

THE MYSTERY OF MELNIKOV'S HOUSE

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HYPOTHESES

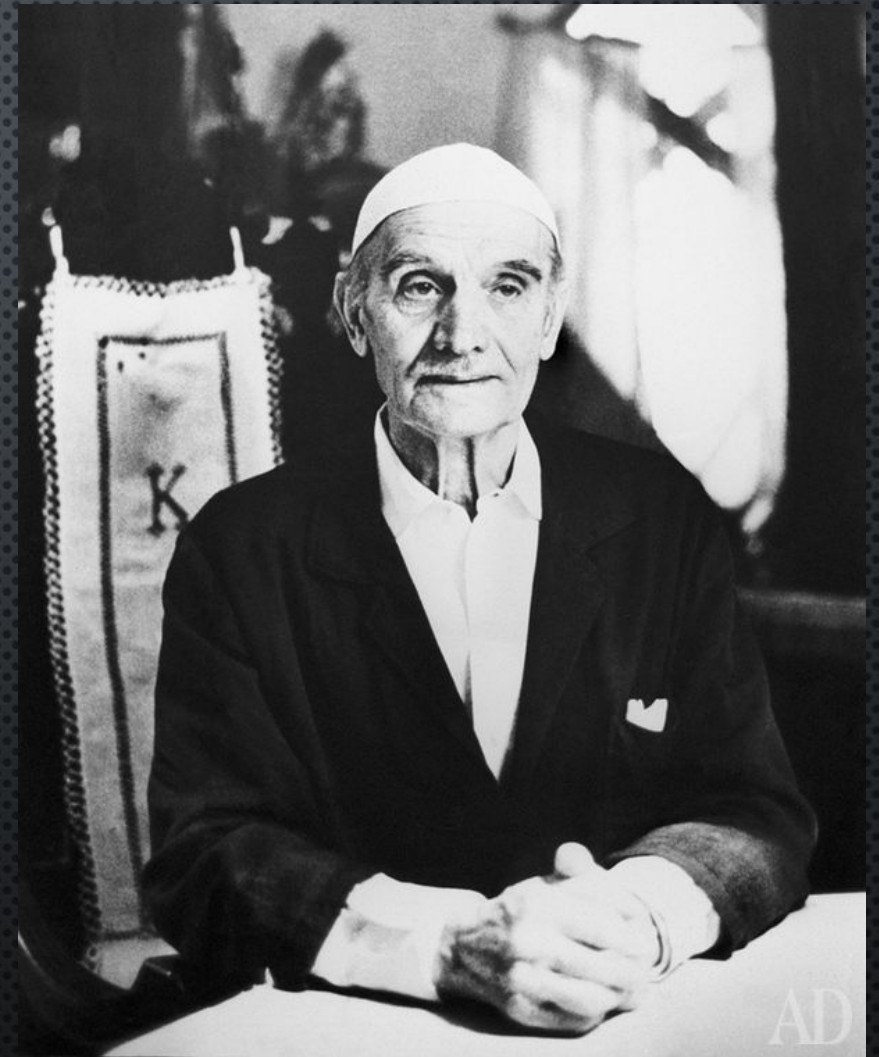
1. LEGAL DEFINITIONS “CULTURAL HERITAGE” AND “CULTURAL PROPERTY” HAVE DIFFERENT MEANINGS
2. PUBLIC INTEREST SHOULD BE TAKEN INTO ACCOUNT IN CASE OF CULTURAL PROPERTY SUCCESSION, INCLUDING CASES OF INHERITANCE
3. WHO IS THE PROPER OWNER OF THE MELNIKOV`S HOUSE? IF THE RUSSIAN FEDERATION IS ENTITLED TO OPEN A MUSEUM IN HOUSE AND OBLIGED TO RENOVATE THE HOUSE?

BIOGRAPHY

RUSSIAN AND SOVIET **ARCHITECT, ARTIST, TEACHER**, ONE OF THE LEADERS OF THE AVANT-GARDE IN SOVIET ARCHITECTURE OF THE 1920s-1930s.

"**THE GREAT RUSSIAN ARCHITECT OF MODERN TIMES**"

THE 100TH ANNIVERSARY OF THE ARCHITECT IN 1990 WAS MARKED BY UNESCO AS THE YEAR OF **CONSTANTINE MELNIKOV**.

