



The Law of Ukraine

On Protection of Archaeological Heritage

(Vidomosti of Verkhovna Rada (VVR), 2004, No. 26, page 361)

The present Law regulates relations connected with the protection of archaeological heritage of Ukraine – an integral part of cultural heritage of humanity, vulnerable and non-renewable source of knowledge about the historical past, and also defines rights and duties of the explorers of archaeological heritage.

Part I

GENERAL PRINCIPLES

Article 1. Definitions

This Law contains such definitions:

archaeological heritage of Ukraine (further – the archaeological heritage) – the system of archaeological monuments and shared territories, being under state protection, and also movable cultural values (archaeological items), that comes from the objects of the archaeological heritage;

object of the archaeological heritage (the archaeological object) – a place, a construction (creation), a complex (ensemble), their parts, linked territories or water objects, created by people, irrespectively of safe keeping condition, that brought to our time the values from archaeological, anthropological and ethnographical views and completely or partly have saved their authenticity;

monument of archeology (the archeological monument) - the object of the archaeological heritage of national or local importance, that has been included to the State Register of immovable monuments of Ukraine;

archeological researches – scientific prediscovers and research effort, aimed at receiving new knowledge about the objects of the archaeological heritage, mechanism of development of ancient society and human being;

archaeological heritage protection – complex of measures realized by the state, its bodies, enterprises, establishments, institutions, and organizations, and also citizens, according to the legislation of Ukraine and aimed at registration (discovery, research study, classification, map-making, state registration), protection, conservation, restoration, rehabilitation and creation of archaeological heritage objects museums (further – archaeological heritage objects musefication), and also spreading the knowledge about the archaeological heritage;

archaeologist – the scientist (citizen of Ukraine, foreigner or person without citizenship), who has appropriate professional education and qualification, professionally conducts archaeological researches, supplementing them with scientific reports and publication of scientific results;

archaeological diggings – a kind of scientific research of the archaeological heritage, which is the study of archaeological remains in the territory of the object of the archaeological heritage and includes, in particular, digging, which completely or partly ruins the subject of inquiry;

the archeological explorations – a kind of scientific research of archaeological heritage, which doesn't relate to destruction of cultural stratum (except limited trenching to find out the thickness of the cultural stratum) of the object of archaeological heritage and aimed at discovery, localization (map-making), interpretation of the objects of archaeological heritage, receiving a more precise data about already known objects of archaeological heritage;

scientific examination of archaeological heritage – activity, the main aim of which is the scientific research of archaeological heritage and preparation scientifically proved conclusions for decision making concerning the usage of archaeological objects, and also analysis of programs, projects of city building, architectural and landscape changes, according to which digging is provided for, and realization of which can influence the objects of archaeological heritage;

scientific research of archaeological heritage – a kind of scientific activity, the object of which is archaeological heritage, movable cultural values, which come from the objects of the archaeological heritage, and also documented information (publications, scientific reports and so on) of archaeological nature;

open letter – unique qualification document, which certifies the professional level of researcher and gives the right for scientific research of archaeological heritage;

license – document of standard form, which is given by the central body of executive power in the sphere of cultural heritage protection, which gives the right for digging at the object of the archaeological heritage. The license is given to the researcher, which has got the qualification document (open letter).

Article 2. Legislation of Ukraine on the archaeological heritage protection

Legislation of Ukraine on the archaeological heritage protection consists of the Constitution of Ukraine (254к/96-BP), Land code of Ukraine (2768-14), the Law of Ukraine “About the protection of cultural heritage” (1805-14), international treaties of Ukraine on archaeological heritage, approval for obligatory implementation of which is given by Verhovna Rada of Ukraine, this Law and other legal acts of Ukraine.

Article 3. The main tasks of legislation of Ukraine on archaeological heritage protection

The main tasks of legislation of Ukraine on archaeological heritage protection are:

public relations regulation in sphere of protection, research and preservation of archaeological heritage;

securing the right of citizens for learning the archaeological heritage of Ukraine;

securing the right of archaeologists – citizens of Ukraine for archaeological researches;

determination of the terms of reference of administration bodies in the sphere of archaeological heritage protection;

promotion of state policy in the sphere of protection, research and preservation of archaeological heritage;

determination of types of objects of archaeological heritage (archaeological objects of cultural heritage);

regulation of property relations concerning the objects of archaeological heritage, determination of rights and duties of the owners and users of archaeological monuments;

creation of necessary conditions for providing the protection of the objects of the archaeological heritage;

creation of legal base on protection, preservation, research of archaeological heritage;

determination of criteria for issuing of open letters and licenses for archeological exploration, digging, other land job in the territory of archaeological monument, protected archaeological territory, protection zones, in the historical areas of settlements;

legal regulation of financing of protection and research of archaeological heritage.

