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**The Role of Community Archaeology in Heritage Protection:
Responsible Metal Detecting as a Tool for Enhancing the
Protection of Archaeological Heritage**

Master Thesis

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INTRODUCTION

Metal detectorists are often present in archaeology in connection with looting and illicit trade of archaeological heritage. The estimated volume of illicit trade of antiquities is significant, globally varying between USD 150 million and USD 2 billion per annum. Although it is difficult to have a full overview and reliable data on the total volume of looting, the estimated figures clearly indicate that the illicit trade of antiquities is a very large-scale business, especially in Europe and North America. (Brodie et al. 2000, 23). Next to drug traffic, the looting and trade of antiquities are nowadays considered by the police and experts of cultural values the second biggest field of activity in international crime everywhere in the world (Renfrew & Bahn 2008, 567). The trade of antiquities may often function as a side-activity for the criminal groups dealing with drug traffic and money laundering (Brodie et al. 2000, 16).

Similar to other countries, Estonian archaeological sites have faced several cases of looting in the recent years. Unfortunately only a very limited number of these cases have ended with legal proceedings and yet, the solutions of these cases have not been helpful from the perspective of the protection of archaeological sites. For example, the illegal excavation of medieval coins in the surroundings of Keila in 2004 resulted in the payment of finding fees to the persons who actually had carried out a destruction of an archaeological monument and who, on that basis, should had paid fines to the state instead of receiving any fees. Such precedent allows concluding that laws which should had functioned and state authorities that should had implemented them, were at some point unsuccessful. Next to legal side, it is important to consider ethical, social and economic aspects. The looters of Keila coin hoard have been the key players also in other cases, acting rather self-confident with their clearly material focus and constantly testing the boundaries of legal and illegal behavior. The self-justification and effrontery of looters have been occasionally deepened by the false images created in media. Thus, general public does not often perceive the actual contents, extent and legal boundaries of the activity of looters. All this facilitates looting and makes it more difficult to apply laws efficiently.

The looting of major archaeological sites, the cynical attitude and the lack of respect to laws on behalf of some treasure-hunting metal detectorists together with enormous volume of illicit market are the factors contributing to the continuous opposition between the communities of archaeologists and metal detectorists. There is no doubt that it is necessary to have certain legal restrictions on heritage discovery and excavations, especially in the transitional societies with insufficient awareness of history. However, one should bear in mind that the community of metal detectorists comprises very different people with different motives and „illicit archaeology” is not

the only aspect one should look at when talking about metal detecting in archaeology. There are certainly many law-obedient detectorists. One should not forget that many objects of archaeological heritage have actually reached the hands of museums mainly thanks to the activities of metal detectorists, thus contributing to the science of archaeology and respective public education.

The objective of this thesis is to discuss the assumption that strict metal detecting regulations alone do not entail better protection of archaeological heritage than the reasonable combination of restrictions and mutual communication between detectorists and heritage protectors / archaeologists. The thesis aims at evaluating, on the basis of certain sample countries, whether and to what extent the discovery, preservation and protection of archaeological heritage would be improved by the inclusion of metal detectorists as community members in the discovery of archaeological heritage as opposed to imposing strict legal limits to their activity. In order to achieve the objectives of this thesis, the research seeks to answer the following questions:

- What is the regulatory environment in different countries regarding the use of metal detectors, reporting and recording of finds?
- What are the main elements of responsible detecting in different countries?
- What is the practical contribution of metal detectorists in different countries to the discovery and protection of archaeological heritage and whether / how to enhance cooperation?
- If there is more involvement of detector users and less regulation, would this enhance or worsen the discovery and protection of archaeological heritage?

Respectively, the statement of this thesis is that the discovery and protection of archaeological heritage would be more efficient in the form of responsible detecting and cooperation between the heritage protection authorities and metal detectorists than through the strict legal regulation of detecting. In the course of this research I seek to receive indications to support this statement and identify the aspects of further potential research rather than finding a final all-encompassing solution.

Being engaged in archaeology should not be a privilege but archaeology is the science that belongs to the members of community. This thesis does not seek to cover all the issues related to community as a whole (e.g. awareness raising in archaeology, media work, etc) but addresses the issues related to one particular community group – metal detectorists. The key issue to be addressed in this research is the discussion of what the results of the inclusion of metal detectorists in the science of archaeology would be in terms of the discovery and protection of archaeological heritage. Although metal detectorists form only one interest group in the

community as a whole, their activity has undoubtedly a far-reaching impact on archaeological heritage.

I believe that well-rooted responsible detecting has a strong potential to contribute to the the discovery and protection of archaeological heritage. In fact, I think it is a valuable resource for a state to rely on in the discovery of new finds, if applied properly, because metal detectorists are usually motivated volunteers willing to spend their personal material resources and time on the discovery of heritage. State resources for heritage protection, on the other hand, are scarce and therefore the private sector contribution is valuable. The research has 2 dimensions. One one hand it seeks to obtain the view of heritage protection authorities from the selection of countries regarding the possibilities of cooperation and inclusion of metal detectorists in archaeology, and its impact on archaeological heritage. On the other hand, it addresses the evaluation of metal detectorists from certain sample countries regarding their possible active inclusion in archaeology and its impact on archaeological heritage.

The research is based on the assessment and comparison of data regarding the following model countries: the United Kingdom (incl. Scotland), Denmark, Sweden, Finland, Latvia, Lithuania, Germany and Estonia. The selection of countries consists of examples of different geographic locations and jurisdictions because the situations in these countries regarding metal detectors vary, providing a good basis for comparative analysis; the majority of these countries represent the near-by markets where there is a lot of similar archaeological material to Estonia; in the UK there is the largest community of detectorists and a uniform code of best practice¹ of responsible metal detecting.

In Estonian case the discussion is much triggered by the recent amendments of the Heritage Protection Act (HPA) and my concern that instead of improvement the new stricter rules which now require a licence from the users of a search device would push metal detectorists away from cooperation with the state and respective potential in heritage protection, if not explained and implemented with sufficient consideration of their target groups. In any case I do not intend to justify illicit search and the lack of rules but I also find it important to highlight that there is no sample country in which strict regulation in its extreme would have considerably improved the protection of archaeological heritage. On the contrary, strict rules may much deteriorate the relations between the state and detector users. For example, in Sweden hobby detectorists are practically excluded from being granted search licenses and therefore have better cooperation

¹ There is an inter-institutionally agreed Code of Practice on Responsible Metal Detecting in England and Wales. Available at <http://finds.org.uk/getinvolved/guides/codeofpractice> (07.02.2012).

with official archaeologists in neighboring Denmark². Although the societies in the Baltic states can be in some aspects still treated as transitional societies as opposed to well-developed societies of Scandinavia, the UK and Germany, I would like to point out that this research does not seek to measure the sample countries against each other but rather to map the situations, gather views from both ends and find valuable joint views as well as suggestions regarding the potential inclusion and cooperation in Estonia.

In Estonia, the issues of the protection of archaeological heritage and the use of metal detectors are continuously topical in the light of lootings and related procedural failures in the recent years which have contributed to the adventurous image of looters. The destruction of important archaeological sites together with the cynical attitude and non-compliance with laws of some detector users certainly cause constant opposition between archaeologists and detectorists. At the same time it is important to keep in mind that there are very different people with very different motives in the community of detectorists. We should not forget that many archaeological items have been discovered thanks to the activity of metal detectorists who have thereby to certain extent contributed to archaeological research. Therefore it is most topical to evaluate the possibilities of how to better protect archaeological heritage in the cooperation of heritage protection authorities and detectorists rather than simply imposing strict prohibitions. The research theme is up-to-date and the discussion of cooperation versus strict regulation is valuable also from the perspective of other member states. For example, it is generally known that Sweden has one of the strictest legal frameworks in Europe³. However, its proportionality has recently been questioned by the European Commission and therefore the investigation of alternative possibilities is topical. Although the suggestions offered by this thesis would first and foremost target the situation in Estonia, these will be certainly applicable and valuable in the wider context of Europe too.

The research is based on the empirical data collected from the heritage protection authorities and detector users / clubs of 8 member states in the form of a questionnaire. The research seeks to map and compare the situations in the selected countries and draw suggestions for Estonia from the experience of others. Comparative method serves as a central tool for this thesis because in the situation of limited original writing this method is a considerable option for well-established research. Additionally, this method would allow participating in the debate involving other countries, given that the research area of the thesis is of relevance for other EU countries too. The

² It should be noted that the regulatory framework in Sweden is stricter than in Denmark probably also for the reason that there are much more silver hoards in the territory of Sweden.

³ In Sweden the use of metal detectors is prohibited without the permission of the County Administrative Board.

comparative framework of this thesis originates from my preliminary research work in the course of my studies at the University of Tartu and indicates that the suggestions collected from the data of the selected countries should be looked at on one-by-one basis rather than as full models.⁴ When Germany is regarded, it should be noted that the heritage protection side presented in the thesis covers only the region of Saxony⁵. In Germany, the responsibility for the issues of culture lies with the regions not with the Federal Government. Therefore the regulatory situation is varied and presenting a full picture of Germany is a complicated and large-scale task which stays outside the scope of this research. However, the situation in Saxony would serve well for comparative purposes of this thesis. On the other hand, the detectorist view from Germany covers the country as a whole.

The thesis is divided into 2 major chapters. The first chapter provides the definitions of "illicit archaeology" and "archaeological heritage". It also addresses the regulation of detecting and reporting/recording of finds in the selected countries, to large extent based on the input obtained in the course of the survey. The key cases of illicit archaeology in Estonia are used as an example to illustrate the situation with the HPA and the forward-looking view to the amendments of the act which made the use of detectors stricter than under the earlier regulation. The second chapter contains overview of the results of the survey, including the relevance of detectorists in the discovery of archaeological finds, and draws suggestions regarding the potential inclusion of detectorists in heritage protection, its positive and negative aspects.

The survey which forms the core of this thesis was conducted in the form of a questionnaire containing many open questions as well as follow-up clarifications addressed to the respondents by further e-mail communication. The numerous comments of the respondents proved to be particularly valuable. This method, equivalent to an interview (only conducted through the channels of electronic communication), was chosen because it enabled obtaining the best possible overview of the situation in the selected countries. I addressed my "electronic" interviews only to a limited number of people – on one hand to those representing the heritage protection authorities and on the other hand to those representing the community of detectorists in the selected countries. There are a few reasons behind limiting the choice of respondents. First, the respondents form a specific community of limited size; they are very difficult to approach and reach. Secondly, language differences serve as a difficulty for carrying out such a research.

⁴ I have come to understand that the models of other countries can't be applied in full but separate suggestions can be probably well used. For example, the model of Sweden is too radical while the one of the UK is probably unsuitable due to different composition and extent of archaeological finds (many Roman finds) as well as legal system in the UK (common law).

⁵ The input into the research was given by the Archaeological Heritage Office of Saxony.

In the choice of participants for the survey I based myself on the following principles. From heritage protection part, I addressed my questions to the selected people whose daily work involves the field of heritage protection in a state authority or museum. It was generally easy to establish contacts with these respondents and their level of cooperation was very high. From detector users part, I first addressed my questions to the largest clubs, asking them to represent the detectorist view of the respective country. Some clubs such as the Detecting Club Tellus from Denmark and Estonian Detectorist Association were very easy to approach and very cooperative. When there were no detecting clubs or the largest clubs did not agree to participate, I contacted detectorists on the basis of recommendations from the Estonian Detectorist Association, local heritage protection authorities and also public internet sources. Independent detectorists with whom I was able to establish contact through such channels were cooperative and interested in participating at the survey. All respondents whose data have been included and presented in this research found it very important to provide thorough input and have this area examined in the form of a report such as this thesis.

As certain countries such as Latvia and Lithuania are regarded, it was not eventually possible to obtain the contact details of detectorists who could have been able to give the necessary input. One of the reasons is that there are unfortunately no detecting clubs in these countries. Therefore this thesis does not contain the detectorist view from these countries. Also, despite my many efforts, it was not unfortunately possible to include the detectorist view from the UK. This is really unfortunate because the country is known to have a well-functioning system of cooperation. Different from Latvia and Lithuania it was not difficult to get in touch with detecting clubs in the UK and Scotland but the main reason for not including their contribution was their lack of interest. The largest detectorist organisation of the UK – the National Council for Metal Detecting (NCMD) – refused to participate in the survey, indicating that they receive numerous survey requests and they would not consider participation in any surveys and questionnaires unless they were demonstrably beneficial to metal detecting and the NCMD. The Scottish Detecting Club whom I addressed in this question also refused, referring to their membership in the NCMD and their obligation to respect the policy decisions of the NCMD. The second largest organisation of the UK – the Federation of Independent Detectorists – did not respond to my repeated requests.

In addition to the empirical survey this thesis is based on relevant publications and literature, working documents and legal instruments, among others examining the legal provisions in relation to the prevention of illicit trade of antiquities and the destruction of archaeological sites. As the issues of illicit archaeology ("black" archaeology) are regarded, the academic research in

Estonia has so far been somewhat limited. In addition to my own thesis which covered the legal framework and case law in relation to looting of archaeological sites in Estonia (Ulst 2009), N. Kangert has examined the community of metal detectorists in Estonia in her thesis (Kangert 2009). In 2004-2011 several articles have been published in Estonian media and journals, covering the cases of looting and including pieces from acknowledged Estonian archaeologists such as Prof. V. Lang and M. Kiudsoo. My own article titled "The problems of "black archaeology" in Estonia" was published in the Estonian Journal of Archaeology at the end of 2010 (Ulst 2010).

The empirical part of this thesis is based on the contribution of heritage protection officers, archaeologists and hobby detectorists from the selected countries, all of whom deserve my sincerest thanks for their cooperative feedback and valuable input. I would kindly like to thank the following people for their help: Mr. Thorsten Straub – independent hobby detectorist and researcher (Germany); Dr. Wolfgang Ender – Deputy Head of Department II Archaeological Heritage Management, Archaeological Heritage Office (Saxony, Germany); Mr. Willie Klaja – independent hobby detectorist (Sweden); Ms. Carolina Andersson – Senior Advisor of the Division for Sustainable Management Monuments, the Swedish National Heritage Board (Sweden); Mr. Kenny Thygesen – hobby detectorist, Detecting Club Tellus (Denmark); Mr. Peter Vang Petersen – Senior Advisor/Curator, Nationalmuseet (Denmark); Mr. Michael Lewis – Deputy Head of the Department of Portable Antiquities and Treasure, The British Museum (The United Kingdom); Ms. Pirjo Uino – Chief Intendant of the Cultural Environment Protection Unit, National Board of Antiquities (Finland); Mr. Tom Sundström – hobby detectorist, Suomen Metallinetsijät Ry (Finland); Mr. Andres Enula – hobby detectorist and board member, Estonian Detectorist Association (Estonia); Ms. Sigrid Keskküla – Legal Adviser, National Heritage Board (Estonia); Mr. Armin Rudi – Senior Inspector, National Heritage Board (Estonia); Ms Baiba Ekere – Regional Inspector, State Inspection for Heritage Protection (Latvia); Prof Armands Vijups – Assistant Director for Scientific Work, Ventspils Museum (Latvia); Prof. Algimantas Merkevičius – University of Vilnius (Lithuania).

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1. REGULATION VERSUS COMMUNITY INVOLVEMENT IN THE PROTECTION OF ARCHAEOLOGICAL HERITAGE

1.1. Archaeological Heritage and Illicit Archaeology

To analyze the issues related to the protection of archaeological heritage, it is important to start by explaining the concept of archaeological heritage and defining illicit archaeology or “black archaeology”. The concept of archaeological heritage can be explained by its legal definitions which are set forth in the ICOMOS Charter for the Protection and Management of the Archaeological Heritage⁶ and the European Convention of 1992 on the Protection of the Archaeological Heritage⁷. According to the Charter, the archaeological heritage constitutes the basic record of past human activities. It is that part of the material heritage in respect of which archaeological methods provide primary information. It comprises all vestiges of human existence and consists of places relating to all manifestations of human activity, abandoned structures, and remains of all kinds (including subterranean and underwater sites), together with all the portable cultural material associated with them.

The Convention of 1992 explains the concept of archaeological heritage by its ability to serve as an instrument for the memory of mankind. Within the objectives of the Convention of 1992, all such remains and objects and any other traces of mankind from past epochs are considered to be the elements of archaeological heritage as a source of the European collective memory and as an instrument for historical and scientific study: (i) the preservation and study of which help to retrace the history of mankind and its relation with the natural environment; (ii) for which excavations or discoveries and other methods of research into mankind and the related environment are the main sources of information; and (iii) which are located in any area within the jurisdiction of the member countries of the Convention. Consequently, the archaeological heritage includes structures, constructions, groups of buildings, developed sites, moveable objects, monuments of other kinds as well as their context, whether situated on land or under water.⁸

Cultural heritage consists of artefacts and sites which carry the values and traditions of a community to such an extent that concern about their fate transcends legal ownership. (Layton &

⁶ ICOMOS Charter for the Protection and Management of the Archaeological Heritage. 1990, Lausanne. Available at www.international.icomos.org/charters/arch_e.pdf (06.02.2012).

⁷ European Convention on the Protection of the Archaeological Heritage. Valetta, 6.01.1992. Available at <http://conventions.coe.int/Treaty/en/Treaties/Html/143.htm> (06.02.2012).

⁸ *Ibid*, Art 1.

Wallace 2006, 47). The importance of archaeological finds as cultural heritage lies in the creation of cultural identity or the preservation of existing cultural identity. As an example of the first case, former colonial lands can be presented where after WWII a number of new states was formed and which, through their earlier cultural heritage, differentiated themselves from the colonial period as an episode which had interrupted the continuation of their own cultural identity for certain period. The deepening of cultural identity can be spoken about mainly in relation to Europe where firm cultural identity has always been such that there is not much need for material symbols to highlight its existence. The second important aspect of archaeological material as cultural heritage is its educational value which helps developing respect for the past and the creation of earlier societies. (Cleere 2000, 8-9). Cultural identity is in any case very closely related to ethnic identity which in turn is related to national / state sustainability. Therefore cultural identity is the reason why the ownership of archaeological heritage has remained the major discussion point of many unsolved disputes.

In the course of time the heritage of material culture has been treated from very different aspects: it has had importance in relation to cultic rituals as well as its monetary value; both as the bearer of nationality and the separate field of research. The value of an archaeological find lies in its antiquarian and scientific values. The latter is the most important as it consists of all the information related to the find and finding (Lang 2005, 3). One of the underlying principles of the non-commercialisation of archaeological material is the idea that archaeological heritage should not be treated as a commodity, either because it can't be owned or because it is owned by mankind (Hollowell 2006, 79). Hugo Grotius, a Dutch scholar and statesman, was the first one to express the idea that that which cannot be occupied or which never has been occupied, cannot be the property of anyone because all property has arisen from occupation. All that which has been so constituted by nature, although serving some one person, still suffices for the common use of all people and should remain in the same condition as when it was first created by nature. (Dingli 2006, 222).

Legal regulation is part of cultural and historic development. Already in early German societies there were severe punishments for those who excavated and looted burial sites. (Cleere 2000, 24). Treasure hunters, traders and collectors pose the biggest threat to the value of archaeological material because they consider an artefact as an object of aesthetic value and not as an important bearer of cultural information which loses most of its value after the removal from its archaeological context. When treasure hunters excavate archaeological sites and remove material which they are not interested in, they destroy the primary archaeological context and usually this means losing the most valuable information. When archaeologists excavate in layers which have

already been removed, they need to be able to understand that it is the secondary archaeological context. (Renfrew & Bahn 2008, 52). Thus, the more information there is about the archaeological context, the better possibilities exist for identifying the previous cultures, intercultural relations and their impact on our cultural identity.

Obviously, the term “black archaeology” refers to the unlawful (“black”) nature of the business of treasure hunters but this is just one element and does not explain the actual meaning of the activity. Some archaeologists may oppose the suggestion to place illicit activity under the “umbrella” of archaeology for the reason that the activity is not actually archaeology in its very sense and it may jeopardize the definition of archaeology as such. However, in addition to the fact that there is a clear linkage to archaeology which I will explain below, it seems a rather harmless combination of words which serves well for the sake of clarity and understandably implies the meaning behind the definition. Thus, I continue using the term “black archaeology” in parallel to “illicit archaeology” in this thesis, both referring to the same meaning.

The key to the definition lies in the term “archaeology” itself. According to the Council of British Archaeology: *“Archaeology is the study of the material remains and environmental effects of human behavior: evidence which can range from buried cities to microscopic organisms and covers all periods from the origins of humans millions of years ago to the remains of 20th and 21st century industry and warfare. It provides us with the only source of information about many aspects of our development. Milestones such as the beginning of agriculture, the origin of towns, or the discovery of metals, can only be understood through the examination of physical evidence. Archaeology also provides essential information for periods of the past for which written records survive.”*⁹ From this definition we see that the activity of archaeology as such is related to the creation of new knowledge and interpretations about the history and therefore the scientific component is a must when calling any activity “archaeology”.

The unlawful removal of archaeological heritage normally does not include any scientific measuring, documentation and research. The only similarity of “black archaeology” to actual archaeological activities is excavation which is necessary to get the archaeological finds out of surface. However, in case of “black archaeology”, excavation is usually unlawful – i.e. carried out without the legal permission and often using the prohibited means of search (e.g. metal detectors if their use is prohibited by law). Illicit archaeology and metal detecting are often addressed as if they meant the same thing. It is often the case that detector users are equated to looters. The term

⁹ See The Council of British Archaeology. Available at <http://www.britarch.ac.uk/getinvolved/whatisarchaeology> (07.02.2012).

”looter” involves diverse people with different motivations and interests, including those who engage in a legal hobby and sometimes even have historical interest in their search locations, and those who see detecting mostly as a profitable activity. (Hollowell 2006, 71). I agree that on certain occasions this is really the case. Yet, as I have argued in the introduction, detector users are a broad community with various motives and their relation to archaeology is not necessarily illegal. Therefore, the definition of “black archaeology” cannot contain detecting as one of its mandatory components.

