

United Nations Educational, Scientific and Cultural Organization

Special committee of government experts to prepare a draft convention and a draft recommendation to Member States concerning the protection of monuments, groups of buildings and sites

Unesco House, 4-22 April 1972

SHC-72/CONF.37/Recommendation 2
PARIS, 19 April 1972

ANNEX III

REVISED DRAFT RECOMMENDATION CONCERNING THE PROTECTION,
AT NATIONAL LEVEL, OF THE CULTURAL AND NATURAL HERITAGE

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris, at its seventeenth session, from
to 1972,

Considering that, in a society where living conditions are changing at an accelerated pace, it is essential for man's equilibrium and development to preserve for him a fitting setting in which to live and, to this end, to give the cultural and natural heritage an active function in community life and to have an overall national policy for combining the remains left by past civilizations with present day economic and social life,

Considering that such integration into social and economic life must be one of the fundamental aspects of regional development and national planning at every level,

Considering that particularly serious dangers engendered by new phenomena peculiar to our times are threatening the cultural and natural heritage, which constitute an essential feature of mankind's heritage and a source of enrichment and harmonious development for present and future civilization,

Considering that every country in whose territory there are elements of the cultural and natural heritage has an obligation to safeguard this part of mankind's heritage and to ensure that it is handed down to future generations,

Considering that the study, knowledge and protection of the cultural and natural heritage in the various countries of the world are conducive to mutual understanding among the peoples,

Considering that the cultural and natural heritage form a harmonious whole, the components of which are indissociable,

Considering that a policy for the protection of the cultural and natural heritage, thought out and formulated in common, is likely to bring about a continuing inter-action among Member States and to have a decisive effect on Unesco's activities in this field,

Noting that the General Conference has already adopted international instruments for the protection of the cultural and natural heritage consisting in land and buildings, such as the Recommendation on International Principles Applicable to Archaeological Excavations (1956), the Recommendation concerning the Safeguarding of the Beauty and Character of Landscapes and Sites (1962) and the Recommendation concerning the Preservation of Cultural Property Endangered by Public or Private Works (1968),

Desiring to supplement and extend the application of the standards and principles laid down in such recommendations,

Having before it proposals concerning the protection, at national level, of the cultural and natural heritage, which question appears on the Agenda of the session as Item

Having decided, at its sixteenth session, that this question should be made the subject of international regulations, to take the form of a recommendation to Member States,

Adopts this day of 1972, the present recommendation.

33. Member States should give thought to finding new uses for groups of historic buildings no longer serving their original purpose.
34. Delete.
35. A permanent plan for the protection, development and rehabilitation of groups of buildings of historic or artistic interest should be prepared. During the investigation preceding the designation of a rehabilitation area, the local authorities and inhabitants of the area should be consulted on the proposed measure.
36. The permanent protection, development and rehabilitation plan should be drawn up in the same conditions; it should take the place of a town-planning scheme for the area under consideration; it should stipulate the conditions for land use, the lay-out of roads, and building restrictions, besides specifying the buildings to be preserved and the conditions for their preservation. As regards rehabilitation, the permanent plan should stipulate the uses and, where appropriate, the new purposes to which the group of historic or artistic buildings is to be put, and the links there are to be between the rehabilitation area and the surrounding urban development.
37. Any work which might result in changing the existing state of the buildings in a rehabilitation area should be dependent on authorization by the competent administration. Such authorization should be granted only if the work contemplated is compatible with the terms of the permanent protection and development plan.

Administrative measures

37. (a) Member States should inventory their natural heritage on which short- and long-range plans should be based to meet the needs of the nation.
37. (b) Develop and provide advisory service to guide non-governmental organizations, land owners, etc., on natural conservation policies consistent with "every day" activities.

37. (c) Member States should develop policies for restoration of natural areas, e.g. land made derelict by industrial, etc., activities.

