2009, apply to whoever damages cultural property located within the territory of a State during an armed conflict or international mission. Moreover, they apply when, during armed conflicts or international missions, the act is committed by an Italian citizen who damages cultural property located in a foreign country (from art. 7 to art. 13). The rules on penalties provided for the Military Criminal Law of War, Chapter III, Title of Matter IV, "On Illicit War Acts" (Art. 174, 175, 178, 179, 186 and 187), Art. 187, in particular, provides for no less than 15 years imprisonment for whoever, in an enemy country, without being forced to do so by military necessity, destroys or causes serious detriment to historical monuments, works of art or science and premises intended for religious celebrations, educational, artistic or scientific purposes. Under Art. 165 of the Military Criminal Law of War, Application of the Military

Criminal Law of War during Armed Conflicts, provisions in the above-mentioned articles apply to all military operations carried out by the Italian Armed Forces in foreign countries, even in absence of a declaration of the state of war.

II. Resolution II of the 1954 Conference

- *Has your State established a **National Advisory Committee** in accordance with the wish expressed by the Intergovernmental Conference (1954) in [Resolution II](#)?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

- *In the event that you have established a National Advisory Committee, has it been incorporated into a national commission for the implementation of international humanitarian law?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

III. 1954 (First) Protocol

[To be completed only by the High Contracting Parties to the 1954 Protocol]

The main purpose of the 1954 Protocol is the protection of cultural property in **or stemming from** occupied territory.

- *Has your State undertaken **measures to implement** these international obligations, including the adoption of relevant legislation?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

The Ministry of culture has a specific Committee for Recovery and return of cultural Heritage, connected also to the Convention on the Means of Prohibiting and Preventing the illicit Import, Exporta and Transfer of Ownership of cultural Property (1970).

IV. The 1999 Second Protocol

[To be filled in only by the Parties to the 1999 Second Protocol]

The 1999 Second Protocol supplements the 1954 Hague Convention in many respects. In case the information has already been presented in the context of questions relating to the 1954 Hague Convention, you can directly refer to it.

1. Article 5 - Safeguarding of cultural property

Article 5 of the Second Protocol supplements Article 3 of the Hague Convention by providing concrete examples of preparatory measures to be undertaken in time of peace, such as the preparation of inventories of cultural property or the designation of competent authorities responsible for the safeguarding of cultural property.

- *Has your State undertaken such measures?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

See above, Section I.1

2. Article 9 - Protection of cultural property in occupied territory

Article 9 of the Second Protocol complements Article 5 of the 1954 Hague Convention by imposing specific obligations on the occupying power. Paragraph 119 of the Guidelines for the Implementation of the 1999 Second Protocol requires Parties that are occupying powers to provide information in their national reports on how the provisions relating to the protection of cultural property in occupied territory are being respected.

- *Do you ensure compliance with the provisions relating to the **protection of cultural property in the context of military occupation?***

YES: NO: Not applicable:

You can complete your answer below, taking into account the guidelines in the model report.

3. Article 10 - Enhanced protection

The 1999 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).

- *Do you **intend to request the granting** of enhanced protection for cultural property within the next four years or, if appropriate, to submit a **national tentative list** under Article 11 (1) of the 1999 Second Protocol?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

MONITORING OF CULTURAL PROPERTY UNDER ENHANCED PROTECTION

[If some cultural property in your State benefits from enhanced protection, please also fill in this part of the questionnaire].

The benefit of enhanced protection implies the continued fulfilment of the conditions provided for in Article 10 of the 1999 Second Protocol.

- *Is a **specific mechanism for monitoring cultural property under enhanced protection** in place? For example, are the measures undertaken to ensure the highest level of protection periodically reviewed to ensure their full adequacy in all circumstances?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

Italy has three sites under enhanced Protection: Castel del Monte (inscribed in 2010), Villa Adriana and the National Central Library of Florence (both inscribed in 2018). As Ministry of Culture, there is not yet a specific monitoring system for cultural property under enhanced protection.

