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## **The protection and preservation of heritage assets**



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# The protection and preservation of heritage assets

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The preservation of heritage encompasses the efforts made by society and professionals to preserve historically significant monuments and buildings (heritage assets) that are recognised as valuable. In Germany, ultimate responsibility for the protection, conservation and management of heritage assets is institutionally vested in the federal states, which have official authority over cultural matters. The protection of historic buildings and monuments encompasses activities related to the official enforcement of regulations governing these matters. In an urban development context, heritage preservation involves representing conservation concerns in planning processes at all levels.

# 1 Terms, definitions and institutions

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In everyday usage, the *preservation of heritage assets* refers to all efforts that serve to safeguard the historic buildings, monuments and other structures that are culturally important. In efforts to preserve structures of historical significance, the preservation of heritage is an important part of what is known in Germany as *Baukultur*, i.e. ▷ *High-quality building planning, design and construction*, and of a cultural ecology focused on the protection of cultural diversity. In addition to the institutions established for this purpose, stakeholders in the preservation of heritage assets when understood as a social practice include first and foremost the owners and users of heritage assets, but also experts from various disciplines in the humanities, engineering and natural sciences, and dedicated members of the public who contribute to the preservation of these assets.

German practice distinguishes between the protection of heritage assets through the official enforcement of regulations governing their preservation on the one hand, and the preservation of such assets through maintenance and advisory activities for their upkeep, repair and restoration on the other. Heritage preservation activities also include inventoring, recording and assessing the attributes of heritage assets and communicating preservation concerns, including educational efforts. As defined by German law, heritage assets are any artefacts, structures, monuments or buildings – or ensembles or parts thereof – whose preservation is in the public interest for historical, artistic, scientific, urban development or comparable reasons. This or similar formulations are used in German heritage protection legislation to define the scope of the preservation of heritage assets. Heritage assets are thus designated as such because of the value attributed to them by society, by which certain structures stand out from the bulk of existing (built) structures in a way that makes them worthy of incorporation into the cultural archive.

In Germany, the protection and preservation of heritage assets are legally the competence of the federal states, which have official authority over cultural matters. In some federal states, this is anchored in the constitution and thus explicitly defined as a government responsibility. That was also the case in the Weimar Constitution, which granted equal priority to artistic, historical and natural heritage assets. In contrast to the situation for nature conservation, only the German Democratic Republic had national legislation for the protection of historic buildings and monuments; today all 16 federal states have such legislation. These laws regulate the protection of heritage assets differently, either through a constitutive process by which structures enjoy protection only through an official entry in the list of heritage assets, or according to the principle of a general clause with an indicative register, according to which all structures satisfying the definition of a heritage asset are, *ipso jure*, heritage assets. Such a register has an informational character only. In the first case, the attributes of a heritage asset are defined when it is listed, while in the second case there is merely a general assumption of protected status, and only when a heritage asset is actually in danger are its properties described in an administrative act.

According to the laws on heritage protection, their enforcement is the responsibility of the heritage protection authorities, which are organised on two or three levels. The lower tier of heritage protection authorities are part of the lower administrative authorities at district and urban district level; they are responsible for enforcing the legal protection of heritage assets at those levels. There are special arrangements for some aspects of the protection of ecclesiastical heritage when the church building authorities also act as lower-tier heritage protection authorities;

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there are similar arrangements for the large state foundations for castles and palaces. The upper tier of heritage protection authorities are (where they exist) usually at the regional government level; this upper tier oversees the lower-tier heritage protection authorities and adjudicates appeals. The highest heritage protection authority is the responsible ministry, which also oversees subordinate heritage authorities, namely the federal state offices for the preservation of heritage assets and archaeology, whose lead officer for the preservation of architectural heritage holds the title of State Conservator. Due to their inventorying role, the state offices are the expert bodies that define which entities constitute heritage assets; in this capacity, they are also responsible for advising and supporting the owners of heritage assets. In addition, they are responsible for the increasingly important fields of communicating the importance of heritage assets and public outreach. They are also involved in applications for planning permission under heritage preservation law in contexts where their consent is legally required for permission to be granted, or (increasingly) as a statutory consultee.

