

Law 16/1985 dated 25 June, on the Spanish Historical Heritage (Official State Bulletin of 29 June 1985)

Preamble.

The Spanish Historical Heritage has been the main witness to the historical contribution made by Spaniards to universal civilisation and its contemporary creative capacity. The protection and enrichment of the property forming it are fundamental obligations that are binding for all public authorities, in compliance with the mandate addressed to them by article 46 of the Constitutional laws.

During the first third of the century, these requirements represented a similar mandate for the legislator and they were met in exemplary manner by the protagonists of our best intellectual, legal and democratic tradition, as can be seen in the positive legacy passed down with the Law of 13 May 1933. In spite of this recognition, the Spanish people's recovery of freedom meant that, from the very start of this fortunate historical process, the task was begun to draw up a new, and broader, legal response to the requirements, a real code for our Historical Heritage in which projects for the future could be drawn up based on past experience.

Initially, this need was felt as a result of the regulatory dispersion which, over the half century that had passed since the entry into force of the previous Law, had led to many different formulae in our legal regulations aiming to deal with specific situations that had not existed previously or had not been foreseen. The obligation also arises out of the increasing concern on this matter on the part of the international community and its representative organisations, which has led to new criteria for the protection and enrichment of historical and cultural property with agreements and recommendations which Spain has signed and observes but to which its internal legislation has not been adapted. Finally, the legal review was made necessary by a new distribution of powers between the State and the Autonomous Communities which, with regard to such property, emanated from the Constitution and the Statutes of Autonomy. This Law is therefore issued by virtue of regulations contained in sections 1 and 2 of article 149 of our Constitution which for the legislator and the State Administration amount to both a mandate and an area of competence.

This Law lays down a new definition of Historical Heritage and greatly increases its scope. It covers the movable and immovable property forming it, archaeological and ethnographic heritage, museums and State-owned archives and libraries as well as documentary and bibliographical heritage. Essentially, it aims to guarantee protection and to promote material culture resulting from action by man in the broad sense, conceiving the former as property that should be appreciated without setting limits for reasons of ownership, usage, age or economic value.

This does not mean that measures for protection and promotion should be applied uniformly to all property forming part, by virtue of the Law, of our Historical Heritage. The Law establishes different levels of protection for different legal categories. The most general and the one that gives its name to this Law is the category of Spanish Historical Heritage which comprises all property having historical, artistic, scientific or technical value and which forms part of Spain's contribution to universal culture. It is around this concept that the basic measures of the Law are structured and techniques for intervention are defined, these falling within the competence of the State Administration, especially defence against illegal export and protection against spoliation.

Within the Spanish Historical Heritage, and for the purpose of granting greater protection and safeguarding, the category of property of cultural interest takes on special value, and this covers movable and immovable property forming part of the heritage which has greatest need for such protection. This category implies special measures which the Law establishes according to the type of property covered.

The Law also has the necessary formulae to make evaluation possible because the defence of a nation's Historical Heritage must not be carried out exclusively through regulations prohibiting

certain actions or restricting certain types of usage, but should be based on clauses encouraging preservation and therefore allowing enjoyment and facilitating promotion.

The Law therefore lays down a set of taxation and fiscal measures and opens up certain new channels placing Spain on a similar plane to that existing today in countries close to it for historical and cultural reasons and consequently for reasons of their heritage. It therefore promotes a suitable policy for efficiently managing the Spanish Historical Heritage.

The policy aims to complement safeguarding with educational, technical and financial stimulation, in the conviction that the more the people who live with the Historical Heritage appreciate it and the more aid is established to deal with it, the better it will be promoted and defended with obvious consideration towards society when it is the public authorities granting such aid.

The Spanish Historical Heritage is collective wealth containing the most worthy expressions of the historical contribution made by Spaniards to universal culture. Its value comes from the esteem felt towards it by citizens as part of their cultural identity. Because the property comprising it has become heritage exclusively as a result of the social action it carries out which stems from the esteem felt by citizens leading them to place increasing value on it.

As a result and as its final objective, the Law aims to achieve access to the property constituting our Historical Heritage. All measures for protection and promotion established by the Law only serve a purpose if they eventually lead an increasing number of citizens to view and enjoy the works that are the heritage of the collective capacity of a nation.

Because in a democratic State such property should be duly placed at the service of the people in the conviction that enjoyment of it will facilitate access to culture and that the latter is the path towards freedom for nations.

PRELIMINARY  
TITLE.  
GENERAL CLAUSES

**Article 1.**

1. The purposes of this Law are the protection, promotion and transmission to future generations of the Spanish Historical Heritage.
2. The Spanish Historical Heritage is made up of movable and immovable objects of artistic, historical, palaeontological, archaeological, ethnographic, scientific or technical interest. It also comprises documentary and bibliographical heritage, archaeological sites and areas as well as natural sites, gardens and parks having artistic, historical or anthropological value.
3. The most relevant property forming part of the Spanish Historical Heritage shall be inventoried or declared of cultural interest in the terms of this Law.

**Article 2.**

1. Without prejudice to the powers of other public authorities, it is the duty and essential attribute of the State Administration in compliance with the terms of Articles 46 and 44, 149.1.1, and 149.2 of the Constitution to guarantee the preservation of the Spanish Historical Heritage, promote its enrichment and safeguard access for all citizens to the property included in it. In addition and in line with the provisions of Article 149.1.28 of the Constitution, the State Administration shall protect such property from illegal export and spoliation.
2. With regard to the Spanish Historical Heritage, the State Administration shall adopt the necessary measures to facilitate collaboration with and amongst other public authorities and to gather and provide whatever information might be necessary for the purposes stated in the above paragraph.
3. It is also the competence of the State Administration to disseminate on an international level knowledge of the property comprising the Spanish Historical Heritage, to recover any such property that may have been illegally exported and to exchange cultural, technical and scientific information concerning it with other States and with international organisations in compliance with the terms of article 149.1, number 3 of the Constitution. The other appropriate authorities shall collaborate to this end with the State Administration.

**Article 3.**

1. The communication and exchange of programmes of action and information concerning the Spanish Historical Heritage shall be facilitated by the Council for the Historical Heritage which shall be made up of one representative from each Autonomous Community designated by its governing council and the Director General for the State Administration who shall act as Chairman.
2. Without prejudice to the functions assigned to the Council for the Historical Heritage, for the purposes of this Law, the following shall be consultative institutions for the State Administration: the Board for the Certification, Valuation and Export of Property of the Spanish Historical Heritage, the Royal Academies, the Spanish Universities, the Higher National Council for Scientific Research and any Higher Boards officially determined by the State Administration and, with regard to an Autonomous Community, the Institutions recognised by it. This shall be irrespective of any advice received from other professional bodies and cultural entities.

**Article 4.** For the purposes of this Law, spoliation shall be understood as any action or omission placing all or any of the values of the property comprising the Spanish Historical Heritage at risk of loss or destruction or preventing it from carrying out its social function. In such cases, irrespective of the powers of the Autonomous Communities, the State Administration may at any time urge the appropriate department of the Governing Council of

the appropriate Autonomous Community to urgently adopt measures to prevent spoliation. If this request is not met, the State Administration shall act as necessary to recover and protect the endangered property both legally and technically.

#### **Article 5.**

1. For the purpose of this Law, export shall be understood as the departure from Spanish territory of any of the property forming part of the Spanish Historical Heritage.
2. The owners or possessors of such property that is more than one hundred years old and, in all circumstances, of property registered in the General Inventory described in article 26 of this Law shall require express authorisation in advance from the State Administration for export by the method and under the conditions laid down in regulations.
3. In spite of the provisions of the above section and without prejudice to the terms of Articles 31 and 34 of this Law, it shall be prohibited to export property declared to be of cultural interest and any other property which, because it belongs to the Spanish Historical Heritage, the State Administration declares expressly to be unexploitable as a measure of precaution until proceedings are taken to include the property in one of the categories for special protection covered by this Law.

