

LEGISLATION FOR THE CONSERVATION OF CULTURAL AND NATURAL PROPERTY

PART ONE General Decrees

Aim:

Article 1- The aim of this legislation is to define movable and immovable cultural and natural property to be conserved, regulate relevant procedures and activities, and institute and assign responsibilities for the organization that will be in charge of setting essential principles and taking operational decisions.

Content:

Article 2- This legislation concerns movable and immovable cultural and natural property to be conserved and the obligations and responsibilities of individual and corporate bodies.

Definitions and Abbreviations:

Article 3- (Amended by the Legislation dated 17.6.1987, No 3386 and Legislation dated 14.7.20, No 5226)

Definitions and abbreviations pertaining to this Legislation:

a) Definitions:

1) “Cultural Properties” are all movable and immovable *scientific and cultural authentic properties* above, underground or underwater that belong to the pre-historic and historic periods related to science, culture, religion and fine arts *or have been subject to social life*.

2) “Natural Properties” are all properties above or underground or underwater that belong to geological, prehistoric or historic periods and deserve to be conserved due to their uniqueness, characteristics or beauties.

3) “Sites” are areas that reflect civilizations from the prehistoric period to the present and that involve towns or remains of towns reflecting the social, economic, architectural or other qualities of their era or places that have been subject to social life where intensive cultural properties are present, or places where significant historic events have taken place and their designated territories to be conserved for their natural characteristics.

4) “Conservation” –for immovable cultural and natural property- means operations that are performed for preservation, maintenance, repair, restoration and

improving or changing the function of the property; on the other hand preservation, maintenance and restoration for the movable cultural property.

5) “Conservation Areas” mean areas to be imperatively conserved for the protection and preservation of immovable cultural and natural property within their historical context.

6) “Evaluation” is the exhibition, arrangement, usage of the cultural and natural properties and their presentation by scientific methods.

7) “Archeological Sites” are the outcomes of various civilizations coming from prehistoric periods till our era that bear enough evident and homogeneous characteristics for defining them topographically and they are areas where the natural properties and the cultural properties significant in historical, archeological, artistic, scientific, social and technical aspects, combine.

8) “Conservation Plans” are the plans which are complete together with the planning decisions and explanatory notes in required scales according to the master and implementation plans. These plans must

- cover the sites registered by this Law,
- keep into consideration the site’s transition and interaction area,
- be based on the archeological, historical, natural, architectural, demographical, cultural, socio-economic ownership and construction data,
- be prepared on the topographic maps,
- provide information about the households and working places within the boundaries of the conservation area by improving their socio-economic structure, by developing new strategies which create employment and value added, by defining the conservation principles and implementation conditions together with the construction restrictions, rehabilitation, renovation sites and projects, implementation phases and programmes, open area system (recreational area), pedestrian network, vehicle transportation, infrastructural design basis, densities and plot designs, local ownership, site management models according to the financial aspects of the implementation.

9) “Landscaping Projects” are the projects in 1/500, 1/200 and 1/100 scales to be prepared by considering the features of every archeological site in order to preserve the archeological potential, to open to public under control, to promote, to solve the problems caused by the existing use and circulation and to meet the area needs by the modern and technological equipments.

10) “Management Area” is constituted for reaching the following goals:

- the protection, conservation, enlivening, evaluation and development of the protected sites, archeological sites and their hinterlands with a specific vision and theme,
- to provide the coordination between the responsible central-local governments, NGOs in the subject of planning and conservation to meet the cultural and educational needs of the society.

The boundaries of the management areas are defined by the Ministry in accordance with the positive opinions of the other related authorities.

11) “Management Plans” which are reviewed in every five years including the budget, annual and five years based implementation phases of the conservation and development plans, are prepared for the protection, revive and evaluation of the management areas by taking into account the operational project, excavation plan and landscaping projects or conservation plans.

12) “Junction Point” is the cultural asset which is not inside the boundaries of the management area, however, because of archeological, geographical, cultural and historical reasons or because of having the same vision and theme, is connected with the management area for its management and development.

b) Abbreviations:

(1) “Ministry” signifies the “Ministry of Culture and Tourism.

(2) “Superior Council” signifies the “ Superior Council of Immovable Cultural and Natural Property

(3) “Regional Conservation Council” signifies the “Regional Conservation Council for Immovable Cultural and Natural Properties”.

Imperative notification

Article 4.- Those who discover movable or immovable cultural and natural property and those who know or learn that such property exists on the land they own or use are obliged to notify the nearest museum directorate or, Village Headman in villages, or Territorial Administrative Governors in other places within three days. If such property is found in military zones, high rank commanders should be informed.

Administrators who receive notification or are already informed about such property within their precincts are responsible for taking preliminary measures for their protection and safety. Village Headman (muhtar) need to notify the nearest administrator then has to notify the Ministry of Culture and Tourism and the nearest museum directorate within ten days via letter.

The notified Ministry and museum directorate act according to this Legislation and perform the designated operations as soon as possible.

Quality of Being a State Property

Article 5.- All movable and immovable cultural and natural property that is to be conserved and found or to be found on property belonging to the state, public institutions or private institutions and individuals is considered as a state property.

Property belonging to foundations is in a separate category and is outside the scope of this article.

PART TWO

Immovable Cultural and Natural Property to be Protected

Article 6.- (Amended by the Legislation dated 14.7.2004 No: 5226) Immovable cultural and natural property to be conserved are as follows:

- a) Natural property to be conserved and immovable property built prior to the end of the nineteenth century,
- b) Immovable property built after the designated date but considered worthy of conservation by the Ministry of Culture and Tourism for its significance and characteristics,
- c) Immovable cultural property within conservation sites,
- d) Without regard to date of constructions or registration, buildings and sites that have witnessed significant episodes of the National War of Independence and the proclamation of the Republic of Turkey and houses used by Mustafa Kemal Atatürk for their relevance to our national history.

However, immovable properties that have been declared unworthy of conservation in respect to their architectural, historical, esthetical, archaeological or other characteristics by the Regional Conservation Councils are not considered immovable cultural property to be conserved.

Rock-cut tombs, inscribed, painted and carved rocks, painted caves, mounds, tumuli, excavation sites, acropolises and necropolises, castles, fortresses, citadels, historic barracks, military buildings with connected guns, ruins, caravanserais, khans, public baths, madrasas, mausoleum, tombs and inscriptions, bridges, aqueducts, water conduits, cisterns and wells, remains of historic roads, milestones, obelisks, altars, shipyards, ports, historic palaces, kiosks, houses, sea-side residences (yalı) and mansions, mosques, masjids, public places for funerals and prayers (musalla and namazgah), fountains and sebils, public kitchens (imarethane), mints (darphane), hospitals (sifahane), clockrooms for prayer times (muvakkithane), silvershops (simkeshane), convents (tekke and zaviye), cemeteries, graveyards (hazier), shops (arasta), markets for valuables (bedesten), covered bazaars, sarcophagi, steles, sinagogs, basilicas, churches, monasteries, complexes (kulliye) remains of old monuments and walls, frescoes, reliefs, mosaics, fairy chimneys and similar immovables are examples of immovable cultural property.

Historic caves, rock-cut shelters, trees or group of trees with certain characteristics and other similar property are examples of immovable natural properties.

Listing and Registration

Article 7.- (Amended by the Legislation dated 17.6.1987 No. 3386 and the Legislation dated 26.5.2004, No:5177) Determination of the immovable cultural and natural properties and the natural site areas is done under the coordination of the Ministry of Culture and Tourism by taking the opinions of the related and affected institutions.

The historical, artistic, regional and other characteristics of cultural and natural properties are taken into consideration during listing. Adequate numbers of works reflecting the characteristics of the periods to which they belong are defined as cultural properties which worth of conservation by considering the sources of the state.

