

Effects of European Union legislation on the built cultural heritage.

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Discovering the inadvertent impact of EU Directives on cultural heritage.....	2
1.1 The Working Group on EU Directives and Cultural Heritage.....	2
1.2 The European Heritage Legal Forum (EHLF).....	2
1.3 How legislation can restrict conservation, maintenance and rehabilitation works leading to a loss of authenticity.	3
2 The EU Treaty; EU competencies and cultural heritage.....	4
3 The effects of EU legislation; Cases.....	6
3.1 Case: Restoration of Danson House, Uk., using original interior colours.....	6
3.2 Case: EU legislation forbidding the use of traditionally produced wood tar.....	7
3.3 Case: Fire protection, EU-Directives and impact on authenticity of monuments.....	8
3.4 Case: Mandatory changing old windows and the energy efficiency directive.....	9
3.5 Case: Vyshegrad castle; public purchasing and certification of building material. ..	10
3.6 Case: Proposed energy demands in building regulations and log buildings.	11
3.7 Case: Historic varnishes, lacquers and paints and the VOC directive.	12
3.8 Case: Sneznik castle, Slovenia.	13
3.9 Some assorted examples.....	15
3.10 Overview or what to remember.	17
4 Legislative developments.....	18
4.1 The modern supersedes and eradicates the traditional.....	18
4.2 Actively influencing legislation.....	18
4.3 The participation of cultural heritage authorities in legislative processes.....	19
5 Current legalistic practice.....	20
5.1 Some examples of legal texts.....	20
5.2 The legal tool - The clause of special considerations.	21
6 Summary & Conclusions.....	22

The development of EU based legislation threatens the authenticity of the cultural heritage by legislation that exclude or complicates the restoration of historic paintings, the replacing of original building stones with stones from the original location, by making certain maintenance works using traditional techniques impossible to practice, by prescribing measures that require removal of original building components or by demanding industrial certification procedures for traditional building materials, crafts and components that have been in use for centuries. How and why is this happening? Why does the new European cooperation and legislation change the activity field of national cultural heritage administrations? How and by what means, may such legislation be avoided in the future?

Discovering the inadvertent impact of EU Directives on cultural heritage.

1.1 The Working Group on EU Directives and Cultural Heritage.

At the end of the 1990-ies a number of people and institutions became conscious that EU legislation was having effects on their work of safeguarding the Cultural heritage. The Norwegian cultural heritage administration became acutely aware of this as they were confronted with the Biocide legislation from Brussels. We will come back to this example in one of the cases included.

In 2003 an initiative was taken in co-operation with the EU financed ARCHIP / ARIADNE project at The Institute of Applied and Theoretical Mechanics; Czech Academy of Science. At the meeting in Prague, it was decided to establish a permanent working group with the task to compile a list of problematic Directives and seek to find solutions to this challenge. The main objective of the Working Group for EU Directives and Cultural Heritage became to document and to work towards establishing a permanent observatory function to monitor the legal processes in Brussels. The Working Group documented its findings in the book "European Legislation and Cultural Heritage". It also proposed a clause of special consideration as a legal tool to solve the problem.



"European Legislation and Cultural heritage"
Ed.: A.M. Ronchi, T.M. Nypan, Delewa
editore, Milan 2006, ISBN88-88943-05-6.

In 2008, at the initiative of the European Cultural Heritage Authorities (European Heritage Heads Forum, EHHF), the European Heritage Legal Forum (EHLF)¹ was founded; as a step towards an observatory function. The Working Group was subsequently dissolved.

1.2 The European Heritage Legal Forum (EHLF).



In 2008, the European Heritage Legal Forum (EHLF) was founded; as a step towards establishing an observatory (<http://www.ra.no/ehlf>). The EHLF is not an organisation, it is a network of appointed experts from the national competent authorities, who have been given the shared task to follow and scrutinise proposed EU legislation to find if it does have negative effects on a sustainable cultural heritage management. If a piece of legislation is found to be detrimental this is reported to the competent national authority to be processed in the

political system working with EU legislation. The EHLF members, or others, may seek to influence the wording of the legislation to include exemptions or special considerations for cultural heritage. The EHLF as a body may not operate politically on behalf of their member institution, which is why it has the character of an observatory.

1.3 How legislation can restrict conservation, maintenance and rehabilitation works leading to a loss of authenticity.

The effect of regulations on the maintenance and restoration of cultural heritage stems from regulations in areas within the competencies of the EU. These regulations are transposed into national regulations without consideration for the fact that they should not apply to cultural (heritage) policies as these are not within the competencies of the EU.

Regulations define the permitted and often we find that the use of traditional materials and techniques are not included in the permitted. In short, the regulations interfere negatively with the safeguarding of authenticity. As such the regulations negatively influence the value creation chain of cultural heritage as the regulations lead to a loss of the historic, traditional or visual authenticity of the heritage.

The general problem concerning the EU legislation is that it is tailored for modern industrial demands. It therefore often, implicitly or explicitly, excludes the use of traditional materials and traditional craft methods. For new modern buildings this legislation is not a problemⁱⁱ, for historic buildings it is a threat to authenticity.

If there is one major aspect of heritage that creates attraction, it is the notion of authenticity. The cultural heritage objects are not modern 'Disneyland' creations. The preservation and care for this very authenticity is our responsibility as cultural heritage professionals. In fact I would say the preservation and sustainable management of authenticity is our professional calling and our '*raison d'être*' as public institutions.

The importance of authenticity is outlined in all the conservation policy papers our profession shares. These are UNESCO documents, ICOMOS Charters and the Council of Europe Conventions of Granada, Valetta and Cultural Landscapesⁱⁱⁱ.



III. Traditional building in Romania. Not in accordance with EU building regulations?

In the ICOMOS "*Principles for the Preservation of Historic Timber Structures*"^{iv}, art. 4 and 10 it is stated that the goal is to make the end result of interventions "look" as much as the original as possible, by replication of the materials, tools and processes that produced the original.

The European governments have also taken upon themselves the obligation "*to adopt integrated conservation policies which (...) foster, as being essential to the future of the architectural*

heritage, the application and development of traditional skills and materials."^v ; i.e. to promote the use of traditional skills and traditional materials.

This is the background for the challenge created by the EU and subsequent transposed into national legislation. The Working Group found that these regulations have “....., *in a number of cases, legislation drawn up by the EU has - unwittingly - had a reverse effect on the safeguarding of Europe’s cultural heritage.*”^{vi}

2 The EU Treaty; EU competencies and cultural heritage.

The organs of the EU have only those competencies which have been attributed to them; i.e. the principle of attributed powers. The organs of the EU have been attributed no power over cultural policies, which are the prerogative of the member nations. The EU competencies to regulate culture related questions are therefore questionable. In light of this, it is evident that the EU legislation is not produced to be applied to cultural activities as such.

But, on the other hand, the application of the rules concerning the 4 freedoms and environment has a wide scope. Regulations concerning these areas may therefore have indirect repercussions on the cultural sector.

The difficult question is when cultural heritage relevant legislation or legislation having indirect repercussion on cultural heritage policies is within the policy fields of the EU Treaty and when it is not? Can EU legislation restricting national cultural heritage policies be relevant or applicable to cultural heritage at the national level at all?