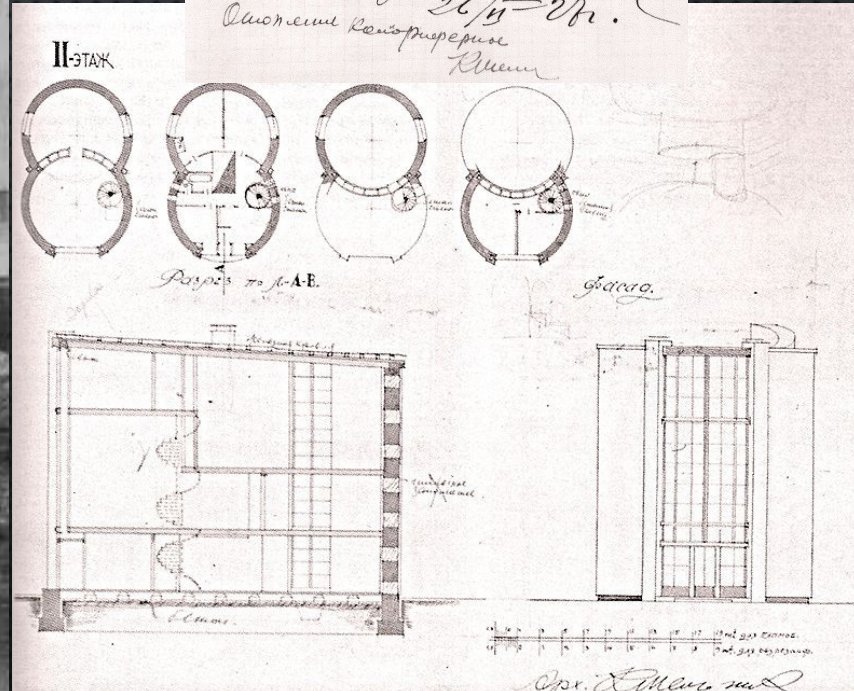
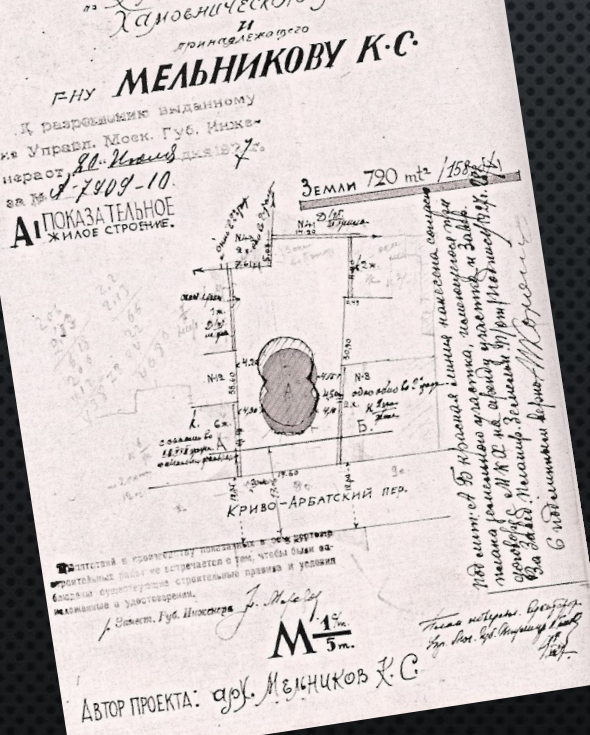


Experimental house-workshop of Konstantin Melnikov

DESIGNED AND BUILT BY KONSTANTIN MELNIKOV IN KRIVOARBATSKY LANE IN MOSCOW ON THE «СИСТЕМА МЕЛЬНИКОВА».

THREE-STORY MANSION IS CONSIDERED THE PINNACLE OF THE ARCHITECT'S CREATIVITY.







Now around the house a scandal broke out. The house currently houses the granddaughter of the architect, whom the state wants to evict to make a museum in the house.

ЗАВЕЩАНИЕ ГОСУДАРСТВУ (КАК ОБОЗВАТЬ НА АНГЛЕ?)

«ANYONE MAY BEQUEATH ALL OR PART OF HIS OR HER PROPERTY TO ONE OR MORE LAWFUL HEIRS, OR TO A LEGAL PERSON, THE STATE OR LOCAL AUTHORITIES».

