

## OFFICIAL TRANSLATION

### ANNEX - EXECUTIVE ORDER

N° 011-2006-ED

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## EDUCATION

### REGULATIONS OF THE GENERAL LAW OF CULTURAL HERITAGE OF THE NATION

(The referenced Executive Order was published on the June 1, 2006 edition)

#### ANNEX – EXECUTIVE ORDER No. 011-2006-ED

#### CHAPTER I GENERAL PROVISIONS

##### **Article 1º.- Purpose**

The purpose of these regulations is to establish standards for the identification, registration, inventory, declaration, defense, protection, promotion, restoration, research, conservation, valuation, dissemination and restitution, as well as the ownership and legal framework of the property belonging to the nation's cultural heritage, in accordance with the standards and principles established in Law No. 28296, General Law of the Cultural Heritage of the Nation.

##### **Article 2º.- Scope of application**

The provisions included in these Regulations are compulsory for individuals and corporations, the latter governed by public or private law.

##### **Article 3º.- References**

The following terms are established for the purposes of these regulations:

1. Law: General Law of the Cultural Heritage of the Nation– Law No. 28296.
2. Regulations: Regulations of the Law No. 28296
3. Cultural Property: Asset belonging to the Cultural Heritage of the Nation.
4. Competent Authorities: National Institute of Culture (INC), National Library of Peru (BNP), General Archives of the Nation (AGN), as appropriate.

##### **Article 4º. - Protection of cultural property**

The identification, registration, inventory, declaration, protection, restoration, research, conservation, valuation, dissemination of the cultural property and their restitution, as applicable, is a matter of social interest and public necessity which involves all citizens, authorities, and public and private entities.

##### **Article 5º.- Governing Entities**

The INC, BNP and AGN constitute the governing entities regarding the management of the property belonging to the Cultural Heritage of the Nation, and are consequently responsible for the following within the framework of their duties:

1. Defining the national policies regarding the management of the Cultural Heritage.
2. Dictating the norms required for the sustainable use and management of the national heritage and, consequently, for the registration, inventory, declaration, protection, restoration, research, conservation, dissemination, valuation, promotion and restitution, whenever required, within the framework of the Law and this regulation, and approving the administrative norms required for their execution.
3. Promoting the training and research related to the Cultural Heritage and its management.

4. Preparing and updating the inventory of cultural property.
5. Keeping the Registry of property part of the Cultural Heritage of the Nation.
6. Enforcing the fulfillment of the rules regarding cultural property.
7. Controlling, supervising and monitoring all activities regarding cultural property.
8. Dictating the appropriate administrative sanctions in case of infractions.
9. Promoting inter-organizational coordination between the public institutions of the National Government, Regional Governments and Local Governments and private institutions which act, intervene or participate, directly or indirectly, in the management of the Cultural Heritage.
10. Direct the management of the cultural property directly or through third parties, within the scope of the law.
11. Approving the management plans for cultural property, whenever required.
12. Proposing to the corresponding authority the processing to submit to UNESCO the declaration and registration or recognition of the cultural property as part of the world heritage.
13. Ensuring that the population is aware of the importance, value, respect and meaning of the Cultural Heritage of the Nation as a basis and expression of our national identity.

#### **Article 6º.- Cultural Management**

The State recognizes and promotes private participation in the management of the Cultural Heritage within the scope of the law. The Competent Authorities further the creation of Management or Supervising Committees or Associations of the Cultural Heritage by specialty and/or geographic location, which execute one or many of the following activities: registration, declaration, protection, identification, inventory, research, conservation, dissemination, valuation, promotion and restitution, whenever required, and compliance with the applicable regulations. Said organizations shall procure the participation of, within their own government bodies, representatives from regional governments, local governments, researchers, public or private universities, non-governmental organizations, entrepreneurial organizations and rural or native communities.

The Competent Authorities may enter into cooperation agreements with said Management or Supervising Committees or Associations for the control, supervision and monitoring of the activities executed regarding cultural property.

#### **Article 7º.- Measures for the protection of cultural property in case of armed conflict**

In the event of an internal or international armed conflict the provisions established by the Convention for the Protection of Cultural Property in the Event of Armed Conflict at The Hague in 1954 shall be applied, as well as the additional protocols ratified by the Peruvian Government.

## **CHAPTER II DECLARATION OF CULTURAL PROPERTY**

#### **Article 8º.- Competence**

The competent authorities are responsible for the execution of the procedures necessary to declare as cultural property those assets which are within their scope in accordance with the provisions of the law. The proceedings may be initiated ex-officio or upon request, applying the provisions which regulate general administrative proceedings.

