

MTSDT 2019

Modern Tools for Sustainable Development of Territories. Special Topic: Project Management in the Regions of Russia

PROBLEMS OF PRESERVING THE CULTURAL HERITAGE AS A FACTOR OF TERRITORIES DEVELOPMENT

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Abstract

The article discusses the features of implementation of state policy in order to ensure the preservation of cultural and historical heritage for present and future generations. The authors prove the need for additional measures, the development of new legal guarantees that allow involving cultural heritage objects in business (economic) circulation. It is proposed to develop a Union State Program for the preservation and revival of the cultural heritage of these countries taking into account the common historical past of Russia and Belarus. The current Belarusian and Russian legislation in the field of protection of cultural heritage objects is analyzed, arguments are presented in favor of the codification of regulatory legal acts regulating relations on the conservation, use and popularization of historical and cultural monuments. It is argued that the codification of this sphere of public relations (culture, cultural activity, protection of cultural heritage, return of cultural property, etc.) is a logical result of continuous development and improvement of the legislative framework, the result of an objective need to regulate a specific area of public relations. Due to its legal nature, the proposed code is able to fully and systematically represent the sphere of relations that are currently taking shape in the subject of the cultural sphere in the Union State of Belarus and the Russian Federation.

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Keywords: Codification, cultural heritage, globalization, preservation of historical and cultural monuments.



1. Introduction

The issues of unification and consolidation of national legislations in the protection and use of cultural heritage today are especially acute. Threats to cultural heritage are perceived simultaneously as physical threats to the heritage object itself and as threats to the state that supports the tradition, the object itself, a place or cultural practice that is part of the object (Harrison, 2015).

In the face of acute and sudden political and religious conflicts, the rapid development of the latest technologies, even UNESCO, which is the central agency of the United Nations Educational, Scientific and Cultural Organization, is not always able to make operational decisions ensuring the protection of such facilities. Despite the adoption of more than 30 international acts on the regulation of the status and preservation of cultural heritage (United Nations Educational, Scientific and Cultural Organization website, 1945), researchers of international heritage law note that even international legal norms in the field of the protection of historical and cultural monuments can interfere states or local communities that bear the burden of safeguarding their international heritage to effectively manage their heritage (Lixinski, 2019). Local authorities at the national level often distance themselves not only from international decision-making processes, but also from their cultural heritage, which ultimately means that systems created to protect the cultural heritage contribute to its disappearance in the long term (Lixinski, 2019). UNESCO has been described as a “giant with clay feet” due to the lack of real mechanisms to protect the culture (Papaioannou, 2017).

Consolidation, strengthening and integration of legal measures in the field of preservation of cultural heritage of those states that have common historical roots, a similar political and economic basis, and not globalization of the world cultural space is important from a legal point of view.

The rhetoric of a homogeneous nation-state was replaced some time ago by the rhetoric of a multicultural state aimed at interstate concepts of heritage conservation (Gnecco, 2015). From these positions, the Union State of Belarus and Russia created in 1997 are an example of successful cooperation in all spheres of life of partners on the basis of combining their material and intellectual potentials, ensuring security and maintaining high defense capability.

The subject of this study is the problem of legal support for the preservation of tangible objects of cultural heritage based on the experience of two countries - Russia and Belarus. Given the specifics of industry regulation, an attempt is made to prove the benefits of codification of legislation on the protection of cultural heritage.

2. Problem Statement

The authors set the following tasks: studying the modern national legislation of Russia and Belarus on the protection of cultural heritage objects and identifying a common basis for justifying the need to develop common programs for its protection and revival, and the inclusion of historical and cultural monuments in civilian circulation.

3. Research Questions

The issues under consideration include:

- - determination of the significance of objects of cultural heritage (historical and cultural values) for the sustainable development of territories;
- - identification of features of the state policy of Belarus and the Russian Federation in the field of culture and the tools for its implementation in order to preserve cultural heritage objects (historical and cultural values);
- - study of the possibilities of consolidation and unification of legislation on cultural heritage in the framework of the Union State of Belarus and Russia.

4. Purpose of the Study

The purpose of this work is to justify the need to develop and implement the Program of the Union State of Belarus and Russia on the preservation and revival of the cultural heritage of these countries, aimed at preserving cultural heritage from anthropogenic and natural destruction.