ACCORDING TO THIS, VIKTOR HAS LEAVED HIS PART OF THE HOUSE TO THE RUSSIAN STATE, ON THE CONDITION THAT THERE WOULD BE CREATED A MUSEUM OF KONSTANTIN AND VIKTOR MELNIKOV.

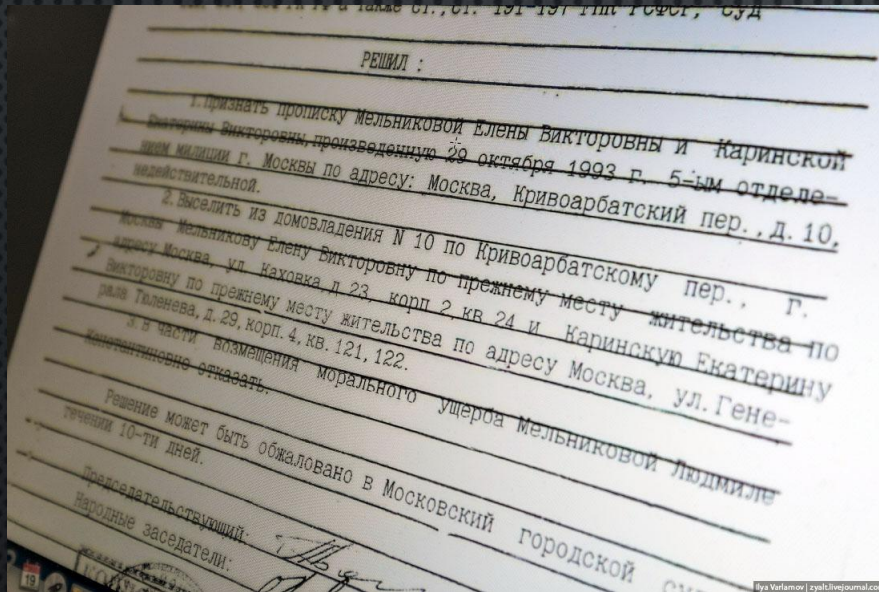
AT FIRST, IN 2003 VIKTOR MADE THE DEED IN FAVOR OF HER YOUNGEST DAUGHTER, ELENA KARINSKAYA. BUT THEN, IN 2003 HE ACCUSED HER OF CHEATING AND EXCLUDED HER FROM PROBATE. AS TESTAMENTARY EXECUTOR VIKTOR CALLED HIS OLDER DAUGHTER — EKATERINA.

A black and white photograph of a modern interior space. The wall is curved and features several diamond-shaped windows of varying sizes. A staircase with a metal railing leads up to a platform. A large, cylindrical structure is visible in the background. The floor is dark and reflective.

ELENA KARINSKAYA'S SHARE

AS FOR THE OWNERSHIP RIGHT, ACCORDING TO THE DECISION OF PRESNENSKY INTERMUNICIPAL COURT OF MOSCOW DD 09.12.2013 KARINSKAYA OWNS $\frac{1}{4}$ OF VIKTOR MELNIKOV INHERITANCE PROPERTY. VIKTOR MELNIKOV'S MASS OF THE SUCCESSION INCLUDES $\frac{1}{2}$ OF THE HOUSE AND SO KARINSKAYA OWNS $\frac{1}{8}$ OF THE HOUSE OWNERSHIP.

HOW SHE OWNS 1/4 OF HER FATHER INHERITANCE PROPERTY?



THE RUSSIAN CIVIL CODE PROVIDES FOR A LIMITED RANGE OF HEIRS THE RIGHT TO AN OBLIGATORY SHARE IN THE INHERITANCE.

THE RULES ON THE COMPULSORY SHARE IN THE INHERITANCE ARE IMPERATIVE. THE FREEDOM OF THE WILL IS LIMITED BY THE RULES ON THE COMPULSORY SHARE IN THE INHERITANCE.

THAT SHARE MUST BE HALF OF THE SHARE TO WHICH THEY WOULD BE ENTITLED UNDER LEGAL SUCCESSION (COMPULSORY SHARE).

POSSIBILITY TO LOSE THE RIGHT TO BECOME THE HEIR

THE RIGHT TO CLAIM A COMPULSORY SHARE EXISTS FROM THE MOMENT THE INHERITANCE BECOMES AVAILABLE.

PERSONS WHO ARE ENTITLED TO AN OBLIGATORY SHARE IN THE INHERITANCE (OBLIGATORY OR NECESSARY HEIRS) CAN NOT BE DEPRIVED OF THE RIGHT TO INHERIT IT.

