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Guidelines and Instructions of the General Conservator of Historical Monuments: New Tools for Conservation Policy

Wytyczne i instrukcje Generalnego Konserwatora Zabytków jako nowe narzędzia polityki konserwatorskiej

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Słowa kluczowe: polityka konserwatorska, wytyczne konserwatorskie, polityka ochrony zabytków

Introduction

Conservation bodies, due to the tasks they perform, constitute an important part of the Polish public administration system. Their operations are executive in nature, which means that the essence of their activities lies in construing and implementation and of the provisions laid out mainly in the Act of July 23, 2003, on the Protection and Preservation of Historical Monuments (hereinafter: the APCHM). Thus the competences of the conservation bodies became part of the definition of monument protection provided for in Article 4 of the APPHM which specifies the objectives of the public administration in this field. At the same time, most decisions of the Voivodeship Conservator of Monuments are based on the rule of administrative discretion, as well as regulations containing numerous under-defined notions. This stems from the very construction of the provisions of the APPHM and is, beyond question, an intended maneuver of the legislator.

What is more, the discretionary power of conservators is to serve not the conservatorship itself, but the monuments, for the benefit of which they are to act effectively. The subject of this article is to present the guidelines and instructions of the General Conservator of Historical Monuments, issued on the basis of the

APPHM, in accordance with its wording specified in the Act of June 22, 2017, on the Amendment the Act on the Protection and Preservation of Historical Monuments and some other acts, hereinafter referred to as the 2017 amendment.

Legal and institutional position of the General Conservator of Historical Monuments

In order to analyze the competences of the General Conservator of Historical Monuments, a brief overview of how Polish conservation administration is organized is required first. Due to its position in the political system, they are considered part of the government (centralized) administration. At the local level, the conservation authority is the Voivodeship Conservators of Monuments, who are counted among the integrated services acting under the authority of the respective Voivode (i.e. provincial governor). At the central level, there is the Minister in charge of culture and national heritage protection, on behalf of whom the General Conservator of Historical Monuments performs its tasks and responsibilities. The legislator decided on dual subordination of the local conservation bodies: with respect to financial and organizational matters, the Voivodeship

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Conservators of Monuments are subordinated to the Voivode, but when it comes to substantive matters, the Voivodeship Conservators of Monuments are subordinate to the General Conservator of Monuments.

The scope of the subject-matter responsibilities of the General Conservator of Historical Monuments is set out in Article 90 of the APPHM. In light of the discussed issues, the most important tasks prescribed in the Act are those which concern the relations between the General Conservator of Historical Monuments and the Voivodeship Conservators of Monuments. The General Conservator of Historical Monuments supervises (art. 90.2.7 APPHM), coordinates (art. 90.2.7a APPHM), and controls (art. 90.2.7b APPHM) the activity of the Voivodeship Conservators of Monuments. Before the 2017 amendment to the APPHM, the position of the General Conservator of Historical Monuments was far more disadvantaged, as it was limited to supervision, yet devoid of any supervisory measures.

The aforementioned amendment to the APPHM equipped the General Conservator of Historical Monuments with substantive supervision measures (see Article 47a of the APPHM) and strengthened its position with regard to personal supervision measures (see Article 91(1–1a) of the APPHM). The provisions regulating control were also made more precise by explicitly referring this function to the provisions of the Act of 15 July 2011 on Control in Government Administration. However, key to these provisions is the clear assignment of the General Conservator of Historical Monuments' coordinating function.

Coordination refers to the harmonization of administrative action. B. Majchrzak pointed out that it serves the purpose of synchronization, agreement of partial activities in time and space, organization of activities carried out jointly by several (many) entities.

The aim of coordination is to boost effectiveness, which in the case of conservation bodies is to achieve the aims referred to in article 4 of the Act. However, coordination does not occur alone and is connected with other organizational arrangements. In this case, the coordinating function of the General Conservator of Historical Monuments is related to the substantive supervision function, this including the competent instance-type supervision.

