

BUILDING REGULATIONS IN HUNGARY IN THE SOCIALIST ERA (ACT III OF 1964, AND ITS REGULATORY ENVIRONMENT)

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1. Introduction

This year we commemorate the fiftieth anniversary of the regulations accepted during the state socialist era on the architecture and the built heritage - that is to say the protection of historic buildings.

This has, naturally, not always been the case. Up to the middle of the 19th century, each settlements decided for themselves on how much space they might allow for the building spirit of their citizens.¹ The primacy of the central legislature was starting off right after the Austro-Hungarian Compromise, creating the first central provisions in the early 1870's that rendered the responsibilities of the magisterial building tasks in the first instance under the jurisdiction of the municipalities.²

2. General building regulation between 1937 and 1965

Notwithstanding the above, central building regulations appeared only in 1937, under Act VI.³ As this regulation was standing expressly on the professional grounds and did not carry the political characteristics of the era, it survived the year of the communist turn, and - in spite of being a legislative product of the civic era - could safely be applied even in the hardest years of the communist dictatorship.

¹ SEEREINER, Imre, '*A területfejlesztés és a területrendezés*', In: DEMCSIK, Tamás, '*Magyar közigazgatási anyagi jog*', Budapest 2006. p. 58.

² SZALAI, Éva, '*A területfejlesztési igazgatás és az építésügy alapjai*', In: FICZERE, Lajos – FORGÁCS, Imre, '*Magyar közigazgatási jog. Különös rész*', Budapest 2006. pp. 220-221.

³ Act IV of 1937 on town planning and building affairs §1-29.

The Act was divided into three major sections: the first chapter discussed the town planning, the second was concerning with the technical-legal issues of land division, property line organization and plot restructuring, as well as the necessary - however, highly restrictive to the proprietary rights - expropriation, while the third major unit disposed expansively of the building authorities, further specifying the hitherto existing authoritarian hierarchy.⁴

3. The socialist period (1964-1997)

The Act III of 1937 took its leave from the operative measures only in the year of the laying down of socialism's foundations (1964), and the autarchy was taken over for a long time - until 1998 - by the Act III of 1964 on building matters.⁵ The Act became so autocratic as to integrate even the regulations for the protection of historic monuments. The question naturally arises that if the Act of 1937 was standing on professional grounds, why was it necessary to be replaced? The reason is very simple. All that was possible was lifted over from the previous act. However, radical changes in the proprietary relations, the rolling-back of the private property and the predominance of the state's role and investments changed the investment-, planning-, licensing- and construction-circumstances of the buildings in such a degree as to they justified the birth of a new statute. The private architectural offices were replaced by state consultants, and similarly, the Hungarian State itself became the investor in many cases, while the licenses were filled out by the councils as polity bodies, and only the state-owned construction companies could come into question for workmanship: the presence of the major private undertakings - except the handicraft - was precluded. It was practically a conceptual impossibility, out of ideological reasons.

⁴ ELEKES, Andrásné, 'A településrendezés helye, szerepe, jelentősége az építésügyi igazgatásban', In: *I. Építésügyi Igazgatási Konferencia*, Budapest 1983. (ÉIK) pp. 322-323.

⁵ SZALAI, Éva, 'A területfejlesztési igazgatás és az építésügy alapjai', In: FICZERE, Lajos - FORGÁCS, Imre, 'Magyar közigazgatási jog. Különös rész', Budapest 2006. p. 223., and MADARÁSZ, Gabriella, 'Az épített környezet alakítása és védelme', In: PETRIK, Ferenc, 'Az építésügy kézikönyve', Budapest 1998. p. 10.

The main reason for the emerging state predominance laid in the fact that private persons could not acquire considerable real estate property. The very concept of private property was basically a persecuted - or at the outside, tolerated - idea, and was considered harmful from the ideological point of view. Instead, the phrase of personal property was used, which was considered a neutral expression in the Marxist understanding. However, personal property precluded any considerable possession or usage of real estate property. Those who still came to an excess real estate property (e.g. by inheritance) were obliged to convert it into money.⁶

The procedural order and the system of the proceeding authorities did not require any special modifications. In turn, the settlements were hit hard by the fact that the act on the councils⁷ abolished the self-governmental system: the towns and villages both became parts of the central management as centralized and deconcentrated bodies at the bottom level of the hierarchy.⁸ The disappearance of the self-governments thus eliminated the low-level popular representative system: neither directly nor indirectly could take the population part any more in the formation of its living environment. No real freedom of suffrage stood behind the council elections. Naturally, the above statement would not intend to mean that no good buildings could have been built or no urban development could have taken place - I just wanted to emphasize that the era may be considered solicitous from the perspective of the constitutional law. The development of certain settlements could have been seriously drawn back by the politics. One may think of the case of Esztergom, which - because it was the seat of the Primate - have lost its county center's rank as a punishment, and was even considered unworthy for the status of a district headquarter. The city could not have been fully recovered from this situation until the present days.⁹

⁶ VÖRÖS, József – KARSAI, József, '*A lakásépítés (-vásárlás), -felújítás és -korszerűsítés, valamint a telekgazdálkodás pénzügyi szabályai*', Budapest 1985. pp. 9-17.; Government Decree No. 31/1971. (X. 5.) Korm., Government Decree No. 32/1971. (X. 5.) Korm., Decree No. 25/1971 (X. 5.) ÉVM-IM of Minister of Building and Town Development – Minister of Justice, Decree No. 26/1971 (X. 5.) ÉVM-IM of Minister of Building and Town Development – Minister of Justice.

⁷ Act I of 1950 on the local councils.

⁸ BALOGH Béla, '*Településpolitika, településfejlesztés feladatai a párt és igazgatási szervek gyakorlatában*', In: ÉIK 27.

⁹ MINDSZENTY József, '*Esztergom, a primások városa*', Budapest é.n. p. 126.

It is also strange for us that the law source hierarchy was not predominating in a way that would have been expected in a people's democracy. Thus, the building act is not to be considered in itself, as many important - not at all partial - provisions can be found in statutes (*i.e.* lower level measures). Thus, a statute determines the proceeding authorities, the misdemeanors punishable by penalties or the authorization concerning the preparation of various management plans. This could nowadays be considered as an unthinkable exceed of the scope of authority and a violation of measures by the executive power. Even more shocking is the fact that important issues may be found even in the form of a *deliverance*, which is kept count as a so-called *other legal means of state management*.¹⁰

The new building act regulated the building administration in a uniform and comprehensive way, even if many rules need to be acquainted from other law sources. Thus, the area planning, the statutes concerning the construction, usage, conservation, renewal, restoration, alteration, expansion and disassembly of buildings, pieces and other edifices, the building design, the building industry activities related to the implementation of edifices, the aims of research and experimentation within the scope of building matters, the principles of price regulation so typical of socialism and the conditions of building standardization. As it was already mentioned above, the protection of historic monuments, the regulation concerning urban afforestation and landscaping, as well as the application of publicly used lands also constituted parts of the Act.

