

# Law on the Conservation of Cultural and Natural Property (2863)

## **Law on the Conservation of Cultural and Natural Property**

**Law Number: 2863**

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### **CHAPTER ONE**

#### **General Provisions**

##### **Aim:**

**Article 1 – The aim of this law is** to define movable and immovable cultural and natural property to be protected, regulate proceedings and activities, describe the establishment and duties of the organisation that shall set principles and take implementation decisions in this field.

##### **Scope:**

**Article 2 – This Law** covers issues regarding movable and immovable cultural and natural property to be protected and the relevant duties and responsibilities of real and legal persons.

##### **Definitions and abbreviations:**

##### **Article 3 –Definitions and abbreviations used in this law:**

##### **a) Definitions:**

**(1) (Amended:14/07/2004 – 5226/1. article)"Cultural property"** shall refer to movable and immovable property on the ground, under the ground or under the water pertaining to science, culture, religion and fine arts of before and after recorded history or that is of unique scientific and cultural value for social life before and after recorded history.

**(2) "Natural property"** shall refer to all assets on the ground, under the ground or under the water pertaining to geological periods, prehistoric periods until present time, that are of unique kind or require protection due to their characteristics and beauty.

**(3) "Conservation site"** shall be cities and remains of cities that are product of various prehistoric to present civilizations that reflect the social, economic, architectural a.s. characteristics of the respective period, areas that have been stages of social life or important historical events with a concentration of cultural property and areas the natural characteristics of which have been documented to require protection.

**(4) "Conservation"** shall mean all conservation, maintenance, restoration works and function modification of immovable cultural and natural property and the conservation, maintenance, repair and restoration works of movable property.

**(5) "Conservation zone"** shall mean an area to be protected mandatorily with activities to conserve its cultural and natural property or its historical environment.

**(6) (Amended: 17/06/1987 - 3386/1 article) "Evaluation"** shall mean the exhibition, organisation, use and scientific promotion of cultural and natural property.

**(7) (Added:14/07/2004 – 5226/1 article) "Archaeological site"** shall mean an area where man-made cultural and natural property converges as the product of various prehistoric to present civilisations, that is adequately defined by topography and homogenous, at the same time historically, archeologically, artistically, scientifically, socially or technically valuable, and exhibits partial structures.

**(8) (Added:14/07/2004 – 5226/1 article) "Conservation plan"** shall mean the plan of a conservation site as defined by the law, of the scale prescribed for a master and implementation development plan comprising the entirety of objectives, tools, strategies, planning decisions, positions, planning notes, explanation reports, drafted in a way to entail strategies on job creation and value addition, principles of conservation, terms and conditions of use, settlement limitations, rehabilitation, areas and projects of renewal, implementation phases and programmes, open space systems, pedestrian walkways, vehicle transport, design principles of infrastructure facilities, densities and parcels of land designs, local ownership, participatory area management models on the basis of financial principles of implementation, improving the social and economic structure of households and offices situated in the conservation site on existing maps on the basis of field studies providing archaeological, historical, natural, architectural, demographic, cultural, socio-economic, ownership and settlement data taking into account surrounding interactive areas with the view of protecting cultural and natural property in line with the sustainability principle.

**(9) (Added:14/07/2004 – 5226/1 article) "Landscaping project"** shall mean projects by the scale of 1/500, 1/200 and 1/100 taking into account the unique characteristics of each architectural site with the view of protecting the archaeological potential of the area, controlled opening of the area to visitors, promotion, solving existing problems related to use and circulation and meeting the area's needs through modern state-of-the-art facilities.

**(10) (Added:14/7/2004 – 5226/1 article) "Management site"** shall mean an area that is delineated by the Ministry by obtaining the view of the relevant administrations to ensure coordination in planning and conservation with the competent central and local administrations and civil society organisations with the aim of effective protection, revitalization, evaluation, development of conservation sites, architectural sites and surrounding interactive areas in their natural beauty around a specific vision and theme and meeting the community's cultural and educational needs.

**(11) (Added: 14/07/2004 – 5226/1 article) "Management plan"** shall mean a plan revised on a five-yearly basis drafted with the view of protecting the management area, ensuring its revitalization, evaluating, also indicating the annual and five-yearly implementation phases and budget for the conservation and development project prepared by taking into account the operational project, excavation plan and landscaping project or conservation plan.

**(12) (Added:14/07/2004 – 5226/1 article) "Junction point"** shall mean cultural property not within the boundaries of the management area, but associated with the same in terms of management and development on the

basis of archaeological, geographical, cultural and historical considerations or the same vision or theme.

**b) (Amended: 17/06/1987 - 3386/1 article) Abbreviations:**

(1) "Ministry" shall mean the Ministry of Culture and Tourism,

(2) "Superior Council for Conservation" shall mean the Superior Council for the Conservation of Cultural and Natural Property,

(3)(Amended:14/07/2004 – 5226/1 article) "Regional Council for Conservation" shall mean the Regional Council for the Conservation of Cultural and Natural Property.

**Obligation to notify:**

**Article 4** – Persons that discover movable and immovable cultural and natural property, owners, proprietors or occupants that know or have recently found out about the existence of cultural and natural property on the land they own or use shall be obliged to notify the nearest museum directorship or the village headman or the local administrators of other places within at the latest three days.

If such property is in military garrisons and restricted areas, the relevant command levels shall be notified in line with the relevant procedure.

The village headman, the local administrator receiving such notification or the relevant authorities that are directly notified of such property shall take the necessary measures to protect and secure such property. The village headman shall notify the nearest local administrator as of the situation and the measures taken on the same day. The local administrator and other authorities shall notify in writing the Ministry of Culture and Tourism and the nearest museum directorship within ten days.

Upon receiving this notification, the Ministry and Museum Director shall instigate due proceedings as soon as possible in line with the provisions of this law.

**Quality of state property:**

**Article 5** – Immovable property belonging to the state, public institutions and organisations and movable and immovable cultural and natural property to be protected that is known to exist or will be discovered on an immovable property owned by real and legal persons subject to civil law shall have the quality of state property.

Registered and annexed foundation property subject to a separate status due to its special qualities shall not be covered by this provision.

**CHAPTER TWO**

**Immovable cultural and natural property to be protected**

**Immovable cultural and natural property to be protected:**

**Article 6** – The following is immovable cultural and natural property to be protected:

- a)** Natural property to be protected and the immovable property built until the end of the 19th century,
- b)** The immovable property created after the mentioned date that the Ministry of Culture and Tourism deems necessary to be protected considering its importance and characteristics,
- c)** Immoveablecultural property situated in the conservation site,
  
- d)** Buildings that were stages of great historic events during the National War of Independence and the Foundation of the Republic of Turkey that are not subject to time and registration rules due to their importance for national history, areas to be identified as such and houses used by Mustafa Kemal ATATÜRK,

However, the immovable property not decided to be protected by the Conservation Councils on the basis of their architectural, historical, aesthetic, archaeological and other important characteristics shall not be regarded as immovable cultural property to be protected.

Rock-cut tombs, stones with inscription, painting, and relief, cave paintings, mounds (höyük), tumuli, archaeological sites, acropolis and necropolis, castle, fortress, tower, wall, historic barrack, bastion and fortification with their fixed weaponry, ruins, caravanserai, khan, public bath and madrasah, cupola, tomb and tablets, bridges, aqueducts, waterways, cisterns and wells, ancient road ruins, stones indicating distance, stones with holes delineating ancient borders, obelisks, altars, shipyards, quays, ancient palaces, pavilions, dwellings, waterside residences and mansions, mosques, masjids, musallahs, namazgahs, fountains and sebils, imarethane (communal kitchen), mint, şifahane (hospital), muvakkithane (room for the mosque timekeeper), simkeşhane (silver shop), tekke (dervish lodge) and zaviyahs, cemeteries, hazire (graveyard), arasta, bedesten, bazaar, sarcophagi, stelae, synagogue, basilica, church, monasteries, külliye (complex of buildings adjacent to a mosque), ancient monuments and mural ruins, frescoes, reliefs, mosaics, chimney rocks a.s. immovable are examples of immovable cultural property.

Historic rock shelters, tree and tree populations with special characteristics a.s. are examples of immovable natural property.

**Identification and registration:**

**Article 7 – (Amended: 17/06/1987 - 3386/2 article)**

**(Amended first paragraph: 26/05/2004-5177/26 article)** The identification of immovable cultural and natural property and natural sites shall be coordinated by the Ministry of Culture and Tourism by obtaining the view of the relevant institutions and organisations the activities of which will be affected.

Such identification shall take into account the history, art, region and other characteristics of the cultural and natural property. An adequate number of antiquities of exemplary nature reflecting the characteristics of the period they pertain to shall be identified as cultural property to be protected to the extent of the means of the state.

Following identification, the immovable cultural and natural property to be protected shall be registered with a decision to this end by the Regional Council for Conservation.

Procedures, principles and criteria regarding the identification and registration process shall be specified in the **regulation**.

Immovable cultural and natural property owned by registered and annexed foundations administered and controlled by the General Directorate for Foundations, mosques, tombs (türbe), caravanserais, madrasahs, khans, public baths, masjids, zaviyahs, sebils, mevlevihanes (lodge of Mevlevi dervishes), fountains a.s. immovable cultural and natural property to be protected owned by real and legal persons shall be identified and inventoried by the General Directorate for Foundations.

Publication and notification of these decisions and their entries into the title deeds register shall be specified in a regulation.

