



European
Heritage
Legal
Forum



Deutsches Nationalkomitee
für Denkmalschutz



BAYERISCHES LANDESAMT
FÜR DENKMALPFLEGE

The Task of the EHLF is "To ensure that improved and timely information on the development and consequences of legal acts developed by the European Union which may pose a potential threat to cultural heritage are conveyed to the national competent authorities." ¹

**LECTURE TO THE 1st SESSION of the
7th FULL MEETING OF THE
EUROPEAN HERITAGE HEADS FORUM,
23-26 MAY 2012:
"THE INTEREST OR THE IMPACT OF THE
EUROPEAN CULTURAL HERITAGE AND ITS
PROTECTION SUPPORTED ON THE EU LEVEL"**

by Wolfgang Karl Göhner, Munich

<http://w-goehner.de/cms/uploads/media/2.62 - Denkmalrecht - Vorträge - 7. EHLF-Konferenz Berlin-Potsdam vom 23.-26.05.2012 - Vortrag.pdf>

→ **Folie 1**

Mr. Chairman,
Ladies and Gentlemen!

→ **Folie 2**

As the German member of the Secretariat of the European Heritage Legal Forum (EHLF) I have the honour to speak to you from the view of a European citizen and a member of a national and federal

¹ EHLF Operational Guidelines.

http://www.riksantikvaren.no/Norsk/Prosjekter/European_Heritage_Legal_Forum/Operational_Guidelines/

administration of an EU-Member State about “the interest or the impact of the EUROPEAN Cultural Heritage and its protection supported on the EU level”.

The title sounds similar to the expected presentation by the EU in the first draft of the meeting programme. The first presentation by Ms. Catherine Magnant provided insight into current approaches and future challenges for the protection of Cultural Heritage done by the EU Commission.

We all know quite well that action and cooperation at European level is only about complementing and reinforcing the Member States' contribution in the field of the protection of Cultural Heritage. The EU cannot interfere with or define the ways in which Member States set out Cultural Heritage promotion, preservation, concepts and strategies.

With great interest I followed the important activities taken at EU level in the field of Cultural Heritage. In my opinion, we all would have gained a lot if national administrations as well as EU bodies would recognize the significance of these activities. Because of the transversal dimension of Cultural Heritage a lot of different administration services are dealing with Cultural Heritage issues, which are implemented within the different administration bodies.

Unfortunately, we miss information about the majority of them on national level as well as on EU level. There are several reasons for that, but one always remains the same and is still one of the biggest mysteries to us: the lack of communication between the different administration services, which

leads to the initiation and implementation of similar activities without reaching synergy effects.

Therefore, I sincerely appreciate the idea of the Directorate General for Education and Culture to reaffirm its role as a leading entity in the Cultural Heritage field within and outside the EU Commission and its intention to become at least a “Commission central information desk on Cultural Heritage policy and activities”.

→ **Folie 3**

A few weeks ago, we were informed about ambitious plans of DG Culture to design a policy approach to Cultural Heritage “which shall define a specific EU contribution to heritage policy in Europe. It should in particular explore the economic dimension of heritage and the way EU's excellence in this field could be better used in our external relations and for opening up new markets.”

→ **Folie 4**

However, let me notice that this seems only to be one – of course important – step on our way to a full implementation of Cultural Heritage in the common thinking and in sustainable activities in all policy fields. The task of the EHLF and its predecessor, the “Working Group on EU Directives and Cultural Heritage” → **Folie 5** as well as our mission is to ensure improved and timely information on the development and consequences of legal acts in the EU Commission to the EHLF members and their national competent authorities and, moreover to work towards a permanent European-wide system that monitors all legislative bills being planned for implementation by the European Union. The EHLF

will act as an early warning system for identifying potential threats posed to Cultural Heritage by planned European legislation – far beyond the fields of Culture and Cultural Heritage! So, much more policy competencies are necessary to handle this cross ministerial work on national level as well as on EU level!

