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The Marking of Cultural Property according to the 1954 Hague Convention – Lessons Learnt from Austria

This essay will focus on the practise of the marking of cultural property in Austria, which was undertaken on the basis of the *1954 Hague Convention*. These activities, which started meanwhile more than 50 years ago, represent an interesting case regarding interpretation and application of an international Convention. After Austria had ratified the *1954 Hague Convention* in 1964, the government installed in the late 1960ies the *Conventionsbüro* in Vienna. Among other activities, between 1971 and 1984 more than 80.000 cultural properties were registered in lists and inventories as well as some 20.000 blue-white emblems were distributed. Finally, the emblems became a common feature of the Austrian landscape. However, the high number of registered and labelled sites contributed sometimes rather to confusion among military staff and conservators than assisting them in respecting cultural heritage while performing their tasks.

Consequently, following the amendment of the *Denkmalschutzgesetz* (“Austrian Monuments Protection Act”) in 2008, a new cultural property inventory had to be prepared. As a consequence, all the blue-white emblems, which were displayed so far, ceased to be valid. However, many of them were not removed from the sites, moreover, some of them were even sold (illegally of course) on sale-platforms. The new inventory (which was issued through a Minister’s decree) covers 135 sites and is available through internet.

The contribution will on the one hand provide an overview on the international regulations regarding the marking of cultural property, and on the other hand demonstrate the practical implementation of these international demands by analysing the activities, achievements and deficits of Austria’s marking efforts.

Keywords: marking of cultural property, cultural property protection, cultural heritage legislation, humanitarian law, UNESCO, blue shield emblem.

Маркування культурних цінностей відповідно до Гаазької конвенції 1954 року – досвід Австрії

Маркування культурних цінностей – феномен ХХ століття. Їх поява тісно пов’язана зі збройними конфліктами, а отже, і з розвитком міжнародного гуманітарного права. Починаючи з ІХ Конвенції «Про бомбардування морськими силами» під час війни 1907 р., яка вперше передбачала маркування культурних об’єктів, у низці конвенцій (Вашингтонська Угода 1935 р., Гаазька Конвенція «Про захист культурних цінностей у випадку збройних конфліктів» 1954 р. та – опосередковано – Другий протокол до неї 1999 р.) були запроваджені відповідні розпізнавальні знаки для культурних цінностей. Однак лише синьо-білий щит Гаазької конвенції 1954 р. (включно з двома уточненнями емблеми, що стосуються «спеціального захисту» та «поширеного захисту») став широко відомим і запровадженим у глобальному масштабі. Пізніше, наприклад, знаки, що символізують Всесвітню спадщину (1972 р.), «Культурні шляхи» Ради Європи та спадщину, визнану Європейським Союзом (знак Європейської спадщини), стали широко застосовуватися з невійськовими цілями, символізуючи важливу цінність «спільної спадщини людства» та сприяючи взаємному визнанню культурних цінностей, заснованих на культурному розмаїтті.

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Дана стаття зосереджена на практиці маркування культурних цінностей в Австрії, яка була започаткована на основі Гаазької конвенції 1954 р. Діяльність щодо захисту культурних надбань, яка розпочалася понад 50 років тому, є цікавим прикладом тлумачення та застосування міжнародної конвенції. Після того, як Австрія ратифікувала 1964 р. Гаазьку конвенцію 1954 р., наприкінці 1960-х рр. Уряд створив у Відні Бюро у справах конвенцій (Conventionsbüro). Протягом 1971 – 1984 рр. було зареєстровано понад 80 000 культурних цінностей, а також розповсюджено близько 20 000 синьо-білих емблем. Зрештою, ці знаки стали звичним елементом австрійського ландшафту. Однак, велика кількість зареєстрованих і позначених об'єктів іноді скоріше сприяла плутанині серед військовослужбовців та реставраторів, ніж допомагала їм захищати культурну спадщину при виконанні своїх завдань.

Відповідно, після внесення змін до Закону «Про охорону пам'яток Австрії» у 2008 р., необхідно було підготувати новий Реєстр культурних цінностей. Як наслідок, усі синьо-білі емблеми, що були розміщені до цього часу, втратили свою чинність. Однак багато з них не були прибрані з об'єктів культурного спадку. Більше того, деякі з них навіть були продані (звісно, нелегально) на «чорному ринку». Нова інвентаризація об'єктів (яка була визнана Наказом Міністра) охоплює 135 об'єктів і нині доступна в інтернеті.

Ключові слова: маркування, захист культурних цінностей, конвенції, гуманітарне право, ЮНЕСКО, емблеми Блакитного Щита.

Formulation of the research problem and its significance. Ongoing armed conflicts, which cause not only the death of innocent civilians, women, men and children, as well as of military personnel, but also the loss of cultural heritage, remind us of the importance (but also of the limits) of the rules of humanitarian law. In this regard, the protection and respect of cultural property forms an intrinsic part of these humanitarian regulations.

