

**HANDBOOK FOR OWNERS
OF CULTURAL MONUMENTS
AND REAL ESTATES
IN CONSERVATION AREAS**



Dear owners of cultural monuments and real estates in conservation areas

We very much appreciate your personal initiative with which you approach the protection of cultural heritage in the area of Prague. The City of Prague is a rare example of continuous urban and architectural development of a city, where Gothic and Renaissance buildings mingle with magnificent Baroque palaces in a dreamy, picturesque way. These are closely followed by recent architectural styles; Art Nouveau, Cubism, Functionalism and contemporary Postmodernism. All this forms a unique encyclopedia of architecture in a compact area.

Thanks to its exceptional cultural and historical values, the historical core of Prague was inscribed on the UNESCO World Heritage List on 4th December 1992.

The subject of protection and regulation in terms of interests pursued by State monument care in Prague are national cultural monuments and cultural monuments, and also real estates located in monument reservations, monument zones and the protective zone of Prague Monument Reservation. We are fully aware that, in a certain way, the status of cultural monument or other forms of monument protection restrict the right of ownership. We would, therefore, like to thank each owner of a cultural monument or a real estate in a conservation area for their responsible approach to heritage protection, which is decisive for the character of Prague as a vibrant metropolis.

The objective of this handbook is to provide you with assistance and basic guidelines in the field of State monument care when dealing with a cultural monument or a real estate located in a conservation area in Prague.

This handbook was prepared following legal regulations valid on the date of 17th November 2010.

Prague City Hall
Department of Culture, Heritage and Tourism

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1 Introduction

The basic legal regulation governing protection of cultural monuments in the Czech Republic is **Act No. 20/1987 Coll., on State Monument Care, as amended. In Section 1, the Act declares the State's interest in protecting cultural heritage and sets tasks for the State to perform in order to protect cultural monuments.**

Protection of cultural heritage has its constitutional basis in the Resolution of the Presidium of Czech National Council No. 2/1993 Coll., on the declaration of the Charter of Fundamental Rights and Freedoms. Article 35, paragraph 3 of this Charter establishes as a general limitation that no one may, in exercising their rights, endanger or cause damage to cultural monuments beyond the extent set by law, i.e. beyond the extent allowed by special statutes. The interest of the State monument care in conserving cultural heritage is also one of the so called legally protected general interests established by Article 11, paragraph 4 of the Charter of Fundamental Rights and Freedoms. It lays down one of the legal constraints on the right of ownership. This article states that ownership entails obligations and that ownership must not be misused to the detriment of the rights of others or in conflict with legally protected public interests, including the interests of State monument care.

2 Proclaiming objects as cultural monuments

The Ministry of Culture proclaims cultural monuments by issuing a decision in a procedural regime of Act No. 500/2004 Coll., Rules of Administrative Procedure, as amended, and following **Section 3 of the Act on State Monument Care**.

Both movable and immovable objects that display values specified in Sec. 2 (1) of the Act on State Monument Care can become a cultural monument. Immovable objects are lands and buildings connected to the ground by means of a solid foundation. Other objects are movable. The Ministry of Culture can proclaim as a cultural monument an object or a group of objects that are important evidence of historical development, of the life style and of the environment of society from the most ancient times to the present day, as manifestations of the creative abilities and work of humankind in various fields of human activity, based on their revolutionary, historical, artistic, scientific or technological values. Furthermore, the Ministry of Culture can proclaim as a cultural monument an object or a group of objects, which in themselves do not have the above stated values, but have a direct relationship to important persons or historic events.

The Ministry of Culture initiates a procedure to proclaim an object as a cultural monument solely on its own initiative, with the exception of archaeological finds (in such a case the procedure is initiated on the basis of a proposal from the Academy of Sciences of the Czech Republic).

During the procedure, the Ministry of Culture requests a statement particularly of Prague City Hall, the municipal authority of a municipality with extended competence and the National Heritage Institute.

The Ministry of Culture notifies the owner of the commencement of the procedure and the owner has the opportunity to express his opinion, propose evidence and become familiar with the collected information.

The owner of an object that could be proclaimed as a cultural monument and which is the subject of such a procedure, is obliged to protect the object against damage, destruction or theft and to report to the Ministry of Culture every intended or actual change in its ownership, administration or use. These duties arise from the provisions of **Sec.3 (3) of the Act on State Monument Care**.

In connection with the duty to protect the object, the owner should, if he wants to dispose of the object in the course of the procedure, especially if he wants to modify or renovate the object, notify the Ministry of Culture of his intention. Subsequently, the Ministry of Culture informs the owner, whether he can carry out the intention (if the intended intervention does not undermine the value of the object) or it restricts or prohibits the intervention, following Sec. 61 of Act No. 500/2004 Coll., Rules of Administrative Procedure, as amended (if it meant a violation of the duty to protect the object that is the subject of the procedure).

After assessing all the collected information, including the statement of the owner, the Ministry of Culture decides, whether it proclaims the object as a cultural monument or not.

3 National cultural monuments

Based on **Sec. 4 of the Act on State Monument Care**, the Government can issue a decree to proclaim the most important cultural monuments as national cultural monuments.

4 Monument reservation

Based on **Sec. 5 of the Act on State Monument Care**, the Government can issue a decree to proclaim an area, whose character and territory are determined by a group of cultural monuments or archaeological finds, as a monument reservation and lays down conditions to ensure its protection.

A list of legal regulations dealing with monument reservations in Prague is given in Chapter 18.

5 Monument zone

After the matter is discussed by the regional authority, the Ministry of Culture may proclaim the territory of a settlement or of part thereof with a smaller number of cultural monuments, historical environment or part of a landscape area that display significant cultural values as a monument zone and specify the conditions for protection thereof, on the basis of **Sec. 6 of the Act on State Monument Care**.

A list of legal regulations dealing with monument zones in Prague is given in Chapter 18.