### **Article 9<sup>o</sup>.- Registration in the National Registry of Property Part of the Cultural Heritage of the Nation**

Notwithstanding the provisions in Article 17<sup>th</sup> of the Law, assets declared as cultural property shall be registered ex-officio in the corresponding National Registry of Property Part of the Cultural Heritage of the Nation.

### **Article 10<sup>o</sup>.- Removal from the status of cultural property**

A proceeding shall be executed and the provisions of the general administrative procedure shall be applied in order to remove immovable or movable property from its status of cultural property.

### **Article 11<sup>o</sup>.- Declaration which renders the presumption null and void**

The legal presumption of a cultural property may be rendered null and void ex-officio or upon request through express declaration from a competent authority having previously presented the supporting technical report.

## **CHAPTER 3 TRANSFER OF CULTURAL PROPERTY**

### **Article 12<sup>o</sup>.- Gratuitous transfer**

The owner that intends to transfer for free the ownership of a cultural property must previously inform the competent authority under penalty of annulment.

### **Article 13<sup>o</sup>.- Transfer for valuable consideration**

The private or public owner who intends to transfer the ownership of a cultural property for valuable consideration must notify the competent authority, stating the price and conditions of said transfer. Said declaration shall constitute an irrevocable sales offer. The competent authority shall have 30 working days as from the date of submission of the aforementioned declaration to accept the sales offer. After said term has expired the authority shall lose its pre-emptive right and the owner may freely transfer the cultural property.

### **Article 14<sup>o</sup>.- Public auction of cultural property**

The auctioneers shall inform the competent authorities of the auctions that involve cultural property 20 working days before the auction is held. Said notification shall include the conditions of the auction and the information of the cultural property to be auctioned.

In these cases, a duly identified representative from the competent authority may attend the public auctions and, when the price of adjudication of the auctioned good has been established, may invoke the right of preferential acquisition and the cultural property shall be adjudicated to the represented authority.

If the corresponding notice of the auction has been duly sent and the representatives fail to attend, the right of preferential acquisition shall be considered waived.

### **Article 15<sup>o</sup>.- Sale of cultural property**

The provisions of the preceding article shall apply, whenever possible, for the sale of cultural property.

### **Article 16<sup>o</sup>.- Invalidity of transfer**

The public prosecutor's office shall file the appropriate legal action in the event of a transfer of cultural property which is executed against the provisions of the Law and these Regulations.

## **CHAPTER 4 NATIONAL REGISTRY OF PROPERTY PART OF THE CULTURAL HERITAGE OF THE NATION**

### **Article 17<sup>o</sup>.- Purpose**

The purpose of the National Registry of Property Part of the Cultural Heritage of the Nation is to identify each asset, public or private, that form part of our cultural legacy and keep control of the activities that influence their location, intervention, transportation, transfer, export, state of conservation, amongst others.

The competent authorities shall regulate the proceedings for the registration of the property under their jurisdiction in the appropriate registry.

### **Article 18<sup>th</sup>.- Structure of the National Registry of Property Part of the Cultural Heritage of the Nation**

The National Registry of Property Part of the Cultural Heritage of the Nation is composed of:

1. National Registry of Real Property Part of the Cultural Heritage of the Nation, where all cultural real estate, private or State-owned property is registered. The INC is responsible for this registry.
2. National Registry of Movable Property Part of the Cultural Heritage of the Nation, where all movable cultural property not considering those that are bibliographical, documentary or archival, State-owned or private property. The INC is responsible for this registry.
3. The National Registry of Bibliographical Material, where the Bibliographical Cultural Heritage is registered. The BNP is responsible for this registry.
4. The National Registry of Documentary Collections and Public or Private Historical Archives, where all non-bibliographical archives and documents are registered. The AGN is responsible for this registry.
5. The National Registry of Public and Private Museums, where all public or private museums that display cultural property are registered. The INC is responsible for this registry.
6. The National Registry of Folklore and Popular Culture, where all tangible and intangible property related to folklore and popular culture of the Cultural Heritage of the Nation is registered. The INC is responsible for this registry.
7. The National Registry of Natural and Legal Entities engaged in the Trade of Property from the Cultural Heritage of the Nation. The INC is responsible for this registry.
8. Others which are considered necessary by the competent authorities.

### **Article 19<sup>o</sup>.- Information centralization**

The INC is responsible for centralizing the information produced by the registries which are part of the National Registry of Property of the Cultural Heritage of the Nation into data files, notwithstanding the responsibilities of the BNP and the AGN.

### **Article 20<sup>o</sup>.- Signing of agreements**

The competent authorities shall encourage the signing of agreements between the owners or possessors of the cultural property in order to further their registration.

