

## THE LAW AND PRACTICE REGARDING COIN FINDS

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PECUNIA...OLET! ROMANIAN LEGISLATION ON ANCIENT COIN FINDS<sup>1</sup>

*“Form and function are a unity, two sides of one coin. In order to enhance function, appropriate form must exist or be created.”*

IDA PAULINE ROLF

What ancient coinage in Romania represents for world heritage is best described by E. Oberländer-Târnoveanu, “On an imaginary numismatic map of the world, Romania, certainly, represents what could be defined at least as a true Eldorado, if not a real Paradise. As it lies at the great European crossroads and at the confluence of some crucial ancient, mediaeval and modern political, economic and monetary structures, the country has yielded a wide range of coin finds rarely encountered on our continent. The coin finds from Romania illustrate true pages and chapters of a virtual numismatic encyclopaedia”.<sup>2</sup>

For more than 2,000 years the area between the Carpathian Mountains, the Lower Danube and the Black Sea witnessed the use of ancient coins.

One may think that the Romanian state is the *fortunate* owner of a rich national heritage. This is only partially true. The last 20 years witnessed major events that have had a strong impact on the legal status of ownership of ancient coins. The first step was to claim the return of jewellery confiscated by the communist regime.

Based on two decrees, no. 210/1960 – on the means of payments in foreign currency, precious metals and precious stones; and no. 244/1978 – the right to ownership of precious metals and stones, the communist regime confiscated a large quantity of objects considered as belonging to the state and not to individuals (article 16, Decree 244/1978). The two decrees were repealed through O.U.G. (Government Emergency Ordinance) no. 190/2000 and Law no. 158/2004. This has led to a large series of trials in court as the former owners or their legitimate heirs sued the state or the National Bank to return those objects. Only in one case, 21.348 kilos of gold (coins and

1 This work was carried out within the research projects UEFISCDI PN-II-ID-PCE-2012-4-0210 and PN-II-RU-TE 20123-0216.

2 <http://www.cimec.ro/Numismatica/aur/cd/2.htm>

jewellery) valued at 214,500 euros were returned to the former owner plus compensation as they had spent some time in jail for the crime of owning “precious metals” during communist times.<sup>3</sup>

After the fall of communism in Romania in 1989 the national heritage faced a more dangerous threat – the trafficking of national heritage artefacts (ancient coins being an important part of this phenomenon).

Furthermore, following the incredible development of metal-detecting techniques and devices, this ‘hobby’ became almost a national issue because of the impact on the black market of artefacts belonging to the Romanian national heritage, and even became part of organised crime.

Therefore, legislation regarding ancient coins has also evolved, adapting to the dangers posed by the smuggling of artefacts.

The main law in this matter in Romania at the moment is “Law no. 182 of October 25, 2000 regarding the protection of the movable national heritage”.

As soon as coins are declared part of the national heritage they fall under strict legislation regarding the finding, stealing, trafficking and any other means by which they do not enter the national heritage domain.

Article 1, § 2 includes in the national heritage repertory “the totality of objects identified as such, regardless of ownership rights over them, representing a testimony and an expression of the values, beliefs, knowledge and traditions in continuous evolution; it comprises all the elements resulting from the interaction, in the course of time, between human and natural agents”.

After a general definition the law provides a more specific picture of what are the categories included in the national heritage:

### **Article 3**

§ 1. The movable national cultural heritage includes objects of exceptional historical, archaeological, documentary, ethnological, artistic, scientific and technical, literary, cinematographic, numismatic, philatelic, heraldic, bibliographic, cartographic and epigraphic value, representing material evidence for the evolution of the natural environment and for the relation of humans with it, the potential creativity of mankind and the Romanian contribution to universal civilization.

Apart from being part of the national heritage as numismatic material, coins can be regarded as artefacts of the movable national heritage due to additional features.

3 <http://www.scj.ro/SC%20rezumate%202005/SC%20r%202268%202005.htm>

§ 2.1. The movable national cultural heritage consists of archaeological and historical-documentary objects, such as:

- a) products of archaeological exploration and excavations conducted on land and under water, tools, pottery, inscriptions, coins, seals, jewellery, items of clothing or harness, weapons, funerary remains, site materials that represent archaeological samples for specialised analysis, except for construction material;
- b) items relating to the political, economic, social, military, religious, scientific, artistic, sporting history;
- e) objects of archival value;
- f) items and documents of numismatic, philatelic, heraldic value: coins, medals, decorations, badges, registered designs, stamps, flags and banners;
- g) epigraphic items;

The judicial importance of the artefacts considered part of the national heritage is stipulated in Article 4.