And surely, the exploration of the economic dimension of Cultural Heritage and the way EU's excellence in this field could be better used in our external relations and for opening up new markets is of importance, but it is not the most important issue for Europe. In these days we are thinking about and discussing the chances, possibilities and future tasks of better or good networking in the EU, in and with the Council of Europe and in and with the Member States of European Economic Area (EEA) in the field of Cultural Heritage.

→ Folie 6

Please allow me at this point to express my astonishment about the fact that the EU sometimes seems in the view of Cultural Heritage administrations to work unchanged and without complying with Article 3 para. 3 subpara. 4 EUT and with Article 167 EUFT → **Folie 7**. That means – to this very day – that some bodies in the EU do not recognize the specific EU contribution to the EUROPEAN Cultural Heritage policy; they sometimes worked and sadly still work f. e. in the fields of Energy Efficiency, European Fundings, European Research Programmes etc. mainly without any reference to culture and (cultural) heritage. Five months ago the Berlin-Congress of December 2011 to the so-called "European city" stated that it is a rewarding and extremely urgent task in the field of the building, such as the

archaeological heritage, to help or, if necessary, to enable own activities of European institutions, which in the medium and longer term would be necessary to increase a feeling of warmth, wellness and security at home for all "European citizens". This would be an addition and a supporting of the policies of the Member States and regions in the towns and villages, in the regions, in the Member States and not at least in Europe. This applies to all fields of EU policy, so the Work Programme 2012 of the EU Commission should be transformed into a Work Programme not only seen through an economic pair of glasses → **Folie 8**. I am sure a "bottom up" view can and will be developed, starting from the "local home" right to the "European home" and vice versa. To work on the last, is also a core task of the EU according to the European Treaties, and so it is for all the forces in the field of Cultural Heritage, especially for the EHHF and the EHLF.

Maintenance, preservation, protection and promotion of the architectural and archaeological heritage in the European regions and Member States of the European Economic Area (EEA) are anchored in many Member State constitutions and in the EU treaties. These so well rooted values are grounded in our European societies. The corporate identity of Europe has to be the basis for all political actions and decisions in the area of the European Union. These values have to be actively animated and uphold. This engagement means active commitment to our local, regional, national and European home in all its various characteristics!

→ **Folie 9**

Despite the current challenges the reasonable, fair and equitable settlement of all private and public

interests and values has to be safeguarded by strict observance of these requirements. Always the common Cultural Heritage of Europe as an independent, determinative and constitutive value of Europe has to be recognized; it would be desirable to ensure that this common European Cultural Heritage would be justified, promoted, protected and preserved in the sense and meaning of Art. 3 para. 3 subpara. 4 EUT and Art. 167 EUFT without new priorities for touristic pressure and pressure to succeed for example.

So, the experiment of using Cultural Heritage sites "in a new, more modern" way, appears frequently. We all, I am sure, have to discuss and not seldom fight against political plans to revitalize f. e. "such ruins" for social use in our Member States and f. e. inside World Heritage Sites, too. This is a discussion in which the so-called public opinion, the sciences and not at least you, the competent colleagues from the Cultural Heritage sector, don't have only one opinion. For example many "creative politicians" on the communal level couldn't and still cannot understand and accept, why it should be bad, to "get back" the former landscape in the area of the World Heritage Site "Frontiers of the Roman Empire: Upper German-Raetian Limes" with Roman towers, walls, buildings and so on, which the people nowadays can sample. In a certain way the discussion remains the same since the 1870s like the question of the reconstruction of some castles and palaces (f. e. like nowadays in Berlin).

As a lawyer, it should not be my turn to decide whether one position is wrong or not, but I think that the main challenge for all of us is to make sure,

→ **Folie 10**

1. that our competent and professional arguments for preservation and anchorage of Cultural Heritage are brought into the discussion,
2. with the necessary weight and
3. always just in time,
4. that it is listened to them and
5. only afterwards decisions are made!

