

9 DEFENSIVE ARCHITECTURE OF THE MEDITERRANEAN

Anna MAROTTA, Roberta SPALLONE (Eds.)



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Protection of a UNESCO transnational site: three different legislations for the ‘*Venetian Works of Defence between the 16th and 17th Centuries: Stato da Terra – Western Stato da Mar*’.

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Abstract

The 41st session of the *World Heritage Committee*, held in Krakow in July of 2017, inserted in World Heritage List the transnational site ‘*Venetian Works of Defence between the 16th and 17th Centuries: Stato da Terra – Western Stato da Mar*’, consisting in a great bastioned fortification system – defined *alla moderna* – realized by the Republic of Venice. This site, which across borders of States and involves Italy, Croatia and Montenegro, is made of six components whose *Outstanding Universal Value* has been recognized, thanks to their authenticity, integrity and current conservation state.

The idea of a UNESCO transnational site in these territories represents an important identification of a common historical and cultural substrate, although it is now located in a geopolitical scenario which is completely changed. This transnational site is necessarily subjected to three different legislations, that are not perfectly coincident; even though each country maintains its jurisdiction on the cultural heritage located within its territory, an *International Coordination Team* has been established to support and to foster a joint management.

Keywords: protection of cultural heritage, legislation, UNESCO transnational site, Adriatic sea, Venetian Works of Defence between the 16th and 17th Centuries: Stato da Terra – Western Stato da Mar.

1. Definition of a transnational site

A transnational site is a particular UNESCO World Heritage Site which comprehends a series of properties that across borders of States: the *Outstanding Universal Value* is recognized to the whole site but also to each of the individual components; this is the reason why there should be a strong collaboration among the State Parties in coordination, creation of a management plan and harmonization in conservative and restorative interventions.

After the 41st session of *World Heritage Committee*, held in Krakow in July of 2017, the number of transnational sites inscribed in *World Heritage List* has increased to thirty-seven; they represent ‘special places for cooperation between the States Parties to the World Heritage

Convention, where the protection and preservation of cultural and natural heritage is practiced together every day’ (German Commission for UNESCO, 2016: p. 58). These sites are also considered as laboratories not only for practical and monitoring aspects but also for the important role of mediation: in fact, thanks to heritage, it is possible to understand ancient and historical linkages among States, giving a new sense to a common identity.

According to the *World Heritage Convention* of 1972, one of UNESCO’s main mission is to create ‘a system of international cooperation and assistance designed to support States Parties to the Convention in their efforts to conserve and identify that heritage’ (art. 7).

1.1. 'Venetian Works of Defence between the 16th and 17th Centuries: Stato da Terra – Western Stato da Mar' transnational site

'Venetian Works of Defence between the 16th and 17th Centuries: Stato da Terra – Western Stato da Mar' entered the World Heritage List in July of 2017; it is a transnational site because it is composed by six parts that are situated in Italy, Croatia and Montenegro. Italian sites are the fortified city of Bergamo, the fortified city of Peschiera del Garda and the City Fortress of Palmanova; Croatian part is composed by the Defensive System of Zadar and Fort of St. Nikola in Šibenik-Knin County; instead Montenegro hosts the fortified city of Kotor as the only one part of this serial site. The nomination file included nine sites more (Arsenale, Fort of St. Andrea, Poveglia Octagon, Alberoni Octagon in Venezia, Fortica Fortress and Arsenal in Hvar, the fortified city of Korčula, Forte Mare in Herceg Novi and the fortified city of Ulcinj), that have not been accepted by UNESCO Commission due to their conservation state and lack of tourism facilities: the entire complex, centered in the Adriatic Sea, is able to represent the defensive works for the *Stato da Terra* and the western *Stato da Mar* made by Serenissima between the 16th and 17th centuries. The main feature of these fortifications is the Venetian construction of *alla moderna* military architecture, following to the discovery and introduction of gunpowder, that led to significant shifts in military techniques; this evolution of modern fighting reflected in architecture too, and *alla moderna* fortifications superseded medieval defensive structures. These sites entered the *World Heritage List* on the basis of two out of ten UNESCO criteria (*Operational Guidelines for the Implementation of the World Heritage Convention*, July 2017): the third one ('bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared') and the fourth one ('be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history'); in addition, integrity (that is not equal in all the sites) and authenticity of these properties have been recognized.



