

20/11/1992

Resolution on the protection of cultural heritage

The Supreme National Council, the authority in which the sovereignty of Cambodia is vested, has considered and adopted by consensus

and

The President of the Supreme National Council hereby issues this resolution, whose contents are as follows:

Chapter 1 - General provisions

Article 1 - Purpose

The purpose of this resolution is to protect cultural property against illegal destruction, modification, alteration, excavation, alienation, exportation or importation.

Article 2 - Scope

1. This resolution shall apply to movable and immovable cultural property, whether publicly or privately owned, whose protection is in the public interest.
2. Except as otherwise provided elsewhere in this resolution, it shall apply only to cultural property that forms part of the national cultural heritage.

Article 3 - National cultural heritage

The national cultural heritage comprises:

- (a) cultural property created or discovered on national territory;
- (b) cultural property received as gifts or legally acquired with the consent of the relevant authorities in the country of origin of that property.

Article 4 - Cultural property

For the purposes of this resolution, cultural property is considered to be any work produced by human agency and any natural phenomenon of a scientific, historic, artistic or religious nature which bears witness to a certain stage in the development of a civilization or of the natural world and whose protection is in the public interest.

Chapter 2 - Special provisions

Section 1 - National Heritage Protection Authority of Cambodia

Article 5 - National Heritage Protection Authority of Cambodia

The competent authority for the implementation of this resolution is the National Heritage Protection Authority of Cambodia (the Authority) or such other authority as may be so authorized by decision taken by a national legislative body.

Article 6 - Responsibilities

The Authority has, in particular, the powers to:

- (a) take decisions required for the protection of cultural property;
- (b) take decisions on proposals to register or classify such property;
- (c) decide on any request for authorization covered by the terms of this resolution;
- (d) ensure generally the implementation of this resolution.

Article 7 - Membership and organization

The membership and organization of the Authority shall be determined by a resolution of the Supreme National Council.

Section 2 - Special measures to protect groups of cultural immovables

Article 8 - Restricted areas

1. Restricted areas containing a group of cultural immovables, such as temples or other historic monuments, may be established.
2. The boundaries of such restricted areas shall be defined by resolution of the Supreme National Council.

Article 9 - Ownership and classification

1. Restricted areas constitute public property.
2. All cultural property within these areas shall be automatically classified.

3. Restricted areas are subject to all the consequences of classification in accordance with Article 24 and Articles 26 to 33 of this resolution.

Article 10 - Prohibition of building

1. New constructions are prohibited within the boundaries of restricted areas.
2. In exceptional cases, the Authority may authorize the construction of buildings necessary for the maintenance and preservation of a group of cultural immovables.

Article 11 - Restriction on movement of vehicles

Movement of vehicles within the restricted areas shall be strictly limited. The Authority shall take the necessary measures to enforce this provision. It may ban any movement of vehicles within the restricted areas if it prove necessary to do so for the protection of cultural property.

Article 12 - Visits to restricted areas

1. Visits to restricted areas shall be subject to payment of an entrance fee set by the Authority.
2. The Authority may impose an entrance fee, in the form of a subscription, which shall entitle the subscriber to an unlimited number of visits of all the restricted areas in the country during a specified period.

Article 13 - Special fund

1. The entrance fee shall be deposited in a special fund for the financing of measures to preserve and maintain the national cultural heritage.
2. Management of the special fund shall be the responsibility of the Authority in accordance with its Statutes.

Section 3 - Registration

Article 14 - Purpose

Registration consists of keeping a record of public and private cultural property which, while not requiring immediate classification, is none the less of some importance from a scientific, historical, artistic or religious viewpoint.

Article 15 - Decision

Registration shall be announced by a decision of the Authority, who shall notify the owner or holder of the asset accordingly.

Article 16 - Consequences of registration

1. Registration shall place an obligation on the owner or holder of the property to inform the Authority one month prior to taking any action to alienate, move, destroy, modify, alter, repair or restore the property.
2. The Authority may oppose such action only by initiating a classification procedure.

Article 17 - Nullity

Registration shall be null and void unless it is followed by a proposal for classification in the six months following notification thereof.

Section 4 - Classification

Article 18 - Purpose

Classification is the act whereby the State lists registered public or private cultural property whose protection is in the public interest from a scientific, historical, artistic or religious point of view.

