



COUNCIL
OF EUROPE

CONSEIL
DE L'EUROPE

CMD009133

Committee of Ministers
Comité des Ministres



Strasbourg, 17 May 1996

Restricted
CM(96)70

For consideration at the 569th meeting
of the Ministers' Deputies
(18 June 1996, B level, item 7.1)

CULTURAL HERITAGE COMMITTEE

**PROTECTION OF THE CULTURAL HERITAGE
AGAINST UNLAWFUL ACTS**

*Interim activity report and draft Recommendation
submitted to the Committee of Ministers by the
Cultural Heritage Committee (CC-PAT)*

INTERIM ACTIVITY REPORT

I. Origin of the activity

1. This activity stems from the colloquy on "The protection of historic buildings and their artistic contents against crime and wilful damage", which was organised from 3 to 6 November 1992 in Antwerp (Belgium). The Colloquy conclusions not only included suggestions as to the possible activities to be carried out by the Council of Europe as part of its intergovernmental work programme, but also provided the basis for the drawing up of an international legal instrument in this field.

2. In 1993, the Cultural Heritage Committee (CC-PAT) instructed a group of specialists to:

- draft a Recommendation of the Committee of Ministers to member States on the protection of the cultural heritage against wilful damage;
- to study other possibilities of practical measures to be undertaken in this field, taking into account the work that may have been carried out by other international organisations.

II. Progress of the activity

3. From May 1993 to February 1995, the above mentioned group, made-up of specialists from different fields, drafted the text of the preliminary draft Recommendation, which portrays a multidisciplinary approach to the prevention of risk threatening the cultural heritage. At its meeting of 9/10 February 1995, the members of the group decided to submit to the CC-PAT, at its session of 8/10 March 1995, the text of the preliminary draft Recommendation, drawn up at these meetings.

4. At the same time, the group of specialists considered other activities which could be of interest in this field, notably the design of an educational package for surveillance staff and the preparation of specialised publications.

5. A seminar should also be held in Italy, in September 1996, to enhance the knowledge of the work of the Council of Europe on the physical deterioration of the heritage, as well as of the appended Recommendation. It will also be the opportunity for a forum and general discussion on the relation existing between this kind of protection and public awareness of the cultural heritage.

III. The draft Recommendation of the Committee of Ministers of the Council of Europe to member States on the protection of the cultural heritage against unlawful acts

6. This draft Recommendation aims at promoting co-operation between those responsible for the cultural heritage and security specialists. It is in keeping with a prevention approach and should supplement the already existing Recommendations in other fields on the physical deterioration of the heritage, namely the Recommendation No. R (88) 5 on control of physical deterioration of the architectural heritage accelerated by air pollution and the Recommendation No. R (93) 9 on the protection of architectural heritage against natural disasters.

7. The appended draft Recommendation is a good example of the possible application to the conservation of the cultural heritage of the method of risk analysis used in industry, after having been adapted, of course, to the protection of the heritage. This preventive approach is common to the three above-mentioned recommendations, which should all be included in a publication, accompanied by an explanatory text.

8. This method starts by the identification of the risks which could threaten an item of the heritage, and continues with the analysis of the probability of the occurrence of each of the identified risks as well as of the degree of seriousness of damage should the risk occur.

9. In concrete terms, risk analysis methods give the possibility of classifying risks resulting from unlawful acts, in different levels. For each level of risk, an appropriate security policy has to be implemented for each possible unlawful act (theft, arson, vandalism, ...).

10. This security policy, however, consists in the implementation of preventive (prevention plan) and repressive measures (emergency plan). The prevention plan includes three complementary aspects: organisational measures, mechanical protection and electronic surveillance. The emergency plan is made up of an operational part and an organisational part, which is implemented when an unlawful act occurs in spite of the preventive measures.

11. Training, education and awareness-raising in the field of the cultural heritage are considered by the group of specialists as essential elements for the prevention of unlawful acts, especially in case of vandalism.

IV. Decision of the Council for Cultural Co-operation

12. At its 64th session (23/25 January 1996), the Council for Cultural Co-operation authorised the Cultural Heritage Committee to transmit directly the text of the draft Recommendation to the Committee of Ministers for adoption.

