THE 20TH EDITION OF THE INTERNATIONAL CONFERENCE
EUROPEAN INTEGRATION
REALITIES AND PERSPECTIVES

The Romanian Historical Treasury under the Padlock of Moscow: Legal Perspectives on Repatriation

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Abstract: This article aims to update the legal perspectives concerning the repatriation request of Romania's historical treasury. The gold reserves were transported to Tsarist Russia for safekeeping during the First World War. Following the Bolshevik Revolution and the establishment of the communist regime, Soviet authorities refused to recognize the agreements signed in 1916–1917 and declined to return the treasury. The main objective of this paper is to present the legal grounds for the full recovery of the treasury, based on European Parliament resolutions, the principles of public international law, customary international law norms, and bilateral obligations. The methodology involves interpreting relevant legal regulations, international conventions, and European Parliament resolutions. The conclusion is that recent official acts adopted by the European Parliament reinforce the legitimacy of Romania's claim for the recovery of its historical treasury. In the absence of a diplomatic agreement or treaty, and given that the Russian Federation does not recognize the jurisdiction of the International Court of Justice, legal mechanisms such as initiating international arbitration proceedings or mediation through the reactivation of the special commission are proposed.

Keywords: documents; treasury; repatriation

The Romanian national cultural heritage reflects, like an arch across time, the tumultuous history and identity of the Romanian people. The Romanian Treasure deposited in Moscow during the First World War is a fundamental element of Romania's cultural heritage. The unique objects, original medieval documents, and precious jewelry included in this treasure reflect Romania's historical, artistic, and institutional identity, as well as the continuity on these lands, serving as a symbol of national sovereignty. Although the main objective of the article is to examine contemporary legal norms regarding the recovery of the Romanian Treasure, it is first necessary to present the historical facts and circumstances that led to the emergence of the dispute between Romania and the Russian state, beginning with the Russian Empire in 1916, continuing with the Soviet Union from 1917 to 1991, and currently with the Russian Federation.

Historical data indicates that Romania joined the Entente on August 17, 1916, after maintaining a stance of neutrality for nearly two years following the outbreak of the First World War. The entry of German troops into Bucharest on December 6, 1916, prompted the Romanian government, which had relocated

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to Iasi, to swiftly conclude an agreement on December 27, 1916, with the Tsarist Empire - considered an allied state - in order to safeguard the country's gold reserves and important state documents. Driven by the fear that German forces might occupy the entire country, the Romanian government decided to deposit the treasure in Moscow under secure conditions, with the promise that it would be returned after the end of hostilities.

The transport of the Romanian Treasure was organized on Romania's side by Prime Minister Ion I. C. Bratianu, Finance Minister Emil Costescu, high-ranking National Bank of Romania official Mitita Constantinescu, and diplomat Grigore Gafencu. On the side of the Russian authorities, the Imperial Russian Bank handled the official reception of the treasure, alongside representatives of the Russian Ministry of Finance, based on formal handover-receipt protocols. The first transport took place in December 1916 under the escort of the Romanian army, using a special train of 17 wagons. It carried Romania's gold reserve - specifically, 91.5 tons of fine gold (in bars and coins)—packed in 1,738 lead-sealed cases bearing the seals of the National Bank of Romania. The second transport of the treasure to Moscow occurred in July 1917 via a train of 24 wagons, following the route Iasi – Chisinau – Kyiv – Moscow.

