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The legal regime of archaeological heritage: between scientific research, public protection, and the obligation of conservation

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Abstract **– The article examines the legal regime of archaeological heritage grounded in the specific nature of archaeological knowledge and from the relationship between artefacts and ecofacts, within an integrated approach to cultural and natural heritage. It clarifies the meaning of the notion of archaeological heritage, understood both as a documentary legacy and as a fragile public-interest resource situated at the intersection of civil law, cultural heritage law, and environmental law and policy. The archaeological endeavour is presented as a complex scientific process, ranging from the definition of objectives and diagnostic assessments to excavation, sampling, conservation, recording, and dissemination, the conduct of which shapes the content and effectiveness of legal protection mechanisms. On this basis, the study explores the general legal regime governing archaeological discoveries and archaeological research in Romanian law, with emphasis on preventive archaeology, the archaeological discharge procedure, the delimitation of areas containing identified heritage, and the role of public authorities.**

Finally, it summarises the main relevant international instruments (UNESCO, Council of Europe), which underpin the concept of integrated conservation and recognise archaeological heritage as a collective good whose protection requires both state responsibility and cooperation among archaeologists, urban planners, and communities.

Keywords – archaeological heritage, cultural heritage protection, integrated conservation, preventive archaeology.

1. INTRODUCTION

Archaeology today stands at the intersection of scientific knowledge and legal responsibility, since any engagement with past civilisations requires the strict preservation of the material traces that enable their reconstruction. From Thucydides' early attempts to infer a community's past through the analysis of funerary remains to modern theoretical definitions, archaeology has developed into a field dedicated to interpreting material culture, an indispensable foundation for understanding the ways of life, institutions, and mentalities of vanished societies. At the core of this endeavour lies the conceptual distinction between artefact and ecofact, a category that broadens the integrated perspective on the human–environment relationship and reveals the complex nature of historical reconstruction.

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This methodological framework directly informs the configuration of the legal regime applicable to archaeological heritage. Defining heritage as a "vacant legacy" involuntarily transmitted from one generation to another goes beyond the logic of private ownership and relocates its protective regime within the sphere of public interest, where conservation is not a cultural option but an obligation arising from the need to safeguard a non-renewable resource. Romanian law, through Government Ordinance No. 43/2000, classifies archaeological heritage as a set of movable and immovable assets subject to special legal treatment in which scientific research is inseparable from protective measures, and in which procedures for diagnosis, excavation, conservation, documentation, and recording shape both access to knowledge and the legal fate of the remains.

At the international level, the consolidation of a shared vision regarding the protection of archaeological heritage has progressed gradually through instruments such as the UNESCO Recommendations of 1956 and 1968, the European Convention on the Protection of the Archaeological Heritage (1969), Council of Europe Recommendation R(89), the Valletta Convention (1992), and the Convention on the Protection of the Underwater Cultural Heritage (2001). These documents introduce the concept of integrated conservation, establish the principles of preventive archaeology, and require states to adopt protection mechanisms compatible with the pressures of urban modernisation and infrastructure development [1].

In this context, the legal regime of archaeological heritage appears as a domain undergoing continuous adjustment, situated between the demands of scientific research, the responsibilities of public authorities, and the imperatives of long-term conservation. This article examines this regime from an integrated perspective, drawing on the epistemological foundations of archaeology to assess the coherence and effectiveness of existing legal mechanisms and to identify developments required in response to current challenges in heritage protection.

2. Epistemological Foundations of Archaeology and Their Legal Relevance

Modern archaeology has long transcended the status of a mere activity concerned with the recovery of old objects, becoming a complex discipline oriented toward explaining ways of life, social structures, and cultural interactions in past societies. From an epistemological perspective, archaeology does not operate solely with material objects, but with systems of meaning that enable the interpretation of vanished civilisations. This confers upon archaeological heritage an incomparable documentary value and directly justifies the establishment of a special legal regime.

The earliest forms of archaeological thought, exemplified by Thucydides' celebrated analysis of the populations of the Cyclades, suggest that the observation of material remains has always served as a privileged instrument of historical knowledge. In modernity, defining archaeology as "the study of the material remains of human activity within a given geo-historical framework" has anchored the discipline within a stable conceptual structure in which material culture becomes the foundation of any legitimate interpretation. This orientation toward the material object as a bearer of historical meaning constitutes the doctrinal basis for legal protection: an archaeological remain is not only a good but also a document, an irreproducible source of information.