THE RIGHT OF A COMPULSORY HEIR TO HIS RESERVED PORTION MAY NOT BE WITHDRAWN UNLESS A GROUND FOR DISINHERITANCE EXISTS.

DEFINITION

Cultural heritage

Is broader in scope than «cultural property»

- form of inheritance to be kept in safekeeping and handed down to future generations
- includes in also "intangible cultural heritage": the practices, expressions, knowledge, skills, instruments, objects, artefacts and cultural spaces associated therewith — that communities, groups and in some cases individuals recognize as part of their cultural heritage

Cultural property

“Inadequate and inappropriate for the range of matters covered by the concept of the cultural heritage”

Movable and immovable property that has cultural significance, whether in the nature of antiquities and monuments of a classical age or important modern items of fine arts, decorative arts, and architecture.

LEGAL ACTS

Cultural heritage

European Convention on the Protection of the Archaeological Heritage (1969)

Convention for the Protection of the Architectural Heritage of Europe (1985)

Convention concerning the Protection of the World Cultural and Natural Heritage (1972)

UNESCO Convention for the Protection of Underwater Cultural Heritage(2 November 2001) the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage the UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage (17 October 2003).

Cultural property

Hague Convention for the Protection of Cultural Property (1954)

UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer (1970)

ITALY. CULTURAL PROPERTY

IN PARTICULAR, BUILDINGS, WHICH ACCORDING TO SPECIAL LEGISLATION ARE RECOGNIZED AS OF HISTORICAL, ARCHAEOLOGICAL AND ARTISTIC INTEREST, AND ARE PART OF THE PROPERTY OF THE STATE (INCLUDING PROVINCES AND COMMUNES)
(ART. 822 OF THE ITALIAN CIVIL CODE)

SUCCESSION

CAN NOT BE DISPOSED:

- BUILDINGS WHICH ARE NOT INCLUDED IN THE LIST
- BUILDINGS RELATED TO THE ART AND HISTORICAL HERITAGE OF THE PROVINCES AND COMMUNES

OTHER BUILDINGS CAN BE DISPOSED, BUT ON THE BASIS OF SPECIFIC PERMISSION.

CONTENTS OF THE PERMISSION:

- MEASURES FOR ITS PRESERVATION,
- TYPES OF USE INCONSISTENT WITH THE HISTORIC OR ARTISTIC CHARACTER
- TYPES OF PUBLIC USE OF THE BUILDING BASED ON PREVIOUS ASSIGNMENTS;
- THE GROUNDS ON WHICH THE AGREEMENT ABOUT DISPOSAL OF THE BUILDING CAN BE TERMINATED.



