



Fig. 1. Dukes of Frías Castle, Frías, Burgos in 2010 by Belén Rodríguez Nuere

PROTECTION OF SPANISH DEFENSIVE ARCHITECTURE

Elisa Bailliet

Architect, Madrid Polytechnic University, SPAIN
elisabailliet@telefonica.net

Belén Rodríguez Nuere

Archaeologist, Instituto del Patrimonio Cultural de España, SPAIN
belen.rodriquez@mecc.es

This article aims to point out the importance of the existence of legal regulations as an initial approach for the conservation of Cultural Heritage¹ and the specific laws dealing with safeguarding certain architectural heritage in Spain.

Focusing on the technical protection of historical heritage, we have included a brief reference to the process of conceptual expansion of the term “monument” understood as an isolated object, towards the consideration of our environment. This qualitative transformation directly affects the urban ensembles and therefore, walled enclosures as well.

The methodology focuses on defensive architecture as a specific typology. We aim at revealing that despite the dispersion in regulations which existed until the promulgation of Law 16/1985 on Spanish Historical Heritage, the coexistence of mechanisms and the overlapping of competences, as well as variations in quantitative statements, the methodology has contributed in creating social and political awareness, which tends to guarantee efficiency in the protection of the Spanish Historical Heritage in general.

Keywords:

defensive architecture – inventories – protection – charter – law

1. INTRODUCTION

The present work is part of an extensive investigation on the evolution of protection of Spanish monumental heritage. It evaluates the keys that may have contributed to the conservation of defensive architecture, the legal involvement in certain assets which are part of the greatest riches of Spanish Historical and Artistic Heritage, and which have suffered from constant spoliation.

From the point of view of its conservation, time combines with cultural meanings and historical values contained in the complex lattice that composes a city. In words of Mumford (MUMFORD, 1945), “*through conservation, time challenges time, time strikes against time: customs and values go beyond the living group, emphasizing the character of each generation according to the different strata of the time*”. Lewis Mumford understood the city as “*the maximum*

point of concentration of power and culture within a community” and “*a product of time*”, in which it “*becomes visible*” through buildings, monuments and avenues. Therefore, the city turns out to be one of the greatest exponents of human creation, which condenses the interaction between humanity and nature, over time.

José Luis Álvarez (1992: 71) synthesized into four phases the evolution of Spanish architectural heritage – to which we could add urban heritage - over the last two centuries. In the first instance, the consequences of the two phases of seizures², represented by those carried out by Mendizábal in 1836, and followed by those of Pascual Madoz from 1855. A second stage was characterized by the constant depredation of city walls for the sake of modernity for an expansion of the urban area. The third devastating action was the implementation of urban techniques of internal reform, aimed at adapting cities to the hygienist’s³

¹ The application of the concept of Cultural Heritage has taken root in recent decades to designate historical heritage. In this regard, since its scope involves all the disciplines related to culture, both historical and contemporary, such as performing arts, film, literature, etc., it creates a vague area where the boundaries between conservation and safeguarding required by historical heritage are blurred with building measures required by other contemporary disciplines. For this reason, we have recovered “historic heritage” to define a subset of the Spanish cultural heritage that requires treatment and specific attitudes.

² The seizure carried out in Spain includes a historical-economic process, which got its start at the end of the 18th century, and which arrives until the 20th century. This process consisted of the public auction of goods that could not be sold or purchased (depreciated), whose property, until then, it belonged to the Catholic Church or other religious orders, the aristocracy, or the State. The seizure of Mendizábal was mainly ecclesiastical, and it suppressed the religious orders, extinguishing the convents, and congregations, and caused the sale of nationalized assets to pay the public debt. On the contrary, the seizure of Madoz, was civil and “general” and it had a greater control. On this occasion were on sale all rustic and urban properties belonging to the Church, property of the State, the clergy, military orders, brotherhoods, etc, as continuation of the previous stage. The consequences of this process, inter alia, settled in the dismantling of the properties of the Church, which caused the spread of valuable personal property, as well as economic and social changes.

³ The hygienism of the late 19th and early 20th century was an international movement based in urban transformation and purifying the cities.

