

# COUNCIL OF EUROPE COMMITTEE OF MINISTERS

RECOMMENDATION No. R (89) 5

## OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING THE PROTECTION AND ENHANCEMENT OF THE ARCHAEOLOGICAL HERITAGE IN THE CONTEXT OF TOWN AND COUNTRY PLANNING OPERATIONS

*(Adopted by the Committee of Ministers on 13 April 1989  
at the 425th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Organisation is to achieve a greater unity between its members for the purpose of facilitating their economic and social progress;

Having regard to the European Convention on the Protection of the Archaeological Heritage and the Convention for the Protection of the Architectural Heritage of Europe;

Recalling that the archaeological heritage is a major element in the collective memory and cultural identity of the peoples of Europe;

Considering that the evolution of town and spatial planning, housing development and major public works raises the problem of protecting the archaeological heritage uncovered by these operations;

Stressing that the protection and enhancement of the archaeological heritage are an important factor in cultural and economic development and in the growth of tourism,

Recommends that the governments of member states:

I. complete and bring up to date national archaeological inventories, as an essential precondition for any conservation policy:

i. by continuing work on systematic national archaeological inventories, together with scientific sampling, since investigations of the soil and sub-soil should automatically include research on archaeological data;

ii. by establishing archaeological data banks linked with other sources of information on the soil and the sub-soil, to be communicated by archaeological heritage managers to developers, especially by means of maps;



Forty years  
Council of Europe

II. reinforce or, where necessary, create at national, regional or local level, robust scientific and administrative structures capable of handling development projects involving archaeological data, and to develop useful international co-operation especially in transfrontier regions;

III. adopt the legal and administrative measures necessary for archaeological data to be taken into account as a matter of course in the town and country planning process:

i. by taking such measures as are warranted for the legal protection of archaeological property, on the basis of conservation, heritage and town planning legislation;

ii. by securing the participation of archaeologists in the successive stages of the town and spatial planning process with a view to obtaining their opinions on the operations in hand;

iii. by holding consultations on sites of archaeological interest between archaeologists, planners and developers in order to permit, where necessary:

— the modification of development plans likely to have a serious effect on the archaeological heritage;

— the allocation of sufficient time and resources for the execution of an appropriate scientific study of the site and the publication of its results;

IV. promote, in the context of major development operations:

i. the implementation of the joint working methods referred to in sections B and C of the appendix to this recommendation;

ii. the development of the contractual policy which has grown up between developers and archaeologists, making use of:

a. provisions which not only establish the developer's responsibility in respect of the archaeological heritage, but also enable him to participate in initiatives and to benefit from the results;

b. outline conventions laying down the rights and duties of each partner, covering data processing, preparation of publications and enhancement of archaeological sites;

iii. an increase in material resources for rescue archaeology:

a. by enacting provisions to enable the cost of archaeological operations necessitated by major public works to be met in full from the budget relating to such works;

b. by ensuring that this budget covers, as part of the impact studies called for by environmental and regional planning precautions, preliminary archaeological studies and prospection, as well as the final publication of discoveries;

iv. the resolution of the specific human problems created by major public works archaeology:

a. by providing in-service training for highly specialised staff involved in public works archaeology;

b. by offering such staff better professional guarantees;

V. to support a programme to arouse the awareness of elected representatives, contractors, the public and especially young people, explaining the importance for the community of the understanding, study, conservation, enhancement and interpretation of the archaeological heritage as a major element of the European cultural identity.

#### A. Introduction — Purpose of the recommendation

The Council of Europe activity which led to this recommendation is aimed at protecting archaeological remains in the context of development operations in the town or the countryside. Such projects may be in the public or the private sector, they may relate to the construction of buildings or to the development of infrastructures and public utilities. Particularly important among these developments are major public works (motorways, underground railways and high-speed trains, replanning of old town centres, car parks, etc.) or physical planning schemes (reafforestation, land consolidation, etc.), since the scale of such operations poses a particular threat to the discovery and protection of the archaeological heritage.

Several types of legislation and procedure have a bearing on these operations: specific legislation on archaeological assets, more general legislation to protect the cultural heritage, legislation on town planning, public works, building permits, etc.

In view of the variations from one country to another and the complexity of procedures at national, regional and local level, it seemed appropriate for this recommendation to be concerned with principles, and particularly with methods, without going into detail on the provisions to be enacted which are the responsibility of each state.

#### B. The development of new working methods

The trends observed in the various countries and the discussions at European level reveal that a number of solutions have been adopted which favour the development of a joint working method better adapted to the aims in view.

##### a. *Technical and scientific solutions*

The experience of the major public works sites reveals the following new practices:

- i. the equipment used is based directly on the techniques of major public works sites (for example, the use of heavy machinery has become normal in large-scale clearance operations, and manual workers are now only rarely employed);
- ii. archaeologists evaluate the work to be carried out in as much detail as possible. Estimates, deadlines and contingency percentages are everyday terms to be heard on the lips of archaeologists and public works engineers alike;
- iii. in making this evaluation, the calculation of time-limits must be thoroughly realistic, so that these limits may be observed by all those involved. The time taken by the developers must coincide with the time taken by the archaeologists;
- iv. the imposition of such strict limits calls for human resources and hence financial resources commensurate with the size of large work sites. Increasingly the team of archaeologists is tending to become one of a number of specialist undertakings on major public works programmes;
- v. the case for archaeologists becoming intermeshed in this way with the rest of the world of public works is dependent on there being well-defined scientific objectives, in other words on the existence of a clear statement of the problem.

