



HISTORICAL PERSPECTIVE OF HERITAGE LEGISLATION.
BALANCE BETWEEN LAWS AND VALUES





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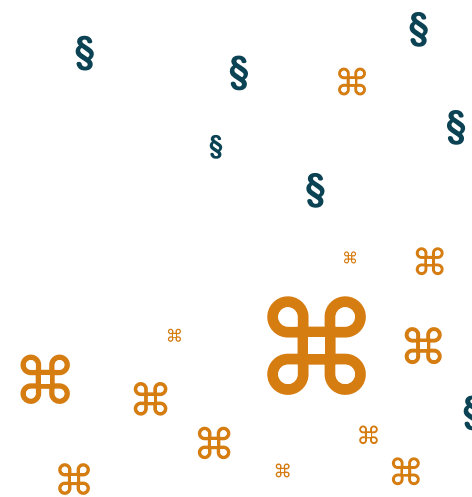
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THE EVOLUTION OF HERITAGE LEGISLATION IN FINLAND

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The article gives an overview of the evolution of heritage legislation in Finland from 17th century till nowadays.

The Heritage Legislation before the 20th Century

The heritage legislation in Finland has its starting point in the early 17th century, same as in Sweden. The reason for this is simple – Finland was a part of Swedish Kingdom. After the Finnish War in 1809 Finland became an autonomous Grand Duchy under the Russian Empire yet maintaining the old statutes, including the Royal Placat of 1666. In spite of the implementation of heritage legislation, heritage research continued to be mainly a hobby of some private persons, such as priests. However, the ethnological research in the 19th century increased the interest in collecting and conservation antiquities. In the 1870s the research began to orient towards antiquarian art history. At the same time the Society for Antiquities, later the Archaeological Committee, was founded.

The Decree on Protection and Classifying Ancient Monuments was issued in 1883. It observed strictly the Swedish Act of 1867. The interference in private ownership by preventing profitable activity was minimal. The objects under protection were specified by substantial catalogues. For example, all old fortresses, fortifications, castles, churches, chapels and “other remarkable ruins of public buildings” were mentioned. The Decree provided protection also for burial sites, memorial stones, stones with runic writing and other monuments that were too old to be considered anyone’s property. The Archaeological Committee interpreted the purview of the Decree widely and included even such old buildings, like castles and churches, which were not in their original use anymore.

It was prohibited to remove, destroy or alter the protected monuments. However, the prohibition was not absolute since the Archaeological Committee could grant permission to take actions on monuments. If the permission was denied, the owner was entitled to the compensation or the state could reclaim the object. Where redemption was not considered necessary, the owner was free to use his property after the Committee had been given an opportunity to research the monument. When an unknown

piece of antiquity was found during large public construction work it did not prevent the construction work. The interest of construction works was considered more significant than the historical interest.

Nevertheless, the Decree of 1883 imposed penalties to enhance the protection of ancient monuments. A perpetrator had the duty to restore the damaged monument or it could be restored at his expense.

The Early Legislation of the Sovereign State

The first few decades after the declaration of independence in 1917 were turbulent times and there was a lot of legislative work to do. The Antiquities Act (295/1963) was enacted after a long preparation period in 1963 and it replaced the Decree of 1883, except the part that concerned buildings. In the Antiquities Act, which still stands today, the objects are divided in three categories: immovable ancient monuments, movable antiquities, ships and vessels. Immovable monuments are protected as memories of Finland’s ancient settlements and history. As in the previous legislation, the monuments are protected by the law with no need for separate decisions. Any

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exception requires permission. Whereas monuments are only referred to as “ancient”, both movable antiquities and wrecks of ships and other vessels have to be at least hundred years old to be covered by the Act.

Specific legislation concerning the built heritage was also being prepared in the 1950s and it came into force in 1964. Buildings that were significant because of their building history or use could be protected under the Act on the Protection of Historical Buildings (572/1964). A building could also be protected on the grounds that it was linked to a historic event or represented a significant phenomenon or a period. It has been considered that the criteria were too narrow as they made rustic and working class buildings almost unsuitable for protection. The Act of 1964 also established the principle that buildings owned by the state or the Evangelical-Lutheran Church were to be regulated separately.

