

Nomination of  
The **GREAT**  
*SPAS of Europe*



for inclusion on the  
**World Heritage**  
List

Volume II: Implementation

## 5.c Means of implementing protective measures

All component parts of the nominated property have well-established systems and procedures of implementing protective measures which are based on the legislation in force and effectively protect the mineral springs, urban form, built structures and landscapes from potential adverse effects including development pressures or improper building or landscaping activities. As well as measures for protection of individual monuments, it is important to recognise the role of urban planning generally in protecting these complex urban assemblages as a whole.

Generally, the implementation of legal provisions defining the protection and conservation of cultural and natural monuments is executed at various levels in individual states parties, from central institutions to regional and local authorities, but as a whole all these systems ensure an adequate protection. Below, the means of implementing protective measures are summarized for each state party and/or component part, explaining how the national, regional and local authorities are organized and what are their rights and duties.

It is essential also to note the role played by beneficial ownership in the protection of a World Heritage property. Ownership of a property or of key attributes of Outstanding Universal Value by public or charitable bodies or Non-Governmental Organisations (NGO) can be a very proactive force for good management. With one exception (*Baden bei Wien* where public/ charitable ownership is only 26%), at least half (or just under) of all property within each component is owned by public or charitable bodies. In some components the proportion is around 90%. These holdings tend to include key attributes of Outstanding Universal Value, such as the springs themselves and major public buildings and facilities such as pump rooms, and large areas of the spa landscape. This ownership should contribute strongly to their good management and maintenance.

Please note that because of the number of components and the amount of data for each, this section summarises information. For fuller details, it is necessary to check from the documents listed here and attached in Section 7.b.

### 5.c.1 Implementation of protective measures in each component

#### 1. *Baden bei Wien*

#### AUSTRIA

The administration of *Baden bei Wien* is subject to both federal and regional legislation. Consequently, decisions on renovation or construction of buildings, or whether an area should be used privately, commercially or agriculturally, have to be in accordance both with federal and provincial laws while being administered by federal, provincial and municipal authorities following their own rules. If an official decision with an adverse effect on the protection of Baden was to be adopted at any one of these levels (a scenario that is highly unlikely as official policy generally pursues a strategy of conservation), a very high level of protection would still continue to be applied since changes generally require approvals from several different authorities.

As several authorities can be involved through different legal sources (e.g. the renovation of a building which is registered under national monuments protection), these authorities have to participate in the administrative procedure (e.g. the City's Construction and

Maintenance Office / *Baudirektion* of the municipality for all aspects covered under the Building Code and the Austrian Monuments Authority/ *Bundesdenkmalamt* for all issues covered under the Monuments Protection Act).

However, despite differing responsibilities, issues, and authorities, the procedural regulations remain the same, as in all cases the “General Administrative Procedure Act 1991” – AVG (*Allgemeines Verwaltungsverfahrensgesetz 1991 – AVG*, BGBl no. 51/1991) applies. This Code stipulates the responsibilities of authorities, the rights and obligations of parties and other involved persons, the communication between authorities and persons involved, the right of inspection of files, deadlines, penalties, investigation procedures, interpretation and translation, status of experts, decision-making procedure, legal remedies and carrying of costs.

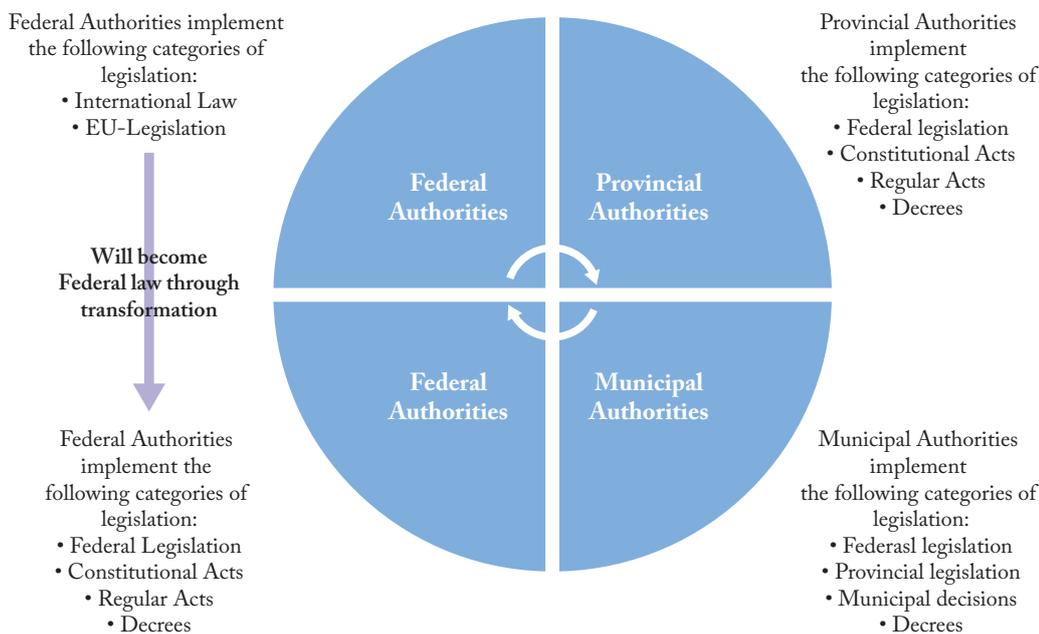


Fig 24: Matrix of legislation and implementing authorities in the federal system of Austria:

Due to the federal structure of Austria, the responsibilities for legislation and implementation are divided between the federal state (Republic of Austria), its nine Provinces and some 2100 municipalities (2098 incl. Vienna, which is a Province as well). Consequently, the federal state, provinces and municipalities do not only create different legislation, but implement these regulations through the different authorities.

With regard to *Baden bei Wien*, the responsibility regarding the following issues lies with the following authorities:

Issue	Task, “Outcome”, Legal Basis	Responsible Authority
Springs and water sources	Decree concerning protection areas and sanctuaries (WRG 1959)	Governor of Lower Austria
	Recognition of mineral springs, spa towns, issuing of operating permit, quality control of spas (Therapeutic Bath and Spa Town Act of Lower Austria)	Governor of Lower Austria

Spatial Planning	Regional Spatial Planning: regional spatial planning programmes and development concepts (ROG 2014)	Governor of Lower Austria
	Local spatial planning: local spatial planning programme, area designation plan, protection zones (ROG 2014), construction plan (NÖ BO 2014)	Municipality
Nature Protection	Designation of protected areas (like Natura 2000-areas, Landscape Protection Areas, nature parks, natural monuments, as well as national parks) (NSchG 2000)	Governor of Lower Austria
Construction, renovation of buildings	All technical and legal matters, issuing of construction permit (NÖ BO 2014)	Municipality
	In case building is registered under monuments protection: issuing of a permit to modify monument (DMSG)	Federal Monuments Protection Authority

## Springs and water sources

The protection of springs and water sources involves federal- and provincial legislation. The protection of mineral springs and of therapeutic moors is regulated in para 37 of the Water Rights Act (Wasserrechtsgesetz 1959, WRG 1959). The Governor may declare by decree protection areas and sanctuaries for the protection of therapeutic wells. A decree for the springs in *Baden bei Wien* is under preparation.

While the federal regulation covers only the protection of mineral springs and of therapeutic moors, the “Therapeutic Bath and Spa Town Act of Lower Austria” (Niederösterreichisches Heilvorkommen- und Kurortegesetz, Nö. LGBl no. 7600) provides more detailed regulations. The official recognition of mineral wells (para 3) and of spa towns (para 8) as well as the permission by the authorities to exploit these springs (para 6) goes in hand with the quality control of the spas by the Office of the Government of Lower Austria. Apart from this permit, spas require an operating approval (para 11). For the operation of thermal springs a comprehensive analysis has to be submitted to the authorities every twentieth year, a control analysis every fifth year (para 15). *Baden bei Wien* has been recognised as a Spa Town by the decree of the Government of Lower Austria on 11 November 1969 (ref. no. VII/3-447/4-1969). This recognition refers to “climatic spa” as well as to “thermal spa”. With regard to the therapeutic wells, on the basis of paras 2 and 3 of the “Therapeutic Bath and Spa Town Act”, the Government of Lower Austria recognised the wells: Marien-, Peregrini-, Johannes- and Ferdinands-, Römer-, Josefs-, Leopold-, Frauenbad-Karolinenquelle, Mariazellerhof- and Josefsquelle as mineral springs.

## Spatial Planning

According to Art. 118 (3), sub-para 9, Federal Constitution (*Bundes-Verfassungsgesetz*) B-VG and of paras 13-28, NÖ ROG 2014, local town planning is decided and managed by the municipality. More detailed regulations and procedures are provided in the Spatial Planning Act of Lower Austria 2014 (NÖ Raumordnungsgesetz 2014 / NÖ ROG 2014, Nö. LGBl no. 3/2015).

Local spatial planning has to coordinate planning activities of public and private stakeholders which refer to spatial-related issues. The aim is to identify appropriate solutions to harmonise these planning activities with the higher-ranking development goals and to integrate them with the local development plans. These plans together with the area designation plans constitute local development frameworks, covering inventories of nature, landscape, inventories of buildings, economic installations and traffic, report about the strategic environmental assessment, and the development concept (optional).

Decisions about area-designations must be based on structural and cultural issues, townscape and visual aspects of cultural landscape (with special emphasis on the historic and artistic areas). Furthermore, the compatibility of the designation with the plan has to be assured (“Spatial Heritage Impact Assessment”).

