



**Twinning Project AZ/15/ENP/OT/35**

Support to the Ministry of Culture and Tourism of the Republic  
of Azerbaijan for the modernization of its policy and  
management system in the culture sector

## **Component 1 - Cultural Sector Policy and Governance Reform**

**Activity 1.5: Supporting in elaboration of a roadmap for full implementation of  
a new culture sector governance model and of an Administrative Reform Plan  
with 'milestones' and timetable**

**Supporting document for elaboration of a  
roadmap for full implementation of a new  
culture sector governance model and  
administrative reform plan**



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## Foreword

The current document is foreseen as project benchmark for the activity 1.5 of the Twinning Project: *Support the elaboration of a roadmap for full implementation of a new culture sector governance model.*

In compliance with the objectives fixed by the 2014 Culture Concept of the Republic of Azerbaijan, the Twinning Project has

- identified and analyzed the Azerbaijani administrative sectors worth to be reformed to pursue the goals fixed
- summarized the current EU's legal framework, in terms of regulations, directives, guidelines, recommendations and other legal instruments
- analyzed the solutions adopted in the above administrative sectors by the implementing Member State (Italy)
- defined the actions to be undertaken at legal and administrative level in the identified priority areas to achieve the objectives set by 2014 Culture Concept of the Republic of Azerbaijan

The present document is structured in 4 distinct chapters, which follow the same thematic structure:

1. Application of modern methods in culture management - development of cooperation with the local self-government bodies in culture management, including art management
2. Diversification of funding sources and improvement and expansion of culture services
3. Improvement of the educational and re-training systems in the field of culture
4. Restoration and protection of historical and cultural monuments
5. Modernization of the museum branch
6. Modernization of libraries and related information supply
7. Protection of immaterial cultural heritage and use of the available personnel at city (district) culture clubs

Each chapter serves a different purpose for the reform of current regulatory and legislative framework:

- Chapter 1 - Current situation in Azerbaijan
- Chapter - EU regulatory framework
- Chapter 3 - Italian experience
- Chapter 4 - Objectives to be pursued

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## 1. Current situation in Azerbaijan

This chapter, outlining the current legislative and regulatory framework of Azerbaijan in the identified priority themes, sets the stage for all of the 2 other chapters that follow.

The present chapter has a descriptive nature and serves the purpose of identifying main pieces of legislation linked to cultural activities, and, if possible, clearly identify the current competences of the different bodies involved in the management of cultural assets.

### 1.1 Application of modern methods in culture management - development of cooperation with the local self-government bodies in culture management, including art management

The culture sector of Azerbaijan is characterized by a centralized management system with the Ministry of Culture and Tourism (MCT) as the lead institution. However, a step toward the externalization of some services has been made in the last years with the establishment of the Baku City Department of Culture and Tourism, which was created to replace the Baku City Department of Culture and Tourism of the Ministry of Culture and Tourism (decree of the President dated March 29, 2016) with the aim of making the cultural and touristic sector more efficient, responsive and modern.

Moreover, in view of improving multi-level governance systems, the enhancement of the coordination between local authorities and MCT is considered a key factor to improve the protection of immovable heritage. Currently, local executive powers carry out state policy and monitor observance of legislation in the sphere of protection of immovable heritage and natural landscapes. According to legislation, they are granted with competences to establish regulations of specially protected areas and manage them.

The main reference law for the sector is the Law on Culture. It spells out the principles and aims of the state policy, and lays down the duties of government and local authorities in this area.

Regarding the legislative process, in Azerbaijan, the Standing Committee on Culture and the Department of Social Legislation of the MilliMejlis are jointly responsible for cultural legislation. They ensure that laws are in line with the standards and practice of the developed countries, reflect the Council of Europe's cultural priorities, and match the realities and special features of the situation in Azerbaijan. The main aim in all cases is effective legislation, shielding the rights and interests of all those involved in cultural activity, and satisfying national and international requirements.

#### 1.1.1 Role of districts and municipalities in protection of built heritage, in urban planning, in tourism management, museums

The most relevant local authorities in Azerbaijan are city and district's Executive Powers, lead by a chief appointed by the President. Also, Municipalities, led by elected mayors are present and have different competences.

The role of local authorities in cultural management has been recently modified in Azerbaijan. On 29<sup>th</sup> of March 2016 President signed an Order on the improvement of the structure of MCT which made important changes regarding competences of MCT in the regions of the country.

Before the Order city/district culture and tourism offices were under subordination of both MCT and city/district executive powers. Since these offices and cultural institutions in the regions used to be funded by districts' budget, districts had huge influence/competences in the field.

The new Presidential Order created Baku City Culture and Tourism Department and 15 Regional Culture and Tourism Offices (each covering few cities and districts) and these offices are included in the structure of MCT and will be funded through MCT beginning from 1<sup>st</sup> of January 2017. As a result, districts will not have any direct competences in the field, apart from supporting cultural institutions and activities within their area. The process of revising and updating the legislation to cope with these changes is still in progress.

## **EXECUTIVE POWERS**

The current competences of District/city Executive powers for different task are as follows

### **Museums**

City/district executive powers have no direct competences over museums. However, they support cultural activities by (referred to the Statue of Districts):

- Implementing cultural policy of the state/state programs on the development of culture and art in the territory;
- Providing social-cultural services to the residents of the territory;
- Analyzing and forecasting development of culture in the territory and making proposals to relevant executive bodies;
- Creating opportunities for leisure time activities and services rendered by cultural organizations;
- Supporting activities of cultural entities in the territory;
- Creating entities for social-cultural, sports purposes and organizing their work;

### **Protection of historical and cultural monuments**

Districts (referred to the Statue of Districts) have the following competences, mainly shared with MCT:

- It is required to get permission of MCT and districts (considering opinion of NAOs) for implementing construction work in the areas where historical and cultural monuments are located (4.11.16).
- They organize protection of monuments in cooperation with MCT (3.12.7).
- Monuments of local importance can be relocated with permission of MCT/districts (4.11.16).
- They inform MCT State Service in case of discovery of features of cultural objects during construction (3.11.5-1).

It is worth to highlight that these competences are subject to be changed or abolished due to Presidential Order signed in March and since they are overlapping with the competences of State Service of Cultural Heritage Conservation, Development and Rehabilitation.

### **Urban planning (Code of Town-Planning and Construction)**

Districts implement state policy in the field of town-planning and construction together with Ministry of Emergency, State Committee for Town Planning and Architecture. General and main plans of the territory are ordered by the State Committee and confirmed by Cabin of Ministers. The Committee monitors the implementation of those plans. Executive powers have the following competences:

- *Detailed plan* Documents of territorial planning are open to public and districts are obliged to create opportunity to get familiar with these documents (regarding detailed plans) and provide copies (20.4) Detailed plans are prepared upon request of districts or municipalities based on a contract signed with a designer (designing detailed plans and construction projects that require permission is an activity subject to license). Plans are sent to the State Committee for Town Planning and Architecture to be confirmed and to be agreed with relevant state bodies (including MCT). Districts may define prohibitions while detailed plans is being prepared or amended (35.1).
- *Measures on the accomplishment (repair)* Districts organize measures on the accomplishment of settlements (Statue- 3.9.10) and decision on the accomplishment is agreed with State Committee for Town Planning and Architecture (Code 44.1).
- *Construction.* Executive Powers issue permit both for the construction of the projects that require such permission (with consent of MCT in the protected zones of cultural and historical monuments) after the project being examined and for the utilization of the building after the construction being completed (47.4.5-47.4.6).

Design and construction of water supply and sewerage systems are also agreed with Districts (generally, water supply and sewerage systems are managed by (construction, maintenance etc) “Azersu” Open Joint Stock Company owned by the state).

Finally, they deal with repair and maintenance of the roads which are in common use and in their balance (roads are built by “Azeravtoyol” OJSC owned by the state).

### **Tourism management**

Districts create opportunities for development of tourism and entertainment centers located in the territory (Statue – 4.13.16).

## **MUNICIPALITIES**

Municipalities have different competences from districts, as outlined below

### **Museums**

Law on Museums (art. 8), state owned, municipality owned and private museums exist in Azerbaijan. Municipalities and private entities/persons can found their own museums and should register it as a legal person at relevant body (registration body for commercial legal entities is Ministry of Taxes and for non-commercial is Ministry of Justice).

Art.24 says that state museums are financed through state budget and other legal sources different form state budget. As there is no reference on funding of municipal museums we may assume that they are financed by municipalities,even though, currently there are no municipality-owned museums.

There are not any other references to competences of municipalities in legislation. However, according to art.4 of Law on Status of Municipalities, municipalities may approve local social protection and social development programs covering different areas including maintenance and use of cultural buildings, improvement of cultural entities.

### **Protection of historical and cultural monuments**

Monuments can be in the property of state or municipality or under private property.

Municipalities can lease and privatize the property they own. The same rule applies to leasing and privatization of municipal owned monuments in accordance with Law on Protection of Historical and Cultural Monument. According to the Law, it is prohibited to lease immovable monuments or their separate parts which are of world significance and in the property of state or municipality. Immovable architectural monuments of country and local importance in the state or municipality property, including privately owned immovable monuments or their separate parts (except for archeological monuments) might be leased (after getting permission from MCT (State Service) on the program of utilization and reconstruction) for scientific, religious, service and tourism purposes based on the contract (to sign contracts to rent state property is among the competences of State Committee on Property Issues- 3.0.14 of its Statue) upon approval of utilization program, coordination and rehabilitation designs by MCT/Icherisheher. Repair and restorations of leased monuments are facilitated with leaseholder's finance under the control of MCT and specialists.

It is not allowed to privatize (except for residential units, their separate parts registered as architectural monuments of local significance) the monuments which are in the state property and included into

the list of world natural and cultural heritage and belong to national cultural and natural heritage in accordance with the Law on Culture. Monuments of local importance can be privatized (except for engineering and defense constructions, religious monuments and memorials, hydraulic installations) (art.4).

Article 4 of Law on Status of Municipalities defines that municipalities may also approve local social protection and social development programs covering different areas including maintenance of cultural and historical monuments. Construction and renovation work conducted on the monuments which are in the property of state or municipality shall be conducted on the account of state or local budget funds based on the decision of MCT/Icherisheher. Conservation, repair, rehabilitation, reconstruction and regeneration work on the monuments will be carried out after being confirmed by MCT/Icherisheher considering the opinion of National Academy of Science.

### **Urban planning**

Municipalities may utilize their material and financial assets to repair the territory of the municipality and to construct and repair social infrastructure buildings (Law on Status of Municipalities, article 37).

Code of Town-planning and Construction defines the competences of the municipalities in the fields of territorial planning, repairs and construction:

- *Territorial planning*: Municipalities can be the customers of territorial planning and papers of territorial planning will be prepared upon the decision of the municipalities in the lands owned by them. These detailed plans are agreed with relevant state bodies and then sent to State Committee for Town-Planning and Architecture for getting its opinion. Municipalities may define prohibitions while detailed plans is being prepared or amended.
- *Measures on the accomplishment (repair)* Municipalities organize measures on the accomplishment in the areas owned by them and decision on the accomplishment is agreed with State Committee for Town Planning and Architecture.
- *Construction* Municipalities organize the implementation of construction projects which are ordered and financed by them.

### **Tourism management**

Municipalities define rules for use of water facilities owned by them for medical treatment, tourism, recreation, sports and other purposes. These rules are agreed with districts.

#### 1.1.2 Legal status of Non-Governmental Organizations, Foundations

According to Law on NGOs (art.1.2) the definition of "the non-governmental organization" is applicable to public unions and foundations. Public union, as it is settled as aims of founding

documents, is a voluntary, self-controlled, non-governmental organization established under the initiative of several physical and (or) legal entities with common interests, whose main purpose is not to gain profit as a result of the activity and share it between the members of the organization. Foundation is a non-membership non-governmental organization established under the voluntary property benefiting of one or several physical and (or) legal entities with social, charitable, cultural, education or other public-benefit purposes. NGOs can execute commercial activity and direct the acquired profit only on achievement of the purposes intended upon establishment of the organization and not dividing it between the founders (members).

### **Establishment (referred to Law on NGOs)**

Founders of NGOs can be legal entities (except for bodies of state power and institutions of local government) or physical persons who have reached 18 years of age (and 16 years of age for youth public organizations) (art.9.1). Once the charter approved by founders they apply to register NGO at Ministry of Justice. *The Law on NGOs (art.12.1-1) sets special requirement for foundation which defines that their charter capital should not be less than 10.000 manats.* NGO receives the status of a legal entity only after state registration (art.16). Any changes to charter have to be registered by the Ministry of Justice too.

### **Sources of revenues for non-governmental organizations (art.24)**

The law specifies the following possible sources of revenues for NGOs:

- Regular and single fees of the founders and members;
- Donations - assistance given in the form of finance and (or) other material form in the manner provided to NGOs without obliging it to achieve any aim. Donated money is accepted by a transfer to the bank account of NGO. NGO, whose primary aim is charity, can accept donation of up to 200 manats in cash. Information about the sum of donation and the person who gave a donation should be presented to Ministry of Justice and Ministry of Finance. Otherwise, any transactions cannot be realized. Articles 465 and 466 of Code of Administrative Offences set fines for accepting and giving donations in cash.
- Income from produce, sale of goods, rendering services, performed activity – NGOs may render services and perform activities based on a contract and if these activities are funded by foreign financial sources, the contract must be approved by Ministry of Justice. Moreover, according to Law on Social Services, art.26 (social service-a set of services to solve social problems of a person who lives in difficult conditions and to enable them to participate in social life as others) NGOs can take state orders in the field of social services.
- Income from the stocks, borrows and other financial credit instruments and dividends;
- Incomes of use by property and its sale;
- Grants – NGOs (recipients) have to register grant agreements at the Ministry of Justice, agreements on grants provided by state budget should be presented by donors to be registered.

State bodies (donors, listed in Presidential Decree N645, 21.10.2015) get opinion of the Council on State Support to NGOs both on grant projects and on NGOs which participate in competition. Council's opinion should be attached to grant agreements when they are sent to be recorded (Rules on Registration of Grant Agreements, 1.6). Article 432 of Code Administrative Offences sets fines for not registering grants, accepting money without grant agreements or through unregistered agreements.

Rules on state funding of cultural activities realized by NGOs defines 2 procedures to award NGOs with grants to implement activities in the field of culture:

- Ministry of Culture and Tourism plans projects to support NGOs in cultural field till 31st of January and publish announcement on the conditions of competition on its website within 3 days. NGOs wishing to participate in the competition apply to MCT by 1st of March. The winners of the competition are chosen by a Commission created by MCT and they are sent a written invitation to sign an agreement.
- NGOs may apply to MCT with their own projects till 1st of May every year. If Commission approves their offers, a decision will be made to forecast its financial expenses in next year's state budget. The same decision is sent to Ministry of Finance by 1<sup>st</sup> of July.

### **Financial monitoring**

NGOs conduct account reports. Amount and structure of the income of NGOs and its assets, expenditures, information on quantity of staff, wages can not be considered as a state or trade secret. Foundations must publish a financial report on use of their property once a year. NGOs have to submit their annual financial reports to Ministry of Finance no later than 1<sup>st</sup> of April. Articles 579-581 of Code of Administrative Offences set fines for violating requirements of the legislation on NGOs.

### **Tax treatment – Tax Code**

On the basis of Art.106.1.2-grants, membership fees and donations received by non-commercial organizations shall be exempt from tax (profit tax of legal entities). On the basis of Art.165.1.2- Zero rate VAT shall be applied for import of goods, provision of goods, implementation of works and provision of services to grant recipients on the expense of financial aid (grants) received from abroad.

#### **1.1.3 Possible Public/Private/Partnership figures**

There are not any references to PPP in the current legislation of the Republic of Azerbaijan. However some examples of public-private companies (institutional PPPs) exist and the government invest

money in those projects via private companies owned by the state. State owned companies are founded by the President and their statutes are approved by the Cabin of Ministers.

Azerbaijan Investment Company OJSC participates in different investment projects on behalf of the government. The Company was founded according to Presidential Order on Promotion of Investment. Charter capital of the Company is formed by financial sources of State Oil Fund and the revenue gained from projects goes to the Fund as well. The portfolio of the company is managed by the Ministry of Economy of the Republic of Azerbaijan.

When it comes to contractual PPPs, there is only a reference to philanthropy and sponsorship in the Law on Culture, article 46: philanthropy and sponsorship activities will be implemented in accordance with Laws on “NGOs”, “Grant”, “TV and radio broadcasting”, “Advertisement”.

Article 48, legal and physical persons can create funds to finance culture in order to raise extra money for culture sector.

## 1.2 Diversification of funding sources and improvement and expansion of culture services

The rapid economic development of Azerbaijan in the last two decades, that influenced a continuous yearly increase in the level of public culture expenditure, has recently suffered a setback due to the economic crisis caused by the global fall in oil prices that has led to the 2015 currency devaluations. This situation caused a reduction of the funds dedicated to culture sector.

This situation hit hard public support to culture in Azerbaijan, which is highly centralized, and spurred a debate on potential means for diversification of funding sources. So far, the State's strategy for diversification of financing sources for cultural activities and policies aimed at:

- refining the scopes of the state budget for arts and culture and setting up attracting alternative funding sources (sponsors, Maecenas, supporters etc.) and
- implementing up-to-date marketing in order to improve the system of paid cultural services, which appears to be a method which is increasing in importance.

Below the current forms of incentives for private support to culture are presented

### 1.2.1 Sponsorship

According to Law on Culture, article 46: philanthropy and sponsorship activities will be implemented in accordance with Laws on “NGOs”, “Grant”, “TV and radio broadcasting”, “Advertisement”.

Article 13 of the Law on Advertising gives definition to “sponsor” – is the person who finances voluntarily sports, cultural and other events, broadcast of programs on e-sources, use of other results of intellectual activities. The same article is dedicated to sponsor advertisement. Sponsor

advertisement, covering the name, trademark and field of activities of the sponsor and information about his products, can be presented by visual or audio means.

Advertisement will be installed in the areas or protected zones of historical and cultural monuments (on the monuments), over the roof of architectural monuments (buildings) with the consent of MCT/Icherisheher by the city/district executive powers (districts give permission for installing outdoor (street) advertising).

Also, according to law on Publishing article 24, publishing work can be financed by sponsors.

### 1.2.2 Present regime of corporate and personal taxes deduction: principles, administrative procedures, competences. Fiscal incentives for supporting heritage's protection and valorization

According to Tax Code, exemptions and privileges are defined for income tax of physical persons (article 102), profit tax of legal persons (article 106), property tax (article 199) and tax on land (article 207). Provisions in connection with the granting of tax exemptions and privileges are set only by the Code and other legal acts cannot stipulate provisions in relation to the tax exemptions and privileges (2.4-1)<sup>1</sup>.

Article 44.3 of the Law on Culture defines that tax deductions will be applied in accordance with Tax Code to the activities in the field of culture in order to improve culture. However, there are not any relevant tax exemptions and privileges except following articles:

Article 102.1.12, income of physical persons from craft production of copper, tin and pottery products, house appliances, gardening instruments, national music instruments, toys, souvenirs, house appliances made of reeds and cane, involved in embroidery and production of house appliances from wood shall not be subject to income tax;

Article 199.2. Buildings of art workshops or parts of buildings where such workshops are located that belong to natural persons involved in entrepreneurial activity without establishing the legal entity on craft production of copper, tin and pottery products, house appliances, gardening instruments, national music instruments, toys, souvenirs, house appliances made of reeds and cane, involved in embroidery and production of house appliances from wood shall not be subject to property tax.

Taxpayers should notify the Ministry of Taxes that they are eligible for benefiting tax deductions when they register as taxpayer and submit tax declaration.

### 1.2.3 Investments promotion certificate

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<sup>1</sup>The full list of those exemptions is available in [Tax Code ENG](#).

Beginning from early 2016 Ministry of Economy started to issue investment promotion certificate for the persons investing in certain areas (the list of those investment fields is confirmed by the Presidential Decree N878, 20 April 2016). Those holding this certificate benefit several tax deductions defined in Tax Code:

- 102.1.23 - 50 percent of income earned after receiving investment promotion certificate by individual entrepreneur – within 7 years (income tax);
- 106.1.17. 50 percent of profit earned after receiving investment promotion certificate by legal person – within 7 years (profit tax of legal persons);
- 164.1.26. Import of technology, technical equipment and facilities by legal persons and individual entrepreneurs on basis of approval document given by relevant executive authority – within 7 years by the receipt date of investment promotion certificate (VAT);
- 199.11. The relevant property of the legal persons and individual entrepreneurs who have received investment promotion certificate are exempt from property tax within 7 years by the receipt date of that document (property tax);
- 207.5. The relevant land owned or used by the legal persons and individual entrepreneurs who have received investment promotion certificate are exempt from land tax within 7 years by the receipt date of that document (tax on land).

### 1.3 Improvement of the educational and re-training systems in the field of culture

Responsibility for cultural education and training institutions is divided between the Ministry of Culture and Tourism (children's music, art and painting schools and the Baku School of Choreography) and the Ministry of Education, which supervises the special secondary and the higher arts education in Azerbaijan. Also the Ministry of Youth and Sport is involved in culture-related activities but with only regard to the spare-time initiatives.

We outline below, the most relevant issues related to education and training

#### 1.3.1 University curriculum of architects and archaeologists

According to Law on Education, development, approval, and effectiveness of national standards of education and the content of Bachelor's\Master program and the regulations pertaining to these programs are determined by the Cabinet of Ministers. These documents determine periods for bachelor 4-5 years (1 year extra for distant programs) and master 1, 5-2 years (6 month extra for distant programs) degrees, general percentage of subjects (15-20 % humanities, 80-85 % courses for professional training for bachelor and 20-25%, 75-80 % respectively for master), the number of credits (bachelor 240-300, master 90-120).

Article 8.3 of State Standards of Higher Education (confirmed by Cabinet of Ministers) gives a right to Ministry of Education to define subjects per bachelor/master program. The university courses in Azerbaijan at bachelor level are regulated by the "Education Program on Bachelor degree qualification" /Order of the Ministry of Education N: 913 dated August 22, 2014.

According to this norm bachelor degree of architecture consists of a **4-year full course for 240 credits**. Following subjects are thought:

<b>Courses</b>	<b>Number of credits</b>
History of Azerbaijan	6
Foreign language	13
Azerbaijani language	5
Optional courses (based on choice)*	6
Mathematics	6
Science of defining industry materials	3
Engineering geodesy	3
Information Technology	3
Descriptive (graphic) geometry	3
Applied Mechanics	4
Architectural Physics	5
Decorative Art	11
Art History	2
History of Architecture	8

History of Modern Architecture	2
Fundamentals of designing (project)	19
Building Structures	4
Architectural structures	16
Designing of Architecture	27
Urban Environment (Ecology)	3
Restoration and conservation	9
Reconstruction	10
Modern technologies of architecture and management	3
Typology of buildings and installations	2
Civil Defence	3
Optional courses* (based on choice)	34
Practice (internships)	21
Final State Attestation	9

\*Optional subjects are defined by universities.

Master in Architecture (*2 years, 120 credits*) – “Education Program on Master degree qualification”  
- Order of the Ministry of Education N: 258 dated February 22, 2012

Courses	Number of credits
Foreign language	6
Higher Education Pedagogy	4
Psychology	2
Optional courses	2
Contemporary problems of architecture	4
History and methodology of architecture	2
A Course defined by the university	4
Courses dedicated to specialization*	42
Optional courses*	24
Scientific-research experience (practice)	6
Scientific-pedagogy experience	6
Dissertation	18

\*Defined by universities

Master in Architectural Restoration – University of Architecture and Construction, prepared in accordance with the table above.

Courses	Number of credits
Foreign language	6
Higher Education Pedagogy	4
Psychology	2
Optional courses	2
Contemporary problems of architecture	4
History and methodology of architecture	2
Computer Modeling	4
Theory of Architecture and town-building	10
Design theory of architectural environment	10

Theory and practice of modern restoration	4
Typology of monuments	8
Design of landscape systems	10
Optional Courses*	24
Scientific-research experience (practice)	6
Scientific-pedagogy experience	6
Dissertation	18

\*Subjects for 3 optional courses are (students will choose one topic per course):

**I Part:** 1) Restoration design of architectural monuments; 2) Construction materials and designs (in restoration)

**II Part:** 1) Regional peculiarities of restoration of architectural monuments; 2) Scientific restoration methodology of architectural monuments.

**III Part:** 1) Engineering problems of restoration of architectural monuments; 2) Contemporary restoration techniques

With the Orders mentioned above Ministry of Education determines general subjects for bachelor and master programs and leaves it to universities to define optional subjects and the subjects dedicated to specialization.

Bachelor degree in archeology does not exist: it is only a Master in Archeology and Ethnography in which students with history background can study (list of bachelor and master programs is confirmed by the Cabinet).

The subjects for the 1<sup>st</sup> course of bachelor degree in history and archeology are the following:

- Azerbaijani archeology
- First agriculture/farming/cropping culture in Azerbaijani archeology
- Azerbaijani ethnography and its origins
- Pre-Islamic religious beliefs in Azerbaijan (on the basis of archeological and ethnographic evidences)
- Azerbaijani numismatics
- Azerbaijani ethnography
- Family life in ethnography

There is neither a bachelor nor a master degree for restoration of movable heritage.

## REFERENCES

1. Law on Education 19.06.2009
2. "State Standards of Higher Education" approved by Cabinet of Ministers on 23.04.2010
3. "Content and regulations of education for Bachelor degree" approved by CoM on 24.06.2010
4. "Content and regulations of education for Master degree" approved by CoM on 12.05.2010

5. “Credit system in education” prepared in accordance with European Credit Transfer System approved by the CoM on 24.12.2013
6. “Education Program on Bachelor degree qualification” - Order of the Ministry of Education N: 913 dated August 22, 2014
7. “Education Program on Master degree qualification” - Order of the Ministry of Education N: 258 dated February 22, 2012

### 1.3.2 Professions in the field of cultural heritage protection and conservation

Professionals holding bachelor or master degree in architecture, released by an Azerbaijani university, are entitled to sign projects and supervise construction and restoration interventions. Present legal framework does not foresee any special requirements for drafting and supervising restoration works. When a bid is launched by a public body, requirements on special experiences in the field are included in the bid, normally referring to previous works successfully accomplished for interventions similar to those in competition, but without any juridical framework.

That is that neither qualification of professionals and companies nor certification of quality standards and financial turnover are considered in current legal framework.

Artt. 52 and 53 of the 2012 of No. 392 Law of the on Town-Planning and Construction Code of the Azerbaijani Republic actually regulate professional certification in field of construction works both for companies and for professionals. Professional Registers are as well foreseen. State Architecture and Town-Building Committee is the public body expected to be the holder of this register, but the regulations for the establishment and guidelines of inclusion have not yet been approved by the Cabinet of Ministers – the process has stopped from 2013.

Rights and obligations of professionals engaged in architectural activities are regulated by the 1998 No. 497-IG Law of Azerbaijani Republic about Architectural Activities. This law does not regulate tuition or working requirements for architects and companies.

Moreover, based on the *Law of the Azerbaijan Republic on making changes and additions to some normative acts of the Azerbaijan Republic* dated 09 October, 2007, the activity of "Architecture" was made free from special permission needing special state control on the basis of the amendments made to the *Law on Activity of Architecture* dated 15 May, 1998.

Finally, it is worth noting that, according to the Charter of the Union of Architects of Azerbaijan, architects with bachelor diploma and with at least 3-year work experience, who are residents of the country, gained reputation for personal creative works in any area of architectural profession, accept

the Charter of the Union, are involved in public life of the Union of Architects may be admitted to membership in the Union.

#### 1.4 Restoration and protection of historical and cultural monuments

The main institutional actor in the field of restoration and protection of built cultural heritage is at present the State Service for Cultural Heritage Conservation, Development and Rehabilitation. It was established under the MCT in December 2014 with Presidential Decree, that came into force in January 2015, in order to implement the presidential decree of 2013 on restoration of cultural heritage, which has wide importance for the sector.

Thus, the competences on cultural heritage utilization and conservation, that before the decree were spread under different departments of MCT, have been grouped under the State Service in a sort of reorganization of the sector. Other actors, such as local Executive Powers and the National Academy of Sciences, contribute to the implementation of state policies on built cultural heritage but the State Service is, without doubt, a relatively small organization (Its staff is capped at 23 workers) with a central role in the state policy.

In particular, the State service's statute specifies its competences in

- formation of a unified state policy in the relevant field and ensures the implementation of this policy;
- preservation and development of cultural heritage and the state control over the cultural heritage protection;
- state control on protection, restoration, reconstruction, conservation, renovation of immovable historical and cultural objects (monuments), updating their technical maintenance equipment, projecting current and fundamental renovation and repair works.
- efficient management of the funds allocated from the state budget and other financial sources for the relevant area;
- approval of the launch of the projects for improvement, construction, repair, restoration, reconstruction, conservation and renovation relevant field with the comment of the Azerbaijan National Academy of Sciences, and supervises progress of the processes.

In particular, the State Service undertook most of the duties of the Department for Utilization and Conservation of Cultural Heritage of the MCT, whose functions were therefore sensibly reduced. The State Service has 2 Departments: 1) Development and restoration of cultural heritage; 2) Supervision on protection of cultural heritage.

We outline below the legal framework for protection of cultural and historical monument, as well as for implementing restorations.

#### 1.4.1 Law on Protection of Historical and Cultural Monuments

The overall works (conservation, reconstruction, etc.) on the architectural heritage are regulated by art. 25, 26 and 27 of the Law of the Republic of Azerbaijan on Protection of Historical and Cultural Monuments. The art. 10 prescribes that it is forbidden to run any kind of works (any repair, construction, housekeeping and other work) which may pose a threat to the monuments or for their enjoyment (destroy artistic-aesthetic view). No change can be made to the monuments without the permission of the relevant government bodies. Art. 19 prescribes similar obligation for those who have the monuments in use. The works run on State-owned monuments are funded from the State budget; those run on Municipality-owned monuments are funded from local authorities budget, upon the decision of the government offices in charge (the Ministry of Culture and Tourism of the Republic of Azerbaijan and Icherisheher Ashar).

The works run on privately owned monuments are in charge to the owner, with the approval of government offices (the Ministry of Culture and Tourism of the Republic of Azerbaijan and Icherisheher Ashar).

The law defines each type of intervention (conservation, repair, rehabilitation, reconstruction and regeneration). Projects must be approved by government offices (the Ministry of Culture and Tourism of the Republic of Azerbaijan and Icherisheher Ashar) considered the opinion of Azerbaijan National Science Academy.

The implementation of the work must be supervised by designers and government offices (the Ministry of Culture and Tourism of the Republic of Azerbaijan and Icherisheher Ashar).

In case of infrastructure works the characteristics of protected areas (Reserve zones) must be respected, without changes to the perimeter of the areas, to the structure of buildings and to the road network. The works must be approved by government offices (the Ministry of Culture and Tourism of the Republic of Azerbaijan and Icherisheher Ashar), after consultation with the Azerbaijan National Science Academy.

The excavations (including archaeological excavations) must be carried out in the zones of protected areas (Reserve zones) free of building. The works must not produce harm and accurate documentation of the work must be done. A report of the work performed with a copy of the documentation must be sent to appropriate governmental offices.

#### 1.4.2 Law on Town-Planning and Construction Code

Among the goals (Art. 1.4) and the basic principles (Art. 7.0.5) of urban planning is mentioned the protection of historical and cultural monuments and generally of all the "objects of cultural heritage" and "cultural landscape". In addition, construction activities are incompatible when in conflict with the interests of the environment, the natural features of the landscape and the cultural heritage objects (art. 11.3.4).

In land planning and building activity the preservation of cultural heritage, historical landscape and natural environment must be guaranteed (art. 12). Among the purposes of land use planning (art. 19.2.2 and 19.2.3) the needs of preservation of cultural heritage (along with the protection of forest areas, traditional architecture and landscape) as well must be guaranteed.

The finding of cultural heritage monuments entails the immediate stopping of construction work and the competent authorities must be informed. The same authorities decide the possible resumption of work and the application of the necessary measures (art. 93).

#### 1.4.3 Law on Public Procurement

In Azerbaijan public procurement is regulated by the Law of the Republic of Azerbaijan on Public Procurements, issued on 2001. Relevant procedures are enforced by the State Procurement Agency of Azerbaijan Republic, a governmental agency within the Cabinet of Azerbaijan in charge of regulation of activities related to procurement of goods (works and services) purchased by state funds in Azerbaijan Republic. The State Procurement Agency

- participates in creation and improvement of the legal base governing public procurement in the Republic of Azerbaijan, develop rules, instructions, other documents on public procurement and submit them to respective executive authorities for approval
- supervises legality of procurement of goods, works and services on competitive basis as well as performance of contracts; suspend procurement procedures for up to 7 banking days in case of discovery of breach of law and if necessary raise the matter of cancellation of tender results to the procuring agency
- considers disputes in public procurement procedure and in case of breach of law take measures in accordance with legislation requirements

On the basis of the law, the following procurement method are permitted in Azerbaijan, depending on the nature and value of the contracted services

- art. 17: *open tendering procedure*, when estimated price for goods (works and services) is higher than minimal price set by respective executive authority (the minimum threshold for carrying out an open tender is 50.000 manat). Procurement agency cannot divide procurement of goods (works and services) into separate contracts for the purpose of removal of limitation of amount for application of this article;
- art. 18: *two-stage tender* (see also art. 46) or *request for proposals* (see also art. 48), when procurement agency cannot determine in details features of goods (works and services) in order to take the most suitable decision to provide its demand for procurements. In these cases the agency shall:
  - o with different possible methods of provision of its demand;
  - o hold discussions with consignors (contractors) in connection with technical nature of goods (works) or features of services.

The same method can be used when procurement agency wishes to enter into agreement for the purpose of conducting studies, experiments, researches or development. Or when an urgent and unforeseen demand for acquisition of goods (works and services) is arisen in

conditions or at practical inexpediency of application of open tender procedure or other procurement methods.

- art. 19: *tender with limited participation* and *closed tender* (see art. 47), when respective goods (works and services) because of its extraordinary difficulty or possessing specific nature are available to potential consignors (contractors) in limited amount; if time and costs required to review and assess numerous tender proposals is not proportional with value of procured goods (works and services); if goods (works and services) are provided for defense and national security needs, procurement agency shall use closed tender (procurement on clothes, foodstuffs, articles, inventory, medical equipment, medicines, service vehicles, repair and construction works for such needs shall be conducted by through open tender).
- art. 20: method of *request for quotations* (see art. 49), for procurement of goods (works and services) with current market, estimated price of which is less than minimal amount set by respective executive authority;
- art. 21: *single-source procurement* (see art. 50), when procured goods are only available to any specific consignor (contractor) or specific consignor (contractor) possess rights over such goods (works and services) and if their substitutes or alternate are unavailable; or when urgent demand for goods (works and services) is arisen and conducting of tender procedures or use of any other procurement method is inexpedient (the case must be actually impossible to foresee and it must not result of delay of procurement agency); or when anurgent demand for such goods (works and services) is arisen in connection with emergencies, and use of other procurement methods is inexpedient in view of time to be spent to them; or when, after procurement of goods, equipment, technology or services from any consignor (contractor), the agency arrives to decision to procure them from such consignor (contractor) in view of ensuring their compliance with standardization considerations of existing goods, equipment, technology or services.

Prior to commencement of tender procedures, the procurement agency shall set (If necessary, with the cooperation of professional assessors) estimated price of goods (works and services) to be procured as per current legislation. The estimated price of goods (works and services) to be procured must be kept in secret until the day of opening of tender packages and shall be used to assess tender results. If price of any tender proposal significantly differs from estimated price of relevant goods (works and services), procurement agency shall be entitled to reject such offer. This decision shall be approved by respective executive authority.

#### 1.4.4. Law on licenses and permits

The law is relevant for cultural and historical monuments since it dictates the qualifications that companies are required for carrying out certain kinds of works.

Design activity is the type of activity that requires license from the relevant state body in Azerbaijan - Ministry of Economy. There are only three specialized design companies in the country qualified for design of restoration works on cultural monuments. Azerberpa is the most prominent design institute in the country, since it owns the central national archive of cultural historical monuments».

The activity "*Design of Buildings and Structures, the construction of which requires permission and about of which the notification procedure is applied*". This activity requires a license from the relevant state body - the Ministry of Economy of the Republic of Azerbaijan (according to the Azerbaijani *Law on Licenses and Permits of Azerbaijan*, endorsed by the presidential decree dated 15 March 2016)

The state body issuing the licenses is the Ministry of Economy of the Republic of Azerbaijan.

The applicant who wants to get the above specific license has to submit to the above state body the following documents:

- Application containing information about the applicant, ID details (if physical person) and full name and juridical address (if juridical person - a branch of foreign legal entity or representation), brief summary of the application, date of application and signature (if physical person), and signature and stamp, full name and juridical address (if juridical person - a branch of foreign legal entity or representation), list of documents attached to the application.
- Copy of certificate of state registry of the juridical person, a branch of foreign legal entity or representation.
- Copy of Certificate certifying the applicant is registered as tax payer.
- Certificate about technical-industrial personnel/staff of the applicant.
- Copies of documents/certificates of senior management and lead specialists of the applicant per the activity type requiring license, including project chief engineer or chief architect, architect, constructor, and other specialists on engineering facilities, networks and systems, transport infrastructure projects, special parts and other sections of projects, which certify their relevant education background, qualification and minimum 5 years work experience.
- In case the applicant has no full time, specialists enjoying relevant qualification requirements in order to perform the functional duties of Chief Designer, Copy of Cooperation Agreement signed with the juridical or physical person enjoying relevant license for implementation of works in those areas (except for the project chief architect or chief engineer).
- Copy of certificate/document certifying the existence of non-residential area being under the property or legal utilization of the juridical person for the purpose of implementation of activities requiring license.
- Certificate about the existence of the quality control system on design works.

The license issuing state body makes a decision within 10 days from receiving the application (except for specific cases when shortages are identified or when experts are to be involved).

#### 1.4.5 State Register of the National cultural property and Protection list of Cultural Heritage of the Azerbaijan Republic

In Azerbaijan, Cultural properties are inscribed in a national registry. The approval of monuments' list and preparation of maps for immovable monuments is to be carried out by the Cabinet of

Ministers, as per article 6 of the *Law of the Republic of Azerbaijan on Protection of Historical and Cultural Monuments*.

The monuments are divided into monuments of world, country and local significance, on the basis of decision by the Cabinet of Ministers. Similarly, expungement of the monument from the list shall be carried out by the Cabinet of Ministers.

However, the actor carrying out the practical tasks and procedures related to inscription of monuments and management of the registry is the *State Service of Cultural Heritage Conservation, Development and Rehabilitation* under the Ministry of Culture and Tourism. In particular, it is the department of the State Service for the Supervision on Protection of Cultural Heritage that is tasked to compile the registry of immovable cultural heritage and monuments, as well as monitoring the protection of inscribed monuments. It informs the top-level administration to take actions on damages occurred by natural disasters to the monuments listed in the registry, illegal demolition or unlawful privatization cases.

The department is presently revising the national list of cultural and historical monuments approved by the Cabinet of Ministers with order nr 132 dated 2 August 2001 except for those under Icherisheher Department and Gala Preserve, and has completed so far, the revision of 1205 monuments in Baku and 606 monuments in 10 regions of Azerbaijan out of the 6.380 included in the above list.

The revision of the listing of historical monuments should have been finished by 2016, but because of financial problems the process still goes on. The reduction of monuments from the list happened because of the following:

- Monuments demolished;
- Names have been registered twice by mistake;
- The exact location and address was not found in place.

The listing has been transformed to Excel spreadsheets and electronically it is not available.

In particular, the department's tasks include (as per department's statute):

- State registration of the immovable cultural heritage monuments.
- State registry of immovable cultural heritage monuments is the data collection of quality and quantity indicators of the cultural objects.
- To conduct state registry of immovable cultural heritage monuments of Azerbaijan, sector employees shall prepare records, catalogues, registration systems, the list of cultural property and data collections.

- Based on the instruction of State Service administration, conducts enlisting of immovable and cultural monuments located in the territory of Azerbaijan Republic, submits recommendations and proposals in this regard to the State Service administration.
- Supervises investigations and immovable cultural heritage monuments.
- Supervision on investigations and immovable cultural heritage monuments is implemented by sector employees through monitoring.
- Based on the instruction of State Service administration, conducts supervision on preservation and investigation works done for historical and cultural monuments situated in the territory of AR
- Controls the archaeological excavation works in the territories of monuments.

The State service cooperates with the relevant executive power for carrying out such duties (for example local executive Powers and the Administration of State Historical and Architectural Reserve “Icherisheher”)

With decision N: 208 dated 27 May 2016 the Cabinet of Ministers adopted the Rule of Enlisting Cultural Heritage in the State Register of National Cultural Property and Protection List of Cultural Heritage of the Azerbaijan Republic based on article 26.4 of the Law on Culture.

It is stated that the enlisting of

- architectural, archeological, cultural and historical, religious and secular monuments including archeological and natural sites and architectural complexes;
- buildings, museums, libraries and archives ensuring the protection or display of the movable cultural heritage, and also shelters ensuring the protection of cultural heritage in state of war;
- sites where cultural heritage is assembled

is provided by the Cabinet of Ministers, while the enlisting of

- ancient manuscripts, rare printed works, archives including phono, photo and film archives;
- art/artistic monuments.

is provided by the Ministry of Culture and Tourism

The criteria for enlisting the cultural heritage are as follows:

- on the basis of the initiative made by the MCT and Icherisheher Department for the purpose of implementation of relevant projects, state programs, strategies and action plans;
- on the basis of requests/appeals made by the physical or juridical persons, as well as the person who conducted the archeological excavation pursuant to the Law on Administrative Proceeding, article 30.2;
- requests/appeals made by the state or local self-governance bodies.

Data to be collected for the purpose of enlisting include the name, date and place of creation of the cultural heritage, information about its importance degree, description, owner or user, and also photo of the cultural heritage.

Passport is provided to a cultural heritage enlisted in the State Register. Passport issued for the immovable cultural heritage is provided to the State Committee on Property Affairs of the Azerbaijan Republic by the owner or user of the cultural heritage.

Protection List of Cultural Heritage of the Azerbaijan Republic is attributed to the state register system in culture sector. The following cultural heritage is included in the protection list of cultural heritage:

- architectural, archeological, cultural and historical, religious and secular monuments including archeological and natural sites and architectural complexes;
- buildings, museums, libraries and archives ensuring the protection or display of the movable cultural heritage, and also shelters ensuring the protection of cultural heritage in state of war;
- sites where cultural heritage is assembled.
- ancient manuscripts, rare printed works, archives including phono, photo and film archives;
- art/artistic monuments.
- other movable and immovable cultural heritage (national cultural archives, underwater cultural heritage and other cultural heritage shown under the article 30.2 of the Law on Culture).

Enlisting the other cultural heritage in the protection list is carried out by the MCT pursuant to the Law on Administrative Proceedings by the Physical or Juridical Persons, article 30.2. Enlisting the other cultural heritage is conducted by the MCT on the basis of requests/appeals made by the state or local self governance bodies. MCT holds the examination of the cultural heritage pursuant to the Law on Administrative Proceedings by the Physical or Juridical Persons, article 41,7.

<p><b>MINISTRY OF CULTURE AND TOURISM OF THE REPUBLIC OF AZERBAIJAN</b>  <b>IMMOVABLE HISTORICAL AND CULTURAL MONUMENT UNDER STATE PROTECTION</b></p> <p style="margin-left: 200px;"><b>PASSPORT</b></p> <p style="margin-left: 100px;">Index: _____</p> <p style="text-align: center; margin-top: 20px;">Made by Azerberpa Scientific Research Project Institute</p>
<p>1. Location of the monument</p> <p>1.1. Administrative location</p> <p>1.2 In-country administrative location (city, region)</p> <p>1.2.1 Address _____</p> <p>1.2.2. Cartographic location</p> <p style="margin-left: 40px;">X-coordinate</p> <p style="margin-left: 40px;">Y- coordinate</p>
<p>2. Name and presentation of the monument</p> <p>2.1 Name _____</p>

<p>2.2. Type _____</p> <p>2.3 Inventory number _____</p> <p>2.4 Date of registry _____</p> <p>2.5 Organization registered the monument _____</p> <p>2.6 Name, registry number of the complex or historical city, in which monument located</p> <p>2.7 Registry number of archive documentation (graphic, written-bibliographic materials, photos) _____</p> <p>2.8 Registry number of additional buildings and movable monuments inside the monument</p> <p>2.9. Registry number of archeological monument located around the monument</p> <p>2.10 Registry number of architectural monument located around the monument</p>
<p>3. Functional type</p> <p>3.1. Construction type</p> <p>3.2. Degree of importance</p> <p>3.3. Typological belonging</p>
<p>4. Date of monument construction</p> <p>4.1 Period</p> <p>4.2 Century</p> <p>4.3 Year of construction</p> <p>4.4. Construction type</p> <p>4.5 Degree of importance</p> <p>4.6 Typological belonging</p>
<p>5. Contemporary purpose of its use</p> <p>6. For tourism purposes</p> <p>Annexes</p> <p>Photo of general background</p>
<p>7. Historical background</p> <p>7.1 Constructions and demolitions that changed the original appearance of the monument</p> <p>7.2 Additional constructions</p> <p>7.3 Demolitions</p> <p>7.4 Natural destructions</p> <p>7.5 War-led destructions</p>
<p>8. Measurement works</p> <p>8.1 General characteristics</p> <p>8.2 Background</p> <p>8.3 Executive Specialists</p> <p>8.4 Contracting company</p>
<b>DRAWINGS</b>
<p>9. Restoration works</p> <p>9.1 General characteristics</p> <p>9.2 Dates</p> <p>9.3 Executive Specialists</p> <p>9.4 Contracting company</p> <p>9.5 Total number of pages</p> <p>9.6 Other works carried out on the monument</p> <p>9.7 Restoration works</p>

10. Description of the monument		
10.1 Scientific-historical, artistic and social importance of the monument		
10.2 Main bibliographical, archival sources and epigraph materials		
11. Technical specifications of the monument		
	<b>Material</b>	<b>Condition</b>
- Foundation	But stone	Good
- Walls	Limestone	Good
- Coatings	Limestone	Good
- Floors	Limestone	Good
- Ceilings	Limestone	Good
- Facades decor	Limestone	Good
- Interior	Limestone	Good
- Wall paintings		
- Sculpture works		
- Applied art works		
12. Protection system		
12.1 Borders of protection and regulation zones		
12.2 Index, name, number and date of the protection zone document		
Date of passport issuance _____		
Passport issued by _____		
Director		
Chief architect		
Passport verified by _____		

As regards the registration of movable cultural heritage, it is realized pursuant to the Presidential Decree N: 564 dated 11 April 2007 on “Rule on Official Registers of Movable Property - establishment and conduction of the Registers” - <http://e-qanun.az/framework/12971>

Technical procedures and forms for registration of museums items are regulated by the Guidelines on Records and Preservation of the Museum Items and Museum Collections in the Republic of Azerbaijan, which have been prepared in accordance with the order of the Minister of Culture and Tourism of the Republic of Azerbaijan No.739 dated September 12, 2007, the Culture Law

(06.02.1998), Museums Law (24.03.2000), Decree of the President of the Republic of Azerbaijan Ilham Aliyev on Improvements in Museums Operations in Azerbaijan (06.03.2007).

## 1.5 Modernization of the museum branch

According to Law on Museums (art. 8), state owned, municipality owned and private museums exist in Azerbaijan. Municipalities and private entities/persons can found their own museums and register it as a legal person at relevant body (registration body for commercial legal entities is Ministry of Taxes and for non-commercial is Ministry of Justice). As of records, there are not any municipal museums in the country. The State Statistical Committee reports that total number of state museums is 234 including history (76), memorial (41), local lore (67), art (39) and other 11 museums. State museums are mainly attached to MCT (220), however some important museums belong to National Academy of Science (4 -Museum of Natural History, National Museum of History of Azerbaijan, National Museum of Literature of Azerbaijan named after N. Ganjavi, Memorial Museum of H. Javid) and Icherisheher (2). Ministry of Education (1), Ministry of Health (1), Ministry of Agriculture (1), Ministry of Ecology and Natural Resources (1), Ministry of Internal Affairs (1), State Oil Company (1) and Boulevard Office (Flag Museum) own a museum too.

There are only 2 non-state museums in the country: Museum of Miniature Books and Modern Art Museum.

Regional Culture and Tourism Offices of MCT		Ownership		Total
		State owned	Private owners	
1	Baku	34	2	36
2	Sumgayit	15	-	15
3	Khachmaz	11	-	11
4	Ismayilli	13	-	13
5	Sheki	18	-	18
6	Kurdemir	10	-	10
7	Aghstafa	12	-	12
8	Shamkir	9	-	9
9	Ganja	16	-	16
10	Barda	9	-	9
11	Agdjabadi	11	-	11
12	Agdash	11	-	11
13	Sabirabad	8	-	8
14	Bilasovar	10	-	10
15	Masalli	8	-	8
16	Lankaran	8	-	8
<b>*Grand total</b>		<b>203</b>	<b>2</b>	<b>205</b>

\*The total number of museums does not include the museums located in Nakhchivan Autonomous Republic (28 museums).

**Museums by economic and administrative regions and towns of the Republic of Azerbaijan at the end of 2015**  
The State Statistical Committee of the Republic of Azerbaijan

<b>Economic and administrative regions and towns</b>	<b>Number of museums</b>	<b>Number of museum visitors, thsd person</b>
<b>The Republic of Azerbaijan</b>	<b>234</b>	<b>2577.5</b>
Baku city – total	35	507.1
including:		
Binagadi region	-	-
Garadagh region	1	22.2
Khazar region	2	1.2
Sabayel region	18	352.3
Sabunchu region	-	-
Surakhany region	2	12.6
Narimanov region	1	45.6
Nasimi region	1	0.0
Nizami region	-	-
Khatai region	1	10.5
Yasamal region	9	62.7
Absheron economic region – total	7	42.1
including:		
Khyzi region	3	9.5
Absheron region	2	25.1
Sumgayit city	2	7.5
Ganja-Gazakh economic region – total	35	303.6
including:		
Ganja city	7	80.9
Gazakh region	4	24.9
Aghstafa region	4	28.7
Tovuz region	4	18.3
Shamkir region	3	23.2
Gadabay region	1	10.6
Dashkasan region	3	19.5
Samukh region	1	14.5
Goygol region	2	30.0
Goranboy region	4	12.3
Naftalan city	2	40.7
Shaki-Zagatala economic region – total	21	178.4
including:		
Balakan region	2	13.1
Zagatala region	3	29.7
Gakh region	4	55.0
Shaki city	7	40.7
Oguz region	2	2.9
Gabala region	3	37.0
Lankaran economic region – total	16	224.7

including:		
Astara region	3	30.4
Lankaran city	4	97.5
Lerik region	1	3.3
Yardimly region	2	26.8
Masally region	3	29.7
Jalilabad region	3	37.0
Guba-Khachmaz economic region – total	11	124.5
including:		
Gusar region	3	15.5
Khachmaz region	2	28.8
Guba region	2	58.3
Shabran region	3	12.5
Siyazan region	1	9.4
Aran economic region – total	46	592.6
including:		
Goychay region	3	39.0
Beylagan region	2	50.8
Agdjabadi region	3	15.8
Barda region	3	71.2
Neftchala region	3	13.7
Bilasuvar region	3	28.1
Salyan region	3	43.1
Yevlakh city	2	18.9
Mingechevir city	3	91.5
Agdash region	3	58.0
Ujar region	2	19.3
Zardab region	3	16.0
Kurdamir region	2	19.3
Imishli region	3	13.0
Saatly region	1	25.1
Sabirabad region	2	20.3
Hajigabul region	2	8.8
Shirvan city	3	40.7
Yukhari Karabakh economic region – total	19	75.4
including:		
Jabrail region	1	32.3
Fuzuli region	3	14.7
Aghdam region	5	11.2
Tartar region	1	11.0
Khojaly region	1	6.2
Shusha region	6	0.0
Khojavand region	-	-
Khankendi city	2	0.0
Kalbajar-Lachin economic region – total	6	38.1

including:		
Kalbajar region	1	1.8
Lachin region	3	24.4
Gubadly region	1	3.5
Zangilan region	1	8.4
Dakhlik Shirvan economic region – total	10	100.3
including:		
Gobustan region	1	16.0
Ismayilly region	3	35.5
Aghsu region	2	28.7
Shamakhy region	4	20.1
Nakhchivan AR – total	28	390.7
including:		
Nakhchivan city	13	313.0
Sharur region	2	16.6
Babek region	2	17.6
Ordubad region	5	12.2
Julfa region	1	6.8
Kangarly region	2	5.9
Sakhbuz region	2	13.4
Sadarak region	1	5.2

#### Number of Museums and visitors

	2012	2013	2014	2015
<b>Number of museums - total</b>	<b>227</b>	<b>228</b>	<b>233</b>	<b>234</b>
including:				
History	68	73	76	76
Memorial	39	39	40	41
local lore	69	66	67	67
art	39	39	39	39
Other	12	11	11	11
Number of museums visitors - total, thsd person	2083	2212	2531	2578
including:				
History	913	988	1390	1408
Memorial	165	191	203	183
local lore	549	579	519	600
art	328	253	280	247
Other	128	201	139	140
Per 1000 population	227	238	269	270

### 1.5.1 Museums management

Museums are provided with financial resources by MCT and the Ministry (or its regional offices regarding the museums in regions) confirms the structures of their budgets, structures of the museums and staff schedules (the number and positions). Ministry (regional offices) appoints director and deputy directors, chief curator, chief accountant, members of Scientific (Museum) Council, Procurement Commission and Expert Commission (in 3 museums) with recommendation of the director (ref. Statutes of museums).

