

ACAWA-GR Conference Proceedings

Τόμ. 1, Αρ. 1 (2022)

Papers of the National Associations of E.C.C.O. - Ensuring high quality in safeguarding Cultural Heritage. The vital importance of protecting the title and regulating the profession of Conservation-Restoration in Europe



ΣΧΟΛΟΣ ΣΥΝΤΗΡΗΤΩΝ ΑΡΧΑΙΟΤΗΤΩΝ
& ΕΡΓΩΝ ΤΕΧΝΗΣ ΤΡΙΤΟΒΑΘΜΙΑΣ ΕΚΠΑΙΔΕΥΣΗΣ

ΠΡΑΚΤΙΚΑ ΣΥΝΕΔΡΙΩΝ/ΗΜΕΡΙΔΩΝ

ACAWA-GR CONFERENCE PROCEEDINGS

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Ensuring high quality in safeguarding Cultural Heritage

The vital importance of protecting the title
and regulating the profession of
Conservation-Restoration in Europe

organized by
A.C.A. & W.A.- GR



with the
participation of
E.C.C.O.



Conservator-Restorer | Current Status of the Profession in Portugal

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doi: [10.12681/acawa-grcp.5886](https://doi.org/10.12681/acawa-grcp.5886)

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ABSTRACT

On the 2022 E.C.C.O. - European Confederation of Conservator-Restorers' Organizations - General Assembly and President's Meeting at Athens, Greece, the cradle of democracy and oratory, the representatives of the European associations of Conservators-Restorers gathered, on the prospect of showing an overview of the current status of the profession in each country. ECCO challenged the professional associations to address the national legal framework of conservation-restoration in each country, debating the "Achievements and directions in the field of Conservation-Restoration for the sustainable development of Cultural Heritage", so we, in behalf of the ARP Board President, Rui Borges, had the opportunity to pinpoint the challenges and future prospects on the profession in Portugal and what has been the evolution of the association's work over the last few years, hoping for a pan European recognition of the uniqueness of the conservator-restorer profession and its important and central role within the cultural heritage sector, not only for its sole benefit but for the benefit of all that it represents. Amidst the evidence that, for the time being, there is no European-wide solution that is applicable in the specific legal and training context of each country, together, the European associations of Conservators-restorers are treading the path of success and, at this moment, everyone counts. The congregating role of E.C.C.O. becomes essential to navigate among the various European legal frameworks and identify the working tools that guarantee the placement of the regulation of the profession in the national and international policy agendas. Working and collaborating in a network, the successes that each association achieves are reflected in a global process. The present paper translates what was presented at the Meeting, to understand the current status of the Portuguese Conservators-Restorers.

1. THE PORTUGUESE CONSERVATOR-RESTORERS PROFESSIONAL ASSOCIATION (ARP)

Created on the 15th April 1995, ARP - Associação Profissional de Conservadores-Restauradores de Portugal - is an association governed by private law, whose main objectives are to promote and disseminate the profession of conservator-restorer, and to advocate the quality of conservation-restoration interventions in cultural heritage, aiming for its protection and safeguarding in a scientific and technical manner. Since then, ARP has sought to promote the profession's Code of Ethics (E.C.C.O.'s) and Deontology and to strive for its respect among the professional community in Portugal, to collaborate with organizations, groups or other professional associations, national and international, in advocacy for the profession and cultural heritage, and to achieve the legal recognition of the professional status of the Conservator-Restorer. ARP, as a full member of E.C.C.O. - European Confederation of Conservator-Restorers' Organizations since 2001, subscribes to an understanding of the profession in accordance with the E.C.C.O. "Professional Guidelines" and the definition of "Competences for Access to the Conservation-Restoration Profession".



Image 1: ARP – Associação Profissional de Conservadores-restauradores de Portugal.

2. THE REGULATION OF PROFESSION OF CONSERVATION-RESTORATION IN PORTUGAL

Although in the last few years the profession has gained more public recognition and is mentioned in some national specific cultural heritage protection laws, it is still required to establish and promote the legal recognition of the Conservator-Restorer's professional status, its definition, access, and ultimately the regulation of the profession. In Portugal neither the profession of conservation-restoration is regulated, nor the title “conservator-restorer” is protected by law. The existing laws for the protection of Cultural Heritage only set that conservation-restoration interventions must be performed by a professional with “adequate skills and experience”. This situation creates a discretionary context where the definition and decision-making of the required skills and competencies are under the responsibility of the owners or caretakers of cultural assets, both in the private and public realms. Despite ARP's 27 years of efforts, the practice of the profession in Portugal suffers from indefinite legislative constraints, misunderstandings by public authorities and private owners, disruptions in the monitoring processes by the competent authorities in complying with legal frameworks, and in general, the lack of awareness from public institutions, Central State to local authorities, transmitting this uncertainty to the private sector, church authorities, etc.