### **Article 21<sup>o</sup>.- Information requirements**

Notwithstanding the dissemination and promotion of the Cultural Heritage, the competent authorities shall provide the information included in the National Registry of Property Part of the Cultural Heritage of the Nation to SUNAT-ADUANAS, SUNARP and other government agencies that require it.

#### **Article 22º.- Registration of immovable cultural property**

The registration into the National Registry of Immovable Property part of the Cultural Heritage of the Nation shall be generated from the resolution of the declaration, part of which is the technical specifications of the immovable cultural property in question. Once the property has been entered into the corresponding registry, the INC shall submit a registration certificate to the owner.

#### **Article 23º.- Registration of movable cultural property**

The registration into the National Registry of Movable Property part of the Cultural Heritage of the Nation shall be executed in accordance with the resolution of declaration, of which the movable cultural property in question is part.

#### **Article 24º.- Registration of restored or seized cultural property**

In cases when movable cultural property have been returned or seized, or donations in favor of competent authorities have been made, these shall be registered ex-officio in the corresponding registry.

### **CHAPTER 5 IMMOVABLE CULTURAL PROPERTY**

#### **SUBCHAPTER 1 GENERAL PROVISIONS**

#### **Article 25º.- Classification**

Immovable cultural property is classified in accordance to their period of construction as: pre-Hispanic, viceregal and republican.

#### **Article 26º.- Competent Authority**

The INC is the competent authority responsible for controlling and supervising the use, handling and intervention of the immovable cultural property.

#### **Article 27º.- Scope of protection of immovable cultural property**

The protection of the immovable property which is part of the Cultural Heritage of the Nation includes the soil and subsoil where the property is located, the area and surroundings in the limits technically required for each case, as determined by the INC:

#### **Article 28º.- Interventions on immovable cultural property**

The authorization to intervene in immovable cultural property shall be set by the general provisions established by the Law, these Regulations and other provisions issued on the matter.

#### **Article 29º.- Favorable opinion of the INC**

The ordinances, resolutions, agreements and regulations issued by the municipalities regarding immovable cultural property require the prior favorable opinion of the INC, without which they shall be void by operation of law.

Urban developments and changes of use of areas where the immovable cultural property is located must have INC's prior approval without which they shall be rendered null and void by operation of law.

#### **Article 30º.- Eviction for restoration of immovable cultural property**

For the purposes of Article 12.2 of the Law, the owner may demand the eviction of the premises, prior approval by the INC of the intervention project. The restoration works shall start in a period of three months as from the startup date. Non compliance with

this obligation or the stoppage of the works for more than 2 months shall make the owner liable to a 10 TU fine, notwithstanding the obligations of restoring the property.

**Article 31º.- Eventual discovery of pre-Hispanic immovable cultural property**

INC must be immediately informed of the discovery of pre-Hispanic immovable cultural property and, if required, works must immediately be stopped.

INC shall take the measures required for the protection of said property.

**SUBCHAPTER 2**

**VICEREGAL AND REPUBLICAN CULTURAL PROPERTY**

**Article 32º.- Independence and Subdivision of Monuments**

The independence of a monument is only possible with INC's prior authorization, as long as the real estate has been developed in various organic and self-sufficient sections, in such a way that the independence does not affect it and its original characteristics are maintained. The subdivision of the monument is not permitted.

**Article 33º.- Independence and Subdivision in Monumental Urban Spaces**

Immovable property in Monumental Urban Spaces can be made independent only with INC's prior authorization; as long as the immovable property has been developed in various organic and self-sufficient sections in such a way that its independence does not affect it and its original characteristics are maintained. The subdivision of immovable property which is part of Monumental Urban Spaces is not permitted.

**Article 34º.- Specific Regulations**

INC shall approve the specific regulations of the Monumental Urban Spaces, Monumental Zones and Historic Centers in accordance with the value of the immovable property and the urban components of the area, protecting the surroundings and landscape through the delimitation of the area of maximum protection, surrounding area and/or area of landscape protection, as appropriate.

**Article 35º.- Demolitions**

The demolition of immovable cultural property shall be authorized only by the INC, prior approval of the corresponding intervention project.

**Article 36º.- Execution term for intervention project**

The approval of the intervention projects for immovable cultural property shall be valid for 18 months. After said term has expired the intervention shall necessarily require INC's approval for a new intervention project for its execution.

**Article 37º.- Prohibition of regularization**

It is forbidden to grant the authorization of any project related to immovable cultural property, in process of regularization, which has been executed without prior authorization from the INC.

**Article 38º.- Adaptation of works executed without INC's authorization**

Notwithstanding the responsibilities derived from the execution of works related to immovable cultural property without INC's approval, the responsible party is obligated to return the property to its previous condition, following the technical specifications provided by the INC.