6 Cancelling a proclamation of an object as a cultural monument

The Ministry of Culture may, under **Sec. 8 of Act on State Monument Care**, in the cancelling procedure remove the status of a cultural monument to a certain object.

The procedure to cancel a proclamation of an object as a cultural monument may be primarily initiated upon request.

The request may be filed by the owner of the cultural monument, or by a legal entity which is not the owner of the cultural monument but demonstrates a legal interest in cancelling the proclamation. The Ministry of Culture can also initiate the procedure on its own initiative.

In the cancelling procedure, the Ministry of Culture requests a statement from Prague City Hall and the National Heritage Institute (and the Academy of Sciences of the Czech Republic, if the object is an archaeological find).

The owner of the object has the opportunity to express his opinion, propose evidence and become familiar with the collected information.

The proclamation of an object as a cultural monument can only be cancelled on extremely serious grounds. During the procedure, the Ministry of Culture determines whether these extremely serious grounds are fulfilled in the particular case.

An extremely serious reason for which the proclamation of an object as a cultural monument may be cancelled is, e.g. a situation where it is not possible to conserve the cultural monument at all, due to extensive damage by a natural disaster (e.g. a flood), or where it is possible to conserve it but the conservation requires such interventions that mean the loss of its historical value. Conversely, a disrepair state of a cultural monument caused by the owner neglecting his duties to care for the monument and keep it in a good condition does not constitute extremely serious grounds.

The Ministry of Culture can condition the cancellation of the proclamation by setting certain conditions which must be fulfilled prior to the cancellation, such as acquisition of documentation or the purpose of the cultural monument.



7 Basic rights and duties of an owner of a cultural monument

The duties laid down for the owner of a cultural monument in the Act on State Monument Care constitute a restriction of the rights of the owner, following Sec.123 of Act No. 40/1964 Coll., the Civil Code, as amended. Under **Sec. 9 of the Act on State Monument Care**, the owner of a cultural monument is obliged to care for its conservation, to keep it in a good state and to protect it against danger, damage, destruction or theft. The owner can use the cultural monument only in a manner that does not cause damage to it, i.e. only in a manner that corresponds to the technical condition, the historical value and the importance of the cultural monument. The duty to care for his cultural monument and conserve it is carried out at the owner's expenses.

If the owner of the cultural monument fails to fulfil the duties set forth in Sec. 9 of the Act on State Monument Care, i.e. when he does not care for the cultural monument, does not keep it in good condition, does not protect it against danger, damage, destruction, devaluation or theft, he may be **fined** pursuant to **Sec. 35 et seq. of the Act on State Monument Care**. Also a so called corrective measure can be imposed on the owner, pursuant to **Sec. 10 of the Act on State Monument Care**. The corrective measure lies in the fact that Prague City Hall issues an administrative decision, imposing an obligation on the owner of the cultural monument to carry out certain specific tasks leading to the removal of the defective condition of the monument, consisting in e.g. its dilapidation, damage, etc.. A deadline is set within which the owner is obliged to implement these tasks at his own expenses. Pursuant to Sec. 10 of the Act on State Monument Care, the imposed measure can be e.g. necessary for static safeguarding of the object, its security against unauthorised access, filling in missing parts of the roofing, etc.

If the owner of the cultural monument does not take measures pursuant to Sec. 10 of the Act on State Monument Care within the set deadline, measures necessary to safeguard the cultural monument (not all the imposed tasks, but only those, which are necessary for the safeguarding itself, such as temporary roofing or static safeguarding) may be implemented at the expense of the owner of the monument. Pursuant to **Sec. 15 of the Act on State Monument Care**, such a

decision is made by Prague City Hall, or the Ministry of Culture, if it concerns a national cultural monument. The administrative body that issued the decision subsequently recovers the costs spent on the safeguarding works from the owner of the cultural monument.

If the owner of the cultural monument transfers the cultural monument to another person or leaves it to someone for a temporary use (based on e.g. a lease or a contract for the repair of a object), he is obliged to notify the person to whom he transfers it or to whom he leaves it or hands it over that the object is a cultural monument (**Sec. 9 (4) of the Act on State Monument Care**).

The owner of the cultural monument is obliged, in accordance with **Sec. 12 (1) of the Act on State Monument Care**, without undue delay, to notify Prague City Hall of any danger or damage to the cultural monument and to request a decision thereof on how the defect should be eliminated. If the cultural monument is a structure, the owner is also obliged to notify the relevant building office.

In accordance with **Sec. 12 (2) of the Act on State Monument Care**, the owner of the cultural monument is obliged, to notify in advance Prague City Hall of each intended change in its use and for an immovable cultural monument also of its intended vacation.

If the owner of the cultural monument intends to sell the cultural monument, he is obliged, in accordance with **Sec. 13 of the Act on State Monument Care**, to offer it for purchase preferentially to the Ministry of Culture. This duty applies to national cultural monuments (both movable and immovable) and to movable cultural monuments. It does not apply to immovable cultural monuments. At the same time, this duty does not apply in cases where the sale is between the next of kin (relatives in a direct line, siblings, spouses and partners; other persons are regarded as close if the harm, that one of them would suffer, would be reasonably felt by the other one as his own injury) or between co-owners. When the Ministry of Culture has received an offer, it is obliged to notify the owner of the cultural monument within three months for a movable cultural monument, and, within six months for an immovable cultural monument, that it accepts the offer.

In accordance with **Sec. 19 of the Act on State Monument Care, the owner of a cultural monument is obliged to allow persons authorized by the bodies of State monument care to perform scientific research or to acquire documentation of the monument.** If an important interest of society is involved, the owner of a movable cultural monument is obliged to provide this monument for temporary use, particularly to the professional organization for the purposes of scientific research or for the purpose of exhibition at the expense of the person or the organization to whom the cultural monument has been provided for use. The conditions of providing a cultural monument or a national cultural monument for temporary use is stipulated by Prague City Hall after having received a statement of the National Heritage Institute.

