

The Cultural and Environmental Enhancement of the Upper Basin of the River Vinalopo in Alicante (Spain). Historical Industrial Uses of Water: Weirs, Ancient Channels and Water Mills.

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Introduction

This study has two parts. The first part analyzes the heritage value of the immovable and intangible cultural assets typical of the area under study. Secondly, a legal analysis is made of the concept of the “cultural park” and whether it may apply to this area¹.

The territorial area of the study is located within the municipal borders of Banyeres, a town of almost 20,000 inhabitants, located in Alicante's mountain region. The course of the river is marked by an array of hydraulic industrial heritage elements set in an extraordinary natural environment with a remarkable landscape, where the results of human activities throughout history are perfectly harmonised with the characteristics of this mountainous Mediterranean environment.

The territory has recently been threatened by projects proposed by the Spanish Ministry of the Environment in order to implement the EU strategy to restore natural water courses. These projects seek to restore the continuity of the river's course by removing the structures in its path, mainly weirs, which generate small hydraulic jumps in order to divert flows towards watermills for producing

electrical energy, in addition to paper and flour mills.

The hydraulic exploitation of this stretch of the river has existed since time immemorial and there are documentary references that date it to Roman times and the subsequent Arab rule of the Spanish peninsula. The structures that stand today are of different ages and are built on previous constructions from these periods. Throughout the ages, water has been derived for irrigating the land of the area using ingenious systems which are still used today. In addition to irrigation, water was also used for the above-mentioned industrial activities, giving rise to a strong paper industry until the beginning of the 20th century. To a great extent, as in the case of the River Serpis, which runs through Alcoy, this hydraulic exploitation contributed to the early industrialisation of Alicante's mountain districts.

Legal situation of the territory

Ownership

Although the territory contains privately-owned plots, the publicly-owned spaces and assets are

predominant. In summary, the river course forms part of the public domain of the state, while the hydraulic systems are all under municipal ownership, except for the divider, which belongs to a community of irrigators. There are several privately-owned plots which are subject to the conservation easements and their policing provided in the water legislation.

The public ownership of the hydraulic infrastructure favors the protection of the territory; the low incidence of privately-owned plots, which are subject to strict limitations as they are regulated by easements, is also a favourable element, as no further constraints on private ownership are expected. On the other hand, the owners could benefit if the river course and the heritage elements were granted special cultural status as they could apply for public subsidies to which they are currently not entitled.

Urban classification and zoning of the area

The river territory includes undeveloped land which also has constraints on road building, installations on urban land, specifically in the area where the Moli Sol mill is located, and installations on undevelopable land which is culturally protected, such as the area where the campsite is located.

The protected undeveloped land is governed by the municipal planning subsidiary rules which regulate undeveloped land subject to landscape and forest protection. On the whole, this land is used for the upkeep of the natural environment with compatible traditional agricultural and livestock activities. Recreational uses that are controlled and respectful of the environmental value of the territory are also permitted. The subsidiary rules only allow for the construction of buildings that are linked to the upkeep of the natural environment, public services and infrastructure as well as the rehabilitation of traditional farmhouses and buildings related to agricultural and livestock farming. The existing installations on this land form

part of the primary network of the subsidiary rules and the conditions of the land on which they are constructed apply to them.

The cataloguing of certain assets located in the river stretch

On the 30th of June 2011, the Plenary Session of the Banyeres Town Council unanimously agreed to approve the municipal cataloguing of protected assets and spaces, in which the “Assut de la Font del Sapo”, also called “Molí l’Ombria” figures as a relevant local asset. The town does not have a general plan, so the List of Protected Assets and Spaces is being created as a specific planning document.

The prior listing of an asset in the category of “asset of local relevance” is not necessary for it to be declared as an Asset of Cultural Interest (BIC). However, although it is not prescriptive, the decision of the Banyeres Town Council to classify heritage elements located in the river stretch as assets of local relevance illustrates both their cultural importance as well as the firm determination to guarantee their protection and the enhancement of their value. The unanimous vote by all of the political parties reinforces this conviction and reveals the clear desire of the town of Banyeres to preserve its existing hydraulic, cultural, and environmental heritage.

