

LAW' No. 1185 March 12th 2008

**"BY WAY OF WHICH LAW 397, 1997 – GENERAL CULTURE LAW – IS AMENDED
AND ADDED, AND OTHER PROVISIONS ARE DECREED"**

CONGRESS OF COLOMBIA

DECREES:

ARTICLE 10. Modify article 4 of Law 397, 1997 which shall read as follows:

"Article 4. Integration of the Nation's cultural heritage. The Nation's cultural heritage comprises all material assets, immaterial expression, products and representations of culture which are an expression of the Colombian nationality, such as the Spanish language, the languages and dialects of indigenous, black and creoles communities, traditions, ancestral knowledge, cultural background, costumes and habits, as well as movable and non-movable material assets attributed, among others, to special historic, artistic, scientific, esthetic or symbolic interest, within purviews such as plastic, architectonic, urban, archeological, linguistic, sounding, musical, audiovisual, filmic, testimonial, documentary, literary, museum-related or anthropological works.

a) Objectives of the State policy regarding the Nation's cultural heritage. State policy regarding the Nation's cultural heritage shall be primarily aimed at its safeguard, protection, recovery, conservation, sustainability and dissemination, for it to serve as testimony of the national cultural identity, both in the present, as well as in the future.

For the fulfillment of objectives in the previous clause, development plans by regional institutions and community plans, social and population groups plans incorporated into one and all should be culturally in harmony with the Culture Decennial Plan and with the National Development Plan and they shall assign resources for safeguarding, protecting, recovering, conserving, sustaining and disseminating cultural heritage.

b) Enforcement of this Law. This law defines a special safeguard, protection, sustainability, dissemination and incentive for Nation's cultural heritage assets declared as cultural interest assets in the case of material assets and for the expressions included in the representative List of Immaterial Cultural Heritage, according to the appraisal criteria and requirements the Ministry of Culture may regulate for the entire national territory.

The declaration of a material asset as a cultural interest asset, or the inclusion of a expression into the Representative List of Immaterial Cultural Heritage is the administrative act by way of which, previous fulfillment of the procedure provided herein, national or regional authorities or indigenous authorities or Afro-descendants' community councils, according to their competences, determine if an asset or expression of the Nation's cultural heritage is covered by the Special Protection or Safeguarding Regime provided herein.

The declaration of cultural interest may fall back on a particular material asset, or onto a certain collection or set, case in which the declaration shall contain the appropriate measures to preserve them as indivisible units. They are considered as cultural interest assets of the national, provincial, district or municipal realm, or of the indigenous territories or of the black communities provided by Law 70, 1993 and, consequently, material assets declared as monuments, historic, archeological or architectural preservation areas or any other denominations which may have been object of such declaration by competent authorities or which have been incorporated into the Regional Organization Plans. Additionally, they shall be subject to their respective regime. Archeological heritage assets are considered as cultural interest assets of the national realm.

c) Property of the Nation's cultural heritage. Nation's cultural heritage assets, as well as cultural interest assets may belong, as per the case, to the Nation, to public institutions of any order, or to private individuals or juridical persons.

Assets comprising the archeological heritage belong to the Nation and they are governed by special regulations on the subject matter.

Paragraph. The right of churches and religious movements is recognized to own the heritage they may have created, acquired with their resources or which may be under their legitimate possession. Also, the nature and religious purpose of such assets are protected, which may not be hindered or prevented due to their cultural value.

According to article 15 of Law 133, 1994, The State, through the Ministry of Culture, shall celebrate agreements with the corresponding churches and religious movements for the protection of this heritage and for the effective application of the Special Protection Regime when they had been declared as cultural interest assets, including restrictions for their alienation and exportation and measures for their inventory, preservation, restoration, study and exhibition.

ARTICLE 2. Article 5 of Law 397, 1997 shall read as follows:

"Article 5. Nation's cultural heritage National System. The Nation's cultural heritage National System comprises the set of public instances of the national and regional level exercising competences over the Nation's cultural heritage, assets and expressions of the Nation's cultural heritage, cultural interest assets and their owners, beneficiaries at any title and holders, expressions incorporated into the Representative List of Immaterial Cultural Heritage, the set of instances and institutional development, planning and information processes as well as the competences and public and particular obligations,

articulated with each other, facilitating the protection, safeguard, recovery, preservation, sustainability and dissemination of the Nation's cultural heritage.