The Listing of the immovable cultural and natural properties to be conserved are registered by the decision of Regional Conservation Council. Procedures, principles and criteria for listing and registration are established through regulations. Directorate General of Pious Foundations lists immovable cultural and natural property belonging to foundations administered by the same Directorate; mosques, tombs, caravanserais, madrasas, khans, public baths, masjids, convents, sebils, lodges of Mevlevi dervishes (Mevlevihanes), fountains and similar immovable cultural and natural property belonging to private and public ownership.

Announcement, notification and registration into title deeds of the registration decisions are clarified through regulations.

Authority for Taking Decisions Concerning Conservation Areas

Article 8.-Regional Conservation Councils are authorized to designate conservation areas that have been registered according to Article 7 and whether new construction and installations can be allowed within such areas. The decisions of the Regional Conservation Councils can be objected to according to Article 61 Paragraph 2.

In the designation of conservation areas, the criteria taken into consideration is to conserve the cultural and natural properties that should be conserved and have an adequate protection area to preserve their appearances and harmony with their surroundings. Procedures and principles regarding this issue are established through regulations to be prepared by the Ministry of Culture and Tourism.

Prohibition of Unauthorized Use and Intervention

Article 9.- (Amended by the legislation dated 14.7.2004, No.:5226) Within the scope of the principle decisions of the Superior Conservation Council, all constructional and physical intervention in immovable cultural and natural properties and their surrounding areas to be conserved and the conservation areas, their reuse or change of functions are prohibited. Repair, construction, installation, sounding, partial and total demolition, burning excavation and similar activities are considered as constructional and physical intervention.

Authorization and Procedures

Article 10.- (Amended by the Legislation dated 17.6.1987, No 3386 and by the Legislation dated 14.7.200,4 No 5226) The Ministry of Culture and Tourism is responsible for taking or having others take measures to protect immovable cultural and natural property to be conserved and for supervising such measures or having governmental institutions, municipalities and governments to supervise such measures.

The Presidency of the Turkish Grand National Assembly is responsible for protecting cultural and natural property administered by the Turkish Grand National Assembly. If need arises, technical cooperation with the Ministry of Culture and Tourism is provided.

The Ministry of National Defense is responsible for protecting and evaluating cultural and natural property administered by the Ministry of Defense or property existing in military zones or near national borders and in forbidden zones. A protocol prepared between the Ministry of National Defense and Ministry of Culture and Tourism determines the principles to be adopted for the protection of such property.

The preservation and evaluation of cultural and natural property belonging to Foundations administered by the Director General of Pious Foundations, and of mosques, tombs, caravanserais, madrasas, khans, public baths, masjids, convents, lodges of Mevlevi dervishes (Mevlevihane), fountains and similar cultural property belonging to private and public ownership, is provided by the same Directorate after the decision of the Regional Conservation Councils. Other public institutions who own immovable cultural and natural property are responsible for their preservation in keeping with this Legislation.

The preservation of immovable cultural and natural property owned by public institutions is financed by allowances put in their budget each year for this purpose.

The budget of the Ministry of Culture and Tourism is provided with adequate allowances each year to carry out these services.

The preservation and evaluation of the areas subject to study, excavation and sounding is provided by the Ministry.

Conservation, implementation and control bureaus should be set within the metropolitan municipalities, governorships and also the municipalities permitted by the Ministry where specialists of art history, architecture, urban planning, engineering, archaeology are employed to carry out the implementations about cultural entities. Also, within the provincial government, project bureaus should be set to prepare and implement measured drawings, restitution and restoration projects and training units where certificated building masters are educated.

The municipalities are authorized with the boundaries of municipalities and adjacent areas, the governorships are authorized outside of these boundaries.

These bureaus are responsible to control the conservation plans which are approved by regional councils, changes of the projects and materials, also inspection of the construction.

Considering the special features of the site, a regulation would be established by the Ministry and the Ministry of Internal Affairs explaining which specialists would be employed in the bureau, principles for their study and permissions.

Right and Responsibility

Article 11.- (Amended by the Legislation dated 14.7.2004, No:5226) Owners of immovable cultural and natural property are eligible to benefit from all rights and exemptions recognized by this Legislation provided they conform to the instructions of the Ministry of Culture and Tourism concerning their maintenance and repair. But cultural and natural property to be conserved, their buffer zones and site areas cannot be acquired through possession.

Owners can exercise all rights of ownership provided which are not contradictory to the principles established by this Legislation. The property of owners who are unable to provide the maintenance and repair foreseen by this Legislation is expropriated through designated procedures. Property belonging to foundations is outside the scope of this decree.

With the consent of the Ministry of Culture and Tourism, the Directorate General Pious Foundations, provincial administrations, municipalities and other public institutions can provide technical staff and financial assistance to owners of immovable cultural and natural property mentioned above.

Contribution Fund for the Repair of Immovable Cultural Property to be Conserved

Article 12.- (Amended by Legislation dated 21.2.2001, No 4629, and Legislation dated 14.7.2004 No 5226) Financial and technical assistance and credits are provided by the Ministry of Culture and Tourism for the preservation, maintenance and repair of cultural and natural property to be conserved in private and public ownership. For this purpose, an adequate allowance is provided in the Ministry's budget.

Principles and procedures concerning assistances to be provided by the Ministry are established by a regulation.

In order to be used for the conservation and evaluation of the cultural entities within the boundaries of municipalities; the %10 of the real estate tax paid by the conscript is separated under the name of "the contribution share for the conservation of the immovable cultural entities" according to the 8th and 18th items of the Law No.1319 (Real Estate Tax) and received during the collection of the real-estate tax by the municipality.

Collected amount is deposited in a special account opened by the provincial government. This amount is distributed to the municipalities within the boundaries of the province for the expropriation, planning and implementation of the projects prepared for the conservation and evaluation of the cultural assets, by the governor and these amounts are also used under the control of the Governor.

The sentences of the 3rd part of the Law No. 1319 are implemented for the contribution shares collected under this item. The method and basis for the contribution shares are determined by the Ministry and the Ministry of Interior Affairs.

At least 10 % of the credits provided by the Law No.2385 (Law of Mass Housing) are forced to be used for the maintenance, repair and restoration of the immovable cultural entities. The prior projects in this context are determined jointly by the Ministry and the Collective Housing and Public Participation Administration.

Prohibition to Transfer

Article 13.- All kinds of immovable cultural and natural property to be conserved that is national property or that belongs to other public institutions cannot be sold or donated to individual or corporate bodies without the consent of the Ministry of Culture and Tourism.

Utilization

Article 14.- Immovable cultural and natural property to be conserved can be assigned to the use of State parties, public institutions and national associations for public benefit or can be rented to individual or corporate bodies for certain periods of time with the approval of the Ministry of Culture and Tourism.

Property belonging to foundations administered by the Directorate General of Pious Foundations and those transferred to the same Directorate with Legislation Number 7044 (Transfer of Antiquities with Historic and Architectural Significance that are Subjects of Foundations to the Directorate General of Pious Foundations) can be assigned to the use of State parties, public institutions, national associations for public benefit or can be rented to individual or corporate bodies with the approval of the Directorate General of Pious Foundations provided the foreseen function of the property is compatible with its character.

Public and private bodies mentioned above that utilize immovable cultural and natural properties to be conserved are responsible for the maintenance, repair and restoration of the property in compliance with this Legislation and for covering necessary expenses.

Expropriation

Article 15. - (Amended by the Legislation dated 17.6.1987, No 3386 and the Legislation dated 14.7.2004, No 5226) Immovable cultural properties and their buffer zones are expropriated according to the following principles:

(a) Immovable cultural and natural property to be conserved and conservation areas that have partially or totally been transferred to the ownership of individual or corporate bodies are expropriated within a program to be prepared by the Ministry of

Culture and Tourism. For this purpose, adequate allowances are allocated to the budget of the Ministry.

Public institutions, municipalities, provincial authorities and local administrative bodies can expropriate registered immovable properties only for the functions determined by the Regional Conservation Councils.

