

Digitalization and Protection of Cultural Heritage by Establishing a Sustainable Legal Framework

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Abstract. The regulatory framework for protecting cultural heritage implies the need to implement an adequate international legal framework for achieving better care and preservation of our historical and cultural heritage as part of the world heritage. Looking up to rapid developments in digitalisation, in the light of regulating complex management processes, requires the establishment of sustainable legal and regulatory framework in comply with the highest standards of protection of cultural heritage.

Keywords: Cultural Heritage, Legislation, Protection, Digitalization, Management.

1 Introduction

Cultural heritage is a value for the entire society and the importance of which increasingly affects not only nations and regions but the entire society. Conditions of globalization increasingly determines the choice of the environment and the quality of life, as the world cultural heritage is a source for spiritual survival, but also an irreplaceable resource for sustainable development. Main development on cultural heritage preservation focuses on innovative mechanisms for serving and protection including actions related to digitalization.

The Attitude of authorities towards cultural heritage, in most countries, could serve as a mechanism for measuring political wisdom and foresight. Proper management and preservation of cultural heritage is a major element of emphasis in European, regional and international policies (Ivanova et al., 2023, Djeldjov et al., 2001). It is being used as an instrument for economic growth, social and cultural integration, and as an important factor in preserving and multiplying cultural diversity.

The digital heritage consists of unique resources of human knowledge and expression as it embraces cultural, educational, scientific and administrative resources. The process of digitalisation involves usage of information and resources directly related to technical, legal, medical and other kinds of data, with specifics directly related to existing analogue resources.

Regulatory framework is one of the main factors hindering the preservation of cultural heritage. Lack of provisions establishing appropriate mechanisms for protection

and management of cultural heritage, as well as lack of procedural integration undermines the efforts to safeguard values of cultural heritage at national, regional and international level.

European institutions are increasingly proposing policies and initiatives which use cultural heritage as a powerful tool for communication and for building a sense of European belonging among the citizens of the European Union.

Legislative acts on heritage protection have been developed and introduced worldwide not only within the last decades but systematically throughout the years. Main principles have been implemented referring to specific perspective of all States having a legal interest in its protection of cultural heritage specifically due to the importance of the rights involved (Council of Europe, Framework Convention on the Value of Cultural Heritage for Society).

Safeguard of cultural heritage is directly related to the usage of powerful sources, some of which are based on digitalisation, and others are directly linked to successful implementation of regulatory mechanisms. The protection of cultural heritage has been considered to be an erga omnes obligation because the protection of cultural heritage is a commonly shared interest (Decree No. 165 of the Council of Ministers, 1958). European institutions have been increasingly proposing policies and initiatives using cultural heritage as a powerful tool for communication and for building a sense of European belonging among citizens of the European Union (Audit report on the audit of the implementation "Conservation and maintenance of sites of architectural heritage in the urban environment" from 01.01.2015 to 30.06.2018, prepared by the Court of Auditors).

Bulgaria is in one of the first countries in Europe in terms of determining high level of immovable cultural values, which is why the preservation of cultural heritage should be considered as a top priority in terms of policy, regulations and protective mechanisms implementation and management (Council of Europe, Convention for the Protection of the Architectural Heritage of Europe; Council of Europe, Framework Convention on the Value of Cultural Heritage for Society; Decree No. 165 of the Council of Ministers - Notices of the Presidium of the National Assembly – issue 68 of August 26th, 1958; Decree No. 201 of the Council of Ministers of August 23, 1960 on the approval of Rules for the use and preservation of real cultural monuments and historical promulgated, State Gazette No. 73 of September 9, 1960 ; Decree No. 1608 of the Council of Ministers of December 30, 1951 - Notices of the Presidium of the National Assembly - issue 7 of 11.01.1952; Law on Cultural Heritage - promulgated, State Gazette, issue. 19 of 2009; Law on Monuments of Culture and Museums – promulgated, State Gazette No. 29 of April 11, 1969; Law Ordinance on the preservation of the ancient buildings in the settlements - prom. With SG No. 135 of June 20, 1936). This is relevant not only from national but also from international and regional perspective.