The military attack on Ukraine on 24 February 2022 put on a sudden the issue of cultural property protection (CPP) in Ukraine² in the centre of concern. In this regard, already in 2022 UNESCO provided technical assistance to the Government of Ukraine on the marking of cultural sites as outlined in the Committee Report of the 1999 Second Protocol:

As a result, cultural properties in Ukraine were marked with the distinctive Blue Shield emblem of the 1954 Hague Convention, including at the World Heritage properties of “Kyiv: Saint-Sophia Cathedral and Related Monastic Buildings, Kyiv Pechersk Lavra” and “L'viv – the Ensemble of the Historic Centre”, as well as over 50 cultural sites in Odesa, a site on the Tentative List of Ukraine³.

Analysis of the recent research on the problem. In the last years, research on CPP, especially on the implementation of the *1954 Hague Convention* and its two Protocols, focused on the international jurisdiction and criminal responsibility concerning offences against cultural property (see O'Keefe 2010⁴, Elekiaby 2021⁵). The marking of cultural property was assessed in detail by Toman 2009 in his *Commentary of the 1999 Second Protocol* (Toman 2009⁶). In 2021, UNESCO in cooperation with *Blue Shield International* published a leaflet, which provided a brief overview about the history of marking and gave practical advice on the marking-methods (UNESCO 2021⁷). However, this publica-

² See the assessment of damages at cultural sites: UNESCO (2023). Damaged cultural sites in Ukraine verified by UNESCO, <https://www.unesco.org/en/articles/damaged-cultural-sites-ukraine-verified-unesco?hub=66116> (accessed 4 April 2023).

³ Chapter II, point 15, UNESCO (2022). Committee for the Protection of Cultural Property in the Event of Armed Conflict, 17th meeting, Paris, UNESCO Headquarters, 15-16 December 2022, Item 7 of the provisional agenda: Protection of cultural property in Ukraine, Doc. C54/22/17.COM/7, Paris, 31 November 2022, <https://unesdoc.unesco.org/ark:/48223/pf0000383885.locale=en> (accessed 2 April 2023), p. 3.

⁴ O'Keefe R. (2010). Protection of Cultural Property under International Criminal Law. In: *Melbourne Journal of International Law*, vol. 11, p. 1-54.

⁵ Elekiaby S. (2021). Enhancing International Law with Respect to The Protection of Cultural Property in Time of Armed Conflict: A Comparative Analysis. In: *Journal of Law*, Cairo University, Alkhartoum Branch, Article 5, Volume 10, Issue 8, (November), p. 2515-2594.

⁶ Toman J. (2009). *Cultural Property in War: Improvement in Protection – Commentary on the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict*. Paris.

⁷ UNESCO (2021). *Blue Shield International: Distinctive Marking of Cultural Property : Rules and practices*. Paris, <https://unesdoc.unesco.org/ark:/48223/pf0000380180> (accessed 2 April 2023).

tion, although of importance as it reminded about the regulations of the 1954 Hague Convention and both additional protocols, focused on best practise-cases without applying a critical approach based on scientific methods.

Research Methodology. The research is based on the interpretation of literature (see bibliography), consultations of the archive of the author with regard to the implementation of the *1954 Hague Convention* and frequent talks with (former) staff of UNESCO, *Austrian Army* and *Austrian Bundesdenkmalamt*⁸. Moreover, the author could benefit from his long-lasting experience in the field of CPP on national and international level.

Formulation of the Purposes and tasks of the article. The article should provide an analysis of the demands of marking of cultural property as stipulated in international law on the one hand and – on the other hand - of the implementation of these rules on national level. In the contribution the situation in Austria was analysed. The case of Austria demonstrates that the former “best practises model” (in the eyes of UNESCO) lost much of its former significance. By demonstrating good practises, but also adverse developments from Austria, the article should provide support in marking cultural property and thus contribute to the protection of cultural heritage, also in times of armed conflicts.

Research Results

History of marking of cultural property. The blue-white shield as emblem for cultural property as well as the World Heritage Emblem are well-known logos of UNESCO symbolising cultural heritage⁹. However, they are not the only (and first) symbols for cultural property. More than hundred-twenty years ago, in 1907, the first logo, symbolising not only cultural heritage, but also sacred edifices, buildings used for artistic, scientific, or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, appeared in the *IXth (Hague) Convention concerning Bombardment by Naval Forces in Time of War*¹⁰. Its Article 5 specified the obligation (to be done “by the inhabitants”) to mark these buildings – under the condition “that they are not used at the same time for military purposes”: It is the duty of the inhabitants to indicate such monuments, edifices, or places by visible signs, which shall consist of large, stiff rectangular panels divided diagonally into two coloured triangular portions, the upper portion black, the lower portion white.

