

Act No. 14-60 of 2 November 1960 for the purpose of the protection of natural monuments and sites, sites and monuments of a prehistoric, archaeological, scientific, artistic or picturesque character, the classification of historical and ethnographic objects and the regulation of archaeological excavations

Having regard to the Constitution;

The legislative assembly has deliberated and adopted;

The Head of State, Chairperson of the Council of Ministers, hereby promulgates the following Act:

TITLE I – CLASSIFICATION

Article 1 – There is hereby established a list of properties and a list of natural monuments and sites whose conservation or preservation are of prehistoric, archaeological, scientific, artistic, legendary or picturesque interest. The lists of properties and natural monuments shall be published in the Official Journal.

Inscription on these lists shall be declared by order of the Prime Minister, on the proposal of the commission established by Article 26 below, and shall be notified by the Prime Minister to the owners of the properties, monuments and sites. Inscription means that these owners may not alter the aspect of the property, natural monument or site and may not carry out work other than that involved in normal use, in the case of rural land, or standard repairs and maintenance, in the case of buildings, without having informed the permanent delegate referred to in Article 29 below at least two months prior to the planned start date for the work. Finally, the export of the properties inscribed is prohibited under the conditions established in Article 31 below. The effects of the inscription shall cease to apply if the inscription is not followed within six months by notification of the proposal to classify, as provided for under Article 4 below.

Article 2 – Whether or not they are inscribed on the list provided for under Article 1, immovable and movable property and natural monuments may be classified under the conditions and according to the distinctions established in the articles below.

Article 3 – Movable and immovable property, natural monuments and sites the conservation of which is of public interest from the point of view of prehistory, archaeology, geology, art or science, may be classified either in their entirety or in part.

Among immovable property which may be classified is land which encloses ancient sites, and buildings the classification of which is necessary to isolate, bring into view or improve a building that is classified or has been proposed for classification.

Article 4 – The proposal for classification shall be notified to the owner in question by the local administrative authorities. The effects of classification shall apply *ipso jure* to the movable or immovable property, natural monument or site in question from the time of notification. They shall cease to apply if a decision regarding classification is not made within six months of notification.

Article 5 – The effects of classification shall continue to apply to the property, natural monument or site, whoever assumes ownership of it. No one may acquire rights by prescription on a property, natural monument or classified site.

Anyone who alienates a property, natural monument, classified site or part thereof, shall inform the buyer of the existence of the classification prior to transfer.

Any alienation of a property, a natural monument or a classified site or part thereof must be notified to the Government by the party transferring it, within the month of the date of alienation.

The properties, natural monuments, sites and parts thereof may not be destroyed or moved, or be the object of restoration work of the Prime Minister, in accordance with the conditions fixed by the Prime Minister.

Article 6 – The Government may, at the taxpayer's expense, undertake as a matter of course repairs and maintenance work that are deemed indispensable to the conservation of the classified properties. To ensure the execution of urgent consolidation work in a classified building, the administrative authorities may, in the absence of amicable agreement with the owner, authorize the temporary occupation of the building and neighbouring buildings. This occupation may not exceed six months and may give rise to compensation in the case of damage.

Article 7 – No new construction may be built onto a classified building without express authorization.

Posting of bills on classified buildings is prohibited. It may also be prohibited around the said buildings within a perimeter which shall, for each individual case, be determined by a decision of the district head.

Statutory building line and other servitudes that might cause damage to monuments shall not be applicable to classified buildings.

No servitude may be established by covenant on a classified building without the consent of the Government.

Article 8 – Buildings owned by the Republic or secondary authorities of the Republic shall be classified by order of the Prime Minister.

Article 9 – Buildings owned by any person other than those listed in Article 8 shall be classified by order of the Prime Minister with the owner's agreement.

The order shall set out the classification conditions and include mention of the owner's acceptance.

Any challenge to the interpretation or execution of this act shall be adjudicated by the administrative tribunal.