When it comes to coordinating activities of the Voivodeship Conservators of Monuments, the General Conservator of Historical Monuments may define the general directions of their activities, issue instructions and guidelines defining the manner of their conduct and require their activity reports. However, Art. 90 par. 4 of the APPHM expressly provides that the instructions and guidelines may not relate to decisions on the merits of the case settled by way of an administrative decision. In other words, they cannot refer to the manner of resolving specific administrative issues.

Legal nature of guidelines and instructions of the General Conservator of Historical Monuments

The General Conservator's instructions and guidelines are internal acts, which means that they are binding only on the authorities subordinate to the office. However, this does not mean that they are binding exclusively on the Voivodeship Conservators of Monuments and the heads of the delegations of the Voivodeship Conservators of Monuments acting on their behalf. These documents are also addressed to all the units and entities which are commissioned tasks within the scope of Voivodeship Conservators of Monuments on the basis of art. 96 of the APPHM. This means that the instructions and guidelines of the General Conservator of Historical Monuments are binding also for the local government related conservators.

Apart from the direct binding force, there is also an indirect possibility to influence organizations operating outside public administration. In practice, instructions and guidelines may, through the activities of conservation bodies, influence owners, designers or contractors involved in historical monuments: when treated as a premise for assessing the permissibility of certain works or activities on a monument, which is assessed every time in the course of proceedings for granting a permit under art. 36 par. 1 of the APPHM. It must be noted that when assessing the admissibility of activities covered by the application for a permit, the Voivodeship Conservator of Monuments is obliged in each case to meet the objectives of monument protection as set out in Article 4 of the APPHM, including primarily the prevention of threats that may cause damage to the value of monuments. Compliance with the guidelines and instructions cannot consist only in referring to them—the objectives of the enforcement decision must be precisely defined, i.e., operationalized, and therefore referred to a specific factual state. Bearing in mind that the binding guidelines and instructions of the General Conservator of Historical Monuments affect the interpretation and construal of the under-defined notions used, and consequently have an impact on the duties of the administrators of monuments. In this respect, therefore, one can speak of indirect binding by guidelines and instructions.

The General Conservator of Historical Monuments may enforce guidelines and instructions by applying both substantive (revoking or amending the decision—art. 47a of the Act) and personal (a motion for dismissal of the Voivodeship Conservator of Monuments) supervision measures. The guidelines and instructions of the General Conservator of Historical Monuments affect the quality of documentation, evaluation, and conservation efforts and the usage of historic monuments, by unifying the approach of the conservator's to selected issues, which may otherwise differ significantly from one another. Therefore, they make it possible to pursue a responsible, coherent conservation policy, which

intensifies and standardizes proceedings, also reducing the randomness or regional passivity, which is negatively diagnosed by the conservation community itself.

Guidelines and instructions as a tool of conservation policy

By equipping the General Conservator with a tool in the form of instructions and guidelines, which define the directions of conservation policy, it became possible to create conditions for harmonizing the substantive activities of local conservation bodies. At this point, the manner in which the notion of conservation policy is understood should be clarified. To begin with, it is worth noting that a policy is generally treated as an ordered sequence of decisions and actions leading to the implementation of an adopted aim. In this sense, an administrative policy is “a program of action which aims to achieve certain objectives by means of the legal and other means available to the administration.” It rests on the creation of objectives, the setting of programs, which then leads to the application of appropriate measures and their evaluation. A conservation policy is therefore a kind of administrative policy carried out by the conservation authorities. In particular, it is carried out at the central level by the General Conservator of Historical Monuments and at the local level by the Voivodeship Conservator of Monuments within their local jurisdiction. However, the conservation policy carried out by Voivodeship Conservators must be consistent with the policy determined at the central level—it may complement and expand on it, but cannot contradict the principles determined by the General Conservator.

Therefore, conservation policy is a model of strategic management referring to activities carried out to historical monuments and it includes a set of accepted principles of conservation practice, including the principles of conservation work and research, as well as praxeological directives, directing the attention of the conservation bodies to specific resources and problems with the indication of principles regulating the practice. The source of the principles adopted within the framework of a given conservation policy is the system of assumptions which normalize the conservation practice, formulated earlier in the so-called doctrinal documents developed by international organizations (UNESCO, ICOMOS, ICCROM), or at the national level (GKZ, NID). It should therefore be assumed that doctrinal documents formulate paradigms relating to both conservation theory and conservation practice. A vast majority of doctrinal documents are non-binding. However, as they become a part of policy-making acts, they also become binding on entities hierarchically subordinated to the entity issuing the act.