A central element in the evolution of archaeological epistemology is the distinction between artefact and ecofact. An artefact is a human-made object that directly embodies

cultural intentionality, whereas an ecofact is a natural remain, whether vegetal, animal, or sedimentary, which, when interpreted in context, becomes a source of information about the environment in which human communities lived and acted. The separation of the two categories is, however, purely conceptual; in archaeological practice, they function complementarily, together forming a coherent narrative structure about the life of the studied communities [2]. This very interdependence justifies the extension of legal protection to the natural context of discoveries, and not solely to the objects created by humans.

The porosity between artefact and ecofact has significant legal implications: archaeological heritage becomes inseparable from the environment in which it is discovered. Consequently, legal protection cannot target only the material objects, but must also include stratigraphy, context, soil, natural remains, and the entire resulting informational structure. Such an approach has led contemporary legislation to conceptualise archaeological heritage as a complex form of heritage that comprises not only movable assets but also land with archaeological potential, storage areas, archives, documentation, and any other elements necessary for reconstructing the past [3].

Through its epistemological specificity, archaeology raises essential legal questions regarding the nature of archaeological assets, the applicable property regime, the limits of landowners' rights, and the obligations of authorities. If remains are "documents" of history, then their preservation is no longer merely an option, but a condition for safeguarding collective memory. Since this memory belongs to everyone, legal regulation must transcend the customary principles of private law and reposition itself within the logic of public interest. In this way, the epistemological foundations of archaeology provide the premise for the legal construction of archaeological heritage, requiring the state not only to protect such assets but also to ensure the continuity of knowledge.

3. The Archaeological Endeavour: Research Stages and Their Relevance for Heritage Law

The archaeological endeavour is a complex scientific process that rests on a sequence of operations designed to identify, recover, conserve and interpret the material remains of the past. The technical and multidimensional nature of this process necessitates a rigorous legal framework in which each stage of research is linked to obligations, restrictions, and protective mechanisms. Thus, archaeology cannot be understood merely as an intellectual activity, but also as a set of regulated procedures designed to prevent the deterioration, dispersal, or improper instrumentalization of archaeological heritage.

The archaeological process begins with the definition of the research objectives and the formulation of an appropriate set of research questions. This stage establishes the scientific direction of the intervention and provides the conceptual framework guiding the entire process. In Romanian legislation, the initiation of any archaeological activity is contingent on the approval of a research project endorsed by the National Archaeology Commission, which underscores the importance of institutional control over the ways in which heritage is investigated [4]. This procedure ensures that the declared objectives are compatible with conservation principles and recognised archaeological methods, preventing unjustified interventions or those aimed solely at the rapid extraction of objects.

The next phase is the fieldwork stage, the core of archaeological activity. It prospection operations, intended to delimit areas with archaeological potential, as well as diagnostic work, excavations and archaeological supervision. These procedures involve not only identifying remains but also evaluating their stratigraphic context, without which

objects lose their documentary value. Due to its intrusive nature, fieldwork requires delicate and rigorous extraction techniques capable of recovering objects without compromising the information they carry. This technical complexity with respect to the competence of those conducting excavations, the methods of intervention, in situ conservation obligations, and reporting procedures.

Preliminary conservation, whether in the field or in the laboratory, is an essential stage, since material remains, particularly organic or fragile ones, are at immediate risk of degradation once they are removed from their original environment [5]. This requirement transforms archaeological intervention into a sensitive legal process, in which handling errors can have irreversible consequences. For this reason, legislation expressly imposes an obligation to apply temporary conservation methods and sometimes even prohibits the extraction of an object until optimal conservation conditions have been secured.

Documentation constitutes another central stage through which relationships between objects, their stratigraphic context, precise spatial position, photographs, drawings, and all auxiliary elements needed to reconstruct the original situation are recorded. This documentary corpus, commonly referred to as the archaeological archive, has become, in modern understanding, an integral part of cultural heritage, because without it objects become mute and interpretation becomes impossible. Romanian legislation and international instruments recognise the importance of archaeological archives, establishing clear obligations regarding conservation, storage, and public access, emphasising their nature as public goods of scientific interest.

