Use and Misuse of the Blue Shield Distinctive Emblem
Legal status

• The cultural emblem is a protective symbol used during armed conflicts and **its use is regulated at all times** by international humanitarian law - The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Second Protocol of 1999 - and customary law and it is implemented through national law.

• The primary purpose of the Blue Shield emblem is to facilitate the recognition of protected cultural property and personnel in both peacetime and in the event of armed conflict.

• Each type of distinctive emblem has specific military obligations under international law: failure to meet these obligations is a crime, and in some circumstances may be a war crime.
Types of Emblem

• Blue shields are intended to facilitate recognition of protected cultural property / specific people during armed conflict.

• A single blue shield can be affixed to cultural property “movable or immovable property of great importance to the cultural heritage of every people”, “irrespective of origin or ownership” to indicate a protected location.

• Deciding this cultural property is a matter for the State Party and its competent authorities.

• A blue shield repeated three times indicates cultural property under special protection / transports.
  • Applies to “a limited number of refuges intended to shelter movable cultural property in the event of armed conflict, of centers containing monuments and other immovable cultural property of very great importance”, which meets certain conditions set out in the Convention.
  • Special protection is requested by the state party and granted by the Director-General of UNESCO after consideration by the meeting of High Contracting Parties to the Convention.
Types of Emblem

• The emblem with a red border indicates cultural property under enhanced protection under the 1999 Second Protocol.
• Applies to cultural property “of the greatest importance for humanity” which meets certain conditions set out in the Second Protocol.
• Enhanced Protection is requested by the state party and can only be granted by the International Committee for the Protection of Cultural Property in the Event of Armed Conflict.

• Each level of protection has specific military obligations attached to it regarding protection.
• For example, it is a serious crime to take a site under enhanced protection into military use.
• Each level of protection places responsibility for that protection on a higher level of military authority – in certain circumstances, breaking that protection can be a crime not only for those who do it, but for their commanders as well – even if they were not aware of the action.
• It is vital that there is no confusion in a swift moving conflict.
Use of the emblem and inventories

Under Article 17 (1) “The distinctive emblem ... may be used only as a means of identification”

- It is NOT obligatory. Cultural property does not have to display the emblem to be protected.
- It is up to states if and where emblems are placed, and what size they are.
- Second Protocol Article 5 recommends states make an inventory, but this is optional.
- States do not have to make a national inventory of protected cultural property: important sites are still protected.
- A register of nationally important sites does not have to be the same as a national inventory of sites protected under the Hague Convention. Many state registers focus on buildings, sites and museums, and forget e.g. libraries, or new religious buildings.
- The Convention is explicit that just because a state did not complete any safeguarding measures (e.g. an inventory), armed forces should still respect cultural property if possible (Article 4 is the measures of respect).
- But it is also explicit that armed forces can only do what is feasible: states and heritage professionals bear some responsibility to enable them. An inventory is a vital tool in military planning.

Article 17 - Use of the emblem

17 (1) The distinctive emblem repeated three times may be used only as a means of identification of:

(a) immovable cultural property under special protection;
(b) the transport of cultural property under the conditions provided for in Articles 12 and 13;
(c) improvised refuges, under the conditions provided for in the Regulations for the execution of the Convention.

2. The distinctive emblem may be used alone only as a means of identification of:

(a) cultural property not under special protection;
(b) the persons responsible for the duties of control in accordance with the Regulations for the execution of the Convention;
(c) the personnel engaged in the protection of cultural property;
(d) the identity cards mentioned in the Regulations for the execution of the Convention.
Article 17 - Use of the emblem

3. During an armed conflict, the use of the distinctive emblem in any other cases than those mentioned in the preceding paragraphs of the present Article, and the use for any purpose whatever of a sign resembling the distinctive emblem, shall be forbidden.

4. The distinctive emblem may not be placed on any immovable cultural property unless at the same time there is displayed an authorization duly dated and signed by the competent authority of the High Contracting Party. (However, many states do not do this!)
Article 20 - Affixing of the emblem

1. The placing of the distinctive emblem and its degree of visibility shall be left to the discretion of the competent authorities of each High Contracting Party. It may be displayed on flags or armlets; it may be painted on an object or represented in any other appropriate form.

2. However, without prejudice to any possible fuller markings, the emblem shall, in the event of armed conflict and in the cases mentioned in Articles 12 and 13 of the Convention, be placed on the vehicles of transport so as to be clearly visible in daylight from the air as well as from the ground. The emblem shall be visible from the ground:

(a) at regular intervals sufficient to indicate clearly the perimeter of a centre containing monuments under special protection;

(b) at the entrance to other immovable cultural property under special protection.
A note on persons / personnel - who are they

**Article 17 (2)** The distinctive emblem may be used alone only as a means of identification of:

(b) the persons responsible for the duties of control in accordance with the Regulations for the execution of the Convention;

> These are the people mentioned in the international system of Control explained in Chapter 1 of the Regulations for the execution of the Convention.

