

## M I S C E L L A N E O U S

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### THE PROTECTION OF OBJECTS OF CULTURAL VALUE

On May 14, 1954, the representatives of thirty-seven Powers meeting in The Hague, signed a Convention for the protection of objects of cultural value; the *Revue internationale* reproduced the text of this Convention in its October issue of that year. At the same time it published an article by Mr. R. J. Wilhelm, Adviser, Legal Department of the ICRC, in which he showed the importance of this Convention and pointed out its significance for the Red Cross movement, particularly for the International Committee. As he stated "the Convention is intended to protect objects of cultural value in time of war, namely fixed or movable objects of any nature whatsoever, which are of importance for the cultural heritage of the nations, as well as the buildings in which they are housed, whoever the owner may be". This protection is valid both in time of peace and in time of war. The signatory States undertook to take steps to safeguard these objects of cultural value on their territory and, in the event of hostilities, to respect and protect them against theft, looting or annexation. Apart from this general proviso, other articles in the Convention provide for an even greater respect of objects "under special protection".

So far the Convention and relevant regulations have come into force by ratification or accession in 52 States, namely: Albania, Austria, Belgium, Brazil, Bulgaria, Burma, Byelorussia, Cambodia, Cameroon, Congo (Leopoldville), Cuba, Czechoslovakia, Dominican Republic, Equador, France, Gabon, Ghana, Guinea, Holy See, Hungary, India, Iran, Israel, Italy, Jordan, Lebanon, Libya, Liechtenstein, Luxemburg, Madagascar, Malaysia (Federation), Mali, Mexico, Monaco, Mongolia, Netherlands, Nicaragua, Nigeria, Norway, Pakistan, Panama, Poland, Rumania, San Marino, Soviet Union, Spain, Switzerland, Syria, Thailand, Ukraine, United Arab Republic, Yugoslavia.

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The Convention will become operative for Turkey on March 15, 1966 and for the Republic of Cyprus after a relevant law has been adopted by the House of Representatives.

In Switzerland, the Federal Council, on February 4, 1966, sent to the Federal Assembly a message supporting a Bill on the protection of objects of cultural value in the event of armed conflict. The following extract shows how that message describes the basic principles underlying the Federal Bill :

The protection of objects of cultural value in the event of armed conflict is not only a national duty and a contribution to the spiritual defence of the country ; it is also an obligation under international law. Throughout history, irreplaceable items of cultural heritage have been destroyed by war or its indirect effects. During the two world wars these losses were enormous. Military technology has evolved weapons of destruction which could cause immeasurable damage. We must not be deluded by the hope that we shall be spared a third world war : even limited warfare can cause destruction to irreplaceable artistic, historic and archeological monuments as well as to art treasures, scientific collections, documents and objects of cultural value in archives and libraries. To prevent such losses, efforts have to be made both nationally and internationally with a view to the protection of objects of cultural value in the event of armed conflict.

International organizations, especially the UN Educational, Scientific and Cultural Organization (UNESCO) and the Council of Europe, endeavour to safeguard and ensure respect for cultural heritages of all the nations. Their efforts have contributed considerably in our own country to making the cultural importance of monuments and artistic treasures better understood. It is in keeping with Swiss historic and cultural tradition and also with Switzerland's federal structure, that we should care not only for objects of national and international cultural value, but also those of regional and local value. They all contribute to the maintenance of our national character and also to the spiritual and cultural development of our people...

The Hague Convention also makes provision for special status for people entrusted with the custody and protection of objects of cultural value. As in several other countries, Switzerland has

arranged for these persons to be part of the civil defence service ; this can be seen from the following extract of the message :

The protection granted in international law to persons assigned to protect objects of cultural value should be ratified in administrative regulations for the implementation of the Convention. This protection is indeed much more extensive than that granted to other civilians in war-time by the Geneva Convention of 12 August, 1949. It is more or less equivalent to the protection granted to members of the medical profession and to chaplains under the Geneva Convention of 12 August, 1949, for the Amelioration of the Condition of the Wounded and Sick of Armed Forces in the Field. The only difference is that medical personnel and chaplains have military status, whilst personnel assigned to the protection of objects of cultural value remain civilians.