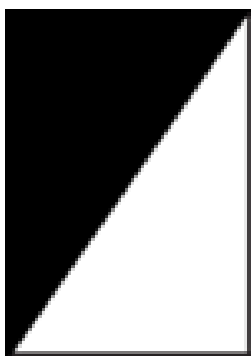


Illustration 1: *The IXth (Hague) Convention concerning Bombardment by Naval Forces in Time of War, refers in its Article 5 to “visible signs”, “which shall consist of large, stiff rectangular panels divided diagonally into two coloured triangular portions, the upper portion black, the lower portion white”*

The use of cultural sites for “military purposes” (what will cause the loss of the immunity of cultural, scientific and spiritual buildings – a condition which was stipulated already in 1907) remains one of the guiding principles until today in the field of cultural property protection. The rule was incorporated also in the *1935 Washington Agreement* and in the *1954 Hague Convention*. For sure, the marking-approach in 1907 was of somehow revolutionary character.

However, the author is not aware that this sign was ever implemented.

In 1935 the principle of marking was applied in the first Convention which was solely dedicated to the protection of cultural property, the “Washington Agreement”¹¹: In order to identify the monuments and institutions mentioned in article I, use may be made of a distinctive flag (red circle with a triple red sphere in the circle on a white background) in accordance with the model attached to this treaty¹².

⁸ I wish to thank Mr. Jan Hladik, Magister Christoph Hütterer, Doktor Franz Schuller, and Doktor Doktor Gerhard Sladek for the deep and often long talks for many years.

⁹ The World Heritage Emblem symbolizes also natural heritage.

¹⁰ Article 5, Convention (IX) concerning Bombardment by Naval Forces in Time of War. The Hague, 18 October 1907, <https://ihl-databases.icrc.org/en/ihl-treaties/hague-conv-ix-1907> (accessed 2 April 2023): “In bombardments by naval forces all the necessary measures must be taken by the commander to spare as far as possible sacred edifices, buildings used for artistic, scientific, or charitable purposes, historic monuments, hospitals, and places where the sick or wounded are collected, on the understanding that they are not used at the same time for military purposes”.

¹¹ Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments (Roerich Pact). Washington, 15 April 1935, <https://ihl-databases.icrc.org/en/ihl-treaties/roerich-pact-1935> (accessed 2 April 2023).

¹² Article III, 1935 Washington Agreement.

Although this Agreement applies only to the United States of America and nine countries in Latin America¹³, its stipulations about the marking of cultural property were referenced in the *1954 Hague Convention* (see beneath).



Illustration 2: The “Banner of Peace”, designed by the artist Nicholas Roerich (1874-1947), represents the “distinctive flag” mentioned in Article III of the 1935 Washington Agreement. Its use became model for the later emblem of the 1954 Hague Convention. (Source: Annex to the Washington Agreement)

It should be noted that the draft from 1938 of the later *1954 Hague Convention* had already foreseen an emblem, which was simpler than the present blue-white shield, namely “a light blue triangle inscribed in a white disc”¹⁴.

There are a series of other emblems symbolising cultural (and natural) properties, designed e.g. by UNESCO, the Council of Europe and the European Union.



Cultural route
of the Council of Europe
Itinéraire culturel
du Conseil de l'Europe



Illustration 2 (left): The emblem of World Heritage was designed by the Belgian Michel Olyff¹⁵ and adopted by the World Heritage Committee at its second session in 1978. “This Emblem symbolizes the interdependence of cultural and natural properties: the central square is a form created by humans and the circle represents nature, the two being intimately linked. The Emblem is round, like the world, but at the same time it is a symbol of protection. It symbolizes the Convention, signifies the adherence of States Parties to the Convention, and serves to identify properties inscribed in the World Heritage List. It is associated with public knowledge about the Convention and is the imprimatur of the Convention's credibility and prestige. Above all, it is a representation of the universal values for which the Convention stands”¹⁶

Illustration 3 (centre): The Cultural Routes programme, launched by the Council of Europe in 1987, demonstrates by means of a journey through space and time, how the heritage of the different countries and cultures of Europe represent a shared cultural heritage. Like UNESCO for its World Heritage emblem, the Council of Europe has published visibility guidelines for the use of the logo¹⁷

Illustration 4 (right): Since 2013, selected heritage sites across the European Union are awarded with the European Heritage Label. The initiative was designed to label heritage sites that symbolize European history,

¹³ Namely: Brazil, Chile, Colombia, Cuba, Dominican Republic, El Salvador, Guatemala, Mexico, USA, Venezuela, see <https://ihl-databases.icrc.org/en/ihl-treaties/roerich-pact-1935/state-parties?activeTab=undefined> (accessed 2 April 2023)

¹⁴ Toman J. (1996). The Protection of Cultural Property in the Event of Armed Conflict : Commentary on the Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Protocol, signed on 14 May 1954 in *The Hague, and on other instruments of international law concerning such protection*. Hants – Paris, p. 178

¹⁵ Michel Olyff, <https://cutt.ly/Owrznyhk> (accessed 2 April 2023)

¹⁶ Para 258, Operational Guidelines for the Implementation of the World Heritage Convention, UNESCO, version 2021, (Doc. WHC.21/01, 31 July 2021), <https://whc.unesco.org/en/guidelines/> (accessed 2 April 2023).