**Article 39º.- Technical Control**

INC shall supervise the execution of the works it approves.

### **Article 40<sup>o</sup>.- Emergency Works**

In the imminent case of loss or deterioration of a viceregal or republican immovable cultural property, the owner or possessor of the property shall immediately inform the INC of the situation in order have the appropriate administrative measures taken.

## **SUBCHAPTER 3 CONCESSIONS**

### **Article 41<sup>o</sup>.- Concessions**

Under no circumstance shall pre Hispanic cultural property be granted in concession. Additionally, concessions which affect their surrounding areas, as well as concessions of services connected to the property, must have INC's prior authorization, notwithstanding the responsibilities of each of the sectors involved.

Non compliance with this provision shall cause the nullification by operation of law of the granted concession, notwithstanding the civil and/or criminal actions against the responsible parties.

## **SUBCHAPTER 4 EXPROPRIATION**

### **Article 42<sup>o</sup>.- Expropriation**

The expropriation of cultural property is regulated by the corresponding law on the matter.

### **Article 43<sup>o</sup>.- Suspension of expropriation proceedings**

Expropriation proceedings of the cultural property may be suspended when the owner commences the works required for its conservation, restoration or valuation.

The owner shall have 30 working days as from the of issue of the declaration referred to in Article 11.1 of the Law to present the corresponding work project to INC, and 30 working days to commence said project from its date of approval by INC, which shall indicate the execution term for the works. This term may be extended by the INC prior justified request by the owner.

Once commenced the works referred to above, these shall be supervised by the INC's technical staff to verify its correct execution. The expropriation proceedings shall commence if INC verifies that the works have been suspended for more than one month, or if the project is executed without following INC's specifications.

## **CHAPTER 6 MOVABLE CULTURAL PROPERTY**

### **SUBCHAPTER 1 GENERAL PROVISIONS**

#### **Article 44<sup>o</sup>.- Scope**

The provisions of this chapter apply to all movable cultural property under the responsibility of the INC, AGN and BNP.

#### **Article 45<sup>o</sup>.- Owners' obligations**

The owner's and possessor are responsible for the protection, restoration and conservation of the cultural movable property they possess. The competent authorities must provide technical advice required for the execution of said responsibilities.



**Article 46<sup>o</sup>.- Intervention on movable cultural property**

All interventions on movable cultural property must be executed by specialists on the subject. The owner and the specialist, as appropriate, shall be held liable for any damages caused to said assets by inadequate interventions.

**Article 47<sup>o</sup>.- Extinction of the status of movable cultural property**

The competent authority may revoke the status of cultural property. This declaration is executed through a resolution which clearly identifies the property in question. These assets are governed by the regular legal provisions.

**Article 48<sup>o</sup>.- Research on the movable cultural property**

The owners or current possessors of the cultural movable property shall allow access to said property to duly accredited researchers from the competent authorities. The competent authorities must submit the results of said research to the owners of the property, free of charge.

**Article 49<sup>o</sup>.- Inspection of the cultural movable property**

The owner or possessor of the cultural movable property, notwithstanding if they have been declared as such or are included under the provisions of article 11<sup>th</sup> and 111<sup>st</sup> of the Preliminary Title of the Law, must allow the duly accredited Inspectors and personnel from the competent authorities the supervision of the property under their care whenever requested within a 3-day notice.

In case of emergency, as declared by the competent authority, or upon request of the Government Attorney General's Office, a prior notice to owner or possessor shall not be required.

**Article 50<sup>o</sup>.- Execution of necessary conservation works**

The competent authorities may order the owner of the cultural movable property to execute any work require to prevent their deterioration.

**SUBCHAPTER 2  
TRANSFER OF CULTURAL MOVABLE PROPERTY**

**Article 51<sup>st</sup>.- Transfer of cultural property**

Transfer of cultural property within the national territory is permitted. Said transfer must be previously informed to the offices of the competent authorities at the current location of the property in question, indicating the destination and safety measures taken to safeguard the property's integrity.

The competent authority must be informed of the arrival at the destination within two days in order to verify its state of conservation.

The competent authority shall record the transfer of the property in the corresponding administrative register, either as a temporary or permanent transfer.

**Article 52<sup>o</sup>.- Denial to transfer cultural property**

The competent authority may deny authorization to transfer the cultural property only in case its condition of conservation indicates a degree of deterioration which would endanger its transfer to any location, or when the safety measures are deemed inappropriate. The owner or the person responsible for transporting the property may be required to take additional safety precautions.

