

LEGISLATIVE DECREE no. 42 of 22 January 2004

Code of the Cultural and Landscape Heritage

*Ministero per i beni e le attività culturali
Roma, Giugno 2004*

CONTENTS

LEGISLATIVE DECREE no. 42 of 22 January 2004 – Code of the Cultural and Landscape Heritage, pursuant to article 10 of law no. 137 of 6 July 2002

FIRST PART – *General Provisions*.....page

Article 1 – Principles	<<
Article 2 – Cultural Heritage	<<
Article 3 – Protection of the Cultural Heritage	<<
Article 4 – Functions of the State in the Protection of the Cultural Heritage	<<
Article 5 – Co-operation of the Regions and of Other Territorial Government Bodies in the Protection of the Cultural Heritage	
Article 6 – Enhancement of the Cultural Heritage	
Article 7 – Functions and Tasks Relating to the Enhancement of the Cultural Heritage	<<
Article 8 – Regions and Provinces with Special Autonomy	
Article 9 – Cultural Property of Religious Interest	

SECOND PART – *Cultural Property* <<

TITLE I – Protection

 <<

***Chapter I – Object of Protection***

Article 10 – Cultural Property	<<
Article 11 – Properties Subject to Specific Protection Provisions	
Article 12 – Verification of Cultural Interest	<<
Article 13 – Declaration of Cultural Interest	
Article 14 – Declaration Procedure	<<
Article 15 – Notification of Declaration	<<
Article 16 – Administrative Appeal against Declaration	
Article 17 – Cataloguing.....	<<

***Chapter II – Supervision and Inspection* ...**

Article 18 – Supervision	<<
Article 19 – Inspection	<<

Chapter III – Protection and Conservation

Section I – <u>Protection Measures</u>	<<
Article 20 – Forbidden Actions	<<
Article 21 – Actions subject to Authorisation	<
Article 22 – Authorisation Procedure for Construction	
Article 23 – Simplified Building Permit Procedures	
Article 24 – Work on Public Property	<<
Article 25 – Conference of Services	<<
Article 26 – Assessment of Environmental Impact	
Article 27 – Emergency Situations	<<
Article 28 – Precautionary and Preventive measures	<<
Section II – <u>Conservation Measures</u>	<
Article 29 – Conservation	<<
Article 30 – Conservational Obligations	<<
Article 31 – Voluntary Conservation Work	<<
Article 32 – Obligatory Conservation Work	
Article 33 – Procedures for the Execution of Obligatory Conservation Work.....	<<
Article 34 – Charges for Obligatory Conservation Work	
Article 35 – Financial Contribution by the Ministry	
Article 36 – Disbursement of Funding	<<
Article 37 – Interest Subsidies	<<
Article 38 – Opening to the Public of Buildings that Have Undergone Conservation Work	<<
Article 39 – Conservation Work on State Property	
Article 40 – Conservation Work on Property Belonging to the Regions and Other Territorial Government Bodies	
Article 41 – Obligation to Deposit Documents Kept by State Administrations with the State Archives	
Article 42 – Conservation of the Historical Archives of Constitutional Organs	<<
Article 43 – Obligatory Custody	<<
Article 44 – Gratuitous Loan and Deposit of Cultural Property	
Section III – <u>Other Forms of Protection</u>	<<
Article 45 – Prescriptions for Indirect Protection	
Article 46 – Indirect Protection Proceeding	
Article 47 – Notification of Prescriptions for Indirect Protection and Administrative Appeal	<<
Article 48 – Authorisation for Exhibits and Expositions	
Article 49 – Advertising Bills and Hoardings	<<
Article 50 – Detachment of Cultural Properties	

Article 51 – Artists’ Studios <<
Article 52 – Commercial Activity in Areas of Cultural Value <<