The EU treaty has two formulations that are relevant to this question in art. 95 and 151.

Art. 95. Cultural considerations are recognised in the EU Treaty and in the practice of the EU-Court as legitimate reasons for trade restrictive measures in areas not regulated by directives. Article 95 opens for member states to have other rules than those that follow from a directive, where this is necessary to preserve for example national treasures of (amongst others) historic values. This article states the right of member states to have other rules for the cultural heritage area that the rules governing the (policy) areas in which the EU has competencies.

Art. 151 The art. 151.4 of the EU Treaty calls for the general inclusion of cultural aspects in all Community policies. This article gives the EU the right to initiate *supportive* measures to cultural heritage. It does not grant the EU the right to promulgate restricting measures. The difference between supporting measures and restrictive measures has yet to receive a clear cut definition. The article 151.4 underlines the obligation on the EU system to take cultural considerations in all policy matters and is therefore underpins special treatment of cultural heritage in regulations.

Together with the definition of the competencies given to the EU, Art 95 and 151 are important as they set the basis for making for special considerations or provisions for cultural heritage in any EU directive.

The fact that the Commission Internal Impact Assessment manual (ref. 4.2 *Actively influencing legislation*) from 2009 includes cultural heritage as a specific assessment criteria underlines this obligation.

The conflict discussed in this paper stems from EU Directives for policy areas that are within the EU competencies; such as international trade competition, personal and public health, safety, and conservation of the natural environment. The conflicts ensuing from the implementation of the EU Directives, on one hand, and sound heritage conservation practice, on the other hand, takes place at *national*, rather than at *EU or international* level.

If there is lack of understanding the limitation of EU legislation at the national level problems will ensue from the transposing of EU legislation into national legislation. The EU legislation is, at national level, made to apply for the cultural heritage policy area. National sector ministries et al. are unaware that such indiscriminate application of EU regulations is to overstep the competencies of the EU. Sometimes we experience that exemptions given for cultural heritage in the EU directives are left out when transposed into the national regulations.

At the Brussels level there has been a (growing) emphasis on cultural policy and safeguarding of cultural heritage in the last 4-5 years. EU Commissioner Jan Figel stated in 2005:

“a common vision for cultural heritage is an absolute necessity, especially in the light of art. 151-4 of the Treaty, which calls for the general inclusion of cultural aspects in all Community policies”. (...)^{vii}

Commissioner Mr. Figel also stated that he did not see any point in the EU reviewing or monitoring its activities in light of art. 151-4. evidently, that would be up to the member states to do or to demand.

The problems created for cultural heritage by EU legislation was also noted by the European Parliament and in September 2006 the European Parliament stated that it wanted more consideration for cultural heritage in the Commission policies. The Parliament asked the Commission to effectively implement article 151-4, to consider in depth consequences of legislation on culture and cultural heritage and to end financing of Community projects that result in the destruction of valuable cultural heritage^{viii}.

Becoming aware of the challenge the Commission took steps to improve its ability for foresee inadvertent consequences for cultural heritage by including cultural heritage in the revised commission Manual on Impact Assessment (of legislation).

As there is yet no automatic mechanism to ensure special considerations for cultural heritage the challenge of monitoring legislative developments remains. In the Commission's legal work the need for special considerations must be communicated on a case by case basis. Similarly, at the national level there is a need to follow the implementation and to ensure that the necessary special considerations are incorporated into the national regulations, also on a case to case basis.



Pictures: Historic windows, contemporary use.

3 The effects of EU legislation; Cases.

3.1 Case: Restoration of Danson House, Uk., using original interior colours.



Danson House is a listed Grade I object located 10 miles south-east of London, built in the 1760s by John Boyd a merchant whose family had made its fortune in the West Indies (sugar & slaves)^{ix}. In the Music Room he installed expensive mahogany books cases and had the walls were decorated in a dark green paint - which would have been very expensive as it contained the pigment verdigris.

English Heritage investigated the building and took the decision to conserve any original decorative finishes which survived and recreate original decorations which had been over painted in the intervening centuries. The dark green paint had been over painted in a pale blue in 1800. This decision was justified by the fact that the house was 'a museum' - not anyone's home - and the presentation served an educational purpose in attempting to show how eighteenth century decorations were.



This meant using lead based oil paints. This is possible because in the UK there is a *deregulation* which allows the use lead white paint on Grade I and Grade II buildings. The dark translucency, which is the beauty of the completed scheme, could not have been achieved by using modern materials. The finished room is unique.

Finding the verdigris needed to tint paint for the Music Room was not possible and we had to make it ourselves. Copper Acetate was dissolved in an oil/resin mixture and let this dry and then ground to form a pigment which was added to a mixture of chalk and lead white. It was only through trials and error and following the exact formulation of the original 18th paint that we gained an insight into 18 century painting practise and taste^x.

It is fortunate that in the UK such traditional materials can be used in certain buildings. But, even so, careful consideration must be given to maintenance of decorative finishes which contain toxic material.

3.2 Case: EU legislation forbidding the use of traditionally produced wood tar.



Left: Heddal stave church, Norway. Right: Weisskirch, Saxon fortified church 1290, Romania. © Riksantikvaren, T. Nypan.
Below: Kiln for producing traditional wood tar. © NBA, Finland.

Traditional wood tar could not be bought or sold under the provisions of the Biocidal Directive^{xi}. The Norwegian cultural heritage authorities understood this consequence too late.



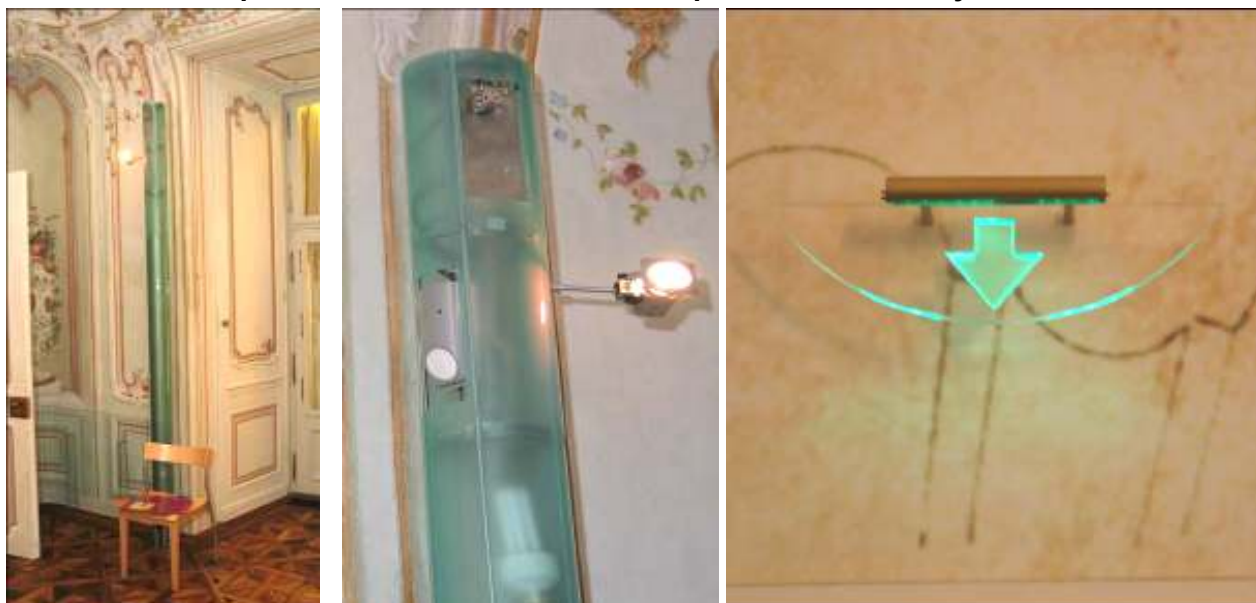
The stave churches in Norway and many wooden buildings in Scandinavia or elsewhere are maintained with traditional wood tar. Some buildings are from the middle ages. It is impossible to find a substitute for protection of the outer surfaces. By not being able to use wood tar the buildings would lose authenticity. Further most buildings would probably show increased rate of decay by application of substitute protection materials. A prohibition against the commercial trade of wood tar would have made it impossible to correctly maintain the historic churches in the pictures above.