The following are public entities of the Nation's cultural heritage National System, the Ministry of Culture, the Colombian Institute of Anthropology and History, the Nation's General Archive, the Caro and Cuervo Institute, The National Cultural Heritage Council, Provincial and District Cultural Heritage Councils and, in general, state institutions which, at the national and regional level, develop, finance, promote or execute activities regarding the Nation's cultural heritage.

The National Cultural Heritage System shall be coordinated by the Ministry of Culture, which shall establish the general policies and they shall issue technical and administrative regulations for institutions and persons that belong to the system who adhere to it."

ARTICLE 3. Article 6 of Law 397, 1997 shall read as follows:

"Article 6. Archeological heritage. Archeological heritage comprises those vestiges from human activity and those organic and inorganic traces which, through archeological methods and techniques, allow reconstructing and dissemination the origins and past socio-cultural trajectories and guarantee their preservation and restoration.

For the preservation of assets comprising the paleontological heritage, the same instruments established for archeological heritage shall be applied. According to articles 63 and 72 of the Political Constitution, assets from the archeological heritage belong to the Nation and are free of liens, inalienable and do not expire.

The Colombian Institute of Anthropology and History -ICANH- may authorize individuals or juridical persons to exercise the possession of assets from the archeological heritage, providing they comply with those obligations of registering, handling and safeguarding such assets the Institute may determine.

Individuals holding archeological assets should register them. Failure to register within a maximum term of five years as of the validity of this law constitutes justification for seizure according to decree 833, 2002, without prejudice of the remaining causes established therein.

ICANH is the competent institute in the national territory regarding the management of archeological heritage. It may declare protected areas containing assets like those described in the first clause of this article and shall approve the respective Archeological Management Plan, declaration which shall not affect the property of the ground.

Paragraph 1. Anyone who incidentally finds assets from the archeological heritage shall give immediate notice to the Colombian Institute of Anthropology and History or to the closest civil or police authority, who are obliged to report the event to the said institution within the twenty-four hours following the finding.

Findings of assets belonging to the archeological heritage which may take place during authorized archeological excavations or explorations shall be reported to the Colombian Institute of Anthropology and History, in the way provided in the corresponding authorization. Upon reception of the information, the Colombian Institute of Anthropology and History shall define the applicable measures for an appropriate protection of the assets belonging to the archeological heritage and shall coordinate accordingly with the local authorities. Should it be necessary to immediately suspend the activities causing the finding of these assets, public forces may be required and they shall offer their immediate assistance.

Paragraph 20. The archeological heritage is governed exclusively by provisions of this Article, by Decree 833, 2002, and by provisions of this law that expressly include it."

ARTICLE 4. Modify article 7 of Law 397, 1997 which shall read as follows:

"**Article 7.** National Cultural Heritage Council. As of the validity of this law, the National Monuments Council shall be called National Cultural Heritage Council, and shall be the organ in charge of advising the National Government regarding the safeguard, protection and management of the Nation's cultural heritage.

a) Integration of the National Cultural Heritage Council. The National Cultural Heritage Council shall be formed as follows:

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

12. The Director of Heritage of the Ministry of Culture, who shall participate in the sessions with voice but without voting rights and who shall exercise the Technical Secretariat of the National Cultural Heritage Council.

The National government shall set forth the duties of the National Cultural Heritage Council and they shall regulate regarding the sessions' regime, period, quorum and fees of the said Councils' members, as well as issues regarding its Technical Secretariats and their roles. It may also, through a decree, enhance the representation of other state entities or private sectors, to have experts in the integral management of material and immaterial cultural heritage.

b) Cultural Heritage Provincial Councils. Create Cultural Heritage Provincial Councils in each one of the provinces, which shall have, regarding regional heritage and provincial and municipal cultural interest assets as well as from the indigenous territories and black communities covered by law 70, 1993, functions like those of the National Cultural Heritage Council.

c) Cultural Heritage District Councils. Create the Cultural Heritage District Councils in each one of the Districts, which shall have, regarding district cultural heritage and cultural interest assets, functions like those of the National Cultural Heritage Council.

Paragraph 1. Composition of the Provincial and District Councils of Cultural heritage shall be defined by the provincial and district authorities, as per the case. To that effect, characteristics of the cultural heritage in the respective Province or District shall be considered and participation shall be given to experts in movable and non movable heritage, in immaterial cultural heritage, and to public entities and academic institutions specialized in these fields. In any case, when there are indigenous or black communities settled in a certain regional jurisdiction, participation shall be given to at least one representative of the said communities.

