

## Protection of Monuments in Hungary The Legal Structures of Private Sponsorship and Participation

The stormy history of Hungary has not made it possible for large numbers of buildings and ensembles of different historical periods to survive. Our built cultural heritage is therefore rather poor. Today we have 10,300 historic monuments protected by the State. Nearly 3,000 of these monuments are churches and monasteries, 2,700 are dwelling houses, 1,500 are public buildings, castles, palaces and country houses, 1,700 are monuments of the vernacular architecture, and 400 are ruins. We also protect granaries, bridges, statues, a radio tower, and a few representatives of other building types. The age of our monuments ranges from the Roman times to the mid-twentieth century, with Baroque and Classicism as dominating periods. The recording of our late nineteenth and twentieth century architectural heritage we have mostly before us, as well as the recording of our industrial heritage.

25 historic city and village quarters are protected as conservation areas, two of which - the Castle of Buda and the Old Village of Hollókő - are parts of the UNESCO World Cultural Heritage<sup>1</sup>. 200 1st category monuments and groups of monuments are surrounded by protected environments marked out by special decision, some 1,000 more by environments protected by the force of the law. The categories of single monuments, conservation areas and protected environments give together legal protection to less than one per cent of the building stock of the country.

Hungary has signed the most important international conventions concerning the protection of monuments: the Hague Convention of 1954, the UNESCO World Heritage Convention of 1972, and the Granada Convention of 1985 of the Council of Europe. Hungarian experts have been playing active roles in ICOMOS since its formation in 1965, and carrying on various types of other bilateral and multilateral cooperations.

The international recognition of monument protection work in Hungary cannot be attributed to the number or the general state of our monuments, but to the high professional standard of a few outstanding restoration projects, carried out especially between the 1960s and 1980s. Since we have our medieval heritage mostly in ruins, it is very important to discover, conserve, interpret and display each fragment in a proper way. This has led our experts to the strict and consistent application of the Venice Charter of 1964, which in practice has been widely acknowledged but also often criticized.

The institutional protection of monuments in Hungary dates back to the mid-nineteenth century, when the social demand for it was formulated the first time. As a result of these efforts, a national organization, the Provisional Committee of Monuments, was set up in 1872. Nine years later the first Historic Preservation Act was passed [1881: XXXIX. tc.] and the National Committee of Monuments (MOB) was established. The Law was in force and the Com-

mittee worked until 1949; then they were replaced by a law-decree and transitory organizations.

In the mid-fifties monument protection was transferred from the Minister for Culture, to which it had belonged, to the Minister for Construction. Since then it has belonged to the Minister responsible for construction, for the time being the Minister for Environment Protection and Regional Development. This arrangement emphasises the connection between monument protection and town planning, in contrast with the connection between monument protection and the other fields of culture. The Minister for Culture and Education is responsible for the cultural policy in regard to the protection of monuments.

In 1964 the principal rules of monument protection were included in the Building Act [1964: III. tv.] and its executive decree [30/1964. (XII. 2.) Korm.r.]. A departmental order of the Minister for Construction contains the rules concerning the protection of monuments in detail [1/1967. (I. 31.) ÉM r.]. These three legal rules are still in force, with several amendments, the most important of which are those of the years 1991 and 1992. There are some 80 more laws and orders with rules concerning monuments. For the movable cultural heritage there are separate legal rules [1963: 9. tvr. etc.].

In 1957 a new institute, the National Inspectorate of Historic Monuments (OMF) was established, as a government agency for complex duties: departmental control and building approval administration, research, recording and collections, architectural planning, restoration of buildings and objects of art. The present National Board for the Protection of Historic Monuments (OMvH), set up in 1992, is a legal successor of the Inspectorate, with a wider sphere of authority. So the Institute is celebrating this year its 40th birthday. The Board has now 200 employees, including the outpost staffs in the 19 counties. Its two institutes, the State Center for Restoration of Monuments (ÁMRK) and the Institute for the State Care of Monuments (MÁG), have together 150 employees.

During the forty years of socialism the monument protection policy of the State started out from the dominance of the state ownership and the absolute priority of the public interest, though church and private ownership were also significant all the time and the maintenance of monuments has always been the duty of the owners, at their own cost. The State gave increasing, but never sufficient, financial support for restoration. The general state of the monument stock was and is still getting worse and worse, in spite of many successful restoration and town rehabilitation projects.

The amendments to the legal rules and the reorganization of the former Inspectorate in 1991-1992 aimed at meeting the requirements of the social and economic changes beginning in 1989, but these endeavours could succeed only in part. In the years of transition there came also new problems

to solve, brought along by the privatization, the "wild capitalist" behaviour of the new entrepreneurs, the financial shortage of the local self-governments as new owners of lots of monuments, and the decreasing general standard of life.