4. Area management

The new Act - according to the regulational system of 1937 - was engaged above all in area management. For given areas of the country, *regional plans* must have been prepared aiming at the purposive usage of the country's area, the establishment of a reasonable settlement network system, as well as the insurance of the major edifices' spatial- and their

¹⁰ It was first regulated in a uniform way at the end of the era under the § 46-48 of the Act XI of 1987.

implementation's temporal coordination.¹¹ The regional plans must have been taken into account by the preparation of national economic plans, planning programs, town- (settlement-) planning strategies and by the positioning and technical solutions of edifices, as well as during the granting of the official building permits. The system of regional planning and the approval and application of the regional plans was determined by the Cabinet Council (Government).

Prior to the preparation of the town or village *development plan*, the *organizational program* of the town or village must have been established. The *organizational program* must have been taken into account by the development of the town or village, the preparation of their development plans, as well as during the granting of the official building permits. For the planned development of towns and villages, *general*¹² and – progressively, according to the needs –, *detailed planning schemes* must have been prepared.¹³ The property owner (manager, user) was obliged to tolerate the fulfilment of the crucial activities for the preparation of the planning scheme and the deposition of the required equipment without a return, if it was not restrictive to the property's normal usage. The caused harm must have been reimbursed, according to the regulations of the civil law. These regulations are almost literally the sentences of the Act of 1937.¹⁴

The *planning schemes* must have been taken into account during the preparation and implementation of the *national economic plans*. Usage of the settlement areas, plot formation and building-in, installation of roads or other transportation- or public utility networks, as well as – in general – the installation of any kind of edifices and the granting of magisterial permissions for such purposes was permitted only in accordance with the *planning schemes*. If a planned usage of an area, building plot

¹¹ LÁNYI László, 'Gravitációs modell felhasználása az országos regionális tervezésben', In: ÉIK 117-125.

¹² VINCZE István, 'Az általános rendezési tervek alkalmazásának néhány alapvetőnek ítélt kérdése', In: ÉIK 244-253. The deadline of the finishing of the general planning schemes: 31th December 1970 = Government Resolution of 2001/1965. (I. 16.) Korm.

¹³ GYÖRI István – PERÉNYI Éva, 'Szabályozási előírások a területrendezési tervek készítéséhez', Budapest. 1984. p. 7. és STADLER József, 'A területrendezési tervezés hatékonysága az építésigazgatási munkában', In: ÉIK 216-225.

¹⁴ Act VI of 1937 § 3 (4).

formation or construction would have been in contradiction with a still not approved planning scheme or would have made the planned organization significantly more expensive or in any other way more difficult, the building authority was obliged to refuse the issue of the permission, or subject it to conditions. The obligation of a subsequent alteration or disassembly - with the exclusion of any claim for a return - could have been ordained in the permit.¹⁵

The authority entitled to approve a *planning scheme* could define the restrictions on the cultivation of the ownership that were necessary for the implementation of the plan. Upon the request of the authorities, these ownership restrictions must have been registered in the land registry - although the lack of such registration did not affect the scope of the restrictions.

The preparation of the town and village planning schemes was decided by the executive committee of the respective town or village. Out of important national economic interest, the Minister of Building Affairs could ordain the preparation of the planning scheme for any town or village within a specified period, as well as the further development of an already existing planning scheme and also the elaboration of revised planning schemes.

The *general planning scheme* was approved by the Cabinet Council for the capital and cities with county rights, the county council for cities with district rights, and the district council for villages. The simplified general planning scheme of a city with district rights and a village was approved by the city- or village council, respectively.

The *detailed planning scheme* was approved by the city - in case of a village, the executive committee of the district council -, while the detailed planning schemes of more marginal importance determined in the building statutes were approved by the building authority.¹⁶ Prior to their approval, the planning schemes must have been reconciled with the concerned polity bodies. The reconciled plans must have been publicly displayed,

¹⁵ Simple transmission from Act VI of 1937 §19 (5).

¹⁶ LÁSZLÓ, László, 'A különböző szintű területrendezési tervek szerepe az építészeti igazgatásban', In: ÉIK 126-134. and Loydl cit. 158.

or had to be presented to the interested parties, as to make observations on the planning schemes.¹⁷

5. Plot restructuring

Building plot restructuring was permitted only in accordance with the law, the provisions of the ordinance appointing the building code and the permit and decision of the building authority. Plot restructuring was not obstructed by rights registered in the land registry. Upon the inquiry of the building authority, the initiation of the procedure must have been registered in the land registry. Granting of the plot restructuring licenses must have been denied, if - as a consequence of the plot restructuring - a settlement or building-in had been arisen that would not have been fitting to the purpose of the area and the interests of the settlement.

If the building plot alteration was intended to be implemented by public bodies, social organizations or co-operatives - in accordance with the planning scheme and the provisions of the building code, up to its necessary measures due to building plot restructuring -, the building authority had the right to oblige the respective body to establish roads and public utilities or to bear its costs. This regulation was extended by the Act of 1937 also to individuals.¹⁸

The building authority could ordain the building plot alteration on its own motion, if it was justified by well-grounded building intentions, and the provision of the to be altered building plots with roads and public utilities have or would have been guaranteed.¹⁹ The Act also declared that the decisions of the building authorities on plot restructuring could not be challenged in front of a court. The Administrative Court was abolished by the state socialist system in 1949 the law remedy against the administrative authorities has shrunk to a minimum, which subjected the so-called civil rights to strong restrictions.²⁰

¹⁷ Executive Decree § 4-5.

¹⁸ Act VI of 1937 § 5 (3).

¹⁹ MOLNÁR, Miklós, '*Az ingatlanokra vonatkozó tulajdonjog államigazgatási korlátozása*', Budapest 1989. pp. 16-22.

²⁰ Act II of 1949 on Abolition of Administrative Court.

If - as a consequence of plot restructuring -, the area of the building plot fell, the owner was due for a recompensation for the corresponding plot proportion. If the area of the plot increased, the owner was required to pay the value of this parcel. During plot restructuring, sections of the plot on which buildings stood could only be passed over to other owners if the original proprietor consented. The new proprietor was obliged to recompensate the previous owner for the building. If - out of plot restructuring - a building or a building section must have been decomposited, the owner of the edifice must have been recompensated.²¹

According to the socialist principles, a ban on plot restructuring and building has been introduced into the Act, as a new element. On certain areas of the settlement, the authority entitled to approve the planning schemes could ordain plot restructuring or building ban in order to ensure the implementation of the plan. Plot restructuring or building ban could also be ordained by the building authority in cases determined in the building code or in other regulations, as well as in cases specifically determined by the Minister of Building Affairs out of important national economic interest. The latter has rather been a 'rubber rule', and as such, could give opportunity to lots of abuses and legal restrictions. It can be stated despite the fact that the act declares that the plot restructuring or building ban must have been limited to the absolutely necessary measure and duration. The owner, manager or user of the property could possess, use and dispose of the real estate within the rightful limits, even during the existence of the ban. No return was due to the imposition of the plot restructuring or building ban. However, a reasonable measure was that an in-buildable exchange plot must have been given to the property owner upon his request without an expropriatory process, if he became unable to fulfill his intentions to build a house, because a building ban has been put on his building plot (provided that the proprietor or one of his direct line descendants assumed the obligation of building the house).