13. At its 11th session (6/8 March 1996), the Cultural Heritage Committee decided to transmit the text to the Committee of Ministers for adoption.

V. Decision to be taken by the Committee of Ministers

14. The Committee of Ministers is invited to adopt the draft Recommendation appended to this report.

APPENDIX

DRAFT RECOMMENDATION No. R (96) ..
**OF THE COMMITTEE OF MINISTERS TO MEMBER STATES
ON THE PROTECTION OF THE CULTURAL HERITAGE
AGAINST UNLAWFUL ACTS**

*(Adopted by the Committee of Ministers on .. 1996
at the ... meeting of the Ministers' Deputies)*

The Committee of Ministers, pursuant to 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;

Having regard to the European Cultural Convention signed in Paris on 19 December 1954;

Having regard to the Convention for the Protection of the Architectural Heritage of Europe, signed in Granada on 3 October 1985;

Having regard to the European Convention for the Protection of the Archaeological Heritage (revised), signed in Malta on 16 January 1992;

Having regard to the European Convention on Offences relating to Cultural Property, opened for signature in Delphi on 23 June 1985;

Having regard to the Unesco Conventions for the Protection of Cultural Property in the event of Armed Conflict, adopted in the Hague on 14 May 1954; on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted in Paris on 14 November 1970; and for the Protection of the World Cultural and Natural Heritage, adopted in Paris on 16 November 1972;

Having regard to its Recommendations No. R (88) 5 on Control of Physical Deterioration of the Architectural Heritage accelerated by Air Pollution and No. R (93) 9 on the Protection of the Architectural Heritage against Natural Disasters;

Recognising that the cultural heritage constitutes an irreplaceable expression of the wealth and diversity of Europe's cultural tradition;

Considering that the cultural heritage is placed at risk by unlawful acts or negligence;

Emphasising that this Recommendation is preventive in purpose;

Convinced that prevention should be primarily concerned with educating and informing owners, professionals and the public about conservation and respect for the cultural heritage and with encouraging a multidisciplinary approach to prevention, using all available human, physical and electronic means;

Considering that the risks posed by unlawful acts should be reduced, as much as possible, through concrete action in accordance with plans which combine available preventive measures and through the establishment of plans of action for emergency situations;

Noting that activities at the international level must be pursued, particularly in relation to steps taken to combat illicit traffic of works of art and organised crime;

Bearing in mind the activities of other international organisations, in particular the European Union, Unesco, Unidroit and Interpol;

RECOMMENDS that the governments of member States have regard to the principles set out in the Appendix to this Recommendation when adopting all appropriate legislative, administrative, financial, educational and other measures within the framework of their overall conservation and protection policy for the cultural heritage;

INSTRUCTS the Secretary General to transmit the text of this Recommendation to the non-member States which are Parties to the European Cultural Convention.

**Appendix to Recommendation No. R (96) ..
on the protection of the cultural heritage
against unlawful acts**

I. Scope and definitions

1. For the purposes of this Recommendation the cultural heritage comprises all movable and immovable property which, in view of its cultural value and significance, must be preserved and passed on to future generations.
2. The expression "unlawful act" refers to any conduct which contravenes legal requirements or prohibitions designed to protect the cultural heritage, whether these acts are intentional or unintentional, and in particular acts which are punishable under criminal law.
3. The "risk" is an assessment of the probability of damage to or loss of the cultural heritage likely to result from one specific unlawful act or a series of such acts.
4. "Risk analysis" is the systematic study allowing the identification and assessment of all the risks which threaten the cultural heritage.

II. Implementation

1. Risk analysis should be applied, particularly to those elements of the cultural heritage which should be recorded in accordance with the provisions of the Granada Convention.
2. Owners and people responsible for the upkeep of listed items should be made aware of the need for risk analysis.
3. Risk analysis should give rise to preventive measures designed to eliminate, or at least reduce, the incidence of risk, together with measures to reduce the consequential damage if the risk is not averted.
4. Risk analysis and the application of preventive or response measures should be based on a multidisciplinary approach, involving collaboration between those responsible for the cultural heritage and security specialists. They should have regard to the context in which the cultural heritage is designed to be seen, and respect the integrity of buildings and works of art.