“Detectorist” is a colloquial term used to describe a person who uses a metal detector (Evan-Hart & Stuckey 2007, 87). Metal detectors discover metal most successfully to 30-60 cm below the surface (Clark 2008, 14). One of the first types of hobby metal detectors available to general public in the UK in late 1960s was a BFO – a very basic Beat Frequency Oscillation model which increased the frequency of its ticking noise when an object was found. The British were followed by similar, yet somewhat more advanced models of BFOs established in the USA. Today, most detectors are “motion” type detectors, the development of which dates back to late 1970s and the beginning of 1980s. It means that such a detector can overcome ground effect while distinguishing between junk and wanted finds at the same time by continuous and automatic auto-tuning. Also, on many occasions contemporary metal detectors have computer technology incorporated into them which makes it possible to programme them with a number of variables. (Evan-Hart & Stuckey 2007, 8-12, 87).

The report of the Monitoring Group on Cultural Heritage of the Council of the Baltic Sea States indicates that “black archaeology” covers both illegal excavations and the selling of looted objects (The Monitoring Group on Cultural Heritage 2005, 7). Thus, in addition to illicit field work, the definition of “black archaeology” also includes the marketing of unlawfully excavated objects. Moreover, “black archaeology” does not only relate to the illicit excavations but also official excavations. Respectively, the provisions of Art 10 the Convention of 1992 with regard to the prevention of the illicit circulation of archaeological heritage contain a reference to restricting the circulation of elements of the archaeological heritage suspected of coming from uncontrolled finds or illicit excavations or unlawfully from official excavations.

From the above we see that the definition of “black archaeology” comprises at least three key components: (i) non-scientific purpose (ii) illegal excavation and removal of finds originating from illicit or official excavations (iii) selling of unlawfully excavated and removed finds. In addition to the above, I think that “black archaeology” has even broader scope than the unlawful excavation and selling of looted items. I suggest, it also contains the preliminary activities (such as search in archives, interviews with local people, acquisition of search equipment, etc) which

are necessary to determine the location and search objectives, and all the preliminary, recurring and post-removal logistical arrangements and networking (e.g. communication with antiquity stores in order to secure the marketing of looted objects). Also, it is necessary to keep in mind the geographic dimension as “black archaeology” is undoubtedly a cross-border business.

Thus, I suggest the adequate definition of “black archaeology” should reflect the whole chain of activities because its actual meaning is much wider than treasure hunting normally addressed as the simple unlawful excavation of archaeological items. In order to open its meaning and differentiate between archaeology and “black archaeology”, I suggest that “black archaeology” can be defined as follows: “Black archaeology” means all single or group-based activities which are related to the illegal non-scientific excavation, removal and selling of archaeological heritage originating from illicit or official excavations, including but not limited to the preliminary research and communication activities, search and excavation works, removal and cleansing of finds, any support activities, networking and contracting, and the offering for sale and selling of finds to the previously identified or non-identified buyers in the country of origin and abroad.” (Ulst 2010, 155).

Illicit excavations and trade are the major challenges for heritage protection in Estonia. Additionally, I find it important to highlight such issues as problems with administrative capacity and control mechanisms, low public awareness and initiative (including local governments). To illustrate the definitions provided above and the key challenges in heritage protection, let us briefly look at the major looting cases and the problems of illicit archaeology in Estonia: the lootings of Lauritsamäe, Keila, Ubina and Vaivara hoards.

The case of Lauritsamäe hoard serves as a good example of the lack of administrative capacity in heritage protection in Estonia. Although the case dates back to 2004¹⁰ and in recent years the situation has somewhat improved, administrative capacity nevertheless remains an issue. The case of Lauritsamäe hoard was about three persons who were suspected of having excavated 10 coins dated to the I half of XIV century to the I half of XVIII century, having cleaned and separated them from the hoard. The location of coins was unknown. The National Heritage Board (hereafter the NHB) found that the removal of coins supposedly damaged the site and the completeness of the complex.¹¹ The looters successfully contested the misdemeanor proceedings of the NHB in

¹⁰ The case was eventually solved in Harju County Court only in the beginning of 2007. The court ruled for the persons subject to proceedings on the basis of expiration because the misdemeanor had been committed more than 2 years ago from the day of making the court decision.

¹¹ The regulation of prohibitions with regard to the destruction of sites and removal of found archaeological objects was contained in Art 30 (2) and Art 32 (1) and (2) of the HPA. *See also* Harju County Court decision of 31 January 2007 in misdemeanor case 4-06-407 (in Estonian).

court, basing themselves on the lack of evidence and the violation of procedural rules by the NHB. With regard to the latter, their key points were the application of expiration and reference to the different treatment of persons who had supposedly committed the same misdemeanor together. Although my personal view is clearly against looting, these problems cannot be disregarded and in this aspect the looters did make a point. Respectively, I think that the major reasons for the failure to sanction the likely treasure hunters in the given case were indeed the non-consideration of expiration dates and non-consistent treatment of the case. In the course of handling the case the NHB had annulled the proceeding against one of the looters. Different treatment of persons that participate in the same misdemeanor contradicts the principle of uniform application of law¹². This indicates that the understanding of its role as the processor of misdemeanors by the NHB is very important to ensure the uniform treatment of cases and set some principles which can be continuously followed throughout the processing of cases and disputes.

The case of Keila hoard brought the issue of finding fees into the agenda. The case dates back to 2004 when 446 silver coins from XIV century were excavated by the same persons responsible for the looting of Lauritsamäe hoard. The coins were removed, cleaned and taken to the Estonian History Museum only some three weeks later. Although the looters had committed a breach of law, they nevertheless applied for a finding fee. At the first stage, the NHB decided not to pay the fee because the excavation and removal of coins had been unlawful according to the provisions of Art 32 of the HPA¹³. However, the looters brought an action to court and the NHB surprisingly made another decision to pay the looters a finding fee of 53 400 kroons. This completely surprising change of positions ended the proceedings in court and enabled the treasure hunters once again to get away with an advantageous solution, also reflecting the challenge in relation to finding fees.

According to the HPA effective at the time of the proceedings, the size of the finding fee was ½ of the value of a find. The value is usually determined by the respective expert opinion. In addition to antiquity value the treatment of a find by its finder is also taken into account. This means that the more complete the find and the more accurate the information about its context, the higher the value of the hoard and the fee (Kiudsoo 2008, 14-15). Although the value of the coins of Keila hoard was initially evaluated by one of the leading Estonian numismatists to

¹² This principle assumes a thorough analysis of court practice and should also apply in misdemeanour proceedings, provided that the earlier application of law in similar situations has been carried out without major errors.

¹³ According to Art 32 of the HPA the finder is required to preserve the place of the finding in an unaltered condition and immediately notify of it. A found thing, if removed from the place where it was found, must not be damaged by cleaning, refurbishing, breaking or in any other manner, or by severing parts from the whole.

amount to 96 000 kroons, the NHB decided to pay a fee of 53 400 kroons, reasoning that according to auction prices the total value of the hoard could be even some 300 000 kroons. Moreover, 2 of the coins were very rare because there are only 2 such exemplars in the world. (Kärmas 2005). The law clearly defined the basis for a finding fee but it was possible to contest the determination of the value on which the size of the fee depends (Pärna 2004, 213). I believe that it is important to take into account the fact that the fee is designed to be an incentive for an honest finder. The size of the fee should be therefore reasonable: on one hand, it should not be too small in order to maintain the motivation of the finder and on the other hand, it should not be too big in order to avoid the hunting of treasures becoming a separate source of income. The case of Keila hoard is particularly cynical because eventually the looters considered the fee appointed to them by the NHB too small, indicating that it would not even cover their direct costs of searching (Eesti Ekspress 2005).

Another major problem with Keila hoard is that the NHB excluded potential misdemeanor proceedings by its decision to pay a finding fee to the looters and thereby accepted the lawfulness of the find. The coins existed and the persons that had excavated them had eventually brought them to the museum. Thus, it would have been possible to objectively prove the violation of legal provisions which prohibit the excavation and removal of a find. Even the fact that the coins were handed over some weeks later would not have excused the violation because the find was in any case removed without the permission and three weeks is not a reasonable period for “immediate“ notification. In this light a problem with media involvement should also be mentioned. The looters organized several media coverages, blaming the NHB intentionally seeking to avoid the payment of finding fees (Kärmas 2005). Yet, the heritage protectors and archaeologists received only limited possibilities to comment the case and draw attention to the breach of law on behalf of the very same looters. Although from the legal perspective the looters committed the violation of the HPA, the focus of the case was shifted to finding fees and no sanctions were eventually applied. The various media coverages positively supported the “image creation“ of the looters.

The third sample case is that of Ubina hoard, dating to the spring of 2005 when archaeological excavations took place in the historical settlement of Ubina. The excavations resulted in finding a silver hoard from the remains of a Viking Age building. It contained 277 coins, 5 silver adornments, 4 silver lumps and 5 silver plates. The coins were varied: German, English, Danish, Arabic, Hungarian, Byzantine and Swedish.¹⁴ Since the find represented very rare silver hoard both in Estonian and European context, the archaeologists kept information about the site in

¹⁴ It was a very unique find. There are only 7 such finds known in the whole world. Moreover, 4 of such treasures have been found from Harju County, 1 from Viru County and only 2 outside of Estonia (see Tamla et al. 2006).

secret from the first day.¹⁵ Regardless, a number of black holes were discovered on the same site just one day after the start of official excavations which indicated possible attempt of looting. After the incident excavations continued under surveillance and were completed by summer. Some time later the scientists of Estonian History Museum received information from their German colleagues¹⁶ that some coins assumingly related to this hoard are to be sold in the coin auction of Dortmund. Thanks to German police 42 coins out of 108 were confiscated from the auction. Their estimated value was 8175 euro (Pöld 2008). Criminal proceedings were initiated against the Estonian citizen who had arranged the auctioning of the coins. Charges were placed with regard to the destruction of a monument and theft of the objects of great scientific, cultural or historical significance belonging to the Republic of Estonia. This case which ended in a final binding decision of the Supreme Court is the first significant piece of positive case law in heritage protection in Estonia. Although there was no direct linkage of the accused person to looting¹⁷, he was found guilty of destruction of the site and embezzlement according to Art 204 (1) and Art 201 (2) 4 of the Penal Code based on indirect evidence. The case of Ubina hoard serves as a good example of successful fight against looting and cooperation between heritage protection and justice but it also indicates that heritage protection seems to be more efficient in case of criminal proceedings (and related professional prosecutors involved) rather than simple misdemeanor proceedings on behalf of the NHB.

Last but not least, a recent important case is that of Vaivara hoard. The case dates to the spring of 2009 and it is an example of challenges for heritage protection as cross-border issues are regarded. On his web page <http://metaldetectingworld.com> a Russian man originating from Estonia but living in the USA invited detector users to the Eastern part of Estonia where there are many interesting heritage objects and sites available for discovery. As an example, he had placed a story and numerous photos of his own recent discovery on to the page. The map on the web page indicates that he had excavated close to the location of the destroyed Vaivara parish church in East-Estonia. He had found and removed a hoard consisting of 2700 Russian coins and an icon dated to the period of Livonian war in mid-XVI century. Criminal proceedings were initiated in the spring of 2010 and are still running but the page was regardless active when I was preparing this research. In spite of criminal proceedings and the fact that the web page of the potential looter contains many photos on which he, with a detector and coins in his hands, is clearly identifiable, there are problems in respect of this case. First, it isn't certain whether such

¹⁵ Application of the National Heritage Board of 7 July 2005 for the commencement of criminal proceedings.

¹⁶ Such info exchange is usual when some important items originating from the Baltics or Scandinavia are auctioned in Germany.

¹⁷ The accused person was reached through the confiscation of coins and he was not caught in direct action of looting.

excavation actually took place and even if it did, whether all the coins shown on the photos originate from there. Also, the looter is allegedly a foreign (non-EU) resident which makes it difficult to hold him responsible. Even if the police investigation identifies the person behind the web page, it would be practically complicated to initiate and carry out successful and timely proceedings against him. There are of course legal means (including extradition) but their practical implementation is complex and time-consuming. As archaeological heritage has been and will be subject to cross-border interest, this case serves as a good example of such challenges for heritage protection.

1.2. Metal Detecting Regulations

1.2.1. Regulation of Detecting Devices

The first tool to handle the challenges for heritage protection is law. In one way or another it means certain restrictions to certain activities. Some claim that archaeological laws throughout the world have been established with antiquarian rather than archaeological approach and that is why discussions about cultural property take place. (Dingli 2006, 231). One of the aspects often subject to regulation is metal detecting. To address the positive and negative aspects of the regulatory framework in respect of metal detecting I would like to briefly introduce the regulatory frameworks in the countries subject to this research. Important information about the regulatory backgrounds has been obtained from the survey results. In addition to legal acts I find it important to introduce whether and which "soft" instruments are in place in the selected countries. I shall commence with addressing the heritage protection system and recent developments in Estonia.

In large, the regulatory framework applicable in Estonia can be divided into three broad categories: (i) international legal framework¹⁸ such as the UNESCO Conventions of 1970 and 1972¹⁹, European Convention on the Protection of the Archaeological Heritage (1992)²⁰ and the Directive 1993 on the return of cultural objects unlawfully removed from the territory of a

¹⁸ Estonia has not yet ratified the UNIDROIT Convention of 1995 on Stolen or Illegally Exported Cultural Objects. See UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects. Rome, 24.06.1995. Available at <http://www.unidroit.org/english/conventions/1995culturalproperty/1995culturalproperty-e.pdf> (09.02.2012).

¹⁹ The UNESCO Convention of 1970 on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and the UNESCO Convention of 1972 Concerning the Protection of the World Cultural and Natural Heritage have been ratified by Estonia on 5 April 1995 (see *Riigi Teataja (RT) II* (1995) No. 10, 53).

²⁰ European Convention on the Protection of the Archaeological Heritage, *op.cit.* note 7. The convention has been ratified by Estonia on 23 October 1996 (see *Riigi Teataja (RT) II* (1996) No. 36/37, 134).

Member State²¹; (ii) national laws and regulations such as the Heritage Protection Act, Property Law Act, Penalty Code and its implementing acts; (iii) "soft" instruments such as the ethical principles of the Estonian Detectorist Association and Estonian Code of Ethics of Archaeology.

The protection of archaeological finds in Estonia is regulated by the Heritage Protection Act (HPA)²² which became effective on 01.04.2002. It is supplemented by the Law of Property Act (LPA)²³, the punishment regulation and implementation acts. In accordance with the law, the main function of the National Heritage Board (NHB) in the prevention of "illicit archaeology" is to exercise state supervision over monuments and heritage conservation areas (Art 7 of the HPA) while certain supervisory functions and assistance to state supervision are also assigned to rural and city municipalities (e.g. Art 9 of the HPA). Any excavation work on immovable monuments and in heritage conservation areas is prohibited without the permission of the NHB (Art 24 (1) 11 and Art 25 (2) 1 of the HPA). Art 5 of the HPA directly prohibits destroying or damaging monuments.

Art 32 of the HPA sets forth the duties of the finder of an archaeological object. The finder is required to preserve the place of the finding in an unaltered condition and to notify the NHB or the municipality promptly of the finding. A found thing must be left in the place of its discovery until it is delivered to the NHB. A found thing may be removed only if its preservation is endangered. It must not be damaged by cleaning, refurbishing, breaking or in any other manner, or by severing parts from the whole. When it comes to legal sanctions with regard to unlawful excavation, the unlicensed use of metal detectors and the destruction of sites, intentional acts are punishable and the sanctions vary between misdemeanors and criminal offences²⁴. The liability is stipulated both in the Penal Code²⁵ and the HPA.

Here it is important to note that the issue of stricter sanctioning as a means to improve heritage protection has earlier been an object of discussion in Estonia (and probably in other countries

²¹ Council Directive 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State, *Official Journal (OJ) L 74 (1993)*, 74-79. The Directive was implemented in Estonia with effect since 1st May 2004. See "Euroopa Liidu liikmesriigist ebaseaduslikult väljaviidud kultuuriväärtuste tagastamise seadus", signed 11 June 2003, *Riigi Teataja (RT) I* (2003) No. 51, 351; (2009) No. 62, 405 (in Estonian).

²² "Muinsuskaitse seadus", signed 27 February 2002, *Riigi Teataja (RT) I* (2002) No. 27, 153; (2011) 21.03.2011, No. 4 (in Estonian) (hereinafter "Heritage Protection Act").

²³ "Asjaõiguse seadus", signed 9 June 1993, *Riigi Teataja (RT) I* (1993) No. 39, 590; (2011) 29.06.2011 No. 1 (in Estonian) (hereinafter "Law of Property Act").

²⁴ Classifying an act as misdemeanor or criminal offence depends on the punishment provided in law. In case an act is punishable by a fine (measured in fine units) or detention (up to 30 days), it is qualified as misdemeanour. In case an act is punishable by pecuniary punishment (measured in daily rates) or imprisonment (more than 30 days), it is qualified as criminal offence.

²⁵ "Karistusseadustik", signed 6 June 2001, *Riigi Teataja (RT) I* (2001) No. 61, 364; (2011) 29.12.2011 No. 1 (in Estonian) (hereinafter "Penal Code").

too). At first glance one could assume a positive influence of stricter punishments. Kiudsoo suggests stricter punishments, the enhancement of control mechanisms and “the policy of hard hand“. He suggests taking the UK as an example: the general use of metal detectors is allowed in the UK but the persons carrying metal detectors in monuments or their surrounding areas are subject to accelerated procedure and very big fines (Kiudsoo 2008, 14-15). Against the cases of looting which I have presented above my view is that instead of stricter punishments the focus should be on the efficient control mechanisms. Also, in the context of Estonia it is necessary to consider that a common law tradition such as the UK normally has less codification and respective procedural rules than a continental law system such as Estonia. Thus, the “policy of hard hand“ would require a very correct procedural application and competent administrative processing in order to avoid disputes. Even the stricter punishments would not influence looting if in practical terms there is no sufficient applied administrative capacity to implement the punishments.

In the context of the topic of this thesis the articles of the HPA related to the search of finds of cultural value are the most important provisions to address. Art 30 (1) stipulates that a find of cultural value is a movable found in the ground or on the surface of the ground, inside a construction, under water or in the sediment of a body of water, which is either a natural feature or has historical, archaeological, scientific, artistic or other cultural value and which has no owner or the owner of which cannot be ascertained. According to Art 30 (2) of the HPA a find of cultural value belongs to the state and its finder or holder must enable the identification of cultural value on behalf of the NHB. Metal detecting is prohibited on registered monuments unless justified by the methodological purpose of official archaeological fieldwork. In addition to these rules which have been in effect for quite some time, the HPA was supplemented in 2011 by the set of new provisions regarding the use of metal detectors on unprotected sites.²⁶ Respectively, the use of a search device in searching an item of cultural value outside the areas of registered monuments requires a license. In order to apply for the license, the applicant must be at least 18 years old and must have completed his/her education in archaeology or a respective training.²⁷ When it comes to the use of metal detectors in the course of archaeological excavations, a permission for archaeological fieldwork must be always sought and the respective application should usually contain a research programme together with the description of applicable research methodology, including the use of a detector.

²⁶ The provisions regarding the use of metal detectors in Estonia became effective on 1 June 2011.

²⁷ Art 30¹ (1) and (4), Heritage Protection Act.

When it comes to the regulation of detecting devices in other countries, Sweden has the most restrictive environment of the countries subject to this study. In Sweden, the use of metal detectors is legally prohibited (Lundén 2004, 216). The Act of 1988²⁸ initially prohibited metal detecting in the counties of Gotland and Öland. Today, the prohibition of the use of search devices to detect metal objects in the surface has been extended to include all of Sweden. This means that any metal detecting (both on scheduled monuments and on any other site) is prohibited without a license (National Council for Metal Detecting 1998). According to the Act, metal detectors may not be used, except for the use by the National Heritage Board, military use and public activities for the search of things other than ancient items. Also, even the carrying of a metal detector is prohibited on ancient monuments and remains, except for the travelling on open public road. Outside the exceptions provided by law, it takes a written permit from the County Administrative Board of a respective county to legally use a detector in Sweden.²⁹ The permit is always assigned only for a specific area and it is limited in time, normally for one year. However, the practical experience indicates that on the islands of Gotland and Öland amateur detecting can never be legal (Rundkvist 29 May 2009). This means that there is a great variation in different counties in Sweden regarding the practice and willingness of granting the permit and probably a stricter approach to amateur detectorists in certain regions can be explained by the greater consolidation of valuable archaeological heritage in these regions as well as the amount of damage that earlier cases of detecting have caused to the sites. Nevertheless, the overall impression from some Scandinavian detectorist blogs³⁰ is that it is generally very difficult to obtain a permit in most of the counties in Sweden, it takes a lot of lobbying and the issuers do not look at the detectorists with a friendly eye despite their motives.

There are also "soft" instruments in place in Sweden. The Swedish National Heritage Board has published a set of guidelines to explain the legal regulations and their application. The guidelines are first and foremost directed to County Administrative Boards and contain the requirements and information details to be included in a detecting permit, guiding the boards in assessing the applications. However, the guidelines are also useful for licence applicants. The guidelines were published in 1991 and they are probably going to be revised in 2012.

In Denmark, the situation with the use of metal detectors varies, depending on the ownership and status of land. In many historical and archaeological sites the use of metal detectors is completely

²⁸ "Lag (1988:950) om kulturminnen", signed 30 June 1988, *Svensk författningssamling (SFS)* 1988:950; 2011:1068 (in Swedish) (hereinafter "Heritage Conservation Act").

²⁹ Chapter 2 Art. 18-20, Heritage Conservation Act.

