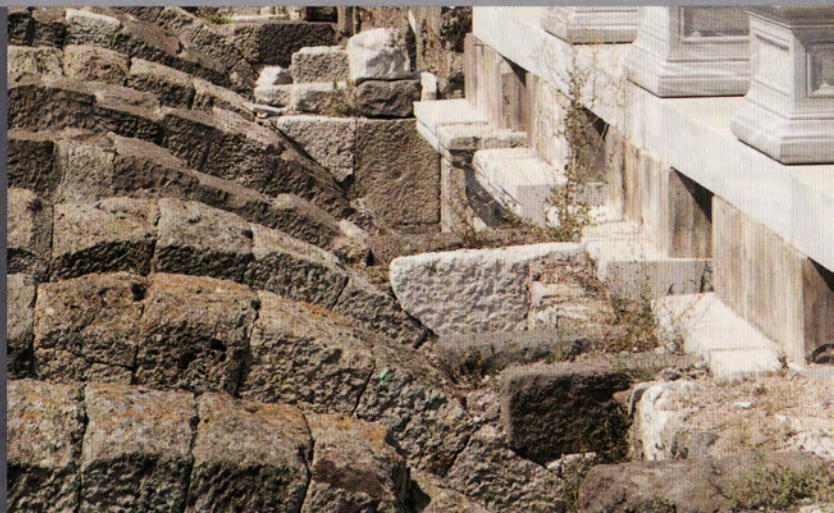


Urban Historical Stratum:
from Smyrna to Izmir



Editors
A. Emel Göksu and
Şebnem Gökçen Dündar

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International and National Legal and Administrative Regulations Leading the Archaeological Studies in European Urban Areas

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Abstract

The dynamic structure of cities in socio-economic and spatial aspects requires thoughtful and sensitive planning implications. In this context, the issue of the conservation of archaeological and historic characteristics of cities needs to be addressed. This issue has recently been on the agenda of the actors, who lead urban development. The conservation of archaeological and historic characteristics of cities requires a scientific approach. Since the studies concerning the common heritage of humanity and the conservation of archaeological and historical assets have a supranational quality, they mostly exceed the national urban scale and are dealt with by international approaches. It is observed that many international studies have been carried out in order to develop common scientific approaches and take decisions with a view to conserving the archaeological potentials of urban areas. In parallel to these international approaches, there are also national interventions to make some regulations for the protection and utilization of the archaeological heritage of cities. Some of them include the formation of legal and administrative systems that frame the urban development-led and / or preventive archeological activity sites. Within the scope of this study, it is intended to discuss the development of the international legal framework leading the urban-preventive-development-led archaeological approaches, and the legal and administrative regulations, which were put into use by the European countries on the basis of this framework. The first section summarizes the conceptual framework on which the implementations about the conservation of archaeological heritage in cities are grounded. The second section discusses the development of the international legal framework. The last section discusses the important legal and institutional regulations in various European countries.

Conservation of Archaeological Heritage in Cities: A Conceptual Framework

Trying to understand the historical systems and rationales constituting cities is of importance for understanding the social culture, social and intersocial relations, and identity constructions depending on geography. Within the present practice, the archaeologies and histories of cities are tried to be examined and conserved in order to understand the basic formations, to lead the future planning practices and to preserve the urban identities for future.

Scientific studies have been needed against the risk of damage of the multi-stratum historical structures of cities by the intensive and rapid urbanization process experienced in the last century. When the European practice is examined, it is observed that the archeological studies concerning cities date back to the 19th century. However, the archaeological studies concerning cities began to be dealt with in a systematic way after World War II. Archaeological studies began to be implemented in cities during the reconstruction and restoration of countless city centers, many cultural assets of which were damaged during the war. Furthermore, by making use of these studies, answers began to be sought to many questions about the European history and the origins of the cities and their relations among each other (Leech, 1999).

During the 1960s, European countries began to investigate the potentials of their cities to prevent the erosion of archaeological heritage. The awareness originated during the 1960s was followed by the declaration of the year 1975 as the European Architectural Heritage Year and further by holding a conference, devoted to the archaeologies of European cities, in Oxford, England within this scope. The studies launched particularly in England throughout the 1970s demonstrated the need for establishing rescue units for archaeological sites. It is observed that more systematic programs were launched and theoretical discussions were concentrated in the field of urban archaeology during the 1980s. As of the 1990s, the urban archaeological studies began to use new techniques such as GIS for documentation.