The criteria set in the Act of 1964 influenced on inventories of built heritage which became basis for decision making. Inventories were made by authorities at all levels. For example, inventories made by Regional Councils listed the most significant built environments and contained individual buildings only when they were especially significant, such as all the medieval stone churches, 17th century wooden churches and fortifications.

Land use planning was regulated by the Building Act (370/1958) which enabled the protection of historically valuable areas by a land use plan. Both Building Act and the Act on the Protection of Historical Buildings were based on the principle that the protection of built heritage should not have unreasonable consequences to the owner.

The Reform of 1985

A major legislative reform concerning the protection of built heritage took place in 1985. Firstly, the Act of 1964 was replaced by a new Act on the Protection of Buildings (60/1985). Secondly, new provisions concerning the protection of built heritage by means of detailed land use plans were introduced into the Building Act of 1958.

Generally, it was stipulated that in areas, where a detailed land use plan was needed, it should be the preferential means of protecting built heritage. Thus, the Act on the Protection of Buildings should only be applied where detailed land use planning was not in place or under specific circumstances, such as the protection of indoors or buildings with special national significance. However, the criteria by which the values of all buildings are to be judged are provided for in the Act on the Protection of Buildings. With only minor amendments, this connecting factor rule still stands today.

The reform of 1985 introduced some key elements into the protection of built heritage. Firstly, built areas, groups of buildings as well as planted areas were recognized

as potential objects of protection. Secondly, particular preservation orders were introduced as a new instrument to govern the preservation of each individual building. From now on it was also possible to impose even unreasonable restrictions because the owner may claim compensation. Last but not least, the state started to grant financial subsidies to contribute to the repair of private built heritage in the 1980s.

Like before, state-owned buildings were covered by specific regulation, namely the Decree on the Protection of State-Owned Buildings (480/1985). The separate nature of ecclesiastical buildings of the Evangelical-Lutheran and Greek Orthodox Churches was underlined too. The Church Act (1054/1993) provides that Evangelical-Lutheran churches, which date back to the time before 1917, are protected by the law itself, while younger ecclesiastical buildings may be protected by separate decision. The protection of an ecclesiastical building always covers fixtures, paintings and works of art, as well as the immediate surroundings of the building. Similar provisions were adopted for Greek Orthodox churches and prayer houses by the Act on the Orthodox Church (985/2006). In 2013 the Evangelical-Lutheran Church decided to revise the provisions concerning the protection of its ecclesiastical built heritage. While the buildings taken into use after 1917 still need an individual decision to be protected, the revised Church Act, nevertheless, obligates parishes to consult the National Board of Antiquities before substantial changes to all ecclesiastical buildings older than 50 years.

Into the Age of Modern Constitutional Rights

The Constitution of Finland went through a comprehensive reform in the 1990s. First the Chapter of Fundamental Rights and Liberties was revised in line with international human rights standards in 1995. Along with other modern rights the Responsibility for the Environment became part of the Constitution whose Section 20 reads as follows: *Nature and its biodiversity, the environment and the national heritage are the responsibility of everyone. The public authorities shall endeavor to guarantee for everyone the right to a healthy environment and for everyone the possibility to influence the decisions that concern their own living environment.*

The next big step was the reform of land use and construction legislation by the Land Use and Building Act (132/1999). The objective of the Act is to ensure that the use of land and water areas and the building activities create preconditions for a favorable living environment and promote ecologically, economically, socially and culturally sustainable development. The Act also aims to ensure everyone’s right to participate in the preparation process, the high quality and interactive nature of planning, comprehensive expertise and open provision of information on matters in the pipeline. The protection of the beauty of the built environment and of cultural values is one of the objectives to be pursued at every level of land use planning. The instrument for

monument protection is, as already in 1985, specific preservation orders given especially in detailed plans.

