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## MONUMENTS OF HISTORY – A CRITICAL VIEW

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**ABSTRACT:** The monument of history as a concept appeared in the *Act of 15 February 1962 on the Protection of Cultural Property and Museums*. In the current legal act: *The Act of 23 July 2003 on the protection and care of historical monuments*, the monument of history is a form of protection of historical monuments. Since 1962, no rules have been introduced to cover the criteria for selecting monuments and the methods of preparing and processing applications for recognition as historical monuments. As a result, the recognition of real estate monuments as monuments of history is burdened with a high degree of discretion. The list of 105 historical monuments is not representative either quantitatively or qualitatively in relation to the entire collection of monuments entered in the register of monuments. It is necessary to introduce regulations governing this state, as well as clear rules for financing the conservation of monuments recognized as historical monuments.

**KEY WORDS:** Monument of History, Monument Preservation, Monument Preservation Law

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The term "Monument of History" appeared in the Polish legislation on the protection of monuments in the *Act of 15 February 1962 on the Protection of Cultural Property and Museums*<sup>1</sup>. Pursuant to Article 6 paragraph 1 of this Act, it was assumed that: *Immovable monuments of special value for national culture may be recognized by the State Council as monuments of history at the request of the Minister of Culture and Art*. The establishment of "historical monuments" was related to the implementation of the *Convention on the Protection of Cultural Property in the Event of Armed Conflict, ratified by Poland, signed in The Hague on 14 May 1954*<sup>2</sup> and the International Register of Cultural Property under Special Protection (Article 18(6) of the Convention). In paragraph 3 of the aforementioned article, the Minister of Culture and Art was given the task of issuing an ordinance regulating the organization and protection of "monuments of history".

The first evaluations of the *Act on the Protection of Cultural Property and Museums* appeared after about 10 years of its functioning.

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<sup>1</sup> T.j. – JL. of 1999 No 98, item 1150.

<sup>2</sup> JL of 1957 r. No 46, item 212.

Władysław Sieroszewski - then a legal consultant for the Board of Museums and Monuments Protection, in a text published in "Monuments Protection"<sup>3</sup>, included the following evaluation of the regulations concerning historical monuments: *Anyone who understands the importance of our cultural heritage must be saddened by the fact that for nearly 10 years, not one of the leading Polish historical sites has been recognized as a monument of history. We rightly regarded the creation of this concept as a great achievement of the Polish conservation idea. It has a pioneering meaning, because now UNESCO, when it comes to developing a convention on the protection of cultural goods of universal significance, takes up an analogous concept.*

*If, however, "monuments of history" have not yet entered the stage of implementation, it was the result of the very provision of Article 6. This article in paragraph 2 requires the submission of monuments of history to the International Register of Cultural Property under Special Protection. The entry in this register is subject not only to the proviso that the object cannot be used for military purposes, but also that it cannot be located near airports, industrial plants working for military production, or even railway stations, bridges and arteries of strategic importance. Under these conditions, neither Wawel Castle, Łazienki and Wilanów, Malbork, the Main City of Gdansk, nor many other leading assets of our culture can be entered in this register [...].*

*Thus, the regulation, which was aimed at raising the rank of monuments of history, contributes in practice to preventing their realization<sup>4</sup>.*

In addition to analyzing the reasons for the lack of action to establish monuments of history, W. Sieroszewski formulated conclusions *de lege ferenda* concerning the issue of preserving monuments of history: [...] *Moreover, if we want to subject historical monuments to a special regime, e.g. to exclude them from the competence of provincial conservators, such a concept should be reflected in the Act. On the basis of the above considerations, we propose to delete the current content of Article 6(2) and (3) and replace it with:*

*"2. The protection of the historical monument is carried out by the conservator of the historical monument appointed by the Minister of Culture and Art, who in relation to this monument has the powers of the provincial conservator of monuments. One common conservator for two or more historical monuments may be appointed.*

*3. The detailed scope of activities of the conservator of a historical monument and the principles and organisation of the protection of this monument are specified in the statute granted by the Minister of Culture and Art"<sup>5</sup>.*

Similarly, a negative assessment for failure to use the provisions of Article 6 was expressed by Prof. Kazimierz Malinowski: [...] *Article 6, which allows certain objects to be called "monuments of culture". The aim of the authors was to distinguish such objects as Wawel, Wilanów, and even Malbork and Auschwitz, and to give them a special status, open up the possibility of appointing a separate conservator, and so on. In addition, the aim was to include in this category all objects*

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<sup>3</sup> W. Sieroszewski (1971). *Czy ustawa o ochronie dóbr kultury i o muzeach dojrzała do nowelizacji: artykuł dyskusyjny*, *Ochrona Zabytków*, no 3, pp. 163–172.

