

PRESIDENCY OF THE REPUBLIC

**GENERAL SECRETARIAT
OF THE GOVERNMENT**

**REPUBLIC OF MALI
ONE PEOPLE – ONE GOAL – ONE FAITH**

Law No. 85- 40 /AN- RM of 26 July 1985 relating to the protection of the national cultural heritage

The National Assembly deliberated and adopted at its sitting of 14 May 1985,

The President of the Republic hereby enacts the law as follows:

PART I: GENERAL PROVISIONS

SECTION 1: The cultural heritage shall be protected and safeguarded by the State.

SECTION 2: Under this law, cultural heritage shall refer to all the movable and immovable cultural properties which, for religious or secular reasons, are important for history, art, thought, science and technology.

ARTICLE 3: Movable property shall refer to property which can be displaced without damage for itself and for its environment.

Immovable property shall refer to property which by its nature or purpose, cannot be displaced without damage for itself or for its environment.

These categories include sites, monuments, archeological properties, historical properties, ethnographic properties, architectural units, works of art, rare zoological, botanic, and mineralogical collections and specimens and objects of paleontological importance.

ARTICLE 4: The State shall have preemptive right over all property likely to enrich the cultural heritage of the Nation.

PART II: PROTECTION

SECTION 5: Protection shall consist in all measures aimed at protecting the cultural properties as defined in Section 2 of this law against destruction and illicit, transformation, excavation, alienation, exploitation and export.

SECTION 6: To that end, the various components of the cultural heritage shall be recorded in the inventory and classified.

SECTION I: RECORDING IN THE INVENTORY

SECTION 7: Recording in the inventory shall consist in registering the movable or immovable properties belonging to the State, Local Authorities, associations or natural persons or legal entities which, without requiring immediate classification, are sufficiently important and need to be protected, from the point of view of history, art, thought, science or technology.

SECTION 8: Recording in the inventory shall be pronounced by decision of the competent authority who shall notify the owner, holder or occupant of the property.

SECTION 9: Recording in the inventory shall oblige the owner, holder or occupant of the property to inform the competent authority one month before taking any action that would affect the life of the property: destruction, transformation, repairs, or restoration. The competent authority shall not object to the said action, and shall initiate the classification procedure.

In the event of alienation or transfer, the owner or holder shall be bound to inform the competent authority within thirty days following the act.

SECTION II: CLASSIFICATION

SECTION 10: Classification means the action by which the State, through recording of cultural properties in a register opened for that purpose, shall impose on the owner, holder or occupant of the said properties some constraints on its use or disposal.

ARTICLE 11: The classification proposal shall be made by the competent authority who shall notify the owner, holder or occupant.

However, where the cultural property belongs to the State or local authorities, the classification may be made without a classification proposal.

SECTION 12: It shall be prohibited to export a property proposed for classification. The displacement, transfer of ownership of properties

proposed and all works other than routine maintenance or exploitation shall be subject to three months' prior notice.

SECTION 13: The classification proposal shall enable the competent authority, during the proposal, to object to the displacement, transfer of place or ownership of properties proposed for classification or all works other than routine maintenance or exploitation.

SECTION 14: The classification proposal shall become null and void if it is not followed, within six months after notification, by a classification decision.

The classification proposal period may be extended, if necessary; however, the total duration shall not exceed 18 months.

SECTION 15: The classification shall be pronounced by Decree issued in a Cabinet Meeting on the proposal of the Minister in charge of Culture following a favourable opinion by a commission set up for that purpose. The owner, holder or occupant shall, at his request, be heard by the Commission. The classification shall be notified to the owner, holder or occupant by the competent authority.

SECTION 16: Any objection to the classification of a property shall be subject to appeal before the competent judicial authority.

SECTION III: EFFECTS OF CLASSIFICATION

SECTION 17: A classified property may not be destroyed or restored or modified without the consent of the competent authority who shall supervise the execution of the said works.

SECTION 18: Classified properties belonging to the State and local authorities shall be inalienable.

However their use may be transferred to a public or public utility institution.

SECTION 19: Whoever alienates a classified property against payment or otherwise shall, under pain of the alienation being declared null and void, be bound to:

- a) inform the beneficiary of the status of the property well before accomplishment of the act;
- b) inform the competent authority within fifteen days following the act of alienation of the said property.

The competent authority shall have the right to monitor any classified property that is illegally alienated.

SECTION 20: The alienation of materials or fragments illegally detached from a classified cultural property, as well as any act to transfer to a third party the possession or detention of such materials or fragments, shall be absolutely null and void.

Third parties jointly responsible with the owners for reinstating the said materials and fragments delivered to them may not claim any compensation from the State.

SECTION 21: No classified property or property proposed for classification may be included in an investigation for expropriation for reason of public utility or in a land development area, unless it is first downgraded or if the classification proposal is postponed because of highly justified priority given to the envisaged land development operation over cultural considerations.

