DAMAGE TO ARCHAEOLOGICAL SITES: ASSESSMENT CRITERIA AND SITUATION IN LATVIA

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Abstract. The aim of the article is to reflect the necessity of introducing objective criteria in articulating monetary value of the damage caused to archaeological sites (immovable cultural monuments) as a result of illegal activities. The research focuses on the damage assessment criteria and resulting diminishment of economic value that are used in several countries, as well as examines the key interests and stakeholders in damage assessment process and outcome. It further describes the corresponding situation in Latvia, determines the existing challenges and proposes the basis for improvement in administrative and legal procedures. Methods applied in the research are literature review, legal framework and documentary analysis, statistical analysis and elements of qualitative content analysis. International intercomparisons have been made consulting with foreign experts. The essay is mostly done from legal and socio-economic point of view. The results of the research could be used for the purposes of amending legal regulation and damage assessment mechanisms.

Keywords: *Archaeological heritage, cultural heritage, cultural monuments, damage assessment, looting, socio-economic values.*

INTRODUCTION

Despite the fact that Latvia is a relatively small country, its cultural and historical heritage (including archaeological heritage) is quite rich. As of 18 May 2020, according to the information of the NCHB (SPCMR), there were 7361 immovable cultural monuments¹ in the SPCMR, while 2520 (or 34 %) of immovable monuments were archaeological.

From 2012 up to the first half of 2019 there have been fixed 135 occurrences of damage caused to archaeological sites as a result of illegal activities (Table 9, No. 8). Although data on illegally acquired archaeological antiquities are not listed in Latvia's official criminal statistics (Kairiss, 2016), the study (Nagle, 2016) revealed that, e.g., in 2014 a significant number of antiquities of the Latvian origin were illegally acquired and sold abroad. Even though the number of cases where

¹ According to Section 1 of Protection Law LV (Table 6, No. 15): *Cultural monuments are a part of the cultural and historical heritage - cultural and historical landscapes and individual territories (ancient burial sites, cemeteries, parks, places of historical events and the activities of famous persons), as well as individual graves, groups of buildings and individual buildings, works of art, facilities and articles with historical, scientific, artistic or other cultural value and the preservation of which for future generations is in conformity with the interests of the State and people of Latvia, as well as international interests.*

damage is caused to archaeological sites has decreased since 2016, the statistics² gives leave to make a conclusion that evaluation of the damage caused to archaeological heritage is a topical issue, which needs to be analysed and discussed: between 2017 and 2019 14 cases of destruction, damaging or desecration of a cultural monument were registered and there were also 251 registered cases of desecration of graves³ (Information centre of the Ministry of Interior of the Republic of Latvia, 2019).

Every cultural heritage site is important, whether it is a recognized world heritage site or a site of local significance. Each such a site has cultural, social and other value for the state and society that cannot always be quantified and expressed in monetary terms. However, damage to archaeological heritage sites must be remedied and the site restored as far as possible, so the damage determination from a financial point of view is imperative. Monetary valuation should be transparent and clear to realise how many resources it will take from the society to restore an object and possibly return its lost cultural, social and other values. That is why the determination of damage should be made on the basis of predefined objective criteria. This directly leads to the question of the economic value of cultural heritage, to which some of this article will be devoted.

The protection of cultural heritage is based on the recognition of its value in the society and the conviction of the need to preserve it. However, the looting of archaeological heritage through illegal excavations, the illicit trade in antiquities, and the damaging and destruction of archaeological sites show that the protection of cultural heritage must also be based on strict principles and the rule of law. Legal acts *inter alia* introduce procedural clarity by promoting a uniform approach and objectivity, which is essential, in particular, in the damage assessment process. It is not possible to regulate all aspects in detail by law, so as practice shows several countries have also introduced methodologies for assessing damage to cultural heritage sites (e.g., Lithuania, Moldova, etc.).

Judicial and legislative developments of the recent time lead to the currently developing international public policy over culture-sensitive cases and legislation. Having observed insufficiency in a sound and effective approach to culture-related cases throughout the field, this transnational public policy stems from the principles contained in the international legal regulation (e.g., Table 7, No. 1–3) as well as the instruments crafted by other stakeholders and moves to formation of a *lex culturalis* (Chechi, 2017/2018) – the aggregate of tailored rules aimed at bringing the uniqueness of cultural property to the fore. The need for such rules is especially obvious in the fields where national and international regulation is lacking. This insufficiency or even lack of a reliable approach to economically quantifying the

² It should be taken into account that statistical information provided by the NCHPB, the State Police and the Information Centre of the Ministry of the Interior does not coincide, see, e.g., (Kairiss, 2017).

³ Since the most frequently looted archaeological monuments are ancient burial places, it should be taken into account that at least part of these offences are qualified on the basis of other sections of the Criminal Law (Table 6, No. 10), e.g., Section 228, Part 3 (desecration of graves, funerary urns or interred or uninterred corpses related to stealing of a monument or funerary urn, or other objects placed on or in a grave or at a funerary urn). As an example, please see VRC judgement 2018 (Table 8, No. 9); ADC judgement 2015 (Table 8, No. 1).

cultural value of the damage caused and the liability for having caused it (Rodríguez Temiño, 2019) is universally observed over assessing damage caused by harmful human acts to archaeological heritage objects. However, as it will be explored below, credibility of such quantification is detrimental for the outcome of the corresponding court cases and asserting liability (McAllister & McManamon, 2007)

In the scientific literature, damage to archeological objects is mostly considered from the point of view of criminal law, as well as from the point of view of the value of illegally acquired archeological antiquities and lost scientific knowledge. The damage caused to immovable archeological objects is mostly viewed from the point of view of their loss of cultural and social value. Less attention is paid to quantifiable economic damage to the site itself and to the quantifiable socio-economic consequences of the damage, although recent events related to the damage and destruction of cultural heritage sites of the global importance, as well as case law⁴ clearly demonstrate the importance and need for such an analysis.

Despite the fact that damage to cultural objects is often related to the imposition of fines (as a kind of punishment) on the offender, in this article the authors do not analyse the aspect of punishment, focusing on the assessment of damage to the cultural object itself.

The aim of this paper is to lay a foundation for the necessity of the objective assessment criteria of the damage caused by illegal human intervention to immovable archaeological objects. While basically analysing the situation in Latvia, this paper also briefly observes corresponding assessment criteria applied in several European Union member states and Eastern European countries – non-EU member states.⁵

To reach the aim, the following tasks have been set during the research:

- to demonstrate why the assessment of the damage caused by illegal human intervention to immovable archaeological objects and the use of the corresponding assessment criteria are important;
- to indicate the main assessment criteria used;
- to analyse legal and other related aspects regarding damage assessment in Latvia;
- to indicate existing challenges regarding efficiency of the damage assessment in Latvia, and provide major recommendations.

For the purposes of the present research, apart from scientific literature on the subject, the authors have analysed the existing methodologies and guidelines on criteria and conditions for evaluation of cultural heritage assets, statutory requirements for monetary evaluation of cultural monuments, most common valuation methods of immovable archaeological objects (e.g., scientific articles, damage assessment reports, explanations and clarifications provided by

⁴ For instance, see the Prosecutor v. Ahmad Al Faqi Al Mahdi (Table 8, No. 8)

⁵ From January to May 2020 the authors addressed cultural heritage protection institutions and experts of 25 countries (incl. 24 member states of the European Union) with the questions of existence of statutory rules over and applicability of damage assessment criteria to cultural heritage sites. 7 countries responded. The obtained information is referred to in the article along with the links to respective legal regulations and other materials.

representatives of public institutions responsible for damage assessment throughout Europe), reports of supervisory authorities, as well as available statistical data on Latvian cultural monuments, types of damage done to them, criminal and court statistics in Latvia regarding illegal actions against cultural heritage objects.

Up to the authors' knowledge there has been no research made in Latvia with regard to assessment of the damage caused to archaeological heritage; therefore, this article is probably the first step in trying to seize the point of the matter.

1. DAMAGE ASSESSMENT: WHY AND HOW SHOULD IT BE DONE?

Economic Value of Immovable Cultural Monuments

From the economical point of view, cultural heritage (or “goods”), like environmental heritage, represents typically public goods characterised by the non-rival consumption (Navrud, 2005) and the non-use value (Navrud, 2005; Tuan, Navrud, 2008). At the same time, cultural objects possess certain distinctive features, such as historical dimension, uniqueness and often the abiotic nature (Nijkamp, 2012). Therefore, market-based valuation approaches are not applicable to non-use values of cultural heritage assets. Several other methods are used most frequently to measure this kind of values (based on New Zealand Institute of Economic Research, 2018; Nijkamp, 2012; Rypkema, 2012):

- **Stated Preference Method**, based on responses to hypothetical questions, allows singling out both the current and potential values of particular sites. One type of the stated preference method is contingent valuation, where respondents are asked to respond on the willingness to pay for or willingness to accept (with compensation) the presented outcome. Some limitations of this evaluation method lie in possible overstating of non-use values of the objects, reflecting present values combined with bequest values⁶, as well as difference between stated willingness to pay and willingness to accept, as paying has a limit caused by income availability while receiving has not. The other type of stated preference method is a choice modelling technique where respondents are presented with a range of discrete alternatives from which respondents are asked to choose their most preferred alternative.
- **Travel Cost Method**, which evaluates the costs a person who wants to pay for visiting a particular site. The limitations of this method include complexity of a precise analysis in case of multipurpose trips (when the tourist intends to visit multiple heritage objects), estimation of the role of social externalities (company or group of people the tourist is travelling with) and opportunity costs (value of time of a tourist).
- **Hedonic Price Method**, which identifies the internal and external values of a particular site and the contribution of each component to the overall value of the site.

⁶ Bequest value (or bequest earnings) is value people put on preserving particular good for the future generations (see, for instance, Gisselman *et al.*, 2017).

As archaeological sites are part of cultural heritage objects, they are fully subject to the same economic value as cultural heritage sites in general, incl. also non-use value. Archaeological sites, however, have a specific feature that is applicable to them to a large extent: they have not only asset but also commodity value (Brodie, 2010). Commodity value refers to the acquisition of antiquities from archaeological sites primarily for the purpose of selling them. Due to the commodity value of archaeological sites, they often become victims of illegal excavations. Illegal excavations, the accompanying illegal acquisition of antiquities and the destruction of an archaeological site not only deplete the commodity value of the site, but definitely affect its asset value negatively, as well as reduce or destroy its non-economic value (symbolic, aesthetic, etc.).

