

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (91) 6

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

ON MEASURES LIKELY TO PROMOTE THE FUNDING OF THE CONSERVATION OF THE ARCHITECTURAL HERITAGE

*(Adopted by the Committee of Ministers on 11 April 1991
at the 456th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members ;

Recognising that the architectural heritage constitutes an irreplaceable expression of the richness and diversity of Europe's cultural heritage ;

Considering that the growing awareness of the need to preserve old buildings, the ever-increasing number of categories of properties requiring protection and the even greater scale of the work necessary for conservation are reflected in a considerable rise in the level of funds needing to be invested ;

Considering that public funds from central, regional and local authorities are not sufficient to satisfy the new needs of conservation in Europe ;

Considering that restoration of old buildings in many cases is not attractive enough for private investors and that the situation is made even worse since new constructions, because of the building policy followed in many countries, offer a higher degree of profitability and fewer risks ;

Considering that not all the possibilities offered by *mécénat* and "sponsoring" are fully used in the restoration sector ;

Convinced, therefore, of the need to attract more private funds to the sector of conservation of the architectural heritage :

- a. by creating favourable conditions to stimulate conservation projects ;
- b. by using public funds more effectively to generate private investments ;
- c. by making private investments more profitable and diminishing their risks ;
- d. by promoting sponsorship ;

Considering that in order to achieve the purposes mentioned in the previous paragraph, it is necessary to take a series of measures different in nature and scope. Among these measures particular mention should be made of an appropriate fiscal regime including tax relief which, by encouraging increased private investment, in the public cultural interest, could offset any loss of revenue for the state ;

Convinced, therefore, of the desirability both of using public funds more effectively with a view to maximising their returns and of providing the means of attracting more private funds towards restoration operations, in particular by making investments more profitable or promoting sponsorship ;

Considering that the special nature of the architectural heritage fully justifies special tax measures including tax exemption which, far from impoverishing the treasury of the state, increase its holdings, particularly because they encourage private individuals to devote more resources to cultural work which would otherwise have to be carried out by the state ;

Having regard to Article 6 of the Convention for the Protection of the Architectural Heritage of Europe,

I. Recommends that the governments of member states promote funding of the conservation of the architectural heritage, taking into account the measures set out in the appendix to this recommendation and the report drawn up by the group of specialists of the Steering Committee for the Integrated Conservation of the Historic Heritage ;

II. Instructs the Secretary General to carry out as wide a distribution as possible of this recommendation and the report of the group of specialists among the national authorities (central, regional and local), international organisations concerned, business and professional circles and among the public.

Appendix to Recommendation No. R (91) 6

Principles and measures

I. *Scope and definitions*

For the purposes of this recommendation :

a. "architectural heritage" means not only monuments, groups of buildings or sites which are legally protected or of prestige value, but also all groups of buildings in urban or rural settings which form a coherent whole by virtue of the homogeneity of their style or the imprint of the history of groups of people who have lived there ;

b. "conservation" means not only the cost of material maintenance and restoration work but also, where appropriate, operating, management and reutilisation costs ;

c. "funding" means any means of raising financial resources, whether they are public or private, for conservation projects.

II. *Legal framework for conservation*

a. *Administrative measures*

It would be useful to create favourable conditions for the initiation of conservation projects by means such as :

i. the adoption of an appropriate urban development strategy to inform potential investors about and draw their attention to the resources which exist for putting the heritage to use ;

ii. the implementation of a planning and urban development policy which is sufficiently flexible to reconcile the cultural requirements of conservation with the need for projected development to be profitable ;

iii. the simplification of administrative procedures ;

iv. the appointment of field operators and organisers, possibly in the form of a team representing the public and private sector partners, to be fully responsible for a project and capable of overcoming the administrative and financial complexities facing any major conservation operation ;

v. the preparation of a structured financial evaluation for every restoration project, using modern building-site management techniques ;

vi. the adoption of a rental policy, where this is a responsibility of the public authorities, which is not a disincentive to private investors.

b. *New intervention measures*

Appropriate legal forms should be created to mobilise investors, encourage the reinvestment of profits in new conservation operations or permit the launching of building restoration programmes which accord the operator the right to use the building while preserving the rights of the owner. The following examples may be cited :

i. revolving funds involving both public and private funds and which, with the help of tax advantages, to enable either (as in the case of the Netherlands) the generation of additional money and the automatic renewal of the fund through an original credit mechanism, or (as in the United Kingdom) the reinvestment of the proceeds following the sale of restored buildings in new restoration operations ;

ii. housing improvement programmes (OPAH) in France which, combining financial assistance from the state, local authorities and public bodies responsible for social housing, encourage owners to modernise their buildings while guaranteeing low rents ;

iii. the planned leasing system in Sicily enabling ownership of a building to be transferred to a specialised company which would manage and fund the operation and then lease back the restored building to the former owners ;

iv. the "renovation lease" scheme planned in France, the aim of which is to remarket dilapidated housing vacant for that reason, by letting the lessee carry out works and transferring tenure of the building back to the owner after a given period.