Paragraph 2. To the Councils' sessions covered by this article, public officers and other people deemed convenient may be invited and they shall have voice but not voting rights.

Transitory Paragraph: Provinces and/ or Districts shall have six months to comply with provisions provided in this article, counted as of the enactment of this Law.

ARTICLE 3. Modify article 8 of Law 397, 1997 which shall read as follows:

"Article 8. Procedure for the declaration of cultural interest assets.

a) It corresponds to the Ministry of Culture, previous favorable concept of the National Cultural Heritage Council the declaration and management of national cultural interest assets.

National cultural interest assets are those declared as such by the lay, the Ministry of Culture or the Nation's General Archive, according to their competence, in virtue of the special interest the asset may have for the community in all the national territory.

b) To regional entities, based on the principles of decentralization, Autonomy and participation, correspond the declaration and management of cultural interest assets of the provincial, district, municipal, indigenous territories and black communities realm mentioned in law 70, 1993, through governments/ major's offices or respective authorities, previous favorable concept of the corresponding Provincial Council of Cultural Heritage, or District Council of Cultural Heritage in the case of districts.

Cultural interest assets of the sphere of the respective regional jurisdiction are those declared as such by provincial, district, municipal, indigenous territories and black communities' authorities mentioned in law 70, 1993, in their sphere of jurisdiction, in virtue of the special interest the asset may have for the community in a certain regional division.

Cultural interest assets of the provincial/ district, municipal, indigenous territories and black communities realms covered by law 70 de 1993, may be declared a national cultural interest assets by the Ministry of Culture in the form provided by literal a) of this article, in coordination with the respective Provincial or District Council of Cultural heritage, regarding the values of the respective asset.

For the declaration and management of cultural interest assets, it shall apply the principle of coordination between national, provincial, district and municipal levels and indigenous territories and black communities covered by law 70, 1993.

Procedure

Declaration of the cultural interest assets shall follow the following procedure, both in the national as well as in the regional order:

1. The asset in reference shall be included in an Indicative List of Candidates to Cultural Interest Assets by the authority with the jurisdiction for making the declaration.
2. Based on the List mentioned in the previous numeral, the authority with the jurisdiction for the declaration shall define whether the asset requires a Special Protection and Handling Plan.
3. Upon compliance of the procedure described in the previous two numerals, the National Cultural Heritage Council regarding assets in the national level or the respective Provincial or District Cultural Heritage Council, as per the case, shall issue its concept on the declaration and the Special Protection and Handling Plan should the asset required it.
4. If the respective Cultural Heritage Council's concept were favorable, the authority shall make the declaration and in the same act, it shall approve the Special Protection and Handling Plan should it be required.

Paragraph 1. In case the declaration mentioned in this article resulted from a private or individual initiative, the same procedure shall be followed, case in which the requesting individual shall submit the respective Special Protection and Handling Plan, should it be required, and it shall be submitted for review by the respective Cultural Heritage Council.

Paragraph 20. Annulment. Annulment of the declaration act for cultural interest assets shall correspond to the authority which had issued it, previous favorable concept by the respective Cultural Heritage Council, in case the said assets had lost the values which led to the declaration.

In case of annulments of declarations of national monuments or cultural interest assets made by the Ministry of Education, the annulment shall correspond to the Ministry of Culture.

ARTICLE 6. Modify article 10 of Law 397, 1997 which shall read as follows:

"Article 10. Free of liens, inalienable and without expiration. Cultural interest assets owned by public institutions are free of liens, inalienable and do not expire.

Paragraph 1. The Ministry of Culture shall authorize, in exceptional cases, the alienation or loan of national cultural interest assets among public entities. Major's Offices, governments and authorities of indigenous territories and black communities mentioned in law 70, 1993, shall be in charge of applying provisions in this paragraph regarding cultural interest assets they have declared.

Authorities mentioned in this paragraph may authorize public institutions owning cultural interest assets to give them in gratuitous loan to private nonprofit institutions of well known suitability, for a term no longer than five (5) years extendable according to provisions in article 355 of the Political Constitution, to celebrate inter-administrative and association agreements in the way provided by articles 95 and 96 of Law 489, 1998 or in the regulations modifying or substituting them, and in general, to celebrate any type of contract, including concession contracts, implying the handing over of said assets to individuals, provided any of the modalities used is aimed at providing and guaranteeing the need for their protection, recovery, preservation, sustainability and dissemination, without affecting their character of being free of liens, inalienable and without expiration.

