

ORDINANCE No. 43 of the 30th of January 2000 on the protection of the archaeological heritage and declaring certain archaeological sites as national interest areas*) – Codification

CHAPTER I: General Dispositions

Art. 1 General Dispositions

The present ordinance regulates the general legal status of the archaeological discoveries and research, as well as the protection of the archaeological heritage, part of the national cultural heritage.

Art. 2

(1) for the purpose of the present ordinance:

- a) the general legal status of the archaeological discoveries and research signifies the set of legal, management, fiscal-financial and technical measures meant to ensure the survey, identification, uncovering, recording, conservation and restoration, the safeguarding, maintenance and enhancement of the archaeological objects, as well as of the lands where they can be found, in view of researching or, if the case may be, classifying them as movable cultural objects or historical monuments.
- b) The archaeological heritage signifies the ensemble of archaeological objects comprising:
 - 1. the archaeological sites registered in the National Archaeological Repository, except the ones that have been destroyed or disappeared and the sites classified in the Historical Monuments List, situated underground or underwater, comprising archaeological vestiges: habitations, necropolis, structures, buildings, groups of buildings, as well as sites with located archaeological potential, as defined by the legislation in force;
 - 2. movable objects, objects or traces of human existence, together with the ground where they were uncovered;
- c) archaeological research signifies the ensemble of scientific and technical measures, meant to ensure the survey, identification, uncovering by archaeological excavations, investigation, collecting, registering and scientific enhancement, including publishing, of the archaeological heritage;
- d) systematic archaeological research represents the long-term and lengthy research, executed in conformity with a multi-annual research project;
- e) the preventive archaeological research works are:
 - 1. determined by the building, modification, extension or repair of the communication ways works, technical-town facilities - both underground and underwater -, excavation, quarry exploitation, highway nets construction, land improvement, telecommunication network, relay and communication locating works, research and survey activities- drilling and excavation – necessary for the geotechnical studies, research works, gas and oil wells locating works as well as any other works that involve the soil surface or underground, in areas bearing located archaeological

heritage, regardless of whether they are performed inside a designated built or unincorporated area or of the land right;

2. undertaken in known and researched archaeological heritage areas, as well as those determined by partial or total restoration works of the historical monuments, performed in compliance with the protection of the historical monuments legislation in force;
- f) archaeological discovery shall be taken to mean the findings resulted from archaeological excavation such as vestiges, items and traces of human existence, representing evidence of the disappeared civilisations and ages;
 - g) chance archaeological discovery shall be taken to mean the archaeological heritage findings resulted from natural phenomena or human action, other than authorised archaeological research;
 - h) known and researched archaeological heritage area shall be taken to mean the land where objects that fall under the category mentioned at letter b) have been discovered as a result of archaeological research;
 - i) national interest archaeological site shall be taken to mean priority archaeological interest area, an area comprising archaeological sites whose scientific research, protection and enhancement are of exceptional value for the national history and culture; due to their material evidence, the movable or immovable cultural objects already included or proposed to be included in the Thesaurus category of the movable national cultural heritage or, if the case is, of the historical monuments category belonging to the world heritage;
 - j) located archaeological heritage area shall be taken to mean the ground delimited in compliance with the law, where archaeological research is going to be performed, on the basis of information or scientific studies that proves the underground or underwater existence of archaeological heritage objects, likely to be included in the national cultural heritage; until the archaeological research is finished and the enhancement of the archaeological discoveries and appropriate protection measures are taken, the protected areas of the archaeological or historical sites, established in compliance with the law, are also located archaeological heritage areas;
 - k) archaeological interest accidentally discovered area shall designate the ground where archaeological heritage objects were unpredictably discovered, as a result of:
 1. human actions, others than authorised archaeological research, such as: construction, geological survey, including remote sensing, agrarian works, as well as other research and work types of activities undergone underground or underwater;
 2. natural agents, such as: earthquakes, landfalls, floods, soil erosion and others; in these cases, it is necessary to start an archaeological research in order to record and enhance them.
- (2) Preventive archaeological research is part of the local and national long-term socio-economic, tourist, town-planning and territorial development strategies.
 - (3) The norms regarding the archaeological procedures and standards are established by order of the minister of culture and cults, in conformity with the stipulations of the present ordinance and apply to all types of archaeological research.
 - (4) All the stages of archaeological research are part and parcel of the scientific research activity, as it is defined by the legislation in the field.

