

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



for inclusion on the  
**World Heritage  
List**

Volume II: Protective designation;  
international and national

## 5.b Protective designation

The legal protection of *The Great Spas of Europe* is provided by national and regional/local legislations of the relevant States Parties as well as by a number of international conventions ratified by all or some of the participating States Parties. Whilst the legal protective designation and its terminology may vary in individual component parts, its effect is equal: it guarantees adequate protection of the serial nominated property as well as added protection via buffer zones.

Chapter 5.b gives an overview over the legal protection, whether designation or through spatial planning, that applies to protect the 11 component parts located in 7 countries.

### 5.b.1 International protective designation

International Conventions provide an overarching framework for the protection and conservation of the nominated property.

A summary of the most important legal regulations applied by the states parties is listed below

The Convention Concerning the Protection of the World Cultural and Natural Heritage - World Heritage Convention (Paris 1972)	Austria 1993 Belgium 1996 Czechoslovakia 1991, the Czech Republic acceded as its legal successor in 1993 France 1975 Germany 1976 Italy 1978 United Kingdom 1984
UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention (The Hague 1954) and Protocol I (1954)	Austria 1964 Belgium 1960 Czechoslovakia 1958, the Czech Republic 1993 (accession) France 1957 Germany 1967 Italy 1958 United Kingdom 2017
Protocol II to the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague 1999)	Austria 2004 Belgium 2010 Czech Republic 2007 France 2017 Germany 2009 Italy 2009 United Kingdom 2017

UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris 1970)	Austria 2015 Belgium 2009 Czechoslovakia 1979, the Czech Republic 1993; (accession) France 1997 Germany 2007 Italy 1978 United Kingdom 2002
The Convention for the Protection of Architectural Heritage of Europe (Granada Convention 1985, revised 2003)	Belgium 1992 Czech Republic 2000 France 1987 Germany 1987 Italy 1989 United Kingdom 1987
European Convention for the protection of the archaeological heritage (Valletta 1992)	Belgium 2010 Czech Republic 2000 France 1995 Germany 2002 Italy 1992 United Kingdom 2000
The European Landscape Convention (Florence 2000)	Belgium 2004 Czech Republic 2004 France 2006 Italy 2006 United Kingdom 2007
The Convention for the Safeguarding of the Intangible Cultural Heritage (Paris 2003)	Austria 2009 Belgium 2006 Czech Republic 2009 Germany 2013 Italy 2007 United Kingdom: no plans to ratify
The Convention on the Protection and Promotion of the Diversity of Cultural Expressions (Paris 2005)	European Union on behalf of all its members 2006 for parts of the Convention in which the EU has legal competence Austria 2006 Belgium 2013 Czech Republic 2010 Germany 2007 France 2006 Italy 2007 United Kingdom 2007

Fig 18: Overview of international conventions that can play a role in the protection of *The Great Spas of Europe*

A number of European Union Directives are also relevant. In particular the Environmental Impact Assessment Directive (last updated in 2014 Directive 2014/52/EU) places a duty on states parties to carry out an impact assessment on certain types and sizes of development. These should include assessment of the impact of a proposal on cultural heritage.

The Habitats Directive (most recently amended by Council Directive 2006/ 105/ EC) and the Birds Directive (most recently amended by Directive 2009/147/EC) are also of high significance in setting standards for the protection of natural heritage. For example, they provide the basis for the Natura 2000 network of protected areas. The Water Framework Directive (Directive 2000/60/EC), the Groundwater Directive (Directive 2006/118/EC) and Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks are also relevant to the protection of the water sources which are essential elements of the spas.

## 5.b.2 National protective designation

### Introduction

This section describes the legal system for each country for the protection and management of cultural and natural heritage, and of World Heritage properties in particular. In each of the eleven entries, the national legal system is first introduced as far as is necessary. For the Czech Republic and for Germany, the national system is described only once for all three spas in each of those countries. Following that, the legislation and designations specifically applying to each component are described. As far as possible, this is done in the same order for each component:

- legal recognition of spa status (not applicable in all countries)
- legal protection of springs and water sources
- spatial planning legislation
- protection of historic buildings, archaeology and heritage or other special areas
- protection of the spa landscape, including protection of natural heritage
- summary of designated cultural heritage
- summary of designated landscape/ natural heritage

The implementation of the protection measures is described in Section 5.c, as requested by the Operational Guidelines.

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

## 1. Baden bei Wien

## AUSTRIA

*Baden bei Wien* is protected by a number of statutory provisions. Due to the federal structure of Austria, the territory of Austria is split into three legal entities with different legislative and executive powers.

### Structure of Legislation



According to this principle, state sovereignty is divided between the central government and the provinces. The division of powers determines which issues are to be legislated by federal level and which by the provinces. Art. 15 (1) of the Federal Constitution (*Bundes-Verfassungsgesetz* - B-VG) stipulates that all responsibilities (in legislation and execution) lies with the provinces unless otherwise stated, while Art. 10 and 11 B-VG authorise the federal level to regulate and execute crucial issues.

Municipalities are entitled to issue decrees (but not laws) and to execute certain acts. Municipal orders and decrees must be in line with provincial law, which has to comply with federal law. Federal law must not contradict international and supranational law.

Following this structure, the cultural and natural heritage of *Baden bei Wien* is protected - *inter alia* - by the following provisions (only the most important ones are listed):

- International Law (incorporated into the Austrian legal system on the basis of ratifications:
- Convention concerning the Protection of the World Cultural and Natural Heritage (Paris, 16 Nov. 1972. BGBl no. 60/1993)
- Convention for the Protection of Cultural Property in the Event of Armed Conflict, The Hague 1954, (including [1st] Additional Protocol, BGBl no. 58/1964)(2nd Protocol 1999: BGBl no. III 113/2004)]
- Federal Acts
- The Federal Act on the Conservation of Monuments (*Denkmalschutzgesetz* – DMSG) in its present form (as amended by Federal Law Gazette No. I 92/2013) entered into force on 1 January 2000. This act is the most important federal provision for the protection of the monuments in *Baden bei Wien*.

The purpose of this legislation is to protect existing national cultural property against adverse effects and to permit contemporary utilisation of listed

buildings provided that the building fabric is protected as well as possible, in order to ensure their maximum conservation.

Most of the Act's provisions on conservation of monuments relate to listed structures, which is why listing monuments is the basis and prerequisite for applying further provisions and tools provided in the Federal Act on the Conservation of Monuments. Once listed, approval is needed for the destruction, sale or modification of monuments.

## **Spatial Planning**

- Provincial Acts of the Province of Lower Austria
- Building Code of Lower Austria 2014 (Nö. Bauordnung 2014, Nö. LGBl no. 1/2015)
- Spatial Planning Act of Lower Austria 2014 (NÖ Raumordnungsgesetz 2014 / NÖ ROG 2014, Nö. LGBl no. 3/2015)

## **Protection Zones (*Schutzszonen*)**

The municipalities are entitled to declare protection zones under certain conditions (which are laid down in the NÖ Building Code, NÖ BO), either:

- for architectural or historical important buildings, which should be preserved (para 30 sub-para 2 (1) NÖ BO)
- for historic town-centres which should be preserved (para 30 sub-para 2 (2) NÖ BO), and
- for the harmonious design (as defined in para 56 NÖ BO) of buildings in built areas (para 30 sub-para 2 3) NÖ BO).

The demolition of buildings in Protection Zones is forbidden (exceptions enlisted in para 35 sub-para 2 NÖ BO). The regulations concerning protection zones can be extended also to buildings in green areas and to areas used for traffic (para 30 sub-para 3 NÖ BO). In such zones the building authorities are entitled to regulate design and technology of the building (para 31 sub-8 NÖ BO).

- Municipal Level
- Local town planning (*örtliche Raumordnung*, on the basis of Art. 118 (3), sub-para 9, Federal Constitution / Bundes-Verfassungsgesetz / B-VG and of para 13-28, NÖ ROG 2014)

Each Municipality has to establish a local town planning programme in line with the plans and measures at federal- and provincial level and with the plans and measures of neighbouring communities. The local town planning programme has to contain the planning goals and the measures necessary to achieve them. The area designation



## Protection of the spa landscape, including natural heritage

The status of Baden as spa town as well as its mineral springs are officially recognised by the laws of the Province of Lower Austria:

- *Baden bei Wien* has been recognised as Spa Town on the basis of para 8 of the Therapeutic Bath and Spa Town Act of Lower Austria (Niederösterreichisches Heilvorkommen- und Kurortegesetz, Nö. LGBI no. 7600) The decision was issued by the Government of Lower Austria on 11 November 1969 (ref. no. VII/3-447/4-1969) and refers to “climatic spa” as well as to “thermal spa”.
- Furthermore, on the basis of paras 2 and 3 of the above-mentioned “Therapeutic Bath and Spa Town Act”, the Government of Lower Austria recognised the wells: Marien-, Peregrini-, Johannes- and Ferdinands-, Römer-, Josefs-, Leopold-, Frauenbad-Karolinenquelle, Mariazellerhof- and Josefsquelle as mineral springs.
- Nature Protection Act of Lower Austria (Niederösterreichisches Naturschutzgesetz, NÖ NSchG 2000, Nö. LGBI no. 5500-0

The NSchG 2000 aims at the preservation and rehabilitation of nature in Lower Austria. In order to preserve its specific character and local biodiversity, and in order to provide a stable environment with typical domestic plants and animals, sustainable nature protection-policies have to be applied. The Act enlists some categories of (large) protection areas, like Natura 2000-areas, Landscape Protection Areas, nature parks, natural monuments, as well as national parks.

## Cultural property and area protection in *Baden bei Wien*

On the whole territory of the City of Baden there are 169 monuments protected under the regime of the **Monuments Protection Act** (as of 21st June 2016).

(List: <http://www.bda.at/downloads/1928/Denkmalliste>).

Furthermore, many protection zones (*Schutzzonen*) were declared on the basis of para 30, sub-para 1 and 2 NÖ ROG 2014 (Spatial Planning Act of Lower Austria – NÖ Raumordnungsgesetz 2014 – ROG).

Additionally, the town-centre of Baden as well as the ensemble along the Helenenstraße are included in the register of cultural property (Kulturgüterschutzliste) as protected areas according to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict.

## Areas of nature protection in *Baden bei Wien*

Within or close to the property are some large-size protected areas:

- Landscape Protection area Wienerwald (*Landschaftsschutzgebiet “Wienerwald”*, § 2, no. 18, Verordnung über die Landschaftsschutzgebiete, Nö. LGBI no. 5500/35-0)

- Biosphere Reserve Wienerwald
- Natura 2000 area: Wienerwald-Thermenregion (on the basis of the Birds Directive as well as on the Habitats Directive)

Furthermore, within and close to the nominated property are several Nature Monuments (*Naturdenkmal*, § 12 NÖ NSchG 2000, Nö. LGBl no. 5500-0). While many of them protect only a small area (like single trees, groups of trees and alley, caves and rock formations) the “park” category protects larger areas. The Nature Monument “Schlosspark Weikersdorf-Doblhoffpark” (categorised as a park) lies within the nominated property.

## 2. Spa

## BELGIUM

In Belgium legislation affecting the protection and management of heritage, including World Heritage, is enacted at the regional level. The Region of Wallonia has been undergoing profound legal and regulatory changes. On June 1, 2017, the Territorial Development Code came into force. This new regulation tends to reduce the number of documents with regulatory value in favour of documents with indicative value.

Regional legislation provides the basis and frameworks of protection measures that apply in the territory of the municipality (and the nominated property). These measures are mainly contained in the Heritage Code, the Territorial Development Code and the Environmental Code. These various laws and regulations apply in a complementary way to protect the various features of the nominated property: water heritage, urban structure, built heritage, natural and landscape heritage. The work carried out within the framework of the Management Plan and exchanges within the Management and Steering Committees will further strengthen the coherence and complementarity between the various laws and regulations.

### Legal Protection of springs and water sources

#### The Water Code

The Water Code is part of the Environmental Code (see below). Its objective is the global and integrated management of the water cycle in order to ensure the quality and sustainability of the resource in the context of sustainable development.

Chapter II of Title VII deals with the protection of groundwater and waters used for the abstraction of potable water. Different types of zones are defined to protect the sources of possible pollution and to guarantee water quality. The different zones are defined on the basis of the distance from the groundwater collection wells. They involve measures of protection and various restrictions.

The water intake area extends for 10 meters beyond the outer boundary of the surface facilities required for the water intake. Only activities related to water production are allowed.

The prevention area consists of a close-up prevention zone and a remote prevention zone. They are defined according to the time taken for pollution carried by groundwater to reach the point at which water is abstracted. This duration is 24 hours for the close prevention area and from 1 to 50 days for the remote prevention area. Restrictions or



conditions may be imposed in these areas on construction, transportation, landfill, land application, etc. See Article 167-176 of the Decree of 27 May 2004 relating to Book II of the Environment Code constituting the Water Code.

## **Spatial planning legislation**

### **The Territorial Development Code**

This code came into force on 1 June 2017; succeeding the Code of Spatial Planning, Housing. Its objective is to ensure the sustainable and attractive development of Walloon territory. Several of its provisions contribute to protect the component part of *Spa*.

The first is the sector plan, which is a land-use plan. It has a regulatory value and defines permissible activities in a specific area. It is composed of areas intended to be urbanized (habitat area, recreation area, public utility area and community facilities area, economic activity zone etc.) and areas that are not intended to be urbanized (forest area, agricultural zone, natural area, etc.).

The sector plan may mention special protection areas, such as a remarkable viewpoint, ecological link, cultural, historical or aesthetic interest. See Part II – Sector Plan Art D II 18 to Art D II 67.

The same code allows the development of Urban Planning Guides. The regional planning guide falls within the competence of the Walloon Government. It may include various indications such as conservation, volumetry, colours, the layout of buildings, conservation, appearance, the width of the roads, etc. The municipal council is also empowered to adopt a municipal planning guide that can treat the same points as the regional guide. These guides have an indicative value. See book III art D III 1 to Art D III 16.

The Code also includes protective measures for remarkable Trees and Hedges due to their landscape, historic, dendrological, folkloric and religious interest. See Art R IV.4.7 and R IV 4 8. The Walloon Government adopts a list of remarkable trees and hedges for each municipality of Wallonia.

## **Protection of historic buildings, monuments and other special areas of cultural heritage**

### **The Heritage Code**

It defines the objectives of Wallonia's policy and the basic concepts of protection and conservation as well as procedures for identification, protection, management and restoration. It also defines exceptional heritage as the elements of the Walloon heritage which are of major interest and recognized as such by the Walloon Government.

The Code also establishes rules for monitoring classified heritage (Article 212 concerning the health status report – “Fiche d'état sanitaire”), the review process for intervention projects on classified assets (Section 3/1 - Heritage Certificate) and restoration (Articles 215-216 and Chapter III / 2 – Des subventions pour la réalisation d'une opération de maintenance, d'études préalables et de travaux de restauration sur monuments classés).

Some provisions of the Code directly target properties inscribed on the World Heritage List:

- Article 209/1: obligation to take into account in town planning documents the need to protect the Outstanding Universal Value of a World Heritage property and the provisions of its management plan;
- Article 209/2: creation and composition of the Walloon World Heritage Committee (CWAPAM);
- Article 209/3: mission of CWAPAM;
- Article 209/4: obligation for any property inscribed on the World Heritage List or proposed for inscription to have a Management Plan;
- Article 209/5: Identification of the tripartite structure responsible for the preparation, implementation and updating of the Management Plan.

The Heritage Code is under review and heritage legislation is expected to change in mid-2019. The Walloon Government is adopting the various provisions necessary for the entry into force of a new Heritage Code. This new regulation should include various provisions concerning sites inscribed on the World Heritage List and their management. In any event, these profound changes in legislation will modify relations between owners, project developers, municipal and regional authorities. It will be necessary to await the implementation of these new regulations and the constitution of jurisprudence in order to assess their impact on the site.

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

### **The Environmental Code**

It brings together and coordinates the various laws and regulations on the protection and management of the environment as a common heritage of the inhabitants of Wallonia. It is composed of various parts including the Forest Code, whose objectives are to:

- produce large quantities of quality wood;
- combat global warming and safeguard biodiversity;
- combat the splitting up of forests and encourage their diversification;
- expand employment by supporting the economic role of the forest heritage;
- guarantee the social, recreational and educational role of the forest.

See Decree of the Walloon Government of 15 July 2008.

### *Natura 2000*

The concept of the Natura 2000 sites and the implementation of the regime applicable to them were introduced by amendment to the Law of Conservation of Nature in 2001 and 2010 which implement the EU Birds and Habitats Directives.

The perimeters of the sites are decided by the Walloon Government and each site is the subject of a designation decree defining the biological stakes and the preventive measures to be taken to avoid deterioration of the state of conservation of the site.

