

Summary

Nowadays more and more is being spoken about the changes in our man-made environment and urban development activities which are trying to respond to the worries and questions of ongoing processes while at the same time proposing solutions for them. However it is obvious that tangible results are not being recorded in that process and that concerns are still being voiced both in public and professional community circles.

Issues relating particularly to the protection of cultural heritage became one of the main reasons for **urbanLab Yerevan's** appearance the public sector. With that aim, an attempt was made to consider the existing situation in the entire urban development sector, and to reveal existing problems with the objective of creating a corresponding field for sustainable development in urban development. Based on this situation and also being familiar with the numerous issues existing in the sector, some of which are also a result of legal, sub-legal and normative shortcomings, a **Study, Analysis and Development Program for Legislative Basis of the Protection of Historical and Cultural Monuments** (hereinafter: Program) was initiated.

Its objective is to draft legislative and sub-legislative recommendations in the sector based on study and analysis of the legislative bases of the maintenance of immovable historical and cultural monuments (hereinafter: Monuments) in the territory of the Republic of Armenia.

It does not claim to resolve all the existing problems in the sector but can become a good foundation for the realisation of reforms and developmental processes in the sector and also for conducting more inclusive discussions on the resolution of existing issues.

Studies have been realised in the first phase of the program within the framework of which internet based surveys have taken place, publications in the press over the past few years relating to the protection of heritage have been monitored, brain-storming has taken place with members of active civil initiatives in order to reveal existing problems. Simultaneously the maintenance of historical and cultural monuments functioning in the Republic of Armenia and in general the entire legislative base concerning urban planning including the laws, sub-legal documents, regulations and so on (106 documents in all), have been inventoried and classified. The international and European commitments assumed and to be assumed have also been observed; the possibility of applying international and European equivalent practises have been identified.

The study and analysis of all this, based on the professional opinion of the people involved, through clarification of priorities, allowed the proposal of recommendations aimed at solving issues, which can be grouped in three main groups: conceptual issues, which stem from the RA Constitution and assumed international and European obligations; legislative recommendations, and sub-legislative recommendations.

The results of other activities conducted within the framework of the project (surveys, translations and so on) which may be useful material for other studies being conducted within the sector, are presented in separate appendices.

Within the framework of this program's study activities, as a result of the identification of the situation in Armenia, it became clear that today, the issues relating to the protection of objects constituting architectural heritage (Monuments) are particularly vulnerable to the processes taking place in urban environments, because of the attraction of their locations to private investor.

Amongst them there were issues linked to both regulation of urban planning, and the distribution of responsibilities between different bodies and also a simple lack of legal awareness.

Below we present several important recommendations:

1. Firstly the definition of the necessity for protection of heritage must be reformulated from the conceptual point of view. The protection of heritage must be aimed at the positive perception by the population of the state of its immediate environment which in turn contains a large economic incentive component thus reducing the internal emigration and contributing to the proportionate development of the country.
2. Since tourism is a priority direction for the economic development of the country, consequently the necessity to review the protection of heritage during the processes of all types of regional development.
3. It is necessary to separate the executive, supervisory and policy making functions of the ministry of culture which is the state authorised body. The Ministry of Culture must only realise the processes of identification and status definition of monuments, and the collection and processing of information concerning them. It is preferable for supervision to be realised within the context of urban development sector's departmental procedures.
4. Within the framework of the national legislation it is necessary to use existing formulations in already validated documents, particularly the provisions and definitions in the Convention for the protection of the architectural heritage of Europe.
5. It is recommended that the concept of removing monuments included in the monuments lists be generally eliminated. A monument must be removed from the monuments list only when it no longer exists. However in that case, re-creation operations, which are part of the methods of protection of monuments, must be implemented. With this, the concept of loss of status for the monument is almost ruled out.
6. It is also recommended that the provision for relocating monuments should be almost completely eliminated. According to the Convention for the protection of the architectural heritage of Europe, that can only be applied in a case of a direct threat to the existence of the monument.