**Article 53<sup>o</sup>.- Seizure and/or confiscation of property transferred without authorization**

Cultural movable property transferred without prior notification to the competent authorities shall be confiscated.

### **Subchapter 3 Temporary export of cultural movable property**

#### **Article 54º.- Temporary Export**

Cultural movable property may be taken out of the country only temporarily and for exhibit purposes which have scientific, artistic and cultural purposes, for any specialized studies or restorations that cannot be executed in the country, and for trips made by accredited heads of missions, consuls or diplomats.

The temporary export of cultural property is authorized by executive order, with the prior favorable authorization from the competent authority, and only has a term of 1 (one) year, which may be extended once for an equal period.

The temporary export of cultural property belonging to duly accredited heads of missions, consuls or diplomats shall be authorized by executive orders for as long as the mission lasts abroad and shall only be allowed to stay at the Peruvian consulates or embassies.

#### **Article 55º.- Return of the Cultural Property**

Once the maximum authorized period has expired, the temporarily exported cultural property must return to Peru to verify its state of conservation. Once the verification has been completed, a new temporary export may be authorized.

#### **Article 56º.- Requirements for Temporary Export**

Authorizations for temporary export require that an all-risk, nail-to-nail insurance policy be acquired in favor of the owner of the property, at an agreed value. Other necessary requirements to issue the temporary export authorization of cultural property shall be determined by the corresponding competent authority.

#### **Article 57º.- Permanent export prohibition**

Without exception, the permanent export of cultural property is expressly forbidden.

#### **Article 58º.- Foreign solicitor's representative**

The representative in Peru of the person who requests the loan of a cultural movable property belonging to the State for exhibition purposes abroad must not work for the competent authority that lends said property.

#### **Article 59º.- Export of archaeological samples, fragments, or remains**

The export of archaeological samples, fragments or remains is authorized by the INC through a resolution granted by INC's top authority, having the prior favorable opinion of the competent areas.

#### **Article 60º.- Export of replicas of cultural property**

The export of replicas of cultural property necessarily requires the certificate from the competent authority which rules out its status of cultural property. Otherwise, the property shall be confiscated.

## **SUBCHAPTER 4 CURATORS**

### **Article 61º.- Curator**

The title of curators of an exhibition may only be assigned to those that are specialists on the type of cultural property with the most number of assets in an exhibition. Two or more curators may be assigned according to the nature of the cultural property in the exhibition.

### **Article 62º.- Curator's responsibilities**

The curator is responsible for the following:

1. Assessing and reporting on the condition of all the cultural movable property that make up the exhibition.
2. Supervising the delivery and reception conditions of the cultural movable property of the exhibition.
3. Submitting a detailed report of the events that occurred during their work as curators.

The work of the curator ends once the cultural movable property has been delivered at their place of origin, the corresponding reception registry has been signed, and the above-indicated report has been submitted.

The curator must arrive in advance at the exhibition location so as to execute his task in the best possible manner. The time the curator shall spend at the exhibition shall depend on the characteristics and number of the cultural property.

The organizing institution shall assume all expenses related to the curator's work within the national territory or abroad.

## **SUBCHAPTER 5 RESTITUTION OF CULTURAL PROPERTY IN CASE OF UNLAWFUL EXPORT**

### **Article 63º.- Responsibilities of diplomatic representative offices in the restitution of cultural property**

Peruvian diplomatic representative offices located abroad must inform the Government Attorney General's Office and the competent authorities through the Ministry of Foreign Affairs of the existence and trade of cultural movable property abroad. They must also execute any legal actions allowed by law at the location of the cultural property in order to achieve their restitution.

### **Article 64º.- Technical Consulting**

The competent authorities must provide the Ministry of Foreign Affairs with all the technical support required to have the cultural movable property that have been illegally exported or remain illegally outside the country restituted.

Likewise, the competent authorities must report to the Government Attorney General's Office all cases or attempts of illegal export of cultural movable property.

### **Article 65º.- Foreign donations of cultural movable property**

All foreign donations of cultural movable property in favor of a natural or legal entity, being the latter subject to public or private law, domiciled within the country must be reported to the competent authority.

## **SUBCHAPTER 6 HISTORIC-ARTISTIC CULTURAL MOVABLE PROPERTY**

### **Article 66º.- Cultural presumption of contemporary property**

All works of art produced in Peru since the second decade of the 20<sup>th</sup> Century, such as paintings, sculptures, sketches, engravings and other plastic manifestations that encompass all the characteristics described in Articles II and III of the Preliminary Title of the Law, and whose authors have passed away, shall have the status of cultural property.

