



CREHAR
UNESCO Chair

SPAIN

×

Marta Garcia Casasola

Mar Loren-Méndez

José Peral

Julia Rey Pérez

report

Influence of national policies on the sustainability of heritage from the architectural and urban design perspective

The aim of this report is to reflect on urban policies and how they affect the issue of sustainability in heritage. The decentralized character of Spanish geopolitics and the transference of power to the different autonomous governments both in terms of heritage management but also architectural and urban policies in general, make one autonomous region the proper framework for this study. Therefore, we have structured the document as follows:

- 1) Andalusia, Spain. National, Regional and municipal policies.
- 2) Regulatory framework
- 3) The international context. International reference texts and charters
- 4) The protection of cultural heritage in Andalusia (Spain). The Andalusian Institute of Historical Heritage (IAPH)
- 5) References

1. ANDALUSIA, SPAIN. NATIONAL, REGIONAL AND MUNICIPAL POLICIES

Urban policies on heritage in Spain are characterized by decentralization, which constituted the main shift in government structure in the democratic government after the end of Franco's 36-year dictatorship in 1975. After the country's centralized control, most of the competencies, including heritage, were transferred to the 19 regional (autonomous) governments (17 autonomous regions, and 2 autonomous cities).

There are some exceptions: exportation of cultural properties and tax exemption in properties, state-owned museums, archives and libraries. Andalusia has an Autonomy Status since 1981 and it was revised in 2007. In this last law the competencies are set forth in article 68: "The protection of historical, artistic, architectural, archaeological and scientific corresponds to the Autonomous Community of Andalusia".

In terms of legislation, this means that in Spain, powers in the field of cultural heritage are transferred to the autonomous governments, such as that of Andalusia, which has developed its own laws in this area under the protection of national legislation.

1.1. National Context: 1985 Spanish Historical Heritage Law

The Spanish Historical Heritage Law of 1985 was the beginning of a new definition of Historical Heritage, notably extending its scope, although always under the nominative of "historical", with a mainly monumental character and a vision of heritage as something to be conserved. It includes the movable and immovable assets that constitute them, the Archaeological and Ethnographic Heritage, the Museums, Archives and Libraries owned by the State, as well as the Documentary and Bibliographic Heritage (ESPAÑA, 1985). However, concepts related to territory, landscape, and intangible heritage are absent in this law. As stated in the first article of this law: Spanish Historical Heritage Law includes immovable property and movable objects of artistic, historical, palaeontological, archaeological, ethnographic, scientific or technical interest. It also includes documentary and bibliographic heritage, archaeological sites and areas, as well as natural sites, gardens, and parks of artistic, historical or anthropological value.

National Law 1985 has two valuable contributions. On the one hand, it took as a reference Theory of Cultural Property, proposed in The Commission Franceschini (1964-1966), that defines cultural property as "all properties that relate to the history of civilization" and called "Bien de Interés Cultural" (BIC) instead Monument. Likewise, the most relevant assets of Spanish Historical Heritage must be inventoried or declared to be of "cultural interest" under the terms provided for in this Law. In short, the categories included in the Law are: Monuments, Historic Garden, Historic Complex, Historic Site and Archaeo-

logical Zone. However, despite the historical and monumental profile of this law, it was a very important starting point for the management of historical heritage at the time. On the other hand, based on the doctrine of divided ownership, the law distinguishes between the private possession of the property, and its collective enjoyment, whose management belongs to the state.

1.2. Regional context. 2007 Andalusian Historical Heritage Law. Its Antecedents

In Andalusia, the current Historical Heritage Law is the Law 14/2007, which, in its article 1, makes clear the change that this law has brought about in terms of identification and management of heritage: "The purpose of the Law is to establish the legal regime of the Historical Heritage of Andalusia in order to guarantee its tutelage, protection, conservation, safeguarding, and dissemination, to promote its enrichment and use as a social asset and factor of sustainable development and to ensure its transmission to future generations", as it considers it to be a factor of sustainable development. Its scope of application is all cultural assets, tangible and intangible, as long as they are located in Andalusia and reveal an artistic, historical, archaeological, ethnological, documentary, bibliographical, scientific or industrial interest for the Autonomous Community, including linguistic particularities. Moreover, the categories are broader than those of the 1985 National Law: monuments, historic sites, Historic Gardens, Historic Sites, Archaeological Sites, Sites of Ethnological Interest, Sites of Industrial Interest, and Heritage Areas. This explicit reference to Sites on Industrial Interest constitutes a national heritage policy reference, transcending its previous ethnographic assessment.