5. Research Methods

The basis of the proposed work is an analysis of legislation on the protection of cultural heritage of two countries - the Russian Federation and the Republic of Belarus. The authors proceed from the premise that cultural heritage objects act as reliable guarantors of preserving the identity of each of the peoples that created the Union State in the context of globalization. The involvement of the monuments in the commercial (economic) circulation allows increasing the investment attractiveness of the territories and attracting tourist flows. Culture becomes a key factor in the development of states, cities and territories, since it has a potential that prevails over the potential of economic prerequisites in terms of durability and importance (Goloborodko, 2015). Heritage is an important component of individual and collective existence, and, broadcasting from generation to generation, it determines identity and guarantees the safety of cultural identity (Belozor, 2019).

The accumulation and preservation of cultural values is the basis of the development of civilization. The destruction of historical heritage inflicts a serious blow on historical consciousness leading to the loss of national identity. It is no accident that the National Security Strategy of the Russian Federation, approved by Decree of the President of the Russian Federation of December 31, 2015 No. 683 (Decree of the President of the Russian Federation, 2015), recognizes the primary role of culture for the revival and preservation of cultural and moral values, strengthening the spiritual unity of the multinational people of Russia. Similarly, the Concept of National Security of the Republic of Belarus, approved by Decree of the President of the Republic of Belarus of November 9, 2010, No. 575, ranks the preservation and enhancement of cultural heritage among the vital interests of the Republic of Belarus in the social sphere (Decree of the President of the Republic of Belarus, 2010).

The main directions of the implementation of state policy in the field of the protection of cultural (historical and cultural heritage) are the identification and giving the status of historical and cultural values for the material objects and intangible manifestations in human creativity, accounting, as well as the preservation, restoration and protection of historical and cultural values (Malets, 2013). The main goal of state policy in this area is to ensure and protect the constitutional right of everyone to participate in the

cultural life of the country. One of the main principles of state policy is to ensure the accessibility of cultural property found in state and public funds. The state cultural policy is based on the recognition of culture as one of the main factors of the identity of the multinational people, the succession of generations, as well as as the basis for the development and self-realization of personality, education and upbringing of children and youth. The priorities of state policy in the field of culture are the following: preservation, development and dissemination of national culture and language; creation, distribution and popularization of works of fiction and art; creation of conditions for aesthetic education of the population; popularization of classic works of fiction and art and other aesthetic and moral values of domestic and world culture.

The preservation of cultural heritage objects (historical and cultural values) includes a system of organizational, legal, economic, material and technical, scientific, informational and (or) other measures aimed at preventing:

- destruction, loss, disappearance, harm, deterioration of the technical condition of the monuments of material culture, as well as scientifically unjustified changes, deterioration of the conditions for the perception of immovable cultural property;
- a significant change in conditions or the creation of obstacles for the existence, development and transfer of intangible cultural values (elements of intangible cultural heritage) to descendants.

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Activities that may affect cultural heritage sites should be subject to the need to unconditionally preserve the distinctive spiritual, artistic and (or) documentary merits of these cultural values.

The following is prohibited to ensure the preservation of cultural heritage objects (immovable material historical and cultural values): destruction of cultural heritage objects (tangible immovable historical and cultural values) or creating a threat of their destruction, causing damage to them or creating a threat of causing it, worsening their technical condition or creating a threat of its deterioration, as well as scientifically unreasonable changes, the movement and deterioration of the conditions of perception of these monuments.

6. Findings

Cultural heritage is a combination of the most distinctive results and evidence of the historical, cultural and spiritual development of the people of each state, embodied in the objects of cultural heritage (monuments, historical and cultural values). These are cultural values and cultural objects considered as the product of the vital activity of human society, and cultural values are objects and works considered as the product of the vital activity of human society, which irrespective of the time of creation have important archaeological, ethnographic, historical, religious, artistic and scientific significance. Objects of cultural heritage (historical and cultural values, historical and cultural monuments) are the most distinctive material objects and intangible manifestations of human creativity that have outstanding spiritual, aesthetic and documentary virtues and are taken under state protection in the manner determined by relevant legislation. These are buildings taken for state registration that have historical, scientific,

artistic or other cultural value, their ensembles and complexes with the territory occupied by them or historically associated with them, their elements and fragments of an archaeological, artistic, epigraphic, ethnographic nature, historical and cultural and natural and historical reserves, memorable places, regardless of their degree of preservation. Objects of cultural heritage are, in fact, the core of domestic culture. They attract a significant number of visitors and become one of the foundations of the tourism industry, and as such, one of the important factors of the national economy in the modern period.