### **Article 67º.- Works of living authors**

The work of a living author may only be declared part of the Cultural Heritage of the Nation when there is clear authorization from the author upon request by the competent authorities, or when it is acquired by the State.

When the State acquires only some of the artistic property from the complete works of a living author, said property may be declared part of the Cultural Heritage of the Nation.

## **SUBCHAPTER 7 DOCUMENTARY-BIBLIOGRAPHICAL CULTURAL HERITAGE**

### **Article 68º.- Documentary-Bibliographical Cultural Heritage**

The following cultural property, which is not part of the Archivist Cultural Heritage, is part of the Documentary Bibliographical Cultural Heritage:

1. Rare manuscripts, incunabula manuscripts, books, printed matter, documents, stamps, photographs, negatives, moving images and antique publications of a special historic, artistic, scientific or literary interest.
2. Manuscript documents, phonographic documents, cinematographic documents, videographic documents, digital documents and others that serve as a source of information for research in scientific, historical, social, political, artistic, ethnological and financial matters.
3. Letters, certificates, records, diplomas.
4. Maps, newspapers and periodicals library and personal archives.

## **SUBCHAPTER 8 ARCHIVISTIC CULTURAL HERITAGE**

**Article 69º.-** The Archivist Cultural Heritage is the set of documents from any period, shown in all its expressions, using natural language and any type of graphical expression, sonorous expression or using images, gathered in conventional or computer form, generated and/or received in accordance with the functions and activities of the national public and private entities.

Documents that have an unknown institutional origin or which belong to natural entities shall form factual (artificial) series or collections, whichever corresponds.

### **Article 70º.- Technical treatment of the archives**

Archive documents must be managed by an organizational unit of archives, technically and legally dependent on the AGN.

## **CHAPTER 7 UNDERWATER CULTURAL HERITAGE**

### **Article 71º.- Underwater Cultural Heritage**

Underwater Cultural Heritage is understood as all property that has the importance, value and significance granted by Articles II and III of the Preliminary Title of the Law, and which are submerged underwater partially or totally, periodically or continually, for at least 50 years in the Peruvian territorial waters, lacustrine or riparian areas and other aquatic areas in the national territory, amongst others:

1. The sites, structures, edifices, objects and human remains, together with their archaeological or historical context.
2. Vessels, airships or other means of transportation or any part of them, their load or other content, together with their archaeological or historical context, and,
3. Paleontology objects.  
Cables, pipes or facilities located underwater and which are currently in use are not considered underwater Cultural Heritage.

#### **Article 72º.- Property of the Underwater Cultural Heritage**

The State has the exclusive property of the Underwater Cultural Heritage. Its extraction, removal or intervention which has not been authorized by the INC is administratively punishable under the laws on the subject, notwithstanding the corresponding criminal liabilities.

#### **Article 73º.- Research Projects**

Any type of research project on the Underwater Cultural Heritage must have prior authorization from the INC for its execution, without exceptions.

#### **Article 74º.- Obligation to report findings**

All persons that execute diving activities in any aquatic area within the national territory who discover underwater Cultural Heritage must report said finding to the INC, providing sufficient information for its location.

#### **Article 75º.- Confiscation in the event of unauthorized activities**

The instruments, diving equipment, and means of cargo and transportation used for unauthorized activities related to the Underwater Cultural Heritage shall be seized by the corresponding authorities and confiscated by the INC to initiate activities related to the matter.

#### **Article 76º.- Cooperation with the Peruvian Navy**

The Peruvian Navy must cooperate with INC in the defense and protection of the Underwater Cultural Heritage. Furthermore, it must inform INC regarding all records of shipwrecks and all new findings.

### **CHAPTER 8**

#### **PROTECTION OF CULTURAL PROPERTY IN THE EVENT OF ARMED CONFLICT**

#### **Article 77º.- Scope of protection**

Notwithstanding their origin or property laws, the cultural property are protected by the measures established by the 1954 Hague Convention and its two protocols of 1954 and 1999, respectively, which are international instruments to which Peru is a state party.

This protection encompasses all cultural property as well as the buildings that have the principal purpose or conserving or exhibiting those (museums, libraries, archives and shelters destined to protect the cultural property in case of armed conflicts).

#### **Article 78<sup>th</sup>.- Obligations of military, police and civil authorities**

In case of armed conflict, civilians and military and/or police personnel must refrain

from committing hostile acts in retaliation or requisition which directly affect the cultural property of the Nation and/or another State, by which:

1. They must prohibit, avoid and immediately cease if needed any acts of theft, pillage, vandalism and concealment or appropriation of property.
2. They must not use the cultural property or their protection systems or immediate vicinity for purposes that would risk the established protective measures and expose them to destruction or deterioration.

