

**26 Annex - Education and culture**

**199. LAW ON PROTECTION OF CULTURAL HERITAGE**

**LAW ON PROTECTION OF CULTURAL HERITAGE**

The Law was published in the Official Gazette of the Republic of Montenegro no. 47/91. See Article 89 of the Law – 17/92-257. See Article 1 of the Law – 27/94-391.

**I. GENERAL PROVISIONS**

Article 1

The present Act shall stipulate the system of protection and use of cultural heritage, the exercising of special social interests, rights and obligations of natural persons and legal entities with regards to the protection of cultural heritage and ways of organising and acquiring resources for the funding of institutions responsible for the activities of cultural heritage protection.

The cultural heritage included into the World Cultural Heritage List shall enjoy special protection stipulated by this or other laws.

Article 2

Cultural heritage comprises the following: immovable and movable objects, groups of objects and ensembles of historical, archaeological, artistic, aesthetic, ethnologic, architectural, urban, social, technical and other scientific and cultural values important for the history and culture of the Republic of Montenegro (hereinafter referred to as “the Republic”).

Article 3

Entire cultural heritage, with no regard to the ownership, shall be protected by the present law.

The protected environment of immovable cultural heritage shall enjoy the protection as cultural heritage.

Article 4

The purpose of cultural heritage protection is:

- to preserve cultural heritage in unimpaired and original condition;
- to undertake necessary measures for the regular maintenance of cultural heritage;
- to prevent activities which may directly change the characteristics, shape, significance and appearance of cultural heritage;
- to provide conditions so that cultural heritage may, according to the importance and purpose, serve the satisfaction of cultural, scientific, aesthetic, educational needs of the citizens and the whole community.

Article 5

Cultural heritage protection is an activity of special interest for the society.

Article 6

The objects for which there is a well-founded assumption to have the characteristics of cultural heritage shall enjoy the “precedent” protection (hereinafter referred to as: “heritage enjoying “precedent” protection), according to the provisions of the present law.

The objects from the paragraph 1 of this Article are especially the following ones: typical 19<sup>th</sup> and 20<sup>th</sup> century village churches, profane heritages with degraded heritageal characteristics (summer houses, residential buildings, certain number of structures of memorial - historical or ambience

character), applied or fine arts objects, archaeological or ethnographic objects, money, stamps, honours, musical instruments and other similar objects.

#### Article 7

Cultural heritage is valued as: cultural heritage of outstanding significance, cultural heritage of great significance and significant cultural heritage.

#### Article 8

Cultural heritage shall be entered into the Registry of Cultural Heritage according to the types. Cultural Heritage Registries are public.

#### Article 9

Cultural heritage and the heritages enjoying “precedent” protection must not be destroyed, damaged or have their appearance or purpose changed without the prior consent of the Republic/Regional Cultural Heritage Protection Institute.

#### Article 10

The protection and the use of cultural heritage shall be exercised by carrying out the activities of cultural heritage protection, administrative-legal measures and other measures stipulated by this law, as well as by the measures which shall be stipulated on the basis of this law.

#### Article 11

The activities and the policy of cultural heritage protection in the Republic shall be organised by the Republic Cultural Heritage Protection Institute, with the seat in Cetinje (hereinafter referred to as: „Republic Institute,,)

The Regional Cultural Heritage Protection Institute (hereinafter referred to as: „Regional Institute,,), with the seat in Kotor, was established because of the significance of the cultural heritage concentrated in the area of the municipalities of Kotor, Herceg Novi, and Tivat.

The Regional Institute may perform its activities according to the policy and programme of the activities of the Republic Institute.

The Parliament of the Republic of Montenegro (+ Judicial practice) is the founder of both the Republic and the Regional Institute.

#### Article 12

A holder of cultural heritage is: owner, holder of utilization right and legal holder.

If the owner of cultural heritage is unknown, the municipal body in charge for cultural activities shall be responsible for the care of cultural heritage in the area of responsibility of a given municipality.

The right of ownership over cultural heritage may be limited, if it is in public interest, according to this law.

#### Article 13

Immovable cultural heritage in private ownership may be expropriated, if it is in public interest, according to the law.

For the expropriation of immovable cultural heritage, paragraph 1 of this Article, the provisions regulating expropriation shall be applied, unless otherwise provided by this law.

Article 14

Cultural heritage and the heritages enjoying “precedent” protection may not be taken abroad, unless otherwise provided by this Act.

Article 15

Technical protection measures and other works related to cultural heritages and its protected surrounding and to heritages enjoying precedent protection may be carried out under conditions, in the procedure and in the way stipulated by this law.

Article 16

Pursuant to this law, archaeological researches and excavations may be carried out by scientific and other institutions.

Article 17

Cultural heritage excavated from the ground or taken out of water or found during researches after the 31<sup>st</sup> of July 1945 is considered the property of the state.

Every person who finds or discovers an object, which is considered cultural heritage according to the paragraph 1 of this Article, shall notify the Republic Institute about it.

