

2. WORLD HERITAGE SITES – MANAGEMENT AND SUSTAINABLE DEVELOPMENT

The World Heritage Convention and Romania. Case Study: the Dacian Fortresses of the Orăştie Mountains

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Abstract

Romania has signed the World Heritage Convention in 1990. Its process of implementation was carried out along two decades, but the resulting legal framework does not grant at present the appropriate protection and management of the sites inscribed on the World Heritage List. Moreover, even if steps have been taken towards the implementation of the Convention, the compliance with it is far from being a reality. This study brings forth the fact that in the case of the serial World Heritage Site “Dacian Fortresses of the Orăştie Mountains”, there is a twofold non-compliance with the Convention. First, there is a substantive non-compliance, resulting from the almost complete dereliction of the site: in the last 20 years, there was no management system and 5 of its 6 component parts have been abandoned. Secondly, there is a procedural non-compliance, resulting from the fake reporting to the World Heritage Centre, as well as from the omission of some reports. The real situation has recently surfaced, due to the intervention of the civil society, and the World Heritage Centre triggered the reactive monitoring process for this site. At the same time, the possible causes of this non-compliance have been analysed in view of identifying urgent solutions meant to re-establish the balance with respect to the Convention. The main directions of action proposed are the improvement of the legal framework and the adoption of appropriate heritage policies.

Keywords: World Heritage Convention, Romania, Dacian Fortresses of the Orăştie Mountains, implementation, compliance.

The World Heritage Convention

Introduction

The Convention concerning the Protection of the World Cultural and Natural Heritage has been adopted by the UNESCO General Conference on 16 November 1972 in Paris and it represents one of the most powerful international tools created by UNESCO. Its aim was to create a world program for the identification, protection and conservation of the cultural and natural



heritage, considered to have an outstanding universal value. The most visible outcome of the Convention is the World Heritage List, established in 1978. This is not a mere ranking of tourist destinations, but a key-instrument for the protection and conservation of this heritage. Today, the Convention bears the signature of 193 countries of which 167 out of which have properties included in the World Heritage List. In 1978, the list included 12 sites, and in 2018 their number had reached 1092 in all. The huge popularity enjoyed by this Convention all over the world is due to its spreading well beyond the circle of experts, in all social strata. This concept of heritage has been successfully implemented worldwide thanks to the World Heritage community and the international efforts to conserve Outstanding Universal Value (Albert and Ringbeck 2015: 3–4).

The concept of Outstanding Universal Value is the cornerstone of World Heritage processes (including nominations, Periodic Reporting, etc.) and it is the basis for the protection and management of a property (UNESCO 2018: 14). This is defined in the *Operational Guidelines for the Implementation of the World Heritage Convention*, which shows that this value refers to “cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity. As such, the permanent protection of this heritage is of the highest importance to the international community as a whole” (UNESCO 2017: §49).

The three pillars that make this program work are the World Heritage Committee (decisional body, made of the representatives of 21 states, by rotation), the World Heritage Centre (the secretariat of the Committee made of experts) and the Advisory Bodies (ICCRUM, ICOMOS and IUCN). The participants in the program are the State Parties to the Convention, which create the legal and institutional framework needed for the implementation of the Convention at the national level and provide the necessary resources, as well as the site managers, stakeholders and other partners in the protection of World Heritage Properties, which grant the effective, day-by-day implementation of the Convention.

The main instruments of control over the state parties are the Reactive Monitoring and the Periodic Reporting. Moreover, the Committee takes into consideration the reports of the non-state actors (individuals, NGOs etc.) on the way the Convention is observed.

In order to have the Convention implemented, the Operational Guidelines have been elaborated. Almost half a century after its adoption, the interpretation and implementation of the Convention have significantly changed, in

accordance with the evolution of the context. Therefore, the Operational Guidelines benefitted from successive improvements and were completed with a series of decisions made by the World Heritage Committee.

A short history of the Convention

The Convention was born as a result of the social transformations following World War II. The massive destructions caused by the war, but also the urban development and modernization that took place in the next decades led to the need for a program meant to protect the cultural and natural heritage. On the other hand, the evolution of the social context led to successive improvements in the implementation of the Convention, which knew several stages (von Droste 2011; Albert and Ringbeck 2015: 59–82)

The first stage was between 1978 and 1991 and was characterized by attracting as many countries as possible to join the Convention and by issuing an initial List of high quality. The monitoring, reporting and management plans had not been envisaged by the agenda yet.

During the second stage (1992–1999), the World Heritage Centre was created, the Secretariat of the World Heritage Committee, which has been making a fundamental contribution to the implementation of the Convention. In the same period, preparations were being made for the monitoring and periodic reporting on the site conservation state, the concepts of “cultural landscape” and “historic cities” were introduced in the Operational Guidelines, while the term of “authenticity” acquired a more flexible interpretation (Nara Conference, 1994), and the education for the heritage was given more importance. The list was both geographically and thematically biased, with an obvious western tendency and, as a result, a global strategy was issued in order to rebalance it.

The third stage (2000–2005) is represented by the endeavour of increasing the credibility of the World Heritage List. The number of properties included in the list increased abruptly, but over 50% of the list was represented by European sites. This was a test for the Convention credibility and, as a result, the access to the World Heritage is very strictly regulated. An important moment is represented by the Budapest Declaration (2002), thereby four strategic objectives were established for the implementation of the Convention, “the 4 Cs”: Credibility, Conservation, Capacity-building and Communication. In 2003, the Convention on the Safeguarding of Intangible Heritage was adopted, meant to work in close relation with the World Heritage Convention.

The fourth stage (2006 – present-day) is characterized by a huge extension of the list, which led to overloading the Centre, Committee and Advisory Bodies



with tasks. The first delisting is taking place now, but only two sites have been deleted from the World Heritage List. In 2007, the “fifth C”, for “Communities”, was added for to the existing Strategic Objectives (Albert 2012). In spite of all the issues encountered (including the politicization of the World Heritage Committee) (Meskel 2013), the program is considered the most successful one and it has fundamentally influenced the way in which mankind considers its own cultural and natural heritage.

Implementation, compliance, effectiveness¹

The implementation of the Convention by the States Parties is done by transposing the Convention and its concepts into the national legislation on the protection of the cultural heritage and nature conservation. This is usually a flexible, long term, and several-stage process, which is more advanced in the states that signed the Convention earlier and already had powerful legislation and a long tradition in the protection of the heritage.

Implementation of the Convention does not automatically imply compliance with it. The compliance goes far beyond the implementation. It refers to whether the state parties adhere to the provisions of the Convention and to the implementing measures that they have instituted.

Consequently, a good legislative framework is not always a guarantee that the law shall be enforced. There are a lot of factors that facilitate, delay or even impede the application of the Convention: the country's level of economic development, which determines the number of resources allotted to the protection of the patrimony; the level of education for heritage in all social strata; the policies meant to promote and increase the awareness of the general public about the value of this heritage; the involvement of local communities and the civil society in the protection and promotion of the heritage; the existence of heritage experts etc.

Effectiveness is related to compliance, but it is not identical to it. A State may comply with the Convention, but miss the actual achievement of its objectives.

Romania and the World Heritage Convention

Romania joined the Convention on the 16 May 1990, by the Resolution 187/1990. In 2020 there will be three decades since this moment: this period proved too short for effective implementation of the Convention. The first decade was a passive one when a few things were done. Towards the end of this decade, most of the current Romanian World Heritage Sites were inscribed in List, so that the need for specific legislation turned vital. The next decade was

¹ Cf. Jakobson and Weiss 1998.

characterized by the passing of special laws, which were hardly applied. It is only in the third decade that there was an attempt at enforcing these laws, but with poor impact.

Romania failed in keeping up with the changes undergone by the interpretation of the Convention, the gap is obvious, particularly at the legislative level. At present, the World Heritage Sites do not benefit in Romania from an appropriate legal protection and the protection and management of these sites are in many cases at the same stage as before joining the Convention. Moreover, the lack of education for the heritage at all levels and the low degree of awareness made the Convention in Romania almost unknown and the sites to be neglected. A happy exception is represented by the natural sites, which had a different route and managed to meet the requirements of UNESCO.

Romania's World Heritage Sites

At present, Romania has eight sites inscribed on the World Heritage List: six cultural and two natural ones (UNESCO 2019a) (Table 1). The first Romanian site inscribed was the Danube Delta, in 1991, one year after the Convention was signed. In 1993, it was followed by the Monastery of Horezu, the Churches of Moldavia (extended in 2010) and the Villages with Fortified Churches in Transylvania (extended in 1999). In 1999, the list also included the Wooden Churches of Maramureş, the Historic Centre of Sighişoara and the Dacian Fortresses of the Orăştie Mountains. The latest site that entered the list represents an extension to the transboundary site Ancient and Primeval Beech Forests of the Carpathians and Other Regions of Europe, to which Romania contributed with its old forests in 2017.