**Decision-making powers related to the conservation site:**

**Article 8** – Conservation Councils shall identify the conservation site of the cultural and natural property to be protected that has been registered according to article seven, and make decision on whether or not to build and install in this area. The decision of the Conservation Councils can be objected to according to paragraph two of article 61.

An adequate area shall be designated for the conservation of cultural and natural property to be protected and the preservation of its appearance and cohesion with its surroundings. The related principles shall be specified in a regulation to be drafted by the Ministry of Culture and Tourism.

**Prohibition of unauthorized intervention and use:**

**Article 9 – (Amended: 14/07/2004 - 5226/3 article)**

Immovable cultural and natural property to be protected and conservation sites shall not be interfered with physically or by any way of construction, and used for service or modified for use contrary to the decisions of the Regional Conservation Councils within the framework of the resolutions of the Superior Council for Conservation. Substantial repair, construction, installation, sounding, partial or complete demolition, incineration, excavation or similar works shall be regarded as physical intervention and intervention by way of construction.

**Authorities and methods:**

**Article 10** – The Ministry of Culture and Tourism shall be authorized to take the necessary measures or have others take the necessary measures to conserve immovable cultural and natural property, regardless of ownership or administration, control or have public institutions and organisations, municipalities and governorships carry out control.

(1)

The Presidency of the Turkish Grand National Assembly shall guarantee the conservation of cultural and natural property administered and controlled by the Turkish Grand National Assembly.

To ensure conservation the Ministry of Culture and Tourism shall provide technical assistance and cooperation, if necessary.

The Ministry of National Defence shall conserve and evaluate cultural and natural property under its administration and control or along the borders and in restricted zones. Such conservation shall be agreed upon by protocol between the Ministry of National Defence and the Ministry of Culture and Tourism.

**(Amended: 17/06/1987 - 3386/4 article)** Immovable cultural and natural property owned by registered and annexed foundations administered and controlled by the General Directorate for Foundations, mosques, tombs (türbe), caravanseries, medreses, khans, public baths, masjids, zaviyahs, mevlevihanes, fountains a.s. cultural property owned by real and legal persons shall be conserved and evaluated by the General Directorate for Foundations after the Conservation Council decides to conserve.

The conservation and evaluation of immovable cultural and natural property owned by other public institutions and organisations shall be under their responsibility in accordance with the provisions of this law.

The conservation of immovable cultural and natural property owned by public institutions and organisations shall be supported with an annual budget allocation to this end.

The Ministry of Culture and Tourism shall receive adequate budget appropriations each year to deliver this service.

**(Repealed paragraph eight:14/07/2004 – 5226/4 article)**

**(Additional paragraph: 17/06/1987 - 3386/4 article)** The Ministry shall be responsible for the conservation and evaluation of the area that is surveyed, excavated and sounded.

**(Additional paragraph:14/07/2004 – 5226/4 article)** Conservation, implementation and inspection offices composed of experts on art history, architecture, city planning, engineering, archaeology a.s. professions shall be established in metropolitan municipalities, governorships, municipalities authorized by the Ministry to process and implement various aspects of cultural property. Moreover, project offices shall be established in special provincial administrations to prepare and implement surveys, restitution, restoration projects with the aim of conserving cultural property and training units to provide certified training to construction masters.

**(Additional paragraph:14/07/2004 – 5226/4 article)** Municipalities shall be competent within their municipal boundaries and adjacent areas, governorships shall be competent outside municipal boundaries.

**(Additional paragraph:14/07/2004 – 5226/4 article)** The above offices shall be obliged to control the implementation of conservation plans, project and material changes and undertake building inspection as deemed appropriate by the Regional Conservation Council.

**(Additional paragraph:14/07/2004 – 5226/4 article)** The composition of experts, the operation and work of these offices and the related procedures and principles of permission shall be specified in a **regulation** to be prepared by the Ministry and the Ministry of the Interior according to the characteristics of the area.

**Rights and obligations:**

**Article 11 –(Amended: 22/05/2007 - 5663/1 article)** Provided that maintenance and repair done by the owners of immovable cultural and natural property is in compliance with the maintenance and repair orders and instructions of the Ministry of Culture and Tourism stipulated in this law, they shall exercise the rights and exemptions defined on their behalf in this law. However, cultural and natural property to be protected and their conservation sites cannot be acquired by means of possession or occupation.

The owners shall exercise all their rights of ownership and powers pertaining to the property as long as these do not contradict with the provisions of this law.

The property of persons who fail to fulfil their responsibilities of maintenance and repair as defined by this Law shall be duly expropriated. Registered and annexed foundation property shall not be subject to this provision.

If deemed appropriate by the Ministry of Culture and Tourism, the General Directorate for Foundations, special provincial administrations, municipalities and other public institutions and organisations can assist the above-mentioned owners, if necessary, in conserving, maintaining and repairing the immovable cultural and natural property with technical expertise and allocation from their funds.

**Aid for repair of immovable cultural property and contribution fee**

**Article 12 –** The Ministry of Culture and Tourism shall provide aid in kind, in cash and technical assistance for the conservation, maintenance and repair of cultural and natural property to be protected and owned by real and legal persons subject to civil law.

**(Repealed second and third paragraphs: 21/02/2001 - 4629/6 art.)**

**(Repealed 4. paragraph: 14/04/2004 - 5226/6 art.)**

**(Additional paragraph: 14/07/2004 - 5226/6 art.)** The budget of the Ministry shall receive adequate appropriations to this end. The procedures and principles of such aid and assistance to be provided by the Ministry shall be specified in a regulation.

**(Amended paragraph 6 : 04/02/2009 - 5835/1 art.)** A Contribution Share for Preservation of the Immovable Cultural Assets at a rate of 10 % of the real estate tax accruing on the tax payers as per Articles 8 and 18 of Law No 1319 of 29/7/1970 on the Real Estate Tax is accrued and collected by the relevant

municipalities along with the real estate tax for use for the purpose of preserving and exploiting the cultural assets falling in the task areas of the municipalities and provincial special administrations.

**(Amended paragraph 7: 04/02/2009 - 5835/1 art.)** The sums collected accumulate in the special accounts to be opened by the provincial special administrations. Such sums are transferred by the Governors to the provincial special administration and municipalities in the provincial territories for use in expropriation, design, planning and implementation of the projects prepared by the provincial special administrations and municipalities for the purpose of preserving and exploiting the cultural assets and such shares are used under the supervision of the governors. The sum used for the projects carried out by the provincial special administrations may not exceed 30 % of the respective special account.

**(Additional paragraph: 14/07/2004 - 5226/6 art.)** Contribution fees accruing as per this article shall be subject to the provisions of Law numbered 1319, chapter three.

The Ministry of the Interior and the Ministry shall determine procedures and principles regarding contribution fees.

**(Additional paragraph: 28/12/2006 - 5571/22 art.)** According to the foregoing provisions, the amounts collected as contribution fee for the protection of immovable cultural properties is paid to the special provincial administrations by declaring within the same period, with a declaration, until the evening of the tenth day following the month that was collected. The contribution fees, by imposing a late fee thereto according to the provisions of "Procedures for the Collection of Public Receivables Law" numbered 6183, are collected from the municipalities which have not been deposited the same they already collected, to the special provincial administrations, within the period specified above.

**(Additional paragraph: 28/12/2006 - 5571/22 art.)** The mayors are obliged to ensure the payment of the contribution fees being collected by the municipalities for the protection of immovable cultural properties have to be paid in full at the right time to the special provincial administrations thereby. Upon the claim of the concerned special provincial administration, the contribution fees unpaid are deducted from the portion of general budget tax revenues, which have been taken by the related municipality from İller Bank and sent to the claimed special provincial administration.

**(Additional paragraph: 14/07/2004 - 5226/6 art.)** Minimum 10% of the loans given according to the Housing Development Law numbered 2985 shall be allocated to the maintenance, repair and restoration of registered cultural property. The Ministry and the Housing Development Administration shall determine priority projects within this scope jointly.

**(\*\*related legislation:**

**1) regulation on the contribution fee for the conservation of immovable cultural property**

**2) regulation on aid and assistance in the repair of immovable cultural property**

**Prohibition of transfer:**

**Article 13** – No immovable cultural and natural property to be protected owned by the Treasury and other public institutions and organisations registered and declared duly and immovable property belonging to these that are within the designated conservation site can be sold and donated to real and legal persons without the permission of the Ministry of Culture and Tourism.

**Use:**

**Article 14** –The transfer of usufruct rights pertaining to immovable cultural and natural property to be protected to state departments, public institutions and organisations for periodic use in public service, to national associations serving the public interest or leasing such property to real and legal persons shall be subject to permission by the Ministry of Culture and Tourism.

Transfer of usufruct rights of the mentioned property of foundations that are registered and annexed foundations administered and controlled by the General Directorate for Foundations and the administration of which has been transferred to the General Directorate for Foundations as per the Law on the Transfer of Ancient Structures of Historical and Architectural Value That Have Been Originally Foundations to the General Directorate for Foundations numbered 7044 to state departments, public institutions and organisations for the purpose of rendering public services and national associations working in the interest of the public for certain periods of time or leasing these to real and legal persons on the condition that they be used without violation of their character shall be authorized by the General Directorate of Foundations.

The above users of cultural and natural property to be protected shall be obliged to maintain, repair and restore these in line with the principles defined in this Law and undertake the related expenses.

