

Fourth Euro-Mediterranean Dialogue on Public Management

STRATEGIES FOR HERITAGE

Heritage as a public good between issues of profitability and protection

[Abstract]

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Thomas Mann wrote in the stories of Joseph: “[...] it sounds strange but property was still owned. As a matter of fact, the main feature of ownership and personal freedom is the right to sell and convey legacy and Joseph maintained in force this kind of right.

From then on, throughout Egypt each land belonged to the Pharaoh but at the same time it could be sold and transmitted in inheritance.

It's no accident we talked about a magical change of the idea of ownership just thanks to Joseph's work [...].¹”

Starting from this radical change of the idea of ownership, we can take in consideration each legal issue, just affecting today's historical artistic heritage of a nation and of the whole human mankind.

The special features of a public property can be easily explained, on the grounds that legal system has identified certain items able to meet particular public interests.

In this respect there are two separate problems, whose solutions seem in apparent contradiction.

On the one hand, the increasingly urgent question about profitability of properties belonging to the historical and artistic heritage, in order to enable their own enhancement, enjoyment and preservation.

But on the other, there is an equally urgent question about preservation and protection of property itself.

The key, allowing a right answer to the questions mentioned above, is perhaps a rethinking of the relationship between public and private sectors.

Generally, it can be assumed, that legal system suggested at first in some European countries was based on the assumption that, public administration had to deal with the performance of public offices and private sector with the completion of public offer by providing additional services, rewarding corporate endeavours and guaranting an income to public administration.

That system failed the correct starting point, that is to say, that public administration had to act in public offices over properties belonging to historical artistic heritage, very soon in fact we witnessed with increasing frequency, the outsourcing of such offices for private operators.

At this moment, when shortage of resources prevents the undertaking of significant actions for protection and enhancement of properties belonging to historical and artistic heritage, we wish a promotion of all initiatives that each territory, with the involvement of private profit and no profit operators, is able to deliver.

This paper means to uncover all cooperation relationships between public and private sectors, including cases study, in order to build right measures to protect and enhance the historical and artistic heritage, never forgetting that the nature of property is and will always remain public, that is to say saved from free availability.

The survey will be conducted on the basis of legal methodology which provides both the analytical framework of positive law as the analysis of judicial practice.

The rigorous reconstruction of the legal framework of countries in the euro compared to the Mediterranean following a detailed analysis of some significant cases that may suggest some ideas for the consolidation of a new model of protection and enhancement of historical artistic heritage.

¹ V. Thomas Mann, Giuseppe il nutritoire, Oscar Mondadori Scrittori del Novecento, 1990, p. 406.