### *Natural Park*

A natural park is a rural territory of high biological and geographical interest which is subject to measures to protect its environment, in harmony with the aspirations of the population and the economic and social development of the territory. The Walloon Government Decree of 16 July 1985 set out the framework of the Natural Park. A Natural Park aims to:

- Ensure the protection, management and enhancement of the natural and landscaped heritage of the natural park;
- Within the perimeter of the natural park, define and guide land-use planning projects in accordance with the principles of sustainable development;
- Promote sustainable development in the territory of the natural park, contributing to local economic and social development and improving the quality of life;
- Organize the reception of visitors, education and public information;
- Participate in testing new methods of management of rural areas, the process of testing and innovative planning methods and the implementation of European programs and European territorial cooperation;
- Seek collaboration between natural parks and, if appropriate, cross-border collaboration with similar areas in neighbouring regions or countries;
- Encouraging the implementation of rural development operations in the municipalities that compose it and ensuring that the coherence of trans-communal projects within the framework of the rural development programs is ensured.

See Decree of 16 July 1985.

### **Cultural property and areas protection**

Within the boundaries of the property of the component part Spa, 25 properties are classified in accordance with the stipulations of the CoPat (Walloon Heritage Code). Of these, twenty are classified as monuments and five as sites.

The Walloon Government Order of 6 October 2016 lists 218 properties falling under the exceptional heritage of Wallonia, including three in *Spa*: the eighteenth century parts of

the Waux-Hall, Gallery Léopold II in the Parc des Sept Heures and the former thermal baths.

## Areas of nature protection

The municipality of *Spa* has three Natura 2000 sites covering 1,000 ha, i.e. slightly more than 25% of the municipal area (3,985 ha). A large part of the natural part of the property is covered by Natura 2000 sites.

The municipalities of Stoumont and *Spa* decided to join forces in a nature park project that was recognised by the Walloon Government in July 2017: the “Parc Naturel des Sources”; the name refers to water, the main common thread for this nature park. The management plan for the Parc Naturel des Sources has been examined carefully to take it into account in the local management plan of *The Great Spas of Europe* property.

The three Czech component parts and their buffer zones are subject to multiple protection which is defined by the national legal regulations regarding the state heritage conservation, protection of nature and landscape, and other provisions.

CZECH  
REPUBLIC

## Recognition of spa status and Legal Protection of springs and water sources

### The Act no. 164/2001 Coll., on natural healing resources, sources of natural mineral waters, natural spas and spa places (“the Spa Law”)

The legal protection of springs in the spa towns of *Františkovy Lázně*, *Karlovy Vary* and *Mariánské Lázně* was already defined in the Spa Act no. 38/1868 Coll. which was issued as early as 1868. Nowadays, the legal protection of springs and water sources is stipulated, in particular, by the Act no. 164/2001 Coll., on natural healing resources, sources of natural mineral waters, natural spas and spa locations (“the Spa Act”) and the pertinent decrees issued by the Ministry of Health. Moreover, the protection of mineral springs is also anchored in statutes of spa towns which started to be issued as early as 1956, and other regulations specifying the conditions of protection and use of natural mineral springs and other healing resources.

The Spa Act defines the natural healing sources and conditions for their exploration, protection and sustainable use. It also defines the conditions for establishing a “spa location” which is part or all of the area(s) of one or more municipalities where a natural spa is located. The protection of a spa location is defined by its statute as set out in a decree issued by the government. This statute defines, in particular, an inner area where the main balneological facilities are located and an outer area. To protect and maintain the spa treatment regime and to create a spa environment, the statute places limitations on construction and other activities, restricts or prohibits other defined activities and states which facilities shall not be established.

To protect natural resources and their surroundings from possible hazards, I and II grade protection zones have been set up for each spa location. The protection of natural healing resources and spas comes under the authority of the Ministry of Health, using a specialised department, the Czech Inspectorate of Spas which complements very well the interests of state heritage conservation. The law also guarantees that supervision of use and protection of resources can only be carried out by a technician educated in balneology who holds a certificate of professional competence issued by the Ministry of Health.

Binding statements of the Ministry of Health (§37 of the Spa Act), regulate activities and conception plans in the protected zones. These are the plans of the main catchment areas, plans of local catchment areas, plans of water-supply and sewage development, mining, activities carried out using mining techniques, blasting operations, geological work connected with interference to the protected zone, ground water management, surface water management, granting permission for hydraulic structures, forest management plans, approval of forest management outlines, constructions, changes to con

**Decree of the Ministry of Health no. 423/2001 Coll., which stipulates the way and extent of evaluation of the natural healing resources and sources of natural mineral waters and other details of their utilization, demands on the environment and equipment of natural medical spas and requirements for specialized references on utilization of natural healing sources and climatic conditions for medical purposes, natural mineral waters for producing natural mineral waters and condition of the environment of natural medical spas (“the Decree on Resources and Spas”).**

The Decree of the Ministry of Health no. 423/2001 Coll. (“the Decree on Resources and Spas”) implements the Spa Act and specifies the conditions for exploring, protection, use and further development of natural healing resources, sources of natural mineral waters, natural medical spas and spa locations.

According to § 8, medical and other facilities used to provide the spa treatment must be reasonably separated from other parts of the municipality and the sources of air and noise pollution have to be removed. The landscape around the natural spas, up to the distance of 4 to 8 km from their centre, must provide conditions for physical exercise and other outdoor physical activities.

According to § 11 besides health facilities, the parts of natural medical spas providing spa care can include:

- a) Facilities for the medical use of natural healing resources not incorporated into the spa care health facility (drinking pavilions, colonnades),
- b) Facilities enabling utilization of the spa environment and surrounding landscape for terrain and climatic treatments (for example parks and forest parks with marked trails for terrain treatments),
- c) Facilities providing accommodation and board such as spa hotels and bed and breakfast establishments.
- d) Leisure time facilities (for example clubrooms, reading rooms, social halls, sports grounds).

## **Spatial planning legislation**

### **Act no. 183/2006 Coll., on urban planning and building rules (building Act)**

This Act governs the objectives and tasks of town and country planning, the system of authorities for town and country planning, town and country planning instruments, impact assessments, decision-making, the potential to consolidate procedures pursuant to this Act with procedures of environmental impact assessment, conditions for construction, land development and preparation of the public infrastructure, records of planning activity and qualification requirements for planning activity.

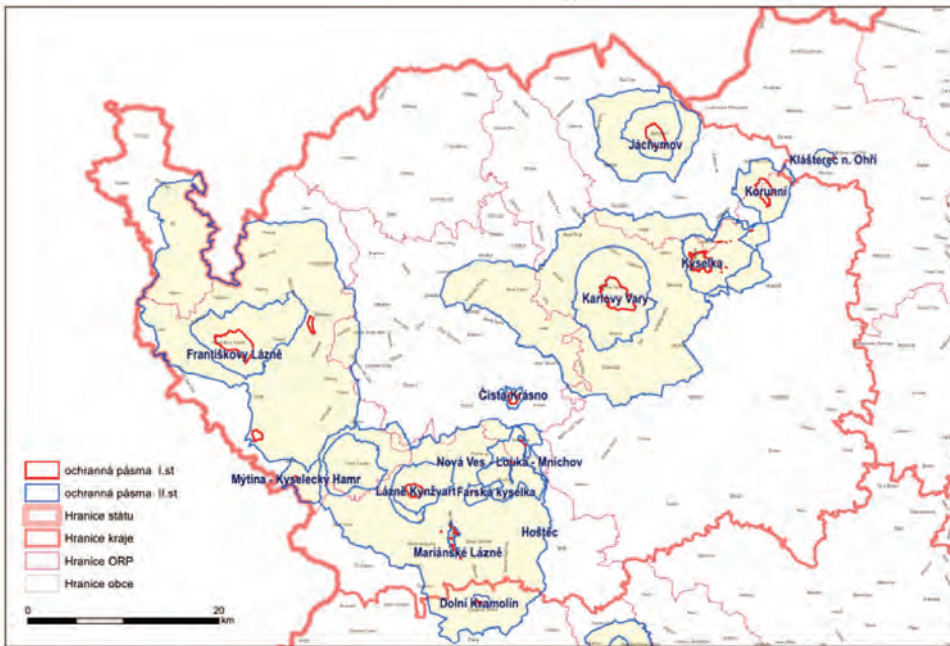


Fig 19: Zones of protection of natural mineral springs and other healing resources around *Františkovy Lázně*, *Karlovy Vary* and *Mariánské Lázně*: the 1<sup>st</sup> grade protection zone (in red) and the 2<sup>nd</sup> grade protection zone (in blue)

It controls consents for buildings and their alterations, landscaping and facilities, use and removal of structures, supervision and special powers of building offices, the position and authorisation of authorized inspectors, system of building offices, and the duties and responsibilities of persons within the preparation and realization of structures.

The fulfilment of the urban and country planning objectives is interconnected with competences of the heritage conservation authority, which is directly involved in discussion of planning documentation and urban plans.

The supreme authority to issue building laws and decrees concerning town and country planning is the Ministry for Regional Development. This ministry is also responsible for the national coordination of structural funds and European Union programmes. It is also the supreme authority of state administration for appeals in matters of spatial planning documentation.

The main tasks of planning are especially:

- surveying and analysing the condition of the territory, including its natural, cultural and civilization values,
- establishing territorial development concepts with regard to the values and the conditions of the territory,
- determining urban, architectural and aesthetic requirements for land use, for its spatial organization and changes, especially the emplacement, disposition and arrangement of buildings,
- stipulation of terms for renovation and development of the settlement structure and for high quality housing,



- creating favourable conditions for reducing danger and eliminating consequences of environmental and natural disasters in the territory,

The powers in town and country planning activities are by the Building Act entrusted to municipalities, regions, and the Ministry for Regional Development (and the Ministry of Defence in military training areas). Municipal and regional authorities are delegated to carry out town and country planning activity.

Municipality authorities provide protection and quality control of development in their territory unless it is entrusted to regional authorities or affected administrative offices. A municipal planning offices may be ranked as a municipality with extended authority, a municipality meeting the requirements for procurement (the procurer is a municipality executing the planning activity), a municipality not carrying out procurement, a municipal assembly, building office or a municipal council for sustainable development.

Regional authorities provide protection and quality control of development of a region. They can intervene in the municipality authority activities only in cases stipulated by law and only in matters of hyper-local importance matters; they should work in coordination with municipal authorities. The regional office is in charge of tasks and activities connected to procurement of planning materials and planning documentation and with issuing planning permissions issuing in cases which the authority has in terms of law reserved for itself. The authority is also in charge of planning activities evidence. Regional authorities in the planning sphere are regional offices, regional assemblies and regional councils.

The national spatial development policy is a binding document for spatial development principles, the procurement and issuing of local and regulatory plans, and for territorial decisions. The spatial development policy sets out national priorities to ensure sustainable development of the territory. The contents and functions of planning documentation are defined by law and related decrees. The documentation is binding for all types of territorial decision making, particularly for planning permission.

Planning documentation includes:

- Spatial development principles;
- Local plans;
- Regulatory plans.

The local plan is procured and issued for the whole area of a municipality. It is binding on the Municipal Assembly for provision and issuing of regulatory plans, territorial decisions and especially for planning permissions. The local plan sets out basic concepts for municipal development, protection of values, area and spatial layout, landscape disposition and public infrastructure. The plan also specifies built-up areas, areas for further development and for public works.

Planning should protect and support natural, cultural and civilisation values of the territory including urban, architectural and archaeological heritage. It should form conditions for sustainable territorial development. This consists in the balanced relationship of the conditions for a favourable environment, economic development and cohesion in the local human community to satisfy the needs of the present without endangering the living conditions of future generations.

## **Protection of historic buildings, monuments and other special areas of cultural heritage**

### **The Act no. 20/1987 Coll., on the state monument care (Heritage Preservation Act)**

Protection, renovation and conservation of the extensive resources of cultural monuments and listed territories is provided by the Act no. 20/1987 Coll., on state monument care, and by establishing the structure of the authorities for heritage conservation. The law is executed by the implementing decree no. 66/1988 Coll., amended by the decree of the Ministry of Culture no. 139/1999 Coll. and the decree no. 538/202 Coll.

The most valuable buildings and their territories are, according to the Heritage Preservation Act, protected as cultural monuments. Moreover, the whole area of the three component parts is also collectively protected by the conservation law as Urban Heritage Reserves. According to the regulation of the government of the Czech Republic no. 430/2017 Coll., this means, among other things, that:

- a) the spatial and functional arrangement of the territory and its preserved urban structure must be respected when deciding on the location of buildings and equipment and on landscaping;
- b) the spatial arrangement of the affected real estate and its cultural value must be respected in decisions on the location of buildings and facilities and on alterations to buildings; these decisions must not lead to negative changes in aesthetic, technical and functional values;
- c) In taking decisions on the modernisation and restoration of structures, the height and mass of buildings, the articulation of their façades and the materials used must respect the character and scale of the preserved built heritage characteristic of the municipality containing the heritage reserve; significant landmarks in the territories and views of them must be preserved;
- d) When deciding on new construction, the character, scale, mass, urban structure and context of a given location must be respected;
- e) The use of land and buildings must be in accordance with their cultural values and their capacity and technical capabilities,
- f) Changes to land, buildings and their parts, facilities, public spaces, objects, and planting and felling of trees in public spaces must be directed toward the conservation of the values of the heritage reserve and its environment.

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

### **Act no. 114/1992 Coll., on nature and landscape protection**

The three Czech component parts are also protected by nature conservation, based on Act No. 114/1992, on the conservation of nature and the landscape, supplemented by the implementing regulation 395/1992 of Order 175/2006. The Act differentiates between general and special protection in relation to zones and types. The general protection of nature and the landscape affords statutory protection for the entire territory of the Czech Republic and, to this end, utilises territorial systems of ecological stability, significant landscape elements, landscape character, nature parks and temporarily protected areas.

The Act defines a further six categories of specially protected zones - national parks, protected landscape areas, national nature reserves, nature reserves, national natural monuments, and natural monuments. Each category has a specific level of protection and definition of conditions of its use. The largest and most important of these is the Slavkovský les Protected Landscape Area with an area of 610km<sup>2</sup> which was declared in 1974 to protect the landscape and its geological and botanical values and includes substantial areas of the components of *Mariánské Lázně* and *Karlovy Vary*. §26 of the Act No. 114/1992 defines the basic conditions for the protection of such landscape areas and also lists prohibited activities.

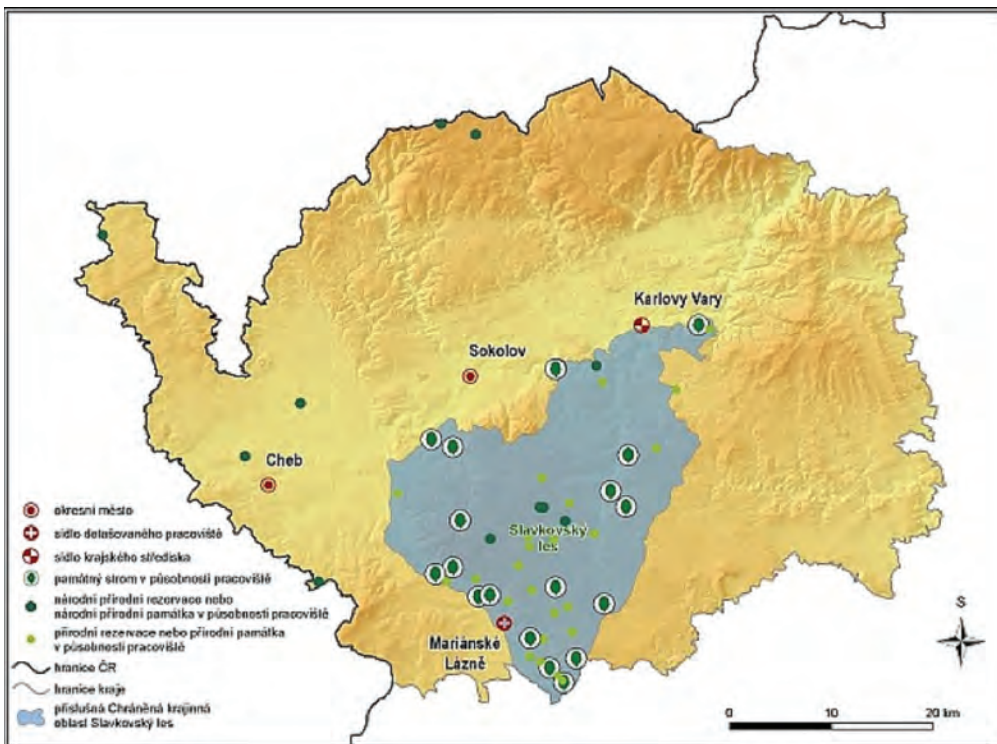


Fig 20: The extent of the Slavkovský les Protected Landscape Area (in grey)

Following the accession of the Czech Republic to the EU on 1st May 2004, the Council Directives 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and 2009/147/EC on the protection of birds were transposed into the Act on Nature and Landscape Conservation. According to the Birds Directive, Special Protection Areas (SPA) are to be declared to protect wild birds, while the Habitats Directive establishes Special Areas of Conservation (SAC) to conserve natural habitats and wild fauna and flora. Special Protected Areas and Special Areas of Conservation form an interconnected network of NATURA 2000 zones. The Ministry of the Environment of the Czech Republic is responsible for the entire preparation of the NATURA 2000 system.

These and other additional regulations are to be taken into consideration when applying the Act No. 183/2006 on the territorial planning and building control and in relation to the heritage preservation and conservation of the nominated serial property.

