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for Heritage Protection in a Period of Economic Recession and  
Tools for Safeguarding Protection Standards**

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Bled Castle. Photo: Miran Kambič.



## Editorial of ICOMOS Slovenia

In 1994, after the breakup of Yugoslavia, the National Committee on Monuments and Sites of Slovenia was established as a non-governmental professional association dedicated to the protection of cultural heritage, its main goal being to distribute the core principles and documents of ICOMOS to professionals, students and scholars. The most important ICOMOS documents, i.e. charters, national charters, recommendations, declarations and other documents were collected in *Doktrina I* and *Doktrina II* (Conservation Doctrine Series), which was edited by J. Grobovšek. Both books include texts which were drawn up over seven decades of ICOMOS development and the dissemination of the doctrinal text in Slovene and the original English version. The goal was also to disseminate the conservation policies to the wider public, schools and universities.

Today, one year prior to celebrating fifty years since the establishment of ICOMOS in 1964, which was also when Slovenian experts participated in drawing up the Venice Charter, our aim is to present to the professional and scientific public the ICOMOS Slovenia national committee's first scientific monographic publication in the field of conservation in order to convey the international criteria and standards for conservation in the 21st century. This monographic book is intended to assist scientists carrying out research in the field of conservation. Unlike most books dealing with the scientific method, which stress its philosophical rationale, this book is written from a practical standpoint. It contains a rich legacy of principles, maxims, procedures and general techniques that have been found useful in a wide range of conservation sciences. The key value of this scientific monograph is also to discuss the international consultation and comparison in the field of conservation.

The publication is related to the first Bled International Symposium on cultural heritage and legal issues which was titled *International Legal Standards for Heritage Protection in a Period of Economic Recession and the Tools for Safeguarding the Standards of Protection* (2–3 May 2013, Bled) and was organised as a part of the celebrations for the centenary of the public heritage service in Slovenia by the Institute for the Protection of Cultural Heritage of Slovenia and ICOMOS/SI, with the support of the Council of Europe and the Office of the Slovenian National Commission for UNESCO. The participants exchanged views on the current situation regarding the implementation of the European heritage standards embodied in international conventions, charter recommendations and EU directives. and good practice to countries in South East Europe.

In the symposium conclusions Mikhael de Thyse (Council of Europe) states that Europe is facing social challenges which are compounded by the economic crisis. This is exerting considerable pressure on heritage survival and forces us to not only reconsider our previous assumptions, but also, to a certain extent, prolong the painful measures, mechanisms and procedures put in place over the last few decades regarding European standards; The present context requires the implementation of new attitudes and more efficient practices in order to respond effectively to society's needs, whilst limiting the negative impact of bypassing the existing rules justified by the economic crisis.

The publication meanwhile takes the first vital step forward: open recognition of the problems involved with regard to legislation and cultural heritage enquiry and activity.

The editors are grateful to all those who responded to our call to take part in the symposium. They support the idea of symposium as a permanent event and who write the chapters for this publication.

Marko Stokin, president



The monograph, along with its recommended focuses, can serve as a valuable handbook for designers of cultural policy and economic development, and as an aid in the harmonisation of sectoral legislation, since it draws attention to a number of unrealised aims in current legislation and to tasks that in Slovenia require refreshing (production of documentation), establishing (tax relief for owners, investors and donors) or supplementing (popularisation with awareness-raising, sanctions, internationalisation of online content on the theme of cultural heritage, protection regimes, catalogue of providers with references).

In a period of economic crisis and liberal development that aspires to the uncompromising exploitation of natural resources, heritage is extremely vulnerable. For this reason, efforts for sustainable protection, in which the renovation of existing immovable architectural heritage, including the most recent heritage such as the architecture of the 20th century with industrial architecture, take precedence over new building are a very positive development, particularly for raising the awareness of participants in the various phases of planning and decision-making, and not only the specialised institutions that are directly responsible for heritage protection.

Dr. Nika Leben

The publication offers a complete overview of the legal and operational issues faced by cultural heritage protection in these times of economic recession and stagnation, a period which has also been affected by a clear discrepancy between the widening of concepts, the recognition of cultural heritage at the institutional level, a diminishing sense of identification felt for our heritage and the dwindling care taken of it generally.

The publication presents key responses in order to overcome the crisis, such as the need for financial assistance, especially for private individuals and organisations in order to maintain the examples of heritage they own, priority intervention for heritage assets which are at risk, tools to rapidly identify the same, the importance of the rehabilitation and use (not only the preservation) of heritage, the need for vigilance and effective sanctions for unauthorised actions, and the integration of heritage protection and spatial planning through the use of new information tools such as the visualization system for lines of sight analysis introduced in the Municipality of Ljubljana for the preparation of spatial planning documents and the monitoring of their implementation in order to respect the visual integrity of heritage assets. The situation in Slovenia is presented in an overview of the development of the legal regulation of cultural heritage protection in this territory, with examples of good and bad practice also put forward with regard to the implementation of the current Cultural Heritage Protection Act adopted in 2008. Specific legal, administrative and expert issues deriving from the Act are considered in relation to the protection of cultural heritage in local communities and the preparation of conservation plans.

The contents are clearly presented, and the terminology and sources are properly used. The monograph brings together original theoretical discussion and analysis of case studies which demonstrate the pressing need to adapt existing heritage protection legislation and approaches, and reflects the dynamism of this field in which the monitoring of the actual implementation, comparative analysis and theoretical evaluation are the key factors for further development and improvement.

Dr. Katharina Zanier



Pile Dwelling at Špica in Ljubljana. Archive MGML.



## **Funding, Skills, Integrated Conservation and Enforcement for Heritage Protection in a Period of Economic Recession**

### **Abstract**

*The paper will concentrate on four issues: (1) Financial assistance for conservation, restoration and rehabilitation of the heritage, (2) Skills shortages and usage and the role of inventories, surveys and associated management tools for assessing the endangered heritage, (3) Enforcement, sanctions and penal measures and (4) Integration between heritage conservation and spatial planning and development control to prevent damage to and encourage the rehabilitation and use of heritage resources. It draws on examples from western Europe in relation to urban conservation initiatives in Germany (the Städtebauliche Denkmalschutz programme); funding mechanisms such as the Heritage Lottery Fund in the UK; the effectiveness of prosecutions for unauthorised actions and means of publicly recording them as a deterrent in the UK and Ireland; and the integration between spatial planning and heritage protection systems in the UK and France (using examples of the secteurs sauvegardés, and other heritage zones: ZPPAUPs and AVAP) - emphasising the role of rehabilitation and the importance and methods of using the heritage as a resource for society. It contrasts these examples in the context of the four themes by considering issues raised through draft Heritage Assessment Reports on legal and institutional issues formulated in the period October 2012 to March 2013 relating to six countries (Albania, Bosnian and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia), which are engaged in the Ljubljana Process II, a joint initiative through the Council of Europe's Regional Programme on cultural and natural heritage in South East Europe, launched in 2003, with support from the European Commission.*

### **I Introduction**

The main focus of this symposium on cultural heritage and legal issues is the examination of standards for heritage protection in a period of economic recession including tools for safeguarding and using the heritage and institutional issues. This paper examines these themes with particular reference to examples drawn from countries taking part in the Council of Europe's *Regional Programme on cultural and natural heritage in South East Europe* and the subsequent jointly funded (with the European Commission) Ljubljana Process I and II which encourages funding and investment in rehabilitation of the common cultural heritage, confirming the vital social and economic importance of heritage as emphasised through the *Faro Framework Convention of the Value of Heritage for Society* (2005).

### **I Financial assistance for conservation, restoration and rehabilitation of the heritage**

One of the key issues associated with effective management of the cultural heritage in addition to effective protection measures, is that incentives and funds are needed, particularly to support private owners for the extra burden of maintaining their heritage assets. A number of Resolutions and Recommendations of the Council of Europe dating back to the 1960s have urged governments to provide fiscal incentives and financial measures to assist owners of monuments and other bodies in protecting the heritage. A Resolution from 1976, on adapting laws and policies to the requirements of integrated conservation, identified that there may be a need to reallocate funds via national budgetary strategies from redevelopment and construction schemes more evenly in favour of rehabilitation of the architectural heritage which fits in with today's notion of using the heritage as a factor for development<sup>1</sup>.

<sup>1</sup> See Resolution (66) 20 on the reviving of monuments, adopted by the Ministers' Deputies on 29 March 1966;

Further detailed advice was given through a 1991 recommendation which highlighted different types of measures that could be adopted. These were identified as including administrative measures (such as the adoption of appropriate urban development strategies to inform potential investors about putting the heritage to use), new interventions measures (to encourage action and new use of heritage resources while preserving the rights of owners), financial measures (such as grant-aid subsidies and loans) and specific measures such as tax incentives to promote sponsorship of heritage resources.

These ideas have been given force through articles in conventions. Article 6.1 and 6.2 of the *Granada Convention*<sup>2</sup> requiring the parties to provide appropriate financial support measures including tax incentives and article 14 identified the need to foster the development of sponsorship and non-profit organisations. More recently, and in a wider context, Article 11b of the *Faro Convention*<sup>3</sup> stated that in the management of the cultural heritage, the parties should undertake to, amongst other things, develop financial frameworks which make possible joint action by public authorities, expert owners, investors, businesses, non-governmental organisations and civil society, thus encouraging partnership between public authorities and private and third sectors

While systems are well developed in some countries such as Belgium, France, Germany, the Netherlands, the United Kingdom and other western European countries including the provision of tax incentives, grant aid systems, low interest loans, revolving funds, foundations and trusts, lottery-derived funds and area based heritage-led regeneration schemes<sup>4</sup>, the picture in South East Europe (SEE) is very different. Moreover, whilst western countries are also presently suffering because of the global financial crisis, and budgets are in general being cut, there are still some possibilities to support action on the heritage.

For example, in Germany the *Städtebauliche Denkmalschutz* urban heritage programme has provided 4.6 billion € funding (1.7 billion € from the Federal government, combined with other sources of funding including from state and local government sources) between 1991 to 2008 to support the new states from the east (former GDR) after reunification in relation to the protection, modernization and rehabilitation of historic townscape buildings and ensembles, as well as the restoration of public spaces. The programme was extended to western states in 2005. Since 2010 the amount of money has been cut by 50% for each year per annum, an action which has been criticised in terms of the risk to the preservation of cultural heritage, but still remains at a significant level at 50 million € per year from the Federal budget (with additional support from states and municipal authorities).

One of the important ways of justifying the continued expenditure is through the **evaluation** of the programme<sup>5</sup>. This programme has made a vital contribution to the rescue of the historic urban cores in towns in the former GDR after decades-long periods of neglect. 21% of the approximately 100,000 buildings in the programme districts of Urban Heritage Conservation were repaired and rehabilitated using programme subsidies (in nearly 200 city sites). 81% of supported buildings were under private ownership. In the programme districts, a further 40,000 buildings were renovated during the evaluation period without

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Resolution (76) 28 concerning the adaptation of laws and regulations to the requirements of integrated conservation of the architectural heritage, adopted by the Committee of Ministers on 14 April 1976; Recommendation No. R (91) 6 on measures likely to support the funding of the conservation of the architectural heritage, adopted by the Committee of Ministers on 11 April 1991. These instruments have been retrieved from: [http://www.coe.int/t/dg4/cultureheritage/heritage/Resources/TextsHeritage\\_en.asp](http://www.coe.int/t/dg4/cultureheritage/heritage/Resources/TextsHeritage_en.asp)

2 Convention for the Protection of the Architectural Heritage of Europe (Granada, 3 October 1985) (CETS No. 121).

3 Framework Convention on the Value of Cultural Heritage for Society (Faro, 27 October 2005) (CETS No. 199).

4 Details of different financial mechanisms and arrangements in operation in European countries and North America can be found in a Council of Europe guidance document which builds on the suggested mechanisms identified in Recommendation No. R (91) 6 (see note 1): Pickard, R (2009) *Funding the Architectural Heritage – a guide to policies and example*, Council of Europe Publications, Strasbourg, France.

5 Evaluation Report concerning the Urban Heritage Programme in the eastern states of Germany published by the Federal Ministry of Transport, Building and Urban Affairs (BMVBS) (2012) *Evaluierung des Programms Städtebaulicher Denkmalschutz – 1991-2008*, Bundesministerium für Verkehr, Bau und Stadtentwicklung (BMVBS), Berlin, Germany, May 2012. Retrieved from <http://www.staedtebaulicher-denkmalschutz.de/>

the use of subsidies from the programme. At the same time, over 20,000 properties were added to the real estate market for residential use (housing) through renovation, creating new homes in city centres out of historic properties. By combining municipal funding into the programme the historic urban structure and its components were revitalised improving the quality of life for all through the restoration of public spaces (streets, footpaths, green spaces and other city open spaces). While some historic buildings remain acutely endangered, the programme has had a dramatic effect not just on the built heritage but also in terms of urban regeneration and the improvement of the urban fabric for all.

In the United Kingdom (UK), whilst some government funding schemes for protected buildings and the regeneration of conservation areas have been cut in recent years, the Heritage Lottery Fund (HLF) continues to sustain and transform a wide range of heritage through innovative investment in projects with a lasting impact on people and places. As the largest dedicated funder of the UK's heritage, with around £375 million GDP a year to invest in new projects, the HLF is also a leading advocate for the value of heritage to modern life. Since 1994, HLF has supported over 34,000 projects allocating **£5.2 billion GDP** across the UK. The HLF supports many different projects including museums, galleries, individual historic buildings, archaeology, parks and landscapes, places of worship, heritage skills development, engaging young people with the heritage, and the Townscape Heritage Initiative (providing grant aid funding of £500,000 GBP to £2,000,000 GBP) to help communities to regenerate Conservation Areas displaying particular social and economic need.

The latter example, similar to the German example, focuses attention not only on the heritage, but how it can **contribute to the development of places socially and economically**. Similar to the German example, this programme has been evaluated in terms of its wider benefits to society (and not just on heritage preserved) by three key indicators and a number of sub indicators under the headings: Quality of Life Enhancement (sub indicators: Employment and Income, Education and Personal Aspirations, Sense of Community and Social Inclusion, Security, Crime and Order); Townscape Improvements (Townscape Quality, Public Space Management, Private Space and Façade Management, Heritage Interpretation) and Economic Regeneration (Land Use Changes, Retail Use and Demand, Business Vitality and Investment)<sup>6</sup>.

Apart from this, other systems of funding, such as by the government through English Heritage, have been evaluated following the publication of methodology and reports on this, which, amongst other things, measure how investment in the heritage generates additional economic activity, attracts business, attracts visitors and generates local wealth<sup>7</sup>. This research provides powerful justification for the use of public funds to support investment in the heritage.

The situation is very different in South East Europe (SEE). The **predicted budget** for the field of culture and arts for 2013 in the Republic of Serbia will be merely 0.6% of the total budget and represents the lowest budget for the past 25 years (due to the economic crisis). Whilst in Montenegro the Culture Act provides that as much as 2.5% of the state budget should be allocated to cultural activities, although only a small proportion of this is allocated to the cultural heritage. As with other countries including Bosnia and Herzegovia (BiH), Croatia and the former Yugoslav Republic of Macedonia (FYROM), considering the state of cultural monuments, the needs far exceed the available budgetary funds. Priorities are oriented towards emergency recovery (including resolving devastation due to war damage) and continued financing of projects already started, but long-term planning is difficult. By contrast, investment in the cultural heritage through the Albanian state budget has

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6 Department of Planning, Oxford Brookes University (2008) *Townscape Heritage Initiative Schemes Evaluation: Five Year Review Report Final Report*, Townscape Heritage Research Unit, Oxford Brookes University, Oxford.

Retrieved from: <http://www.hlf.org.uk/aboutus/howwework/Pages/TownscapeHeritageInitiativeevaluation.aspx>

7 See English Heritage (2011): *Heritage and Growth*: Retrieved from <http://www.english-heritage.org.uk/professional/research/social-and-economic-research/value-of-historic-environment/economic-value/>. See also reports on the impact of historic environment regeneration and historic visitor attractions retrievable from:

<http://hc.english-heritage.org.uk/Previous-Reports/HC-Economic-Impact/>

increased significantly recently, especially in during the last seven years<sup>8</sup>.

The types of **funding mechanisms** advocated by the *Granada Convention* and the partnerships advocated by the *Faro Convention* are not in abundance in the SEE countries and in the early stages of development and implementation. In terms of funding assistance through subsidies and tax incentives including through sponsorship the evidence is not strong; a few examples can be given: Tax relief on sponsorships which could support the Cultural heritage in FYROM is at 20%, but limited to a meagre annual level of approximately 400€ and exemption from VAT is provided, in a limited way, for institutions which deal with cultural heritage issues and otherwise, and whilst the Law on Culture provides broad possibilities for establishing funds and foundations which could support investment in the revitalization of cultural heritage assets, the possibilities remain undeveloped. In BiH, in both of the entities, there are no specific tax benefits or other incentives for owners of protected cultural property and this has been recognised as a shortcoming. In Serbia there are tax incentives for investments in culture but these are not effectively used for cultural heritage and there are no specific grant aid subsidies for private owners, but private owners may benefit from actions initiated by public institutions. The Albanian Law on Cultural Heritage provides that for higher category cultural monuments the state pays for works to safeguard historical-artistic values and other restoration works are covered at 60% by the state (first category) and 30% by the state (second category) and when the non-state owner does not have the funds for the implementation of restoration works, after they have been planned, the state mediates to the banks to obtain low interest loans and pays the interest rate. Montenegro seems to have the most developed system of financial support with relief from property tax on cultural property, VAT on material costs and construction services for work associated with protected cultural materials on designated cultural property reduced from 17% to zero, no customs duties on materials imported to be used for cultural property, grant aid funding can be given to private owners of cultural property for such matters as restoration and rehabilitation of roofs, drainage systems and facades with a legal right to financial support for conservation measures above routine maintenance. Due to the continuing funding problems in SEE countries, consideration is being given to the updating or drafting national strategies for the cultural heritage to include new funding mechanisms to support rehabilitation action via subsidies to private owners and tax relief and so on, but this will require political support.

Interaction and **partnership between public and private sectors** is in its infancy in the SEE countries. In FYROM (and Albania), concession agreements allow for the possibility of public-private partnership but progress is limited due to the need to harmonize legislation on concessions and cultural heritage protection and in Croatia, whilst there are models for public-private partnerships in infrastructure and construction, no projects have been realised concerning the renewal of heritage assets. There are a limited number of examples in other countries.

Most of the SEE countries **rely on annual programmes** allocated from the state budget to the ministry responsible for cultural heritage with the selection of projects by experts, which means it is difficult to plan ahead. In Serbia, the lack of a unified list of priorities makes systematic funding difficult and annual financing by public call does not provide the best results particularly as funding criteria is not clear and there is a lack of understanding about the role of feasibility studies and other planning documents that would enable organised action on rehabilitation of monuments. In Croatia whilst practice has also been to implement funding through annual competitions, this has been recognised as lacking in efficiency particularly without the possibility of long-term preservation plans. Due to this, new three-year programmes are being introduced, which will be directed at specific goals and serve as a source for identifying priority projects for which other sources of found should be found.

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<sup>8</sup> Draft Heritage Assessment Report for Albania (2013): Between the period 2000 - 2005 an amount of about 477,800,000 ALL (approx. 3,412,900€) was invested, but for 2006 – 2011 the amount 768,276,000 ALL (approx. 5,488,000€). During 2012, 30 cultural monument assets and museums were restored out of the state budget, overall amounting to 311 million ALL compared to the amount of 189 million ALL invested in 2011 (i.e. an addition of 122 million in 2012).

Apart from the state budget as the main source of funding, the Programme for Protection and Preservation of Cultural Property of Montenegro should be part funded through a system of **annuities** derived from for the preservation of cultural property in commercial use, but the tax laws which were supposed to regulate the annuity for the preservation of cultural property have not been implemented yet. In Croatia the monument annuity is a specific way to assure funds through the collection of 2% of revenues applied to physical and legal persons who carry out commercial activities in immovable cultural property or in designated protected urban zones, with the budget revenues (60% to the municipality; 40% to the state) being disbursed exclusively for the protection and preservation of cultural heritage assets. In theory the system is a very good means to collect funds for the heritage, but, in practice, due to the **lack of understanding of the direct and indirect benefits of investing in the heritage**, some urban protected zones have been reduced in size, resulting in a lower amount of revenue.

Funding can be provided by **ministries other than those responsible for cultural heritage**. For example, in Serbia the Ministry of Finance and Economy supports the funding of investments into infrastructure and the restoration of monuments and sites to improve tourist opportunities, the Ministry of Labour, Employment and Social Policy has provided funds for cultural heritage of a memorial character and the Office for Cooperation with Churches and Religious Communities provides support for religious architecture. But there is no clearly defined coordination with the Ministry of Culture and between the other authorities, which means that funding activity can overlap or not be coordinated properly, whilst a more integrated approach would lead to better results and more continuous funding of cultural heritage rehabilitation projects.

Funding support at local **government level** is not well developed although there is some evidence of initiatives in favour of decentralisation, such as through the use of regional development funding in FYROM and Croatia and the use of funds from the municipal budgets in Montenegro and Serbia (but significantly except for in the cities of Belgrade and Novi Sad).

**International sources** of funding have played an important role in SEE countries, particularly in the context of investment in the renovation of the architectural heritage damage during the Balkan wars of the 1990s and encouraging action to recognise the development potential of heritage assets through rehabilitation, including through the jointly funded (European Commission/Council of Europe) Ljubljana Process I and II. A number of major projects including fortresses, museums, mosques, churches/monasteries and other religious heritage, such as the Old Jewish Cemetery in Sarajevo, have been supported as priority and flagship projects by international donors.

International funding has been provided to SEE countries from various sources including through the World Bank (FYROM), EU (e.g. IPA, FP7) (Albania, BiH, Croatia, FYROM, Montenegro, Serbia), World Monuments Fund (FYROM), US Ambassadors Fund for Cultural Preservation (Albania, BiH, FYROM), USAID (Montenegro), Turkish International Cooperation Agency (TIKA) (Albania, BiH, FYROM), Norwegian government (Montenegro), Japan Grassroots Project (Montenegro) the Adriatic-Ionian University Network (UNIADRON) and University of Bologna (Montenegro), UNESCO (Albania, BiH, Montenegro), UNDP (Albania), Cultural Heritage without Borders (BiH), Spanish Agency for International Cooperation and Development (BiH), and Cooperazione Italiana (Albania), Albanian American Development Foundation and Enterprises Fund (Albania).