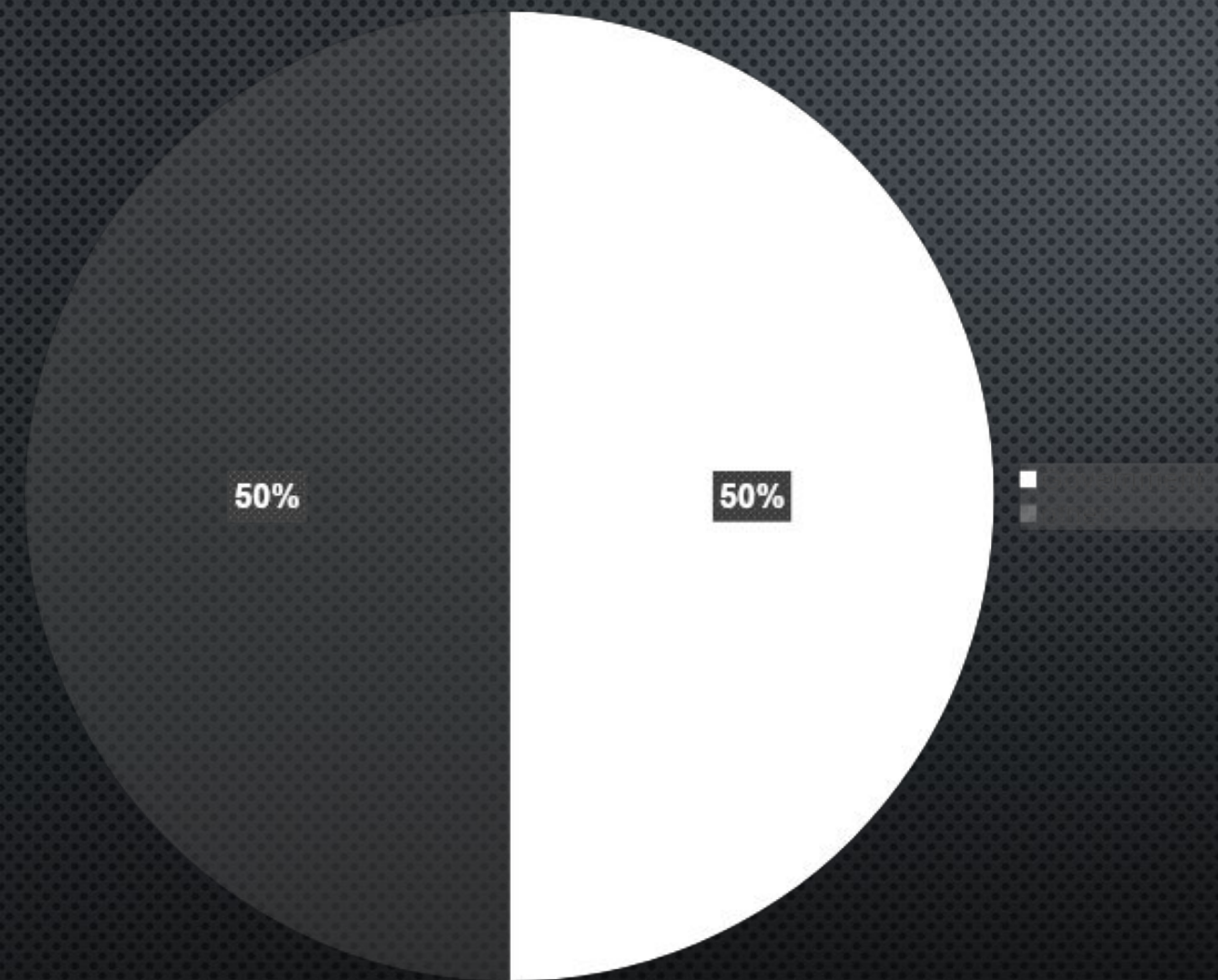
PRIVATE OWNER IS OBLIGED TO:

INFORM MINISTRY OF CULTURE ABOUT DISPOSAL OF CULTURAL PROPERTY

PURPOSES:

1. TO INFORM AN AUTHORITY BODY ABOUT CULTURAL HERITAGE OWNER
2. TO AFFORD A GOVERNMENT REALIZE HIS RIGHT OF FIRST REFUSAL.

restoration works



RENOVATION

GOVERNMENT CAN PARTICIPATE IN FINANCING OF THE RESTORATION WORKS, BUT NO MORE THAN $\frac{1}{2}$ OF VALUE.

BUT:

BUILDINGS, RENOVATED AT STATE EXPENSE OR WITH ITS PARTICIPATION SHOULD **BE OPEN TO THE PUBLIC ACCESS.**

FRANCE

A black and white photograph of a room with a curved wall and several diamond-shaped windows. A patterned sofa is on the right, and a stack of books is on the floor. A large, textured rug is in the foreground.

THUS, THE CONCEPT OF CULTURAL PROPERTY CONSISTS OF TWO FEATURES:

- 1) HISTORICAL, FICTION, MYTHOLOGICAL, SCIENTIFIC OR SCENIC VALUE;
- 2) SPECIFIC LEGAL ORDER

SUCCESSION

OWNERS CAN DISPOSE CULTURAL PROPERTY ONLY ON THE BASIS OF THE PERMISSION OF THE MINISTRY OF CULTURE.

NEW OWNER IS OBLIGED TO:

- ENSURE THE SAFETY OF CULTURAL PROPERTY,
- TO PROVIDE PRESERVE A FREE (FREE OR PAID) ACCESS FOR THE PUBLIC.



PROTECTED MONUMENTS CAN'T BE DESTROYED OR
RENOVATED WITHOUT THE SPECIFIC PERMISSION.

MINISTRY MAY OBLIGED THE OWNER TO RESTORE THE
BUILDING.