**Expropriation:**

**Article 15** – Immovable cultural property and its conservation site shall be expropriated according to the below principles:

**a)** Immovable cultural and natural property to be protected and conservation sites partially or wholly owned by real and legal persons shall be expropriated according to the programmes of the Ministry of Culture and Tourism. To this end, the Ministry of Culture and Tourism shall receive adequate budgetary appropriations.

**(Additional paragraph: 17/06/1987 - 3386/5 art.; Amended: 14/07/2004 – 5226/7 art.)** Public institutions and organisations, municipalities, special provincial administrations and unions of local administrations can expropriate registered immovable cultural property provided these be used in line with the functions prescribed by Regional Conservation Councils.

**b)** The expropriation of immovable cultural and natural property to be protected and its conservation site

originally owned by a foundation, but presently partially or wholly owned by real and legal persons shall be undertaken by the General Directorate for Foundations. The General Directorate for Foundations shall receive adequate budgetary appropriations to this end.

**c)** The expropriation of conservation sites of immovable cultural and natural property to be protected that conjoin with roads, parking lots, green space on the development plan shall be undertaken by the municipality. These shall undertake the expropriation of conservation sites of cultural property under the responsibility of other public institutions and organisations in terms of maintenance and repair or where these have usufruct rights.

**d)** The appreciation of the cost of expropriation shall not be based on the age, uniqueness and artistic value of the immovable cultural property.

**e) (Amended: 17/06/1987 - 3386/5 art.)** Expropriations proceedings shall be subject to the provisions of this Law and to such provisions of the Expropriation Law numbered 2942 that do not contradict with this Law.

**f) (Additional paragraph: 17/06/1987 - 3386/5 art.) (Amended:25/6/2009 - 5917/24 art)**The parcels accommodating the immovable cultural and natural assets to be protected, which are declared as the preservation sites and subject to a definite ban for construction under the 1/1000 scale approved conservation plan, may be swapped by any other Treasury land plot or plots independently or in return for shares thereof upon an application by the owners of all of the parcels on the same block and their agreement on all the parcels offered as a consideration thereof. Any requests by those who later acquire any immovable property for which an annotation is incorporated on their title deed logs to the effect that such property is declared a preservation site except by way of dispositions due to heritage and death are not taken under evaluation. However, in the case of any parcels in the areas on which excavations permitted by the Ministry are under way, the condition for an application and agreement by the owners applies for a parcel and then, the condition for the 1/1000 scale approved conservation plan is not required. Upon an application by the owners of the buildings or facilities on these parcels, their current market value is determined and paid as per the provisions of Article 11 of Law No 2942. The procedures and principles related to this paragraph are determined by the Ministry upon receipt of the affirmative comments of the Finance Ministry.

The procedures and principles of this provision shall be specified in a **regulation**.

**Prohibition of unlicensed building:**

**Article 16** – Unlicensed construction on immovable cultural and natural property to be protected and on the related conservation site is prohibited. Unlicensed construction on the property and building in contradiction with the terms and conditions of the conservation plans and, for conservation sites, in conflict with the terms and conditions of the conservation site shall be duly processed according to the land development legislation.

## **Conservation principles and terms of use during the transition period regarding conservation sites and conservation plans**

### **Article 17 – (Amended: 14/07/2004 - 5226/8 art.)**

**a)** The proclamation of an area as a conservation site by the Regional Conservation Council shall halt all kind of planning implementation of any scale in this area. If applicable, any planning decisions and notes of the scale of 1/25.000 pertaining to the surrounding interactive area of the conservation site shall be revised by taking into account the status of the conservation site and be approved by the relevant administration.

Until completion of the conservation plan, the Regional Conservation Council shall determine the principles and terms of use to apply for the transition period within three months.

Municipalities, governorships and the relevant institutions shall hold meetings in the area with the participation of the relevant professional organisations, civil society organisations, and residents affected by the plan, have the conservation plan prepared, examined, finalized and submit it to the Regional Conservation Council. Unless the conservation plan is prepared in two years, the implementation of the principles of conservation and terms of use pertaining to the transition period shall be suspended until the conservation plan is completed.

Provided there is a forceful reason for not preparing the plan in two years' time, the Regional Conservation Council can provide extension for one additional year.

Conservation plans negotiated and deemed appropriate by the Regional Conservation Council shall be submitted to the relevant administrations for approval.

The relevant administrations shall negotiate the conservation plan within at the latest two months and, if any, submit alterations to the Regional Conservation Council. The Regional Conservation Council shall evaluate these alterations and, if deemed appropriate by the Regional Conservation Council, the plan shall be resubmitted to the relevant administration for approval. Plans not approved within sixty days shall be deemed final and put into force. With the enforcement of the conservation plan, the transition period principles of conservation and terms of use shall be invalid without requirement for any decision to affect it.

The Ministry shall undertake commission and approve the implementation and alteration of landscaping projects regarding archaeological sites with the consent of the relevant Regional Conservation Council.

Alterations of conservation plans and landscaping projects shall be subject to the above procedures.

**Conservation plans** shall be prepared by professional experts appointed by the Ministry from the disciplines of architecture, restoration architecture, art history, archaeology, sociology, engineering, landscaping architecture **the author being an urban planner** by taking into account the location of the area, conservation site status and

characteristics.

Procedures and principles pertaining to the preparation, demonstration, implementation, control of conservation plans and landscaping projects and the qualification of persons preparing the plan, their duties, powers and responsibilities shall be specified in a **regulation** to be issued by the Ministry and the Ministry of Public Works and Settlement.

The General Directorate of the Bank of Provinces shall receive sufficient budgetary appropriations for transfer to municipalities to be used in the implementation of the conservation plan. Special Provincial Administrations shall allocate funds from their own budget to implement the conservation plan.

**In areas declared conservation sites by the Regional Conservation Council,** the construction of buildings the subbasement level of which has been completed prior to the publication of the above decision in conformity with the building license and its attachments obtained in line with the development legislation and approved development plan shall be continued, however the relevant administrations shall have the authority to execute ex officio the transfer of the right to construction according to paragraph (c) of this article. The building license for structures the subbasement level of which has not been completed shall be cancelled. The provisions of this article shall not apply for conservation sites subject to absolute prohibition of building.

**b)** Immovable property owned by real and legal persons of civil law in conservation sites with an absolute prohibition of building according to the conservation plan, can be bartered with immovable property belonging to the municipality and the special provincial administration upon request of the owner.

**c)** For municipal boundaries and their adjacent areas, municipalities, outside such boundaries governorships shall have the authority to transfer ownership of registered immovable cultural property the building rights of which have been restricted or of the immovable property situated on its conservation site or the building right of which has been restricted through a conservation plan or parts thereof subject to building restriction to areas owned by them or by third parties that are marked as cleared for building in the development plans within the scope of a programme prioritizing exercising the rights from such transfer.

The transfer shall be based on the fair market value offset of a real estate valuation company that has been approved by the Capital Market Board. However, if the to be transferred right is related to the registered immovable cultural property the value of the structure shall not be considered.

The relevant administrations shall have the authority to issue documents to ensure that the right to build that has been restricted be enjoyed in other areas cleared for building and allocated as transfer areas within the scope of the development plan, this right is converted into securities registered in the name of the holder, and to present these documents to the eligible owners of the immovable property in areas where building rights are restricted with a due annotation in the title deed and to collect these to license areas allocated as transfer areas in the development plan with a due annotation in the title deed. The Bank of Provinces shall print, keep, approve the transaction of this change

of hands, set up and monitor the database related to these securities.

If the right to build is completely transferred due to an absolute building prohibition in the area, the ownership of the immovable property where there is a restriction of right to build shall pass to the relevant administration along with its annexes and parcels, be registered in the name of the administration and never be sold.

If the owner has a protectable right to build in the parcel to be transferred, the right to build shall be deemed as partially transferred. Thus, his/her ownership in the area subject to a building restriction shall continue.

However, if the transferable right is related to a registered immovable cultural property, the owner shall be obliged following receipt of securities to commence and complete maintenance, repair and restoration works necessary to conserve and revive the mentioned property in conformity with a protocol to be signed with the relevant administration. Otherwise, the relevant administration shall have the authority to collect from the owner the price and interest of the received security. This and the protocol shall be recorded in the title deed exempt from any kind of charges, fees and stamp duties before the delivery of the security by the relevant administration.

If it is not possible to determine the area to be transferred within the municipal boundaries where the restricted right exists, the relevant administrations shall have the authority to implement joint programmes.

Principles and procedures related to the implementation of the above paragraph shall be specified in a **regulation** to be prepared by the Ministry of Public Works and Settlement, Ministry of the Interior and the Ministry.

#### **Principles of building:**

##### **Article 18 – (Amended: 17/06/1987 - 3386/7 art.)**

The Regional Conservation Council shall group the immovable cultural property to be protected within three months following the application of the owners.

The grouped immovable cultural property shall be recorded under the declarations field in the title deeds registry. Repair and building principles cannot be determined without grouping.

**(Additional paragraph: 14/07/2004 – 5226/9 art.)** A restoration architect or an architect must be present during the survey, restoration and restitution projects and their implementation. The survey, restoration and restitution project implementation works of group 1 shall be undertaken by experts in engraving, wood, iron, stone and restoration based on the characteristics of the structure.

**(Additional paragraph: 14/07/2004 – 5226/9 art.)** Persons who are directly or indirectly involved in implementation outside the scope of approved plans and projects in conservation sites, cultural property to be protected and their conservation zones thereof shall be banned for five years from plans, projects and management of

implementation of activities related to the Regional Conservation Councils. The relevant municipality or governorship shall supervise persons in charge of implementation. Contradictory acts shall be reported to the Ministry and the relevant professional chamber.

