

# Legal Liability For Violation Of Legislation Regarding The Protection Of Immovable Cultural Heritage In Republic Of Moldova

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**ABSTRACT:** The role of criminal law is, beyond any doubt, in protecting the most important social values. However, in order to achieve the objective of criminal law to the greatest possible extent, it is necessary for these values to be very well defined and to be subject to a well-designed legal regime. In this regard, we consider that it is very important for criminal law to be an instrument for protecting the national cultural heritage in the Republic of Moldova. This is due to the fact that the social realities demonstrate the special gravity of the criminal phenomenon in this field, as well as the persistence in criminal behavior and even serious forms of manifestation, such as the formation of organized groups in order to commit this type of crime. The process of conservation and enhancement of the representative pieces and objectives for the national cultural heritage is affected by the alienation, degradation or destruction of some landmarks of major significance for the Romanian civilization as a whole<sup>1</sup>. In the legislation in force, there is a series of norms of criminalization of some antisocial behaviors in the field of protection of the immovable national cultural heritage. Thus, the central objective of this study is to systematically present the rules that correspond to this description.

**KEYWORDS:** legal responsibility, cultural heritage, architectural heritage, monument, cultural values.

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## I. INTRODUCTION

Culture should be considered as the most important factor in preserving the national identity in the modern period, because its loss is equivalent to death and complete destruction<sup>2</sup>.

It may seem paradoxical, but the process of awareness of responsibility for cultural heritage, which, at first glance, belongs to common sense, has had a long and twisted path. The state of ignorance or the aggression of ignorance have marked, in the most tragic way, the existence of humanity over the millennia, being sacrificed countless and invaluable works that no one and nothing can replace<sup>3</sup>.

## II. METHODS AND MATERIALS USED

The study was based on the investigation of national legislation and domestic and foreign doctrine in the field of legal liability for infringements of the legislation on the protection of immovable cultural heritage.

In the legal literature, the issue of protection of cultural heritage objects against illegal actions associated with their use and violation of the requirements for their conservation is practically not studied, although some of its aspects have become the subject of scientific research. Most of the works, however, refer to general issues of protection of cultural heritage, cultural values.

Unfortunately, in the local doctrine, there is no monographic work in which to analyze the constituent elements of crimes that endanger or actually affect the cultural heritage, to be studied, correlated and solved the regulatory competitions that appear.

However, we cannot fail to appreciate the study of the local specialists in this field: Sergiu Brânză, Xenofon Ulianovschi, Vitalie Stati<sup>4</sup>.

Among the Romanian authors who have made a significant contribution to the analysis of the protection of cultural heritage objects, we can mention: I. Opreș<sup>5</sup>, M. Duțu<sup>6</sup>, A. Lazăr<sup>7</sup>, Nichifor Chrisanta-Daniela<sup>8</sup> etc.

The subject focused on the legal protection of cultural heritage objects (historical and cultural monuments) have been the subject of research by several Russian scientists such as L.R. Klebanov<sup>9</sup>, A.K. Vakhitov<sup>10</sup>, Ya.S. Kalininskaya<sup>11</sup>, E.A. Lachina<sup>12</sup>, E.V. Medvedev<sup>13</sup> and others. All of them have made significant contributions to the development of the designated issues.

To consolidate the proposed research, the following research methods were mainly used: the historical method, the quantitative method, the scientific method, the logical method and the comparative method.

### **III. THE RESULTS OBTAINED AND DISCUSSIONS**

In the current conditions existing in the Republic of Moldova, the issue of preservation of historical and cultural monuments acquires a special significance and requires increased attention.

An indissoluble link between the creation and preservation of cultural values, the initiation of all citizens on their protection, socio-economic progress, the development of democracy, the consolidation of the integrity and sovereignty of our country was noted at the legislative level.

One of the fundamental duties of the citizens of the Republic of Moldova is the protection of the environment and the protection of monuments, which derive from Article 59 of the Constitution of the Republic of Moldova<sup>14</sup>, „*The protection of the environment, the preservation and protection of historical and cultural monuments is an obligation of every citizen*”. In turn, the state, represented by its organs, contributes to the preservation, development and propagation of the achievements of national and world culture and science.

