

# GUIDELINE

# Procedures for the discovery of human skeleton material

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# 1 INTRODUCTORY PROVISIONS AND TERMS

- This guideline deals with the discovery of human remains on the territory of the entire Flemish Region. In most cases this concerns (parts of) skeletons, but in specific cases, such as recent deaths or in anaerobic contexts, tissue may also be preserved. For the sake of uniformity, this paper uses the term “human skeleton material”.
- The term “war victim” in this paper covers the bodies that society in general and the military authorities in particular consider to be “the fallen”. In specific terms, these are victims of the more recent conflicts in Flanders, in particular the First and Second World Wars. Victims and human skeletal material from older conflicts (e.g. the Napoleonic Wars, the Eighty Years' War, etc.) are considered archaeological heritage.
- The body of a fallen person is at the cusp of two regulations.  
From a military point of view, this is a person who has been killed and must be recovered and transferred to the military authorities of the state involved, in accordance with the provisions of the Geneva Convention (see annex 2). From an archaeological point of view, this is an archaeological find that can provide insight into the course of the conflict. These different basic principles can, however, be aligned with each other: it is perfectly possible to recover human skeleton material with archaeological techniques and then transfer them to the military authorities. Moreover, these archaeological techniques not only provide the intended historical insight, but also allow the collection of data that may lead to identification. This offers added value for both the authorities and the surviving relatives.
- All archaeological activities are carried out in accordance with the applicable statutory provisions as set out in the *Immovable Heritage Decree* of 12 July 2013, amendments and associated implementing decrees, including the Ministerial Order establishing the *Code of Good Practice for the implementation and reporting on archaeological preliminary investigations and the use of metal detectors*.  
See also <https://www.onroerenderfgoed.be/nl/beleid-en-regelgeving>.

## 2 ACCIDENTAL DISCOVERY OF HUMAN SKELETAL MATERIAL DURING EXCAVATION AND CONSTRUCTION WORKS, AGRICULTURAL ACTIVITIES, ETC.

### 2.1. THE FINDER NOTIFIES THE POLICE

Every time human skeleton material is found, the police must always first be notified and the excavation work at this location be halted, also where there is any doubt as to the human origin of the discovered skeleton material.

### 2.2. POLICE ASSESS WHETHER IT CONCERNS A SUSPICIOUS DEATH

The police attend the scene and make the necessary observations, including a detailed photographic recording. If they conclude that there are suspicious elements, the public prosecutor's office shall be notified. The police guard the location until the public prosecutor takes over the case. Flanders Heritage is only informed at this stage at the express request of the police and/or public prosecutor.

If the public prosecutor's office concludes after investigation that this is not a suspicious death but rather older human skeletal material, it will act in accordance with steps 2.4 or 2.5, depending on whether or not there are indications of a war victim (2.3). If human skeleton material and/or associated findings have already been impounded by the public prosecutor's office as part of the investigation, these shall be submitted in their entirety to Flanders Heritage for study.

### 2.3. POLICE MAKE AN ESTIMATE OF THE NATURE AND AGE

If, on the basis of any finds present, the physical condition of the skeleton material or the location where it was found, the police decide that the material in question is older human skeleton material (more than 30 years old), they shall note at least the following elements:

- Are there multiple bones that were found together? Are the bones anatomically related?
- Are there findings that can be clearly associated with the human skeletal material, such as remnants of clothing, weapons or insignia?
- Are there structures (in stone, wood, metal) or soil traces (e.g. discolouring) that could be connected with the bones and that can provide data on the place and circumstances of death?
- Was the human skeleton material found in a place where logically no human skeleton material would be expected (e.g. indications of graveyard and/or battlefield)? Or, conversely, are the indications about the nature and dating based on the location?

**If at least one of these questions is answered in the affirmative, one of the following possibilities applies:**

**It is a war victim ⇒ see 2.4**

- **It is not a war victim ⇒ see 2.5**

**If all questions are answered negatively ⇒ see 2.6**

## 2.4. PROCEDURAL STEPS FOR A WAR VICTIM

If the answer to one of the questions in 2.3 is positive and if, based on the location and/or the findings, it is estimated that it concerns a war victim, the police shall make two notifications at the same time:

- a) a notification of the find to the War Graves Department (of the War Heritage Institute) by telephone or by mail;
- b) a notification of the accidental archaeological discovery to Flanders Heritage by means of the online form.

After these notifications, the formal recovery authority rests with Flanders Heritage.

The police draw up a report on the find and the notifications with photo illustration. The human skeleton material is physically covered (e.g. with plastic and soil), and the find location is clearly delineated with security tape. The police inform the finder and owner or user (verbally). The agency informs, within the procedure of notification of an accidental find, the owner and user of the site and the finder in writing about the further procedure and time limits of the excavation.