Chapter IV – Circulation Within the National Territory

Section I – Alienation and Other Means of Transferral <<
Article 53 – Properties Belonging to the State Cultural Heritage <<
Article 54 – Non-alienable Properties..... <<
Article 55 – Alienability of Buildings Belonging to State Cultural Property <<
Article 56 – Other Types of Alienation Subject to Authorisation
Article 57 – Regulations for Authorisation to Alienate <<
Article 58 – Authorisation to Exchange Cultural Property <<
Article 59 – Declaration of Transfer <<

Section II – Pre-emption <<
Article 60 – Purchase by Pre-emption
Article 61 – Conditions of Pre-emption <<
Article 62 – Pre-emption Procedure <<

Section II – Commercial Activity <<
Article 63 – Obligation to Report Commercial Activity and Keep a Register. Obligation to Declare Sale or Purchase of Documents <<
Article 64 – Certificates of Authenticity and Provenance <<

Chapter V – Circulation Within International Territory

Section I – Exit from National Territory and Entry into National Territory
Article 65 – Definitive Exit <<
Article 66 – Temporary Exit for Events <<
Article 67 – Other Cases of Temporary Exit <
Article 68 – Certificate of Free Circulation <
Article 69 – Administrative Appeal Against Denial of Certificate
Article 70 – Compulsory Purchase <<
Article 71 – Certificate of Temporary Circulation
Article 72 – Entry into National Territory

Section II – Exportation from European Union Territory

- Article 73 – Denominations <<
- Article 74 – Exportation of Cultural Property from the Territory of the European Union

Section III – Restitution of Cultural Property Illegally Taken Out of the Territory of a Member State of the European Union <<

- Article 75 – Restitution <<
- Article 76 – Assistance and Collaboration for European Member States<<
- Article 77 – Action for Restitution<<
- Article 78 – Lapse of Time-Limit for Action
- Article 79 – Compensation <<
- Article 80 – Payment of Compensation <
- Article 81 – Charges for Assistance and Collaboration <<
- Article 82 – Action for Restitution on Behalf of Italy <<
- Article 83 – Destination of Returned Property
- Article 84 – Information to the European Commission and the National Parliament <<
- Article 85 – Databank of Stolen Cultural Property<<
- Article 86 – Agreements with Other European Union Member States<<

Section IV – UNIDROIT Convention

- Article 87 – Stolen or Illegally Exported Cultural Property

Chapter VI – Findings and Discoveries

Section I – Searches and Fortuitous Discoveries within the National Territory

- Article 88 – Search Activities <<
- Article 89 – Search Concession <<
- Article 90 – Fortuitous Discoveries <<
- Article 91 – Ownership and Qualification of the Things Found <<
- Article 92 – Finding Reward <<
- Article 93 – Assessment of Reward <<

Section II – Searches and Fortuitous Findings in Areas Adjacent to National Waters <<

- Article 94 – UNESCO Convention <<

Chapter VII – Expropriation

Article 95 – Expropriation of Cultural Property	
Article 96 – Expropriation for Instrumental Purposes	
Article 97 – Expropriation for Archaeological Interest	
Article 98 – Declaration of Public Use	<<
Article 99 – Compensation for Expropriation of Cultural Property	
Article 100 – Reference to General Laws	
Title II – Enjoyment and Enhancement	<<

Chapter I – Enjoyment of the Cultural Heritage

Section I – <u>General Principles</u>	<<
Article 101 – Institutions and Places of Culture	
Article 102 – Enjoyment of Publicly-Owned Institutions and Places of Culture	<<
Article 103 – Access to Cultural Institutions and Places	
Article 104 – Enjoyment of Privately-Owned Cultural Property	<<
Article 105 – Rights of Use and Public Enjoyment	<<
Section II – <u>Use of Cultural Property</u>	<<
Article 106 – Individual Use of Cultural Properties	<<
Article 107 – Instrumental and Temporary Use and Reproduction of Cultural Property	<<
Article 108 – Concession Fees, Payment for Reproduction, Security Deposits.....	<<
Article 109 – Catalogue of Photographic Images and of Films of Cultural Property	<<
Article 110 – Cash Receipts and Division of Proceeds	