Pursuant to the new Act the Council of State gave in 2000 National Land Use Guidelines which were amended in substance matters in 2008. On cultural heritage the National Guidelines state as follows: *Land use should safeguard the preservation of the nationally important cultural environment and natural heritage. The national inventories made by the authorities should be taken into account as starting points in land use planning. Nationally important cultural environments and landscape areas are to be indicated in regional land use planning. Land use in these areas should be adapted to their historical context.* The national inventories refer to inventories of nationally important cultural landscapes, built cultural environments and archaeological sites. A major reform of the National Land Use Guidelines is under way and due to be completed in 2017.

The Land Use and Building Act of 2000 also introduced a new method to foster and improve urban areas: National Urban Parks. A National Urban Park is established by the Ministry of Environment on application by a municipality. Natural areas important for the preservation of urban biodiversity, buildings and cultural environments of historic importance as well as parks and green areas with scenic or aesthetic significance may receive the status of National Urban Park if at the same time they are protected by the land use plans adopted in the municipality.

Ten years later the specific legislation on the built heritage was revised when the Act of 1985 was replaced by the Act on the Protection of Built Heritage (498/2010). The purpose of the Act is to safeguard the temporal and regional diversity of the built heritage, to maintain its characteristics and special features, and to promote its culturally sustainable management and use. In matters regarding the protection of the built heritage, the interested parties shall be given the opportunity to participate in the preparation of the matter in question. To enhance the clarity of legislation the prerequisites for protection are now described comprehensively and the potential objects of protection, especially fixtures, defined as precisely as possible.

The management of the state's real property had been under reorganization from the 1990s. The state had started to sell redundant property and the management of the remaining property was transferred from state authorities to public utilities. Therefore, specific provisions for the protection of state-owned built heritage were considered to no purpose, which means that old decisions are being revised pursuant to the Act of 2010 at the latest upon sale of the protected buildings.

The Strategic Approach and Other Recent Developments

The Finnish Government adopted a Strategy for Built Heritage already in 2001, and since then the strategic approach to heritage has gained more and more ground. The

first comprehensive National Strategy for Cultural Environment was adopted in 2014. The key point is that a well-managed and vital cultural environment enhances the well-being of people and has an important role in developing business activities and creating an attractive living environment. Therefore, the strategy is aimed at deepening people's appreciation of their local environment and inspiring them to actively contribute to making it better.

Just a year later, in 2015, the National World Heritage Strategy saw the light of day. According to the vision presented in the strategy, Finland wants to foster the world heritage as well as protect, manage and present the world heritage sites situated on its territory and empower the locals by transmitting the living heritage.

At the same time the Finnish Government is preparing a large reform of regional administration. By 2020 the country is going to have a new democratic level of administration between the state and the communities, namely regional governments or counties. While the primus motor of the reform is the need to reorganize social and health services, even environmental services among others will be subject to reorganization. On the whole, the state is constricting its role in local and regional land use. The new counties are also going to have a central role in promoting cultural environments.

Further relevant legislative measures in the pipeline are a comprehensive reform of the Antiquities Act of 1963, as well as some procedural and other necessary amendments to the Act on the Protection of Built Heritage of 2010. Even a reform of the Land Use and Building Act of 2000 is going to be started in the next few years.

Conclusion

The heritage legislation in Finland has remained well anchored in the Swedish tradition through different historical periods. Characteristic to the Finnish material heritage is its relatively short preserved or documented history and therefore the age has never played a too dominant role in the protection of monuments. Especially a large part of the built heritage does not date farther back than the 20th century. It has also been vital to recognise the significance of peasant and ethnological heritage, especially as the symbols of government and glory are rather few.

The legislative measures in the 1960s brought about a division into the archaeological heritage in one hand and the built heritage in the other hand. Since then the built heritage has gone through several legislative revisions, whereas the protection of the archaeological heritage has been more stable. In the last decades the interest has been more into comprehensive analysis and protection of culturally and historically valuable environments. This approach is already visible in the land use planning, strategies and management – perhaps in the future also in the specific heritage legislation.