

The European Landscape Convention and urban planning: a comparison between Italy and the UK

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Abstract

The European Landscape Convention is the pan-national legal reference on the subject of land and landscape. It introduces, in the contracting states, new models for the management and development of integrated land use and development of the landscape.

At the heart of the planning system is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. Local planning authorities should plan positively for new development, and approve all individual proposals wherever possible.

Sustainable development guarantees a valid approach to spatial planning, the design of quality and precious landscape in order to restructure territories through the development of social and territorial capital.

The objective of this work is to compare the policies, procedures and operating methods adopted in Italy and in the UK, to govern the landscape in the process of planning, based on the indications of the European Landscape Convention. The method is based on the identification of resources; strategic evaluation; protective measures; the development of the territorial capital.

Keywords: European Landscape Convention, spatial planning, territorial capital, human well-being.

1 The European Landscape Convention

The European Landscape Convention ratified by the Council of Europe and signed in Florence in October 2000, by 18 of the 47 member states, is the pan-national



legal reference for the management of the urban landscape. States that have ratified the Convention by national law in their own countries, have agreed to take on the legal landscape as an essential element in planning. Public authorities are obliged to promote decision-making processes to create, at different territorial levels, specific policies and measures, designed to bring about concrete actions on their landscapes, while involving the citizens.

The European Landscape Convention includes the topic of Culture, Heritage, Nature of the Council of Europe, under the heading Sustainable Development, it is the first international treaty on sustainable development based on a balanced and harmonious relationship between social needs, economic activity, the environment and the culture to be exclusively concerned with the valorisation of European landscape [1].

In 2008 the Committee of Ministers adopted the Guidelines for the implementation of the European Landscape Convention [2].

The Congress of Local and Regional Authorities of the Council of Europe has encouraged local authorities to create an organism, the European Network of Local and Regional Authorities for the Implementation of the European Landscape Convention (RECEP-ENELC) which will represent and support them, an European level, when they are called upon to apply the principles of the Convention in the territories under their jurisdiction.

RECEP-ENELC is a European non-governmental organisation composed of public authorities. Its main objective is to support local and regional authorities at the scientific, technical, political and administrative levels, in their activities aimed at implementing the principles of the Convention within their own territories. It assists and supports its members in carrying out their landscape responsibilities in accordance with the Convention's principles.

It helps them to improve their decision-making capacities in their respective spheres in conjunction with central administrations, particularly in the areas of planning and authorisation procedures.

Through the network, members have the opportunity to co-operate on landscape issues at a European level, by establishing direct contacts with international organisations, EU institutions, NGOs, universities as well as other public and private bodies interested in the Convention's principles.

In this respect, RECEP-ENELC represents a political forum for dialogue between the politicians and the officials concerned, with regard to landscape related issues [3].

1.1 Landscape spatial planning in the EU

To date, the territorial policy for the planning of the landscape, is not one of the direct responsibilities of the European Union. In the European treaties, drawn up over the years, there is no explicit reference to the landscape.

The European territorial policies are characterized, in general, by the importance of increasing the biodiversity of the areas, preserving the environmental and cultural characteristic features, and entrusting such a necessary objective to the planning process. The issue of the management of territorial transformation is treated with caution at a community level, since

Member States consider this issue, a regional policy matter or, at most, a matter of national policies.

Member States and regions could consider a possible involvement of the European Commission as an interference between competing legal skills; an incorrect application of the principle of subsidiarity.

The European Commission guides Member States towards a progressive and growing awareness of the landscape, bypassing the obstacle of the absence of a legal basis. It provides guidelines on policy planning, through existing instruments and within the framework of EU sectorial policies impacting significantly on the territory. We recall, for example, the role assigned to the agricultural, environmental and regional policy for the protection of heritage, cohesion, research and technological development.

The aim of this document was to promote co-ordination and a stronger integration of these policies in order to achieve sustainable and balanced development, the Council of European Union Ministers, responsible for Spatial Planning, launched in Potsdam on May 1999, the Development Scheme European Space (SSSE). This is a document of an intergovernmental nature which offers suggestion that are not binding. Furthermore, it does not include new EU responsibilities in the field of spatial planning, but it is a policy framework to enhance cooperation between the EU sectorial policies [4].

The aim of spatial development policies is to work towards a balanced and sustainable development of the territory of the European Union. In the Ministers' view, what is important is to ensure that the three fundamental goals of European policy are achieved equally in all the regions of the EU:

- economic and social cohesion;
- conservation and management of natural resources and the cultural heritage;
- more balanced competitiveness of the European territory.

