

SKYLLIS

23. Jahrgang 2023



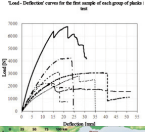
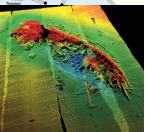
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Titelmotiv

Z. Friedman, *The Ship Graffito on a Brick from Novgorod*,
 Fig. 5: *Russian ships in the Radziwiłł Chronicle*
 (https://commons.wikimedia.org/wiki/Category:Radziwiłł_Chronicle_-_all_pages#/media/File:Radziwiłł_chronicle_153.jpg)

Vorwort

Für die DEGUWA-Tagung 2023 konnten wir als Partner das Europäische Hansemuseum gewinnen. Wir sind dafür der Direktorin Dr. Felicia Sternfeld und ihren Mitarbeitern zu Dank verpflichtet, die durch ihren engagierten Einsatz den Erfolg dieser Tagung ermöglicht haben. Der Ministerpräsident von Schleswig-Holstein, Daniel Günther, übernahm die Schirmherrschaft der Tagung.

Die Tagung IPR XXVIII „The Age of the Hanse Reflected in Underwater Archaeology“ fand vom 22. bis 26. März 2023 im Europäischen Hansemuseum in Lübeck statt und bestand neben dem wissenschaftlichen Teil aus einem reichhaltigen Rahmenprogramm. Dazu gehörten der NAS-Kurs „Peilen, Messen, Zeichnen“, ein workshop im Stadtarchiv Lübeck, der Ausflug in den archäologischen Park und Wikinger-Museum Haithabu sowie das Archäologische Landesmuseum Schloss Gottorf, einschließlich der Restaurierungswerkstätten und der Ausstellung des Nydam-Boots, und eine Stadtführung in Lübeck. Die Hansestadt Lübeck lud die Teilnehmer zu einem Empfang ins Lübecker Rathaus.

Der Vortragsteil und die Postersession fanden im Vortragsraum des Hansemuseums statt. Dazu gehörte auch die Podiumsdiskussion „Schutz des Unterwasser-Kulturerbes – eine Herausforderung“ mit Vertretern von Institutionen, die auf unterschiedliche Weise mit diesem Thema sowie der – von Deutschland bis heute nicht rati-

vember 2022 überraschend und viel zu früh verstorben und hinterlässt eine schmerzliche Lücke in der philologischen Forschung zur antiken Seefahrt. Den Beitrag hatte er druckfertig hinterlassen.

Abgerundet wird der Band von zwei Rezensionen. Hinzu kommt die Ansprache, die Ansgar Bovet für die DEGUWA beim UNESCO Convention of the Protection of Underwater Cultural Heritage Regional Meeting Group I am 20.–21. Juni 2024 in Madrid gehalten hat.

Für die Begutachtung der Beiträge im Peer-review-Verfahren seien den anonymen Gutachtern herzlich gedankt.

Diesem Band wünsche ich viele Leser, und den Lesern viel Freude bei der Lektüre!

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Abb. 1: Die Teilnehmer der IPR XXVIII auf der Treppe zum Europäischen Hansemuseum in Lübeck (Foto: Mathias Orgeldinger)

fizierten – UNESCO-Konvention zum Schutz des kulturellen Erbes unter Wasser von 2001 befasst sind. Der Bericht dazu erschien bereits in *Skyllis* 22.

Der vorliegende *Skyllis*-Band 23 enthält 16 wissenschaftliche Beiträge, von denen 15 auf der IPR XXVIII in Lübeck gehalten wurden. Hinzu kommt ein Beitrag zu nautischer Fachliteratur in der Antike, den Boris Dunsch bereits auf der IPR XXV in Frankfurt 2020 gehalten hatte. Boris Dunsch ist im No-

It s a long way to ratifying!

Speech given at the UNESCO Convention of the Protection of Underwater Cultural Heritage Regional Meeting Group I, Madrid, 20th/21th June 2024

Ansgar Bovet

The UNESCO Convention on the Protection of the Underwater Cultural Heritage of 2001 was created to harmonise the protection of underwater cultural heritage with the protection of cultural heritage on land and to regulate and facilitate cooperation between the various states. The convention came into force in 2009 and has been ratified by 77 states as of 5 June 2024, although not yet by Germany. As the only ratified non-governmental organisation (NGO) from Germany on the subject of „underwater cultural heritage“ (UCH), the Deutsche Gesellschaft zur Förderung der Unterwasserarchäologie e. V. (DEGUWA) was invited to an international meeting in Madrid in June 2024, which was organised by the Spanish Ministry of Culture together with the secretariat for this UNESCO convention. The aim of this meeting was to exchange and discuss case studies and best practices in the management and research of underwater cultural heritage, regardless of whether the countries concerned have ratified the Convention or not. DEGUWA's task at this meeting was to present its own view on why Germany has still not ratified this UNESCO convention after 15 years.