The final stage of the archaeological endeavour is the analysis of the recovered material, the description and classification of objects, the establishment of typologies, and the interpretation of the dataset, often through statistical or interdisciplinary methods. This stage validates the research results and justifies the need for legal protection of the remains, demonstrating that the value of archaeological heritage is not intrinsic but epistemological in nature. Objects are relevant not because of their material existence, but because of the information they convey about complex historicities, social structures, economic systems, religious practices, or symbolic universes of the studied communities.

From the perspective of heritage law, this multi-stage structure highlights that archaeological heritage cannot be treated exclusively as a collection of patrimonial goods but as a process of knowledge production [6]. The legal regime of archaeological research therefore targets not only the protection of objects, but also the protection of working methods, archives, stratigraphic context, and all elements that make it possible to recognise the documentary value of remains. In this sense, every intervention upon archaeological heritage generates legal consequences, and every research stage entails a certain degree of public responsibility.

This interdependence between scientific research and legal protection demonstrates that the archaeological endeavour is not only a technical act, but also a normative, regulated process that involves a set of rights, obligations, and responsibilities distributed among researchers, institutions, public authorities, and landowners [7]. Without an adequate legal framework, archaeological heritage would become vulnerable to economic pressures, urban development, or commercial interests, irreversibly losing its function as a historical record.

4. Archaeological Heritage as a Legal Concept

The notion of archaeological heritage arises from a conceptual convergence between two seemingly distinct fields: private law, which has traditionally defined heritage as the

totality of a person's assets and liabilities, and archaeology, a discipline concerned with the study of the material remains of past civilisations. This conceptual convergence is not accidental, but reflects the evolution of modern society, which has recognised that the remains of the past cannot be treated as ordinary assets, since their value is not exhausted through possession but realised through knowledge, conservation, and intergenerational transmission [8].

In the civil law tradition, heritage is associated with the ideas of continuity, transmissibility, and dedication to a purpose. Applied to the archaeological field, this meaning shifts in the sense that uncovered remains are not transmitted through acts of will, but through the absence of intent on the part of their creators, thereby becoming a "vacant inheritance," unassigned and unassignable to any contemporary individual or community. This characteristic underpins the inherently public character of archaeological heritage, which cannot be appropriated in the traditional sense because its value is tied to the collective interest in understanding the past and preserving the traces that render it intelligible.

Archaeology, in turn, offers a perspective that emphasises the documentary function of remains, on their stratigraphic context, and on their potential to generate historical knowledge. For this reason, contemporary legislation has adopted an expanded vision of archaeological heritage, encompassing not only the movable objects discovered through excavation but also the land in which they are found, their depositional context, sites, structures, natural remains, and archaeological archives resulting from research. This broadened definition is explicitly reflected in Romanian legislation, where Government Ordinance No. 43/2000 defines archaeological heritage as the aggregate of sites, movable assets, structures, and land with archaeological potential, whether still undiscovered or under investigation.

A key element in the legal configuration of archaeological heritage is the distinction between movable and immovable property. Archaeological remains discovered in the soil become, by operation of law, the property of the state, regardless of who owns the land. This legal solution departs from the traditional rule that ownership of land extends to the subsoil, as codified in Article 559(1) of the Civil Code. The rationale for this derogation lies in the fact that archaeological remains, unlike natural resources or urban infrastructure, cannot be privately exploited without compromising the public interest in their preservation. The state thus becomes the guarantor of the protection of archaeological heritage, assuming the duty to prevent deterioration, theft, unlawful commercial exploitation, and dispersal of remains.

This legislative choice does not, however, prejudice the landowner's right to compensation for any damage suffered because of archaeological research [9]. The legal regime therefore seeks to strike a balance between public interest and individual rights, in which the protection of heritage prevails but does not derogate from constitutional principles relating to private property. In practice, this balance is operationalised through the regime of authorised archaeological research, temporary or permanent protection of land, maintenance obligations imposed on landowners, and the archaeological discharge procedure.

Archaeological heritage, in its modern understanding, is not limited to the sum of uncovered objects; it comprises integrated ensemble of inseparable elements remains, land, context, research archives, photographic and graphic documentation, digital data, and the interpretive infrastructure through which the past becomes accessible. Thus, archaeological heritage acquires the legal nature of a complex, unified, and indivisible asset in relation to its public-interest purpose. This characteristic explains why its protection requires not only

measures of material conservation but also measures regulating access, administrative control, authorisation of interventions, and sanctioning of unlawful activities.