- (5) All the stages of archaeological research, including registry, diagnosis, excavation, surveillance and interventions in the archaeological material shall be performed using all the specific methods, techniques and practices, considered to be necessary in order to obtain maximum possible information concerning the archaeological heritage in the research area.
- (6) All the stages of archaeological research can only be carried out on the basis of a project approved by the National Archaeology Commission and at the end of the research project, there will be reports containing the essential data to justify the methods, techniques and resources used, as well as the conclusions they reached.
- (7) The archaeological diagnosis, excavation or surveillance stages may be necessary in the following cases:
 - a) to carry into effect a systematic archaeological project;
 - b) as part of a study concerning the environment, if they comply with the legislation in force on the protection of the environment;
 - c) as consequence of a planned intervention on the soil that could menace the archaeological potential of a delimited area or of an archaeological site;
 - d) as part of town planning endorsement and achieving stages, within the legal framework established by the national, regional, local town-planning documentation and/or preparing stage;
 - e) as a consequence of natural processes that reveal archaeological heritage objects;
 - f) as a result of human actions, others than archaeological research and of the works mentioned at art. 6;
 - g) business and development plans initiated at local, regional, national or international private level.
- (8) The archaeological research stages may be initiated or developed as a consequence of a private or public legal or natural body's request.
- (9) The prior archaeological research is mandatory for all types of environment agreements for archaeological heritage areas, as it is the only way to identify, describe and estimate the direct and indirect effects of the business projects on the archaeological heritage.
- (10) The environment agreement can only be issued after the Ministry of Culture and Cults issued the endorsement, so that the integrated conservation principle is complied with.
- (11) The expanses for the archaeological research necessary to the environment agreement are charged to the investment holder.
- (12) The results of archaeological research, specified in the archaeological report, drew up according to the standards in force, underlies the legal protection policy of archaeological discoveries or, if the case is, archaeological discharge status for that particular area.
- (13) The accidentally discovered archaeological heritage area shall be delimited round the chance archaeological discovery area as it follows:
 - a) the whole area subject to building permit;
 - b) 50 meters around the discovery area if the discovery was made as a result

- of agrarian works or other works that involve a building permit;
- c) The whole area affected by natural hazards.

CHAPTER II: The protection of the archaeological heritage

Art. 3

- (1) The state guarantees and ensures the protection of the archaeological heritage under the conditions established by the present ordinance.
- (2) The Ministry of Culture and Cults is the specialised central public administration authority in charge with elaborating the strategies and specific research norms with a view to the protecting of the archaeological heritage and of enforcing them.
- (3) The archaeological research shall be performed, as stipulated by the present ordinance, by the specialised personnel licensed and registered at the Archaeologists' Registry, in compliance with the provisions of the Romanian Archaeological Excavation Regulation, as well as with the norms concerning the archaeological standards and procedures and with the principles of the Romanian Archaeologists' Deontological Code.
- (4) The specialised central public administration authority, the specialised institutions subordinated to the former and the local public administration authorities collaborate and are responsible, according to the present ordinance, for the protection of the archaeological heritage.

Art. 4

- (1) The archaeological heritage objects are part and parcel of the national cultural heritage and may be classified and protected as movable national cultural heritage objects, as archaeological sites or as historical monuments, according to the present ordinance.
- (2) Any discovery of archaeological vestiges or movable objects belonging to the category subject to classification as movable national cultural heritage, undergone as a result of archaeological research, shall be notified by the research authorisation holder to the decentralized public services of the Ministry of Culture and Cults, within 72 hours.
- (3) The right over the movable objects, discovered under the conditions mentioned at paragraph (2), falls back to the institutions participating to the research, according to the agreement concluded between the parties and according to the archaeological standards and procedures.
- (4) Chance archaeological discoveries shall be notified, within 72 hours, to the mayor of the territorial administrative department by the discoverer, the owner or the holder of the administration right of the concerned ground.

Art. 5

- (1) The protection of the archaeological heritage objects and lands of the areas defined at art. 2 paragraph (1) letters j) and k) shall be taken to mean the scientific, managing and technical measures adopted in order to preserve the

vestiges discovered by chance or as a result of archaeological research until the concerned objects are classified or until the archaeological research is finished, by enforcing obligations to the owners, administrators or holders of other real rights over the grounds that bear or bore the respective archaeological heritage objects, as well as by regulating or prohibiting any human actions, including those previously authorised.

