

1. GENERAL OVERVIEW

Official name of the country: Republic of Belarus

Independence: 27th July 1991

Constitution: adopted on 15th March 1994 and amended and supplemented by republic-wide referendums on 24th November 1996 and 17th October 2004

Political system: Presidential Republic. The President of the Republic of Belarus is elected every 5 years. The last elections took place in 2010.

Area: 207.6 km².

Population: 9,348,462 inhabitants.

Migration: the internal affairs authorities of the Republic of Belarus registered 196,118 foreign citizens and stateless persons for 2014. The principal migratory flows come from the CIS countries, including Russia, Ukraine and Kazakhstan, which account for around 90% of the total number of arrivals in Belarus. A significant increase has been observed in the number of Ukrainian citizens, including from the Donetsk and Lugansk *oblasts*, arriving in the Republic of Belarus. Furthermore, in 2014, the number of Ukrainian citizens arriving in Belarus and also being granted special permission to work was over two times higher than in 2013.

Language: two official languages: Belarusian and Russian.

Religions: Orthodox Christians (80%), Catholics (14%), other religions (6%).

1.1. Political and administrative system

The Republic of Belarus is a unitary, democratic, social state based on the rule of law, exercises supreme control and absolute authority over its entire territory and implements an independent domestic and foreign policy. The territory of the Republic of Belarus is divided into 6 *oblasts* [provinces] with Minsk, Brest, Vitebsk, Gomel, Grodno and Mogilev as their administrative centres, incorporating 118 administrative districts (*rayons*). The country has 110 towns and cities, including 15 with a population of over 100,000, and 103 urban communities.

The Constitution of the Republic of Belarus of 1994, amended and supplemented by Republic-wide referendums on 24th November 1996 and 17th October 2004, is currently in place. State power is exercised on the principle of its separation into legislative, executive and judicial powers. Under Article 8 of the Constitution, the Republic of Belarus recognises the supremacy of the universally recognised principles of international law and must ensure that its legislation complies with them.

Belarus is a Presidential Republic. The Head of State is the President, and the Belarus Law "On the President of the Republic of Belarus" is in force.

Legislative power is exercised by a Parliament – the National Assembly of the Republic of Belarus – with a lower house; the House of Representatives, and an upper house; the Council of the Republic (a chamber of territorial representation).

Executive power is exercised by the Government – the Council of Ministers, which is the central body of state administration. The Government is headed by a Prime Minister. The Government is accountable to the country's President and responsible before Parliament. The prerogatives of the Council of Ministers are determined by the Constitution of the Republic of Belarus and the Republic of Belarus Law "On the Council of Ministers of the Republic of Belarus" of 7th July 1998.

Judicial power in the Republic resides in the courts. The judicial system is based upon the principles of territorial demarcation and specialisation. It consists of the Constitutional Court and a system of courts of general jurisdiction, at the top of which is the Supreme Court (Constitution, Republic of Belarus Code on the Judiciary and the Status of Judges).

Local government and self-government are exercised through local executive and administrative bodies, self-governing bodies, referendums, assemblies and other forms of public activity (Republic of Belarus Law "On Local Government and Self-Government in the Republic of Belarus"). Some of the country's structural administrative sub-divisions (local executive authorities) are subordinate to two levels of authority: local self-governing authorities and the corresponding ministry.

The Republic of Belarus is an export-oriented State with developed industrial, service and agricultural sectors. Belarus follows a socially-oriented, market economy model.

1.2. STATE POLICY ON PROTECTION OF HISTORICAL AND CULTURAL HERITAGE is based on the constitutional norms and principles deriving from Article 51 of the Constitution, under which the State shall contribute to the development of culture and scientific and technical research for the benefit of common interests. Another key element in understanding the development of state legal policy are Articles 52 and 54 of the Constitution, which stipulate that everyone on the territory of the Republic of Belarus shall be under obligation to comply with its Constitution and laws, to respect national traditions and to preserve the historical, cultural and spiritual heritage and other national assets. In addition, under Article 44 of the Constitution, the exercise of the right to property shall not be contrary to social benefit and security or be harmful to the environment or historical and cultural assets or infringe the rights and legally protected interests of others.

State policy on protection of historical and cultural heritage until 2017 was also governed by the Law "On Protection of Historical and Cultural Heritage of the Republic of Belarus" of 9th January 2006 (as per the versions of

07.05.2007 consultantplus://offline/ref=48FE1A5A7F62853E072BD77734EE813C3EE569196314DF4C6B6F08B1CC48814ACB843AFE92BE94472F55EFDBGEGvEG, 18.07.2007,
28.12.2009 and
08.05.2012 consultantplus://offline/ref=48FE1A5A7F62853E072BD77734EE813C3EE569196312DE43636E03ECC640D846C98335A185B9DD4B2E55EFD2E7G3v0G).

In February 2017, the "Code of Culture" came into force in the Republic of Belarus (Code of Culture of the Republic of Belarus, 20 December 2016 No. 413-3 // National Legal Internet Portal of the Republic of Belarus, 02.08.2016, 2/2412) - the main document regulating state policy in the field of culture. Its integral part is the section dedicated to the cultural heritage, which occupies a significant part of the Code.

In accordance with the Code of Culture, all activity for the protection of historical and cultural heritage is based on the following principles:

- 1) recognition of historical and cultural heritage as a factor in the development of the State;
- 2) responsibility of the State to preserve historical and cultural heritage;
- 3) participation of citizens in the protection of historical and cultural heritage.

2. STRATEGY AND POLICY RELATING TO SUSTAINABLE DEVELOPMENT, INCLUDING IN THE SPHERE OF CULTURAL HERITAGE

In accordance with the Belarus Law "On State Forecasting and Programmes for the Socio-Economic Development of the Republic of Belarus" of 5th May 1998, the system of state forecasting for the socio-economic development of the Republic of Belarus includes:

- in the long term — the National 15-year strategy for the sustainable socio-economic development of the Republic of Belarus (hereinafter, the national strategy for sustainable socio-economic development) and the main strategy lines for socio-economic development of the Republic of Belarus for 10 years (hereinafter, the main strategy lines for socio-economic development);
- in the medium term — the 5-year programme for the socio-economic development of the Republic of Belarus (hereinafter, the programme for socio-economic development);
- in the short term — the annual forecast for the socio-economic development of the Republic of Belarus (hereinafter, the annual forecast for socio-economic development).

Forecasts for socio-economic development are prepared for the Republic as a whole, for national economic complexes and branches of the economy and for administrative and

territorial units.

Long-term state forecasting for the socio-economic development of the Republic of Belarus determines long-term state socio-economic and scientific and technical policy and includes the devising of the national strategy for sustainable socio-economic development and the main strategy lines for socio-economic development.

Within the national strategy for sustainable socio-economic development strategy lines for the effective use of the country's demographic, social, natural, production and innovation potential are devised while taking account of the state of the environment.

The National strategy for the sustainable socio-economic development of the Republic of Belarus for the period up to 2020 (NSSD–2020) was devised in accordance with the Republic of Belarus Law "On State Forecasting and Programmes for the Socio-Economic Development of the Republic of Belarus". An interdepartmental working group for preparing a draft National Strategy for the Sustainable Socio-Economic Development of the Republic of Belarus for the period up to 2030 was set up and its draft was subject to public debate: <http://www.economy.gov.by/ru/macroeconomy/nacionalnaya-strategiya>.

The Programme for the socio-economic development of the Republic of Belarus for the period 2011-2015 was ratified by Decree of the President of the Republic of Belarus No. 136 of 11th April 2011. The programme's basic provisions state that the purpose of regional development must be to enhance effectiveness and carry out structural reforms of the economy on the basis of rational use of the potential for production and resources of *oblasts*, *rayons* and towns and cities. They also state that **the main mission of national culture is to consolidate the people on the basis of common traditions and values**, educationally nurture patriots, develop and increase the creative potential of the people and create conditions and guarantees for the all-round development of individuals, the satisfaction of their aesthetic needs and the fulfilment of capabilities and talents.

These tasks will be achieved primarily through: the preservation and enrichment of the cultural heritage; professional art and popular creative activities; raising the quality and guaranteeing the accessibility and diversity of contemporary cultural services for all citizens, including the inhabitants of villages and small towns; the forging and reinforcement of a positive cultural image of Belarus abroad. The policy will result in the preservation of the country's cultural heritage, a strengthening of the cultural potential of the nation and greater quality, accessibility and diversity of cultural services for all strata of society.

3. DEVELOPMENT OF A STRATEGY FOR SUSTAINABLE TOURISM

As a cross-sectoral network of activities intensively developing in post-industrial society, tourism is a highly topical issue for Belarus. The tourism sector has a palpable stimulating effect on other sectors of the economy: industry, trade, construction, communications, transport, agriculture, the entertainment industry, amenity services and catering.

The strategic aim of developing the tourism sector in the Republic is set out by the Blueprint for a National Strategy for the Sustainable Development of the Republic of Belarus for the period up to 2030 (hereinafter, the NSSD-30), the Blueprint for a Programme for the Socio-Economic Development of the Republic of Belarus for the period 2016-2020 and also regional local development programmes.

A National Programme for the Development of Tourism in the Republic of Belarus (hereinafter the National Programme) has been devised on a five-yearly basis since the year 2000. In this process, due account is taken of the provisions of the Belarus Law "On Tourism", and agreements on tourism development between the Republic of Belarus and other States, including within the framework of the CIS, EU, UNESCO and also the Tourism Bill of Rights and Tourist Code adopted by the General Assembly of the World Tourism Organisation (1985) and other local documents and recommendations. It provides for the formation and development of a modern, highly effective and competitive tourist industry in the Republic of Belarus, meeting the needs for tourism services of the country's own citizens and foreign nationals. The programme also provides for a substantial contribution by tourism to the development of the national economy through job creation, tax revenues, flows of foreign capital, the preservation and rational use of historical, cultural and natural heritage and a system of training staff for this sector. This document reflects in fairly substantial detail, for the different stages of tourism development, the current situation and problems, resources and conditions, and the main lines of development of tourism in the country's regions.

Under the National Programme, the financial mechanism for regulating tourism activity provides for: concessional lending for projects to create conditions for developing incoming tourism as well as national projects to restore tourism sites; preferential tax treatment for exhibition and trade fair activities and communication and marketing work carried out by tourism enterprises, organisations and firms; lowering of import duties and establishment of non-tariff barriers; reduction in the number of taxes to be paid by tourism organisations.