Article 19 - Proposals for classification

A proposal for classification shall be made by the Authority, which shall duly inform the owner or holder the property.

Article 20 - Nullity

The proposal for classification shall be null and void unless it is followed by a decision to classify in the twelve months following notification.

Article 21 - Classification rulings

1. Classification shall be announced in a decision of the Authority.
2. The Authority must make a decision within three months of the date of submission of the proposal, after consulting the owner or holder of the property.

Article 22 - Notification

The owner or holder of the asset shall be notified of the classification and, where appropriate, the Land Conservation Department (the department responsible for managing the Land Register) shall also be notified.

Article 23 - Automatic classification

In the absence of the owner's consent, the classification shall be declared automatically.

Article 24 - Indemnity

1. Classification may give rise to the payment of an indemnity in order to compensate for any prejudice likely to be caused.
2. The request must be submitted within three months of notification of the classification decision.
3. The amount of the indemnity shall be set by the Authority.
4. Any objections concerning the decision as to entitlement or as to the amount of the indemnity shall be brought before the appropriate judicial authorities.

Article 25 - List of classified cultural property

1. The Authority shall draw up a list of cultural property classified in the course of each year.
2. That list, published in the Gazette or another of the national official publications and drawn up by province, shall indicate:
 - (a) the nature of the cultural property classified;
 - (b) the place where it is located;
 - (c) the surnames and first names of its owner;
 - (d) the date of classification.

Article 26 - Imprescriptibility

Classified cultural property is imprescriptible.

Article 27 - Inalienability of public cultural assets

Any classified cultural property belonging to the State, to public authorities or to public organizations is inalienable.

Article 28 - Conditions of alienability of private cultural property

Any person who alienates cultural property proposed for classification shall, on pain of nullity of the act of alienation:

- (a) inform the beneficiary of the status of the property before completion of the act of alienation;
- (b) advise the Authority within fifteen days of the act of alienation by informing it of the surname, first name and domicile of the person to whom ownership of the asset has been transferred, as well as the date of the alienation.

Article 29 - Alienation of materials or fragments

1. The alienation of materials or fragments illegally removed from cultural property that has been classified or proposed for classification, and likewise any act resulting in the transfer of possession or control of such materials or fragments to a third party, shall be null and void.
2. Any such third parties shall be jointly responsible with the owners for returning the materials or fragments conveyed to them to their place of origin and shall not be entitled to compensation from the State.

Article 30 - Authorization to carry out certain types of work

No cultural property that has been proposed for classification or classified may be moved, destroyed, modified, altered, or subjected to repair or restoration work without the authorization of the Authority, who shall lay down the conditions for such work and monitor its progress.

Article 31 - Obligation to submit plans and projects for approval

Any owner who requests authorization to alter, repair or restore cultural property that has been proposed for classification or classified must submit all the relevant plans, projects and documents.

Article 32 - Protection and expenses

1. The owner of a classified cultural property shall be responsible for ensuring its protection.

2. Any expenses resulting from the restoration, repair or maintenance of the property shall be borne by the owner. Such expenses may be reimbursed, wholly or in part, by the State.

Article 33 - Urgent restoration work

1. The State shall carry out, at its own expense, any urgent repairs or restoration work to classified cultural property.
2. The owner of the said property may not oppose the execution of such work.

Article 34 - Consequences of classification

1. The consequences of classification shall take full effect from the date of notification of the proposal for classification.
2. The consequences shall apply to the property through any change of ownership, possession or control.

Section 5 - Rights of pre-emption and expropriation

Article 35 - Right of pre-emption

1. The State may exercise right of pre-emption over the sale of any cultural property which has been registered, proposed for classification or classified.
2. Any person responsible for carrying out the sale of property covered in the preceding paragraph must inform the Authority thereof fifteen days in advance.

Article 36 - Exercise of the right of pre-emption

1. Within fifteen days of receiving the notification mentioned in Article 35, paragraph 2, the Authority shall inform the owner of its decision, either to purchase the property put forward for sale on the conditions and at the price set, or to relinquish acquisition.
2. The absence of a reply on expiration of the aforementioned fifteen-day period is deemed to imply that the use of the right of pre-emption has been relinquished.