III. *Financial measures*

a. *Subsidies*

Public subsidy policy should take account of the nature of the operation (restoration of a listed building or one whose use is exclusively cultural, an old building used for social housing, whether or not listed, a group of buildings of historic interest capable of generating profit) and beneficiaries' income level ;

With particular reference to social housing, subsidy policy could be designed to encourage the conservation of old buildings rather than the construction of new housing.

b. *Loans*

Measures to cover or diminish risks should be taken in order to encourage credit institutions to finance old buildings, particularly by combining mortgage loans with public subsidies, establishing appropriate forms of insurance, and the provision of a public security by a public (particularly local) authority. Diminishing risks can be achieved, for example, by means of a public guarantee like the Dutch system. In order to realise their commitment to programmes to enhance the heritage, authorities could also participate in joint structures involving a number of different partners and aimed at handling rehabilitation programmes.

Credit institutions could be encouraged to offer "simple contract loans", that is unsecured by a mortgage, but for a limited amount.

The technique of "securitisation", which involves the conversion of bank loans into liquid securities which can be freely bought and sold on the market, is also of great importance. It involves the transfer of assets to an *ad hoc* body which refinances itself by issuing securities corresponding to the outstanding loans in question. The establishment is thus able to finance its assets without tying up its capital, and protect itself against the risks of refinancing.

c. *Taxation*

Measures should be taken, particularly in countries where the tax system favours investment in new rather than old buildings, in order to arrive at a situation of fiscal neutrality or, better still, one where taxation encourages investment in old buildings. The purpose of fiscal neutrality is to ensure investments in old buildings which also makes socio-economic sense in that it results in pre-tax profitability.

Efforts should be made, in any tax incentive policy aimed at making old buildings more profitable, to avoid :

— the neutralisation of this policy by concomitant tax regulations applicable in the same country which favour the purchase of building land and the construction of new buildings and, for instance, allow purchase or construction costs to be spread over time ;

— insufficient selectivity in the granting of tax advantages which would cause over-investment in areas of the free market which do not warrant this kind of aid, for instance in parts of large conurbations subject to property speculation. Conversely, tax incentives should be maintained for as long as investments are scarce and unproductive.

In the first place, a category of buildings located in areas of high property pressure (capitals' centres) and heavy demand for luxury flats should in no way lead to incentive policies when there is no lack of investors.

In other contexts, there are several situations in which provision should be made for tax relief to promote investment in the restoration of the architectural heritage. Such relief should depend on the nature of the building being restored. For example :

i. *Property used mainly for cultural purposes with little potential for profit*

Where such property belongs to private individuals, a highly favourable tax scheme seems desirable in view of the fact that its upkeep is a burden on the owners and that it is difficult or impossible to make them either directly or indirectly into a source of profit (for example, ruined historic houses or castles, isolated buildings which are either impossible or very difficult to exploit or to restore for commercial purposes).

Some suggested measures :

- total exemption or substantial relief from inheritance tax, wealth tax, local taxes ;
- deduction of investments from income tax ;
- exemption from VAT on all work carried out ; subsidised loans ;
- incentives scheme for donations and sponsorship.

ii. *Buildings chiefly used for cultural purposes but with a certain potential for profit*

The conservation of such properties may not be a liability in so far as they may sometimes be profitably exploited (for example, large historic houses open to the public).

Some suggested measures :

- low-interest loan schemes aimed at permitting the necessary investments for upkeep and exploitation ;
- incentives in the form of tax reductions if the cultural value of the property is shown by opening it to the public and promotion (inheritance tax, wealth tax, local taxes, deduction of investments from income tax, VAT exemptions on work carried out) ;
- measures encouraging the adoption of properties by patrons and sponsors.

iii. *property of some cultural or historical value, but whose use is mainly economic*

The upkeep of such property can be integrated into an economically profitable operation. However, it often needs to be adapted to new uses. Its conversion and restoration may be costly. Its profitability depends on its location.