<sup>4</sup> *Ibidem*, p. 164.

<sup>5</sup> *Ibidem*, pp. 164–165.

that would be entered in the International Register of Cultural Property under Special Protection (Hague Convention). Since the list of such sites has not been sent and nobody has tried to obtain the title, this beautiful intention remained a dead law<sup>6</sup>.

This legal situation, criticized critically with regard to the Monuments of History, continued unchanged until 1990, when, on the basis of the Act of 19 July 1990 amending the Act on the Protection of Cultural Property and Museums<sup>7</sup>, a correction was made as a result of Poland's ratification of the Convention on the Protection of the World Cultural and Natural Heritage, adopted in Paris on 16 November 1972<sup>8</sup>. In Article 6(1), the Council of State replaced the President of the Republic of Poland, and in Article 6(2), the International Register of Cultural Property under Special Protection was replaced by the World Heritage Committee in order to be included in the "World Heritage List" and be protected under the Convention on the Protection of the World Cultural and Natural Heritage. Incidentally, it is worth noting that these changes took place 14 years after the ratification of the Convention by Poland...

On the basis of Article 6 (3) of the Act on the Protection of Cultural Property and Museums, the Minister of Culture was obliged to issue an ordinance regulating the organization and manner of protection of historical monuments. However, the Minister of Culture never fulfilled this task...

The first Monuments of History were established only in 1994, i.e. 32 years after the adoption of the Act on the Protection of Cultural Property and Museums. Under the Presidential Decree, 15 historical monuments and areas were then designated as monuments to history. These included the Wieliczka Salt Mine (1978), the Historical Complex of the City of Cracow (1978), the Historical Complex of the City of Warsaw (1980), the Historical Complex of the City of Zamość (1992) and the World Heritage Site three years later (1997): the Teutonic Castle Complex in Malbork and the Old Town Complex in Toruń.

Then, until 2003, when the new Act on the Protection and Care of Historical Monuments came into force, we are dealing again with a kind of "collapse" of monuments of history. The year 2000 was an exception, when the complex of the Mannerist pilgrimage park in Kalwaria Zebrzydowska and the salt mine in Bochnia were declared MH. But also in this case it was associated with the inclusion of Kalwaria Zebrzydowska a year earlier on the World Heritage List and the intention to extend the entry of the Wieliczka salt mine by the salt mine in Bochnia, which was finally finalized in 2013.

Further expansion of the number of objects and historical areas endowed with the title of Monuments of History took place under the new regulations on the protection of monuments. On their basis - Article 15 of the Act on the Protection and Care of Historical Monuments, the historical monument has become a new form of protection of historical monuments - so it can be concluded that in this way the legislator wanted to raise their rank. Detailed regulations

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<sup>6</sup> K. Malinowski (1973). *Dziesięciolecie Ustawy o Ochronie Dóbr Kultury i o Muzeach*, Ochrona Zabytków, no. 2, p. 87.

<sup>7</sup> JL of 1990 No 56, item 322.

<sup>8</sup> JL of 1976 No 32, items 190 and 191.

concerning historical monuments are included in Article 15. On their basis:

1. *The President of the Republic of Poland, at the request of the minister in charge of culture and national heritage protection, may, by way of an ordinance, recognize a as a monument of history an immovable monument already entered in the register or a cultural park of particular cultural value, defining its boundaries.*
2. *The Minister [...] may submit the application referred to in paragraph 1 after obtaining the opinion of the Council for the Preservation of Monuments.*
3. *The Minister [...] may submit a request to the World Heritage Committee for the inclusion of a historical monument on the 'World Heritage List' with a view to its protection under the Convention on the Protection of the World Cultural and Natural Heritage adopted in Paris [...].*

To a large extent, these provisions were, with some 'upgrades', the repetition of the provisions of Article 6 of the *Act on the Protection of Cultural Property and Museums*. At the same time, the legislator considered unnecessary any additional regulations concerning the principles of establishing monuments of history or methods of their protection, probably due to the fact that monuments of history as a form of protection of monuments are protected by other forms of protection of monuments (!). According to the content of the quoted Article 15 paragraph 1, only monuments entered in the register of monuments or being a cultural park can be a monument of history. Therefore, it can be concluded that the legislator has adopted the assumption that historical monuments are to be (despite their recognition as a form of protection) only an "honorary title" emphasizing the prestige and importance of a monument, not carrying any rights and obligations.

