

ACTIVITY OF THE COUNCIL OF EUROPE IN THE CULTURAL SPHERE

Ay. Borozdina,

Candidate of juridical sciences, senior lecturer,
International and constitutional law department,
Petrozavodsk State University

The culture of the European nations has always amazed imagination of all those who at least once got in touch with it. Europeans possess the richest cultural and historical heritage which has rendered an enormous impact on cultures of the nations of other continents. The modern flourishing of the Western European culture is connected with the advancement to the forefront of the all-European, uniform for all European, cultural characteristics and traditions with the preservation of their settled variety and specificity of development.

The Council of Europe plays a leading part among other European organizations in the development of the all-European interstate cooperation in the spheres of culture, science, education, preservation of the all-European heritage and environment protection.¹

Priority directions in the activity of the Council of Europe are the observance of human rights, education, culture and sports, social issues, unemployment among youth, public health, environment and architectural heritage, local and regional government, law. If to define it in short, the primary goal of the Council of Europe is «to promote preservation of the European cultural originality to the entire continent».²

By present time three basic dimensions of the Council of Europe activity have been formed: intergovernmental, inter-parliamentary and inter-regional to which the main, central organs of the Council of Europe relate: Committee of ministers, Consultative assembly of the Council of Europe and Congress of local and regional authorities of Europe.³

The Committee of ministers is an executive organ of the Council of Europe.⁴ According to the Statute of the Council of Europe, it carries

¹ The European international law. — M., 2005. — P. 296 (in Russian).

² Felthem R. J. The reference book of the diplomat. — Minsk, 2001. — P. 172 (in Russian).

³ The European international law. — M., 2005. — P. 105 (in Russian).

⁴ According to some authors, in its structure the Council of Europe lacks an executive organ. The Committee of Ministers is of a representative character. (For more in detail

out a directive management and coordination of all activity of the Council of Europe. The Committee of ministers annually confirms the special multilateral program which forms a basis of the intergovernmental cooperation within the framework of the Council of Europe, and also the budget of the Council of Europe. It adopts decisions on the basis of corresponding recommendations of the Consultative assembly, regional authorities, proposals of the Committees of the Council of Europe and Committees of experts. In turn, decisions of the Committee of ministers are proposed to the governments of the member states in the form of recommendations or as projects for European conventions and agreements. For example in 1969, the Recommendation which urged the member states governments «to adapt the legislative systems» and to regulate preservation of the immovable cultural heritage in the contemporary society, was adopted. However, as it is noted in the literature, in practice the existing laws are carried out unsatisfactorily. The presence of private property, desire to earn as much profit as possible at any cost, and competition laws lead to the destruction of cultural monuments, infringement of integrity of the adjacent territories.⁵

On May 7, 1999, the Committee of Ministers of the Council of Europe adopted the Declaration «On the European policy in the sphere of new information technologies» in which the Governments of the member states are urged to encourage the use of new information technologies as forms of art and literary expression and as means of formation of creative partnership, in particular between art, science and industry; to stimulate disclosing of the internal creative potential of each person by means of development of literacy in the field of information technologies and working out of curriculums with the use of new information technologies; within the limits of processes of convergence and the ongoing globalization of information networks to work with the institutions of the cultural sphere with a view of ensuring the activation of their participation in the creative process.⁶

On July 13, 2000, the Committee of ministers of the Council of Europe adopted the Recommendation to the member countries on the

see: Levitsky T.I. Juridical nature and legal status of the Council of Europe. Autoref. diss. cand. jurid. sciences. M., 1993. (in Russian).

⁵ Fedorov M.V. International legal protection of the cultural heritage and UN/UN and international legal order in the globalized world: Materials of the international scientific-practical conference. M., 2001.-P. 196. (in Russian).

⁶ The declaration of the Committee of Ministers of the Council of Europe of May 7, 1999 «On the European policy in the field of new information technologies» / Council of Europe and Russia. Collection of documents. M, 2004. P. 860-862. (in Russian).

European policy concerning the access to archives which specified that the archives make an essential and irreplaceable element of the cultural heritage.⁷ They retain the memory of the peoples, and the survival of human memory in many respects depends on them.

This idea is especially important for Europe for a number of reasons:

an ever increasing interest of the public to the history and search for historical documents which is testified by a growing attendance of archives and blistering raise of researches by the periods of the newest history;

organizational and economic reforms occurring in the new democratic countries which remind the importance of archives in the course of state democratization;

an exclusive scale of changes which occur everywhere at the creation of documents as a result of complication of areas of the public authorities exposed to penetration, on the one hand, and technology developments, on the other hand.