In the absence of the owner's agreement, classification may be pronounced automatically by the Prime Minister, after receiving the opinion of the classification commission foreseen in Article 26 below.

The classification notice shall inform the owner of any right to compensation.

Classification may give rise to representative compensation that may result, for the owner, from the servitude of automatic classification.

The request shall be made within six months of the notification of classification.

Disputes relating to compensation shall be brought before the competent civil court of the jurisdiction in which the buildings are located.

Article 10 – Any order for classification of a building shall, at the request of the ministry concerned, be notified to the owner and registered at the local land registry.

Registration shall not give rise to the collection of any revenue duty.

Article 11 – The expropriation of a classified building or a building proposed for classification or of buildings whose acquisition is necessary to isolate, bring into view, improve or enhance a classified building or a building proposed for classification shall be governed by the law and regulations in force.

In the absence of a classification order and when public interest has been declared, the building shall be provisionally subject to all the effects of classification, but such effects shall cease to apply *ipso jure* if, within three months following the declaration of public interest, the government has not pursued the requisite expropriation formalities.

No classified building or building proposed for classification may be included in an expropriation survey by reason of public interest without the authorization of the Prime Minister.

Article 12 – A classified building belonging to the State or a public institution may not be alienated without the authorization of the Prime Minister, under the conditions provided for under the regulations in force.

Article 13 – Pronouncement of the total or partial declassification of a classified building shall follow the same form as its classification. The declassification act shall be notified to the parties concerned and shall be registered with the local mortgage or land registry. Registration shall not give rise to the collection of any revenue duty.

Article 14 – Classified movable property belonging to the State is inalienable. Classified movable property belonging to municipalities or public institutions may be alienated only with the authorization of the Prime Minister and as provided for by law and regulations. The property may only be transferred to the State, a public corporation or a public utility institution.

The owners or holders of movable property that is classified or inscribed on the list provided for under Article 1 shall, when requested, present the said property to authorized administrative or judicial officials.

Article 15 – Acquisition in violation of Article 14 shall be rendered null and void. Nullity and claims actions may be brought at any time both by the Head of Government and the original owner. They are brought without prejudice to damage claims which may be brought against the contracting parties jointly responsible or against the public official who assisted in the transfer.

The buyer or subsequent buyer acting in good faith, from whom the property is claimed, shall be entitled to a refund of the price of their acquisition. If the claim is brought by the Prime Minister, the Prime Minister shall have recourse against the original seller for the entire amount of the compensation that will have to be paid to the buyer.

The provisions of the present article are applicable to lost or stolen objects.

Article 16 – The Prime Minister may, on behalf of the State, exercise, on all public sale of property conforming to the definition set out in Articles 1 and 3, a right of pre-emption whereby the territory is subrogated for the successful bidder. A declaration is made by the Prime Minister, or on his behalf by the permanent delegate foreseen in Article 29 below, that the Prime Minister may wish to exercise the right of pre-emption, which shall be announced after the sale by the public or

ministerial officer in charge of the adjudications. The Prime Minister's decision must be made within 15 days.

Article 17 – Natural monuments and sites shall be classified by the authorities mentioned in Articles 8, 9 and 10 above and under the conditions provided for under these articles.

Article 18 – The posting of bills and the placing of billboards on natural monuments and in classified sites is prohibited. They may also be prohibited around said monuments and sites within a perimeter which shall be determined by ministerial order for each individual case.

No servitude may be established, by convention, on a natural monument or classified site without the agreement of the Government.

Article 19 – The Prime Minister may, as a matter of course and at the expense of the State, have repairs and maintenance work carried out which is judged indispensable for the conservation of classified natural monuments.

Article 20 – The expropriation of natural monuments and sites may be pursued in accordance with the provisions made for buildings in Article 11 of the present law.

