

DPP.21.080

The Permanent Delegation of the Republic of Panama to UNESCO presents its compliments to the Secretariat of the 1954 Hague Convention and its two Protocols and physically submits the Survey for the 2020 National report on the implementation for the 1954 Hague Convention and its two Protocols.

The Permanent Delegation of the Republic of Panama to UNESCO avails itself of this opportunity to renew to the Secretariat of the 1954 Hague Convention the assurances of our highest esteem and considerations.

Paris, 30 June 2021



REPÚBLICA DE PANAMÁ
— GOBIERNO NACIONAL — *BB*
MINISTERIO DE RELACIONES EXTERIORES
**Delegación Permanente de la República
de Panamá ante la UNESCO**



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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:
REPUBLIC OF PANAMA

2. Submission of previous national reports

2.1. 2013-2016 cycle

Yes

No

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

Ministry of National Security and police forces (National Air and Sea Service – SENAN; National Borders service - SENAFRONT); National Customs Authority; Ministry of Foreign Affairs, General Directorate of International Organizations and Conferences; and Ministry of Culture.

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.

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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.

The Republic of Panama ratified the 1954 Hague Convention in 1962, adopting the full text by Law 36/1962. Panama ratified both protocols in 2001, adopting both full texts by Law 6/2001. Panama amended its Constitution to abolish its Army, Navy and Air Forces by Legislative Act 2/1994, prohibiting the creation of any permanent military forces. Security agencies under the Ministry of Security are officially, police forces with separate commands. Panama and the United States of America subscribed the Panama Canal Treaties in 1977, ensuring the "permanent neutrality of the Canal and its Operations". In times of peace and in order to safeguard cultural heritage in the event of natural or anthropogenic emergencies, permanent inventories are prepared by the Ministry of Culture as well as coordinated actions against illicit trafficking of cultural property with National Customs Agency and the Ministry of Security, which also carries out community outreach cooperation programs.

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.

By Constitutional mandate the Republic of Panama does not have an army, nor armed forces, we have the Public Force. With respect to our Security Estates have not contemplated, provisions in the regulations or instructions to ensure compliance with the Hague Convention of 1954; we must indicate that Decree Law 8 of August 20, 2008 that creates the National Border Service and Law 93 of November 7, 2013 that creates the National Air and Naval Service, does not include taxatively any indication that are related to the Hague Convention of 1954. However, It does establish the obligation to comply with the Political Constitution and the laws; which indicates that, although it does not establish literally, we must comply with the international norms, and the treaties of which Panama is a signatory, as established in our Constitution.

- *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.

Our security agencies, such as the National Border Service, have perosnnel trained in different specialties including police officers belonging to the Citizen security units, who are in charge of working together with the communities and are responsible for implementing public security strategies and programs. The National Air and Naval Service assists the competent authorities in the exercise of their functions.

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.

The Interagency Working Sessions to complete thls Perlodlc Report for the period (2018-2021). Virtual platform sessions and working group meetings in person.

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.

Regarding legislation related to actions for the protection of cultural property against criminal conduct, harmful or otherwise negative impact, the Pénal Code of the Republic of Panama, Chapter 7, Crimes against the Historical Héritage of the Nation, issues provisions in Articles 231 to 234 that emphasizes the protection of cultural property.

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.

No additional comments. As previously stated, Panama has not established a National Advisory Committee.

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.

Regarding procedures within the National Customs Authority: Upon arrival of a request through an alert (international, public prosecutor's office), Customs will make themselves available to the applicant to assist in the location and retention, and then the procedure established by the requesting institution that proceeds to custody/replacement of the cultural property (applies in times of peace as well as in times of war, under the considerations of the First Protocol).

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.

The Training Workshop co-organized with the UNESCO Office in San José in collaboration with the Ministry of Culture on June 22 and 23; launched on June 22 concerning the formation of a youth network specifically trained for the evacuation of documentary heritage in the event of natural or anthropogenic disasters. The workshop took place at the National Library Ernesto J. Castllero R. and at the National Archives.

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.

The Republic of Panama has not taken provisions to ensure the article 9 of the 2nd Protocol because as previously explained, the Constitution of the Republic of Panama states (on article 4) that it abides by the rules of International Law.

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.

No additional comments

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.

No additional comments

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.

No additional comments

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.

The State has typified through the Penal Code in Title VI, Chapter VII, articles 231 to 234, the Crimes against the Historical Heritage of the Nation, but as for the Crimes that constitute serious infractions of the Second Protocol, only some of these crimes established in said protocol have been typified as such.

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.

Whether this obligation has been implemented in the Penal Code, with respect to paragraphs a and b of Article 16 of the Second Protocol of 1999.

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.

The regulation on this subject is regulated in the criminal legislation of the Republic of Panama. The State has implemented these measures through Law 14 of May 5, 1982 and its amendments, which establishes measures for the custody, conservation and administration of the Nation's Historical Heritage.

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.

The joint exercise to complete this 2017-2020 quadrennial report constitutes the first effort to disseminate the provisions of the Convention and the Second Protocol within the Panamanian security establishment and to the group of institutional actors.

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.

No additional comments

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.

PANAMA_2001_Law6_2Protocols_of_the_Hague1954Convention_%A28doc%29sp.doc (722.944KB) PANAMA_Law 6/2001 – This law adopts the full text of the two protocols of the 1954 Hague Convention in Spanish.

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	Ratification
Additional Protocol (II) to the Geneva Conventions, 1977	Ratification
Additional Protocol (III) to the Geneva Conventions, 2005	Ratification

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.

[2001_Ley6_protocolos1y2proteccionconflictoarmado_copiarypegar. pdf \(69. 798KB\)](#)

PANAMA Law 6/2001 adopts 2Protocots Le Hague 1954 - Law 6 of 2001 adopts Into panamanian legislation the two Protocols of the 1954 Le Hague Convention

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	2
Military training on regulations for the protection of cultural property	2
Use of the distinctive emblem to mark cultural property	1
Implementation of the obligation to disseminate, through the implementation of awareness-raising activities for target audiences	2
Adoption of relevant criminal legislation	2
<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	2
Military training on regulations for the protection of cultural property	2
Use of the distinctive emblem to mark cultural property	2
Implementation of the obligation to disseminate, through the implementation of awareness-raising activities for target audiences	2
Adoption of relevant criminal legislation	5
<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?

We recommend the criteria set on the Operational Guidelines of the World Heritage Convention in tandem with considering the highest national protection level be used to determine whether a cultural property is of the greatest importance to 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?

The national authority to be consulted in determining the choice of measures to be level of protection" adopted to ensure the highest level of protection for a cultural property for which enhanced protection is requested, is the Ministry of Culture

- 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?

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 would be the Ministry of Culture in consultation with the Ministry of Security, yet the matter would be important as to be presented to the President in order to authorise a decision.