COMPTÉE RENDU 66/2019
Publié par le Secrétariat du Conseil
ISSN : 1562-6377
# TABLE OF CONTENTS - SOMMAIRE

**LAW AND PRACTICE REGARDING COIN FINDS**
- Greece, by Christos Gatzolias  1
- **Slovenia, by Leilani Stajer**  4
- Tunisia, by Abdelhamid Fenina  12

**FAMOUS NUMISMATISTS**
- Jacopo Strada, by Volker Heenes  17

**NUMISMATIC COLLECTIONS**
- 75 years to the Numismatic Department of the Pushkin State Museum of Fine Arts, Moscow, by Sergei Kovalenko  35

**OBITUARIES**
- Peter Robert Franke, by Ute Wartenberg  47
- Michael Metcalf, by Julian Baker  51
- Bernd Overbeck, by Kay Ehling, Dietrich Klose & Matthias Barth  57
- Ulla Westermark, by Carmen Arnold-Biucchi  65

**VARIA**
- *Who we are. Looking at representativeness within the International Numismatic Council*, by François de Callataÿ  72
- *Mass (in g) versus weight (in N)*, by Jan Moens  90

**MEETING OF THE INC**
- *Meeting of the Committee (Brussels, May, 2019)*  92

**REPORTS**
1. Projects under the patronage of the INC
   a) Sylloge Nummorum Graecorum, by Andrew Meadows
   c) Lexicon Iconographicum Numismaticae (LIN), by Maria Caltabiano
   d) Sylloge Nummorum Sasanidarum (SNS), by Nikolaus Schindel
   e) Sylloge Nummorum Parthicorum (SNP): Vesta Curtis & Fabrizio Sinisi
   f) NUMID, by Johannes Wienand
2. Reports from affiliated bodies
   b) Oriental Numismatic Society (ONS), by Paramdip Khera
   c) International Association of Professional Numismatists (IAPN – AINP), by Jean-Luc Van der Schueren
   d) International Committee for Money and Banking Museums (ICOMON), by Ute Wartenberg
Leilani Štajer *

SLOVENIAN LAW AND PRACTICES REGARDING COIN FINDS

1. Introduction

Since the Cultural Heritage Protection Act that came into force on March 1, 2008,[1] regulating the methods of cultural heritage protection and the regulations for integrated heritage conservation, five new supplementing Acts came into force. Two of those supplements are specifically concerning the legislation on coin finds.

The CHPA–1B, which came into force on November 30, 2012, was introduced consequently to an order by the Constitutional Court,[2] following a petition filed by the Slovenian Numismatic Society[3] and private individuals against the CHPA–1, attacking the Act’s interference with coin collecting and its unconstitutionality. The Court acted in favour of collectors of coins and other archaeological objects as well as the constitutional protection of rights, as the CHPA–1 imposed excessive intervention with the law based on the property right based of the Constitution of the Republic Slovenia.[4]

The CHPA–1C, which came into force on December 27, 2013, eliminated some deficiencies which occurred by the implementation of the CHPA–1, and notably the ambiguity of certain definitions, introducing new ones such as more a precise definition of national treasure. The Act as well

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* PhD student at the University of Primorska, Slovenia, with a thesis dedicated to ancient Roman numismatics. I am not a lawyer, and must recommend contacting one if you are going to be involved in a transaction involving Slovenian cultural heritage. I would like to thank Nada Zoran from the Slovenian Ministry of Culture for helping clarify some issues regarding the Slovenian law and practices on coin finds.


lowers the required education level for amateur archaeological excavators, introduces a more transparent distribution of competence for issuing different consents and eliminates administrative barriers. An important novelty is the rewarding of honest finders of archaeological remains, since similar actions abroad had proved to stimulate finders and positively contributed to the favouring and trusting of the law and an increase in awareness of the necessity of preserving cultural heritage.

2. Definitions

Coins which were under the soil or water for at least 100 years fall into the category of “archaeological finds” and “archaeological remains” and have properties of “heritage”. It is classified in the Rules on the Registry of Types of Heritage and Protection Guidelines, as items of movable heritage type P13 (“Means for trade and banking”): means of payment, valuable papers, bonds and similar. Another category coins can fall into is “national treasure”. The Article 10 defined a national treasure as a more than 100 year old archaeological find, which originates from excavations and sites on land or under water, and the CHPAJ1B added “on the territory of the Republic of Slovenia”. The CHPAJ1B and CHPAJ1C added, “in the territory of the Republic Slovenia and recognized as heritage” to the Article 6 which indicated that “a movable archaeological find or archaeological remain is property of the State, if it is found on the surface, under the soil or under water for at least 100 years”. All objects with heritage value must be entered in the register as an individual piece or collection.