#### **Article 79<sup>o</sup>.- Protection regimes**

In accordance with their corresponding functions, the competent authorities shall identify, execute an inventory and appropriately indicate the cultural property which, according to technical criteria, warrant general protection. Special or enhanced protection determined by the 1954 Hague Convention, its First Protocol of 1954 and its Second Protocol of 1999, respectively.

1. The primary principle of the protection of cultural property during armed conflicts is based on the obligation to safeguard and respect said property, including during the mentioned situations. The special protection regime is restricted to a more limited category of property and implies the prioritization and concerted actions for the safekeeping of the cultural property that warrant it. The status of special protection shall be indicated in the corresponding national registry file of the cultural property considered for it. On the other hand, the INC may channel the registration request in the List of Property under Enhanced Protection, in accordance with the provisions of the Second Protocol of 1999, if it so considers for a more restricted case of cultural property.
2. The competent authorities shall update periodically the inventory of the cultural property which merit any one of the mentioned protection regimes and shall compile all necessary safekeeping documentation. In case of armed conflict, the competent authority shall submit to the responsible civilian and military and/or police authorities the updated inventory of the cultural property requiring priority protection.
3. In accordance with the mentioned protection regimes, the competent authorities shall authorize the placement of a distinctive seal (blue shield) established by the 1954 Hague Convention to identify the cultural property. In case of property which merit special protection, said seal shall be placed three times. The use of this seal for other purposes is forbidden.

#### **Article 80<sup>o</sup>.- Coordination of activities**

Regional and local governments, the National Civil Defense System and any other institution involved in risk prevention and emergency response are responsible for informing the competent authorities of decisions and actions involving cultural property, and must coordinate with them regarding the measures required for their adequate protection and safekeeping in case of armed conflict.

Said institutions shall promote coordinated actions in order to guarantee the protections and security of the cultural property.

#### **Article 81<sup>o</sup>.- Temporary shelters**

The competent authorities are responsible for designing evacuation plans and assigning temporary shelters for the provisional deposit of movable property or collections which are under risk due to armed conflict. These shelters shall have the special protection indicated in clause 1 of article 79<sup>th</sup> of this Regulation.

#### **Article 82<sup>o</sup>.- Restitution and recovery of property**

In the event of an armed conflict, the restitution and/or recovery of the cultural property shall be executed in accordance with the provisions of the 1954 Hague Convention

and its two protocols of 1954 and 1999, respectively. If required, the competent authorities shall expedite, reciprocally, the process of restitution and/or recovery of the cultural property belonging to the cultural heritage of another State (removed in contravention of international law in the context of an armed conflict) in case they are found in Peruvian territory.

All forms of illegal transfer of ownership or export of cultural property located in occupied territory or originating from other countries in situations of armed conflict are forbidden.

#### **Article 83º.- Public awareness, dissemination, consciousness, and integration in education and teaching programs**

In coordination with the INC and with the support of the National Commission on the Study and Application of International Humanitarian Law (CONADIH), the competent institutions shall take appropriate measures to ensure the appropriate dissemination of the Hague Convention of 1954, its First and Second Protocols of 1954 and 1999, Article 26<sup>th</sup> of the Law and these Regulations, specially between the armed forces and the police as well as the civil institutions and organizations responsible for the emergency response and prevention services which place the cultural property at risk. The INC and CONADIH shall join efforts to ensure that the education and training programs of the Armed Forces and the National Police include the subject of norms related to the protection of the cultural property in the event of an armed conflict. Furthermore, without detriment to the existing criminal sanctions, they shall contemplate disciplinary and/or administrative sanctions on their members who transgress the protection laws established for cultural property in case of armed conflict, in accordance with the provisions of the aforementioned international instruments, the Law and these Regulations.

#### **Article 84º.- Other risk situations for cultural property**

The preventive measures indicated in this chapter shall include, if applicable, those situations which may also place the cultural property at risk, even though they may not reach the status of armed conflict. Amongst said situations are internal disturbances and tensions, catastrophes – natural or provoked – and, in general, the establishment of exception regimes foreseen by the Political Constitution of Peru.

### **CHAPTER 9 INTANGIBLE CULTURAL HERITAGE**

#### **Article 85º.- INC's responsibilities over intangible Cultural Heritage**

INC must advance and ensure the identification, documentation, research, preservation, protection, promotion, valuation, transmission and revitalization of the intangible Cultural Heritage in its various aspects, for which it shall propose the active participation of the community, groups or people who create, maintain and transmit said heritage, and shall actively assist them in its management.