(b) Immovable cultural and natural property to be conserved and conservation areas that originate from the parts of foundations but have partially or totally been transferred to the ownership of individual or corporate bodies can be expropriated by the General Directorate of Pious Foundations. For this purpose adequate allowances are allocated to the budget of this Directorate.

(c) If the conservation areas of immovable cultural and natural properties are designated as streets, parking areas or green areas in the development plan, they are expropriated by the municipalities; the conservation areas of these kinds of immovable cultural properties of which the maintenance and repair or utilization are under the responsibility of other institutions, are expropriated by these institutions.

(d) The antiquity, rareness and artistic value of immovable cultural properties are not taken into consideration in their price estimation for expropriation.

(e) Expropriation procedures are carried out in accordance with the decrees of this Legislation and the decrees of the Expropriation Legislation no: 2942 that are not contradictory to this Legislation.

(f) All the construction works on the building lots of immovable cultural properties are definitely prohibited because they are considered as sites to be conserved, these lots can be exchanged with another public area upon the application of its owner. If there is construction on the area, its current value determined according to the decrees of the Article 11 of Legislation no: 2942 can be paid to its owner.

Procedures and principles related to this decree are determined by regulations.

Prohibition of Unlicensed Construction

Article 16.- Unlicensed constructions on immovable cultural and natural property to be conserved and on their conservation areas are prohibited. Such unlicensed constructions and buildings that do not comply with the conservation plans and their regulations are dealt with according to urban development regulations.

Conservation Principles and Implementation Conditions during Transition Period and Conservation Plans in the Sites to be Conserved.

Article 17 (amended by the Legislation dated 14.07.2004, No: 5226)

a) the proclamation of an area as a conserved site by the regional conservation council suspends the implementation of plans in every scale in that area. If they are available, the planning decisions in 1/25.000 scale related to the interaction area of the site are reviewed and approved by the related authorities by considering the type of the site to be conserved.

Until the conservation plan is prepared, the regional conservation council determines conservation principles and implementation conditions during the transition period within three months. By organizing meetings with the participation of the related professional chambers, NGO's and the citizens affected by the plan in the area, the municipalities, governors and concerned institutions are obliged to prepare conservation plan and submit it to the regional conservation council for evaluation and approval. In the case the conservation plan is not prepared within two years, the implementation of the conservation principles and the implementation conditions during the transition period are suspended until the plan is prepared.

Within these two years, in case the conservation plan is not prepared due to the compulsory reasons, the planning period may be extended one more year.

The conservation plans evaluated and approved by the regional conservation council are submitted to the related authorities.

Concerned authorities evaluate the conservation plan within two months and inform the regional conservation council on the items to be amended. These items are evaluated by the regional conservation council and the council submits the accepted plans to the related authorities for approval. The plans that are not approved within 60 days are directly put in force. Following its entry into force, conservation principles and implementation conditions during the transition period is repealed without taking decision.

In the archeological sites, preparation and changes of the landscaping projects with the approval of the related regional conservation council are done or asked to be done and approved by the Ministry.

The conservation plans -on condition that the project contractor should be urban planner- are prepared by the experts determined by the Ministry among the professions such as architect, restorer architect, art historian, archeologist, sociologist, engineer, landscape architect by considering the type and features of the site to be conserved.

The procedures and principles related to the preparation, legend, implementation and control of the conservation plans and landscaping projects and the qualification of the contractors of the plans with their duties, authorities and responsibilities are defined by the regulations prepared by the Ministry.

For the preparation of the conservation plans, adequate allowance to be transferred to the municipalities is put in the budget of the Directorate General of the Bank of Provinces. Provincial administrative bodies put an adequate allowance in their budgets for preparation of conservation plans.

In the areas registered as a conserved site by the regional conservation council, before the proclamation of this decision, the construction of the buildings which their grade level was completed according to the construction permit and its annexes taken in accordance with the reconstruction law and the approved plans, however; according to the paragraph (c) of this article, related authorities are authorized to act ex-officio for implementing the construction right transfer.

b) In the sites which have the definite construction prohibiting by the conservation plans, the immovable properties owned by the real and private legal people can be exchanged with the immovable properties owned by the municipality and the provincial government upon the application of the owner.

c) For the restricted part of ownership or construction rights of the registered immovable cultural entities, or the immovable properties which are located within their conservation areas or the immovable properties of which the construction rights are restricted through the conservation plans; the Municipality within its authorized area and its adjacent areas and the Provincial Government for the rest are responsible to determine the prior rights to benefit from the transfer of the construction rights to the areas owned by the state or by the 3rd parties and which are planned as the exchange areas in the implementation plans.

For the transfer, market value equalization by the real estate evaluation companies approved by Capital Markets Board of Turkey is essential, but if the right of transfer is for a registered immovable entity, the value of the building should not be taken into consideration.

For these immovable;

- to organize the documents providing the utilization of the restricted construction right on reserved exchange areas and to transform this right to the bearer as movable goods.
- to handle these documents to the right holders who will benefit from this because of being effected with the restricted construction rights.
- to handle the permits and licenses in the areas planned as transfer-exchange areas in the implementation plans and annotated with this status in the title, the related administrations are authorized. The printing of the movable goods, their storage, approval for their exchange procedures, establishing the database and supervision are done by the Bank of Provinces.

Under the condition of construction right is transferred entirely, because of definite construction restriction in these areas, the immovable entity of which construction right is restricted together with its supplementary parts, transferred to related administration's ownership and the parcels are registered for this administration and never subject to sale under any condition.

For the parcel which is subject to transfer, if the owner's sustainable construction right remains, the construction right is transferred partially. In this case, owner's construction right in the restricted area remains.

However, if the right which is subject to transfer is on the registered immovable cultural entity, the owner is obliged to complete necessary maintenance, repair and restoration works, following the submission of the immovable properties in conformity with the protocol to be signed with the related administration. Otherwise, the related administration is authorized to collect the value of the submitted real estate with its interest. These subjects and the protocol annotated to deed as exempted from any expenses and stamps before submission of the immovable properties.

The related administrations are authorized to carry out a joint program in case the determination of exchange area is not possible within the boundaries of the municipalities where restricted rights exist.

Implementation principles and procedures of the above article is determined by a regulation prepared by the Ministry of Public Works and Settlements, the Ministry of Internal Affairs and the Ministry.

Construction Principles

Article 18.- (amended by the Legislations dated 17.06.1987, no: 3386 and 14.07.2004, no: 5226) Immovable cultural properties to be conserved are classified by the Regional Conservation Council within 3 months from the application date of owner. Classified immovable cultural properties are registered in title-deeds. Principles for repair and construction can not be designated until property is classified.

It is compulsory to have a restorer architect or an architect in the measured drawing, restoration and restitution projects for the registered immovable cultural properties and in the process of implementation of these projects. Implementation of measured drawings, restoration and restitution projects of the 1. group of these entities should be done by specialist of ornaments, wood, iron, stone works and restoration depending on the special features of the building.

The responsible that made or caused to make applications against approved plan and project in the areas or cultural entities to be protected are banned for five years to make plan or project preparation and implementation related to subjects of regional councils. Controls of the implementation responsible are done by the related municipalities and governorships and who acts against reported the Ministry and the related chamber of professionals.

If the responsible person is left by any reason during the implementation process of the project, this should be reported to the Ministry and the implementation has to be stopped until a new responsible is assigned.

The procedures and construction principles, control and implementation of this article are determined by a regulation prepared by the Ministry.

Municipalities can not make any amendments in the decisions taken by the Regional Conservation Councils and approved projects by these Councils for new construction or annexes to be constructed in the building lot of immovable cultural property. However; they control the conformity of the building specifications to building regulations.

Building lots of immovable cultural property to be conserved can not be divided or joined so as no to alter the character of such property.

