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Value as a legal tool for the preservation of monuments in Flanders and Wallonia: Between Conservation and Adaptation.

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Abstract

The recognition of our built environment as a cultural asset worthy of protection has stimulated corresponding legislation. In the listing process, heritage value has evolved from being a tool to determine the significance of buildings to becoming a selection criterion in legislation. However, value is open to interpretation, which leads to challenges of transparency, effectiveness, and the practical implementation of the protection process.

We aim to better understand the scope and use of heritage value, in the context of the international debate on the issue, by tracing the historical development of the heritage conservation laws in Flanders and in Wallonia. The databases of the two agencies for immovable cultural heritage offered information on and access to protection rulings that reflect the practical implementation of heritage value criteria. Interviews with representatives involved in the listing process provided insights into the role of value as a legal tool. We then assessed the challenges and opportunities arising from applying value criteria. The ambiguity of value offers the possibility of discussing the adaptive reuse strategy in light of the current legal situation. We conclude that legislation must reflect the adaptive reuse strategy applied in practice to remain relevant and reflect the needs and views of society.

Keywords: Heritage value, legislation, built heritage, adaptive reuse, integrated conservation

Introduction – Context

inventaris.onroerenderfgoed.be/erfgoedobjecten/44929 ☆

Station Blankenberge

bouwkundig element

ID: 44929 URI: <https://id.erfgoed.net/erfgoedobjecten/44929>

! Dit erfgoedobject heeft geen erfgoedwaarde meer. De erfgoedwaarden waarom we het object opnamen in de inventaris, zijn niet meer aanwezig, bijvoorbeeld door verbouwing of sloop.

‘This heritage object no longer has any heritage value. The heritage value for which we included the object in the inventory is no longer present, for example due to renovation or demolition.’¹

When a listed or inventoried building loses its protected status due to alteration or destruction, the Flemish Heritage Agency adds the note mentioned above to the inventory entry. This reflects the fundamental anchoring of heritage value in the legal protection of built heritage in Flanders. As early as 1931, the first Belgian law on the ‘Protection of Monuments and Landscapes’² established the assessment of heritage value as the basis for heritage protection. Article 1 protected ‘monuments and buildings whose conservation is of national interest from a historical, artistic or scientific point of view’.³ Like many other states, the young nation of Belgium pursued a strategy of linking its cultural heritage to its national identity. The protection of monuments became essential in order to ‘strengthen the restored Belgian nationality through the examples of the past’.⁴ Their value was recognised as expressions of ‘the traditional instincts, the desires, the loves, the aspirations of our ancestors, their piety, their charity, their civic pride, their commercial activity, their sociability, all that their existence entailed of the most serious, the most useful and the most touching’.⁵ The nation defined the value framework with which it identified and wished to be associated by selecting buildings as tangible evidence of its history and culture.⁶ As heritage laws and policies evolved, legislators revised and adapted the concept of heritage value according to the prevailing social and political views of society that influenced the valuation of the built environment.⁷ In the current Flemish and Walloon legislation, heritage value is the decisive element for identifying immovable heritage. Flemish legislation even stipulates that authorities must justify the assigned heritage value in the protection ruling.⁸ The Walloon legislation defines value criteria (or ‘interests’, as they call it) as ‘tools for analysing the characteristics of a heritage property, whether material or not’.⁹ With 13 distinct value criteria in the Flemish Onroerenderfgoeddecreet (OED) and 11 ‘interests’

in the Walloon CoPat [Table 01], the Belgian system shows great diversity compared to those of other European countries. For example, Article L1 of the ‘code du patrimoine’ of France defines objects of heritage value as those of historical, artistic, architectural, technical or scientific interest.¹⁰ Historic England specifies only four different value criteria in its planning practice guidance definitions: archaeological interest, historical interest, architectural interest and artistic interest.¹¹

Value has been the basis for the evaluation, systematisation and recording of building stock since the nineteenth century, when critical reflection on the meaning and purpose of historic conservation began.¹² Initially, monuments were associated with two value criteria, historical and aesthetic, as mentioned, for example, in the Conclusions of the 1931 Athens Conference and the Venice Charter (1964). With the increasing demand for recognition of different types of buildings and the diversity of a country's cultural heritage, further value criteria were added. The initial material-based assessment focused on individual buildings and evolved into a context-based assessment to incorporate intangible aspects, such as sociocultural value and economic considerations.¹³ In parallel with the development of society and its views on heritage, the scope of value has continued to expand. In theoretical discourse and legal representation, this becomes evident, for example, in the transition from recognising an individual monument to acknowledging holistic cultural heritage. Thus, value reflects the concept of heritage, which evolves in line with the development of society.¹⁴

Value initially functioned as a ‘lingua franca’, not only as a basis for communication, but also as an impetus for discussing its intended meaning. With the introduction of value into legislation, the once subjective view changed into an objectified judgement, with the scientific goal of inventorying and protecting monuments. The advantage of legal protection is that financial and technical support for maintaining objects becomes available. The disadvantage is the restriction of ownership and privacy rights for reasons of national interest. In the event of non-compliance, sanctions may follow.

Therefore, protection rulings require a concise and unambiguous explanation of the measures taken, clearly stating the policy's objectives and its desired effects. Considering that value changes over time and is not necessarily viewed in the same way by the entire population, laws need to adapt as time progresses.

Problem statement

The increasing federalisation of Belgium since the 1960s also affected heritage conservation as an institution. With decentralisation, local authorities have had to take a more active role in preserving cultural heritage. As responsibilities shifted to local authorities, new actors with different backgrounds have become involved in the heritage management process. The necessary integration of built heritage into spatial planning and, above all, the recognition of cultural heritage as a driver of development¹⁵ demand a rethinking of the valuation process. Accordingly, the understanding of the value-based¹⁶ assessment of cultural heritage also deserves renewed attention.

The main critiques of the current expert-led heritage designation process concentrate on the lack of transparency and thus the lack of opportunities for participation, the decision-making power of the state, and the lack of efficiency. Consequently, laypeople and those not involved in the process question the effectiveness of using value in this context.¹⁷ Since value is ambiguous and lacks a precise definition, the term is used inconsistently,¹⁸ which makes the case law vulnerable and difficult to argue with hindsight.

As currently specified in Flemish and Walloon law, both inventory methods offer a definition of value that is not legally binding. More recent protection decrees explain the abstract notion of value by linking it to corresponding tangible or intangible aspects of the building or its history. However, this is rarely the case in older rulings. Understanding how value works will help to rethink the value-based approach, particularly in the increasingly necessary adaptive reuse of protected buildings.

Various scholars have studied the historical development of Belgian legislation on the protection of monuments. Most notably, historian H. Stynen¹⁹ has focused on the work of the Royal Commission

for Monuments and Sites. The Agentschap Onroerend Erfgoed (Flanders Heritage Agency) has published a detailed summary of the development in Flanders.²⁰ Articles about the Walloon context are regularly published in the *Bulletin de Commission Royale des Monuments, Sites et Fouilles*, the journal of the Royal Commission on Monuments, Sites and Excavations (CRMSF).²¹

The legal perspective is a recurring subject of articles and analyses. Lawyer and scholar A. M. Draye²² has repeatedly examined changes in legislation and their impact on practical implementation. Lawyer and researcher M.-S. de Clippele²³ recently analysed the relationship between legislation and society in view of the rights of and responsibilities towards common heritage. L. Vandenhenden,²⁴ also a lawyer and researcher, has investigated the development of legislation with an explicit focus on the evolution of value.

Our article looks at value as a legal tool from an architectural perspective in terms of its practical significance and potential in adaptive reuse. By examining the scope and application of value, we aim to understand the choices made in the past and what effects they have on current practice. The Belgian context is particularly interesting because of the two different statutes that developed from the same 1931 Heritage Law. Although distinct sociocultural and economic circumstances influenced both regulations, the concept of protection, which essentially focuses on the use of cultural heritage, is similar.

Here, we first trace the evolution of heritage value in important periods of Belgian legislation and explain three periods: before 1931, from the Heritage Law of 1931 until 1975, and from federalisation in 1976 until 2020. We then assess the challenges and opportunities that the application of the concept of value entails. Finally, we discuss the difficulties associated with the strategy of adaptive reuse in the current legal situation.

Methodology

A literature review formed the basis of our analysis of the historical development of heritage legislation in Belgium. Due to the complexity of the subject, we only examined individual aspects in detail instead of undertaking a systematic comparison between Flemish and Walloon legislation. The study focuses on immovable architectural heritage, especially individual buildings, and omits archaeological sites, villagescapes, townscapes, and landscapes.

The databases of the two agencies for immovable heritage provide insights into the use of value in practice. We were able to trace the application of value in the selected cases as all protection decrees are digitally recorded and accessible. The Flemish database allows users to search by various criteria, including assigned value criteria. It is further possible to create summary tables in order to make quantitative statements about the frequency of use of specific value criteria.