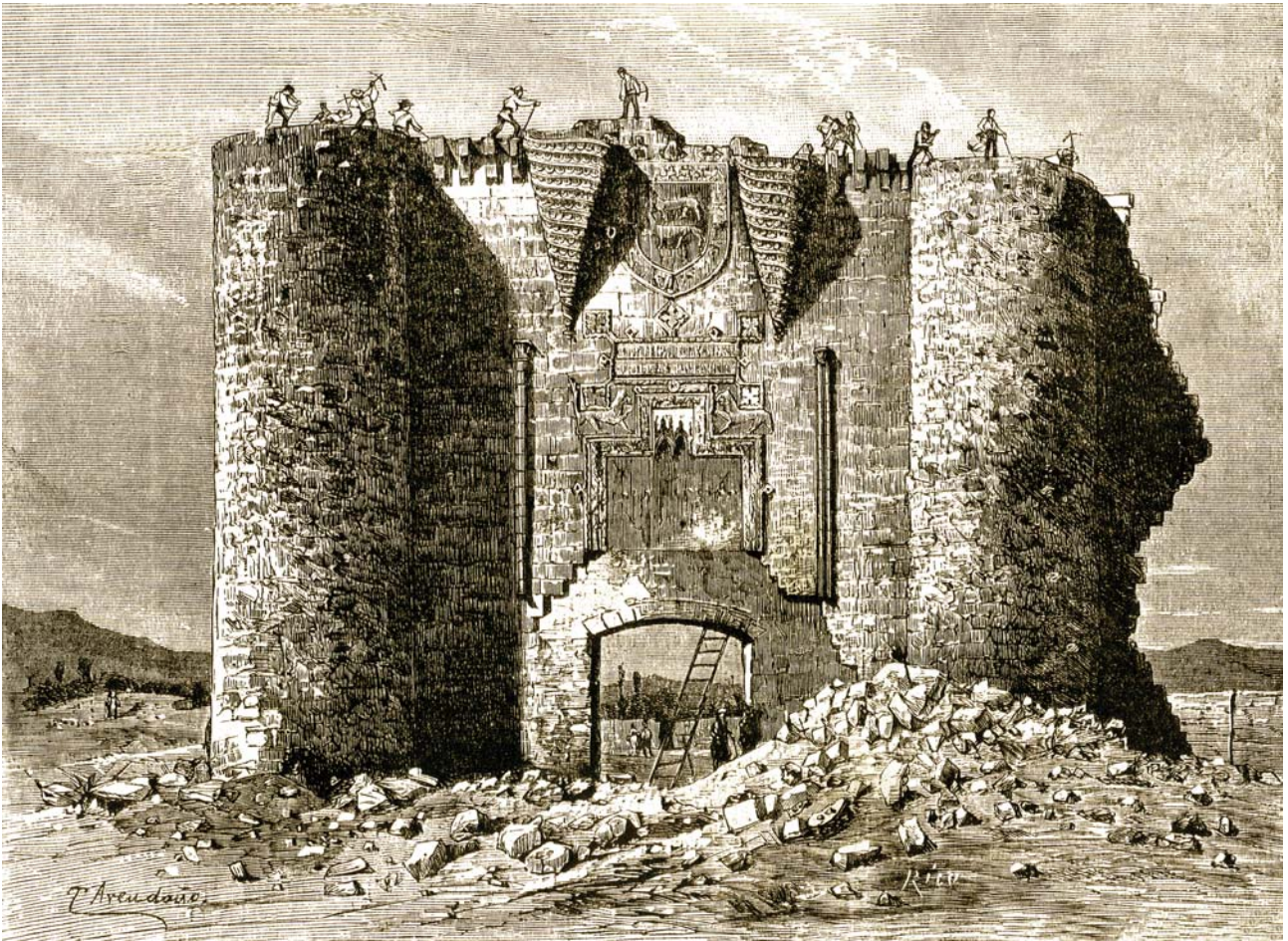


Fig. 2. Feudal Castle Remains in Astorga, demolished in August 1872, T. Avendaño etching (ILUSTRACIÓN EUROPEA Y AMERICANA, 1872).

demands. And a final stage emerged at the behest of demographic expansion and the modernization of the cities.

These urban planning techniques, which focused on the remodeling and “sanitation” of ancient quarters, materialized in urban expansion areas and internal reform plans that blurred a large part of the Spanish and European historical centers and mutilated countless defensive ensembles. Such is the case of two of the bastions of the Citadel of Pamplona, or the destruction of the city walls of Madrid and Barcelona.

2. BASIS FOR THE LEGAL PROTECTION

Historically, the protection of urban heritage has been implemented through urban regulation, which turns out to be the second instance after the defense

exerted by the Law on Spanish Historical Heritage. In Spain, this doctrinal corpus consists of specific urban legislation of local administrations, the autonomous communities, and the Central State (FARIÑA, 2000: 25)⁴.