Article 18

If excavation or research has not been carried out with state resources, the finder of cultural heritage shall receive financial remuneration.

The remuneration referred to in the paragraph 1 of this Article shall be paid from the budget of the municipality in the territory of which cultural heritage was found.

The amount of the remuneration referred to in the paragraph 1 of this Article shall be suggested by the specialised agency for the evaluation of the aforementioned cultural heritage with regard to its type.

Article 19

A competent municipal authority, with the prior opinion of the Republic or Regional Institute, shall regulate the purpose and the way of use of immovable cultural heritage in the ownership of the state.

The purpose of using the area of immovable cultural heritage in private ownership for business premises, shall be provided by authorities referred to in the paragraph 1 of this Article, with the prior opinion of the Republic or Regional Institute.

Article 20

A competent municipal authority shall provide resources for its maintenance in the amount stipulated by a competent municipal authority out of the total amount of gained income from the lease of offices and residential areas and from the tourist fee in the protected urban zones.

Article 21

Institute shall acquire resources on the basis of its own activities, from the national and municipal budgets, and through the participation of interested subjects, and from other sources.

## **II. CULTURAL HERITAGE**

### **1. Cultural Heritage Types**

Article 22

According to the characteristics, heritage can be: archaeological, historical, architectural, artistic, construction, ethnological, technical, as well as old and rare book and film material.

Article 23

Archaeological heritage comprise parts of land containing remnants of buildings and other immovable objects, sepulchral and other finds, as well as movable objects from early historic periods, which have special cultural and historic significance.

Article 24

Historical heritage comprises areas, settlements or parts thereof, and buildings related to important historic events, memorial signs and heritages of liberation wars and other important persons and events.

Archival material consisting of original or reproduced, written, drawn, printed, photographed, filmed, microfilmed, phonographic, or in other ways documented material of special importance for culture and science is considered historical heritage.

Article 25

Architectural heritage comprises constructional and architectural objects and their ensembles, other immovable objects, parts of objects and ensembles related to specific area, such as: old churches, monastery complexes, mosques, old towns and their remnants, old fortifications, old mines, water supply systems and bridges, old towers and windmills, old monastery accommodation houses, clock-towers and fountains, old palaces and courts, summer-houses, workshops, and other old public facilities, old cemeteries, tombstones.

Article 26

Artistic heritage comprises frescoes and works of heritageal and decorative painting, icons and works of fine and applied arts, sculpture, book decoration, as well as other objects and collections of objects of artistic character.

Article 27

Constructional heritage comprises urban ensembles and their parts, ambience ensembles and rural settlements of special cultural and historical significance in space shaping.

Article 28

Ethnological heritage comprises areas, objects and ensembles, movable objects for everyday use and shaped products witnessing about the way of life and creative work of the population in the Republic.

Article 29

Old and rare books include manuscripts and printed books, periodicals and other librarian material created up to the 19<sup>th</sup> century; rare books, specific copies of periodical editions and other rare librarian material created up to the 20<sup>th</sup> century; specific librarian material which, according to the Law on Library Practice, is submitted to a certain library.

Article 30

Film material comprises a negative and a copy of a film, the original and a copy of a video tape and other picture and tone media, script, "shooting" book, film posters, photographs and film documents, with no regard to "shooting" technique, place and time of its creation.

Article 31

Technical heritage comprises objects and ensembles of objects, devices, machines and other objects witnessing the development of production means and technical culture.

## **2. Evaluation of Cultural Heritage**

Article 32

Cultural heritage is classified in three categories according to its value: heritage of outstanding significance, heritage of great significance and significant heritage.

Cultural heritage of outstanding significance is the one included into the World Cultural Heritage List and the one that meets one of the following criteria:

- exceptional artistic or aesthetic value;
- immovable cultural heritage within which there is movable cultural heritage of outstanding significance;
- unique examples of creative work of certain period as an expression of something untypical;
- heritage which influenced and still influences societal development;
- exceptional achievements of contemporary creativity;
- heritage which witnesses about key historical events or persons; and
- heritage having special significance for the cultural and historical development of peoples and nations (Category One).

Cultural heritage of great significance is the one which meets one of the following criteria:

- characteristic features of a specific area or a period of time in societal development or in the development of cultural and civilisation circle they belong to;
- parts or ensembles containing details of great significance;
- testimonies of great significance for studying social, economic, cultural, and historical circumstances in certain period, whose values serve for satisfying educational, cultural and scientific needs of the society;
- linkage to important events and prominent historical figures (Category Two).

Significant heritage is neither the one which belongs to Category One nor Two, but which is based on the overall cultural, historical or other values of significance at the regional, or local level (Category Three).

## **III PROCLAMATION AND CONFIRMATION OF CULTURAL HERITAGE**

Article 33

Immovable cultural heritage shall be proclaimed while movable cultural heritage shall be confirmed.

