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Mia Rizner\*

## Participatory research in archaeology in Croatia: between law and practice

The paper presents the state of participatory research in Croatia from the point of view of a conservationist working in a conservation department. The issues that arouse in the clash of national legislation, international ratified conventions and practice are tackled. Primarily speaking of responsibilities of involved parties — archaeologists conducting a research project that involves participation of the public, the “legality” of participation and the role of supervisory state agencies in participatory research. The process of permitting a research in archaeology is described, rights and obligations of persons involved, requirements etc. Croatian heritage legislation and sub-legal acts contribute to the realization of projects that include public participation but even more to the development of the discipline itself. Case studies will be presented to illustrate the participatory action projects.

**Keywords:** public participation, archaeological heritage legislation, Croatia

*Questo articolo presenta lo stato della ricerca partecipata in Croazia dal punto di vista di un professionista che lavora in un Dipartimento pubblico dedicato alla tutela. Vengono affrontati i problemi che nascono dallo scontro tra legislazione nazionale, convenzioni internazionali ratificate e pratiche. Si tratterà delle responsabilità delle parti coinvolte - gli archeologi che conducono un progetto di ricerca che prevede la partecipazione del pubblico, la “legalità” della partecipazione e il ruolo delle agenzie statali di vigilanza nella ricerca partecipativa. Viene descritto il processo di autorizzazione della ricerca in archeologia, i diritti e gli obblighi delle persone coinvolte, i requisiti ecc. La legislazione per il patrimonio culturale croata e gli atti sub-giuridici contribuiscono alla realizzazione di progetti che includono la partecipazione pubblica ma ancor più allo sviluppo della disciplina. Saranno presentati casi di studio per illustrare i progetti partecipativi.*

**Parole chiave:** partecipazione pubblica, legislazione per il patrimonio culturale, Croazia

### 1. Introduction

When considering archaeological research in Croatia two sets of matters need to be taken in account. The first set relates to the entity planning on conducting research (archaeologists) and the state's body issuing a permit for research (conservation departments). The second set relates to legislation, national: Law on the protection of cultural heritage and the Rulebook on archaeological research; and

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international: conventions (Valetta convention) and frameworks (Faro convention) that are ratified by the Croatian government. This paper will present each of these in regard to participatory research in archaeology and will present case studies as to give a better insight into the state of the subject.

## 2. National heritage legislation

Matters of heritage protection, safeguarding and preservation in Croatia are governed by the Law on the Protection and Preservation of Cultural Heritage<sup>1</sup> (Zakon o zaštiti i očuvanju kulturnih dobara NN 69/99, 151/03, 157/03, 100/04, 87/09, 88/10, 61/11, 25/12, 136/12, 157/13, 152/14, 98/15, 4/17, 90/18)<sup>2</sup>. The law was brought into action in 1999, until then in action was a law inherited from the former Yugoslavia dated to 1969. The former state has its own history of heritage laws starting from the first years of its existence. Current Croatian Law on the Protection and Preservation of Cultural Heritage since 1999 has seen 13 changes – mainly minor, pertaining mainly to taxation and harmonization with other laws like EU legislation, civil engineering, construction and similar. This Law defines heritage, as in listing categories of heritage or monuments: movable, immovable, intangible, and in regard of archaeological heritage regulates the legal protection of archaeological sites and zones, as well as the obligation to adopt measures of protection for each building or any other project in the area of the site and/or zone. Furthermore, this law regulates the sale of cultural property (right of first refusal), as well as all other issues concerning actions that may adversely affect archaeological sites and artifact. Archaeological excavations carried out at the construction sites of various facilities are financial obligations of investors. It also defines the objectives of cultural heritage protection, among others these are: safeguarding the heritage for future generations, taking measures for regular maintenance of heritage, establishing conditions for heritage to serve the need of individual and general interest, and research. The definition of archaeology is not given in the Law as it is given in international declarations that are ratified by Croatia (primarily European

<sup>1</sup> The Law is published in official state issued periodical Narodne novine (Official Gazette). Issues are easily accessible through web page <https://narodne-novine.nn.hr/clanci/sluzbeni>.

