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**PROTECTION OF CASTLES, PALACES  
AND OTHER GREAT HOUSES AND THEIR LANDSCAPED  
GROUNDS IN THE CZECH LANDS IN 1918–2015  
NATIONALISATION AND RESTITUTION**

Castles, palaces and historic country houses which escaped destruction in war-time make up a special group of historic buildings (alongside sacral buildings) which evoked many emotions when the property restitution process began in the Czech Republic. In Czechoslovakia, changes in property law accompanied political changes, which included nationalisation after WW1 and WW2, implementation of the communist ideology, and privatisation and reprivatisation after 1989. Thus the situation of immovable properties kept changing. The issue of expropriation and restitution needs a wider perspective than just the claims of the former owners. The reason is that there were not only changes in land registries, but also changes in estate design and functions which shaped new concepts of the possible functions of immovable cultural heritage sites and their protection.

The aim of this paper is to review the approaches to the protection and administration of cultural heritage objects after 1918, and to analyse them in a wide context of legal, political, historical and social factors.

LAND REFORMS IN 1919–1939

Monumental, defensive, stately and refined castles and palaces always evoked admiration and respect. In the 19<sup>th</sup> century, their function changed. They retained their residential function, but could also be opened to the public as tourism developed and visiting historic buildings became fashionable. After WW1 and as a result of land reform, numerous castles, palaces and fortresses ceased to serve the aristocracy, and instead became cultural heritage objects and museums (or museums in part).<sup>1</sup> At that time land reforms were introduced in a number of European countries.

<sup>1</sup> In fact, the first castles and palaces were made accessible to the public on the initiative of their owners already at the turn of the 19<sup>th</sup> and 20<sup>th</sup> century. After 1848 Count Jan Jiří Buquoy established a national museum at Rožmberk Castle. In the 1880s, Count Leopold Berchtold and his half-brother Dr

In Czechoslovakia, however, the reform was most radical. There, almost all land was nationalised and the situation of large estate owners changed dramatically. Needless to say, it was they who owned the most impressive, historic great houses.

The goal of the reform was to completely abolish large, private estates and to significantly weaken the position of the aristocracy and gentry, who were mostly of German and Austrian origin. After 1620 (the Battle of Biała Góra) many Czech estates were confiscated and taken over by foreigners – mainly Germans, who were also appointed to high-level posts in the state administration.<sup>2</sup> The German language started to prevail in official usage to the extent that in the 18<sup>th</sup> century the Czech language was no longer used by the administration. Only the Austro-Hungarian Compromise of 1867 changed that. Article 19 of the Basic State Act (*Staatsgrundgesetz*) of 21 December 1867<sup>3</sup> laid down that in schools, offices and public life, all national languages were equal and recognised by the state.

In the 1921 census, as many as 23.4% of the population declared themselves to be German. In 1930, German was the native language of 22.3% of the country's citizens.<sup>4</sup> Aristocratic families constituted the largest part of the German population. Socially, they were despised as supporters of foreign nations, disloyal to the state that had been created out of the ruins of the Habsburg empire. There were slightly fewer than two thousand aristocratic families, and they owned over one-third of the land in independent Czechoslovakia.<sup>5</sup> This situation was opposed by other social classes and the government, which viewed the aristocracy as an enemy of the new political and legal systems. The process of weakening the material standing of the aristocracy and the Catholic Church, which many identified with religious oppression by the Habsburgs, comprised several legal acts passed shortly after WWI. They included abolition of noble titles,<sup>6</sup> the land

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Bedřich Berchtold presented their art collection to the public. Buzov Castle was opened to the public in 1912. See D. Faměrová, J. Holub, M. Kadlec, N. Kubů, P. Wagner, *Metodika průvodcovské činnosti na hradech, zámcích a dalších zpřístupněných památkách*, Prague, 2014.

<sup>2</sup> R. M. Łuczyński, *Szlacheckie i arystokratyczne rezydencje w Sudetach czeskich. Sudety Zachodnie i Środkowe*, Wrocław, 2012, pp. 9–11.

<sup>3</sup> The so-called December Constitution (*Dezemberverfassung*), a set of acts regulating the form of government of the Austrian part of Austria-Hungary and matters common to both parts of the monarchy. *Die neue Gesetzgebung Österreichs*, Band 1, 1868.

<sup>4</sup> P. Majewski, „Niemcy Sudeccy” 1848-1948. *Historia pewnego nacjonalizmu*, Warsaw, 2007, pp. 227–229.

<sup>5</sup> The largest estates belonged to the Schwarzenbergs (248,000 ha) and to the members of the House of Liechtenstein (173,000 ha). The third major land owner was the Church, in particular the Roman Catholic Archdiocese of Olomouc, to which vast woodland belonged. A. Peichlová, *Konfiskační a vyvlastňovací prvek pozemkové reformy v době první republiky*, in: J. Kuklík (ed.), *Konfiskace, pozemkové reformy a vyvlastnění v československých dějinách 20. Století*, Prague 2012, p. 32.

<sup>6</sup> Zákon č. 61/1918 Sb. jímž se zrušují šlechtictví, řády a tituly. Similar laws and regulations were also introduced in countries neighbouring Czechoslovakia. In Poland, a new law was introduced in the 1921 Constitution. Its Article 96 laid down that Poland did not recognise privileges of birth or of estate, or any coats of arms, family or other titles, with the exception of those of learning, office, or profession.

reform<sup>7</sup>, abolition of property entailing<sup>8</sup> and confiscation of the assets of the House of Habsburg-Lorraine.<sup>9</sup>

As a result of the Confiscation Act, many exquisite properties which belonged to members of the House of Habsburg-Lorraine were taken over by the new state without any compensation. Among others, the state took ownership of their great houses in Prague, Brno, Konopiště, Cerekvice and Korompachy. The situation of other property owners was regulated by the Land Control Act of April 1919 (Land Expropriation Law). Its Article 11 laid down that estate owners or their heirs whose property had been confiscated had a right to reclaim a part of the confiscated land. The size of that part was specified in Article 2. It could not exceed 150 hectares of arable land or 250 hectares of non-arable land. If feasible, the former owners could decide which plot they wished to be given back. In some special situations, former owners could get back a larger piece of land, but not exceeding 500 ha. This applied to situations where there was a justified economic need, for instance there was an issue of soil quality, efficient management or issues relevant to the agricultural industry or the common good.<sup>10</sup>

In the case of properties of historic value, it was decided that inheritance was possible and that such plots might not be confiscated even if they exceeded 500 ha. That was later regulated in Article 20 of the Land Allocation Act of 30 January 1920.<sup>11</sup> The objective was the „protection of natural beauty and landscape features and prevention of destruction of natural heritage, both historic and artistic”. That regulation created the basis for protecting complexes consisting of historic buildings and landscape gardens. Already in the 18<sup>th</sup> century new palace designs were extended to include both the building and its natural surrounding (landscape garden), and the immediate surroundings of old palaces were redesigned accordingly. The area of such a garden or park could be as large as several square kilometres, and its landscaping included the introduction of individually designed garden architecture such as glories, gazebos, artificial grottos, and belvederes the size of which was often monumental. If the existence of such a great house and garden unit would have been threatened by parcelling, which would cause land subdivision or loss of the property's high conservation value, the office in charge of land allotment could decide that the aforementioned Article 11 did not apply. That applied to areas

<sup>7</sup> Zákon č. 215/1919 Sb., o zabrání velkého majetku pozemkového.