The effects of the directive were subtle in the sense that wood tar production was not forbidden. But it is forbidden to market products that do not comply with the demands for a declaration of content in the directive. An industrial production of wood tar would be able to comply with these demands. But the traditional method of producing wood tar, due to the nature of the production, can not satisfy the demands for product declaration. The traditional wood tar is the type of tar with which most of these buildings have been treated for centuries and the type of tar a professional heritage management would demand.

After working to change the directive for years the solution became to scientifically demonstrate that wood tar used as a wood surface treatment does not contain biocide effects. The research project lasted for 2 years and was co-financed by the heritage authorities of Norway, Sweden and Finland. The research confirmed no biocide effects. Wood tar was removed from the directive's list of active substances in February 2007.

Traditional wood tar may now be sold as surface protection for wood. But to discover such consequences so late makes it almost impossible to rectify them. In this case it was possible to achieve changes, but at a high cost in manpower and funding for research.

3.3 Case: Fire protection, EU-Directives and impact on authenticity of monuments.



Left: Purpose designed service column in Schönbrunn Palace Middle: Purpose designed service column in Schönbrunn Palace detail Right: Emergency exit signage in Schönbrunn Palace. © Dr. Wolfgang Kippes, Schönbrunn Castle.

In Schönbrunn^{xii} they were faced with the problem of conforming with the safety regulations applicable to public buildings. The question was, amongst others if the standardised escape signs should be installed everywhere in the museum. The question was how to protect the monument, keep authenticity and at the same time protect the people within it in case of fire. Does being prepared for disasters following given mandatory prescriptions always and automatically lead to reduction of authenticity? How may we keep the authentic value of a monument, upgrade fire safety and improve safety aspects for everybody at the same time?



Standard sign.

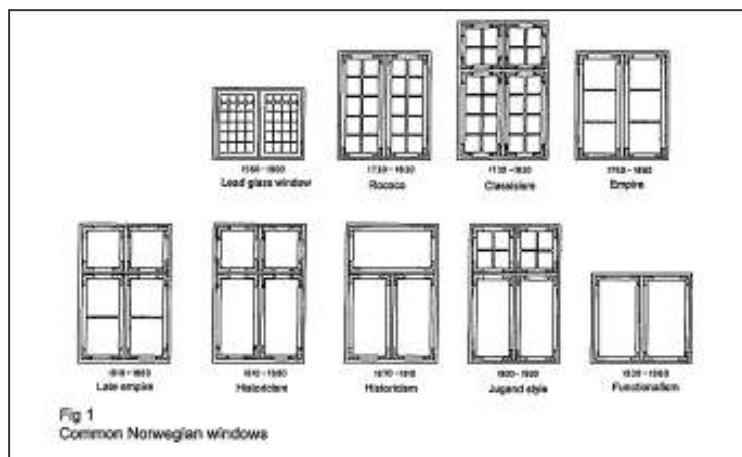


The obstacle to achieving the adjusted design consisted in prescriptive standards which specified in detail the signs for escape routes etc. for all buildings^{xiii}. For Schönbrunn to develop a different design, more fitting with the historic style of the building and less blatant, was a long and difficult process.

There are solutions for these prima vista contradictory needs. The problems for our cultural heritage and its authentic values occur whenever prescriptive standards are made mandatory. What is good and useful for new buildings and for the entire building industry usually presents a problem if we wish to keep our heritage. EU-directives are needed, but in order to keep the authenticity of monuments they will have to follow the performance based approach^{xiv}. A European cooperation in the COST 17 group has made major advances in the direction of developing such performance based alternatives. The alternatives are a must when discussing how to avoid that the prescriptive standards become mandatory also for the cultural heritage field. The cultural heritage sector does not need prescriptive standards; we need performance based standards that allow us to find adequate solutions based on the monument itself.

There are some similar challenges in the fire safety regulations that doors to buildings with public access must open outwards. If not other performance based solutions can be found the prescriptive standards mean that almost all doors to such buildings must be changed.

3.4 Case: Mandatory changing old windows and the energy efficiency directive.



The mandatory change of windows in historic buildings is based on the Energy Efficiency Directive^{xv}. To reduce energy consumption the EU implements energy saving measures. At the national level mandatory changing of older windows with modern windows is prioritised as an efficient and feasible measure to reduce energy consumption.

The NBA^{xvi} comments on this demand by writing:

As a response of Energy Efficiency Directive 93/76/EEC 13.9.1993 and the Energy Performance in Buildings Directive 2002/91/EC, the Finnish Building Code C3 "Decree on thermal insulation in buildings" was renewed in the end of October last year^{xvii}. Target for thermal insulation in new buildings was assessed higher than never before. Targeted U-values for a heated new building are listed in the following table: outer walls 0.25 W/m²C, roof-plus-ceiling 0.16 W/m²C, floor 0.20 W/m²C, windows and doors 0.14 W/m²C and window in a heated loft 1.5 W/m²C. It may be expected that these U-values will be made a rule in major repairs as well. In practice it means triple glazed windows - or even four glasses- with new aluminium or plastic frames. Outer doors must have mineral wool filling instead of solid wood. Thermal insulation materials has to be added to walls alternatively internally or externally.^{xviii}

The Energy Performance in Buildings 2002/91/EC has an *exemption in art. 4* for certain protected buildings. In some countries this is taken into consideration and exemptions have been made at the national level. In other countries no exemptions have been made.

But where exemptions have been made in the national legislation, the exemptions are restrictive and do not include all valuable heritage structures. In France, the Ministry of Culture and Communication requested exemptions for more than protected buildings. They wished exemptions for protected environments (cultural & natural), the surrounding perimeter of historic monuments, for 'classed' sites, for UNESCO sites and for buildings protected by regional authorities, for buildings recognised as XX-century heritage, for apartment houses under art L123-1-2 of the urbanism code and for apartments that have elements that are of historic interest. But the result was a national French regulation that granted exemption only to buildings protected under the Cultural Heritage Act, and only on condition that window changes would modify or change their character in an unacceptable manner^{xix}.