Obligation of Owners to Give Permission

Article 19.- Owners of the immovable cultural and natural properties are obliged to give permission, when required, to the experts assigned by the Ministry of Culture and Tourism for control and inspection of the property, preparation of its map and plan, statistical survey, photographing and molding and for providing necessary convenience. However, the experts carry out their activities which will not violate dwelling immunity and family privacy

Transportation of Immovable Cultural Properties

Article 20.-Immovable cultural properties and their parts are fundamentally preserved in situ. However, with the consent of the Regional Conservation Councils, these immovable cultural properties can be transported to a location designated by the Ministry of Culture and Tourism in case of transportation to another location is an obligation, or a necessity in respect to their features, by taking all safety measures. If the owner of the property is exposed to loss because of its transportation, recompense, determined by the commission that will be formed by the Ministry, will be paid to the owner who is exposed to loss.

Exceptions and Exemptions

Article 21.- (It is changed by the Legislations dated 17.6.1987, No: 3386 and dated 14.07.2004, No: 5226).

Immovable cultural property registered as “immovable cultural property to be conserved” in the title-deed and classified in the I or II groups and building lots of immovable cultural properties on which construction works are definitely prohibited due to being archaeological sites and natural sites are exempted from all kinds of taxes, duties and charges.

All kinds of equipment, machines, technical materials, chemicals and gold and silver leaves to be imported by the Turkish National Parliament, the Ministry of Defense, the Ministry of Culture and Tourism and the Directorate General of Pious Foundations for the registration, maintenance, repair, restoration and excavation of cultural property and the security of museums are exempted from all kinds of taxes, duties and charges.

Repair and construction works implemented in the immovable cultural property in compliance with the decisions of the Regional Conservation Councils are exempted

from the contribution shares of tax, charge and expenditures to be collected according to the Law on the Revenues of the Municipalities.

For the cultural properties registered by this Legislation, the Legislation for the Construction Control dated 29.6.2001 No. 4708 is not applied.

Article 22.- (According to the Legislation dated 17.6.1987, No.3386, this article is not valid anymore. It is considered within the Article 21).

PART THREE

Movable Cultural and Natural Properties to be Conserved

Article 23.- (amended by the Legislation dated 17.6.1987, No. 3386). Movable cultural and natural properties to be conserved are as follows:

- a) All kinds of cultural and natural properties that belong to geological, prehistoric or historic periods and that have documentary significance in terms of geology, anthropology, prehistory, archaeology and art history reflecting the social, cultural, technical and scientific characteristics and levels of their periods.

All kinds of animal or plant fossils, human skeletons, flints (sleeks) obsidians, all kinds of bone or metallic tools, encaustic tile, ceramic, similar pots and pans, statues, figures, tablets, cutter, defender and striking weapons, icons, glass objects, ornaments, ring stones, earrings, needles, hooks, seals, bracelets and similar things, masks, diadems, leather, cloth, papyrus, documents written or depicted on parchment or metal, scales, coins, written or stamped slabs, handwritten or gilded books, miniatures, engravings which have artistic value, oil-paint or water color paintings, relics, medallions, encaustic tile, soil, glass, wood, cloth and similar movable heritage and their pieces.

The ethnographic cultural properties concerning science, religion and mechanical arts including human made tools and materials reflect social life of their citizens.

Coins belonging to Ottoman Emperors Abdulmecit, Abdulaziz, Murat V, Abdulmecit II, Mehmet Resat V and Vahidettin and the coins of the same period can be sold and bought in the country without being subject to registration according to this Legislation.

Coins that are not in the scope of this Article are subject to the General Decrees of this Legislation.

- b) For their significances in our National history, documents and other property with historical value that belong to the National War of Independence and the

foundation of the Republic of Turkey and the personal belongings of Mustafa Kemal ATATURK, his documents, books, writings and similar movables.

Article 24.- (It is amended by the Legislation dated 17.6.1987, No. 3386).

Movable cultural and natural properties to be conserved which are State Properties, shall be preserved in the museums and evaluated by the State. These kinds of properties owned by the individual or corporate bodies may be purchased by the Ministry.

It is free to purchase, sell and transfer of the ethnographic cultural properties defined in paragraph (a) of the 23rd Article. The periods of the ethnographic properties that may be purchased or sold freely and their other characteristics, record and registration provisions are determined by a regulation.

Movable cultural properties to be conserved pertaining to the National War of Independence, the history of the Republic of Turkey and to Ataturk can be purchased by the Ministry of Culture and Tourism, the Ministry of National Defense or by the Superior Institute of Ataturk Culture, Language and History.

On the other hand, the control for the ones of these properties to be taken out of the country in whichever method may be carried out by both the museums attached to the Ministry and the specialists commissioned at some of the custom gates. At which gates specialists would be commissioned shall be determined by a regulation.

By means of the inspections, the properties which are not being approved to be taken out of the country are determined and then given back to the owner on the condition that the assessment on the properties shall be made in the country.

The privilege over the properties designated in this Article and of which trade is free belongs to the State.

Acquisition by Museums

Article 25.- Movable cultural and natural properties reported to the Ministry of Culture and Tourism according to the Article 4 and movable cultural and natural properties to be conserved as defined in Article 23 are subject to listing and registration in accordance with the scientific principles by the Ministry of Culture and Tourism. Those that are deemed necessary to be kept in state museums are hence acquired by the Museums in a proper way.

For the movable cultural properties to be conserved, criteria, procedures and principles related to the listing, registration and acquisition by museums; are determined by a regulation.

Historical qualities of all kinds of weapons and accoutrements concerning Turkish military history are researched, examined and evaluated by the General Staff where such properties are found or reported.

Properties that are left outside the scope of the listing and registration and those that are not deemed necessary to be acquired by Museums are returned back to their owners with a document. Owners can exercise all their rights on the cultural properties returned back to them with a document. Those not received by their owners within one year can be kept in museums or sold by the State in a proper way.

Museums, Private Museums, Collections

Article 26.- The establishment and improvement of museums to house cultural and natural property that is within the scope of this Legislation are the duties of the Ministry of Culture and Tourism.

For providing their services or realizing their aims, Ministries, Public Institutions, Individual and Corporate Bodies and Foundations can form collections including all kinds of cultural properties or establish museums with the consent of the Ministry of Culture and Tourism. However, activities and fields of the museums that will be established by individual and corporate and foundations are defined on the permission document issued by the Ministry of Culture and Tourism by evaluating requests declared on the application.

Museums to be established by the real and artificial persons can keep and exhibit the movable cultural properties in conformity with the subject fields determined on the Permission document by the Ministry of Culture and Tourism. These Museums are also in the status of State Museums in the field of the conservation of the movable cultural properties.

Establishment aim, duties, management form and conditions, supervision and inspection of the mentioned Museums are defined by a regulation. Establishment, administration, determination of accrements and subjects of Military museums, which are specialized on a specific branch and research museums among the State Museums, are the duties of the General Staff. The duties, authorizations, responsibilities and office procedures of these Museums are defined by a regulation that will be prepared jointly by the Ministry of the National Defense and the Ministry of Culture and Tourism.

Individual and corporate bodies can establish private collections of movable cultural property on condition that a document of authorization is acquired from the Ministry of Culture and Tourism.

Collectors are obliged to notify the Ministry of Culture and Tourism of their activities and to keep inventories of movable cultural property they possess according to regulations.

Collectors can exchange or sell the items in their collections to each other, provided the Ministry of Culture and Tourism is notified fifteen days prior to exchange and the related museum registers it. Priority of purchase is retained by the Ministry of Culture and Tourism.

Trade of Cultural Properties

Article 27.- Movable cultural and natural property left outside the scope of listing and registration and needed to be conserved in the state museums according to Article 25 can be traded with the permission of the Ministry of Culture and Tourism.

Traders of movable cultural property are obliged to acquire licenses from the Ministry of Culture and Tourism. Such licenses are valid for three years. Licenses can be renewed one month prior to date of expiration. Licenses of those who do not comply with the regulations set by this Legislation are annulled without regarding the date of validity.

Prohibition to Use Residence as Commercial Establishment

Article 28.- Traders of movable cultural property are obliged to have a business location. Residences cannot be reported as storage or commercial establishment address.