Flanders Heritage makes clear arrangements with the police and the War Graves Department on the term of the recovery and the conditions of the transfer of finds associated with the human skeleton material.

The location of the find must remain unchanged and be accessible for examination until the tenth day after the notification. This period may be shortened by Flanders Heritage after examination of the find location. In exceptional cases and in the case of large and complex finds, the period can also be extended in order to facilitate the findings on the site. This is done in consultation with the War Graves Department.

The archaeologists (at the request) of Flanders Heritage recover the human skeleton material according to scientific methods and assisted or advised by a physical anthropologist. After on-site recovery, both the human skeleton material and the find material are carefully cleaned, described and inventoried.

In principle, within 30 days of the notification of the discovery, the human skeleton material and the associated find material are transferred to the War Graves Department, together with a report of the recovery, the physical-anthropological findings and the inventory of the finds.

This period may be extended by mutual agreement with the War Graves Department.

"Associated find material" refers to the finds that belong with the direct and personal possessions of the fallen: clothing remnants such as buttons, insignia or belt clasps, jewellery such as rings or medallions and personal items such as pocketknives, spectacles, fountain pen, coins, etc.

The War Graves Department issues a receipt and submits a copy of the report to the chief of police of the local division of the place of intervention.

The War Graves Department is autonomous in deciding at which stage it notifies the state involved. It does, however, ensure that the nation state involved receives a copy of all inventories and reports.

## 2.5. PROCEDURAL STEPS FOR AN ARCHAEOLOGICAL FIND

If it does not appear to be a war victim, it is then an archaeological find and (only) the archaeological procedures apply.

The police reports the find as an accidental find to Flanders Heritage. After this notification, the formal recovery authority rests with Flanders Heritage.

The police draw up a report on the find and the notification with photo illustration. The human skeleton material is physically covered (e.g. with plastic and soil), the find location is clearly delineated with security tape. The police inform the finder and owner or user (verbally). The agency informs, within the procedure of notification of an accidental find, the owner and user of the site and the finder in writing about the further procedure and time limits of the excavation.

The location of the find must remain unchanged and be accessible for examination until the tenth day after the notification. This period can be shortened by Flanders Heritage after examination of the find location. In exceptional cases and in the case of large and complex finds, the period can also be extended in order to enable the necessary findings to be made on the site.

The archaeologists (at the request) of Flanders Heritage recover the skeleton material in compliance with scientific methods and assisted or advised by a physical anthropologist. After on-site recovery, both the human skeleton material and the find material are carefully cleaned, described and inventoried.

If the investigation should show that this could be a war victim, the agency shall immediately notify the War Graves Department once this has been established. The provisions of 2.4 then apply.

If it proves to be an archaeological find, the legal provisions on property rights apply. After registration, the material is transferred to the owner or, in consultation with the owner, placed in a (recognised) heritage depot.

## 2.6. PROCEDURAL STEPS FOR INCOMPLETE HUMAN SKELETON MATERIAL

If it should emerge that it is not an archaeological find, Flanders Heritage is not involved any further in the process.

If it is concluded, due to the location of the find, that these are possibly remains of war victims, the police will take possession of the human skeleton material and then hand it over to the War Graves Department. The police shall draw up a report.

If it transpires not to be the remains of a war victim and there is no indication of any potential archaeological value (see 2.3), the file is closed without further action. The human skeleton material is transferred to the departments competent for the cemeteries in the town or municipality involved.

**In the event of any doubt about the age of the human skeleton material, an *accidental find* shall be reported to Flanders Heritage.**

## 3 FIND OF HUMAN SKELETON MATERIAL DURING ARCHAEOLOGICAL INVESTIGATION

### 3.1. THE FINDER NOTIFIES THE POLICE

Every time human skeleton material is found, the police must always first be notified and the excavation work at this location is halted, also when there is any doubt as to the human origin of the found skeleton material.

### 3.2. POLICE ASSESS WHETHER THIS COULD BE A SUSPICIOUS DEATH

The police attend the scene and make the necessary observations, including a detailed photographic recording. If they conclude that there are suspicious elements, the public prosecutor's office shall be notified. The police guard the location until the public prosecutor takes over the case. It goes without saying that the investigation by the public prosecutor's office takes precedence over the archaeological survey.

If the public prosecutor's office concludes after investigation that this is not a suspicious death but rather older human skeletal material, it will act in accordance with the provisions below, depending on whether or not there are indications of a war victim. If human skeleton material and/or associated findings have already been impounded by the public prosecutor's office as part of the investigation, these shall be submitted in their entirety to the archaeologists responsible for the archaeological survey.

