



TREATY SERIES 1998

NO.4

**EUROPEAN CONVENTION ON THE PROTECTION OF
THE ARCHAEOLOGICAL HERITAGE (REVISED)**

**Done at Valletta on 16 January 1992
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Signed by Ireland on 16 January 1992
Instrument of Ratification deposited by Ireland on 18 March 1997**

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LAI D BEFORE DAIL EIREANN BY
THE MINISTER FOR FOREIGN AFFAIRS

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Preamble

The member States of the Council of Europe and the other States party to the European Cultural Convention signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose, in particular, of safeguarding and realising the ideals and principles which are their common heritage;

Having regard to the European Cultural Convention signed in Paris on 19 December 1954, in particular Articles 1 and 5 thereof;

Having regard to the Convention for the Protection of the Architectural Heritage of Europe signed in Granada on 3 October 1985;

Having regard to the European Convention on Offences relating to Cultural Property signed in Delphi on 23 June 1985;

Having regard to the recommendations of the Parliamentary Assembly relating to archaeology and in particular Recommendations 848 (1978), 921 (1981) and 1072 (1988);

Having regard to Recommendation No. R (89) 5 concerning the protection and enhancement of the archaeological heritage in the context of town and country planning operations;

Recalling that the archaeological heritage is essential to a knowledge of the history of mankind;

Acknowledging that the European archaeological heritage, which provides evidence of ancient history, is seriously threatened with deterioration because of the increasing number of major planning schemes, natural risks, clandestine or unscientific excavations and insufficient public awareness;

Affirming that it is important to institute, where they do not yet exist, appropriate administrative and scientific supervision procedures, and that the need to protect the archaeological heritage should be reflected in town and country planning and cultural development policies;

Stressing that responsibility for the protection of the archaeological heritage should rest not only with the State directly concerned but with all European countries, the aim being to reduce the risk of deterioration and promote conservation by encouraging exchanges of experts and the comparison of experiences;

Noting the necessity to complete the principles set forth in the European Convention for the Protection of the Archaeological Heritage signed in London on 6 May 1969, as a result of evolution of planning policies in European countries,

Have agreed as follows:

Definition of the archaeological heritage

Article 1

- 1 The aim of this (revised) Convention is to protect the archaeological heritage as a source of the European collective memory and as an instrument for historical and scientific study.
- 2 To this end shall be considered to be elements of the archaeological heritage all remains and objects and any other traces of mankind from past epochs:
 - i the preservation and study of which help to retrace the history of mankind and its relation with the natural environment;
 - ii for which excavations or discoveries and other methods of research into mankind and the related environment are the main sources of information; and
 - iii which are located in any area within the jurisdiction of the Parties.
- 3 The archaeological heritage shall include structures, constructions, groups of buildings, developed sites, moveable objects, monuments of other kinds as well as their context, whether situated on land or under water.

Identification of the heritage and measures for protection

Article 2

Each Party undertakes to institute, by means appropriate to the State in question, a legal system for the protection of the archaeological heritage, making provision for:

- i the maintenance of an inventory of its archaeological heritage and the designation of protected monuments and areas;
- ii the creation of archaeological reserves, even where there are no visible remains on the ground or under water, for the preservation of material evidence to be studied by later generations;
- iii the mandatory reporting to the competent authorities by a finder of the chance discovery of elements of the archaeological heritage and making them available for examination.

Article 3

To preserve the archaeological heritage and guarantee the scientific significance of archaeological research work, each Party undertakes:

- i to apply procedures for the authorisation and supervision of excavation and other archaeological activities in such a way as:
 - a to prevent any illicit excavation or removal of elements of the archaeological heritage;
 - b to ensure that archaeological excavations and prospecting are undertaken in a scientific manner and provided that:
 - non-destructive methods of investigation are applied wherever possible;

- the elements of the archaeological heritage are not uncovered or left exposed during or after excavation without provision being made for their proper preservation, conservation and management;
- ii to ensure that excavations and other potentially destructive techniques are carried out only by qualified, specially authorised persons;
- iii to subject to specific prior authorisation, whenever foreseen by the domestic law of the State, the use of metal detectors and any other detection equipment or process for archaeological investigation.