Municipalities are entitled (however not obliged) to draft (a) Construction Plan(s) (*Bebauungsplan*) These plans provide instructions (sometimes of technical nature) for the construction of buildings and for site development. Aspects of the visual appearance of the town-centres (§56 NÖ BO 2014) and of the natural environment, either for the whole area of the municipality or only for certain parts have to be taken into consideration (para 29 sub-para 1 and 2 NÖ ROG).

The *Baudirektion* (the City’s Construction and Maintenance Office) is responsible for the implementation of the Building Code and related issues. The Baudirektion - after completion of the appropriate legal procedure - issues permits for re-construction, demolition and renovation of buildings within the area of *Baden bei Wien*. It keeps also the records and supervises the state of conservation. It provides technical and legal expertise regarding issuing of legislation on municipal level. Moreover, the Baudirektion is responsible for the maintenance of the municipal roads.

## Protection of buildings and monuments

According to Article 10 sub-para 1 (13) Constitutional Act (*Bundes-Verfassungsgesetz*, B-VG), legislation for the conservation of monuments and its implementation is the responsibility of the federal government and is implemented directly by the federal authorities the Austrian Monuments Authority (*Bundesdenkmalamt*, BDA) and the Austrian State Archives.

Consequently, due to the different responsibilities (municipality: construction, modification and demolition of buildings; as stipulated in the Building Code of Lower Austria 2014; federal level: monuments protection; as stipulated in the Monuments Protection Act), modification (or even demolition) of protected buildings requires application of two parallel procedures each with its own permit.

The Monuments Protection Act provides various tools. The most important ones under monument conservation law relevant to *Baden bei Wien* include the possibility of listing

monuments and the requirement of approval by the relevant authority for their destruction, modification and sale. The authorities also need to issue a notice of decision to delist a structure as a monument. Even if a monument is destroyed (either unlawfully or by *force majeure*) or modified, it continues to be listed. The Federal Monuments Authority must likewise determine by notice of decision whether ensembles or collections have lost their significance and no longer merit protection. In all cases, the authorities need to become active whenever a monument is to be delisted.

## **Disclosure and notification requirements**

The owners of monuments must notify the Federal Monuments Protection Authority of any damage or defects suffered by monuments and the reasons for their occurrence. More generally, not only the owners of monuments but everyone is required to disclose to the Federal Monuments Authority any information required to identify, find, register, control and protect monuments and to enable the viewing and inspection of the monuments. Administrative fines can be imposed for breaches of the requirements for disclosure and notification.

## **Incentives**

While the owners of monuments are obliged not to let monuments fall into disrepair, they are not required to perform active monument conservation, since, according to the Austrian Supreme Court, this runs counter to the principle of protection for private property as guaranteed under constitutional law. However, owners can be motivated by use of grants to maintain and repair monuments. The Federal Monuments Protection Authority can allocate grants for the safeguarding, i.e. the conservation, of monuments and as compensation for added expenses incurred by monument conservation efforts. A monuments fund administered by the Federal Chancellery ensures the funding of the incentives. The fund is earmarked for financial support activities and comes from donations, proceeds from events, and punitive fines. There is no entitlement to receive financial support (for the amount of funds provided see Chapter 5.f).

## **Preventive orders**

The Monuments Protection Act grants the authorities the option of issuing preventive orders for the implementation of safeguarding measures and prohibitions to prevent adverse effects on monuments. Where there is a risk of monuments being unlawfully destroyed, modified or otherwise damaged, the district administrative authority is authorised to issue ordinances and decisions at the request of the Federal Monuments Protection Authority.

## **Authorising the destruction, modification and sale of listed monuments**

The destruction and modification of listed structures is generally prohibited and their sale and exposure to strain require official approval. Prohibited modifications of monuments (and therefore requiring approval) are changes that might affect their continued existence, traditional appearance or artistic effect. According to case law, the mere placement of an advertising flag is considered a modification.

Destructions and modifications are only permitted if approved by the Federal Monuments Protection Authority. Such approval should only be given in exceptional

cases and following a strict policy of weighing legally protected interests. Whereas the procedure for listing a monument can be instigated *ex officio*, destructions and modifications require the submission of an application specifying the rationale for the envisaged modification and/or destruction. The authorities must weigh all reasons provided by the applicant against the public interest in conserving the monument.

According to the Federal Act on the Conservation of Monuments, destruction means not only the actual destruction of structures protected as monuments (although this cannot be precluded if individual parts of the structure remain intact), but also failure to carry out reasonable and necessary maintenance work with the intention of allowing destruction through decay and collapse. The proprietor is required to perform such maintenance (“active conservation”) only if it can be deemed to be economically reasonable. With respect to ensembles, the destruction of a structure that is not listed as monument but forms part of a listed ensemble qualifies as a modification.

### **Penal provisions**

Where destructions or modifications have been undertaken without approval, the Federal Act on the Conservation of Monuments provides for a variety of sanctions and the option of commissioning restoration work. Either administrative fines, as set forth by the Federal Act on the Conservation of Monuments, or judiciary penalties, as set forth by the Austrian Penal Code (StGB), can be imposed. Stricter judiciary threats of punishment take precedence over less stringent punitive and administrative fines. Administrative fines can amount up to EUR 50,800.

## **2. Spa**

## **BELGIUM**

### **Implementing protective measures – properties included in the World Heritage List**

Overall, management is the responsibility of the Walloon Government, which adopts the laws and regulations. Their implementation is entrusted to the various Directorates-General of the Walloon Public Service. Special provisions for Walloon sites included in the World Heritage List were adopted by the Decree of 11 April 2014 relating to the provisions for the heritage.

The basis of territorial management is the sector plan that determines the urbanisable and non-urbanisable areas, authorized acts and activities. The delegated officials of the Operational Directorate General for Regional Planning, Housing, Heritage and Energy, appointed by the Walloon Government, are responsible for issuing authorisations and derogations on a given part of Walloon territory. They are therefore responsible for ensuring consistency in the application of the various legislations in the territory assigned to them. When a project requires both an environmental and an urban planning authorisation, there is a single permit procedure that takes into account both components.

Wallonia has decided not to adopt specific landscape legislation but to develop management based on the implementation of existing legislative and regulatory tools.

These provisions make management plans mandatory for all property included or proposed for inclusion in the World Heritage List. This is a global approach to the site

and its various components and to the initiatives and challenges it faces. It focuses on dialogue and cooperation between the various players involved in the site management. The Walloon Heritage Agency (Agence wallonne du Patrimoine – AWAP) coordinates management plans for Walloon sites included in the World Heritage List or proposed for inclusion in this list. Further information on the Management Plan and its related structures can be found in Chapter 5e, Property Management Plan. The management structures provide platforms for dialogue and coherence between the actions implemented by the various public and private actors. They are upstream of the procedures specific to classified properties.

### **Implementing protective measures – Wallonia exceptional heritage**

A specific procedure exists to grant planning permission for all property included in the list of Wallonia exceptional heritage. The competent authority for this is the Walloon Region Delegated Official (Art. D.IV.22 of the CoDT). In addition, all property, monuments and sites must obtain a heritage certificate prior to submitting all relevant planning applications. The means described below apply also to properties included in the list of exceptional heritage.

### **Implementing protective measures – classified property**

Any act or work in the Walloon Region likely to alter the appearance, the materials of the property or the features that justified the protection of a classified property requires consent. This is granted following a combined procedure by the Department of Heritage and the Royal Commission for Monuments, Sites and Excavations. There are several focal points in the conservation of classified property. Some apply to all categories of property and others exclusively to monuments.

### **Regulatory focus of sites and monuments**

Classified property may not be restored or altered without permission. This takes the form of planning permission granted after consultation with the Department of Heritage and the Royal Commission of Monuments, Sites and Excavations. The competent authority can either be the Walloon Region Official Delegate or the Collège communal (municipal authority), but in the latter case planning permission is granted with the assent of the Walloon Region Official Delegate (Art. D.1V.17 of the CoDT).

The Code du Patrimoine (Heritage Code) bans the total demolition of a classified property except when it presents a hazard to public safety. Partial demolition is permitted under two conditions: the demolition does not affect the features which motivated the classification and is a Government-approved project.

The designation orders of classified property can set conditions specific to each property to limit or control the permitted activities and work on the property.

### **Monument-specific means**

#### **Technical focus**

Classified monuments require constant servicing, maintenance or restoration to ensure their integrated conservation. A health status sheet must be drawn up and updated every five years. This regulatory provision makes regular monitoring of the property mandatory.

When restoration work must be carried out on a classified monument, a heritage certificate is required prior to the application for planning permission. The heritage certificate assists the owner and his designer to prepare the restoration project. The certificate is issued after a consultation procedure between the owner, the architect, the municipal authorities, the specialists of the Royal Commission for Monuments, Sites and Excavations, the representatives of the Walloon Heritage Agency (Agence wallonne du Patrimoine – AWAP) and all departments involved, in order to decide on an intervention programme and the most appropriate techniques and materials. All these stakeholders form the Support Committee in order to prepare the authorisation application dossier for restoration work on classified monument.

The Walloon Heritage Agency (Agence wallonne du Patrimoine – AWAP) processes and monitors heritage certificates, by organising this Support Committee. In this context, the opinion of experts or highly-specialised studies intended to guide the choices by the Support Committee can be sought. For the monuments, the representatives of the Walloon Heritage Agency (Agence wallonne du Patrimoine – AWAP) also supervise the specifications and monitor the works. The contractors must provide certain guarantees regarding their technical and financial ability to respond to the calls to tender for the restoration of classified monuments.

### **Financial focus**

The Walloon Region provides for financial aids to support the restoration, in the broadest sense, of classified monuments. Restoration of property classified as a monument can be subsidised by the Walloon Region according to base rates of between 40% and 55%, which may be increased in certain conditions depending on whether the monument is just classified or is classified as exceptional heritage. The Walloon Heritage Agency (Agence wallonne du Patrimoine – AWAP) manages, schedules and controls the granting of subsidies for this work. It also supports owners in the steps of applying for a restoration subsidy.