Taking into account a general recognition of the fact that no country belongs completely to the world of democracy until its inhabitants will have a possibility of an objective acquaintance with the episodes of its history, it is important to apply this principle through the European cooperation at the international level for the purpose of expansion of awareness of the common heritage which is represented by the European countries archives.

Besides, the considered Recommendation noted, that there are the problems connected with the openness of archives, therefore it is necessary to adopt a European policy on the access to the archives, based on general principles in line with democratic values. The access to the state archives is a part of the rights of citizens. In the political system observing democratic values, this right should be accorded to all users, irrespective of their nationality, status or occupation.

The researches undertaken in 1995-1996 by groups of experts of archival business, historians and lawyers, have with all evidence revealed a complexity of these problems. At the national level it proceeds from a set of confused rules regulating such access which are contained in various prescribing documents, and also from inconsistent requirements concerning transparency and privacy. At the international level this complexity is a result of the existence of constitutional and other legal norms. Another conclusion based on the conducted research con-

⁷ The recommendation of the Committee of Ministers of the Council of Europe to the member countries on the European policy concerning access to archives // Current legislation on the archival affairs. SPb, 2002. P.14. (in Russian).

sisted in the fact that the problem of access to the archives is everywhere an integral part of the general cultural context and that the public opinion in each country perceives it in its own way.

If a difficult character of this problem makes illusory any attempt to unify the legislation and rules, it with all evidence shows an absolute must of joint efforts for the formulation of a number of principles with the view of developing a policy of the member countries in relation to the access to archives. Such principles should be concordant with democratic values and correspondent to the constitutional prescriptions of each state.⁸

The Committee of ministers on the basis of unanimity also adopts declarations, resolutions or recommendations to the governments of the member countries on topical political questions. Recommendations are subject to ratification and come into force only in relation of the countries ratifying them.

On December 15, 1992 on the basis of the Resolution 92 (70) adopted by the Committee of ministers of the Council of Europe, the European audiovisual observatory was created. A new edition of the Statute of this organization was adopted by the Resolution (2000) 7 of September 21, 2000. One of the organization's purposes is the transmission of information in the audiovisual industry.⁹

The Committee of ministers operates on a permanent basis. It consists of Ministers of foreign affairs of all member states of the Council of Europe or their substitutes. At this, each minister within six months executes functions of the chairman of the Committee. Sessions of the Committee of ministers are held at least two times a year, however permanent representatives of the participating countries confer at least two times a month.¹⁰

With a view of deepening of the intergovernmental dialogue and cooperation in various areas the Council of Europe organizes specialized conferences with the participation of «branch» ministers of the member countries.¹¹

Thus, the conference of the European ministers of culture in 1992, noted the importance of electronic and printed output of mass media

⁸ The recommendation of the Committee of Ministers of the Council of Europe to the member countries on the European policy concerning access to archives /Current legislation on the archival affairs. SPb, 2002. P.16. (in Russian).

⁹ The Encyclopedia of international organizations: In 3 v. Volume 1. International intergovernmental organizations. SPb., 2003. P. 84-85. (in Russian).

¹⁰ The European international law. M., 2005. C. 105. (in Russian).

¹¹ *Ushakov Yu.* The 39th member of the Council of Europe//*Mezhdunarodnaya zhizn'*. 1996. № 3. P. 30. (in Russian).

from the point of view of development of culture and democratic processes. As a result, a large project on preservation and distribution of the European values and cultures in the form of written output, both in an electronic and printed version, has been planned.

The Consultative assembly of the Council of Europe is a deliberative organ and does not have legislative powers. Its competence includes the consideration of questions of a general interest, and preparation of corresponding conclusions to the Committee of ministers in the form of recommendations.¹² So, the only document adopted at the regional level on the problem of underwater searches of cultural values, is Recommendation 848 adopted by the Consultative Assembly of the Council of Europe on October 4, 1978, entitled «On the underwater cultural property». In this document, the Assembly being based on the importance of underwater archeology and associated problems recommends to the Committee of ministers to elaborate of a European convention on the underwater cultural heritage which should be opened for signing by all states — not members which coasts are washed by the seas of the European zone.¹³

Another recommendation of that document is to make a statement proclaiming national cultural protection zones within a 200-mile limit. These 200-mile zones should form a basis for the application of the proposed convention.¹⁴

The Recommendation also proposed to the member states to review their national legislation according to a minimum legal requirements specified in the annex to the Recommendation. Let us cite some of them:

there should be no blanks in the national legislation owing to which the laws should specify that underwater objects and places are regulated by the legislation relating to land cultural values;

all objects which are under water for at least 100 years (with possible exceptions for more or less valuable objects) should be protected;

the detection of underwater objects and places of their finding should be subject to compensation, regardless of the commercial value of a find.¹⁵

¹² The European international law. M., 2005. P.105. (in Russian).