Other 15 sites were included in the Tentative List, which represents the “antechamber” of the World Heritage List. 12 out of those were there as early as 1991. The latest site included on this list is Roşia Montană Mining Landscape, in 2016.²

At present, the eight World Heritage Sites in Romania benefit from different levels of protection. One can say that the general situation is good in the case of natural sites. The Danube Delta has a long tradition in the management and protection of the site. In 1993, the Danube Delta Biosphere Reserve was founded, a public institution subordinated to the Ministry of the Environment. The site has a management plan, periodically updated and approved by government decision. On the contrary, cultural in a less

² An update of the Tentative List of Romania was made in 2017, but the new list has not made public yet by the National Institute of Heritage and has not even reached the World Heritage Centre.



favourable situation. The different levels they are on, in terms of protection and valorisation, are the result of the complexity of the sites, their location, the degree of involvement of the local authorities, community and civil society, as well as other factors. The single sites are managed more easily than the serial ones. The rural sites or those located up in the mountains are harder to access than the urban ones. For almost all these sites, the lack of management plans, conservation policies and, for some of them, even management systems should place them among the most endangered sites, at least in Europe. Unfortunately, there is still no estimation of the real situation of all the UNESCO sites in Romania.

As to the relation with the World Heritage Centre, only two out of the six cultural site sent reports related to their state of conservation and only three took part in the first cycle of periodic reporting (see Table 2).

The legal framework

To implement the Convention in Romania, a national legislative framework has been elaborated, but the process is very slow and it has not come to an end yet.

The basic law was passed only 10 years after the Convention was signed, i.e. the Government Ordinance 47/2000 meant to establish means of protection for the historical monuments that are inscribed on the List of World Heritage, approved with amendments by Law 564/2001. The Ordinance decrees that the conservation, restoration and turning to account of the historical monuments that are inscribed on the World Heritage List represent an objective of national interest and it assigns a series of attributions to the local administration authorities. It also envisages the elaboration, by the Ministry of Culture, of a framework-program for the protection and management of the Romanian monuments inscribed on the World Heritage List. The UNESCO sites are declared strategic objectives through this Ordinance and it is decided that they will be guarded by the Ministry of Internal Affairs, for free. This has never happened and the effects of the law being ignored have been devastating, particularly in the case of the Dacian fortresses, where archaeological poaching escalated to a climax, dozens of kilograms of antique gold and silver objects being stolen from the site. The representatives of the Ministry of Internal Affairs claim that this provision cannot be enforced as it would conflict with the Law of the Gendarmes. At present, a proposal of amendment to this provision is in a legal process, which would entrust the guard of UNESCO sites to private guard and protection companies.

Table 1. Romanian sites inscribed on the World Heritage List

Type	No.	Name	Code and date of inscription	Criteria	
Cultural sites	1.	Villages with Fortified Churches in Transylvania		596bis – 1993, 1999	(iv)
		1.1.	Câlnic		
		1.2.	Viscri		
		1.3.	Dârjiu		
		1.4.	Saschiz		
		1.5.	Prejmer		
		1.6.	Biertan		
		1.7.	Valea Viilor		
	2.	Monastery of Horezu		597 – 1993	(ii)
	3.	Churches of Moldavia		598bis – 1993, 2010	(i) (iv)
		3.1.	Arbore		
		3.2.	Humor		
		3.3.	Moldovița		
		3.4.	Pătrăuți		
		3.5.	Probotă		
		3.6.	Suceava		
		3.7.	Voroneț		
	3.8.	Sucevița			
	4.	Historic Centre of Sighișoara		902 – 1999	(iii) (iv)
	5.	Wooden Churches of Maramureș		904 – 1999	(iv)
		5.1.	Bârsana		
		5.2.	Budești		
		5.3.	Desești		
5.4.		Ieud			
5.5.		Plopiș			
5.6.		Poienile Izei			
5.7.		Rogoz			
5.8.	Șurdești				
6.	Dacian Fortresses of the Orăştie Mountains		906 – 1999	(ii) (iii) (iv)	
	6.1.	Sarmizegetusa Regia – Grădiștea de Munte			
	6.2.	Costești–Cetățuie			
	6.3.	Blidaru			
	6.4.	Piatra Roșie			
	6.5.	Bănița			
6.6.	Căpâlna				



Natural sites	7.	Danube Delta	588 – 1991	(vii) (x)	
	8.	Ancient and Primeval Beech Forests of the Carpathians and Other Regions of Europe		1133ter – 2017	(ix)
		8.1.	Cheile Nerei–Beuşniţa		
		8.2.	Şinca		
		8.3.	Slătioara		
		8.4.	Cozia		
		8.5.	Domogled–Valea Cernei		
		8.6.	Groşii Țibleşului		
		8.7.	Izvoarele Nerei		
	8.8.	Strîmbu Băiuţ			

Table 2. The cultural World Heritage Sites from Romania.
The situation of the reporting to the World Heritage Centre
and of the management plans

No	Site	Number of State of Conservation reports	Periodic Reporting – Cycle I	Periodic Reporting – Cycle II	Management plan
1.	Horezu Monastery	–	×	×	×
2.	Churches of Moldavia	3	×	×	–
3.	Villages with Fortified Churches in Transylvania	–	×	×	–
4.	Wooden Churches of Maramureş	–	–	×	–
5.	Historic Centre of Sighișoara	9	–	×	–
6.	Dacian Fortresses of the Orăştie Mountains	–	–	×	–

The Ordinance was detailed and enforced through several Government Decisions. The first is Decision 493/2000, which approved the methodology for monitoring the monuments inscribed on the World Heritage List, as well as the methodology for the development of management plans for these monuments. According to the Ordinance, the monitoring of the UNESCO sites shall be done twice a year by the local public administration authorities, by means of accredited experts. Monitoring is defined in this Decision as “the action of periodical assessment of the measures taken to protect the historical monuments inscribed on the World Heritage List”. In many cases, this

monitoring is formal or is not done at all, particularly in the sites that do not benefit from protection or are even abandoned. There is no management plan elaborated for any cultural site so far, with the exception of Horezu Monastery.

The second normative act is the Government Decision no. 738/2008 on the steps to be taken in order to fund, elaborate and update the documentation for the land management and urbanism for the zones that include historical monuments belonging to the World Heritage List. Neither this Decision had any effects, except for partial ones. Some sites still lack such documentation.

Finally, the most important normative act, deriving from the Government Ordinance is the Decision 1268/2010 (amended and completed by Government the Decision 1102/2011) approving the Program of protection and management of the monuments inscribed on the World Heritage List. It took the Ministry of Culture 10 years to elaborate this program, as outlined by the Ordinance. In other words, between 1990 and 2010, the Romanian World Heritage Sites had no guiding in developing management plans or in organizing and turning into account a management system. Although it was a framework program, it was elaborated for five years only and its effect ceased in 2016, and it has not been renewed. At present, there is no legal framework for the protection and management of the Romanian World Heritage Sites.

The failure of the Protection and Management Program

The Protection and management program was a failure for several reasons. The District Councils were slow in taking action. The program asked that, for each historical monument inscribed on the World Heritage List, a monument coordinator should be appointed and paid by the District Council; a UNESCO Organization Committee with a fixed composition was also to be established in order to elaborate the annual plans. The first site for which the Program was applied was Horezu Monastery, which, in January 2012, already had the committee constituted and in the next year benefited from a management plan, elaborated with European financing. In the same year, they established the Committees in the district of Alba, Mureş and Suceava, and in 2013 – in Bistriţa and Maramureş. The District Council of Hunedoara did not start applying for the Program until 2014, the moment when a site manager was to be appointed in order to complete the Periodic Reporting to the World Heritage Centre.

The Program was also hard to apply because of the confusing way of defining the UNESCO site. Both the Ordinance and the Government Decision use the term “historic monument inscribed on the World Heritage List”. The term “historic monument” is defined in Law 422/2001 on the protection of historic monuments as follows: “properties, constructions and lands lying on



the Romanian territory, significant for the national and world history, culture and civilization” (Art. 1.2). According to the same law, there are three categories of historic monuments: monuments, ensembles and sites (Art. 3). Thus, there is potential confusion between the generic term of the historic monument and the category of monuments.

In the Convention and in the Operational Guidelines, the term used is “(World Heritage) Property”, and in the documentation of the World Heritage Centre the general term “(World Heritage) Site” is used. In fact, the equivalence between site and property also results from the definition of the three types of properties: cultural sites, natural sites and mixed sites. The Convention points out that “cultural heritage” includes monuments, group of buildings and sites – that is, the same categories that can be found in the Romanian law, but the terminology allows no confusion in this case. In other words, Romanian law understands by “historic monument (inscribed on the World Heritage List)” what the Convention understands by “cultural site” or “cultural heritage”.

Besides the confusions it generates, the use of the term “historic monument” in the national legislation represents a backward state in the interpretation of the Convention, which, as shown above, as early as its second stage, extended the concept of “cultural site”, introducing new concepts such as “cultural landscape” or “historic city”. These two are still unknown in the Romanian legislation dedicated to the world heritage, although both categories are represented in Romania and inscribed on the World Heritage List or on the Tentative List.