(c) the personnel engaged in the protection of cultural property;

> These people should be authorised by the State Party as per Article 15

**Article 15 – Personnel**

As far as is consistent with the interests of security, personnel engaged in the protection of cultural property shall, in the interests of such property, be respected and, if they fall into the hands of the opposing Party, shall be allowed to continue to carry out their duties whenever the cultural property for which they are responsible has also fallen into the hands of the opposing Party.

> The Regulations for the execution of the Convention provide an identification system for these people.

Blue Shield members are not automatically authorised to display the blue shield in a conflict.
Misuse and Imitation (1)

• The Convention describes the logo and lays down conditions for its use.

• The Convention forbids “use for any purpose whatever of a sign resembling the distinctive emblem” during armed conflict.

• Misuse of protective emblems is restricted under international law.

• Misuse is defined as:

  - **IMPROPER USE** Any use of a distinctive emblem inconsistent with the relevant rules of international humanitarian law. The use of an emblem by unauthorized people or bodies or for purposes that are inconsistent with the fundamental principles of international law.

  - **IMITATION** The use of a sign which, owing to its shape and/or colour, may be confused with one of the emblems. The criterion to decide whether a logo can be considered as an imitation of the emblem should be whether there is a risk of confusion in the public mind between the logo and the blue shield emblem, as it is precisely this confusion that the clause is intended to prevent.

• There is a legal distinction between the blue shield distinctive emblem and the logo of the Blue Shield Movement.
“Special protection” marking according to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflicts on the ruins of the Limburg Monastery, Bad Dürkheim, 12 March 2017 © Reinhard Dietrich [Wikimedia Commons](https://commons.wikimedia.org/

The special protection register does not contain this site.

Blue Shield Germany are trying to get the extra shields removed.
Misuse and Imitation (2)

- If the emblem is used in peacetime for purposes like education and awareness raising, it must not be used or displayed in any way that is likely to result in confusion regarding the protective purpose of the emblem for identifying protected cultural property / personnel / transports.
  - It must be comparatively small and may not be placed on armlets or the roofs of buildings.
  - The emblem must not be displayed in a way that could inaccurately be perceived as affording protection to any object on which the emblem is displayed.
  - If placed on an immovable object, it should have state party authorisation clearly displayed.
  - The risk of confusion should be considered regarding colours for distance viewing, in case of fading, when printing (e.g. black and white); in low light, and so on.

Emblems should not be used or displayed in any way that could damage their reputation and status as a protective emblem, or dilute the meaning during armed conflict.
Some committees wish to use the distinctive emblem to identify protected cultural property to be prioritised for rescue in a disaster or crisis.

This is consistent with the fundamental principles of international law.

However, it must be done in accordance with the previously stated laws and principles, and include the state authorities, or it may be an illegal use.

Consider:

- If you are using a different colour, are there circumstances it could be confused with one of the emblems?
- Is the state aware of which items / places you have listed for protection? Are they / their current location / the location of the emergency storage facility in an inventory that can be shared with armed forces? If not, why?
- Does your awareness raising include your armed forces? Under Article 7(2) of the 1954 Hague Convention, armed forces may be required to support state parties in protecting heritage: this may be an opportunity for them to become accustomed to those responsibilities.
Inventories: states practice

**Immovable**
- Netherlands: 43,000 items (1997) – has some blue shields.
- Austria: 25,000 (1997) – uses blue shields
- Slovenia: 5,550 (1997)
- UK: 18,000? (of estimated national inventory totals c.545,000 – 550,000) (2017) – no blue shields
- Lithuania: 69 (2021)
- Lebanon: 50 (2022) – just started placing blue shields

**Movable**
- Only Bulgaria cited a figure in the 1997 Periodic Reports. 4,000,000 protected movable objects, housed in the country's 222 museums

LEBANON, T Le Berre, 2023
See also: State Practice Wikimedia Commons

- 1954 plaques for cultural property protected by the Hague Convention in **Austria**
- Wikimedia Commons **Germany**:
  - Cultural property protected by the Hague Convention in Germany
  - Distinctive emblems for the Protection of Cultural Property in Germany
  - Plaques for Cultural property protected by the Hague Convention in Germany
- Distinctive emblems for the Protection of Cultural Property in the **Netherlands**
- Distinctive emblems for the Protection of Cultural Property in **Poland**
- Distinctive emblems for the Protection of Cultural Property in **Belgium**

- A good example is the **Swiss Inventory of Cultural Property of National and Regional Significance**
  - It is available online, and integrated with government programs. There is a government department responsible for them, and for all CPP measures.
More information

UNESCO BSI – Distinctive Marking of Cultural Property
https://unesdoc.unesco.org/ark:/48223/pf0000380180?posInSet=1&queryId=efd06f07-0013-4363-b46a-fed82913ab96

The Blue Shield Emblem: Guidance for Use

No Strike Lists

ICRC Study on the use of emblems
(note: there are difference in the regulation of the red cross and blue shield, but many useful parallels)

25 minutes presentation on Inventories at Respect and Protect Conference: https://youtu.be/3yzJE6R2pFU