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Summary: Law 9/2003, of 12 June, of the cultural heritage of Andorra

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Whereas Parliament, in its session of 12 June 2003, approved the following:

Law 9/2003, of 12 June, of the cultural heritage of Andorra

The cultural heritage constitutes one of the principal sources of evidence of the history, identity and creativity of a country. It is an essential duty of society and of the public authorities to preserve this collective wealth and transmit it to future generations under the best conditions.

As provided in article 34 of the Constitution of the Principality of Andorra, the State must guarantee the preservation, promotion and dissemination of the historic, cultural and artistic heritage.

The Principality of Andorra already has legislation on the protection of the cultural heritage. The ordinances of 13 July 1964, 4 June 1970 and 5 July 1988, and the Law of protection of the cultural-natural heritage, of 9 November 1983, have all contributed to the preservation of the cultural items of Andorra. Notwithstanding this, the new legal framework introduced by the approval in 1993 of the Constitution of the Principality of Andorra made it appropriate to promulgate this new cultural heritage Law, which brings together and strengthens the rules protecting the items comprising this heritage.

Chapter one establishes a broad concept of the cultural heritage, composed not only of those elements with most impact – which must be declared as items of cultural interest – but also of all those items which possess the cultural values determined by the Law. This chapter also contains the regulation regarding the duty of the public authorities and of society in general to protect the cultural heritage, the regulation covering the Cultural Heritage Advisory Council and the rules on foreign projection.

Chapter two, relating to the general regime of protection of the cultural heritage, establishes the rules applicable to the different categories of items comprising the aforementioned heritage and concentrates particularly on items of cultural interest. With regard to buildings and real estate declared of cultural interest, the Law specially regulates the regime for works which directly affect those items or their protective surroundings. In relation with movable items, the principal instrument of protection subject to regulation is the control of exports.

Chapter three regulates the specific regimes of particular classes of items: the archaeological and palaeontological heritage, the ethnological heritage, and the documentary and bibliographic heritage. These specific regimes are not alternatives but are supplementary to the general regime of chapter two, which is also fully applicable to the items regulated in chapter three.

Chapter four contains the rules relating to archives, libraries and museums and establishes a specific regulation for the National Archive and the National Library.

Chapter five regulates measures of promotion and dissemination. The measures of promotion seek, on the one hand, to provide incentives to the contribution of society in the preservation of the cultural heritage, through support to specialised associations, improving the training and competence of professionals and businesses and, on the other, to compensate the holders of cultural items for the charges and obligations that the Law imposes on them. The measures of dissemination are for the purpose of encouraging access and guaranteeing knowledge of the cultural heritage. Encouraging access to the cultural items is a need arising from the Law's conception of the cultural heritage as a collective wealth; to guarantee teaching and information is to reinforce the effectiveness of the Law, since the protection of the cultural heritage is effective to the degree that the general public is aware of its importance.

The Law is completed with chapter six, which contains the regime of sanctions, and the additional, transitional, repealing and final provisions. Notable among these provisions is the first additional provision, which includes in the new legal category of items of cultural interest the items declared of national interest by the Ordinance II of 13 July 1964 and Ordinance I of 4 June 1970, amended by resolution of Parliament of 5 July 1988.

Chapter one: General provisions

Article 1

Purpose

1. The purpose of this Law is the protection, preservation-restoration, integral preservation, knowledge, promotion and dissemination of the cultural heritage of Andorra. Preservation is understood as all the operations destined to the understanding of a work, knowing its history and meaning, ensuring its material safeguarding and, where applicable, its restoration and revaluation. Restoration is understood as all the scientific and technical operations destined to guarantee, in the context of a critical and aesthetic methodology, the continuity of a work of art. Integral preservation is understood as all the measures intended to ensure the continuity of the real estate cultural heritage and watch over its maintenance in suitable surroundings, whether built or natural, and respectful adaptation to the needs of society in line with its fundamental values.

2. The cultural heritage of Andorra comprises the material and intangible items related with the history and culture of Andorra which, for their historic, artistic, aesthetic, archaeological, palaeontological, ethnological, town planning, architectural, scientific or technical values, are of cultural interest.

3. The items comprised in the cultural heritage of Andorra are classified as:

- a) Items of cultural interest
- b) Inventoried items

4. The ministry responsible for culture must prepare the general Inventory of the cultural heritage of Andorra, in which must be recorded all the movable items, buildings, real estate and intangible items comprising this heritage, whether in public or private ownership. The general Inventory of the cultural heritage of Andorra is organised in four sections in which are recorded: in the first, items of cultural interest, movable or real estate; in the second, inventoried real estate items; in the third, inventoried movable items, and in the fourth, intangible items. The holders or possessors of items comprised in the cultural heritage must allow the ministry responsible for culture to examine the items and supply the relevant information for the preparation of the Inventory, provided that this is not contrary to the right to privacy and respect for private life.

5. Items comprising the cultural heritage in public ownership are not subject to prescription and can only be transferred to other Andorra public entities.

Article 2

Items of cultural interest

1. The most significant items of the cultural heritage of Andorra have to be declared as items of cultural interest by Government decree, on proposal from the minister responsible for culture. The decree of declaration has to be reasoned.