Thus, both the State and the population of that State are obliged to preserve and enhance all cultural values in the interests of present and future generations. National consciousness, patriotism and knowledge of the history of one's own nation educate in people the highest form of respect and responsibility towards these "historical monuments". This need is due to the indisputable fact that culture has an extraordinary impact on all spheres of human life. It is the source and engine of progress.

The cultural values accumulated throughout the long history of mankind carry immense cognitive and informational potential.

Thus, to begin with, it is necessary to outline the dimensions of the concept of cultural heritage under all its components. The word „*heritage*” comes from the Latin “*patrimonium*”, which means „*paternal inheritance*”, by extension, „*family property*”. Heritage therefore means a legacy left by the generations that preceded us and which we have to pass on intact to future generations, while constituting tomorrow's heritage. Synthetically it is defined as a cultural heritage.

„*Cultural heritage is found in the natural environment and manages to create us a state of harmony that we must cultivate, defend. Heritage is our cultural identity. In heritage we find the materialized spirituality of the generations who were born, worked, fought and died on the territory of a country...*”<sup>15</sup>.

If we are to make an analysis of the legal norms, we can highlight that the cultural heritage comprises all the goods identified accordingly, which is a testimony and an expression of the ever-evolving values, beliefs, knowledge and traditions, encompassing all the elements resulting from the interaction, over time, between human and natural factors, regardless of the regime of ownership of them.

Following the awareness of the importance of protecting cultural heritage in general, numerous legal instruments have been adopted at national level, capable of creating a framework for engaging in the effort to protect, by establishing the best ways of achieving such a desire.

Thus, the preservation, use and growth of cultural wealth are inconceivable without adequate legal regulation and, in particular, without the criminal law component: at all times and in all countries, these values have been subjected to criminal attacks, during wars and armed conflicts. Both the international and national criminal law have opportunities for the criminal legal protection of cultural property, especially, since the task of protecting property against crime has long become transnational, but these possibilities have not yet been carefully studied.

According to data from the National Register of Monuments protected by the State<sup>16</sup>, at present there are **5697** immovable monuments of history and culture (protected by the state).

Currently, the Republic of Moldova is represented on the UNESCO World Heritage List by a single site – the Struve Geodesic Arc (cross-border site, located on the territory of 10 states: Norway, Sweden, Finland, Estonia, Latvia, Lithuania, Russian Federation, Belarus, Ukraine and Moldova)<sup>17</sup>.

This is due to the reforms that have taken place in the state and the subsequent rethinking of values. At the same time, the number of criminal offences increases annually, including in terms of cultural values.

However, this number of offences does not reflect the actual criminal situation in this area. This is due to the high latency of the offences, as well as the multiple problems that arise in connection with the application of the rules, regarding the destruction or deterioration of historical and cultural monuments.

Our country is unique in Europe in that it knows no legal precedent of holding to account any person responsible for the demolition or damage of the state-protected objectives. At the same time, more than 10% of state-protected buildings in Chisinau are already demolished, others are in the active process of destruction<sup>18</sup>.

In order to solve these problems, it is necessary to improve the rules which provide criminal liability for the destruction or damage of historical and cultural monuments and to eliminate the lacunas in the legislation governing this area.

The public danger of criminal violation of cultural values is reflected both on the irreparable damage caused to the cultural heritage of our people and in the violation of the identity of the state.

Currently, the legislation of the Republic of Moldova provides for several rules for the protection of the immovable national cultural heritage, among which we can mention:

- The Criminal Code of the Republic of Moldova No. 985 from 18.04.2002. Published on 14.04.2009 in the Official Journal No. 72-74 Article 195.
- The Contravention Code of the Republic of Moldova No. 218 from 24.10.2008. Published on 17.03.2017 in the Official Journal No. 78-84 Article 100.
- Law No. 1530 from 22.06.1993 on the protection of monuments. In the Official Journal No. 1 from 30.01.1994.
- Law No. 163 from 09.07.2010 on the authorization of the execution of construction works. In the Official Journal No. 155-158 from 03.09.2010.
- Law No. 218 from 17.09.2010 on the protection of archaeological heritage. In the Official Journal No. 235-240 from 03.12.2010.
- Museums Act No. 262 from 07.12.2017. In the Official Journal No. 7-17 from 12.01.2018.
- Law on architectural activity No.1350 from 02.11.2000. In the Official Journal of the Republic of Moldova No.21-24 from 27.02.2001.
- Law on State protected Monuments No. 192 from 30.09.2011. In the Official Journal No. 197-202 from 18.11.2011, etc.