<sup>8</sup> Zákon č. 179/1924 Sb., o zrušení svěřenectví. Until then fee tail arrangements had been frequent.

<sup>9</sup> Zákon č. 354/1921 Sb. o převzetí statků a majetku, případných podle mírových smluv československému státu. Members of the Habsburg dynasty were considered to be traitors and collaborators and their assets expropriated with no compensation.

<sup>10</sup> On the first land reform see: K. Zeman, *Vývoj vlastnictví k půdě a souvisejících procesů na území ČR od roku 1918 do současné doby*, Prague, 2013.

<sup>11</sup> Zákon č. 81/1920 Sb. kterým se vydávají po rozumu §u 10 zákona ze dne 16. dubna 1919, č. 215 Sb. zák. a nař., ustanovení o přidělu zabrané půdy a upravuje se právní poměr ku přidělené půdě (Zákon přidělový).

where parks, landscape gardens and various elements of landscaping were part of original complex designs (great house and garden) or together formed a cultural heritage object. Such a part of an estate might be exempted from confiscation provided that its owner adhered to the conditions and requirements of the said office, which consulted the relevant ministries. One standard requirement was that such a part of the estate would be made open to the public and to employees of research institutions and cultural and art centres, or serve philanthropic purposes.

The regulations of 1919 and 1920 made it possible for estate owners to keep some valuable cultural heritage objects, but their property rights were limited. Administrative bodies were authorised to intervene in the execution of the previously full property rights of the owners. That, in practice, for the first time enabled the state to protect those heritage objects. It should be noted that in the period of the first Czechoslovak Republic, despite efforts made by the then relevant Ministry of Education, no consolidated law on state protection of heritage objects was introduced. In Slovakia, a Hungarian act of 1881 was adopted but not implemented.

The Czech name of the newly established National Office for Heritage Objects was *Státní památkový úřad*. It was subordinated to the Ministry of Education. The Office could present its suggestions, proposals and directives, as well as provide technical assistance if historic objects needed conservation or restoration, and advise on the funding of such projects. In 1919, two specialised ancillary offices were established: the National Photometric Institute (*Státní ústav fotoměřický*) which produced documentation of cultural heritage objects, and the National Archaeological Institute (*Státní ústav archeologický*). Work on drawing up an act on protection of cultural heritage objects took over 10 years; however, the delivered draft did not meet with political approval and never came into force. The first consolidated act on the protection of cultural heritage was the act of 1958.<sup>12</sup>

According to 1929 data, as a result of the land reform 294 castles and palaces, 41 fortified castles, 124 historic ruined sites, 17 strongholds, 10 fortresses and 52 other historic structures were nationalised, and the majority of them were returned to their owners (235 castles and palaces, 25 fortified castles, 69 historic ruined sites, 7 strongholds, 7 fortresses and 38 other structures). Those which were not returned became state property or were acquired by various purchasers.<sup>13</sup> Since the ownership position and the social, economic and political situation had changed, the worry was whether the owners had the financial means to maintain and properly manage the cultural heritage objects, some of which were large and in need of vast investment.

<sup>12</sup> See P. Štoncner, *Príspevky k dejinám památkové péče v Československé republice v letech 1918-1938. Část 2 - Organizační vývoj jednotlivých památkových úřadů*, in: *Zprávy památkové péče*, 64/4 (2004).

<sup>13</sup> P. Štoncner, *Organizační vývoj státní ochrany památek v letech 1918-1945*, in: I. Maxová, H. Kruisová (eds.), *Péče o architektonické dědictví. Vybrané kapitoly k tématu péče o stavební a umělecké památky. Sborník prací, I. díl. Vývoj a východiska památkové péče, její právní ukotvení a ekonomické přístupy*, Prague, 2008, p. 72.

Most at risk of destruction were historic ruins, the owners of which were often not interested in investing in their conservation and eagerly sold plots that could not be put to profitable use. In that situation the state decided to introduce a regulation enabling the administration to act as an executive authority guaranteeing control over the owners' proper execution of their rights. In short, owners uninterested in conservation were directly supervised by the National Office for Heritage Objects.

Owners' obligations were not laid down as a legal act. They were shaped along with progress in carrying out reform and implementing the discussed regulation. In 1936, the following directives of the National Office for Heritage Objects, approved by the Ministry of Education, were in force:

- castles were to be maintained in good shape and protected against fire; all renovation and adaptation works were to be consulted with and approved by the National Office for Heritage Protection [henceforth NOHP] or its branch in Bratislava; heritage objects were to be open to the public in compliance with regulations issued by the Ministry of Agriculture or NOHP's recommendations agreed with the Ministry of Education;
- ruins were to be preserved in good condition and protected against malicious damage; their possible rebuilding was to be agreed and supervised by NOHP and, if possible, they were to be opened to visitors.

Administrative bodies were authorised to enter heritage objects and inspect whether the directives were respected and implemented. Another directive limited the property rights of owners who received some of their holdings back on the basis of Article 20 of the Act of 30 January 1920. Their reduced plots could not be subdivided. Their owners were obliged to display tourist information and signs. All obligations of owners were to pass to their heirs, and could be amended by the Ministry of Education.<sup>14</sup>

The introduction of the above regulations enabled the state administration to issue binding decisions on the protection of immovable cultural heritage objects. In particular, the administration was authorised to take a property back and allocate it to another person or institution in the situation where the original owner did not respect the directives and regulations. At the same time, owners of cultural heritage objects could apply for state grants to cover repair costs. Conservation and maintenance of heritage objects was very costly. Not only great houses and large landscaped parks needed conservation and maintenance. Care also had to be taken of collections and other possessions. The funding issue was open, although it was made clear that not all expenditure could be covered from the state budget. In practice, however, NOHP had hardly enough money even for the inspections needed.<sup>15</sup>

The implemented reforms and concurrent changes in social, economic and political life profoundly changed the situation of old great houses and their sur-

<sup>14</sup> *Ibidem*, p. 69.