**(Additional paragraph: 14/07/2004 – 5226/9 art.)** Irrespective of the reason, if the person in charge of implementation leaves during the implementation phase of the project, the Ministry shall be informed and implementation suspended until a replacement is found.

**(Additional paragraph: 14/07/2004 – 5226/9 art.)** The building principles, inspection and procedures and proceedings of the implementation of this article shall be specified in a **regulation** to be prepared by the Ministry.

Local administrations cannot alter decisions of the Regional Conservation Councils regarding a new construction or an addition or auxiliary building on the parcel of the immovable cultural property or the approved cultural property projects. However, they shall check the conformity of the structure to be built with technical and health legislation.

The parcels of immovable cultural property to be protected cannot be divided and combined in a way to affect the cost of the immovable cultural property.

#### **Obligation of the owners to give permission:**

**Article 19** – The owners of immovable cultural and natural property shall be obliged to permit and facilitate the work of experts assigned by the Ministry of Culture and Tourism, when necessary, to inspect, examine, prepare the map, plan and survey, photograph and copy of the property. However, officials shall perform their tasks without violating private property and life.

#### **Transport of immovable cultural property:**

**Article 20** – Immovable cultural property and its components shall be conserved in-situ. However, if transporting the immovable cultural property to another location is mandatory or necessary due to its characteristics, the Ministry of Culture and Tourism can undertake the transport with the consent of the Regional Conservation Council by taking the necessary security measures. If the owner of the immovable property incurs damage because of the transport of the cultural property, compensation shall be determined by a commission formed by the Ministry of Culture and Tourism and paid to the aggrieved.

#### **Exceptions and exemptions:**

**Article 21 – (Amended: 17/06/1987 - 3386/8 art.)**

**(Repealed first paragraph: 14/07/2004-5226/27 art.)**

**(Repealed first paragraph: 14/07/2004-5226/27 art.)**

Immovable cultural property registered as “immovable cultural property to be protected” and classified as group I and

II and parcels of immovable cultural and natural property in archaeological sites and natural sites with absolute building prohibition shall be exempt from all kind of taxes, duties and levies.

On the condition that they be used for identification, projects, maintenance, repair, restoration, excavation and security in museums aimed at conserving cultural property all kind of tools, equipment, machinery, technical materials and chemical substances, gold and silver leaf to be imported by the Turkish Grand National Assembly, the Ministry of National Defence, the Ministry and the General Directorate for Foundations shall be exempt from all kind of taxes, duties and levies.

Repair and construction works concerning immovable cultural property undertaken in line with the decisions of the Regional Conservation Council shall be exempt from taxes, duties, levies and expenditure contribution collected according to the Municipal Revenues Law.

**(Additional paragraph: 14/07/2004-5226/27 art.)** Immovable cultural property registered as per this Law shall not be subject to the provisions of the Law on Building Inspection numbered 4708 and dated 29/06/2001.

**Article 22** – (Repealed: 17/06/1987 - 3386/18 art.)

### **CHAPTER THREE**

#### **Movable Cultural and Natural Property to be Protected**

##### **Movable cultural and natural property to be protected:**

**Article 23** – The following shall be movable cultural and natural property to be protected:

**a) (Amended: 17/06/1987 - 3386/9 art.)** All kind of cultural and natural property from geological periods, prehistory and recorded history, having documentary value in terms of geology, anthropology, prehistory, archaeology and art history reflecting the social, cultural, technical and scientific characteristics and level of the period they belong to.

All kind of animal and plant fossils, human skeletons, firestones (sleks), volcanic glass (obsidian), all kind of tools made of bones or metal, tiles, ceramics, similar pots and pans, statues, figurines, tablets, weapons to cut, for defence and assault, icons, glassware, ornaments (hülliyat), ring stones, earrings, needles, pegs, stamps, bracelets a.s., masks, crowns (diadems), leather, cloth, papyrus, parchment or documents inscribed or described on metal, balances, coins, stamped or inscribed tablets, handwritten manuscripts or books with tezhip (gilding), miniatures, embossing of artistic value, oil or water colour paintings, reliques (muhallefat), arms (nişan), medals, portable goods and their parts made of tiles, soil, glass, wood, textiles a.s.

Cultural property of ethnographic quality relating to science, religion and mechanical (mihaniki) arts including artefact tools and equipment reflecting the social mission of peoples.

Coins pertaining to the period of the Ottoman Sultans Abdülmecit, Abdülaziz, V. Murat, II. Abdülhamit, V. Mehmet Reşat and Vahdettin can be bought and sold domestically without being registered according to this Law.

Coins that do not fall under the scope of this article shall be subject to the general provisions of the Law.

**b)** Due to their importance for national history, documents and goods of historic value relating to the National Independence War period and the Foundation of the Republic of Turkey, personal belongings, documents, books, correspondences and similar movables of Mustafa Kemal ATATÜRK.

#### **Management and supervision:**

##### **Article 24 – (Amended: 17/06/1987 - 3386/10 art.)**

The State shall have the responsibility to ensure that movable cultural and natural property to be protected owned by the state (state property) is preserved by the state or in museums, is conserved and evaluated. The Ministry can buy such property from real and legal persons by paying for their cost.

Buying, selling and transfer of ethnographic cultural property specified in paragraph (a) of article 23 shall be free within the borders of the country. To which period the ethnographic antiquities free to be bought and sold belong and other features thereof, terms and conditions for their record and registration shall be specified in a **regulation**.

The Ministry, Ministry of National Defence or the Higher Institute for Atatürk, Culture, Language and History can purchase movable cultural property relating to the National Independence War period and the History of the Republic of Turkey and Ataturk.

However, museums affiliated to the Ministry or specialist staff available at some of the customs exit gates can check the transport of such antiquities out of the country. A regulation shall specify the border gates where such specialists shall be available.

Antiquities that are not allowed to be taken out of the country resulting from the control shall be identified and returned to the owner on the condition that they be evaluated in the country.

The State's right to preference shall be reserved regarding antiquities that can be bought and sold freely as specified in this article.

#### **Transfer to museums:**

**Article 25** – The Ministry of Culture and Tourism shall classify and register based on scientific principles movable cultural and natural property declared to the Ministry of Culture and Tourism according to article four and movable cultural and natural property to be protected as specified in article 23. Antiquities that need to be conserved in state museums shall be duly transferred to museums.

The criteria, procedures and principles for classification, registration and transfer to museums of movable cultural and natural property to be protected shall be specified in a **regulation**.

The historical features of all kind of weapons and materials concerning Turkish military history shall be surveyed, examined and evaluated by the General Staff at the location they are found or are reported to be found.

Antiquities excluded from the classification and registration and not needed to be placed in museums shall be returned with a document to their owners. The cultural property that has been returned with a document shall be at the discretion of their owner. Antiquities not taken back within one year by their owners can be kept at the museum or sold duly by the State.

#### **Museum, private museum and making collection:**

**Article 26** – The Ministry of Culture and Tourism shall have the mandate to build and develop museums of cultural and natural property falling under the scope of this Law.

Ministries, public institutions and organisations, real and legal persons and foundations can create collections of all kind of cultural property to develop their service or fulfil their purpose and establish museums, if they obtain permission from the Ministry of Culture and Tourism. However, the specialty and field of activity of museums to be established by real and legal persons and foundations, their declared interests shall be evaluated in their application and reflected in the permit to be issued by the Ministry of Culture and Tourism.

Museums to be established by real and legal persons can keep and exhibit movable cultural property provided that they remain within the field of activities recorded in the permit issued by the Ministry of Culture and Tourism. Museums that conserve movable cultural property shall have the status of state museums.

The aim of establishment, duties and management, supervision and control of the mentioned museums shall be specified in a **regulation**.

The General Staff shall have the authority to establish, revive, and identify the materials and field of activities of military state museums that are specialty and research museums. The duties, authorities, responsibilities and work of these museums shall be specified in a **regulation** to be jointly prepared by the Ministry of National Defence and the Ministry of Culture and Tourism.

Real and legal persons can create collections of movable cultural property to be protected by means of a permit issued by the Ministry of Culture and Tourism.

Collectors shall be obliged to report their activities to the Ministry of Culture and Tourism and record their movable cultural property in the inventory logbook according to the regulation.

Collectors can exchange and sell all kind of antiquities in their collection to each other by registering these in the

relevant museum on the condition that they inform the Ministry of Culture and Tourism fifteen days in advance. The Ministry of Culture and Tourism shall be given priority in buying these.

**\*\*related legislation:**

**1) regulation on collections of movable cultural and natural property to be protected and their inspection**

**2) regulation on private museums and their inspection**

**3) regulation on military museums**

**Trade of cultural property:**

**Article 27** – Movable cultural property left out of the scope of classification and registration as per article twenty-five and not deemed necessary to be kept in state museums can be traded with a permit to be provided by the Ministry of Culture and Tourism.

Persons who want to engage in this trade shall be obliged to obtain a license from the Ministry of Culture and Tourism. These licenses shall be valid for three years. The license can be extended one month before its expiry. The licenses of persons acting in contradiction with the provisions of this Law shall be cancelled regardless of their duration.

**(\*\*\*related legislation: regulation on the trade of movable cultural property and the inspection of offices and storage areas used for this trade)**

**Prohibition to declare the residence as office:**

**Article 28** – Persons engaged in the trade of cultural property shall declare a place for their trade activities. However, they cannot declare their residence as office or storage area.