The impact of the confusion between “historic monument” and the category “monument” is obvious from the fact that the Government Decision has been applied individually for each monument (=component part) of a serial site, and not for a serial site as a whole. Actually, it is obvious from the decisions of the District Councils that the component parts are considered historic monuments inscribed *independently* on the World Heritage List. For instance, the Decision of the Hunedoara District Council 83/2014 establishes Committees and coordinators for “each monument on the territory of Hunedoara District inscribed on the World Heritage List”, and there is no mentioning of the World Heritage Site (“Dacian Fortresses of the Orăștie Mountains”), but of its component parts lying on the territory of this District.

This was enabled by the general policy of the Government Ordinance, which assigns to the local public administration’s responsibilities over the sites and parts of sites located on the territory of a sole District, without taking into consideration the site in its entirety, when it extends over several Districts.

A World Heritage Site can be single or serial, and the latter has two or several parts and it can be national, transnational or transboundary. At present, 5 out of

the 8 World Heritage Sites in Romania are serial sites, with several components lying over different Districts: 7 villages with fortified churches in 5 Districts, 6 Dacian fortresses in 2 Districts, 8 churches from Moldova in a single County, 8 wooden churches in one District and a transboundary natural site, the Ancient and Primeval Beech Forests, which extends over 12 countries, and Romania has 8 components in 6 Districts. If we also consider the serial sites from the Tentative List, which are protected by the same legal framework, the number of components and Districts is multiplied.

The Operational Guidelines show that the serial site is a whole site, with two or more components related by clearly defined links, each of them contributing to the Outstanding Universal Value of the property as a whole. As a result, the Guidelines have it that in order to avoid excessive fragmentation of the components, the process of nomination of the property, including the selection of the component parts, should take fully into account the overall manageability and coherence of the property (UNESCO 2017: §137). The Guidelines insist that a management system or mechanisms for ensuring the coordinated management of the separate components are essential (UNESCO 2017: §114). The UNESCO Report on serial nominations and properties from 2010 stresses that serial sites should be treated in the same way as single sites (UNESCO 2010a). These aspects are also stressed in the UNESCO handbooks for the management World Heritage Sites: “There should also be a management system at the level of the whole property that should ensure communication and coordination between all component parts. (...). The management system for a serial property should regularly review and reinforce where feasible the coordinating mechanisms to increase the cohesion and effectiveness of its management as a World Heritage property, and respond to changes that affect its component parts” (UNESCO 2013a: 62). Coordination is so much more necessary in the case of properties that extend over several administrative areas: “A steering group is essential for properties that extend beyond one administrative area (nearly always the case for cultural landscapes and for serial properties) or countries (transboundary properties). It should be assembled at the earliest possible stage and a calendar was drawn up for its regular meetings and consultations” (UNESCO 2013a: 130). As to legislation, UNESCO recommends in the case of serial properties, specific mechanisms (possibly new legislation) in the case serial properties that may need to be developed. (UNESCO 2013a: 69; see also Engels, Ohnesorge and Burmester 2009: 10).

Unfortunately, such requirements are not to be found in Romanian legislation. Implementation of the Convention would have involved establishing, through the national law, systems of trans-County management for each serial site that has components in several counties (and, of course, systems



for the serial sites in a single District). Such a system would have assured the protection of the outstanding universal value of the respective site, as well as the coherence and coordination of components, irrespective of their form of management in each District. In exchange, law completely ignores the serial sites as wholes, ignoring altogether the coordination of their components and holds the local authorities responsible for the components of various sites on the territory of a single District.

Therefore, this law has two major drawbacks: 1. the confusion between the historic monument and the monument as a category of the historical monument, and 2. the criterion of the District administration. As a result, when the Protection Program was launched in Romania, it was not applied to each World Heritage Site of Romania, but for every single site and for each separate component part of each serial site.

We ended up in two unnatural situations. On the one hand, a District that hosted 5 out of 6 components of a serial site had appointed the same coordinator for all 5 and set up 5 UNESCO Committees with the same composition (the only difference was the representative of the local council if the components were in different communes), which did not communicate in any way with the Committee for the sixth component, located in another District and neither with the coordinator of that component. On the other hand, a District that had components from two serial sites of different type and epoch (an antique archaeological site and a village with a fortified medieval church), appointed the same coordinator for both.

The system existed mainly formally and for a short time. The monument coordinators worked as site managers in relation with the World Heritage Centre during the second Periodic Reporting, but the existence of several coordinators with equal responsibilities for the same serial site led to confusions and inaccurate reporting, although the reporting methodology requires just one site manager to draw up the report for a serial site (UNESCO 2016: 22).

This clearly proves that there is no similarity between the management system recommended by UNESCO and the one specified in the Romanian law.

In 2017, the National Institute of Heritage sent a proposal to the Ministry of Culture in order for the latter to initiate a new Government Decision on the Program of Protection and Management of UNESCO sites for the latter. Although the new program contains many improvements, it is still based on the criterion of District administration, imposed by the Government Ordinance. The project has not yet been debated by the legislative bodies yet, but, in case it is approved as is, it is bound to be another unsuccessful one, as the problems from the previous program have not been overcome.

It is quite obvious why this criterion of task distribution to the District councils has been adopted: because it involved much lower costs than setting up new structures. It is true that local administrations should be the ones to manage the sites and UNESCO site components on their territory, but it is equally necessary to coordinate and control these activities.

Another reason why the program failed was the lack of communication between those who make laws and those who apply them. Such a law should be made after consulting its beneficiaries, as they are the ones who know best what problems might arise in its application. In this situation, too, UNESCO recommends: “Policy-makers in central government must be fully aware of routine management issues. If not, weak links may exist between ministry-level law-making and property-level operations” (UNESCO 2013a: 69).

This deadlock can be broken only if Government Ordinance 47/2000 is substantially modified or if a new law is passed, in order to wipe out the confusions and establish managing structures for the serial sites, thereby turning into account the new strategic objectives of the World Heritage Convention. It is only after, that the elaboration of a new Program of protection and management can start.

In conclusion, the legal framework for the implementation of the Convention in Romania is very weak and needs urgent amendments. Before such amendments have been made, the entire process of implementation of the Convention will stay blocked and the World Heritage Sites in Romania will continue to be unprotected.

Case study: The Dacian Fortresses of the Orăștie Mountains

The World Heritage Site facing the worst issues is “Dacian Fortresses of the Orăștie Mountains”, which has never benefited from any management system since its listing in the World Heritage List, while five out of its six component parts are abandoned. It is the most complex UNESCO site from Romania, the one out of all the Romanian World Heritage Sites that met the most criteria for listing.

The site history³

The Dacian fortresses of the Orăștie Mountains form a serial property consisting of six component parts located in South-West Transylvania, in the Districts of Hunedoara (Sarmizegetusa Regia – Grădiștea de Munte, Costești-Cetățuie, Blidaru, Piatra Roșie, Bănița) and Alba (Căpâlna) (Figure 1). The most important of them is Sarmizegetusa Regia, the former capital city of the Dacian Kingdom.

³ Cf. Peșan 2018a: 116–119.



According to the official description, these fortresses were built in the 1st centuries B.C. and A.D. under Dacian rule and show an unusual fusion of military and religious architectural techniques and concepts from the classical world and the late European Iron Age. The six defensive works, the nucleus of the Dacian Kingdom, were conquered by the Romans at the beginning of the 2nd century AD; their extensive and well-preserved remains stand in spectacular natural surroundings and give a dramatic picture of a vigorous and innovative civilization (UNESCO 2019b).

The property has been inscribed under criteria (ii), (iii) and (iv):

Criterion (ii): The Dacian fortresses represent the fusion of techniques and concepts of military architecture from inside and outside the classical world to create a unique style.

Criterion (iii): The Geto-Dacian kingdoms of the late 1st millennium BC attained an exceptionally high cultural and socio-economic level, and this is symbolized by this group of fortresses.

Criterion (iv): The hill-fort and its evolved successor, the oppidum, were characteristic of the Late Iron Age in Europe, and the Dacian fortresses are outstanding examples of this type of defended site.