The last figure of Heritage Area is a nod to the patrimonialization of landscapes and all that this entails, covering a wide territory with assets of different chronologies and typologies. As defined in article 26.8: "those territories or spaces that constitute a diverse and complementary set of heritage, made up of diachronic assets representative of human evolution, which have a value of use and enjoyment for the community

and, where appropriate, landscape and environmental values".

The Andalusian Law clearly incorporated the concept of the environment of every BIC, defined in article 28: "The environment of the BIC declared will consist of those buildings and spaces whose alteration could affect the values of the property in question, your appreciation or study, can be formed both by the immediate adjoining properties, such as nonadjacent or distant." There was a previous reference on the national 1985 to the environment of the BIC, in its article 17, in the specific case of the historic cities: "In dealing with the case of Historic City should be considered its relations with the territorial area to which it belongs, and the protection of geographical features and natural landscapes that make up their environment".

Therefore, the concept of cultural heritage has overcome in Andalusia obsolete preconceptions: on the one hand, it already contemplates from the different scales from the building, the city and the territory. On the other, it is already committed with those categories of heritage that are most vulnerable due to their low protection and appreciation by society and institutions and therefore most at risk of disappearance, always open to the protection and conservation of those emergent types of heritage.

2. REGULATORY FRAMEWORK

We list the different Laws which regulate cultural heritage at the national, regional and local level. We are including those laws which are specifically centered on defining the regulatory basis of heritage and on the other, those which regulate both building and urban planning and therefore are applicable to urban and architectural.

2.1. Legislation on heritage

- a. National Level:
 - Ley del Patrimonio Histórico Español (LPHE 16/1985) (Spanish Historical Heritage Law)
- b. Regional Level:
 - Ley del Patrimonio Histórico de Andalucía (LPHA 14/2007) (Andalusian Historical Heritage Law)

- General Catalogue of Andalusian Historical Heritage (CGPHA). In the bellow figure we depict the cataloging system developed in the 2007 Andalusian Historical Heritage Law.

Cataloging system according to the LPHA 14/2007

2.2 General architectural and urban policies

a. National Level:

- Ley Ordenación de la Edificación (LOE

GENERAL CATALOGUE OF THE ANDALUSIAN HISTORICAL HERITAGE	Immovable property	Single or collective	General cataloging	Monuments, Historical Unit, Historical Garden, Historical Site, Archaeological Areas, sites of ethnological interest, sites of industrial interest, Heritages Areas
	Movable property		Property of Cultural Interest (BIC)	
	Activities of cultural interest		General Inventory of Movable Properties of the Spanish Heritage	
Inventory of Properties Recognized of the Andalusian Historical Heritage				
Easement Area Archaeological				

Thus, the LPHE and the LPHA (in Article 30) refer to the necessary cooperation that local councils must provide in the conservation and custody of Spanish historical heritage within their municipal boundaries, adopting the appropriate measures to prevent its deterioration, loss and destruction. At the same time, they must notify the competent Administration of any threat, damage or

38/1999) (Building management Law) (ESPAÑA, 1999)

- Ley 8/2013, de 26 de junio, de rehabilitación, regeneración y renovación urbana (rehabilitation, regeneration and urban renewal Law) (España, 2013)

b. Regional Level:

- Ley de Ordenación Urbanística de Andalucía (LOUA 7/2002) (Andalusian Town Planning Law) (Andalucía, 2002)

c. Municipal Level:

Together with the State and the Autonomous Communities, the local authorities also have important powers over the protection of historical and cultural heritage and over the approval of urban planning for its protection.

disturbance suffered by these assets, as well as the difficulties and needs they have for their care (Junta de Andalucía, 2007). In short, the matter of protection, conservation and promotion of Andalusia’s historical heritage is connected with the urban planning competence on “urban planning, management, execution and discipline” held by the municipalities. The plans are as follows:

- Plan General de Ordenación Urbana (General Urban Development Plans). Heritage elements will be included in the urban catalogue and an archaeological analysis must also be included in unconsolidated urban land, developable land and planned general systems.

- Planes Especiales de Protección (PEP) (Special Protection Plans), applied both to heritage sites and cities.

