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The return of historical monuments removed from the territory of Ukraine after 2014. Problems of archaeological research in times of war

Abstract. The relevance of the research is conditioned upon the increase in the national consciousness of the Ukrainian nation, a new stage of the national revival of the Ukrainian state and consolidation of the Ukrainian people against the background of the full-scale invasion and occupation of Ukrainian territories. The purpose of this research is to explore the level of threat to the national historical and cultural heritage in Ukraine, including the temporarily occupied territories. The research methodology used in this work is a comprehensive combination of quantitative and qualitative analysis of archaeological and cultural monuments, and the following methods: ascent, synthesis, analysis, comparison, and the axiomatic method. As a result of the study, the main regions of historical and cultural monuments in the temporarily occupied territories and in the areas where hostilities are conducted were explored. The research examines the competent opinion of leading Ukrainian historians and archaeologists on the main problems of archaeological research and the restitution of the treasures of Ukrainian culture temporarily seized by the occupier. The legal foundations of such restitution are established in the context of the main provisions of national and international humanitarian law. These circumstances were the prerequisites for the cancellation of the decision of the District Court of Amsterdam in favour of the Ukrainian party. It is substantiated that the position of the authorities of the Kingdom of the Netherlands does not comply with the statute of legal identity and independence of the State and ignores the inviolability of property rights. Although, in turn, the country is based on the declaration of compliance with international law on the legal immunity of the state and its property, as established by the 2004 UN Convention. The conclusions presented based on them contain updated scientific knowledge on the areas of restoration of a fair legal status to the historical and cultural heritage of the Ukrainian nation and bring to science relevant scientific and practical recommendations for improving the current legislation of Ukraine in the field of museum and archaeological science

Keywords: Scythian gold; cultural heritage; historical artefact; Amsterdam arbitration; return of cultural property

Introduction

The significance of the stated problem of this research is conditioned upon the intensification of military criminal actions, which cause the destruction of both civilian infrastructures and lead to irreversible consequences in the form of destruction and loss of cultural heritage sites of Ukraine. The ongoing trial in the Kingdom of the Netherlands to return to Ukraine a collection of Scythian artefacts, the so-called "Scythian gold", belonging to Ukraine, requires the establishment of new approaches to the conduct of this case by the Ukrainian side, updating and improving domestic legislation in the cultural sphere. The imperfection of Ukraine's legal framework for defining key concepts in the archaeological field of scientific knowledge requires bringing terms inextricably linked to the protection and preservation of Ukrainian cultural and historical

heritage in line with international regulations in this area. The future fate of the cultural heritage of the Ukrainian nation largely depends on the specification of key definitions. International cooperation expands opportunities in finding practical ways to return and preserve cultural heritage for the benefit of future generations of Ukrainians, the national cultural memory of Ukraine, and requires the improvement of Ukrainian legislation in this area.

Previous researchers have generally explored the most important problematic issues of the return of cultural monuments and identified priority practical tasks and theoretical developments in this area.

Such scholars as M.G. Novosad *et al.* (2022) have determined the approximate degree of damage caused by the criminal actions of the occupier to the objects of the

Suggested Citation:

Arlind, K. (2023). The return of historical monuments removed from the territory of Ukraine after 2014. Problems of archaeological research in times of war. *Foreign Affairs*, 33(3), 17-27. doi: 10.46493/2663-2675.33(3).2023.17-27.

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Received: 05.02.2023, Revised: 29.04.2023, Accepted: 02.06.2023

national cultural heritage of the Ukrainian people, which are included in the State Registers of Immovable Monuments of Ukraine of local and national importance, which are damaged, illegally removed, or destroyed. The research analyses the main provisions of international law and Ukrainian legislation in the field of protection of cultural heritage - the Convention of the General Conference of the United Nations Educational, Scientific, and Cultural Organisation of 16.11.1972 "On the Protection of the World and Cultural Heritage" (UNESCO Convention..., 1988), the Law of Ukraine of 08.06.2000 "On Protection of Cultural Heritage" as amended on 14.01.2005 (Law of Ukraine No. 1805-III..., 2005).

The State Register of Immovable Monuments of Ukraine, maintained by the Ministry of Culture and Information Policy of Ukraine, includes objects of the cultural heritage of the Ukrainian nation that have been fully or partially destroyed or illegally exported from the territory of Ukraine as a result of hostilities and are the subject of scientific research by Ukrainian scientists. One of these prominent scholars is R.M. Yatsiv (2021), who, in his scientific works, devoted special attention to the disclosure of cultural and technical features of Ukrainian national religious architectural and decorative arts and their sacred connection with the personalities of artists. His art criticism on the areas of fine Ukrainian art of the Cossack era contributed to the study of the Ukrainian national and cultural heritage.

The prominent Ukrainian religious scholar, philosopher, and scientist A. Fedonchuk (2020) made a significant contribution to the development of the national Ukrainian idea expressed in the fine and decorative arts regarding Ukrainian graphics of the 16th-17th centuries in the context of the evolution of the figurative system, the history of Ukrainian iconography and engraving. Ukrainian representatives of the critical field of literary criticism have conducted in-depth studies of the fundamental areas of artistic expression.

An outstanding specialist in Ukrainian museology S. Kot (2018; 2020) identified the main problematic aspects of the practical activities of Ukrainian museums and outlined the range of issues that need to be addressed at the state level to improve museums.

In her scientific works, mainly of a theoretical nature, I.M. Fetsko (2022) focused on the terminological problems of museum studies and made an essentially comparative analysis of terms that are widely used in both domestic and foreign scientific circles.