In addition, we conducted semi-structured interviews with representatives of the two heritage agencies currently involved in legislation and working with heritage value. We focused on the protection procedure (the creation of dossiers) and the selection of value criteria. The responses helped to formulate questions about both the difficulties and the untapped potential of using value as a legislative tool.

The value concepts in established scientific literature on heritage conservation and theoretical architecture, as well as international charters, served as a comparative framework. We examined and questioned the selection of value criteria for legislation, especially with regard to those that are not part of the legislation but are considered in general theoretical discourse (e.g. use value).

Historical evolution of value in Belgian legislation

Table 2 illustrates the development of heritage protection in Belgium and the use of heritage value criteria in chronological order, with international events and adopted charters. The juxtaposition highlights the involvement of Belgian representatives in the European debate, the focus on value as a

fundamental tool and the early discussion on ‘integrated conservation’.

Protection without legislation – to 1931

The first measures for the conservation of cultural heritage on Belgian territory date back to 1809 and 1824, and were taken in relation to ecclesiastical properties and church buildings.²⁵ After the founding of Belgium in 1830, Leopold I established the ‘Royal Commission for Monuments’ in 1835.²⁶ He expected the commission to give an opinion ‘on the repairs required for the monuments of the country which are remarkable for their antiquity, for the memories they recall, or for their importance in terms of art’.²⁷ With this early institutionalisation of heritage conservation, the importance of monuments and architectural history as bearers of a country’s national and cultural identity became apparent.²⁸ The commission was the first advisory body of its kind in Europe.²⁹ It expanded the description of the concept of a monument, which until then had mainly encompassed ecclesiastical property. The royal decree of 23 February 1861 entrusted the commission with the task of drawing up an inventory of ‘objects of art and antiquity belonging to public establishments and whose conservation is of interest to the history of art and national archaeology’.³⁰ In 1872, the commission introduced three categories of monuments, first, second and third class, according to their heritage value for the inventory.³¹ The political, economic and social circumstances of the time significantly influenced the commission’s work. Belgium had embraced industrialisation, and Wallonia, in particular, benefited from the establishment of steel and mining industries. The Industrial Revolution brought a rapid increase in population and prosperity to the Walloon region, while the traditional artisanal home industries in Flanders declined. The growing demand for land and infrastructure threatened traditional urban and rural environments. The commission observed the irreversible damage to the landscape and established an additional section for landscapes, as a result of which it was renamed as the ‘Royal Commission for Monuments and Sites’.³² At the turn of the twentieth century, external financial resources (for example colonial income from the Congo) promoted further urban development, especially in Wallonia and Brussels. During this period, there was no general legislation for the protection of monuments. In the light of the destruction caused early in the First World War, a list of 1771 valuable buildings was compiled.³³ In addition, the authorities drew up individual laws for certain cultural assets. A legislative decree of 1914, for example, protected the 1815 Waterloo battlefield from any alteration of the buildings and landscape (including the planting of new trees).³⁴ The First World War damage also led to the large-scale redevelopments of the modernist movement and reconstruction gaining prominence.³⁵ Although seeking the commission’s advice was required for buildings of national, historical and aesthetic importance,³⁶ the prioritisation of rapid and effective reconstruction diminished the commission’s influence, especially in the most affected parts of the country, e.g. the Westhoek region in Flanders³⁷. The difficulties encountered by the advisory commission included changing affiliations of executive ministries as well as insufficient financial and human resources. Consequently, the absence of opportunities to grant subsidies for necessary repair work or to monitor the implementation of its recommendations limited the effectiveness of the commission.³⁸ Several legislative proposals attempted to overcome the missing legal basis, all of which failed to reach an agreement, not on content but on legal implementation.³⁹

Heritage law from 1931 to 1975

Belgium passed the first law on the Protection of Monuments and Landscapes⁴⁰ on 7 August 1931. It introduced comprehensive legislation to protect monuments, sites or works of art at the national level. Article 1 protected ‘monuments and buildings whose conservation is of national interest from a historical, artistic or scientific point of view’.⁴¹ Article 3 prohibited ‘any definitive change that alters the appearance [of a listed monument] before being authorised by royal decree’.⁴² The law did not define the individual value criteria and the terms ‘monument’, ‘immovable heritage’, and ‘landscape’,⁴³ thus making consistent application difficult. The first protection ruling issued after

the enactment of the law, for example, justified the classification of several churches and chapels based on their ‘artistic, historical and archaeological value’.⁴⁴

A comparison of various later decrees shows that the authorities assigned specific value criteria to objects depending on their nature. Landscapes were usually associated with ‘aesthetic’ and ‘historical’ value,⁴⁵ while monuments were mainly classified on the basis of their ‘artistic’, ‘archaeological’ and ‘historical’ value.⁴⁶ Sometimes, value criteria were combined – ‘historical in the sense of archaeological’.⁴⁷

At the international level, the conclusions of the 1931 Athens Conference⁴⁸ established a link between cultural heritage and value, by stating in the second resolution that restoration must prevent a ‘loss of character and historical values [*sic*]’.⁴⁹ The 1964 Venice Charter complemented the ‘historical’ with the ‘aesthetic’ value of historic buildings: in Article 9, it specified that monument conservation aims ‘to preserve and reveal the aesthetic and historical value of the monument’.⁵⁰ The charter became the first internationally recognised guideline for the conservation of monuments and even continues to be interpreted as a doctrine for restoration work. One of the charter’s co-authors was Raymond Lemaire (1921–1997),⁵¹ professor at the Catholic University of Louvain, who significantly influenced the debate in the twentieth century.

Economically, the decline of Belgian heavy industry affected the once-dominant Francophone region and shifted power to the Flemish part of the country. After the Second World War, Flanders promoted the region’s economic development with innovations and new businesses, and with the establishment of educational institutions operating in Dutch. This was followed by the increasing federalisation of Belgium in the 1960s and 1970s, in response to the demand for regional self-determination. In 1968, the Royal Commission for Monuments and Sites was divided into autonomous sections. Since then, the individual sections have developed their own policies on administration, listing, financing, protection techniques, regional and urban planning, etc. independently of each other.⁵²

At the European level, Brussels has been the venue of several meetings on the coordination of immovable cultural heritage. In 1969, the Council of Europe hosted in Brussels the first conference of ministers responsible for the conservation and revitalisation of immovable cultural heritage.⁵³ Then in 1974, on the initiative of the Belgian Minister of Dutch Culture, Rita van Backen-van Ocken, a meeting of European women ministers on heritage conservation⁵⁴ was held in Brussels in the run-up to the European Year of Architectural Heritage (EAHY) in 1975. The motto of the EAHY, ‘A Future for Our Past’, reflected the aim of raising awareness of architectural heritage, educating people about the issue, and changing the public’s relationship with their heritage. Also in 1975, initiatives by volunteers to create local inventories revived Belgian national inventory efforts.⁵⁵ The creation and publication of an inventory of architectural heritage eventually formed the basis for a systematic protection policy with a specifically adapted methodology that included the period of origin, typology and contexts.⁵⁶

Federalisation, from 1976 to 2020

In the course of Belgium’s federalisation, during which the language regions (Flemish, French, German, and Brussels as bilingual) sought individual cultural autonomy, the respective regions gradually repealed the first heritage law of 1931 in the 1970s. Flemish and Walloon legislation used the revision to reflect the broader interpretation of the term ‘monument’ and the social aspects of architectural heritage.

The Flemish ‘Decree on the Protection of Monuments, Town and Village Views’ of March 1976 defines a monument as ‘an immovable good, work of man or nature or both, that is of general interest because of its artistic, scientific, historical, folkloric, industrial–archaeological or other sociocultural value (including the cultural goods that form an integral part of it, especially the accompanying equipment and decorative elements)’.⁵⁷ The addition of ‘sociocultural’ value was intended to broaden the variety of monuments to be considered worthy of protection.⁵⁸

The Walloon Decree of the Cultural Council of the French Community of June 1976⁵⁹ also added

‘social’ value to the existing list, in the sense that ‘the monument or site bears witness to the social life of an era’.⁶⁰ It further allowed for protection to be granted due to public influence (in the case of petitions with at least 300 signatures)⁶¹ and included the concept of integrated conservation, defined by the Council of Europe at the time as ‘the set of measures whose aim is to ensure the durability of this heritage, to ensure its maintenance in an appropriate environment, whether built or natural, and its use for the needs of society’.⁶² Wallonia modified its decree again in 1987, defining immovable heritage as ‘all immovable properties whose protection is justified by their historical, archaeological, scientific, artistic, social or technical interest’.⁶³ The interpretation of social interest was again discussed and finally described as ‘interest in the knowledge of a society and its past’.⁶⁴ The 1999 decree added ‘landscape value’ to the Walloon list.

