

List of EU Directives reviewed by the working group and the EHLF since 2003

Note: This list is chronological, with the most recent directives at the end of the list

Directive name & nr.	Detrimental effect on Cultural Heritage - Status
1. Biocidal Products 98/8/EC	<p>Aiming to assess all biocidal products on the European market. Producers of wood tar are not able to produce product information required, leading to a prohibition on the market of this tar. Wood tar is used for preserving old boats, wooden buildings and staves churches in Norway, Sweden, Finland and Denmark.</p> <p>In 2005, a Nordic research project to prove non-biocide effect in actual use and remove wood-tar from list of substances was financed by Finland, Norway and Sweden. The results showed no biocidal affect.</p> <p>Status: 2007; Wood tar has been removed from list of active substances of the directive by the Standing Committee, based on research result presented by a group of member states and the WG.</p>
2. Construction Products 89/106/EEC	<p>Requires standardisation of construction products. This is a threat to some traditional building materials and traditional conservation methods.</p> <p>See also: Nr. 29. HARMONISED CONDITIONS FOR THE MARKETING OF THE CONSTRUCTION PRODUCTS, COM(2008) 311 final, 2008/0098 (COD)</p>
3. Energy Efficiency 93/76/EEC and Directive 2012/27/EU on energy efficiency	<p>Aims to limit carbon dioxide emissions. Requires application of ventilation in old buildings. General indoor climate requirements are hard to fulfil for old buildings without also affecting the cultural value.</p> <p>See also: Nr. 4 and 28.</p>
4. Energy Performance in Buildings 2002/91/EC	<p>Attempting to reduce the use of fuel in the EU.</p> <p>In many national legislations demands replacement of original windows in old buildings etc.</p> <p>Status: Has an <i>exemption in art. 4</i> for certain protected buildings, which has not been incorporated in all national legislations.</p> <p>See also: Nr. 28.</p>
5. Environmental Impact Assessment 85/337/EEC	<p>Assessing certain public and private projects on the environment.</p> <p>Controversial when related to mixed areas of cultural and natural heritage.</p>
6. Health Conditions on Fishery Products 91/493/EEC	<p>Requires the use of smooth surfaces when handling fish and fishery products. This creates difficulties for traditional wooden fisheries to continue their production. It requires huge investments to satisfy the standards. Most owners cannot afford this.</p>
7. Lifts 95/16/EEC	<p>Concerning lifts permanently in service. Requirements for accessibility of disabled persons can be a problem fulfilling in protected buildings without also affecting authenticity and cultural value.</p>
8. Machinery 98/37/EEC	<p>Machinery shall be properly secured for the sake of workers. This is in some cases a challenge for building conservation.</p>
9. Natural Habitats 92/43/EEC	<p>Aiming to protect biodiversity. One consequence is that intrusive vegetation disturbing cultural heritage values in a habitat protected by the directive cannot be removed. Cultural heritage values in these areas must succumb to</p>

	the conflicting nature interests.
10. Passenger Ship Safety 98/18/EC	Protected passenger vessels in service must apply to strict safety requirements that are non-adjustable. Application to certain passenger vessels also removes the cultural value of the ship.
11. Toxic Products 76/769/EEC	The removal of substances dangerous for the environment also affects materials and treatments of protected cultural heritage as they cannot be preserved in a traditional manner.
12. Working Places 89/391/EEC	Safety requirements for workers may damage protected buildings with e.g. scaffolding bolted into the wall surfaces or create problems for use of traditional tools and techniques.
13. Purchasing Directive (Directive COM (2003) 503)	Amending and consolidating Directives 92/50/EEC, 93/36/EEC, and 93/37/EEC coordinating the procedures for the award of public works contracts, public supply contracts and public service contracts. Poses serious and sometimes impossible problems for acquiring materials from a specific geo-location to replace damaged materials in protected monuments, buildings and sites.
14. Directive relevant to fire safety regulations	Source Directive not identified. Objective to improve security and escape routes for public. Negative consequences: All doors in buildings where the public has access must open outwards. Consequence: All doors in historic buildings open to public must be changed. Almost without exception doors in buildings built prior to 1900 have doors opening inwards due to the demand for security and escape as it was seen in those days.
Directive name & nr.	2005. Detrimental effect on Cultural Heritage - Status
15. EU-Directive 2000/60/EG, The water Directive	For improved water quality and reduced run-off from agriculture. Can have negative effect on canalisations, water related sites and some cultural landscapes. Special treatment of cultural heritage is indirectly authorised by the Directive when in keeping with the condition that a cost-benefit analysis is first used to decide removal or non removal of the object in question. The results of this analysis may, in any case, be overridden by “overriding public interest” or “legitimate use of the environment”, when no substantial pollution to, or additional deterioration of the water is caused thereby.
16. EU Draft Directive on reduced rates of VAT COM (2003) 397 final	This is a potential amendment to the EU Sixth VAT Directive 77/388. EC. Intends to harmonise use and levels of VAT in the EU. For several years an experimental “Annex K” in operation that has permitted the lower rate for repairs and maintenance of housing, but it ran out at the end of 2005. In 2006 the Annex K, was extended until 2010. But the timeframe for reporting use to Brussels was extremely short and discriminated many national actors from profiting from this possibility. Status: Was a positive possibility for labour intensive activities, i.e. conservation and maintenance works.
17. Proposal for Directive on Geographic information in the EU (INSPIRE) COM (2004)516	Wishes to establish a unified system for geographic information in Europe, for monitoring and safeguarding of nature areas and pollutions control. Cultural heritage objects and buildings not included, and consequently will not be included in the planning tools emerging from this unified GIS system. Status (05): Opening for including cultural heritage. Question is if national authorities / experts will ‘push’ to have it included. No general agreement that inclusion is advisable. Status 2011 Includes Cultural Heritage.