The rights and duties stipulated by the Act on State Monument care for the owner of a cultural monument, pursuant to **Sec. 43 of the Act on State Monument Care, are among other borne by a citizen for whom the right has been established under special regulations of personal use of a property that is a cultural monument and also by a person who disposes of a cultural monument as if it were his property and, with respect to all circumstances, is in good faith that the cultural monument belongs to him.**

Sec. 32 (2) (f), of the Act on State Monument Care lays down the right of the owner of a cultural monument of free professional assistance of the National Heritage Institute in providing care for a cultural monuments that is the subject of his ownership. The professional assistance can take the form of e.g. consultations, analyses of research of the cultural monument or intention to restore a cultural monument. This right of the owner is one of the forms of lawful compensation of his duties under the Act of State Monument Care.

The National Heritage Institute is a legal entity with a central office and individual regional offices with territorial jurisdiction for each region. Addresses of the National Heritage Institute offices, which people can turn to when asking for professional assistance, are stated in chapter 17.

The Heritage Department of Prague City Hall, as well as the Ministry of Culture, also provide free assistance for the owners of cultural monuments.

8 General duties of those who are not owners of cultural monuments

Sec. 9 (2,3) of the Act on State Monument Care also regulates duties of other entities than owners in relation to cultural monuments. The Act on State Monument Care imposes the duty to all individuals and legal entities to act so that they do not cause any adverse changes to the condition of cultural monuments or their environment and that they do not endanger the conservation and appropriate social use of cultural monuments. This is a general duty and therefore applies to anyone, regardless of whether they are owners of the cultural monument or not, as it results from the above mentioned Article 35, paragraph 3 of the Charter of Fundamental Rights and Freedoms.

If an individual or a legal entity (regardless if they are the owner of the cultural monument) cause or could cause, through their activities, adverse changes in the condition of a cultural monument or its environment or if they endanger the conservation or the use by society of a cultural monument (e.g. a lorry passes by a chapel, which gets damaged by the vibrations), Prague City Hall can issue an administrative decision, under **Sec. 11 (2) of the Act on State Monument Care**, and stipulate the conditions for further performance of such activity or prohibit the activity.



9 Duties of an owner of a cultural monument for its intended renewal

The requirements for conservation of cultural monuments and their protection are closely related to the legal regime for the renewal of cultural monuments stipulated in Sec. 14 of the Act on State Monument Care. The term renewal means works (interventions) listed in **Sec. 14 (1) of the Act on State Monument care**. By virtue of the Act on State Monument Care, the term renewal means maintenance, repair, reconstruction, restoration or some other modification of a cultural monument or its environment.

- **Maintenance** = removal of unwanted changes of the cultural monument, which occurred as a result of its use (e.g. a new coat on the facade).
- **Repair** = elimination of consequences of damage to the cultural monument or the effects of its wear (e.g. filling in missing pieces of roofing).
- **Reconstruction** = such construction and technological interventions to the cultural monument that change its technical parameters or its function or purpose (e.g. conversion of a factory building into an exhibition space or a restaurant).
- **Restoration** = an aggregate of specific artistic, handicraft and technical works respecting the technical and artistic structure of the original – works of art or handicraft works (such as renewal of a painting and a statue).
- **Other modification** = modernization of a building without changing the function of the building, superstructure and extension (Sec. 9(1) of Regulation No. 66/1988 Coll.). “Modernization of a building without a change in its function” is such a modification of a cultural monument where its parts are replaced with more modern parts, its equipment is improved, or its use is expanded, without changing its function. (e.g. replacement of heating by means of local stoves with central heating, conversion of an attic in an apartment building into apartments, etc.). “Superstructure” is an intervention due to which the building – cultural monument – is heightened; “annex” is an intervention due to which the floor plan of the building – cultural monument – is extended, while the annexed part of the building is operationally connected with the existing building.

If the owner of a cultural monument intends to renew it, he is obliged to request in advance a **binding opinion of Prague City Hall**. In the binding opinion, Prague City Hall states, whether the works intended by the owner of the cultural monument are admissible in terms of interests of the State monument care in protection and conservation of the cultural monument or not and if they are admissible, under what conditions. The administrative body can determine such conditions, if it is necessary for the protection and conservation of values of the cultural monument.

The legal basis for the binding opinion on the renewal of a cultural monument is a written statement of the National Heritage Institute.

If the binding opinion is issued in a case, in which the building office is not competent to decide (such as restoration of a movable cultural monument), it has a form of a separate decision, pursuant to Sec. 67 et seq. of the Act No. 500/2004 Coll., Rules of Administrative Procedure, as amended, and the owner of the cultural monument may appeal against it. If, however, the binding opinion is issued in a case, in which the building office is competent to decide (in particular when it concerns works on an immovable cultural monument which, under the Building Act, require a planning permission, planning approval, building permission or notification), the binding opinion of the body of State monument care has the form stipulated in Sec.149 of Act No. 500/2004 Coll., Rules of Administrative Procedure, as amended, and cannot be separately appealed against. The owner can defend himself against its factual conclusions in the course of procedure before the building office.

In case of larger or more complex renewals of cultural monuments it is recommended that the owner of the cultural monument first elaborate a plan of renewal of the cultural monument and seek a binding opinion of Prague City Hall. Only when Prague City Hall has judged the the plan of the intended renewal admissible, should the owner proceed to the preparation of project documentation for the renewal of the cultural monument in an extent required by regulations of building law and for thus processed documentation, the owner must request a binding opinion of Prague City Hall.

Thanks to the above mentioned procedure, the owner can avoid cases when the submitted project documentation for the renewal of a cultural monument is assessed by Prague City Hall as inadmissible in terms of interests protected by State monument care.

