

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (98) 4

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

ON MEASURES TO PROMOTE

THE INTEGRATED CONSERVATION OF HISTORIC COMPLEXES

COMPOSED OF IMMOVEABLE AND MOVEABLE PROPERTY

*(Adopted by the Committee of Ministers on 17 March 1998,
at the 623rd meeting of the Minister's Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose, *inter alia*, of safeguarding and realising the ideals and principles which are their common heritage;

Considering Article 1 of the Convention for the Protection of the Architectural Heritage of Europe, which defines monuments as "all buildings and structures of conspicuous historical, archaeological, artistic, scientific, social or technical interest, including their fixtures and fittings";

Considering that moveable cultural heritage constitutes an irreplaceable expression of the richness and diversity of Europe's cultural heritage;

Considering that more account should be taken of the protection and conservation of moveable cultural heritage in cultural heritage policies and practices in Europe;

Considering that a complex of historical, archaeological, artistic, scientific, social, technical or cultural interest cannot be confined to buildings alone but also includes the moveable heritage which lies in those buildings;

Considering that, where moveable heritage is an integrated part of the complex, its dispersion would result in an irrecoverable loss and would deprive future generations of a part of their common European heritage;

Considering that owners, whether public or private, are faced with specific problems in maintaining the unity of such complexes and ensuring their conservation, and that

these problems require collaboration not only between owners but also with society as a whole;

Considering that the evolution of the art market makes conservation of moveable complexes ever more difficult since the commercial value of the moveable heritage, whether situated inside or outside the building, can often be greater than that of the building with which it is associated;

Considering that the state should create preconditions necessary for the conservation of historic complexes composed of immovable and moveable property while respecting the constitutional principles and fundamental rights affecting ownership;

Considering the 1954 Convention on the Protection of Cultural Property in the Event of Armed Conflict and its Protocol, the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the 1985 European Convention on Offences relating to Cultural Property and the 1995 Unidroit Convention on Stolen or Illegally Exported Cultural Objects, Recommends that the governments of the member states, as part of their general policies for the conservation of the built heritage, create conditions to ensure the protection of historic complexes composed of immovable and moveable property in accordance with the guidelines set out in the appendix to this recommendation.

Appendix to Recommendation No. R (98) 4

I. Definition

1. For the purposes of these guidelines, the term "historic complexes composed of immovable and moveable property" (hereinafter called "historic complexes") is taken to include moveable property situated inside or outside a building and associated with it on account of historical, artistic, archaeological, scientific, functional or cultural links which give these complexes a conspicuous coherence which ought to be preserved.

II. Protection

A. Object of protection

2. Each state should put in place legislation providing for the protection of historic complexes against their removal or dispersal. This legislation should afford the same level of protection to all historic complexes, irrespective of ownership. These complexes should be protected through the application of the current legislation governing monuments, groups of buildings and sites.

3. The state should also create the necessary preconditions for the preservation of protected historic complexes by establishing appropriate measures, including the promotion of private initiative.
4. Protected historic complexes used for religious purposes should remain subject to the existing legislation. However:
 - given the nature of these complexes and their function, any alterations required by changes in the form of worship and other factors of a religious nature may be authorised, taking account of the coherence of the complex, after co-ordination with the competent civil and religious authorities;
 - where a church or a religious community has its own set of rules on cultural heritage conservation, there should be regular co-ordination and consultation with the competent authorities of the state with a view to these being implemented in harmony with existing laws and regulations without prejudice to the paragraph above.
5. States are invited to identify these historic complexes and to introduce a listing or classification system to ensure their protection.
6. The listing or classification should specify, if possible, the parts of buildings and moveables to be protected, which should be explicitly mentioned in the documents drawn up for this purpose.
7. The owner of a historic complex should be involved in the protection procedure and have the opportunity to comment on or object to the proposed listing or classification.
8. Owners may also request the competent authorities to protect a historic complex.
9. The advantages and obligations arising out of the listing or classification of a historic complex should be the subject of information as comprehensive as possible aimed at public or private owners, occupiers other than owners, and any other parties concerned, notably elected local representatives.