³⁰ I have examined the postings at http://scienceblogs.com/aardvarchaeology/2009/05/how_to_metal_detect_legally_in.php and http://scienceblogs.com/aardvarchaeology/2009/03/danish_metal_detector_festival.php

forbidden. Art 29 f of the Consolidated Act on Museums³¹ states that as visible cultural heritage sites (meaning grave mounds, etc) are regarded, metal detecting is prohibited on the site and within 2 meters from the site. On public land it is the municipality who decides whether detectors may be used. It is estimated that approximately 50% of the public land is closed to metal detecting. As private land is regarded, there are no restrictions apart from the landowner's permission. (National Council for Metal Detecting 1998). The use of metal detector in archaeological fieldwork is driven by the responsibility of museums for archaeological fieldwork. Metal detecting in the course of archaeological fieldwork is only allowed on the agreement with a museum which either includes detectorists or carries out detecting activities on its own. The impression from the blogs³² is that although there are certain restrictions in place in Denmark regarding the use of detecting devices, it is possible to find reasonable sites to carry out lawful metal detecting and there is much lesser prejudice towards detectorists (including foreign detectorists) in Denmark.

When it comes to the regulatory framework in Saxony (Germany)³³, the Act to Protect and Care for Cultural Monuments in the Free State of Saxony is the major piece of legislation. Both archaeological fieldwork and the use of detectors require a licence in Saxony. All metal detecting (both on scheduled monuments and on any other site) is prohibited without a licence. The licence is normally granted for the period of one year. It is the Archaeological Heritage Office³⁴ which is responsible for licensing the use of metal detectors as well as archaeological heritage in the area of Saxony. A licence applicant must either have special education in archaeology or respective training with regard to archaeological excavation methods. Also, the applicant should not have earlier penalties for the breach of heritage protection and/or antiquities trading rules. There are also "soft" instruments in place in the State of Saxony. There are guidelines of licensed detecting which recommend the necessity of a valid license. They also suggests the field of survey to be planned together with the Archaeological Heritage Office and all finds to be documented by GPS coordinates and find records. Licensed detecting is only allowed on ploughed fields or otherwise disturbed sites up to the depth of disturbance; no archaeological features must be destroyed. The Home Office of Saxony as a responsible government office for ancient heritage protection has agreed to the guidelines.

³¹ "Museumsloven", signed 14 December 2006, No. 1505. Available at <https://www.retsinformation.dk> (13.12.2012) (in Danish) (hereinafter "The Consolidated Act on Museums").

³² I have examined the postings at http://scienceblogs.com/aardvarchaeology/2009/05/how_to_metal_detect_legally_in_php and http://scienceblogs.com/aardvarchaeology/2009/03/danish_metal_detector_festival.php

³³ "Sächsisches Denkmalschutzgesetz" (SächsDSchG), signed 3 March 1993. Available at <http://www.neumarkt-dresden.de/debatte-saechs-denkmalschutz.html> (08.02.2012) (in German).

³⁴ Landesamt für Archäologie.

In Lithuania, it is the Law on Protection of Movable Cultural Property³⁵ which regulates excavations and the search of cultural property. There are no additional "soft" instruments. Similar to other examined countries, it is always necessary to obtain a licence for archaeological fieldwork. Also, only archaeologists can legally use metal detectors in fieldwork. Among others, it is prohibited to uncover the authentic unresearched parts or elements, to move archaeological layers and to use metal, electronic or other detectors in an object protected for scientific knowledge, territory thereof or a site without the consent of an institution in charge of protection.³⁶ Thus, detecting without a license is prohibited in Lithuania. These rules were adopted in 2010; earlier there were no restrictions to metal detecting in Lithuania. The licensing of the use of detectors and the supervision of heritage protection are the responsibility of the Department of Cultural Heritage Protection of the Ministry of Culture.³⁷ All licence applicants must have completed special education in archaeology or respective training with regard to archaeological excavation methods.

While the aforementioned countries have established licensing systems for metal detecting which cover both registered monuments and other sites to greater or lesser extent, the UK represents an example of relative freedom of metal detecting combined with some fundamental regulatory requirements and voluntary instruments. The UK is considered one of the most structured and disciplined countries of metal detecting in the world. The major acts regulating the protection of archaeological heritage in the UK are the Treasure Act 1996³⁸; the Treasure (Designation) Order 2002 which amended the Treasure Act; and Archaeological Monuments and Archaeological Areas Act 1979³⁹. The latter regulates the use of metal detectors.

Detecting is in principle legal in England, Wales and Scotland given that a detectorist (1) has the respective permission from the landowner and (2) he/she avoids scheduled monuments / protected sites. There are some 18 000 protected sites in England but possibly 90% of known sites are not scheduled. (Bland 2009). The use of metal detectors on a scheduled ancient monument requires a licence from the English Heritage and unlicensed detecting carries a penalty of imprisonment or fine. Normally such licence would only be granted as part of an archaeological excavation/survey. If the land is not a scheduled monument, detecting is generally allowed. Yet, there are a few

³⁵ "Lietuvos respublikos kilnojamojū kultūros vertybių apsaugos įstatymas, No I-1179", signed 23 January 1996, *Valstybės žinio* 1996 No 14-352; 2010 No 54-2643 (in Lithuanian) (hereinafter "Law on Protection of Movable Cultural Property").

³⁶ Art 17 (1), Law on Protection of Movable Cultural Property.

³⁷ Art 5 (10), Law on Protection of Movable Cultural Property.

³⁸ Treasure Act 1996, signed 4 July 1996. Available at <http://www.legislation.gov.uk/ukpga/1996/24/contents> (08.02.2012).

³⁹ Archaeological Monuments and Archaeological Areas Act 1979, signed 4 April 1979. Available at <http://www.legislation.gov.uk/ukpga/1979/46> (10.02.2012).

schemes for receiving additional consents for detecting from certain bodies. For example, according to the Countryside Stewardship Scheme metal detecting is allowed, providing the detectorists have a written consent from the DEFRA⁴⁰ and they comply with the codes of conduct of the NCMD⁴¹ or FID⁴² (Clark 2008, 17). As the region of Northern Ireland is regarded, the rules in respect of the search of archaeological objects are not the same as in England. The excavation for the purpose of searching generally for archaeological objects (whether or not it involves the removal of the surface of land) without a licence in any land is not allowed and it would result in a fine. Also, the use of a metal detector in a protected place without a written permission would result in a fine.⁴³

The important voluntary instruments to be addressed regarding the system in the UK are the Portable Antiquities Scheme (PAS) and the Code of Practice for Responsible Metal Detecting in England and Wales. The PAS is a complimentary measure to the Treasure Act 1996 and it concerns the voluntary recording of archaeological finds discovered by members of general public. Both the Treasure Act and the PAS were created partially through the archaeological community acknowledging that the search of portable antiquities is something of continuous interest as leisure activity for general public. (Layton & Wallace 2006, 62). The PAS has also drafted a guideline document "Advice for Finders"⁴⁴. The Code of Practice for Responsible Metal Detecting contains a set of recommendations agreed between the key umbrella organizations for metal detectorists in the UK. The thinking behind the Code is that education and self-regulation provide the best prospect of progress (Bland 2008, 70). The Code is a voluntary document and it focuses on basic legal requirements and suggestions regarding the recording and reporting of finds. However, I find that there are also a few shortcomings about the Code in relation to its function as the stimulator of responsible detecting. First, it does not cover the strategies for sampling and recording which are normally part of mandatory practice in ordinary archaeology. Secondly, it sets priority to the artefact as such whereby promoting an antiquarian approach instead of archaeological context.

⁴⁰ DEFRA (the Department for Environment, Food and Rural Affairs) is the government department responsible for environmental protection, food production and standards, agriculture, fisheries and rural communities in the UK.

⁴¹ NCMD (the National Council for Metal Detecting) is a representative body of elected volunteers formed in 1981. The organisation declares that its aims are to provide a means whereby responsible metal detector users would have a democratic forum to discuss problems affecting the hobby and to provide an authoritative voice to counter ill-informed and frequently misleading criticism of the hobby.

⁴² FID (the Federation of Independent Detectorists) is one of the two main organizations that represent the interests of metal detectorists in the UK. The FID is a metal-detecting organization which helps exchange information and provides insurance to its members. The FID is open to responsible detectorists.

⁴³ Historic Monuments and Archaeological Object (Northern Ireland) Order 1995, signed 29 June 1995, *Statutory Instrument 1995* No. 1625 (N.I. 9), Art 29, 30 and 41 (1).

⁴⁴ See more at <http://finds.org.uk/documents/advice.pdf> (15.02.2012).

Next to the aforementioned systems which to greater or lesser extent have some direct legal provisions regarding the use of metal detectors, Finland and Latvia are the countries which do not have direct regulation in this respect. In Finland the protection of archaeological heritage is first and foremost regulated by the Antiquities Act⁴⁵. Its major provisions are divided between ancient monuments⁴⁶ and ancient objects. According to Art 1 of the act it is forbidden to excavate, damage or remove ancient monuments or disturb them in any other way unless otherwise directly permitted by the act. Should an unknown ancient monument be discovered, any works on it must be immediately suspended and people responsible for the works should inform the National Board of Antiquities without a delay (Art 14 of the act). When ancient objects are regarded, Art 16 of the act stipulates that the finder of a coin, weapon, tool, ornament, vessel, transport equipment or the like, of which the owner is not known and which can be expected to be at least 100 years old, should immediately submit the object in question to the National Board of Antiquities in the condition it was found, uncleaned and with detailed information about the place of its discovery and attendant circumstances. Next to the Antiquities Act there are also some important provisions contained in the Nature Conservation Act⁴⁷ which prohibits any action altering the natural surroundings in a national park or strict nature reserve⁴⁸.

In the context of the protection of archaeological heritage the traditional Finnish legal concept is that of everyman's right which allows free right of access to the land and waterways, and the right to collect natural products. Therefore the passing of private or state owned lands is usually quite free of restrictions. However, anyone must respect the landowner's rights and should not disturb land or nature. Therefore it is not allowed to walk near or through the home yards or gardens. Also, a permission needs to be sought from the landowner to dig the ground or remove turf or any other natural resources.

There is no separate licensing system concerning the use of metal detectors in Finland and there are no particular provisions in the Antiquities Act. Anyone can buy a detector and use it for searching. In general, all ancient monuments are automatically protected by the act and no disturbing activities or archaeological investigations are allowed without a permission. Metal

⁴⁵ "Muinaismuistolaki", signed 17 June 1963, *Suomen Säädoskokoelma (1963)* No 295/1963; 1443/2009. Available at <http://www.finlex.fi> (15.02.2012) (in Finnish) (hereinafter "Antiquities Act").

⁴⁶ Ancient monuments include the area of land necessary for the preservation of the remains in question and for providing sufficient space around them as a protective zone. Both the monument and its protective zone are protected by law.

⁴⁷ "Luonnonsuojelulaki", signed 20 December 1996, *Suomen Säädoskokoelma (1996)* No. 1096/1996; 627/2011. Available at <http://www.finlex.fi> (15.02.2012) (in Finnish) (hereinafter "Nature Conservation Act")

⁴⁸ The following activities are prohibited: (i) the extraction of sand and stone materials and minerals, and any action that damages the soil or bedrock; (ii) any other action, which may have a detrimental impact on the natural conditions and the landscape, or on the preservation of fauna and flora. There can be conditions that require prohibiting or restricting passage, camping, mooring and landing, and the keeping of vehicles in a nature reserve.

detecting without a licence is prohibited on scheduled monuments but it is allowed to use the detector on other sites which are not under protection. It is the National Board of Antiquities which gives permissions for the use of metal detectors in archaeological research at known archaeological sites in Finland. Archaeological investigations concerning nature conservation areas require a licence from the Centre for Economic Development, Transport and the Environment. The search of archaeological sites as well as metal detecting on sites that are not considered legally protected ancient monuments do not require any permission or licence.

Different from Sweden there is yet no code of practice or set of recommendations in place in Finland. However, in the near future the National Board of Antiquities seeks to launch instructions concerning the use of metal detectors by general public. In practical terms the experts of the board have so far always acted as advisers to metal detectorists and provided them with advice such as not to use a detector on the site which is suspected to be an ancient site without consulting an archaeologist or regional museum beforehand; or to take into consideration that there are legally unprotected sites which might be valued highly by local people⁴⁹.

When the situation in Latvia is regarded, it seems that its regulatory framework is the weakest among the countries subject to this research. The major law in the protection of archaeological heritage is the Law of the Protection of Monuments⁵⁰. Similar to other model countries it is necessary to obtain a licence for archaeological fieldwork or any other interrupting activity on registered monuments in Latvia. The institution responsible for the issuing of fieldwork licences and their supervision in Latvia is the State Inspection for Heritage Protection. There are two main requirements for obtaining the licence. For the first, the applicant must be a professional archaeologist with academic degree and fieldwork experience. Secondly, all the reports of earlier fieldwork must be submitted within 2 years following the excavations. If the applicant fails to submit the report, the new licence application shall be rejected. Unlike in most of the other examined countries there are no laws which regulate the use of metal detectors, regardless the site. Thus, detecting is not prohibited in Latvia. There are no supplementary “soft” means in place.

1.2.2. Regulation of the Reporting and Recording of Finds

Rules regulating the use of metal detectors, as discussed earlier, form only part of regulatory framework which forms basis for the behaviour of metal detectorists and state authorities towards

⁴⁹ Historical grave yards, cemeteries or sites of the WW II, for instance, should be respected.

⁵⁰ ”Likums “Par kultūras pieminekļu aizsardzību””, signed 12 February 1992, *Ziņotājs 05.03.1992* No 10; *Latvijas Vēstnesis 17.11.2010* No 183 (4375). Available at <http://www.likumi.lv> (18.02.2012) (in Latvian).

each other. The other part consists of the recording and reporting of archaeological finds which have been discovered whilst metal detecting. When it comes to reporting and recording of finds, the systems in the countries subject to this research vary from fully mandatory reporting systems to combined systems of mandatory reporting and voluntary recording.

Estonia is one of the countries which has had mandatory reporting system in place from the start of its independent heritage protection system. Only finds which qualify as objects of cultural value must be reported to the authorities. The system of reporting and recording of finds in Estonia has been recently revised by the set of provisions directly related to the new system regarding the use of metal detectors. Since the implementation of the new provisions there is an obligation of regular reporting on yearly basis for those who have been granted a detecting licence. All finds which have been found in the course of detecting have to be reported. However, this does not disregard to general obligation to report the finds of cultural value immediately upon their discovery. The NHB records the finds which have been handed over to it in the respective state register. Additionally, finds are recorded also in the collections of museums and scientific institutions if found by them or delivered to them. There is unfortunately no linkage between these registers.

A find of cultural value is considered an ownerless object which belongs to the state regardless on whose property it was found. According to Art 33 (1) of the HPA, the finder of an object of cultural value is entitled to receive a fee in up to the full value of the object. The fee is based on the natural, historical, archaeological, scientific, art or other cultural value of the object, the circumstances of finding and handing over of the object. Its size shall be determined by the NHB. Based on Art 33 (4) of the HPA no fee shall be paid to such finders who have performed their work duties in the course of archaeological research or heritage protection supervision, or who have breached the legal duties of the finder pursuant to Art 32 of the HPA.

Similar to Estonia, the obligation of reporting the finds found in the course of metal detecting goes together with detecting licence also in Sweden. The finds of archaeological/cultural value must be reported to the authorities. If a metal detector is used in archaeological excavations the finds found have to be included in excavation report. Otherwise, archaeological finds must be immediately reported to the County Administrative Board. The seeking of permission for metal detecting normally includes a declaration of intent to show all the finds to a respective county museum and to seek the permission from the landowner/tenant before the start of metal detecting. However, the general practice is that a find spot becomes a recognized archaeological site as soon as a detector user acting under the permission reports the find to the museum. This means that the detectorist may not be granted a continuous permission for metal detecting in that particular field

because most county archaeologists would not allow any detecting activities on recognized archaeological sites. (Rundkvist 29 May 2009).

Reporting of finds is also something that has to be done in Denmark, depending on a find. Only the objects of cultural value must be reported. The major act to regulate the reporting of finds in Denmark is the Consolidated Act on Museums⁵¹. All finds which fit the definition of "*danefø*" have to be reported. Art 30 of the act stipulates that if a detector user finds an object of valuable material or an object which is precious cultural heritage, the object belongs to the state and needs to be handed over to the National Museum. Any coins minted after the monetary reform in the 19th century can be retained by the finder but otherwise coins and artefacts are to be delivered to the National Museum or to local museums. Objects found in the course of archaeological fieldwork are allotted to the museum which is in charge of the dig. Local museums pass the objects on to the National Museum which records them in the national database (REGIN). Normally a finder is granted a finding fee. Although these are very rare cases, a finder is allowed to keep the find on some occasions, e.g. the find of less archaeological value such as a single minor coin dated after 1536 and so on. (National Council for Metal Detecting 1998). The National Museum has a home page on the Internet explaining the law on treasure trove and how to deal with finds which qualify as *danefø*.⁵² The opinions in Scandinavian detectorist blogs⁵³ indicate that finders tend to submit plans and GPS-fix together with finds. Some detectorists in Denmark send find reports to museums together with finds.

In Finland the behaviour towards found objects is contained in several laws. The act concerning lost property⁵⁴ sets forth the general rule that upon the discovery of lost property one must immediately inform the police and hand over the lost property. If the property is not valuable and there are real difficulties to find the owner, the finder is allowed to keep the found object. When it comes to the search of objects from private land upon the permission of the land owner, the person who has sought the permission must also make an arrangement with the land owner on how to handle the objects he may find.

⁵¹ This is the law concerning treasure trove (*danefø*). See *op.cit.* note 31.

⁵² See more at <http://www.natmus.dk/sw40166.asp> The practice concerning *danefø* is generally accepted by local museums and by different detecting clubs: all finds should be presented to the archaeologist of a local museum who selects the pieces the museum would like to keep for its collection; afterwards the selected finds are presented to the National Museum who decides which finds qualify as *danefø*. Although *danefø* is formally the property of the National Museum the majority of the declared *danefø*-pieces are deposited for exhibition in local museums.

⁵³ I have examined the postings at http://scienceblogs.com/aardvarchaeology/2009/05/how_to_metal_detect_legally_in_php and http://scienceblogs.com/aardvarchaeology/2009/03/danish_metal_detector_festival.php

⁵⁴ "Löytötavaralaki", signed 26 August 1988, *Suomen Säädoskokoelma (1988)* No 778/1988; 860/2011. Available at <http://www.finlex.fi> (15.02.2012) (in Finnish). See Art 4 & 6 of the act.

Similar to most of other countries subject to this research, only finds which qualify as “treasure” or qualify according to some other parameters as objects of archaeological/cultural value must be reported to the authorities in Finland. The National Board of Antiquities is responsible for the supervision of the reporting and recording of finds. As explained earlier, the National Board of Antiquities should be notified without a delay about the discovery of an unknown ancient monument as well as an ancient object. We have seen that the finder of an ownerless ancient object such as a coin, weapon, tool or the like which can be expected to be at least 100 years old should immediately hand it over to the National Board of Antiquities in the condition it was found, uncleaned and with detailed information about the circumstances of finding and the place of discovery. Should there be any risk of damage to the object by its removal or should it be otherwise difficult to hand the object over, it should be immediately reported to the Board together with all the required information.⁵⁵

Similar to Finland, the Lithuanian Law on Protection of Movable Cultural Property stipulates that only finds which qualify as “treasure” or qualify according to some other parameters as objects of archaeological value must be reported. Archaeological objects and other finds which have cultural value should be reported to the Department of Cultural Heritage Protection of the Ministry of Culture within a week of their discovery. When the ownership of finds is concerned, the objects of cultural heritage may belong both to the state and private owners. In the context of ownership issues it is interesting to note that there is a requirement to notify of the change of ownership of cultural objects in Lithuania. According to Art 15 (1) of the law the seller of cultural heritage shall give at least a one-month advance notice of his intention to conclude a transaction to the respective municipality. Within this period, the municipality must verify whether the condition of the object corresponds to the condition specified in the certificate of that object. Also, an improperly held object of cultural heritage may be taken into the state ownership. Moreover, in exceptional cases an object of cultural value may, for fair compensation, be taken for public needs where the object is located in a state cultural reserve, a state museum is set up for the exhibition of the objects of cultural heritage or a cultural monument is listed as an object of state significance to ensure public accessibility, admission or knowledge. In such cases, the owner shall be compensated at market price or by transferring another item (property).⁵⁶

Different from the majority of the examined countries, all finds must be reported and handed over to the state in Saxony (Germany). It is the Archaeological Heritage Office which is responsible for the reporting and recording of finds. In Saxony it is the State of Saxony which keeps the

⁵⁵ See *op. cit.* note 45, Art 14 & 16.

⁵⁶ Art 30 (1) – (3), Law on Protection of Movable Cultural Property.

ownership of all finds. This approach is similar to how the ownership of archaeological finds is addressed in Estonian system.

When it comes to Latvia, I am of the opinion that the country seems to have generally much weaker legal framework in place than the other countries subject to this research. There are some provisions regarding the reporting of finds in the Law of the Protection of Monuments. Respectively, there is a requirement to report archaeologically / culturally valuable finds generally, independent of the means or method of finding. Such finds need to be reported within 10 days from their discovery. However, here it is important to note that different from most of the other examined countries there seems to be a major gap in Latvian legal framework: the failure of a finder to report a culturally/archaeologically important find would not result in any penalty. The State Inspection for Heritage Protection of Latvia is responsible for the supervision of the reporting and recording of finds. Also, the identification of cultural/archaeological value of a find is the responsibility of the Department of History and Archaeology of the State Inspection for Heritage Protection who can consult other professional experts-archaeologists for their opinion.