It also appeared as another novel statute that no buildings suitable for permanent housing, public institutions or holiday living were permitted to be built at the city periphery. The building regulations, however, could

²¹ Simple transmission from Act VI of 1937 § 9.

appoint exceptions from this regulation. At city outskirts, where buildings suitable for permanent housing, public institutions or holiday living must not have been built, new plots also could not have been formed.²²

Protective areas also appear in the new Act. Protective areas must have been formed in order to prevent the environmentally harmful effects of industrial sites and buildings, and also to defend the industrial sites and buildings from the harmful effects of the environment. Plot restructuring or building ban could also have been ordained in the protective areas.

For the purpose of area development, there was a place for property expropriation, in accordance with the measures concerning to expropriation. If - according to the detailed planning scheme - an area was needed for the purpose of road installation, expansion or regulation in the interior of a settlement or in a to be built part of a settlement's periphery, the building authority could utilize the necessary plot area for road installation without an expropriation process and register it as a public area, while it could register the - according to the detailed planning scheme - unnecessary public area to the plot. The consent of the land registry parties was not necessary for these registration procedures in the land registry. The decision of the building authority ordaining the land registry entries could not be challenged in a court.²³

Expropriation proceedings must have been conducted, if a building (or part of a building) was standing on the plot area necessary for the installation of a road. There was no need for an expropriation procedure only in cases when the usage took place in connection with a building plot alteration procedure initiated upon the request of the concerned parties. If the used area did not exceed one-fifth of the building plot, there was no place for a recompensation. By the calculation of the building plot's one-fifth, that part must also have been taken into account which was utilized for the purpose of a public road not former than ten years. This ten years had been thirty during the time of the legislation of 1937. However, at

²² DUNAY, Rezső, 'Területrendezési tervek készítése közterületekre, zártkertekre Veszprém megyében', In: ÉIK 30.

²³ MOLNÁR, Miklós, 'Az ingatlanokra vonatkozó tulajdonjog államigazgatási korlátozása', Budapest 1989. pp. 51-55., 253-263.

that time one-third of the plot could have been taken away without any recompensation.²⁴

An interesting provision was that if the area required for public road installation must have been taken into usage from a plot laying in its whole width on one side of the new road, the owner of the building plot not involved by the usage could be ordained to pay half of the value of the used area laying at the opposite side to the executive committee of the city or village council. The amount to be paid, however, must not have exceeded the value of one-fifth of his own plot.

In the socialist era, no one was obliged to pay community contributions for the elevation of the infrastructural niveau. However, one was obliged to pay for the enrichment, if the authority registered a public area to his building plot.²⁵

6. Preservation of Historic Monuments

Following the area management, the next major topic was the regulation of the preservation of historic monuments. The Act XXIX of 1881 on the Protection of Historic Monuments was replaced by the Law-Decree No. 13 of 1949, which regulated collectively the historical monuments and museums. This regulation - the modernized version of the Act of 1881 - extended the range of works that could be ordained during the protection of historic monuments, and also protected the historic monument's environment. The Act regulated the amount of the return from the owner for the forced restorations done by the State. Consequently, the declaration of a large number of monuments to be protected was initiated, and even today it still forms the core material of the protected stock.

The fifth and subsequent chapters of this Law-Decree was dealing with the historic monuments themselves. A record was kept on the historic monuments by the National Centre of Museums and Monuments, which was also founded by the same Law-Decree. Methods of record preparation and keeping, as well as ways of the historic monuments'

²⁴ Act VI of 1937 § 15 (1)-(2)

²⁵ NÉMETH, László, '*Segédlet az ingatlankezelő szervek gazdasági és pénzügyi szabályozó rendszerének alkalmazásához*', Székesfehérvár 1980. p. 48.

accounting were regulated by the Minister of Religion and Educational Affairs by ordinances, which might have entailed the duty of notification and reporting on the proprietors (owners) of the major properties.

Upon request of the Centre, the fact of historic monument declaration was registered in the land registry. All of the land registry entries on a historic property fell under the obligation of official reporting to the Centre.

As a preface it can be said that the need for the creation of a new act on the historic monuments was already an issue in 1942. This need appeared again in 1946, in the form of a new draft. The draft of 1946 on the *protection of historic monuments and the organization of the National Office of Historic Monuments* can essentially be considered as the revision of the draft submitted in 1942 by *Tibor Gerevich*.²⁶ The National Monuments Board (established in 1881) submitted its proposal again in 1948 to the Minister of Religion and Public Education for the purpose of the preparation of the act on the historic monuments. The law proposal of 1948 on the protection of historic monuments and the organization of the National Office of Historic Monuments intended to uniformly provide on both the movable and immovable monuments. This raft served as the basis of the Law-Decree 13. of 1949 on the museums and historic monuments, announced on the 16th of November, 1949.²⁷

The fifth chapter of the Law-Decree²⁸ contained provisions for the protection of historic monuments. The sixth chapter²⁹ ensured the protection of the historic monument's environment. The eighth chapter (§28) included the operation, scope of authority and funding of the *National Centre of Museums and Historic Monuments* (Múzeumok és Műemlékek Országos Központja, MMOK).

²⁶ HORLER, Miklós, '*A műemlékvédelmi gondolat kialakulása Európában*', Budapest 1984. p. 52.; BOZÓKI, Lajos, '*Politika és tudomány. A Műemlékek Országos Bizottságának megújulása Gerevich Tibor irányítása alatt (1934-1945)*', In: BARDOLY, István – HARI, Andrea, '*A magyar műemlékvédelem korszakai*', Budapest 1996. p. 173.

²⁷ FÜLÖP, Csilla '*Átmenet és újrakezdés*' (1945-1949), In: In: BARDOLY, István – HARI, Andrea, '*A magyar műemlékvédelem korszakai*', Budapest 1996. 199.

²⁸ Law-Decree No. 13 of 1949 § 17-21.

²⁹ Law-Decree No. 13 of 1949 § 22-23.

The law put the MMOK under the supervision of the Minister of Religion and Public Education and under the management of the *Hungarian Scientific Council*. The agency proceeded on the first instance in matters concerning museums and historic monuments and through its procedures it kept direct contact with various other authorities. The head of the office was appointed by the *Presidential Council of the People's Republic* upon the proposal of the minister, while the officials and employees were appointed by the minister upon the proposal of the head of the office.

The ninth chapter (§ 29-30) listed the taxable penalties for behaviors classified as misdemeanors and faults. Those who willfully damaged, destroyed or disposed of a protected object or exported it without a permission from the country were committing a misdemeanor and were punishable by imprisonment. Those who did not fulfil the obligations for filing or data reporting, or thwarted the opportunity of inspecting a historic monument, committed a delinquency was punishable by occlusion

Thus, from 1949 the *National Commission of Historic Monuments* has been replaced by the *National Centre of Museums and Historic Monuments* - a specialized agency engaged in performing the official duties of the historic monument protection.