Statutes of museums which are under supervision of MCT are approved by the Ministry: there is a Model Statute of history-local lore museums and some big museums have their own statutes, for example, National Art Museum, Carpet Museum.

There is not a direct reference to relations between museums and municipalities or regions in legislation. However, local executive power/municipality may support cultural activities in its territory.

Museums are awarded with “National” or “Academic” status which increases the salary of their staff. For getting this status they apply to MCT and then, MCT with the opinion of the Ministry of Finance sends documents for final decision to Cabin of Ministers.

#### **Museum autonomy**

Museums which have their own statutes are more authorized than the others. In general, they are independently managed by the director with financial and administrative supervision of MCT.

Article 12 of Law on Museums defines the rights of museums: exhibiting historical, cultural, political and social events (collections) except from state secret, expanding its collection by using the financial sources allocated for it or with its own revenue, preparing printed materials and sell them, private companies pay a certain percentage of the revenue gained from duplicating museum heritage since museums have copyright over their collections. The revenue gained from activities of museum will be added to its budget.

According to the Statute of National Art Museum, it has the rights below:

1. To purchase new items to add to its collection by using the financial sources allocated for it;
2. To cooperate with museums of foreign countries;
3. To benefit all legal and financial privileges of having copyrights over its collection, realize museum projects and receive grants;
4. To prepare printed works, samples of fine art, decorative art and folk art, CD and DVDs, souvenirs and to exhibit, promote and sell them;
5. To open museum shops in its administrative building (area);
6. To organize festivals and competitions related to fine, decorative and folk art with permission of MCT;
7. To lease museum halls for short periods for presentation, concert, exhibition purposes;

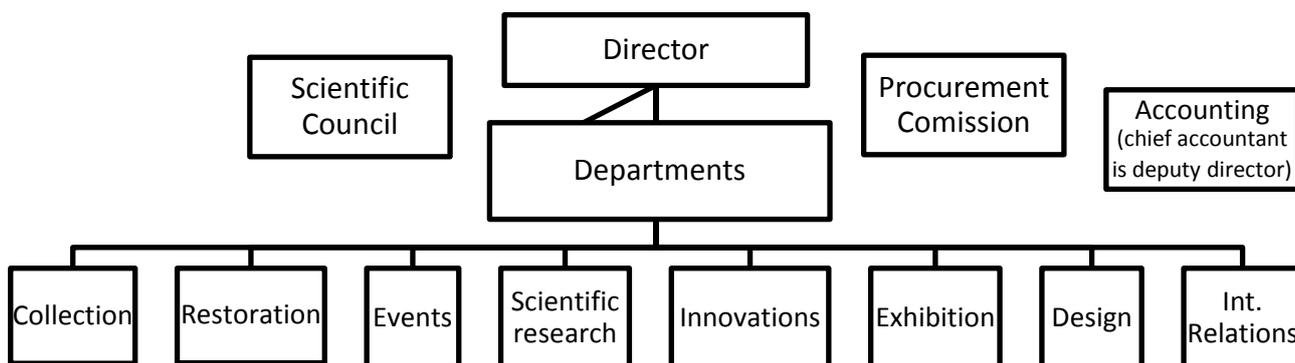
8. To organize restoration and artistic design workshops, studio, photolab and other services;
9. To cooperate with association, firm and holdings for getting mutual benefit;
10. To create conditions for filming and photo shoot, to render services in accordance with the profile of the museum;
11. To purchase or lease facilities or locations for museum operations;
12. To organize exhibitions, scientific conferences, seminars, competitions, presentations and other events.

## **Governing bodies**

Governing bodies of state museums are: a) Director b) Scientific Council c) Procurement Committee

- *The Director* leads effective management of museum and is responsible for
  - o Recruiting museum staff, defines task division among them;
  - o Signing orders and decrees in accordance with law, confirming work plans of museum and its departments;
  - o Representing museum, leading its economic activity.
- *The Scientific Council* (Statute of Museum of Natural History), an advisory body to the Director, is composed by scientists and experts of the museum, representatives of Ministry of Ecology and Natural Resources, MCT and Baku State University. Members of the Council are appointed by the Presidium of National Academy of Science. The Council:
  - o Oversees scientific activities of the museum and use of financial resources;
  - o Discusses main directions of expenditure of the museum, annual schedule of expenses and gives its opinion;
  - o Discusses annual work and scientific research plan of the museum and gives its opinion;
  - o Discusses Director's annual report about activities of the museum;
  - o Discusses financial/logistical support plan of international scientific cooperation;
  - o Confirms Director's/departments' report about the work done;
  - o Discusses books and magazines to be published.
- *Procurement Committee* is composed by head of departments, scientists and restorers. Members are appointed by the Ministry with recommendation of the director. Committee is mainly responsible for evaluating cultural items purchased/received by museum.

Apart from this, structure of museums differs: small museums have only positions such as director, chief curator, chief accountant, etc. while there are several departments in big museums (see below the structure of National Art Museum).



### 1.5.2 Legal procedure to work with private sector figures: capacity of receiving donations, undertaking valorization initiatives

Procedure to work with private sector is not directly indicated in the legislation. However, museums can cooperate with private entities and receive grants/donations (as mentioned in the Statute of National Art Museum and organizations financed through state budget can receive grants according to Law on Grants (article 3).

For receiving grant, an agreement must be signed with donor and it must be registered at Ministry of Justice. Donations will be accepted by the museums without notifying any state bodies since special procedure of informing Ministry of Justice and Ministry of Finance is only related to the donations received by NGOs.

Income of the organizations financed through state budget (except the profit gained from entrepreneurial activities) is not subject to tax (Tax Code, article 106.1.4). So, museums will not pay any tax for grants and donations received.

### 1.6 Modernization of libraries and related information supply

According to article 6 of Law on Libraries state and non-state libraries exist in Azerbaijan.

State libraries include: 1) National Library; 2) state libraries of Nakhchivan Autonomous Republic; 3) city, district, town, village libraries (scientific, specialized libraries and libraries for youth, children or blinds etc.), their branches and centralized systems of libraries; 4) libraries with country importance which are specialized in a specific area of science 5) libraries that belong to state bodies and organizations; 6) Main library of National Academy of Science and its branches 7) Libraries of state

universities (schools, colleges etc). The total number of public libraries was 3242 in 2015 (information recorded by State Statistical Committee).

Non-state libraries include: 1) municipal libraries; 2) libraries of public unions; 3) private libraries; 4) libraries established by foreign legal or physical persons in accordance with legislation of Azerbaijan.

#### 1.6.1 Relations with MCT and other bodies and the rights of libraries

Libraries have financial and administrative dependence on MCT. The Ministry allocates financial resources to them and directors are appointed by regional culture and tourism offices with permission of MCT.

Only National Library has a statue which is approved by the Cabin of Ministers on March 6, 2000 and drafts of statues of Library of Youth and Library for Blinds are being prepared to be confirmed by the Minister.

Article 21 of the Law on Libraries indicates rights of libraries:

- Defining means and methods of fulfilling their goals and obligations;
- Finding sources for enriching collection of libraries;
- Removing outdated and useless books form the collection;
- Demanding compensation for the damages to libraries or their collections;
- Participating in library unions;
- Cooperating with international library organizations.

There is not a direct reference to relations between libraries and municipalities or regions in legislation. However, local executive power/municipality may support cultural activities in its territory.

#### 1.6.2 Finance of libraries, capacity of receiving donations, undertaking valorization initiatives

State libraries are financed through state budget and other legal sources (article 27 of the Law). Moreover, libraries can perform economic activities\render paid services as defined in their statutes and for supporting libraries state and non-state funds can be established whose budget is formed by founders' allocations, revenues gained from lotteries and other commercial activities organized with special purposes (articles 28-31 of the Law).

There is not a link in Law to receive donations, however 6.2 of the Statue of National Library defines that library can receive financial aid from physical and legal persons and it can be applied to other libraries.

### 1.6.3 Systems of digitalization

National Library has a website containing a system that makes possible to search for and read books online. Links below:

[Website of National Library](#)

[Digital Catalogue](#)

Moreover, there is a Centralized Library Portal which covers all libraries in the country and it is possible to search for books and to find out in which libraries they are available.

[Centralized Library System](#)

### 1.7 Protection of immaterial cultural heritage, use of the available personnel at city (district) culture clubs

The government of Azerbaijan pays special attention to preserving, restoring and supporting Azerbaijan's intangible cultural heritage, which includes local lore (customs and traditions, ceremonies and festivities, symbols and mysteries), national folklore (music and dances, verbal literature traditions, games and performances), craftsmanship (traditional applied, visual and decorative arts). Indeed, the Republic of Azerbaijan joined UNESCO in 1992 and has been selected as a Member of the UNESCO Intergovernmental Committee for the Safeguarding of Intangible Cultural Heritage. The eighth session of the Intergovernmental Committee was held in Baku, on December 2013.

Still, the following questions remain particularly important:

- inventorying intangible cultural heritage;
- monitoring of Azerbaijan's intangible cultural heritage;
- providing legal, administrative, financial, information, personnel, infrastructure and international mechanisms.

#### 1.7.1 Azerbaijani legal and regulatory framework of immaterial cultural heritage

At the present several instruments regulate the matter in the country:

- 1) [the 2012 Law on Culture of the Republic of Azerbaijan](#)
  - *Article 1. Basic concepts*

**Intangible cultural heritage-** traditions, imaginations and expressions, knowledge and skills accepted as their cultural heritage samples by the persons, groups and societies together with instruments, objects, artefacts and cultural places used in the process of establishment.

- **Article 36. Intangible cultural heritage**

36.1. Intangible cultural heritage patterns in the Republic of Azerbaijan are protected by the state.

36.2. Protection of the intangible cultural heritage patterns is ensured with the activities to implement for restoring diverse aspects of cultural heritage including identification, systematization, conservation, preservation, enhancement, transmission from generation to generation.

36.3. Registration of intangible cultural heritage patterns included in the state register system of the cultural field is carried out by the relevant executive body for the purpose of definition, systematization and promotion of the intangible cultural heritage.

36.4. Intangible cultural heritage includes the followings:

36.4.1. ethnography (traditions and customs, holidays and events, historical symbol samples and myths);

36.4.2. folklore (performance, music and dances, narrative folklore, games and plays);

36.4.3. handicraft (applied art, traditional decorative art, national fine art).

2) the 2003 Law of the Republic of Azerbaijan On Legal Protection of Azerbaijani Folklore Expressions

- **Article 1. Main Definitions**

1.0 Main definitions used in the present Law shall have the following meaning:

1.0.1 Azerbaijan folklore expressions (hereinafter referred to as “folklore expressions”) – shall mean word art works, folk music, games and dances, works of folk handicraft and applied arts (existing and not existing in a material form) created in a verbal form as well as other products of folk creative work created and protected by Azerbaijani people, its individuals and reflecting traditional artistic values, world view, hopes and wishes, characteristic features of artistic heritage of Azerbaijani people;

- **Article 2. Protected folklore expressions**

2.1.1 Folklore expressions protected by this Law are the following works consisting of products of folk creative work, artistic folk handicraft and applied arts:

2.1.2 Labor, ceremony and children’s folklore works, myths, fables, stories, tales, legends, anecdotes, folk-dramas, proverbs, sayings, riddles, works of folk and ashug poetry, bayati and other verbal arts works related to the artistic verbal creative work;

*2.1.3 Folk songs and dance melodies, ashug melodies, mugam-dastgahs, zarbi- mugams, tasnif, rangs related to folk-professional music and other works of folk music;*

*2.1.4 folk dances, yalli, games, ceremony and holidays and other active works;*

*2.1.5 works of tangible applied arts and folk handicraft, including graphic art-pictures, drawings, succession of images, shade drawings, smithery and engraving works, sculpture, ceramics, earthenware, mosaic, metal wares, copper and bronze articles, works of silkworm breeding, carpet-weaving, copper-smithery, jeweler's art, leather, embroidery, basketry, folklore expressions such as carpets, decorative patterns, clothes and ornaments, tracery, musical instruments, wood-turning, architecture works and other works of this kind.*

*2.1.6 Creation of protected folklore expressions set forth in Article 2.1 of this Law shall not be limited by time and place, newly created folklore expressions shall be added to the range of protected and their legal protection shall be term less.*

## 1.7.2 Status of protection of the intangible cultural heritage

In 2003, even before ratification of the Convention, a law on ‘Legal Protection of Folklore Examples of Azerbaijan’ was adopted with the aim of regulating legal protection, use and safeguarding of folklore expressions as an inseparable part of intellectual property protection.

The Intangible Cultural Heritage Division of the Cultural Policy Department, within the Ministry of Culture and Tourism of the Republic of Azerbaijan, is responsible for documentation and inventorying activities in Azerbaijan. The Division has elaborated a database. The Division also organizes the work of the Board of Identification and Inventory of Intangible Cultural Heritage (established in 2009), which is managing the State Register of Intangible Cultural Heritage Elements of Azerbaijan. The Register currently contains 73 elements. The ‘Guidelines on the legal protection of intangible cultural heritage, registration and maintenance of the State Register’ were adopted in 2012.

A ‘State Programme on Safeguarding of Intangible Heritage (2011–2020)’ has been approved and is currently being implemented.

Research on intangible cultural heritage is undertaken by the Archaeology, Ethnography and Folklore Institutes of the National Academy of Sciences through field expeditions in various regions of the country.

Azerbaijan has six elements inscribed on the Representative List, namely: the Azerbaijani Mugham (2008); the Art of Azerbaijani Ashiq (2009); Novruz, Nowrouz, Nooruz, Navruz, Nauroz, Nevruz (multinational with India, the Islamic Republic of Iran, Kyrgyzstan, Pakistan, Turkey and Uzbekistan, 2009); the Traditional art of Azerbaijani carpet weaving in the Republic of Azerbaijan (2010); and Craftsmanship and performance art of the Tar, a long necked string musical instrument (2012). The last element inscribed in 2014 is the Traditional art and symbolism of Kelaghayi. An element has also

been inscribed in 2013 on the Urgent Safeguarding List, namely the Chovqan – a traditional Karabakh horse-riding game in the Republic of Azerbaijan

## 2 EU framework

EU rules, guidelines and policy recommendations

The present chapter deals with the analysis of relevant experiences in the EU, applicable within the framework of reform of the Azerbaijani culture sector.

This section presents the framework of EU rules, guidelines and policy recommendation for the identified priority areas. The EU has a residual power in the sector of culture and cultural heritage. That mean that within the treaties, the competence on cultural heritage is attributed to Member states and organs of the EU are limited to the development of supportive measures:

Nonetheless, some EU legislation has been developed in the field. In regard to primary sources (Treaties), the following articles are relevant:

- Article 167 (ex 151 and 128) - **Treaty on the Functioning of the European Union**. "...the European Parliament and the Council acting in accordance with the ordinary legislative procedure and after consulting the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States..."
- Article 36 (ex 95) - **Treaty on the European Union** - This articles opens for Member States to have other rules than those that follow from a directive, where this is necessary to preserve for example national treasures of (amongst others) historic values.

On the other hand, the following are the most relevant EU legislative instruments with a direct or indirect impact on cultural heritage:

- 2013/743/EU - Council Decision of 3 December 2013 establishing the specific programme implementing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)
- 1295/2013/EU - Regulation of the European Parliament and of the Council of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020)
- 1352/2008/EC - Decision of the European Parliament and of the Council of 16 December 2008 amending Decision No 1855/2006/EC establishing the Culture Programme (2007 to 2013)
- 1855/2006/EC - Decision of the European Parliament and of the Council of 27 December 2006 establishing the Culture Programme (2007 to 2013)
- 2011/711/EU - Commission Recommendation of 27 October 2011 on the digitisation and online accessibility of cultural material and digital preservation
- 2011/831/EU - Council Decision of 1 December 2011 on the practical and procedural arrangements for the appointment by the Council of four members of the European panel for the European Union action for the European Heritage Label
- 1194/2011/EU - Decision of the European Parliament and of the Council of 16 November 2011 establishing a European Union action for the European Heritage Label

- 2010/238/EU - Commission Recommendation of 26 April 2010 on the research joint programming initiative Cultural Heritage and Global Change: a new challenge for Europe
- 2001/C73/04 - Council resolution of 12 February 2001 on architectural quality in urban and rural environments
- 94/C235/01 - Council conclusions of 17 June 1994 on drawing up a Community action plan in the field of cultural heritage
- 86/C320/01 - Resolution of the Ministers with responsibility for Cultural Affairs, meeting within the Council of 13 November 1986 on the protection of Europe's architectural heritage
- 75/65/EEC - Commission Recommendation of 20 December 1974 to Member States concerning the protection of the architectural and natural heritage

Still, within the EU, each Member State is responsible for its own culture sector policies. Therefore, the EU's role is to provide a strategic framework for the development of national cultural policies, promoting the exchange of experiences and skills among countries in order to enable them to better address common challenges. The main instruments of the EU in this field are:

- **Creative Europe:** the EU framework programme for support to the culture and audio-visual sectors. with a budget of €1.46 billion for supporting Europe's cultural and creative sectors,
- The **Open Method of Coordination (OMC)**, a light but structured way EU Member States use to cooperate at European level in the field of culture. Under the OMC, experts from ministries of culture and national cultural institutions meet 5 to 6 times over 18 months to exchange good practice and produce policy manuals or toolkits which are widely shared throughout Europe. Every four years, EU Member States agree the themes on which the OMC should focus in the Council Work Plan for Culture. The OMC creates a common understanding of problems and helps to build consensus on solutions and their practical implementation. Through an exchange of good practice between EU countries, it contributes to improving the design and implementation of policies, without regulatory instruments.
- The EU also has other instruments in the field such as ad-hoc expert groups, thematic seminars convened by the Commission, studies, informal meetings of officials from Ministries of Culture and Ministries of Foreign Affairs, and conferences such as the biennial European Culture Forum

Currently, the EU policy framework in the field of cultural policies is mainly defined by the following documents:

- The European **Agenda for Culture**, set by the Council in 2007 with the aim of promoting cultural diversity, protecting cultural heritage, easing obstacles to the mobility of cultural professionals, and supporting the contribution of cultural and creative industries to boosting growth and jobs across the EU, in line with the principles of the
- The European parliament resolution “**towards an integrated approach to cultural heritage for Europe**” of 2015
- The current **2015-18 Work Plan for Culture**, adopted by EU Culture Ministers in December 2014, sets out four main priorities for European cooperation in cultural policy-making:
  - Accessible and inclusive culture
  - Cultural heritage

- Cultural and creative sectors: creative economy and innovation
- Promotion of cultural diversity, culture in EU external relations, and mobility

These policy documents and the knowledge developed through the instruments mentioned above have set a number of issues to be tackled in the future development of cultural sector policies in Europe.

#### Heritage self-sustainability, economic and social development in EU policy

EU policies in the culture sector mainly aims at empowering Member states in tackling two crucial issue for today's cultural heritage, recognized by the European parliament with its resolution "towards an integrated approach to cultural heritage for Europe"

The first issue is that cultural policies should strive to make heritage **self-sustainable** from a financial point of view and enable it to act as a **driver of economic and social development**. Most countries in the EU and its neighborhood are currently experiencing a period of rising budget constraints, either because of the ongoing debt crisis or because of the current fall in price of petroleum products which represent a crucial source of revenues for many EU neighbors.

Accordingly, the public financial resources available for the cultural sector are going to get tighter and tighter. At the same time, cultural sector can easily achieve financial sustainability and even become a crucial driver of growth. The value of culture is hard to calculate, being a function of different dimensions (cultural, physical, digital, environmental, human and social) and of the flow of associated services, so that only partial estimates of its importance are available.

However, the fact that culture can be a driver of economic growth, as stressed by the Hangzhou Declaration of 2013 recognizing the value of cultural heritage as a driver for sustainable development. is well understood and underlined by the EU.

The European Commission has estimated that "The Heritage has spill-over effects in other economic sectors. [...]. In 2013, 52% of EU citizens visited at least one historical monument or site and 37% a museum or gallery in their respective countries, while 19% visited a historical monument or site in another EU country. Heritage can therefore help brand cities and regions, attracting talent and tourism".

Everything considered is therefore crucial to implement policies aimed at unleashing the economic potential of the cultural sector both to ensure sustainability of cultural heritage and to ensure its meaningful contribution to the economy in the current period of slow growth.

The **second issue** is that cultural policies should aim at increasing access to culture by the population. Available data on cultural participation shows that in the EU, a significant part of the population still does not participate in mainstream cultural activities such as going to the cinema or reading books. Percentages of participation tend to be much lower for activities such as visiting a museum, with people in more deprived circumstances (in terms of income and education level) participating much

less than people with higher education profiles and higher incomes. This situation is not optimal, for a variety of reasons.

First of all, an immediate concern relates to ensuring that public funding may reach as wide a segment of the population as possible. Culture is supported as a public service and ensuring access and participation means ensuring the effectiveness of the service

Second, culture is a positive element that can facilitate social inclusion by breaking isolation, allowing for self-expression, supporting the sharing of emotions, and bringing a 'soul' to measures tackling material deprivation. As evidence shows, cultural participation may have a major impact on psychological wellbeing

Also, perhaps the most important 'Cultural awareness and expression', i.e. the appreciation of cultural heritage, but also the creative (self-)expression of ideas, experiences and emotions in a range of media, is recognized as necessary to be a competent actor in today's society – just as important as literacy, numeracy or digital skills, and closely interrelated to all these other competences. Supporting their acquisition by all is essential to ensure that education achieves its aim to equip everybody with the necessary resources for personal fulfilment and development, social inclusion, active citizenship and employment.

In this perspective, access to culture is crucial to ensure that skills and competences necessary to economic growth are adequately disseminated among all members of society.

#### Integrated approach to cultural policies

The EU has identified the way to tackle the challenge above in the adoption of an integrated approach in supporting, enhancing and promoting cultural heritage. Integrated approach consists in the establishment of a framework for Cultural heritage legislation that do not limits itself to conservation and preservation but, rather, defines an approach to work across sectors and in a flexible manner, improving cooperation between the different policy areas dealing with cultural heritage.

The EU Commission stresses that the heritage sector must also adapt management and business models and develop new professional skills, working with authorities not through one-off, isolated interventions, but by making the valorization and preservation of heritage part of broader long-term development plans. Indeed, conservation is increasingly geared towards preserving and enhancing a whole cultural landscape rather than an isolated site, and also becoming more people-centered. Old approaches sought to protect heritage by isolating it from daily life. New approaches focus on making it fully part of the local community. Sites are given a second life and meaning that speak to contemporary needs and concerns the involvement of private stakeholders through public-private partnerships should also be further explored.

In general, the EU, in order to foster economic and financial sustainability and promote a wide access to cultural heritage, supports an integrated approach to cultural heritage based on the in-depth involvement of private stakeholders in heritage management and the integration of IT technologies.

In particular, the involvement of private and local stakeholders, especially from the non-profit sector, in the management of cultural heritage, is considered crucial for both the improvement of access to cultural heritage and its financial sustainability.

The following guiding principles are identified for the objectives set by the Twinning Project.

## 2.1 Application of modern methods in culture management - cooperation with the local self-government bodies

The following challenge is identified for Azerbaijan

Azerbaijan needs to develop its legal basis and capacities in the fields of management of cultural heritage, development in the regions and creating dynamic synergies between the state, regional, local, civil, volunteer, independent, entrepreneurial, private and commercial components of the wider cultural sector.

In the EU, management models based on an integrated and inclusive approach are being currently implemented. The recent European parliament resolution “**towards an integrated approach to cultural heritage for Europe**” called for governance models based on a “new participatory governance models for the field of cultural heritage, by promoting the ‘shared resource’ aspect and strengthening links between local, regional, national and European plans”, asking Member States to proceed to the development of legal instruments allowing alternative funding and administration models, such as community involvement, the participation of community based organizations, non-profit organizations and public-private partnerships, with a view to implementing actions related to cultural heritage (conservation, restoration, preservation, development and promotion)”.

This call echoes the “Madrid Declaration” by Europa Nostra, which stressed that “convergence between public authorities and civil society that has proved particularly beneficial for European culture and its components, civil society being represented both by associations and by individuals. [...] Thus, it is necessary to recognize that social participation in the management and dissemination of the Cultural Heritage is beneficial to improve both, while also leading to a positive spiral of ever more numerous actions in this field ».

The underlying rationale of calling for a participatory approach in management of cultural heritage is to tackle the challenges illustrated above: the need to improve financial sustainability of cultural heritage on one hand and the need for improving citizens’ access to culture.

The concept of “participatory governance” entails the maximum participation of citizens both as:

- members of local communities. In this sense, decision making in the field of heritage should be enlarged to local authorities, which represent the public institutions closest to citizens
- members of organizations. In this sense, the participation of citizens to non-profit sector, the involvement of non-profit organizations and other private sector actors, notably firms, should be incentivized.

In regard to local authorities, their involvement in cultural heritage policies has been significant and positive in the EU. They are, generally, the level of government with the most direct responsibility for protecting of tangible heritage. Given their connection to local environments, they usually have the most complete understanding of dynamics of cultural protection and promotion in a certain area.

At the same time, their involvement in other policies directly impacting citizens, such as social welfare, service provision, education etc. allow them to develop a sophisticated understanding of both tangible and intangible cultural heritage and makes them invaluable actors in managing and protecting heritage through an integrated approach.

For this reason, local authorities should be considered as both actors and policy-makers in regard to cultural heritage in order to maximize their comparative advantage in defining flexible and appropriate policies for protection and, most of all, valorization of cultural heritage, which is strongly connected to the economic local framework.

In regard to the involvement of the private sectors, a vast scientific literature, summarized by Sigrid Van der Auwera and Annick Schramme, supports the hypothesis that a diffused participatory governance approach can contribute to improve performances in these two sectors.

From an economic perspective, participation of private actors is needed in the field of culture in general, as both market and state are unable to efficiently provide public goods like cultural services (Ilczuk, 2001). Public goods are consumed by a collective consumer, and consumption by more than one consumer has no effect on the cost of the product causing their production cost to remain the same independently from the actual consumption. Cultural goods (and thus cultural heritage) have the same cost, independently from the number of actual consumers, making the market ill-suited to provide them. At the same time, governmental regulation or direct intervention often prove ineffective and or inflexible, and involve many different types of restrictions. The simultaneous action of government and private actors, especially non-profit organizations can fill this gap. Non-profit actors cannot, on their own, replace the government. However, they can provide an invaluable support to its activities

Furthermore, cultural heritage organizations support community-building by creating a figurative meeting place (Rosenstein, 2006) by their activities of promoting and safeguarding identities, traditions, and values.

Also, UNESCO stressed the importance of involving community actor in cultural heritage management with the report “Our Creative Diversity,” stressing the importance of involving non-governmental actors in the field of cultural heritage management.

### 2.1.1 Participatory governance of cultural heritage

Following this rationale, the European Council of Ministers have issued, in 2014, **Council conclusions on participatory governance of cultural heritage**. These conclusions include a general definition of the concept of participatory governance in cultural heritage and defines the steps to be taken to implement such a policy. According to the council, the participatory approach:

- actively involves all relevant stakeholders in the framework of public action such as public authorities and bodies, private actors, NGOs etc. in decision-making, planning, implementation, monitoring and evaluation of cultural heritage policies and programmes to increase accountability and transparency of public resource investments as well as to build public trust in policy decisions
- is a multilevel and multi-stakeholder governance framework which recognize cultural heritage as a shared resource by strengthening the links between the local, regional, national and European levels of governance of cultural heritage, with due respect to the principle of subsidiarity, so that benefits for people are envisaged at all levels;
- involves relevant stakeholders by ensuring that their participation is possible at all stages of the decision-making process;
- values interaction between tangible, intangible and digital cultural heritage and address, respect and enhance its social, cultural, symbolic, economic and environmental values;
- facilitate the implementation of cross-cutting policies, enabling cultural heritage to contribute to objectives in different policy areas, including the smart, sustainable and inclusive growth;
- allows the development of synergies between sustainable tourism strategies and the local cultural and creative sectors, actively involving citizens to foster sustainable quality cultural tourism offer and contribute to the revitalization of urban and rural areas, whilst safeguarding the integrity and maintaining the cultural value of heritage and balancing economic opportunities and the well-being of citizens

The council expects that the adoption of such a governance model will:

- contribute to increase awareness about the values of cultural heritage as a shared resource, thus reducing the risk of misuse and increasing social and economic benefits;
- support contemporary cultural, artistic and creative works which are tightly related to identity and values and often based on traditional know-how and intangible heritage of people, and may therefore represent the cultural heritage of generations to come;
- help triggering new opportunities brought by globalization, digitization and new technologies which are changing the way cultural heritage is created, accessed and used;

Following the adoption by the council of this policy, the European Commission has launched a Structured Dialogue with the cultural sector, a process that provides a framework for discussions between EU stakeholders and the European Commission with regard to culture, with the aim of identifying concrete steps to be taken to foster the participatory approach.

### 2.1.2 Pre-conditions for a participatory governance

The dialogue with European Stakeholders has led to the identification of the following pre-conditions for a participatory governance:

- organized private actors

- legal framework and long-term policy mechanisms which allow and encourage participatory governance in cultural heritage
- transparency and information - more available information ex post and ex ante
- structures and formats that support participation
- education and training for politicians, managers, and communities
- building capacity for advocacy work on these issues
- common understanding of the participatory process
- common understanding of participatory governance
- build and re-build (where broken) engagement leading to active participation

The actual implementation of a participatory governance of the culture sector can be based on a wide range of models

A particularly significant method for involving private actors in cultural heritage governance is the setting of Public-Private partnerships (PPPs). PPPs were generally used as investment vehicles for large infrastructures. However, it has been recently remarked that this structures may play a significant role also in the non-profit sector, especially in connection to cultural heritage.

Cultural assets are, generally, owned by the state or a public institution (such as municipalities). The easiest way to involve other levels of governance and, most of all, private actors, in the management of said assets, is the institution of ad-hoc administrative structures allowing coordination of different competencies and contributions to and the planning and implementation of the operation of sites/programmes.

In general, the state is called to act in its capacity of regulatory authority and provider of administrative support while privates may be charged with project management, coordination and, most notably, funding (this point will be analyzed more in depth in the following paragraph).

In order to successfully implement such an endeavor, the experience of many EU countries show that , the following might be required:

- a specific legislation for joint actions of public sector and private stakeholders is required, possibly setting up specific juridical persons
- the legislation should be adapted to the non-profit and cultural sector. Already existing PPP instruments are usually tailored toward large infrastructures (such as transport networks, energy market infrastructures etc.)
- Incentives to privates for intervention in the provision of the public good “culture” and allowance to perform activities (even commercial ones) allowing long-term financial sustainability of the action.
- Appropriate technical competences and managerial culture in the public and private actors
- Willingness and appropriate procedures and safeguard for ministries and other actors to forgo direct management of assets.

In the following paragraph, the financial implications of such structures are further analyzed.

## 2.2 Diversification of funding sources and improvement and expansion of culture services

The following challenge is identified for Azerbaijan

Azerbaijan needs to develop legal tools that allow alternative funding and administration models, such as community involvement, the participation of civil society and public-private partnerships, with a view to implementing actions related to cultural heritage (conservation, restoration, preservation, development and promotion).

The need to preserve cultural heritage is recognized in Azerbaijan but financial resources may be deficient. This is particularly the case, with the current drop in oil revenues for the public budget has reduced the budgetary allocations for culture in general and heritage conservation in particular.

The issue is even more pressing if we go beyond the case of well-established cultural monuments and turn instead to sites which have so far been rather neglected and risk to become irremediably lost unless action is taken soon – and funded – to preserve and restore them. At the same time, a successful restoration and valorization of cultural heritage can have both significant cultural and economic benefits at the local, regional and even national levels, in terms of improving a region's standing for investments, increasing or redirecting tourism flows and spending, creating and upgrading local employment, et

This issue is better tackled through the integrated approach mentioned above. Indeed, the issue encompasses several policy areas, including regulations of non-profit sector, taxation, establishment of public-private partnerships, public procurement rules etc.

The European parliament has expressly called the Commission, in its resolution “towards an integrated approach to cultural heritage for Europe” to strengthen the newly established principle of multi-funding and encourage public-private partnerships

Indeed, the general orientation of EU institutions is that funding of cultural heritage should be flexible and adaptable. Even though the complete privatization of the sector is definitely undesirable, financing of Cultural Heritage exclusively through public funding risks to jeopardize sustainability and to reduce accessibility of heritage. Today, the intervention of Public-private ventures; Philanthropy and Social and environmental corporate responsibility actions are increasingly important for cultural heritage and should be Incentivized.

European financial institutions, notably the European Investment Bank (EIB), have defined some broad guidelines for setting up an appropriate and sustainable mix of public and private funding. A combination with grants, donations, revenues and other non-repayable funding streams is recommended. The “optimal” funding mix naturally varies for each project, but it will generally consist of a combination of Public and Private funding, as the 2013 paper (Clause, 2013) quoted below illustrated

Most funding for heritage preservation stems from the Public Sector at a national or regional/local level. The break down between these levels will vary according to the national organization of a country: in centralist countries, the national budget will be the most important source, whereas federal states are more likely to attribute such funding responsibilities and decision power to the regional or local level. At the same time, the more local the funding source, the better it may cater to specific local needs and preferences; however, this can also work at the expense of the overall rationality and cross-regional comparability of the funding decisions. Moreover, the national or regional funding capabilities will often be correlated with the economic conditions and wellbeing; accordingly, the poorer a given nation, region or commune is, the less funding resources it will generally be able to allocate to heritage preservation – as indeed also to other types of expenditure. Given the multiplicity of possible systems, there is no clear-cut optimal solution in regard to distribution of funding at local and central level. It is however important to underline the importance of public funding sources within each individual country, and to stress the need for their systematic exploration; this should be the first “port of call” for any initiative aiming at heritage preservation. Moreover, it is important again to underline that in particular Operational costs of any cultural heritage project costs will frequently need to be supported by national/regional/local sources, in addition to any own revenues generated on the sites. Thus, while investment support may move “upwards” to national or even international sources, the coverage of operational costs will most frequently move “downwards” to regional or local sources. This also means that in periods of economic instability, the operational costs costs may well become the first ones not be covered anymore; hence the need to dimension heritage investment in a way to ensure a sufficient coverage thereafter.

### 2.2.1 Private Funding

However, even if heritage preservation is seen as primarily or exclusively a public task, this attitude may conceal the possibility for wider **Private Funding** which could complement and in some cases replace public funding. In principle, five types of mainly private funding sources can be distinguished (though they will in practice overlap to some degree). Defining what could be the “optimal mix” between them and with public sources will depend a lot on the specificities of the site or monument.

- **Funding by private owner’s resources:** If the site or monument is owned privately then its preservation costs should also be (largely) borne by the owner. This is in particular the case if the monument is to be used privately, as is the case e.g. for certain historic town or farm houses, castles, etc. However, it may well be that the owners cannot support all the cost for a monument whose preservation is also considered in the public cultural interest. Such may in particular be the case for the exterior of historic buildings (e.g. facades), or for the corresponding gardens and parks, but it can also apply to interiors. In such case the complementary support by public or third-party private funding sources can be justified; however, it should be accompanied and normally indeed conditional upon making the supported site or monument accessible to the public, at least to a degree which reasonably balances the private owners’ privacy with the public interest in acceding to subsidized heritage. For instance, parts of castles or palaces may be opened to the public, and so can be parks at certain times, etc. A similar approach should be used e.g. for churches/worship places of heritage value, monasteries, etc.
- **Funding by third-party private sources:** In a number of countries private or semi-private institutions or foundations exist which support heritage-related expenditure. Such is the case e.g.

for the UK or the Irish National Trusts, as well as for their continental equivalents or for cultural foundations, such as the well-known Calouste Gulbenkian Foundation in Portugal, or the Fondazione Cariplo in Italy. Some major private companies also have their own foundation or support programme, which often includes heritage/cultural or artistic activities, notably if there is some geographical or thematic link to the company's activities; admittedly, the current economic and financial situation may weigh on the generosity of some of these schemes. Other support can be mobilized at the specific local level, e.g. through donations by local business or through a call for donations or sponsorships to the local population or to local charities. The new technique of "cloud financing" may further open new perspectives, on the condition that the promoters are technically sophisticated and transparent to make their case well known. In some countries, the emigrant population living in diaspora and possibly with higher incomes than in their country of origin can be mobilized to support heritage related investment; this could also be tried with (repeat) tourist visitors or with cities maintaining twinning arrangement ties. Some destinations also levy specific tourism taxes which may support heritage activities.

- **In-kind contributions from third-party sources:** It can be easier for some companies to support a project not by a financial grant, but instead by directly providing relevant goods or services needed in the preservation effort. For instance, a local architect office may help in planning the restoration, a local building company may provide for part of the works, or a printing company may contribute to the catalogues for an exhibition. While the potential of such in-kind support should not be underestimated, it needs to be accompanied by a good quality control of the works and by keeping product placement within reasonable limits.
- **Private funding sources for operational costs:** Ideally, all operational costs should be paid by the users of the sites or monuments, like the owners and visitors of museums, castles etc. However, this is not always feasible if the number of visitors is insufficient over the year, or if cost-covering entrance fees would become prohibitive for less well-to-do visitors. Accordingly, an approach similar to the one used for most public transport schemes needs to be undertaken, i.e. that a sizeable part of the operational costs is provided from sources other than conventional user fees. In particular, for heritage-related monuments, this may first of all consist in finding new uses for the heritage sites, which permit to levy non-conventional user fees from new customer groups. Museums e.g. can develop their book/souvenir shops or catering facilities (including through outsourcing them via rental contracts), historic buildings can rent out part of the facilities for parties, marriage ceremonies or other appropriate social events. Various concepts mentioned in b) and c) above (sponsorships, in-kind contributions) can also be used in this context. While there may exist an inherent danger of "over commercialisation" of heritage sites, it is probably also fair to say that the potential for developing a reasonable degree of revenue-generating activities remains more often underexploited.
- **Use of heritage sites and monuments for new private use:** In appropriate cases the investment and/or the operational costs of a heritage site can be largely or fully covered by new owners or users of the site, if it can be dedicated to a new use. Indeed, not all heritage buildings need to serve as museums or quasi-museums. In appropriate cases they can be transformed e.g. into hotels, office buildings or apartments.

### 2.2.2. Public-private partnerships

These three financing systems may be appropriately stimulated by the government by setting up schemes that incentivize such endeavor. For example, Romana, Caschili and Modelewska (2011) proposes the following framework for brown field heritage regeneration project, that could be easily replicable for other kinds of cultural heritage actions :

<b>Tax Increment Financing (TIF)</b>	TIF is the most common form of local support and a key part of a strategy to address financing gaps. The TIF mechanism uses anticipated growth in property taxes from a development project to finance public sector investments therein. It is usually used in economically distressed or abandoned areas. TIF bonds are issued for the specific purposes of the redevelopment, such as acquiring and preparing the site, cleanup, upgrading utilities, streets or parking facilities, as well as carrying out other necessary site preparations and improvements.
<b>Special Areas or Taxing Districts</b>	Cities can delineate a “special service area” and use it as a way to raise cash to finance extra services, improvements, or facilities to benefit the targeted area. The property owners in a special service area agree that a special property levy or special fee will be imposed, with the proceeds used to pay for the defined services or activities. The jurisdiction uses this additional revenue to finance the improvements, by either earmarking it directly for the area, or using it to issue bonds to fund the projects.
<b>Tax Abatements</b>	These are reductions of, or forgiveness for tax liabilities. There are usually two forms of tax abatement: - a reduction in rates for a specified period (5-10 years); - a freeze on property values, usually at a pre-improvement stage. It is a workable, flexible incentive which helps influence private investment decisions, but it has to be carefully designed to target intended beneficiaries without offering unnecessary subsidies, a feat that can be difficult to accomplish.
<b>Revolving Funds</b>	Revolving funds are usually established to meet specific objectives within projects, with the repaid at the end of the project
<b>General Obligation Bonds</b>	General Obligation Bonds can be issued for any proper public purpose.
<b>DebtLeveraging</b>	Debt leveraging is a strategy that increases the return on equity when the investment is financed partially with borrowed money. A public entity can serve that purpose by fronting the capital to make private investment less risky.

Source : (Romana, Caschili and Modelewska, 2011)

In appropriate cases the solutions above can be implemented through PPP-type structures (**public-private partnerships**) which are partnerships between a private-sector corporation and a public-sector body, through which the parties contribute different assets to a project and achieve complementary objectives.

PPPs normally takes the form of contracts between public sector and a private actor (concessions)

The EU project RICHES has studied this last issue and underlined that PPPs can drive both sustainability of heritage and citizens’ participation and access to culture, highlighting the need to set up the following for a successful PPP implementation in cultural heritage:

- **Trust Building.** This could take place via public encounters, online communication and social networks. Representatives of the public administrations need to explain the benefit of the PPP

to the community along with the representatives of the private sector. The communication should be bi-directional, allowing citizens to converse with both the public and the private parties, and to express their opinions.

- **Participation.** Citizens' participation and engagement should be encouraged alongside the implementation of the PPP. The overarching principle is that the public sector is comprised of two parts: the public administration and the citizens, who are the ultimate stakeholders in the public goods. Looked at this way, the private sector should feel responsible towards both the public administration that signed the PPP agreement and the local community that is affected by the results of the PPP project.
- **Training.** The pace of work in a public administration is often less dynamic than in private companies. It is therefore helpful to support and motivate civil servants regarding the need for defining objectives, achieving targets, monitoring outcomes and using problem-solving approaches. Also, moving from being a guardian of tangible cultural heritage to becoming a promoter of digital cultural heritage is a key factor
- **Simplification.** Simplifying administrative procedures is a constant challenge when dealing with the public sector, which becomes more of a priority when planning the implementation of a PPP. A balance is needed between serious monitoring and seamless implementation of procedures. Offering tutorials and helpdesk services can help the participants to orientate through regulations.

There is thus a wide array of private funding possibilities and their concrete use will depend on the specific monument, its heritage value, national legislation – but also on the imagination and innovation of the respective owners and interested associations. There is an increasing body of case-studies on when the use made of private funding sources in heritage monuments and sites has been successfully implemented – but also in some cases failed. The diversity of outcomes provides good rationale to further analyze and document such case studies, to distill the “dos and don'ts” and thus to provide a targeted body of evidence to the owners and managers of other heritage sites, and in particular to those of sites so far under neglect.

It is worth noting that funding from private partners can provide benefits going beyond mere financial contribution. It has been recognized that the interventions of private actors may foster the implementation of innovative management methods, allowing to speed up, optimize and modernize cultural heritage, as well as promoting access to it. In general, simultaneous action of private and public actors are desirable since it tends to optimize the comparative advantage of each partner and pool resources, Keeping a balance between public and private interests.

### 2.3 Improvement of the educational and re-training systems in the field of culture

The following challenge is identified for Azerbaijan

Cultural heritage conservation and valorization require high levels of knowledge and skills. In particular, architects, restorers/conservators and archaeologists need specific competences and proficiencies to effectively and safely work on cultural heritage.

In order to ensure that cultural heritage is handled only by well-prepared personnel, most EU states envisage accreditation and/or certification for professionals, i.e. cultural heritage related activities are regulated professions, for which the EU has set a specific system of recognition

### 2.3.1 EU circulation of professionals

Treaty on European Union (Article 2 TEU) foresees the free movement of persons and services and abolition of respective obstacles between the member states. This means that the nationals of the Member States have the right to pursue a profession in a Member State other than the one in which they have obtained their professional qualifications.

However, within the limits of the Internal Market rules, each Member State is free to make particular profession legally conditional, requiring the possession of a specific professional qualification which is traditionally the professional qualification issued on its national territory. In order to overcome this possible obstacle, the European institutions have established rules to facilitate the mutual recognition of professional qualifications between the Member States, by introducing Directive 2005/36/EC of 7 September 2005 on the recognition of professional qualifications.<sup>2</sup>

Directive 2005/36/EC applies only to regulated professions in the host Member State, that is, professions to which access or practice in the host Member State is conditional upon the possession of certain fixed professional qualifications. There are about 740 categories of regulated professions across the 28 Member States. The Directive establishes rules according to which a host member state should recognize professional qualifications obtained in one or more other Member States (the home Member State) and which allow the holder of the said qualifications to pursue the same profession in the host member state. It is important to note that the rules of the Directive differ depending on the profession in question. Professions are divided into three main categories:

- Sectoral Professions- professions for which the minimum training conditions were harmonized at European level: doctor, nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, pharmacist and architect.
- professions in the fields of trade, industry or business referred to in Annex IV to Directive 2005/36/EC;
- all the other professions, which are referred to in this guide as the 'general system professions'

Accordingly, different routes for mutual recognition exist. The directive sets out three systems for the recognition of qualifications:

- automatic recognition for professions for which the minimum training conditions have been harmonized (health professionals, architects, veterinary surgeons)
- the general system for other regulated professions
- recognition on the basis of professional experience for certain professional activities.

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<sup>2</sup> Please see: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02005L0036-20140117&from=EN>, Directive 2005/36/EC amended by [Directive 2013/55/EU](#)

The directive also includes provisions on knowledge of languages and professional and academic titles<sup>3</sup>.

Professionals who hold the qualification named by the Member State concerned in Annex V to Directive 2005/36/CE (i.e. the formal qualification and any accompanying certificate thereof) can benefit from automatic recognition of diplomas. Annex V of the directive refers to the recognition on the basis of coordination of the minimum training conditions. Annex V provides tables for all the sectorial professions. The tables provide the list of the member states with evidence of formal qualifications (diplomas, certificates and other evidence issued by an authority in a Member State), bodies awarding the qualification (Universities, educational institutions, other relevant structures), certificate accompanying the qualifications (if any) and the reference date given per each member state.

The same applies to professionals in the craft, commerce and industry sectors who can demonstrate relevant work experience either as a self-employed professional or as the manager of a company. For lawyers, separate legal instruments exist allowing for mutual recognition of the home country registration and title of a lawyer.

Majority of professions fall under the so-called 'general system'. In principle, access to regulated professions is granted to any individual who can demonstrate that he is fully qualified in his home country. In order to define the mechanism of recognition under the general system, various national education and training schemes are grouped into five levels, ranging from a training course not forming part of a certificate or diploma to a diploma certifying that the holder has successfully completed a post-secondary course of at least four years' duration.

Only in cases where an individual's qualifications differ substantially from those of the host country or in cases where the length of time spent in the profession falls short of the host country's requirements compensatory measures may be imposed. In such a case the Directive allows citizens to choose between a period of supervised practice ("adaptation period") and an aptitude test (a test limited to the professional knowledge of the applicant, made by the competent authorities of the host Member State with the aim of assessing the ability of the applicant to pursue a regulated profession in that Member State).

For overcoming substantial differences among countries on training requirements various professional associations and organizations or Member States are able to propose common platforms at European level. Which must be designed in such a way to allow migrants meeting the criteria to have their qualifications recognized without compensation measures.

The general system for recognition does not prevent a Member State from making any person pursuing a profession on its territory subject to specific requirements due to the application of professional rules justified by the general public interest. Rules of this kind relate, for example, to organization of the profession, professional standards, including those concerning ethics, and supervision and liability.

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<sup>3</sup>[http://ec.europa.eu/growth/single-market/services/qualifications/directive-in-practice/index\\_en.htm](http://ec.europa.eu/growth/single-market/services/qualifications/directive-in-practice/index_en.htm)

Directive also allows the free provision of services in case the service provider moves to the territory of the host Member State to pursue, on a temporary and occasional basis, the regulated profession. In this case, the host Member State should exempt service providers established in another Member State from the requirements which it places on professionals established in its territory relating to authorization by, registration with or membership of a professional organization or body. However, the exercise of a regulated profession is subject to the professional and disciplinary rules of the host Member State relating to professional qualifications.

Referring to the issue of academic recognition for education and training purposes, there are no binding rules on the community level, as there are for mutual recognition of qualification. Accent is made on supportive measures and cooperation and coherence are facilitated through different platforms like Council of Europe, UNESCO, Bologna Process / European Higher education Area.

Council of Europe and UNESCO have adopted number of conventions and recommendations on mutual recognition. The most important convention is the "Convention on the Recognition of Qualifications concerning Higher Education in the European Region", i.e. the Lisbon Recognition Convention, which has been ratified by Azerbaijan in 1999

Azerbaijan is also full member of Bologna process since 2005. Bologna process does not harmonize educational systems of members; it rather represents a mechanism to connect them. Member states remain fully in charge of the educational system and content of teaching in the nation states, and the Bologna Declaration is a voluntary undertaking by each signatory country to reform its own education system; this reform is not imposed on the national governments or universities.

Nevertheless, Bologna process introduces a system of academic degrees that are easily recognizable and comparable (three cycle degree system for undergraduates (Bachelor degrees) and graduates (Master and PhD degrees)), promotes the mobility of students, teachers and researchers, ensure high quality teaching and incorporate the European dimension into higher education.

The Article 165 of the European Union Treaty states that the Union "shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action ". Accordingly respective actions on Community level are aimed at:

- developing the European dimension in education, particularly through the teaching and dissemination of the languages of Member States;
- encouraging mobility of students and teachers, by encouraging inter alia, the academic recognition of diplomas and periods of study;
- promoting cooperation between educational establishments;
- exchanges of information and experience on issues common to the education systems of Member States.

Directive 2005/36/EC is completed with the European EQF. The European Qualification Framework derives from the Bologna agreement of 1999, when ministers of education of the EU set up a European Higher Education Area.

hat is now referred to as the Bologna process unifies the European higher education structure and demands that each education programme is described in terms of the qualification it provides and its organization. The aim is to calibrate and make transparent the different levels and types of qualifications available in all third level educational institutions throughout Europe.

The EQF sets 8 levels of qualifications. For cultural heritage professions the most relevant are level 6 (roughly equivalent to a Bachelors degree, level 7 (Master degree), Level 8 (PhD). Each of the reference levels in an EQF requires a description of what is distinctive about qualifications that are classified at that level.

Accordingly, Azerbaijan should set up distinctive professional qualifications for Archaeologists, restorers, architects, compliant with level set by the EQF. Most relevant qualification should be equivalent to an EQF level 7 (master).

Several EU professional bodies set up policy recommendations for devising professional training curricula in the field of cultural heritage. These bodies include:

- European Network for Conservation-Restoration Education (ENCORE)
- European Confederation of Conservator-Restorers' Organisations (ECCO)
- The European Heritage Heads Forum (EHHF)

These organizations, albeit being entirely private entities, are crucial stakeholder for EU policies related to cultural heritage and provide useful policy insight.