The Parliament of the Republic of Montenegro (hereinafter referred to as: „Parliament“) shall proclaim immovable cultural heritages upon the proposal of the Republic Institute.

The quality of movable cultural heritage shall be assessed by museums, archives, libraries, galleries, collections and other institutions according to the provisions of the this law and other special laws.

Article 34

The proposal for the proclamation of real estates as cultural heritage includes:

- description of a real estate with basic documentation;
- boundaries of the real estate and its surrounding;
- programme of protection, organisation, use, and maintenance of the real estate;
- information about the holder and owner of the real estate.

#### Article 35

The Parliament shall consider the proposal referred to in the Article 34 of this law and issue a statement about it within 6 months.

If the Parliament adopts the proposal, it shall pass an act on proclaiming the real estate cultural heritage within six months, as mentioned in the paragraph 1 of this Article.

#### Article 36

The Act on proclaiming a real estate cultural heritage includes:

- name, type and description of cultural heritage site;
- boundaries of the heritage site with its surrounding, area, territory, inventory of land parts in the cadastre or relevant cadastral or territorial data;
- data about ownership;
- basic conditions related to the preservation, use, maintenance and organisation of the cultural heritage site and its protected area; and
- data about financial resources for the protection and maintenance.

The list of movable heritage situated within a cultural heritage site makes an integral part of the Act from the paragraph 1 of this Article.

#### Article 37

The Parliament shall submit the act on proclamation to the Republic Institute within 30 days as of the day of the adoption of the act.

The act on the proclamation of cultural heritage is published in the "Official Gazette of the Republic of Montenegro".

#### Article 38

The act on confirmation of cultural heritage includes:

- type, description and name of a cultural heritage object;
- origin, name of the author, and present location;
- basic conditions of preservation, use, and maintenance;
- name of the owner, as well as the legal basis for the ownership over the heritage object.

#### Article 39

For the structures referred to in the Article 6 of this law, the Parliament shall pass an act on temporary proclamation of a structure as cultural heritage, based on the proposal of the Republic Institute.

For the objects referred to in the Article 6 of this Act, the decision on temporary proclamation of an object as cultural heritage shall be taken by a specialised agency under the Article 33, paragraph 3 of this law.

#### Article 40

The proposal for the passing of the act from the Article 39 of this law may be submitted by any person if it is in public interest.

The condition referred to in the paragraph 1 of this Article is met especially when there is a threat that a structure or an object will be destroyed, damaged or lost.

#### Article 41

When an act on temporary proclamation has been passed, the Republic Institute shall initiate a procedure for regular proclamation.

The act referred to in the Article 39 of this law shall be in force for the time set by the Law, but not longer than 5 years.

#### Article 42

Detailed provisions governing the procedure and the way of proclaiming and confirming cultural heritage shall be set by the competent national authorities.

### **IV REGISTERING OF CULTURAL HERITAGE**

#### Article 43

Immovable cultural heritage, after announcing an Act on proclamation referred to in the Article 37 of this law, shall be registered in the Registry of Cultural Heritage by means of the decision of the Republic Institute.

The Republic Institute shall keep the Central Registry of Cultural Heritage in the territory of the Republic.

The Regional Institute shall keep the Registry of Cultural Heritage located in its territory.

The Regional Institute shall submit a decision to the Republic Institute on entering cultural heritage into the Central Registry.

#### Article 44

The Registry of Cultural Heritage is a public document which especially includes the following:

- description of a cultural heritage object, its actual and legal status;
- location of a cultural heritage object;
- origin of a cultural heritage object and all important factual and legal changes on the cultural heritage object;
- documents related to a cultural heritage object;
- list of bibliography concerning a cultural heritage object;
- professional documentation of a cultural heritage object which enables its identification in the process of renovation;
- data about financial investments in a cultural heritage object;
- documentation about conservation works and other activities related to a cultural heritage object.

#### Article 45

The Land Register records the proclamation of a cultural heritage structure, its registration and removal from the Registry.

Immovable cultural heritage shall be marked.

A competent national authority shall regulate the form, the contents and the way of marking immovable cultural heritage.

#### Article 46

A movable cultural heritage object, managed by a museum, archival institution, library, gallery, collection or other related institution, as an individual object or a collection, shall be entered into the



Central Registry of Cultural Heritage as a whole, according to the inventory, and based on the notification produced by a relevant institution.

Article 47

For entering movable cultural heritage into the registries not kept within specialised institutions, the provisions from the Article 46 of this law shall apply.

Article 48

Cultural heritage object reported missing, or which was damaged or which lost the characteristic of cultural heritage shall be removed from the Registry of Cultural Heritage.

The act on removing cultural heritage from the registry shall be passed following the way and the procedure stipulated for the act on proclamation or confirmation of cultural heritage.

Article 49

A competent court shall have a notice of removal of immovable cultural heritage structure from the Registry registered into the Land Registry, on the basis of the Republic Institute data.

Article 50

Detailed provisions governing the keeping of register of cultural heritage shall be passed by a competent national authority.