Representatives from several Western European countries and the USA took part in the panels, and a representative of the German Embassy in Madrid was also among the audience. The conference was recorded and can be viewed on the YouTube channel of the Spanish Ministry of Culture.

There is no doubt about it: Germany is in favour of the UNESCO Convention of the Protection of Underwater Cultural Heritage. All political groups, as well as the ministerial bureaucracy, always express their confidence. Unfortunately, the issue does not play a role in public opinion. The number of people who are committed to this issue is small. The tardiness that Germany is demonstrating here by joining forces is therefore simply embarrassing for everyone.

Past Promises

German deliberations on the UNESCO Convention had already begun hesitantly: in 2001, at the ballot in Paris, we abstained.

The subsequent petition submitted by DEGWUA and academic institutes, a memorandum and annual pleas at our conference „In Poseidon's Realm“, in addition to much approval among parliamentarians and an expert discussion in the

German Bundestag, even achieved that the coalition agreement of the following government in 2013 contained the passage to commit to the UNESCO Convention and to „take initiatives“ to formally accede to the Convention.

In the meantime, in 2015, the responsible department at the Federal Foreign Office even stated that „work on this is well advanced“. But since then, our enquiries have been answered in the following ways, which are intended to explain why we still have to wait for the implementing legislation:

- The authority for this has yet to be determined.
- The positions of the federal states must be determined. In 2017, it was promised that this would take place „after the summer break“.
- Important associations still need to be consulted.
- A key staff position in the department still needs to be filled.

However, the Convention was no longer mentioned in the subsequent coalition agreement of the equally composed government at the beginning of 2018. In response to our enquiry, the Federal Foreign Office stated that the intention was for ratification in 2019.

Instead, the renowned German National Academy of Sciences, Leopoldina, with which we are in good contact, presented a discussion paper on underwater cultural heritage, which called for urgent ratification. An opposition party followed up on this and received the answer that ratification was planned for 2021, but that it was now time for parliamentary elections.

New Circumstances

In 2021, there were signs of a change of government, and this did happen. We therefore asked all the democratic parliamentary groups in advance about their agenda for

the ratification of the UNESCO Convention. All parties promised to work towards early ratification and not one expressed even minor reservations.

Instead, the development of legal instruments for the economic utilisation of marine areas and seabeds in the coastal zone and beyond is making significant progress. After fisheries, the focus is on the massive expansion of wind farms and other energy generation on the seabed, undersea cables, pipelines, and now increasingly also carbon capture and storage, and maybe in the near future deep-sea mining. In accelerated authorisation procedures for some of these projects, environmental assessments may be shortened. Archaeological data can often be collected and emergency excavations carried out during the time window for ecological assessments. So these opportunities are dwindling. Not to forget the urgent removal of the dumped ordnance from the great wars of the 20th century or the consequences of climate change that are already recognizable today (e.g. the emergence and increasing spread of the shipworm, *teredo navalis*). Both of these factors make urgent action necessary right now.

In 2022, a new minister from the same party that had previously asked critical questions from the opposition responded to our enquiry as if it were the first time that an „implementation law“ was being planned. A truism! He referred to other legal standards, none of which are new, but inadequate. At the end of last year, when asked, the Federal Foreign Office again emphasised the German government's intention to sign the resolution.

This suddenly brought too much new information into play: Namely, a list of many federal ministries, plus the Secretariat of the Conference of Ministers of Education and Cultural Affairs of the federal states and individual federal states. They all have to participate in the vote on an implementa-

tion law. A member of parliament from the opposition party, who was previously in government and should actually be familiar with the problem from her own work, was asking before. As if we were back in 2009!

The discussions seem to be starting all over again, with new people who have not been familiarised. We recently exchanged views with the opposition party and realised that the interested MPs and their staff had no or the wrong ideas about the subject. They were cultural politicians. Nothing against them! I come from the cultural sector and have contacts with cultural politicians. Cultural politicians in the government parliamentary group also like to take up our concerns. They may be door openers, but they don't make much progress because the Foreign Office is in charge. In response to my last enquiry there, which I made privately via contacts, I also received the long list of authorities and unfortunately also the honest statement: „At present, it is not foreseeable when the ratification process can be finalised“.

Permanent Structures

To exaggerate, one could say that what UNESCO wants to regulate globally with its convention, Germany is not even doing on a small scale for its territory.