### **3. *Františkovy Lázně***

### **4. *Karlovy Vary***

### **5. *Mariánské Lázně***

Implementation of protective measures for springs and water sources, heritage protection, urban and country planning, and landscape conservation is based on the legislation of the Czech Republic. Therefore, the same principles and processes apply in all three Czech components.

### **Protection of springs and water sources**

The protection of natural healing resources and spas in the towns of *Františkovy Lázně*, *Karlovy Vary* and *Mariánské Lázně* is the responsibility of the Ministry of Health through the Czech Spa Inspectorate (CSI).

The Inspectorate (CSI) fulfils among others, the following tasks:

- Sets standards for the use of natural healing resources;
- Sets standards for the determination of the protection zones of natural mineral springs;

CZECH  
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- issues certificates of sources of natural mineral water
- manages the registry of natural healing resources and sources of natural mineral water, the registry of users of these resources, the registry of protection zones of natural healing resources, and the registry of natural health spas and spa locations;
- conceptually resolves the further development of natural healing resources, sources of natural mineral water and natural healing spas;
- establishes the Reference Laboratory of Natural Healing Resources;
- issues binding opinions on activities possibly affecting the natural healing resources; it participates in preparation of spatial development policies and spatial planning documentation, and in land use management in the protection zones of the healing resources and in the territory of the spa locations;
- issues a certificate of professional competence for the supervision of the use and protection of natural healing resources and sources of natural mineral water

The Reference Laboratory analyses mineral waters, gas and peloids and assesses and controls their properties. It monitors the impact of human activities on their quality and stability.

The town of *Karlovy Vary* has established the Management of Natural Healing Resources and Colonnades (MNHRaC) for the administration, usage, protection, maintenance and measuring of springs, which continues the tradition of the former Spring Office (see chapter 2.b History). MNHRaC administers four colonnades ('Vřídelní' – Hot spring, Mill, Market, and Park colonnade) and further outflows of springs (for example Park Spring pavilion, Štěpánka's Spring or Iron Spring).

## **Protection of historic heritage buildings and special areas**

Conservation of tangible historic heritage has a long tradition in the Czech Republic. National regulations and principles for their implementation are coordinated with international documents. Implementation of the provisions for the protection and conservation of cultural properties is executed at various levels, from central to regional and local authorities.

## **Ministry of Culture of the Czech Republic**

The Ministry of Culture of the Czech Republic is the supreme executive body of state monuments conservation, and the body of appeal against decisions of regional authorities. The Ministry prepares departmental conceptual measures and assigns financial means for restoration of historical monuments from central resources (see Chapter 5.f). It declares objects as cultural monuments, applies its opinion on landscape planning for the area of any property inscribed on the World Heritage List and is a competent body to negotiate any proposals on measures of a general nature under which plans for protection of historical reserves and zones are issued.

The Ministry of Culture also executes, through its specialized control body, the Monument Inspection as, central supervision over the Heritage Conservation Act and its implementation.

### *National Heritage Institute*

The professional guarantor of the state conservation care in the Czech Republic is the National Heritage Institute (NPU), which is the biggest funded organization of the Ministry of Culture. The institute has several organisational units, which are involved in the care of the nominated serial property as the follows:

#### *National Heritage Institute, Directorate General in Prague*

The Directorate General cares for evidence, and for documentation of the tangible cultural heritage of the Czech Republic of the Czech Republic. Its professionals and specialists cooperate closely with the specialised regional offices, and also provide specialized services for the public (technological laboratory, digitalisation centre etc.). Staff of a specific unit of the Directorate General together with the Ministry of Culture take part in the co-operation of the Czech Republic with the World Heritage Centre. They manage the national monitoring of World Heritage properties and provide reports for the Ministry of Culture, and organize activities concerning UNESCO Periodic Reporting (see chapter 6). The Directorate General takes part in European Union cultural heritage programmes, and provides professional co-operation or representation of conservation care in the Czech Republic internationally.

The National Heritage Institute is directly responsible for the management and maintenance of numerous series of important heritage properties that are open to the public, and also for presentation and promotion of monuments and heritage values to the public. The Directorate General also prepares methodological materials and provides education courses in the field of care of cultural heritage (see chapter 5.j).

#### **The National Heritage Institute, Regional Office in Loket**

The office prepares all specialised materials for binding opinions on repairs, conservation and restoration of cultural heritage properties in the *Karlovy Vary* Region. That means that it is a relevant professional body for all three Czech components. Based on written opinions of the Regional Office, the executive bodies of the state administration dealing with cultural heritage conservation issue their binding decisions. The three so-called first instance authorities for the nominated components are the Department of Cultural Heritage Preservation of the Municipal Office of the town of *Karlovy Vary* (for the *Karlovy Vary* component); the Department of Cultural Heritage Preservation of the Municipal Office of the town of *Mariánské Lázně* (for the *Mariánské Lázně* component), and the Department of Cultural Heritage Preservation of the Municipal Office of the town of *Cheb* (for the *Františkovy Lázně* component).

#### **Regional authority of the *Karlovy Vary* Region**

The executive authority for state conservation care is the Regional Authority of the *Karlovy Vary* Region. It issues, by request or on its own initiative, binding opinions and provides other materials for procedures administered by administrative offices other than the authorities of the state conservation care. At the same time it supervises the renovation of national cultural monuments on the territory of this region. It is therefore

the main decision-making body for several iconic buildings, (the Imperial Spa and the Virgin Mary Church in *Karlovy Vary* and the Colonnade in *Mariánské Lázně*) within the nominated property:. Further, the Regional Authority provides methodical support for heritage conservation and preservation in the *Karlovy Vary* region to the first instance executive bodies of the state administration. It administers the financial support provided from its regional budget. After consultation with the Ministry of Culture, it processes projects and approves plans (long-term, medium-term and executive) and programmes of conservation and restoration of cultural monuments in the region. Within the regional authority, the the Department of Culture, Heritage Conservation, Spas and Tourism is responsible for conservation.

### **Municipalities with extended powers**

The first-instance executive authority of state conservation care is the municipal office of the municipality with extended powers. Within its delegated powers, it carries out administration in accordance with the concept of development of the state conservation care of the Czech Republic. The municipal office of the municipality with extended power secures prerequisites for the complete care of cultural monuments and properties, which are not declared cultural monuments, if they are located in an Urban Heritage Reserve, Urban Heritage Zone or Protected Zone. It issues, as the relevant authority, by request or on its own initiative, a binding opinion and provides other materials for procedures administered by administrative offices other than the authorities of the state conservation care and according to the special legal regulations. It supervises the renovation of cultural monuments and construction, alterations to buildings, landscaping, placing and removing facilities, removing buildings or maintenance works on properties, which are not cultural monuments, but are located in a monument reservation, monuments zone or protected zone (§17) in terms of the state conservation care.

### **Applying the Heritage Preservation Act**

The provisions of the Heritage Preservation Act apply throughout the whole of the component parts. The Act covers properties which have been declared national cultural monuments or cultural monuments as well as the whole areas which have been declared Urban Heritage Zones or Urban Heritage Reserves which is the case of all three Czech components. The Act defines the rights and liabilities of owners of cultural monuments and owners of properties located in Urban Heritage Zones and Urban Heritage Reserves. It defines the roles and competencies of administrative authorities, the relation to the building offices decisions, and defines the roles and responsibilities of the National Heritage Institute. The Act also specifies the rights and liabilities of municipalities and other physical and legal entities and organisations of the state administration. The Act enables sanctions in case of non-fulfilment or breach of individual liabilities and provisions of the Act.

According to the Act, responsibility for the condition of the immovable cultural heritage is divided between property owners and the authorities of the state administration, which issue binding opinions on the repairs and restoration of cultural properties and any building alterations of properties located in the conservation areas. In addition to that, if necessary, they can directly order/enact the owners of cultural monuments to carry out measures for their protection. All this is relevant to the three Czech component parts. The following bodies are responsible for monument protection and maintenance:

## **1. Owners and custodians of cultural monuments in component parts and their buffer zones**

According to §9 of the Heritage Preservation Act the owner of a cultural monument shall, amongst others, care for its preservation at his own expense, maintain it in good condition and protect it against any danger, damage, impairment or theft. He may use the cultural monument only in ways corresponding to its cultural and political importance, historic and/or artistic value and technical condition.

According to §12 of the Act the owner of a cultural monument shall report any danger or damage to the cultural monument to a municipal office of the municipality with extended competences and in the case of a national cultural monument, to the relevant Regional Office and ask for a decision how to remedy the problem. The owner of a cultural monument shall also report in advance each intended change in use of the cultural monument to the municipal office of the municipality with extended competences and in case of a national cultural monument, to the relevant Regional Office.

## **2. Owners and custodians of all properties**

Liabilities during renovation of properties are specified in §14, article 2 of the Heritage Preservation Act. An owner or a custodian or a user of a property which is not a cultural monument, but is located in an Urban Heritage Reserve or other types of protected heritage areas, must request a binding opinion from the municipal office of the municipality with extended powers before starting planned construction, alterations to a building, landscaping, placement or removal of a facility, removal of a building, altering trees and shrubs or maintenance work on such a property, if this liability is not excluded according to the law (§ 6a, § 17). The binding opinion should state whether the intended work is admissible from the point of view of heritage care, and stipulate the basic conditions under which the work should be prepared and carried out. All these strict requirements apply to the whole areas of the three Czech components. Such conditions must be based on the current state of knowledge of the cultural value, which it is necessary to preserve. During the proceedings, the National Heritage Institute provides the necessary materials, information and professional help. The Institute will process, to each finished level of documentation, a written opinion as a basis for the binding opinion of the heritage care executive authority.