**V. RIGHTS, OBLIGATIONS AND RESPONSIBILITIES OF OWNERS OF CULTURAL HERITAGE AND MEASURES OF PROTECTION**

Article 51

Cultural heritage owner is obliged to:

- 1) preserve, maintain and use cultural heritage in such a way so as to preserve its heritage and environmental value;
- 2) protect cultural heritage against natural forces or human activities;
- 3) allow and enable specialised organisations or persons authorised by them, to carry out research, make inventories and scan cultural heritage for scientific, cultural and educational purposes;
- 4) make cultural heritage available to the public, in case it is indispensable with regards to its nature and purpose, with the aim of satisfying cultural needs, and with no detriment to the cultural heritage and/or its owner;
- 5) temporarily convey cultural heritage to specialised organisations, when this is necessary for organising artistic, scientific, and other exhibitions, as a rule, not longer than 6 months within the period of 5 years.
- 6) notify immediately, within 15 days at the latest, the Republic Institute about all legal and factual changes of relevance for the Registry;
- 7) take care of signs located on an immovable monument of culture;
- 8) bear costs of regular maintenance of cultural heritage, which do not exceed the revenues or other material benefits that owner gains from cultural heritage; and
- 9) carry out stipulated measures for technical protection and other necessary measures.

Article 52

Specialised organisation granted or enabled to study cultural heritage, or the one onto which cultural heritage is conveyed for the purpose of exhibition, shall bear costs related to research, or to exhibiting cultural heritage and it shall be responsible for the damage it might incur.

Article 53

Immovable cultural heritage may be demolished or relocated only in exceptional cases and on the basis of previously stipulated common interest.

Exceptionally, under the paragraph 1 of this Article, immovable cultural heritage of outstanding significance may not be demolished.

A competent national authority shall issue the approval for the relocation or demolishing referred to in the paragraph 1 of this Article, with the prior consent of the Republic Institute.

Article 54

If the owner of cultural heritage is negligent towards the same or if he/she uses it in an inadequate way to the detriment of the cultural heritage itself, a competent municipal shall take a decision to convey such cultural heritage for temporary governing to a holder chosen for that purpose.

The creator shall be authorised to undertake protection measures regulated by the Republic or Regional Institute.

The owner of cultural heritage shall bear costs for undertaking protection measures from the paragraph 2 of this Article.

A competent municipal authority shall revoke the creator's authorization, from the paragraph 2 of this Article, when the owner of a cultural heritage proves that he/she provided adequate conditions for its proper and purposeful use and maintenance.

Article 55

If the maintenance of cultural heritage or its conservation or restoration demands extra costs, which exceed the revenue which the owner gains from cultural heritage, the owner shall bear the costs that exceed the amount of the revenue.

The municipality shall pay the compensation of extra costs, from the paragraph 1 of this Article, for the cultural heritage situated in its territory.

Article 56

Before building commercial or other edifices in the territory where there is cultural heritage, the developer is obliged to include a programme for the protection of cultural heritage into the building investment programme.

The programme for the protection of cultural heritage, from the paragraph 1 of this Article, shall be designed by the Republic or Regional Institute.

The developer shall bear the costs of creating a programme for the protection of cultural heritage, execution of technical protection measures, relocation of cultural heritage, as well as the costs of the compensation for the expert assistance provided by the Republic or Regional Institute.

Article 57

The Town Council shall, during the process of adoption of urban plans, obtain the opinion of the Republic Institute with the aim of preserving urban or historical character or the ambience of old towns and settlements.

The opinion referred to in the paragraph 1 of this Article is also mandatory when urban plan envisages the demolition or relocation of squares, buildings, streets and their parts.

Article 58

The activities, which may cause changes on cultural heritage, may be undertaken only on the basis of the prior licence of the Republic or Regional Institute.

The activities from the paragraph 1 of this Article are particularly the following ones: sounding, conservation, restoration, additional construction, adaptation, relocation of cultural heritage, installation of advertisements or sign boards, construction of buildings and other facilities in immediate vicinity of cultural heritage.

Prior licence, from the paragraph 1 of the present Article, shall be needed for construction of facilities in the settlements or their parts, which are registered in the Registry of Cultural Heritage as urban ensembles, historical cores, or heritageal zones, as well as for all the activities referred to in the paragraph 2 of this Article.

Prior licence may be issued only if relevant project documentation has been submitted.

#### Article 59

The Republic or Regional Institute may at any time suspend works and prevent activities which may cause damage or endanger cultural heritage.

The suspension of works, from the paragraph 1 of this Article, shall be ordered on the basis of the decision, which may order the re-establishing of the previous condition.

The Decision on suspension of works with an order for re-establishing the previous condition may be passed even when the works on cultural heritage have began without a prior licence referred to in the Article 58 of this Act, or when those activities are carried out inconsistently with the approved project.

The appeal against the decision on the suspension of works shall not withhold its execution.

