

## DISCUSSIONS AND POLEMICS

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### GREAT EXPECTATIONS: REFLECTIONS ON THE 20TH ANNIVERSARY OF POLAND'S MOTORWAY CONSTRUCTION RESCUE ARCHAEOLOGY PROGRAMME

#### ABSTRACT

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This paper examines the political, legal and organisational aspects of rescue excavations carried out in advance of motorway construction in Poland during the last 20 years. This analysis tries to determine why this comprehensive and ambitious programme was downgraded ten years after its launch and now bears little resemblance to the original concept. Why, despite the existence of an appropriate legal framework and the supervision, was it possible to breach the basic provisions of the Malta Convention (La Valetta, 1992), which states that rescue excavations should be governed by the principles of scientific research? The authors believe that the successful implementation of complex, long-term and costly projects funded by the public purse does not depend solely on having legal and organisational structures in place. Critical factors, particularly in countries emerging from authoritarian rule, include the political will of the government, a lack of public engagement with archaeology and the absence of widely accepted professional standards in archaeological practice.

Keywords: the Malta Convention, archaeological heritage, rescue archaeology, rescue excavations

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## INTRODUCTION

A comprehensive and ambitious programme of motorway rescue excavations was launched in Poland just over 20 years ago. This paper tries to answer why this programme was completely downgraded after ten years in operation. It also looks into why, despite the existence of an appropriate legal framework, it was possible to breach the basic provisions of the European Convention on the Protection of the Archaeological Heritage (La Valetta, 1992), which states that rescue excavations should be governed by the principles of scientific research. Why does the supervision of Poland's National Heritage Protection Service not guarantee that these principles are observed? And finally, why does the government not react to information and even protests from the academic community, about the drastic oversimplification of methods and reduction in scope of rescue excavations?

We believe that the way in which complex, long-term and costly projects funded by the public purse are implemented is not always dictated solely by the binding legal framework. Legal regulations concerning the protection of archaeological heritage in Poland conform to the highest standards of conservation doctrine. However, they are variously interpreted depending on what can best be described as 'political will'. 'Political will' is a phenomenon we see in Poland, but which also appears to be a characteristic legacy of other countries emerging from authoritarian rule. It involves the selective application of laws to suit particular social, political, and, most often, economic goals. This type of propaganda exercise and legal manipulation is made easier by a weak civil society, which, in this case, is manifest in the absence of a professional body to uphold standards in archaeological practice (also: Czerniak 2011). This is exacerbated by the notorious impotence of the National Heritage Protection Service. Inadequately funded and frequently reformed, it is understaffed by underqualified employees, who – in consequence – are ill-equipped to carry out procedural monitoring, and almost entirely lack the capacity to oversee professional standards.

At the *Annual Meeting of the European Association of Archaeologists* held in Kraków in 2006, when one of us summed up ten years of rescue excavation work along Poland's motorway routes, all the talk was of success (Czerniak *et al.* 2006). This was the prevalent opinion about the legal measures that had been adopted, the organisation of the archaeological work and its results. Unfortunately, the enthusiasm surrounding the fall of communism, and the conviction that entering the European Union would make up for the absence of a robust legal culture, blinded us all to the fact that this success was built on shaky foundations.

This is why, barely ten years later, at a conference in University of Łódź ('Preventive archaeology – an attempt to diagnose of the last quarter', December 9, 2016), we presented a joint paper describing the rapid decline of standards in motorway rescue archaeology. Sadly, today we can only repeat the assessment we made two years ago. However, above all, we want to focus on more universal problems, which we believe not only lie be-

hind the negative changes we have witnessed in Poland, but also pose a genuine threat in countries with similar historical and socio-political backgrounds.

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## 1. WHAT HAPPENED?

