

ARMENIA CULTURAL HERITAGE IDF

Legal Assessment

Thomas J. Samuelian, Ph.D., J.D.

November 29, 2001

Final Report

TABLE OF CONTENTS

Part I - Analysis of Law and Policy	1
1. Scope of Study	1
1.1 Summary and Next Steps	
1.2 Methodology, Legislative and Administrative Guidelines, Models, Performance and Quality Control Criteria	3
1.3 E-Governance	6
2. Definition of Cultural Heritage	6
2.1 Immovable	7
2.2 Movable	8
2.3 Intangible/Living Culture	9
3. General Policy Objectives	10
3.1 Protection and Preservation, Inventory and Classification	10
3.2 National Identity	10
3.3 Cultural Tourism	11
3.4 Issues of Special Concern for Armenia	11
3.4.1 Small Scale	11
3.4.2 Diaspora	11
3.4.3 Extraterritoriality	12
3.4.4 Home and Cross Roads of Ancient and Modern Civilizations	12
3.4.5 Lack of Financial Resources	13
3.4.6 Transition from Soviet State	13
3.4.7 Church-State	13
4. Summary of Recommendations	14
4.1 Risk Assessment	14
4.2 Inventory and Classification	15
4.3 Harmonization and Integration with the CoE & International Norms	15
4.4 Efficiency and Productivity, Effective Resource Allocation	16
4.5 Fundable Institutions – Public-Private Partnership, Tax Policy	17
4.6 Clarify Ownership – Especially Church-State	17
4.7 E-Governance	18
4.8 Integrated Conservation of Man-Made and Natural Environment, City Planning and Preservation, Immovable, Movable and Intangible Culture	

Policies	19
4.9 Integration of Culture and Education Policies	19
4.10 Performance Test Legal and Institutional Framework	20
4.11 Cultural Property Abroad	20
5. Analysis and Recommendations on Armenian Polices, Laws, Institutions and Practice in the Context of International Norms	21
5.1 Treaties	21
5.1.1 UN International Covenant on Economic, Social And Cultural Rights	21
5.1.2 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954)	23
5.1.3 European Cultural Convention (1954)	23
5.1.4 Paris Convention on Means of Prohibiting and Preventing The Illicit Import, Export and Transfer of Ownership of Cultural Property (November 14, 1970)	24
5.1.5 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects	27
5.1.6 UNESCO Convention on The Protection of World Cultural and Natural Heritage (November 16, 1972)	28
5.1.7 International Union for Conservation of Nature and Natural Resources (IUCN)	29
5.1.8 International Center for the Study of the Preservation and Restoration of Cultural Property (ICCROM, Rome Centre)	30
5.1.9 World Monuments Fund	30
5.1.10 Granada Convention and Malta Convention	32
5.2 CoE Recommendation	34
5.2.1 R (95) 3	34
5.2.2 R (98) 4	34
5.2.3 R (86) 11	35
5.2.4 R (86) 15	35
5.2.5 R (89) 5	36
5.2.6 R (89) 6	36
5.2.7 R (88) 5	37
5.2.8 R (93) 9	37
5.2.9 R (95) 9	37
5.2.10 R (97) 2	38

5.2.11 R (96) 6	38
5.2.12 R (98) 5	39
5.3 RA Law	39
5.3.1 RA Constitution, adopted July 5, 1995 by referendum	40
5.3.2 RA Criminal Code	40
5.3.3 RA Civil Code, entry into force March 1, 2000	41
5.3.4 Law on Civil Construction	43
5.3.5 Land Code	43
5.3.6 Monuments Law	43
5.3.7 Import –Export Law	45
5.3.8 Archive Law	47
5.3.9 Copyright Law	48
5.3.10 Tax Law	51
5.3.11 Other Laws	53
6. Institutions and Other Spheres of Culture	53
6.1 Museums	53
6.2 Libraries	55
6.3 Archives	57
6.4 Church State	58
6.5 Cultural Tourism - Cultural Routes	62
6.6 Other Cultural Spheres	63
6.6.1 Folklore	63
6.6.2 Language	63
6.6.3 Arts and Crafts	63
6.6.4 Cinematography	64
Part II - Legislative/Policy Checklist	66
1. Checklist of Issues and Criteria for Legislative Reform	67
2. Cultural Property Performance Criteria Checklist	72
3. Technical Assistance	79
4. List of Interviews	80
5. List of Governmental and Cultural Institutions	81
6. RA Laws and Agreements Reviewed	85
7. Bibliography	88

8. List of Acronyms	90
9. Appendix List	91

Part I - Analysis of Law and Policy

1. Scope of Study

1.1. Summary and Next Steps

This study has been prepared as a resource for the Republic of Armenia (“RA”) Government and the RA Ministry of Culture, Youth Affairs and Sports, under a contract with the Hayastan All-Armenian Fund as part of a World Bank Study of Cultural Heritage Protection in Armenia. The key issues addressed in this study are the legal, policy and administrative framework for cultural heritage protection in Armenia in light of international practices. The study surveys the current laws and institutions, international standards, and national practices of comparable countries, with a view to making recommendations on ways to harmonize Armenia’s framework with the best international practices, in particular the Council of Europe (“CoE”) framework to which Armenia acceded in 2001. Armenia has also acceded to several international treaties in this field (see Appendix). Several of these, in particular the CoE Convention for the Protection of the Architectural Heritage of Europe (October 3, 1985, “Granada Convention”) and CoE Convention on the Protection of the Archeological Heritage (revised January 16, 1992, “Malta Convention”) place an affirmative duty on member states to bring their laws into conformity with the standards set forth in those treaties.

Cultural heritage policy plays an important role in economic development, cultural tourism, urban redevelopment, and cultural and national identity. As Armenia enters the second decade of its transition to independence and integration into the global economy and community, particularly in light of the scarcity of resources for maintenance and development, cultural heritage protection demands urgent attention lest this hiatus permanently affect the long-term viability and vitality of Armenian culture. Limited resources call for prioritization to prevent deterioration and destruction of cultural heritage and to assure continuity of institutions, collections, folk traditions and professional schools, which, once disrupted, will be difficult or impossible to restore.

In general, Armenia, because of dedicated and well-trained specialists, has managed in practice to protect its cultural heritage despite lack of resources. It has also adopted a number of laws, regulations, and other legal protections supporting cultural heritage protection that either meet or approximate international norms. The main issues based on our interview and analysis of the administrative and legal practices are

- lack of resources that threaten the physical preservation of cultural property and undermine the continuity of training and preparation of cultural specialists,
- inefficiencies and redtape,
- lack of clear policies tailored to Armenia’s needs,
- prioritization,

which in turn are in part attributable to

- (1) gaps, conflict and ambiguities in the laws,
- (2) lack of transparency, accountability and due process sufficient to convey the impression that the system works and is fundable,
- (3) misfit between the laws and local institutions, conditions, and legal culture,
- (4) various transitional phenomenon, including (a) governmental downsizing, (b) unemployment, (c) privatization-related uncertainties, (d) unclear church-state relations, (e) over-regulation and over-inclusive prohibitions that unnecessarily burden users, creators and preservers of cultural heritage, (f) lack of resources, salaries, career paths for cultural preservation specialists
- (5) various structural issues:
 - insufficient separation of
 - policy-making function
 - legislative function
 - oversight/enforcement function, and
 - implementation function leading to
 - over-involvement of government or government affiliates in implementation and provision of non-regulatory services.

Because this report and its methodology are based on the premise that laws need to be developed based on clarification of policy, this report does not attempt to provide specific legislative proposals. This report aims to provide the framework for discussions and decision-making regarding cultural heritage policy that will lead to improved laws and regulations. It is expected that this framework will be used by policy-makers, administrators, legislators, specialists, donors, and other stakeholders to engage in an evaluation of the current situation and build a consensus around solutions and laws that are designed for Armenia's specific needs at this time and its development in the short- and longer-term in the field of cultural heritage protection.

Next Steps:

This report can be used to assist in cultural policy clarification, legal-administrative reform and adoption of new laws that are specifically tailored to Armenia's needs. The Recommendations throughout the report, and the Checklists in Part II can serve as an agenda for a public debate on cultural heritage policy in which all of the stakeholders can take part, bringing their perspectives to the discussion. One approach is to take the specific situations (performance criteria) and use those as a starting point for discussion of how the current system works, what its goals are, and how it might be improved, using as a guiding principle the international standard included in the RA Constitution, Art. 44, that laws should be no more restrictive than necessary to achieve a legitimate state purpose or societal interest. The highest priority should be to identify and assure the protection of "at risk" cultural heritage. Other issues should include: (1) how to create

fundable institutions – what are the needs of the market and the donors, in particular international organizations and diasporan donors, (2) how to create the confidence in the institutions, legal and administrative system to facilitate the promotion and protection of Armenia’s cultural heritage. This discussion could take place at meetings, in the press, and on-line, through e-governance, or internet bulletin boards. The on-line option is particularly useful for creating a public record and facilitating broader participation than is possible at meetings or in the media. Thus, a first step may be to create an on-line bulletin board for public discussion of cultural heritage policy and legal reform.

1.2. Methodology: Legislative and Administrative Guidelines, Models, Performance and Quality Control Criteria

The CoE has produced legislative guidelines for cultural heritage laws that summarize the key issues and experience of European countries. The CoE also has a legislative support unit for harmonization of national laws with CoE standards. As the most developed and most relevant set of international standards for Armenia currently, these guidelines are recommended as a starting point for policy, administrative, and legal reform.

Like software code, laws are designed to work on a certain system and to produce certain results. It is not possible to patch together software code designed for different systems or for different functions without causing significant incompatibilities and unexpected results. For this reason, Armenian laws need to be designed for Armenia taking the following into account at a minimum:

- (1) Armenia’s policy goals and the state of Armenian cultural heritage
- (2) International performance standards
- (3) Armenia’s current administrative and legal system generally that provides the context within which the cultural heritage laws must operate
- (4) localized performance standards
- (5) quality control to assure that laws, regulations and administrative structures produce results consistence with (1) and (2) given (3) and (4).
- (6) debugging of the laws before adoption to eliminate, to the extent possible, unexpected or undesirable results, opportunities for misapplication or corruption of the law.

We have reviewed a number of foreign laws, models, and reports and assessments of legal and administrative frameworks, copies of which are attached as reference material in the appendix. These include surveys by the CoE of European laws and practices and materials from the Commonwealth of Independent States (“CIS”) and former soviet and East European countries.

Since soviet times, Armenian laws have tended to be based on soviet and Russian models. This trend continues with the draft Fundamentals on Culture, circulating during the summer and fall of 2001. This approach has pros and cons. The main advantages are (1) common provenance, making compatibility with the Armenian legal and administrative system and legal culture and practices more likely than laws from other sources, (2) quality control, since these Russian models have been developed for a larger country with more resources for law development. The main disadvantages are that these laws are (1) designed for a multiethnic federation with more resources and many problems and policy objectives that may not be appropriate for Armenia, (2) the Armenian legal and administrative system and policies are now sufficiently different from the Russian system that compatibility is now a problem, especially since other laws have been adapted in such a way through editing and revision that compatibility is not possible, (3) Russia like Armenia is going through a transition and the laws are a reflection of Russia's transitional needs and compromises which may not coincide with Armenia's needs.

Other Foreign Models. Various foreign models, especially European and Baltic models have been reviewed. No set of foreign laws is directly applicable to Armenia, because the local conditions, institutions, and policy goals are different. They may be used as a reference point, but not more. They are not ready-made "software modules" that can be plugged in as patches or slightly modified and expected to run in the Armenian context. While such measures may be justified in the short-term because of the urgent need for regulation or lack of resources, in the longer-term Armenian cultural heritage laws need to be thought through and produced with the performance criteria and policy clarification set forth above.

Of the models reviewed, Cyprus and the Baltics appear to be the most directly applicable. They are relatively modern laws for countries similar in size, recent history of independence, and ethnic/national composing within CoE framework of standards. The laws of European countries with larger, more diverse populations, federative systems, and longer histories of independent legislative development tend to have unique approaches that are the result of historic compromises that are not applicable to the Armenian context and therefore cannot be directly transposed or would need serious adaptation for the Armenian context.

The Cyprus and Baltic models, however, do not provide much guidance for the unique role of the national church and its large share in cultural heritage. Nor do the laws of Roman Catholic countries where, for the most part, church-state relations were handled differently, nor those of most soviet countries, including Russia, where because of differences in scale and resources and less diffuse diaspora, the Russian Church is in a different situation from the Armenian Church. The countries with national churches, such as England, Denmark, Sweden, Finland, and Greece, provide closer analogies; however, in each case unique historic-cultural factors (e.g., special antiquities laws in Greece, national trust in England), national wealth and

size, and the unique course of the development of their legal systems precludes direct application of their policy solutions to the Armenian context.

Performance Criteria, Quality Control, Abuse-Proofing

To help assist in the policy clarification, development of performance and quality control criteria for Armenia's cultural heritage laws, as well as the debugging and performance testing of those laws, a set of checklists and criteria, set forth in Part II hereof, have been prepared based on interviews and analysis of the legal and administrative framework in light of international standards and unique local needs and situations.

These checklists and criteria can help guide policy makers and legislative drafters, including consultants, in their development of a new generation of cultural heritage laws for Armenia. Serious consideration should be given to including these criteria in terms of references for future law development and consulting projects and for internal use by the relevant legislative or government oversight for law development in this field.

Any new law should facilitate the design and execution of certain basic transactions essential in Armenia in an internationally accepted manner:

- **Quality Assurance - Assure that all common and essential transactions are easily performed.** All essential transactions should be at least as easy and enforceable under the Armenian Law as under the best international practice.
- **Test Performance in Context.** To ensure this, the draft law should be tested against certain performance criteria taking into account the actual legal framework, institutions and practices in Armenia
- **Abuse Proof.** "Abuse proof" the law, that is, for the most typical transactions the provisions of the law must be examined from the point of view of how a less than honest and diligent individual might misuse the law to extract bribes, cause delay or undermine fair and predictable outcome.

Any recommended new law should be accompanied by "**proof**" or "**a written demonstration**" that it meets these three criteria.

1.3. E-Governance

The essence of the rule of law is due process and equal protection. Due process requires (1) notice, (2) an opportunity to be heard, (3) rational/reasoned decision making, (4) meaningful appeal. Equal protection requires consistent application of rules and equal access, both of which are grounded in access to information. The legal and administrative framework has proved to be one of the most intractable impediments to economic development and effective cultural heritage management in many emerging economies, including post-soviet countries like Armenia. E-governance aims to empower individuals, attorneys, and public interest groups by promoting transparency, equal access to information, and meaningful

opportunities to engage the legal and administrative system in a system-changing way. It is a non-controversial, non-intrusive measure that public and private sectors can work to develop together, fostering confidence while making a concrete contribution to developing the tools and processes required for a sustainable business climate and good governance.

It is the easiest and cheapest way to get information out to the public, in particular that segment of the public that is in a position to engage the system and engage in systemic reform. It is easy to up-date. It is easier to search. Information can be accessed everywhere, whereas printed material is costly to prepare and disseminate, becomes out of date quickly, is difficult and costly to index, and quickly disappears from public circulation. E-governance measures include on-line inventories of cultural property, e-museums and libraries, e-applications for permits, on-line notice and comment mechanisms for new laws and regulations.

2. Definition of Cultural Heritage

One of the first issues faced by any legal, policy and administrative framework in this field is the evolving terminology and changing scope of cultural heritage. As part of the harmonization process, many countries, particularly those of Europe, are adopting the CoE terminology. While intangible cultural heritage is no less important or endangered, this study will focus on tangible property, both immovable and movable, since at the time of this assessment of Armenia's Cultural Heritage Laws, tangible property is the primary sphere covered by regulation.

The new Draft Fundamentals for the Law of Culture (no date - in circulation July 2001) give a broad and comprehensive definition of "cultural values" that includes "works of cultural and art, creations of fine and folk art and crafts, folklore, moral and aesthetic concepts, ways of life, languages, dialects and sayings, national customs and traditions, historical place names, research on cultural activities and methodology, cultural heritage." It also gives a definition of cultural heritage as "the totality of the cultural property and values created in the past which for the preservation and development of the RA and the Armenian people as a contribution to world culture have archeological, historical, artistic, or socio-cultural significance." Neither of these definitions corresponds exactly to the definitions in CoE or international instruments.

Since the CoE incorporates international standards and is more frequently and actively up-dated with interpretation and recommendations, and more directly and immediately applicable to Armenia's legislative development, the CoE approach is more relevant and will be followed in this report.

2.1. Immovable

There are several internationally accepted standards for definitions of immovable property. The two main sources of international standards directly applicable to RA law are the United Nations Educational, Scientific and Cultural Organization ("UNESCO") Convention Concerning the Protection of the World Cultural and Natural Heritage (UNESCO Convention of 1972), which created the World Heritage List and related

programs, and the CoE Conventions of 1985 (Granada) and 1992 (Malta), on architectural and archeological monuments respectively. The trend is toward integration of man-made and natural sites and toward integration of preservation with general town and country planning (zoning). Such organizations as International Council of Monuments and Sites (“ICOMOS”) and International Union for Conservation of Nature and Natural Resources (“IUCN”) have additional guidance on both terminology and integrated approaches to the legal framework. CoE also stresses an integrated approach in its guidance on legislation in the field of culture, see e.g., Recommendation No. R (95) 9 of the Committee of Ministers to member States on the integrated conservation of cultural landscape areas as part of landscape policies (adopted by the Committee on 11 September 1995 at the 543rd meeting of the Ministers' Deputies).

After intervention to prevent destruction and deterioration, the first priority identified by these international instruments is creating and maintaining an inventory of immovable cultural property. This requires an internationally accepted definition of the property to be inventoried. The definition in the RA Law No. 261, “On the Protection and Use of Immovable Historical and Cultural Monuments and Sites” is similar but not identical to the international standard.

Definitions from the UNESCO Convention of 1972

1. *monuments*: architectural works, works of monumental sculpture and painting, elements or structures of an archeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;
2. *groups of buildings*: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;
3. *sites*: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

Definitions from the CoE Granada Convention for the Protection of the Architectural Heritage of Europe (1985)

1. *monuments*: all buildings and structures of conspicuous historical, archaeological, artistic, scientific, social or technical interest, including their fixtures and fittings;
2. *groups of buildings*: homogeneous groups of urban or rural buildings conspicuous for their historical, archaeological, artistic, scientific, social or technical interest which are sufficiently coherent to form topographically definable units;
3. *sites*: the combined works of man and nature, being areas which are partially built upon and sufficiently distinctive and homogeneous to be

topographically definable and are of conspicuous historical, archaeological, artistic, scientific, social

2.2. Movable Cultural Property

Movable cultural property is defined most fully in the Paris Convention of 1970, which has been followed in the RA Law on Import and Export of Cultural Property.

- a. Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;
- b. property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;
- c. products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;
- d. elements of artistic or historical monuments or archaeological sites which have been dismembered;
- e. antiquities more than one hundred years old, such as inscriptions, coins and engraved seals;
- f. objects of ethnological interest;
- g. property of artistic interest, such as:
 - i. pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);
 - ii. original works of statuary art and sculpture in any material;
 - iii. original engravings, prints and lithographs;
 - iv. original artistic assemblages and montages in any material;
- h. rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections
- i. postage, revenue and similar stamps, singly or in collections;
- j. archives, including sound, photographic and cinematographic archives;
- k. articles of furniture more than one hundred years old and old musical instruments.

Movable cultural property is also covered in the most recent CoE guidelines as one of the two major categories of cultural heritage. Movable cultural property-related issues fall into five primary issues: (1) types, (2) institutions and policies for preservation, (3) circulation, including import and export, (4) recovery by rightful owners, (5) protection of the intellectual property contained in the movable property. An additional trend has been the integration of movable and immovable property preservation and presentation, particularly at archeological sites and in architectural settings where fixtures and other objects associated with a building are considered an integral part of the historical or cultural significance of the building or site.