Part II

PUBLIC ADMINISTRATION OF ARCHAEOLOGICAL HERITAGE

Article 4. Administration bodies in the sphere of archaeological heritage protection

State management in the sphere of archaeological heritage protection is charged to the Cabinet of Ministers of Ukraine, specially authorized central body of executive power in the sphere of cultural heritage protection and other authorized bodies of cultural heritage protection.

Central body of executive power in the sphere of cultural heritage protection is specially authorized body of cultural heritage protection.

Other authorized bodies of cultural heritage protection are:

the body of cultural heritage protection of the Council of ministers of Autonomous Republic Crimea;

bodies of cultural heritage protection of oblasts, Kyiv and Sebastopol city, district state administrations;

bodies of cultural heritage protection of local government.

Article 5. Terms of reference of Cabinet of Ministers of Ukraine in the sphere of archeological heritage protection

Terms of reference of Cabinet of Ministers of Ukraine in the sphere of archeological heritage protection cover:

administration of state policy in the sphere of archeological heritage protection;

realization of state control in the sphere of archeological heritage protection;

including of the objects of archaeological heritage of national importance into the State register of immovable monuments of Ukraine;

determination of archaeological institutions and museums, which are given the right of keeping of archeological monuments, and also their buying;

approval of methodology and norms of valuation of archeological monuments.

Cabinet of Ministers of Ukraine also realizes other authority, which is provided by the legislation of Ukraine in the sphere of archeological heritage protection.

Article 6. The authority of specially authorized central body of executive power in the sphere of cultural heritage protection

Specially authorized central body of executive power in the sphere of cultural heritage protection is responsible for safe keeping and using of archeological monuments and subjects in the territory of Ukraine.

Terms of reference of specially authorized central body of executive power in the sphere of cultural heritage protection cover:

working out of legal acts, which regulate the issues of registration, restoration and using of the objects of archeological heritage;

administration of archeological heritage state registration;

working out and establishment of protection zones of archeological monuments;

supervision over construction job in protection zones of archeological monuments;

approval of lands allocation and projects of land using, road, amelioration and agricultural jobs;

issuing of licenses for conducting any work related to the activities concerning protection and learning of archaeological heritage;

suspending or prohibition of any activity of juridical or natural persons, that threatens the safe keeping of archeological monuments;

presenting of submissions concerning penalties for the activities, which threatens the safe keeping of archeological heritage, suspending of financial activity of juridical and natural persons, which violate the legislation on archaeological heritage;

working out of methodology base and documentation concerning protection and using of archaeological heritage;

organization and conducting of examinations on protection and using of archaeological heritage;

administration of the activity on sale, purchase, import and export of archaeological items into the territory and out of the territory of Ukraine and this activity control.

Article 7. Terms of reference of other authorized bodies of cultural heritage protection

Terms of reference of the body of cultural heritage protection of the Council of ministers of Autonomous Republic of Crimea, bodies of cultural heritage protection of oblasts, Kyiv and Sevastopol cities, district state administrations, bodies of cultural heritage protection of local government cover:

follow-up action of this Law, other archaeological heritage protection legal acts;

securing of proper protection and keeping of archaeological heritage objects in the borders of related territory (Autonomous Republic of Crimea, region, city, district);

approval of lands allocation for city building, road, amelioration and land-utilization work at the designing stage;

permanent inspection of archeological monuments safe keeping;

registration of licenses and open letters for research at the archeological monuments.

Article 8. The state registration of archaeological heritage

Archaeological monuments and items are the subject to state registration irrespectively of subordination and form of property.

State registration of the archaeological heritage is realized by specially authorized central body of executive power in the sphere of cultural heritage protection.

State registration of archaeological heritage includes its discovering, fixation, determination of scientific and cultural value, map-making and certification, composition of the list and the code of archaeological monuments, registration and inventory of archaeological collections irrespectively of institutional belonging and form of property.

Procedure of state registration of archaeological heritage is determined by Cabinet of Ministers of Ukraine.

Part III

SCIENTIFIC RESEARCH OF ARCHAEOLOGICAL HERITAGE

Article 9. Types and principles of scientific research of archaeological heritage

Scientific research of archaeological heritage includes:

study of historical-and-archive data concerning the objects of archaeological heritage;

field research which, envisages land job (digging and exploration), research, which does not envisage land job (exploration without land job, geomagnetic survey, aerophotography, etc.);

all types of post-field research.