The main tools for implementing state policy to ensure the preservation of cultural heritage objects (historical and cultural values) include: firstly, the legal regulation of issues of state protection, preservation and use of historical and cultural values; secondly, state registration, formation and maintenance of the State Register of Cultural Heritage Objects (state list, as defined in the legislation of some countries); thirdly, constant monitoring of the state of the monuments; fourthly, the development and implementation of effective forms of ensuring the preservation of cultural heritage objects and ways to incorporate them into the socio-economic development of society; fifthly, the determination of sources of financing of measures to ensure the preservation of monuments; sixthly, ensuring interaction between government bodies and local self-government, public associations and religious organizations, legal and physical persons in this field.

The choice of specific tools and priorities in their use at this stage of the development of society depend on the following critical factors:

- responsibility of the state for the preservation of cultural heritage objects (historical and cultural values);
- public awareness of the uniqueness of the potential of cultural heritage objects (historical and cultural values);
- degree of legal protection of cultural heritage objects (historical and cultural values);
- possibilities and ways of financing emergency measures to ensure the preservation of cultural heritage objects (historical and cultural values);
- availability, completeness and accessibility of information about objects of cultural heritage (historical and cultural values).

One of the measures for the preservation of tangible immovable historical and cultural values is the security zoning system.

Turning to the specifics and nature of protected territorial zoning, two types of zones can be distinguished with special conditions for the use of the territory for its intended purpose and methods for establishing boundaries and restrictions: firstly, these are zones, borders and restrictions within which they can be established without preparing special projects on the basis of technical regulations (sanitary protection, water protection and other zones, the establishment of which is associated with ensuring safety); secondly, these are zones, borders and restrictions within which can only be established by preparing special projects. These are the zones of protection of immovable historical and cultural values (i.e., monuments accepted for state registration), the establishment of which is not connected with ensuring the physical safety of the object.

In 2016, the Federal Law “On Objects of Cultural Heritage (Historical and Cultural Monuments) of the peoples of the Russian Federation” (Federal Law, 2019a) and the Federal Law “On the State Real Estate Cadastre” (Federal Law, 2019b) were amended providing for the introduction of protective zones for monuments and ensembles that do not have approved protection zones. Protection zones were introduced in order to ensure the preservation of cultural heritage objects and the visual perception of compositional-species relations and panoramas in the territories associated with the monument or ensemble. The distance from the cultural heritage site to the border of the protection zone is set differentially. Within the boundaries of the protective zone, a prohibition regime is established for new construction and reconstruction related to changes in the spatial and volume characteristics of existing capital construction projects, such as height, number of floors, and area changes, with the exception of the construction and reconstruction of linear facilities. Protection zones are not established for archaeological heritage sites, burial sites, necropolises, works of monumental art, as well as monuments and ensembles located within the boundaries of places of interest by direct law.

In the Republic of Belarus, boundaries of territories of immovable material historical and cultural values and one or more of the following zones of protection of these historical and cultural values are established within certain boundaries in order to ensure the preservation of objects of immovable material historical and cultural values and the environment: protection zone; building regulation zone; landscape protection zone; cultural zone.

Speaking about the legislation of the Republic of Belarus, it should be noted that on February 3, 2017, the Code of Culture came into force (Code of the Republic of Belarus, 2016). The subject of legal regulation of the Code of the Republic of Belarus on culture are the following: public relations for the preservation of cultural and spiritual heritage; establishment of legal guarantees for the creation, preservation, protection, use, distribution and return of cultural property. The concept of “cultural activity” is introduced for the first time. It is the creation, restoration (revival), preservation, protection, study, use, distribution and (or) popularization of cultural property, the provision of cultural goods, the aesthetic education of citizens, the organization of cultural recreation (free time) of the population. These innovations can be borrowed by the Russian legislator.

7. Conclusion

Cultural (historical and cultural heritage) is a unique phenomenon of civilization. With the rapid development of the technocratic processes of modern society, the problem of anthropogenic and technogenic destruction of the historical and cultural elements of the heritage of mankind is becoming ever more acute. In modern times, the cultural heritage, consisting of historical and cultural monuments, ensembles and places of interest, is gaining increasing political strength and significance as a reliable guarantor of preserving the identity and distinctiveness of the people, a valuable competitive advantage in the context of globalization.

State programs should be developed in order to preserve, develop, disseminate and popularize the cultural heritage. We believe that it is necessary to develop a program for the preservation and revival of the common cultural heritage within the framework of the Union State (Russia and Belarus). We consider it possible to invite the legislator to use the experience of codification of historical and cultural heritage,

which can be useful (and used) in order to streamline the regulatory legal acts regulating relations in the field of preservation of cultural heritage objects in Russia, considering the latter as a guarantee of the sustainable development of historical territories and the possibility of attracting investments.

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