
ARCHAEOLOGICAL HERITAGE MANAGEMENT AND LOOTING ANTIQUITIES IN THE REPUBLIC OF MOLDOVA

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Introduction

Since proclamation of independency (1991), the Republic of Moldova tried to do a lot of things in order to develop a democratic society and to build a legal framework according to its aspirations. But, the political, economical and social problems accounted during this period are affecting the most sensible areas, one of them being preservation of cultural heritage.

Phenomenon of illegal archeology is common for majority of countries in transition. This is why the subject is discussed at the most prestigious international forums. During them, experts in this field seek for solutions to prevent this phenomenon. EAC symposium from Strasbourg held in 2009 was one of the meetings where the problem of illegal archeology was discussed. As a result, the experts came to a series of conclusions through which they express their concern of the situation and request from state institutions to get actively involved in protection of archeological heritage and in combat of illegal use of metal detectors.

In the Republic of Moldova the phenomenon of illegal archeology is also present and has acquired a mass character lately. However, state bodies do not even want to discuss this problem and nothing is done to prevent it (Olaru 2009). Attesting the phenomenon in unofficial discussions among archeologists reduces it to statement of the problem since this is legal bodies, who have to support an active policy in preventing illegal archeology and other phenomena regarding protection of cultural and historical heritage.

Legal framework

Every county, more or less, has a legal framework concerned preservation of cultural heritage. In the Republic of Moldova, the legislation concerning protection of cultural heritage is very general. There are a few laws which deal either separately or jointly with certain elements of the heritage and include: *The Law on the Protection of Monu-*

*ments*¹, *The Law of the Republic of Moldova on Culture*², *The Law of the Republic of Moldova on Archives*³, and the *Law on Museums*⁴. Other legal requirements are addressed in the Civil Code⁵, Criminal Code⁶, Customs Code⁷, Administrative Violations Code⁸, Tax Code⁹, Land Code¹⁰, Forest Code¹¹, Underground Resource Code¹², etc. The archaeological heritage, as well as historical architectural and built heritage, movable and immovable, is not treated separately. Moldovan national laws address value, reservations and memorial parks, graves and cemeteries, archaeological and architectural monuments, and landscapes. State institutions are to protect this heritage¹³. The decisions of state bodies regarding protection of monuments, recording, study, evaluation, preservation, and restoration of monuments, are extended to all individuals and legal entities¹⁴.

Moldovan laws state that historic monuments, archaeological artifacts, and the treasures that may be discovered therein, are protected¹⁵. Individuals

¹ *The Law on the Protection of Monuments*, no. 1530-XII, adopted by the parliament of the Republic of Moldova on 22 June 1993.

² *The Law of the Republic of Moldova on Culture*, MO, 5 August 1999, no. 83-86, p. I, art. 401.

³ *The Law of the Republic of Moldova on Archives*, 22 January 1992, no. 880 – XII.

⁴ *The Law on Museums*, no. 1596-XV of 27.12.2002.

⁵ *Civil Code of the Republic of Moldova*, no. 1107-XV of 6.06.2002, MO no. 82-86, 22.06.2002.

⁶ *Criminal Code*, no. 985-XV of 18.04.2002, MO no. 128-129, 13.09.2002.

⁷ *Customs Code*, no. 1149-XIV of 20.07.2000, MO no.160-162, 23.12.2000.

⁸ *Administrative Violations Code* of 29 March 1985.

⁹ *Tax Code*, no. 1163-XIII of 24.04.97, MO no. 62, 18.09.1997.

¹⁰ *Land Code*, no. 828-XII of 25.12.91, republished in MO no.107, 04.09.2001.

¹¹ *Forests Code*, no. 887 of 21.06.96, MO no. 4-5, 16.01.1997.

¹² *Underground Resources Code*, no. 1511-XII of 15.06.93, MO no. 11, 30.11.1993.

¹³ Article 59, *The Land Code of the Republic of Moldova*, The Law of the Republic of Moldova No. 828-XII of 25 December 1991.

¹⁴ Article 6, *The Law on the Protection of Monuments*, no. 1530-XII, 22 June 1993.

¹⁵ Article 32, *The Land Code of the Republic of Moldova*, Law of the Republic of Moldova No. 828-XII of 25 December 1991.

and legal entities who, in the course of any type of work, discover archaeological remains that may be defined as monuments, are to cease work and inform the local authority on whose territory the vestiges are found, as well as the Ministry of Culture, in writing, within **48 hours**, in order to protect and preserve them¹⁶. Thus, the landowner on whose estate archaeological remains are found is obliged to ensure their integrity and, if needed, to permit research and preservation activities, including the case of human remains¹⁷. At the same time, state institutions are to organize preservation and restoration works¹⁸ and to compensate the landowner with equivalent property or money for the damage done or for land taken into the public domain¹⁹.