Article 4

Each Party undertakes to implement measures for the physical protection of the archaeological heritage, making provision, as circumstances demand:

- i for the acquisition or protection by other appropriate means by the public authorities of areas intended to constitute archaeological reserves;
- ii for the conservation and maintenance of the archaeological heritage, preferably *in situ*;
- iii for appropriate storage places for archaeological remains which have been removed from their original location.

Integrated conservation of the archaeological heritage

Article 5

Each Party undertakes:

- i to seek to reconcile and combine the respective requirements of archaeology and development plans by ensuring that archaeologists participate:
 - a in planning policies designed to ensure well-balanced strategies for the protection, conservation and enhancement of sites of archaeological interest;
 - b in the various stages of development schemes;
- ii to ensure that archaeologists, town and regional planners systematically consult one another in order to permit:
 - a the modification of development plans likely to have adverse effects on the archaeological heritage;
 - b the allocation of sufficient time and resources for an appropriate scientific study to be made of the site and for its findings to be published;
- iii to ensure that environmental impact assessments and the resulting decisions involve full consideration of archaeological sites and their settings;
- iv to make provision, when elements of the archaeological heritage have been found during development work, for their conservation *in situ* when feasible;
- v to ensure that the opening of archaeological sites to the public, especially any structural arrangements necessary for the reception of large numbers of visitors, does not adversely affect the archaeological and scientific character of such sites and their surroundings.

The financing of archaeological research and conservation

Article 6

Each Party undertakes:

- i to arrange for public financial support for archaeological research from national, regional and local authorities in accordance with their respective competence;
- ii to increase the material resources for rescue archaeology:
 - a by taking suitable measures to ensure that provision is made in major public or private development schemes for covering, from public sector or private sector resources, as appropriate, the total costs of any necessary related archaeological operations;
 - b by making provision in the budget relating to these schemes in the same way as for the impact studies necessitated by environmental and regional planning precautions, for preliminary archaeological study and prospection, for a scientific summary record as well as for the full publication and recording of the findings.

Collection and dissemination of scientific information

Article 7

For the purpose of facilitating the study of, and dissemination of knowledge about, archaeological discoveries, each Party undertakes:

- i to make or bring up to date surveys, inventories and maps of archaeological sites in the areas within its jurisdiction;
- ii to take all practical measures to ensure the drafting, following archaeological operations, of a publishable scientific summary record before the necessary comprehensive publication of specialised studies.

Article 8

Each Party undertakes:

- i to facilitate the national and international exchange of elements of the archaeological heritage for professional scientific purposes, while taking appropriate steps to ensure that such circulation in no way prejudices the cultural and scientific value of those elements;
- ii to promote the pooling of information on archaeological research and excavations in progress and to contribute to the organisation of international research programmes.

Promotion of public awareness

Article 9

Each Party undertakes:

- i to conduct educational actions with a view to rousing and developing an awareness in public opinion of the value of the archaeological heritage for understanding the past and of the threats to this heritage;

- ii to promote public access to important elements of its archaeological heritage, especially sites, and encourage the display to the public of suitable selections of archaeological objects.

Prevention of the illicit circulation of elements of the archaeological heritage

Article 10

Each Party undertakes:

- i to arrange for the relevant public authorities and for scientific institutions to pool information on any illicit excavations identified;
- ii to inform the competent authorities in the State of origin which is a Party to this Convention of any offer suspected of coming either from illicit excavations or unlawfully from official excavations, and to provide the necessary details thereof;
- iii to take such steps as are necessary to ensure that museums and similar institutions whose acquisition policy is under State control do not acquire elements of the archaeological heritage suspected of coming from uncontrolled finds or illicit excavations or unlawfully from official excavations;
- iv as regards museums and similar institutions located in the territory of a Party but the acquisition policy of which is not under State control:
 - a to convey to them the text of this (revised) Convention;
 - b to spare no effort to ensure respect by the said museums and institutions for the principles set out in paragraph 3 above;
- v to restrict, as far as possible, by education, information, vigilance and co-operation, the transfer of elements of the archaeological heritage obtained from uncontrolled finds or illicit excavations or unlawfully from official excavations.