(1) The types of movable property include books, manuscripts, works of art, fine and applied, handicrafts, textiles, and artifacts, recordings, film, as well as the property associated with living arts, such as musical instruments, costumes, theater props, film, ethnographic notes, and other media.

(2) Institutions include libraries, archives, museums, research institutes, educational institutions, churches, and other public and private collections, publishing houses, internet sites – virtual libraries and museums.

(3) circulation, including import and export, is a key component of movable property policy and regulation, including inventory, maintaining the cultural heritage stock of the country, which is particularly vulnerable in times of economic hardship and great disparities in wealth and underfinancing of institutions, regulation of commercial dealers, transborder transfers, permanent or temporary import and export,

(4) recovery of property by rightful owners, which is a norm of international law and CoE conventions and treaties.

(5) protection of the intellectual property contained in the movable property – e.g., copyright, protection against illicit reproduction, assuring fair compensation to owners/authors to encourage continued creation of cultural property, turnover royalties for re-sales.

2.3. Intangible/living culture, which has been defined in a number of ways to include all performing arts, such as theatre, music, dance, and cinema as well as folk art and folk ways, crafts, and traditional life and customs.

UNESCO defines it as follows: “The intangible heritage might be defined as embracing all forms of traditional and popular or folk culture, i.e. collective works originating in a given community and based on tradition. These creations are transmitted orally or by gesture, and are modified over a period of time through process of collective recreation. They include oral traditions, customs, languages, music, dance, rituals, festivities, traditional medicine and pharmacopoeia, the culinary arts and all kinds of special skills connected with the material aspects of culture, such as tools and the habitat.”

Institutions involved in intangible culture preservation include museums, libraries, research institutions, educational institutions, churches, theatres, orchestras, choirs, dance groups, crafts guilds and workshops, ateliers, conservatories, film studios, recording studios, mass media organizations and outlets, internet, and other formal and informal institutions where such culture is created, transmitted (taught) or presented (displayed).

3. General Policy Objectives

3.1. Protection and Preservation, Inventory and Classification

Protection and preservation of cultural heritage is an end itself as well as a means to a number of important societal goals. Cultural heritage is an inheritance that each generation holds as a trustee for the next generation, preserving, protecting and adding to it. The reasons for preservation and protection of cultural heritage are wide ranging as are the philosophies for

preservation, conservation, adaptation, and protection – sometimes preserving unique things of intrinsic beauty and worth, sometimes common but characteristic, but now rare, sometimes historically significant, sometimes for economic or tourist reasons. At some level, cultural heritage is tied to national identity. The philosophy of cultural heritage preservation also includes different approaches from conservation “as is,” to prevention of deterioration, to restoration, to reuse and renovation for new purposes.

The first priority after prevention of destruction or deterioration is inventory and classification of cultural property in a publicly accessible manner in accordance with objective criteria.

3.2. National Identity

National identity is an important motivation for cultural preservation, both for the nation itself and for other nations and cultures. Culture provides common ground for mutual appreciation and understanding. Contemporary respect for other cultures can serve as a salve for past historical wounds. In the absence of tangible objects, culture becomes an abstraction that is difficult to experience, and when the transmission and reproduction of intangible culture is cut off, the culture becomes lifeless and is on its way to extinction. No less than natural diversity, cultural diversity is part of humanity’s wealth and each loss diminishes our humanity and the world’s cultural heritage.

3.3. Cultural Tourism

Tourism is a form of cultural exchange and international contact that promotes understanding and appreciation of cultural diversity. As a special form of tourism based on man-made artifacts and activities, it adds an economic component and incentive to protection of cultural heritage and its proper presentation, while also posing a threat to that heritage through commercialization, especially when the lowest common denominator of touristic demands and tastes is permitted to intrude upon or change the character of the site, turning the serene and sacred atmosphere of church into the irreverent din of crowds of chattering tourists. For a country like Armenia that needs to find a differentiated form of cultural tourism, special care must be taken to assure that in an effort to increase quantity, it does not undermine its quality and special niche as a land of serene, pristine and mystical Eastern Christianity in the mountains.

Cultural route tourism is particularly well suited to Armenia and Armenian culture, since so much of Armenia’s historic lands lies outside the current state borders and so much of Armenian history is tied to larger historical events and currents outside of Armenia. The Christian/religious theme ties it to the Holy Land and many of the early Christian holy sites and apostolic pilgrimage routes, which were further developed by Crusader ties through Cilicia and the Armenian Quarter in Jerusalem. Other cultural routes lead from Europe through to the Far East, such as Marco Polo and the silk routes, there are north-south routes from Russia through Iran into the Middle East

and the Holy Land. Indo-European homeland themes and archeological site tie it to both East and West, as well as to the Caucasus and Middle East.

3.4. Issues of Special Concern for Armenia

3.4.1. Small Scale and Sustainability. Armenia faces a number of unique issues in the field of cultural heritage protection. Although an ancient nation with a large cultural heritage, its small size and population makes Armenian culture vulnerable in global competition with larger cultures that have larger markets to support them. As in other aspects of its economy and state, small scale results in fewer resources which in turn impacts revenues, marketing, overhead and management in the field of cultural heritage protection. Armenia has a large cultural heritage in terms of depth and breadth of fields of excellence. The high value that the population places on culture makes demands, particularly financial demands, that are considerably greater than other countries of its size or GDP per capita.

3.4.2. Diaspora. Another salient aspect of Armenian cultural heritage is its centuries' old diaspora, which has fostered Armenian cultural diffusion globally, creating important centers of cultural life outside of the homeland. This centrifugal phenomenon adds to the difficulty of inventorying and tracking Armenian cultural heritage, particularly moveable heritage, such as artwork and archives, as well as intangible heritage, such as folkways, dance, oral literature, etc. If institutions, laws and policies are properly designed, the diaspora, because of its relative wealth, can be a source of support for Armenian cultural heritage and promotion of Armenian culture globally, as well as early movers and market leaders for Armenian cultural tourism and cultural routes.

3.4.3. Extraterritoriality. Armenia has significant immovable cultural property in Turkey, Georgia, Azerbaijan and Iran. Because so much of Armenia's cultural heritage, like its population, is outside of the current state boundaries, extraterritoriality is a major issue for Armenian culture, in particular, immovable culture. The major part of Armenia's historical homeland, the Armenian highlands around Mount Ararat, is now outside its borders, in Eastern Turkey, from which Armenians were ethnically cleansed during the Armenian Genocide beginning in 1915. A significant part of Armenian medieval civilization in Cilicia, which intersects with the European crusader culture, is now in Turkey, the Mediterranean islands, and the Middle East as well. *Cross-border cooperation for the protection of Armenia's cultural heritage is essential.* Protection of cultural properties through international treaties and programs is urgent, particularly in Turkey, Georgia and Azerbaijan, where Armenian monuments are being intentionally disfigured and destroyed.

At a recent session, the CoE Culture, Science and Education Commission expressed its concern about the condition of Armenian cultural heritage

outside of the RA. In particular it stressed that in 1912 there were in Western Armenia (in the territory of current-day Turkey) there were 2,260 churches and monasteries, of which 2,150 were destroyed in 1915 during the Armenian Genocide. According to the 1974 UNESCO report, after the Armenian Genocide, of the 913 remaining Armenian monuments, 464 were completely destroyed, 254 were leveled to the ground, and 197 urgently require rehabilitation. Armenian monuments in Azerbaijan are in the same condition. This data further emphasizes the need to take urgent measures within the CoE framework to protect Armenian cultural heritage outside the borders of the RA. Moreover, because of the centuries of dispersion, Armenian immovable culture is found throughout Western Europe, Russia, India, Egypt, the Holy Land, the Middle and Far East, which places a yet larger burden on the cultural heritage administration of a small state like Armenia.

3.4.4. Home and Cross Roads of Ancient and Modern Civilizations.

The Armenian Highlands are one of the earliest sites of human civilization, where the Indo-European languages had their roots, in close proximity to ancient Semitic and Caucasian cultures. Some of the earliest archeological traces of human life have been found in and around the Armenian Highlands. The Hittites, Urartians, Hurrians, Assyrians, Medes, Persians, Macedonian Greeks, Romans, Byzantines, Parthians, Arabs, Georgians, Caucasian Albanians, European Crusaders, and later Turks, Mongols and Russians have at various times been in contact with Armenian Culture and Armenian territory. Thus, Armenia is an important piece in the puzzle of world-culture, but once again, because of its small size this burden is quite great.

3.4.5. Lack of Financial Resources. As noted above, Armenia has a large and varied culture for its relatively small country and population of today. In addition, the transition from a soviet economy and integration into the global economy has left it strapped for resources. Cultural heritage while high on the scale of Armenian values has not been able to secure adequate financing, by any standards, which adds to the sense of frustration with the transition for both the local population and Armenians world-wide. To date, institutions, such as cultural funds, or heritage trusts, have not been created or achieved the level of support necessary to address the needs of Armenian cultural heritage promotion and protection.

3.4.6. Transition From Soviet State. Transition from the soviet state has left much of Armenia's cultural heritage, like its soviet economic legacy, stranded. This is particularly true of the specialists in cultural studies and applied arts who are still struggling to find their place in the market economy and whose career paths have virtually disappeared, affecting not only this generation, but also future generations who are deterred from pursuing these careers, thus attenuating the transmission of important expertise and skills. At the same time, independence has

breathed new life into Armenian national culture, which is gradually shedding soviet and Russian overlays and regaining its own identity. In the process, it faces heavy competition with better financed, more widely available, and cheaper/subsidized global cultures. Moreover, certain aspects of Armenian culture and history, particularly church and religious culture, which was suppressed or subverted, have been cast into the fray without resources to heal their wounds from the soviet era and with inadequate resources to meet the pressures of modernization, the free market, and better financed global cultures. The newer media and popular culture, such as cinema, music and dance, are especially vulnerable, as are language and literature.

3.4.7. Church-State. As demonstrated and underscored by the 1700th Anniversary Celebration of Christianity as Armenia's state religion, the Church has played a central role in Armenian culture. It is a key institution in the creation, management and preservation of Armenia's cultural heritage. It is hard to overestimate the role that this institution, as the overarching Armenian institution has played and continues to play, both in Armenia and especially in the diaspora. At the same time, the church is just beginning to recover from the losses of the Genocide and soviet repression. Despite its great contribution to Armenian culture and the large amount of Armenian cultural property, tangible and intangible, that it has heroically protected and preserved, only a decade into its recovery from the soviet era, the Church has not yet built up the human and financial resources or administrative structures to reclaim and manage all of its legacy world-wide. Nevertheless, to avoid friction between church and state and to honor the constitutional and international legal norms calling for separation of church and state, resolution of church property claims has become more urgent. The reawakening of the church in Armenia after soviet repression has created a demand to put more of Armenia's ancient houses of worship, churches and monasteries, into active use as parish churches, seminaries, pilgrimage and religious education centers. A perennial attraction for tourists, balance needs to be sought among a number of factors, including functionality, historical conservancy, and maintaining the sacred atmosphere that makes these attractive sites. For at-risk cultural properties outside of Armenia, one urgent method of intervention would be restoration to church ownership and control, since in most jurisdictions church properties enjoy greater protections than secular properties. For cultural properties inside Armenia ownership and use must be clarified in such a way that friction between church and state is kept to a minimum, while assuring that the state and public at large have access and that the state has the ability to intervene to protect cultural properties in emergencies.

4. Summary of Recommendations

4.1. Risk Assessment

After ten years of economic transition with the attending scarcity of resources, the prior decades of Soviet, pro-Russian policies, the generation change taking place in much of the diaspora, much of Armenia's cultural heritage, movable, immovable, and intangible is at risk. The most urgent needs are a coherent preservation and maintenance program

- to address deferred maintenance,
- to prioritize endangered heritage both from the point of view of (1) cultural significance (2) imminence of loss or damage,
- to rationally allocate resources to prevent unnecessary, irremediable losses of property and trained personnel
- to assure that there is the capacity and expertise to handle cross-border matters, given that much of Armenian cultural heritage is outside the boundaries of the current state and, while some instances it may be well-maintained, in general, there is a serious risk of hostile or unfavorable treatment abroad.
- to be aware of the danger of depredation of archeological sites or museum collections in light of the lack of resources in Armenia for their proper study and protection and take measures to prevent irremediable losses.

4.2. Inventory and Classification

The basis for any cultural heritage management, preservation and maintenance system is a centralized database of essential information about each item of cultural heritage, classified on an objective criteria, with clear legal rights and obligations for each category, widely accessible to all regulators (e.g., town planning, preservation and expert boards, customs, law enforcement, academic and research institutions, private foundations). An integrated inventory for natural, immovable, movable and intangible cultural heritage has many advantages from the point of view of efficiency, consistency, predictability, coordinated policies across inter-related areas of cultural heritage and international information exchanges.

Norms and systems for inventories have been developed by CoE, International Council of Museums ("ICOM"), International Council on Archives ("ICA"), Museum Documentation Association ("MDA") and others. Efforts should be made to bring Armenia's inventory and classification systems into line with internationally established systems to facilitate information exchanges, as required by the Granada Convention, Art. 17-20; Recommendation R(95) 3 on Coordinating Document and Methods and Systems related to historic buildings and monuments of architectural heritage, adopted January 11, 1995.

4.3. Harmonization and Integration with CoE International Norms

In connection with Armenia's accession to the Council of Europe and its accession to a number of international treaties and organizations, Armenia has an obligation to harmonize its national laws with the requirements of CoE

and international treaties. These norms are based on tested international practice and at a minimum provide guidance on the key issues and best international practice. Specific areas that deserve attention are:

- terminology and conformity to standards and procedures,
- establishment of effective protection of Armenian cultural heritage abroad,
- checks and balances/separation of powers within the system:
 - (1) policymaking,
 - (2) ownership,
 - (3) regulation/legislation, and
 - (4) oversight (enforcement),

need to be vested in different institutions and need to engage the public and experts in a transparent way, to assure that there is sufficient public awareness and support for policies. Armenia also has reporting and monitoring requirement to the CoE in accordance with the Granada Convention, Art. 20.

4.4. Efficiency and Productivity, Effective Resource Allocation

Finding and allocating resources are two of the main issues facing Armenia cultural heritage after 10 years of independence. As noted above, much of Armenia's cultural heritage is endangered by deferred maintenance and lack of efficient oversight. The system is diffuse and places most of the burden on the user to obtain a series of decisions from a variety of bodies in order to assure compliance with Armenia's cultural laws. Thus, even where legal norms are sufficient, implementation is inefficient. The CoE and UNESCO both recommend integrated systems for cultural heritage management, and certain comparable countries, such as Cyprus, have achieved high levels of integration and efficiency that may be worth examining for models or ideas on how to restructure the regulatory bodies in this field.

Another important consideration is the costs and benefits of centralized and decentralized systems and in particular which functions are more efficiently handled centrally and which locally or regionally. Given Armenia's relatively small size and population, provided adequate communication, transportation and oversight is available, many aspects of inventory, classification, and expertise could be coordinated and unified to achieve economies of scale, uniformity and quality assurance. The goal is a more service-oriented, streamlined system, where responsibility and accountability are clear and there is less chance that matters will fall through the cracks or become stalemated because of inconsistency between regulatory bodies. Centralization can have negative effects, e.g., the danger that that a single mistake will impact the entire system; therefore, special mechanisms, such as e-governance and public participation, must be established to assure circumspect policy development to avoid unintended negative impact, and to facilitate accountability and prompt correction of mistakes. Some measures to promote efficiency that are common in international practice, include:

1. point of sale certification for export (e.g., shop owners tied to a central computerized system issue certificates permit export, which are checked once again at the border for authenticity and proper recordation).
2. point of export certification (e.g., a unified on-line inventory is at the disposal of the customs officer, who may not be an expert, but is trained to identify potential problems, consult the computer inventory, call on an expert from the Ministry of Culture, Youth Affairs and Sports, or if necessary, deny the right to export until it can be determined that export or import is permissible).
3. integrated information infrastructure, internet accessible databases of all cultural property, uniform cataloging and data records in conformity with international standards to facilitate exchange of information
4. simplification of redundant institutions,
5. single system of authorization and processing,
6. creation of unified institutions, reducing redundancies and overlapping jurisdiction, e.g., Ministry of Culture/Customs could have a single unit that is specially trained in import-export issues.

4.5. Fundable Institutions - Public-Private Partnership, Tax Policy

Most of Armenia's cultural heritage is owned or possessed by either the church or state. Some is held privately either by individuals or organizations, particularly movable property and archives. A large part of intangible culture is privately maintained and transmitted, although both church and state support certain institutions, e.g. theatres, concert halls, schools, that transmit intangible culture. Church funding is largely from donations and grants. State funding is largely from tax revenues, loans and grants. Neither church nor state currently have large endowment funds to assure the perpetual maintenance of Armenia's cultural heritage. Fundable institutions must be transparent, accountable and participatory. Since tax revenues will likely be insufficient to meet the needs of cultural heritage preservation for the foreseeable future, vehicles and mechanisms need to be established to attract the necessary resources to avoid irremediable loss from deferred maintenance and lapses in the transmission of culture and culture-related expertise. Sources of funding need to be surveyed and Armenian legislation has to assure that the church and state have the range of public and private institutions to effectively attract and use those funds. One or more publicly sanctioned, privately managed Cultural Heritage Endowment or Trust Fund, could be a vehicle to attract private, diasporan and international funding, on the model of English Heritage. In addition to support for formal institutions, intangible culture requires grant funding for educational programs, public awareness, and support for individuals and groups who are bearers and transmitters of the intangible culture. The diaspora has a special interest in supporting Armenian cultural heritage and some may find this kind of

support and engagement more rewarding and better suited to their values and time-constraints than involvement in economic development or commerce. Tax policy is an important tool for subsidizing and providing incentives for cultural heritage protection and non-profit work generally that is underdeveloped in Armenia and may warrant reassessment.

4.6. Clarify Ownership - Especially Church-State

The largest single category of immovable cultural property in Armenia and around the world are churches and church-related property. The transfer of church property to the Church is underway, but there remain a number of issues regarding the methods of oversight and legal documentation of those transfers that can cause friction between church and state and give rise to unnecessary entanglement between church and state in the management of properties once they are transferred to the Church. Within the CoE there are a number of countries that have national churches with long histories. In England, for example, most churches and immovable cultural property belong to the church, and churches actively used for worship are largely exempt from state oversight except in the most extreme situations and are supported by the quasi-public English Heritage endowment. Denmark and Greece, where the church is granted special status in the Constitution, the state has a more active role in the financing and preservation of church properties. Sweden has an Endowment Fund and manages church property on a diocesan basis through a church tax. Finland also has a church tax collected by the state to support the church.

Given that Armenia's tax base is currently, and likely to remain for the foreseeable future, too small to expect state support for the church and since the largest potential support for church properties and cultural heritage is outside of the state and the state's taxing power, the English model may warrant closer examination for Armenia's situation. The English model is described more fully in Section 6.4 below. The situation in Roman Catholic countries, such as France, Italy and Spain, has been shaped by the unique relationship between an international/ supernational church and the local states, and is not directly relevant to the situation of the Armenian Church in Armenia. On the other hand, the relationship between the Armenian Church and foreign states is quite analogous to that of the Roman Catholic church and may provide insight into the manner in which the Armenian Church handles cultural heritage issues outside of Armenia, recognizing that in each country it will need to have a policy tailored to the local laws and customs, and especially recognizing that the cultural heritage policies of its nearest neighbors may be hostile to preservation of Armenia's cultural heritage.

