

Pursuant to Article 82, paragraph 1, item 2 and Article 91, paragraph 1 of the Constitution of Montenegro, the 24th convocation of the Assembly of Montenegro, at 10th meeting of the first regular session in 2010, on July 27, 2010 passed the following

PROTECTION OF CULTURAL PROPERTY A C T

I. BASIC PROVISIONS

Scope of Act

Article 1

This Act regulates types and categories of cultural property, methods of establishing protection, the system and measures of protection, rights and liabilities of owners and holders of cultural property and other matters important for protection and preservation of cultural property.

Cultural property

Article 2

(1) "Cultural property" means any immovable, movable and non-material property determined, in accordance with this Act, to be of permanent historical, artistic, scientific, archaeological, architectural, anthropological, technical or other social significance.

(2) A cultural property may be a state or private property.

Protection basis

Article 3

(1) Cultural property, as a valorized part of cultural heritage of general interest, shall be protected in accordance with this Act and international regulations, regardless of the time, place, creation method, origin, who owns them and whether they are secular or religious.

(2) Protection of cultural property is in the public interest.

(3) As for a cultural property, protection shall also be provided for protected surroundings of an immovable cultural property, an object which, together with the immovable cultural property, makes historical, artistic, visual or functional whole, a building in which movable cultural property are permanently kept or displayed, the documentation of a cultural object, a property with previous protection, the obligatory publication copy and public archival materials.

Protection goals

Article 4

The goals of protection of cultural property include the following:

- 1) preserving and advancing cultural property and its passing to generations to come, in its authentic form;
- 2) providing conditions for survival of a cultural property and for preservation of its integrity;
- 3) providing sustainable usage of cultural property, in accordance with its traditional or new adequate purposes, for the purpose of human development and quality of life;
- 4) expanding knowledge on values and significance of cultural property;

- 5) preservation of cultural diversity through advancement of condition and values of all kinds of cultural property, fostering creativity and understanding of different cultures and cultural strata and advancement of a dialogue among cultures and religions;
- 6) providing conditions for cultural property to serve, in accordance with their purpose, for fulfillment of cultural, scientific and educational needs of an individual and society;
- 7) preventing actions and activities which can change the appearance, feature, peculiarity, meaning or significance of cultural property;
- 8) preventing illicit trade in cultural property and its relocation.

Right to cultural heritage

Article 5

- (1) Every person has a right to use cultural property, under equal conditions, individually or collectively, for the purpose of his or her participation in cultural life, enjoyment, scientific advancement or other well-being resulting from it, as well as to contribute to its enrichment and preservation, in accordance with this Act.
- (2) Every natural and legal person, including religious communities, is obligated to respect the cultural property of others, in the same way as they do their own.
- (3) The right of access to a cultural property may be limited only for the purpose of protection of public interest and rights and freedoms of others.

Obligation to protect cultural property

Article 6

- (1) Montenegro is obligated to provide protection and preservation of all cultural property which are located on its territory, including internal waters and territorial sea, as well as to take care of protection and preservation of property which are located abroad, if they are important for its history or culture.
- (2) Owners and holders of cultural property, including religious communities, are obligated to protect, respect, maintain and properly use the cultural property they own.

Protection implementation

Article 7

Protection of cultural property shall be implemented by undertaking adequate measures necessary for its identification, preservation and presentation, and especially:

- 1) by applying prescribed administrative measures and actions;
- 2) by founding, organizing, training specialized bodies and services and by forming professional and advisory bodies, at the state and local level;
- 3) by applying professional/expert, scientific, technical and other protective measures;
- 4) by passing and implementing management, reconstruction and revitalization programs;
- 5) by their adequate treatment in planning documents and by undertaking environment protective measures, in accordance with this and separate Acts;
- 6) by establishing an information system on cultural property and its linking with corresponding information systems and networks at the state and international level;
- 7) by developing international cooperation and assistance;
- 8) by preserving and applying traditional crafts, skills and materials important for implementation of protective measures;
- 9) by cooperating with and encouraging owners and holders to use cultural property sustainably;

- 10) by encouraging activities of non-governmental organizations and private initiatives;
- 11) by educating people, raising public awareness of significance of cultural property, risks that they are exposed to and the needs for their protection and preservation;
- 12) by managing risks that cultural property are exposed to;
- 13) by developing a documentation of cultural property and their promotion and popularization.

Performing protection tasks

Article 8

- (1) Administrative and related professional tasks on the protection of cultural property shall be carried out by the administrative body competent for protection of cultural property (hereinafter the “Administration”).
- (2) Professional tasks on the protection of cultural property, which do not fall within the competence of the Administration, may be performed by legal and natural persons fulfilling conditions to provide conservation, museum, library, archival and film library service, in accordance with this and separate Acts.

Prohibited actions

Article 9

No person has the right to:

- 1) perform any activity which can cause damage to cultural property;
- 2) damage, destroy and seize cultural property;
- 3) purchase, take as security or in some other way, obtain, cover up or put on sale a cultural property for which he knows or might have known was obtained in an illicit manner.

Application of rule of procedure

Article 10

Establishing of protection, determining and providing for implementation of protective measures for cultural property shall be done by rules of general administrative procedure, unless otherwise determined by this Act.

Definitions

Article 11

Meanings of some expressions used in this Act:

- 1) “**antiquity**” means any movable object older than 75 years;
- 2) “**surroundings’ value**” means a typical feature and peculiarity of authentically preserved surroundings of a cultural property;
- 3) “**archaeological find**” means some space on land and under water containing remnants of buildings or other man-made objects;
- 4) “**archaeological reservation**” means a spatially limited area containing any traces of human existence in the distant past, also including places with no visible remnants on land or under water, the excavation and exploration of which is left to generations to come;
- 5) “**holder of a cultural property**” means a legal and natural person which is in possession of a cultural property, but is not its owner;
- 6) “**incunabula**” means a book originating from the times of invention of printing until the beginning of 16th century;

- 7) “**public institution for protection of cultural property**” means an institution established by the state or municipality to provide conservation, museum, library or film library service;
- 8) “**replica**” means imitation of a cultural property or of its recognizable part, regardless of a type of material, production technique and size with regard to the original;
- 9) “**cultural heritage**” means a set of property inherited from the past which people recognize as a reflection and expression of their values, beliefs and traditions, which are constantly evolving, including all aspects of their surroundings resulting from the interaction between humans and nature in time, regardless of the ownership;
- 10) “**cult place**” means a space which is by folk tradition or belief a matter of special importance or admiration;
- 11) “**cultural landscape**” means a space whose characteristic appearance is the result of an action and interaction between natural and antropogenous factors in a longer span of time;
- 12) “**cultural property**” means a property which was, prior to or after illicit taking from the territory of an EU Member State or other state, classified as a national treasure having artistic, cultural, historical or archaeological value, based on the national legislation or administrative procedure, in accordance with Article 36 of the Treaty on the Functioning of the European Union (TFEU);
- 13) “**cultural value**” means determined characteristic features and peculiarities of a cultural property which are of permanent historical, artistic, scientific, archaeological, architectural, anthropological, technical or other social significance;
- 14) “**parent cultural institution**” means an institution authorized to perform parent tasks in a particular field or services of culture, in accordance with law;
- 15) “**preservation of a cultural property**” means prolonging duration of features and peculiarities of a cultural property which represent its cultural value, as well as prevention of deterioration of a cultural property and provision for its purpose and function;
- 16) “**planning documents**” are state and local planning documents which are made and passed in accordance with law regulating space;
- 17) “**presentation**” means a set of procedures and measures making a cultural property accessible to the public;
- 18) “**rehabilitation**” means the establishing of a lost functionality of a cultural property;
- 19) “**revalorization**” means professional or scientific assessment of features, peculiarities and importance of a cultural property, for the purpose of verification of its cultural value;
- 20) “**revitalization**” means implementation of protective measures with the aim of restoring the original purpose or giving a new adequate purpose, that is a function to a cultural property;
- 21) “**objet d’art**” means a piece of visual or applied arts;
- 22) “**valorization**” means an expert and scientific assessment of features, peculiarities and importance of an object, for the purpose of determining its cultural value and the status of a cultural property;
- 23) “**famous place**” means a place where a significant event took place or a place recognizable after some prominent person;
- 24) “**protected surroundings**” means a space around an immovable cultural property which is of direct importance for its existence, protection, usage, appearance, preservation and exploration, as well as for its historical context, traditional environment and visual accessibility.

II. TYPES OF CULTURAL PROPERTY

1. Immovable Cultural Property

Definition and types

Article 12

(1) An immovable cultural property is a profane, sacral, memorial, fortification or infrastructural object, a cluster of buildings or a space with characteristic interactions of man and nature.

(2) An immovable cultural property can be a cultural and historical structure, cultural and historical whole, locality or area.

Cultural and historical structures

Article 13

(1) A cultural and historical structure is a single immovable structure, which is of architectural, archaeological, artistic, technical, paleontological or other social significance.

(2) A cultural and historical structure can be:

- 1) an architectural work, its remnants or recognizable parts;
- 2) archaeological elements or structures of an archaeological character;
- 3) a piece of work of applied arts, visual arts or sculpture, an inscription, a cave dwelling, a piece of work or a remnant of technical culture, old industry or infrastructure and other property permanently related to certain architectural structure or place;
- 4) a memorial or other commemorative structure.

Cultural and historical whole

Article 14

(1) A cultural and historical whole is an urban or rural settlement or a part thereof, including accompanying infrastructure and isolated or connected clusters of buildings, which are with their specific features exceptional enough to represent a topographic whole.

(2) A cultural and historical whole can be:

- 1) an old town;
- 2) an urban or rural settlement;
- 3) a homogenous cluster of buildings.

Locality or area

Article 15

(1) A locality or area is a common work of man and nature, which is partly built, specific and homogenous enough to be topographically defined.

(2) A locality and area can be:

- 1) an archaeological find;
- 2) a cultural and historical area;
- 3) a cultural landscape.

2. Movable and Non-Material Cultural Property

Movable cultural property

Article 16

(1) Movable cultural property is a single archaeological, artistic, ethnographic, technical or documentary object or a natural sample or collection of these objects, that is, samples, which are a testimony of human creative work and an evolution of nature.

(2) Movable cultural property can be:

- 1) an archaeological object found on land or under water;
- 2) an antiquity;
- 3) a movable remnant of an architectural structure;
- 4) an anthropological, ethnological, zoological, botanical or geological object, that is sample;
- 5) an object related to a significant event or historical personality;
- 6) a ritual object or an object of sacral character;
- 7) a piece of art of visual and applied arts;
- 8) a manuscript, incunabula, book, publication or document;
- 9) a numismatic or philatelist object;
- 10) archival, library or film library material and museum material;
- 11) furniture and a musical instrument and other objects of special significance.