Principles of scientific research of archaeological monument are:

using, where is possible, nondestructive methods of research;

causing a minimal damage to the objects of archaeological heritage and prevention leaving the objects of archaeological heritage opened after finishing field study without securing their appropriate safe keeping, conservation and rational using;

realization of scientific fixation of all the stages of research and all discoveries and other material leavings;

publication of the results of scientific research of the archaeological monument.

Article 10. Right for scientific research of archaeological heritage

Right for scientific research of archaeological heritage is given only to archaeologists, which have practical experience of archaeological works conducting (digging, exploration), fulfill the norms of legislation of Ukraine on cultural heritage protection.

Archaeological explorations, diggings, other land job at the territory of monument, archaeological protected territory, in protection zones, in historical areas of settlements and also study of remains of human vital activity, which are situated under the earth surface, under water, are realized according to license, issued by the central body of executive power in the sphere of cultural heritage protection.

Licenses for archeological explorations, diggings are issued provided that archaeologist fulfills the requirements of archaeological heritage protection and has the open letter – qualification document, issued by the Institute of Archaeology of the National Academy of Sciences of Ukraine.

Using of metal sensors and other devices to find the objects of archeological heritage or movable items, connected with cultural stratum by any person, without the open letter or license for archeological research is illegal.

Article 11. Scientific report of archeological heritage researcher

Archaeologist, that conducts archaeological research study in the territory of Ukraine, should present the scientific report about realized archeological studies to the scientific archive of the Institute of Archaeology of National Academy of Sciences of Ukraine before the beginning of the next field season, that is one of the terms of receiving of the open letter by this archaeologist for the next period of archeological researches. The report about the conducted archeological research study is the obligatory scientific documentation and is the subject to the lifelong safe keeping. Requirements to the scientific report are approved by the Academic council of the Institute of Archaeology of National Academy of Sciences of Ukraine.

Scientific reports about archeological research studies, conducted in the territory of Ukraine, are preserved in the scientific archive of the Institute of Archaeology of National Academy of Sciences of Ukraine. Enterprises, institutions, organizations, that own scientific archaeological archives or any other report documentation about archeological research studies in the territory of Ukraine, should present their originals or full copies on demand of the Institute of Archaeology of National Academy of Sciences of Ukraine.

Article 12. Duties and terms of reference of the Institute of Archaeology of National Academy of Sciences of Ukraine in the sphere of scientific research of archaeological heritage

The Institute of Archaeology of National Academy of Sciences of Ukraine as the state archaeological scientific institution according to the legislation of Ukraine:

is a single scientific institution, that issues qualification documents (open letters), allowing to conduct archeological research in the borders of the whole territory of Ukraine;

organizes and realizes scientific and scientific-and-rescue research of archeological objects;

coordinates archeological research in scientific institutions and organizations irrespectively of their subordination and forms of property in the territory of Ukraine;

works out, approves and implements scientific policy of archaeological heritage research;

on demand of Specially authorized body of executive power in the sphere of cultural heritage protection realizes scientific archaeological examination and approval of programs and projects of city building, architectural and landscape transformations, building, amelioration, road, land job on the archaeological monuments, in archaeological protection zones, in the protected archaeological territories in the historical areas of settlements, included into the List of historical settlements of Ukraine;

trains the experts in the sphere of research, protection and using of archeological heritage;

collects the whole scientific archive of reports about archaeological research studies in Ukraine;

secures safe keeping and registration of movable items, which comes from the objects of archaeological heritage of Ukraine (further-discoveries) and according to the legislation have been passed to its reserves;

conducts scientific examinations of research of archeological heritage and scientific reports.

Article 13. Public participation in archaeological heritage protection

Public organizations, citizens assist the bodies of archaeological heritage protection in realizing of practical measures on discovery, study, registration and protection of objects of archaeological heritage, popularization of knowledge about them and monument protection legislation, conduct the public control of the condition of preservation, using, conservation and archaeological monuments musefication.

Bodies of executive power and bodies of local government promote archaeological heritage protection activity of Ukrainian society of protection of monuments of history and culture, Ukrainian fund of culture, other public organizations, and citizens.

Article 14. Legal status of archaeological expedition

Archaeological expedition under its legal status may be a separate subdivision of juridical person (scientific institution, educational institution, museum institution etc.), as well as juridical person of state or

communal form of property, statute activity of which envisages the conducting of scientific research of the archeological heritage.

Management of archaeological expedition activity in the sphere of archaeological heritage research realizes the archaeologist that has got the open letter and license to conduct land job at the object of archeological heritage.