ARTICLE 7. Article 11 of Law 397, 1997 shall read as follows:

"Article 11. Special Protection Regime of cultural interest assets. Public and private property material cultural interest assets shall be submitted to the following Special Protection Regime:

1. Special Protection and Handling Plan. The declaration of an asset as cultural interest shall incorporate the Special Protection and Handling Plan -PEMP-, when it is required, according to what is defined in this law. The PEMP is the cultural heritage management instrument by way of which the actions necessary to guarantee its protection and sustainability in time are established.

For non movable assets the affected area, the zone of influence, the level of intervention allowed, handling conditions and the dissemination plan that ensures community support in preserving these assets shall be established.

For movable assets, the asset or set of assets, the characteristics of the place they are located, the level of intervention allowed, management conditions and the dissemination plan that ensures community support in preserving these assets shall be stated.

The Ministry of Culture shall regulate throughout the national territory the contents and requirements of the Special Protection and Handling Plans and they shall state in the said regulation, which Nation's cultural interest assets, of those declared before the promulgation of this law require the adoption of the aforementioned Plan and the term limit to do that end.

1.1. When a cultural interest asset in the provincial, district, indigenous territories and black communities realms mentioned by law 70, 1993 is declared a national cultural interest asset by the Ministry of Culture, the Special Protection and Handling Plan, should it be required, should be approved by the said Ministry, which may cater to possible suggestions made by the competent authorities to make declarations in the regional realm.

1.2. Incorporation into the Public Instruments Registry. Authorities making the declaration of a real estate considered of cultural interest shall report to the corresponding Public Instruments Registry Office for the incorporation of the notice into the corresponding page of the property registration number.

Also, the notice on the existence of the Special Protection and Handling Plan applicable to the real estate shall be included, should such plan be required.

Likewise, a report shall be submitted in case an annulment of the declaration were to take place in the terms stipulated in this law. This type of registration shall have no cost.

1.3. Incorporation of the Special Protection and Handling Plans into the Regional Organization Plans. Special Protection and Handling Plans regarding real estate should be included by regional authorities in their respective Regional Organization Plans. The PEMP may limit aspects regarding use and construction of the real estate declared of cultural interest and its area of influence, even though the Regional Organization Plan had already been approved by the respective regional authority.

1.4. Archeological Management Plan. Upon declarations of protected areas under article 6 of this Title, the Colombian Institute of Anthropology and History shall approve a Special Protection Plan called Archeological Management Plan, which shall indicate the characteristics of the site and its area of influence and shall incorporate the protection, handling, dissemination and sustainability guidelines.

In construction projects for hydrocarbons transportation, mining, reservoirs, road infrastructure, as well as other projects requiring environmental license, registry or similar authorizations from the environmental authorities, as a requirement prior granting them, a preventive archeology study should be carried out and an Archeological Management Plan shall be submitted to the Colombian Institute of Anthropology and History. Works may not be undertaken without its approval.

1.5. Preeminence of regulations on preservation, and use of areas and real estate considered as Nation's cultural heritage. According to numerals 2 of article 10 and 4 of article 28, Law 388, 1997 or substitutive regulations, provisions regarding the preservation and use of areas and real estate of cultural interest constitute regulations of higher hierarchy when making, adopting, modifying or adjusting the Regional Organization Plans of municipalities and districts.

2. Intervention. Intervention shall be understood as any act causing changes to the cultural interest asset or affecting its condition. Such comprises, by way of information, acts of preservation, restoration, recovery, removal, demolition, dismembering, displacement or sub-division and it should be carried out according to the Special Protection and Handling Plan should it be required.

Intervention of a national cultural interest asset should have authorization by the Ministry of Culture or the Nation's General Archive, as per the case. For archeological heritage, this authorization belongs to the Colombian Institute of Anthropology and History according to the Archeological Management Plan.

Also, intervention of a regional cultural interest asset should have authorization from the regional institution which carried out such declaration.

Intervention shall only be carried out under the supervision of professionals in the matter, dully registered or authorized by the respective authority.

Authorizations for intervention to be issued by competent authorities may not be replaced, in case of real estate, by any other types of authorities or licenses to be issued by other public authorities in urban matters.

