

Association HAPPAH  
Rue des Ecoles  
69870 Grandris – France  
00.33.04.74.68.79.08



Grandris, 17 November 2010

Mr **Heinz Zourek**  
Director-General  
Directorate-General for Enterprise &  
Industry  
European Commission  
B-1049 Brussels

**SUBJECT: Reaction to your press release IP/10/1223 : the clandestine use of metal detectors in Europe endangers the archaeological heritage.**

Dear Sir,

Before going into the subject of this letter, let us briefly present our association and its goals. HAPPAH (Halte au pillage du patrimoine archéologique et historique) is a French association consisting mainly of professional and amateur archaeologists who are worried about the destruction of the archaeological heritage by “treasure hunters” using metal detectors. HAPPAH is deeply distressed by the proliferation of treasure hunting, which is responsible for the systematic depredation of hitherto intact archaeological sites all over Europe. HAPPAH regards the widespread repeated pillaging of ongoing archaeological excavations by metal-detector users as particularly disturbing. In the first three years since its creation, HAPPAH has exhaustively analysed the “treasure hunting” phenomenon in France and Europe. Some preliminary results of this study have been transmitted to the French Ministry of Culture<sup>1</sup>.

Heritage looting, whether done with or without a metal detector, is a **true public concern** as can be seen from the fact that it is a recurrent theme at some major meetings of archaeologists in Europe: the theme was **black archaeology** in Treis-Karden (Germany)<sup>2</sup> in 2005, in Stockholm (Sweden)<sup>3</sup> in 2007, and last but

---

<sup>1</sup> It is planned to publish this paper, which is at present confidential, in 2011.

<sup>2</sup> Jahrestagung des Verbandes der Landesarchäologen in der Bundesrepublik Deutschland e.V. vom 9.-11. Mai 2005 in Treis Karden, Rheinland-Pfalz. Wissenschaftliches Kolloquium am Dienstag, dem 10. mai 2005 „Wer stiehlt unsere Vergangenheit? Archäologische Quellen zwischen öffentlichem Interesse und privater Verwertung“. The papers of this colloquium have been published in: Archäol. Nachr.bl. 11 (2006) 2, p. 99-213.

not least at the annual colloquium of the *Europae Archaeologiae Consilium* (EAC) in the *Palais de l'Europe* in Strasbourg<sup>4</sup> in 2009.

The reason why we are writing to you is your press release IP/10/1223 urging Sweden to modify its law concerning the conservation of archaeological heritage (*Heritage Conservation Act*). According to the Commission's decision, Sweden's legislation violates the principle of free movement of goods in the EU under Articles 34 and 36 of the consolidated version of the Treaty on the Functioning of the European Union.

The rest of our letter, however, will show you that the Swedish *Heritage Conservation Act* perfectly meets criteria for the exceptions laid down in Article 36 of the Treaty, as the illicit use of metal detectors by treasure hunters is not only a major heritage-conservation issue but also a serious security problem!

### **METAL DETECTING, A NEARLY 40-YEAR-OLD PROBLEM**

The Commission is certainly aware that the metal-detector problem is quite an old one. Since its beginnings almost 40 years ago, treasure hunting with the help of metal detectors has been rampant in Europe, causing enormous damage to the archaeological heritage. It was precisely the free movement of these electronic instruments that led to their wide popularity as a treasure-hunting tool, first in the USA, and then in the United Kingdom and the rest of Europe. These metal detectors are easily available for members of the public eager to seek for treasure or just for recreation, but are mostly used in an illegal and clandestine way. They contribute every year to the pillage and loss of millions of archaeological artefacts, torn out of their context without permission, without documentation and without declaration. The coins and antiques market makes a large profit on this looting and the governments of the various countries of the European Union and beyond, though conscious of the issue, have great difficulty in applying their national laws.