Among the cultural assets belonging to the Romanian state that were transported to Moscow in the second shipment of July 1917 were official documents ranging from the Middle Ages to the 19th century (original medieval chronicles, manuscripts, charters, records, treaties, official documents regarding the justice system, administration, and taxation of the Romanian Principalities), the archive of the Ministry of Foreign Affairs (secret diplomatic correspondence, treaties, conventions, classified documents related to Romania's international relations after the Union up to the country's entry into the First World War in 1916, following two years of neutrality), collections of the Romanian Academy, the treasure of Cernica Monastery, royal jewelry, works of art (painting collections by artists such as Nicolae Grigorescu, Theodor Aman, Ion Andreescu, Stefan Luchian, Gheorghe Petrascu, Theodor Pallady, E. Voinescu, G. D. Mirea, Nicolas Poussin), and religious documents (old church books in Slavonic with miniatures, records created by the Metropolis of Moldavia and Wallachia), princely charters with donations to monasteries (documents related to the dedication of monasteries to Mount Athos), and valuable items of the Romanian Orthodox Church. Also transported were assets belonging to private individuals and institutions, numismatic collections of the Romanian Academy, as well as banking and financial archives (accounting documents and contracts of the National Bank of Romania). Let us highlight a few notable examples from the documents of diplomatic and national legitimization value in order to demonstrate the importance of the treasure to the Romanian people: charters and manuscripts signed by Romanian rulers such as Vlad Tepeș (Vlad the Impaler), Mircea the Elder, Michael the Brave, Alexandru cel Bun, Petru Rares, and Constantin Bracoveanu; the will of Stephen the Great; documents related to the Union of 1859; and the Constitution of 1866, as well as correspondence between King Carol I and various European governments. Among the documents sent to Moscow were also the registers of the Ministry of War and the Ministry of Finance, and most notably, the complete archives of the Chamber of Deputies and the Senate up to 1916 (founding documents of the traditional political parties, transcripts of parliamentary sessions, laws, parliamentary debates, and electoral rolls). Furthermore, diplomatic documents predating the First World War were included, such as Romania's correspondence with Germany and Austria, the secret Treaty of 1883, and memoranda regarding Romania's position within the Triple Alliance.

Scurtu, I. (2014) presented in his work named The Romanian Treasury in Moscow: Notes and testimonies on the activity of the Romanian-Russian Joint Commission (2004–2012) the protocol signed on December 16, 1916, by Finance Minister Victor Antonescu and A. Missoloff, the Russian

minister to Romania, in which it was stipulated that: *"*The Treasure of the National Bank of Romania, as well as the other crates, are, from the day they were entrusted to the delegate of the Imperial Government and loaded onto the wagons, under the guarantee of the Imperial Government of Russia, with regard to the security of the transport, the security of the storage, and their return to Romania*."* Maxim Litvinov, the Commissar for Foreign Affairs under the Bolshevik government led by Vladimir Ilyich Lenin, signed an official acknowledgment of an international obligation in 1918, confirming that the treasure had been deposited, not confiscated or ceded. As the continuing state and rightful successor of the USSR, whose core was the Russian Soviet Federative Socialist Republic, the Russian Federation bears both the moral and legal obligation to recognize the commitments made by its predecessor governments.

In 1930, the Russian state returned approximately 1,444 crates out of a total of 2,400. The majority of the contents were cultural in nature, including manuscripts of Mihai Eminescu's poems and Ion Creanga's stories, heritage books, paintings, and engravings donated to the Romanian Academy. In 1956, the Russian state returned to Romania certain historical documents and items, as well as pieces of artistic jewelry (for example, 10 items from the Pietroasa Treasure) and part of the Bucharest Art Gallery. Romania is entitled to *restitutio in integrum* - the full repatriation of the goods. If this is not possible, Romania has the right to receive compensation for the losses incurred.

In terms of value, economic analysts today estimate that the gold alone from the treasure transported to Moscow is worth over 5-7 billion euros, not including the historical value of the objects belonging to Romania's cultural heritage. The symbolic value of Romania's treasure far exceeds its material or financial worth. In the 21st century, Romanians perceive the unresolved issue as a national trauma - one that will not heal unless the necessary diplomatic levers are found to secure the return of the treasure. Law no. 182/2000 on the protection of the national movable cultural heritage (December 9, 2008) provides that: "The national cultural heritage encompasses all assets identified as such, regardless of their ownership status, which serve as testimony and expression of values, beliefs, knowledge, and traditions in continuous evolution."

The treasure was handed over to the Tsarist Empire as a deposit, which created a legal custodial relationship under the norms of international law. Romania asserts its right of ownership over the treasure, relying on official documents that confirm its status as a deposit rather than a cession to Russia during the First World War. This legal distinction is crucial: a deposit implies an obligation of safekeeping and subsequent return, not a transfer of ownership. Therefore, Romania's claim is grounded in the principle that the treasure remains Romanian property and must be returned accordingly.

