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BASICS OF THE MACEDONIAN CULTURAL HERITAGE PROTECTIVE SECURITY MODEL

The key aspects of the Macedonian model of security prevention of cultural heritage incorporated in the 2004 Cultural Heritage Protection Law are presented. The topic has been broadly elaborated to achieve a notion of the step forward made in the normative structure in this specific area.

Republic of Macedonia is a small country according to its area and population with the restricted economic resources and numerous problems of various types. At the same time it could be proud with the abundance of cultural property of different types and periods of origin with an extraordinary rich historical, artistic and scientific values. Because of the multilevel value and importance, its cultural heritage used to attract, and still does, broad interest of great number of subjects. The rapid growth of the interest, at the same time, increases the risk to which this cultural heritage is being exposed. The number of subjects and organized groups, natives as well as foreigners, are very often linked with mutual interests and purposes towards the cultural heritage. The danger of intentional mutilation and destruction, clandestine excavation, misappropriation, theft, appropriation, smuggling, deception and other illegal actions are becoming more real and more frequent. For the reasons of personal benefit, very often for prestige or good reputation of some informal groups, well organized subjects make plans, prepare, make orders or perform criminal acts illegally acquiring valuable artefacts.

Several decades, until 1991, the theft of icons was the most frequent type of illicit activity. Today, the most serious problems are the clandestine excavations and appropriation of archaeological objects. Another problem the Macedonian authorities are facing with is the illicit import and export of cultural goods, as well as the illicit traffic of cultural heritage. Another major problem is the usurpation of the archaeological sites and the qualified form of deception in the rural milieu: the exchange of old icons with the new ones. Unfortunately, the Macedonian experience abounds with the examples of intentional damage and destruction of sacral objects for the reasons of nationalism and religious intolerance. Lately, the frequent occurrence is the attack on memorial monuments. We come to the conclusion that there are enough reasons for concern.

The illicit activities are in close interdependence. The isolated occurrence is rare. They all have identical consequences. Most frequently, as a rule, the tangible cultural goods are lost and the national cultural heritage impoverished. Today, more often than previously, the jeopardy of those illegal actions, single or joint, is the evident risk on national as well as on international level. All these types of misbehaviour, more or less, are the common phenomenon all over the world. There is no country in the world which is not facing this kind of criminal behaviour. As a rule, it is typical for the milieu where is a variety of cultural heritage or where is lack of assess of values and meaning of their

own cultural heritage. In these countries the practical realization of the safeguarding measures is unsatisfactory.

There is a great difference in the approach and concepts of prevention of this kind of criminal behaviour from one country to another. The basic difference is in the frame of the national system for the protection of cultural heritage rather than in the system of measures of the general social prevention. Basically, each country has, or tends to create or to maintain, its own model of protection of cultural heritage. Therefore, actions forbidden or unlawful or illicit in one country could be lawful or under more liberal regime in the other. Consequently, the organized efforts for the elimination of the illicit actions has no the same effects always and everywhere.

The diligent analyses of the state of affairs and the activity of the monuments crime shows that in the Republic of Macedonia used to be and still are present different relevant factors which contributed or still contribute to this kind of criminal behaviour. It is acceptable to talk about insufficient and inadequate physical and technical security measures towards the cultural heritage, as well as about the lack of special services for the fight against the monument crime. The inadequate treatment of the cultural heritage protection in the educational process and the lack of special preventive plans and curricula are the essential factors. We can add the lack of organization in the sphere of collecting objects of art, and the lack of organized control of the trade with cultural heritage and other antiquities, as well as the purchase of objects by the museums and some public collections without previous check of their origin or against the ethic norms. Long period of time considerable influence upon the condition and traffic of this kind of crime had the previous legislative, especially because of the multitude of legal omissions. For short period of time the incomprehensible misunderstanding of the problem of prevention in the protection institutions was evident. Actually, in the home institution prevails the attitude that security prevention of the cultural heritage is the duty of all other subjects out of the system of protection, but not of the authorized institution in the system itself. Fortunately, these absurd misconceptions are surmounted but, in the period while the cultural heritage security service was prevented to operate, the numerous accidents and undesirable events happened. Of course, all this was to the detriment of the cultural heritage.

