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**PROTECTION OF MONUMENTS OF ARCHEOLOGY, HISTORY,
AND CULTURE IN THE EUROPEAN TRADITION**

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Abstract

The article examines the features of the protection of monuments of archeology, history, and culture in European countries. The prerequisites for forming an international system of protection of monuments from the middle of the 19th century are traced; its transformation to the beginning of the 21st century is analyzed. The article notes that until the 19th century, the protection of monuments of archeology, history, and culture was, in fact, selective. Only gradually came the need to preserve heritage in the implementation of design and construction work. By the beginning of the 20th century, in many European countries, monuments of national history and culture were taken under the state's tutelage. After the large-scale destruction of many European cities and valuable artistic monuments during the Second World War, activities in the field of protection of monuments became much more active. Work was implemented to restore and restore cities and monuments that suffered during the war. Each state's legislative field has its differences caused by its historical development and national characteristics associated with the specifics of the socio-economic and cultural path of forming a particular country. In cultural globalization, studying the norms of legislative acts that successfully develop the sphere of protection of historical and cultural monuments of states, it is possible to improve the regulatory legal acts in most European countries. An analysis of the historical evolution of lawmaking in continental and Anglo-Saxon law countries can contribute to solving issues of protecting cultural heritage in the countries of the post-Soviet space.

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1. Introduction

An important task of the human community is to respect the cultural heritage materialized in the monuments of history and culture, to preserve and popularize it. For solving this problem, a solid legislative base is needed. Forming a caring relationship has deep roots. The first attempts to protect monuments of history and culture were made in the ancient era. The idea of protecting cultural heritage spread along with interest in ancient art, and the development of collecting during the Renaissance is more consonant with modern understanding. The first law aimed at protecting ancient monuments in Sweden was passed in the middle of the 17th century. In Russia, the first decrees on protecting historical and cultural monuments were issued in 1718–1722 by Peter I. In the Age of Enlightenment, along with the formation of scientific knowledge, the legislative base for protecting historical and cultural monuments continued to improve. So, during the Great French Revolution of 1789–1794, by decrees of the Convention, monuments of history and culture were declared national property, private art collections were nationalized, and a state service for the protection of monuments was created. By the middle of the 19th century, legislative acts in this area were in force in many European states: Denmark, France, Belgium, Prussia.

In the 19th and early 20th centuries, in many European countries, monuments of national history and culture were taken under the state's tutelage. The first state inspectorates were created in France (1830) and Prussia (1843). At the same time, work began on the scientific systematization, cataloging, conservation, and restoration of cultural monuments. Archaeological societies, founded in England in 1707, played an essential role in the protection and popularization of archaeological sites with the help of scientific publications. The Society of Antiquaries of London, which has published *Archaeologia*, *Proceedings* (1843–1920) since 1770 and *The Antiquaries Journal* since 1921; the National Society of Antiquaries of France (*Société Nationale des Antiquaires de France*), created in 1803, which published *Memories* from 1807, and *Bulletin* from 1857; the Archaeological Society in Brussels (*Société Royale d'archéologie de Bruxelles*), which began its activity in Belgium in 1887, has been issuing *Bulletin* since 1928; founded in 1898 by the German Oriental Society (*Deutsche Orientgesellschaft*) and others (Boguslavsky, 2005). The Hungarian Society of Archeology, History, Fine Arts and Numismatics (*Magyar Régészeti, Művészettörténeti és Érerntani Társulat*) solved broader tasks in the field of identifying and scientific study of cultural heritage, which extended not only to archaeological sites, but also to other objects of the cultural sphere; Moscow Society of History and Antiquities; The Academy of Literature, History, and Antiquities (*Vitterhets-Historieoch Antikvitets-Akademien*) in Sweden and other institutions.

2. Problem Statement

The process of globalization has had a noticeable impact on various states' cultural life. In this context, the formation of an international legal framework in protecting historical and cultural monuments is of great interest. The national heritage of each country, in turn, is an integral part of the history of all humanity. This circumstance necessitates the improvement of legislation in this area of all civilized states and the creation of a common legislative platform for them. A similar transformation may have a

continental aspect. The European continent has done a lot to correlate its approaches to protecting historical and cultural monuments, but there is still much to be analyzed, rethought, and generalized.

3. Research Questions

The subject of the research is the peculiarities of the protection of monuments of archeology, history, and culture in European countries, historically formed under the influence of the national and cultural development of each particular country, the identification of their achievements in this area, and the possibilities of applying experience to improve the practice of protecting monuments in the post-Soviet space.

4. Purpose of the Study

The purpose of the study is to analyze the process of transforming systems to protect archaeological, historical, and cultural monuments in European countries to identify the possibilities of consolidating the efforts of European states in this area in the context of globalization.