<sup>15</sup> *Ibidem*, pp. 76-80.

roundings, their functions and use. In the time of the first Czechoslovak Republic, many palaces, castles and other cultural heritage objects were opened to the public, whether owned by the state, by local governments or by private owners. There also began the process of buying out immovable heritage objects which their owners were not able to maintain. The purchasers were newly established cooperatives and associations of heritage and history lovers. They did their best to upgrade the acquired objects and make them safely accessible to the public or to put them to other uses. The best-known organisation was the Czechoslovak Tourists' Club (*Klub československých turistů*), which initiated the construction of many hostels and the signposting of tourist trails. In 1924, it already owned 18 castles and historic ruins.<sup>16</sup> The state also became more active. It purchased some great houses located in towns and put them to public use.<sup>17</sup> A perfect example of the latter was the *Černínský Palác* in Prague which, in 1934, was adapted by architect Pavel Janák to serve the Ministry of Foreign Affairs. Before WW2, tens of high-class heritage great houses were opened to the public. They included the former properties of the Schwarzenberg family: castles in Hluboka nad Vltavou, Český Krumlov, Třeboň and Ohrada and other estates in Rožmberk, Jindřichův Hradec, Opočno, Pernštejn, Mnichovo Hradiště, Náchod, Hořovice, and Hrubý Rohozec. The opening of a cultural heritage object to the public was regulated by the Ministry of Education. Its regulations were based on instructions on the visiting of castles opened to the public before WW1. They were a compromise between the owners' private life and museum functions. The regulations covered many things. They identified rooms and spaces to be open to the public, which were mostly halls and rooms used on special occasions and thus not used by the residents daily. The owners had the right to close them to the public temporarily. Sightseeing was guided, and the guide was paid for his work by the property owner. To prevent possible harm to the interiors, some restrictions were introduced; for instance, no sightseeing was allowed on rainy days, overcoats were to be left in cloakrooms, and children admitted were to be over 6 years old. Visits were to have an educational dimension, and those organised by schools and other educational institutions were favoured.<sup>18</sup>

In contrast to other parts of Europe, most historic residences in the Czech lands did not suffer damage in WW2. Some suffered much though, usually due to fire, as in the case of the Karlova Koruna palace in Chlumeck nad Cidlinou. Military action, however, did not cause much damage.

During WW2, historic residences were closed to the public. An exception was Karlštejn Castle, where the most valuable art collections and royal treasures were

<sup>16</sup> See the history of the Czech tourists' club at <http://www.kct.cz/cms/historie-kct> [20.03.2015]

<sup>17</sup> Takeovers of monumental historic castles and putting them to public use began in the 19<sup>th</sup> century; for example, Loket Castle was a state prison until 1948.

<sup>18</sup> D. Faměrová, J. Holub, M. Kadlec, N. Kubů, P. Wagner, *op. cit.*, pp. 30-31.

traditionally kept. Some historic residences served the Third Reich and, again, were used for special events. Valuable works of art were often removed and some have never been returned.

The next profound change took place after WW2. The situation of immovable cultural heritage objects changed as a result of another land reform.

#### THE BENEŠ DECREES AND THE SITUATION OF RESIDENTIAL HERITAGE OBJECTS IN 1945–1989<sup>19</sup>

When the Second World War ended, the situation of historic residences in Czechoslovakia was incomparably better than in other countries, especially in Poland, where military action and the destructive practices of the Red Army had caused much damage. In Czechoslovakia, such buildings did not suffer much. The situation of their owners, however, changed dramatically. This applied mainly to Germans and Hungarians, many of whom were forced to leave Czechoslovakia and their properties confiscated as a result of a policy implemented by the first post-WW2 government of Czechoslovakia. Numerous confiscated heritage objects became state property. The deportation of Germans was part of the Potsdam Agreement of August 1945 signed after the Three Power Conference of Berlin<sup>20</sup> and agreements between countries of eastern Europe.<sup>21</sup> In Czechoslovakia, the policy started to be implemented after President Edvard Beneš returned from exile. He issued special presidential decrees, widely known as the Beneš Decrees. Decree No. 12/1945 had the greatest impact on the future of historic residences. It concerned “the confiscation and expedited allotment of agricultural property of Germans and Hungarians, as well as traitors and enemies of the Czech and Slovak nation”. There was also Decree No. 108/1945 concerning “the confiscation of enemy property and the Fund for National Restoration”.<sup>22</sup> The Slovak National Council, which from 1946 was largely autonomous, also adopted a regulation on confiscation of the property of

<sup>19</sup> Cf. E. Kocowska-Siekierka, *Kwalifikacja zabytków i ich ochrona w Czechosłowacji w latach 1945-1958*, Acta Universitatis Wratislaviensis. Prawo, 316/2, Studia Historycznoprawne, Wrocław, 2014, pp. 229-251.

<sup>20</sup> Part XII of the Conference Protocol was devoted to “the transfer to Germany of German populations [...] remaining in Poland, Czechoslovakia and Hungary”. *Protocol of the Berlin (Potsdam) Conference, August 1, 1945*, The University of Wisconsin Digital Collections, <http://images.library.wisc.edu/History/EFacs/GERRecon/BackgrndDocs/reference/history.backgrnddocs.i0016.pdf> [15.03.2015]

<sup>21</sup> In 1946, Czechoslovakia and Hungary sanctioned the compulsory displacement of 200,000 Hungarians, and the same number of Slovaks were transferred from Hungary to Czechoslovakia. A. Briggs and P. Clavin, *Modern Europe, 1789-1989*, London, 1997.

<sup>22</sup> Dekret presidenta republiky 12/1945 Sb. o konfiskaci a urychleném rozdělení zemědělského majetku Němců, Madarů, jakož i zrádců a nepřátelčeského a slovenského národa ze dne 21. června 1945; Dekret presidenta republiky 108/1945 Sb. O konfiskaci nepřátelského majetku a Fondech národní obnovy ze dne 25. října 1945.

“Germans, Hungarians and traitors of the Slovak nation”.<sup>23</sup> The Decrees and the Slovak regulation resulted in as many as 496 “castles” and “estates” and hundreds of historic buildings in urban and rural areas, especially in border regions, becoming state properties.<sup>24</sup>

Historic buildings which beforehand had been in the hands of the “enemies” were of interest to conservator-restorers and heritage and history lovers even before the property confiscation decree came into force. In border regions, the situation was often tragic because of retaliatory actions and the expulsion of “other” nationals in 1945–1946.<sup>25</sup> Deserted residences were vandalised and robbed. This was part of the social and ideological revenge carried out by the neighbouring population and the army. In the transition period, that is before the new law entered into force and was executed, such violent actions could only be prevented by informed civic actions and actions of low-level (local) administration. The first to appeal to the central authorities to prevent vandalism were academics, who were deeply worried about the likely loss and destruction of valuable cultural heritage objects. On their motion, the new central government established, in April 1945, a specialised Secretariat for Maintaining Records and Protection of Heritage Prints, Manuscripts, Artefacts, Historic Objects and Sites (*Sekretariát pro evidenci a zahranu památek písemných, historických, uměleckých a přírodních*). The activities of the Secretariat were mostly preventive and educational. Sites at risk of robbery were guarded or sealed. Local populations were instructed what to do and what not to do, and people of public standing were encouraged to help. The Secretariat also gathered information on valuable historic buildings and their furnishings, and passed that information to cultural institutions. Unfortunately, the Secretariat shortly ran out of money and was not granted further funding. Thus its activities were short-lived and limited. Its competencies were taken over by the National Office for Heritage Objects (*Státní památkový úřad*).<sup>26</sup>