According to their historical, archaeological, documentary, ethnological, artistic, scientific and technical, literary, cinematographic, numismatic, philatelic, heraldic, bibliographic, cartographic and epigraphic importance, antiquity or rarity, the objects belonging to the movable national heritage fall into:

- a) the movable national cultural heritage corpus, further referred to as the thesaurus, consisting of cultural items of exceptional value for humanity;
- b) the movable national cultural heritage basic items, further referred to as basic items, consisting of cultural items of exceptional value for Romania.

Unlike the communist legislation, the new law on the national heritage of Romania states that the objects belonging to the national heritage can also be held as private property: “Movable cultural objects may be held as public or private property by the state or by territorial-administrative entities or as private property by private bodies or individuals”.<sup>4</sup>

At the same time, the law already comes with stipulations regarding the safety of objects belonging to the national heritage:

4 Law 182/200, art. 5, § 1.

**Article 7**

§ 1. The competent authorities have the obligation to act, according to the legal provisions in force and the international conventions subscribed by Romania, in order to recover any cultural object that was illegally removed or appropriated from museums or collections or illegally held abroad;

§ 2. On the basis of a co-operation agreement, the competent authorities must participate in any joint international operation aiming at prohibiting and deterring illicit activities of import, export and property transfer of cultural objects.

At the same time Article 8 states: “The public authorities, owners, bearers of other rights, as well as bearers of the administrative right to the objects belonging to the movable national cultural heritage have the obligation to protect them against any deliberate or perfunctory deeds that can lead to their degradation, damage, loss, illegal export or mis-appropriation”.<sup>5</sup>

In order to avoid any doubt on the provenance of an artefact within the meaning of national heritage Article 45 stipulates: “Archaeological, epigraphic, numismatic, paleontological or geological objects, discovered in the context of systematic research for archaeological or geological purposes or within rescue or preventive archaeological research, as well as those accidentally discovered, in consequence of any kind of works, performed on state-owned property, according to article 136 paragraph (3) of the Romanian Constitution, revised, represent public property, in conformity with the legal stipulations”.<sup>6</sup>

Regarding the procedure to adopt when such artefacts – including ancient coins – are found the same law stipulates: “Individuals having accidentally discovered objects from the category mentioned in article 45, paragraph (1) must deliver them, within 72 hours after the discovery, to the mayor of the territorial-administrative unit that covers the discovery site; the mayor must inform the provincial public office of the Ministry of Culture about the objects discovered, within 72 hours, and must take protective and conservation measures; within 10 days the mayor must hand over the objects thus discovered to the county office for culture and national cultural heritage”.<sup>7</sup>

At the same time, the law precisely mentions the reward to which the finder is entitled: “The finders of an accidental discovery, who hand over the objects

5 Law 182/200, art. 8.

6 Law 182/200, art. 45, § 1.

7 Law 182/200, art. 48, § 1, 2, 3.

discovered in compliance with the provisions stipulated under paragraph (1), are entitled to a pecuniary reward equivalent to 30% of the value of the object, calculated at the time the reward is granted; if the archaeological discovery is of exceptional value, a bonus of up to 15 % of the value of the object may be awarded”.<sup>8</sup>

The value of this artefact/these artefacts is established by certain categories of experts: “...licenced experts of the county offices for culture and national cultural heritage or by other licenced experts”,<sup>9</sup> more precisely: “The bodies that do not possess the expert licence issued by the Ministry of Culture and Religious Affairs, but possess the technical expert licence issued by other authorities of the central public administration, may exercise their expertise, in compliance with the present law, only on the basis of prior accreditation issued by the National Commission of Museums and Collections”.<sup>10</sup>

The best example in this regard is the most recent case (Fall 2013) of a coin hoard discovered in an isolated place by a metal-detectorist. The hoard consists of more than 47,000 Ottoman silver coins (akçe) minted during the reign of Sultan Murad II (1421–1444). The value of these coins was estimated at approximately 500,000 Euros. The finder is going to receive 150,000 Euros plus a 75,000 Euros bonus because of the importance of such a discovery.<sup>11</sup>

An entire chapter of this law is dedicated to the artefacts belonging to the national heritage “illegally removed from the territory of Romania”.<sup>12</sup> The first article points out that the Ministry of Culture is entitled to inquire where the object is, while the next articles and their paragraphs stipulate that this authority can take, practically, any measures in order to recover the object(s) for the national heritage: from compensation to requests for help from other specialized institutions (e.g. police).<sup>13</sup>

The infringements are stated in chapter IX and article 59 stipulates: “Infringements of the stipulations of the present law imply material, disciplinary, civil or penal penalties”.<sup>14</sup>

8 Law 182/200, art. 48, § 4.

9 Law 182/200, art. 48, § 5.

10 Law 182/200, art. 51, § 2.

11 <http://www.gandul.info/reportaj/tezaurul-de-la-golesti-cum-a-descoperit-iulian-un-roman-cu-spirit-civic-comoara-lui-murad-al-ii-lea-11298952>.