A conservation policy, understood in this way, sets out the tasks which, in a rapidly changing environment, correspond to the needs and emerging problems of contemporary conservation, the implementation of

which should be in the wider public interest. A conservation policy can be set forth in the acts related to this policy, which includes the guidelines and instructions of the General Conservator of Historical Monuments.

A conservation policy is an element of the broader monument conservation policy, which is defined by Ż. Gwardzińska as “the activity of public authorities aimed at protecting and caring for monuments or exerting a dominant influence on power by groups of citizens.” The monument conservation policy is therefore a wider concept: on top of the pursuance of the historical monuments conservation objectives—effected by issuing conservation bodies’ decisions (conservation policy)—it also refers to other tools, such as those related to the financing of works on historical monuments, social and educational activities, as well as management efforts.

One act of monument protection policy is, undoubtedly, the National Program for the Protection and Preservation of Historical Monuments, referred to in art. 84–86 of the APPHM. It defines, in particular, the objectives and directions of activities and tasks in the field of monument protection and preservation, the conditions and methods of financing the planned activities, as well as the schedule of their implementation.

The monument protection policy is one of the policies for the protection of cultural heritage. It should be noted that the policy of cultural heritage protection is oriented at the needs and ideas of the contemporary user, covering both the issues of tangible and intangible heritage, while the monuments protection is based policy on the system of historic values.

The heritage assets are governed by restrictive conservation practices defined by the conservation policy. All the above policies fall into the broadest category of cultural policy (Figure 1). It is assumed that the cultural policy of each country is derived from its political system and concerns that part of the social policy of the state which relates to artistic creation, the promotion of diversity, the availability of cultural products, and the protection and preservation of cultural heritage. The publication *Kultura i rozwój*, which seeks to define this concept, specifies cultural policy to be “the influence of superior (decision-making) authorities on the course of things in culture,” indicating at the same time that it is “purposeful, systematic interference in the sphere of culture [...] carried out to achieve four basic objectives: to preserve the cultural identity of the nation; to ensure equal access to culture; to promote creativity and high quality of cultural assets and services; to diversify the cultural offer in such a way that each social group can find something for itself.” It is also important to stress that the main objective of cultural policy should be to help the formation of a civil society. Thus, cultural policy has an indirect effect on cultural reality and consists rather in shaping conditions conducive to the realization of the assumed cultural values, “such conditions in which the development of the desired cultural values would be natural.”

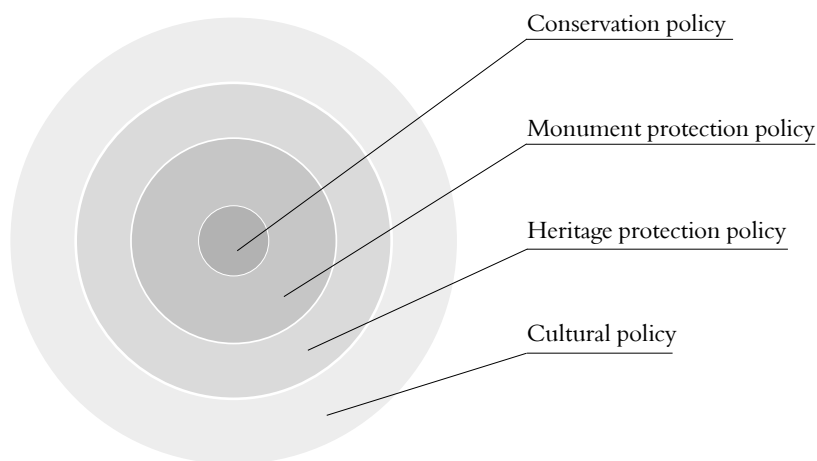


Fig. 1. Diagram showing the interdependence of conservation policy, monument protection policy, cultural heritage protection and cultural policy; by the authors.

