

Republic of Colombia
MINISTRY OF CULTURE

Received at Ministry of Culture on 2008 Apr 25th PM12:45

Decree Number 1313 of the 23rd April 2008

"By way of which Article 7 of Law 397 of 1997, amended by Article 4 of Law 1185 of 2008, regarding the National Cultural Heritage Council is regulated"

THE PRESIDENT OF THE REPUBLIC OF COLOMBIA

In exercise of his constitutional and legal power, especially those conferred by Article 189, numeral 11 of the Political Constitution and of Article 4 in the Law 1185 dated 2008,

WHEREAS:

Law 1185 of 2008 integrally modified Title II of Law 397 of 1997 regarding the Nation's cultural heritage.

Article 2 of Law 1185 of 2008, modifying article 5 of Law 397 of 1997, General Culture Law, established the National Cultural Heritage of the Republic System, comprising the set of public instances of the national and regional levels exercising competences over the National Cultural Heritage of the Republic; the assets and expressions of the National Cultural Heritage; the cultural interest assets and their owners, beneficiaries at any title as well as holders; the expressions incorporated into the Representative List of Immaterial Cultural Heritage; the set of instances and processes of institutional development, planning and information; and the public and particular competences and responsibilities, articulated with each other, facilitating the protection, safeguard, recovery, preservation, sustainability and dissemination of the National Cultural Heritage of the Republic.

Among the institutions or entities part of the National Cultural Heritage of the Republic's System are the National Cultural Heritage Council and the Provincial and District Cultural Heritage Councils.

Article 4 of Law 1185 of 2008, modifying article 7 of Law 397 of 1997, set forth that the National Monuments Council should be called National Cultural Heritage Council thereafter, and should be the body in charge of advising the National Government regarding the safeguard, protection and management of the Nation's cultural heritage.

The regulation quoted in the previous whereas clause sets forth that the National Government shall establish the role of the National Cultural Heritage Council and shall regulate on the sessions regime, period, quorum and members' fees, as well as regarding the Technical Secretariat and its functions.

According to Articles 2, 4, 5 and 8 of Law 1185 of 2008 general competencies of the National Cultural Heritage Council are established.

DECREES

ARTICLE 1. National Cultural Heritage Council. According to Article 4 of Law 1185 of 2008, modifying Article 7 of Law 397 of 1997, the National Cultural Heritage Council is the body in charge of advising the National Government regarding the safeguard and the management of the National Cultural Heritage of the Republic.

The National Cultural Heritage Council comprises the following:

1. The Minister of Culture or his/her representative, who shall preside.
2. The Minister of Commerce, Industry and Tourism or his/her representative.
3. The Minister of Environment, Housing and Regional Development or his/her representative
4. The Dean of the Arts Province of the National University of Colombia or his/her representative
5. The President of the Colombian History Academy or his/her representative
6. The President of the Colombian Language Academy or his/her representative
7. The President of the Colombian Society of Architects or his/her representative
8. One representative of the Universities with provinces in charge of studying the cultural heritage
9. Three (3) distinguished experts in the field of safeguard or conservation of the Cultural Heritage, appointed by the Ministry of Culture
10. The Director of the Colombian Institute of Anthropology and History or his/her representative

11. The Director of the Caro y Cuervo Institute or his/her representative
12. The Director of Heritage of the Ministry of Culture, who shall participate in the sessions and shall be entitled to voice but not vote and who shall exercise the National Cultural Heritage Council's Technical Secretariat.

Paragraph 1. The Council may invite to its deliberations public officers or individuals representing guilds or sector organizations, as well as any other persons or sectors of civil society it may deem necessary, according to the specific subjects to be covered, who shall be entitled to voice but not to vote.

Paragraph 2. The representatives mentioned in numeral 8 and 9 of this article shall be appointed for two years periods, that may be renewed.

They may be removed before the end of the term they were appointed or elected, when they miss three (3) consecutive sessions of the Council, without just cause or when they fail to comply with the duties stipulated in the Law or in this Decree.

Removal shall be carried out through act issued by the Ministry of Culture. If it were the representative provided in numeral 8, a new calling shall take place, in the terms provided in this decree.

Paragraph 3. In the appointment of experts by the Minister of Culture, regional diversity shall be considered.