4.7. E-Governance

One of the key components of cultural heritage protection and awareness is inventory and access to information and data, which can be addressed by a variety of e-governance solutions, that is, computer databases, internet and CD-ROM solutions. Given Armenia's strong tradition of information

technologies and the current emphasis on developing information technologies as a leading sector of Armenia's economy, e-governance is a logical method for streamlining the administrative system and sharing information across agencies and ministries, e.g., Historical Monument Preservation Administration, Cultural Property Protection Administration, Customs, Civil Construction, Archives, Ministry of State Revenues, etc., and fostering consistency and uniformity, in line with CoE Recommendations and the Granada and Malta Conventions. Such e-governance solutions can also provide more efficient submission and tracking of applications and requests regarding cultural heritage issues, such as import and export certification at the point of sale, facilitate customs clearance, put property owners on notice of zoning and other restrictions, and promote international cooperation in the field of cultural heritage. E-governance can also promote uniformity across regions in Armenia and facilitate oversight. The main constraints are financial resources and internet infrastructure; however, it is unlikely that the present paper-based methods are more cost-effective even in the short run and serious consideration should be given to leap-frogging the older paper based systems and putting the entire inventory and other governmental applications and services directly on the internet in Armenian and English. This transparency is likely to increase the confidence of donors in the overall system of cultural heritage protection in Armenia and facilitate fund-raising for cultural heritage protection.

4.8. Integrated Conservation of Man-made and Natural Environments, City Planning and Preservation, Immovable, Movable and Intangible Culture Policies

One of the most important international trends in cultural heritage protection is the integration of various aspects of preservation and planning in a single process. This is justified by the interlocking and overlapping concerns of man-made and natural environments, city planning, and immovable property, which serves as the setting for both movable and intangible property, in many instances. The trend toward integration not only fosters a more coherent policy, but it also promotes efficiency.

4.9. Integration of Culture and Education Policies

Cultural heritage protection is ultimately for the benefit of the general public. Protection, in particular refraining from vandalism or waste, depends upon the goodwill and support of the population, who self-regulate their actions and who contribute to the tax and donation base for cultural heritage and voluntarily or through compulsory measures refrain from certain uses of property, whether public or private, in deference to cultural heritage. As both the beneficiaries and the benefactors of cultural heritage protection, it is important that the general population understand the policies, espouse them as their own, and see them as fair and justifiable. Integration of education and cultural policies and programs helps to ensure that there is a well-informed public to support cultural heritage preservation and that cultural heritage does not become and is not viewed as the special province of experts and curators, but is everyone's responsibility. This can be achieved through

NGOs and other public awareness campaigns, as well as by working with journalists and the media on presenting cultural heritage as the people's common heritage and responsibility. Finally, it is important not to lose sight of the ultimate purpose of cultural heritage preservation, namely, the enrichment of everyone's lives through self-understanding, historical appreciation, and artistic beauty.

4.10. Performance Test Legal and Institutional Framework

The law-making effort cannot be separated from the clarification of policy goals for cultural heritage and administrative efficiency of the system in achieving those goals. Laws cannot be patched together from different sources or imposed on the local institutional base and expected to work together coherently or effectively. For this reason, performance criteria and quality control should be mandatory part of any legal reform effort. Some sample test cases for the performance testing of the legal system are set forth in Part II hereof. Finally, the entire system needs to be abuse-proofed or debugged to assure that it works as a whole and produces good results for most of the common issues and problems that Armenia faces in cultural heritage preservation and development.

4.11. Cultural Property Abroad

Since so much of Armenia's cultural property is located abroad, especially in the neighboring countries or diasporan communities, many of which are now depopulated, there are a special policy and administrative issues.

Recommendations on Cultural Property Abroad:

1. a special policy and administrative body, either in the Ministry of Culture, Youth Affairs and Sports or Ministry of Foreign Affairs, in conjunction with the Church, since so much of Armenian cultural property abroad is church-related, should be created to study the legal protections for cultural property in countries where Armenian cultural property is located, inventory and assess the properties.
2. efforts should be made to work within those systems, and also through international and regional cultural property protection systems, including nominating Armenian cultural properties for the World Heritage List, Endangered Monuments List of the World Monument Fund, and other lists;
3. public-private coordinated efforts should be mounted with local Armenian communities and non-Armenian "Friends of Armenian Culture" groups, to protect Armenian cultural property abroad;
4. to the extent possible, church properties abroad and in Armenia should be restored to church ownership, since religious properties tend to enjoy higher protections than other properties in most legal systems, while maintaining unintrusive state oversight to assure a double level of protection and a right of intervention in case of emergency.

5. Analysis and Recommendations on RA Policies, Laws, Institutions and Practice in the Context of International Norms

5.1. Treaties¹

Armenia is a state party to most of the main international and regional instruments governing cultural heritage protection.

- United Nations (“UN”) International Covenant on Economic, Social and Cultural Rights (“ICESCR”).
- Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954)
- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, dated November 17, 1970 (Paris)
- UNESCO Convention Concerning the Protection of World Cultural and Natural Heritage, Dated 1972 (Paris)
- Black Sea Economic Cooperation Agreement on Cooperation in Cultural, Educational, Scientific and Information Fields, dated 1993 (Istanbul).
- The Founding Agreement on the Establishment of a CIS Cultural Cooperation Support Foundation, dated 1998 (Moscow).

Of special interest are the Council of Europe and other European conventions and recommendations in this field, since they are the most current and most directly relevant formulations of norms, policies and trends in cultural heritage protection. For this reason, our analysis of laws and regulations will be focused on the European standards. In this regard the Council of Europe has established a Technical Co-operation and Consultancy Program, headed by Mr. Robert Pickard to assist countries in the CoE with harmonization of their cultural heritage laws with the norms of the CoE. The basic CoE guidelines are available in four publications available from the CoE.²

- European Cultural Convention, signed at Paris, 19 December 1954, entered into force: 5 May 1955 (Paris Convention)

¹ In the Appendix there is a summary of the recommendations comparative study was prepared by the Armenian Association of International Law. These were made over a year ago, before Armenia’s accession to the Council of Europe. The proposals warrant consideration in the context of a larger effort toward harmonization. Pending that broader review, we take no view as to the appropriateness of these proposal legislative and constitutional reforms, except to stress that they, like all other legislative reform proposals, should to be performance tested against real situations to assure that they do not have unexpected results in the context of the rest of Armenia’s legal and institutional framework.

² CoE Guidelines for the Protection of the Architectural Heritage (Strasbourg 2000); CoE Guidelines for the Protection of Movable Heritage (Strasbourg 2000); CoE Guidelines for the Protection of Archeological Heritage (Strasbourg 2000); CoE Guidance on the development of legislation and administration systems in the field of cultural heritage (Strasbourg 2000).

- Recommendations on International Principles applicable to Archaeological Excavations, Dated 1956 (New-Delhi).
- International Institute for the Unification of Private Law (“UNIDROIT”) Convention on Stolen or Illegally Exported Cultural Objects, Dated June 24, 1995 (Rome).
- European Convention on Offences relating to Cultural Property signed in Delphi on 23 June 1985.
- Convention for the Protection of the Architectural (3 October 1985) Heritage of Europe (Granada Convention)
- European Convention on the protection of the archaeological heritage (revised) Valetta, 16 January 1992 (Malta Convention)

As Armenia prepares to harmonize its legislation with that of Europe in connection with CoE accession, the following provisions of the aforementioned conventions are of special significance. To facilitate later harmonization efforts, the outline and format of the CoE Guidelines will be followed, as applied to the Armenian laws.

Under Art. 6 of the RA Constitution, treaty provisions have the force of law except to the extent that such provisions may contradict the RA Constitution or laws, in which case, the Constitution and/or laws must be amended before the treaty’s ratification and entry into force. In addition, under the RA Constitution, Art. 43, “the rights and freedoms set forth in the constitution are not exhaustive and shall not be construed to exclude other universally accepted human and civil rights and freedoms.” Art. 43 gives further basis for the application of international norms in the RA.

5.1.1. UN International Covenant on Economic, Social and Cultural Rights (“ICESCR”)

Art. 15.1 and 2 the ICESCR are of particular significance for the protection and promotion of cultural heritage. These guarantee citizens the right to enjoy culture and impose upon the state the duty to take the necessary steps to assure the conservation, development and diffusion of science and culture. This is further supported by the State’s right to exercise regulatory powers under Art. 4, necessary to promote the general welfare and support democratic society in implementation of rights.

In many instances the due process of notice, an opportunity to be heard, reasoned decision-making, and meaningful review are not required by law, even if they are applied in practice.

Recommendation on the ICESR: To apply the ICESCR Art. 4 due process and regulatory standard under Art. 4,³ that limits the State’s

³ ICECPR Art. 4. “The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by the law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.”

restriction of rights to those necessary for the promotion of the general welfare and democratic society in implementation of rights.

5.1.2. Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954)

Armenia is a state party to this convention. Among the obligations imposed by this convention are (1) amendment of the Criminal Code to impose sanctions for violations of the convention (Art. 28), (2) report to the Director-General of UNESCO every four years on compliance and deposit of translation, (Art. 26), (3) military instruction and public dissemination of information about the Hague Convention (Art. 7), and (4) take steps during peace time to protect cultural property (Art. 8).

Recommendations on the Hague Convention:

1. prepare lists of cultural property for inclusion in the “International Register of Cultural Property under Special Protection” (Art. 8(6)),
2. prepare a refuge for movables and special military and cultural personnel for protection of cultural property in case of war,
3. work with neighboring countries to assure that Armenian cultural property is protected on a reciprocal basis,
4. mark such property or having emblems and markings available, especially for monuments in areas that are at risk - e.g., in Artsakh, Georgia, or Turkey.

5.1.3. 1954 European Cultural Convention

Armenia is a state party to this convention. The European Cultural Convention places a number of affirmative duties on each state party to protect and develop its own cultural as a contribution to the common cultural heritage of Europe (Art. 1) as well as cooperate with other CoE members for protection of the common cultural heritage of Europe under its control (Art. 3 and 5). These goals are implemented through state’s party rights to make proposals for applications of the convention (Art. 6) and specification of territories to which the convention shall apply (Art. 10) and supported by duties to encourage study of its own language abroad and those of other European countries at home (Art. 2) and to facilitate cultural exchanges (Art. 4). Taken together these goals, their implementation and supporting activities can provide a framework for addressing some of Armenia’s unique concerns about extraterritoriality of its cultural heritage and population.

Recommendations on the European Cultural Convention:

1. promote understanding of Armenia’s contribution to the common cultural heritage of Europe,
2. seek to have territories designated for application of the Convention within and outside of the RA,

3. create bases for reciprocal cooperation and respect for cultural property by protecting foreign property in Armenia,
4. encourage the study of the Armenian language abroad and other languages at home,
5. actively engage in cultural exchanges, and
6. seek application of the convention to Armenian cultural heritage in other states party as part of the common cultural heritage of Europe.

5.1.4. Paris Convention on Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris Convention, November 14, 1970).

The Paris Convention is one of several conventions that aim to regulate the circulation of movable cultural property. The 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, and the European Convention on Offences relating to Cultural Property also address these concerns. The CoE has also issued Guidelines on the Development of Legislation and Administration Systems in the Field of Cultural Heritage, analyzed in more detail below.

The Paris Convention imposes a number of affirmative duties on states party to address the illicit import, export and transfer of cultural property, which is one of the main causes of the erosion of cultural heritage. The threat is most keenly felt by countries rich in cultural heritage, but short of resources to maintain them, a common plight of post-soviet countries. Armenia has already complied with many of the key requirements of this Convention:

1. establish a national service for the protection of cultural heritage (Art. 5)
2. certificate (export license) for cultural property (Art. 6a); however, the specific criteria, the time required, the physical administration of the system, the low level of awareness among tourists and artisans, and the lack of an effective method of speedy appeal could make this mechanism burdensome and a deterrent to the development of modern culture for export.
3. require antique dealers to maintain a register (Art. 10a)
4. admit actions for recovery of lost or stolen property by rightful owners (Art. 13c)
5. recognize the State's right to designate certain property as inalienable (Art. 13d)
6. establish a mechanism for the recover and return of stolen cultural property through diplomatic means with compensation for the bona fide purchaser or lawful owner of the property by the requesting Party at the expense of the state party exempt from any duties. (Art. 7b)
7. Interpol mechanism for sharing information on stolen property and cooperating in its recovery.

8. archeological supervision and in situ preservation (Art. 5d)

Armenia has also taken a number of steps toward fulfillment of its obligations under this Convention:

1. provide adequate funding or set up a fund for national cultural protection service (Art. 14) (currently funded in part by fees for expert appraisal of cultural property for export licenses).
2. laws on Crim. Code, Art. 73 (contraband) address violations and restitution in part as does the Civil Code, e.g., Art. 274 (rightful owners right to recover property), 275 (bona fide purchaser), 276 (right to compensation from unlawful transferee), 284 (termination of property right), 286 (special rights regarding cultural property), 344 (no statute of limitations on claims to recover wrongfully acquire cultural property), but these would be more effective if tailored to cultural property and the international nature of the Convention's protections. (Art. 7, 8, 13).
3. prevent transfers likely to promote illicit traffic in cultural property (Art. 13)
4. regulations prohibiting acquisition of illegally imported cultural property (Art. 7a)
5. system for notifying State of origin of offers to acquire illicit property (Art. 7a)
6. criminal penalty and administrative sanctions for importation or acquisition of stolen cultural property registered as part of the inventory of a museum, religious institution or secular public monument (Art. 7b)

Recommendations on the Paris Convention:

1. The RA Law on Import and Export of Cultural Property uses a slightly different listing and classification of items from the Paris Convention. It may be advisable to bring the definitions in the RA Law into conformity the Paris Convention and allow for exceptions or localization by Government Resolution.
2. establish a computerized, unified, shared national inventory of protected property and a list of important public and private cultural property, accessible by national service, customs, law enforcement, and cultural property professionals (museum curators) and dealers, since this is a pre-requisite to recovery and return under the convention (Art. 5b)
3. establish a point of sale checking and certification system (cf. Russian Antique Dealer model) to promote cultural industries (arts, crafts) and streamline the export of non-protected art and cultural items and facilitate earlier interdiction through greater public awareness, broader engagement in the market and augmentation of short-staffed state agencies. This will
 - facilitate early detection and earliest possible restitution (Art. 13),

- prevent transfers likely to promote illicit traffic in cultural property (Art. 13),
 - establish a longer-term certificate (non-specific to the owner) and exemption system for common products (CoE Guidelines Art. 5.2).
4. promote reciprocal respect for protection and return of RA cultural property abroad by assuring that the RA has taken adequate measures to prevent illicit import and facilitate return of cultural property (Art. 2, 9)
 - document and seek protection and concerted international assistance to prevent irremediable damage to Armenian cultural patrimony that is endangered in other States Party (Art. 9)
 5. International integration and cooperation and dissemination of information about Armenian cultural property
 - reports to UNESCO (Art. 16)
 - technical support from UNESCO on information and education, consultation and expert advice, and coordination and good offices. (Art. 17)
 6. review current criminal and civil laws and adopt laws specifically tailored to the crimes proscribed by the Paris Convention and assure implementation of criminal sanctions and civil actions to punish and remedy illicit acts banned by the Paris Convention (Art. 3, 8) (Specific proposals have been made by the Armenian Association of International Law in the Appendix).
 7. adopt rules for curators, collectors and dealers (Art. 5e) Specifically, ICOM, ICA, Religious Trafficking, etc.
 8. improve laws on ownership of cultural property (Art. 5a)
 9. promote institutions (museums, libraries, research institutes) to assure preservation and presentation of cultural property (Art. 5c)
 10. education and public awareness of cultural heritage protection (Art. 5f, 10)
 11. publicity about violations (Art. 5g)
 12. provide adequate funding or set up a fund for the national cultural protection service (Art. 14)

5.1.5. 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

This convention is largely an implementation of the Paris Convention of 1970.

Recommendations on the UNIDROIT Convention:

1. Inventory and register public collections and encourage inventory of privately held cultural property with tax and other incentives, since this is a pre-requisite for recovery under this Convention and the UNIDROIT Convention (Art. 3)
2. Review statute of limitations in the Civil Code and Criminal Code, and Codes of Procedure to assure conformity with the Convention (Art. 2) (RA Civil Code Art. 344)
3. Assure that the private cause of action for recovery and return are at least as efficient as those of other States Party, so as to give Armenian claimants ground to request reciprocal treatment (Art. 5)
4. Assure that third-party indemnity and inclusion of all claims and involved parties are possible for recovery of compensation (Art. 6)
5. Review Civil Code to assure that bona fide acquirer provisions permit efficient recovery and return (Art. 5)
6. Establish codes of ethics and norms of due diligence for cultural property professionals and dealers (Art. 4)

See the Appendix for further international standards on the matter of illicit trafficking in cultural property, in particular:

- European Convention on Offences relating to Cultural Property (June 23, 1985)
- CoE Council Directive 93/7/EEC March
- CEFIC - Export Controls Policy Statement (September 16, 1992)
- CoE Action against illicit trafficking in cultural property (May 30-31, 1996)
- Convention on the Protection of World Cultural and Natural Heritage (Nov. 16, 1972)

5.1.6. UNESCO Convention on the Protection of World Cultural and Natural Heritage (Nov. 16, 1972)

The UNESCO Convention is the fundamental convention on immovable cultural property protection, establishing the World Heritage Committee that selects cultural and natural heritage for the World Heritage List (approx. 700). Currently there are three Armenian sites on the World Heritage List: Haghbat & Sanahin, Etchmiadzin-Zvartnots, Geghard, and Nemrud Dag in Turkey.

Within the UN system, UNESCO is responsible for the international legal protection of cultural heritage. It manages the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague Convention of 1954) and, its Protocols, the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970), the Convention concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention, 1972), and the eleven recommendations of UNESCO for the protection of cultural heritage. A new draft Convention on the Protection of Underwater Cultural Heritage is being finalized for

adoption by the UNESCO General Conference in November 2001. UNESCO is also in charge of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation. The Committee is an intergovernmental organ with twenty-two members. The Convention is overseen by UNESCO and supported by three affiliated organizations:

International Council of Monuments and Sites (“ICOMOS”)

The International Council of Monuments and Sites is an international, non-governmental organization of professionals dedicated to the conservation of the world's historic monuments and sites. ICOMOS provides a forum for professional dialogue and a vehicle for the collection, evaluation, and dissemination of information on conservation principles, techniques, and policies. The organization was founded in 1965, as a result of the international adoption of the Charter for the Conservation and Restoration of Monuments and Sites in Venice the year before. Today, ICOMOS has National Committees in over 107 countries.

ICOMOS is UNESCO's principal advisor in matters concerning the conservation and protection of monuments and sites. With IUCN (The World Conservation Union), ICOMOS has an international role under the World Heritage Convention to advise the World Heritage Committee and UNESCO on the nomination of new sites to the World Heritage List.

ICOMOS seeks to establish international standards for the preservation, restoration, and management of the cultural environment. Many of these standards have been promulgated as Charters by the organization as a result of adoption by the ICOMOS General Assembly.

The National Committees are ICOMOS associations created at the national level. They provide the individual and institutional members with a forum of discussion and exchange of information. Azerbaijan, Georgia, the Islamic Republic of Iran, and Turkey have all established membership in ICOMOS by way of national committees and Armenia has recently done so as well. Currently, there are three sites in Armenia that appear on the World Heritage List -- Monasteries of Haghpat and Sanahin, Monastery of Geghard and the Upper Azat Valley, and Cathedral and Churches of Etchmiatsin and the Archaeological Site of Zvartnots. While Armenia's neighboring countries of Azerbaijan, Georgia, the Islamic Republic of Iran, and Turkey also have sites on the World Heritage List, none of these sites are Armenian.

The ICOMOS statutes are in the Appendix and search for further information on the ICOMOS website at <http://www.icomos.org/>.

5.1.7. International Union for Conservation of Nature and Natural Resources (“IUCN”)

The World Conservation Union was founded in 1948 and brings together 78 states, 112 government agencies, 735 NGOs, 35 affiliates, and some 10,000 scientists and experts from 181 countries in a unique worldwide

partnership. Its mission is to influence, encourage and assist societies throughout the world to conserve the integrity and diversity of nature and to ensure that any use of natural resources is equitable and ecologically sustainable. Within the framework of global conventions IUCN has helped over 75 countries to prepare and implement national conservation and biodiversity strategies. IUCN has approximately 1000 staff, most of whom are located in its 42 regional and country offices while 100 work at its Headquarters in Gland, Switzerland.