The owner of the cultural monument and the planner have, under Sec. 14 (7) of the Act on State Monument State, the right to discuss the documentation for a renewal of a cultural monument, in the course of its elaboration, with the National Heritage Institute. If the National Heritage Institute requires it, the owner of a cultural monument is obliged to submit one copy of the documentation for a renewal to it.

A special type of renewal of cultural monuments is its restoration. It concerns renewal of cultural monuments or their parts, which are works of art (such as paintings, statues and graffiti) or handicraft works (such as wrought-iron grilles, door ironwork). Restoration works can only be carried out by a restorer with a restoration permit. This permit is granted by the Ministry of Culture. It can also be carried out by a person authorized to carry out restoration works in another Member State of the EU, on the basis of a notification of the Ministry of Culture or on the basis of a recognition of professional competence and integrity (decided by the Ministry of Culture).



10 Duties of an owner (administrator, user) of a real estate in a conservation area for its intended modification

The legal regime of intervention in real estates located in conservation areas is prescribed in **Sec. 14 of the Act on State Monument Care, which in paragraph 2** sets down the duty of owners (administrators, users) of those real estates that are not cultural monuments, but are located in a monument reservation, monument zone or in a protective zone, to request a prior **binding opinion of Prague City Hall** for an intended construction, change in structure, landscaping, placement or removal of equipment, removal of a structure, modification of tree species or maintenance works on this real estate.

The definition of some of the above mentioned terms is identical with their definition in Act No. 183/2006 Coll., on Land-use Planning and Building Code, as amended, (Building Act). Some other terms are, however, defined differently, with regard to the subject matter of protection under the Act on State Monument Care and legislative instruments. In such cases, the terms are defined more broadly than they are in legal regulations of building law

- **Structure** = all the built structures, which are made by building or assembly technology, regardless of their building technical execution, applied structural products, materials and structures, for the purpose of utilization and duration period (Sec. 2 (3) of the Building Act).
- **Change in structure** = a superstructure, by which the structure is heightened; an annex, by which the structure is extended in its floor plan and which is operationally interconnected with the existing structure; an adaptation, in which the external floor plan and vertical limitation of a structure is preserved; insulation of the case of the structure; a change in the realization of the structure as compared to its permit or documentation certified by the building office (Sec. 2 (5, 6) of the Building Act).
- **Landscaping** = works and adaptation of terrain that significantly change the appearance of the environment or the draining conditions, exploitation and similar related works, if it does not refer to a mining activity or an activity performed by a mining method, e.g. storage and lay-by areas, embankments,

loadings, land adaptations to create playgrounds and sports grounds, surface mining works (Sec. 3 (1) of the Building Act).

- **Maintenance** = work, by which a good constructional state of a structure is ensured, so that the structure is not depreciated and its usability is extended for as long as possible (Sec. 3 (4) of the Building Act); removal of unwanted changes which occurred as a result of its use (e.g. a new painting coat on window frames or a facade, replacement of windows, etc.).
- **Facility** = information and advertising panels, signs, boards or other structures and technical equipment (Sec. 3 (2) of the Building Act); protruding advertising signs, advertising adhesive films, advertising banners and suspended advertising banners regardless of their material (canvas, films, PVC, netting, etc.) and the way they are attached to the structure; technical equipment (aerials, satellites, etc.).
- **Modification of tree species** = planting and felling trees in public spaces, as they are defined in Sec. 34 of Act No.128/2000 Coll., on Municipalities, as amended. Public spaces are all squares, streets, market places, pavements, public green areas, parks and other places publicly accessible without restriction, i.e. serving for public use regardless of the ownership of such places.

In its binding opinion, Prague City Hall states, whether the intended works are admissible or not with regards to the interests of the State monument care and if they are admissible, under which conditions. Such conditions can be determined if it is necessary for the protection and conservation of protected values.

The legal basis for the binding opinion is a written statement of the National Heritage Institute.

If the binding opinion is issued in a case in which the building office is not competent to decide (e.g. painting coat on window frames, installation of an advertising banner, planting trees, etc.), it has a form of a separate decision, pursuant to Sec. 67 et seq. of the Act No. 500/2004 Coll., Rules of Administrative Procedure, as amended, and it can be appealed against. If, however, the binding opinion is issued in a case in which the building office is competent to decide (when it concerns interventions, which under the Building Act require a planning permission, planning approval, building permission or notification), the binding opinion of the body of the State monument care has the form stipulated in Sec. 149 of Act No. 500/2004 Coll., Rules of Administrative Procedure, and cannot be

separately appealed against. The factual conclusion can be defended against in the course of procedure before the building office.

In case of intended more extensive and more demanding interventions (e.g. complete reconstruction, Construction of a new office complex, etc.), it is recommended that the owner (administrator, user) of the real estate elaborate a plan of the intervention and seek a binding opinion of Prague City Hall. Only when Prague City Hall has judged the plan of the intended intervention admissible, should the owner (administrator, user) proceed to the preparation of project documentation in an extent required by regulations of building law and for thus processed documentation, must request a binding opinion of Prague City Hall.

Thanks to the above mentioned procedure, the owner can avoid cases when the submitted project documentation for the renewal of a cultural monument is assessed by Prague City Hall as inadmissible in terms of interests protected by State monument care.

The owner of the cultural monument and the planner have, under Sec. 14 (7) of the Act on State Monument State, the right to discuss the documentation for a renewal of a cultural monument, in the course of its elaboration, with the National Heritage Institute.

In Sec. 17 (1), the Act on State Monument Care states that in the case of real estates that are not cultural monuments but are located in a protective zone, the duty to request a binding opinion is excluded for interventions listed in Sec. 14 (2) of the Act on State Monument Care, if the performance of the construction project, change to a structure, maintenance works, placement or removal of equipment, in no way interferes with the external appearance of the real estate. With reference to this legal provision, owners (administrators, users) of real estates that are not cultural monuments but are located in a protective zone, are not obliged to request a binding opinion typically in the case of interior modifications (e.g. modification of an apartment unit).