Issues related to the landscape can be found in the sphere of Community programs: Rural Development Programs [5], Environmental Programs [6, 7], Programs for strengthening cohesion [8]; Structural Funds, European territorial cooperation [9, 10].

1.2 The European Landscape Convention

The European Convention establishes a new interpretation of the word landscape which, by definition, becomes the visible expression of the territory.

The landscape is the relationship between society and territory [1]. It is determined by the interaction between the physical space system (consisting of the environmental, physical a geographical sphere) and the immaterial system (consisting of the cultural, economic a social sphere).

Each territory has multifunctional resources crucial for the conformation of its territorial capital. The landscape, as defined by the Convention, offers an opportunity for member states to codify all laws and definitions [11, 12].

The development policy of the territory depends on the territorial capital, which consists of natural and cultural capital; settlement; cognitive and social



characteristics. Each region has a specific territorial capital that generates a higher return for specific types of investment [13, 14].

The following three tables have been developed, in order to compare the state of the art [15].

Table 1 is composed of five columns that specify the list of 38 states, including 47 belonging to the Council of Europe, which have signed the European Landscape Convention; member states of the EU; the date of its signature; the date of ratification; the date of entry in force of the law.

Table 1: The European Convention status as of 31 December 2013.

	States	UE	Signature	Ratification	Entry in force
1	Norway		20.10.2000	23.10.2001	01.03.2004
2	Moldova		20.10.2000	14.03.2002	01.03.2004
3	Ireland	*	22.03.2002	22.03.2002	01.03.2004
4	Romania	*	20.10.2000	07.11.2002	01.03.2004
5	Lithuania	*	20.10.2000	13.11.2002	01.03.2004
6	Croatia	*	20.10.2000	15.01.2003	01.03.2004
7	Denmark	*	20.10.2000	20.03.2003	01.03.2004
8	Slovenia	*	07.03.2001	25.09.2003	01.03.2004
9	Turkey	*	20.10.2000	13.10.2003	01.03.2004
10	Yugoslav Republic		15.01.2003	18.11.2003	01.03.2004
11	San Marino		20.10.2000	26.11.2003	01.03.2004
12	Armenia		14.05.2003	23.03.2004	01.07.2004
13	Czech Republic	*	28.11.2002	03.06.2004	01.10.2004
14	Poland	*	21.12.2001	27.09.2004	01.01.2005
15	Belgium	*	20.10.2000	28.10.2004	01.02.2005
16	Bulgaria	*	20.10.2000	24.11.2004	01.03.2005
17	Portugal	*	20.10.2000	29.03.2005	01.07.2005
18	Netherlands	*	27.07.2005	27.07.2005	01.11.2005
19	Slovakia	*	30.05.2005	09.08.2005	01.12.2005
20	Finland	*	20.10.2000	16.12.2005	01.04.2006
21	Ukraine		17.06.2004	10.03.2006	01.07.2006
22	France	*	20.10.2000	17.03.2006	01.07.2006
23	Italy	*	20.10.2000	04.05.2006	01.09.2006
24	Cyprus	*	21.11.2001	21.06.2006	01.10.2006
25	Luxembourg	*	20.10.2000	20.09.2006	01.01.2007
26	United Kingdom	*	21.02.2006	21.11.2006	01.03.2007
27	Latvia	*	29.11.2006	05.06.2007	01.10.2007
28	Hungary	*	28.09.2005	26.10.2007	01.02.2008
29	Spain	*	20.10.2000	26.11.207	01.03.2008
30	Montenegro		08.12.2008	22.01.2009	01.05.2009
31	Greece	*	13.12.2000	17.05.2010	01.09.2010
32	Georgia		11.05.2010	15.09.2010	01.01.2011
33	Sweden	*	22.02.2001	05.01.2011	01.05.2011
34	Serbia		21.09.2007	28.06.2011	01.10.2011
35	Azerbaijan		22.10.2003	30.08.2011	01.12.2011
36	Bosnia Herzegovina		09.04.2010	31.01.2012	01.05.2012
37	Andorra		23.03.2011	07.03.2012	01.07.2012
38	Switzerland	*	20.10.2000	22.02.2013	01.06.2013

In table 2 the two states among the 47 that are part of the Council of Europe which have signed the European Landscape Convention are indicated, but have ratified it with the text of law.

Table 3 shows the list of the 7 states, including 47 belonging to the Council of Europe, which have not signed the European Landscape Convention.

Table 2: States that have not ratified the European Convention status.