Digital transformation requires substantial planning and, in this aspect, Bulgaria is currently leading a process of “Digitisation of museum collections, libraries and archives” under the National Recovery and Resilience Plan of Bulgaria. Many resources have lasting value and significance, and they constitute a heritage that should be protected and preserved for current and future generations. Areas such as the cultural sector, tourism, education and science has been included into the main scope of actions

related to digital transformation in modern society, as well as increasing the awareness of mechanisms for achieving high level of protection of national, international and world heritage (Nikolova, 2021).

2 Attempt to Introduce Regulatory Mechanisms for Digitalization and Protection of Cultural Heritage

The obligation for preserving of cultural heritage in domestic Bulgarian legislation derives directly from Article 23 of the Constitution, which regulates the obligation of the State to take care and preserve national cultural heritage. Within the framework between 1878 and 1944 as part of the Bulgarian national regulatory framework a number of normative acts have been adopted specifically regulating important aspects of preserving cultural heritage.

In 1888, Temporary Rules for Scientific and Literary Enterprises have been adopted (issued in Official State Gazette No. 31/19.03.1888), as in 1890, the Law on the Search for Antiquities and to Support Scientific and Literary Enterprises have been introduced, adopted and promulgated (Published in Official State Gazette No. 13/17.01.1890). Article 8 of this act still remains valid currently, as it supports that "Discovered immovable antiquities, such as temples, fortresses, and others, which may be found, shall be left under the supervision of the local authority and remain as property of the government which regulates the mechanism of search and preservation of the material sources of our history.

In 1911, after many years of preparation, the Antiquities Act came into force (Official State Gazette No. 87/February 18, 1911), as it provides more clearly and systematically defined measures for preservation of antiquities, as well as involves specific responsibilities of institutions for providing actions for implementation of the regulation.

Due to existence of gaps in regulatory mechanisms related to antiquities in populated areas in terms of conservation and restoration, in 1936 an Ordinance-law for the preservation of ancient buildings in populated areas has been introduced (Promulgated by State Gazette No. 135 of June 20, 1936).

After 09.09.1944, the activities on the preservation of cultural heritage have not been performed actively, as it is so in regards to regulatory issues, where until 1952 no normative acts related our cultural heritage have been adopted. Some of the existing legislative acts have been repealed by the Act on the Repeal of all old laws. As a result to this, many antiquities have been destroyed during the period of nationalization.

Decree No. 1608 of the Council of Ministers of December 30, 1951 has been issued (Notices of the Presidium of the National Assembly - No. 7 of January 11, 1952) stating that all cultural monuments located within the borders of the Republic Bulgaria and have scientific, historical and artistic significance, are declared public property and are placed under the protection of the State, as cultural monuments. Based on that, they are declared subject to special registration and care for compliance with a certain order. An Instruction for publicizing, registering and preserving of cultural monuments has also issued (Notices of the Presidium of the National Assembly - No. 79 of 23.09.1952) during that period of time.

Based on Decree No. 165 of the Cabinet of Ministers regarding the preservation of cultural monuments and the development of museum work in our country and in regards to the adoption of Regulations for the application of the 165th Decree of the Cabinet of Ministers of August 5, 1958 for the preservation of cultural monuments and the development of museum work it has been introduced a strict regime for searching, studying, researching, restoring and exhibiting our cultural heritage.

Special Resolution (Resolution No. 201 of the Council of Ministers of August 23, 1960) has been approved introducing regulations for the use and protection of immovable monuments of culture and historical places. Until 1969 different mechanisms have been used in attempt to regulate the search, study and preservation of the cultural heritage but detailed and wide scope regulation has not been achieved up until the adoption of the Law on Cultural Monuments and Museums (Promulgated by State Gazette No. 29 of April 11, 1969). This legislative act confirms the previously introduced regime of nationalization of cultural and historical values. In connection to the implementation of the Law on Cultural Monuments and Museums, a number of by-laws have been adopted, where the main legal aspects have not been strongly defined, leading to selective interpretation and application of some of the regulatory acts.