Chapter II – Principles of Enhancement of Cultural Property

Article 111 – Enhancement Activities	<<
Article 112 – Enhancement of Publicly Owned Cultural Property	
Article 113 – Enhancement of Privately Owned Cultural Property	
Article 114 – Enhancement Quality Control	<<
Article 115 – Forms of Management	<
Article 116 – Protection of Cultural Property Conferred or Granted In Use.....	<<

- Article 117 – Additional Services<<
- Article 118 – Promotion of Study and Research Activities
- Article 119 – Dissemination of Knowledge About the Cultural Heritage in the Schools<<
- Article 120 – Sponsorship of Cultural Property
- Article 121 – Agreements with Bank Foundations <<

**Chapter III –
Consultation of Archive Documents and
Safeguarding of Confidentiality <**

- Article 122 – State Archives and Historical Archives of Public Bodies: Consultation of Documents
- Article 123 – State Archives and Historical archives of Public Bodies: Consultation of Confidential Documents
- Article 124 – Consultation of Current Archives for Historical Purposes<<
- Article 125 – Declaration of Confidentiality
- Article 126 – Protection of Personal Data
- Article 127 – Consultation of Private Archives

Title III – Transitional and Final Provisions

- Article 128 – Notifications Served under Prior Legislation
- Article 129 – Particular Legislative Provisions
- Article 130 – Prior Regulatory Provisions.....<<

THIRD PART – *Landscape Assets*<<

Title I – Protection and Enhancement

Chapter I – General Provisions

- Article 131 – Safeguarding of Landscape Values
- Article 132 – Co-operation Between Public Administrations
- Article 133 – International Agreements<<
- Article 134 – Landscape Assets
- Article 135 – Landscape Planning..

**Chapter II –
Identification of Landscape Assets .**

- Article 136 – Buildings and Areas of Notable Public Interest <<
- Article 137 – Provincial Commissions

Article 138 – Recommendation for Declaration of Notable Public Interest<<
Article 139 – Participation in the Procedures for the Declaration of Notable Public Interest
Article 140 – Declaration of Notable Public Interest and Relative Cognitive Measures <<
Article 141 – Ministerial Measures <<
Article 142 – Areas Protected by Law

Chapter III – Landscape Planning

Article 143 – Landscape Plan <<
Article 144 – Advertising and Participation <<
Article 145 – Co-ordination of Landscape Planning with Other Planning Instruments..... <<

Chapter IV - Supervision and Management of Properties Subject to Protection <<

Article 146 – Authorisation <<
Article 147 – Authorisation for Works To Be Carried Out by State Administrations<<
Article 148 – Landscape Commission <<
Article 149 – Works Not Subject to Authorisation <<
Article 150 – Interdiction and Suspension of Works <<
Article 151 – Reimbursement of Expenses Following Suspension of Works <<
Article 152 – Work Subject to Particular Prescriptions <<
Article 153 – Advertising Hoardings <<
Article 154 – Colour of Building Facades
Article 155 – Supervision <<

Chapter V – First Application and Transitional Provisions <<

Article 156 – Verification and Adjustment of Land Plans <<
Article 157 – Notifications Served, Lists Compiled, Provisions and Actions Issued Under Pre-Existing Laws <<
Article 158 – Regional Provisions for Implementation
Article 159 – Procedure for Provisional Authorisation

FOURTH PART – Sanctions <<

TITLE I – Administrative Sanctions<<

**Chapter I – Sanctions Relative to the
Second Part**

- Article 160 – Order to Restore Places to Original State <<
- Article 161 – Damage to Things Found
- Article 162 – Violations Relating to Collocation of Advertising <<
- Article 163 – Loss of Cultural Property
- Article 164 – Violations Relating to Jural Acts
- Article 165 – Violation of the Provisions pertaining to International Circulation..... <<
- Article 166 – Failure to Submit Exportation Documents <<