- (2) The archaeological discharge procedure confirms that a land where archaeological heritage was discovered may be returned to current human activities.
- (3) The discharge archaeological certificate is the administrative document issued in compliance with the present ordinance, by which the protection policy previously established over the land where the archaeological heritage was discovered is abolished.
- (4) The protection policy over the known and researched archaeological interest areas is regulated by the legislation in force concerning the protection of historical monuments and movable objects belonging to the national cultural heritage.
- (5) The discharge archaeological certificate, mentioned at paragraph (3), is issued by the decentralized public services of the Ministry of Culture and Cults and they have the obligation to notify the specialised department of the Ministry of Culture and Cults, within 10 days.
- (6) Preventive archaeological researches and archaeological surveillance are compulsory in the case of the restoration projects; the archaeological surveillance shall be included in the constructor's estimate and the discount will be done on the basis of the research report drew up by the archaeologist.
- (7) The located archaeological heritage areas, delimited and established in conformity with the law, benefit of the specific protection measures stipulated by the present ordinance.
- (8) In the case of the accidentally discovered archaeological heritage areas, delimited according to the stipulations of art. 2 paragraph (1) letter k), the protection policy for the archaeological objects and archaeological interest sites is established beginning with the discovery date and cannot last more than 12 months.
- (9) The archaeological research is performed only on the basis of the authorisation issued by the Ministry of Culture and Cults and in conformity with the present ordinance.
- (10) The legal and natural bodies that own and/or commercialize metal detectors shall previously obtain the necessary authorisation from the police inspectorate of the concerned county, of the Bucharest General Police Department, covering the applicant's headquarters or, if the case is, his/her residence and shall register at these authorities.
- (11) The stipulations of paragraph (10) do not apply to the structures of the Ministry of Defence, of the Ministry of Administration and Interior, of the Romanian Intelligence Service, of the Protection and Security Service.
- (12) In order to own metal detectors, the licensed specialised personnel, registered in the Archaeologists' Register shall obtain the prior endorsement issued by the Ministry of Culture and Cults before applying for the authorisation mentioned at paragraph (10).
- (13) The access with metal detectors and using them on archaeological sites, within

the priority archaeological interest areas and located archaeological heritage areas are allowed only on the basis of the authorisation previously issued by the Ministry of Culture and Cults.

- (14) Until the archaeological discharge, the area subject to research is protected as archaeological site, in conformity with the law.
- (15) The construction or demolishing works authorisation for the archaeological heritage areas are approved only on the basis and in conformity with the Ministry of Culture and Cults endorsement.
- (16) For the archaeological heritage uncovered by chance, in compliance with the stipulations of paragraph (8), until the archaeological discharge, the building permit shall be suspended or, if the case is, the mayor of the concerned territorial-administrative department disposes of the cessation of any activity, in conformity with the Ministry of Culture and Cults' decentralized public services' endorsement, and the surveillance or excavation status is established.

Art. 6

- (1) The excavation activities necessary for the archaeological research shall be undertaken by unskilled workers, employed by agreement concluded with a human resources company, in compliance with the present ordinance.
- (2) The agreements mentioned at paragraph (1) may be concluded for 180 days at most, for seasonal activities, with prolonged working hours; the conditions and the methodology of these agreements are established by order of the minister of culture and cults, due to be published in the Romanian Official Journal, Part I, within 30 days after the law on the approval of the present ordinance comes into force.
- (3) The organising institutions may use other specialists, too, in order to undergo research activities, studies or other works; they will perform their activity on the basis of a contract concluded in compliance with Law no. 8/1996 regarding copyright and other connected rights, with the subsequent modification and completions; the contract stipulates the research report delivering deadline, as well as the scientific results of the research, study or other works copyright transfer.
- (4) The cost of the services and activities performed according to paragraphs (1) and (3) is directly negotiated by the parties; the taxes and the health insurance are deduced from the sum finally agreed with, according to the present ordinance.
- (5) In order to issue the certificate mentioned at art. 5 paragraph (5), for the sites situated in priority archaeological interest area, the sites that fall under the A category of the of the Historical Monuments List and for all investments, except private houses situated in other areas, the research reports shall be delivered to the Archaeology National Commission for approval.
- (6) The archaeological discharge certificates issued in the absence of the Archaeology National Commission's approval are not valid.