Although “public policies, are parallel and independent” (PAREJO, 1998: 55-79) for the protection of historical heritage and that of urban planning, these two are unavoidably linked. This duality is attributable to those assets of the defensive heritage which, as an intrinsic part of the city, have been the subject of theft and systematic destruction.

In the evolution of legislation on the protection of historical and artistic heritage, the Decree-Law of August 9, 1926, also known as the Callejo Decree-Law, is one of the turning points not only in the development of heritage protection, in connection

⁴ Current law on regime about soil and ratings of April 13, 1998; Royal Legislative Decree 1/1992, of June 26, which approves the revised text of the law on regime about soil and urban ratings; sentence 61/1997, of March 20, of the Constitutional Court; law of 1998, revised text of the law on soil of 1976 and its regulations.

with the interference of public authorities in private property composed by monumental (BARRERO, 1990: 63) heritage, but also in the extension of the scope of assets which are subject to legal protection. Specifically, it is in the extension of the protection of ensembles or groups of buildings where most of its contributions to the international legal order is vested.

The preamble of this law recognizes the low effectiveness of previous laws since, until then, the protection of historical heritage had been reduced to “artistic and scientific excavations and the conservation of the ruins and antiquities”, such as it was stated by the Law dating from July 7, 1911 (GACETA DE MADRID, 1912: 671), or to built heritage considered as “artistic architectural monuments”, as expressed by the Law of March 4, 1915 (GACETA DE MADRID, 1915: 708) on Architectural Monuments.

Thus, the main contribution of this legislation is present in urban terms, pointing those precepts associated with “conservation, custody of the architectural, archaeological, historical and artistic wealth of Spain, and the classification and declaration of monuments, cities and picturesque places”. This is reaffirmed in article 2 with the inclusion of “buildings or sets of buildings, sites and places of known and peculiar beauty” with the National Artistic Treasure insofar that they contribute to maintain, “the typical, picturesque and artistic aspect which is characteristic of Spain” (GACETA DE MADRID, 1926: 1027)⁵.

The lack of definition of the boundaries of the sets of buildings or of the characteristics of the sites to be incorporated, increases the ambiguity of the wording, although, as Barrero Rodríguez (1990: 66) affirms it, “this regulation allowed the possible inclusion of natural



Fig. 3. Dukes of Frías Castle, Frías, Burgos, in 2010 by Belén Rodríguez Nuere

⁵ Royal Decree Law of August 9, 1926: “Title II, immovable, of the protection and conservation of the historical-artistic wealth of Spain, and the typical character of its towns and cities.” Article 2, subparagraph (b), “buildings or set of them, sites and places of known and peculiar beauty, whose protection and conservation are necessary to maintain the typical, picturesque and artistic characteristic of Spain, always that have been declared or hereafter will be declared by the Ministry of public instruction and fine arts”.



Fig. 3. Calatayud Castle, Zaragoza, in 2009 by Belén Rodríguez Nuere

heritage in a provision for the protection of historical-artistic values”, creating a new field of action.

Despite the apparent evolution of protection towards a wider vision of the objective, this did not narrow the gap between different points of view in theory and

practice (GARCÍA, 1986: 20), but it did built a “nexus” (ALEGRE, 1994: 77) between both legal instruments.

This situation fostered the coexistence of regulations which, in parallel, showed a conservative attitude towards urban and historical heritage, with scarce