¹⁷ Visibility guidelines for the use of the logo “Cultural route of the Council of Europe” (2016) <https://paperzz.com/doc/7832719/visibility-guidelines-for-the-use-of-the-logo-%E2%80%9C-cultural-r> (accessed 2 April 2023).

culture and integration. It intends to highlight values such as peace, democracy, tolerance and solidarity which are all accomplishments of the European unity. Currently there are 60 sites awarded with this label¹⁸.

Principal rules¹⁹. As mentioned, in 1954 the “blue shield emblem” was introduced through the *Convention for the Protection of Cultural Property in the Event of Armed Conflict, with Regulations for the Execution of the Convention, 14 May 1954 (1954 Hague Convention)*. The Convention was already drawn-up before the outbreak of World War II, however, the planned expert meeting scheduled for autumn 1939 couldn’t take place anymore. The final draft, which was adopted on 14 May 1954 in The Hague, endorses the protection of cultural heritage and its respect during armed conflicts. It is supplemented by two additional protocols from 1954 and 1999²⁰ and also by “Regulations for the Execution of the Convention”²¹.

The *1954 Hague Convention* introduces in its Articles 6 and 16 the blue-white shield: *In accordance with Article 16, cultural property may bear a distinctive emblem so as to facilitate its recognition*²². This emblem is to designate objects, ensembles and other structures as cultural property (which is defined in Article 1 of the *1954 Hague Convention*). Therefore, the use of the emblem is not restricted to immovable property but can be also applied vis-à-vis movable goods (what constitutes rather an exception)²³. The emblem should facilitate the recognition of cultural property. The regulations about the marking remain rather general to leave the discretion to the states’ responsibility. Generally, there is neither an obligation to indicate cultural property through this emblem, nor is the use of the emblem restricted to the state parties²⁴ to the *1954 Hague Convention*. Therefore, also states, which haven’t ratified the Convention, may apply this emblem. It is important to note, however, that the status of a good as cultural property is not defined by fixing an emblem, but only if it fits under the definition of Article 1 of the *1954 Hague Convention*. In other words, the misuse of the distinctive emblem (or of similar labels) during armed conflicts is prohibited (e.g. by marking a military installation with the emblem)²⁵. In many cases, the emblems will be installed by civilian authorities (e.g. by monuments protection offices) already during “peace times” as a preparatory measure. Moreover, the responsible institutions should be aware, that the marking of cultural heritage could trigger adverse effects, as e.g. the marked property could serve as target destined for the intentional destruction of cultural goods. As it will be shown beneath, the using of the emblem should be accompanied by inventories. Only in connection with such inventories, the military forces and other authorities, who oversee the safeguarding of the cultural property, can identify the location of the goods and provide the relevant measures for military-, safeguarding- and rescue operations²⁶. However, the creation of such registers is not mentioned in the *1954 Hague Convention* – with the exceptions of the “International Register of Cultural Property under Special Protection”²⁷ and of the “List of Cultural Property under Enhanced Protection” which was established under the *1999 Second Protocol*²⁸. Although Article 10 of

¹⁸ European Heritage Label sites (2021), <https://culture.ec.europa.eu/cultural-heritage/initiatives-and-success-stories/european-heritage-label> (accessed 2 April 2023).

¹⁹ See the overview in UNESCO (2021).

²⁰ First Protocol to the 1954 Hague Convention, 14 May 1954, https://en.unesco.org/sites/default/files/1954_Protocol_EN_2020.pdf (accessed 2 April 2023); Second Protocol to The Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (1999), https://en.unesco.org/sites/default/files/1999_protocol_text_en_2020.pdf (accessed 2 April 2023).

²¹ Full title: “Regulations for the Execution of the Convention for the Protection of Cultural Property in the Event of Armed Conflict”.

²² Article 6, *Convention for the Protection of Cultural Property in the Event of Armed Conflict, with Regulations for the for the Execution of the Convention, 14 May 1954*, https://en.unesco.org/sites/default/files/1954_Convention_EN_2020.pdf (accessed 2 April 2023).

²³ *Protection of Cultural Property : Military Manual* (no more detailed data available), p. 56, para 215.

²⁴ Ukraine joined all three legal instruments (1954 Hague Convention and its two Protocols), while e.g. the Russian Federation adhere to both instruments from 1954, but did not adopt the 1999 Second Protocol. However, both states ratified the 1972 World Heritage Convention (Convention Concerning the Protection of the World Cultural and Natural Heritage, Paris, 16 November 1972, <https://whc.unesco.org/en/conventiontext/> (accessed 2 April 2023).

²⁵ *Protection of Cultural Property : Military Manual*, p. 58, para 223.

²⁶ *Ibid.*, p. 24, para 75.

²⁷ Article 8 para 6, 1954 Hague Convention, Article 12, *Regulations for the Execution of the Convention*.