Despite the undoubted scientific value of the work of previous researchers, these works are mostly theoretical. Considering the specifics of these valuable developments, they do not fully disclose the practical potential of the research subjects they have developed. The purpose of this research is to identify possible ways to solve the existing current problems in the context of the stated subject.

Materials and Methods

The research for the presented research work was based on the description of factual data characterising the location of cultural heritage sites both on the territory of

Ukraine (including those temporarily under occupation or temporarily abroad in the Kingdom of the Netherlands) and identifying the territories of Ukraine that do not meet the security requirements for archaeological research. In addition, they identify cultural heritage sites that have been damaged as a result of hostilities; describe the circumstances under which Scythian artefacts have been effectively removed from the jurisdiction of Ukrainian legislation and the relevant factors that contribute to this, with subsequent comparison of these descriptive data to analyse real and potential threats in the field of museums and archaeological science. Specific legal provisions that define the main concepts in the field of protection of the cultural heritage of Ukraine are the components of the integral object of this analysis. The method of ascending from the abstract to the concrete used in this work was designed to distinguish two aspects from the specific results of the analysis of regulations: first, the provisions of Ukrainian and international law, which serve as the starting point of the study; second, the particular in thinking, which serves as a process of synthesis of the analysis of the relevant legal framework. A hypothetical ideal model for the return of historical monuments removed from Ukraine after 2014 has been developed. The research compares the established scientific facts reflecting the problems of conducting archaeological research in wartime with the mental construction of idealised conditions under which such research will be available in the future to some extent. An analysis of the current legislation of Ukraine in the field of cultural heritage protection, in particular, the Laws of Ukraine "On Protection of Cultural Heritage" (2005) and "On Amendments to the Law of Ukraine "On Protection of Cultural Heritage" (2010, 2015), with the further comparison of the results of this analysis and the provisions of international law, in particular, the Convention concerning the Protection of the World Cultural and Natural Heritage (Paris, 1972). A synthesis of possible provisions in the legal sphere has been applied, which would prevent the loss of the historical and cultural heritage of the Ukrainian nation in the future, and prevent the destruction of historical monuments and the loss of objects of museum value.

During the research and practical work, the axiomatic method was applied. The principle of the rule of law and the inviolability of property rights, the principle of the legal identity of the state, and the need to protect against destruction or loss of the national and world cultural heritage were used as initial axioms.

The choice of such methods of scientific knowledge is conditioned upon the existence of significant scientific and theoretical developments that are specifically related to the research subject and served as its theoretical foundation, combined with the danger of performing experimental research and the lack of necessary powers of the researcher.

The research was based on theoretical developments of leading scientists in the field of archaeology and museum studies, which contain scientific facts that characterise the object of scientific and practical research. The main regulations that define the basic concepts necessary for conducting research work are used.

The issue of preserving and returning historical monuments removed from the territory of Ukraine after 2014.

The most illustrative example that characterises the stated problem of scientific research in this study is the problem of returning “Scythian gold”, and, in general, artefacts

of Scythian culture, and preserving them from destruction or illegal export from the territory of our state.

The areas where archaeological sites of the Scythian era have been explored by scientists are presented in Figure 1.

In turn, the territories of Ukraine where active hostilities were or are ongoing, and which were or are under occupation, are presented in Figure 2.



Figure 1. The main areas of Scythian archaeological sites in Ukraine

Source: (russian “archaeological looting..., 2021)

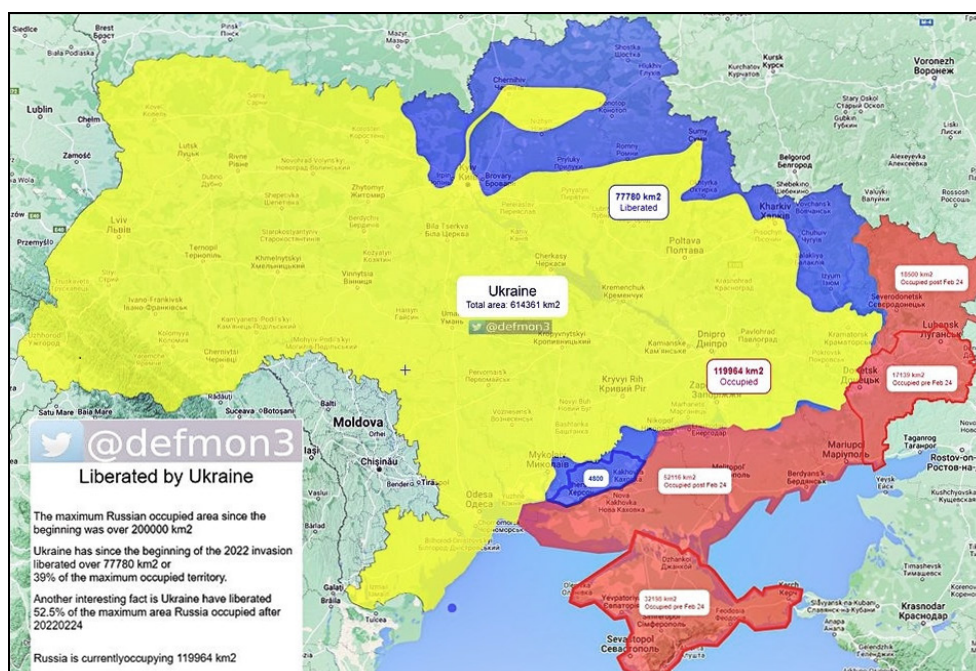


Figure 2. The territories of Ukraine in which active hostilities were or are ongoing, which were or are under occupation.