Armenia is currently not a member, therefore, it cannot participate in IUCN's activities, which include exerting influence on the decisions and activities of IUCN, receiving regular published information and reference material, and receiving advice and practical services. States, governmental agencies, political and/or economic integration organizations and international and national non-governmental organizations can all become members of IUCN. The application form and membership information pack are available from <http://www.iucn.org/>.

The IUCN has annual themes. The year 2002 is the International Year of the Mountain. IYM is expected to increase the number of local initiatives and operational activities effectively targeting sustainable mountain development, reasonable use of resources, income generating activities and improvement of livelihood opportunities.

5.1.8. International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM, Rome Centre)

The International Centre for the Study of the Preservation and the Restoration of Cultural Property (“ICCROM”) is an international, intergovernmental organization established in 1959. Organized under the auspices of UNESCO, ICCROM is an independent body currently comprised of 100 Member States, as well as 103 Associate Members from among the world's leading conservation institutions. It is the only institution of its kind with a world-wide mandate to promote the conservation of all types of cultural heritage, both movable and immovable.

ICCROM aims to improve the quality of conservation as well as raise conservation awareness in everyone from schoolchildren to statesmen alike through five main areas of activity: conservation **training** by developing new educational tools and materials, and organizing professional training activities around the world; the dispersion of **information** through its conservation libraries through its website; **research** organized and coordinated through meetings to devise common approaches and methodologies and to promote the definition of internationally agreed ethics, criteria and technical standards for conservation practice; **cooperation** provided in the form of technical advice and collaborative missions; **advocacy** through the dissemination of teaching materials and organization of workshops and other activities to raise public awareness and support of conservation.

The Islamic Republic of Iran and Turkey are members of ICCROM; however, Armenia, Azerbaijan and Georgia are not. Since Armenia is a Member State of UNESCO may become a Member State of ICCROM by depositing a formal declaration of accession with the Director-General of UNESCO. Such membership shall take effect thirty days following receipt by the Director-General of UNESCO of the formal declaration of accession. Each Member State shall contribute to the budget of ICCROM at a rate fixed by the General Assembly. The benefits of membership include the use of ICCROM's resources and the participation in training programs.

See Appendix for ICCROM's statutes or visit the organization's website at <http://www.iccrom.org/> for further information.

5.1.9. World Monuments Fund (“WMF”)

There are also a number of private organizations, such as the WMF that maintains a List of Endangered Sites that qualify for grant funding. The historic Armenian city of Ani is on the 1996 and 1998 List of 100 Most Endangered Sites. On Ani, see also, <http://www.virtualani.freeserve.co.uk/>. The RA Historic Monuments Protection Administration is currently working with WMF on several projects in Ererouk and Marmashen in conjunction with the Center of Studies and Documentation of the Armenian Culture (Centro di Studi e Documentazione della Cultura Armena) (“CSDCA”).

The World Monuments Fund is a private, nonprofit organization founded in 1965 by individuals concerned about the accelerating destruction of important artistic and cultural treasures throughout the world. The objective of the WMF is to maintain and mount an ambitious offensive against the frequently unrecognized deterioration of these treasures. In more than 30 years of activity, the WMF has orchestrated over 208 major reconstruction projects in 70 countries. WMF's activities include documentation and surveys, field research, training, strategic planning, fundraising, and advocacy. A global program launched by the WMF in 1995 called the World Monuments Watch aims to identify imperiled cultural heritage sites and direct financial and technical support to their preservation. The goal of the program is to point the spotlight of world attention on historic and cultural treasures that are most in peril.

Each year, the WMF solicits nomination forms for its List of 100 Most Endangered Sites from governments, organizations active in the field of heritage conservation, and concerned individuals. Cultural sites of all types may be nominated to the List of 100 Most Endangered Sites, including historic structures, groups of buildings, historic districts, archeological sites, public art, and cultural landscapes. Movable artifacts and works of art are eligible only when they are integral to an architectural context. Both privately owned and public sites are eligible for listing. After a panel of international experts evaluates the nominations, they select 100 endangered sites worldwide that best answer three criteria: **significance** of a site within its cultural context; **urgency** of immediate intervention; and **viability** of remedying the threat(s) that

endanger a site, and an indication of a practical plan to apply the remedies.

The WMF publishes the List of 100 Most Endangered Sites every two years. Sites listed are eligible but not entitled to limited financial assistance that aim to support **strategic planning projects, emergency and technical assistance projects, educational programs, local fundraising, and conservation work**. Funding is made available through a combination of public, private and corporate financial support. There is no predetermined limit for financial assistance, and grants have ranged from \$10,000 to \$100,000.

While there is no formal membership in the WMF by any country, the Armenian government may submit nomination forms for cultural monuments of concern to Armenia for inclusion on the List of 100 Most Endangered Sites. Such nominations may be for sites found in the Republic of Armenia or sites found in other countries. For instance, the Armenian government, organizations active in the field of heritage conservation, and concerned individuals may submit a nomination form for inclusion into the List of 100 Most Endangered Sites of various endangered sites in Turkey, Georgia and Azerbaijan. Further information and the nomination form can be found on the WMF's website at <http://www.wmf.org/>.

Recommendations on ICOMOS, ICCROM, IUCN:

1. Promote the activities of the national ICOMOS Committee, if not a member, join ICCROM and the IUCN.
2. Develop an integrated cultural and natural heritage policy and a cultural heritage and natural heritage law. (Art. 5(c))
3. Actively participate in UNESCO activities since the UNESCO framework is of special significance to dispersed cultures like Armenia's where extraterritorial culture heritage is significant or even predominant. See e.g., The UNESCO Declaration of the Principles of International Cultural Cooperation (Paris, November 4, 1966).
4. Establish reciprocal relations and international cognizance of Armenian natural and cultural heritage abroad in order to gain international support for protection of extraterritorial monuments and sites (Art. 6.1)
5. Inventory natural and cultural sites of significance for Armenia in Armenia and abroad (Art. 2, Art. 62)
6. Participate in the International Year of the Mountain (2002) sponsored by the IUCN, especially given the prominence of mountains in the Armenian homeland.

5.1.10. Granada Convention and Malta Conventions

These are the two main conventions concerning CoE policy on immovable cultural heritage. The Malta Convention supersedes the

European Convention on the Protection of the Archeological Heritage (London 1969). RA law already addresses many of the issues raised in these Conventions, but in some instances provides partial adoption in legal norms and/or has not been fully implemented in practice. For example, RA law has inventory requirements, licensing and permitting requirements, maintenance agreements, and various oversight mechanisms,⁴ but has only partially implemented in law or practice full inventory and risk assessment, survey of archeological sites, and integration and coordination of town planning, natural, cultural and archeological heritage protection. Unless otherwise noted, the article designations in the Recommendations below are for both the Granada and Malta Conventions.

Recommendations on the Granada and Malta Conventions:

1. Consider conforming definitions in the RA Law on The Protection and Usage of Historical and Cultural Monuments and Historical Landscape to these definitions. (Art. 1)
2. Complete, centralized computerized inventory, with various levels of classification and containing the CoE “Core Data Index” information in accordance with CoE Recommendation R (95)3 and Legislative Guidelines A2.1 and the Core Data Standard for Archeological Sites and Monuments (1999) Legislative Guidelines B 2.0., (Art. 2)
3. Streamline authorization mechanisms to assure consistency and due process, as well as efficient protection of immovable cultural property, by instituting a single authorization process. Legislative Guidelines A4.6. (Art. 3, 4)
4. Preserve archeological movable property in situ, keep associated movable property with immovable (Malta Art. 4, Legislative Guidelines A1.3)
5. Financing, Tax and Private Incentives
 - Assure international standards of transparency, accountability and due process to encourage private funding and public support for public funding.
 - Adopt tax breaks and exemptions for owners of immovable cultural heritage and tax incentives for charitable donations for cultural heritage protection and study;
 - Create public-private partnerships or private foundations as vehicles for financing. (Granada Art. 6, Malta Art. 6)
6. Legislate, publicize and enforce penalties for violations of cultural heritage protection laws, vandalism, illicit trafficking, unauthorized alteration or excavation, destruction or damage (Granada Art. 9, Legislative Guidelines A4.8, B. 11.0)
7. Integrated Conservation and Town Planning

⁴ See, Section 5.3 below for a description of those RA Law requirements.

- clarify procedures for conservation and restrictions on activities and construction in the vicinity of immovables, including preserving serenity, sanctity, and aesthetic beauty;
 - clarify procedures for preservation of archeological finds during construction (Granada Art. 10, Malta Art. 5).
8. Promote functional use and adaptation of buildings by adopting objective criteria for balancing function and conservation through due process, with the understanding that buildings are often best preserved when in use (Granada Art. 11, Legislative Guidelines A4.4)

5.2. Council of Europe Recommendations

5.2.1. R (95) 3 of the Committee of Ministers to member States on **co-ordinating documentation methods and systems** related to historic buildings and monuments of the architectural heritage.

Adopted by the Committee on 11 January 1995. Based on the Granada Convention, which recognizes that the architectural heritage is irreplaceable. Article 1 of the Convention provides that the architectural heritage comprises monuments, groups of buildings and sites. Article 2 emphasizes the need to maintain inventories or prepare appropriate documentation as prerequisites for a conservation policy. Article 17 on the exchange of information on conservation policies, particularly with regard to inventory methods and the possibilities afforded by new technologies for identifying and recording the heritage.

Core Data Index:

1. Names and references,
2. Location,
3. Functional type,
4. Dating
5. Persons and organizations associated with the history of the building
6. Building materials and techniques
7. Physical condition
8. Protection/legal status
9. Notes (historical summary).

5.2.2. R (98) 4 – on measures to promote the **integrated conservation** of historic complexes composed of immoveable and moveable property.

Adopted on 17 March 1988 based on Article 1 of the Convention for the Protection of the Architectural Heritage of Europe, which defines monuments as “all buildings and structures of conspicuous historical, archaeological, artistic, scientific, social or technical interest, including their fixtures and fittings”.

Moveable cultural heritage constitutes an irreplaceable expression of the richness and diversity of Europe's cultural heritage. More account should be taken of the protection and conservation of moveable cultural heritage in cultural heritage policies and practices in Europe.

Considering the 1954 Convention on the protection of Cultural Property in the Event of Armed Conflict and its Protocol, the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the 1985 European Convention on Offences relating to Cultural Property and the 1995 UNIDROIT Convention on Stolen and Illegally Exported Cultural Objects, Recommends that the government of the member of states, as part of their general policies for the conservation of the built heritage, create conditions to ensure the protection of historic complexes composed of immovable and moveable property in accordance with the guidelines set out in the appendix to this recommendation.

- Protection: a) object of protection, b) effects of protection
- Management
- Public awareness and enhancement

5.2.3. R (86) 11-on urban open space

Adopted on 12 September 1986, based on its European campaign for Urban Renaissance.

Recommendation to:

1. Recognize and take into account considerations such as towns are not only buildings: open space forms a fundamental part of the urban environment and the historic heritage of a town, open space covers a wide range of public and private areas both in historic towns and new communities.
2. Take steps to ensure that the securing provision and management of open space are an integral part of urban development.
3. Accept that the securing, provision and management of open space should be based on a number of approaches.

5.2.4. R (86) 15 - on the promotion of **craft trades involved in the conservation of the architectural heritage.**

Adopted on 16 October 1986, based on the Convention for the Protection of the Architectural Heritage of Europe. Having regard to its Recommendation No R (81) 13 on action in aid of certain declining craft trades in the context of craft activity.

Implement policies based on the following principles:

1. Providing for the future by improving the training and social advancement of craftsmen.

2. Simulating the vitality of craft trades and facilitating the performance of contracts.
3. Adapting craft trades to innovation: the choice of materials
4. Stepping up European exchanges of experience and personnel.

5.2.5. R (89) 5 - concerns the protection and enhancement of the **archaeological heritage in the context of town country planning** operations.

Adopted on 13 April 1989, based on the European Convention on the Protection of the Architectural Heritage and the Convention for the Protection of the Architectural Heritage of Europe.

1. Purpose of the Recommendation is aimed at protecting archaeological remains in the context of development operations in the town or the countryside.
2. The development of new working methods: technical and scientific solutions, legal solutions, contractual solutions, financial solutions.
3. Conditions for the success of harmonized development and protection operations: precautions to be taken prior to any field intervention, phases of field intervention, work required following field intervention

5.2.6. R (89) 6 - on the protection and enhancement of the **rural architectural heritage**.

Adopted on 13 April 1989, based on the Convention for the Protection of the Architectural Heritage of Europe. Having regard to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid).

1. To safeguard the collective memory of rural Europe by developing instruments for research into and identification of its architectural heritage.
2. To incorporate the protection of the built heritage into the planning, regional development and environmental protection process.
3. To activate the enhancement of the heritage as a vital factor of local development.
4. To promote greater respect for and acknowledge of the rural heritage throughout Europe.

5.2.7. R (88) 5 – on control of physical deterioration of the architectural heritage accelerated by **pollution**.

Adopted on 7 March 1988, based on the European Cultural Convention and the Convention for the Protection of the Architectural Heritage of Europe.

1. Organizational and programming measures necessary for the development in each country of scientific research on the degradation and conservation of materials.
2. Protection of the architectural heritage when implementing the general policies pursued by the public authorities to reduce pollution.
3. European co-operation with a view to extended mutual scientific and technical assistance.

5.2.8. R (93) 9- on the protection of the architectural heritage against natural disasters.

Adopted on 23 November 1993, based on the European Cultural Convention, the Granada Convention for the Protection of the Architectural Heritage of Europe and the Malta (revised) Convention of the European Convention on the Archaeological Heritage. Also based on the UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict adopted at Hague.

Principles and measures:

- Legal and administrative framework for disaster protection
- Financial and insurance measures
- Education and training
- Risk assessment
- Disaster prevention and mitigation strategies

5.2.9. R (95) 9 – on the integrated conservation of cultural landscape areas as part of landscape policies.

Adopted on 11 September 1995 based on the Convention concerning the Protection of the World Cultural and Natural Heritage (Paris), the Granada Convention, Malta Convention, the conclusions of the United Nations Conference on Environment and Development held in Rio de Janeiro.

This Recommendation has two aims:

1. To provide guidelines for landscape policies respecting and enhancing European cultural identities.
2. To propose measures for the conservation and managed evolution of cultural landscape areas.

Other Principles:

- The process of identifying and appraising cultural landscape areas
- Levels of competence and strategies for action
- Implementation of landscape policies

- Legal protection and conservation of cultural landscape areas as part of landscape policies
- Information and awareness-raising
- Training and research
- International co-operation

5.2.10. R (97) 2 – on sustained care of the **cultural heritage against physical deterioration** due to pollution and other similar factors.

Adopted on 4 February 1997, based on European Cultural Convention, the Granada Convention, the Malta Convention (revised).

Principles and guidelines:

- The terms “pollution and other factors” refers to the fact that deterioration is due to synergistic processes where weathering agents are enhanced in a harmful way by pollution and inappropriate care.
- Scope: to eliminate or mitigate the causes of deterioration etc.
- Legal and administrative framework.
- Organizational and programming measures
- Training
- Promoting public awareness.

5.2.11. R (96) 6 – on the protection of the **cultural heritage against unlawful acts**.

Adopted on 19 June 1996. Based on Paris Convention, Granada Convention, Malta (revised) Convention, Delphi Convention.

Principles and guidelines:

- “Unlawful act” refers to any conduct which contravenes legal requirements or prohibitions designed to protect the cultural heritage, whether these acts are intentional or unintentional
- Implementation: risk analysis should give rise to preventive measures designed to eliminate, or at least reduce, the incidence of risk.
- Methods of risk analysis associated with unlawful acts
- Protective strategies for preventing and responding to unlawful acts.
- Training of staff and promoting public awareness.

5.2.12 R (98) 5 – concerning **heritage education** adopted on 17 March 1998 which stresses the importance of public awareness of cultural heritage both for a richer self-understanding and for mutual understanding of common cultural heritage, as well as for public

support for cultural heritage preservation and self-policing with regard to cultural heritage.

5.3. RA Law

The RA legal and administrative system incorporates international norms, through the RA Constitution, Art. 6, and 43, and through domestic legislation.⁵ The RA legal system has many of the essential elements for implementing a comprehensive cultural heritage protection policy; however, many of these elements and provisions have not been specifically designed for these purposes. Moreover, in the past decade there has not been sufficient opportunity, time or resources to develop new practices and applications of these elements into a comprehensive policy or legal framework, and particularly into a single, integrated administrative and policy process, as required by Art. 10 and Art. 13, for example, of the CoE Convention for the Protection of the Architectural (3 October 1985) Heritage of Europe (Granada Convention).

5.3.1. RA Constitution, adopted July 5, 1995 by referendum

Article 11 and 28 of the Constitution are most directly relevant: Article 11 provides the substantive, and Article 28 the procedural basis for cultural heritage protection. Art. 11 articulates the state's interest in preserving Armenian cultural heritage at home and abroad, and Art. 28 defines the state's right to intervene and restrict private property rights in support of a legitimate state interest. These are further enhanced by the international treaties and norms applicable to Armenia, as set forth above, and also guaranteed under Art. 44 of the Armenian Constitution.

RA Constitution, Art. 11: Historical and cultural monuments and other cultural values are under the care and protection of the state. Within the framework of principles and norms of international law, the Republic of Armenia shall

⁵ RA Constitution, Art. 6 reads in pertinent part . "The supremacy of the law shall be guaranteed in the Republic of Armenia.

The Constitution of the Republic has supreme juridical force, and its norms are applicable directly. Laws found to contradict the Constitution as well as other juridical acts found to contradict the Constitution and the laws shall have no juridical force.

Laws shall take effect only after official publication. Unpublished juridical acts pertaining to human rights. Freedoms and duties shall have no juridical force.

International treaties signed on behalf of the Republic of Armenia shall take effect only after ratification. International treaties that have been ratified are a constituent part of the legal system of the Republic. If norms are provided in these treaties other than those provided by the laws of the Republic, then the norms provided in the treaty shall prevail.

International treaties that contradict the Constitution may be ratified after making a corresponding amendment to the Constitution."

RA Constitution, Art. 43, reads in pertinent part . "The rights and freedoms set forth in the Constitution are not exhaustive and shall be construed to exclude other universally accepted human and civil rights and freedoms."

promote the protection of Armenian historical and cultural values located in other countries, and shall support the development of Armenian educational and cultural life.

RA Constitution, Art. 28: Everyone is entitled to private property and inheritance.

Foreign citizens and persons without citizenship shall not have the right to own land, except in cases prescribed by law. The owner may be deprived of private property only by a court in cases prescribed by law.

Private property may be alienated for the needs of society and the state only under exceptional circumstances, with due process of law, and with prior equivalent compensation.

5.3.2. RA Criminal Code

The RA Criminal Code is under review. Although amended several times in the post-soviet era, it is still basically the Soviet code, and does not have specific provisions for all of the internationally defined cultural heritage violations. Nevertheless, Article 73 on Contraband and Article 243 on Destruction or harm to historical, cultural or natural sites provide basic criminal sanctions for extreme violations.

RA Crim. Code, Article 73 - Contraband

Contraband, that is the transferred across the RA customs border of goods or other objects in contravention or clandestinely from customs inspection or by fraudulent documents or falsification of other modes of customs identification shall be punishable by between 2 to 5 years' imprisonment with or without confiscation of the contraband.

RA Crim. Code, Article 243 - Destruction or harm to historical or cultural monuments or objects of nature under state protection

Destruction or harm to historical or cultural monuments or objects of nature under state protection shall be punishable by up to 2 years' imprisonment, or correctional work for the same period, or penalties in the amount of 30 to 40 times the minimum wage, established by RA law.

5.3.3. RA Civil Code, entry into force March 1, 2000.

The RA Civil Code provides the framework for property rights and regulation of use of property, including recover and return and discovery/finding of property.

The state's right to regulate property is grounded in Art. 163.2, which states in pertinent part:

Art. 163.2. The owner has the right at his/her discretion to make in connection with the property belonging to it any actions *not contradicting a statute and not violating the rights and interests protected by statute of other persons*, including alienating its property to the ownership of other persons, transferring to them the rights of possession, use, and disposition of the property, to give the property in pledge or to dispose of it in another way.