Fig. 1- Fortified city of Bergamo by A. Ghilardi, © Alberto Ghilardi – Foto Aeree Ghilardi, whc.unesco.org/en/documents/148493

The creation of this transnational site in Adriatic area represents an important and strong recognition of a common identity, dating back to Venetian Republic which all these territories belonged to; today the geopolitical scenario is completely changed and these lands passed through very difficult historical happenings that turned the countries against each other; so, historical sites could represent an important way of dialogue and a possibility to compare the way of thinking and working on what we now call *shared heritage*.

2. Three different systems of protection of cultural heritage

Dealing with a transnational site, it is necessary to explain which is the system of protection of heritage that is currently enforced in these three different countries (Italy, Croatia and Montenegro).

Although Montenegro is the only one of the three countries that is not a member of European Union – but its accession is on the future agenda –, it is not a considerable aspect, because EU does not have exclusive competencies on heritage, but only a role in coordinating and supporting cultural policies. This is why it is interesting to analyse the three national legal systems of protection of heritage.

2.1. Italy

In Italy the unitary responsibility for the protection of heritage belongs to the Ministry of Cultural Heritage and Activities and Tourism

(*Ministero dei beni e delle attività culturali e del turismo - MiBACT*): it is divided in eleven general directions, including an archeology, fine arts and landscape one. All over the Peninsula there are forty peripheral bodies, the so called Superintendencies (*Soprintendenze*), among which two of them are special (the Rome one and the one for areas that have been hit by earthquakes of 2016).

The main law about cultural heritage is the *Code of the Cultural and Landscape Heritage (Codice dei Beni Culturali e del Paesaggio)*, issued through legislative decree n. 42 of 22nd of January 2004; pursuant to this law, the protection of a cultural good is based on the recognition of a public interest provided by the Ministry of Cultural Heritage and Activities and Tourism. The protection is supported by the *Building Consolitaed Law (Testo Unico dell'Edilizia)* too, issued through President of the Republic's decree n. 380 of 6th of June 2001. In addition, restrictions on heritage are set by specific regulations regarding environmental safeguarding and territorial and town planning laws at different levels (regional, provincial and municipal).

In Italy a *General Catalogue of Cultural Goods (Catalogo Generale dei Beni Culturali)* is required by the art. 17 of *Code of the Cultural and Landscape Heritage*. The *Catalogue* contains 781.998 goods that are immovable, movable and immaterial. However, the inventory of the catalogue system is not complete; just think that at now (April 2017) architectural goods are 6505 (data found on www.catalogo.beniculturali.it). Anyway the publicity of cultural goods is assured by territorial and government plans.

In the Constitution of the Italian Republic it is possible to find some references to heritage and, in particular, it must be remembered the article n. 9 that says: '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.' (*La Repubblica promuove lo sviluppo della cultura e la ricerca scientifica e tecnica e tutela il paesaggio e il patrimonio storico e artistico della Nazione*).



Fig. 2 - The Defensive System of Zadar by S.Gobbo, © Ministry of Culture, Croatia, whc.unesco.org/en/documents/148475.

2.2. Croatia

In Croatia, the Ministry of Culture is the responsible body for protection of cultural heritage. Directorate for the Protection of Cultural Heritage is a branch of it and consists in two sectors: the Sector for the Protection of Cultural Heritage and the Sector for Conservation Departments and Inspection. The latter comprises twenty-one Conservation Departments and Offices for the Regions and the City Institute for the Protection of Cultural Monuments and Nature of the City of Zagreb. Another central public institution is the Croatian Restoration Institute which takes cares of tasks related of conservation and restoration of cultural heritage.

The Croatian main law for the preservation of heritage is the *Act on the Protection and Preservation of Cultural Property* (NN 69/99), enacted by the House of Representatives of the Croatia Parliament on the 25th of June 1999 and amended a lot of times till 2017 (OG.NN 151/03, NN 157/03; amendments NN 87/09, NN 88/10, NN 25/12, NN 136/12, NN 157/13, NN 152/14, 44/17).

Cultural goods are inscribed in the *Register of Cultural Goods* that, at present, counts 8945 cultural goods, among which 6508 are immovable ones, 565 are cultural-historical areas, 12 are cultural landscapes, 2293 are movable goods and 144 are intangible ones; there are also 1075 protected archeological sites. The hierarchy of the Register provides for three different lists: *the List of protected cultural objects, the List of cultural objects of national importance and the*

List of objects subject to preventive protection; the Act contemplates, at the art. 17, the possibility for the representative body of a county or the municipality to protect objects of local importance.