Traditional legal concepts such as ownership, possession and use are reshaped in the presence of archaeological heritage, since its value is not economic but epistemological and related to collective identity. Through this reconfiguration, the law recognises that archaeological heritage forms part of a shared cultural patrimony and may be used only within the limits imposed by public interest, the obligation of conservation, and the need to transmit it to future generations. Ultimately, archaeological heritage becomes a frontier domain between the science of the past and the law of the present, a space of intersection in which knowledge, protection, and responsibility mutually reinforce one another.

5. The General Legal Regime of Archaeological Discoveries and Research

The legal regime governing archaeological discoveries and research represents one of the most important components of the legal framework for the protection of archaeological heritage, as it establishes the procedural framework through which remains are identified, investigated, conserved, and integrated into scientific and cultural spheres. This regime is grounded in the idea that archaeological heritage constitutes a public-interest asset whose protection cannot be left to the individual discretion of landowners or finders but 3must be coordinated by public authorities and carried out in accordance with clear principles of conservation and research.

Romanian legislation, in particular Government Ordinance No. 43/2000, structures this regime by defining archaeological research as a comprehensive scientific activity involving inventorying and recording, diagnosis, excavations, supervision, and necessary interventions on archaeological material. All these activities require the approval of a research project evaluated by the National Archaeology Commission, which underscores the controlled and authorised character of interventions on heritage [10]. Prior approval is not merely an administrative formality but a guarantee that the methods employed comply with scientific standards and conservation requirements.

The general legal regime establishes an essential distinction between systematic and preventive archaeological research. The former is initiated for scientific purposes, in areas known to contain remains, while the latter is triggered by development projects, public works, urban transformations, or interventions in the natural environment. In line with the European principles formulated in the Valletta Convention, preventive archaeology becomes an integral component of sustainable development strategies, incorporated into the planning phase of both public and private projects, in order to prevent the destruction of remains before they can be investigated. Thus, archaeological research ceases to be solely a scientific activity and becomes also an instrument of proactive legal protection.

The legal regime governing discoveries imposes specific obligations on all actors involved. Chance finds situations in which remains are uncovered by activities not aimed at research, such as agricultural work, construction, or natural processes, must be reported within 72 hours to local authorities or the deconcentrated public services of the Ministry of Culture. This reporting obligation represents a fundamental legal mechanism intended to prevent the theft, degradation, or dispersal of assets. Failure to comply may trigger administrative or criminal liability, underscoring the coercive nature of heritage protection.

The designation and delimitation of areas containing identified or accidentally discovered archaeological remains constitutes another central element of the legal regime. Their delimitation aims to establish temporary or permanent protective measures by

prohibiting or restricting interventions on the land until research is completed and the legal status of the remains is determined [11]. This delimitation produces immediate legal effects, imposing on the landowner the obligation to ensure the security and integrity of the site and access for researchers, as well as to refrain from any activity that could affect the archaeological material. The regime of these areas illustrates how the law grants archaeological heritage contextual protection linked not only to the objects themselves but also to the space that contains them.

The role of preventive archaeology is further strengthened by the obligation to conduct a prior archaeological study in all cases requiring an environmental impact assessment. In such contexts, archaeological remains are treated as components of the cultural and natural environment, and the approval of the Ministry of Culture becomes mandatory for the issuance of the environmental agreement. This connection between heritage protection and environmental protection underscores the integrated character of archaeological heritage and demonstrates that contemporary legislation recognises the unity between cultural remains and their natural context.

Finally, the results of archaeological research are given legal effect through the determination of the status of findings. Recovered material becomes public property and is integrated into specialised institutions, while land containing remains is subject to a special legal regime until the issuance of the archaeological discharge certificate. This procedure represents the final legal stage of research, confirming that the area has been properly investigated and may return to its ordinary uses. Its importance derives from the exclusive nature of archaeological research: once a remain is destroyed, it cannot be reconstructed, and the state bears responsibility for preventing such loss.

The legal regime of archaeological discoveries and research is, therefore, an essential mechanism for the conservation of heritage, articulated around principles such as prevention, authorisation, scientific control, public responsibility, and contextual protection. Through these principles, the law ensures not only the physical preservation of remains but also the safeguarding of their documentary value—without which archaeology could not fulfil its fundamental function of recovering historical memory.