3. LAW REFERENCES IN PORTUGAL FOR THE CR INTERVENTIONS

- **Law n.º 107/2001** – Base Law for the Portuguese Cultural Heritage [“Lei n.º 107/2001 - Lei de Bases do Património Cultural Português”, *Diário da República*, n.º 209/2001, Série I-A, 08-09-2001, pp. 5808-5829. <https://dre.pt/dre/detalhe/lei/107-2001-629790> (accessed 16.03.2023)]
- **Law n.º 47/2004** – Frame-Law for the Portuguese Museums [“Lei n.º 47/2004 - Lei-Quadro dos Museus Portugueses”, *Diário da República*, n.º 53/2004, Série I-A, 03-03-2004, pp. 1161-1162. <https://dre.pt/dre/detalhe/lei/47-2004-480516> (accessed 16.03.2023)]

▪ **Decree-Law n.º 140/2009** – Decree-law that establishes the legal framework for studies, projects, reports, works or interventions on legally protected cultural goods, or in the process of being protected (as a cultural good of national, public or municipal interest). Legally unprotected heritage is not unfortunately within the legal scope of this decree. [“Decreto-Lei n.º 140/2009”, *Diário da República*, n.º 113/2009, Série I, 15-06-2009, pp. 3653-3659. <https://dre.pt/dre/detalhe/decreto-lei/140-2009-494543> (accessed 16.03.2023)]

There are important law references in Portugal for the CR interventions: the Base Law for the Portuguese Cultural Heritage (Law n.º 107/2001), the Portuguese Museum Framework Law (Law n.º 47/2004), and a decree-law that establishes some rules over on legally protected heritage assets (Decree-Law n.º 140/2009). Both overlook the technical framework for heritage interventions, only mentioning that professionals must have the “appropriate qualifications and competencies for this purpose”, but not defining what constitutes these parameters. Although it includes articles on a set of specifications regarding the process of managing interventions (e.g. 5-year of experience in the technical specialization area, on the Decree-Law n.º 140/2009), it is characterized by uncertainty of the profile for those who intervene, as well as for the necessary training for conservation-restoration practice. This creates a foggy situation about who and how can develop these interventions.



Image 2: David Teves Reis – E.C.C.O. Presidents’ Meeting 2022, Athens.

In the Base Law for the Portuguese Cultural Heritage (Law n.º 107/2001), on article 45, one reads that “*physical or structuring interventions in movable property classified under the terms of article 15 of this law, or in the process of being legally protected as such, are obligatorily ensured by legally recognized qualified professionals*”¹.

The Frame-Law for the Portuguese Museums (Law n.º 47/2004) on point 1 of article 31, states that “*the conservation and restoration of cultural assets incorporated or deposited in the museum can only be carried out by qualified professionals legally recognized, whether they are part of the museum’s staff or are specially hired for the effect*”.

¹ In the Portuguese legal framework, the word “technician” is used often instead of “professional”. This has to do with the legal terminology of Law n.º 12-A/2008 (see further). For a common understanding of the nomenclature, we opted, in the translation, for the use of the word “professional” instead of “technician”.

As for the Decree-Law n.º 140/2009, in article 18, it is mentioned that the authorship of the preliminary technical report (delineates the conservation-restoration process) which is mandatory beforehand any intervention in classified heritage, is the responsibility of a “qualified professional with a five-year degree in conservation-restoration”. However, article 22 does not state which professionals are legally qualified and recognized for the management and execution of such a conservation-restoration process: “1 - To the management of works or conservation and restoration interventions in movable cultural property, the provisions of article 18 are applicable with the necessary adaptations; 2 - The execution of works or interventions is carried out by professionals with adequate qualification and experience in their respective areas of expertise”.

Despite these references of a “qualified professional legally recognized” current legal framework for Cultural heritage conservation is oblivious of a clear, comprehensive and integrated definition of such professional, leading to misunderstandings and voids in the implementation of legal and administrative procedures.