Also in the Croatian Constitution (issued on the 22nd of December of 1990) and over and over amended, it is possible to find traces of protection of cultural heritage and more precisely at art. 52 that quotes: ‘The sea, seashore, islands, waters, air space, mineral resources, and other natural assets, as well as land, forests, flora and fauna, other components of the natural environment, real estate and items of particular cultural, historical, economic or ecological significance which are specified by law to be of interest to the Republic of Croatia shall enjoy its special protection’.

2.3. Montenegro

In Montenegro the protection of cultural heritage is a task of Directorate for Cultural Heritage Protection which is a unit of the Ministry of Culture, whose offices are in Kotor and Podgorica; there are no peripheral bodies in the country, so the Directorate has to act directly on every good. Another important presence is the Centre for Conservation and Archaeology of Montenegro, which is the main state institute in the fields of conservation and archaeological works linked to the cultural heritage and it cares about active protection.

The main law about protection of heritage is the *Law on the Protection of Cultural Property* that was accepted on the July 27th of 2010 and cultural goods have to be inscribed in the *Register of cultural property*; inside it there are different categories like as *Cultural property of international significance* - that is usually inscribed in WHL too -, *Cultural property of national significance* and *Cultural property of local significance*.

The Constitution of Montenegro was declared on the 19th of October of 2007 and inside it we can find references about protection of cultural heritage: quoting the art. 78, ‘Everyone shall be obliged to preserve natural and cultural heritage of general interest. The state shall protect the national and cultural heritage’.



Fig. 3 - The fortified city of Kotor, Montenegro by A. Di Maggio, © SiTI - Higher Institute on Territorial Systems for Innovation, whc.unesco.org/en/documents/148488

3. Similarities and differences among *Codice dei Beni Culturali e del paesaggio (Italy)*, *Act on the Protection and Preservation of Cultural Property (Croatia)* and *Law on the Protection of Cultural Property (Montenegro)*

After analysing the main structures of protection of heritage of the three different countries, main similarities and differences of the fundamental laws for protection of cultural property are going to be individuated and compared.

A characteristic that is common to all the three legislations is the division between immovable and movable goods and the usage of the same words regarding different typologies of significance of heritage; thanks to UNESCO and ICOMOS charters and resolutions, the concept of heritage has been enlarged and now it is able to represent various aspects of life production. In fact all the legislations talk in terms of ‘historical, artistic, archeological, anthropological significance’; however there are some differences because the laws of Croatia and Montenegro give more emphasis to some branches of culture: Croatia, indeed, adds ‘scientific’ and ‘paleontological’ significance’ and Montenegro adds ‘architectural’ and ‘social’ significance.

About intangible cultural heritage, Italian Code recognizes it in art. 7-bis, only if it is represented and attested by a material evidence, which art. 10 can be applied on: in 2007 Italy ratified the *UNESCO Convention for the Safeguarding of Intangible Cultural Heritage* of 2003. Otherwise

in the laws of Croatia and Montenegro non-materials forms are accepted in a wider way, because it is not stated that a material presence linked to the immaterial heritage is necessary.

An important difference among the three laws is that only in Italian Code there is a distinction between 'cultural property' (*bene culturale*) and 'landscape property' (*bene paesaggistico*), in spite of the laws of Croatia and Montenegro that talk generally only of 'cultural property'. This division represents a legacy of the old Italian laws on protection of heritage of 1939 where there was the same differentiation. In Italian law, parks, gardens, villas but also historical centers and towns are sometimes considered 'cultural property' and in other cases 'landscape property' (art. 136); in Croatia instead, they are simply defined as 'immovable cultural objects' (art. 7) and in Montenegro they are specified as 'cultural and historical whole' within the concept of 'Immovable Cultural Property' (art. 14).

Another difference among the laws concerns the possible categorization of goods: in Montenegro the distinction that has been adopted is based on relevance and distinguishes in international, national and local significance of cultural property. In Croatia the same category, based on relevance, is divided in cultural objects of national importance and protected cultural objects, but there is also the preventive protection, which represents a time-limited decision. In Italy indeed, there is the only category of the Declaration of cultural interest, but art. 12 states that movable and immovable objects, produced more than seventy years ago, are considered as cultural heritage till the Verification of cultural interest.

For what concerns goods and objects of local importance, there are dissimilarities about the power of the municipalities to constrain objects of local importance. In Italy municipalities have the possibility of constraining goods of local interest, according to the most advanced regional laws (for example the regional laws of Tuscany and Apulia) and in other regions this way of constraining is generally accepted by judges; however in national law of *Code of the Cultural and Landscape Heritage* there is no trace of

possibility for municipalities of constraining goods of local significance; on the contrary, in Croatia there is the possibility to do it for those objects which are not subject to protection under the provision of the *Act on the Protection and Preservation of Cultural Property* (art. 17).