Both plans incorporate catalogues of heritage protection. Levels of protection: integral, global, typological, environmental.

d. Cultural planification:

Finally, there are some important tools to manage cultural heritage, among others:

- Planes Generales de Bienes Culturales (General Plans for Cultural Heritage)
- Guías del paisaje (Landscape guides)
- Planes directores (Master plans)
- Diagnósticos e informes de valores (Diagnostics and value reports)
- Catalogación (Cataloguing)
- Protección del Patrimonio (Heritage Protection)
- Proyectos de Conservación (Conservation Projects)
- Comisión de Monumentos (Monuments Commissions)
- Planes Nacionales (National Plans)
- Organizaciones no Gubernamentales (Non-Governmental Bodies)

3. THE INTERNATIONAL CONTEXT. INTERNATIONAL CHARTERS, RECOMMENDATIONS. THE ANDALUSIAN URBAN AGENDA

In addition to the legal issues, in the field of heritage, it is crucial to incorporate the different criteria defined in the international charters and recommendations.

3.1. International charters and recommendations

The international charters and texts have undoubtedly conditioned the content of our legislative instruments, as well as the different approaches to heritage management, which, with reference to the PHA law, contemplates figures ranging from the object monument to the heritage-landscape-territory area (Council of Europe, 1975; ICOMOS Australia, 1999; ICOMOS, 2011a, 2011b, 1931, 1964, 1981, 1987, 1994, 1996, 1999, 2008; ICOMOS-Brasil, 1995; *Principios para la Conservación y Restauración del Patrimonio Construido. Carta*

de Cracovia, 2000; UNESCO, 1972, 1976, 2003, 2005). Likewise, the consolidation of the heritage-sustainability-development trinomial and the consideration of culture and heritage as the fourth pillar of sustainable development is beginning to take centre stage in the first decade of the 21st century. Undoubtedly, a relevant role in this was played by the "Recommendation on the Historic Urban Landscape" launched by UNESCO in 2011, with the aim of responding, from a landscape approach to the need to manage all the urban transformations that are altering and deteriorating Historic Urban Landscapes (UNESCO, 2011).

The challenge of this Recommendation lies in establishing an Action Plan where heritage management transcends the notion of the historic centre or ensemble to encompass the general urban context and its geographical setting, as well as considering all the layers that have been shaping the city, the perceptions and visual relationships, the elements of the urban structure, the social and cultural uses and values, the economic processes and the intangible aspects of heritage in its relationship with diversity and identity.

✕ **Furthermore, the Recommendation's approach can support cities in achieving the Sustainable Development Goals proposed by the 2030 Agenda, in particular SDG 11, which consists of making cities and human settlements inclusive, safe, resilient and sustainable and where there is a specific target that refers to the need to strengthen heritage and culture in sustainable urban development processes.**

More and more cities are implementing the Recommendation, but it is a matter of choice for each municipality, as it is not mandatory

and involves the generation of new legislative and financial tools to carry out sustainable urban heritage management of this calibre.

However, it could be said that all these issues and approaches put on the table take shape from the development of the New Urban Agenda generated at the Habitat III conference, organised in October 2016 by the United Nations on Housing and Sustainable Development. This Agenda was approved at the UN General Assembly in December of the same year and published at the beginning of 2017 with the aim of serving as a major global guideline for the implementation of sustainable development criteria in the field of urban planning and housing and, more specifically, Goal 11 (HABITAT III, 2016).

3.2. Andalusian Urban Agenda

This New Urban Agenda developed by UN-Habitat has given rise to the Urban Agenda for the European Union (European Union, 2016), the Spanish Urban Agenda (España, 2019) and, in our case, the Andalusian Urban Agenda (AUA) (Andalucía, 2018), the latter being the first regional agenda to be drawn up and published in Spain in October 2018, even before the Spanish Urban Agenda (Del Espino Hidalgo, 2019). In the case of Andalusia, it could be said that the relationship with urban heritage and the promotion of sustainability practices has an important starting point here. Furthermore, in addition to the need for protection of cultural heritage, opportunities abound for the rehabilitation of existing buildings and urban spaces, opportunities for strengthening the economic system and social conditions, and the potential for increasing social cohesion, incorporating innovative and creative strategies, or drawing on traditional techniques and knowledge to improve the quality of life of the urban population. Cultural heritage, therefore, seems to become an element that not only stands out for being the object of urban and territorial policies as it has traditionally been, but the most recent tools and, on this occasion, the new urban agendas, incorporate it in a decisive manner for its instrumental capacity to promote initiatives and achieve challenges in dimensions such as spatial, environmental, social, economic and governance (Del Espino Hidalgo, 2019).

However, it is a roadmap to be followed until 2030, which is not mandatory.