SECTION 22: Even in the case of highly justified priority referred to in Section 21, the authorities in charge of the land operation shall, before any action, conduct archeological and historical studies on their project area.

SECTION 23: No construction may be erected on a classified land or land next to a classified building, and no conventional right of way may be created from a classified building without the authorization of the competent authority.

Legal rights of way that can degrade buildings shall not be provided for classified buildings or buildings proposed for classification.

SECTION 24: It is prohibited to expropriate any classified property. However, in certain circumstances, the State may grant a special authorization for temporary expropriation.

SECTION 25: Classification shall entail for the owner, holder and occupant of the classified property the obligation to protect and ensure its conservation.

Furthermore, classification shall entail, for the local authorities and the State, the obligation to participate in the restoration, repair or maintenance of the property.

The State may, for reason of public utility, temporarily or definitively expropriate any classified property to ensure its protection in case the owner is unable to undertake the routine maintenance.

SECTION 26: The State may, in accordance with the legal procedures on expropriation for public utility, expropriate the owners of their classified properties or properties proposed for classification, as well as owners of properties that need to be purchased to isolate, clear or clean up the classified properties. The declaration of public utility of a property shall automatically lead to its classification.

SECTION 27: Any classified land included in a town planning plan shall be a non *aedificandi* area.

It is prohibited to put up posters or install advertising mechanisms on classified monuments and in a nearby area, as determined by regulations in each case.

SECTION 28: The operation and reproduction of a classified property for profit shall be subject to authorization by the competent authority.

SECTION 29: The classification of a property may lead to payment of compensation for the loss due to such action.

The claim must be submitted within six months following notification of the classification decree to the owner, holder or occupant of the said property.

ARTICLE 30: The effects of the classification shall follow the property irrespective of the holder.

SECTION IV: DOWNGRADING

ARTICLE 31: Downgrading shall consist in reducing the effects of the classification of property previously classified.

SECTION 32: Downgrading shall be pronounced by decree issued in a Cabinet Meeting.

PART III: PROTECTION AND PROMOTION OF THE NATIONAL HERITAGE

SECTION I: PROTECTION

SECTION 33: Archeological excavation and prospecting shall be subject to authorization by the competent authority.

SECTION 34: In view of the specific nature of some major works and the construction of large dams and highways, the archeological aspects shall be included in the cost of feasibility studies on the said structures.

SECTION 35: The marketing and export of unclassified properties shall be subject to authorization by the competent authority.

SECTION II: PROMOTION

SECTION 36: The State shall recognize:

- every citizen's right of access to values of cultural heritage,
- the right of craftsmen, artists and other creative professionals to assistance and encouragement.

SECTION 37: The State shall guarantee and ensure the exercise of these rights through:

1. the establishment and encouragement of all types of museums and collections;
2. the recording of images and sounds of the cultural traditions of the nation;
3. the organization of written, visual and sound archives;
4. information and education in all forms, particularly introduction of values of cultural heritage to public and private institutions at all levels;
5. the maintenance, conservation and enrichment of the cultural heritage;
6. support and encouragement for crafts people, artist, authors and other creative professionals;
7. measures to promote the priority integration of all types of national or African works, individual or collective, into national life.

PART IV: SANCTIONS

SECTION 38: Any violation of the provisions of Sections 9 and 12 of this law shall be punished with a fine of CFAF 25,000 without prejudice to claims for damages which could be made by the competent authority.

SECTION 39: Whoever violates the provisions of Sections 17, 18, 19, 20, 24, and 27 of this law shall be punished with imprisonment of at least three months and a fine of CFAF 25,000 to CFAF 2,000,000 without prejudice to claims for damages.

SECTION 40: Any violation of Section 28 shall be liable to a fine of CFAF 25,000 to CFAF 150,000 without prejudice to all claims for damages.

SECTION 41: Any act of theft, pillage of cultural property or degradation and destruction on a cultural heritage shall be liable to imprisonment of three months to two years and a fine of CFAF 250,000 to CFAF 1,000,000 or one the two penalties only.

SECTION 42: Whoever violates the provisions of Section 35 shall be punished with a fine of CFAF 25,000 to CFAF 250,000 without prejudice to confiscation of the property.

PART V: FINAL PROVISIONS

SECTION 43: All previous provisions are hereby repealed, in particular Law No. 56-1106 of 3

November 1956 relating to the protection of natural monuments, sites, as well as historical, scientific, artistic or picturesque monuments, the classification of historical and scientific objects or under the authority of the Ministry of Overseas France, and Ordinance No. 52/CMLN of 3 October 1969 to regulate the prospecting and export of objects of art.

**KOULOUBA, 26 JULY 1985
PRESIDENT OF THE REPUBLIC
GENERAL MOUSSA TRAORE**