After 10.11.1989 the regulatory framework remained almost intact and only in 1995 did more significant changes follow in the Civil Code and the regime was liberalized. Despite series of amendments over the years, the 1969 Act on Cultural Monuments and Museums carried the aspirations and spirit of a completely different and already lived era, as unsuitable for modern conditions and modern cultural policies. As for many years the introduced legislative framework on preservation of cultural heritage has not been corresponding to the specific needs and requirements including such on introduction of adequate preservation and restoration mechanisms for protecting the world cultural heritage.

3 Challenges in Achieving Resultativeness

Only in the light of the membership of the country into the European Union, after 2007 into the Bulgarian national regulatory legal framework has been made an attempt to enrich the national legislative tradition in the field of cultural heritage protection, despite the fact that Bulgarian national cultural heritage is one of the oldest in Europe. Specific actions have been made for the implementation into the Bulgarian legal environment all main European directives, regulatory mechanisms, models and policies for effective performance of search, identification, preservation, conservation, restoration and socialization of cultural values. Based on such actions, it has been supported the assistance of the State and local institutions for achieving higher level and resultativeness of preservation and protection of the Bulgarian cultural heritage and natural wealth in an adequate way.

The provisions of a Law on Cultural Heritage (Promulgated by State Gazette no. 19/13.03.2009 effective into force from 10.04.2009.) provide codification in the field of cultural heritage, following the national legislative tradition, regulates in modern way using legal relations referring to the use, preservation and protection of cultural

heritage. The main objective of the law on National Cultural Heritage is to create conditions for the preservation, protection and sustainable development of cultural heritage and to guarantee equal access of citizens to cultural values in compliance with several main principals.

Some of the main principles are based on the aspect of:

- Equality on the different types of cultural heritage in regards to implementation of regulatory mechanisms, as the national cultural heritage is subject to special legal protection.

- Decentralization principals of management and financing of cultural heritage preservation activities has been introduced.

- Publicity and transparency rules in the management of cultural heritage protection activities has also been set for applying on regulatory bases.

Despite the fact that regulatory framework is one of the main factors hindering the preservation of cultural heritage, the current Cultural Heritage Law failed to provide the necessary protection to a large number of cultural values, which revealed the necessity of its repeatedly amendments. Since the entry into force of the legislative act in 2009, up until today the Law on Cultural Heritage has been amended and supplemented total of 27 times, as its last amendment has been published in State Gazette No. 84 of October 6, 2023.

In the transitional and final provisions of the Law on Cultural Heritage, 40 paragraphs are being included, for resulting to continue the effect of rules repealed with the adoption of the Civil Code, regulating application to pending legal relationships or to legal facts that have begun but not being completed at the effect of the revoked act, as well as the effect of the law being postponed.

It is precisely defined some of the texts of the transitional and final provisions of the Civil Code that generate several major problems, leading to the ineffective protection of immovable cultural values, as well as to their irretrievable destruction. For example, in § 12, para. 1 of the Civil Code it has been regulated that found immovable cultural monuments declared in accordance with the repealed Law on Cultural Monuments and Museums retain in their status as declared objects under the Civil Code, as according to para. 2, the director of the National Institute of Immovable Cultural Heritage within a three years' time period, since the entry into force of the law, has to propose the registration or de-registration of declared immovable monuments of culture. (O'Keefe, 2004)

The National Institute of Immovable Cultural Heritage in cooperation with specialized institutions and experts, provide a final assessment of the declared immovable objects, in connection with their registration as cultural values (Deliversky, 2022, Deliversky, 2012). By the assessment of the cultural and scientific value, as well as the declaration of a public significance of an object, its authenticity is being established, managing a degree of preservation. For preparing the final assessment, detailed data on the objects and their environment (archival, textual, map, graphic and photo documentation) are being collected and processed, as research studies and analyses are carried out in accordance to the main principals of the scientific and cultural field to which they are relate.

When it is being determined by the final assessment that a declared immovable object does not possess the necessary qualities of an immovable cultural value, the Minister of Culture, following a proposal by the National Institute of Immovable Cultural Heritage issues an order for terminating the temporary protection regime.

When by the final assessment, it is being established that a declared immovable object has qualities of immovable cultural value, the director of the National Institute of Cultural Heritage states a proposal to the Minister of Culture for the classification of the object, covered by categorization and preservation regimes in relation to the granting of a status of immovable cultural value.