2. The procedure for the declaration of an item of cultural interest is initiated by resolution of the minister responsible for culture, who must communicate to the interested parties and, if referring to a real estate item, also to the corresponding commune. The file is opened either ex officio or at the instance of any interested person or entity and involves the immediate provisional application to the item affected of the legal regime established in articles 14, 15, 19, 20 and 22 for items already declared, including the corresponding regime of sanctions. If the ministry responsible for culture decides not to open a file requested, it must give reasons for this decision.

3. In the examination of the file of declaration a hearing has to be given to parties affected. If the file is concerned with an item of real estate, a hearing must also be given to the commune where the item is located and a period of public information and comment must be opened for one month. The file must contain the necessary technical reports, accompanied by the corresponding graphic documentation and detailed information on the state of preservation of the item.

4. The declaration file must be resolved in the maximum term of nine months counting from the date of opening. The file will lapse if, after this time has run, the interested party requests the shelving of the action and the Authorities do not give a decision within the following thirty days. Having lapsed, the file cannot be reopened in the following three years, unless the holder of the item requests it sooner.

5. The resolution of opening the file and the decree of declaration must be published in the Official Bulletin of the Principality of Andorra. The publication must make no reference to the owner or to the financial value of the item and, in the case of movable items, may not mention their location.

6. The declaration of an item of cultural interest can only be made ineffective by following the same procedure as is established for the declaration. The justification for this decision must be duly accredited on the file.

Article 3

Inventoried items

1. Items inventoried are the following items not declared of cultural interest:

a) Real estate items or parts of real estate items which, in view of their historic, artistic or cultural interest, are included in the general Inventory of the cultural heritage of Andorra by resolution of the minister responsible for culture.

b) The movable items comprised in any of the following categories:

One

Movable items comprising the archaeological and palaeontological heritage

Two

Elements resulting from the dismembering of artistic, historic or religious monuments

Three

Movable items of artistic interest more than a hundred years old

Four

Items comprising the documentary and bibliographic heritage

Five

Collections and rare examples of zoology, botany, mineralogy and anatomy

Six

Movable items comprising the ethnological heritage more than fifty years old

Seven

Other movable items over a hundred years old which have a cultural value

Eight

Movable cultural items which, although of less age than those established in the above categories, are included in the Inventory by reasoned resolution of the minister responsible for culture

c) Intangible items included in the Inventory by the branch of the ministry responsible for culture competent in matters of ethnological heritage.

2. The inclusion of a movable or real estate item in the Inventory is made by resolution of the minister responsible for culture, with a prior hearing for the parties affected and, if dealing with a real estate item, with the corresponding commune. The resolution must be published in the Official Bulletin of the Principality of Andorra.

3. The items comprised in section 1.c are entered in the Inventory without the need to go through a prior administrative procedure. All the same, the entry must be published in the Official Bulletin of the Principality of Andorra.

4. All the items comprised in categories one to seven of section 1.b are considered as inventoried items, although their entry in the Inventory may not have been formalised.

5. The Government may by regulation exclude from categories three, five, six and seven of section 1.b those items which do not exceed certain financial values.

Article 4

Protection of the cultural heritage

1. The public authorities, in the exercise of their competences, must watch over the integrity of the cultural heritage of Andorra and must encourage knowledge of it and its growth and dissemination; among other actions, they must give support to the entities which maintain and disseminate it. It corresponds to the Government to define the policy in matters of the cultural heritage and coordinate the measures for its protection.

2. The communes must cooperate with the Government in the protection and preservation of the cultural heritage in their territorial ambit, communicating to the ministry responsible for culture as soon as they have knowledge of any dangerous situation affecting this heritage, and,

if necessary, immediately adopting the necessary measures to prevent its deterioration, loss or destruction.

3. No public authority may adopt any measure which could imperil the attainment of the objectives set out in this Law.

4. Any person who has knowledge of a situation of danger to or the destruction of an item comprised in the cultural heritage of Andorra must communicate this to the Authorities. Any individual or legal person is legitimated to demand compliance with this Law before the Authorities and the courts of justice.

5. The ministry responsible for culture may at any time inspect the works and interventions being carried out on items comprised in the cultural heritage of Andorra. The owners or possessors of these items must allow access for the personnel of the ministry. If the inspection requires entry to a private home, prior legal authorisation will be required.

6. In the case of interpretation of the Law, the principal of least damage to the cultural heritage of Andorra will always prevail.

Article 5

Cultural Heritage Advisory Council

1. The Cultural Heritage Advisory Council is the Government's advisory organ in matters related with the cultural heritage.

2. The Cultural Heritage Advisory Council shall be formed, at the latest, six months after the entry into force of this Law. It will be presided over by the minister responsible for culture and will have also two members representing that ministry and from two to five other members, appointed by the Government from among technical persons of recognised competence in the various areas of the cultural heritage. The members are appointed for a term of three years, renewable. The Secretary of the Council, with voice and without vote, will be appointed by the minister from among the officials of the ministry responsible for culture.