Article 21 – A protection zone may be established by order of the council of ministers around natural monuments and sites that are classified or are inscribed on the list provided for under Article 1 of the present act, after completion of the following formalities:

- The plan determining with precision the limits of this zone, with indications of the regulations to be laid down to ensure protection, must be notified to the owners concerned and must be published in the Official Journal.
- The commission foreseen in Article 26 below shall hear owners, representatives of various public services or any other persons concerned who may ask to present their observations or that it may deem necessary to invite. The commissions shall prepare a report on its operations and send it, together with its opinion, to the Government.

Article 22 – The protection order shall be notified to the owner and registered in the local mortgage registry of the buildings included in the protection zone. Registration shall not give rise to the collection of any revenue duty.

Article 23 – From the time of notification, owners of parcels within the protection zone or their successors-in-title are bound to comply with the provisions of the order. From this date, they shall have one year to bring their claims against the effects of said provisions before the competent courts. No claim shall be admitted beyond this period.

Article 24 – Natural monuments and sites belonging to the State, secondary authorities or public institutions may be alienated only with the authorization of the Government.

Article 25 – The classification of natural monuments and sites shall be carried out as provided for under Article 13 of the present act.

Article 26 – There is hereby established within the Office of the Prime Minister a commission for monuments and sites, prehistoric, geological, artistic, ethnographic and scientific objects composed of:

- a Chairperson;

- the Minister of General Education or the Minister's representative;
- representatives;
- the Government social sciences advisor or the advisor's representative;
- a representative of the Minister of Public Works;
- the head of the property and registration service or the Head's representative;
- the director of education or the director's representative;
- the head of the department of tourism or the head's representative;
- the deputies appointed by the President of the Legislative Assembly;
- three persons appointed by reason of their competence, by decision of the Prime Minister, of whom at least one does not work in public service;
- The Government social sciences advisor shall act as secretary/archivist.

Article 27 – The commission shall meet:

- to consider any request or proposal to classify movable or immovable property, natural monuments or sites provided for under Article 1 of the present act;
- to consider any planned alienation of classified movable or immovable property, natural monuments or sites;
- to consider any operation liable to destroy, move, restore or change in any manner whatsoever the classified movable and immovable property, natural monuments and sites;
- in case of refusal by the delegate, referred to in Article 29 below, of any request for the export of property presenting a prehistoric, archaeological, artistic or ethnographic interest that is classified or inscribed on the list provided for under Article 1 or on the list provided for under Article 31 below;
- to consider the composition of the list provided for under Article 31 below.

Article 28 – In order to exercise its various functions, the commission shall have all the relevant means of inquiry and investigation at its disposal. In particular it may appoint as investigator one of its members, the permanent delegate referred to in Article 29 below, or an expert appointed, on its proposal, by the Prime Minister.

Article 29 – The social sciences advisor or the advisor's representative shall be the permanent delegate of the commission.

The permanent delegate is a sworn official. He or she shall:

- ensure the conservation of movable and immovable property, monuments and sites that are classified or inscribed on the list provided for under Article 1;
- initiate, where necessary, the classification of new movable and immovable property, natural monuments and sites. He or she is then responsible for the preliminary survey;
- verify any request for the export of property that is classified or inscribed on the list provided for under Article 31 below. On the recommendation of the permanent delegate,

the Prime Minister may give permission to export. In the opposite case, the request shall be transmitted to the Prime Minister who, after consulting with the commission, shall make the final decision;

- request, in the event that export is refused, that the property be acquired in accordance with Article 32 below. The permanent delegate may exercise at public sales the right of pre-emption which, under the terms of Article 16, belongs to the Prime Minister.

The permanent delegate may, at any time, enter land where excavation or drilling is being carried out. He or she may request a presentation of the objects found and exercise on behalf of the Prime Minister the right to make the claims provided for under Article 34 below.

