



Non-Governmental Organization Emancipimi Civil Ma Ndryshe
EC MA NDREYSHE

Contribution on the EU Council Report for Kosovo

Shtator 2017, Prizren

CONTENT

I. Executive Summary	2
II. The Current Situation of the Cultural Heritage in Kosovo	3
III. The Historic Centre of Prizren with terrible statistics.....	5
IV. Challenges in Spatial Planning	6
V. Civic Activism and Cultural Heritage	7
VI. Recommendations.....	8

Executive Summary

Kosovo authorities in a declarative way have defined cultural heritage as one of the priority sectors. According to them, this derives from the Government Program of the Republic of Kosovo 2015-2018 and the Medium-term Expenditure Framework 2015-2018.¹ However, developments over the last quarter of 2016 and the first half of 2017 show that proper protection and management of cultural heritage throughout Kosovo remains a serious challenge that can be addressed by the creation of a national cultural heritage agenda.

During the last quarter of 2016 and the first half of 2017, Kosovo authorities have signalled a more serious approach towards the issue of cultural heritage. But they did so, only after the pressure of citizens. Active citizens groups and CSOs in recent months have shown an increased activism for the protection of cultural heritage in their cities, urging state authorities to act and correct errors or omissions in relation to projects dealing with cultural heritage.

As in the past year, incidents of damaging or illegal destruction of the cultural heritage have continued, and the perpetrators of these acts have not been sanctioned yet. Despite the measures taken by the authorities, the systematic degradation of heritage, especially in the historic area of Prizren, also this year continues to present a risk for public safety. But finally, with the MCYS funds in 2017, emergency

interventions were initiated in some cultural heritage sites in Prizren.

In addition to reactivating the component of emergency interventions for monuments that are at risk, the National Strategy on Cultural Heritage has been adopted, and the small grants scheme has also been activated. However, the process of amending and supplementing legislation related to cultural heritage and religious freedom has not yet been finished. Even according to the Ministry of Foreign Affairs, not adopting the Draft Law on Cultural Heritage and the Draft Law on Religious Freedom are the reasons why Kosovo has not yet applied for membership in UNESCO.

On the other hand, the importance of spatial planning as a multisectoral discipline which coordinates and is interdependent with all national and local strategies and programs still is not recognized as such at the national level. This has also reflected on the local level where there has been a lack of political will to prioritize the strengthening of this sector by creating vital capacities that would be able to operate efficiently in the new spatial planning system.

In addition, the process initiated for the drafting of the new Law on the Treatment of Illegal constructions in Kosovo has not yet been completed; leaving untreated over 350 thousand illegal constructions in Kosovo.

¹ "National Strategy for Cultural Heritage 2017-2027", The Government of Kosovo – MCYS, 2016, link: http://mkrs-ks.org/repository/docs/eng_strategy_for_heritage.pdf accessed on 1 September 2017

The Current Situation of the Cultural Heritage in Kosovo

According to Kosovo authorities, the cultural heritage of Kosovo includes monuments, localities, artefacts and immaterial attributes created by all people who lived in Kosovo over the centuries.²

The Republic of Kosovo provides for the preservation and protection of cultural and religious heritage according to the provisions of the Constitution, which also obliges the state to promote the preservation of the cultural and religious heritage of all communities. The same act creates special obligations for the effective protection of all facilities and monuments of cultural and religious importance for the communities.³

In addition to the Constitution, the legal basis consists of the following laws in force, such as the Law on Cultural Heritage, the Law on Special Protective Zones (including the Law on Historic Centre of Prizren and the Law on Hoca e Madhe), Law on Zym of Hasi Village; Law on Religious Freedom in Kosovo, Law on Expropriation, Law on Construction, Law on Culture Institutions and Law on Local Self-Government; other laws such as the Law on Spatial Planning and the Law on Archives, sub-legal acts such as those on the Implementation and Monitoring Council (IMC), including other administrative acts which provide for the special protection of the cultural and religious heritage of the Serbian Orthodox Church in Kosovo, as well as European co-operation provisions and international cultural heritage standards and best practices, including those

² Ibid

³ Ibid

that promote diversity, cultural and religious dialogue.⁴

The increase of the budget for MCYS, according to officials of this department, proves the commitment of the Government of Kosovo that, among other things, the issues of cultural heritage to remain among the priorities of the Government. The Cultural Heritage Campaign for 2017 has a budget of about five million euros for the categories: Preservation, Cultural Heritage Protection, Presentation and Cultural Heritage researches.⁵