All six fortresses are located on hard to reach mountain tops (Figure 2). After the Dacian kingdom was conquered by the Romans, the area was abandoned. Along the following centuries, the fortresses and the settlements were covered by thick forests and the access to them grew more and more difficult (Peșan 2018b: 424 sqq). At the same time, their isolation up in the mountains, in the middle of

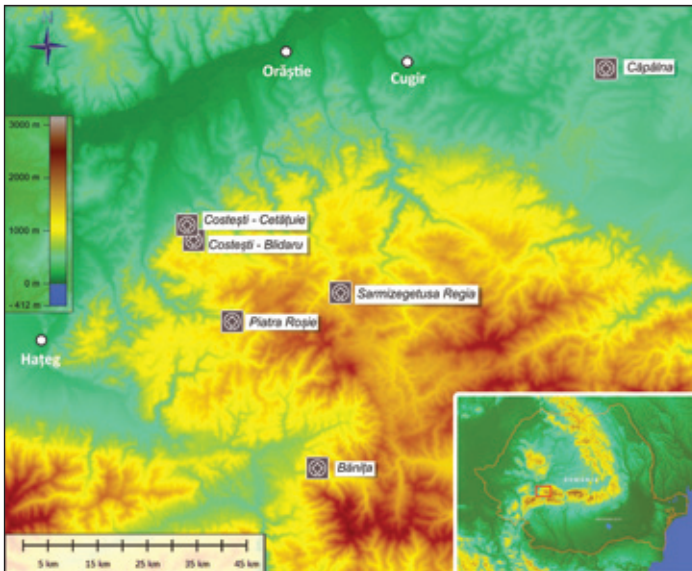


Figure 1. Location of the Dacian Fortresses of the Orăștie Mountains

century-old forests, made for their preservation over the centuries.

The ruins of these fortresses came to the attention of the authorities at the beginning of the 19th century, after the local villagers discovered a series of gold treasures in the area of the royal fortress. Until the break of World



Figure 2. Bolii Hill, on top of which lies Bănița fortress (2017); Piatra Roşie Hill (photo: Dan Ştefan, 2015)

War I, several digging and investigation campaigns were organized, some by the state, others at the initiative of some scholars, but all of them had to face huge difficulties because of the isolated, hard to reach the location of the sites.

Systematic archaeological investigations started in the inter-war period and they grew after 1950, but the promotion of the fortresses was modest in the decades to come. Nevertheless, a series of dissemination works appeared in this period and they made known to the public the archaeological discoveries, raising the interest in these fortresses.

There were several attempts and endeavours to valorise the fortresses and to develop tourism in the area, as early as the '1950s. But the amplest action was around 1980 when, on the background of communist ideology, the celebration of “2050 years from the foundation of the first centralized and independent Dacian state, under king Burebista” was organized. On this occasion, three out of the six fortresses (Sarmizegetusa Regia, Costeşti–Cetăţuie and Costeşti–Blidaru) benefitted from conservation and restoration works, preceded by the improvement of the road infrastructure. The interventions upon the monuments have not always been appropriate, but the fame of the fortresses increased after this date, as well as the number of tourists. It was then that car access became possible to the first two of the fortresses mentioned, but only in off-road vehicles and in certain periods of the year.

From the management point of view, between 1955 and 1989 the Dacian fortresses made up a unique archaeological reserve. The communist regime had completely wiped out archaeological poaching. After 1990, once the old Monument Law was abrogated, the reserve was dissolved, and a decade of legal vacuum followed, a period in which poaching took the proportions of huge plunder. The reserve was not re-established through the new monument Law of 2001, and the Dacian fortresses, although theoretically protected by



several new normative acts, continued to be abandoned by the central and local authorities.

The fortresses area was left with no surveillance and the treasure hunters stole hundreds of kilos of gold and silver pieces from the sites and took them abroad (Musteață 2014: 72–74). Only 10% of these were recovered. Watching over this “El Dorado” has always been a hard task, the reason being, again, their location up in the mountains, but neither was shown any will in enforcing the law, which, as early as 2001, stipulated that UNESCO sites are special objectives and their protection is in charge of the Ministry of Internal Affairs. As shown before, this has never happened.

The development of tourism was slow. Yet, it is true that after the fall of communism, the number of tourists started to gradually increase, particularly as several spiritual schools and trends that entered and flourished in Romania, were bringing their followers to ancient sacred places in order to practice rituals of connection to the energies of these areas. Unfortunately, it is not far-fetched to say that the Dacian fortresses have been “promoted” and became famous in the ’1990s due to the poachers and yogis first and foremost.

The fact that the Dacian fortresses were inscribed on the UNESCO World Heritage List in 1999 led to an increasing number of Romanian and foreign tourists who visited them in the following years.

Today, 5 out of the 6 fortresses are in the same situation as in 1990: there is no managing authority and they are not surveyed. The state of conservation is very poor. They are being damaged by a series of both natural and human factors. Most of them are still hard to reach and the number of tourists visiting them does not exceed a few hundreds a year. There is no public transportation to any of these fortresses. There is no a site museum or a visiting centre.

In the last six years, Sarmizegetusa Regia benefitted from a local administration and the access road has been asphalted, which has doubled the number of visitors (summing up to about 60.000 in 2017). The problem of black archaeology has not been solved, as the area of Sarmizegetusa under surveillance is restricted to the small tourist zone, while the area where the treasures were stolen from continues to be unattended. It goes the same with the other 5 fortresses.

Finally, it must be said that the stage of research on this site is unsatisfactory (Table 3). Even in the case of the most important monument, Sarmizegetusa Regia, where research started two centuries ago and has been carried out every year since 1950, there are few scientific publications, there is no monography of the site, and the dissemination publications are altogether absent.

*The management issue***The management of the World Heritage Sites**

The actual protection of a World Heritage Site is done through the management of that particular site. It is only by appropriate management that the Outstanding Universal Value of the site can be granted and passed over to the next generations.

Professor Henry Cleere points out that the most important step ahead taken by the Convention in the last decades is represented by “the establishment of standards and criteria for the management, presentation and promotion of World Heritage Sites” (Cleere 2006: xxii). The Advisory Bodies are extremely rigorous and strict from this point of view, and quite a large number of sites that applied for being included in the World Heritage List were deferred because they lacked a sustainable management plan implemented.

Table 3. The situation of the six components of the UNESCO site “The Dacian Fortresses of the Orăştie Mountains”

No	Name of the component	Research	Conservation/ restoration works	Management	Tourist info	State of conser- vation
1.	Bănița	1961–1962	never	never	no panels	very poor
2.	Piatra Roșie	1949, 2004	never	never	one old panel	very poor
3.	Căpâlna	1965–1967, 1982–1983	never	never	one old panel	very poor
4.	Blidaru	Many campaigns	1983–1984	never	one old panel	poor
5.	Cetățuie	Many campaigns	1980–1981	never	one old panel	poor
6.	Sarmizegetusa Regia	Every year since 1950	1979–1980, 2004	2012 – present	some new panels, audio-guides	poor

The main aim of the management of a World Heritage Site consists of protecting Outstanding Universal Value. The Operational Guidelines state that “To be deemed of Outstanding Universal Value, a property must also meet the conditions of integrity and/or authenticity and must have an adequate protection and management system to ensure its safeguarding” (UNESCO 2013a: 35; UNESCO 2017: §77–79). As a result, the absence of an appropriate management system threatens the Outstanding Universal Value and the property no longer meets the criteria for which it was included on the list.



The Operational Guidelines imposed, as early as 1983, the requirement for an adequate and complete management plan, to be implemented for the natural sites. The absence of such a plan was considered a threat for the site, which would lead to its inscription on the List of World Heritage in Danger (Cameron and Rössler 2018: 4). In 1988, this obligation was introduced for the cultural sites and the experts worked for several years to write the first guide meant to help the site managers. It was issued in 1993 and signed by Bernard Feilden and Jukka Jokilehto, and the second edition was published five years later (Feilden and Jokilehto 1998). Feilden's main idea was to create a management committee for each World Heritage Site, made of an interdisciplinary team of experts, including archaeologists, historians, architects, landscape architects and engineers. Its declared aim was to separate the site management from the political manipulations (Feilden and Jokilehto 1998: 49).

The successive editions of the Operational Guidelines brought important developments and improvements to the concept of management, ending up in 2005 to encourage the direct participation in the management process of a wide variety of communities, stakeholders, NGOs and other interested parties and partners. In other words, at present, one cannot speak of an efficient management system if the above-mentioned categories are excluded. A particularly important role in the protection, management and conservation of sites is played by the local communities, and this fundamental change of perspective is based on the idea that the Outstanding Universal Value of World Heritage Sites resides on local values, experiences and efforts of conservation (Rössler 2012: 30).

The Operational Guidelines establish the main coordinates of the management system (UNESCO 2017: §108–118). According to it, each nominated property should have an appropriate management plan or other documented management system which must specify how the Outstanding Universal Value of a property should be preserved, preferably through participatory means (para 108). The purpose of a management system is to ensure the effective protection of the nominated property for present and future generations (para 109). The management systems may vary according to different cultural perspectives, the resources available and other factors (para 110). The contents of the management plan (or the key element of the management system) of a World Heritage Site, could be: (a) a thorough shared understanding of the property by all stakeholders; (b) a cycle of planning, implementation, monitoring, evaluation and feedback; (c) the involvement of partners and stakeholders; (d) the allocation of necessary resources; (e) capacity building; and (f) an accountable, transparent description of how the management system functions (para 111).