The permanent delegate shall prepare reports on the infractions provided for under Articles 3, 7, 14, 15, 33, 37, 40 and 45 of the present law, with the exception of the illegal exports referred to in Article 31, which fall within the competence of the customs service. The permanent delegate must however inform the customs service of any attempt to export objects illegally of which he or she may be aware.

In the case of natural sites of an essentially geological nature, the permanent delegate's representative shall automatically be the representative appointed by the Minister of Public Works and shall have the same prerogatives and powers as the permanent delegate. This appointment may be modified by order of the Prime Minister, on the proposal of the Minister of Public Works.

Article 30 – The secretary/archivist of the Commission shall establish and keep:

1. the list of classified buildings. This list shall include a brief description of the building with supporting plans, sketches and photographs, the legal status of the building, the scope of the building classification, the name and address of the owner and the date of the classification order;
2. the list of classified sites and natural monuments including the same information as above and, in addition, any description of the parcels, their plans, their legal status, the name and address of the owners, the boundaries of natural monuments or sites and any information that may distinguish them;
3. the list of classified movable objects. This list shall include:
 - the nature and exact description of the object inscribed with supporting document;
 - where the object is kept;
 - the name and address of the owner or holder and, if necessary, the name of the owner of the building where the object is kept;
 - the date of the classification order.

Article 31 – The expropriation outside of the territory of the Republic of property that is classified or inscribed on the list provided for under Article 1 is prohibited. It may however be authorized by the Prime Minister in exceptional circumstances.

A list of categories of objects of prehistoric, archaeological, geological, historic or ethnographic interest shall moreover be established by order of the Prime Minister, after receiving the opinion of the classification commission. The objects included in these categories may not be exported outside the territory of the Republic without the authorization of the Prime Minister.

Article 32 – The Government has the right to retain, on behalf of the State or a secondary authority or public institution, objects for which export has been requested in return for the payment of fair and reasonable compensation to the exporter.

The amount of this compensation shall be fixed amicably or according to expert evidence if such expertise is requested by the exporter.

This right may be exercised for a period of six months.

TITLE II – EXCAVATIONS

Article 33 – No one may carry out excavations or drilling in search of objects of prehistoric, historic, geological, artistic or archaeological interest on land belonging to themselves or others, without obtaining the prior authorization of the Prime Minister. Any authorization for excavation shall be the subject of a concession defined by an order made in accordance with the national regulatory procedure.

A report shall be made on any authorized excavation and any discovery must be conserved and declared immediately to the administrative authorities.

Article 34 – The Prime Minister may claim the objects found at excavation sites under the conditions set forth in Article 35 below.

Article 35 – The Prime Minister may claim the objects found at excavation sites under the conditions previously granted:

If the regulations governing the execution of the investigation or the conservation of the discoveries made are not respected;

If, by reason of the importance of the discoveries, the Government deems it necessary to pursue the excavations itself or to acquire the land.

Excavations must be suspended as soon as the authorities give notice of their intention to withdraw the authorization.

Article 36 – In the case of withdrawal of authorization for failure to respect the conditions laid down, the investigator may not claim any compensation for the eviction or the expenses that he or she has incurred.

The investigator may however be reimbursed for the cost of work or equipment that may be of use in the continuation of the excavations if these are pursued by the authorities.

Article 37 – If the excavation authorization is withdrawn to enable the authorities to pursue the excavations, the ownership of objects discovered prior to the suspension of excavations shall be governed by the provisions of Article 39 below.

Article 38 – The Government may carry out as a matter of course excavation or drilling on land not belonging to it, with the exception however of land adjoining developed land enclosed by walls or equivalent enclosures. In the absence of amicable agreement with the owner, the excavation or drilling shall be declared of public interest by order of the Prime Minister, who shall authorize the temporary occupation of the land.

Occupation may in no case exceed a period of five years.

Article 39 – The ownership of discoveries made in the course of excavations carried out under the conditions set forth in Article 38 above, shall be shared between the Government and the owner of the land in accordance with the rules of ordinary law.

