

Cultural Heritage, Impact Assessment and the Council of Europe Conventions

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Abstract: The Council of Europe, a political organization created in 1949 that groups almost all European countries, aims to promote awareness and encourage the development of Europe's cultural identity and diversity. It has been active in the field of cultural and natural heritage.

Three main conventions (Convention for the Protection of the Architectural Heritage of Europe, Granada, 1985; European Convention on the Protection of the Archaeological Heritage (Revised), Valletta, 1992; Framework Convention on the Value of Cultural Heritage for Society, Faro, 2005) constitute the core for cultural heritage protection and enhancement in Europe. Other two conventions (European Charter for Regional or Minority Languages, Strasbourg, 1992; Framework Convention for the Protection of National Minorities, Strasbourg, 1995) addresses the cultural diversity, linking it with the rights of national minorities. Finally the European Landscape Convention, signed in Florence in 2000 but rapidly ratified and already in force, establishes an important link between cultural, environmental and social issues.

Those conventions, which are described in the paper, are important references for the definition of Best Practice Principles of Cultural Heritage Impact Assessment.

1. Introduction

This paper introduces four conventions prepared by the Council of Europe (CoE), judged relevant for the definition of **Best Practice Principles of Cultural Heritage Impact Assessment**, an exercise planned to start at the 28th annual conference of IAIA (Perth, May 2008).

After a short introduction to the CoE (section 2), each of the conventions is briefly described (section 3), based on the text of the conventions [1], its summaries [2] and explanatory reports [3], as accessed on the website of the CoE (<http://conventions.coe.int/Treaty/EN/v3MenuTraites.asp>). The main definitions and the dispositions related to impact assessment set out by these conventions are highlighted in this section.

2. The Council of Europe

Founded in 1949, the CoE seeks to develop throughout Europe common and democratic principles based on the European Convention on Human Rights and other reference texts on the protection of individuals.

The CoE has a pan-European dimension: 47 member countries (and 1 applicant). The European Union, who has adopted the same flag as the CoE, has a current membership of 27 countries (and 3 applicants).

The aims of the CoE are:

- to protect human rights, pluralist democracy and the rule of law;
- to promote awareness and encourage the development of Europe's cultural identity and diversity;
- to find common solutions to the challenges facing European society;
- to consolidate democratic stability in Europe by backing political, legislative and constitutional reform.

3. The CoE Conventions pertinent to Cultural Heritage Impact Assessment

The four conventions referred are the following:

- the **Convention for the Protection of the Architectural Heritage of Europe** (Granada, 3 October 1985);
- the **European Convention on the Protection of the Archaeological Heritage (Revised)** (Valetta, 16 January 1992);
- the **Framework Convention on the Value of Cultural Heritage for Society** (Faro, on 27 October 2005);
- the **European Landscape Convention** (Florence, 20 October 2000).

The three first conventions above mentioned were preceded by the **European Cultural Convention** (Paris, 1954), a convention to develop mutual understanding among the peoples of Europe and reciprocal appreciation of their cultural diversity, to safeguard European culture, to promote national contributions to Europe's common cultural heritage and to encourage the study of the languages, history and civilisation of the Parties to the Convention.

Two other conventions - the **European Charter for Regional or Minority Languages** (Strasbourg, 5 November 1992) and the **Framework Convention for the Protection of National Minorities** (Strasbourg, 1 February 1995) - are relevant to cultural impact assessment, mainly at the strategic level, and to the issue of public participation. The Charter aims to protect and promote the historical regional or minority languages of Europe. It was adopted, on the one hand, in order to maintain and to develop the Europe's cultural traditions and heritage, and on the other, to respect the right to use a regional or minority language in private and public life. "As is made clear in the preamble, the charter's overriding purpose is cultural. It is designed to protect and promote regional or minority languages as a threatened aspect of Europe's cultural heritage" [3]. The Framework Convention is the first legally binding multilateral instrument concerned with the protection of national minorities in general. The Convention seeks to promote the full and effective equality of national minorities by creating appropriate conditions enabling them to preserve and develop their culture and to retain their identity.

3.1 *Convention for the Protection of the Architectural Heritage of Europe*

Summary [2]: The main purpose of the Convention is to reinforce and promote policies for the conservation and enhancement of Europe's heritage. It also affirms the need for European solidarity with regard to heritage conservation and is designed to foster practical co-operation among the Parties. It establishes the principles of "European co-ordination of conservation policies" including consultations regarding the thrust of the policies to be implemented.

Important definitions [1, 3]:

"**Architectural heritage**" shall be considered to comprise the following permanent properties:

monuments: all buildings and structures of conspicuous historical, archaeological, artistic, scientific, social or technical interest, including their fixtures and fittings;

groups of buildings: homogeneous groups of urban or rural buildings conspicuous for their historical, archaeological, artistic, scientific, social or technical interest which are sufficiently coherent to form topographically definable units (eg complexes of buildings, historic town centres, groups of industrial premises and villages);

sites: the combined works of man and nature, being areas which are partially built upon and sufficiently distinctive and homogeneous to be topographically definable and are of conspicuous historical, archaeological, artistic, scientific, social or technical interest.

These categories may naturally overlap.

Relation with impact assessment (IA):

Article 4 deals with proposals for altering or demolishing protected monuments and plans which affect the immediate environment or area within sight of such monuments and proposals that could adversely affect a group of buildings or a site [3].

Article 8 deals with pollution. Heritage conservation requirements should be taken into account in general policies for controlling pollution.