3. A prior report from the Cultural Heritage Advisory Council will be necessary for the adoption by the competent organ of the following decisions, acts and resolutions:

- a) The opening of the procedure for declaration of items of cultural interest
- b) The resolution to leave the declaration of an item of cultural interest without effect
- c) The inclusion of a real estate item in the general Inventory of the cultural heritage of Andorra
- d) Orders for the execution of works, addressed to those obliged to preserve items of cultural interest in accordance with article 7.2
- e) The executive orders provided in article 8
- f) The report to the Government prior to the approval of town planning instruments as provided in article 16.1
- g) The authorisation of exports of items of cultural interest and inventoried items
- h) The authorisation of archaeological or palaeontological interventions as provided in article 24.1
- i) Studies of impact

4. It also corresponds to the Cultural heritage Advisory Council:

- a) The issue of a report on projects of general provisions in matters of the cultural heritage
- b) The issue of the rest of the reports and opinions provided in the current regulation which are requested by the minister responsible for culture
- c) Proposing the initiatives that it considers appropriate for the best compliance with the objectives of this Law

d) An evaluation once a year of the application of the law and the general state of the heritage, making the results public

5. For the Advisory Council to meet validly, it must be attended by more than half its members, among which the president must be present. The Council will adopt its resolutions by majority of votes. In the case of a tie the president has a casting vote.

Article 6

Foreign projection

The Government must promote the dissemination abroad of the cultural heritage of Andorra and cultural exchanges. Also, it must collaborate with the governments of other states and with international organisations in the protection, preservation and dissemination of the cultural heritage.

Chapter two. General regime of protection of the cultural heritage

Section one. Rules common to movable and real estate items of cultural interest

Article 7

Duty of preservation

1. The owners, holders of rights in rem and possessors of items of cultural interest are obliged to preserve them, maintain them and keep them.

2. In the case of non-compliance with the duty established in section 1, the ministry responsible for culture must order the persons obliged to execute the works or carry out the actions necessary for compliance with this duty. If they do not carry out the action ordered, the ministry can carry it out as an alternative. In the case of imminent danger to the item, the minister responsible for culture will directly execute the essential works to safeguard the item, without the need for a prior demand.

3. The cost of the works and actions referred to in section 2 is for the charge of the person obliged, provided they can be included in the ordinary duty of preservation established in section 1.

4. Failure in compliance with the duties established in section 1 is of the public interest for the purpose of compulsory purchase and, in any case, any danger of destruction, serious deterioration or illegal export of an item of cultural interest.

5. When referring to real estate included in architectural assemblies, the measures described in sections 2, 3 and 4 may be adopted also by the communes in the context of their proper competences.

Article 8

Repair of damage caused

Without prejudice to the corresponding sanction, the minister responsible for culture will order those in charge to repair damage caused to items of cultural interest by means of executive orders for repair, replacement, reconstruction, elimination or demolition, as necessary to restore the item to its previous state. These interventions will be supervised by the technical personnel of the ministry responsible for culture.

Article 9

Use of the items of cultural interest

1. The use made of items of cultural interest must be compatible with their preservation and respectful for their identity, integrity and authenticity.

If at the time of the declaration of an item of cultural interest, this item is subject to a use which endangers its preservation, the decree of declaration must establish the stopping or change of this use. In this case the necessary study must be made and the corresponding compensation fixed.

2. Changes of use of a monument must be authorised beforehand by the Government.

Article 10

Rights of pre-emption and purchase

1. The Government can exercise a pre-emption right over transfers for value of the ownership of items of cultural interest as follows:

a) Items of real estate of cultural interest pertaining to the categories of monument, archaeological or palaeontological area, excluding the protective surroundings

b) Movable items of cultural interest

2. The corresponding commune may alternatively exercise the same right with respect to the items of real estate referred to in section 1.a.

3. The time allowed for the exercise of the pre-emption right is four months from when the owner advises the ministry responsible for culture of the intention to transfer the item and the conditions of the transfer. If the transfer of an item of cultural interest is not notified to the ministry responsible for culture or is not made in the conditions notified, the Government, and alternatively the commune, if dealing with a real estate item, can exercise the right of purchase within six months from when the State Administration has formal knowledge of the transfer and its conditions.

Section two. Real estate items of cultural interest

Article 11

Classification

Real estate items of cultural interest are classified as:

a) Monument: a work of architecture or other material work produced by human activity, configured in a single unit. It can include its pertinences and accessories.

b) Architectural assembly: a group of buildings, urban or rural, concentrated or spread, which constitutes a coherent unit, although in some cases, individually they have no significant value.

c) Cultural landscape: a joint work of man and nature which forms a coherent unit with its aesthetic, historic or cultural values.

d) Archaeological area: a place where there are remains of human intervention in the past and which are only able to be studied in depth by means of archaeological methodology, whether they are found on the surface or in the subsoil

e) Palaeontological area: a place where there are fossilised vestiges which constitute a coherent unit with its own identity, although each individually has no significant value.

Article 12

Declaration

1. The declaration of a real estate item as an item of cultural interest must include the following specifications:

a) The class assigned to it in accordance with article 11

b) The definition of its protective surroundings, for monuments and architectural assemblies, in cultural landscapes and in archaeological and palaeontological areas.

2. The decree declaring a real estate item of cultural interest must include the architectural and town planning criteria which govern interventions over the item declared of cultural interest and the protective surroundings defined in the declaration. These criteria also may be established by means of a subsequent decree, during the year following the decree of declaration of the item, during the processing of which a hearing must be given to the interested parties and the commune, and a period of public information must be opened.

3. The criteria established by the Government in application of the provision in section 2 are enforceable from their publication in the Official Bulletin of the Principality of Andorra and will prevail over the town planning outlines, which must adapt to them.

