

## **INTERNATIONAL AND ROMANIAN REGULATIONS IN REGARD TO INTERVENTIONS ON HISTORIC FABRIC – A CROSS-READING STUDY**

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**Abstract:** An overview of the documents and recommendations regarding the protection of built heritage, along with a review of the acting laws and regulations in Romania, while attempting to highlight some relevant stances where the general international trends can influence in a positive manner both the practice and the regulation setting, this paper tries to put together some reference concepts from various sources that shape the framework of the interventions on historical fabric.

### **INTRODUCTION**

The protection and conservation of built heritage can be viewed in an extent as the product of contact between several different positions within society. If any design work can be seen as the result of the encounter between the beneficiary, the specialist and civil society (interceded by the administrative and regulatory bodies, or not) the protection of the built heritage is influenced as well by the general perception of the local communities, by the material prospects opened by investment in culture, by the academic concern and the historical and documentary information that built environment can contain, by the views of the specialists in the fields of protection and interventions on built heritage, and is conditioned by their interaction.

Viewing the regulatory package as a reflection of the dominant position or (in an ideal case) the consensus between the parties mentioned above, as opposed to it being the premise that validates the heritage protection, we can also concede that the law is the last to register changes in perspective and approach, theoretical and technical advances in the field, and includes them only when, and only to the extent that, they have already become commonplace for more than one social or professional cell. At the same time, ethical, theoretical and professional canon values can be and (always) are more thorough than the legislative, which can only provide minimum performance standards and primary supporting tools.

On the other hand, the legal instruments is that which establishes the framework for intervention on historic fabric, and its ability to be the vehicle of wide-spread information should not be overlooked. An (more) flexible offer in terms of obligations and benefits can lead to positive reception of the law, and can speed up the administrative processes. Decentralization and flexibility of certain types of processes, such as funding, and stricter regulation of other aspects, such as the obligativity of providing maintenance resources, can be instrumented for better efficiency and are tools of the legislative apparatus.

A brief comparison of some international and national documents covering the topic of protection of built historic heritage can be relevant in illustrating various positions and to provide greater insight into the mechanisms and policy instruments that can be applied to the interventions on historic fabric in Romania

### **INTERNATIONAL CHARTERS**

Without insisting on the regulator implications of the international Charters and international protocols, nor the way in which they are implemented within the domestic

legislation, and without intentionally emphasising one over the other, one can notice that the international Charter general line of the last few decades approaches the heritage protection and conservation from within a core of common concepts, flexible enough as to allow their instrumentation in most cases and situations, creating an effective framework for most contexts and presently available solutions. Although these documents, to which Romania adhered over time, do not aim to regulate specific techniques and architectural solutions, but rather to articulate the basic principles of the processes that regard the protection and conservation of the built heritage, an overview the textual internal logic of the Charters offers a fresh vision and a strategic toolkit for designing interventions on historic fabric.

The ICOMOS International Charters [1] have a rather loose and flexible character, allowing adaptation to local contexts of both technologies and approaches, as long as they are subordinate to the concepts of sustainability and reversibility, and to a range of strategic principles that are broadly applicable to all activities of protection and conservation of historic buildings and cultural heritage.

1) Integrated protection 1:

„Active participation by the general public must form part of policies for the protection of the archaeological heritage.{...} Participation must be based upon access to the knowledge necessary for decision-making.”(Lausanne Charter, 1990)

Involving local communities can be achieved by a sum of means, some of which are somewhat obvious. Information and community awareness is one of the instruments almost always brought into consideration (of course, this is also a consequence of the fact that heritage protection is essentially a cultural act). The identity component, rather than the aesthetic one, plays a role not to be overlooked: as long as, in any community, high culture regulars are relatively few, public space appropriation and cultural continuum are citizenship acts, which promote social cohesion, and generate positive states of pride and belonging.

Besides certain attempts of presentation and information, community involvement approaches are less visible in our country. The overall vision is that of a centralized system in which the responsibility for all protection measures falls, in principle, to the central administration (vision greatly shared by both citizen associations and administrative apparatuses). The active participation recommended by the Charter of Lausanne is now reflected more in practice, though, at least until recently, public debate was voluntary and initiated by private actors (non-governmental organizations, professional associations) the large scale urban interventions included. This is a relevant fact for the perception common in small communities that they have little share in deciding on the merits of any building, much less on the financing mechanisms, which still lack for example, transparency and a framework public-private partnerships. In this respect, “The Initiative and Management Program for the Protection of Historical Monuments included in the UNESCO World Heritage List of December 2010”, being referred to henceforth as “The 2010 Program” [2] is a remarkable improvement in terms of strategic vision, the impact of which is unfortunately yet to be observed. In terms of integrated protection strategies and policies in terms of correlating both the built and natural environment protection policies and regulations, the concept is not very common in the official discourse, and it occurs sparingly even in informal debates or media.