**Inspection of offices and storage areas:**

**Article 29** – Officials from the Ministry of Culture and Tourism shall inspect the offices and storage areas of persons trading with cultural property in line with principles set forth in a regulation.

**Obligation to inform:**

**Article 30** – Public institutions and organisations, (including municipalities and special provincial administrations), foundations, real and legal persons shall be obliged to, first of all, inform and show state museums movable cultural and natural property and collections that are commodities and estate for sale or objects for sale at an auction. The Ministry of Culture and Tourism can buy collections of cultural and natural property over the value appraised by a commission it shall establish. Among these, those that have been referred to the treasury and need to be included in the museum collection shall be transferred to the Ministry of Culture and Tourism according to the provisions of the Regulation on Official Goods.

Public institutions and organisations, foundations, real and legal persons mentioned above shall be obliged to inform and show the General Staff cultural property relating to our military history, weapons and collection of military materials that are for sale and among their estate or for sale at an auction. Among these, those that have been

referred to the treasury and need to be included in the military museum collections shall be transferred to the Ministry of National Defence according to the provisions of the Regulation on Official Goods.

**Article 31 – (Repealed: 17/06/1987 - 3386/18 art.)**

**Prohibition to take abroad:**

**Article 32** – Movable cultural and natural property to be protected in the country cannot be taken abroad. However, on the condition that, foreign officials provide guarantee and insurance against the possibility of all kinds of damage, loss, threat or violations, and in respect of national interests, the Council of Ministers shall make decision on a temporary exhibition abroad and the return of the property following the decision of the scientific council composed of the heads of archaeology and art history departments of higher education institutions and the proposal of the Ministry of Culture and Tourism.

Members of the diplomatic corps in Turkey can take abroad cultural property of foreign origin they brought with them, which was declared upon entry into the country.

The principles for transporting cultural and natural property for temporary exhibition abroad, procedures to apply at the entry and exit of property that is brought by the diplomatic corps to Turkey, documents requested and all other relating issues shall be specified in a **regulation** to be jointly prepared by the Ministry of Culture and Tourism, the Ministry of National Defence and the Ministry of Foreign Affairs.

**Bringing property into the country:**

**Article 33** – Cultural property can be freely brought into the country.

**Copying:**

**Article 34** – The Ministry of Culture and Tourism shall have the authority to permit photographing and filming, making the impression and copy of movable and immovable cultural property at archaeological sites and museums affiliated to the Ministry of Culture and Tourism for the purposes of education, training, scientific research and promotion.

The principles thereof shall be specified in a **regulation**.

**CHAPTER FOUR**

**Survey, Sounding, Excavation and Treasure Hunting**

**Permit to survey, sound and excavate**

**Article 35** – The Ministry of Culture and Tourism shall have the exclusive right to survey, sound and excavate with the view of recovering movable and immovable cultural and natural property subject to the provisions of this law. Permit to survey shall be given by the Ministry of Culture and Tourism to Turkish and foreign teams and organisations whose scientific and financial capacity has been appraised and approved by the Ministry. Permit to survey and excavate shall

be given by the Council of Ministers upon proposal of the Ministry of Culture and Tourism. Survey, sounding and excavation undertaken by Ministry of Culture and Tourism officials or Turkish scientists assigned by the Ministry shall be bound to a permit by the Ministry of Culture and Tourism. A license for survey, sounding and excavation in restricted military zones shall be issued in the name of the experts that have been notified by the above mentioned teams and organisations upon permission of the General Staff. Unless a justification is provided to the Ministry of Culture and Tourism, the teams and organisations cannot change the names on this license.

The Ministry of Culture and Tourism shall determine regions underwater with a cultural and natural property to be protected with the cooperation of the relevant institutions and organisations and publish these via a Council of Ministers decision. In these regions, sports diving shall be prohibited and excavation and sounding shall be allowed provided that a permit be obtained according to the provisions of article two.

**(\*\*related legislation:regulation on survey, sounding and excavation of cultural and natural property)**

**Excavation on private property:**

**Article 36** – Survey, sounding, excavation to be undertaken by the owners of immovable cultural property on their own property with the aim of looking for cultural property shall be subject to the provisions of article 35 and 41 of this Law.

**Procedure concerning the permit for excavation:**

**Article 37** – An excavation team or person cannot receive permits to excavate and sound at more than one location at the same time except for recovery excavations undertaken by the Ministry of Culture and Tourism. Permission, survey, sounding, excavation, terms and conditions of the preservation of cultural and natural property found, other rights concerning these findings to be granted to surveyors, sounders and excavators shall be specified in a regulation.

**Non-transferable permit for excavation:**

**Article 38** – The license of excavation and sounding issued to Turkish and foreign scientific institutions or persons acting on the behalf of such and the permit of survey cannot be transferred without the consent of the Ministry of Culture and Tourism. These tasks cannot be delegated to other persons.

**Invalidity of permits for survey, sounding and excavation:**

**Article 39** – If works are not commissioned within at the latest six months as of the date of issuing the license, the permits and licenses of survey, excavation and sounding shall be rendered null and void, unless a justification is presented to and accepted by the Ministry of Culture and Tourism. Survey, sounding and excavation works cannot be suspended for more than two months without justification. The permit and license of persons who exceed this period shall be deemed cancelled. Moreover, the permit and license of persons contradicting with the provisions of this Law shall be cancelled and not reissued.

**Duration of the permit for survey, sounding and excavation:**

**Article 40** – The license of excavation and sounding and the permit for survey shall be valid for one year.

Provided that at expiry of the license and permit the director of the excavation notifies in writing that excavation, sounding and survey works will continue, these rights shall be reserved for the next years on the condition that the applicant submit an application every year.

**Transport of excavated antiquities to museums:**

**Article 41** – Allmovable cultural and natural property that has been excavated shall be transported by the excavation team or institution to a state museum to be determined by the Ministry of Culture and Tourism at the end of the excavation year. Human and animal skeletons and all fossils discovered during excavations and sounding can be given to natural history museums, universities or other Turkish scientific institutions, if deemed appropriate by the Ministry of Culture and Tourism. Moreover, all kinds of movable cultural property relating to military history discovered during excavation works and sounding shall be transferred to military museums by the Ministry of Culture and Tourism with the consent of the General Staff.

**Obligation to compensate for damage:**

**Article 42** – If persons with a permit to excavate and sound undertake these works on private property, they shall be obliged to compensate the property owners for damage that occurs during the excavation, sounding and survey. Property owners shall be obliged to allow excavation, sounding or survey in return for a compensation, the amount of which shall be appraised by a commission to be formed by the Ministry of Culture and Tourism.

Such areas can be expropriated by the Ministry of Culture and Tourism, in case of necessity. If the excavation is undertaken by foreign scientific organisations, the excavation director shall pay the cost of expropriation. For the appraisal of the cost of expropriation of the areas to be registered in the name of the Treasury, general expropriation provisions shall apply. For the appraisal of the compensation and the cost of expropriation as per this article, the age, uniqueness and artistic value of the existing cultural and natural property determined before the excavation, sounding and survey activities take place and the value of the cultural property that will be determined as a result of these activities shall not be taken into account.

**Right to publication:**

**Article 43** – According to the provisions of the Law on Intellectual and Artistic Works numbered 5846 persons actually managing the excavation, sounding and survey on behalf of teams and institutions that received permit for excavation, sounding and survey shall have the right to publicize the property discovered during the excavation, sounding and survey works. The directors of excavation shall be obliged to submit a scientific report to the Ministry of Culture and Tourism at the end of each excavation period. If the excavation teams do not publish scientific reports concerning the excavation periods at the latest within two years and the final scientific reports within five years' time as of the end of excavations, all kinds of publication rights regarding cultural and natural property discovered during the excavation, sounding and survey shall pass over to the Ministry of Culture and Tourism.

Scientific reports on the excavation, sounding and survey conducted on behalf of the Ministry of Culture and

Tourism shall be prepared for publication by the directorship of excavation. The Ministry of Culture and Tourism shall publish reports it deems necessary.

Teams and persons not having their final reports published within the above-specified period except for excuses accepted by the Ministry of Culture and Tourism shall not be given any license for a new excavation.

**Expenses:**

**Article 44** – Wages and expenses relating to guards to be recruited temporarily to protect the excavation, sounding and survey site and the cultural property found during the survey, sounding and excavation, the expenses concerning the reassembling of the site, compensation for potential damage to arise during the excavation etc. expenses shall be paid through the money deposited to the revenues authority collected from the excavation directors according to a regulation, at the time the Ministry of Culture and Tourism issues the license or extends the period money deposited to the revenues authority. If the Ministry of Culture and Tourism provides funds, provisions for these expenses do not have to be deposited with the revenues authority.

**Conservation and landscaping:**

**Article 45** – Maintenance, repair and landscaping of immovable cultural and natural property found during excavations that have been permitted by the Ministry of Culture and Tourism and maintenance and repair of movable cultural and natural property shall be undertaken by the directorship of excavation.

**Temporary and permanent suspension of survey, excavation and sounding:**

**Article 46** – Survey, excavation and sounding in contradiction with the provisions of this Law shall be suspended on a temporary or permanent basis by the Ministry of Culture and Tourism.

**Transfer of facilities:**

**Article 47** – Storage areas, lodgings and similar facilities and materials acquired on various occasions or built to commence works or during ongoing works by persons carrying out the excavation, sounding and survey works on behalf of the team and institutions shall be transferred to the Ministry of Culture and Tourism free of charge. The Ministry of Culture and Tourism shall determine the purpose of use of these facilities.