Archaeological expedition can be founded by the Institute of Archaeology of National Academy of Sciences of Ukraine, scientific institutions of National Academy of Science of Ukraine, which have archaeological departments, higher educational institutions of 3-rd or 4-th level of accreditation of the state form of property in the frame of students preparation programs museums, reserves, museum-and-reserves of state or municipal form of property, which list of members of staff has the posts of archaeologists.

Archaeological expeditions, squadrons and groups are headed by the researcher, which has got the open letter, and they are under the state protection. Central and local bodies of executive power, bodies of local government, enterprises, institutions, organizations and citizens assist and promote the conducting of archaeological research.

Part IV

RIGHTS AND DUTIES OF ARCHAEOLOGICAL HERITAGE RESEARCHERS

Article 15. Rights and duties of archaeological heritage researcher

Archaeological heritage researcher (archaeologist) is a scientist and has corresponding rights, established by this Law, laws of Ukraine “About protection of cultural heritage” (1805-14) and “About scientific and scientific-and-technical activity” (1977-12).

Archaeological heritage researcher:

has the privileged right to renew the scientific research of the object of archaeological heritage, which he researched before, except the cases, when this object of archaeological heritage has been determined for protection research studies according to the Law of Ukraine “About archaeological heritage protection” (1805-14);

has the privileged right of access to the items of archaeology, discovered by him during the archaeological research and passed to the state institutions and establishments;

is obliged to conduct archaeological research according to this Law, to follow the requirements of other acts of legislation of Ukraine, including instructions (methodology, rules), approved by the specially authorized central body of executive power in the sphere of cultural heritage protection;

is obliged to secure preservation of discovered objects of cultural heritage and passing of movable items after their studying to institution, determined in the open letter and in the license, to realize the conservation of cultural heritage objects, ordering of the territory after finishing the job, and in the case of need – to take part in bringing of mentioned objects to the exposition form on contractual terms and to take part in preparation of materials for the state registration these objects as monument;

is obliged to supplement his research studies with obligatory documentation (descriptive, drawing, photo-, cinema-, video fixation) and to follow the principles of scientific research of archaeological heritage, determined by this Law.

Article 16. Realizations the rights for scientific research and receiving the scientific result

Scientific information, received as the result of archaeological research is the object of incorporeal right according to legislation of Ukraine.

Grounds for the incorporeal right to the scientific information, received as a result of archaeological research are: receiving such information in the result of field or other archaeological research studies; creation the information by own efforts and at own expense; realization of any agreement, that contains clauses of assignment of right of information property to other person.

Incorporeal right to the scientific information, received in the result of archaeological research, is regulated by this Law, laws of Ukraine “About scientific-and-technical information” (3322-12), “About intellectual property rights and neighboring rights” (3792-12) and other acts of legislation of Ukraine. The law of property to the scientific information, received or created by several citizens or juridical persons, is determined by the agreement, concluded between the co-owners of this information.

Disputes concerning incorporeal right to the information, received in the result of the archaeological research, are to be solved according to the laws of Ukraine.

Article 17. Right to publication of the results of scientific research of archaeological heritage

Archaeologist, that have realized the archaeological research studies, has the exclusive right to publication of scientific information, received in the result of field and after field research according to the procedure defined by the first part of the Article 15 and Article 28 of Law of Ukraine “About intellectual property rights and neighboring rights”(3792-12).

Article 18. Finds, received in the result of archaeological research

Finds, received in the result of archaeological research (immovable and movable items, which were connected with the object of archaeological heritage and discovered and documented during archaeological research) are the state property. They are to be registered and classified according to methodology, approved by the specially authorized central body of executive power in the sphere of cultural heritage protection. The legal regime of a treasure is determined by the legislation of Ukraine.

From the moment of discovery and to the moment of passing for safe keeping, according to the legislation of Ukraine, finds are protected by the state at the level, equal with the objects of Museum reserves of Ukraine.

Finds are to be passed for safe keeping to the reserves of the Institute of Archaeology of National Academy of Sciences of Ukraine, to the reserves of museums and/or educational institutions, scientific institutions, cultural institutions of state or municipal form of property, where appropriate conditions of their safe keeping, studding, exhibition, etc. are secured. Institutions and organizations, to which finds are passed, are named beforehand in the open letter and corresponding license, at the same time, priority of creation of central, regional or local (in the archaeological reserves) integral collections should be determined.

In case when researched elements of archaeological heritage remain at the place of their discovery, the archaeologist together with the corresponding body of cultural heritage protection take measures for their conservation or musefication. Financing of such measures is realized according to the Law of Ukraine “About archaeological heritage protection” (1805-14).