Easy access to metal detectors and their free movement is even used as an argument in their favour by the promoters of treasure hunting: "*How can an instrument be damaging or even dangerous when it can freely be bought everywhere and when it is even offered as a children's toy?*"

Nobody would contest that, if used in an orderly, serious and authorised way, metal detectors provide precious services in many professions, especially in the security sector (army, police, EOD, technical units, etc.), and the metal detector has proved to be an indispensable tool even in professional archaeology.

---

<sup>3</sup> Conference at the initiative of the Swedish Presidency of the Council of the Baltic Sea States entitled "Stealing history – Black archaeology – plundering of the archaeological heritage and local history" ". (Stockholm, March 2007)

<sup>4</sup> Theme of the Annual meeting 2009 of the EAC in Strasbourg (Palais de l'Europe): "*Who steals our Past? Europe's Archaeological Heritage under Threat*"

In the past, European governments have tried, by the help of their various institutions, to stop the recurrent and general abuses committed by treasure hunters using metal detectors. For example, in 1981, the European Council published several recommendations to stop looting by treasure hunters, but without noticeable success<sup>5</sup>. On 16 January 1992, all European countries signed the La Valetta Convention<sup>6</sup> and most of them subsequently ratified it. The vote for more restrictive laws concerning the use of metal detectors aroused vehement resistance among the promoters of treasure hunting, most of whom are metal-detector dealers and importers – living incidentally in a very suspect symbiosis with coin and antiques' dealers. They developed numerous false and hypocritical arguments to get around the heritage acts of the various European countries. The only countries in Europe that have adopted non-restrictive laws, England and Wales, by implementing their famous "Portable Antiquities Scheme" and their "Treasure Act" have not, however, managed to reduce the destructive activities of the treasure hunters. The clandestine network of antiques traffic did not disappear, but even blossomed – and with a legal basis. Scientific research and the conservation of the archaeological heritage have not improved by non-restrictive laws. On the contrary, they have seriously suffered.

From the outset, the promoters of treasure hunting described the use of metal detectors, also called "hobby metal detecting" or "detecting" as a benign, harmless and sometimes even profitable hobby. Today they even claim that treasure hunting is a "social phenomenon" that archaeologists have to recognise and accept.

In view of these alarming developments that are jeopardising conservation of our cultural heritage, HAPPAH has decided to submit the metal-detector problem to the European Commission and to lend its support to Sweden.

## **TRADE OF METAL DETECTORS AS THE SOURCE OF THE PROBLEM**

The Commission's decision resulted from a complaint by an importer of metal detectors who saw Sweden's Heritage Act as a threat to profitable business. This is an appropriate moment to reveal to the Commission the objectionable and criminal nature of the metal-detector trade. The completely unscrupulous and unethical commercial practices of many metal-detector dealers are responsible for the problem. The following are only a few example of such practices:

- In France for instance, under the Heritage Act (Code du Patrimoine) metal-detector dealers must inform the public about that Act in advertisements for metal detectors and inform customers about the Act by enclosing a leaflet with every new metal detector sold. Most of the dealers regularly omit to do so, however, or provide only incomplete information, thus infringing the Heritage Act.

---

<sup>5</sup> Parliamentary Assembly of the Council of Europe, Recommendation 921 (1981) on metal detectors and archaeology.

<sup>6</sup> European Convention on the Protection of the Archaeological Heritage (Revised) Valetta, 16.01.1992.

- Metal-detector dealers also often provide biased information on the Heritage Act by distorting and deliberately misinterpreting it, such as by making customers believe that the legal restriction apply only to scheduled archaeological sites.

- Many metal-detector manufacturers and dealers advertise their instruments as being able to detect the tiniest items such as antique coins, i.e. cultural goods listed in the annex of the *Unidroit convention on stolen or illegally exported cultural objects* adopted in Rome on 24 June 1995<sup>7</sup>, even though they know that searching and digging for such items are strictly regulated by law.