5. Research Methods

The article used general scientific (analysis, synthesis), special-historical (historical-genetic, historical-comparative), and source study (heuristic, source analysis) methods. The historical and genetic method involves the study of sources, facts, processes from their origin at all stages of existence. Its essence lies in the consistent disclosure of the properties and changes of the investigated sources or facts, allowing getting closer to the perception of the object's real history. The historical and genetic method makes it possible to identify cause-and-effect relationships in the formation of the legislative framework for the protection and protection of monuments in each country, to characterize sources and events in their individuality and imagery. The historical-comparative method makes it possible to compare the legislation of different countries in protecting historical and cultural monuments. The heuristic method made it possible to identify the most important legislative documents on the problem under study and source analysis – to interpret them. The problem-chronological method was also used, which provides the presentation of the problems under consideration in chronological order. The content analysis method is a qualitative and quantitative method of studying documents, which is characterized by the objectivity of conclusions and the severity of the procedure, which allowed a deeper analysis of the studied legislative acts. The subject of content analysis was both the problems of social reality, which are expressed or, on the contrary, hidden in documents and the internal laws of the object of research itself.

6. Findings

The foundations of the international legal protection of cultural monuments were laid by the Roerich Pact (1935), the main provisions of which remain valid to this day. The well-known Russian artist Nicholas Roerich was the author of the idea and initiator of the international treaty. To preserve the cultural heritage, he considered it necessary to cooperate on a global, worldwide scale. N.K. Roerich saw

the prospects for the further development of humanity not in revolutionary upheavals but the awareness of all people of ethical norms of behavior in their introduction to universal human values through Beauty and Culture.

After the massive destruction of artistic treasures in many European countries during the Second World War, activities in the field of protection of monuments became much more active; work was implemented to restore and restore the cultural heritage (Yureneva, 2003). In the USSR, a decree of 1948 "On cultural monuments" was sent to revive the lost national heritage in the postwar period, in which a classification of historical and cultural objects subject to state protection (monuments of architecture, history, archeology, and monumental art) was formulated, the tasks of their restoration were formulated and conservation. After the Second World War, the idea of respect for the monuments of history and culture arising from the Roerich Pact was embodied in the activities of the Hague Conference and the signing on the last day of its work on May 14, 1954, the Hague Convention "On the Protection of Cultural Property in the Event of Armed Conflict" (Council of Europe, 2012).

Monitoring compliance with the provisions of the 1954 Hague Convention was entrusted to UNESCO, a specialized agency of the United Nations Educational, Cultural, and Scientific Organization. At the diplomatic conference in The Hague on March 26, 1999, Protocol II to the 1954 Hague Convention was adopted, expanding its provisions. Clarifications and additions to it are also enshrined in the documents of the Paris Convention of November 16, 1972, the Rome Convention of June 24, 1995, and the Paris Convention of November 2, 2001. Most of the world's states are the signatories of these documents, which indicates the universal nature of the legal norms contained in them.

Despite the common legislative platform, the structure of state bodies and the management process's legal peculiarities determined the specificity of the protection of cultural heritage in European countries. For example, in Norway and Finland, the ministries of the environment deal with issues of natural and cultural heritage. That is, the "environment" in these countries is perceived very broadly. The natural and cultural heritage is managed in Sweden by the Ministry of Culture and Italy by the Ministry of Cultural Heritage. In many countries, the state management of natural and cultural heritage has a departmental division (Ananiev, 2013).

In the UK, case law prevails. There is no single piece of legislation in the UK that would regulate the cultural sector, although regulations for individual cultural sectors have been in place for many years. We can talk about significant regional differences recorded in England, Scotland, and Wales's legal systems to protect cultural heritage. In 1992, the Department of National Heritage was established. This Department is the first government agency in Great Britain's history to deal directly with cultural policy. Traditionally, English law distinguishes between immovable (archaeological, historical, architectural objects) and movable (museum funds) heritage. The protection of immovable monuments is carried out by the Ministry of the Environment, which exercises its powers with local authorities' help, which approves protected zones and lists of monuments having the status of national ones. The English Heritage Commission for Historic Buildings and Constructions (Mergos & Patsavos, 2017) is the official adviser for protecting cultural heritage. "English Heritage" deals with issues related to preserving monuments, the provision, and financing of archaeological excavations, the creation of security expeditions. In addition to these issues, English Heritage is involved in public relations: consulting on education and tourism,

dealing with landowners on which monuments are located, and other functions. A similar service has been established in Wales. In Scotland, the Department of Development is responsible for the protection of cultural heritage. At the regional level, the protection of cultural heritage is held by local government bodies that supervise the restoration work and determine the boundaries of monuments' protected zones. They have certain independence since they can determine the objects intended for inclusion in the lists of monuments, finance archaeological works, and grants issued on a competitive basis (Boguslavsky, 2005).