Historic buildings on expropriated lands were to be put in good order, inventories were to be taken, and administrators appointed so that the sites could still be used and valuable furnishings protected against destruction and robbery. In the first phase of nationalisation, the new land reform regulations established the National Land Fund (*Národní pozemkový fond*) to administer the confiscated estates. In April 1945, the Fund came to be supported by a newly established Department for Heritage Objects which prepared directives for administrators of such sites. Administrators were appointed by national regional committees accountable to the Fund. Their duty was to protect the furnishings, make their inventories and not to admit to the buildings anybody who was not officially authorised by the Fund. The next step was taken

<sup>23</sup> *Nařízení Slovenské Národní Rady ze dne 23. srpna 1945, č. 104 Sb., o konfiskování a urychleném rozdělení zemědělského majetku Němců, Maďarů, jakož i zrádců a nepřátel slovenského národa.*

<sup>24</sup> *Vznik a historický vývoj souboru zpřístupněných hradů a zámků v ČR*, <http://www.npu.cz/pro-navstevniky/zpristupnene-pamatky-npu/hrady-a-zamky/> [20.03.2015]

<sup>25</sup> On retaliatory action and the post-war situation of Germans: P. Majewski, *op. cit.*, pp. 428-456.

<sup>26</sup> K. Uhlikova, *Národní kulturní komise 1947-1951*, Prague, 2004, pp. 20-21.



in August when the Commission for Heritage Objects (*Památková komise*) was created. Its members represented the Ministry of Education, Ministry of Agriculture, National Archive of Land Property and National Planning Bureau. The Commission collaborated with the Fund. Its tasks included making inventories of valuable natural and architectural objects in the confiscated lands (185 castles were identified), examination of their condition, evaluation of their possible new functions as suggested by their administrators, and supervision of administrators' efficiency in taking care of sites whose maintenance was supported by the Department for Heritage Objects.<sup>27</sup>

Under Decree No. 108/1945 issued in September 1945, nationalised assets were passed to Funds for National Revival (*Fondy národní obnovy*). Confiscated immovable properties were to be administered by regional national committees, while movable assets continued to be administered by the Fund, which from April 1946 worked on separating cultural heritage furnishings from objects of lesser value. Cultural heritage furnishings included various works of art (paintings, sculptures, valuable ceramics, precious porcelain, glassware, antiques, valuable stamp collections, jewellery and the like) and objects of various cultural value, that is cultural, historic and/or scientific, regardless of when they were created.<sup>28</sup> The Fund was responsible for them until 1947. Later, they were passed to galleries, art museums, various art collections and to the historic castles, palaces and other great houses where museums were established.

Undertakings initiated by the aforementioned institutions were insufficient to professionally manage and protect the nationalised great houses. There was no parliamentary act on heritage protection, the number of heritage sites was very high, and since they were managed by unqualified bodies and people, there was a danger that they could lose their cultural heritage value and thus there was an urgent need to protect them. This was realised especially by academics and researchers. They proposed to create a new specialised institution with its own budget, which would manage and prepare the most valuable immovable heritage objects to serve new cultural functions. In May 1946, a new parliamentary act was passed and a new system was created. At the Ministry of Education<sup>29</sup>, two National Cultural Commissions for National (State) Cultural Assets (*Národní kulturní komise pro správu státního kulturního majetku*) were created, based in Prague and Bratislava. They were the first stand-alone institutions created to select, protect and conserve the most valuable state-owned cultural heritage objects.<sup>30</sup> The parliamentary act establishing those

<sup>27</sup> *Ibidem*, p. 24.

<sup>28</sup> Vyhláška Osidlovacího úřadu a Fondu národní obnovy 1213/46 Ú.l. ze dne 29.4.1946, jíž se stanoví, jak má býti naloženo s některými movitými věcmi hmotnými z nepřátelského majetku konfiskovaného podle dekretu presidenta republiky ze dne 25. října 1945, č. 108 Sb., o konfiskaci nepřátelského majetku a o Fondech národní obnovy.

<sup>29</sup> From 1948 the Ministry of Education, Science and Arts.

<sup>30</sup> The Commissions took care of both the properties confiscated under Beneš Decrees 12/1945 Sb. and 108/1945 Sb. and the regulation adopted by the Slovak National Council, as well as "other" objects

Commissions<sup>31</sup> laid down, in Article 2, that national (state) cultural assets (*státní kulturní majetek*) referred to „mobile and immobile objects, regardless of their dating, having historic, artistic and scientific value”. This referred by and large to palaces and castles and their furnishings. The National Cultural Commissions appointed by the Minister of Education and his plenipotentiary in Slovakia reviewed and selected objects qualifying for state protection. They ensured professional administration of cultural assets, and took care of their proper maintenance and their suitable use. Upon the consent of the Minister of Culture they could also sell some movable assets. The two Commissions could take decisions to entrust some institutions or specialists with the management of state assets. They could also demand that an institution, body or person release an object classified as a state cultural asset. If such a demand was not met, a person who refused to comply could be imprisoned for a year and fined 1 million koruna.<sup>32</sup>

Thanks to the activities of the National Cultural Commissions care was taken of most valuable great houses, and thus they were saved from becoming plain public facilities or being devastated. As a result of the Commissions' work, 131 properties with their valuable furnishings, parks and other plots, whose total area amounted to almost 3,000 ha were granted the status of national (state) heritage assets. They were selected from 2,500 castles, palaces and other great houses which were then owned by the state.<sup>33</sup> Of those which were not classified as national heritage objects, the Ministry of Education selected another 150 which were not so valuable to be taken care of by the Commissions, but were nevertheless valuable enough to be protected and conserved.<sup>34</sup> Other less valuable properties remained in the hands of regional national committees. Those great houses became seats of regional or local administration or served educational functions. Many were turned into schools, libraries, research facilities, community housing facilities, offices or storage facilities. They were converted to serve their new functions and many alterations were introduced.

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of cultural heritage, that is those which had become properties of the State as a result of reforms introduced in 1918–1938.

<sup>31</sup> Zákon č. 137/1946 Sb., o Narodnich kulturnich komisich pro správu statního kulturního majetku ze dne 16. května 1946.

<sup>32</sup> The Commissions began their activities almost a year after the parliamentary act which created them came into force, because only on 27 January 1947 were their statutes and operations laid down. *Vyhláška ministra školství a osvěty 125/1947* kterou se vydává organizační a jednací řád Národní kulturní komise pro správu státního kulturního majetku v zemi České a v zemi Moravskoslezské v Praze.

<sup>33</sup> *Digitální knihovnam NS RČS 1954-1960 – stenoprotokoly, čtvrtek 17. dubna 1958*, <http://www.psp.cz/eknih/1954ns/stenprot/025schuz/s025007.htm> [20.03.2015]. In 1947, parliamentary acts on the revision of the first land reform and on ownership transfer of the Schwarzenberg family assets in the Czech lands led to another wave of expropriations, and a similarly large number of castles were nationalised and placed under the administration of the Commissions. Zákon č. 142/1947 Sb. o revizi první pozemkové reformy ze dne 11. července 1947, Zákon č. 143/1947 Sb. o převodu majetku hlubocké větve Schwarzenbergů na zem Českou.