The German federal government promotes the preservation of cultural monuments as a cultural policy objective through tax law, > *Urban development promotion* and funding programmes benefiting UNESCO World Heritage sites. At the federal level, the German National Committee for the Protection of Heritage Assets (*Deutsche Nationalkomitee für Denkmalschutz, DNK*), which was founded in 1973 on the occasion of the European Year of the Conservation of Historic Monuments, also coordinates the activities of the federal government, federal heritage preservation institutions, sectoral organisations, associations and foundations. Of the sectoral organisations, the International Council on Monuments and Sites (ICOMOS), founded in 1965, is worthy of mention as an association of relevant experts. One responsibility of its German national committee is > *Monitoring* Germany's UNESCO World Heritage sites (> *World Heritage site, natural World Heritage site*). Also worthy of mention as a major promoter of projects for the conservation of heritage assets and a broad-based advocate for the cause of heritage preservation is the *Deutsche Stiftung Denkmalschutz*, a private non-profit foundation founded in 1985 that rapidly became the most important non-governmental heritage conservation institution in Germany.

## 2 The history of heritage preservation

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Efforts to preserve buildings and sites considered to have a special value can be traced back to early advanced civilisations in antiquity. A typical case from the transitional period in late Roman antiquity is an entire body of imperial regulations regarding the protection of temples that had become redundant due to Christianisation but remained of aesthetic importance to the city. However, the preservation of heritage as a government endeavour and institution only properly began with the French Revolution, and its development is closely linked with that of the modern nation state, a connection that has once again become clear during the reorganisation of the post-communist states since 1989. A key text for the early period of heritage preservation in Germany is Karl Friedrich Schinkel's 1815 memorandum on the subject, though his appeal for a dedicated specialist authority for this purpose only gained acceptance after his death (Huse 2006: 70). Schinkel also recognised the importance and impact of ensembles of urban structures as visible evidence of the historical development of cities. In the first decade of the 20th century, this served as a starting point for the proponents of modern heritage preservation, who turned away from the

historicist principle of stylistic purity, emphasised the current interest in monuments, and called for them to be conserved with the marks left on them by history. The notion of the value that monuments accrue owing to their age came to the fore in the theory of monument preservation developed by the Viennese art historian Alois Riegl (Huse 2006: 131). The development of these principles of heritage preservation in the early 20th century was accompanied by a growing interest in the city (▷ *City, town*) and in groups of urban structures as monuments. In 1908 Georg Dehio, who initiated the *Handbuch der deutschen Kunstdenkmäler* (Handbook of German Art Monuments), remarked about Rothenburg ob der Tauber: ‘The city as a whole is a monument’ (Dehio 1908: 436). In those years, the importance of urban layouts as both a historical source and record worthy of protection was recognised, and mapping was soon used as a method and resource in heritage studies. Cornelius Gurlitt, an architect, preservation advocate and professor in Dresden, dedicated a chapter to the preservation of historic city centres in his *Handbuch des Städtebaus* (Handbook of Urban Planning and Development), which he wrote before the First World War (cf. Gurlitt 1920). The strengthening of heritage preservation and its more pronounced orientation toward the city was reprised in the 1970s, which is referred to as the decade of heritage preservation and was marked by a renewed turn towards the idea of the ▷ *European city*. In the preceding decade, international criticism of the functionalist reconstruction of cities had grown, and a search for alternatives to urban renewal began. France played a leading role with its 1962 *Loi Malraux*, which established a means of designating *secteurs sauvegardés* as zones of preferred urbanisation; among others, the Marais district in Paris was rescued in this way. In 1966 the Association of German Cities called for urban layouts, groups of buildings and uniformly designed districts to be preserved in the same way as individual monuments. 1970 saw the first use of the German term *städtebauliche Denkmalpflege*, meaning heritage preservation in the context of urban development. In the decade that followed, the German Democratic Republic and all federal states in the Federal Republic of Germany enacted heritage protection laws, which usually also set out the significance of a structure within the historical urban development context as a possible justification for its designation as a monument. At the same time, amendments to the Federal Building Law (*Bundesbaugesetz, BBauG*) also enabled the German government to promote the preservation of urban structures within the framework of urban development programmes. This new interest in the city as a focus of heritage preservation peaked in 1975 with the European Architectural Heritage Year; the Amsterdam Declaration adopted at its final congress proclaimed the preservation of architectural heritage to be ‘one of the major objectives of urban and regional planning’ (Council of Europe 1975).

Supplementary to the Venice Charter in which the basic principles of heritage preservation were set down in 1964 but which only mentioned urban development aspects in the context of protecting a monument’s setting, in 1987 ICOMOS adopted the Washington Charter as an international convention on heritage preservation in historic cities (cf. ICOMOS 1965, 1987, 2012). It explicitly calls for the integration of heritage preservation aspects in ▷ *Urban planning*, points out the social and economic aspects of preserving historic cities, and urges public involvement in heritage preservation and planning processes. The latter is underscored in the 2011 Valletta Principles for the Safeguarding and Management of Historic Cities, Towns and Urban Areas, which attach great importance to aspects of preservation in times of change (cf. ICOMOS 2011). Of late, the buzzword ‘change management’ has gained currency, particularly in international debates about heritage preservation, and is sometimes touted as an alternative to conservation, which can

never be fully attained. However, the Vienna Memorandum (World Heritage and Contemporary Architecture – Managing the Historic Urban Landscape; cf. UNESCO 2005) and the transformations it facilitated in Vienna illustrate the problems that can arise in urban development when preservation efforts attempt to anticipate the compromises that need to be worked out among different social interests as part of the ▷ *Weighing of interests*.