According to the Law-Decree, a historic monument and its accessories must have been maintained intact and unaltered. The obligation of maintenance was burdened on the owner, or - if the right of the usage was exercised by beneficial owners - the leaseholders. The obligation of maintaining exceeded on the building's architectural state and mass, on its facade and floor plan, as well as on every factors of the building's artistic appearance (decoration, plastering, painting, period features etc.).

The Centre could oblige the person responsible for the maintenance to fulfill conservation and restoration works for the intact and unaltered maintenance, and to remove the ruining and foreign parts (e.g. decoration, repainting, plastering or billboards) for the smooth emergence of the building's impact. If the person obliged for the maintenance did not carry out the works within the time frame appointed by the Centre, the Centre could have implemented them on the expenses of the person responsible

for the maintenance. In case of ruins, however, only works aiming at stopping the further destruction could have only been ordered.

If someone wanted to carry out construction work on historic monuments - e.g. external or internal alterations, extensions or improvement, as well as placing inscriptions or technical equipment (antennas, pylons) -, a permission must have been requested from the Centre. Building or other magisterial permits on historic monuments could not be issued in the absence of a precursory consent of the Centre. In addition to the obligation of maintaining, the person obliged to maintain a historic monument could have also been called upon by the Centre to fulfill works aiming at the better expression or more effective emergence of the monument's original character. If the person refused to perform these works, they could be implemented by the Centre at the expense of the public purse. In such cases, the public purse could claim a reimbursement from the person obliged for the maintenance up to the amount of the existing enrichment.

The principle of unperturbed possession was hit by the rule that the inspection of the historic monument must have been ensured - although its manner must have been appointed in a way as not to disturb the owner or any other persons entitled to dispose of the property in the proper use of the real estate, not to interfere with the appreciative living conditions, and not to result in damage or cost.

The Centre or its trustee had the right to inspect and examine the historic monument, make drawings, photographic or other technical recordings of it, and publish them in scientific publications.

If the person obliged for the monument's maintenance - intentionally or through gross negligence - endangered the soundness, character or undisturbed emergence of the historic monument by the violation of the rightfully appointed commitments or circumvention of the rightful provisions of the Centre, it could be expropriated by the State.

In addition to the monument itself, its architectural and scenic surroundings, as well as its historical and archaeologically significant geographic areas might also have come in for preservation. It was determined by the minister

- in accordance with the Minister of Agriculture or any other competent ministers - that the environment or geographic area of a historic monument should be protected or not, and what parts of the property should fall under protection.³⁰

Since the 50's, the scope of authority of the governmental control over the historic monument protection has been changed several times. Until 1949, the regulation rendered the tasks of the monument protection under the jurisdiction of the Minister of Religion and Public Education. The Cabinet Council decree of 2019/6/1953 transferred the direction of the historic monument protection to the *Building Council*, and subsequently to the *National Building Agency* (by the Cabinet Council decree of 2214/1953). By the Government Decision of 10054/1956, the management and superintendence of the historic monument protection has become the scope of the Minister of Building Affairs' duties, while the Government Decision of 1045/1957 entrusted the culture politic tasks related to the historic monuments to the Ministry of Education in a way that there was a need for the concordance of the two ministers in matters of declaration or cessation to be a historic monument. In practice, this theoretical regulational system remained until 1998, while the name of the administrative department responsible for the monument protection changed several times. In 1952, the *National Centre for Museums and Historic Monuments* ceased to exist. Based on the instructions 52/1957 and 63/1957 of the Minister of Building Affairs, the *National Inspectorate for the Protection of Historic Monuments* (OMF) was established, which had again jurisdiction only over the real estate heritage.³¹ Superintendence over the OMF was exercised by the Department of Historic Monuments of the Ministry of Building Affairs, then - according to the ÉVM instruction of 2/1972. -, the OMF continued to operate as a division of the ministry. The *Budapest Inspectorate of Historic Monuments* (BMF) functioned as a separate organ, serving as the authority of the historic monuments of the capital. As an authority, it could make authoritarian decisions on buildings with monument character and in possession of the consent of the OMF on historic monuments. The BMF - working in the organization

³⁰ MAGYAR, Mária – PÉTER, Annamária, *'Az építészeti örökség védelme'*, Budapest 2003. pp. 21-23.

³¹ TAMÁSI, Judit, *'Műemlékvédelem törvényi keretek között'*, Budapest 2001. p. 124.

of the *Executive Committee of the Capital Council's Urban Planning and Construction Division* - exercised its scope of duties on the basis of the 13/1963. ÉM instruction.³²

The principles phrased in the Law-Decree of 1949 were further developed in the *National Building Code* (OÉSZ, issued in 1961).³³ The regulation of the protection of historic monuments formed an integral part of the Code. In the document, there appeared certain elements of the connection between town planning and monument protection (existing even in our days), i.e. the detailed description of the historic monument's environment, and - as a new concept - the introduction of the 'area of monumental importance', and herewith, the legal protection of historic monument groups, as well as the incorporation of the historic monuments and protected groups into the town planning schemes.

The Act III of 1964 on building affairs repealed the previous regulations on the historic monument protection, and disposed of the tasks of the monument protection within the frame of the building administration. Detailed rules for the protection of historic monuments were determined by the ÉM Decree no. 1/1967 (I. 31.), which had been in force until the entering into force of the Act LIV of 1997 on the protection of historic monuments.³⁴

The monument protection has therefore been legally regulated already since 1881.³⁵ However, the effectiveness of the public monument protection organizations (MOB, MMOK) could heavily be criticized. Only the *National Inspectorate for the Protection of Historic Monuments* founded in 1957 brought a significant quantitative and qualitative change. The OMF was designed to supply two functions: on one hand, supervisory and administrative functions over the works exercised by other bodies with

³² GERŐ, Lászlóm, '*Magyar műemléki ABC*', Budapest 1984. pp. 35-36., 138.

³³ Decree No. 5/1961 (III. 9.) ÉM of Minister of Construction Administration § 157-169.

³⁴ CZÉTÉNYI, Piroska, '*A főváros műemlékvédelmének építésügyi igazgatási kérdései*', In: ÉIK 10-19.; MAGYAR, Mária - PÉTER, Annamária, '*Az építészeti örökség védelme*', Budapest 2003. pp. 23-24.

³⁵ Act XXXIX of 1881 on the Protection of Historic Monuments; HORLER, Miklós, '*Az intézményes műemlékvédelem kezdetei Magyarországon (1872-1922)*', In: BARDOLY, István - HÁRIS, Andrea, '*A magyar műemlékvédelem korszakai*', Budapest 1996. p. 105.

historic monuments, and on the other hand, a complex and coordinated implementation of the operational, practical monument protection work.

Surveillance activities of the OMF were multifaceted. First, one can refer to the round of the duties in connection with the regulation itself. In Hungary - according to their rank order of value -, the following categories of the historic monument protection are known: historic monuments, buildings with monument character and real estates of townscape significance. The primary significance of the protected buildings lies in their historical role. Therefore, in certain cases buildings with minor architectural-artistic value were also incorporated into the monument list, as important historical events or personalities were attached to them. In most cases, the monumental areas serve as cores of the historic cities and lower ranked settlements. Any kind of work inside or in the area of a historic monument (as well as in areas of monumental significance) could only be done in the possession of an official permission.³⁶

The regulation also stated that both the historic monument's own plot and the surrounding plots fell under protection. In the case of buildings with monument character, it concerned only to the own plot.