### **Implementing the spatial planning legislation**

The powers in the cases of the town and country planning are executed, pursuant to the Building Act, by the authorities of municipalities and administrative regions, the Ministry for Regional Development (and by the Ministry of Defence in the territory of the military areas).

The authorities of the municipality and administrative region deal with the cases of town and country planning pursuant to the Building Act under delegated powers, if the law does not stipulate that the case is decided by the municipal or regional council.

The municipal authorities ensure the protection and development of the values of the area of the municipality, if powers in the cases of supra local importance have not been delegated to the regional authorities or under the basis of special regulations to the respective authorities.

The regional authorities ensure the protection and development of the values of the area of the region, and they may intervene in the activities of the municipal authorities only in cases stipulated by the law and in cases of supra local importance; they proceed in coordination with the authorities of the municipalities.

The Ministry for Regional Development may interfere in the powers of the administrative regions and municipalities only in cases stipulated by the law and in cases referring to the development of the country's territory; it proceeds in coordination with the authorities of the regions and the respective municipalities.

The municipalities and administrative regions are obliged to monitor continuously the implementation of the planning documentation and assess its conformity to the Building Act. If it decides to alter the conditions under which the planning documentation was issued, they are must amend accordingly the appropriate planning documentation.

### **Protection of the spa landscape, including protection of natural heritage**

Public administration in relation to nature and landscape conservation, according to Act No. 114/1992 on Nature and Landscape Conservation (as amended), is exercised by the nature conservation authorities. These are the municipal offices, commissioned municipal offices, municipal offices with extended remit, district offices, the administrative offices of the national parks and protected landscape areas, the Czech Environmental Inspectorate, the Ministry of the Environment and, possibly, the Ministry of Defence.

Public administration in specially protected areas is carried out by the Agency for Nature and Landscape Conservation as an organisational unit of the State, guided by the Ministry for Environmental Protection. The agency, among other things, prepares plans for the management of the conservation areas assigned to it, oversees the realisation of protective measures, processes documentation for the zoning systems of the ecological stability of the landscape of supra-regional significance across the entire territory of the Czech Republic. The agency is competent for the implementation of NATURA 2000 - a European network of protected areas. Detailed legal provisions on the protection of specially protected areas and their protected zones are set out in the Act on Nature and Landscape Conservation. This legislation particularly concerns the nature of agriculture on plots of land, building activity (e.g. the construction of new buildings or the building of roads and paths) as well as the use of the area (e.g. by campers or collectors of natural produce). Compliance with the contents of the legal provisions and decisions concerning nature and landscape conservation is monitored by the Czech Environmental Protection Inspectorate.

The *Karlovy Vary* and *Mariánské Lázně* components are parts of the extensive Slavkovský les Protected Landscape Area, a category of the landscape protection administered by the executive bodies of landscape and nature protection under the Ministry of Environment. The administration of the Slavkovský les Protected Landscape Area has one department in *Karlovy Vary* and one in *Mariánské Lázně*. Especially protected is the surface shaping of the landscape and all phenomena of mineral springs and natural healing resources.

*Karlovy Vary* has compiled a local territorial system of ecological stability of the area (USES), which has been integrated into the urban plan. In total there are 52 habitat corridors and 47 wildlife populations established on the town's area. Most significant are extensive spa forests with an abundance of promenade paths, and also parks and gardens. Overall the town's area has convenient territorial prerequisites and conditions for

preserving the natural values of the area, quality of landscape and individual parts of the environment.

## 6. *Vichy*

## FRANCE

The principal legal protection measures are implemented by the State and the Municipality of *Vichy*, which work closely together to provide for the restoration of monuments and public spaces and to supervise private initiatives with the joint objective of heritage presentation.

### **Natural mineral waters (NMW)**

The protection of the natural mineral waters, however, is the sole responsibility of the State. The use of an NMW for therapeutic purposes in a spa establishment is subject to authorization by the Prefect, after examination of the request by the Agence Régionale de Santé (ARS) (Regional health authority). Before a ruling is given, various opinions are taken: the opinion of an approved hydrogeologist and the opinion of the Conseil Départemental de l'Environnement et des Risques Sanitaires et Technologiques (CODERST) (Departmental council for the environment and health and technological risks). In addition, the Académie Nationale de Médecine (national academy of medicine) is consulted by the ministry with responsibility for health for any new request to use an NMW for therapeutic purposes in a spa establishment or any new request for a therapeutic application.

In order to protect NMW declared of public interest, in application of the Code de la Santé Publique (public health code), the following easements apply to the whole territory of the municipality of *Vichy*:

- no drilling or underground works may be carried out within the protection zone of a spring of natural mineral water declared of public interest without the prior authorization of the Ministry of Health. "Underground works" shall be taken to mean any operation or excavation exceeding 5 metres in depth;
- as regards archaeological digs, trenches for the extraction of minerals or any other purpose, foundations of houses, cellars or other open-air works, the owner is required, at least one month in advance, to make a declaration to the Prefect, who will acknowledge receipt.

As regards control of the quality of spa waters, once the exploitation of the NMW has been authorized, the Agence Régionale de Santé (ARS) (Regional health authority) is responsible for verifying the quality of the water from the health point of view. To this end, it sets up a programme of analyses (at the source of the spring and at the points of use) and conducts site inspections in order to ensure that legal and regulatory requirements with regard to the safety of the NMW are met. The methods employed in this programme of analyses are defined at national level by the decree of 22 October 2013 relating to health inspection and monitoring of bottled waters and natural mineral waters used for therapeutic purposes in a spa establishment or sold in public refreshment outlets.

## Historic Monuments

The Ministry of Culture is the guarantor of the conservation of buildings protected under the heading of the Heritage Code. It is represented locally by the Direction Régionale des Affaires Culturelles (D.R.A.C.) (regional directorate of cultural affairs) for Auvergne-Rhône-Alpes, and the Unité Départementale de l'Architecture et du patrimoine de l'Allier (Allier Departmental Architecture and Heritage Unit), which is responsible for supervision of the Outstanding Heritage Site and for routine maintenance and repairs. Various artists and craftsmen are then involved in technical restoration operations (works on historic monuments are entrusted to approved specialist enterprises).

All restoration works undertaken on properties of the State are under the management of the head architect for historic monuments. The management of State-owned spa heritage is entrusted to the Compagnie de *Vichy*, which carries out routine maintenance using either its own teams of technicians or external service providers. Maintenance works are then under the responsibility of the executive management of the Compagnie de *Vichy*. An inspection visit is organized every three years to assess the management and state of conservation of the spa heritage, involving the State, the Municipality of *Vichy*, the Community of Greater *Vichy*, the Compagnie de *Vichy*.

The municipal services, on their side, carry out the general maintenance of the public domain, monuments and buildings owned by the town. In the framework of the management agreements, the Municipality of *Vichy* also carries out the maintenance of certain State properties, such as the Allier parks (Napoleon III and Kennedy), the Bourins and Célestins parks and the banks of the Allier;

When a residential building is listed as a Historic Monument, all works liable to alter it are subject to prior authorization by the Minister of Culture or his representative (in the Region, the D.R.A.C.– Conservation Régionale des Monuments Historiques (C.R.M.H.) (Regional conservation of historic monuments)). Such a residential building cannot be transferred or sold without informing the Minister for Culture or his representative. Any changes to residential buildings situated within a radius of 500 metres of the zone of visibility of a listed monument is subject to authorization by the architect of Bâtiments de France (Buildings of France). All restoration works undertaken are under the management of the head architect for historic monuments, as are all restoration works undertaken on properties of the State.

From 1 October 2007, construction or works envisaged on residential buildings registered under the heading of historic monuments have required a building or demolition permit. Such permits may not be issued without the approval of the D.R.A.C. (Art. L.621-27 of the Heritage Code). Furthermore, the administration has a right of review on all residential buildings situated within a radius of 500 metres around a monument if they are visible from, or at the same time as, the monument. All these works are subject to authorization by the Architect of Bâtiments de France (Buildings of France).

### ***Recent developments following the enactment of the LCAP law***

However, with regard to the protection of the surroundings of historic monuments, the LCAP law of 7 July 2016 stipulates that, on the recommendation of the architect of Bâtiments de France, the automatic limits of 500 metres around historic monuments should be progressively replaced by boundaries of the surrounding areas corresponding more closely to reality and conditions on the ground. The “co-visibility” rule will no

longer be applicable within the boundaries laid down for the surroundings, which will be entirely protected. In the absence of defined boundaries, the automatic radius of 500 metres around the monument will be entirely retained, together with the “co-visibility” rule.

### ***Financing***

The State participates in the financing of works in a proportion that varies according to the status of the building (up to 20% for a registered residential building or 40% for a listed building). These subsidies make it possible to guarantee a certain level of quality in the execution of operations, with the rules relating to heritage restoration strictly observed.

The D. R. A. C., via the C. R. M. H., funds a proportion of the cost of annual restoration or maintenance works carried out on listed historic monuments. It receives advice from the different entities of the Inspection Générale des Monuments Historiques (I. G. M. H.), part of the Ministry of Culture, on requests for authorization of works on historic monuments.

### ***Natural Sites***

Decisions on listing or registration consist of a simple declaration of recognition of the heritage value of the zone concerned. They do not include regulations such as those applicable to nature reserves, but activate specific supervisory procedures on activities liable to affect the property.

