

BUILT HERITAGE LOST IN LEGAL PROCEDURES

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***Summary:** Several significant archaeological sites which were discovered during recent extensive infrastructural works in Serbia were lost for present generations due to misleading of legal procedures conducted by entitled institutions. Those cases belong to infamous group of numerous archaeological sites and architectural heritage at the territory of Serbia, which were firstly legally, and subsequently in every other way, lost in the last several decades.*

***Keywords:** Built heritage, legislation, heritage preservation, Serbia*

1. INTRODUCTION

Built heritage loss is common phenomenon, which may happen for many reasons – from natural or man-made disasters to aging. Although loss of certain number of built heritage object per year seems inevitable, it comes as a surprise that we recently witnessed several losses of valuable built heritage due to misleading of legal procedures. Rich architectural heritage on the territory of Serbia, which accumulated since Roman times, nowadays is partly archeological heritage and it is often in poor condition which brings it a step away from terminal loss. That heritage may, and often does, require substantial funds for urgent preservation, further research and presentation. Statistically a number of listed built heritage properties were lost since 1980s. In addition, the loss of listed built heritage is sometimes not registered on local heritage lists which are occasionally infamous for not being properly updated. Situation is already difficult as it is, and should not be contributed by poor legislation or management, and ignoring newly discovered archeological heritage. We studied recent cases of built heritage losses while searching for pattern and subsequently resolution of the problem how to reduce built heritage losses on the territory of Serbia.

2. OVERVIEW OF THE 20th CENTURY BUILT HERITAGE LOSS

It the early 20th century losses of built heritage were mostly associated with lack of knowledge, professional training, experience and supervision. The reason was, typically, rarely lack of legislation and regulation, which started developing early in Serbia, along

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with the process of liberation in 18th and 19th century, and even before that, in some parts of the territory. In this time, rage of common people unfortunately led to loss of heritage which was built by former conquerors. It was essentially not lack of awareness but common intentional act typical for mentality of the peoples of, so-called, the Old World - kind of *demnatio memorie* over the defeated (the Latin phrase literally means "condemnation of memory" – in practice meaning that someone/something should not be remembered). Between the two World wars heritage preservation in Serbia was on the track of progress together with the other European nations. After the Second World War, heritage preservation got strong foothold in the new legislation and institutional strengthening. In that time, the losses were generally associated to political atmosphere which circumstantially led to negligence of the heritage which symbolized bourgeois values (which was again another form of *demnatio memorie*). Nowadays, it is also considered a failure of management which is related to stage of global development of the discipline at that time. In the entire period, rapid urbanization, inadequate planning, accidents, negligence and aging were common threats. In general, progress continued until early 1990s. In that time, the comprehensive state heritage law was adopted, as one of the most advanced heritage laws worldwide (1994) [1]. However, the political and economic turmoil of 1990s led to serious losses of heritage. Criteria for inscription in heritage lists changed again, and some Second World War and post-war landmarks were omitted from the heritage lists or neglected in favor of the other heritage, having in mind that the available funds were insufficient for proper protection of all, or more precisely, of almost anything. Some built heritage was lost during armed conflicts or in civilian rage which followed. The institutions declined and funds were severely reduced. In addition, climate change accelerated, further increasing risks, in addition to common threats. Domestic development of legislation lost pace with other European countries, due to overall circumstances, failing to prepare the society for the new phase in heritage preservation in which the heritage management came into focus. To sum up, during 20th century, urbanization and planning mistakes caused most of the damage: old urban cores were prevalingly lost, including many public buildings (even those which were very important and grandiose), then many industrial buildings (e.g. Untenzilija in Belgrade was demolished to allow widening of Boulevard Kralj Aleksandar in Belgrade), numerous archeological sites were lost, also regardless of size or significance (e.g. bath - *terme* discovered on Student square in Belgrade were presented to public and later covered by sand again), and furthermore a lot of architectural heritage was devastated by poorly done interventions (e.g. many monastery's dormitories, "konaci" by renovations). By the beginning of 21st century, a number of built heritage objects were already lost, and unfortunately, that trend continued.