The strategy for creating classification dossiers has similarly evolved over the decades. The first dossiers concerned individual cases that came into focus through initiatives of different origins. Later, a systematic approach was adopted, according to the judgement of the respective period. The system was applied geographically, i.e. each municipality was examined for its entire architectural heritage to achieve a certain degree of completeness. The Flanders Heritage Agency changed this strategy in 2004 to a thematic–typological approach.⁶⁵ This meant that the Agency compared typologically identical objects throughout Flanders to initiate protection processes. For this purpose, it drew up a ‘qualitative grid’ for the protection dossiers in 2009. This contained the selection criteria of rarity, recognisability, authenticity, representativeness, and context. These criteria were intended to facilitate the selection of individual objects from among their typological peers, and highlight any unique aspects and correspondingly higher value in the inventory. The object in question might fulfil several of these criteria or one criterion to a high degree. Therefore, it was necessary to examine the entire typology of the region/area.

Faced with the lack of objective and systematic justification in older protection decrees, Wallonia launched a pilot ‘reclassification’ project in 2013. The Wallonia Nostra association took on this task under the supervision of the CRMSF and began with the typology of listed farms and chapels. By 2015, four hundred dossiers had been updated, taking into consideration cross-references within the Walloon territory as well as regional architectural specificities.⁶⁶ The regional policy statement (*La Déclaration de politique régionale*) of 2015–2019 continued the focus on reclassifying listed properties.⁶⁷ In the course of these discussions on strategy, the consultants also reflected on individual selection and value criteria and searched for operational definitions. Accordingly, Wallonia extended the scope of heritage value to include architectural, aesthetic, memorial and urban interest. Furthermore, it established selection criteria as quantifications of the respective value criteria: authenticity, integrity, rarity and representativeness.⁶⁸

In 2013, Flanders combined the Monument Decree, the Archaeology Decree and the Landscape Decree into the regulations of the *Onroerendfgoeddecreet* OED (Immovable Cultural Heritage Decree). Reflecting the evolution of the concept of heritage value since the Heritage Law of 1931, it included thirteen value criteria – archaeological, architectural, artistic, cultural, aesthetic, historical, industrial–archaeological, technical, spatial–structural, social, urban planning, folkloric and scientific. The following value criteria are no longer on the list: cultural–historical, functional, natural, natural–scientific, sociocultural and visual.

In 2018, the Walloon region introduced the new *Code Wallon du Patrimoine* CoPat (Walloon Heritage Code), together with the new agency ‘Agence Wallonne du Patrimoine – AwaP’ (Wallonia Heritage Agency). With the new CoPat, Wallonia seeks to regulate the protection of immovable cultural heritage independently of urban and spatial planning policies.⁶⁹ It focuses on heritage development and an ‘integrated conservation’ approach consisting of the preservation and adaptation of heritage elements and their surroundings, defined according to the changing needs of society. The separation of cultural heritage management from spatial and urban planning contradicts the intended meaning of ‘integrated conservation’. -However, ‘integrated conservation’ has been part of Walloon legislation since the 1970s, and its past adaptations within the framework of the administration and legislation in the field of spatial planning have also led to the partial loss of its autonomy, and thus its ability to

intervene.⁷⁰ The selection of interests⁷¹ in the new CoPat has not changed, but the individual interests are now explained in more detail.⁷²

Conclusion of the historical evolution

The relations between the individual linguistic communities have significantly shaped the development of the young Belgian nation. As far as immovable heritage is concerned, increasing federalisation encouraged the transition from a 'Belgian' heritage to a regional (Flemish, Walloon, bilingual Brussels, and German) heritage, each with its own organisation of research, legislation and administration, and hardly any cooperation between them.⁷³ The balance of power and the focus of political interests changed with the economic relations of the regions. The cultural and linguistic differences are still formative today, and are reflected in the political landscape.

The architectural heritage inventory serves as a basis for creating a legal framework for protecting monuments. The updating and completion of this inventory always depend on the provision of financial and human resources. With constant questioning of the concept of heritage, the scope of the value criteria used to categorise the different facets of built heritage evolved in parallel with society's understanding of heritage. The value criteria reflect the diversity of built heritage in each region, emphasising its distinctive identity. Thus, new trends and discoveries have expanded the field of interest of architectural heritage, both to consider buildings of more recent date as well as typologically (for example, the recognition of industrial architecture). The broadening of the period and typology of the objects studied is also the result of the interplay between in situ work and complementary studies. In particular, the work of local committees during the European Heritage Year (1975) highlighted various forms of minor and rural architecture⁷⁴. The difference in numbers of listed objects belonging to Flanders and Wallonia [Fig. 01] are due to the different structures of the heritage institutions and the methodology of their inventories (e.g. the Flemish inventory also counts individual trees as heritage objects), as well as to the financial situations of each region.

Using value – challenges and opportunities

Value is open to interpretation. Therefore, it is necessary to unambiguously define this inherent characteristic in order to make its uniform application in legislation possible. While expanding the scope of value over the years, legislators did not add legally binding definitions or distinctions between individual value criteria. Some value criteria are self-explanatory (e.g. archaeological value), whereas others are intentionally more general to allow for different interpretations (e.g. sociocultural value).⁷⁵ The consequences of this broad definitional framework are different uses of value in regulations and non-transparent decision-making, and, as a result, legally fragile protection rulings.⁷⁶ At the same time, the state appears to be creating leeway for itself, which is referred to in legal doctrine as the 'inviolability of protective rulings'.⁷⁷

The Flemish and Walloon authorities publish value definitions on their respective websites to address this issue. However, these are not legally binding. The Flanders Heritage Agency (Agentschap Onroerend Erfgoed) created a thesaurus⁷⁸ that lists terms and definitions both alphabetically and systematically. It also illustrates the underlying grid of the database and visually presents the terms in their thematic relationships. The thesaurus further allows a database search according to keywords or criteria, listing value criteria used in previous laws under the heading 'historical use' and recent ones under 'current use'.

Associative and overlapping interpretations of value

The various possible associations make a clear definition of value difficult. In particular, the association with building typology is one of the characteristics of built heritage, but it is unclear in

terms of legal protection. An example is the social value found in the building typology of social housing. In 2016, the Flanders Heritage Agency conducted a systematic study of pre-1985 social housing estates in Flanders. The study did not examine 'social value' or use it as a criterion for the relevant examples – it used the interpretation of the extent to which 'the heritage still has an active, handed-down social use in today's community and has a community-building effect'.⁷⁹ It assigned 'urban development value' to recognise social housing as a new model of living together and as part of the building's architectural history.⁸⁰ The prescribed form of housing that social housing entailed was, therefore, interpreted more as a counter-argument for 'social value'.

Another difficulty lies in the overlapping areas of specific value criteria, e.g. memorial and historical value, in the Walloon CoPat. While historical value 'recalls a significant event or period in history', memorial value 'commemorates an event or tradition'.⁸¹ In this case, 'historical value' is linked to tangible heritage, while 'memorial value' refers to the intangible value of an object,⁸² although one could still be included in the other.

In the Flemish OED, both 'industrial–archaeological value' and 'technical value' refer to technical aspects of a heritage object. Following the establishment of industrial archaeology as a science,⁸³ the Flemish Monument Decree included the complementary value criterion in 1976.⁸⁴ 'Technical value' became part of the list in 2013 and refers to the more general development of technology. It includes traditional and innovative techniques and materials, and in this context, it does not clearly differ from 'industrial–archaeological value'.⁸⁵

Intangible aspects

The recognition of the intangible aspects of built heritage is a landmark achievement in the development of heritage management. The addition of cultural, folkloric and social value criteria into the legal assessment framework has made this possible.⁸⁶ The Flemish OED defines the intangible heritage of customs, traditions and practices whose transmission and continuation it considers vital.⁸⁷ The development to introduce intangible aspects started in the 1970s. Wallonia included 'social value' in its renewed decree from 1976⁸⁸ with the expression 'the monument or site bears witness to the social life of an era'.⁸⁹ The reinterpretation in 1987⁹⁰ as 'interest in the knowledge of a society and its past'⁹¹ reflects the difficulty of defining intangible value in terms of its impact on the past and the present.