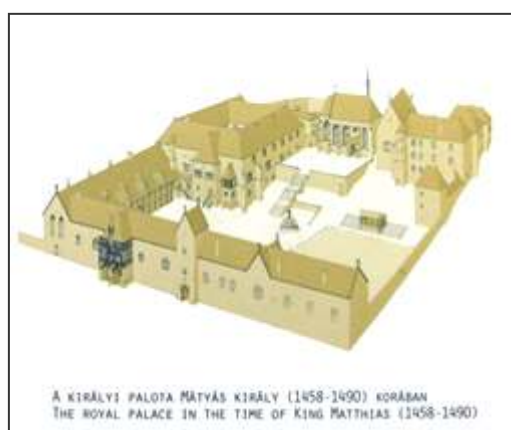
Recent research demonstrates that new windows reduce the energy need of the building, but far less than assumed. Keeping the old windows and improving them with a new inner window, where such do not exist^{xx} achieves similar energy savings. These figures are the energy savings for the installed new window. But often the new window frame is badly fitted with ensuing energy loss to calculated theoretical energy savings. Further, to replace an old window you need to produce a new window. The energy consumption to produce the new windows is not included in the energy calculation. The energy cost for waste handling of the old windows is not included, nor is the energy needed for future waste handling of the new windows. The lifespan of a new window is much shorter than for older windows and need to be replaced 3 times more often. The environmental pollution effect of producing a new window are substantial but are not considered when they should be considered as "environmental costs" in the total energy equation.

More energy can often be saved more immediately by alterations that do not demand taking out the old windows. This is one example where re-use and continued use of material is a better environmental and energy saving option than replacement by new industrially produced substitutes^{xxi}.

When national regulations demand replacement of older windows it promotes industrial production. Improving old windows does not promote production of new windows. If a Clause of Special Consideration for cultural heritage was included in the EU legislation, instead of an exemption for defined buildings, national cultural heritage authorities would have been in a better position to negotiate for alternative performance based solutions to save energy in historic houses.

At end of 2008 a revised version of the Energy Efficiency Directive contained a clause explicitly forbidding the use of public money (funding) for buildings that did not apply with the energy efficiency regulations after 2014. After 2014 it would become illegal to use public money for the upkeep of listed built heritage like cathedrals, churches, fortifications, castles etc. Another example of the lawmakers not having considered the special case (built) cultural heritage. This article has subsequently been taken out of the legislation, possibly due to EHLF intervention.

3.5 Case: Vyshegrad castle; public purchasing and certification of building material.



III.: Vyshegrad palace. Left: 1458-1490, poster at the site. Right: 2006. © T. Nypan / Riksantikvaren.

In September 2006 in the old (reconstructed) Vyshegrad Royal palace (Hungary), the inner left wing suite of 3 rooms was ready to open for the public. The floors had been laid with new dark red tiles. In the innermost room was a square of app 1 m. x 1 m. on the floor which consisted of another type of tiles. These tiles were smaller, of a light mustard colour and clearly not new. These were the remaining usable original tiles that were found during the excavations. The Conservator explained that they had wanted to use tiles that looked like the original historic tiles and, if possible, produced in a similar fashion. The conservator had found a producer in Spain who could make such tiles, still using an almost identical production process as used for the original tiles!

The Spanish tiles did not conform to EU rules for building materials and they were not certified. But as the Hungarian Cultural heritage Act gives priority to historic and visual likeness to the original material and lack of product certification should not be a problem.

When the purchasing invoice was presented to the Finance authorities who should pay the bill they refused. According to the Finance authorities, they *could* not pay for 'none authorised' or non-certified building material. Even if the national Cultural Heritage Act permitted such tiles for conservation works the rules on public purchase made the national

heritage legislation impracticable. In this case one regulation impedes on the other. The heritage act is overridden by the EU regulations. This is why the rooms in this wing are now laid with certified red industrial tiles from Italy.

3.6 Case: Proposed energy demands in building regulations and log buildings.



Above left: 2007 advertising for tradition log cabin. Above right: Advertising for contemporary dwelling. Photos: from advertising brochures. Bottom: Raulandsstua, log building from 1300, Norwegian Folk Museum. One of the oldest buildings of the museum, treated with wood-tar. Foto: Jan Anderssen, Riksantikvaren

A proposed revision of the building regulation in Norway, would, in the beginning of the 1990-ies, inadvertently have prohibited building with traditional logging techniques, due to demanded energy performance for the buildings.

The heritage authorities saw this as a major problem as they need skilled craftsmen for work on the protected or historic buildings and therefore depend on traditional crafts being kept alive. The heritage authorities commissioned a research on lifecycle energy consumptions of different building types.

The research results demonstrated that log houses were *not less energy efficient* in a life cycle perspective, than modern

houses^{xxii}. The proposed regulations were subsequently modified.

Now 15 years later, traditional log houses are popular and extensively used for secondary country houses. Such construction activity constitutes both an important local economic activity and a pool of employment for the skilled craftsmen needed for works on historic and protected buildings.

3.7 Case: Historic varnishes, lacquers and paints and the VOC directive.



Helsinki Main Post office



Villaniemi

Examples of the use of solvent based paints and varnishes in 20th century architecture. Without the special clause in the directive continued use of such paints and varnishes would not be possible. Notice the high gloss of the application. Photo: National Board of Antiquities, Finland.

When this directive^{xxiii} to limit the use of volatile organic compounds (VOC) was nearing completions, the Working Group discovered that the directive presented a major problem for continued use of many traditional paints, lacquers and varnishes. English Heritage then lobbied for exceptions to the directive and achieved a Clause of Special Consideration by which the national competent authorities may make exceptions to the directive when that is necessary to preserve cultural heritage of particular historical and cultural value^{xxiv}. Therefore paints and varnishes that contain VOC's may be still used for the restoration and maintenance of buildings which have particular historical and cultural value.

The ensuing procedure in Finland illustrates the process that was necessary at the national level. First a special order was needed for the implementation of the special clause. To do this the Nature Protection Act needed amended changes to allow the issue of an order. The legal texts were processed in co-operation with the Ministry of the Environment, Department of Nature Conservation and the NBA (National Board of Antiquities) which is the authority responsible for defining the cultural and historical value of buildings in Finland. The order was signed in October 20.10.2005 and came into force nearly on 31.10.2005. During the procedure the NBA had to make a statement to the Environment Committee of the Parliament (of Finland) which is responsible for handling matters related to housing, planning, building, environmental protection and nature conservation in Finland.

For the Order the NBA had to define which buildings are of particular historical and cultural value in Finland. These were listed as:

1. Historic buildings protected by town plan
2. Conservation areas protected by town plan
3. Buildings, monuments and sites protected by
 - a. Building Protection Act 60/1985. b. Church Act 1054/1993, c. Antiquities Act 295/1963.
 - d. Decree on the Protection of State-Owned Buildings 480/1985
4. Buildings, monuments and sites for which historical and cultural value has been recognised in national, regional or local inventories
5. Monuments and sites submitted to the list of UNESCO Nature and Cultural Heritage List
6. Buildings subsidised by the National Board of Antiquities or Regional Environment Centres due to their cultural and historical value
7. On a case by case basis, other buildings and monuments being of particular cultural and historical value considered equal to the buildings included into the points 1-6.