But some of these international sources are reducing now since the global financial crisis and many SEE countries are examining which sources are more likely to gain funds. The European **Instrument for Pre-Accession fund** is now seen as an important possible source of funding, but there is often a lack of knowledge and expertise to deal with the complex procedures for acquiring funding through this source and also for the programming and implementation of projects financed from EU funds and other international sources. The Ljubljana Process II may have an important role to play through flagship projects, including Business Planning and Fundraising activities by showcasing “best practice” and applying common understanding on specific projects together with relevant and tailored training.

In addition, a collaborative partnership has been created with the London School of Economics to carry on an Impact Assessment aimed at measuring the **wider benefits of investing in rehabilitation projects** within the Ljubljana Process through examining the impact of heritage projects on local economic development (including job creation and other multiplying and spill-over factors, e.g. external funding attracted, tourism, impact on suppliers, developing skills capacity, benefits to local education institutions, impact on business turnover, etc., as well as quality of life issues). This will be initially implemented in 3 projects selected amongst the Flagship Projects in two countries (6 projects in total), but it is intended that joint efforts will be developed in order to secure external resources in order to carry similar impact assessments in all the countries within the Ljubljana Process II in SEE.

Developing an awareness of the direct benefits of investing in heritage in terms of its development potential through encouraging its rehabilitation and sustainable use, as well as the indirect benefits as started above and also in terms of tax revenues created (from jobs, business turnover, tourism etc.), will provide important arguments for using state funds in support of the cultural heritage, in particular to develop funding mechanisms as identified in the Granada Convention and by the Faro Convention. The examples from the UK and Germany provide good evidence for this and the European Commission/Council of Europe initiative through the Ljubljana Process may have an important role to play for SEE countries in this period of economic uncertainty.

### **I Skills usage – protection, Skills shortages – rehabilitation: valorisation, inventories and management tools**

In assessing legal and institutional systems in SEE countries through the draft Heritage Assessment Reports it has become apparent that the greatest emphasis in cultural heritage law is on **“protection”, rather than “managing” the heritage**. Whilst protection is one of the aims of law, there is a need for law to have a balanced view of what it is aiming to achieve, including both negative and positive responses, which implies both controls and incentives. However, the emphasis remains on the former rather than the latter. By example, the draft Heritage Assessment Report for Croatia states *“The Act emphasises protection and control but is less clear about encouraging and supporting the concept of rehabilitation for new uses and commercial exploitation”*.

Delving deeper into the meaning of “protection”, in SEE countries it frequently covers a multitude of activities, including repair, conservation, restoration, rehabilitation and even reconstruction, as well as other connected activities such as research. It seems that there remains an emphasis on institutions and responsible authorities for the cultural heritage taking the lead in undertaking these actions, although there is more evidence now of licensed professionals and entities being able to undertake the work under the supervision of the responsible authorities.

There remains a strong **emphasis on valorisation** of values and then defining prescriptive rules about what can and cannot be done, which means engaging institutional staff in the scientific activity of assessing the heritage. There is not so much emphasis on rehabilitation and sustainable use of the heritage or thinking about creative ways to adapt protected buildings and sites. In the UK we take the view that most protected buildings should be capable of beneficial use or reuse (if they become vacant), and in some cases that may mean being flexible about change (following the principle of **“managed change”**). Indeed very few sites can be said to be original, most buildings which are hundreds of years old have been adapted in some way or another in their history of use.

In Montenegro the level of fines and penal measures to be applied to unauthorised work remains pending awaiting the completion of a revalorization process for cultural properties at the end of 2013, in the meantime damage is occurring without proper enforcement. In the UK there is a different approach, which does not prescribe everything that can or cannot be done, but rather requiring the applicant who wants to undertake works to justify those works by identifying the values or significance in the heritage asset and identifying

how these will or will not be affected by the proposed change<sup>9</sup>. This allows the authorities to examine each application and consider what is being proposed, and what will be the impact of those proposals, rather than having a pre-determined prescribed list of rules. In some case “management agreements” can be made for large or complex sites or groups of buildings to assist this process, by identifying where change can take place, giving greater surety and confidence to private owners and investors in such heritage assets<sup>10</sup>.

**Moving away from the purely scientific approach may enable a more managerial approach** to be adopted. One way of encouraging this may be to move from the generally used process in SEE countries of temporary protection, pending scientific valorisation, before permanent registering of protected items - by undertaking rapid assessments, according to pre-determined criteria for selection. Moreover, Council of Europe guidance states **it is not necessary “to know everything before we can protect anything”<sup>11</sup>**; merely that is desirable to have sufficient information to make the decision (NB it does not mean dispensing with the need to make detailed inventories).

Furthermore, the use of **rapid surveys** may be important for another management purpose, i.e., to identify which heritage assets are most at risk. Again the Council of Europe’s guidance documents recommend this approach<sup>12</sup>. Heritage assets can be subject to problems of abandonment, decay or other threats. In this respect a **survey of heritage assets at risk** can help to identify priorities for action, which is particularly important when financial resources are limited. Moreover, this type of tool can be used rapidly to direct resources where they are perhaps most needed. It can also assist in ensuring that the protection process is not a stand-alone process, as it can be accompanied by other social and economic processes which encourage retention and rehabilitation for beneficial use or reuse.

This type of approach was developed by English Heritage through the use of buildings-at-risk surveys in the late 1980s. The action first concentrated on buildings, then monuments (including archaeological sites), and more recently this has been extended to conservation areas, landscapes and industrial heritage<sup>13</sup>. With funding opportunities reduced due to cuts in public expenditure in recent years, the “at-risk” evidence has been where some the limited funding opportunities have been directed and prioritised. More significantly, it has enabled other external players to come into the field including building preservation trusts (NGOs which have carried out some of the surveys on behalf of local authorities, but have also undertaken rehabilitation projects) and the registers of at-risk heritage assets have been publicised to encourage external investors.

There is now evidence that some SEE countries are starting to adopt this sort of approach as a way of directing limited resources and identifying priority needs. For example, with the aim of preparing a database of national monuments in accordance with the European standards, the Commission to Preserve National Monuments of BiH has drawn

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9 The National Planning Policy Framework states at paragraph 128 “In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance”: Great Britain, Department for Communities and Local Government (2012): *National Planning Policy Framework*, Crown Copyright, London, UK, March 2012 at p.30. Retrieved from: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

10 English Heritage (2003): *Streamlining listed building consent. Lessons from the use of management agreements*, Retrieved from: <http://www.english-heritage.org.uk/publications/streamlining-listed-building-consent-lessons/>

11 Council of Europe (2009): *Guidance on Inventory and Documentation of the Cultural Heritage*, Council of Europe Publishing, Strasbourg, France: See Chapter 4: The inventory as a means of protective legislation, in particular section 4.1: Inventory and protection, at p. 31.

12 See note 11, in particular section 4.4: From protective legislation to building management, at p. 33 and Council of Europe (2011): *Guidance on the development of legislation and administration systems in the field of cultural heritage*, 2nd Edition, Council of Europe Publishing, Strasbourg, France: See Part A: Guidelines for the Protection of the Architectural Heritage at p. 31 and p. 42.

13 Further details and information on English Heritage’s Heritage at Risk programme can be retrieved from: <http://www.english-heritage.org.uk/caring/heritage-at-risk/>

up a test database according to the standards of the Council of Europe guidance and initiated a process of digitizing the data base and the establishment of a Geographical Information System (GIS). In order to establish an adequate database and presentation of the monuments, the Commission has installed a MAP-info program, trained the staff and in 2009 worked on the presentation of data on endangered heritage to identify cultural heritage in need of priority action. It is hoped that this process can be extended in the institutions of the entities. In Croatia the draft Heritage Assessment Report has identified the need to establish a list of endangered cultural goods to identify priority actions for cultural heritage assets and to create a management tool to identify cultural heritage assets in urgent need of investment in conservation, restoration or rehabilitation – through amending the Ordinance on the national register. And in FYROM a *Registry of Endangered Cultural Heritage* has already been established to record details of heritage assets that are in poor condition, under occupied, or under development threats etc. and is used as a tool for prioritising conservation, restoration, rehabilitation actions.

The draft Heritage Assessment Reports have also identified certain types of skills shortage which may be required to encourage a management approach rather a purely protection approach to heritage assets. The **key areas of skills shortage** have been identified in relation to inventory and documentation methods, including the use of digital information systems, and also in relation to business planning, feasibility studies, fund raising and preparing documentation for external funding sources (which are very different skills to those required in a scientific institutional approach to the heritage) but are necessary if we are to consider the broader issues of sustaining the cultural heritage for future generations by acknowledging its economic and social values and the need to encourage its rehabilitation.

Another area where improved systems are perhaps required is concerning enforcement action and the application of sanctions.

## I Enforcement, sanctions and penal measures

There is a need for proper regulation of activities which may affect the cultural heritage (to prevent damage, destruction etc) including efficient inspection and supervision services and, where illegal or unauthorised actions have taken place, appropriate enforcement, sanctions and penal measures should be implemented and applied. **In times of economic crisis** there may need for greater vigilance, as theft may increase or threats to old buildings in the pursuance of more financially favourable developments may have a greater incidence. However, the protection of the heritage is dependent the application and implementation of efficient measures, which is not always the case.

The UK system operating in England and Wales provides a right of entry to buildings and sites for officials to check the condition and to consider whether any unauthorised or illegal work has taken place. There are powerful legal tools such as the use of legal “injunctions” to stop work (punishable by unlimited fines) and other provisions for listed building enforcement notices (requiring reinstatement or restoration actions and fines of £20,000 GBP if not complied with), similarly there are fines of up to £20,000GBP for any unauthorised action to a listed buildings (which can be “unlimited” in a higher court). These penalties were raised from a level of £2000 GDP in 1991 in order to ensure that the sanctions provisions act as an **effective deterrent** to others contemplating unauthorised actions. In worst case situations, such as in the case where a developer tried to make a crack in a building using explosive to render it unsafe as an excuse to seek its demolition in favour of new residential development, the culprit can be put in prison<sup>14</sup>. In addition, urgent repairs notices may be served (for emergency works where there is an immediate threat) for necessary works to be undertaken within a 7 day period or the relevant authority can enter the property and undertake the works, requiring the owner to pay for reasonable costs. There is also a more significant “Repairs Notice” procedure (requiring a full schedule of repair works to be completed), which, if not complied with, may lead, expropriation (with reasonable compensation (based on market value of the property in its present condition). Whilst this type of action is a last resort, the purchasing authority has to incur the cost of

<sup>14</sup> There are similar provisions which apply in the case of unauthorised actions to archaeological sites under section 2 of the Ancient Monuments and Archaeological Areas act 1979.



compulsory purchase, and so rendering this type of action rare. However, where it can be proved that there has been “deliberate” neglect (which is actually difficult to prove, a minimum compensation order can be pursued - sometimes to a value of £1 GBP)<sup>15</sup>. Also, the immediate sale to a building preservation trust (heritage charity NGO) following compulsory purchase, is a preferred course of action so that positive action is taken to rehabilitate.

To encourage proper work and **deter unauthorised actions**, a Listed Buildings Prosecutions Database was set up in 1996<sup>16</sup> to help establish the levels of prosecution activity across the UK in relation to unauthorised alterations and demolitions to listed buildings and unauthorised demolitions of unlisted buildings in conservation areas, and publicity of the possibility of prosecution was given by a high profile case eventually resulting in the successful prosecution of politician, a Member of the UK Parliament, for unauthorised alterations to a “listed building” (which was the person’s privately owned home). The database is in two parts: by “size of fine” and by “date of prosecution” and currently there are about 150 cases entered on it. It is managed by the Institute for Historic Building Conservation (IHBC) (a professional body for built environment professionals working in relation to the immovable heritage and historic environment in the UK) and further notifications are encouraged as a means to maintain the usefulness of the database and to enable a cross-reference for the effectiveness of the legislation and policy guidance in relation to enforcement action and sanctions. The database records the size of fine, costs awarded, the nature of the offence, the address and grade (category) of building (listed in one of three categories or in relation to unlisted buildings in conservation area), type of court (Magistrates or Crown: depending on which court there can be different levels of fine) and any other information which would be informative (e.g. a guilty plea or observations by the court).

Further **information on prosecutions** is provided through a weekly *NewsBlog* on the IHBC website<sup>17</sup>. The government also issued good practice guidance on listed building prosecutions in 2006<sup>18</sup> to encourage prosecution where a good case can be made, and this guidance specifically encourages the inclusion of details of cases on the Listed Buildings Prosecutions Database. In addition, English Heritage has recently led an initiative to create an *Alliance to Reduce Crime against Heritage* (ARCH), which is a new voluntary national network with an aim to take forward initiatives to tackle heritage crime and galvanise local action as part of the Heritage Crime Programme. This includes organising conferences on heritage crime and how to combat it (the last one in March 2012)<sup>19</sup>, and a series of publications designed to raise awareness of the problem and how to tackle it<sup>20</sup>. This is a very proactive good practice example of how to deal with issues of crime against protected heritage assets.

In Ireland, following many disasters concerning its built heritage, whereby owners could purposely undertake action to buildings of recognised heritage value to put them in a dangerous state in order to argue for their demolition, the legislation was strengthened through the Planning and Development Act 2000, which provided penalties for owners or occupiers of protected structures who endanger the structure or who fail to carry out work that has been ordered by the planning authority. If they are found guilty, they could

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15 Pickard, R (2008) ‘Consultation, authorisation, enforcement in England: integration of heritage and planning and comparisons with Ireland’ in Pickard, R. (ed.)(2008) *Integrated Management Tools in South East Europe*, European Heritage Series, Council of Europe Publishing, Strasbourg, France at pp. 233 – 255.

16 IHBC Listed Buildings Prosecutions Database retrieved from: <http://www.ihbc.org.uk/resources/resources.html>.

17 Retrieved from: <http://www.ihbc.org.uk/>

18 Great Britain, Department for Communities and Local Government (2006), Best Practice Guidance on Listed Building Prosecutions, London, December 2006. Retrieved from: <https://www.gov.uk/government/publications/listed-building-prosecutions-best-practice-guidance>

19 Retrieved from: <http://www.english-heritage.org.uk/professional/advice/advice-by-topic/heritage-crime/arch/>

20 Four documents have been published by English Heritage (2012): *Interventions Prosecutions and alternative disposals*; *Heritage Crime Prevention: A Guide for Owners, Tenants and Managers of Heritage Assets*; *Heritage Crime Impact Statements*; and *Preventative Measures: Quick Assessment Tool*: Retrieved from <http://www.english-heritage.org.uk/publications/interventions-prosecutions-alternative-disposals/>

be liable for fines of up to €1.27 million and/or a term of imprisonment of up to five years. Penalties at this level provide an effective deterrent!

In a research study conducted through the Council of Europe's *Regional Programme on cultural and natural heritage in South East Europe (RPSEE)* in 2005 (and published in 2008) it was noted that in SEE countries there was a lack of inspections and penalties and there was **difficulty in organising or applying the measures** that are provided for. Penalties were often too lenient, lacking in substance and ineffective particularly as they have rarely been applied or applied too late<sup>21</sup>. Furthermore inspections and penalties carried out through Ministry of Culture services were not as effective as those carried out by the relevant authorities for inspection in the case of spatial planning and construction. Despite these findings, not a lot seems to have changed between 2005 and 2013 according to recent evidence provided by draft Heritage Assessment Reports drafted between October 2012 and February 2013, although there are some examples where the situation is improving.

In Croatia it has been reported that co-ordination between competent institutions regarding inspection and supervision (Ministry-police-customs-court) functions well in general. There are a few problems, such as that there are some cases when offenders do not follow the inspector's requirements for works (to take measures to remedy unapproved works), resulting in the Conservation Department having to carry out the works, the cost of which is subsequently reclaimed from the owners (but is not always able to immediately remove the irregularities due to insufficient funds). Sanctions are generally effective with inspectors able to issue and charge a fine on the spot, and the inspector can call on the assistance of the police, but sometimes the procedure becomes protected (and can fail due to delays and becoming subject of statute of limitations). Where an owner fails to take proper care of protected property a number of options can be pursued, such as appointing a temporary custodian to maintain it (at the owner's expense), and if an owner permanently abandons the property it becomes the property of the state. Of significance, an *Act on Procedures regarding Illegally Built Structures* of 2012 (OG 86/12) has defined that illegal structures located within an archaeological site or zone, or a complex inscribed in the world heritage list, or within the protected area of individually protected cultural property, cannot be legalised.

Inspection services in FYRO Macedonia reportedly are effective, but the level of fines are low and do not always act as a deterrent to stop damaging activities.

In Bosnia and Herzegovina (BiH), the picture is very different. In the entity of the Federation of BiH financial sanctions are defined in legislation dating back to the Yugoslav period (1985) which have not been amended, meaning that they are expressed in Yugoslav Dinars, and are therefore not applicable and whilst the Criminal Laws provide for penalties for illegal interventions, these sanctions are rarely taken, partly due to inefficiency in the work of inspectors. In the entity of the Republic of Srpska a similar situation applies in that penalty do not work efficiently in practice (due to a lack of inspectors, **lack of coordination between institutions** and long drawn out procedures).

Penalty clauses provided by the Cultural Property Act 2010 in Montenegro include monetary fines from 100 to 12,000 € for an offence by a legal or natural person who is the owner of a cultural property. The amount of the fine depends on the type of the offence conducted. However, these penal measures are not yet introduced and await the completion of a revalorization process for cultural properties at the end of 2013 when a balanced assessment of the level of fines to be given will be introduced. In the meantime the enforcement possibilities remains weak, the situation is worsened by a shortage of inspection staff which the Cultural Property Act requires for the proper implementation of the law.

In Serbia the situation is even worse. Penalties for sites being devastated by construction are subject to **very small financial sanctions** (the maximum fine for all forms of heritage destruction is 100€), and frequently even state companies fail to respect the minimum

21 Goblet, M. (2008) 'Comparative summary of permit, control and sanctions procedures – RPSEE countries', in Pickard, R. (ed.) (2008) *Integrated Management Tools in South East Europe*, European Heritage Series, Council of Europe Publishing, Strasbourg, France at pp. 225 – 231.

conditions prescribed by the Institute for the Protection of Cultural Monuments. Moreover, the most significant problem is that heritage-related crime has developed systematically, and thefts of, and illegal excavations to obtain artefacts, take place daily. For example, theft at large antique sites has been identified as a “family business” occurring undisturbed for generations. Metal detectors are in widespread use in Serbia, but no one has ever been sentenced for the crimes of illegal excavation and exporting of heritage and its sale on an illegal market. There is a website selling prehistoric figurines! It would seem that the authorities are powerless and attempts to do something have never yielded results, since the theft of cultural heritage is a strongly developed criminal branch in Serbia, one the state makes no effort to combat. In order to resolve this problem it has been identified that a **unit for crime in cultural heritage is required**, along with strong legal sanctions and sentencing of this type of criminals aided by studies on crime in the field of heritage including the illegal market and identification of the merchants involved. The activities of such a unit could also raise public awareness of the fact that the destruction of heritage is a criminal offence.

## **I Integration between heritage conservation and spatial planning and development control**

A further approach which seeks to encourage better management and use of the heritage, recognising its development potential for society, is through the **integrated conservation** systems defined in the Council of Europe conventions on the architectural heritage, archaeological heritage, landscape and the values of heritage for society. In the case of the architectural heritage, this extends to the rehabilitation of that heritage, and for the immovable heritage generally, for its safeguarding through planning and development control systems.

A good example for **integrating heritage in the planning system** can be identified in relation to France, where the establishment of *Secteurs Sauvegardés*, principally for towns and cities with historic centres in decline are set up with a *Plan de Sauvegardé et de Mis en Valeur* (PSMV), which is a preservation and enhancement town planning document (a master plan) to provide for the management of the “conservation area”, including revitalization and improvement activities. The main purpose of the PSMV is to conserve, restore and enhance groups of buildings of outstanding historical or architectural interest and when it comes into force it replaces the established land use plan and other previously approved planning documents in the area concerned. A **specialist architect/urbanist** (architect/town planner) is commissioned to carry out studies for the preparation of the PSMV including elements that require special regulation. This now includes a requirement for sustainable development criteria. Since the enabling legislation of 1962, 103 *secteurs sauvegardés* have been designated up to 2011 designated<sup>22</sup>.

In addition, with the Decentralisation Act of 1983, responsibility for town planning in France was transferred to local and regional authorities, which in turn led to the introduction of a contractual instrument shared between the state and the local authorities, known from 1993 as a *Zone de Protection du Patrimoine Architectural, Urbain et Paysager* (ZPPAUP) (or “architectural, urban and landscape protection zone”). The purpose is to enable the **protection and management of the heritage** and can include the establishment of a “perimeter for real estate restoration” the purpose of which is to rehabilitate buildings within the perimeter with the assistance of tax incentives. This also provides a good example of the co-operative approach of integrating heritage conservation into spatial planning policies as advocated by the *Granada Convention*. 600 ZPPAUPS have already been approved and a further 400 are in the process of creation. Since 12 July 2010, following the enactment of the *loi Grenelle 2*, ZPPAUPS are being transferred to become *Aires de mise en valeur de l'Architecture et du Patrimoine* (AVAP) (“architectural and heritage enhancement areas”) with a target deadline of before 13 July 2015. The AVAP is developed according to the same principles as the ZPPAUP, but with stronger sustainable development objectives similar to the approach adopted for the PSMV<sup>23</sup>.

<sup>22</sup> Further information on *secteurs sauvegardés* can be retrieved from: <http://www.an-patrimoine.org/Secteur-sauvegarde>

<sup>23</sup> Further information on ZPPAUP/AVAP can be retrieved from: <http://www.an-patrimoine.org/ZPPAUP->

To **assist restoration and rehabilitation action** in these two types of protected areas, tax incentives are given, for example, to promote collective restructuring rehabilitation schemes to provide housing for renting and since 2009 the tax relief system has been extended to include properties in business use, particularly aimed at maintaining buildings with ground floor local shops in historic centres, and whilst state funding through grant aid is generally low in designated areas compared to individual monuments, many municipalities provide grant aid subsidies for façade restoration work<sup>24</sup>.

By contrast the idea of having specific area-based heritage-planning mechanisms has not really been developed yet in SEE countries, apart from a few isolated examples, which are mainly in the context of management plans for world heritage sites.

