

European Heritage Legal Forum Annual meeting
October 5th-6th, 2015, Brussels
Report

October 5th 2 pm - 5 pm

October 6th 9 am - 12 am

Participants

Secretariat: Wolfgang Karl Göhner, Germany (WKG; Chairman)
Terje Nypan, Norway (TN)
Alexandra Warr, United Kingdom (AW)
Jacek Brudnicki, Poland (JB)

EHLF Members: Evelyn Schmidt, Austria (ES)
Griet De Schepper, Belgium-Flanders (GDS)
Gislaine Devillers, Belgium-Wallonia (GD)
Nives Milinković, Croatia (NM)
Susanne Thuesen Simonsen, Denmark (STS)
Merle Põld, Estonia (MP)
Juha Maaperä, Finland (JM)
Frederick O'Dwyer, Ireland (FO)
Līga Ābele, Latvia (LA)

Organiser: Benjamine Dobbeleare - EHHF Administrative Secretariat (BD)

Observer: Erminia Sciacchitano, EU Commission DG EaC (ErS)

AGENDA & REPORT

1. Session 1 - Presentation of EU legislative actions

WKG notes that in his impression the impact assessment on cultural heritage at the EU level is currently functioning better than in some countries at the national level.

The meeting starts with TN presentation - **Review of the achievements of the EHLF since its establishment in 2008** (*PPT presentation - see Annex no. 1*). TN marks a slowdown of production of legislation within the European Commission ("clearing the deck" & making existing legislation more functional), what gives EHLF a possibility to think a little bit more about how we should work in the future. TN notes there are 35 Directives that have been revised by the EHLF since its establishment - this list will be sent to the Members. TN thinks that so far we have achieved good recognition of the actions undertaken at the EU level, however we still have not managed to translate this EU dimension at the national level. TN stresses also the need to pay attention to those Directives that every ten years come up for

review, securing the existing exemptions for CH. Now the main challenge for the Members is cross-sectorial work at the national level, therefore the Members should have an improved mandate within their native organisation to conduct dialogue with other national ministries.

With a brief description of the Dichloromethane-case in the UK (struggle for getting exemption that would allow to use this substance in restoration works) AW presents the **Workshop** for the Members - an exercise: what would you do to make your government representative body to come forward with a case like this to Brussels. Each of the Members was asked to draft a mapping indicating: 1) the access to person of influence who could come forward with a case, 2) the access to national professional expertise, 3) the link of your agency to the central government, 4) the possible links to the EU Commission - DG EaC or other DG's, 5) the links to the NGO's or other pressure groups, 6) the links to other networks on the EU level dealing with CH. AW stresses that each of those links is crucial in getting the information that we have to the right person and then eventually to Brussels.

LA remarks that in smaller countries, such as Latvia, the administration circle is much smaller what simplifies and de-formalizes networking within the national administration. WKG notes that smaller countries could act as a intermediary in contact with the EU institutions informing about existing problems.

ErS briefly describes the internal legislative procedure within the EU, indicating that the best moment to get involved on the first stage is the public consultations of the EC. Then it is also important to have contact with your representative (normally a representative of your Ministry) in the Preparatory Body of the Council (CAC) as well as with the Member(s) of the European Parliament who also can be very effective. ErS describes also the process of Inter-Service-Consultations within the EC - generally the DG EaC is included on every consultation of the proposal that could have impact on the CH, however it is also important for the DG EaC to get feedback about any situations when there could be an indirect and unperceivable impact on CH so that the DG EaC would ask to be added to this consultations.

WKG briefly mentions the **Freedom of Panorama, EU Water Framework Directive and EIA-Directive** pointing out the important impact of these Directives on CH that has been recognized within the EU as well as past, successful work of the EHLF on those issues. However we still need to follow any developments going on in that area. BD informs about the news concerning the Freedom of Panorama on the EHLF website and about the paper prepared by EHLF-Member Gerda de Bruijn (*see Annex no. 2*). It has been agreed that the Members would read through this paper and give answers on it within 3 weeks after the meeting.

JM gives the presentation concerning **the examples of exception adopted by Finland in the REACH Directive** (*PPT presentation - see Annex no. 3*). The discussion on the REACH Directive follows the presentation. TN remarks that the registration procedure becomes too complicated so that no one would bother to produce these materials, what in fact could be harmful for the conservation purposes. The updated list of the substances falling under REACH should be made available to the Members.

Further the discussion goes on the Building Products Directive - the problem is that the products which are made within the exemption of this regulation do not get the CE marking which, in contrast, is essential for public procurement procedures. AW pays attention to the

question if theoretically the Cultural Heritage Directive could be introduced to strengthen up the position of the CH on the EU level. Therefore we should start thinking proactively about the possible impacts of such concept, especially at the national level.

2. Session 2 - Reports on the European developments for cultural heritage

BD reports about the anniversary 10th **EHHF Annual Meeting** that took place in Dublin, 20-22 May 2015. Key topics discussed were: the public perception of heritage, shifting mentality within the public CH administration, public engagement within the public agencies. Next annual meeting of the EHHF will be organised in Switzerland in May 2016 with a main theme: Change of the CH sector.