2) Legislation and Economy:

It is difficult to believe that a community, even with a high degree of awareness and information, will be able to associate freely in order to protect its built heritage fund in the absence of any legal framework. The regulations for protecting the built heritage generally include two components. The first aims the interdiction (of destroying protected

elements) – one that is satisfactorily covered by the Romanian law. The second component aims to instate the obligation of maintenance, preservation and valuation of the built heritage, and it is quite possible that the efficiency of meeting these obligations to depend largely upon indirect regulations (especially the ones in the financial area - such as, for example, differentiated property taxes) as well as on regulations of technical specifics.

The solutions may vary - from central and exclusive involvement of the state to exclusively private systems. A covering law system can not be, however, put together in the absence of time and experience. Given the institutional discontinuity in the Romanian protection, conservation and restoration legal apparatus [3], and, more so in regard to technical regulations, gaps are self-explanatory. The economic devices that could, under normal circumstances, support the activities of protection, conservation and restoration are in a similar state.

### 3) Monitoring of Buildings, Protected Areas and Sites

Assembling catalogues and lists and keeping them up to date is essential in regard to integrating buildings into their respective protection classes. Beyond the simple record-keeping, registering the various stages of degradation, the known data and the methods employed in major interventions are relevant to making an informed decision with respect to future interventions.

### 4) Investigation

The permanent investigation with the employment of the most advanced methods contemporary available may bring new information and increase the accuracy of existing data. However, it should be considered that the historic built heritage is a limited resource. Hence, non-destructive means of investigation are to be used whenever possible and, in regard to intrusive investigations, their scope should be limited to particular research purposes that cannot be covered by other means. Also, in regard to archaeological excavations, for example, where there is no justification – such as the need for archaeological discharge – the total excavation of the site is not recommended. Areas left in the initial state can be investigated with more advanced means, and under different working assumptions, in the future.

### 5) Maintenance and Conservation

The in situ preservation of most of an ensemble's components is one of the main objectives. Replacing the decorations and statues with replicas, where the degree of exposure and degradation of such components - valuable in themselves- requires it, must be, generally succeeded by the display of the originals in a protected environment such as the museum of the site, or, due to the lack of resources or support at the site, as close to the assembly as possible.

On the other hand, the importance of maintenance work is vital for avoiding further degradation caused by initial minor failures, which, usually, have serious impact in terms of degradation and loss of historical material, and require extensive, and of course more expensive interventions. Here, too, the Romanian law provides the owner with a quite tedious procedure of requiring authorising for each and every maintenance intervention, rather than creating a set of common knowledge, simple rules and timings for maintenance works, to be followed under the supervision of the law [3].

### 6) Presentation and Information

The presentation and information are essential means to ensure the proper understanding of the particulars of historical and local continuity, and therefore of the need for the protection of monuments and sites. As such, they must be updated constantly, and the multiple perspectives of understanding the past must be considered.

### 7) Specialisation

Setting up regional and international centres with the highest level of specialization and the flow of information in academic circles are recommended, as well as giving time to specialists to keep up to date in regard to professional information.

#### 8) International Cooperation

It is a mandatory tool for enforcing and maintaining professional standards. Multiple references are made in regard to maintaining a certain level in heritage management (rather than in regard to actual interventions). The implications of the emphasis on management can represent the point of view that a judicious administration is essential for the long-term protection of the built heritage, beyond the range of singular intervention.

It can be concluded here that the integration of the interventions on historical fabric in a broader framework of administrative and economic strategies and regulations can account for a qualitative rise, that, on the long term, continuity in regard to protection programs is more effective and less expensive than singular interventions; that the involvement of the local communities in these programs is beneficial both for the protection of the objectives and the community identity and cohesion, that the integration of heritage protection programs can work under the same framework with the strategies of the environmental protection, providing, through a minimum of logistical effort, maximized results.

## **NATIONAL REGULATIONS**

### **3.1. GENERAL REGULATIONS**

As regards the Romanian legislation, Law 182/2000 [on the protection of national cultural heritage], Law 422/2001 [on the protection of historical monuments], OG 43/2000 [on protection of archaeological heritage] and the Law 5/2000 [on approving the plan for national planning, Section III - Protected areas] meet the needs of regulating the rights and obligations of owners of classified historic buildings to some extent. The Methodology for filling the "Obligation in Regard to the Use of the Historical Monument and its Belongings" [4] for example, contains a mention of the owner being due to "keep the badge and logo reading 'Historical Monument' in a proper state", but not the obligation of conducting maintenance works on the monument per se, and contains no reference to the acceptable level of degradation; the maintenance obligation is also not explicitly assigned to any State agencies in Law 422/2001, which are only required to monitor the listed historical monuments, and to ensure that any interventions on historical fabric are properly conducted. Of course, these issues are regulated by general legal contexts (maintenance of buildings) and / or town planning regulations, but maybe a few more specific mentions within the "Obligation" would have a more informative and authoritative impact.