Public administration of protected areas of national importance in the UK is carried out following the "Environment Act" (1995). According to this law, one of the national parks' tasks is the protection of cultural heritage and cultural traditions. The establishment of national parks and other protected areas of national importance is the Secretary of State's responsibility and special commissions. Areas of exceptional natural beauty and national parks play an important role in the preservation of cultural heritage in England, Wales, and Northern Ireland. These are national landscape areas, national parks, natural heritage areas, and regional areas in Scotland. The role of state management of cultural heritage sites is not decisive. Public organizations and local authorities are of great importance in this. Thus, the public organization National Trust relies on private property and private contributions in its activities to protect the cultural heritage of Great Britain. A National Trust in Great Britain is the owner of historic gardens and parks, settlements, and unspoiled natural areas. Following current legislation, the sale of the property of the trust is only possible with the permission of the British Parliament, the transfer of private estates to the trust leaves the right of life in them to the former owners, and the transfer of land plots provides for the support of historical forms of farming (Falconer, 2006).

France, rich in historical monuments, adheres to the model of integrated regulation of the protection and reconstruction of historical and cultural heritage, recommended in 1976 by UNESCO. According to this model, a national center is identified, in which control over the historical heritage is concentrated. Control over the historical heritage is exercised by the Ministry of Culture and Communications of France, particularly several of its offices and departments. Today, about 40 thousand "historical and archaeological sites" are under the tutelage of this ministry. Under his auspices, a large-scale computer inventory of the heritage is taking place. In France, following UNESCO as the mentioned earlier model, a National Cashier (catalog) of monuments and attractions has been created, and local control and restoration bodies are operating. According to French law, all monuments owned by the state are subject to state protection. However, suppose the monument or the land on which it is located is not state property. In that case, its inclusion in the register requires the owner's consent (Department, commune, institution, company, private person). Besides, in France, the boundaries of the protected zone are approved by a joint decision of the Minister of Culture and the Interior Minister after appropriate consultations with specialists and the public (Labadi & Logan, 2015).

Despite carefully drafted legislation, the French Ministry of Culture continues to improve relations in this area. The Law on Preventive (Intelligence) Archeology, passed on January 17, 2001, addresses these issues. In 2002, following this Law, the National Institute for Archaeological Preventive Research was established (Barthel-Bouchier, 2016). Some of its articles in 2010 were canceled or changed by the "Code of Cultural Heritage" with their subsequent regulation.

In the second half of the 20th century in European countries, the legal framework is deepening and improving, new institutions for the protection of cultural heritage are being created, which in their work often rely on public organizations. So, in most of the USSR republics in 1966, the Society for the Protection of Monuments was founded, whose members considered their main task to identify, study, protect and restore historical and cultural monuments. The society provided significant assistance to the state in preserving unique objects of cultural heritage, having significant funds.

In the German Democratic Republic, the first decree on the protection of monuments dates back to 1952, and in 1975 the Law on the Protection of Monuments of the GDR was adopted. An institute for the protection of monuments was created. In 1977, the Society for the Protection of Monuments was founded in the GDR.

The German National Committee for the Protection of Monuments has been operating in the Federal Republic of Germany since 1973 (Barthel-Bouchier, 2016). The current German Federal Constitution contains only one sentence concerning culture and art: "Art, science, research, and education must be free" (Article 5. III). According to the Constitutional Court's interpretation, this paragraph presupposes the right of artists to freedom of expression and authorizes the state to protect culture and art. The legal definition of the main aspects of the state's cultural policy is formulated by the corresponding provisions of constitutional and administrative laws. These provisions, however, are not collected in one special Law, but consist of a large number of constitutional and statutory provisions, municipal regulations, specialized legislative acts of the Länder, and some federal laws. In fact, the issues of the protection of monuments in the Federal Republic of Germany were not included in the list of problems on which federal bodies adapt general legislative acts, which must be guided by the land legislative bodies to prepare and adopt such laws. Therefore, the jurisdictions on the legal regulation of the protection of monuments are vested in the lands, although at the federal level, there are also specific provisions concerning this area (Labadi & Logan, 2015).

Austria, like the Federal Republic of Germany, is a federal-state with relatively independent regions-states. This independence is reflected in the legislative provisions on the state authorities' responsibility for the support of culture. Legislative norms regulating the sphere of culture were not systematized and reduced to any one law. The country has adopted many special federal legislative acts on culture, among which the Act on the Federal Museum (1998) Act on the Protection of Monuments (1999) Act on Copyright (2003) should be mentioned (Martynov, 2005).