Anyone pretending to carry out works in real estate located within the area of influence or in property neighboring real estate declared of cultural interest should communicate it to the authority which made the respective declaration. According to the nature of the works and the impact they may have over the real estate of cultural interest, the corresponding authority shall approve them or, should it be the case, request them to be adjusted to the Special Protection and Handling Plan approved for the said real estate.

Granting of any type of license by environmental or regional authorities, by the curatorship or by any other entity implying material actions over real estate declared as cultural interest, should guarantee the compliance with the Special Protection and Handling Plan in case it had it been approved.

3. Exportation. Export of movable assets of cultural interest is prohibited. Nevertheless, the Ministry of Culture, regarding movable assets of cultural interest at the national level, the Colombian Institute of Anthropology and History regarding archeological assets and the Nation's General Archive regarding documentary assets may authorize their temporary export, for a term no longer than three (3) years, with the sole objective of being exhibited to the public or to be scientifically studied.

Regarding regional cultural interest assets, excluding archeological assets, this authorization shall be granted by Majors' Offices and Governments, accordingly.

Authorization may be granted for up to three (3) years, extendable for one term, in case of exchange programs between national and foreign state institutions.

The Ministry of Culture and other public institutions shall make all efforts aimed at repatriating the cultural interest assets illegally removed from the Colombian territory.

3.1. Temporary exportation of movable assets owned by diplomats. The Ministry of Culture may authorize the temporary exportation of movable assets of cultural interest owned by Colombian diplomats abroad, or movable assets for exhibition in the seat of diplomatic representations of the Republic of Colombia. A bank guarantee or a guarantee from an insurance company should be produced, according to the Customs Law.

3.2. Freight forwarders, customs intermediary societies, storage companies and mail companies. Freight forwarders, customs intermediary societies, storage companies and mail companies, as well as any other carrying out exportation proceedings, by air, sea and ground, are obliged to inform their users of the requirements and procedures for the exportation of archeological assets and others assets of cultural interest.

The Ministry of Culture shall regulate throughout the national territory regarding the procedure and requirements necessary for the temporary export of these types of assets, without prejudice to customs regulations. To access any incentive, tax benefit, authorization for export or any other from public authorities regarding cultural interest assets, its proprietor or legitimate holder in case of archeological heritage should certify the compliance with the appropriate provisions in this article, as well as the corresponding registry.

4. Alienation. Anyone pretending to alienate a movable asset of cultural interest should offer it initially to the authority which made the respective declaration, which may exercise a first option to acquire it, in conditions no less favorable than those in which individuals would acquire it and with a previous appraisal. This first option may be exercised by any state institution, according to coordination made by the authority which made the declaration.

Transfer, at any title, of privately owned cultural interest assets should be communicated by the acquiring party to the authority which declared it as such in a term not longer than six (6) months following the respective legal business.

Regarding collections of cultural interest, no dismembering or individual disposal of the assets comprising them shall be made, without previous authorization by the authority making the declaration.

ARTICLE 8. Addition of article 11-1 a la Law 397, 1997, with the following contents:

"Article 11-1. Immaterial cultural heritage. Immaterial cultural heritage comprises, among others, expressions, practices, uses, representations, manifestations, knowledge, techniques and cultural venues, recognized by communities and groups as integral part of their cultural heritage. This heritage generates feelings of identity and establishes links with the collective memory. It is transmitted and recreated in time as a function of its surroundings, its interaction with nature and its history and it contributes to the promotion of respect for cultural diversity and human creativity.

1. Representative List of Immaterial Cultural Heritage. Expressions of immaterial cultural heritage may be included in the Immaterial Cultural Heritage Representative List.

Any previous declaration as cultural interest asset of the national level regarding expressions covered by this article shall be incorporated into the Representative List of Immaterial Cultural Heritage as of the enactment of this law.

2. Safeguard Plan. With the inclusion of a cultural expression into the Immaterial Cultural Heritage Representative List a Special Safeguard Plan shall be approved, aimed at strengthening, revitalization, sustainability and promotion of the respective expression.

The Ministry of Culture shall regulate the contents and scope of Special Safeguard Plans for all the national territory.

3. Identification. As a fundamental component for knowledge, safeguard and management of immaterial cultural heritage, it corresponds to the Ministry of Culture, in coordination with the Colombian Institute of Anthropology and History, to define tools for the identification of expressions.

Identification of expressions referred to in this article shall be made with the active participation of communities.