Ryc. 1. Schemat przedstawiający współzależność polityki konserwatorskiej, polityki ochrony zabytków, ochrony dziedzictwa kulturowego oraz polityki kulturowej; oprac. autorek.

Catalogue of guidelines and instructions issued between 2018 and 2021

The guidelines and instructions of the General Conservator of Historical Monuments, referred to in Article 90.3 of the APPHM, set out the basic principles which should be followed by the Voivodeship Conservators of Monuments in their activities.¹ However, not all of them will refer to conservation policy *sensu stricto*. The guidelines and instructions issued between 2018 and 2021² on the basis of Article 90.3 of the APPHM can be divided into four groups. The first group includes documents containing interpretations of selected provisions within the competence of the Voivodeship Conservator of Monuments, which are binding for monument protection authorities. Such guidelines include:

- 1) Guidance dated January 19, 2018, on the application of the regulations relating to the removal of trees and shrubs from listed properties;³
- 2) Recommendations of December 7, 2018, on the protection of historic small towns;⁴
- 3) Guidance dated June 13, 2019, on the procedure for issuing permits for the search for monuments, including archaeological monuments, on properties owned by various entities.⁵

Another group of guidelines and instructions relates to optimizing the work of the conservation administration and to increasing efficiency of interaction with other bodies:

- 1) Guidelines of September 21, 2018, on the actions of the Voivodeship Conservators of Monuments taken in relation to the legal protection of monuments;⁶
- 2) Guidelines of October 1, 2018, on the actions taken by the Voivodeship Conservators of Monuments in the procedure of issuing permission for permanent export of monuments abroad;⁷
- 3) Guidelines of November 19, 2018, on how to conduct monitoring of historical monuments and/or

world heritage sites carried out by the Voivodeship Conservators of Monuments;⁸

- 4) Guidelines of December 17, 2018, on cooperation with the General Directorate of National Roads and Motorways when issuing decisions on permission to conduct archaeological research carried out during the construction of national roads and motorways;⁹
- 5) Guidance dated December 3, 2019, on the conduct of the Voivodeship Conservators of Monuments in relation to the activities of the US government agency Defense POW/MIA Accounting Agency in our country.¹⁰

In this respect, the guidelines and instructions can be seen as part of the policy for the protection of monuments due to the fact that they focus on cooperation with other authorities and institutions for the implementation of the objectives of monument protection referred to in Article 4 of the APPHM.

The third group of documents are guidelines and instructions relating to conservation principles:

- 1) Guidance and recommendations dated October 4, 2019, on the application of the fundamental conservation principles for historic buildings;¹¹
- 2) Guidelines of March 22, 2019, on the protection of monuments of technology;¹²
- 3) Guidance dated August 2, 2019, on standards of conservation practice for the development of market spaces.¹³

In this respect, the guidelines and instructions constitute a catalogue of principles which the Voivodeship Conservator of Monuments should follow in their administrative judgements. Therefore, they constitute a tool of conservation policy carried out by the General Conservator of Historical Monuments. They indicate, in particular, the standards of works, determine the acceptable methods and techniques, as well as issues related to the manner of use, i.e., giving the monuments a new function.

The fourth group of documents are guidelines and

instructions aimed at improving the quality of research, conservation design and work on monuments:

- 1) Guidance of March 6, 2019, on:
 - producing a base map for preparing study and project documentation in the field of conservation and restoration of parks, gardens and other forms of designed greenery entered in the register of historical monuments;
 - recommendations for the inventory of vegetation in parks, gardens and other forms of designed greenery, entered in the register of historic monuments;
 - recommendations for the development of a tree stand management projects in parks, gardens and other forms of planned greenery, which are listed in the register of historical monuments;
 - recommendations for dealing with damage caused by natural disasters to parks, gardens and other forms of designed greenery entered in the register of historical monuments;
 - recommendations for dealing with damage caused by natural disasters to parks, gardens and other forms of designed greenery entered in the register of historical monuments;
 - recommendations for the protection of trees and shrubs in the area of construction works in parks, gardens and other forms of designed greenery, entered in the register of historic monuments.¹⁴
- 2) Recommendations of July 23, 2020, on how to deal with developments of a reconstruction, revitalization, open-air museum on archaeological sites.¹⁵
- 3) Guidance of January 8, 2020, on setting standards for the conduct of archeological research pt.1 Intrusive investigations on land.¹⁶
- 4) Guidance of January 8, 2020, in setting standards for the conduct of archeological research pt. 2 Intrusive investigations on land.¹⁷
- 5) Guidance of February 28, 2020, on the protection of heritage in the process of energy improvement of historic buildings.¹⁸