The order (art. 6, 7) gives the widest possible exemption for the sale and purchase of products which do not meet the requirements of the Directive. The list of buildings being of particular historical and cultural value is the absolutely widest possible definition of the protected buildings in Finland. The NBA we considered this important because they wanted the paint manufacturers, most of which come from SME:s, to have the widest possible market.

The fact that a Clause of Special Consideration was included in the EU legislation made it possible for the Finnish national authorities to exploit this possibility to the benefit of the built cultural heritage. Without this clause the national regulations would definitely have been more restrictive.

3.8 Case: Sneznik castle, Slovenia.



Left Sneznik castle seen from the park. Right: Due to fire regulations, new terrace and steps down from tower gate have been built.

Sneznik is in its present form a hunting castle. The site was originally a defensive castle, but through the ages the castle was expanded and changed. The present form is from the late 19th century. The castle is in state ownership but used to belong to an Austrian noble family.



Above: non intrusive steel stoppers at terrace parapet.

The castle is rehabilitated and restored by the Slovenian Ministry of Culture and the work is supported by EU Structural Funds. The castle is to be a museum. The outbuildings are being rehabilitated to become restaurant and hotel.

Rehabilitation works encounter challenges related to EU Directives in the national legislation. These regulations were not in force when the castle was built. The regulations relate to:

1. Demands for security of visitors on the terrace and parapets.
2. Demands for fire security
3. Demands for specified minimum carrying capacity of floors.

The demand for visitor security terrace and parapets was easy to solve by non-intrusive techniques. The solution was found by using blocking cross bars between parapets. The choice of materials was aluminium and the design was modern (see illustration).

The demands of the fire regulations have yet not been entirely met (2008). Some changes could easily be made, such as building a new terrace and stairs descending for an existing exit door at the end of the back tower (see photo). But the demand that doors open outwards remain an unsolved problem. Normally the opening could be solved by adding an exterior set of glass doors that open outwards. The extra door allows the historic door to be left open when the public is inside. The problem at Snežnik is that there is no room to install such doors in the existing frames. Negotiations between the heritage authority and the agency responsible for fire protection is evidently difficult.



Left: renovated and restored floors in Snežnik. Right: original roof load bearing construction.

The most problematic regulations are those specified in the new Building Regulations. The new building regulations demand a load bearing capacity of 300 kg. pr. sq. meter in all public buildings. In this castle the floor construction is not able to accommodate the strengthening measures needed to achieve such load bearing capacity.

If such load bearing capacity is to be achieved the whole floor construction would need to be remade and all historic floorboards and beams would have to be removed. As often in such cases the authorities did not know which EU Directive had given the basis for the demands in the national legislation.



The prescriptive standards of the regulations confirm that

*"The problems for our cultural heritage and its authentic values occur whenever **prescriptive standards** are made **mandatory**. What is good and useful for new buildings and for the entire building industry usually presents a problem if we wish to keep our heritage."*

There are other cases where the demanded floor carrying capacity may be met, but not in this building according to the conservator and the architect. Such measures increase rehabilitation costs and are detrimental to the keeping of the original construction.

3.9 Some assorted examples.

The EU is planning to finish the legislation on **Harmonised conditions for the marketing of the construction products** Brussels, 23.5.2008. COM(2008) 311 final 2008/0098 (COD) in 2010. The major problem with this legislation does not lie in the demands for testing of traditional materials and products prior to certification. The documentation and certification process can be cumbersome and increase costs when restoring historic buildings as there are no special provisions for traditional materials.

The real problem lies in the fact that without certification public money cannot be used to fund the purchase of such materials, according to the Public Purchasing directive. This case is analogous to the case mentioned for Vyshegrad castle (3.5 Case: Vyshegrad castle; public purchasing and certification of building material.).

In 2009, when the Commission was working on the recast of the **Energy efficiency in buildings** directive, the text for a long time included an obligation for member states to remove obstacles in their heritage legislation. There was also a general prohibition on public funding for buildings not conforming to minimum requirements after 2014.

art 4 par 3; Member States shall not provide incentives for the construction or renovation of buildings or parts thereof which do not comply with minimum energy performance requirements achieving the results of the calculation referred to in Article 5(2)."

Without an exception that also embraces this formulation, this clause would prevent public financing for restoration of historic buildings.

As the directive was reworked EHLF members proposed formulations that lead to the removal of the obligation to remove obstacles in heritage law and clarifying that art. 4-3 did not apply for buildings exempt from art. 1. The question that remains now is to define what is 'officially protected' and how this is defined at national level. Can the EU system limit the national built heritage to only what is protected?

In the directive **Passenger Ship Safety 98/18/EC** there are exemptions (5.1 Some examples of legal texts). The exemptions were interpreted in a particular manner in one national regulation. The administrative interpretation was to demand that all the criteria in the exemption should be satisfied at the same time. The ship should not be propelled by mechanical means, should be wooden ships of primitive build, and should be original and individual replicas of, historical passenger ships designed before 1965, built predominantly with the original materials. This is an interesting interpretation, not in line with what heritage authorities' interpretation. Heritage authorities see each sub-category listen under art 2 as an independent and sufficient criterion. This difference of view creates 'modern' maintenance instructions, always costly and often not applicable to the historic vessels in question.

The Health Conditions on Fishery Products 91/493/EEC requires the use of smooth surfaces when handling fish and fishery products. This creates difficulties for traditional wooden fisheries (in Norway) to continue their production. It requires huge investments to satisfy the standards. Most owners cannot afford this. Small traditional fishery plants, also in World Heritage sites, have been closed down due to this demand. The traditional method of drying stock-fish also became illegal as this fish hangs on wooden poles through the winter. Not much attention has been given to this, possibly because this is traditional foods and *".... the Commission seeks to ensure that its legislation doesn't stifle small, local, traditional food producers."*^{xxv}. For such products there are special regulations, as activity is within the competencies of the EU. *".... hinted at by the EC in September when it issued a document*

that stated, “the suitability of a separate legal framework for products of certain traditions should be assessed.”^{xxxvi}

The **Directive 2002 95/EC**, Restriction of Hazardous Substances 96/EC and the directive on Waste Electrical & Electronic Equipment, were in one country ‘lumped together’ into one regulation. This new regulation made it impossible to repair and build traditional (church) organs^{xxvii}. This combination of the two directives and its unforeseen effect forced the Commission to clarify its position. Commissioner Wahlstrøm denied in 2006 that such interpretation could be made from this EU legislation.

After this possible effect was discovered the Commission consulted with Member States. The question was whether or not the pipe organ fell within the scope of these categories (in the WEEE Directive). The Commission is of the opinion that it does not, and the pipe organ is therefore regarded to be outside the scope of both the RoHS and the WEEE Directives.

But the Commission is not empowered to give legal advice; they have advised that their announcement of the 27th June 2006 cannot be considered to be a decision. For a *conclusion* to become a *decision*, with the full legal status and precedence, the pipe organ must be included in the forthcoming legal review (mandatory article 17.5 of the Directive) which will take place 2007/08.

Purchasing Directive (Directive COM (2003) 503) Poses serious and sometimes impossible problems for acquiring materials from a specific geo-location to replace damaged materials in protected monuments, buildings and sites. An example is Versailles castle which had to do a complete and expensive petro-chemical analysis of the used stones of the palace to be sure they would get them from the original quarry when making a public tender for new stones needed for restoration works. This article also mentions other effects of the purchasing regulations like demands for product certification.