On the other hand, it should be remembered that in the Region of Valencia there is no legal concept equivalent to the “cultural park” for the category of assets of local relevance, and therefore it is not legally possible to list a space with these characteristics under this category. Therefore the town council uses other systems of protection that are part of current legislation.

Absence of special environmental protection

The territory does not form part of the Natural

Resources Management Plan of the Sierra de Mariola (declared a Natural Park by the Regional Government of Valencia); therefore, the land is not included in the territory covered by the natural park or its buffer zone. However, the territory is very close to both the park and its buffer zone and in places is less than 100 meters from its outer perimeter.

Thus, although it is not covered by the legislation regarding the protection of natural spaces, it forms part of the outer perimeter of one of the most important natural parks of the Region of Valencia, and consequently is part of the surrounding landscape. This environmental situation should be taken into account when evaluating the ecological value of the area, including the landscape, as this is a highly important aspect in the “cultural park” concept, which, as previously mentioned, encompasses the cultural and environmental values of a territory.

The protection of an area by declaring it an Asset of Cultural Interest (BIC) would not be so important were it a part of the park, because in such a situation the specific environmental policy would operate as an instrument to ensure its protection. This, however, is not the case, which is why the constitution of a cultural park is a better option.

Adapting the “cultural park” concept to the characteristics of the proposed area

Environmental protection and the legal regime of cultural assets have always been intricately linked. In fact, some authors state that the protection of cultural assets is an area which should form part of environmental law. Although this paper is not based on this theory, it is true that there is very close interaction between the management and administrative activities of the two sectors.

To illustrate this interaction we can simply observe how environmental law institutions are incorporating the cultural dimension into their core

activities; this is the case of environmental impact assessments. These studies have to analyze the effects of cultural asset projects, while the environmental impact statement indicates the conditions necessary for their conservation. The same occurs in the strategic assessment of plans and programs.

However, this environmental and cultural relationship is not unidirectional. Cultural legislation also contains different instruments through which the environmental variable is a related and inseparable element of heritage protection. Such is the case of the protection of environments, including landscapes, as an inseparable element of the cultural value of a monument, historical site, etc. It is also the case of some BICs in which the environmental elements form part of the cultural value, such as in the case of historical gardens or even some historical sites.

Nevertheless, the interrelationship between environmental and heritage elements is most evident and intense in the “cultural park” concept. As mentioned above, in the cultural heritage law of the Region of Valencia, this concept refers to spaces which comprise individual assets with intrinsic cultural value together with environmental assets which also form part of this value, enhance it, and even condition it in such a way that the value of these assets considered alone, without their environment, would be much lower. An associated intangible component is also present.

The anthropic factor in these environmental spaces is extraordinarily important for both cultural and ecological value. These are places where humans have intervened throughout the centuries, not only in the accumulation of specific assets, but also in the shaping of the environmental space associated with these assets. In addition, the area acquires a higher heritage value due to this intangible component, given that an important part of the asset to be protected relates to the activities that humans have undertaken in the territory throughout the centuries, developing a series of

traditional practices which have a special value.

Without a doubt, the cultural space of the upper section of the Vinalopó River in the Banyeres municipality has all of these elements as well as other unique features that other, apparently equivalent, areas in the region of Valencia do not have.

The section of the River Vinalopó that flows through Banyeres has a high cultural, ethnographical, archaeological, and architectural value. Its natural environment is practically fully intact, with no biological degradation, pollution or acoustic contamination, and it has a wealth of flora and fauna. This area has been highly anthropized throughout history, which is evident in its industrial and hydraulic installations, some of which are still in operation, and which include special traditional practices related to water.

The flow of the river is regular; water has been collected at the “Riego Mayor” weir since ancient times and is diverted by channel to the “divider” located on the right bank; in this hydraulic facility the water for irrigation is divided between Banyeres, Bocairent, and the Valle de Beneixama. The water is then returned to the river at the same point, forming an unevenness which, since the times of the Catholic Reconquest, has been used for the installation of flour mills and fulling houses that have been demolished and rebuilt over the ages.