### 3.3. PROCEDURAL STEPS DURING AN ARCHAEOLOGICAL PRELIMINARY INVESTIGATION

When human skeleton material is found during a preliminary archaeological investigation, the police shall determine whether or not the remains are those of a war victim. It goes without saying that the archaeological team present shall offer advice on this matter.

#### **Possibility 1: not a war victim**

If the police are convinced, based on the location and/or the finds, that this is *not* a war victim, the preliminary archaeological investigation can proceed without further restrictions.

#### **Possibility 2: a war victim**

If the police conclude that this could be a war victim, they shall immediately notify the War Graves Department. The archaeological team that is responsible for conducting the preliminary archaeological investigation shall then undertake a further evaluation in order to estimate the number of individuals present, the size of the find location and the archaeological value of the whole - in line with every other archaeological preliminary investigations.

During this, no more is exposed than is strictly necessary for a proper evaluation of the find location: if it concerns the presence of multiple individuals, it is not the intention to expose and recover all the human skeleton material in the preliminary investigation.

If the assessments suggests that it is an isolated find, the human skeleton material shall be excavated/recovered during the preliminary investigation phase by the archaeological team present, partly to verify whether further human skeleton material might be found underneath. Such a recovery is an integral part of the preliminary archaeological investigation.

In principle, within 30 days of the notification of the discovery, the skeleton material and the associated find material are transferred to the War Graves Department (if it proves to be the remains of a war victim), together with a report of the recovery, the physical-anthropological findings and the inventory of the finds. This implies that the human skeleton material and the directly associated finds are removed from the archaeological ensemble. The reports that are drawn up shall be integrated into the final report of the preliminary investigation.

The War Graves Department is autonomous in deciding in which stage it notifies the state involved. It does, however, ensure that the nation state involved receives a copy of all inventories and reports.

The archaeologists shall not communicate with external parties or with the press about the discovery of remains of fallen persons, unless the national state gives its express consent.

### **3.4. PROCEDURAL STEPS DURING AN ARCHAEOLOGICAL EXCAVATION**

If the human skeleton material is encountered during an archaeological excavation, a distinction can be made between human skeleton material that was already encountered during a preliminary investigation and thus has already been screened by the police, and human skeleton material that had not yet been encountered.

#### **Possibility 1: find already known**

Should it prove to be human skeleton material that has been encountered before and is known, or when it is a burial site or cemetery that has already been established during the preliminary investigation, the archaeologist in charge reports the start of the archaeological excavation to the police and, should it concern war victims, also to the War Graves Department. In the latter case, practical agreements shall be made about the term and means of transfer.

Regardless of the nature of the find, the recovery of the human skeleton material and the investigation of the associated finds is an integral part of the dig. This involves, among other things, the inclusion of a physical anthropologist. According to the legal provisions, the costs of an archaeological dig are to be borne by the proprietor.

#### **Possibility 2: new find**

Should it concern human skeleton material that was not encountered during the preliminary investigation (e.g. because the area of the dig extends beyond that of the test trench), the police shall be notified. They assess whether or not this might be a suspicious death

If this is not the case and it is not a war victim, the excavation can proceed without further restrictions.

If they conclude that this could be a war victim, they shall immediately notify the War Graves Department. Practical agreements shall be made about the term and means of transfer, and the archaeological team present shall then proceed to exhume the human skeletal material.

The recovery of the human skeleton material and the investigation of the associated finds is an integral part of the excavation. This involves, among other things, the inclusion of a physical anthropologist. According to the legal provisions, the costs of an archaeological dig are to be borne by the proprietor.

In principle, within 30 days of the notification of the discovery, the skeleton material and the associated find material are transferred to the War Graves Department, together with a report on the recovery, the physical-anthropological findings and the inventory of the finds. This implies that the human skeleton material and the directly associated finds are removed from the archaeological ensemble. The reports that are drawn up shall be integrated into the final report of the excavation. This final report shall be delivered to the War Graves Department.

The War Graves Department is autonomous in deciding in which stage it notifies the state involved. It does, however, ensure that the nation state involved receives a copy of all inventories and reports.

The archaeologists shall not communicate with external parties or with the press about the discovery of remains of fallen persons, unless the national state gives its express consent.

### 3.5. PRESERVATION IN SITU?

In exceptional cases, the owner may not continue construction or may adjust it following the preliminary archaeological investigation, thus removing any threat and so no excavation is commenced. The archaeological survey only focuses on the structures that are under threat. In such cases, there is preservation in situ, which is, for regular archaeology, always preferable to a (destructive) excavation.