Unfortunately, liability for the violation of legal provisions receives little enforcement and application of sanctions is rare. However, the national law contains a number of provisions concerning illegal actions leading to damages or destruction of historic monuments. Thus, **individuals** and **legal entities** that have damaged a monument or its protected area shall restore both the monument and its protected area to its initial state, and if this is not possible, they will provide compensation for the damage as stipulated by law; any officials and employees who are responsible for such damage are materially liable as per law²⁰. At the same time, the *Criminal Code of the Republic of Moldova* provides special penalties for the deliberate destruction or damage of historical or cultural monuments or natural sites:

“Deliberate destruction or damage of historical or cultural monuments or objects of nature, which are under state protection, shall be punished by a fine from 500 to 3000 conventional units or 180 to 240 hours of community work, while legal entities shall be punished by a fine from 3000 to 5000 conventional units and withdrawal of the right to practice a certain activity”²¹.

Archaeological heritage management

Preservation and use of the national cultural heritage is established by the Government in agreement with the Parliament and in accordance with

¹⁶ Article 20, *The Law on the Protection of Monuments*.

¹⁷ Article 32, *The Land Code of the Republic of Moldova*.

¹⁸ Article 25 (2), *The Law on the Protection of Monuments*.

¹⁹ Article 32, *The Land Code of the Republic of Moldova*.

²⁰ *Ibidem*, Article 53.

²¹ Article 221. *The Criminal Code of the Republic of Moldova*.

the laws of the Republic of Moldova²². The Ministry of Culture is the official national body responsible for listing, preservation, and evaluation of monuments:

“(1) The responsibility for the destruction, loss, unauthorized sale, delay in salvage, protection, preservation and restoration of monuments lies with the Ministry of Culture of Moldova, as well as with the owners”²³.

Moldovan legislation requires special authorization to be secured by a person wishing to carry out excavations. The Archaeology Commission of the Ministry of Culture is authorized to analyze projects of archaeological research and to recommend to the Ministry of Culture the issuing of permits to reputable and qualified individuals/archaeologists. Thus, only by this authorization does one obtain the right to commence or develop the archaeological investigation of a site or of human remains. The members of the Archaeology Commission have the right to supervise and control the works. The permit for archaeological investigations is the legal document aimed at preventing illegal excavations and is meant to compel the holder to use the methods and techniques suitable for scientific investigation.

After excavations, every researcher is obliged to present a written Report to the Archaeology Commission, which should include a description of the place and period of excavation, methodology, results, etc. The Report should be supported by plans, figures, photos and other illustrations. Before presenting the Report to the Commission, it has to be reviewed by two qualified archaeologists. According to the national and international rules, archaeologists have to publish the results of excavation as soon as possible. The results of excavations are required to be made public within five years after excavation. In most cases, this rule does not work, because “reputable archaeologists” maintain some kind of “monopoly” on the publication of results.

Use and abuse of legislation

Use of modern methods and tools is welcome, but this doesn't mean that the state is freed from its function of control. Thus, the European

²² Article 17 (1), *The Law of the Republic of Moldova on Culture*, in *MO*, 5 August 1999, no.83-86, p. I, art. 401.

²³ *Ibidem*, Article 55.

Convention pays special attention to the way in which metal detectors and other types of detectors (ultra-sound and radar machines) are used in archaeological research and requires prior authorization according to the national laws²⁴. This obligation relates to domestic law, but it is based on the need to establish some control over individuals and the way in which such equipment is used, and is meant to prevent vandalism. This is very important for Moldova, as well, since in recent years there have been dozens of cases when unauthorized persons (treasure hunters) have used metal detectors illegally for the purpose of discovering archaeological objects and especially coins at Orheiul Vechi, Costești²⁵ (Photo 1, 2) etc. These cases violate different laws and codes (Law of property, Criminal Code, etc.). Yet, the local and central authorities have not, however, undertaken a single step towards stopping or at least preventing such acts of barbarism. International practice does not permit all professional archaeologists to use detectors because their abuse leads to a considerable deterioration of cultural strata and archaeological objects. Therefore, it is necessary to ensure that use of this kind of equipment is regulated by law and is accompanied by vigorous control and sanctions against law violators. It is true that using metal detectors, officially and in accordance with researching methodology, makes the job of archaeologists more effective²⁶, but it should be done within the legal framework.

Moldovan Law of monument preservation (1993) does not include stipulations regarding use of metal detectors, and probably this situation gives the right to the members of the “Forum of treasure hunting from Moldova” to affirm on their web page:

„Searching treasures and interesting things by means of metal detectors in Moldova. Are you interested to know more about **Moldova**? The country with richest history, artifacts of which can be found just under your feet! Read articles



Photo 1.