11 Duties of developers

The duty to request a binding opinion, pursuant to Sec. 14 of the Act on State Monument Care, is very closely related to the notification duty of developers laid down in the provisions of **Sec. 22 (2) of the Act on State Monument Care**. If a construction activity is to be performed in a territory with archaeological finds, the developers are obliged to notify the Institute of Archaeology of the Academy of Sciences of the CR (in Prague or in Brno) of their intention from the preparatory stage of the construction and allow the Institute of Archaeology to perform rescue archaeological research at the relevant site. The rescue archaeological research is performed on the basis of a contract concluded with an organization which is authorized to perform archaeological research and which will carry out the research. If such a contract fails to be concluded, it is Prague City Hall that decides on the performance of rescue archaeological research.

If an archaeological find is discovered, the developer is obliged to notify the building office and Prague City Hall and suspend the works in the place of the find. If necessary, the developer is obliged to take such measures that the find is not damaged or destroyed (Sec.176 of Act No. 183/2006 Coll., on Land-use Planning and Building Code, as amended).

12 Relocation of cultural monuments

The regime for relocation of cultural monuments is defined in **Sec. 18 of the Act on State Monument Care**.

A national cultural monument and an immovable cultural monument can only be relocated with the prior consent of Prague City Hall.

In the case of an immovable cultural monument, it is completely immaterial where or how far the cultural monument is relocated. A prior consent of Prague City Hall must be sought.

A movable cultural monument can be permanently relocated from a place accessible to the public only with the prior consent of Prague City Hall, after the National Heritage Institute has issued its statement. A prior consent is only required in the case, where the movable cultural monument is permanently relocated from a place accessible to the public; it is not required in the case where it is to be relocated temporarily from a place accessible to the public (e.g. to a restorer's workshop). The term relocation from a place accessible to the public means only that the monument is relocated outside a place accessible to the public and not that it is relocated to another place accessible to the public. A place accessible to the public is any place accessible for a wider range of people (such as exhibition halls, museums, etc.) regardless of whether the place is accessible at any time or for a limited time of the day. Should a movable cultural monument be relocated from a place accessible to the public to another place accessible to the public, even if permanently, prior consent of such relocation is not required.



13 Export of cultural monuments and object of cultural value abroad

Provisions of **Sec. 20 of the Act on State Monument Care** stipulate that a cultural monument can be exported to a foreign country for the purposes of an exhibition, a loan or for other purposes, e.g. restoration, only with the prior consent of the Ministry of Culture. A cultural monument can only be exported on a temporary basis, it cannot be exported permanently.

Act No. 71/1994 Coll., on the Sale and Export of **Objects of Cultural Value**, as amended, regulates the handling of objects of cultural value in relation to foreign countries. These are objects that constitute cultural heritage but they are not cultural monuments. An object of cultural value, i.e. a movable object defined in Schedule 1 of the stated Act, can only be exported with certification issued by a professional organization (museums, galleries, libraries, National Heritage Institute). These professional organizations are listed in Schedule 2 of the stated Act, including a delimitation of their territorial competence. An object of cultural value can be exported temporarily or permanently.

In accordance with Act No, 214/2002 Coll., on the Export of Certain Cultural Property from the Territory of the European Communities, as amended, if a cultural monument or an object of cultural value is to be exported from the EU customs territory, it needs consent from the Ministry of Culture.

Two acts are therefore necessary to export a cultural monument outside the territory of European communities: the prior consent under Sec. 20 of the Act on State Monument Care and permission under Sec. 4 of Act No. 214/2002 Coll., on Export of Certain Cultural Property from the Territory of the European Communities. Both of these acts are issued by the Ministry of Culture.

14 Contributions to owners of cultural monuments

One form of compensation of the statutory duties of an owner of a cultural monument is his right to a financial contribution under **Sec. 16 of the Act on State Monument Care**. These contributions are connected with the duty of the owner of a cultural monument to care for the cultural monument that is the subject of his ownership and maintain it in good condition.

The State, regional authorities and municipal authorities can provide a contribution to an owner of a cultural monument for renewal or conservation of a cultural monument, if the owner of the cultural monument is unable to cover the cost by his own means.

The contributions are provided solely at the request of the owner of a cultural monument and there is no legal claim for a contribution.

Under Sec. 16 (1) of the Act on State Monument Care, the municipality or the region may provide a contribution to the owner of a cultural monument from its budgetary funds, as part of its separate power, if the case is exceptionally justified, to cover increased expenses connected with the conservation or renewal of the cultural monument for the purpose of its more effective use by society. A case is deemed exceptionally justified e.g. if it involves poor technical condition of the cultural monument, not caused by the owner of the cultural monument or a visually significant location of a cultural monument. The municipality or the region may also provide such a contribution if the owner of the cultural monument is unable to cover the costs of renewal or conservation of the cultural monument by his own means. Details of provisions of a contribution to conservation or renewal of a cultural monument are defined by Sec. 12 of Decree No. 66/1988 Coll., and by the relevant municipality or regional authority, which provide the contribution from their own budget. Contributions may be provided on a contract basis or on the basis of an administrative decision.

Every year in the summer, **Prague City Hall** announces **grants** in the field of monument care for owners of historically significant objects in Prague.

Information on the City of Prague grant programme, prescribed application form, required supplements to the application and the deadline for submission, are provided by the Department of Culture, Cultural Heritage and Tourism of Prague City Hall and are also available at Prague City Hall website (<http://pamatky.prahamesto.cz>).

Also individual **City Districts** in Prague may announce grant programmes to renew cultural monuments, or other grant programmes that also provide contributions to owners of cultural monuments.