Article 2. Functions. The following are functions of the National Cultural Heritage Council:

1. To advise the Ministry of Culture on designing a state policy regarding the National Cultural Heritage of the Republic, this shall have the primary objectives of safeguarding, protecting, recovering, preserving, sustaining and disseminating it, to serve as a testimony of the national cultural identity, both today as well as in the future.
2. To propose recommendations to the Ministry of Culture regarding the design of protection and preservation strategies of the Nation's cultural heritage; this may be incorporated into the National Economic and Social Development Plan through the National Culture Plan.
3. To recommend, without interfering with the exclusive legal faculty of the Ministry of Culture, the movable assets or real estate which could be included in the Indicative List of Candidates to Cultural Interest Assets at the national level, for the purposes described in Article 5 of Law 1185, 2008, numeral 1, modifying Article 8 of Law 397, 1997.
4. To study and to issue initial concept to the Ministry of Culture regarding the decisions this Ministry should adopt regarding declarations and annulments regarding cultural interest assets at the national level.

The declaration of an asset or set of assets as national level cultural interest assets, as well as the recourse of such declarations should have a favorable previous concept by the National Cultural Heritage Council, according to Law 1185 of 2008

5. To study and to issue initial concept to the Ministry of Culture regarding whether the national level material asset declared as Cultural Interest Asset requires the Special Protection and Handling Plans –PEMP– and to issue a concept regarding the content of the respective PEMP.

The concept referred to in this numeral shall have mandatory character for the Ministry of Culture.

6. To recommend, without interfering with the exclusive legal faculty of the Ministry of Culture, the expressions that may be included in the Immaterial Cultural Heritage Representative List, provided in Article 8 of Law 1185 of 2008, by way of which article 11-1 of Law 397 dated 1997 was added.
7. To study and to issue concept, at a joint request from the Ministry of Culture and the Colombian Institute of Anthropology and History about the inclusion of expressions in the Immaterial Cultural Heritage Representative List and about the Safeguard Plan proposed for the respective case, understanding that the said Plan should be aimed at strengthening, revitalizing, sustaining and promoting the respective expression.

Inclusion of an expression in the Immaterial Cultural Heritage Representative List and the Safeguard Plan, which should necessarily be adopted for that purpose, which it should have, in any case, previous favorable concept from the National Cultural Heritage Council.

8. Advise the Ministry of Culture on any aspect it may request regarding the regulation, regimentation, management, safeguard, protection, recovery, preservation, sustainability and dissemination of the Nation's Cultural Heritage.
9. To recommend, should it deem it appropriate, guidelines which may be considered at the provincial, municipal, indigenous territories and black communities level, considered by Law 70 of 1993, for the management of cultural heritage and cultural interest assets in the respective jurisdictions, without prejudice of the competencies which Law 1185 of 2008 attributes exclusively to the authorities in the aforementioned jurisdictions and to the Cultural Heritage Provincial and District Councils.
10. To recommend criteria for the application of the coordination principle to be used in the declaration and management of the Cultural interest assets and for the inclusion of Expressions in the Immaterial Cultural Heritage Representative List at the different regional levels.
11. To formulate proposals to the Ministry of Culture about cooperation plans and programs at the national and international levels which may contribute to the safeguard, protection, recovery, preservation, sustainability and dissemination of the Nation's Cultural Heritage and to support the management of such cooperation mechanisms.

12. All other functions corresponding to its consulting organ's nature.

Article 3. Election of the Representative of the Universities. The Representative of the Universities mentioned in numeral 8 of Article 1 of this decree shall be appointed for a two (2) year term.

For the election of this representative, the following procedure should be followed:

1. The Heritage Directorate of the Ministry of Culture shall issue an invitation to participate through the publication of a notice in a widely circulated national newspaper and in the Ministry of Culture's web page.
2. Universities with pre-graduate programs, or upper programs such as post-graduate, specialization, master or other programs above pre-graduate level defined in the invitation and related to the study, research and other regarding the Nation's Cultural Heritage, according to the invitation to participate and accreditation defined by the Ministry of Culture shall propose their candidates in a term no longer than five (5) days as of the invitation date.

The proposal of candidates shall be received and consolidated by the Heritage Directorate of the Ministry of Culture.

3. Within the three (3) working days following the term described in the previous numeral, the Heritage Directorate of the Ministry of Culture shall publish the list of candidates who fulfill the requirements demanded for the Universities accepted for fulfilling the requirements, via e-mail or by written document, to issue their vote.
4. The vote shall be issued not later than three (3) working days following the term described in the previous numeral.
5. The elected representative should express its acceptance in writing addressed to the Heritage Directorate of the Ministry of Culture.

Paragraph 1. Should the election fail in two consecutive invitations, the Ministry of Culture shall carry out the corresponding appointment.