It follows from the provision of Article 15(2) that the minister in charge of culture and national heritage protection may submit an application to the President of the Republic of Poland for recognition of a real estate monument as a historical monument. In order to fill the gap, which is undoubtedly the lack of executive regulations governing the selection criteria for sites to be historical monuments and the ways of preparing, processing and evaluating the application, the National Centre for Monuments Research and Documentation (currently - National Heritage Institute), at the request of the Ministry of Culture and National Heritage, prepared Criteria and procedures for recognizing history as a monument, which were then adopted and accepted by the Council for Monuments Protection<sup>9</sup>.

The document confirms that the historical monument, although it is a form of monument protection, is primarily "a special form of ennoblement" and "a difficult and unusual privilege"<sup>10</sup>, although all the rigors of protection stem from the fact that these monuments are protected by other forms of monument protection.

According to the adopted - although completely informal - criteria, the historical monuments are to be real estate monuments of *supra-regional importance, of great historical, scientific and*

<sup>9</sup> [https://www.nid.pl/pl/Dla\\_wlascicieli\\_i\\_zarzadcow/opieka-nad-zabytkami/pomniki-historii/prawoiobowiazki/](https://www.nid.pl/pl/Dla_wlascicieli_i_zarzadcow/opieka-nad-zabytkami/pomniki-historii/prawoiobowiazki/) - DOA 12.08.2019.

<sup>10</sup> [https://www.nid.pl/pl/Dla\\_wlascicieli\\_i\\_zarzadcow/opieka-nad-zabytkami/pomniki-historii/kryteriawyboru/](https://www.nid.pl/pl/Dla_wlascicieli_i_zarzadcow/opieka-nad-zabytkami/pomniki-historii/kryteriawyboru/) - DOA 12.08.2019.

*artistic values, having significance for the Polish cultural heritage, fixed in the social consciousness and being a source of inspiration for the next generations. Moreover, they must be monuments which:*

- *have retained their original spatial composition or have undergone minor transformations,*
- *they are homogeneous in style or with clear and harmonized historical layering,*
- *they are properly displayed in urban space or landscape and have retained their original relationships with the environment,*
- *they are the work of outstanding authors such as architects, planners, landscape architects, gardeners,*
- *they are well preserved or in a condition allowing them to be revalorized,*
- *they are a matter of conservation concern<sup>11</sup>.*

*In particular, according to accepted criteria, historical monuments can be: cultural landscapes, urban, rural and building complexes, architectural and building works or groups of such works with common stylistic, functional or structural features, defense works, industrial heritage, civil engineering, parks and gardens, cemeteries, places commemorating historical events or those connected with the activities of prominent personalities or institutions, and archaeological monuments<sup>12</sup>.*

The criteria are broad enough to cover almost all immovable monuments (e.g. opposition criteria: traditional or unique). Fortunately, the limitations are the reservations that the historical monuments are to be of supra-regional importance, that they are to have high statutory values, i.e. historical, scientific and artistic significance, that they are to have - what is important - *significance for the Polish cultural heritage*, that they are to remain in the public consciousness and inspire subsequent generations. If it were not for them, in principle, every immovable monument could become a monument to history.

In the procedures "regulating" the process of establishing historical monuments, there appeared a provision which has no legal basis in the law - the requirement postulated by the Council for the Protection of Monuments - to adopt a local spatial development plan for historical areas (e.g. urban historical settlements) aspiring to become a monument of history. Another provision which lacks any legal basis is one that is to appear in the rules of the Ministry of Culture and National Heritage *Protection Program*, obliging the administrators of historical monuments applying for a subsidy to have a Management Plan - modelled on the sites included in the World Heritage List. In this way, managers or owners of historical monuments will be burdened a new, non-statutory obligation.