- Many metal-detector dealers even explicitly recommend or suggest to their customers or the readers of their treasure-hunting magazines to do metal-detecting on archaeological sites or in locations with very high archaeological potential. Some even sell archaeological maps to their customers.

- In the metal-detector shops and treasure-hunting catalogues, it is not uncommon to find among the accessories optical devices for night vision, hand-held transceivers, and camouflage outfits to avoid being seen while "night hawking". It is also not rare to find high-performance pulse-induction metal detectors and ground-penetrating radars in treasure-hunting shops that are effective up to a depth of 10 m (!). Equipment of this kind is particularly suitable for professional heritage looting.

- The metal-detector dealers lie about the performance of the devices they are selling: they describe their performance as very low in the hope of persuading archaeologists that they are harmless, but even make exaggerated claims about the penetration depth when wishing to impress their customers (treasure hunters) with the power of the instruments.

- Some metal-detector dealers invite their clients to bring them the objects they find (illegally, of course) or to sell them to some friend who is a coin or antiques dealer. This practice is widespread in Europe and is known as "dealing in stolen goods". Coin and antiques dealers who also sell metal detectors are highly suspected in being involved in such criminal activities.

- The metal-detector importers and dealers actively support the creation of treasure-hunting clubs in an attempt to prevent the implementation of the resolutions of the European Convention on the Protection of the Archaeological Heritage – the Malta Convention, as it is know<sup>8</sup> – in national law. **By organizing vehement resistance<sup>9</sup> to an international convention signed by the governments of almost all European countries, the metal-detector trade has declared itself an enemy of the archaeological heritage!**

While it is perfectly legitimate that the metal-detector merchants should defend their commercial interests, it is however objectionable that they should be doing

---

<sup>7</sup> ( <http://www.unidroit.org/english/documents/2002/study70/s-70-51-e.pdf> )

<sup>8</sup> Cf. note 6

<sup>9</sup> Gert Gesink, *Handbuch für Sondengänger*, Enschede 2005, pp. 216-217 and 342.

so by actively supporting the development of illegal and criminal activities, i.e. treasure hunting!

## **DANGEROUS REMNANTS OF BOTH WORLD WARS**

One of the least known and most grimmest aspects of metal detecting revealed by the HAPPAH study is the collection of military relics from the two world wars on the old battlefields. HAPPAH estimates that military collectors account for 40% of all users of metal detectors, or even up to 60% and more in the regions where fierce fighting took place during the two world wars<sup>10</sup>.

When detecting on battlefields, collectors of military memorabilia uncover huge quantities of ammunition, explosives and weapons that are a risk to public safety. Some just leave these lying around, without marking or declaring them, thus exposing the civilian population in the area (children, forest workers, hunters, walkers etc.) to lethal danger. Many others take them home and defuse them in a clandestine and inappropriate manner. Other metal-detector users keep live war ammunition that they have dug up in their garages, cellars or sheds (UXO, unexploded ordnance). There are thousands of such clandestine arsenals all over Europe, some containing several tons<sup>11</sup>! **Explosions of world-war ammunition dug up by private metal-detector users kill between 12 and 20 people in Europe every year** and injures dozens of others – in most cases the military collectors themselves, but also relatives or neighbours<sup>12</sup>. In some cases, close relationships between the military collectors and people belonging to fascist and neo-nazi groups have been observed.

## **PLUNDERING SOLDIERS' GRAVES**

One of the particularly disgusting aspects of metal detecting on battlefields is the desecration and robbing of soldiers' graves. Tens of thousands of soldiers killed in both world wars have still not been located, buried somewhere in the battlefields around Verdun, Passchendaele, Hürtgenwald, Halbe or Stalingrad. Military collectors are frequently digging up the bodies of missing soldiers and stealing their identity tags and other personal goods (rings, watches, gold teeth etc.), leaving the bones and the skulls spread around the holes they have dug.