Today 10-15 per cent of the monuments are owned by the State, 25-30 per cent by the local self-governments, 30-35 per cent by the churches, and 25-30 per cent by private people and companies. In 1997 the state budget allocates 2,000 million forints (11.3 million USD) through the National Board for the Protection of Monuments for monument protection purposes.

From this amount the Board can spend 700 million forints on financing or supporting restoration projects. There are several further state and central funding sources available, but all these sources together fill less than 10 per cent of the national need for the maintenance of monuments. A few local governments support preservation projects, too. However, they are important first of all as owners of monuments, and bearers of the responsibility for town planning and town development.

Under the circumstances I have tried to outline it is of outstanding importance that non-governmental organizations and private sponsors join in the restoration and maintenance of monuments. The joining in has legally been made possible by a series of new laws and amendments of former ones, passed gradually from 1987 on.

The Civil Code [1959: IV. tv.] contains the definition and the rules of *foundations* since 1987; the present version of the respective text was established in 1993 [74/A-G §§]. The Corporation Tax Law [1996: LXXXI. tv.] makes the activities of foundations and public foundations exempt from the tax under certain conditions. The protection of monuments is among the fields of activity favored by the law. In spite of this, there are still very few foundations in Hungary assisting the maintenance of monuments. The most famous of them is the Grassalkovich Palace Public Foundation, established by state institutions, but also receiving local self-government and private money. With the help of this foundation the central part of the largest Hungarian country house, built by the Grassalkovich Family in Gödöllő in the eighteenth century and used as royal summer residence in the late nineteenth and early twentieth centuries, has been restored. It was opened to the general public as a museum in August 1996, but the completion of the project including the whole complex of the palace still needs a couple of years.

The foundations for the restoration and new public use of the Nádasdy Manor House (illustration at page 52) in Nádasdladány and the Károlyi Manor House in Fehérvárcsurgó were established by the families which had held the possession of the manors before World War II, the Nádasdy Foundation in 1991, the József Károlyi Foundation in 1994. Other foundations have been established for the restoration of churches, among others the Synagogue of Szeged and the Calvinist Church of Szikszó. There are already museums working in the form of foundations, too, e.g. the Hungarian Chemical Museum in Várpalota, housed in a castle of medieval origin.

The Personal Income Tax Law [1995: CXVII. tv., latest amendment: 1996: LXXXIII. tv.] allows that 30 per cent of the donations paid to foundations, public foundations or for other public benefit purposes, among others for monument protection, are deducted from the tax. Individual entrepren-

eurs can deduct such donations from their gross incomes, within a limit of 20 per cent of the income. However, these measures will only be efficient if a strong middle class is present in the society, the members of which take it for their duty and can also afford to sponsor monument protection and other cultural or social activities. The low standard of life, the high unemployment rate, the day-to-day struggle for life do not subserve sponsorship.

Last year a new law was passed with the aim of increasing the people's consciousness as citizens and tax-payers, and with the aim of encouragement of foundations and related activities [1996: CXXVI. tv.]. The Law makes it possible that people decide themselves on the public use of one per cent of the personal income tax they pay. The protection of monuments is among the public benefit purposes that can be chosen, and foundations can also be named as remittees. The Law came into force with the tax return of this March, the first results will be evaluated by the end of the year.

*Associations* are legally based upon the Civil Code [1959: IV. tv. 61-64. §§, present text: 1993: XCII. tv. 3. §] and the Law on the Right of Combination and Assembly [1989: II. tv.]. Only a few of them devote themselves especially to the protection of monuments, e.g. the Association of the Friends of the Royal Palace [of Gödöllő] with its more than 100 members.

Much more significant are the town and village protecting associations, which already have a long tradition in Hungary and form a country-wide network with a national federation (*Hungaria Nostra*). They promote monuments and above all local protection in the given settlements by means of voluntary work, dissemination of knowledge, and sometimes by pressure making, too. (The local protection of elements of the immovable cultural heritage is a voluntary activity, undertaken by more and more local self-governments - formerly local councils - since the 1970s. The local protection serves the preservation of such buildings or groups of buildings which do not meet the requirements for being listed as monuments but are important for the given community.)

Though it is not connected with any association, I would like to mention here an event organized by the professional preservationists every year, the Ball to the Benefit of Ill-fated Monuments. The income of the ball is spent each year on the restoration of a minor-sized monument. The third ball of this kind was held on 11 April 1997 and the beneficiary will be a small chapel at Biatorbágy.