²⁸ Articles 27, para 1.b., 1999 Second Protocol.

the *1954 Hague Convention* stipulates the marking of cultural property “under special protection” to be done “during an armed conflict”, in practise, however, shelters for cultural property under special protection (Article 8) were marked already during peace time. However, the handful sites under “special protection” in Austria, Germany, Holy See, Mexico and in the Netherlands²⁹ – so far it is known to the author – were – at least since their inscription in the Register – never involved in an armed conflict anyway.

While the use of the emblem itself is not mandatory to indicate cultural property, the *1954 Hague Convention* introduced regulations about the different protection levels³⁰ which will be expressed through different (numbers of) emblems:

- The single shield will indicate cultural property under general protection and personnel engaged in protection activities³¹,
- The blue shield emblem repeated three times in a triangular formation indicates cultural property “under special protection” and transports of cultural property under certain conditions³². This “special protection” applies e.g. to shelters for cultural goods. The state parties ensure maintaining the immunity of such property by refraining from any act of hostility directed against it and from any use of such property or its surroundings for military purposes.
- The blue shield emblem outlined by a detached external red band symbolises the distinctive emblem for cultural property under enhanced protection. It is outlined in chapter 3 of the *1999 Second Protocol*. Cultural heritage “of the greatest importance for humanity”³³ shall benefit as *the Parties to a conflict shall ensure the immunity of cultural property under enhanced protection by refraining from making such property the object of attack or from any use of the property or its immediate surroundings in support of military action*³⁴.

While the blue-white shield, either in a single formation or repeated three times (as special protection) is laid down in the *1954 Hague Convention* (and therefore part of international law, although its use is not mandatory), the emblem for enhanced protection was developed by the *Committee for the Protection of Cultural Property in the Event of Armed Conflict* and endorsed by the 6th *Meeting of the Parties to the 1999 Second Protocol* in 2015. The modalities and the technical requirements, including the visualisation of the emblem are laid down in the “Guidelines for the Implementation of the 1999 Second Protocol”³⁵ – and not in an internationally binding legal instrument like a Convention.

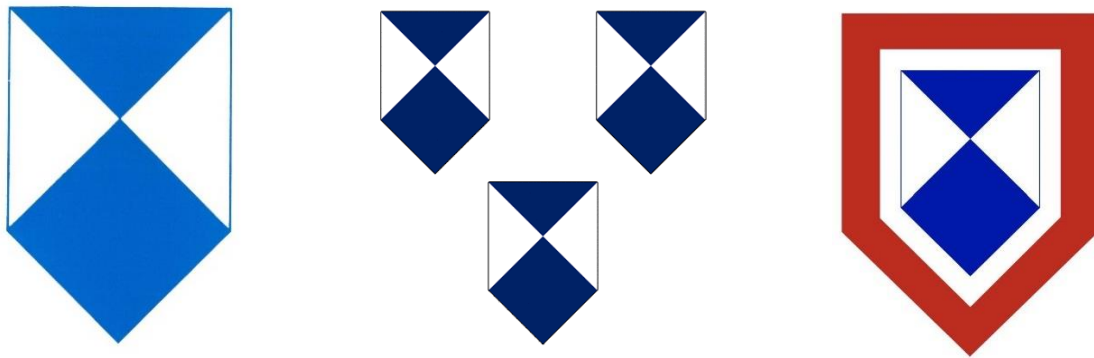


Illustration 5 (left): The blue-white shield was designed by the Polish architect and conservator Jan Zachwatowicz³⁶ during the drafting conference of the 1954 The Hague Convention in The Hague. Beside its legal meaning, which is laid down in the 1954 Hague Convention, it became meanwhile a globally recognized symbol

²⁹ International Register of Cultural Property under Special Protection, 23 July 2015 (UNESCO 2015).

³⁰ The history of the different protection levels is elaborated in Toman 2009, p. 169-244.

³¹ Article 17 (2), subpara a-d, 1954 Hague Convention.

³² Article 17 (1), subpara a-c, 1954 Hague Convention.

³³ Article 10, subpara a, 1999 Second Protocol. It should be noted, that from the 18 sites, which enjoy enhanced protection, their majority belong to World Heritage.

³⁴ Article 12, 1999 Second Protocol.

³⁵ Chapter III, paras 31-93, Guidelines for the Implementation of the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict (UNESCO, 16 December 2021), https://en.unesco.org/sites/default/files/1999-secondprotocol_guidelines_2021_eng.pdf (accessed 2 April 2023).

³⁶ Jan Zachwatowicz, <https://cutt.ly/OwrzmkDg> (accessed 2 April 2023).

for cultural heritage and protected monuments. E.g. in Poland, it indicates buildings which are under national monument protection.