The current divider was designed by the Alicante-born engineer Próspero Lararga and dates back to 1911. It is one of the first examples of a concrete

vault. The water corresponding to Banyeres and Bocairent is transported via an irrigation channel which terminates in the latter; the excess water being taken to the River Clariano Ontinyent. The water which ends up in the river after the divider is stored in a reservoir together with the water that descends down the same riverbed, in the weir “Azud Molí l’Ombria”; a wide ditch with a length of 500 meters takes the water to the mill where it is exploited. There is a basin at one point of the channel which collects the water of a spring without detriment to the rights of its owners.

When the water reached the mill it powered the hydraulic turbines, one of which has been preserved; then the waters returned to the river. On



Figure 1 : Azud y Molí l’Ombria. Bañeres (Alicante, Spain).



Figure 2: Azud del Molí Serrella. Bañeres (Alicante, Spain)

the slopes of the mountains on the Levante side (“Roc” gully, before the “Domenega”), there is a spring that empties its waters into the weir “Azud del Molí Serrella”, from where a channel is derived. A few meters downstream there is another dam that originally supplied the Molí Serrella mill, and which was later replaced by the channel in order to raise the height of the flour mill bucket.

Further downstream from the Molí Serrella is the “Molí Sol” dam, which diverts the water to a channel on the right bank that is uncovered at its start, and then has an underground section of four

hundred metres in its final section. This water was primarily used to power devices to manufacture paper by hand, and, once the machinery was installed, to power the turbines (which have been preserved). This mill has interesting water filtering and purifying systems similar to those that can be found in the River Serpis (Alcoy).

At the height of the Molí Serrella dam, annexed to the Molí l’Ombria, the right bank has a stone and gravel filtering system through which the water was purified and collected in an underground channel and transported to the Molí Sol where it was used in

the manufacture of cigarette paper. Given the high quality of this paper, the water used must be free of impurities (sands, plants, etc.). The whole of this system has been preserved. The mill has three of its own springs, one with a sizeable flow.

The Molí Pont mill does not have its own dam; the water leaves the Molí Sol, crosses the river via an aqueduct and continues through a channel on the left bank. Just before reaching the mill, two underground channels located on the upper section supplied clean water. The water was not subsequently emptied directly into the river but taken to the adjacent paper mill, “La Aspentá”, via a long underground channel.

The local population, which has lived close to the river from the outset, has been a determining factor for the creation and operation of different kinds of tools designed for agricultural and industrial use. In the agricultural field one can highlight the existence of different facilities for the irrigation of several municipal territories: Banyeres, Biar-Beneixama, and Bocarient.

In this respect it can be observed that from this point on a historical water transfer between different hydrographical basins took place (the Vinalopó and Clariano Rivers, the latter being a tributary of the River Júcar). This is without a doubt a highly important differential element of this space compared to others with similar characteristics in the Valencia region.

There is a series of irrigation channels, weirs, and other historical hydraulic structures with interesting environmental value. Furthermore, the area is enriched by several historical hydraulic or electrical mills which in many cases were the



Figure 3: Molí Sol/Blanco y Negro. Bañeres (Alicante, Spain)

driving force of a strong traditional paper manufacturing industry in the area. In this regard, the territory could exploit the synergies created by the presence of the Valencia Paper Museum located in the municipality, which is one of very few of its kind in Spain.

The force of permanently flowing available water enabled the emergence of a thriving industry, namely the construction of dams and channels which still exist today, which enabled the powering of the different hydraulic devices for generating impelling energy and producing electrical energy. The optimisation of the river flow and its unevenness gave rise to the emergence of a paper manufacturing industry of which the many water mills in the area are a clear reminder.

The flour mills and fulling houses which exploited the impelling power of the river date back to the Muslim era. These mills were granted special protection through the arbitral award of 1382. Later, in the second half of the 18th century, domestic policies gave a boost to the hydraulic industry of the area, with the creation of a large number of flour and paper mills, together with other factories engaged in the production of spirits and pottery, as well as oil mills.