Control of Storages and Commercial Establishments

Article 29.- Storages and commercial establishments of traders of cultural property are controlled by officials of the Ministry of Culture and Tourism as defined by regulations.

Obligation to Notify

Article 30.- Public institutions (municipalities and provincial administrations included), foundations, individual and corporate bodies are obliged to notify state museums of movable cultural and natural property and collections that they want to sell directly or by auction.

The Ministry of Culture and Tourism can purchase cultural and natural property and collections with prices designated by a commission established by the Ministry. Property that has been turned over to the Treasury and that needs to be included in museum collections is consigned to the Ministry of Culture and Tourism according to State Inventory of the Movable Properties.

Public institutions, foundations, individual and corporate bodies mentioned in the first paragraph are obliged to notify the Office of the Commander-in-Chief of Army of cultural property that relates to our military history and of collections of weapons and other military material that they want to sell directly or by auction. Cultural property that has been turned over to the Treasury and that needs to be included in military museum collections are consigned to the Ministry of National Defense according to State Inventory of the Movable Properties.

Coins

Article 31.- (This article is not valid anymore according to the Legislation dated 17.06.1987, No. 3386)

Prohibition on Taking the Properties out of Turkey

Article 32.- Movable cultural and natural property that has to be preserved inside the country cannot be taken out of the borders. However, taking into consideration national benefit, such property can be temporarily sent outside the country for exhibitions on condition that all security measures are taken and insurance is provided by the host state and the favorable decision of a commission to be set up by the Ministry of Culture and Tourism, consisting of the directors of the departments of archaeology and art history at universities is obtained and the concession of the Cabinet upon the request of the Ministry of Culture and Tourism is procured.

Embassies and consulates who declare cultural property that they bring into Turkey can take them back upon their departure.

Principles pertaining to temporarily sending cultural and natural property outside the country for exhibitions and procedures to be followed in the entrance and departure of such property brought by foreign diplomats working in Turkey are designated by regulations to be jointly issued by the Ministry of Culture and Tourism, the Ministry of National Defense and the Ministry of Foreign Affairs.

Bringing into Country

Article 33.- Bringing cultural property into Turkey from outside the country is unrestricted.

Taking Copies

Article 34.- The Ministry of Culture and Tourism has to be procured for photographs and films, casts and copies of movable and immovable cultural property to be taken for educational, scientific and presentative purposes in excavation sites and museums attached to the Ministry of Culture and Tourism.

Procedures relating to such documentation are designated by regulation.

PART FOUR

Study, Sounding, Excavation, Treasure Hunting

Permission for Study, Sounding, Excavation

Article 35.- The privilege to conduct studies, sounding and excavations to find movable and immovable cultural and natural property within the scope of this Legislation belongs to the Ministry of Culture and Tourism.

Permission to execute such studies can be granted to scientifically and financially Turkish and foreign recognized groups and institutions by the Ministry of Culture and Tourism, permission to make soundings and excavations can be granted by the concession of the Cabinet upon the request of the Ministry of Culture and Tourism. Studies, soundings and excavations to be conducted by members of the Ministry and Culture and Tourism and by Turkish scholars assigned by the Ministry are regulated by the Ministry of Culture and Tourism. Licenses for studies, soundings and excavations to be conducted in military zones are issued to specialists nominated by the mentioned groups and institutions, following the concession of the Office of the Commander-in-Chief of the Army. Unless a valid excuse is presented to the Ministry of Culture and Tourism groups and institutions cannot change their members who are listed on licenses.

Zones where cultural and natural property to be conserved exists under water are designated by the Ministry of Culture and Tourism in cooperation with related institutions and are announced by decrees of the Cabinet. Diving with all purposes is prohibited in such zones, studies and excavations can be made on condition that permission is procured according to the second paragraph.

Excavation by Owners of Property

Article 36.- Studies, soundings and excavations by owners of immovable cultural property on their own property with the aim of finding cultural property are subject to Articles 35 and 41 of this Legislation.

Procedures for Procuring Permission to Excavate

Article 37.- No excavation team or individual can be assigned sounding or excavation at more than one site at a time except at rescue excavations organized by the Ministry of Culture and Tourism. Granting permission, study, sounding and excavation, preservation of cultural and natural property to be found, studies on finds and other rights to be conceded to excavators are determined by regulations.

Prohibitions to Transfer Permission for Excavation

Article 38.- Licenses for soundings and excavations and permissions for studies issued to Turkish and foreign institutes of scholarship or to individuals acting on behalf

of such institutions cannot be transferred without the consent of the Ministry of Culture and Tourism. A substitute cannot be appointed for the execution of this work.

Invalidity of Permission for Study, Sounding, Excavation

Article 39.- Licenses and permissions pertaining to studies, soundings and excavations that are not started within six months of date of issue of license or permission without presentation of a valid excuse to the Ministry of Culture and Tourism are considered invalid. Studies, soundings and excavations cannot be interrupted for more than two months without a valid justification. Licenses of offenders of this Legislation are invalidated and licenses and permissions cannot later be issued to the same.

Duration of Validity of Permission for Study, Sounding, Excavation

Article 40.- Excavation and Sounding Permits and Research Permissions are valid for one year. The privilege to continue excavation/sounding/research is reserved for the applicant in subsequent years with the condition of application for each year if the head of the committee informs with a written declaration that the excavation/sounding/research is still being carried on.

Transfer of the Excavation Findings to the Museums

Article 41.- At the termination of excavation work each year, all movable cultural and natural property to be found at excavations is turned over to state museums designated by the Ministry of Culture and Tourism. Human and animal skeletons and fossils to be found at excavations and soundings can be turned over to natural history museums, universities or related Turkish scientific institutes with the consent of the Ministry of Culture and Tourism. All movable cultural property to be found at excavations and soundings pertaining to military history is turned over to military museums by the Ministry of Culture and Tourism with the consent of the Office of the Commander-in-Chief of the Army.

Recompense Obligation for Damages

Article 42.- : Holders of permits to conduct excavations and soundings on possessed land are obliged to recompense the damages occurred in the excavation, sounding and research area. Land owners are obliged to give permission for the excavation and sounding or research in consideration of recompense appraised by a commission that will be constituted by the Ministry of Culture and Tourism.

If need arises, such properties can be expropriated by the Ministry of Culture and Tourism. The cost of expropriation in excavations, conducted by foreign scientific institutions, is paid by these institutions. General Expropriation Provisions are applied in the assessment of the property to be expropriated and registered in the name of the Turkish Treasury.

In the assessment of the recompense and expropriation that will be paid within the scope of this article, the antiquity, rareness and artistic value of the existing cultural and natural properties before and after excavation, sounding and research are not taken into consideration.

Publication Rights

Article 43.- In accordance with the provisions of the Law on Intellectual and Artistic Works numbered 5846, Publication Rights of the properties, found in excavation, sounding and research activities, belong to the actual directors carrying out the excavation, sounding and research for the committees and institutions which are granted the permits for these activities. Head of the excavations, at the termination of each excavation, is obliged to submit a scientific report to the Ministry of Culture and Tourism.

All Publication Rights of the excavation committees over the properties found during the excavation, sounding and research activities are transferred to the Ministry on the condition that these committees will not publish their scientific reports related to the excavations works within latest two years and their final scientific reports within latest five years, beginning from the end of the excavation.

Reports pertaining to studies, soundings and excavations executed in the name of the Ministry of Culture and Tourism are prepared for publication by the directors of excavations. The Ministry of Culture and Tourism publishes some of the reports according to priority.

With the exception of the excuses accepted by the Ministry, committees and people who have not published their final reports within the period mentioned above are not granted permits for a new excavation.

Expenses

Article 44.- All expenses regarding the protection of excavation sites and the in situ preservation of cultural property discovered at excavations by employing guards, expenses regarding the return of the excavation site to its former state and expenses regarding compensation for damages done during excavation are paid, according to regulations, from funds received by the Ministry of Culture and Tourism during issue and renewal of licenses for excavation. In case of financing by the Ministry of Culture and Tourism, prepayment of expenses is not compulsory.