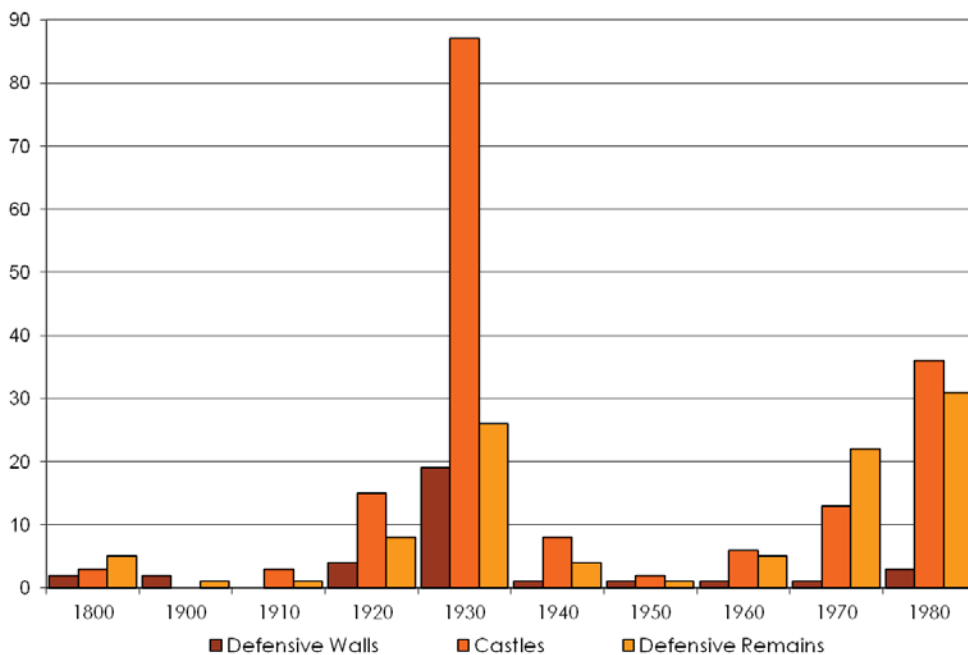


Table 1. Declaration of defensive architecture monuments, 1800-1985 (Elaborated from database of protected cultural assets, Ministry of Culture, 2005)

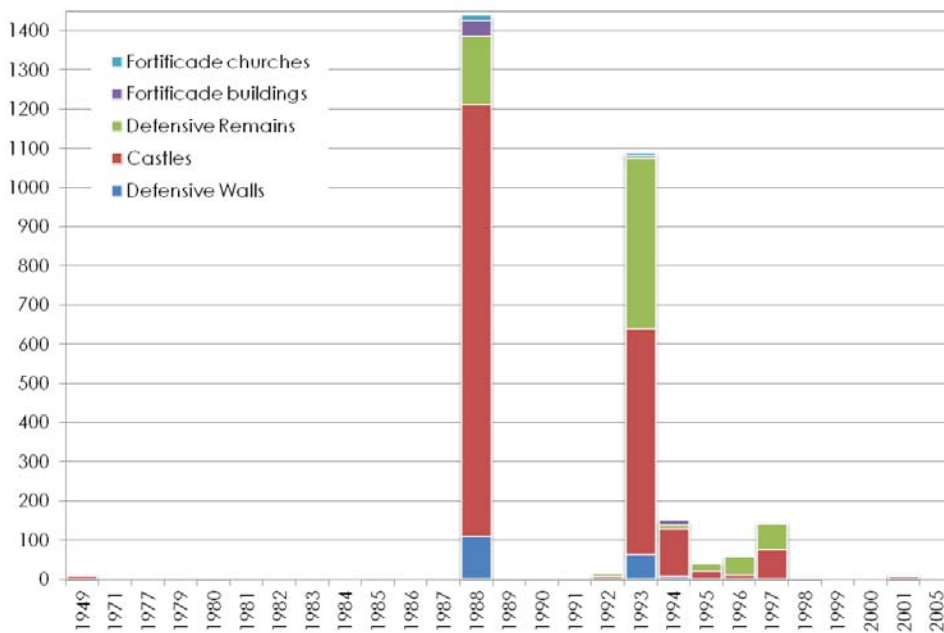


Table 2. Statements of defensive monuments, 1949-2005 (Elaborated from database of protected cultural assets, Ministry of Culture, 2005)

positive results due to the uncoordinated action favored by lack of knowledge and by the interference of competencies (FERNÁNDEZ, 1978: 23; PAREJO, 1979: 95). In the words of González Ibáñez (1998), this lack of connection would be overcome in the context of Law 16/1985 on Spanish Historical Heritage.

The international impact of this “formula” was realized in the first document that developed the protective action in an expansive form, starting from an individual monument. The Charter of Athens of 1933 placed on the fore the need to preserve not only the architectural values of “isolated buildings” but also the historical-artistic value of “urban ensembles”.

The elaboration of the unfinished Monumental Catalog (LÓPEZ-YARTO, 2012)⁶ brought about a massive Declaration of more than 800 National Monuments through the promulgation of the Decree of June 3, 1931. This event was the most important in the declarations sequences of the 20th century.

Until the promulgation of the Spanish Historical Heritage Law of 1985, the validity of the Law of 1933 was enriched by the contribution of numerous Decrees and Ordinances that extended or modified it in an attempt to adapt to new circumstances.

Although in terms of defensive heritage we can also count on specific measures on urban planning,

the drafting of the Decree of April 22, 1949 on the protection of Spanish castles (BOE, 1949) became quite necessary as an attempt to contain the decay process in many of these. This decree materialized the concern for the destructive advance in these structures of undeniable historical value.