7. It is recommended that a four-level system of classification of Universal, National (formerly Republican), Local or Regional (formerly Local), and Community, replaces the present one of Republican and Local. It is particularly important that, with the decision of the community council (Avagani), it be possible to give the status of monument to specific structures and to maintain them in the same manner as the others.
8. It is recommended that the criteria for inclusion in the monuments lists be stipulated by law. Prior to this, these criteria were approved by a group of experts. It is proposed that it should be set by law, specifying it for each class separately, including the most easily measured criterion, the age of the structure.
9. It is vital to make necessary changes in the Administrative Offences Code and Penal Code, concerning liability in cases of abuse towards monuments and violation of assumed obligations and other defined regimes, by increasing the amounts of liability.
10. Perceive the Historic-Cultural Justification Plan as a mandatory part of the Urban Planning Documents, particularly the Master and Zoning plans, considering only the baseline to be the protection of monuments zones, and to classify the rest as part of the drafting responsibilities of the designing architects and town planners, involving licensed restoring architects during the drafting stages.
11. Within the framework of a separate sub-legislative document, fulfill the final stage of the state registration of monuments, being the requirement of the (article 9) of the Law, which is the Cadastre of immovable historical and cultural monuments, in order to reflect any change in status, and to define existing limitations on the property. Those must be stipulated on the real estate ownership certificate.
12. It is recommended that special attention be paid to the appreciation and protection of heritage from the not-too distant past (particularly structures from the soviet era). It is vital that they should be added to the state immovable historical and cultural monuments lists.
13. In the classification of monuments according to their urban planning and architectural character In Article 6 of the Law, the term “sections” and separate objects are clearly underlines, however to make the Article more complete it is recommended that the terms “ construction of gardens and/or sections of construction” be added.
14. It is recommended that the government draft a sample contract for the protection of monuments, which will be introduced with the objective of clarifying relations between the owner and the authorized body.
15. Substantial editing is necessary in different sections of the "Regulation on the State Registration, Study, Preservation, Strengthening, Repair, Restoration and Utilization of Historical and Cultural Monuments" (hereinafter: Regulation). In particular, concerning terminology, there are numerous

- vague clauses, such as “*special norms of scientific-restoration, which are approved by the authorized body*” (clause 77), and “*of scientific-draft documents*” (clause 86).
16. In order to establish the State monuments registration system, it is first necessary to give clear and unequivocal definitions for the terminology used and to stipulate the draft text of the state registration documents in the Regulation (and also in the Law).
 17. It is necessary to completely remove the section on “Private ownership of monuments” because the text in all its clauses attempts to define norms which, according to the RA legislation can only be defined by law (RA law “On legal acts” Article 9, Part 4.)
 18. It is recommended that the monument’s certificate be considered as the principle legal document, where they should be enumerated point by point in detail and have corresponding classifiers, using modern technical methods, in order to register and retain them. Similar numbering should also be on the “documents” attached to the certificate as additions.
 19. It is recommended that the three functioning collegial bodies, archaeological and expert committees and scientific-methodological council in the structure of the authorized body, are combined into one body, its powers be specified and its composition and charter be approved by a government decision.
 20. Concerning the monument protection zones system and Historical-Cultural Justification Plans: firstly, the terms “protection (pahpanakan) zone” and “preservation (pahpanutyan) zone” must be clearly differentiated and used unequivocally, according to the Law, Article 16. Preserved zones are classified by the Land Code of the Republic of Armenia as categories of lands of special preserved territories in the class of land with historical and cultural functional meaning. Protection zones is an urban development planning document the drafting of which is realized together with the urban development planning (spatial planning) document drafting in all stages simultaneously. It is expedient to consider only the protection zones as the initial base for the drafting of urban planning documents.
 21. We recommend that it should be compulsory to hand over the plans for protection zones and Historical-Cultural Justification Plans to the monuments cadastre, At the same time, urban planning documents in which they constitute a part of, should be kept in the urban planning cadastre and registered in the integrated state cadastre of real estate.
 22. Based on the requirement of licensing of specialized construction and planning units as specified by the Law, we recommend that the field of planning should be viewed as self-regulating and leave its licensing should be left to the specialized community.