#### **Article 6.**

For the purpose of this Law, the organisations considered responsible for enforcing it shall be understood to be:

- a. Those in each Autonomous Community responsible for protection of the Historical Heritage.
- b. Those of the State Administration when it is expressly stated or it becomes necessary for them to intervene to defend property belonging to the Spanish Historical Heritage against illegal export and spoliation. These organisations shall also have competence with regard to property forming part of the Spanish Historical Heritage that is assigned to public services managed by the State Administration or that form part of the national heritage.

#### **Article 7.**

Town Councils shall co-operate with the organisations that are responsible for enforcing this Law in the preservation and safeguarding of the Spanish Historical Heritage contained within their municipal territory, adopting any measures necessary to prevent them from deteriorating or being lost or destroyed. They shall notify the appropriate Administration of any threat, damage or disturbance to the social function of such property and of any difficulties and needs they may have for protecting such property. They shall also carry out the other functions expressly attributed to them by virtue of this Law.

#### **Article 8.**

1. Any people who note a danger of destruction or deterioration of property forming part of the Spanish Historical Heritage shall, in the shortest time possible, make this known to the appropriate Administration which shall check the substance of the report and act in accordance to the provisions of this Law.
2. Action taken to demand that the administrative bodies and judicial review courts comply with the terms of this Law for the defence of property forming part of the Spanish Historical Heritage shall be public.

## TITLE

I.

### ON THE DECLARATION OF PROPERTY OF CULTURAL INTEREST

#### **Article 9.**

1. Property forming part of the Spanish Historical Heritage and declared of cultural interest under this Law or individually by Royal Decree shall enjoy special protection and safeguarding.
2. Declaration by Royal Decree shall require prior administrative proceedings to be taken by the appropriate organisation in compliance with the provisions of article 6 of this Law. These proceedings shall include a favourable report from one of the consultative institutions named in article 3, paragraph 2, or one that is recognised as being of this nature within the area of an Autonomous Community. Three months after this report is requested, if it has not yet been issued, it shall be understood that the report requested finds in favour of the declaration of cultural interest. When the proceedings refer to immovable property, a period of public information shall be opened and the interested Town Council shall be heard.
3. The proceedings shall result in a decision within a maximum period of twenty months as from the date on which they were initiated. They shall expire at the end of this period if a delay has been reported and provided there is no decision during the four months subsequent to report of the delay. Once the proceedings have expired, they may not be re-initiated during the next three years, except at the request of the holder.
4. The work of a living author may not be declared as of cultural interest unless there is express authorisation on the part of its owner or it has been purchased by the Administration.
5. Officially or at the request of the holder of a legitimate, direct interest, administrative proceedings may be initiated by the appropriate official organisation containing a favourable, reasoned report from one of the consultative institutions to invalidate by Royal Decree the declaration of cultural interest for a specific property.

#### **Article 10.**

Any person may request proceedings to be initiated for the declaration of cultural interest for a property. The appropriate official organisation shall decide if such proceedings can be admitted. This decision and, where appropriate, any incidents and the resolution of the proceedings shall be notified to the person who requested them.

#### **Article 11.**

1. Initiation of proceedings for the declaration of cultural interest for a property shall determine provisional application of the same system of protection that is provided for property declared of cultural interest with regard to the property in question.
2. Resolution of the proceedings declaring property to be of cultural interest shall describe it clearly. In the case of immovable property, it shall delimit the area affected by the declaration and, where appropriate, shall define and list the component parts, and any belongings and accessories included in the declaration.

#### **Article 12.**

1. Property declared of cultural interest shall be recorded in a general Register held by the State Administration which shall be organised and run according to the regulations. This Register shall be notified of any proceedings initiated leading to the corresponding preventive entry until a final resolution is passed.
2. In the case of immovable property, the entry shall be made according to one of the concepts mentioned in article 14.2.

3. In the case of historical monuments and gardens, the appropriate Administration shall also officially arrange the free entry of the declaration in the Land Register.

#### **Article 13.**

1. An official title shall be issued by the general Register for property declared to be of cultural interest to identify it and record all legal or artistic actions on it. Any conveyance or transfer of such property shall be entered in the Register. The type and character of this title shall be laid down in regulations.

2. Moreover, the owners or, where appropriate, the holders of real rights on such property or persons possessing them under any title shall be obliged to permit and facilitate inspection by the appropriate organisations, study by researchers on reasoned application by same and public visits which shall be free as officially determined at least four days a month on the days and at the times stipulated in advance. Fulfilment of this latter obligation may be waived completely or partially by the appropriate Administration for a justified cause.

In the case of movable property and in substitution of this obligation, an agreement may be reached to deposit the property in a place covered by suitable conditions of security and exhibition during a maximum period of five months every two years.

#### TITLE

#### II.

#### ON IMMOVABLE PROPERTY

#### **Article 14.**

1. For the purpose of this Law, all elements that can be considered inherent to buildings and that form, or formed, part of them or of their environment shall be considered immovable property, in addition to those listed in article 334 of the Civil Code, even if they can be separated constituting a perfect unit that can be easily applied to other constructions or to other uses apart from their original use, whatever they are made of, and even if such separation does not visibly affect the historical or artistic merit of the property to which they are joined.

2. Historical monuments, gardens, units and sites, and archaeological areas forming part of the Spanish Historical Heritage may be declared to be property of cultural interest.

#### **Article 15.**

1. Immovable property comprising architectural or engineering work or works of colossal sculpture shall be monuments provided they are of historical, artistic, scientific or social interest.

2. A historical garden is the delimited area resulting from organisation by man of natural elements, sometimes complemented by constructions, and considered of interest because of its origin or historical past or its aesthetic, sensory or botanical values.

3. A historical unit is a group of immovable properties forming a continuous or dispersed unit of settlement, covered by a physical structure representing the development of a human community in that it testifies to their culture or constitutes a value for public use and enjoyment. A historical unit is also any individualised group of properties included in a larger population unit having the same characteristics and that can be clearly delimited.

4. A historical site is a place or natural landscape linked to events or memories of the past or to popular tradition, cultural or natural creations and works of man having historical, ethnological, palaeontological or anthropological value.

5. An archaeological area is the place or natural landscape where there are movable or immovable properties that can be studied using archaeological methodology, whether or not they have been extracted and whether they are to be found on the surface, underground or below Spanish territorial waters.

#### **Article 16.**

1. When proceedings are initiated for a declaration of cultural interest with regard to an immovable property, any municipal licences for land division, building or demolition in the areas involved shall be suspended, as well as the effects of any permits already granted. Any work that must be carried out without delay in such areas for reasons of force majeure shall, under all circumstances, require authorisation from the organisations responsible for enforcement of this Law.

2. The suspension referred to in the above section will depend on the resolution or expiry of the proceedings initiated.

#### **Article 17.**

In proceedings for declaring a historical unit as property of cultural interest, its links with the territorial area it belongs to shall be considered, as shall protection of any geographical accident and natural landscapes forming its surroundings.

#### **Article 18.**

An immovable property declared to be of cultural interest is inseparable from its surroundings. It cannot be displaced or moved unless this is essential for reasons of cause majeure or social interest and, under all circumstances, this shall be done in compliance with the procedure described in article 9, paragraph 2 of this Law.

#### **Article 19.**

1. In monuments declared to be of cultural interest, no internal nor external building work may be carried out that will directly affect the building or any of its parts or belongings without express authorisation from the organisations responsible for enforcement of this Law. The same authorisation shall be necessary for placing any type of sign or symbol on facades or roofs and for carrying out any work in the surrounding area covered by the declaration.

2. Work affecting historical gardens declared to be of cultural interest and their surroundings and the placing of any type of sign or symbol in them shall require express authorisation from the organisations responsible for enforcement of this Law.