Illustration 6 (centre): The blue shield emblem repeated three times in a triangular formation indicates cultural property “under special protection”. The sites, which enjoy special protection, are included in the “International Register of Cultural Property under Special Protection” (Graphics: Immunity of Cultural Property under Special Protection, <https://en.unesco.org/node/341352>)

Illustration 7 (right): The blue shield emblem outlined by a detached external red band symbolizes cultural property under enhanced protection. Meanwhile there are 18 sites in eleven states included in the “International List of Cultural Property under Enhanced Protection”³⁷ (Graphics: Annex IV of the 2021 Guidelines Second Protocol, https://en.unesco.org/sites/default/files/1999-secondprotocol_guidelines_2021_eng.pdf)

The Marking of Cultural Property in Austria. In Austria, there are several emblems used (or at least designed) for highlighting cultural property. Austria’s twelve World Heritage sites are – in line with the relevant UNESCO-regulations³⁸ – indicated through the *World Heritage emblem* (as shown above in illustration 3). Also, the *European Heritage Label* is displayed at Austria’s two sites³⁹. Moreover, there are many distinctive emblems as described in Article 16 of the *1954 Hague Convention* still displayed. However, although foreseen in the *Austrian Monuments Protection Act*⁴⁰, the “Signet for protected monuments”, was never implemented in Austria, as the decree of the Minister for Culture for more detailed instructions was not issued so far.



Illustration 8: The symbol for monuments protection (“Signet für Denkmalschutz”), as defined in Article 12 of the *Austrian Monuments Protection Act*, is shown in Annex 1 of that Law. However, as its use has to be defined in detail through a ministerial decree, which was not issued so far, the “Signet” is not used and therefore widely unknown. (Graphics: Annex 1 of the *Denkmalschutzgesetz*)

The marking of Austria’s cultural property with the blue-white shield became relevant when Austria ratified the *1954 Hague Convention* in 1964: On 25 June 1964 – some ten years and a month after the solemn adoption of the Convention in The Hague on 14 May 1954 – the instrument entered into force in Austria together with the *1954 First Protocol*. Since then, Austria’s efforts to fulfil the stipulations of the *1954 Hague Convention* (and of its both additional Protocols) are characterized by periods of intensive activities and by times of neglect⁴¹. The marking of cultural property with the emblem was triggered in Austria by civilians –

³⁷ UNESCO (2022a). International List of Cultural Property under Enhanced Protection, <https://en.unesco.org/node/341353> (accessed 2 April 2023).

³⁸ Para 268, Operational Guidelines for the Implementation of the World Heritage Convention, version 2021.

³⁹ These are: Archaeological Park Carnuntum, The Imperial Palace, Vienna, and examples of the Werkbund Estates in Europe (together with Czech Republic, Germany, and Poland), see <https://culture.ec.europa.eu/cultural-heritage/initiatives-and-success-stories/european-heritage-label> (accessed 2 April 2023).

⁴⁰ Article 12, Bundesgesetz betreffend den Schutz von Denkmalen wegen ihrer geschichtlichen, künstlerischen oder sonstigen kulturellen Bedeutung, BGBl. Nr. 533/1923 idF. BGBl I Nr.92/2013.

⁴¹ An overview on the activities until 1996 offer Prem 1997, see about the history of the implementation of the CPP in Austria also: Desch T. (1999). *Revision der Haager Konvention zum Schutz von Kulturgut bei bewaffneten Konflikten 1954 – wozu?* Wien (Schriften der Österreichischen Gesellschaft für Kulturgüterschutz, Nr. 5); Marte H. (1997). *Das Weltkulturerbe : Symbol einer globalen Identität*. Wien (Schriften der Österreichischen Gesellschaft für Kulturgüterschutz, Nr. 4); Micewski E. R. / Sladek G. (ed.) (2002). *Protection of Cultural Property in the Event of Armed Conflict – A Challenge in Peace Support Operations*. Vienna (Publication of the National Defense Academy Vienna, No. 4/02 and the Austrian Society for the Protection of Cultural Property, No. 7); Österreichische Gesellschaft für Kulturgüterschutz: *Vorsorge zum Schutz des kulturellen Erbes in Zeiten der Not und Gefahr – UNESCO-Konvention Den Haag 1954*. Wien 1983; Österreichische Gesellschaft für Kulturgüterschutz: *Kulturgüterschutz : Ein Aufruf zu transnationaler Aktion – Private Initiativen zwischen Interessen und Verantwortung*. Wien 1995 (Schriften der Österreichischen Gesellschaft für Kulturgüterschutz, Nr. 2); Prem H. J. (2002). *Zur Entwicklung des Kulturgüterschutzes in Österreich : Ambivalente Erfahrungen eines Kulturgüterschutzoffiziers im Österreichischen Bundesheer*. Wien (Schriften der Österreichischen Gesellschaft für Kulturgüterschutz, Nr. 8); Redl K. / Sladek G. (ed.) (1996). *Die grenzüberschreitende Verantwortung des Kulturgüterschutzes – Bregenzer Symposium 1996*. Bregenz, Wien (Schriften der Österreichischen Gesellschaft für Kul-

according to some oral sources – on the occasion of an armed conflict: In August 1968, during the invasion of troops of the Warsaw Pact in Czechoslovakia, it is said that in Austria civilians marked some buildings close to the Czechoslovakian border with hand-made blue-white shields in order to prevent damages during an eventual conflict close to the border. (Due to political reasons, the Austrian government did not allow the Austrian Army to enter a zone closer than 30 km to the state border.) Consequently, analogue to the origin of the idea of cultural property protection, which is stipulated in early examples of Humanitarian Law (e.g. 1907 *IXth Hague Convention*), also in Austria the marking goes back to a military background.