Non-material cultural property

Article 17

(1) A non-material cultural property is human art, expression, skill or performance, as well as an object, handicraft, instrument or space related to it, which communities, groups and in some cases, individuals see as a part of their cultural heritage.

(2) A non-material cultural property can be:

- 1) language, speech, oral tradition, oral literature or other oral expression;
- 2) performing art;
- 3) custom, ritual and ceremony;
- 4) knowledge or skill related to nature and the universe;
- 5) cult or a famous place;
- 6) traditional craft or skill.

III. PROTECTION ESTABLISHMENT, CATEGORIES AND REGISTRATION OF CULTURAL PROPERTY

1. Protection establishment

Method of protection establishment

Article 18

(1) Protection of a cultural property shall be established by determining previous protection and by establishing the status of a cultural property.

(2) Protection of a cultural property shall be established by the Administration, in the line of duty.

Initiative for establishing protection

Article 19

(1) Any person may launch an initiative with the Administration for establishing protection of a cultural property.

(2) The Administration is obligated to consider the initiative referred to in paragraph 1 of this Article and to inform the submitter in writing, within 90 days from the day of the initiative submission.

Previous protection

Article 20

(1) Previous protection shall be established on immovable and movable property which is reasonably believed to have cultural value, in order to prevent risks of damage, destruction or disappearance.

(2) Previous protection shall be established based on the proposal of experts, which is based on a direct insight into the state of the property, available documentation or other relevant facts.

(3) Administration shall pass a decision on previous protection by rules of administrative summary proceedings.

(4) Previous protection referred to in paragraph 1 of this Article may last no longer than a year after the day of the issuing of a decision.

(5) As an exception to paragraph 4 of this Article, previous protection on an archaeological find may be established up to the completion of archaeological exploration and excavation, and indefinitely in an archaeological reservation.

(6) Appeal against the decision referred to in paragraph 3 of this Article shall not postpone enforcement of the decision.

Contents of a decision on previous protection

Article 21

(1) A Decision on previous protection, depending on the kind of a property, shall contain:

1) the title of a property and its description, and for an immovable property, the cadastral marks, a description of its borders and borders of its protected surroundings included;

2) basic data on the owner and holder of a property;

3) a description of property and peculiarities of a property which is reasonably believed to be representing a cultural value;

4) duration of previous protection;

5) actions and activities to be implemented during the period of previous protection, for the purpose of establishing cultural values of a property;

6) a method of preserving, maintaining and using a property during previous protection duration.

(2) If previous protection is established on an immovable property, consisting of more parts with more persons having the ownership right, a decision shall state the ownership of more persons instead of stating data on the owner and holder of a property.

Cessation of previous protection

Article 22

Previous protection shall cease:

1) on the day of issuance of a decision establishing the status of a cultural property;

2) by the expiration of a previous protection period;

3) on the day of establishing that a property has no cultural value.

Establishing cultural value

Article 23

- (1) Cultural value of an immovable, movable and non-material property shall be established by an expert body, consisting of at least three members, which is formed by the Administration.
- (2) Cultural value of an immovable, movable and non-material property shall be established based on the research findings and other relevant evidence on property and peculiarities of a property and valorization of their artistic, historical, paleontological, archaeological, architectural, scientific, technical and other social significance.
- (3) In the procedure of establishing the cultural value of a property, the expert body referred to in paragraph 1 of this Article shall produce a proposal containing a detailed description of actions performed and a reasoned expert position on valorization of features, peculiarities, importance and property category as well as a description, cadastral marks and graphic representation of borders of an immovable property and borders of its protected surroundings.

Criteria for determining cultural value

Article 24

- (1) The criteria for determining the cultural value of a property are as follows:
 - 1) authenticity and integrity;
 - 2) degree of preservation;
 - 3) uniqueness and rarity within its kind;
 - 4) historical, artistic, scientific, archaeological, architectural, anthropological, technical or other social significance.
- (2) Detailed criteria and the procedure of establishing the cultural value of a property shall be determined by the state administrative body competent for cultural affairs (hereinafter the "Ministry").

Status of a cultural property

Article 25

Status of a cultural property shall be established based on a proposal referred to in Article 23, paragraph 3 of this Act.

Decision on establishing the status of a cultural property

Article 26

- (1) A decision on establishing the status of a cultural property, depending on the kind of a cultural property, shall contain the following:
 - 1) basic data on a cultural property (its title, type, location and identification marks);
 - 2) a description on the appearance and condition of a cultural property and its individual parts;
 - 3) a description of the borders of an immovable cultural property and borders of its protected surroundings and structures contained thereof;
 - 4) data on the owner and holder of a cultural property and protected surroundings of an immovable cultural property (its name, surname, residence and temporary residence for a natural person, that is the name and the title of a legal person);
 - 5) a detailed description of property and the peculiarities of a cultural property, for which it was determined to represent cultural value;
 - 6) a cultural property category;
 - 7) data on a building in which a movable cultural property is permanently kept and displayed;

8) protective measures, purpose and method of keeping, maintaining and using a cultural property, and in the case of an immovable property, including its protected surroundings.

(2) If a cultural object consists of more parts on which more persons have the ownership rights, instead of stating the data on the owner and holder of the object, a decision shall contain a statement on the ownership of more persons.

(3) An integral part of a decision on establishing the status of an immovable cultural property shall be a graphic representation of the foundation of a cultural property, as well as of the borders of its protected surroundings and structures located within it, with cadastral marks and a list of movable objects which together with the immovable cultural property make an artistic, historical, visual or functional whole.

(4) An integral part of a decision on establishing of the status of a movable cultural property, which is a collection of objects or samples, shall be a list of objects with identification marks, photographs and a description of each accompanying object.

Delivering a decision

Article 27

(1) The Administration is obligated to deliver a decision establishing previous protection and a decision establishing of the status of a cultural property to the following recipients:

1) the owner, that is a holder of a cultural property, except in the case referred to Article 21, paragraph 2 and Article 26, paragraph 2 of this Act;

2) the Ministry;

3) a public institution performing conservation service;

4) municipality, the capital (hereinafter "municipality") on whose territory the property is located, that is the cultural property is located.

(2) The Administration is obligated to deliver the decision referred to in paragraph 1 of this Article for an immovable property, that is a cultural property to the administrative body competent for cadastral affairs.

Publishing decisions

Article 28

Excerpt from a decision on establishing previous protection and a decision on establishing of the status of a cultural property shall be published in the »Official Gazette of Montenegro«.

Registering with the real estate cadastre

Article 29

The administrative body competent for cadastral affairs is obligated, based on the decision referred to in Article 27, paragraph 2 of this Act, to register the status of previous protection and the status of an immovable cultural property in real estate cadastre, in accordance with law.

Monitoring the situation and revalorization of cultural value

Article 30

Administration is obligated to monitor the situation regularly and at least once in five years carry out revalorization of cultural value of a cultural property.

Cessation of the status of a cultural property

Article 31

(1) Administration shall pass a decision on the cessation of the status of a cultural property, if a cultural property is:

- 1) completely destroyed or seriously damaged, and there is no possibility for its reconstruction due to a lack of adequate documentation, that is relevant data or critical quantity of the remnant of its structure;
- 2) completely destroyed or seriously damaged, and there is no possibility for its reconstruction on the location where it was, and the location is of significance for its cultural and historical significance;
- 3) an archaeological find which is completely explored, movable findings excavated and housed out of a find, and there are no immovable findings at the find.

(2) Decision on cessation of the status of a cultural property shall also be passed in the case that the status is established on the basis of incorrect data on its property, peculiarities or significance.

(3) A provision on passing, publishing and delivering of a decision on establishing the status of a cultural property apply on cessation of the status of a cultural property.

The file of a cultural property

Article 32

(1) A file of a cultural property, depending on the type of a cultural property, shall contain:

- 1) a decision establishing the status of a cultural property;
- 2) a proposal on valorization and revalorization of cultural value;
- 3) documentation with historical data and stylistic and chronological analysis;
- 4) technical and photo-documentation;
- 5) a physical and chemical analysis of composition of materials;
- 6) data on technique and technology of creation;
- 7) documentation of implemented research, preventive and conservation measures;
- 8) documentation of usage, trade and relocation of a cultural property.

(2) A file of a cultural property is regularly updated and permanently kept by the Administration, in an analogous and electronic form.

2. Categories and Registration of Cultural Property

A cultural property of international significance

Article 33

A cultural property of international significance is a property inscribed on the World Heritage List or the one of special significance for the history or culture of more states.

Cultural property of national significance

Article 34

(1) A cultural property is a property of national significance, if:

- 1) it has special importance for social, historical, or cultural development of Montenegro and the people or minority communities living there;
- 2) it bears witness to a crucial historical event or significant person;
- 3) it represents a unique example of creativity of its time or a unique example from the history of nature;

- 4) it has extraordinary artistic or aesthetic value;
 - 5) it has a great influence on the development of culture, science or technique;
 - 6) it bears witness to social or natural phenomena, that is on conditions of economic or cultural and historical development in a certain period.
- (2) A cultural property of national significance can be nominated for inscription on the World Heritage List, in accordance with international conventions.

Cultural property of local significance

Article 35

Cultural property which are not covered by Articles 33 and 34 of this Act are the cultural property of local significance.

Register of cultural property

Article 36

- (1) A cultural property shall be registered into the Register of cultural property (hereinafter the "Register").
- (2) The Register shall be kept by the Administration, in an analogous and electronic form.
- (3) The Register is a public file with a right of free access.
- (4) The form, contents and method of keeping the Register shall be prescribed by the Ministry.

IV. SYSTEM OF PROTECTION OF CULTURAL PROPERTY

1. Managing Cultural Property

Establishing the state property

Article 37

The following shall be considered to be a state property:

- 1) a movable property found on land or in water, for which it is reliably believed to have cultural value, regardless of the fact of whether or not it is excavated;
- 2) a movable property excavated from land or from water after July 31, 1945 or was found during archaeological or other exploration, which is reliably believed to have cultural value.

Prohibition of acquiring of ownership

Article 38

No private ownership can be acquired over:

- 1) a cultural property which was obtained illicitly;
- 2) a cultural property which was illicitly brought into the country from another or was not returned upon the expiration of a deadline for a temporary import;
- 3) archaeological material referred to in Article 37 of this Act.

Managing a state-owned cultural property

Article 39

- (1) The Government of Montenegro (hereinafter the "Government") and the competent body of a municipality are obligated to determine for every cultural property that the state, that is a municipality disposes of, a subject that will operate with it, in accordance with law.