The Republic or Regional institute shall enforce the decision on the suspension of works.

The owner of cultural heritage, developer, and constructor shall be responsible for the damage caused by the activities carried out contrary to the provisions from the paragraph 1, paragraph 2, paragraph 3 of this Article, and bear costs of returning into previous condition.

#### Article 60

The building licence for works from the Article 58 of this law may be issued only if there is a prior permit of the Republic or Regional Institute.

#### Article 61

The shape, name or some other recognisable detail of cultural heritage may be used for the advertisement, as an element of a company, and for making souvenirs or other objects intended for commercial needs, in a way adequate to the purpose and significance of cultural heritage, pursuant to the Law.

The Regional Institute shall issue the licence for the use of cultural heritage for the purposes referred to in the paragraph 1 of this Article.

Cultural heritage may be used for the purposes referred to in the paragraph 1 of this Article, if the payment of funds is effectuated in the Republic budget in the amount of 5% of the product retail price.

The funds referred to in the paragraph 3 of this Article shall be directed towards the competent national authority.

#### Article 62

A cultural heritage owner has the right to have free of charge explanations of a specialised organisation with regards to the characteristics and importance of cultural heritage, as well as to take advice and guidelines related to its maintenance and the way of fulfilling responsibilities referred to in the Article 51 of this law.

A cultural heritage owner shall enjoy, with regards to cultural heritage, tax relief, customs facilitations and other relieves in line with appropriate provisions.

A cultural heritage owner who discharges the tasks of the protection and preservation of cultural heritage, as well as the owner of sacral heritage shall be exempted from the payment of utility contributions.

## **VI. ARCHAEOLOGICAL RESEARCH**

### **Article 63**

Archaeological excavations and researches may be carried out only on the basis of the licence issued by the Republic Institute.

The licence referred to in the paragraph 1 of this Article shall be issued only to scientific or specialised institutions which fulfil the following conditions: drafted project on archaeological site research, available professional personnel and provided funds for carrying out works and conservation of the finds.

Licence shall include the site where the works shall be carried out, the character and the volume of works, as well as the conditions under which the works may be carried out.

### **Article 64**

If archaeological researches and excavations are not carried out in line with the licence, the Republic or Regional Institute may temporarily suspend the works and define conditions for their continuation.

The Regional Institute shall make the final decision on the continuation of works or on their prohibition.

If Republic Institute identifies that adequate professional and methodological procedures have not been applied during the archaeological research or excavation or that the protection of archaeological finds is endangered, it may revoke the owner's licence.

### **Article 65**

The institution, which was in charge of carrying out archaeological research and excavation, is obliged to submit to the Republic Institute the report on the results of the works within three month as of the day of the completion of works.

The report referred to in the paragraph 1 of this Article contains the basic data about the works, especially: the site plan with the necessary number of technical and photographic materials, the inventory of the found and excavated objects, the period of time in which the works were being carried out, the list of scientists and experts carrying out the works, the funds spent and the protection measures undertaken at the site after the completion of the works.

### **Article 66**

The institution referred to in the Article 65 of this law is obliged to submit complete documentation to the Republic Institute for further preservation within one year as of the day of submitting the report referred to in the Article 65 of this law.

The institution referred to in the Article 65 of this law may, for the purpose of scientific elaboration, keep the movable archaeological finds for the period of one year at the latest, unless otherwise agreed with the institution in charge for the protection.

### **Article 67**

Competent national authority shall decide on the right to use the objects excavated or found during archaeological researches and excavations.

The decision referred to in the paragraph 1 of this Article shall be made on the basis of the prior opinion obtained from the Republic Institute.

Article 68

After finding archaeological remains, certain buildings or ensembles shall be put under protection as cultural heritage under specific protection regime in line with the provisions of this law.

After the completion of archaeological researches and excavations, the archaeological site or its part where there heritagel fund shall be treated as a free space.

Article 69

If during the execution of construction or other works, archaeological or other find or objects of archaeological significance are found, the legal entity or the natural person who carries out the works, is obliged to notify the Republic Institute without delay.

The Republic Institute may, with regards to the character of the find, make the decision on the temporary prohibition of construction works in the territory which represents an archaeological site.

The Republic Institute is obliged to make the decision referred to in the paragraph 2 of this Article within three days as of the day of the notification about the site.

The temporary prohibition of construction woks may not be longer than 30 days. Within that period, the Republic Institute is obliged to provide and organise necessary archaeological researches and excavations and on the basis of the results of the same shall make the decision on the continuation or the prohibition of further works.

Article 70

The Republic Institute may grant an approval for a narrower location within the protected archaeological zone or object.

If the works are carried out in the archaeological zone or the object which is already entered into the Registry of Cultural Heritage, or the procedure of its inclusion is under way, the developer is obliged to bear the costs related to the suspension of works and to the securing of excavated objects.

Article 71

Foreign citizens and institutions may be granted the approval for archaeological researches and excavations if they cooperate with the national institutions.