When the ownership of culturally or archaeologically valuable finds is regarded, it is always the landowner who is deemed to be the owner of such finds in Latvia. This again very much differs from the situation in the neighbouring Estonia as well as other examined countries where it is usually the state who is perceived as the owner of culturally important finds. In Latvia, however, the state does not have a right for such finds. Formally, if such finds are found on state land, the state of Latvia is deemed to be the owner. However, in practical terms the indication of the State Inspection for Heritage Protection is that it is very difficult to control the situation and there is very much uncontrolled activity and looting taking place everywhere in the territory of Latvia. I believe that at least partially this is because of the weak legal framework which does not contain some of the basic obligations and guidelines for the behaviour upon the discovery of finds.

Different from other countries subject to this research, the system in the UK serves as a good example of the combined approach which entails both compulsory reporting and voluntary recording, depending on a particular situation. In the UK, the hobby of metal detecting has found gradual recognition since the adoption of the Treasure Act in 1996 and the establishment of the Portable Antiquities Scheme (PAS) in 1997. The definition of “Treasure“ can be obtained from the Treasure Act and its associated Code of Practice. The Act relates to finds made in England, Wales and Northern Ireland. The Act only applies to objects found since September 1997 and it covers: (i) all artefacts, other than coins, at least 300 years old with at least 10% of gold or silver; (ii) coins of gold and silver from the same find provided that they are at least 300 years old when discovered (if they have less than 10% of gold or silver, there must be at least 10 of them) and

(iii) prehistoric metal assemblages (the primary source of which is Bronze Age hoards). All the above objects and assemblies of objects are captured in the definition of a “Treasure”. If a find qualifies as a Treasure, it is considered a “required find” which needs to be reported to the PAS. Such find belongs to the state and the finder is entitled to a fee (reward) if a museum decides to acquire the find. Non-reporting of treasure is an offence. (Bland 2008, 64). The found archaeological objects must be reported to the Coroner in the district in which they were found within 14 days.⁵⁷ The Act allows a national or local museum to acquire finds qualifying as Treasure for public benefit. In such a case a reward is paid, valued at their “full market value“ which is set by the Secretary of State upon the advice of independent expert group (the Treasure Valuation Committee – TVC). The reward is usually shared between the finder and landowner, though they may waive their rights to reward and enable museums to acquire finds at reduced or no cost. (The British Museum 2010, 6). The Treasure Act 1996 is applicable in Northern Ireland too but as explained earlier, the search of archaeological objects and the use of metal detectors require a permission there.⁵⁸

As explained earlier, a complimentary measure to the Treasure Act 1996 is the PAS which concerns the voluntary recording of archaeological finds discovered by members of general public. This means that recording is suggested with regard to any find, independent of whether it qualifies as Treasure or not. Under the scheme there are local Finds Liaison Officers whom people can contact to have the finds recorded⁵⁹. Thus different from all the other examined countries, the system of providing information about finds in the UK generally comprises 2 parts: (i) required reporting of finds in case of finds qualifying as Treasure and (ii) voluntary reporting of PAS-finds (i.e. any other finds). Different from other areas of the UK, the rules with regard to recording in Scotland are somewhat different because in Scotland all finds are potentially the property of state and need to be reported as Treasure Trove (British Archaeological Jobs Resource 2007, 3).

We have seen that in the UK one of the crucial aspects is seeking permission from the land owner before the start of metal detecting. This is actually an aspect of importance in most of the examined countries but its significance in the UK is also reflected in the sharing of finds. Concerning potential finds, detector users are suggested to give the land owner first choice of anything they find given that the find does not qualify as Treasure. In case of valuable things, the usual sharing proportions are 50/50. It is advisable to draft a find sharing agreement with the land

⁵⁷ Either the local PAS Finds Liaison Officer or a curator at the British Museum writes a report on the objects for the Coroner who decides on whether the objects qualify as treasure or not according to the Treasure Act.

⁵⁸ Historic Monuments and Archaeological Object (Northern Ireland) Order 1995, *op.cit.* note 43, Art 42 (1).

⁵⁹ All PAS-finds are recorded on its online database at <http://www.finds.org.uk>.

owner (Evan-Hart & Stuckey 2007, 30). I suggest that the latter reflects the strong legal focus on ownership and protection of owner's basic rights deriving from the common law legal tradition. Additionally, similar to the cases of other countries, the reporting of find spots is an important issue in the UK: on one hand there may be land owner's resistance to reporting the spot and on the other hand, reporting has on some occasions led to the future refusals to detect on the land (Clark 2008, 17). From the perspective of archaeologists, however, it is important to have detailed information about a find spot in order to know more about archaeology of a particular place.

1.3. Community Archaeology and Responsible Metal Detecting

The statement of this thesis originates from the idea that archaeology is not a privileged science but should be to reasonable extent open to all society members. Archaeologists have special obligations to care for artefacts and heritage sites as well as to cultivate meaningful relationships with people (Colwell-Chanthaphonh & Ferguson 2006, 130). This is also seen as one of the tasks of national state systems. For example, one of the aims of the PAS is to increase opportunities for participation in archaeology and facilitate archaeological projects in which archaeologists, detectorists and others work together with a common interest in the past. (The British Museum 2010, 9). The greatest success stories in relation to combating the trade of heritage have occurred in participatory projects where local communities work long term with archaeologists to prevent illicit activity. (Layton & Wallace 2006, 60). For example, the recognition of local communities functions best by treating archaeological preservation as a form of development, placing the planning, profits and decisions in the hands of local communities. Such participatory development would be expressed for example in archeo-tourism possibilities which can make the preservation of sites sustainable and generate some income for local communities, thereby encouraging them to prevent illicit activity and participate in the protection of their sites. (Hollowell 2006, 92). Thus, next to aiming at participation and awareness of any man, archaeology as a discipline is actually likely to benefit from the involvement of different communities.

The involvement of communities is what we refer to as "community archaeology" which has brought with it the very real opportunities for participation in archaeology. The Council of British Archaeology (CBA)⁶⁰ suggests that "community archaeology" means local people coming together as a community to do archaeology for themselves. Archaeology done by non-

⁶⁰ The CBA is an independent organisation whose objective is to advocate for archaeology to government and to promote public engagement within archaeology in the UK. It has over 6,000 individual members and over 650 organisation members, e.g. professionals and amateurs, universities, local societies, museums, etc. The mission of the CBA is «Archaeology for All».

professionals is described with various words such as “amateur archaeology“, “volunteer archaeology“ (meaning professional and voluntary sectors in archaeology) and “community archaeology“. (Henson 2009, 44). Its key principle seems to be the involvement of non-professional archaeologists and volunteers. While in the past it was assumed that the preservation and management of archaeological resources on behalf of the public was sufficient, the facilitation of active participation in archaeology by the public has gained increasing importance. (Council for British Archaeology 2010, 8)

By its nature, community archaeology can seem elusive to those seeking to locate and characterise it. Due to its extraordinary scope and variation, it is somewhat difficult to provide the precise definition and elements of “community archaeology“. Hence, there are a few challenges related to the nature and aspects of community archaeology which I shall briefly address as follows.

First of all, when speaking of community archaeology one would instantly assume participation of the community of a local area. However, it is questionable whether and to what extent the sense of place is an important criterion for community archaeology. There are community-involvement projects which have participants from all over the country or even abroad; thus, the question is whether such voluntary inclusion is community archaeology or not. (Council for British Archaeology 2010, p 51). My personal view is that in spite of the place, any voluntary inclusion which serves to introduce and explain archaeology and heritage issues to the members of some community, should be regarded as community archaeology. I would not over-emphasise the sense of place in its definition.

Secondly, community archaeology is assumed to be based on the motivation and interest of community members towards their heritage and their sense of history. The best sample country of community archaeology is the UK where there is quite a long history of local people doing archaeology and history for themselves in their own local communities. The voluntary sector includes old county societies such as the Sussex Archaeological Society (founded in 1846) and more recent local societies like the Bath & Camerton Archaeological Society (founded in 1946). (Henson 2009, 45). These voluntary societies are driven by their interest in their heritage – one of the criteria which has been seen important in the context of defining community archaeology. Since 1960s there has been a steady growth also in local groups of detector users to explore the landscape and find artefacts. The recent report of the CBA⁶¹ reflects the involvement of different

⁶¹ Council for British Archaeology. 2010. Community Archaeology in the UK: Recent Findings. 29 April 2010. Available at <http://www.britarch.ac.uk/research/community> (11.02.2012).

community groups in archaeology in the UK, indicating that archaeological or historical societies/clubs account for some 60% of community groups while metal detecting clubs amount to only some 6 % of the groups. (Council for British Archaeology 2010, 22).

All of the community groups operate in historic environment and are engaged in a relationship with tangible cultural heritage. Professional archaeologists have had diverse attitude towards them, varying from partnership and support to straightforward hostility (Henson 2009, 44). Metal detector users form a separate group of community members with their own motives, objectives and identity. Although they form only one relatively small group among all the community groups interested in archaeology and heritage issues, their contribution to heritage discovery and protection in the frames of community archaeology should not be underestimated. As opposed to archaeological societies, the groups of detector users are first and foremost interested in recovering archaeological material and information. Their major concern is archaeology as a process, leaving aside the issues of management, conserving and presenting the historic environment. (Henson 2009, 45). Against this background the question is whether the voluntary participation which is motivated by the factors such as the productivity of a site rather than historic connection to a place can be seen as community archaeology (Council for British Archaeology 2010, p 51). My personal view is that it would be impossible to objectively identify the true motivation of every single member of a community group and therefore basing the definition of “community archaeology“ on the criterion of motivation would not be reasonable.

The third issue is the scope of projects defined as community archaeology projects. Often small in scale, now and then based outside of and separate from archaeological organisations, community projects are sometimes described as “organic“, “local“ or “from people to people“ projects. In a way such projects seem to contain social networks. There are overlaps between them and therefore it is difficult to differentiate between community archaeology and a local society network without fully understanding their activities and objectives. (Hull & Thomas 2009, 1). Another challenge is the element of voluntarism which is seen as one of the core characteristics of community archaeology. For example, in the UK there are various rather vague definitions behind voluntarism which relate differently to the local social networks: these terms are “third sector“, “voluntary sector“ and “civil sector“. On one hand, the question is whether community archaeology is something originating from the voluntary sector. On the other hand, the issue of a debate is whether the situations where a professional organisation such as the PAS is the initiator should be actually seen as archaeological outreach activities rather than community archaeology. (Hull & Thomas 2009, 6). The issue of voluntarism is also related to the status of detector users in

community-involvement projects. They form a specific group of community members but instead of seeing themselves as volunteers they rather prefer being perceived as hobbyists.

When it comes to understanding how community archaeology has developed in the last couple of decades and how it could be developing further on, the UK serves as the best model to explain its future perspectives. Currently there are more than 2000 voluntary groups and societies active in the UK, representing more than 200 000 individuals. The recent CBA report which I have addressed above suggests a dramatic growth in the number of groups involved in archaeology within the last 20 years. Most of such "new" groups are suggested to be very leader-oriented: their level of activity often depends on one or two of their leaders or group members putting things forward. Although interaction with some professional archaeologists and organisations in terms of effectiveness is still now and then problematic, the share of successful engagement with different communities is constantly increasing. The motives of volunteers involved in community archaeology are mostly passion about their past, enjoyment, sense of achievement, fulfilment and friendships gained from participation in archaeological activities within their communities. This applies to volunteers in general. When it comes to specific groups such as detector users, their core motivation somewhat differs: as we have already explained this community group is usually more interested in the process of finding rather than the management and preservation of heritage. (Henson 2009, 45). When it comes to so-called "hard-to-reach" groups (such as the homeless or young people at risk of social exclusion) the projects facilitating their inclusion are continuously rare. (Council for British Archaeology 2010, 59-60)

Cooperation and relationships in community archaeology projects in the UK have become generally very good. Local volunteer groups and societies most frequently have contact with local authority archaeologists. Encouragingly, most of metal detecting clubs covered by the CBA report indicated that they too were used to having contact with local archaeologists. (Council for British Archaeology 2010, 38) Naturally, the cooperation in community archaeology is not completely problem-free. The few problems which are topical today and might be continuously relevant in the future are mostly related to the lack of awareness on the activities and abilities of the other party. On one hand, professional archaeologist might have it difficult to adapt to working with volunteers and the skills which volunteers bring with them from other disciplines. In addition to excavations (which is normally the core competence of professional archaeologists) the activities in community archaeology also contain other activities such as recording through photography, attending talks or lectures, lobbying on heritage issues, fieldwalking and so on. Voluntary sector, on the contrary, is less prone to respect the boundaries between disciplines

(Henson 2009, 46). On the other hand, volunteer groups certainly need to be continuously trained about different issues in relation to heritage and community archaeology activities.

The experience from the UK indicates that the training needs of volunteers vary from group to group and therefore training programmes must be designed for specific community groups, focusing on practical aspects and the increased use of online learning possibilities. One of the valuable ways to facilitate training could be the development of an accredited training programme for voluntary groups. From the perspective of future developments the use of online options in volunteer training in community archaeology is likely to further increase in the context of globalisation of modern information technology tools which make learning more efficient and less costly. This would certainly also apply to the training of detector users. However, it is important to note that online options could never fully substitute face-to-face interaction and personal communication which is in fact one of the core elements of community archaeology. (Council for British Archaeology 2010, 59-60)

When it comes to the perceptions of professionals towards community archaeology and the respective cooperation with amateurs, there is a variety of challenges. The first challenge is perceiving archaeology and archaeologists as something privileged and elitist. Archaeology is generally understood as a graduate profession working to high standards within processes of development and planning. Hence, some professionals still think that in order to keep the standards it is not possible to work together with less trained amateurs within a professional framework. (Henson 2009, 46-47).

When it comes to detector users the elitist perception is quite frequently supplemented by very direct opposition and prejudice of archaeologists towards detecting as such. Although such prejudice is becoming less and less of an issue upon new cooperation initiatives and better awareness raising in the course of time, in particular in the UK, the opposition of professionals has not fully disappeared and it is still very relevant in certain countries. Historically, the growth of metal detecting itself has been the cause of angry responses among many professional archaeologists while the “counter-action“ from their part has in turn resulted in poor relations and strong reluctancy to cooperate. For example, in the UK a campaign STOP (Stop Taking Our Past) was launched in 1980, seeking to restrict the use of metal detectors on archaeological sites. This caused a very strong adverse reaction among detectorists and resulted in many years of rather poor relations between the two sides. It is widely known that more recently, much greater acceptance and better cooperation have been achieved through the means such as the PAS. Many professionals now realise that they have a public duty as a publicly funded profession to reach out

to the public. Regardless their motives - some are indeed committed to democratized archaeology while the others feel they need to reach out because of their public funding – I believe this is an increasing trend in community archaeology and the number of community projects is likely to continue growing. This perspective should also apply to the relations with detector users who have become more eager to act law-obediently and achieve the acceptance of professionals through their responsible behaviour. A key of getting professionals to increasingly respect the amateurs is to ensure the suitable skills and up-to-date knowledge of the latter. In the UK this seems to be increasingly happening but there will be always need for more funding and instructions to the professionals. The future perception of professionals towards community archaeology must be certainly based on the assumption that archaeology is open to any man and the discovered heritage is not someone's personal property but the resource for everyone. (Henson 2009, 47).

Community archaeology is inextricably linked to very broad and long traditions of local societies in archaeology (Hull & Thomas 2009, 1). The last issue which I find important to point out in the context of challenges in community archaeology is the sustainability of the system and its means. In terms of system as such we cannot escape the fact that recent developments due to the overall economic recession (e.g. the decline in continuing education departments and budget cuts in many archaeological organisations) continue to have an impact on the sustainability of the system. More research is needed regarding the means by which community-led archaeology projects may work to ensure sustainability in terms of funding, research agenda and governance. There is no doubt that funding will continue to be an important element for further development and facilitation of community archaeology: the evidence from the UK indicates that many new community archaeology groups, in particular more intensely localised heritage groups, have been created because of the availability of funding opportunities. (Council for British Archaeology 2010, 59). For example, since the late 1990s a variety of new funds have been made available by such institutions and initiatives as the Heritage Lottery Fund from 1994 (Hull & Thomas 2009, 1) and the Local Heritage Initiative from 2000 to 2006. Archaeology is often only one component in their support activities. (Henson 2009, 46).

Next to funding possibilities, the role of national bodies in supporting the initiatives of community archaeology is crucial in ensuring the sustainability of the system. Again, the UK serves as a good example with their online Community Archaeology Forum (CAF)⁶² created in 2006 by the CBA as a platform for community groups and projects to promote their work to wider public, to share ideas and strategies, and to exchange contacts with one another. (Hull &

⁶² CAF is a free resource available for groups across all of the UK and Crown Dependencies, not just in England and Wales. *See more* at www.britarch.ac.uk/caf.

Thomas 2009, 1). As further development of the forum is regarded, community groups suggest increased user-friendliness, broader coverage of legislative and procedural differences across the country, and the inclusion of more practical advice, particularly on fundraising (Council for British Archaeology 2010, 59-60).

2. COOPERATION AS THE MEANS FOR ENHANCING THE PROTECTION OF ARCHAEOLOGICAL HERITAGE

2.1. The View of Heritage Protection Authorities

In most of the examined countries the heritage protection authorities estimate the number of detectorists to be up to 1000. This is also the case in Saxony although in Germany as whole the number can probably be similar to that of the UK. According to my survey results the estimated number of detector users in the UK is between 5000 – 10 000 which is natural given the comparable size of the UK in comparison to other countries subject to this study. The UK is also the only country in which more than 75% of detector users belong to some detectorist organisation. In 2006, there were 173 metal detecting clubs with more than 5800 members altogether in the UK. Out of those clubs 165 kept regular contact with authorities.⁶³ The number of detectorists has somewhat increased during the last years and today the PAS is aware of 186 metal detecting clubs in the UK. It is difficult to know the exact number of people involved in detecting in the UK but also the PAS estimates that there are around 8000 – 10 000 people actively participating at hobby detecting. (Clark 2008, 15).

When drawing a parallel to the situation in Estonia, the survey indicates that about 10-25% of detector users are organised. Kiudsoo suggests that there are probably some couple of hundred treasure hunting detectorists in Estonia (Kiudsoo 2008, 14-15). However, in addition to treasure hunters there is a considerable number of active hobby detectorists who search objects not for monetary reasons but because of high personal enthusiasm and excitement. On the basis of her research which was carried out among detectorists in 2009, Kangert suggests the number of people practicing detecting in Estonia to be some 500-1000 (Kangert 2009, 18).

Most of the countries subject to this research have some sort of organisation of detector users in smaller or bigger groups at different levels. The level of organisation of detector users varies from country and district level organization in Estonia, Denmark, Saxony (Germany) and the UK to the level of local community in Finland. The UK has multiple levels of organisation, including also certain organisation at local community levels. There are no organisations of detector users in Latvia, Lithuania and Sweden.

⁶³ The UK data are based on the latest available reports of Portable Antiquities Scheme and exclude metal detecting groups such as the Weekend Wanderers which organize outings for detectorists who are both members of other clubs and independents. It should also be noted that some detectorists are members of more than one club or not members of a club at all. *See more at* <http://www.finds.org.uk>.

When looking more closely at the activity of detecting in different local regions, there are certain areas which the heritage protection authorities suggest are more actively targeted by detector users. Usually the most attractive detecting areas are those known for their rich and varied archaeological sites. In Estonia such areas are located in the Northern and North-Eastern part of Estonia as well as on the island of Saaremaa. In Lithuania, the most attractive areas are the Western parts of the country. In the UK, detectors most favour East and South-East regions of the country. In Denmark, former settlement sites from the late Iron Age/ early Medieval Age (often located underneath cultivated fields) and overplowed burial mounds from the Bronze Age are the most popular locations⁶⁴. Bornholm is said to be one of the places of interest for detecting.

On the other hand, in Finland and Saxony the authorities suggest that detectorists tend to focus on much later battle fields. In Finland such sites, mostly dated to World War II, are located in the Eastern and North-Eastern parts of the country and are interesting from the perspective of war history. Such detecting sites are normally not subject to heritage protection. Also, the Southern and Eastern parts of the country are considered of interest to detector users because of the activity in these regions over the past 500 years. In Saxony there are no significant prehistoric and protohistoric sites full of metal and therefore detector users target mostly battle fields from Napoleonic wars to the World War II⁶⁵. Although detecting is legally prohibited in Sweden, the areas of Gotland and Öland have been most attractive to detectors users. In fact these were the first areas of Sweden where the strict regulations were introduced. However, the regions of Skåne, Blekinge and Småland are also considered attractive due to earlier battlefields from the period of Swedish-Danish wars.