Using another example of integrated mechanisms, the UK's national planning policy framework identifies that local planning authorities (LPAs) should set out in their Local Plans "a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats". In doing so, they are directed to "recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance" which includes "sustaining and enhancing the significance of heritage" and "putting them to viable uses consistent with their conservation". In developing policies in their Local Plans LPAs must take into account "**wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring**", recognise "the desirability of new development making a positive contribution to local character and distinctiveness" and take "opportunities to draw on the contribution made by the historic environment to the character of a place"<sup>25</sup>.

Moreover, apart from the emphasis that has to be put on the historic environment and heritage assets in the approval of all local plans, these plans form the basis for decision-making on permits for construction and development. Listed building consent applications (for works, or alteration or demolition) are directed to the same LPA for determination as is all applications for "planning permission" (for development), and in the case of demolition works in conservation areas the present system of conservation area consent applications (required for demolition of buildings) is to be merged into the system of planning permission (so that local planning authorities will only require one type of application)<sup>26</sup>. This is possible because LPAs are the relevant authorities for determining the majority of heritage consents for "designated heritage assets" (i.e. in the case of World Heritage Sites, Listed Buildings, Registered Parks and Gardens, Registered Battlefields or Conservation Areas) and have **specialised conservation and historic environment staff within the planning department** (specialised government organisations such as English Heritage are only involved in the most significant cases). In relation to protected archaeology, scheduled monument consent applications are sent directly to the relevant Secretary of State for determination and given particular scrutiny (generally overriding all development proposals), but for non designated archaeological heritage the LPA is responsible for decision-making. This approach aids better management of the heritage resource, through an integrated system between land use planning, development control and heritage protection in which the **impact of any proposed works are scrutinised** before consents are given. Where a proposed development will lead to substantial harm to or total loss

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AVAP

24 Pickard, R. (2010): 'European Heritage Laws and Policies and Planning Regulations: Integration, Regeneration and Sustainable Development', in Guštin, M. and Nypan, T. (Eds.) (2010): *Cultural Heritage and Legal Aspects in Europe*, Annaltes Mediterranea, Koper, Slovenia, 2010.

25 See note 9: National Planning Policy Framework at paragraph 126: Great Britain, Department for Communities and Local Government (2012): *National Planning Policy Framework*, Crown Copyright, London, UK, March 2012 at p.30. Retrieved from: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

26 This awaits the enactment of the Enterprise and Regulatory Reform Bill which is presently being debated in the UK Parliament. This Bill is also considering new arrangements for "Heritage Partnership Agreements" which may be entered into between local authorities and owners of listed buildings for which listed building consent is granted for certain works (not works of demolition), giving greater surety to owners about how they can manage their property. Retrieved from: <https://www.english-heritage.org.uk/about/news/eh-responds/heritage-reforms/>

of significance of a designated heritage asset, LPAs are directed to refuse consent, (unless there are *exceptional circumstances*, for example that substantial public benefits can be gained that outweigh that harm or loss).

By contrast, in Croatia, regardless of the regulations in force, the draft Heritage Assessment Report identifies that when drawing up their plans, town planners do not sufficiently take into consideration the proposed conservation protection measures, recommendations and guidelines, which results in the poor protection of cultural heritage in the adopted physical planning documents. Economic pressures can frequently damage cultural heritage interests due to the demands of local authorities. Physical plans do not always fully integrate heritage interests as a result. The consequence of such an approach is the **inadequate use of cultural heritage** as an important element of tourism and economic development of the areas for which physical plans are made. It has been identified that procedures could be improved by joint actions or the development of joint policy mechanisms (between relevant ministries and institutions) to ensure heritage interests are fully considered in relevant strategies and physical planning documents as is the case in the UK and France. **Inter-Ministerial dialogue** is required to improve integrated methodology mechanisms in this sphere.

In Serbia, inter-sectoral cooperation is part of the procedure of drafting and adopting planning documents from the local to the national level. Relevant planning authorities (responsible for the preparation and adoption of planning documents) are required to obtain data on the existing situation, as well as the conditions for use of cultural heritage from the competent institutions for the protection of cultural heritage. These conditions are, in theory, imbedded into the planning document and should represent an integral part of the documentation basis of a planning document. Also, the procedure of drafting planning documents usually involves experts working with cultural heritage or representatives from the Ministry of Culture/Institutes and representing an integral part of the plan drafting team. Experts should also revise the draft planning document to ensure that the plan meets all legal obligations. Unfortunately, the implementation of spatial plans represents the weakest phase in the planning process, therefore numerous planning solutions regarding cultural heritage are not being implemented in the envisaged timeframe. In some cases proposals defined by the plans are never implemented. It has also been identified that the requirements of building permits are not always properly followed and there are now many examples in local government areas. The most severe consequence of this is illegal construction, leading to multiple and irreparable impact and spatial consequences regarding cultural heritage assets.

In order to improve the integration between spatial planning, building permit mechanisms and cultural heritage protection, the draft Heritage Assessment Report has identified the need for improved inter-sectoral cooperation, and **horizontal and vertical coordination**, as well as further improvements in the registration system for the cultural heritage and information systems for spatial development (by introducing GIS technology), which requires that adequate funds need to be provided for these purposes. It has also been stated that cultural heritage needs affirmation as a potential and resource for future development, one that could be a key component of sustainable development through adequate measures and protection, along with the “simultaneous cessation of the practice whereby cultural heritage is kept intact” and investments made solely for its protection, i.e., with adequate measures, cultural heritage can should be able to serve as a stimulus for development.

In BiH some problems have occurred because the bodies responsible for plan preparation (usually municipal authorities) **have insufficient information** about the existence of cultural and historical heritage properties or fail to implement safeguards established by the decisions of the State Commission to Preserve National Monuments to designate some property ensembles as national monuments. There are also instances when the protection of heritage is seen as an **obstacle** in the planning of development projects (power plants and facilities, office buildings, infrastructure facilities, etc.), and some government agencies are unable to meet the demands of both sides. There is a lack of adequate strategies for the cultural heritage at all levels, particularly at the state level, especially regarding the use of heritage for economic and tourist potential, which would further contribute to economic

progress. There are also instances when building permits are issued under pressure (economic and political) and to the detriment of the cultural heritage sites.

These three examples contrast with the western European approach and identify the need to improve the integration of heritage in the planning and development process, including recognising its potential for rehabilitation and sustainable use and development.

## I Conclusion

What conclusions can be drawn from this debate? There is still a considerable gap between the measures adopted in western European countries (in the EU) which have implemented the principles of integrated conservation mechanisms, with a positive regard to “Heritage Assets”, and those countries-in-transition (or in pre accession status), by example in South East Europe, which tend to retain a protectionist view concerning “Cultural Property”.

Whilst the SEE countries are often quick to ratify European and international conventions concerning the cultural heritage, implementation in practice is more difficult.

The draft Heritage Assessment Report for Croatia identified that *“The special conditions and protection measures pertaining to cultural properties are mandatory and mostly restrictive so that potential investors consider them as an additional burden. They disregard the potential benefit that may be gained from investing in cultural property. This represents a need for guidance for encouraging rehabilitation / exploitation of heritage and/or an awareness raising campaign”*. This sums up the situation in most SEE countries.

In times of economic crisis, how can things be improved or changed? In fact it is not just the situation of economic crisis that is preventing change - is more about the approach that perhaps needs to be adopted.

One of the key issues from this debate is that there may need to be a shift from the scientific protectionist view about the heritage which centres on keeping it “in tact” and making investments on that “protection basis”, to a focus on adopting measures to ensure that the cultural heritage can be an “asset” and serve as stimulus for economic and social development, sustaining and safeguarding it for future generations. The *Faro Convention* is directed more towards the values “for society”.

One issue is the lengthy process of valorisation of the heritage which is required before it is permanently “protected”. This requires a lot of expert resources and the dedicated work of specialists. But as the Council of Europe guidance recognises the importance of information and documenting it, it also identifies that it is not necessary to know everything before a decision to protect can be made, clarifying merely that is desirable to have “sufficient information” to make the decision, including through appropriate criteria for selection, which can be judged quite quickly through rapid surveys. It may be appropriate to consider the idea that the proposer of works should identify what is of significance and justify proposals in that light, providing enough information for the experts to scrutinise whether this is actually the case.

What is also important is the digitalisation of information, so that there can be improved access to it (including by the heritage experts, the public, investors, owners and for the planning system – so that the heritage can be more effectively managed in an integrated process).

In times when economic resources are stretched it is important to use them effectively, which means good management and the development of appropriate tools and skills. Improved management of information may be gained through assessing priority needs where cultural heritage is at risk or under threat from decay, disrepair, partial occupation and use, abandonment and unauthorised action.

Resources could be directed to improve inspection services to check this information and take appropriate actions and also to establish a Register of Endangered Heritage (for whatever reason) which would assist this process and aid the prioritisation of actions. Sanctions and enforcement action against unauthorised or criminal actions must work in practice. This requires effective inspection services, effective penalties, better coordination

between relevant authorities (inspection concerning both construction activity and activity in relation to cultural property, with the police, customs officials and through the courts) and also better use of information, such as by developing a Register of Prosecutions against Cultural Heritage and publicising prosecutions to show that “crime does not pay”. Moreover legal penalties may need to be increased to provide an effective deterrent, particularly in present times when economic circumstances may encourage more crime.

Identifying priority needs allows scope for limited resources to be directed towards those priority needs. Balancing this with the idea that heritage “assets” should benefit society may mean that new skills are required in feasibility studies, fundraising and expertise in making funding applications, and business management, which may not be the traditional roles of the heritage experts. Moreover, research may be required to assess ingenious ways of raising and managing finance (such as the case of the Heritage Lottery Fund) and through good practice mechanism such as encouraging sponsorship through establishing foundations and providing an appropriate level of tax relief to encourage major donors.

Legal provisions to allow managed change to heritage resources through “management agreements” to define where and how changes could be made to heritage assets would encourage better management by owners and also more scope for potential investors by giving greater confidence about how their financial resources are invested, rather than simply having a prescribed list of what needs to be done to bring cultural property back to an “original form”, which can never be achieved because time has moved on and what was original was from some other time period.

The use of management plans for areas of heritage importance can also be used to encourage “managed change” to keep older areas alive, particular if financial resources can be directed both at the heritage assets, but also how to use them in meaningful way for society (such as to provide social housing or business development associated with tourism). The examples provide in relation to France, Germany and the UK focus attention on areas of heritage interest which may be socially and economically in decline. Management plans also help to make the link between the competences and responsibilities of different authorities. However, in order make the integrated process more effective there must be greater awareness amongst heritage officials, planners and politicians about the value of heritage for society, and about how the heritage can be a resource for sustainable exploitation and use.

This requires awareness-raising and in order to do this it may be necessary to undertake research studies. The results of evaluation studies into the benefits of investing in the heritage, as indicated in Germany and the UK (and has been more significantly assessed in North America), and as is being developed in the context of the Ljubljana Process II, can provide powerful arguments to politicians about directing financial resources to heritage assets and their sustainable exploitation. The direct benefits can be seen in relation to immovable cultural heritage monuments, buildings and sites being saved from disrepair by conservation, or saved from abandonment, or restored and rehabilitated to provide a function for society including social and economic, as well as cultural uses. The indirect benefits should be assessed in wider terms, for example in relation to training opportunities and skills development, traditional craft skills maintained and jobs created or maintained in these specialist skills, new business created in and in relation to heritage assets including through tourism, new homes created and maintaining the character and quality of places where people want to live, funding and investment attracted from external sources, improved business turnover for business particularly for those supply materials, jobs created in the tourist industry, etc. The most powerful argument to politicians may be the improved tax revenues that are created through the jobs that are created directly and indirectly and from the new and improved business activity. This requires research and the results of the research to be properly and effectively disseminated.

However, in order to take this approach there will need to be shift of direction and mindset and possibly changes to institutional priorities and staffing so that there can be a greater focus on the idea that the cultural heritage comprises “assets”, capable beneficial use for society, and not simply museum pieces.

Bled Castle. Photo: Miran Kambič.





## Heritage Management through Planning and Information Tools

### Abstract

*The article<sup>1</sup> gives a condensed overview of the situation of integration of heritage issues in spatial planning across Europe and in this context the online accessibility of heritage information as one of the spatial data sets. These information and services are used for better and timely management of heritage and application of protection standards when heritage is faced with development needs and interests.*

*Heritage protection through planning started nearly forty years ago and ever since developed into the most important tool in terms of heritage management. A brief comparative study is presented to illustrate the specificity of integration of heritage and spatial planning in individual European countries (UK - England, France, Germany - Bavaria and Slovenia). Each country has developed unique information tools that mirror the history of inventorisation, protection measures and planning control. Most European countries replaced traditional alphanumeric inventory databases with computerised ones, and in some cases have built complex information systems by combining different data sets, and enabled interoperability with other institutional information systems.*

*Finally as a case of good practice, the prototype of spatial visualization: lines of sight is presented. The tool has been tested in the context of 3D Urbanism of the Municipality of Ljubljana. Lines of sight analysis of a given part of a townscape reveals the visibility of cultural heritage before and after the potential new development and encourages protection of heritage assets through urban planning.*

### I Introduction

The focus of our overview is in fact the intersection of two systems: heritage protection at one side and urban (spatial) planning at the other. Especially the latter has been for decades using complex information tools and network services. The paper gives an overview of tools used for integration and visualization of information supporting the development and protection of heritage assets as an important part of spatial data sets and network services. In other words we are dealing with heritage management through (spatial) planning as indicated by the use of information tools that support their online accessibility.

In most countries, the legal systems provide two basic means for heritage conservation:

- by integrating heritage issues in spatial planning and thus in execution of interventions in physical (geographical) space – in this aspect, the position of heritage is similar to that of nature conservation and environmental protection issues,
- by designating a special status to heritage, regulating the heritage management in all regards, not solely when executing interventions in heritage assets and their immediate surroundings.

In these two basic ways protection measures detail or, alternatively, apply legal norms to specific instances of heritage management.

Integration of heritage into spatial planning is of utmost importance due to two reasons: in this way, many other structures, sites and areas benefit from protection alongside statutory protected assets - namely those without features justifying statutory designation which are nevertheless important parts of the spatial context, contributing to its recognisability

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<sup>1</sup>The article summarizes the research project "Information Tools for Integrating Cultural Heritage Into Urban Planning", Authors: Vodeb, V. et al., financed by the Research Agency of the Republic of Slovenia, 2009-2012.

and quality. The second reason is that when advantages and limitations resulting from the phenomenon of heritage in the spatial context are timely taken in consideration, it is possible to influence decisions at an early enough stage and thus contribute to active protection. Therefore, the purpose of combination of planning and heritage protection is to establish parameters for as effective heritage management as possible – in other words, the assertion of spatial arrangements that respect special protection requirements and enable solutions and spatial implementation conditions that guarantee long term heritage conservation and regeneration.

Heritage integration into urban (spatial) planning has first being put as an international standard in 1975 and 1976 when the so-called Amsterdam Charter was adopted by the European ministers, responsible for cultural heritage. Faced with negative results of quick urban development causing dilapidation of urban fabric and deterioration of social structure of European historic centres the ministers urged national and local authorities to make heritage conservation one of the first consideration in all urban and regional planning. Since then, integrated conservation was codified in many international legal instruments, especially in the Granada Convention for architectural heritage, Malta convention for integrated conservation of archaeological heritage and in Faro framework convention for sustainable use of heritage as an element of environment and quality of life.<sup>2</sup>

The question of to what degree heritage is integrated in planning can be analysed also through the overview of the treatment of heritage data as spatial data sets and network services at the disposal of general public. The overview and related works show that the solutions can be divided into three main groups:

- separate GIS-supported heritage data sets accessible online. These have two subdivision:
  - data sets compiled mainly to support heritage research (for example Mega Jordan - The National Documentation and Management System),<sup>3</sup>
  - data sets for multi-purpose needs (identification, study, interpretation, restoration, planning, awareness-raising) (for example: BayernViewer - denkmal, Atlas des patrimoines,<sup>4</sup> Calgary Inventory of Evaluated Historic Resources, Historic Scotland<sup>5</sup>).
- GIS-supported heritage data sets with special application for spatial planning purposes (for example: Irish National inventory of architectural heritage NIAH -Buildings Survey<sup>6</sup>),
- heritage data from different sources (not necessarily from official heritage inventories) collected for integration in spatial data sets and services as one of its layers (for example: Dati Territoriali della Regione Veneto. Patrimonio Culturale Architettonico e Artistico<sup>7</sup>, Stadt Graz – WebGIS Flächenwidmungsplan der Landeshauptstadt Graz<sup>8</sup>, SITBEC - Sistema Informativo Regionale Territoriale per Beni Culturali<sup>9</sup>, BruGIS<sup>10</sup>).

## I Overview of situation in selected countries

In order to get a more detailed view of how protection through planning operates we prepared a short presentation of planning systems from the perspective of how heritage matters are integrated in GIS supported spatial data services in individual European countries.

<sup>2</sup>European Charter for architectural heritage (1975), <http://www.fcpcrv.com/images/pdf2011/english/5%20European%20Charter%20of%20the%20Architectural%20Heritage%20281975%29.pdf>; Convention for the Protection of the Architectural Heritage of Europe (Granada, 1985), <http://conventions.coe.int/Treaty/en/Treaties/Html/121.htm>; European Convention on the Protection of the Archaeological Heritage (Revised 1992), <http://conventions.coe.int/Treaty/en/Treaties/Html/143.htm>, Council of Europe Framework Convention on the Value of Cultural Heritage for Society (Faro 2005); <http://conventions.coe.int/Treaty/EN/Treaties/Html/199.htm>, 3.3. 2012.

<sup>3</sup> See <http://www.megajordan.org/>.

<sup>4</sup> See urls mentioned in note no 41 and 27.

<sup>5</sup> See <http://www.historic-scotland.gov.uk/index/heritage/historicandlistedbuildings.htm>.

<sup>6</sup> <http://www.buildingsofireland.ie/>.

<sup>7</sup> See <http://idt.regione.veneto.it/app/metacatalog/index?deflevel=1>.

<sup>8</sup> See [http://geodaten1.graz.at/WebOffice/synserver?project=flaewi\\_3&client=flex](http://geodaten1.graz.at/WebOffice/synserver?project=flaewi_3&client=flex)

<sup>9</sup> See [http://www.sitbec-fvg.org/content/cont.asp?CSez\\_ID=INFO](http://www.sitbec-fvg.org/content/cont.asp?CSez_ID=INFO).

<sup>10</sup> See <http://www.brugis.irisnet.be/brugis/framesetup.asp>.

## **\_United Kingdom - England**

Compared to other (continental) European countries, United Kingdom and particularly England have a unique system of planning and of integrating heritage protection into planning process. The brief characteristics of UK system, apart from being divided into more or less autonomous regions according to the UK political system (England and Wales, Scotland, Northern Ireland) is that planning documents are not the only source of development control - the authority issuing development permits has to take into account "material considerations" as well, and heritage in its diverse forms is regarded as an important part of material considerations. In contrast to other countries, plans (and in particular local ones) and building regulations are not legally binding to the extent that every detail or regime has to be fully implemented by individual planning decision.<sup>11</sup> At one hand the system gives planning authorities an important discretion and on the other national, regional and local policies need to be formulated and harmonised well in advance in order to give good support to decision making process.

The second characteristics of English planning situation is that local authorities have the mandate to issue planning permissions as well as consents that are needed when cultural heritage may be affected by a proposal (including by development affecting the setting of a heritage asset).<sup>12</sup> The latter is true for grade II listed buildings while the upper graded heritage assets and especially ancient monuments consents are regularly issued by heritage authority at the national level (Secretary of State, responsible for Culture, Media and Sports). In such cases, English Heritage (the Government's statutory adviser on the cultural heritage matters) is consulted.<sup>13</sup> Thus, English Heritage does not have powers for issuing heritage consents. According to the Planning (Listed Buildings and Conservation Areas) Act 1990, English Heritage may, upon a request from the investor, issue a Certificate of Immunity which guaranties that a property in question (not being a part of heritage list) will not be statutorily protected in the given period.<sup>14</sup>

The answer to the question which data are to be used by (local) authorities when preparing plans is not a straightforward one. There are two data sets containing data of statutory protected heritage assets: ancient monuments and listed buildings (grade I, II\* and II) which were recently, together with some other data sets, merged in one national record, the so-called National Heritage List for England.<sup>15</sup> The record has many functionalities and allows data to be searched, browsed, filtered and downloaded. It is also GIS supported. Individual heritage assets, upon entering the database, are also displayed on ordinance maps. It needs to be underlined that maps are intended to aid identification of the listed heritage only, do not contain legally binding information and must be read in conjunction with other information in the record. Planning documents, including maps are, on the contrary, accessible online only after the adoption and even this not as a general rule. This means, that they serve as a source of information about planning status of a given spatial context and one can consult them only in pdf format which secures their formal nature.

## **\_France**

Urban planning or as the French call it, urbanism, has a long tradition. It should be stressed that it can also be considered as the other part of the coin of regional planning and has been always underpinned by financial and land policy measures (or better to say it has been an instrument of development and social policies). Over time, the planning system has developed in the direction from a fairly centralised one to a more flexible and decentralised corpus of planning responsibilities and procedures so that the main implementation responsibility lays in the hand of local authorities.

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11 Planning control in Western Europe, pp. 411-412.

12 Planning control in Western Europe, pp. 9, 30 and 31,

13 European Heritage Network, Chapter National Heritage Policies, United Kingdom, theme 2.1.1 - Competent institutions, and theme: 4.2.4 - Responsibilities structure for protection, last modification 2009-01, [http://www.european-heritage.net/sdx/herein/national\\_heritage/voir.xsp?id=intro\\_UK\\_en](http://www.european-heritage.net/sdx/herein/national_heritage/voir.xsp?id=intro_UK_en).

14 Designation Department, English Heritage: Fact Sheet Certificate of Immunity (2011), p. 1, <http://www.english-heritage.org.uk/content/imported-docs/a-e/coi-guidance-2011.pdf>. 25.10.2012.

15 <http://list.english-heritage.org.uk/default.aspx>, 29.10.2012.