### 3 Inventories

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Exact information about individual heritage assets and sound justifications for the value placed on them provide the foundation for heritage preservation. Ideally, this involves a complete inventory of the buildings and structures in question in a certain area, which is why the development of topographically structured inventories of heritage assets began as early as the 19th century. The first volume of German inventory was published in 1870, the *Baudenkmäler im Königreich Preußen* (Monuments in the Kingdom of Prussia) for the Kassel government region (cf. von Dehn-Rotfelser/Lotz 1870). In the decades that followed, work began in most of the empire's provinces on recording inventories of their architectural and artistic monuments by area, which were published in volumes by region. For example, Saxony completed its inventory with 41 volumes of *Beschreibenden Darstellung der älteren Bau- und Kunstdenkmäler des Königreichs Sachsen* (Description of the Older Architectural and Artistic Monuments in the Kingdom of Saxony) published between 1882 and 1923 and written by Gurlitt from volume 16 onward (cf. Gurlitt 1894). In line with the 19th-century understanding of heritage assets, the inventories of that period had a strong focus on ecclesiastical and royal architecture. The scope of the volumes grew steadily due to detailed information about the buildings, growing expectations and changed perspectives, and especially the constantly broadening range of structures which were deemed to qualify as heritage assets. As a result, the time required to compile them increased to the extent that in recent years only a few such large-scale or foundational inventories have been completed, and most federal states have discontinued this form of inventorisation. In 1978 the Standing Conference of the Ministers of Education and Cultural Affairs decided to issue registers of heritage assets in the federal states which were topographically structured and as standardised as possible. Since 1981 more than 140 such registers have been published by all federal states except Mecklenburg-Western Pomerania and Saxony-Anhalt. They list all the heritage assets in a city or district in alphabetical order by address, with topographical maps and a brief description and illustration of each. The topographical registers are not only a valuable tool for heritage preservation, construction planning and urban planning but also an effective and appreciated way for the owners of heritage assets and the interested public to learn about local heritage. Recently this role has increasingly been assumed by online registers accessible through the websites of the heritage conservation agencies in several cities and federal states. Lastly, the volumes in the Dehio handbook provide an indispensable informal overview (with no claim to completeness) that is periodically updated and also arranged by federal state; the series currently comprises 24 volumes. Its approach and name have also been adopted in Austria (14 volumes) and more recently in Poland.

## 4 Heritage preservation in the context of urban development

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The preservation of urban heritage assets is of special importance in urban and spatial development. This relates to the structures deemed worthy of preservation on all scales across the board – groups of buildings, urban structures, cities and parts thereof, villages and cultural landscapes – as well as to the methods used for this purpose. For the purpose of inventoring heritage assets, these methods include spatial-analytical approaches involving cultural geography in particular; in terms of actual activities, heritage preservation involves representing conservation concerns in planning processes at all levels. Involvement in planning processes as early as possible is crucial to successful cooperation between urban heritage preservation and urban and spatial development. Taking preventive action is important in this regard so that the value of heritage assets on urban sites is recorded and described at an early stage. Another informal planning instrument is the heritage preservation plan, which as a rule can be issued by local authorities on the basis of heritage protection laws; such plans show how efforts to preserve heritage assets can contribute to *Urban development planning*.

Analogous to the distinction made above, often a distinction is also made in urban development terms between urban heritage preservation and urban heritage protection. The former includes all instruments and measures that aid the preservation of historically evolved urban and village structures in the context of *Urban development*; the latter includes the sections of building legislation that serve this purpose, the measures of the identically-named federal state programmes, and the relevant regulations of heritage protection law (Martin/Krautzberger 2010).