Heading II – Sanctions Relative to the Third Part <<

- Article 167 – Order to Restore to Original State or to Pay Compensation
- Article 168 – Violations Relating to Hoardings <<

TITLE II – Penal Sanctions

**Chapter I – Sanctions Relative to the
Second Part**

- Article 169 – Unlawful Works
- Article 170 – Unlawful Use.....
- Article 171 – Unlawful Collocation and Removal <<
- Article 172 – Non-compliance with the Prescriptions of Indirect Protection
- Article 173 – Violations pertaining to Alienation <<
- Article 174 – Unlawful Exit and Exportation.....
- Article 175 – Violations Relating to Archaeological Research <<
- Article 176 – Unlawful Appropriation of Cultural Property Belonging to the State..
- Article 177 – Collaboration in the Recovery of Cultural Property
- Article 178 – Forgery of Works of Art
- Article 179 – Non-punishable Cases
- Article 180 – Non-compliance with Administrative Measures

**Chapter II – Sanctions Relative to the
Third Part**

- Article 181 – Works Carried Out Without Authorisation or Contrary to Its Provisions

FIFTH PART – *Transitional Provisions, Abrogation and Coming into Effect Of Laws*

Article 182 – Transitional Measures

Article 183 – Final Provisions<<

Article 184 – Abrogated Laws<<

LAWS AND OTHER REGULATORY ACTS

LEGISLATIVE DECREE no. 42 of 22 January 2002

Code of the Cultural and Landscape Heritage, pursuant to article 10 of law no. 137 of 6 July 2002

THE PRESIDENT OF THE REPUBLIC

Having regard to articles 76, 87, 117 and 118 of the Constitution;

Having regard to article 14 of law no. 400 of 23 August 1988;

Having regard to legislative decree no. 368 of 20 October 1998, establishing the Ministry for Cultural Heritage and Activities, in accordance with article 11 of law no. 59 of 15 March 1997, and subsequent modifications and additions;

Having regard to legislative decree no. 490 of 29 October 1999, containing the consolidated text of the legislative provisions pertaining to the cultural and environmental heritage, in accordance with article 1 of law no. 352 of 8 October 1997;

Having regard to article 10 of law no. 137 of 6 July 2002;

Having regard to the preliminary resolution of the Council of Ministers adopted in the meeting of 29 September 2003;

Having obtained the opinion of the Unified Conference, established under legislative decree no. 281 of 28 August 1997;

Having obtained the opinion of the competent Commissions of the Senate of the Republic and of the Chamber of Deputies;

Having regard to the resolution of the Council of Ministers, adopted in the meeting of 16 January 2004;

On the recommendation of the Minister for Cultural Heritage and Activities, in accord with the Minister for Regional Affairs;

EMANATES

the following legislative decree:

Art. 1

1. The consolidated code of the cultural and landscape heritage, composed of 184 articles and annex A is approved, with the endorsement of the recommending Minister.

This decree, affixed with the State Seal, will be included in the Official Collection of the regulatory acts of the Italian Republic. All persons who are obliged to do so, must abide by it and ensure that it is complied with.

Dated at Rome, 22 January 2004

CIAMPI

BERLUSCONI, *President of the Council of Ministers*
URBANI, *Minister for Cultural Heritage and Activities*
LA LOGGIA, *Minister for Regional Affairs*

APPROVED, Minister of Justice: CASTELLI

FIRST PART
General Provisions

Article 1
Principles

1. In implementation of article 9 of the Constitution, the Republic shall protect and enhance the cultural heritage in accordance with the powers set out in article 117 of the Constitution and according to the provisions of this Code.
2. The protection and enhancement of the cultural heritage shall concur to preserve the memory of the national community and its territory and to promote the development of culture.
3. The State, the Regions, the Metropolitan Areas, the Provinces and Municipalities shall ensure and sustain the conservation of the cultural heritage and foster its public enjoyment and enhancement.
4. Other public bodies shall, in carrying out their activities, ensure the conservation and the public enjoyment of their cultural heritage.
5. Private owners, possessors or holders of property belonging to the cultural heritage must ensure its conservation.
6. The activities concerning the conservation, public enjoyment and enhancement of the cultural heritage indicated in paragraphs 3, 4 and 5 shall be carried out in accordance with the laws on protection.