French Code d'urbanisme<sup>16</sup> (Urban Planning Code) defines, among others, national and regional planning instruments such as territorial planning directives<sup>17</sup> - directives territoriales d'aménagement (together with territorial planning and sustainable development directives - directives territoriales d'aménagement et de développement durables) and three sets of schemes<sup>18</sup> (guiding scheme for the region of Ile-de-France - schéma directeur de la région d'Ile-de-France, scheme for territorial cohesion - schéma de cohérence territoriale - and scheme for a given area - schéma de secteur) where the first two cover larger territories and the latter in principle an area of a local community or its part). The main instrument of urban planning is the so-called local urban plan (plan local d'urbanisme)<sup>19</sup> which is not obligatory neither does it need to cover the whole territory of a commune. When appropriate, a territory of a commune at its own or in conjunction with other neighbouring communes can be covered by the so called local authorities' charts<sup>20</sup> (cartes communales), while development conducted under the auspices a state authority can be implemented on the basis of the so called concerted planning scheme (schéma d'aménagement concerté)<sup>21</sup>. On top of these general instruments, Code d'urbanisme places some specific land policy measures in form of, among others so called secteurs sauvegardés at the disposal of planning authorities.<sup>22</sup> The closest English translation of secteurs sauvegardés can be conservation area. The planning instrument in this case is called a "plan de sauvegarde et de mise en valeur" (conservation and enhancement plan).

Not to enter into much detail, we want to indicate some general features of the French planning system in taking into consideration the way heritage is included. It can be evaluated as a good example of the integration of heritage concerns. Protection of heritage is treated as an integral part of sustainable development and at the level of principles there are no divergences between planning and protection. The strong point of French planning law is that it provides for procedures intended for reaching compromises between different interests. Planning is also more and more concerned with meeting quality objectives in terms of assuring quality of life, of services, of environment protection and, last but not least, of urban form and architectural design.<sup>23</sup> Following these objectives, it turned away from the mechanic of zoning, from preferring new housing over rehabilitation, new traffic arrangements over public transportation service and so on. France was also pioneering in the field of conservation areas protection with the so called Loi Malraux. "Conservation areas are created and their boundaries defined by a joint order issued by the Minister for Culture (in the case of architecture) and the Minister for Infrastructure (in the case of town planning) after consideration by the municipal council or councils concerned and consultation with the National Conservation Areas Commission (Commission nationale des secteurs sauvegardés)."<sup>24</sup> Similar to this tool, zones de protection du patrimoine architectural, urbain et paysager (ZPPAUP, architectural, urban and landscape heritage conservation areas) were installed by the Code du patrimoine in 2004 (ZPPAUP are a kind of refinement of the older, mechanically defined abords des monuments historiques - buffers zones of historical monuments with the fixed perimeter of 500 meters).<sup>25</sup> With recent legal changes, ZPPAUP are replaced by Areas for Enhancement of Architecture and Heritage (aire de mise en valeur de l'architecture et du patrimoine). This planning instrument which is, similarly to ZPPAUP intended for use at the local planning level, will be fully implemented in the next years.<sup>26</sup>

16 Code d'urbanisme: Consolidated version of 26 August 2012,

17 Volume I, Part 1, Chapter III of the Code.

18 Volume I, Part 2, Chapter II of the Code.

19 Volume I, Part 2, Chapter III of the Code. This type of planning documents replaced the old plan d'occupation des sols (POS) in 2000.

20 Volume I, Part 2, Chapter IV of the Code.

21 Volume III, Part 1, Chapter I.

22 Volume III, Part 1, Chapter III. In this case, Code de 'urbanisme has integrated the so-called Loi Malraux of 1962.

23 Planning control in Western Europe, p. 183.

24 European Heritage Network, Chapter National Heritage Policies, France, Theme: Knowledge and Protection, Chapter: 4.2.2 - Urban planning and environment legislation, [http://www.european-heritage.net/sdx/herein/national\\_heritage/voir.xsp?id=intro\\_FR\\_fr](http://www.european-heritage.net/sdx/herein/national_heritage/voir.xsp?id=intro_FR_fr).

25 See note no 15.

26 Planchet (2011), p. 1 and 7.

In parallel to the evolving planning instruments, a significant progress in heritage inventory has also been made. From the starting point in 1964 when the work on compiling and publishing the General inventory of Monuments and Art Treasure France (Inventaire général des monuments et des richesses artistiques de la France) set off,<sup>27</sup> different data sets, including the ones compiled by regional authorities, were first digitalised and put on-line (in the first place the so-called data sets Merimée and Pallisy for immovable and movable heritage)<sup>28</sup>. During the next phase (after 2007)<sup>29</sup>, different data sets on immovable heritage were georeferenced and connected via a metadata enabling the spatial identification and access to the relevant information through maps (type of heritage and type of statutory protection, including secteurs sauvegardés). The system can be used, among others, for urban planning. The access is made easier by using a single portal, the so-called Atlas of heritages (Atlas des patrimoines).<sup>30</sup>

Nevertheless, if a local urban plan which does not fall under the requirement of applying environmental assessment (and in its framework also heritage assessment) the law does not oblige local authorities to take in consideration protection and enhancement of heritage of local importance as long as it is not protected at national or regional level.<sup>31</sup>

### **Germany - The Free-State of Bavaria**

The federal political system of the Republic of Germany gives the right to set legal provisions for heritage protection to the States (Länder) that constitute the Federation. On the other hand, the framework for the planning in its different functions, layers and forms is given by the Federation: all the relevant norms are included into the so-called Baugesetzbuch. Its predecessor was enacted in 1961 and since then, the framework planning act was amended on several occasions and individual pieces of legal instruments were incorporated in it.<sup>32</sup> The main course of the development has been directed towards enlarged responsibilities of the Länder and local communities (Gemeinde and Kreis).

The Free-State of Bavaria has, on the basis of federal planning regulations, developed additional regulations<sup>33</sup> - ad its own planning praxis. From the perspective of territory in question, there are two main areas: planning of settlements (Ortsplan) and landscape planning (Landschaftsplan). Ortsplans can be further divided into two types of documents: the land-use plan (Flächennutzungsplan) for the whole territory of a local community and the development plan (Bebauungsplan) for selected areas covering settlements or land to be developed.<sup>34</sup> One of the function of the Bebauungsplan is to define measures and procedures for the renewal and rehabilitation of inner cities, towns and villages. So, Bebauungsplan enables more detailed and specific instruments, as well. In central location areas, particularly in redevelopment areas, it makes sense to accommodate certain key facilities in vacant historic monuments and in other buildings essential to the townscape, which enables an adequate function and secure long term use of existent building stock.<sup>35</sup> In this framework, a special programme for urban heritage protection has been at the disposal of local communities since 2004 (Städtebaulische Denkmalschutz Programm).<sup>36</sup>

The cultural heritage side of planning in Bavaria has from the 1970' on developed to the

27 Actes du Colloque sur les inventaires des biens culturels en Europe, p. 141.

28 <http://www.culture.gouv.fr/culture/inventai/patrimoine/> 30.10.2012

29 Pinçon, p. 58.

30 <http://atlas.patrimoines.culture.fr/atlas/trunk>.

31 Planchet (2009), pp. 170-171.

32 The important amendments cover the field of environmental protection, landscape planning, the rights of public to take part in planning procedures, and, last but not least, urban renewal and rehabilitation - with the so-called Städtebauförderungsgesetz (1971, with further amendments).

33 Bayerische Bauordnung (BayBO), consolidated version 2007, <http://www.gesetze-bayern.de/jportal/portal/page/bsbayprod.psml?showdoccase=1&doc.id=jlr-BauOBY2007rahmen&doc.part=X>.

34 Planungshilfen für die Bauleitplanung, pp. 1-2. Bebauungs plan is to be prepared in conformity with Flächennutzungsplan, if not, the latter has to be amended.

35 Ibid, p. 10 and 43, see also note no 22.

36 In 2012 the programme allocated 15.000.000 Euro to cities and towns in Bayern, [http://www.stmi.bayern.de/imperia/md/content/stmi/bauen/staedtebauforderung/programm/bl\\_v\\_gef\\_gem\\_2012.pdf](http://www.stmi.bayern.de/imperia/md/content/stmi/bauen/staedtebauforderung/programm/bl_v_gef_gem_2012.pdf), 2. 11. 2012.

Gesetz- und Verordnungsblatt Nr. 14/2009, pp. 390-391. <https://www.verkuendung-bayern.de/files/gvbl/2009/14/gvbl-2009-14.pdf>

stage where heritage is one of the most distinctive element, at least in Bebauungsplanung. It is important to recognize that the Bavarian heritage protection act was adopted in 1973 and it was changed afterwards mainly to enable greater convergence between planning regulations at federal and state levels. The last modification was enacted in 2009.<sup>37</sup> The main features of heritage protection system in Bavaria is, from the perspective of urban planning, that from its start in the 70ties the notion of “ensembles” was considered with great care and it has been ever since integrated into the local development plans as an important part of renewal and urban conservation initiatives (Stadttsanierung and later Städtebaulische Denkmalschutz). In the 70ties, there were only five development plans for renewal of ensembles,<sup>38</sup> while at the present, there are approximately 900 ensembles entered into heritage inventory and in 2012, for eighty ensembles financial schemes are implemented in the framework of Städtebaulische Denkmalschutz Programm.<sup>39</sup> The Bavarian heritage protection service, State Conservation Office (Landesdenkmalamt), is responsible for preparation and maintenance of heritage inventory and lists.<sup>40</sup> At the same time, the law stipulates that before listing, the State Conservation Office should consult local authorities. All listed monuments and sites are to be considered by the local authorities when performing their public function, especially in planning procedures.<sup>41</sup>

To better perform the task of presentation of listed monuments and sites to the public and to enable the exact transposition of data from the inventory and lists to maps, StateConservation Office started the project of “... cartographic representation of the architectural monuments and archaeological sites on BayernViewer-denkmal.”<sup>42</sup> Architectural monuments are either single buildings or ensembles. The on-line representation of heritage covers the whole territory of Bavaria. It operates on official GIS platform of electronic cadastral maps (run by Bayerische Vermessungsverwaltung – The Survey Office of Bavaria). The data represented on BayernViewer-denkmal are partially official partially still in process of approval or revision. So, the on-line presentation is an open process of constant up-dating.

## **Slovenia**

the state level and the local, municipal level. It also covers the strategic spatial planning and implementation plans. Municipal spatial plans which are of the utmost importance for the heritage protection through planning, may consist of separate strategic documents and more detailed development plans or both subjects are treated in a unique local spatial planning document.

Slovene regulations pertaining to spatial planning recognise three types of spatial plans, namely:

- a National Spatial Plan (NSP) – this spatial act covers planning of state infrastructure facilities or another interventions of national importance;
- a Municipal Spatial Plan (MSP) – this spatial act covers the entire territory of a municipality and prescribes urban planning conditions for construction; and
- a Detailed Municipal Spatial Plan (DMSP) – this spatial act covers planning of municipal infrastructure facilities or other major spatial interventions.

Requirements concerning integration of heritage in spatial acts and methods of taking its protection into consideration are defined by Article 74 of the Cultural Heritage Protection Act (CHP-1).<sup>43</sup> The crucial requirement is that heritage protection should be taken in consideration in preparation of all plans and that plans must include heritage protection measures.

37 Bayerisches Gesetz- und Verordnungsblatt Nr. 14/2009, pp. 390-391. <https://www.verkuendung-bayern.de/files/gvbl/2009/14/gvbl-2009-14.pdf>.

38 Denkmalinventarisierung in Bayern, p. 98.

39 See [http://www.blfd.bayern.de/denkmalverwaltung/denkmaliste/erfassung\\_baudenkmale/index.php](http://www.blfd.bayern.de/denkmalverwaltung/denkmaliste/erfassung_baudenkmale/index.php) and the citation in note no 26.

40 Article 21, paragraph 2, Bavarian Law for the Protection and Preservation of Monuments, [http://www.blfd.bayern.de/medien/dsg\\_eng\\_2009.pdf](http://www.blfd.bayern.de/medien/dsg_eng_2009.pdf), 2.10. 2012.

41 Article 2, paragraph 1, and article 3, paragraph 2 of the Bavarian Law for the Protection and Preservation of Monuments.

42 See <http://geodaten.bayern.de/tomcat/viewerServlets/extCallDenkmal?>, 1.3. 2012.

43 Official Gazette of RS 16/08 and 123/08.

The basic official record of heritage is the database of the Register of Immovable Cultural Heritage.<sup>44</sup> Since 2008, after the adoption of the CHP-1, the internet GIS-version of the register has been upgraded with data on legal regimes of protection, the so-called eVRD.<sup>45</sup> Data on protection regimes is compiled in the Legal Regimes Manual.<sup>46</sup> The eVRD database is a compilation of all data from spatial acts binding until present, and forming an obligatory basis for protection which must be taken in consideration during spatial planning and in interventions in space until the system of heritage protection areas comes into effect. The ministry responsible for cultural heritage prepared the Manual with the aim of giving planning authorities and other users a condensed overview of consolidated texts of all legal regimes of protection effective for the area of cultural heritage in the Republic of Slovenia on the date of publication of the Manual and deriving from various legal bases. Data on legal regimes is linked to each heritage item from the register.<sup>47</sup>

Recently, the ministry, responsible for cultural heritage, published General Guidelines for heritage protection through National Planning Acts<sup>48</sup> and Municipal Spatial Plans<sup>49</sup>. The guidelines cover all types of heritage which are important elements of territorial cohesion and are structured according to general development needs such as construction and other spatial interventions, assessment of impact on cultural heritage and archaeological remains and definition of guidelines of optional nature.

It is hoped that the eVRD system will shortly be upgraded to a system of heritage protection areas as prescribed by Article 25 of the CHP-1. On the basis of such criteria as a common historical context of immovable heritage, similar morphological features and values of heritage in the spatial context, and topographical homogeneity, protection areas and accompanying protection standards will be formulated by implementing regulations. Standards, basic premises and conditions for heritage protection and conservation in spatial context will be specified in implementing regulations on heritage protection areas (Articles 75 and 76 of the CHP-1) adopted by the Government and consequently by the ministry, responsible for cultural heritage, after consultation with local authorities and civil society.

## **I Prototype of spatial visualization: lines of sight**

Lines of sight analysis plays an important role when planning and designing urban environment and is usable for visibility analysis of cultural heritage before and after the new development that affects the surroundings of a heritage asset.

A line of sight is a line between two points that shows the parts of the surface along the line that are visible to or hidden from an observer according to a three-dimensional geographic space.<sup>50</sup>

Prototype has been tested with the data and technical environment of 3D Urbanism of the Municipality of Ljubljana, also developed by authors of the research Information Tool For Integrating Cultural Heritage Into Urban Planning. 3D Urbanism visualizes the existing and planned urban development in Ljubljana. The system has been developed for preparation and implementation of spatial and building regulations and is nowadays a part of the municipal e-administration and involves different actors when preparing and adopting a decision and monitoring the implementation of spatial planning document.

The prototype is simple, yet useful tool for protection of cultural heritage when planning interventions in urban areas, planning new developments in environment, e-participation when screening cultural heritage potentials, valuating real estate and similar.

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44 <http://rkd.situla.org/>.

45 <http://evrd.situla.org/>.

46 [http://giskds.situla.org/evrdd/P\\_11\\_11\\_02.htm#an](http://giskds.situla.org/evrdd/P_11_11_02.htm#an).

47 A version of the on-line register with the Franciscan Cadastre and data on age of individual cultural heritage items was also published recently, <http://giskds.situla.org/giskd/>.

48 Dated 28.1.2013. See [http://www.mizks.gov.si/fileadmin/mizks.gov.si/pageuploads/Kulturna\\_dediscina/NEPREMICNA/ProstorKD/splosne\\_smernice\\_KD\\_za\\_DPN\\_2013-01-28.pdf](http://www.mizks.gov.si/fileadmin/mizks.gov.si/pageuploads/Kulturna_dediscina/NEPREMICNA/ProstorKD/splosne_smernice_KD_za_DPN_2013-01-28.pdf).

49 Also dated 28.1.2013, see [http://www.mizks.gov.si/fileadmin/mizks.gov.si/pageuploads/Kulturna\\_dediscina/NEPREMICNA/ProstorKD/splosne\\_smernice\\_KD\\_za\\_OPN\\_2013-01-28.pdf](http://www.mizks.gov.si/fileadmin/mizks.gov.si/pageuploads/Kulturna_dediscina/NEPREMICNA/ProstorKD/splosne_smernice_KD_za_OPN_2013-01-28.pdf).

50 <http://resources.arcgis.com/en/help/main/10.1/index.html#//00q8000000p2000000>, 15.1.2012.

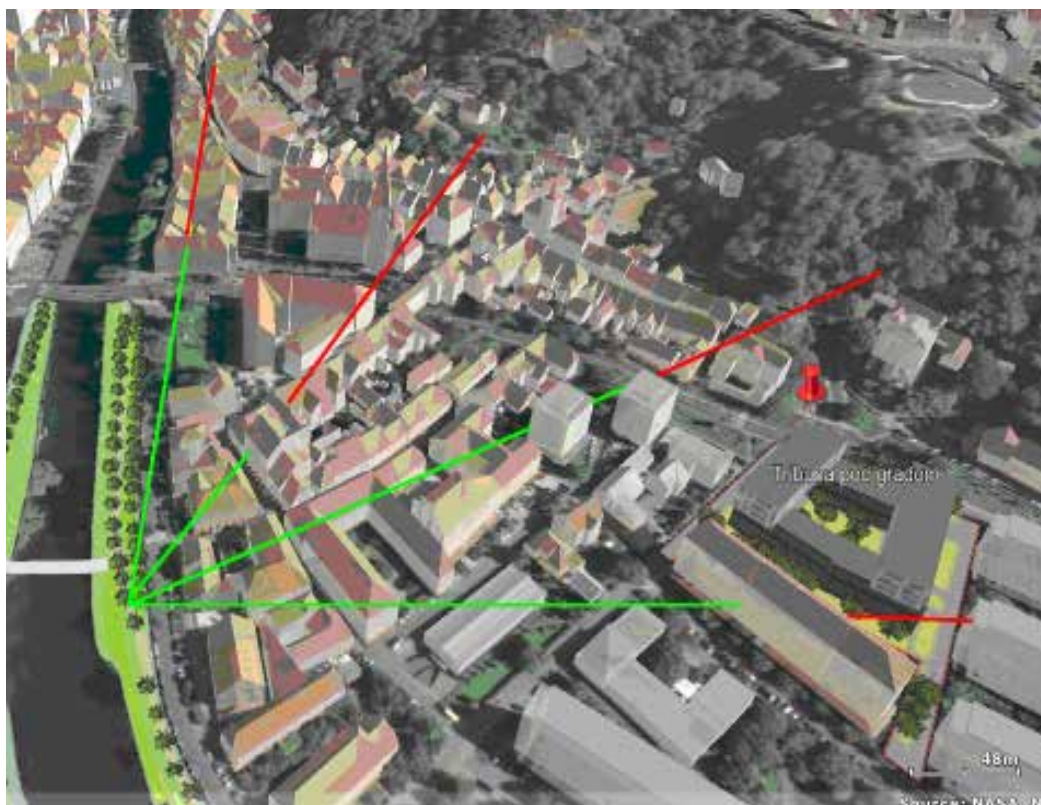


Fig 1: Line of sight analysis in Ljubljana city.

## I Conclusion

The basic requirement of planning authorities is to integrate reliable and standardised heritage data into planning documents. When these requirements are met the planning act fulfils the first need of the so-called “heritage protection through planning”, which is that it carries with it the message “take care and take note”.<sup>51</sup> In order to go further, planning documents need to deliver additional themes. It should set out the spatial and temporal context of the given heritage, present the value of heritage for the local and wider community and, in a condensed way, give information on how the change concerning the given spatial unit should be managed in order to protect and enhance the heritage it contains. In the latter case, two solutions are possible: the plan can give “soft” guidance on how to manage change or prescribe more strict protective regimes.

In order to fulfil all the tasks of integration cultural heritage concerns in spatial planning heritage data needs to be managed consistently, be constantly up-dated and reliable. It is also crucial to collect data only once and to maintain them (preferably in one system). In this way, a consistent and effective multi-purpose use of data, also if combined with other information from different sources and used on different levels can be guaranteed.

Along the lines with similar principles for good information governance, European Union formulated common standards for information infrastructure to be used in the scope of common environmental policy by the so-called Inspire Directive.<sup>52</sup> The INSPIRE system defines, among other 34 spatial data themes, also two themes where cultural heritage is taken in consideration, namely the themes “protected areas” and “buildings”. Each data set included in a spatial information system should be accompanied, among others, by the following metadata: keywords, geographic location, temporal reference, quality and validity of information. Member states have to put spatial information systems online and free of charge including the view, discovery and download services. The requirements of the direc-

<sup>51</sup> Bold, Chatenet (2001), p. 24.

<sup>52</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community.



tive have to be implemented by the end of 2013 if all implementing documents are adopted in time. Among the countries presented in the previous chapter, only Bavarian heritage protection data sets are already put on the central INSPIRE geo-portal. Other countries have not provided their information yet.

It should be noted that European countries with long tradition in heritage protection were late in integrating cultural heritage in spatial planning information system. This is probably due to the historic reasons and the fact that heritage protection gained the status of important development issue long time ago. Heritage authorities rely on heritage inventories (and these were segmented due to history of compiling individual themes of inventorisation) and all of them were regarded as important source of information. In last decades, most countries have succeeded to replace traditional alphanumeric inventory data sets with computerised ones (and such is the case of England, France and Bavaria discussed in the previous chapter). In some cases, heritage authorities have built complex information systems by combining different data sets, and enabled interoperability with other institutional information systems (the case of France, Bavaria and Slovenia).

In parallel to computerised heritage lists and inventories (with or without GIS modules), England pioneered the project of the so-called Historic Landscape Characterisation which succeeded in bringing together different data and with the help of robust interpretation methodology put together complex presentation of (rural and urban) landscape values. Such data are put to the disposal of regional and local spatial planning authorities. Unfortunately, there is no systematic on-line service which would allow access to historic landscape characterisation maps. For public information, results are published only in pdf format. Nevertheless, the Historic Landscape Characterisation shows a possible future development of integration heritage concerns in spatial planning and in development in general.



## The Conservation Scheme as a Legislative Guarantee for Equal Treatment of the Cultural Heritage Protection in Spatial Interventions

### Abstract

*Pursuant to the Slovenian Cultural Heritage Protection Act, the conservation plan may be a component of project documentation for obtaining a building permit if a planned intervention in cultural heritage structures is complex, if there is threat to or danger of destruction of protected values, if conservation-restoration work must be conducted during an intervention, and always for interventions in structural elements of a monument.*

*Despite the broad legal option enabling conservation requirements to be treated in a manner equal to other areas during development interventions in heritage, and the Act being in force for five years, preparing conservation plans has yet to become a fully established part of the practice.*

*The article shows a review of the reasons for this situation and the paths to a solution, as the authorisation by law to prescribe the preparation of the conservation plan is a rare tool for the conservation of heritage in the complex sphere of development. Conservation work must be prudently directed so that the investor sees the commission and approval of the conservation plan not only as meeting a legal obligation but as an offer of assistance by the society, and an opportunity for his success.*

### I Legal Arrangement

The conservation plan is enacted as a possible component of project documentation, needed to acquire a building permit, according to the Construction Act as sector act for construction works, and the Cultural Heritage Protection Act as specific act which also includes provisions for construction works.