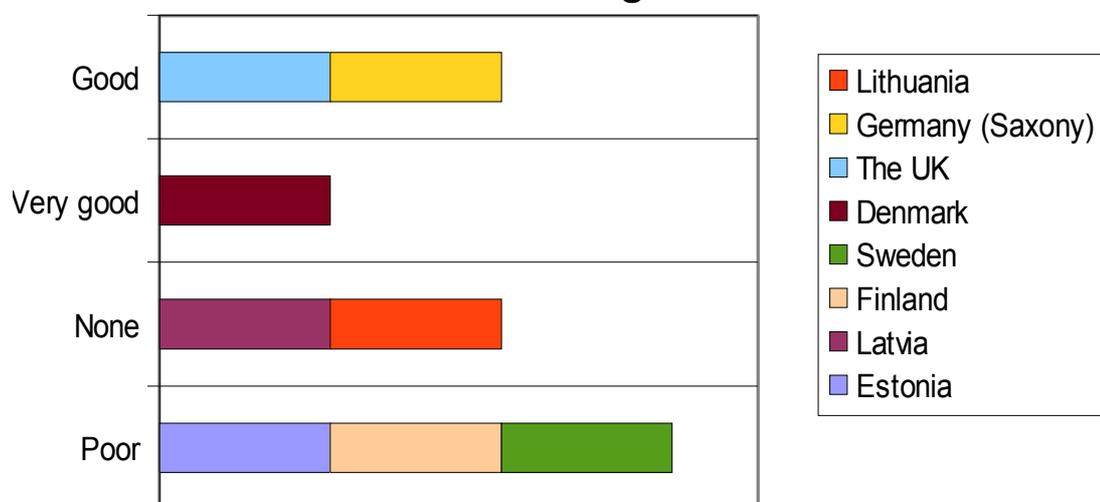
When the level of inclusion of detectorists in archaeological search missions and fieldwork is regarded, it must be said that regardless their different regulatory frameworks the inclusion is considered very weak in Estonia, Lithuania and Latvia as well as in Finland and Sweden. In fact, in Latvia and Lithuania it is considered non-existent. Probably the situation in Estonia can be somewhat justified by the fact that the framework for the licensing of detector users has been effective only since 1 June 2011 and before that the state had actually no system to differentiate between law-obedient detector users and looters. Therefore, against the background of earlier quite significant cases of looting, it is but natural that heritage protection authorities have been suspicious regarding the inclusion of detector users. Now, after the licensing system together with

⁶⁴ The view of the heritage protection authorities in Sweden is that one of the key arguments of detector users for more liberal legislation is the search for archaeological finds on such overplowed settlement sites in order to save the finds from destruction by plow and pollution.

⁶⁵ The detectorist view from Germany is that the Southern and Eastern parts of the country might be more attractive than the Northern and Western parts.

the respective preliminary training obligation has been implemented, heritage protection authorities shall gradually have better knowledge and overview of the community of detector users in Estonia and the increased inclusion of licensed detectorists is accordingly expected. In Sweden there have been some archaeological excavations in which amateur detectorists have been involved but against the background of strict legal provisions these have been exceptions rather than a rule. Normally metal detectors as a tool of archaeological fieldwork are used by archaeologists themselves. Denmark and the UK present the examples of quite the opposite situation. The inclusion of detectorist communities in these two countries is considered very good and detector users are regularly involved in the search work of archaeologists. For example, in Denmark local museums often contact local detector users for assistance when metal can be expected on an archaeological site. Regardless the set of detecting rules, inclusion is considered rather good also in the State of Saxony given it concerns licensed cooperative detector users. The latter are regularly included in rescue excavation activities.

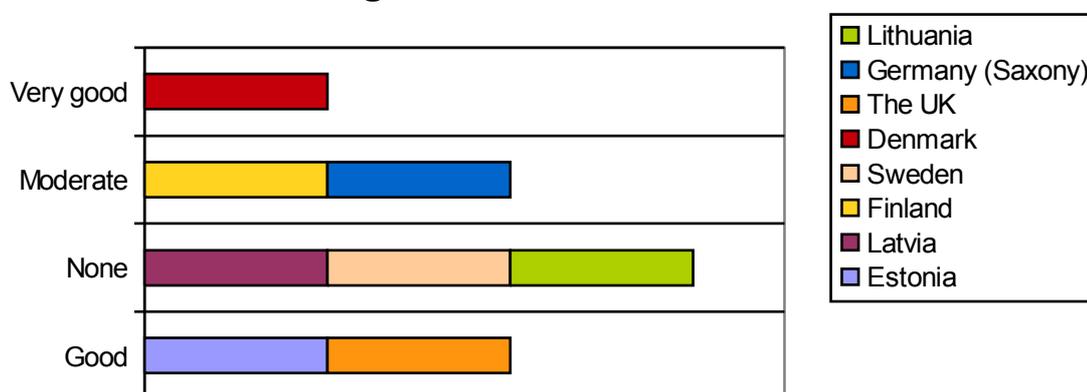
The Level of Inclusion - Heritage Protection Authorities



The heritage protection authorities in different countries have very different views to the current level of cooperation between detectorists and state authorities in terms of discovery and protection of archaeological heritage. Cooperation is considered very good in Denmark where detector users are often interested in cultural heritage and history, wishing to take part in the discovery of their past. Generally Danish detector users like a dialog with the scientists of museums. In fact, archaeology is the only science in Denmark where amateurs make a serious contribution to the progress of the science. The level of cooperation is considered good in Estonia and the UK too. The heritage protection authorities of Saxony and Finland consider the level of cooperation in their region moderate. Here it is worth noting that in Finland there is actually only

very little systematic cooperation between detector users and heritage protection authorities. Yet, the majority of the detectorist community in Finland is considered honest and interested in their history. Respectively, detector users have contacts with archaeologists (e.g. regional museums), they inform the archaeologists about their finds and give the artefacts to the National Museum of Finland (the National Board of Antiquities). Contrary to other countries, Latvian, Lithuanian and Swedish heritage protection authorities suggest that there is no cooperation at all in their countries. I believe these views very much reflect the legal situation and flexibility of rules as well as the length of cooperation in time which in some cases (mainly regarding Denmark and the UK) corresponds to the results regarding the level of inclusion: where there is a flexible set of regulations combined with "soft" instruments and longer joint experience of the inclusion of detector users in archaeology, cooperation is considered good or very good. On the other hand, in

The Level of Cooperation - Heritage Protection Authorities



countries which have poor level of inclusion or no inclusion at all against radical legal situation in both ends (i.e. either too strict rules or much too weak regulatory framework), the level of cooperation is respectively assessed.

The heritage protection authorities in most countries subject to this survey find that it is highly important to enhance cooperation between detectorists and state authorities in terms of discovery and protection of archaeological heritage. Also, they suggest that the inclusion of detectorists in archaeological search missions and fieldwork together with respective training and the raising of awareness about archaeological method and threats of irresponsible detecting should certainly be increased. This even applies to the countries with already well-functioning cooperation and inclusion such as Denmark and the UK. It is generally the opinion that the inclusion of detector users who, as a rule, tend to have interest in history would eventually raise general awareness. Cooper refers to epistemic inclusion as the idea that professional, trained archaeologists have no privileged, let alone sole, authority in establishing, interpreting and disseminating truth about the

past that falls within the compass of their discipline (Cooper 2006, 131). However, the contribution of professional archaeologists should not be forgotten either because otherwise the image of archaeology as an Indiana-Jones-type of treasure hunt would spread. Different from other countries subject to this research the heritage protection authorities of Latvia find that inclusion should not be increased at all because it contains the risk of increased damage to archaeological heritage.

Against the background of the view of Latvian heritage protection authorities it must be said that despite the positive aspects of greater inclusion, metal detecting naturally contains a risk of damage to archaeological heritage in other countries too. It is often perceived as treasure hunting (or “black” archaeology) and on many occasions the perception indeed reflects the reality. Even in the UK a fair amount of archaeological heritage is damaged by clandestine metal detecting – nighthawking, despite the responsible metal detecting efforts and cooperation in place. Nighthawking can be defined as the search and removal of antiquities from the ground using metal detectors without the consent of the landowner or where the practice is prohibited. This means that in addition to damaging archaeology, such illicit detectorists by association also damage the reputation of responsible detectorists. (Clark 2008, 18). The results of the survey of 2006-2008 commissioned by English Heritage to find out the extent of illicit detecting indicate that thieves called nighthawks illegally raid protected sites. Some 240 incidents were reported. Every 20th archaeological excavation site was targeted by thieves and only 1 in 7 seven landowners informed the authorities about the discovery of illicit detecting. More than 1/3 of sites attacked by illicit detecting were scheduled monuments. Although the stolen items sold via E-Bay are usually worth very little, these raids inevitably destroy the valuable historic context. (Oxford Heritage 2009, 36-40, 52). According to the report, the crime of nighthawking has been generally under-reported and low-priority crime in the UK with only 26 cases having resulted in legal action (mostly in the form of a small fine of some £ 80 and no confiscation of metal detector). (Archaeo News 2009). However, since the last survey in 1995 the degree of damage to monuments has decreased by half. This allows concluding that the problem of nighthawking has somewhat decreased and it is possible that strong local responsible detecting communities have to some extent played the role of a watchdog to prevent illicit detecting. (Clark 2008, 18).

Next to addressing metal detectorists in relation to nighthawking and seeing them as treasure hunters who tend to destroy archaeological heritage, there is also a need to understand that metal detecting activity, if carried out properly, can actually contribute to archaeological heritage. In the UK, metal detectorists have contributed much to the discovery of artefacts. For example, in 2008 some 6870 finders offered finds for recording and 4328 of them were metal detector users (Bland

2009). Their share in the discoveries seems to have increased in recent years. When a few years ago about 2/3 of the finds reported to the PAS were discovered by metal detectorists (Clark 2008, 27), the share of detectorist contribution in PAS-finds amounted to some 88% in 2010. Moreover, according to the PAS, metal detecting accounted for 95% of Treasure cases in 2009. (The British Museum 2010, 27)

The heritage protection authorities of the majority of countries examined in this research estimate the share of detector users in the discovery of all archaeological finds and sites to be only up to 10%. Expectedly, the UK and Denmark have the estimated contribution rates at much higher levels, amounting to 50-75% and more than 75% respectively. When it comes to the view of heritage protection officers about how much detectorists actually report finds, this rate is estimated to be only up to 10% in Estonia, Latvia, Lithuania and Finland while it is more than 75% in the UK and Denmark.

The examples of the finds of detectorists range from the unique coins to an example of a Roman cube matrix. When it comes to detectorist finds in the UK from different historic periods, it is often that they find Celtic coins while Celtic artefacts are far more rare and one of the presumable reasons is that the artefacts were probably buried at levels too deep for detecting or thrown into water, making them difficult to retrieve. Roman period is probably the period which offers the widest diversity of metal detecting finds, the most common of which are generally the low-value bronze coins. Other types of Roman coins found quite frequently by detectorists are silver pieces (*denarii*). When it comes to Saxon finds, these are usually rather scarce for most metal detectorists although the detectorists have contributed to the finding of several large cemeteries. As medieval finds are regarded, coins tend to be the most common detector-finds from this period. (Evan-Hart & Stuckey 2007, 48-61).

Among other finds, a number of coin hoards have been recorded under the Treasure Act. One of the most important hoards was found in West Sussex (Patching) in 1997. The find consisted of 23 gold *solidi*, 27 silver coins, 2 gold rings and 54 pieces of silver scrap. This hoard is particularly important because it moved the latest hoard of Roman coins found from Britain forward by around 40 years – from AD 420 to AD 460 – and therefore completely changed the previously held opinion that Roman coins ceased to enter Britain after the reign of Constantine III. (Bland 2008, 66-67).

The cases of Cumwhitton (Cumbria) and Lewes (East Sussex) serve as examples of responsible metal detecting and the cooperation between archaeologists, detectorists and local community. In the former case, a metal detectorist first found a 10th century brooch which he reported to the

PAS. The following small-scale excavation found a grave after which full excavation works were funded by the English Heritage. The contribution of metal detectorists in this stage was related to the contextualization of finds. The site was dated and interpreted as a rare Viking-Age cemetery with 6 graves from mid-10th century. The finds were donated to a local museum. The case of Lewes also started with detectorist discovery of a 6th century Anglo-Saxon cemetery. The first finds including a skull fragment were reported to the police and the PAS. Thereafter the work continued together with the detectorists who scanned the rest of the field and archaeologists excavated 3 graves – probably a high-status family group. The English Heritage conserved the finds and they are expected to be displayed in a local museum. (Sloane 2009).

Bland suggests that in the UK cultivated land accounts for 90% of all finds which reflects the fact that a great quantity of archaeological objects found by detectorists come from the land where in most cases the immediate archaeological context has already been destroyed by ploughing and where the objects are lying in the topsoil where they are vulnerable to further damage by ploughing. (Bland 2008, 72-73). Thus, one would assume that already this fact would allow us call the activities of detectorists somewhat “responsible” because they save the heritage which would otherwise become lost. Yet, contradicting opinions have been raised about whether the legal metal detectorists acting on the basis of responsible permissions actually are responsible. In its open letter to the Guardian in the beginning of 2009 (Heritage Action 2009), Heritage Action claims that only minority of legal so-called “responsible” detectorists actually report what they find to the PAS and therefore they are responsible for destroying historical data and can not be described as “responsible”. Also, the Heritage Action finds that there is a further reason why the situation with hobby detectorists in the UK can not be seen as responsible detecting. Most of detecting is assumed to take place on ploughsoil which is claimed to be contextless. Quite the reverse, however, hobby detectorists are keen on seeking out more “productive” sites to maximize their find rates. These are the non-scheduled sites – not protected but with contexts and artefacts which can be damaged by removal without reporting. Thus, the Heritage Action suggests that the future night-hawking reports should be given a much broader scope to investigate the scale of damage also outside of the activity of night-hawking (i.e. to include the impact of legal metal detectorists). (Heritage Action 2009).

There is no doubt that some detector users tend to aim at more “productive” sites. However, I find that the activity of metal detecting, when carried out lawfully, should in general be seen as opposed to looting. The detecting in responsible manner would create new knowledge and on some occasions help rescuing the heritage that no-one would otherwise see because many of the

sites would never go through full-scale excavations. For example, Haldenby and Richards⁶⁶ have demonstrated that artefacts in the plough soil are much more vulnerable to damage than those in stratified archaeological contexts. Their study in 2010 focused on Anglo-Saxon pins and strapends from Yorkshire found in the course of metal detecting, compared with five excavated assemblages of similar material. Haldenby and Richards concluded that if left in the plough soil metal artefacts would completely degrade; hence, the discovery by metal detecting should be preferable to the alternative of doing nothing. (The British Museum 2010, 11). I certainly favor responsible licensing and detecting instead of no finds at all. However, I also agree that the practice of responsible detecting should be improved in cooperation with the community of archaeologists. It first and foremost concerns the sampling and recording normally used in the method of archaeology. This would also serve as a starting point from changing the artefact-focused approach to a more archaeological one, putting more focus on the archaeological context.

There is a variety of possibilities which the heritage protection authorities in different countries see as additional means to facilitate cooperation between heritage protectors and the community of detector users. Training courses and information sessions for detector users are considered as an important form of cooperation in the UK, Germany, Denmark, Lithuania and Estonia. These training courses do not provide training on detecting as such but their focus is to explain how to avoid the destruction of archaeological features and how to create proper records with maps and GPS. In Estonia, training courses are seen from the perspective of practical joint exercises and therefore joint archaeological search missions are suggested as one of the cooperation forms. This is also the case in Denmark where clubs organize training courses and "detector rallies" often in collaboration with local museums. Although this has not been directly stated in the research results of my survey, one can use the study of Thomas⁶⁷ to suggest that metal detecting rallies are a popular form of cooperation also in the UK. These are organised events where large numbers of metal detector users convene to search over a certain area of land with prior permission obtained by the rally organiser. Here it is interesting to note that Thomas indicates that detecting rallies are also somewhat a cause for concern to the archaeological community: rally participants can legally choose not to record anything or exercise selectivity in what they choose to record; additionally, rally sites are often chosen based on likely productivity in order to attract participants. (Thomas 2007, 2)

⁶⁶ Haldenby, D. & Richards, J.D. 2010. Charting the effects of plough damage using metal-detected assemblages. – *Antiquity*, 84, 326, 1151–1162.

⁶⁷ Thomas, S. 2007. Archaeologists and Metal Detector Users: Unlikely Bedfellows? *The Durobrivae* (Water Newton) Metal Detecting Rally. Available at <http://www.sha.org/about/conferences/documents/ThomasSHApaper.pdf> (20.02.2012).

Also, awareness raising campaigns or other community level action is considered important, first and foremost in Germany, the UK, Lithuania and Finland. For example, in Germany leaflets are used to explain how to recognize illegal detecting and remind people to inform the police and forest offices thereof. In the UK systematic media coverage and broadcasting is considered an important channel together with public information through the PAS website and PAS annual reports.

We have seen that Denmark and the UK have the most well-established systems in terms of legal regulation and "soft" instruments which go hand in hand with rather high general awareness of heritage issues, better cooperation and inclusion of detector users in the discovery of archaeological heritage. Respectively, the view from these two countries is that cooperation can be further improved by specialized archaeology festivals and joint expert groups to facilitate changes in legal environment and communities. We have seen that contrary to these two relatively liberal systems Sweden has a very restrictive policy in place. For this reason the current situation is such that there are no clubs for amateur detector users in Sweden. Those interested in the searching of archaeological finds usually go to other countries, often to Denmark, where there are several communities for amateurs and where there is functioning cooperation. When addressing feeble cooperation and potential means to improve it in Sweden, it should be noted that the Swedish system has recently been questioned by the European Commission. In September 2010 the European Commission decided to request Sweden to amend its legislation on the use of metal detectors so as to ensure its compliance with EU rules on the free movement of goods. The concern of the Commission was that the strict limits on the use and transport of metal detectors in Sweden would be disproportionate to the public policy objective of protecting archaeological and historical sites, thereby constituting unjustified barriers to the imports of metal detectors into Sweden. Although the Commission supports the necessity to protect national archaeological treasures, Sweden was nevertheless suggested to prevent the risks of plundering of heritage sites by other measures more appropriate and less restrictive of the free movement of goods.⁶⁸ Therefore the Swedish National Heritage Board has carried out an analysis of how the situation could be improved. One of their conclusions is that better cooperation between the communities of professional archaeologists and detector users should be certainly seen as one of the priorities.

⁶⁸ The request of the Commission was placed as a reasoned opinion under the EU infringement procedure which requires the country subject to the request to further inform the Commission within 2 months of measures taken to ensure the compliance with the EU rules. Otherwise, the Commission may decide to refer the country to the EU Court of Justice. *See* Free movement of goods - Commission requests Sweden to comply with EU rules as regards metal detectors. IP/10/1223, 30 September 2010. Available at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1223&format=HTML&aged=1&language=EN&guiLanguage=en> (14.02.2012).

2.2. The View of Metal Detectorists

Metal detecting is a popular hobby in most of the examined countries. We have seen that the heritage protection authorities estimate the number of detectorists to be up to 1000 in Estonia, Sweden and Denmark. These estimates coincide with the ones of detector users of the respective countries, except for Estonia where detector users estimate the size of their community to be between 1000 and 5000 people. In Germany as a whole the estimated number of detectorists is between 5000 and 10 000⁶⁹. The same applies to the estimate of detector users about their number in Finland although the heritage protection view is somewhat more modest, estimating the size of their detectorist community to range between 1000-5000 people.

When the level of organisation of detector users is regarded, Estonian detectorists suggest lower level of organisation than was estimated by heritage protection authorities of the country: the detectorist view is that only up to 10% of their community belongs to some detectorist organisation. In Denmark the situation is quite the opposite – Danish detectorist suggest much higher organisation than was perceived from the part of heritage protection authorities and estimate that more than 75% of their community is part of some organisation. In Germany the view of detector users indicates quite a low rate of organisation (only up to 10% of detector users) which is probably also somewhat related to the strict regulation of the use of detectors in the country. As regards the situation in Finland, there were no clubs or associations until about a year ago the organisation 'Suomen Metallinetsijat Ry' was established. This is the association covering the whole country and joining the locally organized smaller communities of detectors users. Finnish detectorist view is that currently up to 10% of detector users are organised to some extent. In comparison to other examined countries the UK has the strongest level of organisation with umbrella institutions for metal detectorists such as the FID and the NCMD. Membership of detectorists in these organizations brings better information sharing and also comes with some practical advantages such as organized insurance cover against claims with regard to accidental property damage and ensuing legal costs (Evan-Hart & Stuckey 2007, 85).

Generally, the contribution of detectorists seems lower in the countries where the use of detectors requires a licence in comparison to the countries with more liberal detecting regulation. The detectorist view in respect of their contribution to the discovery of archaeological finds in most of the examined countries varies. In some countries it corresponds to the view of heritage protection authorities. Detector users estimate that their share in the discovery of finds in Estonia and

⁶⁹ We have earlier seen that the heritage protection authority of the State of Saxony estimates the community of detector users in their territory to be up to 1000 people.

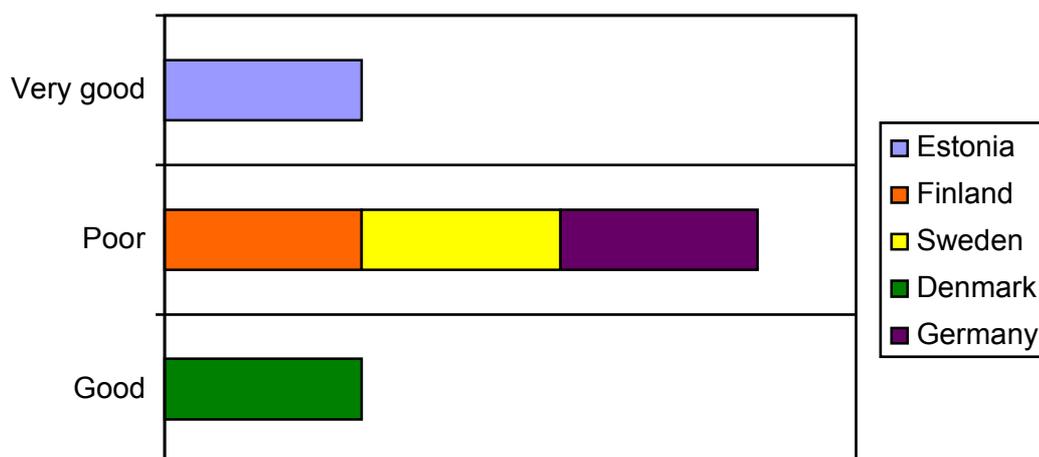
Sweden is up to 10% of all archaeological finds and the same view is provided from the part of heritage protection authorities of these countries. Yet, in this light it must be noted that the NHB of Estonia estimates that the share of detector users in the discovery of new sites is even higher – 25-50% of all discoveries. In Denmark, detectorists are more modest in evaluating their contribution than the heritage protectors of the country: detectorists estimate their share in the discovery of all finds and sites range between 25-50% as opposed to the heritage protection view that detectorists contribute more than 75% of the discovery of archaeological heritage. In Finland, on the other hand, detectorists consider their contribution very high in comparison to the heritage protection view of the country. They estimate their share in the discovery of all finds to range between 50-75% and in all sites even more than 75% while the heritage protection view is that detectorists contribute only up to 10% of the discovery of archaeological heritage. In Germany as a whole the detectorist view is that they contribute more than 75% of the discovery of all finds and 50-75% of the discovery of new sites. As a comparison, the heritage protection view from the State of Saxony is that such contribution in their territory amounts only up to 10%.

