

**INTERNATIONAL MEETING “CULTURAL LANDSCAPES IN NATURA 2000
SITES”**

**Participation in the round table discussion on “Cultural Landscapes in Natura
2000 sites – Challenges and opportunities”**

Constantinos Menoudakos

1. Introductory observations.

A basic question, or rather the key question that arises with regard to the theme of this Meeting, is whether the policies regarding protection and management of Natura 2000 sites are consistent with the management policies of the cultural heritage elements integrated in these sites. And, on a second level, whether management of these sites requires coverage of the cultural heritage elements of these sites, the cultural landscape.

Of course, this issue intertwines several scientific fields. I will make an effort to address some of the legal aspects of the issue. Mainly, to give a general idea of the actions legally required for Natura sites and of actions that are allowed, without being behooved.

I will commence with a trite assumption, which nevertheless sheds light on the existing legal regulations. The site is an element of the environment, as well as of culture. In some areas, the effect of human presence in shaping the site is intense. In such cases, the site acquires the characteristics of a cultural site and consequently requires special care to preserve and promote it, in the framework of the broader cultural heritage preservation, which in Greece constitutes a Constitutional obligation.

The above apply to a much greater extent to sites with particular ecological importance, such as those included in the Natura network.

2. Legal status of Natura 2000 sites.

I would like to clarify that protection of these sites as ecosystems is provided by a legal framework which is detailed enough to impose specific obligations and prohibitions, deriving from the EU, thus making it binding for EU member states. It

is the well-known EU Council Directive 92/43/EEC of 1992 regarding natural habitats, which has undergone some, but not significant, amendments. With regard to protection of the site, and in particular, the cultural site, there is no EU legislation. International agreements and Greek legislation contain relevant provisions, but they are of a broader and rather defensive nature. In other words, they entail prohibition of actions and deeds which violate the protected elements of the cultural environment, without imposing specific positive actions, the omission of which would result in sanctions.

The Natural Habitat Directive is of particular importance due to its content as well as to its extent of implementation. In Greece, for example, more than ¼ of the land has been included in the Natura network.

The criteria for a site's inclusion in the Natura 2000 network, established by means of the Directive, mainly regard its ecological significance. Sites which are of natural habitat value are included. The value of an area as a site of particular beauty or history, ie a cultural site, does not constitute a criterion for inclusion in the network.

The areas included in the network must implement a management plan which incorporates necessary measures for preserving and restoring the natural habitat or the wild flora and fauna, the importance of which was the criterion for inclusion in the Directive. However, many Natura sites, I would say most, also have a cultural value, in its broader sense; in other words, not only because of the existence of monuments and sites of natural beauty but also because of the contribution of factors which form the culture of a people or a region.

The question is if that the management plans should include measures for protecting the region's cultural plans.

In accordance with the Directive, the management plans' objective and aim is to cover the ecological requirements, which means the preservation or even restoration of natural habitats and of the species of wild flora and fauna .

In order to ensure the sustainability of the habitat, the Directive requires positive actions as well as imposing restrictions. The execution of projects deemed necessary for their ecological management is permitted and even imposed in Natura sites. Other projects are also permitted but only if it is certain that they do not adversely impact upon site integrity. Thus, in order for such projects to be executed, an environmental assessment is a prerequisite, as is for any other project or activity with an environmental impact – in accordance with another Directive. The difference is that in projects in non-Natura 2000 sites, this environmental assessment only requires likelihood of impact and measures to prevent or limit it within the environmentally-acceptable limits of adverse effects. In Natura 2000

sites, in order for a project that is not necessary for the site's management and does not exclusively aim to preserve and enhance its ecosystem to receive approval, the environmental assessment must conclude with certainty that the project or activity will not affect the habitat's integrity. If there are doubts as to the absence of adverse effects for the site's integrity, intervention in the protected area is not allowed; in other words, in such cases the precautionary principle is applied - the prevention principle does not cover the need for protection of these sites.