Paragraph 2. The incumbent representative of the universities shall carry out his/her activities until the new elected representative has been appointed.

Article 4. Meetings. The Nation's Cultural Heritage Council shall meet once every semester and they shall hold extraordinary meetings when they are summoned by its president or by three (3) or more of its members.

Article 5. Participation of the Members of the Nation's Cultural Heritage Council. The members of the Nation's Cultural Heritage Council should declare any conflicts of interests which they may have at any time considering their role as members of the Council and their particular expectations or interests.

Members appointed according to Article 1, numerals 8 and 9 of this decree, even though they are not public officers, fulfill public service in the exercise of their activities in the Council.

Article 6. Quorum. The Nation's Cultural Heritage Council could have sessions with a minimum attendance quorum of seven (7) members.

Decisions shall be adopted by the majority of members present. This decision-making majority shall not comprise the Heritage Director of the Ministry of Culture who has no voting rights.

Article 7. Fees and Expenses. The members of the National Cultural Heritage Council shall perceive no fees for their participation. Their activities shall be carried out *ad-honorem*.

The Ministry of Culture may cover travel allowances or transportation expenses, boarding and accommodation required by the participation of the members of the Council and its guests, when they live outside Bogotá, D.C., or similar expenses when meetings should be held in a place different from Bogotá, D.C.

Article 8. Technical Secretariat of the National Cultural Heritage Council. The Technical and administrative Secretariat shall be exercised by the Heritage Directorate of the Ministry of Culture.

Article 9. Duties of the Technical Secretariat. The Technical Secretariat of the National Cultural Heritage Council shall be exercised by the Heritage Directorate of the Ministry of Culture and he/ she shall have the following functions:

1. Timely summoning ordinary and extraordinary sessions of the National Cultural Heritage Council.
2. Writing the minutes of deliberations and decisions made by the National Cultural Heritage Council and sign them in conjunction with the Council's President.

Minutes should include at least:

- i. City, place, date and time of the meeting
- ii. Indication of the means used by the Technical Secretariat to communicate the calling to the members of the Council.
- iii. List of members of the Council attending the session, stating in each case the entity or sector they represent.
- iv. Synthesis of the subjects covered in the meeting, as well as of the recommendations and concepts.
- v. In case the quorums set forth in this decree to deliberate were needed, attestation of each member's vote shall be stated.

3. Act as secretary at the meetings of the National Cultural Heritage Council for which it may have the assistance of officers of the Heritage Directorate.
4. Submit to the National Cultural Heritage Council the reports, studies, proposals and other documents necessary for the fulfillment of the functions in charge of the National Cultural Heritage Council.
5. Watch over the implementation of decisions and recommendations of the National Cultural Heritage Council.
6. Logistic coordination of the meeting of the National Cultural Heritage Council.
7. Organizing and maintaining organized and up to date files in physical and magnetic media, on the sessions and activities of the National Cultural Heritage Council.
8. Maintaining updated records of the members of the National Cultural Heritage Council.
9. All others corresponding to the nature of the Technical Secretariat and those assigned by the Minister of Culture.

Article 10. Provincial and District Cultural Heritage Councils. Provincial and District Cultural Heritage Councils created according to Article 4 of Law 1185 of 2008, modifying Article 7 of Law 397 of 1997, shall comply, within the jurisdictions and regarding the assets and expressions assigned to them by said law, similar functions to those set forth in Article 2 of this Decree and they shall be subject to what is stated herein in terms of no payment of fees.

Paragraph 1. Diverse and technical composition of Cultural Heritage Provincial and District Councils should be guaranteed as stipulated by Paragraph 1, Article 4 of Law 1185 of 2008, modifying Article 7 of Law 397 of 1997.

Provisional Paragraph. During the time between the integration of Cultural Heritage Provincial and District Councils, which should not exceed the maximum term of six (6) months counted from the validity of Law 1185 of 2008, the Provincial or District Subsidiary Councils of National Monuments shall remain in operation, should there be any, and they shall perform the duties stipulated in this law during that term.

Article 11. Validity. This Decree shall be in full force as of its publication date, integrally regulates the organization, competencies and operation of the National Cultural Heritage Council and revokes decrees 3048 of 1997 and 2290 and 737 of 2006, as well as any other regarding the National Monuments Council and Subsidiary Centers.

Publish and enforce.

Given in Bogotá D.C. on the 23rd April 2008

Paula Marcela Moreno Zapata

Minister of Culture