III. Methods of risk analysis associated with unlawful acts

1. The formulation of plans to protect the cultural heritage should begin with a systematic analysis of risks. This involves two stages:

- identifying the risks for the heritage item studied;
- assessing the probability of identified risks and their consequences.

2. The calculation of the damage likely to result from any particular risk, should take into account:

- the probability of the risk occurring;
- the seriousness of the risk's harmful consequences.

3. Various factors should be considered in determining the probability of any particular unlawful act:

- physical conditions: the type of heritage item concerned, the nature of the building (museum, cathedral, ...), the place and characteristic of its location, existing protection,
- conditions of use of the building: opening hours, number of visitors, ...;
- the heritage item's historical, cultural and social value and its intrinsic financial value;
- sociological data, such as the frequency of unlawful acts, crime statistics, ...;
- knowledge of the modus operandi of the authors of unlawful acts and of the specific equipment used;
- means of intervention by public services: location, importance, priority,....;

4. a. According to the commonly used methods of risk analysis, each potential unlawful act should be classified on a four point probability scale (unlawful act highly unlikely, unlikely, probable, very probable).

b. To determine the seriousness of an act's consequences it is necessary to estimate the impact which any loss would have from the historical, cultural, economic and social points of view. Such impact should be classified on a four point scale of seriousness (minor consequences, significant, very serious, disastrous).

5. By combining the degree of probability of an unlawful act and the degree of loss (4a. and 4b.), the risk involved can be classified into four levels of risk (low risk, medium risk, high risk, catastrophic risk).

6. Once the level of risk should determine, a multidisciplinary working party (including those responsible for the heritage item concerned, security specialists such as civil security, police, firemen, and representatives of public services) determines the measures of protection to be implemented.

IV. Protective strategies for preventing and responding to unlawful acts

1. An effective security policy is appropriate to the level of risk, the latter being determined on the basis of risk analysis.

2. The security policy for reducing risks associated with unlawful acts comprises:

- preventive measures (the prevention plan), designed to eliminate or, at least, reduce the possibility of a risk occurring;
- responsive measures (the emergency plan), designed to reduce the damage resulting from any incidents, thereby ensuring the heritage item's conservation.

The aim of the means used is to establish obstacles to discourage or hinder the perpetrator of an unlawful act or to signal causes of negligence.

3. The prevention plan should comprise three complementary aspects: the organisational arrangements (marking and photographic coverage, surveillance and human intervention procedures and organisation, responsibility for keys and so on), physical protection (for example reinforced doors, security glass, safes) and electronic surveillance (detection, control centre, transmission, closed circuit television, monitoring access and video surveillance and so on).

4. The emergency plan should cover all the measures necessary to reduce the harmful consequences of any unlawful act in order to protect the cultural heritage. Such a plan will be established on the initiative of the authority responsible for the cultural heritage and will comprise an operational part, covering all the technical installations and the resources required to respond to emergencies, and an organisational part dealing with the role of and co-ordination between the different agencies involved in emergencies (such as police officers, fire services, works of art rescue teams and communications teams).

5. Once these plans have been drawn up, it will be necessary to check the effectiveness of protective measures in order to assess whether the level of security is commensurate with the risk involved and to establish the acceptability of the risk.
6. The technical equipment should be kept in working order by regular maintenance and periodical checks by competent staff.
7. People involved in the emergency plan should be informed of its contents and regular training exercises will enable them to harmonise their actions and to test its efficiency.
8. Efficient risk management is characterised by the optimisation of financial, technical and human resources, based on good coordination and communication between all agencies.

V. Training of staff and promoting public awareness

1. Training of professionals, technicians, owners and users of objects forming part of the cultural heritage should focus both on general principles of risk management as well as on the available security methods and means for protecting the cultural heritage.
2. Heritage education activities should be developed in school and in an out-of-school context.
3. Regional and international exchanges should be encouraged in order to increase the knowledge of professionals concerning unlawful acts against the heritage.
4. Promotion of the awareness-raising of the general public should focus on respect for the cultural heritage and the prevention of unlawful acts against it.