The manager of the works referred to in the paragraph 1 of this Article, must be a citizen of the SFRY (Socialist Federative Republic of Yugoslavia, **ex-Yugoslav Republics**).

The Republic Institute shall issue the licence for the execution of archaeological researches and excavations referred to in the paragraph 1 of this Article.

Article 72

The provisions stipulated in the Articles 63, 64, 65, 66 and 69 of this law shall be applied accordingly to underwater archaeological researches and excavations, as well as to the taking out of sunken objects having the characteristic of cultural heritage or which are legitimately considered to have such characteristics.

Article 73

The competent harbour master's office, with the prior consent of the Republic Institute, shall issue the licence for underwater archaeological researches and excavations, and for the taking out of sunken objects having the characteristics of cultural heritages or which are legitimately considered to have such characteristics.

Article 74

Detailed provisions governing the conditions and the way of carrying out archaeological researches and excavations shall be regulated by the competent national authority.

Article 75

The competent national authority shall settle in second instance the appeals against the decisions made during cultural heritage protection procedure.

**VII. CIRCULATION OF CULTURAL HERITAGE**

Article 76

Cultural heritages may not be sold.

Article 77

Exceptionally, movable cultural heritage in private ownership may be sold under specific conditions.

The owner of immovable cultural heritage, who intends to sell it, shall offer it for sale to the municipality in which the heritage is located in the first place, whilst the owner of movable cultural heritage shall offer it for sale to a museum, archives or library with pre-emptive rights.

The municipality may convey the pre-emptive right to certain specialised organisation or institution or to another legal entity proposed by the aforementioned institution or organisation.

If the owner of cultural heritage alienates heritage, gives it to possession, or lease it, he/she shall notify the new holder that the cultural heritage is under protection.

Article 78

Cultural heritage may be taken abroad under specific conditions.

The licence for taking cultural heritage abroad shall be issued with the prior consent of the Republic Institute, and as for cultural heritage which originates from other republics with the prior consent obtained from the competent national institution in charge with the activities related to the protection of cultural heritage.

Article 79

The Republic Institute shall issue a temporary licence for the taking of cultural heritage abroad for the purpose of exhibiting, expertise, etc. with a prior consent of the competent national authority. The licence shall contain a deadline within which cultural heritage must be returned to the country.

Article 80

The competent national authority or the Republic Institute, with the prior licence for the taking of cultural heritage abroad, shall submit complete documentation with photo documentation to the customs authorities with the purpose of identifying cultural heritage.

**VIII. CULTURAL HERITAGE PROTECTION INSTITUTES**

Article 81

The Republic Institute shall:

- 1) study, document, collect and preserve cultural heritage documentation;
- 2) participate in the procedure of social planning from the aspect of the protection, renovation, and use of cultural heritage and give opinion in relation to planning documents;
- 3) make categorisation of immovable cultural heritage;
- 4) propose the proclamation of real estates as cultural heritage;
- 5) keep the Central Registry of Cultural Heritage in the territory of Montenegro;
- 6) keep records of cultural heritage and object enjoying precedent protection in the national territory;
- 7) set up conservation conditions and give consent for project documentation related to all kinds of works carried out on immovable cultural heritage with the prior opinion of the Regional Institute;
- 8) set up conservation conditions for all works on the movable heritageal fund, unless the works are carried out in special conditions;
- 9) give consent for the use of cultural heritage in tourism purposes and propaganda;
- 10) set up conditions and give consent for putting names, sign boards, advertisement on immovable cultural heritage;
- 11) issue the licence referred to in the Article 61 of this law;
- 12) give prior expert opinion with regards to demolishing and relocating of immovable cultural heritage;
- 13) create programmes for the protection of cultural heritage referred to in the Article 56 of this law;
- 14) make decision on the temporary suspension of the works referred to in the Article 59 of this law;
- 15) give opinion with regards to the purpose and the way of using the area of immovable cultural heritage for business premises referred to in the Article 19 of this law;
- 16) issue the licence for archaeological researches and excavations, supervise works and carry out protective excavations pursuant to the Article 69 of this law;
- 17) keep complete documentation of archaeological researches and excavations;
- 18) make decision on the temporary prohibition of construction works, pursuant to the Article 69 of this Law;
- 19) perform conservation supervision over the execution of works on cultural heritage;
- 20) issue the licence for taking cultural heritage abroad;
- 21) issue the licence for the export of the works of art and other objects enjoying precedent protection;
- 22) propose priorities within the programmes for the protection and renovation of cultural heritage;
- 23) verifies professional capacities of the workers engaged in the conservation of cultural heritage;
- 24) offer professional assistance to the institutions dealing with the protection of cultural heritage and to the owners of cultural heritage in their activities on the protection and preservation;
- 25) collaborate with the Regional Institute and ensure unified application of international conventions and other international acts in the territory of the Republic;
- 26) notify the Parliament, at least once a year, about the condition of the protection of national cultural heritage;
- 27) prepare and publish professional publications dealing with the issues of the protection of cultural heritage;
- 28) take care about specialisation of the personnel working in the field of the protection of cultural heritage;
- 29) create a plan for the protection of cultural heritage in times of war; and
- 30) carry out other activities in the field of protection of cultural heritage pursuant to the Law.