At the meeting held on December 30, 2016, the Government of Kosovo approved the Strategy for Cultural Heritage 2017-2027. According to the Minister of Culture, this is the first Kosovo strategy in this area since the post-war period and its adoption marks an important moment for administrating, conservation, protection and the promotion of Kosovo's cultural heritage. The National Cultural Heritage Strategy has defined five basic objectives: 1. Advancing the legal and institutional framework, 2. Integrated approach in the cultural heritage, towards sustainable development, 3. Inclusion of cultural heritage in development plans, 4. Promotion of cultural heritage and 5. Education, training and active participation in the protection of cultural heritage.⁶

⁴ Ibid

⁵ "MYSC with the budget increased by 60%", press release by MCYS, 27 December 2016 link: <http://www.mkrs-ks.org/?page=2,6,1434#.WceJfcgJHIU> accessed 31 August 2017

⁶ "The government of Kosovo held its regular meeting", press release from The Office of the Prime Minister, 30 December 2016, link: <http://www.kryeministri-ks.net/?page=2,9,6462>, accessed 1 September 2017

In addition to that, Kosovo's authorities during this period have reactivated the component of emergency interventions to the monuments at risk, and together with the adoption of the National Strategy of Cultural Heritage, the small grants scheme has been activated, while initiating the Museum of the History of Nature.

But the process of supplementing and changing the legislation pertaining to cultural heritage and religious freedom has not yet been concluded. Even under the Ministry of Foreign Affairs, not adopting the Draft Law on Cultural Heritage and the Draft Law on Religious Freedom are the reasons why Kosovo has not yet applied for membership in UNESCO.⁷ The Government of Kosovo adopted the MCYS proposal for the establishment of the Task Force on coordinating the work for Kosovo's Membership in International Organizations that have close ties with UNESCO and other relevant cultural heritage organizations, but its work has not a remarkable record for transparency towards the public.

In the May report of the Secretary-General on the UNMIK, it is said that there are concerns about the inconsistent implementation of legal obligations by Kosovo's institutions in relation to cultural and religious heritage.

The July report of the Secretary-General on the UNMIK, states that the Secretary-General encourages more action to consolidate the rule of law in Kosovo, even in relation to the protection of cultural heritage.⁸ The same

⁷ "Kosovo has not applied for UNESCO", RTK, link: <http://www.rtklive.com/sq/news-single.php?ID=191273>, accessed on 2 September 2017

⁸ "Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo",

report also mentions the concerns raised by civil society organizations about contravention of the Law on the Historic Centre of Prizren, which reflects the deficiencies of law implementation and the negligence of local and central institutions.⁹

Similarly, as in the last year, incidents of damage or illegal destruction of cultural heritage have continued and perpetrators are not sanctioned. Despite the measures taken by the authorities, systematic degradation of heritage, especially in the historic area of Prizren continues also this year to present a risk to public safety. Nonetheless, with the MCYS funds in 2017, emergency interventions were initiated in some cultural heritage sites in Prizren. The Task Force for the Historic Centre of Prizren, established in 2014 for dealing with illegal constructions, has for over a year been ineffective and has not held any meetings, while results so far of its work are inexistent. It remains that the Kosovo authorities to intensify policies and actions for protection and proper management of cultural heritage at the national level.

An indispensable contribution in this regard would be the prioritization and efficiency enhancement of the authorities responsible for inventorying the cultural heritage objects throughout the territory of Kosovo, which represents an inevitable measure for their preservation and protection. Thus, the registration and documentation of cultural heritage buildings will ensure the basis for assessing their legal protection. Moreover, it would be helpful to avoid demolition of old

UN, July 2017, link: <http://undocs.org/S/2017/640> accessed on 3 September 2017

⁹ Ibid

houses and other public facilities, such as the example in Pejë, where with the authorization of local authorities, the almost 100-years-old high school of applied arts in Kosovo has been demolished.¹⁰

The Historic Centre of Prizren with terrible statistics

Lack of rule of law and total ignorance by the municipal authorities and relevant institutions for a decade has turned the historic centre of Prizren in a centre of chaos. Protected cultural heritage sites have suffered damage and destruction, being replaced by hotels and illegal parking spaces. The above findings rely on an EC's research (soon to be published).