An important means of permanent or long-term land regulation is the servitude that runs with the immovable property. The Civil Code provides for recording of servitudes (Art. 213) to secure state interests and the interests of neighboring property owners, e.g., on land (Art. 210, Land Code, Art. 50), on buildings (Art. 217). The Land Code, Art. 50, specifically permits the state to acquire and impose servitudes for protection of natural, cultural or historical heritage. Servitudes are a form of taking or long-term use of property for which compensation is required in most situations (Art. 214). In addition, the state has the right and duty to buy cultural properties that are endangered (Art. 279.2.4, Art. 284).⁶ Property rights may also be terminated under Art. 282, in the event that the property is not subject to private ownership, e.g., it is discovered to have religious or cultural significance, as defined by law. In the event of requisition by the state, the property owner is entitled to prior compensation under the RA Constitution, Art. 28, in the amount determined by Civil Code, Art. 287. The Civil Code also requires court oversight of the foreclosure of pledged of historical monuments in private ownership (Art. 249.2)

Zoning is grounded in Civil Code, Art. 188⁷, and the Land Code, Art. 29, and the Law on Historical Monuments, Art. 16, 19,

⁶ Civil Code Article 284 provides in pertinent part

1. In cases when the owner of cultural valuables categorized in accordance with a statute as particularly valuable and protected by the state maintains these valuables improperly so as to threaten the loss by them of their significance, such valuables, by decision of a court may be taken from the owner by buyout by the state.
2. In case of buyout of cultural valuables compensation shall be made to the owner for their value in an amount established by agreement of the parties and in case of dispute, by a court.

⁷ RA Civil Code Art. 188. Unsanctioned Building and its Consequences

1. An unsanctioned building is a dwelling house, often structure, construction, or other immovable property made on a land parcel not allocated for these purposes by the procedure established by a statute and other legal acts or made without receipt of the necessary permissions thereto or with substantial violation of city planning and construction norms and rules.
2. A person who has made an unsanctioned building does not acquire the right of ownership to it. It does not have the right to dispose of the building-to sell, give, lease out or make other transactions.
3. The right of ownership to an unsanctioned building may be recognized by a court for the person in whose ownership is the land parcel where the building is made. In this case the person for whom the right of ownership to the building is recognized shall compensate the person who made it for the building expenses in an amount determined by the court

Construction regarding protected buildings and sites is governed by Civil Construction Law, Art. 19⁸, and the Law on Historical Monuments, Art. 21, 22.

The RA Civil Code also provides protections and mechanisms for recovery of lost or stolen cultural property, including from a bona fide purchaser (Art. 275) and provides for an unrestricted statute of limitations for recovery of property by its rightful owner, under Art. 344. The return of property to rightful owners is further secured by Civil Code Art. 180-182 that imposes a duty to report found property. As a special category of found property, treasure trove, is also regulated by the Civil Code, Art. 186, which treats treasure as the property of the land owner, unless it is historical or cultural property, in which case, the Civil Code, Art. 186.3 requires that the finder of treasure report it to the state with the incentive of 50% compensation/reward of the value of the found treasure.

5.3.4. Law on Civil Construction

RA Law No. 217, “On Civil Construction,” dated May 26, 1998, Arts. 19, 23, 24, provides special permitting for work involving protected historical and cultural monuments or in their protected zones.

5.3.5. Land Code

RA Law, No. 185, “Land Code,” dated June 5, 2001, has a number of provisions relating to the use of land and protection of archeological sites.

The state’s right to regulate land use is set forth in Art. 8, which may include restrictions on land use in order to protect historical and cultural heritage. These regulations may extend to the use of protected lands (Art. 19), historical and cultural lands (Art. 23) which includes natural parks, reserves, burial grounds, battlefields, and archeological sites, as well as protection zones. More general regulation for town and country planning is provided by the zoning provisions (Art. 29). The protection of historical and cultural heritage on polluted lands is also specially regulated, Art. 38. The

The right of ownership to an unsanctioned building may not be recognized for this person if the keeping of the building violates the rights and interests protected by a statute of other person or creates a threat to the life and health of citizens.

⁸ RA Law on Civil Construction Art. 19. The objects of special regulations of Civil Construction.

The Civil Construction is subject to special regulation, if the use, drawing, construction of the area, without additional legislative measures, makes the security of interests of state and society impossible or difficult to implement.

The definition of the objects as objects subject to special regulation is made base on their social and economical development; complex resolution of engineering and transport infrastructure and environmental problems; reservation of national, historical, cultural property landscape and landsite, as well as on necessity to prevent the disasters, military actions, and state of emergency and their relief efforts.

Land Code, Art. 50, specifically permits the state to acquire servitudes for protection of natural, cultural or historical heritage. Certain lands are not subject to private ownership, under Art. 60, including certain natural, cultural and historical sites, and private ownership may be terminated in accordance with Art. 102 (also the Civil Code 285) with compensation. Construction on protected lands is permitted only in accordance with special permits and rules, Art. 73.

5.3.6. Monuments Law

RA Law No. 261 On the Protection and Use of Historical and Cultural Monuments and Historical Landscape, dated December 12, 1998

Recommendations on the RA Monuments Law:

1. Prioritization and Identification of Immovable Cultural Heritage at Risk

A list of immovable cultural properties that are at high risk needs to be established, and the preparation and maintenance of the list properly funded. A list of violations that threaten cultural heritage or undermine public respect for cultural heritage needs to be identified and addressed.

2. Classification of Monuments – Local and National

Consider a cultural significance-based, rather than a geographically based, classification, since Armenia is a small country without major ethnic and cultural diversity issues. (RA Law Art.6.1, CoE Legislative Guidelines A 2.2, 3.3, 4.0)

3. Harmonization of Data in accordance with CoE “Core Data Index” Recommendation R(95-3)

Streamline the multi-level and multi-agency process under RA law by using an e-governance solution to create a unified computer database of all protected cultural property. (Legislative Guidelines A2.1, B2.0)

4. Integration of town planning and cultural preservation, and single authorization system

Currently, approval of zoning and other construction permits is handled by a variety of government bodies which can result in inconsistency and inefficiency, lack of oversight and accountability, undue delay and unfairness. (Legislative Guidelines A4.6, The Granada Convention Art. 10 and 13, RA Law, Art. 19, 21)

5. Church-State Relations

There are a variety of approaches currently applied in Europe, based on the historical relationship of the church to the state, the presence of a national church or a supranational church (e.g., Roman Catholic Church), and the level of state financing of the church. The CoE is still studying these and

has not made any recommendations. One of the key issues is whether generally applicable laws on cultural heritage are applicable to church properties or whether the church is given broader freedom, especially with regard to active houses of worship, to maintain, preserve and adapt properties. As discussed in more detail in the Section 6.4 below, in light of the doctrine of separation of church and state and in order to avoid unnecessary entanglement and friction between church and state, if the church has the capacity, the freer regime usually afforded national churches in governing their property should be considered for the Armenian Church as well.
Legislative Guidelines A4.3

6. Extraterritorial cultural heritage

Increase participation with CoE members on exchanges and coordinated policies under Article 18-19 in order to achieve RA Constitution, Art. 11, and RA Monuments Law, Art. 8(6) requirements to facilitate within the framework of international norms measures to register, study, protect, conserve, renovate, restore and promote Armenian monuments located in other countries.

7. **Use of Monuments.** Encourage use and adaptation of historical monuments as a means of sustainable protection and development in accordance with Granada Art. 11, and Legislative Guidelines A4.4.
8. **Author's Rights.** Currently, architects or their heirs have a virtual veto right over any adaptation of any building they designed, even while in the employ of a state enterprise or private firm. Clarify the procedure for obtaining "author's permission" to adapt a building, establish objective criteria for adaptation.⁹
9. **Preservation Fund.** Improve the legal framework sufficiently to permit the establishment of a fund, perhaps partially state financed, to assist owners in maintaining the property, see, e.g., the Netherlands revolving fund model.

5.3.7. Import –Export Law

RA Law No. 112 On the Export and Import of Cultural Property, dated July 8, 1994.

Import-Export Regime

While each country must design a system of import-export permits for cultural property, there are certain common mechanisms that have

⁹ For example, under English Law, usually the copyright to a building plan belongs to the firm or company that employed the architect, and generally alterations to the building do not require that author's permission. Anthony Speaight & Gregory Stone, *Architect's Legal Handbook*, 7th Ed., (Oxford: Architectural Press, 2000), p. 351.

proved necessary in practice. For example, in England, as in most other countries, there is a General Export License that permits most objects that are not of special cultural significance to be exported without a license. Objects that are of special cultural significance must be evaluated to determine whether they may be exported, temporarily or permanently. A number of factors are considered in determining whether an export license should be granted: (1) protection of the national heritage, (2) rights of the owners, purchasers, exporters, (3) UK reputation in the international art market. The cultural significance of an object for national heritage is determined by considering several criteria, known as the Waverly criteria, first set forth in 1950: (1) is the object so closely connected with our history and national life that its departure would be misfortune? (2) is it of outstanding aesthetic importance? (3) is it of outstanding significance for the study of some particular branch of art, learning or history? These standards are applied by a Review Commission, which consists of private experts who act as advisors to the Secretary of State for National Heritage, which grants or denies export permits.¹⁰

RA Import –Export Law Art. 7, provides a similar general export license for “contemporary souvenirs or mass produced or replicated cultural items.” However, the “catch-all” provision under Art. 6 for “other objects, including copies with historical, artistic, scientific or other cultural significance, under state protection as historical or cultural property,” if interpreted broadly can result in an unduly burdensome regime for export of contemporary arts and crafts and thereby stunt the development and harm the livelihood of contemporary artists. In the course of interviews with tourists, artists and government regulators, the difficulty of balancing the state’s interest in protecting cultural heritage and the artists’, tourists’, sellers’ and purchasers’ interest was explored. Most tourists and sellers’ believe that the burden on the purchaser is too great and that a less burdensome alternative should be explored. It is recommended that the efficacy and efficiency of the current regime for export permits be reviewed to determine whether it is effective at preventing unlawful export of cultural heritage and whether it over-broad and over-burdensome, and to consider or develop less burdensome alternatives through discussions with stakeholders, including museums, art experts, scholars, artists, musicians, fine arts collectors, tourists, artisans, customs officials, and government administrators.

Recommendations on RA Import-Export Law:

1. Prepare and publicize a List of Lost or Endangered Movable.

¹⁰ Paul Kearns, *The Legal Concept of Art* (Oxford, 1998) pp. 150-154.

2. **Assure that buildings that house movables are secure and in good repair.**
3. **Streamline export license procedures.** Establish system of point of sale licensing. Blanket licenses for common products. Long-term export licenses. Establish a shorter period for issuance and review of export license applications (currently 3 months, Art. 28). Consider issuing long-term (3-10 year) export licenses for specific property, or class exemptions, rather than an owner-based licensing system. Legislative Guidelines B5.2. This will help promote the arts and crafts trade and tourism-related shopping as well.
4. **Inventory.** Make sure all publicly held movable cultural property is property registered and records are available on a centralized computer database accessible to regulators, law enforcement, cultural professionals and dealers. Adopt one of the standard systems of documenting cultural property, e.g., CIDOC (Getty) or EMII (See Appendix). Consider implementing tax incentives to encourage private possessors of cultural property to register this property. Grant additional protection, expedited recovery or insurance incentives for registration.
5. **Establish a fund to finance the State's right to acquire the cultural property declared for export.** Consider reducing the waiting period under Art. 38 from one year to a shorter period.
6. **Adopt Codes of Ethics for Dealers** and Guidelines for protection of church movables, e.g. Code of Ethics for Dealers in Cultural Property, and CoE Final Declaration on Unlawful Trafficking in Religious Cultural Property (November 1998).

5.3.8. Archive Law

RA Law No. 161 On the National Archive, dated 12 December 1997

Recommendations on RA Archive Law:

1. Identify archival materials at risk in Armenia and elsewhere and prioritize collection and protection of those materials.
2. Create a centralized computer inventory and catalogue of archives in Armenia and abroad, accessible to researchers and the public via an e-governance solution on the internet.
3. Review and select an international standard for cataloging of archival materials, e.g., International Standard Archival Description General ("ISAD").

4. Streamline transfer of documents between private collections. State right of first refusal could impede collection of archives. Art. 4.
5. Create transparent, accountable entities or foundations to help fund the compilation of Armenian archival materials from abroad pursuant to Art. 15.
6. Clarify use and publication rights, as well as copyright for collections of documents, fair use, and royalties if any for documents. Art. 18.
7. Sustainability. Consider expanding fees for certain archival services under State Archive Regulation No. 4 “On Use and publication of the documents of National Archive Fund of the Republic of Armenia,” dated June 6, 1996. publication, and use of archives for commercial or non-scholarly personal interest, perhaps on an ability to pay basis.
8. Establish a procedure for use of documents under the Law Art. 21, relating to repression of individuals during the soviet era in the interests of public access, CoE Recommendation on a European Policy on access to Archives (2000/13).

5.3.9. Copyright Law

The RA legal system provides many of the internationally accepted protections in the area of copyright and intellectual property, e.g., Civil Code Arts. 1100 et seq. and the recent amendments to the RA Law No. 28 on Copyright and Neighboring Rights, adopted on December 8, 1999, (“Copyright Law”) undertaken in connection with World Trade Organization (“WTO”) accession. Additional amendments are being proposed to the Civil Code and the Copyright Law to make Armenia’s intellectual property competitive in the global market by establish a level playing field for creators of Intellectual Property (“IP”) in Armenia. Those changes include establishing a “work-for-hire” doctrine, which will assist companies and groups to create intellectual property, and removing the 10-year limitation on licensing of intellectual property and the prohibition on waiver of certain authors’ non-property rights that impeded free transfer of IP Armenia has also joined World Intellectual Property Organization (“WIPO”) on April 27, 1993, and the Paris Convention (May 17, 1994), Berne Convention (May 3, 2000), the Madrid Convention on Trademarks (April 5, 2000). Armenia is also considering joining several other international conventions on recordings, e.g., Rome (1961), and Geneva (1972) and the Nice Trademark convention (1957), and other multilateral treaties, such as Madrid Multilateral Convention for the avoidance of Double Taxation of Copyright Royalties (1979) and Brussels Convention relating to the distribution of Programme-carrying Signals Transmitted by Satellite (1974).

Copyright and Reproductions

The copyright to many objects held in public institutions, e.g., museums, archeological sites, manuscript libraries, archives, is no longer an “author’s right” but rather a “possessor’s” right. The possessor has a duty to preserve the objects, assure public access to them, secure the necessary resources to perform these duties, and the right to regulate and obtain income from their use. The latter right to “obtain income from their use” is not technically a “copyright” or “author’s right.” It is a “possessory or use right.” For objects whose author’s rights are still in force (life plus 50 years under the Berne Convention and the RA Copyright Law, Art. 24), the current possessor should clarify the author’s rights at the time of acquisition. The author may transfer all rights to the museum, for example, or only some rights. The author and his/her heirs retain moral rights, though they may waive some of them.¹¹

Typically some form of “fair use” without permission or payment is permitted for scholarly work and education. Archives, in particular, may want to consider which categories of use and users they want to grant free use to, and which to charge, depending upon their ability to pay and the likelihood of their earning profits from the use of the archival material. For example, publishers of scholarly collections of historical works earn little or no profits, since the market is small and the cost of publication and/or translation and indexing is so great. For such publications, the public interest in disseminating the information of historical interest may justify access to the materials “at cost,” that is, for a nominal fee to cover the archive’s copying and assistance in granting the researcher access to the material. On the other hand, a commercial entity may want access to archives to determine property ownership. In this case, a standard fee based on the time required for accessing the archive or the volume of material requested would be justified. Similarly, individuals with small inquiries of a personal nature, e.g., genealogical or local history, could be charged a standard fee, with exemptions for certain categories, e.g., senior citizens, for a certain number of inquiries per year. Inquiries from foreign institutions and also government and church may also involve special policy considerations for setting reasonable rates to cover costs, while taking into account the archive’s goal of making information accessible.

Museum pieces - museums, like archives and libraries, have a possessory interest in the objects they maintain and have a right to derive income from those objects to support their duty to maintain them and make them accessible to the public. Limitations on photography in museums may be balanced by having gift shops where reproductions, posters, albums and post cards are sold. The publishers of such authorized reproductions may pay a one time fee or enter into a profit-sharing arrangement (royalty) with the museum

¹¹ Simon Stokes, *Art & Copyright*, (Oxford: Hart Publishing, 2001), p. 47, 106.

for use of these objects. Virtual (on-line) museums and exhibits may also provide wider access to the collection. Various kinds of entry fees, subscriptions to the museum, touring exhibit fees, and museum journals also provide a way to derive income from these objects to support the museum's purpose and duties.

Buildings - in general buildings are presented to the public free of charge and thus photographs of buildings are in the public domain. They may be photographed and the use of the photograph, even for profit, does not require permission from the owner or architect and does not require payment of royalties for use.

The intersection of copyright law and cultural policy covers a wide-range of discrete problems:

1. architects' author's rights to their designs - because of the way that moral and property rights developed in the soviet period architects and their heirs continue to exert control over the future development of buildings designed by various soviet design institutes. This could cause problems for zoning, maintenance, adaptation for modern use, municipal historical preservation areas, since the architects' author's right lasts for life + 50 years and could be exercised by heirs or personal representatives to hamper zoning or other productive uses of soviet era properties, some of which are currently listed buildings and others of which are now 50-75 years old and could thus be under historical protection. Civil Code, Art. 1122, Copyright Law, Art 11 and 26.
2. compulsory royalties for performing arts – Gov. Res. 251, dated April 22, 1999.
3. compulsory royalties for resales of artwork. Copyright Law, Art. 21.
4. collective cultural works – e.g., films, recordings, musical theatre, encyclopedias, etc. Civil Code, Art. 1119, Copyright Law, Art. 25.

Recommendations on Copyright Law

1. assure mutual respect and reciprocal protection of IP and copyrights, i.e., assure that foreign copyrights and IP are protected in Armenia so that Armenia can demand that its copyrights and IP be protected abroad.
2. reassess any compulsory royalties to determine whether these are (1) enforceable, (2) impediments to the competitiveness of Armenian cultural property or the ability of Armenia's artists and their heirs to earning a livelihood from cultural activity, (3) the variety of situations requires a more flexible approach that is better achieved through contract, with a statutory default in case the contract is silent.

3. reassess architect's rights to exercise control over the future development of buildings, esp. since this could impede the development of zoning or national/ethnic design or other standards to protect and promote Armenian architecture or the productive use of buildings
4. assure that Armenian IP law provides Armenian film-producers, record producers, artists and performers the necessary rights to effectively compete in the global market, especially assuring that it is possible to consolidate property rights to the IP that is the result of collaborative work in such a way that it can be licensed at least as easily and on at least as good terms as the IP created in other countries.

5.3.10. Tax Legislation

- Law No. 115, "On Profit Tax," dated November 27, 1997, as amended through December 29, 2000.
- Law No. 183, "On Income Tax," dated December 30, 1997.
- Law No. 118, "On Value Added Tax," dated June 16, 1997, as amended through December 29, 2001.
- Government Resolution No. 286, "On State Committee on Humanitarian Assistance," dated July 21, 1997.

Since cultural activity and property around the world is largely supported through voluntary contributions, the tax policy regarding cultural property and voluntary contributions general is an important factor in Cultural Heritage Policy. Tax policy is a way of providing incentives for the protection and development of cultural heritage and living culture.

Like other post-soviet countries, Armenia is under strict International Monetary Fund ("IMF") guidelines on tax policy, which severely limit tax deductions for cultural or charitable purposes or other non-profit activities, in an effort to raise revenues and prevent abuse. As time passes, however, the erosion of irreplaceable cultural heritage and cultural property needs to be weighed against the tax collection goals of the IMF policy to determine where the greater harm or greater benefit lies for Armenia's overall well-being and national wealth. The effects of under-financing of cultural heritage due to the absence of a favorable tax environment may threaten to impoverish the country or undermine its economic development more than the undercollection of taxes or economic distortions of tax evasion/abuse. Currently, Armenia offers the following tax incentives for protection of cultural heritage and voluntary contributions to cultural institutions:

1. no property tax on listed properties (the property tax rate ranges from 0 to 0.8% on the assessed value). RA Law No. 187 "On Property Tax," dated January 13, 1998, Art. 9.5.

