



United Nations
Educational, Scientific and
Cultural Organization



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

Cultural Property under Enhanced Protection





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Enhanced Protection

Introduction to the Concept

“Enhanced protection” is a mechanism established by the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict to ensure full and effective protection of specifically designated cultural property during international or non-international armed conflicts.

As prevention is of course the best form of practice when protecting cultural heritage, States are encouraged to submit requests for enhanced protection in peacetime in order to ensure proper safeguarding of cultural property in all circumstances and against any risk.

Main Tenets

Enhanced protection is granted by the Committee for the Protection of Cultural Property in the Event of Armed Conflict (“the Committee”), the executive body of the Second Protocol composed of twelve States Parties.

In cases where individuals do not respect the enhanced protection granted to a cultural property, criminal sanctions have been laid down by the 1999 Second Protocol: its rules governing serious violations provide for criminal penalties in the case of individuals who intentionally subject cultural property to attack or use cultural property under enhanced protection or its immediate surroundings to support military action.

For decades, international humanitarian law (“IHL”) has enacted rules protecting cultural heritage. However, the protection granted by enhanced protection has no equivalent in IHL. Cultural heritage under enhanced protection benefits from high level immunity requiring the parties to a conflict to refrain from making such property the object of attack or from any use of the property or its immediate surroundings to support military action.

Eligibility for Enhanced Protection

Any cultural property as defined in Article 1 of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (“the Hague Convention”) is eligible for enhanced protection, provided that it complies with the three conditions set forth in Article 10 of the Second Protocol.

Pursuant to Article 1 of the Hague Convention, the term “cultural property” covers:

- A** Movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;
- B** Buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a); and
- C** Centres containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as “centres containing monuments”.

Illustration of Cultural Property under Enhanced Protection

CULTURAL PROPERTY

- Movable or immovable property of great importance to the cultural heritage of every people
- Buildings whose main and effective purpose is to preserve or exhibit movable cultural property
- Centres containing a large amount of cultural property

Protected by adequate domestic legal and administrative measures

Cultural heritage of the greatest importance for humanity

Not used for military purposes or to shield military sites



The Three Conditions in Detail

The State Party to the 1999 Second Protocol that has jurisdiction or control over the cultural property may submit a request for enhanced protection to the Committee.

The Committee grants enhanced protection for the cultural property provided that it meets the following three conditions established by Article 10 of the 1999 Second Protocol.

1 ■ Cultural heritage of the greatest importance for humanity

In order to be granted enhanced protection, cultural property must be of the greatest importance for humanity. The Committee evaluates, case by case, its exceptional cultural significance, and/or its uniqueness, and/or if its destruction would lead to an irretrievable loss for humanity. Only cultural property meeting at least one of these three criteria will be considered as having the greatest importance for humanity.

The Committee evaluates whether cultural property of national, regional or universal value is considered to have exceptional cultural significance by using the following indicative criteria:

- ▶ It is exceptional cultural property bearing testimony to one or more periods of the development of humankind at the national, regional or global level;
- ▶ It represents a masterpiece of human creativity;
- ▶ It bears exceptional testimony to a cultural tradition or an existing or vanished civilization;
- ▶ It is evidence of an important interchange of human values in the development of the arts and sciences over a given period or in a specific cultural area of the world; and
- ▶ It is of central significance to the cultural identity of the societies concerned.

Cultural property is considered unique if there is no other comparable cultural property of the same cultural significance. The uniqueness of cultural property is contingent on a variety of criteria, including age, representative character, form and design, purity and authenticity of style, etc.

Lastly, the “irretrievable loss for humanity” criterion is met if the damage or destruction of the cultural property in question would result in impoverishment of cultural diversity or of the cultural heritage of humankind.

It is assumed that the Committee, subject to other relevant considerations, will hold that immovable cultural property inscribed on the World Heritage List satisfies the condition of the greatest importance for humanity.



Saklıyarak muhafaza altında olan medeniyetler Cultural Property under Enhanced Protection

2. Adequate domestic legal and administrative measures of protection

Only cultural property protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring the highest level of protection can be granted enhanced protection. These protection measures must be provided by the nominating State.

Such measures ensure that cultural property is protected against all kinds of negligence, damage or destruction even in peacetime. When evaluating whether 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, the Committee considers, in particular, national measures aimed at:

- ▶ identifying and safeguarding the cultural property being proposed for enhanced protection, in accordance with Article 5 of the 1999 Second Protocol;
- ▶ giving due consideration in military planning and military training programmes to protection of the cultural property being proposed for enhanced protection; and
- ▶ ensuring appropriate criminal legislation providing for punishment of, and jurisdiction over, offences committed against cultural property under enhanced protection within the meaning of, and in accordance with, Chapter 4 of the 1999 Second Protocol.