Conservation and Rearrangement of Site

Article 45.- Directors of excavations are responsible for the maintenance, repair and rearrangement of immovable cultural and natural property and the maintenance and repair of movable cultural and natural property discovered during excavations conducted with the permission of the Ministry of Culture and Tourism.

Temporary or Permanent Dissolution of Study, Sounding, Excavation

Article 46.- Studies, soundings and excavations conducted against the decrees of this Legislation are temporarily or permanently stopped by the Ministry of Culture and Tourism.

Transfer of Installations

Article 47.- Storages, lodgings and similar installations and material that are built or purchased before or during studies, soundings and excavations in the name of the group or institution conducting the work are transferred free of charge to the Ministry of Culture and Tourism at the termination of work. The Ministry of Culture and tourism is responsible for designating the new use of these installations.

Employment at Study, Sounding, Excavation

Article 48.- One or more representatives of the Ministry of Culture and Tourism, Directorate General of Antiquities and Museums should be present at studies, soundings and excavations conducted by foreign groups and institutions. An authorized expert represents the Ministry of Culture and Tourism at studies, soundings and excavations conducted by Turkish groups and institutions. The selection and duties of representatives and experts are determined by regulations.

The Ministry of Culture and Tourism pays the transportation and allowances of representatives of the Ministry at excavations conducted by Turkish groups and institutions according to the provisions of the Law on Travel Allowance Numbered 6245.

The transportation, accommodation, allowances and diving compensation of representatives of the Ministry of Culture and Tourism at studies, soundings and excavations conducted by foreign groups and institutions are paid in advance by the directors of excavations to the Ministry of Culture and Tourism and are kept in a State bank. The Ministry of Culture and Tourism designates the amount of the representation allowances to be paid each year.

Prohibition to Conduct Study, Sounding, Excavation

Article 49.- Staff of embassies and consulates of foreign countries in Turkey are not allowed to participate in studies, soundings and excavations.

Treasure Hunting

Article 50.- The Ministry of Culture and Tourism can issue license for treasure hunting provided immovable cultural and natural property, registered sites and cemeteries are not disturbed.

More than one license cannot be issued to the same treasure hunter at the same time. The license cannot be transferred to another person nor can another person substitute the holder of the license.

The transportation, accommodation and allowances of representatives of the Ministry of Culture and Tourism and other public institutions employed at the site are paid by treasure hunters. The foreseen amount is paid in advance to the Ministry of Culture and Tourism and is kept in a State Bank. Issue of licenses, required documents, terms of treasure hunting and rights of treasure hunters on treasures to be found are determined by a regulation to be jointly prepared by the Ministry of Culture and Tourism and the Ministry of Finance.

PART FIVE

(It is changed by the Legislation dated 17.6.1987, No.3386)

Superior and Regional Conservation Councils of Immovable Cultural and Natural Property

Establishment, Duty, Authority and the Office Procedures

Article 51.- A ‘Superior Conservation Council of Immovable Cultural and Natural Property’ tied to the Ministry and ‘Regional Conservation Councils of Immovable Cultural and Natural Property’ based at various regions to be designated by the Ministry of Culture and Tourism are established in order to scientifically guide the intervention in immovable cultural and natural property that take place within the country and within this Legislation.

The duties and authorities of the Superior Conservation Council of Immovable Cultural and Natural Property are:

- a) Designating principles to be adopted for the conservation and restoration of immovable cultural and natural property to be conserved,
- b) Establishing the necessary coordination between Regional Councils,
- c) Assisting the Ministry of Culture and Tourism on the implementation of adopted principles and evaluating their results.

Superior Conservation Council of Immovable Cultural and Natural Property meets at least two times in a year. When necessary, the Ministry of Culture and Tourism may call the Council for extraordinary meetings.

Superior Conservation Council of Immovable Cultural and Natural Property meets with absolute majority of members, resolutions are issued with the concession of three-fourth of the members present in the meeting.

Procedures and principles regarding the works of Superior Conservation Council of Immovable Cultural and Natural Property are established through regulations.

Duties of the Superior Council

Article 52.- (This article is not valid anymore according to the Legislation dated 17.6.1987, No.3386. It is considered within the Article 51).

Membership to the Superior Council

Article 53.- (Amended by the Legislation dated 17.6.1987, No.3386 and the Legislation dated 26.5.2004, No.5177) The Superior Conservation Council of Immovable Cultural and Natural Property consists of below mentioned members:

- (1) Ministry of Culture and Tourism, Under-Secretary,
- (2) Prime Ministry, Deputy Under-Secretary,
- (3) Ministry of Culture and Tourism, related Deputy Under-Secretary,
- (4) Ministry of Culture and Tourism, Director General of Antiquities and Museums,
- (5) Ministry of Culture and Tourism, Director General of Tourism,
- (6) Ministry of Public Works and Urban Development, related Director General or Deputy Director General,
- (7) Ministry of Forestry, Director General or Deputy Director General,
- (8) Director General or Deputy Director General of Pious Foundations,
- (9) Members are chosen by Ministry of Culture and Tourism among the chairmen of Regional Conservation Councils.
- (10) Director General or Deputy Director General of Mining Affairs.
- (11) Director General or Deputy Director General of Natural Conservation and National Parks.

The chairman of the Superior Council is the Under-Secretary of the Ministry of Culture and Tourism. The Deputy Undersecretary replaces him in his absence.

Attributes of Representative Members

Article 54.- Representative members of the Superior Council are required to hold a university degree to conduct studies and to be known in one or more of scientific branches mentioned in Article 53 and , preferably, to have published material inside and outside the country.

Duration of Membership of the *Regional Conservation Council* - Fall of Membership-Daily Attendance Allowance

Article 55.- (amended by the Legislation dated 17.6.1987, No. 3386). Membership of the natural members of the Superior Council continues as long as they hold their positions in the designed public institutions. Membership of members chosen by the Ministry and the Council of Higher Education continues for five years.

Members of the Superior Conservation Council and Regional Conservation Councils cannot be a party directly or indirectly and cannot provide any benefits. If the contrary is proved, their membership is terminated by the Ministry.

For attendance to a meeting; an amount that will be calculated by multiplying the indicator numeral with the monthly co-efficient (3000) of the Government Officers is paid to the members of Superior Conservation Council and Regional Conservation Councils for each meeting, but not more than six times in a month. The membership of members of Regional Conservation Councils, who do not participate in the meetings for four times or two times one after the other with the exceptions of annual, sick and excuse leaves is terminated.

Form of Operation in the Superior Council

Article 56.- (This article is not valid anymore according to the Legislation dated 17.6.1987, No. 3386. It is considered within the Article 51)

Article 57.- (Amended by the Legislations, dated 17.6.1987, No: 3386 and dated 14.7.2004, No: 5226)

Within the scope of the Principle Decisions of the Superior Conservation Council, Regional Conservation Councils are responsible and authorized for the following duties:

- a) Registration of the cultural and natural properties to be conserved that are determined by or for the Ministry,
- b) Classification of the cultural properties to be conserved,
- c) Determination of the construction conditions for the transition period within 3 months beginning from registration of the Conservation Areas,
- d) Examination of the Development Plans for Conservation and the amendments related to these plans, and taking decisions,
- e) Determination of the protection areas of the immovable cultural and natural properties to be conserved,

- f) Removal of the registration record of those immovable cultural properties to be conserved which lost their characteristics,
- g) Taking implementation decisions related to the immovable cultural and natural properties to be conserved, their protection areas and the conservation areas,

Chairmen and Deputy Chairmen of the Regional Conservation Councils are selected by the Council among the members. In absence of the Chairman, Deputy Chairman presides over the council.