Art. 7

As far as the works mentioned at art. 2 paragraph (1) letter e) are concerned, the public or private legal or natural bodies, as well as the main credit managers of the public institutions or authorities shall finance:

- a) the measures to be detailed and the necessary funds for the preventive research or the archaeological surveillance or, the protection of the archaeological heritage or, if the case may be, the archaeological discharge of the concerned area and the way these measures are to be applied - after the investment feasibility and the technical project were studied;
- b) the archaeological surveillance, throughout the whole period of the works, in order to ensure the protection of the archaeological heritage and of the chance archaeological discoveries;
- c) any amendments of the project, necessary to the protection of the archaeological discoveries;

Art. 8

- (1) The National Agency for Cadastre and Land Registration and its subordinated offices shall include the discovered archaeological heritage areas, on the basis of the National Archaeological Repository, in the land plans and in the topographic maps; the list of these areas shall be taken over from the decentralized public services of the Ministry of Culture and Cults.
- (2) The discovered archaeological heritage areas, registered in the National Archaeological Repository, shall be included in the specialised land register of the constructed and natural protected areas.
- (3) The National Agency for Cadastre and Land Registration and its subordinated offices shall provide to the Ministry of Culture and Cults and to its services the necessary documents in order to draw up the Historical Monuments List and the National Archaeological Repository, at request, free of charge and no matter the way.

Art. 9

- (1) The owners and the administration right holders or the holders of other real rights over the grounds where archaeological sites are situated and of those established as discovered archaeological heritage areas shall allow the access to the authorised personnel, in compliance with the present ordinance, with a view to the research and protection of the archaeological heritage, as well as the heritage objects protection measures.
- (2) Private legal or natural bodies owning or renting land are entitled to compensatory payments for the unachieved agricultural incomes from the archaeological excavation lands, and for the time the excavations are being conducted, under the quotas and conditions laid down in the Government methodology.
- (3) The compensations for the unachieved agricultural incomes are paid to the entitled person by the financer of the archaeological excavation within 60 days from the date when the archaeological research was initiated.
- (4) Bringing the land back to its previous state is the duty of the financer of the archaeological research.

Art. 10

The movable objects resulted from chance archaeological discoveries shall be delivered by the discoverers, within 72 hours, to the decentralized public services of

the Ministry of Culture and Cults.

Art. 11

The owners of agricultural lands are exempted from paying the agricultural land tax for the archaeological research surfaces over the entire excavating time.

CHAPTER III: Specialised Institutions and Bodies concerned with the Protection of the Archaeological Heritage

Art. 12

As far as the protection of the archaeological heritage is concerned, the Ministry of Culture and Cults, directly or through its subordinated institutions, fulfils the following attributions:

- a) enforces the national strategy, elaborates the specific norms and methodologies and ensures that the legal stipulations in the field are complied with;
- b) ensures the fulfilment of the obligations concerning the protection of the archaeological heritage, undertaken by signing the international agreements on the protection of the archaeological heritage, joined by Romania.
- c) acts as the state's representative in the relationship with the owners of real estate, land or constructions situated in the archaeological heritage areas and in the areas where archaeological objects were uncovered;
- d) issues the systematic excavation authorisation, through its specialised department, after having consulted the National Archaeology Commission;
- e) issues the diagnosis, preventive archaeological excavation and archaeological surveillance authorisations, through its specialised department, in compliance with the stipulations of the present ordinance;
- f) updates the standards and the archaeological procedures and ensures that they are fulfilled; it also ensures that the Romanian Archaeological Excavation Regulation is complied with;
- g) establishes, by order of the minister of culture and cults, the stamp patterns, the models of the authorisation application forms, certificates, endorsements and technical forms, necessary to the archaeological research;
- h) elaborates the planning, performing and control methodology of the preventive excavations, due to be approved by order of the minister of culture and cults;
- i) elaborates the methodology of selecting the archaeological projects for financing;
- j) establishes a system of norms that underlie the estimation criteria and a contract model for each type of archaeological research, due to be approved by order of the minister of culture and cults;
- k) manages the database composing the National Archaeological Repository;
- l) manages the database that includes the Archaeologists Record database and

ensures its updating;

- m) finances or co-finances, together with public authorities and institutions or with private natural or legal bodies, the archaeological heritage research, in conformity with the specific strategy in this field;
- n) ensures the annual publishing of the Archaeological Research Chronicle, as well as of other specialised publications, by the Archaeology National Commission;
- o) organises and finances annually the national session of archaeological reports.