Pursuant to paragraph 94 of the Guidelines, a distinctive emblem is created for the exclusive marking of cultural property under enhanced protection.

- *Has your State **marked with the distinctive emblem** cultural property under enhanced protection?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

4. Article 15 - Serious violations of the 1999 Second Protocol

“Article 15 obliges Parties to **establish as criminal** offences in their domestic law offences constituting serious breaches of the Second Protocol, **and to make such offences punishable by** appropriate penalties”.

- *Has your State **implemented this obligation**? If yes, what measures have been undertaken?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

See Section I.6

5. Article 16 - Jurisdiction

Pursuant to Article 16 of the Second Protocol, the Parties shall take the necessary legislative measures to establish their jurisdiction over offences set forth in Article 15 of the 1999 Second Protocol in certain cases.

- *Has your State **implemented this obligation**? If yes, what measures have been undertaken **to grant jurisdiction to your courts** over serious offences under the 1999 Second Protocol?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

Rome Military Tribunal



6. Article 21 - Measures regarding other violations

The 1999 Second Protocol obliges Parties to adopt legislative, administrative or disciplinary measures as may be necessary to **suppress certain other violations of the Second Protocol**:


a. any use of cultural property in violation of the 1954 Hague Convention or the 1999 Second Protocol;

b. any illicit export, other removal or transfer of ownership of cultural property from occupied territory in violation of the 1954 Hague Convention or the 1999 Second Protocol.

- *Has your State* implemented such measures?

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.



7. Article 30 - Dissemination

Article 30 of the Second Protocol complements Articles 7 and 25 of the 1954 Hague Convention. In this regard, Article 30 it asks the Parties, to endeavour by appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect for cultural property by their entire population, to ensure the dissemination of the 1999 Second Protocol, and to incorporate in their military regulations' guidelines and instructions for the protection of cultural property.

- *Has your State **disseminated the provisions of the Convention and the Second Protocol** within the armed forces as well as to target groups and the general public?*

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.



8. Article 33 – Assistance of UNESCO

Pursuant to paragraph 151 of the Guidelines for the Implementation of the 1999 Second Protocol, the Parties having activities at bilateral or multilateral level are invited to inform the

Committee, in their periodic reports, of their activities in order to share their experiences or good practices.

- ***Has your State shared, in particular through the Secretariat of UNESCO, your experiences and good practices in implementation of the 1954 Hague Convention and / or its Protocols?***

YES: NO:

You can complete your answer below, taking into account the guidelines in the model report.

9. Article 37 - Official translation of the 1999 Second Protocol to the 1954 Hague Convention

Pursuant to Article 37 of the Second Protocol, the Parties shall translate the 1999 Second Protocol into their official language(s) of their countries and shall communicate these official translations to the Director-General.

Please submit a copy / copies of such translation(s), in electronic format, if possible, to the Secretariat.

Please annex an *electronic copy of your translation(s) to this report* .

V. Other questions relating to the 1954 Hague Convention and its two Protocols

1. Ratification of / accession to other international treaties having provisions of the protection of cultural property

- Can you indicate the other international instruments to which your State is a party?

International instruments	Ratification/Accession
1970 UNESCO Convention on the means on Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property	Ratification
1972 UNESCO Convention on the Protection of the World, Cultural and Natural Heritage	Ratification
2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage	Ratification
2003 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage	Ratification
2005 UNESCO Convention for the Protection and Promotion of Diversity of Cultural Expressions	Ratification
Additional Protocol (I) to the Geneva Conventions, 1977	.....
Additional Protocol (II) to the Geneva Conventions, 1977	.....
Additional Protocol (III) to the Geneva Conventions, 2005	.....

2. National practice relating to the implementation of the Hague Convention and its two Protocols

The Secretariat would be grateful if you could annex a copy of the following documents in French and/or English:

- Relevant **civil and military administrative regulations**:

PDF Document

Website

- **National laws** relating to the protection of cultural property, as well as criminal provisions adopted in the context of the implementation of Article 28 of the Hague Convention and Articles 15, 16 and 21 of the Second Protocol, and case law relating to the protection of cultural property.