Regional Conservation Council convenes to a meeting by absolute majority of the members who have to attend to the meeting and the Councils take decisions by absolute majority of the members participated in the meeting. However, absolute majority for taking decisions cannot be less than the absolute majority of the members selected by the Ministry and the Higher Education Committee. Decisions are written by determining the foundations within this Law and its principle decisions and the scientific reasons.

Technical and Administrative Services of the Regional Conservation Councils are carried out by the directorates of the Regional Conservation Councils. Regional Conservation Council makes a decision about the Development Plan for conservation within 6 months and the Implementation Projects within 3 months since their presentations to the Council.

Immovable Cultural and Natural Properties, their protection areas and Conservation Areas Amendments and Repairs that are not subject to License within the scope of the 21st Article of the Development Law numbered 3194 are carried out in accordance with the original shape and material upon the permission and supervision of the Administrations of which Implementation and Control Bureaus are found. Any constructional and physical interventions, except from the above mentioned amendments and repairs, are done upon the permission of the Regional Conservation Council.

However, constructional and physical interventions in the Conservation Areas of which development plan for conservation is approved except the parcels with immovable cultural properties are carried out in accordance with the provisions of the development plan for conservation and with the permission and supervision of the Administrations of which Conservation, Implementation and Supervision Bureaus are founded in their structures.

Directorate General of the Pious Foundations has others to carry out amendments and repairs of the cultural properties that are not subject to License according to the 21st Article of the Development Law numbered 3194 and possessed by the registered or subsidiary foundations under the administration and supervision of the Directorate General of The Foundations carry out in accordance with the original shape and materials.

Reports and documents before and after the amendments and repairs related to the immovable cultural and natural properties and their protection areas are submitted to

Regional Conservation Councils by the relevant administrations and the Directorate General of the Pious Foundations.

Matters regarding the implementation of this article are determined in a regulation that will be adopted by the Ministry.

Article 58.- (Amended by the Legislations dated 17.6.1987, No: 3386 and dated 14.7.2004, No: 5226) Regional Conservation Councils consist of the following members:

- a) Five representatives that will be selected by the Ministry among the experts of Archeology, Art History, Law, Architecture and City Planning,
- b) Two academics from different branches that will be selected by the Higher Education Committee among the branches of archeology, art history, architecture and city planning,
- c) Municipality Mayor or Technical Representative if the negotiation subject is within the borders of the Municipality; outside the Municipality borders, Technical Representative that will be selected by the Governorship,
- d) A technical representative of the Directorate of the Public Works and Settlement if the negotiation subject is related to the Ministry of Public Works and Settlement,
- e) Regional Director of the Foundations or technical representative if the negotiation subject is related to Directorate General of the Foundations,
- f) A relevant technical representative if the negotiation subject is related to the Ministry of the Environment and Forestry,
- g) The relevant Museum Director if the negotiation subject is related to the Museum Directorate.

The relevant professional chambers can participate in the meetings of the Regional Conservation Councils as observers.

Moreover, consultant experts can be invited to the Council on the condition that they do not have vote rights.

Attributes of Members and Form of Operation of in Regional Councils

Article 59.- (This article is not valid anymore according to the Legislation dated 17.6.1987, No.3386).

Fall of Membership-Duration of Membership in Councils

Article 60.- (This article is not valid anymore according to the Legislation dated 17.6.1987, No.3386).

Article 61.- (Amended by the Legislation dated 14.7.2004, No: 5226) Public institutions, municipalities and individual and corporate bodies are obliged to comply with the decisions of the Superior Conservation Council and Regional Conservational

Councils. Principle Decisions of the Superior Conservation Council are published in Official Gazette.

Public institutions, Governorships and Municipalities that are authorized for planning may object to the Superior Conservation Council regarding the issued decisions or future decisions of the Councils on the Conservation Areas, their graduations, conservation principles and utilization conditions during the transition period, development plans for conservation and revisions within 60 days.

The Superior Conservation Council examines these objections and makes a decision within maximum six months. The principles and procedures for the objections made to the Superior Conservation Council are determined by a regulation that will be issued by the Ministry.

Accommodation and Wages of Council Members

Article 62.- When members need to travel for participating in Council meetings, transportation, accommodation changes and daily wages of *Superior and Regional Conservation* Councils members covered by Legislation Number 6245 are paid by their institutions, those of other members are paid by the Ministry of Culture and Tourism.

Regulations Relating to Councils

Article 63.- Duties, rights and responsibilities of the *Superior and Regional Conservation* Councils, relations between the Councils and between the Councils and the Ministry of Culture and Tourism are arranged by regulations.

PART SIX Prizes and Penalties

Prizes to be Awarded to Finders of Cultural Property

Article 64.- When movable cultural property is found above or under ground or under water within the borders of the Republic of Turkey and related administrations are informed according to Article 4:

- a) Articles 24 and 25 of this Legislation are applied if the property is found within precincts owned by the finder. No additional prize is awarded.
- b) If property is found within precincts not owned by the finder, the Ministry of Culture and Tourism evaluates the property found and 80% of the estimated value is divided between the finder and the owner of the precincts.
- c) If property is found within precincts owned by the State, 40% of the estimated value of the property is awarded to the finder.

d) If cultural property found, wherever it is found, is not esteemed worthy of conservation, Article 25 of this legislation is applied. No additional prize is awarded.

e) If cultural property found, wherever it is found, is not announced within the period foreseen by Article 4 and therefore considered concealed, is found out, the informer is awarded a prize according to Legislation Number 1905.

f) If finders of property mentioned above are more than a single person, the prize is divided equally among them.

g) Payment of prizes is made according to a regulation issued jointly by the Ministry of Finance and the Ministry of Culture and Tourism.

Penalties

Article 65 – (*amended by the Legislation dated 17.4.2004 No. 5226*) Actions against Article 9 of this Legislation:

- a) Those who deliberately demolish or damage immovable cultural and natural property to be conserved are sentenced to imprisonment from two to five years and fined 5 to 10 billion liras. If cultural and natural property to be conserved has been smuggled out of the country, the above punishments are doubled.
- b) Those who without permission make construction or make physical intervention to the buildings within the sites against the conservation principles and construction decisions of the transition period, conservation plans and the decisions of the Regional Conservation Councils are sentenced to imprisonment from two to five years and fined five to ten billion liras.
- c) Those who illegally give permission for demolitions or new constructions are sentenced to imprisonment from two to five years and fined 5 to 10 billion liras.
- d) Those who, without permission or against permission of the Administrations that have conservation, implementation and controlling units in their own structures in accordance with the Article 57- sixth and seventh items- of this Legislation, make any repair or renovation, construction or physical intervention to the buildings are sentenced to imprisonment from one to three years and fined three to six billion liras.

Illegal Documents, Notices and Announcements

Article 66. – Those who issue documents contrary to prohibitions foreseen by Article 16 of this Legislation are sentenced to imprisonment from one to three years and fined twenty five to one hundred thousand liras if the committed crime is not more severely punished by another law, those who fail to make necessary declarations within

periods foreseen by Article 7 of this Legislation are sentenced to imprisonment from three months to one year and fined five to thirty thousand liras.

Opposition to the Obligation of Notification - Opposition to the Prohibition of Cultural Property Trade- The Use of Residence as Commercial Establishment

Article 67.- Those who oppose Article 4, 27 and 28 of this Legislation are sentenced to imprisonment from one to three years and fined twenty five to one hundred thousand liras.

Opposition to Prohibition on Taking Properties out of Turkey

Article 68.- Those who oppose Article 32, paragraph 1 of this Legislation are sentenced to imprisonment from five to ten years and fined one hundred to three hundred thousand liras.

The cultural property concerned shall be confiscated and consigned to a museum.

All equipment used in this action shall be confiscated unless it belongs to public institutions.

Opposition to Inspection

Article 69.- Those who oppose inspection according to Article 29 and those who oppose transportation according to Article 41 of this Legislation are sentenced to imprisonment from six months to one year and fined twenty five to one hundred thousand liras.

Subjects of Private Ownership

Article 70.- Those who oppose Article 24 of this Legislation are sentenced to imprisonment from one to three years and fined twenty five to one thousand liras.