When it comes to the reporting of discovered archaeological heritage, it is not possible to draw general conclusions in respect of reporting behaviour and its relation to regulations regarding the use of detectors among the examined countries. This is due to the fact that it is difficult to notice some general trend and the detectorist views as opposed to the heritage protection views much vary in most of the countries. While in Denmark and Sweden both the detectorists and heritage protectors very uniformly estimate that the rate of detectorist reporting is more than 75%, the biggest gap between the views of detectorist and heritage protection sides seems to exist in Finland with the estimated reporting rates ranging between 50-75% and only up to 10% respectively. There is also quite a big difference between the different views in Estonia where the estimated reporting rate according to the detectorist view is at quite significant level (25-50%) while the heritage protection view is that the rate is only up to 10%. It is interesting to note that in Germany as a whole the reporting rate is considered very low (only up to 10%) compared to much higher estimated reporting (25-50%) of detectorists about archaeological finds in the State of Saxony.

When the level of inclusion of detectorists in archaeological search missions and fieldwork is regarded, detector users in the countries with strict legal framework such as Sweden and Germany consider their inclusion poor. The detectorist view from Sweden is that archaeologists tend to see archaeology as their privilege and therefore the inclusion is very rare. This corresponds to the indication of heritage protection authorities that inclusion is an exemption rather than a rule. There seems to be a wide gap between the two communities in Sweden. The

same seems to apply to Germany where archaeologists are generally seen to be in opposition to detectorists. It is interesting to note that contrary to such detectorist view concerning the whole of Germany, the heritage protection authority of the State of Saxony considers the inclusion of licensed cooperative detector users rather good. Although there is no similar direct regulation regarding the strict prohibitions of the use of detectors in Finland, the level of their inclusion is considered poor by the detectorists of the country. Their key concern is that Finnish heritage protection authorities lack knowledge about how they could best use detectorists in fieldwork. The detectorist view from Denmark corresponds to the positive view of the Danish heritage protection – inclusion is considered good and museums regularly involve metal detectorists in their field work. Also, detectorists find that their work is well valued and recognized by the state. As opposed to heritage protection view from Estonia which indicates rather poor cooperation, the organized Estonian detector users consider their inclusion very good and suggest that those detectorist clubs which belong to the Estonian Detectorist Association are well acknowledged by archaeologists and are often invited to join search missions. Given the new licensing system in place, the inclusion of licensed detectorists who have completed a respective training is likely to increase.

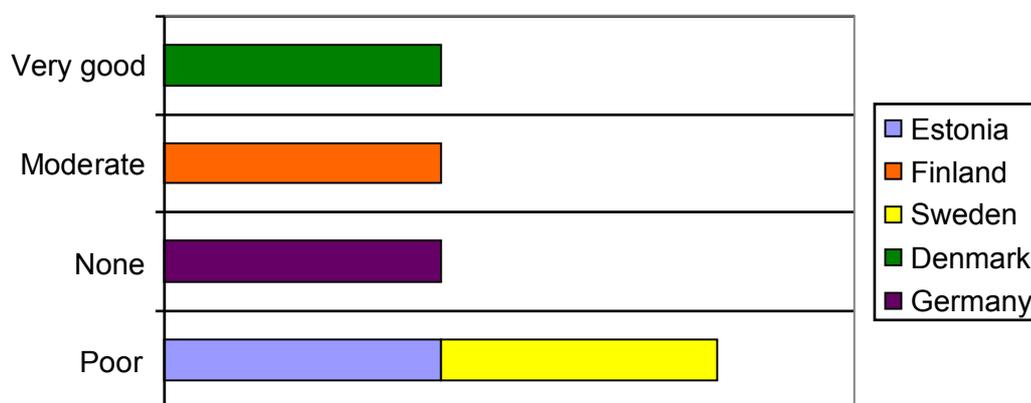
The Level of Inclusion - Detector Users



The views of detector users in different countries in respect of current level of cooperation in the discovery and protection of archaeological heritage very much vary. German detectorist view is that there is no cooperation between detector users and heritage protection authorities. This seems to be directly related to the indication of generally poor inclusion of detector users – when there is almost no inclusion, there cannot be much cooperation either. Furthermore, detector users generally consider their contact with heritage protection authorities a very unpleasant

experience⁷⁰. Cooperation is considered poor in Sweden and surprisingly so, in Estonia too. Irrespective of the suggested good level of inclusion of organised detector users in Estonia, the overall level of cooperation is estimated poor by the detector users of the country. Such suggestion does not derive from some major functional gap between the two communities but it is based on the fact that cooperation is only functioning at the level of clubs. Yet, single detectorists do not actively seek or use the possibilities of cooperation with archaeologists. Given the majority of detector users not being members of any organisation, the overall level of cooperation throughout the country is not good. In Sweden, on the other hand, there is a major gap between the attitude of detectorists and heritage protectors towards each other – since media has drawn a very negative picture of all detector users, mutual acceptance and cooperation are expectedly very low. This view of Swedish detector users very much also corresponds to the view of Swedish heritage protection authority who finds that there is no cooperation between them and the detectorist community.

The Level of Cooperation - Detector Users



Finally, in Finland the level of cooperation is considered moderate and this view coincides with the view of Finnish heritage protection authorities. We have seen from the earlier overview of heritage protection side that there is only very little systematic cooperation between detector users and heritage protection authorities in Finland. Detectorists suggest that one of the major reasons for the lacking cooperation is the lack of knowledge of the authorities about modern detectorists and the possibilities of their inclusion in archaeological work. They claim that state authorities still have very narrow view on detector users, often seeing them as grave looters and destroyers of archaeological heritage. In my opinion such serious statement seems to somewhat contradict the

⁷⁰ More information about the situation in Germany can be found at www.sondengaenger-deutschland.de. English summary can be found in the FAQ section at www.metal-detecting.de.

view of Finnish heritage protection authorities who consider the majority of local detectorists quite honest and responsible.

Again, as opposed to other examined countries, Danish detectorists find their cooperation with heritage protection authorities very good. As we have seen earlier, this view of detector users is in accordance with the similar view of Danish heritage protectors. Such coherent indications from both parts of the Danish system demonstrate clear mutual respect and willingness to work together. It seems that the system as well as the situation in Denmark in respect of cooperation are the most stable among the examined countries and serve as the best model for other countries who seek to improve their situation with regard to cooperative detecting. The cooperation flow is normally as follows. The Danish detector users regularly work hand in hand with local museums, sharing their information on finds and searches. Museums, in return, give them tasks in relation to areas to be detected. Should detector users discover an archaeologically valuable site or a find qualifying as "treasure", detecting activities are stopped and the area is brought to the attention of professional archaeologists. Detector users normally keep track logs with GPS information, photos and additional information. The track logs are handed over to the museum as well as to the land owner.

The detector users in all the examined countries find that it is very important to enhance cooperation between detectorists and state authorities in terms of discovery and protection of archaeological heritage. Also, they find that more inclusion should certainly take place. These are the few aspects in which the views from both sides of the examined countries correspond to each other. Estonian detectorists find that the enhancement of cooperation is currently a key turning point in the light of the new regulatory requirements and therefore it is of utmost importance that cooperation possibilities with the NHB and archaeologists would increase and stabilize. For example, a bigger joint annual search event for licence holders could serve well, spreading a positive message to other unlicensed detector users as well as the whole of society and changing the image of detector users. The more there are detector users involved in joint search missions, the more trust and interest is built. Many earlier joint events with the maximum number of participants serve as a proof of this.

In Sweden the development of cooperation is first and foremost considered important as a tool enabling detector users to actually practise their hobby against the background of very difficult and time-consuming licensing procedure. Also, if detector users were more involved, it would give them a chance to actually develop their knowledge of their heritage. In Germany the enhancement of cooperation is seen from the point of view of expertise and detector users expect it to go hand in hand with recognition of their contribution – they should be treated as certain

independent experts for cooperation to function. Although the situation looks very promising and the existing system functions very well in Denmark, both parties of the system nevertheless agree that further enhancement of cooperation is very important. First and foremost its importance lies in maintaining the existing good cooperation as well as the situation with almost no night-hawking and very good rates of reporting of finds to museums.

When it comes to the options for enhancing cooperation between detectorists and state authorities in respect of discovery and protection of archaeological heritage, the views of detector users in different countries vary, reflecting on some occasions compliance with the understanding of their heritage protection authorities and suggesting additional options on others. Drafting of a code of responsible detecting guidelines, greater involvement of detector users in archaeological search missions and joint fieldwork as well as organizing more trainings for detector users on search methods and archaeological fieldwork are considered important tools of further cooperation in Estonia, Finland and Denmark. Additionally, the Danish and Finnish detectorist view is that the establishment of a joint expert group to tackle the issues and problems of detecting would add value to the cooperation system. Besides the regulatory framework there are "soft" guidelines such as the detectorist codes of ethics and best practice which are well accepted by amateur detector users in Denmark.

The detectorist views from both Sweden and Germany suggest different options for the enhancement of cooperation. In Sweden the establishment of an organisation for detector users is seen as a first step. Secondly, the shift in media approach from utterly negative to more neutral and the raising of public awareness should take place. Today the image of detector users created by Swedish media is that of plunderers and looters of historical objects; the change in the image is certainly necessary before cooperation can start to function. Last but not least, Swedish detectorist view is that archaeologists would need to learn to accept the possible use of detectorists in archaeological search work. When the situation in Germany is regarded, it is interesting to note that German detectorist view suggests the need for paradigm shift as a first step towards the enhancement of cooperation. Their view is that at present archaeologists consider all historical sites and objects their "privilege" while the rest of the society tends to consider historical objects as "ownerless goods" which belong to their finder. This approach needs to change on its own as strict laws make things only worse.

According to the CBA report on community archaeology⁷¹ prepared in 2010 in the UK, the respondent detecting clubs and societies indicated that the following activities are the most important in terms of their inclusion: metal detector searches; talks or lectures; finds processing/recording. In the context of addressing the role of community archaeology in heritage protection this allows concluding that while certain more general type of activities (such as talks or lectures) are common to all community groups, the more specialised inclusion activities such as detecting surveys are more likely to occur and expected in specialised community groups such as detector users. Also, a couple of detecting clubs suggested that some of their members felt a degree of distrust towards archaeologists, often as a result of earlier negative experience and interactions. However, they confirmed that relationships had improved more recently, most notably through the success of the PAS but also through the participation of detector users in community archaeology projects⁷². (Council for British Archaeology 2010, 24-25, 54).

When evaluating what kind of effect would greater involvement of detectorists and the codes of good practice next to laws have on archaeological heritage and its protection, the detectorist view from all the examined countries is that this would improve the discovery of archaeological heritage. Here it is important to point out the Swedish detectorist view indicating that due to the low number of detector users greater involvement efforts might have only very little effect in Sweden. Swedish detectorists prefer a code of conduct to strict regulation, suggesting that next to improving cooperation this would also help them practise their hobby more freely.⁷³ In Estonia, Denmark and Germany greater involvement of detector users and the recommended codes of practice are also regarded as potential tools for improving the reporting and protection of archaeological heritage. The German detectorist view is that the effect of laws in practical terms is not so much about detecting but about whether detector users report their discoveries or not.

According to the practice in the UK, responsible metal detecting is such search of archaeological items which entails the obtaining of necessary permissions, voluntary recording and reporting of finds. Crucially, detectorists should avoid archaeologically sensitive sites, take care of the recording of finds (and their findspots) and seek archaeological help if they find something important, as for example did the finder of a Roman “dinner set“ from Oxfordshire. (The British Museum 2010, 10). The examples of detecting finds such as the hoard of Iron Age gold staters, Iron Age coins and Roman silver coins from the historic Roman villa site in Northamptonshire

⁷¹ Council for British Archaeology. 2010. Community Archaeology in the UK: Recent Findings. 29 April 2010. Available at <http://www.britarch.ac.uk/research/community> (11.02.2012).

⁷² Here it is important to note that the participation of detecting clubs had taken place on their own initiative rather than being invited to be involved in these projects.

⁷³ Today the core problem is getting permissions from the authorities to whom detector users need to send a detailed map. If there are any historical objects anywhere nearby, no permission is granted.

have been used in the paper of Curteis about a decade ago to emphasise the significance and value of metal detecting finds in supporting archaeological research and highlight the importance of reporting and recording to realise this potential. It is obvious that the opposition between archaeologists and detector users has served to deter detectorists from reporting but has not contributed to the searching and finding of material. This has resulted in the loss of valuable research data. (Curteis 2003). Further experience from the UK⁷⁴ indicates that cooperation between archaeologists and metal detectorists is possible and can function very well when detectorists obey the law and archaeologists do not have prejudice towards detector users. Evan-Hart and Stuckey claim that in the UK, the hobby of metal detecting has become more widely accepted by the community of archaeologists and heritage protectors over recent years. This corresponds to the view resulting from my survey too. Functioning cooperation is generally expressed in many detectorists reporting their finds to authorities, contributing to the establishing of good working relationships and resulting in archaeologists often soliciting the expertise of detectorists during excavations to locate and retrieve finds. Moreover, Evan-Hart and Stuckey suggest that with tighter financing sources and more limited financing for excavations, archaeologists have become more dependent on the information provided by metal detectorists. Thus, the sharing of experience and understanding the work of archaeologists by metal detectorists together with actual cooperation in discovering and retrieving finds seem to form a key to better protection of archaeological heritage. (Evan-Hart & Stuckey 2007, 67-68). For doing so, the Code of Practice on Responsible Metal Detecting in England and Wales has been established. Although it is in the form of suggested broad guidelines, it certainly marks a clear will from both sides to contribute to the protection of archaeological heritage.

When it comes to the question of whether there should be more voluntary or compulsory guidelines in place in order to improve cooperation between the communities of detector users and heritage protectors, it is generally the case that the systems which contain more flexibility and long-term voluntariness serve as the best examples of cooperation. In this light, reporting of finds is one of the important aspects to look at. Specifically, it is the PAS-reporting system used in the UK which is often examined in this context as the most flexible system in Europe. Today the cooperation under the PAS seems to work well and most metal detecting clubs are fully involved with the PAS. It is a unique initiative, without a parallel anywhere in Europe, which certainly adds collective knowledge of the past through the public involvement: it has established a mechanism to promote the interest through the recording of finds made by the public and the publishing of the results for all to see. (Bland 2008, 80). According to the PAS: “*Responsible*

⁷⁴ The examples are presented above in p.2.1.

metal detecting is one way in which people of all ages engage with the past". Documented detecting is considered responsible because of understanding the need for recording and willingness to cooperate with authorities regarding the recording of finds. (Clark 2008, 23). According to Bland⁷⁵, a comparison between the voluntary PAS-reporting in England and Wales in terms of efficiency in getting more finds reported as opposed to the all-encompassing mandatory reporting of finds in Scotland suggests that it is unlikely that the requirement to report finds on its own would lead to increased reporting rate.⁷⁶ The PAS-scheme would become more efficient only through better education of general public. (Bland 2008, 79-80).

We have seen that there is also enough flexibility and voluntariness in the system of Denmark where archaeologists very well recognize the advantages of cooperation with metal detecting community (National Council for Metal Detecting 1998). Denmark is said to have an excellent system in place to govern responsible and constructive amateur detecting. In comparison to Sweden where there are very restrictive rules and the extent of cooperation with metal detectorists varies in different counties, Danes express their willingness of cooperation through different means of inclusion such as metal detecting festivals which are meant both for skilled amateur detectorists and professional archaeologists. In relation to Denmark, one of the effects of Swedish strict policy is said to be that Swedish detectorists assist Danish archaeologists instead of their own countrymen because the general image of metal detectorists among Swedish archaeologists is not very good. (Rundkvist 24 March 2009). Thus, the system in Denmark is mostly considered reasonable by detectorists and it is likely to allow much better contribution to the discovery of archaeological heritage.

Looking at the least flexible systems among the examined countries, Sweden seems to serve as the major example of weak mutual understanding and willingness to cooperate between the communities of archaeologists and detector users. Contrary to the UK, there are no codes of responsible detecting practice in place in Sweden. We have seen that detecting is generally prohibited in Sweden. Swedish system is clearly stricter than the system in other examined countries and based on the discussion in some Scandinavian detectorist blogs⁷⁷ one can say that there is quite a discrepancy between different counties of Sweden when granting the licences for

⁷⁵ In his paper, Roger Bland from the British Museum explains the legal framework of antiquities reporting in the UK and, among others, addresses the comparative aspects of the voluntary PAS-reporting in the UK and mandatory finds reporting in Scotland. See Bland, R. 2008. The Development and Future of the Treasure Act and Portable Antiquities Scheme. – Metal Detecting and Archaeology. Eds. S.Thomas & P.G. Stone, Boydell Press, 63-85.

⁷⁶ The figures of PAS regarding voluntary reporting are impressive: in 2009 some 157 188 finds were recorded in 2009-2010 (67 089 and 90 099 respectively). 1638 Treasure cases (778 and 860 respectively) were reported in the same period. See more The British Museum 2010, 25-26.

⁷⁷ I have examined the postings at http://scienceblogs.com/aardvarchaeology/2009/05/how_to_metal_detect_legally_in.php and http://scienceblogs.com/aardvarchaeology/2009/03/danish_metal_detector_festival.php

metal detecting. The information exchange in the blogs reveals that the strict rules in Sweden together with very defensive attitude on behalf of archaeologists have very negative outcome in terms of relations between the two communities. Respectively, and taking into account the results of this survey, one can conclude that with the relations being far from good, the chances for the contribution of metal detectorists to the discovery of archaeological heritage and cooperation in the form of responsible detecting would be rather poor in Sweden.

2.3. Suggestions on Cooperative Frameworks and Initiatives

I believe that lawful and responsible metal detecting helps creating new knowledge because there are many sites which would never go through full-scale excavations and the heritage would otherwise be lost. Therefore responsible detecting deserves favorable attitude on behalf of archaeologists. However, I also believe that there should be more cooperation with the community of archaeologists, especially with regard to the use of sampling and recording techniques. This would help changing the antiquarian focus into more context-oriented activity. We have seen that the obtaining of necessary permissions, proper recording and reporting of finds are the key components to the practice of responsible metal detecting as opposed to “black” archaeology or nighthawking. On the basis of contribution from the key stakeholders in the examined countries the following suggestions on cooperative frameworks and initiatives to facilitate responsible detecting and cooperation between heritage protectors and the community of detector users can be drawn.

First of all, training courses and information sessions for detector users in respect of search methods and archaeological fieldwork are seen as one of the key forms of cooperation in most of the examined countries. It is important to note that detecting as such, including different search techniques, should not be the core of such training courses and sessions. On the contrary, the courses and sessions should first and foremost aim at explaining the importance of archaeological heritage. Hollowell suggests that the fact that archaeological record is of little importance to certain people indicates that archaeologists have not done a good job of explaining their ways of meaning-making. Many detector users still think of archaeology as it existed in the early parts of the last century when its objective was mainly to fill the shelves of museums. (Hollowell 2006, 85). Hence, the training courses targeting detector users should first and foremost aim at teaching how to avoid the destruction of archaeological finds and sites, and describing how to record finds properly.

When the current situation in Estonia is regarded in this light, training courses and information sessions play an important role in the enhancement of cooperation and their importance is likely

to increase. So far training has mainly been carried out in the form of information days which the NHB has organised for detector users a couple of times each year to keep them posted about the recent archaeological activity and major issues. However, after the changes in the legal framework in Estonia the training and awareness raising of detector users about the essence of archaeological heritage has become an important issue. Given the new regulatory framework in Estonia, effective of 1st June 2011, which requires a licence from the users of detecting devices in search of objects of cultural value, a training programme has been designed for the licence applicants. The programme was developed by MTÜ Arheopolis – a NGO focusing on awareness raising, trainings and events related to archaeology – and the first course started in August 2011. The programme contains 36 hours of seminars and an examination. The first course had 22 participants who successfully passed the examination in October 2011 and were granted a diploma which enables them to apply for a search licence. This training facilitated the development of contact between the NHB and responsible detectorists⁷⁸; there are likely further joint activities to follow. I find the current situation in Estonia quite promising with attitudes and cooperation from both sides improving slowly but surely. It should be noted that such improvement first and foremost concerns licensed and organized detector users. In this context the ethical principles of the Estonian Detectorist Association serve well as the formal reflection of the willingness of at least part of Estonian detectorist community to act responsibly.