4. The resolution opening the file for the declaration of an item of cultural interest may establish the suspension of processing of any licences of parcelling, works, building or demolition which affect the item or items the subject of the file. If, in virtue of the declaration of an item of cultural interest, a licence applied for is refused before the opening of the declaration file, the applicant has the right to be indemnified by the Government for the cost of drawing up the project and the reimbursement of any fees already paid, plus the corresponding legal interest.

Article 13

Protective surroundings

1. The protective surroundings of an item of cultural interest include the space, whether built or not, which gives environmental support to the item and which if altered could affect the values, perspectives, contemplation or study of it. The Government, by means of decrees to which reference is made in article 12.2, can establish limitations in building permits affecting the protective surroundings of real estate items mentioned in article 12.1.b), provided this is justified by the need to preserve the elements referred to in section 1 of this article.

Article 14

Authorisation of works

1. Any works or intervention, whether promoted publicly or privately, which it is intended to carry out in a monument, an archaeological or palaeontological area, or in their respective protective surroundings, must be authorised by the ministry responsible for culture before the issue of the permit for works or building, and the execution must be controlled. The ministry can determine, as a prior requirement before the authorisation of the work, the need for an archaeological intervention. If the work is privately promoted, the State must finance the cost of execution of the archaeological intervention.

2. In architectural assemblies and their protective surroundings, the prior authorisation of works or interventions by the ministry responsible for culture is essential, until the State has approved the instrument of order referred to in article 16.1. Once this instrument is approved, the authorisation of the works corresponds to the competent authorities according to town planning legislation, with a prior and essential report from the ministry responsible for culture.

3. In cultural landscapes and their protective surroundings, the prior authorisation of works or interventions by the ministry responsible for culture is essential, until the State has approved the instrument of protection, use and management referred to in article 16. Once this instrument is approved, the authorisation of the works corresponds to the competent authorities according to town planning legislation, with a prior and essential report from the ministry responsible for culture.

4. The communes must immediately advise the ministry responsible for culture of the licences which they grant and which affect items of cultural interest or their protective surroundings.

Article 15

General criteria on interventions

1. Monuments may not be demolished and their identity, integrity and authenticity must be preserved.
2. In cultural landscapes, the external appearance of the protected area must be preserved. Only interventions which are compatible with the preservation of the aesthetic, cultural and natural values of the area can be authorised.
3. Interventions for restoration carried out in monuments, architectural assemblies and cultural landscapes must be based on scientific principles and technical criteria.
4. The placing of publicity, cables, antennae and any visible disturbing element on the exterior of the monuments and in their protective surroundings, on architectural assemblies and in cultural landscapes is prohibited.
5. In architectural assemblies the urban and architectural structure must be maintained together with the general characteristics of their atmosphere and landscape silhouette. As a general rule, no changes are allowed in alignments or in buildable areas, or replacements of buildings, unless they make a contribution to preserving the character of the assembly.
6. In the protective surroundings of items of cultural interest no work or action can be authorised which involves the use of the soil, subsoil or air space in a way that could damage the architectural or landscape nature of the area, or disturb the view of the item.

Article 16

Town planning Instruments

1. The declaration of an architectural assembly carries the obligation by the commune or communes affected to prepare, within a maximum time of one year, a town planning instrument specifying the criteria which must govern the interventions. Definitive approval of the instrument corresponds to the organ which determines the town planning legislation and necessarily requires a prior favourable report from the Government. If at the time of the declaration there already exists a planning instrument which affects the area declared, the report from the Government must determine whether this instrument is sufficient to produce the effects provided in article 14.2, or whether it has to be amended or supplemented.
2. Before drawing up the instrument provided in section 1, a study must be made of the whole which takes into account its spatial evolution and integrates the archaeological, historic, architectural, technical, financial and social details. With the analysis of the urban and rural context the general character of the assembly must be defined and its dominant elements: harmony of heights, colours, materials and forms, characteristics of façades and roofs, ratio of built volumes and spaces, average proportions and the setting of the buildings. In every case, the planning instrument provided in section 1 must contain the following specifications:
 - a) Criteria on buildable areas and alignments
 - b) Activities, elements and materials authorised and not authorised
 - c) Criteria relating to the preservation, restoration and rehabilitation of buildings and their surroundings
 - d) Real estate or parts of real estate and other elements which are considered of special value, with respect to which total protection must be applied
 - e) Financing of the plan and public intervention: measures of rehabilitation and revitalisation

3. The declaration of a cultural landscape involves the obligation on the authority or authorities affected to prepare an instrument of protection, use and management specifying the criteria which must govern the interventions. Definitive approval of the instrument, which must be produced within a maximum of eighteen months counting from the declaration, corresponds to the organ which determines the legislation, and necessarily requires a prior favourable report from the Government. If at the time of the declaration there already exists an instrument of protection, use and management which affects the area declared, the Government must determine whether this instrument is sufficient to produce the effects foreseen in article 14.4, or whether it must be amended or supplemented.

Section three. Other rules of protection of real estate items

Article 17

Studies of impact

1. Before the approval of projects of large infrastructures or others of special impact on the territory which could affect areas close to items of real estate of cultural interest or items of real estate inventoried, a study has to be made of the impact on the cultural heritage and its surroundings.
2. The study must conclude with a positive or negative declaration of impact. In the case of a positive declaration the study must quantify the impact and order the measures necessary for the preservation and protection of the cultural heritage.
3. The expenses involved in safeguarding the cultural items affected by public works, including the prior archaeological work, will be for the charge of the promoter of the works.