Any alteration to the state or appearance of a listed site is subject to special authorisation, either by the Prefect, or by the minister responsible for sites after consultation with the Commission Départementale de la Nature, des Paysages et des Sites (CDNPS) (Departmental Commission of Sites, Landscapes and Nature), prior to the issue of common-law authorizations.

For a registered site, requests for authorization of works liable to affect the zone are submitted to the Architect of Bâtiments de France, who issues a simple opinion except in the case of demolition works, which are subject to assent.

### ***Outstanding Heritage Sites***

The consent of the Architect of Bâtiments de France is obligatory for works situated within the boundaries of Outstanding Heritage Sites (and the surroundings of historic monuments) which are liable to alter the state of the exterior parts of built or non-built property, or of certain architectural or decorative elements situated in the interior of such a property when this is protected by a rescue and presentation plan (Art. L.632-1 of the Heritage Code). The Architect of Bâtiments de France checks that each project complies with the regulations regarding an Outstanding Heritage Site. Any change in appearance requires his consent. In the event of disagreement, the Prefect of the Region, after advice from the Commission Régionale du Patrimoine et de l'Architecture (Regional heritage and architecture commission), issues a notice which replaces that of the Architect of Bâtiments de France.

The Architect of Bâtiments de France may also propose and assist with setting the boundaries of the surroundings of historic monuments.

The LCAP law of 7 July 2016 stipulates that listing as Outstanding Heritage Sites entails the use of mediation and citizen participation mechanisms. In particular, these constitute a means of heightening the awareness of the population, project backers or users of the enhancement of the quality of life and the preservation of the heritage. The law also stipulates that the Prefect of the Region should bring the provisions of the management plan for the property to the notice of the competent planning authorities in order to ensure its protection and presentation.

The preservation and maintenance of cultural monuments as matters of public interest are anchored in a number of federal laws. Among these are the Federal Building Code (Baugesetzbuch, BauGB), the Federal Spatial Planning Act (Raumordnungsgesetz, ROG), the Federal Environmental Impact Assessment Act (Umweltverträglichkeitsprüfungsgesetz, UVPG), the Federal Nature Conservation Act (BNatSchG), the Federal Forest Act (Bundeswaldgesetz, BWaldG), the Act to Protect German Cultural Property against Removal (Gesetz zum Schutz des deutschen Kulturgutes gegen Abwanderung, KultgSchG).

Monument conservation interests are not only legally binding when a construction permit-application touches monument protection laws alone, but also when the statutory provisions defined in other national or Land laws are affected. In this respect, all the individual state laws for the protection of cultural heritage have similar provisions, calling for the approval of the appropriate cultural heritage protection authority for a project to proceed. The regulatory authority responsible for issuing the permit ensures that the cultural heritage protection authority is heard.

The implementation of preparatory and binding urban land-use plans must be in accordance with the Federal Building Code. Decisions on the permissibility of development projects in accordance with Sections 31 and 33 to 35 of the Federal Building Code are taken within a building control procedure by the building permit authority in accordance with the municipality. Of particular significance for the protection of cultural heritage are Article 4 BauGB and Article 1 paragraph 6, No. 1 BauGB. According to Article 4 BauGB, monument protection authorities have to be included during the deployment of land-use plans as public agencies. It is further stated in Article 1 paragraph 6, No. 1 BauGB that during deployment of the urban land-use plans, the following interests should be taken into consideration regarding structures that are worthy of preservation: building culture, protection of cultural monuments and cultural heritage, valued city districts, streets and squares that are of historical, artistic or municipal building significance, and formation of the village and landscape character.

## 7. *Bad Ems*

### **Springs and water sources**

The thermal springs are regularly inspected under scientific supervision.

### **Spatial Planning**

In *Bad Ems* 30% (24.1 ha) of the area of the nominated World Heritage site are regulated with development plans (Bebauungspläne) of the municipality of *Bad Ems*, in the buffer zone the percentage is 34% (63 ha). The whole property and buffer zone lie within the area of the land-use-plan (Flächennutzungsplan) of the association of the municipalities of *Bad Ems*.

## Protection of historic monuments

The principal tools for implementing the protective measures in regard to historic monuments are the listing of individual structures or ensembles as cultural monuments and, in accordance with the state monument protection law, the designation of conservation areas. In the case of development projects involving, or in close proximity to, protected historical buildings, monuments or conservation areas, the lower monument protection authorities at the regional or municipal administration are in charge. In cases where no agreement with the competent authority (monument protection departments/ State Conservation Office) can be reached, the Higher Monument Protection Authority (Generaldirektion Kulturelles Erbe) must be called in.

The decision on listing a building as a cultural monument rests with the Lower Monument Protection Authority (Kreisverwaltung Rhein-Lahn: Local Government Rhein-Lahn) (in consultation with the expert authority (Denkmalfachbehörde). In case of dissent, the Upper Monument Protection Authority is consulted.

According to the Monument Protection Law, the protection of immovable cultural monuments is established by the presence of the legal prerequisites of § 3 Denkmalschutzgesetz (DSchG) alone, and inscription on the list of monuments (§ 10 DSchG) is for informational purposes. In addition, there are monument zones; these include building complexes, characteristic streetscapes and townscapes, and characteristic street plans, as well as historical parks, gardens and cemeteries (§ 5 DSchG). Owners of monuments have an obligation to make every reasonable effort to maintain and conserve them (§2 Abs. 1 DSchG)). In the case of trees lining roads, the responsibility for their care and maintenance rests with the entities in charge of maintaining the roads (Straßenbaulastträger). In the case of historical cemeteries, cemetery law and regulations must be observed.

Any demolition, destruction, conversion, alteration of its appearance, or removal from its location, of a protected cultural monument is subject to approval according to §13 DSchG. The appearance of a monument encompasses all visible parts including the interior. Exterior cleaning that does not otherwise alter the appearance, repainting and reroofing are also subject to approval even where they perpetuate the building's existence. The surroundings of a monument, too, are the object of monument protection if and when they are of significant importance to the monument's appearance (§4 DSchG).

The placement under protection of entire ensembles as monument zones in accordance with §8 Abs. 3 Nr. 1 DSchG provides the chance of preserving the overall appearance of an ensemble that includes other buildings too, by protecting the entire site. However, the placement under protection of an ensemble is based not merely on the ensemble's harmonious or aesthetically pleasing look but rather on a historically sound and convincing appearance; this includes an authentic use of forms and materials. While individual buildings within the monument zone do not enjoy full protection of their original substance, they are indirectly protected as "carriers" of the ensemble's visual appearance. In the case of ensembles, any alteration of their protected appearance is subject to approval.

## Landscape

The Kurpark is maintained by the gardeners of Staatsbad *Bad Ems* GmbH. The landscape surrounding *Bad Ems*, in particular the mountain slopes, primarily consists of woodlands.

They are supervised by the forestry administration. The zoning plan and legally binding land-use plans ensure that the unhindered transition from the town to the spa landscape is preserved.

*Bad Ems* is situated in the Nassau nature preserve. The main task of the Naturpark Nassau is to preserve and increase the ecological value of the landscape. Another goal is the support and development of tourism adapted to the landscape. The nature park fulfils these tasks in co-operation with the association of municipalities *Bad Ems* and the forestry administration. All areas outside the built-up urban space are therefore protected by the Naturpark Nassau statutory ordinance, declaring the landscape to be especially worthy of protection. A pedunculate oak in front of Mainzer Haus is protected as a natural monument.

## 8. *Baden-Baden*

The conservation of the heritage has a long tradition in Baden-Württemberg and in *Baden-Baden*, focusing on specific topics like water protection, spatial planning, protection of historic buildings and historic quarters, landscape and nature. Protection is based on the law of the Federal Republic of Germany and the law of the Federal State of Baden-Württemberg. They define high standards for the protection of existing values and their future development.

Within the Länd of Baden-Württemberg several bodies are involved in the implementation of the protection and planning instruments of the nominated property. There is a three-tier system with the ministries at the top. The next tier down comprises the four regional commissioners acting – the Regional Administrative Councils – as an intermediate authority on behalf of the administrative regions of Stuttgart, Karlsruhe, Tübingen and Freiburg. Beyond this, Baden-Württemberg is broken down into 35 rural districts and 9 urban districts, and 1,101 local authorities, which form the lower administrative tier.

The Ministry of Economic Affairs, Labour and Housing Baden-Württemberg acts as supreme cultural monument protection authority including World Heritage Nominations and the already existing six World Heritage properties. The Ministry of the Environment, Climate Protection and the Energy Sector acts as supreme nature protection authority. On the second level the State Office for Cultural Heritage is the state-wide competent expert authority for monument protection and World Heritage properties. On the same level the Regional Administrative Council in Karlsruhe acts as the senior monument-, nature-, water- and landscape protection authority responsible for *Baden-Baden*. *Baden-Baden* forms an urban district. The administration of the city of *Baden-Baden* comprises the lower monument-, nature-, water- and landscape protection authorities.

### **The Ministry of Economic Affairs, Labour and Housing Baden-Württemberg**

As supreme monument protection authority of Baden-Württemberg the Ministerium für Wirtschaft, Arbeit und Wohnungsbau Baden-Württemberg has decision-making power in all fundamental issues of state-wide relevance pertaining to monument protection and preservation including the annual monument funding programme. Among other things, it draws up the required legal foundations and provisions, prepares decisions for the State government, coordinates World Heritage nominations and World Heritage properties, cooperates with those State foundations that are active

in monument protection, manages the expenditure of budgetary funds, and has supervisory control of the higher and lower monument protection authorities.