In order to create favourable conditions for developing tourism in the Republic of Belarus, Decree of the President of the Republic of Belarus No. 371 of 2nd June 2006

listed a number of tourism services exempt from value added tax and corporation tax for a period of three years dating from when a business starts to provide such services. The funds released must be directed towards funding the construction or restoration of tourism sites, upgrading the surrounding areas and also repaying bank loans received and used for those purposes.

The National Programme defines basic resources, among which the country's historical and cultural heritage and natural potential prominently feature. The programme for the period 2001-2005 focused in detail on historic cities, with a description of their significance for the country's history and the possibilities of further developing tourist itineraries leading to them. Subsequent national programmes (for the periods 2006-2010, 2011-2015) set out limits for the development of regional cultural assets, including both individual sites and entire historic cities.

Even so, insufficient use is made (no more than 15%) of the country's historical/cultural and natural resources, partly due to insufficiently developed infrastructure (state and number of hotels, limited number of roads and also poor organisation of local railways) but also because of the sub-standard quality of tourism products in relation to the prices charged. Information and advertising promoting Belarus at international level as a country rich in historical and cultural heritage is also inadequate.

The Blueprint for a Programme for the Socio-Economic Development of the Republic of Belarus for the period 2016-2020 emphasises the need to take stock of the situation and carry out territorial mapping with regard to the cultural potential of each region. In the future it will define additional sources for funding cultural and historical heritage sites and developing historic towns and cities.

At present, it is impossible to assess the contribution of all existing tourism branches objectively as there are no statistical data on revenues from tourism from supporting/satellite accounts. That process is only now taking shape and the aforementioned method will be introduced in the coming five-year period.

It must be pointed out that an indicator relating to the increase in the share of restored architectural monuments having a corresponding functional use included in the State List of Historical and Cultural Values of the Republic of Belarus has been introduced for the first time and is already included in the Programme for the Socio-Economic Development of the Republic of Belarus for the period 2016-2020 as well as the NSSD-30. This indicator will make it possible to determine what percentage of the country's historical and cultural assets are involved in tourism and what impact tourist activity has on heritage assets.

The main factors impeding the development of inbound and domestic tourism at present include:

- the low level of use of innovative technologies to promote national tourism packages on the domestic and foreign tourism services market, including advertising and public relations support and online marketing;
- the imperfect nature of machinery for attracting foreign investment in the tourism sector;
- the lack of qualified staff and low quality of services and facilities for tourists.

4. MANAGEMENT OF THE CULTURAL HERITAGE

State management in the sphere of protection of historical and cultural heritage is implemented by the President of the Republic of Belarus, the Council of Ministers of the Republic of Belarus, the Ministry of Culture of the Republic of Belarus, local councils of deputies, local executive and administrative bodies, and also other state bodies in accordance with their prerogatives (Art. 11 – 14 of the Code of Culture of the Republic of Belarus").

Within the sphere of protection of historical and cultural heritage, the *President of the Republic of Belarus* must:

- determine state policy in the sphere of protection of historical and cultural heritage;
- determine which historical and cultural assets may be proposed for inclusion in the UNESCO World Heritage List or for inclusion in other lists in accordance with the international treaties of the Republic of Belarus;
- exercise other powers in accordance with the Constitution of the Republic of Belarus, the Code of Culture of the Republic of Belarus" and other legislative acts of the Republic of Belarus.

The Council of Ministers of the Republic of Belarus is responsible for implementing state policy in the sphere of protection of historical and cultural heritage by:

- establishing blueprints and Republic programmes for the protection of the historical and cultural heritage, ensuring implementation and monitoring;
- granting historical/cultural asset status to tangible objects and intangible manifestations of human creativity or withdrawing that status therefrom;
- establishing a procedure for authorising the temporary export of movable tangible historical or cultural assets from the Republic of Belarus in cases where this is provided for in the legislation of the Republic of Belarus;
- exercising other powers in accordance with the Constitution of the Republic of Belarus, the Code of Culture of the Republic of Belarus" and other laws of the Republic of Belarus and acts of the President of the Republic of Belarus.

The Ministry of Culture of the Republic of Belarus must implement state policy in the sphere of protection of historical and cultural heritage by:

- preparing proposals on the basic strategy lines of state policy in the sphere of protection of historical and cultural heritage;
- devising and adopting/publishing legislative acts of the Republic of Belarus in the sphere of protection of historical and cultural heritage, within the limits of its competence;
- organising supervision of the implementation of the Code of Culture of the Republic of Belarus", including where the upkeep and use of historical and cultural assets are concerned;
- co-ordinating activities of other Republic authorities in the sphere of protection of historical and cultural heritage;
- organising and assisting with the implementation of measures for the protection of historical and cultural heritage;
- introducing proposals in the Council of Ministers of the Republic of Belarus for the granting of historical/cultural asset status to tangible objects and intangible manifestations of human creativity or the withdrawal of that status therefrom;
- introducing proposals in international organisations for the inclusion of historical and cultural assets in the UNESCO World Heritage List and or in other lists in accordance with the international treaties of the Republic of Belarus;
- managing the State List of Historical and Cultural Values of the Republic of Belarus;
- handling the setting up a database on the historical and cultural heritage of the Republic of Belarus;
- providing organisational, methodical and other assistance with the protection of historical and cultural heritage to legal entities and physical individuals, including individual entrepreneurs;
- issuing legal entities and physical individuals, including individual entrepreneurs, with binding written instructions in the sphere of protection of historical and cultural heritage;
- participating in international programmes for the protection of historical and cultural heritage;
- promoting historical and cultural assets;
- exercising other powers in accordance with the Code of Culture of the Republic of Belarus" and other legislative acts of the Republic of Belarus.

Local executive and administrative bodies must participate in the implementation of state policy in the sphere of protection of historical and cultural heritage by:

- devising regional programmes for the protection of historical and cultural heritage and enforcing their implementation;

- organising and assisting with the implementation of measures to identify tangible objects and intangible manifestations of human creativity which may be of historical and cultural value and marking them out for being granted historical and cultural asset status;
- organising and assisting with the implementation of measures to preserve and restore historical and cultural assets;
- inventorying historical and cultural assets and exercising supervision over their upkeep and use;
- promoting historical and cultural assets;
- exercising other powers in accordance with the given Law and other legislative acts of the Republic of Belarus.

Questions of the protection of natural heritage and the environment, including protection of typical and rare landscapes, lie within the competence of the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus (Order of the Council of Ministers of the Republic of Belarus No. 503 version 17th January 2014 of 20th June 2013 "On Certain Questions of the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus"). The Ministry of Natural Resources and Environmental Protection of the Republic of Belarus (hereinafter, the Natural Resources Ministry) is a country authority subordinate to the Council of Ministers of the Republic of Belarus. The main tasks of the Natural Resources Ministry include:

- 1) conducting unified state policy in the sphere of environmental protection and rational use of natural resources, the use and protection of mineral resources and also hydro-meteorological activities in accordance with legislation;
- 2) implementing state administration in the sphere of studying, protecting, regenerating and making rational use of natural resources, including minerals, water and animal and plant life, environmental protection and also state regulation in the fields of hydro-meteorology, ecological certification and ecological auditing;
- 3) co-ordinating the activities of other Republic authorities, local executive and administrative bodies and organisations in the areas of environmental safety, environmental protection and rational use of natural resources, including minerals, hydro-meteorological activities and the regulation of effects on the climate and the ozone layer;
- 4) interaction, within the limits of its competence, with local executive and administrative bodies in resolving nature protection issues.

Otherwise, questions of the protection of natural heritage and protection of the environment, including landscapes, cultural landscapes, parks, nature reserves and the protection of the latter within urban areas, lies within the competence of the:

Ministry of Culture of the Republic of Belarus, in cases where a project establishes a zone in which immovable tangible historical and cultural heritage assets are to be protected or where an archaeological monument constitutes a historical and cultural asset. Moreover, a preservation zone and landscape protection zone must coincide with the territory in which the historical or cultural asset has its footprint. Work in areas around archaeological monuments is governed by a procedure established by the Code of Culture of the Republic of Belarus" and Council of Ministers of the Republic of Belarus Instruction No. 651 (as amended on 20.07.2012), which establishes the Regulations on the protection of archaeological sites during earth and construction works and other types of activity on the territory of archaeological sites;

Ministry of Architecture and Construction, in cases where a project establishes a zone in which immovable tangible historical and cultural heritage assets are to be protected including a development control zone.

With the adoption of the Code of Culture of the Republic of Belarus, there have been no significant changes in the management policy for heritage. In Belarus, as in other post-Soviet countries, there is a classical expert-oriented model for the protection of cultural values. The entire management system is built on a hierarchical model: the Ministry of Culture; regional structures of heritage management; local specialists.

The participation of the public in the management of cultural heritage has so far been limited. Communities are mentioned in the Code of Culture only as national. However, the new "Code of Culture" slightly expands the possibilities for such participation. It fixes the possibility of creating public supervisory commissions under local executive bodies. Also, monuments of regional importance should be put on guard only taking into account the opinion of the created Regional Councils on the issues of historical and cultural heritage. However, they can include only representatives of state bodies and legal entities that have a relationship with the protection of heritage.

5. STAFF RESOURCES IN THE SPHERE OF PROTECTION OF HISTORICAL AND CULTURAL HERITAGE

The training of staff for work in the heritage sphere in the Republic of Belarus is carried out by several higher education institutions: Belarus State University (at the history faculty as a separate specialisation (undergraduate and master's programme) and Belarus State University of culture and arts at the faculty of information and documentary communications (specialisation - museology and protection of historical and cultural heritage).

Conservation and restoration work on heritage sites is carried out by qualified restoration staff (architects, engineers, designers), who are concentrated in a handful of state and

private enterprises. The most authoritative of these is the "Belrestavratsiya" joint stock company, which employs around 500 staff.

As mentioned above, practical administration in the heritage sphere is carried out directly by the Directorate for Protection of Historical and Cultural Heritage of the Ministry of Culture of the Republic of Belarus, which employs a staff of 11. At local level, protection of the heritage is implemented by specialists working for *rayon* and *oblast* culture directorates of local authorities (1 specialist per administrative region), which is extremely inadequate given the immensity of the tasks they face. They must carry out the role of inspector, checking on compliance with legislation on protection of historical and cultural heritage.

Scientific and methodical assistance in the sphere of heritage protection is provided by the National Academy of Sciences of Belarus and the Institute of Culture of Belarus (Department for Protection of Historical and Cultural Heritage).