In art. 20 the Italian Code asserts that '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' but it doesn't give more precise indications for what concern modalities of interventions: the 29 article, called 'Conservation' only describes the meaning of three significant words: prevention, maintenance and restoration. However, the fifth paragraph of the same article states that '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': at now, these documents are not issued yet but a ministerial teamwork is actually working on it (set by DM 10th March 2017, n. 134).

In Croatian *Act on the Protection and Preservation of Cultural Property*, and precisely at art. 5, there is a more precise description of purposes of protecting cultural objects: the main task is to preserve the cultural goods in order to avoid alterations and measures that could lead it to destruction. In the following article, as in Italian law, there is an explanation of the main concepts of the discipline of restoration and conservation: protection, preservation, safeguarding and maintenance. It also states that the actions that are admitted are 'conservation, restoration, relocation [...], reconstruction, repair and adaptation' (art. 62) but every action has to be approved by the competent authority.

The *Law on the Protection of Cultural Property* of Montenegro declares, at art. 4, the main goals of protection of heritage: to preserve integrity and authenticity of the object and, at the same time, to improve knowledge about it and to provide a compatible usage. Montenegro Law has taken a lot of concepts from UNESCO charts because it is one of the youngest law about the protection of

heritage: for example, at art. 24, we can find some criteria that are similar to UNESCO ones present in *Operational Guidelines for the Implementation of World Heritage Convention*.

In the Law of Montenegro there is an important difference compared to other legislations, because main measures for conservation are totally explained: at art. 94 it is said that 'Conservation measures for cultural property include conservation, restoration, reconstruction, anastylosis, consolidation, rehabilitation, adaptation, other works and activities which are used to maintain or change the existing condition of cultural property'. After that in the immediate following articles (artt. 95-96-97-98-99) it is explained the meaning of each measure, which can be adopted indifferently to all kind and levels of cultural objects. However, it is possible to identify some main rules: it refers to necessity of having a strong knowledge and authentic documentation if the project contemplates reconstruction or demolition of parts that are supposed to have less value than undiscovered ones; besides it is stated that every restoration has to be conducted considering that all the contributions of every period have the same importance. It is interesting to notice that art. 99 explains differences among adaptation, rehabilitation and consolidation: the Law of Montenegro is the only one that goes into details of possible methods to intervene on cultural objects, in spite of others (Italy and Croatia), where it is only declared that the general task is prevention and protection of goods, without being more precise. The Act provides for the adoption of 17 bylaws, which will, for ease of administration, elaborate and refine certain legal institutes.

4. Typologies of protection on 'Venetian Works of Defence between the 16th and 17th Centuries: Stato da Terra – Western Stato da Mar'.

Even before the creation of 'Venetian Works of Defence between the 16th and 17th Centuries: Stato da Terra - Western Stato da Mar', all the fortifications of this transnational site were already subject to legal protective measures by competent national authorities: this protection has

always guaranteed control, monitoring measures and a frequent supervision.

The city of Bergamo is protected by different kinds of regulations: the internal urban area is classified as Homogeneous Zone A of maximum protection in the municipal *General Town Plan* and it means that only interventions of renovation and preservation are allowed; a more detailed plan is represented by the *Detailed Recovery Plan for the Upper City and Borgo Canale* which defines precisely principles and possible interventions on heritage. Another constraint is the monumental restriction pursuant to Legislative Decree 42/2004 (*Code of the Cultural and Landscape Heritage*) which insists on the wall perimeter from 1970, pursuant to the former law of 1939. There is also another direct landscape restriction, pursuant to Legislative Decree 42/2004 that protects the area included into the walls and the Fort of St. Vigilio. At a further level there are *Regional Territorial Plan for Lombardy* and *Territorial Coordination Plan for the Province of Bergamo*, approved in 2004, that tries to define a sustainable development of the entire province.

The general environment of the city of Peschiera is protected by the *Regional Territorial Coordination Plan*, by *Provincial Territorial Coordination Plan*, and, at a lower lever, by *Inter-council Territorial Setup Plan*. The fascia on the walls of the city of Peschiera is under monumental protection, pursuant to Legislative Decree 42/2004 and its internal urban area is Zone A in *General Town Plan*.

The entire urban area of Palmanova is identified by *General Town Plan* as Zone A, the walls and the main buildings are protected by Legislative Decree 42/2004 but also the entire heritage within the walls is subjected to indirect monumental restriction. Besides Palmanova Fortress is subject to a particular obligation because it was declared as national monument by decree n. 972 of 21st of July 1960 of President of Republic: followed a Ministerial decree (13th of May 1961) that specifies precise restrictions about super-elevations, possible interventions on roofs and limitation in height and cubage. The entire landscape is protected by *Territorial Government Plan*.