The buildings in question may be architectural complexes in an urban or rural setting, or they may be single buildings. It is important for a number of different types of legislation (urban planning, heritage protection, tax system) to work in tandem to help initiate rehabilitation and enhancement operations. The role of the public authorities is to support private initiatives or, if necessary, to compensate for their absence.

Some suggested measures :

Complexes or neighbourhoods in towns

- property for commercial use :
 - subsidised loans for restoration ;
 - temporary exemptions from local taxes ;
 - deduction of investments from income tax for builder and buyer (for example, tax measures linked to the application of the *loi Malraux* on protected sectors in France, permitting the deduction from taxable income of losses made by owners of buildings as a result of work undertaken in a joint property restoration scheme).
- property for non-commercial use (small towns, run-down neighbourhoods) :
 - loans for restoration or purchase ;
 - temporary exemptions from local taxes ;
 - deduction from income tax and capital gains tax ;
 - VAT : reductions on restoration work carried out ;
 - exemption of investment in assessing income tax ;
 - 1% cultural levy for general urban improvement and special comprehensive restoration schemes.

Isolated buildings

- loans for restoration and temporary exemption from local taxes ;
- deduction of investment from income tax for builder/restorer and buyer ;
- VAT exemption on work carried out ;
- sponsorship — foundations — 1% cultural levy ;
- purchase by firms, with investment deductible from income tax.

Special tax relief measures should be adopted for historic monuments classified as having a cultural function and belonging to private owners.

The following measures may be cited by way of example :

- income tax : deduction from taxable income of all maintenance and restoration costs of listed heritage buildings ; reductions of interest ;
- wealth tax : total exemption by virtue of the cost of running a historic monument provided it is opened to the public ;
- local taxes (such as land tax and rates) : historic buildings exert considerable attraction for tourism and other activities and are thus an asset to the local or regional economy. Hence the case for partial or total exemption from local taxes, especially where a taxable monument causes losses to its owners ;
- capital transfer tax :
 - total exemption from capital transfer tax in respect of historic or artistic monuments inherited or received as a gift. To this concession might be attached an agreement between the state and the owner to the effect that the monument must be accessible to the public and that movables are to remain *in situ* ;
 - possibility of “gifting” movable property in payment of inheritance tax, with the possibility of retaining such property in historic buildings protected by agreement between the state and the owner.

The purpose of such measures is to avoid the dismantling of historical ensembles.

- value added tax : exemption of restoration and maintenance work from VAT for properties with little or no profitability.

IV. Specific measures to promote sponsorship

Measures should be taken to encourage donations (with consideration or without consideration) not only by means of tax incentives but also by methods likely to promote “popular” sponsorship institutions involving several small businesses or a large number of individuals.

Tax incentives may fall into one or more of the following categories :

i. Measures favouring private individuals

Individuals to be able to claim tax relief on a certain proportion of sums donated for heritage conservation purposes, the proportion varying according to the nature of the beneficiary.

ii. Measures benefiting firms

- Company taxes :
 - expenditure incurred without consideration (gratuitous gifts) : maximum amount deductible variable according to the beneficiary of the gift ;
 - expenditure with consideration (sponsorship) : all cultural expenditure deductible from total taxable income when it is incurred for the direct benefit of the firm (all expenditure towards enhancement of the artistic heritage of the environment, including studies) ;
- Expenditure on works of art deductible from taxable income : works of art may enhance the monumental heritage ; such assets are not to be treated as non-redeemable fixed assets but should be tax-deductible when exhibited in public.

iii. Tax concessions to sponsored foundations or bodies

- relief or exemption from company tax in respect of income from listed property ;
- relief from payroll tax ;
- VAT exemption or low rating ;
- exemption in respect of transfers without consideration, gifts or bequests.

Co-financing procedures could be established to link the award of public loans to the prior collection of private funds from individuals and firms (matching grants).

Appropriate new legal frameworks should be adopted to enable businesses to make philanthropy part of their management scheme as a tool of institutional communication. To this end, the advantages traditionally accorded to foundations classified as charitable should be granted to foundations bearing the firm's name whose aim is the restoration of part of the heritage within the meaning of item I.a of this appendix, while at the same time promoting the firm's image.

The establishment of specific foundations for the conservation of the architectural heritage should be encouraged by the granting of special tax advantages to donors.

Encouragement should be given to the establishment of associations of diverse partners for the conservation of the heritage, by recognising their legal status as bodies corporate, their financial autonomy and the appropriate tax advantages.