Austria's marking activities are closely connected with the creation of inventories of cultural properties, which were prepared since the mid-1960ies by the *Bundesdenkmalamt* ("Federal Monuments Protection Authority" – BDA). The BDA followed a model which was endorsed by UNESCO: The property was classified into four categories A) – D) according to their importance: (A: cultural property of international importance, B: – of national importance, C: – of regional importance, D: – of local importance) Later, this approach started to cause problems due to the high number of D-categorized properties. The listing-exercise was accompanied since 1977 with the edition of specific maps (on the basis of the official "Austrian Map", *Österreichkarte*, ÖK, scale 1:50.000). These *Kulturgüterschutzkarten* (CPP-maps) show with the help of red symbols the location of cultural properties including their rank. However, due to the high number of D-classified objects, e.g. in Tyrol the maps could not be published, as there the D-objects would have turned the map totally in red pattern.



Illustration 9 (left): Contrary to Austria, where the CPP-maps were designed just for internal use, in Switzerland and Liechtenstein such maps enjoy high popularity among the population. (Photo: archive of the author)

Illustration 10 (centre and right): In Austria, however, the huge efforts, which were undertaken to collect the data about the cultural property were unfortunately just for internal use: "Nur für den Dienstgebrauch" (Photos: archive of the author)

Since 1971 the blue-white emblem was displayed in several "test-cities" and also along the Austrian – (then) Yugoslav border. The metallic plates with enamel-cover were of two different sizes (26 x 50 cm, 9,5 x 18,5 cm). The distribution of the emblem was prepared by the local branches of the BDA, the municipal administrations had to hand-over the plates to the owners of the buildings in question. According to Austrian regulations, not only the metallic plate, but also a second set of the emblem (but

turgüterschutz, Nr. 3); Sladek G. (ed.) (1993). *Das kulturelle Erbe im Risiko der Modernität – Salzburger Symposium 1992*. Wien (Schriften der Österreichischen Gesellschaft für Kulturgüterschutz, Nr. 1); Sladek G. (2008). *Kulturelles Erbe : Vermächtnis und Auftrag – Klagenfurter Symposium 2007*. Klagenfurt, Wien (Schriften der Österreichischen Gesellschaft für Kulturgüterschutz, Nr. 8); Steiner P. / Trauner K.-R. (2000) „... Achtung vor der Kultur...“ *Ein Kulturgüterschutzoffizier und ein Kirchenhistoriker über Kulturgüterschutz als Identitätsschutz*. Wien (Schriften der Österreichischen Gesellschaft für Kulturgüterschutz, Nr. 6).

as carton-paper) including supporting documentation (like the BDA's confirmation of classification) were handed over to the respective owner. The certificates should have been displayed e.g. at the entrance. However, the author never saw any displayed documents.

In order to coordinate the creation of this inventory (which was done by the regional branches of the BDA, *Landeskonservatorate*), in the 1968 the *Conventionsbüro* ("Convention's Office") at BDA's headquarter in Vienna was established. However, this institution suffered throughout its existence (it was closed in 1985 of a sudden) from lack of financial means, infrastructure and staff⁴². Thanks to the work done by the regional branches of the BDA and support on local level, by the end of 1975 some 30.000 items were included in the register. Moreover, the then head of the *Conventionsbüro*, Dr. Foramitti, published a handbook of three volumes on CPP-measures. Also 13 leaflets, dedicated to specific themes and problems, were issued between 1977 and 1984.

By the end of 1984, 21.223 emblems in 360 municipalities (and 4.792 emblems indicating "protection zones") were distributed. In eight of the nine Austrian provinces – with the exception of Vienna – the marking-procedure was almost completed. It should be noted, that not every registered cultural property was equipped with an emblem, as the total number of inventoried items was much higher: In 1979 in Austria were: A-categorized objects: 352, B-objects: 1,226, C-categories: 6.214 and 41.618 D-categories, by the end of 1984 there were in total even 82.347 items included. The high number of D-categorized objects (some 76 % of all items) caused multiple problems: The use of category D was interpreted not only for cultural property of local importance, but also for goods which should be protected against thefts and catastrophes. Consequently, in this category demands for military CPP and civil protection were mingled. Moreover, the inventorying-structure was of sophisticated nature, as the objects were included in several parallel-running classification-system (in this connection an ironical episode was reported in the newspaper: for the maintenance of the database, the BDA used an early model of computer. However, when the expert retired, he took the knowledge of handling such early computer with him. Moreover, later it became not possible anymore to operate the computer due to the lack of functioning hardware. Consequently, the computer, stored with – inaccessible – data about cultural property, became itself an item of technical heritage⁴³). Differences, not only concerning the status of the completed work (which was regionally different), but also regarding the classification of the property in the four categories A-D (which was characterized by different regional approaches) had to be noted⁴⁴. Furthermore, in some of the municipalities reluctance against fixing of the emblems could be observed: some of the emblems were stored in the basements of the townhall or found entry in "private collections" instead of being publicly displayed⁴⁵.