The principles and standards formulated in this respect are to serve the improvement of the quality of works and research on historical monuments. It should be assumed that the guiding principles of the conservation practice, i.e., technical protection of selected groups of historic monuments, is a manifestation of a conscious conservation policy.

The guidelines and instructions of the General Conservator of Historical Monuments issued after 2018–2021 are crucial to limiting discretionary powers.¹⁹ The introduction of numerous under-defined concepts, general clauses, as well as the institution of administrative discretion into the provisions of the APPHM fosters the so-called discretionary conservatory power.²⁰ The aforementioned guidelines and instructions, acts in conservation policy, contribute to the achievement of a greater uniformity of administrative decisions in the field of monument conservation, which in turn contributes to the increase of legal certainty.

Conclusions

The internal nature of the guidelines and instructions means that they are not directly binding on entities which are not subordinate to the General Conservator of Historical Monuments. This does not mean, however, that they are not important for the remaining addressees of the historic monuments protection regulations. This applies in particular to guidelines and instructions which concern the principles of conservation protection or contain standards and rules which should be taken into account at the stage of planning works and design documentation. In all these cases they constitute a set of guidelines which the Voivodeship Conservator of Monuments is obliged to take into account when applying the law, e.g., when issuing a permit under Article 36 of the APPHM. This particularly relates to the assessment of the admissibility from the conservator's standpoint of a given program of conservation works or a construction project. As a result, they are also indirectly binding on entities outside the monument conservation authorities, as they determine the substantive limits of the decision in an individual case.

The guidelines and instructions of the General Conservator of Historical Monuments issued in 2018–2021 were a response to the current problems of the conservation bodies. Regarding the directions of conservation policy, the documents indicated focused on the assets that are most endangered, or that pose the greatest challenge to the system of monument protection today (greenery, technical monuments, wooden architecture, works of defensive construction). The guidelines and instructions issued so far constitute a heterogeneous group of documents. Only some of them can be seen as acts in conservation policy. In other cases, they are a source of standards for the implementation of the conservation policy, as well as documents which may be included in the more broadly defined policy for the protection of historic monuments. For example, documents aiming to optimize the activities of the conservation bodies and their cooperation with other entities, which then serves the implementation of the wider policy of historic monument protection.

The introduction, by the 2017 amendment, of the possibility of issuing binding guidelines and instructions addressed to local conservation authorities was an important element of the systemic changes. Together with the other changes referred to in the introduction, it significantly strengthened the position of the General Conservator of Historical Monuments. It was particularly important to strengthen its coordinating function, which leads, *inter alia*, to limiting the free action of public administration bodies, which has a significant impact on the legal situation of an individual. Undisputedly, a unified and publicly available interpretation of law, as well as conservation rules, strengthens the position of the conservation bodies.

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Act of June 22, 2017, on the Amendment the Act on the protection and Preservation of Historical Monuments and Some other acts, Dz.U. 2017, item 1595.

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Act of July 23, 2003, on the Protection and Preservation of Historical Monuments (Dz.U. 2021, item 710, 954).

² T. Sienkiewicz aptly points out that the "planned slack in decision-making" is important at the stage of making decisions in monuments conservation as it allows for the flexibility of law and consequently choosing the most appropriate solution. T. Sienkiewicz, *Pozwolenie w ochronie zabytków*, Lublin 2013, p. 280.

³ Act of June 22, 2017, on the Amendment of the Act on the Protection and Preservation of Historical Monuments and Some Other Acts, Dz.U. 2017, item 1595 (hereinafter: 2017 amendment).