In addition to trainings, joint archaeological search missions and greater involvement of detector users in archaeological fieldwork are considered another important element in enhancing mutual understanding and cooperation. There are five categories of trust relationships archaeologists enter into through their work. One of these categories is public trust – a trust relationship between professional archaeologists and the general public. Public trust, as a legal and moral framework, is a complex phenomenon and difficult to extrapolate into unambiguous categories. Here, two subgroups can be defined: the actively involved public (e.g. avocational archaeologists, volunteers, detector users, etc) and the uninterested public. Colwell and Ferguson suggest that in respect of the former, archaeologists have clear obligations to be honest, actively include them in

⁷⁸ In my opinion, the limiting of the use of metal detectors in seeking the objects of cultural value is reasonable although somewhat problematic. The main problem rests in the definition of a find as an object of cultural value. The main question is how the finder would know that the object he/she has found is of cultural value, especially without specialized education and knowledge. Also, if cultural value is confirmed in the course of later expertise, it would be important to ask to what extent the liability of the finder is reasonable, assuming that he/she indeed did not know about the cultural value. From the perspective of the training programme it is important to note that these detector users who participated at the training consider it important to meet the legal requirements and obtain a licence for their search. They are also very interested in the practical use of their licence and contribution to official archaeological search missions. However, there are also many detector users whose interpretation of the legal provisions due to the abovementioned problems is such that any search which does not aim at the objects of cultural value can be carried out without a licence. Due to their opposition to the training programme, the start of the programme in 2011 was a challenging task. Fortunately the number of responsible detector users is increasing and new training courses are under way in 2012.

research, preservation issues and the dissemination of research results. (Colwell-Chanthaphonh & Ferguson 2006, 123-125). In the UK, the benefits of responsible detecting and its role in controlled archaeological excavations have been recognized by the state with the possibilities of joint activities being increasingly addressed by the state system. For example, the PAS staff regularly work with students in higher education to draw attention to the benefits of archaeologists and metal detectorists working together in order to better understand the historic environment. In 2009-2010 five undergraduate placements from the archaeology course at Newcastle University were organised with the PAS. The students assisted in all aspects of the Finds Liaison Officer role, including the identification and recording of finds, attending metal detecting clubs, and assisting in the reporting of Treasure finds. (The British Museum 2010, 8).

In this light I would like to draw attention to some practical aspects and considerations of cooperation which have been revealed by the study of Thomas⁷⁹ who examined the behaviour and attitudes of both archaeologists and detector users in a joint detector rally combined with archaeological excavations in the UK. Thomas pointed out that some detector users participating at the rally were suspicious of the motives of archaeologists and therefore potentially reluctant to co-operate for fear of losing further access to the archaeological site through potential scheduling. However, they also regarded the rally as an opportunity for archaeologists to learn more about metal detecting rather than for themselves to become better acquainted with archaeological techniques. Some archaeologists, on the other hand, noticed that more finds were being brought forward for recording than would normally be expected at a rally without any extra archaeological fieldwork. However, it was unclear whether this indicated more detector users bringing finds forward or just detector users being less selective in what they showed the archaeologists. (Thomas 2007, 6).

When the situation in Estonia is regarded, all the information sessions as well as trainings have so far had quite practical focus. Also, the training programme for licence applicants is seen from the perspective of practical exercises, containing a simulation exercise or the inclusion of licence applicants in official preliminary search under the supervision of a licensed archaeologist. Therefore, joint archaeological search missions are suggested as one of the forms of further cooperation and this discussion has been brought to the NHB. The ideas for organizing joint events vary from preliminary searches to specific search events on some ancient battle sites. Given the recent positive signs from both parts, in particular the expressed willingness of licence

⁷⁹ Thomas, S. 2007. Archaeologists and Metal Detector Users: Unlikely Bedfellows? The Durobrivae (Water Newton) Metal Detecting Rally. Available at <http://www.sha.org/about/conferences/documents/ThomasSHApaper.pdf> (20.02.2012).

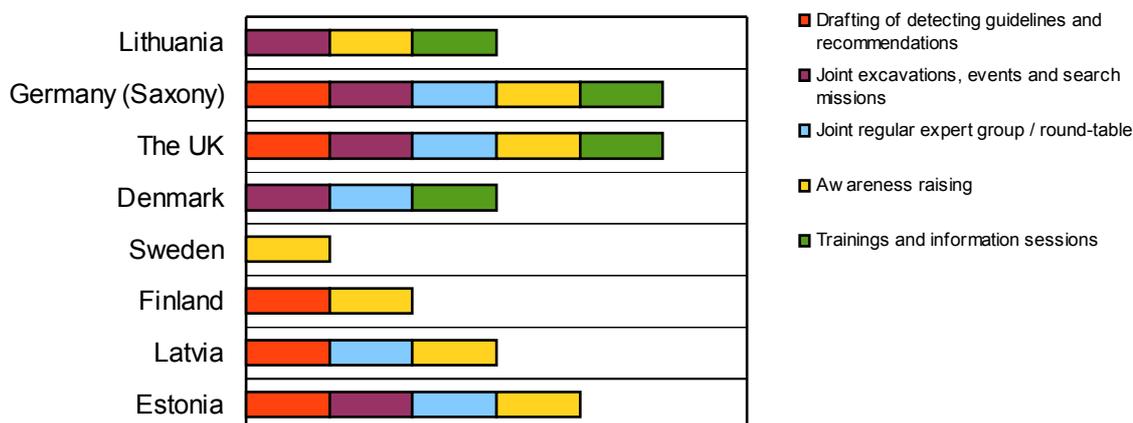
holders to work together in a responsible way, some joint search events are very likely to realize in the coming year. In this aspect the archaeology festivals and detector rallies in close cooperation with local museums in Denmark would serve as a good example for Estonia.

Another suggestion to improve responsible detecting and thereby the protection of archaeological heritage is general awareness raising. It can be done in very different forms such as direct campaigns, public information materials and websites, systematic media coverage and so on. We have seen that Sweden serves as an example of strict regulation and the lack of cooperative initiatives. One of the reasons is Swedish media approach which has constantly been very negative towards detector users. The suggestion from Swedish detectorists is that a shift in media approach would contribute much to the development of cooperative spirit and respectively willingness to participate in the protection of archaeological heritage by Swedish detectorist community. It is interesting to note that media and broadcasting possibilities are highlighted as important awareness raising tools particularly in the UK. There have been practical broadcasting events respectively. For example, Durobrivae (Water Newton) metal detecting rally in August 2007 to the Roman town of Durobrivae was selected to be featured on “The One Show”, a primetime BBC magazine television series featuring stories from across the UK. The event received extensive publicity and particular attention was paid to the fact that archaeologists and metal detector users were working together in a project developed for archaeological fieldwork alongside the rally. (Thomas 2007, 3) Given that media has contributed to the fact that the country has developed a well-established system in terms of heritage protection, positive image and public knowledge thereof, it can be concluded that media coverage could serve as a powerful tool for achieving better general awareness of heritage issues as well as ultimately better cooperation with the community of detector users.

General awareness is also important for the reasons of understanding where the roots of irresponsible detecting are and how it is linked to seemingly harmless cosy antiquities stores and solid auction houses. There is a lot of archaeological material of unclear origin circulating in the international market of antiquities. The information leaks about the backstage of the market indicate a very clear relation between the lootings and the trade of antiquities. For example, the leak of internal documents of the famous international auction house Sotheby’s showed that Sotheby’s regularly sold items which originated from recently looted archaeological sites although its employees should have had good reasons for suspecting the unlawful origin of the items. (Lundén 2004, 198). Also, the research based on the interviews with Swedish auctioneers and antiquities traders proved that officially there are talks of high ethics and indications to items originating from “old collections“ or known dealers. However, the picture gained off the record

(and by simply pretending purchase interest) was completely different and proved that actually even the well-known auctioneers do not limit the sale of unlawful objects and their employees are very well aware of the fact that many sold objects have been gained as a result of looting. (Lundén 2004, 200–202). In any case all the items of unidentified origin offered on the market should be treated as the result of possible looting, unless proved otherwise (Renfrew 2000, 11).

Options for the Enhancement of Cooperation - Heritage Protection Authorities



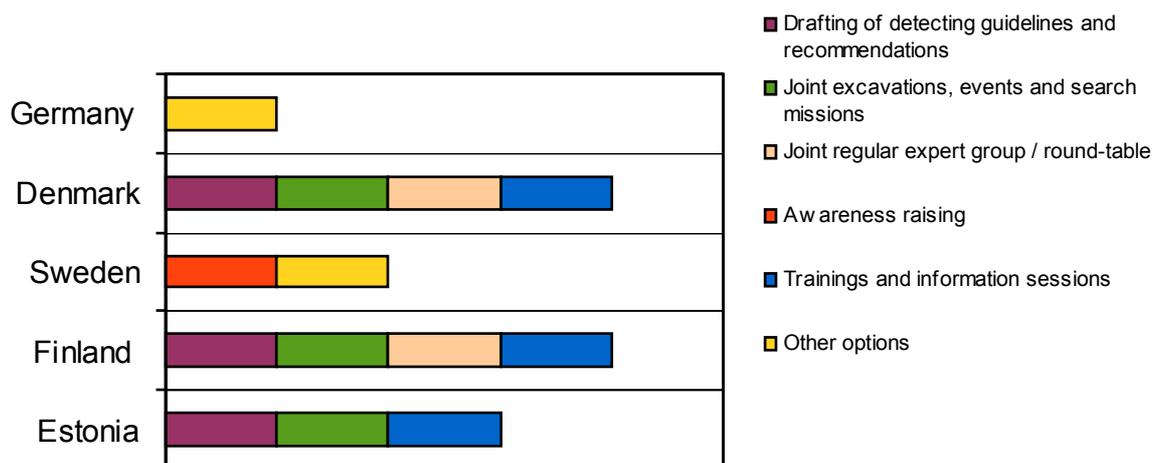
When the situation in Estonia is regarded, the need for awareness raising is directly linked to some of the Estonian cases of looting which I have presented in the first part of this thesis. The cases bring forth the use of the advantages of mass media as an important information channel⁸⁰. Official archaeological excavations as such always pose certain threat to antiquities because they may facilitate looting when the information about excavations reaches general public and may activate treasure hunters. A respective study⁸¹ has found that projects that included more public outreach reported higher incidents of looting in their area. Thus, archaeologists need to do better job of convincing people that archaeology is for everyone's benefit. (Hollowell 2006, 86). Especially in the context of Ubina hoard it is important to note that, among others, the protection of archaeological heritage could be improved by the increased awareness of common men. Looters usually introduce themselves to local people as archaeologists or museum staff. If people accept such explanation without questioning, it often results in the destruction of sites (Kiudsoo

⁸⁰ The case of Keila treasure showed media contribution to the image creation of treasure hunters: the significance of damage was not mentioned although it was one of the biggest looted treasures but with the help of media the size of finding fees became an issue of dispute.

⁸¹ Hollowel J. & Wilk, R.R. 1995. Are Practices of Archaeological Field Projects Related to Positive Relationships with Local Communities? A Quantitative Analysis of 84 Cases. Paper presented at the Society for American Archaeology, Chicago.

2008, 14-15). Greater awareness about the problems of “illicit archaeology” and irresponsible detecting would help local people distinguish between official excavations and treasure hunting, and notify the authorities accordingly.

Options for the Enhancement of Cooperation - Detector Users



Many of the examined countries have certain recommendations or other “soft” regulatory tools to explain why archaeological heritage is important, how to recognize the objects of archaeological value and how to behave upon the discovery of finds and sites. Such “soft” tools are usually either developed by state authorities for the use of general public, including the community of detector users, or they serve as internal guidelines for certain detectorist organisations (e.g. the ethical principles of the Estonian Detectorist Association). Drafting a code of responsible detecting guidelines is generally seen as a tool to add value to the whole system of cooperation between the state and the community of detector users. Principles and codes of ethics in archaeology are important because they simultaneously reflect and shape the discipline’s values and ideals (Colwell-Chanthaphonh & Ferguson 2006, 117). The guidelines of detecting organisations are of particular value because they directly express the moral standards generally agreed by the members of the respective organisations. Also, one can assume that the general agreement to the standards is also reflected in the behaviour of detector users. In this context it is necessary to point out that the existence of a well-functioning detectorist organisation as such would provide important support to the application of any recommendations and guidelines, serving as another tool for the improving of responsible detecting and respective protection of archaeological heritage.

Last but not least, another suggestion deriving from the contribution of the participants of this survey is that regular joint expert groups to tackle the issues and problems of detecting and to facilitate changes in legal environment and communities would present a good possibility to improve cooperation and respective protection of archaeological heritage. On one hand, such expert groups would help develop and maintain contacts between the community of detector users and state authorities. On the other hand, they would help exchange views, point out problems and commonly find solutions which are acceptable to all stakeholders. I believe that joint expert groups and/or similar round-tables would be an extended phase of cooperative attempts rather than their initial step because they assume certain level of mutual understanding and earlier joint activities.

When the situation in Estonia is regarded, there have not been any regular joint expert groups or round-tables so far. However, quite a few detector users have already obtained their search licences and would therefore expect to contribute more to the discovery of archaeological heritage. The NHB, on the other hand, would expect those law-abiding and responsible people to share their knowledge and resources in the search of archaeological heritage. Thus, there are clearly identifiable common viewpoints which would form a basis for good joint discussion. Respectively, both parties have already started communication in respect of a joint round-table to present and discuss their expectations.

CONCLUSION

This research originates from the idea that archaeology is not a privileged science but something which belongs to the society as a whole. Respectively, the inclusion in archaeology should be at least to certain extent available to all interested communities, including the community of responsible detector users. The research contained in this thesis aims at finding support to the statement that the discovery and protection of archaeological heritage would be more efficient in the form of responsible detecting and cooperation between heritage protection authorities and metal detectorists combined with some legal regulations rather than through the strict legal regulation of detecting.

In the course of this research I have come to the following conclusions.

1. In all the examined countries any activity on scheduled monuments, including the use of metal detectors is prohibited and requires a licence. When the use of metal detectors on unscheduled sites is regarded, the regulations in the examined countries vary greatly. While there are no direct provisions governing the use of detecting devices in Latvia and Finland, and respectively one can conclude that detecting is not regulated in these countries at all, the prohibition of all unlicensed detecting activities in Sweden serves as an example of utmost strict detecting regulation. Similarly, any detecting without a licence is prohibited in the State of Saxony (Germany) while in Estonia it is the use of detecting devices in the search of items of cultural value which is regulated as the activity requiring proper authorization. In Denmark, the use of metal detectors depends on the ownership and status of land: while historical sites and some public lands are closed to detecting, there are generally no restrictions on private land apart from the landowner's permission. In comparison to all the other examined countries the UK has the most liberal and flexible system in respect of metal detecting, comprising both fundamental regulatory requirements and voluntary instruments. Detecting is in principle legal in England, Wales and Scotland but the users of detectors must have the landowner's permission and they mustn't carry out detecting activities on scheduled monuments. The use of metal detectors on scheduled monuments requires a licence. As the region of Northern Ireland is regarded, the rules are different from England and the search of archaeological objects in any land, including protected sites, would require a licence.
2. When the regulatory framework in respect of reporting and recording of finds is regarded, the systems in the examined countries vary from fully mandatory reporting to the combined systems of mandatory reporting and voluntary recording. In Estonia it is necessary to report all the finds which qualify as objects of cultural value. Yet, those detector users who have

obtained a licence for the use of a detecting device in the search of objects of cultural value must report all their finds on yearly basis. Similar to Estonia, the obligation of reporting the finds found in the course of metal detecting goes together with detecting licence also in Sweden and the State of Saxony (Germany). In Denmark as well as in Latvia, Lithuania and Finland only the objects of cultural value must be reported. Normally reporting also involves the provision of information about the place and circumstances of finding the objects and handing the objects over to the state. Different from other examined countries, the system in the UK serves as a good example of the combined approach which entails both compulsory reporting and voluntary recording, depending on a particular situation. The objects and assemblies of objects which qualify as “Treasure” according to the Treasure Act 1996 are considered “required finds” which need to be reported to the PAS. Additionally, the voluntary recording of any other objects with the PAS by their finders is suggested. This is not an obligation but a suggested practice which is today followed by many metal detecting clubs. Different from the rest of the UK, the rules of recording in the territory of Scotland are somewhat different – all finds are potentially the property of the state and need to be reported as Treasure Trove.

3. In most of the examined countries, except in Latvia, Lithuania and Finland, there are some “soft” guidelines in place to explain the regulatory framework and the need for responsible detecting. The guidelines adopted by detectorist communities usually contain ethical principles and serve well as the formal reflection of the willingness of the respective detectorist communities to act responsibly. The UK has the most comprehensive system of voluntary instruments, comprising the common guidelines for responsible detecting (the Code of Practice for Responsible Metal Detecting in England and Wales) as well as the recording scheme PAS (the Portable Antiquities Scheme). The Code aims at education and self-regulation as the best means of responsible detecting activities. The PAS scheme has the function of voluntary recording of all archaeological finds discovered by the members of general public.
4. The main elements of responsible detecting as opposed to “black” archaeology or nighthawking are the obtaining of necessary permissions, proper recording and reporting of finds. When the practical contribution of metal detectorists to the discovery and protection of archaeological heritage is regarded, it can be concluded that metal detecting plays an important part in finding artefacts in many countries. The contribution of detectorists is considered to be lower in the countries where the use of detectors requires a licence in comparison to the countries with more liberal detecting regulation. For example, the estimated

share of detector users in the discovery of finds in Estonia, Lithuania and Sweden is only up to 10% of the discoveries, while the heritage protection authorities in Denmark estimate that detectorists contribute even more than 75% of the discovery of archaeological heritage in the country. In the UK, more than 85% of the PAS-finds are discovered by detector users. It is interesting to note that in estimating the share of detectorist contribution in the discovery of archaeological heritage, the detectorist view as well as the indications from heritage protection part in the examined countries somewhat vary. While in Estonia and in Sweden, for example, the views of detector users and heritage protection authorities correspond to each other, detectorists in Denmark are more modest in evaluating their contribution than the heritage protectors of the country. In Finland, on the other hand, detectorists consider their contribution high in comparison to the Finnish heritage protection authorities.

When the reporting of discovered heritage on behalf of detectorists is regarded, there is no general trend which would allow drawing conclusions in respect of actual reporting behaviour and its linkage to regulations regarding the use of detectors in the examined countries. For example, in Denmark which has a reasonably liberal regulatory environment and, on the other hand, in Sweden which has the strictest detecting rules among all the examined countries, both the detectorists and heritage protectors very uniformly estimate that the rate of detectorist reporting is more than 75%. In all the other examined countries the detectorist views as opposed to the heritage protection views much vary with the biggest variation in Finland where the estimated reporting rates range between 50-75% (detector users view) and only up to 10% (heritage protection view) of all discoveries by detector users.

5. The heritage protection authorities and detector users in most examined countries find that it is very important to enhance their mutual cooperation in respect of discovery and protection of archaeological heritage as well as the inclusion of detectorists in archaeological search missions and fieldwork. This even applies to the countries which already have a well-functioning system of cooperation and inclusion such as Denmark and the UK. The more joint activities there are, the more mutual trust and interest is continuously built. From the part of detector users it is important to draw attention to the German detectorist view which suggests that the recognition of their contribution on behalf of heritage protection authorities is essential when considering better inclusion and mutual cooperation. Also, it is important to point out that the increase of inclusion and the enhancement of cooperation are currently the key points in Estonia, given the new regulatory requirements and related cooperative attempts from both parts. Different from other examined countries the heritage protection authorities of

Latvia find that inclusion of detector users should not be increased because it contains the risk of increased damage to archaeological heritage.

6. The survey results allow the conclusion that there are many practical ways and possibilities for enhancing the cooperation between detector users and heritage protection authorities which would eventually lead to better discovery and protection of archaeological heritage. First, training courses and information sessions for detector users are seen as a key form of cooperation in most of the examined countries. Additionally, joint archaeological search missions and greater involvement of detector users in archaeological fieldwork are considered important in enhancing mutual understanding and cooperation. For example, in Estonia the suggestions for joint activities vary from preliminary searches to specific search events on some ancient battle fields. For the third, regular joint expert groups to tackle the issues and problems of detecting and to facilitate changes in legal environment and communities would present a good possibility for the enhancement of mutual cooperation.

Responsible detecting and thereby the protection of archaeological heritage can be improved by general awareness raising in such forms as campaigns, public information materials, websites, systematic and adequate media coverage, etc. The importance of adequate media approach has been particularly highlighted in Sweden where there is almost no cooperation between detector users and archaeologists, and media has constantly been negative towards detectorists. On the example of the UK where media and broadcasting possibilities have been used to develop the positive image of heritage protection and public knowledge thereof, it can be concluded that media coverage could serve as a powerful tool for achieving better general awareness of heritage issues as well as ultimately better cooperation with the community of detector users. Another tool to add value to the whole system of cooperation between the state and the community of detector users is the code of responsible detecting guidelines which would directly express the moral standards agreed by the members of its adopting detecting organisation. Also, their agreement to the standards would also expectedly be reflected in their behaviour. Next to such detecting guidelines the existence of a well-functioning detectorist organisation as such is seen to further support the improving of responsible detecting and respective protection of archaeological heritage.

7. The general conclusion from this research is that the good level of involvement of detector users and mutual cooperation combined with reasonable extent of regulation would be the best solution in terms of discovery and protection of archaeological heritage. Naturally, any involvement and cooperative attempts assume responsible detecting. Responsible detecting would create new knowledge, help satisfy the interest of detector users in their history and

certainly help discover some heritage which would otherwise be lost because it is not possible to have full-scale excavations on all sites. Since archaeological activities usually require quite significant resources, responsible detecting can also be seen from the perspective of economics: the search costs otherwise occurred fully to the state would be redistributed between the state and the private individuals who voluntarily engage themselves in detecting activities and search missions.

It is generally the case that the systems which contain more flexibility and long-term voluntariness, such as the UK and Denmark, serve as the best examples of good cooperation. The experience from the UK suggests that cooperation between archaeologists and metal detectorists can function very well when detectorists obey the law and archaeologists do not have prejudice towards them. Functioning cooperation is generally expressed in many detectorists reporting their finds, contributing to good working relations and resulting in archaeologists often soliciting the expertise of detectorists during excavations to locate and retrieve finds. Moreover, their limited financing makes archaeologists more dependent on the information provided by metal detectorists. While the regulatory framework in the UK is among the most liberal ones in Europe, the one in Denmark is more balanced. Although there are certain restrictions in place in Denmark, the view of detectorists is that it is possible to find reasonable sites for lawful detecting activities and there is not much prejudice towards detector users. The regulatory framework in Denmark combined with the functioning good cooperation between the community of detector users and heritage protection authorities seems to be the best model for the inclusion of detector users in heritage issues and the related discovery and protection of archaeological heritage.

