

## Short Overview of the Preventive Archaeology in Slovakia After 2000

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### *Abstract*

*The very dynamic legal, economic and social changes since the Velvet Revolution in 1989 in the Slovak Republic were also well reflected in the archaeological discipline as a whole and in heritage management in particular. The activities in management that were, formerly fully governed and practiced by the state (academic) Institute of Archaeology and national and regional museums became a much more open field with a variety of different stakeholders, public and private. Although necessary changes were needed and therefore expected, their speed and intensity, and consequences were hard to predict, and caused substantial transformation. From the legislative point of view, all the important laws were adopted after 2000 and the new Act on Protection of Monuments and Historic Sites N. 49/2002 Coll. presents the most important change. This Act transferred the major responsibility for archaeological heritage from the Archaeological Institute of Slovak Academy of Sciences to the newly established Monuments Board of the Slovak Republic („Pamiatkový úrad Slovenskej republiky“). This consists of a central office in Bratislava and 8 regional branches (Regional Monuments Boards – „Krajské pamiatkové úrady“ (KPÚ)). The principal task of the Monuments Board was the administrative and expert protection of heritage and prescribing of the conditions for necessary archaeological research in development-led contexts. On the other hand, the conduct of such research was open to more subjects: museums, universities, private enterprises, civil associations, and two ex lege institutions (the Archaeological Institute of the Slovak Academy of Sciences and the Monuments Board itself). However, to do this, these organizations needed appropriate licences. This regulation strongly affected development-led archaeological research in the next 15 years, during which it was transformed into preventive archaeology.*

**Keywords:** Slovakia, preventive archaeology, legislation, archaeological heritage protection

### *Abstrakt*

*Dynamické právne, ekonomické a spoločenské zmeny na Slovensku po zamatovej revolúcii v roku 1989 sa odrazili aj v archeológii. Mali významný vplyv na archeológiu ako vedeckú disciplínu i na ochranu archeologického dedičstva. Činnosti týkajúce sa ochrany archeologických pamiatok, ktoré boli v minulosti*

vykonávané najmä štátnym (akademickým) Archeologickým ústavom, Slovenským národným múzeom a regionálnymi múzeami, boli umožnené širokému spektru rôznych subjektov, verejných aj súkromných. Hoci zmeny boli potrebné a preto očakávané, ich rýchlosť, intenzita a následky bolo ťažko predvídať a spôsobili zásadnú zmenu. Z právneho uhla pohľadu boli všetky dôležité zákony prijaté po roku 2000. Z novej právnej úpravy je pre naše účely najvýznamnejší nový zákon č. 49/2002 Z. z. o ochrane pamiatkového fondu. Tento zákon previedol hlavnú zodpovednosť za archeologické dedičstvo z Archeologického ústavu akadémie vied na novovytvorený Pamiatkový úrad Slovenskej republiky. Tento pozostáva z centrálného úradu a 8 krajských pamiatkových úradov (KPÚ). Základnou úlohou Pamiatkového úradu je administratívna a odborná ochrana archeologického dedičstva a predpisovanie podmienok archeologického výskumu v kontexte záchranných výskumov. Na druhej strane bolo vykonávanie tohto typu výskumu umožnené ďalším subjektom: múzeám, univerzitám, súkromným spoločnostiam, občianskym združeniam a dvom inštitúciám oprávneným vykonávať výskum *ex lege* (Archeologický ústav Slovenskej akadémie vied a samotný Pamiatkový úrad). Aby to však bolo možné, musia tieto organizácie získať licenciu. Tento predpis výrazne ovplyvnil záchrannú archeológiu na ďalších 15 rokov, počas ktorých sa táto transformovala na preventívnu archeológiu.

The Act on Protection of Monuments and Historic Sites N. 49/2002 Coll. established a completely new structure and bodies in the field of protection of archaeological heritage, the major one of these being the establishment of the Monuments Board of the Slovak Republic. The change was quite substantial since the principal responsibilities were shifted from the Archaeological Institute of the Slovak Academy of Sciences, a purely scientific institution, to the state administration. Figure 1 shows the structure of heritage protection and the Monuments Board as a part of the Ministry of Culture.