6. The Legal Regime for the Protection of Archaeological Heritage

The legal regime for the protection of archaeological heritage represents the concrete expression of the public interest that the state attributes to the material remains of past civilisations. Protection is not limited to the physical conservation of assets; it also includes a series of administrative, scientific, and technical measures aimed at preventing degradation, ensuring the integrity of archaeological contexts, restricting human activities, and guaranteeing the continuity of research. Through this regime, the law asserts that archaeological heritage is a non-renewable resource whose value cannot be replaced and whose protection constitutes a collective obligation.

The first defining element of protection is the recognition of the general public-interest character of archaeological heritage. The state becomes the guarantor of the preservation of remains and is obliged to develop strategies, technical norms, and procedures through which heritage is managed and protected. The Ministry of Culture, as the specialised authority, coordinates and supervises the application of the protection regime and has the power to issue permits, oversee research, delimit protected areas, and intervene whenever heritage is threatened. This responsibility gives protection an active,

not merely reactive, character and legitimises state intervention even when landowners are not directly involved in the research process.

Protecting archaeological heritage entails a series of obligations imposed on owners, administrators, or holders of other real rights over land that contains or once contained remains. These obligations take the form of the prohibition of works that might affect heritage, the obligation to allow access to specialists, the maintenance of land integrity, and the adoption of necessary provisional conservation measures. By imposing these obligations, the law establishes a legitimate limitation of property rights, justified by the prevalence of cultural and scientific interest [12]. Land ownership thus becomes a form of conditional ownership, shaped by the need to safeguard an asset of collective value.

The special nature of the protection regime is also evident in the fact that the law may regulate or even prohibit any human activity carried out in areas containing identified or accidentally discovered archaeological heritage. Such prohibitions may target construction works, agricultural interventions, industrial activities, or other forms of land use. The suspension of building permits, the revocation of development consents, the establishment of protection zones, and the application of in situ conservation measures are direct responses to the need to avoid the irreversible deterioration of remains. From this perspective, the protection of archaeological heritage functions as a special legal regime derogating from the rules of urbanism and territorial development, prioritising conservation.

Areas containing identified archaeological heritage, delineated through field studies or specific technical documentation—benefit from permanent protection, comparable to that applied to protected areas under legislation on historic monuments. In these perimeters, interventions are strictly controlled, and any development project must be preceded by preventive archaeological research. Areas with archaeological potential identified accidentally, by contrast, benefit from temporary protection lasting up to 12 months, during which research is conducted to establish their heritage value. This legal differentiation reflects the degree of knowledge and scientific certainty associated with each area and shows how the law adapts to archaeological realities.

The protection regime applies to all elements of archaeological heritage, not only to the movable property or structural remains uncovered. The context in which remains are found, including stratigraphy, soil, sediment, secondary structures, or ecofacts, is essential for scientific interpretation, which means that protection includes the preservation of the archaeological environment, not merely the objects themselves. This holistic approach is endorsed by European principles and UNESCO Recommendations, which emphasise that extracting an object without documenting its context constitutes a scientific loss.

The protection of archaeological heritage also requires the intervention of public authorities in the case of chance discoveries. From the moment a find is reported, the area becomes protected, and the landowner is obliged to ensure the security and integrity of the assets until specialists arrive. This immediate protection reflects the vulnerability of heritage in such contexts, where the risk of theft, vandalism, or degradation is high.

Overall, the legal regime for protecting archaeological heritage establishes a normative structure in which private interests are subordinated to the public interest, in which conservation takes precedence over the economic use of land, and in which the state assumes an active role in supervising and managing heritage. This regime turns archaeological heritage into a comprehensively protected resource in material, contextual and documentary terms, and makes it possible to transmit it to future generations in conditions of authenticity and integrity.

7. ARCHAEOLOGICAL DISCHARGE

Archaeological discharge is the legal mechanism through which land that has undergone archaeological research is released from the previously imposed special legal protection regime and may be returned to its ordinary uses, including construction or economic activities. This procedure occupies a central position in the regulatory framework governing archaeological heritage, as it establishes the point at which the obligations imposed on landowners and restrictions on interventions cease, confirming that archaeological investigations have been properly completed. From a legal perspective, archaeological discharge ensures a fair balance between the public interest in conservation and the landowner's right to use the land, preventing unjustified blockage of sites once research has been concluded.

The archaeological discharge procedure is strictly regulated, as it constitutes the final act certifying that the land no longer contains archaeologically significant remains, or that such remains have been fully investigated and adequately documented. Under Romanian law, the certificate of archaeological discharge is issued by the deconcentrated public services of the Ministry of Culture, based on a final research report that must confirm compliance with methodological standards and scientific requirements. The final archaeological report is the key evidentiary document, setting out how the research was carried out, describing the identified remains, the methods employed, the documentation produced, and the conclusions regarding the absence or exhaustion of the site's archaeological potential.