According to the provisions of the Civil Code, the owners of the declared immovable monuments of culture are obliged to:

- take the necessary care for their preservation, storage and maintenance in good condition in compliance with provisions of the Civil Code and the acts on its implementation;

- immediately notify the National Institute of Cultural Heritage, the regional inspectorates for the protection of cultural heritage and the municipal bodies of any damage that has occurred or of actions taken against them in violation of the Civil Code;

- to provide the necessary documents and provide access and assistance to the competent authorities in the exercise of their powers specified in the law;

- to provide public access when use of the immovable cultural value is related to an exhibition activity;

- to provide free public access to the immovable cultural value for the purposes of scientific research, under a condition that it does not interfere with normal use and does not interfere with legal interests of the owner.

In case of destruction of an immovable cultural value due to non-fulfilment of the aforementioned obligations, owners are obliged to restore it in the same form - within the original parameters and architectural and artistic characteristics.

Owners of immovable property when an immovable archaeological site has been discovered or when evidence of the existence of an immovable archaeological site are being presented, an obligation occur for providing access to competent authorities to inspect the condition and to register the fulfilment of the prescriptions for its preservation. If an immovable property is stored and exposed as immovable archaeological cultural value, owners are obliged to provide public access under conditions determined by the regulation under the Law on Cultural Heritage. At the same time, the State does not compensate owners in cases when final assessment establishes that the declared objects (Zahariev, 2020) do not possess the qualities of immovable cultural values, as additionally an act is being issued for terminating of the temporary status of the property. Thus, a hypothesis is possible where an owner is obliged to take care of the preservation and preservation of a declared cultural monument, which has retained its status under the Cultural Heritage Act, as such preservation activities require sufficient financial resources.

In relation to regulatory development in the field of digitalization and cultural heritage protection it has been legally established a mechanism through which competent authority for coordination, organizing and control of activities for digitalization of cultural heritage has been set to be the Minister of culture, or an official determined by

him. Additionally, the term "digitization of cultural heritage" has been legally introduced. It has been defined as the process of creating metadata and digital content for cultural value in accordance with established standards and formats, with suitable electronic devices in order to process, store and distribute them.

Since 2017, the digitization process of part of the resources at National documentary archive in Bulgaria, has been undergone under the supervision of the National Institute for immovable cultural heritage, covering heritage of national and world importance as well as archaeological cultural values of significant importance.

National wide, under the scope of the National Development Program: Bulgaria 2030 there has been implemented leading strategic and program documents, setting the goals of the country's development policies by 2030.

Specific measures and activities regarding provision and management policy have been also introduced, covering heritage of national and world importance as well as heritage of cultural values.

The preservation and digitalisation of cultural heritage aims at integrated approach in the management of cultural heritage by improving the investment and professional qualification of specialists working in the field of preservation and protection of cultural heritage. The implementation of the goals is guaranteed by providing compliance between the financing and the needs of the sector, as well as investing in the modernization and development of the infrastructure.

4 Conclusions

In the light of timely protection and preservation of immovable cultural values, the procedure provided based on the Law on Cultural Heritage related to registering or de-registering declared immovable monuments of culture has to be focused on as it is a matter of priority. Specific attention has to be paid to the sites that have been declared, but yet have not been registered. Actions forward should be completed for their timely categorization. It is with the study of these sites and with the provisions of a final assessment that will provide grounds for assuring the preparation of complete files with detailed information on the sites which have received the status of immovable cultural values. That way, their characteristics will be clear, on the basis of which the corresponding category will be assigned to them and will generally facilitate the process of their subsequent management and protection. Via such mechanism, the current state of immovable cultural values will be documented, a digital archive will be created and their status will be updated, since a significant part of the objects no longer exist or their state has changed compared to the time of their declaration.

Overall, the regulatory framework for protecting cultural heritage implies the need to implement an adequate international legal framework for achieving better care and preservation of our historical and cultural heritage as part of the world heritage.

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Received: March 01, 2024

Reviewed: April 10, 2024

Finally Accepted: April 30, 2024