3. The placing of commercial advertising and any type of cable, aerial and visible ducting in historical gardens and on the facades and roofs of monuments declared to be of cultural interest shall be prohibited. Any construction that alters the character of the buildings to which this article refers or alters the view of them shall also be prohibited.

#### **Article 20.**

1. Declaration of a historical unit or site or archaeological area as property of cultural interest shall entail the obligation for the municipality or municipalities in which they are located to draw up a special Plan for protection of the area involved by the declaration or another of the types of plan included in town planning legislation providing that under all circumstances it meets the requirements of this Law. Approval of this Plan will require a favourable report from the Administration responsible for the protection of the cultural property in question. A favourable report shall be understood to have been issued three months after presentation of the Plan. The obligatory nature of this Plan cannot be obviated based on the pre-existence of another plan that goes against the protection nor on the lack of prior existence of a general

plan.

2. The Plan referred to in the above section shall establish for all public uses the order of priority for its implementation in buildings and spaces suitable for this purpose. It shall also cover possible areas for integral rehabilitation allowing recovery of the residential area and of appropriate economic activities. It shall also contain criteria relating to the preservation of facades and roofs and installations on them.

3. Until final approval of this Plan, the granting of licences or the implementation of those granted prior to initiating the proceedings for declaring the historical unit or site or the archaeological area shall require a favourable resolution from the Administration responsible for the protection of the property involved and under no circumstances shall it be allowed to carry out new alignments, alter building potential nor divide or combine land.

4. Once final approval of the Plan referred to in this article has been granted, the Town Councils involved shall be entitled to directly authorise work to implement the approved plan affecting only buildings that are not monuments or historical gardens and are not included within their surrounding area, and the Administration responsible for enforcing this Law shall be informed of any authorisations or licences granted in a maximum period of ten days after they are granted. Any work carried out under licences that go against the approved Plan shall be illegal and the appropriate Administration shall order that they be reconstructed or demolished by the organisation that granted the licence in question, without prejudice to the provisions of town planning legislation regarding liability for infringements.

#### **Article 21.**

1. In planning instruments for historical units, both buildings and free exterior or interior free spaces or other significant structures as well as any accompanying natural components shall be catalogued in accordance with town planning legislation, defining the types of action that are possible. Integral protection shall be given to special elements. A suitable level of protection shall be accorded in each case to the other elements.

2. Exceptionally, the Plan for the protection of a historical unit may allow urban remodelling but only when this implies improved relations with the territorial or urban surroundings or avoids use that is damaging for the unit.

3. Preservation of historical units declared property of cultural interest involves the maintenance of urban and architectural structures and of the general characteristics of the environment. The replacement of buildings shall be considered as exceptional, even if only partial, and shall only be permitted to the extent that it helps to maintain the general character of the unit. Under all circumstances, existing urban alignments shall be maintained.

#### **Article 22.**

1. Any plans for building work or earth moving to be carried out in a historical site or in an archaeological area declared of cultural interest shall require authorisation from the Authority responsible for protecting such property and the latter may, prior to granting authorisation, order prospecting and, where appropriate, archaeological excavations in compliance with the terms of Title V of this Law.

2. The placement of any type of commercial advertising and of cables, aerials and visible ducts shall be prohibited in archaeological areas.

#### **Article 23.**

1. Licences may not be granted for carrying out work which, in compliance with the terms of this Law, requires administrative authorisation until the latter has been granted.

2. Any work carried out without complying with the terms of the above section shall be illegal

and the Town Councils or, where appropriate, the Administration responsible for protecting the Spanish Historical Heritage may order re-construction or demolition to be carried out by whoever was responsible for the infringement in the terms covered by town planning legislation.

**Article 24.**

1. If, in spite of the terms of article 36, proceedings are initiated for the declaration of ruin of a building covered by proceedings for declaration as a property of cultural interest, the Administration responsible for enforcing this Law shall be allowed to act as an interested party in the proceedings, and shall be notified of the opening of proceedings and of any resolutions adopted in them.

2. Under no circumstances shall a building be demolished without prior confirmation of the declaration of ruin and authorisation from the relevant official Administration which shall only grant such authorisation on receiving a favourable report from at least two of the consultative institutions referred to in Article 3.

3. If there is urgency and imminent danger, the entity that initiated the proceedings for the declaration of ruin shall order the necessary measures to prevent danger to persons. Any work to be carried out for reasons of force majeure shall not give rise to demolition acts unless strictly necessary for preservation of the building and shall under all circumstances require prior authorisation as under article 16.1 and, in addition, any elements removed shall be replaced.

**Article 25.**

The appropriate organisation may order suspension of any work on total or partial demolition or change of use of buildings forming part of the Spanish Historical Heritage not declared of cultural interest. This suspension may last for a maximum of six months, during which period the Administration responsible for town planning may decide on the appropriateness of the initial approval of a special plan or other measures of protection apart from those covered in town planning legislation. This resolution, which shall be notified to the organisation that ordered the suspension, shall not prevent the exercise of the power covered in Article 37.2.

## TITLE

### III.

#### ON MOVABLE PROPERTY

#### **Article 26.**

1. The State Administration, in collaboration with other appropriate Administrations, shall draw up the general Inventory on the movable property of the Spanish Historical Heritage not declared to be of cultural interest that is of special relevance.

2. For the purposes of the above paragraph, the appropriate Administrations shall be able to claim permission from the holders of the rights on the movable property of the Spanish Historical Heritage to inspect it and to obtain any relevant information for inclusion, if appropriate, in this inventory.

3. The owners and other holders of real rights on movable property of special historical or artistic, archaeological, scientific or technical/cultural value shall present a duly documented application to the appropriate Administration for initiation of the proceedings for inclusion of the property in the general Inventory. Resolution on this application shall fall due in a period of four months.

4. The owners or possessors of movable property having the value and characteristics officially laid down shall be obliged to notify the appropriate Administration of the existence of such objects before proceeding to sell or transfer them to third parties. The same obligation is established for people or entities that habitually carry out trade in movable property forming part of the Spanish Historical Heritage who shall also formalise with the Administration a Register of any transfers made of such objects.

5. The organisation and functioning of the general Inventory shall be officially laid down

6. The following regulations shall be applicable to movable property forming part of the Spanish Historical Heritage and included in the general Inventory:

- a. The appropriate Administration shall at all times be able to inspect the state of conservation.
- b. Its owners and, where appropriate, any other holders of real rights over such property shall be obliged to allow researchers to examine it on prior, reasoned application and to lend it, with proper guarantees, to any temporary exhibitions organised by the bodies referred to in article 6 of this Law. It shall not be obligatory to carry out such loans for periods in excess of one month a year.
- c. Inter vivos or mortis causa transfers and any other change in the situation of property shall be notified to the appropriate Administration and entered in the general Inventory.

#### **Article 27.**

Movable property forming part of the Spanish Historical Heritage may be declared of cultural interest. Under all circumstances, the movable property contained in a building that has been covered by such a declaration recognising them as an essential part of the building's history shall be so considered.

#### **Article 28.**

1. Movable property declared to be of cultural interest and property included in the general Inventory that are in the possession of ecclesiastical institutions, in any of their establishments or on any of their premises, may not be transferred by title acquired by purchase nor free of charge nor may they be assigned to private persons or mercantile entities. Such property may only be sold or assigned to the State, to public law entities or to other ecclesiastical institutions.

2. Movable property forming part of the Spanish Historical Heritage may not be sold by the public Administrations, except for transfers carried out amongst the latter and except for the provisions of articles 29 and 34 of this Law.

3. The property referred to by this article shall not lapse. Under no circumstances shall the provisions of article 1.955 of the Civil Code be applicable to such property.

#### **Article 29.**

1. Any movable property belonging to the Spanish Historical Heritage that is exported without the authorisation required under article 5 of this Law belongs to the State. It is inalienable and cannot lapse.