⁴ See W. Kupny, *Generalny Konserwator Zabytków jako organ ochrony zabytków. Pozycja prawno-ustrojowa*, [in:] *Segmenty dziedzictwa kulturowego – między ochroną dziedzictwa – materialnego a niematerialnego*, ed. P. Dobosz et al., Kraków 2020, p. 103.

⁵ Unaddressed by said amendment were the statutory requirements concerning education and qualifications of the person holding the function of the General Conservator of Monuments. Ensuring the professional standard represented by such a specialized central body would undoubtedly foster its position as a substantive supervision body, although the actual strengthening of the conservation authorities should rather be seen in the separation of the General Conservator of Monuments as an independent central authority and in the performance of its tasks and competence in its own name and on its own account, and not, as it is currently the case, in the name and on behalf of the minister competent for culture and national heritage.

⁶ At present, the Voivodeship Conservator of Monuments is appointed by the Voivode at the request of the General Conservator of Historical Monuments who nominates a candidate for the position. The Voivodeship Conservator is dismissed by the Voivode upon receiving a motion of the General Conservator of Historical Monuments or with their approval. The change in the mode of appointment of the Voivodeship Conservator of Monuments is particularly significant, as it grants exclusive competencies with respect to the candidate's indication to the General Conservator of Historical Monuments.

⁷ Act of July 15, 2011, on Control in Government Administration (Dz.U. of 2020, item 224).

⁸ B. Majchrzak, *System administracji publicznej (więzi pomiędzy organami)*, [in:] *Nauka administracji*, ed. Z. Cieślak, Warsaw 2017, p. 26.

⁹ By some authors, guidelines and instructions are regarded as acts of internal management of a general nature (see R. Giętkowski, [in:] *Leksykon prawa administracyjnego*, ed. E. Bojanowski, K. Zukowski, Warsaw 2009, p. 90–91).

¹⁰ Cf. E. Knosala, L. Zacharko, A. Matan, *Nauka administracji*, Kraków 1999, p. 65.

¹¹ B. Bielinis-Kopeć, *Propozycje założeń do systemu służb konserwatorskich – stanowisko wojewódzkich konserwatorów zabytków*, "Ochrona Dziedzictwa Kulturowego" 2016, No. 1, p. 8–13.

¹² Z. Leoński, *Nauka administracji*, Warsaw 2004, p. 17.

¹³ M. Wincenciak, *Sankcje w prawie administracyjnym i procedura ich wymierzania*, Warszawa 2008, p. 252.

¹⁴ Ż. Gwardzińska, *Egzekucja nadzoru konserwatorskiego*, Gdańsk 2019, p. 30.

¹⁵ Act of 23 July 2003 on the protection and Preservation of historical monuments, Dz.U. 2021, item 710, 954, art. 3.1. and M.T. Witwicki, *Kryteria oceny wartości zabytkowej obiektów architektury jako podstawy wpisu do rejestru zabytków*, "Ochrona Zabytków" 2007, No. 1, p. 77–98, and B. Szmygin, *System ochrony zabytków w Polsce – próba diagnozy*, [in:] *System ochrony zabytków w Polsce – analiza, diagnoza, propozycje*, ed. B. Szmygin, Lublin–Warszawa 2011, p. 12.

¹⁶ A. Böhm et al., *Report na temat funkcjonowania systemu ochrony dziedzictwa kulturowego w Polsce po roku 1989*, ed. by J. Purchla, Kraków 2008, p. 13.

¹⁷ A. Wąsowska-Pawlik, *Polityka kulturalna Polski 1989–2012*, [in:] *Culture and development*, ed. by J. Hausner, A. Karwinska, J. Purchla, Warszawa 2013, p. 108.

¹⁸ Ibidem.

¹⁹ B. Gierat-Bieroń, *Ministrowie kultury doby transformacji, 1989–2005*, Kraków 2009, p. 60.

²⁰ D. Ilczuk, *Polityka kulturalna w społeczeństwie obywatelskim*, Kraków 2002, p. 12.

²¹ M. Golka, *Transformacja systemowa a kultura w Polsce po 1989*, Warszawa 1997, p. 21.