Article 37 - Right of expropriation

The State may expropriate immovable cultural property that is registered, proposed for classification or classified, in the manner provided by the law on expropriation in the public interest.

Section 6 - Trade in cultural objects

Article 38 - Permit

Trade in cultural objects shall be approved, on the conditions stipulated in this resolution, by a permit granted by the Authority.

Article 39 - Content of the permit

The permit must include the surname, first name and domicile of the dealer and must state precisely where the dealer wishes to trade, together with reference to the consent of the Authority.

Article 40 - Obligations of the dealer

All authorized dealers shall be bound by the following obligations:

- (a) to display a notice at the entrance to their sales premises stating that they are authorized to sell cultural property;
- (b) not to place any cultural property intended for sale outside the premises in which they are authorized to conduct their activity;
- (c) to keep detailed records of the cultural property which they possess, and of day-to-day sales and purchases;
- (d) to make the records mentioned in (c) available for inspection by officials whenever requested to do so;
- (e) to display in a prominent position on the sales premises the provisions of this resolution concerning the export of cultural objects;
- (f) to show any cultural property in their possession to officials who wish to inspect them;
- (g) to provide officials with a photograph of any cultural object in their possession, or to allow them to photograph the cultural object if they so wish;

- (h) to assist inspectors and facilitate their work of inspection;
- (i) to inform the Authority of any removal of sales premises to another site.

Article 41 - Inspections

1. Inspectors may, whenever they deem appropriate, enter and inspect the sales premises, examine and itemize the cultural objects located there and consult the records.
2. They also have the right to inspect the home of the dealer if this is used for storage or as sales premises under the terms of the permit issued to the said dealer.

Article 42 - Withdrawal of permit

The Authority may withdraw the permit to deal in cultural property if it becomes apparent that the holder thereof is neglecting or violating any one of the holder's obligations, or if the holder has been sentenced by the relevant court for breach of the provisions of this resolution.

Article 43 - Consequences of withdrawal

1. Following withdrawal of the permit in accordance with the provisions of Article 42, the dealer must cease purchasing cultural assets.
2. The dealer shall be authorized to sell any cultural property still in the possession of the dealer for a further period not exceeding six months.

Section 7 - Chance discoveries

Article 44 - Obligation to stop work and make a declaration

When construction work or other activities bring to light cultural property such as monuments, ruins, remains of inhabited sites, ancient burial sites, engravings or any property likely to be of interest in the study of prehistory, history, archaeology, ethnology, palaeontology or other branches of science dealing with the past or with human sciences in general, the person finding the property and the owner of the site where it was discovered are obliged to stop the construction work and immediately make a declaration to the local police, who must notify the governor of the province without delay. The governor shall in turn inform the Authority and shall take the measures necessary to ensure the protection of the objects and the site.

Article 45 - Temporary suspension of work

1. The Authority must, within thirty days of the declaration mentioned in Article 44, announce the temporary suspension of the work and the safeguarding measures to be taken.
2. If no such measures are announced within that time-limit, the effects of temporary suspension shall no longer apply.
3. The Authority shall decide on the permanent measures to be taken concerning chance discoveries of immovables.

Article 46 - Ownership of finds

1. The State is owner of movables found by chance.
2. The Authority shall provide compensation to the finder which shall amount to not less than two thirds of the value of the object, fixed by agreement or by expert opinion.

Section 8 - Archaeological excavations

Article 47 - Authorization

No one may carry out excavations or surveys, on land or under water, for the purpose of bringing to light cultural property likely to be of relevance to the study of prehistory, history, archaeology, ethnology, palaeontology or other branches of science dealing with the past or human sciences in general, without the prior authorization of the Authority.

Article 48 - Beneficiaries of the authorization

1. Only scientific institutions whose expertise is recognized and which have the necessary experience and financial resources may be empowered to carry out excavations.
2. Foreign scientific institutions which have been granted an excavation permit must associate national scientific organizations in their work.