Saxon house in conservation area, with meter on the street façade and (inserted) with the final solution of the meter in the courtyard façade. © MET, Transylvania.

A final example of problems related to implementation in directives at the national level is that national authorities may choose to add other specifications in their national regulations. An electricity company had been given the job of modernising the electrical intake to village houses in a conservation area. Reading the national regulations which stated that the meter for electricity etc. use should be located at the outside of the house the electrical company installed the meters on

the street façade of the houses. The company and the contracting public authority insisted that this procedure was due to EU regulations. Only after a massive campaign and the intervention of NGO's did they arrive at the compromise of installing the meter on a faced in the closed courtyard, not visible from the street. This was a heritage conservation area.

3.10 Overview or what to remember.

Cultural Heritage policies are not part of the EU Treaty, but Cultural Heritage is funded and supported by the EU. The challenge consists of a number of EU Directives – legal acts – that become incorporated into national legislations and which, to a greater or lesser extent have a detrimental affect on the sustainable preservation of the European Cultural Heritage. The Commission has no competency to regulate cultural heritage policies. The Commission states that:

“It is vital that a comprehensive strategy with regard to cultural heritage be adopted by the EU Institutions and Member States and that action benefiting cultural heritage be main-streamed into all relevant EU policy and action areas.”^{xxviii}

The new internal Commission Impact Assessment (IA) procedure for legislation is in force since 2006. From 2009, Cultural Heritage is one explicit impact criterion in the Commission Manual on IA. The majority of the 25 directives studied by the heritage sector from 2003 present a challenge for conservation^{xxix} and underpins the necessity for cultural heritage authorities to monitor the legal process.

Legislation at the national level threatens to results in:

- Performance demands only to be solved by intrusive techniques and modern products.
- Problem for continued use of historic building materials and substances, which are either not allowed and/or made too costly or cumbersome to be applicable.
- Obstructions and difficulties for use of traditional procedures, techniques and skills; sometimes traditional skills become impossible to apply in practice.
- Obstructions and difficulties for production and procurement of traditional materials. Purchasing regulations that exclude those traditional materials that do not conform to industrial standards.
- Lengthy and costly specification procedures to procure materials from a specific geographic location which supplied the original materials (due to free competition across Europe).
- Production and marketing regulations that handicap traditional materials, skills etc. and affect their competitiveness adversely compared to their modern industrial substitutes.
- Prescriptive standards that are made mandatory where performance based demands would achieve the same results but with much more room for adjusted solutions. This leads to demanding for example the same signposts as in modern buildings. All doors where the public has access must open outwards and forces changing the direction of the doors in almost all historic buildings built before 1890. Demands change of historic windows where other solutions could have achieved similar or even better results.

There is a long way to go before “*action benefiting cultural heritage be main-streamed into all relevant EU policy and action areas.*”^{xxx} What is happening is often the opposite. The problems manifest in a diverse, sometimes indirect and complex fashion. It is therefore necessary to be actively involved in the process in Brussels and at national level.

4 Legislative developments

There are two main trends that challenge the conservation practises and philosophies. One trend concerns the scope and application of the legislation. The other trend concerns the actual process of producing the content of the legislation, where the mode of participation and influence differs from the national system of which the cultural heritage policies are a part.

4.1 The modern supersedes and eradicates the traditional.



Reconstructed historic vessel SS Göteborg, exemption in directive on safety in passenger ships.

The trend is that contemporary industrial and market legislation is made for contemporary modern materials and intended for modern buildings. This is not surprising. But when these regulations are made to globally apply for all existing built structures we see the challenge emerging.

Historic 'non-industrial' buildings and production practices become either illegal, or in a milder form, become non-standard, cumbersome, bureaucratic, impracticable or costly. In many cases non modern methods become 'de facto' impracticable without being illegal in themselves. We have seen some selected examples of this.

In many cases this legislation makes mandatory the use of materials and techniques that are not compatible with the authenticity and structure of historic buildings. There is also an increasing use of standards as reference points in legislation and regulation. An increasing amount of the national legislation is triggered by the incorporation of EU directives into national law. National

cultural heritage acts are superseded by new building regulations, energy regulations, purchasing regulations, etc.

4.2 Actively influencing legislation

The legislative process in Brussels is influenced by a number of players, more actively than at the national level. The legislative process is a participatory one, but on a voluntary basis. National administrations follow the process in Brussels as does business and organisations from civil society. The Commission, the Council and the Parliament are mandatory participants. The other players decide to invest time and resources as the issues at hand are of importance to them.

Much is said about this system. Suffices here to say that the cultural heritage community has not yet become one of the players.

There are three main phases where the players can influence the end results of the legislation.

1. First there is the phase of **drafting the EU legislation** and processing it through the different decision making procedures. At this point contact can be made with the (national) experts working on the drafting of the legislative texts. The experts are mostly satisfied to be reminded of the special considerations needed for cultural

heritage and the legal basis for such special treatment in the EU competencies. Of course it is also possible to act at a later stage through established institutional channels as the legislative text is negotiated between the state parties. It is also possible for the cultural heritage community to seek influence over co-decision legislation as it goes through the European parliament. In many countries public administrations are not supposed to intervene with the parliamentarians. But non government organisations are free to seek support from Parliamentarians as they see fit.



St Chapelle, Paris. Use of lead in the glass windows - a prohibited substance.

2. **Internal Impact Assessment.** Since 2006 the EU Commission is sending all legislation for an internal impact assessment before releasing it. Since January 2009^{xxxi} one of the impact criteria to assess is cultural heritage. The assessment Manual states that one should assess whether the legislation has an impact on the preservation of cultural heritage? an impact on cultural diversity? or an impact on citizens' participation in cultural manifestations, or their access to cultural resources? The Commission is actively asking for input from outside during their assessment work, also through public consultations on the internet. The Impact Assessment website is an invitations to stakeholders^{xxxii}

3. After the EU Legislation is voted, it goes to the competent national authority for **incorporation in national legislation**. Here is the third point in time when the final wording may be influenced, this time at the national level. Working with the subject we have discovered that the national cultural heritage authorities are mostly not included in hearings or reviews in the national administrations prior to incorporation into national legislation. This is a major problem as this leaves the national cultural heritage authorities without influence over the final wording or possible exemptions in the final national legal texts. And subsequently the needs of a sustainable conservation policy are not considered.

4.3 The participation of cultural heritage authorities in legislative processes

The member states of the European Union are responsible for (change) in policies. It is clear that to achieve a better control with the legislation produced in Brussels the heritage community needs to be better informed about the process.

We have also discovered that at the EU level the needs of the national cultural heritage administrations are not taken into consideration in the national political activities in Brussels. This is probably because cultural heritage is not part of the EU Treaty. But the development of the EU and the effects of its legislative work demonstrate that even cultural heritage policies are affected by the EU Commission. Therefore it is necessary that also cultural heritage policies become relevant considerations for the national involvement in the EU

processes. So one challenge is to become an active stakeholder at the Brussels level and make cultural heritage just as normal to consider as any other social sector. Also, as of 2009, the effect of the legislation on cultural heritage is specified as part of the impacts assessment procedures.

