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PROTECTION AND RESCUE OF CULTURAL HERITAGE - RESPONSIBILITY OF MORE LEGAL ENTITIES

Abstract: Macedonia is a country with vast, invaluable and rare cultural heritage created through centuries, rightfully bearing the title “museum of culture and history”. This paper is an attempt to point out the rights and responsibilities of the legal entities related to protection of cultural heritage, through brief analysis of national and international legal acts. The protection has emerged as a top priority, so this paper will indicate the shortcomings and the measures to be undertaken to preserve our cultural heritage for our sake and for humanity as a whole.

Key words: cultural heritage, legal acts, protection.

The problem of protection and rescue of cultural heritage - the responsibility of several legal entities, with particular emphasis on the protection and rescue from natural disasters and armed conflict isn't anything new, unknown or untreated. Nothing is yet undertaken to bring the issue one step forward in finding more efficient system for protection of the cultural heritage. This text consists of three parts: the first part refers to the importance of cultural heritage as an incentive for its protection and rescue in the events of natural disasters and armed conflicts; the second part covers the legal basis governing the protection of cultural heritage and the third part, or the motivation for writing the text, analyzes the care (or lack of care), i.e. the attitude of the legal entities towards the protection of cultural heritage.

The importance of cultural heritage and the need for its protection and rescue

In the beginning – what is cultural heritage? Cultural heritage is a big treasury, created by thousands of generations – their thoughts, their acts, their achievements. It is a part of us – part of what we are, our identity and our heritage.

Cultural heritage, according to its legal definition, is the totality of tangible (movable and immovable) and intangible (spiritual) goods, created over centuries by countless generations that testify to the existence, survival and life of a nation, its history, culture, ethnology, economy, architecture and so on.

The cultural heritage is among the most widespread universal social and cultural values and as such is not only the most important reservoir of social and cultural values, but also the most reliable reference related to values, value orientations and systems of values. It takes the most important part in building and shaping of current and future socio-cultural values, organization and hierarchy of the system of values and determination of value orientations, preferences and attitudes of modern man. (Gerasimovski, 2010: 85) Thus, the cultural heritage is the basis for future development of each territory, nation, ethnicity.

Macedonia is a country rich in cultural heritage. This wealth is of utmost importance and is one of the values upon which the cultural identity of citizens is based and maintained. Therefore, protection of cultural heritage is inevitably imposed as a national interest of the country. The transfer of cultural heritage to future generations is threatened by time, thefts, illicit trading, natural disasters, armed conflicts and others. For this reason, the protection and preservation of cultural heritage for future generations requires ethical imperatives in support of series of normative instruments, reinforced by the principle of collective responsibility of all stakeholders in the society. Appropriate and correct attitude towards their cultural heritage contributed to the rise of many societies and cultures and to their prominence in the world cultural history. In this regard, Republic of Macedonia is one of the societies, which for centuries showed a positive attitude towards cultural heritage as a value.

Legislative framework for protection and rescue of cultural heritage

Legal procedures for protection of cultural heritage are applied since the second half of the XIX century, initially in the more developed countries and later in other places. This section will provide brief analysis of the national legal acts, as well as international humanitarian law regarding the protection of cultural heritage, so to identify key measures that Republic of Macedonia

should apply for efficient protection of cultural heritage in peace and during armed conflict. The basic legal framework that regulates the protection and use of cultural heritage is in the Constitution of 1991, where in article 56 it is declared that all objects and buildings of special cultural and historical significance, lawfully defined as such, are goods of general interest for the Republic and are protected by law. The Constitution of the Republic of Macedonia directs to a law regulating this issue – Law on Protection of Cultural Heritage adopted in 2004. Article 2 of this Law defines the term cultural heritage as tangible and intangible goods, which as an expression or testimony of the human creation in the past and in present or as common works of human and nature, due to their archaeological, ethnological, historical, artistic, architectonic, urban, ambiental, technical, sociological and other scientific or cultural values, characteristics, contents or functions, have cultural and historical significance and due to their protection and use are settled under legal regime according to this and other Law. In case of war and natural disasters this cultural heritage is also protected by the Law on Protection and Rescue of 2004, Law for Crisis Management of 2005 and Law of Defense of 2001. The appropriate by-laws and regulations have also been enacted for the proper implementation of legislation. To effectively implement the laws, most of the related rules and regulations were drafted and adopted. Apart of the domestic regulative, there is an international law in the area of international humanitarian law that protects the cultural heritage, such is the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict from 1954. This convention is also supported by international legal instruments that the Republic of Macedonia as a country should ratify for efficient protection of cultural heritage during armed conflict. This in itself raises the question: Who is responsible and accountable for the protection of cultural heritage? Article 7 of the Law for protection of cultural heritage stipulates that the protection of cultural heritage is primarily duty and responsibility of the State and its bodies and public services, then local government units and their bodies and public services, legal entities and individuals designated for attaining the protection cultural heritage in accordance with this Law, owners and other holders of cultural heritage and eventually the care of cultural heritage and its respect is responsibility of each citizen. The section eight of this Law regulates the protection of cultural heritage in the event of armed conflict and natural disasters. Thus, article 106 of the Law provides that the Cultural Heritage Protection Office should have National Inventory for Protected Goods, in order to facilitate the identification of immovable and movable goods, which are subject to immunity of general protection in cases of armed conflict in accordance with ratified international agreements. According to article 107 of this Law the authorities and public institutions for protection, as well as the holders of protected goods shall