## 2.4 Restoration and protection of historical and cultural monuments

The following challenge is identified for Azerbaijan

standards for cultural heritage restoration and archaeological works are to be defined in accordance to EU standards and best practices, as well as relevant international conventions, on preservation and restoration of national tangible (historical and cultural monuments, museum exhibits and library stocks) and intangible (local-lore, folklore and crafts) cultural heritage;

The largest part of obligations from international sources for Azerbaijan derives from UNESCO and other international conventions and from Council of Europe conventions. In particular, Council of Europe Conventions are of particular relevance, since, albeit these conventions are not part of the EU law, they represent an important framework for all EU countries and EU action in the field of heritage protection, defining a specific model for heritage protection in the European region.

### **Statute of the Council of Europe**

(1949; ratified 2001)

The Statute of the Council of Europe (also known as the Treaty of London (1949) is a treaty that was signed on 5 May 1949, which created the Council of Europe. The original signatories were Belgium, Denmark, France, Ireland, Italy, Luxembourg, Netherlands, Norway, Sweden and United Kingdom. A state formally joins the Council of Europe by ratifying the Statute. As of 2013, it has been ratified or acceded to by 47 European states. All European states have ratified the Statute with the exception of Belarus and Vatican City (the Holy See).

The Council of Europe was created after the Second World War in order to achieve a greater unity between its members for the purpose of safeguarding and realizing the ideals and principles, which are their common heritage and facilitating their economic and social progress.

Any European State may become a member of the Council of Europe as far as it accepts the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms.

This aim is pursued through the two organs of the Council – the Committee of Ministers and the Consultative Assembly – by discussion of questions of common concern and by agreements and common action in economic, social, cultural, scientific, legal and administrative matters and in the maintenance and further realization of human rights and fundamental freedoms. Both these organs are served by a Secretariat directed by the Secretary General.

Moreover, the Statute provides for the financing of the Council, grants to the Representatives the immunities and privileges necessary for the fulfilment of their functions, set up the seat of the Organization in Strasbourg and that the official languages of the Council of Europe are English and French.

### **Council of Europe European Cultural Convention**

(1954; ratified 1997)

The European Cultural Convention was open for signature by the Members of the Council of Europe, in Paris on 19 December 1954. It came into force on 5 May 1955. The purpose of this Convention is the development of mutual understanding among the peoples of Europe and reciprocal appreciation of their cultural diversity, to safeguard European culture, to promote national contributions to Europe's common cultural heritage respecting the same fundamental values and to encourage in particular the study of the languages, history and civilization of the Parties to the Convention. The Convention contributes to concerted action by encouraging cultural activities of European interest.

Non-member States of the Council of Europe, which are Parties to the European Cultural Convention, may also, without special invitation of the Committee of Ministers, become Parties to certain European treaties

## **Council of Europe Convention for the Protection of the Architectural Heritage of Europe**

(1985; ratified 2010)

The Convention for the Protection of the Architectural Heritage in Europe, along with the Framework Convention on the Value of Cultural Heritage for Society, Faro and European Convention on the Protection of the Archaeological Heritages, constitutes a comprehensive framework for cultural heritage protection in Europe.

The Convention aims to achieve the following objectives:

- support the idea of *solidarity and cooperation* among European Parties, in relation to heritage conservation;
- include principles of "*conservation policies*" within the framework of European cooperation;
- strengthen and promote policies for the *conservation and development of cultural heritage* in Europe.

The starting point of this convention was the European Cultural Convention signed in 1954. In 1963, Council of Europe promoted the creation of Europa Nostra, which supports the intergovernmental cooperation within Europe.

The Convention states that European parties, by the accordance on common principles, can commit themselves in a permanent collaboration for conservation policies. It contains the three definitions of heritage, monuments, groups of buildings and sites, included in 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage.

Article 2 of the Convention deals with the “Identification of properties to be protected”, which envisages the realization of surveys and inventories as initial action towards legal protection.

Article 3, 4 and 5 regarding the “Statutory protection procedures” contain the legal, political and administrative measures to be taken by each Party for protecting the properties in question. These measures can be applied in different manner in each region or State. Article 4 also describes the legal actions applicable to the protected heritage, which ensure the supervision on work, which is affecting protected properties.

Articles 6, 7 and 8 address the “ancillary measures”. These are the types of financial support that public authorities may provide to guarantee, facilitate and encourage the maintenance and restoration of protected properties. It also indicates the different measures to consider in respect of the environment, like public spaces and pollution control.

Article 9 requires that Parties adopt adequate response by criminal law or administrative law for violations of the law protecting the heritage.

Article 10, 11, 12 and 13 regard “Conservation policies” and outline the principles of integrated conservation of the heritage. The balance between use and conservation is envisaged, which will

make possible to safeguard the architectural and historical value of the property. This approach leads to the principle of integrated conservation treated in article 13, which implies effective cooperation between the administrations concerned.

Article 14 deals with “Participation and associations”. It envisages the establishment of structures to facilitate cooperation between the parties or regions concerned.

Article 15 and 16, related to “Information and training”, address the importance of public participation in early stage, as a mean to increase appreciation and understanding of heritage.

Articles 17, 18, 19, 20 and 21 address “European co-ordination of conservation policies”. In particular, articles 17 and 18 treat the coordination of European conservation policies and provide information about the technical assistance system under the Council of Europe. Article 19 stresses the importance of promoting exchanges of persons involved in the conservation of the heritage. In Article 20, the creation of a monitoring committee is envisaged in order to ensure the successful enforcement of the Convention.

### **Council of Europe European Convention on the Protection of the Archaeological Heritage**

(1992; ratified 2000)

The Valletta Convention was adopted on 16 January 1992 in Valletta (Malta) and came into force on 25 May 1995 (Council of Europe Treaty Series no. 143). It is open for signature by member states of the Council of Europe and other states party to the European Cultural Convention and for accession by non-member states and the European Community.

The European Convention for the Protection of the Archaeological Heritage (revised) replaced and updated the original London Convention of 1969. It reflected the change in the nature of threats to the archaeological heritage, which now came less from unauthorized excavations, as in the 1960s, and more from the major construction projects carried out all over Europe from 1980 onwards. The revised Convention drew on twenty-two years of experience in implementing the original Convention. It established a body of new basic legal standards for Europe, to be met by national policies for the protection of archaeological assets as sources of scientific and documentary evidence, in line with the principles of integrated conservation.

### **Council of Europe European Landscape Convention**

(2000; ratified 2011)

The European Landscape Convention was open for signature by the member States of the Council of Europe, in Florence, on 20 October 2000. It came into force on 1 March 2004.

The Convention aims to encourage public authorities to adopt policies and measures at local, regional, national and international level for protecting, managing and planning landscapes throughout Europe. It covers all landscapes, both outstanding and ordinary, that determine the quality of people's living environment. The text provides for a flexible approach to landscapes whose specific features call for various types of action, ranging from strict conservation through protection, management and improvement to actual creation.

The Convention proposes legal and financial measures at the national and international levels, aimed at shaping "*landscape policies*" and promoting interaction between local and central authorities as well as trans-border cooperation in protecting landscapes. It sets out a range of different solutions, which States can apply, according to their specific needs.

The Council of Europe intergovernmental committees supervise the convention's implementation. The text also provides for a Council of Europe Landscape award, granted to local or regional authorities or an NGO, which introduced exemplary and long-lasting policies or measures to protect, manage and plan landscapes.

### **Council of Europe Framework Convention on the Value of Cultural Heritage for Society**

(2005)

Open for signature by the member States of the Council of Europe, in Faro on 27 October 2005 the Convention on the Value of Cultural Heritage for Society entered into force on 1 June 2011.

This Convention supports the idea that knowledge and use of heritage enforces citizen's right to participate in cultural life as defined in the Universal Declaration of Human Rights.

This Framework Convention on the Value of Cultural Heritage for Society (also known as the Faro Convention) is innovative in linking the concept of the "common heritage of Europe" to human rights and the fundamental freedoms. The Faro Convention provides an original contribution to the issues related to "living together", quality of life and the living environments where citizens wish to prosper.

The Faro Convention underlines the concept that "heritage must serve society" Rather than "heritage being served by society". It introduces a dynamic and novel approach under which, for the first time, individuals rather than objects are central to heritage action.

Beyond the issues of conservation and the various protection mechanisms required, it is the "value", in particular the social value, of cultural heritage which the convention highlights by forging two innovative and open concepts. The first is the "right to cultural heritage", under which heritage gives rise to individual rights, without having to be defined beforehand. The second is the concept of "heritage community", which can include widely varying numbers of individuals and enables citizens to be fully involved in building Europe's common heritage.

It is worth to underline that Azerbaijan has not ratified or signed this convention

### **3 Current practices in Italy**

The following section outlines the practices adopted in Italy that may represent a positive practice for replication in the Azerbaijanian culture sector. The section follows the structure proposed in the foreword

#### **3.1 Application of modern methods in culture management - development of cooperation with the local self-government bodies in culture management, including art management**

In Italy, laws supporting the protection and development of cultural heritage have been present even in the pre-unification states. With the promulgation of Constitution of the Italian Republic (1947), the role of culture has been clearly defined at art. 9:

“The Republic promotes the development of culture and of scientific and technical research. It safeguards natural landscape and the historical and artistic heritage of the Nation”.

##### **3.1.1 Roles of State, Regions and local authorities in preservation and valorization of culture.**

Italian cultural legislation – on the protection of the heritage and landscape (Laws 1089 and 1497 of 1939), on support of artists and artistic creativity, such as the comprehensive Copyright Law, the birth of major cultural institutions (such as the Institute for Restoration, the national broadcasting company, Cinecittà and Istituto Luce – date back to the late 1930s and early 1940s. This legislative effort was mainly state-centered, as it enforced the role of Ministry, with little autonomy for local authorities. With the ‘70s, as far as regional authorities were gaining importance in cultural policies, different reforms have taken place. Significantly, in the late ‘90s the principle of “subsidiarity” was proposed (firstly, with an ordinary law – Unified Text n. 467/2000 – then with the constitutional law n. 3/2001), in order to devolve decisions according to proximity (i.e. towards lower levels of government) or to capabilities (i.e. to those organizations who better fit, even if private parties).

Since the ‘70s, an important path of institutional reforms took place. Firstly, in 1972, according to the 1947 Constitution, the 15 ordinary regions were finally established. This triggered the decentralisation process, in which some regions started to define their own policies, as a form of acknowledge of their own identities. The municipalities followed this example and around the mid-1970s regional and municipal ad hoc departments for culture were embedded in most local

administrations, and the call for a broader participation in cultural life became a widely debated national issue.

Post-war stream of reforms affected also the national level. In 1975, a separate Ministry for Heritage was established by regrouping responsibilities for museums and monuments, libraries, cultural institutions from the Ministry of Education, for archives from the Ministry of Internal Affairs, and for book publishing from the Prime Minister's Office. Responsibilities over performing arts were not transferred at that moment, but only in the late '90s. The prominence of Italy's heritage as the cornerstone of national cultural policy was thus emphasised; "safeguarding" and "restoration" being the key functions absorbing most of the state's activities and financial resources allocated to the cultural field. In 1998, the government extended the scope of the Ministry for Heritage to embrace responsibility for the performing arts and cinema, which had been previously entrusted to the Ministry of Tourism. Further responsibilities on copyright were added in 2000, when the *Ministry for Heritage and Cultural Activities* had finally achieved the full status of a ministry for culture comparable to the ones of most European countries. Only responsibilities for support and regulation of television, radio and the press, as well as arts education, remain out of its reach, unlike in other countries (France, the UK...). Finally, since 2013, mindful of the role in enhancing Italy's tourism attractiveness played by "cultural tourism", the Ministry for Culture was further empowered with responsibilities on tourism, thus being renamed the *Ministry for the Heritage, Cultural Activities and Tourism* (Ministero per i Beni e le Attività Culturali/MIBACT).

The constitutional reform of 2001 (constitutional law n.3/2001) crystalized the current situation, as follows:

- it has confirmed the *exclusive* legislative competence of State over environment, landscape and cultural heritage (art. 117, c. 2);
- it has explicitly defined agreements and forms of coordination among public entities (art.118, comma 3);
- it has provided Regional Authorities *concurrent* legislative competence over valorization of cultural and environmental heritage, and promotion and organization of cultural activities (art. 117, comma 3).

This complex arrangement has not prevented cultural policy governance from being a source of conflict for quite a long time, leading to appeals to the Constitutional Court.

As a result of reforms sketched above, talian cultural governance model relies on four levels of government – *state, regions, provinces and municipalities*.

## **The state**

At the *national level*, responsibilities for the cultural sector concerns the *Ministry of the Heritage, Cultural Activities and Tourism*.

As a consequence of reforms mainly in the '90 and more recently in 2013, the Ministry of the Heritage, Cultural Activities and Tourism (MiBACT) has been entrusted with the full range of core cultural functions: heritage, tourism, museums, libraries and archives, visual arts, performing arts and cinema, cultural institutions, copyright, with the only exception being *communications* (radio television and the press).

From an organizational point of view, Ministry has went through several reforms (*Decrees 233/2007 and 91/2009*), the most recent of which has been by means of *Decree 29 August 2014 n. 171*, and related Ministerial Decree 43-44/2016.

The current organizational structure is as follows:

- 1 general secretary, in charge of coordination;
- 11 general directorates;
- 7 central institutes;
- 40 institutes with special autonomy;
- Peripheral offices (17 regional secretariats and regional museum networks)
- Superintendences (archeological, library-archival, cultural environment and heritage)
- National archives.
- National libraries.

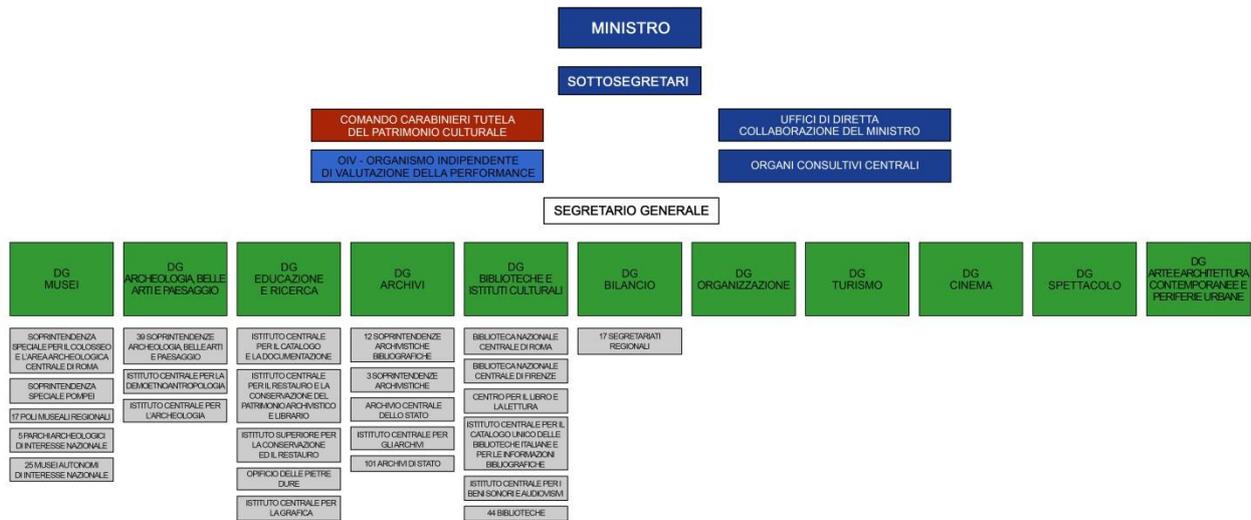
This reforms aims at:

- Simplifying coordination between central and territorial functions;
- Boosting the autonomy of state museums, so as to allow increasing managerial practices;
- Strengthening innovation, research and educational policies.

At the central level, Ministry works through general directorates, with the support of four advisory bodies: the *High Council for Heritage and Landscape*, the "*Consulta*" for the Performing Arts, the *Permanent Committee for Copyright*, and the newly added *Permanent Committee for the Promotion of Tourism*.

The DGs are technically supported by other central, high-level, relatively autonomous scientific bodies, among which are the *Istituti centrali* for *Heritage protection and restoration*, for *Heritage cataloguing*, for *Books restoration and cataloguing*, for *Archives*, for *Demo-ethno-anthropological goods*, for *Graphic arts*, for *Audiovisual Goods*, and the *Opificio per le Pietre Dure* (dealing with the restoration of inlaid semi-precious stones artefacts).

# ORGANIGRAMMA



Source: MiBACT

Last reform has entrusted specific autonomy to important national museums, recruiting directors through external, international competition.

At the peripheral level, MiBACT is split between administrative bodies – the *Regional Secretariats* – and techno-scientific territorial structures especially endowed with the mission of safeguarding heritage: the *Soprintendenze*, respectively related to the already mentioned *DGs for Fine Arts and Landscape* and *for Antiquities*. Reform also introduced the so called *Poli Museali Regionali (Regional Museum Networks)*, whose main task will be the promotion of regional museum systems, also open to local and private museums.

Furthermore, according to the same *Decree*, special autonomy will be granted to an additional 10 museums and archaeological sites, most of which are located in the Rome territory (Ostia Antica, the Appian Way, the Etruscan Museum of Villa Giulia, the Villa Adriana and Villa d'Este in Tivoli, etc...).

Besides MiBACT, could be mention the *Ministry of Education, University and Research*. Through its *DG for Higher Arts, Music and Dance Education*, the Ministry is responsible for higher arts education, which is provided in its national Fine Art Academies, in the National Drama Academy and the National Dance Academy, and in the music conservatories. It also runs several other educational institutes providing diplomas in artistic and musical training.

In regard to *legislative function*, it relies on the mutual work of *Chamber of Deputies* and the *Senate*, and are notably exercised through their Cultural Commissions<sup>4</sup>. The yearly adoption of the *Budget Law* (so called Financial Stability Law) is on charge of both *Chambers* so that Parliament plays a relevant role in the funding system.

## **The local authorities**

Italy is characterized by a complex multi-level governance, in which 3 different local levels of authorities are recognized by the constitution: the *Regions* that are made up of *Provinces* that, on their hand, are made up by *Municipalities*.

### *The Regions*

The twenty Italian *Regions* are endowed with legislative powers, on the base of constitutional reform of 2001, and ad hoc administrative structures in the cultural sector (*regional departments for culture* / "*assessorati regionali alla cultura*", in some cases associated with other domains like education and tourism). Regions are split into two groups:

- *five autonomous regions*, created in the post-war period and endowed with more extended competencies in the cultural field. It is important to note that, out of these five autonomous regions, according to their statutory laws, three – Valle d'Aosta, Sicily, and Trentino Alto Adige – also exercise, through their decentralised *Soprintendenze*, exclusive and direct legislative and administrative responsibility for their own heritage assets, including the previous "national", now "regional", museums and sites (the devolution of functions by the state took place in the late 1970s). Therefore, in these three regions there are no state regional secretariats;
- *fifteen ordinary regions*, established in 1972, whose cultural competencies were initially limited by the Constitution (*Article 117*) to the supervision and financial support of local museums and libraries. The subsequent devolution of responsibilities for "cultural promotion of local interest" (*Law 616, 1977*), although falling short to meet their demand for more cultural decentralisation, came as a partial acknowledgement of their active commitment in the field, the formula being vague enough to eventually allow the Regions to legislate on a fairly wide range of cultural disciplines. According to the subsequent so-called "*Devolution Laws*" adopted in the late 1990s, and to *Constitutional Law 3/2001*, ordinary regions have now "*concurrent legislative powers*" with the state as far as managing and enhancing the heritage and cultural activities are concerned.

Official representation of regional interests – in cultural, as in any other matter – is entrusted to the *State-Regions Conference*. Within this framework, the heads of the regional departments for culture regularly meet to discuss issues of common interest in the framework of two special coordination

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<sup>4</sup> Currently under constitutional reform process.

committees, the *Interregional committee for cultural goods* and the *Interregional committee for the performing arts*, also acting as lobbying organisations, pursuing institutional reforms towards a full implementation of a more federal governance structure in the cultural field.

### *The Provinces*

The 107 Italian Provinces have always been the level of government least involved in cultural policy: their total expenditure for culture in 2013 of 131 million EUR, mainly allocated to archives and libraries, nearly halved since the 2008 financial crisis, and was fifteen times less than the amount of municipal expenditure in the same year (see further).

The only exception to the rule are the two rich Autonomous Provinces of Trento and Bolzano, which Regione Trentino-Alto Adige has entrusted with its own cultural competencies devolved by the state (including direct responsibility for heritage), as well as with the connected very substantial financial resources, which are therefore taken into account under the regional expenditure for culture.

As far as the ordinary provinces are concerned, it should be mentioned that according to *Law 1429B* amending our Constitution – adopted by both parliaments, and awaiting submission to referendum in autumn 2016 - the provinces should be abolished. Their functions may be reallocated to the other three levels of government, in line with the so called "spending review", aimed at the downgrading of our public expenditure to reduce Italy's huge deficit.

### *The Municipalities*

Along with the state, the 8 101 municipalities are by now undoubtedly the most prominent public actors and funding source in Italy's cultural scene, so much so that, notwithstanding the cuts undergone since 2008 (-19%), the total amount of their expenditure for culture in 2013 – 1 990 million EUR (ISTAT data). – was still substantially higher than the expenditure by MIBACT itself for the same year: 1 609 million EUR.

Through their *municipal departments for culture* / "*assessorati comunali alla cultura*", they play a paramount role in the direct and indirect management of municipal cultural institutions: museums and sites, archives, libraries, theatres, multifunctional cultural centres, etc.

Italian municipalities are also investing highly in the restoration and maintenance of their historic assets, albeit under the supervision of the Ministry, and in building cultural premises, with special attention given, in the early 2000s, to capital investment in modern and contemporary art museums and in performing arts centres (see for instance the new *MACRO - Museo Arte Contemporanea* in Rome, the *GAM* in Turin, the *GAMEC* in Bergamo, the *MART* in Rovereto, the *Museo del Novecento* in Milan, and the *Three Halls Auditorium* by Renzo Piano in Rome.).

Municipalities also promote and support a wide range of cultural activities, actively contributing to the rich national supply of art exhibitions, performing arts festivals, literature festivals, street events, *White Nights (Notti Bianche)*, cultural minorities' celebrations, etc.

### 3.1.2 Public expenditure in culture

For the time being, it is not possible to comply with the classification of public cultural expenditure in Italy broken down by level of government.

Such a classification will be possible in the future only by means of special surveys. In fact, Istat's National Accounts breakdown is presently available only as far as *state* and *local* expenditure are concerned (where *local* includes regional, provincial and municipal expenditure), without any further distinction among levels of government. Such distinctions are quite problematic, for the total lack of official data on regional cultural expenditure, as regional budgets are not easily comparable, not having been standardised yet. On the other hand, overall, aggregated data on cultural expenditure both by the provinces and the municipalities are made available by *Istat provincial and municipal accounts*.

For the time being, the following are the only comprehensive official data on overall public cultural expenditure allowing reliable and homogenous analysis of trends throughout the 2000s. It is worth noting that public cultural expenditure in Italy has traditionally been highly centralised, although the state share had gradually declined to around 40% of the total at the turn of the century.

**Table 4: Public cultural expenditure by level of government, in million EUR, 2001 and 2014**

Level of government	2001		2014		% var. 2001-2014
	million EUR	% of total	million EUR	% of total	
State*	2 476	40.6	1 903	34.8	-23.2
Local**	3 623	59.4	3 561	65.2	-1.8
<b>Total</b>	<b>6 099</b>	<b>100.0</b>	<b>5 464</b>	<b>100.0</b>	<b>-10.5</b>

Source: Elaborations by Associazione per l'Economia della Cultura on ISTAT / COFOG data.

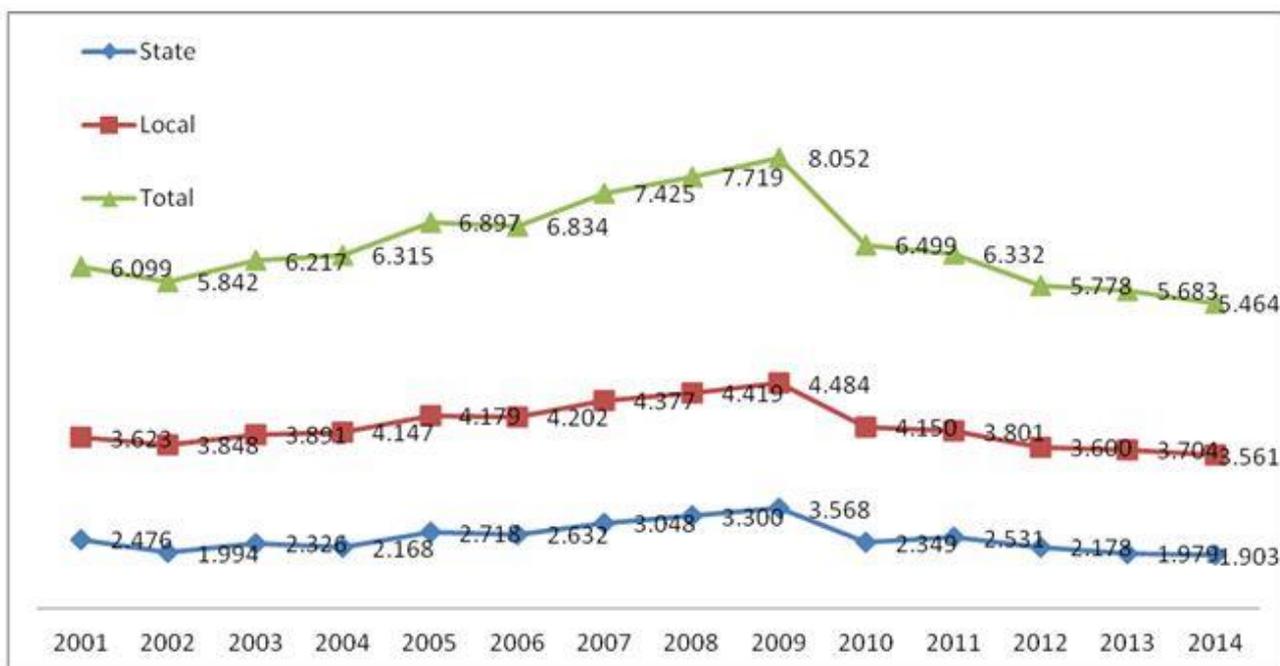
Notes: For the level of government data, consolidation is made within each level but not between levels. Therefore, the total public cultural expenditure is not consolidated. The data presented here are taken from the European System of Accounts 1995 - ESA95 Questionnaire 1100\_S13 - Expenditure of General Government. The COFOG groups considered are: 08.20 *Cultural services* (IS), 08.30 *Broadcasting and publishing services* (CS), and the residual group 08.50 *R&D Recreation, culture, and religion* (CS).

\* State expenditure mainly includes the Ministry for Heritage and the Prime Minister's Office.

\*\* Local expenditure includes Regional, Provincial and Municipal expenditure.

This diversified trend between local and state expenditure is also evident in Figure 1, showing the respective yearly ups and downs throughout the 2000s.

**Figure 1: Trends in public cultural expenditure by level of government 2001-2014 (million EUR)**



Source: Elaborations by Associazione per l'Economia della Cultura on ISTAT/COFOG data.

After a quite dynamic trend for cultural expenditure under the centre-left rule in the late 1990s, Figure 1 shows a sudden slow-down in the state cultural financing at the beginning of the subsequent decade, followed alternatively by a decrease, stagnation and a moderate increase until 2008. At the same time local expenditure was slowly increasing. The highest peak for cultural expenditure was reached for both the state and the local level in 2008, with overall public cultural expenditure at 8 052 million EUR. Its drop between 2009 and 2014 to 6 464 million - clearly a consequence of the economic and financial downturn - has been quite harsh... In this time-span the trend of local cultural expenditure, badly affected by cuts in state transfers, has also been slowing down (-21%), although much less, indeed, than the nearly halved state cultural expenditure (-47%), thus acting, in some way, as a moderating factor.

It is important to remark that changes in the legislative framework required and implied a slow evolution of governance models, as Italy exhibits a large and heterogeneous number of cultural sites, institutions and operators:

Category	Number
Museums	3.850
Archeological sites	240
Monuments	501
Archives	60.000
Libraries	13.000
Theatres	1.423
Unesco sites	51
National Cultural Sites (NCS)	490
Revenues from tickets (NCS)	125.000.000 euro
Revenues from services (NCS)	50.000.000 euro
Performing arts venues	25.000
Performing arts shows	170.000

Global turnover	800.000.000 euro
Cinema halls	1.700
Cinema screens	3.800
Touristic Arrivals	105.000.000
Touristic Presences	380.000.000
Tourists expense	12.000.000.000 euro

*Source:* Minicifre della cultura, 2014, and others.

### 3.1.3 Public-private partnerships

In the last decades, in Italy, many reforms and practices have triggered a new role and involvement of private parties in the management of cultural heritage, and of culture in general. The first step towards a ppp-favorable legal-framework, can be traced back to the so-called Law Ronchey (Law-Decree n. 433/92, law n. 4/1993). This Law has shift the focus of national authorities, for the first time, towards the management and the valorisation of culture, in a country characterized by a predominant attention to conservation and preservation. The Law Ronchey regulate the ‘services to public’, so what is to be considered a group of activities, resources, competencies, that act as *mediator* between the heritage and the visitors. These services, at the beginning considered solely ancillary to the *core* mission of cultural heritage, have gained political attention and legal acknowledgment<sup>5</sup>, so to become crucial in the discourse about management of heritage, and deserving a specific article in the Italia Code of Cultural Landscape and Heritage - legislative decree no. 42 of 22 January 2004 (art. 117).

Services to public include:

- a) Publishing and sales services related to catalogues and to catalogue, audio-visual and computer aids, to all other informational material, and to the reproduction of cultural property;
- b) services related to book and archival properties for the provision of reproductions and library lending delivery;
- c) the management of record, slide and museum library collections;
- d) the management of sales outlets and the commercial utilization of the reproduction of cultural properties;
- e) public relations services, including assistance and entertainment for children, information and educational guidance and assistance services, meeting places;
- f) cafeteria, restaurant and cloakroom services;
- g) the organisation of cultural exhibits and events, as well as promotional initiatives.

The Ronchey Law has then constituted the most important stimulus to rethink the role of museums (and national heritage sites, in general), explicitly involving private parties (both profit and non-profit) in the management of culture. This shift from ‘procurement’ (contract with private which are

<sup>5</sup> With Ministerial decree n. 139/1997, services scope has been widened, including for example ticketing service.

involved in executing specific tasks) to management (assuming specific responsibilities in the design of services) has been the base of next reforms in the country, even at local level.

As mentioned above, Italian system relies on a strong component of local government cultural heritage sites, and as far as the State has triggered a *private-oriented* legal framework, local governments have followed this trend.

In general, the '90s have been characterized by a strong impulse to any form of collaboration in the management of culture: public-public, public-private.

The legislative decree n. 368/1998, for example, admits the possibility for Ministry to stipulate agreements with other public administrations or with private parties in order to valorize public cultural heritage.

The budget law for 2002, in addition, has paved the way to a specific role of private entities in the management of culture. At article n. 29, "Misura di efficienza delle pubbliche amministrazioni", is stated that each public administration could:

- establish, according to an economic convenience principle, private entities to whom entrust the above mentioned services;
- entrust to private entities, through a public tender, the management of services.

With these reforms, later on merged in the Code, a new era of co-management (both public and private) has took place. The Code, indeed, establish that valorisation activities (art. 115) can be implemented *directly* or *indirectly*.

- Direct management is executed through means and persons of the Public Administration, even if with some degree of autonomy (scientific, organizational, financial, economic).
- Indirect management is executed through:
  - entrusting to foundations, institutions, associations, consortiums, company or other entities, established or in which the public authorities to whom cultural heritage belongs to have a majority holding;
  - concession to third parties, on the base of specific criteria.

The choice between direct and indirect management should come from a specific evaluation, in terms of efficiency and effectiveness, of objectives, and means available.

**Box n. X – PPP for culture in Italy: main legal sources**

<b>National legislation</b>	- <b>Constitution of Italian Republic: Art. 3</b>
	- <b>Code (D.Lgs. 22 gennaio 2004, n.42): Artt. 6, 111 (c. 4), 112 (4,5,8), 115.</b>
	- <b>D.Lgs. 50/ 2016: art. 180, 190.</b>

### 3.1.4 Forms of public-private partnership

The term public-private partnership ("PPP") has been only recently defined at national level (D.Lgs. 50/2016). In general, the term refers to forms of cooperation between public authorities and the world of business which aim to ensure the funding, construction, renovation, management or maintenance of an infrastructure or the provision of a service.

The public authorities of Member States often have recourse to PPP arrangements to **undertake infrastructure projects**, in particular in sectors such as transport, public health, education and national security. At European level, it was recognized that recourse to PPPs could help to put in place trans-European transport networks, which had fallen very much **behind schedule**, mainly owing to a **lack of funding**.

A first attempt of common definition is in the *Green Paper on public-private partnerships and Community law on public contracts and concessions* [COM (2004) 327 final].

In the Commission's view, in the context of a purely contractual PPP, the transposition of the competitive dialogue procedure into national law will provide interested parties with a procedure which is particularly well adapted to the award of contracts designated as public contracts, while at the same time safeguarding the fundamental rights of economic operators.

At its central core, a PPP operation relies on the following distinctive traits:

- Relatively long duration of collaboration
- Method of funding the project mainly or significantly through private resources
- Importance of economic operator (private) not only from a financial perspective, but also from a project standpoint
- Distribution of risks among parties.

The diffusion of PPP practices is ascribed to different trends, spreading over western and eastern countries: the scarcity of public resources for culture and the perceived need of private competencies required to boost culture as an economic driver of development.

PPP forms can be *institutional* or *contractual*. The former includes operations where cooperation between the public and the private sector gives rise to a distinct legal entity (such as a foundation, a company, etc.); the latter refers to operations in which collaboration is based solely on contractual agreement.

PPP forms can be adopted in different phases of a public investment: design, funding, execution, renovation or exploitation of a work or service.

Literature and practices have emphasized different opportunities of PPP over time; they are summarized in the following scheme:



With reference to project financing (PF) operation (one of the PPP forms investigated below), an issue has been particularly debated: whether expenditure related to the concerning investment has to be considered public (*on balance*) or private (*off-balance*). Eurostat decision (11 February 2004) stated that, in a PF, the majority of risks and rewards have been transferred to the private partner. Hence, private partner must bear the majority of the construction risk and of availability/demand risk<sup>6</sup>.

*Construction risk* “covers events related to the initial state of the involved asset(s). In practice it is related to events such as late delivery, non-respect of specified standards, significant additional costs, technical deficiency, and external negative effects (including environmental risk) triggering compensation payments to third parties”.

*Availability risk* “covers cases where, during the operation of the asset, the responsibility of the partner is called upon, because of insufficient management (“bad performance”), resulting in a volume of services lower than what was contractually agreed, or in services not meeting the quality standards specified in the contract”.

*Demand risk* “covers the variability of demand (higher or lower than expected when the contract was signed) irrespective of the performance of the private partner. In other words, a shift of demand cannot be directly linked to an inadequate quality of the services provided by the partner. Instead, it should result from other factors, such as the business cycle, new market trends, a change in final users’ preferences, or technological obsolescence. This is part of a usual “economic risk” borne by private entities in a market economy”.

<sup>6</sup> Info and guidelines can be found on the website of The European PPP Expertise Centre (EPEC): <http://www.eib.org/epec/g2g/index.htm>

PPP forms can hence exhibit different degrees of complexity, depending on the nature of links, the characteristics of the investment, and relations among the parties.

### 3.1.5 Institutional Public-private partnership

The following forms of institutional PPPs are known in the Italian system:

- Consortium
- Public-private company
- Association
- Foundation

#### 3.1.5.1 Consortium

A consortium is an agreement, a combination, or group (as of companies or governmental bodies) formed to undertake an enterprise beyond the resources of any one member, with the objective of participating in a common activity or pooling their resources for achieving a common goal.

As it could be public and private, in Italy it is disciplined both by Civil Code and Local Entities Unique Text Law (TUEL). Funds of consortium members converge in a specific fund, which is specifically established and ruled.

Consortium can also be formed by local public administrations (on the base of TUEL, art. 31), also for the common management of public services.

Each consortium typically has an assembly, composed by the representatives of associated administrations, with responsibilities directly proportioned to the share established in the statute and in the convention, the agreement that rules the administration of the organization. Assembly appoints a board, with administrative tasks, such as budget planning and balance sheet approval.

Consortium so admits collaboration not only at the institutional level, but also at the managerial level, among public administrations, by the way of so called contract service, between each public administration and the consortium.

When adopted between public administrations and for the purpose of management of cultural heritage, no profits could be distributed. When devoted to cultural heritage management, consortium assumes the name of Consortium of Cultural Valorisation (Consorzio di Valorizzazione Culturale). It is considered a form of direct management by public administrations, as it involves internal offices (Code of Cultural Environment and Heritage, art. 115, c.2).

Consortium, as ruled by the Civil Law (art. 2612) can be joint by private parties, with the limitations of no profit distribution, in case of public administration members.

The Venaria Reale (<http://www.lavenaria.it>), for example, is a complex managed by a Consortium, born in 2007, in charge of the promotion of La Venaria Reale (Consorzio di Valorizzazione Culturale “La Venaria Reale”) made up of the Ministry for the Cultural Heritage, Regione Piemonte, the Venaria Reale Town Council, Compagnia di San Paolo and Fondazione 1563 per l’Arte e la Cultura.

It is a new legal entity that has appeared on the cultural scene pursuant to articles 112 and 115 of the Italian Cultural Heritage Code.

The innovative administrative profile of the Consortium ensures considerable autonomy to La Venaria Reale: the Consortium is in charge of the Reggia, the Gardens, the Citroniera and the Stables, as well as Villa dei Laghi and parts of Borgo Castello in the nearby Park of La Mandria.

### 3.1.5.2 Public-private company

As above mentioned, art. 115 of the Code of Cultural Environment and Heritage admits indirect management of cultural heritage through external private parties. Among the different company-forms that are admitted by legislation, it is remarkable the role of Limited Company joint both by public and private parties (PP-LC).

Through a PP-LC, the local authority tends to optimize synergies with private parties in order to maximize value for money, adopting a market-oriented strategy. Bodies of limited companies depend on the model adopted, which can span from a monocratic body, to a multilevel governance structure, with a board of directors, an audit commission, an assembly. Or it is possible to have a management committee, and the surveillance committee.

The legislative source of PP-LC is in the law 142/1990 (art. 22), then confirmed in the TUEL (art. 113), and admitted in the Code of Cultural Environment and Heritage, as above mentioned.

It is remarkable that private members of a PP-LC must be selected through tender, in order to adhere public administration standards.

A particular form of PP-LC is the so-called STU – Società di trasformazione urbana, urban regeneration companies, used for urban regeneration projects (TUEL, art. 120).

Unique case in Italy, the Parchi Val di Cornia SpA, is a limited company initially public-private, nowadays public company (even if with private legal status). Between 1975 and 1980, in order to coordinate regulatory plans (a form of plan required by law for ruling the use of cultural environment), through a bottom up policy, municipalities in an area of Tuscany started to work together. In the early 90s, that the phase of preparation of the plans, arises the need to respond to the policy of protection with the enhancement of assets natural and cultural safeguarded. This is why the municipalities of Piombino, Campiglia Marittima, San Vincenzo, Suvereto and Sassetta, according to some private entities, based on the provisions of art. 22 of Law on June 8 1990, n. 142 (now Legislative Decree 18 August 2000, n. 267, "Consolidated law organization of local authorities "), they decide to adopt a body instrumental for the implementation of these strategies, opting for the

joint enterprise capital, with public majority (52%), with private participation 48%. As stated in Article. 3 of incorporation, the aim of Parks Val di Cornia SpA, formed on 18 July 1993 is to implement the park system Val di Cornia, or protected natural areas, archaeological areas and the goods cultural of the municipalities involved, subjected to system of protection by zoning coordinated the municipalities themselves, through the design and implementation of interventions for the enhancement of cultural and environmental resources and management, in an integrated manner, services for public use.

In 2003 70% of total costs were covered by income of the parks.

In 2007, following an amendment to the existing legislation (Legislative Decree 42/2004, art. 115), it becomes necessary to permanently transform the corporate structure reaching a shareholding entirely public, according to the model of 'in-house operation, which allows the public body to outsource services or facilities without the formal completion of a public tender. As established art. 12 of the agreement between the municipalities for the implementation and the unified management of the Park System economic relations between services Municipalities and the Val di Cornia Parks SpA are governed by a single contract of service whose object is the set of services provided in the park system.

Under Article. 5 of the service agreement, the Company provides management and overall operation of parks and museums through the following activities:

1. custody, maintenance and protection of archaeological, natural and environmental;
2. research, documentation and training;
3. use and enhancement of the heritage in terms of: opening, information, ticketing and hospitality services, guided tours, environmental educational, publishing, merchandising, logistics and control over the areas.
4. activities on the territory as it regards compliance with the applicable standards relating to protected areas;
5. catering and accommodation;
6. promotion and marketing in terms of promotion and commercialization of cultural services/products.

The association's legal status is regulated by articles 14 and following of the Civil Code devoted to private legal entities. The associations are organizations formed by a plurality of subjects, with their will, determine the life of the association and which, together, aim at the realization of the common goal. The members also influence association aims and means, by voting in the assembly and by modifying the statute over time, even changing the original purpose of the association itself.

The association is potentially endowed with a heritage, although the predominant element is the openness towards new individual members. Members could also be organizations, not only individual persons. This is why associations assumed an increasing importance over time for public administration.

Associations are usually governed by a board of directors, and by an assembly, where each member has a vote. Legal personality is acquired by registration in the register of private legal entities established by the regions or prefectures (peripheral offices of Ministry of Internal Affairs), depending on whether the body is acting at regional or national level. The registration procedure and the conditions required to obtain it are governed by Presidential Decree 361/2000. Association could also include public administrations and private parties, selected through tender.

The Associazione Mus.e (<http://musefirenze.it/en/muse/>), born in 2001, for example, is joined by Municipality of Florence, and handles the enhancement of the Florentine Civic Museums and in general of the city of Florence. It realizes cultural projects, exhibitions, workshops and events to let the public enjoy heritage and art through an excellent experience.

#### 3.1.5.4 Foundation

Commonly defined as “endowment targeted to specific aims”, the foundation is a private legal entity established through a strict tie between the endowment and the institutional objectives. Hence, foundations rely on endowment, while associations rely on people.

Discipline of foundations must be defined in the statute, on the base of Civil Code prescriptions, which only requires rules for appointing the administrators. Nevertheless, foundations adopt a more articulated structure, where, beside administrators, there is a board of members, a general secretariat, a president, and also committees. Statutes typically describe cooptation mechanisms for institutional bodies, as far as for members.

Legal personality is acquired by registration in the register of private legal entities established by the regions or prefectures (peripheral offices of Ministry of Internal Affairs), depending on whether the body is acting at regional or national level. The registration procedure and the conditions required to obtain it are governed by Presidential Decree 361/2000. Association could also include public administrations and private parties, selected through tender.

Albeit foundations are heterogeneously treated over countries with respect to tax-exemption, and favor-regulations, it is remarkable that usually States split them into charitable and non profit foundations, in order to qualify their public-orientation.

In the Italian legal framework, even if discipline is restricted to some articles in the Civil Code, foundations exhibited a significant evolution, over time. At the core, pure foundations require an endowment conferred, which is protected, due to its role in preservation of the memory of persons, protection of objects of historical or natural interest, educational, charitable, or religious purposes, or public welfare. Hence, endowment is transferred from a person to the foundation. This is typically a one-shot operation, so that the founder is the only member of considered.

In the last 20 years, in Italy, on the base of an interpretation of the Civil Code (which admits so called ‘atypical forms’), a special form of foundation has taken place, in the field of cultural policies: foundation for participation (D.M. 27 novembre 2001, n. 491 - Regolamento recante disposizioni

concernenti la costituzione e la partecipazione a fondazioni da parte del MiBAC a norma dell'art. 10, d.lgs. 368/1998).

The scheme of foundation for participation is simple: it mixes the 'endowment component' of typical foundations, with the 'open-to-new-members' mechanism of associations. As a result, members can join after the set-up of the foundation, over time, and it is possible to identify different categories of members: founders, adherent, participant. Each category has its duties and powers.

This new formula has gain attention and it is now widely considered the best legal form for heritage protection and management, even if other forms are admitted and used.

When public administrations join a foundation – as founder, or adherent, or participant – different implications arise. First, albeit private entities, foundations joint by public administration have to behave as public organizations, in terms of procurement, employment and administrative processes, are then subject to external control of Authorities and national rules affecting public entities. Secondly, when the aim of the foundation is to manage a specific cultural site, property of the cultural site remains above public owner, and only the right of using it is transferred to the foundation, and accounted as endowment (this, in order to prevent the risk of privatization of cultural heritage). Third, the open structure of foundation requires the identification of specific rules for coopting members, which have to be selected under procurement rules (i.e. tender).

### 3.1.6 Contractual Public-private partnership

Contractual PPPs are based on a contractual relationship between public and private actors. The most relevant forms for the cultural sector are:

- Sponsorship
- Concession, concession for valorization

#### 3.1.6.1 Sponsorship

Sponsorship is certainly one of the most used by public administrations instruments to finance both the restoration / preservation of historic buildings and archaeological sites, both to support the activities that take place in them. Sponsorship is distinguished as follows: pure sponsorship (i.e. cash) or in-kind sponsorship, where the latter consists in a form of PPP that covers the provision of goods and services, and can be extended to the design and realization, in whole or in part, of a restoration.

The market of cultural sponsorship was characterized, in the years between 2002 and 2012, by a variable pattern. It records, in fact, a growing trend initially undertaken in 2003 then reversed in 2008. From 2008 to 2012 there has been a significant decrease in sponsorship, which recorded lower values than those reported in 2002.

Sponsorship is the contract in which the Administration (sponsee) offers a third party (sponsor) the opportunity to publicize its name, logo, brand or products in certain specific areas, upon payment for goods, services or other benefits.

The sponsored (sponsee) undertakes, for a fee, to put at the disposal of other (sponsor) the use of his public image and his own name in order to promote the conveyance of the trademark, logo or other message, in turn the sponsor is obliged to put at the disposal within a certain benefit (money, services, works and supplies) for the benefit of the sponsee. The parties, in essence, accept a commitment in the face of an advantage: the sponsee gets the consideration which is a saving of expense in the intervention realization of restoration with respect to which it then implements the connection with the image of the sponsor; the sponsor reaches the usefulness of strengthening its image with the public in view of greater penetration in its market segment.

The Italian Ministry has issued specific guidelines for sponsorships in the cultural heritage field, in December 2012.

### 3.1.6.2 Concession

The concession is one of the most important forms of public service management that allows installation and management of a public service without causing a cost for the administration. In the specific case of cultural heritage, this form of PPP assumes significant importance in the management of so-called additional services that cover, in the operating system of the cultural institutions, a significant role.

Concession usually last 4-8 years, are focused on specific activities and services (defined in the Code, at art. 117), and are rarely sustainable, because of the lack of income in most of cultural heritage sites, except for most-visited museums and archeological sites, such as Colosseum, Uffizi, Accademia of Brera, etc..

This specific instrument of cultural policy gave rise to the development of highly qualified private non-profit organizations in the protection and management of cultural heritage. One of the example is the Fondo Ambiente Italiano (FAI). FAI and its members are daily engaged in the protection and enhancemnet of Italian cultural and natural heritage, in the education of the collectivity, in the supervision and interveticion of the territory. It operates throughout Italy from its headquarters in Milan and its office in Rome, and also through an extensive network of volunteers organised into 116 Delegations, which are managed by 20 Regional Executives.

While traditional concessions are used to outsource individual or grouped activities (art. 117 of the Italian Code), a more real estate- oriented model has gained attention in the cultural heritage public policy, from the 2001 on. It is called “concession of valorisation”, as it shows differences with the traditional one: more activities involved (typically restoration, facility management and management

of cultural activities and services), more complex financial and organizational structure, longer period (20-30 years).

For example, it has been recently adopted for the restoration and valorisation of lighthouses spread in Italy.

The project LIGHTHOUSES (FARI), as part of the program “DIMORE” , includes assets owned by the State Property Office and the Ministry of Defence that are offered to the market through Defence Services Spa, in accordance with other interested entities, through a concession of enhancement. The lighthouse accommodation model is respectful of the landscape, in line with the territorial identities and the safeguarding of the environment, that emerges in these areas chosen for their absolute beauty and maximum fragility, involving in fact some of the most extraordinary coastal territories in Sicily, Campania, Puglia, Calabria and Tuscany. This represents an opportunity to start in Italy, as it already happened in Croatia, Spain, France, and other countries, a network that allows to develop an unusual form of sustainable tourism, linked to the environment and sea culture, also in terms of cooperation between Mediterranean countries. In this sense, the recovery of valuable assets, owned by the State and other public entities, through long-term granting and in a logic of public – private partnership, it could be seen as a significant instrument to develop and revitalize territories and an important opportunity to support the establishment of social and cultural innovation.

This program represents a new model of management of innovative spaces, able to involve citizens, businesses and institutions and to find new solutions and new investment areas, according to a network system. For these goals it is possible to imagine a new type of investment, aimed to generate a return on investment and a social, environmental and employment impact.

It is proposed, therefore, a recovery model that points to the protection, preservation and enhancement of abandoned public buildings and the strengthening of the competitiveness and attractiveness of the context in which they are located, depending on the specifics of each territory . All the programs of enhancement were made in collaboration with the MiBACT and with the local authorities involved .

A specific form of concession is referred to as “project financing” (PF). It is a method of financing an economic unit through a transaction in which the lender considers the cash flows and project profits sufficient to cover the operating costs of the project, guarantee the repayment of debt and ensure a return on investment.

The ability to repay debt through cash flows is related to income forecasting initiative that is funded and is not linked to the reliability economic - management of the promoters. Risk management therefore plays a crucial role in the whole operation, in particular in the process of managing and transferring data. The risk analysis plays a key role in the organization and structuring of successful operations, especially for the achievement of value for money, intended as a margin of convenience of an operation in project finance and PPP than in a contract traditional.

Hence, in the PF procedure, costs for Public Administration are supposed to be lower than in public expenditure model (and even in the traditional concession model), risks lay on private parties and procedure could be triggered by private (non-profit and for-profit) organizations.

In cultural heritage sector, due to insufficient capacity to cover the costs with income from cultural activities, it is allowed (i.e. admitted by law) to reduce risks for private parties through partial public funding.

### 3.2 Diversification of funding sources and improvement and expansion of culture services

#### 3.2.1 Tax deductions and incentives for Culture

As a result of the evolution of museums sector as above described, museum funding strategies evolved over time, so that best performers are able to reach 60% of non-public funding. The search of a suitable funding mix for museums is then at the aim of museum statement in Italy, despite public funding remains crucial, on average.

There is no doubt that the institutional and contractual PPPs analyzed above represent an innovative form of involvement of private funding in the field of cultural heritage management. Other forms of financing are usually fostered through the development of appropriate incentive schemes within the general tax policy.

Among the measures adopted at national level in Italy, the so-called **Art Bonus** deserves a specific mention. Today in Italy there is a new favorable tax regime for those who support culture with charitable donations. It's called Art bonus, and it is a tax credit equal to 65 % of charitable contributions that individuals or companies make in favor of public cultural heritage.

The tax credit “Art bonus” is granted to individuals, to non-profit organizations and businesses for charitable contributions destined to the following:

- maintenance, protection and restoration of public cultural works (eg. monuments, historic buildings, works of art);
- support of public cultural institutions (eg. museums, libraries, archives, archaeological areas and parks), opera/symphonic foundations and traditional theater;
- realization, restoration and upgrading of facilities of public institutions dedicated to performances.

It works through a simple mechanism: beneficiaries register on a website ([www.artbonus.gov.it](http://www.artbonus.gov.it)) and donors use different way of money transfer (through a bank, post office, debit or credit and debit cards, bank checks), and save the receipt of the Art bonus transaction to take advantage of the tax benefits.