(2) If the subject referred to in paragraph 1 of this Article fails to preserve or use the cultural property in a prescribed manner, the Administration is obligated to propose to the Government, that is to the competent body of the municipality to take away the cultural property from that subject and give it to another subject for management.

(3) Funds for covering expenses for preserving and maintaining of a cultural property referred to in paragraph 2 of this Article shall be provided by the state, that is a municipality disposing of a cultural property.

Managing a privately-owned cultural property

Article 40

(1) A privately-owned cultural property shall be managed by its owner, unless such right has been transferred to another person by a contract.

(2) A contract referred to in paragraph 1 of this Article shall be concluded in writing and submitted to the Administration within eight days of the day of signing of the contract.

Temporary guardian of a cultural property

Article 41

(1) If the owner, that is a holder temporarily left the privately-owned cultural property, due to which there is a danger of its damage or destruction, the Administration shall appoint a temporary guardian for that cultural property.

(2) The temporary guardian is obligated to undertake all necessary measures to preserve and regularly maintain a cultural property, including measures exceeding its regular maintenance, with a previous consent from the Administration.

(3) A temporary guardian has the right to compensation for its work and compensation of work-related expenses.

(4) The expenses of preservation, regular maintenance and implementation of protective measures for a cultural property under guardianship, as well as the compensation for work and work-related expenses of temporary guardian shall be defrayed by the owner, that is the holder of a cultural property, and they shall be temporarily provided by the Administration.

(5) When expenses referred to in paragraph 4 of this of this Article reach the value of a cultural property, the Administration is obligated to initiate a procedure to collect expenses forcibly.

(6) The Administration shall dismiss a temporary guardian of a cultural property when reasons referred to in paragraph 1 of this Article cease to exist.

2. Flow of Cultural Property

Alienation of a state-owned property and its temporary loan

Article 42

(1) An immovable state-owned cultural property cannot be alienated.

(2) A movable state-owned property may be alienated only for exchange when such action is deemed appropriate to complete a public collection and if:

1) it is not a cultural property of national significance or a part thereof;

2) there is no interest to include it in a permanent display.

(3) A movable state-owned cultural property may be lent on a temporary basis to an owner or a holder of a public collection and an expert or scientific organization in a country or abroad, for exhibition, expertise or implementation of technical protective measures.

(4) Exchange and loan of a state-owned cultural property shall be carried out with the consent from the Ministry.

(5) The consent referred to in paragraph 4 of this Article shall be given by the Ministry in a form of a decision, following a previously obtained opinion of the Administration and competent parent cultural institution.

Liability for state-owned cultural property

Article 43

Liability or limitation of ownership right may not be established on a state-owned cultural property, nor may the procedure of forcible collection of debt be conducted, for the purpose of provision and payment of debts of a subject disposing of or managing with it.

Sale of privately-owned cultural property

Article 44

A privately-owned cultural property may be sold in a direct bargain or at an auction.

Pre-emptive right

Article 45

- (1) A state has a pre-emptive right to privately-owned cultural property.
- (2) The right referred to in paragraph 1 of this Article may be transferred from the state to a municipality.
- (3) A state and municipality may revoke their pre-emptive right to a cultural property.

Sale in a direct agreement

Article 46

- (1) The owner of a cultural property wishing to sell a cultural property in a direct agreement is obligated to offer it first to the State, through Ministry.
- (2) The offer referred to in paragraph 1 of this Article for a movable cultural property shall last no less than 30 days, and no less than 60 days for an immovable cultural property.
- (3) If a state or municipality revoke their pre-emptive right to a cultural property or fail to respond to an offer within a deadline referred to in paragraph 2 of this Article, the owner of a cultural property may sell that cultural property to another person, on terms which cannot be more favorable than those offered to the state, that is a municipality.

Sale at a public auction

Article 47

- (1) If a cultural property is put up for public auction, the public auction organizer is obligated to inform the Ministry no later than 30 days prior to holding the public auction about the venue and time of the public auction and the starting price for a cultural property.
- (2) A state, that is, a municipality may exercise its pre-emptive right until the termination of a public auction sale, by acceptance of a purchase and sale price determined, that is to say reached at a public auction.

Sale of a cultural property in the enforcement

Article 48

- (1) In case of a sale of a cultural property in the enforcement, the court is obligated to inform the Ministry about the venue, time and sales conditions, no later than 30 days prior to the sale.
- (2) A state, that is a municipality, may exercise its pre-emptive right to a cultural property referred to in paragraph 1 of this Article, by accepting of an offer which is deemed the most favorable for an executive debtor.

Sales contract for a cultural property

Article 49

- (1) A sales contract for a cultural property shall be concluded in writing and submitted to the Administration within eight days from the day of its conclusion.
- (2) The contract referred to in paragraph 1 of this Article which is not concluded in accordance with Articles 46, 47 and 48 of this Act and paragraph 1 of this Article shall be void.

Liability of a seller, real estate agent and purchaser

Article 50

- (1) A seller and a real estate agent participating in a purchase and sale of a cultural property are obligated to make the following known to a purchaser:
 - 1) that the object of a purchase and sale is a cultural property;
 - 2) a deed of title for a cultural property;
 - 3) measures to be undertaken to protect a cultural property;
 - 4) an evidence that the Ministry is informed about the sale of a cultural property.
- (2) A purchaser of a movable cultural property is obligated to inform the Administration, within eight days after the day of taking of a cultural property about the future location of a the cultural property.

Purchase and sale of antiquities and objets d'art

Article 51

- (1) A seller and a commercial agent in the sale of antiquities and objets d'art are obligated to do the following:
 - 1) to keep a file on the origin, selling price and purchasers of antiquities and objets d'art;
 - 2) to present a purchaser a deed title for an object of sale;
 - 3) to conclude a contract in writing with the purchaser of antiquities and objets d'art;
 - 4) to inform the Administration about the trade in antiquities and objets d'art.
- (2) The form, contents and method of keeping a file referred to in paragraph 1 of this Article shall be prescribed by the Ministry.

Taking cultural property out of country

Article 52

- (1) A cultural property may not be permanently taken out of country, except for the purpose of exchange in accordance with Article 42, paragraph 2 of this Act.
- (2) A cultural property may be taken out of country temporarily, for the purpose of exhibition, expertise or implementation of technical protective measures.

(3) Permits for permanent and temporary taking of a cultural property out of country shall be issued by the Ministry, with previously obtained opinions of the Administration and competent parent cultural institution.

(4) If a requestor for a temporary taking of a cultural property out of country is not the owner or holder of a cultural property, the requestor shall, together with a request for taking a cultural property out of country, submit the consent from the owner, that is the holder of a cultural property.

(5) Prior to issuing a permit referred to in paragraph 3 of this Article, the Ministry may request adequate guarantee be made for the case of damage, destruction or disappearance of the cultural property taken out, by insuring it at the estimated value of a cultural property, by making a financial deposit at the bank or in some other manner.

(6) Detailed conditions and the method of issuing a permit for a temporary taking of cultural property out of country, and the form of a permission shall be prescribed by the Ministry, in accordance with rules of the EU.

Monitoring of taking out of a cultural property out of country

Article 53

(1) Ministry is obligated to submit every decision allowing or prohibiting the taking of cultural property out of country, together with adequate certified photographic documentation of cultural property, to the Administration, administrative body competent for customs-related matters and administrative body competent for police matters.

(2) The Administration is obligated to consider whether a cultural property is returned within the deadline set and to establish the condition it is returned in.

Taking out of antiquities and objets d'art

Article 54

Provisions of the Article 52, paragraphs 3, 4 and 6 of this Act are accordingly applied to the following:

- 1) archaeological material older than 100 years;
- 2) drawings, paintings, watercolors, gouaches, pastels, mosaics hand-carved on any surface and of any material;
- 3) original graphic art, prints, serigraphic and lithographic works, with accompanying tiles and plaques;
- 4) original sculptures and plastic and their replica models made using the same procedure as for the originals;
- 5) photographs and films with accompanying negatives;
- 6) incunabula and manuscripts, including maps and music libraries, individual and as collections;
- 7) books and publications older than 100 years, individually, or in a form of a collection;
- 8) printed geographic and other maps older than 100 years;
- 9) archival material and its parts older than 50 years;
- 10) botanical, zoological, mineral, anatomic collections and their parts;
- 11) collections and objects of historical, palaeontological, ethnographic or numismatic significance;
- 12) means of transport older than 75 years;
- 13) all other objects older than 75 years, which are not included under items 1 through 12 of this paragraph.

Taking a cultural property into the country

Article 55

A person who takes in or imports a cultural property from abroad is obligated to report it to the Administration immediately, and no later than eight days after the day of its possession, that is its import.

Relocation of a cultural property

Article 56

- (1) An immovable cultural property may be relocated to a different location only in the case it is under a direct threat of a landslide or other unpreventable natural disaster.
- (2) In the case referred to in paragraph 1 of this Article, the immovable cultural property must be divided, transferred and raised onto the location with a similar natural, historical and cultural context.
- (3) A decision on relocation of an immovable cultural property of national significance shall be taken by the Government.

3. The Using of Cultural Property

Purpose of a cultural property

Article 57

- (1) A cultural property shall be used for traditional or other adequate purpose determined by the Administration.
- (2) The purpose of a cultural property shall be determined for the purpose of its sustainable usage, in such a way that its integrity and understanding of cultural value are provided for and observed.

Usage of cultural property for special purposes

Article 58

- (1) A cultural property or its recognizable part may be used for advertising, as a firm's element, for creation of souvenirs, film or photographic material or other commercial purposes, in such a way that its integrity is not endangered, and based on the approval of the Administration.
- (2) The approval referred to in the paragraph 1 of this Article shall be given by issuing a decision determining terms and methods of usage of a cultural property for commercial purposes, with previous agreement of its owner, that is the holder of a cultural property.
- (3) Commercial replica model of a cultural property may not be made of the same material at the 1:1 scale.
- (4) A person creating a commercial replica is obligated to, depending on the type of cultural property, attach on each commercial replica a label which reads "a replica model", including the title of cultural property, a period and locality of its origin and the name of its author.

4. Concession on Cultural Property

The scope of concession

Article 59

(1) An immovable state-owned cultural property can be made available for usage through concession, in accordance with the Act regulating concessions and this Act, for the purpose of performing:

- 1) tourist, hotel management, trade, craft or other services;
- 2) original or related industrial, that is production activities;
- 3) activities in the field of education, science, culture, the media, health care, sport and recreation.