3. RECENT CASES OF HERITAGE LOSS

The infrastructural works, which took place all over Serbia, revealed many archeological sites. Four important archeological sites were discovered (during 2015 and 2016) along the route of the infrastructural Corridor 10:

- Archaeological site at location called Bey's bridge-Staničenje, near city of Pirot, which includes necropolis, dated between 4th and 6th AD.

- Archaeological site called Belavin was discovered near the village Sinjac, in the municipality Bela Palanka; it includes necropolis dated between 16th and 17th century and prehistoric tumuli and settlement.
- Archaeological site Crnoklište, near Bela Palanka, was used for manufacturing bricks, ceramics, tiles, objects for everyday life and households.
- Mala Kopašnica, near Grdelica, was also necropolis, with huge number of jewelry (over 200 pieces) (Fig. 1). [2]



Figure 1 Artefacts discovered in archaeological sites along Corridor 10 [2]



Figure 2 Basilica near Staničenje[3]

Nine Early Christian buildings for worshipping were found in the area of village Špaj, dated in 4th century AD. Possibly a church of St. Nicolas of Remesiana (nowadays Bela

Palanka) was located there, and after consultation with church authorities, the cultural landscape was fully preserved, while the road was relocated.

New highway from Nish to Bulgarian border (part of Corridor 10) appeared to be located partially over the ancient Roman road *via militaris*. As proof of that, 2 milestones (out of 3 which were found in Serbia altogether) were discovered during the construction works, as well as several important archaeological sites. The parts of *via militaris* were well preserved, including pattern of pavement and road structure [2]. The finds were removed or covered again. Along East wing of Corridor 10, during reconstruction of old road between Pirot and Bela Palanka, near village Staničenje, construction workers discovered huge basilica which was possibly built between 4th and 6th century AD (a representative building with walls preserved from 80-200 cm of height) (Fig. 2) [3].

Another important archaeological site, with huge Early Christian basilica, was discovered near village Crvena Reka (close to Bela Palanka) (Fig. 3) on the route of the highway Niš-Gradina [4] (Fig. 3 et 4).



Figure 3 Basilica near Bela Palanka [4]

The material evidences showed that basilica is part of a bigger complex. The finds got a lot of public attention and the decision of competent bodies to cover it again upon research provoked public protests, which ended unsuccessfully. The competent Institute allegedly initiated the process of inscribing the site in the national heritage list, by addressing the Republic Institute, calling for previous protection of archaeological heritage, which is guaranteed by Law of Republic of Serbia, as well as by internationally accepted obligations. The Republic Institute expected the local institute to prepare required documentation for addressing Assembly of the Republic, while the Local institute considered further procedure to be Republic Institute's responsibility, in case the previous protection is not considered sufficient. At the end, legally designated period for inscription finished before the procedure started. In the explanation of the decision it was stated that in such manner the finds will be preserved "for future generations".



Figure 4 The reanimation of basilica designed by team „Historical reconstructions“, based on data provided by competent institute of preservation [4]



Figure 5 Destructive construction works at Latifika in 2013[5]

Huge necropolis, dated in Late Antiquity, was discovered at toponym Kladenšće, then searched by team of archaeologists and subsequently covered, upon decision of competent Institutes for preservation and Ministry of Construction, Transportation and Infrastructure. A construction works caused huge damage of listed archaeological site Latifika before anyone could stop them. The findings of Roman settlement were dated in 2nd century AD, and they are located near Vranjska banja. The excavation at this location has started in 1965 and they were never completed [5] (Fig. 5). The buffer zone was never properly defined, and competent institutions relied on legally guaranteed previous protection of archaeological finds. Huge prehistoric settlement which was discovered near Drenovac, close to Paraćin, revealed many remains included finds of houses, which were remodelled based on facts from the site and scientific hypothesis (Fig.6) [6]. Museum presentation is considered.



Figure 6. A model of Neolithic house based on archaeological finds in Drenovac [6]

The construction of new factory in the complex of Benetton in Nis, on the location known as Jagodin mala, accidentally revealed another part of huge necropolis, which western and northern areas were already searched. The one tomb, of over 30 which were discovered on that occasion, is typologically rare in Serbia and only two similar were previously discovered. It consists of 7 rooms, 2 bigger and 5 arcosolia for burial. The decision was made to relocate the tombs and the factory was built with the floor elevated approximately 1m above the tombs, keeping presentation “for future generations”. However, long negotiations and additional activities seem to lead gradually towards future relocation of factory and presentation *in situ* [7].