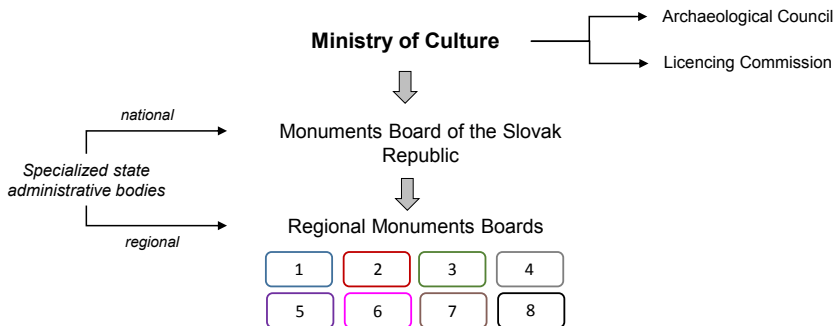


Fig.1. The structure of the legislative system of cultural heritage protection in Slovakia

Regional Monuments Boards are the first-contact institutions not only for field archaeologists, but also for landowners, developers or other persons planning activities, which may physically affect archaeological heritage. Regional boards decide on the necessity of preventive or rescue research, its conditions, time frame, as well as on issuing sanctions for potential offences or other illegal activities. The

monitoring of archaeological research is also their responsibility. However, though this was a great leap towards more efficient legal and administrative infrastructure for the protection of heritage, the Regional Boards, employing 2-3 archaeologists and covering territories of 6.000 km<sup>2</sup> on average<sup>1</sup>, were hardly in a position to fully accomplish all the required tasks.

The Monuments Board of the Slovak Republic is the second-stage state authority and it is responsible for making decisions on the complaints against the first-stage decisions of the Regional Boards. According to the Act, the principal tasks of the Monuments Board also includes the development of unified administrative and legal processes for the Regional Boards, and the development of principal research and protection methods and procedures, and in the case of the Archaeological Department of the Monuments Board, also the issuing of expert opinions regarding archaeological research documentation, the submission of which is obligatory for all organizations performing research prescribed by the Board. Unfortunately, as is the case with the Regional Boards, the central state administration also suffers from an insufficient number of staff, because it employs only a few archaeologists.

The Ministry of Culture of the Slovak Republic stands at the top of the administrative hierarchy in the field of heritage protection. It has two important advisory bodies: the Archaeological Council (representing all professional sectors in Slovak archaeology) and the "Licence Commission"<sup>2</sup> which issues recommendations to the Ministry for granting research licences in archaeology. Both important bodies consist of experienced professionals and scholars. The structure of these two bodies is relatively well balanced, taking into consideration especially the institutional background of the members<sup>3</sup>. Archaeologists are also represented in other advisory bodies, mainly in the Monuments Council, dealing with more complex field of cultural heritage protection. It is important to note that there is a substantial difference between the legal regulation of archaeological research and research in other fields of cultural heritage: history of architecture, artistic monuments, and urbanism (Fig. 2). Archaeological research can be performed only by licenced legal entities<sup>4</sup>, while in other fields of cultural heritage licences can be also obtained by individuals. In order to obtain an

1 When comparing the amount of their workload with the workload of their colleagues at the same institutions – architects or art-historians – the lack of archaeological staff becomes very clear.

2 Its official name is „Commission for the verification of special professional competence for culture heritage research.“

3 Archaeological Council: 11 persons – 4 representatives of the Archaeological Institute of Slovak Academy of Sciences, 2 representatives of the Monuments Board of the Slovak Republic, 2 representatives of museums, 2 representatives of private sector and 1 representative of the universities. „Licence Commission“: 4 representatives from the field of archaeology in the commission as a whole.

4 Currently, there are 40 legal entities licenced to perform archaeological research in Slovakia, 15 of them are private enterprises.

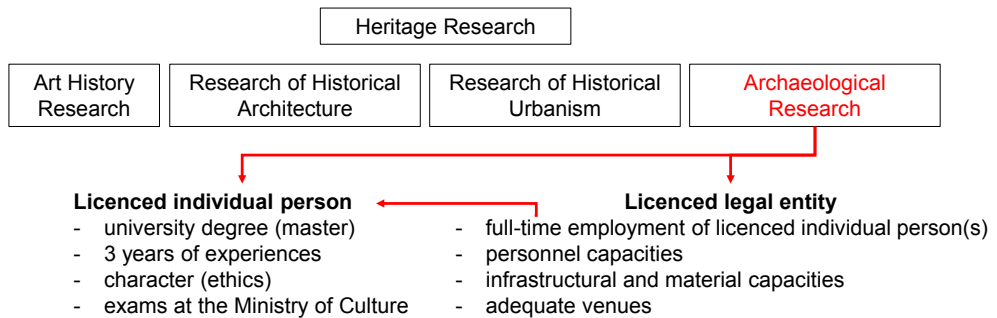


Fig. 2. Structure of cultural heritage research in Slovakia.

archaeological licence, the applicant (individual person)<sup>5</sup> must pass a special examination at the Ministry of Culture in Bratislava, and then, the archaeological organisation must employ such a person full-time in order to be granted the right to perform archaeological research. There are also other legal conditions for the organisations, e.g. adequate personnel, material capacities for conducting research, working facilities and venues, adequate conditions for conservation and temporary storage of movable finds.