Despite its brief text, this regulation was an instrument of protection not only for walled enclosures, castles and fortresses within Spanish territory, but also for those partial remains of structures that had suffered the compulsive spoliation, and had become spontaneous quarries. This action had caused major losses in these sites, with reductions in their volumes that caused a distortion of their image and function, turning their elements into unrecognizable parts of the building, without any apparent sense. This was the case of countless doors, turrets, stretches of defensive walls, arches, and foundations, distributed across Spain.

In 2006, the then Ministry of Culture promoted a technical Conference on the conservation and reappraisal of the historical-cultural value of remains of defensive architecture at Baños de la Encina (Jaén), which would result in the homonymous Charter (MINISTERIO DE CULTURA, 2007), built in consensus with the Autonomous Communities of the Council of Historical Heritage (POTES, 2006). Since then, it has been possible to grant an entity to a monumental

⁶ Recently a historical and descriptive study of the catalogue has been published and the volumes that make up the Monumental catalogue of Spain have been restored and digitized.

ensemble, omnipresent in the Spanish geography, even in cases in which only parts of ruins remain, as a mere evocation of its existence.

3. INSTRUMENTS FOR THE IMPLEMENTATION OF PROTECTION MEASURES

Generally, regulations for historical and artistic heritage rely on certain instruments to implement protective measures, depending on the characteristics of the object to be safeguarded.

Thus, the instruments that grant local Administration the exercise of guardianship attributed by the Constitution and Act, are gathered in Urban Plans, the development of catalogues or inventories, the creation of foundations, and, mainly the protection of heritage, through the General Regime for Protection.

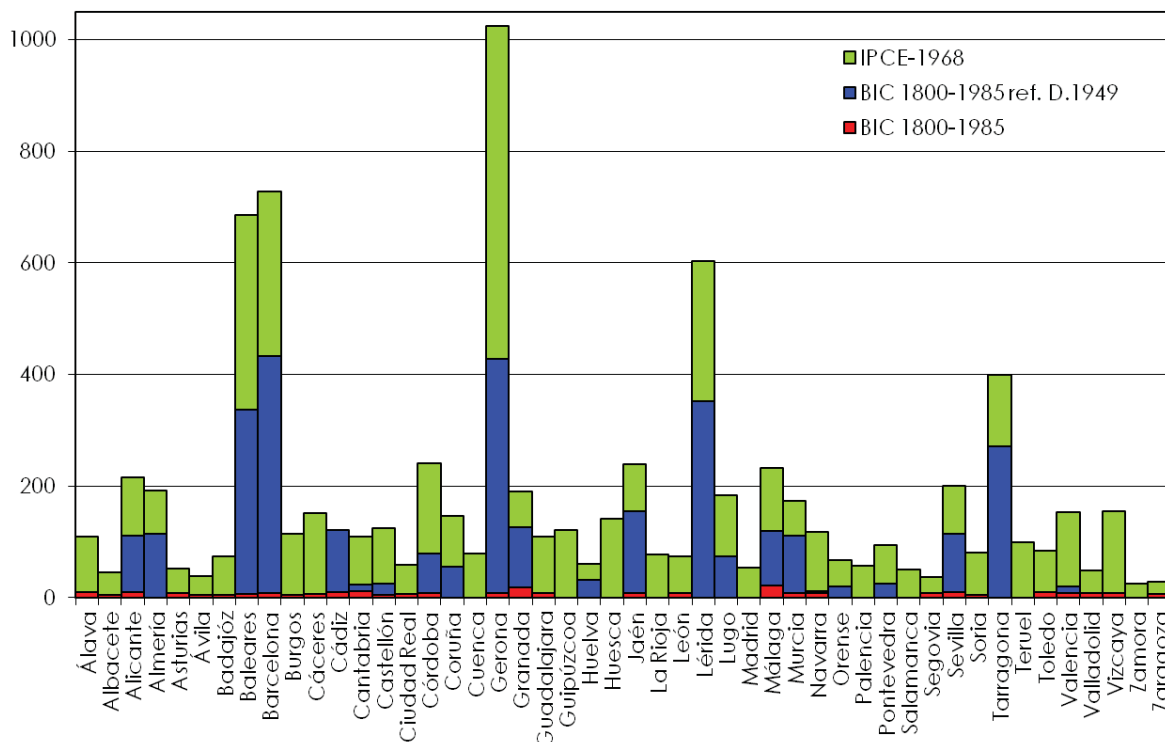
As a starting point for our study, we analyzed the previous situation of the Registry of Assets of Cultural Interest at the General Directorate of Fine Arts, selecting out of a total of 16,146 assets, the statements of those corresponding to defensive architecture. Additionally, a classification of defensive architecture was made according to the features used in the register, and divided as: defensive walls; castles,

towers, fortresses, and palaces; defensive remains (doors, arches, towers, etc.); fortified buildings; etc. In this sense, the evolution of regulations of the two main axes of action, that is urban planning and historical heritage, is marked by specific legal facts affecting one or the other, and reducing the gap between them. As mentioned above, in 1926, legislation on historical heritage protection tended towards the urban sphere, but this trend was then thwarted in subsequent regulations until the adoption of the Decree of 1949.

