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Cultural Heritage Protection.

An Overview

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INTRODUCTION

The term Cultural Heritage commonly indicates the legacy of physical artifacts and intangible attributes of a group or of the society that are inherited from past generations, maintained in the present and preserved for the benefit of future generations. Cultural heritage includes tangible goods (such as buildings, monuments, books, works of art, and artifacts), intangible goods (such as folklore, traditions, language, and knowledge), and natural heritage (including culturally significant landscape, environment like particular kinds of trees...).

Cultural heritage is a part of the study of human history because it provides a concrete basis for ideas, and can validate them. Its preservation demonstrates a recognition of the necessity of the past and of the things that tell its story.

Social institutions, scientific knowledge and technological applications need to use a “heritage” as a “resource”. Ethics considers that what had been inherited should not be consumed, but should be handed over, possibly enriched, for the benefit of future generations.

The exploitation of resources and economic growth may negatively impact the conservation of cultural heritage . We can consider for example tourism.

Tourism can impact environmental sustainability. Natural tourist attractions might be destroyed by the multitudes of visitors. Governments must stimulate awareness that natural environments need protection from pollution caused by economic activity that then can ensure that the enjoyment of the environment is accessible to many people.

Sustainable tourism and ecotourism are two possible ways to address the many environmental and social problems associated with tourism. The UNEP (United Nations Environment Programme) and the UNWTO list 12 principles of sustainable tourism: economic viability, local prosperity, employment quality, social equity, visitor fulfillment, local control, community well-being, cultural richness, physical integrity, biological diversity, resource efficiency, and environmental purity.

UNEP has a long history of contributing toward the development and implementation of environmental law. DELC is the focal Division within UNEP which oversees the many facets of this global

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legal framework. Hence, the role of DELC within the framework of UNEP is primarily to ensure the progressive development of environmental law across different environmental sectors and levels of governance.

At a global level, DELC has been pivotal in the facilitation of intergovernmental platforms for the promotion and implementation of multilateral environmental agreements (MEAs) and defining international environmental norms.

As result of these considerations we can say that private tourism law is mainly composed by rules arising not from institutions, but from the instances of the changing society (customary law and contracts) according to the principles of hospitality and of environmental sustainability ¹⁾.

Cultural heritage includes cultural property which includes the physical, or “tangible” cultural heritage, such as artworks. These are generally divided into two groups of movable and immovable heritage. Immovable heritage includes buildings (which themselves may include installed art such stained glass windows, and frescos), large industrial installations or other historic places and monuments. Moveable heritage includes books, documents, moveable artworks, machines, clothing, and other artifacts, that are considered worthy of preservation for the future. These include objects significant to the archaeology, architecture, science or technology of a specified culture.

Also “Intangible cultural heritage” is part of cultural heritage and consists of non-physical aspects of a particular culture, more often maintained by social customs during a specific period in history.

They include social values and tradition and customs and practices, language, arts, other aspects of human activity. The significance of physical artifacts can be interpreted against the backdrop of socioeconomic, political, ethnic, religious and philosophical values of a particular group of people.

Naturally, intangible cultural heritage is more difficult to preserve than physical objects because of their immateriality. Also their damage will be immaterial and not immediately perceptible

Aspects of the preservation and conservation of cultural intangibles include:

- folklore. It can be described as traditional art, literature, knowledge, and practices that are passed on in large part through oral communication and example
- oral history. It is the collection and study of historical information about individuals, families, important events, or everyday life using audiotapes, videotapes, or transcriptions of planned interviews.
- language preservation

“Natural heritage” is also an important part of a society’s heritage, encompassing the countryside and natural environment, including flora and fauna, scientifically known as biodiversity, as well as geological elements (including mineralogical, geomorphological, paleontological, etc.), scientifically known as geodiversity. These kind of heritage sites often serve as an important component in a country’s tourist industry, attracting many visitors from abroad as well as locally. Heritage can also include cultural landscapes (natural features that may have cultural attributes).

Regarding Cultural Heritage Protection Sources of Law it is significant the Convention Concerning

the Protection of World Cultural and Natural Heritage that was adopted by the General Conference of UNESCO in 1972. As of 2011, there are 936 World Heritage Sites: 725 cultural, 183 natural, and 28 mixed properties, in 153 countries. Each of these sites is considered important to the international community.

In Italy art. 9 Constitution says that “The Republic promotes the development of culture and of scientific and technical research. It safeguards natural landscape and the historical and artistic heritage of the Nation”.

Another important source is the Code of Cultural Heritage and Landscape (Decreto legislativo, 22/01/2004 n° 42)

According to art . 3 , paragraph 1 of the Code of Cultural Heritage and Landscape the protection of Cultural Heritage consists “in the discipline of direct activities , on the basis of an adequate cognitive activity , to identify the assets constituting the cultural heritage and to ensure their protection and conservation for purposes of public use .” As for the landscape (Art . 131 , paragraph 4) , its protection “is to recognize , protect and , where necessary , the recovery of cultural values it expresses .”

Another important source is the Environment Code dlgs 152/2006 affirming that (art. 2, 1) “This legislative decree has as its primary objective the promotion of quality of human life , to be achieved through the protection and improvement of environmental conditions and the prudent and rational utilization of natural resources ”²⁾.

[Notes]

- 1) See particularly *Tourism and the environment: A sustainable relationship?* by C. HUNTER E H GREEN, Routledge: London, 1995.

The book explores the area of sustainability in tourism development. “The relationship between environmental quality and tourism success is discussed, focusing on ways to protect the world’s tourism destinations for future generations.”

See also *Tourism: Principle and practice*, by C. COOPER, Pearson Education: London, 2005; *Environmental issues of tourism and recreation*, by ZBIGNIEW MIECZKOWSKI University Press of America: New York City; Boulder, Colorado; Toronto; London, 1995.

- 2) An Italian case on sustainability and cultural heritage protection is the recent case BASILICATA REGION V.S. AN OIL EXPLORATION COMPANY decided by Consiglio di Stato, sez. V, 15/07/2016, (ud. 14/07/2016, dep.15/07/2016), n. 3151

In the present case , as regards the protection of cultural heritage , the required permission to prospect for liquid and gaseous hydrocarbons, the subject of the present dispute , had been positively evaluated (prot act . n . 8054 of 26.5.2010) by the Superintendent for the Archaeological Heritage of Basilicata , after formal acceptance by the recurring commitment “to take charge of expenses relating to any preliminary archaeological investigations and / or extensive as may be deemed necessary” by the Superintendence.

With reference to the protection of land , particularly wine production (including those of DOC Aglianico del Vulture value), it should be noted that agricultural areas affected by the cultivation of vineyards had expressly excluded from research.

In relation to the protection of the environment and natural areas of great value , with prot acts . n. 4081 of 16.6.2011 and

prot . n . 7724 of 14.6.2011 the Superintendency of Heritage Landscape Heritage of Basilicata had expressed a favorable opinion , excluding only the areas subject to the constraints ex art . 142 , paragraph 1, lett . c) and h) , Legislative Decree . n . 42-2004 , that is, the rivers , the streams and the waterways and their banks or the feet of the banks for a 150 m range. each and the land encumbered by civic uses.

Nor can it be considered that the research for *liquid and gaseous hydrocarbons* in question can damage the historical centers and the tourist areas.

Basilicata Region acted against all those permissions but Consiglio di Stato, which is the supreme administrative court in Italy, affirmed that the activity of the Oil Company is sustainable.