Art. 13

The decentralized public services of the Ministry of Culture and Cults fulfil, as far as the protection of the archaeological heritage is concerned, the following attributions:

- a) ensure that the archaeological excavation authorisation procedures, the Archaeological Excavation Regulation and the archaeological standards and procedures are complied with within the competent territorial-administrative department;
- b) endorses, on the basis of the specialised reports, the works to be undertaken in the accidentally discovered archaeological heritage areas;
- c) ensures the specialised surveillance of the works that resulted in chance archaeological discoveries and initiates, if the case is, the classification procedures stipulated by the law;
- d) issue the archaeological discharge certificate, in conformity with the stipulations of the present ordinance;
- e) notifies the police and the gendarmerie about each and every accidental discovery, such as it is defined in the present ordinance, with a view to organising the guard and/or the surveillance of the concerned area.

Art. 14

- 1) The National Archaeology Commission acts as the specialised scientific organism, without legal status, with consultative role in the archaeological heritage field, within the Ministry of Culture and Cults.
- 2) The National Archaeology Commission is made up of specialists in the field, working in the archaeological institutes, museums as well as other institutions.
- 3) The National Archaeology Commission proposes the approval, by order of the minister of culture and cults, of the national research programs, of the scientific-technical methodologies, norms and regulations in the archaeological research field.
- 4) The National Archaeology Commission comprises 21 members and functions in conformity with its organising and functioning regulation, approved by order of the Ministry of Culture and Cults.
- 5) The functioning of the National Archaeology Commission is assured by the Ministry of Culture and Cults.
- 6) The secretary of the National Archaeology Commission is appointed by order of the minister of culture and cults among the specialised department of the Ministry of Culture and Cults.

Art. 15

- (1) The members of the National Archaeology Commission are appointed among the specialists in the field, in conformity with the stipulations of the present article and the nominal list is approved by order of the Minister of Culture and Cults.
- (2) The members of the National Archaeology Commission are appointed for a four years term in office that can be renewed only once, consecutively and they are nominated according to the methodology established by order of the Minister of Culture and Cults, by:
 - a) the National Archaeology Commission;
 - b) the Romanian Academy, through its specialised institutes;
 - c) the faculties and research institutes in the education field;
 - d) the Ministry of Culture and Cults
 - e) the museums and the professional associations in the field, according to the methodology established by order of the minister of culture and cults.
- (3) The president of the National Archaeology Commission is proposed to the Minister of Culture and Cults by its members by secret ballot and he is appointed for a four year term in office from the date of his/her election.
- (4) The minister of culture and cults approves by written order the nomination of the National Archaeology Commission regarding its president or he can reject it, on reasonable grounds, only once. If the National Archaeology Commission reiterates the initial nomination, by vote of two thirds of its members, the minister of culture and cults has the obligation to approve by order. If the number of votes is under two thirds, the Minister of Culture and Cults requires a new nomination.

Art. 16

The National Archaeology Commission has the following attributions:

- a) elaborates the national strategy in the archaeological research field;
- b) proposes the endorsement of the Romanian annual systematic archaeological research plan.
- c) proposes the endorsement of archaeological research projects;
- d) proposes the endorsement of the norms and methodologies in the archaeological research field;
- e) elaborates the licensing methodology of the institutes that have the right to perform archaeological research in order to avoid any interest conflicts;
- f) elaborates and updates the Archaeological Excavation Regulation;
- g) analyses the archaeological systematic excavation authorisation applications, regardless of their financing source;
- h) elaborates the methodology of classifying the archaeological sites in the Historical Monuments List, approved by order of the minister of culture and cults;
- i) proposes the classification of the archaeological sites;
- j) establishes the criteria and endorses the experts' license in the

archaeological research field registered in the Archaeologists Register;