The study of the declaration of Assets of Cultural Interest (*Bienes de Interés Cultural - BIC*), that is the maximum degree of protection, and considering that these assets are included in a General Register, is one of the essential pillars for the analysis of the current status of the Spanish monumental heritage. In fact, despite the promulgation of the Decree of 1949, its implementation has been progressive.

Since these monuments are declared individually by Royal Decrees (with some exceptions to be discussed later), their inclusion in the register requires several administrative procedures to be fulfilled by the appropriate authorities, and is conditioned to the favorable report from the advisory board of the Ministry of Education, Culture and Sports. Thus, the

Table 3. List of defensive architecture monuments between 1800 and 1985, including BIC and property Inventory of IPCE, 1968 (Elaborated from database of protected cultural assets, Ministry of Culture, 2005)



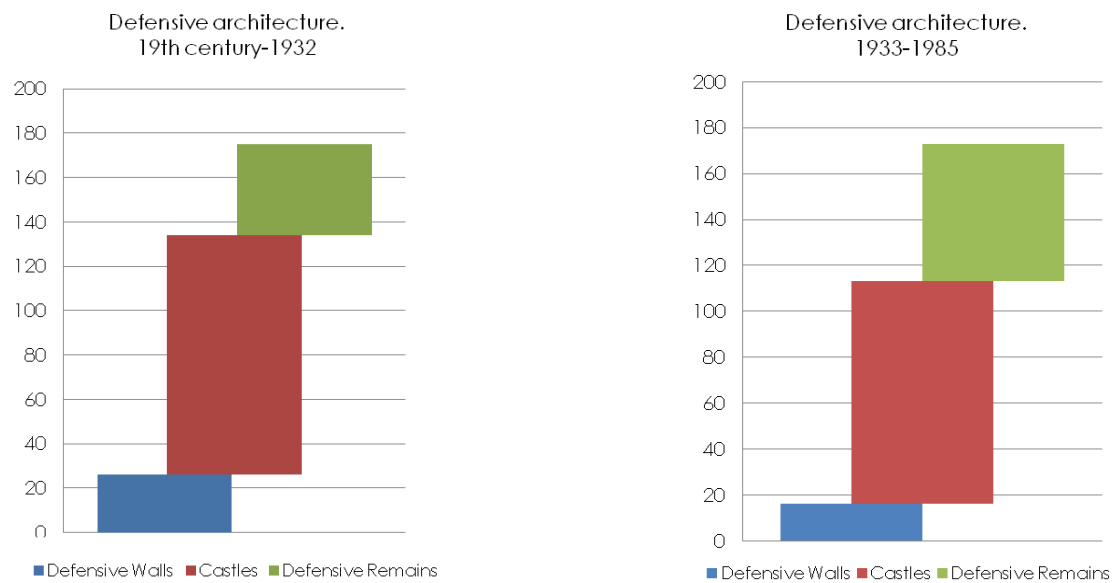


Table 4. Defensive architecture in the 19th century and between 1933 and 1985 (Elaborated from database of protected cultural assets, Ministry of Culture, 2005)

starting date of the process is considered as the most significant, because, from that time they acquire legal protection.

Through the Decree of June 3, 1931, and according to reports from the Superior Board of Excavations, and the Executive Committee of the Board for Protection Support (*Junta Superior de Excavaciones and Comité Ejecutivo de la Junta de Patronato para la Protección*), in accordance with the Law of August 9, 1926, a collective statement of historical-artistic monuments belonging to the National Artistic Treasure was issued. This form of declaration is exceptional in the history of the protection of Spanish heritage since it includes several hundreds elements, sorted by their geographical location.

The visible jump in the 1930s is the consequence of this joint statement, published in the Gazette of Madrid 155 of June 4.

