

Statement on the Response of the German Federal Government on the Brief Inquiry of the Liberal Democratic Party (FDP)

On the occasion of the German Academy of Sciences Leopoldina's publication of its discussion paper „*Traces underwater: Research on and Protection of the Cultural Heritage in the North and Baltic Seas (2019)*“, the FDP parliamentary group raised a Brief Inquiry¹ on the *Handling of Cultural Heritage on Seabed*² towards the German Federal Government on March 2, 2020. The answer to the president of the German Bundestag was given by the Foreign Office on March 13, 2020.³ The FDP parliamentary group estimates the answer as follows:

“Therein, the German Federal Government states that it intends to undersign the UNESCO convention on the protection of underwater heritage until the end of the year 2021. The parliamentary group of the Democrats explicitly appreciate this.”

At first glance, the statement “*According to current state of planning, the Federal Government strives for the undersigning of the UNESCO convention on the protection of underwater heritage until the end of the year 2021*” appears positive and pleasant. However, at closer look at this statement of intent, the Federal Government relegates the ratification procedure to future Bundestag legislative periods. The legislative period of the 19th Bundestag ends by September 2021. Nevertheless, the Federal Government might still undersign as it remains caretaking until formation of a new government. Furthermore, striving does not necessarily mean the will for achieving. Also, the signing takes place after the ratification process in Bundestag and Federal Council. Insofar, the parliamentary procedure of ratification and implementation could finally be made only during the next legislation period.⁴ Germany signed the contract of Valetta⁵ in 1992 and ratified it not earlier than in 2003, that means eleven years later!

However, “*according to current state of planning*” can also be understood as a possible reducing of time needed for signing by the Federal Government. In this case, the possibility of opening the parliamentary procedure would be given. However, as past experience with former assertions has shown, one can attach little value towards the statements of the Foreign Office because the communicated status of planning does not correspond with earlier statements and time schedules regarding ratification.

Hopefully, by the position paper requesting quick ratification the German Federal Government will feel bound to change its time schedule.

The official communication of the German Bundestag is as follows: **Protection on the cultural heritage underwater**⁶

Berlin: (hib/AHE) According to the current state of planning, the German Federal Government strives for undersigning the UNESCO Convention on the protection of the cultural heritage underwater until the end of the year 2021. This follows from the reply on a Brief Inquiry⁷ of the

1 The Brief Inquiry is an instrument for parliamentary control of the executive power. Usually, no extensive research is made for an answer to the few limited points of questioning.

2 Federal printed matter no. 19-17467

3 Federal printed matter no. 19/18055 of March 17, 2020, published by 25.03.2020; see Link:www.deguwa.org

4 The election of the 20th German Bundestag will at latest, according to Art. 39 National Constitution, take place on October 24, 2021.

5 European Agreement on the protection of the archaeological heritage.

6 Foreign Office/Answer – March 31, 2020, (hib 347/2020)

7 Federal printed matter no. 19/18055

FDP parliamentary group.⁸ A recommendation of the German Academy of Sciences Leopoldina to institutionally integrate the protection of the cultural heritage on seabed into the frame of governmental authorities needs to be considered by the responsible authorities at federal and provincial level. At present, consideration at federal level is going on.

Within the 12 sea miles zone,⁹ research and protection of cultural heritage underwater is ensured by the heritage protection laws of the federal provinces, and respective measures by state authorities and ministries responsible for monumental protection are implemented. The 24 sea miles contiguous zone from the baseline is not allocated by Germany, but falls to my knowledge into the competence of the adjoining Länder. For the German AWZ,¹⁰ which does not belong to the territory of the Federal Republic and therefore cannot be allocated with a Land, a comparable specialized archaeological authority is still missing. For the AWZ, the United Nations Convention on the Law of the Sea, the European Agreement on the protection of archaeological heritage and the UNESCO Convention 2001, many kinds of rights and obligations are stipulated going far beyond legal protective mechanisms of the federal states. “To institutionally integrate the protection of the cultural heritage on seabed into the governmental authorities” is not only recommended by the discussion paper of Leopoldina: *The UNESCO Convention 2001 on the protection of cultural heritage underwater Art. 22 – Responsible authorities* stipulates:

“(1) For the sake of assurance of a proper execution of this convention, the signatories install responsible authorities or enhance where appropriate existing responsible authorities to create an inventory of cultural heritage underwater, maintenance and updates thereon, efficient protection, preservation, presentation and managing of cultural heritage underwater as well as carrying out research and educational work.

(2) Towards the General Director, the signatories communicate names and addresses of their authorities responsible for the cultural underwater heritage.”

None of the “actors of research” at the existing public authorities which are from importance for cultural heritage underwater and mentioned under art. 2.4 of the discussion paper, have all three of those expertises. In my opinion, just three of the stated institutions or commissions can be considered for integrating cultural heritage underwater into a broader area of responsibility, unless a new authority will be established. Which (federal) ministry will become responsible? Will the Foreign Office decide that? Already in 2011, the German Maritime Museum received by the Federal Government a research assignment for a systematic archaeological prospection of the North Sea, including the 12 sea miles zone.^{11 12}

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8 Federal printed matter no. 19/17467

9 See discussion paper section 4.4.1

10 Exclusive economic zone

11 Federal Ministry of Education and Research (BMBF), budget € 700.000, duration 3 years; realised with support of [Federal Maritime and Hydrographic Agency](#) - BSH, a federal superior authority of the Federal Ministry of Transport and Digital Infrastructure (BMVI).

12 Warnke, Ursula. Endangered land archive North Sea: Final report, Bremerhaven 2015: “The project has been finished within the agreed time limit after three years by October 31, 2014. A renewed application is scheduled when the political decisions in the course of ratification of the UNESCO convention on the protection of cultural underwater heritage have been carried out.” (<https://doi.org/10.2314/GBV:856885142>).