(2) The concession shall not be given for a cultural property which is:

- 1) an unexplored archaeological find;
- 2) a memorial, a commemorative monument and a cult or famous location;
- 3) a location and an object which is related to a custom, belief or tradition;
- 4) an archaeological reservation.

A concessionaire

Article 60

A concession on a cultural property may be given to a domestic or foreign legal or natural person which, in addition to terms prescribed by law, fulfills the following conditions:

- 1) that it is registered for performing activities referred to in Article 59, paragraph 1 of this Act;
- 2) that it has a program of revitalization and a cultural property management plan.

Concession act and concession contract

Article 61

(1) Concession act and concession contract for a cultural property, in addition to elements prescribed by law, should contain the following:

- 1) protective and maintenance measures for a cultural property and terms and method of their implementation;
- 2) guarantees of a concessionaire in the case of damage or destruction of cultural property;
- 3) reasons for canceling a concession contract prior to expiration of concession validity.

(2) During validity of a concession, by an annex to a concession contract, terms and method of protection and preservation of a cultural property may be changed, with the consent of the Administration.

(3) If there are changes during validity of a concession on a cultural property due to which it would be necessary to limit the scope of concession or change the method of usage of a cultural property, the concessionaire is obligated to sustain a change of agreed terms and undertake all actions and measures for protection and preservation of a cultural property, as ordered by the Administration.

(4) A concession on a cultural property, in addition to cases prescribed by law, shall be recalled if a concessionaire fails to preserve or maintain a cultural property in accordance with established terms or uses it in such a way that it inflicts damage on a cultural property or endangers its cultural value.

Giving a cultural property for use without public advertisement

Article 62

- (1) An immovable state-owned cultural property or any part thereof may be given for use by lease for a period up to 90 days, without public advertisement.
- (2) A contract of lease of a cultural property shall be concluded in writing.

5. Return of cultural property

Return of a cultural property to EU Member State

Article 63

- (1) An EU Member State (hereinafter “Member State”) may require the return of a cultural property which was illicitly taken away from its territory after January 1, 1993, if that cultural property is on the territory of Montenegro, in that case:
 - 1) it was, prior to or after its illicit taking away, protected as a national treasure with artistic, historical or archaeological value by its national legislation or was so determined in its administrative procedure, in accordance with Article 36 of TFEU;
 - 2) it belongs to a group of objects embraced by a list of collections of objects which can be considered as a national treasure or make a segment of a public collection which is registered in the inventory of collections of museums, archives or libraries, a sacral collection or a collection which is the property of the Member State, that is local or regional units of authority, public institutions with their seats in a Member State or an institution which is considerably financed by the Member State, that is of its local or regional units of authority.
- (2) A list of collections of objects which can be considered as national treasure, in the sense of paragraph 1, item 2, of this Article, shall be determined by the Ministry.
- (3) Any cultural property is considered to have been illicitly taken out of country if it was not returned to a Member State after the expiration of a deadline for its temporary taking out.

Procedure to return a cultural property

Article 64

- (1) A procedure for the return of cultural property, which was illicitly taken out from the territory of the Member State, shall be initiated in such a way that a Member State brings charges against a holder of cultural property before the competent court in Montenegro.
- (2) Together with charges referred to in paragraph 1 of this Article, the following shall be submitted:
 - 1) a credible document of the cultural property status, containing its detailed description;
 - 2) a statement by the competent authority of the Member State that the claimed cultural property is protected under the national legislation and that it was illicitly taken out of the country after January 1, 1993.
- (3) The procedure for return of a cultural property can be initiated within a year after the day when the Member State discovered where the cultural property is located and the identity of a person possessing it, but no later than 30 years from the day when the cultural property was taken away from the territory of the Member state.
- (4) If a claimed cultural property is a part of a public collection referred to in Article 63, paragraph 2 of this Act or if it is a sacral object under special protection of the national legislation of the Member State, the procedure for return of a cultural property may be initiated within 75 years from the day when it was taken away from the territory of the Member State, unless a different time limit is determined by the international contract.

Court proceedings

Article 65

- (1) The cultural property referred to in Article 63 of this Act shall be returned to the Member State, if the court establishes that it was illicitly taken away from its territory or that it was not returned upon expiration of the deadline for its temporary taking.
- (2) In the case referred to in paragraph 1 of this Article, the court shall, according to the circumstances of the case, determine a fair compensation to a conscious holder of a cultural property at the charge of the Member State that a cultural property is being returned to.
- (3) Consciousness of a holder of a cultural property shall be judged by regulations of Montenegro with regard to his actions at the moment of obtaining and holding the cultural property.
- (4) In case of obtaining a cultural property referred to in Article 63 of the Act, by virtue of present or inheritance, a new holder of a cultural property must not be in a more favorable position than a person from whom he obtained a cultural property.
- (5) The holder of a cultural property shall exercise his right to payment of fair compensation referred to in paragraph 2 of this Article upon delivery of the claimed cultural property to the Member State.
- (6) Payment of fair compensation and costs of proceedings shall not affect the right of the Member State to request a compensation of damage from the person who illicitly took away a cultural property.
- (7) With regard to the ownership over cultural property which is returned to the Member State, regulations of that state apply.

Cooperation with Member states

Article 66

- (1) The Ministry is obligated to coordinate cooperation with competent bodies of Member States with regard to the return of cultural property illicitly taken away, and especially:
 - 1) at the request of a Member State, in cooperation with other state bodies and institutions, to take up actions and measures directed to locating a cultural property and determining the identity of its holder;
 - 2) to inform the interested Member State whether and where on the territory of Montenegro the claimed cultural property is located and whether there is a basis to believe that it is illicitly taken away from the territory of a Member State;
 - 3) to enable the competent body of the Member State to, within 60 days after the day of delivery of notification referred to in item 2 of this paragraph, verify if it is the claimed cultural property;
 - 4) in cooperation with the competent body of the Member State, to take necessary measures for the physical preservation of a claimed cultural property;
 - 5) by using adequate measures to prevent any activity taken to evade or impede the return of a cultural property;
 - 6) to act as an intermediary between the holder of the claimed cultural property and an interested Member state.
- (2) If the verification referred to in paragraph 1, item 3 of this Article is not carried out in the prescribed time limit, paragraph 1, items 4 and 5 of this Article shall not apply.

Return of a cultural property illicitly taken out from the territory of the state, a non-EU member

Article 67

The return of cultural property which was illicitly taken from the territory of the state which is not an EU member shall be done in accordance with provisions of the law regulating property relations, unless otherwise regulated by an international contract.

Return of cultural property illicitly taken from the territory of Montenegro

Article 68

The return of a cultural property which was illicitly taken from the territory of Montenegro shall be carried out in accordance with the national legislation of the state on whose territory the claimed cultural property is located, unless otherwise regulated by an international contract.

Activities on return of cultural property

Article 69

The Ministry is obligated to, in cooperation with the Administration, public institutions for protection of cultural property and other bodies of the state Administration:

- 1) undertake measures and activities related to data collection and establishment of files and documentation of cultural property illicitly taken away from Montenegro which may be subject to return;
- 2) prepare and submit a request, that is charges for return of a cultural property to the competent body of the state on whose territory the cultural property which was illicitly taken from Montenegro is located, in accordance with regulations of that state and international contracts;
- 3) submit to the competent body a request for the return of illicitly seized state-owned cultural property.

V. PROTECTIVE MEASURES FOR CULTURAL PROPERTY

1. Preventive Protective Measures

Goals and types

Article 70

- (1) Preventive protective measures prevent damages and destruction of cultural property from the impact of natural forces, physical, chemical, and biological factors, fires, explosions, excessive use, theft, vandalism, and other types of danger and risks.
- (2) Preventive protective measures for cultural property shall include: researching, documenting, marking, preserving, maintaining, education, presentation and popularization of cultural property and cooperation with owners and holders of cultural property, non-governmental organizations and other subjects.

Documenting cultural property

Article 71

- (1) Documenting cultural property shall be carried out by the development of documents in an analogous and electronic form and by establishing and running the information system.
- (2) Documentation of cultural property in analogous form shall be made available for usage by producing a copy at the charge of interested party.

(3) By way of exception to paragraph 2 of this Article, documentation of a cultural property in its original analogous form may be given for use on a temporary basis to a state body and scientific institution and under condition of its mandatory return within a determined time limit, which is registered in a separate file.

Information system of cultural property

Article 72

(1) To follow the condition of cultural property and activities on their protection, the Administration shall establish and run the information system of cultural property, providing the following:

- 1) a database containing relevant data on cultural property;
- 2) central information link among public institutions for protection of cultural property and other legal and natural persons authorized to carry out tasks on protection of certain kinds of cultural property;
- 3) information link with competent bodies of the state Administration and local Administration and corresponding bodies of other states and international organizations;
- 4) public availability to all-inclusive and correct information on cultural property and their protection.

(2) Contents and the method of running the information system referred to paragraph 1 of this Article shall be prescribed by the Ministry.

Marking cultural property

Article 73

(1) Immovable cultural property shall be marked with a protective mark of a cultural property.

(2) Marking of cultural property shall be carried out by a public institution for providing conservation service, within 90 days from the day of determining the cultural property status.

(3) The appearance and the content of a protective mark and the method of marking of cultural property shall be prescribed by the Ministry.

(4) The transport of movable cultural property may be marked with an international mark for cultural property, in accordance with international regulations.

Preserving cultural property

Article 74

(1) Preserving a cultural property refers to a continued monitoring of a condition of a cultural property, prevention of prohibited actions, physical and technical protection and protection from risks that it can be exposed to.

(2) A method of preserving a cultural property, depending of the kind of a cultural property, shall be prescribed by the Ministry.

Maintaining of cultural property

Article 75

Maintaining of a cultural property refers to rehabilitation of damages for the purpose of maintaining the existing valorized condition and provision of sustainable usage, in accordance with determined purpose.

Education

Article 76

(1) Educational institutions are obligated to raise awareness of the value of cultural property through educational and extracurricular programs, as a fruitful source of knowledge, creativity and inspiration for the current and future generations, dangers and risks they are exposed to, the necessity for their preservation, respect and understanding for them and benefits resulting from them.

(2) The Ministry, administrative bodies and public institutions for protection of cultural property are obligated to:

- 1) support the awareness of domestic and international regulations on protection of cultural property, professional training and advanced training of the personnel dealing with their protection;
- 2) inform the public on their programs and activities and international projects and assistance in protection of cultural property and possibilities of inclusion into their implementation, as well as about illegal acts against cultural property;
- 3) encourage all to participate in the process of protection through identification, studying, interpreting, preserving and presenting cultural property, as well as public thinking and debates on cultural property-related possibilities and challenges;
- 4) attach importance to such values of cultural property which every community related to them attach to them or with which it identifies itself.