Monetary estimation of the non-use values could be done just approximately. Taking into account the historic, cultural, symbolic and other functions of cultural heritage, for many people, cultural heritage sites seem invaluable, and the very question of valuing them in monetary terms may sound somewhat blasphemous. For example, how can the loss of the Amber Room, for example, be assessed in financial terms, as the entire humanity lost part of its history and culture? On the other hand, if all cultural heritage sites are priceless, the question of relativity arises, e.g., if all ancient burials are priceless, is the loss of the Great Pyramid of Cheops comparable to the loss of an ancient burial where some unknown warriors or farmers were buried? Is the loss of any spearhead from the Roman Empire times comparable to the loss of the Lance of Longinus? If all such objects are already invaluable, then it is as if all these objects should not be valued, because they are equivalent in terms of value. Is the value of a unique object "more invaluable" than the value of another, less unique object? Is this why we have a concept of cultural monuments and world heritage sites? Why, then, are there auctions where famous works of art and also antiquities are valued in financial terms?

Let us try to find an answer to the question of monetary assessment usefulness by looking at both the scope of the damage assessment and the stakeholders who may need it.

1.2. Fields of Application and the Stakeholders

The need for a monetary assessment of damage to archaeological sites stems directly from the socio-economic interests of several groups of private and non-governmental stakeholders, the functions of public institutions and the public (e.g., taxpayers') right to information:

- restoration of the object (e.g., in Latvia conservation, maintenance, repair and restoration of a cultural monument are to be performed by the owner (possessor) of the cultural monument at his own expense;⁷ the relevant funds may then be recovered from the guilty person.
- performing transactions with archaeological objects, for instance, purchase-sale (e.g., calculating the difference between the price of the damaged object and the non-damaged object), investments, rent, mortgage;
- insurance (e.g., payment of insurance premiums);

⁷ In accordance with Section 24, Part1 of Protection Law LV (Table 6, No. 15)

- economic use of the object, for instance, setting the entrance fee to the object (e.g., it can be changed if part of the object is not available for viewing due to damage);
- the legal qualification of the offense committed. For instance, in Latvia, a person might be subject to criminal liability for destruction, damaging or desecration of a cultural monument protected by the state if he / she caused substantial harm to the interests of the state or the public.⁸ The substantiality of harm caused to the cultural monument primarily depends on the property loss expressed in monetary terms.⁹ In the UK legal system, the financial loss resulting from damage to heritage objects, affects the classification (categories which reflect varying degrees of seriousness with appropriate sentences for each level thereof) of the damage caused (Table 5, No. 8) and the applicable penalty;
- determining the extent of civil liability. In determining civil liability, one should consider the value of the principal property, its appurtenances, the detriment indirectly caused by the loss having taken place and lost profits¹⁰, which is supposed to be determined, *inter alia*, in monetary terms;
- providing evidence in court proceedings. The credibility of the archaeological resource damage assessment, e.g., directly affects the outcome of the corresponding criminal or civil cases and the penalties imposed (McAllister & McManamon, 2007);
- management of archaeological objects, urban and regional development needs, resource allocation (e.g., Table 5, No. 9);
- evaluation of capital resources and change of the value thereof;
- accountability of responsible public institutions for publicly owned cultural objects (e.g., European Commission, Eurostat, 2017; Table 5, No. 9). This obligation corresponds, for example, to the public (e.g. taxpayers') right to information on the use of the public budget.¹¹

Interests of different stakeholders towards the cultural heritage can be conditionally classified into interests of economic nature and the ones that lie beyond a strictly financial calculus and might include the so-called intangible factor and non-material significance (for instance, symbolic, spiritual, aesthetic, sense of belonging, etc).

The range of stakeholders, whose interests are affected by the changes in the cultural objects, is broad. There are, e.g., those who trade in it, those who study it, those who collect it, and those who have a religious, ethnic, or other attachment to it (Brodie, 2010). If we look from the territorial perspective, cultural heritage assets always carry a high degree of local specificity (Nijkamp, 2012) or values shared among residents of a certain area; therefore, the first to be affected are the owners

⁸ Section 229 of the Criminal Law LV (Table 6, No. 10)

⁹ Section 23 of the Criminal Law Enforcement Act (Table 6, No. 19). Liability for a criminal offence causing substantial harm applies if 1) property loss equals or exceeds five minimum monthly wages + other interests protected by law have been threatened; 2) property loss equals or exceeds 10 minimum monthly wages; 3) other interests protected by law have been significantly threatened.

¹⁰ Sections 1779, 1786, Civil Law LV (Table 6, No. 8)

¹¹ SCS AD judgement SKA-917/2019 (Table 8, No. 7)

of the assets and different dimensions of the local community. Since involvement of multiple stakeholders in maintenance of cultural assets usually increases value and improves the effectiveness of implementing new solutions (Dieck, 2017), there are also socio-economic interests of different stakeholders concerned. Besides, in certain cases cultural assets embed values shared on a much broader scale, inter alia, universally (Nijkamp, Riganti, 2004), so the range of affected stakeholders expands.

Table 1 provides the non-exhaustive list of stakeholders whose economic interests might be affected by changes or damage caused to the cultural heritage objects and who would be interested in monetary assessment of the archaeological object and/or damage done to it. Also some public sector stakeholders whose functions concern protection of cultural heritage or development of socioeconomic potential thereof are included in the table.

Table 1. Examples of Stakeholders and their Economic Interests in Immovable Heritage Objects (Cultural Monuments)

(developed by the authors; for economic interests and functions the authors partially used A. Kairiss' qualitative content analysis of socio-economic interests in the field of tangible cultural heritage¹²)

Stakeholders	Examples of interest/ public institution's function	
	Economic	Monetary assessment of the whole object and/ or damages done to it
Owners of the cultural heritage objects (the owner could be, e.g., state, municipality, private entity)	Purchase/sale, lease, mortgage, investment, imposing entrance fee, other commercial activity	Whole object ¹³ : conservation, maintenance, repair and restoration of an object; insurance needs Damages: conservation/restoration of an object; insurance needs

¹² Qualitative analysis is based on: Amineddoleh (2013); Throsby (2012); Blundo, Ferrari, del Hoyo, Riccardi, Muiña (2018); Brodie (2010); Brodie, Contreras (2012); Cerra, Plank, Lysandrou, Tian (2016); Dalmas, Geronimi, Noël, Tsang, Jessy (2015); Dans, González (2019); de Beer, Boogaard (2017); Ganciu (2018); Gill (2016); Greenland, Marrone, Topcuoglu, Vorderstrasse (2019); Li, Krishnamurthy, Rodgers, Wesemael (2020); Martins (2016); Mendes (2016); Munzi, Zocchi (2017); Pūķis (2011); Suárez-Mansilla (2018); Munarim, Ghisi (2016); van Oers (2015).

¹³ i.e., assessment of monetary value of all the cultural monument before the damage has been done to it or the remaining value after the damage. Please see the next chapter for clarification of the concept.

Local community (inhabitants, NGOs)	Involvement in tourism related economic activities (e.g., production of souvenirs, local food, crafts etc.); work on heritage sites (e.g., legitimate excavations), museums etc.;	Whole object (if in public property): assessment of the value of public (e.g., municipal) property; Damage: providing financial assistance (directly or through fund-raising) in conservation/restoration of cultural monuments etc.
Local community (entrepreneurs)	Commercial activities (founding private museums, organising guided tours; catering, hotels and souvenir production business development; organising events in the locations of cultural objects (festivals, celebrations etc.))	Whole objects and damage: Providing financial assistance (e.g., in the framework of corporate social responsibility) in conservation/ restoration of cultural monuments etc.
Local municipality	Local/ regional development plans, attraction of funds/specialists for preservation of cultural heritage, participation in public-private partnerships for reconstruction and development, increase in cultural tourism/ promoting favourable travelling environment, preoccupation of local inhabitants/ development of business opportunities and maintenance of commercial activities	Whole object (if owns): the owners interests, as well as inclusion of the object in local/ regional development planning etc.; accountability before the local or broader community regarding maintenance of the public property; Damage: (if owns) the owner's interests; (if s/he does not own but objects are within administrative territory) providing financial assistance (directly or through fund-raising) in conservation/ restoration of cultural monuments etc.
Visitors	Indirectly: to conveniently get better service (e.g., better recreation, cultural, religious and other needs coverage) for less money	Damage: to make donations for conservation/ restoration of cultural objects
Cultural institutions (museums etc.)	Attraction of visitors, researchers and scholars; general development of the local area; as a result: attraction of additional funds for promotion and supplementing of the collection, scientific research, publications etc.	Damage: providing financial assistance (through fund-raising) in conservation/ restoration of cultural monuments etc.
Academic and scientific organisations, individual researchers	Job related interests, getting income through projects and publications etc.	Whole objects and damage: Statistical data on whole objects and damage in order to make economic, legal, criminological and other research

Heritage protection agencies	Management and maintenance of cultural heritage resources	Whole objects and damage: assessment of damage done; financing conservation/ restoration of cultural monuments; accountability before the local or broader community regarding maintenance of the public property
Law enforcement agencies, Prosecutor's Offices	Prevention and combating offences concerning cultural heritage objects	Whole objects and damage: proper qualification (assessment of damage) within the framework of administrative and criminal proceedings; assessment of possible wasting of public assets in case of sale, lease etc.
Courts	Raising social responsibility and confidence in the due process of law; as a result: offence prevention and raising social awareness	Whole objects and damage: well-grounded, justified decision-making regarding compensations for the harm caused to cultural property and related interests
National/ regional planning/ supervisory authorities (e.g., ministries, planning centres etc.)	Budgetary issues, tax and levy aspects; development and monitoring of infrastructure development projects at the national level, taking into account the socio-economic potential of cultural heritage; promoting sustainable development and favorable travelling environment	Whole object (e.g., publicly owned): estimating role of cultural heritage objects in national/ regional development planning etc.; estimating capital asset value of publicly owned (cultural) property; accountability before the inhabitants (tax payers) regarding maintenance of the public property; Damage: providing financial assistance (directly or through fund-raising) in conservation/ restoration of cultural monuments etc.
Insurance companies	Insurance related needs	Whole objects and damage: calculation of insurance premiums/ payouts
Real estate companies	Transfer of ownership over historic sites, calculation of price premiums for listed monuments, assessing the value of cultural heritage objects	Whole objects and damage: assessing the price of the real estate and the changes thereof
Private and public investors and	Commercial activities; participation (financing) in development projects; promoting competitive advantage and	Whole objects and damage: assessment of investment risks and profit; assessment of development projects; providing financial assistance (e.g., in the framework of corporate social responsibility, international financial aid,

sponsors (e.g., World Bank)	strategy of further exploitation of the heritage resource	development and other programmes) in conservation/ restoration of cultural monuments etc.
Mass media	Journalistic activities, publications concerning cultural heritage, local, regional and national development projects, socio-economic role of cultural heritage etc., objective report and evaluation of the situation	Whole objects and damage: thematic articles, journalist investigations (e.g., public sector and societal losses as a result of the damage, estimating value and costs of public sector property, direct and indirect income generated by public cultural heritage objects (e.g., assessing the profit of maintaining it within the public sector etc.)
Society in general (country or broader level)	Promoting quality of life and standard of living through society's development in larger business opportunities (e.g., management of cultural heritage significantly impacts development in other fields, e.g., catering and hotels), scientific and educational potential, creating job opportunities etc.	Whole object (if in public property): assessment of the value of public property; Damage: providing financial assistance (directly or through fund-raising) in conservation/restoration of cultural monuments etc.