The management of the World Heritage Sites represented a problem for decades on end, particularly for states in regions of Africa, the Arab States, Asia and the Pacific, Latin America and the Caribbean. In Europe and North America, the percentage of properties with such problems has always been lower. At the end of the first cycle of Periodic Reporting, in 2006, the results showed that, for the four regions mentioned above, the group of factors “Management and legal issues” came first within the factors that had a *negative* impact upon the properties inscribed on the World Heritage List, and until 2009 these percentages had kept growing (UNESCO 2010b: 19). The strategies used by UNESCO in the following years brought rapid positive changes. Numerous guides, textbooks and studies on the management of the World Heritage Sites were published and, in order to train the site managers, training sessions, seminars and workshops at the international, national and local level were organized and networks of site managers were set up to enable the exchange of expertise, the promotion of good practices and the success stories. In this process, the central role was played (and it is still played) by the World Heritage Capacity Building Strategy (one of the five Cs), which aims, among others, to strengthen the knowledge, abilities, skills and behaviour of people with direct responsibilities for heritage conservation and management (UNESCO 2013a: 50).

The results were visible after the second cycle of Periodic Reporting, closed in 2015. In Europe and North America, the “Management and institutional factors” group is now on the first place among the factors that influence *positively* the properties, alongside the group “Social/cultural uses of heritage”. Very few European states reported the management as a negative factor. The situation has also considerably improved in the other regions of the world. In Africa, this group of factors occupies the last place among the negative factors and it is growing among the positive ones (UNESCO 2011: 30, 32). The same situation is to be found in the region Asia and the Pacific, but only for the cultural sites, and also in Latin America and the Caribbean (UNESCO 2013b: 29).

The management of the Dacian fortresses

The Dacian Fortresses of the Orăştie Mountains entered the World Heritage List in a period when there were already clear requirements related to the management of the cultural sites, and the file was not accepted unless it included a system of management. As results from the nomination file drawn up by the Ministry of Culture and from the recommendation of the ICOMOS, on the date of nomination, there were management plans in force for each of the six component parts of the site (ROGOV 2019; ICOMOS 2019). The plans must have been formal or they did not exist at all.



The establishment of a management mechanism was stalled mainly by government Ordinance 47/2000, which did not include any form of management for the serial sites but only for their components. The need for common management was obvious though, and as a result, there were several special legislative initiatives meant to set up a coordination structure for this site. Unfortunately, most of the times they were hindered for political reasons, because the politicians from Hunedoara District are keen on keeping the control over the components of the site from their District, avoiding subordination to any mechanism of coordination and control.

Another major cause is the lack of interest shown by the Ministry of Culture for this site. The Ministry often came up with the justification that they cannot do anything because of legal issues, related to the system of property over the monuments and the lands on which the monuments lie. However, these issues are not real; they are simply the result of a wrong view of the Ministry on the management of this site.

On order that the Ministry of Culture can exercise its right of management over these monuments, the real estate has to be included in the centralized inventory of the goods that belong to the state's public property. Yet, until nowadays, they have not been inventoried, as the Ministry of Culture considers that no documents are attesting the quality of public property of these monuments (ROGOV 2014a).

According to the data published by the National Institute of Heritage, within the Report of Monitoring the Dacian fortresses 2012, the situation of the property regime of the six fortresses is presented as follows: two of the fortresses are owned by the state, through a forestry directorate, one is on private properties, one is the property of a village, one is on a piece of land owned by the Village Hall, and one has no owner (INP 2019).

In reality, *all the archaeological sites* are the public property of the state, according to the Law 213/1998, Annex 1, I, no. 27, whereas the lands they are on, may have (and often do have) another owner. Even if, scientifically, one cannot distinguish between the archaeological site and the land it lies on, the two are distinct legal entities. It is true that the effective management cannot be done other than by collaborating with all the landowners and stakeholders in the area, but in order to have effective management, it is necessary that the Ministry of Culture acknowledges the 6 fortresses as state property.

The existence of private ownership over the lands on which the sites are located and in the buffer areas should not be an impediment in their management. UNESCO insists on the involvement of the landowners as partners in the protection and conservation of the sites (UNESCO 2017: §40).

A participatory approach to management is being promoted in the heritage sector, given the perception of heritage as the shared property of communities and a factor in ensuring the sustainability of those communities (UNESCO 2013a: 17). In spite of all these, the Romanian state goes on considering the existence of private landowners as an impediment: recently, the President of the Parliamentary Commission for the relation with UNESCO declared that he wishes to expropriate them so that the Romanian state should remain the sole owner, as only in this way the management of this site can be put into practice (ROPARL 2019a). This statement is worrying and it shows a high-level institutional ignorance of the basic concepts of the Convention as well as its strategy of application, promoted by UNESCO in the last decades. Moreover, nobody has tried so far to have a dialogue with these landowners who, probably, would not object to a collaboration. The situation is also complex because of the documentation required for the land use planning, according to the Decision 738/2008.

The program of protection and management stipulated in Government Decision 1268/2010 was applied in Hunedoara District, as late as three years after the law was passed. In Alba District, where there is a component of this site, it was applied a short while after it was passed. The only steps taken in both Districts consisted in establishing the UNESCO Committees and appointing the monument coordinators. However, everything remained at the formal level. No management plans were drawn up and the site had no benefit from this Decision. The coordinators took part in the second cycle of reporting to the World Heritage Centre, as shown below.

In spite of the legal disputes mentioned above, in 2012, Hunedoara District Council succeeded in obtaining from the Ministry of Culture the transfer of the management rights over Sarmizegetusa Regia. At the same time, the District administration had to face a very difficult task of establishing and organizing a management department for this monument, while lacking any kind of experience or models in this sense. Seven years later, this management is still at the experimental stage and has to face complex situations. There is no management plan and the staff of the management department is not trained for that specific work. They don't have an expert in heritage management or tourism and the only archaeologist position that existed has been recently closed.

Although some achievements are visible (the elaboration of visiting regulations; the site is guarded; vegetation is periodically cleaned), the site has been seriously affected on several occasions by the actions of this administration (Peţan 2018a: 129–131). They have applied inadequate



methods in the cleaning and upkeeping the site, like burning vegetation on large areas, resulting in the destruction of original blocks of the fortification and deep soil impairing inside the fortification and the sacred zone (Figure 3). Using inappropriate techniques in the woodcutting works carried out by the site administration, like driving heavy machinery inside the site and making the trees fall down over the walls, has seriously affected the monument (Figure 4). Although the Ministry of Culture has allocated generous funds on several occasions for topographical measurements, today there is still no plan for the entire site to show the visitor all its components and routes and to help it orientate. There are some old, partial and inaccurate plans, as for example the fortification plan, that is very approximate, and on which the north is indicated with an error of over 40 degrees.

The management of this monument is an elementary and a traditional one. It is elementary in the sense that it only provides the basic services, such as guarding, cleaning and upkeeping the site. Without a management plan, there is neither vision nor any medium or long term strategy for the protection and valorization of the site. There is no form of management of the tourism that is on the rise and starts to have a negative impact on the monument. It is traditional because this structure includes only the employees of the District Council, even the decisions are made after having consulted a scientific council. The civil society, the local community, the landowners, the local businesses as well as other stakeholders are completely ignored by this administration, which, at the same time, displays lack of transparency and openness to the public.

Politicians consider that this form of management is a “success model”, which should also be applied to the other components in the District. Actually, the District Council asked several times the Ministry of Culture to be granted the right of managing the other four components, but they were refused every time. The solution is, as it has been shown above, a unique management system for the entire site, meant to coordinate the management of the six components and which should be made of professionals or, at least, to keep out the political factor.

Focusing the efforts on a single component and the lack of a holistic approach of the entire ensemble and of its relationships with the zone, both historically and archaeologically, has been criticized by some researchers (Opriş 2018: 36). In fact, before reaching such an approach, it is necessary to, at least, realize the existence of a single World Heritage Site. In the field, none of the six components carries the name of the UNESCO site, and nor are the other components mentioned. The panels only signal the respective component, with no reference to the ensemble it belongs to and without offering any plan containing all of them. Therefore, the casual visitor cannot

understand the relationships between them, and neither the importance of the ensemble. Under these circumstances, the communication of Outstanding Universal Value of the site towards the public is highly deficient, as the value of the entire site is not revealed at all and neither is the way in which each component contributes to it.

The reporting to the World Heritage Centre

The serious situation of this site, which has lasted for two decades, should be made known to the World Heritage Centre, through the reports sent by the Romanian State, but this does not happen.

The Party States are supposed to send to the World Heritage Centre two types of reports: 1. reports on the state of conservation of the monuments, every time there is an intervention on the site or on its buffer zone, which could have an impact upon the site integrity, originality or value; 2. periodical reporting organized in reporting cycles, once every six years for all the sites inscribed on the World Heritage List.

Despite numerous problematic interventions in the World Heritage Site and its buffer area, the World Heritage Centre has never been informed about the state of conservation of the property. We could mention at least the building of a parking lot in front of the main entrance of Sarmizegetusa Regia in 2011, using bulldozers, without any authorization or archaeological surveillance, which has led to the destruction of a sector of the site (Figure 5).

The periodical reporting represents a fundamental instrument thereby the provisions of the Convention are being implemented. The States Parties are compelled to take an active part in these reporting cycles, obligation resulting from Article 29 of the Convention, corroborated with Chapter V of the Operational Guidelines for the implementation of the Convention.