Directive name & nr.	2006. Detrimental effect on Cultural Heritage - Status
18. EU Directive 2002 95/EC, Restriction of Hazardous Substances	EU Directive 2002 95/EC RoHS (Restriction of Hazardous Substances) and EU Directive 2002 96/EC WEEE (Waste Electrical and Electronic Equipment). This combination of directives are stopping repairs of organs were some pipes need changing. Organ pipes are of lead or contain high quantities of lead. What about glass windows with lead? Ref.: http://www.pipes4organs.org/
19. EU Directive 2002 96/EC Waste Electrical & Electronic Equipment	
20. REACH (EC) 1907/2006 and Directive 2006/121/EC	The REACH Regulation (EC) No 1907/2006 and Directive 2006/121/EC amending Council Directive 67/548/EEC REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning the Registration, Evaluation, Authorisation and Restrictions of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC of the European Parliament and the Council and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC. COM(2006) 842 final. 2003/0256 (COD). Official Journal on 30 December 2006. The regulations come into force across the whole of the EU on the 1st June 2007. Status: REACH could be problematic. Extensive REACH demands for product labelling and testing, applicable to low volume historic rehabilitation materials used. Demands more detailed product and environmental data that what was the case for in the Biocide directive, which caused a commercial prohibition of traditional wood-tar. Status: situation unclear.
Directive name & nr.	2007. Detrimental effect on Cultural Heritage - Status
21. Directive of the European Parliament and of the Council on the assessment and management of flood risks , Common Position (EC) No 33/2006 of 23 November 2006	Directive of the European Parliament and of the Council on the assessment and management of flood risks. Common Position (EC) No 33/2006 of 23 November 2006. EURO-Lex reference 52006AG0033 <i>Official Journal C 311 E , 19/12/2006 P. 0010 - 0020</i> Status: Explicitly mentions cultural heritage as a beneficiary of this legislation. Article 1 states: <i>“The purpose of this Directive is to establish a framework for the assessment and management of flood risks, aiming at the reduction of the adverse consequences for human health, the environment, cultural heritage and economic activity associated with floods in the Community.”</i> Conclusion: Poses no major challenges for Cultural Heritage management but. Lacks a clear position on cultural heritage if a conflict between flood management and heritage buildings / installations should manifest.
Directive name & nr.	Cleared
22. Limitation of Volatile Organic Compounds 99/13/EC The Paints Directive 2004/42/EC	Intention is to reduce atmospheric and air pollution from volatile organic compounds. Limitation on use of VOCs reduces the possibility for using authentic paint and varnishes necessary for historical restoration and rehabilitation. Status: A clause of special consideration achieved in spring 2004, leaving national competent authorities make exceptions where cultural heritage buildings and objects. <i>“For the purposes of restoration and maintenance of buildings⁴designated by competent authorities as being of particular historical and cultural value, Member States may grant individual licences for the sale and purchase in strictly limited quantities of products which do not meet the VOC limit values laid down in Annex II”[5]</i>