**The Construction Act** stipulates that projects for acquiring a building permit for works within a protected cultural heritage area must obtain a protection approval<sup>1</sup>. In addition to the project documentation, other documents shall be a constituent part of the building permit, if so stipulated by law. In this manner heritage protection is included among project documentation, with the same treatment as other fields such as architectural project design, landscape architectural project design, structural project, mechanical installations and other projects, necessary for an intervention.

The **Rules on project documentation** stipulate that the conservation plan is an expert's detailed report as a component of the projects for acquiring a building permit and that it must be attached without fail if required for the intervention<sup>2</sup>. Independently of that, the Rules state for all protected cultural structures that the design of the existing repair must without fail show all the protected parts of heritage in the case of reconstruction or expansion.

**The Cultural Heritage Protection Act** stipulates, in respect of works on cultural heritage, that a protection approval must be obtained as proof that the project at hand conforms to previously issued protection conditions<sup>3</sup>. As a condition, the authoritative protection service may require the preparation of the conservation plan. The Act specifies interventions

<sup>1</sup> *Construction Act*. The Official Gazette of the Republic of Slovenia, Nos. 102/04, 14/05 – correction, 92/05, 111/05 (Constitutional Court's Decision), 93/05, 120/06 (Constitutional Court's Decision), 126/07, 108/09, 61/10 (ZRud-1), 20/11 (Constitutional Court's Decision), 57/12.

<sup>2</sup> *Rules on Project Documentation*. The Official Gazette of the Republic of Slovenia, No. 55/2008.

<sup>3</sup> *Cultural Heritage Protection Act*. The Official Gazette of the Republic of Slovenia, Nos. 16/2008, 123/2008, 8/2011, 30/2011 (Constitutional Court's Decision), 90/2012.

in cultural heritage where the conservation plan must be required in the protection conditions, as interventions in cultural heritage where is possible to require it. The conservation plan may be required in the cases when a planned intervention is complex, in the cases when protected values are under threat or in danger of destruction and in the cases when conservation-restoration works must be conducted during an intervention. The Act states that the conservation plan is always necessary for interventions in structural elements of a cultural monument, i.e. a heritage structure designated as a cultural monument by a dedicated state or municipal act due to its extraordinary importance.

The **Rules on the conservation plan**, as an implementing regulation, specify the content, the form and the manner of the preparation of the conservation plan<sup>4</sup>.

The content and the potential preparers, both defined by the Rules, play a key role in understanding the issue of the conservation plan preparation.

The *Conservation plan* consists of the Analytical section and of the Operational section.

The *Analytical section* serves to ground the recognisability of a monument that consists of:

- key data on the monument,
- a brief description of its development
- and a description of the values of the whole and of individual components.

The analytic section serves also to summarise the findings of potential preliminary researches and to describe protected values and their social importance, the condition of the monument and threats to it.

The *Operational section* prescribes detailed standards for the conservation and protection of the monument. It can also include a spreadsheet of components and a conservation-restoration project. For an intervention in a minor part of a monument, the conservation plan is accordingly reduced to individual parts of the operational section.

## I Promotion of Conservation Plan in practice

Five years after the adoption of the new Heritage Protection Act the conservation scheme has yet to become an established part of the practice. Conservators are reluctant to prescribe it and instead set numerous detailed protection conditions for interventions. Developers are reluctant to commission it, while contractors that prepare it are rare. Regarding the conservation section, there are many expert, legal, and administrative issues concerning:

- alignment of the Rules with the Act,
- content of conservation plans regarding the aim of the Act,
- restriction of preparing conservation plans to conservators of the competent cultural heritage service,
- unclear definitions of its approval, revision, and consent.

These ambiguities reflect unfavourably upon the conservation plan itself. Instead of being seen as an asset of experts, developers, and the entire society in conducting interventions in heritage, the practice only embraces it with reservation. The article clarifies key professional and investor dilemmas, particularly defining the scope of the conservation plan and the problems in relation with its preparation and enforcement in practice.

### \_Scope of conservation plan

Although the content of the conservation plan required by conservators in order to ensure an integrated treatment of cultural heritage is broadly defined, in the operational section the result of the conservation plan only figure as standards for an intervention and not as a specific intervention project. The only part of the operational section belonging to the category of technical projects as components of development documentation is the conservation-restoration project.

Pursuant to the Administrative Procedure Act, an administrative matter is tied to a client's

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<sup>4</sup> *Rules on Conservation Plan*. The Official Gazette of the Republic of Slovenia, No. 66/2009.

application, i.e. to the boundaries of the draft concept of an intervention prescribed by the Construction Act for issuing conditions. The same Act also contains provisions regarding environmental impacts, one of them being the impact of a minor intervention to other heritage. The demand for an integrated study of heritage at the expense of the developer outside the area of potential impacts of a planned intervention is, although professionally sound, problematic from the legal viewpoint. In any case such demand goes beyond the needs of a developer, costing him time and money. Integrated study of heritage should therefore be restricted to the area of potential impacts of a planned intervention.

### **Investor dilemmas**

Open dilemmas of investors are the following:

- additional expenditure for a developer who commissions the conservation plan,
- shortage of widely available conservation personnel for the preparation.

Investors often attempt to avoid a commission. An intervention is made simpler so it can be planned based on detailed protection conditions without commissioning the conservation plan, or a structure is left to decay. In the former case there can be unforeseen complications and consequently unplanned modifications of execution during the development itself, while in the latter the society will most likely lose the said heritage structure and with it a part of its environment. In both cases the aftermath is unfavourable both for heritage and the society.

### **Preparation of conservation plan**

According to the law, the preparer of the conservation plan must be qualified to conduct specialised protection works.

The analytical section consists of conservation assessments of values, importance, and condition of a cultural heritage structure. This is a detailed presentation of contents which must be known when preparing proposals for adding items to the Heritage Register and designation of monuments, and when preparing material for spatial acts. It is possible to enter additional findings based on results of new research, particularly archaeological, architectural, and restoration research. The analytical section results from detailed study of heritage which is a principal task and legal obligation of the competent cultural heritage service. However, the Ministry of Culture has decreed that the Cultural Heritage Service of the Institute for the Protection of Cultural Heritage of Slovenia – although second-to-none in our country regarding qualifications and familiarity with heritage – is disallowed to prepare conservation plans including their analytical sections, which justify heritage values. The reason is the incompatibility of the administrative role of the Service in issuing protection consents to interventions, more precisely the conflict of interest and risk of corruption in issuing said consents.

### **Prescription of protection conditions**

To prescribe the conservation plan as part of project documentation means the inability of the competent cultural heritage service to set any subsequent protection conditions for an intervention, based on new findings. In this way the cultural heritage service is unable to prescribe specific protection conditions for interventions in the most important not yet researched cultural heritage structures.

Standards in the operational section of the conservation plan which serve as orientation for interventions are a vague and potentially questionable addition by the plan preparer to the conditions issued by the competent cultural heritage protection service. The competent service cannot set specific conditions for an intervention. Developers and planners often need lengthy convincing that requirements made by experts regarding the preparation of the conservation plan are sound and correct.

## **I Proposed Amendments for a more efficient preparation of the Conservation Plan**

In order to ensure a more efficient preparation of the conservation plan as the most suitable assurance for correctly conducted interventions, and raising awareness of developers and the entire society, certain constraints and attitudes should be changed:

- It would be appropriate to follow the provision regarding the optional prescription of the conservation plan for all heritage structures and not to restrict this possibility only for monuments as heritage can hide qualities that are not visible to naked eye.
- It would be correct to restrict the preparation of conservation plan components to the required extent, pursuant to the established wording of the Rules.
- It's professionally justifiable to split the analytical section of the conservation plan into the general section with a wider, integrated study of a heritage structure, and the detailed section with an in-depth study of the area and environmental impacts of an intervention. The general section is mandatory when existing conservation documentation on a structure is incomplete – this is set in protection conditions – and in all cases with prescribed preliminary research. The detailed section is mandatory. The analytical section is approved by the competent cultural heritage service, which can also prepare it. Based on the detailed section, it can also set additional protection conditions for an intervention. The operational section consists of general integrated conservation and heritage protection standards and specific proposed solutions based on additional protection conditions for a proposed intervention. A protection approval to the entire prescribed conservation plan must be obtained from the competent service.
- It's a professional necessity to give the Cultural Heritage Service an authorisation by law to issue additional protection conditions for a planned intervention, based on the analytical section of the conservation plan and independently of its preparer.
- It's professionally correct to allow the Cultural Heritage Service to prepare analytical sections of conservation plans as the most competent personnel for this type of work.
- It's urgent to set up the register of qualified contractors for conservation works.
- It's necessary to make the legal option of approving the entire conservation plan consistent with the protection consent. The analytical part of the conservation plan can be approved separately.
- It's appropriate to raise the awareness of developers regarding advantages of the conservation plan due to the importance of cultural heritage and their greater confidence during interventions.

## **I Favourable consequences of proposed Amendments**

The proposed amendments to the Rules on the conservation plan enable the following positive effects:

- allow a balanced treatment of cultural heritage,
- bring about a solution to open contentious legal issues regarding the legality and suitability of provisions in the Rules,
- prevent content overlap in existing conservation documentation and consequently reduce the cost of preparing the conservation plan,
- enable all qualified contractors to produce conservation documentation,
- prevent the often lengthy process aimed to make external contractors conform to conservation requirements of the competent cultural heritage service in preparing the conservation plan,
- increase the confidence of the developer and development project planner in adopting the conservation plan,
- increase the alignment of the entire project for obtaining a building permit with conservation requirements.

## **I Conclusion**

Authorisation by law to prescribe the preparation of the conservation plan is a rare tool for the conservation and development of integrated cultural heritage values in the complex sphere of development. A clear, simple, and rational prescription of this authorisation is in the interest of the society as the caretaker of the cultural importance of heritage, and of the developer as a commercial factor of change. Quality conservation work is evident all around us and reflected by the entire social environment. The society has a duty to prudently direct conservation work so that the investor sees the commission and approval of the conservation plan not only as a legal obligation but as an open offer of quality assistance.

Skyscraper, Vladimir Šubic, Ljubljana. Photo: Miran Kambič.





## **The Fate Of Cultural Monuments The Gap Between What Is Decreed And What Is Put Into Effect**

### **Abstract**

*On the basis of some concrete examples of (non)expert solutions this article discusses some cases of good practice such as the transfer of the monument from state to local ownership and its continued management within the protection standards, as well as examples of inadequate practice, which are the consequences of non-compliance of administrative and professional services or poor decisions and irresponsibility of owners.*

*Special emphasis is given to the authors' presentation of the legislation in specific cases, which are our particular interest since they provide public responsibility and demonstrate the required efficiency in the protection of monuments.*

*In turbulent periods in our country we have sometimes lost the sense of care for public propriety and we were, and in some cases still are, unable to implement basic maintenance for our public goods, including monuments. The use of the adjective "turbulent" does not solely apply to the physical destruction resulting from wars, floods, and earthquakes, but also to the migrations of people, extreme changes in social systems and the nationalization/denationalization of the property concerned.<sup>1</sup>*

### **I Cultural heritage protection in Slovenia: historical roots, development, regulation & practice**

The Slovenian territory has been connected with its neighboring countries throughout its history, which is also the case in the field of cultural property. This particularly refers to the relations with Italy, Germany, and Austria, with Czech Republic in some periods, and more recently also with Croatia and the other territories of the former Yugoslav State. The endeavors and activities mentioned in this framework were not all equally intensive, nor were they productive in all the areas treated within this framework. There are considerable differences between them, but in the initial period the relations and regulations inside the Austro-Hungarian Empire were the most important for the development of systematic endeavors in the field of cultural property protection (CPP).

#### **I Historical survey**

##### **Austria (Austro-Hungarian Empire) from the mid-18th century until 1918**

In Austria itself and in the Austro-Hungarian Empire, which included regions of modern-day Slovenia (Carniola, Styria, Carinthia, Gorizia, and parts of Trieste and Istria), the legal regulation of Cultural Property Protection began relatively early.<sup>2</sup>

The first act in this framework was the decree concerning the protection of archival material (manuscripts, correspondence, and plans) in 1749. Later (1782) the Court Office protected all coin hoards and antiquities with one special decree, and other objects found in the earth (arms, sculptures, stone reliefs etc.) with a second decree, while the finder only had to inform the aforementioned Office about the heavy finds (stone inscriptions, statues). The de-

<sup>1</sup> Jogan, Savin, *Pravno varstvo dediščine*. Koper 2008; Guštin, Mitja. Protecting natural and cultural environments in southeastern Europe. Mader, S. (ur.). Proceedings of the International congress catastrophes and catastrophe management in museums: Sarajevo, 17-21 April 2001. Sarajevo: Zemaljski muzej Bosne i Hercegovine; Innsbruck: Tiroler Landesmuseum Ferdinandeum, 2004, str. 68-75; Boylan P.J., *Review of the Convention for the Protection of the Cultural Property in the Event of Armed Conflict*. Paris 1993, 6.

<sup>2</sup> Pirkovič, Jelka, *Osnovni pojmi in zasnova spomeniškega varstva v Sloveniji*. Zavod za varstvo naravne in kulturne dediščine. Ljubljana 1993.

cree of 1818 prohibited the export of cultural monuments and objects, which contribute to the respect and splendor of the State. Two decrees in 1828 required the notification of the State about the planned export of cultural property and about the immuration of ancient stones in the walls nearby churches. This was the atmosphere when, in December 1850, the emperor issued the decree on the establishment of the Central Commission for the investigation and conservation of monuments and buildings, which became the basic body of the CPP for the entire State.

In the later decentralization of the Central Commission, the most important members gradually became the conservators and correspondents in individual countries (regions). During the Commission's reorganization in 1873, the collaboration between the Central Commission and regional governments and agencies was strengthened and during its last reorganization (in 1911) it was completely transformed into a council for monuments and a monuments office as an administrative agency, giving essential importance to the regional conservators.

The collection of epigraphic finds and a broader interest in antiquity began in the Slovenian territory quite early under the strong influence of the aforementioned normative solutions. Consequently the first professional societies concerned with cultural heritage were founded in the first half of the 19th century.

Later, as a result of the abolition of the obligatory offering of cultural objects to the court cabinet, or their purchase by the court cabinet, some regional museums were established. Among others these included the museums in Graz and Ljubljana in the Slovenian regions (1811, 1821), so that archaeological assets that were discovered were sent to these newly established regional institutions and societies.

The whole system of cultural heritage protection in the Austro-Hungarian Empire was relatively effective, although the idea of special laws governing this area did not come to fruition. Gradually these efforts for the care of the common "transnational" values and the focus on monuments and heritage were strengthened until World War I, when the importance of these things increased for the individual nations.

#### **\_The Kingdom of the Serbs, Croats and Slovenes 1919-1928 and the Kingdom of Yugoslavia 1928-1945**

The "first" Yugoslavian activities in the field of CPP were partly implemented through laws concerning forests (1929) and buildings (1931), while a specific law governing the entire field of CPP was only drafted. The influence of Central Europe was very important on this level and in professional CPP activities. In this framework CPP activities spread from Carniola to all Slovenian regions, and a regional decree on the export of art objects was issued, and the draft order on cultural and natural monuments protection was prepared. In this period the former function of the provincial conservator was replaced by the Bureau for the Protection of Cultural Heritage of Slovenia, which also provided the draft of Yugoslavian law for monument protection.

#### **\_World War II**

During World War II items of cultural and natural heritage were heavily and systematically destroyed - in some cases for genocidal reasons - by the German occupier. Nevertheless, despite the extremely hard conditions, even before the war ended the first normative acts for the protection of some fields of cultural heritage were enacted. On 27. 1. 1945 the presidency of the Slovenian National Council published the decree of protection of libraries, archives, and cultural monuments. This also regulated measures for military activities that concerned the CPP. The Yugoslav national committee also issued the Order on Protection and Preservation of Cultural Monuments and Antiquities (20. 2. 1945).

#### **\_Democratic Federal Republic of Yugoslavia, Democratic Federal People's Republic of Yugoslavia 1945-1963 and Socialist Federal Republic of Yugoslavia 1963-1991**

The specific conditions at the end of World War II – the extreme damage to buildings and other immovable heritage, the decimation of complete regions with their natural resources

and cultural properties, urgent needs for quick renovation without proper materials and experts - demanded urgent and elementary legislation that joined both the cultural and natural heritage protection.<sup>3</sup>

After the enactment of the aforementioned decrees at the beginning of 1945, the first complete Yugoslav law on cultural monuments and natural curiosities was enacted in July 1945. The next one, the General Law on Cultural Monuments and Natural Curiosities (1946) was slightly more elaborated and included provisions on the responsibilities of the State within this framework and delegated some functions from the federal State to the republics.

In May 1948 the first Slovenian law with similar contents was enacted. The general federal law (1959) referred only to cultural monuments, as did the Republic's law in 1961. In 1981, the common law on natural and cultural heritage was enacted. With that legislation the whole heritage, regardless its ownership, came under the protection of the State. The network of professional institutions for the protection of specific types of cultural heritage was founded and the State became the owner of archaeological excavations. The law also determined the penalties for violations of the heritage provisions of the CPP. So those efforts significantly improved conservation activities and other efforts from the interwar period.

In that era the state of heritage protection was mainly influenced by legislation on the nationalization of enterprises and institutions, and the heritage was often neglected or even decaying due to improper care. The subsequent enforcement of the concept of public property and later self-managed communities approached the issues of culture and cultural heritage and involved many local inhabitants in its management, although these efforts were not always appropriately supported in a material and professional manner and therefore were not sufficiently effective.

As an illustration of the social status of CPP protection, we may look to data on the valorization of CPP and the ranking of cultural monuments in the aforementioned periods. The need for a proper classification and valorization of cultural and historical monuments, which form the basis for the focus of public concern, started relatively early. In 1962, the Slovenian Institute for Protection of Monuments published a provisional list of the most important monuments in the territory of Slovenia, which consisted of 590 buildings and sites. After professional discussion and more detailed criteria, in 1974 it was possible to publish a redefined and slightly expanded list of monuments of the first category as the key objects that represent "the highest achievements of Slovenian culture or most typical by its nature and therefore irreplaceable in the Slovenian geographical area".<sup>4</sup> Those sites have international rather than national importance. In addition to this list, lists of sites of regional and local importance were also created.

The regulatory framework for the ranking of the sites also appeared in the Law on Natural and Cultural Heritage, 1981. Article 15 describes the stationary parts of the cultural (and natural) heritage with a particular cultural, scientific and aesthetic value that could be declared as a monument by a competent authority of the local community. If the national or regional parks or other monuments "are of large and extreme importance for Slovenia," a proper act should be declared by the Assembly of Socialist Republic of Slovenia (Article 21), but detailed criteria for this were not provided.

### **Republic of Slovenia (from 1991)**

In the independent Republic of Slovenia only the Law on the Protection of Cultural Heritage in 1999 clearly distinguishes between two categories of monuments - the monuments of national and of local importance. The first group places utmost importance on those items which represent the "crowning achievement of creativity or critical or rare testimony to a particular historical period, monuments of local importance that are relevant to the nuclear or extended local area based on professional criteria" (Art. 5). In order to ensure comprehensive care and effective protection for the monuments of national importance, a specific law on the nationalization of cultural monuments in former social ownership was adopted.

<sup>3</sup> Baš, Franjo, Organiziranje spomeniškega varstva v slovenski preteklosti. Zavod za spomeniško varstvo Slovenije. Ljubljana 1953 (1954), 13-34.

<sup>4</sup> Spomeniki I. kategorije. Zavod za spomeniško varstvo SR Slovenije, Ljubljana 1974.

The current Cultural Heritage Protection Act (2008) does not change the basic definitions of the monuments, but the differences occur within the scope of protection. While the previously mentioned Act (1999) prohibited the alienation of monuments of national importance owned by the State, the Protection Act of 2008 allows that the protection of monuments could be cancelled, if this improves its preservation and public access to the monument. Disposal is not possible for archaeological sites or for monuments declared on the basis of international treaties (Art. 62.).

## **I The reality of realisation of the legal status described**

The relative short period of implementation of the 2008 law shows us some examples of good practice, but also some deviations in the case of rebuilding monuments, along with questionable contemporary professional „doctrines,“ like facadism and reconstructions of monuments, as examples of arrogance and insolvency as well as unsuccessful attempts of selling monuments.

### **\_Examples of good practice**

As examples of good practice we took into account the objects that were legally protected after World War II as the whole property and that today form the cultural infrastructure. For this group it is characteristic that the objects were systematically renovated in advance and the quality of its contents were ensured.

It is about safeguarding the fundamental building structure and placement of appropriate contents with an emphasis on the protection of heritage (museums, galleries). So the presence, the existence, and future of these objects is *via facti* maintained within real financial and professional conditions.

We are primarily speaking of museums or galleries, or buildings with cultural functions such as, for example, the castles in Murska Sobota, Lendava, Ptuj, Maribor, Slovenj Gradec, Velenje, Celje, castle Kiselstein in Kranj, Bistra, Brežice, Podsreda, Metlika, castle Grm in Novo mesto, Kromberk and others.

Some monasteries also have to be included, those that have succeeded in keeping their primary function and that are appropriately maintained, like the monasteries in Pleterje, Stična, Mekinje (Kamnik), Kostanjevica (Nova Gorica) and Piran.

Some monasteries and castle buildings, like, for example, Ljubljana castle, the castle in Bled, and the monastery in Kostanjevica na Krki, serving direct museum-gallery functions as well as those for the substantive wider public space.

### **\_Examples of insolvency, ignorance, and arrogance**

Several monuments were removed or destroyed because of insufficient legal protection and due to the partial interests of local communities in the maintenance of the space, building lobbies, as well as the powerlessness or poor strategies of the competent professional bodies for the protection of immovable heritage. Let us nominate some cases that are especially obvious and may serve as a warning for addressing similar cases in the future.

**Kolizej in Ljubljana**, the very important building of early historicism, was only proclaimed as a cultural property monument in 1993. In 2003 the municipality sold the building to a private owner who presented a plan for demolition and new building development in the area, which was in conflict with the current urban policy.