During the 1960s, European countries began to investigate the potentials of their cities to prevent the erosion of archaeological heritage.

The first studies carried out for rescuing and preserving the archaeological finds revealed during the development process of cities adopted the approach of "rescue archaeology. The rescue archaeology studies implemented in cities gained a more systematic content day by day in order to be able to answer the problems of developing cities more soundly and accelerated the theoretical development of urban archaeology. In the report of the Council of Europe dated 1999, urban archaeology is defined, with its outlines, as a field which aims at understanding the archaeologies of cities, preventing the developments in urban areas from damaging the archaeological potential and the integration of archaeological assets with daily life (Leech, 1999). Currently, it is observed that various concepts have begun to be used on the matter in the European practice. Depending on their purposes, archaeological research in urban areas are also used with the concepts of development led or preventive archaeology. These concepts correspond to the studies within the scope of the prevention of new construction and investment decisions, which are envisaged for urban or rural areas, from damaging archaeological assets, the integration of archaeological finds, which are revealed as a result of development processes or scientific research, with daily life on the grounds of public interest, the investigation of the archaeological potential and its being develop-

ment led. The concept of preventive archaeology was often stressed particularly in 1992 Valetta Convention and, following the convention, it became an application area accepted in the European countries.

Development of International Legal Framework for Urban Archaeological Studies

Besides theoretical studies, legal and administrative regulations for urban development are needed to conserve the archaeological assets in urban areas. In this context, upon the acceptance that history is the common heritage for the whole humanity, a necessity for international studies have arisen so as to lead legal regulations at national scale and form a common language and standards pertaining to conservation implementations. It is possible to categorize the primary international legal regulations that direct urban, development led and/or preventive archaeology studies into two categories as the regulations that indirectly and directly affect the protection of archaeological heritage in cities.

The Athens Charter for the "Restoration of Historic Monuments", which was put forth as a result of the First International Congress of Architects and Technicians of Historic Monuments that was held in 1931, is an important step for the protection of antiquities. After World War II, however, the conservation problems of the cities, which faced considerable destructions, reached more serious dimensions and it became necessary to form a comprehensive international framework for protection. In parallel to this, first the European Cultural Charter was signed in Paris on December 19, 1954 and later the Venice Charter was issued in 1964. The Venice Charter is a guide about what kind of action conservation should be and describes the monuments and sites to be protected. It also puts forth the purposes of and means for conservation policies. Following the issuance of the Venice Charter, "the European Convention on the Protection of the Archaeological Heritage", which involved several special measures for archaeological heritage, was signed in London in 1969. The London Agreement was an essential step basically for archaeological excavations and the protection of finds revealed as a result of these excavations. The requirement of carrying out archaeological excavations by archeological professionals, making inventories of the results obtained and turning them into scientific publications is stressed in the agreement. Towards the ends of the 1970s, the London Agreement, which was adopted by 24 European countries, was also insufficient. Thus it was revised in 1970s to cover the issues of underwater archaeology and the prevention of smuggling of ancient works of art. In this period, the Convention of Protection of World Cultural and Natural Heritage, adopted by UNESCO in 1972, was also important for the conservation of archaeological and historical assets.

The neoliberal process experienced in the 1980s considerably affected urban structures by leading to changes in social and economic life. In this period, the state administrations, which left the protective and interventionist titles of the welfare state, appeared with their new "operator" identities. With these new identities, they could organize the medium required for special investments in every field and housing, industry and commerce in particular. They could also take the measures to accelerate the flow of local and multinational capital in the country and to ensure the global market integration of economy (Albrechts, 1991). In this reconstruction process, investment-based factors, development demands, renewal decisions of historic city centers, superhighway and high-speed train projects and etc. considerably threatened the archaeological heritage in Europe (Sanz, 2008). In this process, on the one hand, construction threats were observed on historical and archaeological sites, on the other hand, they caused archaeological and historical sites to begin to be regarded as new investment areas that particularly addressed upper income groups as the economic value assigned to the qualities of uniqueness and authenticity became outstanding.