Source: (The Ukrainian armed..., 2022)

A comparative analysis of these images allows for the conclusion that the territories of Scythian cultural monuments and the areas of military operations coincide significantly. The occupation of the territories of Ukraine where such monuments are located, and the cities where museums with collections that preserve and research artefacts of Scythian culture are located, is an obvious factor that contributes to both the irreversible destruction of such monuments (mounds, burial grounds, settlements, hill-forts, treasures) and the theft of those already researched and their removal from the territory of Ukraine (Ukraine says russia..., 2022).

Since 2014, the preservation and return to Ukraine of such a significant part of the national heritage as the collection of Scythian gold has been and continues to be a significant problem of the loss of the historical and cultural heritage of the Ukrainian nation. It is a collection of historical artefacts from the Scythian era, mostly made of precious metals, discovered by Ukrainian archaeologists in 1954 in a Scythian mound on the territory of Ukraine. These objects are richly decorated with images of beasts with the corresponding signs of Scythian art, as well as gold and silver coins of the relevant historical period (IV-II centuries BC) and are of high historical, cultural, and artistic value (Dannik, 2020; Kurkov & Puchkov, 2022). Already in 1954, imperial scientists tried to take this property of Ukraine to the Hermitage, but due to the efforts of Ukrainian scientists, this attempt failed, and this collection remained in the local history museum of Melitopol. After the full-scale invasion of Ukraine, on 24 April 2022, the occupiers and local collaborators stole these exhibits from the aggressor state, and the museum itself was destroyed (Scythian gold is... 2023).

The collection of "Scythian gold" is not limited to the exhibits that were kept in the Melitopol Museum of Local Lore. During the 2000s, Ukrainian scientists conducted research on Scythian cultural monuments on the Crimean Peninsula, during which they obtained other artefacts of this remarkable culture that existed for centuries on the territory of Ukraine. The collection belongs to the state part of the Museum Fund of Ukraine, consists of objects from the cultural heritage of the entire Ukrainian nation, and represents an exceptional historical, cultural, and artistic value on a global scale. Therefore, within the framework of the global cultural exchange, as part of international exhibitions dedicated to the results of archaeological research on the territory of the Crimean Peninsula from the time of the Greek city-states - Panticapaeum, Kerkinitis, Theodosia (6th century BC) to the heyday of the Byzantine Empire (6-7th century AD), "Crimea - a Golden Island in the Black Sea" (Bonn), "Crimea. Gold and Secrets of the Black Sea" (Amsterdam), in 2013-2014, this collection of "Scythian gold" was exhibited first in Germany, then in the Kingdom of the Netherlands, where it caused a sincere public response (History lessons..., 2014).

In the Kingdom of the Netherlands, the exhibition of "Scythian gold" was organised by the Allard Pearson Archaeological Museum of the University of Amsterdam (hereinafter – the MAP), which signed contracts for the exhibition of a total of 565 museum objects (2011 items

of the museum collection) with an estimated value of 1,438,625 euros with representatives of the Ukrainian side – the Central Museum of Tavrida (c. Simferopol, 132 exhibits), the Bakhchisaray Historical and Cultural Reserve (215 exhibits), the Kerch Historical and Archaeological Reserve (190 exhibits), the National Reserve "Tauric Chersonesos" (28 exhibits) and the Museum of Historical Treasures of Ukraine (hereinafter – MHTU, Kyiv, 19 exhibits) (Strokova, 2016; Grubinko & Didushyn, 2021).

In February 2014, each of the exhibitors, both from the Dutch and Ukrainian sides, extended the exhibition activities by signing additional agreements to their respective contracts. However, contrary to Ukrainian law, the Crimean Museum institutions evaded the mandatory procedure for approving and registering these additional agreements with the Ministry of Culture of Ukraine and customs authorities, which caused legal uncertainty about the status of the Scythian gold collection and forced the Ministry of Foreign Affairs of Ukraine to make an official request to the Ministry of Foreign Affairs of the Netherlands to provide official guarantees for the timely return of the exhibits that were in the Netherlands to the state part of the Museum Fund of Ukraine.

The Ministry of Culture of Ukraine was forced to resolve the legal conflict over the status of the Scythian gold collection and its return to Ukraine, and in an official appeal to the MAP, it requested that the museum objects of the Museum Fund of Ukraine from the collections of the MHTU and the Crimean participants in the exhibition be sent to Ukraine in advance. In support of its appeal, the Ministry of Culture referred to the provisions of existing contracts, international law, and national legislation on the protection of the historical heritage and cultural heritage of the Ukrainian people, and to the undeniable connection with the country of origin of the Scythian treasures – Ukraine.

In turn, the Dutch side, represented by the University of Amsterdam (hereinafter – UNA), recognised Scythian artefacts from Crimean museums as the property of Ukraine, which belongs to the state part of the Museum Fund of Ukraine, only after the Ukrainian side submitted a Diplomatic Note, an explanatory note to it and a corresponding legal opinion, which contained legal grounds supported by international law on the protection of cultural heritage. In a letter, the MAP agreed to further replace the party to the contracts with the Crimean museums with the MHTU, signing a new agreement to extend the exhibition of Ukrainian museum artefacts until 31 August 2014. In addition, the Dutch museum expressed its commitment to return the Scythian artefacts on display at the Allard Pearson Museum to their country of origin, Ukraine, namely the National Museum of History of Ukraine, after the event.