Only in 2005 its conservation program was accepted in accordance with the proclamation. At the same time the monument was temporarily (for 6 months) listed as a monument of national importance. Since the re-declaration of temporary or permanent monument status was not made, the municipality enacted an ordinance amending the proclamation act in October 2008, which - in accordance with the new law on CPP (2008, Art. 31) – allowed the »planned demolition.« In 2009 the Ministry of Culture published the cultural-protective consensus for research and removal. The destruction of the exceptional monument, one of the few examples of an early historicism in Slovenia began and soon ended in August 2012.<sup>5</sup>

<sup>5</sup> Lazarini, Franci, Kolizej. Umetnostna kronika 32, 2011, 66-69.

The mismatch, a disconnect between the efforts of the professional services CPP on one side, and the local community along with the private owner on the other, is more than obvious. Partial, private interest prevailed as the consequence of the “loosening” protection regime, described in the valid law on CPP in 2008.

The case of the self-destruction of the residential building **Taborska 19 in Maribor** is an instructive case of an extremely inappropriate attitude of the owner, who deliberately left this building in the one of the most important historical streets in town to decay. It is also a good example of the lump protection by Decree, which in fact does not have an effect on the management of built heritage nor does the professional service adequately monitor the state of the object.



Fig 1: The Mansion Thumersfelden, called also “Štok”, 2008.

**The Mansion Thumersfelden**, called also “**Štok**” in Vuzenica, built in 1658 and one of the oldest and largest monuments in surroundings at the end of WWII lost its primary function.<sup>6</sup>

Despite its status as the local monument, it was decaying because the owners were not able to undertake the necessary urgent building rehabilitation. Due to the poor maintenance, or rather total lack of maintenance of the facility, in recent years such a high degree of damage appeared that – following the statement of the CCP agency - the restoration was deemed impossible. The community of Vuzenica – in accordance with the CPP agency – exempted the mansion from the monument protection and enabled the final demolition, which was passed to the owners. In 2007 the object was removed.

In Koper, on the Ukmarjev trg square, the building of the former “**Police station**,” was a good example of a residential building from the early 19th century with an modern annex built in 1957 by Emil Medvešček.<sup>7</sup> The building complex, well situated between the edge of the medieval historical center of Capodistria and its main port was in good shape, but removed 2008 for no obvious reason.

A good example of a conflict of interests is „**CELEIA PARK**,” where a part of the archeological monument was destroyed. Before the construction of the building Celeia Park (2003)

<sup>6</sup> Praper, Jože, Vuzenica znamenitosti in zanimivosti, Vuzenica, 2007, str. 212, 213.

<sup>7</sup> Čebroň Lipovec, Neža, Arhitekturni pomniki povojne izgradnje Kopra po drugi svetovni vojni. Annales, Series historia et sociologia, 22/1, 2012, 221.

was within a protected archaeological area, listed in the Register of Immovable Cultural Heritage. The excavation and an additional probe jam was allowed without archaeological supervision, and later probe fissure caves were filled with concrete. Neither the initial warning of the CPP agency, nor subsequent orders to stop the works and other measures by the Inspectorate for the Protection of Cultural Heritage and the Ministry of Culture, supported by the observations of archaeological expert committee were regarded, and a new multi-purpose commercial-office building was built, but an important part of the Late Antique heritage was destroyed.

Since then a hearing of the case has been held to determine responsibility for the partial destruction of the cultural heritage areas. Finally, in 2013, after ten years, the penal process ended with the conviction of the director and the owner of the enterprise.

**The Castle Radvanje**, declared a cultural and historical monument in 1988, was sold to the private firm Marking Ltd. in 1991, without monitoring of the county. In 2002 the company began the process for obtaining permission to construct two residential blocks with underground garages and parking in the courtyard of the castle. On its construction the responsible CPP agency issued a positive opinion, together with the consensus on the submitted projects. Later, the new leadership of the Institute gave an adverse opinion, the villagers of the local community also protested, and the Inspectorate for the CPP carried out the inspection and began the process of rehabilitation of the matter. At its suggestion, the Minister of Culture sent a proposal to the Ministry of Environment and Spatial Planning to repeal the previously issued building permission for material breach of the law (building on the protected area). The Ministry of Environment did not agree with the proposal and the expiration of the deadline for action by the right of supervision was formally pre-trial satisfied with the statutory requirements for the granting of the relevant cultural protection agreement.

Following the line of questionable decisions, both blocks were erected, and today serve their purpose. Meanwhile, the inspectorate had addressed orders to improve maintenance and to undergo urgent renovation of the protected building to the owner of the castle, but without any results.

#### **\_Sale project of state monuments**

The current law from 2008 has also included the possibility of selling monuments in state ownership. There were some public announcements on a sale of castles owned by the state, including the castles of Bizeljsko, Borl, Gradac, Socerb, Socka, Otočec, Rihemberk, and Viltuš. Until now the only castle successfully sold was Socka.

**Rihemberk castle** (Branik), the oldest (dated to the end of the 12th century) and the largest castle in the Primorska region, was proclaimed a cultural monument in 1985 and a monument of national importance in 1999. In this same year it was nationalized – in accordance with the law. This monument was unsuccessfully put on sale several times and therefore costless transferred to the municipally Nova Gorica with special contract in February 2013. The contract obliges the owner to provide the conservation plan, the plan for the management of the building, and to undertake the renovation (in accordance with previously accepted conservation guidelines) within three years. In seven years the renovated castle has to serve its function in accordance with the contract. Currently, the plans for its rehabilitations are ready and are waiting for confirmation by the Ministry of Culture.

The future will perhaps show the usefulness of such an approach and provide a solution for other similar cases.

#### **\_The „total reconstruction / rebuilding “ doctrine**

The cases presented here are lacking the continuity of research or even the relation between the building conversation works and the profession. The works are carried out long-term and often with the aid of public works, which does not guarantee the professional interventions or even the quality of the reconstructed parts.



**Fig 2: The monastery of Žiče.** Photo: Mitja Guštin.

The doctrine of „total reconstruction / rebuilding“ has appeared in some cases in the wish to most clearly present the ruins for touristic goals. Its long-term goal is a complete reconstruction of the certain cultural heritage sites that have an historic, panoramic, or symbolic value for a certain area. One of the most prominent examples is without a doubt **Celjski grad** (Castle od Celje), where reconstruction works have taken place periodically for almost 50 years in the wish to represent one of the two symbolic objects of the Counts of Cilli and the later Princes above Savinja.

A similar starting point for the total reconstruction is planned also for the Charthusian monastery **Žiče**. With the help of public works “the less demanding” restoration of the walls has already been carried out for a decade; and among the recent proposals “the reconstruction of the monk chambers into the apartments of the hotel” in Špitalič stands out, along with the so-called reconstruction of the roof above the church of the upper convent.<sup>8</sup>

Some countries, like Great Britain and Germany that have a highly developed process to assess the significance of cultural monuments of the same rank as, for example, the charterhouse Žiče, no longer support total reconstructions, but instead “merely” the high quality “archeological” presentations of the preserved parts of the monument.

#### **Fasadizm - „Apple peel doctrine“**

In the last few years the fasadizm, so-called **„Apple peel doctrine“** has reached its peak as an excuse to renovate the cultural monuments as much as possible and most appropriately. The external effect is considered most important: the preservation of the traditional view of the façade and their position in the environment; while new spatial allocations and materials maximize the economization of the interior. The primary cases of this doctrine are the reconstruction of the famous Palace Hotel in Portorož, the construction of the new residential area in Ukmarjev trg in Koper with the two security walls of the classicistic buildings, and the preservation of the façade of the gothic house in Ribiški trg in Koper.

In specific cases we are completely losing the monuments with this approach, which alter the technology and the building materials on one side, as well as their spatial distribution on the other side, and thus negate the possibility of understanding the object in its time.

<sup>8</sup> Oter Gorenčič, Mija, Žička kartuzija. Umetnostna kronika 32, 2011, 77, 78.



**Fig 3** The case of Ukmarjev trg in Koper. Photo: Mitja Guštin.

## I Conclusion

The relation between current legislation and the practical implementation of the heritage protection is quite complex.<sup>9</sup> First, it should be estimated to what extent the analysis or an objective estimation of the actual state in a certain field (in our case CPP) affected the preparation and enactment of the specific law. On the other side it is important to know how the sub acts affect the main goals and solutions as provided by the law. Furthermore, it is essential to determine whether the professional service is adjusted to the contents of the specific laws, which are related to material (financial) and staff possibilities for the full realization of the legal obligations, etc. Because such a treatment without a doubt requires more time and efforts, have we tried to indicate the most significant areas communicated by the law to actual politics and which are definitely a present concern throughout the selected field.

From this generalized point of view it can be concluded that the impact of some legal solutions of the valid law are already reflected in practice. For example, regarding the broad-based attempts at selling national monuments that are state property it is evident that the former CPP law (1999) strictly forbade that possibility, while the current law (2008) enables it, although with a modest indication as an exception. Interesting is the statutory declaration of the reasons for the sale: to enable the proper maintenance and protection of and easier access to the monument.

The question is why it is necessary to search for a new owner when the special law on nationalization was enacted particularly to protect the monuments more effectively. So these vaguely defined goals now cause dilemmas and confusion that is reflected in the mass offering of the monuments of the highest status on the market. This handling was also provoked by the financial crisis, and the overall result is the deterioration of the care for monuments of the highest rank.

The statements of the 1999 and 2008 laws about the pre-emption for the cultural monuments also probably contributed to the unclear situation in CPP ; after the first law it was reserved for the state and municipalities, after the second one both of them can

<sup>9</sup> Jogan, Savin, Slovenian legislation in the field of cultural property protection: data, developments and some dilemmas. M. Guštin, T. Nypan (eds.), Cultural Heritage and Legal aspects in Europe. Koper 2010, 136-159.



transfer monuments to the third person for the same reasons as for selling them. The practice in that field is neither developed nor analyzed, and the deference to the interests of the capitalistic organizations has become more than obvious.

The scarce responsibility of the owners of the monuments has already been described in the omission of the individual decree for monument protection in the provision. The legislation obviously cannot effectively deal with the uncoordinated interests between professional services, state, local communities, and owners in advance – this would require a proper comprehensive strategy of cultural heritage protection, which has not yet appeared.

City Power Plant Ljubljana. Photo: Jovo Grobovšek.



## Heritage of Socialist Industrialisation in the Time of Crisis – Torn between Development and Preservation

### Abstract

*The aim of the chapter is to present the possibilities of protection of socialist industrial heritage that has been, under the conditions of intensive restructuring during the economic crisis, practically unprotected, despite the recognised development qualities and features of the heritage. We are looking for efficient protection approaches on the case study of the industrial complex of Litostroj; i.e. an innovative and economically viable way of protection of (at least the most important) heritage features, which, indeed, have been increasingly disappearing, even though they made a major contribution to the development of contemporary Slovenia.*

### I Introduction

The time of economic crisis is a time when the questions of heritage protection are quickly deemed as 'a cost rationalisation opportunity', particularly because the general opinion regards the heritage as representative of costs. Generally, this means the lowering of the level of protection criteria or even the exclusion of individual structures from registered heritage lists. This is particularly evident in the case of more recent heritage categories, which have not been yet acknowledged by the general public as part of identity.

In the paper, I shall focus on the questions of industrial heritage protection from the second half of the 20th century, as a category of immovable heritage that has been during the current crisis practically left without the possibility of being provided with high protection standards, despite the fact that it represents, in the wider developmental context, an important social capital, and direct and indirect starting points for provision of different kinds of economic opportunities.

### I Problem description

The main question addressed in the paper is the question of exploitation of multiple potentials of industrial heritage in the process of revitalisation of industrial sites. As in older categories of industrial heritage, we refer to the potentials of industrial trademarks, which promote their products through their own museums and the tradition of production complexes, e.g. German car companies that integrate commerce and tradition in their centres, such as BMW, Mercedes, Volkswagen, and many other companies that promote their heritage, trademark and commerce through their museum/exhibition centres. The efficiency of such approaches has created a new category of cultural tourism, i.e. industrial tourism, which has been efficiently organised and developed in Europe, not only at historical sites but in newly constructed structures as well.<sup>1</sup>

Another segment of industrial tourism has been developing at the sites of abandoned industries, which enables the implementation of new programmes and contents at the integration of new contents; indeed, culture, education and creative industries are the activities that have often proven to be the key actors of regeneration of wider industrial areas. A case in point is the abandoned former coal mine Zeche Zollverein, which evolved into a new museum and exhibition site with an innovative and world renowned design centre, mostly because of quality new programmes and the protection of heritage that has been recognised as its key identity element.

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<sup>1</sup> Here, the aforementioned German car industry stands out.



**Fig 1: Design Museum in former Zeche Zollverein coal-mine complex in Essen.** Photo: Jernej Lah.

Industrial tourism has been on a constant rise, which undoubtedly opens the possibilities for the representation of the 'recent heritage', i.e. the heritage of industrial complexes built during the era of socialism, irrespective of whether the structures have been abandoned or are still operating; an integrated inclusion into development processes is one of the key conditions of their preservation.

## **I Working method**

The pursuit of the answer to the question how to most efficiently establish the conditions for an integrated protection of industrial heritage sites of the second half of the 20th century is, despite the aforementioned positive indicators, a complex task where the consideration of different factors, not only those of cultural protection, is required. In the first stage of looking for the adequate approaches, as part of the analytical part of the paper, I shall represent the key actors of regeneration processes at industrial sites, while in the continuation I shall discuss the modifications to the protection procedures. Then, in the synthesis, the case study of the Litostroj factory complex will serve as a case in point for such complexes, and the possibilities and opportunities of heritage protection, both in the light of recognition of the legitimacy of heritage protection and from the point of view of heritage potentials, as a category of social and financial capital.

## **I The basic characteristics of regeneration processes of industrial sites**

Intensive economic changes dictate the pace of processes of spatial restructuring of industrial sites, both of those that are closing and those whose production is restructured and adapted to the current conditions.

After the intensive reurbanisation processes in the early 1990s, when Slovenia declared independence and its economy underwent intensive restructuring, the current crisis in Slovenia and the consequences of the restructuring of many economic areas, due to the transition to a market economy, present the second stage of spatial development in the restructuring process.

In the first stage the companies were restructured, some successfully, while others gradually closed down and left behind vacant former industrial properties; in the second stage we deal with different kinds of consequences.

When looking at the protection of industrial sites during the crisis, we can see that, indeed, the consequences of the crisis contributed to the preservation of some sites where the investors abandoned large-scale plans and demolitions, and rather focused on the refurbishment of the structures. This is how the structures of the Tobačna tovarna site (Tobacco Factory) in Ljubljana have been preserved. Naturally, these are short-term solutions that fail to contribute to sustainable protection and integrated preservation. As in the time after the first stage of the restructuring of the economy, today some industrial sites from the post-war period remain out of function; however, they have a major development potential due to the quality of construction and all that is needed is a dynamic protection approach, which have to promote development.

## **I Key factors guiding the integrated protection development process**

Regarding the factors that can most efficiently guide protection processes in the frame of urban regenerations, the following starting points need to be mentioned:

1. Understanding of heritage potentials, which is particularly important for industrial sites whose potential is sadly often understood only through the lens of land value;
2. Protection of cultural values and the understanding of their significance among both the professionals and the lay community;
3. A legal protection system, which should enable the development focus of the production sites, as this is indeed their basic characteristic.

### **\_Factor 1: Understanding of heritage potentials**

A very important and distinct characteristic of industrial heritage is that it is emerging as a heritage category almost always under complicated economic circumstances, when the production has stopped and the companies are often in major economic trouble, while the interest in the preservation is, along with other problems, the last on the list. Beside that processes of restructuring, the production spaces and buildings are often considered strictly in the sense of their economic value.

I am talking here with awareness that it is quite complicated to preserve structures of such scales as are those of industrial sites, but as we can see from one of the most popular examples, the Zeche Zollverein complex in Essen, the coexistence of a new programme in historic industrial structures is possible in a way where the heritage values are not endangered but rather emphasised with a new use and that the old and the new support each other in a very positive way. Consequently, new jobs and income are created also from very different programmes. i.e. where heavy industry is replaced with services, education and design production.

### **\_Factor 2: Preservation of cultural values**

Regarding the acceptance of industrial heritage, it is important to emphasize its values, which have to be known to everyone involved with the specific site, because each actor can profit from the values, if they are aware of them and of the processes of inclusion of heritage values into area management.

The Nizhny Tagil Charter for the Industrial Heritage of the International Committee for the Conservation of Industrial Heritage<sup>2</sup>, as also adopted by ICOMOS, points out the main values of industrial heritage and through them we can understand and present the characteristic values of each site:

- I. The industrial heritage is the evidence of activities, which had and continue to have profound historical consequences. The motives for protecting the industrial heritage are based on the universal value of this evidence, rather than on the singularity of unique sites.
- II. The industrial heritage is of social value as part of the record of the lives of ordinary men and women, and as such it provides an important sense of identity. It is of technological and scientific value in the history of manufacturing, engineering, construction, and it may have considerable aesthetic value for the quality of its architecture, design or planning.
- III. These values are intrinsic to the site itself, its fabric, components, machinery and setting, in the industrial landscape, in written documentation, and also in the intangible records of

<sup>2</sup> The Nizhny Tagil Charter For The Industrial Heritage / July, 2003, <http://ticcih.org/about/charter/>

industry contained in human memories and customs.

IV. Rarity, in terms of the survival of particular processes, site typologies or landscapes, adds particular value and should be carefully assessed. Early or pioneering examples are of especial value.

### **\_Factor 3: The legal protection system**

The Slovenian system of legal protection of cultural heritage is made up of all legal, organisational, financial and other measures of authorities, intended for conservation of cultural heritage, its preservation and revitalisation (Pirkovič, Šantej, 2012, p. 7). This is the basis for a more integrated guidance of protective interventions, while it also provides for the commitment of owners to heritage protection, which is often the reason that they lack the interest to classify their real estate within the relevant protection groups, as these are regarded to only represent additional pressures; sadly this is how heritage is understood.

An integrated protection system, as the one known in Slovenia, must provide the opportunity to efficiently encourage the protection approaches, i.e. also through the system of legal protection of heritage, mainly as developmental and economically efficient natural encouragements at local levels, which will activate as much young educated labour force as possible; using efficient projects of cultural and tourist activities it can enable efficient and innovative approaches to integrated heritage protection, which I wish to represent based on the case study proposal.

### **I Case study: Litostroj City**

First let us discuss the development characteristics and the current conditions of one of the most significant heritage sites of socialist industrialisation and a case study to investigate the possibility of implementation of different cultural and protection interventions at the site, which had been intensively restructured in the first stage of transition processes in the 1990s.

#### **\_Litostroj City – design of the socialist combine model**

The project that left a distinct mark on the early post-war development of Ljubljana was the building of the Litostroj factory. Extensive structures provided an important witness to the conditions that guided the architectural and spatial development and, last but not least, became part of the lives of many inhabitants of Ljubljana (Ifko, 2011, p. 36-39).

The Litostroj City, as named by factory workers in post-war newsletters (Pet let Litostroja, 1952, p. 1), is not only a group of production structures, but an autonomous urban



**Fig 2: Main street of the area, named Litostroj Avenue at the beginning, now Litostroj Street. Ljubljana**  
Historical Archive.

structure with residential, cultural and education areas, formally and functionally rounding off the modernist production area of the socialist combine.

The idea of a modern industrial town in the new socialist state was directly connected to the plans of intensive post-war industrialisation and economic consolidation of the socialist state. One of the key elements of the collective story of Litostroj, along with the provision of adequate working and living conditions, was education of workers and organisation of leisure activities: own cultural events, film showings and sports (Škerjanec, 1952, p. 31). This can be regarded from different points of view: as social engagement, political control and control of people; nevertheless it is without doubt an important part of heritage, material and immaterial, alive, i.e. a part of the identity.

The project developed in several stages: The first, key stage, was the preliminary concept design of the complex with three main parts, i.e. production, residential and educational, which were all tied to the new central traffic route, in the documentation referred to as the Litostroj Avenue. The design reveals metropolitan ambitions of the designers and their vision in the project design.

The central production part, whose construction started first, was designed in a way to ensure the expansion to the north and eastern sides, which testifies to the deliberation and adaptability of the design; the design of the residential part included apartment buildings, geographically somewhat remote and tied to the city arterial road, i.e. Celovška Road. It was built in parallel to the factory, as the lack of housing for workers was a major problem. The placement of the settlement between the railway and the Celovška Road provided a logical feature of spatial urbanisation between the production area and the existing urban fibre, creating a new urbanisation platform of the Šiška suburban area.

The education part was planned in the vacant areas northwest of the factory, i.e. the Litostroj Avenue. Towards west, there existed the possibility of expansion into the hinterland of agricultural land. Later, the area was restricted by the construction of the city by-pass.

Despite being directly tied with the urban fibre of Ljubljana, it can be conceptually equalled with satellite industrial towns and defined as one of the earliest Yugoslavian socialist industrial towns.

### **Factory area**

The industrial facilities testify to the great deal of innovation and design sensibility, which should be given some attention in the paper. This is a complex of major dimensions;



**Fig 3: Litostroj was designed as factory complex in the green.** Ljubljana Historical Archive.

furthermore, it was built during severe shortage of material means, but also shortage of experience and knowledge of design of heavy industry facilities. As such, it represents an important part of our modern engineering tradition; it should, in fact, be understood in the context, which should provide guidance for any future interventions in its inner area.

In my opinion, the Story of Litostroј also emphasises the key feature of Slovenian post-war architecture: despite the extremely difficult conditions and political radicalism, the architects, Edo Mihevc and Miroslav Gregorič, managed to realise many innovative construction and architectural approaches, and thus followed the then current pursuit of modernism to ensure better living conditions for as many people as possible. The spirit was also captured in the design of the factory part, referred to as the factory in the green by the author Gregorič (Gregorič, 1952, p. 13).

The setting of the structures followed the functional design of the production process, which also dictated the construction. First, a light alloy foundry in the southern-most part of the complex was erected; later on, based on the production process, a metalworking plant, a smithery, a foundry of steel castings, a steel casting plant, a storage building and a thermal station were added. These structures provided the core of the production complex. Later, other interventions and the construction of a commercial building followed, rounding off the structure of the original production complex.