All that seems so simple, but let me say this, it is the key for many problematic types of sceneries we are confronted with in our daily lives, which all have to do with Cultural Heritage. In my opinion, the EU could become much more powerful in helping its European people by helping the Member States to think and act not so euphoric in one direction, such as to rescue the planet, the world, its climate with new parameters, standards and so on for buildings, energy, windcraft etc. - without thinking about the aftermath esp. for Cultural Heritage, for the landscape, for the wellness of the European people, for Europe itself and so on. Not seldom you can hear everywhere in the EU, that there are much more important problems to be solve than questions of Cultural Heritage. In my view, these people have just forgotten the evidences of simple life, the lifestyle our ancestors pursued. Furthermore, our landscapes therefore not seldom have lost their brand, their identity. Especially many architectural landscapes have disappeared; they only exist in our minds, in our memory, on photographs, in museums and in the specialist literature. Nobody can ignore all these developments, but at least, I – only sometimes – feel, that “nobody” is really interested in!

We have this phenomenon on all levels, so the EU could start to interpret all its activities much more in deep respect to Art. 3 para. 3 subpara. 4 EUT and

Art. 167 EUFT. Therefore, in a way of positive thinking, it should be our aim and goal, to help the EU and therefore, to help our Member States and our populations, with our competence, which will be asked for actively and just in time in the (near) future. In Cultural Heritage there is no such professional lobbying scenario like f. e. in all industrial sectors, we all together have to be not only the administrative experts but also the missing active and EU-wide organized lobbyist.

We all together have to seek and find not at least the organisational ways for this sustainable implementation in the European and national administrations and legal standards. All our networks in the field of Cultural Heritage therefore are important. Then, together we will step back on the street of permanent positive development.

For that, our common European Cultural Heritage is in urgent need of perhaps a new political commitment that public rules are necessary in social systems in which we all are living in our European Member States. Cultural Heritage protection does not constrain economic development and success. This accusation is always brought out of mothballs. It is a denunciation of Cultural Heritage. Almost 30 million tourists come each year to Bavaria alone. Would they come if there were no monuments, Cultural Heritage sites and landscapes of historic importance? With EU standards, which have considered the interests of the European Cultural Heritage, together we will continue to convince some administrations of the Member States which have so far become independent, rather ignorant about other aspects than their main ones and sometimes just want to execute what industry or investors expect from them.

→ Folie 11

Joachim Gauck, President of the Federal Republic of Germany, encourages the people to dare to be more European. The European project is not natural or irreversible, but must be lived. Following the personal example of the German Federal President, the national and European policies should have the unwavering willingness and courage, to say “yes” to “Europe”, unconfined. We should not let ourselves be guided by fear. We should be spurred by the challenge of economic and financial crisis and develop creative powers. "Living with built and archaeological Cultural Heritage, to exploit it creatively and sensefully, is one of Europe's most important creative forces. These forces must be concentrated; a collaboration at all levels of urban policies, Cultural Heritage and Culture with the scientific and economic fields must be intended. The responsibility and the tradition of civil society participation in the preservation and development of Cultural Heritage should be strengthened. In Europe there are many networks that act supportive to state action depending on the training and orientation of the national civil society. In the end, for a strong act in our Member States and in Europe the permanent exchange, support and networking to and with the EU- and Member State-Administrations is of vital importance for Cultural Heritage! Let's make this happen now under the umbrella of the EHHF furtheron!

→ Folie 12

Thank you very much for your attention. → **Folie 13**

Wolfgang Karl Göhner, Munich

Permanent Senior Legal Adviser of the
Bavarian State Conservation Office (BLfD)
President of the Working Group on Law and Taxes of the
German National Committee on the Protection of Monuments (DNK)
Member of the Secretariat & German Representative
in the European Heritage Legal Forum (EHLF)
Member of the German Mirror Committee
"Protection of Cultural Heritage" (CEN/TC 346)
Visiting Lecturer of the Otto-Friedrich-University Bamberg
Vice-President of the Union of Higher
Civil Servants in Bavaria (VHBB) e. V.
Homepage: <http://w-goehner.de> (Jurisprudence,
Monument Protection Laws, Publications)