The Directive also has exceptions. It stipulates that despite the negative conclusions of the environmental assessment as to the certainty of adverse effects and in the absence of alternative solutions, it is possible to execute a project for imperative reasons of overriding public interest. In such cases, compensatory measures are necessary to ensure that the overall coherence of Natura 2000 is protected. I believe that the need for protecting a particularly important element of cultural heritage constitutes an imperative reason of overriding public interest, but the preservation of the broader cultural significance of a site does not.

In any case, this possibility does not exist for "priority" habitats, i.e. those whose habitats are in danger of disappearing.

In very broad terms, this is the protection system for Natura sites, as required by EU legislation, and consequently does not depend on the political will or the legislative initiative of each country. In the case of Greece, the Directive has been incorporated into the national legislation.

I should add that the Court of Justice of the European Union (CJEU) strictly implements the rules of the Directive regarding conservation of natural habitats.

3. Legal protection of cultural heritage

There is no EU legislation specifically concerning cultural heritage.

There are international conventions for protection of elements of cultural heritage, of which the key are: the 1972 World Heritage Convention in Paris concerning world cultural and natural heritage; two Council of Europe conventions; the 1985 Convention for the Protection of the Architectural Heritage of Europe in Granada; and the 2000 European Landscape Convention in Florence.

All these conventions have been confirmed by law and are applicable in Greece. However, they are part of the so-called soft laws as they impose a general guiding framework, without specific bans or sanctions. This guiding framework could constitute a basis for the development of actions that promote cultural sites in general and the Natura cultural sites in particular.

Since early 2000, Greece has passed legislation which provides sufficient protection of cultural heritage; according to this legislation, cultural heritage includes antiquities, modern monuments, areas of natural beauty, historical sites. All these regulations have been incorporated into Law no 3028/2002, which also includes protection of cultural sites. This Law does not only cover mobile and immobile monuments but also intangible cultural heritage and sites. The Law includes protection of historical sites, which encompasses cultural sites. According to the Law, historical sites are defined as areas on land, at sea or in lakes and rivers which constituted or there was indication that they constituted areas of exceptional historical or mythical events or areas which contain or there is indication that they contain monuments or complex works of man and nature which constitute distinctive and homogeneous areas, whose protection is mandatory due to their folkloric, ethnographic, social, technical, architectural, industrial significance or their broader historical, artistic or scientific significance.

4. Concluding thoughts

The Directive concerning habitats does set limits to activities and projects whose exclusive objective is not biodiversity, yet it does not exclude parallel development of activities for other purposes. On the contrary, according to the spirit of the Directive, economic, social and cultural elements must be taken into account in the management of Natura sites. In this framework, it is legally permitted, or at any case, desired to undertake activities aimed at sustainable management of these areas as cultural sites.

I believe that in the framework of the management of the cultural landscape, it is possible to incorporate this into the ecosystem's management plan. In this case, the regulations regarding management of the cultural landscape must be in accordance with and integrated into the ecosystem's management plan, as approved by Directive 92/43/EEC.

In conclusion, a parameter that must be taken into account in designing the activities whose objective is protecting the cultural landscape is spatial planning. In simple terms, it could be claimed that any cultural landscape management plan must be included, or at least not impinge on any existing spatial plans on any level. It is possible that a plan is permitted in accordance with the Management Regulation of the ecosystem, but it impinges on the spatial layout – regionally or specifically. In other cases, however, implementation of spatial planning might require activities and projects that protect and promote the cultural landscape. I should note that in Greece it is not an easy task to find and apply the relevant spatial regulations. From a state of complete lack of spatial planning, we have reached a state of escalated spatial planning, with successive and overlapping regulations which at times are conflicting, included in various levels and categories of spatial planning or under

different names. Nevertheless, the ambiguities and perplexities of spatial planning disarray do not seem to be causing particular problems for the Natura sites, whose land-use regimes are defined, to a significant degree, by the Directive's provisions on habitats; in Greece, this Directive has been incorporated into the national legislation, with the inclusion of additional national provisions.