#### **Forestry Act no. 289/1995 Coll. on Forests and Changes of Some Laws (forest law)**

This act divides forests in the Czech Republic into three classes according to their prevailing function:

- a) production forests operated on the basis of approved forest economic plans;

- b) forests with special purpose (forests in the protected zones of natural mineral springs, within a nature reserve, spa forests, forests with significant recreational functions, forests important for the retention of biodiversity, etc.);
- c) protected forests (forests on steep slopes, at high altitudes and on exposed mountain ridges).

All forests in the three Czech components are special purpose forests. Owners of these forests must observe any restrictions on their forestry activities imposed by the state forest administration. They must work in a way which ensures, in particular, the protective function of these forests. No economic forest plans can be approved for special purpose forests.

### 3. *Františkovy Lázně*

#### **Legal protection of springs and water sources , and protection of spa status**

Besides the general national legislation (the Spa Act and its implementing decree) described above, the following legislation helps to protect the mineral springs and other medicinal healing resources in *Františkovy Lázně*:

- The statute of the spa location of *Františkovy Lázně*,
- The regulation about protection zones of natural healing resources of the spa location of *Františkovy Lázně*.

#### **The statute of the spa location of *Františkovy Lázně***

The statute of the spa location of *Františkovy Lázně* was approved by the Czech government decision no. C. 135 on 18 January 1956 according to §10 of the then valid Act no. 43/1955 Coll., on Czechoslovak spas and natural springs. By provision no. 1 of the statute, the Spa Commission (nowadays Commission for Culture, Spas and Tourism) was established with the role of overseeing the implementation of the statute. By provision no. 2, the inner and outer areas of the spa location were specified. Provision 3 allows only such buildings and facilities in the spa location (corresponding to the whole cadastral area of the town) which will not endanger spa vegetation, hydrological and climatic conditions, and the aesthetic appearance of the town. According to provision 9, the only facilities which can be placed in the inner part of the spa location must directly serve for spa treatments such as spa houses and balneotherapeutic facilities, accommodation for spa employees, colonnades, parks, cultural facilities or shops.

#### **Protection zones of natural healing resources (Degree of the government of the Czech Republic no. 152/1992 Coll.)**

To protect the mineral springs and other healing resources, three protection zones were established in *Františkovy Lázně* by the Czech government Decree no. 152/1992 Coll. issued on 29th January 1992. A special protection zone was established within zone I. The decree no. 152/1992 Coll. remains valid even after passing the current Spa Act in 2001 (no. 164/2001 Coll.) which defines two protection zones around the natural healing sources. The first-grade protection zone in *Františkovy Lázně* corresponds to the the first-grade protection zone according to the current Spa Act whilst protection zones II and III

correspond to the second-grade protection zone according to the current legislation (zones IIa and IIb in *Františkovy Lázně*).

Protection zones safeguard natural healing resources from activities which can negatively affect them. These activities can include works subject to the mining law, deep drilling, digging, excavations, dumps, tips and polluting, releasing, transmission and delivery of water and gases, quarrying, rock blasting and timber production.

The protection of natural healing sources in *Františkovy Lázně* is also handled by other special decrees of the Ministry of Health and certificates of the Czech Spa Inspectorate (CSI):

*Natural source of mineral water "Stanislav Spring": Decree of the Ministry of Health of the Czechoslovak Republic no. 12/1984.*

*Natural source of mineral water "Sun Spring": Decree of the Ministry of Health of the Czechoslovak Republic no. 26/1977*

*Natural source of mineral water "Cisařský Spring L II": Certificate of the source by the CSI no. ČIL-27.6.2001/117847-Z as of 27.06.2001*

*Natural source of mineral water "ČKD-2 Spring": Certificate of the source by the CSI no. ČIL-16.8.2001/22546-2 as of 17.08.2001*

*Natural source of mineral water "Erika Spring (E 1)": Certificate of the source by the CSI no. ČIL-10.8.2001/22464-2 as of 16.08.2001*

*Natural source of mineral water "A 1 Nový Kostelní Spring": Certificate of the source by the CSI no. ČIL-2.5.2005/14960-J as of 25.05.2005*

*Natural source of mineral water "JD-1 Doubravka Spring": Certificate of the source by the CSI no. ČIL- 2.7.2008/23914-J as of 17.7.2008*

*Natural peloid sources "Františkovy Lázně": Certificate of the source by the CSI no. ČIL 14.11.2006/46995 as of 15.11.2006*

## **Spatial planning legislation**

### **Urban plan of the town of *Františkovy Lázně***

This plan, approved by decree no. 485/2014 on 27 August 2014, states that the town's main function will be as a spa. Development of other residential functions and service systems will be permitted only in accordance with the need to protect the natural healing resources and their long-term use. The historical heritage of the town shall be protected, renovated, maintained and thoughtfully used. New constructions, conversions and annexes in valuable localities with unfinished building development must respect the structure of buildings and the character of buildings. The natural landscape setting of the spa location *Františkovy Lázně* will be respected and generally protected.

In 2018 "*the report on the implementation of the urban plan for the period 2014-2017*" was approved at a meeting of the Municipal Council on 28 March 2018 (decree no. 30/476/18). This decree required preparation of amendment no. 1 to the urban plan.



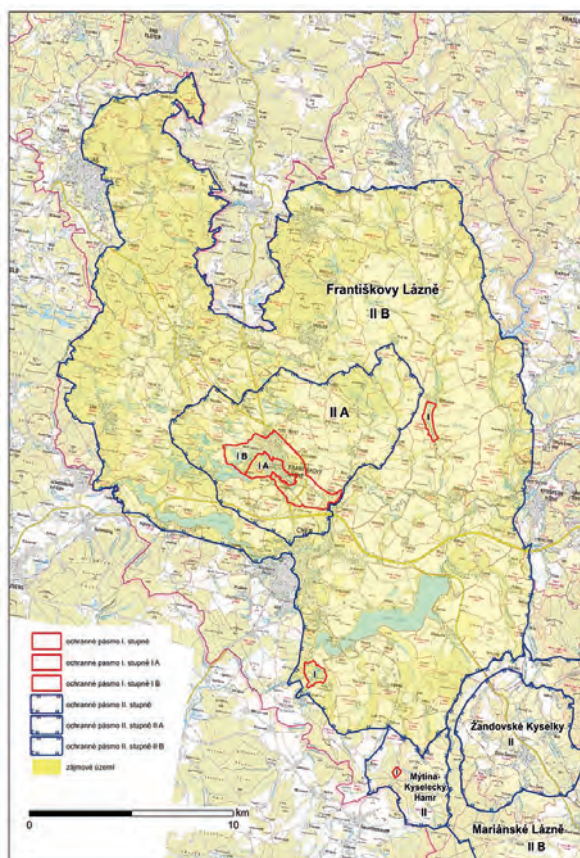


Fig 21: Zones of protection of natural mineral springs around *Františkovy Lázně*: the 1<sup>st</sup> grade protection zone (in red) and the 2<sup>nd</sup> grade protection zone (in blue)

Comments and objections and the hearing by the relevant state authorities are under way. Amendment no. 1 could become effective by the end of 2019.

### Protection of historic buildings, monuments and other special areas of cultural heritage

All development activities within the component part are controlled by the regulations of conservation care and other regulations, namely the **act no. 20/1987 Coll., on the State Heritage Preservation on Natural Curative Resources**, and are subject to supervision by the relevant authorities. In line with the **Ministry of Culture regulation No. 476/1992 Coll., on the Urban Heritage Reserve of *Františkovy Lázně***, the town has increased conservation of its historic urban complex.

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

The forest park area around the spa town of *Františkovy Lázně* is classified as ‘forests of special assignment’ under the Forest Law. The purpose of this law is to determine the prerequisite for forest conservation, care and restoration of the forests as the national heritage, forming an irreplaceable part of the environment, for fulfilling all its functions and for supporting its sustainable management.

### Cultural property and area protection

On the territory of the component part, there are 108 cultural monuments. Their list is available on the web pages of the National Heritage Institute: <https://iispp.npu.cz/> in the section “Památkový katalog”.

Moreover, in 1992, the spa centre of *Františkovy Lázně* was declared an Urban Heritage Reserve (**Decree of the Ministry of Culture No. 476/1992 Coll.**) which guaranteed



increased conservation care to the historic urban complex. In 2017 this area protection was further extended so that it also includes the adjoining spa landscape, i. e. the whole area of the component part (**Regulation of the government of the Czech Republic no. 430/2017 Coll.**).

### **Areas of nature protection**

The component part and its buffer zone also enjoy protection in terms of nature and landscape protection. The protected area includes the Amerika Natural Reserve which is a complex of ponds representing a notable migration stop and birds' nesting place. Notable landscape components are also all forests, water courses, moorland by Slatinný stream and ponds.

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

### **Legal protection of springs and water sources, and protection of spa status**

Besides the general national legislation (the Spa Act and its implementing decree) described above, the following legislation helps to protect the mineral springs and other medicinal healing resources in *Karlovy Vary*;

- The statute of the *Karlovy Vary* spa location
- The regulation about protection zones of natural healing resources of the spa location of *Karlovy Vary*.

### **Statute of the *Karlovy Vary* spa location**

The first statute of the spa location of *Karlovy Vary* was approved by the decision of the government of Czechoslovakia no. C. 135 on 18 January 1956 according to §10 of the then valid Act no. 43/1955 Coll., on Czechoslovak spas and natural springs. By **Regulation of the Czech government no. 321/2012 Coll.**, the new Statute of the spa location of *Karlovy Vary* was passed, which came into force on 1 January 2013. It significantly helps to preserve the quality of spa environment including healing resources.

In order to protect the spa regime and spa environment, an inner and an outer area of the spa area were newly defined. The inner area was extended to cover the forested heights above the river Teplá and contains the most important balneological facilities. For the inner area of the spa area stricter limitations are valid, connected to the construction and development and higher demands on the appearance, layout and equipment of public areas and public greenery. It is not possible to allow negative influence on the environment, disturbance of the spa regime and damaging the existing values of the area. It is prohibited to carry out constructions imminent on harming the environment of the area or increasing the traffic load. It is inadmissible to decrease an acreage of greenery and unpaved areas.

### **The regulation about protection zones of natural healing resources of the spa location of *Karlovy Vary***

To protect natural resources and their surroundings from possible hazards, I and II grade protection zones have been set in *Karlovy Vary* in accordance with the act no.164/2001 Coll. (the Spa Act) and relevant degrees of the government (33/1966 Coll, 39/1971 Coll, 20/1974 Coll., 21/1976 Coll., 13/1982 Coll.). All activities, which can disturb or

otherwise negatively affect yield, physical character, chemical composition and/or hygienic safety of the natural healing resources in the 1st grade protection zone are prohibited.

The Spa Act and its implementing decree define activities which are restricted or prohibited in these zones (see above and Chapter 7.b). The protection of natural healing resources and spas comes under the authority of the Ministry of Health, which for this purpose established a specialised department, the Czech Inspectorate of Spas which complements very well the interests of the state heritage conservation. The law also guarantees that supervision of use and protection of resources can only be carried out by a technician educated in balneology who holds a certificate of professional competence issued by the Ministry of Health. For more details see Chapter 7.b.

The protection of natural healing sources in *Karlovy Vary* is also secured by other special decrees of the Ministry of Health and certificates of the Czech Spa Inspectorate:

*Natural source of healing mineral water "Zabradni spring BJ 91": Decree of the Ministry of Health no. ČIL 482-10-1-1989, no.62/1991 Coll.*

*Natural source of healing mineral water "Vřídlo borehole BJ-35": Certificate of the source no. ČIL-19.5.2003/13716-H, no. 138/2003 Coll.*

*Natural source of healing mineral water "Vřídlo borehole BJ-36": Certificate of the source no. ČIL-19.5.2003/13717-H, 138/2003 Sb.*

*Natural source of healing mineral water "Vřídlo borehole BJ-37": Certificate of the source no. ČIL-19.5.2003/13718-H, 138/2003 Coll.*

*Natural source of healing mineral water "Mlýnský spring BJ-41": Certificate of the source no. ČIL-19.5.2003/13719-H, 138/2003 Coll.*

*Natural source of healing mineral water "Karel IV spring BJ-74": Certificate of the source no. ČIL-19.5.2003/13727-H, 138/2003 Coll.*

*Natural source of healing mineral water "Dolní zámecký spring BJ-79": Certificate of the source no. ČIL-19.5.2003/13728-H, 138/2003 Coll.*

*Natural source of healing mineral water „Horní zámecký spring BJ-81": Certificate of the source no. ČIL-19.5.2003/13729-H, 138/2003 Coll.*

*Natural source of healing mineral water "Rusalka BJ-48": Certificate of the source no. ČIL-19.5.2003/13720-H, 138/2003 Coll.*

*Natural source of healing mineral water „Prince Václav spring BJ-53": Certificate of the source no. ČIL-19.5.2003/13722-H, 138/2003 Coll.*

*Natural source of healing mineral water "Libuše spring BJ-56": Certificate of the source no. ČIL19.5.2003/13723-H, 138/2003 Coll.*

*Natural source of healing mineral water "Starý sadový spring, borehole no. 64": Certificate of the source no. ČIL-19.5.2003/13737-H, 138/2003 Coll.*

*Natural source of healing mineral water “Vřídlo fountain BJ-70”:* Certificate of the source no. ČIL 19.5.2003/13726-H, 138/2003 Coll.

*Natural source of healing mineral water “Tržní spring BJ-86”:* Certificate of the source no. ČIL-19.5.2003/13730-H, 138/2003 Coll.

*Natural source of healing mineral water “Sadový spring BJ-88”:* Certificate of the source no. ČIL-19.5.2003/1373 1-H, 138/2003 Coll.

*Natural source of healing mineral water “Zahradní Hadí spring BJ-91”:* Certificate of the source no. ČIL-19.5.2003/13732-H, 138/2003 Coll.

*Natural source of healing mineral water “Svoboda spring BJ-93”:* Certificate of the source no. ČIL-19.5.2003/13733-H, 138/2003 Coll.

*Natural source of healing mineral water “Skalní spring BJ-96”:* Certificate of the source no. ČIL -19.5.2003/13734-H, 138/2003 Coll.

*Natural source of healing mineral water “Skalní spring BJ-97”:* Certificate of the source no. ČIL-19.5.2003/13736-H, 138/2003 Coll.

*Natural source of healing gas “Doroška spring V-1”:* Certificate of the source no. ČIL-19.5.2003/13738-H, 138/2003 Coll.

## **Spatial planning legislation**

### **Urban plan of the town of Karlovy Vary**

The current Urban plan of the town of *Karlovy Vary*, approved by the town's board of representatives on 14th October 1997, decree no. 046.0/97, defines and creates conditions for a number of significant projects within the framework of protection and regeneration of the urban heritage zone. The plan claims that for the spa industry there is no need for new capacities, the development is focused on increasing the standard of accommodation and supporting services. Currently the new urban plan is being processed.

### **The generally binding notice of the town of Karlovy Vary no. 1/2000, on binding parts of the Urban plan of the town of Karlovy Vary, with changes and supplements resulting from the generally binding notices of the town of Karlovy Vary no. 1/2004 and no. 13/2006.**

The notice determines the basic principles of the arrangement of the territory and the limits of its use, it determines buildings beneficial to the public, wildlife populations and habitat corridors of the territorial system of ecological stability. It respects and includes the border of the inner spa area as defined by the Spa Act.

### **Protection of historic buildings, monuments and other special areas of cultural heritage**

All development activities within the component part are controlled by the regulations of conservation care and other regulations, namely the Heritage Preservation Act and the Act No. 164/2001 Coll., on natural healing resources, and they are subject to supervision by the relevant authorities.

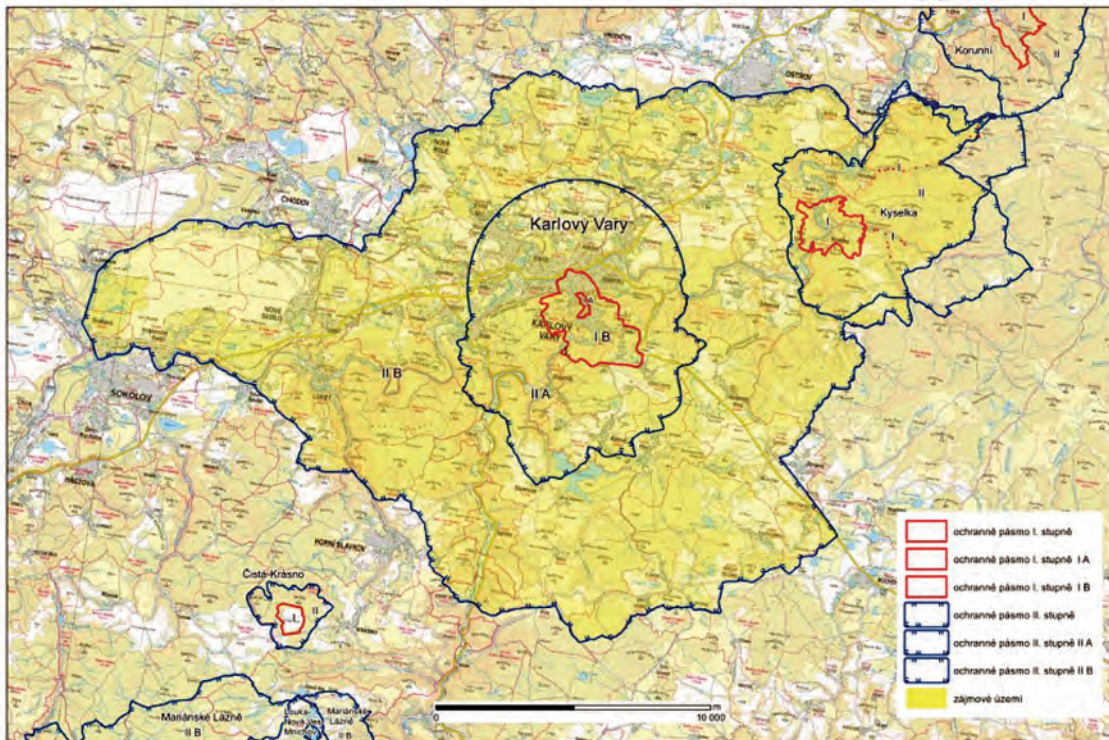


Fig 22: Zones of protection of natural mineral springs around *Karlovy Vary*: the 1<sup>st</sup> grade protection zone (in red) and the 2<sup>nd</sup> grade protection zone (in blue)

### Cultural property and areas of protection

There are two national cultural monuments on the area of the component part – Imperial Spa and the Church of Mary Magdalene (government regulation no. 50/2010 from 8 February 2010) and further 115 cultural monuments. Their list is available on the web pages of the National Heritage Institute: <https://iispp.npu.cz/> in the section “Památkový katalog”.