The Regional Monuments Boards (RMBs) have a key role in the processes of deciding the necessity of archaeological research. These are public administrative authorities. The developer must submit the project to the RMB, containing detailed information on place of development, scope of construction, construction plans etc., upon which the RMB decides on further steps regarding the archaeological preventive research (size, area, type of research, methods), according to the type and size of threat posed by development. Archaeological research is, in practice, always needed when development takes place in areas with protected monuments or sites (e.g. urban conservation areas, national cultural monuments and protective zones of cultural monuments<sup>6</sup>). The RMB decisions are mostly based on the known (registered) archaeological sites, but also include some elements of prevention regarding the archaeologically unknown areas and potential sites.

Such research can be usually performed in the form of:

<sup>5</sup> The applicant must have the MA level of higher education in the field of archaeology and at least three years of working experiences in the field of archaeological research after obtaining the MA, and „impeccable professional character“ (sic!).

<sup>6</sup> Currently, there are 28 historic reserves (including 18 centres of historical towns and 10 traditional villages), 81 historic zones and ca. 15.000 immovable national cultural monuments in Slovakia.

- archaeological supervision during earthmoving works
- trial trenches
- complete archaeological excavation of the whole area under construction

All the necessary conditions including obligations of the developer and performer of the research are issued in the RMB's research permit. The time schedule of works and the price for completing the research are based on these conditions.

The developer has to select one of the licenced archaeological organizations and sign a contract prior any fieldwork. In compliance with the Act, the archaeological research can only start after signing a valid business contract and shall be reported to the RMB within a period of 5 days. From a legal perspective, the archaeological research is completed by submitting the final report to the Monuments Board. The report (the results and quality of research) is then assessed by a special committee, which issues recommendations to the Monuments Board. This can accept these recommendations or refuse them. The requirements for the final excavation report are regulated in the Ministry of Culture Decree No.. 253/2010 Coll., as amended, and include 11 principal points.

The Act on Protection of Monuments and Historic Sites also deals with archaeological monuments and protection of archaeological sites and evidences in the spatial planning process. The La Valletta Convention was ratified by in 2000 and published in Collection of Laws in 2001. The legal regime for archaeological finds in museums is regulated in the Museums Act Nr. 206/2009 Coll., as amended. In order to combat treasure hunting and other illegal activities, such as the robbing the sites, a lot of legislative work has been undertaken since 2011, when the amendment of the Penal Code was adopted. This strictly and expressly bans the unauthorized use of metal detectors in order to search for archaeological finds.

As it can be seen from this short presentation of the system of preventive archaeology in Slovakia, the major legislative and organizational changes were introduced in the last 15 years. The actual system, based on the 2000 Act and the La Valletta Convention is completely different from the one that existed in the 'Socialist' era. The changes in legislation and protection doctrine boosted several new forms of organization<sup>7</sup> and, at the end of the day, also a free-market in a great deal of preventive archaeology. Never before were so many sites researched due to the development, which had to cover the costs of archaeological research (the polluter pays principle).

However, the new system poses new challenges for archaeological protection and archaeologists in Slovakia. First of all, the state must substantially increase the legal certainty of the stakeholders. At the moment, there are still too many uncertain and

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7 Within the project *Discovering the Archaeologists of Europe* the first analyses of the professional archaeology in Slovakia were made (Fottova et al. 2008; Krekovič et al. 2014). Unfortunately, the authors of both studies did not use updated data, making these analyses less reliable.

vague provisions, used in the act, and too many of their legal duties are still not clear and they are unaware of them. In the preventive phase, especially in researching areas that were not previously subject to archaeological investigation, there is a need to raise the quality of the preventive assessment. Based on current data, there are still too many 'negative' tests. While this may be good for heritage (since it is not threatened on 'negative' sites), it, nevertheless, puts archaeology in an increasingly awkward position and may lead to the questioning its legitimacy. In 2015, out of 534 tests and rescue excavations 272 were negative.<sup>8</sup>

Another important point stressed here should be the obligation of the archaeological organisation to publish (or to make public in some other way) the results of research. Although this issue is clearly mentioned in the La Valletta Convention, it is still missing in the Slovak legislation. Then, there is also an urgent need for standards of the archaeological research which should be adopted with an adequate legal status to be efficiently enforced. The standards must be prepared so to avoid their misinterpretations, and to contribute to higher quality control and transparency of data collection. The standards would also increase the quality in the business competition, and act against financial dumping and downsizing of archaeological research, especially in the cases where they can not be met due to a poorly set budget. Last but not least, the level of institutional cooperation must considerably increase in both the business and expert aspects. The current very formal cooperation should be replaced by highly operative common policies and strategies, in order to increase the legitimacy of preventive archaeology.

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<sup>8</sup> The data were collected as part of the results of the FP7 Marie Curie Action IAPP – Contributing to preventive archaeology: Innovativeness, development and presentation no. 324508.