The aim of this reporting is to offer an assessment of the implementation stage of the Convention by the States Parties, to facilitate the updating of information on the sites inscribed and to record the eventual modifications of the stage of their conservation. This process is supposed to lead to outlining strategies for the improvement of the States Parties' capacities and to the development of more sustainable mechanisms for the conservation of the properties belonging to the respective states. At the same time, on the base of these reports, the World Heritage Centre aims at a global evaluation of its portfolio. The periodical reporting allows the World Heritage Centre to assess the actual condition of these sites and, when necessary, to decide on taking specific steps to solve the recurrent problems and challenges. The site managers are expected to consider this periodical reporting as a useful exercise in their



activity. Finally, the periodical reporting represents a regional cooperation mechanism and an exchange of information and experience between the States Parties, related to the implementation of the Convention.

Up to the present day, two similar cycles have been organized. On the first cycle, which ended in 2005, Romania sent no data on the Dacian fortresses. The second cycle ended in 2015, and Romania sent the report in 2014.

In the case of the Dacian fortresses of the Orăștie Mountains, the report was drawn up by the two site managers from Alba and Hunedoara Districts and it was approved by the Focal Point within the National Institute of Heritage. The report mentions that in the local community and the foreign experts took part in its elaboration (UNESCO 2019c), besides the central authority and the site manager.

The report contains a lot of false data (Peșan 2016: 134–148). It shows the absence of negative factors affecting the monuments and the presence of a large number of positive factors, which are inexistent in reality. According to the report, ten factors affect the property in a positive way and the only one affects it negatively (but only potentially) and there are no current negative factors. In fact, many of the positive factors reported are non-existent (housing, major visitor accommodations, interpretative and visitation facilities, land conversion, forestry, etc.), and the negative ones have been almost entirely omitted. They should have reported the followings among those: the effects arising from the use of transportation infrastructure, grazing of domesticated animals, forestry/wood production, relative humidity, temperature, water (rain/ water table), micro-organisms, illegal activities, deliberate destruction of heritage, invasive terrestrial species, management activities, etc.

It is claimed that there have been seven funding sources for the conservation of these monuments in the previous five years, including international and national donations, although there has been no intervention at all for conservation in the last 20 years, except for some works in 2004 at Sarmizegetusa Regia. It is also claimed that there are site museums, adequate access routes to all the fortresses, visitor centres, information materials, and transportation facilities: in fact, all of these are completely absent. There is no public transportation to any of the six fortresses, the access ways are difficult (and sometimes even dangerous, as for Bănița fortress, which does not benefit from a path cut out on the slope, and consequently the tourist has to climb on the rocks), and the museums and visitor centre do not exist.

The report's conclusion is that the state of conservation of the property is good, despite the obviousness of the opposite and of the progressive degradation (Figures 6–11).

As a result, the World Heritage Centre has not been correctly informed with respect to this site. The issues only surfaced in January 2019, when Dacica Foundation informed the World Heritage Centre on the state of the six fortresses. The Centre immediately notified the Romanian state, asking for a detailed report on their state of conservation. In this way, a control process was started, which will compel the Romanian state to take measures.

Non-compliance with the World Heritage Convention

The Convention on the protection of the Cultural World Heritage stipulates:

Art. 4. Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to the State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.

Art. 5. To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavour, in so far as possible, and as appropriate for each country:

a. to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes;

b. to set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with appropriate staff and possessing the means to discharge their functions;

c. to develop scientific and technical studies and research and to work out such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;

d. to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and

e. to foster the establishment or development of national or regional centres for training in the protection, conservation and presentation of the cultural and natural heritage and to encourage scientific research in this field.



Figure 3. Vegetation burning at Sarmizegetusa Regia, affecting the monument (May 2013).
Left: Antique architectonic element burned by the site administration. Right: fireplace
by the western side of the fortification



Figure 4. Sarmizegetusa Regia, forestry works done by the site administration.
Top: tree felled over the fortification wall. Bottom: the entrance to the fortress impaired
by the use of heavy machinery (drone photos by Agent Green, February 2018)



Figure 5. Sarmizegetusa Regia, unauthorized bulldozer intervention, very close to the antique wall and the main gate of the fortress. Photo: citynews.ro, 2011



Figure 6. Costeşti–Cetăţuie Fortress. Top: the panel at the entrance to the fortress. Bottom: cows grazing within the fortress and deteriorated protection systems for the Dacian buildings (photo: Daniel Guţă, 2016)



Figure 7. Bănița Fortress. Left: Entrance to the fortress. Right: the access path to the fortress



Figure 8. Piața Roșie Fortress. Left: the only explanatory panel. Right: the main entrance to the fortress



Figure 9. Sarmizegetusa Regia. Left: the pentagonal tower (2018). Right: partially ruined wall, at the west gate (2016)



Figure 10. The impact of rains and landslides. Left: Blidaru Fortress (2017). Right: Sarmizegetusa Regia (2018)

All the elements presented in the previous chapters lead to the conclusion that the Romanian state barely managed to comply with a few of these provisions, particularly in the case of the natural sites. In the case of the Dacian fortresses of the Orăştie Mountains, the



Figure 11. Căpâlna Fortress

Convention was ignored altogether over the two decades since the inscription of this cultural site on the World Heritage List.

What is even more surprising is the fact that, even at present, there is no analysis of the implementation or compliance with this Convention in Romania. The issue of implementation has been slightly touched in some recent studies (Boda 2018: 17–31; Musteață 2018), but the problem of non-compliance has not been raised yet, except for the sporadic signalling of some irregularities in the protection and management of the sites inscribed on the World Heritage List, with no reference to the obligations assumed by the Romanian state towards UNESCO.

Even at the international level, such analyses are scarce (Goodwin 2002: 157–198). Edward J. Goodwin (2002: 180) is surprised by the absence of academic studies on the role of the World Heritage Committee in granting the observance of the Convention. Evan Hanmann explains this situation by the fact that UNESCO and its institutions have been preoccupied with the nomination of new sites as opposed to the question of compliance at existing ones (Hamman 2019: 11–12).

Compliance with an international convention has several dimensions: there is procedural compliance, which refers to the obligation of submitting reports, and substantive compliance, which includes all the obligations (other than the procedural ones) that relate to the practical and legislative implementation of the convention (Hamman 2019: 4–5). In case of Romania, and particularly when it comes to the site of the Dacian fortresses, one can talk of procedural non-compliance, resulted from the fact that no report on the state of conservation has ever been sent, no reports have been made during the first cycle of Periodic Reporting, while during the second cycle, many fake data have been reported. A substantive non-compliance must also be noticed; it refers to the actual non-application of the provisions of the Convention for the effective protection of the heritage.



The causes of Romania's non-compliance with the Convention

It is hard to identify the reasons why we are in this situation. Nevertheless, we shall try to do this in the lines hereinafter, in hopes that thus, fast solutions are going to be identified in order to re-balance the situation.

The cost-benefit calculation

What are the benefits of including a site in the World Heritage List? According to Lynn Meskell, "For the signatories, having sites inscribed on the Convention's list garner international and national prestige, enables access to the World Heritage Fund for monetary assistance, and brings the potential benefits of heightened public awareness, tourism, and economic development" (Meskel 2013: 483). In the case of the Dacian fortresses, these benefits have not been used, except maybe for the incipient development of tourism in the area of some of the site components. Moreover, the site has been abandoned, prey to destruction, while the reports have been filled with fake data.

Naturally, one may ask how come the state did not fear its reputation would suffer if the Convention is infringed. The reputation theory states that the state will comply if the reputational gain from compliance exceeds the increase in non-reputational payoffs available if it violates its commitment (Guzman 2008: 75). Probably, according to the Romanian state institutions, the reputational gain would have been too low, as compared to the effort the state should have deployed in order to comply with the Convention. The Dacian fortresses are a complex site, with numerous problems, which need a large volume of resources in order to meet the requirements of UNESCO. Therefore, its abandonment was preferred at the risk of a reputational loss. Andrew T. Guzman shows that "the value of reputation will not be the same for every state or in every issue area. Some states (or states in some situations) are in a better position to extract value from a good reputation. These states might, for example, have many future opportunities for cooperation that require them to make credible promises, or they may have an ongoing relationship with a partner that makes a good reputation especially valuable. Reputation is more valuable for such states than it is for those with fewer or less valuable potential international engagements" (Guzman 2008: 75–76). Other theorists claim that the states with a liberal democracy are more bent towards complying with international conventions. Obviously, a question can be raised (and this is also valid for Romania) – to what extent does the compliance with international law itself help constitute the identity of a state as a law-abiding state, and hence, as a 'liberal' state? (Burgstaller 2005: 179).

In short, non-compliance with the Convention could be based on a calculation (not necessarily carefully and deliberately pondered) related to

the expenses that the Romanian state should have made, as opposed to the benefits that they would have brought as a result of the proper protection and management of the site. The effort of protecting the site would have been too big and, consequently, the site has been abandoned: the state considered that a stain on its international reputation “costs” less.