According to Sec. 16 (2) of the Act on State Monument Care, the Ministry of Culture may provide a contribution to renewal of a cultural monument from the State budget, if there is an extraordinary interest of society in conserving the cultural monument.

At present, the Ministry of Culture provides contributions from the State Budget through the following specialized programmes:

— Architectural heritage conservation programme

This programme provides contributions to the renewal of cultural monuments that are the most valuable part of the architectural heritage (such as castles, chateaux, monasteries, historical gardens, churches), specifically to works to rescue the cultural monument or to rescue those parts that constitute the essence of the cultural monument.

— Disrepair programme

Through this programme, the Ministry of Culture provides contributions to ensure the most urgent repairs of immovable cultural monuments, especially the repairs of roofs in disrepair and supporting structures of buildings – cultural monuments.

— **Regeneration of city monument reservations and monument zones programme**

This programme provides contributions to renewal of cultural monuments located in the most valuable parts of historical towns proclaimed as monument reservations or monument zones. Financial contributions from this programme can be provided only if the town in question has elaborated its own regeneration programme and simultaneously financially contributes – together with the owner – to the renewal of the cultural monument.

— **Care for village monument reservations, village monument zones and landscape monument zones programme**

This programme provides contributions to the renewal of cultural monuments located in village monument reservations and in village and landscape monument zones (in particular folk architecture, e.g. homesteads, cottages, chapels and wayside crosses).

— **Restoration of movable cultural monuments programme**

This programme provides contributions to the renewal (restoration) of movable cultural monuments, especially significant works of fine art or handicraft works placed in buildings that are accessible to the public for cultural, educational or religious purposes (e.g. paintings and statues in churches).

— **Programme of support of renewal of cultural monuments through municipalities with extended competence**

Supports renewal of the monument fund where it is not efficiently and effectively provided for by other programmes of the Ministry of Culture. Financial means in the Programme are intended for the conservation and renewal of immovable cultural monuments located outside monument reservations and zones that are not national cultural monuments and are not owned by the Czech Republic.

— **Programme of support of UNESCO heritage sites**

Its main objective is to meet the obligations arising for the Czech Republic from the adoption of the Convention on the Protection of the World Cultural and Natural Heritage. Three priority areas have been created for the use of the programme funds: creation of management plans, scientific and research activities and presentations and promotion and education of the UNESCO sites. The purpose of the programme is to support the overall development of sites inscribed on the World Heritage List that are located in the Czech Republic.

— **Programme of support of civic associations involved in monument care**

Provides financial support for community projects submitted by civic associations, or other entities whose activities help the protection of the immovable and movable fund in the CR and the widest popularization of its protection.

— **Programme of support of rescue archaeological research**

It was set up by a joint measure of the Ministry of Culture and the Ministry of Finance as one of the tools to fulfil the international obligations of the Czech Republic under the Convention on the Protection of the European Archaeological Heritage in support of rescue archaeological research carried out by contributory organizations set up by the Ministry of Culture, if they are entitled to such activity.

Information on the programmes of the Ministry of Culture, prescribed application form, required supplements to the application and the deadline for submission, are provided by the Ministry of Culture and are also available at the Ministry of Culture website (www.mkcr.cz).

When processing the application, the owner of the cultural monument is also entitled to receive free professional assistance by the National Heritage Institute.



15 Tax reliefs for owners of cultural monuments

As a compensation of their statutory duties, the State also provides indirect financial aid to the owners of cultural monuments in the form of tax reliefs and benefits.

— Buildings and structures tax exemption

Pursuant to Sec. 9 (1) (p) of Act No. 338/1992 Coll., on Property Tax, as amended, buildings that are cultural monuments and that are undergoing construction works are exempt from the buildings and structures tax. These buildings – cultural monuments, are exempt from buildings and structures tax for the duration of eight years. The eight-year period starts to run the year following the issuance of a building permit for construction works carried out by the owner of the cultural monument.

Pursuant to Sec. 9 (1) (k) of the above mentioned Act and to Sec. 1 (1) of Regulation No. 12/1993 Coll., buildings – cultural monuments owned by legal entities or individuals that are accessible for education purposes are exempt for buildings and structures tax. It does not concern any type of accessibility, the provided access must be based on a written contract between the Ministry of Culture and the owner of the cultural monument. The contract must define the time and space extent of the access provided and stipulate its regime, in compliance with its historical value (e.g. architectural, technical or artistic value) and with other uses of the object. The extent of the access may relate to e.g. determination of which rooms will be made accessible, which days of the year the cultural monument will be accessible, etc.

— Land tax exemption

Pursuant to Sec. 4 (1) (g) of Act No. 338/1992 Coll., on Property Tax, as amended, and to Sec. 2 (1) of Regulation No. 12/1993 Coll., plots of land are exempt from land tax if they form one functional unit with a building – cultural monument that is made accessible on the basis of a contract between the owner and the Ministry of Culture, pursuant to Sec. 9 (1) (k) of Act No. 338/1992 Coll., on Property Tax, as amended and to Sec. 1 (1) of Regulation No. 12/1993 Coll.

— Gift tax exemption

Pursuant to Sec.19 (3) of Act No. 357/1992 Coll., on Inheritance Tax, Gift Tax and Real Estate Transfer Tax, as amended, gratuitous acquisition of property (both movable and immovable) is exempt from gift tax if it occurs between persons of category I or II. Category I consists of relatives in the direct line and spouses. Category II consists of relatives in the collateral line (siblings, nephews, nieces, uncles and aunts) and children's spouses (sons-in-law and daughters-in-law), husband's children, husband's parents and persons who lived with the donor in a common household for at least a year prior to the transfer and who for that reason took care of the common household or were dependent on the donor for their maintenance.

— Special regimes of tax deductions

Act No. 586/1992 Coll., on Income Taxes, as amended, stipulates some specifications in tax deductions in relation to cultural monuments.