The paper industry continued to thrive until the end of the 19th century, when Molí l’Ombria changed its activity to engage in the production of electrical energy and the manufacture of liquors. The Serrella flour mill was active until the middle of the 20th century and the spirit factories, oil mill and pottery factories operated until the beginning of the 20th century. The paper mill in Camp d’Or, known as Molí Roig, was built in 1821 and became one of the first in the Valencia region to engage in the manufacture of cigarette paper. Finally, the Forcall flour mill operated until the beginning of the 20th century when it changed its activity to produce electrical energy and later cigarette paper and fibers.

With respect to the environmental value of the territory, there is a wealth of flora and fauna in the area which constitutes one of the best-conserved spaces of the Valencia rivers. The presence of the natural park of Sierra de Mariola nearby clearly indicates the special environmental worth of the area.

All of this value as a whole could and should be enhanced through the creation of a concept that perfectly combines environmental and cultural factors, such as the declaration of the BIC under the “cultural park” category. In our opinion, this concept is ideal for promoting the conservation of the above-mentioned space, as it enables the



Figure 4: Molí Pont/La Innovadora. Bañeres (Alicante, Spain)

multisectoral integration of all the protection policies and initiatives, optimising the actions and financial resources of the public and private agents involved in the conservation, and the enhancement of the cultural and environmental elements.

The invigorating and integrating feature of these elements as a whole, which also constitutes one of its principal supports, is the Museu Valencià del Paper (Valencia Paper Museum). Its objectives include the monitoring, protection and restoration of the archaeological heritage of the paper mills located in the municipal territory of Banyeres.

The paper industry was fundamental to the economic and social development of the local populace between the 18th and the first half of the 20th century, bestowing upon the local population of Banyeres a specific network of social, familial, and economic ties that still exist today and can be seen in the common desire to create the *museu* and preserve the mills and hydraulic structures.

Furthermore, in the medium term, the Banyeres Town Council, in accordance with the available budget, intends to convert the installations of Molí l’Ombria into a museum, which will give the area

greater cultural value, creating synergy for tourism and cultural exploitation.

The joint and integrated protection of cultural and environmental heritage

In international law, two fundamental milestones mark the protection of cultural heritage. The first is the Seventeenth General Conference of the United Nations Educational, Scientific and Cultural Organisation in Paris in 1972, which created the Convention Concerning the Protection of the World Cultural and Natural Heritage, which observes the interrelationships between culture and environment. The second, the United Nations Convention for the Safeguarding of Intangible Cultural Heritage, was signed a few years later in Paris on the 17th of October 2003.

Having ratified both treaties, these instruments are enforced in Spain. Article 46 of the Spanish Constitution contains a clear mandate: *“the public authorities shall guarantee the preservation and promote the enrichment of the historic, cultural and artistic heritage of the peoples of Spain and of the property of which it consists”*. This responsibility is shared between the State and Autonomous Regions (Articles 148 and 149), although the regional governments have greater legislative and managerial weight and are responsible for protecting and enhancing the cultural heritage of their territories.

Together, with the cultural dimension, the Constitution recognises the right of all Spanish citizens to enjoy an environment suitable for personal development (Article 45 of the Spanish Constitution) and confers the responsibility for the environment to the State and the Autonomous Regions. The former crafts the basic legislation while the latter develops additional protective and managerial measures (Article 149.1.23 CE).

Article 18 of the Statute of Autonomy of the Region of Valencia, under Section II, relating to the rights of the people of Valencia, states that: *“Out of*

social and cultural recognition of the Valencian agrarian sector and its important work in productive activity, in the maintenance of the countryside, territory, the environment, culture and the traditions and customs that most define Valencian identity, the Generalitat shall adopt the political, fiscal, judicial and legislative measures that guarantee the rights of this sector, its development and protection, as it shall for arable and livestock farmers”.

This statement is based on the assumption of full responsibility as regards culture and the protection of historical and artistic heritage (Article 49). La Generalitat holds exclusive power for the protection of its *“Historical, artistic, monumental, architectural, archaeological and scientific heritage”* (Article 49.1.5), and *within the framework of basic State legislation in the protection of the environment, respecting the faculties of the Generalitat to establish additional protective norms”* (Article 50.6).