4. THE PROTECTION OF CULTURAL HERITAGE IN ANDALUSIA (SPAIN). THE ANDALUSIAN INSTITUTE OF HISTORICAL HERITAGE (IAPH)

4.1. The updated approach of heritage concept and management

In Andalusia, heritage protection is approached as a set of mechanisms for research, protection, conservation and dissemination, which have been formulated and reformulated from the end of the 20th century to the present day. It should be emphasized that the integrating perspective has always characterized these cultural policies developed by institutions.

The update of the concept of heritage implies a sustainable management of cultural heritage, emphasizing on its social use as a necessary vector for heritage preservation, giving greater prominence to communities. Consequently, heritage knowledge must be founded in applied research projects; legislative protection has given way to active protection processes and dissemination is now a critical element to complement conservation processes.

- Applied research
- Active protection
- Conservation and valorisation
- Dissemination

4.2 Methodology

The heritage intervention methodology tested by the IAPH is based on the axiom "to know in order to intervene", a specific work methodology based on interdisciplinarity and on the integral consideration of the asset, perfectly aligned with the requirements demanded by the Andalusian Historical Heritage Law 14/2007, article 22 of which defines the minimum contents of the conservation project:

- study of the property and its cultural values;
- diagnosis of its state;
- description of the methodology;
- proposal for action (theoretical, technical and economic);
- impact on the protected values;
- maintenance programme.

Compliance with these methodological processes, together with compliance with the criteria set out in international reference texts and charters, are a guarantee of the quality of the interventions, regardless of whether the property is protected by the cultural administration or simply listed. Conservation actions must be based on criteria of compatibility (material and conceptual), minimum intervention, respect for authenticity (the monument's time as the sum of all its times), and cultural legibility, always from a contemporary temporal consideration that obliges us to work with a discernible language.

Any action on a cultural asset included in the General Catalogue of Andalusian Historical Heritage must follow this working methodology and be authorised by the competent administration in matters of historical heritage. Likewise, these actions must comply with the provisions of the Law on Building Management (LOE), including those specified in terms of sustainability and energy efficiency.

The technical development of conservation work must always be accompanied by the implementation of participation and communication mechanisms so that the final decision-making process is based on consensus.

REFERENCES



Andalucía. Ley de Ordenación Urbanística de Andalucía (LOUA 7/2002) (2002). Retrieved from <https://www.boe.es/buscar/act.php?id=BOE-A-2003-811>

Andalucía (2018). *Agenda Urbana de Andalucía 2030*. Sevilla: Consejería de Medio Ambiente y Ordenación del Territorio. Retrieved from http://www.juntadeandalucia.es/medioambiente/portal_web/web/temas_ambientales/urbanismo/agenda_urbana_andalucia_2030.pdf

Andalucía. Ley 14/2007, de 26 de noviembre, del Patrimonio Histórico de Andalucía (2007). España: Junta de Andalucía. Retrieved from <https://www.boe.es/buscar/pdf/2008/BOE-A-2008-2494-consolidado.pdf>

Council of Europe. (1975). *The Declaration of Amsterdam*. Retrieved from <http://www.icomos.org/en/charters-and-texts/179-articles-en-francais/ressources/charters-and-standards/169-the-declaration-of-amsterdam>

España. Ley 16/1985, de 25 de junio, del Patrimonio Histórico Español. (1985). España. Retrieved from <https://www.boe.es/buscar/act.php?id=BOE-A-1985-12534>

España. Ley 38/1999, de 5 de noviembre, de Ordenación de la Edificación (1999). España. Retrieved from <https://www.boe.es/buscar/act.php?id=BOE-A-1999-21567>

España. Ley 8/2013, de 26 de junio, de rehabilitación, regeneración y renovación urbana (2013). España. Retrieved from <https://www.boe.es/buscar/act.php?id=BOE-A-2013-6938>

España (2019). *Agenda Urbana Española*. Madrid: Ministerio de Fomento. Retrieved from <https://apps.fomento.gob.es/CVP/handlers/pdfhandler.ashx?idpub=BAW061>

Espino Hidalgo, B. del (2019). El papel del Patrimonio cultural en las Nuevas Agendas Urbanas. In XIV Congreso AECPA, GT 5.6 (pp. 1–18). Retrieved from <https://aecpa.es/files/view/pdf/congress-papers/14-0/2304/>

European Union (2016). *Urban Agenda for the EU. Pact of Amsterdam*. Retrieved from https://ec.europa.eu/futurium/en/system/files/ged/pact-of-amsterdam_en.pdf

HABITAT III. (2016). *HABITAT III. ZERO DRAFT OF THE NEW URBAN AGENDA*.

