

*MODIFICATIONS IN AND CURRENT STATE OF DEVELOPMENT-LED ARCHAEOLOGY
IN HUNGARY*

The goal of the following document is to summarize the fundamental changes in Hungarian legislation related to development-led, preventive operations in the past ca. half a year. Although the Association of Hungarian Archaeologists have previously circulated information among European and international professional organizations on the issues compiled in part no. I and II in the current document, we believe that it is useful to give a complete overview of the major changes and their consequences starting from November 2011 up to present.

I.

The *first recent modifications* to the Cultural Heritage Protection law (law no. 2001/LXIV), passed through the Hungarian Parliament in 7 November 2011 (law no. 2011/CXLIX), brought a *dramatic reduction of cultural heritage protection* activities related to large-scale investments (e.g., motorway and pipeline projects) financed by the state and the EU in Hungary. No archaeological organizations or institutions were consulted during the drafting of this legislation. However, after the planned modifications went public in October, the Association of Hungarian Association (henceforth AHA), the only craft union for the archaeological profession in Hungary (see on facebook or www.regesztet.org.hu), *conveyed a detailed risk assessment analysis* of the proposed changes to the Ministry of National Resources, the Cultural and Media Committee of the Parliament on 21 October 2011 offering professional assistance as well. No response was given from the politics.

The most critical issue in the accepted legislation is that first phase test excavations are limited to a period of 30 days, with any necessary follow-up preventive excavations *not lasting longer than another 30 days*. Although the 30 days time-span can be extended according to agreements between the developers and institutions involved in the excavation, bargains with vague outcomes are not able to guarantee the protection of cultural heritage. In addition, this rule is applied not to individual archaeological sites, but *to the entirety of the area to be developed*. At national motorway projects, for example, where dozens of sites are frequently discovered, hundreds of hectares would potentially need to be excavated in only 60 days.

The other serious danger in this legislation is *the brutal decrease in the money* that will be allocated to the excavations of large-scale state or EU funded construction projects. According to the former regulations, the costs of excavations were required to be a minimum of 0.9% of the total cost of the investment. The new legislation caps the money allotted for excavation *at a maximum of 1% of the investment, not to exceed 200 million HUF* (ca. 650.000 EUR or 1 million USD (previously normally 1-5% of the overall project budget was spent on preventive archaeological works). Based on previous experience associated with preventive excavations, this sum is only sufficient for recovering about 40.000 m². Taking the M6 motorway project in Transdanubia for example, preventive operations took place over 820.000 m² in 2008 and 2009. If the current legislation had been applied to this case, *no more than only 5 % of the archaeological sites in the investment area could have been excavated, 95 % would have been demolished*. The law is valid for those, altogether 21, projects in the country too, at which the archaeological operations have already reached 200 million HUF (i.e. the M43 highway in southeastern Hungary where further ca. 300.000 m² should be excavated).

According to the legislation, those parts of sites that cannot be excavated within the allotted time *will be covered with soil and remain unexcavated*. This process, called “covering,” does not exist in current Hungarian cultural heritage legislation or practice, and is supposed to be financed from the budget allocated to preventive archaeological operations. The ordinance associated with the modified law (NEFMI Ordinance No. 5/2010), which came out nearly half a year later than the law, on 28 March 2012, does not regulate this issue either.

Another ramification of the legislation is that it *focuses exclusively on field works* rather than considering the archaeological process to be a complex system including documentation, conservation of finds, inventorizing, storing, and publishing as well. The financial constraints might prevent the institutions from carrying out this part of the archaeological process.

Despite the high risk of political retribution, nineteen directors of county museums and the Budapest History Museum (i.e., the primary institutes responsible for preventive excavations in Hungary), the AHA and other associations have sent letters addressed to the Ministry of National Resources as well as to the Prime Minister, Viktor Orbán *expressing their deep concern about the legislation*. In addition to Hungarian heritage protection organizations,

some 20 European national and international associations, including EAA, AIA, SAA, ICOMOS, UISPP and WAC, also expressed their serious concerns about the law proposal in November 2011 emphasizing that it disharmonizes with European heritage protection traditions and practices as well as sharply contradicts the principles of the Valletta Treaty. On his facebook page, Sir Colin Renfrew also proposed his worries.

II.

As a response to the modified law, and requested also by the Secretary of State of the Ministry of National Resources, Géza Szócs in his letter to the AHA, *the association prepared a proposal entitled "A unified concept of development-led archaeological service"* that intended to reconcile the differing interests of the investors and cultural heritage protection. The complex proposal was accepted by the members of the AHA on 19 January 2012, and it was supported by various other national heritage associations, such as the Archaeological Committee of ICOMOS Hungarian National Committee, the Hungarian Society for Archaeology and Art History, and the Pulszky Society – Hungarian Museum Association. The proposal offered an alternative framework by protecting the archaeological heritage in Hungary according to a model approved by the profession, and by *facilitating the planning process of developments with respect to the issues of time and costs*. The most important suggestions in the proposal are the following:

- According to the proposal, the whole range of development-led archaeological tasks (from assessment studies through excavation and documentation to artifact processing) *needs to be standardized on a national level* – something heretofore unparalleled in Hungary.
- A new, *complex form of Preventive Heritage Risk Assessment* is one of the crucial elements in the AHA's proposal. As opposed to previous practice in Hungary, heretofore based on the results of a set of preliminary research steps, developers would have the opportunity of *avoiding identified archaeological sites*. These results would also serve as *the basis of calculating the time and cost* limits of test and preventive excavations as well as monitoring.
- It defines the actual tasks and performance of *clearly defined actors responsible for various phases* in archaeological heritage protection work. These include preliminary archaeological documentation, test excavation, preventive excavation, monitoring, covering the sites, processing the documentation and findings as well as assuring the social utility of the results.