2. The State Administration shall carry out any actions leading to total recovery of illegally-exported property.

3. When the previous holder accredits the prior loss or theft of the illegally-exported property, he may request assignment from the State, entering the obligation to pay the amount of any costs for recovery and, where appropriate, to refund the price paid by the State to the bona fide purchaser. When the previous holder was a public corporation, an illegally-exported property shall be considered lost or stolen.

4. Any property recovered and not assigned shall be allocated to a public centre; after the Council for Historical Heritage has first issued a report.

#### **Article 30.**

Permission for the export of any movable property forming part of the Spanish Historical Heritage shall be subject to a fee established in compliance with the following rules:

- a. Taxable event: this shall be the granting of the export permit for the property in question.
- b. Exemptions: the following shall be exempt from the payment of taxes:
  - a. The export of movable property taking place during the period of ten years after its import provided the latter was carried out legally, is covered in documents and the property was not declared of cultural interest in compliance with the provisions of article 32 of this Law.
  - b. The temporary, legally-permitted departure from the country of property forming part of the Spanish Historical Heritage.
  - c. The export of movable objects by living authors.
- c. Taxpayer: the persons or national or foreign entities to whom export permits are granted shall be obliged to pay the tax.
- d. Tax base: the tax base shall be determined by the real value of the property for which the export permit is requested. The real value of the property shall be the value declared by the applicant, without prejudice to the administrative confirmation carried out by the appropriate body of the State Administration, which shall prevail when higher than the former.
- e. Type of levy: the tax shall be imposed as follows:

Up to 1,000,000 pesetas	5%
From 1,000,001 to 10,000,000 pesetas	10%

From 10,000,001 to 100,000,000 pesetas	20%
From 100,000,001	30%

- f. Due date: the tax shall fall due when the export permit is granted.
- g. Settlement and payment: the Government shall regulate the procedures for valuation, settlement and payment of the tax.
- h. Management: management of this tax shall be attributed to the Ministry of Culture.
- i. Allocation: the product of this tax shall be paid into the Public Treasury, being allocated exclusively to the purchase of property of interest for the Spanish Historical Heritage.

#### **Article 31.**

1. The State Administration may permit temporary departure from Spain, by the method and under the conditions laid down in regulations, of movable property subject to the terms of article 5 of this Law. Under all circumstances, the permit shall specify the time period and guarantees for the export. Any property exported in this way may not be subject to the right of pre-emption.
2. Non-fulfilment of the conditions for the return to Spain of property exported in this way shall be considered illegal export.

#### **Article 32.**

1. Movable property that has been imported legally and is duly documented so that the imported property is fully identified may not be declared of cultural interest in a period of ten years after the date on which it was imported.
2. Such property may be exported with a permit from the State Administration to be granted provided that the application meets the requirements of current legislation, and no right of pre-emption may be exerted on it. After the period of ten years, such property shall be subject to the general terms of this Law, unless its possessors request that the State Administration extend this situation for another equal period and this is granted after a judgement from the Board for Certification, Valuation and Export of Property forming part of the Spanish Historical Heritage.
3. In spite of the provisions of the above sections, movable property possessing any of the values stated in article 1 of this Law may be declared of cultural interest before the end of the ten-year period if its owner requests such a declaration and the State Administration determines that the property enriches the Spanish Historical Heritage.

#### **Article 33.**

Except for the provisions of article 32, provided that an export application is made, the value declaration made by the applicant shall be considered an irrevocable offer for sale in favour of the State Administration which, if it does not permit the export, shall have a period of six months in which to accept the offer and one year after that to make due payment. Refusal of the export application does not amount to acceptance of the offer which must be made expressly.

#### **Article 34.**

The Government may agree with other States to exchange State-owned movable property belonging to the Spanish Historical Heritage for other property of at least the same value and historical significance. Approval will require a favourable report from the Royal Academies of History and Fine Arts of St. Ferdinand and the Board for the Certification, Valuation and Export

of Property forming part of the Spanish Historical Heritage.

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## TITLE

### IV.

#### ON THE PROTECTION OF MOVABLE AND IMMOVABLE PROPERTY

##### **Article 35.**

1. For the protection of property belonging to the Spanish Historical Heritage and for the purposes of facilitating access to it by citizens, promoting communication amongst the different departments and obtaining the necessary information for carrying out scientific and technical research, national information Plans shall periodically be drawn up on the Spanish Historical Heritage.

2. The Council for the Spanish Historical Heritage shall draw up and approve the national information Plans referred to in the above section.

3. The various public departments and the holders of property forming part of the Spanish Historical Heritage shall collaborate in the preparation of the national information Plans.

##### **Article 36.**

1. Property forming part of the Spanish Historical Heritage shall be preserved, maintained and safeguarded by its owners or, where appropriate, by the holders of real rights or the possessors of such property.

2. The use of property declared to be of cultural interest and of movable property included in the general inventory shall only be possible when the values recommending its preservation are not placed at risk. Any change of usage must be authorised by the bodies responsible for enforcement of this Law.

3. When the owners or holders of real rights on property declared of cultural interest or property included in the general inventory do not carry out the actions required in fulfilment of the obligation stipulated in section 1 of this article, the appropriate Administration may, after first notifying the interested parties, order appurtenant action.

It may also grant assistance in the form of a repayable advance which, in the case of immovable property, shall be entered in the Land Register. The appropriate Administration may also directly carry out any necessary work if this is required for more efficient preservation of the property.

Exceptionally, the appropriate Administration may order that movable property be deposited in centres of a public nature until such time as the causes leading to the necessity disappear.

4. Non-fulfilment of the obligations laid down in this article shall be a cause of social interest for compulsory purchase of the property declared to be of cultural interest by the appropriate Administration.

##### **Article 37.**

1. The appropriate Administration may prevent demolition and suspend any type of building work or action on a property declared of cultural interest.

2. It may also act in this way even if there has been no such declaration, provided one of the values mentioned in article 1 of this Law is present. In this case, the Administration shall resolve in a maximum period of thirty working days to continue the work or action begun or shall proceed to initiate the declaration of a property of cultural interest.

3. The risk of destruction or deterioration or of usage that is incompatible with its values shall be a just cause of social interest for expropriation by the appropriate Administration of property covered by a declaration of cultural interest. Buildings preventing or hindering the view of property covered by a declaration of cultural interest or giving rise to risks for the

latter may be expropriated for this same cause. Municipal authorities may also agree to expropriate such property and shall first notify the appropriate Administration of its intention, and the latter shall have priority to exercise this power.

#### **Article 38.**

1. Any person trying to sell a property declared of cultural interest or included in the general Inventory referred to in article 26 shall duly notify the organisations mentioned in article 6 and declare the price and conditions proposed for the sale. Auction houses must also give due notification in advance of public auctions in which it is planned to sell any property forming part of the Spanish Historical Heritage.

2. Within the period of two months subsequent to the notification referred to in the above section, the State Administration may use its right of pre-emption to purchase the property for a charity organisation or for any public corporation, entering the obligation to pay the agreed price or, where appropriate, the auction price within a period not exceeding two financial years, unless an agreement is reached with the interested party on other payment terms.

3. When the intention to sell is not correctly notified, the State Administration may, in the same terms as those for the right of pre-emption, exercise its right of redemption within a period of six months after the date on which it receives reliable information on the sale.

4. The provisions of the above sections do not exclude the possibility of the rights of pre-emption and redemption on the same property being exercised in identical terms by other organisations responsible for the enforcement of this Law. However, the State Administration shall have preference for exercising these rights provided that such property is acquired for a museum, archive or State-owned library.

5. Land and Mercantile Registrars shall not enter any document covering the transfer of ownership or any other real right on the property referred to in this article unless it is accredited that all its requirements have been met.