The regulatory process does not end in Brussels as regulatory measures need to become part of national law before taking effect. It is also necessary for the cultural heritage authorities to become more focused on, and participate in the legislative process of the different sector Ministries, at national level. Cultural heritage authorities need to be involved in all reviews of legislation before it is incorporated into national legislation. At the national level we have witnessed cases where an EU legislation containing exemptions for cultural heritage were transposed into national legislation omitting the given exemptions.

Scrutiny of upcoming legislation becomes even more essential to those cultural heritage authorities that have responsibility for a larger stock of cultural heritage structures that just those which are officially protected. Today the legal texts from Brussels, if containing considerations for cultural heritage, mostly use terms such as “officially protected” or “protected”.

5 Current legalistic practice

5.1 Some examples of legal texts

The manner in which exemptions or special consideration for cultural heritage is written into certain directives is different in different directives. There is no standard formulation. The manner in which the exemptions are should also reflect the competencies of the EU in the cultural heritage field and the limitations this imposes on the lawmakers. To what extent the last is the case is debatable. Here are some examples of current practice.

In the Flood Risk Directive^{xxxiii} Article 1 states:

“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.”

Directive 2002/91/EC^{xxxiv} on Energy Performance in Buildings the exemption in art. 4 reads:

4.3. Member States may decide not to set or apply the requirements referred to in paragraph 1 for the following categories of buildings:

- buildings and monuments officially protected as part of a designated environment or because of their special architectural or historic merit, where compliance with the requirements would unacceptably alter their character or appearance*
- buildings used as places of worship and for religious activities,*

In the Paint Products Directive (2004/42/CE)^{xxxv} amending the directive on the Limitation of Volatile Organic Compounds 99/13/EC a clause of special considerations (ref. 5.2) has been included.

(11) Member States should be able to grant individual licences for the sale and purchase for specific purposes of products in strictly limited quantities which do not comply with the solvent limit values established by this Directive.

Article 3. Requirements

3. For the purposes of restoration and maintenance of buildings and vintage vehicles designated 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.

In the Passenger Ship Safety 98/18/EC^{xxxvi} directive heritage vessels are targeted in a different manner. In article 2 there is an exemptions clause which reads:

Art 2. This Directive does not apply to:

(a) passenger ships, which are:

- *ships not propelled by mechanical means,*
- *vessels constructed in material other than steel or equivalent and not covered by the standards concerning High Speed Craft (Resolution MSC 36 (63)) or Dynamically Supported Craft (Resolution A.373 (X)),*
- *wooden ships of primitive build,*
- *original, and individual replicas of, historical passenger ships designed before 1965, built predominantly with the original materials,*

Finally, in the Water Directive^{xxxvii} we find ‘openings’ for special considerations for the built heritage, but it is not explicit. This possibility for special considerations is found under the clauses treating “*legitimate use of the environment*”, “*when no substantial pollution to, or additional deterioration of the water is caused thereby.*”

5.2 The legal tool - The clause of special considerations.

Authorities and policy makers need a legal ‘instrument’ to use when problematic directives etc. are identified. We believe that the “Clause of Special Considerations” is the most appropriate legal instrument^{xxxviii}.

The ‘Clause of Special Considerations’ transfers the legal authority in a field of EU competency to the “competent national authority” for cultural heritage, when the consequences of the directive impact on cultural policies. Or to state it differently; the EU recognises that EU competencies to legislate in specific areas may infringe on the prerogatives of national cultural policy and states that, if such is the case, the competent national authorities (for culture / cultural heritage) may make necessary exemptions from this directive.

The clause is in keeping with the EU obligations according to articles 151-4 and 95 of the Treaty. The clause is in keeping with the subsidiarity principle and recognises that the EU has only those competencies attributed to them.

As we have seen previously the texts of the directives are normally not formulated as the clause of special considerations. One exception is the VOC / paint directive. Some legal professionals argue that for the EU to limit the exemptions for cultural heritage to buildings that are “*officially protected*” is to limit the member states freedom to define which cultural heritage is to be considered a “*national treasures of (amongst others) historic values*” (art 95). Such a limiting definition from EU is not in accordance with the attributed powers, they argue.

With cultural heritage included in the Commission IA of EU legislation it has now become possible to lobby for necessary changes in the legislation also at this point in the legal procedure. The possibilities to insert the correct legal formulation have improved, but the need to monitor developments remains.

In theory it should be normal to secure the necessary special treatment for cultural heritage at national level, even without such statements on cultural heritage in the EU legislation. But experience has demonstrated that it becomes much easier to get exemptions in the national legislation if such exemptions are given in the EU legislation. An exemption for cultural heritage or a Clause of Special Consideration immediately allows for similar exception at national level.

When the EU legislation lacks such special considerations for cultural heritage, any exemptions in the national legislation are harder to achieve. Most of the time exemptions are de facto impossible to achieve! Sector bureaucrats will ask why such special considerations were not already incorporated in the EU legal text. Many bureaucrats are unaware of the special position culture and cultural heritage in the EU Treaty.

6 Summary & Conclusions.

The EU has no competencies in regulating the cultural heritage field. The EU legal acts that impact negatively on cultural heritage administration and conservation stem from areas inside EU competencies. The negative impact creates an increasing problem for the maintenance and conservation of the cultural heritage following the guidelines outlined in international Treaties, Conventions and Charters.

The cultural Heritage sector is not informed about the development and implementation of these legal acts. Therefore the competent cultural heritage administrations normally discover the detrimental effects too late. This situation can be countered by operating a legal observatory serving and informing all cultural heritage administrations and other players. The cultural heritage sector may, when informed, influence the legal acts in time and on a pro-active basis. The competent national authorities can propose a Clause of Special Consideration for cultural heritage protection to be incorporated in the legal text.

To achieve control over these unintended consequences stemming from legal developments in other fields is necessary to safeguard Europe's cultural heritage for the future. Conservation and maintenance of cultural heritage is also necessary if the economic and other benefits to society from cultural heritage are to be sustainably harvested. The cultural heritage sector is among the most important European attractors and economic drivers today. The heritage generates millions of jobs and is an essential contributor to the 3 economic sectors which contribute most to EU GDP; the Cultural and Creative industries, the Real Estate activities and the Tourism industry. More legal research and clarification is welcomed to highlight the possible legal instruments.