If the preliminary investigation revealed human skeletal material and, based on the steps described above, a decision is taken to postpone its recovery until the excavation, this would mean that the human skeleton material shall remain undisturbed in the soil.

If, however, the remains are those of the fallen, it may be socially desirable to carry out a targeted recovery. In this case, the initiative no longer lies with a proprietor, but with a (military) authority or nation state. If the decision is taken to undertake recovery, the procedure as stated in article 5.5.1. *et seque* of the Immovable Heritage Decree (“archaeological investigation for scientific purposes”) must be followed. The (military) authority contracts a recognised archaeologist to perform the recovery in a correct archaeological way; it bears the costs for this. The plan of action must be drawn up in advance by the recognised archaeologist and approved by Flanders Heritage. The (military) authority may call on Flanders Heritage for guidance and support in issuing this contract.

## 4 BREAKDOWN OF THE WORKING METHOD PER ACTOR

### 4.1. POLICE

- Visits the scene whenever the discovery of human skeleton material is reported.
- Draws up a report for every find, including a detailed photographic recording.



- For each find, makes an assessment, either independently or in consultation with the archaeologists present, and issues the required notifications:
  - Are there indications of a suspicious death? If yes, notify the public prosecutor's office
  - Are there indications that the remains are those of a war victim? If yes, a notification of the discovery to Flanders Heritage (except for an archaeological survey) and a notification to the War Graves Department (also for an archaeological survey)
  - If no suspicious indications and nothing suggests a war victim Then a notification of the find to Flanders Heritage, except during an archaeological investigation that is already under way. In that case, the archaeological investigation shall continue as normal.
- In the event of a suspicious death: guard the location until the public prosecutor takes over. If after investigation the public prosecutor's office considers that this an old find, the police shall make a notification of discovery to Flanders Heritage.
- If a notification of discovery is issued to Flanders Heritage (and possibly a notification is also issued to the War Graves Department), physically cover the location and inform the parties concerned.
- Only in the case of individual elements of human skeleton material without any context or without any associated find material, the skeleton material is impounded and handed over to the municipal services responsible for cemeteries or to the War Graves Department, when, because of the location, there is the possibility that they are the remains of a war victim.

## 4.2. FLANDERS HERITAGE

- Immediately after notification of the discovery, the procedure starts for physically recovering the human skeletal material, cf. the legal provisions on accidental findings.
- For a war victim: make practical agreements with the War Graves Department about time limits and transfer of skeletal material, reporting and directly associated finds.
- On receipt of a notification of discovery of human skeleton material by third parties: immediately notify the police and await their assessment.
- After completion of the investigation (processing of excavation data, physical-anthropological research, study of find material), a report shall be drawn up which is submitted to the War Graves Department, within the agreed time limits.
- The archaeologists shall not communicate with external parties or with the press about the discovery of remains of fallen persons, unless the national state gives its express consent.

## 4.3. WAR HERITAGE INSTITUTE – WAR GRAVES DEPARTMENT

- Notify the nation state of the discovery and together transfer the skeletal material, the report of the dig, the physical-anthropological report and the associated finds.
- Submit a copy of the investigation report to the police.

#### 4.4. ARCHAEOLOGISTS PERFORMING THE INVESTIGATION

- For each new find of human skeleton material: immediately notify the police.
- If it is ruled a non-suspicious death but rather an archaeological find, the survey shall continue, after approval by the police.
- During preliminary investigation: an isolated find: recovery during a preliminary investigation, in the context of evaluating the find. If there are multiple bodies: thorough evaluation of the context, then physically cover the human skeletal material and postpone recovery until the excavation phase.
- During excavation: if the discovery of human skeleton material has been previously encountered during the preliminary investigation and therefore has already been screened by the police: notify police of the start of the excavation, then immediate excavation.
- If, during an excavation human skeleton material is encountered that was not found during prospecting, contact the police again. They shall determine whether the excavation may be continued, or whether the public prosecutor will take control of the site.
- When it is a war victim:
  - For a new find: police notify the War Graves Department, and then the excavation may continue.
  - For finds known from the preliminary investigation: the leading archaeologist reports the start of the excavation to the War Graves Department.
  - In principle, the skeleton material and the associated find material are transferred to the War Graves Department within 30 days, together with a report of the recovery, the physical-anthropological findings and the inventory of the finds.
- The reports that are drawn up shall be integrated into the final report of the archaeological investigation. This shall be delivered to the War Graves Department.
- The archaeologists shall not communicate with external parties or with the press about the discovery of remains of fallen persons, unless the national state gives its emphatic consent.