Presentation and popularization of cultural property

Article 77

(1) Presentation shall provide for accessibility of cultural property to public, for the purpose of fulfillment of cultural, scientific and educational needs and widening knowledge about their values and importance.

(2) Presentation of cultural property in accordance with their nature and purpose, shall be achieved by:

- 1) production of publications on cultural property;
- 2) access to cultural property in such a way which enables self-teaching, encouragement of mutual tolerance, knowledge about other cultures and their diversity;
- 3) development of cultural tourism.

(3) Persons with disabilities shall be provided access to cultural property in accordance with their needs, and as it is possible.

Cooperation with owners and holders of cultural property

Article 78

Administrative bodies and public institutions for protection of cultural property are obligated to cooperate with owners and holders of cultural property in all phases of their protection, to open possibilities for them to give their proposals, opinions and initiatives related to protection, preservation and usage of cultural property and to inform them about their activities related to their cultural property.

Cooperation with non-governmental organizations

Article 79

The Ministry, administrative bodies and public institutions for protection of cultural property are obligated to cooperate with non-governmental organizations dealing with cultural heritage

and in that sense, encourage and support their work and participation in creation of laws and by-laws, widening of knowledge on domestic and international regulations and projects, organization of seminars, public debates, and other kinds of professional training, identification of cultural property and determining of their cultural values, submission of initiatives for establishment of protection and presentation of the condition of cultural property, their being endangered and necessary protective measures.

2. Research of cultural property

Goals and kinds of research

Article 80

- (1) Research on cultural property shall be conducted for the purpose of:
- 1) discovering, identifying, documenting, studying and determining peculiarities, features, importance and meaning;
 - 2) establishing and implementing protective and preservation measures;
 - 3) widening and deepening of expert and scientific knowledge;
 - 4) constructing structures or conducting other actions causing changes to the space.
- (2) research related to cultural property shall be conducted in the form of:
- 1) archaeological research;
 - 2) conservation research;
 - 3) other expert and scientific research.
- (3) The kinds of research, terms and methods of conducting, types and contents of documentation of research shall be prescribed by the Ministry.
- (4) The state is obligated to encourage interdisciplinary research on cultural property, communities that they refer to, areas of their origin and their mutual connection.

Research approval

Article 81

- (1) Archaeological research and conservation research encroaching into the integrity of a cultural property shall be conducted on the basis of approval of the Administration.
- (2) Approval referred to in paragraph 1 of this Article shall be given in the form of a decision determining:
- 1) the approval holder;
 - 2) the research leader;
 - 3) the area, that is a property for which the research was allowed;
 - 4) the kind and scope of research;
 - 5) the time limit and conditions for conducting research;
 - 6) obligations on the part of the approval holder.
- (3) Approval for research on a cultural property may be issued to a legal person which has:
- 1) a research license;
 - 2) the research and protection proposal;
 - 3) technical and financial means provided for conducting research and implementation of protective measures.
- (4) In the case of an emergent need to protect a cultural property or an archaeological find, approval may also be issued without evidence on the fulfillment of conditions referred to in paragraph 3, items 2 and 3 of this Article.
- (5) If it is deemed necessary for the purpose of research to limit regular usage of an area or a property that will be researched, a contract regulating mutual relations of a requestor and the owner of the area, that is a property or a statement by the owner on undisturbed conducting of

research works and in case of underwater archaeological research, the consent of the administrative body competent for maritime security shall be submitted together with a request for an approval for conducting a research.

(6) If special technical means are necessary for the conducting of research, for which special approvals are required by law, such approval for the usage of that equipment shall be attached to the request.

(7) The contents of the proposal referred to in paragraph 3, item 2 of this Article shall be prescribed by the Ministry.

Obligations of the approval holder

Article 82

(1) The research approval holder, depending on the type of research, is obligated to:

- 1) identify a person to conduct the expert supervision of the research works;
- 2) keep documentation, regularly and orderly, throughout the research, on conducted research works and undertaken protective measures;
- 3) undertake necessary measures for physical and technical security of the area, the structure itself and findings during and after the research;
- 4) inform the public occasionally about the course of research;
- 5) enable the interested experts and scientists to visit the finds and see the findings;
- 6) provide the Administration with a preliminary report on conducted research within 60 days from the day of expiration of deadline to conduct a research;
- 7) provide the Administration the final report on the conducted research, with complete documentation, within a year from the expiration of a deadline to conduct research;
- 8) to publish research results within three years from the expiration of a deadline to conduct research;
- 9) deliver movable findings to a subject determined by the Government within a year from the expiration of a deadline to conduct research.

(2) Expert supervision over research works may be conducted by a person with a research license.

Suspension of research and revocation of the approval

Article 83

(1) With a decision, the Administration is obligated to:

- 1) suspend the conducting of research if the works are not done in accordance with the approval and determine a time limit to remove the uncovered irregularities;
- 2) revoke the approval to conduct a research if research is deemed to be inflicting damage to a cultural property or endangering it and to order the undertaking of appropriate protective measures for cultural property, that is for the area.

(2) The costs of implementation of protective measures referred to in paragraph 1, item 2 of this Article shall be defrayed by the person who had the approval to conduct a research.

(3) Appeal against the decision referred to in paragraph 1 of this Article shall not postpone the enforcement of the decision.

Research license

Article 84

(1) A research license is evidence of professional references of a legal or a natural person to conduct research works and implementation of protective measures.

(2) The research license referred to in paragraph 1 of this Article shall be issued and revoked by the Ministry.

(3) The research license may be issued to a legal person which is registered for the conducting of research and has at least three persons with adequate University-level qualifications employed or as its members, out of which at least one person has a research license.

(4) The research license may be issued to a natural person with adequate qualifications, three years of experience and the licensing exam for a researcher passed.

(5) Detailed conditions and the method of getting and losing research licenses, as well as the contents and method of keeping a file of issued research licenses shall be prescribed by the Ministry.

Foreign researchers

Article 85

Foreign natural and legal persons may conduct research of cultural property on the territory of Montenegro in cooperation with domestic legal person with a permission referred to in Article 81 of this Act.

Priority right to scientific processing

Article 86

The holder of approval to carry out a research and experts participating in the research have the priority right to scientific processing and publishing of research results within three years after the day of completion of the research.

3. Accidental discoveries

Obligations of a discoverer

Article 87

(1) If during construction, agricultural or any other works and activities on land or in water finds of archaeological importance are discovered, the works performer (hereinafter “accidental discoverer”) shall be obligated to:

1) suspend works and secure the find, that is the findings from possible damage, destruction and unauthorized access of other persons;

2) report immediately the find, that is the findings to the Administration, the nearest public institution for protection of cultural property, administrative body competent for police matters or administrative body competent for maritime security;

3) preserve discovered objects on the location where they were found in the condition in which they were found until the arrival of authorized persons from the subjects referred to in item 2 of this paragraph;

4) report all relevant data related to the location and position of findings at the time of their discovery and about conditions under which they were discovered.

(2) As an exception to paragraph 1, item 3 of this Article, the discoverer may, for their own protection, hand over the findings immediately to one of the subjects referred to in paragraph 1, item 2 of this Article.

Obligations of the Administration and investor

Article 88

- (1) The Administration is obligated to, no later than the following day from the day of reporting referred to in Article 87, paragraph 1, item 2 of this Act:
 - 1) establish by a commission if it is about archaeological findings;
 - 2) undertake the care for protection of a find and findings;
 - 3) deliver the findings for temporary custody to a public museum institution in the municipality on whose territory they were found or to a parent museum institution;
 - 4) make a detailed record of the inspection carried out and measures taken;
 - 5) following the inspection performed, depending on the type and nature of the discovered find and works carried out, pass a decision determining that works may continue under supervision of an archaeologist who has a research license or that the works be temporarily suspended and appropriate archaeological research be done.
- (2) Temporary suspension of works, in the sense of paragraph 1, item 5 of this Article, may last no longer than 30 days.
- (3) Within the deadline referred to in paragraph 2 of this Article, Administration may pass a decision establishing previous protection of the find.
- (4) If the Administration fails to establish previous protection in accordance with paragraph 3 of this Article, the find shall be considered as free space.
- (5) Appeal to a decision referred to in paragraph 1, item 5 of this Article shall not postpone the enforcement of a decision.
- (6) In the case referred to in paragraph 1, item 5 of this Article, the costs of archaeological research and archaeological supervision shall be defrayed by the state, unless otherwise agreed upon with the construction works investor.

4. Integral protection

Protection of cultural property in planning documents

Article 89

- (1) Planning documents shall provide protection of cultural property and their surroundings, as an integral part of contemporary social, economic and urban development, in such a way that their integrity and status are respected and the protection system and measures prescribed by this Act are consistently implemented.
- (2) Planning documents must be harmonized with a study on the protection of cultural property (hereinafter “protection study”) and the management plan.
- (3) Administration shall provide its opinion on the planning document, with regard to its harmony with the protection study and the management plan, in accordance with the law regulating space.

Study of protection of cultural property

Article 90

- (1) Protection study, depending on the planning document, shall contain:
 - 1) textual and graphic representation of immovable cultural property, potential archaeological localities, spaces with distinct environmental values and their surroundings, at the territory included into the planning document;
 - 2) System and measures for protection, preservation and advancement of cultural property and their protected environment;
 - 3) conservation conditions for drawing up the works on implementation of conservation measures for immovable cultural property.

- (2) Protection study shall be passed by the Administration, and its development can be entrusted to a legal person with a conservation license.
- (3) System and measures of protection referred to in paragraph 1, item 2 of this Article include the following, especially:
 - 1) purpose, the method of preserving, maintaining, using and protecting cultural property and their protected environment;
 - 2) protective measures for potential archaeological localities and areas with distinct environmental values;
 - 3) assessment of necessary archaeological, conservation and other research;
 - 4) Proposals for removal and change of purpose of objects the existence or the usage of which endangers research, protection or usage of a cultural property;
 - 5) necessary conservation measures for preservation and revitalization of a cultural property;
 - 6) reconstruction of disturbed cultural landscape.
- (4) Conservation conditions referred to in paragraph 1, item 3 of this Article shall contain a detailed description of condition, overall dimensions and appearance of a cultural property, type of material and work technique requiring building permit.

Management plan Article 91

- (1) A management plan is a strategic document for a long-term managing, protection, usage, presentation of cultural and historical whole, locality and area.
- (2) A management plan shall be passed obligatorily for a cultural property inscribed on the World Heritage List and a cultural property nominated for inscription into that list.
- (3) A management plan shall especially contain the following:
 - 1) a multi-annual management strategy for a cultural property and guidelines for its implementation;
 - 2) a program of activities on complete valorization, protection and presentation of a cultural property;
 - 3) mechanisms for achievement of integral protection;
 - 4) a method of monitoring of planned activities.
- (4) A Management plan shall be passed by the Government at the proposal of the Ministry.