#### **Article 39.**

1. Public authorities shall aim, using all technical methods, to preserve, consolidate and improve property declared to be of cultural interest and movable property included in the general Inventory referred to in article 26 of this Law. Property declared to be of cultural interest may not be subject to any type of treatment without the express authorisation of the organisations that are responsible for enforcement of this Law.

2. In the case of immovable property, the actions referred to in the above paragraph shall aim to achieve preservation, consolidation and rehabilitation and shall prevent any attempts at reconstruction except when the original parts of the buildings are used and their authenticity can be proved. If materials or essential parts for stability or maintenance are added, such additions must be recognisable and confusion through imitation should be avoided.

3. Restoration of property referred to in this article shall respect any existing contributions made at any time. The elimination of any of these shall only be authorised exceptionally and provided that the elements to be removed amount to a clear degradation of the property and elimination is necessary to allow better historical interpretation of the property. The parts removed shall be duly documented.

## TITLE

V.

### ON ARCHAEOLOGICAL HERITAGE

#### **Article 40.**

1. According to the terms of article 1 of this Law, movable or immovable property of a historical nature that can be studied using archaeological methodology forms part of the Spanish Historical Heritage, whether or not it has been extracted and whether it is to be found on the surface or under ground, in territorial seas or on the continental shelf. Geological and palaeontological elements relating to the history of man and his origins and background also form part of this heritage.

2. Caves, shelters and places containing expressions of cave art are declared property of cultural interest for the operation of this Law.

#### **Article 41.**

1. For the purposes of this Law, earth moving on the surface, under ground or under water that is carried out for the purpose of discovering and investigating all types of historical or palaeontological remains and the geological components related to them are considered archaeological excavations.

2. Surface or under-water exploration not involving earth moving for the purpose of study, investigation or the examination of data on any of the elements referred to in the above section are considered archaeological prospectings.

3. Discoveries of objects and material remains which, having the values of the Spanish Historical Heritage, have taken place by chance or as a result of any type of earth moving, demolition or work of any type are considered chance finds.

#### **Article 42.**

1. Any excavation or archaeological prospecting shall be duly authorised by the appropriate Administration which, through appropriate procedures of inspection and control, shall check that the work is planned and carried out following a detailed, coherent programme containing the requirements for appropriateness, professionalism and scientific interest.

2. Permission for carrying out excavations or archaeological prospecting shall oblige beneficiaries to deliver any objects obtained, duly inventoried and catalogued and with an accompanying report to the museum or centre designated by the appropriate Administration and within the time limit established, taking into account its proximity to the place of the find and the circumstances facilitating not only proper conservation but also proper cultural and scientific functioning. Under no circumstances, shall the terms of article 44.3 of this Law be applicable to these objects.

3. Any excavations or archaeological prospecting carried out without due permission or those carried out without fulfilling the terms of the permission as well as earth moving, demolition or any other work carried out subsequently in the place where the chance find of archaeological objects took place that were not immediately notified to the appropriate Administration shall be illegal and those responsible for them shall be sanctioned in compliance with the terms of this Law.

#### **Article 43.**

The appropriate Administration may order that excavations or archaeological prospecting be carried out on any public or private land within Spanish territory on which it is presumed that there are archaeological or palaeontological remains or geological components relating to

them. For the purpose of compensation, the terms of the current legislation on expropriation shall be applied.

#### **Article 44.**

1. All objects and material remains possessing the values of the Spanish Historical Heritage that are discovered as a result of excavations, earth moving or works of any type or by chance are considered of the public domain. The discoverer shall notify the appropriate Administration of the discovery within a maximum period of thirty days and immediately in the case of casual finds. Under no circumstances shall the provisions of article 351 of the Civil Code be applicable to such finds.

2. Once the find has been notified, and until such time as the objects are delivered to the appropriate Administration, the rules for legal deposit shall be applied to the discoverer unless the objects are delivered to a public Museum.

3. The discoverer and owner of the place on which the object was found shall be entitled, by way of a reward, to half the value attributed to it in the legal valuation and this shall be shared between them in equal proportions. If there are two or more discoverers or owners, the same proportions shall be maintained.

4. Non-fulfilment of the obligations given in sections 1 and 2 of this article shall deprive the discoverer and, where applicable, the owner of the right to the above-mentioned reward and the objects shall immediately pass to the appropriate Administration, without prejudice to any liability and due sanctions.

5. The find of parts of the architectural structure of a building included in the Register of property of cultural interest shall be excepted from the provisions of this article. However, the find must be notified to the appropriate Administration in a maximum period of thirty days.

#### **Article 45.**

Any archaeological objects purchased by public entities for any reason shall be deposited in whatever Museums or centres the purchasing Administration decides on, taking into account the circumstances mentioned in article 42, section 2 of this Law.

## TITLE VI.

### ON THE ETHNOGRAPHIC HERITAGE

#### **Article 46.**

Any movable or immovable property and knowledge and activities that are or have been a relevant expression of the traditional culture of the Spanish nation in its material, social or spiritual aspects form part of the Spanish Historical Heritage.

#### **Article 47.**

1. Any buildings and installations whose method of constitution is an expression of knowledge acquired, established and transmitted by custom and whose creation belongs totally or partially to a type or form of architecture traditionally used by communities or human groups shall be considered buildings of an ethnographic nature and shall be covered by the terms of Titles II and IV of this Law.
2. All objects that constitute the expression or the product of labour, aesthetic and pleasure activities of any human group that are established and transmitted by custom shall be considered property of an ethnographic nature and shall be covered by the terms of Titles III and IV of this Law.
3. Any knowledge or activities derived from traditional models or techniques used by a specific community shall be considered to have ethnographic value and shall receive administrative protection. When such knowledge or activities are considered to be at risk of disappearing, the appropriate Administration shall adopt suitable measures for such property to be studied and scientifically documented.

## TÍTULO

### VII.

## ON THE DOCUMENTARY AND BIBLIOGRAPHICAL HERITAGE OF ARCHIVES, LIBRARIES AND MUSEUMS

### CHAPTER

#### I.

### ON DOCUMENTARY AND BIBLIOGRAPHICAL HERITAGE

#### **Article 48.**

1. For the purpose of this Law, any property whether or not in archives and libraries that is declared in this Chapter as forming part of the documentary and bibliographical heritage of the Spanish Historical Heritage shall form part of it.
2. Documentary and bibliographical heritage shall be governed by specific rules given in this Title. For any part that is not covered in these the general provisions of this Law and those for movable property shall be applicable.

#### **Article 49.**

1. For the purpose of this Law, a document is understood as being any expression in natural or conventional language and any other type of graphic, sound or image expression given on any type of material medium, including computer media. Non-original copies of publications are excluded.
2. Documentary heritage includes documents from any time generated, preserved or collected during the exercise of its functions by any public organisation or entity, by legal entities in which the State or other public entities hold a majority share of the capital and by private persons or legal entities managing public services with regard to the management of such services.
3. Documentary heritage also includes documents more than forty years old that are generated, preserved or collected during the exercise of their activities by entities and associations of a political, trade union or religious nature and by entities, foundations and cultural and educational associations of a private nature.
4. Documentary heritage also includes documents more than one hundred years old that are generated, preserved or collected by any other private entities or persons.
5. The State Administration may declare that certain documents, though not as old as those mentioned in the above sections, shall form part of the documentary heritage.

#### **Article 50.**

1. The bibliographical heritage shall include libraries and bibliographical collections owned by the State and literary, historical, scientific or artistic works, whether single or in series and whether in manuscript or printed form, of which there is no record of the existence of at least three copies in public libraries or services. It shall be assumed that this number of copies exists in the case of works published as from 1958.
2. The Spanish Historical Heritage also includes, and the system for bibliographical heritage shall be applied to, copies resulting from the production of cinematographic films, records, photographs, audiovisual material and other similar materials, whatever the material medium, of which there is no record of at least three copies in public services or one in the case of cinematographic films.