The system of fortifications of Zadar (*Fortifikacijski sustav 16. stoljeća na zadarskom poluotoku*) is included in the Register in the *List of objects subject to preventive protection*, registered number P-5256. The sectors of ramparts identified fall within the national protection system Zone B, that means 'partial protection of historical structures' (UNESCO Nomination Text): Zone B is characterized by the possibility of integrate historic structures with new one, due to contemporary needs, but replacement is not permitted. Otherwise the historical centre of Zadar is considered as Zone A and there is also an environmental constraint.

Fort of St. Nikola (*Tvrđava svetoga Nikole*) in Šibenik-Knin County is included in the Register in the *List of protected cultural objects* since 2014, registered number Z-6516, and it is in Zone A. It is also protected by three National Laws: *Law on the Protection of Nature*, in force since 7 July 2013 (OG NN 80/13), *Law on the Protection and Preservation of Cultural Properties* (since 30th of December 2014 and *Law on Maritime Domain and Seaports* (OG NN 158/03, 100/04, 123/11, 141/06, 38/09).

The city of Kotor and its city walls was recognized as a cultural-historical heritage in 1949 when National Assembly of Montenegro issued the first law on the protection of cultural heritage. Although this protection, Kotor had to wait thirty years for the first conservation steps because of lack of institutional power and cultural policies. In fact *Natural and Cultural Historical Region of Kotor* was inscribed in the WHL by UNESCO in 1979, after a terrible earthquake that devastated 70% of buildings, and the city of Kotor entered the *List of World Heritage in Danger* (but it was delisted in 2003). The presence of UNESCO experts helped in assisting the institution for protection of monuments of Montenegro by providing financial and material aid: UNESCO was fundamental also in defining main concepts about restoration and, thanks to guidelines, they helped the development of Kotor as a cultural-historical monument.

5. The role of the International Coordination Team in the management of the site

Ministry of Cultural Heritage and Activities and Tourism of Italy, Ministry of Culture of Republic of Croatia and Ministry of Culture of Montenegro

signed a *Transnational Memorandum of Understanding* in 2015: in this document formality is given to the *International Coordination Team*, whose role is to create a joint management, especially to respect rules and to support needs of the State Parties in conservation and management. This body, after consulting the State Party, can give suggestions and make observations. A fundamental instrument is the *Management Plan* which has to be dynamic and it has to be improved and continually updated; it defines a shared path and a system of goals. There are different levels and kinds of tasks and each of them has an important role in the construction of a joint collaboration. The *Management Plan* includes two sections of projects: network projects and local projects. Network projects include many different aspects linked to knowledge, valorization and immaterial heritage; it has to be understood as the creation of a shared mission through involvement of schools, educational itineraries, scientific publications, tourism management, exhibitions, social networking and sharing of data. For example at the beginning of March 2018 UNESCO office in Venice, the Ministry of Culture of Croatia and the Croatian Commission for UNESCO organised a workshop in Šibenik about the walled cities. The second category comprehends local projects that regard very specific and concrete interventions which involve material aspects: in the *Management Plan* there is the presentation of a lot of projects: scheduled maintenance of the Venetian Walls of the Upper City of Bergamo, the project 'Peschiera Open-Air Museum', a programme of interventions for conservation of the fortified system of Palmanova, the removal of parking areas along Zadar fortifications. Each action is necessary to keep in good conditions the sites but these local projects are carried on by local authorities, without the involvement of UNESCO: for example the cleaning of Bergamo walls is supported by a convention set up between the Municipality of Bergamo, State Property Agency, the Orobicamento Association and the APRICA Society.

6. Conclusions

Although each country has its own legislation and rules for protection, the brief analysis of this paper wants to turn out that Italy, Croatia and

Montenegro have a simile and appropriate systems of protection of heritage. Certainly there are a lot of differences, which especially concern nominalistic aspects, but significant differences are really few. The proposed analysis stops at a legislative aspect and it does not examine the operative one; it could be very interesting to monitor future interventions on each part of this transnational site, just to understand how it works.

The issue regarding the role of UNESCO has been dealt: if it once helped in defining guidelines for the definition of laws – especially for countries recently born –, nowadays it is an instrument of supervision and meeting, particularly in network projects. It would be interesting to see if, thanks to its prestige, its suggestions are going to be implemented.

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