These measure started to provide important results, to date. After almost 18 months, the amount of donations reached the important threshold of 100 million of euro, so split:

- 4% individual donors
- 45% institutions

- 51% companies.

Following, the most important pieces of legislation are listed:

- Act on guidelines for cultural sponsorships (march, 2013), MiBACT.
- Regional Law n.21/2010, Tuscany Region.
- Art Bonus Law (+ Regulamentation by Fiscal Agency)
- Regional Law n. 45/2012, Tuscany Region.

### 3.2.2 Fiscal facilitations

The Italian legislation envisages a variety of formulas that facilitate philanthropy by providing incentives related to the fiscal regime. This applies both to physical persons and legal entities.

Depending on the situation (type of donor, type of donation and type of receptor), donations may be become the object of tax reduction in two ways:

- Tax credit: when the donated amount can be directly subtracted from the amount due (applies only to physical persons up to 19% and for a small amount - 2000 euros)
- Tax deduction: when the donated amount can be subtracted from the income amount to reduce the overall income sum on which income tax regimes apply (it applies to physical and legal entities, including enterprises).

For donations to no –profit sector, donations could be financial or in kind (that is goods, which need to be detailed in description and value) and are the object of deduction form the overall income. There is a limit in the Italian legislation: 10% deduction or no more than 70.000 euros for physical persons and 2% of the enterprise income.

Physical persons can make donations also to universities, research institutions, national or regional parks as well as public entities or no-profit organisations responsible for cultural heritage and activities and this applies also to enterprises (in this case, without any ceiling in term of deductible amount).

There are obligations for the donors and the beneficiaries in terms of how the donations are documented and accounted, in order to ensure the traceability of these funds. In particular, for donations for cultural heritage, physical donors are requested to stipulate agreements with the beneficiaries, complying with obligations pertaining protection of cultural properties. For enterprises, a project proposal for the cultural activities that is meant to be funded must be submitted for approval to the Ministry of Culture.

Recently, to facilitate the encounter of the ‘offer’ and of the ‘demand’ and to channelize the flow of donations to fund projects and initiatives of public interest, a specific on-line system has been set up combined with additional facilitation. This is known as ArtBonus (see paragraph 3.2.1 for more detail on this point) and provides for enhanced fiscal incentives for those who agree to make donations to public entities (e.g. Ministry of Culture, provinces, regions, municipalities) through the online system.

What is important to underline is that funding cultural activities and conservation of cultural heritage has become a way to improve the reputation of individuals, enterprises as well as bank foundations. This combines the economic interest with the prestige of being cultural patrons before society.

In particular, a number of bank foundations (for foundation see paragraph 3.1.4.4) have developed their own cultural programmes and funding schemes, investing substantial funds and setting out criteria for eligibility and good practice in project management.

<http://www.compagniadisanpaolo.it/eng>

<http://www.fondazioneCRT.it/en/fondazione-crt.html>

<http://www.fondazioneCariPlo.it/en/index.html>

Other important fiscal facilitations concern the owners of immovable properties that are protected according to the law. These implies the deductibility of the expenses for maintenance and rehabilitation from the income amount (this could be done throughout a period of time based on the income level of the owner), the reduction of taxes on the income obtained from the use of immovable protected properties and the complete exemption if these are used as museums or publicly accessible; reduction of taxes for cadastral, ownership or mortgage registration, reduction of inheritance tax (now it has been abolished for all immovable up to a certain amount), reduction of municipality tax on immovable properties. Fiscal facilitation on works conducted on protected monuments need to be certified by the competent body of the Ministry of Culture (soprintendenza), which also has to authorize the works and certifies the successful and respectful implementation of the works.

### 3.2.2.1 Percentage legislation

These are different formulas: the Italian legislation has introduced the possibility for citizens to decide about the destination and use of a small fraction of their income tax, without implying donations: these instruments are known as “otto per mille” or 8‰ eight per thousand and “cinque per mille” or 5‰ – five per thousand.

#### **“8 per mille” fiscal option**

The “otto per mille” (eight per thousand) is the percentage of the income tax on physical persons that each individual is allowed to decide to devolve to specific subjects: these include certain religious entities which have stipulated an agreement with the Italian State as well as the State itself. The law establishes also the sectors where these funds can be used and the mechanisms for their allocation, when these pertain to the State. For the tax percentage that goes to the State, it is the Presidency of the Council of Ministers that manages and coordinates the call for application to have access to these

funds. Specific criteria are set out as well as selection procedures. There is no obligation for Italian citizens to apply this choice, however the amount is anyway subject to the repartition according to the law and the decrees issued each year: even if citizens do not express a choice with regard to how to use this part of his/her income tax, the ‘otto per mille’ of their income tax will be anyway devoted to specific activities identified by the law and the implementation decrees promulgated each year. Eligible interventions include: humanitarian interventions, social and cultural activities, cult / religious activities, sustenance of the priesthood, activities for cultural and ethnic minorities.

The State allocates its part of the “otto per mille” to social and humanitarian actions as well as to interventions for the conservation of cultural heritage as well as seismic and energetic retrofitting of public school facilities.

### **“5 per mille”**

This instrument allows for individuals to devolve 5 per thousand of their income tax to social activities and no – profit organisations. It was introduced in 2006 and envisages four categories of organisations/ activities: volunteer activity, no-profit NGOs, social promotion associations, social activities supported by municipalities, health research, scientific or University research. Differently from the ‘8 per mille’ formula, in this case citizens need to choose the option otherwise no allocation can be made. The ministry of Culture as well as their special autonomous institutes, no- profit organisations dedicated, by law or statute, to the safeguard, conservation and promotion of cultural and landscape properties (since at least 5 years).

Citizens can apply to both options – ‘8 per mille’ and ‘5 per mille’ – and this gives them the opportunity to express a preference of allocation for a percentage of their income tax.

In both cases, decrees indicating how funds have been distributed (sectors) are published each year.

#### **3.2.2.2 VAT facilitation**

Facilitations and reductions also apply to the VAT. This particularly concern the reduction from 22% to 10% (for one period it was reduced to 4%) for rehabilitation and maintenance works. This currently does not apply only to protected monuments but to all immovable properties. Explorations have been made to ensure a specific VAT reduction applicable only to protected cultural properties but so far this has not found an implementation

### 3.2.3 Philanthropic sector in Italy

The philanthropic tradition in Italy is strong, and it dates back to medieval times, when the Church started to support, coordinate and control the problems of the poor. Driven by the need to manage a huge heritage, the Church began to consider the concept of a legal person, regardless of whether there was or not a *universitas personarum* or a *universitas rerum* (for example, a foundation!). Many pious institutions, on the initiative of Church institutions, as well as of private citizens, aimed at charities whose main goals consisted in the donation of food and clothes for poor people, as well as in collecting dowries for girls in need. All these institutions enjoyed tax exemptions.

In the last few centuries, due to the transformations that have occurred in most European countries and mainly in the United States, foundations have assumed a more structured configuration and have become progressively independent from religious institutions.

In the second half of the 19th century while Germany and France initiated legislation which aimed at a wider liberalization for associations to be gained through administrative local process (registration by judicial powers), Italian ‘anomaly’, which characterised associations’ legislation, became increasingly in evidence. The starting point was in 1848 with the Statuto Albertino, in which the authorisation procedure was aborted. The peculiarity of the Statuto Albertino was overwhelmed by the orientation of the Italian government to close down associations if they were suspected of being a threat to public order. It was a very ambiguous set of rules that represented in themselves an authoritarian interpretation of the balance between State power and individual freedom of association. The final decision about the existence of associations was ultimately in the hands of judicial power (the magistratura).

The reason for such an ambiguous statement in the Albertinian Code was to inhibit by law what the law itself was unable to produce at the level of civil society. Intermediate entities between the State and the limited organisational powers granted to the private sector, were classified in a juridical no man’s land, as ‘amphibious’ entities, the *enti morali*, deprived of any juridical status, except for the fact of being administrated by the State through its magistratura. The introduction of the legal form of foundations as institutions of public utility in the Civil Code of 1942 did not change de facto their juridical nature. Foundations can come into existence only through an act of concession, through which the public authority bestows a legal personality (White Paper on Foundations in Italy, 2003: 25): this legislation is still waiting for an in-depth structural reform.

In 2005 active foundations in Italy were 4,720 (Italian Institute of Statistics, ISTAT, 2009). Most of Italian foundations are operating foundations (49.5%), and then grant-giving (20%) and mixed (both operating and grant-giving – 30.5%). The great part of Italian foundations are new, in the sense that have been constituted in the last ten-fifteen years, due to the privatization of public entities. Regarding governance structure, Italian foundations generally have a steering board and a board of directors, in addition to the management technical organizational structure. Italian foundations gathered in 2005 revenues for 15.6 billions of euro (almost 80% of private origin).

Thus, the Italian grant-making foundations (including mixed foundations) are about 2400 units. However most that 80% of their financial assets is allocated in a small group of organizations: banking foundations.

In Italy there are currently 88 banking foundations that play an important role in the development of the country, through their socially-oriented activities and the exploitation of their great assets. Banking foundations are non-profit organizations that have been established following the restructuring of the Italian banking industry in 1990 (Law 218 of 30 July 1990, so-called "Amato" law). This reform called for state-owned banks to transfer their banking operations to newly-formed joint-stock companies, and to turn themselves into foundations to pursue public interest or socially-oriented activities. From asset management the foundations get the resources to support their institutional activity in the various areas of interest.

Banking foundations are mainly involved in financing areas such as arts and culture, assistance to the underprivileged, education, support to voluntary organizations, healthcare and scientific research. They typically operate in their own community and rarely carry out activities outside their local territory or at the international level. They have no shareholders, but regional and local authorities typically appoint the members of the Steering board. The Italian Ministry of Economy and Finance (MEF), as Supervision Authority, prescribes investment guidelines and special tax status.

The law recognized to the banking foundations the full statutory and operational autonomy, pursuing exclusively socially-oriented goals and the promotion of economic development. The initial requirement to hold a majority in the joint-stock banking companies was replaced by the opposite obligation to sell their controlling interests in banks and tax incentives were introduced to encourage the sale process. The governance structure of banking foundations is characterized by the following boards:

- Steering board (board of governors): sets the Foundation's operational strategies and policies also through advisory committees and subcommittees that monitor the Foundation's activities in the various areas;
- Board of directors: sets programs and select projects to fund, fix standard and relates with technical and operating organizational structure;
- Board of Statutory Auditors: It is composed of standing auditors and alternate auditors elected by the SB, and chosen from among individuals meeting the ethical and professional standards required for that position.

It is worth noting that four Italian banking foundations (Compagnia di San Paolo, Fondazione Cariplo, Fondazione Monte dei Paschi di Siena and Fondazione Cassa di Risparmio di Torino) are among the Europe's top 15 spending foundations.

### 3.3 Improvement of the educational and re-training systems in the field of culture

The present chapter focuses on the educational system of Italy for professionals of conservation. In Europe, professionals of conservation are called to satisfy specific requirements. An analysis of these requirements is recommended for realizing a review of the Azerbaijani system in the field

#### **Definition of conservation**

The legislative decree on Cultural Properties and Landscape (hereinafter d.lgs.) n. 42/2004 provides a definition of conservation at art. 29.

Conservation is defined as a broad set of actions which include a number of other activities, namely study, prevention, maintenance and restoration.

- The conservation of the cultural heritage is ensured by means of a consistent, co-ordinated and programmed activity of study, prevention, maintenance and restoration.
- Prevention is defined as the set of activities capable of limiting situations of risk connected to the cultural property within its context.
- Maintenance is defined as all the activities and work carried out for the purpose of controlling the conditions of the cultural property and maintaining the integrity, functional efficiency and identity of the property and its parts.
- Restoration is defined as direct intervention on a property by means of a set of operations aimed at the material integrity and the recovery of the aforesaid property, the protection and the transmission of its cultural values. In the case of immovable property situated in areas declared to be at risk of earthquake on the basis of the laws and regulations in effect, restoration shall include work for structural upgrading.

The d.lgs. 42/2004 establishes that the Ministry shall define guidelines, technical regulations, criteria and models for the conservation of cultural properties, in cooperation with the Regions, the universities and other research institutes.

So far the basic text that acted as an orientation guidelines for the technical ministerial staff when developing and carrying out interventions on cultural heritage properties has been a circular letter issued in 1972 and named “Carta Italiana del Restauro”. This is rooted in the Venice Charter and include detailed specifications for different cultural heritage categories. It contains a preamble, 12 articles and four annexes with specifications for the conservation/ restoration of antiquities, architectural properties, paintings and sculptures and historic centres. The respect of its principles and norms was compulsory for the ministerial staff, it has become a widely-shared legacy of the Italian conservation community, although in many consider that it needs some updating.

The experience developed by the technical staff of the central and peripheral offices of the Ministry of the Cultural Heritage, Activities and Tourism in designing and implementing conservation works allowed for an active participation of the Ministry in the introduction of specific special norms in the relevant legislation concerning the design and the implementation of works on cultural heritage.

The D.lgs. 42/2004 incorporates previously issued norms concerning the qualifications of professionals and enterprises that can work on specific categories of cultural properties.

As a matter of fact, the Italian law foresees a distinction between restorations of:

- immovable artifacts, including archaeological remains, and
- movable artifacts and valuable decoration of immovable listed monuments

### **Qualifications identified within procurement rules**

Since 1994, with the approval of the first organic modern law on public works and procurement, the Italian legislator recognized a specific nature to the works to be carried out on cultural properties and dedicated a specific section of the law and of its related by-laws.

The provisions concern the design levels, which can be different from those for other types of intervention and for interventions on properties not recognized as cultural heritage, the qualifications of the designers and of the enterprises.

The qualifications of the designers have been briefly introduced in the previous paragraph.

With regard to the levels of the design schemes, the Italian legislation identifies three progressive levels of technical deepening and specifications: technical and economic feasibility study, definitive scheme and executional scheme. The selection of these three levels aim at ensuring: the satisfaction of collective needs, architectural and functional quality, conformity to environmental, urban, heritage protection norms as well as working safety rules, the limitation of soil consumption, respect of hydrogeological, seismic and forest constraints, compatibility with archaeological pre-existences, as well as with geological, geomorphological and hydrogeological conditions, eco-energetic efficiency, maintenance of the works, accessibility.

The first version of the Code for contracts was issued in 2009 (d.lgs.163/2009) followed in 2010 by its related regulations. Following the issuing of new EU directives in 2014, the Code has been revised and replaced by a new law D.lgs. 50/2016.

Specific provisions for cultural heritage in the newly promulgated Code of Contracts are collected in articles 146 – 151 and art. 216. They derive partly from past legal instruments and concern the following:

- General discipline applicable to contracts in the sector of cultural heritage;
- The qualifications of the designers, operational directors and executors of the works;
- The levels and details of the project schemes for widened cultural heritage categories, now including, beyond movable cultural properties, decorated surfaces, historic materials of immovable cultural properties, archaeological properties and excavations, also works on villas, parks and gardens;
- Simplification and greater amplitude in variants;

- Award criteria;
- Verification in the realization phase and testing
- the simplification of procedures for sponsorship.

Another relevant article is art. 25, dealing with preventive archeology: this however is dealt with under the protection paragraphs, in that its provisions are more pertinent with regard to protection and stewardship of potential archaeological findings.

Previous orientations to consider the public procurement in the cultural heritage sector as a specific matter in need of special provisions to ensure the respect of heritage values, character and features have been overall confirmed.

The prevalence of the conservation and protection needs and the peculiarity of the object of the interventions are reflected on the following procedural stages of preparation and implementation of the interventions:

- 1) definition of the object and contract configuration or granting (in terms of defining the scope of the object of performance expectations, in order to avoid the absorption of categories of specialist work of cultural heritage within general categories that do not consider the specific qualifications needed for this sector);
- 2) Special verification of such a qualification and limitations to forms of pooling and "loan" of the requirements;
- 3) Award criteria (preference for qualitative and disfavor criteria for the maximum discount);
- 4) greater amplitude in the use of variants;
- 5) undergoing rigorous testing realization final and testing;
- 6) levels and specification of design and project schemes;
- 7) special qualification of the operators.

The aspect related to specific design levels, particularly aiming at flexibility of design and partial possibilities of revisions and adaptation of the design during the implementation phase, were previously regulated by provisions of law that have been abrogated this matter will be further regulated by an ad- hoc regulatory decree which will identify in more detail the required specifications;

Special qualification of the operators is dealt with in more detail in the subsequent sub-chapter.

#### Tender contract configuration

On the first point, the importance of cultural values to be protected affect the delimitation of the scope of the works, the requirements and levels of performance. Since 1994, the law prohibited entrusting the work of movable cultural property and assimilated together to work different category (so - called mandatory unbundling). This limitation was meant to prevent that specialized conservation works, although limited in financial terms, could be 'absorbed' into more generic categories and then carried out by enterprises lacking the necessary expertise and qualifications.

The new code has confirmed the ban on joint tendering. Paragraph 2 of art. 148 provides that "In no case the specialized work referred to in paragraph 1 can be absorbed into another category or be omitted in the indication of operations that make up the intervention, regardless of the incidence percentage of the value of specialized interventions assumes compared to the total amount ", with the additional provision" the contracting body indicates separately in the tender documents the activities related to monitoring, maintenance,

restoration of the property referred to in c. 1, compared to those of a structural nature, installations, and functional adjustments when dealing with property protected under the Code of cultural heritage and landscape".

### Award criteria

The preference for the most advantageous qualitative offer in disfavor for the maximum discount criteria, although in principle very important, has caused in Italy several application problems in the preparation of the tender documents and in the selection phase, giving rise in several cases to several controversies and litigations that have slowed down the implementation of the works. The new code therefore opens to the use of maximum discount also for tenders concerning cultural heritage.

On the subject of the award criteria the condition of 'utmost urgency' is more relevant. Compared to the ordinary procedure, the one for cultural property, increases the threshold to 300.000 euros, instead of 200.000 for other sectors.

To normal requirements established to declare the need to proceed under the 'utmost urgency' condition, in the case of cultural heritage it is added the explicit reference to the protection of the property, and the threats to its value in case of the delay in performance due to the normal tender procedures (Article 148, para. 7, speaks of "any delay is prejudicial to public safety or the protection of the good").

The same special rule for cultural heritage also leaves open the possibility to use the 'utmost urgency' procedure, within the same amount threshold.

It continues to apply the general provision allowing the use of the negotiated procedure without prior publication of a contract notice to carry the works strictly necessary to overcome the situation of extreme urgency; this urgency must not in any event be attributable to the administration (e.g. because of previous delay in intervening on known difficult conservation conditions).

The above specific regulations aim at ensuring that specialized works are clearly identified and carried out by competent practitioners employed by enterprises showing the necessary technical and organisational capacity.

### Greater amplitude in the use of variants

Article. 149 substantially reproduces previous norms and the new provision confirms that those that invest aspects of detail or are necessary for a risk of damage or deterioration of the protected goods are not to be considered "variants", provided that they do not qualitatively alter the work and do not exceed a percentage change total of 10% of the contract (and by 20% for each category of processing). The simplification of the rules for variants to the projects on cultural heritage takes into account the difficulties of envisaging in advance all the possible issues that may emerge during the works

### Verification in the realization phase and testing

Article. 150 of the Code, on the subject of testing in the field of cultural heritage provides that for the works related to the cultural property testing during construction is mandatory, provided that there are no conditions for issuing the certificate of regular execution.

A specific inter-ministerial decree will set out specific provisions concerning the testing of interventions on cultural assets in relation to their characteristics.

For the time being, previous provisions remain in force: the compulsory inclusion of qualified professional figures in the composition of the commission for the intermediate and final tests, namely restorers for the works on architectural properties and decorated surfaces and of an archaeologist for

works conducted on archaeological properties, in order to ensure that the quality of the works is properly assessed by competent professionals.

### Sponsorships

The new Code provides a strong procedural simplification for sponsorships. The procedural tightening was introduced by the legislature in 2012 to respond to sponsorship block in the field of cultural heritage but has remained almost completely unenforced. The proceduralisation of that contract, proved complex for both the P.A. both for candidate companies sponsors, has not had the desired effect and has led to the paralysis of the institute.

Hence the need to unlock the industry: the same delegating legislature has emphasized this aspect in the policy of delegation for the cultural property.

Art. 151 of the New Code provides for the application of the discipline of art. 19 of this code (containing the "sponsorship contracts") to:

sponsorship contracts for works, services or supplies related to cultural heritage;

with sponsorship contracts aimed at supporting the institutes and places of culture (as defined in d.lgs. 42/2004), the foundations opera and symphonic foundations and traditional theaters.

The administration responsible for the protection of cultural heritage imparts appropriate requirements as to the design, execution of works and / or supplies and the construction management and inspection of the same.

The article also provides for an expansion of the field of application of the sponsorship by extending the support to institutions and places of culture, to the opera and symphonic foundations and traditional theaters.

Particular form of sponsorship that could also regardless of specific interventions funding (or by the direct supply, in case of "technical" sponsorship, of works, services or supplies), to materialize in periodic donations, usable by the recipient, even to face ordinary and running costs of operation, as well as those of investment. These solutions are facilitated by the possibility of implementation of the sponsorship including through assumption of debt.

The new discipline of sponsorship envisages for forms of sponsorship by public initiative - through the opportunity for the PA to take the initiative to search for sponsors, including the publication on its website of a list of goods and services to sponsor and by private initiative through the presentation of proposals to the PA by the individuals concerned.

Art. 19 of the new code disciplines and defines the forms of sponsorship.

The so-called pure sponsorship is accomplished by delivering cash, assumption of debt or other mode of payment of recruitment fees due. The awarding of sponsorship contracts for works, services or supplies for amounts exceeding 40,000 EUR, by means of money giving or assumption of debt, or other means of taking the payment of fees due, is only subject to prior publication on the website of contracting authority, for at least thirty days, the appropriate notice, by which it is known the search for sponsors for specific interventions, or communicates the receipt of a sponsorship proposal, briefly stating the details of the proposed contract. After the publication of the notice period, the contract may be freely negotiated, subject to compliance with the principles of impartiality and equal treatment of operators who have expressed interest.

The so-called technical sponsorship is accomplished in cases where the sponsor intends to carry out works, services or supplies at its own expense. The law on public contracts does not apply, however the following exceptions described in the paragraph below apply.

In the event that the sponsor intends to carry out the works, provide the services or supplies directly to its expense, remains firm the need to verify that they meet the requirements of the executors, in respect of the European principles and limits, but the national and regional provisions on public works

contracts, services and supplies are not applied, except those on the qualification of designers and executors.

The contracting authority shall issue appropriate regulations regarding the design, execution of works or supplies and the construction management and inspection of the same.

### Special forms of PPP

The new Code of Contracts regulates also matters and procedures related to special forms of Public-Private Partnership Art. 151 c. 3 (normally open to progressive formation) provides for:

“To ensure the enjoyment of the cultural heritage of the nation and also promote scientific research applied to the protection, MIBACT can activate special forms of partnership with agencies and public and private bodies incorporated and addressed to) allow recovery, ii) the restoration, iii) scheduled maintenance, iv) management, v) open to public use, vi) the enhancement of immovable cultural property, through simplified procedures for identification of similar private partner or additional to those provided for in paragraph 1 (cfr. art. 19 of the Code).”

The regulation responds to a need that emerged in practice, characterized by lasting partnerships, with variable structures and legal causes and multiple objects. The new standard is a "container" in which they can merge both donations and / or sponsorships (both of money, both techniques), both scientific and research collaborations.

The provisions of art. 151, paragraph 3, therefore, constitutes an "open" standard that can be filled with specific application content based on the experience and best practices that can be experienced in the actual operations of the industry.

The special rule in Article. 151, c. 3, has particular purposes and it is expected that the identification of the partners takes place through simplified procedures, similar to those provided for sponsorship (or even more).

Trust is critical in this sector, as this partnership, while remaining contractual, tends to take on associative connotations, implying a common route of administration of a particular cultural site (see. Research size of the study, cataloging, restoration, opening to public use, exploitation, etc.).

Although the "contract" and non "institutional" this form of partnership can take a more "structured" form in the course of the relationship, in terms of the provision of special committees or technical committees (or control rooms or steering committee) in composition mixed or equal terms with the private partner is responsible not monitoring or address of the execution phase.

This rule stands as a special modification in respect to the institution of PPP in art. 180 of the Code. The latter provision, as well as those on works and services concessions, remain applicable to the areas of cultural heritage, taking into account the peculiarities of the object of individual initiative.

Art. 151 c. 3 regulates relationships whose terms of validity go beyond the normal PPP agreements, but they do not coincide with forms of institutionalized type of juridical bodies (i.e. Creating foundations or associations with the aim of management of cultural sites) and which required a specific legal recognition which is now represented this article.

### 3.3.1 Education requirements and qualification for professionals and companies

The matter of the implementation of interventions on heritage is not regulated in the 2004 Code of the Cultural and Landscape Heritage but in the Code of the public contracts of supplies, services and works and related regulations, firstly adopted in 2006 following EU Directives 17 and 18/2004 and subsequently amended and specified by its regulation (DPR 207/2010) and currently replaced by D.lgs. 50/2016, in order to comply with new EU directives 2014/23/UE, 2014/24/UE e 2014/25/UE.

The procedure for selection of companies and restorers is based on the principle of possession of preventive qualification in general technical sectors and specialized categories. The law identifies 13 general technical sectors and 35 specialized categories.

The general technical sectors span from road works, dams, etc. One of those is

- (OG2) Restoration and maintenance of listed immovable buildings

The specialized categories span from electrical plants, anti-thefts devices, building finishing, etc. Three of those are:

- (OS 2-A) Decorated surfaces of immovable listed monuments and movable art historian, archaeologist, ethno anthropological artifacts
- (OS 2-B) Archival and librarian artifacts
- (OS 25) Archaeological excavations

The Code of Contracts foresees the obligatory enrollment of the companies to the relevant rosters as a compulsory requirement for the admission to competitions above 150.000 Euros.

A second qualification criterion is the amount of the works to be implemented. A group of 8 thresholds is foreseen, spanning from 258.000 up to beyond 15,5 million Euros.

The system tightly regulates the principles and procedure for the release of qualification. These are released by private companies (SOA Società Organismi di Attestazione) authorized by the Authority for the surveillance of public contracts of works, services and supplies, which is an office belonging to the Presidency of Council of Ministers (art. 64 ff Regolamento). The qualification lasts five years. These companies must verify that the incumbents owe (art. 76 ff Regolamento):

- internal quality certification based on EU rules UNI EN ISO 9000
- the necessary general, and special organizational, financial and technical requirements

Moreover, the authorized private companies verify that the incumbents

- do not meet the following exclusion conditions, that are the so-called general requirements (art 38 Code contracts):
  - be in condition of failure
  - be subject to police prevention measures
  - be condemned for criminal association, fraud, corruption
  - have violated obligations on works safety
  - have behaved with negligence
  - have neglected tax obligations
  - have made false declarations
- meet the necessary special requirements, that are

- economic and financial capacity (bank references, annual workflow - to be demonstrated with invoices, taxes), patrimony,
- organizational and technical capacity (availability of adequate technical leadership, previous certified execution of works in the same category as the one requested for an amount adequate)
- adequate technical tooling
- adequate annual staff

### 3.3.2 Architects

The 1925 law on professions of engineer and architect<sup>7</sup> reserves the competence in designing and leading interventions on artistically valuable or listed immovable monuments to the architects, which can enjoy collaboration of engineers as for technical features of the project (structural features).

Architects are those that got master degree according to relevant university regulations and are enrolled in the professional roster after passing a state exam<sup>8</sup>

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<sup>7</sup>**R.D. 23 ottobre 1925, n. 2537 Approvazione del regolamento per le professioni d'ingegnere e di architetto**

Capo IV - Dell'oggetto e dei limiti della professione di ingegnere e di architetto

51. Sono di spettanza della professione d'ingegnere, il progetto, la condotta e la stima dei lavori per estrarre, trasformare ed utilizzare i materiali direttamente od indirettamente occorrenti per le costruzioni e per le industrie, dei lavori relativi alle vie ed ai mezzi di trasporto, di deflusso e di comunicazione, alle costruzioni di ogni specie, alle macchine ed agli impianti industriali, nonché in generale alle applicazioni della fisica, i rilievi geometrici e le operazioni di estimo.

52. Formano oggetto tanto della professione di ingegnere quanto di quella di architetto le opere di edilizia civile, nonché i rilievi geometrici e le operazioni di estimo ad esse relative. Tuttavia le opere di edilizia civile che presentano rilevante carattere artistico ed il restauro e il ripristino degli edifici contemplati dalla L. 20 giugno 1909, n. 364 (10), per l'antichità e le belle arti, sono di spettanza della professione di architetto; ma la parte tecnica ne può essere compiuta tanto dall'architetto quanto dall'ingegnere.

<sup>8</sup>**Decreto del Presidente della Repubblica 5 giugno 2001, n. 328  
(Pubblicato nel S.O. n. 212/L alla G.U. n. 190 del 17 agosto 2001)**

**Modifiche ed integrazioni della disciplina dei requisiti per l'ammissione all'esame di Stato e delle relative prove per l'esercizio di talune professioni, nonché della disciplina dei relativi ordinamenti**

Art. 17

(Esami di Stato per l'iscrizione nella sezione A e relative prove)

1. L'iscrizione nella sezione A è subordinata al superamento di apposito esame di Stato.

2. Per l'ammissione all'esame di Stato è richiesto il possesso della laurea specialistica in una delle seguenti classi:

a) per l'iscrizione nel settore "architettura":

1) Classe 4/S - Architettura e ingegneria edile - corso di laurea corrispondente alla direttiva 85/384/CEE;

b) per l'iscrizione nel settore "pianificazione territoriale":

1) Classe 54/S - Pianificazione territoriale urbanistica e ambientale;

2) Classe 4/S - Architettura e ingegneria edile;

c) per l'iscrizione nel settore "paesaggistica":

1) Classe 3/S - Architettura del paesaggio;

2) Classe 4/S - Architettura e ingegneria edile;

3) Classe 82/S - Scienze e tecnologie per l'ambiente e il territorio;

d) per l'iscrizione nel settore "conservazione dei beni architettonici ed ambientali":

1) Classe 10/S - Conservazione dei beni architettonici e ambientali;

2) Classe 4/S - Architettura e ingegneria edile.

The professional roster foresees four sectors:

1. architecture, for which master degree in Architecture and civil engineering (compliant with the EU Directive 85/384) is necessary
2. territory planning, for which master degree in Architecture and civil engineering or Urban and Environmental territory planning are necessary
3. landscape, for which master degree in Architecture and civil engineering or Landscape architecture or Science and technologies for the environment and territory are necessary
4. conservation of immovable heritage, for which master degree in Architecture and civil engineering or Conservation of immovable and environmental heritage are necessary

The circulation of all professionals within EU, including architects, is regulated by the DIRECTIVE 2005/36/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 7 September 2005 on the recognition of professional qualifications<sup>9</sup>.

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3. L'esame di Stato è articolato nelle seguenti prove:

a) per l'iscrizione nel settore "architettura":

- 1) una prova pratica avente ad oggetto la progettazione di un'opera di edilizia civile o di un intervento a scala urbana;
- 2) una prova scritta relativa alla giustificazione del dimensionamento strutturale o insediativo della prova pratica;
- 3) una seconda prova scritta vertente sulle problematiche culturali e conoscitive dell'architettura;
- 4) una prova orale consistente nel commento dell'elaborato progettuale e nell'approfondimento delle materie oggetto delle prove scritte, nonché sugli aspetti di legislazione e deontologia professionale;

b) per l'iscrizione nel settore "pianificazione territoriale":

- 1) una prova pratica avente ad oggetto l'analisi tecnica dei fenomeni della città e del territorio o la valutazione di piani e programmi di trasformazione urbana, territoriale ed ambientale;
- 2) una prova scritta in materia di legislazione urbanistica;
- 3) una discussione sulle materie oggetto della prova scritta e pratica, nonché sugli aspetti di legislazione e deontologia professionale;

c) per l'iscrizione nel settore "paesaggistica":

- 1) una prova pratica avente ad oggetto le tematiche paesaggistiche ed ambientali;
- 2) una prova scritta su temi di cultura ambientale e paesaggistica;
- 3) una discussione sulle materie oggetto della prova scritta e pratica, nonché sugli aspetti di legislazione e deontologia professionale

d) per l'iscrizione nel settore "conservazione dei beni architettonici e ambientali":

- 1) due prove scritte su temi di cultura e tecnica della conservazione;
- 2) una discussione sulle materie oggetto delle prove scritte, nonché sugli aspetti di legislazione e deontologia professionale.

<sup>9</sup>E.g. **System of automatic recognition of qualifications for the professions of doctor, nurse, dentist, veterinary surgeon, midwife, pharmacist and architect**

The automatic recognition of training qualifications based on the coordination of minimum training conditions covers the following professions: doctors, nurses responsible for general care, dental practitioners, veterinary surgeons, midwives, pharmacists and architects (Chapter III of the directive).

For recognition purposes, the directive lays down minimum training conditions for each of these professions, including the minimum duration of studies. The formal qualifications conforming to the directive issued by Member States are listed in Annex V. These qualifications enable holders to practise their profession in any Member State.

The directive allows Member States to authorise part-time training for all of these professions, provided that the overall duration, level and quality of such training is not lower than that of continuous full-time training.

Without prejudice to the specific acquired rights of the professions concerned, and particularly of architects (Annex VI), even if the formal qualifications for these professional activities held by nationals of Member States do not satisfy all the training requirements described, each Member State has to recognise them as sufficient proof. However, these qualifications must attest to the successful completion of training that began before the reference dates laid down in Annex V and be accompanied by evidence of the holder having devoted at least three consecutive years to the activities in question over the preceding five-year period.

### 3.3.3 Restorers

Art. 29 (Conservation) of the 2004 Code of the Cultural and Landscape Heritage<sup>10</sup> states that restoration on valuable decorated surfaces of monuments and movable artefacts are reserved to qualified restorers.

The same article regulated the related secondary legislation, that is:

- the job description of restorers (point 7 of art. 29), adopted with ministry decree nr 86/2009 (annex xx). The decree distinguishes three levels: restorer, technician of restoration, technician of restoration on particular sector

Restorer's duties are defined as follows:

*Professional who defines the state of conservation and puts in place a set of direct and indirect actions to limit the degradation processes of the constituent materials of the goods and*

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<sup>10</sup>Conservation

1. The conservation of the cultural heritage is ensured by means of a consistent, co-ordinated and programmed activity of study, prevention, maintenance and restoration.
2. Prevention is defined as the set of activities capable of limiting situations of risk connected to the cultural property within its context.
3. Maintenance is defined as all the activities and work carried out for the purpose of controlling the conditions of the cultural property and maintaining the integrity, functional efficiency and identity of the property and its parts.
4. Restoration is defined as direct intervention on a property by means of a set of operations aimed at the material integrity and the recovery of the aforesaid property, the protection and the transmission of its cultural values. In the case of immovable property situated in areas declared to be at risk of earthquake on the basis of the laws and regulations in effect, restoration shall include work for structural upgrading.
5. The Ministry shall define guidelines, technical regulations, criteria and models for the conservation of cultural properties, and in doing so may avail itself of the participation of the Regions and the collaboration of universities and competent research institutes.
6. With the provisions of existing laws and regulations regarding the design and execution of works to be carried out on architectonic property remaining in effect, the work of maintenance and restoration of movable cultural properties and the decorated surfaces of architectonic properties shall be carried out exclusively by those who are qualified restorers of cultural property in accordance with the regulations in this regard.
7. The job descriptions of restorers and other workers who carry out activities which are complementary to restoration or to other activities of conservation of movable cultural property and of decorated surfaces of architectonic properties are defined by the Minister's decree adopted under article 17, paragraph 3, of law no. 400 of 23 August 1988, in agreement with the State-Regions Conference.
8. The criteria and quality control levels to be met by the teaching of restoration are defined by the Minister's decree pursuant to article 17, paragraph 3, of law no. 400 of 1988 in accord with the Minister of Education, Universities and Research, and with prior consultation of the State-Regions Conference.
9. Instruction in restoration is provided by schools of higher education and training established under article 9 of legislative decree no. 368 of 20 October 1998, as well as by the centres referred to in paragraph 11 and other public and private bodies accredited by the State. The Minister's decree adopted in accordance with article 17, paragraph 3 of law no. 400 of 1988 in accord with the Ministry of Education, Universities and Research, and with prior consultation of the State-Regions Conference, identifies the procedures for accreditation, the minimum requirements for the organisation and functioning of the educational bodies referred to in the present paragraph, the procedures for the supervision of teaching activities and of the final examination, which must include the participation of at least one Ministry representative, as well as the characteristics of the teaching staff.
10. The training of professional figures who carry out activities which are complementary to restoration or other activities of conservation is ensured by public and private entities in accordance with Regional regulations. The relative courses shall meet the criteria and quality control levels defined by agreement in the State-Regions Conference, pursuant to article 4 of legislative decree no. 281 of 28 August 1997.
11. By means of special arrangements or agreements, the Ministry and the Regions, with the participation of universities and other public and private entities as well, may together establish centres, which may also be of an inter-regional nature, and which are endowed with corporate personality and entrusted with activities in research, experimentation, study, documentation and execution of conservation and restoration work on cultural property, of particular complexity. Schools of superior training for the teaching of restoration may likewise be established within these centres, under paragraph 9.

*safeguarding the cultural value. For this purpose, in the context of a coherent and coordinated planning conservation, the restorer analyzes data related to constituent materials, the technique of execution and the state of heritage and interprets them; designs and manages, for the part of competence, the interventions; runs directly conservative treatment and restoration; directs and coordinates other operators carrying out activities complementary to the restoration. Performs activities of research, testing and teaching in the field of conservation.*

In particular, the restorer is responsible for:

#### **A –preliminary exam**

- A1 - Collection of historical sources and documents, historical-critical analysis and data related to the welfare and the environment (also in collaboration with the professionalism of the art historian, archaeologist, architect, archivist, the librarian, paleontologist, and those referred to in Article4).
- A2 - Detection and study of realization techniques and constituent materials of the work checking whether it is original or due is due to previous interventions.
- A3 - Evaluation of the conditions of the property and the interactions between the work and its context, also in relation to the environmental characteristics of the area, possibly through sampling and early diagnostic tests(also in collaboration with professionals the art historian, archaeologist, architect, archivist, librarian, paleontologist, and those referred to in Article4).

#### **B – Design**

- B1 -Preparation of the technical data sheet foreseen by the regulations
- B2 –Drawing up of the diagnostic program and data acquisition (also in collaboration with the skills set out in Article 4).
- B3 –Drawing up of the preliminary and final design of the intervention on good and context (also in cooperation with the professionalism of the art historian, archaeologist, architect, archivist, librarian, paleontologist).
- B4 –Drafting -and its updating in the course of work– of the working design and maintenance programme
- B5 – Planning of packing, transport and storage of the goods or its fixing in case of on-site intervention.
- B6 - Drafting of the relevant part of conservation planning of the assets

#### **C – Intervention**

- C1 - Identification of contents for contracts with customers (public or private).
- C2 - Planning of intervention of internal operating structures (identification of resources and constraints, responsibilities, schedules, techniques).
- C3 – Improvement in the course of work of the working planning, definition of materials, methods and types of operators.

- C4 - Assistance to the execution of comprehensive diagnostic tests (in collaboration with the professionals indicated in Article 4) and sampling (also in collaboration with the professionals set out in Article4).
- C5-Preparation of laboratory/site.
- C6-Technical management of interventions.
- C7- Implementation of conservation interventions.
- C8 –Works lead; administrative operational management; support the activities of the head of the procedure.
- C9– Implementation of technical tests.
- C10- Monitoring of the actions taken, even in the context of conservation plans; participation in inspections and/ or tests provided for in those plans.
- C11- Requirements and supervision over all handling operations of cultural heritage, also in emergency situations.

#### **D – Documentation and dissemination of results**

- D1- Documentation of all phases of intervention including graphics, video, files, etc..; drawing up the final report, preparation of the final technical and scientific
- D2- Drafting conservative forms.
- D3 -Teaching both theoretical and practical.
- D4- Communication activities related to content and tools; publications

#### **E – Research and experimentation**

- E1-Participation in programs of research and experimentation on methods of intervention, technologies, scientific instruments and new materials for storage (in collaboration with the professionalism of the art historian, archaeologist, architect, archivist, librarian, paleontologist, and with those set out in Article4).

Technician of restoration and technician on of restoration on particular sector are figures ancillary to that of restorer.

A system of qualifications is also in place for heritage conservation enterprises. For instance, restorers must be employed by those enterprises that intend to qualify for works on valuable decorated surfaces and artistic works. Details of the qualification system for enterprises is discussed in the following paragraph.

### 3.4 Restoration and protection of historical and cultural monuments

### 3.4.1 Introduction

In Italy the protection of cultural heritage and landscape is a responsibility held by the State and stems from the Constitution (art. 9) which has been issued in 1948, when the capillary organization of the state structure for the protection of cultural heritage was already in place (the *soprintendenze* have been created since 1907, the first organic law for the protection of cultural heritage goes back to 1909). The protection of cultural heritage has been performed over the last century by the *soprintendenze*, established in 1907 under the directorate of antiquities and fine arts within the Ministry of National Education. They became the peripheral articulation the Ministry of Cultural Heritage only in 1974, when this was established. The *soprintendenze* perform articulated and complex functions and tasks that, overall, comprise the stewardship of cultural heritage and landscape. These tasks are related to the identification of properties eligible for being designated as cultural heritage, the stewardship of designated cultural properties and of the protected landscapes, the issuing of authorizations and technical advice for conservation works, transfer of ownership, alienation of publicly owned cultural properties. The technical staff of the *soprintendenze* also act as inspectors and have monitoring tasks to carry out. They also identify cultural properties in need of conservation intervention (in public ownership) and prepare preliminary cost –estimates for conservation works to be included in the budget proposal.

At the central level, general directorates coordinate the functions and activities of the peripheral offices of the MIBACT, are responsible for issuing standards and specifications for the proper implementation of the ministerial functions and tasks, pursuant the relevant legislation. On the other hand, actual protection and conservation tasks are responsibilities of the peripheral offices of the MIBACT, which forms a capillary network of specialized, technical branches that make possible the implementation of the constitutional tasks entrusted to the MBACT via the d.lgs. 42/2004, the L.368/1998 and the regulatory secondary legislation that establishes the organization and competence of Ministerial structure.

Various autonomous institutes support the general directorates in developing applied research and standards, guidelines as well as good practice in documentation, cataloguing, conservation, maintenance and safety of cultural heritage, among the most relevant for the purpose of this Twinning are:

Tangible cultural heritage:

- Central Institute for the Catalogue and Documentation (website: <http://www.iccd.beniculturali.it>)
- Superior Institute for Conservation and Restoration, Rome (website: <http://www.icr.beniculturali.it>)
- Opificio delle Pietre Dure, Florence (website: <http://www.opificiodellepietredure.it>)
- Central institute for the conservation and restoration of the archival and bibliographic heritage (website: <http://www.icpal.beniculturali.it>)
- Central Institute for archives (website: <http://www.icar.beniculturali.it/index.php?id=2>)

Libraries:

- Central Institute for the Unified Catalogue of Italian Libraries and the bibliographic information (website: <http://www.iccu.sbn.it/opencms/opencms/it/>)

Intangible heritage:

- Central Institute for the sound and audiovisual heritage ( website: <http://www.icbsa.it>)
- Central Institute for the demo-ethnographic and anthropological heritage (website: <http://www.idea.mat.beniculturali.it>)

### 3.4.2 Legal framework for the protection of cultural heritage

The main law regulating the protection of the cultural heritage both movable and immovable is the Code of Cultural heritage and landscape, legislative decree d.lgs. 42/2004. However, important provisions are contained in other laws. They regulate specific aspects of the protection of cultural heritage, complete and complement the stewardship objectives of the Code. These include specific provisions for cultural heritage of the Code of public procurement (d.lgs. 50/2016), particularly art. 25 preventive archaeology, which provides for procedures aimed at ensuring that potential archaeological structures below ground be considered during public works, on specific provisions of the Code of environment in the section on Impact Assessment. These specific provisions are dealt with in the relevant sections of this report.

More general primary and secondary legislation also regulates the administrative procedures related to the protection of cultural heritage, e.g., the general law on public procedures n. 241/1990 (and subsequent modifications and secondary regulations) establishes a set of principles and standards that also impact on the working methods of the structures of the MIBACT. These include the duty of the proceeding authority to inform the owner about the commencement of a designation procedure, the standardization of the timeframes for all procedures through ad – hoc regulations, the standardization of the documents to be submitting when requesting an authorization for conservation works to be carried out or any other intervention on the cultural heritage, among others.

Protection of cultural heritage has also been complemented by legislation on urban planning.

#### 3.4.2.1 General principles and definitions

Article 1 states that the Republic shall protect and enhance the cultural heritage in accordance with the powers set out in article 117 of the Constitution and according to the provisions of the d.lgs. 42/2004.

Art. 117 of the Constitution identifies a number of territorial entities that comprises the Republic: these are State, the Regions, the Metropolitan Areas, the Provinces and Municipalities. This means that while the State alone is responsible for the protection, other constituencies are called to ensure and sustain the conservation of the cultural heritage and foster its public enjoyment and enhancement. Other public bodies shall, in carrying out their activities, ensure the conservation and the public enjoyment of their cultural heritage.

On the other hand, private owners, possessors or holders of property belonging to the cultural heritage must ensure its conservation. It is evident the progressive reduction of responsibilities from the territorial constituencies of the Republic down to private owners. The protection and enhancement of the cultural heritage shall concur to preserve the memory of the national community and its territory and to promote the development of culture.

The activities concerning the conservation, public enjoyment and enhancement of the cultural heritage shall be carried out in accordance with the laws on protection of cultural heritage.

Articles 4 and 5 identify the functions of the State in the protection of cultural heritage and the cooperation with other territorial entities.

The protection functions are exercised by the Ministry of Cultural Heritage and Activities and Tourism directly. However, it may also confer this task on to the Regions, on the basis of agreements and coordination. The ministry holds responsibility of protection functions for properties owned by the State but placed under the care of or granted in use to administrations or subjects other than the Ministry.

The Regions as well as Municipalities, Metropolitan Areas and Provinces, hereinafter referred to as “other territorial government bodies”, shall co-operate with the Ministry in the exercise of its protection functions in accordance with the provisions of the d.lgs. 42/2004. For instance, the Municipalities are responsible for verifying that commercial activities are not carried out in places exhibiting particular historic – artistic significance due to their intrinsic value or for the presence of important monuments.

Administrative functions of landscape protection are conferred to the Regions, however the State maintains the power to supervise and direct their activity.

The Republic shall foster and sustain the participation of private subjects, be they individuals or associations, in the enhancement of the cultural heritage.

The d.lgs. 42/2004 defines cultural heritage as the ensemble of cultural property and landscape assets. The cultural property consists of immovable and movable things which present artistic, historical, archaeological, ethno-anthropological, archival and bibliographical interest, and of any other thing identified by law or in accordance with the law as testifying to the values of civilisation.

Landscape assets consist of the buildings and areas indicated in article 134, which are the expression of historical, cultural, natural, morphological and aesthetic values of the land, and any other assets identified by law or in accordance with the law.

Cultural heritage property belonging to the government shall be designated for public enjoyment, compatibly with the needs of government use and on condition that no protection reasons to the contrary persist.

Protection consists in the exercise of the functions and in the regulation of the activities aimed at identifying, on the basis of adequate investigative procedures, the properties constituting the cultural heritage and at ensuring the protection and conservation of the aforesaid heritage for purposes of public enjoyment.

Protection functions are also carried out by means of provisions aimed at conforming or regulating rights and behavior inherent to the cultural heritage.

Enhancement consists in the exercise of the functions and in the regulation of the activities aimed at promoting knowledge of the cultural heritage and at ensuring the best conditions for the utilization and public enjoyment of the same heritage. Enhancement also includes the promotion and the support of conservation work on the cultural heritage and is carried out in forms which are compatible with protection and which are such as not to prejudice its exigencies.

### 3.4.2.2. Cultural properties

According to the d.lgs. 42/2004, cultural property consists of immovable and movable things belonging to the State, the Regions, other territorial government bodies, as well as any other public body and institution, and to private non-profit associations, which possess artistic, historical, archaeological or ethno-anthropological interest.

The properties eligible for being formally designated as cultural heritage in Italy are manifold, as it is demonstrated in the lists below, which is the result of the aggregation of lists included in various laws issued in different periods. Cultural property includes:

- the collections of museums, picture galleries, art galleries and other exhibition venues of the State, the Regions, other territorial government bodies, as well as any other government body and institute;
- the archives and single documents of the State, the Regions, other territorial government bodies, as well as of any other government body and institute;
- the book collections of libraries of the State, Regions, other territorial government bodies, as well as any other government body and institute.

For private movable or immovable property to be eligible for designation, they need to exhibit particularly important artistic, historical, archaeological or ethno-anthropological interest. They can include:

- archives and single documents, belonging to private individuals, which are of particularly important historical interest;
- book collections, belonging to private individuals, of exceptional cultural interest;
- immovable and movable things, to whomsoever they may belong, which are of particularly important interest because of their reference to political or military history, to the history of literature, art and culture in general, or as testimony to the identity and history of public, collective or religious institutions;
- collections or series of objects, to whomsoever they may belong, which through tradition, renown and particular environmental characteristics are as a whole of exceptional artistic or historical interest.
- the things which pertain to palaeontology, prehistory and primitive civilisations;
- things of numismatic interest;
- manuscripts, autographs, papers, incunabula, as well as books, prints and engravings with their relative matrixes, of a rare or precious nature;
- geographical maps and musical scores of a rare and precious nature;
- photographs, with their relative negatives and matrixes, cinematographic films and audio-visual supports in general, of a rare and precious nature;
- villas, parks and gardens possessing artistic or historical interest;
- public squares, streets, roads and other outdoor urban spaces of artistic or historical interest;
- mineral sites of historical or ethno-anthropological interest;
- ships and floats possessing artistic, historical or ethno-anthropological interest;
- types of rural architecture possessing historical or ethno-anthropological interest as testimony to the rural economy tradition.

- frescoes, escutcheons, graffiti, plaques, inscriptions, tabernacles and other building ornaments, whether or not they be exhibited to public view, referred to in article 50, paragraph 1;
- artists' studios, referred to in article 51;
- public areas having archaeological, historical, artistic and environmental value in which commercial activity is to be forbidden or subject to particular conditions (responsibilities of the Municipalities);
- works of painting, sculpture, graphic art and any art created by a living author or which was not produced more than fifty years ago;
- the works of contemporary architecture of particular artistic value;
- photographs, with their relative negatives and matrixes, samples of cinematographic works, audio-visual material or sequences of images in movement, the documentation of events, oral or verbal, produced by any means, more than twenty-five years ago;
- means of transport which are more than seventy-five years old, referred to in articles 65 and 67, paragraph 2;
- property and instruments of interest for the history of science and technology which are more than fifty years old, referred to in article 65;
- the vestiges identified by the laws in force pertaining to the protection of the historical heritage of World War I, referred to in article 50, paragraph 2.

For a wide variety of private properties, the provisions of the d.lgs. 42/2004 do not apply if the object is less than fifty years old and its author is still alive, although there are different age thresholds for specific types of heritage objects.

It can be noted the extreme variety of typologies of properties that can be eligible for designation according to the provisions of the law. Objective criteria are the age, whether the author is alive or not, while more subjective criteria are related to the capacity of the object to reflect cultural significance. However, the law itself offers preliminary clues on what dimension of the cultural value could be considered when dealing with 'cultural' value. The prevalence in Italy is given to the historical dimension: it is eminently under the historical perspective that heritage is looked at: history of art, of architecture, of science, of technology, of military, of literature, archaeology, etc. the only slightly different value, more recently introduced into the legislation, is the ethno – anthropological value. Forms of protection however are also granted to properties exhibiting artistic or architectural value whose author could be still living or whose age do not meet the requirements of the law.