	States	UE	Signature	Ratification	Entry in force
1	Iceland		29.06.2012		
2	Malta	*	20.10.2000		

Table 3: States which have not signed the European Convention status.

	States	UE	Signature	Ratification	Entry in force
1	Albania				
2	Austria	*			
3	Estonia	*			
4	Germany	*			
5	Liechtenstein				
6	Monaco				
7	Russia	*			

It should be noted that some countries, which are very attentive to environmental issues and promoters of landscape design, put off the ratification of the legal text of the Convention. An example of such a country is Switzerland, which was a forerunner in the management policy of the landscape for several years. The Swiss Federal law (1st July 1966) laid down rules concerning the protection of nature and landscape. In 1977, a list of the different types of landscapes was drawn up. In 1981, a list of Swiss settlements to be protected was drawn up. In 2010 the law also catalogued the historical road systems in Switzerland, the master plans and land use plans, which the inventories prepared by the Federal Department of the Environment, Transport, Energy and Communications (UVEK); Federal Department of Home Affairs (DHA); Federal Office of Culture (FOC) were obliged to take into account [16, 17].

2 Italy

In Italy, the European Landscape Convention, has become a priority in political debate at all levels, resulting in a gradual revision of the relevant national legislation. The landscape is recognized legally, initiating a new conceptual and legal approach.



The Code of Cultural Heritage and Landscape [18] defines, for the first time in the history of Italian law, the landscape and lays down procedures for its management and its territorial planning. Article n.131 defines the landscape as a territory with a particular identity which derives from the interrelationships between nature and man [18].

The landscape must be protected in so far as it is an expression of cultural values. The state and the regions must ensure that the entire territory is adequately studied, protected, planned and managed according to the values of the different spatial contexts. The task of designing landscapes has been delegated to the regions. In fact the regional technical departments develop plans which turn out to be difficult to implement in landscape design [11, 12].

The regional landscape plans are required to identify and cordon off the territorial areas, and to draw up the necessary regulations and establish the desired quality aims. The landscape plans for each area, define specific requirements for the conservation of the elements of the landscape; for the rehabilitation of the affected or degraded areas; for the identification of the guidelines for urban development and construction. Therefore, in a nutshell, we can say that: the whole territory is legally authorized as landscape. The entire national territory, which is the sum of the various areas in each regional landscape plan, is represented by landscapes; created by the people who inhabit them. It is a cultural heritage that involves the entire territory [19–21].

The Law of 9 January 2006, n.14 ratified with the execution order of the European Convention, recognizing that the landscape is in every place, both in urban areas and in the countryside, both in degraded areas as in those areas of outstanding exceptional. It is an important element for the quality of life of the people, in so far as it determines individual and social welfare [22].

Based on the assessment of the international framework outlined above and the experiences gained in the field at the regional level, there is the case of the Campania Region together with other Italian regions (May 30, 2006) met in Strasbourg, and established the European Network of Local and Regional Authorities for the implementation of the European Landscape Convention (RECEP), and signed the agreement of the Charter of Padula. The Charter of Padula is a document implementing the principles of the European Landscape Convention in Campania; promotes the development of guidelines for the protection and enhancement of the landscape, indicating the general principles, strategies [23]. The guidelines for the landscape of the Campania Region were published December 31, 2008 [24]. Even the Veneto Region for many years has embarked on a process of analysis and study of the regional landscape, which takes into account the innovative principles introduced by the European Landscape Convention [25].

Table 4 shows the chronological list of legislation in force in Italy, concerning the protection of environmental and landscape assets.



Table 4: Italian laws on environment and landscape.

Date	Title	Property
1939	Legge n.1089 (Legge Bottai) Tutela delle cose di interesse artistico e storico	Constraints inhibitors for the Protection of Cultural Property
1939	Legge n.1497 Protezione delle bellezze naturali	Constraints inhibitors for the protection of environmental assets
1948	Costituzione Articoli n.9 e n.117 Tutela del paesaggio e del patrimonio storico e artistico della nazione	Constitutional recognition of the value of the national landscape
1985	Legge n.431 (Legge Galasso) Tutela delle zone di particolare interesse ambientale	Requirement for the preparation of landscape plans: regional legislation and enhancement of Use.
2004 2006 2008	Legge n.42 (Codice Urbani) Codice dei Beni culturali e del paesaggio Legge n.157	Legal definition of the landscape; delimitation of the areas; quality objectives; landscape design
2006	Legge n.14 Ratifica Esecuzione Convenzione Europea del Paesaggio	Landscape context of everyday life, the whole territory is landscape: both exceptional degraded areas; welfare of the citizens.
2006	Legge n.152 Norme in materia ambientale	Directive VAS in the municipal development plan

3 The United Kingdom

The European Landscape Convention (ELC) came into force in the UK on 1 March 2007 [26].