It follows from the preceding information that our legislation in force provides a multitude of rules which penalise socially dangerous behaviours, located in the field of the protection of the immovable national cultural heritage, in its various components.

### **1. The Criminal Code of the Republic of Moldova**

All states are trying to improve their legislative system in the field of defence by criminal means of the immovable national cultural heritage.

The Criminal Code 1961<sup>19</sup> (voidable), also contained some rules in this regard. Thus, according to Article 236, the intentional destruction, destruction or damage of monuments of history and culture or of objects of nature, taken under the protection of the state, were all punished. As a penalty, people aged 16 could be punished with either imprisonment of up to three years or a fine of up to eighty minimum wages.

Currently, the Criminal Code of the Republic of Moldova contains several rules aimed at protecting the cultural heritage and the monuments protected by the State, introduced largely by the Law on modification and completion of some legislative acts, adopted by the Parliament of the Republic of Moldova on 21.04.2016<sup>20</sup>.

Even in the Information Note to the project that was the basis for the adoption of the above-mentioned law, it is revealed: „With the adoption by the Parliament of the Republic of Moldova of the Law on the Protection of Archaeological Heritage on 17.09.2010<sup>21</sup>, of the Law on Monuments protected by the State from 30.09.2011<sup>22</sup> ..., which contain provisions regarding the liability for actions for the destruction or damage of monuments and other cultural heritage objects, in order to comply with the legal provisions protecting the national cultural heritage stipulated in the above-mentioned laws, it is necessary to make changes in the Criminal Code... The proposed amendments constitute an opportunity, arising from the need to adjust the national legal framework to the provisions of The UNESCO and Council of Europe conventions in the field of the protection of cultural heritage, to which the Republic of Moldova is a party: the UNESCO Convention on the Protection of World Cultural and Natural Heritage from 23.11.1972, in force in the Republic of Moldova

from 23.12.2002; the Convention for the Protection of Cultural Goods in case of an Armed Conflict, together with Protocol I to the Convention from 14.05.1954 in force in the Republic of Moldova since 09.03.2000; the Convention for the Protection of Europe's Architectural Heritage from 03.10.1995, in force in the Republic of Moldova from 01.04.2002; the European Convention for the Protection of Archaeological Heritage (revised) from 16.01.1992, in force in the Republic of Moldova since 22.06.2002. By ratifying the nominated conventions, the Republic of Moldova, as a party to these important international legal instruments, has undertaken, according to its own prerogatives, to proceed in such a way that the violation of the legislation in force and the legal regime for the protection of cultural heritage to be subject to appropriate and sufficient measures to counter and sanction the competent authorities of the State<sup>23</sup>.

Until the entry into force of the law in question, the cultural heritage was not totally deprived of criminal protection, but this protection was partial and not coherent, being regulated only in some aspects. Thus, the criminal defence of cultural heritage was the subject to the provisions of Articles 186-188, 190, 191, paragraph(1) or (2) Article 197, Article 221, 222 or others of the Criminal Code of the Republic of Moldova (hereinafter – CP RM).

In Law No.75/2016 the approach is qualitatively different<sup>24</sup>. This is demonstrated by the amendments and additions made in the Criminal Code by that law. Here are the most relevant of them:

Thus, in the Criminal Code, some changes were made to six articles (186, 187, 188, 190, 191 and 222) and introduced five new Articles (191<sup>1</sup>, 191<sup>2</sup>, 191<sup>3</sup>, 191<sup>4</sup>, 191<sup>5</sup>). Criminal penalties have been imposed for 12 types of crimes related to cultural heritage assets.

The present study is dedicated exclusively to the immovable cultural heritage. Taking into account the fact that the immovable property cannot represent the material object of the offenses provided in paragraph (21) Article 186, paragraph (21) Article 187, paragraph (21) Article 188, paragraph (21) Article 190 and paragraph (22) Article 191 Penal Code of the Republic of Moldova, we will analyze only the crimes in the table below.