Proposals for the cessation from or inclusion in the monument list were done by the *National Inspectorate for the Protection of Historic Monuments*, which - in case of buildings with monument character - was reconciliated with the supervising ÉVM division. In case of historic monuments, the agreement of the Minister of Building Affairs and Town Development and the Minister of Public Culture was inevitable. On historic monuments, both the users and owners could implement works - the law even obliged them to conduct renovation activities. Such activities (reconstruction, partial restructuring, extension) could, however, be done only with the approval of the authority responsible for the historic monuments. The approval was based on the submitted architectural design documentation, which - in cases with higher significance - was preceded by a consultation,

³⁶ JANTNER, Antal, 'A műemlékvédelem ágazati igazgatása, az Országos Műemléki Felügyelőség jogállása', In: ROMÁN, András, 'Műemléki albizottságok XII. országos értekezlete (XII. MAOE)', Nyíregyháza 1983. pp. 7-9.

on-site inspection or a council on the project plan, organized with the specific authority.³⁷

The social basis of the Hungarian monument protection was constituted of *monument sub-councils, homeland circles and castle friendship societies*, organized by the *Patriotic People's Front*. The work was supported by subcommittees involved in theoretical research, assembling and financing of publications and operating monitoring services. The healthy conditions of the cultural and economic usage were supported by good monument propaganda.³⁸

The practical recovery work - another main branch of the OMF activities, also a nationwide activity under official control - was implemented on an internationally regulated theoretical and practical basis that bore the name 'Venice Charter' after the place of its origin.³⁹

While the European regulations put the protection of the historic monuments under the cultural management, in contrast, the Hungarian regulations held it as a subject of building management. The reasons were twofold. On one hand, the town- and community planning was a principal determinant of the possibilities of monument protection: the intentions could not have been feasible in the absence of the to be preserved buildings' installation into the planning schemes. On the other hand, the monument protection was in connection with the building authorization procedure, as the protected buildings could also be renovated or restored through construction activities. Compared to the previous regulations, the only change was that now the monument protection activities themselves were declared to be parts of the building administration.

The scope of activities of the *National Inspectorate for the Protection of Historic Monuments* was determined by the ÉM decree no. 38/1965 (Ép. Ért. 23.). The ÉM decree no. 1/1967 (I. 31.) on the protection of historic monuments detailed the exact regulations of the protection. The

³⁷ DERCSÉNYI, Balázs, 'Legújabbkori építészeti emlékek felkutatása és védetté nyilvánítása', In: XII. MAOE 23-24.

³⁸ MOLNÁR, Béla, 'Műemlékvédelem és társadalom', In: XII. MAOE 11-13.

³⁹ CSÁSZÁR, László, 'A műemlékvédelem Magyarországon', Budapest 1983. pp. 22-24.

ÉVM Decree of 2/1972 - putting the *Organizational and Operational Rules* of the Ministry for Building Affairs and Town Development (ÉVM) into effect - created the *Division of Historic Monuments*, whose scope of activities were executed by the OMF as an independent financial organ and legal person. Thus the OMF - as the *Division of Historic Monuments* of the ÉVM - executed the ministry's regulational, managing, coordinating, inspectoral and authoritative duties, and - as the professional organization of the ÉVM, and the administrative body of the monument protection - implemented scientific and authoritative planning as well as executive duties.

The structure and scope of activities of the OMF was determined by the ÉM decree no. 38/1965 (Ép. Ért. 23.) of the Minister of Building Affairs. The office was led by the *director*, who was supported by *deputy directors*. The *director* directly instructed the *Personnel Group*, the *general deputy director* directly instructed the *Investment-, Collection-, Historic Monument Management-, and Scientific Departments*. The *technical deputy director* had control over the *Department of Planning and Implementation*, while the *deputy bursar* had control over the *Department of Finances and Accounting* and the *Group of Internal Administration and Labour Force*.

In its scope of duties, the OMF behoved its magisterial activities through the regional presenters, and was engaged in direct communication with the council bodies, tourist agencies, planning bureaus and business undertakings.⁴⁰ It behoved - within the confines of its planning and implementation authorities - excavations, proceeded as the designer and the implementator at reconstructions and the restorer in cases with fine- and applied artworks connected to historic monuments. As an additional activity, it could implement its building planning duties on historic monuments without restrictions, and as a supplementary activity, it could also execute building industry construction work in that circle, where it was prepared on the ability of professional expertise. The OMF operated the *Museum of Architecture* within the confines of its *Department of*

⁴⁰ VUKOV, Konstantin, 'Városrehabilitáció és műemlékvédelem', In: ÉIK 255.

Collections. It issued the quarterly periodical, the *Protection of National Monuments*, and also published its *Yearbook*.

The questions of national monument protection were detailed under eighteen titles in the ÉM Decree no. 1/1967 (I. 31.). The OMF - based on its records on the declaration to be protected or on the cessation from the list - issued a *registry on the national monuments* in every sixth years, and also disposed of the land registry registration of the actual status. Labelling of a national monument was also implemented by the OMF. The owner of the national monument was obliged to endure and maintain the table delineating the history of the building with the inscription '*National monument*'.⁴¹

The OMF was given a serious scope of authority in connection with the obligations for maintenance. If the owner of the protected building did not fulfill the obligations for maintenance encumbered to him, the authority could dispose of the renovation or reconstruction. In connection with the obligation for maintenance, no building authority was entitled to consider the necessity of the action, if the authority for the historic protection had already expressed its opinion: in this case it was bound to take official measures. If the repeated penalties or offence procedures proved to be of no avail, it was entitled to have the ordained work done at the obligated's own charge. The councils were bound to advance the charges of restoration of buildings for living, while the OMF was bound to advance the works connected to other real estates. In case of the restoration of a personally owned building, the state budget might take part of the expenses over, if the ordained activities were aiming at the expression or more effective emergence of the original character of a national monument. This could be done in the following way: the expenses connected to the maintenance or enhancement of the building's proper use was encumbered to the owner, while the additional costs were carried by the OMF.

A state-owned national monument's sale, exchange, charging, hypothecation, as well as the assignment of its operator, the transfer of its management rights, and further, the decision ordaining the bearing

⁴¹ MOLNÁR, Miklós op. cit. p. 36.

of its ownership- or management rights to an economic company was bound to the permission of OMF. Any activity, which authorization did not belong under the jurisdiction of the building authority but rather to other (road management, water management, etc.) authorities, as well as the shaping of individually not protected buildings, public objects, facilities of public usage on areas of monumental significance and in monumental environment, and further, establishment, disassembly, outer renovation, restructuring of green areas, and also the land usage, plot restructuring concerning monumental interests, establishment of easement, expropriation, evacuation of cemeteries, disassembly or relocation of sepulchers older than fifty years or containing artworks, cutting down or locating of trees on protected real estates, areas of monumental significance and in monumental environment must have been approved by the OMF.