<sup>2</sup> The code under which a law is cited is given by the Official Gazette and it consists of the anagram of the gazette in Croatian (NN), number of the issue and the year of publishing. This is a list of codes for Heritage Law appendixes and the manner of citing the Law in practice.

Convention on the Protection of the Archaeological Heritage, London 1969: Council of Europe 1969). Thus, the Law considers archaeology, or better said archaeological heritage, self-understood. The same is the case with other categories of heritage.

Cultural heritage in Croatia needs to be listed (or scheduled)<sup>3</sup> in order to gain full legal protection. This is the case with all categories of heritage including archaeological heritage, but in compliance with the Valletta convention, archaeological heritage does not need to be listed in order to enjoy full legal protection. This fact, maybe unimportant for the participatory research in archaeology is needed to better understand the presentations of case studies further in the text.

Archaeological research is governed by the Rule-book on archaeological research (*Pravilnik o arheološkim istraživanjima* NN 102/10)<sup>4</sup> which, first introduced in 2005 and revised in 2010), gives detailed rules on all aspects of archaeological research. Through 13 chapters the Rule-book defines general definitions; the procedure of issuing a permit; permitting of filming and photographing archaeological sites; manager and participants of the excavation; minimum methodological structure required to run an excavation; minimum methodological structure required to run an underwater excavation; post excavation conservation of the site; the obligation of handing in excavation report; minimum required contents of excavation report; minimum required contents of reports concerning survey and other types of (non-invasive) research; export of the field documentation; finds and samples, publishing of the results and requirements to be fulfilled before issuing a new permit.

The Rule-book prescribes in detail the obligations of researchers during and after the investigation, the obligation of the research results, as well as the obligations of conservation of materials and sites. In order to do this, it defines what exactly is under research (archaeological sites and zones – known and potential, land and underwater) and what exactly the research is: excavations (scientific, preventive, revision, test and supervision), survey, nondestructive methods. Furthermore, it gives strict rules on the process of issuing a permit for archaeological research: who issues it, who can ask for

<sup>3</sup> Listing or scheduling is in Croatia known as registering the heritage. It is processed by Conservation departments or rarely by roof institution - Ministry of Culture, Head office for protection of Cultural heritage.

<sup>4</sup> The name of document is for these purposes translated by the author. In official Council of Europe documents (accessible through web page <http://www.herein-system.eu/heritage-legislation-croatia> accessed on 2.12.2018.) the translation is Rulebook on archaeological excavations, which is wrongly translated and limiting in meaning as the Rulebook pertains not only to the excavations but to every type of research conducted in archaeology.

one and be granted one, who can be a manager of a research project, what are this person's responsibilities, what are the technical requirements for conducting research, what are the requirements for documenting the research, publishing of the results etc. Requirements that need to be met in order to be permitted to manage an archaeological research are as follows: Croatian citizenship, university degree in archaeology<sup>5</sup>, at least 2 years of experience in field research and experience in organizing a research.

Both these requirements and the responsibilities of a manager are listed in articles 7 and 8 of the Rulebook. Therefore, once permitted the manager is responsible for the quality of research, standards that are followed during the research, organizing the process of research, following the financial plan confirmed by the permit. The manager is also obliged to provide adequate equipment and instruments for spatial positioning and documenting the site, the excavation and finds. Standards followed during the research are, to be precise: following the stratigraphy, marking the finds, post excavation analyses, preventive conservation of the site. Participants of a research, i.e. who can participate in research is regulated in article 9 of the Rulebook, stating that both domestic and foreign physical and business persons can participate as granted by the permit for the research. Foreign persons need to fulfill other requirements (visas etc.) and the principle of reciprocity (equal number of domestic and foreign participants) needs to be met. The request to the issuing authority for participation of a person or persons is applied for by the manager of research. This is regulated through article 5 of the Rulebook, which specifies the mode of requesting a permit for archaeological research. This request needs to specify, among other elements, the list of participants in the research. No further specification about participants or the nature of participation is given.