undertake the necessary preparatory measures for the protection of the cultural heritage against foreseeable consequences of armed conflict and natural disasters. This Law, among other things, defines the concepts relevant to the protection of cultural heritage and regulates the types, categories, establishing of protection, instruments and measures for the protection of cultural heritage.

Cultural heritage on the territory of Republic of Macedonia has always been subject to serious security risks, threats, destruction by human factor, natural disasters and armed conflicts. We are witnessing number of emergencies caused by natural or human factors that result in many casualties and damages or degradation of the environment, causing widespread damage and loss of cultural heritage. An example is the monastery Sveti Jovan Bigorski, who was burnt down in 2009 due to negligence of the relevant institutions. The 2001 conflict also showed the other dimension of wars and armed conflict. Unfortunately, the monastery church Sveti Atanasij in the village Lešok, Tetovo, dating back to XVII century was mined and collapsed to the ground, and the terrorist attacks also threatened or destroyed more Orthodox religious shrines: the church Sveti Nikola, the Tetovo Fortress, the monastery church Sveta Bogorodica in the village Matejche and the church Sveti Jovan in Kumanovo. Disaster risks exist in every society, and their occurrence in one region could be a threat to other regions. Southeast Europe, i.e. the Balkans is increasingly threatened by the global climate change, as a result of natural disasters (floods, droughts, extremely high temperatures, earthquakes, landslides, strong winds etc.), technical and technological accidents, effects of hazardous substances and armed conflicts. Any combination of these factors suggests that cultural heritage would be exposed to various threats and requires a comprehensive strategy for protection and rescue in emergencies that involves a system of prevention, mitigation, protection and rescue and reconstruction. Disasters are a challenge, which shows when, how and to which extent the society is prepared to react.

Protection of cultural heritage – measures for prevention

The Law imposes obligations to the subjects for protection of the cultural heritage so to develop awareness for cultural heritage protection. The authorities and the public services, authorities of the local government, the legal entities and individuals, the owners of cultural heritage, the public institutions dealing with education, science, culture and information should incorporate in their working programs contents for building knowledge for the value of cultural heritage, the threats to which it is exposed, the need for its preservation and creating pro-active attitude toward the cultural heritage. Regardless of the degree of endangerment (in accordance with the Law - non-

endangered or endangered cultural heritage), the protection of cultural heritage should be a permanent concern and task of the State and the bodies in charge. The term “cultural heritage protection”, in its narrow meaning, refers to the immediate application of appropriate actions and measures (physical, technical, administrative, preventive), related to the protection of specific cultural value or good, which is protected by law and which enjoys a special legal regime for protection. The undertaken measures and activities to protect cultural heritage vary in different countries, depending on several factors: the size of the cultural heritage, the wealth of the country, the threats, the system for protection, the involvement of stakeholders in the protection and the awareness of the people for the significance of cultural heritage.

The system for protection and rescue of cultural heritage entails programming, planning, organizing, training, coordination, supervision and funding measures and activities for protection and rescue from natural and other accidents, as well as armed conflict. Main tasks of the system of protection and rescue include: detection, monitoring and research on the threats from natural disasters and other accidents, observation, reporting, alerting and informing the public about the possible dangers and giving instructions for protection and rescue and assistance.