The Flemish legislation has considered 'sociocultural' value since 1976. A database search for 'protected monuments' shows that out of 9360 protection rulings between 1978 and 2018, 2228 were assigned 'sociocultural value'.⁹² These include townhouses, flats, churches, mills, industrial buildings, bunkers, (war) monuments, sculptures, bridges, swimming pools, schools, and trees. The broad scope of this value raised concerns that it could be exploited and used in an inflationary manner.⁹³ The division of sociocultural value into two separate criteria – 'social' and 'cultural' – with the adaptation of the OED in 2013 aimed at a more accurate assessment. Between 2010 and 2021, 1319 new protection rulings were filed, of which 4 assigned 'social' value⁹⁴ and 125 'cultural' value.⁹⁵ The relative newness of these value criteria and the fact that the number of new protection rulings has dropped every year since the turn of the twenty-first century [Fig. 02] explains the comparatively low number. It is noticeable that 'social value' still covers many typologies (one tree, one priory, one café, and one bunker). The diversity of intangible heritage seems to be the main difficulty of protecting it by legal means. Despite the link with a material place, legislation can hardly preserve a tradition or custom. Legal protection can only maintain the possibility of practising a tradition in its specific place or the memory of it. The new protection rulings on 'cultural value' include 94 conservation rulings for bunkers, mine craters, etc. from the First World War. In a typological survey of war relics in Flanders between 2017 and 2019, these were recorded as commemorative objects reflecting intangible heritage. In contrast, the list of 'cultural value' contains only one opera house, which is considered a cultural building in the sense of an architectural building typology. Due to the lack of re-evaluation, older drulings have no reference to new value criteria.

Assessing heritage value – practical considerations

Since adaptive reuse aims to reconcile past concerns with those of the present and the future, the frame of reference of heritage value is interesting. When we compared the value definitions proposed by the two heritage agencies, we found differences in the respective reference periods. Table 3 shows that the definition's wording is open as regards the influence of the building on the past or the present. The Walloon definitions, in particular, seem to be able to refer to both past and present meanings (e.g. 'integrates particularly well with the land and/or the landscaped environment' or 'is part of a social organisation, a way of life or a way of thinking'). Although the Flemish definitions also allow for ambiguous interpretation in some cases, the Flanders Heritage Agency emphasises that the assessment of heritage value considers the building's significance as testimony to the past, and focuses on conservation concerns. The agency interprets value historically to make the value assessment more unambiguous – that is, they do not refer to the present, but only to past characteristics.⁹⁶ This conventional approach is understandable, if not even essential, for an inventory. However, a more comprehensive approach becomes necessary when assessing the adaptability of the building to changing conditions. Change can occur after a certain number of years, necessary maintenance measures, or extensive conversion works, and would justify a reassessment. Yet the current procedure for assessing heritage value does not provide for revaluation. In this sense, the protection procedure is a static process.

As changes following interventions are inevitable, several studies address the Heritage Impact Assessment (HIA), for example, the 2011 ICOMOS 'Guidance on Heritage Impact Assessments for Cultural World Heritage Properties'. Based on the HIA, further research has developed tools to recognise the impact of interventions on the preservation and sustainability of heritage places. The research aims to compare the pre-intervention and post-intervention statuses of heritage places and which values have changed in what way (increased, unchanged, transformed, emerged, or destroyed; e.g. Heritage Value Circle [HVC])⁹⁷.

The lack of regulation on systematic reassessment is usually attributed to limited financial and administrative resources. With the prescribed intensive involvement of their consultants in the redesign processes, the authorities try to ensure that the value criteria, once assessed, are still valid after changes. In the negotiation process, all involved parties can discuss the various measures and evaluate the effects on the heritage value criteria. However, this intensive participation, as well as the involvement of state support and thus public funds, makes it difficult to determine a possible failure retrospectively.

The current approach results in fragmentary protection of buildings, with already assessed parts and new interventions that have to be assessed in the future. The protection of only individual components of a building was already common practice in the past, especially in the case of streets or squares at a time when legislation had not yet established townscape protection (e.g. the street façades of Hors-Château no.7–132 in Liège⁹⁸). This practice risks the preservation of only the clearly protected areas, while the rest could face demolition or alteration. More recent protection rulings aim to avoid fragmented protection, and in some individual cases of old decrees, additional rulings have addressed the omissions to provide full protection (e.g. L'hôtel de ville de Liège⁹⁹). A decision between partial or full protection, also means a decision between possible further development and the prevention of changes through too far-reaching protection.

Conservation and adaptation

While the conservation debate in the late nineteenth and early twentieth centuries revolved around the two opposing concepts of restoration and conservation, the current positions range between conservation and adaptation. Although all approaches aim to preserve buildings, they have different emphases and outcomes.

The conservation approach is based on the appreciation of the building in its phase of ageing and decay, representing the passage of time. The focus is on the documentary value of the building and on the materials and techniques used. This approach might raise concerns about the possible ‘museumisation’ of the building, as it will be frozen at a certain point in time, limiting the possibilities of reuse and development. The goal of preserving as much original material as possible entails sacrifices in functionality or adaptation to new user needs. In contrast, the restoration approach focuses on the original architectural idea and tries to restore or complete this ideal intended state. One of the main characteristics of this approach is the pursuit of stylistic purity, on the premise of a building completed in the original sense. In this process, losses due to alterations of past times are accepted. The extreme example of restoration is reconstruction, which is controversial because it calls into question issues such as authenticity. Only in cases of deliberate destruction by human hands are these usually tolerated (e.g. the reconstruction of Ypres after the First World War).

In the effort to achieve historical correctness and authenticity and to avoid forgery, restoration practice, in theory, focuses on a clear legibility between the original and possible additions. Although the 1964 Venice Charter never intended to be a strict guideline for restoration work, many legal texts and authoritative bodies¹⁰⁰ now refer to it. Here, in relation to restoration works, reference is often made to Article 9, which states that ‘any extra work which is indispensable must be distinct from the architectural composition and must bear a contemporary stamp’, and in relation to completion, Article 12 is reduced to its second part, which states that it ‘must be distinguishable from the original’¹⁰¹. As early as the 1960s and 70s, the Council of Europe discussed the challenges and opportunities of reusing historic buildings in several symposia and individual committee meetings. It was recognised that while their preservation depends on their ability to fulfil a practical function, since reuse is nothing new in itself, the ‘artistic and cultural value of the monument’ makes all the difference.¹⁰²

Consequently, the use of a listed building is, in principle, beneficial for its preservation, yet there is still a lack of adequate reflection of reuse in legislation and corresponding instruments and strategies that implement the law in practice.

Regardless of the protection status of a building or the necessity of physical changes to the building fabric,¹⁰³ Flemish building regulations require a permit for any ‘change of use’ of a building. As a building’s function is difficult to preserve, the use value or function of the building is not a criterion for protection. In the past, Flemish legislation referred to ‘functional value’, but reference has been made to this value criterion only in the case of two buildings,¹⁰⁴ without further explanation of the intention behind the ruling. From an architectural point of view, the function of a building is often part of its concept and design, and thus determines the typology of the building. The current OED offers the selection criterion ‘recognisability’, which is related to the use of a heritage site (‘original function, appearance or design, or of an important phase in its later development’).

The concept of ‘use value’ as referred to in established but theoretical value systems can have multiple meanings: firstly, the building’s function in the past as an essential aspect of its original design (as part of the ‘architectural concept’); secondly, in a figurative sense, for example, as a point of identification; and thirdly, the potential new function, which involves both an impact on the building’s fabric and a change in meaning. This change in meaning is essential when considering the adaptation of an existing building to new requirements. The new use often requires interventions in the building’s fabric that have an impact on its appearance, and above all, on the original conception. In the case of enclosed building typologies, such as monasteries, beguinages and even prisons, transformation into a public building often requires major interventions in building elements that determine the original architectural design (e.g. enclosing walls, window opening sizes, etc.). In some cases, it is not necessarily the particular architecture that is worth preserving, but rather the memory of what society used the buildings for (e.g. emergency shelters in Flanders).¹⁰⁵ This issue becomes critical when society does not want to remember all aspects of the building’s history. Some examples are worth preserving because of their architectural conception (floor plan, elevation, materials, etc.), but they have an ambiguous reputation due to their past (e.g. projects commissioned by Leopold II).¹⁰⁶

Adaptive reuse as a strategy builds on existing approaches but focuses on the impact of change. It balances heritage values carefully against the requirements of the (new) use, with different priorities depending on the case. The decisive factors are what must be preserved and how many features can be sacrificed for the new use. The disadvantages of this approach are the uncertainty about the final result and the possibility of losing documentary material.

A comparison of European cultural heritage legislation shows that a more flexible understanding of heritage prevails in Flanders, especially in practice. Still, there are shortcomings in regard to adaptive reuse or management of change due to the complexity of the existing institutional context.¹⁰⁷

Consequently, there is a wide-spread assumption that the listing status prohibits any alteration to ensure preservation, and that non-listing allows complete demolition.¹⁰⁸ Against this background, adaptive reuse offers an approach that is independent of the conservation listing process and considers all existing building fabric as a resource. In this context, a more differentiated selection approach and justification of heritage value can facilitate the planning, conception and financing of maintenance and alteration.

Despite the lack of legal representation of adaptive reuse, the Flanders Heritage Agency, for example, is increasingly interested in supporting alternative conservation initiatives. It is involved in the 'open oproep',¹⁰⁹ funds feasibility studies for the reuse of historic buildings (for example, the 'herbestemmingkerken' project on the adaptive reuse of churches), and acknowledges successful reuse projects (by awarding the 'onroerendergoedprijs', the immovable heritage award (for example to the Predikherenklooster in Mechelen in 2020)).

