

D. Bas No. 001538

Ser No = md1538

Preservation of the cultural
historic and artistic herita-
ge in France

Jean-Bernard PERRIN



ÇEKÜL KÜTÜPHANESİ

DEMİRBAŞ NO. 2454

SINIFLAMA NO. 711.4/PER/1

BAĞIŞCI

İLKAY BALIÇ

GELİŞ TARİHİ 15/09/2001

PRESERVATION OF THE CULTURAL, HISTORIC AND ARTISTIC HERITAGE IN FRANCE

French legislation concerned with the preservation of the cultural, historic and artistic heritage has given rise to a great many texts (laws, decrees, regulations) a complete copy of which, in form of a compendium of 331 printed pages, is hereby attached.

The importance and complexity of the compendium leads us to summarize hereunder:

1. the field of enforcement of the laws and the aims.
2. the leading principles.
3. the means (juridical, administrative, technical and financial)
4. observations called for by the system.

1. FIELD OF ENFORCEMENT AND AIMS OF FRENCH LAWS

French legislation is applicable to sites whether natural or built-up, to monuments, estates, furniture and objects of artistic, historical, scientific, picturesque or legendary value.

The laws moreover aim at preserving any thing coming under their protection against danger threatening their entirety (ruins, vandalism, bad restoration, defacement).

2. PRINCIPLES OF FRENCH LEGISLATION

Under the French law, any site, monument, building or object of public interest, — whether in their entirety or in part — may be entitled to be protected.

Public interest, however, does not mean national interest. Some monuments of seemingly regional interest may be of great importance in regard to history of art.

Age is not a criterion. Protected property may range from the palaeolithic period to the XXth century.

It should be also noted that the specific legislation abides by the constitutional laws governing private property, e.g. neither a decree nor a regulation, but solely a law may, for reasons of public interest, permit a derogation from the rights conferred to private property. Even this being so, the State is bound to compensate the owner if the damage is recognized to be concrete, direct and indisputable.

It follows that owners continuing to make use of their property after easements have been imposed upon it, are not entitled to compensation.

For example, if, within the framework of a town planning project, it has been decided to maintain a privately owned forest in its present state, no compensation is due to the owner as he will continue to derive from it.

The same will apply to the owner of a building, the height of which may not exceed three storeys.

On the other hand, if owners are completely dispossessed of their property in the interest of the community, the latter is compelled to compensate the owners on the basis of the sales value of similar property not submitted to any kind of easement.

If a plot of land, whether built-up or not, has been selected as a site for a public park, a hospital or a college, either the State or the municipality must buy it at the same price it would bring, were it free of easements.

3. THE MEANS

3.1 Legislative and statutory means

The basic texts concerning the protection of cultural property are included in the laws of 13 December 1913, 2 May, 1930; 23 June, 1941; 24 September, 1941; 4 August 1962; 12 July, 1967; 30 December, 1958; 13 July, 1963; 4 March, 1964; 9 July, 1966; 6 February, 1969; 17 March, 1970; 14 April, 1971 and 8 June, 1971.

3.1.1 Scheduling

This procedure is applicable to buildings, parts of buildings, natural sites, gardens, etc. . . . , conforming to the characteristics set forth in §1.

Immediate surroundings of a historical monument can likewise be scheduled if it has been well established that such a measure is essential to the clearing, seclusion, improvement or enhancement of a scheduled or listed monument or one about to become so.

Gardens, essential to enhancement of a scheduled or listed monument are a frequent motive for ensuring the surroundings of the monument.

The effect of scheduling results in forestalling destruction, displacement, repair, total or partial alteration without governmental authorization.

All authorized work is undertaken under the supervision of the Administrative unit of the Ministry of Cultural Affairs.

Unavoidable repairs are undertaken at State expense with the cooperation with the owners, at least 50% of the costs devolving on the State.

When the owner alone assumes the work, he will subsequently benefit from substantial tax relief.

3.1.2. Listing in the auxiliary inventory of natural monuments and sites

Listing the subsidiary inventory is feasible where preservation of the natural monument or site is indicated. Moreover, a protected area can be established

around the listed sites.

Listing entails the obligation to engage in ordinary agricultural pursuits only where rural areas are conceived, general maintenance where monuments are concerned.

Listing, therefore, appears as a category which is secondary to scheduling: it groups projects for future scheduling.