### **Regional Council Karlsruhe**

The Regierungspräsidium Karlsruhe is an intermediate authority between the State ministries and the lower administrative level of the municipalities, including *Baden-Baden*. The Regional Council is in charge of numerous aspects of the nominated World Heritage site and buffer zone. Referat 21 in the department of Economics and Infrastructure (Abteilung 2 Wirtschaft und Infrastruktur) acts as Senior Planning Authority (Höhere Raumordnungsbehörde), responsible for major infrastructure measures and spatial planning. As the senior authority on building law (Höhere Baurechtsbehörde), the Regional Council advises *Baden-Baden* on urban land-use planning, and authorises preparatory urban land-use plans. As the senior monument protection authority, it is also in charge of the Lower Monument Protection Authorities, and generally responsible for all sovereign decision-making. The department of Roads and Transportation (Abteilung 4 Straßenwesen und Verkehr) is responsible for traffic management in *Baden-Baden*. Abteilung 5 (Environment) acts as a supervisory control and reviewing authority advising the junior authorities in charge of water, soil, and pollution on water-law issues. It is involved in procedures to designate water preserves by the lower water authorities. Referat 56 (Nature Protection and Landscape Planning) provides expert reports on regional planning and project approval procedures in the context of landscape-impairing, as well as compensatory measures in the course of large-scale projects, and expert opinions on regional and State land-use planning.

### **State Office for Cultural Heritage Baden-Württemberg**

As state wide competent expert authority for monument protection and World Heritage Sites the State Office for Cultural Heritage Baden-Württemberg is responsible for research, recording, conservation and technical preservation of cultural monuments. It assumes the scientific, conservation and restoration work all over Baden-Württemberg. The State Office has an office with its own expert staff in each of the four administrative districts of the State of Baden-Württemberg. The responsible department Denkmalumgang provides a consultant (Gebietsreferent) for Baden-Baden who provides expert opinions on building measures and planned alterations to historical monuments to the Lower Monument Protection Authority. The supra-regional division heads ensure a consistent application of expert monument preservation at State level, without disregarding local realities and traditions. The regional consultants reserve the right to pass on certain cases and issues to experts specialising in the relevant field, while a dedicated department (Fachgebiet 83.3.6 Schwerpunkte) decides which cases to accept and to what extent. Expert reports may for example, deal with historical garden or industrial monument preservation, energy-saving measures applied to historical monuments, or UNESCO World Heritage issues.

In everything pertaining to the UNESCO World Heritage nomination, there is close cooperation with the Ministry of Economic Affairs, Labour and Housing as the Supreme monument protection authority.

### ***Baden-Baden* Department for World Heritage Nomination and Urban Design**

The Stabsstelle Welterbbewerbung und Stadtgestaltung is already involved in

coordinating the UNESCO World Heritage nomination and for communicating its specifics to the public, locals and visitors alike. It also coordinates the municipality's measures with those of the State Office for Cultural Heritage Baden-Württemberg, the Expert Monument Protection Authority, and other authorities. These include the municipality's own departments and offices, especially the dedicated working group, Arbeitskreis UNESCO AG. Furthermore, it advises and supports the department of urban planning and owners in terms of building projects within the property. In the case of a successful nomination, there are plans to create an additional post - that of World Heritage coordinator - within the department.

### **Department of Landscape, Nature and Water Protection**

The nominated Property and the buffer zone encompasses a large part of the nature and geothermal preserves. The authority responsible for the expert maintenance and management of the thermal springs and the landscape is the Fachgebiet Umwelt und Arbeitsschutz, and specifically its departments, the Lower Water and Lower Nature Protection authorities (Untere Wasserschutzbehörde, Untere Naturschutzbehörde) of the municipality of *Baden-Baden*. The Lower Nature Conservation Authority belongs to the administration of the municipality and must authorise, among others, the construction of physical structures as defined by the state Building Code (Landesbauordnung Baden-Württemberg, LBO), enclosures, the moving or altering of overhead lines, the construction or alteration of roads, footpaths, and squares, and the construction, elimination, or alteration of bodies of stagnant or running water. In sub-areas of the landscape protection area, binding land-use plans have been drawn up in order to ensure that planning legislation is in place for plans to extend existing structures.

The municipal Forestry Office (Städtisches Forstamt) has allocated much of the land relevant to landscape preservation measures to farmers for haymaking or grazing (cattle, sheep, goats) by way of landscape protection contracts. Beyond that, the Forestry Office takes care of the surrounding landscape. For landscape and biotope maintenance work, the Forestry Office employs interns on their Voluntary Year.

The buffer zone encompasses a large part of the nature and geothermal preserves.

### **Department of Urban Development and Architectural Conservation**

The Fachgebiet Stadtplanung deals with the development of the town of *Baden-Baden* and its spatial and social structures. Areas of responsibility include the drawing up of town-planning concepts on built-up and open spaces, and the compiling of urban land-use plans, both preparatory and legally binding. The department is also responsible for framework development planning, assessing building applications in a town-planning context, and making plans and information available to the public. It is jointly responsible for organising and supporting the Gestaltungsbeirat (architectural advisory board), and thus for architectural urban development (building projects relevant to the townscape, both within and outside the World Heritage property).

As part of the department, the Untere Denkmalschutzbehörde (Lower Monument Protection Authority) is in charge of approval procedures in the case of building work on cultural monuments and/or within the area covered by the protection statute. The implementation of the protection and conservation statutes are both implemented jointly between the Lower Monument Protection Authority and the urban planning authorities.

## **Protection of historic buildings, monuments and other specified areas of cultural heritage within the administration of Baden-Württemberg**

In the Federal State of Baden-Württemberg the principal tools for implementing the protective measures in regard to historic monuments are provided in the Cultural Heritage Protection Act Baden-Württemberg. This Act includes individual structures or ensembles as cultural monuments and, in accordance with, the designation of conservation areas. In the case of development projects involving, or in close proximity to, protected historical buildings, monuments or conservation areas, regularly the lower monument protection authority at municipal administration is in charge. In cases where no agreement with the competent authority (State Office for Cultural Heritage Baden-Württemberg) can be reached, the Supreme Monument Protection Authority (Ministry of Economic Affairs, Labour and Housing Baden Württemberg) must be called in.

The Cultural Heritage Protection Act Baden-Württemberg established a system combined of the information-only (*ipso jure*) and administrative registration of monuments of particular significance the principle, which are listed in the register of monuments (§12 and §28). Owners of monuments are legally obliged, within reasonable limits, to repair and maintain them, treat them appropriately, and protect them against threats (§6).

The approval procedure in monument law is regulated by two separate articles, §8 and §15, corresponding to the distinction between cultural monuments according to §2, and cultural monuments of particular significance according to §12. Demolition, damage, and any impairment of the appearance of cultural monuments – irrespective of the degree of noticeability – are strictly subject to approval in accordance with §8. The surroundings of a monument, too, are the object of monument protection if and when they are of significant importance to the monument's appearance (§15).

The protection of whole ensembles in accordance with §19 offers the chance of protecting the overall picture, the interconnection of structures, by preserving the surroundings. However, the listing of an ensemble is not based merely on a harmonious or aesthetically appealing appearance but on one that is historically authentic and meaningful, which requires appropriateness of form and materials as well. Individual objects within the ensemble do not enjoy full protection of their built substance but do have indirect protection due to their significance as carriers of the overall picture. In ensembles, any alteration to the protected appearance is subject to approval.

## **Protection of nature-, water- and landscape within the administration of Baden-Württemberg**

The administration of nature conservation follows the same structure as the heritage protection administration. The Ministry of the Environment, Climate Protection and the Energy Sector as supreme nature protection authority obtains technical support from the Regional Office for Environment, Measurements and Nature Conservation Baden-Württemberg (LUBW) in Karlsruhe. For the district of Baden-Baden the Regional Council of Karlsruhe acts as senior nature conservation authority. The Lower Nature Conservation Authority belongs to the administration of the municipality of *Baden-Baden*. They work as described above hand in hand for the protection of nature, water and landscape.

The central guideline for nature protection in the state of Baden-Württemberg is a joint strategy for the protection of nature. Its primary objective is to maintain the biological diversity of Baden-Württemberg. Maintaining the native diversity of the different kinds of animals and plants, securing their habitat and improving their chances for survival is one of their most important socio-political tasks.

The richly diverse cultural landscape in Baden-Württemberg with its disparate habitats, types of flora and fauna and their function as recreational space for the citizens shows the importance that Baden-Württemberg places on the maintenance of this biodiversity. The nature conservation authorities are active in many areas in this regard: They preserve valuable regions with the help of experts who have been specially trained for this purpose; they record the presence of the different kinds of plants and animals and prepare information and programs to maintain them. In this way, the administrative authorities sustain the biodiversity in Baden-Württemberg together with many others who are engaged in farming and forestry as well as with collectives and other initiatives. Nature protection does not take place only in the several nature and landscape conservation areas and in Natura 2000 sites as well as in the major nature reserves, but actually everywhere in Baden-Württemberg.

## 9. *Bad Kissingen*

The nominated component of *Bad Kissingen* includes buildings, structures, gardens, parks cultural landscape, and water features worthy of protection. The mineral springs and their use are also key attributes of OUV. This complex structure requires a balance between the requests and demands of the individual disciplines: protection of monuments, protection of mineral springs as well as protection of natural features.

The buildings and parks and gardens which are listed in the Official Bavarian Listing of Historic Buildings and Monuments are subject to the Bavarian Act for the Protection of Historic Buildings and Monuments (BayDSchG).

In Bavaria three public authorities are responsible for the protection of cultural heritage. The highest monument protection authority is the Bavarian State Ministry of Science and the Arts, and the competent expert authority responsible for monument protection is the Bavarian State Conservation Office. At the municipal level the lower monument protection authority – which in the case of *Bad Kissingen* is part of the technical supervision of construction authority – is responsible for all structural changes to the monuments and ensembles. The State Conservation Office and the Lower monument protection authority in particular contribute significantly to the protection of the Monuments and Ensembles within the property. They therefore play a key role in the management system.