Throughout the 21st century, Romania has renewed bilateral diplomatic negotiations with the Russian Federation to recover the treasure. On July 4, 2003, Romanian President Ion Iliescu signed with Russian President Vladimir Putin the Treaty on Friendly Relations and Cooperation between Romania and the Russian Federation. This treaty represented a significant diplomatic step, as both states committed to respecting each other's sovereignty, independence, and territorial integrity, as well as cooperating in economic, cultural, scientific, educational, and military fields. In this spirit, efforts were made to overcome any past disagreements. Based on the Joint Declaration of July 4, 2003, by the Foreign Ministers of Romania and the Russian Federation, the Romanian-Russian Joint Commission was established to study issues arising from the history of bilateral relations, including the matter of Romania's treasure deposited in Moscow during the First World War. According to its Rules of Procedure, the commission is composed of historians and experts specializing in the relevant fields under examination. In his work, Ioan Scurtu (2014, p. 86) demonstrated the complexity of political negotiations and presented: "The commission is led by two co-presidents. At its establishment, the

Romanian co-president of the Commission was Mr. Ioan Scurtu, while the Russian co-president was Mr. Aleksandr O. Ciubarian. The Commission is composed of nine members appointed by each side, who may be assisted by an unlimited number of advisers and experts. Plenary meetings of the Commission take place once or twice a year, or whenever necessary, alternating between Bucharest and Moscow." Despite ongoing negotiations, Romanian authorities have not succeeded in placing any official case regarding the return of the treasure on the agenda of the International Court of Justice (ICJ). Therefore, to date, there has been no international pressure strong enough to compel the official restitution of the Romanian treasure. On the other hand, Verdier L. (2020) showed that "while the International Court of Justice can resolve disputes between states, such resolutions can be blocked by countries holding veto power in the United Nations Security Council, as is the case with Russia." In his work, Professor Ioan Scurtu (2014, p. 118) said that "Enough time has passed since that plenary session, and one confidential question from Aleksandr Ciubarian has stayed with me. From the very first day, Co-president Ciubarian told me he wanted to discuss something with me. We withdrew to a corner of the Gafencu room, and he asked: Professor Scurtu, what do you think would be significant for the Romanian side to have returned in the near future, something that would impact public opinion in Romania? I replied that for us, a truly profound significance would be the Russian Federation's decision to return the entire treasure. Ciubarian returned the next day and confidentially asked again: Professor Scurtu, wouldn't it create a good impression of the effectiveness of our Commission if Russia were to return some objects from the treasure, for example paintings or church ornaments? I reiterated that we want the return of the entire treasure, as that is the mission of the Joint Commission." Ioan Scurtu confesses in his books that the question took him by surprise, and he feared that if he had said that the return of a particular item would be greatly useful, it might be interpreted as giving up the claim for the entire treasure. He regrets his decision and that he did not consult with President Iliescu or Foreign Minister Mircea Geoana, later considering it too late, as Ciubarian likely had a mandate from the Russian leadership to pose such a question. His name might have been linked to the return of some treasure goods in 2004, similar perhaps to the partial restitutions of 1935 and 1956.

The European Parliament Resolution 2605 of March 14, 2024, regarding the return of Romania's national treasury illegally appropriated by Russia art. 8 expresses concern that "despite the establishment of the Romanian-Russian Joint Expert Commission mandated to facilitate discussions on this issue, efforts to secure the return of the Romanian national treasure - including the gold reserves of the National Bank of Romania that were illegally appropriated - through diplomatic channels between Romania and Russia have been met with Russia's refusal to return what previous regimes retained illegally, thereby violating the signed restitution protocols." In the same resolution, the official position of the European Parliament "is to urge the Russian Federation to return the remainder of Romania's treasure and to remind that the illicit appropriation of Romania's national treasure by Russia constitutes a unique international case. In this case, the monetary gold reserves of a state, along with cultural, religious, and archival objects that are part of that state's national heritage, were entrusted to another state for safekeeping under an agreement documented in legally valid instruments that provided legal guarantees for their return. However, these obligations were ultimately ignored, thus breaching international norms and customs."