Another important criterion refers to the level of cultural interest that need to be demonstrated by publicly and privately owned properties: in the first case, it is sufficient that they exhibit 'cultural interest', on the other hand, for private properties it is necessary to demonstrate that they possess particularly important cultural interest to justify consideration for designation. In the case of a few categories of cultural properties, rarity and preciousness are relevant criteria to be taken into account when assessing the eligibility for designation of certain properties.

Regulations and guidelines issued by the central offices of the MIBACT to orient the designation process are briefly discussed in the relevant paragraph below.

#### 3.4.2.3. Listing properties as cultural heritage

The d.lgs. 42/2004 identifies different procedures for the listing of cultural and landscape properties. These are briefly outlined below.

Two procedures exist for the 'recognition' of cultural interest of cultural properties: one applies to belonging to the State or territorial entities, including the Church, and the other apply to properties belonging to private subjects. The first is known as verification of the cultural interest, because there a safeguard clause in the Italian legislation that considers that all properties in public ownership older than 70 years should be ideally considered exhibiting potential cultural significance until this is ascertained through an ad- hoc procedure. This should be initiated by the public body that owns the property. A specific regulation issued in agreement between the Ministry of Culture and the State Domain Agency determines the content of the technical documentation to be prepared for the assessment of the significance. This is rather detailed and includes cadastral data, coordinates, address, name of the owner, description of the consistency of the property and of its history, and include visual documentation, such as photographs and drawings (maps, elevations, sections, details). If the process of 'verification of cultural interest' is concluded positively, the electronic version of this documentation feeds into an online database accessible to the authorized technical staff of the ministry and of the owners ([www.benitutelati.it](http://www.benitutelati.it)). This is briefly discussed below in paragraph 2.4.2.3 on the catalogue system.

Properties in private ownership can be declared as having cultural interest through a procedure which can be activated by the competent office, usually the soprintendenza, on the basis of its own research but also following petitions, or by the owner. The competent directorates of the MIBACT have over time issued orientations on how to conduct the research and compile the technical historic – artistic report (*relazione storico – artistica*) that support the issuing of the decree. In 2009 has been issued a circular letter that describes the way in which the report should be structured and how the arguments need to be organized and presented in the report. This report becomes integral part of the designation decree along with the cadastral map, the cadastral data and visual documentation for the correct identification of the property.

Based on the law on administrative procedures, the owner should be previously informed that such a procedure is being initiated and he/she is allowed to participate in the procedure and to object or to appeal against the decision. The final decision of the administration should be formally communicated to the owner or possessor. When the decree establishing that a property has cultural significance according to the law in force, this information is reported in the Property Registry Office, since the decree is valid for each and every subsequent owner of the property.

#### 3.4.2.4. Cataloguing system and electronic database for listed properties

The ministry of culture has established several decades ago a system for cataloguing the information on properties exhibiting potential cultural significance and has carried out several campaigns of different types of cultural properties.

The Istituto Centrale del Catalogo e della Documentazione (Central Institute for Cataloguing and Documentation) over time has collected and managed these data and continue to do so as part of its mandate, and has produced standards for the collection and organization of data and information for different types of properties (artistic works, numismatic objects, archaeological findings, archaeological remains, architectural properties, historic centres, etc.) in order to ensure the use of a common language and the comparability among the collected data. It also has set out standards to ensure that data can be transferred from one system ot another and to guarantee the interoperability of the systems.

From a data collection point of view, three levels of detail have been envisaged: inventory fiche, containing basic information, such as address, location, definition, name; pre-catalogue fiche, with some more information that could be collected by direct observation; catalogue fiche, which requires also bibliographic and archival research.

The d.lgs. 42/2004 today envisages the cooperation on this matter with the regional administrations municipalities, religious organizations (mainly the catholic Italian Episcopal Conference), universities and research bodies, with a view to establish a network of multiple poles that feed their information into dialoguing web systems.

On the other hand, the database ‘beni tutelati’ ([url: www.benitutelati.it](http://www.benitutelati.it)) gathers the information on already designated properties. This system has been created under specific conditions, when it became compulsory within a tight timeframe the verification of cultural interest of properties in public ownership – with a view of the possibility of their alienation (see below the relevant paragraph) - and it was necessary to ensure that information on large numbers of buildings or immovable properties could be collected and processed in short time. This system was meant to facilitate and simplify the assessment of the cultural interest of these properties, to finalize the verification procedure in a short time and to keep track of the immovable properties that were likely to be alienated.

The systematization of the documentation fiches of movable and immovable properties into a web-based database is a crucial step for the effective management of cultural resources. It allows for a systematic and ordered collection and sharing of important information on protected properties in public ownership. From this database, other ones can be developed, containing different and more detailed data that could be useful to monitor the state of conservation of the properties or to orient intervention priorities.

For instance, a process of progressive implementation of the assessment of seismic vulnerabilities of cultural properties in public use has been initiated. Ad – hoc guidelines for the assessment of seismic vulnerabilities of historic buildings have been developed, that keep into account the difference in the structural logic of masonry buildings compared to reinforced concrete buildings. These include specific technical fiche for the collection of information with progressive levels of details (see section 2.4.8 on guidelines) to collect information on the geometrical, structural and material characteristics of the buildings or complexes that relate to their potential vulnerability to seismic activity. This information would be fundamental to guide the prioritization of interventions for the improvement of the building response to seismic activity according to methodologies that respect the structural logic of the historic buildings

### 3.4.3 Protection regimes, obligations and procedures

#### 3.4.3.1 Cultural properties

According to the d.lgs. 42/2004, the State, the Regions, and other territorial government bodies as well as any other government body and institution must ensure the safety and conservation of the cultural property in their possession. The law limits the obligations of private proprietors, possessors or holders of cultural properties to the conservation of the cultural properties in their possession and does not require

Public entities must conserve and organize their archives in their entirety, and compile an inventory of their historical archives, consisting of documents relating to matters concluded over forty years ago. Proprietors, possessors or holders by whatever legal right, of private archives designated as cultural properties are obliged to comply with the same rules.

Cultural properties may not be destroyed, damaged or adapted to uses not compatible with their historic or artistic character or of such kind as to prejudice their conservation. The archives cannot be dismembered.

The offices responsible for the above and several other administrative tasks related to the protection of heritage are performed by peripheral offices of the MIBACT, these are detailed in the following paragraph.

The following actions are subject to the authorization of the Ministry (at the moment, the Ministry is represented by joint regional commissions which include the superintendents, the regional secretary, the directors of the regional museum poles and take collegial decisions on the below):

- the demolition of things constituting cultural property, even with subsequent reconstitution;
- the removal of cultural properties, even when temporary;
- the dismemberment of collections and series;
- the discarding of documents in the public archives and in private archives having cultural significance;
- the transfer to other corporate entities of organized sets of documentation belonging to public archives, as well as of archives belonging to private persons.
- the removal of cultural properties, as a result of a change in the holder's residence or place of business, shall be declared in advance to the superintendent, who may prescribe the measures necessary to prevent damage to the properties during transportation.

The execution of work of any kind on cultural properties, other than the above, is subject to authorization by the superintendent. This shall be granted on the basis of the project drawing or, when sufficient, on the basis of the technical description of the work presented by the applicant, and may contain prescriptions.

In this regard the relevant general directorate has issued detailed standards to be respected in the preparation of the documentation of projects pertaining different cultural property categories, in order to ensure an homogenous approach among the different branches of the administration but also to ensure an informed decision – making process, based on accurate and adequate technical information about the project content, methods and thus allowing for an assessment of the impact of the intervention on the cultural value of the property.

Such an authorization shall be issued within 120 days, following reception by the relevant competent body. The relevant office of the MIBACT may request clarification and additional information in order to ensure that adequate information is provided.

The authorization by the MIBACT is separate from the building permit and is a pre-requisite to obtain the building permission, if needed, according to the law in force for the building activity (building Code DPR 380/2001).

The law on public procedures n. 241/1990 has established the possibility to issue the authorization for works to be carried out on cultural properties within the so – called conference of services, which is a collegial body formed by the representatives of the competent bodies that are called to provide

their authorization or advice on certain works or plans. In case the representative of the MIBACT denies the authorization or expresses a negative advice, the conference of services cannot be concluded positively, and the acting administration can appeal the President of the Council of Ministers to conclude the procedure. Currently this provision is being reformed and the president of the Council of Minister will be replaced by the provincial Prefect.

In case works are not carried out according to the issued authorization or can damage or threaten to a cultural property, the superintendent may order the suspension of such works. He/ she can also suspend the works when these are conducted on properties owned by public authorities for which the verification of the existence of the cultural interest has not occurred or finalized yet.

In cases of public works carried out in areas of archaeological interest, even when assessment of the existence of cultural interest has not been carried out, the superintendent may request that preventive archaeological sample analysis be carried out on the aforesaid areas at the expense of the principal commissioning the public work.

When the owner, proprietor or holder by whatever legal right does not take care of its property, the law authorizes the superintendent to oblige him/her to carry out the necessary works. In case of inertia, the superintendent can take direct action and the costs will be recovered from the owner.

For such purpose, the superintendent shall compile a technical report declaring the necessary nature of the measures to be carried out.

The technical report shall be sent, along with notification of start of procedure, to the proprietor, possessor or holder of the property, who may submit his/her observations within thirty days of receipt of the documents.

If the superintendent does not deem direct execution of the measures to be necessary, he/she shall assign the proprietor, possessor or holder a time limit for the presentation of the plans for the work to be carried out, in execution and pursuance of the technical report.

The plan presented shall be approved by the superintendent with any prescriptions that may be deemed necessary and a time limit shall be fixed for the start of work. For immovable property, the plan presented shall be forwarded by the superintendent to the Municipality or to the Metropolitan Area, which may express a reasoned opinion within thirty days of receipt of notification.

If the proprietor, possessor or holder of the property fails to fulfil the obligation to present the plan, or fails to take action to modify it according to the indications of the superintendent within the time limit fixed by the latter, or if the project is rejected, the Ministry shall proceed to direct execution.

In cases of urgency, the superintendent may immediately adopt the necessary conservation measures.

The expenses incurred for measures carried out on cultural properties, whether they have been imposed or directly executed by the Ministry shall be paid by the proprietor, possessor or holder. Nevertheless, if the measures are of particular significance or if they are carried out on properties granted in use to, or for enjoyment by, the public, the Ministry may participate in the expenses in whole or in part. In this case, it shall determine the amount of the expenses it intends to sustain and shall notify the party concerned.

If the expenses of the measures have been sustained by the proprietor, possessor or holder, the Ministry shall proceed to their reimbursement, and may also do so by part payments on account.

With regard to expenses incurred in direct action measures, the Ministry shall determine the amount to be charged to the proprietor, possessor or holder and shall pursue recovery of the expenses in the

forms provided for by the laws in force regarding the compulsory collection of government property revenues.

The relevant general directorate has issued standards for the requests of authorization for conducting conservation / rehabilitation works on cultural properties. The standards pertain to the structure of the authorization but also to the scope and content of the documentation required as a basis for the assessment of the project and its compatibility with the cultural values of the property and the respect of its tangible features. This has been an important advancement in that today all projects need to be submitted according to an agreed and common format, containing more or less the same level of information and the data and documentation indispensable for the competent offices to issue or deny their authorization.

#### Indirect protection measures (buffer zones)

With a view to ensure the protection of the cultural significance of protected cultural properties, the MIBACT, through its territorial branches, shall have the power to prescribe the distances, measures and other regulations aimed at preventing that the integrity of immovable cultural property be put at risk, that their perspective or natural light be damaged or that conditions of the setting or decorous aspect of the buildings be altered.

The delimitation of buffer zones is based on the characteristics of the cultural property to be protected, that is to say, there is no fixed defined delimitations (e.g. 100 around the property) as these need to be determined on the basis of an analysis of the qualities of the properties to be protected, the potential threats and impacts that are expected to be avoided through the definition of the indirect protection measures provisions for buffer zones and the type of measures they are supposed to assist in avoiding negative impacts. The provisions of indirect protection are given in the form of a detailed urban or territorial land-use plan, accompanied by written regulations.

The prescriptions referred to above, when adopted and notified, shall be immediately enforceable. The territorial government bodies concerned shall incorporate the same prescriptions into building regulations and urban planning instruments.

The procedure to establish a zone of indirect protection (buffer zone) is initiated by the superintendent, also at the request of the Region or other interested territorial government bodies, and shall notify the proprietor, possessor or holder by whatever legal right of the building to which the prescriptions refer. If the number of recipients is such that personal notification is not possible or proves particularly burdensome, the superintendent shall communicate the start of proceeding by means of suitable forms of advertising (e.g. through announcement on the newspapers, by publication on the official noticeboard of the municipalities where the area is located). As precautionary measure, the notification of the commencement of this procedure shall entail the temporary prohibition to modify the building with regard to the aspects referred to in the prescriptions contained in the aforesaid notification.

Administrative appeal against the provision containing the prescriptions for indirect protection are admissible according to the law. The intent to appeal, however, shall not entail the suspension of the effects of the provision contested.

For the purpose of establishing Buffer zones to World Heritage Properties, considering the limitations imposed by landscape designations, also protected landscape declarations can be used as legal protective measures. Their adequacy depends on the objectives to be reached through the indirect

protection that is required. This aspect would need a case by case examination, in that there might be other specific restrictive regimes imposed by other laws or regulations (e.g. code of navigation) that may well serve the purpose of the additional layer of protection sought for the property.

### 3.4.4 Organizational framework for the protection of cultural heritage

#### 3.4.4.1 Cultural properties

The articulation of the central and peripheral offices and structures of the MIBACT is regulated by the following provisions of law: DPCM 171/2014, DM n. 44 23/01/2016

The protection of cultural properties is performed by the peripheral offices of the MIBACT: the soprintendenze. These are distributed throughout the territory on a regional / provincial basis depending on the size of the regional territory and the density of cultural heritage.

Originally divided according to the type of heritage (artistic movable objects, archaeological properties, architectural and landscape property, archival property), following several reforms that have modified the articulation of both the peripheral and the central organization, the key stewardship functions today are performed by:

- The Superintendencies for archaeology, arts and landscape
- The Superintendencies for archival and bibliographic heritage
- The State Archives
- National and State Libraries

Coordination and other technical - administrative functions are performed by the Regional Secretariats, including the contracting boy for the ministerial peripheral offices.

#### The Superintendencies for archaeology, arts and landscape

Their mission is to ensure on the territory the stewardship of cultural heritage. Their tasks are numerous and varied and include the following:

- it performs the cataloging and protection functions within the area of jurisdiction, based on the guidelines and programs established by the Directorate General;
- authorizes the execution of works and works of any kind on the cultural assets, except for those assigned to the regional museum centers and institutions with special autonomy;
- provides for the temporary occupation of properties to run with the mode 'and within the limits laid down for the conduct of work, research and archaeological excavations or works directed to the recovery of cultural property;
- participate in and express opinions in conference services;
- ensures the protection and the dignity of the cultural heritage in accordance with art. 52 of the Code;
- administers and controls the delivery of goods given to him, and runs on the same, with the mode 'and within the limits laid down for the conduct of business in the economy, even its conservation work; It provides as well 'purchase of goods and services in the economy;

- carries out activities' research on cultural heritage and landscape, and the results made public, also electronically; It proposes that the Directorate-General Education and research dissemination initiatives, education, training and research related to areas of competence; collaborates as well in training activities, also by hosting internships;
- proposes to the Director General and the Director General Education and research programs relating to studies, research and scientific initiatives concerning the cataloging and inventory of cultural property as defined in competition with the regions in accordance with legislation; promotes, in collaboration with the Regions, universities' and cultural and research institutions, the organization of studies, research, cultural and educational initiatives on cultural heritage;
- by the investigation for the awarding of contracts and agreements with owners of cultural goods that conservative interventions whose spending helped the Ministry, in order to establish the modalities for access to the same goods by the public;
- instructs and proposes that the relevant Regional Commission for the cultural heritage of verification or cultural interest statement measures, the indirect protection as well as the statements of remarkable public interest of landscape properties or the integration of their content;
- imposes onto the owners, possessors or holders of cultural heritage the obligation to take actions necessary for preservation, or, for the same purpose, determines the direct intervention of the Ministry;
- carries out investigations and propose to the General Director of the measures relating to assets owned 'private not included in the state museum collections, such as the loan approval for exhibitions or shows, the export compulsory purchase, expropriation, under, respectively, articles 48, 70 and 95 of the Code;
- give advice on disposals, the exchanges, the mortgage constitutions and Pledges and any other legal transaction involving the transfer for value of cultural goods belonging to public entities as identified by the Code;
- instructs the procedures concerning technical and financial penalties provided for by the Code, as well as in the Consolidated Building Law;
- instructs and proposes to the general directorate the exercise of the right of first refusal;
- authorizes the detachment of frescoes, coats of arms, graffiti, tombstones, inscriptions, tabernacles and other decorative elements of buildings, as well as' the removal of tombstones and monuments, to be performed in accordance with art. 50, paragraphs 1 and 2, of the Code;
- unifies and updates the catalog functions and protection in the area of jurisdiction, in accordance with criteria and guidelines provided by the Director-General of Education and Research;
- give in concession the use of cultural heritage under the direct stewardship of the Ministry;
- performs the duties of the office of export duties;
- perform any other tasks entrusted under the Code and other applicable regulations.

To perform their tasks, the Superintencies are equipped with technical and administrative staff and instrumental equipment (offices, computers, printers, scanners, plotters, telephones, faxes, web connection, intranet connection, cars, cameras, etc.). The technical staff is highly qualified, as the required educational qualification today is degree diploma plus PhD or biennial post- graduate master degree in the topics related to the open positions.

### Superintendencies of Archives and Libraries

Superintendents of Archives perform their functions also in the field of library materials, except in the special regions and autonomous provinces of Trento and Bolzano. With reference to the functions of protection of library materials, archival and bibliographical Superintendents depend functionally to the Directorate General Libraries and can rely on the staff of state libraries. Their main tasks include:

- a) carries out activities for the protection of archival heritage present within the area of jurisdiction in respect of all public and private entities;
- b) ensures and declares especially important historical archives and documents belonging to private individuals;
- c) protects the archives, even the ordinary ones, of Regions, other territorial and local government agencies as well as of any other public institution, and claim files and individual documents of the State;
- d) provides for the compulsory custody of archival heritage in relevant State archives to ensure their safety or preservation;
- e) instructs the procedures concerning sanctions and fines provided for by the Code for violation of provisions of archival heritage;
- f) implement, on the basis of technical and scientific directions of the competent Directorate-General, the inventory and archival description of goods within the territory of competence and insert and update data in national information systems;
- g) carry out investigations and propose to the General Director of the Central authorization measures to loan to exhibitions or exhibitions of archival heritage, authorization for temporary exit events, exhibitions or art exhibitions of high cultural interest;
- h) performs the duties of export office;
- i) provide assistance to public bodies and to other owners, proprietors or holders of archives declared as having important historical interest in the formation of classification manuals and record keeping, as well as in the definition of logging procedures and documentation management;
- a) l) organizes and carries out activities training for those dealing with archives for the regions, local authorities and local governments and other public entities;
- b) m) promote the establishment of archival centers, in collaboration with the public administrations in the territory of competence, for the coordination of the activities of institutions performing similar functions, and in order to optimize the use of resources and rationalize the use of space;
- c) n) promote the knowledge and use of archives and subscribes, according to the general guidelines issued by the relevant general directorate, agreements with public bodies and training and research institutes for the purpose of protection and enhancement of archival heritage.

### State Archives

The State Archives are equipped with technical and scientific autonomy and perform functions of protection and enhancement of archival heritage under their responsibility, ensuring the public use as well as protection functions of the State archives, current and deposit. The State Archives may subscribe agreements with public entities and study and research institutions also for the purpose of teaching.

### State Libraries

The state Public libraries play conservation functions and enhancement of bibliographic heritage, ensuring public enjoyment. Libraries may subscribe, even for purposes of education, agreements with public bodies and training and research institutes.

#### 3.4.4.2 Alienation of cultural properties

Until 1998 cultural properties belonging to the State and other territorial bodies as well as to the Church and other non-profit organization could not be privatized as they were considered part of the cultural domain of the Republic. The first opening to privatization occurred in 1998 when art. 32 of the law 448/1998 opened to the possibility of alienating the cultural property owned by Municipalities and Provinces and by the Church.

The sale could be possible only if authorized by the competent superintendencies and it is demonstrated that the conservation, integrity and public access are not jeopardized and if the envisaged use is compatible with the cultural character of the property. In 2000 a regulatory decree was issued containing specific criteria and guidelines were issued to regulate the matter, in terms of what could be alienated, according to what procedures, timeframe, as well as the technical content of the alienation request, the prescriptions for conservation, structure of the alienation contract, definition of criteria for the identification of the typology of properties that could be subject to the alienation.

The provisions contained therein have been the basis for the subsequent stewardship activity of the peripheral offices of the MIBACT when evaluating the requests for alienation.

The request to alienate needs to contain the following:

The basic data for the identification of the property, a programme describing the objectives of safeguard and mise en valeur that could be achieved through the alienation, specific envisaged conservation measures, function and use of the property, modalities for the public enjoyment of the property, in relation to the level of previous accessibility, timeframe for the implementation of the programme. In case the alienation concern portions of immovable complexes, it should be assessed and explained the impact of the alienation programme on the extant part of the complex.

With the increasing budgetary crisis of the public administrations and of the State, a series of laws were issued allowing for the alienation of properties belonging to the State.

These provisions have now been incorporated into the d.lgs. 42/2004. The current legislation identifies a limited number of typologies of properties belonging to the cultural domain that cannot be alienated by any territorial constituency of the Italian State.

The following cultural properties belonging to the State cannot be alienated:

- buildings and areas of archaeological interest;
- buildings recognized as national monuments by measures having the force of law;
- the collections of museums, picture galleries, art galleries and libraries and the individual elements of such collection;
- archives and the individual documents contained therein.

The properties and things referred above may be transferred between the State, the Regions and other territorial government bodies, according to specific criteria. The properties and things indicated above may be used exclusively according to the modalities and for the purposes provided for by the d.lgs. 42/2004.

Immovable properties other than those listed above belonging to the State, the Regions, the Provinces, the Municipalities or other territorial bodies cannot be alienated before that the procedure of verification of cultural interest has been concluded.

Cultural Properties belonging to the State can be alienated only following authorization of the MIBACT relevant offices. Such an authorization may be granted only under the following conditions:

- alienation must ensure the protection and enhancement of the properties, and in any case must not hinder public enjoyment;
- the authorization provision must indicate designated uses that are compatible with the historical and artistic nature of the buildings and must be such that no harm is done to their conservation.

The alienation concerns only the ownership status but does not affect the cultural status, that is to say, the property remains under the provisions of the relevant legislation for the protection of cultural heritage.

#### 3.4.4.3 Transfer of cultural State domain assets to territorial public entities

Within a wider process of transfer of immovable properties from the State administrations to the other territorial constituencies of the Republic, in 2010 has been issued a legislative decree that opened to the possibility of substantial transfer of a wide variety of immovable properties to the regions, the provinces or the municipalities without direct financial burden.

In 2010, the non–onerous transfer of properties belonging to the State domain, including the cultural immovable heritage, to territorial entities of the Republic has been made possible and regulated. This option concern the properties that cannot be alienated but can only become the object of an agreement between the State and the public entity concerned which defines the conditions of this transfer to the local entity domain.

On the basis of specific agreements defining valorization programmes, pursuant art. 112 of the d.lgs.42/2004, ensuring the protection, conservation, compatible use, public enjoyment, and economically sustainable rehabilitation and subsequent maintenance and management of the property, the transfer can occur.

The MIBACT and the Agency of State Property have issued criteria and guidelines to be respected in the elaboration of the valorization programme. Main aspects to be considered include:

- description of the cultural property, of its cultural significance and indication of existing heritage designations, indication of the current and potential future use
- outline of the overall programme, description of the objectives and strategies of the valorisation programme, existence and link with strategic plans of cultural development,

modalities of programme implementation, economic sustainability, implementation timeframe.

The above is meant to enact the pursued cooperation between the State and other territorial entities of the Republic in the stewardship, conservation and enhancement of the publicly owned cultural heritage.

The process has been initiated and not enough time has passed to have a proper assessment of the success, in terms of improved conservation, enhancement and valorization of the public cultural heritage, however a number of interesting experiences are being implemented in different parts of Italy.

### 3.4.5 Urban and spatial planning and Impact assessment in relation to the protection of cultural heritage

#### 3.4.5.1 Territorial and urban planning and heritage protection

The attention to the setting of the monuments has been an early concern in the Italian context, thanks to the work and research of Gustavo Giovannoni. This consciousness has nurtured the debate around the elaboration of the laws on the first organic laws on the protection of cultural heritage, on the protection of landscape, both issued in 1939 and that of urban planning, issued in 1942.

Even before, the Law n. 364/1909 – the first for the safeguard of antiquities and fine arts promulgated in the unified Italy - regulated the protection of the setting of the monuments to prevent impairments to their view or light. This possibility was further extended in 1939 (law n. 1089/1939), envisaging a sort of permanent detailed plan that prescribed distances, measures and other norms directed to avoid threats or alterations to the integrity, setting and decorum of protected immovable properties. However, neither the law n. 1089/1939 nor the one for the protection of natural beauties (l.1497/1939) encompassed the historic centres/ cities among the categories of properties eligible for listing: formalizing their safeguard, in fact, was somehow at odds with the rhetoric of wide monumental spaces pursued by the fascist regime.

A few years later, in the 1942, the law for urban planning was approved. This law was particularly important for Italy in that it established that all the territory was to be managed through planning and, to this aim, three levels (already proposed by Giovannoni in his writing in 1913 and then in 1931) were defined: territorial, municipal, through masterplans, and sectorial, through detailed plans. The latter should regulate the urban configuration, the distribution of services, the buildings and areas to be restored or upgraded.

The law established that the detailed plans on areas including listed properties had to be evaluated by the Ministry of National Education (and then by the Ministry of Cultural and Environmental properties), warranting, at least ideally, the implementation of the protection mandate not only on individual monuments but also on their setting, even in the absence of formalized indirect restrictions.

At the end of WWII, urban planning appeared the readiest to pick up the challenges at stake: in Naples in 1949, the congress of the national Institute of Urban planning (INU) discussed on the urban problems of cities with historic character, in Lucca, in 1957, the topic was the defense and valorization of the rural and urban landscape.

First exemplary plans taking into consideration the heritage values of the historic centres, were made by influential urban planners, such as Giovanni Astengo in the master plans for Assisi (1955 – 1958) and Gubbio (1958 – 1964). In Assisi, a detailed historic and typological analysis was accompanied by an unprecedented effort to map socio- economic data and the living conditions: the retention of the social structure was seen as a warranty for the conservation of the physical form of the city, while the knowledge of the settlement and evolutionary matrix of the city was to govern location and layout of the expansion zones. The plan was never adopted nor implemented: the special law for Assisi provided for more flexibility and was thus preferred by the local administration. The Gubbio master plan was elaborated along similar lines but, differently than in Assisi, was adopted and partly implemented.

On the wave of the debate triggered by these planning experiences, in 1960 the INU organized in Gubbio the national symposium on the “safeguard and the recovery of the historic – artistic centres”, which coagulated the historic centres quest and brought to the foundation of the Associazione nazionale Centri Storico – Artistici – ANCSA (national association for historic- artistic centres) and to adopt a final declaration – the Gubbio Charter. This urged the safeguard of the historic centres as a premise for the development of the modern city, requested that measures for the old city be integrated into the general planning, refused mimetic criteria in building interventions as well as any diradamento; underlined the need for a preliminary historic- critic study to determine forms and levels of intervention and the need to identify and to retain the social structure of historic neighborhoods.

This early debate led, in 1967, to issue the law n. 765, which introduced two key concepts for the safeguard and enhancement of the historic centres: their inclusion into the general planning system and the determination of specific standards aimed at safeguarding their ancient fabric and character. The law established also that each municipality had to map their historic centres and, in the absence of a master plan, building activity within these historic areas had to be limited to conservation and recovery with no volumetric modification; detailed plans for these zones strictly limited alteration to volumes, density, building height and distances between edifices.

The “Commission of investigation for the protection and enhancement of historic, archaeological, artistic heritage and of the landscape” (known as Franceschini Commission), established in 1964 to examine conditions and exigencies of the protection of the Italian cultural heritage also addressed in its works the issues of the historic centres. The Commission, which saw also Astengo’s participation, formulated eighty-four declarations and ten recommendations: a specific declaration was dedicated to historic centres (Declaration XL, 1967, p. 72) which confirmed the approach of the Gubbio Charter and underlined the need for financial and fiscal incentives for private investors. The subsequent declaration on the new urban settlements, more importantly, correlated the old parts of the city with the new ones, to be designed as 'cultural properties' in progress, to form a significant urban landscape 'as a civilised environment for life'.

The consciousness that the historic centre is part of a wider and more complex system of territorial resources developed in the early 1970s. The entire existing city appeared as a resource not to be wasted: reuse and redistribution of the existing built resources became a political dictate.

In 1975 the Ministry of cultural and environmental properties was established, on the grounds of the 1964 Franceschini Commission, although the creation of the new ministerial structure was not accompanied by the reform of the heritage protection laws: historic centres continued to be governed only by urban planning, a competence transferred to the regions in 1977. This unfortunately had marked negative consequences due to the lack of capacity of the regional technical staff to manage the urban planning matter, especially when dealing with historic urban environment.

Although it took much time to achieve that municipalities delineate the perimeters of their historic cores and defined regulations and detailed or operational plans for their recovery, the stone of forms of regulations of the historic urban fabric was posed in 1967. In subsequent decades, also through funding programmes and other laws, the historic cores of Italian smaller and larger cities, that immediately after World War II were under imminent threat of being destroyed or ruthlessly altered, could be recovered, although not always with the most appropriate methods and techniques. Today in many cities the real estate prices in historic centres of many cities is higher than in more external zone, and this also relates to the qualities of the intangible services offered by a qualified environment.

The debate on historic centres and on post-war reconstruction entered also the didactic activities of urban planners and architects who were also active in the universities and this gave a resonance to this issue and was progressively and widely absorbed by the young professionals of the time who became more acquainted with the importance of safeguarding the physiognomy of city centres and of their built fabric.

#### 3.4.5.2 Environmental and Strategic Impact Assessment

Requirements for conducting impact assessments of projects and plans stem from several EU directives.

The most important ones include

- The EIA Directive (85/337/EEC), in force since 1985 and amended three times (1997, in 2003 and in 2009 and then codified in the
- EIA Directive 2011/92/EU, further amended by Directive 2014/52/EU
- Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SEA Directive)

All directives include reference to cultural heritage as one of the factors making up the environment of human beings and therefore needs to be taken into consideration when assessing impacts on the environment.

The provisions for Environmental Impact Assessments on projects that may have impact on protected cultural properties have been incorporated into the D.lgs. 42/2004.

Art. 26 states that for work projects to be subjected to environmental impact assessment, the authorisation provided shall be expressed by the Ministry in a joint session of the government bodies concerned for the decision on environmental compatibility, on the basis of the final project plan to be submitted for the purpose of the aforesaid assessment. When an examination of the plan effected in accordance with paragraph 1 shows that the project is not in any way compatible with the protection exigencies of the cultural properties which would be affected, the Ministry shall take a negative decision, notifying the Ministry of the Environment and Land Protection. In such case, the environmental impact assessment procedure shall be deemed to have been concluded negatively. If, while the work is being carried out, actions occur which conflict with the authorization, and are such as to put at risk the integrity of the cultural properties subject to protection, the superintendent shall order suspension of the work.

On the other hand, the provisions for Strategic Impact Assessment have not been incorporated yet in the D.lgs. 42/2004 or in the law establishing organisation, structures and functions of the MIBACT offices and have therefore been regulated through circular letters. These outlines the way in which the peripheral structures of the MIBACT participates in the procedures activated at the regional or national level, which type of information should be included in the plan to assess the impacts, how the advice of the ministerial offices should be structured and what they should report on in order to clarify what is the estimated impact of the plan or programme on the cultural heritage.

The possibility of expressing the opinion and advice of the MIBACT at the planning stage is a powerful tool, in that the assessment of and information on potential negative impacts on cultural heritage deriving from planning or programme provisions allows for an early stage impact assessment, before any final decisions are taken and development expectations and rights are confirmed in planning provisions. It is a procedure the widespread use of which could substantially improve the effectiveness of protection over the cultural heritage, in that the understanding of negative impacts is anticipated at an earlier stage than that of the definitive project, when in many cases it is very difficult, or costlier, to reverse decisions or modify projects.

#### 3.4.6 Guidelines and instruments issued by the MIBACT

The central structures of the MIBACT over time have regulated through circular letters specific matters pertaining the application of the provisions of law of the d.lgs. 42/2004 and other laws having an impact on cultural heritage. The MIBACT has also issued guidelines aimed at orienting recurring issues in the field, such as value- based seismic retrofitting, improving accessibility, improving energetic efficiency and compatible use of renewable energy installations.

These guidelines set out the scope of the issues and problems to be faced, the methodological scope of the document, principles to be respected and technical options to be adopted.

*Below a list of standards and guidelines that have been developed over the decades to assist the technical staff of the ministry but also all stakeholders, administrations, individual owners, professionals in perform more effectively their tasks. These instruments play also an important role as educational and training tools.*

- Annex A: the Italian charter of restoration (1972)
- Annex B: standards for the submission of authorization requests for works in protected cultural heritage or landscapes
- Annex C: standards and guidelines for compilation of inventory, pre- catalogue and catalogue fiche
- Annex D: guidelines for the assessment and reduction of seismic vulnerability
- Annex E: guidelines for the improved accessibility to public cultural properties
- Annex F: guidelines for the energetic efficiency and use of renewable resources in heritage buildings
- Annex G: Landscape report
- Annex H: guidelines for the insertion of windfarms in protected landscapes

### 3.5 Modernization of the museum branch

#### 3.5.1 State and non/state/owned Museums

##### 3.5.1.1 Overview

In Italy, there are **3,847 public and private museums, galleries or collections**. Almost one municipality out of three houses at least one museum-type structure. The regions with the largest number of institutions are Toscana, Emilia-Romagna and Piemonte. In the North are located 48% of museums. The top 15 museums and similar institutions in 2011 registered about a million each visitor and absorbed almost a third (30%) of the visitors. The majority of the Italian museums are public property.

<b>Museums&amp;Galleries in Italy</b>				
<b>#</b>	<b>Region</b>	<b>State-owned</b>	<b>Other public and private owners</b>	<b>Total</b>
1	Piemonte	3	320	323
2	Lombardia	7	333	340
3	Liguria	4	161	165
4	Veneto	10	271	281
5	Friuli-Venezia Giulia	4	119	123
6	Emilia-Romagna	13	384	397
7	Toscana	35	412	447
8	Umbria	7	128	135
9	Marche	9	253	262
10	Lazio	34	225	259
11	Abruzzo	5	76	81

<b>12</b>	<b>Molise</b>	<b>5</b>	<b>21</b>	<b>26</b>
<b>13</b>	<b>Campania</b>	<b>26</b>	<b>133</b>	<b>159</b>
<b>14</b>	<b>Puglia</b>	<b>10</b>	<b>119</b>	<b>129</b>
<b>15</b>	<b>Basilicata</b>	<b>9</b>	<b>35</b>	<b>44</b>
<b>16</b>	<b>Calabria</b>	<b>10</b>	<b>130</b>	<b>140</b>
<b>17</b>	<b>Sardegna</b>	<b>7</b>	<b>147</b>	<b>154</b>
<b>18</b>	<b>Trentino/Alto Adige</b>	<b>-</b>	<b>156</b>	<b>156</b>
<b>19</b>	<b>Sicilia</b>	<b>-</b>	<b>166</b>	<b>166</b>
<b>20</b>	<b>Valle D'Aosta</b>	<b>-</b>	<b>60</b>	<b>60</b>
	<b>TOTAL</b>	<b>198</b>	<b>3.649</b>	<b>3.847</b>

Table 1 - Source: Istat 2011

According to 2015 data, in Rome and Florence, the capitals of national and international cultural tourism, there are more or less 200 museums/ institutions.

In 2015, two institutions out of three (64.1%) are publicly owned and, among these:

- 67.8 % of the publicly owned museums belongs to municipalities;
- 13.9 % to the Ministry of Cultural Heritage and Activities and Tourism (MiBACT);
- 3.7 % to public universities.

On the other hand, among the private institutions:

- 28.5% of the museums is held by church and religious bodies;
- 16.7% by recognized associations;
- 13.3% by non-banking foundations;
- and 6.8 % by private citizens.

Over three-quarters of the museum institutions (75.8%) are characterized by a direct management.

In particular, 68.8% of the public institutions and 88.9% of the private institutions have a direct management. The direct management is undertaken directly by the owner

- in 87.3 % of the public institutions;
- in 85.7% of the private institutions.

The museums are managed in cooperation with other parties (through forms of association, which could be consortium and in-house ones:

- both for public institutions (11.3%);
- and for private bodies (10.7%).

The indirect management of public institutions is entrusted to private bodies in 82.6% of the cases, while private ones involves public bodies in 13.2% of the cases.

Approximately 71.6% of the Italian museums is housed in a building of considerable value and historical or artistic interest; for 27.2% of the cases, the building and collections contribute equally to attract visitors, on the other hand, the 19.2% of the cases, the structure/building is the main attractor.

The majority of the Italian museums displays ethnographical and anthropology collections (16.6%); art (15.9%), ancient archaeology (14.7%) and history (11.5%).

In 2015, museums and other museum exhibition structures have registered a record of 110,6 million admissions (+ 6.4% compared to 2011): 59.2 million for museums, 11.9 million for archaeological sites, 39.3 million for monuments (they were respectively 53.9; 9.5 and 40.5 million in 2011).

Visitors are present on a limited number of destinations; in 2015 only three regions have registered the 52.1% of the visitors: Lazio (22.3%), Tuscany (20.6%) and Campania (9.2%). On average, there are just over 22 thousand admissions for each museum but highly polarized: in 2015, the first 20 museums and similar institutions have attracted almost a third of these visitors (31.9%) while 36.5% have registered not more than one thousand admissions per year.

In particular, regarding museums and galleries, 2011 data shows:

<b>Visitors in Museums&amp;Galleries in Italy</b>				
<b>#</b>	<b>Region</b>	<b>State-owned</b>	<b>Other public and private owners</b>	<b>Total</b>
<b>1</b>	<b>Piemonte</b>	133.148	3.717.394	3.850.542
<b>2</b>	<b>Lombardia</b>	930.819	6.777.371	7.708.190
<b>3</b>	<b>Liguria</b>	68.279	1.026.434	1.094.713

<b>4</b>	<b>Veneto</b>	827.049	5.638.129	6.465.178
<b>5</b>	<b>Friuli-Venezia Giulia</b>	293.044	807.524	1.100.568
<b>6</b>	<b>Emilia-Romagna</b>	241.608	3.314.005	3.555.613
<b>7</b>	<b>Toscana</b>	7.357.602	3.958.787	11.316.389
<b>8</b>	<b>Umbria</b>	180.772	670.885	851.657
<b>9</b>	<b>Marche</b>	406.302	941.088	1.347.390
<b>10</b>	<b>Lazio</b>	1.582.319	4.350.773	5.933.092
<b>11</b>	<b>Abruzzo</b>	69.389	251.211	320.600
<b>12</b>	<b>Molise</b>	17.755	75.625	93.380
<b>13</b>	<b>Campania</b>	1.002.528	1.575.929	2.578.457
<b>14</b>	<b>Puglia</b>	153.602	852.125	1.005.727
<b>15</b>	<b>Basilicata</b>	130.051	49.819	179.870
<b>16</b>	<b>Calabria</b>	117.801	1.063.813	1.181.614
<b>17</b>	<b>Sardegna</b>	237.985	1.358.108	903.066
<b>18</b>	<b>Trentino/Alto Adige</b>	-	2.584.720	2.584.720
<b>19</b>	<b>Sicilia</b>	-	665.081	1.358.108
<b>20</b>	<b>Valle D'Aosta</b>	-	514.009	514.009
	<b>TOTAL</b>	<b>13.750.053</b>	<b>40.192.830</b>	<b>53.942.883</b>

Table 2 - Source: Istat 2011

The museums that offer subscription forms or museum cards are 12.9% of the total. Bigger museums are the museum which focus more on audience retention initiatives which attract 48% of the visitors.

Less than half of Italian museum institutions (45.6%) has a paid entry ticket; 54.4% has registered no income from ticket sales. 26.1% of museum institutions have received on average less than 10 thousand euros per month from ticket sales, and only 2.6% of the ticket revenues have been superior to 500 thousand euros per year. The staff in six out of ten exhibition structures is able to provide information to the public in English (they were four out of ten in 2011).

The Italian museum sector has employed more than 45 thousand operators: employees, external staff and volunteers, on average one every 2.400 visitors. 67.5% of institutions has employed no more than 5 people and only 8.9% had over 10.

Voluntary workers, about 18 thousand, has given support in a museum out of two (47.7%).

There are still few museums and cultural sites using new information and digital communication tools. As a matter of fact, more than half of the institutions (57.4%) has a website, only 24.8% uses newsletters to communicate with their audience and just 13.4% makes a digital catalogue available. The 18.6% of the institutions provides visitors with free Wi-Fi though hotspot connectivity, while only 6.6% use Internet for

allowing the purchase of online tickets. It should be highlighted an increasing familiarity with the museum virtual community: only 11.1% of the museums is active on the web through blogs and forums, but the 40.5% of the institutions is present on at least one of the major social media (Facebook, Twitter, Instagram, YouTube, etc.).

Half of the institutions has their own website (57.4% against 50.7% in 2011), 40.5% a social media account (Facebook, Twitter, Instagram, etc.), but only 6.6% has online ticket sale and 37.5% assistance services and/or facilities for physical access for disabled visitors. Only 17.0% of museums states seismic adjustments, 30.7% reports they are inserted in the municipal civil protection plan, while 34.8% states they have not a security and emergency situations plan.

Together with the permanent exhibitions also the organization of events is very intensive. In 2015, 44.6% of the museums has organized a temporary exhibition or exposition. The most active ones are the institutions of modern and contemporary art (63.7%) followed by museums of antique and classic art (53.5 %).

Less frequently the temporary exhibitions are organized in the field of archaeology (only 16%). In average during 2015, all the museums including the archaeological area and the monumental complex organized almost four exhibitions and expositions per year which have been visited by approximately 38 million of registered visitors.

The Italian museums have also been very active in promoting culture: more than half of the structures asserted to have designed and carried out didactic activities which include courses, workshops and educational projects (57.7%), meetings, conferences and seminars (51.6%), shows and other initiatives of cultural animation (50.7%). Three out of ten institutions (30.7%) have commissioned

projects of research or have carried them out by themselves. A minority of 16.8 % have rented out their premises to accommodate private events and shows.

A large number of institutions are well equipped for technical-scientific activities or research. 45.3% of the institutions house an archive, 37.1% have a documentation centre and photoetch and 41.3% have a library. Almost a half of the museums (47.7%) allocate their premises for didactic activities or research while 12.8% of the surveyed museums house a restoration workshop.

Unlike other countries, the museum offer in Italy is mostly made up of a large number of structures of smaller dimensions, spread across the region.

The large museums (capable to receive more than 500 thousand visitors a year) represent less than 1% of the overall. They are present in a limited number of Regions, mostly in the metropolitan areas, but they alone attract 38.7% of visitors. As for the rest, three museums out of four are structures that receive less than 10 thousand visitors per year.

In a situation characterized by a fragmented offer and a concentration of the demand, there are 20 Italian museums of larger interest that are able to attract more than 900 thousand visitors per year each.

They are structures of international relevance, mostly located in large cities like Rome, Venice, Florence, Naples (for example Doge's Palace and the Museum of the Saint Mark's Basilica in Venice, the Flavian Amphitheatre, the Roman Forum and Palatine Hill, the Pantheon and the Castel Sant'Angelo Museum in Rome or the Uffizi Gallery, the Vasari Corridor, the Porcelain Museum and the Silver Museum in Palazzo Pitti or the Duomo Museum in Florence), as well as the historic centres of cities with smaller population like Pisa, Siena, Pompeii and Trieste. The aforementioned points of interest concentrate almost one third (31.9%) of the visitors, of which 19.6 million (55.6%) pay for the entrance.

The museum infrastructure in Italy is relatively new. 45.5% (2265 museums) have been founded between 1960 and 1999, 38.6% (1922 structures) are open since 2000. Only 2.4% of the institutions (119 museums) certify time before 1861 as the year of opening.

### **3.5.1.2 The State owned Museums**

The State Museums are owned by the Ministry of Cultural Heritage and Activities and Tourism (MiBACT) and are:

- State Museums with special autonomy;
- Regional Museum Complexes (*Poli Museali Regionali*).

The State Museums and archaeological parks with special autonomy are:

1. *Galleria dell'Accademia di Firenze*
2. *Gallerie Estensi di Modena*
3. *Galleria Nazionale d'arte antica di Roma*
4. *Galleria Nazionale delle Marche*
5. *Galleria Nazionale dell'Umbria*
6. *Museo Archeologico Nazionale di Napoli*
7. *Museo Archeologico Nazionale di Reggio Calabria*
8. *Museo Archeologico Nazionale di Taranto*
9. *Museo Nazionale del Bargello*
10. *Palazzo Ducale di Mantova*
11. *Palazzo Reale di Genova*
12. *Musei Reali di Torino*
13. *Complesso monumentale della Pilotta*
14. *Museo delle Civiltà*
15. *Museo Nazionale Etrusco di Villa Giulia*
16. *Museo storico e Parco del Castello di Miramare*
17. *Villa Adriana e Villa D'Este*
18. *Galleria Borghese*
19. *Gallerie dell'Accademia di Venezia*
20. *Gallerie degli Uffizi*
21. *Galleria Nazionale d'Arte Moderna e Contemporanea di Roma*
22. *Museo di Capodimonte*
23. *Pinacoteca di Brera*
24. *Reggia di Caserta*
25. *Museo Nazionale Romano*
26. *Parco archeologico di Paestum*
27. *Parco archeologico dei Campi Flegrei*
28. *Parco archeologico dell'Appia antica*

29. *Parco archeologico di Ercolano*
30. *Parco archeologico di Ostia antica*

On the other hand, the Regional Museum Complexes in Italy are:

1. *Polo Museale dell'Abruzzo*
2. *Polo Museale della Basilicata*
3. *Polo Museale della Calabria*
4. *Polo Museale della Campania*
5. *Polo Museale dell'Emilia Romagna*
6. *Polo Museale del Friuli Venezia Giulia*
7. *Polo Museale del Lazio*
8. *Polo Museale della Liguria*
9. *Polo Museale della Lombardia*
10. *Polo Museale delle Marche*
11. *Polo Museale del Molise*
12. *Polo Museale del Piemonte*
13. *Polo Museale della Puglia*
14. *Polo Museale della Sardegna*
15. *Polo Museale della Toscana*
16. *Polo Museale dell'Umbria*
17. *Polo Museale del Veneto*

In accordance with art. 9 of the Italian Constitution, the State Museums activities are aimed to protect cultural heritage and to promote the development of culture and scientific and technical research. It is inspired by the principles of impartiality, good performance, transparency, advertising and accountability. The State Museums perform public service and enjoy scientific and technical autonomy and perform functions of protection and enhancement of the collections, ensuring and promoting public enjoyment. The State Museums have their own statute and budget and can subscribe, even for educational purposes, agreements with public bodies, educational and research institutions. The public service provided by State Museums and related standards are defined by the Service Charter.

The State Museums which do not have a special autonomy belong to the Regional Museum Complexes, where the director defines common strategies and objectives of enhancement, operating hours and prices aimed at ensuring more extensive use of cultural heritage.

In the administration of State Museums, the following functional areas are present:

- a) direction
- b) care and management of collections, study, teaching and research
- c) marketing, fundraising, services and care of the public, public relations
- d) administration, finance and human resources management
- e) facilities, installations and security

The director of the museum is the guardian and interpreter of museum's identity and mission, in compliance with the Ministry directions. He is responsible for management of the museum as well as the implementation and development of its cultural and scientific project. In museums without special autonomy, the role of director is conferred by the Director of the Regional Museum Complexes on the basis of a special selection procedure.

The Ministerial Decree of the 23 December 2014 “Organization and management of Italian state-owned museums”, and the following laws (January 23, 2016), brought to the rearrangement of the Ministry of Cultural Heritage and Activities and Tourism (MiBACT) and led to the emission of new management regulation.

The Decree deals with:

- the establishment of the Directorate-General of Museums;
- 30 museums with special autonomy: institutions with technical and scientific autonomy that perform functions of protection and enhancement of the collections by ensuring and promoting public enjoyment;
- 17 Regional Museums Complexes;
- 1 National Museum System.

Moreover, regarding the management and operation of the State Museum, the measure intervenes in two main areas of action:

- the establishment of new institutions of national interest, with particular attention to the archaeological and demo ethnoanthropological heritage and;
- redefining the balance between decentralized and central offices of the Ministry, with specific regard to the relationship between directors of Regional Museum Complexes (*Poli Museali*)

*Regionali*) and museums with special autonomy, on the one hand, and between the Directorate-General of Museums and the above-mentioned directors, on the other one.

The first line of action of the Decree is related to the recognition of a greater autonomy to new museums and State archaeological parks.

In addition to the 20 museums of national interest with special autonomy, the Ministerial Decree of January 23, 2016 provides the possibility of establishing additional 10 autonomous museums of national interest. The main objective of the changes is to put in place suitable conditions to improve the enhancement and fruition of State Museums and cultural places, in order to be more competitive at international level.

Moreover, a particular attention to the enhancement of archaeological heritage has been applied through the creation of 4 archaeological parks and of 1 archaeological site of national interest.

This reform has shifted the focus from “things” to institutions. The museum - which was previously identified with the things it contained and was seen as a mere object of cultural policy - becomes the active subject of the cultural policy. Taken inspiration from the French management, the museum becomes the driving force of a new system of conservation and enhancement of cultural heritage.

Therefore, this new conception of museum brings to the need of identifying the responsibilities and proficiencies mostly of the Director.

The role of the Director in the autonomous museums is the main point of the reform. Her/his task will be conferred thorough “public selection procedures, for a period lasting between three and five years, to individuals who possess proven professional qualifications in the protection and enhancement of cultural heritage as well as documented high-level experience in management of cultural institutions and sites”. Thus, the Director is not necessarily selected among the Ministry roles and at an international level.

In addition to the Director, each autonomous museum should have a Governing Board, a Scientific Committee and a Board of Auditors, appointed by the Ministry.

Innovations and remedies which are planned by the Decree have the aim of strengthening the autonomy of the State Museums in two ways:

- on the one hand, by increasing the number of museums and institutions with special autonomy;
- on the other, by operating on the balance of the relationships between the management of the museum collection and the local state administrations which are in charge of heritage protection. For the first time, the museums have autonomous duties regarding conservation and restoration, as recognized by ICOM and UNESCO.

In the following table, it is possible to see some data referred to the museums and galleries, archaeological sites and monuments, belonging to the Ministry of Cultural Heritage and Activities and Tourism (MiBACT).

**State-owned Museums&Galleries, Archeological Sites and Monuments per Region in Italy 2011**

	<b>Region</b>	<b>Museums&amp;Galleries</b>	<b>Archeological Sites</b>	<b>Monuments</b>	<b>Total per Region</b>
<b>1</b>	<b>LAZIO</b>	33	31	25	<b>89</b>
<b>2</b>	<b>CAMPANIA</b>	24	33	10	<b>67</b>
<b>3</b>	<b>TOSCANA</b>	30	7	23	<b>60</b>
<b>4</b>	<b>LOMBARDIA</b>	7	15	4	<b>26</b>
<b>5</b>	<b>EMILIA ROMAGNA</b>	12	6	13	<b>31</b>
<b>6</b>	<b>PIEMONTE</b>	3	6	13	<b>22</b>
<b>7</b>	<b>PUGLIA</b>	7	7	7	<b>21</b>
<b>8</b>	<b>ABRUZZO</b>	7	5	7	<b>19</b>
<b>9</b>	<b>BASILICATA</b>	8	8	0	<b>16</b>
<b>10</b>	<b>MARCHE</b>	7	7	2	<b>16</b>
<b>11</b>	<b>SARDEGNA</b>	3	10	3	<b>16</b>
<b>12</b>	<b>CALABRIA</b>	10	2	3	<b>15</b>
<b>13</b>	<b>FRIULI-VENEZIA GIULIA</b>	4	7	3	<b>14</b>
<b>14</b>	<b>VENETO</b>	11	2	1	<b>14</b>
<b>15</b>	<b>MOLISE</b>	6	3	4	<b>13</b>
<b>16</b>	<b>UMBRIA</b>	5	4	4	<b>13</b>
<b>17</b>	<b>LIGURIA</b>	5	1	1	<b>7</b>
	<b>Grand Total</b>	<b>182</b>	<b>154</b>	<b>123</b>	<b>459</b>

Table 3 - Source: Istat 2011

The most relevant bodies of the Ministry of Cultural Heritage and Activities and Tourism which are competent on museums matters are:

**The Directorate-General of Museums**

- Guides and coordinates the Italian State Museums

It performs functions of address and control, drawing up guidelines in compliance with the highest international standards, helping Italian museums to grow and improve.