6. RIGHTS OF THE PRIVATE AND VOLUNTARY SECTOR (PHYSICAL INDIVIDUALS AND LEGAL ENTITIES)

In line with the requirements of Republic of Belarus legislation in the sphere of protection of historical and cultural heritage, sites subject to protection may be in any form of ownership, including of legal entities and physical individuals.

According to legislation, individual heritage sites (chiefly category - 0 and category - 1, including World Heritage sites) may only be owned by the state.

The Code of Culture of the Republic of Belarus (hereinafter, the Code of Culture, defines the rights and obligations of owners/possessors of historical and cultural assets.

The owner is entitled to:

- transfer the historical/cultural asset to state authorities for protection;
- exercise a right of pre-emption to acquire other constituent parts of the historical/cultural asset which are under collective ownership;
- receive material assistance in the form of funding from the republic budget and other sources for the execution of works on the historical/cultural asset if they do not have their own funds.

The owner/possessor is prohibited from:

- destroying the historical/cultural asset;
- carrying out works on the historical/cultural asset or within the protection zone without permission from the Ministry of Culture;
- transfer the right of ownership of the site without the agreement of the local executive and administrative authorities;
- change the location of the historical/cultural asset without the agreement of the Ministry of Culture;
- export the asset;

- hand over the protected site into the possession of or for use by the Armed Forces of the Republic of Belarus or other military formations.

Under the provisions of Articles 116-117 of the Code of Culture, works on historical/cultural assets, including the drawing up of planning documents and specifications, must be carried out under the guidance of a supervisor, who bears personal responsibility for the preservation of the asset's distinctive characteristics as well as for the scientific and methodical justification of the project decisions taken and their implementation.

Under Article 116 paragraph 1 of the Code of Culture supervisors are appointed by the Ministry of Culture to represent the order-giver or supervise engineering companies or scientific and research institutions. An architect or historian with experience of working on heritage sites may be appointed as a scientific supervisor for works on a historic monument. They do not require a special licence for this type of activity. The supervisor may be a legal entity's representative or a physical individual which passed attestation and received a special certificate.

Permission to carry out archaeological research is issued by the Ministry of Culture after the National Academy of Sciences of Belarus has granted written permission for the carrying out of archaeological research.

7. FINANCIAL ASSISTANCE AND REHABILITATION OF HERITAGE

Funding from heritage protection comes from republic and local budgets, private investment and also state programmes, which include:

The "**Culture of Belarus**" State Programme for 2015-2020, which provides for the execution of restoration and renovation work on 34 heritage sites in the *oblasts*:

- 10 in Brest oblast;*
- 1 in Vitebsk oblast;*
- 4 in Gomel oblast;*
- 5 in Grodno oblast;*
- 8 in Mogilev oblast;*
- 6 in Minsk oblast.*

The "**Castles of Belarus**" State Programme for 2012-2018, which provides for the execution of works on 38 medieval castles and palace and park complexes. *Total budget funding of 131,381.3 million rubles is earmarked for the "Castles of Belarus" state programme, of which the republic budget is providing 2,500 million rubles and local budgets are providing 128,881.3 million rubles.*

Measures under the "Castles of Belarus" State Programme for 2012-2018 are funded within the limits of the appropriations earmarked for these tasks in republic and local budgets and also through the own funds of organisations implementing the state programme.

Since the beginning of the programme 13037.4 million rubles of programme funding has been distributed, including:

1,099.9 million rubles – from the Republic budget;

10,757.5 million rubles – from *oblast* budgets (Brest *oblast* – 2441.0 million rubles, Vitebsk *oblast* – 389.1 million rubles, Grodno *oblast* – 7887.6 million rubles, Minsk *oblast* – 39.8 million rubles);

1,180 million rubles – from extra-budgetary sources.

Thanks to extra-budgetary funding for the restoration and reconstruction of historical and cultural assets from the "Lyubcha Castle" Charitable Trust, work is being carried out on the castle in the Lyubcha township in the Navahrudak *rayon*. In order to attract extra-budgetary funding for work on Navahrudak castle the culture department of the Navahrudak *rayon* executive committee opened a fund for voluntary donations which, by 31.12.2014, had received 51.6 million rubles and 231 thousands,43 euros in voluntary donations.

Funding for the protection of heritage sites are also raised through different public initiatives, such as the "**Skarbnitsa**" **republic-wide draw lottery**, which gathers funds going, in particular, for the restoration of Navahrudak castle.

8. BASIC LEGAL AND REGULATORY ACTS RELATING TO CULTURAL HERITAGE

8.1. Legislation relating to protection of historical and cultural heritage

The following legal acts are applicable in the sphere of protection of historical and cultural heritage in the Republic of Belarus:

Codes and laws:

Civil Code of the Republic of Belarus, Land Code of the Republic of Belarus, Water Code of the Republic of Belarus, Criminal Code of the Republic of Belarus, Code of Administrative Infringements of the Republic of Belarus;

Code of Culture of the Republic of Belarus, 20th July, 2017 № 413-3;

Republic of Belarus Law of 25th November 2011 "On Archiving and Record Management in the Republic of Belarus"

Republic of Belarus Law of 9th July 1999 "On Folk Art, Folk Crafts/Handicrafts in the Republic of Belarus" (National Register of Legal Ccts of the Republic of Belarus, 1999, No. 56, 2/62) as per the versions of 9th November 2009, 20th May 2013.

Republic of Belarus Law of 5th July 2004 "On Architecture, Urban Planning and Construction Activity in the Republic of Belarus" (as per the version of 31st December 2014).

Decrees of the President of the Republic of Belarus:

No. 190 of 19th April 2007 "On the Procedure for Estimating the Cultural Values";
 No. 435 of 10th July 2006 "On Certain Issues Concerning the Movement of Museum Items and/or Museum Collections Across the Border of the Republic of Belarus";

No. 527 of 18th October 2007 "On Certain Issues Concerning the Protection of Historical and Cultural Heritage" (together with the "Regulations on the procedure for implementing deductions for business activity having a direct impact on historical and cultural assets or protection zones containing an immovable tangible historical and cultural asset and compensation for damage to historical and cultural assets or protection zones containing immovable material historical and cultural assets".

Instructions governing issues of the preservation of historical and cultural assets at the level of the *Council of Ministers of the Republic of Belarus*:

Republic of Belarus Council of Ministers Instruction No. 762 of 15th June 2006 "On certain issues concerning the protection of historical and cultural heritage (version of 17th January 2014) (together with the "Regulations on the procedure for the keeping of the State List of Historical and Cultural Values of the Republic of Belarus", the "Regulations on the procedure for setting up a database on the historical and cultural heritage of the Republic of Belarus and the procedure for consulting the information in that database", the "Regulations on the procedure for granting permission to carry out works on tangible historical and cultural values and/or in historical and cultural heritage protection zones", the "Regulations on the procedure for granting certification for supervision of the drawing up of planning documents and specifications for the execution of restoration works on tangible historical and cultural values and/or in protection zones containing immovable tangible historical and cultural values", "Regulations on the Belarus Republic Scientific and Methodical Advisory Council on Historical and Cultural Heritage under the Ministry of Culture");

Republic of Belarus Council of Ministers Instruction No. 906 of 18th July 2006 "On certain issues concerning the exportation of cultural values outside the borders of the Republic of Belarus and the invalidation of individual Republic of Belarus Council of Ministers instructions and paragraph 1 of Republic of Belarus Council of Ministers Instruction No. 1538 of 3rd December 2004;

Republic of Belarus Council of Ministers Instruction No. 651 of 22nd May 2002 ratifying the "Regulations on the protection of archaeological sites during excavation and construction work and the implementation of other activities on the territory of archaeological sites" (National Legal Internet Portal of the Republic of Belarus, 2012, of 27th July 2012);

Republic of Belarus Council of Ministers Instruction No. 762 of 15th June 2006 "On certain issues concerning the protection of historical and cultural heritage;

Republic of Belarus Council of Ministers Instruction No. 1129 of 10th September 2004 "Ratifying the List of state culture institutions with special significance for the preservation, development and dissemination of Belarusian national culture, whose reorganisation and winding up are subject to the agreement of the Government of the Republic of Belarus";

Republic of Belarus Council of Ministers Instruction No. 579 of 6th May 2002 "On issues concerning the preservation of the historical and cultural heritage of the Republic of Belarus";

Republic of Belarus Council of Ministers Instruction No. 1383 of 19th September 2001 "On the streamlining of state records of historical and cultural values".

The sub-legal regulatory acts applicable in the sphere of protection of cultural and historical heritage include:

Republic of Belarus Ministry of Culture Instruction No. 26 of 31st May 2007 (version of 26th August 2013) "Approving the Instruction on the procedure for the establishment, scientific study and artistic assessment of identified tangible objects and intangible manifestations of human creativity which may be of historical and cultural value";

Republic of Belarus Ministry of Culture Instruction No. 26 of 13th December 2000 "Approving the Regulations on the National database on folk art and folk crafts/handicrafts" (National register of legal acts of the Republic of Belarus, 2001, No. 12, 8/4689);

Republic of Belarus State Customs Committee Instruction No. 56 of 23rd August 2005 "On the exportation of cultural assets and copies of archive documents";

Republic of Belarus Ministry of Culture Instruction No. 40 of 8th December 2006 "Establishing certain forms" (form of [certification](#) for historical and cultural assets; form of [protective panels](#), mounted on an immovable tangible historical or cultural asset; form of [security obligations](#));

Republic of Belarus Ministry of Culture Instruction No. 17 of 17th June 2003 "ratifying the Instruction on the procedure for the inventorying, conservation and transportation of arms and munitions of cultural value by state museums";

Republic of Belarus Ministry of Culture Instruction No. 11 of 10th April 2003 "Ratifying the State list of historical and cultural heritage assets of the Republic of Belarus";

Republic of Belarus Ministry of Culture "Regulations on authentic folklore groups in the Republic of Belarus" of 30th April 1999;

Republic of Belarus Ministry of Culture decree No. 19 of 20th January 1997 "Approving the Instruction on the procedure for acquisition, accounting, scientific processing, preservation and use of the Museum collection of the Republic of Belarus".

There are no individual regulatory acts relating to specific historic towns and centres in the Republic of Belarus. Nevertheless, there are Council of Ministers instructions relating to the forming of historical and cultural conservancy areas within individual historic areas. These include Republic of Belarus Council of Ministers Instruction No. 553 of 22nd May 1997 "Declaring the "Zaslavye" Historical and Cultural Museum-Reserve, the "Polatsk" Historical and Cultural Museum-Reserve and the "Nyasvizh" National Historical and Cultural Museum-Reserve to be historical and cultural museums-reserves establishing substantial parts of those towns as such. In these cases, the conservancy area, with its protection zone, development control zone and

existing and future museums form a nucleus around which the conditions are created for the conversion of historic towns into town museums.