Finally, Articles 25 and 26 of the Law on Local Government call on Town Councils to intervene, within the scope of their possibilities, to protect their culture and heritage.

The mandate for public authorities which contains the above-mentioned regulations applies to the protection of classical elements and also intangible elements, including aspects such as landscape or associated environmental elements².

Hydraulic heritage as a cultural value to be protected

According to the Report of the Consell Valencià de la Cultura (The Valencian Council of Culture), regarding measures to protect the cultural heritage of the Region of Valencia, the conservation of the hydraulic heritage of the region's territories is an important factor for its future and sustainable development. This report was approved by the plenary session of this body on the 28th of May 2004. In point c.4.c of the document under the title *“Hydraulic structures, landscape elements, rural*

and industrial heritage”, the Council states :

“The current state of our territory has been, and is, the result of the activities undertaken within it, throughout history, by its peoples. Its configuration is designed and has been used, and still is, as an instrument. Therefore, as such, it is subject to continuous modifications and adaptations.

The territory has and is subject to, and will be even more so in the future, to permanent changes and modifications due to the increase in the needs of our people. This produces continuous quantitative and qualitative changes in our heritage and in the marks that make up the collective memory of our fellow citizens.

The towns and villages, roads, the transmission of all kinds of energy, the channels, reservoirs, traditional irrigation systems, new irrigation systems and water systems as well as the agricultural, livestock and industrial systems shape the territory and provide us with new ways of living in it, knowing it and imagining it as well as new ways of interacting with it.

Its humanised geography generates images which, viewed as landscapes, acquire a high heritage value. These landscapes are top level cultural baggage because we identify ourselves and recognise ourselves in them. Any modification that we make in them should not only contemplate economic aspects but should also take into account their identifying historical and aesthetic values”.

The Consell has repeatedly expressed the importance that protecting the hydraulic architectural has for the Region of Valencia. In this respect, it has carried out many reports on specific locations (i.e. a report on the “Assut d’En Carròs” water divider and the hydraulic system to which it is related (2008)³, and “Report on the Inception of the Procedure to Declare the Channels of the Tribunal de Aguas de Valencia and of the Real Acequia de Moncada as BICs” (2004 and repeated in 2008)⁴).

Aside from these types of cases, the Consell issued its own report on the “Hydraulic Heritage of

the Region of Valencia”, in which it defined a plan for conserving and enhancing places and elements of hydraulic architecture that it considered most representative.

At other times, the Consell has defended the suitability of the hydraulic heritage to be classified as Assets of Cultural Interest (BIC) under different categories of protection, mostly as archaeological or ethnological heritage sites and even as monuments (in the case of the aqueducts), or historical sites (in the case of the industrial site of the River Molinar de Alcoi (2004). This case is particularly interesting as the characteristics of the environment, the buildings, and the hydraulic structures are similar to the spacbeing analyzed in this study (mills, aqueducts, irrigation channels, vaults, and other hydraulic structures in a relevant and strongly anthropized landscape environment). On the 3rd of June 2005, the Consell de la Generalitat declared the area a BIC with Decree 105/2005.

As can be observed, in the protection of hydraulic heritage it is evident that it is important to integrate both tangible and intangible aspects within the protection plan, as with this type of assets their material existence and the series of traditional activities that have been developed in their surroundings are as important as each other. The categories used are usually the monument or historical site, although we have found that the Institution contemplates the concept of “cultural park” as an interesting instrument for these purposes.

The “cultural park” concept in Valencia’s legislation on cultural heritage

General framework

The Regional Government of Valencia's June 11th Law 4/1998, concerning Valencia’s Cultural Heritage, (hereafter LPCV), (reformed in 2005 and 2007) provides the following definition of cultural

park as a part of the BIC category: “*it is the space that contains significant elements of cultural heritage integrated in a physical environment which is outstanding due to its landscape and ecological values*” (Article 26.1.h LPCV).

Until now, the corresponding regulatory enactment process for determining a legal regime for a cultural park, as with the other BIC categories of the LPCV, has not been developed. However, the LPCV has sufficient elements to enable it to configure a basic legal regime for the concept, given that the regime common to all BIC categories is applicable and when necessary and essential the specific characteristics are detailed. These are few in the case of cultural parks⁵.