The rule on archaeological research is very detailed when describing a person suitable to be a manager of a research project (article 7 of the Rulebook). The rule also states the importance of their deputy who has to have the same level of expertise, diplomas and experience (article 10 of the Rulebook). But these are the only two persons involved in the research that are specifically named and for

<sup>5</sup> Croatian education system went through a reform, complying with Bologna process, that came into action with the academy year 2005/2006. Therefore, here the term "university degree" refers both to previously gained diplomas and Master degrees that started to appear from cca. 2010. See KURELIĆ 2009 for critical explanation of the process and the Law on academic nomenclature and academic levels (NN 107/07, 118/12) for legal state of the matter.



whom the exact requirements are given. Anybody else working in any kind of archaeological research is subject to managers' decisions and is her/his responsibility, according to the law these other persons need only to be listed. The list of the participants is required twice: when requesting a permit for the research and afterwards when handing out the report. Thus, Croatian heritage laws do not prohibit participation in archaeological research.

### **3. International legislation**

Besides its national legislation on heritage Croatia has also ratified international conventions on heritage protection. Among these, when talking about participatory research in archaeology, of interest are the Valletta convention and the Faro convention.

The European convention on the Protection of the Archaeological Heritage, so called the Valetta convention (Council of Europe 1992) or, in Croatia, more commonly known as the Malta convention, which was brought in 1992, signed by Croatia in 2001 and ratified in 2004 (NN 4/04) (and entered into force in 2005). The European Convention for the Protection of the Archaeological Heritage does not specifically mention participatory research but some of its parts could be interpreted in that sense (for example article 9). Obligations stipulated in the Valetta convention in Croatia have a legal framework through the Rulebook on archaeological research and the Law on the Protection and Preservation of Cultural Heritage.

The Council of Europe Framework Convention on the Value of Cultural Heritage for Society (Council of Europe 2005), so called the Faro Convention was brought in 2005 and ratified by Croatia in 2007 (NN 5/07) (entered into force in 2011). The Faro Convention emphasizes the important aspects of heritage as they relate to human rights and democracy. It promotes a wider understanding of heritage and its relationship to communities and society. In line with the Faro Convention's principles and criteria, civic initiatives enable institutions and communities to develop decision-making capacities and to manage their development processes, ensuring that heritage contributes to the social, cultural and economic dynamics of the communities. The Faro convention is a "framework convention" and as such does not create obligation for specific actions to the State Parties involved. It defines objectives, identifies areas for action, and the directions for progress. Each State Party can decide on the most

convenient means to implement the Convention according to its legal or institutional frameworks, practices and specific experience<sup>6</sup>. In Croatia the Faro convention is implemented through the “Strategy of Protection, Preservation and Sustainable Use of Cultural Heritage of Croatia 2011-2015”<sup>7</sup>. This document, as valuable as it is, does not provide specific explanations of actions required to “democratize” research in cultural heritage. It does however define its goals one of which is strengthening of connections between public and professionals. This, it is advised, should be achieved through provision 3.1.3. which promotes stronger involvement of civil society in informal education on heritage and sustainable use of heritage. Although, participatory research *per se* is not mentioned, this provision could be understood as such.

#### 4. Permits, permit holders and issuing body

State's bodies issuing permissions for archaeological research are Conservation departments. The Departments are regional, mainly covering a territory of a county or sometimes a part of a county. Conservationists issue permits for excavation and other research to archaeologists, but they also permit any other type of research or work in heritage, any kind of work conducted on historic buildings, landscapes, etc. The permit is issued upon research manager's written request. In the sense of permitting participatory research both national and international legislation are not clear, or not clear enough for an everyday use by conservationist issuing permits. It is therefore the conservationist's job to, on one hand, encourage participatory research and on the other hand to control it in the same way they control any other research in heritage, in order to secure a responsible approach to heritage protection. It is conservationist's responsibility to evaluate the complexity of the site (or a zone) and the level of expertise of persons involved: most importantly related to the manager of the research but also regarding the other competent persons involved. In practice this usually means that participatory research could be permitted on sites of low complexity, with an experienced manager and their vice manager – preferably with more experienced archaeologists involved.

<sup>6</sup> Explanatory Report to the Council of Europe Framework Convention on the Value of Cultural Heritage for Society.

<sup>7</sup> [https://www.min-kulture.hr/userdocsimages/bastina/STRATEGIJA\\_BASTINE\\_VRH.pdf](https://www.min-kulture.hr/userdocsimages/bastina/STRATEGIJA_BASTINE_VRH.pdf) (in Croatian).