8.2. Regulatory acts governing the obligations of religious organisations in relation to the heritage

Religious organisations possessing heritage sites are under obligation to comply with the provisions of the Code of Culture of the Republic of Belarus. Their activities are governed by the Republic of Belarus Law of 17th **December 1992 "On the Freedom of Conscience and Religious Organisations"** (as per the versions of 31st October 2002, 21st July 2008, 04th January 2010, 22nd December 2011).

The state authority for religious affairs (namely the **Ombudsman for religious affairs and ethnic affairs and his apparatus, on which the Regulations were ratified by Republic of Belarus Council of Ministers Instruction No. 891 of 15th July 2006**; as amended and supplemented by instructions: No. 198 of 19th February 2007; No. 1018 of 6th November 2012) checks and monitors the activities of religious organisations with regard to their compliance with the legislation of the Republic of Belarus on freedom of conscience, religion and religious organisations, as well as their statutes, and issues binding orders for the removal of any infringements discovered.

Within their activities, religious organisations must be guided by their statutes and are under obligation to comply with the requirements of the Constitution of the Republic of Belarus, the aforementioned Law and other legislative acts of the Republic of Belarus.

Religious organisations have a right of pre-emption regarding the transfer to them by the State of religious buildings and the surrounding area, with the exception of those being used as sites of culture, physical culture and sport. Property transferred by religious associations to religious communities forming part of the religious association concerned and also to monasteries and monastic communities, religious brotherhoods and sisterhoods, religious missions and religious educational establishments, is assigned to the said religious organisations in terms of jurisdiction for operational management.

Under the procedure established by law, the State provides religious organisations with assistance for the restoration of religious buildings and other items presenting historical or cultural value. Disputes regarding the possession and use of religious buildings and property are resolved in judicial proceedings unless otherwise specified by the legislation of the Republic of Belarus.

8.3. Legislation relating to the rights of different ethnic groups

The Republic of Belarus is traditionally a multi-ethnic and multicultural State, promoting the interests of all ethnic groups, and is guided by the Constitution and the principles of international law in the sphere of human rights and ethnic minorities, creating the

necessary conditions for the free development of ethnic minorities and protecting the rights and lawful interests of persons belonging to ethnic minorities.

The Law of the Republic of Belarus "**On Ethnic Minorities In the Republic of Belarus**" of 11th November 1992 (as per the versions of 05.01.2004 consultantplus://offline/ref=0898D8A3AFF20D7645A14C7614CFD6C23BF88635EFB29C19467EBFA9E4CAADCF584A1B7212A626B41EA5E29Fx83DN, and 7th May 2007 consultantplus://offline/ref=0898D8A3AFF20D7645A14C7614CFD6C23BF88635EFB194174674BFA9E4CAADCF584A1B7212A626B41EA5E29Fx833N) establishes that citizens of the Republic of Belarus from ethnic minorities must comply with the Constitution of the Republic of Belarus and other legislative acts of the Republic of Belarus, facilitating the preservation of the sovereignty and territorial integrity of the Republic of Belarus and respecting the traditions of citizens of all ethnic backgrounds living in the Republic, their language and culture. Any kind of direct or indirect restriction of the rights and freedoms of citizens of the Republic of Belarus on grounds of their belonging to an ethnic minority or any attempts to assimilate them against their will are prohibited.

The State guarantees citizens of the Republic of Belarus from ethnic minorities equal political, economic and social rights and freedoms exercised according to the procedure laid down by the legislation of the Republic of Belarus, including the right to speak one's own language, the right to choose a language of communication, education and study and to preserve one's historical/cultural and spiritual heritage, freely develop culture, including with respect to professional and amateur art.

At present, there are 212 ethnic/cultural public associations operating in the country. Annual ethnic culture festivals are held. Information on ethnic/cultural public associations (as of 1st January 2015) may be consulted here: http://www.belarus21.by/Articles/nac_cult_ob

8.4. Which instruments of the Council of Europe and UNESCO have been signed and ratified and when did they enter into force?

Within the framework of the Council of Europe:

The Republic of Belarus became a State Party to the European Cultural Convention as of 1993.

Belarus fully participates in seven leading Council of Europe committees, including in the area of culture, heritage and landscape and the Bern Convention).

In December, 2008, the Congress of Local and Regional Authorities of the Council of Europe proposed observer status for the Council for Co-operation of Local Self-

Governance Bodies under the Council of the Republic of the National Assembly of the Republic of Belarus.

The "Belavezhskaya Pushcha" and "Berezinsky Biosphere Reserve" national parks hold European diplomas for protected natural areas issued by the Council of Europe.

The following instruments were opened for signature by the Republic of Belarus:

1. **European Landscape Convention (Florence convention)**. Opened for signature by the member States of the Council of Europe and for accession by the European Union and European non-member States of the Council of Europe in Florence on 20 October 2000. Date of entry into force: 1st March 2004

2. **European Convention on the Protection of the Archaeological Heritage of 16th January 1992.**

The following instruments may not be signed by the Republic of Belarus before its accession to the Council of Europe:

1. *Convention for the Protection of the Architectural Heritage of Europe*. Opened for signature by the member States of the Council of Europe in Granada on 3 October 1985 ([ETS No. 121](#)). Date of entry into force: 1st December 1987

2. **Framework Convention for the Protection of National Minorities. ([ETS No. 157](#))** Opened for signature by the member States of the Council of Europe in Strasbourg on 1 February 1995. Date of entry into force: 1st February 1998

3. **Council of Europe Framework Convention on the Value of Cultural Heritage for Society. ([CETS No. 199](#))** Opened for signature by the member States of the Council of Europe in Faro on 27th October 2005. Date of entry into force: 1st June 2011

The Republic of Belarus **has ratified the following UNESCO/UN international instruments:**

1. **Convention for the Protection of Cultural Property in the Event of Armed Conflict** of 1954; ratified by Belarus on 18 March 1957, entered into force in Belarus on 7th August 1957;

1.1. **Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict** of 1954; ratified by Belarus on 18 March 1957, entered into force in Belarus on 7th August 1957;

1.2. **Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict** of 1999; ratified by Belarus on 24th October 2000, entered into force in Belarus on 9th March 2004;

2. Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 1970; ratified by Belarus on 4th February 1988, entered into force in Belarus on 28th July 1988;

3. Convention Concerning the Protection of the World Cultural and Natural Heritage of 1972; ratified by Belarus on 25th March 1988, entered into force in Belarus on 12th January 1989;

4. Convention for the Safeguarding of the Intangible Cultural Heritage of 2003; ratified by Belarus on 29th December 2004, entered into force in Belarus on 20th April 2006;

5. Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 2005; ratified by Belarus on 4 August 2006, entered into force in respect of Belarus on 18th March 2007

6. Convention on the Guaranteeing of the Rights of Persons belonging to National Minorities. Entered into force in Belarus on 10th January 1997

7. UN Convention on Biological Diversity. Entered into force in respect of Belarus on 29 December 1993 (ratified by Instruction of the Supreme Council of the Republic of Belarus of 10th June 1993 "Ratifying the Convention on Biological Diversity") (Official Bulletin of the Supreme Council of the Republic of Belarus, 1993, No. 27, art. 347; No. 29).

8. Convention on the Protection and Use of Transboundary Watercourses and International Lakes. Entered into force in Belarus on 27th August 2003 (the Republic of Belarus acceded via Decree of the President of the Republic of Belarus No. 161 of 21st April 2003 "On the accession of the Republic of Belarus to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes" (National register of legal acts of the Republic of Belarus, 2003, No. 49, 1/4544).

9. Convention on the Transboundary Effects of Industrial Accidents. Entered into force in Belarus on 23 September 2003 (the Republic of Belarus acceded via the Republic of Belarus Law of 30th April 2003 "On the accession of the Republic of Belarus to the Convention on the Transboundary Effects of Industrial Accidents (National register of legal acts of the Republic of Belarus, 2003, No. 53, 2/941).

10. Convention on Environmental Impact Assessment in a Transboundary Context. Entered into force in Belarus on 8th February 2006. Adopted by Decree of the President of the Republic of Belarus No. 487 of 20th October 2005 "On the accession of the Republic of Belarus to the Convention on Environmental Impact Assessment in a Transboundary Context" (National register of legal acts of the Republic of Belarus, 2005, No. 171, 1/6874).

Not ratified or signed by the Republic of Belarus:

Convention on the Protection of the Underwater Cultural Heritage. Adopted on 2nd November 2001

9. RELATIONS BETWEEN LEGISLATIVE AND REGULATORY ACTS ON CULTURAL HERITAGE AND OTHER LEGAL TEXTS

9.1. Spatial and urban planning

The procedure for urban planning in Belarus is regulated by the Belarus Law No. 300-Z of 5th July 2004 "On Architectural, Urban Development and Construction Activities", which lays down the mandatory requirements for establishing the *boundaries of protected zones* on the basis of urban development projects (Article 6 of the aforementioned Law). Provision is made, within the boundaries of protection zones, for restrictions or a complete ban on building alterations posing a threat to historical/cultural assets and their surroundings or disrupting the conditions for their preservation and use (Art. 29 of the Law "On Protection of Historical and Cultural Heritage").

Urban development projects are divided into groups, depending on the level of planning permission required. At national and regional levels, complex territorial organisation schemes are drawn up (General complex territorial organisation schemes - GCTOSs - for national level and complex territorial organisation schemes – CTOSs - for *oblasts* and *rayons*), with general plans (GPs) and detailed plans (DPs) being devised at local level. The scale on which the scheme plans are executed allow cultural heritage sites to be shown as no more than map symbols.

Taking account of drawing resolution¹ in the GPs, individually standing historic buildings and the approximate area occupied by complex historical/cultural assets are usually marked out if no protection zone has been previously established. For more in-depth analysis linked to heritage issues, the GP will contain a key historic architecture plan executed on a suitable scale, and urban planning measures to protect historical/cultural assets are defined.

Historical and cultural assets are considered in sections of the GCTOSs, CTOSs and GPs that are devoted to tourism development. There are proposals for organising thematic itineraries linking natural or cultural heritage sites as showpiece tourist attractions.² In this connection, as a rule, it is only classified monuments in their current state which are taken into account. Proposals for the conversion of heritage sites involved in tourism activity are to be devised at a lower level of urban development planning.