- Enhances state national cultural heritage

It performs functions and tasks to make the most of state cultural heritage, favouring policies for the integration of cultural heritage and the landscape at territorial level.

- Regulates and promotes access to structures

It draws up guidelines on opening hours, ticketing and policies for admission prices to museums and state cultural places.

- Works in the region

It takes care of coordination among the regions, public authorities and private organisations, offering technical and administrative support at national level and promoting the formation of local museum centres for the integrated management of the activities of museums and cultural places.

- Takes care of cultural projects

It promotes agreements and facilitates the exchange of works at international level, establishing the criteria for the loan of assets and declaring the relevant cultural or scientific interest of exhibitions, events and displays.

- Monitors quality

It constantly updates the service charter, draws up qualitative parameters in compliance with the ICOM standards and ensures observance of the guidelines by state museums.

- Encourages active participation

It draws up and publishes an annual report on the management of museum services, promoting and managing awareness projects and public fundraising campaigns of cultural interest.

### **Scientific Committee for museums and cultural economy**

The technical and scientific committee is an advisory body of the Ministry and, in particular, of the Directorate-General.

The Directorate-General of Museums, in pursuing its activity and for matters of its own jurisdiction, engages the services of the Technical-scientific committee for museums and the cultural economy:

- it forwards proposals for the definition of plans and programmes for cultural heritage and landscape aimed at encouraging an increase in resources destined to the sector;

- it expresses opinions upon request of the Secretary General or the Directorate-General, and forwards proposals on matters of a technical-economic nature, concerning cultural heritage operations.

### **3.5.1.3 Non-State owned Museums**

Non-State Museums in Italy include museums belonging to:

- municipalities;
- public universities;
- ecclesiastical and religious institutions;
- recognized associations;
- non-banking institutions;
- private owners.

The Italian museum network is characterized by a large presence throughout the region, due to the strong regional and municipal autonomy. As a matter of fact, about 70% of the public heritage museum is managed by the municipalities. This means that there is a wide variety of statutes and regulations for the management of these museums. In the most advanced cases of museum management, the key reference is the Legislative Decree no. 112/98 art.50 paragraph 6 "Guidelines on technical and scientific criteria and standards of operation and development of museums", with which they give precise details on museums organization: the legal status, financial structure, personnel, security, management and collections care etc.

Many City Museums have been adjusted to the "standards", even if small size collections and the resources devoted to the majority of the heritage of the City Museums brings to a non-precise organization of the museum management (See "Overview" section).

The forms of indirect management (non-public) are increasing thanks to art.115 of the Code of Cultural Heritage and Landscape which considers the creation of joint management systems. Some examples are the Egyptian Museum Foundation in Turin and the Palazzo Strozzi Foundation in Florence.

As a matter of fact, in Italy in the last period many reforms and practices have brought to involve the private parties in the management of museums.

The Code of Cultural Heritage and Landscape and the reorganization of the Ministry have shifted the emphasis on the theme of the enhancement, confirming the autonomy of Non-State Museums in this field. However, the Code has reaffirmed that the protection of museum heritage is a State duty.

<b>Non State-owned Museums&amp;Galleries, Archeological Sites and Monuments per Region in Italy 2011</b>					
	<b>Region</b>	<b>Museums&amp;Galleries</b>	<b>Archeological Sites</b>	<b>Monuments</b>	<b>Total per Region</b>
1	<b>LAZIO</b>	225	4	12	<b>241</b>
2	<b>CAMPANIA</b>	133	3	19	<b>155</b>
3	<b>TOSCANA</b>	412	19	63	<b>494</b>
4	<b>LOMBARDIA</b>	333	2	29	<b>364</b>
5	<b>EMILIA ROMAGNA</b>	384	1	23	<b>408</b>
6	<b>PIEMONTE</b>	320	3	56	<b>379</b>
7	<b>PUGLIA</b>	119	4	8	<b>131</b>
8	<b>ABRUZZO</b>	76	3	5	<b>84</b>
9	<b>BASILICATA</b>	35	1	1	<b>37</b>
10	<b>MARCHE</b>	253	2	20	<b>275</b>
11	<b>SARDEGNA</b>	147	42	21	<b>210</b>
12	<b>CALABRIA</b>	130	6	7	<b>143</b>
13	<b>FRIULI-VENEZIA GIULIA</b>	119	0	10	<b>129</b>
14	<b>VENETO</b>	271	0	17	<b>288</b>
15	<b>MOLISE</b>	21	1	3	<b>25</b>
16	<b>UMBRIA</b>	128	8	26	<b>162</b>
17	<b>LIGURIA</b>	161	2	12	<b>175</b>
	<b>Grand Total</b>	<b>3649</b>	<b>130</b>	<b>395</b>	<b>4174</b>

Table 4 - Source: Istat 2011

### 3.5.2 Museum's management

#### 3.5.2.1 State Museums and archaeological parks with special autonomy

The museums have scientific, financial, accounting and organizational autonomy. These are also assigned other institutions and culture sites.

The Ministry provides every museum with financial resources.

### **Governing bodies**

- Governing bodies of State Museums with special autonomy are:
  - a) Director;
  - b) Governing Board;
  - c) Scientific Committee;
  - d) Board of Auditors.
  
- The governing bodies shall:
  - a) ensure the mission of the museum;
  - b) verify the suitability, efficiency and effectiveness of museum activities
  - c) check the quality of cultural offer and conservation practices, of use and enhancement of museum assets.

### **The Director**

- Functions of the Director:
  - a) plans, leads, coordinates and monitors all management activities of the museum, including the organization of exhibitions, as well as study, development, communication and promotion of the collections;
  - b) cares of the cultural project of the museum, making it a vital place, inclusive, capable of promoting the development of culture;
  - c) establishes the amount of tickets in compliance with the general guidelines;
  - d) establishes the opening hours of the museum so to ensure the most extensive use;
  - e) ensures high quality standards in the management and communication, in educational innovation and technology, in promoting the active participation of users;

- f) ensures full cooperation with the Directorate-General Museums, the Regional Secretary, the director of the Regional Museum Complexes and Superintendents;
  - g) ensures close relationship with the Region also in order to increase the museum collection with new acquisitions, organize exhibitions and promote activity of cataloguing, study, restoration, communication, enhancement;
  - h) authorizes the loan of items under its jurisdiction for exhibits in the country or abroad, upon opinion of the relevant Directorate-Generals and Directorate-Generals of Museum for loans abroad;
  - i) authorizes activities of study and publication of materials belonging to the museum;
  - j) grants to external figures, on the basis of guidelines prepared by the Director-General of Museums, the museum services and activities of enhancement, under Article 115 of the Code;
  - k) assists the Finance Directorate-General and the Directorate-General Museums in setting the conditions of the delivery of contributions by individuals in support of culture, also through special agreements with institutions and places of culture and local authorities. To this end, it promotes awareness raising projects and specific fundraising campaigns, including collective financing modalities;
  - l) carries out researches and makes these public, even electronically. Proposes initiatives of dissemination, education, training and research;
  - m) acts as contracting authority.
- Therefore, with the Director lies the general leadership and he or she has the overall responsibility for the museum.
  - As mentioned by the ICOM Code of Ethics “The director or head of the museum is a key position and when making an appointment, governing bodies should have regard for the knowledge and skills required to fill the position effectively. These qualities should include adequate intellectual ability and professional knowledge, complemented by a high standard of ethical conduct.”
  - Regarding her/his education and qualifications, the director should have a postgraduate degree (second cycle; Master, or higher) in a speciality related to the museum collections and training as well as demonstrable competence in museology and museum management; several years’ professional experience in a museum or similar private or public institutions.
  - Moreover, it is important that the director be highly proficient in academic matters and advisable that the person be a former museum curator” (ICOM, 2008).

## **The Governing Board**

- The Governing Board of State Museums with special autonomy determines the program and the research lines in line with the Directives and other acts of the Ministry. In particular:
  - a) adopt the museum statute upon consent of the Scientific Committee and the Board of Auditors;
  - b) adopt the charter of services, the annual and multiannual plan, verifying financial compatibility and implementation;
  - c) approves the budget, the relevant changes, the final balance;
  - d) approved means of verification of the services outsourced with reference to development projects prepared by the museum director and monitor their implementation;
  - e) provide opinions on any other matter may be arisen by museum director;
- The Governing Board is composed by the Director of the museum, her/his chairman, and four members appointed by the Minister in agreement with the Minister of Education, University and Research, the Minister of Economy and Finance;
- with the exception of the Director, the board members are appointed for a five years' term and may be reappointed only once. Participation in the board do not entitle to compensation, tokens, allowances or reimbursement of any kind, it is incompatible with participation in other governing bodies of the same museum. Members may not be holders of professional collaboration with the museum.

## **The Scientific Committee**

- The Scientific Committee of the State Museums with special autonomy plays advisory role of the Director on scientific matters. In particular:
  - a) makes proposals to the Director and to the Governing Board;
  - b) supports the director in the preparation of the annual and multi-annual program;
  - c) prepare annual evaluation reports on museum's activities;
  - d) checks and approves, in consultation with the Governing Board, lending policies and plan of exhibitions;
  - e) evaluates and approves the publishing projects of the museum;
  - f) provides opinion on museum's statute and statutory changes.
- The Scientific Committee is composed by the Director, who acts as chairman, by a member appointed by the Minister, one appointed by the National Board of "Cultural Heritage and Landscape", one by the Region and one by the Municipality where the museum is located.

Committee members are selected from among university professors or experts of proven academic and professional qualification in the field of protection and promotion of cultural heritage.

- With the exception of the Director, the Scientific Committee members are appointed for a five years' term and may be reappointed only once. Participation in the committee do not entitle to compensation, tokens, allowances or reimbursement of any kind, it is incompatible with participation in other governing bodies of the same museum. Members may not be holders of professional collaboration with the museum.

### **The Board of Auditors**

- The Board of Auditors of the State Museums with special autonomy checks museum accountability. In particular, the board verifies the proper keeping of accounting records, the smooth running of operations and financial position of the museum.
- The Board of Auditors is chaired by composed by Ministry of Economy and Finance's representative and two deputy members. The members, selected among professionals enrolled in the register of auditors are appointed for a three years' term.
- The members of the board of auditors are entitled to remuneration. Members may not be holders of professional collaboration with the museum.

#### 3.5.2.2 Regional Museum Networks

The Networks, decentralised structures of the Directorate-General, coordinate and promote museum systems at regional level, favouring the creation of integrated services and guaranteeing standardised levels of quality.

#### **Public Use**

They guarantee the public use and development of institutions and cultural places throughout the region, assigned to or managed by the State.

Their job is to define strategies and common development aims for the museums under their jurisdiction, ensuring the most extensive use of cultural heritage.

#### **Integrated museum system**

They define shared strategies and development goals in the area of jurisdiction.

They coordinate all the activities involved in the management, development, communication and promotion of the national museum system within the region.

## **Cultural Itineraries**

They promote the integration of cultural use routes and cultural tourism itineraries.

### 3.5.2.3 The budgeting structure

In Italy, the development of the budget depends on the degree of autonomy of the decision-making, as well as on the management structure and operating environment.

Even the development budget of a museum is influenced by a number of variable factors which may substantially change its structure. Specific importance is given to: the legal-owner status (public, private, mixed), the type of physical building (ancient, modern, dedicated, multi-function), its size (large, medium, small) and its location (indoors or outdoors), nature, typology and consistency of the collections, the management procedures (independent or dependent), the main mission, the territorial location which determines both the catchment area, the forecast visitors inflows and the possibilities of alternative economic resources. These factors bring to significant variations on the quantitative and qualitative effects of the income and expenditure items within the operating budget, as well as on the statement of assets and liabilities.

It is therefore not easy to develop a prior standard budget with items and predefined percentages which can be sufficiently exhaustive by showing all possible museum realities and to be a concrete and not theoretical point of reference.

However, it is proposed a scheme in which the fundamental income and expenditure items of a hypothetical museum institution are synthetically presented. In particular, as regards income, along with the many traditional funding sources, there is another item: "other incomes". The scheme also shows an income item related to the income resulting from the financial management of potential endowment funds.

As for the income items that determine the expenditure, the items related to the functioning, the research and scientific activities, use and services to the public and, finally, those concerning investments in the long term have been distinguished and homogeneously unified.

The percentage of each item will be the result of the balancing operations of the aforementioned variables and will fall under the responsibility of the museum Directorate.

The main scheme for the financial statements of a museum institution:

#### **Income**

##### a) Self-financing

entrance fees, subscriptions;

visitor voluntary contributions and forms of affiliation to the museum;

income from directly managed sales and catering services;  
fees for the licensed services in the cafeteria, catering, bookshop;  
income from the reception services (wardrobe, guided tours);  
rights of photographic reproductions, publications, merchandising, etc.;  
leases and rentals;  
financial management of endowment funds;  
services to third parties (research and advisory services);  
other income.

b) External Financing

costs and services directly and continuously borne by the owner, by the competent administration or other bodies;  
other public transfers;  
extraordinary contribution and contribution from private entities services;  
donations;  
sponsorships;  
shares.

**Expenditure**

a) Functioning

personnel;  
utilities, supplies, cleaning, management and ordinary and extraordinary maintenance of the building and facilities, supplies of continuous services (insurance premiums etc.).  
administrative and operations management.

b) Management of the collections

inventory registration, documentation and cataloguing of artefacts;  
restoration of collections and of the building (whether it is ancient);  
analytical and scientific research, publications.

c) Services to the public

exhibitions;  
conferences;  
educational activity;  
cultural initiatives related to the collections and the region.

d) Investments and extraordinary maintenance

growth and development of the collections (purchases, excavations, long-term deposits, etc.);  
promotional plans;  
technological adjustments.

Regarding the statement of assets and liabilities, the inventory should state the economic value of the immovable and movable artefacts, periodically updated with market values. The estimation should be related to each artefact and, in the case of unitary collections, to the overall value. This evaluation, beyond being important for the fulfilment of the legislative requirements, is necessary for the stipulation of insurance contracts for compensation in case of theft, damage, etc.

### 3.5.3 Legal procedure to work with private sector figures: capacity of receiving donations, undertaking valorization initiatives

#### 3.5.3.1 Capacity of receiving donations

In Anglo-Saxon countries patronage, has been widespread for more than a century, while in Italy, and in continental Europe, this new form of cultural funding has been discovered only recently. This interest towards patronage is due to different reasons: mainly through donations there is the intention to reduce public financing in the cultural sector.

To promote and support patronage (public, private and mostly non-profit organizations) in favour of important cultural or artistic activities, it has been considered the tax breaks as a main tool.

Many of the state and non-state museums accept donations of artworks that are regulated by law.

Art. 120 of the Code of Cultural Heritage and Landscape contains a clear reference to the theme of sponsorship of cultural heritage.

Sponsorship of cultural artefacts is defined as any contributions, including artefacts or services, provided for the planning or implementation of initiatives regarding the protection or enhancement of cultural heritage, with the aim of promoting the name, brand, image, activity or the product of the supplier. Initiatives made by the Ministry, Regional Authority, other local governments and public or

private non-profit entities, therefore private initiatives made by private bodies on artefacts they own, can be object of a sponsorship.

The State, through its function of protection, watch over the fact that the initiatives would not be harmful to cultural heritage. It is also important to check the compatibility of the initiative's communication needs with the historical and artistic features, appearance and decorum of the artefacts to be protected or enhanced. This is established through a sponsorship contract that regulates all administrative and technical aspects.

Recently a specific law, no. 106 of July 29, 2014 was approved, which introduced a tax credit to encourage donations for supporting culture: **Art Bonus** (art. 1).

Art bonus is a tax regime for those who support culture with charitable donations and is equal to 65 % of charitable contributions that individuals or companies make in favour of public cultural heritage.

The tax credit Art bonus is granted to individuals, to non-profit organizations and businesses which wants to contribute to protecting Italy's cultural heritage, and passing it on to the next generations.

The charitable contributions can be destined to the following:

- maintenance, protection and restoration of public cultural works (i.e. monuments, historic buildings, works of art);
- support of public cultural institutions (i.e. museums, libraries, archives, archaeological areas and parks), opera/symphonic foundations and traditional theatre;
- realisation, restoration and upgrading of facilities of public institutions dedicated to performances.

The donor, after having identified a cultural work to which contribute, can contact the owner or ALES (in-house society of the Ministry of Cultural Heritage and Activities and Tourism) to agree upon the details of money transfer (through a bank, post office, debit or credit and debit cards, bank checks), and save the receipt of the Art bonus transaction to take advantage of the tax benefits.

If the donor has not chosen the cultural work which he/she would like to support with your contribution, they can review the list of projects published on the website [www.artbonus.gov.it](http://www.artbonus.gov.it) (where it is possible to submit suggestions on other cultural works not included) or review the website of public institutions/cultural organizations within their region or city, and choose the cultural works they could support.

The beneficiary of donations can register on [www.artbonus.gov.it](http://www.artbonus.gov.it) and "put on display" their cultural work to support; publish on the website and on their corporate website, the amount of donations that they have received and how they are spending it.

On the other hand, the Art bonus donors can register on the website to download the receipt of the contribution and add their name to the list of contributors who help saving Italian cultural heritage.

### 3.5.3.2 Services of outsourcing

The Codex of Cultural Heritage indicates the possibilities (art. 117) and how to manage (art. 115) public services in cultural sites.

The public services include a wide spectrum of hospitality services and educational programming, which play an important role in the promotion of cultural heritage and in raising cultural awareness.

The services include:

- editing and selling catalogues, brochures, audio-visual and informational material, as well as the reproductions of cultural heritage (for museum shops and online sale);
- literary and archival heritage services regarding the issuing of reproductions and the address of libraries loans;
- collecting museum discographies, slide cartridge and libraries;
- management of points of sale and commercial use of the reproductions of cultural heritage;
- ticket sales, including online services;
- organization of exhibitions, cultural events and promotional initiatives;
- hospitality services, including assistance and entertainment for children, informational services, guided tours, didactic assistance and meeting centres;
- catering (cafes, restaurants) and wardrobe services.

Among the goals of the outsourcing:

- respecting the organizational direction defined by ministerial acts, rationalization of the offer;
- the maximum level of integration;
- overcoming the economically unsustainable fragmentation of management;
- obtaining adequate administrative measurements, including number of visitors, at the time of service and the investments requested from authorities, to permit the extension of integrative management to non-state run museums;
- possible cooperation with other regional and local museum institutions, and, finally, the creation of incentive materials for the integrative model of comprehensive management;

- possible use of direct forms of support for the launch of integrated management, in arrangement with the Ministry in the field of economic and financial compatibility and previously asserted by the competent central bodies (art. 4, comma 2).

The fundamental importance of these services is strengthening action towards the enhancement of cultural heritage, which has been the focus of the Ministry since 2009 when it issued the guidelines for the launch of the outsourcing of public services in Italian cultural institutions.

Similarly, in 2010 the MiBACT composed an updated document with additions and updates to the guidelines with the objective of elaborating on certain aspects in connection to the changes in regulation that occurred.

The museum services, from art. 115 of the Code, can be managed directly or indirectly. The choice between the two models is at the discretion of the involved institutions. The outsourcing of services is to be entrusted to a business chosen through a competitive process.

The decree grants the public a strong role in defining and protecting sites of cultural importance, in organizing and regulating services and in controlling the activity of cultural sites. Furthermore, the decree provides an opportunity for collaboration with private bodies from the initial design of the programs through their launch. Indeed, the decree functions so that private bodies are able to assume a role in the organization and management of the above listed activity.

### 3.6 Modernization of libraries and related information supply

#### 3.6.1 The institutional framework

The system of Italian libraries, along with the exceptional concentration of testimonies of art and culture, largely reflects the history of the Italian peninsula, its having been for centuries divided into many different States, and the late achievement (1860) of its political unity.

The formation of funds of the Italian libraries starts from the monastic *scriptoria*, continues with the work of the humanists at the Renaissance Courts, consolidates until the National Unity. The post-unitary political class emphasized the cultural heritage as a bearer of unitary “roots”, and the collections of major libraries just reflected this common culture: so, as a very Italian feature, many libraries were given the title of *National*.

Are both the Central National Library of Florence and the Central National Library of Rome that actually perform tasks of national importance, responding to the current meaning of the expression "National Library" (*see* <http://www.ifla.org/national-libraries>). Once again, the reason for the unusual maintaining two central library institutions is to be found in history: the Library of Florence was established in 1861, and since 1869 it was entitled to receive the legal deposit copies on a national basis; yet when the Italian State finally conquered Rome (1870) and made it its Capital, the political class wanted a large Central Library to be established in Rome as well.

The *Constitution* of the Italian Republic, art. 9, states: "The Republic promotes the development of culture and of scientific and technical research. It safeguards natural landscape and the historical and artistic heritage of the Nation".

Italian legislation doesn't include any organic law dedicated solely to libraries. Individual provisions regulate specific subjects such as Legal Deposit, Copyright, the organization of the Ministry of Cultural Heritage and Tourism (MCT) (*see below*).

The protection and promotion of library materials, as part of the broader category of "cultural heritage", are regulated by D.L. 01/22/2004, n. 42 (*Code of Cultural Heritage and Natural Landscape*). The art. 1, c. 2-3, makes reference to the State and Local Authorities: "The protection and promotion of cultural heritage combine to preserve the memory of the National community and of its territory and to promote the development of culture. The State, Regions, Metropolitan cities, Provinces and Municipalities ensure and support the conservation of cultural heritage and foster its public enjoyment and appreciation".

According to the art. 117 of the *Constitution* and the later implementation of Regional autonomy in the course of the Seventies, many Regions issued their own laws on local library services. N.B.: the recent Law 08/06/2015, n. 125 (*Conversion into law, with amendments, of Decree-Law of 19 June 2015, n. 78, concerning urgent provisions on local authorities*), attributes again to the State the protection of non-State bibliographic heritage).

Italian libraries currently registered on the *Anagrafe delle biblioteche italiane* (<http://anagrafe.iccu.sbn.it/opencms/opencms/>) are 13,700; among them, 46 State public libraries of the MCT; 7,109 libraries of local Authorities (Regions, Provinces, Municipalities); 2,613 libraries of State Universities; 1,581 libraries of religious institutions. The remaining libraries are owned by public and private cultural institutions.

### 3.6.2 The Ministry of Cultural Heritage and Tourism and the State public libraries

The Ministero dei beni e delle attività culturali e del turismo (MCT), set up in 1975, has recently been reorganized by D.P.C.M. 08/29/2014, n. 171 (*Rules of organization of the Ministry of Cultural Heritage..., in accordance with Article 16, paragraph 4, of the decree-law of 24 April 2014, n. 66, converted with amendments by law 23 June 2014, n. 89*).

The central administration of the Ministry is divided into 12 Head Offices, related to the distinct typologies of Cultural Heritage (Archeology, Art, Archives, Libraries..., plus Organization and Budgeting). The Head Office Libraries and Cultural Institutes (DGBIC) performs functions and tasks related to libraries, bibliographic and library services, cultural institutions, promotion of books and reading, copyright (*see* D.P.C.M. 08/29/2014, n. 171, art. 22). Both the Central National Library of Florence (BNCF) and the Central National Library of Rome (BNCR) come under DGBIC, as well as the Centre for the book and reading (CEPELL) and the other State public libraries.

The Central Institute for the Union Catalogue of Italian Libraries (ICCU) is a central institute of the Ministry (*see* D.P.C.M. 08/29/2014, n. 171, art. 30). The ICCU manages the catalog of the Italian libraries, interlibrary loan and document delivery; it cares census of manuscripts, Italian editions of the sixteenth century, and libraries nationwide; it develops standards and guidelines for cataloging and digitizing (*see below*).

The BNCF, the BNCR and the CEPPELL are institutions with special autonomy (*see* D.P.C.M. 08/29/2014, n. 171, art. 30). BNCR and BNCF receive legal deposit copies nationwide, and their main mission is to collect and document everything that is published in Italy. The CEPPELL aims to implement policies for the dissemination of books and reading in Italy, and to promote the book and the Italian culture abroad.

The 46 State public libraries are peripheral organs of the Ministry (*see* D.P.C.M. 08/29/2014, n. 171, art. 31). The D.P.R. 05/07/1995, n. 417 (*Rules on State public libraries*), lists them and sets their tasks and the tools they have to be provided.

NB: The State *public libraries* do not exactly match the current meaning for the expression: “A public library is an organization established, supported and funded by the community, either through local, regional or national government or through some other form of community organization. It provides access to knowledge, information and works of the imagination through a range of resources and services and is equally available to all members of the community regardless of race, nationality, age, gender, religion, language, disability, economic and employment status and educational attainment” (*The Public Library Service: the IFLA/UNESCO Guidelines for Development*, ed. by Philip Gill, München: KG Saur, 2001, p. 1).

The 46 State libraries are called *public* as open to the public and heritage of the community; yet they do not deliver the full spectrum of services related to the *public library* profile. Most of all, their mission is strongly oriented to the protection and promotion of their historical funds. In addition, they do not respond to one single type: among them have been listed, for instance, some University libraries, as well as some libraries belonging to National Monuments, for the particular importance and representativeness of their collections.

The documentary heritage preserved by State public libraries amounts to about 40 million copies of manuscripts, incunabula, printed editions, newspapers and magazines, musical editions, exceptional collections of maps, engravings and drawings. A priceless treasure, among which, to enumerate just a few examples, the *Amiatina Bible*, a seventh-century manuscript kept by the Laurentiana Library in Florence; the *Bible of Borso d'Este*, a masterpiece of Renaissance miniature, and the very first map drawn after the discovery of America, both of them kept by the Biblioteca Estense in Modena; the *Codex on the Flight of Birds* and the *Self-portrait* of Leonardo da Vinci, kept by the Royal Library in Turin.

### 3.6.3 Libraries of local Authorities

The more than 7,000 local Authority libraries include both institutes of considerable importance and smaller libraries, down to the model of one-person library. Their mission, in most cases, corresponds

to the one of the *public library* as defined by the IFLA/UNESCO *Guidelines* (*see above*). Many of these libraries have been established following the already mentioned transfer of functions to the Regions in the course of the Seventies, by D.P.R. 01/14/1972, n. 3 (*Transfer to ordinary Regions of State administrative functions in the field of educational assistance and Museums and Libraries of Local Authorities*) and D.P.R. 07/24/1977, n. 616 (*Implementation of the proxy by Law 07/22/1975, n. 382*); afterwards they benefited from a great political interest and a general reorganization.

Currently, responding to a general international trend and thanks to some suggestions of Italian professional literature, the professional community widely debates on the need to conceive public library spaces as meeting places, welcoming environments that encourage contact between people and books (yet not only), rethinking the social function of public libraries as "squares of knowledge" and "culture welfare" (Antonella Agnoli).

According to a recent research, the main services provided by Local Authority libraries are (in order of amount): loan, study, Internet use, educational research, consultation, cultural activities and workshops, reading newspapers, socialization (*Indagine statistica sulle biblioteche pubbliche degli enti territoriali italiani*, promoted by CEPPELL and AIB and conducted by ISTAT and ANCI).

The prevailing form of organization of local Authority libraries is through Library Systems (regional, provincial, municipal): more institutes cooperate within the system in order to optimize the services, creating local library networks. Throughout Italy there are 205 public library networks; about 80% of libraries join a network. The legal form which are made up these nets is mainly the Convention model, followed by the Consortium model, or the Foundation one.

Networks enable the realization of scale economies; main coordinated activities are the management of the union catalog, centralized cataloging, purchases (coordinated and/or centralized), the creation of digital libraries, the revision of the collections. Networks also offer librarianship advice, training services for librarians, technology and information services, cultural services and activities. Emerging services are also marketing and fundraising.

### 3.6.3.1 The Biblioteche civiche torinesi system

Piedmont, like the other Italian Regions, has a law on libraries (n. 78/1978), which governs the whole organization. The law settles the mission of public libraries: to disseminate information and promote cultural growth, contribute to the development of democratic education of the citizens, support the implementation of the right to education, ensuring protection and enjoyment of library materials, increase the asset through acquisition of works of local interest.

The public libraries of the city of Turin <http://www.comune.torino.it/cultura/biblioteche/index/index.shtml>, are an example of highly service-oriented system. The network includes the Central City Library, 16 local libraries, two libraries located in detention centers (included a juvenile one), a music library and a "reading garden". The responsibility for management of the system is entrusted to an executive, assisted by chief librarians coordinating specific areas, in particular: Periodicals, Local Studies, Manuscripts and Rare Section, Blind Services (providing direct access to the Audio-books Catalog).

The Central City Library, dating back to 1869, is provided with more than 500,000 documents, including ancient and modern manuscripts, incunabula and sixteenth Century editions: a selection of them is shown online. The reading rooms offer around 9,500 reference books on open shelves. Periodicals count over 3,000 titles from the eighteenth Century to the present. Periodicals Section is in charge of SBN cataloguing of serials, while the single issues management is coordinated: local libraries keep only the current year issues, while the preservation of previous collections is entrusted to the Central Library. Users can also borrow single issues of recent serials (N.B.: serials, containing a variety of studies and therefore potentially interesting for more than one user at once, are usually excluded from the loan).

Development of Local Studies collections is particularly taken into care – this is a tradition especially deep-seated in Italian libraries – through collecting "ephemera" related to the city and its territory (programs, invitations, brochures...), and preparing reading proposals and bibliographic exhibitions.

The online catalog allows the user to search the works available at all locations and loan points of the system, plus the ones collected in the Historical Archive of the City of Turin. The user, by accessing the catalog with username and password, can execute the renewal of loans, reservations and purchase proposals, as well as vote and comment its favourite books. The interface shows a selection of books, and by clicking on the cover image the user can access the related bibliographic description and comments.

The catalog is integrated by *MediaLibraryOnLine* service, fitting e-book lending, online access to books, magazines, newspapers, directories, language courses, music streaming. In fact, *MediaLibraryOnLine* allows the user to deliver via Web, for free, every type of digital object (audio, video, text, databases, manuscripts in image format, images, digital books, e-learning, live-casting etc.). The service is based on a portal implemented with Digital Asset Management to manage licensing and copyright issues: in practice, for every single digital object provided, the service can manage different access profiles. The *MediaLibraryOnline* infrastructure is a software platform shared and managed in-hosting ("software as service"), so the individual system does not need to invest in hardware and network infrastructure.

The Biblioteche civiche torinesi system is open to a wide range of collaborations with the civil society on the territory: from the many initiatives aimed at children and teens, the attention to learning disabilities, dyslexia, disadvantaged groups, to services and resources dedicated to foreign people; it enhances the interaction (Facebook, Google+, RSS feed) even by publishing user-provided content. The System is ISO 9001 certified under the City Quality Project for the services provided to users.

### 3.6.3.2 University libraries and University libraries systems

The libraries of the Universities in Italy are over 2,600 (*Anagrafe delle biblioteche italiane*). They are functionally included in Universities, generally at Faculty or Department level. The Ministry of Education, University and Research has been the subject of reform in 2010 by Law 12/30/2010, n. 240 (*Rules on the organization of Universities, academic staff and recruitment*). According to the

reform, every University may have an autonomous Statute, and in many cases writing the new Statute was also the opportunity to plan a reorganization of library systems.

The Conference of Italian University Rectors (CRUI), association of the Italian State and non-State Universities, is an important source of advice and coordination of the activity for Italian University libraries. The CRUI has set up a Library Commission, as an institutional forum for discussion on the whole system of University libraries, to represent their needs and promote development. The Commission's activities are carried out through Working Groups, that explore the major issues for the system, and develop tools to ensure University libraries effectiveness and efficiency.

Since these institutions are essential infrastructure for research and scientific information, often they are cutting-edge libraries, because of the adoption of integration and cooperation models, new technologies, measurement and evaluation of services, consortium forms for resource acquisition, management of digital libraries and repositories.

University library systems are based on two different models: one prevailing, centralized, where the system participates of the general administration of the University, and a decentralized one, where libraries have a special relationship with individual departments. In any case, some trends are lately common to all University library systems: first of all, the growing acquisition of online resources (or print + online): e-journals, e-learning platforms, adoption of open data etc. (more than two thirds of the resources). Since 2014, the acquisition and the management of these resources refer to the Coordination Group on Access to Electronic Resources (CARE), which handles the delicate task of negotiating with major international publishers.

In confirmation of the dynamism of this sector, in recent years the University libraries were properly investigated by the Interuniversity Group for the Monitoring of University library Systems (GIM), composed of representatives of the Italian system, in order to identify common methodologies for measuring and evaluating the services of the University libraries. The GIM has among its objectives the improvement of the survey methodology, analysis and benchmarking of library services. GIM surveys have produced fundamental cognitive elements on University library services, their evolution from a structural point of view, the performance of the system and its individual components (<http://www.gimsba.it/>). In addition, the increasing importance of the evaluation within the University involves librarians in supporting the research and teaching evaluation process, as well as in the management of institutional repositories.

#### 3.6.4 Open Access

University libraries supported the Open Access movement from the very beginning. They strongly get the importance and the public interest of a full and open access to information and data, for research and scientific training, and foster the free dissemination of results in the research network, according to European recommendations (*see* H2020 Programme, *Guidelines on Open Access to Scientific Publications and research Date Horizon 2020*, Version 3.1, August 25, 2016; <http://ec.europa.eu/research/openscience/index.cfm?pg=openaccess>), and UNESCO <http://www.unesco.org/new/en/communication-and-information/access-to-knowledge/open-access->

to-scientific-information/). As a part of the CRUI Libraries Commission, it was formed the Open Access Working Group, which drafted specific guidelines, and signed the Open Access Road Map 2014-2018 (<https://www.researchitaly.it/en/news/open-access-road-map-2014-2018-signed/#null>). Open Access principles have been adopted within Italian legislation by the Law 10/07/2013, n. 112 (*Urgent measures for the protection, promotion and revitalization of cultural heritage and cultural activities and tourism*), art. 4.

#### 3.6.4.1 The Information System: SBN

The idea of a National Library System was established in Italy in 1979, in order to create an informational infrastructure based on national cooperation. Today the National Library Service *Servizio Bibliotecario Nazionale* (SBN) is the network of Italian libraries, based on an agreement signed by the Ministry of Cultural Heritage and Tourism, the Ministry of Education, University and Research, and the Coordination board of Italian Regions. SBN includes State, Local, University, School, public and private institutional libraries, performing their activities in various discipline branches, with the ICCU coordination. Over time, shifting the meaning of the SBN “S” from *System* to *Service* emphasized the feature of the realized model, become more and more service-oriented.

The architecture of the system relies on the ICCU as a central structure: it is in charge of the National bibliographic archive, the technical cataloguing rules, the international relationships. A decentralized structure provides access to documents and services. Within this architecture is added the database *Index (Indice)*: the *Index* is the "container" of the union catalog, implemented by periodic "migrations" from the local databases. So, libraries taking part in SBN are grouped together into local hubs (*Poli*), including a variable number of libraries which manage all their services through automated procedures. The hubs are linked to the SBN *Index* system, core of the network; this system, governed by ICCU, manages the collective catalogue of the publications acquired by the SBN libraries.

Through SBN procedures, libraries can work independently while being integrated in a cooperative system based on a national network. The main feature that makes this integration possible is *sharedcataloguing*. Indeed, within the SBN system any given document is catalogued only by the first network library that acquires it. All the other libraries that have to catalogue the same document, can capture its bibliographic description, already existing in the *Index*, and add their own location. Interlibrary loan is another important feature of the system.

With the advent of the Web, since 1997 the information held in the SBN *Index* is available to the public through the OPAC (Online Public Access Catalogue) system, which allows users broader access to the information of the catalog content and access to related services. The *Index* was gradually opened to non-SBN management systems using the most common bibliographic formats (UNIMARC, MARC21) through the realization of a standard interface. To ensure interaction with other bibliographic systems was also adopted the international standard Z39.50 (later also ISO 23950 standard), focused on search and retrieval of information, and particularly of bibliographic information. On these bases, over time have been developed different interfaces for users.

Since 2009 it has been abandoned the client/server architecture, and the ICCU developed the application *SBNWeb*, distributed free of charge; the maintenance is paid by the ICCU, while local management expenses are the responsibility of the Poles. Member libraries, however, have wide range of choice; currently the most popular applications are *SBNWeb* and *Sebina OpenLibrary* (75% of Poles). The current version of the OPAC SBN is made entirely with open source software; in particular, the new OPAC uses indexing and search engine *Lucene/SOLR* that guarantees high performance in research and allows "faceted" navigation in the results.

At present, the SBN Poles are 98, and member libraries are 5,519. The OPAC SBN provides access to 16,131,803 bibliographic records, accompanied by 83,848,068 locations (update: January 2017). The user can research at different levels of complexity on the whole catalog SBN or its subsets, and refine the results for subsequent steps thanks to facets; he can view the bibliographic information in different formats and possibly export them (from 2015 also in MARC21); by location he can pass to database *Anagrafe delle biblioteche italiane* (for information on contact and services details), to the local OPACs (for information on availability of documents); finally, he can ask for reproductions supply or interlibrary loan through the ILL (Inter Library Loan) SBN service. Users may also perform research on Authority files. There are specific search forms for music, cartography, graphics and the ancient book; a mask for photography is under study. Are also searchable the works available in digital format.

The SBN Index multimedia database, can be consulted online at the following addresses: <http://opac.sbn.it>; <http://www.internetculturale.it/>, and through Gateway Z39.50 of the Library of Congress.

### 3.6.5 Cataloguing Rules

Among its goals, ICCU has the task of drafting and disseminating catalographic rules and descriptive standards, semantic cataloguing and metadata for recovering, and accessing and managing digital resources. It carries out research, studies and coordinating activities in the field of cataloguing. As part of this activity it translates international standards, cataloguing rules and guidelines. It is in charge of creating and maintaining the SBN Authority file as crucial tool for the clearness and the quality of the National union catalogue. The entities for which authority files must be created currently include names of persons, collective authors, uniform titles, places and printers' marks.

The *Italian Cataloguing Rules* (REICAT) have been completely rewritten in 2009, in order to produce structured information according to the logic of OPACs, and better respond to the changing needs of users and the multiple types of documents. Necessarily, on their writing strongly affected the thoughtful reflections introduced in the field of cataloguing in 1998 by the model *Functional Requirements for Bibliographic Records* (FRBR), based on a relational logic.

Afterwards, new rules for cataloguing in SBN have been developed in the new context of international standards and national cataloguing rules, and with reference to the new and more

flexible architecture of SBN. Since July 2016, cataloging rules for SBN are available on a reserved section of [MediaWiki](#) platform.

For the bibliographic description of different types of documents, the main reference is still the *International Standard Bibliographic Description (ISBD)* (Italian edition Nov. 2012). Moreover, ICCU has recently completed the Italian translation of the model *Resource Description and Access (RDA)* (Version April 2014): in fact, discussing about future challenges, RDA is the major novelty to look at in view of further evolution of cataloguing principles and practices.

### 3.6.6 Legal Deposit

The *Guidelines for legal deposit legislation* (Paris: UNESCO, 2000) define legal deposit as "a statutory obligation which requires that any organization, commercial or public, and any individual producing any type of documentation in multiple copies, be obliged to deposit one or more copies with a recognized national institution". So, legal deposit is a key instrument for the conservation of the memory of the culture and social life of a Country: its first application in Italy dates back to the Italian Kingdom (1848).

Italian legislation on legal deposit was reformed between 2004 and 2006 by Law 04/15/2004, n. 106 (*Provisions concerning the legal deposit of documents of cultural interest for public use*), and D.P.R. 05/03/2006, n. 252 (*Regulations on provisions relating to legal deposit of documents of cultural interest for public use*). Subject to the law are "the documents for public use, usable by reading, listening and watching, whatever their technical process of production, publishing or broadcasting", which must be deposited by the publisher in the designated libraries.

The new legal deposit law takes into account the specific situation of Italy, with its cultural heritage (including the bibliographic one) as rich as distributed on the territory; and in particular, the fact that the previous legislation set the deposit both at the central level and at the provincial one (depending on the printer's seat). The law therefore provides for "National and Regional archives of publishing", as well as national bibliographical services of information and access to the deposited documents. In practice, the National archive is implemented by delivering two copies of each publication to the Central National Libraries of Rome and Florence; the Regional archive by delivering two copies to the Region (depending on the publisher's seat). N.B.: every Region has identified one or more depository libraries, according to a centralized or decentralized model; some Region identified more depository libraries according to the type of documents (printed, audiovisual, childrens' publishing).

Strong points of the new law are: an inclusive definition of documents that includes, for example, documents in electronic format – including the digital native ones – allowing librarians to cope with future changes in their characteristics; the creation of the National and Regional archives, based on different needs of research and access to documents and taking account of the pre-existing collections on the territory; the obligation addressed to the publisher, which is the subject more easily identifiable for control purposes; the possibility of applying sanctions in case of evasion from the obligation; the provision of specific procedures for the deposit of audio and video documents, graphics, graphic art documents, video art, photographic documents, films.

There are some criticalities too, first of all the fact that the new, more comprehensive law does not provide for supplementary budget to depository libraries; it would also be valuable the tasks of the two Central National Libraries to be more differentiated, as well as the functions related to the National and Regional archives, in order to produce synergy and resource savings. Finally, regarding the digital native documents disseminated via the Internet, the law is not in force yet: in fact, the specific rules provided for by D.P.R. 05/03/2006 n. 252, art. 37, are still not issued. On the other hand, the testing phase also provided for by the same D.P.R. was successfully completed.

### 3.6.7 Magazzini Digitali

Magazzini Digitali (*Digital Stacks*) is the coordinated national service for preservation and long-term access to digital resources. The testing phase provided for by D.P.R. 05/03/2006 n. 252, art. 37 (*see above*) was carried out thanks to this infrastructure, dedicated to storage and preservation of digital products (*see* <http://www.depositolegale.it/>). The organizational model is suitable as National and Regional archive of electronic publications (both derived from the digitization and digital native), as required by legal deposit law; and to ensure access to and the permanent preservation of digital contents and their *authenticity* (identity and integrity). With a Euro 390,000.00 funding under the three-year Program 2016-2018 of the Ministry, hopefully the service should be operational, especially in view of the law on legal deposit of digital documents to come in force.

Magazzini Digitali is based on three different storage sites, managed by the two Central National Libraries of Rome and Florence and the Biblioteca Nazionale Marciana in Venice. The technological architecture and the digital archives comply with standards ISO 27001 and OAIS, for the certification of trusted digital repositories (*i.e.*, repositories ensuring *viability*, *renderability*, *authenticity*, *availability*). Data storage is based on data replication (different machines in different places), online storage, operating systems and services completely *open source*. The system, thanks to the continuous search of interoperability, will be able to manage the *harvesting* of digital documents also taking into account that metadata patterns can change over time. At present, the system can receive data held both in container WARC (ISO 28500), and MPEG21-DIDL (ISO 21000).

#### 3.6.7.1 Digital libraries

At the beginning of XXIth. Century, the European Commission has recognized the key role of digitization of scientific and cultural heritage in order to achieve a competitive, dynamic and knowledge-based economy; and has asked the various Countries to promote actions and projects in this direction (among the most relevant *i2010: An European information society for growth and employment*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2005:0229:FIN:IT:PDF&l=it>, and the *Dynamic Action Plan*, [http://www.minervaeurope.org/publications/dap/dap\\_it.pdf?l=it](http://www.minervaeurope.org/publications/dap/dap_it.pdf?l=it)). In implementation of European initiatives, with coordination of ICCU, Italy participated in several European projects (among the most relevant *MINERVA*, *MINERVAPlus*, *MICHAEL*, *MICHAELPlus*, *ATHENA*,

*ATHENAPlus*), thanks to which Italian libraries acquired technical and managerial infrastructures *open source* and multi-lingual, and realized digital collections and virtual exhibition projects.

On a national scale, in 2001 was launched the project *Biblioteca Digitale Italiana* (BDI), in order to identify the priorities of the interventions, indicate common standards and technologies to be used, connect the national level activities with international initiatives. In the framework of the BDI Italian libraries started most of their major digitization projects.

The recent activities of re-engineering and renewal of the BDI editorial format have led to the creation of the portal *Internet Culturale: catalogs and digital collections of Italian libraries*, <http://www.internetculturale.it/opencms/opencms/it/index.html>, also managed by ICCU. The website highlights the organization for thematic collections, to assert its identity as main access to the heritage of Italian libraries, and reference point for all those who are stakeholders in the “world of the book”.

Internet Culturale is based on MagTeca, a digital case that performs a free service of digital, in web-resolution collections management and preservation, along with a full set of metadata created in XML format according to the MAG model. The MagTeca software is distributed free of charge to content providers. The protocol adopted is the international standard Protocol for Metadata Harvesting of the Open Archive Initiative (OAI-PMH).

Internet Culturale provides content to the portal *Cultura Italia*, <http://www.culturaitalia.it/>, managed by the Ministry. Through *Cultura Italia* users are led in a metadata system, which aggregates and organizes information from providers (museums, libraries, archives, galleries, exhibitions, etc.). Actually, the portal does not contain the resources, yet it is proposed as a single access point to them, in order to facilitate the users approaching to the rich Italian cultural heritage. Of course Italy participates, with the content of the Internet Culturale and even through *Cultura Italia*, in the European digital library Europeana, <http://pro.europeana.eu/>.

Interoperability between resources from different sectors of the cultural domain as well as the opening of the data in *Cultura Italia*, are ensured through the application of the OAI-PMH standard for data collecting (*harvesting*); through the adoption of the PICO application profile based on the international standard Dublin Core for the creation of descriptive metadata; through the Extensible Markup Language (XML) for data representation; finally, through the Resource Description Framework (RDF) standard for the publication of Linked Open Data.

In this respect, by D.L. 05/18/2015, n. 102, Italy has assimilated Directive 2013/37/EU of the European Parliament and Council amending Directive 2003/98/EC on the *Re-use of information in*

*the public sector*. The Directive recognizes that digitized collections of cultural heritage and their metadata have tremendous potential for innovative reuse, and can contribute to economic growth and creation of jobs. The Directive therefore invites Member States to ensure that the documents whose intellectual property rights are held by libraries, museums and archives, are reusable.

According to this principle, the conditions of use of the content made available through the Internet Culturale and Cultura Italia provide for metadata the license CC0 1.0 (Universal Public Domain Dedication) conditions, <https://creativecommons.org/publicdomain/zero/1.0/deed.en>.

Italy in March 2010 also joined the *Google Books Project*, involving other major Countries and National Libraries of global significance such as the Bavarian State Library, the British Library, the Austrian National Library, the Nationale Bibliotheek van Nederland. The Italian Google Project involves the Central National Libraries of Rome and Florence, the Biblioteca Nazionale Vittorio Emanuele III of Naples and the ICCU. The agreement between Google and the Ministry provides for the digitization of at least 500,000 volumes by Google, while libraries are responsible for SBN cataloguing, metadata control, long term preservation. In the 1<sup>st</sup> phase of the Project (2012-2014) were digitised 265,972 volumes; in the 2d phase (2015-2016) 227,975 volumes. The Project is now entering its 3d phase.

The Google Project metadata format is Mag 2.0.1 METS compatible, the single page files are JPEG 2000, the text files adopt OCR optical recognition methods that improves keywords research. Digital files can be consulted and downloaded in full text free of charge, as they refer to works in the public domain (published until 1871); they are accessible from the libraries websites, from Internet culturale, Cultura Italia and Europeana, as well as on the Google site. Google will be the holder of the rights on the files for a 15 years time, but the libraries will have the right to use their digital copies (fully or partly) within their services, thus ensuring collections an absolute accessibility.

### 3.6.8 Reading Promotion

While maintaining more or less a stable nucleus of "strong readers" (about 14% of readers), according to the ISTAT 2015 report *La lettura in Italia*, only 42% of Italians read at least one book in the previous year; and looking at European figures, Italy is slightly below the average of the Organisation for Economic Cooperation and Development (OECD) data. Reading promotion is therefore a task perceived as crucial by the book and library professionals.

The Italian Library Association (AIB) has the ownership of the best known project in this field, *Nati per leggere* (Born to read), started in 1999 with the aim to promote reading aloud to children aged 6 months-6 years, in collaboration with the Cultural Association of Paediatricians and the Center for Child Health (CSB). *Nati per leggere* is operative throughout the National territory with approximately 800 local projects involving more than 2,000 Italian municipalities. The local projects

are promoted by librarians, paediatricians, educators, public bodies, cultural associations and voluntary services.

School libraries and libraries of local Authorities have a critical role in reading promotion. While the former are yet too heterogeneous to generally speak about their engagement, the public libraries, especially in well-organized contexts, usually work hard in promoting reading (see the Biblioteche civiche torinesi case).

As for the initiative of the State, in this field a breakthrough year was 2013, thanks to the publication of the *Rapporto sulla promozione della lettura in Italia* (Report on the promotion of reading in Italy), commissioned by the MCT to the association Forum del Libro. The report represents a systematic and official study on good practices to promote reading in Italy, reporting the virtuous experiences of publishers, bookstores, libraries, schools and associations. Among its conclusions: "It is essential to coordinate public policies, State, regional and local, in a great plan for reading, adequately funded, to evaluate and update periodically".

The Ministry has responded to this need by promoting the realization of a *National Reading Promotion Plan*, as guidance tool in order to evaluate key issues and formulate proposals (Ministerial Decree 10/23/2013). The carrying out of proposals has been entrusted to CEPELL (Ministerial Decree 08/08/2014). The *Plan*, <http://www.cepell.it/it/piano-nazionale-per-la-lettura/>, identifies the priority actions and proposes a series of objectives, activities and projects to be considered fundamental.

Among the many initiatives undertaken, the project *In vitro* is undoubtedly the most significant novelty factor, also in terms of financial importance. It is an experimental project promoted by CEPELL in collaboration with Regions, Provinces, Municipalities, professional and trade associations (AIB, IEA, ALI); funded with 2 million Euros by the Arcus society (*see* Interministerial Decree 12/13/2010), it has involved six pilot territories, (the Provinces of Biella, Ravenna, Nuoro, Lecce, Syracuse and the Umbria Region).

The focus of the project has been identified in children aged 0-14 years, considering that they are the future, parents are willing to invest for them, and the children's publishing market is mature to play a major role.

Practical tools required to implement the project on the territory have been the *Local Pact for reading* and the *Project Local Groups*. Among the planned actions, the gift of books: over 100,000 books have been distributed to children and teenagers; the titles, selected by a panel of experts, have been published by CEPELL in form of bibliographic guides. Another significant aspect was the formation, entrusted to the Center for Child Health (CSB), which organized courses of reading aloud, and to

AIB, which conducted a course designed to form the new figure of the “reading promoter”. Finally, it has been realized *Attenti a chi legge!* (Mind the readers!) a national database that has collected over two hundred “good practices” to be shared.

Eventually, it can be said that after the *Rapporto sulla promozione della lettura in Italia* and the start of the *In vitro* project, the issue of promoting reading in Italy has really achieved a widespread attention at the appropriate institutional levels.

### 3.6.9 Innovation and future challenges

No doubt during the last fifteen years the Internet has been the main driver of innovation in the field of libraries, for many different reasons. For libraries that preserve important historical collections, it has represented the ability to protect them, and at the same time to make them immediately accessible to users worldwide, on a scale unimaginable before. In addition, the virtual nature of digital collections allows the user to approach physically separate documents, and virtually restore their integrity.