The certificate serves a dual purpose: on the one hand, it releases the land from the special legal protection regime, allowing construction or other activities to proceed; on the other hand, it provides a guarantee that the heritage has been properly safeguarded and studied, that archaeological information has been recovered and documented, and that the risk of loss or destruction has been eliminated. Thus, the certificate constitutes an administrative act with significant legal consequences, creating rights and obligations for both landowners and public authorities.

A fundamental aspect of the procedure is the non-repeatable character of archaeological research: once a site has been discharged, subsequent interventions are not, as a rule, preceded by archaeological research, except in exceptional situations such as new chance discoveries or the identification of prior errors. For this reason, the quality of research and completeness of documentation are essential. An inadequate or superficial report not only jeopardises the heritage but also undermines the legal validity of the discharge, potentially leading to litigation or administrative review. Consequently, archaeological discharge is not merely an administrative formality but a guarantee that the heritage has been treated with rigour and responsibility.

Issuing the certificate is also governed by the principle of integrated conservation. If research reveals remains of exceptional value, the law may require in situ conservation, in which case discharge is not granted, and authorities may decide to classify the site as a historic monument or include it under other forms of permanent protection. Thus, discharge is not an automatic act but rather an instrument of legal appraisal that may result either in freeing the land or in imposing additional protective measures.

From the landowner's perspective, archaeological discharge marks point at which restrictions on the exercise of their property rights cease. However, until the certificate is issued, the owner must comply with all legal obligations, including suspending works, preserving the integrity of the area, and cooperating with specialists. This temporary restriction is offset by the possibility of compensation where damages are proven. In this

way, legislation seeks to prevent undue harm to private interests without compromising conservation objectives.

A final important element is the obligation of the deconcentrated public services of the Ministry of Culture regarding the issuance of the certificate. This procedure creates administrative traceability of the site's status and allows for the updating of national databases and the National Archaeological Register. Thus, archaeological discharge becomes not merely an isolated act but an integral component of the national system for managing archaeological heritage.

Through all these mechanisms, archaeological discharge economic needs with cultural values, and property rights with conservation emerges as an instrument for reconciling urban development with heritage protection, economic needs with cultural values, and property rights with conservation. It marks the completion of the scientific phase and the beginning of a legal stage in which the land may be used freely, without risking the loss of the historical memory it once carried.

8. UNDERWATER ARCHAEOLOGY: GAPS AND NEEDS IN ROMANIAN LEGISLATION

Underwater archaeology has become one of the most dynamic and challenging areas of cultural heritage research, due to its interdisciplinary nature, technical difficulties, and the heightened vulnerability of submerged objects. Although Romania has a remarkable history of underwater discoveries, particularly along the Black Sea coast and in the river sectors of the Danube, the national legislative framework does not yet adequately reflect the complexity and specificity of this field. Despite Romania’s accession to the UNESCO Convention on the Protection of the Underwater Cultural Heritage (2001), domestic legislation continues to treat underwater heritage implicitly, as an extension of the general legal regime governing archaeological heritage, without distinct regulations tailored to the aquatic environment [11].

This normative absence generates several practical difficulties. First, there is no legal definition of underwater archaeology or of the specific procedures applicable to submerged sites. The lack of definitions requires the application by analogy of rules designed for terrestrial research, which often proves inefficient. Conditions of preservation, degradation risks, extraction particularities, the need for specialised equipment, and the inherent dangers of diving cannot be adequately addressed through the same principles governing land-based interventions. For example, objects discovered underwater undergo an accelerated degradation process once removed from their original environment, requiring immediate conservation techniques that are not explicitly provided for in the legislation.

Second, Romania lacks a clear procedural framework for authorising underwater interventions. Research is frequently conducted under the general regime of Government Ordinance No. 43/2000, yet this regime does not lay down specific rules on issues such as cooperation with professional divers, depth limits of operations, safety conditions, the responsibilities of maritime or fluvial institutions, or the relationship between cultural authorities and port or maritime authorities [7]. In the absence of explicit norms, procedures often rely on ad hoc arrangements, which increases the vulnerability of heritage and creates administrative risks.