Based on this research, it turns out that nearly half of the monuments within the historic centre are in danger of destruction. Of the 121 monuments listed within the Historic Centre, 31 were demolished. Whereas, out of the 382 traditional houses that were in 2006 within this area, only 155 have survived, which means that 227 have been destroyed. Actually 64 traditional houses are in danger. In this area there are 34 parking lots, 20 of them unregistered, and 25 traditional houses were demolished to create the space for car parks.

As stated above, the Task Force established in 2014 for the Historic Centre of Prizren has not produced any results to date. Meanwhile, the trend of degradation has not stopped, where tens of monuments have been lost over the last

¹⁰ "Artists and opposition criticize the demolition of the first music school of Peja", Koha.net, 9 September 2017, link: <http://www.koha.net/kosove/43112/artistet-e-opozita-kritikojne-ashper-rrenimin-e-objektit-te-shkolles-se-pare-te-muzikes-ne-peje/>, accessed 10 September 2017

3 years. Another monument within the Catholic Church complex, after several cases of fire in 2017, was razed to the ground, before the eyes of the authorities.

On the other hand, only 3.3% of the historic area is green, with only 191 trees. Almost no public building or monument within the historic area provides adequate access for people with disabilities.

Prizren has a rare cultural diversity, and has a tremendous potential to compete in the world heritage. But, because of the institutional negligence and systematic destruction, today it has degraded into a centre of illegal occupants and constructions.

The systematic destruction of cultural heritage in the historic centre of Prizren has gone through a trend which in 2016 resulted with the death of a three-year-old child. The responsible authorities, as a result of their inaction, are responsible for this tragedy. At the same time, this case proves the powerlessness of the justice system. Justice should be a guarantee that such cases will not be repeated. The rule of law should be the guarantor in protecting the people's lives, heritage, diversity and cultural values of Prizren.

EC wishes to recall that in recent years, several investigations have been initiated by the Prosecution regarding the destruction of objects in the protected area of the Historic Centre, as there have been cases of indictments raised but not finished with convictions from Court. Even in the few cases of termination in court, indictments for criminal offenses within the Historic Centre have been extremely vague, challenging the judges in making punitive

decisions.¹¹ There has been no court decision for damaging the cultural heritage, though there are significant cases that have been reported.

On the other hand, the drafting of the Management Plan for the Historic Centre of Prizren as well as the intervention by the Regional Cultural Heritage Centre in the restoration and conservation of some protected facilities are the positive steps taken by the authorities. At the same time, this year, cultural heritage activists have contributed to reaching an agreement between local and central authorities, civil society and international donors for the revitalization of "Marin Barleti" street in the Historic Centre of Prizren.

Challenges in Spatial Planning

The importance of spatial planning as a multi sectoral discipline which coordinates and is interdependent with all national and local strategies and programs has not been recognized as such at the national level. This is also reflected at the local level where there is a lack of political will to prioritize the strengthening of this sector by creating vital capacities that will be able to operate efficiently in the new spatial planning system. In Kosovo, the central level has the obligation to create conditions for effective spatial planning at the local level, both through drafting of the legal framework and through assistance to build local capacity to undertake spatial planning tasks defined by the Law on Spatial Planning (LSP).

¹¹ "Justice for Xheneta", Opinion from EC Ma Ndryshe, August 2017, link: http://www.ecmandryshe.org/repository/docs/eng.Opinion_Drejtisi_te_plote_per_Xheneten.pdf, accessed on 1 September 2017

This implies, continued cooperation between MESP and the municipalities both in terms of policy implementation and capacity building. MESP should assist municipalities in facilitating communication with ministries and other institutions in data provision and harmonization of plans with national sectoral policies.¹²

Human capacities, improvement of institutional mechanisms and budgeting policies are key factors for the efficient functioning of municipal authorities responsible for spatial planning and management. These issues are of the utmost importance since their solution is often more difficult than technical issues (providing IT equipment and software) that are also indispensable.

The municipal authorities responsible for spatial planning and management are not sufficiently prepared to respond adequately to the requirements that have been put forward by the LSP. The new law, however good it may be, cannot improve the difficult situation in spatial planning unless it has human capacities and proper institutional mechanisms for its implementation.¹³

The timely completion of the legal framework is a prerequisite for the implementation of the provisions and obligations deriving from LSP, in particular for the municipalities. It is very necessary that the professional municipal staff is involved in work meetings with focus groups to draft the remaining sub-legal acts.