The aforementioned activities shall be applied only on the uses, representations, expressions, knowledge and techniques of the intangible Cultural Heritage which strictly safeguard human rights and do not contravene the principles of mutual respect between communities, groups and individuals as well as the principles of mutual development.

#### **Article 86º.- Expressions of intangible cultural heritage**

The following may be considered expressions of intangible cultural heritage:

1. Languages and oral traditions
2. Ritual celebrations and feasts

3. Music and dance
4. Plastic artistic expressions: arts and crafts
5. Traditional customs and laws
6. Traditional authorities and methods of organization
7. Productive technologies and practices
8. Knowledge, teachings and practices associated with traditional medicine and gastronomy, amongst others.
9. Cultural areas used to represent or execute cultural practices

#### **Article 87º.- Registration of Intangible Cultural Heritage**

The expressions that are subject to the declaration referred to in this heading shall be registered in the National Registry of Folklore and Popular Culture.

### **CHAPTER 10 PRIVATE MUSEUMS AND COLLECTIONS**

#### **SUBCHAPTER 1 COLLECTIONS**

##### **Article 88º.- Definition of collection**

For the purposes of these regulations, a collection is defined as all sets or groups of cultural property which are related to each other through a specific context or because they possess common characteristics related to their nature, chronology, origin, typology and/or theme.

The nature of collection is determined by the corresponding competent authority, taking into account the arguments of the owner.

##### **Article 89º.- Registration of collections**

The owner or possessor of a set of cultural property that met the characteristics indicated in the first paragraph of the Article above, whether it be public or private, may request its registration into the corresponding registry, notwithstanding the obligation to identify individually the cultural property in the registry.

##### **Article 90º.- Transfer of collection**

The transfer includes all the pieces of the collection in order to maintain its unity. The individual transfer of any of the pieces requires the approval of the corresponding competent authority.

#### **SUBCHAPTER 2 MUSEUMS**

##### **Article 91º.- Determination of museum status**

The status of museum is exclusively determined by the INC through its registration in the National Registry of Public and Private Museums, which is compulsory for the execution of its activities.

##### **Article 92º<sup>d</sup>.- Museum obligations**

1. The owner of a museum is obliged to apply to the competent authorities for the registration and documentation of the cultural property.
2. The museum is administratively, civilly and criminally liable for the deterioration and damages suffered by the cultural property as a consequence of gross negligence or willful misconduct.
3. As custodians of cultural property, museums must guarantee that their funds be



used in favor of the general public, establishing relevant programs and services with facilitate the population's access to this source of knowledge.

4. Museums must have the necessary personnel and conditions to guarantee the conservation and protection of its collections.
5. The museums must safeguard the authenticity of their collections. In case replicas and/or reproductions are used for museographic purposes, a label must placed in a visible location which indicates that that the piece is a reproduction of the original.
6. In case replicas of the pieces of the collection are used for promotion or sale purposes, the word "replica" must be indelibly engraved on the piece itself.

## **CHAPTER 11 INFRACTIONS AND SANCTIONS**

### **Article 93º.- Infractions and sanctions**

The competent authorities shall establish necessary provisions to regulate their corresponding protocols for sanctions as well as the criteria used for their application.

### **Article 94º.- Types of administrative sanctions**

Sanctions are: fines, expropriations and demolitions

1. Fine – Financial sanction applied in accordance with the gravity of the infraction and determined on the basis of a Tax Unit (TU). The fine must not be less than 0.25 TU or greater than 1000 TU.
2. Expropriations – Loss of ownership of a cultural property in favor of the State.
3. Demolitions – Partial or total destruction of a work executed on immovable property belonging or linked to the Cultural Heritage of the Nation when said work was carried out without prior authorization or when, having the corresponding authorization, the work was executed without complying with the technical specifications approved by the INC.

## **CHAPTER 12 DISSEMINATION AND PROMOTION OF CULTURAL HERITAGE**

### **Article 95º.- Dissemination of the Cultural Heritage of the Nation**

The competent authorities shall develop strategies together with other government entities, the private sector and international agencies to promote and disseminate information on the importance and significance of the Cultural Heritage of the Nation as the basis and expression of our national identity.

The State-owned mass media – written press, radio, television and internet – shall establish areas dedicated to the promotion and dissemination of the Cultural Heritage of the Nation together with the competent authorities.

### **Article 96º.- Curricular Design**

The Ministry of Education shall include in the basic curricular designs pertaining to the various levels and modalities of the educational system the proposals made by the competent authorities and establish technical guidelines for their diversification and implementation nationwide.

Complementary provision

Single – The competent authorities: National Institute of Culture, National Library and General Archive of the Nation, shall issue the directives corresponding to their area of responsibility which are necessary for the application of Law No. 28296 and these regulations.

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