Almost twenty years later, the Government became aware of the state of abandonment in which castles in Spain were and, being conscious of their historical-artistic value, the Decree of April 22, 1949 was promulgated. It declared that “all the castles of Spain”, regardless of their state of conservation, time of construction, or property would be subject to protection by the State. This declaration was one of the most generic statements ever applied in the successive measures taken by the Administration,

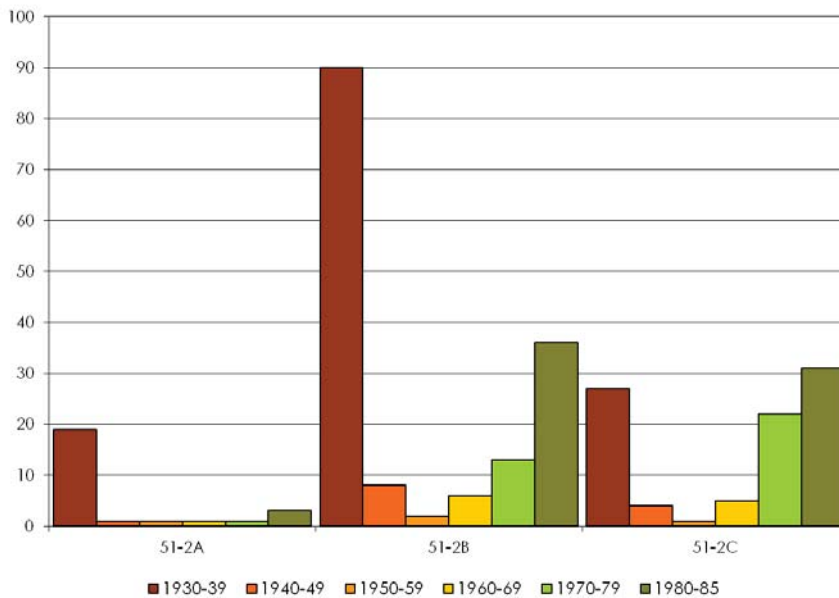
and provided an instrument that became widely used, despite its ambiguity.

From then on, approximately 3,034 defensive constructions were included in the Registry, with a general predominance of castles and defensive remains.

In 1968, the General Directorate of Fine Arts, through the General Commissioner of the National Artistic Heritage, under the direction of architect Gabriel Alomar, compiled the first list of castles, fortresses, towers, palaces, houses, and fortified churches. Such data was summed up in the inventory of military monuments (MINISTERIO DE CULTURA, 1968), in accordance with the precepts and methods of “*Summarized Inventories. Inventory for the Protection of European Cultural Heritage. (I.P.C.E.)*”. This volume would be preceded by the “*inventory of mixed historical-artistic ensembles and sites*”.

The classification adopted for this type of monuments derived from the one established by the International Burgen Institute (IBI) or International Institute of Castles. The inventory was organized according to the following categories: Towers (castles or fortresses with a simple tower, watchtowers); Medieval Castles (built before 1500); Agricultural fortification or residential buildings (palaces, houses, workhouses, etc); Fortified religious buildings (churches, monasteries, etc); Fortified bridges; Medieval Cities with defensive walls

Table 4. Segmentation of declarations of defensive architecture as immovable items (Elaborated from database of protected cultural assets, Ministry of Culture, 2005)



(even if only retained in part); Isolated Bastions (built from 1500 to 1914); and, finally, Rifle forts of the 19th century (mainly built during the Carlist Wars).

From the comparison between the state of legal actions and/or the BIC statements, and the data obtained from the Inventory Summary of 1968, and despite being complementary mechanisms that do not have the same temporary parameters, it became obvious that even in 1985 - the year in which the LPHE was enacted-, the condition of abandonment of the castles was not significantly modified.

The existence of approximately 3,055 defensive monuments declared in connection with the Decree of April 22, 1949, led us to separate those statements and confirm that there were not many statements made outside of this standard. Moreover, this analysis shows a similar fluctuation between monuments declared and those included in the inventory (BAILLIET, 2007).

The repetition of patterns is shown for defensive architecture. Thus, while this classification was especially protected by the Law of 1949, general quantitative parameters were maintained. Paradoxically, the qualitative aspect was the increase of statements on defensive remains to the detriment of castles and town walls.

The analysis of the behavior of defensive architecture shows a relative trend similar to that followed in religious architecture. In particular, the segmentation of declarations of “defensive walls” (51-2A) shows that they have maintained a constant pattern during the decades from 1930 to 1980, although for the other sub-categories their behavior was different. On the

contrary, isolated “defensive remains” (51-2 c) such as doors, towers, or arches, “castles, palaces and fortresses” (51-2B), have been subject to significant fluctuations, mainly from 1970 onwards.

4. CONCLUSIONS

Our analysis shows that, despite regulatory dispersion in Spain until the enactment of the Act of 1985, the coexistence of mechanisms and the overlapping of competencies as well as fluctuations in quantitative statements, have contributed to the development of a greater social and political awareness as an essential value, and to increased interest in the protection of that heritage.