3.1.3. Procedures of scheduling and listing in the auxiliary inventory

The decision to schedule and list monuments in the auxiliary inventory rests with the Ministry of Cultural Affairs after consultation with the High Commission of sites and historic monuments (Commission supérieure des sites et monuments historiques).

Scheduling is done either in full agreement between the owner and the State, or at the initiative of the owner, or again at the initiative of the State.

Failing the owner's assent, whether the owner be a public body (State, country, municipality, public institution) or a private person, the scheduling can be passed by decree of the State Council (Conseil d'Etat).

In cases where breach of ownership rights is serious, scheduling or listing in the inventory is compensated for either on a conciliatory basis or by the Court of First Instance (Tribunal d'Instance).

3.1.4. Expropriation for public purposes

When the State considers it urgently expedient to integrate a monument into the common heritage, which owner is in no position to maintain in good condition, expropriation is carried out under the same provisions as scheduling.

3.1.5. Protected zones inside city areas

Since 1962, in the case of urban areas, the law no longer takes single historical monuments into consideration but rather an ensemble of buildings offering either historic or artistic characteristics justifying the conservation, restoration or enhancement of the whole or part of those buildings.

Old quarters can thus be saved from the hands of wreckers on the grounds of slum clearance.

The law of 4 August 1962 provides for the preservation of an ordinary house, which individually would not come under the preservation laws for historic monuments, but which as part of an ensemble contributes to enhancing the appearance of old quarters in historic towns.

No building may be altered except by special permission once the delimita-

tions of the protected area have been established. Authorization will be delivered only on condition that the work envisaged is compatible with the preservation and enhancement projects.

Owners must undertake to do all the work of restoration, overhauling and modernization; as a counterpart, they will benefit from considerable financial advantages (subventions at very low rates of interest permitting indispensable repairs to be carried out; premiums based to the number of square meters restored, right to increase in value without the owner incurring any expense and the community benefits by the restoration of fine ancient quarters which otherwise would have soon disappeared).

3.2 Effects of preservation measures

In no way does scheduling change the legal status of real estate, nor does it affect ownership. Private property remains private, as does any property belonging to any community.

No transfer of property, no easement nor appropriation of purpose may take place without the agreement of the Ministry of Cultural Affairs. Nor can any new construction be erected contiguous to a scheduled monument.

A construction permit to build within a radius of 500 meters around a scheduled monument must be obtained from the Regional Control Commission for Real Estate and for Transactions concerning Architecture and Protected Sites (Commission Régionale de Contrôle des Opérations Immobilières de l'Architecture et des Espaces Protégés).

3.3 Sanctions

A series of penalties are provided for the laws regarding contravening parties to the regulations for the preservation of the French cultural heritage.

Penalties range from heavy fines to prison sentences (rarely applied).

Civil sanctions mostly consist in the payment of damages which may be high.

Further, restoration of the monument to its original state will be done at the expense of the author of the defacement.

3.4 Administrative and technical staff

A staff of specialized civil servants on regional conservation of buildings, architects of historic monuments, inspectors and general inspectors of historic monuments, regional directors of antiquities, controllers of works and an administrative staff are made available to the State in order to insure the management, supervision and control of work done on historic monuments.

4. OBSERVANCE

French law, as it stands, provides the means of protecting individual dwellings as well as urban quarters and vast natural sites. In other words, it can be considered as fairly integrative though easements on private property often appear to the owners as being particularly severe.

The legal texts are well adapted to the goal in view and it could be said that the only weakness lies in the fact that competent staff is sometimes lacking to carry out all the measures prescribed.

The financial provisions are often so considerable — for instance when it comes to compensating the owners of natural sites located on the fringe of urban communities — that the State cannot face such expenditure. The same applies to some of the easements which must be foregone either in whole or in part.

However, it should be observed that in practice and wherever easements of scheduling and listing concern vast territories independently of protected sites, precise easements (non aedificandi, restriction of construction rights, protection of agricultural areas, protection of forests, building regulations) under the Administration of the Ministère de l'Équipement are more often than no complementary to those of the Ministry of Cultural Affairs.

It is well to recall here that, as stated above, town planning easements are usually free of charge and that the staff of the Ministère de l'Équipement is numerous and well trained.

Jean-Bernard PERRIN
Architecte Urbaniste
Paysagiste D.P.L.G.