4. Competence. Jurisdiction and management of the Immaterial Cultural Heritage Representative List corresponds to the Ministry of Culture in coordination with the Colombian Institute of Anthropology and History, and to the regional institutions, according to provisions of article 8 of this Title.

In any case, inclusion of expressions in the Immaterial Cultural Heritage Representative List, should have, as per the case, previous favorable concept from the National Cultural Heritage Council, or from the respective provincial or district Councils of Cultural Heritage."

ARTICLE 9. Article 14 of Law 397, 1997 shall read as follows:

"Article 14. Cultural Heritage Assets Inventory and Cultural Interest Assets Registry. Regarding cultural heritage assets and cultural interest assets, the following obligations and competences are established:

1. Cultural Heritage Assets Inventory. As a fundamental component for knowledge, safeguard and management of immaterial cultural heritage, it corresponds to the Ministry of Culture to define tools and criteria for the creation of an inventory of the Nation's cultural

heritage, in coordination with the regional entities. This inventory, by itself, does not generate any lien on the asset or any burden for its owners, should there be any.

2. Cultural Interest Assets Registry. The Nation, through the Ministry of Culture and its subsidiary entities (Colombian Institute of Anthropology and History and Nation's General Archive), as well as regional bodies, shall make and maintain updated, a registry of cultural interest assets according to their competences. Regional institutions, the Colombian Institute of Anthropology and History and the Nation's General Archive shall submit every year to the Ministry of Culture, Heritage Directorate, their respective registries to be incorporated into the National Cultural Interest Assets Registry. The Ministry of Culture shall regulate such registry."

ARTICLE 10. Article 15 of Law 397, 1997 shall read as follows:

"Article 15. About the misdemeanors against the Nation's cultural heritage. People who violate the constitutional duty of protecting the Nation's cultural heritage shall incur in the following misdemeanors:

Those constituting punishable conduct:

1. Should the misdemeanor constitute punishable act due to the destruction, damage illegal use, theft or reception of material assets of cultural interest, or due to their illegal exploitation, according to provisions in articles 156, 239, 241-13, 265, 266-4 and 447 of Law 599, 2000 Criminal Code, or those modifying or substituting them, it is mandatory to file the corresponding criminal report and, should there be flagrancy, the detainee should immediately remain under the custody of the closest police authorities, without prejudice of imposing the patrimonial sanctions provided herein.

Those constituting administrative and/ or disciplinary misdemeanors:

1. Exporting from the national territory as defined by customs cultural interest assets without authorization from the competent cultural authority, or subtracting, concealing or hiding them from customs control intervention, or not re-importing them into the country within the term established in the temporary exportation authorization. In any of these events pecuniary sanctions between five (5) and five hundred (500) minimum legal monthly salaries shall be imposed.

A cultural interest asset attempted to be exported without the respective authorization, or exported without it, or subject of the aforementioned actions, shall be forfeited and submitted to the Ministry of Culture, ICANH in case of archeological assets, the Nation's General Archive in case of archive related assets or to the authority which had declared it as such, for the term the sanctioning administrative proceedings may last, after which, it shall be decided whether the forfeited asset is definitely forfeited and it is left under the Nation's authority.

2. Should the misdemeanor consist, either by action or by omission, in the construction, enlargement, modification, repair, demolition, total or partial of a cultural interest asset,

without the respective license, sanctions provided in article 66 of Law 9a, 1989 and articles 103 and 104 of Law 388 de 1997, or in regulations substituting or modifying them shall be imposed, increased by one hundred percent (100%), by the competent institution appointed in that law.

3. Should the misdemeanor consist in carrying out unauthorized explorations or excavations of archeological assets a fine of two hundred (200) to five hundred (500) minimum legal monthly salaries shall be imposed by the Colombian Institute of Anthropology and History.

4. Should the misdemeanor consist in the intervention of a cultural interest asset without the respective authorization provided by numeral 2 of article 11 of this title, a fine of two hundred (200) to five hundred (500) minimum legal monthly salaries shall be imposed by the authority which had made the respective declaration. Anyone carrying out works in real estate shall incur in the same sanction located in the area of influence or neighboring real estate of cultural interest without obtaining the corresponding authorization, according to provisions in numeral 2 of article 11 of this title.

It shall also be subject to this fine the architect or renovator carrying out the intervention without the respective authorization, increased by one hundred percent (100%).