Legal measures

38. Depending upon their importance, the cultural and natural heritage should be protected, individually or collectively, by legislation or regulations, in conformity with the legal procedures of each country.
39. Preventive and corrective measures for protection should be supplemented by new provisions needed to promote the conservation of the immovable cultural or natural heritage and to facilitate the development of its components. To that end, enforcement of protective measures should apply not only to individual owners but also to public authorities when they are the owners of the cultural and natural heritage.
40. No new building should be erected, and no demolition, deforestation, transformation or modification carried out, on any real estate situated in the vicinity of a protected building, if it is likely to affect its appearance, without authorization by the specialized services.
41. Delete.
42. Should the conservation of a protected building be seriously endangered through the owner's failure to fulfil his obligations, the specialized services should be empowered to order him to have the necessary work done within a specified time. The order should, so far as possible, be accompanied by an offer to make a financial contribution to the cost of the work.
42. (a) Planning legislation to permit industrial etc. development should contain sufficient safeguards for the conservation of the natural environment.
43. Should the owner not carry out the work deemed necessary, the specialized services should exercise their powers to have the work done by their own means. In such cases, the owner should reimburse to the State that share of the costs which he would have paid if he had carried out the work himself.
44. Failing agreement with the owners, the specialized services should, so far as possible, have the right temporarily to occupy any protected natural area or architectural group and neighbouring buildings in order to carry out urgent work for the consolidation, repair, maintenance or conservation of such properties.
45. Where required for the preservation of the property, the public authorities might be empowered to expropriate a protected natural area or building and transfer it, by mutual agreement, to public bodies or private persons, subject to terms and conditions to be specified by contract, after the previous owner has had the opportunity of putting his case.
46. Member States should establish regulations to control bill-posting, neon signs and other kinds of advertisement, commercial signs, camping, the erection of poles, pylons and electricity or telephone cables, the placing of television aerials, all types of vehicular traffic and parking, the placing of indicator panels, street furniture, etc., and, in general, everything connected with the equipment or occupation of the cultural and natural heritage.

47. The effects of the measures taken to protect any element of the cultural or natural heritage should continue regardless of changes of ownership. Anyone alienating a protected building or natural site should inform the purchaser that it is under protection.
48. No legal easements that might affect any aspect of the cultural and natural heritage should be applicable thereto except with the agreement of the specialized services.
49. Flotsam and jetsam which is of archaeological, historical or artistic interest, and the owner of which is unknown, should be the property of the State. Any person discovering such flotsam or jetsam should declare it to the authorities nearest the place of discovery.
50. If the flotsam or jetsam is an isolated object, the specialized services should either give it to the salvager or deposit it in a public collection, offering the salvager such compensation as may be determined by amicable agreement or by expert opinion. If the find constitutes an archaeological site, recovery operations or work on the site should be carried out, in accordance with the rules applicable to under-water archaeological excavations, either directly by the specialized services or by the holder of a concession. The finder should have priority for the grant of such a concession, if he can offer the necessary guarantees, or, failing him, any other undertaking which can provide such guarantees. In the latter case, the finder should be entitled to compensation, to be determined by amicable agreement or by expert opinion, calculated by reference to the costs he may have incurred.
51. Anyone who wilfully destroys, mutilates or defaces a protected monument, group of buildings or site, or flotsam or jetsam of archaeological, historical or artistic interest, should be punishable by a fine or imprisonment or both. In addition, equipment used in illicit sub-marine archaeology might be confiscated.
52. Heavy fines should be imposed upon those responsible for any other action detrimental to the protection or appearance of a protected element of the cultural and natural heritage.
53. To secure the material protection needed for the cultural and natural heritage, Member States should provide for coercive measures, under which an offender could be ordered either to restore the protected property to its previous state or, where appropriate, to bring it into conformity with the requirements laid down by the competent services. This might be either accompanied by or independent of penal measures. In either case, in the event of resistance, judges should have power to impose a fine for every day that the offender persists in not complying with such orders.
54. Public authorities owning elements of the cultural or natural heritage should be answerable in the event of their failing to observe the legal provisions or regulations adopted to protect immovable cultural or natural property.
55. Decisions by public authorities which infringe legal provisions or regulations concerning the protection of the cultural and natural heritage should be referred, by the procedures appropriate in each State, to some authority - if possible, a tribunal - having power to annul them.