Moreover, the whole area of the component part is also collectively protected by the conservation law. As early as in 1992 the spa centre of *Karlovy Vary* was declared an Urban Heritage Zone by the decree of the Ministry of Culture of the Czech Republic no. 476/1992 Coll, which guaranteed increased conservation care to the historic urban complex. In 2017 collective protection was further extended so that it also includes the adjoining spa landscape. At the same time, the whole area of the component part gained a higher status of protection – it became an Urban Heritage Reserve (regulation of the government of the Czech Republic no. 430/2017 Coll).

### Areas of nature protection

The nominated component includes Natura 2000 sites (site of European significance, bird territories) as well as sites protected according to existing national legislation (territorial systems of ecological stability, two registered important landscape elements, particularly protected landscape areas). The largest particularly protected landscape area, which overlaps to the components’ area and its buffer zone is the 606 km<sup>2</sup> protected landscape area Slavkovský les, created in May 1974 by the regulation of the Ministry of Culture (also partly within the *Mariánské Lázně* component).

Especially protected is the surface shaping of the landscape and all phenomena of mineral springs and natural healing resources. *Karlovy Vary* has compiled a local territorial system of ecological stability of the area (USES), which has been integrated into the urban plan. In total there are 52 habitat corridors and 47 wildlife populations established on the town’s area. Most significant are extensive spa forests with an abundance of



promenade paths, and also parks and gardens. Overall the town's area has convenient territorial prerequisites and conditions for preserving the natural values of the area, quality of landscape and individual parts of the environment.

## 5. *Mariánské Lázně*

### Recognition of spa status; Legal protection of springs and water sources

Besides the general national legislation (the Spa Act and its implementing decree) described above, the following legislation helps to protect the mineral springs and other medicinal healing sources in *Mariánské Lázně*:

- The statute of the *Mariánské Lázně* spa location,
- The regulation about protection zones of natural healing resources of the *Mariánské Lázně* spa location.

### The statute of the *Mariánské Lázně* spa location

The statute of a spa location of *Mariánské Lázně*, which gave spas a special protection, was approved by the government of Czechoslovakia in **Regulation of the government no. 43/1955 Coll., on determining the spa area *Mariánské Lázně* and Status of the *Mariánské Lázně* spa area** in 1955 according to § 10 paragraph 1 of the Act no. 43/1955 Coll., on Czechoslovakian spas and natural springs. Provisions of the Regulation included:

Art. 2, paragraph 4: The inner and outer protection zone were determined in the area of *Mariánské Lázně*.

Art. 3, paragraph 8: Only buildings, operations and facilities, which do not disturb the spa climate, vegetation, hydrologic conditions, calm and aesthetic character of a spa place are allowed in a spa location.

Art.3, paragraph 9: Only facilities, which directly serve spa operations, such as spa institutes and balneotherapeutical facilities, accommodation facilities for spa employees, parks, colonnades, further cultural facilities, shops and establishments, which serve patients being treated in spas, and other spa guests, and do not disturb the quiet of a spa regime, are allowed within the inner spa area, together with facilities serving spa operations, accommodation facilities for patients and spa guests, and establishments, facilities and residential buildings, which fulfil the conditions in the paragraph 8 can be situated in the inner spa area.

Art. 3, paragraph 11: The necessary number of beds and balneotherapeutical facilities has to be provided for spa care according to the capacity of the utilised natural healing resources and demand for spa care.

Art. 4, paragraph 15: To improve the climatic and hydrologic conditions, forests situated in a spa area are excluded from the forest with planned timber extraction and they are assigned to a group of purposeful forests.

In art. 7, traffic and noise were restricted within the inner spa area in the interest of spa quiet.

The town of *Mariánské Lázně* has already prepared a new spa statute which was elaborated according to the statute of the *Karlovy Vary* spa location but has yet to be consulted with the experts of the Ministry of Health.

### **The regulation about protection zones of natural healing resources of the *Mariánské Lázně* spa location**

The **Decree of the Ministry of Health no. 208/2005 Coll.**, on the designation of a 1<sup>st</sup> grade protection zone of natural healing resources of mineral water in *Mariánské Lázně* specifies the conditions for searching, protection, utilization and further development of natural healing resources, sources of natural mineral waters, natural medical spas and spa places. Provisions include:

Art. 1) The 1<sup>st</sup> grade protection zone is an area determined by a 50 m diameter circle around every water based natural healing resource in the wider outflow of *Mariánské Lázně*.

Art. 2) All activities, which can disturb or otherwise negatively affect yield, physical character, chemical composition and/or hygienic safety of the natural healing resources in the 1<sup>st</sup> grade protection zone are prohibited.

Art. 3) The 2<sup>nd</sup> grade protection zone consists of a narrower outflow area in *Mariánské Lázně*, it means an area with the presence of water based natural healing resources within the built up area.

Art. 4) Work specified in § 18. paragraph 2 decree no. 151/1956 Coll. and work stated in § 11 paragraph 1, § 18 paragraph 1 and § 20 paragraph 2 Directives on performing drilling operations, work subjected to mining laws and other land work in the natural healing resources areas are only allowed with previous agreement of the Inspectorate; without such an agreement, only operations allowed by these directives can be performed. The delineation of protection zones is based on the governmental decree no. 943 as of 13.11.1959 and the decree of the Ministry of Health. no. 208/2005 Coll.

The protection of natural healing sources in *Mariánské Lázně* is further guaranteed by other special decrees of the Ministry of Health and certificates of the Czech Spa Inspectorate:

*Natural source of healing mineral water "Marie spring VIII – borehole BJ 6": Decree of the Ministry of Health no. 1/1980, 11/1980 Coll.*

*Natural source of healing mineral water "Marie spring VIII – borehole BJ 7": Decree of the Ministry of Health no. 5/1980, 25/1980 Coll.*

*Natural source of healing mineral water "Alexandra, Rudolf V, Rudolf VI, Balbin springs": Decree of the Ministry of Health no. 7/1991, 62/1991 Coll.*

*Natural source of healing mineral water "Karolina II and Karolina III springs": Decree no. 287/1996 Coll.*

*Natural table mineral water "BJ 69A and HV 101 springs": Decree no. 290/1998 Coll.*

*Natural table mineral water "BJ 6 spring – Úšovice": Decree of the Ministry of Health no. 483-11.10.1973, 11/1974 Coll.*



Natural source of mineral water "BJ 6 - Nová Marie spring: Certificate of the source no. ČIL-19.6.2002/17390-J, 183/2002 Coll.

Natural source of healing mineral water "HV 40 spring": Certificate of the source no. ČIL-6.1 1.2003/30907-J, 138/2003 Coll.



Fig23: Zones of protection of natural mineral springs around *Mariánské Lázně*: the 1<sup>st</sup> grade protection zone (in red) and the 2<sup>nd</sup> grade protection zone in blue)

## Spatial planning legislation

### Urban plan of the town of *Mariánské Lázně*

The current urban plan approved by municipal decree no. 64/03, on 8 April 2003 defines a number of significant projects and creates conditions for protection and regeneration of the town's Urban Heritage Reserve. The plan claims that the spa industry needs no new capacity. Development should focus on increasing accommodation standards and supporting services. The plan respects and includes the border of the inner spa area defined by the Spa Act which contains the main balneotherapeutic facilities in the component part. The Plan establishes the basic principles of the organisation of the territory and the limits of its use, identifies buildings beneficial to the public, wildlife populations and habitat corridors of the territorial system of ecological stability.

### Protection of historic buildings, monuments and other special areas of cultural heritage

All development activities within the component part are controlled by the regulations of conservation care and other regulations, namely the Heritage Preservation Act and the Act No. 164/2001 Coll., on Natural Healing Resources, and they are subject to supervision by the relevant authorities.

### **Cultural property and areas of protection**

On the territory of the component part, there is one national cultural monument – Spa Colonnade (government regulation no. 50/2010 from 8 February 2010) and a further 58 cultural monuments. Their list is available on the web pages of the National Heritage Institute: <https://iispp.npu.cz/> in the section “Památkový katalog”.

Moreover the whole area of the component part is also collectively protected by the conservation law. As early as in 1992 the spa centre of *Mariánské Lázně* was declared an Urban Heritage Zone by the decree of the Ministry of Culture of the Czech Republic no. 476/1992 Coll. In 2017 collective protection was further extended to include the adjoining spa landscape. At the same time, the whole area of the component part gained a higher status of protection – it became an Urban Heritage Reserve (regulation of the government of the Czech Republic no. 430/2017), thus lowering further potential development pressures. The establishment of conservation zones of natural healing resources prevents their damage or potential contamination.

### **Nature and landscape protection**

The component part and its buffer zone also enjoys protection in terms of nature and landscape protection as a part of the Protected Landscape Area (CHKO) Slavkovský les, declared on 3 May 1974 (also partly within the *Karlovy Vary* component). A phenomenon of this area is the number of natural outflows of mineral springs and gas discharges (mofettas). The general basic principles of CHKO protection are stated in the provision §§ 25, 26 and 27 of the Act no. 114/1992 Coll. The administration of this area has its workplace directly in *Mariánské Lázně*.

### **Act no. 289/1995 Coll. on forests and changes of some laws (forest law)**

The forest park area around the spa town of *Mariánské Lázně* is classified as ‘forests of special assignment’. The purpose of this law is to determine the prerequisite for forest conservation, care and restoration of the forests as the national heritage, forming an irreplaceable part of the environment, for fulfilling all its functions and for supporting its sustainable management.

## **6. Vichy**

## **FRANCE**

Heritage protection in France developed over the nineteenth and twentieth centuries, primarily on the basis of the principles born of the French Revolution, centred on the concept of a heritage shared by all the citizens of the nation.

The principal laws on the protection of the environment are:

- the law of 1913 on Historic Monuments;
- the law of 1930 on Protected Sites and Areas;
- the law of 1983 on Zones de Protection du Patrimoine Architectural, Urbain et Paysager (architectural, urban landscape protection zones);
- the law of 2010 setting out the national commitment to the environment, known as “Grenelle II”;
- the law of 7 July 2016 establishing Outstanding Heritage Sites.

All these laws are codified in the **Heritage Code, Town Planning Code, and Environment Code**. These codes are implemented through a set of measures covering statutory protection, planning, and contractual technical mechanisms designed to preserve and present monuments and sites as well as urban conglomerations or parts of territories and to define the parameters of possible developments.

These measures for the protection of the architectural and landscape heritage are supplemented by the protection of natural mineral waters (codified in the Public Health Code) which is very relevant to *The Great Spas of Europe* nomination.

Perceptions of heritage evolved in the course of the twentieth century, from a vision restricted to monuments to one taking in landscapes of natural beauty. Means of protection have evolved in the same direction, reflecting changes in doctrine and adapting, in particular, to the process of decentralization. Since the 1980s and the introduction of laws promoting decentralization, mayors are in charge and bear responsibility for matters of town planning and building permits.

Today, there are increasing numbers of cross-connections between heritage and town planning, between the conservation approach and development projects. Implementation and measures for monitoring and control are the domain of the State in consultation with local authorities in accordance with their respective areas of competence.

The principal modes of protection put into practice in the context of this inscription nomination are as follows:

## **Recognition of spa status**

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

The water used for therapeutic purposes in a spa establishment must be a natural mineral water (NMW). As such, it is subject to precise national regulations based on the provisions of the Code la Santé Publique (public health code) (Articles L.1322-1 to L.1322-13; R. 1322-1 to R. 1322-44-8; R. 1322-45 to R. 1322-67). NMW is a water of subterranean origin which must be kept secure against all risk of pollution. A spring of natural mineral water may be declared of public interest. In this case, a protection zone may be defined, within which all activities, storage or installations liable to be detrimental, either directly or indirectly, to the quality of the water, may be prohibited or regulated (L.1322-3).

An NMW is defined by its natural original purity and is distinguished from other waters by the nature and stability of its essential physico-chemical constituents (minerals, oligo-elements). Since the 2000s, strict microbiological requirements have been laid down in the regulations, with respect to the resource and to its points of use in the spa establishment (order of 19 June 2000 modifying the order of 14 October 1937 with respect to the control of mineral water springs).

The territory of the municipality of *Vichy* is situated entirely within the mineral water protection zone declared of public interest by the decrees of 23 January 1861, 17 May 1874, 3 January 1879, 8 August 1895, 23 July 1901 and 17 April 1930. Today, 9 springs are exploited in *Vichy*: 5 springs are located within the city boundaries (Grande Grille, Chomel, Célestins, Hôpital and Lucas), 4 others springs come from the surrounding municipalities. These 9 springs are the property of the State and exploited by its lessee, the Compagnie Fermière de *Vichy*.

## Protection of historic buildings, monuments and other special areas of cultural heritage

### Protection under the heading of Outstanding Heritage Site

The **Law of 7 July 2016 relating to Liberté de Création, l'Architecture et le Patrimoine (LCAP)** (freedom of creation, architecture and heritage) amalgamates the existing procedures (like: Zone de Protection du Patrimoine Architectural, Urbain et Paysager (ZPPAUP) or Aire de mise en Valeur de l'Architecture et du Patrimoine (AVAP)) for the protection of urban and landscape heritage in a new protection and presentation measure: Sites Patrimoniaux Remarquables (SPR) (outstanding heritage sites).

Protection under the heading of outstanding heritage site is applicable to towns, villages or urban districts whose conservation, restoration, rehabilitation or presentation is in the public interest from the historical, architectural, archaeological, artistic or landscape point of view (Art. L.631-1 du Code du Patrimoine (Heritage Code). Similarly, it may concern rural areas and landscapes which, in conjunction with these towns, villages or urban districts, form a coherent whole or which have the potential to contribute to their conservation or presentation. This protection is of the nature of an easement in the public interest affecting the use of land with a view to the protection, conservation and presentation of the cultural heritage. SPR orders are thus added to, and take precedence over, those of local town planning projects.

SPRs are listed by decision of the Minister for Culture, after advice from the Commission Nationale du Patrimoine et de l'Architecture (national heritage and architecture commission) and a public enquiry conducted by the administrative authority (Art. L.631-2 of the Code du Patrimoine (Heritage Code)). District authorities competent in town planning matters must give their consent. They may also initiate a proposal to list an area of public interest, which is also within the remit of the national and regional heritage and architecture commissions. The law guarantees State commitment and assistance in the creation and management of outstanding heritage sites.

Outstanding heritage sites are or will be covered by appropriate planning mechanisms (Art. L.631-3. -I of the Code du Patrimoine (Heritage Code)): the "Plan de Sauvegarde et de Mise en Valeur" (PSMV) (rescue and presentation plan) or the "Plan de Valorisation de l'Architecture et du Patrimoine" (PVAP) (architecture and heritage presentation plan) thus make it possible to take the heritage into account in urban policy, upgrade decaying old parts of a town, assist trade and improve the social mix. Transition arrangements provide that current regulations remain in effect until their transformation into PSMVs or PVAPs. The district authorities, in association with the State, contribute to the drawing up, revision and modification of PSMVs and PVAPs. The law makes express provision for technical and financial assistance by the State in the drawing up and revision of PSMVs or PVAPs.

For the first time, the law asserts the commitment of the State and district authorities to the preservation of property with UNESCO World Heritage inscription (Art L.612-1 of the Code du Patrimoine (Heritage Code)). It precisely identifies the concepts of buffer zone and management plan, two essential tools for ensuring the maintenance of the Outstanding Universal Value of World Heritage properties. The boundaries of the buffer zone and the management plan are decided by the Prefect of the Region (Art. L.612-2).

## Legal protection under the heading of Historic Monuments

Articles L.621-1 to L.621-33 of the **Code du Patrimoine (Heritage Code)** are intended to protect buildings and movable objects of definite interest from the point of view of history, art and archaeology.