Therewith, the position of the Dutch side on the return of the national Ukrainian heritage to the Motherland was not unambiguous. Thus, the MAP requested guarantees from the Ministry of Culture of Ukraine and the MHTU to ensure that it and its employees are protected from any undesirable results of the return of the exhibited artefacts to Ukraine in the event of claims from Crimeans and payment of all claims, damages, liabilities, and losses

associated with such a return, effectively recognising the withdrawal of Crimean museums from Ukrainian jurisdiction, i.e., effectively recognising them as independent entities in contravention of the provisions of international law and the Constitution of Ukraine. Such an agenda could not satisfy the Ukrainian side, as it fundamentally contradicted Ukrainian legislation and was designed to delay the process of establishing new contractual relations between the MHTU and the MAP, which resulted in a series of negotiations between the Ministry of Foreign Affairs of Ukraine, the Government of the Kingdom of the Netherlands, the MHTU and the MAP. However, no consensus was reached between the parties, and consideration of the issue of returning the “Scythian gold” to Ukraine moved from the contractual and diplomatic to the legal plane.

Thus, the Ministry of Foreign Affairs of the Kingdom of the Netherlands took an ambiguous position. On the one hand, this foreign diplomatic institution, considering the provisions of the 2004 UN Convention (2004) on the Legal Immunity of States and Their Property, provided guarantees of the return of artefacts from the Scythian gold collection to Ukraine. Thus, the Dutch side renounces its claims to ownership of the exhibited collection and guarantees that the Ukrainian side will retain this right to Scythian artefacts in full without any unfriendly actions related to their removal by any means. On the other hand, the Dutch party insists that in this case, the dispute resolution is excluded from the competence of the laws of Ukraine and the provisions of the previously concluded contracts in terms of “Force Majeure” and “Arbitration” (which provide, in particular, for the resolution of disputes using the provisions of the substantive and procedural law of Ukraine with the participation of the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry), and the Dutch Civil Procedure Code, the Dutch General Definitions Act and the Bailiffs Act apply.

Thus, the issue of the return of the “Scythian gold” to Ukraine was removed from the jurisdiction of international law and the laws of Ukraine and transferred to the jurisdiction of private law in the Netherlands. Considering the aforementioned ambiguous position of the Dutch government, the consideration of the case of “Scythian gold” under the laws and courts of this country, and the recognition by the Dutch side of Crimean museums as independent entities that are removed from the jurisdiction of the Ukrainian legal system, the prospect of returning historical monuments of world significance to Ukraine remains open. The de facto replacement of the subject of the dispute by lawyers representing the Crimean museums, narrowing the subject matter of the claim from resolving the case on the merits to determining the jurisdiction and jurisdiction under which the dispute over the return of the Ukrainian national property falls, casts doubt on the positive outcome of this case in the interests of Ukraine. Although the District Court of Amsterdam ruled in favour of Ukraine (Campfens & Tarsis, 2017), representatives of the Crimean museums filed an appeal with the Amsterdam Court of Appeal. The reasoning part of the latest decision of the Court of Appeal of 16 July 2019 (the so-called “Interim Decision”) narrows the prospects for the

implementation of the earlier verdict of the District Court of Amsterdam in favour of the Ukrainian side and the real possibility of a new decision in the case, leaving aside the indisputable arguments of the representatives of Ukraine regarding the legal connection with Ukraine as the state of origin under public international law, the belonging of the collection to the property of the Ukrainian people and the state part of the Museum Fund of Ukraine.

European jurisprudence has no such precedents, thus, considering the specific features of the Anglo-Saxon legal system, which is based on them, it can be assumed that it is necessary to adjust international private and public law in the area of settlement of disputes related to cultural heritage. In addition, the experience of this litigation should be considered in the development of national legislation on the protection of national cultural property and historical heritage.

Problems of archaeological research in the conditions of war and occupation of Ukrainian lands

Throughout the historical development of Ukraine, there have been various cultures on its territory, which are explored by Ukrainian and foreign scholars. The relevant historical heritage was included in the lists of cultural monuments of national and local significance, researched and catalogued by domestic scholars, and was the subject of scientific study. A large number of them represent the world's cultural heritage, the loss of which causes irreparable damage to both the Ukrainian and world cultural heritage.

Figure 3 illustrates the location of Chernyakhivska culture monuments on the territory of Ukraine.

The full-scale invasion of Ukraine has greatly complicated the process of scientific research in the archaeological field of national science. One of the most adverse consequences of these events, which pose a threat to archaeological research, is the mining of a large part of Ukrainian territory. The scale of mining is presented in Figure 4.

The graphical data presented in Figure 4 clearly illustrates the impossibility of conducting any archaeological work in areas where active hostilities are ongoing. Of the de-occupied territories, the most dangerous areas for archaeological research are located mainly in areas that were under occupation and where battles were fought. These are the north-eastern part of the Kyiv region, the south of Mykolaiv region, and the north-eastern part of the Kharkiv, Chernihiv, and Sumy regions.

Several particularly dangerous locations have been reported near Cherkasy, Kremenchuk, Bila Tserkva, Kryvyi Rih, Poltava, and Uman. It is impossible to conduct archaeological research on these lands of Ukraine until the demining of these territories is complete, as such work poses a threat to the lives and health of both researchers and the people around them.