Some hard-core military collectors are defusing dug-up ordnance and selling the items as military collectibles on Internet selling platforms and at flea markets. Some of these ammunition collectors also extract the explosive material and sell it on the black market to criminals and even terrorists.<sup>13</sup> In 2003, the Neo-Nazi

---

<sup>10</sup> Idem, p. 336.

<sup>11</sup> In 2006, a clandestine private arsenal totalling 27.6 tons was seized by the police in Vimy (France).

<sup>12</sup> HAPPAH has collected information on several hundred accidents and incidents with unexploded ordnance that involved metal-detector users. Copies of these documents can be provided on request.

<sup>13</sup> Prof. Stephan Trommsdorf, a renowned German expert in explosives, has held a conference on the possibility of terrorists recovering explosives from dug-up ammunition: "Terroristisches Potential von Rüstungsaltslasten, Fundmunition und Fundsprengstoff, Pontificia Universidad Catolica del Peru (PUCP), 02/03/2008."

Martin Wiese planned a terrorist attack against a Jewish establishment in Munich. He got the explosives from a friend who had dug them up with the help of a metal detector<sup>14</sup>.

## **METAL DETECTING, A DANGEROUS HOBBY**

HAPPAH has also counted many fatal accidents and incidents involving children and teenagers who had found world-war ordnance with their metal detectors. Despite these alarming facts, the promoters of treasure hunting continue to incite children to do metal detecting, without warning them or their parents<sup>15</sup>.

Even when treasure hunters are not looking for military relics when metal detecting, they will inevitably find, sooner or later, unexploded or unused war ordnance. European soil, whether on battlefields or elsewhere, is polluted with millions of items of live ammunition, still buried and still dangerous<sup>16</sup>. The risk of finding unexploded ordnance with metal detectors is omnipresent, even in countries such as Switzerland, Canada or the USA where no fighting took place during WW2.

It should be apparent from this brief account of treasure hunting that the use of metal detectors is not a benign and harmless hobby – indeed, not only is it damaging to the archaeological heritage, but it is also a fundamentally illegal and criminal activity that even threatens public safety! **May we remind you that metal detectors have always primarily been used for safety and military purpose and that their possession and use should be restricted to specially authorised people with appropriate training.**

## **THE PRESS RELEASE IP/10/1223**

On 30 September 2010, the European Commission issued a press release (IP/10/1223) relating to a decision taken by your Directorate-General urging Sweden to modify its law concerning the conservation of archaeological heritage (*Heritage Conservation Act*). According to the Commission's decision, Sweden's legislation violates the principle of free movement of goods in the EU under Articles 34 and 36 of the consolidated version of the Treaty on the Functioning of the European Union.

In its press release, the Commission, while recognising the need to protect national treasures of archaeological and historical value, nevertheless takes the view that Sweden could combat the looting of sites by other more appropriate means that were less restrictive for the free movement of goods.

---

<sup>14</sup> [http://de.wikipedia.org/wiki/Martin\\_Wiese](http://de.wikipedia.org/wiki/Martin_Wiese)

<sup>15</sup> Among 26 metal-detector dealers in Germany and Austria, only one warns his customers that metal detectors are not toys to be given to children.

<sup>16</sup> Cf. this Swedish report on unexploded ordnance entitled : Oexploderad ammunition , Fakta (2004): <http://www.risknet.foi.se/OXA/fakta.htm#historisk>

By judging the actual Swedish law to be disproportionate to the goal of protecting archaeological and historical sites (cf. Article 36), which is a matter of general interest, the Directorate-General is obviously underestimating some important aspects of metal-detecting activity.

Sweden has clearly regulated the use and movement of metal detectors in Chapters 18 to 20 of its "*Heritage Conservation Act*" (HCA), and specified the exceptional cases in which people are free to use them.