3. Searching for archaeological remains and violations

The first paragraph of Article 26 implies that the finder of an archaeological item is obliged to ensure that the find is not damaged and that it remains
in the site and position where it was found. The finder, the landowner and 
(in the case of construction work being carried out on the site of the find) 
the developer or manager responsible for the works, must inform the 
Institute for the Protection of the Cultural Heritage (hereafter “IPCH”) 
about the find the next working day at the latest. The CHPA-1B added two 
new paragraphs stating that the IPCH shall issue the finder, the owner of 
the land and the person who notified the find, a decision whether the 
araeological remain is in accordance to this law. As previously men-
tioned, the owner of the movable archaeological remain which is legally 
recognized as heritage, is the State. An appeal against the decision of the 
IPCH does not hold on to the handing over the movable heritage to the 
competent museum.

The accidental finder of a movable archaeological find or remain which has 
been considered to be a heritage, can obtain a reward if he acted according 
to the law. This applies especially in the case when the find is of 
exceptional significance. The reward must not exceed the value of the found 
object. Prior to the issue of protection approval for research or a search for 
araeological remains, protection conditions must be obtained from the 
IPCH.

Searching for archaeological remains and the use of metal detectors or 
other technical means, is allowed with the permission from the IPCH, 
and such work can be conducted not by persons with the technical 
competence for carrying out archaeological research, but only by persons 
with the technical competence to search for archaeological remains. Vendors of metal detectors are obliged to inform their purchasers that it is 
prohibited to use them for researching archaeological objects. A person who uses a metal detector for finding archaeological objects will be fined with a penalty of € 2,000 to 40,000 with the 
possible seizure of his equipment.

If an inspector determines that unauthorized works on heritage or a monu-
ment have been or are being carried out, he may issue one or more 
inspection measures, with violations and penalties having been regu-
lated. A fine from € 1,000 to 4,000 will be imposed on anyone who fails
to notify the IPCH about the finding of the archaeological remain,\(^{[16]}\) or does not possess a certificate of its origin\(^{[17]}\). Anyone who encroaches the finding place or implements works or the removal of the archaeological remains without permission or protection approval is liable to a fine of € 2,000 to 40,000\(^{[18]}\). Damaging or destroying remains that are of special cultural importance or natural value is a criminal offence and punishable by up to five years of imprisonment.\(^{[19]}\)

4. Trading and transfer/export of cultural heritage

The trade, transfer, import and export of heritage are specifically regulated\(^{[20]}\). The seller of the types of heritage entered in the registry,\(^{[21]}\) must be registered by the Ministry in accordance with the regulations governing the court register and the standard classification of activities. The aim of keeping this register is to gather accurate information on the trade in cultural heritage in order to prevent unlawful activity. The dealer must keep evidence of his purchases, sales and other transactions involving cultural heritage, a description and the selling price, the data on the previous owner and on the purchaser. He is obliged to verify the heritage’s origin “with dutiful concern”, which is defined as verifying the origin of movables with values of heritage based on accessible data from evidences, registries and other data on the web, institutions and the vendors.\(^{[22]}\) It also imposes that the evidence of purchases, sales and other transactions is stored permanently. If the dealer does not register his activity, instead of a fine from € 1,000 to 4,000, he is now liable to a fine of € 2,000 to 40,000. The same applies to who fails to verify the origin of the item he is trading.\(^{[23]}\)

The transfer of movable heritage\(^{[24]}\) and national treasure to another country, whether a EU member state or not, is subject to an authorization by the Minister. The obtaining of a licence for import or export is regulated since 2011.\(^{[25]}\) There are three forms of licences, temporary or permanent: (1) a standard licence that can be issued for temporary or permanent export, for a single object or group of objects; (2) a general licence (valid for a maximum of five years) that may be issued for every temporary