The administrative authority which had made the declaration of an asset as being of cultural interest may order the immediate suspension of the intervention being carried out, and police authorities shall be obliged to offer their immediate participation in order to execute the measure so ordered. In this case, it shall be decided in the course of the actuation about the imposition of sanctions, about the obligation of the person involved of returning the asset to its previous condition, and/ or about the eventual release of the ordered suspension, if provisions in this law are complied.

Provisions in this numeral shall be applied without prejudice to the jurisdiction of regional authorities to impose sanctions and to take action in case of acts being carried out without license over real estate of cultural interest in virtue of what is pointed out in its numeral 2.

5. If the misdemeanor against a cultural interest asset were carried out by a public officer, it shall be considered as a serious misdemeanor, according to Law 734 de 2002 of the Unique Disciplinary Code or those substituting or modifying it.

6. Assets of the archeological heritage are definitely forfeitable by the Colombian Institute of Anthropology and History and shall be restored to the Nation, upon any act of alienation, prescription or seizure prohibited by article 72 of the Political Constitution, or upon the occurrence of events provided in article 19, Decree 833, 2002, through the procedure provided in article 20 of the same decree.

In case of forfeited assets of the archeological heritage, provisions in Decree 833, 2002 and remaining provisions complementing or modifying it shall be enforced.

Paragraph 1. The Ministry of Culture, the Colombian Institute of Anthropology and History, the Nation's General Archive and competent regional entities shall be empowered of police functions for the imposition and execution of measures, fines, definitive forfeitures and other sanctions established in this law, applicable according to each case.

Paragraph 2. To decide about the imposition of administrative and/ or disciplinary sanctions and about administrative measures provided in this article, the administrative act provided by 'First Part' and others appropriate from the Administrative Code should be carried out.

ARTICLE 11. Article 16 of Law 397, 1997 shall read as follows:

"Article 16. About the action of compliance regarding cultural interest assets. Effective compliance of laws or administrative acts directly related with the protection and defense of assets comprising the Nation's cultural heritage, may be demanded by any person through the procedure established for the compliance action as per Law 393, 1997 or in those provisions modifying or substituting it.

ARTICLE 12. Add a paragraph to article 40 of Law 397, 1997, with the following contents:

"Paragraph. For the purposes of dissemination Colombian Cinematography, the Ministry of Culture, through the Cinematography Directorate may give educational and dissemination material to regional public entities and nonprofit entities which have within their object the development of cultural activities, as voluntary conveyance.

ARTICLE 13. Add a paragraph to article 49 of Law 397, 1997, with the following contents:

"Paragraph. For the development of existing museums and the inventory and registry of their collections, the Ministry of Culture, through the National Museum, shall give to those museums it may determine, computer equipment as voluntary conveyance.

ARTICLE 14. Modify article 56 of Law 397, 1997, which shall read as follows:

"Article 56. Incentives to the Nation's cultural heritage. Owners of movable assets and real estate declared as being of cultural interest, or third parties who have requested and obtained such declaration, may deduct all expenses in which they may incur when implementing the Special Protection Plans and when maintaining and preserving these assets, even though they have no direct relation with the activity generating revenue.

To be entitled to this benefit, interested people should submit for approval of the Ministry of Culture or of the regional authority competent for making the respective declaration, the Project for the Special Protection Plan, the project for the intervention or adaptation of the movable or real estate asset in question.

The Ministry of Culture shall regulate the application of provisions in this article, for the safeguard and dissemination of immaterial cultural heritage expressions, considering that it lacks an individual owner.

ARTICLE 15. Modify numeral 10 corresponding to the conformation of provincial culture councils, of article 60 of Law 397, 1997, which shall read as follows:

"10. One representative of each sector i.e. one from the artistic and one from the cultural sectors.

ARTICLE 16. Add one paragraph to article 62 of Law 397, 1997, with the following contents:

"Paragraph 2. Governments and Districts may create Provincial and District Councils for Arts and Councils, in each one of the artistic and cultural expressions.

These Councils shall be advisory institutions of provincial and district bodies for policies, plans and programs in their respective areas. Their composition, functions, sessions regime and Technical Secretariat, shall be governed by the general regimentation for National Councils of Arts and Culture.

ARTICLE 17. Films Rating Committee. Create the Films Rating Committee as a body attached to the Ministry of Culture, in charge of advising the national Government on the matter.