The UK admits the necessity of planning a vision of future landscapes, determined in an implementation framework, to be achieved over time through local actions. However the UK underlines the need to convalidate the legal framework. The UK believes that if the ELC is to be implemented, it is necessary to: improve the current legal and regulatory framework; influence future legislation, regulation and advice which will contribute to the gap analysis; improve understanding of the character of the landscape, monitoring changes and trends; spread knowledge among people, promotion, education and training.

The Government asserts that the United Kingdom has long been compatible with the requirements of the ELC. However, it would perform through policy and practice, involving a large part of society. The Government and its devolved administrations, through local agencies in England, Scotland, Northern Ireland and Wales, will develop their own action plans, for the implementation of the ELC.

The framework for implementing the landscape by providing a structure for Action plans. The guidelines developed for the period 2009–2013, indicate the



methods of the adopted in the UK to make possible the implementation of the planned directions in the instruments of government [27, 28].

To ensure excellent results for the development of the ELC in England, an England Project Group (EPG) comprising agencies Defra, Natural England and Heritage, has been set up. Their respective roles in relation to the implementation ELC, are listed in Annexe 1 of the Framework for Implementation landscape.

Defra's role will be to:

1. Coordinate the Government's approach to implementation in England.
2. Lead the process of establishing an award to recognize landscape excellence as provided for in the Convention.
3. Promote the Convention in policy discussions with other Government Departments.
4. Provide basic information about the Convention.

Natural England's role will be to:

1. Act as Project Manager to the England Project Group.
2. Promote and coordinate actions within the ELC England Framework.
3. To be a centre of expertise and advice on best methods how to implement the Convention through researching, innovating, public participation and promoting best practice.
4. Advocate that the Convention is applied at the regional and local level through plans.

English Heritage's role will be to:

1. Contribute to the work of the England Project Group, particularly with regard to understanding and public perception, and monitoring of change.
2. Be a centre of expertise for the understanding of the historic character and time depth of landscape, and their implications for the future planning and management of landscape.
3. Promote the ELC, and its messages, to the historic environment sectors at a community level.
4. Advise local government on taking landscape issues into full account in all aspects of their decision taking and policy.

Table 5: UK laws on environment and landscape [29–32, 34].

Date	Title	Property
1990	Environmental Protection Act	Conservation, development protection of ecosystems and the biological diversity
2007	European Landscape Convention	Framework for implementation
2009	Guidelines for implementing the European Convention	Integrating the intent of ELC into plans, policies and strategies
2011	National Planning Policy Framework	Conservation Open space Pollution Heritage assets
2012	National Planning Policy Framework	Sustainable Development



4 Conclusions

In recent years the European Union has shown a particular interest in the territory and territorial policies, assigning a key role, particularly in the cities, to the pursuit of the goal. The EU urges the member states to focus of competitiveness, cohesion, environmental balance and well-being overall. In order to fully develop the of Europe's Regional and territorial capital [8, 9].

The European Landscape Convention has set the date for the advent of a new way of understanding and using the landscape in the process of spatial planning.

The legal landscape has taken on a role of scientific value, based on the planning process characterized by size: legislation, policy, and planning.

We have gone beyond the limit of a long-standing aesthetic expression linked to scenic beauty, and every aspect of the land becomes landscape, promoter of the development of the territorial capital.

In Italy, the original definition of landscape originated from the legal protection of all cultural and environmental asset a notion which derives from Roman law. National resources were subject to absolute protection; the inhibitory constraint ensured the non-convertibility of the object and the protection of the territory. This legal tradition continues to persevere in Italy. The approach is related to the legal arrangement, rather than any practical action. The regional and municipal technical offices, set up for the preparation of landscape plans, do not elaborate projects, which are essential for the management of the territories because all too often, they are blocked by bureaucratic and institutional practices.

In England, the landscape is always treated in a more pragmatic way. The Acts regulate the management and planning of territorial spaces, assigning locations and uses, solving problems, practically a directly, by means of project activities, needs and desires.

Comparing the planning process adopted in Italy and in the UK, it is believed that both, although moving from different cultural approaches, and adopting different methods of organization in the state, have the same objective: the need to implement on a local scale both the legal framework and actual project [35, 36].

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