During the same period, the Council of Europe, which

was responsible for the studies of protection of the common historical heritage, acknowledged the necessity for studies on the conservation of the archaeological heritage by balancing investment and conservation processes. The Council held a colloquium on Archaeology and Planning to this end in 1984 and attracted studies addressing the need for preventing the damage of the historical and archaeological data. In 1989, recommendations were made by the Council of Europe Committee of Ministers about the requirement of new expansions for the protection of the archaeological potential particularly in the sites with urban quality. In addition, the requirement for a comprehensive international convention was explained and "the Recommendation on Protection and Enhancement of the Archaeological Heritage in Context of Town and Country Planning Operations" was issued. The convention concerned was prepared by the Integrated Committee for the Conservation of the Historic Heritage (CDPH), composed of archaeologists and planners, under the name of "European Convention on the Protection of the Archaeological Heritage (revised)" and it was opened for signature during the Third European Council of Ministers meeting in Valetta, Malta in January 1992. The Convention was referred to as the Valetta Convention since it was initiated in Valetta, Malta. The Valetta Convention adopts the principles of 1975 Declaration of Amsterdam, which suggested integrated conservation strategies, and the basic acceptances of the 1985 Granada Convention for the Protection of the Architectural Heritage of Europe. With the Valetta Convention, it was suggested for the first time that archaeological studies be the subject of interdisciplinary and multi-sector approaches. The Valetta Convention expressed a process when the planners and archaeologists took decisions together against the negative development dynamics of the period. Article 5 of the Convention expressed that archaeologists have to participate in the planning processes and that there has to be a systematic consultation between planning and archaeology (Harding, 2007). This new convention text emphasized that the protection and revival of the archaeological heritage has to have an urban and regional purpose. With the convention, the central and local administrators, researchers, experts and investors were invited to think together about how to realize the conservation-planning and development processes jointly. In addition, the Valetta Convention expressed that specialized administrative structures have to be formed for an integrated archaeological data management model, with which the archaeological data can be evaluated within urban and regional developmental strategies. According to the convention, the inventories of the data should be prepared and the data should be recorded under suitable standards. At the same time, the convention introduced the concept of 'preventive archaeology' that is of considerable importance for urban areas. It also put forward that integration should be provided between the development and conservation processes with the approach of preventive archaeology. The fundamental sections included in the Valetta Convention were as follows:

With the Valetta Convention, it was suggested for the first time that archaeological studies be the subject of interdisciplinary and multi-sector approaches.

- Definition of archaeological heritage, identification of archaeological heritage and their measurement for protection studies
- Integrated conservation of archaeological heritage (making interdisciplinary scientific studies and guaranteeing the participation of archaeologists in the planning processes),
- Organization of educational and cultural activities for establishing public awareness concerning the conservation of archaeological heritage,
- Prevention of illegal excavations and smuggling of ancient works of art.

As of 1993, studies were launched for relating the archaeological and historical sites in Europe by thematic networks in parallel to the principles of the (Charter on the Use of Ancient Places of Performance) Verona Charter adopted after the scientific colloquium held in Verona in 1997 on the grounds of "the European Network for Ancient Places of Performance" (theatres, amphitheatres and circus) and the MINOTEC project supported by the Council of Europe and the European Foundation of Heritage Skills. The Verona Charter was prepared as a result of the joint studies of the Council of Europe, the European Union and UNESCO.

When the world practice is examined, it is observed that many international studies and regulations addressed the conservation of the archaeological sites, which are located in urban or rural areas, and/or, which are under investment threat.

Under the principles of the Valetta Convention, it was decided by the Council of Europe to prepare "the European Plan for Archaeology" covering a 5-year period and a commission met in the Netherlands in September 1992 in order to make preparations about this matter (Sanz, 2008). Important campaigns were held with a view to increase the public awareness within the scope of the European Plan for Archaeology. In accordance with the European Plan for Archaeology, it was decided to issue a publication which discusses the achievements and failures of urban archaeology until then and the difficulties likely to be encountered. This comprehensive report, entitled "the Situation of Urban Archaeology in Europe", was published by the Council of Europe in 1999. The report focused particularly on inventories and documentation and stressed the requirement for developing the relation between archaeology and planning. In parallel to this, the Council of Europe issued a study entitled "European Code of Good Practice – Archaeology and the Urban Project" in 2000. This publication described how to ensure coordination between planners and archaeologists about the conservation of the urban archaeological heritage in Europe. In the memory of the 10th anniversary of the Valetta Convention, a seminar was held on urban archaeology in Strasburg in 2002. Following this seminar, the scientific meetings on the matter were carried on by an international conference called 'European Preventive Archaeology' held in Vilnus, Hungary in 2004. The proceedings were published by the Council of Europe in 2007. In 2005, an international congress was held in Brussels, Belgium on Urban Archaeology. Another important study put into effect in the process following the Malta Conference was the formation of Core Data Standards for Archaeological Sites and Monuments by the International Council of Museums (ICOM-CIDOC).

