

REGULATIONS REGARDING THE CULTURAL HERITAGE PROTECTION IN COLOMBIA

1991 POLITICAL CONSTITUTION

- **Article 8:** It is the State and people's duty to protect the Nation's cultural and natural resources.
- **Article 63:** The Nation's assets of public use, natural parks, ethnic groups' community land, reservation land, the Nation's archeological heritage and any other assets stipulated by the Law are free of liens, inalienable and do not expire.
- **Article 72:** The Nation's Cultural Heritage is under the State's protection. Archeological Heritage and other Cultural assets comprising the National Identity belong to the Nation and are free of liens, inalienable and do not expire. The Law shall establish mechanisms to acquire them when they belong to particular individuals and shall regulate special rights ethnic groups may have represented by archeologically rich territories.
- **Article 82:** It is the State's duty to oversee the protection and the integrity of public space and for its public use destination, which shall prevail over individual interests.
- **Article 95:** Being Colombian exhorts all members of the national community. Everyone has the duty of honoring and dignifying it. Exercising the rights and freedoms recognized in this Constitution implies responsibilities.

(...) The following are duties of a person and a citizen: Numeral 8: To protect the country's cultural and natural resources and to oversee the preservation of a healthy environment.

- **Article 101:** Subsoil, regional sea, its contiguous area, continental platform, exclusive economic area, air space, geostationary orbit segment, electromagnetic spectrum and the space it acts over are also part of Colombia, according to International Law and Colombian Law, in the absence of international regulations.
- **Article 102:** Territory's Ownership. The territory, with all public assets comprising it belongs to the Nation.
- **Article 313:** It is the Councils' duty: Numeral 9. Promulgate the regulations necessary for the control, preservation and defense of the municipality's ecological and cultural heritage.

- **Article 332:** The State owns the sub-soil and non renewable natural resources, without prejudice of any rights acquired and perfected according to pre-existing laws.

- **Article 333:** Economic activities and private initiative are free, within the limits of public interest. For their exercise, nobody may demand previous permits or requirements, without authorization by the law.

- Law shall limit the extent of economic freedom when social interest, the environment and the Nation's Cultural Heritage so demand it.

LAWS

- **Law 47 of 1920.** It stipulated provisions on Libraries, Museums, Files and public interest objects. It prohibits the exportation of assets protected by these institutions.

- **Law 103 of 1931.** In order to stop looting, it declares as public interest assets, the archeological object of San Agustín, Pitalito, Alto Magdalena, and anywhere else in the Nation.

- **Law 36 of 1936.** It approves the Treaty for the Protection of Artistic and Scientific Institutions and Historic Monuments (Roerich Pact). It was in force for Colombia in 1937.

- **Law 163 of 1959:** By way of which measures on the defense and preservation of the historic and artistic heritage as well as of the Nation's public monuments are decreed.

- **Law 45 of 1983.** Approval of the Convention for the protection of Cultural and Natural Heritage. In full force as of August 1983.

- **Law 63 of 1986.** By way of which Colombia adheres the "Convention regarding measures to be adopted to prohibit and stop importation, exportation and transference of illegal cultural assets property".

- **Law 80 of 1989.** By way of which the Nation's General Archives is created and its functions are established: safeguarding, organizing, dissemination and preserving the country's documentary heritage, as well as determining policies and issuing regulations to organize preservation and appropriate use of the documentary heritage.

- **Law 16 of 1992.** Approval of the Treaty between the Republic of Colombia and the Republic of Perú, for the protection, preservation and recovery of archeological, historic and cultural assets.

- **Law 340 of 1996.** Approval of the Convention for the protection of cultural assets in case of armed conflict. Known as the Hague Convention of 1954. In full force in Colombia since 1998.
 - **Law 388 of 1997.** Regional Organization Law. It modifies Law 9 of 1989, and Law 3 of 1991 and other provisions are decreed. Articles 1 to 11, 14 to 16, 20, 48, 49 and 58.
 - **Law 397 of 1997.** General Culture Law. It stipulates regulations on the Colombian Cultural Heritage.
 - **Law 587 of 2000.** Approval of the Agreement between the Republic of Colombia and the Republic of Ecuador for the recovery and devolution of stolen cultural assets.
 - **Law 594 of 2000.** By way of which the General Archives Law and other provisions are decreed.
 - **Law 599 of 2000.** Approval of the Criminal Code. Applicable articles: 154, 156, 203, 239, 241, 265, 266.
 - **Law 1018 of 2006.** Approval of the agreement between the Government of the Republic of Colombia and the Government of the Republic of Bolivia for the recovery of cultural and other specific stolen, illegally imported or exported assets, signed in La Paz, on the 20th August 2001.
 - **Law 1130 of 2007.** Approval of the Second Protocol of the Hague Convention of 1954 for the protection of cultural assets in case of armed conflict, signed in the Hague on the 26th March 1.999.
 - **Law 1037 of 2007.** It approves the Convention for the safeguard of immaterial cultural heritage.
- Law 1185 of 2008.** By way of which Law 397 of 1997 is modified and added and other provisions are decreed.

DECREES

- **Decree 264 of 1963:** By way of which Law 163 of 1959 on the defense and preservation of historic and artistic heritage and the Nation's public monuments is regulated.

- **Executive Order 1355 of 1970.** Applicable provisions of the National Police Code, articles 123 and 124.

- **Decree 289 of 1975.** By way of which the collection of documentary findings comprising or incorporated into the National Archive are declared a national monument.

- **Decree 833 of 2002.** By way of which Law 397 of 1997 regarding the national archeological heritage is partially regulated, and other provisions are decreed.

- **Decree 2268 of 2002.** By way of which the composition of the Shipwrecked Antiques Commission is modified.