Therefore, with the current legislative cover the Regional Government of Valencia is able to declare a space bearing these characteristics as a cultural park, specifying the applicable protection regime in the corresponding decree. Since the LPCV obliges the approval of a special plan or analogous mechanism to regulate the uses of the space, the joint application of both instruments enables the configuration of a reasonable system for protecting and enhancing the value of a space of this type.

As we can see in the legal definition described above, these spaces combine “significant” or “relevant” environmental and cultural values. In legal terms, these concepts are commonly known as “undefined legal concepts”, which in the field of administrative law become discretionary powers.

It is therefore the responsibility of the cultural administration to determine with rational and reasonable criteria if these elements deserve special legal treatment in terms of their cultural protection. This places us in a predicament in terms of “technical discretion”, given that the administrative decision, in this case corresponding to the Consell de la Generalitat, has to be made using convincing elements based on technical criteria.

Thus, the procedure for declaring assets as BICs requires the incorporation of a series of reports into the file. These reports are issued by the cultural

administration and independent advisory bodies (Article 27.5 LPCV) listed in the regulation, including the universities of the Region of Valencia (Article 7 LPCV). These documents can be favorable in achieving the objective.

The initiative to classify an area under these categories, like any asset of cultural interest, may correspond to any individual who does not have any legitimate interest or subjective rights. The LPCV does not establish any prerequisites for bringing the proceedings, given that it allows any person to initiate the procedure. Therefore, the standing of the town council of Banyeres is not in question. Moreover, its initiative is even more legitimate considering the powers that the LBRL (Law of Basic Regulations of the Local System) confers in Articles 25 and 26, referring to the protection of environmental and cultural assets which form part of its municipal territory.

The procedure does not differ greatly from the ordinary procedure for the declaration of a BIC. As in all cases, the simple acceptance for processing implies the provisional assignment of the protection regime corresponding to this category. Once all of the processes have been completed, including the above-mentioned reports, the procedure must be finalised through a decree by the *Consell* (Article 27.7 of the LPCV establishes a maximum term of twenty months to resolve the procedure for the declaration of a BIC, for those assets aspiring to be listed as a “cultural park”).

The decree by which a space is declared a “cultural park” has an “operative” or “regulatory” nature, as it comprises a complex administrative procedure which pre-establishes a legal situation of a consecutive nature. Therefore, the decree should contain a series of provisions that enable the creation of a basic legal regime for protecting the space to be configured.

This initial regime is completed with subsequent municipal action (with participation by the regional government). The formula consists of the special protection plan (Article 39.4 LPCV), which should

be brought by the Banyeres Town Council⁶. This instrument enables the use and exploitation of the space to be specified and connects the cultural protection with the urban and environmental planning of the area which is fundamental to complement the protection and enhance the value of the area as this legislation has regulatory status.

The requirement of a special plan for this BIC category is derived from the reform of the LPCV through Law 7/2004 of October 19th, constituting a new boost to the cultural park concept by legislators. The plan is characterized by the specialized nature of its object, as opposed to the generalized concepts in most plans, which have the objective of regulating the territory from all perspectives. A specific category is the special plan for protecting historical heritage which would be applicable to the cultural park⁷.

The “cultural park” concept in the Territorial Strategy of the Region of Valencia. Further progress

By way of Decree 1/2011 of the 13th of January, the Territorial Strategy of the Region of Valencia was approved. This document is the Region’s most important instrument of territorial planning. Law 4/2004 of the 30th of June, on territorial planning and landscape protection (LOTPP) establishes in its preamble that it constitutes a “*point of reference for public decisions regarding territory contained in the different planning instruments, establishing harmonisation and coordination guidelines of the different sectoral policies and economic and social forecasts*”⁸.

Among its fundamental objectives, the LOTPP establishes (Article 2) the protection of the landscape and conservation and enhancement of cultural heritage from the perspective of sustainable development. Therefore, Article 21 declares that it is mandatory for territorial and urban planning to favor the conservation and restoration of “*unique architectural structures and the traditional forms*

of human occupation of the territory in accordance with the local characteristics”. Furthermore, Article 28 establishes the prevention of the alteration or degradation of landscape value in relation to both natural and cultural elements as a public objective.