Photo 2.

published on our website, communicate on the forum. **We do not violate the legislation of the Republic of Moldova, we help learn history and fill the shelves of our museums**²⁷.

But, they do not have to forget that Moldovan legislation prohibits any intervention in soil strata without authorization and all persons who violate the law have to be penalized. As for archaeological sites or any others monuments, the law does not permit using metal detectors without written permission (authorization) from the Ministry of Culture. But, reality is absolutely different. In recent years, one can see treasure hunters with metal detectors more and more often and in more historical places on the territory of the Republic of Moldova. I witnessed at least two cases of illegal use of metal detectors. First, in the middle of the day, on September 8th, 2007, an international (Moldo-Italian) team was looking for cultural goods in the center of Medieval Citadel *Orheiul*

²⁴ Article 3, iii, *The European Convention for the Protection of Archaeological Heritage (revised)*, La Valletta 1992.

²⁵ More than 20.000 coins and metal goods from Costești, Golden Hoard period town, are illegal excavated and sailed on black market. Гилан 2009, 111.

²⁶ **Ex.** Archaeologists often use metal detectors at battlefield sites in many European countries and in the US and it has been very effective. The Centre for Archaeological Research of Moldova-CCARM is using last years the metal detector during the excavations in Orheiul Vechi and it really increase the rate of metal tools and coins discovered.

²⁷ <http://moldovamap.ru/About.html> (last access 23.01.2010).



Photo 3.



Photo 4.

Vechi without any permission. The second case took place on September 21st, 2009, at 7.30 a.m., a person with a metal detector was searching in Sântana de Mureș area, Černjahov Culture (Photo 3), guarded by a policeman across Chișinău-Orhei motorway. Thus, we can state that instead of being prevented by the police, in many cases amateurs of illegal archeology are protected by the employees of the Ministry of Internal Affairs. In this situation, the Government of the Republic of Moldova has to take urgent steps in interdicting unauthorized use of metal detectors and in assuring application of penal regulations regarding in case of damage and destruction of historical and cultural monuments.

Meanwhile, collectors meet every Saturday in a special place in Chișinău so-called “Birža” placed in a Restaurant Garcorix, str. V. Alecsandri no. 78 (Photo 4) and do business without any restrictions. Nobody asks the owner of the restaurant to offer a permission to organize open-market for sale of cultural goods. Usually one day before selling, registered users can see very interesting objects on the web page of the “Forum of treasure hunting from Moldova”. On the day after, all of them disappear from this page.

A recently-published article reveals that in the Republic of Moldova there are about **1500 owners of metal detector** and the most popular model of metal detector is Garret Ace 250 named between hunters as “Asja” and costs about 250 euro (Гилан 2009, 109, 111). From the same paper we can see that hunters are specialized in different periods and goods, such as from Gets, Dacians, Sarmathians, Roman period, Golden Hoard sites, but the most popular are sites from the 19th century and those of battle places from Second World War (Гилан 2009, 110). Before doing excava-

tions, some of the hunters research documents from archives, chronicles and maps.

As we can see, the illegal archaeology is very well-organized and works in close partnerships with “colleagues” from other countries, such as the Ukraine, Russia, etc.²⁸. In 2002, more than 20 organizations of the treasure hunters from Russia, Ukraine and Baltic States organized an international meeting (Дискуссии 2002, 72). So, the illegal archaeology became not just a national, but an international denouncement of the cultural heritage. State bodies should take urgent measures to fight this phenomenon.

Conclusions

The actual legal framework of the Republic of Moldova in the field of archaeological heritage preservation is very general and does not really prohibit the use of metal detectors. Nevertheless, we hope that a new project of law in this field that now is under discussion in the Government will be soon approved and through this way will try to solve such problems as using metal detectors, looting and illegal collecting of antiquities²⁹. Some

²⁸ On Moldovan web site of the Treasure hunters you could see the links of the „partners” Kladoiskatel’ – Ukraine www.detector.kiev.ua or <http://forum.violity.kiev.ua/index.php> (last acces 25.01.2010). Rusia - <http://www.reviewdetector.ru/>

²⁹ In the flight magazine *Open Skies*. Air Moldova, November/December 2009, p. 64-66 I was “impressed” to read that one of the biggest private collector of cultural goods from Moldova, P. Costin, vice-director of the Chisinau Customs Service, he dreamed during the New Year night that discovered a hoard of Antiquities fighting axes in very exactly and well-known place. During the next day morning he reached the place and began to excavate and was very surprised to see that the dream became reality. Just after that P. Costin informed the persons form the National History Museum. Let’s imagine what will happened if everybody who has such “dreams” will try to excavate! Otherwise everybody should know the law and in first of all private collectors. The state bodies have to pay more attention in such cases.

of good solutions could be monitoring by state bodies of the archaeological heritage, regulation of detector selling, registering detector owners, authorized using of detectors in restricted areas³⁰, excluding archaeological sites and historical monuments, etc. At the same time, it is necessary to organize public awareness raising campaigns that would emphasize importance of protection of archaeological heritage and the danger it is under in case of tolerance to illegal archaeology. Also, it is also necessary to prohibit the illegal trade of antiquities and to establish control over transportation of cultural goods.