4. DISCUSSION

From the previous examples, only one archaeological site was preserved as the first choice. It happened in the case of the site which is (potentially) valuable for Serbian Orthodox Church. In all other cases – partly pagan finds, traces of transition towards Christianity, architectural heritage regardless of size or importance and profane finds of diverse origin were preserved for “future generations” but not presented for the current one, in favor of the investors of contemporary infrastructural projects. Evidently, the decisions were not made based on facts or potential benefit for socio-economic development of the local communities. Such potential was not analyzed in the form of heritage management plan, and therefore it was not possible to compare the potential benefit with the price of preserving archaeological sites *in situ* and relocation of infrastructure, which could provide objective criterion, unlike all the others which were in essence arbitrary. It is the fact that state heritage experts are not trained for making heritage management plans, which are based on scientific methodology, and in daily practice, they can only relay instead on “hitch” and experience. A proper management plan would reveal true value of each archaeological site, as well as the value of its frequency and diversity, considered as a “group”, because every archaeological site matters and contributes to overall value [8] [9] Choice of presentation is also questionable - favoring museum presentations over presentations *in situ* is outdated, because many museums face difficulties to attract visitors, and authentic ambient is more reputable. Therefore, such choice of presentation is led by economic reasons instead of cultural, which is a step in the wrong direction. Criteria for presentation must be

analyzed as a part of the comprehensive management strategy, and presentation should not be compromised [9]. *Vox populi* was not heard, even when it was clearly stated with full support of media which is considered not acceptable in international practice [10]. In some cases, competent bodies were evidently advocating current political and economic interests and bureaucratic instruments were used to create impression of legality of decision-making process. Basically, short benefits were given priorities ahead of middle term benefits, justifying the decisions by keeping all options open in long term. Problem of delay of construction works due to archaeological research is not common only for Serbia - it is usual all over Europe. Unlike Serbia, the other countries made effort to overcome the problem e.g. by lifting state monopoly over archaeological research, use of high tech equipment, engage more experts etc. Built heritage is part of, so called, cultural industries, which are potentially highly profitable and encourage overall social and economic development, which has been proven beyond doubt. Therefore, economic reasons are not justify reasons for covering finds and denying contemporary generation right to benefit from the cultural heritage. Economic reasons, in noted examples, are excuses for lack of management skills and knowledge which would bring progress without denying rights of a community on access to cultural heritage. The examples from subchapter 3 revealed the following weaknesses of contemporary built heritage preservation in Serbia:

- Legal jurisdictions for inscription on heritage list are not clear and consistent.
- Decision making procedures are not clearly defined and therefore arbitrary.
- Heritage institution partly lost their competency due to the lack of additional training.
- Participation of citizens is not legally enabled; community does not have status of a “stakeholder” as in the case of urban planning process. The number of transparent stakeholder is too narrow, and not representative.

5. CONCLUSION

It is well known that built heritage, as well as heritage of all kinds, is unique and irreplaceable resource. Current situation requires urgent action towards:

(1) New cultural heritage law which would integrate the international progress in heritage preservation since early 1990 until today and anticipate future development, and
(2) Allow democratization of heritage preservation, including engagement of non-profit and non-governmental sector which can contribute with highly needed knowledge and expertise, and which may better advocate interests of community, if allowed, contributing transparency of the process and mitigating of corruption. Adopting proper Strategy of cultural development of Republic of Serbia [11] is potentially step forward to it.

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ГРАДИТЕЉСКО НАСЛЕЂЕ ИЗГУБЉЕНО У ЗАКОНСКИМ ПРОЦЕДУРАМА

Резиме: Неколико важних археолошких налазишта која су откривена током недавних екстензивних инфраструктурних радова у Србији, изгубљени су са садашњу генерацију услед погрешно вођене законске процедуре од стране надлежних институција. Ови случајеви спадају у неславну групу археолошких налазишта и архитектонске баштине на територији Србије, која је птво законски а сатим и на сваки други начин, изгубљена у протеклих неколико деценија.

Кључне речи: Градитељска баштина, законска регулатива, очување баштине, Србија