In the case of public libraries, on the contrary, the library as a physical place is back to have a central importance. In fact, by providing users an internet connection, it strengthens its social function and plays a strategic role in the fight against digital divide. It is no coincidence that some of the most interesting contemporary architectural projects worldwide have been realized for public library buildings.

Under the circumstances, the biggest challenge is definitely in the long-term preservation of digital objects: on the one hand those derived from the digitization, on the other hand the digital native ones spread through the network. In fact, they constitute a social and cultural feature of the contemporary society, worth to be preserved by the so-called “Institutions of the memory”. Yet this matter requires awareness and involvement at the political level, because the maintenance of dedicated infrastructures (in Italy Magazzini Digitali stands as candidate for being the major), along with the initial investment also requires huge financial support over time. On the other hand, the role of librarians and information professionals in general will be significant too, in order to select relevant information and in designing sustainability-oriented solutions, both technically and in terms of governance.

### 3.7 Protection of immaterial cultural heritage

Intangible cultural heritage is safeguarded by Italian law only to the extent that it is linked to a tangible element. However, along the time, the process of globalization of cultural heritage and the progressively growing influence of international law has led to a formal distinction between tangible and intangible cultural heritage, so as to determine the need for a specific legal regulation of the latter as a separate and distinct category of cultural heritage. It is only after the ratification of the Convention for the Safeguarding of Intangible Heritage (2003), in 2007, that the Code for Cultural Heritage and Landscape (D.lgs. 42/2004) has been amended by adding a new article 7-bis: “the expressions of collective cultural identity referred to in the 2003 and 2005 Conventions can be subject to the provisions of the present Code, whenever they are conveyed by tangible evidences [...]”.

This means that the state legislator has not found necessary to elaborate a specific law on the safeguarding of intangible heritage, as the rationale for the legislation in Italy has focused on ‘properties’, things and therefore the tangible dimension has prevailed, despite the fact that jurists has since long recognized that the cultural dimension and significance of a property is intangible although necessitating the tangible medium of its materiality to make manifest the cultural value/ significance.

In any case, with regard to intangible heritage, the reference in the Code to the notion of collective identity has somehow suggested that this realm would be the responsibility of the regions and as a matter of fact, laws on intangible heritage or folklore have been developed by the regional governments. On the other hand, the ICCD (Central Institute of Catalogue and Documentation) began already in the late 1970s to elaborate orientations and standards to document this type of heritage.

Legislation and documentation have been developed mainly at the regional level and particularly with regard to minority languages or dialects as well as all other expressions of intangible inheritance that are mentioned in the 2003 Convention, namely oral traditions and expressions, including language as a vehicle of the intangible cultural heritage; performing arts; social practices, rituals and festive events; knowledge and practices concerning nature and the universe; traditional craftsmanship.

Lombardy has been very active and has worked with Switzerland to set up a documentation project and a portal in which the documented practices can be accessible online.

[http://www.intangiblesearch.eu/home\\_page.php](http://www.intangiblesearch.eu/home_page.php)

The network of the ‘Pro loco’ associations, that is to say associations of citizens that care about the local traditions, identities and activities at the local level for the enjoyment of the inhabitants, has set up an Youtube channel collecting short films documenting Italian living traditions of different forms. The use of audiovisual appears a good solution of a more lively documentation of practices that are dynamic in nature and need different ways to keep track of their features and ways of deployment.

[https://www.youtube.com/channel/UCqgU4x6uoP6liqT5vGzB\\_ZA](https://www.youtube.com/channel/UCqgU4x6uoP6liqT5vGzB_ZA)

Despite the relatively recent adherence to the 2003 UNESCO Convention, Italy has already succeeded in inscribing several intangible expressions on the UNESCO Representative List of the Intangible Cultural Heritage of Humanity. The List include:

1. Falconry, a living human heritage (with United Arab Emirates – Austria – Belgium – Czechia – France – Germany – Hungary – Italy – Kazakhstan – Republic of Korea – Mongolia – Morocco – Pakistan – Portugal – Qatar – Saudi Arabia – Spain – Syrian Arab Republic)
2. Traditional agricultural practice of cultivating the ‘vite ad alberello’ (head-trained bush vines) of the community of Pantelleria
3. Celebrations of big shoulder-borne processional structures
4. Mediterranean diet (with Cyprus – Croatia – Spain – Greece – Italy – Morocco – Portugal)
5. Traditional violin craftsmanship in Cremona
6. Canto a tenore, Sardinian pastoral songs
7. Opera dei Pupi, Sicilian puppet theatre

It remains to be clarified what mechanisms can be really effective to support the continuation of many of these highly specialized practices.

## **France**

In France, the 2003 Convention has been ratified in 2006 and an inventory of intangible expressions has been developed at the national level.

France ratified in 2006 the convention (agreement) of the UNESCO of October 17th, 2003 for the safeguard of the intangible cultural heritage. Since this date, the implementation of the convention was entrusted to the Mission ethnology.

The steering department for research and scientific policy ensures the coordination of the actions connected to the 2003 Convention. In the regions, the advisers (councillors) for the ethnology of Regional Cultural Affairs Directorates or regional ethnologists are his (her) correspondents. The actions connected to the convention are led in cooperation with ethno-poles and several networks, such as the federation of ecomuseums and museums, federation of music associations and traditional dances, federation of the regional natural reserves. The responsible department works in partnership with the Centre for world cultures and more particularly with the French centre of the intangible cultural heritage of Glazed, as well as with the regional centre of ethnological and technical culture, which are not Governmental Bodies accredited by UNESCO in the field of the intangible cultural heritage. In partnership with the CNRS (NATIONAL COUNCIL FOR SCIENTIFIC RESEARCH), the department leads research activities on the patrimonial policies, in particular on the intangible cultural heritage.

The department is responsible for the realization of the Inventory of the ICH in France. The Inventory and the index forms of the inventory are available on-line.

The department guarantees the location, the methodological follow-up and the instruction of the applications for listing French intangible heritage on the UNESCO representative list of the intangible cultural heritage and the list of the intangible cultural heritage requiring an urgent protection.

The documentation/ inventory forms developed by France may be considered as a useful basis. Some examples are provided as annexes.

<http://traduction.culturecommunication.gouv.fr/url/Result.aspx?to=en&url=http://www.culturecommunication.gouv.fr/Thematiques/Patrimoine-culturel-immateriel/Inventaire-en-France/Inventaire/Fiches-de-l-inventaire-du-patrimoine-culturel-immateriel/Pratiques-rituelles>

<http://www.patrimoinevivantdelafrance.fr/>

## 4. Improvement of Azerbaijani legal and administrative framework

4.1 Application of modern methods in culture management - development of cooperation with the local self-government bodies in culture management, including art management

### 4.1.1 Public-private partnerships in Azerbaijani culture sector

This chapter addresses the theme of the introduction of Public-Private Partnerships (PPP) in Azerbaijan, with particular reference to the PPPs for Cultural Heritage.

Before going in depth into the main subject matter, it is worth to provide an overview of what PPP is, starting from the definition of this instrument.

Interested parties have developed a number of different definitions of PPP over the years. A chronological list is given below in order of publication:

2003: PPP is a “cooperation between the public and private sectors for the development and operation of infrastructure for a wide range of economic activities.” - *European Commission*, March 2003;

2008: “By PPPs we mean any partnership between a private-sector corporation and a public-sector body, through which the parties contribute different assets to a project and achieve complementary objectives.” - *European Digital Libraries Initiative*, May 2008;

2010: PPP is a “contractual agreement between a public agency (federal, state or local) and a private sector entity. Through this agreement, the skills and assets of each sector (public and private) are shared in delivering a service or facility for the use of the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service and/or facility.” - *National Council (of America) for PPP*, 2010

The first definition by European Commission was general and wide; the European Digital Libraries Initiative attempted to be more specific; while in 2010 the National Council of America for PPP proffered a more comprehensive definition that includes the following three key aspects:

- the presence of public bodies and private entities
- sharing of skills and assets, risks and rewards
- benefit for citizens

Focusing on these key aspects, PPP widens from being a financing tool for infrastructure projects, to include all those actions, initiatives and projects, which are focused on the sharing of three core “Rs”: Resources, Responsibilities, and Risks. Thus, why do not apply PPP model also to the Culture Sector?

In Italy, as it was illustrated in Chapter three of this document, this is already going on: the huge Italian cultural heritage needs massive resources to be managed and valorised, therefore, the search for new funding sources and of more effective implementation methods has brought, among the others, to experiment the PPP model.

Nowadays, however, the problem of shortage of public funds is experimented at global level, and PPP projects in culture could therefore represent a valid model even for Countries, like Azerbaijan, with a smaller Cultural Patrimony but no less worthy of being optimally promoted and managed.

Actually, PPP as a formalised cooperation aiming at the common use of resources and thus achieving synergies and other mutually complementary goals – a PPP project serves as an ideal funding instrument: whereas a private partner enters a common project while expecting profit, a partner from the public sector pursues objectives such as cost savings, utilisation of private resources such as know-how, transfer of knowledge and fulfilment of its public-beneficial duty, which involves broadening of the cultural offer<sup>11</sup>.

For the private party, even if financial return is a strong driver, this is not the only motivation for joining a PPP: the return on investment can come from an increase in brand reputation, internationalisation of a company's activities, help with entering new markets, developing new collaborations and gaining new expertise.

For the public party, joining forces with private companies can help to develop further project management and business skills of civil servants. The public sector can learn from the private sector its attitude to motivation, creativity, dynamism and problem-solving, combined with greater attention to market and customer needs. While public administrations are increasingly proactive in reaching out to the public, they can benefit strongly from the expertise of the private entity.

Of course, when selecting cultural projects suitable for cooperation, a particular attention shall be paid to the definition of contractual relationships and on the selection of the partner, since these two factors can strongly influence the success of any PPP project.

#### Establishing a PPP Legal Framework

The PPP legal framework comprises all the laws and regulations that control whether, and how, PPPs can be implemented. Both governments and private companies looking to implement or enter into PPPs need to scrutinize the relevant laws and regulations, to identify any provisions, requirements, or constraints that may apply to PPPs.

Governments embarking on PPPs may also need to adapt the existing legal framework to ensure that PPP contracts can be entered into and clarify the legal rights and processes that apply, and in some cases to introduce PPP-specific processes and responsibilities. Some governments do this by adapting existing laws, others through the introduction of specific legislation. Even in this last case, the legal framework for PPP is broader in scope, and can comprise a range of types of law.

These can include:

Procurement law: the transaction process for a PPP must typically comply with public procurement law and regulations, unless PPPs are specifically exempt;

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<sup>11</sup>Gottschalk, 2006; Heinze, 2008

Public financial management law: institutional responsibilities, processes, and rules established in public financial management laws and regulations can contribute to the PPP framework. This could include project approval requirements, fiscal limits, budgeting processes, and reporting requirements;

Sector laws and regulatory frameworks: PPPs are often implemented in sectors that are already governed by sector-level law and regulatory frameworks. These may constrain the government's ability to contract with the private sector, or provide rules for doing so.

Other laws affecting the operation of private firms, which also apply to PPP companies, should be taken into consideration when defining PPP projects and processes. These can include environmental law and regulations; laws and regulations governing land acquisition and ownership; licensing requirements, particularly for international firms; tax rules; employment law.

These laws, taken together, may comprise the legal framework for implementing PPP - that is, there may be no need for PPP-specific legislation.

#### PPP models for Azerbaijani Culture Sector

From now on, the introduction of PPPs into Azerbaijani Culture Sector will be expressly treated: after a first presentation of the two main PPPs categories – the *Institutional* and *Contractual* ones – the specific PPP figures proposed for Azerbaijan will be described.

The core of the section will then consist in the illustration of the legal process allowing PPP introduction into Azerbaijani legal framework. Since there are distinct possible paths to follow, each of them will be illustrated in detail, starting with the Institutional PPPs and continuing with the Contractual PPPs.

#### PPP categorization – Institutional and Contractual PPPs

PPP can be categorized into two types: a PPP of a purely contractual nature - the *Contractual PPPs* - and a PPP of an institutional nature - the *Institutional PPPs*. This categorization is adopted by the European Union and by many other countries.

In a PPP of a purely contractual nature, the partnership between the public and the private sector is based solely on contractual links, whereas in a PPP of an institutional nature there is cooperation between the public and the private sectors within a distinct entity.

Both arrangements involve delegated management of the traditional public sector activities to the private sector. In the first type of PPP, the rights and obligations are regulated by an administrative contract or series of contracts. In the second, they are guaranteed by the company's statutes and by the shareholder agreement between public and private parties.

#### 4.1.2 Institutional Public-private partnership

The Institutional PPPs (mixed companies) imply the establishment of a new entity held jointly by the public partner and the private partner. The joint entity thus has the responsibility of ensuring the delivery of a work or service for the benefit of the public.

Usually the public partner controls the company either as shareholder or through special rights it may hold and the private partner operates the service.

Institutional PPPs are regulated by the company statutes and the shareholder agreement, that must fully comply with the relevant National legal provisions. The statutes of the company establish common rules for the organization, governance and operation of the company. The shareholder agreement regulates relationships between partners (public and private). This last document is central to the performance of the entity. It establishes the minimum financial participation required by the private partner, risk sharing arrangement, the procedures to be used in a deadlock situation.

#### 4.1.2.1 Goals

Three Institutional PPP figures are proposed for Azerbaijani Culture sector.

##### a) Consortium

A consortium is an agreement, a combination, or group (as of companies or governmental bodies) formed to undertake an enterprise beyond the resources of any one member, with the objective of participating in a common activity or pooling their resources for achieving a common goal.

Funds of consortium members converge in a specific fund, which is specifically established and ruled.

When adopted between public administration and devoted to cultural heritage management, consortium assumes the name of Consortium for Cultural Valorization. It can be joined by private parties, thus becoming a PPP figure. Consortium for Cultural Valorization cannot distribute profits.

Each consortium typically has an assembly, composed by the representatives of associated administrations, with responsibilities directly proportioned to the share established in the statute and in the convention, the agreement that rules the administration of the organization. Assembly appoints a board, with administrative tasks, such as budget planning and balance sheet approval.

##### b) Public-Private Company

A Public-Private Company is a Limited Company joint both by public and private parties (PP-LC), with public majority capital. Through a PP-LC, the public institution tends to optimize synergies with private parties in order to maximize value for money, adopting a market-oriented strategy. Such a PPP model is frequently used for managing local public services of economic importance, and related instrumental activities.

Nonetheless the PPLC can be employed also in areas not related to local public services that are however functional to the realization of administrative activity.

Bodies of limited companies depend on the model adopted, which can span from a monocratic body, to a multilevel governance structure, with a board of directors, an audit commission, an assembly. Or it is possible to have a management committee, and the surveillance committee.

It is remarkable that, in order to adhere public administration standards, private members of a PP-LC must be selected through tender, thus becoming a real “operational” or “industrial” partner instead than being a mere “financial” partner.

### c) Foundation

The scheme of foundation for participation is simple: it mixes the ‘endowment component’ of a typical foundation - private legal entity established through a strict tie between the endowment and the institutional objectives - with the ‘open-to-new-members’ mechanism of associations. As a result, founders can be added, over time, and it is possible to identify different categories of members: founders, adherent, participant. Each category has its duties and power.

This new formula has gained attention, especially in Italy where it has been introduced more than 15 years ago, and it is now widely considered the best legal form for heritage protection and management.

When public administrations join a foundation – as founder, or adherent, or participant – different implications arise. First, albeit private entities, foundations joint by public administration have to behave as public organizations, in terms of procurement, employment and administrative processes, are then subject to external control of Authorities and national rules affecting public entities. Secondly, when the aim of the foundation is to manage a specific cultural site, property of the cultural site remains above public owner, and only the right of using it is transferred to the foundation, and accounted as endowment (this, in order to prevent the risk of privatization of cultural heritage). Third, the open structure of foundation requires the identification of specific rules for coopting members, which have to be selected under procurement rules (i.e. tender).

#### 4.1.2.2 Norms to be amended or introduced

##### Entering Institutional PPPs into Azerbaijani system

Establishing PPP model in Azerbaijan implies, on one side, the necessity to ensure that PPPs can be entered into the legal system, and, on the other side, the necessity to rule each PPP figure for allowing its correct and effective functioning.

Here it is intended to illustrate in detail the first mentioned point “ensuring that Institutional PPPs can be entered into Azerbaijani legal system”.

As regards the second point, we will not afford the details of “ruling each Institutional PPP figure to allow its correct and effective functioning”, that will have necessarily to be addressed by further legal steps. However, since such further steps could be reached through different legal provisions, we will illustrate the possible legal paths that could be followed to rule PPPs.

To do that, the main affected laws have been scrutinised, the contents to be introduced have been defined, the specific parts of the law(s) to be amended have been indicated. The results of the work are presented below.

##### Affected laws and proposed amendments

Regarding the Institutional PPP model, the main Laws affected by PPP introduction are, the Law on Culture, the Civil Code and the Law on Municipalities.

**Law on culture:** Need to introduce the concept of “valorisation” of cultural heritage and to foresee the possibility that private sector figures are engaged in the valorisation process.

***Proposed amendments:***

1) To add a new Article stating that *Valorisation of cultural heritage is one of the priority directions of the State Policy. Valorisation activities can be implemented also through the collaboration between public and private entities.*

This Article will be numbered as 5.2.1, and will follow the existing Article 5.2 stating that *State determines the priority directions of the state policy in culture sector; and based on these directions, adoption and control on implementation of expedient projects, state programs, strategies and actions plans are realized by an appropriate executive body. Elaboration and execution duty of cultural events are conducted under cooperative conditions with the culture.*

As it can be noticed the two articles are logically connected: the new Article 5.2.1 resumes the concept of *State Priority* expressed in the previous article 5.2 linking to it the notion of *valorisation*.

2) To modify the existing Article 18 as follows *In the Republic of Azerbaijan, the subjects of cultural activities are considered governmental bodies, physical persons, including creative persons, legal persons, as well as cultural institutions, non-governmental organizations and legal entities established in partnership by public entities and private sector figures (Institutional-type Public-Private Partnerships).*

The present version is: *In the Republic of Azerbaijan, the subjects of cultural activities are considered governmental bodies, physical persons, including creative persons, legal persons, as well as cultural institutions and non-governmental organizations*

The proposed amendment is meant to specifically introduce the Institutional PPP-type

**Civil code:** Need to introduce PPP Institutional legal figures.

***Proposed amendments:***

3) To add a new Article stating that *A legal entity may be established in partnership by public and private legal entities (Public-Private-Partnership legal entities), with the specific aim to pursue the valorisation of Cultural Heritage, as provided by Art. 5.2.1 of the Law on Culture.*

It will be numbered as 43.7, and it will be the last article under Section 43. “Definition and types of legal entities” that at present does not foresee PPPs.

**Law on Municipalities** - To allow the collaboration between Municipalities and private sector figures

***Proposed amendments:***

4) *To modify the existing Article 34 as follows: According to the law, municipalities **may create and join** legal person, for economic and other activity not prohibited by the law, and may resolve the issues related to their re-organization or termination.*

In the present version of the Article 34, reported below, no mention is made to the PPP:

*According to the law, municipalities may create legal persons for economic and other activity not prohibited by the law, and may resolve the issues related to their re-organization or termination.*

Ruling the functioning of Institutional PPPs in Azerbaijan

After having addressed the issue to introduce PPPs into Azerbaijani legal system, it is hereby tackled the question of their functioning.

Actually, the aim to structure and manage PPPs well can be achieved by following two distinct paths:

adapting existing laws

or

enacting PPP-specific law

Adapting the existing legal framework means to clarify the legal rights that apply to PPPs within the relevant laws and regulations, as well as to introduce PPP-specific processes and responsibilities.

Enacting a PPP-specific law may be particularly useful when the existing legal framework is not clear or comprehensive or constraints the government's ability to structure and manage PPP well.

In both cases it will be necessary to clearly establish guiding principles, processes, and institutional responsibilities for a PPP program (such as for procurement, and dealing with disputes), along with policies such as public financial management rules for PPPs.

The Azerbaijani legal framework has been attentively scrutinised, and no constraint has been individuated hindering the adaptation of the existing laws to PPP process. Therefore both above mentioned legal processes, aimed at ruling PPP figures, are potentially valid and their description is provided.

Adapting existing laws – proposed amendments

In order to rule the functioning of the Institutional PPP figures the main affected law is The Civil Code.

The proposed amendment is: to introduce a special PPP section in which each figure - Foundation for participation; Consortium for valorisation; Public-Private Company - will be described and regulated, as it is done for all the other legal entities listed in the Code under *Section 2. Persons*<sup>12</sup>.

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<sup>12</sup>Provisions for specific sectors' legal entities are not usually included in the Civil Code. However this amendment is considered necessary due to the circumstance that no other Azerbaijani law can regulate the proposed Public-Private-

The newly introduced section could be numbered as *Paragraph 4* and named *Public-Private legal entities for the Culture Sector*. It would fall under *Section 2. Persons* and could replace the former *Paragraph 4 Bill, annual balance and audit of legal entities* which was deleted, and the related articles.

#### Enacting PPP specific Law

The last possible proposed path for ruling Public-Private Partnership is to adopt a “ Special PPP Law”, which is a choice that can also help raise the profile and demonstrate a particular political commitment to the PPP program.

Such a Law would incorporate all the aspects related both to Institutional and Contractual PPPs specific functioning, and would overcome the necessity to enact any ad hoc Rules of Ministers for PPPs (see paragraph above).

It must be underlined that a well-designed PPP law typically sets out principles that nevertheless may be supported by more detailed regulations, with the intention of avoiding rigidity so as to enable the PPP program to adapt over time.

#### 4.1.3 Contractual Public-private partnership

In the scope of purely Contractual public-private partnerships, the partnership between the public and the private sector is based solely on contractual links, regulating rights and obligations.

##### 4.1.3.1 Goals

Two Contractual PPP figures are proposed for Azerbaijani Culture sector.

##### a) Sponsorship

Through Sponsorships a public administration can offer to a private entity the possibility of publicizing its name, logo, brand or products, upon payment in goods, services or other benefits. In the culture sector, sponsorship is related to the delivering of goods and services. It can also include the design and implementation of restoration works, thus representing a win-win situation since the *sponsee* saves money on its restoration work, while the *sponsor* reinforces its public image and promotes its brand.

##### b) Service Concession

Service Concession is a form of PPP in which public administrations, which owes goods and is responsible for services to public entrusts the management of these services to a private concessionaire entity. In this situation there is a direct link between the private partner and the final user: the private partner provides a service to the public “in place of”, though under the control of, a public authority. The private party assumes all the responsibility relative to the establishment and

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Partnership figures in detail. No legal provision prevents from including a special-sector section in the Civil Code, in this case to regulate Institutional PPPs for Culture.

exploitation of the service, charging users for that service. Usually the concession model is associated with long contractual periods, matching the long asset life of infrastructure.

Service Concession is one of the most important form of public services management. It allows public administrations delivering public services without having any additional costs.

In the field of cultural heritage concession has gradually gained relevance for the management of additional services.

#### 4.1.3.2 Norms to be amended or introduced

Establishing PPP model in Azerbaijan implies, on one side, the necessity to ensure that PPPs can be entered into the legal system, and, on the other side, the necessity to rule each PPP figure for allowing its correct and effective functioning.

Here it is intended to illustrate in detail the first mentioned point “ensuring that Contractual PPPs can be entered into Azerbaijani legal system”.

As regards the second point, we will not afford the details of “ruling each Contractual PPP figure to allow its correct and effective functioning”, that will have necessarily to be addressed by further legal steps. However, since such further steps could be reached through different legal provisions, we will illustrate the possible legal paths that could be followed to rule PPPs.

To do that, the main affected laws have been scrutinised, the contents to be introduced have been defined, the specific parts of the law(s) to be amended have been indicated. The results of the work are presented below.

#### Affected laws and proposed amendments

The main Laws affected by Contractual PPP introduction are, the Law on Culture, the Law on Public Procurement and the Law on Municipalities.

**Law on culture:** Need to introduce the concept of “valorisation” of cultural heritage and to foresee the possibility that private sector figures are engaged in the valorisation process.

#### ***Proposed amendments:***

1) To add a new Article stating that *Valorisation of cultural heritage is one of the priority directions of the State Policy. Valorisation activities can be implements also through the collaboration between public and private entities.*<sup>13</sup>

This Article will be numbered as 5.2.1, and will follow the existing Article 5.2 stating that *State determines the priority directions of the state policy in culture sector; and based on these directions, adoption and control on implementation of expedient projects, state programs, strategies and actions*

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<sup>13</sup>As it can be noticed, this amendment is needed both for the Institutional and Contractual PPPs

*plans are realized by an appropriate executive body. Elaboration and execution duty of cultural events are conducted under cooperative conditions with the culture.*

As it can be noticed the two articles are logically connected: the new Article 5.2.1 resumes the concept of *State Priority* expressed in the previous article 5.2 linking to it the notion of *valorisation*.

2) to add a new Article stating that *Public entities may engage private sector figures, by means of specific contractual agreements (Contractual-type Public-Private Partnerships), in order to pursue the valorisation of cultural heritage.*

This Article will be numbered as 18.1 and it is meant to specifically introduce the Contractual PPP-type, just after Article 18, where the Institutional PPP-type has been introduced<sup>14</sup>

**Law on Public Procurement:** Need to introduce Public-Private tenders among the Procurement methods

***Proposed amendments:***

3) to modify the existing Article 16.1 as follows: *Public procurements of goods (works) and services in the Republic of Azerbaijan depending on conditions of application indicated in articles 17-21 of present Law shall be conducted by methods of open tender, two-stage tender, tender with limited participation and closed tender, **public-private tender**, request for proposals, request for quotations and procurement from one source.*

The present version is: *Public procurements of goods (works) and services in the Republic of Azerbaijan depending on conditions of application indicated in articles 17-21 of present Law shall be conducted by methods of open tender, two-stage tender, tender with limited participation and closed tender, request for proposals, request for quotations and procurement from one source.*

**Ruling the functioning of Contractual PPPs in Azerbaijan**

After having addressed the issue to introduce PPPs into Azerbaijani legal system, it is hereby tackled the question of their functioning.

Actually, the aim to structure and manage PPPs well can be achieved by following two distinct paths:

- adapting existing laws

or

- enacting PPP-specific law

Adapting the existing legal framework means to clarify the legal rights that apply to PPPs within the relevant laws and regulations, as well as to introduce PPP-specific processes and responsibilities.

Enacting a PPP-specific law may be particularly useful when the existing legal framework is not clear or comprehensive or constraints the government's ability to structure and manage PPP well.

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<sup>14</sup> See proposed amendment n. 2) for Institutional PPPs introduction

In both cases, it will be necessary to clearly establish guiding principles, processes, and institutional responsibilities for a PPP program (such as for procurement, and dealing with disputes), along with policies such as public financial management rules for PPPs.

The Azerbaijani legal framework has been attentively scrutinised, and no constraint has been individuated hindering the adaptation of the existing laws to PPP process. Therefore both above mentioned legal processes, aimed at ruling PPP figures, are potentially valid and their description is provided.

#### Adapting existing laws – proposed amendments

In order to rule the functioning of the Contractual PPP figures the main affected law is the Law on Public Procurement.

The proposed amendment is: to introduce a special PPP section in which each figure - Sponsorship and Service Concession - will be duly described, together with the tender procedures and related specific provisions, as it is done for all the other procurement methods.

The newly introduced section could be numbered as *Chapter IX*, the last chapter of the Law, and named *Contractual Public-Private Partnerships for the Culture Sector*.

#### Foreseeing ad hoc Rules issued by the Cabinet of Ministers

With regard to Contractual PPP figures (Sponsorship and Service Concession) also the following process could be undertaken<sup>15</sup>:

- in the Law on Public Procurement the only amendment to be introduced would be the amendment of the existing Article 16.1 (see above, under paragraph “Entering PPP into the legal system – affected laws and proposed amendments”, section “Contractual PPP model”, proposed amendment n. 3),

and

- instead then creating a specific PPP Section in the Law on Public Procurement (see amendment proposed under section “Adapting the existing legal framework - through specific regulation set within the existing body of laws”) an *ad hoc* “Rules for Contractual Public-Private Partnerships” should be issued and approved by Decision of the Cabinet of Ministers. It would regulate each specific figure.

#### Enacting PPP specific Law

The last possible proposed path for ruling Public-Private Partnership is to adopt a “Special PPP Law”, which is a choice that can also help raise the profile and demonstrate a particular political commitment to the PPP program.

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<sup>15</sup> This process is not applicable to the Institutional PPPs, since no Decision of the Cabinet of Ministers can be issued in order to regulate the legal figures foreseen in the Civil Code.

Such a Law would incorporate all the aspects related both to Institutional and Contractual PPPs specific functioning, and would overcome the necessity to enact any ad hoc Rules of Ministers for PPPs (see paragraph above).

It must be underlined that a well-designed PPP law typically sets out principles that nevertheless may be supported by more detailed regulations, with the intention of avoiding rigidity so as to enable the PPP program to adapt over time.

## Public-Private Partnerships in neighboring countries

A comparative analysis is provided hereby on the models of introduction and implementation of Public-Private-Partnerships in 6 different Eastern-Europe Countries. An overview on how policy, legal, and institutional frameworks have been set in each Country is illustrated, so as to offer practical examples of different patterns aimed at reaching a similar objective.

### 1) Russian Federation

In recent years, Russian Federation has been active in developing PPP frameworks. The main aim is ameliorating conditions for involving the private sector in the development of public infrastructure such as transport, energy, utilities and social infrastructure.

Two key federal laws cover the implementation of PPP projects: Federal Law “On Concession Agreements” (2005) and Federal Law “On Public-Private Partnership and Municipal-Private Partnership in the Russian Federation” (2015). In particular, the latter was aimed at smoothing private investment in infrastructure.

Both federal laws consent the development of PPP projects through unsolicited proposals. In this way, private partners can submit a PPP project directly to the public partner.

The regulatory framework on PPP includes also 13 subordinate legal acts covering for example regulation for tender procedures and monitoring the implementation of PPP projects. Lastly, PPPs are regulated at the municipal level through additional regulatory legal acts of the Russian Federation’s constituent entities and municipal legal acts.

### 2) Ukraine

A number of laws regulate PPPs in Ukraine. The PPP Law (2010) , the Concession Law (1999), various sector-specific concession laws applicable to roads (1999, amended 2009), water sanitation (2010) and seaports (2012), and the tender-procedure regulation on certain issues of implementing PPPs (2011), together build the legal framework covering PPPs. In February 2016, the Ukrainian Parliament adopted Law of Ukraine No. 817-VIII "On Amending Certain Laws of Ukraine Regarding Removal of Regulatory Barriers to Developing Public Private Partnerships and Encouraging Investments to Ukraine" to improve the legal framework for PPPs.

At the national level, a PPP center was created in 2012. The State Agency for Investment and National Projects of Ukraine (SAINPU) supports project development and implementation. PPPs can also be awarded and delivered at the sub-national level.

Ukraine has involved the private sector in infrastructure projects since 1998, most commonly in divestitures, and has PPP experience in the energy, transport, water and sanitation sectors.

### 3) Croatia

PPPs are governed by the Public Private Partnership Act (2011), the Concessions Act (2008), the Public Procurement Act (2012) and additional regulations. Both the PPP Act and the Concessions Act have been amended (2014 and 2013 respectively). The comprehensive legal framework allows local authorities to carry out PPP projects independently.

The Agency for Public Private Partnership was established in 2008 and was merged with the Agency for Investment and Competitiveness in 2015, playing a supervisory role for all sectors. PPP proposals and draft contracts must be approved by this agency.

A successful PPP project was the Zagreb airport concession, which reached financial close in 2013. In 2015, a number of hospitals in several cities including Zagreb, Popovaca, Varazdin and Rijeka, and the construction of two schools were procured under availability-based PPP arrangements.

### 4) Poland

Investment in high quality infrastructure, including for transport, communications and energy is of vital importance for sustaining Poland's growth potential.

The Law on Public Private Partnership (2008), the Law on Concession for Construction Works and Services (2009), the Act on Toll Motorways (1994), and the Public Procurement Law (2014) regulate private investment in infrastructure and PPPs at the national, regional and municipal levels.

The legal framework is generally considered comprehensive with a few key areas for improvement,

such as overlaps and differences in procedures between the four applicable laws, processes for smaller projects, standard templates and methodologies for various stages of project preparation and procurement and implementation, including at the level of feasibility analysis.

Several state agencies such as the Ministry of Economy, Ministry of Infrastructure and Development, other infrastructure sector ministries and local governments engage in PPP-related activities. The Ministry of Infrastructure and Development recently created the PPP Platform to assist government units in the preparation and implementation of PPP projects.

During the period 2013-2016, 6 PPP projects reached financial close in the transport, waste, healthcare and social infrastructure sectors.

## 5) Tajikistan

The Republic of Tajikistan has PPPs on the political agenda and sees the development of a PPP programme as a key strategy for accelerating infrastructure development. The country expects to attract private investment to develop infrastructure projects from transportation to water and energy systems.

As part of these efforts, the country's PPP law was approved in 2012, with technical assistance from international organizations. It enables a range of PPP models to be used in the transportation, electricity and water sectors, among others, but does not apply to mining concessions.

Procuring authorities can be at the central level or local government bodies and their activities related to project development and procurement are overseen by a cross-ministerial PPP Council and the State Committee for Investment and State Property Management of Tajikistan (SCISPM, described as the authorized government body for PPPs). Additionally, the PPP law implemented the creation of a PPP Unit, which was established in August 2013 under the State Committee on Investments and State Property Management.

One of the most successful PPP achievements in the country was the creation of Pamir Energy.

## 6) Lithuania

PPPs at the national and municipal level in Lithuania are regulated by the Law on Concessions (1999, amended 2011), the Law on Investments (1999, amended 2014), the Law on Public Procurement (1996) and the Resolution on Public-Private Partnership of the Government of Lithuania (2009). The latter was amended in 2015 to improve project implementation procedures. Lithuania's legal framework was considered highly compliant and the government continues to improve it. For example, the government recently amended the Law of Investments to allow and regulate unsolicited proposals.

Institutional roles are clearly defined and delegated to multiple bodies, including Invest Lithuania (under the Ministry of Economy) and the Central Project Management Agency (under the Ministry of Finance). Since 2010, Invest Lithuania advises and facilitates projects initiated by central and local governments, advises investors on participation in PPP projects, and provides information and on-going communication support. The Central Project Management Agency advises the public sector on the systematic implementation of PPP projects. It also acts as the approval body for PPP projects.

Lithuania has conducted PPPs primarily on the municipal level in the energy and transport sectors, and in social and urban infrastructure. Like other EU member states, Lithuania has made use of EU structural funds for PPPs.

Comparative table

Countries	PPP Specific Laws and Regulations	Authorized government body for PPPs and PPP Units
Russian Federation	<ul style="list-style-type: none"> <li>• Federal Law No. 115-FZ “On Concession Agreements” (July 21, 2005);</li> <li>• Federal Law No. 224-FZ “On Public-Private Partnership and Municipal-Private Partnership in the Russian Federation” (July 13, 2015).</li> </ul>	None
Ukraine	<ul style="list-style-type: none"> <li>• PPP Law (2010) ;</li> <li>• Concession Law (1999);</li> <li>• Law of Ukraine No. 817-VIII "On Amending Certain Laws of Ukraine Regarding Removal of Regulatory Barriers to Developing Public Private Partnerships and Encouraging Investments to Ukraine" .</li> </ul>	<ul style="list-style-type: none"> <li>• PPP center</li> <li>• State Agency for Investment and National Projects</li> </ul>
Croatia	<ul style="list-style-type: none"> <li>• Public Private Partnership Act (2011);</li> <li>• Concessions Act</li> </ul>	<ul style="list-style-type: none"> <li>• Agency for Public Private Partnership</li> </ul>
Poland	<ul style="list-style-type: none"> <li>• Public Private Partnership (2008);</li> <li>• Law on Concession for Construction Works and Services (2009);</li> <li>• Act on Toll Motorways (1994);</li> <li>• Public Procurement Law (2014)</li> </ul>	<ul style="list-style-type: none"> <li>• PPP Platform to assist government</li> </ul>
Tajikistan	<ul style="list-style-type: none"> <li>• PPP law (2012);</li> </ul>	<ul style="list-style-type: none"> <li>• State Committee for Investment and State Property Management</li> <li>• PPP Unit</li> </ul>
Lithuania	<ul style="list-style-type: none"> <li>• Law on Concessions (1999, amended 2011);</li> <li>• Law on Investments (1999, amended 2014);</li> <li>• Law on Public Procurement (1996);</li> <li>• the Resolution on Public-Private Partnership of the Government of Lithuania (2009).</li> </ul>	<ul style="list-style-type: none"> <li>• Central Project Management Agency</li> </ul>

## 4.2 Diversification of funding sources and improvement and expansion of culture services

### 4.2.1 Tax deductions and incentives for Culture

In the present section, a series of possible incentives aimed at fostering the support to arts and culture is presented.

They have been successfully experimented in Italian system, and the proposal is to foresee similar mechanisms also for Azerbaijani culture sector. The list below does not intend to be comprehensive, since other incentives could be specifically designed for Azerbaijani system.

Suggestion has also been given, when possible, about where it could be inserted into the Azerbaijani Tax Code. This has been done in order to logically connect incentives to the section of the law where each of them could be housed.

#### 4.2.1.1 Goals

The incentive mechanisms can be ideally divided into the following three blocks:

- ✓ **Tax incentives on the consumption of culture** are those measures in which a subject of taxation is any form of cultural consumption (e.g. buying music, paintings, sculpture). Most general forms of such measures are VAT reductions for buying cultural goods, tax deductions for buying cultural objects, and other measures, such as transfer of art in lieu of payment of tax. The VAT reductions for buying cultural goods and services present one of the main implicit subsidies for cultural industries.
- ✓ **Percentage legislation**, or percentage philanthropy, is a tax measure through which taxpayers may designate a certain percentage of their income tax to be allocated to a specific non-profit, non-governmental organisation, and in some cases to other organisations, such as churches. This measure is characterised by two features: 1) taxpayers themselves individually decide on how a portion of their tax paid will be allocated; 2) the use of the designated funds is restricted to supporting certain beneficiaries.
- ✓ **Lottery-based funding for culture**, which are an important source of private investment in culture, as their distribution has allowed cultural interventions that would otherwise have not been possible. The use of lottery funds for culture is a rather new measure, but is gaining importance with the search for additional subsidies in the cultural field. Lottery funds collection and redistribution methods vary from country to country. These funds are often connected to earmarked taxes, and are thus earmarked for specific cultural purposes.

#### 4.2.1.2 Norms to be amended or introduced

Hereby the list of proposed incentives with specific suggestion for their inclusion into Azerbaijani Tax Code.

1. To add a new Article to foresee **VAT reductions for buying cultural goods**, within a hat amount to X%, for journals and daily newspapers, books, periodicals, printed musical editions, geographical maps, and the like.

It could be placed under Article 164 which is devoted to “exemption from tax”

2. To add a new Article to foresee the so called **tax reliefs on the buying of ancient art objects**, which is a scheme for VAT transactions on the purchase of works of ancient art. The VAT system is applicable to persons who trade used goods and works of ancient art with the aim of avoiding repeated taxation on goods that are supplied to a taxable person for subsequent resale after they have been purchased.

It could be placed under Article 164 or 165, respectively dedicated to “exemption from tax” and to “taxation at zero rate”.

3. To add a new Article to introduce the “**transfer of art in lieu of tax payment**”. This scheme foresees the possibility to cede cultural goods as well as works of living authors to the state instead of paying taxes.

Since Chapter 7th of the Code defines general rules for paying taxes, the new Article could be added to the chapter (90-1).

4. To add a new Article to allow special tax deductions for **sponsorship**. In this way, advertisement expenses and representation costs can be totally deducted from company income. Sponsorship is thus considered as a fully deductible expense for tax purposes. As for individuals, the law allows only the deduction of a specified percentage from personal income taxes for financial aid given to private and public institutions that are active in the cultural sector.

The new Article could be added to chapter 10<sup>th</sup> of the Tax Code since several deductions from income are defined there both for legal and physical persons.

5. To introduce two Articles in order to foresee **tax credits available for artists to reduce payable taxes**. Through this instrument exemptions are permitted in the form of tax credits and tax shelters in the field of cinema as follows:
  - tax credit for production companies for national films;
  - tax credits for executive and post-production companies for “cultural films” commissioned by foreign productions;
  - tax shelter for re-investment of profit for the production or distribution of national films.

Since tax credit is a brand new concept in Azerbaijan, it is suggested to introduce a definition of the instrument within Article 13 of the Tax Code, and then to add the specific incentive to article 106 (or as 106-1).

6. To introduce a new Article to allow **tax deduction for donations in cash or in kind for cultural purposes**.

If donations for culture are deducted from income, the new article could be added to chapter 10<sup>th</sup>, while if the concept is intended as a tax deduction for companies/persons that donate to culture sector, it should be added to article 106/102.

7. To introduce a new Article stating that **gifts** are not taxable if transferred to the state, regions, provinces or municipalities, public organisations, foundations or associations in the field of education, research or NGOs that execute social activities.

It could be inserted within Article 106 of the Tax Code, stating that incomes of state bodies, municipalities donations (except income from entrepreneurial activities) and donations/grants received by non-commercial organization are not subject to tax.

8. To introduce a new Article stating that cultural goods as **testamentary gifts** are not subject to tax payment or tax reductions.

It could be added to the existing Article 102.1.3.

9. To introduce a new Article to foresee that revenues generated through the **national lottery** are allocated to the Ministry of Cultural Activities for the restoration and preservation of cultural, archaeological, artistic and archival and library (the allocated sum can be a fixed ceiling amount or not).

In Azerbaijan lotteries are organized by state owned company "Azerlottery" OJSC, and revenue goes to State. Since the company is a legal entity, the percentage to be devoted to support interventions in the field of culture could be deducted from the income tax paid by the company. Therefore, the new Article could be housed in chapter X of the code (which specifies different deductions) or in article 106 (which describes tax exemptions of legal entities).

10. To introduce two new articles dedicated to **percentage legislation in favour of the arts**. This instrument - introduced as a new form of public financing for the third sector - is useful to stimulate intervention in favour of culture while offering the possibility to choose the organisation to support: actually, people are free to choose a cultural institution (art organisation, social organisation, university, etc.) to which they intend to route a percentage of their due tax amount. In case the taxpayer fails to indicate how to direct the amount, this remains to the state.

This concept is something new for Azerbaijani legislation: actually, one of the main features of taxes in the Country (see tax legal definition at article 11 of the Code) is that they are paid to state/local budget.

In this case, a percentage of tax would go to other organizations.

Therefore, the introduction of a “percentage legislation” in favour of the arts implies, firstly, the necessity of making an exception to the abovementioned Article 11, by introducing a new article 11-1 to briefly define this new percentage concept, and the necessity of inserting a separate article to illustrate the specific procedures, that could be added at the end of chapter X.

#### 4.3 Improvement of the educational and re-training \systems in the field of culture

The strengthening of the educational and training sector in the cultural heritage field needs to respond to the challenges that the sector has to face today. These include increased pressures from development, the risks of trivialization and commodification induced by tourism, which however remain an important dimension that need to be properly harnessed, the insufficient availability of public resources both in terms of finances and qualified human resources, the need to provide staff of public heritage organizations with additional competences and capacities on economics and strategic planning applied to cultural heritage conservation and promotion, impact assessments, tourism industry, as well as capacities

Notwithstanding the huge changes in the last couple of decades in the cultural heritage realm, a solid technical background in the ‘classical’ fields related to cultural heritage conservation remains crucial, in order to keep high the standards of interventions on cultural heritage both immovable and movable. This is necessary in order to avoid the risks that ill- conceived conservation interventions can add further damages to the heritage instead of amending problems and improving conditions: only appropriately maintained and conserved cultural heritage is capable to attract the attention of larger sectors of visitors and engage their interest in the long term, creating favorable conditions for a development which is locally based, sustainable and compatible with the values of cultural heritage.

The overall objective of improvement process will be to create a robust and interconnected educational system that can provide necessary competences for an effective system for the documentation, protection, conservation and promotion of cultural heritage. This requires strengthening educational and training system at three different levels:

1. Higher education in cultural heritage (with specific technical curricula for architects, engineers and archaeologists dedicated to the conservation of immovable heritage as well as with curricula for professionals in cultural heritage interpretation and promotion, cultural heritage economics and valorization, cultural tourism, IT applied to cultural heritage)
2. Professional and Vocational Education (to provide workers with specific skills in masonry, carpentry, ironworks, etc. in order to have available qualified workers with knowledge about traditional craftsmanship and works, as well as operational professional in the field of diagnostics for cultural heritage)
3. Permanent education and training of technical staff of the Ministry of Culture and related Agencies as well as of professionals (engineers, architects, surveyors)

#### 4.3.1 Strengthening Higher Education

##### 4.3.1.1 Goals

Below a comparative table is presented that compares the subjects taught in the Azerbaijani four – year bachelor in architecture and in Italian three –year courses

<b>Azerbaijan Bachelor 4-year Courses</b>	<b>Credits</b>	<b>Three year bachelor in Architecture (as applied in University of Parma)</b>	<b>Credits CFU</b>
History of Azerbaijan	6	Applied technical physics	6
Foreign language	13	Foreign language	certificate
Azerbaijani language	5	Laboratory architectural design	12
Optional courses (based on choice)*	6	Laboratory of representation	10
Mathematics	6	Mathematics	10
Science of defining industry materials	3	Restoration	8
Engineering geodesy	3	History of ancient and medieval architecture	6
Information Technology	3	History of contemporary art and architecture	8
Descriptive (graphic) geometry	3	Laboratory of analysis and planning of urban and territorial systems	12
Applied Mechanics	4	Laboratory of architectural design	12
Architectural Physics	5	Laboratory of structural analysis	14
Decorative Art	11	Laboratory of technology	12
Art History	2	Architectural geometric survey and photogrammetry	8
History of Architecture	8	History of modern architecture	6
History of Modern Architecture	2	Architecture and interior design	9
Fundamentals of designing (project)	19	Final laboratory of architectural and urban composition	10

Building Structures	4	Final laboratory of urban design	10
Architectural structures	16	Final laboratory of architectural rehabilitation and energy efficiency	10
Designing of Architecture	27	Legislation and economics	8
Urban Environment (Ecology)	3	Mathematics	6
Restoration and conservation	9	Technique of construction (optional)	8
Reconstruction	10	Theory of architectural design	8
Modern technologies of architecture and management	3	Theory of architectural design (characterizing)	8
Tipology of buildings and installations	2	Training	1
Civil Defence	3		
Optional courses* (based on choice)	34		
Practice (internships)	21		
Final State Attestation	9	--	
Total credits	240	Total credits	180
Architectural design	46		59
Physics applied to architecture	7		6
Restoration	19		18
History of architecture, art	18		20
Technology			12
Structures	24		22
Urban	3		22
Descriptive geometry / geometrical survey	6		18
Mathematics	9		16
Language	18		0
Practice	21		1

In Azerbaijan 1 credit corresponds to 15 hours; in Italy 1 cfu (credit) corresponds to overall 25 hours of activity (8 hours frontal lecture or 12 workshop activity plus independent activity).

The table highlights some fundamental differences: languages receive much more attention in Azerbaijan than in Italy; urban planning seems little addressed in Azerbaijan education; while it receives much more attention in Italy; conservation/ restoration exhibits the same amount of credits, although in Azerbaijan there is a subject – reconstruction – which is not taught in Italy (and it would never be); practice also is given much more importance in Azerbaijan than in Italy, on the other hand, the techniques for documenting geometries of architecture are given much more prominence in Italy than in Azerbaijan. The approach in Italy seems more project- and interdisciplinary oriented, through the workshop/ laboratory approach where different disciplines are called to provide their inputs within a design- oriented environment.

This applies also to conservation.

The table below compares the subjects and credit in the curricula of Azerbaijani Master in Restoration and a corresponding Master in the Italy (University of Parma)

<b>Azerbaijani Master (2years) – Courses</b>	<b>credits</b>	<b>I level Master in Architecture (University of Parma – Course)</b>	<b>credits</b>
Foreign language	6	Foreign language	2
Higher Education Pedagogy	4	Conservation and restoration studio	12
Psychology	2	Executive Design Studio	12
Optional courses	2	Architectural Design Studio	12
Contemporary problems of architecture	4	Structural Building design Studio	12
History and methodology of architecture	2	Urban planning and design studio	12
A Course defined by the university	4	Architectural and urban design studio	10
Courses dedicated to specialization*	42	Administrative law for architecture and planning	6
Optional courses*	24	Technical and installation physics	6
Scientific-research experience (practice)	6	Applied geology	6
Scientific-pedagogy experience	6	Final studio on technical architectural design project	9
		Final studio on architectural and urban design	10
		Final studio on structural and architectural design	10
		Historic research for architecture	8
		Science of construction	6
		Innovative technologies for architecture	8
		Practice	4
		Evaluation of economic and social impacts of design projects	10
Dissertation	18	Dissertation	
<b>Total</b>	<b>120</b>	<b>Total</b>	<b>120</b>

Education in conservation in Azerbaijan exists as post- bachelor level, that is to say as I level Master Courses but not as II level Master courses. However the bachelor degree in Azerbaijan is a four –year course with 240 credits versus the three-year bachelor in Italy (180 credits). The only post- graduate option of education is the Doctorate, which however is not meant as a specialized professionalizing course.

Therefore a sort of comparison between the system in Azerbaijan and Italy can be drawn only by comparing the I level Master framework in Azerbaijan with the post graduate course (II level master in conservation or school of specialization) in Italy.

<b>Azerbaijani I level Master – Courses</b>		<b>Post graduate (II level) Master course Italy</b>		
	<b>Credits</b>	<b>Disciplinary spheres</b>	<b>Topics</b>	<b>credit</b>
Foreign language	6	<b>Restoration</b>	restoration	

Higher Education Pedagogy	4	<b>Historic topics</b>	ICAR/18 History of architecture L-ART/01 History of medieval art L-ART/02 History of modern art L-ART/03 History of contemporary art M-STO/08 Archive studies, bibliography, biblioteconomy M-STO/09 Paleography
Psychology	2	<b>Drawing, survey environment</b>	BIO/03 applied and environmental botany BIO/07 ecology GEO/02 sedimentary and stratigraphic geology GEO/09 mineral geo-resources applied mineralogy and petrography for cultural property ICAR/06 topography and cartography ICAR/15 landscape architecture ICAR/17 drawing ICAR/20 urban planning and techniques ICAR/21 Urban studies
Optional courses	2	<b>Material/ technologies</b>	CHIM/07 chemical fundamentals of chemistry CHIM/12 chemistry of environment and cultural property GEO/07 petrology and petrography ICAR/11 building production ICAR/12 technology of architecture INF/01 Information Technology ING-IND/22 science and technology of materials
Contemporary problems of architecture	4	<b>Structures</b>	ICAR/08 rigorous structural analysis ICAR/09 construction/ structure technique ICAR/19 Restoration (structural rehabilitation)
History and methodology of architecture	2	<b>Economy and law</b>	ICAR/22 valuation IUS/10 administrative law IUS/14 EU law SECS-P/06 applied economy
A Course defined by the university	4	<b>Technical installations, museography</b>	ICAR/14 architectural composition ICAR/16 interior design ING-IND/10 industrial technical physics

			ING-IND/11 environmental technical physics L-ART/04 museology and artistic critique of restoration	
Courses dedicated to specialization*	42	<b>Archaeological methods</b>	FIS/07 applied physics (cultural property and environment) L-ANT/07 classical archaeology L-ANT/08 christian and medieval archaeology L-ANT/09 ancient topography L-ANT/10 methodologies of archaeological research	
Scientific-pedagogy experience	6			
Optional courses	24	Credits decided by each universities (among the above topics)		50
Credits established by decree	34+42	Credits established by decree (above topics)		70
Scientific-research experience (practice)	6	Credits established by universities (out of the 50)		
Dissertation	18	Dissertation		16
Total	120	Total		120

From the table shown above it is evident that, in Italy, the curricula of Masters in conservation are subject to a rather strict normalization of topics at the national level. The diversification of didactic offer concerns only the focus that each university can give to certain topics rather than to other ones. Also the didactic formulas may change, giving rise to a considerable diversity of approach. In Italy, the schools of specialization (equivalent to II level Masters) are seven: in Genoa, Turin, Milan, Florence, Rome, Bari Naples<sup>16</sup>.