But, we have to be realistic, because the problem is not just in the lack of legal framework, the problem is more complex and the efforts of the

Government and archaeologists should be greater and more effective in order to get to the expected results (Musteață 2008; 2009). All decision-making bodies and state bodies responsible for preservation of cultural heritage should analyze the best practices³¹ attained in other countries and in partnership with experts from the field of archaeology, they should establish a specific strategy of combating illegal archaeology and illegal trafficking of antiquities. And the last but not least, the Republic of Moldova should honor its International and European commitments in the field of preservation of cultural heritage and fight against illegal trafficking of antiquities, because we are often eager to sign the conventions rather than implement them.

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¹This kind of regulation could be compared to the one regarding weapon owners, who cannot use it but in some periods of the year and only according to permits that clearly state the place, species and number of birds or animals to be hunted.

²See for example the experience of England and Wales: Bland 2008. Code of Practice for responsible Metal Detecting in England and Wales - www.finds.record.org (last access 24.01.2010). American Metal Detecting Association Online - <http://www.amdaonline.net/ncode.html> (last access 24.01.2010).

Managementul patrimoniului arheologic și furtul de antichități în Republica Moldova

Rezumat

În acest articol autorul abordează problema cadrului normativ privind managementul patrimoniului arheologic și furtul de antichități din Republica Moldova. În studiu sunt prezentate situații concrete care ilustrează starea precară în domeniul ocrotirii patrimoniului arheologic, răspândirea fenomenului arheologiei ilegale și traficului de antichități în Republica Moldova. Deși legislația națională conține anumite prevederi privind sancționarea administrativă și penală a celor care comit abuzuri și infracțiuni ce conduc la deteriorarea și distrugerea patrimoniului arheologic, până în prezent organele de drept nu au pedepsit nici o persoană pentru deteriorarea, distrugerea sau comercializarea ilegală a bunuri culturale. În Republica Moldova sunt cunoscuți, după unele date neoficiale, peste 1500 de deținători a detectoarelor de metale, care sunt utilizate pe larg de către „arheologii braconieri”. Urmele intervențiilor ilegale ale „căutătorilor de comori” sunt prezente pe suprafața celor mai cunoscute situri arheologice – Costești, raionul Ialoveni, Butuceni (Orheiul Vechi), raionul Orhei etc. Comercializarea bunurilor culturale, inclusiv arheologice, se realizează deschis fără controlul organelor de stat. O dovadă în acest sens este așa numita „birjă” care se desfășoară în fiecare weekend în incinta Restaurantului Garcorix de pe str. V. Alecsandri no. 78 din municipiul Chișinău unde pot fi găsite, pe lângă bunuri filatelice, numismatice și bunuri arheologice. De aceea, Guvernul Republicii Moldova trebuie să elaboreze o politică eficientă și durabilă în domeniul ocrotirii patrimoniului arheologic pentru a combate fenomenele negative ce contribuie la distrugerea moștenirii culturale.

Манаджмент археологического наследия и кража древностей в Республике Молдова

Резюме

В данной статье автор анализирует вопрос об археологическом наследии и о нелегальной краже и продаже древностей в Республике Молдова. На основе нескольких примеров показывается сложность ситуации в области охраны археологического наследия, распространение феноменов «чёрной археологии» и незаконная торговля древностей в Республике Молдова. Несмотря на то что национальное законодательство содержит административные и уголовные санкции направленные против тех которые совершают преступления, что ведут к повреждению и разрушению археологического наследия, до сих пор не было никто не был привлечён к ответственности. По неофициальным данным, в Республике Молдова, имеются более 1500 метал детекторов которые используются «чёрными архелогами». Следы этих копателей можно заметить на самых известных памятников – Костешты, Яловенский район, Древний Орхей и др. Незаконная торговля древностей в Республике Молдова реализуется в открытую, доказательством может быть, так называемая «биржа» которая проводится в каждую субботу в здание ресторана «Garcorix», улица В. Александря 78 в городе Кишинэу, где можно найти помимо почтовых марок, современных монет и археологические предметы. В этой ситуации, правительство Республике Молдова должна, как можно быстрее разработать эффективную и долгосрочную программу по защите археологического наследия.

19.05.2010

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