Domestic legal and administrative measures of protection are adequate only if they are effective in practice. The Committee therefore examines, *inter alia*, whether they are based on a coherent system of protection and achieve the expected results.

A Party may request international assistance from the Committee for preparation, development and implementation of laws, administrative provisions and other measures to be adopted.

3. No military use

Lastly, in order to be placed under enhanced protection, cultural property must not be used for military purposes or to shield military sites. This must be confirmed in a declaration made by the State that has control over the cultural property. These provisions also apply in times of peace.

Guarding of cultural property by armed guards specially empowered for this purpose, or the presence of police in the vicinity of such cultural property normally responsible for the maintenance of public order, is not deemed “use for military purposes”.

Application Procedure

The States Parties to the 1999 Second Protocol are entitled and encouraged to submit to the Committee requests for enhanced protection of cultural property under their jurisdiction or control. The Committee, which establishes and maintains the List of Cultural Property under Enhanced Protection, decides in each particular case whether the criteria set out above have been met.

To facilitate the granting of enhanced protection, the State should complete the enhanced protection request form prepared by the Secretariat (see Annex).

Only the Permanent Delegation to UNESCO of a State Party to the 1999 Second Protocol can submit such a request to the Committee through the Secretariat.

The applicant submits the request to the Secretariat.*
The Secretariat registers the request after checking that it is complete.
The Secretariat requests any additional information from the Party, as appropriate. All additional information requested should preferably be received in a single complete file and must be sent within two months of the date of the request from the Secretariat.



The Secretariat forwards the complete request to the Bureau of the Committee for *prima facie* consideration
The Bureau may consult organizations with relevant expertise for evaluation of the request.



The Bureau forwards the request to the Committee for consideration and the appropriate decision.
The Committee informs all Parties of the request for inclusion in the List. Parties may submit representations concerning the request to the Committee within 60 days.



The Committee takes a decision.
The Committee decides by a majority of two-thirds of its members present and voting whether a cultural property shall be granted or denied enhanced protection. The request may also be referred or deferred.**

* Requests must be received by the Secretariat by 1 March of each year in order to be considered at the next meeting of the Committee. Requests received after this deadline will be examined at the following meeting of the Committee. However, this deadline does not apply to emergency requests (see the following page).

** In two exceptional cases, a majority of four-fifths of the members of the Committee present and voting is needed: (i) when Parties make representations to the Committee regarding another Party's request for inclusion in the List; and (ii) when a Party requests enhanced protection on an emergency basis.

Provisional Enhanced Protection on an Emergency Basis

The primary purpose of the enhanced protection regime under the 1999 Second Protocol is to improve the protection of cultural property in the event of armed conflict. In order to provide swift protection of cultural property, the 1999 Second Protocol lays down a special simplified procedure for granting enhanced protection on an emergency basis.

Under Article 11 (9) of the 1999 Second Protocol, upon the outbreak of hostilities, a party to the conflict may request, on an emergency basis, enhanced protection of cultural property under its jurisdiction or control by submitting this request to the Committee. The Committee will transmit the request immediately to all parties to the conflict. In such cases the Committee will consider representations from the parties concerned on an expedited basis. The decision to grant provisional enhanced protection will be taken as soon as possible and, notwithstanding Article 26, by a

majority of four-fifths of its members present and voting. Provisional enhanced protection may be granted by the Committee pending the outcome of the regular procedure for granting of enhanced protection, provided that the provisions of Article 10 subparagraphs (a) and (c) are met.

Cultural property loses its enhanced protection in the following three circumstances:

Enhanced protection is suspended by the Committee

Enhanced protection is cancelled by the Committee

Cultural property has, by its use, become a military objective



International List of Cultural Property under Enhanced Protection

Seventeen cultural properties were inscribed in the International List.

ARMENIA

- ▶ Monastery of Geghard and the Upper Azat Valley

AZERBAIJAN

- ▶ Walled City of Baku with the Shirvanshah's Palace and Maiden Tower
- ▶ Gobustan Archaeological site

BELGIUM

- ▶ House & Workshop of Victor Horta
- ▶ Neolithic flint mines at Spiennes, Mons
- ▶ The Plantin-Moretus House-Workshops-Museum Complex and the Business Archives of the Officina Plantiniana

CAMBODIA

- ▶ Angkor

CYPRUS

- ▶ Choirkoitia
- ▶ Painted Churches in the Troodos Region
- ▶ Paphos

CZECH REPUBLIC

- ▶ Tugendhat Villa in Brno

GEORGIA

- ▶ Historical Monuments of Mtskheta

ITALY

- ▶ Castel del Monte
- ▶ National Central Library of Florence
- ▶ Villa Adriana

LITHUANIA

- ▶ Kernavė Archaeological Site

MALI

- ▶ Tomb of Askia

For updated list please check:

<http://www.unesco.org/new/en/culture/themes/armed-conflict-and-heritage/>

For more information on the mechanism of the enhanced protection

UNESCO
Culture Sector
Culture and Emergencies
99sp@unesco.org

APPLICATION CHECKLIST

FOR IMMOVABLE CULTURAL PROPERTY INSCRIBED ON THE WORLD HERITAGE LIST

➤ **Enhanced protection request form (Annex I of the Guidelines)**

➤ **Maps of the immovable cultural property (paragraph 55 of the Guidelines)**

- Map showing the cultural property proposed for enhanced protection.
- Map showing the location of the cultural property in its immediate surroundings (buffer zone).
- Map showing the situation of the cultural property in the region and/or country.

Boundaries must be marked with Universal Transverse Mercator (UTM) coordinates, and the northernmost, southernmost, easternmost and westernmost points must be included on the map and in the text.

➤ **Photographs of the cultural property**

Captions and copyrights should be supplied for the photographs (which should be provided, if possible, as digital files in .tiff, .raw, .jpeg or .pdf format, with horizontal and vertical dimensions of at least 1800 pixels, or 15 x 20 cm / 6 x 8 in, with printing resolution no less than 300 dpi).

➤ **Non-military use declaration (paragraph 59 of the Guidelines)**

➤ **A list of measures concerning adequate protection and maintenance of the cultural property**

- Legal measures, including criminal legislation relating to penalties for breaches of Articles 15 and 16 of the Second Protocol;
- Administrative measures, including inventories;
- Regulatory measures, including emergency regulations;
- Institutional measures, such as designation of the competent authorities responsible for safeguarding of cultural property; and
- Military measures such as the training of armed forces.

Please refer to the corresponding documents in the text of the request form and specify how they are relevant to the request. Only documents mentioned in the text of the submission should be included in the list of attachments.

➤ **A copy of referenced texts**

Please provide the corresponding texts or an abstract of those texts (either a translation or a summary) included under the list of legal and administrative measures. Each attached document should be numbered and referred to by the appropriate number in the text of the submission.

MODEL

NON-MILITARY USE DECLARATION

On behalf of [the Party which has control over the cultural property], I hereby declare that, in conformity with Article 10 of the Second Protocol, [the cultural property for which enhanced protection is being requested] will not be used for military purposes or to shield military sites.

[Signature of the representative of the national authority designated as competent by the Party which has control over the cultural property]

Name	Title	Date

Annex

ENHANCED PROTECTION REQUEST FORM

1. PARTY	2. DATE OF SUBMISSION
Submission prepared by:	
Institution:	E-mail:
Name:	Fax:
Address:	Telephone:

3. REQUIREMENTS CONSIDERED BY THE COMMITTEE¹

3.A IDENTIFICATION OF THE CULTURAL PROPERTY

(please include photos and maps)

Name of the cultural property:

State, province or region located or stored:

UTM coordinates of the approximate central point and a list of UTM coordinates indicating the property boundaries, if applicable:

Area of the cultural property (ha):

3.B DESCRIPTION OF THE CULTURAL PROPERTY

¹ More detailed information is contained in paragraphs 54 - 62 of the Guidelines.

3.C PROTECTION OF THE CULTURAL PROPERTY

3.D USE OF THE CULTURAL PROPERTY

3.E INFORMATION REGARDING RESPONSIBLE AUTHORITIES

(such as the authorities responsible for the measures referred to in Articles 5, 10(b), and 10(c) of the Second Protocol)

3.F JUSTIFICATION FOR ENHANCED PROTECTION

Applicants are requested to provide proof that the following conditions have been fully met:

The cultural property:

is of the greatest importance for humanity (Article 10(a) of the Second Protocol);

is protected by adequate domestic legal and administrative measures recognizing its exceptional cultural and historic value and ensuring the highest level of protection (Article 10(b) of the Second Protocol). A copy of the list required by paragraph 58 of the Guidelines is attached.

is not used for military purposes or to shield military sites. A copy of the non-military use declaration is attached (Article 10(c) of the Second Protocol).

The Party is also invited to provide information concerning relevant measures adopted under other UNESCO standard-setting instruments and programmes, if applicable.

Signature by the Party's competent authority:

Full name	Title	Date

The Historical Monuments of Mtskheta (Georgia), inscribed on the International List of Cultural Property under Enhanced Protection in 2016.

Photo: Gettyimages / demerzel21