The abovementioned state of affairs was a great stimulus in the process of drafting the new law for protection of cultural heritage. In this law were incorporated several provisions for protective security of the cultural heritage. Majority were organized in separate chapter entitled as protection of cultural heritage against the illicit actions. Namely, these obligations derive from the ratified international conventions and other UNESCO, UNIDROIT, European Council and European Union acts. In this sense it was very important, through the incorporation of minimum obligations, to ensure compatibility of the new law of cultural heritage with the international standards, and in the same time to stress its ties with the laws of the similar field (internal affairs, customs, public prosecutor's office, etc.) The purpose of this normative approach was the clearer recognition of the place, role and responsibilities of the authorized bodies, as well as identification of the specific determination of their duties. As already mentioned, in the absence of such regulations the great number of misunderstandings between the office for the protection of cultural heritage and other involved subjects were evident, manifested as negative conflict of competencies. The new law on protection of cultural heritage presents a solid legal ground for overcoming the negative state of affairs of

crime against the cultural heritage. Strictly speaking, a remarkable step forward has been made in several directions.

From the point of view of the normative concept, the first major characteristic of the Macedonian model for protection of cultural heritage is the treatment of the protective security of cultural heritage as a separate model of protection being the integral part of the protective system of the cultural heritage. As a result of this conceptual approach special obligations were incorporated in the Law for protection of cultural heritage. Besides, the Law gives the authorization for the special rule-book for protective security of the cultural heritage. Republic of Macedonia is one of the few countries with the special legal regulations for the prevention of illicit traffic incorporated in the national system for protection of cultural heritage. The position, the role and the authority of the subjects in the related fields have not been violated. The special regulations refer to the key subjects in the frame of the system for protection of cultural heritage. The great legal gap has been fulfilled.

The organizational changes made on central, state level are the second major characteristic. The National council for cultural heritage, as advisory and coordinative body of the Government of the Republic of Macedonia, has been provided by the Law. This body incorporates a special coordination committee for protective security of cultural heritage and prevention of illicit actions. Furthermore, the new governmental body, in the frames of the Ministry of culture – the Office for protection of cultural heritage - has the special Sector for prevention and supervision with two departments and one of them deals with the problem of protective security of cultural heritage. Novelty in the Law is that the authorized officers from the Office for protection of cultural heritage are performing the job for protective security of cultural heritage. Their authority is different from the inspectors for cultural heritage.

The third major characteristic of the new model are the new instruments for protection. Above all, the National strategy for protection and usage of cultural heritage for the period of 15 years. This strategy establishes the long term basics of the protection policy, as well as the protective security policy of the cultural heritage. According to the National strategy, and in the sake of evaluation of the existing risks from illegal actions, as well as the crime against the cultural heritage, the Law predicts that the government is obliged to deliver a National action plan for the prevention of crime in the sphere of cultural heritage. The realization of this plan should be coordinated by the National council for cultural heritage and its special coordinative committee. The fore coming new protective instruments are the plans for protective security of cultural heritage passed by the public authorities for the protection and certain owners of protected goods. These are: the *Plan for the preventive protection of cultural heritage from illicit actions* and the *Plan for urgent action in the case of illicit operations*. These plans are prepared by the Cultural heritage protection office and approved by the minister of culture on the basis of special study for protective evaluation. This means that each authority in the protection system of cultural heritage has its well defined position.

Important novelty and characteristic of the new model of protection is the extension of the absolute law restrictions and their systematization. These are the following: prohibition of intentional damage, destruction, appropriation, concealment, misappropriation and usurpation of cultural heritage, expropriation of cultural heritage of exceptional importance owned by the state, prohibition of export of cultural goods of exceptional importance, and prohibition of requisition, repression, attack and usage of

cultural heritage in military purposes. All these prohibitions are adequately treated in the Criminal Law which is terminologically standardized with the Law on cultural heritage protection.

The fifth characteristic is the filling of the legal loophole in terms of the verification of heritage origin during its repurchase, purchase of dubious offers, prohibition of doubtful artefacts to be included in the museum registry book, the private collections issue and the expel of certain type of goods to be included in the collections, registry book for the origin of the antiquities, elaborated system of exchange, withdrawal, export, import and restitution of cultural heritage, as well as mass media publicity of every illicit case related to the cultural heritage.

Extension of the list of offences related to the cultural heritage is another important novice. Sixty five offences were systematized in three groups according to the seriousness of the illegal act.

The basic value of the new Macedonian protective security model of cultural heritage (here elaborated in its rudimental form) will be the active cooperation with the police, public prosecutor's office, customs, inspection and other authorities and services. The dynamism of these subjects will be crucial for the active functioning of this model. However, the main burden in the application of the model itself remains on the cultural heritage protection authorities. The respectable outcome has to be anticipated. This topic will be elaborate in some other occasion.