Another critical issue is the difficulty of protecting underwater sites against archaeological looting, a phenomenon that is increasing worldwide. Submerged objects, particularly those from shipwrecks, are targeted by unlawful recovery operations motivated by their historical and commercial value. In the Romanian context, the lack of a monitoring

system, the absence of officially declared protected underwater sites, and insufficient resources for maritime surveillance make underwater heritage extremely vulnerable. Paradoxically, although wrecks and submerged structures are more difficult to access, they are easier to remove without trace, as illegal interventions are hard to detect.

On the other hand, the 2001 UNESCO Convention imposes a series of clear obligations on signatory states, including the inventory and delimitation of underwater sites, the promotion of in situ conservation, the prohibition of commercial exploitation, strict authorisation of research, and international cooperation in cases of cross-border discoveries. Romania gave effect to these principles through Law No. 99/2007, yet their transposition into domestic legislation remains incomplete. The absence of detailed procedures means that the implementation of the Convention depends more on local institutional initiatives than on a coherent regulatory system.

Underwater archaeology in Romania nevertheless has a well-established tradition, beginning in the 1960s with the work of the pioneering archaeologist Constantin Scarlat, who identified the first ancient wrecks and port structures along the Dobruja coast. Subsequent discoveries, such as Ottoman wrecks, ancient ships in the roadstead of the port of Tomis, coin hoards, and ancient port structures, show that Romania's maritime and fluvial areas possess considerable archaeological potential. However, the absence of an adequate normative framework limits the incorporation of this potential into national strategies for protection, research, and valorisation of cultural heritage.

It is therefore necessary to develop a distinct chapter within cultural heritage legislation dedicated exclusively to underwater heritage. This chapter should clearly define authorisation procedures, institutional competences, minimum technical requirements for research, diver responsibilities, immediate conservation conditions, the protection regime for shipwrecks, procedures for declaring underwater sites, and specific sanctions applicable to illegal interventions. It should also establish collaboration protocols between the Ministry of Culture, the Border Police, Port Administrations, and specialised diving institutions [13].

Without such regulations, underwater archaeological heritage remains a vulnerable area in which the state assumes only a merely implicit responsibility for conservation. This legislative gap fails to reflect both the complexity of discoveries made in recent decades nor Romania's international obligations. Consequently, modernising the legislation would represent not only a harmonisation with European and international standards but also a necessary step in protecting an essential component of the national cultural heritage.

9. CONCLUSIONS

The analysis of the legal regime of archaeological heritage shows that this category of assets cannot be governed solely through the ordinary instruments of civil law, since their documentary nature, irreproducible character, and role in historical knowledge require a system of protection built upon principles of public interest and collective responsibility. Archaeology, as a scientific discipline, provides the methods for investigating, interpreting, and contextualising remains, but the success of their protection depends directly on the rigour of the legal mechanisms regulating their discovery, research, conservation, and valorisation.

The Romanian legal framework, centred on Government Ordinance No. 43/2000, has introduced important instruments such as preventive archaeology, the delimitation of areas containing identified heritage, the obligation to report discoveries, and the procedure of

archaeological discharge. However, the effectiveness of these instruments largely depends on administrative capacity, institutional coordination, and the consistent application of coherent technical procedures. Fields such as underwater archaeology remain insufficiently regulated, despite the fact that the international framework imposes clear standards of action, particularly regarding in situ conservation and the prohibition of commercial exploitation.

A comparison between domestic legislation and international legal instruments shows that Romania shares, at a conceptual level, the principles of integrated conservation and prevention, yet their full implementation in administrative practice remains an ongoing objective. The pressures generated by infrastructure projects, urban development dynamics, economic interventions, and insufficient financial resources may render archaeological heritage vulnerable if they are not accompanied by effective control mechanisms, interinstitutional cooperation, and the involvement of local communities.

Overall, the legal regime of archaeological heritage emerges as a model of balance between freedom of scientific research and the obligation of conservation, between the rights of landowners and the public interest, between territorial development and the protection of collective memory. Only by maintaining this balance and by continuously adapting the legislative framework to societal transformations can the survival of archaeological heritage be ensured as a resource of knowledge, identity, and cultural continuity. In this regard, strengthening preventive archaeology, professionalising conservation procedures, coherently regulating underwater heritage, and reinforcing institutional capacity constitute essential directions for ensuring the effective and sustainable protection of this fundamental component of cultural heritage.

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