Article 49 - Obligations of the excavator

Any scientific institution which holds an excavation permit must:

- (a) record the cultural assets discovered in a special register to be handed to the Authority at the end of each phase of work;

- (b) protect the excavation site and the cultural objects found there, and take all necessary conservation measures;
- (c) inform the Authority regularly of the progress of the excavation work;
- (d) submit a summary report, accompanied by an album containing photographs of all cultural remains discovered, at the end of each phase of work;
- (e) submit a detailed scientific report on the findings of the excavations within a period not exceeding one year from the end of each field season;
- (f) allow inspectors to visit the excavations whenever they so wish and to consult the special register mentioned in paragraph (a);
- (g) grant interested researchers access to the excavations, on condition that they respect the scientific ownership rights of the excavator;
- (h) publish the scientific findings of the excavations within five years of completion of the work.

Article 50 - Rights of the excavator

Any scientific institution in possession of an authorization to carry out excavation shall be entitled to:

- (a) scientific ownership of its discoveries;
- (b) ownership of the cultural assets granted to it under the terms of Article 51, paragraph 2;
- (c) first publication of the scientific findings of the excavations, on condition that those findings are published within the time-limit specified in Article 49, paragraph (h).

Article 51 - Ownership of assets discovered during excavations

1. Cultural property discovered by scientific institutions shall be the property of the State.
2. The State may donate to those institutions any object of which duplicates have been found and any object that is not indispensable to the State owing to the fact that public collections already contain objects of the same type, style, material, method of production and scientific or artistic value.

Article 52 - Inspection and monitoring

1. The Authority shall be responsible for the inspection of excavations and the monitoring of sites.
2. The Authority shall take all necessary measures to protect sites under excavation and intended for conservation.

Article 53 - Excavations on private property

1. The Authority may authorize excavations on privately-owned land, after prior notification of the owner.
2. An inventory of the site approved by all parties must be made at the beginning of the excavator's occupation of the site.
3. The excavator may occupy the site for a renewable period of three years.

Article 54 - Return to the site and compensation

The owner of land dealt with in Article 53 shall be entitled to return to the site, and to compensation for deprivation of use of the land and for any damage caused.

Article 55 - Expropriation

In the event of discovery of cultural immovables whose protection is in the public interest on scientific, historical, artistic or religious grounds, the State may exercise its right of expropriation in accordance with the legislation on expropriation in the public interest.

Article 56 - Withdrawal of permit

1. If the holder of an excavation permit fails to respect any one of its obligations as set out in Article 49, the Authority may decide to withdraw the permit.
2. Excavations shall be suspended from the day that the holder is notified of the withdrawal of the permit.

Article 57 - Consequences of the withdrawal of permit

1. Once an excavation permit has been withdrawn, the holder may not claim any compensation for eviction from the site or for any expenses incurred.

2. The holder may, however, be reimbursed the cost of carrying out work or installing facilities which will facilitate continuation of the excavations, if the State decides to continue those excavations.

Section 9 - Export of cultural property

Article 58 - Licence

The export of any cultural object from Cambodia is prohibited, unless the Authority has granted a special export licence for the purpose.

Article 59 - Time-limit on decisions

The Authority must announce its decision within three months of the declaration made to the Customs authorities by the exporter.

Article 60 - Export duty

1. The export of cultural objects shall be subject to a duty.
2. The amount of that export duty shall be set by the Authority, and may not exceed twenty-five per cent of the declared value of the cultural object to be exported.
3. The export duty shall be paid into the special fund as described in Article 13.
4. The categories of cultural objects listed in Article 62 shall be exempt from any form of export tax.

Article 61 - Conditions

Before granting an export licence, the Authority must ascertain that:

- (a) the proposed export will not result in the impoverishment of the national cultural heritage;
- (b) public collections contain a cultural object similar to the one for which an export licence has been requested;
- (c) the cultural object to be exported is not invaluable to a particular branch of study of the past or to the human sciences in general.

Article 62 - Exceptions

1. The Authority is required to grant a licence for the exportation of cultural objects in the following cases:
 - (a) objects donated to a foreign scientific institution which holds an excavation permit in accordance with Article 51, paragraph 2;
 - (b) objects sent abroad temporarily for exhibition or for other scientific purposes;
 - (c) objects exchanged for other objects obtained from museums or similar foreign institutions;
 - (d) objects legally imported into Cambodia.
2. However, in a case provided for in paragraph 1 (b) of this article, the Authority must, when granting the export licence, specify in writing the conditions in which the return of the cultural objects is to be effected as well as all the guarantees, in particular the deposit of a bond or taking out of insurance, which it considers desirable for the preservation of the objects.