In essence, the developments which took place in Poland can be attributed to the fact that after 2007 the system for selecting archaeological contractors and monitoring their working practices was changed within a matter of several months. In 1994, when devising the national motorway construction strategy, it was decided (the act '*on toll motorways*') that the related archaeological rescue excavations would be sponsored by the government. The funds allocated for this task, and the responsibility of accounting for expenditure on archaeological work, were entrusted to the Motorway Construction Agency – a subsidiary of the Ministry of Infrastructure. However, the responsibility for selecting archaeological contractors, and monitoring the standard of their work, fell to the Rescue Archaeology Centre (in 2002 replaced by the Archeological Heritage Preservation Center, see: Grabowski 2012) set up by the Ministry of Culture. In addition, excavation work was also to be overseen by the local offices of the National Heritage Protection Service, whose remit includes issuing archaeological excavation permits.

Recognising these excavations as scientific research (as per *the Malta Convention*) was crucial to the viability of this system. It allowed the criteria for competitive tendering to be drawn up in such a way as to give precedence to large scientific institutions (mainly academic ones) experienced in excavating archaeological sites in the particular region where a given section of motorway was being built. This system was meant to – and did – ensure that archaeological work would be carried out to the highest professional standards. It was finally adopted in 1996. Notably, the most frequently discussed problem was: What exactly does rescuing the archaeological heritage involve? The debate centred on whether funding for rescue operations should cover not only the cost of excavation, but also the cost of archaeological archiving, artefact conservation and storage, as well as writing up and publishing results. Determining a price for writing up excavation results proved to be a particularly contentious issue. As we know, this is a costly phase of post-excavation work, but it is also difficult to define exactly what this process entails and what its scope should be.

Although the system we've described worked smoothly for over a decade, during which motorway construction work reached a peak, it raised concerns and was heavily criticised from the very beginning. The stumbling block was the role which the Rescue Archaeology Centre was to play in this system. Its presence restricted the autonomy of the Motorway Construction Agency, and at the same time attested to the ineptitude of the National Heritage Protection Service. It is no wonder that both organisations tried to gain exclusive control. And, indeed, they did so gradually between 2007 and 2010.

## 2. WHAT CHANGED?

Firstly, it was concluded that a system in which the selection of contractors is not based on unrestricted competitive tendering invites corruption, as well as causing an excessive increase in costs and destroying the free market. The criteria that had previously been considered most important – such as having highly skilled staff and experience of excavating in a given region – were now judged by the Scientific Advisory Board of the Archeological Heritage Preservation Center, as criteria weighted to guarantee the selection of specific contractors.

To remedy the situation, the job of selecting archaeological contractors was handed over to the Agency subordinate to the Ministry of Infrastructure, while the Archeological Heritage Preservation Center was incorporated into another department of the Ministry of Culture and took on a purely advisory role in matters concerning motorway construction. Under this new system, rescue archaeology ceased to be a scientific endeavour and instead became an integral phase of construction work. This made it possible to relax the criteria for selecting archaeological contractors and introduce competitive tendering, which in Poland is based almost exclusively on price. Within a short space of time, the price of rescue excavations had dropped several folds. In addition, academic teams withdrew mostly from excavating, as they were unable to cope with the competition from small private companies. These companies were not averse to cutting costs by ‘simplifying’ excavation methods, spending less time in the field and reducing the scope of analysis and reporting. Naturally, the new Agency managing this process declared it a huge success that had brought financial savings and reduced excavation time.

## 3. WHAT DID THE NATIONAL HERITAGE PROTECTION SERVICE DO?

In levelling such charges there are several questions which have to be answered. Why did Heritage Protection Service inspectors not suspend excavations that were not being carried out to professional standards? Why did they sanction restrictions in the scope of specialist analyses and a reduction in the quality of site reporting? These questions are crucial to understanding the way in which the Polish system of heritage protection operates.