ICOMOS. (1931). *The Athens Charter for the Restoration of Historic Monuments - 1931*. Retrieved from <http://www.icomos.org/en/charters-and-texts/179-articles-en-francais/ressources/charters-and-standards/167-the-athens-charter-for-the-restoration-of-historic-monuments>

ICOMOS. (1964). *International Charter for the conservation and restoration of monuments and sites*. Retrieved from http://www.icomos.org/charters/venice_e.pdf

ICOMOS. (1981). *Historic Gardens (The Florence Charter 1981)*. Retrieved from <http://www.icomos.org/en/charters-and-texts>

ICOMOS. (1987). *Charter for the Conservation of Historic Towns and Urban Areas (The Washington Charter) - 1987*. Retrieved from <http://www.icomos.org/en/charters-and-texts>

ICOMOS. (1994). *The Nara Document on Authenticity*. Retrieved from www.icomos.org/charters/nara-e.pdf

ICOMOS. (1996). *The Declaration of San Antonio*. Retrieved from <http://www.icomos.org/en/charters-and-texts/179-articles-en-francais/ressources/charters-and-standards/188-the-declaration-of-san-antonio>

ICOMOS. (1999). *Charter on the built vernacular heritage (1999)*. Retrieved from https://www.icomos.org/images/DOCUMENTS/Charters/vernacular_e.pdf

ICOMOS. (2008). *Quebec City Declaration on the preservation of the spirit of place*. Quebec, Canada. Retrieved from http://quebec2008.icomos.org/en/99_intro_blog.htm

ICOMOS. (2011a). *Documento de Madrid. Criterios de Conservación del Patrimonio Arquitectónico del s.XX. 2011*. ICOMOS. Madrid. Retrieved from <https://icomos.es/wp-content/uploads/2020/01/documento-de-madrid-icomos.pdf>

ICOMOS. (2011b). *The Valletta Principles for the Safeguarding and Management of Historic Cities, Towns and Urban Areas*. París. Retrieved from http://www.icomos.org/Paris2011/GA2011_CIVVIH_text_EN_FR_final_20120110.pdf

ICOMOS Australia. (1999). *The Australia ICOMOS Charter for the Conservation of Places of Cultural Significance*. Retrieved from http://www.icomos.org/charters/burra1999_spa.pdf

ICOMOS-Brasil. (1995). *Carta de Brasilia. V Encuentro Regional de ICOMOS-BRASIL Dezembro -1995*. Brasilia. Retrieved from www.icomoscr.org/doc/teoria/VARIOS.1995.carta.brasilia.sobre.autenticidad.pdf

UNESCO. (1972). *Convention Concerning the protection of the World Cultural and Natural Heritage*. Retrieved from <http://whc.unesco.org/en/conventiontext>

UNESCO. (1976). *Recommendation concerning the Safeguarding and Contemporary Role of Historic Areas*. París. Retrieved from http://portal.unesco.org/en/ev.php-URL_ID=13133&URL_DO=DO_TOPIC&URL_SECTION=201.html

UNESCO. (2000). *Principios para la Conservación y Restauración del Patrimonio Construido. Carta de Cracovia 2000*. (2000). Retrieved from http://www.unesco.org/culture/natlaws/media/pdf/guatemala/guatemala_carta_cracovia_2000_spa_orof.pdf

UNESCO. (2003). *Convention for the Safeguarding of the Intangible Cultural Heritage*. Retrieved from http://portal.unesco.org/en/ev.php-URL_ID=17716&URL_DO=DO_TOPIC&URL_SECTION=201.html

UNESCO. (2005). *VIENNA MEMORANDUM on "World Heritage and Contemporary Architecture – Managing the Historic Urban Landscape"*. Retrieved from <http://whc.unesco.org/document/6814>

UNESCO. (2011). *Recommendation on the Historic Urban Landscape, including a glossary of definitions*. Retrieved from http://portal.unesco.org/en/ev.php-URL_ID=48857&URL_DO=DO_TOPIC&URL_SECTION=201.html

UNESCO. (2015). *Hangzhou Outcomes. International Conference 'Culture for Sustainable Cities'*. Retrieved from <http://www.unesco.org/new/en/culture/themes/culture-and-development/culture-for-sustainable-cities/>

United Nations. (2016). *Implementation of the outcomes of the United Nations Conferences on Human Settlements and on Housing and Sustainable Urban Development and strengthening of the United Nations Human Settlements Programme (UN-Habitat)*. Retrieved from <http://habitat3.org/wp-content/uploads/N1639668-English.pdf>