2. a deduction from personal income tax for charitable contributions, capped at 5% of taxable income, Law on Income Tax, Art. 13.
3. a deduction from corporate income tax (profit tax) for charitable contributions, capped at 0.25% of total turnover, Law on Profit Tax, Art. 23a.
4. Value Added Tax (“VAT”)-exemptions for in-kind contributions, provided they are approved by the State Committee on Humanitarian Assistance. Law on VAT, Art. 15.20, Gov. Res. No. 286, dated July 21, 1997.

Some common tax issues that hamper the non-profit sphere are

1. tax exemption for income-generating activities directly related to their non-profit purpose
2. unlimited tax-deductions for contributions, including exemptions from VAT for in-kind contributions
3. unequal VAT treatment for imports of services vs. imports of goods. An Armenian institution that needs foreign marketing or other foreign consulting services is required to pay and collect VAT on such services, but is not permitted to deduct that VAT from its monthly VAT bill, making essential international services 20% more expensive than for competitors in other countries.
4. taxation of grants as ordinary income – grants are an essential method of promoting the arts. In an era of scarcity, it is hard enough to support culture and learning without having this additional tax burden.

Recommendations on tax policy

1. review the current tax incentives and survey current and potential donors to see whether these incentives are well-designed to attract sufficient donations to satisfy the needs of Armenia’s cultural heritage protection.
2. make Armenia’s tax policy competitive with those of other countries by bringing its tax policies into line with the best international practices; this is a pre-requisite for fund-raising from diasporans and from international foundations.
3. consider tax exemptions to encourage bona fide cultural institutions and living artists
4. consider broader tax deductions (VAT, Income Tax and Profit Tax), including tax deductions for cultural activities of non-profit cultural and education institutions and for voluntary contributions.

5.3.11. Other Laws

Language Policies are contained in the RA Law No. 52, On Language, dated April 17, 1993; RA Law No. 97, On TV and Radio, dated November 9, 2000; RA Law No. 297, On Education, dated May 8, 1999; and, RA Law No. N-042-I, On Mass Media, dated January 8, 1991. The Law on TV and Radio, Art. 9 and 59 also contain a local content requirement with a schedule to increase local content over the next 5 years from 25 % to 65 % by 2005.

6. Institutions and other Spheres of Culture

6.1. Museums

Armenia currently does not have a law on museums. As legislation is developed the International Council of Museums (“ICOM”) is a source of guidance for international best practices. According to ICOM, "a museum is a non-profit making, permanent institution in the service of society and of its development, and open to the public, which acquires, conserves, researches, communicates and exhibits, for purposes of study, education and enjoyment, material evidence of people and their environment."

The International Council of Museums is dedicated to the development of museums and the museum profession, and operates globally for the preservation of cultural heritage. Committed to the promotion and facilitation of professional cooperation, ICOM is a worldwide network for museum professionals of all disciplines and specialization.

Created in 1946, ICOM is a non-governmental organization maintaining formal relations with UNESCO and having a consultative status with the United Nations' Economic and Social Council. ICOM's activities respond to the challenges and needs of the museum profession and are focused on the following themes:

- professional cooperation and exchange;
- dissemination of knowledge and raising public awareness of museums;
- training of personnel;
- advancement of professional standards;
- elaboration and promotion of professional ethics; and
- preservation of heritage and combating the illicit traffic in cultural property.

ICOM is composed of National and International Committees as well as Affiliated and Regional Organizations. National Committees are the principal instruments of communication between the ICOM Secretariat and its members. Within its country, the National Committee ensures the management of ICOM's interests, represents the interests of its members within ICOM and helps to implement ICOM's programs.

There is currently no ICOM National Committee in Armenia. There are National Committees in Azerbaijan, the Islamic Republic of Iran and Turkey. There is no ICOM National Committee in Georgia.

Through its International Committees, ICOM achieves its major objectives: the exchange of scientific information at an international level, the development of professional standards, the adoption of rules and recommendations, and the realization of collaborative projects. Composed of ICOM members who request membership, International Committees are exclusively professional bodies.

ICOM's statutes appear in the Appendix and its website at <http://www.icom.org/> may be visited for further information.

ICOM Code of Professional Ethics

The ICOM Code of Professional Ethics is a means of professional self-regulation. It sets minimum standards of conduct and performance to which all museum professional staff throughout the world may reasonably aspire. At the same time, it also provides a clear statement of what the public museum professionals serve may reasonably expect from the museum profession. The Code of Professional Ethics lays out pragmatic institutional ethics such as basic principles for museum governance, acquisitions to museum collections and disposal of collections as well as rules for professional conduct such as professional responsibility to collections, the public, to colleagues and the profession. See Appendix for the full text of the Code of Professional Ethics.

The rights to reproductions, posters and commercial use of copies in collections is governed by copyright law, which varies from country to country, as analyzed in Section 5.3.9 above.

Recommendations on Museums:

1. Conduct a risk assessment for the collections, establish a priority list for protection of endangered items and institutions;
2. Adopt and enforce international codes and guidelines for Museum professions and dealers in cultural property and institute efficient management, with transparency and accountability that will inspire confidence among donors and other sponsors
3. Restructure legal status, management and ownership of museums and/or create privately managed “Friends of Museums” organizations to facilitate attracting funds
4. Adopt tax policies that encourage charitable giving to museums, gifts of art objects, and otherwise provide tax subsidies to museums.
5. Implement UNESCO recommendations on means of making museums accessible to everyone.
6. compile a centralized inventory of cultural movables, establish core holdings and collections, make these available on the internet for other museum professions, researchers and law enforcement, using e-governance solutions
7. develop e-museums and virtual museums to make collections more accessible, especially in light of diaspora, see for example, the virtual

Matenadarn project (www.matenadaran.am) and the Open Society Institute virtual gallery project with the National Gallery.

8. adopt international standards for inventory and description of items to facilitate exchange of information, use of standard software, e.g., International Committee for Documentation (“CIDOC”), Getty Information Institute systems; see e.g. Computerized Collection Management: A Primer.
9. establish written deaccessioning guidelines and use of proceeds restrictions, see Appendix on Museum Management).

6.2. Libraries

Armenia does not have a Law on Libraries. The key issues in library law have been identified by the International Federation of Library Associations (“IFLA”) www.ifla.org. “A national library faces many challenges in ensuring that the published heritage of its country is acquired and preserved for all to use. An important vehicle in assisting national libraries meet this responsibility is mandatory deposit (of a certain number of copies) with the central library. It is imperative that information made available to the public in digital format be included as part of national library’s heritage collection.” A consortium of the major libraries in Armenia has been formed and is preparing to oversee the creation of a unified computerized catalog with the support of the Open Society Institute.

The CoE has issued guidelines on Library Legislation and Policy in Europe, the main provisions of which are set forth below:

European Bureau of Library, Information and Documentation Associations (“EBLIDA”) Guidelines

Libraries form an essential and irreplaceable component of the cultural, educational and informational infrastructure of a society. Furthermore, they form an irreplaceable part of the cultural heritage. This idea is particularly important in contemporary Europe for a number of reasons:

- It guarantees the protection of the fundamental human right of freedom of expression and public access to information.
- It encourages a democratic development of new technology and globalization, where libraries are key actors in a culture oriented European policy on information and communication technologies;
- It complements the tendencies of globalization by emphasizing the local dimension and the thriving of multilingual and multicultural societies;
- It supports the institutional and economic reforms taking place in Eastern Europe, which calls to mind the importance of libraries in the democratization of States;
- It secures the development and preservation of national collections, in whatever form or whatever the content.

Since it is generally accepted that no country belongs fully to the democratic world as long as its inhabitants do not have equal right and free access to

information, it is essential that these principles be applied through European co-operation, at international level.

The IFLA has established **Guidelines for Legal Deposit Legislation** (Paris 2000), which are included in the Appendix.

The Russian Law on Libraries (1994) may serve as a point of reference for the development of library law in Armenia. Russian law divides libraries into public libraries, governmental, educational institutions, and private libraries. Libraries may be privately owned. There is no licensing requirement, and all public libraries are free of charge; private libraries may charge membership or use fees. As a policy matter, libraries should be a cultural, scientific information center. They should be part of a unified information network for the country and provide for interlibrary loan and on-line union catalogs. The state is required to properly finance public libraries. All new books must be deposited with the central library.

E-Publishing and Digital Libraries. The CoE has also issued Draft Guidelines on legislative and policy measures for book development and electronic publishing. These may be of interest to Armenia not only for application to Armenian cultural heritage, but also, given Armenia's high tech capacity, for the potential of developing internationally competitive services and expertise to support the development of this area of cultural support services.

Recommendations on Libraries:

1. Assure physical integrity of collections. Conduct risk assessment of current collections, assessment of circulation policies, tracking systems, loss of inventory, physical deterioration of books. Establish priorities for salvage and prevention of further deterioration.
2. Assess buildings housing collections, repair to avoid irremediable damage.
3. Inventory of Armenian books, rare books etc. in Armenia and around the world, in public and private collections.
4. network and use e-governance/centralized cataloging to reduce inconsistency and duplication and assure access throughout the country to the full collection, to encourage regional intellectual and academic development and counteract the town-country disparity and depopulation of the countryside. A unified computerized catalog project under the auspices of a library consortium is to start in 2002 with the support of the Open Society Institute.
5. create a book-mobile network around the country to counteract town-country disparity and assure access to new publications outside of the main urban centers
6. adopt a mandatory deposit policy or law
7. adopt policies and laws that promote e-books, e-publishing, and virtual libraries, such as the American University of Armenia Digilibrary, as a way to tap into Armenia's high tech potential, to

better serve a dispersed nation, and to counteract globalizing pressures that disfavor small nation and languages.

8. Develop an effective Armenian search engine, orthographic standards and text tools for Armenian in all of its forms.

6.3. Archives

The Council of Europe Recommendation on Archives provides the following:

- Although archives are the property of nations, they have to ensure free flow of information.
- Access to archives must be governed by the rule of law: arbitrariness in accessing archives (especially when it is authorized only to people considered “reliable”) must cease;
- Archives may well hold closed documents: nevertheless, finding aids relating to them should be accessible.

The launch, within the Council of Europe, of some projects linked to cross border co-operation among countries, which were in conflict during those wars, should aim at building up confidence among partners. The acceptance that archives, albeit the property of nations, are part of a common European heritage is itself an objective aiming at the reinforcement of cultural diversity and democracy in Europe.

Recommendations on Archives (see also recommendations under Section 5.3.8 above on RA Law on Archives)

1. Assess current holdings, assure preservation and physical integrity of collections, establish effective legal and administrative system to address urgent needs, as well as preparation of specialists.
2. Armenian archives are found in virtually every part of the world where there have been Armenian communities as well as in a wide variety of foreign government archives where Armenian communities or Armenian issues were overseen.
3. Use e-governance and internet to expand access to catalogs and inventories
4. Adopt international archiving standards - e.g., ICA standards
5. Adopt Code of Ethics for archivists, ICA (see Appendix).

6.4. Church-State Relations

As a country and culture with a prominent national church, Armenia faces certain unique issues that require unique solutions. International norms call for separation of church and state. However, cultural heritage laws, particularly in Europe and Russia, place cultural property under dual jurisdiction. State/church oversight, ownership and financing lead to entanglement and friction between church and state that the doctrine of separation of church and state aims to avoid. There are a number of approaches that work in various countries. There is no exact analog to the

Armenian situation; therefore, at best these models can serve as points of reference for the development of a policy and legal framework for Armenian law and policy in this field. In particular, England, Denmark, Sweden, and Greece, have found working models for their national church properties, with the English model granting the most independence to the church, since the church is the largest holder of immovable cultural property. In other countries, particularly Roman Catholic countries, there is greater state control over church properties, which is based at least in part upon significant state support through tax revenues for church properties and church activities generally, which is not likely in Armenia for the foreseeable future. Since these relationships have developed out of unique cultural and historical contexts and sustained pro-national church policies of those states, they are not likely to be directly applicable to Armenia, because of the Soviet and Tsarist past. In any event, adopting or grafting principles from one system onto another can cause harm or at a minimum less than optimal results.

As already noted, each country's approach to church-state relations and church properties depends upon unique historical circumstances and local conditions. In England the role and capacity of the Anglican Church as the national church gave rise to an "ecclesiastical exemption" from the general rules for historical preservation of buildings. This exemption was premised on a number of historical and objective criteria. The Church historically was self-regulating and had a large role in the society's property and personal law issues, with its own ecclesiastical administration and courts. Also the Church had its own rules and regulations as well as property administration for church property, including its preservation as historical and cultural heritage. Thus, when the English Ancient Monument Act of 1913 was enacted, Church properties that were in active use for worship were exempted from direct state oversight with certain important exceptions, since it was determined that the Church's oversight was sufficient. For most ordinary maintenance, renovations and alternations, approval from the Church's internal administration, which is quite rigorous, is final. However, if the structure is no longer to be used as a church or is going to be demolished, approval from the state historic preservation commission is required. The State also retains certain emergency intervention rights to prevent destruction and imposes certain public access requirements. Properties belonging to denominations or religions other than the national church are also exempt from direct state supervision, provided that those denominations and religions have the necessary administration and internal regulations to assure the preservation and public access to the sites. Finally, the state provides grants to the church to defray the costs of maintenance.¹² In addition, state affiliated councils, such as English Heritage, and public interest groups, such as SAVE Britain's Heritage, have the right to petition the church, state, and local authorities, as well as bring court cases, to protect properties that are endangered. English Heritage, which traces its roots to the Society for the Protection of Ancient Monuments founded in 1877, acts

¹² Roger W. Suddards & June M. Hargeaves, *Listed Buildings*, 3rd Ed., (London: Sweet & Maxwell, 1996), pp. 354-381.

as a trust, with a council of 5 private citizens members appointed by the State every 5 years. English Heritage makes recommendations and approves classification of monuments. It also acts as a public foundation that acquires at-risk monuments, receives donations and government grants, and makes grants to support their preservation.

While the current situation regarding Armenian churches in and out of Armenia is quite different from that of England, certain aspects of the English model deserve closer study to determine whether they could serve Armenia's needs in the near and more distant future. The following might be considered in shaping a policy and appropriate legal framework based on the English experience: (1) developing the church's capacity to manage and preserve its properties in and out of Armenia; (2) a public trust like English Heritage for which diasporan Armenians and the church could raise funds and participate in property preservation, particularly outside of Armenia; (3) clarification of the roles of church and state regarding church property; (4) mechanisms and safeguards for emergency preservation and public access; (5) rights of petition by public interest groups through the courts or state and local planning bodies to prevent irreversible harm to cultural heritage.

Which approach is best for Armenia will need to be determined by the stakeholders and may evolve in time, as the Armenian Church recovers from the past several centuries of persecution and repression. The return of church properties, in particular immovables, to the church is an important component in the recovery of the church and in the redress of the state repression against the church in the soviet and tsarist era. This principle of return of state property was adopted in the Church-State Memorandum signed on March 17, 2000 as the framework for the relationship between church and state which has entered a new stage with the 1700th celebrations. The Memorandum placed high priority on the issue of church property, placing it second on its agenda, Art. 1(b) "clarifying the problems related to the property of the Holy Armenian Apostolic church as a juridical body (land, real and movable property, historical cultural monuments, etc." Since early 2000, a church-state committee has been working on a more formal and detailed document, but this process appears to have stalled.

The current process for addressing issues of ownership or maintenance/adaptation of immovable church property involves a series of applications and referrals through over 5 governmental agencies: a request from the local church to the Diocese, to Etchmiadzin, to the State Commission on Religious Affairs, to the Historical Monument Preservation Administration at the Ministry of Culture, Youth Affairs and Sports, to the Ministry of State Property and then the Government, and may also include the City Architect at the Mayor's office or Province Administration Office, the State Cadastre (central and/or local) and the Ministry of Civil Construction. This process is burdensome and inefficient and may cause delays and inconsistent applications of law and policy that may endanger or impede effective preservation or use.

In the meantime, the Government has passed resolutions to return church properties, but the actual return has been complicated in a number of places

by defects in land surveys, land titles, and cultural heritage oversight processes.

Use of these buildings as community spiritual centers and houses of worship is consistent with the original use of the immovables and also with the needs of the church and community and the goals of preservation, since preservation is best promoted and sustained by a community that cares for the immovable financially and otherwise.

One urgent issue that has not been resolved is adaptation to current needs. In this regard, the state administration and legal culture is still in transition. On the one hand, the church has not yet recovered sufficiently to maintain its own historical and cultural preservation department and on the other the state and its secular specialists are still struggling to overcome Soviet legal culture and institutions and to find a new approach to religion and believers.

In the meantime, because of scarce resources, neither Church nor State are in a position to do the necessary maintenance, putting Armenia's immovable heritage at risk. As between them, however, the Church is in a better position to gather funds from the diaspora than the state treasury, because of international tax and charitable giving laws and the Church's worldwide network of institutions and foundations, as well as doubts and suspicion of diasporans and donors about the accountability and transparency of funds donated or granted to the state.

Finally, much of Armenia's extraterritorial heritage is church-related, and under international and most national laws, church and private property have various protections that a foreign sovereign cannot provide. Therefore, one conservation measure would be to gather such properties in church and private hands in concert with RA diplomatic action within the CoE and UNESCO cultural heritage protection frameworks. However, the effectiveness of these measures would be weakened if the Church in Armenia does not play a similarly prominent role in maintenance and control of immovable cultural property.

Under the circumstances, this effort to disentangle the Church from the State is the best option for preserving cultural heritage with the State supporting the Church and the Church taking the lead with substantial independence, provided it has the capacity, financial and expertise, to manage and protect the properties.

Recommendations on Church-State Relations:

1. Present and former Church properties need to be inventoried, assessed for risk, and prioritized for maintenance, preservation, and reactivation.
2. Urgent attention needs to be paid to monitoring churches to prevent vandalism, pilfering, inappropriate tourism, enforcement of protection zones to assure that inappropriate building or activities, noise, bazaars, picnic areas, restaurants, hotels, amusement parks, do not encroach on the sanctity of the church grounds.
3. The Church needs to develop its own capacity, including financial, management, and expertise, to manage these cultural properties, e.g., Church Property Trust Fund.

4. The Church needs to develop a transparent, objective and accountable system and criteria for the preservation, adaptation and use of cultural properties; e.g., Preservation Codes, self-regulatory mechanisms, independent boards of experts including lay and clergy experts and specialists, long and short-term policy and strategy papers.
5. Consistent with the principle of separation of church and state, the legal system should provide for the least interference by the State in Church (as well as other private) cultural property consistent with the state and national interest in its preservation, and should in general defer to the Church's and private owner's use of property, provided that the state acting in the national interest can intervene in the case of imminent danger to the cultural property.
6. A comprehensive Church-State-Diaspora international policy for preservation of church properties, analyzing rights under international and national laws, fostering ties with other religious and cultural protection organizations, actively participating in the CoE and UNESCO frameworks to advocate for preservation of Armenian cultural heritage, setting an example in Armenia of cultural heritage protection as grounds for reciprocity (e.g., the Blue Mosque in Yerevan and St. Tatei Vank in Iran),
7. Create a model of Church management of cultural heritage protection in Armenia toward Armenian cultural heritage that can serve as a precedent to request similar treatment of Armenian cultural heritage abroad.
8. Until a Church-based system of preservation and maintenance is established, take steps to reduce bureaucracy and increase efficiency, transparency and due process to raise the confidence of sponsors and funding sources and secure adequate financing for protection of cultural property.