Analyzing the process of establishing historical monuments, it is hard to resist the impression that they are the most "politicized" form of monument protection. Submitting further applications for the title of historical monument is mainly due to initiatives of local or church authorities, which aim at giving "higher, honorable" status to their monuments and supporting these initiatives by

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<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

various political circles. Unfortunately, the least visible in this process is the planned conservation policy created and implemented at the highest level. Only the historical monuments established in 2017-2019 result directly from the initiative of the Ministry – according to the provisions of the *Act on the Protection and Care of Historical Monuments*, only the minister in charge of culture and national heritage protection is entitled to submit applications for the establishment of a historical monument. Whether they are representative of the entire historical resource and to what extent it resulted from the adopted long-term conservation policy is a completely different issue. The consequence is the highly problematic representativeness of historical monuments in relation to the entire historical stock (entered in the register of monuments and being cultural parks).

At the moment of writing this text, we have 105 historical monuments in our country, which constitutes about 0.13% of the monuments entered in the register of monuments. The most numerous category of monuments among the monuments of history are sacral objects and complexes, belonging in the vast majority to the Roman Catholic Church - there are 46<sup>13</sup> of them, which gives almost 44% of all PH, while all sacral objects in the register of monuments constitute 16%. Only single sacral objects recognized as monuments of history belong to other denominations - for example, two Evangelical-Augsburg temples (Churches of Peace in Jawor and Świdnica) or two mosques with misars in Kruszyniany and Bohoniki. It is interesting to note that among the objects considered to be monuments of Roman Catholic history, there are as many as 13 Benedictine and Cistercian monastic complexes. Although so far, the outstanding Benedictine monastery compounds in Staniątki and Żarnowiec have not been appreciated by conservators.

An important - although by no means complete group among the historical monuments are the historical urban objects - currently there are 18 of them (over 17% of all MH). One of the next candidates could be e.g. the city of Gniew in Pomerania. It is a city founded under Chełmno law in 1297, characterized by a fully preserved spatial layout, with relics of medieval defensive walls, the 14th-century church of St. Martin, historical buildings preserved to a large extent and a monumental Teutonic castle.

A kind of "over-representation" can be mentioned in relation to monuments of technology, engineering or industrial buildings. Currently, as many as 13 such objects and complexes have been recognized as historical monuments, which gives an impressive proportion of 12.3%, while the register of monuments is only about 4.5%. It is also worth mentioning two housing complexes of workers' living quarters, closely related to the development of industry - Katowice-Nikiszowiec and Żyrardów. Taking into account the general reluctance of conservation circles to accept this category of monuments, which is considered to be "dirty", such a number of them among the most prestigious Polish monuments makes us optimistic.

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<sup>13</sup> This number includes both sacral objects and ensembles considered individually as monuments of history, as well as those that are listed in the name as part of the monument of history. For example, the cathedral in Kielce (together with the former bishops' palace) or the cathedral complex in Katowice (together with the building of the Voivodeship and the Silesian Parliament).

The analysis of the territorial distribution of historical monuments clearly shows the aspiration for a uniform "saturation" of voivodships (regions) with this form of historic monuments protection. This, of course, has nothing to do with the actual quantitative and qualitative distribution of monuments protected by entries in the register of monuments. But thanks to this place the richest in "prestigious" monuments is the city of Gdansk, where there are already 5, fully deserved monuments of history (almost 4% of the total number of monuments). Among them there are: The city is within the range of fortifications from the 17th century, the post-Cistercian cathedral complex in Oliwa, the battlefield at Westerplatte, Wisłoujście Fortress and Gdańsk Shipyard. The most extraordinary category among the historical monuments are three battlefields: at Grunwald in 1410, at Raclawice in 1894 and at Westerplatte in 1939. This list could certainly be longer, and the proposals would certainly have to include the site of an exceptional victory of the Polish military - the only naval victory at the battle of Oliwa on 26 November 1627.

## **Conclusions**

Regulations concerning historical monuments have been included in the Polish law on the protection of historical monuments since 1962 - both in the *Act of 15 February 1962 on the Protection of Cultural Property and Museums* and in the *Act of 23 July 2003 on the Protection and Care of Historical Monuments*. According to the legislators' assumptions, the monument of history was to distinguish those among real estate monuments which constitute a "special value for culture". No executive regulations have ever been adopted that would regulate the criteria and manner of establishing monuments of history and the principles of their protection. The Minister of Culture and Art was authorized to issue a relevant regulation under the provisions of the Act on the Protection of Cultural Property and Museums, but never used it. The Act on the Protection and Care of Monuments contained no such delegation. In return, monuments of history were "elevated" to the rank of a form of monument protection in such a curious way that their protection results from the fact that they are protected by other forms of monument protection (!).