Two levels of protection are defined, listing and registration. These differ as regards the procedures for monitoring the property, but both involve, in particular, strict rules on restoration and maintenance, designed to preserve the heritage, as well as protection of the surroundings of the monuments. These two levels of protection relate to the degree of interest of the buildings:

- those “whose preservation is in the public interest from the point of view of history or art “ (Art. L.621-1) may be “listed” in their entirety or in part by decision of the Minister of Culture, after advice from the CNMH (Commission Nationale des Monuments Historiques - national historic monuments commission).
- Those “which, while they do not require immediate listing, are of sufficient historical or artistic interest to render their preservation desirable” (Art. L.621-25) may then be “registered” as historic monuments by order of the Prefect of the Region, after advice from the Commission Régionale du Patrimoine et de l’Architecture (CRPA) (regional heritage and architecture commission).

Buildings belonging to the State are listed by decision of the Minister of Culture. Those belonging to a local community or a private owner are similarly listed if the owner consents, or by decree of the Conseil d’Etat (Council of State) in the event of disagreement.

## Protection of the spa landscape, including natural heritage

### Legal protection under the heading of Sites

Articles L.341-1 to L.341-22 of the **Code de l’Environnement (environment code)** concern natural monuments and sites whose conservation or preservation is in the public interest from the artistic, historical, scientific, legendary or aesthetic point of view. The intention is to conserve the characteristics of the site and the spirit of the place, and protect them from all serious harm.

As in the case of historic monuments, the law on the protection of sites provides two degrees of protection: listing and registration. The application of this legislation falls under the responsibility of the State, and is one of the missions of the Minister for the Environment. Protection programmes and projects are prepared by the Regional environmental directorates and submitted to the Departmental site commissions for advice.

- Listing decisions are generally made by decree, after consultation with the High Commission of Sites, Landscapes and View-sheds and the Council of State. This has been preceded by a public enquiry and consultations with the local authorities and the Commission Départementale de la Nature, des Paysages et des Sites (CDNPS) (Departmental Commission of Sites, Landscapes and Nature)



- Registration decisions, on the other hand, are made by ministerial order after local investigation, public enquiry and consultation with the Departmental Commission.

## Cultural property and areas of protection

The zone constituting the property of *Vichy* is entirely covered by the protection given to an Outstanding Heritage Site (SPR). The buffer zone of which a part is situated in the municipality of *Vichy* is also included in the bounds of the Outstanding Heritage Site (SPR) and a few elements are covered by the protection area of the historic monuments. All the projects in the property and the buffer zone needs the authorization of the Architecte of Batiments de France.

The Municipality of *Vichy* has 49 buildings protected as historic monuments. They are all situated within the property and its buffer zone: 4 buildings are listed historic monuments and 45 are registered historic monuments. Of the 4 listed buildings, 3 belong to the State and 1 to the Municipality.

Of the 45 buildings registered as historic monuments, three belong to the State, two to the Community of Greater *Vichy*, three to the Municipality, one to a religious organization, and all the others to private owners.

## Areas of nature protection

The *Vichy* property and its buffer zone contain 1 landscape element protected under the heading of sites:

- the site of the banks of the river Allier, the Allier lake, Old *Vichy* and the parks. (Site registered by order dated 05/10/1982.)

Germany is a federal state with a national government and 16 federal states which retain a measure of sovereignty. These are known in German as Land or Bundesland (plural Länder or Bundesländer) and these terms are used in this nomination for them.

GERMANY

## Overview of the German planning system

The designation of a settlement type as a legally protected property requires comprehensive and large-scale protection of urban structures down to individual green spaces and buildings. It involves numerous legal instruments from both planning and building law. In the Federal Republic of Germany, these instruments are provided by both national and state laws. After this brief overview, important legislation is described in more detail.

### Federal Laws

The Federal Building Code (BauGB), the Federal Regional Planning Act (ROG) and the Federal Land Use Ordinance (BauNVO) combine to form the spatial planning and urban planning law of the Federal Republic of Germany. This incorporates the major provisions on urban development and construction projects, defines parameters for urban land-use planning, conservation and design statutes, among other things, and designates the responsibilities of the permit granting authorities. Together they form the main basis for the protection of urban architectural heritage.



## **State Laws**

The Regional Planning Laws of the German Federal States (or Länder) set out the legal principles on the organisation, tasks, procedures and instruments of regional planning policy and regional planning. The state development plans of the respective Land constitute an overall strategy on their regional planning and development. They form the basis for planning controls over diverse land-use claims and are concretised through regional and local plans. The conservation of cultural landscapes and historic sites with multiple cultural monuments is an important pillar in the development plans, adopted and refined in the regional development plans. The objectives are made more specific in urban development planning. Building ordinances regulate the construction, alteration and demolition of built structures and the procedures in building law (including building permit procedures).

In the Federal Republic of Germany, monument protection is the responsibility of the individual Länder. Each Land has its own law governing the protection, maintenance, conservation and study of cultural monuments. The Länder monument protection laws contain provisions stating the objectives, principles, institutional structures and responsibilities of monument conservation authorities and other entities entrusted with protection as well as the general instruments and procedures for protection and preservation. In addition, they set out the rights and duties of monument owners as well as possibilities of financial support and funding of monument conservation measures, also stipulating consequences in penal law in the event of any violation of legally regulated monument protection.

## **Municipal Planning and Statutes**

Apart from the protection measures defined by the monument protection laws, individual, locally applicable protection regulations may be drawn up. Conservation and design statutes as well as conservation area statutes can further regulate the preservation of buildings and the implementation of structural measures in the surrounding and setting of monuments. They are regularly drafted and ratified by the local authorities in consultation with the monument protection authorities of the Länder.

## **Federal Legislation and Regulation**

### **Recognition of spa status**

In Germany, recognition as a spa town (with the corresponding title) is granted by the responsible ministry of the respective state. The basis is generally a “Kurortgesetz” (“spa town law”), or an ordinance. There are criteria for this designation in all Länder. A community or a part of the community can be given this title. All Länder either explicitly or implicitly base their designations on the *Begriffsbestimmungen – Qualitätsstandards für die Prädikatisierung von Kurorten, Erholungsorten und Heilbrunnen* (quality standards for the title of spa town, health resort or mineral spring) of the *Deutscher Heilbäderverband e.V.* and the *Deutscher Tourismusverband e.V.* (German spa association and German tourism association).

### **Recognition of Thermal status**

In Germany groundwaters are defined as thermal waters if their temperature exceeds 20°C at their point of emergence. This definition was laid out by the *Deutscher Heilbäderverband e.V.*:

Deutscher Heilbäderverband e.V.; Begriffsbestimmungen: *Qualitätsstandards für die Prädikatisierung von Kurorten, Erholungsorten und Heilbrunnen*; 12. Aufl.; Bonn, 2005.

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

### **Act on the Regulation of Matters Pertaining to Water (Wasserhaushaltsgesetz – WHG) of July 31, 2009, last amendment July 18, 2017**

The Act on the Regulation of Matters Pertaining to Water constitutes the main part of German law pertaining to water and waterways. It contains regulations regarding the protection and utilisation of surface and subterranean waters as well as instructions about river development, water supply planning, and flood protection. The responsible authorities may designate specific areas as water preserves or medicinal springs preserves in order to protect bodies of water from detrimental effects in the interest of the existing or future public water supply, or of their utilisation as a medicinal spring. Within the preserves, certain activities may be prohibited, or declared to be allowed only within certain limits. Owners and beneficiaries of plots of land may be obligated to tolerate a range of measures.

Directive 2007/60/EC of The European Parliament and of The Council of 23 October 2007 on the assessment and management of flood risks became effective on November 26, 2007 and was implemented as federal law of the Federal Republic of Germany through this Act.

### **Spatial planning legislation**

#### **Federal Regional Planning Act (Raumordnungsgesetz, ROG) December 22, 2008, last amendment July 20, 2017**

The Federal Regional Planning Act is an important part of planning law, which also includes State planning and sectoral planning law. By specifying the tasks and general principles of land-use planning, the Act sets parameters for the structural development of large areas. It obliges the Länder to draw up spatial development plans and, where required, regional development plans, and defines the scope of their content. Spatial development plans must contain standing rules on spatial structure, especially on the desired structure of settlement and open-space, and the sites and routes to be secured for infrastructure. The regional planning procedure ensures compliance with the objectives by all public bodies and private individuals.

The Act requires provision to be made for the protection, conservation and development of the natural surroundings and landscape, including water bodies and forests. The Act also requires the maintenance of historical and cultural relationships and regional affiliations, and the preservation of the characteristic features and cultural and natural monuments of evolved cultural landscapes. §2, Abs. 5 Principles of Spatial Planning says:

*Cultural Landscapes are to be maintained and developed. Historically shaped and evolved cultural landscapes are to be preserved with their characteristic attributes and with their cultural and natural monuments as well as with the UNESCO cultural and natural world heritage.*

#### **Federal Building Code (Baugesetzbuch - BauGB) September 23, 2004, last amendment November 3, 2017**

The Federal Building Code regulates, in summary, those areas of urban planning legislation that fall within the jurisdiction of Federal law. These include general urban

planning legislation, which covers mainly urban land-use planning and regulations concerning reorganisation of land holdings and compulsory purchase, as well as special urban planning legislation for urban renewal and redevelopment, measures in the “SozialeStadt” support programme, preservation statutes, urban development enforcement orders, and urbanistic measures in the context of measures for the improvement of the agricultural structure.

Municipalities are required to produce land-use plans which define land utilisation and contain a zoning plan. Land-use plans should conform to the aims of regional planning. Land-use plans should ensure sustainable urban development, harmonising social, economic and environmental requirements.

**Federal Land-Use Ordinance (*Baunutzungsverordnung* – BauNVO) of January 23, 1990, last amendment November 21, 2017**

The Federal Land-Use Ordinance (*Baunutzungsverordnung*, BauNVO) regulates the general and structural usage of properties and is thus an important supplement to the Federal Building Code (*Baugesetzbuch*-BauGB). The Federal Land-Use Ordinance is based on §9a of the Building Code. It constitutes the legal planning basis for the representations and stipulations in the land-use plans and is directed at the communities as the responsible planning bodies. The first section of the Federal Land-Use Ordinance contains regulations about the type of structural usage that is allowed. The second section defines the allowable dimensions of land use, including the respective parameters. The third section addresses the manner of construction and provides possibilities through which buildable plots of land can be regulated by the land development plans.

**Federal Environmental Impact Assessment Act (*Umweltverträglichkeitsprüfungsgesetz*, UVPG),**

The Federal Environmental Impact Assessment Act regulates the examination of plans, such as building projects, with regard to their potential environmental impact on properties. During the planning process the impact of the plans must be examined for their environmental dimension. Impact on people, in particular human health, animals, plants and biological diversity, surface, ground, water, air, climate and landscape, cultural heritage and other assets as well as the interaction between the aforementioned properties must be considered. In this way the examination can, for example, point out the negative impact of planning on visual axis at an early stage. The environmental assessment is not binding for the planning decision.

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

**Federal Nature Conservation Act (*Bundesnaturschutzgesetz* – BNatSchG) of July 29, 2009, last amendment September 15, 2017**

The Federal Nature Conservation Act determines the aims of nature and landscape preservation. Along with the Länder nature conservation acts it provides the legal instruments for the protection of nature and the landscape. For monument preservation in the urban context, §1, Absatz 4, Nr. 1 BNatSchG is especially significant. It addresses historical cultural landscapes and parts of cultural landscapes as area-defined subjects of protection in their own right, or as the surroundings of protected cultural, architectural, or field monuments, and demands their protection.

**Federal Forest Act (*Bundeswaldgesetz* – BWaldG)**

Among others, the Federal Forest Act (*Gesetz zur Erhaltung des Waldes und zur Förderung der Forstwirtschaft* - BWaldG) regulates the preservation of forests and the

management of the German forestry industry, the forestry associations as well as the promotion and support of forestry

## 7. *Bad Ems*

### Recognition of spa status

The mineral springs are owned and have been administered by the state since the Middle Ages. The recognition of *Bad Ems* as a spa and health resort is based on the state law concerning the recognition of spas and health resorts (Spa Law RP) from 21 December 1978, last amendment 22.12.2015 Source: Law and Ordinance Gazette Rheinland-Pfalz 2015, p. 482

The law stipulates which types of spas exist and the requirements which must be met in order to gain recognition. State recognition as a spa with the specific designation health resort requires:

1. a natural, suitable spa ground source for the cure, mitigation or prevention of illnesses,
2. a healthy climate and sufficient air quality,
3. diverse, efficient institutions for the provision and therapeutic use of the spa resource with appropriate spa physician and nursing care,
4. efficient operation of the hotel and catering trade and
5. a character of the locality which is appropriate to the spa facilities and which must also be protected through urban development planning.

The state recognition of springs was granted through a letter of the Rheinland-Pfalz Ministry of the Interior dated 15 June 1963. A list of the recognised springs can be found in the Federal Law Gazette 2016 Part I No. 51, published in Bonn on 31 October 2016, P. 2403

### Legal Protection of springs and water sources

#### **Landeswassergesetz, July 14, 2015, last amendment March 27, 2018**

This law pertains and applies to the water or parts thereof described in the Federal Water Act (Wasserhaushaltsgesetz) and for surface water which does not come from natural springs. First of all it defines and classifies different types of waters and clarifies responsibility in connection with the ownership of waters. It refers to various possible scenarios such as flooding and regulates restoration and the obligatory tolerance. The section dedicated to the management of water regulates permission, authorisation and the related procedures.

The act regulates the use of water for various purposes as well as water regimen. Further subject areas are water maintenance, navigation and the management of ground water. The specific water management provisions also include flood control, water conservation areas and the conservation of mineral springs. They state that with regard to the state recognition of mineral springs and their revocation the Ministry responsible for health

issues shall make a decision after consulting the State Office for the Environment and in consultation with the Supreme Water Authority and the Ministry responsible for Tourism, Baths and Spas. The act obligates a reference in the land survey register as part of the determination of conservation areas for mineral springs. Furthermore, it defines the water pollution control administration with the responsibilities of the authorities in detail and ultimately regulates all possible administrative procedures.

**Conservation Ordinance for mineral springs (Heilquellenschutzverordnung) from 27 February 2013:**

This is a statutory instrument concerning the determination of a conservation area of mineral springs in *Bad Ems*, Dausenau, Kemmenau, Arzbach, Fachbach, Frücht, Nievern, Sulzbach, Oberlahnstein (Rhein-Lahnkreis district) and Welschneudorf (Westerwaldkreis district) in favour of Staatsbad *Bad Ems* GmbH. The ordinance was made in accordance with the Federal Water Act and was enacted by the “Struktur- und Genehmigungsdirektion Nord” as Supreme Water Authority. The purpose of the ordinance is the conservation of the 15 state-certified mineral springs situated in *Bad Ems*. The conservation area of mineral springs is to ensure the qualitative and quantitative conservation of the mineral springs, which is why the conservation areas are also divided into these two aspects.

In the conservation area of mineral springs all activities and uses which could lead to a threat to the mineral springs are prohibited. The qualitative conservation is to maintain the natural state of the mineral springs by preventing the emission of substances. The quantitative conservation is to guarantee that the hydraulic system (flow system) is not impaired preventing the discharge and yield being reduced or the individual character of the mineral springs being altered. The ordinance clearly defines the corresponding zones and lists the activities which are prohibited. It defines breaches of law and their punishment as well as compensation possibilities.

## **Spatial planning legislation**

**State Planning Code (Landesplanungsgesetz Rheinland-Pfalz)  
April 10, 2003, last amendment October 6, 2015**

The tasks of land-use planning and regulation are

- summary, supra-regional, supradepartmental planning of the spatial order;
- coordination of regionally significant planning and measures with those of other Länder or neighbouring countries, and of Federal planning with the regionally significant plans and measures on state territory;
- involvement in creating the spatial order and developing the land in accordance with the law.

Monuments are covered only indirectly by land-use planning, in their capacity as parts of the cultural landscape.

**Building Code (Landesbauordnung Rheinland-Pfalz)  
November 24, 1998, last amendment June 15, 2015**



The State Building Code regulates the constructional and engineering requirements for building projects on the basis of construction planning law. As well as material regulations covering issues such as plot development, construction products, safety precautions, etc., it determines, among others, the construction licensing procedure and the structure of building control authorities. Some issues of urban monument protection are included, supporting the monument legislation provisions of the Monument Protection Law. The Code also covers the question of design and particularly the need for new structures to conform to their surroundings, with particular consideration for cultural and natural monuments.

## **Protection of historic buildings, monuments and other special areas of cultural heritage**

### **Monument Protection Law (Denkmalschutzgesetz Rheinland-Pfalz)**

**March 23, 1978, last amendment December 3, 2014**

The purpose of the Act is to preserve and maintain cultural monuments, including monitoring their condition. Scientific research and the public dissemination of information about them is also an objective, as is the integration of cultural monuments into regional planning and land-use planning, and nature and landscape conservation, with as far as possible practical uses. The authorities for protection of cultural monuments should cooperate with their owners and with other interested parties. Owners and holders of monuments have an obligation to preserve them as far as is reasonable (defined primarily in financial terms). All official and corporate bodies must take account in their measures and plans, particularly urban development planning, of the obligation to preserve cultural heritage in accordance with the provisions of the UNESCO World Heritage Convention.