The low level of awareness and the lack of heritage education

Yet, it would be far-fetched to consider the non-compliance with the Convention deliberate to a high extent. It is simply a matter of poor education of the entire society, which is hardly aware of the value of this heritage and, politically and institutionally, the incapacity to realize how serious the infringement of the Convention is. It is more a matter of lack of information and carelessness than a deliberate ill-will.

It is true that the authorities have been informed about the serious situation of this site. For example, a substantiation study, elaborated in 2014 in view of implementing Romania’s Strategy of Territorial Development, ordered by the Ministry of Regional Development and Public Administration, points out in the report on the protection of historic monuments and built heritage that the system of monitoring, management and protection of the monuments belonging to the World Heritage List from Romania is not functional and that the protection of the Dacian fortresses raises the most difficult problems because of the large area, the lack of unitary management and the conflicts between the protection of the archaeological heritage and the natural one (ROGOV 2014b). There have been debates at the Ministry of Culture, meant to find solutions for this World Heritage Site. As shown before, there were even legislative initiatives trying to find a way out of this standstill, but they failed. Anyway, these were weak and sporadic attempts. What was really missing and is still missing is a deep knowledge of the Convention and of the documentation derived from it, at the level of the deciding bodies, as well as a real interest for the problem of heritage and particularly the UNESCO sites.

In the situation in which the state institutions failed to perform their legal obligations, the large public, mass media, civil society and experts should have put pressure on them. But this did not happen. In spite of the interest and attachment manifested by the general public for the Dacian history and civilization and implicitly for its material heritage, they have not been informed on the status of this site. As shown before, there is no panel with the real name of the site, the position of the six components, their role in the ensemble and its value, let aside historic information, interpretations or virtual reconstructions.



The data on the existing panels are old, often inaccurate and very scarce. Therefore, the large public has no real source of information that could raise their awareness about the value of the site.

Education for heritage is poor in Romania at all levels (Boda 2018: 29). School children and high school students benefit from sporadic activities related to heritage, only when they have the chance of being taught by passionate and responsible teachers or if they have in their hometown active museums, but there is no strategy to support the education of the young generation in the sense of valorising this heritage. In some universities, there are master programs dedicated to cultural heritage, but they are new programs, some at an experimental stage, which has not produced generations of experts, capable of bringing some changes.

The lack of this kind of education is reflected by the Eurostat statistics, showing that a dramatic percentage, – 80.6%, of Romanians aged between 25 and 64, have not visited any cultural site (historical monument, museum, art gallery or an archaeological site) within one year, which places Romania on the first place in Europe in 2011 (EUROSTAT 2019). The percentage may have decreased in the meantime (there are no more recent statistics), but the reality probably did not change too much.

There is also a great need of programs meant to promote within the general public of Romania's world heritage and to disseminate it by all means (publications, TV documentaries, movies, Internet). Obviously, all the above-mentioned suppose financial efforts, which the state has not been willing to assume until the present day.

A study signed by Elena Cozma shows the results of a Romanian mass-media monitoring project in the period of January 2017 – November 2018 in order to bring forth the way in which the topic of UNESCO sites is reflected in the press (Cozma 2018: 196–205). The topics under consideration were: promotion, funding / rehabilitation, political disputes / conflictual situations, theft / poaching, discovery / research, destruction, wreckage / negligence. The results of the survey show that the general interest of the press for this subject is low. The national press prefers conflictual subjects (thefts, poaching), while the local press is highly politicized and biased. The conclusions of the survey are clear and convincingly illustrate the level of public awareness, but also that of the political class, concerning the issues related to the world heritage: “there is a low interest not only in the mass media, social media, television or radio but also in the political discourse of the authorities in whose custody are these monuments are” (Cozma 2018: 205).

The weak influence of the NGOs

Theoretically, loss of reputation should be a determining factor for states to comply with international conventions. Yet, Abram and Antonia Handler Chayes show that the fear of this is not enough for a state to observe a convention and the „enforcement model” should be replaced by a „managerial model”. The latter involves a permanent interaction between parties, with the aim of rebalancing the advantages that were at the base of signing the convention. Among the instruments used by such active management, we can mention transparency, report checking and monitoring, while an important role is played by the independent surveys and the civil society (Chayes and Handler Chayes 1995: 109–111).

This model was criticized by Markus Burgstaller, as it depends on procedural fairness and relies on the work undertaken by NGOs (Burgstaller 2005: 149–150). The case of the Dacian fortresses confirms Brugstaller’s criticism: the Romanian state did not show procedural fairness, and the activity of NGOs is still weak in this country. Therefore, for UNESCO there was no way to find out what is going with this site. As previously mentioned, the truth came out only later and it is only from now on that one could consider the application of a managerial model, i.e. verified reports, international control and monitoring, permanent interaction and dialogue between the two parties until the balance is re-established.

The role of NGOs in complying with a convention by the states parties is stressed by several authors. NGOs have parallel and complementary functions and they often provide the basic evaluation and assessment of party performance that is the core of the compliance process. Where there is non-compliance, they are the key to public exposure, shaming, and popular response (Chayes and Handler Chayes 1995: 251–253). They play a central role as monitoring and law-enforcement agents (Cecchi 2015: 461).

In Romania, the NGOs that strive for natural sites have a long tradition and they have obtained good results. In the field of cultural heritage, they are scarce and their activity is less vigorous in important directions such as advocacy and watching. In the particular case of the Dacian fortresses, Dacica Foundation has been, for several years, drawing the attention upon the issues and irregularities the site is facing, but without any result. In exchange, it has become the target of press attacks and discrediting campaigns. This situation determined the organization to appeal to international support. Its joining the international NGO network World Heritage Watch made it possible to communicate with the World Heritage Centre and, also, to draw the support of the international civil society for the cause of the Dacian fortresses. As



shown before, in January 2019 the Foundation informed the World Heritage Centre about the real situation of this site, and this triggered the process of reactive monitoring by UNESCO.

It should also be mentioned that, along seven years of activity, the Administration of the site Sarmizegetusa Regia has never invited any stakeholder or NGO to participate in decision making related to the management of this site and neither has it established an advisory board, as it would have been natural. In this case, the attitude of the institutions towards the NGOs is hostile.

Where are the experts?

The generally passive attitude of the experts has also contributed to the actual situation of this site. The scientific community preferred to turn a blind eye to such a complex situation. There were also situations when certain experts were involved in actions that affected the site or contributed to the covering of some irregularities. The fire set at Sarmizegetusa Regia, which led to the destruction of some antique architectural elements and of the soil, was approved and surveyed by an archaeologist. The same archaeologist also surveyed the forestry works on the site, which resulted in serious damage. He is also responsible for the report abounding in fake data, sent to the World Heritage Centre, approved by a world heritage expert of the National Institute of Heritage. Although all these irregularities have been signalled by the civil society, nobody was sanctioned. On the contrary, some experts, such as the scientific coordinator of the archaeological site or the president of the National Commission of Archaeology tried to cover up these facts, claiming that the damage is insignificant and accusing the NGOs of exaggeration.

As to the situation of the other five components of the site, which are almost completely abandoned, the scientific community never took a firm stand. The existence of a research team called “The Archaeological Site *The Dacian Fortresses of the Orăştie Mountains*” did not improve the situation, as the members of this group focused on the archaeological research on one or two of the site components, paying almost no attention to the catastrophic situation they are in for their management. Had they (and the institutions they represent) taken a firm stand and made an active lobby before the Ministry of Culture, it could have broken this deadlock. It is still they who are responsible for the lack of site promotion materials, which made for the poor information of the general public about it. The Romanian Academy kept itself away from this issue.

It is only recently that some researchers started launching warnings (Opriş 2018: 32–40; Musteaţă 2018; Bârcă 2018; Ciută 2018), particularly due to

the impulse given by a research project dedicated to the UNESCO sites from Romania, coordinated by Sergiu Musteață.⁴ The project, still running, has the potential of triggering a real shock wave among researchers and the institutions in charge.

The lack of UNESCO compliance control

Finally, the lack of UNESCO real control of Convention compliance, based on the good faith of the States Parties and self-reporting, must also be mentioned among the causes. Jean Musitelli states that UNESCO has no power to police or to sanction and its authority is purely moral (Musitelli 2002: 325). According to him, a revision of the Convention would be of interest to make the obligations of the text more compelling (Musitelli 2002: 332).

There has been a lot of talk about the lack of power of the Convention in its relation with the states, which can be neither compelled nor really sanctioned. For this reason, Evan Hamann calls the Convention „a toothless tiger”, and Clémentine Bories “a colossus with feet of clay” (Bories 2010). The latter claims that the Convention is not really efficient and she also pleads for its revision: “It is only at the price of a revision that reinforces its judicially compelling character and makes clear the responsibilities of each and every actor involved in its implementation, that it can become fully effective and the protection of the world heritage will be really efficient” (Bories 2010: 165).