The 2010 Program [2] references "the adoption of a protocol between local and central authorities, local community, stating the responsibilities of each party" (Chapter IV, Article 8-2, a) and b)). It bodes well that the Program puts a special emphasis on the continuous (sustainable) development of coherent policies, which, at the same time, provide the framework for a much higher involvement of the local administrations and recommends the raising of the community awareness (which can represent themselves directly in the UNESCO Organizing Committee for the management of the objective). In terms of financing, the Program mentions the "National Plan of Restoration" and local government contributions, especially in regard to the protection and safekeeping; still, there is no mention of private financing or (partial) financing from local funds.

Again, without attempting an exhaustive inquiry on the Romanian legislative framework in terms of consistency with the international principles of protection, a few

conclusions can be drawn, however: in terms of principles, the integrated protection, sustainability, and community involvement are not in any form, commonplace, and have only recently started to become the targets of a concerted effort – following to accumulating experience in terms of practice, and, of course, due to contact with international influences.

### **3.1. ENGINEERING REGULATIONS**

There are few entries in the professional (engineering) codes that make direct reference to interventions on the historic fabric. The general concept of refurbishment, aimed at bringing buildings that do not correspond to contemporary requirements up to standards – in regard to thermal insulation, modern facilities and equipment, seismic consolidation - is much more of a commonplace. Of the working set of codes P100, which regulate the design of structures in regard to seismic exposure and risks in Romania, the only one with application for historic buildings is P 100/3 “Provisions for the Evaluation and Design of Consolidation Works at Seismically Vulnerable Existing Buildings [7] which defines its range in Article 4 of Chapter 1 as following: "(4) The provisions of this Code may be applied to the seismic evaluation of monuments and historical buildings where it does not contradict the concepts, approaches and specified procedures contained within the working normative documents in this area". Also, Article 6 states that "structural evaluation takes into account a degree of reliability different from that associated with new constructions. Therefore, different values are required as safety factors for materials and structures, depending on how complete the available information is and its degree of certainty". This statement has serious implications in the evaluation a monument building, for example in the credit system, but it also implies that historic (very valuable) buildings should be subjected to less efficient consolidation systems, since the requirements of reliability are lower. In terms of Article 6, we certainly understand that there are differences that make it difficult to adapt the structural performance of older buildings, having historical construction systems, to the engineering standards of today, but it also implies that, in case of earthquake, buildings older than a given range (built before 1982, which is a very recent date) are allowed to present a greater risk, and a ' different degree of trust'. This is an interesting statement, involving, inevitably, a decrease in value (by perpetuating the increased risk) for historic buildings. In this context, the regulations stated in the P 100/3 do not cover the needs of the built heritage by any means, however remaining the only code available until the development of P 100/8 “Provisions for the Design of Consolidation Works for Historical Monuments and Buildings of Architectural Value”, due in 2012.

### **DISCUSSION AND CONCLUSIONS**

Several resources that are repeatedly emphasized in the international Charters, such as the integrated protection, the continuous monitoring, the information and presentation, are less reflected in the legislation in Romania. Beyond this, there are some points cannot be subject to international conventions and documents, but that are part of the toolkit of the interventions on historic fabric, which are less mentioned in internal regulations, or could be better formulated.

Flexibility, in terms of roles assigned to different interested parts (civil society, entrepreneurs, local or national authority) especially in terms of funding, or in terms of initiating interventions, is less covered.

The system of benefits and obligations, as well as the property tax system for listed or not listed buildings of historical value is not engaging, and does not comprise the recommended principle of community involvement.

The essential research activities are less emphasized as rewarding long-term investments, but more as a coercive requirement, while informing and creating positive perception of its premises could make much of the research process itself more efficient.

The acknowledgement of the specificity of the interventions on historic fabric not only in terms of urban, aesthetic and surface treatment points of view, but also in terms of technologies and materials is completely lacking, since, currently, the only working regulations in terms of materials' performance for buildings mention only contemporary contexts.

Of course, the presence in the regulating framework of these concepts cannot account for their frequency in the actual practice. However, it must be noted that the choice of solutions compatible with the doctrine and theory of the built heritage protection is subjected to the specialists' position. Also, beyond the regulating power, the informing power of the domestic law should not be underestimated, since it addresses more than administrative and specialized cells. However, information is the direct subject of the administration; also, the arbitration role of national and international forums can bring much in terms of transparency and recourse to authority.

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