6.5. Cultural Tourism - Cultural Routes

Cultural tourism is a new focus of UNESCO and the CoE. It is of special interest to Armenia, since Armenia is rich in as-yet-little-known cultural and natural sites of interests for tourists. Cultural tourism is closely linked with pilgrimage, which has special significance for Armenia as the country of Ararat, Noah's Arch, Etchmiadzin (the place where the only begotten descended), the missionary work of two Apostles Thaddeus and Bartholomew, the first Christian State, and the land of hundreds of monasteries and churches). See for example the cultural tourism routes established by Turkey for the missionary work of St. Paul.

ICOMOS defines *cultural tourism* as that form of tourism whose object is, among other aims, the discovery of monuments and sites. It exerts on these last a very positive effect insofar as it contributes - to satisfy its own ends - to their maintenance and protection. This form of tourism justifies in fact the efforts which said maintenance and protection demand of the human community because of the socio-cultural and economic benefits which they bestow on all the populations concerned.

The CoE has made pilgrimage and cultural routes a special project to promote awareness of common European heritage. "The term European Cultural Route is taken to mean a route crossing one or two more countries or regions, organised around themes whose historical, artistic or social interest is patently European, either by virtue of the geographical route followed or because of the nature and/or scope of its range and significance." "Application of the term 'European' to a route must imply a significance and cultural dimension which is more than merely local. The route must be based on a number of highlights, with places particularly rich in historical associations, which are also representative of European culture as a whole."

Recommendations on Cultural Tourism and Cultural Routes:

1. Assure proper presentation of these sites, management of tourism and tourist related facilities and activities around these sites, to assure that they are preserved and developed in a form will continue to make them attractive in the future, including their serenity, sanctity and pristine nature.
2. Integration with museums and other institutions, performing arts, folk culture, crafts, see, e.g., the ICOM Proposal for a Charter for Museums and Cultural Tourism
3. Promote regional tourism through establishment and registration of Armenian cultural routes with ICOMOS and the CoE, which may facilitate preservation of Armenian extraterritorial cultural heritage and provide a richer appreciation of Armenian contributions to world civilization, e.g., Jerusalem-Armenia, Cilicia Crusaders, Silk Route, Indo-European origins, etc. Register Armenian cultural routes through ICOMOS in accordance with the Record for Identification of a Cultural Route, and with the European Cultural Routes.
4. Implement Recommendation No. R (96) 6 on the protection of the cultural heritage against unlawful acts, which was adopted on 19 June 1996. "Cultural heritage open to public: crowd management and prevention of unlawful acts"
5. Prepare a "visitor's charter" as a sort of code of conduct, encouraging the visitors to adopt an attitude of respect for monuments and sites being visited, based on CoE standards.

6.6. Other Cultural Spheres

6.6.1. Folklore

Both UNESCO and the CoE have adopted special policies to promote intangible culture. Some examples include the UNESCO Recommendation on the Safeguarding of Traditional Culture and Folklore (Paris, November 15, 1989) and the UNESCO folk and sacred music library.

6.6.2. Language

This year Armenia took part in the European Year of Languages in 2001, as part of CoE's Common European Heritage efforts. An effective Armenian language search engine, spell checkers, optical character recognition program (scanner), and other text tools need to be developed to assure that Armenian is not left out of the information revolution. Variants in orthography (Classical and Soviet orthography), language and literature (Classical, Medieval and Modern East and West Armenian) need to be adequately addressed and supported by computer programs and databases to assure that Armenia's linguistic heritage is not lost due to the lack of technical capacity.

6.6.3. Arts and Crafts

CoE Recommendation No. R (81) 13 of the Committee of Ministers to Member States on Action in Aid of Certain Declining Craft Trades in the Context of Craft Activity (July 1, 1981). A Crafts Council and Crafts Foundation are currently being formed in Armenia with the assistance of the International Executive Service Corps ("IESC"). The IESC is also working to establish guilds for various crafts and to integrate crafts into tourism.

6.6.4 Cinema, Television, Radio Broadcasting, Internet and other Media

Cinema, television and radio broadcasting, the internet and other audio-visual media ("cinema and related media") are also a key part of cultural heritage, both in themselves and as a means for sharing culture. Armenia has a strong tradition of cinema on which to build. A catalog of Armenian film was recently released in Armenian Russian and English by the Armenian Film Critics and Cinema Journals, called *Armenian Cinema 1924-1999*. For living cultures to flourish and be known cinema and related media are essential. However, cinema and related media require high technology and are costly to support, especially for smaller nations in transition, with their unique languages, themes, and smaller audience. UNESCO and the European Community have several initiatives to support national cinema, broadcasting and other new media. European Support Fund for the Co-production of Cinematographic Works ("EURIMAGES") is a CoE program that supports co-production and distribution established in 1989 and has 26 member states. Also related to CoE is the European Audiovisual Observatory with its IRIS Plus Legal Observations. IRIS Plus provides summaries of national legislation and trends, including such issues as "Making and Distributing Films in Europe: the Problem of Nationality," and guidelines on national support for film production.

- National Film Production Aid: Legislative Characteristics and Trends

- “Linguistic Transfer” on alternatives to dubbing and subtitling for reaching larger markets and preserve national language broadcasting,
- Comparative Study of Film Production Costs in Five European Countries;
- Trade and Investment barriers in the AudioVisual Industry,

While distinct from broadcasting, cinema can no longer be understood entirely separately from Television. In this regard, the role of Public Service Broadcasting, is growing in Europe. Although regulated and perhaps partially supported by state grants, public service broadcasting is not government owned or operated, but is like a non-governmental organization - private in form, public in function. To this end, the IRIS Observatory has produced such studies as:

- Media supervision on the threshold of the 21st century - structure and powers of regulatory authorities in the era of convergence
- Model Public Service Broadcasting Law

Further guidance can be obtained from international trade associations, such as the European Broadcasting Union (“EBU”), and the International Federation of Film Archivists (“FIAF”). To date, Armenia is not a member of the EBU, EURIMAGES, or FIAF. The FIAF also has a Code of Ethics that assures access and proper preservation of film.

Recommendations on Cinema

1. Assess the sector using international surveys and identify current compliance with international norms. E.g., (1) Armenia should take part in the UNESCO National Survey, if it is not already doing so. Given the advanced level of cinematography in Armenia special attention should be paid to participation in international efforts to promote this form of culture. (2) IRIS Plus Trade Barriers to the Audio-Visual Industry Survey.
2. Consider joining international organizations for cinema promotion or encouraging Armenian organizations and institutions to do so, e.g., EURIMAGES, EBU, FIAF
3. Review the norms for support of production in light of European norms
4. Adapt and adopt the FIAF Archivists’ Code of Ethics
5. Review Media Regulation and Public Service Broadcasting models in light of Armenia’s needs
6. Consider alternatives to Russian dubbing, such as subtitling and other new techniques, to preserve the national character of media.

Part II - Legislative/Policy Checklist

- 1. Checklist of Issues and Criteria for Legislative Reform**
- 2. Cultural Property Performance Criteria Checklist**
- 3. Technical Assistance**
- 4. List of Interviews**
- 5. List of Governmental and Cultural Institutions**
- 6. RA Laws and Agreements Reviewed**
- 7. Bibliography**
- 8. List of Acronyms**
- 9. Appendix List**

1. Checklist of Issues and Criteria for Legislative Reform

1. General Issues for Immovable and Movable Cultural Heritage
 - 1.1. Inventory
 - 1.1.1. in Armenia
 - 1.1.2. outside of Armenia
 - 1.1.3. additions and deletions from inventory
 - 1.2. Classification – Prioritization Processes
 - 1.2.1. Essential – significance for national, cultural identity, sacred
 - 1.2.2. Important – good example, characteristic of culture, period
 - 1.2.3. Worthy of preservation
 - 1.2.4. Potentially worthy of preservation
 - 1.2.4.1. objective criteria and open, consistent process
 - 1.2.4.2. notice and opportunity to be heard
 - 1.3. Ownership – private, public, church
 - 1.4. Preservation
 - 1.4.1. public oversight over private properties
 - 1.4.2. private oversight over public properties
 - 1.4.3. wear and tear through use
 - 1.5. Use and adaptation
 - 1.5.1. limits, criteria, process, oversight
 - 1.6. Restoration, acquisition, creation
 - 1.6.1. national trust fund to support acquired endangered items
 - 1.6.2. fund to support restorations
 - 1.6.3. fund to support discovery and creation
 - 1.7. Archeological
 - 1.7.1. unintentional discovery
 - 1.7.2. intentional
 - 1.7.3. standards and oversight
 - 1.8. Risk Assessment – current condition, preservation program
 - 1.8.1. Endangered list
 - 1.8.2. Prioritization
 - 1.9. Economic value
 - 1.9.1. valuation
 - 1.9.2. insurance
 - 1.9.3. Cultural property as an asset for tourism, national identity, creativity, spirit
 - 1.9.4. revenues from use of property
 - 1.9.5. admission fees, user fees
 - 1.9.6. promotional materials
 - 1.10. Access and Presentation

- 1.10.1. freedom of information
 - 1.10.2. non-discrimination
 - 1.10.3. appropriate presentation for tourism, public awareness
 - 1.11. Financing
 - 1.11.1. public
 - 1.11.2. private
 - 1.11.3. tax incentives
 - 1.11.4. accountability/transparency
 - 1.11.5. volunteerism
 - 1.12. Due Process
 - 1.12.1. objective criteria
 - 1.12.2. opportunity to be heard
 - 1.12.3. rational basis, legitimate state interest/reasoned decision-making
 - 1.12.4. review/appeal
 - 1.12.5. alternative/specialized tribunals
 - 1.13. Cultural Sciences
 - 1.13.1. preservation, restoration arts, sciences, services
 - 1.13.2. authentication
 - 1.13.3. training of personnel
 - 1.14. Destruction, Vandalism, Protection
 - 1.14.1. hunting and bio diversity
 - 1.14.2. discrimination
 - 1.14.3. civil penalties, criminal sanctions
 - 1.14.4. policing
 - 1.15. Associations, personnel
 - 1.15.1. public advocacy
 - 1.15.2. training of personnel
 - 1.16. Church-State
 - 1.17. Tourism
2. Immovable Cultural Heritage
- 2.1. Scope & Issues
 - 2.1.1. Cultural and Natural Heritage
 - 2.1.2. Zoning
 - 2.1.2.1. territory
 - 2.1.2.2. use restrictions
 - 2.1.2.3. visual
 - 2.1.2.4. audio
 - 2.1.3. Historical Preservation Districts, Rural Settings
 - 2.1.4. Architectural and Construction Standards

- 2.1.5. Renovation, development vs. preservation – cost benefit analysis
 - 2.1.6. national parks, environmental clean up, landscapes, historic fields
 - 2.1.7. sacred lands/graves
 - 2.1.8. exterior vs. interior spaces, fixtures, movable contents, ensemble/groupings
 - 2.1.9. Documentation of immovables
 - 2.1.10. Copyright, author's rights, work for hire
 - 2.2. Performance Criteria
 - 2.2.1. Universal Situations
 - 2.2.1.1. 15 situations to test the performance of the law
 - 2.2.2. Abuse Proofing
 - 2.3. Needs Assessment
3. Movable Cultural Heritage
- 3.1. Unique Issues
 - 3.1.1. Import Export
 - 3.1.2. Museums, Libraries, Archives
 - 3.1.3. Economic, moral copyright, royalties
 - 3.1.3.1. perpetual, turnover royalties
 - 3.1.3.2. moral rights
 - 3.1.3.3. special copy right issues for each area and kind of movable
 - 3.1.3.3.1. literature
 - 3.1.3.3.2. music
 - 3.1.3.3.3. applied arts, design
 - 3.1.3.3.4. architecture
 - 3.1.3.3.5. film
 - 3.1.3.3.6. scholarly
 - 3.1.3.3.7. documents of public interest
 - 3.1.3.3.8. newspapers
 - 3.1.3.3.9. internet
 - 3.1.4. Acquisition of Items, mandatory deposit
 - 3.1.5. Certificates for Movable
 - 3.2. Performance Criteria
 - 3.2.1. Universal Situations
 - 3.2.1.1. 15 typical situations on which to test the law
 - 3.2.2. Abuse Proofing
 - 3.3. Needs Assessment
4. Living Cultural Heritage
- 4.1. Records & Descriptions (Ethnographic)

- 4.2. Language - dialects
 - 4.3. Dance - folk, classical
 - 4.4. Music - folk, classical
 - 4.5. Crafts - traditional, various media
 - 4.6. Oral literature
 - 4.7. Culinary - Food - recipes
 - 4.8. Performing arts - theatre, musical theatre
 - 4.9. Film
 - 4.10. Graphic arts
 - 4.11. Ways of life - village life, planning
 - 4.12. Religion
 - 4.13. living arts and education
 - 4.14. certification
 - 4.15. financing
 - 4.16. Performance Criteria
 - 4.16.1. Universal Situations
 - 4.16.2. Abuse-proofing
5. Case Studies/Performance Standards
- 5.1. Renovation of a Privately Owned Historical Monument
 - 5.2. Transfer of Property to Church
 - 5.3. Reactivation of Churches - modification to meet needs of church
 - 5.4. Export of Arts and Crafts purchased from Vernisage
 - 5.5. Development of City Center
 - 5.6. Carousel at Geghard
 - 5.7. Graffiti at Kobair
 - 5.8. Kiosk at Haghbat
 - 5.9. Picnics and bazaar at Geghard
 - 5.10. Phototaking at Museums
 - 5.11. Excavations at Ushi
 - 5.12. Armentel Tower at Oshakan
 - 5.13. Violinist travelling abroad
 - 5.14. Painter travelling with his creations
 - 5.15. Export of Antique Rug
 - 5.16. Sending or receiving a work of art by post
 - 5.17. Commercial Documents in the Archives
 - 5.18. Private, scholarly publication of Archival Materials
 - 5.19. Antique Shops - point of sale export licensing
 - 5.20. Personal or commercial espionage - Privacy Safeguards

- 5.21. Research on history of government actions regarding a person or situation - Freedom of Information, e.g., for historical or legal compensation of harm
- 5.22. Museum shop selling post cards or posters with pictures from the collection
- 5.23. Researcher producing an album of miniature paintings
- 5.24. Making changes to a 50 year old building that is classified so that it will serve a new function

2. Cultural Property Performance Criteria Checklist

The following is a list of specific functions and objectives that should be assured by the laws and regulations in the field of cultural property. They are meant to be a tool for evaluating the current legal framework, to identify gaps and problem areas, and to serve as a guide developing amendments or new laws and regulations.

<i>Artwork</i>
Inventory, valuation and insurance
Worldwide consolidation of inventory
Create virtual inventory on website
Membership in associations
Rights to reproduction (copy and other media)
Professional photography vs. amateur in galleries
Rights to display
Rights to derivative works
Eminent domain (state vs. private)
Relationship between artist and museums
Relationship between state museum and private museums
Export and traveling exhibitions
Private collections vs. state holdings
Admission fees
Clarifying rights at acquisition
Artwork preservation and restoration
Artwork authentication lab
Funding sources
Perpetual royalty rights/art appreciation
Export regulations
Customs database
Matching of policies and legal status with funding source requirements
Promotional material
<i>Archeological Sites</i>
Inventory, valuation and insurance
Worldwide consolidation of inventory
Create virtual inventory on website

Membership in associations
Existing artifacts in museums
Discoverers rights vs. state rights vs. museum rights
Rights to reproduction (copy and other media)
Rights to display
Rights to derivative works
Fair use for scholarly work
Relationship between archeologist and museums
Export and traveling exhibitions
Permits and supervision for current excavations
Permits and supervision for new sites
State plans and priorities of sites
Foreign excavators vs. local specialists
Eminent domain (state vs. private)
Burial sites
National minority sites
Policy on state deposit/ registration of artifacts
Construction site supervision
Ethnographic material
Use of artifacts (state, professional, personal)
Acquisition policy
Archeological finds on private property
Excavation tourism
Preservation of sites
Safety on sites
Zoning issues (commercial operations)
Funding sources
Tourism issues
Parking
Admission fees
Refreshment stands
Restrooms
Emergency safety

Overnight facilities
Vandalism and enforcement/oversight
Public Lands/Historic Landscape
Inventory, valuation and insurance
Development vs. preservation
Tourism issues
Parking
Admission fees
Refreshment stands
Restrooms
Emergency safety
Overnight facilities
Vandalism and enforcement/oversight
Noise, littering, pollution, safety, etc.
Hunting
Biodiversity
Zoning issues (commercial operations)
Funding sources
Landscape view protection
Battlefields
Archives
Inventory, valuation and insurance
Inventory of RA holdings worldwide
Preservation and collection policy adopted by all RA institutions (consolidation of inventory)
Current policies for RA state bodies
Public papers policy for high state officials
Transition problem – claims/rights of heirs
KGB archives
Church archives and re-transfer to church?
Export and traveling exhibitions
Membership in associations
Relationship between Archive and specialized institutions (e.g., house museums, etc.)

State rights vs. individual rights vs. institution
Privacy issues/freedom of information
Taking excerpts of material
Publishing whole documents
Translations of documents
Commercial documents (e.g., land titles, building plans, licenses, permits, etc.)
Genealogical materials, demographic records, and town and village history
Scholarly research (e.g., history, literature, sociology, etc.)
Categories of users
State body/official
RA institutes
RA students
RA citizens
Diasporan institution
Diasporan casual users
Foreign qualified researchers
Foreign casual user
Services
<i>Document indexing (on-line, searchable RA-wide)</i>
Internal
Worldwide
<i>Document retrieval and delivery</i>
On-site researchers
Off-site researchers
<i>Document preservation and restoration</i>
Special program for endangered archives worldwide (physical, political and abandoned)
<i>Document publication/transfer into other media</i>
<i>Research and inquiry (on-demand publication)</i>
<i>Promotional material (for popular and professional audiences)</i>
<i>Document authentication lab</i>
<i>Training of library science professionals</i>

Funding sources
State
<i>Memberships/subscriptions</i>
<i>User fees/service fees</i>
<i>International donations</i>
<i>Private donations</i>
<i>Matching of policies and legal status with funding source requirements</i>
Buildings
Inventory, valuation and insurance
Historic preservation zones
Create virtual inventory on website
Best use
Restoration
Demolition
Renovation
Standards
Authorized construction companies
Classification
Admission fees
Privatization
Tax and tax incentives
Authentication (dates, architects, residents)
Misc.
Copyrights
Use of names
Arts and crafts preservation of genres
Subsidies/commercialization
Folk medicine
Recipes
Music
Language (dialects)
Oral literature
Traditional village planning

Theater/bards
Dance
<i>Churches</i>
Inventory, valuation and insurance
Definition of clerical property
Governance rules and regulations of property
Restitution of clerical property to church
Church's legal responsibilities in management of properties
Historic preservation zones
Create virtual inventory on website
Best use
Restoration and preservation
Demolition
Renovation
Standards
Authorized construction companies
Vandalism and enforcement/oversight
Tourism issues
Funding
Promotional material
Photography and transfer of images to other media
Authentication
<i>Monuments</i>
Inventory, valuation and insurance
Historic preservation zones
Create virtual inventory on website
Best use
Restoration and preservation
Demolition
Renovation
Standards
Authorized construction companies
Classification

Admission fees
Privatization
Tax and tax incentives
Authentication (dates and architects)
Ownership issues
Vandalism and enforcement/oversight
Tourism issues
Funding
Promotional material
Photography and transfer of images to other media
<i>Performance Centers</i>
Inventory, valuation and insurance
Use of props and costumes

3. Technical Assistance

Technical Assistance is available from a number of international organizations for harmonization and international cooperation in the field of natural, cultural and historic heritage protection. The CoE in particular has a Legislative Support Task Force, headed by Dr. Rob Pickard, who can be reached in Strassbourg at rob.pickard@coe.int, Tel. 33 3 88 41 36 22, or 33 3 8 41 27 55/ 3783 (fax).

The CoE has also published numerous studies and guidelines, including the

1. CoE Guidelines for the Protection of the Architectural Heritage
2. CoE Guidelines for the Protection of Movable Heritage
3. CoE Guidelines for the Protection of Archeological Heritage
4. CoE Guidance on the development of legislation and administration systems in the field of cultural heritage.