##### b. *Legal solutions*

###### i. Regulations applicable to land use

The Council of Europe's survey of "the law and its application"<sup>1</sup> and the statements submitted in Nice point to the existence of a whole range of formulas, from the absence of specific legislation to the automatic protection of any remains predating a certain period.

One solution emerges from the experience of most European countries. What now matters is that there should be regulations making it mandatory for archaeology services to be consulted before any work is put in hand which is liable to damage the archaeological heritage. It is upon such consultation that all possible protection measures are contingent: establishment of more or less protected areas, control of building permit applications, measures in favour of archaeology, etc.

###### ii. Contractual solutions

It is this new category which provides the best indication of shifting relations between archaeologists and developers. Contractual undertakings (conventions) supplement provisions laid down in regulations. Being more flexible,

1. *The law and its application*, comparative study of the situation in several European countries, Doc. CDPH/Nice (87) 1, Strasbourg, 1987.

more precise and better suited to each type of major public works, conventions make for better relations between those involved. By definition, the variety of contracts is immense and applied to all fields (underground railways, motorways, Channel tunnel, etc.).

*c. Financial solutions*

These are all dictated by the desire to reconcile the limited time at the disposal of constructors with the need for archaeologists to be extremely painstaking in their work. Two types of solution have emerged :

- i. based on regulations : funding has to be provided by the developer in accordance with the law ;
- ii. based on contracts : by means of conventions, the partners undertake to provide funds (developers) and to comply with time-limits (archaeologists). For example, the state may have recourse to associations so that developers' funds can be made available more rapidly and so fit in better with the rhythm of public works firms operating on large sites.

The general trend is clear : little by little, developers are taking over responsibility for archaeological operations necessitated by their work sites. The phenomenon is to be observed even in countries where major public works are only a recent development. According to the examples provided in the above-mentioned study, it seems that it is clearly at the present time the only way of recruiting teams of archaeologists that are big enough and skilled enough for the whole time that a work site is in place.

**C. Conditions for the success of harmonised development and protection operations**

Subject to the existence of sufficiently robust scientific and administrative structures, which are essential for the implementation of any conservation policy in the various countries, it is possible to lay down a number of rules by way of a "code of conduct" which might be acceptable to developers and archaeologists alike.

*a. Precautions to be taken prior to any field intervention*

i. Inventory and mapping of archaeological sites. These are one of the essential tools in making any advance decision concerning threatened sites, from the establishment of archaeological reserves to the authorisation of excavation without restraints. Information obtained from the inventory and mapping of the archaeological sites should be used to minimise any damage to archaeological remains.

ii. Devising regulatory procedures making it mandatory for archaeologists to be consulted. European experience has shown the difficulties caused by the absence of such procedures. Developers are beginning to consult archaeologists on their own initiative, but that is not enough. It is in the interest of both partners that conditions should exist, by virtue of regulations, for major public works projects to be examined jointly from the initial planning stage. For example, the application of this method to studies on the routing of motorways has enabled developers to avoid many difficulties and archaeologists to plan their interventions and conservation measures more effectively.

iii. The conclusion of specific agreements (conventions) for every major public works programme. Though the law is powerful, it is sometimes difficult to apply. A convention is more precise and creates the conditions in which developers and archaeologists can work together.

*b. Phases of field intervention*

i. A systematic prospecting phase within the boundaries of sites affected by public works. Such prospecting should be carried out not only on the principal work sites but also on related development areas. This phase comprises geophysical soil prospecting, the taking of samples likely to give the first indications of the paleo-environment, etc.

ii. A reconnaissance phase involving manual and mechanical testing. This is an essential precondition for the drawing up of a detailed timetable of archaeological work and for the preparation of a precise budget. In the town, as in the countryside, this is now becoming general practice.

iii. Should an excavation phase last more than one year, it should be planned as a single programme, to enable vast archaeological sites to be studied without long interruptions, and most importantly without the teams set up to work on such sites being dispersed. It seems that the failures which have occurred over the last twenty years have been largely due to the impossibility of keeping the same team of researchers in the same place until the end of archaeological operations.

*c. Work required following field intervention*

There are three factors which archaeologists and, more or less directly, developers should bear in mind.

i. All the data collected during the excavation must be processed. This entails time-consuming classification, recording, consolidation and restoration work on the various items, completion of laboratory analyses begun during the preceding stage, etc.

ii. The results obtained during field operations must be presented rapidly to the general public. This scientific public relations exercise may take widely varying forms: press articles, "open days", exhibitions with catalogues, booklets, lectures, etc. A policy on the protection and enhancement of archaeological sites should be worked out.

iii. The summary report should be prepared for publication, the services of a select team of researchers being retained for the purpose. Experience shows that developers accept the idea that a large-scale archaeological operation must include as part of its programme the publication of the results of research, together with the study and drafting time involved prior to publication.

iv. Arrangements should be made before the end of the field work for depositing objects and site archives in an appropriate museum or archaeological centre. Accessibility to this material must be assured.