\(^{[16]}\) CHPA-1, Article 26.
\(^{[17]}\) CHPA-1, Article 53.
\(^{[18]}\) CHPA-1B.
\(^{[19]}\) Criminal Code (The Official Gazette of the Republic of Slovenia no 50/12, 6/16, 54/15, 38/16, 27/17 and 23/20), Penal Code, Article 219.
\(^{[20]}\) Articles 45, 46 and 47
\(^{[21]}\) Referred to in the CHPA-1, article 10, paragraph 5.
\(^{[22]}\) CHPA-1, Article 9, paragraph 1.
\(^{[23]}\) CHPA-1, Article 127, paragraph 9.
\(^{[24]}\) Referred to the CHPA-1, Article 10, paragraph 5.
\(^{[25]}\) Rules on the Procedure for Issuing Licences for Export and Removal of Cultural Heritage (The Official Gazette of the Republic of Slovenia, no. 26/11), which came into force on June 7, 2011.
transfer or export of any object that is part of the permanent collection of a museum or other institution housing a collection; (3) a special open licence (valid for a maximum of five years) that can be issued for the repeated temporary transfer or export of a specific object, whose owner or possessor is a specific person or organization who will use or exhibit the object regularly. A fine of € 2,000 to 40,000 shall be imposed on anyone who does not possess a permit for the transfer or export of the movable heritage,\footnote{26} or who fails to present the permit at import.\footnote{27}

Whilst it was previously allowed to permanently export a national treasure\footnote{28}, providing that it did not impoverish the country’s holdings, it is now prohibited by the CHPA-1C, with the exception of a museum exchange. Coins that are archaeological material are considered national treasure and are therefore not allowed to be permanently transferred or exported, unless for museum exchange. Coins that are not archaeological finds and are classified as national treasure or monuments or movable heritage are subject to limit trade control thresholds. The State has pre-emption right.

Items of cultural heritage may be introduced or imported into the Republic of Slovenia without a license, unless the country of origin requires an export license.

If a national treasure was unlawfully removed from the Republic of Slovenia, the Ministry coordinates its recovery\footnote{29}, as well as the recovery of unlawfully removed movable heritage from another state and introduced into the Republic of Slovenia.\footnote{30} The recovery of unlawfully removed movable heritage from Member States of the European Union to the Republic of Slovenia and from the Republic of Slovenia to the Member States of the European Union is subject to The Law on the Return of Unlawfully Removed Objects of Cultural Heritage.\footnote{31} The request for heritage recovery must not be submitted later than 30 years from when it was unlawfully taken, or no later than 75 years, if it belongs to a public or church collection, another religious community, or if it enjoys special protection in the state of origin.

\footnote{26}{Pursuant to paragraph 1 of Article 46 of this Act}
\footnote{27}{Pursuant to Article 47 of this Act.}
\footnote{28}{By the new definition in Article 10 of the CHPA-1C, a national treasure is in terms of archaeology a more than 100 years old archaeological find, which originates from excavations and sites on land or under water on the territory of the Republic of Slovenia and is recognized as heritage. It can also have the status of a monument; be a part of a more than a 100 years old displayed immovable object; inventoried as part of a museum collection, part of a collection of a public archive, a public library, a church or other religious institution; or has cultural value for the Republic of Slovenia.}
\footnote{29}{Pursuant to Article 48 of this Act.}
\footnote{30}{Pursuant to international treaties to which the Republic of Slovenia is a signatory}
\footnote{31}{Return of Unlawfully Removed Objects of Cultural Heritage Act (The Official Gazette of the Republic of Slovenia, no. 126/03 and 8/16), which came into force on May 1, 2004.}
5. Solutions for coin collectors

The laws imposed by the CHPA-1 threatened coin collectors, who might see their collections become state property, and who feared not to be able to continue collecting. Declaring movable archaeological objects, or archaeological find\(^{[32]}\), to be state property, though merely assumed to have the properties of archaeological cultural heritage, did not conform with the Constitution, as they only become cultural heritage through society’s assessment.\(^{[33]}\) And the declaration of collections as portable monuments of national importance would lead to the nationalization of private collections.\(^{[34]}\) Anyone with coins that are older than 100 years must possess a certificate of origin\(^{[35]}\); if not, the owner was obliged to report them within one year from the time the law came into force\(^{[36]}\). The lack of a certificate itself would be a violation of the law and liable to a penalty of € 400 to 1,200\(^{[37]}\), but many collectors acquire coins by means of exchange and therefore often do not have such certificates.

The Constitutional Court ordered the National Assembly of the Republic of Slovenia to remedy the established inconformity. The solutions brought by the CHPA-1B were following. A wide enough definition of the proof of origin provide adequate legal security of the archaeological finds owners (even a previous owner’s or other witness’ statement would suffice)\(^{[38]}\). The obligation to possess a certificate of origin for an archaeological object or collection, regardless of the time of obtainment, could only apply to objects found after the CHPA-1 came into force, but he must notify the Ministry about it.\(^{[39]}\) The duty to report does not apply for archaeological finds that do not originate from the Republic of Slovenia, or that were found or otherwise obtained in the territory of the Republic of Slovenia before the

\(^{[32]}\) CHPA-1, Article 6, first paragraph.