The evolution of the concept of protecting isolated monuments has greatly developed the conception of environment or urban ensembles, stretching the limits of protection. This extension of the area of influence has favored the reduction of the gap between heritage legislation and planning standards, and the increase of implementation parameters to exercise guardianship.

In a type of heritage with such a qualitative and quantitative variety, there are several negative issues that result from implementing such guardianship, like the difficulty in the assignment of compatible uses for structures stripped of their initial function. For this reason, a detailed study of the type of work carried out in this specific cultural heritage and its impact on the medium and long terms becomes essential.

Unfortunately, an extensive number of cases studies allowed us to verify that the legal mechanisms are

not enough by themselves, if they are not associated with strategic management plans, which can generate projects for the conservation and cultural management to ensure the survival and sustainability of cultural heritage.

In conclusion, while there is an enormous variety of mechanisms classified according to hierarchies, materials, and policies that produce instruments of action, there are still some cases that prove it necessary

to accompany legislation with other instruments providing specific protocols to strengthen and make the integral conservation of this type of heritage an easier task.

Received: 10 May 2012
Published: 15 August 2012

REFERENCES

- ALEGRE ÁVILA, J. M. 1994. Evolución y régimen jurídico del patrimonio histórico. Vol. 1. Madrid: Ministerio de Cultura, D.L. Colección Análisis y documentos.
- ÁLVAREZ ÁLVAREZ, J. L. 1992. Sociedad, Estado y Patrimonio Cultural. Madrid: Espasa Calpe
- BAILLIET, E. 2007. Mecanismos de protección de la arquitectura defensiva. Congreso Internacional Ciudades Amuralladas. Pamplona, 2005. (File number: 6) Pamplona: Gobierno de Navarra. Departamento de Cultura y Turismo, Institución Príncipe de Viana.
- BARRERO RODRÍGUEZ, M^a C. 1990. La ordenación jurídica del patrimonio histórico. Madrid: Civitas - Universidad de Sevilla.
- B.O.E., May 5, 1949.
- MINISTERIO DE CULTURA, España
- 1968. Inventario de Protección del Patrimonio Cultural Europeo. España. Monumentos de Arquitectura Militar. Inventario Resumido. Madrid: Dirección General de Bellas Artes.
 - 1989. Fuentes Documentales para el estudio de la Restauración de Monumentos en España. Madrid: Ministerio de Cultura. Subdirección General de Estudios, Documentación y Publicaciones.
 - 1995. Bienes de Interés Cultural. Madrid: Ministerio de Cultura. Ministerio de Cultura, Secretaría General Técnica.
 - 2007. Carta de Baños de la Encina para la conservación de la arquitectura defensiva en España. Madrid: Ministerio de Cultura, Instituto del Patrimonio Histórico Español.
- FARIÑA TOJO, J. 2000. La Protección del Patrimonio Urbano. Instrumentos Normativos. Madrid: Akal.
- FERNÁNDEZ RODRÍGUEZ, T. R. 1978. La legislación española sobre el patrimonio histórico-artístico, Balance de la situación de cara a su reforma. Revista de Derecho Urbanístico, núm. 60. Madrid: Montecorvo.
- Gaceta de Madrid
- 1912, N^o 65, March, 5.
 - 1915, N^o 64, March, 5.
 - 1926, N^o 227, August, 15.
- GARCÍA ESCUDERO, P. y PENDAS GARCÍA, B. 1986. El Nuevo Régimen Jurídico del Patrimonio Histórico Español. Madrid: Ministerio de Cultura. Secretaría General Técnica.
- GONZÁLEZ-VARAS IBÁÑEZ, S. 1998. La Rehabilitación Urbanística. Pamplona: Aranzadi.
- LÓPEZ-YARTO ELIZALDE, A. (Coord.) 2012. Catálogo Monumental de España (1900-1961). Investigación, restauración y difusión. Madrid: Secretaría General Técnica, Ministerio de Educación, Cultura y Deporte.
- MUMFORD, L. 1945. La Cultura de las ciudades. Ed. Emecé. Buenos Aires (1st edition, New York, Harcourt Brace and Co., 1938)
- PAREJO ALFONSO, L.
- 1998. Urbanismo y patrimonio histórico. Patrimonio Cultural y Derecho, n^o 2. Madrid: Boletín Oficial del Estado. Fundación AENA. Fundación de los ferrocarriles Españoles. Hispania Nostra. p. 55-79.
 - 1979. La ordenación urbanística. El período 1956-1975. Madrid: Ed. Montecorvo.