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## Demolition crackdown: Vienna protects its buildings

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Earlier in 2018 the City of Vienna announced its intention to reform the building code. One of the aims of the reform is to protect the city's historic buildings. The demolition of houses constructed before 1 January 1945 will henceforth require a permit, issued only on strict conditions. This announcement sparked a rapid increase in last-minute demolitions. The city reacted by fast tracking the demolition ban, which entered into force on 30 June 2018. The other parts of the reform will enter into force on 1 January 2019.

### Background

Vienna is cherished by tourists and residents alike for its historic buildings, which make up a large part of the cityscape. Among these are 15,000 apartment buildings erected between 1848 and 1918, called *Gründerzeithäuser*.

Much as their inhabitants treasure them, such buildings can be burdensome to their owners. Maintenance and repair are costly; large parts of the houses are dedicated to staircases and other areas which do not generate income; and ever-increasing building safety regulations require constant investment which eats away at profits. Further, the Austrian Rent Act sets strict rules for buildings constructed before 8 May 1945 (or 30 June 1953 in certain cases). For such buildings, tight rent control rules limit income and strict maintenance duties apply to the landlord. Existing provisions in the Rent Act which allow the landlord to charge the cost of certain improvements to the tenant are regarded as inadequate.

Some building owners consider it unfair that strict maintenance obligations and rent limits apply only to old buildings, whereas buildings constructed after 8 May 1945 can be let at market rent. However, the Austrian Constitutional Court does not share their concerns and has upheld these provisions (for further details please see "Another brick in the wall: Constitutional Court reviews statutory rent regulations").

As a result, many building owners have chosen to tear down historic buildings and erect new concrete and steel structures in their place. These new structures make more efficient use of the space and, most importantly, are not subject to the rent control provisions. By contrast, building owners who invest in existing buildings in order to meet the required living standards are still bound by the rent stipulated in the Rent Act. For this reason, approximately 150 *Gründerzeithäuser* have been demolished per year, creating a slow but steady decline in Vienna's historic cityscape.

The City of Vienna decided to react and issued an amendment to the building code restricting the demolition of historic buildings.

## **Amendment to Viennese building regulations**

Before the amendment came into force, a building owner required a permit to tear down an existing building only if the building was situated in a heritage zone (as designated in the zoning and development plan) or subject to a (temporary) building ban. For all other buildings, no permit was required. The city had to issue a demolition permit if:

- there was no public interest in the preservation of the building in light of its impact on the local cityscape;
- the building did not match the characteristics of neighbouring or adjacent buildings;
- the building was in such poor condition that its repair would be unreasonable in light of its importance to the local cityscape; or
- the building was in such poor condition that, from a technical perspective, any repair work would essentially make it a different building.

The amendment has brought significant changes to these rules. First, all buildings constructed before 1 January 1945 may be torn down only after obtaining approval, irrespective of whether they are situated in a heritage zone. Second, the conditions for obtaining such approval are stricter than before. The city must issue a demolition permit if:

- there is no public interest in the preservation of the building in light of its impact on the local cityscape (in which case the demolition order can be obtained through fast-track proceedings); or
- the building is in such poor condition that its repair is technically impossible or would involve unreasonable cost.

All demolition order applications to the City of Vienna will be reviewed by:

- a committee of art historians and architects;
- the heads of the relevant departments; and
- the respective councillor.

## **Comment**

The amendment to the building code is at best populist. A simple ban on demolition will not make the problem go away; instead, it will cause building owners to stall all investment until the building can no longer be repaired by reasonable means. Rather than issuing prohibitions and bans, the city should incentivise investment in existing buildings and make it attractive for their owners to keep them in good order. Further, a reform of the Austrian Rent Act is long overdue.

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