The following organizations also provide technical assistance. UNESCO, EC (APLAC), World Heritage Committee, IFLA, ICA, ICOM, ICCROM, ICOMOS, IUCN, WMF, World Bank,

4. List of Interviews

Archives - Sonya Nersessian

Archeology Institute - Aram Kalanatryan 58-68-32

Ministry of Culture, Youth Affairs and Sports - Karen Aristakesian

Commission on Historical Monuments - Gagik Gyurchian

Commission on Religious Affairs - Sergei Vartanyan 52-83-82

Committee on Protection of Cultural Property - Nora Dayan 28-36-57

National Gallery - Shahen Khachatryan

Church - Shahe Srpazan

Libraries - Nerses Hayrapetyan - 52-77-82

Performing Arts - interviews with choir and orchestra directors

Publisher's Association - Vahan Khachatrian, President

Open Society Institute - Larissa Minasian

Presentation: Council of Europe STAGE Conference, Oct. 26-27, 2001, Tsaghkadzor. Legal framework of cultural field. "A survey of Armenia's Cultural Heritage Law Framework: tailoring laws to the Armenian context and harmonizing with international norms" (Tom Samuelian, USA/Armenia) (For Armenian and Georgian government officials and NGOs involved in cultural heritage preservation).

Presentation: Etchmiadzin, Conference on Church-State Relations, November 1-2, "Cultural Property Protection as a matter of Church-State Relations."

5. List of Governmental and Cultural Institutions

1. Ministry of Culture Youth Affairs and Sports
Minister: Roland Sharoyan
Address: Toumanyanyan 5, Yerevan, RA. Tel: 52-93-49
2. Deputy Minister Karen Aristakesian . Tel: 52-12-76
3. Arm. Society for Preservation of Historical and Cultural Monuments
Head: Gagik Giurjyan. Tel. 52-37-33
4. Department for Protection of Culture Values. Mrs. Asoyan Shoghik.
Tel: 23-50-86
5. Restorative Construction Administration. Ara Arakelyan. Tel:64-34-06.
6. Council on Cultural Property Protection
7. Inter-Agency Expert Council on Historical Monument Preservation
8. Inter-Agency Expert Council on Archeology
9. Customs Service - Cultural Section (if any)
10. National Copyright Agency. Head: Vladimir Kostandyan.
Address: Koriun Str. 19a, tel: 52-73-50, 52-94-92
Patent Office. tel. 56-32-58.
11. Trademark Department. Head: Araik Babayan. Address: Government House # 3, tel:56-11-58.

Museums (Public, unless otherwise noted)

12. National Art Gallery. Director: Shahen Khachatryan. Tel.58-08-12.
13. State Historical Museum . Director: Grigoryan Anelka. Tel. 58-38-61
14. Sergeiy Parajanov Museum. Director: Zaven Sargsyan. Address: Dzoragiugh Ethnographic Center, Bldgs.15 & 16, Tel. 53-84-73. (Private)
15. Museum of Martiros Saryan. Director : Shahen Khachatryan. Address: Moskovyan 3, tel. 58-17-62.
16. Museum of Hovhannes Toumanian. Director : Movsisyan Verzhine.
Address:
Moskovyan 40, tel. 58-17-62.
17. House – Museum of Aram Khachatrian. Director: Harutyunyan Gohar.
Address: Zarobyan 3, tel. 58-94-18.
18. Kochar (Private)
19. Children’s Art

Theatres, Opera Houses

20. Aram Khachatryan Concert Hall. Director:. Nika Babayan. Mashtots Ave. 46, tel. 56-39-41.

21. Arno Babajanian Concert Hall. Director: Gagik Ter Ghazaryan. Address: Abovyan 2, tel. 58-28-71.
22. House of Chamber Music. Director: Andranik Harutyunyan. Address: Isahakyan 1, tel. 52-67-25, 52-67-80.
23. National Opera & Ballet Academic Theatre of Armenia. Director: Hovhannesyan Kamo. Address: Tumanyan 54, tel. 58-43-01.
24. State Russian Drama Theatre named after Stanislavsky Stanislavsky. Director: Davtyan F. Address: Abovyan 7, tel.58-02-23.
25. State Musical Comedy Theatre named after Hakob Paronyan. Director:Ghazanchyan Yervand . Address: Vazgen Sargisyan Str. 7, tel. 58-00-75.
26. National State Academic Theatre named after G. Sundukian. Address: Grigor Lousavorchy
27. Drama Theatre named after Hrachya Ghaplanyan. Director: Toros Khachatryan. Ad.: Isahakyan 28, tel. 52-47-03, 52-47-33.
28. Chamber Theatre. Director: Rouben Toroyan. Ad.: Mashtots Ave. 58, Tel.56-21-18.

29. Regional and Local Cultural Centers

Film Studios

30. Yerevan Film
31. Hay Film
32. Independent Film Studios
33. Publishing Houses
34. Privatized

Performing Groups

35. Armenian Philharmonic Orchestra. Ad.: Mashtots Ave. 46, tel. 56-06-45
36. Chamber Orchestra
37. Opera
38. State Dance Ensemble
39. State Theatre
40. State Choir
41. Private Choirs
 - “Hover”, Sona Hovhannesyan, 56-23-86
 - “Tagharan”, Sedrak Yerkanyan, 52-67-80
 - “Narek”, Mkrtich Mkrtychyan, 52-29-28
 - “Mankunk” Children’s Choir, Shota Vardanyan, 34-60-36
42. Folk Music Ensembles “Akunk” Harutyun Panosyan

Institutes

43. Archeology & Ethnography Institute. Director: Kalantaryan Aram. Tel 55-68-96
44. Conservatory
45. Architecture Institute. Director: Beglaryan A. Ad.: 105 Teryan, tel. 58-01-77.

Libraries

46. National Library. Director: Sargsyan Davit. Ad.: Teryan 72, tel.56-35-87.
47. Fundamental Scientific Library. Director : Nersessyan Anri. Address: 24d Marshal Baghramyan Ave., tel. 52-47-50
48. Regional Libraries
49. Central Library. Director: Karapetyan Hasmik. Ad.: Amiryan 2, tel. 58-96-10
50. University Libraries

Depositories

51. Matenadaran. Director: Sen Arevshatyan. Ad.: Mashtots Ave. 53, tel. 56-25-93.
52. Filmataran
53. Book Palace

Archives

54. State Archive. tel. 26-87-96
55. Communist Party Archives
56. Historical Museum
57. Local Government, Administration of Architecture and Building Control of Yerevan Municipality. Head: Muradyan Hrach. Address: Pavstos Biuzand 1/3, tel.52-12-52
58. City Architect, Narek Sargsyan
59. Ministry of Civil Construction, Minister Lokyan Davit. Ad.: Gov. Building # 3, tel. 58-90-80.
60. Church - Etchmiadzin Office for Church Property

Associations

61. Artists Association. Aghamalyan Karen, tel.56-47-24.
62. Artists Pensione, Tsakhkadzor.
63. Musicians Association. Amirkhanyan Robert, tel. 52-47-02
64. Musicians Pensione, Dilijan.
65. Filmmakers Association, Israelyn Sergey
66. Filmmakers Pensione, Dilijan.
67. Writers Association, Levon Ananyan, 56-45-70
68. Writers House, Pensione, Tsakhkadzor.

6. RA Laws and Agreements Reviewed

International Agreements

1. Convention For The Protection Of Cultural Property In The Event Of Armed Conflict, Dated May 14, 1954 (The Hague).
2. Convention On The Means Of Prohibiting And Preventing The Illicit Import, Export And Transfer Of Ownership Of Cultural Property, Dated November 17, 1970 (Paris).
3. Black Sea Economic Cooperation Agreement On Cooperation In Cultural, Educational, Scientific And Information Fields, Dated 1993 (Istanbul).
4. European Cultural Convention, Dated 1954 (Paris).
5. The Founding Agreement On The Establishment Of A CIS Cultural Cooperation Support Foundation, Dated 1998 (Moscow).
6. Convention Concerning The Protection Of The World Cultural And Natural Heritage, Dated 1972 (Paris).
7. Unidroit Convention On Stolen Or Illegally Exported Cultural Objects, Dated June 24, 1995 (Rome).
8. Declaration On Principles Of International Cultural Cooperation, Dated 1966 (Paris).
9. Recommendations On International Principles Applicable To Archaeological Excavations, Dated 1956 (New-Delhi).
10. Recommendations Concerning The Most Effective Means Of Rendering Museums Accessible To Everyone, Dated 1960 (Paris).
11. Cusco Declaration, Dated 1999 (Cusco, Peru).

Laws Of The Republic Of Armenia (“RA”)

12. The Constitution Of The Republic Of Armenia
13. RA Law No. 112 On The Export And Import Of Cultural Property.
14. RA Law No. 161 On The National Archive.
15. RA Law No. 261 On The Protection And Usage Of Historical And Cultural Monuments And Historical Landscape.

Regulations.

Law On The Export And Import Of Cultural Property:

16. RA Government Resolution No. 501, Dated October 22, 1994, On The Establishment Of An Office For The Protection Of Cultural Property.
17. The RA Supreme Council’s Presidium Resolution Dated December 2, 1994, On Approving The By-Laws Of The Cultural Property Export-Import State Council.
18. RA Government Resolution No. 236, Dated April 26, 1995, On The Events To Secure The Application Of The RA Law On The Export And Import Of Cultural Property.
19. RA Government Resolution No. 137, Dated March 5 1999, On Regulating The Export Of Cultural Property And Objects.

20. Regulation On Billing And Reimbursement Of State Duties For Issuing Cultural Property Export Or Temporary Export Certificates.
21. Regulation On Import And Temporary Import Of Cultural Property.

Law On The National Archive

22. RA Government Resolution No. 246, Dated April 22, 1998, On Implementing Art. 14 And 18 of the RA Law On The National Archive.
23. RA Government Resolution No. 501, Dated August 13, 1998, On Establishing The State Archives To Implement The Permanent Preservation Of State Owned Documents Of The National Archive.
24. RA Government Resolution No. 573, Dated September 18, 1998, On The Regulation Of Submitting The Documents Of The National Archive To The State Archive In The Event Of Liquidation And/Or Privatization Of State Enterprises, Institutions And Organizations.
25. RA Government Resolution No. 577, Dated September 18, 1998, On The Regulation Defining Especially Valuable And Rare Documents Of The National Archive.
26. RA Government Resolution No. 671, Dated October 29, 1998, On Establishing The Regulation On Licensing The Non-Governmental Archives Implementing The Preservation Of Non-State Owned Documents Of The National Archive.
27. RA Government Resolution No. 157, Dated March 17, 1999, On Amendments In The RA Government Resolution No. 246, Dated April 22, 1998.
28. RA Government Resolution No. 163, Dated March 18, 1999, On Rules Of Control Of The Preservation And Calculation Of Non-State Owned Documents Of The National Archive.
29. RA Government Resolution No. 496, Dated August 4, 1999, On The Rules Of Registration Of State And Institutional Archives Implementing The Preservation Of The State Owned Documents Of The National Archive.
30. RA Government Resolution No. 559, Dated September 4, 1999, On The Rules Of Expert Evaluation Of Documents And Including Them Into The National Archive.

Other Laws Of The Republic Of Armenia.

31. RA Customs Code.
32. RA Law No. 278, On Customs Duties.
33. RA Criminal Code.
34. RA Civil Code.
35. RA Law No. 246, On State Duties.
36. RA Law No. 246, On Weapons.
37. RA Law No. 28, On Copyright And Neighboring Rights.
38. RA Land Code
39. RA Law on Urban Property

7. Bibliography

Mynors, Charles; Listed Buildings and Conservation Areas,
Third edition, Sweet and Maxwell 1999.

Kearns, Paul; The Legal Concept of Art,
Hart Publishing 1998.

Norman Tyler; Historic Preservation- An Introduction to its History, Principles and
Practice
W.W. Norton & Company 1994

Pickard Robert; Policy and Law in Heritage Conservation,
Spon Press, Taylor & Francis Group 2001

Robert R. Wright; Land Use in a nutshell
Third edition, West Publishing Co. 1994

Robbers Gerhard; State and Church in the European Union
Nomos Verlagsgesellschaft 1996

RA Historical And Cultural Monuments Protection Administration; Collection
of Legal Acts Regulating Historical And Cultural Heritage Issues, Yerevan 2000

Roger W. Studdards, June M. Hargreaves; Listed Buildings
Third Edition, Sweet & Maxwell 1996

Simon Stokes; Art & Copyright
Hart Publishing 2001

Anthony Speaight, Gregory Stone, Architect's Legal Handbook- The Law for
Architects Seventh edition, Architectural Press 2000

Telling & Duxbury's; Planning Law and Procedure
Eleventh Edition, Butterworths 1999

National Trust- Charitable Trust UK
1895-1936 Statute added County Homes

Guidelines For The Protection Of The Architectural Heritage- Council Of
Europe

2000- Belgium

Guidelines For The Protection Of The Archaeological Heritage- Council Of Europe
2000- Belgium

Guidelines For The Protection Of The Moveable Heritage- Council Of Europe
2000- Belgium

**Guidance On The Development Of Legislation And Administration Systems In
The Field Of Cultural Heritage-** Council Of Europe 2000- Spain

A Compilation Of International Instruments

Volume 1 Part 1 United Nations 1994

Armenian Association of International Law; American Bar Association CEELI
Conclusion- On the state of transformation of International Treaties' Provisions with
participation of the Republic of Armenia into the RA legislation and on their
implementation (comparative analysis).
Yerevan 2000 Funded by USAID

8. List of Acronyms

1. **CIDOC** – International Committee for Documentation,
2. **CIS** – Commonwealth of Independent States,
3. **CoE** – Council of Europe
4. **CSDCA** – Center of Studies and Documentation of the Armenian Culture
(Centro di Studi e Documentazione della Cultura Armena)
5. **EBLIDA** – European Bureau of Library, Information and Documentation
Associations
6. **EBU** – European Broadcasting Union,
7. **EURIMAGES** – European Support Fund for the Co-production of
Cinematographic Works,
8. **FIAF** – International Federation of Film Archives,
9. **ICA** – International Council on Archives,
10. **ICCROM** – International Center for the Study of the Preservation and the
Restoration of Cultural Property,
11. **ICESCR** – International Convention on Economic, Social and Cultural
Rights,
12. **ICOM** – International Council of Museums,
13. **ICOMOS** – International Council of Monuments and Sites,
14. **IESC** – International Executive Service Corps,
15. **IFLA** – International Federation of Library Associations,
16. **MDA** – Museum Documentation Association
17. **IMF** – International Monetary Fund,
18. **IP** – Intellectual Property
19. **IRIS** – Cinema Legal Observatory
20. **ISAD** – International Standard Archival Description General,
21. **IUCN** – International Union for Conservation of Nature and Natural
Resources,
22. **UN** – United Nations
23. **UNESCO** – United Nations Educational, Scientific and Cultural
Organization,
24. **UNIDROIT** – International Institute for the Unification of Private Law,
25. **VAT** – Value Added Tax,
26. **WIPO** – World Intellectual Property Organization,
27. **WMF** – World Monuments Fund,
28. **WTO** – World Trade Organization

9. Appendix List

01. Armenian Laws in Translation
 - 01.01. RA Law No. 112 “On Export and Import of Cultural Property”
 - 01.02. RA Law No. 161 “On the National Archives”

- 01.04. RA Law No. 261 “On the Protection and Use of Immovable Historical and Cultural Monuments and Sites”
- 01.05. Org. Chart of Monuments Protection Administration
- 01.06. RA Law No. 28 “On Copyright and Neighboring Rights”
- 01.07. Proposed Amendments to the RA Law “On Copyright and Neighboring Rights”
- 02. Armenian Legal Association (hard copy only)
- 03. Foreign Legal Models
 - 03.01. Cyprus UNESCO
 - 03.02. Greece Analysis
 - 03.03. Italy UNESCO
 - 03.04. Architectural Conservation and Cultural Management the Italian Experience
 - 03.05. Lithuania Heritage Protection
 - 03.06. Lithuania Immovables
 - 03.07. Lithuania Movable
 - 03.08. Cultural Policy in the Russian Federation (hard copy only)
 - 03.09. List of Russian Laws
- 04. Treaties
 - 04.01. The Athens Charter
 - 04.02. European Convention on Offences to Cultural Property
 - 04.03. The Venice Charter
 - 04.04. The Hague Convention
 - 04.05. European Cultural Convention
 - 04.06. Unidroit Convention
 - 04.07. Convention on Economic, Social and Cultural Rights
 - 04.08. Malta 1992
 - 04.09. Granada 1985
 - 04.10. London 1969
 - 04.11. UNESCO 1972
- 05. Council of Europe
 - 05.01. Landscape policies
 - 05.02. Control of physical deterioration
 - 05.03. Promotion of craft trades
 - 05.04. Protection of 20th century
 - 05.05. Document methods
 - 05.06. Immovable and moveable property
 - 05.07. Protection of Rural Architecture
 - 05.08. Special Training
 - 05.09. Town Country Planning
 - 05.10. Unlawful acts

- 05.11. Urban Open Space
- 05.12. Physical deterioration due to pollution
- 05.13. Industrial, technical & civil engineering
- 05.14. Natural Disasters
- 05.15. Euro Convention on Trafficking
- 05.16. Analysis of National Policies
- 05.17. Exports
- 05.18. Craft trades
- 06. Archives
 - 06.01. Recommendations on European Policy
 - 06.02. European Policy on Archives
 - 06.03. Book Links
 - 06.04. Code of Ethics
 - 06.05. Archives Activities
 - 06.06. ISAAR
- 07. Museums
 - 07.01. ICOM Statutes
 - 07.02. ICOM Code of Ethics
 - 07.03. Collection Management
 - 07.04. Museum Accessibility
 - 07.05. ICOM Cultural Diversity
 - 07.06. Standards Resource
 - 07.07. Cultural Tourism
 - 07.08. Management of Museum Collections
- 08. Libraries
 - 08.01. IFLA Statute
 - 08.02. EBLIDA Guideline
 - 08.03. Book Publishing Guidelines
 - 08.04. Electronic Publishing
 - 08.05. Policy Recommendations
- 09. Church State
 - 09.01. Memo of Understanding
 - 09.02. Trafficking
- 10. Cultural Tourism and Cultural Routes
 - 10.01. Cultural Routes Background
 - 10.02. Cultural Routes Definition
 - 10.03. ID Cultural Routes
 - 10.04. Cultural Tourism Background
 - 10.05. ICOMOS Cultural Tourism Charter
- 11. Miscellaneous

- 11.01. Dealers Code of Ethics
- 11.02. Heritage Education
- 11.03. Cultural Objects
- 11.04. Free Movement of Goods
- 12. Legislative Guidelines
 - 12.01. Legislative Guidelines & Technical Assistance (hard copy only)
 - 12.02. Legislative Support Task Force
 - 12.03. Policy and Law in Heritage Conservation (hard copy only)
- 13. Cinema
 - 13.01. Sources of Information on Advertising
 - 13.02. Audiovisual industry; trade and investment barriers in third country markets
 - 13.03. Linguistic Transfer - Markets and Audio-visual works
 - 13.04. The European Broadcasting Union in Brief (EBU)
 - 13.05. Regulations concerning distribution support for full length feature films, animation and documentaries
 - 13.06. Regulations for the support of co-production: full length feature films, animation and documentaries
 - 13.07. Eurimages: A support fund
 - 13.08. Resolution setting up a European support fund for the co-production and distribution of creative cinematographic and audiovisual works: "Eurimages" (88/15)
 - 13.09. Eurimiges
 - 13.10. The International Federation of Film Archives (FIAF)
 - 13.11. FIAF Code of Ethics
 - 13.12. Film Production in Europe
 - 13.13. National Film Production Aid: Legislative Characteristics and Trends
 - 13.14. Media supervision on the threshold of the 21st century - structure and powers of regulatory authorities in the era of convergence
 - 13.15. Model Public Service Broadcasting Law
 - 13.16. Cinema Links