PDF Document

Website

- Documents relating to awareness-raising activities (seminar programme, brochures, etc.), as well as any other document (legislative, judicial or administrative) relevant to the dissemination of the 1954 Hague Convention and its 1999 Second Protocol.

PDF Document

Website

3. Effectiveness of cooperation mechanisms at the national level

- The implementation of the Hague Convention and its two Protocols requires cooperation at the national level between the various authorities (civil, military, etc.). Can you assess the degree of cooperation, at the national level, in your State?

There is no cooperation between the different authorities

There is limited cooperation between the different authorities

There is cooperation between the various authorities, but there are still improvements to be made

There is a perfectly functional cooperation between the different authorities

Other (specify)

VI. Self-assessment forms

In order to reflect in the synthesis document of the national reports the status of implementation of the 1954 Hague Convention and its 1999 Second Protocol in key areas, please fill in the two tables below.

1. Assessment of the degree of implementation

[To do this, please use the following rating scale]

1. Not at all implemented;
2. Partially implemented and the process is at standstill;
3. Partially implemented, the process following its course; and
4. Fully implemented.

Implementation of the safeguarding obligation through the adoption of preparatory measures	.....
Military training on regulations for the protection of cultural property	4
Use of the distinctive emblem to mark cultural property	.....
Implementation of the obligation to disseminate, through the implementation of awareness-raising activities for target audiences	.....
Adoption of relevant criminal legislation	.....
<i>For Parties with cultural property under enhanced protection only.</i>	.....
Establishment of a monitoring system for cultural property under enhanced protection at the national level	

2. Assessment of the difficulties encountered

[To do this, please use the following rating scale]

1. Difficulties are encountered, but there are no plans to seek technical assistance from the UNESCO Secretariat;
2. Difficulties are encountered, nevertheless, it is planned to make use of the technical assistance of the UNESCO Secretariat;
3. Difficulties were encountered, but thanks to the technical assistance of the Secretariat they could be resolved;
4. Difficulties were encountered at first, but they turned into challenges that were overcome; and
5. No difficulties were encountered.

Implementation of the safeguarding obligation through the adoption of preparatory measures	.....
Military training on regulations for the protection of cultural property	5
Use of the distinctive emblem to mark cultural property	.....
Implementation of the obligation to disseminate, through the implementation of awareness-raising activities for target audiences	.....
Adoption of relevant criminal legislation	.....
<i>For Parties with cultural property under enhanced protection only.</i>	.....
Establishment of a monitoring system for cultural property under enhanced protection at the national level	

VII. Enhanced protection mechanism – 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 criteria are cumulatively met:

- ✓ Cultural property is of the greatest importance to humanity;
- ✓ Cultural property is protected by adequate domestic, legal and administrative measures recognising its exceptional cultural and historical value and ensuring the highest level of protection; and
- ✓ Cultural property must not be used for military purposes or to shield military sites. And the Party which has control over the cultural property has to make a declaration confirming that it will not be used for military purposes or to shield military sites.

As these conditions are set out in an international treaty, their interpretation cannot be made independently of State practice, which is of fundamental importance under international treaty law. Therefore, 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 consideration the relevant paragraphs of the Guidelines for the Implementation of the Second Protocol.

- Article 10, paragraph (a) - "The greatest importance for humanity"

Please list the main factors to be undertaken into consideration in determining whether a cultural property is of the greatest importance for humanity?

- Article 10, paragraph (b) - "The highest level of protection"

Please mention the national authorities to be consulted in determining the choice of measures to be adopted to ensure the highest level of protection for a cultural property for which enhanced protection is requested. What measures can ensure the highest level of protection?

- Article 10, paragraph (c) - "Not-used for military purposes"

Please mention the national authorities to be consulted in order to take the decision not to use the proposed cultural property for granting enhanced protection for military purposes or to shield military sites?

Ministry of Defence