Legal and Institutional Regulations Concerning the Archaeological Studies in Urban Areas in Various European Countries

When the world practice is examined, it is observed that many international studies and regulations addressed the conservation of the archaeological sites, which are located in urban or rural areas, and/or, which are under investment threat. It can be expressed that the European countries have established and developed legal and institutional systems suitable for their dynamics within the framework of international studies. In this section, it is intended to briefly convey how the legal and institutional system was structured in the member countries to the European Union such as England, Italy, France, Spain and Greece so as to carry out studies called urban-preventive or development

led archaeology. England and Italy are countries where urban-preventive archaeology studies were first started systematically and where the constructions on the matter are quite developed. The legal system of Spain about protection is known to be quite strong and developed. France, a country with a central structure, is important for providing case studies for specific projects. The example of Greece is essential in terms of representing a European Union country which shows a high archaeological richness with its multi-stratum characteristics. Besides these countries, other European countries have also formed their legal and institutional systems concerning archaeological studies, but investigating their legal and institutional systems are beyond the scope of this study.

There is a decentralized administrative structure in England. The first regulations to affect the archaeological studies in urban areas in the country were realized between 1850 and 1950. The Journal "The Society of Antiques" published in the country between 1947 and 1962 considerably supported the excavations. In 1973, the Department of Urban Archaeology (DUA) was established under the leadership of the Museum of London (Boylu, 1994). In 1979, the Law on Ancient Monuments and Archaeological Sites was put into effect and this law became the basic law that also covered the publications on archaeology (Thomas, 2007). The Planning Policy Guide and the Report of DOE called Archaeology and Planning, which was published in England in 1990, were important publications for urban and/or development led archaeology. "Power of Place", published in 2000 in the country, led the multi-sector historical environmental policies and the report on "Historical Environment" explained the responsibilities of the government in this field. In England, the Department of Culture, Media and Sport of the Ministry of Culture, the Royal Commission for Historic Monuments (RCHME), the English Heritage (EH) and the National Monuments Records (NMR and NTSMR) are institutions that have undertaken a mission in terms of urban-development led-preventive archeology studies. Besides these institutions, the Association of Local Government Archaeological Officers (ALGAO) was established in the England Region. Universities and a number of Regional Scientific Research Centers and Institutes are also important institutions that direct archaeological studies.

The Planning Policy Guide and the Report of DOE called Archaeology and Planning, which were published in England in 1990, were important publications for urban and/or development led archaeology.

In Italy, however, there is administrative structure that is distributed in 20 distinct regions. The commencement of archaeological studies in the country dates back to the 16th century Renaissance Period (Maggi, 2007). In 1865, the law on "Excavations of Antiquities and Scientific Heritage Studies" was put into effect within the scope of the Ministry of Education. Following this law, the Ministry of Education published a guide entitled "Good Practice" that would direct archaeological studies in 1874 (Maggi, 2007). In 1875, the Central Directorate of Archaeological Excavations and Museums was established. In Italy the 1902 and 1939 laws were the first essential laws which led the archaeological studies. Afterwards the 1950 law which made the influence of the public sector on archaeological studies more dominant was prevailed. The next legal regulations were

The commencement of archaeological studies in Italy dates back to the 16th century Renaissance Period.

In France, the Heritage Branch of the Ministry of Culture, the National Center for Urban Archaeology and the National Institute for Preventive Archaeological Research are responsible for carrying out archaeological studies.

the 1985 and the 1990 laws which defined how the public studies about archaeology against industrialization and urbanization should be. Subsequently, the 1999 law was prevailed and it described what to be done in areas where the archaeological potential is not known. Finally in 2004 a new law brought the concept of preventive archaeology in the Italy's agenda. All those laws were the fundamental legal regulations that direct the development led archaeology studies in urban areas. In Italy, the Ministry of Culture, the Central Directorate of Archaeological Excavations and Museums, the Regional Commissions concerning Protection and Inventories, the Central Institute for Catalogue and Documentation (ICCD) and Regional, Subregional and Local administrative units are the institutions and organizations that are responsible for the conservation and utilization of archaeological sites (Recchia & Binacchi, 2008).