Article 63 - Seizure and confiscation

Any attempt to export cultural assets without a licence shall entail the seizure and confiscation of those objects for the public collections.

Article 64 - Claims to cultural assets

The Authority may claim, on behalf of the public collections and against the payment of a fair price decided by mutual agreement or fixed by an expert, any cultural object for which an export licence has been denied, provided that there are strong indications that the cultural asset may be the subject of a fraudulent export attempt.

Section 10 - Import of cultural property

Article 65 - Principle

The import of cultural objects exported in contravention of the national legislation of their country of origin is forbidden.

Article 66 - Seizure and restitution

Cultural objects imported illegally shall be seized, placed under State protection and, on condition of reciprocity, returned to their country of origin in accordance with international standards and agreements.

Article 67 - Costs of return

Costs incurred by returning such objects are payable by the State requesting their return.

Article 68 - Import declarations

1. Legally imported cultural objects must be declared to the Customs authorities.
2. The receipt issued to the holder by the Customs authorities constitutes proof of declaration and must be produced if the object is re-exported.

Section 11 - Legal protection and penal clauses

Article 69 - Means of redress

1. Decisions made under the terms of this resolution may be contested by recourse to the relevant legal authority.
2. The court of first instance within whose jurisdiction the immovable is located or the movable is being held is the competent court.
3. The general provisions of civil and administrative law shall apply.

Article 70 - Offences and penalties

1. A sentence of imprisonment of a minimum of six months and a maximum of five years and a fine of a minimum of 25,000 riels and not more than two thirds of the value of the cultural object in question, or only one of these, shall be imposed on anyone who, through negligence:
 - (a) alienates, moves, destroys, modifies, alters, repairs or restores a registered cultural object without respecting the obligation to inform the authorities in accordance with Article 16, paragraph 1;
 - (b) alienates cultural property proposed for classification or classified without respecting the obligations entailed by Article 28 and Article 35, paragraph 2;

- (c) moves, destroys, deteriorates, alters, repairs or restores, without authorization, cultural property proposed for classification or classified (Article 30, paragraph 1);
 - (d) fails to ensure the protection of classified cultural property of which he or she is the owner (Article 32, paragraph 1);
 - (e) carries out or attempts to carry out, without authorization, work subject to the regulations on authorization under the terms of Articles 38 and 47;
 - (f) fails to fulfil the obligations entailed by Articles 40 and 49;
 - (g) fails to declare cultural property discovered during construction or other work and fails to stop that work (Article 44);
 - (h) exports or attempts to export a cultural object without authorization (Article 58);
 - (i) fails to comply with the conditions implied by the Authority as provided in Article 62 (2) in a case of temporary export;
 - (j) illegally imports a cultural object (Article 65);
 - (k) fails to declare to the Customs authorities the legal importation of a cultural object (Article 68, paragraph 1).
2. The penalty shall be imprisonment for a minimum of two and a maximum of eight years and a fine of a minimum of 50,000 riels and not more than two thirds of the value of the object in question, or only one of these, if the offender was acting with intent.
 3. In the case of a second or later offence, the penalty shall be twice the penalty provided for in paragraphs 1 or 2 of this article.

Article 71 - Reservations

The civil and administrative sanctions provided for in Articles 28, 29, 42, 56, 63, 66 and more severe penalties provided for by the Penal Code may also be applied.

Article 72 - Evidence of offences

Offences shall be evidenced by reports made by investigators of the Prosecutor's Office and by any qualified public officials, including Customs officials and curators or other staff of museums open to the public who have been appointed and officially designated for that purpose.

Chapter 3 - Final provisions

Article 73 - Repeal of existing laws

Any law, provision, written or unwritten regulation contrary to the letter or the spirit of this resolution is hereby repealed.

Article 74 - Publication and recording

This resolution shall be recorded and published in accordance with existing procedure and made known to all whom it may concern.

Article 75 - Date of application

This recommendation shall enter into force on the day of its approval by the SNC.

Draft resolution on the protection of cultural heritage

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