<sup>34</sup> K. Uhlikova, *op. cit.*, p. 30.

As a result their original architectural design disappeared, as did their furnishings. Their fate was similar to that of many old great houses in neighbouring communist countries. Around 300 immovable heritage objects were totally destroyed due to the activities of local administration in the 1960s and 1970s, mainly in the border regions.<sup>35</sup>

When preparing immovable cultural heritage objects to be opened to the public, the two Commissions initially followed pre-war ideas for enabling access to properties that had previously been reserved for the upper classes. The most controversial part of the Commissions' work was the way in which exhibitions were set up. Already in the 1960s and 1970s, art historians and conservator-restorers strongly criticised the so-called interior installations (*interiérové instalace*)<sup>36</sup> which involved alterations to the original furnishings. The first such installations, inspired by historicism, had appeared shortly after WWI, and then original elements of the furnishings were used. In the 1940s and 1950s, the installations were aimed at belittling if not erasing obvious traces of the feudal owners of the great houses. Numerous personal memorabilia such as family portraits or family crests and shields were removed, to create impersonal, idealised interiors. Where possible, such installations referred back to the time before 1620 when the country had been a sovereign state. On the other hand, historians and conservators did not object to moving residential furnishings to different locations to create exemplary presentations of specific architectural styles, from the Romanesque and Gothic to 19<sup>th</sup>-century styles.<sup>37</sup> There were two reasons for this approach. The first one was ideological. Especially after 1948, when the communists seized power, cultural heritage objects were re-evaluated, and thus ideas of what was to be protected and how changed radically along with changes in the state's needs and policy. The second reason was more pragmatic and societal. It was the need to protect the exceptionally rich cultural heritage by "perverting the reality". Nevertheless, interior installations designed by the two Commissions prevented the degradation of historic great houses which – if not overseen by the Commissions – would have been adapted to be seats of administration offices or turned into communal housing facilities.<sup>38</sup> Another problematic issue was the opening of historic great houses to the public. It needs to be remembered that at that time, the lower classes perceived palaces and other great houses as symbols of oppression and Germanisation. The Commissions' goal was not to make people interested in the

<sup>35</sup> R. M. Łuczyński, *op. cit.*, p. 20.

<sup>36</sup> N. Kubů, *Hrady a zámky po druhé světové válce*, Zprávy památkové péče, 68/5 (2008), p. 383. Arguments of those who opposed the Commissions' activities and of those who supported them are reported by I. Hlobil, *K teorii interiérové instalace české památkové péče*, in: M. Perůtka (ed.), *Na základech konzervativní teorie české památkové péče. Výbor z textů*, Prague, 2008, pp. 48-50.

<sup>37</sup> For the methods applied to create installations and on the activities of the National Cultural Commissions see: E. Kocowska-Siekierka, *op. cit.*, pp. 238-240.

<sup>38</sup> An illustration of the results of such undertakings is seen in the palaces and other great houses of Lower Silesia, many of which are devastated and devoid of their original furnishings.

life of the former landlords. They tried to transform the great houses into educational sites, to enroot a belief that such places constituted a common national heritage „by teaching people to visit and see newly regained art treasures and educate people about their most outstanding and important values”.<sup>39</sup> Thanks to such undertakings, the likelihood grew that in the future those cultural heritage objects would not suffer degradation.

The two Commissions ceased their work in the early 1950s, when the state protection of cultural heritage objects was reorganised once again. In 1951, the two Commissions' monopoly on cultural heritage administration ended. The Commissions became advisory bodies of the new Ministry of Education, Science and Arts. They ceased to exist on 1 January 1952.<sup>40</sup> For a short while immovable heritage objects were supervised by the Ministry and regional national committees. In 1953, the Office for State Heritage Objects (*Státní Památková Správa*) was created at the Ministry.

In 1958, the first parliamentary act on the protection of cultural heritage was passed. This again changed the situation of castles and other great houses. Their protection and conservation was no longer a priority. They were managed not by specialised bodies but by political ones, that is by the executive bodies of regional, county and town/city national committees (*výkonný orgán národního výboru*). Information and advice were provided by the National Institute for Protection of Nature and Cultural Heritage Objects (*Státní ústav památkové péče a ochrany přírody*), which was subordinated to the Ministry. National committees did not have specialist knowledge and experience related to castles, palaces and other great houses. Furthermore, the rank of such heritage objects was significantly lowered once the new classification of cultural heritage objects was introduced. Only objects classified as outstanding due to their value or location came under statutory protection. The protection of cultural heritage objects classified as the most important national cultural treasures was to be stronger than that of other listed objects. The most important treasures were given the status of National Cultural Heritage Object (*Národní kulturní památka*, henceforth NKP) on a motion of the Minister of Education and National Culture. The NKPs were protected directly by the government and that Ministry. Every intervention in their architectural design and each allocation of space within them had to be approved by the Ministry. The National Institute for Protection of Nature and Cultural Heritage Objects supervised the use of NKPs, establishing whether the standards laid down in the act were respected. The Institute issued its opinions on NKPs' maintenance and on any repairs and alterations to their structure. At that time, several dozen objects were classified as NKPs, including Prague Castle,<sup>41</sup> Kinsky Palace, Karlštejn Castle, Kotnov Castle and Litomyšl Castle.

<sup>39</sup> K. Uhlikova, *op. cit.*, p. 53.

<sup>40</sup> Vládní nařízení č. 112/1951 Sb., o reorganizaci státní památkové péče.

<sup>41</sup> In 1954, the government issued a regulation on the protection of the area of Prague Castle.

Another form of cultural heritage protection was the institution of Heritage Reserve (*Památková rezervace*), i.e. a heritage landscape. It facilitated the introduction of special construction regulations applicable in a specified area with several valuable immovable objects. Heritage Reserves covered a street, a town or city district, a village or even an entire town. The actual area of a Heritage Reserve was designated by the Minister of Education and National Culture upon consulting the Chairperson of the National (State) Committee for Construction, Minister-Chairperson of the State Planning Council, Minister of Finance and other relevant central authorities. The Minister of Education and National Culture was also responsible for specifying the conditions for any construction works within a Heritage Reserve. Prague was covered by a special law, namely Article 4(2) of the aforementioned parliamentary act. It assigned responsibility for the delineation of the Heritage Reserve in Prague and for specifying conditions on construction works there to the Minister of Education and National Culture and Minister-Chairman of the State Planning Council, acting jointly. In 1961–1982, thirty-five Heritage Reserves were created. Many included castles and palaces, for example the 33 urban Heritage Reserves in Prague, Český Krumlov, Jindřichův Hradec, Cheb, Loket, Kadaň, and Litoměřice.