¹² "Challenges of spatial planning and management in municipalities", Policy brief, EC Ma Ndryshe, May 2016, link: http://ecmandryshe.org/repository/docs/160530170_335_EC_PRO_Analiza_SHQ.pdf, accessed on 3 September 2017

¹³ Ibid

MESP should provide legal support to municipalities in the interpretation of the LSP and other related laws. The legal contradictions of the LSP and the related laws should be analysed and clear instructions should be given to overcome them. LSP is ambitious in meeting the legal requirements of the municipalities and their capacities. Legal reforms cannot change the current situation on the ground if they are not accompanied by adequate training of the spatial planning and management officers. Previous experience has shown that it is necessary to continuously increase these capacities. Municipalities need advice, technical assistance (professional support) and specialized training in this area.¹⁴

There are also numerous challenges in terms of public participation in spatial planning. During the process of drafting spatial planning documents, the legislation provides for the organization of public discussions and other forms of public participation for defining the vision, objectives, strategic priorities and other issues. The minimum requirement for public participation is to provide at least a public discussion for each stage of the planning process. But local and central planning authorities do not apply these principles in all cases, which has resulted in the dissatisfaction of residents of Zhupa (Prizren) and Gora (Dragash) regarding plans for the construction of hydroelectric power stations in these areas.

The process initiated for drafting the new Law on dealing with illegal constructions in Kosovo has not yet been finished. Thus, over 350 thousand illegal constructions in Kosovo are still untreated.

Civic Activism and Cultural Heritage

Citizen groups and civil society have over the last few months, in several cities of Kosovo given concrete evidence of activism for the protection of their cities, respectively their cultural heritage, which reactions have prompted the state authorities to take actions regarding these cases.

In Vushtrri, following the reaction of local activists, the Ministry of Culture has cancelled a dubious contract, signed in a non-transparent way with a private company for the management of the City Castle.

In a similar case, a few days before this event, cultural organizations in Pejë were very active, affecting the cobblestone return to a part of the city square, despite the fact that central and local authorities were negligent in finding stones during the works.

In Prizren, cultural heritage activists have ultimately impacted on reaching an agreement between local and central authorities, civil society and international donors for the revitalization of "Marin Barleti" street in the Historic Centre of Prizren, where last year as a result of the collapse of an old house, a three-year-old child had lost its life.

While in Mitrovica, civil society activists and groups of citizens have long been mobilized to defend the house of Xhafer Deva and the home of the former Army, whereas in both cases the state authorities have shown readiness and are expected to take action in protection of these buildings.

¹⁴ Ibid

In all these cases, civic activism, which in some cities is a consistent action in recent years, has managed to activate state mechanisms that have the mandate to protect and develop the cultural heritage.

EC considers that these are the first sparks of hope for a serious state approach to cultural heritage. However, due to systematic degradation, dealing with the consequences is an action that requires a great deal of long-term commitment from state authorities.

Recommendations

EC believes in the possibility to set the cultural heritage up to state priorities. For this reason, it calls the state authorities, in the first place to the Government of Kosovo, to draft an urgent cultural heritage agenda, which would promote the mobilization of all state and social capacities.

Part of this state cultural heritage agenda should be at least the following actions or priorities:

- Draft and implementation of management plans for all cultural heritage assets that are under state protection;
- Full functionalization of the permanent legal protection of cultural heritage assets, so to end the practice of temporary protection;
- The government, respectively MCYS, should be much more co-ordinated with the local authorities (municipalities) on the protection, management and promotion of cultural heritage assets;
- MCYS to establish consultative mechanisms with civil society in the field of cultural heritage;

- MCYS to initiate an open and constructive dialogue with private owners of cultural heritage assets that are in temporary protection in order to protect cultural heritage and to support the owners in question;

- Prioritize and increase the efficiency of the authorities responsible for the inventory of cultural heritage assets throughout the territory of Kosovo;

- The full implementation of the law on criminal offenses 'damage to monuments' (including the most active role of justice bodies, which should increase the level of responsibility in this regard);

- Commitment to a worthy application for UNESCO membership and transparency for the process;

- Restoration of the remaining Orthodox churches damaged in 2004;

- Approval and implementation of the management plan of the 'Ulpiana' archaeological site;

- Professional and priority handling of newly discovered archaeological locations;

- Adoption and implementation of management plans for Kosovo's Historic Centre