**Table 1.** Criminal liability for crimes against immovable cultural heritage in the Republic of Moldova:

Article from Penal Code	The objective side	The subjective side	The object	The subject	The sanction
<b>Article 1373.</b> <b>The use of prohibited methods of warfare</b> (3) Initiating an attack, in an armed conflict with or without an international character: b) ... <b>against historical monuments</b>	action, which involves an active behavior of the person carrying out an attack on the historical monument	Direct intention	The legal object – the social relations regarding peace and peaceful coexistence between states, the bases and security of humanity as a whole, as well as the protection of historical monuments. The material object, in this case, is only the historical monument recognized, according to the regulations of the internal legislation	Persons from 16 years.	Imprisonment from 8 to 15 years.
<b>Article 191.</b> <b>Misappropriation of foreign wealth</b> (2 <sup>2</sup> ) Misappropriation of cultural heritage assets from archaeological sites or areas with archaeological potential.	Action, which involves the illegal appropriation of property that is foreign to him/her, but which, at the moment, is in the legitimate possession of the perpetrator, taking advantage of his attribution to manage these assets.	Intention	The generic legal object - crimes against cultural heritage; The material object is the cultural heritage goods from the archeological sites or from the areas with archeological potential.	Persons from 16 years. They must also have the special capacity of the person to whom the goods have been transferred in administration.	Fine from 1850 to 2350 conventional units or imprisonment from 3 to 7 years, in both cases with deprivation of the right to hold certain positions or to exercise a certain activity for a term of up to 5 years.
<b>Article 199<sup>1</sup>.</b> <b>Deterioration or destruction of cultural heritage assets</b> (1) Deterioration of cultural heritage assets.	The action or inaction of damaging the goods in the cultural heritage of the Republic of Moldova.	Intention	The legal object is represented by the social relations regarding the integrity, substance and potential use of the monuments of history and culture or the natural objects, taken under the protection of the state.	Persons from 16 years.	Fine from 850 to 1350 conventional units or imprisonment up to 1 year, but the legal person is punished with a fine of 1350 to 3350 conventional units or with deprivation of the right to exercise a certain activity for a period from 1 to 3 years.
(2) Destruction of cultural heritage assets.	The action or inaction of damaging the goods in the cultural heritage of the Republic of Moldova.	Intention.	The legal object is represented by the social relations regarding the integrity, substance and potential use of the monuments of history and culture or the natural objects, taken under the protection of the state.	Persons from 16 years.	Fine from 3350 to 6350 conventional units or imprisonment from 1 to 3 years, but the legal person is punished with a fine of 6350 to 10350 conventional units, with (or without) liquidation of the legal entity.
<b>Article 199<sup>2</sup>.</b> <b>Carrying out unauthorized works in</b>	Action.	Intention.	Legal object – the relations related to the integrity, and protection of archaeological sites or areas with archaeological	Persons from 16 years.	Fine from 850 to 1350 conventional units or imprisonment for up