Archaeology is first and foremost culture. And culture is a matter for the federal states under the „Grundgesetz“, our constitution. Each state has its own heritage protection law. This does not mean that there are major differences between them. But there are minor ones. Above all, there are numerous authorities, all responsible for their own federal states. The federal states on the coasts also share the sections of the territorial sea. German federalism means that there is no territory in the federal government that does not belong to a federal state and that no federal state has territory that does not

also belong to the Federal Republic. But what about the Exclusive Economic Zone (EEZ), which lies outside the national territory, especially now with regard to cultural policy, which in Germany is decided at the level of the individual federal states (underwater world cultural heritage)? A darned problem! German archaeology abroad, on the other hand, has always been a matter for the Foreign Office, which makes it quite confusing.

Fortunately, it is clear that the federal government always takes the lead in external relations. This means that no federal state can consider itself to be the coordinating state, and individual authorities of the federal states cannot of their own accord be competent authorities for the underwater cultural heritage under this convention, although this would be practical in individual cases. However, it is possible, and in some cases common practice, for the federal government to commission the federal states accordingly. Well, then it should do so. Or why doesn't it do it itself?

There is a department in the Federal Chancellery called the State Ministry for Culture. So far, however, it has no responsibility for matters outside the territory, strictly speaking not even within it, but that is a different issue.

German federalism with its constitutionally provided and also so-called „concurrent legislation“ is disruptive here. Only the federal government is authorised to conclude international treaties such as this convention. If, according to the Grundgesetz, the resulting tasks lie with the federal states (all undertakings, including archaeology in the coastal area), it must have the consent of the federal states and must not simply assume responsibility from the federal states. According to the Grundgesetz, everything is first and foremost a matter for the federal states, unless the Grundgesetz stipulates otherwise. Unfortunately, the Grundgesetz does not mention the EEZ.

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Germany's authorisations in its EEZ are based solely on international treaties. And this rule does not specify how authorisations are to be granted individually in the states or between federal states. Federal legislation could try to organise everything in such a way that the federal government can only operate in the EEZ. This is exactly what the federal government is doing with the expansion of wind energy. But it is doing this without a comparable international obligation – and always in trials with the German coastal states. This is hard work, so it is not surprising that the German government is reluctant to open up another policy area which it would then have to regulate internally and which, on the other hand, would place it under an obligation to other countries.

The Federal Maritime and Hydrographic Agency (Bundesamt für Seeschifffahrt und Hydrographie, BSH) knows the positions of several wrecks in the EEZ, because it is responsible for spatial planning and safe sea routes. However it practically leaves the expansion of wind farms to the federal states on the coasts, but retains supervision. Incidentally, using the example of wind farms, the German coastal states have long since divided up the EEZ among themselves. So where there is money to be made, in this example the trade tax, the federal states react very quickly. Now we should perhaps be cheeky enough to combine the two: profits from wind energy with responsibility for the cultural heritage under water. Perhaps the Spanish foreign minister will suggest this to his German counterpart. I can imagine that she is already thinking about this herself.

According to the current legal situation there is simply no legal basis for protective measures in the EEZ. Without this and without territorial jurisdiction, there is „no need for action“ according to the scheme of an authority. Action is only required if cultural heritage is encountered in the course of construction work. Only when both exist by convention and as a result of „implementing laws“, it would be possible to demand the personnel and equipment that an authority would need to take appropriate action. The fact is that both are lacking.

Lasting Hopes

The monument authorities of the coastal states could otherwise extend their work to the EEZ, especially as they have the technical expertise on site and already represent the federal government in the context of administrative assistance. Incidentally, expertise and training in this area is also definitely a matter for the federal states. This is because universities are also always institutions of the federal states.

The federal government likes to point out that aspects relating to underwater cultural heritage are taken into account in the new ordinance on spatial planning in the German EEZ, North Sea and Baltic Sea. However, these regulations only deal with cultural heritage as a matter of course. The rules are nowhere near the agreements of the UNESCO Convention, and the international dimension is definitely missing from spatial development plans.

It is certainly irritating that hardly any of our neighbours on the North and Baltic Seas have ratified, so why have we? Fortunately, Poland has recently joined in!

Hidden Challenges – Clear Motivation

Looking at Art. 16 (measures concerning nationals and vessels) and Art. 21 (training and agreement on standards, including conservation) of the Convention: We must reckon that unspoken resistance to the commitments or persistent commercial interests are the real reasons for Germany's failure to ratify. In Germany only we DEGUWA as an NGO are in contact with a parliamentary group from the governing coalition and one from the opposition. In the course of this event, we will certainly have new arguments to go to the press again. We have already been asked about this.

What bothers us at DEGUWA is that the German ratification process focusses too much on its own zones of influence, where its own cultural heritage is presumed to lie. This is petty and inefficient thinking; we should be concerned with more: The best possible cooperation to protect the world's cultural heritage by means of multilateral coordination, newly adapted standards, reliable reporting – that's what we all want, isn't it?

It is our vision to flank the further steps that should take place after the ratification of the UNESCO Convention and its implementation.

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