There appeared a principle that lives even today: those monuments must not be disassembled.⁴² The OMF, however, could authorize it, following the release of a decision terminating the protection and ordaining that certain parts of the building were to be incorporated into a new building or the valuable parts of the building were to be placed in a museum.

The official control over the protected buildings and areas was the responsibility of the OMF. This meant a continuous giving an eye to the condition and use of the national monuments. The decisions of the OMF in its consideratory power could be reconsidered only in regard to their legality.

The monuments and their accessories, as well as the associated fine- and decorative art objects - as representative and irreplaceable relics of the homeland's historic past - must have been given legally regulated protection. The monuments had to be maintained intact, without any change in their character. The obligation of maintaining extended on the monument's architectural consistency, constitution, facade, accessories, as well as all the aspects of the artistic appearance (decoration, plasterwork, paintwork, contemporary equipment). External or internal renewal, reconstruction, restructuring, enlargement or demolition, as well as other activities touching

⁴² MOLNÁR, Miklós op. cit. p. 69.

the character or the artistic appearance of the national monument, and also the establishment of the ways of the monument's utilization (also the alteration) could be done only according to the manner appointed by and with the prior permission of the Minister of Building Affairs.⁴³

Other protections were also ordained by this chapter of the Act. Parts of the settlement areas suitable to use in medicinal or recreational ways must also have been protected. The Lake Balaton and its surroundings, as well as the - due to natural conditions - continuous, and - from the recreational and touristic point of view - important other areas could also have been proclaimed as resort area units. Such areas must have been protected in uniform ways concerning the building matters. The resort areas must have been specifically indicated in the *regional planning scheme*, and also in the *organizational program* and *general planning scheme* of the settlement. Only such buildings could have been raised on the resort areas that were fitting to the designation of the place, and served the satisfaction of the needs of the inhabitants, and also the persons having resort in the resort area. The living space to be built with buildings suitable for flats for permanent housing must usually have been separated from the resort areas. If this was not possible, special building conditions could be appointed during the authorization process of the construction of such buildings suitable for the purpose of permanent housing, and for the usage, limitations could be established.⁴⁴

7. Building authorities

The IV chapter of the Act was dealing with the building authorities. Magisterial tasks within the scope of construction management - if the law did not dispose otherwise - were provided by the administrative bodies of the building authorities of the *councils' executive committees*.⁴⁵ In order to promote and improve the building authority's work in the villages -

⁴³ SZABÓ, Leventéné, 'Történelmi városrészek megőrzése, fenntartása, felújítása az építésügyi igazgatás feladatai között', In: ÉIK 226-233.

⁴⁴ FAZEKAS, Sándorné, 'A balatoni üdülőkörzet regionális rendezési tervének végrehajtását szervező építési hatósági tevékenység Somogyban', ÉIK 38-44.

⁴⁵ MADARÁSZ, Tibor, 'Szakigazgatás a városokban', Budapest 1972. I. pp. 29-33., 139-143., II. pp. 26-28.; VÖRÖS, József - KARSAL, József, 'A lakásépítés (-vásárlás), -felújítás és -korszerűsítés, valamint a telekgazdálkodás pénzügyi szabályai', Budapest 1985. p. 45.

according to the regulations on the councils - a permanent building committee (subcommittee) had to be organized. The *city council*, as well as the *city district council* - with considerations on the local conditions - could also organize a permanent building committee.

On the second instance, the building administrative bodies of the executive committees of the capital, city or county councils were proceeding in the capital, in cities with county rights and in villages and cities with district rights, respectively.

Magisterial duties belonging to the competence of the building administrative bodies of the councils' executive committees in the first instance were supplied by the building department of the executive committee of the district- (in villages), city- (in towns with district rights) and division council (in the capital, and in towns with county rights), respectively. On the second instance, there acted the building administrative bodies of the executive committee of the county- (in villages and towns with district rights), capital- and city council (in the capital, and in towns with county rights, respectively).

If the importance, degree of development and population number of the village justified it (and also the organization of the council's executive committee made it possible), the executive committee of the county council - with the prior approval of the Minister of Building Affairs - could empower the building administrative body of the village council's executive committee with building authority rights related to general or specific cases on the first instance. In cases where the building administrative body of the village council's executive committee acted on the first instance, the building authority rights on the second instance were executed by the building administrative body of the district council's executive committee.

Organizational structure and operational rules of the building administrative organs of the council's executive committees were determined by the Minister of Building Affairs.

For the uniform enforcement of the requirements of land organization, as well as for the promotion of the work of the building authorities, the

Minister of Building Affairs could appoint *regional chief architects*. The *regional chief architect* gave professional advice to the building authorities and other agencies, and put factual determinations on matters covered by building management - particularly on issues related to spatial planning and release of building authority permits. The *regional chief architect* must have been considered involved in the official building licensing procedures.⁴⁶

8. Specific building regulations

For land usage, plot restructuring, construction, putting into usage, renewal, restoration, conversion, expansion and disassembly of a building, and further, for installation of instruments, the permission of the building authority was necessary. The building authority could bind the initiation of the construction work as well as the initiation of the specific work sessions determined in the work permit - in cases determined in the Building Code or in any other law - to *initiation permit* or to an *ordainment of registration*. As it was already the case prior to the birth of the Act, the building authority now could also bind the issue of the building permit to specific conditions.

If any other law in connection with the granting of the building permit prescribed the prior audition or consent of a public body, prior to the decision-making there must have been seen to the procurement of the concerned body's and its provisions were to be included in the decision of the building authority.

The building permit could have been granted to the proprietor, manager or user of the real estate, and further, to whom who acquired the consent of those who were entitled to dispose in point of the real estate for the performance of the planned construction works. Building rights on jointly owned real estates behooved the joint proprietor only in cases when all the joint proprietors consented to the performance of the planned construction works. However, if the acquisition of the consent would have been amounted to exceptional difficulties because of the whereabouts or

⁴⁶ Government Decree No. 30/1964 (XII. 2.) Korm. (Executive Decree) § 15-17.

other conditions of the joint proprietor, in point to an unbuilt plot the building authority could give permission for the initiation of the planned construction works, if the majority of the joint proprietors - calculated according to the ownership proportion - assented.

As has been observed in several cases, the new regulation of 1964 often does not affect us as a novelty. So it was, when the granting of the official building permit must have been denied, if it could have easily been in advance established that the construction or maintenance of a building would have caused - by water, steam, gas, smoke, soot, heat, stench, noise, shocks, radiation or by any other means - such a serious effect on the environment that would have exceeded the appropriate measures corresponding to the local conditions and the proper use of the concerned area, or would have restricted the usage of the adjacent real estates in a significant manner, or would have endangered the stability, the health, life- or public safety, or would have violated the public interests otherwise.⁴⁷

Again, only the first turn of the Act's next section provides novelty: the conditions of the building permit should be determined as to the building meet the construction requirements of the modern architecture. The building located on the adjacent plots should invariably get good support, light, sunlight and air, and also the building should not interfere with the clear view of the neighbors - this phrasing sounds very familiar from 1937. During the granting of the building permit, the building authority was obliged to take notice of the legitimate interests of the proprietors, managers or users of the real estates adjacent to the building plot affected by the construction activities.⁴⁸

There is a novelty in the section 30 of the new Act: that additional buildings, landscaping and afforestation works necessary for the proper use of the edifice must have been implemented during or prior to the construction activities. The building authority could refuse the granting of the building permit, if the implementation of these additional works was not ensured. New types of building materials, structures, construction methods and

⁴⁷ Act VI of 1937 § 21 (2).