As can be seen in Table 1, stakeholders' interests in the monetary assessment of the whole object or only the losses incurred can be related to business, investment and development planning aspects, conservation and restoration needs of the object, corporate social responsibility and donations for restoration, the usefulness of knowledge how the public sector manages cultural property, etc. The degree of accuracy of the monetary assessment varies for different stakeholders, e.g., it is undoubtedly high for insurance companies and litigation, but may be approximate if citizens or NGOs collect donations for the restoration purposes.

The aforementioned allows assuming that the monetary assessment of damage is useful, so the question arises: what should it be based on, i.e., what criteria should be used to make the assessment more objective?

1.3. Damage Assessment Aspects and Criteria

Economic Evaluation of the Whole Cultural Monument

As it is shown above, there are several approaches to evaluate economic value of cultural objects. While there are some aspects that cannot be rendered in monetary terms, objective economic evaluation is of utmost importance in ensuring basic functionality of public authorities. It works out, for instance, in proper heritage management (optimal allocation of resources for preservation and development of a cultural object and the area in the vicinity), recording of public property (securing transparency and financial sustainability), determining the diminishment of value (difference between "before" and "after" values of cultural assets, which have been damaged).

Within the framework of the research, the authors have analysed 12 countries' approaches to evaluation of cultural heritage sites. The results show that methods used by countries to assess economic value of cultural monuments differ substantially. Most countries differentiate cultural monuments based on their non-monetary significance and/or category affiliation (e.g., Latvia,¹⁴ Lithuania,¹⁵ Finland,¹⁶ Estonia,¹⁷ Germany,¹⁸ Cyprus¹⁹) and do not provide for standard procedures of economic evaluation of cultural monuments for any assessment purposes (transaction, lease, insurance, mortgage, investment, liquidity, cadastral, etc.). Despite the view that benefits of evaluation of heritage assets outweigh the arguments against it (European Commission, Eurostat, 2017), the most common reason for avoidance of articulating monetary value invoked by the countries is perception of "inestimable value" of heritage objects (e.g., Estonia²⁰) and lack of administrative capability/ resources (Sweden,²¹ Latvia²²).

However, few countries, like Russia²³ and Ukraine,²⁴ in their turn, have statutory approved methodologies on general monetary evaluation rules of cultural monuments, providing for different calculation methods depending on the purpose of evaluation (including, e.g., insurance, lease, sale, privatization, urban development, determination of the effect of cultural object on the cost characteristics of the environment, mandatory buyout, re-evaluation of key (capital) property for accounting purposes, etc.). With regard to the archaeological monuments, in Ukraine (Table 5, No. 5) there is a special formula for monetary value assessment using ratios depending on the archaeological group, cultural value, degree of preservation, rarity of the monument, its place in ancient history, the size of the land.²⁵

While some countries, mentioned above, provide for assessment of economic value of the whole cultural monuments before any damage is caused to them (initial

¹⁴ Section 14, Protection Law LV (Table 6, No. 14) Cultural monuments, in conformity with their historical, scientific, artistic or other cultural value, are classified into cultural monuments of state, regional and local significance.

¹⁵ Part 3, Article 3, Protection Law LT (Table 6, No. 16) (distinction of immovable cultural heritage according to the nature or combination of valuable characteristics that determine its significance)

¹⁶ Chapter 1, Section 2, Protection Law FI (Table 6, No. 2) (what forms solid ancient remains)

¹⁷ Section 10, Protection Law EE, (Table 6, No. 12) (Prerequisites for State Protection)

¹⁸ For instance, Article 1, BayDSchG (Table 6, No. 4)

¹⁹ Section 6, Protection Law CY (Table 6, No. 3) (declaration of ancient monuments based on historic, architectural, traditional, artistic or archaeological interest)

²⁰ Raie S., director general of the National Heritage Board of Estonia (Table 9, No. 5)

²¹ Barkin M., legal advisor, Swedish National Heritage Board (Table 9, No. 2)

²² See, for instance, AR 2018 (Table 4, No. 5)

²³ Methodology RUS (Table 5, No. 4)

²⁴ Methodology UKR (Table 5, No. 5)

²⁵ Methodology UKR (Table 5, No. 5), pars. 9 & 10, a cost method is used to evaluate the monetary value of archaeological sites, as the basis of which are costs of work on archaeological research on those sites

evaluation), few others (e.g., Sweden,²⁶ Germany,²⁷ Spain²⁸) provide for an overall evaluation of the sites after the damage was caused to them. The applicability of this approach may be illustrated by the example. For instance, if someone drives a bulldozer to the park of the castle complex, causing irreparable damage to centuries-old trees and original sculptures in the park, the trees and sculptures can be replaced, but both the park and the entire castle complex will never be of the same authenticity again. Thus, it is logical that a cultural monument (the whole object) is assigned both the original cultural and historical value (initial or “before” value) and the loss of the respective value (“after” value), for example, as a result of some illegal activities. This supports the view that evaluation (and re-evaluation or assessment of decrease in the overall value) of the whole site is useful and absence of any in the tandem of “before-after” values precludes the possibility to assess the diminished value of the whole monument. As it is generally recognised, the significance of a heritage asset can be understood only when the harm caused to the whole asset can properly be assessed (Table 5, No. 3).

Another approach followed by some countries (e.g., Cyprus²⁹) is the overall evaluation of loss caused to the site (the whole cultural object) as a result of illegal activities in percentage terms, so that the diminishment of value is expressed in percental, but not in monetary equivalent.

As it will be shown further, there is a very general regulation in Latvia regarding both – initial evaluation of the cultural monument and re-evaluation thereof after the damage was caused. The situation in Latvia is going to be analysed in greater detail further.

Economic Evaluation of the Damage Caused to Cultural Monument

Economic literature provides some of general methods that might be used to assess damage caused to cultural monuments, inter alia:

- **Compensation method.** According to this method, in case the cultural monument is damaged, the financial compensation of the loss caused to this object is estimated by assessing the costs of restoration/repair. One of the major limitations to this method is that it predefines substitutability of the object concerned, which is hardly the case for exclusive or unique cultural objects (Nijkamp, 2012). Moreover, using this method for assessment of damage caused to the cultural monument by itself (apart from the others) may warp the judgement on the total amount of losses caused, since if a cultural monument is damaged, it is likely to reduce the cultural and historical value of the entire cultural object. This impairment may be related, for example, to the use of non-original materials, sketches and construction techniques in renovation work, etc., since *part of the total*

²⁶ Barkin M., legal advisor, Swedish National Heritage Board (Table 9, No. 5)

²⁷ Göhner W.K., assessor iuris, Chief Legal Officer Bavarian State Conservation Office (Table 9, No. 4)

²⁸ Rodríguez Temiño I., representative of Carmona Archaeological Site, Ministry of Culture and Historical Heritage, Junta de Andalucía, Spain (Table 9, No. 6)

²⁹ Department of Antiquities, Ministry of Transport, Communication and Works, Republic of Cyprus (Table 9, No. 3)

value of the property may be irreversibly lost when the original material is altered or replicated (Mourato & Mazzanti, 2002, p. 54). If we refer to the example of bulldozer in the castle complex, mentioned above, it is seen that compensation for damage by paying for materials, work, expertise, replanting trees and replacing sculptures does not fully compensate for the damage, as the whole cultural monument has lost part of its original cultural identity and become less valuable.

- **Lost Information Method.** According to this method, the total sum of the assessed values of all the small samples of various monuments is calculated (for more details, see Rodríguez Temiño, 2019). If we consider that the economic damage should be assessed by looking at the (present) value of lost benefits (Dosi, 2001), the lost information method might give us a more or less objective result. It should be noted that by contrast with the compensation method, the lost information method tries to cover all the “lost information”, including a decrease in an archaeological value (due to loss of research material), loss of income from tourists (if the site is open to the public) and other aspects targeting at the “all-included” report.³⁰

The lost information method (at least in terms of overall number of stolen antiquities) has been used by NCHB in assessing the amount of damage caused to ancient burial fields. For instance, in case of VRC as of 2018³¹, it is stated that “as indicated in the calculation of the loss of the cultural and historical value of the cultural monument, in 1983, 92 antiquities were obtained from 6 burial sites in the archaeological excavations carried out in the ancient cemeteries of Asarī”. Based on this information, “the representative of [NCHB], with regard to the number of items indicated as being stolen from the ancient cemeteries of Asari, indicated that the 91 antiquities listed in the list of stolen property were an adequate amount of antiquities that could be excavated from the 6 ancient cemeteries”.

Apart from the above mentioned, scientific literature (Rodríguez Temiño, 2019) provides an indicative formula to calculate the value of damage of the archaeological site:

$$V_d = (C_{exc} + \sum P_{bb} + \sum G_{conser/rest}) \times \sum (I_{sens1} + I_{sens2} + I_{sens3} \dots),$$

where:

V_d – is the total value of the damage;

C_{exc} – is the cost of the archaeological intervention that would have been necessary to record and document the totally or partially destroyed site;

$\sum P_{bb}$ – is the sum of the price that could be fetched for the movable and immovable objects that can definitely be identified on the site;

$\sum G_{conser/rest}$ – is the cost of the conservation and restoration of movable and immovable objects from or in the damaged area; and

$\sum (I_{sens1} + I_{sens2} + I_{sens3} \dots)$ – is the sensitivity index of the site in question, expressed as a coefficient.

³⁰ Rodríguez Temiño I., representative of Carmona Archaeological Site, Ministry of Culture and Historical Heritage, Junta de Andalucía, Spain (personal communication, Table 9, No. 6)

³¹ VRC judgement 2018 (Table 8, No. 9)

Assessing cultural monuments and defining their cultural significance can be highly subjective (Manders, Van Tilburg & Staniforth, 2012). It is, therefore, of utmost importance for damage assessment criteria to be predefined, transparent and known to the public, while for the authorities to be legal and consistent in their implementation. This forms an integral part of the principle of legal certainty which includes clarity of norms, legal accuracy and public awareness of the requirements of norms.³²

While only few countries of those analysed within the framework of the research provide for overall evaluation of cultural monuments (e.g., economic evaluation before damage has been caused thereto and evaluation of the whole monument after the caused damage), the absolute majority evaluates the costs associated with damage done. However, an approach of the countries to damage assessment is far from homogeneous both in form and in substance. Out of 12 countries analysed by the authors, only two (Lithuania³³ and Moldova³⁴) have approved statutory requirements related to damage assessment. Others use model damage assessment documents (e.g., Finland), compile reports on a case-by-case basis (e.g., Cyprus³⁵) or rely on internal documentation (most probably that public access to these documents is not provided). This seems to be also a case of Latvia, since national legal acts provide just for general assessment directions, but the information on particular assessment criteria is not publicly available.