In 1987 the state authorities introduced another significant change to the protection of cultural heritage objects, in the form of a new parliamentary act on the state protection of heritage objects.<sup>42</sup> The objective of the former act had been to gather information and to catalogue the most important national cultural objects. The next step was to introduce more flexible mechanisms simplifying the procedure of decision-making concerning their protection.<sup>43</sup> The most significant proposals included:

- the postulate of equal treatment of all guardians of cultural heritage objects – all of their users, both private and public, were to be assigned uniform duties;
- introduction of sanctions in case a cultural heritage object showed signs of negligence;
- statutory protection only of objects recognised by the Minister of Culture as cultural heritage objects;
- establishment of a cultural heritage protection inspection body to supervise the observance of the parliamentary act by users and owners of immovable cultural heritage objects.

The above proposals became part of the new parliamentary act, and as a result the situation of cultural heritage objects which were not a priority for the administration improved too. This included less known castles, palaces, and historic ruins.

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The protection zone of the castle was delineated. Within that area, all buildings which were not yet state property, and their furnishings, were expropriated. The protection of this area was directly in the hands of the Central Committee of the Capital City of Prague and the area administration was a task of the Office of the President of the Republic. Předpis č. 55/1954 Sb. Vládní nařízení o chráněné oblasti Pražského hradu.

<sup>42</sup> Zákon č. 20/1987 Sb. o státní památkové péči.

<sup>43</sup> J. Varhaník, S. Malý, *Zákon o státní památkové péči. Komentár*, Prague, 2011, p. 26.

## HISTORIC RESIDENCES AFTER 1989 AND THE RESTITUTION ISSUE

The Velvet Revolution and political transformations in Central Europe after 1989 brought about the need to revise old legislation in many domains, including cultural heritage protection. In the Czech Republic, despite many proposals and attempts at drafting a new law on cultural heritage protection that would replace the communist act, no new parliamentary act has been passed. Consequently, the act of 1987 is still in force, and has frequently been amended in questionable ways.<sup>44</sup> The 1987 act and its communist rhetoric gradually ceased to be compatible with the new reality and the processes influencing transformations of legal relations, and thus also with the changes in the situation of cultural heritage objects themselves. The liberalisation and democratisation of all social and political spheres of life and the birth of civic society caused pressure for numerous amendments to the legal regulations still in force. Transformations in the sphere of ownership had a huge impact on the need to adjust old regulations to the new economic situation. Before 1990, 80% of buildings were state-owned, while in 2010 it was only 3%.<sup>45</sup> The gradual restitution of real properties invalidated the communist administrative solutions applicable to the protection of heritage objects.

The first stage of legislative transformation was Act No. 425/1990 Sb, which in 1990 abolished the regional national committees and divided their competencies between the Ministry of Culture and county authorities.<sup>46</sup> The dissolution of regional committees meant that a significant part of the tasks related to the protection of national cultural heritage had to be passed to the Ministry, because the new county authorities had not enough personnel and resources. It took several years before the required instruments and human resources were adjusted to meet the actual protection and conservation needs.<sup>47</sup>

After Czechoslovakia split into its two constituent parts, in Slovakia in 2002 the old parliamentary act was replaced with a new Act No. 49/2002 on Protection of Cultural Heritage Resources.<sup>48</sup> The institutions now responsible for cultur-

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<sup>44</sup> Amendments were introduced in 1992, 1999, 2000 (two), 2001 (two), 2002, 2004, 2005 (three), 2006 (two), 2007, 2008 (two), 2009 (two), 2011, 2012, 2013, and 2014. In 2008 the Ministry of Culture began work on drafting a new parliamentary act on the national fund for the protection of cultural heritage. The draft was presented but not passed as a parliamentary act. The draft is accessible at <http://www.mkcr.cz/cz/kulturni-dedictvi/pamatkovy-fond/legislativa/vecny-zamer-noveho-pamatkoveho-zakona-126465/> [01.04.2015].

<sup>45</sup> J. Štulc, *Transformation of the Heritage Preservation System in the Czech Republic after 1989*, in: J. Purchla (ed.), *Protecting and safeguarding Cultural Heritage. Systems of Management of Cultural Heritage in the Visegrad Countries*, Kraków, 2011, p. 64.

<sup>46</sup> Zákon č. 425/1990 Sb. o okresních úřadech, úpravě jejich působnosti a o některých dalších opatřeních s tím souvisejících.

<sup>47</sup> M. Novotný, *Legislativní vývoj v památkové péči po roce 1989*, in: *Zprávy památkové péče*, 66/3 (2006), p. 246.

<sup>48</sup> Zákon č. 49/2002 Z.z. o ochrane pamiatkového fondu.

al heritage protection are the Ministry of Culture, the Slovak Office for Cultural Heritage Objects (*Pamiatkový úrad Slovenskej Republiky*) and, subordinated to it, the Regional Offices for Cultural Heritage Objects (*Krajské pamiatkové úrady*). No decision has been taken to pass executive responsibilities to local governments. All such competencies belong to the Slovak Office for Cultural Heritage Objects, which is a specialised administrative body.

In the Czech Republic, county authorities were responsible for heritage protection from 1991 until 2002, when a new administrative (territorial) division was introduced. A new system of cultural heritage protection was introduced at the same time. Since then, cultural heritage protection has been a task of the Ministry of Culture and, subordinated to it, the National Cultural Heritage Institute (*Národní památkový ústav*, henceforth NPÚ), which is a specialised research institution referring back to the tradition of the National Institute for Protection of Nature and Cultural Heritage Objects created in 1958. The cultural heritage protection tasks of county authorities have been passed to 14 regional units of NPÚ, which are responsible for cultural heritage protection in their respective regions.

After the new political system was introduced, the scope of international cooperation also changed. In the first 13 years, as many as 12 heritage objects were inscribed on the UNESCO World Heritage List. Seven of them are immovable cultural heritage objects located in Prague, Český Krumlov, Telč, Litomyšl, Lednice, Valtice, and Kroměříž.<sup>49</sup> Events like this have increased the state's interest in extending its heritage protection to other objects, especially those neglected during communist rule. A new register of cultural heritage objects has been produced, which includes new heritage reserves and as many as 60 national cultural heritage objects.