With respect to the protection of the landscape, the law is fully aware that human action shapes our natural spaces. It defines the Valencian landscape as the product of the action and interaction of natural and human factors; without a doubt, this occurred intensely in the case of the upper section of the Vinalopó River, where the landscape is clearly affected by a strong anthropic element evident in the numerous remains of the hydraulic heritage and in natural elements (land, flora, fauna) defined by man.

The Territorial Strategy dedicates the whole of chapter six to cultural heritage. It is worth noting that in accordance with this regulation, the Territorial System of Historical and Cultural Heritage, understood as a network of strategic locations with values, is made up of, “*hydraulic heritage relating to the management of surface and underground water for the development of irrigated agriculture or for human supply, which is included in the General Heritage Inventory: salt flats, snow wells, mills, light factories, iron and steel works, warehouses, among others*”.

On the other hand, in objective thirteen of the Strategy: “*managing the cultural heritage in an active and integrated way*”, the Valencian Government expresses the need to “*extend the scope of the cultural park concept*” in accordance with the objectives of the proposed territorial system.

The territorial strategy also contemplates, as one of the strengths of our model, the existence of a legal framework which reinforces the integration of the cultural, territorial, and landscape heritage, and identifies the design of cultural tourism products which combine the richness of the landscape and culture as an opportunity. The inclusion of cultural heritage in the “Green infrastructure of the

territory” is therefore a fundamental opportunity highlighted in the document.

On the other hand, the section on “*proposed strategies*” establishes the need to protect the landscape as a cultural, economic, and identifying asset and the cultural assets inseparable from their territorial and environmental context. Among the landscapes of reference for the management of cultural heritage is the “*Montaña de Alicante*” (Alicante mountains), a physical environment which includes the area which is proposed as the territory to be protected under the concept of cultural park.

Cultural parks in the legislation of other Autonomous Regions

The “cultural park” concept has been incorporated into the legislation of several Spanish regions. The region which has probably most developed this instrument and which also uses it as one of the principal tools for promoting tourism is Aragon. This Autonomous Region has specific legislation: the Cultural Parks Law of Aragon (Law 12/1997 of December 3rd), which regulates an instrument which had already existed a decade before the law was enacted.

The Aragonese legislation is an interesting example of a regional comparative law, given that it regulates this concept in great detail. The list of aspects of the decree that should be regulated in each space is very interesting. According to this law, it should include the reasons and circumstances which accredit the space as a cultural park; in addition it should delimit the geographical space of all the municipalities affected by the declaration and list the elements that require special protection; the decree should specify the functions of the government and management bodies (in Aragonese legislation cultural parks are assigned specific management bodies), and establish a transitory regime of protection for those elements which may be immersed in the process of being declared a

unique Asset of Cultural Interest.

The success of the cultural parks in Aragon (a total of five have been declared as such), is well-proven, most of all as a driving force for a more sustainable rural economy. This success has played a part in promoting economically-deprived territories of Aragon, generating considerable development in rural tourism associated with the park.

The concept also exists in other Autonomous Regions such as Andalusia, where cultural parks are regulated by Law 14/2007, of November 26th regarding the historical heritage of Andalusia. This law also stipulates the creation of a participative managing body with the presence of the competent authorities and sectors involved. The nature of this managing body is very flexible and can either be a legal entity or not.

Other Autonomous Regions have similar concepts, although they are not as integrating as the cultural park. Thus, Law 11/1998 of October 13th regarding the cultural heritage of Cantabria regulates the categories of “cultural site” and “natural site”, including the landscape as a factor of protection, together with the rest of environmental, intangible and heritage values of the territory. Law 7/2004 of the 18th of October, referring to the cultural and historical heritage of La Rioja, contains the category of “cultural site”, which includes the protection of cultural landscapes. Finally, there is the local law 14/2005 of the 22nd of November regarding the cultural heritage of Navarre, which also includes the concept of “cultural landscape”.