The Ministry of the Environment carries out the public administration of Norway's natural and cultural heritage. The cultural heritage is handled by a special structure – the Council for Cultural Monuments. Besides, there is a relatively rigid vertical in the environmental authorities, and concerning cultural objects, along with state authorities, an important role belongs to regional authorities (provinces) and local governments (communes). Territorial forms of cultural heritage protection are enshrined in the laws "On the protection of cultural monuments" and "On the protection of nature". The first includes cultural monuments and historical sites, protected zones of monuments and historical sites, a protected cultural environment. In general, two complementary categories are used for preserving Norway's cultural heritage and cultural landscape: protected landscape areas and protected cultural environments. The Norwegian practice of identifying and assessing cultural landscapes includes analyzing cultural,

historical, and natural qualities. It makes it possible to correctly describe territories that have cultural, historical, and natural value (Boguslavsky, 2005).

Italy has its peculiarities in the field of protection of historical and cultural monuments. On December 14, 1974, the Ministry of Cultural Heritage was created in this country, which launched an active legislative activity. One of the most significant is the law "On Measures for the Protection of the National Archaeological, Artistic and Historical Heritage" (No. 44; 03/01/1975). According to this law, the Italian Ministry of Cultural Heritage guides the activities for the protection and use of archaeological, artistic, and natural monuments, promotes the popularization of art and culture, coordinates and manages initiatives in the field of cultural heritage protection, organizes research and programming in this area with the competent authorities. The Italian Ministry of Cultural Heritage also supervises the implementation of adopted laws. The registration and registration of monuments in Italy is held by the Central Institute of Cataloging and Documentation, created in 1969. It employs historians, archaeologists, architects, and cultural figures. The Institute is in charge of creating a catalog of cultural heritage.

7. Conclusion

This far from a complete list of documents on the protection of cultural heritage testifies to the active development of the protection legislation of European countries in the post-war years, especially after the adoption of international documents in the field of protection of monuments of archeology, history, and culture of UNESCO, ICOMOS, and the Council of Europe. It can be concluded that the study of the experience of lawmaking in countries of continental and Anglo-Saxon law can contribute to solving problems associated with the insufficient development of the regulatory framework of the post-Soviet states. In particular, we are talking about such problems as the imperfect system of state registration of historical and cultural monuments; ineffective measures to combat the violation of the requirements for the protection of cultural heritage; misuse of land plots; violations on the allocation of land plots contain monuments. This study is based on a common legislative platform. The most effective legislative norms can be transferred to their soil to solve the identified problems of preserving, protecting, and using monuments of history and culture.

Summing up, we consider it expedient to use the following provisions contained in the legislative acts of various states: to grant the right to local self-government bodies at the regional level to engage in the protection of cultural heritage; to exercise control over the restoration work on the monuments of history and culture, the definition of the boundaries of the protected zones of the monuments. Like the countries of Anglo-Saxon law, we believe it necessary to provide local governments with the opportunity to determine the objects included in the lists of monuments. The experience of including monuments subject to state protection under French law seems to be very successful: all sights that are the state's property must be subject to state protection. If the landmark or the land on which it is located is not state property, its inclusion in the register requires the owner's consent (department, institution, company, or private person). It is also evident that each state's legal field has its differences, caused by historical development and national characteristics. However, this does not mean that each European state's legal norms can only be applied to it since the problems in the field of protection of monuments in many states are close or similar. Skillful use of the norms of other states' legislative acts makes it possible to adjust the

normative legal acts in the field of protection of historical and cultural monuments in the post-Soviet space.

References

- Ananiev, V. G. (2013). *National and international museum organizations*. St. Petersburg State University.
- Barthel-Bouchier, D. (2016). *Cultural Heritage and the Challenge of Sustainability*. Routledge.
- Boguslavsky, M. M. (2005). *Cultural values in international circulation: legal aspects*. Yurist.
- Council of Europe. (2012). *ERICarts, Compendium of Cultural Policies and Trends in Europe*. United Kingdom. Retrieved on 20th April 2021 from https://www.culturalpolicies.net/wp-content/uploads/pdf/united_kingdom/unitedkingdom_042011.pdf
- Falconer, K. (2006). The industrial heritage in Britain – the first fifty years. *La revue pour l'histoire du CNRS, 14*. <http://journals.openedition.org/histoire-cnrs/1778>
- Labadi, S., & Logan, W. (2015). *Urban Heritage, Development and Sustainability: International Frameworks, National and Local Governance*. Routledge.
- Martynov, A. I. (2005). Archaeological heritage in modern society (problems of conservation and use of landscapes with immovable archaeological monuments). *Heritage and Modernity. Information collection*, 15, 47–57.
- Mergos, G., & Patsavos, N. (2017). *Cultural Heritage and Sustainable Development: Economic Benefits, Social Opportunities and Policy Challenges*. Crete Chania: Technical University of Crete Chania.
- Yureneva, T. Yu. (2003). *Museum in World Culture*. Russian word.