RUSSIA. CULTURAL HERITAGE

IMMOVABLE PROPERTY (INCLUDING ARCHAEOLOGICAL HERITAGE) AND OTHER FACILITIES WITH HISTORICALLY RELATED TERRITORIES, PAINTINGS, SCULPTURE, DECORATIVE-APPLIED ART, OBJECTS OF SCIENCE AND TECHNOLOGY AND OTHER ITEMS OF MATERIAL CULTURE RESULTING FROM THE HISTORICAL EVENTS, REPRESENTING VALUE FROM THE POINT OF VIEW OF HISTORY, ARCHEOLOGY, ARCHITECTURE, URBANISM, ART, SCIENCE AND TECHNOLOGY, AESTHETICS, ETHNOLOGY OR ANTHROPOLOGY, SOCIAL CULTURE AND BEING AN EVIDENCE OF CIVILIZATIONS, AUTHENTIC SOURCES OF INFORMATION ABOUT THE ORIGIN AND DEVELOPMENT OF CULTURE.

CULTURAL PROPERTY?

RESTRICTIONS OF THE PROPERTY RIGHTS:

THE OWNER IS OBLIGED TO:

- TO ENSURE THE SAFETY AND PERMANENCE OF SHAPE OF THE CULTURAL PROPERTY;
- TO COMPLY WITH ARTICLE 5.1 OF THIS FEDERAL LAW THE REQUIREMENTS FOR CARRYING OUT ACTIVITIES WITHIN THE TERRITORY OF OBJECT OF CULTURAL HERITAGE INCLUDED IN THE REGISTER, A SPECIAL REGIME OF USE OF LAND, WATER OBJECT OR ITS PART, WITHIN WHICH THE FACILITY IS LOCATED ARCHAEOLOGICAL HERITAGE;
- TO PREVENT THE DETERIORATION OF THE OBJECT OF CULTURAL HERITAGE INCLUDED IN THE REGISTER, MAINTAIN THE TERRITORY OF OBJECT OF CULTURAL HERITAGE IN A COMFORTABLE CONDITION.



THE OWNER SHALL COMPLY WITH THE REQUIREMENTS OF THE PRESERVATION OF CULTURAL HERITAGE IN THE PART OF PROVIDING FOR MAINTENANCE OF CULTURAL HERITAGE OR PART OF CULTURAL HERITAGE IN GOOD CONDITION WITHOUT DETERIORATION OF PHYSICAL CONDITION AND CHANGES OF THE SUBJECT OF PROTECTION OF CULTURAL HERITAGE.



PUBLIC ACCESS:

- THE REQUIREMENTS FOR PROVIDING ACCESS TO CULTURAL HERITAGE SHOULD NOT LEAD TO THE IMPOSSIBILITY OF USE BY THE OWNER OF CULTURAL PROPERTY.
- IN THE CASE THAT THE INTERIOR OF THE OBJECT OF CULTURAL HERITAGE DOES NOT BELONG TO THE SUBJECT OF PROTECTION OF OBJECT OF A CULTURAL HERITAGE, THE REQUIREMENT TO PROVIDE ACCESS TO THE INTERIOR OF THE OBJECT OF CULTURAL HERITAGE INCLUDED IN THE REGISTER, CAN NOT BE INSTALLED.

CONCLUSIONS:

- NO SPECIFIC PROVISIONS ON THE RESTRICTIONS OF CULTURAL PROPERTY SUCCESSION\DISPOSAL
- NO SPECIFIC PROVISIONS ON DUTY OF GOVERNMENT TO FINANCE RENOVATION
- PROVISIONS ON THE PUBLIC ACCESS TO CULTURAL PROPERTY IS UNDEFINED



CONCLUSIONS

1. THE TERM “CULTURAL HERITAGE IS BROADER THEN «CULTURAL PROPERTY” AND INCLUDES ALSO “INTANGIBLE CULTURAL HERITAGE”. FOR MELNIKOV`S HOUSE THE TERM “CULTURAL PROPERTY” IS MORE APPROPRIATE. CULTURAL HERITAGE OF THE PEOPLES OF RUSSIA ACT (2002) REGULATES LEGAL ORDER OF USE THE CULTURAL PROPERTY, NOT CULTURAL HERITAGE.
2. ITALY AND GERMANY LEGISLATION CONTAINS SPECIFIC PROVISIONS ABOUT CULTURAL PROPERTY SUCCESSION. RUSSIAN LEGISLATION DO NOT PROVIDE ANY RESTRICTIONS ON THE CULTURAL PROPERTY SUCCESSION.

QUESTIONS?