Evaluation of Socio-Economic Components of Damage Caused to the Cultural Monuments

Cultural monuments are the most directly perceivable part of the cultural heritage with the greatest added value (Latvian Academy of Sciences Economic Institute, 2002). Apart from investment attractiveness,³⁶ it is the existence or absence of cultural heritage that determines the tourism potential of the whole area, which in turn creates related economic benefits of workspaces, markets for goods and services, and the resulting taxes in state and municipal budgets (Latvian Academy of Sciences Economic Institute, 2002). Therefore, the negative effect caused to socio-economic potential of the area by the damage done to a cultural monument should not be underestimated.

³² For substance of the principle of legal certainty see CC judgement No. 2010-02-01 (Table 8, No. 2), Osipova, 2017; Rezevska, 2016; For the rights of information see Information Law LV (Table 6, No. 11), part 3, Section 2 “Information shall be accessible to the public in all cases, when this Law does not specify otherwise”; SCS AD judgement SKA-917/2019 (Table 8, No. 7)

³³ Methodology LT (Table 5, No. 7)

³⁴ Methodology MOL (Table 5, No. 6)

³⁵ Department of Antiquities, Ministry of Transport, Communication and Works, Republic of Cyprus (Table 9, No. 3)

³⁶ The influence prestige associated with owning old mansions-monuments can be traced from information on the cost of ownership in countries with a developed market for the sale of monument buildings. For example, in England, the Czech Republic, and the USA, on average, the unit costs of monument buildings exceed the cost of analogues by 130–140 percent (Jaskevich, 2009). It is reasonable to assume the value premium is driven by four categories of explanations: heritage, neighbourhood characteristics, proximity, and public policy (Rypkema, 2012).

Table 2 provides the (non-exhaustive) list of socio-economic benefits, which might be taken into account when articulating the overall damage/loss caused to cultural monuments.

Table 2. Socio-Economic Benefits of Use/Management of Cultural Monuments³⁷

Benefits, ensuring direct effect/ income	<ul style="list-style-type: none"> - tickets and other payments for use of cultural heritage - more workplaces at the heritage object/ site
Benefits, ensuring indirect effect/ income	<ul style="list-style-type: none"> - more visitors to the area - ancillary spending (food, goods, accommodation etc. for visitors) - developing related businesses - developing local food and crafts - facilitating local/ regional marketing - increase in investment capabilities - higher public revenues - reducing local emigration (e.g., owing to employment and entrepreneurial opportunities) - facilitating pleasant and secure environment, wealthy community
Other benefits, having social impact	<ul style="list-style-type: none"> - Information and education - Promoting national identity and security - Facilitating social inclusion & reducing social tension - Strengthening humanism - Contributing to the development of inclusive society

While an absolute majority of the analysed countries evaluate current costs associated with damage assessment, most of the countries do not evaluate socio-economic components or the losses related to impossibility/diminishment of further use of the objects as a result of the caused damage (e.g., Cyprus,³⁸ the Netherlands,³⁹ Moldova⁴⁰). In Estonia, only the loss of scientific data or the loss of the possibility of future research is evaluated⁴¹. In Germany, unearned tourism income, loss of an unidentified source of scientific data, education and training and determination of the positive effect of the object over its environment can be evaluated within the general procedures provided for in Civil and Criminal Codes, not inside the administrative cultural heritage protection level.⁴² The latter criteria – determination of the positive effect of the object over its environment – is also provided for in the evaluation methodology of Russia (Table 5, No. 4); however, it relates to the overall evaluation of the cultural monument and might be mentioned as one of the design values in appraisal assignment.

³⁷ As a basis, the authors used Brodie, 2010, Pūķis, 2011

³⁸ Department of Antiquities, Ministry of Transport, Communication and Works, Republic of Cyprus (Table 9, No. 3)

³⁹ Aten N., inspector, Government Information and Heritage Inspectorate (Table 9, No. 1)

⁴⁰ Methodology MOL (Table 5, No. 6)

⁴¹ Raie S., director general of the National Heritage Board of Estonia (Table 9, No. 5)

⁴² Göhner W.K., assessor iuris, Chief Legal Officer Bavarian State Conservation Office (Table 9, No. 4)

Out of the mentioned socio-economic components, in Latvia, unearned tourism income might be requested under the auspices of Civil Law as lost profit.⁴³ However, up to the authors' knowledge, this criterion has never been evaluated or reviewed by the court.

The list of all the three mentioned types of assessment criteria ("before" and "after" evaluation of the cultural monument, damage-related costs and socio-economic components) used by the countries in assessing damage caused to cultural monuments is provided in Table 3 below (either provided for in legal acts, confirmed by respective experts or determined based on the analysis of the publicly available information).

Table 3. Examples of Components for Assessment of Damage Done to Cultural Monuments

Basic component	Type of assessment	Cyprus	Estonia	Finland	Germany	Latvia	Lithuania	Moldova	The Netherlands	Russia	Spain	Sweden	Ukraine
Financial evaluation of the whole cultural object	Evaluation of the whole object in monetary terms before damage is caused (initial evaluation) for transaction, lease, insurance, mortgage, investment, liquidity, cadastral, treasure finds' value, etc. assessment purposes	N	N	N	N	Y	–	–	N	Y	N	N	Y
	Evaluation of the whole object in monetary terms after damage is caused (post factum evaluation)	N	N	–	Y	Y	–	–	N	–	Y	Y	Y
Costs associated with damage caused	Evaluation of costs associated with damage caused that may include:	Y	Y	Y	Y	Y	Y	Y	Y	–	Y	Y	Y
	Costs for drafting restoration/repair project documentation	Y	Y	–	Y	N	–	Y	N	–	Y	–	–
	Costs of restoration and repair	Y	Y	–	Y	N	Y	Y	Y	Y	Y	Y	Y

⁴³ Section 1786, Civil Law LV (Table 6, No. 7)

	Measures to reduce consequential loss; emergency restoration	Y	N	–	Y	N	Y	–	N	–	Y	–	–
	Change of cultural/archaeological value	Y	Y	Y	Y	Y	–	N	N	Y	Y	–	–
	Costs for archaeological research to document the monument; additional expertise and studies (e.g., work in archives, with historical records, outsourced conservation/restoration specialists, etc.)	Y	Y	–	Y	N	Y	Y	N	–	Y	Y	–
	Loss of intangible part of the asset	N	N	–	Y	N	–	–	N	Y	Y	–	–
Evaluation losses related to impossibility/diminishment of further use of the object	Unearned tourism income (for the time of repairing/after that)	N	N	–	Y	Y	Y	N	N	–	Y	–	–
	Loss of an unidentified source of scientific data and education and training	N	Y	–	Y	N	Y	N	N	–	Y	–	–
	Determination of positive effect of the object over its environment	N	N	–	Y	N	–	N	N	Y	Y	–	–

Designations used in the Table 3:

“Y” – yes, “N” – no, “–” – no information available

Comments and sources of information for Table 3:**Cyprus**

There are no specific documents or standard procedure for damage assessment of archaeological sites in Cyprus. When such cases arise, specific archaeological and conservation reports are compiled on a case-by-case basis. Mainly inherent cultural value and cost of conservation are taken into account. The decrease in the overall evaluation of the whole monument might be expressed in a percentage rate, but not in monetary terms (Department of Antiquities, Ministry of Transport, Communication and Works, Republic of Cyprus, personal communication (Table 9, No. 3); Protection Law CY (Table 6, No. 3)

Estonia

The cost for drafting restoration/repair project documentation is taken into account for damage assessment purposes, but it is not included in the basis for punishment (Raie S., personal communication (Table 9, No. 5); Protection Law EE (Table 6, No. 13); Penal Code EE (Table 6, No. 20)

Finland

Protection Law FI (Table 6, No. 2); Criminal Code FI (Table 6, No. 9)

Germany

The damage evaluation process is done in Germany mainly under Civil and Criminal Code aspects, not inside the administrative protection level (Göhner W.K., personal communication (Table 9, No. 4); Civil Code GE (Table 6, No. 7))

Latvia:

Protection Law LV (Table 6, No. 15); Civil Law LV (Table 6, No. 8); VRC judgement 2018 (Table 8, No. 9)

Lithuania

Protection Law LT (Table 6, No. 17); Methodology LT (Table 5, No. 7)

Moldova

Methodology MOL (Table 5, No. 6)

The Netherlands

The information provided relate to the cultural monuments of archaeological nature only (Aten N., personal communication (Table 9, No. 1))

Russia

Methodology RUS (Table 5, No. 4); Evaluation standard No. 2 RUS (Table 5, No. 1); Evaluation standard No.7 RUS (Table 5, No. 2); Evaluation Law RUS (Table 6, No. 11)

Spain

Rodríguez Temiño I., personal communication (Table 9, No. 6)

Sweden

Barkin M., personal communication (Table 9, No. 2); Protection Law SE (Table 6, No. 14)

Ukraine

Evaluation of the whole object in monetary terms after damage is caused is mentioned in the Methodology UKR for insurance claim statement purposes (Table 5, No. 5)

2. SITUATION IN LATVIA

Looting of archaeological sites in Latvia is a comparatively frequent phenomenon, which (at least most notable cases) consistently attracts attention of mass media.⁴⁴ Series of the very significant cases of damage caused to archaeological sites in Latvia occurred at the beginning of 2015, when several ancient cemeteries and more than 600 individual graves were looted in the Eastern part of the country (TVNET, 2015). One of the most recent looting activities was reported in April 2020, when more than 100 pits were detected in an ancient cemetery of state significance (National Cultural Heritage Board, 2020). It is worth mentioning that the attitude of local mass media towards illegal diggers is predominantly negative and usually does not glorify their activities.⁴⁵ Emphasising the damage done in the course of illegal excavations, mass media contribute to facilitating a negative social attitude to looting archaeological sites with the purpose of obtaining and selling antiquities.

Available statistical data show that out of all archaeological monuments, ancient burial places followed by the hillforts are particularly vulnerable to the risk of looting (Kairiss, 2017). That is why some calculations regarding possible commodity value or more precise the loss of scientific value of burial places attempted to be made. According to information of 2015, the average value of one middle or late Iron Age tomb inventory was assessed to be around 2 700 EUR and the loss of the scientific value of the burial averaged around 480 EUR (Latvijas

⁴⁴ Valmieras ziņas, 2019; Skaties.lv, 2018; IR, 2016

⁴⁵ Opposed to practice of mass media in some other countries, for instance, Romania, where media is contributing to the popularization of this activity, see Ganciu, 2018

Avīze, 2015). It is however unclear which exactly criteria were used to make such a calculation. It is also not clear whether these numbers compensate the diminished value of the monument as a whole or relate just to damage done to the individual graves.