The Russian Federation has not officially taken a clear position regarding the Romanian historical treasury, but indirectly, some Russian representatives have suggested the idea of historical debts. For example, Maria Zakharova, spokesperson for the Russian Ministry of Foreign Affairs, claimed that "the value of Romania's historical debts to Russia and the Soviet Union exceeds, according to expert estimates, by 20 to 25 times the value of the entire Romanian treasury that was transferred to Russia for safekeeping in 1916-1917. […] Moscow nearly completely waived Romania's debt for the damages

caused during World War II."[1] Following the Armistice Convention signed on September 12, 1944, Romania delivered to the USSR petroleum products, lumber, rolling stock (wagons, locomotives), and equipment covering the value stipulated in the Armistice Convention. In an attempt to refute this claim, by researching the archival fonds of the Galati County Service of the National Archives, Covurlui County Prefecture (file no. 9/1944, p. 63), we identify clear evidence of the involvement of Romanian institutions in pursuing and fulfilling the reparations obligations to the USSR: "By Law no. 571 of November 7, 1944, the mandatory delivery was established through police districts and gendarmerie posts of all materials and valuables held by private individuals, enterprises, and state institutions that were taken during the war from the territory of the USSR to be returned to the Soviet Union in accordance with Article 12 of the Armistice Convention.1. All valuables deposited according to Law 571 at Police Departments, Gendarmerie posts, or the authorities responsible for receiving them shall be deposited at the National Bank of Romania in Bucharest. These valuables are to be handed over to the delegations of the Allied Control Commission by you by January 1, 1945, simultaneously with the Soviet rubles and lei, which are to be handed over without equivalent to the Allied (Soviet) Command in accordance with Article 10 of the Armistice Convention. 2) The National Bank is to group the valuables as follows: a) precious metals, objects made of them, gold and silver coins; b) collections of ancient coins; c) Soviet currencies; d) currencies of other states; e) Soviet state loan bonds; f) other securities, ensuring separate packaging of each of these groups of valuables."

The International Court of Justice has not adjudicated any case brought by Romania regarding the historical treasury. In 2004, the Russian Federation withdrew its declaration accepting the Court's compulsory jurisdiction, and therefore cases cannot be heard without the consent of this state. The ICJ can only adjudicate a dispute between two states if there is a signed agreement by which both parties accept the Court's jurisdiction, or if both states give their consent for that specific case. In the event that diplomacy fails again and the Russian Federation does not recognize the ICJ's compulsory jurisdiction, a viable option remains international arbitration under the rules of the United Nations Commission on International Trade Law (UNCITRAL). Additionally, Romania could invoke the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, adopted in 1995 under the patronage of the International Institute for the Unification of Private Law (UNIDROIT). The Convention establishes rules such as the restitution of cultural heritage objects stolen during war or illegally expropriated. Romania signed the Convention on June 26, 1996, and ratified it on January 21, 1998. The Russian Federation signed the Convention on June 29, 1996, as a political and diplomatic gesture but has not ratified it to date. Ratification requires approval of the Convention by the Federal Assembly of the Russian Federation. If Romania, and especially the Russian Federation, were to agree to sign an arbitration compromise, it would remove the major obstacle related to the advantage of a legal procedure that is simpler than traditional international justice. The Russian Civil Procedure Code, adopted in 2002 and effective as of February 1, 2003, applies, under certain conditions, to international arbitral awards. Article 241 provides that "foreign court judgments can only be recognized and enforced in Russia if an international treaty has been concluded or if a federal law explicitly provides for this." It is well known that compliance with the arbitral tribunal's decision is mandatory, as it is final and irrevocable, and the parties cannot appeal to a higher court, such as the International Court of Justice.

In justifying any potential legal actions, the provisions of the 1907 Hague Convention cannot be taken into account. This convention established customary international law rules regarding the protection of national heritage only in situations of armed conflict. The Russian Empire acceded to the 1907 Hague

[1] Zaharova, M. (2024, March 15). Russia's defiant reaction after the EP demanded the return of Romania's treasury: Our debts are 25 times greater. Digi 24. Retrieved from https://www.digi24.ro/stiri/externe/rusia/reacţia-sfidatoare-a-rusiei-dupa-ce-pe-a-cerut-restituirea-tezaurului-României-datoriile-fata-de-noi-sunt-de-25-de-ori-mai-mari-2723995 Accessed on April 29, 2025, 2:09 p.m.

Convention in 1909, and Romania acceded in 1912, both becoming contracting powers. Hague Convention IV. (1907). *Convention respecting the laws and customs of war on land*: "State property, as well as that of institutions dedicated to religion, charity, education, arts, and sciences, even if owned by the state, shall be treated as private property. Any intentional confiscation, destruction, or damage caused to such institutions, historical monuments, works of art, and science is prohibited and should be subject to judicial proceedings."