ErS gives the presentation concerning the **Recent developments on heritage policies at EU level** (*PPT presentation - see Annex no. 4*). ErS stresses incredible evolution at the EU level concerning the policy documents on CH in the last few years. ErS also points out that there are lot of complaints concerning the quality of the restoration works carried out with the EU funding. DG EaC is not capable to control the quality as it falls under sole competence of the Member State. At the same time, not in all countries there is an obligation to consult the authority responsible for the protection of the CH. Therefore it is planned to put the reference to the quality of restoration works in the next session of the EU funding.

WKG gives presentation concerning **the European Year for Cultural Heritage 2018** (*PPT presentation - see Annex no. 5*). WKG notes the main idea of that project is a recognition that local, regional and national heritage is also European heritage and that we - the Europeans - belong together. All main European institutions are involved now in this project while the Reflection Group "EU and cultural heritage" is responsible for its coordination. ErS points out there is no formal procedure for establishing the ECHY 2018 and the final decision belong to the President of the EC.

GD describes the **Conference in Namur of March 2015**, that has been the outcome of a Belgian initiative under auspices of the Council of Europe. The conference as well as the final documents have been prepared by the informal international working group. Two documents were adopted: The Call of Namur (concerning the protection of CH in case of conflict) & The Declaration of Namur entitled Cultural Heritage in the 21st century for living better together - toward a common strategy for Europe.

TN briefly reports about the work of **the EHHF Economic Taskforce** that aims on statistics on CH. Recently three central indicators have been settled: gross value added generated by physical heritage, employment generated by physical heritage and private and public expenditure for physical heritage. Concerning the new statistical system of the EC - there is a consultation of the Eurostat with a deadline October 15th. A core manuscript has been prepared and can be sent out to the Members by BD.

TN also describes briefly the activity of **CEN TC 346 on Cultural Heritage** as a part of the European Standardisation System (*PPT presentation - see Annex no. 6*).

3. Session 3 - Presentation of national legislative actions

GDS informs about the **New Decree on Immovable Heritage in Flanders** that entered into force on January 1st 2015, describing a long process of its drafting and adoption. Particularly interesting solutions are: two phases of monument's protection - provisional and definite with a public consultation stage between them, including more rules concerning the mode of protection within a decision rather than in general law (what should be linked with arduous process of re-evaluation and rewriting of previous decisions), entrusting more competence in monument protection to local authorities, substitution of the penal punishments with civil instruments as well as a possibility to create a private archaeology finds. GDS will pass on to BD some information on this New Decree.

JB gives presentation concerning recently adopted **Act introducing the "List of Heritage Treasures"** - a new, special form of protection of the most precious movable monuments in Poland (*PPT presentation - see Annex no. 7*). The monument entered into this List would fall under sole competence of the Minister of Culture and National Heritage and would be a subject to extensive legal restrictions. Arising controversies concerning undue rigour of these restrictions has induced the President of Poland to turn to the Constitutional Tribunal to check the compatibility of this Act with the Constitution, especially with the principle of property protection.

4. Session 4 - The EHLF working process

WKG starts a discussion stating that we need to find certain solutions to improve EHLF working process, especially when it comes to internal interaction as well as finding and removing a 'missing link' within our national administrations. EHLF should be a help for the for both - our Heads ant national authorities.

ES finds that the essential problem is in identifying a responsible people in our internal administration that we could turn to with our issues.

STS suggests that the Members could receive frequently some information about the actual developments in a form of newsletter. Currently the Members do not get enough feedback and therefore are not aware of what is going on within the EHLF. BD points out she is ready to prepare such newsletters, however she needs to get a feedback from the Members to make a content. WKG encourages to fill the EHLF homepage with information, also national one.

TN pays attention that in the internal work at the national level each Member should possess a clear mandate from his organisation to carry out his activities.

WKG notes that currently there is not many EU Consultation with potential negative impact on CH.

Further, **the EHLF Operational Guidelines** has been revised and extensively discussed (*Revised version adopted in Brussels - see Annex no. 8*). Certain amendments have been adopted (change of paragraphs order, minor grammatical or semantic corrections, including new paragraph 4.5 "Members are encouraged to enhance the mutual exchange of information related to EU policies of relevance to cultural heritage and their best practices in the transposition process"). Concerning the potential change of the name of "Secretariat" Members are welcomed to give their proposals.

As for the **nomination and election of the Members of the EHHL-Secretariat** the Members of existing Secretariat (WKG, TN, AW, JB) are open for renewal of their mandate. The Secretariat may be extended to 6 Members - candidates for two free seats are NM and GDS or STS, however they need to ask for permission of their bosses first. The Members have elected for the next period unanimously by acclamation WKG, TN, AR, JB and NM, GDS/STS as Members of the Secretariat as well as WKG as Chairman.

Next annual meeting is scheduled in Brussels (unless other proposal appears) in the beginning of October 2016 (2 half days, Tuesday & Wednesday).