Conclusion

Belgian legislation has used value as a legal instrument for protecting buildings since its inception, and has progressively developed its scope. The difficulties in the application of value criteria are due to their characteristics, mainly their purpose, which the user can interpret in many different ways and which necessitates constant review for relevance. In contrast, the legislation and expert-led processes do not facilitate discussion on the meaning of value criteria and the involvement of various actors. The plurality of value criteria that reflect the different types of cultural heritage makes definition and differentiation necessary. Not only those responsible for the allocation, but also the general public and owners of protected buildings benefit from an understanding of the legislator's purpose. Since Walloon and Flemish legislation is relatively new, relevant court rulings have not yet addressed the issue of inaccurate definition or justification of heritage decisions. In-depth research on court decisions on the interpretation of heritage value would undoubtedly make for an insightful future line of enquiry. In addition, a more detailed description of the relation of individual value criteria to certain tangible or intangible aspects will help the general understanding (e.g. via a visual matrix).

With an increasing number of buildings to protect, regulations in force and stagnant financial resources, the listing process needs additional strategies to ensure conservation beyond maintaining the status quo. Adaptive reuse as a strategy aims to focus on the impact of change. Although the legislation does not yet reflect the strategy, the practice shows a growing appreciation. In the adaptive reuse process, heritage value so far serves mainly to identify those aspects of a building's fabric that are essential for heritage conservation. In expanding on the conception that the selection of heritage value criteria is crucial for understanding the significance of a listed building, their change must also be taken into account. Assigned value may be altered by reusing and modifying the existing building fabric, but new value may also be discovered. The current static conservation process lacks this dynamic perspective of practical implementation. Although Walloon legislation already included the concept of 'integrated conservation' in the 1970s, further development of legislation is lacking. Consequently, there is an opportunity to compare integrated conservation with adaptive reuse, which could help identify the obstacles to implementation.

As cultural heritage is a complex and constantly evolving topic, value as a representational tool also

requires constant review. Since both natural decay, especially in the case of unused buildings, and conversion processes, can change the initially assigned value, it makes sense to review value assignments. From a scientific point of view, the reassessment of reuse projects could offer insights into how and to what extent changes influence the heritage value of buildings and serve as a basis for future projects.

The authors report that there are no competing interests to declare.

Acknowledgements

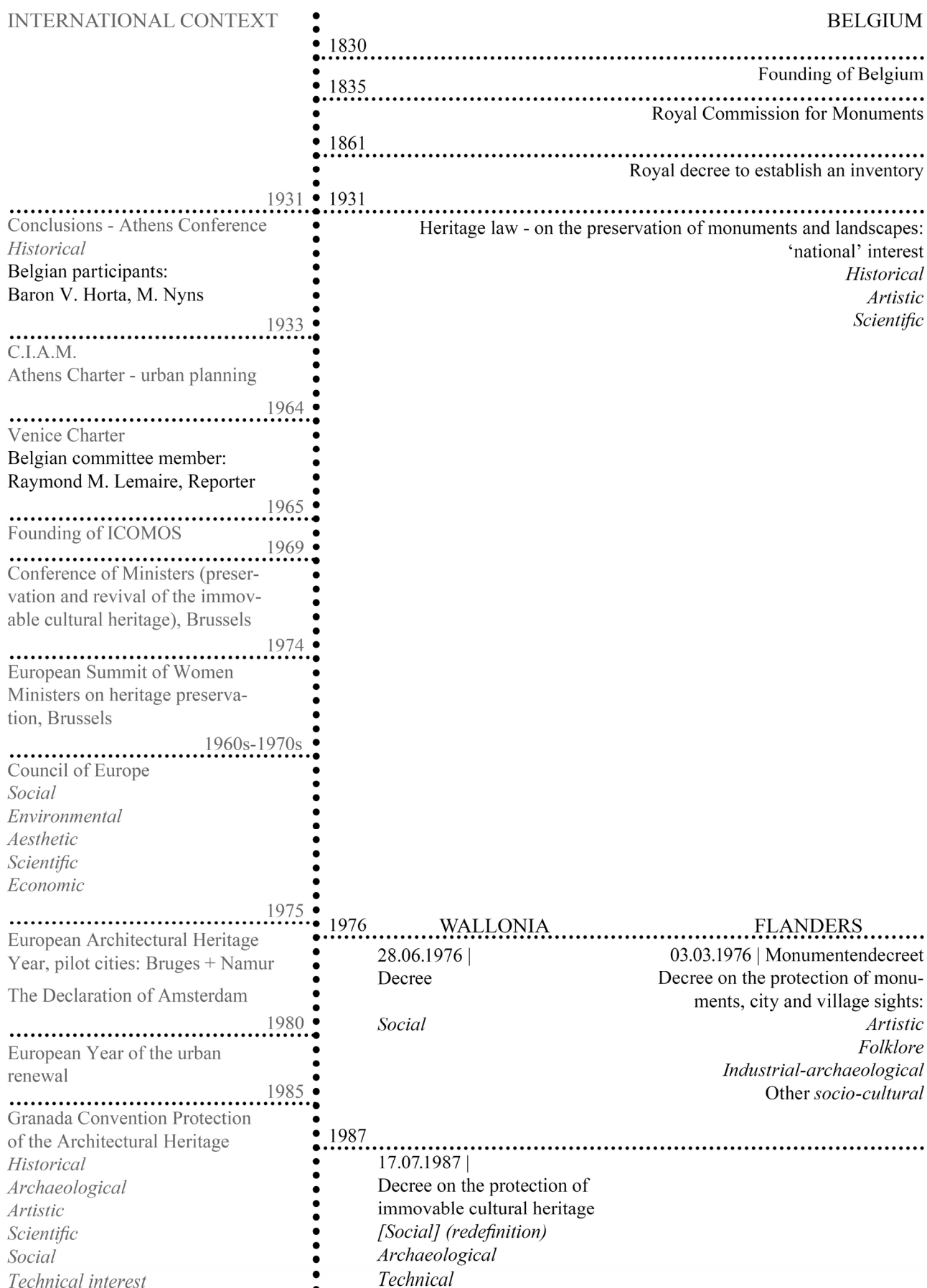
This research project is funded by the Research Foundation Flanders (FWO) [G050519N].

[Table 01] Comparison of value and selection criteria in Flemish and Walloon legislation.

	FLANDERS	WALLONIA
VALUE CRITERION INTEREST	Aesthetic Archaeological Architectural Artistic Cultural Folkloric Historical Industrial–archaeological - - Scientific Social Spatial–structural Technical Urban	Aesthetic Archaeological Architectural Artistic - - Historical - Landscape Memorial Scientific Social - Technical Urban planning
SELECTION CRITERION	Rarity Recognisability Representativity Ensemble value Context -	Rarity Authenticity Typology - - Integrity

[Timeline 02] Comparison milestones in the development of the use of value criteria in legislation