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<p><b>archaeological sites or in areas with archaeological potential</b> (1) Carrying out unauthorized excavations or searching for treasures in archaeological sites or areas with archaeological potential</p>			potential;		to 1 year.
<p>(2) Carrying out construction works, as well as other intervention activities on the ground in archaeological sites or in areas with archaeological potential, without a certificate of discharge of archaeological load</p>	Action.	Intention.	Legal object - relations related to the integrity, and protection of archaeological sites or areas with archaeological potential;	Persons from 16 years.	Fine from 3350 to 4350 conventional units or imprisonment for up to 2 years, but the legal person is punished with a fine of 7350 to 10350 conventional units, with(or without) liquidation of the legal entity.
<p><b>Article 222. Desecration of graves and monuments</b> (1) Desecration by any means ... of a funeral or public monument ...</p>	<p>The prejudicial act which consists in the act of desecrating, by any means, a funeral monument or monument protected by the State. By „desecration” is meant: regarding the monument - the destruction, damage, overthrow, application of inscriptions or defiled symbols<sup>25</sup>, etc.;</p>	<p>The subjective side of the crime in question is characterized by direct intent. The reasons for the crime can be expressed in: material interest, hooligan intentions, revenge, etc.</p>	<p>Generic legal object - crimes against social coexistence;  The special legal object of desecration of graves consists of social relations related to the cultivation and preservation of the feeling of respect and piety towards the objects that preserve the memory of the deceased. Material object: funerary or protected by the State monument (<i>protected by the Statemonuments</i>– real estate: monumental works of art (spatial-volumetric compositions, monuments, busts, plates with sculptural relief), crosses, constructions or non-utilitarian arrangements, having a decorative, commemorative or religious character, placed in public spaces, in protection zones, on lands located in the public domain of the state or of the administrative-territorial units, excluding those located in cemeteries and those located on the lands of natural and legal persons that cannot be seen or visited freely<sup>26</sup>);</p>	Persons from 16 years.	Fine from 550 to 850 conventional units or unpaid community service from 180 to 240 hours, or imprisonment for up to 1 year.
<p><b>Article 288. Vandalism</b> (1) Vandalism, i.e. the defilement of buildings or other rooms, as well as the destruction of property in public transport or other public places, (2) The same action carried out: c) on goods of historical, cultural or religious value.</p>	Action that is manifested by the defilement or destruction of <b>property that has historical, cultural or religious value.</b>	Direct intention.	Special legal object - social relations regarding public order. The material object - buildings or other rooms, as well as goods that have historical, cultural or religious value.	Persons from 14 years.	Fine from 550 to 1,050 conventional units or unpaid community service from 180 to 240 hours, or imprisonment for up to 3 years.

Source: elaborated on the basis<sup>27</sup>.

**2. The contravention code of the Republic of Moldova**

The contravention liability is regulated by the *Contravention Code of the Republic of Moldova no. 218 of October 24, 2008*<sup>28</sup>, the norms been contained in the following articles:

1. *Violation of advertising legislation*(Article 364 (2) *Contravention Code*),i.e. *for the placement of external advertising on trees or in protection zones of monuments of architecture, history and culture* by a person is punishable by a fine of 12 to 90 conventional units, the authority person is punished with a fine of 24 to 120 conventional units, but the legal person has to pay a fine of 36 to 180 conventional units.

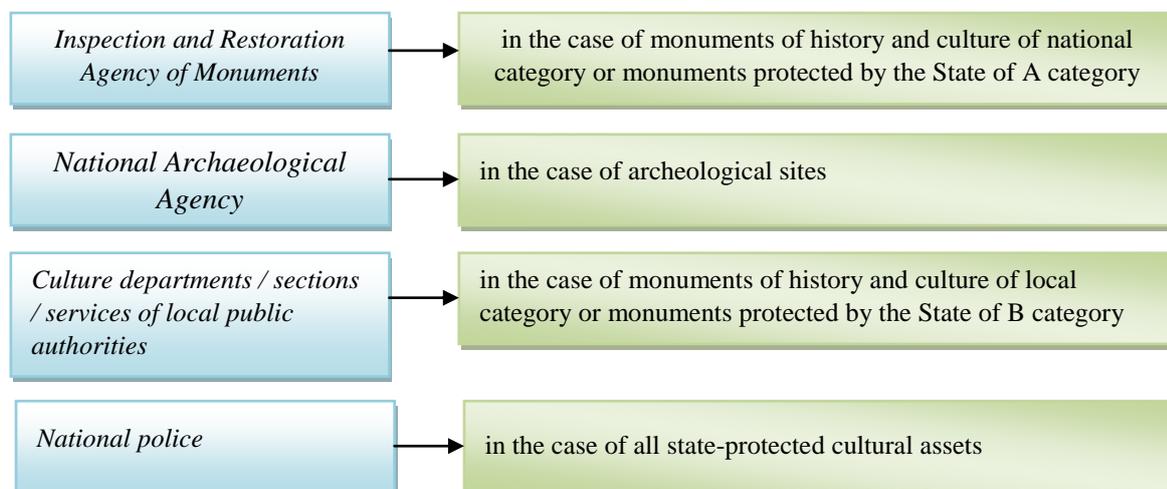
2. *Violation of the legislation on cultural heritage and monument protected by the State* (Article 74 *Contravention Code*) i.e.:

- ✓ violation of the regime for the protection and use of cultural heritage assets and monuments protected by the State;
- ✓ edification of monuments protected by the State without legal approvals;
- ✓ dismantling, removing or modifying monumentsprotected by the State without legal approval;
- ✓ unauthorised construction interventions in the protection zones of monumentsprotected by the State;
- ✓ failure to perform duties related to the maintenance, care, preservation and restoration of monumentsprotected by the State;
- ✓ non-compliance by the mayor of the territorial-administrative unit with the legal provisions for the security of archaeological heritage and the reporting of the National Archaeological Agency regarding the non-compliance with the legislation on the protection of archaeological heritage;
- ✓ the issue of the building permit by the issuer, in the absence of the certificate of discharge of the archaeological load for land with archaeological heritage or in the absence of the opinion of the National Council of Historical Monuments, for interventions to monuments of history and culture of national category, if this does not constitute a criminal offence;
- ✓ preventing by the owners of the lands, with archaeological patrimony or by the holders of their right of possession, the access of the authorized personnel, according to the legislation, by the authority responsible for the protection and capitalization of the archaeological patrimony, for archaeological prospecting, research and protection of archaeological patrimony protection and guarding of archaeological heritage assets;
- ✓ the alienation by private owners of land with an archaeological heritage or monuments inscribed in the Register of monuments of the Republic of Moldova protected by the state without prior notification of the Ministry of Education, Culture and Research.

This contravention is manifested by violation of the rules for the protection and use of historical and cultural monuments, as well as objects or documents of historical or cultural value.

3. *Violation of legislation and regulatory documents in construction* (Article 177, para. (2) (g) of the *Contravention Code*), manifested by the issue of urban planning certificates and building/dismantling permits leading to violations of legislation and normative documents in construction or to damage to cultural, historical and architectural heritage.

**The acknowledgement of infringements** and the preparation of the minutes for violation of the legislation on the protection of cultural heritage assets and monumentsprotected by the State(art. 423<sup>8</sup>, 1-4) are the responsibility of the following state entities (Figure 1):



**Figure 1.**The competent authorities to solve the contravention cases in the field of cultural heritage

The decisions **on the application of penalties** for contraventions related to the field of cultural heritage protection are taken by the courts, in accordance with Article 423<sup>8</sup>, para. 5 CC.

### **3. Law No. 1530 from 22.06.1993 on the protection of monuments**

The Law on the Protection of Monuments enshrines an entire chapter (Chapter VIII) of responsibility for the violation of this law.

Thus, according to Article 52 of the Law: bodies of state power and state administration, enterprises, institutions, organizations, associations, persons in positions of responsibility, citizens of the Republic of Moldova, foreign citizens and stateless people who do not comply with the provisions of this law can be liable.

The repair of the damage by natural and legal people who have caused damage to a monument or protection area is carried out in the following way: the damage will be restored to its original state and its protection zone, and if this is impossible, the damage will be covered in the manner established by law.

Persons in positions of responsibility and other workers whose fault led to the fact that legal persons have borne expenses related to the coverage of the above-mentioned damages, bear material liability in the manner established by law.

The benefit of the illicit use of monuments is undeniably perceived by the State Tax Service.

The size of the fine and other penalty payments, as well as the amount of compensation, shall be determined by the court and other competent bodies, starting from the extent to which the monument is damaged or destroyed, according to the evaluation carried out by the respective directorates of the Ministry of Education, Culture and Research. The holder of any legal title who has been guilty of the degradation of the monument shall be stripped of the right of possession, ownership or use under the conditions laid down by the legislation.

The Ministry of Education, Culture and Research, as well as the holders are responsible in case of destruction, loss, sale without notice, delay of the works of rescue, protection, preservation and restoration of monuments.

Within the Ministry of Education, Culture and Research, there is a collegial body with direct powers to protect buildings forming part of the cultural heritage. According to the Government Decision No. 73 from 31.01.2014 on the approval of the Regulation on the organisation and functioning of the National Council of Historical Monuments<sup>29</sup> point 12 *it has the following tasks: "to approve the documentation with proposals for interventions on existing buildings, located in built areas with protected status of national category or in their protection zones; to approve documentation with new construction proposals within the limits of built-up areas with national category protected monument status or in their protection zones"*; and, according to point 13 of the Decision: *"the Council examines and approves the documents and documentation referred to letters (c)-i) of point 12, in accordance with the provisions of the legislation in force in the field of the protection of cultural heritage and the provisions of the relevant documents of the Council of Europe and UNESCO/ICOMOS, with a view to preserving and/or strengthening the authenticity and integrity of the property/zone built with the status of a protected monument."*

The State Archive Service is responsible for the recording, integrity and use of documentary monuments preserved by the state, as well as for the record of documentary monuments owned by public organizations or private individuals.