Pictures: Metz. Left. Original details in the 'Adolf' bar in Metz, said to have been frequented by A. Hitler in 1st WW

ⁱ see www.ra.no/EHLF

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- ii If you wish to build new using only traditional techniques and materials the legislation is a challenge. It is unavoidable to incorporate contemporary solutions according to regulations for water, piping, insulation, etc.
 - iii Australia ICOMOS Burra Charter 1999, "*Principles for the Preservation of Historic Timber Structures*" PPHTS, Granada Convention FOR THE PROTECTION OF THE ARCHITECTURAL HERITAGE OF EUROPE, Council of Europe, pts 121, <http://conventions.coe.int/Treaty/en/Treaties/Word/121.doc> Art 10.5 foster, as being essential to the future of the architectural heritage, the application and development of traditional skills and materials. Art. 16 Each Party undertakes to promote training in the various occupations and craft trades involved in the conservation of the architectural heritage. The Venice Charter, The Krakow Charter, <http://www.international.icomos.org/charters/charters.pdf> PPHTS "*Principles for the Preservation of Historic Timber Structures*", adopted by ICOMOS 1999. <http://www.international.icomos.org/charters/charters.pdf> Australia ICOMOS Burra Charter, 1999 (Burra Charter). <http://www.icomos.org/australia/burra.html> . Art. 4.2 Traditional techniques and materials are preferred for the conservation of significant fabric. NARA Document on Authenticity (2), which was developed in 1994 based in the spirit of the Charter of Venice. (3) from 1964, NARA Document on Authenticity 1994.
 - iv PPHTS "*Principles for the Preservation of Historic Timber Structures*", adopted by ICOMOS 1999. <http://www.international.icomos.org/charters/charters.pdf> Art. 4. "*Conservation of cultural heritage first and foremost requires regular maintenance.*" Art. 10. "If traditional techniques are demonstrated to be inadequate the cultural heritage may be consolidated through modern techniques for restoration and construction techniques the efficacy of which has been shown by scientific data and proved by experience."
 - v CONVENTION FOR THE PROTECTION OF THE ARCHITECTURAL HERITAGE OF EUROPE, Council of Europe, pts 121, <http://conventions.coe.int/Treaty/en/Treaties/Word/121.doc>
 - vi Working Group on EU Legislation and Cultural heritage. In "*European Legislation and Cultural heritage*" Ed.: A.M. Ronchi, T.M. Nypan. Delewa editore, Milan 2006, ISBN88-88943-05-6.
 - vii December 2005. Commissioner Figel at the Europa Nostra meeting in Brussels. In "*European Legislation and Cultural heritage*" Ed.: A.M. Ronchi, T.M. Nypan. Delewa editore, Milan 2006, ISBN88-88943-05-6.
 - viii [The European Parliament] Calls on the Council to recognise explicitly the contribution made by the cultural heritage to European integration in terms of European identity and citizenship, sustainable economic and social development, intercultural exchanges and cultural diversity; (...). Calls on the Commission, (...) to implement effectively the horizontal clause of Article 151(4) of the EC Treaty (...) considering in depth the implications of the proposed legislation for culture and the cultural heritage. Calls on the Commission and Member States not to provide Community funding for projects which will demonstrably result in the destruction of valuable parts of our cultural heritage. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2006-0355+0+DOC+XML+V0//EN> September 2006; On the *European natural, architectural and cultural heritage in rural and island regions*. *European Parliament resolution on the protection of the European natural, architectural and cultural heritage in rural and island regions* (2006/2050(INI)).
 - ix Mr. Boyd, Later went bankrupt when the sugar prices fell. But when he was building the house he had a lot of money to spend and decorated all the main rooms very lavishly.
 - x Edited text from Chief Conservator, Helen Hughes. Pictures © English Heritage
 - xi Biocidal Products 98/8/EC
 - xii From the article by W. Kippes, see XIV.
 - xiii The sign in the illustration has colour, size and design according to ISO 3864 and directive 92/58/EEC O.J. NO. L 245 p.23 26.8.92. Graphic symbol according to ISO 3864/ISO 6309, ISO 7001 and relevant national standards (Norway).
 - xiv Dr. Wolfgang Kippes . Schonbrunn Castle Director., in "3.1.2 EU-Directives and their impact on authenticity of monuments. In "*European Legislation and Cultural heritage*" Ed.: A.M. Ronchi, T.M. Nypan. Delewa editore, Milan 2006, ISBN88-88943-05-6.
 - xv Energy Efficiency 93/76/EEC
 - xvi NBA National Board of Antiquities, Finland. Competent national cultural heritage authority.
 - xvii This was then 2003.
 - xviii 3.2.7 Building Regulations and the Conservation of Built Heritage in Finland. Seija Linnanmäki, Conservation officer at National Board of Antiquities. vice president of ICOMOS Finnish National Committee in "*European Legislation and Cultural heritage*".
 - xix Décret no 2007-363 du 19 mars 2007 relatif aux études de faisabilité des approvisionnements en énergie, aux caractéristiques thermiques et à la performance énergétique des bâtiments existants et à l'affichage du diagnostic de performance énergétique. Section V, f).
 - xx Such extra inner winter windows are standard in almost all buildings in Norway from before the 1930-ies. Exceptions to this rule being very old buildings or houses built by the poor.
 - xxi Sverre Fossdal. Windows in existing buildings – maintenance, upgrading or replacement? Windows in existing buildings in a sustainable perspective. Sverre Fossdal. Directorate for Cultural Heritage, Norwegian Building Research Institute. Project report 192 – 1996

Eir Grytli, Inger Andresen, K the Hermstad. Vintage houses and energy efficiency measures (Fin gammel aargang) A research based guide. Eir Grytli, Inger Andresen, K the Hermstad, Wibeke Knudsen. SINTEF 2004

xxxii Sverre Fossdal, Knut Ivar Edvardsen. Energy consumption and environmental impact of buildings. Case study of traditional and modern wooden buildings. Sverre Fossdal, Knut Ivar Edvardsen. Project report 177 – 1995, Riksantikvaren, Directorate for Cultural Heritage, Norwegian Building Research Institute.

xxxiii Limitation of Volatile Organic Compounds 99/13/EC.

xxxiv Clause of special considerations

xxxv <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/03/700&format=HTML&aged=0&language=EN;&guiLanguage=en> Corfu, 13 May 2003. Commissioner Byrne.

xxxvi Can the EU traditional herbal medicines directive be amended? By Shane Starling, 20-Nov-2008.

<http://www.nutraingredients.com/Regulation/Can-the-EU-traditional-herbal-medicines-directive-be-amended>

xxxvii <http://www.pipes4organs.org/IBO2005/legal/RoHS/RoHS.html>

xxxviii Press release “Culture Counts for Europe”, quote from Commissioner J. Figel. Brussels December 7, 2005.

<http://www.europanostra.org/>

xxxix A list of directives has been compiled with an indication of the problems created for conservation. The list shows a wide scope and diversity of the problematic effects. More research into the actual effects and both legal and mitigating measures is needed. Give source (Refer Annex 1).

xxx Press release “Culture Counts for Europe”, same.

xxxi European Commission IMPACT ASSESSMENT GUIDELINES. 15 January 2009. SEC(2009) 92

xxxii (http://ec.europa.eu/governance/impact/commission_guidelines/commission_guidelines_en.htm)

xxxiii 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.

xxxiv Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings. Official Journal L 001 , 04/01/2003 P. 0065 – 0071. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:001:0065:0065:EN:PDF>

xxxv Directive 2004/42/CE of the European Parliament and of the Council of 21 April 2004 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products and amending Directive 1999/13/EC. Official Journal L 143 , 30/04/2004 P. 0087 – 0096. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0042:EN:HTML> Council Directive 1999/13/EC of 11 March 1999 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31999L0013:EN:HTML>

xxxvi COUNCIL DIRECTIVE 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:144:0001:0115:EN:PDF>

xxxvii EU-Directive 2000/60/EG

xxxviii “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] Limitation of Volatile Organic Compounds 99/13/EC