Geological research and exploitation of mineral raw materials Article 92

Geological research and exploitation of mineral raw materials, including construction of mining structures on territories on which there are immovable cultural property, as well as at a distance of up to 500 m from the borders of their protected surroundings, may not be carried out without prior consent of the Administration.

Protection of cultural property from effects on environment Article 93

- (1) Administrative body competent for monitoring of condition of environment is obligated to provide the Administration with indicators, data and assessment of condition of the environment.
- (2) Legal and natural persons performing the activity which may have a negative impact on cultural property and their surroundings are obligated to determine measures for diminishing

and eliminating consequences of the impact onto cultural property and to implement them regularly.

5. Conservation measures

Definition and types

Article 94

Conservation measures for cultural property include conservation, restoration, reconstruction, anastylosis, consolidation, rehabilitation, adaptation, other works and activities which are used to maintain or change the existing condition of cultural property.

Conservation

Article 95

- (1) Conservation shall provide preservation of a cultural property in the condition in which it was found.
- (2) Conservation shall be implemented on a cultural property or a part thereof, the originality of which can not be supported with valid data based on which restoration or other conservation measure may be implemented.

Restoration

Article 96

- (1) Restoration means restoring missing parts of cultural property and removal of inauthentic parts and additions to a cultural property, in accordance with its original form and property.
- (2) Restoration of a cultural property shall be conducted on the basis of authentic documentation or valid data, by application of original, that is adequate materials, respecting contributions of all periods in creation and preservation of a cultural property, in such a way that all additional works are identifiably different from the composition of its authentic part.
- (3) Restoration shall not be approved and carried out on the basis of supposed originality, that is authenticity of a cultural property.
- (4) Uncovering of the authentic condition of a cultural property may be approved only if a part to be removed has less value than the part which is uncovered.

Reconstruction

Article 97

By reconstruction, a destroyed cultural property will be reconstructed, based on the authentic documentation of its visual appearance and contents.

Anastylosis

Article 98

- (1) Anastylosis means the rearranging of the existing disassembled parts of a cultural property.
- (2) In the case of anastylosis of a cultural property, material used for the linking of parts should be identifiable, and its quantity reduced to a minimum to make a new form of a cultural property.

Adaptation, rehabilitation and consolidation

Article 99

- (1) Adaptation means adjusting a cultural property to a new purpose, function or activity standards, without significant change of its appearance.
- (2) Rehabilitation means restoration of a cultural property by application of more conservation measures.
- (3) Consolidation means strengthening of the structure and resistance of a cultural property, without changing its visual appearance.

Traditional techniques, crafts and materials

Article 100

- (1) In the implementation of conservation measures on a cultural property, the advantage is given to traditional techniques, crafts and materials.
- (2) When traditional techniques, crafts and materials prove to be inadequate, conservation measures for a cultural property may be performed by the application of contemporary techniques and materials, the efficiency of which is supported by scientific data or practical experience.

Implementation of conservation measures

Article 101

- (1) Conservation measures for immovable and movable cultural property shall be implemented in accordance with this Act and corresponding rules of international bodies for protection of cultural property, based on a conservation project.
- (2) If a building permit is required for the implementation of conservation measures on an immovable cultural property, regulations on construction of structures also apply.
- (3) A contractor on a cultural property is obligated to inform the Administration about the commencement of work.

Conservation works

Article 102

- (1) For the development of a conservation project for implementation of conservation measures on a movable cultural property and for performing works on an immovable cultural property for which urban and technical development conditions are not issued, the Administration, at the request of the owner, that is the holder of a cultural property, shall issue conservation conditions.
- (2) Conservation conditions referred to in paragraph 1 of this Article, depending on the type of a cultural property and planned works, shall contain the type of a conservation measure, elements referred to in Article 90, paragraph 4 of this Act and other conditions ensuring authenticity and integrity of a cultural property.

Conservation project

Article 103

- (1) A conservation project is a technical documentation for the implementation of conservation measures on a cultural property.

- (2) A conservation project, depending on the type of cultural property, may be developed by public institutions for the protection of cultural property and other legal and natural persons in possession of a conservation license.
- (3) Consent to a conservation project shall be given by the Administration, at the request of the owner, that is the holder of cultural property.
- (4) Prior to development of a conservation project, all necessary research shall be performed.

Authorization to conduct conservation measures

Article 104

- (1) Conservation measures for immovable and movable cultural property may be performed by public institutions for protection of cultural property and other legal and natural persons in possession of an adequate conservation license.
- (2) Persons referred to in paragraph 1 of this Article may, with previously obtained consent from the Administration to carry out some works on the implementation of conservation measures on a cultural property, hire another legal or natural person which fulfills conditions referred to in paragraph 1 of this Article.

Expert surveillance and managing of works

Article 105

- (1) Owner, that is the holder of a cultural property is obligated to appoint a person to conduct expert supervision of implementation of works on a cultural property.
- (2) Contractor is obligated to appoint a person that will lead works on a cultural property.
- (3) Expert surveillance and managing of the works on a cultural property may be performed by person with an adequate conservation license.

Conservation license

Article 106

- (1) A conservation license is evidence of professional references of a legal or natural person to develop a study of protection and conservation projects and to implement conservation measures on cultural property.
- (2) The license referred to paragraph 1 of this Article shall be issued and revoked by the Ministry.
- (3) The conservation license may be issued to a legal person which is registered for conducting works on cultural property and which has at least persons employed or members with adequate University-level qualifications, out of which at least one person has a conservation license.
- (4) The conservation license may be issued to a natural person which has adequate University-level of qualifications, three years of experience and passed a licensing exam to perform conservation service.
- (5) Detailed conditions and a method of issuing and revoking a conservation license, as well as the contents and the method of keeping a file of issued conservation licenses shall be prescribed by the Ministry.

Suspension of works and the revoking of a conservation license

Article 107

- (1) With a decision, the Administration shall be obligated to:

- 1) suspend temporarily the implementation of conservation measures on a cultural property, until conditions for their proper implementation are provided for, if the works are not in accordance with a conservation project for which the Administration gave its consent;
 - 2) suspend the implementation of works endangering a cultural property and order undertaking necessary protective measures.
- (2) If a building permit is issued for implementation conservation measures, the Administration shall deliver a decision referred to in paragraph 1 of this Article to a competent building inspection and the body that issued a building permit.
- (3) In the case referred to in paragraph 2 of this Article, a building inspection is obligated to order a prohibition of the implementation of approved works.
- (4) Appeal against a decision referred to paragraphs 1 and 3 of this Article shall not postpone the enforcement of a decision.
- (5) In the case referred to in paragraph 1, item 2 of this Article, the Ministry shall revoke a conservation license of a person that was conducting works and a person that was managing the works.

Final acceptance of executed works

Article 108

- (1) Final acceptance of works shall be carried out for the purpose of expert control of the quality of implemented conservation measures on a cultural property.
- (2) Final acceptance of executed works shall be carried out by the Administration, at the request of investor of works.
- (3) Together with the report referred to in paragraph 2 of this Article, a report shall be submitted on executed works as well as a report on expert supervision.
- (4) Final acceptance of executed works shall be carried out by the expert commission formed by the Administration, of at least three members one of which must have a conservation license.

6. Other protective measures

Returning cultural property into its earlier state

Article 109

- (1) If works are done or have been done on a cultural property without conservation project which received consent, the Administration shall issue a decision suspending works and ordering the cultural property be returned to its earlier state, if possible.
- (2) In the case referred to in paragraph 1 of this Article, the Administration shall establish the adequate protective measures to prevent risks of damaging or destroying a cultural property.
- (3) If in the case referred to in paragraph 1 of this Article, a cultural property cannot be returned into its earlier state, the owner, that is the holder of a cultural property and contractor on a cultural property are obligated to compensate the state financially in the real value of that cultural property.

Expropriation of a cultural property

Article 110

An immovable privately-owned cultural property may be expropriated, in accordance with the law regulating expropriation, if that is necessary for conducting archaeological research or conducting prescribed protective measures.

VI. RIGHTS AND OBLIGATIONS OF OWNERS AND HOLDERS OF CULTURAL PROPERTY

1. The rights of owners and holders

Right to expert assistance

Article 111

(1) The owner and holder of a cultural property has the right to free expert assistance in terms of:

- 1) inspecting, fact-finding and explaining of peculiarities and significance of a cultural property;
- 2) advice and instruction related to preservation, maintenance, respect and usage of a cultural property;
- 3) pointing to the need to undertake protective measures;
- 4) methods of exercising rights and commitments determined by this Act.

(2) Right to expert assistance referred to in paragraph 1 of this Article shall be exercised with the Administration and public institutions for protection of cultural property.

The right to public presentation

Article 112

(1) The owner, that is the holder of a movable cultural property has the right to publicly display a cultural property occasionally in exhibition spaces of public institutions for protection of cultural property without payment compensation for provision of space and organization of the exhibition.

(2) Mutual relations between the owner, that is the holder and the public institution referred to in paragraph 1, of this Article with regard to presentation of cultural property shall be determined by contract.

Right of deposit

Article 113

(1) The owner and the holder of movable cultural property, which cannot provide for conditions for its guarding or is temporarily prevented to guard a cultural property, has the right to deposit it with the Administration, administrative body competent for archival service or public institution for protection of cultural property.

(2) Mutual relations between the owner, that is holder and the subjects referred to in paragraph 1 of this Article, with regard to guarding, maintenance and usage of a deposited cultural property, shall be regulated by contract.

Right to financial support

Article 114

- (1) The owner of a cultural property has the right to financial support of a state for maintaining a cultural property and for implementation of conservation measures exceeding costs of regular maintenance, in accordance with this Act.
- (2) The type, contents and scope of works which fall within regular maintenance of a cultural property and criteria for determining the costs of regular maintenance shall be prescribed by the Ministry.
- (3) Tax and customs exemptions obtained by the owner of the cultural property with reference to a cultural property shall be considered as participation of Montenegro in protection of that cultural property.

Right to compensation for damage

Article 115

- (1) The owner of a cultural property has a right to compensation for damage, if:
 - 1) the protective measure determined by the Administration limited economic exploitation of a cultural property, for traditional or other approved purpose;
 - 2) due to research or implementation of protection measures, performed by a person appointed by the Administration, a cultural property suffered damage;
 - 3) his presence is required for implementation of measures referred to in item 2 of this paragraph, as a result of which he cannot perform his regular activities.
- (2) The compensation for damage on the basis of paragraph 1 of this Article shall be made with the Administration.