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

**Landesnaturchutzgesetz, October 6, 2015, last amendment December 21,**

The purpose of the State Nature Conservation Act (Landesnaturchutzgesetz) is the implementation of relevant guidelines of the European Union for the conservation of natural habitats and wild flora and fauna. It pertains to the Federal Nature Conservation Act (Bundesnaturchutzgesetz) and primarily contains amendments to this act. It obligates the Federal State of Rhineland-Palatinate as well as all persons and bodies governed by public law, to work towards managing their own plots of land and those which they manage but do not own, in accordance with the objectives of nature conservation and landscape conservation and to minimise land usage. The public earmarking of a plot of land shall not be affected. The realisation of the objectives also includes the avoidance of lasting damage to nature and landscape or keeping it as low as possible and to observe the “polluter pays” principle when repairing any damage caused. The act defines the nature conservation authorities with their tasks and powers and regulates the recording and administration of geotechnical data of nature conservation. The act provides a framework for landscape planning, regulates the conservation of certain parts of nature and landscape and defines the procedure in the event of intervention decisions of the authorities. Further subject areas covered by this act are the “Natura 2000” network, the protection of species, relaxation in nature and landscape, the involvement of third parties such as the advisory board for nature conservation, an authorised representative for nature conservation and recognised nature conservation associations. Ultimately through the restriction of the ownership rights of the owner it regulates related aspects such as maintenance measures and toleration, right of first refusal, compensation and financial aid provided by the Federal State

### **Landeswaldgesetz, July 14, 2015, last amendment June 6, 2018**

The purpose of this law is to maintain, conserve and, should it be necessary, increase the forest in the entirety and equivalence of its functions in the long-term and to cultivate and develop the forest through the efforts of forestry. The functions of the forest, which the law defines, include, among other aspects, its contribution to the landscape (protection function) and recreation (recreational function). The law describes the rights and obligations of the forest owners, which also include sustainability and environmental care. It provides the management of the forest with a framework and defines the principles of financial support. It is dedicated to forest framework development planning for the maintenance of the forest and defines the types of protected forest areas, which also includes the recreational forest. The law defines the rights and obligations of the forest users. It describes the forestry administration authorities and their tasks.

### **State Ordinance on “Nassau Nature Park” of 30 October 1979:**

The state ordinance determines a landscape space as a nature park which is subsequently defined precisely in its boundaries. This includes, amongst others, the administrative units *Bad Ems* and Nassau. The protective purpose for the entire nature park is the maintenance of the special character of the landscape, the beauty and the special recreational value of the Lahn Valley for long-term and short-term holidays along with its side valleys and the steep slopes of the Rhine located on the right hand side and side valleys of the Rhine between Lahnstein and Kamp-Bornhofen, with the varied landscape of the accompanying range of hills and the Montabaurer Heights. The aim is to enable quiet relaxation. The law defines in detail, which measures are prohibited without the authorisation of the nature conservation authorities, if they run counter to the protective purpose and an impairment of the protective purpose cannot be prevented or compensated for through conditions or the imposition of obligations. It regulates the participation of the nature conservation authorities in the authorisation process.

## **Cultural property and areas protection**

*Bad Ems* features 76 individual monuments within the core zone. Between 1982 and 1995, five monument zones were designated. The area of the monument zones in accordance with § 5 DSchG Rheinland-Pfalz is 11.7 ha in size. This corresponds to a percentage of 15% of the area of the World Heritage site.

### **Areas of nature protection**

Bad Ems, and consequently both the property and the buffer zone, are situated in the core zone of the Nassau nature preserve. They are protected by the State Ordinance on “Naturpark Nassau“ of 30 October 1979. Part of the protective purpose is *“the preservation of the specific character of the landscape, of the beauty of the Lahn valley, and of the very high recreational value, for both short and long stays, of the Lahn valley and its secondary valleys...”* In the legally binding land-use plan “Mittlerer Römerstraße“ the Kurpark is identified as such.

## **8. Baden-Baden**

Several legislative acts relating to the protection of monuments, nature, water and landscape of the Federal State of Baden-Württemberg apply within the component part and the buffer zone of *Baden-Baden*. In the following, these legislative acts and legally binding plans are described.

## **Recognition of spa status**

**The Act on the Recognition of Spas and Resorts Baden-Württemberg 14 March 1972; last amendment February 23, 2017**

This defines the terms health resort, spas and natural remedies:

Spas are municipalities or parts of communities in which natural remedies of the soil or the climate or scientifically recognized hydrotherapeutic healing methods (especially after Kneipp) are applied by appropriate facilities and have the appropriate local character. Natural remedies are especially healing springs, healing bogs and healthy climates.

*Baden-Baden* got the confirmation of the title “Heilbad” (=Healing spa) *Baden-Baden* according to § 20 of this Act on 9 August, 1980.

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

**Water Protection Law Baden-Württemberg, July 31, 2009; last amendment July 18, 2017**

This is founded on the Act on the Regulation of Matters Pertaining to Water (Wasserhaushaltsgesetz des Bundes – WHG), which is the major constituent of German water law. It contains provisions on the protection and use of surface and groundwater, as well as provisions on the development of waters and water-economic planning, as well as flood protection. The competent authorities may designate certain areas as a water sanctuary or source sanctuary in order to identify and protect waters from adverse effects in the interests of the current or future public water supply or use as a healing source. In the protected areas, certain acts can be prohibited or declared admissible only in a restricted manner. The owners and beneficiaries of land may be obliged to tolerate certain measures.

In *Baden-Baden*, state recognition and the legal regulations for the protective areas of the thermal springs has been in force since 1 October, 1969 based on this Act. The spring protection area is divided into the catchment area (zone 1), the narrower protection zone (zone 2) and the further protection zone (zone 3). This law protects 100% of the area of the nominated World Heritage Site and 99.3% of the buffer zone.

The state recognition of the first ten thermal springs was carried out 19 August 1892 by the Badischer Minister of the Interior based on the Badisches Berggesetz (Nr. 20569). On 25th February, 1963, the thermal springs were confirmed as healing sources was given referred to § 42 Wassergesetz Baden-Württemberg. On 23rd April, 1970 state recognition as healing springs was given to the two new thermal springs Pflutterloch I and II.

## **Spatial planning legislation**

**State Planning Code (Landesplanungsgesetz Baden-Württemberg)  
July 10, 2003, last amendment February 23, 2017**

The tasks of land-use planning and regulation are:

- higher-level summary planning for the spatial order and development of the land,
- coordination of regionally relevant planning and measures on the part of Federal and Land authorities with the requirements of the spatial order,

- participation in spatial planning and development in accordance with the law.

### **Building Code Baden-Württemberg (Landesbauordnung für Baden-Württemberg – LBO) August 8, 1995, last amendment February 23, 2017**

The building code for Baden-Württemberg regulates the requirements for building projects on the basis of construction planning law. As well as material regulations covering issues such as plot development, construction products, safety precautions, etc., it determines, among others, the construction licensing procedure and the structure of building control authorities. Some issues of urban monument protection are included, supporting the monument legislation provisions of the Monument Protection Law. The Code also specifies that buildings must harmonise with their surrounding areas and that cultural and natural monuments and characteristics of the surroundings must be considered.

### **Protection of historic buildings, monuments and other special areas of cultural heritage**

#### **Constitution of the Federal State of Baden-Württemberg November 11, 1953, last amendment December 1, 2015**

In Article 3c of the Constitution of the Federal State of Baden-Württemberg it is specified that the landscape and the monuments of art, history and nature enjoy the protection and care of the State and the Municipalities. The concrete regulations are set out in the Cultural Heritage Protection Act of Baden-Württemberg.

#### **Cultural Heritage Protection Act Baden-Württemberg (Gesetz zum Schutz der Kulturdenkmale, Baden-Württemberg – DSchG) December 6, 1983, last amendment February 23, 2017**

The purpose of the Act is to preserve and maintain cultural monuments, including monitoring their condition. It obliges all owners of cultural monuments, whether they be private individuals, the church, a municipality or the State itself, to do so (§ 6). Particularly important cultural monuments can gain extra protection through entry onto the monument register (§ 12). The surrounding of these monuments is protected as well (§ 15). Consent is needed from the monument protection authority for works to monuments (§ 8 and 15). Conservation areas can be placed under monument protection by local communities in consultation with the State Office for Cultural Heritage (§ 19).

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

#### **Nature Protection Act Baden-Württemberg, June 23, 2015**

The Nature Protection Act Baden-Württemberg is based on the Federal Nature Conservation Act (Bundesnaturschutzgesetz – BNatSchG) which defines the goals of nature conservation as well as landscape maintenance. Together with the state's laws of nature conservation, it offers the legal instruments for the protection of nature and landscape. In particular, § 1, paragraph 4, point 1 BNatSchG is of importance for urban planning. Here, historical cultural landscapes and cultural landscape parts are addressed as independent protected goods or as environments for protected cultural, construction, and soil monuments and their preservation is demanded. The main purpose of protection is, among other things, preservation of the culturally influenced landscape, preservation of the close interlocking of the landscape with the historically grown settlement and its parks and gardens and the preservation of the green areas, which characterise the

settlement and landscape. Any acts that change the character of the area or run counter to the purpose of protection are prohibited thereafter and will be punished.

Within the nominated property *Baden-Baden* there are 21 trees as natural monuments, which are registered in the natural monument book of the federal state of Baden-Wuerttemberg.

### **Forest Protection Law Baden-Württemberg, August 31, 1995, last amendment June 23, 2015**

The Forest Protection Law Baden-Württemberg builds on the Federal Forest Act (Bun-deswaldgesetz – BWG) and defines the rights and obligations of forest owners, state and citizens to maintain the quality of the forest. Protection and conservation of forest areas are of great importance for the performance of natural households, timber production and environ-mental and climate protection. This applies to forests in Germany as well as to those in the whole world.

The forest in *Baden-Baden* covers most of the buffer zone and presents until today the characteristic landscape of the natural historic scenery. The forest is completely part of the *Baden-Baden* Landscape Protection Area. For the management of the forest, further concrete requirements arise from landscape conservation with the aim of securing the ecological functions, the characteristic landscape and the recreation function.

### **Landscape protection bye-law (Landschaftsschutzgebietsverordnung) Statutory ordinance July 14, 1981**

The Landscape protection bye-law defines regulations on landscape protection areas, in accordance with the Nature Conservation Act (Naturschutzgesetz Baden-Württemberg, NatSchG BW).

The chief protection objectives are, among others:

- Preservation of the culturally modified landscape
- Preservation of the close interconnection between the landscape and the historically developed townscape with its parks and green spaces
- Preservation of the green corridors and spaces shaping the townscape and the appearance of the landscape

Any act that alters the character of the area or runs counter to the protective purpose, such as changing the appearance of the landscape for the worse or impairing the natural characteristics of the landscape in other ways, is therefore prohibited and will be punished.

### **Nature Park protection bye-law Black Forest Centre/North**

Natural Park “Black Forest Mitte/Nord” The permit reservation under § 4 NaturparkVO does not apply, among other things, to the built-up areas: see § 4 (1), second sentence, NaturparkVO (in the version of the 16.12.2003) and § 2 (6) NaturparkVO (in the change version of the 16.12.2014).

The Nature Park Black Forest Centre/ North covers a total area of 374,000 ha and is thus the second largest nature park in Germany. The area has been defined on the basis of the principles and objectives of regional planning. The aim is to develop and maintain the landscape for recreation and recovery due to the fact that the area of the Black Forest Centre/ North is characterised by the unique beauty and variety of its countryside.



Geology and climate as well as centuries of human use have created the Black Forest landscape which alternates between natural countryside and an agricultural cultural landscape.

### **Cultural property and area protection**

There are 770 cultural monuments listed in the designated property, among these are 17 monuments of particular importance according to §12 and §28 DschG BW. Certain important monuments are designated as Garden Monument, e.g. the Lichtentaler Allee which is listed as a cultural monument as defined by § 2 DSchG BW or the “Wasserkunstanlage Paradies” as Gesamtkunstwerk being defined by § 12 DSchG BW which means the highest range of protection.

Since October 2018, the old centre, the spa district, the Kurpark along the river Oos, the villa areas and parts of the suburbs have been covered by a conservation area protection statute (“Satzung zum Schutz der Gesamtanlage *Baden-Baden*”) in accordance with §19 DSchG BW. There is a greater than usual public interest in preserving the townscape, streetscape and urban layout of *Baden-Baden*, which determines the quality and value of the whole, for scientific, artistic and historical reasons, particularly the close spatial and functional interconnection of the parks and green spaces on the one hand, and the historically built up areas on the other hand. It is in the public interest to provide the material legacy of this site-specific back-story, as it were, with a holistic protection scheme. The protection of the whole conservation area offers the chance of protecting the overall picture, the interconnection of structures, by preserving the surroundings. Individual structures within the conservation area do not enjoy full protection of their built substance but do have indirect protection due to their significance as part of the overall picture. In conservation areas, any alteration to the protected appearance is subject to approval. The conservation area *Baden-Baden* protects 100 % of the nominated property.

### **Areas of nature protection**

The open landscape surrounding *Baden-Baden* with its valleys and hilltops, as well as most of the urban green spaces in vicinity of Lichtentaler Allee and Kaiserallee, have been placed under protection as a landscape protection area by statutory ordinance of 14.07.1981, in accordance with the Nature Conservation Act Baden-Württemberg (Naturschutzgesetz, NatSchG BW). Lichtentaler Allee has moreover been designated a historical monument. As an aggregate of things it is listed as a cultural monument as defined by § 2 DSchG BW. Landscape protection area exists in the nominated World Heritage Site *Baden-Baden* on 35% of the area (80.54 ha; Kurpark and Light Circuit) and 86% in the buffer zone. At 37 hectares, 1.6% of the buffer zone is protected as nature protection area, including the extensive natural monument Battertfelsen.

The territory of *Baden-Baden* (11,300 ha), including the area of the nominated World Heritage Site and buffer zone, has been placed under protection as a Nature Park according to the Nature Conservation Act (NatSchG BW), December 16, 2003.

### **Statute on the protection of trees (Baumschutzsatzung)**

Under the terms of §§ 22 and 29 Federal Nature Conservation Act (BNatSchG) i.V.m. § 23 Abs.6 and § 31 Abs. 1 and 2 Nature Conservation Act Baden-Württemberg (NatSchG BW) the local council on 27.06.2016 made trees within the city district of *Baden-Baden* but outside the forest generally subject to the protective provisions of the Tree Protection Statute. All trees outside the forest with a trunk circumference of at least 100 cm, measured 100 cm above the ground, are placed under protection.

## 9. *Bad Kissingen*

### Recognition of spa status

*Bad Kissingen* is a Bavarian State Spa. It has been a state-owned spa since 1770. By royal resolution of April 27, 1887, the town of Kissingen was renamed *Bad Kissingen*.

The status as Bavarian State Spa is therefore based on pre-constitutional law and no longer has a clear definition in contemporary laws. The right of designation State Spa is derived from Article 24 of the Bavarian Cost Law (BayKG) which regulates the levy of a visitor's tax in Bavarian State Spas. The title State Spa is also connected with the title of a spa.

Cost Law (KG) from 20 February 1998 (Law and Ordinance Gazette – GVBl. P. 43, Collection of Laws (BayRS) 2013-1-1-F), which was last amended by Article 1 No. 33 of the ordinance from 22 July 2014 (Law and Ordinance Gazette – GVBl. P. 286). (Kostengesetz (KG) vom 20. Februar 1998 (GVBl. S. 43, BayRS 2013-1-1-F), das zuletzt durch § 1 Nr. 33 der Verordnung vom 22. Juli 2014 (GVBl. S. 286) geändert worden ist)

In Article 24 the Cost Law regulates the levy of a visitor's tax raised for the provision of facilities which are maintained in the state spas for curative purposes. This is placed at the disposal of the state spas. Visitor's taxes only apply to people who move into accommodation in the spa area or who take advantage of the spa facilities or events of the state spas without having their permanent residence in the spa area.

*Bad Kissingen* is also recognized as thermal spa.

### Legal Protection of springs and water sources

Bavarian Water Act (BayWG) February 25, 2010; last amendment dated December 22, 2015

The Bavarian Water Act regulates in art. 31 the official state recognition of mineral springs. The definition and demarcation of areas relevant for the protection of mineral springs is transferred to the administrative authorities of counties and districts. In addition, this law regulates protection against floods, the use and control of waters including navigation and shipping, as well as determining relevant competences and responsibilities.

In *Bad Kissingen* an ordinance for the protection of the thermal springs, state-recognized as medicinal springs, has been in place since the nineteenth century. The ordinance determines quantitative medicinal spring protection areas. In the 1980s the designation of qualitative medicinal spring protection areas within the older protection areas intensified this protection. In *Bad Kissingen* the whole area of the component, as well as 100% of the buffer zone, is listed as a medicinal springs preserve.

Any kind of building works within this particularly sensitive, qualitative area of mineral springs, is subject to strict and rigorous conditions and requisitions; usually, and as a matter of rule, an exceptional permission concerning water rights shall be required in addition to the building license; this involves strict and rigorous requirements as well as prohibitions (rules and bans) for the execution of the building projects. In this context, the Regional State Office for Water Management *Bad Kissingen* is the officially

appointed responsible expert body and institution. The subordinate water administration authority located at the district administrative office of *Bad Kissingen* is the approving body.