In Macedonia the subjects responsible for the protection of cultural heritage, have rights, obligations and responsibilities to undertake the necessary preparatory measures for protection of the cultural heritage of the predictable consequences of armed conflicts and natural disasters. The necessary preparatory measures for protection of the cultural heritage in the event of armed conflict and natural disasters are undertaken in accordance with the domestic regulations, as well as the Hague Convention. Preparatory measures include preparation and safe keeping of documentation for the protected goods, preparation for evacuation of the protected goods, planning of emergency measures for protection against fire and destruction, purchase of equipment for proper care, entitling the responsible personnel, professional and operational teams, planning of security measures in the event of armed conflict and natural disasters. The responsible subjects are required during peacetime to undertake all necessary and appropriate measures for effective protection of cultural heritage during armed conflict. Do they really apply these legally envisaged measures? There are circumstances where the accidents can be avoided. There is a way to reduce risks and to mitigate the effects of the disaster, and to increase the resilience of society to disasters. This raises the question: whether Macedonia is prepared to effectively reduce the risk of disasters and whether the current level of organization and capability of the integrated system of protection and rescue lags significantly behind the estimated needs of the state? There are analysis and experiences, related to the issue of emergencies, showing events of natural disasters and other threats

where lack of effective system of protection and rescue of cultural heritage can be identified. One of the most important points, related to the care and preservation of tangible and intangible goods, is the necessity for higher level of awareness of cultural heritage protection. Then, institutional and organizational failures, lack of conditions for consistent implementation of the regulations, inadequate organization and implementation of preventive measures, inadequate education, professional qualification and technological discipline of available personnel, unpreparedness and low capacity of local government, underdeveloped culture of prevention, comprehensive safety system of cultural property and sites, modern methods of technical protection, lack of appropriate risk maps, outdated and unreliable equipment, insufficient resources and vehicles for rapid response in emergencies, unsatisfactory road and other infrastructure, lack of 112 system. I'd also highlight: inadequate funding of prevention and maintenance of the system of protection and rescue, insufficient cooperation and coordination among the entities in the system of protection and rescue of cultural heritage during peacetime as well as during emergencies and insufficient cooperation with NGOs, the private sector and international bodies. As a response to the warnings for the environmental changes, as well as the natural and human disasters, it has to be stressed that Macedonia has made progress in this area. However, the nature and the emergency situations still give signals for the need to face the challenges in a more prepared manner and to find new solutions to achieve security, reduction of vulnerability and increase of the resilience of the protection of the cultural wealth.

The above mentioned leads to a conclusion that the need for more effective preventive measures and activities, as well as cooperation between the state institutions responsible for care of the country's cultural heritage is apparent. Basically, the economic power of the country directs the activities of state institutions in taking preventive measures and actions to protect the cultural heritage. The activities that should be undertaken include: raising awareness of the importance of cultural heritage, organization of various types of training of the responsible institutions, exchange of experiences between domestic and international entities, pointing out the best practices, development of cross-border cooperation programs, integrated management system, management and control in emergency situations. Furthermore, capacity building through increased training for reaction in emergencies, as well as implementation of preventive measures, measures to mitigate the consequences, measures for reconstruction and repair of the consequences. All the above measures will be enforced through lectures, courses, training that should expand and refine the acquired knowledge to create better plans and programs for further implementation of measures for protection of cultural heritage. One of the main activities is an international training for first aid for cultural heritage in

times of crisis. This practical training is important for the protection of cultural heritage during complex emergencies caused by man-made or natural disasters. The system of technical support should comply with the highest safety standards, should be developed in concordance with the technological advances in all of its segments and comply with the global norms and standards. The infrastructural and information systems should also be upgraded through application of modern technology according to European Union standards. The universal 112 emergency number should be introduced and it will provide coordinated, rapid and effective intervention to help during emergencies and disasters. The non-governmental, non-profit organizations and citizens should be encouraged to get training for activities before, during and after emergencies. It should be emphasized that one of the major obstacles to application of modern measures for protection and rescue is lack of financial assets. Therefore, stimulative measures for private sector's investment in projects related to protection of the cultural heritage should be incorporated into the legislation.

Conclusion

Implementation of domestic legislation and international humanitarian law related to the protection of cultural heritage means undertaking joint strategy for protection of cultural heritage: rising awareness of the importance of cultural heritage, establishing pro-active and efficient framework for cooperation and coordination between subjects, increasing the accountability in the implementation of modern methods and measures for protection, provision of necessary funding to achieve developed, comprehensive, efficient and effective system for protection. Such system would result in reducing the risks and consequences of natural and other disasters, as well as armed conflicts that pose a serious threat to the cultural heritage.

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