In terms of construction and design, the metalworking plant built in 1947 stands out. The structure is built of reinforced concrete, the basic grid of the columns is 12 x 8 m, the total size of the structure is 168 x 126 m. It is a suspended structure that enables adjustments to the installation of several crane rails in different directions. The cranes are suspended under the load-bearing construction of the structure. Such a construction system enabled the installation of two crane runways, without the cranes obstructing each other, while the entire space below remained open. The construction was a real innovation when it was first



**Fig 4: The suspended construction and roof structure of the metalworking plant.** Photo: Miran Kambič.



built. The central part of the metalworking plant is covered with a Zeiss-Dywidag system roof (Gregorič, 1952, p. 12). The design is simple and adapted to the requirements of the production process. Daytime lighting is provided by large surface areas of glazed cassette concrete frames on the longitudinal sides of the structure, which are one of the first reinforced concrete construction prefabricated elements originating in Slovenia. Recently, the structure was completed for the needs of the new owner, but the basic features remain the same.

## **I Current situation**

The transition brought about many interventions that started to intervene with the concept of the whole. Surprisingly, these interventions were fewest in the residential area, while more interventions happened in the educational area, where the vacant area was occupied by a student dorm, and, of course, within the production area itself, where the green areas were developed and thus the basic concept of a factory in the green was destroyed. A part of the area that was originally intended for expansion of production was sold in the



**Fig 5: View of the Litostroj complex in 2008.** Photo: Miran Kambič.

1990s and a modern technology park was built at the site. The structures that represent the key development and architecture construction achievements of the recent era are still in operation today. None of the structures are protected even though they have been acknowledged as an important witness of industrial development.

### **Platform for coordination of future preservation and development**

When looking for an adequate development approach for the site of complex heritage, which is also relatively actively developing, we must realise that the site should be addressed in a multiple manner. In the case of Litostroj there are, in fact, three typological units, whose development was mutually interconnected, while today they are completely independent due to different engines of development.

The original concept of proper protection and interpretation activities can provide the contact point that can collectively represent their development features, while also enable an independent future development in today's development realities; this is definitely a

win-win combination.

### **Result: Guidelines for achieving quality protection and adaptation to development trends**

Based on the situation in the complex area and the general understanding of industrialisation heritage from the socialist era, it would make sense to pursue an active promotion and awareness-raising about the significance of the heritage, as a starting point; in the next stage, the activities of heritage promotion should be represented as economic potential, while only then the legal protection measures should be implemented. Such an approach would help to create the conditions for the owners themselves to become aware of the significance of the heritage and thus become interested to inscribe the relevant sites on legally protected heritage lists.

The procedure of protection interventions should be amended in the following way:

1. Presentation of cultural protection values,
2. Test of cultural protection potentials as economic opportunities,
3. Design of procedures for legal protection of the sites.

#### **1. Presentation of cultural protection values**

Here I would like to present universal values of industrial heritage as important developmental values that should be presented in the design of protection interventions, first to the owners and potential investors, and the providers of the programmes at the site.

##### **Industrial heritage as a social value**

Industrialisation has importantly affected social relationships, and particularly during socialism it established the relationships that might be, in fact, of little interest to the inhabitants of Slovenia due to temporal proximity and political connotations, while for visitors, and particularly the next generations, it provides an important source of information about the recent past.

That is why it is important not to lose these testimonies which are an evident part of the record of the lives of ordinary men and women, and as such it provides an important sense of identity which is shown in their working places, housing, social lives and also in the intangible records of industry contained in human memories and customs.

##### **Industrial heritage as a scientific/technological value**

An integral part of architecture is its machinery – machines and structures, which enabled the production, i.e. a vital part of its presence and its testimony. Beside that the knowledge is present through plans, innovations etc.

In that context the preservation of just the structural shell is not sufficient and does not provide a comprehensive preservation and efforts have to be put in the in situ presentation of at least the most important machinery.

##### **Industrial heritage as an aesthetic value**

As mentioned in the TICCIH charter, the aesthetic/artistic value is not the key value, but in the sense of architectural, spatial and design development it presents an important value that has to be considered.

The aesthetic value of industrial architectural heritage as a developmental potential shows an important part of urban culture and the level of the quality of life developed through time, which is an important indicator of social development.

All the values provide an important culture protection potential also of socialist industrial heritage areas, not only for older industries: however, the awareness is not sufficient, as can be seen from the case in point of the Litostroj complex, to successfully market their potential and keep them from destruction in their new roles. As the examples show, only active protection and innovative approaches to the implementation of protection bring efficient protection solutions.

#### **2. Test of cultural protection potentials as economic opportunities**

One of the guiding principles of the Nizhny Tagil Charter says that an efficient protection of industrial heritage requires that programmes for the conservation of the industrial heritage should be integrated into policies for economic development and into regional and national

planning. In the context, in the second step of the process, relevant activities should be organised to enable the presentation of the heritage features to a segment of people as wide as possible, while they would themselves provide a kind of a test of economic and financial aspects of implementation of such programmes. To this end, the area in question would first become part of the range of local cultural heritage paths, with thematic paths of industrialisation, socialism, organised residential buildings etc. The response would be the first indicator of the success of the programme implementation and the starting point for design of protection/representation interventions in the future. The implementation could be taken over by entrepreneurs in the field of culture, or a system of the urban cultural tourism range.

### 3. Design of procedures for legal protection of the sites

The positive experience with the application of protection potentials can provide an actual basis for the launch of legal protection procedures, and along with the consideration of all the specific features of the individual industrial heritage sites, it is important to follow protection guidelines as have been most effectively summarised by the Nizhny Tagil Charter. The legal protection issues are discussed in the first three paragraphs where the basic measures are listed, which are essential for a comprehensive preservation approach, which clearly indicates the importance of integration of the heritage in economic development. The following issues have to be strictly considered in every industrial heritage site preservation:

- I. The industrial heritage should be seen as an integral part of the cultural heritage in general.
- II. Nevertheless, its legal protection should take into account the special nature of the industrial heritage.
- III. It should be capable of protecting plant and machinery, below-ground elements, standing structures, complexes and ensembles of buildings, and industrial landscapes.
- IV. Areas of industrial waste should be considered for their potential archaeological as well as ecological value.

## I Conclusion

The protection processes must be efficient and comprehensive, particularly when referring to the heritage that is generally not recognised or understood as a protection category. We, the experts in the protection community, must acknowledge that legal protection is not a sufficient measure for efficient implementation of the protection itself. This has been particularly evident during the crisis. The proposed approach, even though it is a more complex one, while the activities are outside the range of usual work of heritage protection services, gives new opportunities that could in fact contribute to a more efficient protection. By inclusion of new stakeholders elaborating such programmes to be included in the cultural tourism range, this would also provide an economic potential and a direct platform for the implementation of cultural protection measures for the sites where under the existing conditions there are now practically no possibilities for an efficient implementation of cultural protection activities.

Block of Flats in Velenje, Stanko Kristl. Photo: Miran Kambič.



## **Vision and Reality: Evolution of the Winning Competition Entry for the New Town Hall Complex in Ljubljana**

### **Abstract**

*The urban and architectural design competition for a new town hall was executed in 2009 by the Municipality of Ljubljana. The main question of the competition was if the new complex of public activities and public buildings could reinforce the urban development of the eastern edge of the existing city centre where extensive brownfield areas and abandoned industrial zones had been stopping the urban growth for years.*

*The intervention site comprises an area of 3 hectares (30.000 square metres) and currently no active public functions or buildings are situated there. However, all around there are many important fragments of architectural heritage from different historical eras (a protected old sugar factory from the first half of the 18th century, a small Baroque palace from the 18th century, a river barrier on the Ljubljanica from the 20th century by the famous Slovenian architect Plečnik and an excellent example of the 20th century modernist architecture in the form of a double round parking garage); however all of these structures are shrinking in terms of physical and functional conditions. A huge effort from the winning architectural team and the competition jury was made to preserve the heritage by the integration of all existing protected and unprotected historical building fragments into the building complex of a new municipal town hall in the sense of design and function. But further development of the project shows that they had underestimated the obstacles related to high investment costs and legal procedures that are not defined well enough. Currently, the development of the project has been halted and, in fact, a very small possibility of realisation exists.*

*The scope of this paper is to discuss the main reasons for the project failure, which lie in legal obstacles and unsuccessfully provided public investment strategies, and to propose the possible follow-up activities for a more proactive safeguarding of the cultural heritage in the fields of architecture and urban design.*

### **I Introduction**

Today, regeneration and densification of the existing built fabric and programme structure of urban areas represent the most viable strategy of sustainable development, which has been tested both theoretically and practically (Rogers, 2005); in urban planning theory it is referred to as inner city development. Renovation as the central strategy of sustainable development of European cities has been formally recognised as public interest in the Leipzig Charter from 2000 (Leipzig Charter, 2013).

The principles of inner urban development (Koželj, 2008, v Čerpes et al.), as such, address cultural heritage and other existing resources of an area. They are considered as equally important development potentials, and through a balanced interaction they can increase the added value of a certain city neighbourhood, street, square or building. Inner urban development, along with the rehabilitation of cultural heritage, reflects not only the recognition of the necessity for the economic use of natural resources, but also the awareness about the beneficial value of a dialogue with the history, thus enhancing the identity and social integration of the urban community. In contrast to the speed of information transfer and the transience of global images in our contemporary virtual world of electronic communication, the physical firmness and unambiguous local spatial and morphological presence of the historical built fabric is a fixed feature that captures time in a people-friendly way. The rigidity and material presence of the existing built

structures are values by themselves and, hence, they manage to evade the assessment of their benefit by using exclusively economic criteria of viability (Kpplinger, 2006). The efficiency of investments to regeneration is increasingly assessed from the viewpoint of legitimacy in the sense of the overall urban community. In this respect, viable investments to regeneration are those that manage to improve the living conditions of as many residents as possible. Over the past 15 years, planning strategies and techniques have been designed in architecture and urban design to enable an efficient regeneration and integration of cultural heritage into the modern urban structure. Notably, the systematic studying of the relevant programme contents in the form of scenarios has become a standard part of the architectural and urban design, i.e. contrary to the traditional practice, when a detailed programme scope had been set out a priori by the investor. The programme scenarios are both the starting points and the goals of design, which are expressed as an unspecified (but feasible) form of the designed built structure, i.e. in a way that it can accept unplanned, different, unpredictable programme structures, without considerably changing the morphology and typology of the design. The ability of the design to adapt to the programme changes is particularly important for a successful regeneration of traditional, historical city parts, where, typically, the new buildings clash with the different types of immovable cultural heritage under different protection levels; however, in their original condition some are more, and others less, suitable for the operation of a modern city. Hence, different modern activities are introduced to the historical structures, i.e. activities that the buildings were initially not intended for. Indeed, the positive evidence of the past cases suggests that this is an economically efficient strategy for regeneration of the extensive brownfield sites and infrastructure facilities. According to K  pplinger (K  pplinger, 2006), in these designs, the strategy of distinguishing between the old and the new, connecting the built fabric in a congruous whole, has been generally recognised by the profession. The strategy can be realised by using different techniques that differ in relation to the level of congruence between the old and the new. Among them, the most radical technique focusing on sustained (sustainable) regeneration and renovation of the built form is the ‘Swiss Box’ technique, originating from the tradition of minimalist Swiss architecture (K  pplinger, 2006). In the approach, the essence of the existing structure (construction or a shell or a combination thereof) is preserved; through the addition of architectural elements and infrastructure it is transformed in a flexible area of a multitude of uses and interactions (e.g. Herzog and de Meuron, 2000, the refurbishment of the Tate Modern, London).

The public, open, anonymous, single-stage, design, urban and architectural competition entitled Integrated development of the Cukrarna and Ambro   Square area, along with the Ljubljana embankment, and architectural concept design of the administrative centre (ZAPS, 2013), analysed in detail in the continuation, has offered the entrants the opportunity to practically test the theoretical bases elaborated in the Introduction, i.e. in the framework of Slovenian professional and social practice.

## **I Study, Materials and Methods**

In 2009, the call for competition was issued jointly by the Chamber of Architecture and Spatial Planning of Slovenia (ZAPS) and the City Municipality of Ljubljana (MOL). The challenge of the design competition was to address the programmatically void and physically degraded areas situated right by the existing eastern edge of the city centre. Due to the proximity of the city centre, its riverfront location and the planned location of the city ring, the area has a major infrastructural and territorial potential, i.e. as a location of central public urban functions and for the expansion of the central public riverfront areas. With the competition, the City Municipality of Ljubljana wanted to test the possibilities and limitations of building a new administrative centre in the area, along with the accompanying public programmes. In the competition area, the past city development left behind a more or less well preserved building heritage, protected under different protection regimes, ranging from strict protection of the building heritage (Cukrarna, the sugar factory from the first half of the 18th century<sup>1</sup>) to loose provisions regarding the conservation of the image of some infrastructure

<sup>1</sup> Cukrarna was built in the first half of the 18th century as a sugar factory. In the early-20th century it offered refuge to the homeless, among them to many renowned Slovenian artists of the time. It is under the strictest protection regime. The Sever car park was built in 1969 and was named after its author – architect Savin Sever. It

facilities from the period of Modernism (Sever car park, 1969<sup>2</sup>), which are no longer in use and derelict. Similarly, the Ljubljanica River channel is also under a very strict protection regime, with the famous sluice gate (by architect Jože Plečnik, first half of the 20th century), which limits the competition area along its entire northern edge. On the other hand, the competition area is extremely well connected to the city road network; in fact, during the elaboration of the competition brief, a new road was built through the area, along with a new bridge over the Ljubljanica, which had been the long missing link of the inner urban ring road<sup>3</sup>. At last, the competition area was shifted from the peripheral to the central position.

In terms of architecture and urban design, the challenge of the competition was extremely complex and demanding, as on a relatively small surface area of 3ha the reconciliation of technical, functional and design demands was necessary, i.e. for a new administrative centre with a multitude of often contrasting effects. With the construction of the new road and bridge over the Ljubljanica, the accessibility to the area improved considerably; at the same time, the new infrastructure divided the area into two parts: a first one inside the new urban centre boundaries, and a second one outside the city boundaries, i.e. at the periphery. Due to the road width and road class (inner city ring), it is physically impossible to connect both parts by public spaces at the city ground level. Based on the situation described, it is evident that the administrative centre complex should be divided into several functional sets, which would allow for a stepwise approach to construction and different investment models supporting the strategy of inner development and renovation of the versatile range of the existing building heritage by sections.

## I Results

In response to the study questions – whether the introduction of versatile contemporary activities into the historical structure, for which the buildings were initially not intended for, is, in fact, in line with an economically viable strategy of renovation, and, secondly, whether this can be achieved using the generally recognised design strategy of distinguishing between the old and the new, connecting the built structure into a congruous functional and design whole – the results need to be analysed on two levels.

First, at the level of theoretical answers, as offered by the winning entry, and then at the level of project development in the sense of construction.

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The group of authors from the architectural studio Scapelab from Ljubljana<sup>4</sup> recognised the development potential and problems of the competition area; both were successfully connected to modern theoretical assumptions of regeneration and densification of the urban built form. In accordance with the competition design conditions, the bases of the architectural and urban concept design were the buildings of protected and unprotected cultural heritage, as integrated parts of a new administrative centre. The renovation strategy was based on the assumption that the programme, functional and design integration of

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is composed of two round volumes, with a single core and a ramp in their intersection. In the nine floors of the car park, there are a little over 400 parking boxes for small personal vehicles. The façade of the garage is made of self-supporting prefabricated elements which make up a distinct uniformly structured, cone-like shell. The partition walls of the boxes partly allow the light to penetrate through, ensuring natural lighting and pleasant atmosphere inside the car park

2 The Sever car park was built in 1969 and was named after its author – architect Savin Sever. It is composed of two round volumes, with a single core and a ramp in their intersection. In the nine floors of the car park, there are a little over 400 parking boxes for small personal vehicles. The façade of the garage is made of self-supporting prefabricated elements which make up a distinct uniformly structured, cone-like shell. The partition walls of the boxes partly allow the light to penetrate through, ensuring natural lighting and pleasant atmosphere inside the car park.

3 In 1893, Maks Fabiani, the famous architect of the Austro-Hungarian Monarchy, published the Report on the master design of the capital city of Ljubljana, addressing the problems and opportunities of the modern development of Ljubljana. It included the design of the inner city ring. The bridge over the Ljubljanica, which completes Fabiani's inner city ring, passes through the building structure of Cukrarna (MOL, 2013). Author: Marko Studen, co-authors: Ilka Čerpes, Miha Dobrin, Boris Matič.

4 Author: Marko Studen, co-authors: Ilka Čerpes, Miha Dobrin, Boris Matič.



the existing built form with the new one will enable the preservation and restoration of all quality elements of the cultural heritage.



**Fig 1: Competition area** (<https://srv3dgis.ljubljana.si/Urbinfo/web/profile.aspx?id=Urbinfo@Ljubljana>, 11 November 2013).

Based on the location of the individual structures of the cultural heritage, their original function, engineering features and potentials for acceptance of new programmes, different restoration approaches and economic scenarios were proposed.

Both protected buildings, which are mostly owned by the municipality, were included to that part of the complex that was to be developed by the city, i.e. as the public investor. The extensive, but physically deteriorating, volume of the protected building was radically re-structured and turned into an art gallery, doubling as a monumental entrance hall into the new City Hall. Using minimum civil engineering measures, the small, well preserved Baroque palace with a park was reorganised into a representative and protocol reception area, and efficiently connected with the entire administrative complex. The car park by architect Savin Sever, a formally unprotected, but for the Slovenian post-war modernist architecture an extremely important building, which is privately owned, was integrated into the part of the complex that was foreseen for investments in the form of public-private partnership. The building is a characteristic product of modernist architecture, bold in its minimalist approach to dimensioning of the construction, breathtaking in its exceptional art composition of the round façade, in its completion leaning on the serial production of prefabricated engineering elements, and with the programme – faithful to the idea of a car as a symbol of the modern 20th century urbanity. At the same time, it appears indifferent to its environment; indeed, with its prominent height, volume, and circular shape, it breaks with the uniformity of the surrounding serially designed housing fabric. As it is, the parking programme, along with the accompanying programmes, such as a gas station, with noise, smell and other transport emissions, spoils the sensitive riverside area and destroys the public park area along the river.

For the Sever car park, we proposed the renovation of the construction and building shell, using the 'Swiss Box' method, as represented in the introduction section, and the move of the current parking programme to the underground floors of the proposed administrative centre. Instead, administrative and business/commercial programmes were proposed for





**Fig 2: The Sever car park – a view from the west.**

the refurbished Sever car park.

After the completion of the competition, the design development revealed that the assumptions regarding the Cukrarna area were correct, i.e. the design documentation for the refurbishment of the building was prepared in line with the design concept. However, the design of the Sever car park refurbishment was halted for the purpose of resolving the many ambiguities connected to the scope and ways of permitted interventions, as the protection criteria are, indeed, not defined well enough. In the preparation of the execution design, the rigid and unacceptably generalised academic standpoint of the responsible Institute for the Protection of Cultural Heritage, i.e. that the role of the Cultural Heritage Service was the protection of the authentic physical substance of immovable cultural heritage, enabled the current owners of the Sever car park to rely on manipulations and extortions related to the purchase of their property shares, as well as extortions of potential private investors to avoid the costs of renovation, along with the chaotic Slovenian legal regulations in spatial planning and cultural heritage protection.

## **I Discussion**

In the transition of the development paradigm of the economy of scale to sustainable growth, the renovation of cultural heritage has become the key strategy of urban development, as it enables the improvement of the quality of life by recycling the existing built form; in comparison with the traditional development model of expansion of built-up areas into the landscape, it has been substantially reducing the use of non-renewable natural resources and carbon emissions. Within the framework of the sustainable development paradigm, the persistent dilemma about the economic viability of restoration compared to new constructions has now been resolved; indeed, the viability of investments in the renovation of heritage cannot be measured by economic criteria only, but rather by using the criteria of general social benefit. New questions related to the implications of the declarative basis into practice emerge. They are both locally and culturally specific. They cannot be addressed in general terms. We need to find pragmatic design solutions to the individual problems based on the compromise achieved among the different interests of all the actors involved. The services responsible for the protection of monuments should take the responsibility for elaborating protection guidelines, which need to be broad enough to



**Fig 3: Interior of the Sever car park.**

find a compromise between the autocracy of private interests and wishes of the carriers of development in the public interest.

The analysis of the design competition entry for the new administrative centre in Ljubljana has shown that in Slovenia the conditions for the implementation of the renovation strategy as a tool of sustainable development are not ripe. The two important obstacles are the lack of recognition about the significance of cultural heritage renovation for the general development of the society, and, secondly, incomplete legal regulations, making an efficient transfer of professional knowledge to everyday practice difficult. The case of the unrealised plan for the refurbishment of the Sever car park clearly testifies to the validity of the aforementioned statement. Despite the exceptional efforts of the architects and the professional jury to take the refurbishment of the building and turn it into a development possibility, the preparations for execution came to a halt during the initial thorough investigations regarding the condition of the construction and the possibilities of a comprehensive renovation, necessarily addressing the rights of the current owners of the car park. A construction strength study (Granda, 2008) has shown that the structure does not achieve the standards required for any kind of public use, except for apartments; however, the prescribed height clearances for apartments are higher than the ones available. The renovation of the car park into the condition identical to the one before will not draw private investments. The private investors are interested in profit; hence, their goal is to tear down the car park and replace it with a new building with more profitable programmes. Moreover, this is facilitated by the Slovenian legislation in the field of protection of cultural heritage, which enables the investor to tear down a protected building if the renovation costs are unreasonably high, which is a criterion that can be easily met.

Non-formal interviews with the building manager and with more than 400 private owners of the parking boxes in the Sever car park has shown that their main interest is to enforce the right as the owners, i.e. to make profit on the property in the existing state, while avoiding the renovation responsibilities as landowners, as these responsibilities fall outside the scope of their own interest.

Both viewpoints of the key actors in the renovation process of the Sever car park are distinctly selfish and fail to promote development. Also, both are supported by



**Fig 4: Winning entry at the Public, open, anonymous, single-stage, design, urban and architectural competition Integrated development of the Cukrarna and Ambrož Square area, along with the Ljubljana embankment, and architectural concept design of the administrative centre, author: Marko Studen, co-authors: Ilka Čerpes, Miha Dobrin, Boris Matič. Scapelab; Chamber of Architecture and Spatial Planning of Slovenia, the City Municipality of Ljubljana, 2009, Ljubljana.**

unaccomplished legal arrangements which, in the case of the Sever car park, do not allow the city authorities to enforce public interest and thus preserve the building in the physical and cultural space. Last but not least, the competition winners have been left without the possibility of searching for expert and innovative compromise solutions with a high added value to the quality of living and modern urban infrastructure. The mission of monument protection services is void, as the building of cultural heritage value and the wider area of the city are subject to the processes of entropy and physical deterioration.