Article 18

Inventoried items of real estate

1. Any modification which it is sought to make in a real estate item or in part of an inventoried real estate item must be communicated by the promoter to the ministry responsible for culture three months before applying for the corresponding town planning licence. The communication must have the corresponding project attached.
2. Within three months from reception of the communication, the minister responsible for culture can refuse the authorisation of the works provided that a file is opened for the declaration of an item of cultural interest.

Section four. Movable items

Article 19

Authorisation of export

1. Prior authorisation from the ministry responsible for culture is necessary for the exit of items of cultural interest and inventoried items from the national territory, temporarily or definitively.
2. In the case of temporary exports, the authorisation will be granted provided that the return of the items to the national territory is guaranteed.
3. The State may compulsorily purchase items for which definitive export is asked for. If export authorisation is refused for an item not declared of cultural interest which was imported into Andorra less than fifty years ago, its owner has the right to claim and obtain that the State purchases it from him.

4. In no case may definitive export be authorised for items of cultural interest or for items belonging to public collections.

5. The State must carry out the necessary actions for the recovery of cultural items which have been illegally taken out of Andorran territory and for the return of items comprised in the Andorran cultural heritage which are found abroad.

6. Items which have been exported in contravention of the terms of this article are the property of the State, unless the owner can demonstrate the loss or theft of the item before it left the country. In this case, the owner must pay the expenses that the State may have to meet for recovery of the item.

7. Exports of the following movable items in the cultural heritage are excluded from the provisions of this article:

- a) Those which are the consequence of exchanges between states
- b) The works of living authors
- c) The re-export of items within ten years of their entry into the country

Article 20

Movable items of cultural interest

1. Movable items can be declared of cultural interest singly or as a collection. A collection is understood as a group of cultural items kept by a person or entity and constituting a coherent unit.

2. Movable items declared of cultural interest may not be destroyed. Any restoration or intervention which has to take place must be approved beforehand by the ministry responsible for culture.

3. Collections declared of cultural interest may not be broken up without authorisation from the Government.

Article 21

Inventoried movable items

1. Inventoried movable items must be preserved by the owners, holders of other rights in rem over them or their possessors and must be used in a way that is compatible with their preservation. The transformation or elimination of these items is only possible in the circumstances envisaged and in accordance with the procedure established in current regulations.

2. Simply for the purposes of preparation of the general Inventory of the cultural heritage of Andorra, the owners or possessors of items which meet the characteristics established in article 3.1.b and not entered in the Inventory have to communicate this to the ministry responsible for culture.

Article 22

Cautionary deposit

If the preservation of a movable item of cultural interest or inventoried is not guaranteed in its current place, the ministry responsible for culture must order its provisional deposit in a place which meets the conditions necessary for its security and preservation. Also the ministry responsible for culture must order the provisional deposit of the item in the case that the owner, holder of other rights in rem or possessor fails to comply with the duty of preservation.

Chapter three. Specific regime of certain items

Section one. The archaeological and palaeontological heritage

Article 23

Concept and legal regime

1. The archaeological heritage is composed of movable and real estate items, both on the surface and in the subsoil, capable of contributing to the understanding of history and which, to be studied, require the techniques of archaeological methodology. The palaeontological heritage is composed of fossilised elements, related or not with humans, which are of historical, cultural or scientific value.

2. The protection of the archaeological and palaeontological heritage is governed by the general regime established in this Law and, also, by the provisions of this section.

Article 24

Archaeological or palaeontological Interventions

1. The undertaking of archaeological or palaeontological Interventions requires prior authorisation from the ministry responsible for culture. Actions of prospecting, drilling, excavations and any other intervention, with removal of earth or without, which is for the purpose of discovering or investigating archaeological or palaeontological remains are considered to be archaeological or palaeontological interventions.

2. The ministry responsible for culture can undertake archaeological or palaeontological interventions in any land where there is presumed to be the existence of remains. The party affected has the right to be compensated for the temporary occupation of the land, if it is private property.

Article 25

Suspension of works

If archaeological or palaeontological remains are found during the execution of any type of works, both the promoter and the constructor and the site manager of the works are obliged to halt the work from the first indication and communicate this immediately to the ministry responsible for culture, which must then check the value of the find. If the suspension is extended for more than two months and the promoter is private, it will have the right to be compensated for the losses caused by the delay in the works. Within a maximum term of six months, the ministry must resolve in favour of continuation of the work suspended or in favour of maintaining the suspension and opening a file of declaration of an item of cultural interest.

Article 26

Regime of finds

1. The product of the archaeological or palaeontological Interventions and chance finds of archaeological or palaeontological items are considered to be in the public domain and must be put at the disposal of the ministry responsible for culture, which will assign them to an appropriate museum or centre.

2. In the case of chance finds, the person discovering them and the owner of the land on which the discovery is made each have the right to receive in compensation a sum equivalent to a quarter of the value of the items. If there is more than one owner or more than one discoverer, the corresponding quarter part of the value must be shared between them. Finds produced as a

consequence of archaeological or palaeontological interventions are not considered as chance finds, whether authorised or illegal.

3. This article will not apply to finds of architectural structures of an archaeological nature. Notwithstanding this, whoever finds such a structure must communicate with the ministry responsible for culture.

Section two. The ethnological heritage

Article 27

Concept and regime of protection

1. The ethnological heritage covers the assemblies of objects, buildings, technical processes, ideas, habits and values integrated in or which have been integrated in the culture of the Andorran people and define their identity; especially those in the process of disappearing or transformation which have fallen out of use and lost the functions which they used to have.