Trying to shed more light on the situation in Latvia, we should take a look at the legal regime currently in force in the country.

Legal Regime

In Latvia, cultural objects that form part of the cultural and historical heritage, according to the umbrella law – Protection Law LV, are subject to special protection and are called cultural monuments. The term equally refers to movable and immovable objects with historical, scientific, artistic or other cultural value, preservation of which is in conformity with the interests of the Latvian state, the people and international interests.⁴⁶ The overall cultural heritage protection regime is determined by Protection Law LV, corresponding legal regulations and regulatory acts.

While technically the mentioned legal regime provides for the whole cultural and historical evaluation of the cultural monuments both before and after the damage has been caused to them, as well as for evaluation of costs associated directly with the damage, as will be shown further in the text, the legal provisions appear to be quite general and declaratory in nature. There are no officially approved, more or less detailed predefined criteria for articulating neither value of the monuments nor damage assessment costs.

Failure to ensure precise economic valuation of monuments presumably gives rise to two blocks of consequences:

- without knowledge of the initial value of those cultural monuments that are in the public domain (before any damage has been caused to them), it is impossible to conclude what significance it represents as a resource (e.g., European Commission, Eurostat, 2017) for the state or people of Latvia. Thus, there appears the risk of suboptimal allocation of resources in the sector, investment failure, and continuous degradation of the cultural assets (Mourato & Mazzanti, 2002). It should be mentioned that SPCMR, which agglomerates all the cultural monuments enjoying the Latvian state protection and maintained by the NCHB, does not integrate the information about ownership rights of the listed cultural monuments. Therefore, neither the state itself, nor the society is aware of the quantity and quality of publicly owned cultural objects (in fact – capital resources). The inadmissibility of such a situation in connection with the lack of accounting of various resources belonging to the public sector has been repeatedly pointed out in the audit reports by the State Audit Office. Analysing the situation with the accounting of state-owned minerals, the State Audit Office, for example, indicates (Table 4, No. 7; p. 3): “*In a situation where not all assets are listed*

⁴⁶ Section 1, Protection Law LV (Table 6, No. 15)

*and their value is not estimated, the risk of their fraudulent misuse increases”;*⁴⁷

- while Protection Law LV imposes on the cultural monuments' owner a range of obligations to preserve and protect the monument,⁴⁸ the amount of damage to a cultural monument caused by its owner's actions or omissions can hardly be assessed, since there is no point of initial reference from which the damage is to be calculated.

Failure to ensure clearly defined damage assessment criteria, in its turn,:

- limits (or even precludes) the possibility to hold an offender to account within administrative, criminal (where applicability of legal norm is predominantly based on the harm caused to the monument expressed in monetary terms⁴⁹) or civil procedure and determine the imposed penalties or compensation of losses;
- does not provide for overall calculation of losses in case of double or multiple designation of cultural objects. It should be mentioned here that the SPCMR does not identify which cultural monument, if any, simultaneously is designated as another protected asset (for example, forms part of the national inventory of museum, archive or library). Multiple designations are a common feature for heritage asset. For sites with multiple designations, it is necessary to consider and understand all of the designations and the heritage interest that is being protected (Table 5, No. 3).

The legal analysis provided below determines the existing challenges in the currently applicable norms of the Latvian law and their practical implementation.

Value Determination of Cultural Monuments in Latvia

According to Section 28 of the Protection Law LV, the cultural and historical value may be determined for each cultural monument to which harm has been caused. It shall be carried out by the National Heritage Board. Compensation for damage caused to a cultural monument shall be calculated in conformity with the cultural and historical value determined for such cultural monument.⁵⁰

The first sentence of the Section is for several reasons ambiguous, e.g.:

- cultural and historical value is not clearly defined;
- the words “may be” presume ambivalent reading;

⁴⁷ The member of the Council and director of the Fourth Audit Department of the State Audit Office (Ms. Inga Vilka) in the personal communication (19 May 2020) indicated that the State Audit Office adheres to such a position with regard to all inspection and accounting of all the public sector owned resources, including in relation to cultural heritage objects (Table 9, No. 7)

⁴⁸ For instance, obligation to ensure exploration before any construction works, perform conservation and restoration works, etc.

⁴⁹ Section 229, Criminal Law LV (Table 6, No. 10)

⁵⁰ The term *cultural and historical value of a cultural monument* is defined in par. 59 of Cabinet Regulation LV No. 474 (Table 6, No. 5), as *an assessment of a cultural monument, which includes the sum of the material, historical, scientific, cultural, aesthetic and market (international market of art and antique objects) value thereof*.

- attribution of determination of value only to damaged cultural monuments contradicts the other rules of the Protection Law LV and corresponding legal regulations.

Cultural and Historical Value

The term cultural and historical value of a cultural monument is defined in Par. 59 of Cabinet Regulation LVL No. 474 (Table 6, No. 5), as an assessment of a cultural monument, which includes the sum of the material, historical, scientific, cultural, aesthetic and market (international market of art and antique objects) value thereof. The Protection Law LV (Table 6, No. 15), in its turn, apart from the mentioned six components (e.g., material, historical, scientific, cultural, aesthetic and market value) provides for other types of values common to cultural monuments, including artistic, architectonic, archaeological, ethnographic value (these values are to be recorded and researched for cultural objects of value to lay claim to inclusion in the list of state protected cultural monuments).⁵¹ From the regulation it is unclear (or more precisely, non-defined) whether and to what extent those valuation characteristics should be included in the determination of cultural and historical value of cultural monuments.

Ambivalent Wording

To explain this ambiguity, the evolution of the norm should be presented. Initial wording of the first sentence (from the year of adoption, 1992, till the only substantial changes in 2018) of Section 28 of Protection Law LV is as follows: *the cultural and historical value may be determined for each cultural monument*.⁵² The words “may be” are vague from the legal point of view. Depending on the stress the user made when reading, one could understand this norm as providing imperative determination of value to any cultural monument while the other might consider it as admitting absence of such determination. Therefore, it was not clear whether the owner of the cultural monument (as well as potential buyer or seller thereof) was entitled to evaluation of its (current or potential) property.⁵³ The amendments, introduced in the Section in 2018, supplemented the clause by attributing possible determination of value only to those cultural monuments *to which harm has been caused*, leaving the ambiguity of words “may be”, discussed above, untouched, and therefore unsolved.

⁵¹ Section 12, Protection Law LV (Table 6, No. 15)

⁵² Section 28, Protection Law LV (Table 6, No. 15), statutory wording in force till 12 June 2018 (included).

⁵³ Cultural monuments that form part of the larger real estate object are not generally singled out in the Land Book Registry as a separate object that is material in value, but are perceived as encumbrance. According to the Restricted Territories Law (Table 6, No. 16), territories of the state protected cultural monuments are considered restricted territories, therefore by their very existence impose restriction on the property rights of the owner, who is obliged to corroborate this restriction in the Land Register (where it is reflected in section “Property rights that encumber real estate”). This concept of a cultural monument as a burden, and not an opportunity, might deprive it (at least in the conscience of possessors) of its potential value.

Valuation of Damaged Cultural Monuments Only

According to the annotation of the amendments mentioned above (Annotation to Protection Law LV 2018 (Table 6, No. 1)), determining the cultural and historical value of all cultural monuments in monetary terms was considered by the initiators of the amendments useless and, from the point of view of administrative capacity, unfeasible. Each of the mentioned arguments invites for a discussion.

Uselessness. The suggested uselessness of determining the cultural and historical value, provided for in the annotation, appears to be doubtful. The initiators of the legal amendments excuse themselves by referring to complexity of the value determination process, variability of the value of a cultural monument in the course of time and influence from the open market in Europe (Annotation to Protection Law LV 2018 (Table 6, No. 1)). It should be noted that the head of NCHB (Dambis, 2019) personally points out that the most important for the list of protected cultural monuments is, *inter alia*, sufficiently identified and defined cultural and historical value, therefore confirming the necessity of articulating the value. The same perception had been expressed in annual work reports of NCHB up to and including 2016 (Table 4, No. 1–3), where the *objectives of the inspection* of cultural monuments included as a first criterion *assessment of values* and the *objectives of drafting inspection documents* included as a first criterion *documenting of cultural and historical values*. These objectives are no more there in ARs of 2017 and later.

Moreover, in accordance with par. 90¹ of Cabinet Regulation LV No. 956, all insured museum objects must be valued in monetary terms (according to market value or utilitarian value and cultural and historical value of the object).⁵⁴ In view of the above, by analogy, it is not clear why the relevant immovable cultural monuments are not valued (since at least two of the aspects – complexity of the value determination process and variability of the value of object in the course of time – are common for both categories: museum objects and cultural monuments).

Unfeasibility. Lack of administrative capacity has been manifoldly mentioned in the ARs of the NCHB.⁵⁵ Significant amount of information to be specified and the need of additional voluminous research for value assessment purposes, in conjunction with insufficient funding (Dambis, 2019), causing subsequent lack of capacity, most probably laid the basis for assumed unfeasibility of value assessment of undamaged cultural monuments. While issues of administrative capacity are predominantly outside the scope of competence of the authors, it has been noted by the State Audit Office that most probably at least part of the respective functions of the NCHB might be delegated to municipalities, which in their turn might increase administrative capacity of the NCHB (Table 4, No. 6; p. 6).⁵⁶

Conflict of legal norms. Attribution of value determination only to damaged cultural monuments contradicts the other rules of the same Protection Law LV and

⁵⁴ Appendix 6 of Cabinet Regulation LV No. 956 (Table 6, No. 6)

⁵⁵ AR 2018 (Table 4, No. 5), AR 2017 (Table 4, No. 4), AR 2016 (Table 4, No. 3)

⁵⁶ According to the Audit Report 2016 (Table 4, No. 4), if the NCHB delegated part of its tasks in the field of protection of immovable cultural monuments of local significance to local governments, as it is admitted by law, then it could direct its administrative resources to perform other tasks.

corresponding legal regulations. For instance, according to existing legal rules, historical, scientific, artistic, architectonic, archaeological, ethnographic or other cultural value should be determined and recorded appraising eligibility of cultural objects to inclusion in the list of state protected cultural monuments,⁵⁷ prior to developing a restoration or reconstruction design of a cultural monument,⁵⁸ etc.

Taking into account the abovementioned, it is desirable to review the wording of Section 28 of the Protection Law LV in order to broaden the scope of the norm to cover the initial evaluation of cultural monuments and unambiguously determine the cases and procedure thereof, since a legal norm, which is formulated in a vague, incomprehensible, linguistically insufficient and uncertain way, loses its purpose (SC AD judgement SKA-555/2012 (Table 8, No. 4)).