Milestones



Milestones

INTERNATIONAL CONTEXT

WALLONIA

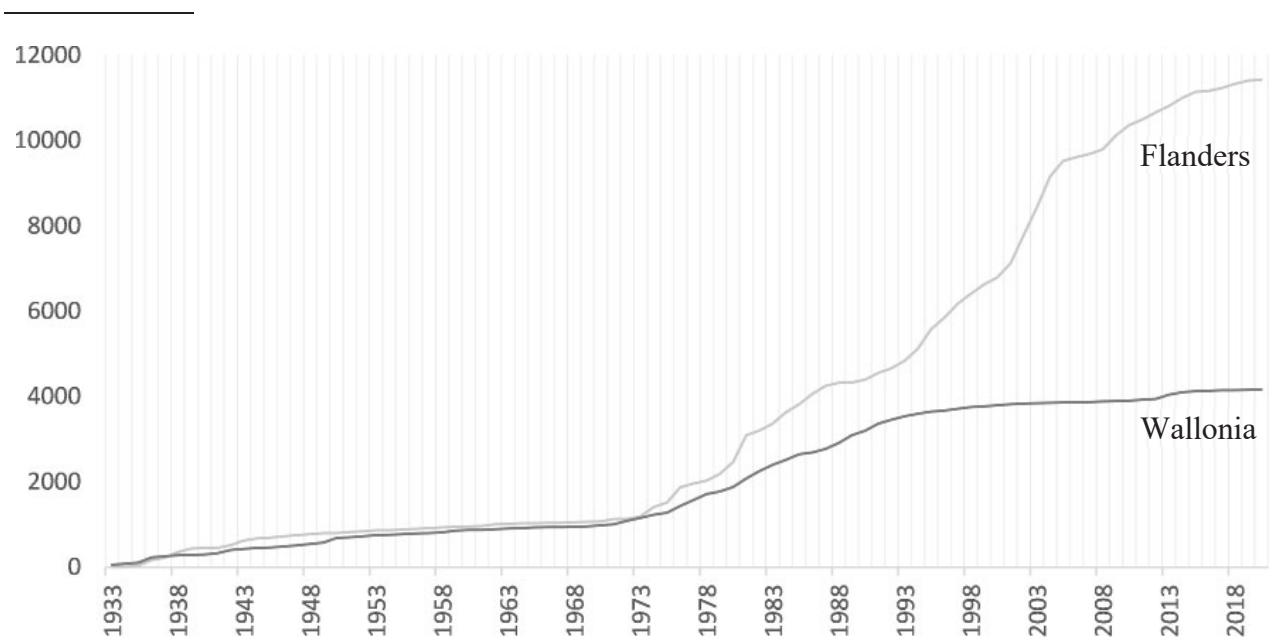
FLANDERS

	1991	
	18.07.1991 Decree on monuments, sites and excavations	
1992		
Nara document Authenticity		
Conservation of cultural heritage is rooted in <i>value criteria</i>	1993	30.06.1993 Archeologiedecreet Protection of archaeological heritage
	1996	
		16.04.1996 Landschapsdecreet Protection of landscapes
1999	1999	
Burra Charter	01.04.1999 Decree on the conservation and protection of heritage landscape	
<i>Past, present and future value criteria</i>		
2005		
Faro Convention	2009	'Qualitative grid' - 'criteria': Rarity Recognisability Authenticity Representativeness Context
2011		
Paris Convention	2013	12.07.2013 Onroerenderfgoeddecreet (Immovable Heritage Decree)
<i>Economic</i>		
<i>Social + cultural value</i>		
<i>Human value</i>		
<i>Cultural</i>		
<i>Historical</i>		
<i>Environmental</i>		
<i>Aesthetic</i>		
<i>Memory value</i>		
2014	2014	
Nara +20	11.04.2014	
Changing identification of value	'Criteria': Authenticity Integrity Rarity Representativeness	<i>[Aesthetic]</i> <i>Archaeological</i> <i>Architectural</i> <i>[Artistic]</i> <i>Cultural</i> <i>[Folkloric]</i> <i>[Historical]</i> <i>[Industrial-archaeological]</i> <i>[Scientific]</i> <i>Spatial-structural</i> <i>Social</i> <i>Technical</i> <i>Urban planning</i>
	'interests': <i>[Aesthetic]</i> <i>[Archaeological]</i> <i>Architectural</i> <i>Artistic</i> <i>[Historical]</i> <i>[Scientific]</i> <i>[Social]</i> <i>[Technical]</i> <i>Urban planning</i> <i>Memorial</i> <i>[Landscapes]</i>	Historic use: <i>Cultural historical</i> <i>Functional</i> <i>Natural</i> <i>Natural-scientific</i> <i>[Socio-cultural]</i> <i>Visual</i>

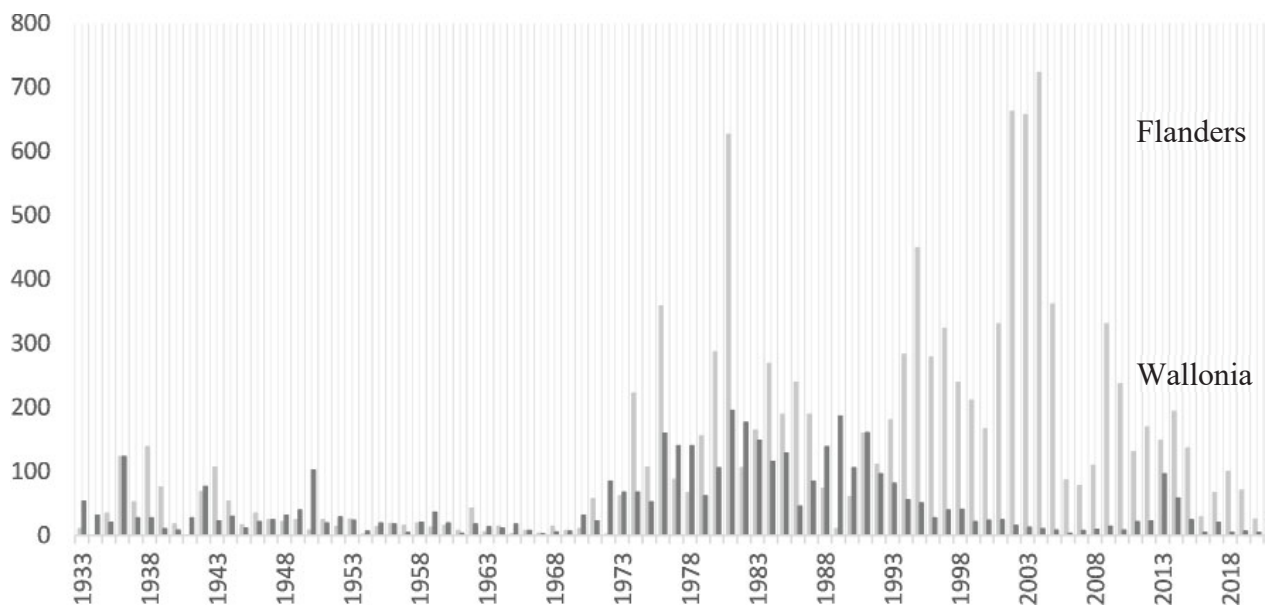
*Value criteria in brackets [...] were part of a previous decree

[Table 03] Comparison of value criteria in Flemish and Walloon legislation translated from the Dutch/French, condensed, with an interpretation by the authors of their temporal frame of reference.

Reference to the past			
Possible reference to the present			
Possible reference to both the past and the present			
Translated extract from the Flemish value definition	FLANDERS ¹¹⁰ Value criterion	WALLONIA ¹¹¹ Interest	Translated extract from the Walloon value definition
Observer to experience sensory beauty	Aesthetic	Aesthetic	Classical criteria of beauty (harmony, balance...), regardless of use or function
History of mankind's existence	Archaeological	Archaeological	Significant testimony to an ancient occupation or use
Bears witness to the past, typology, style, oeuvre or use of materials	Architectural	Architectural	Meets the characteristics of an architectural style
Bears witness to artistic aspirations of the past	Artistic	Artistic	Conceived as a 'work of art'
Bears witness to time- and region-related human behaviours and spaces of the past	Cultural	-	n/a
Bears witness to customs and habits, representations and traditions of a specific population group or community of the past	Folkloric	-	n/a
Bears witness to past (social) development, event, figure, institution or land use	Historical	Historical	Recalls a significant event or period in history
Bears witness to a craft or industrial past	Industrial–archaeological	-	n/a
n/a	-	Landscape	Integrates particularly well with the land and/or the landscaped environment
n/a	-	Memorial	Commemorates an event or tradition
Potential for knowledge development and gain	Scientific	Scientific	Key element in the evolution of a discipline
Still has an active, handed-down social use in today's community	Social	Social	Part of a social organisation, a way of life or a way of thinking
Organises, delimits, structures or guides the gaze	Spatial–structural	-	n/a
Development of the past	Technical	Technical	Bears witness to human ingenuity
Plays a role in the (planned) design of the built-up spaces of the past	Urban	Urban planning	Contributes to the structuring of the built fabric



[Fig 01] Total number of protected immovable heritage objects in Flanders and Wallonia, 1933–2020.¹¹²



[Fig 02] Annual number of new protection rulings for monuments in Flanders and Wallonia, 1933–2020.¹¹³