¹³ *Fedorov M.V.* International legal protection of the cultural heritage and UN/UN and international legal order in the globalized world: Materials of the international scientific-practical conference. M., 2001. P. 199. (in Russian).

¹⁴ *Galenskaya L.N.* Muses and the law. Legal questions of international cooperation in the field of culture. Leningrad, 1987. P. 146. (in Russian).

¹⁵ *Boguslavsky M.M.* Cultural values in the international turnover: legal aspects. M., 2005. P. 46. (in Russian).

Now it has become abundantly clear, that cultural monuments are undergoing destruction and are under the influence of other sides of technical progress, such as acid rains, presence in the atmospheric precipitation of various compounds of sulfur, etc., which fatally impact the stone, corroding it.

All it testifies in favor of a conclusion, that protection of monuments of culture should be carried out in a complex. It is insufficiently just to protect monuments of culture from any construction and other works; it is necessary to combine such protection with protection of environment, including the atmospheric air.¹⁶

The activity of the Consultative Assembly is guided by the Council of the Assembly. An essential role in the work of the Consultative Assembly is played by branch commissions. They include the commission on culture and education.¹⁷

The Congress of local and regional authorities of Europe was created according to the decision of the Vienna summit meeting of the Council of Europe in September 1993. It is an advisory organ representing in the Council of Europe the local and regional authorities. The Congress consists of two chambers: the Chamber of local authorities and the chamber of regions. Both chambers hold their two-week sessions once a year. The Congress is charged with the maintenance of participation of the local and regional authorities in the work of the Council of Europe, strengthening of transboundary and inter-regional cooperation, and also development of the regional autonomy, culture, education, etc.¹⁸ For these purposes on October 8, 1999, in Strasbourg at the conference organized by the Congress of local and regional authorities, the European Association of historical cities and regions was created. Its primary goal is the preservation of the cultural heritage of large historical territorial complexes, such as settlements, cities and whole regions.

The structure of the Council of Europe includes also the Secretariat of the Council. The Secretariat of the Council of Europe has as its objective the coordination of activity of the branched out structure of executive organs of the Council of Europe. The Secretariat is headed by the Secretary General who is elected by the Consultative Assembly for

¹⁶ *Fedorov M.V.* International legal protection of the cultural heritage and UN/UN and international legal order in the globalized world: Materials of the international scientific-practical conference. M., 2001. P. 196. (in Russian).

¹⁷ The European international law. M. 2005. P.106. (in Russian).

¹⁸ The European international law. M. 2005. P. 107. (in Russian).

a five-year term. The Secretariat structure includes the General directorate on education, culture, heritage, youth and sports. For today the basic directions of activity of the General directorate are as follows:

realization of the policy in the sphere of education and culture directed on development of an intercultural dialogue and prevention of conflicts in Europe and all over the world;

elaboration of general principles of protection of the European cultural and natural heritage;

rendering of technical help to member countries of the Council of Europe in the development of a nation-wide policy and carrying out of legislative reforms in the field of culture;

support of actions of politicians, professional figures and experts in various spheres of activity for working out of various programs in the field of intercultural cooperation and education, etc.¹⁹

The Council of Europe, being an international intergovernmental organization,²⁰ is a subject of international law; it participates in interstate relations and its authorized powers include the contractual and lawmaking functions. The Council of Europe acts in the international

¹⁹ Culture, heritage, education, youth and sports. Electronic resource. The Council of Europe. Access mode to the item: <http://www.coe.int> (in Russian).