To conclude, we find that based on the design competition for the new administrative centre in Ljubljana, we are not able to judge on the success of the chosen design strategy, as the competition design has not been realised. To summarise, renovation of cultural heritage as a strategy of sustainable development of cities can only be successful in environments that recognise the economic viability of investments into renovation of cultural heritage in the sense of long-term improvements of the quality of life for everyone, by internalising the value in the form of proper organisation of social subsystems for a sustainable management of urban development.

Cultural Centre of European Space Technologies in Vitanje, Bevk Perović arhitekti, Dekleva Gregorič arhitekti, Inš. Sadar+Vuga Photo: Sonja Ifko.



## Deficiencies in Legislation on Cultural Heritage Protection in Local Communities

### Abstract

*The Cultural Heritage protection Act<sup>1</sup>, passed in 2008, was meant to modernize the sphere of cultural heritage preservation. Regretfully, the new regulations – which should enable better preservation of cultural heritage in practice – have not been implemented on the level of local communities. The law entails a new and different organization of the public service in the field of immovable cultural heritage preservation; division of work is conceived in such a way that expertise has lost its basic significance. Since regional variety is of essential importance for Slovenia, negative consequences of such a decision are perfectly clear. The service is certainly bound to carry out priority bureaucratic tasks (entering items in the Register of Cultural Heritage; giving the status of cultural monuments; issuing preservation conditions and approvals), but the issue remains unclear of how the expertise by different disciplines, participating in the service, is integrated in these tasks; in addition, the disciplines are not treated equally. Experts from different fields are employed, since the work to be done on the monuments of cultural heritage is interdisciplinary as a rule. Such a division of expert work unavoidably leads to the impossibility of successful research work in individual disciplines. Namely, priority is given to investigations of underground immovable heritage, while completely neglected is the research into above-the-ground built constructions and other units of cultural heritage.*

*The new law, introducing division of work in public service's regional offices, gave rise to poorer protection of local monuments, regarding the implementation of expert work, such as documenting, investigating, and preparing the necessary expert reports (conservation plans). Because local communities do not employ experts, they cannot carry out this expert work efficiently in their areas. As a rule, interventions into local monuments and heritage are planned by municipal officials who have no adequate professional qualifications. Local communities do earmark funds in their budgets for the protection of immovable cultural heritage, but, regrettably, the money is not used in accordance with the interventions planned so as to guarantee adequate protection of monuments and heritage. Following the possibilities of the law, a local community could establish a service on a local level, assigning it certain tasks which are basic for the protection and preservation of cultural heritage; the practice is widespread in the EU. Unfortunately, this is an acute problem which has become more clearly expressed in recent years, when a general crisis has arisen, and funds for the protection and maintenance of immovable cultural heritage have been lesser and lesser. Exceptionally, the municipalities publish tenders for co-funding the maintenance of cultural heritage, so that the owners get financial help. The state, however, does not offer financial help to owners, which is certainly a unique case in the EU. Elsewhere, the owners are encouraged to invest their own means, since this means a tax relief for them.*

*Protection of cultural heritage is an important economic branch in the EU countries. It entails appropriate training programs for vocations at all levels, from traditional craftsmen's skills to highly educated experts. Protection of cultural heritage is a value which helps to save the identity of a nation for future generations.*

### I Introduction

My paper is meant to present the functioning of the organized public service in the field of heritage protection in Slovenia on the local level, more precisely in the region of three littoral municipalities: Koper/Capodistria, Piran/Pirano and Izola/Isola. This year, the service is celebrating the hundredth anniversary of its activity on the Slovenian territory<sup>2</sup>. Initially

<sup>1</sup> Zakon o varstvu kulturne dediščine (ZVKD-1), Uradni list RS, št. 16/2008.

<sup>2</sup> Baš, Franjo, (1955). Organizacija spomeniškega varstva v slovenski preteklosti. Varstvo spomenikov, V. 1953-54, Ljubljana: Zavod za spomeniško varstvo LRS, 13-37.



organized centrally, it was later gradually established also in individual regions and served its purpose all right for a long time, until the new law and the resulting internal organization of the service completely altered its effects on the local level. Namely, the new law offers the possibility of organizing public expert service for immovable cultural heritage protection within the system of local authorities<sup>3</sup>. Expert tasks are clearly defined in terms of their content, and they are expressly oriented towards the functioning of the service on the local level. Such a solution could certainly contribute to better knowledge of immovable cultural heritage and hence to its protection, provided that the service is professional. The law also enables the draft of a regional network of public service for the immovable cultural heritage protection, based on regions which have not yet been clearly outlined, so that such a possibility lingers in the remote future. Slovenia is typical for the diversity of its cultural heritage, which is conditioned by its geographic areas with varied historical traditions. The possibility offered by the new law – namely, that expert work of protection and preservation of immovable cultural heritage, including the basic conservation tasks of documenting and evaluating as well as managing, could be transferred to expert institutions of local communities as a permanent task – has not yet been realized in practice during the span of five years since the law was passed, and there is still no promise of change in this sphere. It would undoubtedly be possible for municipalities to secure a better and more distinct system of cultural heritage protection in this way, but only under condition that the protection job is carried out by experts and not merely by municipal officials who have no proper qualifications, yet they do take decisions about the destiny of cultural heritage within the scope of their municipality.

In our practical work, and particularly in fieldwork, we, the conservators, realize that the changes introduced by the new system of public service organization require a different distribution of duties particularly in regional offices, where administrative-bureaucratic tasks imposed on the conservators have taken priority, transforming the conservators into mere officials, since their expert job only takes second place. Negative results of the new system can already be observed in the fact that the conservators have no possibility to substantially improve their professional knowledge, because their research work is dramatically limited. The new system does not regulate research work suitably, because the Conservation Centre as a unit which operates as the implementation section of the public service does not include all disciplines to enable dealing with immovable cultural heritage in an overall expert manner. If the system of cultural heritage protection on the level of local communities was formed so as to give emphasis to expert job, it would be possible to develop research work in harmony with the rest of the tasks, which would be the only chance to secure a modern and genuine progress of this discipline.

## I 2

The basic task of the Cultural Heritage Service as stipulated by the legislation is to evaluate immovable cultural heritage with the objectives: (a) to enter the units in the Register of Cultural Heritage, and (b) to give individual units cultural monument status of national or local interest. The two stated tasks establish the system of legal protection of cultural heritage, which, in turn, is integrated in different spatial documents of strategic and implementation spheres. The new law precisely specifies the procedure for giving a building or other object the status of cultural monument as well as the content in which the protection regime has to be clearly defined. The basis for this procedure is represented by expert proposition which is prepared by the public service, and this job is exclusively within the competence of the public service. Irrespective of the body that puts forward the proposition, the owner of the unit in question has to be informed about this and has to express their will to give or refuse consent. Declaring the status of cultural monument is an act which in certain cases requires public discussion. The procedure of declaring the status of cultural monument of local interest is conducted and the decision is taken by a body of the local community, whereas the status of cultural monument of national interest is given by the state government act. The new law upholds the validity of monuments declared according to previous laws, but it indicates that those titles should be brought into line with the contents requirements of the new law. Because many earlier acts on the status of

<sup>3</sup> paragraph 100, ZVKD-1

cultural monuments are imperfect exactly in their regulations of protection regimes, it is possible in such cases to observe the protection regime stipulated by the new law<sup>4</sup>.

Local buildings and other objects on the territories of the municipalities of Izola and Piran were given the status of cultural monuments thirty years ago according to the law which did not precisely regulate protection regime for individual monuments. Therefore it is obscure and hence fairly inapplicable in the process of decision making, since it allows different interpretations. Even though the new law has been in force for five years, protection regimes in the acts declaring the status of cultural monuments of local interest remain deficient, since they have not yet been adjusted to the new law. In the legal practice of the past year, another deficiency of the old acts on the status of cultural monuments has come to the fore, since the appertaining expert bases which have not been publicly published cannot figure as the substantive law basis for taking decisions. In practice, chapters on immovable cultural heritage protection in numerous spatial acts of certain concrete areas prove to be likewise deficient. Because there is no proper legal ground for cultural heritage protection, it is urgent that the status of cultural monuments of local interest should be brought into line with the provisions of the law right away. This proves to be of vital importance for guaranteeing an efficient public service. Proper collaboration between local authorities and the public service in the field of immovable cultural heritage protection should be secured. To provide effective maintenance of the units of immovable cultural heritage on the part of their owners, the public service should prepare propositions for the updating of the status of cultural monuments of local interest. To succeed in this, cooperation should be established with the bodies of local administration which are in charge of conducting the procedure for giving this status. Regretfully, cooperation between the two above-mentioned municipalities, Izola and Piran, and the public service has waned. The unsettled situation in the sphere of immovable cultural heritage protection is the main culprit for the non-efficient actual protection of the monuments. Inadequate contents of the legal grounds for decision-making can by no means be the pride of the public service or do credit to it.

Listing and evaluating immovable cultural heritage is an expert process which requires constant verification and can never be fully complete, therefore legal provisions should envisage supplements to the already given statuses of cultural monuments. Most of the statuses were given three decades ago, when the ownership of buildings or other objects of immovable cultural heritage was not such an important issue, since the majority of units were social property. In the circumstances of that time, the acts declaring the status took account of general social benefit and were related to social funds which secured renovation and maintenance of the monuments. The status which might be given in the future to units of cultural heritage on the territories of the two municipalities in question will open a new problem concerning the sphere of the owners' rights, which cannot be ignored.

The beginnings of modern cultural heritage protection and preservation go back to the time some more than half a century ago, that is immediately after the Second World War, when the advent of socialism brought about radical social changes. These effectuated the system of social property as a category of 'general public possessions' which included almost the entire housing stock, from single-family houses to houses in multiple occupancy. Private ownership of previously built heritage almost ceased to exist; the majority of the already built housing, except for a small number of single-family houses, was transformed into social property. When the new state of socialist Yugoslavia was established, numerous inhabitants of littoral towns who owned immovables left the towns and their immovable property and emigrated. The logical result was that newcomers from elsewhere settled in the deserted residential houses; they mainly became tenants, not owners. The consequences can still be observed today, namely in the relation of the present owners to their denationalized immovables, because they have no feeling of tradition and find interest in them only in the case of financial profit. This is therefore the key problem on which everything depends, from giving a unit of heritage the status of cultural monument to investing funds for its protection and maintenance. It is possible to conclude that the owners are motivated to obtain the status of monuments for their immovables only if this

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<sup>4</sup> paragraph 134, ZVKD-1

status brings them financial benefit. In the financial sphere that concerns the protection of immovable cultural heritage and the monuments, either state authorities or local communities have done nothing at all, as if the state does not realize that protection and preservation of cultural heritage is the protection of inherited national wealth which plays an important role in the national identity of contemporary societies in the developed EU. Thus the owners of immovable cultural heritage monuments are left to their own resourcefulness, since no efficient doctrine exists to help the state to support through its mechanisms the protection of cultural heritage. Ironically, the state itself strongly promotes the development of widespread tourist potentials which greatly depend on cultural monuments, well maintained and professionally renovated according to up-to-date methods. When the new law was passed, no satisfactory explanation was given as to why the mechanisms of financing were not brought into force, since they are vital to successful renovations and reconstructions of cultural heritage monuments.

### I 3

Proceeding from the above-stated findings, it is clear that the present situation should be further examined and an in-depth analysis made, in order to improve and update legal grounds and to regulate the system of funding renovation interventions, thus securing efficient protection of immovable cultural heritage. The onset of a general social as well as economic crisis a few years ago has also resulted in the setback in the field of cultural heritage protection. Like in all other spheres, costs of operation must be reduced in this field too, which means that maintenance, and hence preservation, of immovable cultural heritage has considerably changed for the worse. The crisis has even more clearly revealed the deficiencies of the system, which is a serious warning that changes should urgently be prepared.

The system of funding renovation and maintenance of immovable cultural heritage was not properly settled even prior to the crisis, since the owners of cultural heritage were not financially stimulated to invest their own funds into the monuments. It was very difficult for physical entities to get subsidy from state budget; if they did, the funds were not sufficient to renovate their unit of cultural heritage in compliance with the regulations. For this reason they had no interest that their immovables might be classified as cultural monuments, since that would rather involve complications than benefits. Before the crisis, every two or three years the owners, whether physical or legal entities, could apply to the Ministry of Culture's tender for the co-financing of certain interventions; in reality, however, the possibility to receive these funds proved to be extremely faint. The purpose of my paper is not focused on finding out the (in)efficiency of this system, whose provisions contain several weaknesses, due to which the most endangered monuments unfortunately did not receive the necessary care in practice.

The state budget has so radically reduced the funds earmarked for the renovation of monuments that tenders for co-financing are not published any longer. Local communities, with their system of financing, can probably still provide funds earmarked solely for the maintenance of cultural heritage. Unfortunately, such funds, delivered on the basis of public tenders – following the example of the Ministry of Culture –, are an exception rather than a rule in Slovenia. None of the three littoral municipalities provide the owners with subsidies for the renovation of cultural heritage on the basis of public tenders. The inadequately organized system of financing cultural heritage protection most seriously affects the owners of this heritage, who have to take care of it, protect it and preserve it with their own means. Therefore, it is easy to understand their dislike of the service's system which provides no proper basis for the owners to benefit from their cultural heritage in proportion to the means they have invested in it. A very great deficiency in the legislation system is the fact that none of those who invest their own money in the renovation and maintenance of cultural heritage have any financial privileges. There certainly must be ways to stimulate financially the owners of cultural heritage. It is urgent to make comparisons with the developed countries of the EU and study efficient mechanisms, which, in the developed and modern market-oriented societies, logically result in an efficient system of preservation of cultural heritage as a value and public good for all citizens.



It is possible to conclude from the above-said that, due to the presented deficiencies, the system of public service for the protection of immovable cultural heritage and the system of its funding are unsuitable for the tasks they have to perform. However, chances do exist that the present situation in the sphere of immovable cultural heritage protection could be improved. They exist mainly on the local level, where the possibilities for enhanced expertise as well as for financial efficiency still remain unexploited, chiefly in the sense of a more rational expenditure of otherwise meagre funds earmarked for the field in question. Hitherto findings indicate that possibilities have been opened up in local communities – municipalities in particular – to make better use of the funds available in their budget for cultural heritage protection and to perform the tasks more efficiently, provided that they are entrusted to competent experts. Municipal officials with their bureaucratic training are not qualified to take decisions on professional matters of cultural heritage protection, since expert knowledge is the only sound ground for efficient protection. Expert tasks in the field of immovable cultural heritage protection as stipulated by the law could be performed by local service within the framework of organizations which, according to the law, the municipalities can found, or later, when regions will have been formed, by a public service on the territories of individual regions. The tasks to be performed by these professional institutions are as follows: documentation; preliminary research; individual conservation-restoration works; co-operation with the owners of cultural heritage; management of local monuments; implementation of programs for enhancing the consciousness of the heritage; and implementation of cultural heritage protection in the case of various catastrophes or armed conflicts. All of these tasks would provide essentially better functioning of the service on the local level, particularly thanks to better knowledge about the state of preservation of the monuments of immovable cultural heritage, which is the basis for any further planning of their maintenance or other, possibly radical, interventions. If a cultural heritage monument is in the possession of a local community, it would be possible to take into account also the usage or purpose of a certain monument, which is an important aspect of providing a successful long-term protection of any cultural heritage monument. Unfortunately, we can see that our society does not really care for the protection and preservation of cultural heritage, not only on the national but, mainly, also on the local level. In addition to the already mentioned reasons for such a situation, attention should also be called to the problematic disinterest on the part of state authorities which should encourage national identity also through the preservation of immovable cultural heritage. Last but not least, this is also the responsibility of all citizens and not only of the owners of cultural heritage who are disproportionately heavily burdened in this “story about cultural heritage protection” in our country. The maintenance of national identity, the passed-down heritage inclusive, must be secured by a proper and efficient legislation system which is, due to numerous factors, subject to supplements and changes in compliance with contemporary standards. In view of the fact that the space of the EU is culturally and nationally essentially varied, comparison with the regulations and practice in other countries is absolutely necessary, particularly with those EU countries in which the sphere of immovable cultural heritage protection is regulated in terms of expertise, funding and bureaucracy at all levels.

## I Conclusion

On the basis of the law which was passed five years ago, the public service was reorganized a good year ago. The reorganization brought about the division of conservators' work into its bureaucratic and professional parts. With this, expert tasks were radically reduced exactly in regional offices, mostly because of administrative procedures and tasks. The possibility to establish local public service for cultural heritage protection, as provided by the new law, would enable the service to perform expert tasks as stipulated by the law. This is of essential importance in asserting the significance of cultural heritage and its protection for the cultural, economic, tourist-related and educational spheres in a certain local community. By establishing such a service and by showing regard for its expertise, local communities would manifest interest in their own cultural heritage which would not be considered a burden, since the communities would be involved in all decisions relevant for

the preservation and protection of cultural heritage.

An efficiently established system of immovable cultural heritage protection is based on the axiom that it is an important economic branch in which different spheres participate, from culture and tourism to educational programs for experts of different professional levels and orientations, by which traditional craftsmen's skills are preserved and the best-educated experts are qualified. Parallel to the reformation of the system of immovable cultural heritage protection, also a financial framework for its operation should be envisaged, particularly by way of including the owners of cultural heritage who would recognize local interest as the care for it. Regretfully, in the five years after passing the law, no step has yet been taken to put into effect the legal possibility of establishing local public service. To be sure, possibilities for the development and modernization of the system do exist, but the question is whether they are a true chance or just a possibility offered by the law to appear more up-to-date, but in fact not wanted by anyone.



Miners plates in Mercury Mine Idrija. Photo: Maja Bevc.

## International Symposium on Cultural Heritage and Legal Issues Bled, 2-4 May 2013: Conclusions

### I. Background

- International principles related to the protection and conservation of the cultural heritage which have been defined by organisations and institutions as the Council of Europe, the European Union, and UNESCO, as well as ICOMOS, are today commonly accepted and form European standards;
- European standards are globally well integrated in national legal frameworks. Laws reflect the state of a social consensus and political vision. Legal frameworks are results of compromises and have to be constantly adapted according society needs, but cannot by themselves resolve all problems;
- Interpretation and implementation of laws depends on changing political and economic circumstances, as well as updated professional skills, evolution of administrative traditions and practices, the democratic procedures set up, and so on;
- Europe is facing societal challenges increased by the economic crisis. This is generating high pressure on heritage survival and impose to reconsider our previous certitudes and in a certain extend the measures, mechanisms and procedures painfully put in place during the last decades in reference to the European standards;
- The present context impose new attitudes and more efficient practices in order to reply effectively to society needs while limiting the negative impact of bypassing the existing rules justified by the economic crisis;

### II. Issues of concern

- Discussions in the symposium have raised three issues of concerns, two being generated by the inner fragility of the system, the third having external origin:
  - a. Institutional organisation and professional competencies have been developed over the years to protect a limited number of “listed” built monuments recognised by for their national or local significance. The enlargement of the notion of heritage and the limits imposed to the State budget imply that the large majority of the national heritage items is not sufficiently protected. Professionals and competent institutions remain responsible to “protect” and “conserve”, which do not include them sufficiently in the changing management processes and movements affecting the society;
  - b. Political circumstances (under the pressure of development processes) are constantly, and may be more and more, challenging the preservation of the heritage, even the “listed” monuments. Decisions and motivations are not always sufficiently balanced by the public interest which has still little ways to be expressed and even more to be integrated into decision-making processes;
  - c. The nature of the changes affecting heritage and the role of heritage in society impose new responses and innovative solutions. More and more different administrations (at national and European levels) are integrating heritage in their policies and develop their own interpretation from which the traditional professional and institutions are excluded because assimilated to their classical “protection” role (innovation belong to the others).
- Responses to these issues which are obviously becoming problems for heritage preservation have to go through :
  - a renewal of traditional mission of the Ministry of Culture (and associated

institutions) and an encouragement to develop new skills and experiences (through pilot projects);

- a new governance principle where competent institutions are reinforced in their choices through the expression of the public interest and the decision-making processes which are balanced by direct participation of civil society;
  - a pro-active policy aiming at anticipating market and promoters needs in order to propose feasible (acceptable) and financially interesting new types of interventions compatible with heritage significance.
- Existing legal standards should be reconsidered at the light of these requirements and adaptation of legal frameworks should be suggested accordingly. This necessary evolution should be regarded as an opportunity to open another debate of society aiming at defining a new consensus capable to support political and professional responsibilities in the times of changes.

### **III. Issues for further consideration**

- Amongst issues discussed during the symposium for further consideration, some axes of development have to be considered in priority, possibly in taking advantage of the process aiming at integrating principles and requirements defined in the Faro framework convention in countries having ratified the convention:
  - a. Heritage professionals in public administration should take ad hoc initiatives to take stock of the lessons learned through the different pilot or research projects in order to determine what could positively help their current works within their administrations. The elaboration of “guidelines” should be encouraged, while the issue of the “institutionalisation” of these different practices could be considered as part of the existing legal framework;
  - b. Heritage professionals in public administration should compile their views and propose their contribution to the global debate related to the social and economic values of heritage. Heritage professionals should not be the last in proposing heritage as an asset for development in order to make sure that existing European standards are correctly taken into account;
  - c. Heritage professionals in public administration should take initiative in defining alternative attitudes and type of interventions on heritage responding to the public and private investors’ expectations. That requires a “cultural shift” within the public administration. Instead of reacting to change and opposing “protection”, heritage professionals should take part in management and economic processes in order to play an active role in the transformation of the living environment. Progressing political adaptation will then have to follow;
  - d. Heritage professionals in public administration should consider all means at their disposal within the existing legal and institutional frameworks in order to increase the information made available to the public and professionals. The issue is not only to increase awareness, but also to increase connectivity and participation of individuals and communities in debates in order to generate dialogue leading to consensus or conciliation, which is a way to strength public decisions and reinforce competent administrations;
- On these four issues, the symposium recommend to multiply initiatives, at individual or institutional initiative in order to generate a flow of converging contributions which could subjects of future debates in specific national or international contexts;
- Contributions should additionally converge for further analysis and systematisation toward the European Heritage Network set up by the Council of Europe with a view to enrich European standards and inspire national evolutions.



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