The cultural landscape of the site as well as the river and the springs are protected by the nature conservation authorities (Bavarian Nature Protection Act – BayNatSchG). The Regional State Office for Water Management *Bad Kissingen* is responsible for monitoring the water quality and the river banks. The legal Protection of springs and water sources is ensured by the Bavarian Water Act (BayWG).

All measures to protect the site are coordinated at municipal level. In future it is intended to coordinate the measures to protect the property by a local Site Management.

The large district town of *Bad Kissingen* is the building permit authority, Baugenehmigungsbehörde, and therefore also responsible for structural changes on buildings which are not protected as monuments. In this case the cultural property is protected by the Bavarian Land Planning Act (BayLplG). Thus the City of *Bad Kissingen* and its subject departments such as Building Authorities and City Planning are responsible for matters such as building permits, general municipal real estate utilization plans, local plans for development and house building, municipal development plans / zoning plans, structure plans for green areas and parks as well as the protection of historic buildings and monuments. The Municipal Forestry Office, too, is located here in these departments whereas the Municipal Gardening Centre is part of the Servicebetrieb (a municipal company providing certain services).

The State Building Office in Schweinfurt is the responsible body for all kinds of overground building constructions ordered by the Free State of Bavaria as well as by the Federal Republic of Germany, and they are also responsible for the road system of major roads and state highways within the area of the northern territory of the District of Lower Franconia. This authority is in charge of and cares for the principal buildings dedicated to cure treatment, and also for the parks and gardens owned by the federal state. The Authority forms part of the Bavarian State Building Authorities, and is subordinated to the Bavarian Ministry of the Interior, for Building and Transport.

## **Protection of Springs**

The protection of the mineral springs is the responsibility of the subordinate water administration authorities, mainly the Regional State Office for Water Management *Bad Kissingen*. The operating entity of the mineral springs is the Bayerisches Staatsbad *Bad Kissingen* GmbH, The Public Health Agency is part of the public health system and responsible for the quality control of the mineral springs. Any rules and regulations concerning water rights that are variations from the protective ordinance regarding mineral springs, as well as permission and approval for all kinds of water rights related facts and circumstances, will be given by the regional water authority of the district office.

The Regional State Office for Water Management *Bad Kissingen* is responsible for decisions on all measures concerning flood protection. They control both the quantity and the quality of mineral healing waters exploited; they assist and support the official administrative bodies of the cure business in all questions regarding the exploitation and the use of the existing state-owned mineral springs, as well as searching for and tapping new mineral springs. Furthermore, this authority delivers expert opinion and controls any necessary interventions and movements of soil and ground within the designated area for the protection of mineral springs. In addition, and by order of the Bavarian Real Estate (Immobilien Freistaat Bayern), the Regional State Office for Water Management *Bad Kissingen* has competence and responsibility for building works on the mineral springs as well as on water mains (pipework and high-level service reservoir).

## **Spatial planning**

In *Bad Kissingen*, 27.8 % of the area of the nominated World Heritage site are regulated by binding urban land-use plans; in the buffer zone, the percentage is 13.9 %.

## Protection of monuments

The Bavarian State Conservation Office is responsible for preservation and protection of historic buildings and ancient monuments in Bavaria. Collecting and recording data, researching as well as securing the preservation and the conservation of the monuments, are part of their tasks and duties. Other core tasks and essential duties are the expert assessment and evaluation of planned building measures on monuments and of construction measures in ensemble areas. The Bavarian State Conservation Office has been subordinated to the Bavarian State Ministry of Science and the Arts.

In the Free State of Bavaria the principal tools for implementing the protective measures in regard to historic monuments are the listing of individual objects or ensembles as monuments (Bavarian Act for the Protection of Historic Buildings and Monuments, BayDSchG Art. 1, 1-3). In the case of development projects involving, or in close proximity to, protected historical buildings, monuments or conservation areas, the lower monument protection authorities at the regional or municipal administration are in charge. The City of *Bad Kissingen* has its own lower monument protection authority. There are regular consultations between the lower monument protection authority and the Bavarian State Conservation Office, usually once a month.

The Bavarian Act for the Protection of Historic Buildings and Monuments (BayDSchG) follows the information-only registration principle. The monuments are listed in the Monument List and nowadays also in the web-based atlas of monuments (Bayerischer Denkmaltlas). Entry is made by the Bavarian State Conservation Office in consultation with the local government (Art. 2 BayDSchG). Private and public owners of monuments are legally obliged, within reasonable limits, to repair and maintain them, treat them appropriately, and protect them against threats (Art. 4 BayDSchG).

Demolition, damage, and any impairment of the appearance of cultural monuments – irrespective of the degree of noticeability – are strictly subject to approval in accordance with Art. 6 BayDSchG). The appearance of the monument encompasses all visible parts including the interior. Exterior cleaning that does not otherwise alter the appearance, repainting and re-roofing are also subject to approval even when they perpetuate the monument's existence. The surroundings of a monument, too, are the object of monument protection if and when they are of significant importance to the monument's appearance (Art 6 (1), 2).

The protection of whole ensembles presents the opportunity to sustain the overall values of the nominated property and the interconnection of structures, by preserving the surroundings. However, the listing of an ensemble is not based merely on a harmonious or aesthetically appealing appearance but on one that is historically authentic and meaningful, and which requires appropriateness of form and materials. Individual structures within the ensemble may not be subject to full protection of their built substance but do have indirect protection due to their significance as contributors to overall values. In ensembles, any alteration to the protected appearance is subject to approval.

## Protection of the Spa landscape

The subordinate Nature Conservation Authority, a department of the District Administration Office of *Bad Kissingen*, is in charge of and cares for nature preservation areas, for natural monuments, for landscape protection areas and for the FFH ( areas on which the Council Directive on the conservation of natural habitats and of wild fauna

and flora applies on.) and SPA (Special Protection Areas (SPAs) designated respectively under the Habitats Directive and Birds Directive) areas. Among other duties the authority issues opinions on building sites and on individual building projects and is an important partner in protecting the buffer zone which is characterized by the cultural spa landscape.

## 10. *Montecatini Terme*

## ITALY

Conservation of heritage has a long tradition in Italy and national regulations and principles of their implementation are coordinated with international documents. The protection system for the component part and the buffer zone is now established and ensures adequate protection. Italy has developed specific methods to implement the protective measures described above and the implementation of the legal provisions defining the protection and conservation for *Montecatini Terme* is executed at various levels, from central down to regional and local authorities.

### Protection of spa waters

The thermal waters of Montecatini have been legally protected since 1913 and this sequence of administrative measures underlines continuity in protecting the waters of the component part and its buffer zone.

In November 1994, Regional Law No. 86 established areas for the protection of mineral and spa waters. To comply with this obligation, a new zoning was proposed in 1996, which established safeguarding areas, differentiated into buffer zones and environmental protection zones.

The Regional Law No 38/2004 “Rules for the Research, Use of Mineral, Spring and Spa Water” permits the Regional Authority to promote the use of mineral, springs and spa waters, while protecting and enhancing the environmental and hydrogeological condition of the territories, sustainable use of water resources in the regional territory, and the overall sustainable, economic and social development of the concerned territories. Municipalities are responsible for managing this, and should supplement the legislation with their own regulations.

Control and supervision of research and utilisation of mineral waters is carried out by the Municipality. A study on the monitoring of thermal resources in the Valdinievole-Montecatini-Monsummano spa area, carried out between 2008 and 2011 by the C.N.R – Institute of Geosciences and Earth Resources (IGG) of Pisa on behalf of the Tuscany Regional Authority, led to the development of new guidance for environmental protection areas. New cartography and protection norms were presented, leading to the identification of protection areas and of precautionary measures to protect the Montecatini basin, highlighting possible environmental problems, developing a monitoring program, and improved knowledge of the spas of this area, which minimise the risks of quantitative and/or qualitative changes to thermal springs.

Finally, the new Town Planning Regulation of 2014 contains an additional article (“Provisions for the protection of thermal waters” – art. 152 bis), which allows the City Planning Office of the Municipality of Montecatini to verify directly works or interventions that may adversely affect the protected thermal systems.

## Protection of cultural heritage and landscape

As mentioned in Section 5.b, Italian legislation has set up a complex system to protect cultural heritage and landscape, aimed at defining boundaries to the activities of the various subjects affected and therefore to protect the integrity of the heritage. The protection established by the Italian State is based on the recognition of a collective interest that therefore imposes a series of obligations and rules. The process to implement these measures on a national level is based on the intervention of the organisations involved and responsible for protecting cultural and landscape property, specially the Ministry for Cultural Heritage and Activities through its central and branch offices.

Protection measures are applied through authorisation procedures required for interventions on immovable heritage and the identification of areas declared to be of landscape interest. *Montecatini Terme* is located in an area which is under cultural and landscape conservation provisions.

The most important and effective national law regulating the protection of the cultural heritage and landscape is the **Cultural Heritage and Landscape Code** (Code from now on), Legislative Decree 42/2004 (L.D. 42/04). The *Code* is a system of rules and procedures identifying the cultural heritage and defining a complex and complete system of protection measures. When a property is identified as cultural heritage, a special legal measure of protection is defined, known as *vincolo* (restrain), limiting interventions and activities in the area and requiring authorisations for their implementation. Besides the national legal system of the protection act several other measures at regional and local level complete the system.

The *Code* is implemented at national level by authorisation of every intervention by the Soprintendenza and at regional level through the Regional Orientation Plan of the Region of Tuscany (PIT) (see chapter 5.d) and, finally, at the local level through the approved Structural Plan (see chapter 5.d). In accordance with Italian legislation, the tools for legal protection of monuments and landscapes are incorporated into regional and municipal plans, notably within the Town Planning Regulations (see chapter 5). Protection of cultural heritage has also been complemented by legislation regarding urban planning.