The holder is responsible for the integrity and use of documentary monuments owned by public organisations or private individuals.

The Ministry of the Environment is responsible for the protection of the monuments of the natural heritage of the Republic of Moldova referred to in paragraphs (2) and (3) of Article 2.

**Article 56.** – Fines imposed by administrative or criminal means, other penalties levied by the competent bodies for the violation of this law shall be paid into the State budget for the purpose of recording, studying, enhancement, rescue, protection, preservation and restoration of monuments.

**Article 57.** – The acknowledgement of infringements is made by the responsible people of the state bodies for the protection of monuments and by the committees empowered by the Ministry of Culture (the investigating agent) under the legislation. The extent of the damage to the monument is determined on the basis of the expertise carried out by the state bodies for the protection of the monuments, taking into account the value of the monument and the cost of the land on the world market.

**Article 59.** – Any activity that endangers the integrity of the monuments is to be coordinated with the state bodies for the protection of monuments or with local self-administration bodies. The execution and financing of the sanctioned activities shall be prohibited by the competent bodies.

**Article 60.** – Industrial and agricultural enterprises located in reserves or in the protection zones of monuments, contained in the Register of Monuments, as well as enterprises which, through their activity, can affect the integrity of monuments, prejudicing their aesthetic, artistic or historical value, are obliged to pay 0.5–5 percent of their own benefit to local budgets on the basis of decisions of the district, municipal or city councils in accordance with the Ministry of Culture's opinion.

**Article 61.** – The order of the state bodies for the protection of monuments prohibiting activities that may affect the integrity of monuments or damage the protection zones is mandatory for all natural and legal persons. This order shall be cancelled by the body which issued it.

**Article 62.** – The bodies of state power and state administration have the right to change the conditions for the preservation of monuments. They may also change the holder if the status of the monument and the provisions of the contract are violated.

**Article 63.** – If the international treaty party, to which the Republic of Moldova is a member of, provides other rules than those established by this law, the provisions of the international treaty shall be applied.

In accordance with Articles 46-48 of the Law on the protection of monuments, adopted by the Parliament of the Republic of Moldova on 22.06.1993, the removal of monuments abroad is prohibited. Exceptions are allowed in the case of real estate, with the approval of the Parliament, based on the proposals of the Ministry of Education, Culture and Research; in the case of movable property - with the approval of the Government. The temporary removal of monuments outside the Republic in order to maintain international relations in the field of culture and tourism is allowed under the conditions established by the state bodies for the protection of monuments in accordance with the legislation in force. The monuments temporarily brought to the Republic, which are owned by foreign states, public organizations and foreign nationals, are protected by the state under the Law on the Protection of Monuments and Contracts and they may be removed from it at the request of the owners based on the certificate attesting them<sup>30</sup>.

#### **4. Law No. 163 from 09.07.2010 regarding the authorization of the execution of construction works**

According to Article 28 of the Law, for the violation of the legislation regarding the authorization of the execution of the construction works, the subjects are attracted to contraventional or criminal liability, as the case may be.

#### **5. Law No. 218 from 17.09.2010 on the protection of the archaeological heritage**

In accordance with Article 47 of the Law on the Protection of Archaeological Heritage, individuals and legal entities are liable in civil, misdemeanor or criminal law in accordance with the law, for:

- a) Carrying out without authorisation of archaeological research or without a certificate of discharge of the archaeological load of any works that may affect the archaeological sites;
- b) Unauthorized access with metal detectors or other remote sensing devices and their use in areas with archaeological heritage without prior authorization;
- c) Unauthorized sale and possession of metal detectors and other remote sensing devices;
- d) Carrying out unauthorized excavations in the area with archaeological potential and searching for treasures;
- e) Intentional destruction or damage to archaeological sites;
- f) Theft of authorized archaeological heritage from authorized archaeological excavations or areas with archaeological potential;
- g) Unauthorized trading of mobile archaeological heritage;
- h) Unauthorized export of archaeological goods;
- i) Failure to notify the public authorities regarding the accidental discoveries of archaeological remains;
- j) Violation of the legal provisions regarding the handing over to the state property of treasures and other archaeological vestiges discovered by chance;
- k) m) Unauthorized continuation of the intervention works on the soil in the areas where archaeological vestiges have been detected;
- l) n) Non-observance of the obligations for the protection of the archaeological patrimony by individuals and legal persons;
- m) o) Violation of the legal provisions regarding the free access of specialists in areas with archaeological heritage;
- n) p) Violation of the legal provisions regarding the bringing of the archeologically researched lands to the initial condition.

It should also be noted that the material damage caused to archaeological sites or their components by individuals or legal persons is to be repaired in the manner established by law.

The repair of the damage caused to the archeological sites and their components is carried out voluntarily or on the basis of a court decision.

#### **6. The law of museums No. 262 from 07.12.2017.**

Article 31 of the Law stipulates that the responsibility for violating the provisions of this law is established by the administrative, civil and criminal legislation in force.

**7. The law on architectural activity No. 1350 from 02.11.2000.**

In accordance with Article 21 of the Law, the violation of the legislation on architectural activity attracts the administrative, civil and criminal liability, provided by the legislation in force.

The disputes arising in the process of exercising the architectural activity are resolved through negotiations or by the common law court in the established manner.

**8. The law of monuments protected by the State No. 192 from 30.09.2011. In the Official Journal No. 197-202 from 18.11.2011, etc.**

Natural and legal persons are liable civilly, contraveniently and criminally for violating the provisions of this law.

According to Article 16, para. (2), the following constitutes violations of this law:

- a) Construction, modification or restoration of public monuments without legal approvals, as well as unauthorized constructive interventions in their protected areas;
- b) Relocation of public monuments without legal approvals;
- c) Non-fulfillment of the attributions related to the execution of the works of care and conservation / restoration of the monuments protected by the State as soon as the necessity of these works was ascertained, as well as the impediment of their execution;
- d) The unauthorized performance of inscriptions, documents, drawings or any other actions that lead to the destruction, degradation, change of historical data or the appearance of monuments.

Intentional destruction or damage to the monuments protected by the State is punishable under the Criminal Code.

The material damage caused to the monuments protected by the State or their components by natural or legal persons must be repaired in the manner established by law.

The repair of the damage caused to the monuments protected by the State and their components is carried out voluntarily or on the basis of a court decision.

#### **IV. CONCLUSION**

From all the above, it is clear that the issue of protection of national cultural heritage is far from being solved in terms of finding concrete effectiveness in many cases of particular social severity.

In the field of criminal protection of the national cultural heritage, there are still many ambiguities and inconsistencies, which have led to the loss of goods of special interest, mediated cases, but according to the result, most of the time, this is irreversible.

Taking into account our observations, we consider it opportune to formulate some proposals to improve the regulatory framework in the field of criminal protection of the national cultural heritage of the Republic of Moldova.

A first proposal involves the elaboration of a Code of National Cultural Heritage, following the model of the Italian and French, which we believe will allow:

- Establishing a clear and orderly basis of texts in force;
- Reforming the normative acts incident to the field of protection of the national cultural heritage.
- The use of a unitary terminology for the same legal realities, institutions, etc.

We conclude this study with the words of the doctrinaire I. Opriș: *“No effort is enough and no help will come from outside the world we live in to put under protection the testimonies of our passage through time. But each of us can contribute to this. Loving the values left by our forefathers, we must pass them on to our descendants and those who will come after them, thus perpetuating our own image and deeds. So we must all fight for such a cause, convinced that we are defending an asset of our own, of the world in which we live<sup>31</sup>”*.

Moreover, the saving and protection of cultural heritage for future generations can only take place through an articulation consistent with the economic, social and cultural development of current generations. Therefore, the ability of current generations to transmit cultural heritage will depend on the proper integration of cultural heritage policies into the process of global development.

The awareness of these realities is an important step towards ensuring an adequate level of protection for one of the most important social values - cultural heritage, in all its components.

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