Article 10 “emphasises the importance of establishing and maintaining the evident links between the protection of the architectural heritage and cultural, environmental and planning policies” and “recalls the value, in the planning process, of conserving certain structures which are not protected but which are clearly assets in their particular settings” [3].

3.2 European Convention on the Protection of the Archaeological Heritage (Revised)

Summary [2]: This revised Convention updates the provisions of a previous Convention adopted by the CoE in 1969.

The new text makes the conservation and enhancement of the archaeological heritage one of the goals of urban and regional planning policies. It is concerned in particular with arrangements to be made for co-operation among archaeologists and town and regional planners in order to ensure optimum conservation of archaeological heritage.

The Convention sets guidelines for the funding of excavation and research work and publication of research findings. It also deals with public access to archaeological sites and educational actions to be undertaken to develop public awareness.

Important definitions [1]:

Elements of the archaeological heritage: “all remains and objects and any other traces of mankind from past epochs:

- i the preservation and study of which help to retrace the history of mankind and its relation with the natural environment;
- ii for which excavations or discoveries and other methods of research into mankind and the related environment are the main sources of information; and
- iii which are located in any area within the jurisdiction of the Parties.” (article 1)

“The archaeological heritage shall include structures, constructions, groups of buildings, developed sites, moveable objects, monuments of other kinds as well as their context, whether situated on land or under water” (article 1).

Relation with IA:

In article 5 “States are required to involve archaeologists in the entire planning process and to ensure that archaeologists and town and regional planners consult one another. Moreover, where environmental impact statements are required, these should specifically consider archaeological sites and their settings. In this way, known and suspected sites can be taken into account in developing plans for the project” [3].

Article 6 “deals with the provision of financial support for archaeological research. (...) It places on those responsible for development projects the burden of funding archaeological activities necessitated by those projects. (...) Major public or private development schemes should provide for archaeological survey work and a full recording of the findings in the same way that provision is made for environmental impact studies.” [3]

3.3 Framework Convention on the Value of Cultural Heritage for Society

Summary [2]: This Framework Convention reflects a shift from the question “How and by what procedure can we preserve the heritage?” to the question “Why should we enhance its value, and for whom?”. It is based on the idea that knowledge and use of heritage form part of the citizen’s right to participate in cultural life as defined in the Universal Declaration of Human Rights.

The text presents heritage both as a resource for human development, the enhancement of cultural diversity and the promotion of intercultural dialogue, and as part of an economic development model based on the principles of sustainable resource use.

“This is a Convention which, without excluding the exceptional, particularly embraces the commonplace heritage of all people”. [3]

Important definitions [1]:

Cultural heritage is a group of resources inherited from the past which people identify, independently of ownership, as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions. It includes all aspects of the environment resulting from the interaction between people and places through time. (article 2)

A **heritage community** consists of people who value specific aspects of cultural heritage which they wish, within the framework of public action, to sustain and transmit to future generations (article 2).

The **common heritage of Europe** consists of all forms of cultural heritage in Europe which together constitute a shared source of remembrance, understanding, identity, cohesion and creativity, and the ideals, principles and values, derived from the experience gained through progress and past conflicts, which foster the development of a peaceful and stable society, founded on respect for human rights, democracy and the rule of law (article 3).

Relation with IA:

This convention deals mainly with policies that could be subject to impact assessment at a strategic level.

Article 5 (Cultural heritage law and policies) concerns the political undertakings that are necessary to permit and guarantee the exercise of the rights to heritage [3], including the “heritage protection as a central factor in the mutually supporting objectives of sustainable development, cultural diversity and contemporary creativity” [1].

Article 9 concerns the sustainable use of the cultural heritage: it requires the Parties to “promote respect for the integrity of the cultural heritage by ensuring that decisions about change include an understanding of the cultural values involved” [1]. “Integrity as invoked here cannot be reduced to a static perspective. It involves interpreting, respecting and where possible adding weight to the complex and multi-dimensional values which constitute the identity and authenticity of the heritage, including values which are contested” [3].

Economic policies should “take into account the specific character and interests of the cultural heritage” [1, article 10].

3.4 The European Landscape Convention

Summary [2]: The Convention aims to encourage public authorities to adopt policies and measures at local, regional, national and international level for protecting, managing and planning landscapes throughout Europe. It covers all landscapes, both outstanding and ordinary, that determine the quality of people’s living environment. The text provides for a flexible approach to landscapes whose specific features call for various types of action, ranging from strict conservation through protection, management and improvement to actual creation.

The Convention proposes legal and financial measures at the national and international levels, aimed at shaping “landscape policies” and promoting interaction between local and central authorities as well as transfrontier cooperation in protecting landscapes.

Definitions [1, article 1]:

Landscape: “an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors”.

This article also defines Landscape policy, Landscape quality objective, Landscape protection, Landscape management and Landscape planning.

Relation with IA:

Landscape should be recognised “as an essential component of the setting for people's lives, as reflecting the diversity of their common cultural, ecological and socio-economic heritage and as the foundation of local identity” [3] and landscape should be integrated “into the country's spatial and town-planning policies, its cultural, environmental, agricultural, social and economic policies, and any other policy sector, which may have direct or indirect impact on the landscape, such as transport” [3] – article 5.

Article 6.e “invites the Parties to introduce specific (...) instruments in view to protecting, managing and planning landscapes, taking into account the agreed landscape policies. The instruments available can be very varied. They include landscape plans, landscape projects, special status for certain types of landscape, a requirement that impact studies, activity licences and land-use permits consider impact on landscape (...)” [3].