The Town Planning Regulations of *Montecatini Terme* are characterised by special legal protection and restrictions preventing the change of use and modifications of the urban character which is strongly protected. Thus, all the activities are subject to different levels of control and to specific authorisation procedures. These actions are mostly restoration, maintenance, and requalification of cultural heritage.

### Building protection

Some buildings and complexes, being identified as cultural heritage according to Article 10 of the Code (L.D. 42/2004), are under the protection and conservation measures for public purposes. In this regard, any activities must be authorised by the *Soprintendenza* (branch office of the Ministry for Cultural Heritage and Activities), as specified within the Article 21 of the Code. These include the Thermal Complexes and also buildings such as the Kursaal, the Church of St Peter the Apostle in Montecatini Alto, and the former Fratelli Lazzi's bus station.

## Landscape protection

Around 80% of the component part is subject to the protection measures of the Code. The Code endorsed two old Ministerial Decrees about the *Montecatini Terme* area: the first (M.D. 15/11/1958) protected the hilly area of *Montecatini Terme* by imposing strict permissions for building modifications; the second one (M.D. 1/4/1969) protected the area of the Spa district, subjecting it to building restraints. These constraints have been transposed into the recent Regional Orientation Plan of the Region of Tuscany (PIT) which has the value of a Landscape Plan and was approved in 2015 (see chapter 5.d). Around 49% of the buffer zone is subject to landscape protection. The Landscape Plan zones the territory into homogeneous areas of landscape values and establishes particular objectives, priorities, and recommendations for protecting and enhancing the landscape according to its value and conservation level. In the Regional Plan, the municipal territory, including the component part and the buffer zone, is part of the Val di Nievole e val d'Arno inferior area. For this area, a description of the territorial features is provided and key elements, policy guidelines and the use framework (quality objectives, directives and prescriptions) are identified.

Further landscape safeguarding measures for *Montecatini Terme* are contained in PIT (Regional Orientation Plan of the Region of Tuscany); in particular it defines measures to conserve the protected areas, to recover degraded landscape areas and to integrate harmoniously transformation works within the landscape. In addition, it specifies the tasks of the Regional Landscape Observatory, which has the role of monitoring the effectiveness of the PIT and keeping the cognitive framework up-to-date. Finally, the tools for the legal protection of monuments and landscapes are incorporated into municipal plans, notably within Structural Plan and the Town Planning Regulations.

Moreover, the protection measure of the Funicular Park, along the funicular line, has the purpose of enhancing and preserving the environmental value of the system constituted by the funicular and the medieval access route to Montecatini Alto. The preservation of pedestrian traffic is indicated following “restoration” methods, also with regard to furnishing items. No alterations to the arboreal heritage are permitted, except in cases of re-establishment resulting from abatement or transplantation of altered arboreal heritage. Any construction within the area is prohibited. Along the Funicular line it is forbidden to build, rebuild or extend buildings or artefacts of any kind at a distance of less than 15 meters from the traction system axis (Republic President Decree 753/1980, Article 51)

## 11. City of Bath

### National Guidance

The UK has two interlocking approaches to the conservation of cultural heritage. Spatial planning policies establish general approaches to the protection and sustainable use of cultural and natural heritage. There are also systems for the designation of specific assets such as listed buildings which bring with them specific consent regimes.

Overall approaches to spatial planning, including policies for the protection of both cultural and natural heritage is established in the National Planning Policy Framework (2018) supported by web-based Planning Practice Guidance, both produced by the Ministry for Housing, Communities and Local Government (MHCLG). The

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Department for Digital, Culture, Media and Sport (DCMS), advised by Historic England, and the Department for Environment, Food and Rural Affairs (DEFRA), advised by Natural England, are responsible for policies for cultural and natural heritage respectively.

The NPPF states that there is an overall presumption in favour of sustainable development. Alongside economic and social sustainability, the third objective of sustainable development is environmental– to contribute to protecting and enhancing our natural, built and historic environment. The NPPF places great weight on following the policies contained in the development plan of each local authority. It says that these should set out a positive strategy for the conservation and enjoyment of the historic environment (NPPF para 185), and should contribute to and enhance the natural and local environment (NPPF para 170).

The NPPF and the PPG also contain guidance on the protection of the cultural and natural environment in general, and include references to World Heritage properties and their significance, referring particularly to their Outstanding Universal Value. These assets are recognised as an irreplaceable resource which should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations (NPPF para 184). Substantial harm to, or loss of significance to assets of the highest significance, notably scheduled ancient monuments, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites should be wholly exceptional (NPPF para 194). Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and in the setting of heritage assets, to enhance or better reveal their significance (NPPF para 200). The PPG provides more detailed guidance on the protection of World Heritage properties.

Decisions on town and country planning matters must be made with regard to policies of the Development Plan unless material considerations indicate otherwise. Material considerations include a wide range of town and country planning matters including guidance set out in Supplementary Planning Documents adopted by the Planning Authority (see Section 5.d for list). These provide detailed policy guidance on a range of subjects.

Decisions handed down from the Courts and Government guidance on town and country planning matters are also material considerations. These inform policies in Development Plans of Planning Authorities and are material considerations for a decision maker when determining applications for Planning Permission, Listed Building Consent or Scheduled Monument Consent. The Planning Authority seeks to protect the significance of these buildings and their settings and makes decisions on applications for Listed Buildings Consent under the provisions of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

All decisions on whether or not to grant consent for works to Scheduled Ancient Monuments are made by the Secretary of State for Culture, Digital, Media and Sport. Some planning decisions may be referred to the Secretary of State and advised by Historic England where they affect Scheduled Ancient Monuments or their settings or grade I and II\* Listed Buildings or their settings and some development proposals in a Conservation Area.

Registered Parks and Gardens are protected through policies in the Planning Authority's Development Plan, the Core Strategy and Supplementary Planning Guidance when considering applications for planning permissions. The designation and policing of the conservation area is the duty of the planning authority under the provisions of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). The character of the area is a material consideration when determining an application for planning permission.

## Local systems

The City is now part of the Unitary Authority of Bath and North-East Somerset Council and this was established on April 1 1996. The Council is responsible for preparing the Development Plan and this sets out planning policies to direct investment, manage development and safeguard heritage assets in the District. The Council has primary responsibility for managing the World Heritage property through the implementation of the Development Plan and other activities. The council has access to Historic England, the UK government's lead advisor for the historic environment in England.

The Cotswolds Area of Outstanding Natural Beauty extends around and north of the city. For this, control of development and other planning decisions are made by Government and the constituent Local Planning Authorities including Bath and North East Somerset Council. It has adopted policies in its Placemaking Plan that seek to conserve and enhance the character of the City of Bath World Heritage Site, its setting and *inter alia* the Mendip Hills and Cotswolds Area of Outstanding Natural Beauty. The Management Plan for the AoNB has been prepared by the Cotswolds Conservation Board and this includes members from three tiers of Government including Bath and North East Somerset Council.

The Development Plan contains policies for the protection of the existing World Heritage property and its setting, and for the care of the cultural and natural environment in general. It is supported by Supplementary Guidance and other planning documents (see Section 5.d)

The Planning Authority also works closely with principal landowners to develop management and development plans for their properties. These landowners include several schools, the University of Bath, Bath Spa University, the Royal United Hospital NHS Foundation Trust, Environment Agency (river and flood prevention) and Railtrack (investment in and electrification of the railway).

The Council employs the World Heritage Coordinator who oversees the management of the existing World Heritage property. He is also supported by a Steering Group made up of key stakeholders in the World Heritage property. The existing property has a World Heritage Management Plan and the Coordinator is responsible for its implementation and revision.

## 5.c.2 Impact Assessment

The World Heritage Operational Guidelines state (para 110) that impact assessments for proposed interventions are essential for all World Heritage properties. All the nominating states parties have been required to carry out environmental impact assessments (EIA)

for many years, most recently in accordance with EU Directive 2014/52/EU. The Directive includes both cultural and natural heritage as areas which need to be assessed in EIA but sets limits on the scale of intervention for which a formal EIA is required. This means that many proposed interventions which could have a significant adverse impact on the Outstanding Universal Value of the nominated property will not require a formal EIA under the terms of the EU directive or of the local regulations which implement it.

Further it is clear that the World Heritage Committee and its advisors are increasingly seeking Heritage Impact Assessments (HIA) looking primarily at the impact of a proposed intervention on the Outstanding Universal Value of a World Heritage property. One reason for this is to ensure that impact assessment takes place when there is no requirement for an EIA. A second reason is concern that an EIA, which has eventually to come to one conclusion on the overall impact by making a judgement across all the areas covered in such an exercise, can give too little weight to the impacts on heritage as opposed to other factors.

Even within the parameters of the EU Directive 2015/52/EU, there are variations in national practice across the 28 EU Member States. Practice in carrying out HIA is also very varied. Austria carries out HIA on developments which may have an adverse impact on Outstanding Universal Value. The same applies to Germany, HIA have been carried out on a voluntary basis since 2005 but they are not required by law. In the UK, applicants proposing an intervention must submit sufficient information to enable the planning authority to make an assessment of the impact of the proposal on Outstanding Universal Value. HIA following the ICOMOS Guidelines (2011) is recommended as one technique that can be used to achieve this (Planning Practice Guidance, para 035). More generally, the UK system requires an applicant to provide an analysis of the potential impact of any development proposal on a heritage asset. This needs to be proportionate both to the significance of the asset and the scale of the proposed intervention.