Article 82

The Republic Institute may, beside the activities referred to in the Article 81 of this law, carry out the following activities:

- create projects for the execution of works on the conservation and restoration of cultural heritage;
- execute the works on the conservation and restoration of cultural heritage;

Article 83

The Regional Institute for the territory for which it was founded, shall:

- 1) study, record, collect and keep cultural heritage documentation;
- 2) participate in the social planning procedure from the aspect of the protection, renovation and use of cultural heritage and give opinion for the planning documents;
- 3) keep Registry of Cultural Heritage;
- 4) keep records of cultural heritage and objects enjoying precedent protection;
- 5) set up conservation conditions and give consent for project documentation for all kinds of works on immovable cultural heritage;
- 6) create projects for carrying out works on the conservation and restoration of cultural heritage;
- 7) carry out works on the conservation and restoration of cultural heritage;
- 8) supervise conservation works on cultural heritage;
- 9) supervise archaeological researches and excavations and carry out protective excavation;
- 10) propose priorities in the programmes for the protection and renovation of cultural heritage;
- 11) create a plan for the protection of cultural heritage referred to in the Article 56 of this law;
- 12) set up and give consent for putting names, sign boards, advertisements on movable cultural heritage;
- 13) offer professional assistance to the institutions dealing with the protection of cultural heritage in their maintenance and protection;
- 14) take care of the specialisation of the personnel working on the protection of cultural heritage.

Article 84

The competent public administration body shall be in charge with the supervision of the legality of works and activities on the protection of cultural heritage.

Article 85

The persons, who during the works on the protection of cultural heritage obtained a higher degree of professional qualification, may carry out activities of that degree of vocational training provided they pass a part of the relevant vocational exam.

The persons who passed the vocational exam related to the activities and tasks in the field of protection of cultural heritage may carry out the works and the activities on the protection of cultural heritage, provided they pass the vocational exam within two years as of a day of their employment.

The persons referred to in the paragraph 2 of this Article, who do not pass a part of the vocational exam shall have their labour relation terminated.

Article 86

The competent public administration body shall stipulate detailed provisions governing the conditions for the performance of professional activities and professional exams in the field of cultural heritage protection.

**IX. RESOURCES OF INSTITUTES**



Article 87

The Institute shall acquire resources for work from:

- the State budget or the municipal budget (through the competent national or municipal administration body);
- from resources effectuated by its own activity;
- participation of interested subjects; and
- other sources.

Article 88

The Institute shall direct the funds referred to in the Article 87 of this Law, according to financial plan, purpose and dynamic.

The resources provided by the Institute through its activities shall be directed purposefully for the improvement of activities, the protection of cultural heritage, regular and research activities.

The Institute is obliged to submit a written report on the spent resources to the competent national or municipal administration body, on the basis of the 6 month accounting and closing statement.

## **X. MANAGEMENT**

Article 89

The Executive Board is the managing body of the Institute.

The Executive Board shall comprise of the representatives of the employees within the Institute and of the professional personnel affirmed in the fields contributing to cultural development.

The Deed of foundation shall specify the number and the composition of the Executive Board members.

Article 90

The Institute has got its Director who shall be appointed by the Government of the Republic of Montenegro.

The director of the Institute shall be nominated for the period of four years and after expiration of the mandate, the same person may be appointed for one more mandate.

The director of the Institute shall represent the Institute and carry out other activities regulated by the Statute of the Institute.

## **XI. PENAL PROVISIONS**

Article 91

The person who damages or destroys cultural heritage shall be punished for an offence with a fine or with the imprisonment term for the period from 6 months to 5 years.

Article 92

A person who executes works on the maintenance, conservation or restoration of cultural heritage without licence, and due to that cultural heritage is destroyed, damaged or loses its value, shall be punished for a criminal offence with a fine or with a penalty of imprisonment of up to 3 years.

The same penalty shall be imposed to the persons who, without licence or contrary to the prohibition of a competent authority, carry out archaeological researches and excavations of

cultural heritage or of an object considered to have cultural heritage value, and due to that destroy cultural heritage or objects, cause damage or the loss of value.

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Article 93

A person who during the archaeological excavations and researches and in other cases appropriates the excavated or found objects, which have cultural heritage value, shall be punished for a criminal offence with a penalty of imprisonment of up to three years.

Article 94

A person, who without the permission of a competent authority, takes cultural heritage abroad, shall be punished for a criminal offence with a penalty of imprisonment of up to three years. The punishment is envisaged for the mere.

Article 95

A person who damages or destroys a protected area of immovable cultural heritage or of a monument of culture or an object which may be considered to have heritageal value, shall be punished for a criminal offence with a fine or imprisonment of up to one year.