Endnotes

1. Agentschap Onroerend Erfgoed, *Inventaris*, 'Blankenberge Train Station', architects August De Smet, Henri van de Velde and Paul Nouille, 1937, <https://inventaris.onroerenderfgoed.be/erfgoedobjecten/44929>; 'Hotel Pauwels', architect Marc Dessauvage, 1973–1977, <https://inventaris.onroerenderfgoed.be/aanduidingsobject-en/22239>.
2. Loi du 7 Août 1931 sur la conservation des monuments et des sites [Law on the conservation of monuments and sites], M.B., 05 September 1931, <http://www.ejustice.just.fgov.be/eli/loi/1931/08/07/1931080750/justel>.
3. Ibid., Art.1., Loi du 7 Août 1931 sur la conservation des monuments et des sites [Law on the conservation of monuments and sites], M.B., 05 September 1931, Art.1, <http://www.ejustice.just.fgov.be/eli/loi/1931/08/07/1931080750/justel>.
4. Pouillet, Speech 1913, 144 (translated from the French: 'celle de fortifier, par les exemples du passé, la nationalité belge reconstituée').
5. Ibid., 146. 146 (translated from the French: 'Ce qu'ils expriment, ce ne sont pas des états de sensibilité spéciaux à un homme ou même à une élite, ce ne sont pas des fantaisies individuelles, ce sont les besoins de la vie profonde et permanente, ce sont les instincts traditionnels, les désirs, les amours, les aspirations de nos ancêtres, leur piété, leur charité, leur fierté civique, leur activité commerciale, leur sociabilité, tout ce que leur existence comportait de plus grave, de plus utile et de plus émouvant').
6. Hubel, *Denkmalpflege*, 13.
7. AWaP, Guide méthodologique; Clercq et al., *Doelmatigheidsanalyse*.
8. Wet van 12 Juli 2013 het Onroerenderfgoeddecreet [Immovable Cultural Heritage Decree], B.S., 12 July 2013, Art. 6.1.4, §2, 5 and 6.1.14, 5, <https://codex.vlaanderen.be/portals/codex/documenten/1023317.html>.
9. Parlement Wallon, 2017–2018, 1053 -1, 7, accessed 14 May 2021, http://nautilus.parlement-wallon.be/Archives/2017_2018/DECRET/1053_1.pdf.
10. Loi du 21 Mai 2021, Code du patrimoine [Heritage Code], N°2021-641, art. 1 (translated from the French: 'Le patrimoine s'entend, au sens du présent code, de l'ensemble des biens, immobiliers ou mobiliers, relevant de la propriété publique ou privée, qui présentent un intérêt historique, artistique, archéologique, esthétique, scientifique ou technique'), accessed 9 July 2021, <https://www.legifrance.gouv.fr/codes/id/LEGIARTI000043530076/2021-05-24>.
11. Historic England, 'Conservation Principles'. <https://historicengland.org.uk/images-books/publications/conservation-principles-sustainable-management-historic-environment/conservationprinciplespoliciesandguidanceapril08web/>
12. See note 6 above.
13. A concise overview is given by Fredheim and Khalaf, 'The Significance of Values', 466–81.
14. Vandenhende, *De juridische beschermenswaardigheid*, 48.
15. 17th ICOMOS General Assembly and Scientific Symposium, 'Heritage, Driver of Development', 27 November–2 December 2011, Paris, France, <https://www.icomos.org/en/about-icomos/image-menu-about-icomos/173-governance/general-assembly/132-ouverture-de-la-17e-assemblee-generale-de-licomos-est-ouverte>.
16. Smith, *Uses of Heritage*; Lixinski, 'Between Orthodoxy and Heterodoxy'.
17. Fredheim and Khalaf, 'The Significance of Values', 466–81; Walter, 'From Values to Narrative', 634–650.
18. Holtorf, 'What Does Not Move', 33–55.
19. Stynen, *De onvoltooid verleden tijd*.
20. Clercq, et al., *Doelmatigheidsanalyse*.
21. E.g. Wasterlain, 'Considérations'; Pittie, 'Présentation des archives'; and Froment, 'Un siècle de protection'.
22. E.g. Draye et al., *Actualia Onroerend Erfgoed*.
23. Clippele, *Protéger le patrimoine culturel*, 305.
24. Vandenhende, *De juridische beschermenswaardigheid*.
25. France and the United Kingdom of the Netherlands were the ruling powers. Stynen, *De onvoltooid verleden tijd*, 294–295; Ostyn, *De Koninklijke Commissie*, 2–3.
26. Arrêté du 7 Janvier 1835 qui institue une Commission pour le conservation des monuments du pays [Decree establishing a Commission for the conservation of the country's monuments], Bull. Off., 11 January 1835, no. 111.
27. Ostyn, *De Koninklijke Commissie*, 17, Arrêté du 7 Janvier 1835 qui institue une Commission pour le conservation des monuments du pays [Decree establishing a Commission for the conservation of the country's monuments], Bull. Off., 11 January 1835, art 1.1. (translated from the French: '1 Sur les réparations qu'exigent les monuments du pays remarquables par leur antiquité, par les souvenirs qu'ils rappellent, ou par leur importance sous le rapport de l'art').
28. Van Impe, 'An Illustrated History', 217–230; Stynen, 'De Koninklijke Commissie', 6.
29. Ostyn, *De Koninklijke Commissie*, 3.
30. Ibid., 2–3. Arrêté du 23 Février 1861, d'un inventaire général [Decree establishing a general inventory], M.B., 23 February 1861, p.927, art.1. (translated from the French: '[...] des objets d'art et d'antiquité, appartenant à des établissements publics, et dont la conservation intéresse l'histoire de l'art et l'archéologie nationale, [...]').
31. Stynen, 'De Koninklijke Commissie', 10.
32. Arrêté royal du 29 Mai 1912 qui ajoutée une section de sites a la commission royale des monuments [Decree adding a

- section of sites to the royal commission]; Stynen, *De onvoltooid verleden tijd*, 313–314.
33. Stynen, 'Rol van de instellingen', 101.
 34. Loi du 26 Mars 1914 pour la préservation du champ de bataille de Waterloo [Law for the conservation of the battlefield of Waterloo], M.B., http://lampspw.wallonie.be/dgo4/site_thema/index.php/dossier/view/BC_PAT/25119-CLT-0023-01
 35. Stynen, 'De Koninklijke Commissie', 54.
 36. Oorlogsschaderegelung van 10 mei 1919 [Law on war reparations]; Stynen, 'Rol van de instellingen', 112.
 37. Ibid., Stynen, 'Rol van de instellingen', 111.
 38. Stynen, 'De Koninklijke Commissie', 8.
 39. Stynen, 'Rol van de instellingen', 102.
 40. See note 2 above.
 41. See note 3 above.
 42. Ibid., Art.3. Loi du 7 Août 1931 sur la conservation des monuments et des sites [Law on the conservation of monuments and sites], M.B., 05 September 1931, art.3, <http://www.ejustice.just.fgov.be/eli/loi/1931/08/07/1931080750/justel>.
 43. Stynen, 'De Koninklijke Commissie', 20.
 44. Agentschap Onroerend Erfgoed, *Inventaris*, Besluit No.0001 - 301233, 28.03.1934 (translated from the Dutch: 'Kerken en kapel, Artikel 1. Worden gerangschikt, om reden van hun kunst-, historische en oudheidkundige waarde, overeenkomst de wet van 7 Augustus 1931 de hiernavermelde monumenten'); <https://besluiten.onroerenderfgoed.be/besluiten/1/bestanden/3183>.
 45. Ibid., for example, Besluit No.0038, 08.03.1940.
The Flemish database listed 508 objects of 'aesthetic value' on 09 June 2021, of which 368 were cultural landscapes, 45 were monuments (including 17 protected trees), 9 were villages and townscapes, 84 were landscape atlas relicts and 2 were tree plantations with heritage value.
 46. Ibid., Besluit No.0039, 08.03.1940.
 47. Cousserier et al., 'Bescherming van archeologisch erfgoed'.
 48. Belgian participants: Baron Victor Horta (member of the Belgian Royal Commission for Monuments and Sites), M. Nyns (Belgian Secretary-General of the Ministry of Science and the Arts). The League of Nations, International Institute of Intellectual Co-operation. International Museums Office. 1. Conference of experts for the study of problems relating to the protection and preservation of monuments of artistic and historical interest. Athens, 21–30 October 1931, participants, <https://atom.archives.unesco.org/uploads/r/5c00m/1/0/e/10e9ee229185c04f540bd483b5b874d-6740f67922ec86e1c625f266fe18dfdca/0000004173.pdf>.
 49. ICOMOS, *Conclusions Athens*.
 50. ICOMOS, *Venice Charter*, Art.9.
 51. Houbart, 'Deconsecrating a Doctrinal Monument', 218.
 52. Naeyer, 'Preservation of Monuments'.
 53. Houbart, 'Bruxelles', 29.
 54. 11–12 December 1975 in Brussels with representatives Rita De Backen-Van Ocken, Minister of Dutch Culture, Flanders; Ludmilla Jivkova, Minister of Arts and Culture, and Svetla Daskalova, Minister of Justice, Bulgaria; M. Lino, Minister for Justice and Culture, Denmark; Marjatta Vänänen, Minister for Culture, Finland; Eva Zsögön, State Secretary for Culture, Hungary; Tina Anselmi, State Secretary for Culture, Italy; Zora Tonic, Minister of Culture, Yugoslavia; Irene Vorrink, Minister of Health and Environment, Netherlands; Halina Skibniewska, Vice-President of the Parliament, Poland; Maria De Lurdes Pintassilgo, Minister for Social Affairs, Portugal; and Maria Groza, Vice-President of the National Assembly, Romania.
 55. Van Aerschot-Van Haeverbeeck, 'Inventarisatie bouwkundig erfgoed'.
 56. Fierlafijn, 'Van cultureel tot grondgebonden', 48.
 57. Decreet van 3 Maart 1976 tot bescherming van monumenten en stads- en dorpsgezichten [Decree on the protection of monuments and town- and villagescapes], B.S., 22 April 1976, Hoofdstuk 1, Art. 2: 2. (translated from the Dutch: 'monument: een onroerend goed, werk van de mens of van de natuur of van beide samen, dat van algemeen belang is omwille van zijn artistieke, wetenschappelijke, historische, volkskundige, industrieel-archeologische of andere sociaal-culturele waarde, (met inbegrip van de cultuurgooederen die er integrerend deel van uitmaken, inzonderheid de bijhorende uitrusting en de decoratieve elementen)'); https://www.ejustice.just.fgov.be/cgi_loi/change_lg_2.pl?language=nl&nm=1976030301&la=N.
 58. Plevoets, 'Retail-Reuse', 119.
 59. Décret du 28 Juin 1976 du conseil culturel de la Communauté française [Decree of the Cultural Council of the French Community], M.B., 09 October 1976, <http://www.ejustice.just.fgov.be/eli/decret/1976/06/28/1976062802/justel>.
 60. l'Agence wallonne du Patrimoine (AWaP), *Les intérêts*, 2.
 61. Décret du 17 Juillet 1987 relatif à la protection du patrimoine culturel immobilier de la Communauté française [Decree on the protection of the immovable cultural heritage of the French Community], M.B., 30 September 1987, Art. 3: '[...] soit à la demande de 150 personnes inscrites au registre de la population de la commune où le bien est situé, s'il s'agit d'une