According to statistics, the total number of museum monuments and objects of cultural heritage in Ukraine is 148202, including 74507 in archaeology, 50420 in history, 3576 in monumental art, 19264 in architecture and urban planning, 329 in gardening and park art, 69 in landscape art, and 67 in science and technology. These data for 2014/15 exclude data for the Autonomous Republic of Crimea and the city of Sevastopol (Kot, 2018; Kupriychuk, 2018).

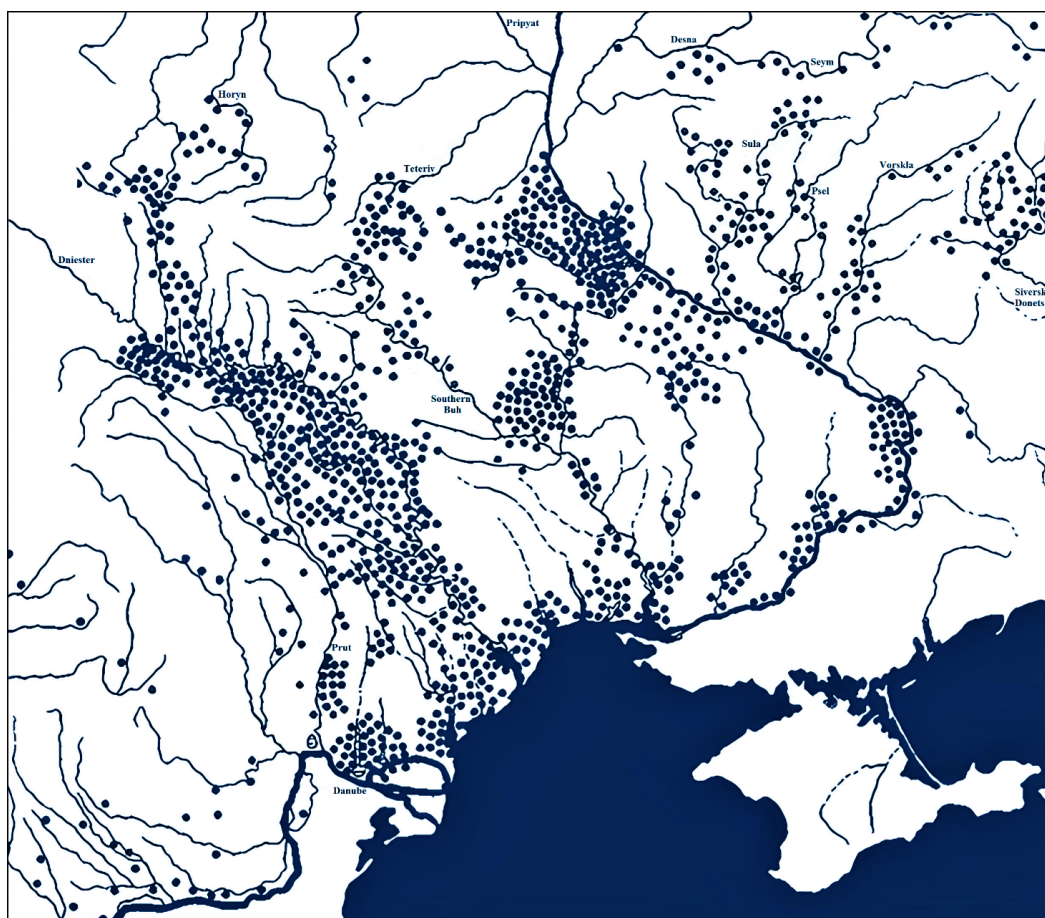


Figure 3. The main areas of the Chernyakhivska culture archaeological sites in Ukraine

Source: (Petrauskas & Gorbanenko, 2014)

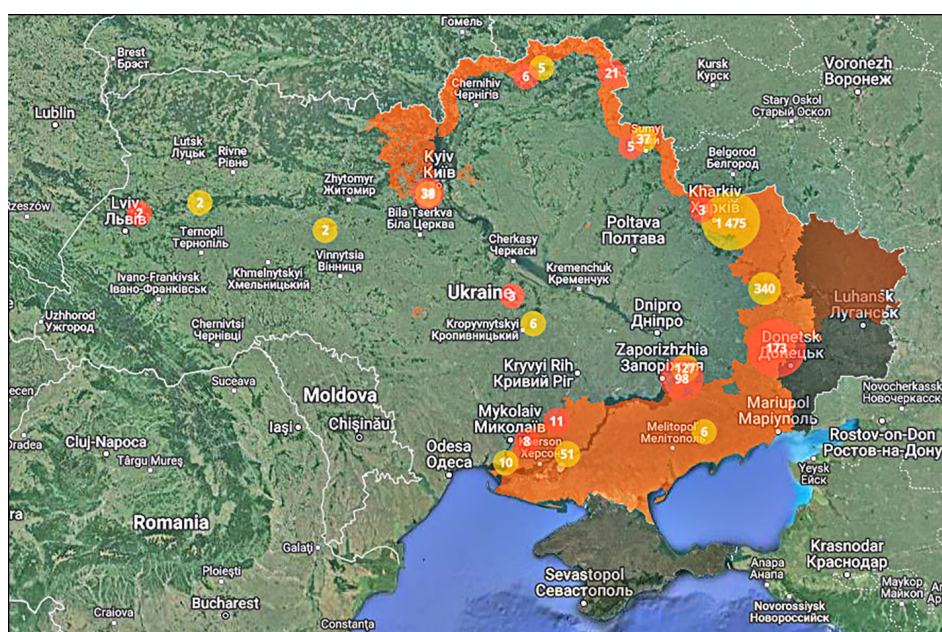


Figure 4. Territories of Ukraine where there is a mine risk

Source: (SES service of..., n.d.)