The answers seem simple, though the issues behind them are complex. Firstly, Heritage Protection Service employees are civil servants, which means that they will always be more concerned with overseeing procedural norms rather than professional standards. In other words, ensuring compliance with procedures is paramount. In the case of archaeological projects, we know exactly what conditions must be met to be granted an excavation permit, and what documents must be submitted for the excavation to be deemed completed. However, there is nothing to prevent someone from excavating a megalithic tomb who has

never done so before. What's more, it's not easy to prove that the methods used in excavating our example tomb were inappropriate for this type of feature.

This raises a second issue. Because the Heritage Protection Service has a limited budget, the people it employs as inspectors lack the relevant practical experience and recognised professional standing that would allow them to effectively monitor professional standards. So the safer option is to carry out compliance checks, ensuring that all of the necessary formalities have been observed, usually concerning the location and size of trenches, general site appearance and the manner in which the written, drawn and photographic record is compiled.

There is also a third issue. Imagine that as a result of a monitoring visit an inspector suspends an excavation and demands that the archaeological contractor is replaced. Although it is within the inspector's rights to do this, the consequences of such a decision would be radical. The whole process would have to start afresh: a new tender would have to be announced, new permits obtained, a new workforce recruited, and so on. This would threaten delays to development and huge losses for the construction works contractor. How many low-grade civil servants would be able to find the courage and fortitude, based on their own experience, to set such a chain of events in motion? And so the status quo prevails. In procedural terms everything is fine, and the National Heritage Protection Service does not register any complaints about the non-compliance of rescue excavations along planned motorway routes.

#### 4. IT ALL DEPENDS ON HOW ARCHAEOLOGICAL CONTRACTORS ARE SELECTED

In purely theoretical terms, there are two methods of selecting archaeological contractors, both of which seemingly guarantee a high professional standard of services. The first relies on selecting contractors who have a long-standing reputation for high-quality work. This method narrows the competitive field, which means that services are more expensive, but do not require frequent monitoring and carry a minimal risk of failure. The second method does not impose conditions on the contractor but on the services. Anyone can be a contractor as long as they guarantee an appropriate level of service quality. This method broadens competition, which brings benefits in the form of cheaper services, but requires stringent controls and the readiness to terminate contracts.

The changes we've described in the approach to Polish motorway rescue archaeology consisted of replacing the first of these methods with the second. Unfortunately, weak control systems meant that these changes had disastrous results. This can be put even more bluntly. In a discipline such as protection of the archaeological heritage, where sites cannot be re-excavated and mistakes made during excavation cannot be amended, only the first of these methods will be successful. In this instance, the same principles apply to archaeology as to a good lunch: it's always best to choose a renowned chef.

## 5. WHAT DOES THE ARCHAEOLOGICAL COMMUNITY HAVE TO SAY?

The fact that the National Heritage Protection Service has no objections to the quality of rescue archaeology does not mean that this issue has been laid to rest. Academic institutions and archaeological associations in particular have long sent petitions and delegations to the government about this matter. To no avail. Government agencies responsible for carrying out rescue excavations do not acknowledge that the work done by the National Heritage Protection Service is not up to scratch. We are told that ‘everything is fine’ in terms of legal and procedural compliance. It is sometimes alleged that our criticism is biased, because this ‘reform’ has denied those in academic circles access to a lucrative source of income. Others believe that not all rescue projects can meet the highest scientific standards, because maintaining short deadlines and low costs is sometimes more important. This, in all its glory, is a prime example of what we refer to here as a lack of ‘political will’.