**Assignment to work in the survey, excavation and sounding:**

**Article 48** – One or more expert representatives from the General Directorate for Cultural Heritage and Museums affiliated to the Ministry of Culture and Tourism shall be present at the survey, excavation and sounding undertaken by foreign teams and institutions. An authorized expert shall participate in the survey, excavation and sounding works undertaken by Turkish teams and institutions on behalf of the Ministry of Culture and Tourism. The selection procedure and duties of the representative and experts shall be specified in a regulation.

The Ministry of Culture and Tourism shall cover the travel expenses, per diems and exigencies of representatives of the Ministry at excavations of Turkish teams and institutions according to the provisions of Allowance Law

numbered 6245.

Travel expenses, per diems, representation allowance and underwater diving expenses of representatives of the Ministry of Culture and Tourism to be assigned to work in the survey, excavation and sounding undertaken by foreign institutions and teams shall be collected in advance by the Ministry of Culture and Tourism from the excavation directorship and deposited to a state bank. The amount of the representation allowance shall be determined every year by the Ministry of Culture and Tourism.

**Prohibition of survey, excavation and sounding:**

**Article 49** – Members of embassies and consulates in Turkey shall not be given permission to survey, excavate and sound.

**Treasure hunting:**

**Article 50** – The Ministry of Culture and Tourism can issue to interested persons a license to hunt for treasures except in areas defined as immovable cultural and natural property to be protected according to article 6 of this Law, and identified and registered as conservation sites and graveyards.

Persons interested in treasure hunting shall not be given permission to survey in more than one area at the same time. The permit to treasure hunt cannot be transferred. This task cannot be delegated to other persons.

The hunter shall pay for the travel expenses, per diems and exigencies of persons sent to the area as representatives of the Ministry of Culture and Tourism and other public institutions and organisations. The necessary funds shall be collected in advance by the Ministry from the treasure hunter and deposited to a State bank.

Issuing the survey license, documents to be requested by the treasure hunter, surveying, rights for the hunter relating to the excavated treasure shall be specified in a **regulation** jointly prepared by the Ministry of Culture and Tourism and the Ministry of Finance.

**CHAPTER FIVE**

**Superior Council for Conservation of Cultural and Natural Property and Regional Conservation Councils**

**Establishment, duties, authority and work:**

**Article 51 – (Amended: 17/06/1987 - 3386/11 art.)**

A "Superior Council for the Conservation of Cultural and Natural Property" affiliated to the Ministry of Culture and Tourism and "Regional Councils for the Conservation of Cultural and Natural Property" determined by the Ministry shall be established to conduct the services regarding immovable cultural and natural property to be protected in the country and under the scope of this Law scientifically.

The following shall be the **duties and powers of the Superior Council for Conservation of Cultural and Natural Property:**

- a)** To determine the principles to apply for the conservation and restoration regarding immovable cultural and natural property to be protected,
- b)** To ensure the coordination among Regional Conservation Councils,
- c)** To assist the Ministry by evaluating the general problems encountered in practice and presenting an opinion.

The Superior Council for Conservation shall meet at least twice a year. The Ministry shall summon the Council to an extraordinary session, in case of necessity.

The Superior Council for Conservation shall convene by absolute majority and decide with at least three fourth of the votes of the members present at the meeting.

Procedures, principles and other issues relating to the work of the Superior Council for Conservation shall be specified in **regulation**.

**Article 52 – (Repealed: 17/06/1987 - 3386/18 art.)**

**Membership to the Superior Council for Conservation:**

**Article 53 – (Amended: 17/06/1987 - 3386/12 art.)**

The members of the Superior Council for the Conservation of Cultural and Natural Property shall be:

- (1)** Undersecretary of the Ministry,
- (2)** Deputy Undersecretary of the Prime Ministry,
- (3)** The related Deputy Undersecretary of the Ministry,
- (4)** Director General for Cultural Heritage and Museums,
- (5)** Director General for Tourism,
- (6)** The related Director General or Deputy Director General from the Ministry of Public Works and Settlement,
- (7)** Director General or Deputy Director General for Forestry,
- (8)** Director General or Deputy Director General for Foundations,
- (9)** Six chairpersons of Regional Conservation Councils to be selected by the Ministry.
- (10) (Addition: 26/05/2004-5177/27 art.)** General Director or Deputy Director General for Mineral Works,
- (11) (Addition: 26/05/2004-5177/27 art.)** General Director or Deputy Director General for Nature Protection

and National Parks.

The chairperson of the Superior Council for Conservation shall be the Undersecretary of the Ministry.

In the absence of the undersecretary, the deputy undersecretary shall chair the Council.

**Qualifications of representative members**

**Article 54** – Representative members of the Superior Council for Conservation shall be the graduates of the higher education, recognised for one or more of the disciplines specified in Article 53, undertaken studies in these disciplines, preferably with published works nationally or internationally.

**End and duration of membership to the Superior Council for Conservation and Regional Conservation Council and the right to attendance fee (honorarium)**

**Article 55 – (Amended: 14/07/2004 - 5226/10 art.)**

The Membership of members from the institutions to the Superior Council for Conservation and Regional Conservation Council shall continue until the end of their function in their respective institutions.

**(Amended: 04/02/2009 - 5835/2 art.)** The tenure of the members of Regional Conservation Councils, who are selected by the Ministry and Higher Education Council, is three years.

Members of the Superior Council for Conservation and Regional Conservation Councils cannot be a direct or indirect party to a matter falling under their mandate and power and, on no account, pursue any interest. The Ministry shall terminate the membership of those contradicting this provision.

**(Amended: 04/02/2009 - 5835/2 art.)** Attendance remuneration to be found multiplying the monthly salary co-efficient for the civil servants by the indicator number (5000) is paid to the members of Superior Council for Conservation as well as to those members of the Regional Conservation Councils who are selected by the Ministry and Higher Education Council for each meeting provided that payment is limited to maximum six meetings per month; similarly, attendance remuneration to be found multiplying the monthly salary co-efficient for the civil servants by the indicator number (2000) is paid to the members of the Regional Conservation Councils, who are the representatives of the relevant institutions, for each meeting provided that payment is limited to maximum six meetings per month.

The membership to Regional Conservation Councils of members that do not attend four or two consecutive meetings in one year irrespective of the reason except for annual leave, illness and other legitimate excuse shall be terminated.

**Article 56 – (Repealed: 17/06/1987 - 3386/18 art.)**

**Duties, powers and work of Regional Conservation Councils:**

**Article 57 – (Amended: 17/06/1987 - 3386/14 art.)**

Regional Conservation Councils shall have the following duties and powers bound to the resolutions of the Superior Council for Conservation:

- a) To register cultural and natural property to be protected as determined by the Ministry,
- b) To group cultural and natural property to be protected,
- c) To identify terms and condition for building in the transition period within three months after the registration of conservation sites,
- d) To examine and decide conservation plans and all kind of related alterations,
- e) To determine the conservation site of immovable cultural and natural property to be protected,
- f) To delete records of cultural and natural property to be protected that have lost their specific characteristics,
- g) To make decisions on implementation relating to immovable cultural and natural property to be protected and conservation sites. (1)

**(Additional paragraph: 04/02/2009 - 5835/3 art.)** The Regional Conservation Councils for Preservation of the Cultural and Natural Properties which are set up as per Law No 5366 to approve any renovation projects in the renovation zones declared pursuant to Law No 5366 of 16/6/2005 On Preservation by Renovation and Utilization by Revitalizing of Deteriorated Immovable Historical and Cultural Properties Law, have the task and authorization to carry out the works which are specified by this article.

**(Amended paragraph: 14/07/2004 - 5226/11 art.)** The Council shall elect the chairperson and deputies of the Regional Conservation Council from among their members. In the absence of the chairperson, the deputy shall chair the Council.

**(Amended paragraph: 14/07/2004 - 5226/11 art.)** Regional Conservation Councils shall convene by absolute majority of the members that have to attend and decide by absolute majority of the members that attend the meeting. However, the quorum cannot be less than the absolute majority of the number of members elected by the Ministry and Higher Education Council. The decisions shall be recorded together with their scientific rationales and grounds related to this Law and resolutions.

**(Amended paragraph: 04/02/2009 - 5835/3 art.)** The technical and administrative services of the Regional Conservation Councils are carried out by the directorships of Regional Conservation Councils. The Coordination

Directorship for the Regional Conservation Councils is set up to provide coordination over the technical and administrative works between the councils in the provinces where there are more than three Regional Conservation Councils. The directorships of Regional Conservation Council operate under the Coordination Directorship for the Conservation Regional Councils.

**(Additional paragraph: 14/07/2004 - 5226/11 art.)**The Regional Conservation Council shall decide conservation plans within at the latest six months and implementation projects within at the latest three months as of the date of presentation of complete documents to the Regional Conservation Council.

**(Additional paragraph: 14/07/2004 - 5226/11 art.)**Restoration and repair relating to immovable cultural and natural property and their conservation sites not licensed according to article 21 of the Land Development Law numbered 3194 shall be undertaken consistent with its unique shapes and materials with the permission and under the supervision of the administrations that have established in-house conservation, implementation and inspection offices. All other construction and physical interventions have to be permitted by the Regional Conservation Council.

**(Additional paragraph: 14/07/2004 - 5226/11 art.)**However, for conservation sites the conservation plan of which has been approved, construction and physical intervention in parcels other than immovable cultural and natural property parcels shall be subject to the permission and supervision of administrations that have in-house conservation, implementation and inspection offices in line with the provisions regarding conservation plans.