2. Obligations of owners and holders

Reporting changes

Article 116

The owner, that is a holder of a cultural property is obligated to immediately, and no later than eight days, report to Administration every legal and physical change on a cultural property.

Guarding, maintaining, and implementing protective measures

Article 117

- (1) The owner of a cultural property is obligated to guard the cultural property carefully, use properly, maintain regularly and implement timely other prescribed or determined protected measures.
- (2) The owner of a cultural property may transfer the obligation referred to in paragraph 1 of this Article to the holder by a contract or a legal act, in accordance with law.
- (3) If a cultural property includes more parts on which more persons have the ownership right, every owner of a separate part of a cultural property is obligated to act in such a way as described in a paragraph 1 of this Article.
- (4) If an owner, that is holder of a cultural property fails to handle a cultural property in accordance with the paragraph 1 of this Article, the Administration shall order him by issuing a decision to implement necessary protective measures in a determined time limit and it shall warn him that in case of his failure to comply with the decision, the ordered protective measures shall be implemented at his cost.
- (5) Appeal against a decision referred to in paragraph 4 of this Article, shall not postpone the enforcement of a decision.

Allowing research and implementation of protective measures

Article 118

- (1) The owner, that is the holder of a cultural property is obligated to, following previous notification, allow the Administration and other person with the approval of the Administration to inspect, record, document, research and film/photograph a cultural property, take samples of material and carry out determined protective measures.
- (2) The notification referred to in paragraph 1 of this Article shall be delivered to the owner, that is a holder of a cultural property no later than three days prior to execution of actions and measures.

Providing accessibility of a cultural property to public

Article 119

- (1) A subject managing a state-owned cultural property and a religious community, are obligated to, in accordance with the nature and purpose of a cultural property and organization of its work, provide for individual and collective approach to a cultural property.
- (2) Persons referred to in paragraph 1 of this Article are obligated, at the request of a public institution for the protection of a cultural property, to relinquish a cultural property that they own temporarily for the purpose of its displaying to public.
- (3) The owner, that is the holder of a privately-owned cultural property, is obligated to provide, at least twice a year, public access to a cultural property which he possesses.
- (4) If access to a movable privately-owned cultural property is not possible at its current location, the owner, that is the holder is obligated to make its presentation possible at a public institution for protection of cultural property.
- (5) The owner, that is the holder of a cultural property may establish compensation for access to a cultural property, except for cases referred to in Article 119, paragraph 1 of this Act.
- (6) Criteria for determining the level of compensation for access to a cultural property shall be determined by the Government.

VII. PERFORMING THE ACTIVITIES ON PROTECTION OF CULTURAL PROPERTY

Performing activities

Article 120

Protection and preservation of cultural property shall be implemented by performing conservation, museum, archival, library, film library activities, in accordance with law and standards of profession.

Conservation service

Article 121

- (1) Conservation service includes expert tasks referring to research, study, documenting, marking, presentation, valorization and revalorization of cultural property and implementation of conservation measures.
- (2) Conservation activities, within its competences, shall be carried out by the Administration, administrative body competent for archival service and public institution for conservation service.

(3) Certain tasks from conservation service may be performed by expert and scientific institutions and other legal and natural persons which fulfill prescribed spatial, staffing, technical, technological and material conditions.

(4) Detailed conditions for performing tasks of conservation service referred to in paragraph 3 of this Article, shall be prescribed by the Ministry.

Public institutions for conservation service

Article 122

Conservation service referring to archaeological and conservation research, laboratory research, expertise, marking cultural property, development of protection studies and conservation projects and implementation of conservation measures for cultural property, shall be performed by public institutions established by the Government.

Performing professional tasks

Article 123

(1) Expert tasks in conservation service may be performed by persons which have adequate secondary education, associate degree and University education and passed the licensing exam for providing conservation service.

(2) Persons referred to in paragraph 1 of this Article performing the tasks within conservation service shall have a particular professional title.

(3) The type and level of qualifications for performing the tasks within conservation service, depending on the type of a cultural property, conditions, program and method of taking the licensing exam, shall be prescribed by the Ministry.

Professional titles

Article 124

(1) Professional titles in conservation service are:

1) laboratory assistant, conservation technician and documentation technician, with secondary education;

2) senior laboratory assistant, senior conservation technician, senior documentation technician, with two-year degree;

3) researcher, conservationist and documentalist with University education;

4) senior researcher, senior conservationist, senior documentalist, research advisor, conservation advisor and documentation advisor, with University education and specific professional references.

(2) Professional titles referred to in paragraph 1, items 1, 2 and 3 of this Article shall be acquired by passing a licensing exam for performing conservation service.

(3) Professional titles referred to paragraph 1, item 4 of this Article shall be given by the Ministry, at the proposal of an expert commission, based on professional references and results with regard to protection of cultural property and development of conservation service.

(4) A person which acquires a professional title referred to in paragraph 1 of this Article shall be issued a certificate by the Ministry.

(5) Detailed conditions, method and procedure of acquiring professional title, tasks which are performed while having a specific professional title and the form of a certificate on professional title shall be prescribed by the Ministry.

VIII. FINANCING PROTECTION AND PRESERVATION OF CULTURAL PROPERTY

1. Provision of means of protection and preservation of cultural property

Funding resources

Article 125

(1) Protection and preservation of cultural property shall be financed from:

- 1) funds of owners and holders of cultural property;
- 2) the general income from the budget of Montenegro;
- 3) rent for maintenance of cultural property;
- 4) municipal budgets;
- 5) donations;
- 6) other sources, in accordance with law.

(2) Rent for maintenance of cultural property shall be arranged by tax laws.

Cultural property owner's funds

Article 126

(1) The owner of a cultural property is obligated to provide funds for guarding and regular maintenance of a cultural property.

(2) Obligation referred to in paragraph 1 of this Article may be transferred from the owner to a holder of a cultural property by contract.

Montenegro Budget funds

Article 127

General income from the Montenegrin budget and a rent from maintenance of cultural property shall be provided for:

- 1) guarding and regular maintenance of a state-owned cultural property that the state disposes of,
- 2) financial support for maintaining cultural property, in accordance with Article 114 of this Act;
- 3) compensation for damage to the owner of the privately-owned cultural property, based on the Article 115 of this Act;
- 4) acquiring cultural property by virtue of a priority right for purchase;
- 5) payment of finder's compensation for accidental finding of archaeological findings;
- 6) expropriation of immovable cultural property to the benefit of the state;
- 7) archaeological research, identification and conservation of archaeological finds, unless otherwise determined;
- 8) development of a protection study and management plans,
- 9) development of conservation projects and implementation of conservation measures;
- 10) guarding cultural property which are abroad and which are important for the history and culture of Montenegro;
- 11) fair compensation and costs of proceedings with regard to the return of cultural property which are illicitly taken out of the territory of Montenegro.

Program of protection and preservation of cultural property

Article 128

- (1) Funds from general income of the budget of Montenegro and restricted funds from rent for maintenance of cultural property shall be provided for and used in accordance with annual program of protection and preservation of cultural property.
- (2) Program referred to in paragraph 1 of this Article shall be passed by the Government, at the proposal of Ministry.

Municipal budgets' funds

Article 129

Municipal budget, from general income, shall be provided for:

- 1) guarding and regular maintenance of state-owned cultural property that the Municipality disposes of;
- 2) acquiring cultural property on the basis of the priority right of purchase;
- 3) expropriation of immovable cultural property to the benefit of municipality.

Return of invested funds

Article 130

- (1) Funds from general income of the Budget of Montenegro and funds from rent for maintenance of cultural property which are invested into preservation of cultural property shall be in a form of a grant, except in cases prescribed by this Act.
- (2) The owner who sells or in some other way alienates a cultural property in which maintenance funds referred to in paragraph 1 of this Article were invested, is obligated to return the invested amount into the Budget of Montenegro, within 30 days after the day of its alienation.
- (3) As an exception to paragraph 1 of this Article, the owner which has alienated a cultural property at a no-charge basis may be allowed to fulfill his commitment of returning the invested funds within three years after the day of alienation of a cultural property.
- (4) Alienating a cultural property, pursuant to paragraph 2 of this Article, shall not be considered the transfer of property rights to persons of the first order of succession.
- (5) In order to provide for the return of invested funds referred to in paragraph 1 of this Article in the case of alienation of a cultural property, the right of pledge may be established on a cultural property or other immovable and movable property.

IX. SUPERVISION OVER IMPLEMENTATION OF LAW

Inspection supervision

Article 131

- (1) Inspection supervision of application of this Act shall be carried out by the Ministry and Administration through an inspector for cultural heritage and inspector for cultural property (hereinafter "inspector").
- (2) The Ministry shall carry out inspection supervision with regard to the implementation of provisions of this Act referring to the establishment of protection of cultural property and keeping a Register.
- (3) Administration shall carry out inspection supervision with regard to the condition of cultural property, protection system and measures and rights and obligations of owners and holders of cultural property.

Obligations and authorizations of inspectors

Article 132

In addition to obligations and authorizations determined by law regulating inspection supervision, the inspector is obligated and authorized to:

- 1) have an insight into the condition of cultural property and method of their guarding, maintaining and using;
- 2) have control of archaeological and conservation research and carrying out works on implementation of preventive and conservation measures;
- 3) have control of keeping prescribed documentation and records, their availability and method of usage;
- 4) order measures to remove identified regularities and shortcomings;
- 5) prohibit actions and activities which are carried out on cultural property without an adequate conservation project;
- 6) order physical, technical, or other securing of a cultural property if there is danger of its damage or destruction;
- 7) submit a proposal for appointment of a temporary guardian of a cultural property or for seizure of a cultural property;
- 8) suspend archaeological and conservation research and carry out works on a cultural property and submit a proposal for revoking of an approval issued by the Administration or a license for performing particular works, which are issued in accordance with this Act;
- 9) temporarily remove a cultural property obtained by a felony or the one which was illicitly taken into Montenegro;
- 10) without previous announcement enter the space in which conservation activities are done or works are carried out on a cultural property;
- 11) inform the competent authority about violation of law which is not within his competence;
- 12) submit without delay a criminal report or request for initiating petty offence proceedings against every person performing actions and activities which violate this Act.

Obligation of subjects of supervision

Article 133

In addition to obligations determined by law regulating inspection supervision, the subject of supervision is obligated to:

- 1) enable inspector's undisturbed insight into condition of a cultural property, documentation of cultural property and works and activities which are carried out on a cultural property;
- 2) submit to the inspector requested data and documentation;
- 3) provide inspector with necessary information with regard to protection and preservation of a cultural property.