Since there are no selection criteria and no rules for preparing and processing applications for recognition as a historical monument, non-legal tools such as guidelines and recommendations developed by the National Centre for Monuments Research and Documentation (currently the National Heritage Institute) have been created and approved and recommended by the Council for Monuments Protection. Despite the fact that they have no legal basis, they are still used today.

The extension of the list of monuments recognized as historical monuments is not based on a well-planned conservation policy, developed jointly by the conservation administration with the participation of conservation and scientific circles. This is an effect of - with the exception (as mentioned earlier) of the years 2017-2019 - initiatives of local government and church communities with the support of conservation communities.

A significant danger for future historical monuments may be the provisions of the currently underway draft Social Capital Development Strategy 2030<sup>14</sup>. The document contains a notation: *Increasing the number of historical monuments in economically weaker regions should bring about the development of cultural tourism and, consequently, create conditions for a faster reduction of the unemployment rate than before, greater affluence of the inhabitants and overcoming negative migration tendencies, both at the regional level and within individual voivodships.*

As can be seen from the above text, the basic criterion for establishing historical monuments would not be their cultural values, but their "usefulness". In the economic development of regions and inhibition of migration processes. The adoption of such a procedure would certainly contribute to the degradation of the current prestige of monuments of history.

The lack of clear rules, based on specific legal regulations, results in a high degree of discretion in the selection of monuments to be recognized as monuments of history and frequent application of the "first come, first served" principle.

The situation is not improved by the lack of respect for the current regulations, which clearly define the course of action: first the register of monuments or a cultural park, then recognition as a historical monument, and finally a possible application for inclusion on the World Heritage List. A deviation from this principle defined in the Act on the protection and care of monuments are the cases of, among others, the Churches of Peace in Jawor and Świdnica, which first - in 2001 - were included in the World Heritage List, and it was only on 15 March 2017 were recognised as monuments of history, or the Gdańsk Shipyard, part of which (the Imperial Shipyard) was entered in the register of monuments in 2017, Then, on 10 December 2018, it was declared a historical monument<sup>15</sup> and finally, in the 2019 application, it was registered for inclusion in the World Heritage List. However, the application for inclusion in this list concerns a much larger area, a significant part of which is not yet a historical monument, but is also not included in the register of monuments.

Historical monuments have become a permanent part of the Polish landscape of monuments protection, although they do not result from the planned policy of monuments protection, but rather from a considerable randomness. However, it is necessary - in order to strengthen the already recognized high rank of historical monuments - to develop and implement - preferably in the form of a regulation of the Minister of Culture and National Heritage - clearly defined criteria for selection, method of preparing and processing applications and the role of various entities in this process. The rules for the protection of historical monuments also need to be regulated, or rather established. This should include, among others, the obligation of the Council for Monuments Protection to adopt local spatial development plans for historic areas already existing and planned as historical monuments, as well as the necessity to develop plans for the protection of monuments of history, as one of the tools of conservation policy.

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<sup>14</sup> <http://bip.mkidn.gov.pl/pages/posts/ogloszenie-konsultacji-publicznych-projektu-uchwaly-rady-ministrow-2998.php>.

<sup>15</sup> Within the boundaries of the historical monument are included: Imperial Shipyard, Health and Safety Hall (BHP Hall) and Solidarity Square with the Monument to the Fallen Shipyard Workers of December 1970.



The new regulations should also include the introduction of a system for financing monuments of history, as advocated by various circles. The system of financing should include, as a priority, conservation work on historical monuments, as well as the process of adapting existing historical monuments to the new requirements (MHP and management plans) and support in preparing new applications.

It is also necessary to verify the already established historical monuments in terms of the correctness of the delimitation of boundaries or the compliance of the content of the Ordinance with the graphic attachments. An example is the *Gniezno - Cathedral of the Assumption of the Blessed Virgin Mary and St. Adalbert*. The border of the historical complex, marked on the graphic annex, includes only the cathedral and its immediate surroundings. The boundaries specified in § 3 section 1 of the Ordinance include the entire plot of land No. 50 with an area of 5.4 hectares (i.e. the Cathedral, St. George's Church, the seat of the Museum and Archdiocesan Archives and gardens), which is confirmed by an analysis of cadastral data on the [geoportal.pl](http://geoportal.pl) portal, but the plot of land there is No. 50/1.

We are obliged to take all necessary steps to ensure that monuments of history in fact - in all respects - become an elite category or form of protection of monuments.

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