



**ICOMOS Slovenija**

Monographic Publications of ICOMOS Slovenia | **01**

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



**Publisher:** ICOMOS/SI International Council on Monuments and Sites,  
Združenje za ohranjanje spomenikov in spomeniških območij, Ljubljana

**Editors:** Marko Stokin, Sonja Ifko

**Design:** Sonja Ifko

**Layout and preprint:** Januš Jerončič

**English translations:** Amidas, d.o.o. (page 3 to page 5), Luka Kocbek (page 23 to page 37),  
Arienne Free (page 39 to page 47) and Mojca Vilfan (page 49 to page 65)

**Print:** Camera d.o.o.

**Circulation:** 200

Ljubljana 2014



The publication appears in partnership with the Council of Europe as the follow-up of the co-operation between ICOMOS/SI and the Directorate General II - Democracy/ Directorate of Democratic Governance, Culture and Diversity of the Council of Europe.



Publication International Legal Standards for Heritage Protection in a Period of Economic Recession and Tools for Safeguarding Protection Standards is co-founded by Slovenian National Commission for UNESCO.



Photos on pages 2, 4, 22, 32, 38, 48 and 76, INDOK Centre, Ministry of Culture, Republic of Slovenia. The opinions expressed in this book are the responsibility of the authors.

CIP - Kataložni zapis o publikaciji  
Narodna in univerzitetna knjižnica, Ljubljana

72.025.3/.4:006(082)

INTERNATIONAL legal standards for heritage protection in a period of economic recession and tools for safeguarding protection standards / [editors Marko Stokin, Sonja Ifko ; English translation Amidas ... et al.]. - Ljubljana : ICOMOS/SI International Council on Monuments and Sites, Združenje za ohranjanje spomenikov in spomeniških območij, 2014. - (Monographic publications of ICOMOS Slovenia ; 01)

ISBN 978-961-281-627-8

1. Stokin, Marko  
276573184

# Contents

<b>Editorial of ICOMOS Slovenia.....</b>	<b>3</b>
<b>Reviews.....</b>	<b>5</b>
Robert Pickard <b>Funding, Skills, Integrated Conservation and Enforcement for Heritage Protection in a Period of Economic Recession .....</b>	<b>7</b>
Jelka Pirkovič, Vlasta Vodeb <b>Heritage Management through Planning and Information Tools .....</b>	<b>23</b>
Daniela Tomšič <b>The Conservation Scheme as a Legislative Guarantee for Equal Treatment of the Cultural Heritage Protection in Spatial Interventions .....</b>	<b>33</b>
Mitja Guštin, Savin Jogan <b>The Fate of Cultural Monuments. The Gap Between what is Decreed and what is Put into Effect .....</b>	<b>39</b>
Sonja Ifko <b>Heritage of Socialist Industrialisation in the Time of Crisis – Torn between Development and Preservation .....</b>	<b>49</b>
Ilka Čerpes <b>Vision and Reality: Evolution of the Winning Competition Entry for the New Town Hall Complex in Ljubljana .....</b>	<b>59</b>
Mojca Marjana Kovač <b>Deficiencies in Legislation on Cultural Heritage Protection in Local Communities .....</b>	<b>67</b>
Mikhael de Thyse <b>International Symposium On Cultural Heritage And Legal Issues Bled (Slovenia), 2-4 May 2013: Conclusions.....</b>	<b>74</b>
<b>Index.....</b>	<b>77</b>

## **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

---

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 Herzegovina (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

---

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.

---

<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

---

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

---

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

<sup>21</sup> 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

---

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*, Annales 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.