The Prime Minister may however exercise over the found objects the right to claim provided for under Articles 34 and 35.

Article 40 – When, as a result of works, or any other act, monuments, ruins, remains of habitations or ancient tombs, inscriptions, fossils or, in general, objects of prehistoric, historical, artistic, geological or archaeological interest are discovered, the discoverer of these objects and the owner of the property on which they have been discovered shall declare them without delay to the head of the district.

Article 41 – The Prime Minister shall decide on the measures to be taken in respect of discoveries of real estate made fortuitously.

The ownership of real estate found fortuitously is governed by Article 716 of the Civil Code, but the Government may claim these discoveries, in return for compensation fixed amicably or according to expert evidence. The amount of the compensation shall be shared between the finder and the owner in accordance with the rules of ordinary law, the expenses of any expert opinion being charged to it.

The Government may relinquish purchase within three months of the date of the valuation of the object; in this case it shall be liable for the cost of the expert opinion.

TITLE III – PENAL PROVISIONS

Article 42 – Any violation of the provisions of paragraphs 2 and 3 of Article 5 and of the provisions of the last paragraph of Article 14 of the present act, shall be punishable by a fine of 10,000 CFA francs.

Article 43 – Any violation of the provisions of paragraph 4 of Article 5, paragraphs 1 and 4 of Article 7, paragraphs 1 and 2 of Article 18 and paragraph 1 of Article 23 of the present act, shall be punishable by a fine of between 10,000 and 100,000 CFA francs without prejudice to any action for damages which may be brought. In addition, bills and notices may be removed by the authorities at the expense of the offender.

Article 44 – Anyone who has knowingly alienated, acquired or removed, destroyed or attempted to sell property or objects described on the list provided for under Article 1, in violation of Articles 14 and 31 of the present law, shall be fined between 10,000 and 100,000 CFA francs and sentenced between six days and three months imprisonment or only one of these two sanctions without prejudice to the actions for damages referred to in Article 15.

The court seized with the matter may order the confiscation by the State of the objects in question.

Anyone who has exported or attempted to export objects in one of the categories on the list provided for under Article 31, paragraph 2, in violation of the provisions of Article 31 *in fine*, shall be punishable by a fine at least equal to twice the value of the said objects, which shall be seized and confiscated by the State.

The Prime Minister shall decide on the destination of the confiscated objects.

In the case of repeated offences, the offender shall, in addition, be sentenced to between six days and three months imprisonment.

Article 45 – Anyone who knowingly destroys, knocks down or damages a classified property shall be liable to punishment as set out in Article 257 of the Penal Code, without prejudice to any damages.

Article 46 – Anyone who knowingly violates the provisions of Articles 33, 35 and 37 shall be punishable by a fine of between 20,000 and 200,000 CFA francs, without prejudice to any damages which may be claimed against those who have violated the said articles.

Article 47 – Anyone who knowingly alienates or acquires property or objects from excavations in violation of Article 35, or concealed property in violation of Articles 35 and 39, shall be sentenced to between six months and one year imprisonment without prejudice to any damages and fined between 10,000 and 200,000 CFA francs which may be raised to twice the price of the sale or only one of these sanctions.

Article 48 – The violations mentioned in Articles 41 to 46 above shall be detailed in reports drawn up by the curators or guardians of the classified property, appointed under the terms fixed by the Prime Minister and duly sworn in to this effect, as well as by officers of the criminal investigation service and agents sworn in by public authority.

TITLE IV – OTHER PROVISIONS

Article 49 – Orders of the Prime Minister, on the proposal or advice of the commission established under Article 26, shall determine, when necessary, the modalities of application of the present law.

Article 50 – All previous provisions contrary to the present act are hereby abrogated.

The present act shall be executed as State law.

Done at Fort-Lamy, 2 November 1960

By the Head of State and Chairperson of the Council of Ministers: François Tombalbaye

The Minister of the Interior: Abo Nassour