The main urban planning document setting out the legislative requirements for establishing the boundaries of protection zones is the Detailed Plan (DP). In the DP, the boundaries of protection zones are established for the largest historical/cultural assets: historic town centres, which include Minsk, Brest, Vitebsk, Mogilev, Grodno, Pinsk, Kobryn, Zaslavye, Mazyr and Polotsk. The boundaries and rules on upkeep of

¹ In a general plan areas of less than 3 ha cannot be accurately demarcated .

² Devising thematic tourism itineraries is the responsibility of the Republic of Belarus Ministry of Sport and Tourism or specific tourism operators without the agreement of the urban planning and local authorities.

protection zones defined in the DP are agreed with the Ministry of Culture and ratified by the Council of Ministers of the Republic of Belarus.

It should be pointed out that, in recent years, urban development planning has begun to turn to other instruments for the preservation of heritage alongside protective zoning.

In accordance with the applicable technical, legislative and regulatory acts,³ GPs and DPs must come with integrated *urban planning regulations*. If, in the former case the actual boundaries of protection zones (or boundaries of an area in which historical/cultural assets are located) have a regulatory role - they appear as planning constraint lines - in the latter, the regulations describe in even greater detail the rules governing protected zones as a set of measures ensuring compliance while taking the specific urban planning situation into account.

However, urban planning projects, in terms of both general (GCTOSs, CTOSs, GPs) and detailed (DPs) plans do not sufficiently dovetail with issues of conservation of the cultural heritage since, until recently, urban planners and developers have been chiefly interested in new construction and the utilisation of unoccupied land. Less attention has been paid to urban redevelopment, which means that it is subject to a weaker methodical and regulatory basis.

This observation is also highly applicable to those regulations that govern the use and development of areas by urban planners. The manual for drawing up regulations within GPs and DPs (1996) has not been applied in practice and has been partially replaced by a new document on the *urban planning certification of territories*,⁴ which has nonetheless not resolved the main problem concerning the legal grounds for prescriptions of this nature. The regulations are not registered in the State urban planning land register. Land-related legislation does not provide for the registration of regulations established in Detailed Plans or in an urban planning certificate as a condition for granting a plot of land when issuing title deeds. As things stand, it is still possible to dispute the lawfulness of requirements established by urban planning documents. There is no direct link between urban planning certification for a plot of land and the protection obligations of its owner.

There has been a noteworthy trend in recent years: the *'Regeneration project for the central area of cities and historic towns'* has been making a return to urban planning. This document is combined with the DP but drawn up as a special urban planning project for resolving issues regarding the restoration of the run-down areas, compositional continuity and functional activity of historic towns or their centres, of individual

³ Technical Code of Practice TKP 45-3.01-284-2014 "Urban planning. Detailed urban planning project. Composition and procedure;"

TKP 45-3.01-286-2014 "Urban planning. General urban planning project. General urban settlement plan. Composition and procedure."

⁴ Technical Code of Practice TKP 45-3.01-294-2014 "Urban planning. Urban planning certification for a land plot. Composition and procedure."

architectural ensembles and complexes, buildings and facilities. Where necessary, a regeneration project includes plans for the construction of new buildings, installations and amenities for the area. When preserving existing monuments and vestiges, efforts are made not to impinge on historical patterns of spatial organisation.

A historical/cultural framework has been devised as part of the General scheme to develop tourism infrastructure sites, health resorts and recreation areas in the Republic of Belarus up to 2030 (draft). Initially, a planning instrument was proposed at national level, on the basis of which measures to preserve cultural and natural heritage are integrated with urban development and tourism cluster creation.

Even so, in its strategic documents, the Ministry of Sport and Tourism still prefers a sectoral approach, without taking account of the need to build the capacity of cultural heritage as a basic tourism resource and to enhance the architecture of towns in order to attract tourists.

All this demonstrates that there is insufficient synergy in the area of heritage preservation, urban development and tourism.

In order to overcome the lack of unity between governmental agencies and improve the system for managing urban areas of historical/cultural significance, it is necessary to:

- actively appropriate available standard instruments for managing territories (urban planning regulations) that allow linkage between heritage preservation issues and project proposals for planning and developing historic towns and cities, and most importantly the establishment of corresponding legal rules governing land use;
- devise a project for the regeneration of historic buildings in towns, as a key strategy for their sustainable development with the emphasis on providing public areas;
- create partnerships between towns and surrounding rural areas with a view to successfully realising the potential of their local part of the historical/cultural framework of the Republic of Belarus.

The development of a new kind of urban planning documentation must be accompanied by the training of specialists, broad consultation with public organisations and involvement of the population in decision-making, particularly young people and children.

9.2. Is there a law or regulatory act on strategic environmental assessment (SEA)?

If we look at the precedents in existing legal literature, we can see that the introduction of SEAs is a relevant issue in Belarus. Article 2 paragraph 7 of the Convention on Environmental Impact Assessment in a Transboundary Context of 1991, to which Belarus is party, states that the contracting parties shall endeavour to apply the principles of environmental impact assessment to policies, plans and programmes. Given the relevance of SEA to that convention, a protocol on SEA was drawn up and adopted in 2003 as an independent international treaty. The Republic of Belarus is currently considering the possibility of acceding to the Protocol on SEA and building its capacity for successful implementation of that instrument's provisions. In particular, a Strategy for developing SEA capacity in the Republic of Belarus was approved for the period up to 2012.

A number of other international treaties of the Republic of Belarus, notably the Convention on Access to Information, Public Participation In Decision-Making and Access to Justice In Environmental Matters (1998), the UN Convention On Biological Diversity (1992) and the UN Framework Convention on Climate Change (1992) consultantplus://offline/ref=FEFC5B72A7E66DF816F609D4A5C5543DAFBB645377E1F722133223B5927329EA6E658C2F145A66ACF31521A2k114K also contain provisions promoting the introduction of SEA-based approaches.

The National Strategy for the Sustainable Socio-Economic Development of the Republic of Belarus for the period up to 2020 defined the need to build institutional capacity in the area of SEA as a first step.

Analysis of the legislation of the Republic of Belarus brings certain elements relating to the procedure for SEA plans/programme to light. Article 5 of the Belarus Law No. 54-Z of 9th November 2009 "On State Environmental Impact Assessment" names, among the subjects requiring environmental review, planning blueprints, forecasts, programmes and schemes for sectoral development whose implementation is linked to the use of natural resources and/or may have an impact on the environment, as well as amendments and supplements to those drafts. This list is obviously not as broad as the one established in the Protocol on SEA. It must be emphasised that, in the aforementioned legislative provisions, a state environmental impact assessment is conducted; this checks the compliance of planning documentation with legislative requirements and does not assess the possible impact of a plan/programme on the environment and public health. Besides this, a SEA requires the application of completely different methods of predicting environmental consequences compared to those used for the environmental assessment of plans for specific types of activity.

Clearly, from a legal viewpoint, conducting an environmental impact assessment only after plans have been drawn up cannot be considered as the equivalent of a SEA (in line with the requirements of the Protocol on SEA), which sees work begin at an early stage of the preparation of plans/programmes and includes an alternative proposal and the organisation of interaction between the different parties involved (nature protection authorities, health protection authorities, general public, etc).

Belarusian legislation has set out that improvements must be made as regards the guarantee of public participation in the process of assessing the environmental impact of plans/programmes. Accordingly, the Regulations governing the procedure for the conducting of state environmental impact assessments ratified by Republic of Belarus Council of Ministers Instruction No. 755 of 19th May 2010, states that state environmental impact assessment of planning or other documentation must take public opinion into account, although, as indicated by Art. 12, only in the case of general, special and detailed urban development projects and architectural building development projects that planning documentation must include the results of consultations with members of the public whose rights and lawful interests may be affected if the planning decisions are implemented. Accordingly, in comparison to the Protocol on SEA, the legislation enshrines a really rather narrow approach to both public participation in the environmental assessment of a plan/programme and of its type (only urban development projects), but also as regards consideration of public opinion (expressed at a stage when the plan has already been prepared). Furthermore, legislation does not contain detailed rules or procedures as to how public comments on a plan/programme must be taken into account by the authorities and how to bring the findings of environmental impact monitoring of a plan/programme to the public's attention.

An attempt was made to improve legislation as regards the guarantee of public participation in the process of adopting plans/programmes and projects relating to specific types of activity in the Regulations establishing the procedure for holding public environmental impact assessments, ratified by Republic of Belarus Council of Ministers Instruction No. 1592 of 29th October 2010. The framework of the present document does not allow for a full analysis of the legal/regulatory act in question. We would say, however, that this document has not improved the situation regarding the legal guarantee for public participation in the conducting of environmental impact assessments of plans/programmes in view of the principles of the Protocol on SEA: the list of the plans/programmes subject to public environmental impact assessment is just as limited and, as in the case of state environmental impact assessments, the public is not allowed to participate in the process of assessing the plan/programme at an early stage.

We believe that improving Republic of Belarus legislation on the basis of SEA principles and procedures established in international law will facilitate the sustainable development of the State and consideration of the opinions of the different parties with an interest in

the process of devising and adopting state plans/programmes that have an impact on the environment and public health.

9.3. Construction, reconstruction, creation of infrastructure

Architectural, urban development and construction activities linked to the conversion of historical and cultural assets and surrounding areas have gained impetus in Belarusian towns over the last decade. The number of subjects involved in this activity has significantly increased.

Religious sites are being built or reconstructed. Historic buildings occupied by various organisations and institutions (banks, offices, shops, etc.) are being restored. Buildings and facilities used by museums, hotels, restaurants, stations and other tourism infrastructure sites have been renovated; parts (towers) of Lida Castle and Babruysk Fortress have been transferred to private owners. A blueprint for a new use of the several heritage objects at Brest Fortress is being drawn up.

Residential housing is being converted, with changes not just affecting the frontages in the main streets of the capital or *oblast* centres, demand is growing in the secondary housing market everywhere for property in historic housing stock. Monuments of industrial architecture are becoming sought after for loft-style housing.

Ancient manors are acquiring new masters. Government Plan No. 05/211-398 of 19th November 2009 to transfer disused manor estates in rural and small urban areas to agri-/eco-tourism bodies is being implemented, sometimes more slowly than planned but nevertheless, progress is being made.

For each tangible historical/cultural asset, the Ministry of Culture defines an individual set of conditions for its upkeep and use, establishing a procedure for implementation of the works and other restrictions on the activities of the owners, occupiers or users, as well as requirements for ensuring that the asset is preserved. Those requirements are laid down in a *preservation order*. The owner is under obligation to register a preservation order with the Ministry of Culture within one month of acquiring a historical/cultural asset. Measures to ensure the preservation of historical/cultural assets provided for in preservation orders are carried out at the expense of the users or owners of those assets.