4. THE TITLE OF CONSERVATOR-RESTORER IN PORTUGAL

In Portugal, neither the profession of conservation-restoration is regulated, nor the title “conservator-restorer” is protected by law. The law for the protection of Cultural Heritage only sets that conservation-restoration interventions must be performed by a professional with adequate skills and experience. This situation creates a discretionary context where the definition and decision-making of the required skills and competencies are the responsibility of the caretakers or owners of the cultural assets. However, in 2001 a decree-law was issued - “Decreto-Lei n.º 55/2001”, *Diário da República*, n.º 39/2001, Série I-A, 15-02-2001, pp. 846–853. <https://dre.pt/dre/detalhe/decreto-lei/55-2001-321289> (accessed 16.03.2023) - that defined clearly the system for museology and conservation-restoration positions in Public Administration. Regrettably, in 2008, the former was revoked, and was implemented new legislation - “Lei n.º 12-A/2008”, *Diário da República*, n.º 41/2008, 1º Suplemento, Série I, 27-02-2008, pp. 2-27. <https://dre.pt/dre/detalhe/lei/12-a-2008-468663> (accessed 16.03.2023) - which changed the legal system for public positions, establishing three general careers: *Senior Technician*, *Technical Assistant*, and *Operational Assistant*. The previous careers in museology and conservation-restoration in Public Administration were transferred to these new general careers. Undoubtedly, this was a step back for the future protection of the conservator-restorer title. The access to a career as a Senior Technician in the area of conservation-restoration, as a matter of principle, entails a degree of 3 for functional complexity (Article 44 of Law n.º 12-A/2008), which requires as an entry point solely an academic degree of 6 EQF (NQF 6) and eventually higher.

Also in conservation-restoration education programs, the Bologna process allows two cycles of programs leading to a master’s degree, enabling students to obtain a three-year degree and enter the market, regardless of the requirements of the above-mentioned article 18, no. 1, of Decree-Law n.º 140/2009 (5-year degree 7 EQF–NQF 7 for listed heritage interventions).

These factors have often permitted inadequate requirements of academic qualifications and failed to comply with the level of competence established nationally and internationally for the professional practice of conservation and restoration.

5. QUALITY ASSURANCE IN SAFEGUARDING CULTURAL HERITAGE IN PORTUGAL

In Portugal, the conservator-restorer is rarely involved in the quality assurance of Cultural Heritage interventions, and there is no legal quality surveillance of conservation projects. Albeit there is legislative guidance for the classified heritage works, this does not strictly impose quality criteria for the conservation projects and works, on a daily basis, nor the necessary peer review as, in general, there are no conservator-restorers in public institutions, let alone those who have the necessary specialization to overview all required interventions.



Image 3: Tour to the ancient Agora of Athens.

6. CHALLENGES FOR REGULATING THE PROFESSION IN PORTUGAL

In the present time, the main concerns are to increase efforts in policy-making concerning conservation-restoration to influence and mobilize the Portuguese government, professionals, and society, and to develop the necessary supporting work in this matter to encourage legislative action in defining who practices conservation-restoration. Two major initiatives promoted by ARP in 2021 might propel a change in the field. The first one was a petition addressed to the government demanding the definition of the title, qualifications, and competencies of a conservator-restorer; the second was an initiative with an independent deputy with the same goal that was unanimously supported by all parties represented in the Portuguese parliament. Currently, it is expected an outstanding response to ARP's claim made in 2019 to the Portuguese *ombudsman* (*Provedoria de Justiça*, the state institution that evaluates and oversees the legality of public laws and institutions). One step forward was the recent recognition in the Portuguese tax system of the "Personal Income Tax Code" (CIRS) for the conservator-restorer.

ARP's main goals are:

- To conclude the regulation of the Base Law on Cultural Heritage and the Framework Law on Museums, identifying the profile of the Conservator-Restorer as the professional who most directly acts in cultural heritage;
- The optimization of the synergy between Culture and Education as a quality assurance mechanism in the safeguarding of heritage, which will necessarily have to go through the accreditation of Conservation-Restoration courses;

- The creation of an exception regime in the Public Procurement Code that allows any act in any asset of cultural value to be framed differently from other service provision activities and, as such, the definition of the professionals and respective competences for the purpose;
- A greater associative involvement on the part of professionals and mobilization around the challenges of the profession.

Finally, there is an important legislative contribution, with the publication of the Law n° 2/2021 which established the regime for access to regulated professions (or to regulate) – “Lei n.º 2/2021”, *Diário da República*, n.º 14/2021, Série I, 21-01-2021, pp. 2-10. <https://dre.pt/dre/detalhe/lei/2-2021-154820683> (accessed 16.03.2023). Applying the EU directive on a proportionality test before adoption of new regulation of professions - “Directive 2018/958”, *Official Journal of the European Union*, 2018-06-28. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32018L0958> (accessed 16.03.2023) - into national law, it is stated in article 6, point 6, that the preservation and conservation of the national historical and artistic heritage emerge as one of the areas subject to an adjustment being an objective of the public interest, for the purpose of access to the exercise of such professions. This aspect comes to recognize, unequivocally, the unique character of the professionals involved in the preservation and conservation of the national cultural heritage, as well as the nature of the practice of conservation-restoration.