**(Additional paragraph: 14/07/2004 - 5226/11 art.)**Restoration and repair of cultural property owned by registered foundations or annexed foundations administered and supervised by the General Directorate for Foundations that are not covered by the license as per article 21 of the Land Development Law numbered 3194 shall be undertaken by the General Directorate for Foundations in compliance with their unique shapes and materials.

**(Additional paragraph: 14/07/2004 - 5226/11 art.)** Reports and documents pertaining to pre- and post repair and restoration works of immovable cultural and natural property and their conservation sites shall be submitted to the relevant Regional Conservation Council directorships by the administrations involved and the General Directorate for Foundations.

**(Additional paragraph: 14/07/2004 - 5226/11 art.)** Matters regarding the implementation of this article shall be determined in a regulation to be issued by the Ministry.

**(\*\*relating legislation:**

**1) regulation on the establishment, permit, working procedures and principles of conservation, implementation and inspection offices, project offices and education and training units**

**2) regulation on objections to the Superior Council for Conservation and the works of the Superior Council for Conservation of Cultural and Natural Property and Regional Conservation Councils)**

**The constitution of Regional Conservation Councils:**

**Article 58** – (Amended: 17/06/1987 - 3386/15 art.)

**The members of Regional Conservation Councils shall be:**

- a)** five persons to be elected by the Ministry that are specialized in archaeology, art history, law, architecture and city planning, (1)
- b)** two academicians not from the same discipline to be elected by the Higher Education Council from science disciplines such as archaeology, art history, architecture, urbanisation of the relevant institutions,
- c)** If the subject of negotiation is within municipal borders, the mayor or his/her technical representative, if it is outside municipal borders a technical representative to be appointed by the governorship,
- d)** If the subject of negotiation is related to the Ministry of Public Works and Settlement, a technical representative from the Directorate of Public Works and Settlement,
- e)** If the subject of negotiation is related to the General Directorate for Foundations, the regional director for foundations or his/her technical representative,
- f)** If the subject of negotiation is related to the Ministry of Environment and Forestry, the relevant technical representative.
- g)** (Addition: 14/07/2004 – 5226/12 art.) If the issue is related to the museum directorship, the relevant museum director.

The Council can consult an expert who shall not have any right to vote.

**(Additional paragraph: 14/07/2004 – 5226/12 art.)** The relevant professional organisations can attend the regional conservation council meetings as observers.

**Article 59 – 60 – (Repealed: 17/06/1987 - 3386/18 art.)**

**Obligation to comply with the decisions**

**Article 61 – (Repealed: 17/06/1987 - 3386/18 art.; new regulation: 14/07/2004 – 5226/13 art.)**

Public institutions and organisations, municipalities, real and legal persons shall be obliged to comply with the decisions of the Superior Council for Conservation and Regional Conservation Councils.

The decisions of the Superior Council for Conservation shall be published in the Official Gazette.

Public institutions and organisations, governorships and municipalities with planning authorities and powers can object within sixty days to the past and future decisions of the Superior Council for Conservation regarding the conservation site, its grading, principles of conservation and terms and conditions of use to apply during the transition period of the conservation site, conservation plans and their revision.

These objections shall be considered by the Superior Council for Conservation and decided within at the latest six months. Procedures and principles regarding objections to be made to the Superior Council for Conservation shall be specified in a **regulation** to be issued by the Ministry.

#### **Travel expenses and per diems of Council Members:**

**Article 62** – The travel expenses and per diems of habitual members of the Superior Council for Conservation and Regional Councils for Conservation that are subject to general allowance provisions and travel outside their area of official service for the council meetings shall be covered by the institutions they work for and that of the other members by the Ministry of Culture and Tourism.

#### **Council regulation:**

**Article 63** – Duties, powers and responsibilities of the Superior Council and Regional Council and their relation with the Ministry of Culture and Tourism shall be specified in a **regulation**.

## **CHAPTER SIX**

### **Prizes and Penalties**

#### **Prizes to persons finding cultural property:**

**Article 64** – For persons that report movable cultural property found on the ground, under the ground and under the water within the borders of the Republic of Turkey to the competent authorities within the periods mentioned in article 4 the following shall apply:

- a)** If the find is on their property, article 24 and 25 of this Law shall apply. No additional bonus shall be given.
- b)** If the find is on the property of a person, 80% of the amount estimated by the Ministry of Culture and Tourism as the value of the property shall be divided equally as bonus between the person finding the property and the owner of the property.
- c)** If the cultural property is found on land owned by the state, 40 % of the appraised value shall be given to the finder as bonus.
- d)** Irrespective of where it is found, if the reported cultural property does not have characteristics requiring protection, persons that report it shall be processed according to article 25 of this Law. No additional bonus shall be given.
- e)** Irrespective of where it is found, persons reporting newly found cultural property that has not been declared until

the deadlines in article 4 and public officials intercepting such property shall receive a bonus the value of which shall be determined over the rates indicated for movable goods according to the "Law on Bonuses to be Given to Persons Reporting Concealed Movable and Immovable Properties and their Usufruct Rights and Permanent Taxes" numbered 1905.

**f)** If more than one person finds, reports or intercepts cultural property according to one of the above paragraphs the bonus shall be divided equally between them.

**g)** Issues related to the accrual and payment of the above bonuses shall be specified in a **regulation** to be prepared jointly by the Ministry of Finance and the Ministry of Culture and Tourism.

#### **Penalties:**

##### **Article 65 –(Amended: 23/01/2008 - 5728 /408 art.)**

**a)** Persons who demolish, degrade, destroy, make disappear or, in any manner, damage immovable cultural and natural property to be protected or give rise to such acts by intent shall be punished with a prison sentence of two to five years and judicial fine up to five thousand days.

If such acts are committed with the intent of smuggling cultural and natural property to be protected out of the country the above penalties shall be increased one fold.

**b)** Persons undertaking unlicensed construction and physical intervention in conservation sites contrary to the principles of conservation and terms and conditions of use pertinent to the transition period, conservation plans and prerequisites envisaged for the conservation sites identified by Regional Conservation Councils or persons soliciting such acts shall be punished a prison sentence of two to five years and judicial fine up to five thousand days.

**c)** Persons allowing demolition or development irregularities not in line with the procedures covered in this Law shall be punished with a prison sentence of two to five years and judicial fine up to five thousand days.

**d)** Persons who undertake repair and restoration works without the permission or contrary to the permission of the administration that has conservation, implementation and inspection offices according to paragraph six and seven of article 57 of this Law or who undertake construction work and physically intervene without permission or who solicit such acts shall be punished with a prison sentence of six months to three years and judicial fine.

#### **Irregularities in documents, declarations and notifications:**

**Article 66 – (Amended: 23/01/2008 - 5728 /409 art.)** Persons who issue documents in contradiction with the prohibitions as per article 16 of this Law, shall be punished with a prison sentence from one to three years and judicial fine, if other laws do not foresee heavier penalties for this crime. Persons who intentionally do not declare and notify duly by the deadline as per article 7 of this Law shall be punished with a prison sentence of three months to one year and judicial fine.

**Contradiction with the obligation to report and the prohibition to trade cultural property**

**Article 67 – (Amended: 23/01/2008 - 5728 /410 art.)** Persons who contradict with the obligation to report about the cultural and natural properties intentionally and without excuse shall be punished with a prison sentence of six months to three years.

Persons who tender, sell, offer, buy, accept the cultural and natural properties which haven't been reported shall be punished with a prison sentence of two to five years and judicial fine up to five thousand days. However, in this case penalties will not be subjected for the crime defined in the first paragraph.

Persons who trade the movable cultural properties which trade hasn't been prohibited without permission shall be punished with a prison sentence of six months to three years.

**Contradiction with the prohibition to take abroad:**

**Article 68 – (Amended: 23/01/2008 - 5728 /411 art.)** Persons who take abroad the cultural and natural properties contradictory to this Law shall be punished with a prison sentence of five to twelve years and judicial fine up to five thousand days.

**Opposition to examination and control:**

**Article 69 – (Amended: 23/01/2008 - 5728 /412 art.)** Persons opposing examinations and controls as per article 29 of this Law and who contradict with the transport procedures as per article 41 of this Law shall be punished with a prison sentence of six months to one year and judicial fine.

**Private ownership:**

**Article 70 – (Amended: 23/01/2008 - 5728 /413 art.)** Persons who act against article 24 of this Law shall be punished with a prison sentence of one to three years and judicial fine up to three thousand days.

**Contradiction with provisions on excavation, sounding and survey:**

**Article 71 – (Amended: 23/01/2008 - 5728 /414 art.)** Persons who contradict with articles 38, 42 and 43 of this Law shall be punished with judicial fine not less than hundred days.

**Decisions relating to public staff:**

**Article 72 –** Works and proceedings related to public staff tasked with the implementation of this Law and all kind of decisions relating to them and objection to decisions relating to them shall be investigated and decided on priority basis.

**Contradiction with provisions relating to private museums and collectors:**

**Article 73 – (Amended: 23/01/2008 - 5728 /415 art.)** Persons who contradict with articles 26 and 30 of this Law shall be punished with a prison sentence of three months to one year and judicial fine, if this crime does not require a heavier penalty.

**Unlicensed survey, excavation and sounding:**

**Article 74 – (Amended: 23/01/2008 - 5728 /416 art.)** Persons who sound and excavate in order to find cultural

properties without a license shall be punished with a prison sentence of two to five years. However, if the excavation or sounding location is not a preservation site or any other area to be protected according to this Law, one third of the penalty will be reduced.