The first studies on archeology in France commenced in the 19th century. The legal regulations for urban archaeology were initiated with the 1941 law. In 1975, the Ministry of Culture put the SCALA Project into effect in the country and made it imperative to record and map archaeological data (Garmy, 1995). Finally, in 2001, a law directing the urban archaeological problems was put into force. This law was revised in 2003 and 2004 in parallel to the requirements emerging in the process (Demoule, 2007). In France, the Heritage Branch of the Ministry of Culture, the National Center for Urban Archaeology (CNAV) and the National Institute for Preventive Archaeological Research, referred to as INRAP, are mainly responsible for carrying out archaeological studies. The INRAP was established with the support of the French Ministry of Culture and the Ministry of Research. Recently, in paralel to decentralization policies in France the Regional Archeology Services (SRA) of the Ministry of Culture is also authorized in the archaeological. In brief, INRAP and SRA are both responsible for carrying out the archaeological studies in the country and determine policies for search, identification and evaluation. The National Institute for Archaeological Research (CNRA) and the scientificcommissions called CIRA, which are the consultants of Regional Archaeology Services, also play an important role in any archaeological studies in the country (Demoule, 2007).

In Spain, each autonomous region produces its own legal system in the country.

Spain was divided into 17 administrative regions in 1978. Each autonomous region produces its own legal system in the country. The first legal regulations on urban and preventive archaeology in Spain date back to 1911. The Spanish laws are stated to be one of the best legal regulations in Europe and it is known that UNESCO and the Council of Europe took the Spanish legal system as an example for their legal systems. In 1985, a comprehensive Spanish Historical Heritage Law was enacted in the country. This law described the general framework in parallel to the protection approaches and distributed the basic authorities to the regional administrative units (Diaz & Mena, 2007). Moreover, the Law on Environmental Effect Evaluation is also important for preventive-development led archaeology in Spain (Diaz & Mena, 2007). The Historical Heritage

Authority, the Local Boards determining the local policies affiliated to Autonomous Regions, Universities and Research Centers are the fundamental institutions and organizations that carry out urban-preventive archaeology studies in Spain.

Finally, there are 13 administrative regions and a total of 51 autonomous sub-regions in Greece (Garezou, 2007). The main function of the Greek Archaeology Service was to carry out the rescue archeology studies after 1950 in the country (Chrysanthaki, 2007). The 1950 and 1980 laws were essential regulations for urban-preventive archaeology studies. With the Spatial Planning and Sustainable Development Law enacted in 1999, it was envisaged that the archaeological environmental maps be prepared by the archaeologists employed in the public sector and that the regional strategic planning studies be realized in parallel to these maps (Garezou, 2007). The Law on Environmental Effect Evaluation, which was entered into force in 2002 in Greece, is also important for the preventive archaeology approach. The Ministry of Culture, the Archaeology Service of the Directorate General of Antiquities and Cultural Heritage under the Ministry of Culture, the local services of the Ministry of Environment and Ministry of Culture called "Ephorates" that are responsible for the records of monuments and sites are the fundamental administrative units that carry out the urban-preventive-development led archaeology studies in the country.

In conclusion,

Within the context of bearing a multidisciplinary content, the urban, preventive or development led archaeology approaches require specific and concreate legal and administrative regulations. Particularly since World War II, many legal-administrative regulations and implementations pertaining to the matter have been observed in Europe. The related laws in Europe have intended to organize the interdisciplinary processes in order for archaeological data to be an object of analyses and syntheses in the planning processes. European countries have realized the importance of archeological data in urban development decisions and technical infrastructure investments. The European countries have made efforts at international and national levels and have intended to form the regulations required within the framework of historical socioeconomic and cultural dynamics. It is expected that the conceptual and legal-administrative framework concerning the field is still in the development process and the necessary legal and administrative regulations will be developed in parallel to future socioeconomic and cultural developments.

Providing a balance between development and protection on the urban territory having an important rent value is still an important problem for many countries including the European countries. The implementations that can resist the market demands in the name of public interest within the spatial system and capitalist accumulation process based on private property ownership will primarily need valid scientific grounds and public opinion support. Within this framework, it is of great importance to form legal and administrative systems, which will pave the way for scientific approaches, and to enable the public approval for such studies.

The implementations that can resist the market demands in the name of public interest within the spatial system and capitalist accumulation process based on private property ownership will primarily need valid scientific grounds and public opinion support.

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