

Archaeology, Professionalism and Business

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Having just returned from the Sixth Annual Meeting of the European Association of Archaeologists in Lisbon, the enormity of the European Union's impact on the archaeological community is only beginning to set in. On one hand, there is the issue of heritage preservation as expressed by the Malta Convention. On the other, there are the expressed rights and privileges for professionals to practice their vocations throughout the nation states of the European Union (EU). Sitting squarely in the middle is a question that has yet to be answered with any sort of uniformity: Is archaeology a cultural/heritage concern or is it a commercial enterprise? It appears that the EU has only very limited powers in the field of culture. The "cultural exception" in EU law may prevent this from being applied in archaeology. This paper explores the apparent conflict and provides some suggestions for resolving it before the courts are forced to consider the question, perhaps to the detriment of the archaeological profession.

The Malta Convention, more formally known as the European Convention on the Protection of the Archaeological Heritage (REVISED), was drafted in Valletta in January of 1992 (<http://www.tufts.edu/departments/fletcher/multi/texts/valletta.txt>). The document formalized for the member States of the Council of Europe and the other States party to the European Cultural Convention the goal of protecting the common heritage shared by the European community. The Malta Convention clearly defines heritage preservation in the context of town and country planning operations. Moreover, the document reaffirms the need to consider archaeological and historic resources as part of the normal planning process. Significantly, Article 3 (iii) requires that archaeological excavation be carried out "by qualified, specially authorized persons." The document does not define what is meant by these words. Nevertheless, the Malta Convention does stipulate that signatory countries are encouraged to exchange specialists in the preservation of the

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archaeological heritage, including those responsible for further training. Article 6 of the Malta Convention speaks directly to the funding sources for compliance archaeology by emphasizing the “let the destroyer pay” principle. In other words, the costs associated with archaeological data recovery are to be borne by the public or private sector interest that is responsible for the undertaking that causes the adverse impact to the archaeological resources.

The European Union

Participating countries in the European Union are on the verge of a huge change that has far reaching ramifications for nearly all aspects of life. As of January 1, 2001, the EU will be fully functional. At that time, state restrictions that inhibit free exchange of goods and services and the ability of individuals to move from one country to the next will vanish. The latter is already operational. Citizens from EU countries must be considered with the same status as Nationals. This could imply that an archaeologist in France will be free to practice his/her trade in Ireland, Norway of England, and vice versa. Nevertheless, the EU has only very limited powers in the field of culture and the ‘cultural exception’ in EU law may prevent this from being applied in archaeology. The professional community is aware of the potential difficulties this may pose and is attempting to deal with them. One way of responding is an effort to establish standards for conducting European archaeology. Another complimentary effort is to clearly define archaeology as a commercial enterprise practiced by licensed professionals, specialists who are recognized and regulated in much the same way that doctors, lawyers and architects are managed.

European Diversity

Presently, European archaeology is very similar to the experiences in the United States during the middle 1970s and early 1980s, but it is unique and diverse in so many ways. Areas of concern to European archaeologists sound all too familiar: how to define significance, the need for well-justified research designs, the need for standards, and the academic cries of despair over private sector, contract driven research. To facilitate the reader’s understanding of Europe’s diverse approach to our discipline, a thumbnail sketch is provided below of the status of archaeology in that region of the world. This is followed by suggestions regarding possible roles the archaeological community might play in helping to achieve global ethical standards for the conduct of archaeological research.

In England, there are no criteria for determining who is and who is not a qualified archaeologist. To compensate, members of the profession in England have created the Institute of Field Archaeologists (IFA) (<http://www.archaeologists.net/>). It is the largest organization of its kind in Europe, has a code of ethics and a grievance procedure. This group appears to be taking the lead for setting standards in European archaeology. County archaeologists in England are regulatory authorities who review permit applications for proposed construction projects and decide whether archaeology might be required in advance. If a positive decision is reached, the County archaeologist prepares a “brief” (scope of work) to be used by the developer in securing the assistance of an archaeologist. Contract archaeologists in the U.K. respond to briefs with a “tender” (proposal and cost estimate). Such contract archaeology is relatively new in the U.K. in that the centerpiece

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preservation legislation was passed only in 1990.