Damage Assessment Criteria

As mentioned above, evaluation of damage caused to cultural monuments expressed monetarily directly affects the outcome of imposed penalties in criminal procedures and compensation of losses in civil claims.

Criminal procedure. Under Section 229 of Criminal Law LV rules, a person might be subject to criminal liability for destruction, damaging or desecration of a cultural monument protected by the state if he / she caused substantial harm to the interests of the state or the public. The substantiality of harm caused to the cultural monument primarily depends on the property loss expressed in monetary terms.⁵⁹

According to the CA statistics (Court Administration, Court work data portal, n. d.), over the past 5 years there have been just a few court cases based on Section 229 of Criminal Law LV and no clarification of the Supreme Court on the applicability and substance of the norm. It is therefore unclear how the object of the criminal offence is established, how the damage amount might be confuted or objected, how and which exactly threatened interests lay basis for applicability of this regulation. As an example, one of 2018 court cases⁶⁰ might be mentioned. There, the court dismissed the claim for compensation without evaluating damage done to the cultural monument, but only the value of looted antiquities. The court stated that NCHB submitted a claim for compensation of damage in the amount of 17 784.47 EUR. Given that all the looted archaeological antiquities were to be confiscated and transferred to the state, compensation for damage could not be determined. In the same case the court terminated criminal proceedings based on Section 229 of Criminal Law LV, because *the indictment did not state that by damaging the cultural monument [...] protected by the state, the [accused person] caused significant damage to the state or public interests and in what way this significant damage was expressed*. The aforementioned leads to the conclusion that

⁵⁷ Section 12, Protection Law LV (Table 6, No. 15)

⁵⁸ Par. 21 of Cabinet Regulation LV No. 474 (Table 6, No. 5)

⁵⁹ Section 23, Criminal Law Enforcement Act (Table 6, No. 19), see footnote 9.

⁶⁰ VRC judgement 2018 (Table 8, No. 9)

the reasons for such a court decision might include insufficient evidence of damage caused to cultural monument and unobjective/improper assessment thereof.⁶¹

It should be noted that in comparison with the mentioned Section 229, the norm on intentional destruction of and damage to property,⁶² not specifically addressing cultural monuments, was broadly analysed. According to the established case law, *the object of the criminal offense is the damaged or destroyed property or the damaged or destroyed part of the property, if it is possible to separate it and assess it separately. Compensation for damage consists of the value of the object of the crime and the costs of restoration.*⁶³ Therefore, looking at damage to cultural monuments by analogy with the damaged or destroyed property, it is crucial to determine and objectively evaluate the subject matter of the criminal offence to be able to articulate compensation and restoration costs. In any case it should be understood that cultural monuments possess distinctive qualities (values), so analogy cannot be applied fully and without reservations.

Civil procedure. Par. 59 of Cabinet Regulation LV No. 474 states that a person, who has caused *damages to a cultural monument or has illegally modified the cultural and historical environment in the territory of the cultural monument or in the protection zone thereof shall renovate the cultural monument and the environment to the previous condition. If renovation is not possible, the persons referred to shall compensate the losses in accordance with the procedures specified by the Civil Procedure Law.*

Compensation of losses to the victim is the main civil remedy available against consequences of the infringement. Its purpose is to ensure that the situation which would have existed in the absence of the infringement has been restored as fully as possible (Torgāns, 2006). According to the Civil Law LV, *a loss which has already arisen may be a diminution of the victim's present property or a decrease in his or her anticipated profits.*⁶⁴ Section 1792 of Civil Law LV, in its turn, states that *if a claim for compensation of losses has arisen [...] from acts which are of themselves illegal, then the loss valuation shall correspond to the value of the subject-matter at the time the loss was occasioned.*

Therefore, the subject-matter or the damaged object should be properly determined and precisely assessed in order to justify a claim for compensation of losses. This rule is equally applicable to the claims for compensation of lost profits, where there should be *no doubt [...] that such detriment resulted, directly or indirectly, from the act or failure to act which caused the loss.*⁶⁵

As mentioned above, there are no officially adopted criteria for assessment of damage caused to cultural monuments in Latvia.

⁶¹ The same conclusion may be drawn from the CA statistics, according to which only two persons were convicted based on Criminal Law LV Section 229 and only five persons based on the Criminal Law LV Section 228, part 3 (see footnote 3) from 2016 to 2020 (CA statistics 2010).

⁶² Section 185, Criminal Law LV (Table 6, No. 10)

⁶³ See, for instance, SCS CD decision SKK-408/2018 (Table 8, No. 4); SCS CD decision SKK – 194/2011 (Table 8, No. 5); Court practice, 2014 (Table 8, No. 3).

⁶⁴ Section 1772, Civil Law LV (Table 6, No. 8)

⁶⁵ Section 1787, Civil Law LV (Table 6, No. 8)

Conservation of Cultural Monuments

According to Part 1 of Section 24 of Protection Law LV “*conservation, maintenance, renovation and restoration of a cultural monument shall be performed by the owner (possessor) of the cultural monument at his or her own expense*”. This rule does not differentiate the cases of damage caused to cultural monuments by the owner himself and by illegal activities of third parties, independently of the status of the owner (whether it is a private or public person). In case of damage caused by third parties, the owner is eligible for compensation of losses directly from the offender through legal action, which might take quite long time (perhaps a year or more) till the court decision comes into force. Besides, it should be noted that in cases of damage caused to archaeological sites (for instance, as a result of illegal digging activities) the offender is often very hard to identify and prove the link between the offender and damage caused. In these cases, it is important to understand who is responsible for conservation of the damaged cultural monument during the time period until the offender is charged or, if the perpetrator is not identified, after the damage has been caused to the monuments.

Civil Law LV provides for the general clause of responsibility of a *reasonably prudent and careful owner*.⁶⁶ If we read it in conjunction with Section 24 of Protection Law LV it might seem that the owner is the one that should be obliged to perform conservation, at least emergency conservation in cases of damage caused to the monument, since the illegal activities have been made on his owned real property. The level (or limits) of reasonableness and prudence of the owner, up to the authors’ knowledge, has not been interpreted by the courts or explained by the authorities. The potential solutions, like fencing the territory, insuring the monument,⁶⁷ etc., especially for the cultural monuments that do not generate income to the owner, in practice can be very burdensome.

In order to further figure out who bears the obligation of conservation of the damaged cultural monument, the Protection Law LV in Section 24 provides for the following:

- *The state should allocate budget to the surveying of cultural values, research, and other measures related to the preservation of cultural monuments, upon proposal of the National Cultural Heritage Board.* This is the general rule that does not provide directly for the cases of emergency conservation in cases of damage caused by illegal activities of the third parties; therefore, the exact procedure (whether the owner is the one to initiate the procedure, on what basis the NCHB draft does its proposal, what are the other terms and conditions of the procedure) is unclear;
- *The National Heritage Board shall prepare a draft programme for the conservation and restoration of cultural monuments [...] and in accordance with open tendering procedures, allocate funds to conservation and restoration of such cultural monuments of state and regional significance which are available for public viewing.* This rule gives the right to the owner

⁶⁶ Section 1646, Civil Law LV (Table 6, No. 8)

⁶⁷ Insurance companies in Latvia usually do not insure separately archaeological cultural monuments.

of the damaged cultural monument to pretend (in an open tender) for the funds to conserve the damaged monument; however, only in cases when this monument is available for public viewing, which is not always the case. The exact procedure is equally unclear.

- *Funds from local government budgets shall be allocated for the conservation and restoration of such cultural monuments of regional and local significance which are available for public viewing and may be allocated for the conservation and restoration of the cultural monuments of state significance which are available for public viewing.* In this case again the right to pretend for funds is only for the monuments open to public, the exact procedure is not determined, and, from the practical point of view, the availability of funds in possession of local government might also be not enough.

From conducting the legal analysis, it can be concluded that there are no predefined exact procedures for financing and emergency conservation of cultural monuments damaged as a result of illegal actions of third parties. As practice shows, in some cases the conservation (putting in order) of the damaged cultural monuments takes place four or even more years after the incident.⁶⁸

DISCUSSION AND CONCLUSIONS

Limitations of the research. The conducted research has several limitations that should be taken into account. The main limitation relates to the sufficient lack of case law in Latvia and restricted access to case materials that prevented the authors from a deeper analysis of the qualification aspects, the reasons for so limited number of court cases in comparison with a large number of registered offences related to destruction, damaging or desecration of cultural monuments. Therefore, the research on situation in Latvia was based solely on the analysis of legal regulation, publicly available data on court decisions statistics and reports.

The other limitation related to comprehension of the research topic from both theoretical and what is more important – practical point of view, was presented by the lack of prior research studies on the topic of damage assessment criteria for archaeological sites in the European countries in general and in Latvia in particular. The only two available studies on the perception of cultural monuments and the socio-economic role of tangible cultural heritage in Latvia, while being subject-specific, are of 2002 (Latvian Academy of Sciences Economic Institute, 2002) and 2011 (Pūķis, 2011).

Conclusions. The analysis shows that the interests of many stakeholders are significantly related to the monetary assessment of the archaeological sites themselves and / or the damage caused to them. In a number of cases, the assessment of losses in monetary terms is also determined by law. Thus, while acknowledging that some components of cultural monument value (e.g. symbolic, sacred, cultural identities, etc.) are not quantifiable, there is usefulness and, where

⁶⁸ Latvijas Avīze, 2019; Lrtv.lv, 2019

appropriate, a necessity for a monetary assessment of both the objects themselves and the damage caused to them.

It should be noted that the administrative capacity of the institutions that carry out the relevant assessment is an important factor that largely determines the possibility of carrying out the assessment of cultural monuments. The question of the monetary valuation of all immovable cultural monuments (prior to the damage) is likely to be guided by the principle of utility in assessing whether the cost of valuation will not outweigh its benefits. The monetary valuation of publicly owned cultural monuments should also be viewed from another angle –as it is significantly related to the management of public property and the development of its socio-economic potential, valuation of public capital assets, accountability to the public, etc., then monetary valuation both before and after the damage is essential.

National approaches and practices for evaluation of immovable cultural (archaeological) monuments and the damage caused to them differ. Monetary valuation of the entire object, prior to the damage, is generally not performed. In only a few countries there is a monetary valuation of an entire object performed after the object has been damaged. In the majority of the countries examined, an assessment of the damage to the cultural monument is carried out and, in most cases, it also includes a monetary assessment of the various costs involved in restoring the cultural monument. In certain cases, the principles of evaluation, with varying degrees of detail, are set out in legislation. Some countries have developed detailed damage assessment methodologies and appropriate damage calculation formulas. In most of the countries examined, external or internal regulation lays down more or less precise criteria for assessing damage. It should be noted that with some rare exceptions, the assessment does not take into account the socio-economic impact of the loss on the future use of the cultural monument and the potential income (e.g., development of cultural tourism, etc.). Insufficient consideration of the indirect economic effects (benefits) produced by cultural monuments in the assessment of losses is an important aspect that requires further analysis from both a socio-economic and legal point of view.