Pursuant to Sec. 27 (e) of the above mentioned Act, movable cultural monuments and their groups are tangible assets, which are excluded from tax deductions.

According to Sec 29 (3) and Sec. 30 (8) of the above mentioned Act, the annual tax deduction for technical improvements carried out on an immovable cultural monument are set at one fifteenth of the entry price.

More information on the above mentioned tax reliefs is provided by tax offices.

16 Overview of State monument care bodies and organizations

The Ministry of Culture is the central body of state administration in the sector of State monument care. It is an immediately superior administrative body to the Department of Culture, Heritage and Tourism of Prague City Hall.

The Monument Inspectorate is a specialized inspection body in the field of State monument care. Its founder is the Ministry of Culture.

The Department of Culture, Heritage and Tourism of Prague City Hall is a relevant first instance administrative body in the territory of the City of Prague, which examines and decides on matters that are, in accordance with the Act on State Monument Care, examined and decided on by a competent municipal authority with extended competence or the regional authority.

The Department of Culture, Heritage and Tourism of Prague City Hall performs, among other things, supervision, pursuant to Sec. 28 (2) (f) and Sec. 29 (2) (g) of the Act on State Monument Care, over the renewal of national cultural monuments and cultural monuments and over construction, change to a structure, landscaping, placement or removal of equipment, removal of a structure or maintenance works on a real estate that is not a cultural monument, but is located in a monument reservation, monument zone or in a protective zone.

The National Heritage Institute performs tasks of professional organization of State monument care. It is an organization for the performance and coordination of all professional activities in the field of State monument care.

The National Heritage Institute does not have the decision-making power and its staff cannot make binding decisions to determine which way the renewal works on a cultural monument or a building in a monument reservation, monument zone or protective zone will be performed. The decision-making power is held exclusively by the bodies of State monument care, of which the National Heritage Institute and its staff are not a part. Therefore, at the building site, they cannot e.g. determine what colour will be the facade of the renewed cultural monument or what profiling will be used for window fixtures.

Pursuant to Sec. 32 (2) (g) of the Act on State Monument Care does provide expert supervision over the performance of comprehensive care for cultural monuments, this power, however, is only consultative and precedes the issuance of a binding opinion of the administrative body of monument care. Subsequent inspection and supervisory authority of the representatives of the National Heritage Institute cannot change the terms of the issued binding opinion.

17 Directory

Ministry of Culture

Maltézské náměstí 1, 118 11 Prague 1 – Malá Strana
tel.: 257 085 111, fax: 224 318 155
<http://www.mkcr.cz>

Prague City Hall

Department of Culture, Heritage and Tourism
Jungmannova 35/29, 110 01 Prague 1
tel.: 236 001 111 (telephone exchange), 236 002 428 (information), fax: 236 007 026
e-mail: posta@cityofprague.cz, <http://magistrat.praha-mesto.cz>

National Heritage Institute

Central Office
Valdštejnské nám. 3, 118 01 Prague 1
tel.: 257 010 111, fax: 257 533 527
e-mail: up@up.npu.cz, <http://www.npu.cz>

regional office for Prague
Na Perštýně 12, 110 00 Prague 1
tel.: 234 653 100, fax: 234 653 119
e-mail: praha@praha.npu.cz, <http://www.npu.cz>

Institute of Archaeology of the Academy of Sciences of the CR, Prague

Letenská 4, 118 01 Prague 1
tel.: 257 014 300, fax: 257 532 288
e-mail: arupraha@arup.cas.cz, <http://www.arup.cas.cz>

Institute of Archaeology of the Academy of Sciences, Brno, v. v. i.

Královopolská 147, 612 00 Brno
tel.: 541 514 101, fax: 541 514 123
e-mail: sekretariat@iabrno.cz; infor@iabrno.cz, <http://www.iabrno.cz>



18 Basic list of legal regulations and other normative acts in the field of State monument care

Acts

- Act No. 20/1987 Coll., on State Monument Care, as amended
- Act No. 101/2001 Coll., on Return of Illegally Exported Cultural Property, as amended
- Act No. 71/1994 Coll., on the Sale and Export of Objects of Cultural Value, as amended

Directly binding regulations of international law

- Convention on the Protection of the European Architectural Heritage (No. 99/2000 International Treaties Collection)
- Convention on the Protection of the European Architectural Heritage (No. 73/2000 International Treaties Collection)
- Second Protocol to the Hague Convention on the Protection of Cultural Property during an Armed Conflict of 1954 the Hague (No. 71/2007 International Treaties Collection)

Other international conventions

- Communication of the Federal Ministry of Foreign Affairs No. 159/1991 Coll., on the Protection of the World Cultural and Natural Heritage
- Regulation of the Ministry of Foreign Affairs No. 15/1980 Coll., on the Convention on Measures to Prohibit and Prevent Illegal Import, Export and Transfer of Ownership of Cultural Property
- Regulation of the Ministry of Foreign Affairs No. 94/1958 Coll., on the Convention on Protection of Cultural Property during an Armed Conflict and its Protocol

Subordinate legislation

- Regulation of the Ministry of Culture No. 66/1988 Coll., implementing Czech National Council Act No. 20/1987 Coll., on State Monument Care, as amended
- Regulation of the Ministry of Culture No. 187/2007 Coll., establishing the content and elements of a plan of an area with archaeological finds
- Regulation of the Ministry of Culture No. 420/2008 Coll., establishing the content and elements of a plan of the protection of monument reservations and monument zones