In short, all of the regional laws contain instruments that directly or indirectly govern cultural, environmental, and intangible values of non urban territories, although some of them, including the Valencian legislation, have preferred to establish specific instruments that group together these closely-related concepts.

In light of these examples of regional law and taking into account the success of this concept in some of them, we can conclude that its development

in the Region of Valencia is highly recommended.

Conclusion

It can be observed that the delimited area has a prior recognition of its cultural and environmental values in the municipal planning regulations. Its classification on the whole as undevelopable protected land and the recent cataloguing (in progress) of its unique cultural elements, bestow upon the territory a level of protection which could be considered “moderate”.

Its classification as a BIC would increase its protection and would enable the surrounding environment and the existing heritage elements to be managed in an integrated way. In the light of the existing ownership regime in the area in question (public water supply, municipal ownership and some privately-owned rural farms – undevelopable protected land -, affected by water easements), the impact of a declaration as a BIC on the subjective rights of the citizens would be minimal.

Although the ownership and private uses are never determining factors in articulating the cultural or environmental protection of a territory, there is no doubt that an ownership structure such as the one in this case favors a smooth protection procedure with little or no litigation. Furthermore, the declaration may generate new expectations associated with public financial incentives for land owners.

Therefore, there are no obstacles in terms of urban planning, environmental issues, or those derived from the ownership regime, to the feasibility of the territory being declared as a BIC. We also consider the cultural park concept to be appropriate for legal, cultural and environmental reasons.

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2 According to the United Nations Convention for the Safeguarding of Intangible Cultural heritage, signed in Paris on October 17, 2003, The “intangible cultural heritage” means the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage”. The Convention includes a clear mandate to the national public authorities declaring that each state party has a duty to: a) take the necessary measures to ensure the safeguarding of the intangible cultural heritage present in its territory; b) among the safeguarding measures referred to in Article 2, Paragraph 3, identify and define the various elements of the intangible cultural heritage present in its territory, with the participation of communities, groups and relevant non-governmental organizations.

3 This report is part of the “Report on Different Heritage Elements and Cultural Projects of Potrías”, of January 28, 2008. The *Consell* literally states: “it is worth highlighting the great interest that the Consell Valencià de la Cultura has in the issue of hydraulic architecture in general and on which it has carried out several reports of different types”. The area to protect, like Banyeres, has irrigation channels, washing places, mills, and different hydraulic structures.

4 In this report the *Consell* proposes the concept of “historical site” to protect the irrigation channels and other associated hydraulic infrastructure.

5 There have been some drafts and preliminary bills to regulate this concept, although none of them have reached parliament. The Consell Valencià de Cultura has expressed the advisability of carrying out this task (Report on the Draft Bill on Cultural Parks, 27 –September 2006).

6 The law establishes the feasibility of other, different planning instruments provided that they fulfill the stipulations required by law.

7 The content of these plans is very diverse given that they encompass different BIC categories. In principle, it would be correct to include an exact delimitation of uses; another of the contents is the establishment of an area of integrated rehabilitation which in the case of the cultural park would affect the existing intangible elements. They usually include criteria relating to the buildings, façades, roofs, etc. of the assets in question. In any event, the legislation allows any content related to the nature of the asset or space to be protected. This includes aspects such as the definition of access, parking areas, road

systems, elements that are liable to cover the existing buildings, regulation of free spaces, equipment, measures for protecting characteristic plants, measures for restoring and improving open spaces, signs, environmental elements or regulations for protecting archaeological, paleontological or ethnological heritage which may exist in the area.

8 The Territorial Strategy of the Region of Valencia, as its preamble indicates, is not a rigid instrument formed by binding provisions and therefore does not limit the capacities of town councils and authorities to plan and act in the territory with sectoral competences of a territorial scope. It is, however, a “development and facilitating tool for public authorities and territorial agents”, with extraordinary importance for justifying their discretionary decisions. It is, therefore, a document of directives and objectives which should guide the future governmental decisions with a territorial impact in the Region of Valencia. In fact, although it is not binding, it will oblige the urban and territorial bodies to “explain”, expressly and appropriately, any digression with respect to its objectives and strategies (Article 1.2 in fine).