As a result of the hostilities in Ukraine, museum institutions and movable and immovable museum monuments are under constant threat of artillery and rocket attacks, are constantly damaged, and suffer reversible and irreversible damage (Ukraine's museums keep..., 2022). Such war crimes are constantly being documented, however, the full extent of the damage cannot be assessed due to the ongoing hostilities and the lack of communication with the

temporarily uncontrolled territories of Ukraine, and the inability of Ukrainian and international experts to access the facilities to monitor their condition.

The number of damaged and destroyed cultural heritage sites and cultural institutions in Ukraine recorded in the database of the Ministry of Culture and Information Policy of Ukraine is 553 (The destroyed cultural..., 2023). Figure 5 illustrates the scale of the damage recorded.

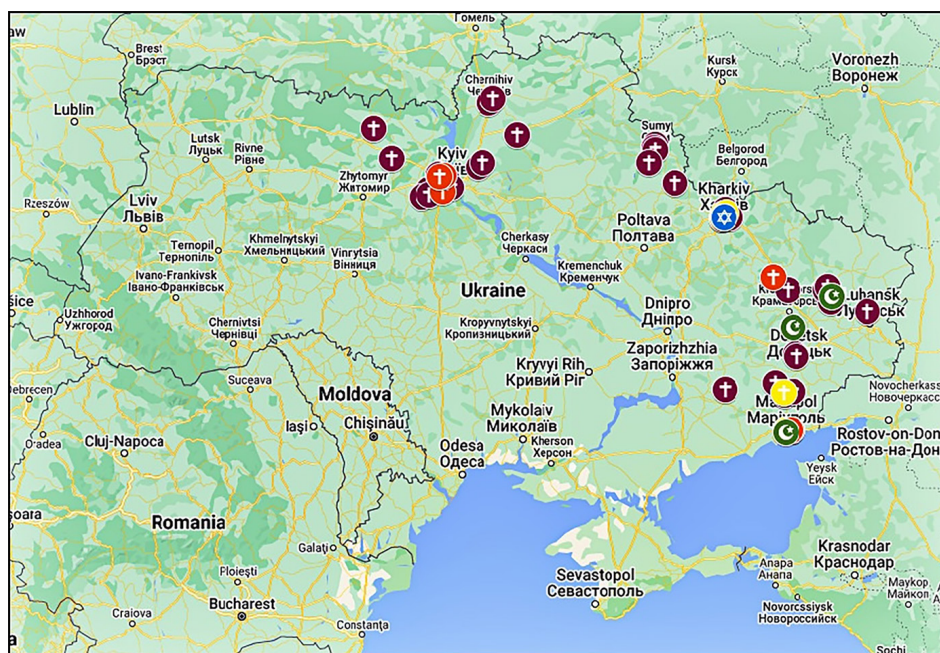


Figure 5. The damaged and destroyed cultural heritage sites and cultural institutions of the state are recorded in the database of the Ministry of Culture and Information Policy of Ukraine

Source: (500 churches and..., 2023)

However, the problem of archaeological research during the war and occupation of Ukrainian lands is based both on military, security, and legal grounds. As noted by S. Nabok (2016), one of the main problems of archaeological research in the conditions of war and occupation of Ukrainian lands is the imperfection of national policy in the cultural sphere and, as a result, the lack of an established mechanism for accounting for cultural heritage sites and national cultural heritage at the state level.

Due to the absence of clear definitions of key terms in the field of archaeology and related scientific disciplines in the current Ukrainian legislation, there is legal uncertainty about whether or not specific historical sites are classified as cultural heritage or property. It results in the impossibility of fully determining the quantitative and qualitative composition of movable and immovable historical monuments lost by Ukraine as a result of the occupation. It is impossible to determine, without extensive research and expertise, whether an artefact belongs to the national cultural heritage or patrimony, whether it is of historical and cultural value, or is an ordinary antique.

In identifying lost cultural heritage sites, or those that may be lost as a result of hostilities, in determining the location of potential archaeological research sites,

archaeologists can only be guided by the document “Convention concerning the Protection of the World Cultural and Natural Heritage” (1972), ratified by the Ukrainian government in 1988, which specifies cultural monuments recognised by the United Nations World Organisation (UNESCO) and included in the relevant lists.

The Convention lists the characteristics of cultural heritage. These include, in particular, monuments: works of architecture, monumental sculpture, and painting, elements, and structures of archaeological character, inscriptions, caves, and groups of elements of outstanding universal value from the standpoint of history, art, or science; ensembles: groups of isolated or associated buildings whose architecture, unity or relationship to the landscape is of outstanding universal value from the standpoint of history, art, technology or science; landmarks: works of man or the joint development of man and nature, and areas, including archaeological sites, of universal value from the standpoint of history, aesthetics, ethnology or anthropology.

Therewith, the imperfection of Ukrainian legislation in the cultural sphere leads to the fact that in the context of war and the spread of “archaeological looting” by the occupiers (Looting and destruction..., 2022), the Ukrainian state cannot fully determine the cultural and historical

value of the lost movable cultural property, their attribution to cultural heritage or cultural property. They belong to Ukrainian culture, although they are not included in the Convention's lists, which requires a proper assessment in terms of the criteria outlined in the Convention. In particular, Article 12 states that the fact that a cultural or natural heritage property has not been inscribed on one of the two lists referred to in Article 11(2) and (4) shall in no way imply that it does not have outstanding universal value.