A fundamental principle applicable in public international law, violated in this case, is the principle of state sovereignty (enshrined in the UN Charter of 1945, the UN General Assembly Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States – Resolution 265/1970, and the Helsinki Final Act (CSCE) 1975). The Romanian state has the right, like all other states, to manage its own resources as it wishes, including its national treasury. Moreover, if the Russian Federation were to invoke the principle of sovereignty for itself, arguing that as a sovereign state it has the right to decide over goods located on its territory, this would mean a breach of international law, since the treasury was not given as a gift to Russia, but was only temporarily deposited for safekeeping, with the understanding that it would be returned after the end of hostilities in World War I. Currently, there is no official UNESCO resolution regarding the repatriation of the Romanian treasury, although Romania has previously submitted draft resolutions at UNESCO General Conferences. Some items from the Romanian treasury may be classified as part of the universal heritage, not just Romanian national heritage (works of art, musical manuscripts, documents). The 1970 UNESCO Convention does not support the repatriation of the Romanian treasury because it is not retroactive and only applies to illegally exported goods, whereas the Romanian treasury was voluntarily sent by Romanian authorities for safe deposit in Moscow during the hostilities of World War I. Romascanu M. Gr. (1934, p. 113) indicated:

"Let us move forward and admit, indeed, that we owe Russia a storage fee. Assuming this hypothesis, a new question arises: can Romania be obliged to pay the fee from the moment of deposit until the moment the valuables are returned? Of course not. We can only be required to pay the fee for the period during which we consented for the Treasury to remain in Moscow. As soon as we claimed it back and the Soviets did not return it, any claim for the remaining time is null and void. […] Accepting this situation presupposes that the treasury was kept intact the entire time. However, Russia did not respect this fundamental principle of custody. By using Romania's gold from the Kremlin for their own interests, the Soviets not only avoided the responsibility of safekeeping it, but in doing so, we could say, rightfully contracted a forced loan from Romania."

Asking ourselves what legal and financial compensation mechanisms Romania could claim if the physical return of gold bars is not possible, we answer that within a bilateral economic partnership, clauses can be included that provide for financial compensation paid in installments. Furthermore, in a hypothetical bilateral compensation agreement governed by international public law, payment methods could be stipulated over a period of, for example, 20 years, in freely convertible currency, direct investments in Romania, or in goods/services of equivalent value. Compliance with payments in this case would be monitored through bilateral oversight mechanisms (a Romanian-Russian joint commission composed of experts appointed by the governments of the two states, international observers, or an international external audit firm).

Romania and Russia need to build a more pragmatic relationship than they have had so far, based on greater respect, increased trust, and especially more successful cooperation. Neither country has been immune to mistakes, but at crucial moments they have managed to collaborate effectively. Beautiful words are not enough to expand the scope and quality of bilateral relations; actions must follow,

bringing benefits to both parties. Militarily, politically, and in terms of global influence, Russia outclasses Romania by a factor of ten, as it is one of the great powers of our time, while Romania is a country with more modest ambitions, even less than those appropriate to its status.

As Hartuche Isabela (2016) argues "Romania and Russia need to build a more pragmatic relationship than they have had so far, based on greater respect, increased trust, and especially more successful cooperation. Neither country has been immune to mistakes, but at crucial moments they have managed to collaborate effectively. Beautiful words are not enough to expand the scope and quality of bilateral relations; actions must follow, bringing benefits to both parties. Militarily, politically, and in terms of global influence, Russia outclasses Romania by a factor of ten, as it is one of the great powers of our time, while Romania is a country with more modest ambitions, even less than those appropriate to its status."

In conclusion, the full repatriation of the Romanian historical treasury represents a complex issue of international law, with historical, political, and diplomatic implications. The legitimate right to claim the treasury is based on historical facts demonstrated by official documents that attest to the nature of the deposit and not a transfer of ownership to the Russian Empire during the First World War. The constant reluctance of the Russian authorities regarding the restitution of the Romanian treasury, especially combined with the complexity of the current geopolitical context and the lack of an effective, coercive international legal framework, shapes a reality in which the prospect of returning the entire treasury becomes increasingly distant. Despite solid legal grounds and repeated appeals to historical justice, geopolitical reality imposes a bitter verdict: the Romanian treasury will no longer re-enter the national patrimony in its full form but will remain locked away under Moscow's keyless padlock. The balance of power continues to dictate the course of events, and if Romania ever sees the treasury again, it certainly will not be in its full glory - but at best in fragments, as a compromise between memory and diplomatic silence.

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