Fig. 1. Solin, children from local school visiting the site, having a lecture in history and receiving instructions for participation in work (photo: Museum of maritime and history museum of Croatian coast in Rijeka).

## 5. Case studies

### 5.1. *Solin, Kostrena* (figg. 1-3)

This is a large site with complex stratigraphy mainly horizontal which facilitates excavations. The main regional museum is managing excavations of the site for almost a decade. Since the second year of excavations local schools have participated as a part of the “school in nature” programme. For the past two years, the museum has been a partner in a European Union funded Interreg project joining Slovenian and Croatian partners. Their role in the project is conducting participatory activities in archaeological research and conservation actions.

### 5.2. *Gorski Kotar, mountainous region of the Primorje – Gorski Kotar county, research in topography*

This is a project developed by local communities who invited experts to participate and above all facilitate the carrying out of their idea. Local communities included tourist workers, NGOs, foresters,





Fig. 2. Solin, volunteers participating in excavations (photo: Museum of maritime and history museum of Croatian coast in Rijeka).



Figure 3. Solin, volunteers participating in excavations (photo: Museum of maritime and history museum of Croatian coast in Rijeka).

hunters and speleologists. Institutions involved included the Archaeological museum of Zagreb, the Conservation department in Rijeka and the Institute of anthropology. The local communities concluded that cultural heritage is poorly researched, archaeological sites are completely unknown and the region is largely perceived as a mountainous region full of forests and nothing more. They thought it was an inaccurate picture of their home, wanted to rectify it and therefore needed the help of archaeologists. The research was conducted on a volunteer basis and with significant help from local people. After four years of surveys, excavations and other work an archaeological topography map was made. Although the scientific results are vast, more important results include: an NGO strictly concerned with heritage was formed, a research center (with a building that includes dormitories for visiting researches) is being developed, the NGO grew to be a powerful stakeholder in region creating a true “bottom-up” approach to heritage research, protection and sustainable use.

### *5.3. Island Rab, Premužićeva trail, restoration (figg. 4-5)*

Premužićeva trail is a walking path built in the early 1930s by engineer A. Premužić. The path is built using the dry-stone technique



Fig. 4. Rab, Premužić trail, volunteers working on repairing the trail (photo: M. Rizner).





Fig. 5. Rab, Premužić trail. Repairing works on the trail, during the lunch break (photo: M. Rizner).

and is, because of the quality of work and the flawless integration with nature, considered a jewel among walking paths. Misuse had caused deterioration of the path therefore a local mountaineering society started repair works. The local community, using local material and local technique repaired the path through more than one hundred actions, spending all together more than 700 hours of volunteer time. No legal issues were involved as the path is not a scheduled heritage asset (although it deserves to be scheduled). This largely facilitated the process of restoration because for listed heritage the process of issuing required documentation is time and money consuming to such an extent that no local community could afford to do it. The complicated procedure of getting permissions to restore a path like this, the requirements of blueprints and designs for a piece of construction so elegantly incorporated in the landscape, the requirement of a certified construction company to rebuild and restore the path and, lastly, the financial requirement to fulfill it, would have made the work prohibitive. Instead, local knowledge by local people using local materials allowed residents to restore a path that is used by the local community.

## **6. Conclusions**

Croatian heritage laws do not mention participatory research in archaeology. It is however tackled by international conventions that are ratified in Croatia. It is the responsibility of the archaeologist managing a research project to conduct it in accordance to the state of the art, standards of the discipline and thus in accordance to the Rulebook on archaeological research. It is the responsibility of the Conservation department issuing a permit to ensure that the standards are met and that the rules given by the legislation are followed. It is these clearly defined responsibilities that enable participatory research to be conducted and at the same time to satisfy the legislation. Heritage legislation in Croatia, when speaking of participatory actions, is far from being rigid. This enables conduction of such projects and also sometimes facilitates fund raising as local governments are more likely to fund a project that includes public participation (as seen in case of Solin). It also contributes to the development of the discipline itself as researchers, conservationists and funding bodies likewise see the benefits it brings to heritage protection and presentation, identity building and research projects.

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