Financial measures

56. The expenditure incurred in protecting, developing and rehabilitating the privately-owned cultural and natural heritage should, so far as possible, be borne by their owners.
57. Tax concessions should be granted to private owners on both capital and income, if they are physical persons, in order to encourage them to carry out work for the protection, development and rehabilitation of their properties.
58. Subsidies should be granted to private owners as an incentive to them to carry out work for the maintenance, conservation, development, and rehabilitation of the immovable cultural and natural property for which they are responsible. Subsidies should also be granted to such owners to offset the additional expenditure which they are officially obliged to meet by reason of the application of protective measures.
58. (a) Compensation should be paid to owners of important natural areas to refrain from development which might damage their natural state.
59. The financial advantages accorded to private owners should, where appropriate, be dependent on their observance of certain conditions laid down for the benefit of the public, such as their allowing access to parks, gardens and sites, tours through all or parts of the monuments or groups of buildings or natural sites, the taking of photographs, etc.
60. Central and local authorities should, as far as possible, appropriate, in their budgets, a certain percentage of funds, proportionate to the importance of their cultural or natural heritage, for the purposes of maintaining, conserving and developing property of which they are the owners, and of contributing financially to such work carried out on other property by the owners, whether public bodies or private persons.
61. Special funds should be set aside in the budgets of public authorities for the protection of the cultural and natural heritage endangered by large-scale public or private works.
62. To increase the financial resources available to them, Member States may set up "National Heritage Funds", as legally established public agencies, entitled to receive private gifts and bequests, particularly from industrial and commercial firms.
63. In order to facilitate operations for the rehabilitation of the cultural and natural heritage, Member States may make special arrangements, particularly by way of loans for renovation and restoration work, and should also make the necessary regulations to avoid price rises caused by real-estate speculation in the areas under consideration.
64. To avoid hardship to the poorer inhabitants consequent on their having to move from rehabilitated buildings or groups of buildings, compensation for rises in rent might be contemplated so as to enable them to keep their accommodation. Such compensation should be temporary and determined on the basis of the income of the parties concerned, so as to enable them to meet the increased costs occasioned by the work carried out.

65. Member States may facilitate the financing of work of any description for the benefit of the cultural and natural heritage, by instituting "Loan Funds", supported by public institutions and private credit establishments, which would be responsible for granting loans to owners at low interest rates and with repayment spread out over a long period.

VI. EDUCATIONAL AND CULTURAL ACTION

66. Member States should undertake educational campaigns to arouse widespread public interest in, and respect for, the cultural and natural heritage, and to give their people a better knowledge and understanding of the measures taken to make the immovable cultural and natural heritage a part of the pattern of life today and tomorrow.

67. Without overlooking the great economic value of the immovable cultural and natural heritage, measures should be taken to promote and reinforce the eminent cultural and educational value of that heritage, furnishing as it does the fundamental motive for protecting and developing it.

68. All efforts on behalf of the cultural and natural heritage should take account of the cultural and educational value inherent in them as representative of an environment, a form of architecture or urban design commensurate with man and on his scale.

69. Steady efforts should be made to inform the public about what is being and can be done to protect the immovable cultural or natural heritage and to inculcate love and respect for the values it enshrines. For this purpose, all media of information should be employed as required.

Universities, institutes of higher education and life-long education establishments should organize regular courses, lectures, seminars, etc., on the history of art, architecture, the environment and town planning.

Voluntary organizations should be set up to encourage national and local authorities to make full use of their powers with regard to protection, to afford them support and, if necessary, to obtain funds for them; these bodies should keep in touch with local historical societies, amenity improvement societies, local development committees and agencies concerned with tourism, etc., and might also organize visits to, and guided tours of, monuments, groups of buildings and sites for their members.

Information centres might be set up to explain the work being carried out on monuments, groups of buildings and sites scheduled for rehabilitation.

VII. INTERNATIONAL CO-OPERATION

70. Member States should co-operate with regard to the protection and development of the cultural and natural heritage, seeking aid, if it seems desirable, from international organizations, both intergovernmental and non-governmental. Such multilateral or bilateral co-operation should be carefully co-ordinated and should take the form of measures such as the following:

- (a) Exchange of information and of scientific and technical publications;
- (b) organization of seminars and working parties on particular subjects;
- (c) provision of study and travel fellowships, scientific, technical and administrative staff, and equipment;
- (d) provision of facilities for scientific and technical training abroad, by allowing young research workers and technicians to take part in architectural projects, archaeological excavations and the conservation of natural sites;
- (e) co-ordination, within a group of Member States, of large-scale projects involving conservation, excavations, restoration and rehabilitation work, with the object of making the experience gained generally available.