

Doc. 11021

19 September 2006

The private management of cultural property

Recommendation 1730 (2005)

Reply from the Committee of Ministers

adopted at the 972nd meeting of the Ministers' Deputies (6 September 2006)

1. The Committee of Ministers has considered Parliamentary Assembly Recommendation 1730 (2005) on the private management of cultural property and it has noted that private management of cultural property has not yet been examined as such at the intergovernmental level at the Council of Europe, although member states have entered into numerous commitments through international legal instruments, including Council of Europe conventions, to protect cultural property regardless of whether it belongs to the private or public sector. In this respect, the Committee of Ministers recognises the value of studying common legal or technical problems with a view to their successful resolution.
2. The Committee of Ministers agrees with the Assembly that the privatisation of cultural heritage must lead neither to a reduction in its protection, nor to absolving the state from its responsibilities nor to a limited public access to cultural property. At the same time, it recognises the importance of a balanced partnership between the private and the public sectors – i.e. the realistic sharing of the risks and responsibilities – in order to provide appropriate protection for cultural heritage.
3. With a view to identifying the best practices concerning partnerships between the private and public sectors (cf. paragraph 11 of the recommendation), it is necessary to analyse and assess models of private management of cultural property. The Committee of Ministers will evaluate the possibility of making such an analysis in the context of its discussions on the budget and programme of activities of the Council of Europe for 2007/2008.
4. Generally, the Committee of Ministers would like to emphasise the benefit of the Council of Europe's technical co-operation and assistance programme, which helps governments and local and regional authorities of member states to provide appropriate protection for their cultural heritage. Unfortunately, because of lack of resources, this programme is only available to a limited number of countries. This programme offers support for solving complex problems relating to the protection, conservation, enhancement, management, use and re-use of cultural heritage in an integrated approach to sustainable social and economic development.
5. As for the prevention of unlawful trafficking in private cultural property, the Committee of Ministers considers that responsibility, in the first instance, lies with the competent national authorities to ensure, if necessary, that the appropriate measures are strengthened, but the emphasis should also be on the responsibility of the private owner.
6. Finally, noting the lack of an international legal instrument against the deliberate destruction of cultural property belonging to the private sector, the Committee of Ministers is willing to join other international initiatives with a view to harmonising such a standard setting with the European Commission and various international organisations (such as UNESCO, ICCROM or Unidroit).

Appendix to the reply

**Opinion of the Steering Committee for Cultural Heritage (CDPAT)
on Parliamentary Assembly Recommendation 1730 (2005)
on the private management of cultural property
(as adopted at the 5th plenary meeting of the CDPAT, Strasbourg, 10-12 May 2006)**

The CDPAT has noted with interest Parliamentary Assembly Recommendation 1730 (2005) on the private management of cultural property, a subject that has not yet been examined as such at intergovernmental level at the Council of Europe.

The Committee pointed out, however, that the member states had entered into numerous commitments through international legal instruments, including Council of Europe conventions, to protect cultural property regardless of whether it belongs to the public or private sector.

As the Assembly emphasises, the CDPAT wants to draw attention to the fact that the privatisation of cultural heritage must not lead to a reduction in its protection, to absolving the state from its responsibilities or to limited public access. At the same time, it recognises the importance of a balanced partnership between the private and public sectors – i.e., a realistic sharing of the risks and responsibilities – in order to provide appropriate protection for this heritage.

With the aim of drawing up guidelines on best practice concerning partnerships between the private and public sectors (cf. paragraph 11 of the recommendation), the CDPAT would like to analyse and assess models of private management of cultural heritage in the context of its future work programme and, accordingly, calls on the Committee of Ministers to provide it with sufficient resources and with terms of reference to carry out this work in the future.

In order to help the governments and local and regional authorities of member states, especially in central and eastern Europe, the CDPAT emphasises the benefit of the technical co-operation and assistance programme, which, owing to lack of resources, is available to only a limited number of countries. This programme offers support for solving complex problems relating to the protection, conservation, enhancement, management, use and reuse of cultural heritage in an integrated approach to sustainable social and economic development.

At the same time, the CDPAT notes the value of organising European vocational workshops that bring together experts to study common legal or technical problems (proposed themes: changes regarding private property that have taken place in the countries concerned; legal, administrative and financial aspects of the protection of cultural property; the role of the public, civil society and the media; the role of the public and private sectors and of international co-operation; the establishment of standards for professional training and intervention; prospects for improving national capabilities and regional co-operation).

In addition, the CDPAT recalls Parliamentary Assembly Recommendation 1634 (2003) on tax incentives for cultural heritage conservation and would like fiscal measures to be able to sustain private sector projects, whether they concern businesses, institutions or individuals.

Finally, in order to prevent unlawful trafficking in private cultural property (theft, receiving stolen objects and the consequences thereof), the appropriate measures should be strengthened. The emphasis should be on the responsibility of the private owner.

Concerning the deliberate destruction of cultural property belonging to the private sector, the CDPAT is in favour of harmonising pertinent standards with those of the European Commission and other international organisations (such as UNESCO, ICCROM or Unidroit).