12 Law 182/200, chapter VIII2: The restitution of movable cultural objects illegally removed from Romanian territory.

13 Law 182/200, arts. 5812, 5813, 5814, 5815

14 Law 182/200, art. 59.

Article 60, § 1 presents in 17 sub-paragraphs – letters a–r – situations considered as offences and the level of fines.<sup>15</sup> The last can be updated by Government decree.<sup>16</sup>

Then the next articles of this law present those cases where infringements are punishable with prison. The content of most of these articles applies to ancient coin finds due to their status as artefacts with national heritage value, archaeological objects and special artefacts. Thus, article 65, § 1, punishes the production of copies and casts – amongst other counterfeiting techniques – without “the written approval of the bearer of the administrative right or the owner” with prison from one year to three years or with a fine.<sup>17</sup> The next article, 66, comes with the further stipulation that the counterfeiting of national heritage artefacts for commercial purposes is punishable with prison from one to five years.<sup>18</sup>

In recent decades the trafficking of ancient artefacts (mainly coins) has led in almost all cases either to the damage or destruction of the objects. Once this aspect was demonstrated in court, apart from the accusations of trafficking national heritage the offenders were also charged with the stipulations of article 67, § 1–2: “Degrading, destroying or damaging a classified movable object, as well as impeding any conservation measures intended to restore such an item are considered to be infractions and shall be punished with prison for two to seven years; (2) Any attempt in this aspect shall also be punished”.<sup>19</sup>

Still, the main articles regarding the punishment for trafficking cultural goods are articles 69 and 70. Article 69 mentions: “Removing an object from the territory of a state without an export certificate represents illegal export and shall be punished with prison from two to seven years. If the action stated in paragraph (1) resulted in the total loss of a classified movable cultural object, the perpetrator(s) shall be punished with prison from three to ten years; any attempt in this aspect shall also be punished.”<sup>20</sup>

If the trafficking is considered permanent, article 70 states: “Any permanent export of classified movable objects, regardless of bearer of the property right shall be punished with prison from three to ten years”. Even supplying information that may lead to all the aspects mentioned above is punishable

15 Law 182/200, art. 60, § 1, letters a–r.

16 Law 182/200, art. 60, § 6.

17 Law 182/200, art. 65, § 1.

18 Law 182/200, art. 66.

19 Law 182/200, art. 65, § 1-2.

20 Law 182/200, art. 69, § 1, 3.

with prison from six months to a year.<sup>21</sup> In all these situations the objects and tools are confiscated.

As one would expect the activities that lead to removing and/or trafficking cultural goods, metal-detecting, unauthorized excavations, unauthorized conservation and restoration work are punished with prison from two to seven years and the seizure of the artefacts and tools.<sup>22</sup>

All these infringements are also included in Government Ordinance 43/2000 and laws 378/2001 and 258/2006 on the protection of archaeological heritage and establishment of archaeological sites as areas of national interest. Owing to their status as archaeological artefacts coin finds also benefit from the stipulations of this ordinance.

The law 182/2000 ends with an appendix that specifies which categories of cultural goods are subject to return and/or recovery. Ancient coins fit in more than one category:

“1. Archaeological objects older than 100 years, resulting from: archaeological discoveries and excavations, on land or under water; archaeological sites; archaeological collections;

12. Elements resulting from dismembered artistic, historic or religious monuments, older than 100 years;

12b. Collections of historical, paleontological, ethnographic or numismatic interest”.<sup>23</sup>

This law has been amended by several legislative acts: the Government Emergency Ordinance 16/March 27, 2003 and law 488/2006 but the changes refer to the details and not the basis of the law.

Romanian legislation regarding the protection of national heritage was expanded especially after the great increase in the trafficking of cultural goods that occurred in Romania in the 1990s.

The following are some cases of hoards of ancient coins smuggled and recovered, partially recovered or still on the list of wanted objects:

<sup>21</sup> Law 182/200, art. 71.

<sup>22</sup> Law 182/200, art. 73–75.

<sup>23</sup> Law 182/200, appendix.

- a) the hoard of 3,000 Koson gold coins stolen in August 1996 from the archaeological site of “Dealul Bodii”;
- b) the hoard of 3,600 Lysimachos gold coins stolen in August 1998 from the archaeological site of “Șesu Căprăreței”;
- c) the hoard of a snake-shaped golden bracelet and 1000 Lysimachos gold staters stolen in March 1999 from the archaeological site of “Muceha Cetățiii”;
- d) the hoard of 2,300 Koson silver coins stolen in 2004 from the archaeological site of “Dealul Bodii”.<sup>24</sup>

24 A. Lazăr, “Recovering the past”. On the circumstances of repatriating the Dacian royal treasures stolen from Sarmizegetusa Regia archeological site, in (eds. A. Lazăr, C. Găzdac et al.) *Fighting the trafficking in cultural goods – recovering the past*. [Patrimonium III], Bucharest, 2013, pp. 63–72.