While Italy could benefit from giving more attention to the knowledge of the foreign languages at the university level than what is currently the case, based on the Azerbaijani example, the following therefore can be suggested to reinforce the higher education towards an improvement of the competences that are useful in conservation.

- *Strengthen the education on urban and territorial/ landscape studies and planning both at the bachelor and master levels, especially for what it concerns the historic urban fabric by providing specific knowledge in the analysis of historic urban and territorial structures and in methodologies for planning within an historic territory.*

<sup>16</sup> Below the websites url of the schools of specialization active in Italy:

<http://www.ssrn.arch.unige.it>

<http://www.scuolabap.polito.it>

<http://www.ssbap.polimi.it>

<http://www.architettura.unifi.it/vp-105-scuola-di-specializzazione.html>

<https://web.uniroma1.it/specialrestauro/>

<http://www.scuolabeniarchitetonici.unina.it>

<http://www.specializzazionepoliba.it>

- *Expand the teaching of principles and methods of architectural survey applied to existing buildings, including photogrammetry, laser scanning techniques, GIS-based documentation and project management, rapid visual survey of conservation conditions;*
- *Develop a more project- based approach to architectural education, to strengthen a competence-based educational environment;*
- *Develop ad – hoc post – graduate curricula for professionals in cultural heritage interpretation and cultural heritage management, on cultural tourism management*

#### 4.3.1.2 Norms to be amended or introduced

Bachelor: State Standards of Higher Education - Education Program on Bachelor degree qualification” /Order of the Ministry of Education N: 913 dated August 22, 2014

Master: Regulations for Master's degree preparation at the multi-tier higher education system of the Republic of Azerbaijan

The above-suggested improvements refer to Article 8.3 of State Standards of Higher Education (confirmed by Cabinet of Ministers), which gives a right to Ministry of Education to define subjects per bachelor/master program.

Based on the provisions of the above-mentioned decree, it seems that there is no need to amend it to allow to strengthen the curriculum for the bachelor or the master on conservation, as the decree provides for a general framework and allows for Universities to define in detail the curricula of each degree course.

On the other hand, to set new master courses, it is worth noting that the provisions of the order N: 95 dated 14th June 2011 by the Cabinet of Ministers of the Azerbaijan Republic outlines the topics for Masters, which includes a number of disciplinary spheres already exist where expertise can be drawn to set up new interdisciplinary master courses that combine competences from different sectors which are all needed to create new figures dealing with conservation and promotion of cultural heritage. These are outlined below:

Code	Title of specialty group and specialties
1	2
<i>2. Humanitarian and social specialties</i>	
<b>060206</b>	<b>History</b>
	Archeology and ethnography
<b>060207</b>	<b>Anthropology</b>
	Cultural anthropology
<i>3. Cultural and Arts specialties</i>	
<b>060301</b>	<b>Museology, archive and preservation of monuments</b>
	Protection of archaeological and historical monuments
<b>060302</b>	<b>Study of art</b>
	Restoration and examination of works of art
<i>4. Economics and management specialties</i>	
<b>060404</b>	<b>Economy</b>

	Economy of culture
	Economy of tourism
<b>060407</b>	<b>Management</b>
	Strategic management
<b>060409</b>	<b>Business administration</b>
	Business administration and management
<b>060410</b>	<b>Public and Municipal Administration</b>
	Regional governance
<i>5. Natural sciences</i>	
<b>060506</b>	<b>Geography</b>
	Landscape science
	Territorial planning and regional planning
<i>6. Technical and technological specialties</i>	
<b>060633</b>	<b>Architecture</b>
	Reconstruction and restoration of architectural monuments
	Landscape architecture
	Design of architectural environment
	Town-building

Table. Classification of master degree specialties approved by the order N: 95 dated 14th June 2011 by the Cabinet of Ministers of the Azerbaijan Republic - Source: <http://www.cabmin.gov.az/?/az/pressreliz/view/512>

It would not suffice to provide economists with some basics about cultural heritage, which is a complex subject, to develop useful professional figures that can serve the purposes of a modernized, effective and efficient cultural heritage stewardship sector, where documentation, protection, conservation, presentation and promotion are combined to sustain the heritage value of the properties and favour sustainable, compatible and inclusive socio – economic development of society. It would be useful to expand the competences of professionals of conservation to include also notions of economics, management and business administration, in order to make them capable to deal with a changing world and to establish a fruitful dialogue with other disciplines, experts and administrations as well as with the private sector.

*Note: Any step to implement the above-mentioned improvement needs to be coordinated with the results of the Twinning project “Support to the Ministry of Education for further adherence of the higher education system to the European Higher Education Area” that started in September 2015 and which is expected to end in August 2017.*

#### 4.3.2 Vocational training

##### 4.3.2.1 Goals

Availability of skilled workers with a good knowledge of traditional building materials, built components and techniques is necessary for carrying out proper interventions on the built heritage, including repair and maintenance works. Any conservation building site of an historic building needs good masons, stonecutters, carpenters and wood workers, as well as metalworkers, plumbers and

tinsmiths capable to deal with historic fabric and the different building elements, their functioning and their conservation problems.

For artistic works, such a mural paintings, carvings, sculptures and other decorated surfaces, restorers with specific specialization on different materials and artwork are necessary.

Goal: Strengthening this sector of vocational training appear crucial in order to prepare generations of skilled workers. Wherever possible traditional craftsmen that still exist need to be involved in the educational system through practical stages.

Below are identified the schools existing in Azerbaijan that may be relevant in this regard, although they might also be not sufficiently practice- oriented as it is requested for training competent workers in the building sector.

45. Construction college under Azerbaijan University of Architecture and Construction.

1. Azerbaijan art college under the Academy of Arts;
2. Technical college of Baku;
10. Cultural and educational technical school of Baku;
15. Sumgayit state technical college;
17. Ganja technical college;
23. Shaki state technical college;
38. Nakhchivan state technical college.

The Vocational training centres in Azerbaijan include 25 different courses, out of which the ones that may be relevant for the built heritage conservation sector include:

Carpenter, furniture fitter, electrician and turner.

Missing subjects: However, the vocational training of mason, plaster-maker, decorator and stonecutter does not seem to be envisaged in Azerbaijan. It would be important to introduce vocational training also for these crafts because skilled execution of mason- , plasterworks, pointing and paintings based on the knowledge of traditional materials like lime-mortar and lime-wash represent a crucial and substantial part of the repair and maintenance works of masonry built heritage.

Below and example of a professionalizing course for workers in the building sector in Italy:

- technical professional area: drawing, technology, safety, construction technique, practical exercise laboratory.
- Scientific – technological area: mathematics, sciences, information technologies.
- Human sciences: Italian and English languages, history and geography, law and economics, gymnastic.
- Flexible topics: studio, didactic visits, professional orientation.
- Stage at enterprises of the building sector.

This type of schools is open to students that have successfully attended 8 years of obligatory school.

Following three years of attendance, pupils are prepared to enter in enterprises operating in the building sector. Some schools provide for specific technical education in built heritage conservation techniques, including repair works.

In Italy, specialized courses for restorers can be attended only after five years of secondary school (that is to say after 13 years of primary and secondary education). They prepare to carry out sophisticated interventions with specialized technologies on works of art and cultural heritage components. They generally cover three years and the topics taught may differ from school to school but in general they cover the subjects indicated below:

<b>Example of a course in practitioner in conservation of cultural heritage in Italy</b>	<b>hours</b>
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<b><u>I year</u></b>	
History of art	48
Applied sciences	68
artistic techniques	48
theory of restoration	12
technology of materials	16
techniques of reproduction	40
methodologies for survey and intervention	250
testing	24
diagnostic techniques	24
law on cultural heritage	16
documentation	24
safety in building sites	8
management of materials and chemicals	12
Information technology	20
Communication	20
Stage	270
<b><u>II year</u></b>	
History of artistic expressions and techniques	40
Chemistry	24
Technology of materials	24
Decay phenomena examination.	24
Law on conservation/ restoration	16
Methodologies and techniques of intervention	310
Testing	32
Digital simulation of restoration	40
Documentation	32
Safety in the building sites	12
Storage management	20
Management of materials and chemicals (including dangerous ones)	12
Information technology	24
Marketing – promotion	20
STAGE	270
<b><u>III Year</u></b>	
Iconology and iconography	44
Ethics of profession	12
Methodology of intervention	326
Testing	32
Diagnostic techniques and parameters for conservation (chemistry – biology)	48
Digital simulation of restoration	36
Law for cultural heritage	16
Documentation	32
Safety on the building sites and working places	12
Management of materials and chemicals	12
Management of cultural properties	20
Information Technology	20
Accounting	20
STAGE	270
Final examination	16

#### 4.3.2.2 Norms to be amended or introduced

In order to make possible the creation of ad-hoc vocational educational courses for masons, plasterers or painters, it is necessary to amend the Decision of the Cabinet of Ministers, 11 October 2016 establishing the subjects that can be object of vocational training.

To create Higher Education courses for restorers, amendments to the legislation establishing the curricula and subjects for bachelor degrees is needed.

Note: A twinning programme was launched in 2008 on the topic of vocational training in Azerbaijan. It would be useful to consider the results of that project.

Azerbaijan has joined the Torino process for Vocational educational training. This represents an opportunity to align the topics and curricula of VET courses. In 2016 the EU has launched a project for Modernizing Vocational Education and Training (VET) Centres in Azerbaijan EuropeAid/153147/DD/ACT/Multi that has begun in February this year among the leading partner Ars Progetti (Rome) is

#### 4.3.3 Licensing and Permanent training of professionals

##### 4.3.3.1 Goals

An adequate quality of design and execution of intervention in the built cultural heritage conservation requires qualified professionals both at the design and execution level. The higher educational system includes Master in conservation/ restoration which prepares architects specifically for intervening on monuments and built heritage; the Azerbaijani Law on Licenses and Permits of Azerbaijan, which was endorsed by the presidential decree dated 15 March 2016, requires the possession of a license to carry out the profession or architect: this is issued by the Ministry of Economy of the Republic of Azerbaijan and each license defines the scope of allowed activities. The law defines the activity of design of buildings and structures as one requiring license.

- Goal 1a: requiring specific educational and professional qualifications for issuing professional licenses that include the design of conservation / restoration of monuments or protected built heritage, based on educational curricula and certified experience in the practice. This sets conditions favourable for the improvement of the quality of conservation projects and interventions.
- Goal 1b: using ASAN Services to submit the request of professional licenses, whilst ensuring that the commission evaluating the requests and providing advice on the issuing of the license includes the pertinent professional organizations, the ministry of Culture – State Service for architects allowed to design projects on protected historic and cultural monuments, as indicated in the law; this is to ensure a qualified judgement of the request.

Legal framework to be amended:

1. *the Law on Licenses and Permits of Azerbaijan and introduce a sub category for “Design of Buildings and Structures”, which covers the interventions of any type on protected monuments, structures and heritage buildings as individual objects, within buffer zones or protected areas or reserves;*
2. *the Decree of the President of the Republic of Azerbaijan on establishment of State Service of Cultural Heritage Conservation, Development and Rehabilitation under the Ministry of Culture and Tourism of the Republic of Azerbaijan*
3. *Regulation of the Department for Development and Rehabilitation of the cultural heritage*
4. *Goal 1b: Order N: 9/14-05 dated October 4th, 2013 by the State Agency on Public Services and Social Innovations on approving the regulations of ASAN Service Centers i*

With regard to the integration of issuing licenses into the ASAN service system, there is a need also to clarify the role of an integrated evaluation commission for these requests within the system of ASAN service.

Currently there is no requirement for permanent education of architects or engineers within the legal framework of Azerbaijan on this subject. However, the complexity of the profession and the ongoing changes in the legislation and technical requirements suggests that life-long learning is necessary for maintaining updated professional expertise in order for architects and engineers to respond adequately to their obligations toward their client and society at large and in compliance with legislation and standards.

- Goal 2: setting up a system for compulsory permanent training and professional adjournment for architect and engineers.

Further to the above amendments, it is suggested that the issuing of licenses for architects or engineers who are allowed to make interventions on protected cultural heritage items needs be done by the Ministry of Economy jointly with the Ministry of Culture – State Service. The certified experience need to be based on projects designed for cultural heritage immovable properties that have been authorized by the Ministry of Culture - State Service and the implementation of which has been satisfactorily carried out and certified by the State Service.

The aim is to ensure that professionals are equipped with up-to-date knowledge and skills that reflect the ongoing changes in the professions in term of new technical and normative requirements, new perspectives in the profession, new technologies and systems. This life-long learning system needs to be adopted by the relevant legislative body (Ministry of Economy) on the basis of consultations

with relevant professional organizations (e.g. Union of Architects) to define the topics which should be the object of permanent training and learning programmes. In this regard, a crucial role could be played by professional organisations such as the Union of Architects, which could take the lead in developing training programmes for their associates, in conjunction with public administrations, universities, as well as producers of materials and technologies, in fulfilment of their code of ethics.

#### 4.3.3.2 Norms to be amended or introduced

This proposal needs an amendment in the following laws:

1. *Law of the Azerbaijani Republic about Architectural Activities (15 May 1998, as amended)*
2. *Law on licenses and permits*

It also needs the development of ad- hoc regulations that set out the areas that are to be considered in the permanent educational programme. A credit and a monitoring systems need to be set up in order to encourage compliance with the requirement.

#### 4.4 Restoration and protection of historical and cultural monuments

Overall, the primary legal framework in place covers key aspects for immovable cultural heritage protection: the main measures for the protection of the cultural heritage are set out in the current laws, whilst the key structures to perform the above-mentioned key functions have been established through ministerial and cabinet of ministries' orders as well as internal regulations (e.g., Decree of the President of the Republic of Azerbaijan on establishment of State Service of Cultural Heritage Conservation, Development and Rehabilitation under the Ministry of Culture and Tourism of the Republic of Azerbaijan; Regulation of the Department for Development and Rehabilitation of the cultural heritage).

The key organizational framework has therefore been established and tasks identified. A more stringent coordination among different laws, e.g. the law for urban planning and the law for heritage protection should be envisaged as well as with the law for architectural activity.

Notwithstanding the considerable work developed by Azerbaijan in strengthening its legal framework and make it more aligned with contemporary and European standards (as part of the Council of Europe) there is still some work to be done on the primary legislation.

## **Providing for a coherent and comprehensive organization of the Ministry of Culture in its central and peripheral branches and related supporting Agencies**

- Goal 0: providing an overall and comprehensive organization to the Ministry of Culture and its branches

To achieve greater coherence in the organization and functional effectiveness of the Ministry of Culture and Tourism as well as of its related agencies and central and peripheral branches, a comprehensive review of all functions and recent adopted or ongoing reforms since 2006 would be useful.

### 4.4.1 Cultural Heritage in Environmental Impact Assessment and Strategic Impact Assessment procedures

#### 4.4.1.1 Goals

The objective would be integrating specific consideration of cultural heritage into Environmental Impact Assessment and Strategic Environmental Assessment procedures and develop ad-hoc impact assessment methods for cultural heritage (that result in a specific HIA report to be assessed by the Ministry of Culture – State Service).

The ministry of environment is currently addressing this issue, with the collaboration of UNECE. Therefore, there is an opportunity to insert in the law now being drafted specific reference to the need to consider and assess impacts on cultural heritage, including archaeological assets, within EIA and SEA procedures through an ad- hoc methodology - Heritage Impact Assessment – examples exist throughout the world namely in the UK, in Canada, Australia and Hong Kong – In Italy a specific methodology has been developed for landscape (Landscape Report).

#### 4.4.1.2 Norms to be amended or introduced

The amendment proposed above does not imply, as of April 2017, changes to existing laws, but it does require a proactive and timely action from the Ministry of Culture in order to ensure that the matter is addressed in the draft law currently being prepared by the Ministry of Environment and UNECE. Methodologies are available, including at the World Heritage level.

### 4.4.2 Reinforcing current regulatory framework

#### 4.4.2.1 Goals

The current law appears adequate as primary level of legislation but needs to be supported by secondary legislation and ancillary regulations. However, some parts and articles may benefit from slight amendments to improve effectiveness of the law itself.

- Expand the notion of reserve by referring to the notion of cultural landscape
- Article 14 – specify that costs of preliminary research for potential presence of archaeology need to be covered by the developer
- Thorough revision of current definition of works that can be carried out on monuments is needed in order to keep it wide enough that potential new category of interventions can be considered included.

If combat against illegal export and trafficking of cultural properties is a priority for Azerbaijan, an ad-hoc body of the military or of the police need to be set up (the model of the Italian Carabinieri – Heritage protection branch can be considered). Their role could be crucial also to implement provisions set out in article 18 of the Law.

#### 4.4.2.2 Norms to be amended or introduced

#### 4.4.3 Improving and simplifying administrative procedures related to intervention permits

##### 4.4.3.1 Goals

Simplifying procedures to obtain permits to intervene on protected historic cultural monuments, by favoring joint assessment of the projects by the National Academy of Science and the State Service so as to shorten the time necessary and reduce the administrative steps. If NAOs examines also requests for Leases (bearing world or national values, limited to the purposes enounced in the law for the protection of cultural monuments) or sales of protected cultural properties (bearing local value), the revised procedure needs to be applied also to these situations. Equally, guidelines and standards need to be established for lease and sale, to ensure a common basis of assessment, transparency in judgement and guidance for applicants and assessors.

##### 4.4.3.2 Norms to be amended or introduced

It seems that there is no need to amend primary legislation, rather it is necessary to define joint procedures at the regulatory level that establish such a joint commission, the timing to issue the joint advice, and related guidance and standards concerning the technical documents to be submitted for any intervention to be carried out on protected cultural heritage.

Goal 2b: using ASAN service system to apply for permit for conservation or any type of intervention on historic cultural monuments as long as this does not prevent the State Service and NAOs to issue a separate authorization which needs to remain preliminary to any other authorization to ensure that values of the cultural heritage are not overlooked.

Legal framework to be amended:

Apparently, there is no need to amend the presidential decree n.706/5 Sept 2012 establishing the Regulations of the State Agency on Public Services and Social Innovations, however, it might be necessary to modify the Order N: 9/14-05 dated October 4th, 2013 by the State Agency on Public Services and Social Innovations regarding the approval of the regulations of ASAN Service Centers. Additionally, it is necessary as well to define coordinating procedures that allow for the autonomous assessment of the projects by the NAOs and State Service. In summary, this type of reform should be applicable only through revisions of secondary legislation or even internal regulations.

#### 4.4.4 Qualifications of enterprises intervening on historic and cultural monuments

##### 4.4.4.1 Goals

The protection, conservation and transmission to the future of the values of historic and cultural monuments implies also that any work carried out on them does not negatively impact on their qualities and features that allow for the understanding of the significance of a specific heritage item. To this end, specialized and skilled workers in the field of conservation and historic construction sectors are indispensable and specific qualifications need to be requested to any enterprises operating on historic and cultural monuments.

The main objective will be setting out specific requirements and qualifications to enterprises operating on cultural properties, with a view to improving the quality of interventions on historic and cultural monuments.

This goal is a complex one and requires actions at different levels:

1. Introduction of a chapter on specifications of public procurement for historic and cultural monuments and properties within the relevant legislation;
2. Definition of categories of work related to cultural heritage (distinction may be needed among architectural heritage, decorations and movable artefacts, archaeological excavations and conservation of archaeological remains, technical installations in historic monuments);
3. Definitions of standards for qualifications of enterprises/ company, based on the qualification of their staff and the accumulated experience of the company in conducting specialized works on protected monuments;
4. Setting up a system for the recognition of enterprises' qualifications based on the professional assessment of the activities carried out on protected monuments;

##### 4.4.4.2 Norms to be amended or introduced

Law on public procurement: a chapter on cultural heritage, in which principles and key provisions are set out, need to be developed. In the main law, it is necessary to introduce the principle that cultural heritage is a special realm deserving specific provisions concerning: qualifications of professionals involved at the design level, qualification of workers and enterprises involved at the implementation level, content of documents for tender (project), bid offer (preferentially the most economically advantageous instead of the lowest bid).

Law on construction and town planning: introduction of clause indicating that all categories of works on protected cultural heritage needs to be designed by specialized professionals (cross reference in: the law on licenses and permit issuing, law on public procurement) and carried out by specialized enterprises (cross reference in the law of public procurement)

Law on licenses and permits: introduction of reference to the need to establish an evaluation commission for issuing licenses for professionals and enterprises that include Ministry of Culture – State Service and relevant professional organizations. Specific regulations need to be developed to regulate the matter.

New regulations to be developed: classification of work types, issuing qualification certificates to enterprises based on successful completion of other works. Again, the ASAN service can be considered for this type of activities provided that coordination is ensured with the offices of the Ministry of Culture – State Service that will be made responsible for issuing certificate of successful completion of works. Issuing of licenses for enterprises apparently is already a task for ASAN service – a system should be therefore set up to ensure that licenses are issued based on real competences.

#### 4.4.5 Reinforcing consideration of cultural landscape protection

##### 4.4.5.1 Goals

The main objective will be reinforcing the legislation on landscape protection in compliance with the European Landscape Convention requirements.

The expansion and strengthening of the legal provisions on landscape protection needs in the Law on construction and town planning (2007) and the development of or secondary legislation (decrees and orders) as well as regulations to ensure that the requirements of the European Landscape Convention are met.

The guidelines for the implementation of the European Landscape Convention suggest that the following are key principles and actions:

B. Recognise the fundamental role of knowledge

C. Promote awareness

#### D. Define landscape strategies

Each administrative level (national, regional and local) should draw up specific and/or sectoral landscape strategies within the limits of its competences. These are based on the resources and institutions which, when co-ordinated in terms of space and time, allow policy implementation to be programmed. The various strategies should be linked by landscape quality objectives.

#### E. Integrate the landscape dimension in territorial policies

The landscape dimension should be included in the preparation of all spatial management policies, both general and sectoral, in order to lead to higher-quality protection, management or planning proposals.

#### F. Integrate landscape into sectoral policies

Landscape should be fully taken into account via appropriate procedures allowing systematic inclusion of the landscape dimension in all policies that influence the quality of a territory. Integration concerns both the various administrative bodies and departments on the same level (horizontal integration) and the various administrative bodies belonging to different levels (vertical integration).

#### H. Achieve landscape quality objectives

Every planning action or project should comply with landscape quality objectives. It should in particular improve landscape quality, or at least not bring about a decline. The effects of projects, whatever their scale, on landscape should therefore be evaluated and rules and instruments corresponding to those effects defined. Each planning action or project should not only match, but also be appropriate to the features of the places.

From the operational viewpoint, the convention presupposes:

- the drawing up of specific landscape policies and concurrently the systematic inclusion of the landscape dimension in all sectoral policies that have a direct or indirect influence on changes to the territory. Landscape is therefore not additional to other themes but is an integral part of them;
- a transition from a policy based only on protecting a territory's features and parts recognised as outstanding to a policy based on the quality of all living surroundings, whether outstanding, every-day or degraded;
- a definition of and experience with new forms of collaboration between the various bodies and the various levels of administration;
- a new approach to observing and interpreting landscape, which should henceforth:
  - view the territory as a whole (and no longer just identify places to be protected);
  - include and combine several approaches simultaneously, linking ecological, archaeological, historical, cultural, perceptive and economic approaches;
  - incorporate social and economic aspects.

This means put in place a number of activities that are key to develop landscape policies. The fundamental stages in the process leading to landscape action are:

- knowledge of the landscapes: identification, description and assessment;
- definition of landscape quality objectives;
- attainment of these objectives by protection, management and planning over a period of time (exceptional actions and measures and ordinary actions and measures);
- monitoring of changes, evaluation of the effects of policies, possible redefinition of choices.

All the above needs to be developed as a consequence of the ratification of the European Landscape Convention.

#### 4.4.5.2 Norms to be amended or introduced

New regulations to be developed: secondary legislation deriving from the general principles and provisions included in the Law for construction and Town Planning need to be developed reflecting in precise and detailed manner the steps indicated above and the text of the landscape Convention.

#### 4.4.6 Preparing secondary legislation, regulations as well as standards and guidelines for administrative procedures and interventions.

##### 4.4.6.1 Goals

Besides the goals above, what seems to be still missing is a comprehensive set of regulations and standards for each and every procedure, as well as standards that can assist to enhance the quality of interventions on historic and cultural monuments, in all categories described in the law.

The main objective will be the preparation of detailed procedures through internal regulations for each and every action regulated by the Law on the protection of cultural heritage

Each activity or task need to be accompanied by clear procedures that envisages the appointment of a responsible person for each and every procedure, defined timeframe. Standards and criteria need to be defined for all procedures.

##### 4.4.6.2 Norms to be amended or introduced

The definition of clear and specific procedures with timeframes and steps require secondary legislation and internal regulations defining the steps, standards and timeframe for all procedures envisaged by the Law for the protection of historic- cultural monuments.

This implies first to identify in detail all procedures envisaged by the Law and the definition of a time frame for each procedure. In Italy the length of administrative procedure have been set out by law n. 241/1990 and subsequent amendments and by specific decrees (e.g. for the procedures of the ministry of culture a ministerial decree has been issued with several subsequent amendments).

Below are set out potential procedures identified in the Law of the Republic of Azerbaijan on Protection of Historical and Cultural Monuments:

##### A. Internal technical procedures:

- elaboration of state programs, and listing of monuments that need restoration and conservation works;
- issuing passports for immovable historical and cultural monuments;
- designating buffer zones of immovable historical and cultural monuments;
- establishment of database on the protection of the immovable historical and cultural monuments;
- state purchase of the immovable historical and cultural monuments that are under private ownership or located in the territories of historical and cultural reserves;
- Adjusting normative documents on restoration-conservation works of the immovable historical and cultural monuments (including project estimate documents and state expertise) according to the international standards;
- issuing passports
- drawing up maps,
- creating database system conforming modern requirements, applying multimedia and electronic observation systems;
- defining standards and guidelines for loans and lease of cultural properties
- defining standards and guidelines for conditions authorizing the sale of cultural properties
- criteria removal of the status of historic – cultural monuments
- standards and procedures for definition of the budget
- standards for safeguard and preventive conservation measures in case of interventions
- definition of standards for the conservation of works on historic- cultural monuments
- standards and guidelines for energy efficiency within public historic- cultural monuments
- standards and guidelines for seismic rehabilitation of historic – cultural monuments
- standards and guidelines for the lease and sale of protected historic- cultural properties

External procedures relevant for private and public entities owning protected properties:

1. Authorization for works on protected historic – cultural monuments
2. Authorization for lease of cultural properties within the limits of the law
3. Authorization of sale of cultural properties within the limits of the law
4. Authorization of the sale of protected cultural properties
5. Definition of the level of cultural significance
6. Authorization for expungement of cultural properties from the register/ list of protected monuments
7. Procedures to impose conservation works to owners that do not carry out their conservation duties
8. Procedures and standards for preventive and rescue archaeology
9. Procedures and standards for authorization /denial of export of works of art
10. procedures for the circulation of cultural properties
11. procedures for the authorization of excavations and archaeological research
12. definition of procedure for permitting research on architectural monuments
13. procedures for the establishment of special reserves
14. procedures for authorization of works within protection zones

## 4.5 Modernization of the museum branch

### 4.5.1 New organizational model: State Museums and Regional Museums Networks

Proper museum management at the international level should follow criteria and good practices suggested by organizations such as ICOM and its scientific committees and should be able to step into the cultural and administrative reality of the country and the region of reference.

The differences in approaching the museum matter are linked to different cultural models. For example, the Anglo-Saxon concept that emphasizes the idea of museum as an enterprise/business is different from the European idea of the museum as a public service.

Museum is a public service that should consider the development of contemporary society and be provided with the latest communication and management systems.

A museum system should be able to:

- face future challenges regarding the update of field competencies;
- support, through a variety of sources, public investment;
- know how to attract and receive a growing number of visitors from around the world.

Investing in the museum system means to strengthen the concept of culture as a possibility for social, ethical and economic development of a country able to communicate the value of its cultural heritage worldwide.

#### 4.5.1.1 Goals

Following the point 3.3 “Modernization of the museum branch” of the Presidential Decree No. 273/2014 which approved the "Culture Concept of the Republic of Azerbaijan" it could be suggested for the Azerbaijani museum system a distinction between

- State Museums having a direct autonomy, and
- Regional Museums which could be gathered within autonomous regional networks

based on the Presidential Decree of the 29 March 2016 “Upgrading organizational structure of the Ministry of Culture and Tourism of the Republic of Azerbaijan”, under the Directorate-General of the Department for Cultural Institutions and Folk Art of the Ministry of Culture and Tourism (MCT).

#### **State Museums and Regional Museums Networks**

a) State Museum Network (proposal):

1. Azerbaijan State Carpet Museum
2. Azerbaijan State Museum of Art
3. Independence Museum of Azerbaijan
4. Azerbaijan State Museum of Theatre
5. Azerbaijan State Museum of Musical Culture

## 6. The Petroglyph Museum

### b) Regional Museums Networks:

1. Baku
2. Sumgayit
3. Khachmaz
4. Ismayilli
5. Sheki
6. Kurdemir
7. Aghstafa
8. Shamkir
9. Ganja
10. Barda
11. Agdjabadi
12. Agdash
13. Sabirabad
14. Bilasuvar
15. Masalli
16. Lankaran

Both State Museums Network and Regional Museums Networks could be characterized by scientific and administrative autonomy and be dependent on the Director of the Department for Cultural Institutions and Folk Art (MCT).

### **Governing bodies**

The governing bodies of State Museums and Regional Museums could be:

- Department for Cultural Institutions and Folk Art (MCT);
- Director;
- Scientific Committee.

Moreover, only in the case of Regional Museums, could be foreseen a:

- Management Committee.

The governing bodies could:

- ensure the museum mission;
- verify the suitability, efficiency and effectiveness of museum activities;
- check the quality of cultural offer and conservation practices, of use and enhancement of museum assets;
- in particular, the Management Committee of the Regional Museums could ensure the coordination among the local authorities, Regional-Directorate of Museums and the MCT.

### **Department for Cultural Institutions and Folk Art (MCT)**

Main duties:

- It guides and coordinates the Azerbaijani State Museums

It performs functions of address and control, drawing up guidelines in compliance with the highest international standards, helping Azerbaijanian museums to grow and improve.

- It enhances state national cultural heritage

It performs functions and tasks to make the most of state cultural heritage, favouring policies for the integration of cultural heritage and the landscape at territorial level.

- It regulates and promotes access to structures

It draws up guidelines on opening hours, ticketing and policies for admission prices to museums and state cultural places.

- It works in the region

It takes care of coordination among regions, public authorities and private organisations, offering technical and administrative support at national level and promoting the formation of local museum centres for the integrated management of the activities of museums and cultural places.

- It takes care of cultural projects

It promotes agreements and facilitates the exchange of works at international level, establishing the criteria for the loan of assets and declaring the relevant cultural or scientific interest of exhibitions, events and displays.

- It monitors quality

It constantly updates the service charter, draws up qualitative parameters in compliance with the ICOM standards and ensures observance of the guidelines by state museums.

- It encourages active participation

It draws up and publishes an annual report on the management of museum services, promoting and managing awareness projects and public fundraising campaigns of cultural interest.

## **The Director**

Taking inspiration from the European models, the ICOM Code of Ethics and the Presidential Decree No. 273/2014, the directors of both the National Museums and Regional Museums Networks could perform the following functions:

- to plan, lead, coordinate and monitor all management activities of the museum, including the organization of exhibitions, as well as the conservation, the study, development, communication and promotion of the collections;
- to care the cultural project of the museum, making it a vital place, inclusive, capable of promoting the development of culture;
- to establish the price of tickets in compliance with the general guidelines and with the MCT;
- to establish the opening hours of the museum so to ensure the most extensive use;
- to ensure high quality standards in the management and communication, in educational innovation and technology, in promoting the active participation of users;
- to ensure full cooperation with the MCT and the Directorate of Regional Museum and vice versa;
- to ensure close relationship with the region also in order to increase the museum collection with new acquisitions, organize exhibitions and promote activity of cataloguing, study, restoration, communication, enhancement in cooperation with the MCT.

- to authorize the loan of items under its jurisdiction for exhibits in the country or abroad, upon opinion of the relevant Director of the MCT for loans abroad;
- to authorize activities of study and publication of materials belonging to the museum;
- to grant to external figures, on the basis of guidelines prepared by the Director of MCT, the museum services and activities of enhancement;
- to set the conditions of the delivery of contributions by individuals in support of culture, also through special agreements with institutes and places of culture and local authorities. To this end, he/she promotes awareness raising projects and specific fundraising campaigns, including collective financing modalities;
- to carry out researches and makes these public, even electronically. Proposes initiatives of dissemination, education, training and research;
- to act as contracting authority.

Therefore, with the Director lies the general leadership and he or she has the overall responsibility for the museum.

### **The Scientific Committees of the State Museums Networks and Regional Museums Networks**

Both the Director of each State Museums Network and Regional Museums Networks could be assisted by a Scientific Committee, in which they could be their presidents. The Scientific Committee could consist of four members, in addition to the Director, who could be and appointed by the Ministry and chosen among the academies and universities having scientific profiles related to the specialization of the museum or the regional network.

Considering the Italian system, the Scientific Committees of both the National Museums Network and the Regional Museums Networks play advisory role of the Director on scientific matters and in particular:

- they make proposals to the director;
- support the director in the preparation of the annual and multi-annual program;
- prepare annual evaluation reports on museum's activities;
- check and approve, in consultation with the Director, lending policies and plan of exhibitions;
- evaluates and approves the publishing projects of the museum;

- provides opinion on museum's statute and statutory changes.

### **The Management Committee for Regional Museums**

This Committee should ensure the coordination between the Regional Museums Directorate, local authorities and the Department for Cultural Institutions and Folk Art (MCT), in particular:

- ensuring the coordination between local institutions and central Government;
- supporting the Director of the Regional Museums in decisions related to the promotion of culture in the region, in particular the integration of museums in touristic routes, elaboration of educational and interactive programs for establishing contact with all groups of citizens: individual tours, programs for families, children and youth.

### **Capacity of receiving donations, undertaking valorisation initiatives**

Considering the good practice and results achieved in Italy through break taxes and the lack of a similar tool in Azerbaijan legislation, it could be suggested the application of a tax credit to encourage donations for supporting culture.

Indeed, in Italy a tax regime has been applied for those who support culture with charitable donations and is equal to 65 % of charitable contributions that individuals or companies make in favour of public cultural heritage.

The donor, after having identified a cultural work to which contribute, can contact the owner or ALES (in-house society of the Ministry of Cultural Heritage and Activities and Tourism) to agree upon the details of money transfer (through a bank, post office, debit or credit and debit cards, bank checks), and save the receipt of the Art bonus transaction to take advantage of the tax benefits.

For more information, please refer to the subchapter 3.5.2 “Museum’s management”.

#### 4.5.1.2 Norms to be amended or introduced

- The Law of Azerbaijan Republic on Grant, April 17, 1998;
- Law of Azerbaijan Republic on Museums, March 24, 2000;
- Ministry of Culture and Tourism, Guidelines on Records and Preservation of the Museum Items and Museum Collections in the Republic of Azerbaijan 2008;
- The Law on Culture of the Republic of Azerbaijan, December 21, 2012;
- Presidential Decree No. 273/2014 Culture Concept of the Republic of Azerbaijan;
- Decision 1 Ministry of Culture and Tourism, April 27, 2015 Statue on Department of Cultural Institutions and Folk Art of Ministry of Culture and Tourism of the Republic of Azerbaijan.

#### 4.6 Modernization of libraries and related information supply

##### 4.6.1 Completion of digitization process

Libraries, as well as other cultural institutions (Academy of Sciences, Institute of Manuscripts) have computerized most of their services and launched a massive digitization of documents; but they have still not made the qualitative leap usually driven by digital environment, i.e. designing new, value-added services based on digital features. In fact, often digitization is used only as a preventive measure, and resources are not always available online to the general public. Moreover, cultural institutions play usually a role of content providers for State publishing, and also in view of digital access to the output of this activity, it is needed appropriate development of metadata standard and long-term preservation strategies: especially the second issue is still underestimated.

In general, looking at the achievements in this field, it can be argued that more structured information, integrated in a framework of interoperability between all the subjects related to cultural management, would allow to take advantage of all the potential of the digital environment, and greatly expand the range of services to the public. In fact, in such a framework, if structured data are exposed to other applications, it is possible to design many different attractive routes throughout the National cultural heritage, simply by linking related content, without duplicating information and cataloguing efforts.

At regional level this would be even more important, because it would allow library systems to organize a wide range of services addressed to the whole community, gathering the citizens' needs and spreading cultural heritage among new potential users all over the web, as well as having feedbacks in form of user-generated content, with positive effects in civic, educational and touristic fields.

##### 4.6.1.1 Goals

Moving from a static digital environment, that users can only browse on the surface, to a dynamic one, that users can surf in depth, allowing both national and international users, even from a single point of access (National Cultural Portal) to navigate across national cultural heritage documents and memories, integrating structured multimedia information (texts, pictures, videos, audio, etc.). Such a framework will allow national users, also through Regional library systems, to find information and access to services for education, professional training, culture, leisure and everyday life, according to their own interests, so they can look at the libraries as a familiar resource, closely linked to their needs.

In order to both develop the whole potential of the information system and accomplish the above, the following goals are required:

- Designing and managing the whole life-cycle of digitization, from selection of documents to long-term preservation;
- Adopting technical standards to ensure interoperability, such as:
  - open source software, as well as open content, whenever it is possible;
  - metadata based on Dublin Core model and its development;
  - XML (Extensible Mark-up Language) databases;
  - standard OAI-PMH for metadata harvesting;
  - standard terminology (e.g. ISO, UNESCO, W3C) ;
- Implementing accurate reflection on DRM (Digital Rights Management) policy: whenever it is possible, it is highly recommended adopting the license model Creative Commons Attribution-Non-Commercial; in different situations (e.g. e-books loan service), it is recommended adopting license as DRM Adobe or similar.

#### 4.6.1.2 Norms to be amended or introduced

In the absence of norms on the subject:

Enacting a regulation on the re-use of documents containing public data in public authorities availability. A model is the Italian D. Lgs. 24 January 2006, n. 36, *Attuazione della direttiva 2003/98/CE relativa al riutilizzo di documenti nel settore pubblico*, (as amended by D. Lgs. 18 May 2015, n. 102 in implementation of Directive 2013/37/EU).

The premise for such a law to produce good results is that at the same time it strongly invites cultural institutions to adopt an Open Data policy.

#### 4.6.2 National Library and major scientific libraries

As National Library (*see Law of Azerbaijan Republic about Library*, art.7) is the national leading institution in the field of librarianship and bibliography, as well as methodical reference point for all the libraries in the country, it would be desirable it to increase continuously translating and

disseminating the most important international guidelines and best practices, and make them available on its website. It is very important also to increase providing all the other libraries with systematic guidance aimed at addressing specific challenges presented by the multilingual cultural heritage of Azerbaijan (e.g. translation and transliteration).

Library publishing activity (National Bibliography, bibliographies and publications on single subjects) is one of its strong points. Library would definitely benefit from a wider (including economically viable and profitable) autonomy in this field.

Although provision of library funds is presented and carried out as a major priority in current regulations, the presence of best-known foreign authors in the library catalogue is still largely inadequate; it is important to increase such presence (especially English-language writers), to provide users the opportunity to enrich their cultural and linguistic background.

It is worth to highlight that Legal Deposit (*see Law of Azerbaijan Republic about Library*, art.15) is closely related with national cultural heritage preservation, rather than library funds provision. According to the current Law, National Library is entitled to receive 4 mandatory copies of every single book, and 2 copies of every issue of serials. One of these copies is saved in the Library's Archives, one is allocated on the shelves in the reading rooms, and two are maintained in the main book fund. In addition to them, according to the profile of single publications, publishers must provide other 2 copies to other relevant institutions, also free of charge. Penalties are provided if a publisher does not meet the obligation.

According to IFLA *Guidelines for Legal deposit legislation*, the number of the above mentioned mandatory copies is too high. Publishers, who are important stakeholders in the book chain and usually benefit from being represented in library catalogues, might feel not constructively involved in cultural activities because of such expensive obligation. Besides (although it is not a present issue), the lacking of space on the stacks is a major enemy of libraries, and it is highly advisable to save room for a multiplicity of resources rather than duplicate them.

With regard to digitization, the National Library has digitized historical materials, as well as classic and new literature editions, providing its users pdf files available on its website (protected by watermarks because of copyright issues). It is a favorable form of reading promotion, but also an example of the above mentioned *static* digital environment. Moreover, as for the most valuable, ancient and rare documents of the Library, they have been digitized in the same framework, but the Library policy in this case is the digital copy not to be available on the web but solely in the Library premises. Since digitization does allow both prevention and promotion through one single action, it is a real contradiction not to make available the most precious digitized documents. As ancient documents are also free of property rights issues, they could be freely accessed by all the internet users (as well as by registered, customized users so as to promote creative re-use of public cultural documents).

The Institute of manuscripts of the Azerbaijan Academy of Sciences too, for the importance of its funds and its high specialization in book restoration, has a similar mission, in its specific field, to the one of the National Library. It is highly advisable it also to develop a similar open digitization policy.

#### 4.6.2.1 Goals

As a common mission, library institutions nationwide have to make resources available and useful to the people, and to sustain and preserve national cultural heritage as a collection of knowledge and creativity for future generations. The achievement of this objective is in close relation to the goals set out in the paragraph 3.6.1.

The Scientific Library of Baku State University is well equipped in its field. As for the other libraries of national level (the Youth Library, the Children's Library, and the Library for blind people), along with the National Library they have to gradually implement a model of mutual integration of their functions, managing together preservation as well as educational, vocational and promotional issues. It is advisable, in general, boosting the autonomy of State major libraries, so as to increase managerial practices.

Priority goals are:

- The National Library to become an autonomous institution under the MCT general coordination, with scientific, financial, administrative and accounting autonomy. It will provide for the achievement of institutional responsibilities through its own budget. It will increase its financial resources using its assets and spaces, and especially by performing publishing activity, cultural promotion, research and scientific cooperation with other public and private institutions (conferences, exhibitions, workshops, vocational training, etc.).
- The National Library to become the nationwide scientific authority in library field. It will produce, translate, adapt to the local situation and disseminate standards, guidelines and best practices. It will manage the national cataloguing system as well as the national digitization policy as a form of both preservation and promotion of the national cultural heritage.
- The National Library to increase provision of foreign literature in original language, as well as databases of foreign academic journals. As for the second task, it will possibly join the Azerbaijan Library and Information Consortium, through which the Scientific Library of Baku State University get access to international online databases.
- The National Library and the Institute of Manuscripts of the Azerbaijan Academy of Sciences to realize a strong collaboration, both on digitization and conservation programs.

#### 4.6.2.2 Norms to be amended or introduced

*Law of Azerbaijan Republic about Library*, art. 15: according to the above remarks on Legal Deposit; *Regulation of the National Library of Azerbaijan*: in order to set a more autonomous status of the Library, highlight its role as nationwide scientific authority in library field, design a framework of mutual integration of functions of all the State major libraries.

#### 4.6.3 Other libraries: improvement of services through integrated functions

According to the upgrading of the organizational structure of the Ministry of Culture and Tourism of the Republic of Azerbaijan, have been recently created 15 Regional Culture and Tourism Departments, which have also assumed all the responsibilities related to public libraries (*see* Presidential Decree “*Upgrading organizational structure of the Ministry of Culture and Tourism of the Republic of Azerbaijan*” of the 29 March 2016).

This reform represents the opportunity to realize an integrated, service-oriented library network on the territory, in order to both rationalize existing library services and improve them, as well as enhancing a new, up-to-date social function of public libraries.

Nowadays about 3,000 libraries are located throughout the 64 districts of Azerbaijan; in each district there is a central library connected with minor libraries. Among the 64 central libraries, 33 are connected with the library cataloguing system ALISA, governed by the National Library: this is a web-based system built on standard formats and protocols MARC 21, ISO2709, UNICODE, Z3950.

It is also worth noting that in the latest years the State Agency for Public Service and Social Innovations has taken important steps in implementing innovation-related activities, among them the ASAN Service Centers, aimed to ensuring unified and coordinated delivery of administrative services rendered by State entities. So, the development of infrastructures for the implementation of decentralized services to citizens is not totally lacking, even still in progress.

##### 4.6.3.1 Goals

To take advantage of the 2016 reform, and gradually overcome the inadequate level of many smaller local libraries and their premises, it is expected to set 15 Regional Library Systems (networks), each of which centred on the best equipped library in the Region (which will probably be one of the former central libraries, that are also expected to be connected with the ALISA System). The Regional Library networks will integrate ALISA functionalities (possibly ASAN and/or similar functionalities too). Yet building a platform for the provision of both specific library services and other, citizen-oriented services may also be based on different systems, provided that are always adopted technical standards ensuring interoperability (see 3.6.1).

Library services must include at least: availability in the library premises of books, newspapers, magazines; availability of a collection of documents of local interest, both historical and up-to-date; bibliographical information, user support, reference services; loan; reading promotion activities; bibliographic selections and exhibitions. Very minor libraries can remain at least local loan points, on the model of minor ASAN service points and Italian “Bibliobus”.

In particular, in order to become attractive for different targets of users (scholars, students, children, etc.), as well as to offer value-adding linkage perspectives to other sectors (education, tourism), the focus will be mainly on the provision of a wide range of digital services, such as e-book loan, online training

courses, virtual exhibitions and thematic routes, delivery of multimedia content, integration of user-generated content and feedback by social media (Facebook, Twitter, YouTube). Delivery of multimedia contents selected by librarians must be the bridge to a new, service-oriented public library shape (on the model of the Italian Biblioteche civiche torinesi and Biblioteca delle Oblate, or the one of British Idea Store).

In a framework of open data and interoperability, multimedia contents will be firstly selected within the ones made available as a result of digitization activity of the major National cultural institutions: museums, libraries, universities. Furthermore, libraries will be able to turn to library service providers, and join online platforms dedicated to providing and lending of digital media content (see the *MediaLibraryOnLine* Italian model).

Under the circumstances, major goals are:

- Realizing 15 Regional Library Systems (networks), including a variable number of libraries, that will be gradually able to manage all their services through automated procedures.
- Identifying 15 central libraries, one in each network, to be connected with the ALISA System. All the other libraries, even gradually, will join the System with the assistance of the central ones.
- Every single Regional System to assess existing collective resources of its libraries, and to design both the nature and the procedures of the services to be delivered, realizing 15 Regional Portal websites aimed to become the main, single access points to the networks and their services.
- In turn, every single Portal to be connected with others Regional Systems, and the National Library as nationwide authority.
- Gradually designing and carrying out the wide range of digital services defined above.

#### 4.6.3.2 Norms to be amended or introduced

In the absence of norms on the subject:

Identifying the territorial areas of interest of the 15 Regional Library Systems, based on the Presidential Decree “*Upgrading organizational structure of the Ministry of Culture and Tourism of the Republic of Azerbaijan*” of the 29 March 2016;

Enacting a regulation to establish the 15 Regional Library Systems, identifying their mission statement and the legal form (convention, consortium, etc.) better fitting it.

## 4.7 Protection of immaterial cultural heritage, use of the available personnel at city (district) culture clubs

### 4.7.1 Immaterial Cultural Heritage

#### 4.7.1.1 Goals

The subject of the protection of intangible cultural monuments is among the goals set by the Twinning project fiche as one of national primary legislation to be reviewed, amended and/or elaborated.

The convenience to undertake a revision of the rules presently in force on the subject in Azerbaijan actually relies on

- 1) the fact that Azerbaijan signed and ratified, on January 2007, the 2003 UNESCO *Convention for the Safeguarding of the Intangible Cultural Heritage*. Artt. 11 to 15 of the Convention list the measures that the States member are committed to taken to fulfill their membership. A revision of the present rules is advisable in order to comply with the pledges assumed at international level.
- 2) the growing importance that intangible heritage is assuming in modern countries. Tangible and intangible heritage are playing a parallel role in shaping the international images of the countries. This growing role is influencing the managing practices and approaches towards intangible heritage even for tourism purposes. The new situation and the changes that it entails are by now clearly assumed in EU planning instruments and guidelines. In the European Parliament resolution of 8 September 2015 *Towards an integrated approach to cultural heritage for Europe*, tangible and intangible heritages are importantly considered a unified field when issues like heritage protection, enhancement and social use are addressed.
- 3) the necessity of preserving the role of intangible heritage as testimony of Azerbaijani national identity

#### 4.7.1.2 Norms to be amended or introduced

The 2003 *Law of the Republic of Azerbaijan On Legal Protection of Azerbaijani Folklore Expressions*, adopted before the setting up of UNESCO *Convention for the Safeguarding of the Intangible Cultural Heritage*, already provides, in compliance with the 2012 *Law on Culture of the Republic of Azerbaijan*, protection of national intangible heritage.

In the framework of the Twinning project amendments on the present laws has been drawn up to

- update intangible heritage's legal framework of and so to cope with challenges and opportunities that it is facing today
- systematize the response of Azerbaijan to the commitments made with the ratification of UNESCO 2003 Convention.



## **ANNEX A: Bibliography**

### **EU Treaties**

- Article 36 of the Treaty on the European Union
- Article 167 of the Treaty on the Functioning of the European Union.

### **EU Secondary legislation**

- 2013/743/EU - Council Decision of 3 December 2013 establishing the specific programme implementing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)
- 1295/2013/EU - Regulation of the European Parliament and of the Council of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020)
- 1352/2008/EC - Decision of the European Parliament and of the Council of 16 December 2008 amending Decision No 1855/2006/EC establishing the Culture Programme (2007 to 2013)
- 1855/2006/EC - Decision of the European Parliament and of the Council of 27 December 2006 establishing the Culture Programme (2007 to 2013)
- 2011/711/EU - Commission Recommendation of 27 October 2011 on the digitisation and online accessibility of cultural material and digital preservation
- 2011/831/EU - Council Decision of 1 December 2011 on the practical and procedural arrangements for the appointment by the Council of four members of the European panel for the European Union action for the European Heritage Label
- 1194/2011/EU - Decision of the European Parliament and of the Council of 16 November 2011 establishing a European Union action for the European Heritage Label
- 2010/238/EU - Commission Recommendation of 26 April 2010 on the research joint programming initiative Cultural Heritage and Global Change: a new challenge for Europe
- 2001/C73/04 - Council resolution of 12 February 2001 on architectural quality in urban and rural environments
- 94/C235/01 - Council conclusions of 17 June 1994 on drawing up a Community action plan in the field of cultural heritage
- 86/C320/01 - Resolution of the Ministers with responsibility for Cultural Affairs, meeting within the Council of 13 November 1986 on the protection of Europe's architectural heritage
- 75/65/EEC - Commission Recommendation of 20 December 1974 to Member States concerning the protection of the architectural and natural heritage

## **EU Policy Documents**

- European Parliament resolution of 8 September 2015 towards an integrated approach to cultural heritage for Europe (2014/2149(INI) )
- Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on a Work Plan for Culture (2015-2018)
- Council conclusions on participatory governance of cultural heritage (2014/C 463/01)
- Council Conclusions on cultural heritage as a strategic resource for a sustainable Europe EDUCATION, YOUTH, CULTURE and SPORT Council meeting Brussels, 20 May 2014
- Resolution of the Council of 16 November 2007 on a European Agenda for Culture

## **EU Good Practices Manuals**

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- Good Practice Report on the Cultural And Creative Sectors' Export and Internationalisation Support Strategies, European Union Open Method of Coordination Expert Group on Cultural and Creative Industries
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## **Policy Documents from European organizations**

- European Confederation of Conservator-Restorers' Organizations, "E.C.C.O. Professional Guidelines", ECCO General Assembly, Brussels 1 March 2002
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