- The proposal lays down foundations for *transparent and standardized pricing*, geared as well to the actual tasks and performance of the actors.
- In addition, according to the proposal, activities related to *quality assurance would be built into the system* allowing the archaeological side to guarantee that tasks are carried out everywhere at the same professional level and within identical time limits.

Besides the formulation of the proposal, the AHA offered again their professional assistance to the Ministry for preparations of future modifications to the law. In addition to the Ministry, other political actors and the media, the concept was sent over to the major investors in the country.

III.

Critical voices against the passed modifications from the investors' lobby and even from the governing party, the Fidesz, occurred in January. As a consequence, the AHA representatives were invited by the Ministry of National Resources and also by László L. Simon, the President of the Cultural and Media Committee of the Parliament, the submitter of the law modifications in the fall of 2011, to discuss the possibility of altering the law according to the AHA concept. Investors also appeared to be interested. Following these promising negotiations, in February, the AHA was asked for elaborating a new law proposal based on the concept by László L. Simon. The law proposal was submitted to politics at the beginning of March.

Despite of the aforementioned, seemingly favorable processes, the Government, through the Minister of National Resources, *proposed a new modification on the Cultural Heritage law on 24 March 2012*. The Government, again, *did not consult with any professional organization*. Moreover, the Hungarian archaeological community, including the AHA, was informed about the draft only through the media.

Ignoring earlier professional suggestions, the proposed modifications were *even more destructive* to the archaeological heritage than the alterations passed in 2011. Even though some representatives of the ruling party meant to achieve the revision of the new proposal, the *modifications were passed through the Parliament* without any change *on 23 April 2012* (law no. 2012/XC). The voting took place only three days after the AHA opened an exhibition in the Parliament, trying to convince the politicians, on the most significant findings recovered

primarily through preventive excavations in Hungary during the past 10 years (http://booklet.com/books/megmentett_orokseg/#/1/, <http://www.regesztet.org.hu/megmentett-orokseg-kincsek-europa-szivebol-5/>).

Apart from the state and EU funded projects, the newly introduced modifications *extend the previous regulations to all of the large-scale investment projects* in the country, and reduce the costs of related archaeological operations, including test and preventive excavations, processing, monitoring and covering, from a maximum of netto 200 million HUF to *brutto 200 million HUF*, which is a significant, 27% reduction. In addition, the duration of machinery works associated with test and preventive operations at the sites, i.e. topsoil stripping, an issue that was not regulated in the previous version of the law, is *maximized to 10 days*. Considering that a machine is capable of completing ca. 1000 m² in a day, and on a motorway track not more than 5 machines can work at one time, the extent of excavations can be a maximum of ca. 50.000 m². The majority of the archaeological sites located in a particular motorway project area are larger than this, let alone that the law remains still unclear if this limitation should be applied for individual or all of the sites in a given development area. Besides, according to the new regulations no excavation permit is needed for test excavations. The ordinance that would clarify the details has not come out yet.

The Secretary of State responsible for cultural heritage, Géza Szócs, admitted in April that ‘the investors’ interests have overwritten the interest of national cultural heritage’.

IV.

The current law on cultural heritage protection in Hungary highly *contradicts the international heritage protection conventions* ratified by the Hungarian state. These include the European Convention for the Protection of the Archaeological Heritage (Malta, 1992), the European Landscape Convention (Florence, 2000) and the Council of Europe Framework Convention on the Value of Cultural Heritage for Society (Faro, 2005). The latter one was ratified by the Hungarian Parliament several months ago.

Although the excavation season should already have started in March, owing to the confusing specifications of the law and lacking the decisions of the Cultural Heritage Office, *neither the excavations nor the construction works have continued* at the 21 projects in the country in which the costs of the excavations had already exceeded 200 million HUF. The forthcoming

tendency, however, can be foreseen based on a decision that the authority, the Cultural Heritage Office has recently made under strong political pressure. According to the decision, on the track of road No. 47, only two can be excavated out of the six archaeological sites confirmed by test excavations, while two more must be covered, and two will be destroyed by earthworks without any protection work. The fact that, lacking sufficient amount of money, neither can the two permitted excavations be conducted, has blocked the project.

In addition, in April, the Government has *proposed overall organizational changes* in the sphere of museums. The system of county museums, the activity of which has covered the whole territory of Hungary from the point of view of archaeological heritage protection, and which has been in charge of all development-led archaeological works in certain periods including the past ca. 2 years, will be dissolved, and the individual museums will be given back to towns by June 30. Considering the underfinanced towns and other structural issues, these changes will surely make the organizational background of development-led archaeological operations *completely uncertain*.

The series of aforementioned political decisions made in the past ca. half a year appear to *destroy the archaeological heritage protection* in Hungary that has previously been exemplary in Europe from several points of view. These unprofessional measures, lacking pure logics and being contradictory to other laws, might *cause irreversible damages to the Hungarian and European cultural heritage*, and the Hungarian case will set up a horrific, and in some aspects cynical, example for the mistreatment of this field.

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Compiled by the Board of the Association of Hungarian Archaeologists