commune de moins de 5 000 habitants; de 300 personnes pour une commune dont le chiffre de population est supérieur à 5 000', <http://www.ejustice.just.fgov.be/eli/decret/1987/07/17/1987027812/justel#modification>.

62. Council of Europe, 'Résolution (76) 28'.

63. Décret du 17 Juillet 1987 relatif à la protection du patrimoine culturel immobilier de la Communauté française [Decree on the protection of the immovable cultural heritage of the French Community], M.B., 30 September 1987, art. 1a:

Patrimoine culturel immobilier: l'ensemble des biens immobiliers dont la protection se justifie en raison de leur intérêt historique, archéologique, scientifique, artistique, social ou technique,

<http://www.ejustice.just.fgov.be/eli/decret/1987/07/17/1987027812/justel>

64. See note 60 above.

65. Clercq et al., 'Doelmatigheidsanalyse', 92.

66. Institut du Patrimoine wallon, 'La requalification des biens', 3.

67. Ibid., 2.

68. Décret du 11 Avril 2014 modifiant le Livre III du Code wallon de l'Aménagement du Territoire, de l'Urbanisme, du Patrimoine et de l'Energie portant les dispositions relatives au patrimoine [Decree amending Book III of the Walloon Code of Town and Country Planning, Heritage and Energy containing provisions relating to heritage], M.B., 04 June 2014, https://etaamb.openjustice.be/fr/decret-du-11-avril-2014_n2014203439.html.

69. Clippele et al., 'Patrimoine culturel immobilier', 148–166.

70. Verkruyssen, 'Heritage Legislation in Brussels: Integrated Conservation and Urban Development', 54.

71. Décret du 26 Avril 2018 relatif au Code wallon du Patrimoine CoPat [Decree on the Walloon Heritage Code CoPat], M.B., 22 May 2018, Art. 1, <http://www.ejustice.just.fgov.be/eli/decret/2018/04/26/2018202569/moniteur>.

72. See note 9 above, 8.

73. See note 70 above, 53.

74. Van Aerschot, 'Heritage inventory in Belgium'.

75. Draye et al., *Actualia Onroerend Erfgoed*, 85.

76. Vandenhende, *De juridische beschermenswaardigheid*, 7.

77. Ibid., 343.

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<https://thesaurus.onroeren-derfgoed.be/conceptschemas/WAARDEYPES>.

79. Van Herck et al., *Goed wonen voor iedereen*, 34.

80. Ibid.

81. L'Agence wallonne du Patrimoine. *L'Inventaire*, accessed 17 May 2021.

82. Vandenhende, *De juridische beschermenswaardigheid*, 140.

83. Draye, *Monumenten en landschappen*, 93.

84. Vandenhende, *De juridische beschermenswaardigheid*, 128–129.

85. Ibid., 129.

86. Ibid., 350.

87. In the Recommendation on the Preservation of Traditional Culture and Folklore, the notion of 'folklore' was used. In the 1997 UNESCO programme on 'Masterpieces of Oral and Intangible Heritage', the term intangible heritage was used for the first time. The UNESCO Convention of 2003 also spoke of intangible heritage.

88. Loi du 28 juin 1976. Décret du conseil culturel de la Communauté française [Decree of the Cultural Council of the French Community], M.B., 09 October 1976, <http://www.ejustice.just.fgov.be/eli/decret/1976/06/28/1976062802/justel>.

89. See note 60 above.

90. See note 63 above.

91. See note 60 above.

92. Agentschap Onroerend Erfgoed, *Inventaris*, search template 'bescherming' and 'bescherming + waarden naar historisch gebruik/sociaal-culturele waarde', manually filtered between 1978–2018, accessed 14 December 2021.

93. Vandenhende, *De juridische beschermenswaardigheid*, 130.

94. Agentschap Onroerend Erfgoed, *Inventaris*, search template 'bescherming' and 'bescherming + waarden naar actueel gebruik/sociaal waarde', manually filtered between 2010–2021, accessed 14 December 2021.

95. Ibid.

96. Van Herck et al., *Goed wonen voor iedereen*.

97. Özçakır et al., 'A Tool for Identifying', 1–24.

98. L'Agence wallonne du Patrimoine. *L'Inventaire du patrimoine immobilier culturel*, Décret 14.01.1950 - 65 façades protected,

e.g. no. 7, http://lampspw.wallonie.be/dgo4/site_thema/index.php/dossier/view/BC_PAT/62063-CLT-0408-01.

99. Ibid.

100. In order to be eligible for the Flemish Government's restoration premium, renovation works must comply with Article 6 of the Flemish Government Decree of 14.12.2001 referring to the Venice Charter as a guiding principle https://www.etaamb.be/nl/besluit-van-de-vlaamse-regering-van-14-december-2001_n2001036510.html

101. See note 50 above, Art. 9, Art. 12.
102. Raymond Lemaire highlighted a difference between the mere 'existence' and the 'preservation' of a building. For him, the decisive difference lay in reusing a building by considering it as 'nothing more than an object that can be put to a practical use'¹⁰² and appreciating the 'artistic and cultural value of the monument'. Lemaire, 'The restoration and rehabilitation', 53.
103. Vlaamse Overheid, department Omgeving, 'Functiewijziging', accessed 23 September 2021, <https://www.omgevingsloketvlaanderen.be/functiewijziging>.
104. Agentschap Onroerend Erfgoed, *Inventaris*, 'Parochiekerk Sint-Catharina in Machelen', protected since 1938, accessed 11 July 2021, <https://id.erfgoed.net/erfgoedobjecten/77568>; 'Dekenij-pastorie Sint-Gerulfpastorie in Gent', protected since 2008, accessed 11 July 2021, <https://id.erfgoed.net/erfgoedobjecten/26396>.
105. Vandenhende, *De juridische beschermingswaardigheid*, 168.
106. I.e. building projects of Leopold II, which were financed with the profits from the exploitation of colonies.
107. OpenHeritage, 'Typology', 30.
108. This misunderstanding can be observed in all Belgian regions. See note 70 above, 55.
109. The 'open oproep' is a negotiation procedure in Flanders. With the support of the Vlaams Bouwmeester and its team, public clients can enter their building projects and receive help in finding the most suitable planner. The tasks range from the preparation of large-scale master plans, landscape designs and individual buildings to conversions of existing buildings. In the case of listed buildings, the Flemish Heritage Agency is consulted.
110. Ministerieel besluit van 17 Juli 2015 tot vaststelling van de inventarismethodologie voor de inventaris van bouwkundig erfgoed [Establishing the inventory methodology for the architectural heritage inventory], B.S., 03 August 2015, 48925, http://www.ejustice.just.fgov.be/mopdf/2015/08/03_1.pdf#Page47.
111. l'Agence wallonne du Patrimoine (AWaP), 'Critères de sélection', pdf version, accessed 17 May 2021, http://lampspw.wallonie.be/dgo4/tinymce/apps/ipic/views/documents/IPIC_criteres.pdf.
112. Ibid., edited by the authors. Statistiek Vlaanderen and Agentschap Onroerend Erfgoed, 'Beschermd patrimonium', accessed 19 May 2021, <https://www.statistiekvlaanderen.be/nl/beschermd-patrimonium>; L' Inventaire de l'Agence wallonne du Patrimoine, manually filtered for protection rulings between 2010–2021, accessed 23 September 2021.
113. Statistiek Vlaanderen and Agentschap Onroerend Erfgoed, 'Beschermd patrimonium', accessed 19 May 2021, <https://www.statistiekvlaanderen.be/nl/beschermd-patrimonium>; L' Inventaire de l'Agence wallonne du Patrimoine, manually filtered for protection rulings between 2010–2021, accessed 23 September 2021, edited by the authors.

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