It is not possible to provide protection to objects of cultural value without making some provision for compulsory service in this sphere. It would however be irrational and out of all proportion with the desired aims to make it compulsory to serve in the protection of objects of cultural value as well as to do military service and civil defence work. As a separate branch of civil defence, cultural defence could well organize an ad hoc compulsory service deriving from the obligation to perform civil defence duties ; that is the object of the second and third paragraphs.

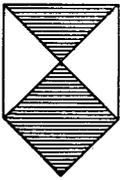
According to article 22 bis of the Constitution, the law regulates civil defence functions in the event of emergencies. Article 4 of the law on civil defence, which has been declared applicable, is sufficient to permit mobilization also of personnel from the cultural defence service, with a view to providing emergency relief in case of disasters. For the purpose of underlining the importance of the tasks which the cultural defence service may be called upon to carry out in such a case, the second sentence of article 7, section 3, of the Bill, specifically mentions provisions for mobilization in the event of armed conflict or natural disaster, as well as penal provisions and those which deal with compulsory service and instruction. Details connected with compulsory service and instruction are governed by administrative regulations, except for some aspects which should be covered by a law according to article 22 bis of the Constitution.

Persons in charge of the cultural protection service are relieved from doing duty in the local protection organizations by special

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dispensation, in conformity with article 54 (2 g) of the Ordinance of March 24, 1964 on civil defence. Protection teams and care-takers in whose field of intervention there are objects of cultural value can be charged with their protection; the administrative regulation however provides that personnel for protection of objects of cultural value should not be enrolled for civil defence work which might prevent them carrying out their appointed tasks. So long as such personnel are in the service of the protection of cultural objects, they are responsible to the Federal Department of the Interior.

Escutcheon  
for objects  
of cultural  
value



With regard to a protective sign which the Commission has envisaged for objects of cultural value (a blue and white escutcheon, see left), the Swiss Government's message draws a distinction between the protective sign and the indicatory sign which is advocated in *Commentaries on the Geneva Conventions*, edited by Mr. Jean Pictet, and published by the ICRC. In the Swiss Federal Council's message can be read the following:

Practical necessity makes it essential to distinguish between two different uses of the escutcheon for objects of cultural value, the distinctive sign provided for in the Convention, i.e. use as an international emblem of protection and use merely as an indicatory sign. A similar distinction has already been well established regarding the use of the red cross (see article 44 of the Geneva Convention of August 12, 1949 for the Amelioration of the Condition of the Wounded and Sick of Armed Forces in the Field, as well as the Commentary on the Geneva Conventions of August 12, 1949, vol. I, pp. 323-381). The escutcheon for cultural objects is an indicatory sign when it is intended to indicate that a person or thing is connected with the Convention without it being possible to extend the protection of that Convention to the person or object. The indicatory sign should therefore be small in size by comparison with the person or object on which it is shown and it should be displayed in such a manner that there shall be no risk of confusion with the protective sign.

The Convention only mentions the sign as a sign of protection. According to the third paragraph of article 17 the Convention

forbids the use of the escutcheon during armed conflicts otherwise than for the international protection of objects of cultural value and persons belonging to the cultural protection service. Seeing that, even in the event of armed conflict, a small-sized escutcheon is used as an indicatory sign (label) on printed matter, educational material and other objects of that type, the Department of the Interior had expressly laid down rules in its preliminary draft governing the conditions of use, in order to avoid its being considered contrary to the Convention. The provision in question was worded as follows: "As an indicatory sign the escutcheon for objects of cultural value may be used, provided it is small (label), to designate an object or person closely connected with the service for the protection of objects of cultural value, without however the protection provided for in The Hague Convention of May 14, 1954. In particular the indicatory sign shall not be affixed on roofs, vehicles or arm-bands". The *Département de Justice et Police* considered that the Bill should avoid laying down any rules concerning the indicatory sign which would go beyond the scope of the Convention. In compliance with that proposal we decided against mentioning the indicatory sign in the Bill. At the request of the *Département Politique*, we have adopted its standpoint according to which the use of the escutcheon of cultural objects for informative purposes, namely on the texts of the Convention, on maps indicating cultural objects and in any other appropriate manner, does not come within the scope of the prohibition laid down in the third paragraph of article 17, of the Convention.

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