A characteristic of urban heritage protection is that it relies not only on heritage laws and the protection they grant to groups of structures and the settings of cultural monuments but also on the relevant sections of German federal law. In the Federal Building Code (*Baugesetzbuch, BauGB*) the initial passages defining *Urban land-use planning* explicitly specify concerns relating to high-quality building planning, design and construction; the protection and preservation of historic buildings and monuments; boroughs, streets and squares worthy of preservation; and the appearance of landscapes and cityscapes (section 1(6) no. 5 of the Federal Building Code). This is made more specific in the provision that the majority of built structures protected under the laws of the federal states must be incorporated into *Preparatory land-use plans* (section 5(4) of the Federal Building Code). The Federal Building Code also explicitly mentions concerns about the protection of heritage assets in connection with regeneration bye-laws (section 136(4) no. 4) and urban development promotion (section 164b). A further important instrument for the protection of heritage assets in the context of urban development is preservation bye-laws, which according to section 172(1) sentence 1 no. 1 of the Federal Building Code can be enacted by local authorities to preserve an area's urban character and design. Building regulations in the federal states permit further municipal planning instruments such as design bye-laws, which can be of relevance to heritage preservation even though heritage preservation is neither theoretically nor legally considered a vehicle for design or beautification.

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Another relevant federal law is the Federal Spatial Planning Act (*Raumordnungsgesetz, ROG*), which touches on aspects of urban heritage preservation; section 2(2) no. 5 sentence 2 states that historically shaped cultural landscapes are to be preserved with their defining features and cultural monuments. This means that environmental assessments (> *Environmental assessment*) must also evaluate the impact on cultural assets (section 9(1) no. 3 of the Federal Spatial Planning Act). However, the meaning and scope of historically shaped > *Cultural landscapes* are not defined in the Federal Spatial Planning Act, so it remains unclear whether the historic urban landscape approach, which has been the subject of increasing discussion in recent years and was promoted by UNESCO in a 2011 recommendation, will also be taken into account.

The protection of urban heritage gained more visibility and publicity through a 1991 funding programme launched by the federal and state governments with the aim of saving the inner cities of the new federal states, which at the time of German reunification were seriously threatened by deterioration. With funding of over EUR 4 billion, this goal was largely reached in 178 cities by 2008. The programme was expanded to the old federal states in 2009, where over 100 cities have since received funding.

## 5 The preservation of archaeological heritage and buried cultural assets

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Due to increased encroachment on the historical subsoil in both urban and cultural landscapes, the preservation of archaeological heritage is also relevant within urban and spatial development. In principle, the same laws apply to buried cultural monuments as to visible ones. In Thuringia and North Rhine-Westphalia, the laws also apply to palaeontological evidence. Given their fundamentally similar legal mandate, the authorities for archaeology and for the preservation of historic buildings and monuments are combined in a single agency in several federal states. Differences arise not only due to different traditions and methods within these fields but also due to the specific kinds of threats. Buried cultural monuments generally come to public attention when they are discovered, which is more often the result of construction projects than of planned scientific investigations. But this means they are highly endangered, and their exploration often goes hand in hand with their destruction. Early assessments are thus important for cultural and scientific reasons as well as for the reliable planning of construction projects. Recently developed non-destructive prospecting methods, which provide information about subsoil structures without encroaching into the soil, are becoming increasingly important. Based on the information they provide, plans can be revised or areas can be defined where digging is to be banned.

## 6 Heritage preservation in an international context

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As noted, the preservation of heritage assets is closely linked to the nation state both institutionally and due to the objects with which it is concerned and their importance for heritage and identity construction. Goethe advocated the idea that great art belongs to all of humankind, and the English art critic John Ruskin was making international efforts to preserve vernacular



architecture as early as the mid-19th century. One of the first efforts of international cooperation by professionals to harmonise their principles of action for heritage preservation is documented in the Athens Charter of 1931 (cf. ICOMOS 2012), which underwent further revision leading to the 1964 Venice Charter, a guideline that is still valid today (cf. ICOMOS 1965). At the supranational level, ICOMOS advises UNESCO (which was founded after the Second World War), which in turn is best known for the World Heritage Convention adopted in 1972 (cf. UNESCO 1972). At the European level, both the Council of Europe and the *European Union* (article 167 of the Treaty on the Functioning of the European Union) are active in the protection of cultural heritage. With its 2005 adoption of the Faro Convention on the Value of Cultural Heritage for Society, the Council of Europe explicitly responded to the increasing differentiation of society and of the groups participating in its architectural heritage by presenting the first European convention to focus on the stakeholders rather than the objects of preservation (cf. Council of Europe 2005). This corresponds to international trends in which notions of heritage and authenticity that differ from the traditional European conceptions are becoming established as a result of globalisation. An example of this is the Burra Charter, originally developed for Australia but now widespread internationally, which refers not to monuments but instead to sites, which links it to urban heritage preservation (cf. Australia ICOMOS 2013). The key role the charter and its annexes assign to the participatory process in recovering heritage assets and in all following decisions is a significant factor in the current evolution of heritage preservation.

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