- k) proposes the endorsement of the town-planning and territorial development strategies comprising archaeological sites included in the A category of the of the Historical Monuments List or discovered archaeological heritage areas;
- l) proposes the endorsement of the studies for defining, establishing and delimiting the archaeological heritage protected areas;
- m) establishes the archaeological research priorities with a view to allot the necessary sums from the state budget, through the budget of the Ministry of Culture and Cults, according to the criteria set by order of the minister of culture and cults;
- n) proposes to the Ministry of Culture and Cults or to the local public administrations the acquisition of lands that bear archaeological heritage objects;
- o) analyses the appeal in field under its competence;
- p) proposes the endorsement of the training specialists programs and of the specialised projects in the archaeological research field;
- q) represents Romania in similar specialised international organisms;
- r) proposes the endorsement of the archaeological research projects performed by the Romanian archaeological delegations on other states' territory, as well as the collaboration protocols with foreign partners concerning the archaeological research in Romania;
- s) proposes the updating of the List of the priority interest archaeological sites;
- t) fulfils also other duties in the field, in compliance with the law.

Art. 17

- (1) The National Archaeological Repository is administered by the Ministry of Culture and Cults, according to the regulation approved by order of the Minister of Culture and Cults.
- (2) The Cultural Memory Institute ensures the administration databases for the digital inventory of the archaeological heritage, through the National Archaeological Repository.
- (3) All rights on the data on the archaeological heritage belong to the Ministry of Culture and Cults, who regulates their usage mode.
- (4) The National Archaeological Repository includes scientific, topographic and cartographic data, images, plans as well as any other information regarding:
 - a. discovered and researched archaeological interest areas, discovered and unexploited archaeological interest areas as well as accidentally discovered archaeological interest areas as result of preventive archaeological research;
 - b. the monuments, ensembles and historical sites where archaeological research was conducted or is being conducted;
 - c. scientific information about the movable objects discovered in the areas or about the historical monuments mentioned at letter a) and b);
 - d. destroyed or disappeared archaeological sites.

Art. 18

The monuments, the ensembles of archaeological sites classified in the Historical Archaeological List, the A or B category, are included in the National Archaeological Repository.

CHAPTER IV: The attributions of the local public administration authorities in the archaeological heritage field

Art. 19

As far as the protection of the archaeological heritage and the observance of the legal stipulations in the field are concerned, the local public administration authorities have the following attributions:

- a) cooperates with the public institutions and organisms in the field of the archaeological heritage protection with respect to the appliance and compliance with the measures and decision adopted by them;
- b) ensures the protection of the archaeological heritage resulted from systematic or preventive archaeological research and of the chance archaeological heritage discoveries situated on public or private properties covered by the respective territorial-administrative structures and provides financial support to this purpose;
- c) may collaborate with public or private legal or natural bodies for financing research projects and enhancing the archaeological objects thus discovered;
- d) finances the archaeological research projects with a view to the archaeological discharge of the areas where the public works for which they are the main credit managers are performed and allots the necessary sums to this purpose, according to the stipulations of the present ordinance;
- e) include specific objectives concerning the protection of the archaeological heritage in the socio-economic and town-planning projects;
- f) approves the territorial development strategies and town planning projects, in conformity with the specialised endorsements of the Ministry of Culture and Cults and elaborates or amends such documentations in order to establish protection measures for the archaeological heritage discovered by chance or preventive archaeological research, according to the present ordinance;
- g) issues the construction and demolishing authorisation only on the basis and in conformity with the Ministry of Culture and Cults' endorsement, for works performed within known and researched archaeological heritage areas, accidentally discovered, or within priority archaeological interest areas;
- h) collaborates with the decentralized public services of the Ministry of Culture and Cults, informing them about the applications for building permits for the discovered archaeological heritage areas;
- i) mentions the status of the buildings situated within the discovered archaeological heritage areas in the town-planning certificate;
- j) adopt the corresponding administrative measures and notify the owners of the buildings and the holders of other real rights about the obligations they

have with respect to the prevention of the degradation of the accidentally discovered archaeological items.