Article 19. Duties of juridical and natural persons, which use or possess archaeological objects

Juridical and natural persons, which use or possess archaeological objects or items should:

follow all the rules of protection and using of archaeological objects or items;

realize all necessary works of productive type according to the license;

inform immediately about new discovered objects or items in the borders of the territory, which they use for their work;

promote and do not prevent any work on discovering, registration and studying archaeological objects or items.

Part V

FINANCING OF SAFE KEEPING, PROTECTION, RESEARCH OF
ARCHAEOLOGICAL HERITAGE

Article 20. The sources of financing of safe keeping, protection, research of archaeological heritage

The financing of safe keeping of archaeological heritage realizes at the expense of the main and special funds of State budget of Ukraine.

The sources of financing of safe keeping, protection, studying archaeological heritage may consist of the funds of the owners of archaeological objects or bodies, authorized by them or persons, which have got the right for possessing, use or management of monuments, money of the customers of the works, charitable payments and donations, including foreign currency, for archaeological heritage protection and other sources, which are not forbidden by the legislation of Ukraine.

Part VI

INTERNATIONAL COOPERATION OF UKRAINE

Article 21. Principles and kinds of international cooperation of Ukraine in the sphere of archaeological heritage protection

Archaeological heritage of Ukraine is an integral part of archaeological heritage of Europe and humanity as a whole. Ukraine stimulates international information exchanges about archaeological research, promotes international contacts of archaeologists.

The state promotes establishment and development of cooperation with foreign states and international organizations for prevention of illegal archaeological digging, illegal import, export and passing of property right for movable items, which come from the objects of archaeological heritage.

The state creates the necessary legal and economic conditions for realization, free and equal relations with foreign scientific institutions and organizations, foreign and international scientific associations and unions in the sphere of archaeological heritage, if these relations don't contradict the legislation of Ukraine.

International treaty-and-legal, information, scientific cooperation in the sphere of archaeological heritage protection is realized in the forms, which don't contradict the legislation of Ukraine.

If the international treaty of Ukraine, approval for mandatory enforcement of which has been given by Verkhovna Rada of Ukraine, determines other rules, than those, which are provided by this Law, the rules of the international treaty of Ukraine are used.

Part VII

RESPONSIBILITY FOR VIOLATION OF THE LEGISLATION OF UKRAINE ON ARCHAEOLOGICAL HERITAGE PROTECTION

Article 22. Responsibility for violation of the legislation of Ukraine on archaeological heritage protection

Juridical and natural persons, actions or inaction of which have caused a damage to archaeological heritage, account according to the legislation of Ukraine.

Part VIII

FINAL PROVISIONS

1. This Law shall come into force since the day of its publication.
2. Cabinet of Ministers of Ukraine during six months since the day of taking effect by this Law:

to submit to Verhovna Rada of Ukraine its proposals concerning the bringing the laws of Ukraine in correspondence with the Law of Ukraine “On protection of archaeological heritage”;

to work out and to bring its legal acts in correspondence with this Law;

according to the terms of reference to provide adoption of legal acts, provided by this Law;

to provide the revision and cancellation by the ministries and other central bodies of executive power of Ukraine their legal acts, which contradict this Law.

3. To make changes to such legislative acts of Ukraine:

1) part 9, article 118 of Land code of Ukraine (2768-14) (Vidomosti of Verhovna Rada of Ukraine, 2002, N 3-4, p. 27) to state in such version:

“part 9. The project of land allocation is to be submitted to the approval of the body on land resources, environmental and sanitary-and-epidemiologic bodies, bodies of architecture and cultural heritage protection and to be presented for consideration of appropriate local state administration or body of local government”;

2) article 298 of the Criminal code of Ukraine (2341-14) (Vidomosti of Verhovna Rada of Ukraine, 2001, N 25-26, p. 131) to state in such version:

“Article 298. Annihilation, destruction, or damage of monuments – objects of cultural heritage and unauthorized predisccovery at the archaeological monument.

1. Deliberate illegal annihilation, destruction, or damage the monuments – objects of the cultural heritage -

are the subject for penalty at the rate up to one hundred tax-free minimal incomes of citizens or up to three years of custody.

2. The same actions, perpetrated concerning monuments of national importance, -

are the subject for punishment by custody up to five years.

3. Acts, provided by part I or II of this article, committed with the purpose of search of movable items, which come from archaeological heritage objects,-

are the subject for punishment by custody from two to five years.

4. Acts, provided by part I or II of this article, committed by official with use of his service position,-

are the subject for punishment by custody from three to eight years.

President of Ukraine
Kyiv
March 18, 2004
1626-IV

L. KUCHMA