Discussion

In the current situation, the objects of Ukrainian historical and cultural heritage cannot be safe due to the hostilities on the territory of Ukraine, and the imperfection of the current legislation creates preconditions for the loss of the Ukrainian national heritage without appropriate documentation of the damage caused in this way, as some cultural monuments and artefacts have not yet been included in the relevant lists and are not registered, their historical and cultural value and their belonging to the Ukrainian cultural heritage or historical heritage have not been determined. Currently, the expansion of the areas of active hostilities and the corresponding mine danger in the de-occupied territories significantly complicates and sometimes prevents archaeological research due to the obvious danger to the researcher's life and health. Against this background, the outstanding works of leading Ukrainian and foreign scholars on the stated subject are mostly limited to describing the artistic properties of Ukrainian artefacts, focusing on their uniqueness and value as a world cultural heritage, and statistical data characterising the quantitative indicators of national cultural monuments. The problem of the legal imperfection of the current Ukrainian legislation in the field of archaeology, museums, and related fields of science and the incomplete degree of its compliance with international legislation in the cultural sphere identified by previous Ukrainian researchers coincides with the results obtained in this research.

Thus, S.I. Kot (2018; 2020) reduces the essence of his scientific works mainly to stating the facts of destruction or damage to Ukrainian cultural heritage sites as a result of the occupation of Ukrainian territories and hostilities. The substantive analysis of the current Ukrainian legislation in the field of protection of immovable cultural heritage objects conducted by this prominent scientist and the proposals for its improvement developed based on this analysis, in general, coincide with the opinion of other researchers of the stated problem, such as I.M. Fetsko (2022), S.V. Nabok (2016) and the results of this research.

L.V. Strokova (2016), as a result of her scientific research on the problem of returning the "Scythian gold" to Ukraine, exploring and analysing the factual data that contributed to the emergence of relevant legal and practical difficulties, emphasises the imperfection of the Ukrainian regulatory framework in the field of monument protection and concludes the need to improve Ukrainian legislation on museums and, in general, the protection of historical and cultural monuments. Such conclusions, having common starting points with this research, largely coincide with its conclusion.

Ukrainian scholar V.M. Kupriychuk (2018), considering the problem of preserving the Ukrainian national and historical heritage in the context of the development of the national identity and originality of the Ukrainian people based on it, summarises the crucial role of historical and cultural monuments that have survived to this day in the development of Ukrainian civil society and the reproduction of the nation's historical memory. Therewith, the scientist pays considerable attention to the improvement of museum affairs in Ukraine, insisting on the expediency of streamlining and recording memorial sites associated with outstanding milestones in the historical experience of Ukraine, establishing an effective system of management of museum institutions, counteracting violations of monument protection legislation, and preserving religious buildings. Notably, in his conclusions, V.M. Kupriychuk (2018) mentions the expediency of Ukraine's orientation in improving its regulatory framework in the field of archaeology and museum affairs to the international experience related to the implementation of the Convention of the United Nations General Conference on Education, Science, and Culture of 16.11.1972 "Concerning the Protection of the World and Cultural Heritage" (UNESCO Convention No. 6673-XI... 1988).

In his research, the Canadian researcher R. Foltz (2021) focused on the search for modern descendants of the Scythian ethnic group. Having analysed the ethnographic and culturally specific features of the present-day people of Ossetia, this scholar concluded that this Caucasian ethnic group is closely related to the ancient Scythian civilisation, as evidenced by the relevant characteristics of art, religion, language traditions, and oral folk art.

In general, foreign researchers have focused their attention on exploring mainly the art historical aspects of Scythian cultural artefacts, focusing on the external features of Scythian culture, material and ethnographic aspects of museum exhibits, analysis of ancient technologies that allowed the Scythians to produce such unique art objects, anthropological and ethnographic research. Foreign scholars such as A. Mongiatti (2018) and D.V. Redfern (2012) have provided an exhaustive analysis of the technical side of the production of Scythian gold jewellery and other items, comparing them with the technologies of other ancient cultures. These scientists came to a reasonable conclusion about the significance of the contribution of the Scythian civilisation to the historical process of development and improvement of art and technology, the development of social relations, and, in general, world culture.

The religious aspect of Scythian decorative and applied arts has been the subject of scientific study by Dutch researchers B.F. Van Oppen de Ruiter, K. Chiara (2022), and B. Sharkey (2022). The findings of their research have made a significant contribution to scientific knowledge about the animalistic beliefs of Scythian culture, their evolution, and their impact on ancient civilisation processes.

The significance of "Scythian gold" and, in general, the technological achievements of the Scythian culture in the extraction and processing of precious metals for the development of the "gold standard" and the international monetary system has been explored by European scholars

M. Ozturk (2018), M. Lavigne and P. Rowland (1978). The focus of these scholars is primarily on the influence of the Scythian civilisation on the development of the foundations of the economy and commodity-money relations, the transition from the ancient subsistence economy to the primary feudal system, which at the time of the Scythian empire was progressive and for many centuries determined social relations in Eurasia.

American researcher K.I. Beckwith (2023) focused on the influence of Scythian civilisation on the development of the main cultures of the Eurasian continent – the Middle East, India, and China, the emergence of ancient state structures, the ideas of Zoroastrianism and Buddhism in the territories of modern Iran and China. The conclusions of this scholar largely coincide with those of other scholars regarding the key role played by Scythia in the ancient world, developing social relations of the time, both at the local and interethnic levels.