Art. 20

As far as the protection of the archaeological heritage situated on the territory that falls under his/her scope is concerned, the mayor has the following specific attributions:

- a) disposes the suspension of the building permit and cessation of any construction or demolishing activities if archaeological vestiges or other object for which the classification procedure was initiated were discovered, notifies at shortest notice the public service of the Ministry of Culture and Cults and organises the guard for the archaeological items accidentally discovered;
- b) issues the construction or demolishing authorisation only on the basis and in conformity with the stipulations and endorsement of the Ministry of Culture and Cults for the works performed in the discovered archaeological heritage areas, as well as for works performed in accidentally discovered archaeological heritage areas;
- c) ensures the guard and protection of the archaeological discoveries held in public property, discovered as consequence of preventive systematic research and immediately notifies the decentralized public services of the Ministry of Culture and Cults any infringement of the law.

CHAPTER V: Priority archaeological interest areas

Art. 21

- (1) The long-term development of the archaeological interest areas is a national interest objective; the protection and enhancement of the archaeological heritage in these areas are, in conformity with the law, public utility cause.
- (2) The archaeological research projects, the conservation, the restoration and the enhancement of the sites situated in the priority archaeological interest areas shall be financed by the state budget allotted by the Ministry of Culture and Cults.
- (3) The necessary expenses for the elaboration of the management plan, of the archaeological research projects, of the conservation, the restoration and enhancement of the sites situated in the priority archaeological interest areas can be provided, by co-financing, in conformity with the present ordinance, from the budgets of local public administration authorities that cover these sites areas.

Art. 22

- (1) The local public administration authorities archaeological priority interest areas that cover shall adopt technical and administrative measures for the protection of the archaeological interest heritage and its enhancement in the economic, social and territorial town development plans.
- (2) The authorities mentioned in paragraph (1) shall include in their budgets the necessary funds for:
 - a) the elaboration and, if the case is, the modification of the town planning and

territorial development, with a view to the protection and enhancement of the archaeological heritage;

- b) the elaboration of the special protection regulations of the area;
 - c) the delimitation of the priority archaeological interest areas and informing the public about the special protection status of the area.
- (3) In order to fulfil the attributions they have and to elaborate the documentation mentioned in paragraph (2), the local public administration authorities may benefit of special fund transfers from the state budgets, in compliance with the law, as well as of the co financing from the concerned ministries budgets.
- (4) The endorsement of the town planning and territorial development documentations for the priority archaeological interest areas shall be done by the Ministry of culture and Cults.

Art. 23

- 1) The owners and the holders of administration rights and of other real rights over the real estates situated on the archaeological sites from the priority archaeological interest areas shall allow the access to the personnel authorised by the Ministry of Culture and Cults to research and protect the archaeological heritage and ensure the guard and protection of the archaeological heritage measures, in conformity with the law.
- 2) As a consequence of the special protection of the archaeological sites registered in the National Archaeological Repository, in compliance with the stipulations of art. 22, the owners or tenants, private or public legal or natural bodies are entitled to compensation payments unachieved agricultural incomes for the time the excavations are being conducted, under the quotas and conditions laid down in the Government methodology.
- 3) The compensations unachieved agricultural incomes shall be paid to the rightful person by the financer of the archaeological excavation, within 60 days after the initiation of the archaeological research.

CHAPTER VI: Crimes and offences

Art. 24

Any infringement upon the present ordinance entails, where applicable, civil, administrative, material, disciplinary, contravention and criminal liability.

Art. 25

- (1) Any works that may damage archaeological sites, before obtaining the archaeological discharge certificate, shall be considered destruction of historical monuments and shall be punished according to the stipulations of the criminal law.
- (2) The researchers' team performing their activity in a certain locality shall clean the area during and at the end of the work.

Art. 26

- (1) The access with metal detectors and using them within the archaeological heritage

areas, without having obtained the preliminary authorisation specified in art. 5 paragraph (13) represents infraction and shall be punished by 1 to 5 years' prison and the confiscation of the detectors.

(2) Any attempt shall be punished.

Art. 27

(1) The commerce with metal detectors without the authorisation mentioned at art. 5 paragraph (10) represents infraction and shall be punished by 1 to 5 years' prison.

(2) Any attempt shall be punished.