The aim of these rules is to protect and conserve the buried archaeological heritage against the recurrent abuses committed by private treasure hunters using metal detectors. Thus the HCA is aimed only at people practicing "treasure hunting" – which is also called "metal detecting" or "hobby detecting" and is a basically illicit and criminal activity because it generally goes hand-in-hand with the violation of several laws, including the HCA.

Let us not forget, that the acknowledged or unacknowledged aims of treasure hunters are to discover treasures – in other words, relics of historical and archaeological interest – and make money on them!

Sweden has to be congratulated for its intelligence and its perspicacity in stipulating in the HCA that metal detectors should be kept out of the hands of unauthorised persons. Transport of metal detectors and their use on archaeological and historical sites are clearly matters for the Swedish Ministry of Culture. The ban on carrying metal detectors laid down in the HCA does not apply to the public roads and hence does not impede the free movement of these electronic devices. The exceptions to the ban on carrying and using metal detectors are clearly specified in Articles 19 and 20 of the HCA. Consequently, there is no "general prohibition" as the Directorate-General states in its press release IP/10/1223, but merely strict regulation. The import of metal detectors for authorised and responsible uses (e.g. by the army, police, security units, archaeological board etc.) is not affected or limited at all. The restrictions concerning the carriage and use of metal detectors are directed only at illegal uses that can be a threat to the national heritage.

Articles 18 to 20 of the HCA perfectly meet the criteria for the exceptions laid down in Article 36 of the Treaty.

You will surely remember the measure taken laser/radar warning devices that allow drivers to avoid police checks and fines for speeding. In France for instance, these electronic devices have been completely banned by the *Code de la Route*<sup>17</sup>. You may think that these little electronic devices are harmless, but in 99.9 % of cases, they are used to infringe the Highway Code and to prevent the police from performing its task of maintaining road safety and to ensuring compliance with the Highway Code.

Like radar/laser detectors, metal detectors are electronic instruments. When used by treasure hunters, they generally serve to break the law, or worse, to

---

<sup>17</sup> Code de la Route, articles L 413-2 ; L 413-2 ; L 413-3.

expose the civil population to a lethal danger. They hinder the heritage board in performing its legal tasks.

To solve the metal detector problem in a sustainable way, availability and possession would first need to be limited by introducing strict sales regulation and obligatory registration. Like weapons, metal detectors are instruments that should not be put into everybody's hands.

**The Commission must realise that the metal-detector problem goes far beyond a possible minor infringement of the principle of free movement of goods in Europe. The detector problem is intimately linked to illicit trafficking in archaeological antiquities, which, on a worldwide scale, come in third place, just behind weapons and drugs. The collection and manipulation of explosive war ammunition by metal-detector users is a serious threat to public safety. Worse than that, the use of metal detectors is at the root of profitable trafficking, providing explosives for criminals and even terrorists. Finally, one of the most disgusting aspects of treasure hunting is the desecration and robbing the graves of soldiers who died in WW1 and WW2.**

Consequently, HAPPAH officially calls on the Commission to review the metal-detector problem and to take appropriate restrictive measures to solve it in the interests of our archaeological heritage and public safety. The HAPPAH association offers to help the Commission by providing rich and abundant documentation crimes and abuses committed by treasure hunters and on accidents with unexploded ordnance found by treasure hunters.

Best regards,

Grégory Compagnon (Chairman), Jean-David Desforges (Secretary) and André Schoellen (Honorary member) of the Committee of the French association HAPPAH

COPIES TO:

- **José Manuel Barroso**, President of the European Commission
- **Michel Barnier**, European Commissioner for Internal Market and Services
- **Viviane Reding**, European Commissioner for Justice, Fundamental Rights and Citizenship

- **Antonio Tajani**, European Commissioner for Industry and Entrepreneurship
- **Androulla Vassiliou**, European Commissioner for Education, Culture, Multilingualism and Youth
- **Frédéric Mitterrand**, Minister for Culture and Communication, France
- **Lena Adelsohn Liljeroth**, Minister for Culture and Sports, Sweden