Until the late 1970ies, UNESCO promoted Austria's activities in the field of CPP as best practice and as a world-wide leading approach. However, in 1985 the *Conventionsbüro* was practically closed "overnight"⁴⁶ due to budget restrictions. However, the problems with the high number of properties remained for many years. The decline of Austria's CPP-efforts became manifest when Austria's entry in the "International Register of Cultural Property under Special Protection", the "Alt-Aussee refuge", which was inscribed in 1967, was cancelled by Austria on 12 September 2000⁴⁷ (*Kulturgüterschutzliste*) has to be established and to be made available for the public through the internet (www.bda.at)⁴⁸. Regarding the marking of the cultural property, the Decree refers to the "emblem according to the Convention", which should be displayed at "important points of access", at sites also at "important Changes on international level (especially the adoption of the 1999 *Second Protocol* with the possibility of enhanced protection) led in 2008 to the revision of the Austrian Monuments Protection Act. Based on the revised law, the Ministerial Decree on CPP (*Kulturgüterschutzverordnung*) from 2009

⁴² Prem H. J. (1997). *Entwicklung und aktueller Stand des Kulturgüterschutzes in Österreich*. Phil. Diss., Univ. Graz, p. 45f.

⁴³ Trenk (*pseud.*) (1994). Daten unter Denkmalschutz. In: *Der Standard*, 9 April 1994.

⁴⁴ Prem H. J. (1997). Op. cit., p. 63-65.

⁴⁵ Prem H. J. (2002). Op. cit., p. 30.

⁴⁶ Prem H. J. (1997). Op. cit., p. 59.

UNESCO (2015). International Register of Cultural Property under Special Protection, 23 July 2015, <https://en.unesco.org/node/341352> (accessed 2 April 2023), section: Austria.

⁴⁸ § 1, Verordnung der Bundesministerin für Unterricht, Kunst und Kultur über Maßnahmen gemäß der Haager Konvention zum Schutz von Kulturgut im Falle eines bewaffneten Konfliktes (*Kulturgüterschutzverordnung*), BGBl II Nr. 51/2009.

stipulated that a register positions along the border line⁴⁹. Moreover, the Decree regulates in its para 3 also the specific cases of special protection and of enhanced protection. Following this Decree, the *Bundesdenkmalamt* identified 135 sites, ensembles and city-centres⁵⁰. The restriction to 135 entries in the list had far-reaching consequences for the thousand of objects which were listed since the 1970ies under the A-D categories.

As stipulated in the *Austrian Monuments Protection Act*⁵¹, all these lists, maps and certificates ceased to be valid. Consequently, more than 20.000 emblems including thousands of supporting documents should have been officially collected. However, as examples show, there are still many blue-white shields displayed at monuments. While these emblems have nowadays no legal meaning (as they are not included in Austria's list of protected property in line with the *1954 Hague Convention*), they bear witness when in Austria some 20.000 emblems contributed to the cultural property protected under the *1954 Hague Convention*.



Illustration 11: The blue-white shield is still displayed at many sites in Austria, as here at the church of the small village of Friedersbach in Lower Austria. However, apart from its “decorative” nature, the emblem has meanwhile no legal meaning. (Photo: author, 7 March 2023)

Conclusion. Austria's efforts to fulfill the stipulations of the *1954 Hague Convention* were characterized by a “atmosphere of departure” after Austria's adhesion to the Convention in 1964. Also later, Austria contributed largely to the codification-procedure of the *1999 Second Protocol*. However, its good intentions to determine cultural property through lists containing A-D categories resulted not only in some 20.000 displayed emblems and some 80.000 registered properties, but demonstrated also the in-operability of thousands of D-categorized sites for military demands.

Consequently, the drastic reduction to 135 sites has surely not fulfilled the requirement to apply the principle of rule of law (as these thousands of sites were never officially “abandoned” by declaring the protection status as invalid), but the new approach provided now a clarification for many “stakeholders” (military forces, monument protection authorizes, local administration and owners of the sites).

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⁴⁹ § 4, Verordnung der Bundesministerin für Unterricht...

⁵⁰ Bundesdenkmalamt (2022). *Kulturgüterschutzliste*, <https://www.bda.gv.at/dam/jcr:22440bfc-3500-4686-be68-5bcf62dbcdec/Kultur%C3%BCterschutzliste%20%C2%A7%2013%20DMSG.pdf> (accessed 2 April 2023).

⁵¹ § 13 (7), Bundesgesetz betreffend den Schutz von Denkmalen wegen ihrer geschichtlichen, künstlerischen oder sonstigen kulturellen Bedeutung, BGBl. Nr. 533/1923 idF. BGBl I Nr.92/2013.

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