Although some commentators state that World Heritage Convention does not establish non-compliance procedures (NCPs) (Rose *et al.*, 2007: 37–38), others are of the opinion that reactive monitoring and a yearly examination of the conservation reports by the World Heritage Committee can constitute a highly proactive NCP (Goodwin 2002: 181–182; Hamman 2019: 12).

Finally, the inscription of the site on the List of World Heritage in Danger and its delisting from the World Heritage List can represent forms of coercion and sanction, although the latter is applied extremely rarely (only two cases since 1972 until the present day).

Effects and consequences of non-compliance

We have already mentioned the fact that Romania’s reputation will probably be affected by the non-compliance with this Convention. This might have an impact in the future upon the fate of other Romanian sites for which endeavours are being made in order to be inscribed on the World Heritage List. However,

⁴ *Preservation by development of sustainable strategies for a better protection of the UNESCO World Heritage Sites from Romania*, CNCS-UEFISCDI project PN-III-P4-ID-PCE-2016-0737 no. 52/2017. Website: archaeoheritage.ro (accessed on March 13, 2019).



before listing other sites, Romania has to prove that it cares for the sites already listed and that it is a trustworthy partner of the Convention.

A direct outcome of having offered fake data to the World Heritage Centre is the distortion of the regional results of the reporting cycle. Within the exercise of periodical reporting, the states are grouped in five regions (the Arab States, Africa, Asia and the Pacific, Latin America and the Caribbean, and Europe and North America), each of them having several sub-regions. In Europe, Romania belongs to the sub-region Central, Eastern and South-Eastern Europe (CESEE). The data reported by Romania have been used in the regional report and in the elaboration of the action plan for this region.

Although the regional report takes into consideration the States Parties, not the properties, a single fake answer has an impact upon the position of the respective state in the statistics. For instance, to the question “Is there a planned programme of research at the property which is directed towards management needs and / or improving understanding of OUV?”, for 6 out of the 7 World Heritage Sites from Romania the answer was “There is considerable research but it is not directed towards management needs and / or improving understanding of OUV” and only for the Dacian fortresses the answer was: “There is a comprehensive, integrated programme of research, which is relevant to management needs and / or improving understanding of OUV”. This answer, obviously fake, ranked Romania very high in this category: “Across Europe, only three countries (Germany, Malta, and Romania) said that they have a comprehensive research programme specifically addressing the World Heritage. Seventy per cent of the State Parties said that there was some research, and the remainder (11) said there was none specifically related to the World Heritage” (UNESCO 2016: 40).

Due to the fake data offered, Romania ranks very high at several categories in the regional report. For instance, it is on the first place in Europe in the World Heritage Sites promotion through various media channels (publications, films/TV, media campaigns, internet etc.), although, in reality, such promotion actions are almost inexistent and the level of awareness of the importance of the World Heritage in Romania is very low (UNESCO 2016: 45). Further examples can easily be given.

What is next?

It is hard to identify a similar or a preceding situation in order to envisage the outcome. At present, there are some sites that have management issues, but the situation of the Dacian fortresses of the Orăştie Mountains is probably unparalleled. In Europe, it is certain that there are no cases of such severity, and even in the rest of the world, it would be difficult to find a similar case. Simon

Makuzava claims there are a few sites in Africa and a few others in other parts of the world that have no management plans, but they are being monitored (Makuzava 2018: xxi). The Dacian fortresses not only lack a management system, management plans, a real monitoring, their situation is not accurately reported, – but they are flatly absolutely abandoned.

Clémentine Bories rightly notices that those who drafted the Convention did not consider at all the situation in which a party state may not want to comply with its international obligations (Bories 2010: 160). However, as shown before, the degree of deliberate infringement of the Convention is probably not so high in this case. It is more likely a case of incapacity, and in a situation like this, the state may benefit from technical and financial assistance if it is open for collaboration and shows good intentions.

In concrete terms, it is expected that after the report UNESCO asked for is received, they will send a mission to the site and, at the next Session of the World Heritage Committee, a decision will be made about this site. In our opinion, the site meets the criteria for being included in the List of World Heritage in Danger. The Operational Guidelines state these criteria and, in the case of a cultural site, “lack of conservation policy” is enough for the site to be included on this list (UNESCO 2017: §179). Anna Leask shows that the lack of efficient management can even lead to the removal of the site from the list: “Once designated, the State Party accepts responsibility for the effective management of the site and commits to adopting *Operational Guidelines for the Implementation of the World Heritage Convention* and the system of reactive and periodic reporting set in place by UNESCO. If it fails to do this effectively then the treat of removal from the World Heritage List is present, though it has not, to date, been exercised” (Leask 2006: 7). A potential listing of the Dacian fortresses as World Heritage in Danger should not be regarded as a sanction but as a help. The sites from this list are helped to draw up and implement an action plan meant to bring them to the level required by UNESCO. Only if the state makes no efforts to implement the action plan, can the site end up being delisted. The process takes several years, so the Romanian state will have enough time to take action.

As a matter of fact, there is already a visible process of “awakening”, activated in the last few years. The National Institute of Heritage, which includes the Focal Point regarding the World Heritage in Romania, has promised a new approach in the implementation of the World Heritage Convention (INP 2018). Their efforts are visible, but the results are yet to come, be it for legislative reasons, or for lack of financial or human resources. The Institute is also preparing a comprehensive program of conservation and valorising the site Sarmizegetusa



Regia, whose costs are estimated at 60 million euros, but before such a project is put into practice, a management plan and a medium and long term strategy have to be elaborated.

The action taken by Dacica Foundation and World Heritage Watch by the World Heritage Centre has set the Romanian authorities in motion. Only two weeks after this intervention, the President of the permanent common Commission for the relation with UNESCO of the Chamber of Representatives and the Senate admitted the existence of a claim made by UNESCO towards the Romanian state for the detailed reporting of the state of conservation of the site “The Dacian Fortresses of the Orăștie Mountains”. He also acknowledged that the fortresses have been abandoned for two decades and that the reports were fake, and announced that the Commission he is chairing has declared “The salvation of the Dacian fortresses of the Orăștie Mountains, a priority” (ROPARL 2019b). All of these are signs that the institutions of the state have understood the seriousness of the situation and will endeavour to take all the necessary steps towards correcting it.

Conclusions and perspectives

It can be said that almost for three decades after the Convention was signed, its implementation is still incomplete in Romania. There is need for an improvement of the legal framework and for its periodical adjustment to the new directions and strategies recommended by UNESCO, applicable not only to the sites inscribed on the World Heritage List and on the Tentative List, but also to the sites that do not enjoy this status.

As to the compliance with the Convention, it is effective only in the case of the natural sites, partial in some cultural sites, and almost absent in the case of the site The Dacian Fortresses of the Orăștie Mountains. The above analysis of the causes that lead to this non-compliance may contribute to the identification of solutions meant to rebalance the situation.

The main direction to be followed is the adoption of some appropriate heritage policies. They should be based on leadership (the identification of good practice models and their adjustment to the specificity of the Romanian sites), participatory approach (the involvement of the stakeholders in the protection and management of the UNESCO site, including the local community and the civil society), sustainability (granting a sustainable future for heritage assets), communication (transparency and permanent communication), promotion, awareness building and education for heritage (to ensure greater understanding of the value of heritage). We are convinced that all these will be achieved in the years to come.

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Convenția privind patrimoniul mondial și România. Studiu de caz: Cetățile dacice din Munții Orăștie

Rezumat

România a semnat Convenția privind patrimoniul mondial în 1990. Procesul său de implementare a fost desfășurat de-a lungul a două decenii, însă cadrul legal rezultat nu oferă în prezent protecția și gestionarea corespunzătoare a siturilor înscrise în Lista patrimoniului mondial. Mai mult, chiar dacă s-au luat măsuri pentru punerea în aplicare a Convenției, respectarea acesteia este departe de a fi o realitate. Acest studiu evidențiază faptul că, în cazul sitului de patrimoniu mondial serial „Cetățile dacice din Munții Orăștie”, există o dublă nerespectare a Convenției. În primul rând, există o nerespectare substanțială, care rezultă din nerespectarea aproape completă a site-ului: în ultimii 20 de ani, nu a existat un sistem de management și 5 din cele 6 părți componente ale acestuia au fost abandonate. În al doilea rând, există o nerespectare procedurală, rezultată din raportarea falsă către Centrul Patrimoniului Mondial, precum și din omiterea unor rapoarte. Situația reală a apărut recent, din cauza intervenției societății civile, iar Centrul Patrimoniului Mondial a declanșat procesul de monitorizare reactivă a

acestui sit. În același timp, cauzele posibile ale acestei neconformități au fost analizate în vederea identificării unor soluții urgente menite să restabilească echilibrul în raport cu Convenția. Principalele direcții de acțiune propuse sunt îmbunătățirea cadrului legal și adoptarea de politici de patrimoniu adecvate.

Cuvinte cheie: Convenția privind patrimoniul mondial, România, Cetățile dacice din Munții Orăştie, implementare, respectare

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