²⁰ Under «international intergovernmental organization» Krivchikova E. S. understands such «association of the states which is based by an international treaty for achievement of the common permanent objectives on the basis of cooperation and joint actions with the respect of sovereignty of the member states, having permanent organs, a charter, structure and other organizational institutions and purposes corresponding by their creation and activity to generally recognized principles and norms, established in the United Nations Charter». Lukashuk I. I notes, that «the international (intergovernmental) organization is an organization founded under a treaty between the member states, accorded to it the status of the international organization». Ushakov N. A underlined, that «the international (intergovernmental) organization is an association of states established and operating according to international law; providing their institutional-legal unity; formed in the virtue of an interstate agreement – a constituent document for achievement of the proclaimed purposes; realizing, according to the rules of the organization, functions and powers in the international relations through its organs and acting in the interrelations with the member states, states — not members and other subjects of the international dialogue on its own behalf». A. Ya. Kapustin defines an international intergovernmental organization as «a voluntary association of independent states created on the basis of an international agreement which establishes the purposes and principles of the association, provides it with independent, permanent organs (organizational structure), intended to defend collective interests and capable to express the will of the association which is legally distinct from the wills of its members, or, in other words, having and carrying out the independent rights and duties which are distinct from the rights and duties of the states». (Cit. after: Zimnenko B. L. International law and the legal system of the Russian Federation. M., 2006. P. 272. (in Russian).

relations, adopts decisions, concludes treaties with states and interstate intergovernmental organizations.

In the field of culture the Council of Europe supports the realization of the concept of the cultural democracy, providing the availability of the general cultural heritage of Europe to all its citizens. The Council on cultural cooperation is an organ which includes representatives of all countries which have signed the European cultural convention. This Council specifies objectives and methods of realization of the cultural policy, which basic directions are determined by the European parliament and annual European conference of ministers of culture and education.

One of the most effective methods of work of the Council of Europe in the field of culture, science and education is the creation of special projects and programs. For example, in the cultural sphere such projects, as «Industry of culture and creativity» and «Culture and regions» have been realized.

Thus, the practical continuation of the project «Culture and regions», terminated in 1991, provides the creation of an European network of training centers intended for executives in the field of culture; establishment of an «observatory» for carrying out of the cultural policy and initiatives at local and regional levels, and also the expansion of inter-regional cultural exchanges. A new project called «City areas, culture and exception» has been started in order to determine what welfare action should be undertaken with a view of decreasing the inequality and marginalization and providing assistance for the creation of a multicultural society.²¹

In the program «Europe: common heritage» a special place is devoted to the increase of the role of national cultures in the enrichment of the all-European heritage.

Within the limits of the educational project «Education of a citizen of the democratic society» the accent is made on education of citizens in the spirit of democracy, respect of democratic values and human rights.²²

Once a year, large exhibitions of the European cultural heritage are organized. Among other directions of the activity of the Council it is possible to single out the contest for a European theatrical award; representative exhibitions of great European artists, European year of music (1985) and year of cinematography (1987).²³

²¹ Activity and results. The catalogue of information data. — Information department. «Public relations» service, 1994. P. 30. (in Russian).

²² The European international law. M., 2005. P.298. (in Russian).

²³ Stoikovic M. D.-Sh. B. Culture: management, animation, marketing. — Novosibirsk, 2000. P. 50. (in Russian).

Art exhibitions, organized by the Council of Europe, have for an object to promote the comprehension by the public of a generality of the European cultural heritage through acquaintance with the basic periods and art schools, showing the influence of various outstanding artists and schools. Thus, the twenty second art exhibition organized by the Council of Europe, «From Vikings to crusaders. Scandinavians and Europe, 800-1200» was held in Paris, Berlin and Copenhagen in 1992-1993.

With a view of assisting the development of traditional restoration crafts, the Council of Europe has initiated the creation of the European centre for preparation of specialists of the craft art located in Venice, which will organize specialized courses in several languages for hand-craftsmen — restorers. The European network of traditional arts and crafts for coordination of activity of the preparatory centers functioning in Europe has been also created.²⁴

Proceeding from the above-stated, it is possible to conclude that it is necessary to strengthen the participation of Russia in the system of the European cultural interaction. It is important to provide a further escalating of cultural cooperation with the West European countries, and also to promote a reconstruction of the Russian cultural presence in the Central and Eastern European region.

One of priorities there should be the interaction of Russia with other states in the sphere of culture within the framework of the Council of Europe. At this, it is necessary to increase the quantity, to expand the content and to raise the efficiency of programs and projects carried out by the Council of Europe in the culture sphere.

²⁴ Activity and results. The catalogue of information data. — Information department. «Public relations» service, 1994. P. 31-32. (in Russian).