#### **Article 51.**

1. The State Administration, in collaboration with other appropriate Administrations, shall draw

up a census of property forming part of the documentary heritage and the joint catalogue of property forming part of the bibliographical heritage in compliance with regulations.

2. For the purpose of the above section, the appropriate Administration may arrange with the holders of rights on property forming part of the documentary and bibliographical heritage to examine them and collect pertinent information for inclusion, where appropriate, in the above-mentioned census and catalogue.

#### **Article 52.**

1. All holders of rights on property forming part of the documentary and bibliographical heritage are obliged to preserve and protect it, use it in a way that does not prevent preservation and maintain it in suitable places.

2. If the obligors fail to comply with the provisions of the above section, the appropriate Administration shall adopt appropriate measures to ensure compliance, in accordance with the provisions of article 36.3 of this Law. Non-compliance with these obligations when, in addition, the notification by the Administration is disregarded may amount to a cause of social interest for compulsory expropriation of the property in question.

3. Those obliged to preserve property forming part of the documentary and bibliographical heritage shall facilitate inspection by the appropriate organisations to check the situation or status of the property and shall allow study by researchers on reasoned application by the latter. Private persons may be excused from meeting this latter obligation if this would involve intrusion in their right to their own and their family's privacy and their own image in the terms established by the legislation in this respect.

4. The obligation to allow study by researchers may be replaced by the appropriate Administration by means of temporarily depositing the property in an archive, library or similar public centre having suitable conditions for the safety of the property and for it to be studied.

#### **Article 53.**

Property forming part of the documentary and bibliographical heritage that is of special importance shall be included in a special section of the general inventory of movable property of the Spanish Historical Heritage, in compliance with the procedure established in article 26 of this Law.

#### **Article 54.**

1. Any persons having responsibility through the position they hold for documents referred to in article 49.2 of this Law shall be obliged, on relinquishing the position, to pass them over to the persons replacing them in the position or to send them to the appropriate archive.

2. Unjustified retention of documents described in the above section by private persons or institutions shall lead the Administration that would have preserved, generated or collected them to order such property to be transferred to a public archive, without prejudice to any liability incurred.

#### **Article 55.**

1. The exclusion or elimination of property forming part of the documentary and bibliographical heritage covered in article 49.2 and of any publicly-owned property shall be authorised by the appropriate Administration.

2. Under no circumstances may such documents be destroyed while their probatory value of the rights and obligations of persons or public entities persists.

3. In other cases, the exclusion or elimination shall be authorised by the appropriate Administration at the proposal of its owners or possessors, by means of the legally-established procedure.

#### **Article 56.**

1. Any acts of disposal, export and import of property forming part of the documentary and bibliographical heritage shall be subject to the provisions of article 5 and Titles III and IV of this Law as applicable.

2. Under all circumstances, when such property is publicly-owned it shall be unexploitable except for the provisions of articles 31 and 34 of this Law.

#### **Article 57.**

1. Consultation of documents forming part of the Spanish documentary heritage referred to in article 49.2 shall be covered by the following rules:

- a. In general, once such documents have been duly processed and deposited and registered in the central archives of the appropriate official entities in accordance with legally-established procedure, they shall be available for consultation unless they relate to subjects classified under the Official Secrets Law or that must not be made known publicly because of an express provision of the Law, or unless dissemination of their content may involve risks for State safety and defence or investigation of crime.
- b. In spite of the provisions of the above paragraph, it may be possible to request administrative authorisation for access to documents excluded from public consultation. Such authorisation may be granted, in the case of secret or reserved documents, by the authority which made the respective declaration and, in other cases, by the head of the department responsible for safeguarding the documents.
- c. Documents containing personal details of interest to the police, courts, medical services or of any other type that may affect persons' safety, honour, personal and family privacy and image may not be publicly consulted without express consent on the part of those involved or until twenty-five years have passed after the person's death, if the date is known and, if not, fifty years after the date of the documents.

2. The conditions for carrying out consultation of the documents referred to in this article and for obtaining reproductions of them shall be established in regulations.

#### **Article 58.**

Consideration and decisions on any matters relating to the classification and use of documents belonging to the State Administration and to the State public sector as well as their inclusion in archives and the rules for access and administrative withdrawal of such documents shall be carried out by a high-level Commission for the classification of administrative documents and the composition, functioning and specific competence of this Commission shall be laid down in regulations. Classification commissions may also be set up in any public organisations as appropriate.

#### CHAPTER

#### II.

#### ON ARCHIVES, LIBRARIES AND MUSEUMS

#### **Article 59.**

1. Archives are organic collections of documents or groups of several of them organised by public or private legal entities in the exercise of their activities to be used for the purpose of

research, culture, information and administrative management.

Archives shall also be considered to be cultural institutions in which such organic collections are brought together, preserved, organised and disseminated for the above-mentioned purposes.

2. Libraries are cultural institutions in which collections of books, manuscripts and other bibliographical materials are preserved, brought together, selected, inventoried, catalogued, classified and disseminated or reproduced by any means for reading in public rooms or for temporary loan at the service of education, research, culture and information.

3. Museums are institutions of a permanent nature that acquire, preserve, investigate, communicate and exhibit collections of historical, artistic, scientific and technical or any other cultural nature for the purposes of study, education and viewing.

#### **Article 60.**

1. Any buildings devoted to the installation of state-owned archives, libraries and museums shall be subject to the rules established by this Law for property of cultural interest, as shall any movable property forming part of the Spanish Historical Heritage that is held in them.

2. At the suggestion of the appropriate Administrations, the Government may extend the rules mentioned in the above section to other archives, libraries and museums.

3. The organisations responsible for enforcement of this Law shall ensure that catalogues, censuses and files on the collections in the institutions referred to in this Article are duly drawn up and updated.

#### **Article 61.**

1. The State Administration may, after first consulting the relevant Autonomous Community, create any archives, libraries and museums it considers appropriate when cultural and social needs make this necessary irrespective of the initiative of other organisations, institutions or private persons.

2. Any State-owned archives, libraries and museums on a national level shall be set up by Royal Decree.

3. The State Administration shall promote the communication and co-ordination of all State-owned archives, libraries and museums existing in Spanish territory and for this purpose may collect any information from them it considers appropriate and may inspect their functioning and take measures to improve the fulfilment of their purposes in the terms given, where applicable, in the management agreements with the Autonomous Communities.

#### **Article 62.**

The State Administration shall guarantee access for all Spanish citizens to State-owned archives, libraries and museums, without prejudice to any restrictions which may be laid down for the purpose of preservation of the property held in them or the function of the institution itself.

#### **Article 63.**

1. State-owned archives, libraries and museums may accept deposits of property that is privately-owned or that belongs to other public Administrations in accordance with official regulations.

2. Property of cultural interest and any property forming part of the documentary and bibliographical heritage kept in State-owned archives and museums may not leave the latter without prior authorisation which shall be granted in the form of a ministerial order. In the

case of objects under deposit the terms of the agreement reached when the deposit was made shall be followed.

3. The same rules that are given in the above section shall be applied to property of cultural interest kept in State-owned libraries, without prejudice to the terms established on public loan services.

**Article 64.**

The buildings in which State-owned archives, libraries and museums are installed as well as any buildings or land on which these are to be installed may be declared to be of public utility for the purposes of expropriation. This declaration may be made extensive to any adjacent buildings or land if so required for security reasons for proper preservation of the buildings or of the property they contain.

**Article 65.**

1. Each ministerial department shall carry out co-ordination of the functioning of all the archives of the Ministry and of any organisations linked to it for the purpose of proper fulfilment of the terms of this Law and of any regulations that may be passed to implement it.

2. The documentation of any organisations that report to the State Administration shall be regularly transferred following the legally-established procedure to the State archives.