The necessary documentation includes scientific certification, which is prepared at the owner's expense, either by planning or scientific/research organisations.

Before permission can be given for the preparation of scientific/planning documentation, a *scientific supervisor* is appointed for the historical/cultural asset. That person will supervise works and the preparation of scientific/planning documentation, with their tasks including design supervision of the execution of works and bearing personal responsibility for the preservation of the distinguishing spiritual, artistic and/or documentary features of historical/cultural assets, as well as the scientific justification of planning decisions and their execution.

The boundaries of a historical/cultural asset and also protection zones, controlled development zones, landscape preservation zones and cultural layer protection zones are established by a *protection zone plan*. Rules for the upkeep and use of protection zones of immovable tangible historical/cultural assets stipulate restrictions or a complete ban on activities constituting a threat to the preservation of immovable tangible historical/cultural assets and their surrounding area. The plan also contains the conditions governing their upkeep and use. Established protection zones must be mapped on territorial land use maps and be accessible for inspection by potential investors. A protection zone plan may be prepared by the owner or the party proposing works that may have a potential impact on a heritage site.

An "*Integral scientific studies*" section is prepared within the scientific/planning documentation, consisting of photo-fixations, measurements and historical, archaeological and chemical/physical analysis findings. Conducting mandatory chemical/physical analysis ensures that the correct planning decisions regarding renders are used on historical/cultural assets. Accordingly, the longevity of the works is enhanced, as more often than not, neither the party proposing works nor the contractors are aware of the effects that modern finishing materials may have on buildings originally coated with lime plasters.

The drawing up of design specifications and estimates, the carrying out of earth works and building frontage repair works, the replacement of window units, claddings for balcony and loggias and entries, the installation of air conditioning, aerials, shutters or external advertising, the redevelopment or refitting of premises for new uses (shops, offices, etc.), the installation of new window and door openings and any other actions that may result in alterations to historical/cultural heritage sites, may only be carried out with *permission* from the Ministry of Culture.

The procedure, laid down in legislation, for granting permission to alter a historic/cultural asset is strictly regulated.

9.4. Other laws

Issues concerning the protection of historical/cultural heritage and the encouragement of activities in this sphere are reflected in a number of other legal and regulatory acts regulating areas such as **taxation**:

The Tax Code of the Republic of Belarus of 29th December 2009 (as per the version of 30th December 2014) states (in Article 186) that permanent structures (buildings, installations) recognised under the established procedure as tangible historical/cultural assets and included in the State list of historical/cultural heritage assets of the Republic of Belarus, according to the list of assets ratified by the Republic of Belarus Council of Ministers, shall be exempt from property tax on the condition that their

owners/possessors comply with legislation on the protection of historical/cultural heritage, with the exception of permanent structures (buildings, installations) used by organisations for entrepreneurial activities, including for the housing of their units responsible for administration, accountancy and other services, apart from the permanent structures (buildings, installations) of state-funded organisations and non-profit organisations in the culture sector.

Exemption from land tax (Art 194 of the Tax Code) is granted to plots of land occupied by tangible historical/cultural assets included in the State list of historical/cultural heritage assets of the Republic of Belarus, according to the list of assets ratified by the Republic of Belarus Council of Ministers, on condition that their owners fulfil the obligations laid down by legislation on the protection of historical/cultural heritage, with the exception of land plots occupied by permanent structures (buildings, installations) used by organisations for entrepreneurial activities, including for the housing of their units responsible for administration, accountancy and other services, apart from land plots of state-funded organisations and non-profit organisations in the culture sector.

Land tax is not levied on the land of nature reserves, national parks, arboretums and botanical gardens (apart from farmland included in them) (Art. 193 paragraph 2 indent 9 of the Tax Code). If land plots contain sites intended for organised mass recreation and tourism, then they constitute recreational land (Art. 6 para. 5 of the Land Code). Sites intended for organised mass recreation and tourism include parks, municipal forests, recreational forests, beaches and other recreation and tourism sites (Art. 50 para. 1 of Republic of Belarus Law No. 300-Z of 5th May 2004 "On architectural, urban development and construction activities in the Republic of Belarus" (hereinafter - Law No. 300-Z). Land of historical/cultural significance relates to land plots allocated as locations of tangible historical/cultural assets and archaeological sites (Art. 6 para. 5 of the Land Code). Plots of land occupied by tangible historical/cultural assets included in the State list of historical/cultural heritage assets of the Republic of Belarus, according to the list of assets ratified by the Republic of Belarus Council of Ministers, are exempt from land tax on condition that their owners fulfil the obligations laid down by legislation on the protection of historical/cultural heritage. It should be noted that a restriction on the application of this tax break has been in force since 2014: in cases where such plots are used by organisations for entrepreneurial activities, including if they are occupied by permanent structures (buildings, installations) used to house units responsible for administration, accountancy and other services of those organisations, they are not exempt from land tax. That restriction does not extend to land plots of state-funded organisations and non-profit organisations in the culture sector (Art. 194 para. 1 sub-para. 1.2 of the Tax Code). For the purpose of calculating land tax, the plots of land mentioned above fall within the category of a recreation area (appendix 4 to the Tax Code). The land tax rate for land of significance for nature protection, health promotion, recreation

and historical/cultural heritage is differentiated according to the cadastral value of the plots and established in roubles per hectare and percentages.⁵

In order to prevent and limit excessive incomplete construction work, besides an increased rate of property tax applied to such sites (Art. 188 para. 2 of the Tax Code) legislation provides for the application of a rate increased by a coefficient of 2 when calculating the land tax for land plots or parts of plots occupied by sites of excessive incomplete construction work. In that process, the doubled rates of land tax are established for all categories of land, including land of significance for nature protection, health promotion, recreation and historical/cultural heritage (Art. 201 para. 3 of the Tax Code).⁶

For the calculation of land tax, it is stipulated that rates increased by a coefficient of 10 are to be levied for *de facto* functional use in cases where the land users violate land legislation. The increased rates are established for all categories of land, including land of significance for nature protection, health promotion, recreation and historical/cultural heritage (Art. 201 para. 2 of the Tax Code). These rates are applied in three cases: 1) if the land plot is assigned for temporary use and not relinquished in time; 2) if the land plot is occupied without authorisation; 3) if the land plot is used for a purpose other than the one intended.

The Republic of Belarus Law of 5th July 2004 (as per the version of 31st December 2014) "On Architectural, Urban Development and Construction Activities In the Republic of Belarus" sets out:

- requirements in the sphere of protection of immovable tangible historical and cultural heritage assets and protection of specially protected natural areas, natural areas subject to special protection and biosphere reserves. Accordingly, compliance must be ensured with these requirements when carrying out architectural, urban development and construction activities;
- In townships and inter-settlement territories where immovable tangible historical and cultural heritage assets, specially protected natural areas, natural areas subject to special protection and biosphere reserves are present, urban planning documents establish the boundaries of the protected areas, inside which architectural, urban development and construction activities potentially harmful to the aforementioned assets or areas are prohibited or restricted;

⁵ Tax guide "Practical land tax manual 2015" (material prepared by specialists of the "YurSpektr" limited liability company) (as per the version of 16th February 2015) [ConsultantPlus].

⁶ Ibid.

- a definition of the areas in which there is to be special state regulation of architectural, urban development and construction activities. These include areas where immovable tangible historical and cultural heritage assets, especially protected natural areas and their buffer zones, natural areas subject to special protection, the national ecology network and biosphere reserves, as well as health resorts and recreation areas;
- a stipulation that an urban planning register using a unified system must include data on each administrative/territorial and territorial unit, generated above all by comprehensive assessment of the socio-economic development of the area taking account of its historical/cultural, natural, environmental and other characteristics and the concentration in databases of information necessary for spatial planning which is held in other state land registers, records, logs and information systems;
- a stipulation that, when preparing state forecasts and programmes for the socio-economic development of the Republic of Belarus and its administrative/territorial units, urban planning requirements must be taken into account, including with regard to protection of historical/cultural heritage, specially protected natural areas, natural areas subject to special protection and biosphere reserves;
- an indication that works to repair or rebuild a site are to be funded, as a rule, by the owner or user of that site. Where it is necessary to restore or repair historical/cultural heritage sites, local executive and administrative authorities may use other funding sources not prohibited by law if the owners or users of such sites are not in a position to carry out all restorative works at their own expense.

Under the Republic of Belarus Law of 12th November 2001 (as per the version of 13th July 2012, as amended on 30th December 2014) "On Burial and Funeral Matters" historical and memorial cemeteries may be categorised as being historically and culturally significant. In addition, it provides for special regulations for old military and previously unknown burial grounds identified at a later date. It is stipulated that, when any works are carried out in areas of former concentration camps and possible burial sites of victims of war and mass repression, local government and self-governing authorities are under obligation to inspect the area in agreement with the Ministry of Defence of the Republic of Belarus with a view to identifying possible unknown burial sites.

Previously unknown places of burial of defenders of the Fatherland and victims of war and political repression identified at a later date must be protected until such time as a decision is taken with regard to entering them in state records in accordance with paragraph 2 of Article 24 of the aforementioned law. All works that pose a potential threat to war graves are prohibited. In exceptional cases works may be carried out with

the permission of the local executive and administrative authorities with the consent of the Ministry of Defence of the Republic of Belarus.

The rules governing the use of old military burial sites and previously unknown places of burial of defenders of the Fatherland and victims of war and political repression identified at a later date are to be implemented in line with the applicable sanitary standards and rules ratified by the Ministry of Health of the Republic of Belarus. Where necessary, the reburial of remains is permitted by agreement with the Ministry of Defence of the Republic of Belarus.

Searching for and opening up old military and previously unknown places of burial by physical individuals or legal entities without the permission of the Ministry of Defence of the Republic of Belarus are prohibited.

The **Republic of Belarus Law of 25th November 1999 (as per the version of 22nd December 2011) "On Tourism"** defines tourism resources as natural and socio-cultural sites, including immovable tangible historical and cultural heritage assets, fulfilling the spiritual needs of tourists and sight-seers and/or helping to improve and restore their health. Tourist information centres are responsible for gathering, collecting, processing, analysing and disseminating information on places of interest and monuments to the art, history and architecture of the Republic of Belarus, specially protected natural areas, agri-/eco-tourism sites, proposed trips, mass cultural events, exhibitions, festivals, transport timetables and other information required by entities involved and participants in tourism activities. Participants in tourism activities are under obligation to treat the environment and tangible historical/cultural assets with care. When organising international tourism, tourism entities are also under obligation, when concluding contracts for the provision of tourism services, to provide participants with information: on the customs and traditions of the people of the country/place where they will be staying; on its religious ceremonies; holy places; tangible historical/cultural assets; the state of the surrounding area; and, the health/epidemiological situation.