Persons who hunt for treasures without permission shall be punished with a prison sentence of three months to two years. However, if these acts are committed with the aim of smuggling cultural properties out of the country or by the persons who have the duty to protect the cultural properties, the penalty will be increased up to two fold.

In case the person delivers the cultural property found by committing the crimes defined in this article to the local civil authority before the investigation starts, the court might reduce the penalty to two-thirds.

In case the person who hunts for treasures without license, explains the names of individuals who drive him to commit such a crime by ensuring the necessary equipments and makes them caught until the prosecution starts, the court might not only reduce the penalty, but also decide not to give any penalties.

#### **Confiscation and delivery to the museum:**

**Article 75 – (Amended: 23/01/2008 - 5728 /417 art.)**The movable cultural and natural properties confiscated because of the crimes according to this Law, will be delivered to museums.

### **CHAPTER SEVEN**

#### **Other provisions**

#### **Repealed laws:**

**Article 76** – The “Law on the Expropriation of Antiquities and Historic Monuments Owned By Private Persons” dated 28/02/1960 and numbered 7463, “Law on Antiquities” dated 25/04/1973 and numbered 1710, “Law on the Establishment and Duties of the Superior Council for Immovable Antiquities and Monuments” dated 02/07/1951 and numbered 5805, “Law Amending the Law on the Establishment and Duties of the Superior Council for Immovable Antiquities and Monuments dated July 2nd,1951 and numbered 5805” dated 18/06/1973 and numbered 1741 have been repealed.

**Additional article 1** – (is a provision of the article added through article 16 of Law numbered 3386 dated 17/06/1987 and has been numbered for sequencing purposes. Amended: 14/07/2004 – 5226/17 art.)

The term “Conservation Council” used in this Law has been changed as “Regional Conservation Council”.

Site management, museum management and Monument Council.

#### **Additional article 2 – (Additional paragraph: 14/07/2004 – 5226/17 art.)**

For management sites and site management, for national museums a museum management and for monuments a Monument Council shall be established.

**a)** If more than one municipality is involved, the relevant municipalities under the coordination of the metropolitan municipality, if only one municipality is involved, the said municipality, in all other areas the Ministry shall prepare a draft management plan or have it prepared with the view of protecting, evaluating and developing management sites

and their junction points in urban areas.

An advisory board shall be formed composed of persons with the right to property, professional chambers, non governmental organisations and representatives of the related departments of universities to put forward proposals on the draft plan to be decided and implemented.

The municipality responsible for the urban conservation site, in other areas the Ministry shall appoint a site manager to coordinate efforts. Persons, who are site managers shall receive payment from the Central Directorate of the Revolving Funds of the Ministry of Culture and Tourism exempt from any taxes except for the stamp tax at the beginning of each month following work, the amount of which shall be determined by the Minister but which shall not exceed the amount calculated by multiplying the monthly coefficient for state officials (20000) with the indicative number.

A coordination and audit board shall be established composed of one representative of each administration the services of which are needed for the draft management plan and two members to be elected by the advisory board. The site manager shall be at the same time the chairperson of this board. The board shall be authorized to examine and approve by consensus this draft within six months and audit its implementation.

An audit unit can be established made of expert staff from the relevant institutions and inspection staff with the aim of performing the audit function of the board. This unit shall be authorized to request any type of information and document necessary for the management plan and its implementation from public institutions and organisations and third persons.

Public institutions and organisations, municipalities and real and legal persons shall be obliged to follow the management plan approved by the coordination and audit board and the relevant administrations shall be obliged to prioritise services envisaged in the plan and allocate the needed funds from their budget to this end.

**b)** For national museums determined by the Ministry, a museum management shall be established made up of the museum chairperson, the museum director affiliated to him/her, the operations director and museum board. **In museums,** the director of the museum shall be in charge of records, registration, inventory, and storage, all kind of maintenance and repair of exhibits, exhibitions and protection, cultural, educational and scientific activities. The operations director shall be in charge of promotion, sales unit management, event organisation, management of visitors, landscaping, maintenance, repair and housekeeping.

The chairperson of the museum shall be authorized to coordinate and audit the museum directorships and represent the museum at national and international level.

The Ministry shall appoint a chairperson of the museum from among persons with an education in archaeology, art history, anthropology, ethnology, economics, business administration, public administration **to perform the function of chairperson of the museum.**

Every museum shall form an exclusive museum board. The museum board members shall be academicians from the related departments of local universities, professional chambers, non-governmental organisations, local administration and sponsors of the museum approved by the Ministry. The museum board shall elect a chairperson from its members.

Guided by the opinion of the museum board, an annual and five-yearly conservation and development project entailing spatial and physical development, thematic development and vision, conservation and development of collections, promotion and exhibition shall be prepared. The museum board shall be authorized to supervise the implementation of the conservation and development project, to promote the museum, to collect donations for the museum, to extend honorary friend of museum awards. The museum board shall draft reports on museum activities and operations each year. The Ministry shall be obliged to take note of these reports.

**c)** A monument specific board shall be established for monuments that qualify as immovable cultural property. Board members shall be academicians from the related departments of local universities, professional chambers, civil society organisations, local administrations and persons who donate money to conserve and develop the monument subject to approved by the Ministry and the administration that has discretionary powers with regards the monument. The representative of the relevant administration shall chair the board.

The board shall draft an annual and five-yearly conservation and development project entailing spatial and physical development, thematic development and vision, conservation and development of collections, promotion and exhibition of the monument. The monument board shall implement the conservation and development project, promote the monument, collect donations for the monument, and extend honorary awards. The board shall prepare annual reports on the conservation, revitalization and development of the monument. The relevant administrations shall be obliged to take note of these reports.

Procedures and principles related to the implementation of this article shall be specified in a regulation to be prepared by the Ministry.

**Additional article 3 – (Additional paragraph: 14/07/2004 – 5226/17 art.)**

The provisions of paragraph (a) of additional article 2 shall not apply for areas falling under the scope of the Decree to the Effect of Law on the Establishment of the Environmental Protection Agency for Special Areas numbered 383, Law on National Parks numbered 2873, Law on Hunting on Land numbered 4915, Law on the Historic National Park of Gelibolu Peninsula numbered 4533.

**Provisional Article 1** – Owners of immovable cultural property pertaining to the period until the end of the 19th century can request from the Ministry to document that this property need not be protected during the identification and registration proceedings according to article 7 of this Law. The Ministry of Culture and Tourism shall task experts with examining these applications entailing information as per the regulation of the Ministry of Culture and Tourism and submit these to the Superior Council in at the latest three months. The Superior Council shall examine the issue and

decide on it at the latest in six months.

**Provisional Article 2** – Real and legal persons, collectors can sell movable cultural and natural property to be protected that they own to state museums according to article 24 and 25 within three months as of enforcement of the regulation to be issued according to this Law without having to declare the origin, or benefit from the provisions of article 24 of the Law on the condition they record the property in the inventory logbook and present it to the nearest museum for approval.

**Provisional Article 3 – (Amended: 14/07/2004 - 5226/16 art.)**

As of the enforcement of this Law, Conservation Councils for Cultural and Natural Property shall become Regional Councils for the Conservation of Cultural and Natural Property, and the Regional Council Chief Offices for the Conservation of Cultural and Natural Property shall become Regional Council for Conservation Directorships. Regulations referred to in the Law shall be issued within one year as of the publication of the Law. Until the regulations are drafted, the provisions of the current regulations that do not contradict with this Law shall apply.

**Provisional Article 4 – (Repealed: 17/06/1987 - 3386/18 art.)**

**Provisional Article 5** – Regulations referred to in the Law shall be prepared and enforced at the latest within six months as of the publication of the Law.

These regulations shall be published in the Official Gazette.

**Provisional Article 6** – Until the General Cadre Law is passed, the cadre sheet of Regional Councils attached to this Law shall apply.

**Provisional Article 7 - (Additional paragraph: 22/05/2007 - 5663/2 art.)**The provision of the first sub-clause of Article 11 of this Law is also applicable for demarcation and determination works of any immovable property for which cadastre registration is under way as well as any pending legal action in connection therewith. The minutes of cadastre for those immovable properties for which demarcation and determination works have not yet been subject to public notice are rendered compliant with the first sub-clause of Article 11 of this Law by ensuring that they are forwarded to the cadastre commission. In the event that the persons or inheritors designated as the owners of possession or titles by the cadastre minutes for the immovable properties located on preservation sites except 1st and 2nd degree archeological sites, determined and registered in the name of the Treasury although the possession conditions occurred, as a result of the cadastre works carried out since 27/7/2004, apply to the local financial organisations within 1 year from the date of the promulgation of this Law, their registration is made in the name of the relevant parties upon an application by the financial organisation without subject to any charges ex officio.

**Provisional Article 8 – (Additional paragraph: 04/02/2009 - 5835/4 art.)** Any immovable cultural assets acquired by the collectors through whatsoever methods before 11/3/2005, which are registered in the inventory books of the museum they are affiliated with, may in no way traded and sold by the collectors. However, as far as such

immovable cultural assets are concerned, the Ministry of Culture and Tourism reserves the right to acquire at no cost any parts thereof which are found as complementary to the artifacts in the museums and archeological sites as well as any items found complementary to the collections in the museum.

**Enforcement:**

**Article 77** – This Law shall be enforced as of the date of its publication.

**Execution:**

**Article 78** – The provisions of this Law shall be executed by the Council of Ministers.