The need for clear, transparent and objective criteria for the assessment of damage to cultural monuments stems both from the legal requirements and case law, as well as from the stakeholders' legitimate expectation that public authorities do so objectively, honoring the need for uniformity and resource efficiency in their work.

Recommendations. When describing the situation in Latvia, it should be noted that the existing regulatory framework regarding the assessment of damage caused to cultural monuments, the restoration of damaged cultural monuments and determination of liability should be improved. This applies to:

- stipulating clear criteria according to which the assessment of the caused damage shall be performed, incl. in monetary terms (respectively Protection Law LV (Table 6, No. 15) and Regulations No. 474 (Table 6, No. 5); if the legal act does not provide for the necessary level, then developing and publishing the damage assessment methodology would be beneficial);
- since assessment of cultural and historical value after the damage caused by itself (without existent initial evaluation of the cultural monument) does not

clearly show the diminishment of value or the amount of losses caused by the damage, amending the vague provision in Section 28 of the Protection Law LV (Table 6, No. 15), determining that damage assessment (not cultural and historical value) shall be performed for all cultural monuments, regardless of their property rights and stipulating particular procedures thereof. The results of the current research could also contribute to considering possible steps in broadening the scope of the norm to cover the initial evaluation of cultural monuments (or at least, providing for certain cases of required evaluation in order to harmonise the legal norms);

- establishment of clear procedures for the financing and emergency conservation of cultural monuments damaged as a result of illegal actions of third parties. It is necessary to determine the rules, terms and procedures for the restoration of damaged cultural monuments, the procedure for financing these works, especially in the event that the perpetrators have not been identified or the court proceedings (and, consequently, compensation for damage) are lengthy. It would also be useful to develop methodological materials for the owners of cultural monuments regarding the action to be taken in determining the damage caused to the monument by third parties;
- advisability to draft clarification of the Supreme Court and developing doctrine on the applicability and substance of Article 229 of the Criminal Law (Table 6, No. 10), establishing the object of the criminal offence, how the damage amount should be confuted or objected, how and which exactly threatened interests lay the basis for applicability of this regulation.

This article provides a general analysis of the situation, existing and potential solutions in the field of damage assessment of cultural (archaeological) monuments, taking into account both the scope and the thematic limitations. For a deeper understanding and analysis of the problem, more focused socio-economic and legal research should be carried out, studying the practice of courts, law enforcement and cultural heritage protection institutions (incl., e.g., composition of damage assessment reports, and practical implementation of emergency conservation of the damaged cultural monuments), as well as analysing the current issues of stakeholders and their solutions. Researching foreign practice has a lot of potential; thus, taking into account the national specifics, it might help in moving towards the introduction of internationally recognised criteria for damage assessment caused to archaeological heritage sites.

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ABBREVIATIONS AND NOTATIONS USED

ADC	- Alūksne District Court (one of the district courts of Latvia)
Annotation to Protection Law LV	- Annotation to the draft law on amendments to the Law of the Republic of Latvia On Protection of Cultural Monuments as of 2018
AR	- Annual work report of the State Inspection for Heritage Protection (from 2018 National Cultural Heritage Board)
Audit Report	- Audit Report of the Latvian State Audit Office
BayDSchG	- Bavarian Monument Protection Act, Federal Republic of Germany
CA	- Court Administration of the Republic of Latvia
Cabinet Regulation LV No. 474	- Cabinet Regulation No. 474 of the Republic of Latvia, Regulations Regarding the Registration, Protection, Utilisation and Restoration of Cultural Monuments and the Granting of the Status of an Environment-Degrading Object
Cabinet Regulation LV No. 956	- Cabinet Regulation No. 956 of the Republic of Latvia, Regulations Regarding the National Holdings of Museums
CC	- Constitutional Court of the Republic of Latvia
Civil Code GE	- Civil Code of Germany
Civil Law LV	- Civil Law of the Republic of Latvia
CM order	- Ministry of Culture of the Republic of Latvia, order on State Protected Cultural Monuments Register
CoE 2017	- Convention on Offences relating to Cultural Property, Council of Europe, as of 3 May 2017
Court practice	- Latvian court practice in criminal cases on destruction and damaging of property
Criminal Code FI	- Criminal Code of the Republic of Finland (39/1889)
Criminal Code LT	- Law on the Approval and Entry into force of the Criminal Code of the Republic of Lithuania
Criminal Law LV	- Criminal Law of the Republic of Latvia
Criminal Law Enforcement Act	- Law On the Procedures for the Coming into Force and Application of the Criminal Law of the Republic of Latvia
EPSAS	- EPSAS issue paper on the accounting treatment of heritage assets
Evaluation Law RUS	- Federal'nij zakon Ob ocenочноj dejatel'nosti v Rossijskoj Federacii
Evaluation standard No.2 RUS	- Federal'nij standart ocenki «Celj ocenki i vidi stoimosti (FSO №2)» (Federal Evaluation Standard "Purpose of Evaluation and Types of Value")
Evaluation standard No.7 RUS	- Federal'nij standart ocenki «Ocenka nedvizhimosti (FSO № 7)» (Federal Evaluation Standard "Evaluation of Real Estate")
Information Law LV	- Freedom of Information Law of the Republic of Latvia
ICC	- International Criminal Court
LZA EI	- Latvijas Zinātņu akadēmijas Ekonomikas institūta pētījums "Kultūras pieminekļu īpašnieku attieksme pret kultūras pieminekļu statusu kā apgrūtinājumu" (Research of the Economic Institute of the Latvian Academy of Sciences "Attitude of Cultural Monument Owners toward the Status of Cultural Monuments as a Burden")

Methodology LT	- Order: approval of the description of the method of restoration of damaged immovable cultural property and of the procedure for determining the amount of loss (Republic of Lithuania)
Methodology MOL	- Metodologija po finansovoj ocenke usherba, nanesjonnogo postrojennomu kulturnomu naslediju (istoricheskim pamjatnikam), (Methodology on financial evaluation of damage caused to built cultural heritage (historic monuments))(Republic of Moldova)
Methodology RUS	- Metodicheskie rekomendacii po ocenke objektov nedvizhimosti, otnesjonnih v ustanovlennom porjadke k objektam kulturnogo nasledija, (Methodological recommendations on evaluation of real estate objects, designated according to the rules as objects of cultural heritage) (Russian Federation)
Methodology UKR	- Metodika groshovoj ocinki pamjatok (Methodology of financial evaluation of monuments) (Republic of Ukraine)
NCHB	- National Cultural Heritage Board of the Republic of Latvia
NGO	- Non-governmental organisation
Penal Code EE	- Penal Code of the Republic of Estonia
Protection Law CY	- Antiquities Law of the Republic of Cyprus
Protection Law EE	- Heritage Conservation Act of the Republic of Estonia
Protection Law FI	- Antiquities Act (295/1963) of the Republic of Finland
Protection Law LT	- Law on Protection of the Immovable Cultural Heritage of the Republic of Lithuania
Protection Law LV	- Law of the Republic of Latvia On Protection of Cultural Monuments
Protection Law SE	- Historic Environment Act of the Kingdom of Sweden
Restricted Territories Law	- Law of the Republic of Latvia on the Information System of Restricted Territories
SCS	- Supreme Court Senate of the Republic of Latvia
SCS AD	- Department of Administrative Cases of the Supreme Court Senate of the Republic of Latvia
SCS CD	- Department of Criminal Cases of the Supreme Court Senate of the Republic of Latvia
SC Guideline	- Theft Offences: Definitive Guideline (for courts in England and Wales), Sentencing Council
SPCMR	- State Protected Cultural Monuments Register of the Republic of Latvia
Stat	- Statistics
TNZR	- New Zealand Institute of Economic Research. What's the use of non-use values? Non-Use Values and the Investment Statement
TNZ	- Treasury of New Zealand, Valuation Guidance for Cultural and Heritage Assets
UNESCO 1972	- Convention concerning the Protection of the World Cultural and Natural Heritage, UNESCO, as of 16 November 1972
UNIDROIT 1995	- Convention on Stolen or Illegally Exported Cultural Objects, UNIDROIT, as of 24 June 1995
VRC	- Vidzeme Regional Court (one of the regional courts of the Republic of Latvia)

APPENDIX (LIST OF DOCUMENTS)

Table 4. Work and Audit Reports of State Authorities

1	Annual work report of 2014 of State Inspection for Heritage Protection (from 2018 National Cultural Heritage Board), retrieved from: https://mantojums.lv/media/uploads/dokumenti/publiskie_parskati/parskats_2014.pdf (viewed 12.05.2020.)
2	Annual work report of 2015 of State Inspection for Heritage Protection (from 2018 National Cultural Heritage Board), retrieved from: https://mantojums.lv/media/uploads/dokumenti/publiskie_parskati/parskats_2015.pdf (viewed 12.05.2020.)
3	Annual work report of 2016 of State Inspection for Heritage Protection (from 2018 National Cultural Heritage Board), retrieved from: https://mantojums.lv/media/uploads/dokumenti/publiskie_parskati/parskats_2016.pdf (viewed 12.05.2020.)
4	Annual work report of 2017 of State Inspection for Heritage Protection (from 2018 National Cultural Heritage Board), retrieved from: https://mantojums.lv/media/uploads/dokumenti/publiskie_parskati/parskats_2017.pdf (viewed 12.05.2020.)
5	Annual work report of 2018 of National Cultural Heritage Board, retrieved from: https://mantojums.lv/media/uploads/dokumenti/publiskie_parskati/parskats_2018.pdf (viewed 12.05.2020.)
6	State Audit office audit report Nr.2.4.1-15/2015 as of 22.07.2016, Vai Latvijā plānotā un īstenotā kultūras pieminekļu aizsardzības politika nodrošina to saglabāšanu? retrieved from http://www.lrvk.gov.lv/uploads/reviziju-zinojumi/2015/2.4.1-15_2015/20.pielikums-revizijas-zinojums_km_22072016_ewp.pdf (viewed 12.05.2020.)
7	State Audit office audit report Nr. 2.4.1-38/2019 as of 26.11.2019, Zemkopības ministrijas darbība valstij piederošo derīgo izrakteņu apsaimniekošanā? retrieved from http://www.lrvk.gov.lv/revizija/zemkopibas-ministrijas-darbiba-valstij-piederoso-derigo-izraktenu-apsaimniekosana/ (viewed 19.05.2020.)