Main applicable legal and regulatory acts in the sphere of nature protection:

Land Code of the Republic of Belarus (23rd July 2008);

Republic of Belarus Law No. 3335-XII of 20th October 1994 (as per the version of 04.01.2014, as amended on 30.12.2014) "On Specially Protected Natural Areas";

Republic of Belarus Law No. 1982-XII of 26th November 1992 (as per the version of 16.06.2014, as amended on 30.12.2014) "On Protection of the Environment";

Republic of Belarus Law No. 271-Z of 20th July 2007 (as per the version of 04.01.2014) "On Waste Management";

Republic of Belarus Law No. 54-Z of 9th November 2009 (as per the version of 14.07.2011) "On State Environmental Impact Assessment" etc.

The legislation of the Republic of Belarus does not contain the term "cultural landscape".

The Republic of Belarus Law of 20th October 1994 (as per the version of 15th July 2010) "On Specially Protected Natural Areas" provides for distinct rules governing the protection and use of reserves. On the territory of a reserve, natural complexes and sites having special significance in terms of nature protection, science, environmental education, socio-cultural matters and other fields as models of the natural environment, typical or rare landscapes or sites of preservation of the gene pools of plant and animal species are completely removed from the commercial sphere.

On the territory of a reserve, any activity not linked to its purpose, contradictory to the reserve's mission and directly or indirectly disturbing the course of natural processes or in danger of having harmful effects on natural complexes and sites is prohibited.

Under the Republic of Belarus Law of 26th November 1992 (as per the version of 16th June 2014, as amended on 30th December 2014) "**On Protection of the Environment**" the underlying principle of environmental protection is the priority of preserving natural ecosystems, typical and rare natural landscapes, biotypes and natural complexes, and ensuring the preservation of biological and landscape diversity is one of the main thrusts of Republic of Belarus state policy on environmental protection.

The law lays down requirements:

- regarding protection of the environment in the siting, planning, construction, reconstruction, commissioning and operation of energy-production sites;
- regarding protection of the environment in the siting, planning, construction and reconstruction of urban settlements (environmental protection requirements ensuring favourable living environments and conditions for public health must be complied with, and natural ecosystems and biological and landscape diversity must also be preserved);
- regarding protection of the environment in the establishment of protection and buffer zones for the purpose of ensuring the sustainable functioning of natural ecosystems and the protection of natural complexes, natural landscapes, biotypes and specially protected natural areas from pollution and other harmful effects of economic or other activity.

The law sets out the notions relating to typical and rare natural landscapes, biotypes and their protection. The term "typical and rare natural landscapes and biotypes" relates to sites included on a list and ratified by the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus in accordance with the criteria laid down by it. The same Ministry is responsible for identifying methods for their protection and for the inventory.

At the proposal of the corresponding territorial agency of the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus, agreed with the National Academy of Sciences of Belarus, local executive and administrative authorities take decisions on the transfer of these sites to the custodianship of users of land plots and/or hydrological sites.

Users of land plots and/or hydrological sites to whose custodianship typical and/or rare natural landscapes and biotypes are transferred are issued with certification and a preservation order stipulating special rules for their protection and use.

The procedure for transferring typical and/or rare natural landscapes and biotypes to the custodianship of users of land plots and/or hydrological sites, the forms of certification of typical and/or rare natural landscapes and biotypes and preservation orders, and also the procedure and conditions for issuing them, are established by the Republic of Belarus Council of Ministers.

In the event of that special measures must be taken to restore typical and/or rare natural landscapes and biotypes, the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus prepares, approves and organises the implementation of management plans for typical and/or rare natural landscapes and biotypes, and also supervises their implementation.

The Republic of Belarus Law "On Waste Management" of 20th July 2007 (as per the version of 4th January 2014) prohibits the siting of waste storage, dumping and processing sites on land of significance for nature protection, health promotion, recreation and historical/cultural heritage and land occupied by water and forest resources, and of waste storage and dumping sites on land occupied by urban settlements.

Under the Land Code of the Republic of Belarus the expropriation and provision of land plots for the construction of underground line installations carried out over a period of up to one and a half years are not required, **except in connection with plots of land of significance for nature protection, health promotion, recreation and historical/cultural heritage** and land occupied by forest resources where this is not provided for under the terms of forestry operations. The expropriation and provision of land plots from farmed land, designated farmland, land of significance for nature protection, health promotion, recreation and historical/cultural heritage and land occupied by forest resources for purposes not connected with the designation of such land and also the reclassification of such land are carried out by the *oblast* and Minsk municipal executive committees in compliance with the requirements laid down by law, and are permissible unless the President of the Republic of Belarus stipulates otherwise.

10. INVENTORYING, REGISTRATION SYSTEMS AND PLANNING PROCESS Inventorying the historical/cultural heritage is an inalienable part of the activities relating to its protection. Under Article 93 the Code of Culture of the Republic of Belarus, heritage objects (sites) granted "historical/cultural value" status on the basis of the corresponding decision of the Republic Scientific and Methodical Council, under the Ministry of Culture, are included in the State List of Historical and Cultural Values (hereinafter – the State List). The State List encompasses all types of historical and cultural heritage, both tangible and intangible, movable and immovable, as well as values of Belarusian origin located outside the country. The keeping of the State List is incumbent upon the Ministry of Culture of the Republic of Belarus. To date, the State List contains 5,552 heritage sites (objects). They are inventoried on the basis of ratified historical/cultural value certification which, in accordance with Article 98 of the Code of Culture of the Republic of Belarus", sets out "full scientific and factual information on the historical/cultural value", describes its state and history, indicates its dimensions and the materials of which it is composed, indicates the proprietor and author (architect or artist) and provides an assessment of its scientific, historical, cultural and artistic significance.

In addition to the State List, Article 101 of the Code of Culture of the Republic of Belarus" provides for the keeping of a Database on the historical/cultural heritage of the Republic of Belarus, created for the purpose of gathering, systematising and preserving scientific/research, published and other materials relating to the historical/cultural assets concerned. The database is being set up by a special sub-division of the "Belrestavratsiya" joint stock company.

The Ministry of Culture, also with the help of national and local budget funding, carries out substantial work to inventory archaeological sites, plotting them in land use maps, other land planning maps and land registers showing the rules for the upkeep of the different categories of site.

The inventorying of intangible cultural heritage is managed by regional structures and the Belarus Institute of Culture, the latter compiles and keeps the National Inventory of Intangible Cultural Heritage of Belarus, and the corresponding internet portal: www.livingheritage.by.

Today, the Ministry of Culture has the task of integrating all the available information resources relating to historical and cultural heritage into a single information system. The Belarus Institute of Culture together with the National Academy of Science is working on the creation of a Blueprint for such a system, with its implementation planned for 2018.

11. FORMS OF PROTECTION OF IMMOVABLE HERITAGE

In accordance with the applicable legislation of the Republic of Belarus, tangible historical/cultural heritage assets are divided into categories reflecting their historical/cultural significance:

Category 0 — assets included or proposed for inclusion in the UNESCO World Heritage List of Cultural and Natural Heritage;

Category 1 — assets of international significance;

Category 2 — assets of national significance;

Category 3 — assets of local significance.

The assets include monuments/landmarks relating to architecture, archaeology, history, art, urban construction and reserves.

At present, the State List of Historical and Cultural values of the Republic of Belarus consists of 5,552 historical/cultural heritage objects. Of these, 1,759 relate to architecture, 2,347 to archaeology, 1,191 to history. In addition, the State list includes 89 intangible and 106 movable historical/cultural assets.

Another area of activity is the **protection of park areas**. In 2013, the Ministry of Culture, working in conjunction with the Ministry of Natural Resources and local executive authorities on the basis of preliminary scientific research carried out by specialists of the National Academy of Sciences, devised a programme of measures to restore ancient parks, including those forming part of complexes and ensembles. In 2017, it is planned to carry out an inventory and compile a single register of ancient parks indicating their state of health and technical state, to prepare proposals concerning the nature and sequence of planned works and also to assign historical/cultural asset status to previously unconsidered historic parks and/or preserved fragments of them.

Implementation of the envisaged programme of measures will guarantee the involvement of ancient parks in recreational, educational and tourism activities.

The Ministry of Culture current task is to increase the involvement of investors in heritage sites, primarily to develop different forms of tourism and associated measures to maintain manor/park complexes.

12. EDUCATION, AWARENESS-RAISING AND CONSULTATION

Alongside activities geared to protecting historical/cultural heritage, activities aimed at promoting it and disseminating knowledge of the role of historical/cultural assets in the sustainable development of society and the forging of national identity are also of great importance.

National and international events, such as the European Heritage Days and the International day for monuments and sites, play a pivotal role in promoting heritage and raising awareness of it.

Following the country's accession to the European Cultural Convention in 1993, European Heritage Days have been held each year in the Republic of Belarus at the beginning of September. As a rule, this is a nationwide initiative, implemented under various topical slogans and attracting a large number of participants. Booklets are published, exhibitions are held and concerts and public lectures are organised. In 2017, the European Heritage days were celebrated under the slogan "Cultural Heritage and Knowledge" and focused on the cultural heritage of towns and its use for the sustainable development of local communities and sustainable tourism.

The various conferences and seminars held each year by members of the Belarusian expert community provide a very important platform for exchanging experience and developing creative potential and professional expertise. Between 2014-2017, with the consultative and financial support of UNESCO, a number of international workshops and conferences were held on the management of World Heritage sites and the preparation of nominations for the World Heritage List. Promoting historical and cultural heritage is one of the important strategies pursued by local authorities. Information on heritage is disseminated in all the country's regions via the media and through the inclusion of monuments in the cultural tourism structure.

Metropolitan Minsk, for example, actively utilises its historic centre for various cultural initiatives. Each year, from May to September, a variety of orchestras from Belarus and other countries perform outside the municipal town hall. There is also theatre and other open-air events, historical reconstructions and entertainment events.

Similar events are held in other historic towns and centres.

Nevertheless, in heritage promotion a wide-ranging communication and marketing strategy is not enough. One-off events generally linked with special occasions or anniversary have little impact. It is important to stop using these one-off initiatives and instead plan systematic activities geared to making the national heritage more visible and more relevant to the present day.