Overly strict regulatory framework and the lack of cooperative attempts, on the other hand, would result in weak mutual understanding and willingness to cooperate between the communities of archaeologists and detector users. This is the case in Sweden which has clearly the least flexible system among the examined countries. Respectively, the chances for the contribution of metal detectorists to the discovery of archaeological heritage in the country would be rather poor. One of the effects of Swedish strict policy is that Swedish detectorists tend to be involved in archaeology in the neighbouring Denmark instead of their own country. This is a clear indication that the system in Denmark would allow better contribution to the discovery of archaeological heritage.

Finally, when the situation in Estonia is regarded, it can be concluded that the outlook is quite promising with attitudes and cooperative attempts from both sides slowly improving. The

regulatory framework in Estonia can never be as liberal as in the UK and the rules which include the licensing of detector users are likely to remain. On one hand, the situation with archaeological heritage (in particular its composition, location and density of finds) is very different from the UK with the heritage being scarce in Estonia and practically every find meaning a significant contribution to the science of archaeology of the country. On the other hand, the general awareness about the importance of archaeological heritage and the respective values of the society are much lower in Estonia, thereby requiring more mandatory regulation. Self-regulation is surely an important aspect but at current stage it is not possible to rely largely on self-regulation when heritage issues in Estonia are regarded. Thus, self-regulation in the form of cooperation should be developed in the context of existing regulatory framework. In this respect, the research results allow concluding that Denmark which has a well-functioning system of inclusion and mutual cooperation in place combined with reasonable regulatory rules would serve as the best example for Estonia.

To conclude, I have found support to the thesis statement. The discovery and protection of archaeological heritage would be more efficient in the form of responsible detecting and cooperation between heritage protection authorities and metal detectorists than simply strictly regulating metal detecting activities. This research could be followed by another survey on the role of metal detecting in the community as a whole, examining for instance such aspects as the motivation, drivers, social outcomes and success factors of detecting in the wider context of community archaeology.

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Kogukonnaarheoloogia roll muinsuskaitstes: vastutustundlik detektorism kui arheoloogilise pärandi kaitsmise võimalus

Resümee

Käesolev uurimistöo lähtub mõttest, et arheoloogia ei ole privilegeeritud teadus, vaid kuulub ühiskonnale tervikuna. Seetõttu peaks arheoloogiasse kaasamine olema vähemalt teatud määral avatud kõigile huvigruppidele, sealhulgas detektorikasutajate kogukonnale. Käesoleva magistritööna esitatud uurimuse eesmärgiks on leida tuge hüpoteesile, et arheoloogilise pärandi avastamine ja kaitsmine oleks tõhusam teatud õiguslike piirangutega kombineeritud vastutustundliku detektorismi ning muinsuskaitse ja detektoristide vahelise koostöö kaudu alternatiivina üksnes detektorismi võimalikult rangele reguleerimisele.

Uurimistöo käigus jõudsin alljärgnevatele järeldustele.

1. Kõigis töös käsitletud riikides on mistahes tegevus, sealhulgas detektorite kasutamine, registreeritud muististel keelatud ning vajab eraldi luba. Reeglid metallidetektorite kasutamiseks registreerimata muististel varieeruvad riigiti üsna palju. Kui Lätis ja Soomes puuduvad otsesed sätted, mis reguleeriksid otsinguvahendi kasutamist ning seega saame järeldada, et nendes riikides ei ole detektorism üldse kuidagi reguleeritud, siis Rootsi, kus kõik loata tegevused detektorite osas (sh. detektoriga viibimine mälestiste lähedal) on üldse keelatud, on näiteks ülemäära rangest regulatsioonist. Sarnaselt on igasugune loata detektorism keelatud Saksimaa liidumaal (Saksamaa), samas kui Eestis on õiguslik lahendus selline, et vastavat luba on vaja otsinguvahendi kasutamiseks kultuuriväärtusega asja otsimisel. Taanis sõltub metallidetektorite kasutamine maa omandistruktuurist ja kuuluvusest: kui mälestised ja mõningad riigimaad on detektorismile suletud, siis eramaal üldiselt piirangud puuduvad ja vaja on üksnes maaomaniku luba. Võrreldes kõigi teiste käsitletud riikidega on kõige liberaalsem ja paindlikum süsteem metallidetektorite osas Ühendkuningriigis, kus süsteemi osaks on nii õiguslikud baasnõuded kui ka vabatahtlikud instrumendid. Detektorism on põhimõtteliselt legaalne Inglismaal, Walesis ja Shotimaal, kuid detektorikasutajad peavad eelnevalt saama maaomaniku nõusoleku ning nad ei tohi tegutseda registreeritud muististel. Detektorite kasutamine registreeritud muististel vajab luba. Põhja-Iirimaa õiguslik raamistik erineb Inglismaa omast seetõttu, et seal on arheoloogilise leiuväime otsimiseks igal pool, sealhulgas registreeritud mälestistel, vaja vastavat luba.
2. Leidudest teavitamise ning aruandluse osas on käsitletud riikide süsteemid samuti väga erinevad, varieerudes igakülgsest kohustuslikust teavitamisest ja aruandlusest kombineeritud kohustusliku teavitamise ning vabatahtliku aruandluseni. Eestis tuleb teavitada kõikidest

leidudest, mis vastavad kultuuriväärtusega leiutunnustele. Samas peavad need detektoristid, kes on saanud loa otsinguvahendi kasutamiseks kultuuriväärtusega asja otsimisel, esitama igal aastal aruande kõigi leitud esemete kohta. Sarnaselt Eestile kaasneb otsinguvahendi kasutamise loaga aruandluskohustus detektori kasutamise käigus leitud arheoloogilise ainese kohta ka Rootsis ja Saksimaal. Taanis, Lätis, Leedus ja Soomes tuleb teavitada üksnes kultuuriväärtusega esemetest, muude leitud esemete kohta aruandluskohustust ei ole. Tavaliselt tuleb teavitamise käigus anda informatsiooni leidmise ja leiutunnustele üleandmise asjaolude ning koha kohta. Erinevalt teistest käsitletud riikidest on Ühendkuningriigi süsteem heaks näiteks kombineeritud lähenemisest, mis hõlmab nii kohustuslikku kui vabatahtlikku aruandlust sõltuvalt konkreetsest olukorrast. Esemed ja esemete kogumid, mis kvalifitseeruvad kultuuriväärtusega leiutunnustele vastavalt 1996. aasta aarete seadusele, on nn. aruandluskohustusega leiud, millest tuleb teavitada riiklikku PAS (*the Portable Antiquities Scheme*) süsteemi. Lisaks on soovituslik teavitada PAS süsteemi ka kõigist muudest leitud esemetest. See ei ole kohustus, vaid eeskätt soovituslik praktika, kuid täna järgivad seda väga paljud detektoristide klubid. Võrreldes muude Ühendkuningriigi piirkondadega on Shotimaal kehtivad teavitamise ja aruandluse reeglid mõnevõrra erinevad: kõik leiud on potentsiaalselt riigi omad ja neist tuleb seaduse alusel teavitada kui aardeleiust (nn. *Treasure Trove*).

3. Enamikus töös käsitletud riikides, välja arvatud Lätis, Leedus ja Soomes, on olemas teatud "pehmed" juhised, mis selgitavad regulatiivset raamistikku ja vajadust vastutustundliku detektorismi järele. Tavaliselt on sellised juhised kehtestanud detektoristide kogukond ning need sisaldavad eetilisi käitumisjuhiseid, peegeldades ametlikult vastava detektoristide kogukonna tahet vastutustundlikult käituda. Ühendkuningriigil on uuritud riikidest kõige laiaulatuslikum vabatahtlike instrumentide süsteem, mis koosneb vastutustundliku detektorismi ühtlustatud tegevusjuhistest (*the Code of Practice for Responsible Metal Detecting in England and Wales*) ning PAS aruandlussüsteemist. Tegevusjuhiste eesmärgiks on teavitamine ja iseregulatsioon kui parimad vastutustundliku detektorismi arendamise vahendid. PAS süsteemi funktsiooniks on vabatahtlik aruandlus kõigi avalikkuse poolt leitud esemete kohta.
4. Vastutustundliku detektorismi peamiseks elementideks vastandina nn. "mustale arheoloogiale" on vajalike lubade taotlemine, leidudest teavitamine ja korrektne aruandlus. Rääkides detektoristide praktilisest panusest arheoloogilise pärandi leidmise ja kaitsmise võib järeldada, et detektorism mängib paljudes riikides olulist rolli artefaktide leidmisel. Detektoristide panust peetakse väiksemaks riikides, kus detektori kasutamine nõuab eraldi luba võrreldes riikidega, kus detektorism on liberaalsemalt reguleeritud. Näiteks on nii Eestis,

Leedus kui Rootsis detektoristide hinnanguline osatähtsus leidude avastamisel kuni 10%, samas hindavad aga näiteks Taani muinsuskaitsejäd detektoristide panuseks isegi rohkem kui 75% kogu riigis avastatavast pärandist. Ühendkuningriigis avastavad detektoristid juba rohkem kui 85% PAS süsteemile raporteeritud leidudest. Siinkohal on huvitav märkida, et detektoristide osatähtsuse hindamisel varieeruvad detektoristide ning muinsuskaitse hinnangud töös uuritud riikides mõnevõrra. Kui näiteks Eestis ja Rootsis vastavad detektoristide ja muinsuskaitse vaated suuresti üksteisele, siis Taanis on detektoristid oma panuse hindamisel tagasihoidlikumad kui muinsuskaitse. Teisest küljest näiteks Soomes peavad detektoristid oma panust suureks võrreldes Soome muinsuskaitse arvamusega.

Kui rääkida detektoristide hinnangutest leitud pärandist teavitamise ning aruandluse kohta, siis tuleb öelda, et puudub üldine trend, mis võimaldaks teha üldisi järeldusi tegeliku käitumise ning detektorismi regulatsiooni seoste kohta töös käsitletud riikides. Näiteks Taanis, kus on mõistlikult liberaalne õiguslik keskkond, ning teisest küljest Rootsis, kus kehtivad uuritud riikidest kõige rangemad õiguslikud piirangud, hindavad nii detektoristid kui muinsuskaitsejäd üsna ühtlaselt detektoristide teavitamismääraks rohkem kui 75%. Kõigis teistes töös käsitletud riikides on detektoristide ja muinsuskaitsejate hinnangud suuresti varieeruvad. Kõige suurem erinevus hinnangutes esineb Soome puhul, kus detektoristide hinnangul jääb aruandlusmäär vahemikku 50-75%, samas kui muinsuskaitse hinnangul võib see olla üksnes kuni 10% kõigist detektoristide avastatud leidudest.

5. Enamikus töös käsitletud riikides on nii muinsuskaitse kui detektoristide hinnangul väga oluline parandada vastastikkust koostööd arheoloogilise pärandi avastamisel ja kaistmisel ning detektoristide kaasamist arheoloogilistesse eeluringutesse ja välitöödele. See käib ka nende riikide kohta, kus juba eksisteerib hästi toimiv koostöö-ja kaasamise süsteem (näiteks Taani ja Ühendkuningriik), sest mida rohkem on ühistegevusi, seda rohkem tekib pidevat vastastikkust usaldust ja huvi üksteise tegevuse vastu. Detektoristide poolelt on oluline pöörata tähelepanu Saksamaa detektoristide hinnangule, mille kohaselt on kaasamise ja vastastikkuse koostöö parandamise eeltingimuseks see, et muinsuskaitse tunnustaks ka detektoristide panust. Samuti on oluline välja tuua see, et suurem kaasamine ja koostöö parandamine on hetkel ühed peamised võtmeteemad Eestis, lähtudes uutest õiguslikest nõuetest ja seotud koostööalgatustest mõlemalt poolelt. Erinevalt teistest töös käsitletud riikidest ei poolda Läti muinsuskaitse detektoristide suuremat kaasamist, sest nende hinnangul suurendaks see arheoloogilise pärandi kahjustamise riski.
6. Uurimistöe tulemusel saab järeldada, et detektoristide ja muinsuskaitse koostöö parandamiseks, mis tooks omakorda kaasa arheoloogilise pärandi parema avastamise ja

kaitsmise, on mitmeid praktilisi võimalusi. Esiteks, ühe peamise koostöövormina nähakse enamikes käsitletud riikides detektoristide koolitamist ja infopäevi. Lisaks peetakse vastastikkuse mõistmise ja koostöö parandamise üheks oluliseks elemendiks ühiste arheoloogiliste eeluuringute teostamist ning detektoristide suuremat kaasamist arheoloogilistele välitöödele. Näiteks Eestis varieeruvad soovitusel ühistegevuste kohta eeluuringutest ühiste otsingupäevadeni mõnel muistsel lahingupaigal. Kolmandaks heaks võimaluseks vastastikkust koostööd parandada on regulaarsed ühised ekspertgrupid, mis tegeleksid detektorismiga seotud teemade ja probleemide arutamisega ning aitaksid kaasa muudatuste tegemisele õiguslikus keskkonnas ja kogukondades.

Vastutustundlikku detektorismi ja seeläbi arheoloogilise pärandi kaitset saab tõhustada ka üldise teadlikkuse tõstmisega selliste vahendite kaudu nagu infokampaaniad, avalikkusele suunatud infomaterjalid, veebilehed, süstemaatilised ja asjakohased meediakajastused, jne. Asjakohaste meediakajastuste tähtsust on eriti rõhutatud Rootsi puhul, kus ei ole peaaegu mingit koostööd detektoristide ja arheoloogide vahel ning meedia on pidevalt olnud detektoristide suhtes negatiivselt meelestatud. Ühendkuningriigi näitel, kus meediakajastuste (eeskätt televisiooni) võimalusi on edukalt kasutatud muinsuskaitsest positiivse kuvandi loomiseks ja vastavalt avalikkuse teavitamiseks, võib järeldada, et meediakajastused võivad olla väga oluliseks vahendiks suurema teadlikkuse saavutamiseks arheoloogilise pärandi küsimustes ning kokkuvõttes ka detektoristidega parema koostööni jõudmiseks. Üheks täiendavaks võimaluseks lisada väärtust riigi ja detektori kasutajate koostöö süsteemile on vastutustundliku detektorismi koodeksid ja juhised, mis väljendavad vastavate detektoristide organisatsioonide liikmete poolt kokku lepitud moraalseid standardeid. Nende standardite aktsepteerimine peaks eeldatavalt väljenduma ka detektoristide käitumises. Lisaks juhistele toetab vastutustundliku detektorismi ja sellega seotult arheoloogilise pärandi kaitsmise tõhusamaks muutmist hästitoimivate katusorganisatsioonide olemasolu.

7. Käesoleva uurimuse üldiseks järelduseks on, et arheoloogilise pärandi avastamise ja kaitsmise seisukohalt oleks parimaks lahenduseks hea koostöö detektoristidega ja nende kaasamine kombineeritult mõistliku regulatsiooniga. Loomulikult eeldavad mistahes kaasamine ja koostööalgatused seda, et tegemist on vastutustundliku detektorismiga. Vastutustundlik detektorism aitab luua uut teadmist, toetada detektoristide huvi oma ajaloo vastu ja kindlasti avastada mingit osa pärandist, mis vastasel korral jääks meile kadunuks, sest kõigil muististel ei ole riigil kunagi võimalik täiemahulisi uuringuid korraldada. Kuna arheoloogiline tegevus nõuab üldjuhul üsna mahukaid ressursse, kaasneb vastutustundliku detektorismiga ka majanduslik aspekt: arheoloogilise pärandi otsimisega seotud kulud, mis

muidu tuleks täies mahus kanda riigil, on võimalik jagada riigi ja eraisikute vahel, kes vabatahtlikult osalevad otsimises ja eeluuringutes.

Üldiselt võib järeldada, et süsteemid, mis hõlmavad rohkem paindlikkust ja pikaajalist vabatahtlikkust, näiteks Ühendkuningriik ja Taani, on hea koostöö parimateks näideteks. Ühendkuningriigi kogemus näitab, et koostöö arheoloogide ja detektoristide vahel võib väga hästi toimida, kui detektoristid järgivad seadust ning arheoloogidel ei ole eelarvamusi detektorikasutajate suhtes. Toimiva koostöö otseseks väljenduseks on see, et paljud detektoristid teavitavad leidudest ja panustavad headesse koostöösuhetesse, mille tulemusel arheoloogid sageli kasutavad detektoristide oskusi ning võimalusi väljakaevamiste käigus leidude asukoha tuvastamisel ja leidude avastamisel. Et arheoloogide finantseerimisvõimalused on piiratud, siis on arheoloogid tegelikult omamoodi sõltuvad metallidetektoristide pakutavast informatsioonist. Kuigi Ühendkuningriigi õiguslik raamistik on Euroopa riikide hulgas üks liberaasemaid, on Taani süsteem rohkem tasakaalus. Kuigi Taanis on samuti teatud õiguslikud piirangud, on detektoristide hinnangul seal võimalik leida piisavalt mõistlikke otsimispaiku seadusliku otsimistegevuse tarvis ning detektoristide suhtes eelarvamusi eriti ei ole. Taani õiguslik raamistik kombineeritult toimiva koostööga detektoristide ja muinsuskaitse vahel tundub olevat kõige parem mudel detektoristide kaasamiseks arheoloogilise pärandi küsimustesse ja vastavalt pärandi avastamiseks ning kaitsmiseks

Teisest küljest, ülemäära range õiguslik raamistik ja koostööalgatuste puudumine võivad kaasa tuua nõrga vastastikkuse arusaamise ja soovimatuse koostööd teha. Selline on olukord Rootsis, kus on töös käsitletud riikidest selgelt kõige jäigem süsteem. Seetõttu on ka metallidetektoristide võimalused panustada arheoloogilise pärandi avastamisse suhteliselt väikesed. Rootsi range poliitika ühes tulemuseks on see, et sealsed detektoristid tavatsevad oma koduriigi asemel arheoloogiaga tegeleda naaberriigis Taanis. See on selgeks viiteks, et Taani süsteem võimaldab paremini panustada arheoloogilise pärandi avastamisse.

Kui lõpuks hinnata Eesti olukorda, siis võib järeldada, et väljavaated on üsna paljulubavad ning suhtumine ja koostööalgatused mõlemalt poolelt paranevad järk-järgult. Eesti õiguslik raamistik ei saa kunagi muutuda sama liberaalseks kui Ühendkuningriigis ning tõenäoliselt jääb otsinguvahendi kasutamiseks loa omamise nõue kehtima. Ühest küljest on meie olukord arheoloogilise pärandi osas (eeskätt leidude koosseisu, paiknemise ja leiutiheduse aspektidest) väga erinev Ühendkuningriigi omast, sest Eestis on arheoloogiline pärand oluliselt piiratum ja praktiliselt iga leid tähendab märkimisväärset panust meie riigi arheoloogiateadusesse. Teisalt on Eestis üldine teadlikkus arheoloogilise pärandi tähtsusest ning ühiskondlikud

väärtushinnangud palju madalamad kui Ühendkuningriigis, mistõttu on meil kindlasti vajalik suurem kohustuslike normatiivide hulk. Iseregulatsioon on loomulikult oluline, kuid praeguses faasis ei ole Eestis arheoloogilise pärandi küsimustes võimalik suuresti vaid sellele tugineda. Seega, iseregulatsioon koostöö vormis peaks arenema eksisteeriva õigusliku raamistiku kontekstis. Selles osas lubavad uurimuse tulemused järeldada, et Taani hästitoimiv süsteem, kus kaasamine ja vastastikkune koostöö on kombineeritud mõistlike õiguslike nõuetega, võiks kõige paremini sobida mudeliks Eesti süsteemi arendamisel.

Kokkuvõtteks võib öelda, et uurimistöö käigus olen ma leidnud tuge töö hüpoteesile. Arheoloogilise pärandi avastamine ja kaitsmine oleks tõhusam õiguslike piirangutega kombineeritud vastutustundliku detektorismi ning muinsuskaitse ja detektoristide vahelise koostöö vormis alternatiivina üksnes detektorismi võimalikult rangele reguleerimisele. Käesoleva uurimistöö valdkonnas võiks edaspidi teostada jätku uurimuse detektorismi rollist kogukonnas tervikuna, hinnates näiteks selliseid aspekte nagu detektoristide motiivid, detektorismi sotsiaalsed väljundid ja edutegurid kogukonnaarheoloogia laiemas kontekstis.

ANNEXES

Annex 1. Overview of Metal Detecting Regulations

	Country	Use of Detecting Device	Permission	Reporting of Finds	Recording of Finds
The UK	England	Allowed, except on a scheduled site	Owner's permission. State permission for a scheduled site	Required if "treasure"	Voluntary
	Wales	Allowed, except on a scheduled site	Owner's permission. State permission for a scheduled site	Required if "treasure"	Voluntary
	Scotland	Allowed, except on a scheduled site	Owner's permission. State permission for a scheduled site	Required for any find	NA
	Northern Ireland	Permission required for any land	Owner's permission and state permission required	Required for any find	NA
	Sweden	Permission required for any land	Owner's permission and state permission required	Required for any find	NA
	Denmark	Permission required for certain lands (incl scheduled sites)	Owner's permission and state permission, where necessary	Required for most finds	NA
	Estonia	Permission required for the search of an item of cultural value on any land	Owner's permission and state permission required	Required if "treasure"	Yearly recording obligation for licence holders
	Latvia	Allowed, except on a scheduled site	Owner's permission. State permission for a scheduled site	Required if "treasure"	NA
	Lithuania	Permission required for any land	Owner's permission and state permission required	Required if "treasure"	NA
	Finland	Allowed, except on a scheduled site	Owner's permission. State permission for a scheduled site	Required if "treasure"	NA
	Germany (Saxony)	Permission required for any land	Owner's permission and state permission required	Required for any find	NA