Art. 28

(1) The following deeds are considered to be offences and they are sanctioned as follows:

- a) performing archaeological research without authorisation issued in compliance with the present law, as well as any other activities that might harm the integrity or endanger the conservation of archaeological heritage; 10.000 to 50.000 lei fine;
- b) failure to declare the archaeological discoveries stated at art. 4 paragraph (2), by the holder of the research authorisation; 2.500 to 10.000 lei fine;
- c) failure of the persons mentioned at art. 4 paragraph (2), to declare, within the deadline set by the present ordinance, the chance archaeological discoveries; 2.000 to 50.000 lei fine and confiscation of the discovered objects;
- d) infringement of the stipulations of art. 7 letters a) and b); 25.000 to 75.000 lei fine;
- e) failure to comply with the endorsement of the Ministry of Culture and Cults or issuing construction authorisation in the absence of the above mentioned endorsement for the construction or demolishing works in the discovered archaeological heritage areas; 10.000 to 50.000 lei fine;
- f) failure to fulfil the attributions stated at art. 13 letters a) and c); 2.000 to 10.000 lei fine;
- g) metal detectors holding, without the authorisation stated in art. 5 paragraph (10), 25.000 – 75.000 lei fine and confiscation of the detectors;
- h) metal detectors holding, without the endorsement stated in art. 5 paragraph (10), 25.000 – 75.000 lei fine and confiscation of the detectors;
- i) infringement of the stipulations of art. 9 paragraph (1) and art 23 paragraph (1); 5.000 to 25.000 lei fine.

(2) The fines stated in paragraph (1) shall be updated by government's decision.

Art. 29

(1) The offences will be recorded and the sanctions will be enforced by:

- a) the specialists of the decentralized public services of the Ministry of Culture and Cults;
- b) the delegates of the Ministry of Culture and Cults;

- c) the territorial inspectors of the Constructions State Inspectorate;
 - d) the police organs entitled to take into account any demand to fulfil the attributions of the personnel stated at letters a) – c).
- (2) the offences stated in art. 28 paragraph (1) letters a), b) and i) shall be recorded and the sanction shall be enforced by the specialists of the decentralized public services of the Ministry of Culture and Cults, by the mayor, respectively the general mayor of Bucharest, or by the president of the county council, as well as by their delegates.

Art. 30

The stipulations of the Government's Ordinance no. 2/2001 on the legal status of offences, approved with modifications and completions by Law no. 180/2002, with the modifications and completions, except for the stipulations of art. 28 and 29 are to be applied to the offences mentioned at art. 28.

Art. 31

- (1) Demolishing, partially destroying or damaging the archaeological sites classified as historical monuments shall be sanctioned according to the criminal law.
- (2) In case of degradation of the above mentioned archaeological objects, the doer shall rehabilitate the damaged parts of the construction, on the basis of the endorsement of the specialised organisms stated in the present ordinance.

Art. 32

Failure to notify the authorities about the archaeological discoveries during the construction or demolishing works represents infraction and shall be punished with 3 months to 3 years imprisonment or 4.000 to 80.000 lei fine.

NOTE:

- 1. Below we reproduce the provisions of art. II and III of Law no. 258/2006 for the modification and completion of the Government's Ordinance no. 43/2000 on the protection of the archaeological heritage and declaring the archaeological sites as national interest areas, which are not incorporated in the codified text of the Government's Ordinance no. 43/2000:

2.

"Art. II

With a view to enforcing the conservation principle integrated in the archaeological heritage and to including in the national and local policies for the protection of the environment, the Ministry of Culture and Cults elaborates, together with the Ministry of Environment and Waters Management and the Ministry of Agriculture, Forests and Rural Development, within 90 days after the present law comes into force, the Methodology for the approval of the archaeological research in the protected natural areas and in natural and national parks, approved by common

order of the three ministers and published in the Romanian Official Journal, Part. I.

Art. III

The first list with the priority archaeological interest areas will be elaborated less than 6 months after the present law comes into force.”

*) Codified on the basis of art. IV of Law no. 258/2006 for the modification and completion of the Government’s Decree no. 43/2000 on the protection of the archaeological heritage and declaring certain archaeological sites as national interest areas, published in the Romanian Official Journal, Part. I, no. 603 of the 12th of July 2006, and the texts will be renumbered.

The Government’s Ordinance no. 43/2000, approved with modifications and completions by Law no. 378/2001, and was codified in the Romanian Official Journal, Part. I, no. 352 of the 26th of April 2005.

Published in the Romanian Official Journal no 951 of the 24th of November 2006