X. PENALTY CLAUSES

Article 134

(1) A monetary fine from fiftyfold to two hundredfold of the minimum earnings in Montenegro shall be imposed for an offense by a legal person which is the owner of a cultural property, if:

- 1) he alienates a cultural property, without offering it first to the state (Article 46, paragraph 1);
- 2) he alienates a cultural property to another person under more favorable conditions than those offered to the state (Article 46, paragraph 3);

- 3) he fails to conclude a contract on alienation of a cultural property in writing or if he fails to deliver it to the Administration (Article 49, paragraph 1).
- (2) For an offense referred to in paragraph 1 of this Article, a responsible person in a legal person and a natural person which is the owner of a cultural property shall be fined in the amount from fivefold to tenfold amount of a minimum earnings in Montenegro.

Article 135

- (1) A monetary fine from twentyfold to two hundredfold amount of a minimum earnings in Montenegro shall be imposed for an offense by a legal person or contractor which is a public auction sale organizer, if he fails to inform the Ministry in prescribed time limit about the venue and time of holding an auction and the starting selling price of a cultural property (Article 47, paragraph 1).
- (2) For an offense referred to in paragraph 1 of this Article, the responsible person in a legal person and a natural person which is the organizer of a public auction shall be fined from double to tenfold the amount of the minimum earnings in Montenegro.

Article 136

- (1) A monetary fine in the amount from twentyfold to two hundredfold amount of minimum earnings in Montenegro shall be imposed for an offense on a legal person or contractor which is a seller or intermediary in purchase and sale of a cultural property, antiquity or objets d'art if:
 - 1) he fails to present to a purchaser a document confirming that the object of purchase and sale is a cultural property, an evidence of the ownership over the a cultural property or an evidence that the Ministry is informed about sale of cultural property (Article 50, paragraph 1);
 - 2) he fails to keep a file on provenance, selling price and antiquities' purchasers and objets d'art (Article 51, paragraph 1, item 1);
 - 3) he fails to conclude a contract in writing with a purchaser of an antiquity or objet d'art (Article 51, paragraph 1, item 3);
 - 4) he fails to inform the Administration about the transfer of antiquities and objets d'art (Article 51, paragraph 1, item 4).
- (2) A monetary fine in the amount from double to tenfold of the amount of minimum earnings in Montenegro shall be imposed on a responsible person in a legal person as well as on a natural person for an offense referred to in paragraph 1 of this Article.

Article 137

- (1) A monetary fine from twentyfold to two hundredfold the amount of minimum earnings in Montenegro shall be imposed for an offense on a legal person which is the holder of approval for archaeological or conservation research, if:
 - 1) he fails to appoint a person to conduct professional supervision of research works (Article 82, paragraph 1, item 1);
 - 2) he fails to keep documentation regularly and in an orderly manner on research works done and undertaken protective measures (Article 82, paragraph 1, item 2);
 - 3) fails to provide guarding and maintaining of a find and findings (Article 82, paragraph 1, item 3);
 - 4) fails to publicly inform occasionally about the course of research (Article 82, paragraph 1, item 4);

- 5) fails to enable an interested professional or a scientist to visit a find and findings (Article 82, paragraph 1, item 5);
 - 6) within 30 days from completion of research fails to provide the Administration with preliminary report on the research carried out (Article 82, paragraph 1, item 6);
 - 7) upon completion of research in prescribed time limit he fails to deliver to the Administration the final report on the research carried out, with complete documentation (Article 82, paragraph 1, item 7);
 - 8) in a prescribed time limit he fails to publish results on archaeological research (Article 82, paragraph 1, item 8);
 - 9) in a prescribed time limit he fails to deliver movable findings to a public institution for protection of cultural property determined by the Administration (Article 82, paragraph 1, item 9).
- (2) A monetary fine from double to tenfold amount of the minimum earnings in Montenegro shall also be imposed on a responsible person in a legal person for an offense referred to in paragraph 1 of this Article.

Article 138

- (1) A monetary fine from twentyfold to two hundredfold amount of the minimum earnings in Montenegro shall be imposed for an offense on a legal person, if:
- 1) he fails to report within eight days to the Administration a cultural property which he took in or out of Montenegro (Article 55);
 - 2) he uses a cultural property for purposes not approved by the Administration (Article 57, paragraph 1);
 - 3) he uses a cultural property or his recognizable part for its advertisement as an element of a company, for creation of souvenirs, film or photographic material or in other commercial purposes, in such a way that it endangers his integrity or without approval of the Administration (Article 58, paragraph 1);
 - 4) he fails to put on a replica of a cultural property for sale a label which reads a "replica," the title of a cultural property, period and locality of its origin (Article 58, paragraph 4);
 - 5) he conducts an archaeological research or conservation research which encroaches into the integrity of a cultural property, without approval of the Administration (Article 81, paragraph 1);
 - 6) he implements conservation measures on a cultural property regardless of a conservation project that the Administration gave its consent to (Article 101, paragraph 1);
 - 7) he fails to appoint a person to conduct professional supervision of works carried out on a cultural property (Article 105, paragraph 1);
 - 8) he fails to appoint a person that will manage the execution of works on a cultural property (Article 105, paragraph 2),
- (2) A monetary fine from fivefold to twentyfold the amount of minimum earnings in Montenegro shall be imposed on a responsible person in a legal person and a natural person for an offense referred to in paragraph 1 of this Article.

Article 139

- (1) A monetary fine in the amount of twentyfold to two hundredfold of the amount of the minimum earnings in Montenegro shall be imposed on a legal person for an offense by one who has found a cultural property and:

- 1) failed to suspend works and secure the find, that is the findings from possible damage, destruction and unauthorized access of other persons (Article 87, paragraph 1, item 1);
 - 2) failed to report the find immediately, that is to report the find to the Administration, the closest public institution for protection of cultural property, an administrative body competent for police matters or administrative body competent for maritime security (Article 87, paragraph 1, item 2);
 - 3) failed to preserve discovered items on the find in the condition they were in when they were discovered, until the arrival of the authorized officials (Article 87, paragraph 1, item 3);
 - 4) failed to report all relevant data with regard to the find and discovery of findings at the time of discovery and conditions under which they were discovered (Article 87, paragraph 1, item 4).
- (2) A monetary fine in the amount from double to twentyfold of a minimum earnings in Montenegro shall be imposed on a responsible person in a legal person and a natural person for an offense referred to in paragraph 1 of this Article.

Article 140

- (1) A monetary fine from twentyfold to two hundredfold the amount of the minimum earnings in Montenegro will be imposed for an offense on a legal person which is the owner or a holder of cultural property if he:
- 1) fails to report a change on the cultural property to the Administration within the prescribed deadline (Article 116);
 - 2) fails to guard the cultural property, use it as appropriate, maintain it regularly or conduct timely other prescribed or determined protective measures (Article 117, paragraphs 1 and 3);
 - 3) fails to allow the Administration or other person with a permission from the Administration to inspect, record, document, research, or record a cultural property, take samples of material and implement determined protective measures (Article 118, paragraph 1);
 - 4) fails to provide access to a cultural property (Article 119, paragraphs 1 and 3);
 - 5) fails to give a cultural property to a public institution for protection of cultural property for the purpose of presenting it to public at an important cultural event (Article 119, paragraph 2).
- (2) A monetary fine from fivefold to twentyfold the amount of the minimum earnings in Montenegro shall be imposed on a natural person and a responsible person in a legal person for an offense referred to in paragraph 1 of this Article.

XI. TRANSITIONAL AND CLOSING PROVISIONS

By-laws

Article 141

- (1) By-laws, in accordance with this Act, shall be passed within six months after the day of entry into force of this Act.
- (2) Until the by-laws referred to in paragraph 1 of Article are passed, the current by-laws apply.

Cultural Monument status

Article 142

(1) The cultural monuments, the status of which was established by previous regulations shall keep the cultural property status until revalorization of their cultural value is carried out in accordance with this Act.

(2) Revalorization of cultural value of cultural property referred to in paragraph 1 of this Article shall be carried out within three years after the day of entry into force of this Act.

Establishing protected surroundings

Article 143

Borders of protected surroundings of immovable cultural property, which are not established until entry into force of this Act shall be established within three years after the day of entry into force of this Act.

Establishing of Register of cultural property

Article 144

A Register of cultural property shall be established within 90 days after the day of passing the by-law referred to in Article 36, paragraph 4 of this Act.

Establishing of Administration and public institution for conservation service

Article 145

(1) Administration and public institutions for conservation service shall be established within 120 days after the day of entry into force of this Act.

(2) Until the commencement of work of the Administration and public institutions for conservation service, the tasks from their competence shall be performed by Republic Institute for Protection of Cultural Monuments, Regional Institute for Protection of Cultural Monuments and Center for Archaeological Research of Montenegro.

Acquired rights

Article 146

(1) Persons who, by previous legislation, acquired their professional titles to perform activities in protection of cultural monuments shall have their adequate professional titles recognized for performing conservation activities, in accordance with this Act.

(2) Persons who, on the day of entry into force of this Act, have more than 15 years of working experience in protection of cultural property and a particular level of qualifications, or M.Sc. or Ph.D. in a field relevant for protection of cultural property are not obligated to take a licensing exam for conservation service.

Commenced proceedings

Article 147

Proceedings which commenced under current regulations and with no first-instance decision made before entry into force of this Act shall be completed under this Act.

Application of earlier planning documents

Article 148

For development of technical documentation for works on an immovable cultural property which is located in the area for which, in accordance with this Act, no planning document is made, the Administration shall issue conservation conditions in accordance with Article 102 of this Act.

Termination of validity of previous regulations

Article 149

On the date of the entry into force of this Act, the Act on Protection of Cultural Monuments ("Official Gazette of Republic of Montenegro" 47/91) and Act on Reconstruction and Revitalization of Old Cities the Victims of Catastrophic Earthquakes of April 15, 1979 ("Official Gazette of Socialist Republic of Montenegro" 1/84 and 19/86) shall cease to have effect.

Entry into force

Article 150

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette of Montenegro.

SU-SK File No. 01-357/18

Podgorica, July 27, 2010

24th CONVOCATION OF THE ASSEMBLY OF MONTENEGRO

PRESIDENT

Ranko Krivokapic

- THE END OF TRANSLATION -

I hereby confirm that this translation complies with it's original text.

Book No. 1 for 2010, Item No. 66.

Place and date: Mostar, October 25, 2010

Signature: Sanja Ćemalović, Translator and Certified Court Interpreter