In the difficult years of the transformation, the two main issues in the protection of immovable cultural heritage objects were the quality of management of state-owned properties (to remedy mistakes made in conservation works and exhibition designs under communist rule) and the pressing issue of old owners' claims and ownership changes. Castles and palaces which were not privatised (about 100 properties) and to which restitution did not apply have remained state property and are managed by the National Cultural Heritage Institute (*Národní památkový ústav*). They are open to the public or being prepared to be opened, similarly to other cultural heritage properties like monasteries, churches and industrial heritage sites.<sup>50</sup> The most difficult issue concerns changes in the original interior furnishings. Despite much criticism, the previously mentioned "installations", even in the 1970s and 1980s, oftentimes totally contradicted what today is understood by heritage conservation. Thus today, the issue is to restore the original historic interior designs. This is not an easy task, since many movable objects are now part of art collections in museums and art gal-

<sup>49</sup> UNESCO: <http://www.unesco-czech.cz/unesco-pamatky/>

<sup>50</sup> The cultural heritage registry is accessible online at <http://monumnet.npu.cz/pamfond/hledani.php>.

leries, while others have been moved to other heritage properties, and in the 1990s some were returned to their original owners. Consequently, the restoration of interior designs – based on old photographs and other archive documents – is carried on to the extent that it is possible. Such archive documents are also used to design new exhibitions at great houses which were spared from the “installations”. The common practice is to restore the original historic furnishings. Only if there are no archival documents are “installations” in the mode of historicism permissible.<sup>51</sup>

Privatisation and reprivatisation brought about a profound change to the ownership of cultural heritage properties and to the question of public access to their interiors. In April 1991, the parliamentary Act No. 172/1991 on the Transfer of Certain Assets of the Czech Republic to Communes<sup>52</sup> was passed. Consequently, many rural and urban communes are now the owners of castles and palaces. Those cultural heritage objects have been managed and opened to the public in a manner similar to Valdštejn, Pecka, Humprecht, Svojanov, Slavkov and Loket, or have been sold.<sup>53</sup>

To compensate citizens for material losses suffered as a result of nationalisation processes, new reprivatisation laws<sup>54</sup> were introduced. The most important of them were two parliamentary acts: Act No. 87/1991 on Extrajudicial Exoneration<sup>55</sup> and Act No. 229/1991 on Restitution of Land and Woodland Holdings taken over by the state in 1948–1989<sup>56</sup>. The Act on Extrajudicial Exoneration (Rehabilitation) applied to instances of political repression and social or religious discrimination which resulted in property expropriations between 25 February 1948 and 1 January 1990. It did not apply to the expropriations introduced in the Beneš Decrees or resulting from the 1947 land reform act. The exoneration act entered into force on 1 April 1991. It applied only to citizens who could prove their claims, and the claimants had only six months (from 1 April 1991) to file their claims.<sup>57</sup> The act on the restitution of land and woodland holdings made it possible to reclaim immovable properties which had been nationalised as a result of the 1947 act revising the land reform.<sup>58</sup> Properties lost in 1945–1948 by loyal citizens who were unjustly accused of treason could be

<sup>51</sup> K. Křížová, *Historický interiér*, in: K. Bobek (ed.), *Metodika tvorby interiérových instalací a re-instalací*, Prague, 2011, pp. 32–33.

<sup>52</sup> Zákon č. 172/1991 Sb. o přechodu některých věcí z majetku České republiky do vlastnictví obcí.

<sup>53</sup> *Vznik a historický vývoj souboru zpřístupněných hradů a zámků v ČR*, <http://www.npu.cz/pro-navstevniky/zpristupnene-pamatky-npu/hrady-a-zamky/> [20.03.2015]

<sup>54</sup> More in: J. Kulik, *Restytucja dóbr w prawie czeskim i czechosłowackim w latach 1989 – 2000*, in: G. Czubek, P. Kosiewski (eds.), *Dobra kultury i problemy własności. Doświadczenia Europy Środkowej po 1989 r.*, Warsaw, 2005, pp. 31–38.; *Problematyka reprivatyzacji w wybranych krajach postkomunistycznych. Opracowania Tematyczne OT-597*, Kancelaria Senatu Biuro Analiz i Dokumentacji, Warsaw, 2011.

<sup>55</sup> Zákon č. 87/1991 Sb., o mimosoudních rehabilitacích.

<sup>56</sup> Zákon č. 229/1991 Sb., o úpravě vlastnických vztahů k půdě a jinému zemědělskému majetku.

<sup>57</sup> An important regulation laid down that restitution in kind was not possible in the case of properties recognised as national cultural heritage sites.

<sup>58</sup> Zákon č. 142/1947 Sb., o revizi první pozemkové reformy.



reclaimed thanks to Act No. 243/1992, which regulated some issues raised after the Act No. 229/1991 Sb.<sup>59</sup> In the year 2000, Act No. 212/2000<sup>60</sup> systematised the issue of compensation to victims of the Holocaust for their properties lost in 1938–1945. However, most properties were nationalised as a result of the Beneš Decrees right after WW2, and such properties are not covered by the reprivatization legislation.

Some owners of reprivatized cultural heritage properties decided to make them open to the public. This includes the great houses in Český Sternberk, Jemniště, Orlík, Blatná, Častolovice, Chlumeč nad Cidlinou, Kost, Rychnov nad Kněžnou, and Doudleby nad Orlicí či Boskovice. Some have been closed to the public, such as the great houses in Skalka and Nový Hrad u Vysokého Mýta.<sup>61</sup>

An interesting case is that of the restitution claims of the Schwarzenberg family. That family lost its numerous great houses and estates during the first land reform and as a result of the 1947 parliamentary act referred to above.<sup>62</sup> One of the heirs – Karel Schwarzenberg – moved to the Czech Republic, where he served as Minister of Foreign Affairs and ran as a candidate in the 2013 presidential elections. When he moved to the Czech Republic he regained some of his family properties, which had been confiscated (despite the earlier regulations) only after 25 February 1948. He regained family properties in Orlík, Čimelice, Sedlec and the Schwarzenberský Palace on Voršilské Street in Prague. He has not been able to regain ownership of other family properties, including castles in Hluboké nad Vltavou, Cesky Krumlov, Třeboň, Vimperk, Protivín, and the family palace in Hradčany. Other members of the family have not succeeded in securing their restitution either.<sup>63</sup>

Another interesting dispute concerns the palace in Opočně. The heiress Kristina Colloredo-Mansfeld is seeking to regain its ownership. The dispute has been continuing for 24 years. The property was confiscated in 1942 by the Germans and became state property as a result of the Beneš Decrees in 1946. The heiress's claim includes an argument based on her family's Jewish background. This implies that her family property was confiscated in 1942 not for political but racial reasons. Due to numerous appeals, the court proceedings have not yet been completed.<sup>64</sup>

<sup>59</sup> Zákon č. 243/1992 Sb., kterým se upravují některé otázky související se zákonem č. 229/1991 Sb., o půdě, ve znění zákona č. 93/1992 Sb.

<sup>60</sup> Zákon č. 212/2000 Sb. Zákon o zmírnění některých majetkových krivd způsobených holocaustem a o změně zákona č. 243/1992 Sb., kterým se upravují některé otázky související se zákonem č. 229/1991 Sb., o úpravě vlastnických vztahů k půdě a jinému zemědělskému majetku, ve znění zákona č. 93/1992 Sb., ve znění pozdějších předpisů.

<sup>61</sup> *Vznik a historický vývoj souboru zpřístupněných hradů a zámků v ČR*, <http://www.npu.cz/pro-navstevniky/zpristupnene-pamatky-npu/hrady-a-zamky/> [20.03.2015].

<sup>62</sup> Zákon č. 143/1947 Sb. o převodu majetku hlubocké větve Schwarzenbergů na zem Českou.