²² A. Leśniewski, *Modele polityki kulturalnej Państwa Polskiego 1944–2015*, doctoral thesis written at the Cultural Studies Institute of Adam Mickiewicz University in Poznań, Poznań 2017, p. 15; E. Wnuk-Lipiński, *Rozumienie kultury. Szkice socjologiczne*, Warszawa 1979, p. 92.

²³ In addition, the preparatory, executive and disseminative work carried out on the occasion of the next conservation policy task is usually accompanied by soft action, e.g., consultations, workshops, seminars, trainings, leaflets or good practice guides, which also sensitize the participants, at the

- same time indicating areas of conflict and the need for further cooperation and analysis.
- ²⁴ Currently, the guidelines of the General Conservator of Monuments concerning the standards for design issues in the field of historical greenery, protection of historic works of defensive construction, protection of wooden architecture, photovoltaics on monuments and historic areas, making monuments accessible to people with special needs, problems of monument protection in connection with climate change are being developed.
- ²⁵ *Wytyczne w zakresie stosowania przepisów dotyczących usuwania drzew i krzewów z nieruchomości wpisanych do rejestru zabytków*, "Kurier Konserwatorski" 2020, No. 19, p. 17–18.
- ²⁶ *Zalecenia w zakresie ochrony historycznych małych miast*, "Kurier Konserwatorski" 2020, No. 19, p. 32–33.
- ²⁷ *Zasady postępowania przy wydawaniu pozwoleń na poszukiwanie zabytków*, w tym archeologicznych, na nieruchomościach stanowiących własność różnych podmiotów, "Kurier Konserwatorski" 2020, No. 19, p. 76–77.
- ²⁸ *Wytyczne w zakresie działań wojewódzkich konserwatorów zabytków podejmowanych w związku z prawnokarną ochroną zabytków*, "Kurier Konserwatorski" 2020, No. 19, p. 19–22.
- ²⁹ *Wytyczne w zakresie czynności podejmowanych przez wojewódzkich konserwatorów zabytków w procedurze wydawania pozwoleń na wywóz stały zabytków za granicę*, "Kurier Konserwatorski" 2020, No. 19, p. 23–25.
- ³⁰ *Wytyczne w zakresie sposobu prowadzenia monitoringu pomników historii i/lub miejsc światowego dziedzictwa, realizowanego przez wojewódzkich konserwatorów zabytków*, "Kurier Konserwatorski" 2020, No. 19, p. 29–31.
- ³¹ *Wytyczne dotyczące współpracy z Generalną Dyrekcją Dróg Krajowych i Autostrad przy wydawaniu decyzji o pozwoleniu na prowadzenie badań archeologicznych, realizowanych w trakcie budowy dróg krajowych i autostrad*, "Kurier Konserwatorski" 2020, No. 19, p. 34–38.
- ³² *Wytyczne w zakresie postępowania wojewódzkich konserwatorów zabytków w związku z działalnością na terenie naszego kraju amerykańskiej agencji rządowej Defense POW/MIA Accounting Agency*, "Kurier Konserwatorski" 2020, No. 19, p. 79–81.
- ³³ *Wytyczne i zalecenia w zakresie stosowania podstawowych zasad konserwatorskich dotyczących zabytków*, "Kurier Konserwatorski" 2020, No. 19, p. 26–28.
- ³⁴ *Wytyczne dotyczące ochrony zabytków techniki*, "Kurier Konserwatorski" 2020, No. 19, p. 71–75.
- ³⁵ *Wytyczne w zakresie standardów postępowania konserwatorskiego w zakresie zagospodarowania przestrzeni rynkowych*, "Kurier Konserwatorski" 2020, No. 19, p. 78.
- ³⁶ *Zalecenia do wykonywania mapy zasadniczej na potrzeby opracowania dokumentacji studialno-projektowych z zakresu konserwacji i restauracji parków, ogrodów i innych form zaprojektowanej zieleni, wpisanych do rejestru zabytków; Zalecenia dla inwentaryzacji szaty roślinnej w parkach, ogrodach i innych formach zaprojektowanej zieleni, wpisanych do rejestru zabytków; zalecenia dla opracowania projektu gospodarki drzewostanem w parkach, ogrodach i innych formach zaprojektowanej zieleni, wpisanych do rejestru zabytków; zalecenia dla postępowania w sytuacji zaistnienia szkód spowodowanych kłeskami żywiołowymi na terenie parków, ogrodów i innych form zaprojektowanej zieleni, wpisanych do rejestru zabytków*, "Kurier Konserwatorski" 2020, No. 195, p. 39–70.
- ³⁷ *Zalecenia w zakresie sposobu postępowania w przypadku inwestycji o charakterze rekonstrukcji, rewitalizacji, skansenu na stanowiskach archeologicznych*, "Kurier Konserwatorski" 2020, No. 19, p. 82–85.
- ³⁸ *Wytyczne określające standardy prowadzenia badań archeologicznych, cz. 1. Badania inwazyjne lądowe*, "Kurier Konserwatorski" 2020, No. 17, p. 9–49.
- ³⁹ *Wytyczne określające standardy prowadzenia badań archeologicznych, cz. 2. Badania inwazyjne lądowe*, "Kurier Konserwatorski" 2020, No. 18, p. 9–59.
- ⁴⁰ *Standardy termomodernizacji obiektów zabytkowych, Wytyczne GKZ dotyczące ochrony wartości dziedzictwa kulturowego w procesie poprawy charakterystyki energetycznej budowli zabytkowych, NID, Warszawa 2020.*
- ⁴¹ On administrative discretionary power, among others, Z. Duniewska, *Władza dyskrecyjna administracji publicznej a sytuacja prawna jednostki – kilka refleksji*, [in:] *Administracja publiczna pod rządami prawa. Pamiątkowa z okazji 70-lecia urodzin prof. zw. dra hab. Adam Błasia*, ed. J. Korczak, Wrocław 2016, p. 97; M. Jaśkowska, *Uznanie administracyjne a inne formy władzy dyskrecyjnej administracji publicznej*, [in:] *System prawa administracyjnego, T. I: Instytucje prawa administracyjnego*, ed. R. Hauser et al., Warszawa 2015, p. 219.
- ⁴² E. Kowalska, *Własność zabytku a dyskrecyjna władza konserwatorska*, Gdańsk 2018, p. 278–293; M. Węgrzak, *Zasady prawa ochrony dziedzictwa kultury w orzecznictwie sądów administracyjnych*, Gdańsk 2020, p. 164–171.