<p>23. COM (2003) 319, on the management of waste from extractive industries</p>	<p>Intends to curb pollutions from extractive industries. Cultural heritage values not mentioned in text, and it is apparently unrecognized that some sites of extraction are cultural heritage e.g. County of Cornwall, which is rich in historic mining and the World Heritage site of Røros in Norway.</p> <p>Status: will not affect closed down mining activities, follows from ‘use area’ and definitions of the directive as given in article 22. From this article it follows that the directive will not impact on ‘closed’ deposit sites. Conclusion: Of no consequence.</p>
<p>24. EU Directive 2004/35/EC. COM(2006) 232 final, Framework for the protection of soil</p>	<p>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a framework for the protection of soil and amending Directive 2004/35/EC. COM(2006) 232 final</p> <p>Status: In general the directive strengthens the position of cultural heritage. CH is included in the protection measures of the directive. Position: Preamble makes it clear that the intention of the directive is to protect also the geological and archeological heritage. Directive has art. 175(1) of the EC Treaty as legal basis. Member states may have stricter rules that those set down in the Directive.</p>
<p>Directive & nr. 2008. Detrimental effect on Cultural Heritage - Status</p>	
<p>25. Proposed EU Directive restricting the marketing and use of dichloromethane (DCM) [COM(2008)0080 final 2008/0033 (COD)]</p>	<p>Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations.</p> <p>Position: The EU is proposing to ban the sale of paint strippers containing dichloromethane to commercial users (ie the general public). Although industrial users will not be restricted, professional users (contractors, conservators etc) would have to undergo specialist safety training, which is considered to be impractical and difficult to implement effectively.</p> <p>Complicates the use of dichloromethane to the point of making it impossible to use for conservation purposes. Dichloromethane. Is presently the very best paint remover we have recourse to. Would be a great loss not to use it and would in addition lead to a resurgence of fires and building damages ensuing from restoration works as was the case before it came on the market. A need to develop a substitute</p> <p>Status: Problem is solved as exemption is made for cultural heritage. Does not exempt from implementing measures on training, safety and health when using the substance.</p>
<p>26. Directive 2005/32/EC eco-design requirements for fluorescent lamps</p>	<p>Directive 2005/32/EC of the European Parliament and of the Council with regard to eco design requirements for fluorescent lamps without integrated ballast, for high intensity discharge lamps, and for ballasts and luminaries able to operate such lamps, and repealing Directive 2000/55/EC of the European Parliament and of the Council. Preparatory Studies for Eco-design Requirements for EuPs. Lot 8: Office Lighting (April 2007) Lot 9: Public Street Lighting (January 2007). Both by VITO and subcontractors. Available from the EUROPA website: http://ec.europa.eu/energy/demand/legislation/eco_design_en.htm</p> <p>Position: Will demand new bulbs and change lighting atmosphere of building designed for traditional bulbs.</p> <p>Status: EHLF decides not to engage in securing derogations.</p>
<p>27. Art 87-89. (EU Treaty Rome 1957).). EEA treaty</p>	<p>Rules on state aid interfere with transfer of cultural heritage properties to non-profit organisations / foundations and state funding of cultural heritage in general.</p> <p>Status: Potential problem. In work.</p>

<p>art. 61. Rules on state aid</p>	<p>Position: The rules forbid giving away a publicly owned property to a non-profit foundation. Cases have been tried in the European Court. The rationale is if any money can be made from the ownership of the property the giving away of public property is to be considered as state aid to the receiver, and thus discriminating in the market. If a publicly owned property is to be transferred it has to be based on a purchase at market price. An official value assessment document has to be made on which a sale can be made. This affects a much employed practice. The public financing of CH is also on the line here if a strict interpretation on state aid are applied.</p>
<p>28. Energy Efficiency 93/76/EEC</p>	<p>Energy Efficiency 93/76/EEC revised proposal 2008.</p> <p>Position: The clause stating that no state funding can be made for buildings that do not conform to demands of the Energy Efficiency directive as of 2014 has been removed. The general prescriptions of the Directive will in many cases be detrimental to historic value (new windows, outside insulations, and other works that damage the structural integrity of the buildings.)</p> <p>Status: Derogation achieved. Exemption in 4 a.:</p> <p>“4.2 Member States may decide not to set or apply the requirements referred to in paragraph 1 to the following categories of buildings:</p> <ul style="list-style-type: none"> (a) buildings officially protected as part of a designated environment or because of their special architectural or historical merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance; (b) buildings used as places of worship and for religious activities; (c) (d) residential buildings which are used or intended to be used for either less than four months of the year or, alternatively, for a limited annual time of use and with an expected energy consumption of less than 25 % of what would be the result of all-year use;” <p>Each member state may decide to apply the exemptions in article 4 or not. Each member may also decide on the interpretation of 4 a.</p> <p>A CEN¹ Guideline for improving energy performance of historically, architecturally or culturally valuable buildings is in preparations, and expected to be finished in 2015.</p>
<p>29. HARMONISED CONDITIONS FOR THE MARKETING OF THE CONSTRUCTION PRODUCTS, COM(2008) 311 final, 2008/0098 (COD)</p>	<p>Position: Potential problem for construction products not confirming to modern demands. Poses challenges for certification small series production for restoration / rehabilitation of traditional building products. Also poses potential problems for certification of individual production of pieces due to very strict demands on the purchasing procedure prior to the production of individual pieces and their certification procedure.</p> <p>2012. Status: Derogations achieved. Article 5. Derogations from drawing up a declaration of performance if:</p> <ul style="list-style-type: none"> • (c) <i>the construction product is manufactured in a traditional manner or in a manner appropriate to heritage conservation and in a non-industrial process for adequately renovating construction works officially protected as part of a</i>

