

# CULTURAL HERITAGE LEGISLATION

## UNITY VS. DIVERSITY

# Topics Of Discussion

- International level
- European level
- National level - Major Differences

# *International Conventions*

# Convention for the protection of cultural property in the event of armed conflict 1954

## *Article 4. “Respect for cultural property”:*

*“The High Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility directed against such property.”*

# Regulations for the Execution of the Convention for the Protection of Cultural Property in the Event of Armed Conflict 1954

## *Article 12. “International register of cultural property under special protection”*

- “1. An "International Register of Cultural Property under Special Protection" shall be prepared.”
- “3. The Register shall be divided into sections, each in the name of a High Contracting Party. Each section shall be sub-divided into three paragraphs, headed: Refuges, Centers containing Monuments, Other Immovable Cultural Property.....”

# “Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of Cultural Property 1970”

*“That cultural property constitutes one of the basic elements of civilization and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting”*

# “Convention concerning the protection on the world cultural and natural heritage, 1972”

*“Considering That protection of this heritage at the national level often Remains Incomplete because of the scale of the resources which it requires and of the insufficient economic, scientific and technical resources of the country where the property to be protected is situated”*

# “Convention on the protection of underwater cultural heritage, 2001”

*“Acknowledging the importance of underwater cultural heritage as an integral part of the cultural heritage of humanity and a particularly important element in the history of peoples, nations, and their relations with each other concerning their common heritage”*

*“Realizing the importance of protecting and preserving the underwater cultural heritage and that responsibility therefore rests with all States”*



# “Convention for the safeguarding of the intangible cultural heritage, 2003”

*“Recognizing that the processes of globalization and social transformation, alongside the conditions they create for renewed dialogue among communities, also give rise, as does the phenomenon of intolerance, to grave threats of deterioration, disappearance and destruction of the intangible cultural heritage, in particular owing to a lack of resources for safeguarding such heritage,”*

# “Convention on the protection and promotion of the diversity of cultural expressions, 2005”

*“Affirming that cultural diversity is a defining characteristic of humanity”*

*“Conscious that cultural diversity forms a common heritage of humanity and should be cherished and preserved for the benefit of all,”*

*“Taking into account that culture takes diverse forms across time and space and that this diversity is embodied in the uniqueness and plurality of the identities and cultural expressions of the peoples and societies making up humanity”*

# *European Conventions* *and Guidelines*

# CONVENTION FOR THE PROTECTION OF THE ARCHITECTURAL HERITAGE OF EUROPE, 1985

(AKA the Granada Convention)

Sites of “conspicuous historical, archaeological, artistic, scientific, social or technical interest”.

Conspicuous = remarkable ?

“Significant” rather than “interest”

“Recognising that the architectural heritage constitutes an irreplaceable expression of the richness and diversity of Europe's cultural heritage, bears inestimable witness to our past and is a common heritage of all Europeans”  
ADV. GIDEON KOREN

# Specific Articles

- ▶ Article 4 – General steps
- ▶ Article 6 – Financial support
- ▶ Article 9 - Sanctions
- ▶ Article 10 - Policies
- ▶ Article 12 – Public access
- ▶ Article 21 - Subordination

# EUROPEAN CONVENTION ON THE PROTECTION OF THE ARCHAEOLOGICAL HERITAGE, 1992

(AKA Valetta or Malta Convention)

*“Acknowledging that the European archaeological heritage, which provides evidence of ancient history, is seriously threatened with deterioration because of the increasing number of major planning schemes, natural risks, clandestine or unscientific excavations and insufficient public awareness;”*

# EUROPEAN LANDSCAPE CONVENTION, 2000

*“Each Party undertakes:*

*to recognise landscapes in law as an essential component of people’s surroundings, an expression of the diversity of their shared cultural and natural heritage, and a foundation of their identity;”*

# Council of Europe Framework Convention on the Value of Cultural Heritage for Society, 2005

(AKA Faro Convention)

*“everyone, alone or collectively, has the responsibility to respect the cultural heritage of others as much as their own heritage, and consequently the common heritage of Europe”*



# Treaty of Maastricht 1992

*In 1993 the European community became a union with the entry into force of the treaty of Maastricht 1992, which also gave certain powers in cultural matters to the European Union (article 128).*

*The treaty of Amsterdam in 1997 incorporated that article and added another (article 167 - ex Article 151 TEC) which required that culture be taken into account and that cultural diversity be respected in all community policies, in compliance with community law.*

# *Major Differences*

1. The Definition of “Heritage”.
2. The Definition of “Antique”.
3. Preservation “in situ”
4. Protection of Military & Maritime Heritage.
5. Ownership of Archaeological objects

6. Central government – or decentralization?
7. Protection of religious institutions.
8. Accessibility to the public.
9. Public participation in planning.
10. Guidelines for Maintenance.

- ▶ 11. Professional recognition.
- ▶ 12. Harmonization of terms.
- ▶ 13. Management issues.
- ▶ 14. Financial issues.

# Summary and conclusions

Framework of international acceptance.

Recognized diversity.

Major National differences.

Variety of interests.

Complexity of reaching consensus

Thank you