For securing and protecting the officially recognized mineral springs of the federal spa resort *Bad Kissingen*, the following areas of mineral springs have been fixed and determined on the basis of the Water Resources Act:

Official regulation by the District Administration Office of *Bad Kissingen* about the protection area of mineral springs located within the City of *Bad Kissingen* (administrative district of *Bad Kissingen*) regarding the officially recognized mineral spring “Schönbornsprudel” of the Federal Spa Resort *Bad Kissingen*, dated December 01, 1982, amended on January 14, 1983

Official regulation by the District Administration Office of *Bad Kissingen* about the protection area of mineral springs located within the City of *Bad Kissingen* (administrative district of *Bad Kissingen*) regarding the officially recognized mineral springs “Maxbrunnen”, “Pandurbrunnen” and “Rakoczybrunnen” of the Federal Spa Resort *Bad Kissingen*, dated January 26, 1981

Official regulation by the District Administration Office of *Bad Kissingen* about the protection area of mineral springs located within the Municipality of Bad Bocklet (administrative district of *Bad Kissingen*) regarding the officially recognized mineral spring “Luitpoldsprudel” (old) and “Luitpoldsprudel” (new) of the Federal Spa Resort *Bad Kissingen*, dated July 10, 2006

Official regulation by the District Administration Office of *Bad Kissingen* about the protection area of mineral springs located within the City of *Bad Kissingen* (administrative district of *Bad Kissingen*) regarding the officially recognized mineral spring “Runder Brunnen” of the Federal Spa Resort *Bad Kissingen*, dated December 09, 1982

## **Spatial planning legislation**

The Bavarian State Planning Code (Bayerisches Landesplanungsgesetz, BayLplG) (of June 25, 2012 (GVBl. S.254, BayRS 230-1-F), last amended on December 22, 2015 (GVBl. S. 470))

The function of spatial planning and state development planning is:

1. the superordinate, supra-regional and integrated planning of the spatial structure and further development of the state,
2. the coordination of spatial planning and measures at the federal and state levels (...), in accordance with the requirements of spatial planning,
3. participation in the spatial planning and in the development of the state, in compliance with the law.

The Landesentwicklungsplan (the state’s regional development plan) provides – in writing and with maps - the structural goals and directives for the overall structural development of a state, especially with regard to settlement, free space, developmental emphases and transects, transportation infrastructure, the exploitation of natural

resources and energy, the provision of supra-regional facilities such as harbours, airports, etc. The primary goal is a sustainable development of the land that harmonizes social and economic demands and functions with ecological requirements.

Monuments are only indirectly considered in the state planning as an element of the cultural landscape.

**Bavarian Building Code (Bayerische Bauordnung, BayBo) August 14, 2007 (GVBl. p. 588, BayRS 2132-1), last amended by § 1 of the law of 10 July 2018 (GBVI.S.523)**

The regional building codes regulate the demands and requirements of building projects in accordance with the law on planning for building projects. In addition to substantive rules and provisions dealing, for example, with land development of the building project, with building material and products, with safety measures and alike, this code also defines, among other matters, procedures for building permits/building licences and the structure of supervisory authorities for building works.

### **Protection of historic buildings, monuments and other special areas of cultural heritage**

**Constitution of the Free State of Bavaria (Verfassung des Freistaates Bayern) December 15, 1998 (GVBl, pages 991, 992, BayRS 100-1-1), last amendment November 11, 2013, art. 141, paragraph 2**

The Basic Constitutional Law as well as individual Land constitutions provide guidance from general constitutional law as regarding the protection of historic buildings and monuments. The preservation of historic buildings and monuments, as well as their protection, are embedded into the constitutional system. The acts for the protection of historic buildings and monuments may, partially, be interpreted as laws implementing the principles of constitutional law.

**Bavarian Act for the Protection of Historic Buildings and Monuments (Bayerisches Denkmalschutzgesetz, BayDSchG) in the adjusted version, published in the Bavarian Collection of Legal Texts (BayRS 2242-1-K) last amendment July 10, 2018**

The legal performance and realization of the protection of historic buildings and monuments has been made possible in Bavaria by means of the informative procedure. In all the Länder, it is obligatory for the owners of monuments to repair such monuments, to maintain them, to treat them properly and to protect them against all kinds of endangering and threats within the scope of reasonableness and acceptability. In the case of alleys, the official body and the institution responsible for the construction and maintenance of streets and roads, is obliged to maintain and care for parts of alleys in use as roads. In the case of historic cemeteries, the regulations of the Provisions and Rules for Cemeteries also have to be considered.

In the Bavarian Act for the Protection of Historic Buildings and Monuments, the protection of the surrounding areas has been regulated in art. 6 para. 1, p. 2. Particularly in the case of World Heritage properties, this protection plays an important role. With many cultural monuments, a defined free space and a surrounding area are part of the original setting. By protecting conservation areas, complete installations or areas of monuments, it is possible to keep and to preserve the context of the site as a whole in connection with other buildings. It is essential, in the first place, for any planned or intended changes and modifications in the surrounding area of a space being protected due to the existence of historic buildings and monuments, to be notified to the authorities so that approval can be considered.

**2244-K, Maintaining and keeping up local heritage in the administrative districts, in towns not belonging to a county and in major county towns (2244-K, Heimatpflege in den Landkreisen, kreisfreien Städten und Großen Kreisstädten)**

Common declaration of the Bavarian State Ministry for Education and Culture (now: Bayerisches Staatsministerium für Wissenschaft und Kunst (Bavarian State Ministry of Science and Arts)) and of the Bavarian State Ministry of the Interior, dated February 17, 1981 nr. IV/2-7/92079 und nr. I B1-3003-1/1, amended by common publication, dated August 1, 1986 nr. IV/2a-K4731-7/8 11 32 and nr. I B 1-3003-1/1

This declaration gives recommendations concerning the nomination and appointment, as well as the duties and responsibilities of the persons being responsible for maintaining and keeping up local heritage, and becoming active in towns not belonging to a county or in major county towns. These persons – working on an honorary but unsalaried basis – advise and assist the authorities for the protection and preservation of ancient monuments as well as the Land authority for the preservation of historic buildings and monuments in all kinds of matters and questions concerning the preservation and the protection of historic buildings and monuments

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

**Law on the protection of nature, on the conservation of the countryside, as well as on the recreation in open nature (Bavarian Nature Protection Act – (Bayerisches Naturschutzgesetz, BayNatSchG) February 23, 2011; last amendment July 24, 2018**

This law regulates the protection of endangered species as well as the protection of bio-topes, and it regulates also in accordance with art. 4-11 the planning of the landscape, the conservation of the landscape and the general protection of nature and landscape.

After recognition and approval by UNESCO's Man and the Biosphere Programme, the supreme authority for nature protection can declare large, representative sections of cultural landscape as biosphere reserves. This law states that biosphere reserves should serve for the protection, development and preservation of cultural landscapes, which furthermore should support sustainable development, education in natural history and the direct experience of nature; they are also meant to serve for watching nature and landscape, as well as for research and investigation.

**Forest Act for Bavaria (Waldgesetz für Bayern , BayWaldG) August 25, 1982; last amendment dated July 22, 2014**

The forest act for Bavaria regulates the maintenance as well as the cultivation of the forest, and of the forestry business and economy.

### **Cultural property and areas protection**

In *Bad Kissingen*, approximately 25% of the property to be protected has been listed as conservation areas in the Official Bavarian Listing of Historic Buildings and Monuments, and hence enjoys comprehensive protection. The protected areas are the Kurviertel (the city's spa quarter) and the Altstadt (old part of the town) (since 1977), as well as the Frühlingsstraße (since 1994). In addition, there are some 400 cultural monuments located on the area of the property to be protected. (These individual monuments have been indicated on maps 3 and 4):



## Areas of nature protection

Landscape protection in accordance with BNatSchG covers 36% of the area of the nominated component of *Bad Kissingen* (76.68 ha) and 77% of the buffer zone (404.14 ha). 0.39 ha, corresponding to 0.2%, of the nominated component and 4.7% (24.89 ha) of the buffer zone are designated nature protection areas, including the natural monument of Bismarck-Eiche. The area of the property and 94.8% of its buffer zone, is also protected as part of the UNESCO biosphere reserve Rhön.

## 10. *Montecatini Terme*

ITALY

*Montecatini Terme* is subject to comprehensive protection and conservation measures on a national level, both in its component part and buffer zone. This has particular regard to:

- a) Regulations to safeguard the environment and spa waters;
- b) Legislation to protect cultural heritage and landscape;
- c) Measures to protect State property and heritage.

### Recognition of spa status

#### Legal Protection of springs and water sources

Besides national heritage and landscape protection, the area of the component part and buffer zone is subject to protection of its natural healing resources and their surroundings from possible hazards, as well as to the regulation of its spa system by national and regional law. Italy has been protecting of the spa water of *Montecatini* since the first years of the twentieth century. This long sequence of regulatory measures has, for more than 100 years up to the present day, safeguarded and protected the spa waters of *Montecatini Terme*.

#### National Laws

**Law No 833/1978 Establishment of the National Health Service** defines scientifically what the properties of the spa water should be and at the same time recognises the provision of spa treatments as a service of the National Health System. Thus, Italian mineral water therapy has become fully available among the ordinary public health tools for the maintenance and restoration of the psycho-physical well-being of citizens.

**Law No 323/2000, The reordering of the thermal sector**, regulates the provision of spa services in order to ensure the maintenance and restoration of physical and psychological well-being and provides for the promotion and enhancement of hydrothermal heritage, including natural, environmental and cultural resources of spa areas. Article 6 stresses both the scientific validity of thermal resources and the importance of scientific and epidemiological research.

**Italian Environmental Code, Legislative Decree No 152/2006, (Article 94)** regulates the protection areas of surface and underground water intended for human consumption. At the proposal of the competent authorities, the regional authorities, in order to maintain and improve the qualitative characteristics of surface and underground water, identify protection areas (area of absolute protection and buffer zone).

## Regional, Provincial and Municipal provisions

**Regional Law 86/1994 Norms for the research and utilisation of mineral and spa waters** (as amended) establishes areas for the protection of mineral and spa waters;

**Regional Law No 38/2004 Norms for the Research, Use of Mineral, Spring and Spa Water** (as amended and with additions) regulates the procedure for issuing and managing permits for the search for mineral, spring and spa water; the procedure for issuing and managing concessions for the utilisation of mineral, spring and spa water and the use of mineral and spring waters. In particular, article 1 §1 foresees that the Regional Authority, while protecting and enhancing the environmental and hydrogeological character of the territories, promotes the use of mineral, spring and spa waters, the sustainable use of water resources in the regional territory, and the overall sustainable, economic and social development of the concerned territories. The municipalities, which are in charge of the management of the matter (Article 4 of the law), should supplement the legislation with their own regulation (Article 9 et seq.).

### **Territorial Plan of Coordination of the Province of Pistoia (PTCP), (21/04/2009)**

Article 42 on “fragility of thermal water bodies” Article 42 of the PTCP provides guidelines and requirements, prohibiting any works or interventions that can adversely affect the thermal baths which are subject to protection measures (i.e., absolute prohibition of exactions and excavations).

### **Tuscany Regional Authority Deliberation of the Regional Council 426/2010**

immediately restored the conservation restrictions on the thermal waters of *Montecatini Terme*, which was temporarily deprived with the Law No 9/2009.

### **Tuscany Regional Authority Deliberation of the Regional Council 73/2014**

establishes prescriptions, new guidelines for environmental protection areas and the cartography for the monitoring of thermal resources in the spa area, stipulating that the previous Deliberation of the Regional Council 426 / 2010 remains enforced until the update of the PTCP in line with the Deliberation 73/2014.

### **Montecatini City Council Deliberation 60/2012 and 49/2016**

The reference (2016) has been updated, citing the Deliberation which approves the Structural Plan and the Deliberation which approves the Urban Planning Regulations

## Spatial planning legislation

The main territorial planning references are based, at the State level, on *Law 1150/42 (Urban Planning Law)* and on the **Presidential Decree 380/2001**.

### **Law 1150/42 (Urban Planning Law)**

Law 1150/42 provides a complete planning of the entire municipal territory. The Municipal territory is divided into functional areas diversified by use and building capacity which is established by specific indexes (land index, buildable surface, maximum height of buildings, etc.). The law also makes a distinction between the planning levels of land use, from the territorial scale (the territorial coordination/inter-municipal plan), to the municipal scale (the general land use plan or the manufacturing program). This last urban planning instrument was established as mandatory for the municipalities registered in specific lists. The law regulates also the issuance of building permits for interventions to be carried out in inhabited centres. This aspect was integrated and modified through the Law 10/77 and more recently through the Presidential Decree 380/01.

**The Presidential Decree 380/2001**, on the other hand, provides basic and general principles and provisions for the regulation of construction activity. It is therefore a law that concerns not the entire urban planning matter, but more specifically the building matter and through which the various categories of building intervention are defined. It defines also the rules related to the procedures for obtaining the building permissions. It provides technical standards for the realisation of construction systems and for the removal of architectural barriers, the reduction of energy consumption, as well as the rules for the suppression of infringements of regulations in the field.

At regional level, it is worth to mention the **Tuscan Regional Law No. 65/2014**, which translates on the Tuscan territory what has been required by the previous national laws. In particular, on the urban planning level, the regional law introduces at the municipal scale, a peculiar double level of planning:

- the “Structural Plan” level - a strategic type of plan, which defines the identity elements, the codification of the characterising elements of the territory, such as “invarianti strutturali” (defined as specific characteristics, generative principles and rules, which ensure the protection and reproduction of identity components enhancing the territorial heritage) and the “Statuto del territorio” (Territorial Statute, the identity recognition act, by which local community recognizes its territorial heritage and identifies rules), and the regulation for the sustainable use of these characterising elements and the long-term development of the territory;
- the “Local Operative Plan” which has a more executive nature and provides the conformation of the land use, through the definition of the intended use and urban parameters.

The Regional Law 65/2014 is also a regulatory tool dedicated to the protection of the landscape (through the definition of the functions and contents of the Landscape Plan); to the quality of settlements (delegating to specific regulation the definition and the unification of the urban planning and construction parameters; today it is represented by the Regulation approved with the Decree of the President of the Regional Council No. 39/R of 24 July); to the discipline of the rural territory and of the construction activity. It regulates the procedures and simplifications for the implementation of building interventions and it lays down the provisions for their violation.

### **Protection of historic buildings, monuments and other special areas of cultural heritage**

Italian law guarantees the conservation, protection and enhancement of the country's heritage, including both cultural and landscape resources.

*The Constitution of the Italian Republic* includes protection of cultural heritage in Article 9: *The Republic promotes the development of culture and scientific and technical research. It safeguards the landscape and the historical and artistic heritage of the Nation.*

**The Code of Cultural Heritage and Landscape (Legislative Decree no. 42 of the 22 January 2004)** is Italy's main law regulating the protection of the cultural heritage and contains the national reference regulation framework.

The unitary exercise of the functions to protect and survey protected heritage is the responsibility of the Italian State through the Ministry for Cultural Heritage and Activities and its relevant Regional Management Offices and Soprintendenze.

Moreover, the valorisation, management and predisposition of the best conditions of use of the property are the responsibility of the Regions and other local organisations. The protection measures for the chosen component in the Code are the following:

- Art. 10 *Cultural Property* indicates property of artistic, historical, archaeological, ethno-anthropological, archival and bibliographical interest or anything of worth to civilisation. They are subject to protection and conservation for public purposes. Each activity is subject to specific authorisation by the component *Soprintendenza* (branch office of MIBAC) who may refuse consent for conservation reasons;
- Art. 13 *Declaration of cultural interest* provides that all activities on the property declared as being of cultural interest must be authorised by the relevant *Soprintendenza*;
- Art. 28 *Preventive cautionary measures* reinforce the protection system of the Cultural Heritage and Landscape Code. The *Soprintendenza* may, in fact, order the suspension of any intervention started without or in default of the authorisation;
- Art. 45 *Prescription of indirect protection* defines the distances, measures and other regulations aimed at protecting the integrity of the cultural immovable property, as well as the view or light or surroundings and decorations thereof. These regulations are adopted in the framework construction regulations and urban planning tools;
- Art. 134 *Landscape property* requires safeguarding measures to be applied in areas of interest thanks to their unique landscape features, representing an expression of historical, cultural, natural, morphological and aesthetic value in the territory of reference. The Regions (or delegated organisations) grant or refuse consent for any intervention; while the *Soprintendenza* ensures the legitimacy of the authorisation, verifying that the project is compatible with the preservation objectives of the property.
- Art. 136 *Real estate and areas of significant public interest* covers safeguarding measures applied to the areas of interest thanks to their landscape resources through special legislation. Any intervention on these must be authorised by the Region (or delegated organisations). The *Soprintendenza* opinion is final following a check that the proposal is compatible with the preservation objectives of the property.
- Art. 142 *Areas protected by law* empowers protection measures to be applied to areas of landscape by law and not according to normal procedures. These are applied to coastal territory within 300 metres from the shore, to rivers, streams, watercourses and the relative banks or beds for 150 metres each side, to mountains exceeding 1,600 metres above sea level for the Alps and 1,200 metres for the Apennines and the islands, glaciers and glacial cirques, parks and national or regional reserves, as well as

buffer zones outside a park, land covered by forests and woods, and areas of archaeological interest. Interventions on these are approved or refused by the relevant authorities (Region or delegated organisations). The *Soprintendenza* ensures that the project is compatible with the preservation of the resources in question.