ARTICLE 18. Integration of the Films Rating Committee. The Films Rating Committee, shall be conformed as follows:

One expert in filmmaking.

One lawyer.

One psychologist.

One representative of Parents Associations.

One representative of the academic sector.

Paragraph. Members of the committee shall be appointed by the Minister of Culture, according to regulations issued to the effect.

ARTICLE 19. Period and Compensation of the Films Rating Committee members. Members of the Films Rating Committee shall be appointed for periods of two (2) years.

The Ministry of Culture shall state the compensation of the Rating Committee members and shall make the budget appropriations for its payment.

ARTICLE 20. Functions of the Films Rating Committee. The following are functions of the Films Rating Committee:

1. Prepare the films rating system considering the age of spectators. The Ministry of Culture, through the Cinematography Directorate shall approve such system.

2. Propose modifications to the films rating system when it may deem it necessary.

3. Decide on the rating classification for each film.

ARTICLE 21. Term for rating films. Films should be rated by the Committee within the fifteen (15) days following its exhibition before the committee. Should the Committee not adopt any determination within said term, the film shall be considered appropriate for an audience over 12 years of age and its exhibition shall be authorized.

There shall proceed appeal for reversal against decisions of the Films Rating Committee and subsidiary, appeal before the Ministry of Culture, Cinematography Directorate, which shall be interposed within the five (5) working days following the notification of the rating. If the Committee does not solve the appeal for reversal within the ten (10) working days following its interposition, it shall be understood as denied, and appeal before the Ministry of Culture shall apply.

ARTICLE 22. Exhibition of Films. No film may be disseminated in movie theaters or public places without previous authorization by the Films Rating Committee.

Exhibition of films in film festivals shall be exempted, providing the producers, distributors or organizations register them at the Ministry of Culture, Cinematography Directorate, at least fifteen (15) days prior to the event.

ARTICLE 23. Films exhibitors' obligations. Film exhibitors are obliged to:

1. Refrain themselves from publically exhibiting films not rated by the committee.
2. Refrain themselves from exhibiting in the same show films with different ratings or accompanied by advances or documentaries not agreeing with their rating, unless the show is announced with the rating corresponding to the corresponding greater age group.
3. Prevent the entrance to cinematographic shows of people under the age indicated in the respective rating.
4. Refrain themselves from using deceiving advertising means such as announcing a film with a rating different from that fixed by the Committee.

ARTICLE 24. Sanctions. Exhibitors violating provisions in articles 22 and 23 of this law shall have imposed fines, according to the seriousness of the infraction, between thirty (30) and fifty (50) minimum legal monthly salaries.

Paragraph. In case of repeat offenders, it shall also have imposed the temporary closing of the theater for up to six (6) months. Also, exhibitions violating provisions in the aforementioned articles may be suspended.

Sanctions referred to in this article shall be under the jurisdiction of majors, prior favorable concept of the Ministry of Culture.

ARTICLE 25. Inadmissibility of scenes suppression. The Films Rating Committee may not order the suppression of certain scenes.

ARTICLE 26. Validity and derogation provisions. This law shall be in force as of the date of its enactment, it derogates articles 3, 6, 8, 9, 11, 13, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 3D, 31, 32, 33 and 34 of Law 163 de 1959; modifies articles 151 to 159 of Executive Order 1355, 1970; modifies articles 1 to 9 of Executive Order 2055, 1970; Modifies Title 11 of law 397, 1997, except articles 9, 12 and 13, and modifies and adds articles 40, 49, 56, 60 and 62 of Law 397, 1997.

THE PRESIDENT OF THE H. SENATE OF THE REPUBLIC,

NANCY PATRICIA GUTIÉRREZ CASTAÑEDA

THE GENERAL SECRETARY OF THE H. SENATE OF THE REPUBLIC

EMILIO RAMÓN OTERO DAJUD

THE PRESIDENT OF THE H. HOUSE OF REPRESENTATIVES

OSCAR ARBOLEDA PALACIO

THE GENERAL SECRETARY (IN CHARGE) OF THE H. HOUSE OF REPRESENTATIVES,

JESUS ALFONSO RODRÍGUEZ CAMARGO

REPUBLIC OF COLOMBIA - NATIONAL GOVERNMENT

PUBLISH AND ENFORCE.

THE MINISTER OF FINANCES

OSCAR IVÁN ZULUAGA ESCOBAR

THE MINISTER OF CULTURE

PAULA MARCELA MORENO ZAPATA