## 6. WHAT IS ‘POLITICAL WILL’?

In order to understand this phenomenon it is important to bear in mind that not all societies believe that something is done purely because ‘it has already been prescribed by law’ or ‘it needs to be done’. There are also those which, even though they are subject to the same law, believe that the way and scope in which it is applied can be altered depending on needs, possibilities and even political advantages. When one of us outlined the problem we’re presenting here today to a very high-ranking politician, he didn’t ask: ‘*What is it that’s not working properly?*’, but ‘*Don’t you think that archaeologists have profited enough from motorway construction?*’

In countries like Poland, which, thirty years ago, were emerging from over five decades of authoritarian rule, state financing of major projects, such as conducting rescue excavations along more than three thousand kilometres of motorways within a relatively short space of time, required governments to demonstrate ‘political will’ above all. Someone important had to give ‘*the green light*’, not only for money to be spent, but also for the voices of archaeologists to be listened to regarding a system of organisation, cost calculation and settlement of accounts for this work. The way in which such a system works is naturally susceptible to the circumstances of the given time, and is under constant threat from ongoing political change. Poland’s system was introduced in 1996 and eventually collapsed around 2010. However, before reaching that point it had undergone three major crises (in 2002, 2005 and 2007) precipitated by general elections and the formation of new governments. It was at moments like this that politicians were confronted with the conflicting interests of two communities which remained at loggerheads throughout the project’s duration: road constructors and archaeologists.

## 7. ROAD CONSTRUCTORS

In the case of rescue excavations, it seems obvious that the Agency responsible for managing road construction works should also take responsibility for organising archaeological works. In practice, however, it transpired that when the road authorities had the ultimate say in selecting archaeological contractors, determining the costs of their services and settling payment for them, they ended up treating archaeological units like construction companies. They found it difficult to understand the unpredictability of archaeological discoveries and how hard it is to assess the quality of excavation work once it's been completed. Naturally, this problem could have been resolved during negotiations given a little goodwill towards archaeology.

This, however, was never forthcoming, and it's not easy to say exactly why. To some extent, the fact that archaeological operations complicate the logistics of construction work and can put completion deadlines at risk may be significant. Then again, our own observations suggest that the root of the problem lies in cultural attitudes entrenched in society. These are what lead people to question the validity of spending public money on archaeological heritage protection (as well as artistic and scientific projects), when the state budget lacks the funds to provide adequate healthcare, security and education services.

It is hardly surprising that the road construction community put pressure on successive politicians to save money by doing away with a system of contractor procurement that was not based on the '*lowest bid wins the tender*' principle, which applies in the construction industry. This required the reclassification of archaeological excavations. It was within this community, albeit with the consent of the government of the day, that the precepts of paragraph 3 of *the Malta Convention* were breached, and rescue archaeology was deemed not to be scientific research but an integral part of the road construction process, on a par with earth removal, soil compaction or surface laying. The logical consequence of this decision was that the Archeological Heritage Preservation Center and its Advisory Board, appointed by the Minister of Culture, were gradually marginalised and finally excluded from this process.

## 8. ARCHAEOLOGISTS

News of an impending large-scale programme of rescue excavations in Poland was welcomed by a sizeable archaeological community with limited access to finances for research projects and conservation. Added to this was an idiosyncratic division of labour, which meant that archaeologists working in universities and museums had very little practical experience of rescue archaeology. For forty years this had been the domain of a specialist institution which, after the fall of communism, had splintered into numerous private companies. These companies expected to retain their former position as the contractor of

choice for heritage services. Meanwhile, the country's largest ever rescue archaeology programme was addressed to the academic community. This was not only because of their greater scientific capacity, but also because the project was to be government-funded. It was inevitable that private firms would demand a level playing field for all operators and the application of free market principles. Attempts were made to avoid conflict by subcontracting tasks to private companies, but this proved to be inadequate. The call for a free-market approach was taken up by developers, who took advantage of existing support for the idea and introduced the changes I described earlier.

At the end of the day, everyone is responsible for the current state of crisis in rescue archaeology in Poland. Politicians, because in 30 years they have not managed to create a country built on the rule of law. Developers, because they still perceive archaeology as an adventure that archaeologists want to have at their expense. And last, though by no means least, archaeologists themselves, because they have failed to rise above group rivalries and establish a code of professional practice for protecting and safeguarding the country's archaeological heritage.

*The text translated into English by Barbara Gostyńska*

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