Subordinate legislation, defining national cultural monuments

- Government Regulation No. 50/2010 Coll., on Proclamation of some Cultural Monuments as National Cultural Monuments (proclaimed national cultural monuments: House of the Black Madonna in the Old Town, Prague; Church of the Most Sacred Heart of our Lord in Vinohrady, Prague; Wastewater Treatment Plant in Bubeneč, Prague)
- Government Regulation No. 337/2002 Coll., on Proclamation and Cancellation of Proclamation of some Cultural Monuments as National Cultural Monuments, as amended (proclaimed national cultural monuments: Czech Crown Jewels; Bethlehem Chapel; Karolinum; National Museum; New Town Hall)
- Government Regulation No. 147/1999 Coll., on Proclamation and Cancellation of Proclamation of some Cultural Monuments as National Cultural Monuments, as amended (proclaimed national cultural monuments: Prague Castle; Estates Theatre; St. Agnes Convent; Charles Bridge with sculptures decorations; National Theatre; Na Slovanech Monastery; Vyšehrad; National Monument on Vítkov Hill with the Tomb of the Unknown Soldier; Honorary Burial Grounds of Allied Armies and Freedom Fighters in Olšany; Battle of White Mountain battlefield with a barrow and Hvězda Summer Palace with a Game Preserve; Anti-Fascist Resistance Monument in Kobylisy)
- Government Regulation No. 262/1995 Coll., Proclamation and Cancellation of Proclamation of some Cultural Monuments as National Cultural Monuments, as amended (proclaimed national cultural monuments: Klementinum; Old Town Square; St. Wenceslas Monument; St. Nicolas Church in Malá Strana; Old Jewish Cemetery; Old-New Synagogue; Zbraslav Monastery; Müller Villa; Ancient Settlement in Šárka)
- Government Regulation No. 404/1992 Coll., on Change in Proclamation of certain Cultural Monuments as National Cultural Monuments, as amended (proclaimed national cultural monuments: Old Town Hall; Church of Our Lady Before Tyne; Kinsky Palace)
- Government Regulation No. 111/1991 Coll., on Proclamation of Břevnov Monastery as National Cultural Monument, as amended
- Government Regulation No. 55/1989 Coll., on Proclamation of some Cultural Monuments as National Cultural Monuments, as amended (proclaimed national cultural monuments: House of Artists (Rudolfinum); Settlement and Celtic Oppidum Závist; Prague Municipal House with Powder Tower; Monument to the Czech Resistance 1939–1945 “Pečkárna”; Strahov Monastery)

Subordinate legislation, defining monument reservations

- Government Regulation No. 66/1971 Coll., on Monument Reservation in the City of Prague
- Government Regulation No. 127/1995 Coll., on Proclamation of Compact Parts of Selected Towns and Villages with conserved collection of folk architecture as Monument Reservations (Stodůlky, Ruzyně)

Subordinate legislation, defining monument zones

- Ordinance of the City of Prague No. 15/1991 Coll. of the City of Prague on Proclamation of Parts of the Territory of the City of Prague as Monument Zones and on Determination of Conditions for their Protection (Budňanka Settlement; Ořechovka Residential Colony; Rybáře Settlement; Staré Dáblice; Kralovice)
- Ordinance of the City of Prague No. 10/1993 Coll. of the City of Prague on Proclamation of Parts of the Territory of the City of Prague as Monument Zones and on Determination on Conditions for their Protection (Vinohrady, Žižkov, Vršovice; Nusle; Karlín; Dejvice, Bubeneč, upper Holešovice; Smíchov; Staré Bohnice; Stará Hostivař; Barrandov; Baba)
- Regulation of the Ministry of Culture No. 108/2003 Coll., on Proclamation of Territory with Historical Settings in Selected Towns and Villages and their Parts as Monument Zones and on Determination of Conditions for their Protection (Staré Střešovice; Tejnka)
- Regulation of the Ministry of Culture No. 413/2004 Coll., on Proclamation of Territory with Historical Settings in Selected Towns and Villages and their Parts as Monument Zones and on Determination of Conditions for their Protection (Střešovičky)

Protective zone

- Decision of the Former Department of Culture of the National Committee of Prague Ref. No. Kul/5-932/81 of 19th May 1981, on Determination of the Protective Zone of Prague Monument Reservation and its complement of 9th July 1981, establishing the protective zone and determining conditions for activities in it.

Government resolutions

- Government Resolution of 16th July 1997 No. 426 on Programme of Restoration of Movable Cultural Monuments
- Government Resolution of 22nd February 1995 No. 110 concerning the Programme of Architectural Heritage Conservation
- Government Resolution of 25th March 1992 No. 209 concerning the Programme of Regeneration of City Monument Reservations and Monument Zones

Related legislation

- Constitutional Act No. 1/1993 Coll., Constitution of the Czech Republic, as amended
- Resolution No. 2/1993 Coll., on incorporation of the Charter of Fundamental Rights and Freedoms as part of the constitutional order of the Czech Republic
- Act No. 40/1964 Coll., The Civil Code, as amended
- Act No. 200/1990 Sb., on Administrative Infractions, as amended
- Act No. 500/2004 Sb., Rules of Administrative Procedure, as amended
- Act No. 183/2006, on Land-use Planning and Building Code (Building Act), as amended
- Ordinance of the City of Prague No. 26/1999 Coll of the City of Prague on General Technical Requirements for the Construction Development in the City of Prague, as amended
- Rulings of the City of Prague No. 26/2005 Coll. of the City of Prague, prohibiting advertising distributed in public places outside business premises, as amended
- Act No. 72/1994 Coll., regulating some co-ownership relations to buildings and some ownership relations to apartments and non-residential premises and complementing some acts (Apartment Ownership Act), as amended
- Act No. 114/1992 Coll., on Nature and Landscape Protection, as amended
- Act No. 122/2000 Coll., on Protection of Museum Collections and on Changes in Some Other Acts, as amended
- Act No. 131/2000 Coll., on the City of Prague, as amended
- Act No. 101/2001 Coll., on Return of Illegally Exported Cultural Property, as amended
- Act No. 150/2002 Coll., Administrative Rule of Court, as amended
- Act No. 214/2002 Coll., on the Export of Certain Cultural Property from the Territory of the European Communities, as amended



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