## Measures to protect State property and heritage

**The Italian Civil Code** ensures the protection of state property at national level covered nationally by the following articles of the Civil Code:

- Art. 823 Juridical condition of the public domain: this is a protection measure that defines the regime of inalienability for state property. The protection of the property is the responsibility of the administrative authority. This authority has the right both to proceed in the administrative route as well as make use of ordinary methods to defend the property and the possession thereof.
- Art. 828 Juridical condition of heritage: this is a protection measure that defines the impossibility of removing heritage sites from their purpose of use unless as established by the laws regarding it.

## Protection of the spa landscape, including natural heritage

Natural heritage and landscape are protected at national, regional, provincial and municipal levels, both from an environmental and landscape point of view.

At the national level:

1) regarding the environmental level, the main reference is represented by the **Legislative Decree 3 April 2006, No. 152 - “Environmental Code”**, subdivided into 5 parts in which the following provisions and procedures are defined

- procedures to carry out environmental assessments at the planning, programming and project level;
- provisions for soil protection, for desertification reduction, for the protection of water from pollution and for the management of water resources;
- provisions regarding waste management and the remediation/rehabilitation of polluted sites;
- provisions for air protection and the reduction of emissions.

2) At the landscape level, the main national law for the protection of natural heritage and landscape is represented by the **Code of Cultural Heritage and Landscape (Legislative Decree 42/2004)**. The Code comes from the development of previous legislation that has very ancient origins, dating back to the beginning of the twentieth century.

The Code, beyond providing a definition of “landscape heritage” related to the homogeneity of natural and anthropic aspects (renewed with respect to the previous legislation), identifies various categories of landscape assets. There are two main categories of protected area:



a) Immovable properties and areas of notable public interest (Articles 134, 136): areas of outstanding beauty or geological singularity, Villas, gardens, parks, Complex having aesthetic and traditional value, Beautiful views;

b) Areas directly protected by Law (Article 142): coastal territories included within a swath of land of 300 m from the waterline; areas conterminous with lakes included within a swath of land 300 metres across; rivers, streams and water courses registered in specific lists, for a swath of land of 150 metres; mountains exceeding 1200m (Apennines) or 1600m (Alps) above sea level; areas covered by forests and woods; areas assigned to agricultural universities and zones encumbered for civic uses; wetlands included in the list referred to in the decree No. 488/1976 of the President of the Republic; volcanoes; areas of archaeological interest). The Code prohibits destruction or harm of heritage in these protected areas. Therefore, any interventions require government authorisation based on a specific impact evaluation.

The Code also makes provision for Regional Authorities to develop Landscape Plans (i.e. territorial plans taking into consideration the landscape values across the whole regional territory). The Ministry of Culture Heritage and Activities and the Regions work together to draft and approve these landscape plans focused on landscape values.

Regarding the protection of natural heritage, at national level, it is worth to mention the **Legislative Decree No. 34/2018** (Consolidated text on forests and forestry supply chains), which has established the social and cultural role of forests and defined the active management of the forest (intended as forestry actions aimed at enhancing the multiplicity of forest functions, to guarantee sustainable production of ecosystem goods and services).

#### **At regional level we remember:**

1) the **Regional Orientation Plan of the Region of Tuscany having the value of the Landscape Plan, approved with Regional Council Deliberation No. 37/2015** (<http://www.regione.toscana.it/-/piano-di-indirizzo-territoriale-con-valenza-di-piano-paesaggistico>) which widely defines prescriptions on the conservation of morphological, typological and architectural characteristics of the Terme di Montecatini, its Park and the spa facilities of considerable architectural and historical interest.

2) **Regional Law 39/2000**, which recognises woods as asset of significant public interest and pursues their conservation and enhancement in relation to their environmental, landscape, social, productive and cultural functions.

#### **At the provincial level:**

3) The **Territorial Plan of Coordination of the Province of Pistoia (PTCP)**, recently adopted with Provincial Council Deliberation No. 8, 23/3/2018, which recognises the landscape and the natural heritage as fundamental elements of the territorial heritage and of the “invarianti strutturali”, the generative principles and the rules to define the conditions of transformability of heritage in order to ensure its maintenance.

#### **At the municipal level:**

1) The Structural Plan approved with Deliberation No. 60/2012 which establishes the “functional system of environmental landscape values” (Article

2), the “functional subsystems of spa establishments” (Article 13), which sets the requirements for the protection of the natural heritage and flora and fauna species, the “landscape territorial subsystems “ (Article 41), which establishes the “landscape units” (territorial parts recognizable by landscape unitarity and organicity), the objectives to preserve the identifying character of the natural and landscape heritage (for example the protection of natural and landscape resources or the conservation of forests and agricultural landscape) and limitations for interventions within them.

## **Cultural property and areas protection**

With reference to the “Conservation Area”, 76% of its perimeter is included in the Nominated Property and the remaining 24% is within the Buffer Zone. The protection of the “Conservation Area” is laid out by Chapter 2 of the rules attached to the Town Planning Regulations approved with Deliberation of the City Council 49/2016 as amended. It is characterised by the ascertainment of the compatibility of what has been envisaged by the intervention with the conservation objectives, with the guidelines and with the other identifying elements of the urban fabric laid out by the Structural Plan, as well as the requirements for the protection of the historical structure outlined by the Title V of the Urban Planning Regulations.

63.6% of buildings of historical-architectural value are located in the Nominated Property. This includes the 65 buildings which have been listed by the local Superintendency pursuant to Legislative Decree 42/2004, Part II; 166 buildings of the historic centre of Montecatini Alto and additional 283 buildings, whose architectural and historical value is recognised at municipal level (class B or C buildings).

An additional percentage (25.6%) of prestigious properties is included in the Buffer Zone, among these buildings 19 are listed by the local Superintendency pursuant to Legislative Decree 42/2004, Part II; 45 buildings of the historic core of Montecatini Alto and 143 buildings of historical and architectural value protected by the local municipal discipline.

## **Areas of nature protection**

On the municipal territory, there is the landscape legal protective restriction pursuant to Art. 142 of Legislative Decree 42/04, established by Ministerial Decree 11/15/1958 – Official Journal 294/1958 for the hilly area and by Ministerial Decree 1/4/1969 – Official Journal 104/1969 for the portion of the built-up area of the Municipality of *Montecatini Terme*. These Decrees protect the public interest, noted respectively in the panoramic features of the amphitheatre hilly system present around the city and in the traditional aesthetic value of part of the town, characterised by extensive gardens and parks and by the buildings with architectural features dating back to the end of the 18th century and to the period in which the floral-decorative art movement was mostly active. This perimeter of the constraint covers the 81.7% of the component part Nominated Property and 49.5% of the Buffer Zone.

## **11. City of Bath**

Primary legislation defines duties on decision makers and inform development plans that relate to the district. The most relevant measures protecting the *City of Bath* include:

UNITED  
KINGDOM

## **Recognition of spa status**

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

*The County of Avon Act 1982 (Section 33)* gives Bath and North-East Somerset Council powers to take reasonable measures to protect within the City the water supply to the Hot springs.

## **Spatial planning legislation**

### **The Town and Country Planning Act 1990; (as amended);**

This Act regulates the development of land in England and Wales, though parts have been repealed by the Planning and Compensation Act 1991, and it is now complemented by the Planning and Compulsory Purchase Act 2004. Principal duties of Local Planning Authorities include preparation of the Development Plan Framework for their area and a statutory duty to determine applications for planning permission in accordance with the Development Plan unless other material considerations apply.

### **Planning and Compulsory Purchase Act 2004**

This makes provision relating to spatial development and town and country planning and the compulsory acquisition of land. It substantially reforms the town planning and compulsory purchase framework in the United Kingdom. It both amends and repeals significant parts of the existing planning and compulsory purchase legislation then in force, including parts of the Town and Country Planning Act 1990, and introduces reforms such as the abolition of Local Plans and Structure Plans, and their replacement with Local Development Frameworks.

### **Localism Act 2011**

This changes powers of local government in England to facilitate the devolution of decision-making powers from central government control to individuals and communities. It makes provision about town and country planning, the Community Infrastructure Levy and the authorisation of nationally significant infrastructure projects, and provision about social and other housing.

### **Infrastructure Act 2015**

This introduced wide ranging planning and infrastructure legislation, particularly for major nationally significant infrastructure projects. It makes provision for the control of invasive non-native species.

### **Protection of historic buildings, monuments and other special areas of cultural heritage Planning (Listed Buildings and Conservation Areas Act) 1990 (as amended);**

This sets out the special controls in respect of buildings and areas of special architectural or historic interest. The most significant aspects of the act concern the listing of buildings of special architectural or historic interest and compiling and publication of the lists. It introduces Building Preservation Notices and authorisation procedures for works to be carried out on listed buildings. It defines the legal rights of owners of Listed Buildings, rights of appeal and the prevention of deterioration and damage, urgent preservation work and grants. The second part of the Act concerns conservation areas which are areas of special architectural or historic interest, the character or appearance of which, it is desirable to preserve or enhance. The Act enables Local Authorities to designate these as conservation areas and it sets out duties on decision makers when determining relevant applications for development.

**Ancient Monuments and Archaeological Areas Act 1979** (as amended);

This Act consolidated and amended the law relating to ancient monuments. It makes provision for the investigation, preservation and recording of matters of archaeological or historical interest and (in connection therewith) for the regulation of operations or activities affecting such matters.

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

**Environment Act 1995**; (this complies with the European Council Directive 2009/147/EC);

This Act established the Environment Agency. It makes provision with respect to contaminated land and abandoned mines and further provision in relation to National Parks; the control of pollution, the conservation of natural resources and the conservation or enhancement of the environment. It makes provision for imposing obligations on certain persons in respect of certain products or materials; in relation to fisheries; and for connected purposes.

**Wildlife Act and Countryside Act 1981** (as amended) this is the principal mechanism for the legislative protection of wildlife in the United Kingdom;

This is the primary legislation protecting animals, plants and habitats in the UK. It sets out legal protection for wild birds and prohibits certain methods of killing or taking wild animals; amends the law relating to protection of certain mammals; restricts the introduction of certain animals and plants; and amends the Endangered Species (Import and Export) Act 1976; and amends the law relating to nature conservation, the countryside and National Parks. It makes provision with respect to the Countryside Commission; to amend the law relating to public rights of way; and for connected purposes.

#### *Countryside and Rights of Way Act 2000*

The Act provides for public access on foot to certain types of land, amends the law relating to public rights of way, increases measures for the management and protection for Sites of Special Scientific Interest (SSSI) and strengthens wildlife enforcement legislation, and provides for better management of Areas of Outstanding Natural Beauty (AONB).

The Act clarifies the procedure and purpose of designating AONBs, and consolidates the provisions of previous legislation. It requires local authorities to produce management plans for each AONB, and enables the creation of Conservation Boards to assume responsibility for AONBs, particularly where the land designated crosses several local authority jurisdictions. The Act also requires all relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of AONBs when performing their functions.

### **Cultural property and areas protection**

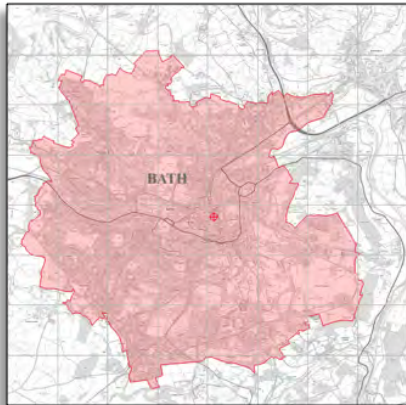
In 1987, the whole of the city was inscribed on the UNESCO List of World Heritage Sites as the City of Bath World Heritage Site. A retrospective Statement OUV for the property was adopted by UNESCO in 2013<sup>1</sup>. The values of the World Heritage Site are protected by the policies in Bath and North East Somerset Council's Core Strategy and Supplementary Planning Guidance ( Indicative Setting of the World Heritage Site) and the Management Plan for the City of Bath World Heritage Site.

Within the city are approximately five thousand Listed Buildings.

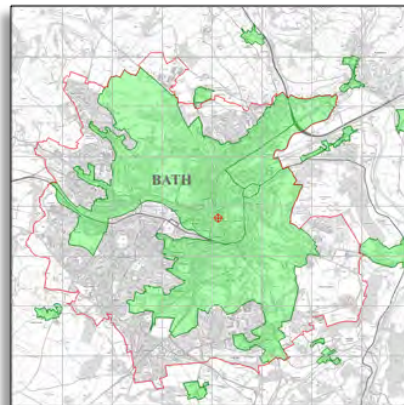
<sup>1</sup> Decision Ref. WHC13/37.COM/8E

There are fifteen Scheduled Ancient Monuments in the City protected with their settings by the 1979 Ancient Monuments and Archaeological Areas Act. There are seven properties inscribed on Historic England's Register of Parks and Gardens

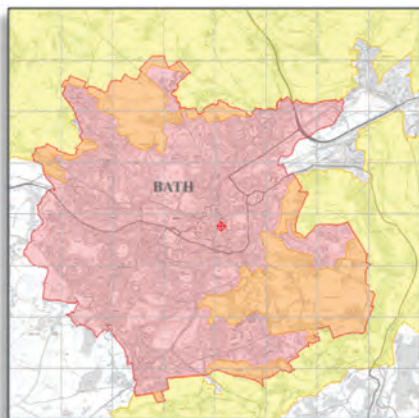
Two thirds of the city have been designated as a Conservation Area and this seeks to preserve or enhance the character or appearance of the designated area. Trees within this area are protected and consent is necessary for felling or some tree surgery. The conservation area was last extended in 1985.



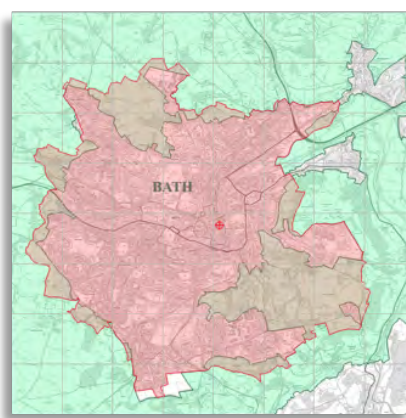
The boundary of the *City of Bath*  
See also map Atlas



The *City of Bath* Conservation Area  
See also map Atlas



The Green Belt around *City of Bath*  
See also map Atlas



The Area of Outstanding  
Natural Beauty

Around the city is the Bristol and Bath Green Belt and some of this stretches into the City boundary. This designation seeks to protect the 'openness' of the designated area through control of development according to policies in the Development Plan and Supplementary Planning Guidance. Statutory powers to designate a Green Belt came forward in a Government Circular of 1955. However, steps had been taken much earlier to protect the countryside around the city. The Bristol and Bath District Planning Scheme identified areas in which development should be restricted and these were largely in place by 1940. The proposal to designate a Green Belt came forward again in the Plan for Bath in 1945. The area is protected through policies in the core strategy of the Development Plan.

Around much of the City is the Cotswold Area of Outstanding Natural Beauty (AoNB) designated in 1966 and covering some 2083 square kilometres to the north of the city. The designation seeks to protect the natural character of the countryside. Areas of Outstanding Natural Beauty are established under provisions of the Countryside and



Public Rights of Way Act 2000 and the area is treated similarly to a national park. The character of the designated area is protected through policies in the Core Strategy of the Development Plan and Supplementary Planning Guidance including the Guidance on the Setting of the *City of Bath* World Heritage Site and the Management Plan for the AoNB. Parts of these statutory designations extend into the city boundary.

The sources of water feeding the Hotsprings are protected by an Act of Parliament, the County of Avon Act 1982 (Section 33). This legislation gives Bath and North-East Somerset Council powers to take reasonable measures to protect within the City the water supply to the Hotsprings.

### 5.b.3 Buffer Zones

Ten of the eleven components have formally-recognised buffer zones as recommended in the Operational Guidelines, para 103-106. These are designed to prevent inappropriate developments in the vicinity of the nominated property which might impact adversely on its Outstanding Universal Value.

The rationale of the buffer zone delineation has been widely discussed by the *IWG* members so that it follows the same principles. The attributes of the proposed OUV include parks and the therapeutic spa and recreational landscape with structures devoted to the leisure activities of spa clients. Where the areas of spa forests or landscaped parkland contain tangible attributes such as structures and other features, these areas are incorporated in the property; where such forested and park areas represent mainly “protective” areas they form a buffer zone. The morphology and natural horizons, land cover and potential visual relationships, as well as catchment areas of healing springs were the primary aspects of delineation of the buffer zones. National legislation has also been taken into account when defining the width of the buffer zones.

One component – the *City of Bath* – does not have a formal buffer zone. There is however agreed planning guidance on protection of the overall setting of the property. The area around the nominated component is also protected by other designations. The whole component is surrounded by a designated Green Belt which seeks to protect the open landscape around the City while the Cotswold Area of Outstanding Natural Beauty (AONB) abuts the City to the north, east and south. AONB in the UK are landscape designations second only to National Parks in their powers to protect natural and cultural landscape values.