Table 5. National Methodologies, Standards and Guidelines

1	Federalnij standart ocenki «Celj ocenki i vidi stoimosti (FSO №2)», Ministerstvo Ekonomicheskogo Razvitija I Torgovli Rossijskoj Federacii, as of 20.05.2015, retrieved from http://www.ocenchik.ru/docsf/2230-cel-ocenki-vidy-stoimosti-fso2.html (viewed 12.05.2020.)
2	Federalnij standart ocenki «Ocenka nedvizhimosti (FSO № 7)», Ministerstvo Ekonomicheskogo Razvitija I Torgovli Rossijskoj Federacii as of 25.09.2014, retrieved from http://www.ocenchik.ru/docs/1961-standart-ocenki-nedvizhimosti-fso7-prikaz611.html (viewed 12.05.2020.)
3	Guidelines for Sentencers: Heritage Crime, Historic England, February 2017, https://historicengland.org.uk/images-books/publications/heritage-crime-guidance-sentencers/heag054a-guidance-for-sentencers/ (viewed 12.05.2020.)
4	Metodicheskie rekomendacii po ocenke objektov nedvizhimosti, otnesjonnih v ustanovlennom porjadke k objektam kulturnogo nasledija, 2015, odobreni k primeneniju Sovetom po ocenочноj dejatel'nosti 23.06.2015., Rossijskaja Federacija, retrieved from: https://rulaws.ru/acts/Metodicheskie-rekomendatsii-po-otsenke-obektov-nedvizhimosti,-otnesennyh-v-ustanovlennom-poryadke-k-obe-solt-bucagca/ (viewed 12.05.2020.)
5	Metodika groshovoj ocinki pamjatok, Cabinet Ministriv Ukraini, September 26, 2002 N 1447, retrieved from https://zakon.rada.gov.ua/laws/show/1447-2002-%D0%BF?lang=uk (viewed 12.05.2020.)

6	Metodologija po finansovoj ocenke usherba, nanesjonnogo postrojenomu kulturnomu naslediju (istoricheskim pamjatnikam), Prikaz Ministerstva Kulturi Respubliki Moldova, 12.12.2014, №306, retrieved from: http://base.spinform.ru/show_doc.fwx?rgn=73719 (viewed 12.05.2020.)
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8	Sentencing Council, Theft Offences: Definitive Guideline (for courts in England and Wales), February 2016, retrieved from: https://www.sentencingcouncil.org.uk/publications/item/theft-offences-definitive-guideline/ (viewed 12.05.2020.)
9	Treasury of New Zealand, Valuation Guidance for Cultural and Heritage Assets, as of 29 November 2002, retrieved from: https://treasury.govt.nz/publications/guide/valuation-guidance-cultural-and-heritage-assets-html (viewed 18.05.2020.)

Table 6. National Legal Acts

1	Annotation to Protection Law LV – annotation to the draft law on amendments to the Law of the Republic of Latvia On Protection of Cultural Monuments as of 2018, retrieved from https://titania.saeima.lv/LIVS12/SaeimaLIVS12.nsf/0/AB9CE5EB9D95A897C22582270030B854? (viewed 12.05.2020.)
2	Antiquities Act (295/1963) of the Republic of Finland, as of 17.06.1963, retrieved from: https://www.finlex.fi/en/laki/kaannokset/1963/en19630295?search%5Btype%5D=pika&search%5Bkieli%5D%5B0%5D=en&search%5Bpika%5D=Antiquities%20Act (viewed 12.05.2020.)
3	Antiquities Law of the Republic of Cyprus, retrieved from: https://www.eui.eu/Projects/InternationalArtHeritageLaw/Documents/NationalLegislation/Cyprus/antiquitieslaw.pdf (viewed 12.05.2020.)
4	Bavarian Monument Protection Act (BayDSchG), as of June 25, 1973, retrieved from: https://www.gesetze-bayern.de/Content/Document/BayDSchG (viewed 12.05.2020.)
5	Cabinet Regulation No. 474 of the Republic of Latvia as of 26 August 2003, Regulations Regarding the Registration, Protection, Utilisation and Restoration of Cultural Monuments and the Granting of the Status of an Environment-Degrading Object, retrieved from https://likumi.lv/ta/en/en/id/78458-regulations-regarding-the-registration-protection-utilisation-and-restoration-of-cultural-monuments-and-the-granting-of-the-status-of-an-environment-degrading-object (viewed 12.05.2020.)
6	Cabinet Regulation No. 956 of the Republic of Latvia as of 21 November 2006, Regulations Regarding the National Holdings of Museums, retrieved from: https://likumi.lv/ta/en/en/id/148769-regulations-regarding-the-national-holdings-of-museums (viewed 12.05.2020.)
7	Civil Code of Germany, as of 1900, retrieved from: https://www.gesetze-im-internet.de/englisch_bgb/
8	Civil Law of the Republic of Latvia, as of 1937, retrieved from: https://likumi.lv/ta/en/en/id/225418-the-civil-law (viewed 12.05.2020.)
9	Criminal Code of the Republic Finland (39/1889), as of 1889, retrieved from: https://www.finlex.fi/en/laki/kaannokset/1889/en18890039_20150766.pdf (viewed 12.05.2020.)
10	Criminal Law of the Republic of Latvia, as of 1998, retrieved from: https://likumi.lv/ta/en/en/id/88966-the-criminal-law (viewed 12.05.2020.)
11	Federalnij zakon Ob ocenочноj dejatel'nosti v Rossijskoj Federacii, as of 17.07.1998., retrieved from http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=348008&fld=

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13	Heritage Conservation Act of the Republic of Estonia, as of 20.02.2019, retrieved from: https://www.riigiteataja.ee/en/eli/504062019001/consolide (viewed 12.05.2020.)
14	Historic Environment Act (1988:950) of the Kingdom of Sweden, as of 30.06.1988, retrieved from: https://www.raa.se/in-english/cultural-heritage/historic-environment-laws/historic-environment-act-1988950/ (viewed 12.05.2020.)
15	Law of the Republic of Latvia On Protection of Cultural Monuments, as of 12.02.1992., retrieved from https://likumi.lv/ta/en/en/id/72551-on-protection-of-cultural-monuments (viewed 12.05.2020.); statutory wording in force till 12.06.2018. (included), retrieved from: https://likumi.lv/ta/id/72551-par-kulturas-piemineklu-aizsardzibu
16	Law of the Republic of Latvia on the Information System of Restricted Territories, as of 29.01.2009., retrieved from: https://likumi.lv/ta/en/en/id/187927-law-on-the-information-system-of-restricted-territories
17	Law on Protection of the Immovable Cultural Heritage of the Republic of Lithuania, 1994 december 22 No. I-733, retrieved from: https://www.e-tar.lt/portal/lt/legalAct/TAR.9BC8AEE9D9F8/asr (viewed 12.05.2020.)
18	Law on the Appraisal and Entry into force of the Criminal Code of the republic of Lithuania, as of 26.09.2000, No VIII-1968, retrieved from: https://www.legislationline.org/download/id/8272/file/Lithuania_CC_2000_am2017_en.pdf (viewed 12.05.2020.)
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20	Penal Code of the Republic of Estonia, as of 06.06.2001, retrieved from: https://www.riigiteataja.ee/en/eli/522012015002/consolide (viewed 12.05.2020.)

Table 7. International legal acts

1	Convention concerning the Protection of the World Cultural and Natural Heritage, UNESCO, as of 16 November 1972, retrieved from: https://whc.unesco.org/en/conventiontext/
2	Convention on Offences relating to Cultural Property, Council of Europe, as of 3 May 2017, retrieved from: https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/0900001680710435 (viewed 12.05.2020.)
3	Convention on Stolen or Illegally Exported Cultural Objects, UNDRIT, as of 24.06.1995, retrieved from: https://www.unidroit.org/instruments/cultural-property/1995-convention (viewed 12.05.2020.)

Table 8. Case law

1	Alūksne district court of Latvia, judgement, case No. K08-0176-15, as of 30.11.2015, retrieved from: https://manas.tiesas.lv/eTiesasMvc/nolemumi
2	Constitutional Court of the Republic of Latvia, judgement, case No. 2010-02-01, as of 19 June 2010, retrieved from: http://www.satv.tiesas.gov.lv/wp-content/uploads/2016/02/2010-02-01_Spridums.pdf
3	Latvian court practice in criminal cases on destruction and damaging of property, 2014, retrieved from: http://at.gov.lv/lv/judikatura/tiesu-prakses-apkopojumi/kriminaltiesibas (viewed 12.05.2020.)
4	Republic of Latvia Supreme Court Senate, Department of administrative cases, 16.11.2012., judgement, case No. SKA-555/2012, retrieved from: http://www.at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/administrativo-lietu

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5	Republic of Latvia Supreme Court Senate, Department of criminal cases, 20.04.2011. decision, case No. SKK – 194/2011, retrieved from: http://at.gov.lv/downloadlawfile/3909 (viewed 12.05.2020.)
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7	Republic of Latvia Supreme Court Senate, Department of administrative cases, 18.04.2019., judgement, case No. SKA-917/2019, retrieved from: http://www.at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/administrativo-lietu-departamentos/klasifikators-pec-lietu-kategorijam/tiesibas-uz-informaciju-un-uz-atbildi-pec-butibas
8	Prosecutor v. Ahmad Al Faqi Al Mahdi, Reparations Order, International Criminal Court, 2017, retrieved from: https://www.icc-cpi.int/CourtRecords/CR2017_05117.PDF
9	Vidzeme Regional Court, judgement, case No. KA05-0099-18, as of 13.12.2018., retrieved from: https://manas.tiesas.lv/eTiesasMvc/nolemumi

Table 9. Expert opinions and information provided on request

1	Aten N., inspector, Government Information and Heritage Inspectorate, opinion communicated 3 April – 4 May, 2020, upon request of the authors
2	Barkin M., legal advisor, Swedish National Heritage Board, opinion communicated 10 February-30 April, 2020, upon request of the authors
3	Department of Antiquities, Ministry of Transport, Communication and Works, Republic of Cyprus, opinion communicated 05 March-20 May, 2020, upon request of the authors
4	Göhner W.K., assessor iuris, Chief Legal Officer Bavarian State Conservation Office, opinion communicated 27 April – 4 May, 2020, upon request of the authors
5	Raie S., director general of the National Heritage Board of Estonia, opinion communicated 17 April – 4 May, 2020, upon request of the authors
6	Rodríguez Temiño I., Conjunto Arqueológico de Carmona, Consejería de Cultura y Patrimonio Histórico, Junta de Andalucía, Spain, opinion communicated 13 May, 2020, upon request of the authors
7	Vilka I., the member of the Council and director of the Fourth Audit Department of State Audit Office for the consultations on accounting of public resources, opinion communicated 19 May 2020., upon request of A. Kairiss
8	National Cultural Heritage Board (2015 – 2019). Statistics. Data provided from September 2015 to August 2019 according to data requests of A. Kairiss