<sup>63</sup> K. Hvizďala, *Historie: Karel Schwarzenberg*, [http://neviditelnypes.lidovky.cz/historie-karel-schwarzenberg-d23-p\\_spolecnost.aspx?c=A130121\\_203649\\_p\\_spolecnost\\_wag](http://neviditelnypes.lidovky.cz/historie-karel-schwarzenberg-d23-p_spolecnost.aspx?c=A130121_203649_p_spolecnost_wag) [20.03.2015].

<sup>64</sup> *Spor o navrácení zámku v Opočně se po 23 letech znovu vrací k soudu*, idnes.cz, 18.IX.2014, [http://hradec.idnes.cz/restituce-zamku-opocno-znovu-u-soudu-d8i-/hradec-zpravy.aspx?c=A140318\\_143408\\_hradec-zpravy\\_kvi](http://hradec.idnes.cz/restituce-zamku-opocno-znovu-u-soudu-d8i-/hradec-zpravy.aspx?c=A140318_143408_hradec-zpravy_kvi) [20.03.2015].

Ownership disputes concerning immovable cultural heritage objects nationalised in 1945–1948 are not over either. Some former owners, in the absence of favourable legal regulations, decided to file lawsuits, but their ownership claims were dismissed. Their appeals to the European Court of Human Rights were not successful either.<sup>65</sup> In November 2005, the Czech Constitutional Tribunal ruled that according to the law of the Czech Republic, properties confiscated before 24 February 1948 could not be effectively claimed.<sup>66</sup> Nevertheless, the former owners of such immovable cultural heritage objects are still seeking ways to regain their former properties. They continue to dispute the existing law and undertake new efforts outside the country. For example, they tried to make themselves heard when the Lisbon Treaty was being negotiated, believing that the Treaty's regulations on national minorities could help their claims. Every year the Czech media present and discuss further property claims that absorb public attention. One of the recent sensations involved the claims of the Order of Brothers of the German House of Saint Mary in Jerusalem, commonly known as the Teutonic Order.

Many former owners who regained their property rights, people who have bought cultural heritage properties and other bodies to whom immovable cultural heritage objects belong are now trying to open them to the public voluntarily, for they are not legally obliged to do so. They cooperate with the national agency for historic monuments protection. Also, members of aristocratic families fighting to regain their properties publicly declare that they will make them open to the public. Such a declaration has been made by Kristina Colloredo-Mansfeld, for example. Their cooperation is supported by the Association of Castle Owners (*Asociace majitelů hradů a zámků*). Its members are private owners of palaces, castles and other immovable cultural heritage properties, and their aim is to contribute to the properties' protection and conservation. They try to achieve this aim through cooperation and exchange of experiences related to obtaining financial assistance for the "preservation, repair and maintenance of castles, country houses, gardens and other privately owned historic monuments". They actively cooperate with the state administration and national and international bodies interested in culture, architecture and technologies, and issue publications with information on properties of historic and artistic value and their histories.<sup>67</sup>

The present situation of immovable cultural heritage objects in the Czech Republic is closely related to the democratic changes. Two developments certainly need to be recognised. The first is a positive change in the conservation methods used. Modern standards of heritage protection are applied to conserve outstanding architectural

<sup>65</sup> Karel Schwarzenberg's stepsister Alžběta Pezoldová appealed and regained ownership of the family mausoleum in Třeboň, but not of other disputed properties. See *Zamítutá restituce: případ Adolfa Schwarzenberga*, <http://restitution.cz/cs/historie/dilci-uspech> [20.03.2015]

<sup>66</sup> Ruling of the Constitutional Tribunal, 1 November 2005, ST 21/39 SbNU 493, *Obcházení restitučních předpisů žalobami o určení vlastnického práva podle práva občanského*.

<sup>67</sup> Statutes of *Asociace majitelů hradů a zámků*, <http://amhz.cz/stanovy/>

designs, interiors and landscaped grounds. There is no space for subjective or ideological criteria. The second development is the clash between the owners' rights and administrative intervention in conservation methods and protection measures. In the former system, institutions and bodies responsible for heritage protection supported financially the maintenance of properties which – for ideological reasons – were important to the group in power. The possible input of private entities was ignored, and expropriations took place. On the one hand, this contributed to the relatively strict regulations on cultural heritage protection standards, but on the other, in spite of the wide-ranging protection measures, it led to the degradation and destruction of immovable cultural heritage properties which did not “fit” the current ideology.

In democratic countries it is underlined that cultural heritage protection solely by public institutions limits the rights of property owners profoundly. The reason is that regulations on cultural heritage lay down protection criteria treating owners and users of such properties not as partners but as a threat. Consequently, private interest and economic interest become separated from public interest. For this reason, regulations are gradually adjusted to facilitate more cooperation between the state administration and private entities and to make public authorities use their instruments primarily to advise and support. Obviously, the goodwill of property owners is needed too.

In the case of Czech immovable cultural heritage objects, a majority of the most impressive sites were nationalised and then opened to the public. Despite the initially bad connotations, such properties have become national assets not only from the point of view of the state authorities but also of the people. With the introduction of the restitution law, the new owner acquired ownership rights, but had to respect some obligations. For example, the new owner had to accept that the then occupants of the property (educational institutions, cultural establishments, diplomatic missions, health care providers) were entitled to lease the property for at least 10 years or to acquire the usufruct of the property. The owner was not obligated to make the property open to the public or to maintain the interior “installations”. The practices of some new owners have been good examples of cultural heritage protection. Other owners, however, have closed their properties to the public and sold the original furnishings.

Making property interiors open to the public needs the cooperation of public authorities and property owners. Civic involvement and the activities of culture-oriented bodies like the Association of Castle Owners are also important in that respect. Societal and administrative reluctance to accept restitution claims, especially those of aristocratic families, is largely rooted in concerns about the future of cultural heritage objects. As a result of state administrative actions, the original features of immovable cultural heritage sites have been preserved in most cases and, most importantly, the interiors are open to the public. At present, there is no guarantee that once a transfer of ownership to private entities takes place, the new owners will ensure the same, in spite of promises made. Today, the rules applicable to the restitution of immovable properties of aristocratic families and to the management of cultural heritage sites are an outcome of a societal compromise.

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**Keywords:** Czech Republic, Czechoslovakia, castles and palaces, state protection of cultural heritage, confiscation, restitution

#### ABSTRACT

*The article focuses on the development of various state institutions created to protect historic castles and other great houses in Czechoslovakia and the Czech Republic after 1918, in the context of property confiscation. It describes the transformation of regulations on ownership rights associated with historical and political events, which had a significant influence on the status of great houses: nationalisation after both World Wars, the impact of the communist doctrine, and privatisation and restitution after 1989. The present condition and functioning of the most impressive great houses as places open to the public are outcomes of government policy pursued following expropriations. That policy has had an impact on the modern perception of the functions which historic great houses are expected to perform as a consequence of ownership transfers after 1989. The process of the development of a strategy for the protection and administration of historic great houses launched after 1918 is discussed, presenting its legal and political contexts as well as its historical and social aspects.*