B. *Effects of protection*

a. *Obligations*

11. Any proposed modification or separation having the effect of altering a protected historic complex wholly or in part should be subject to approval by a competent authority. In the event of a legal transfer of the ownership of a protected historic complex, encumbrances arising from the protection should be transferred to the new owner.
12. The relevant public authorities and scientific institutions should pool information on objects which, being integrated parts of protected historic complexes, have been unlawfully separated therefrom.

13. Any purchaser of a moveable object who learns that it is protected under the regulations governing historic complexes and has been illegally sold should be required to inform the competent authorities of his or her country. States should consider establishing bilateral and multilateral agreements with other states for the exchange of information about illegally altered protected historic complexes.

14. Considering the growth in illicit traffic in cultural property and therefore the risk of crime, appropriate measures should be strengthened, where necessary, to prevent theft, handling of stolen goods and their consequences.

b. *Sanctions*

15. States should establish a system to ensure as far as possible that an object which has been illegally separated from a historic complex to which it is linked is returned and replaced. Questions of title and compensation for *bona fide* purchasers should be dealt with in accordance with the general principles applicable in the state concerned.

16. The person responsible for any action calculated to alter, illegally and deliberately, all or part of a protected historic complex, or to separate one of the integrated parts, irrespective of whether that person is the owner, should be subject to a major sanction as defined by each country's legislation.

17. The public authorities should order the restitution of the historic complex or the integrated part of it and its return to its original location, at the expense of the person responsible, irrespective of whether that person is the owner.

c. *Incentives*

18. The protection, conservation and promotion of protected historic complexes require the introduction of appropriate fiscal, financial and administrative measures.

19. Owners of a protected historic complex should be encouraged to preserve it, through the use of incentives suited to the type of complex protected, taking into account its economic, cultural and social role, in particular as regards regional and local development.

20. Incentives may be of several types, including tax relief, public subsidies, low-interest loans and contributions in kind such as the provision free of charge of equipment and labour. Technical assistance on management and conservation methods could also be provided.

21. Exchanges of ideas and experience in this field should be organised on an international basis in order to compare different countries' practices, develop approaches already successfully applied and explore new forms of compensation.

III. Management

22. The administrations concerned should, where necessary, appoint a body with responsibility for historic complexes to co-ordinate the authorities responsible for architectural and moveable heritage. This body should provide advice, support and assistance to owners, whether public or private.

23. The authorities responsible for supervision of protected historic complexes should have the right to inspect the latter at regular intervals after giving adequate notice, and whenever an emergency situation so requires. They should have authority to report any unauthorised alterations of protected historic complexes, with a view to preventing their continuation, in accordance with the relevant procedures.

24. It should be possible for the competent authorities to require the owner of a protected historic complex to carry out or authorise conservation work, prescribed by the supervising authority on all or part of the complex. The owner should be able to request the assistance, including financial assistance, of the public authorities.

25. These authorities should ensure that all conservation and restoration work is carried out in accordance with the International Charter for the Conservation and Restoration of Monuments and Sites (ICOMOS, Venice, 1964) and the appropriate rules prepared by national or international conservation bodies.

26. A particular effort should be made to promote training within conservation and restoration professions and crafts relating to historic complexes.

IV. Public awareness and enhancement

27. Protection and conservation policies for historic complexes must seek to ensure that they are recognised as constituents of cultural identity and sources of inspiration and creativity for future generations.

28. Recognition of the importance of the conservation and enhancement of historic complexes requires appropriate information and awareness programmes directed towards public authorities and, more particularly, elected local and regional representatives, public or private owners who have direct responsibility for their property, the public in general and, more importantly, young people, by encouraging their participation and promoting the dissemination of information using the techniques and means of mass communication.

29. While acknowledging that public access to protected historic complexes should be encouraged, their opening to the public should make allowances for the requirements of conservation, the nature of the property and, in the case of private ownership of property, the owner's rights and resources.