2. The regime of general protection established in this Law is of application to ethnological items of a tangible nature, whether movable or real estate.

3. With regard to ethnological items of an intangible nature, the ministry responsible for culture must document them by means of including them in the general Inventory of the cultural heritage of Andorra, must promote their preservation and study and must give support to the entities which maintain them and disseminate them.

Section three. The documentary and bibliographic heritage

Article 28

Concept of documentary heritage

1. A document is understood as any expression in natural or conventional language and any other graphic, sound or image expression, collected in any type of material support.

2. The documentary heritage of Andorra includes the following documents:

a) Those produced or received in the exercise of their functions by the public authorities of Andorra, including the historic institutions, parapublic entities, individuals and legal persons managing public services or entities in which the majority of the share capital is held by public authorities.

b) Those more than thirty years old, produced or received in the exercise of their functions by non-profit-making private entities which carry out their activity in Andorra

c) Those more than a hundred years old, produced or received by any individual or private company, and those of lesser age which have been produced on supports which expire in less than a hundred years

d) Those kept in archives of public ownership

e) Those produced or received by private individuals in the exercise of public functions; particularly notarial archives.

f) Documents the subject of assignment or express donation

Article 29

Concept of bibliographic heritage

The bibliographic heritage of Andorra is composed of the libraries, newspaper libraries, bibliographic and periodical collections and also works of creation or research, whether single units or multiple, printed, manuscript or reproduced on any support, the preservation of which is

of interest for their value for information, education, research and leisure. In particular, the bibliographic heritage of Andorra includes the following bibliographic items:

- a) Copies of the Andorran bibliographic production which are the subject of legal deposit and which have some relevant characteristic which makes them singular
- b) Copies of works comprising the Andorran bibliographic production and those related with the culture and history of Andorra of which there is no record of the existence of at least one copy in public libraries
- c) Manuscript items, those more than a hundred years old and those of lesser age produced on supports with an expiry of less than a hundred years
- d) Items kept in libraries of public ownership

Article 30

Regime of protection

1. Without prejudice to the most important being declared as items of cultural interest, all the items composing the documentary or bibliographic heritage form part of the cultural heritage of Andorra and must be kept by their owners or possessors in the terms established in article 21.

2. If compliance with the duty of preservation becomes too onerous, the owners or possessors of items comprising the documentary or bibliographic heritage may put them at the disposal of the ministry responsible for culture, which may deposit them in the appropriate archive, library or institution. The assignment of items for their preservation does not itself imply any change of ownership.

Chapter four. The archives, libraries and museums

Article 31

The archives

1. Archives are organic assemblies of documents, or the collecting together of various assemblies, brought together by individuals or public or private entities in the exercise of their activities, for research, culture, information and administrative management. The cultural institutions in which these assemblies of documents are brought together, preserved, ordered and disseminated for the ends set out above are also called archives.

2. The functions of the National Archive are to collect, preserve and disseminate the documentation of the State Administration and the organisations and entities which depend on it, and the relevant documentation related to Andorra and its history. Another function of the National Archive is to give technical support to other archives, public and of public interest, in the Principality and to oversee the preservation of the documentary heritage of Andorra. The right and conditions of access to the documentary heritage preserved in the National Archive will be governed by a specific regulation.

3. The owners or possessors of items belonging to the documentary heritage must keep and manage their own archive, without prejudice to the provision in article 30.2.

Article 32

Libraries

1. Libraries are the cultural institutions which bring together, preserve, catalogue and disseminate an organised assembly of bibliographic items in order to facilitate their use for information, research, education and leisure.

2. The ministry responsible for culture can give technical support to the libraries in public ownership and to private ones with which collaboration agreements have been established.

3. The National Library has the function of collecting, preserving and disseminating the bibliographic production of Andorra and that related with the Principality. It is also a function of the National Library to oversee the preservation of the bibliographic heritage of Andorra.

4. The public has access to the bibliographic funds collected in libraries in public ownership or qualified for public use. All the private libraries which receive grants from the public authorities are considered to be libraries for public use. Transitionally, the consultation of bibliographic items which are in poor conditions of preservation can be refused.

Article 33

Museums

1. Museums are permanent non-profit-making cultural institutions at the service of society and its development, which collect, acquire, preserve, research, document, exhibit and disseminate material objects concerned with the human being and his environment, and assemblies of cultural and natural items for the purposes of study, education and enjoyment.

2. It corresponds to the ministry responsible for culture to determine which cultural institutions have the category of museum.

3. The ministry responsible for culture can supply technical support to museums in public ownership and the private museums with which it has established collaboration agreements.

Article 34

Regulation and inspection

The Government regulates by order the conditions which the archives, libraries and museums must meet. It corresponds to the ministry responsible for culture to inspect them for such compliance.

Chapter five. Promotion and dissemination of the cultural heritage

Section one. Promotion

Article 35

Public grants

1. The Government must establish an annual programme of investments in order to award grants for the complete preservation, restoration, maintenance and improvement of the cultural heritage. The budgetary provision for this programme must be at least equal to 0.5% of the investment in public works scheduled to be awarded by the Government during the year.

2. In the award of the grants the necessary guarantees must be arranged to prevent speculation in the items concerned.

3. Those individuals and entities which do not comply with the duty of preservation established in articles 7 and 21 may not receive grants from the State.