\(^{[33]}\) U-I-297/08 - The decision of the Constitutional Court on the petition of the Slovenian Numismatic Society.

\(^{[34]}\) The question was raised whether every ordinary bronze coin, matches the act’s definition of heritage or even archaeological find that has to be reported. A collector who has no certificate of its origin would indeed have great difficulties in proving that the find did not originate from unlawful archaeological searches somewhere in the territory of Slovenia (Alenka Miškec, 2011. Slovenian Laws Regarding Coin Finds. Compte rendu 58, p. 11-14: p. 13).

\(^{[35]}\) Article 53.

\(^{[36]}\) Article 135.

\(^{[37]}\) Article 127.

\(^{[38]}\) CHPA-1, Article 3, new paragraph 6. The new definition about the “certificate of origin” (Article 3: “a document, such as an inheritance settlement, export license, a will, a contract, a court or administrative decision, an extract from sales records, or other authentic document from which it is evident that the person obtained the archaeological find or collection. A certificate of origin can also be an expert opinion, a statement from the previous owner or other witness, or other documents, such as photographs, videos, publications, etc.”

\(^{[39]}\) CHPA-1, Article 53, new paragraph 2. Therefore, it cannot apply for all objects found after July 31, 1945, but only for objects found after the CHPA-1 came into force.
legislation which defines archaeological finds as state property came into force, or were by the regulations before the CHPA-1 Act came into force, not defined as heritage. Even so, all archaeological finds had to be reported in one year since the CHPA-1 came into force. Therefore, in order to trade, all archaeological finds must have a certificate of origin and obtain an approval from the Ministry.

If it is determined that the coin does not originate from the Republic of Slovenia, or that it was found or otherwise obtained before July 31, 1945 when the Protection Act of Cultural Monuments and Natural Monuments came into force, or that the regulations which applied at the time of its acquisition did not classify it as a State-owned heritage, then it remains in the possession of the person who owned by the time of reporting it.[41]

If the owner of the archaeological find doesn’t have a certificate of origin, then the Ministry of Culture will initiate the procedure of finding out whether it complies to the definitions of becoming property of the state.[42] The decision will be based on professional opinion, grounded on the review of the find by the state (or an appointed museum). The decision of the Ministry will serve as a certificate of origin, for the need of storing on the territory of the Republic of Slovenia, but will be neither a certificate of ownership nor an export permit.[43]

All archaeological finds from the Republic of Slovenia, that were found after July 31, 1945,[44] are property of the State, unless the possessors have a certificate of how the ownership was obtained; or unless the Minister decides that they do not have cultural value for the Republic of Slovenia and are therefore not a national treasure,[45] or unless an authorized person from the IPCH, the state or the authorised museum, decides that the find does not have heritage-value.[46] The possessor of a find must allow documenting and researching the find for the needs of the professional opinion.[47]

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[40] The Official Gazette of the Democratic Federal Yugoslavia, no. 54/45.
[41] CHPA-1, Article 53, new paragraph 5.
[42] CHPA-1, Article 53, new paragraph 3.
[45] CHPA-1, Article 10.
[46] CHPA-1, Articles 26 and 135. As defined by Article 1 of the CHPA-1, heritage are resources inherited from the past which Slovenes, members of the Italian and Hungarian ethnic communities, and the Romani community, as well as other national of the Republic of Slovenia, determine to reflect and express their values, identities, religious and other beliefs, knowledge and traditions. The concept of heritage includes features of the environment which have been shaped over time by the interaction between people and place.
[47] CHPA-1, Article 53, new paragraph 4.
Coin collectors were very satisfied by the decision of the court which obliged the CHPA-1B to come into force, as it allows to continue collecting coins and other archaeological objects. With its decision, confirmed by all constitutional judges, the Court provided the constitutional protection of rights with which the former CHPA-1 and repressive bodies, in order to improve the traceability of movable cultural heritage and determine the status of movable property, interfered with.

6. Summary

All excavated items after July 31, 1945 belong to the Slovenian State, and it is prohibited to search for them with the aid of equipment such as a metal detector without approval and technical competence. But an occasional finder, if he didn’t damage the find or the site, and immediately informed the authorities, can receive a reward. All coins excavated in Slovenia after July 31, 1945 that are more than a 100-years old are considered national treasures can never be given a licence for indefinite export, except in the case of a museum exchange. But not all coins are classified as such, and the commerce of those that aren’t is allowed, providing that the dealer ensures due-diligence and keeps records of the vendors and of the purchasers.