Opposition to Decrees Concerning Excavations, Soundings and Research

Article 71.- Those who oppose Article 38, 42 and 43 of this Legislation are fined fifty to two hundred thousand liras.

Resolutions Concerning Civil Servants

Article 72.- During the implementation of this Legislation, future acts and processes and the future decisions and objections to those decisions which are all related with the government officers are examined and included in priority

Opposition to Decrees Concerning Private Museums and Collections

Article 73.- Those who oppose Articles 26,30 and 31 of this Legislation are sentenced to imprisonment from three months to one year and fined twenty five to one hundred thousand liras if their crime is not more severely punished by another law.

Research, Excavations and Soundings without Permission

Article 74.- Those who conduct soundings and excavations without permission are sentenced to imprisonment from two to five years and fined from fifty to two hundred thousand liras, those who seek treasures without permission are sentenced to imprisonment from one to five years and fined twenty five to one hundred thousand liras, those who do investigations without permission are fined fifty to two hundred thousand liras. For those who are employed in such activities for the purpose of smuggling property outside the country, if such people are those entrusted with the protection of the same property, the above punishments are doubled. The cultural property concerned is seized and turned over to museums.

Increase of Penalties

Article 75.- *(amended by the Legislation dated 17.4.2004 No. 5226)* If the subject of crimes described in Book 2 , Chapter 10 and paragraphs 1 and 2 of the Turkish Criminal Law is a cultural property described in this Legislation, penalties foreseen by one third to double those designated.

If the subject of crimes described in Book 2, Chapter 10 and paragraph 7 of the Turkish Criminal Law is a movable cultural property described in his Legislation, penalties foreseen are increased by one third to double those designated.

PART SEVEN Other Decrees

Repeated Legislations

Article 76.- “Legislation for the Expropriation of Ancient Properties and Historical Monuments belonging to Private Persons” dated 28.2.1960, No.: 7463; “Legislation for the Ancient Properties” dated 25.4.1973, No.: 1710; “Legislation for the Organization and Duties of Superior Council for Immovable Ancient Properties and Monuments” dated 2.7.1951, No.:5805; and “Legislation for Amendments in the Legislation for Organization and Duties of Superior Council for Immovable Ancient Properties and Monuments” dated 18.6.1973, No: 1741 are not valid anymore.

Additional Article 1.- (amended by the Legislation dated 14.7.2004, No:5226) The term “Conservation Councils” in this legislation are all replaced by “Regional Conservation Councils”.

Site Management, Museum Management and Monumental Asset Council

Additional Article 2- (Added by Legislation dated 14.7.2004, No.:5226) In the management areas site managements, in the national museums museum management, for the monumental assets monumental asset council are established.

a) In the urban sites, for the protection, evaluation and development of the management areas and their junction points, the draft management plan is prepared or made by;

- if the area is within the boundaries of more than one municipality, with the coordination of the related municipalities under the supervision of main municipality of the area,
- if the area is in the boundary of only one municipality, the related municipality,
- for the areas which are out of the boundaries of any municipality, the Ministry.

For receiving proposals about the approval and implementation of the prepared draft, an advisory council, consists of the representatives of the owner, NGO's and universities are established.

For providing coordination in the urban sites, within the municipal boundaries by related municipality, or other sites by the Ministry a site manager is assigned. The executive site manager appointed by the Ministry is paid on the first day of each month following his monthly work, from the budget of Ministry of Culture and Tourism Revolving Fund Management Central Directorate, an amount to be determined by the Minister, noted that it does not exceed the amount to be found by multiplying the government officials "monthly coefficient" with (20000) indicator numeral and it is not subject to any tax except stamp duty.

Within the context of draft management plan; coordination and censor boards are set up with the participation of one representative of each public body of which their service is required and two members who will be selected by advisory council. Site manager is also the head of the councils. Council is in charge of approval and implementation of the management plan at the latest in six months after the submission and examination of the draft.

A control unit can also be set up to fulfill the requirements of control by experts and inspectors of the related body. This unit is authorized to ask all the information and documents from all the related bodies and third parties for the implementation of the management plan.

All the related public bodies, municipalities are obliged to obey the conditions and decisions of the management plan approved by coordination and supervisor boards, where as also to give priority and allocate the required financial allowances for the services within the context of the management plan.

b) A museum management is established in the national museums determined by the Ministry consisting of museum manager, museum director, administrative manager and museum council.

In the museums; recording, registration, inventory, storing, maintenance and restoration of the finds, exhibition and preservation, cultural, educational and scientific activities are carried out by the museum director; presentation, management of the sales units, organization of the activities, management of the visitors, landscaping, maintenance-repair, cleaning works are carried out by the administrative manager.

The museum director is authorized for coordination and control of the related directorates and to represent the museum in national and international institutions.

A museum manager is appointed by the Ministry among the graduates of archeology, art history, anthropology, ethnology, economics, management, public administration, etc.

Also, a museum council is established exclusively for that museum. The museum council is consist of academics from related departments of the local universities, representatives of the chamber of professionals, NGO's and local authorities and among the donors who are approved by the Ministry. A chairman is elected among the museum council members.

An annual and 5- year conservation and development projects is prepared covering the subjects like spatial and physical development, thematic development and vision, finds, conservation and expanding the collection, promotion and exhibition in conformity with the museum council. Implementations in the context of the conservation and development projects, the promotion of the museum, the collection of the donations and distribution of honorary awards are under the responsibility of these museum councils. Council prepares yearly reports on the management of the museum. The Ministry is obliged to take these reports into consideration.

c) For the monumental asset considered as immovable cultural property, a "monumental asset council" is formed, exclusively for that monument. The council constitutes of the representatives of

- . the academics of the local universities from the related branches
- . the chambers of the professionals
- . the NGO's
- . the local authorities
- . the donors who are approved by the Ministry
- . the administration who is responsible for the implementations over these entities.

The representative of the related administration is the chairman of this council.

Council prepares annual and 5-year conservation and development projects which covers the subjects like spatial and physical development, thematic development and vision, protection, promotion and exhibition of the monument. Implementations in the context of the conservation and development projects, the promotion of the

monumental asset, collection of the donations, and distribution of honorary museum friendship awards are under the responsibility of these monumental asset councils. Council prepares annual reports for the conservation, revival and development of the monument. Related administrations are obliged to take these reports into consideration.

The system and basis for the implementation of this item will be arranged according to the regulation which will be prepared by the Ministry.

Additional Article 3.- (Added by the legislation dated 14.7.2004, No.:5226) The sentence (a) of the Additional Article 2 is not applied in the areas which are subject to Governmental Decree Law No.:383 (The establishment of the administration for the specially protected areas), Law No.:2873 (National Parks), Law No.:4915 (Land-Hunting) and Law No.:4533 (Gelibolu Peninsula Historic National Park)

Temporary Article 2.- Within three months from the date of coming into force of regulations which will be issued according to this Legislation, individual and corporate bodies, collectors can sell their own movable cultural and natural properties to be conserved, without indicating its origin, to state museums according to the Articles 24 and 25 or they can benefit from the Article 24 of this Legislation by registering the property in inventory in condition of getting it approved by the nearest museum.

Temporary Article 3.- (amended by the Legislation dated 14.07.2004, No: 5226) After the date of coming into force of this Legislation; the conservation councils for the cultural and natural properties are converted to the Regional Conservation Councils for The Cultural and Natural Properties, where as the offices of the conservation councils are converted to the offices of the conservation councils for the cultural and natural properties.

Regulations mentioned in this Legislation will be put into force within one year. Until these alignments are put into force, the sentences of the existing regulations which are not against this legislation will be implemented.

Temporary Article 4.- (This article is not valid anymore according to the Legislation dated 17.6.1987, No.: 1387, No.:3386)

Validity

Article 77.- This legislation is valid from the date of its publication.

Execution

Article 78.- Cabinet executes the decisions of this legislation.