4. If the State should acquire the relevant item within a period of five years from payment of a State subvention, the amount of the subvention shall be considered as a payment on account and deducted from the acquisition price.

5. The Government, considering that the cultural heritage is a communal item, shall stimulate its preservation and promotion, offering incentives and promoting private initiatives directed to the knowledge, protection, restoration and revitalisation of the cultural heritage.

Article 36

Payments with cultural items

The public authorities can accept, on request from the interested party, the donation of items comprising the cultural heritage of Andorra in payment of taxation debts or of any other type.

Section two. Dissemination

Article 37

Access to the items comprising the cultural heritage

1. Items comprising the cultural heritage in public ownership or belonging to non-profit-making private entities must be able to be visited by the public, without prejudice to the limitations which may arise from the use to which each item is destined, the right to privacy and respect for private life.
2. Public grants destined to the preservation, restoration and improvement of items comprising the cultural heritage may be conditional on accessibility of the item for public view and study.

Article 38

Dissemination of knowledge of the cultural heritage

1. The ministry responsible for education must include knowledge of the cultural heritage of Andorra in the curriculum at various teaching levels.
2. The ministry responsible for culture must promote specific campaigns and actions of sensitisation and programmes giving information on the importance of preserving the cultural heritage and also must promote the publishing of research work and the dissemination of this heritage.
3. The data of the general Inventory of the cultural heritage of Andorra are public. Notwithstanding this, the consent of the owner of the item must be obtained for public consultation of details relative to the ownership and value of the items, and also their location if dealing with movable items. The authorisation of the ministry responsible for culture is needed for consultation of details referring to the situation of archaeological or palaeontological sites not open to public visits.

Chapter six. Infringements and sanctions

Article 39

Classification of infringements

1. Non-compliance with the obligations established in this Law is considered as an administrative infringement, unless constituting a criminal offence.
2. Slight infringements are considered to be:
 - a) The lack of notification of the transfer of items of cultural interest provided in article 10.1
 - b) Non-compliance with the duty to permit the ministry responsible for culture to have access to the items referred to in article 1.4 or to deliver the relevant information set out for their inclusion in the general Inventory.
 - c) Non-compliance with the duty established in article 37 of allowing public visits for viewing the items comprising the cultural heritage
 - d) Unjustified resistance to the exercise of the power of inspection by the authorities
 - e) Non-compliance with the duty of preservation of inventoried movable items

f) Non-compliance with the requirements formulated by the Authorities

3. The following are considered as serious infringements:

- a) Non-compliance with the duties of preservation, maintenance and keeping of items of cultural interest
- b) Breaking up a collection declared of cultural interest without authorisation from the Government
- c) The illegal destruction of inventoried movable items
- d) Non-compliance with the obligation of communication of the discovery of archaeological or palaeontological remains or the duty of delivery of items found
- e) Non-compliance with the suspension of works by reason of the discovery of archaeological or palaeontological remains or the suspension of works ordered by the Authorities
- f) The granting by the communes of licences for works which do not comply with the provision of article 14
- g) The illegal export of items comprising the cultural heritage

4. The total or partial destruction of movable or real estate items declared of cultural interest is considered as a very serious infringement.

5. The following are considered as serious or very serious infringements, according to their potential or actual damage to the cultural heritage:

- a) The undertaking of archaeological or palaeontological interventions without the authorisation of the ministry responsible for culture
- b) The undertaking of interventions on real estate items of cultural interest without a licence or failing to fulfil its conditions
- c) The undertaking of interventions on movable items of cultural interest without the approval of the ministry responsible for culture or failing to meet its conditions
- d) The alteration of inventoried real estate items, not complying with the terms established in article 18
- e) The change of use of an item of cultural interest without the approval of the Government or the maintenance of uses declared incompatible

Article 40

Sanctions

1. The administrative infringements defined in article 39 are sanctioned, if the damage caused to the cultural heritage can be evaluated financially, with a fine of an amount which can be calculated at between one and three times the value of the damage caused.

2. If the damage cannot be financially valued, the following sanctions will be applied:

- a) For slight infringements, a fine of an amount from 300 to 3,000 euro
- b) For serious infringements, a fine of 3,001 to 60,000 euro
- c) For very serious infringements, a fine of 60,001 to 300,000 euro

3. The amount of the sanctions must be graduated in proportion to the seriousness of the facts, the circumstances of the person sanctioned and the damage caused or which could be caused to the cultural heritage.

4. The competent organ to impose a sanction can resolve the confiscation of the materials and instruments used in the unlawful activity.

Article 41

Competences and procedure

1. The processing of the file corresponds to the ministry responsible for culture.

2. The imposition of the sanctions provided in this Law corresponds to the minister responsible for culture if dealing with slight infringements, and to the Government if dealing with serious or very serious infringements.

3. The infringements defined in article 39.5.b which are sanctioned in accordance with this Law may not be sanctioned by application of town planning legislation.

Article 42

Precautionary measures

When there are rational indications of an infringement being carried out which could cause damage to the cultural heritage of Andorra, or a sanction file has been opened, the ministry responsible for culture must resolve the stopping of the corresponding actions and also the precautionary deposit of the objects affected and the instruments used.