⁴⁸ KESZTHELYI, Péter, '*A települési környezetvédelmi szakszolgálat sajátos szerepe az építészeti igazgatásban*', ÉIK: 520-521.

building industry equipments could also be used, if the Minister of Building Affairs or an authority empowered by him or a scientific body allowed it. However, the Minister of Building Affairs could ordain the obligatory use of certain construction materials, structures, construction methods or building industry equipments.

The construction work must have been implemented according to the building permit and the attached technological plans and other documents. Deviation from the technological plan authorized by the building authority was possible only with the permission of the authority; however, the Minister of Building Affairs could ascertain exceptions from this provision in measures.

The proprietor, manager or user of the real estate was obliged to endure the placing of the scaffolds necessary for the implementation of the construction on the adjacent plot on his real estate in a necessary manner, and further, the crossing of his plot, the implementation of the necessary measurement activities or the transportation and placing of the building material. The harm caused must have been recompensated, according to the regulations of the Civil Law.

If an architectural relic or a piece of fine art appeared in connection with the building during the construction activity, the contractor was required to report it immediately to the authority, and leave the occurrence intact until the provision of the building authority.

If the building was constructed in a way not suitable for the proper use, the building authority could prohibit the building's putting into practice, or gear it to the abolishment of the errors and failures. The building could have been used only for purposes determined in the building and application permits. For usage different from the permitted, the license of the building authority was inevitable.

As it was in the countries professing civil values, in the socialist Hungary it also appeared as a basic principle that the owner, manager or user of the real estate was obliged to ensure the upkeep and maintenance of the plot

and building, and from time to time revise the status and resistance of the building according to the manners determined in the regulations.

The building authority could grant permission for the demolition of the building if it did not harm any *national accounts interest*, and the building could not be maintained any more by economic restoration or alteration.

Supervision of the planning schemes and retention of the building regulations belonged to the sphere of action of the building authority. During the provision of this duty, the building authority supervised the implementation of the construction activities, the status, proper use and maintenance of the areas and buildings, as well as the usage of public areas. The prevention, quest and hindrance of the construction works in absence of or distinctly from a permission belonged also to its duties. The builder or contractor was obliged to endure the supervision of the entitled authorities on the implementation of the construction activities, as well as on the building plot and the edifice. The data, materials, aids, tools and manpower should have been submitted without a recompensation.⁴⁹

The building authority could impose various commitments. During the course of the construction work, it could ordain the cessation of the implementation and the restitution of the original status, the performance of working procedures corresponding to the building permit, the exchange of materials and structures not suitable for the building requirements, as well as the partial or global alteration, disassembly and restoration of the building, if the implementation took place in absence of or distinctly from the permit, or in a way endangering the stability, health or the life- and public safety.

In 1964 we could already meet with such regulations that the authority could ordain the uniform design and implementation of the all the parlors' facades, storefronts, advertising tools and labels, if it seemed necessary out of public interest (especially for the more beneficial shaping of the townscape).

⁴⁹ BURGER, Miklós, '*Államigazgatási jog, különös rész*', Budapest 1977. pp. 83-87.

If the building authority did not ordain the disassembly of a building constructed in absence of or distinctly from the permit, it could issue a temporary (valid until recalled) or permanent subsistence permit for the building. The building should have been demolished after the expiration of the given time or the revocation of the permit. The building authority could dispose in one year (or at the very latest, in ten years after the building's putting in practice) following the becoming aware of a construction activity implemented in absence of or distinctly from the permit.⁵⁰

9. Construction planning activities

Construction planning activities - distinctly from the civic era's and from today's practice - could be exercised by state planning bodies organized with nationwide or territorial competence, as well as planning co-operatives and individual citizens with an entitlement for planning. Preparation of technical plans connected to the building operations of the state bodies and non-governmental organisations as well as the performance of the implementation of planning overseeing activity was the duty of the state-owned planning agencies. The presence of the private sector was completely out of question.

Type design must have been made concerning the several times repeated structures, building parts and buildings with the same functions. Usage of type designs was obligatory by constructing activities of state-owned bodies, but the regulations could ordain the obligatory application of type designs concerning to other builder's constructing activities. These regulations acted towards the direction of unanimity, creating the basis of the legitimacy of the often overwhelming, unimaginative, falanster-like building sets (existing even today).

If the builder was a governmental body or a social organization, then for the implementation of the planning activity it was obliged to make a planning contract with the concerned designer, and also a planning overseeing contract. The whole planning work had to be contracted with a general implementator, even in that case, when more than one designer's

⁵⁰ ACZÉL, Péter, *'Az építészeti igazgatás hatósági eszközei'*, ÉIK 335-352.

co-operation needed for the planning. The general implementator could conclude design sub-treaties for the performance of the subtasks.

The designer was responsible for the enforcement of the planning regulations, magisterial instructions and professional standards, the accuracy, profitability and completeness of the technical plan and budget, as well as for the technical and economic feasibility of the plan. He was also responsible for the aesthetic and modern standards of the plan, and he fulfillment of the obligations originating from the design. The designer was obliged to monitor and promote the performance of the technical plan's implementation with his advices and comments. The general designer was also responsible for the coherency and agreement of all designs and budgets.

10. Construction activities

Building industry activities could be exercised by state-owned construction companies organized with nationwide or regional competence, building societies, state bodies, social organizations as well as building industry departments operating in the framework of co-operatives and construction artisans. The role of the state-owned construction companies was mainly to meet the building needs of the state organs and social organizations. The building department of the state body was responsible for meeting the building needs of the body. The building industry co-operatives and the building departments of the co-operatives were primarily responsible for meeting the building needs of the population and the co-operatives, while the building aritsans' primary duty was meeting the building needs of the population.

If the builder was a state body or a social organization, it was obliged to conclude a contract for the performance of the construction activities with a body authorized for the implementation of the constructing activities. The construction contract must have been concluded with a general implementator, even in that case, when more than one implementator needed for the fulfillment of the contract. The general implementator could conclude subcontracts for the subtasks.

The contractor was responsible for the enforcement of the planning regulations, standards and other measures, as well as the fulfillment of the magisterial permits and the obligations originating from the contract. The general contractor was also responsible for the harmonization of the work of the subcontractors.

11. Vindictive and other instructions

As closing, the Act put a couple of serious phrases. A construction in the absence of or substantially differing from the building permit was not allowed to receive public benefits or pork-barrel.