Article 96

A fine from the tenfold to three hundredfold of the minimum wage in the country shall be imposed to an institution, company or natural person or legal entity owner of cultural heritage if:

- 1) fails to act in accordance with the provisions referred to in Article 51, paragraph 1, Articles 53 and 77 of this law.
- 2) does not allow the research into or the studying of cultural heritage in scientific and professional purposes (Article 51, paragraph 1, item 3 of this law);
- 3) does not make cultural heritage available to the public (Article 51, paragraph 1, item 4 of this law);
- 4) does not convey cultural heritage at a specified time for the purpose of exhibition (Article 51, paragraph 1, item 5 of this law);
- 5) fails to submit the report on archaeological researches and excavations carried out on cultural heritage on a due date (Article 65 of this law);
- 6) fails to submit technical and photo documentation about the works on conservation and restoration of cultural heritage (Article 66 of this law).

For petty offences under the paragraph 1 of this Article, a fine of one half to twentyfold amount of the minimum wage in the country shall be imposed to the responsible person in an institution or company or to a civil-legal entity.

See: [Article 89 of the Law – 17/92-257](#), [Article 1 of the Law – 27/94-391](#).

Article 97

A fine from tenfold to three hundredfold amount of the minimum wage in the country shall be imposed to an institution, company or a civil-legal entity for the following petty offences:

- 1) carrying out archaeological researches and excavations without a licence (Article 62 of this law);
- 2) carrying out archaeological researches and excavations without fulfilling conditions for the performance of such activities (Article 63 of this law);
- 3) conducting activities contrary to the provisions referred to in the Article 66 of this law;
- 4) carrying out works on the maintenance, conservation and restoration of cultural heritage without fulfilling the conditions for the execution of such works (Article 58 of this law);

A fine from one half to twentyfold amount of the minimum wage in the country shall also be imposed to the responsible person in an institution, company and other civil-legal entity for the petty offences from the paragraph 1 of this Article.

Article 98

A fine from tenfold to three hundredfold amount of the minimum wage in the country shall be imposed to an institution or a company for petty offences committed in conducting activities contrary to the provisions of the Article 69 of this law.

For a petty offence referred to in the paragraph 1 of this law a fine from one half to twentyfold amount of the minimum wage in the country shall be imposed to the responsible person in an institution.

Article 99

A fine from one half to twentyfold amount of the minimum wage in the country shall be imposed to a natural person who owns cultural heritage for a petty offence if he/she:

- 1) conducts activities contrary to the provisions (Article 51, paragraph 1, clause 1 of this law);
- 2) does not permit research and studying of cultural heritage in scientific and professional purposes (Article 51, paragraph 1, clause 1 of this law);
- 3) fails to make cultural heritage available to the public (Article 51, paragraph 1, clause 4 of this law);
- 4) does not convey cultural heritage at a specified time for the purpose of exhibition (Article 51, paragraph 1, clause 5 of this law);
- 5) conducts activities contrary to the provision referred to in the Article 53 of this law;
- 6) conducts activities contrary to the provision referred to in the Article 58 of this law;
- 7) conducts activities contrary to the provision referred to in the Article 63 of this law.

## **XII. TRANSITIONAL AND FINAL PROVISIONS**

Article 100

On the day of entering into force of this law, the Municipal Cultural Heritage Protection Institute in Kotor shall continue with its activities as the Regional Cultural Heritage Protection Institute.

Article 101

On the day of entering into force of this law, both the Republic and the Regional Institute shall continue with their respective activities as public institutions.

Article 102

The Institutes are obliged to harmonize their work, organization and the general acts with the provisions of this law within three months as of the day of entering into force of this law.

Article 103

The Republic Institute is obliged to make the categorisation of immovable cultural heritage in the territory of the Republic within one year as of the day of entering into force of this law.

In the categorisation procedure, from the paragraph 1 of this Article, the Republic Institute shall demarcate the boundaries of the protected area referred to in the Article 3 of this law.

Article 104

The Republic Institute shall within 90 days as of the day of the entering into force of this law propose a program of categorisation and proclamation of cultural heritage with the dynamics and the necessary resources.

Article 105

The persons who until the day of the entering into force of this law have not passed a vocational exam, are obliged to pass it within two years as of the day of the entering into force of this law.

The employment of the persons who do not pass a vocational exam within a due date specified in the paragraph 1 of this Article shall cease.

Article 106

The persons who on the day of the entering into force of this law have worked on the protection of cultural heritage for more than 15 years, are not obliged to take a vocational exam.

Article 107

The public administration body competent for cultural affairs shall adopt the regulations envisaged by this law within two months as of the day of this law becoming effective.

Article 108

With the entering into force of this law Cultural Heritage Protection Law shall cease to be into force (Official Gazette of the Republic of Montenegro 16/77).

This law shall enter into force on the eight day as of the day of its publishing in the Official Gazette of the Republic of Montenegro.