13. OTHER MECHANISMS FOR PROTECTION/PRESERVATION APPLIED IN HISTORIC TOWNS AND OTHER URBAN AREAS

Apart from legislation, the most important mechanism for protecting historic towns is urban planning. In accordance with the applicable legal and regulatory acts, general urban development plans and detailed plans must come with integrated urban planning regulations. Urban planning also includes projects to regenerate the central area of cities and historic towns. Such special urban planning projects coincide with the detailed plan but are devised so as to resolve issues regarding the renovation of run-down areas, compositional continuity and functionality of historic towns or their centres and of individual architectural ensembles and complexes. Regeneration projects include plans

for new buildings and facilities and the provision of urban amenities. When preserving existing monuments and vestiges, efforts are made not to impinge on historical patterns of spatial organisation. Among other things, these urban planning documents are mechanisms of protection and preservation.

14. PROBLEMS AND SANCTIONS

To date, a number of fairly effective legal and regulatory acts have been devised in the Republic of Belarus in the sphere of historical/cultural heritage protection, including the Code of Culture of the Republic of Belarus" (hereinafter – the Code of Culture).

Under Article 75 of the Code, liability for an infringement of the Republic of Belarus legislation on historical/cultural heritage protection is incurred in accordance with Republic of Belarus legislation.

A person guilty of an infringement of the law in respect of historical/cultural heritage may be prosecuted under administrative or criminal law.

In the Code of Administrative Infringements of the Republic of Belarus liability for an infringement of the law in respect of historical/cultural heritage is provided for in Articles 19.1.-19.7.

Article 344 of the Criminal Code of the Republic of Belarus provides for liability for deliberate destruction of or damage to historical/cultural heritage assets or tangible items which may be assigned historical/cultural heritage asset status.

The decision on criminal liability is taken by a court.

Information regarding all cases of damage caused to historical/cultural assets is sent by the Ministry of Culture for legal assessment to the Prosecutor General's Office of the Republic of Belarus. Decisions are governed by a signed Agreement on cooperation in the sphere of historical/cultural heritage protection, ratified by Instruction No. 31/33p of the Prosecutor General's Office of the Republic of Belarus and the Ministry of Culture of the Republic of Belarus "On interaction between the authorities of the Prosecutor General's Office of the Republic of Belarus and bodies of the system of the Ministry of Culture of the Republic of Belarus on issues of protection of historical/cultural heritage" of 22nd July 2011.

Supervision bodies in the Prosecutor's office check on compliance with legislation in the sphere of historical/cultural heritage protection and, in the light of their findings, the culture directorates of the *oblast* and Minsk municipal executive committees are informed of the need to devise measures to prevent breaches of the regulations for carrying out works on heritage sites, to install protective panelling, to sign preservation orders and to carry out a whole host of other actions to protect historical/cultural assets.

In line with its prerogatives, the Ministry of Culture of the Republic of Belarus implements state policy in the sphere of historical/cultural heritage protection by issuing legal entities and physical individuals, including individual entrepreneurs, with binding written instructions for the protection of historical/cultural heritage (Article 9 of the Law).

Instructions are issued by the Ministry of Culture to the owner of an asset when it becomes known that repair and restoration works are to be carried out on a historical/cultural asset. A copy of the instructions is sent to the local executive and administrative authority.

In order to reverse the abandonment of ancient manor/park complexes and encourage their reuse by the business sector, the Ministry of Culture, working jointly with the Ministry of Sport and Tourism of the Republic of Belarus and the *oblast* and Minsk municipal executive committees, has devised Action plan No. 05/211-398 for the transfer of disused manor estates in rural and small urban areas to agri-/eco-tourism bodies, ratified by the Republic of Belarus Council of Ministers on 19th November 2009.

The manor estates listed in the Action plan may be transferred free of charge to business entities engaging in activities in the agri-/eco-tourism. In the case of them being appropriated for other purposes, the estates in question may be purchased, by agreement with their owners, at market price or for their net asset value or leased.

According to the information held by the Ministry of Culture, 12 of the 46 ancient manor estates and historic mansions listed in the Action plan have been transferred to investors so far, which, in our view, indicates that the corresponding *rayon* executive committees have not made sufficient efforts in this area.

In many cases, the transfer of historical manor/park complexes is complicated by the fact that, for many of the sites mentioned in the Action plan, there are no deeds of title (attestation of state registration of buildings and installations, extracts from registries concerning the rights and restrictions of rights (encumbrances) to buildings and installations, documents attesting to the ownership of the land plot, etc.), no technical certification of buildings and installations and no information regarding any kind of value of the sites. This lack of information on owners of historical/cultural assets is resulting in their gradual decay.

At present, the State list of historical and cultural heritage assets of the Republic of Belarus lists 10 historic town centres: Brest, Kobryn, Pinsk, Vitebsk, Polatsk, Mazyr, Grodna, Mahilieu, Zaslavye and Minsk.

Plans for protection zones for historical/cultural assets have been drawn up and ratified for only three historic centres — Pinsk, Mahilieu and Minsk.

15. STATISTICAL INFORMATION

On 1st January 2017, the State List of Historical and Cultural Heritage Values of the Republic of Belarus comprised 5,552 sites/items. According to the State list typology, the sites most strongly represented are in the sphere of archaeology — 2,347 (43% of the total heritage) and architecture — 1,759 (31%). Movable historical/cultural assets account for 89 items, and there are 101 intangible historical/cultural heritage assets.

Four sites in the Republic of Belarus are inscribed on the UNESCO World Heritage [List:

- the "Mir" Castle Complex (2000);
- the Architectural, Residential and Cultural Complex of the Radziwill Family at Nyasvizh (2001);
- the Struve Geodetic Arc (5 heritage objects);
- The "Belavezhskaya Pushcha" national park (shared with the Republic of Poland).

In terms of form of ownership, 55% of heritage sites are in state municipal ownership, 14% are the property of the Republic, 16% are in private hands and 15% are owned by religious communities.

With regard to the regional split, Mahilieu *oblast* is the richest in terms of heritage, with 1,070 assets (19%), but it is the Grodno *oblast* which has the most Category 0, 1 and 2 historical/cultural assets, with 150 assets listed (3%).

16. CONCLUSION AND PROPOSALS FOR ACTION

On the basis of our analysis of the state of heritage in the Republic of Belarus, we can make the following conclusions:

The Republic of Belarus has a broad historical/cultural heritage potential (tangible movable and immovable and also intangible heritage) and a developed legislative basis for heritage protection, which includes ratification and implementation of the main international conventions.

Belarus has a good talent pool of professionals of various disciplines in the sphere of historic/cultural heritage protection. Staff are being trained in a number of the country's leading universities.

A good foundation for restoration is in place, and an organisational infrastructure has been created for conducting complex restoration/renovation works on heritage sites.

State support is provided at all stages of protection and use of historical/cultural and natural heritage, and a public-private partnership mechanism is involved.

However, there are a number of problems which must be resolved in the near future in order to improve the mechanisms for managing and protecting heritage in line with international standards and best practice.

At the level of legislation:

1) The integrated preservation of cultural heritage must be underpinned with legislation based on a spatial or landscape approach and the integrated preservation of co-existing tangible and intangible heritage assets.

2) Legislation should aim to consolidate standards for recording, protecting and using immovable tangible historical/cultural heritage as a unified whole with the areas around it, as well as the movable and immovable assets and intangible historical/cultural assets historically and compositionally with which they are associated. This alternative will facilitate a spatial/landscape approach to the protection of historic/cultural assets in any category, especially Category-0, and make it possible to define those protected historical/cultural areas as subjects governed by law;

3) The main provisions of the international instruments ratified by the Republic of Belarus must be implemented in domestic legislation on protection of historical/cultural heritage, including those relating to the guaranteeing of special World Heritage Site status in accordance with the 1972 UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage;

4) The role and significance of urban architectural heritage and spatial fabric – built over the course of history – in sustainable development must be reinforced at the legislative level, implementing in domestic legislation the principles of protecting municipal heritage from the threat of deterioration, decay and destruction as a result of urbanisation processes set out in the International Charter for the conservation of historic towns (1987) and the Valetta Principles for the Safeguarding and Management of Historic Cities, Towns and Urban Areas (2011).

To improve tourism policy with regard to cultural heritage, with special emphasis on the potential of historic towns and cities, it is necessary to:

- monitor consistently the state and use of historical/cultural assets in regions, historic centres and historic towns;
- to encourage the development of sustainable tourism and the introduction of various educational programmes at heritage sites and in historic towns, aimed at promoting heritage and developing intercultural dialogue, considering that the preservation of heritage sites hinges on their effective use within the contemporary socio-cultural context;
- to increase the active involvement of communities living in historic areas in the discussion of the future development of their space and to stimulate the development of local enterprise and different creative initiatives geared to supporting and promoting cultural and natural heritage;
- to promote more actively historical/cultural heritage, using the web resources of the local executive authorities, local media and educational institutions;
- to improve the management of heritage and develop sustainable tourism by helping to overcome the divisions between departments, through the creation of coordination councils at national and regional levels.

To improve the machinery for managing heritage, it is expedient to:

- devise a mechanism for regular exchange of information between the centre and the regions on questions of heritage preservation, using modern information and communication technologies;
- develop and perfect a system for the training and professional development of staff in the sphere of preservation and management of heritage sites at national and regional levels, including by encouraging representatives of religious organisations responsible for the preservation of heritage sites and also international experts to participate in thematic training courses, further training courses and seminars; promoting the in-depth study and subsequent introduction of the best practices in integrated approaches to the preservation and management of heritage sites;

- highlight the necessity of local communities being actively involved in devising and implementing plans for the management of heritage sites, and also develop practical interaction with governmental and non-governmental organisations at all levels, particularly with regard to scientific approaches and education in the sphere of preservation and use of heritage sites;
- use heritage as a potential resource for reinvestment and business activity in historic towns and cities, by identifying and interpreting the characteristics of towns and cities that determine their attractiveness and marketability;
- more actively appropriate available standard instruments for managing areas (urban planning regulations), which make it possible to associate heritage preservation issues with proposals for the planning and development of historic towns;
- devise a scheme for regenerating historic development in small towns as a key strategy for their sustainable development, with the emphasis on developing public areas;
- create partnerships between small towns and their surrounding rural settlements to accomplish the potential role that local communities play in the historical/cultural framework of the Republic of Belarus;
- create a system of competitive state support for projects aimed at using the heritage;
- implement integrative conservation-based projects, involving communities, developing skills and creating jobs, as well as stimulating the development of business initiatives.