Article 43

Prescription

1. Slight infringements prescribe at the end of one year from having been committed; serious infringements at the end of four years, and very serious infringements at the end of five years. The time of prescription will be interrupted by the start of the sanctioning procedure with the knowledge of the interested party.

2. The sanctions prescribe at the end of one year from when they become firm in the case of slight infringements, and at the end of four years in the case of serious and very serious infringements. The time of prescription will be interrupted by the start, with the knowledge of the interested party, of the procedure of enforcement.

First additional provision

The following are real estate items of cultural interest, with the category respectively corresponding to them according to article 11 of this Law: Romanesque chapels, artistic monuments, artistic-archaeological monuments and the areas of historic interest and prehistoric national interest comprised in Ordinance II, of 13 July 1964, and Ordinance I, section 2, of 4 June 1970, amended by Parliamentary resolution adopted in ordinary session on 5 July 1988, included in the list published as a schedule to this Law.

Second additional provision

The measures which are adopted in application of this Law may not encroach on or affect the right to privacy or a respect for private life.

Transitional provision

1. Unless specifically defined, the protective surroundings of the monuments declared in virtue of the first additional provision will be considered as including all areas within a radius of one hundred metres counting from the outer perimeter of the monument.

2. Until the relevant defining decrees are issued, no new construction or increase of volume can be carried out in the surroundings defined in section 1, without the favourable prior report from the Cultural Heritage services. Once the decrees mentioned have been issued, the criteria established in them will apply.

Repeal provision

1. There following are repealed: Ordinance II, of 13 July 1964, Ordinance I, section 2, of 4 June 1970 and Ordinance of 5 July 1988, and all the legal provisions of equal or inferior rank, valid before the entry into force of this Law, which contradict or oppose it.

2. Article 2 of the Law of 9 November 1983, of the protection of the natural-cultural heritage of Andorra is repealed. The rest of the articles of that Law remain in force with application exclusively to items comprising the natural heritage.

First final provision

The Government must approve in the maximum term of two years the decrees of definition of the protective surroundings of each of the monuments declared in virtue of the first additional provision. These files must follow the procedure regulated in article 2.

Second final provision.

This Law will come into force the day after its publication in the Official Bulletin of the Principality of Andorra.

Casa de la Vall, 12 June 2003

Francesc Areny Casal

Speaker

We, the co-princes, grant and promulgate and order publication in the Official Bulletin of the Principality of Andorra.

Jacques Chirac

President of the French Republic

Co-prince of Andorra

Joan Enric Vives Sicília

Bishop of Urgell

Co-prince of Andorra

Schedule

Parish of Canillo

Monuments

Church of Sant Serni de Canillo

Church of Sant Bartomeu de Soldeu

Church of Sant Pere del Tarter

Church of Sant Joan de Caselles

Church of the Santa Creu

Church of Sant Miquel de Prats

Old sanctuary of Meritxell

New sanctuary of Meritxell

Archaeological areas

Meners de Ransol

Gravats de la Roca de les Bruixes

Parish of Encamp

Monuments

Church and Shelter de Santa Eulàlia

Church of Sant Romà de les Bons

Torre dels Moros (Castell de les Bons)

Church of Sant Miquel de la Mosquera

Church of Sant Marc i Santa Maria

Church of Sant Romà de Vila

Archaeological areas

Balma del Llunci

Parish of Ordino

Monuments

Church of Sant Corneli i Sant Cebrià

Church of Sant Serni de Llorç

Church of Sant Martí de la Cortinada

Church of Sant Miquel d'Ansalonga
Church of Sant Pere del Serrat
Church of Sant Roc de Sornàs
Capella of casa Rossell
Church of Santa Bàrbara
Cal Pal mill and sawmill
Casa Rossell
Colomer de casa Rossell
Casa d'Areny-Plandolit

Architectural groups
Cabanes del Castellar
Archaeological areas
Gravats de la Terra de la Mola
Gravats de Sornàs
Llorts Mine
La cabana dels Meners mine
Parish of La Massana

Monuments
Church of Sant Iscle i Santa Victòria
Church of Sant Joan de Sispony
Church of Sant Cristòfol d'Anyos
Church of Sant Ermengol de l'Aldosa
Church of Sant Romà d'Erts
Church of Sant Andreu d'Arinsal
Church of Sant Climent de Pal
Bridge of Sant Antoni de la Grella
Rossell Forge
Parish of Andorra la Vella

Monuments
Church of Sant Esteve
Church of Sant Andreu
Casa de la Vall
Church of Santa Coloma
Bridge of La Margineda

Archaeological areas
Archaeological area of El Roc d'Enclar
Parish of Sant Julià de Loria

Monuments
Church of Sant Julià i Sant Germà de Loria
Sanctuary de la Mare de Déu de Canolic
Church of Sant Esteve de Bixessarri
Church of Sant Serni de Nagol
Church of Sant Martí de Nagol
Church of Sant Miquel de Fontaneda
Church of Sant Pere d'Aixirivall
Church of Sant Romà d'Auvinyà
Archaeological areas
Balma de la Margineda
Parish of Escaldes-Engordany

Monuments

Church of Sant Pere Màrtir

Church of Sant Miquel d'Engolasters

Church of Sant Romà dels Vilars

Bridge of Les Escalls

Bridge Pla

Bridge of Engordany

Bridge of La Tosca

Archaeological areas

Gravats de cal Diumenge

Andorran Forge

Sant Jaume d'Engordany

UNESCO Cultural Heritage Laws Database
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