*Companies* can play various roles in the protection of monuments. They are not yet significant as endowers, though a few examples for the opposite can also be mentioned. The period of "wild capitalism" that we are passing through is not favourable for such activities. For sponsorship subject to liabilities the other fields of culture (exhibitions, publication of books, films, TV programs, etc.) seem to be much more effective. As owners and users of monuments, the banks and the insurance companies have to be considered first of all. They like to restore historic palaces and town-houses for their offices: a historic central building or branch office forms part of the image of the company. During the 1980s a lot of country houses and mansions were restored for hotels by companies and individual entrepreneurs, due to a government program, but this course has stopped with the stopping of the special state assistance.

The Civil Code also defines a special kind of company: the public benefit company [57. §, established by 1993: XCII.

tv. 3. §]. The public benefit companies are non-profit organizations, and some of their activities - e.g. the protection of monuments - are exempt from the corporation tax. The Royal Palace of Gödöllő Public Benefit Company, being in charge of the Gödöllő Project mentioned twice already, is working in this form, and most recently the Helikon Palace Museum Public Benefit Company in Keszthely, occupying and maintaining one of our most outstanding country houses.

The public benefit company is one of the possible future organizational forms of the aforementioned Institute for the State Care of Monuments which has been established on the model of the *national trusts* working successfully in several countries and of other foreign state or civil institutions with similar duties. The Institute is now maintaining five historic country houses, with the help of a budget coming from the State. Its main ambitions are to enlarge its activity and to draw private capital and the general public into the undertakings.

The legislation and the organization of the protection of monuments in Hungary faces changes again. After eight years of preparation Parliament is just discussing the draft of the new Historic Preservation Act.<sup>2</sup> The bill includes quite a lot of new and progressive elements, among others, the in-

alienability of certain outstanding monuments owned by the State, the special care of historic gardens, cemeteries, underground remains of built structures or fragments of monuments taken to museums, the principles of financing, and the preservation penalty. Nevertheless, I am not quite satisfied with this bill, because it continues to build upon the rights of the State and the duties of the owners, and does not really strive for cooperation and reciprocity. The local self-governments are given less authority than would be necessary, the civil sphere, the non-governmental organizations are not encouraged at all. In other words, the bill seems to protect the monuments more against the people than with them. I am convinced, and the examples of several highly developed countries show, that the monument protection of the future must be built upon cooperation and the unity of interests.

#### Footnotes

- 1 There is a third Hungarian item on the World Cultural Heritage List, too, the building complex of the Benedictine Abbey of Pannonhalma.
- 2 The act was passed on June 10, 1977 and will come into force from January 1, 1998 as 1997: LVI tv.



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## Legal Forms of Sponsorship in Israel

The State of Israel is barely 50 years old. However, the land of Israel has a heritage dating back centuries. The history of the country stretches over a period of some five thousand years. During this time the land of Israel was governed by many different nations, with each one leaving its imprint on the legal system. Due to this extraordinary history, the legal situation in Israel, in any field, is difficult to understand without describing, at least in brief, the "background" of the origins of the legal system. This is especially true when discussing real property laws.

Between the years 1516 to 1917, the land of Israel was part of the Ottoman Empire. The Ottomans legislated the main real property law in 1858. Its main effect was to divide real property into five categories, each one subject to different rules. Such a system was suitable for the primitive agriculture society that was governed by the feudal Ottoman structure of that time.

This law was amended and totally changed in Turkey years ago. It is a historical curiosity that today the only recognizable remains of this law are within the Israeli legal system. The main reason for this is the legal system that existed in Palestine under the British Mandate, between the years 1917-1948. The mandatory legislator left the Ottoman laws "as they were" until and unless changed by new statutes. In some fields new ordinances were legislated, introducing into the legal system "norms" based on the common

law tradition. In 1922, a new ordinance established that any "gap" (lacuna) in the local law would be "filled" by referral to the English legal system. Due to the fact that the Ottoman legislation was not very developed or comprehensive, a substantial amount of legislation was "injected" into the legal system as a result of this ordinance.

In 1948 the State of Israel was declared and the war of independence broke out immediately. The new government had to deal with fending off the attacks on the fledgling country and had little time for legislating. The government did pass one main ordinance. It stated that all the mandatory statutes would stay in effect as long as they did not contradict future Israeli statutes. Therefore, the 1922 mandatory ordinance remained influential on the Israeli legal system for more than 30 years, until the Israeli parliament decided to abolish it in 1980. Even then, the new statute declared that the "gaps" filled in accordance with the 1922 ordinance, i.e. by referral to English Law, would remain so filled.

At the same time, the Israeli parliament was very active in legislating new statutes in all fields. Some of the new statutes enacted were modeled after continental laws. Others followed the common law traditions, while others still were based upon American concepts. In some cases, it is fair to say that the legislator referred to no source other than his own creativity (or imagination).