¹ CEN (E TC 346 (WI=00346033) Conservation of Cultural Heritage - Guidelines for improving energy performance of historically, architecturally or culturally valuable buildings. Drafting.

	<p><i>designated environment or because of their special architectural or historic merit, in compliance with the applicable national rules.</i></p> <p><i>(a) the construction product is individually manufactured or custom-made in a non-series process in response to a specific order, and installed in a single identified construction work,</i></p> <p>Challenge: <i>When this derogation has been applied the CE marking shall not be affixed. This lack of CE marking can easily bring the products into conflict with the EU public procurement policy where CE marking is demanded.</i></p>
<p>30. The free movement of goods articles 34 and 36</p>	<p>Commission takes Sweden to court on the ban on metal detectors (January 2011).</p> <p>Position: The Swedish Heritage Conservation Act states that metal detectors may neither be used nor carried on the sites of ancient monuments and remains, except when travelling on a road that is open to the general public. Imports of metal detectors into Sweden are affected by this general ban on the use and the carrying of these devices. The free movement of goods is established in Articles 34 and 36 of the Treaty on the Functioning of the European Union. Moreover, the TFEU provisions do not preclude prohibitions justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, or the protection of industrial and commercial property, as well as other mandatory requirements recognised by the Court of Justice (e.g. protection of the environment). Such prohibitions must, however, remain proportionate and must not amount to arbitrary discrimination or a disguised restriction on trade between Member States. The writing from DG Enterprise and Industry, interestingly enough omits the one formulation of critical interest for heritage authorities; “(...); <i>the protection of national treasures possessing artistic, historic or archaeological value; (...)</i>”.</p> <p><i>Article 36 (ex Article 30 TEC)</i></p> <p><i>The provisions of Articles 34 and 35 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.</i></p>
<p>31.</p>	<p>Consultation on a draft General Block Exemption Regulation (the GBER) on state aid measures.</p> <p>Consultation period From 18.12.2013 until 12.02.2014.</p> <p>Positive for Cultural Heritage.</p> <p>The General block exemption Regulation (GBER), in force since 29 August 2008, simplifies aid granting procedures for Member States by authorising without prior notification a range of measures fulfilling horizontal common interest objectives.</p> <p>The text of the main document has a clause on block exemptions for Cultural Heritage. Articles 47 and 48.</p>

<p>32. Directive 2014/52/EU, amending Directive 2011/92/EU</p>	<p>Directive 2014/52/EU of the European Parliament and of the Council amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment: recast of the Environmental Impact Assessment Directive, where Cultural Heritage has been given a more prominent place in the assessment procedure.</p> <p>Strengthens the position of the cultural heritage.</p>
<p>33. Directive 2012/28/EU</p>	<p>Copyrights. Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works:</p> <ul style="list-style-type: none"> - Implementation is planned on October 29th, 2014, - it fails to cover all categories of orphan works.
<p>34. Council Regulation (EC) 116/2009 of December 18th, 2008</p>	<p><u>Cultural Goods</u></p> <ul style="list-style-type: none"> • Directive on the return of cultural goods unlawfully removed from the territory of a Member State: The recast of the Directive 93/7/EEC is complete and the new Directive will be published in 2014. • Council Regulation (EC) 116/2009 of December 18th, 2008 on the export of cultural goods: The Working Group set up by the Committee on the export and return of cultural goods is just finalising a “Guidance for the Interpretation of Categories of cultural goods as listed in Annex 1 to Council Regulation (EC) No 116/2009”
<p>35. 2014/24/EU, 2014/25/EU, 2014/23/EU</p>	<p><u>Public Procurement</u></p> <p>Complete reform of Directives in 2014:</p> <ul style="list-style-type: none"> • Two Directives were revised: 2014/24/EU and 2014/25/EU, • a new Directive on concession contracts: 2014/23/EU. <p>Comment. The main problem for cultural heritage remains: Purchased products should carry the CE marking. Refer to 29. The tendency to equate the ‘best’ offer with the lowest price.</p>

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