General scientific knowledge of the Scythian culture, descriptive materials on the most significant Scythian gold artefacts found on the territory of Ukraine over the past two decades, maps of ancient civilisations on Ukrainian territory, and the location of historical monuments of the Scythian era are presented in the scientific research of American scientists E. Reeder *et al.* (2022). The foundation for their research was the materials of the exhibition “Nomadic Gold: Scythian Treasures from Ancient Ukraine”, which was exhibited from November 2000 to December 2001 at the Brooklyn Museum of the United States of America. This exhibition event contributed to the intensification of American public interest in the achievements of Ukrainian culture, from ancient times to the present, and had a positive impact on the development of cultural ties between Ukraine and the United States.

Therewith, over the past year, since the transition of hostilities in Ukraine to an active phase, scholars from Ukraine and abroad have not paid sufficient attention to the issue of researching issues related to archaeological research in war conditions. Scientists focus mainly on theoretical research and improvement of the existing regulatory framework, not always making the practical plane of improving the state of affairs that exists and is explored in the course of scientific activity the object of scientific knowledge. Thus, considering the relevance and significance of the issues of preserving Ukrainian historical heritage and cultural heritage in the current context, the results obtained in the course of this research work, although largely coinciding with the findings of previous researchers, are of some value and can be of use.

Conclusions

The scientific and practical study found that the threat to the national historical and cultural heritage of Ukraine is significant. As a result of the Ministry of Culture of Ukraine's unreasonable policy in organising the exhi-

bition of Scythian gold at the Allard Pearson Archaeological Museum in the Netherlands, imperfectly drafted contracts for the exhibition of Ukrainian artefacts, and gaps in Ukrainian legislation, the Dutch side has effectively removed the unique heritage of the Ukrainian nation from the jurisdiction of Ukraine. The position of the authorities of the Kingdom of the Netherlands, in turn, although based on a formal declaration of compliance with international law, in particular the 2004 UN Convention on the Legal Immunity of States and Their Property, actually ignores the principles of the legal identity of the state and the inviolability of property rights. These circumstances were the prerequisites for the cancellation of the decision of the District Court of Amsterdam in favour of the Ukrainian party. In this regard, the Ministry of Culture of Ukraine should develop a standard contract for all Ukrainian museum institutions to participate in foreign exhibitions and exhibitions, which should include detailed provisions on Force Majeure and Arbitration to avoid similar situations in the future.

Considering the scale of destruction of cultural heritage sites and cultural institutions of Ukraine examined in the course of this research and considering that the problem of archaeological research during the war is associated both with security issues and imperfections in the current legislation in this area, the following recommendation can be considered appropriate. Propose, with the participation of the Ukrainian state and foreign financial “donors”, to develop projects of shelters for monuments of any size to avoid damage to the relevant objects by blast waves, shell fragments, bullets, fire, etc. without the necessary restoration or reconstruction of the relevant objects in such cases. To identify the monument, an oracle with the outline of the monument and information about it (name, year of installation, author, and historical information) should be placed on the facade. In addition, it may be considered expedient to specify the definitions of cultural heritage and national heritage in the current Ukrainian legislation to improve the accounting of historical monuments.

In the course of the research, new issues and problems arose that need to be addressed. Considering the absence of precedents in international practice similar in substance to the Scythian gold case, it is necessary to continue research on the study of international law-making practice in the field of protection of cultural and historical property and foreign experience in preventing the withdrawal of the national property of the respective states from their jurisdiction.

Acknowledgements

None.

Conflict of Interest

None.

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Питання повернення історичних пам'яток, вивезених з території України після 2014 року. Проблематика археологічних досліджень в умовах війни

Анотація. Актуальність наукового дослідження зумовлена підвищенням національної свідомості української нації, новим етапом національного відродження Української держави та консолідації українського народу на тлі повномасштабного вторгнення та окупації українських територій. Метою даної науково-дослідної роботи є дослідження рівня загрози національній історичній та культурній спадщині на теренах України, у тому числі, тимчасово окупованих. Методологію дослідження, яка застосована в цій роботі, складає комплексне поєднання кількісного та якісного аналізу археологічних та культурних пам'яток, а також наступні методи: сходження, синтезу, аналізу, порівняння, та аксіоматичний метод. У результаті дослідження були вивчені основні регіони розташування історичних та культурних пам'яток на тимчасово окупованих територіях та на таких, де ведуться бойові дії. Досліджена компетентна думка провідних українських вчених-істориків та археологів щодо основних проблем проведення археологічних досліджень та реституції тимчасово вилучених окупантом скарбів української культури. Встановлені правові підстави такої реституції в контексті основних положень вітчизняного та міжнародного гуманітарного права. Ці обставини були передумовами до відміни рішення Окружного суду Амстердама на користь української сторони. Обґрунтовано, що позиція владних кіл Королівства Нідерланди не дотримується статуту правової ідентичності, а також незалежності держави та ігнорує непорушності права власності. Хоча, в свою чергу, країна заснована на декларуванні дотримання норм міжнародного права щодо юридичного імунітету держави та її власності, поставленим Конвенцією від ООН 2004 року. Сформульовані на їхній основі висновки містять актуалізовані наукові знання щодо напрямків відновлення справедливого правового статусу до історичного та культурного надбання української нації та привносять у науку відповідні науково-практичні рекомендації щодо вдосконалення чинного законодавства України в сфері музейної справи та археологічної науки

Ключові слова: скіфське золото; культурна спадщина; історичний артефакт; Амстердамський арбітраж; повернення культурних цінностей