- **Decree 2406 of 2005.** By way of which the National Inter-Sector Commission of World Heritage is created. It comprises the different institutions involved in the management, care and protection of the Nation's cultural and natural heritage, and which assesses and bethinks on proposals for new registration of assets in the World Heritage List.

- **Decree 564 of 2006.** By way of which provisions regarding urban licenses, recognition of buildings, public function carried out by urban curators, legalization of human settlements constituted by social interest houses are regulated and other provisions are issued. Articles 7, 8, 9 and 57.

- **Decree 48 of 2007.** Assigns the Cultural Heritage District Institute the power to approve new interventions over cultural interest assets within the District level for Bogotá D.C.

NATIONAL AGREEMENTS

- **Agreement 07 of 1994.** By way of which the General Archive Guidelines are adopted and issued, the mandatory character of requesting authorization to the Nation's National Archive for the temporary export of documents outside the national territory for legal purposes, exhibition or special technical processes is established.

- **Agreement 79 of 2003.** By way of which the Bogotá Police Code is issued. Articles pertaining the protection of cultural heritage: Title VI. Articles 66 and 68.

RESOLUTIONS

- **Resolution 0963 of 2001.** By way of which part of the film archive guarded by the Colombian Filmic Heritage Foundation are declared National Cultural Interest Assets.
- **Resolution 2094 of 2004.** Regulates some institutional competences regarding the protection of archeological heritage and makes some delegations.
- **Resolution 0263 of 2004.** By way of which the Immaterial Heritage Committee is created, its composition, functions and session's regime are regulated.
- **Resolution 0168 of 2005.** By way of which criteria, competences, requirements and procedures to evaluate and to declare an immaterial asset as a National Cultural Interest Asset are established and other provisions are decreed.
- **Resolution 0746 of 2005.** By way of which the Special Protection Plan for the Barranquilla Historic Center is established.
- **Resolution 1800 of 2005.** By way of which the Santa Marta Historic Center Special Protection Plan is established.
- **Resolution 0395 of 2006.** By way of which some categories of properties located in the national territory, from the colonial age to 1920 are declared as National Cultural Interest Assets.
- **Resolution 2018 of 2006.** By way of which requirements and procedures for the temporary exportation of cultural interest movable assets, export of cultural heritage movable assets are established and other provisions are decreed.

REGIONAL AGREEMENTS

- **Decision 588 of 2004 of the Andean Community.** About the protection and recovery of cultural assets from the archeological, historic, ethnologic, paleontological and artistic heritage of the Andean Community.

CUSTOMS REGULATIONS REGARDING MOVABLE CULTURAL HERITAGE

- **Decree 2685 of 1999.** It approves the new Customs Legislation. It allows temporary exportation of merchandise for their re-importation in the same conditions. Sets forth that for assets comprising the Nation's cultural heritage, temporary

exportation, according to provisions of Law 397 of 1997, may be authorized in the cases considered by the aforementioned law, for a term not longer than three years, previous the subscription of a bank guarantee or a guarantee issued by an insurance company, assuring the re-importation, in the same conditions, of the assets refers to in this paragraph, in the terms set forth by the National Taxes and Customs Directorate (Article 297).

- **Resolution 4240 of 2000.** Regulates Decree 2688/ 99. It sets forth the requirement of a Guarantee for the 100% of the value of exported assets, when they are national and cultural heritage. (Article 511)

- **Decree 1047 of 2000.** By way of which customs duties are modified. It establishes that importing articles considered by this decree shall be made with a license provided in article 35, Decree 1909 of 1992 and in its modifying, adding or substituting regulations. (Article 2)

- **Decree 1058 of 2000.** Partially regulates Law 397 of 1997 and decrees regulations on national cinematography. It sets forth that cinematographic works or sets of audiovisual works shall be considered cultural interest assets in any case stated by the Ministry of Culture, considering their capability and testimonial condition of the national cultural identity in the present and in the future.

- **Decree 1719 of 2002.** By way of which the Sub-tariff line 98.06.00.00.0 is created. It allows importing works of art on the sub-tariff lines 97.01, 97.02 and 97.03 made directly by the author, to enter with 0% tariff; to promote the cultural exchange and to have mechanisms to facilitate artists bringing works of art into the country with different purposes, all of them aimed at fostering and strengthening cultural activities.

OTHER COOPERATION INSTRUMENTS IN CULTURAL HERITAGE PROTECTION.

- **Inter-Administrative Cooperation Agreement N° 1881-01 of 2005 for the fulfillment of administrative functions to counteract the Illegal Traffic of Cultural Assets.** Celebrated between the Ministry of Culture, the Ministry of Foreign Affairs, the Nation's General Archive, the National Anthropology and History Institute, the National Taxes and Customs Directorate, the National Police, The Security Administrative Province DAS/ INTERPOL, the National Attorney's Office, the Nation's General Attorney's Office, Civil Aeronautics, National Learning Service, Externado de Colombia University and the International Council of Museums ICOM. Signed in Bogotá D.C., on the 25th July, 2005, for a 5 years term.

- **Memorandum of Understanding between the Government of the United States of America and the Government of the regarding the imposition of importation restrictions on archeological material from the pre-Columbian cultures and certain ecclesiastic ethnic material from the Colombian Colonial period.** Signed in Bogotá D.C., on the 15th March, 2006.

- **Agreement between the Republic of Colombia and the Republic of Panamá for the prevention and control of the illegal trafficking of cultural assets, in compliance with the 1970 UNESCO Convention.** Signed on the 13th April, 2007.
- **Cooperation Agreement between the Republic of Colombia and the Republic of Paraguay for the recovery of illegally subtracted, imported or exported cultural assets.** Signed on the 29th September, 2008.

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