In administrative procedures covered by building regulation, the general rules of the state administrative procedures had to be applied.⁵¹

The vindictive offence regulations were determined at the level of the law. Those, who violated the planning scheme in a rate as to prevent or made significantly more expensive the implementation of the planning scheme, performed land usage, plot restructuring, constructing or wrecking activities or installation of equipments in absence of or substantially differing from the permit, did not disassemble or correct the building (or part of the edifice) directly endangering the stability, health-, life- or public safety until the deadline appointed by the building authority, as well as did not make the necessary safety measures until the wrecking, and further, violated the safety regulations during the construction, correction or wrecking of the building or the installation or disassembly of scaffolds, endangering the health-, life- or public safety, or damaged a historic monument or made construction works bound to magisterial permit in the absence of or substantially differing from the permit, did not report to the building authority the appearance of any architectural memories or fine art pieces connected to the building, and did not leave the station untouched until the provision of the authority, a fine had to be paid.

Minor offense was committed by the person who put or give a building bound to magisterial permit in the absence of or significantly differing

⁵¹ Act IV of 1957 on the General Rules of Administrative Proceedings.

from such permit in practice, as well as used such building in the absence of the permission of the building authority differently from the proper way that was determined in the usage permit; out of omission of the duty concerning the upkeep of the plot or building endangers health, bodily well-being or public safety by letting parts or accessories of the building fall, tumble, as well as rain- wastewater or other fluids flow irregularly onto those parts of the building that were used for human residence or to public areas; had resort of public areas in absence of magisterial permit to purposes differing from the proper use, or used it differently from the permit; applied novel materials, machinery, ways of construction or architectural fittings in absence of, or differently from the permit.⁵²

12. Conclusion

The building regulation bore the marks of the state socialism. Hierarchy of legislation could not be predominated - even ministerial instructions disposed on questions touching the basic rights of the citizens and clients. It can still be said that the professionalism was primarily predominating in the regulation, thus these measures could survive the change of the system's years and could lead to the establishment of the speciality through the years of the transition. The rules of the era were naturally impregnated with the principles of the socialist state and polity, thus the emergence of the state's excessive role is incontrovertible. Nowadays one would be concerned if the tasks of the owners, investors, contractors and authorizers were provided by the same public body. The control was lacking. Today in the protection of historic monuments were inconceivable that the Agency would plan, implement and authorize its own activities. Although building affairs suffered less politicization, one of the main tasks of the 1990's was the establishment of the guarantees of the constitutional state, which was girdled around with a row of modifications of the measures and birth of new measures. The reverse of the medal also haunts us even today: if we walk in the streets of any Hungarian towns, we might face the bad state and dilapidated facades of the buildings, agitating against nationalization and propagating us that we might hardly find worse proprietor as the State.

⁵² Executive Decree § 28.

SUMMARY

**Building Regulations in Hungary in the Socialist Era
(Act III of 1964, and its Regulatory Environment)**

LEVENTE VÖLGYESI

The first comprehensive regulation of the construction industry in Hungary was by Act VI of 1937. This Act covered various issues from spatial planning through plot restructuring through the regulation of the construction of various buildings. This excellent and professionally based Act was later replaced by Act III of 1964. The development of the state socialist system gave rise to changes in the social and economic relations and in the ownership structure as well a significant portion of valuable real properties became public property, and architects' offices and construction companies were also nationalized. Thus state regulation and direction became more intensive and extensive in the legal rule, which was completed by lower level decrees and other legal instruments of state governance compared to the legislation of 1937. We need to note in connection with this Act historical monument elements of the built environment. The first legislation on historical monuments was Act XXXIX of 1881. This Act was in effect upon the adoption of the Building Act of 1937, but continued in effect only until the turn to dictatorship. It was repealed by Law-Decree No. 13 of 1949, which created a new situation by integrating the real and personal property elements of cultural heritage into one legislation. Such legislative environment which brought about significant changes in views and organisations remained intact only for a very short time, as the new organisation was dissolved in a few years. The management and supervision of the personal properties of museums and of historical real properties were delegated to different organisational units, then Act III of 1964 ruled that all real properties (including historical and other buildings) should be governed by one legal rule and the relevant enforcement decrees. This system survived the change of the political system in 1989/1990 and remained in effect until the enactment of the new regulations in 1997.

RESÜMEE

**Baurechtliche Vorschriften in Ungarn in der
sozialistischen Ära
(Gesetz Nr. III aus dem Jahre 1964 und sein
regulatorisches Umfeld)**

LEVENTE VÖLGYESI

Das Bauwesen wurde in Ungarn umfassend erstmals mit dem Gesetzesartikel Nr. VI aus dem Jahre 1937 geregelt. Diese Rechtsvorschrift behandelte von der Gebietsregulierung über die Grundstücksumbildung bis hin zur Regelung der Errichtung einzelner Gebäude zahlreiche Bereiche. Dieses hervorragende, auf fachlichen Grundlagen beruhende Gesetz wurde durch das Gesetz Nr. III aus dem Jahre 1964 abgelöst. Infolge der Herausbildung des staatssozialistischen Systems veränderten sich die sozialen und wirtschaftlichen Verhältnisse und auch die Eigentümerstruktur wandelte sich. Ein bedeutender Anteil der wertvolleren Immobilien ging in Gemeinbesitz über, und auch die Architekturplanungsbüros und Bauausführungsfirmen wurden verstaatlicht. Auf diese Weise wurde die staatliche Regelung und Einmischung in der Rechtsvorschrift – die durch Verordnungen niedrigerer Stufe und die rechtliche Mittel der staatlichen Lenkung ergänzt wurden – im Vergleich zur gesetzlichen Regelung des Jahres 1937 intensiver und weit verzweigter.

Im Zusammenhang mit dieser Regelung sind die Denkmalelemente der gebauten Umgebung zu erwähnen. Das erste Gesetz über die Denkmäler war der Gesetzesartikel XXXIX aus dem Jahre 1881. Dieses Gesetz erlebte zwar das Baugesetz des Jahres 1937, blieb jedoch nur bis zur diktatorischen Wende in Kraft und wurde durch die Gesetzesverordnung Nr. 13 des Jahres 1949 außer Kraft gesetzt. Diese Gesetzesverordnung schuf eine neue Situation, indem sie die Mobilien- und Immobilienelemente des Kulturerbes in eine einzige Rechtsvorschrift integrierte. Dieses Rechtsumfeld, das ernsthafte Veränderungen in der Anschauung und Organisation mit sich brachte, blieb nur sehr kurze Zeit unberührt, da

sich die neue Organisation innerhalb einiger Jahre auflöste. Die musealen Mobilien wurden von anderen Organisationseinheiten übernommen und die Verwaltung bzw. Aufsicht der Denkmalimmobilien ging zu anderen Organisationen über. Schließlich wurde die Regelung des gesamten Immobilienbestands (Denkmäler und sonstiges) durch das Gesetz Nr. III aus dem Jahre 1964 einer Rechtsvorschrift und der die Durchführung dieser Regelnden untergeordnet. Dieses System überstand die Wende des Jahres 1989/1990 und bildete bis zu den neuen Vorschriften des Jahres 1997 ein wirksames Rechtsmaterial.