**Article 66.**

The Spanish archive, library and museum systems respectively are made up of the archives, libraries and museums and any technical or educational services directly linked to them that enter the system by virtue of official provisions.

## TITLE

### VIII.

#### ON MEASURES FOR PROMOTION

##### **Article 67.**

The Government shall take any measures necessary so that the financing of work on preservation, maintenance and rehabilitation and on archaeological protection and excavation of property declared to be of cultural interest is given preferential access to official credit following the method and with the requirements established in regulations. For this purpose, the State Administration may, through agreements with persons and public and private entities, establish the conditions for receiving credit benefits.

##### **Article 68.**

1. The budget for any public works that are financed completely or partially by the State shall include an item for at least 1% of the funds provided by the State for financing work on the preservation or enrichment of the Spanish Historical Heritage or for promoting artistic creativity, preferentially on the actual site of the work or in the immediate surroundings.

2. If the public works are to be built and operated by private persons through an administrative concession without financial participation by the State, 1% will be applied to the whole budget.

3. The following public works shall be exempted from the provisions of the above sections:

- a. Those for which the total budget does not exceed one hundred million pesetas.
- b. Those relating to the security and defence of the State and the safety of public services.

4. The specific method of allocating the funds resulting from the provision of 1% referred to in this Article shall be determined by regulations.

##### **Article 69.**

1. In order to promote fulfilment of duties and in compensation for the burden imposed by this Law on the holders or possessors of property forming part of the Spanish Historical Heritage, in addition to the tax exemptions in urban land tax provisions for special Personal Capital Gains Tax, tax benefits are established in the following articles.

2. In order to receive such benefits, except for the one established in article 72.1, the property in question must first have been registered in the general Register established in article 12 in the case of property of cultural interest, and in the general inventory referred to in articles 26 and 53 in the case of movable property. In the case of historical units or sites or archaeological areas, only those buildings they include that meet the legally-established conditions shall be considered as registered.

3. In the terms established in municipal ordinances, immovable property declared to be of cultural interest shall be exempt from the payment of other local taxes on property or required for enjoyment or transfer when its owners or real right-holders have embarked on or carried out work on preservation, improvement or rehabilitation in such buildings.

4. Under no circumstances shall the Town Councils involved receive compensation from the General State Budget.

##### **Article 70.**

1. Persons paying Income Tax shall be entitled to a deduction on the tax liability of the equivalent of 20% of any investments they make on the purchase, preservation, repair, restoration, dissemination and exhibition of property declared to be of cultural interest under

the legally-established conditions. Under no circumstances shall the amount of the deduction exceed 30% of the tax base.

2. In addition, persons paying this tax shall be entitled to deduct 20% from the tax liability for any pure and simple donations made on property forming part of the Spanish Historical Heritage, provided these are made in favour of the State and other public entities, as well as those carried out in favour of establishments, institutions, foundations or associations, even de facto ones of a temporary nature, for raising funds, those that are classified or declared to be charitable or of public utility by the appropriate State bodies whose positions for patrons, legal representatives or de facto managers are gratuitous and which render accounts to the appropriate supporting body.

The basis for this deduction may not exceed 30% of the tax base.

#### **Article 71.**

*Repealed by Law 43/1995, of 27 December, on Corporation Tax.*

#### **Article 72.**

1. Purchases of works of art shall be exempt from payment of Luxury Tax and Business Traffic Tax (*these taxes were eliminated and incorporated into Value Added Tax*) provided the authors are living at the time of transfer.

2. Imports of movable property included in the inventory or declared of cultural interest in compliance with articles 26.3 and 32.3 respectively shall be exempt from all taxation. Requests made to this effect by owners at the time of importation shall have the effect of cancelling the tax debt.

#### **Article 73.**

Tax debts may be paid by delivering property belonging to the Spanish Historical Heritage that is entered in the General Register of Property of Cultural Interest or included in the General Inventory in the terms and conditions officially established.

Capital gains becoming manifest on the occasion of delivery of the above-mentioned property in payment of any of the above-mentioned taxes shall be exempt from Income or Corporation Tax.

#### **Article 74.**

Any necessary valuations for applying the measures for promotion laid down in this Title shall be made under all circumstances by the Board for the Certification, Valuation and Export of property belonging to the Spanish Historical Heritage in the terms of and in compliance with the legally-established procedure. In the case of the previous article, such valuations shall not be binding for the interested party who may choose to pay in cash.

## TITLE

### IX.

#### ON ADMINISTRATIVE INFRINGEMENTS AND DISCIPLINARY PENALTIES

##### **Article 75.**

1. Any export of a movable property belonging to the Spanish Historical Heritage without the authorisation provided for in article 5 of this Law shall constitute a crime or, where applicable, an offence of smuggling under the relevant law. Any persons involved in the export of property and any others who, by action or omission, either wilfully or through negligence, facilitated or made possible such an export shall be jointly responsible for the offence or crime.

2. The value of illegally-exported property shall be set by the Board for the Certification, Valuation and Export of property belonging to the Spanish Historical Heritage, which reports to the State Administration and whose composition and functions shall be laid down in regulations.

##### **Article 76.**

1. The following facts, unless they constitute crimes, shall constitute administrative infringements to be penalised according to the provisions of this article:

Article:

- a. Non-compliance by the owners or holders of real rights or the possessors of property with the provisions given in articles 13, 26.2, 4 and 6, 28, 35.3, 36.1 and 2, 38.1, 39, 44, 51.2 and 52.1 and 3.
- b. Illegal retention or unjustified deposit of documents, according to the provisions of Article 54.1.
- c. The granting of licences for building work that does not comply with the provisions of Article 23.
- d. Building work in historical sites or archaeological areas without the authorisation required by Article 22.
- e. Any type of building work or intervention violating the provisions of Articles 16, 19, 20, 21, 25, 37 and 39.
- f. Archaeological excavations or other illegal work as referred to in Article 42.3.
- g. The illegal demolition, displacement or movement of any building covered by proceedings for declaration as a property of cultural interest.
- h. The illegal export of property referred to in articles 5 and 56.1 of this Law.
- i. Non-compliance with the return conditions set for legally-authorized temporary exports.
- j. The exclusion or elimination of property belonging to documentary and bibliographical heritage in violation of the terms of Article 55.

2. When the damage to the Spanish Historical Heritage caused by the infringements referred to in the above section can be valued in money terms, the infringement shall be penalised with a fine amounting to up to four times the value of the damage caused.

3. In other cases, the following fines will be imposed:

- a. A fine of up to 10,000,000 pesetas in cases a) and b) of section 1.
- b. A fine of up to 25,000,000 pesetas in cases c), d), e) and f) of section 1.
- c. A fine of up to 100,000,000 pesetas in cases g), h), i) and j) of section 1.

#### **Article 77.**

1. Administrative penalties shall require proceedings to be taken involving a hearing for the interested party to establish the facts and shall be proportional to the seriousness of the facts, the personal circumstances of the person being penalised and the damage caused or that might have been caused to the Spanish Historical Heritage.
2. The fines imposed on different subjects as a consequence of a single infringement shall be independent from each other.

#### **Article 78.**

Fines of up to 25,000,000 pesetas shall be imposed by the organisations responsible for enforcement of this Law. Those exceeding 250,00,000 pesetas shall be imposed by the Council of Ministers or the Governing Councils of the Autonomous Communities.

#### **Article 79.**

1. Administrative infringements of the terms of this Law shall lapse five years after having been committed, except for those given in sections g), h), i) and j) of Article 76.1, which shall lapse after ten years.
2. For all cases not covered in this Title, Chapter II of Title VI of the Law for Administrative Proceedings shall be applicable. (*This Chapter was expressly repealed by Law 30/1992*).