Abstract

The Act of June 22, 2017, on the Amendment the Act on the Protection and Preservation of Historical Monuments and Certain Other Acts (Dz.U. 2017, item 1595) equipped the General Conservator of Historical Monuments with new competences, i.e., the right to issue legally binding guidelines and instructions. They serve as conservation policy tools as well as a form of building standards of conservation practice. This article defines the concept of conservation policy, its sources and the way it is created. Also discussed are the tools for implementing this policy, as well as its relationship to broader monument preservation policy and cultural policy. The article discusses the guidelines and instructions issued by the General Conservator of Monuments in 2018–2021, while defining their legal nature as forms of administrative action and their significance for the functioning of the system of monument protection in Poland.

Streszczenie

Ustawa z 22 czerwca 2017 o zmianie ustawy o ochronie zabytków i opiece nad zabytkami oraz niektórych innych ustaw (Dz.U. 2017, poz. 1595) wyposażała Generalnego Konserwatora Zabytków w nowe kompetencje, polegające na wydawaniu wiążących wytycznych i instrukcji. Stanowią one narzędzie polityki konserwatorskiej, będąc jednocześnie formą budowania standardów postępowania konserwatorskiego. W artykule zdefiniowane zostało pojęcie polityki konserwatorskiej, a także jej źródeł oraz sposobu tworzenia. Omówiono ponadto narzędzia realizacji tej polityki, jak również jej relacji do szerszej rozumianej polityki ochrony zabytków oraz polityki kulturalnej. Artykuł przedstawia wytyczne i instrukcje wydane przez Generalnego Konserwatora Zabytków w latach 2018–2021, jednocześnie określając ich charakter prawny jako formy działania administracji oraz ich znaczenie dla funkcjonowania systemu ochrony zabytków w Polsce.