Article 11

Nothing in this (revised) Convention shall affect existing or future bilateral or multilateral treaties between Parties concerning the illicit circulation of elements of the archaeological heritage or their restitution to the rightful owner.

Mutual technical and scientific assistance

Article 12

The Parties undertake:

- i to afford mutual technical and scientific assistance through the pooling of experience and exchanges of experts in matters concerning the archaeological heritage;
- ii to encourage, under the relevant national legislation or international agreements binding them, exchanges of specialists in the preservation of the archaeological heritage, including those responsible for further training.

Control of the application of the (revised) Convention

Article 13

For the purposes of this (revised) Convention, a committee of experts, set up by the Committee of Ministers of the Council of Europe pursuant to Article 17 of the Statute of the Council of Europe, shall monitor the application of the (revised) Convention and in particular:

- i report periodically to the Committee of Ministers of the Council of Europe on the situation of archaeological heritage protection policies in the States Parties to the (revised) Convention and on the implementation of the principles embodied in the (revised) Convention;
- ii propose measures to the Committee of Ministers of the Council of Europe for the implementation of the (revised) Convention's provisions, including multilateral activities, revision or amendment of the (revised) Convention and informing public opinion about the purpose of the (revised) Convention;
- iii make recommendations to the Committee of Ministers of the Council of Europe regarding invitations to States which are not members of the Council of Europe to accede to the (revised) Convention.

Final clauses

Article 14

- 1 This (revised) Convention shall be open for signature by the member States of the Council of Europe and the other States party to the European Cultural Convention.
It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
- 2 No State party to the European Convention on the Protection of the Archaeological Heritage, signed in London on 6 May 1969, may deposit its instrument of ratification, acceptance or approval unless it has already denounced the said convention or denounces it simultaneously.
- 3 This (revised) Convention shall enter into force six months after the date on which four States, including at least three member States of the Council of Europe, have expressed their consent to be bound by the (revised) Convention in accordance with the provisions of the preceding paragraphs.
- 4 Whenever, in application of the preceding two paragraphs, the denunciation of the convention of 6 May 1969 would not become effective simultaneously with the entry into force of this (revised) Convention, a Contracting State may, when depositing its instrument of ratification, acceptance or approval, declare that it will continue to apply the Convention of 6 May 1969 until the entry into force of this (revised) Convention.
- 5 In respect of any signatory State which subsequently expresses its consent to be bound by it, the (revised) Convention shall enter into force six months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 15

- 1 After the entry into force of this (revised) Convention, the Committee of Ministers of the Council of Europe may invite any other State not a member of the Council and the European Economic Community, to accede to this (revised) Convention by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee.
- 2 In respect of any acceding State or, should it accede, the European Economic Community, the (revised) Convention shall enter into force six months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 16

- 1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this (revised) Convention shall apply.
- 2 Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this (revised) Convention to any other territory specified in the declaration. In respect of such territory the (revised) Convention shall enter into force six months after the date of receipt of such declaration by the Secretary General.
- 3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective six months after the date of receipt of such notification by the Secretary General.

Article 17

- 1 Any Party may at any time denounce this (revised) Convention by means of a notification addressed to the Secretary General of the Council of Europe.
- 2 Such denunciation shall become effective six months following the date of receipt of such notification by the Secretary General.

Article 18

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, the other States party to the European Cultural Convention and any State or the European Economic Community which has acceded or has been invited to accede to this (revised) Convention of:

- i any signature;
- ii the deposit of any instrument of ratification, acceptance, approval or accession;
- iii any date of entry into force of this (revised) Convention in accordance with Articles 14, 15 and 16;
- iv any other act, notification or communication relating to this (revised) Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this (revised) Convention.

Done at Valletta, this 16th day of January 1992, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the other States party to the European Cultural Convention, and to any non-member State or the European Economic Community invited to accede to this (revised) Convention.

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