In order to practice archaeology in Ireland, one must hold a degree or an advanced degree and have a significant amount of Irish archaeology excavation experience. The government license to practice is only awarded to archaeologists who sit through an interview with *Dúchas*, the Heritage Service. The *Dúchas* is an agency of the Irish government’s Department of Arts Heritage, Gaeltacht, and the Islands. The interview deals with all sorts of practical issues, such as Planning law, National Monuments law, how to deal with private sector field evaluations, and other similar issues. Depending upon the applicant’s experience, license eligibility can be restricted to certain date ranges and certain types of archaeology (e.g., medieval, urban/medieval, rural/prehistoric, rural/underwater archaeology etc.). Applications for licenses are only made by license-eligible individuals. They are solely responsible for the quality and presentation of their material. Therefore, in a sub-contracting scenario a company sometimes has little control over the quality of the outcome and has no say on how, or where, the archive is presented and stored. In the past two years, because it has gone the other way also (i.e., under funding by main contractors in excavation and post-ex scenarios), *Dúchas* seek the name of the company as a signatory to the license. To compensate, the more professional Irish commercial archaeology firms advocate an integrated professional practice. It is a way of exercising quality control and doing good work.

An advanced degree and membership in a variety of labor union choices, none of which is specifically an

archaeological union, is required to practice archaeology in Germany. The country is divided into three regions and 16 separate, autonomous states. Of the latter, only four require consideration of archaeology prior to construction projects. Each has different regulatory bodies and regulations. Much of the work appears to be salvage related without regard for analysis and reporting.

In contrast, Austria requires practicing professional archaeologists to be a member of the state-level archaeological organization or chamber. Membership requires an advanced degree and fee. Failure to adhere to their code and standards may result in expulsion from the chamber and would have serious ramifications for one’s potential future and ability to practice archaeology in that country.

In the Netherlands, all archaeological work is controlled by the government. There is a dichotomy whereby survey and testing can be done by private sector archaeologists, but excavations are done by the government archaeological unit and university based archaeologists. This system will be abandoned next year under new legislation that will allow private enterprise and introduce a system of quality control. This will include a national register, to be maintained by the Nederlandse Vereniging van Archeologen (Dutch Association of Archaeologists, a.k.a., NVvA) but with a legal basis.

Norway has very, very strong preservation laws. It is difficult to gain employment as an archaeologist despite these laws because of the power of the labor unions. Work is done by the government (Norwegian Museum Association) that tends to have very strict requirements for professional qualifications. These include years and years of experience and Ph.D.s The

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County Councils of Norway are responsible for the vast majority of the work done in the country. Interestingly, there is a national board that acts as an adjudicatory body. If political decisions are made at a local level that adversely affect archaeological remains, individual archaeologists are required to report these to the national board. Presumably, the board then investigates the matter and has the power to reverse such decisions.

French archaeologists went out on strike in 1998. The strike took place because the government determined that French archaeology would be subject to free market economy. The archaeological community opposed this move because they felt this would lead to commercially driven archaeology that was not research. The government's decision was subsequently reversed. As a result, currently all compliance-related archaeology in France is completed by a state monopoly, the Association Française d'Archéologie Nationale (AFAN). French archaeologists assume that this will guarantee the research quality. In addition, they believe the so-called 'cultural exception' in EU-law allows them to take this action. This may or may not be true; it has yet to be tested in the courts.

**Archaeology as a Business/
Archaeologists as Professionals**

Priate businesses, whose entrepreneurial area of expertise lies squarely on the study of the past, exist in Portugal, Ireland, the UK, and to a lesser extent in the Netherlands. In these countries, local, national, and international laws and regulations include archaeology as part of the more general environmental impact assessment process. There can be little argument that the entities engaged in this historic preservation work are businesses providing services, but are they performed by professionals?

How does one distinguish professional from non-professional services? There are four commonly used criteria used in other professions that might prove useful:

- a) that the activity require either a state or national license;
- b) that the level of education required for the activity be at least a Graduate Degree level;
- c) that there be well established and recognized standards of performance that are enforced by the licensing agency or a disciplinary body under the authority of the licensing agency; and,
- d) that there be well-established continuing education requirements to continue holding the license.

While most of the firms engaged in providing historic preservation services within an environmental impact or planning context would perceive themselves as professionals, the fact of the matter is that they would not meet all four of the criteria outlined above. Moreover, there is as yet no case law promulgated by the European Council that would serve to illuminate the answer to a basic question, is archaeology a cultural activity subject to EU exclusions or is it a business that provides services?

Conclusions

European archaeologists, particularly those engaged in commercial archaeology, would be well advised to act quickly and decisively to define themselves as professionals. The most convenient way to do this would be to create organizations (institutes?) on a state-by-state basis to define, control and regulate the behavior of its members. To do this effectively, it is mandatory that there be a state or the federal licensing board and a licensing requirement necessary for professionals to provide historic preservation services. While minimum levels of required education and experience may be established by the government, there currently is no licensing body to enforce standards of performance. Voluntary organizations like the Institute of Field Archaeology are of little assistance in their current make up, but could be modified for this purpose. Employers may require that employees become registered, but the archaeological community cannot claim to be professionals in the same sense as architects, lawyers and doctors until the state government requires a person to become registered in order to perform historic preservation services.