#### **ADDITIONAL CLAUSES.**

**One.** Property that was previously declared historical-artistic property or was included in the Inventory of Spanish artistic and archaeological heritage shall now be considered and named property of cultural interest; movable property that was declared to belong to the Treasury or that was included in the Inventory of the Historical-artistic Heritage shall be classified as inventoried property under article 26 of this Law, without prejudice to possible express declaration as property of cultural interest.

All of these shall be subject to the legal regulations established by this Law for such property.

**Two.** Property covered by the Decrees of 22 April 1949, 571/1963 and 499/1973, shall also be considered of cultural interest and shall be subject to the regulations established by this Law.

**Three.** 1. Documents in the Inventory of Spanish artistic and archaeological property shall be included in the general Register referred to in Article 12 of this Law.

2. Documents in the Inventory of national artistic Treasury shall be included in the general Inventory of movable property covered in Article 26.

3. In addition, documents belonging to the Census-Guide to archives shall be included in the Census of documentary heritage and those in the general Catalogue of bibliographical Treasury shall pass to the joint Catalogue.

4. The General Department for Fine Arts and Archives shall proceed to integrate the documents referred to in the above sections within the period of one year as from the entry into force of this Law.

**Four.** The requirement referred to in article 69.2 of this Law shall also oblige the holders of property as mentioned in article 6.j) of Law 50/1977 of 14 November on Urgent Measures for Fiscal Reform for benefiting from the tax exemptions covered in the latter. The same requirement shall be included in those established in Royal Decree 1382/1978 of 2 June in which the reference to the Inventory in its article 2 has been eliminated.

**Five.** Any movable and immovable property belonging to the national Heritage shall be subject to the provisions of this Law and may be included in the scope of article 1, without prejudice to its status and its relevant legal situation.

**Six.** The Government shall, in any relevant International Agreements, Conventions and Treaties, negotiate clauses aiming to restore to Spanish territory any cultural property that may have been illegally exported.

**Seven.** Without prejudice to the terms of this Law, the Administrations responsible for enforcing it shall also be subject to internationally valid Agreements signed by Spain. The activity of such Administrations shall also aim to comply with any resolutions and recommendations for the protection of Historical Heritage adopted by the international Organisations to which Spain belongs

**Eight.** The acceptance of donations, inheritances or legacies in favour of the State, even if a different body of the Administration is named as beneficiary, for all property constituting the expression or testimony of human creation and having cultural value of a historical, artistic, scientific or technical nature shall be carried out by the Ministry of Culture, and the inheritance shall be understood as accepted for the inventory.

This Ministry shall also accept similar cash donations made with the specific purpose of acquiring, restoring or improving one item of such property. The amount of such a donation shall be paid into the public Treasury and shall generate credit for the appropriate amount in the budget of the Ministry of Culture.

The Ministry of Finance shall be informed through the Ministry of Culture of any donations, inheritances or legacies accepted in accordance with the terms of the above paragraphs.

**Nine.** 1. The State may undertake to indemnify for the destruction, loss, theft or damage to any works of relevant artistic, historical, palaeontological, archaeological, ethnographic, scientific or technical interest that are temporarily assigned for public exhibition to State-owned museums, libraries or archives that fall within the exclusive competence of the Ministry of Culture and its independent Organisations.

2. For the purposes of this provision, the Thyssen-Bornemisza Foundation Collection shall have the same status as the museums mentioned in the above paragraph.

3. Granting of the State commitment shall be agreed in each case by the Ministry of Culture at the request of the assignee entity. Any such agreement shall state the work or works referred to, the amount, the security and protection requirements and obligations to be met by the interested parties. The maximum limit for the commitment granted to a work or set of works for display in a single exhibition and the limit of the total accrued amount of the commitments granted by the State shall be set in the annual General State Budget Laws.

4. The procedure and requirements for granting this commitment and the way in which it is effected in each case shall be laid down by Royal Decree at the proposal of the Ministers of Culture and Finance

#### **TEMPORARY PROVISIONS.**

**One.** While precise rules are being drawn up for the implementation of this Law, the regulations for the Historical-artistic Heritage, libraries and museums shall be understood as

applicable for all matters that do not violate its provisions.

**Two.** Within the period of one year as from the entry into force of this Law, the Government, at the proposal of the Ministry of Culture, shall pass the Regulation for the organisation, functioning and staffing of State-owned archives, libraries and museums and for the technical or teaching services related to them or to the activities to be carried out by the State Administration for the protection of the Spanish Historical Heritage

**Three.** Any persons who, at the entry into force of this Law, own, possess or hold any of the properties referred to in articles 26 and 53 of this Law shall have the period of one year to notify the existence of such property to the appropriate Administration. In this case, such notification shall determine exemption with regard to such property of any previously unpaid taxes and of any liability towards the Public Treasury or other bodies of the Administration for non-compliance, sanctions, surcharges or interest.

**Four.** *Repealed by Law 43/1995, of 27 December on Corporation Tax..*

**Five.** During the five years subsequent to the entry into force of this Law, the provisions of its article 28.1 shall be understood to refer to movable property belonging to the Spanish Historical Heritage and in the possession of ecclesiastical institutions. *This period was extended to the ten years subsequent to the entry into force of Law 42/1994, of 30 December :1 January 2005.*

**Six.** 1. The processing and effects of proceedings for the declaration of immovable property of historical-artistic value that began prior to the entry into force of this Law shall be governed by the regulations by virtue of which they were begun, but resolution shall be carried out by Royal Decree in line with the categories laid down in article 14.2 of this Law.

2. In historical units already covered by a declaration and having a special Plan for protection or another planning instrument for the area covered by the declaration that was approved prior to the entry into force of this Law, any authorisation for building work shall be governed by the provisions of article 20.3 until such time as the favourable report on the planning instrument to be applied is received from the appropriate Administration.

**Seven.** During the period of five years after the entry into force of the Law, those responsible for the installation shall remove any commercial advertising as well as cables and ducting referred to in Article 19.3.

**Eight.** The picturesque landscapes referred to in the Temporary Provision of Law 15/1975 of 2 May on Protected Natural Areas, until such time as they are re-classified under its final provision, shall retain the status of property of cultural interest.

#### **FINAL PROVISION.**

1. In addition to the regulatory Provisions expressly stated in this Law, the Government shall be authorised to pass any that are necessary to ensure its enforcement.

2. The Government shall also be authorised to officially proceed to update the amount of the fines laid down in article 76 of this Law although the percentage increases thus established may under no circumstances be greater than the official rate for the cost of living.

3. The Law for the General State Budget may determine annually the formulae for updating the tax base and the type of levy on exports referred to by Article 30.

4. The Government is also authorised to create, at the initiative of the Ministry of Culture and at the proposal of the Ministry for the Interior and within the State Security Corps and Forces,

an investigation Group comprising staff specialising in the subjects of this Law for the purpose of pursuing infringements.

## REPEAL PROVISION

1. The following are repealed: the Law of 7 July 1911 on Archaeological Excavations; Royal Decree-Law of 9 August 1926 on the Protection, Preservation and Promotion of Artistic Wealth; the Law of 13 May 1933 on the Defence, Preservation and Promotion of the Historical-Artistic Heritage; the Law of 22 December 1955 on the Preservation of the Historical-Artistic Heritage, Decree 1641/1959 of 23 September on the export of Objects of value and Archaeological or Artistic Interest and imitations or copies, and Law 26/1972 of 21 June on the Defence of the Documentary and Bibliographical Treasure of the Nation, except for the Provisions on the National Centre for Documentary and Bibliographical Treasure which, however, shall from now on have the rank of a regulation, and Royal Decree 2832/1978 of 28 October on the 1% for culture.

2. Any provisions violating the terms of this Law shall also be repealed.

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I therefore order that all Spanish people, both private persons and authorities, observe and enforce this Law.

Palacio de la Zarzuela, Madrid, 25 June 1985.

- Juan Carlos R. -

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The  
Minister  
Felipe González Marquez.

Prime