Article 2
Cultural Heritage

1. The cultural heritage consists of cultural property and landscape assets.
2. Cultural property consists of immovable and movable things which, pursuant to articles 10 and 11, present artistic, historical, archaeological, ethno-anthropological, archival and bibliographical interest, and of any other thing identified by law or in accordance with the law as testifying to the values of civilisation.
3. Landscape assets consist of the buildings and areas indicated in article 134, which are the expression of historical, cultural, natural, morphological and aesthetic values of the land, and any other assets identified by law or in accordance with the law.
4. Cultural heritage property belonging to the government shall be designated for public enjoyment, compatibly with the needs of government use and on condition that no protection reasons to the contrary persist.

Article 3
Protection of the Cultural Heritage

1. Protection consists in the exercise of the functions and in the regulation of the activities aimed at identifying, on the basis of adequate investigative procedures, the properties constituting the cultural heritage and at ensuring the protection and conservation of the aforesaid heritage for purposes of public enjoyment.
2. Protection functions are also carried out by means of provisions aimed at conforming or regulating rights and behaviour inherent to the cultural heritage.

Article 4
Functions of the State in the Protection of the Cultural Heritage

1. In order to ensure the unified exercise of the functions of protection, under article 118 of the Constitution, the same functions are attributed to the Ministry for Cultural Heritage and Activities, hereinafter referred to as "Ministry", which shall exercise the aforesaid functions directly. It may also confer their exercise on the Regions, through forms of agreement and co-ordination pursuant to article 5, paragraphs 3 and 4. Functions which have already been conferred on the Regions under paragraphs 2 and 6 of the same article 5 shall not be affected.
2. The Ministry shall exercise the functions of protection on cultural property belonging to the State even when such property has been placed under the care of or granted in use to administrations or subjects other than the Ministry.

Article 5
Co-operation of the Regions and of Other Territorial Government Bodies in the Protection of the Cultural Heritage

1. The Regions as well as Municipalities, Metropolitan Areas and Provinces, hereinafter referred to as "other territorial government bodies", shall co-operate with the Ministry in the exercise of its protection functions in accordance with the provisions of Title I of the Second Part of this Code.
2. The protection functions provided for by this Code concerning manuscripts, autographs, papers, documents, incunabula, and book collections not belonging to the State and not subject to State protection, as well as books, prints and engravings not belonging to the State, shall be exercised by the Regions.
3. On the basis of specific agreements or arrangements and subject to the prior opinion of the Permanent Conference for Relations between the State, the Regions and the autonomous provinces of Trento and Bolzano, hereinafter referred to as "State-Regions Conference", the

Regions may also exercise the functions of protection on private book collections, as well as geographical maps, musical scores, photographs, films or other audio-visual material, with the relative negatives and matrixes, not belonging to the State.

4. In the forms provided for in paragraph 3 and on the basis of the principles of differentiation and suitability, additional forms of co-ordination with the Regions which request it with regard to protection may be identified.
5. Agreements or arrangements may provide for particular forms of co-operation with other local government bodies.
6. The administrative functions for the protection of landscape assets shall be conferred on the Regions according to the provisions set out in the Third Part of this Code.
7. With regard to the functions referred to in paragraphs 2, 3, 4, 5 and 6, the Ministry shall have the power to direct and supervise, and shall have substitutive power in cases of persistent inaction and non-fulfilment of tasks and responsibilities.

Article 6

Enhancement of the Cultural Heritage

1. Enhancement consists in the exercise of the functions and in the regulation of the activities aimed at promoting knowledge of the cultural heritage and at ensuring the best conditions for the utilization and public enjoyment of the same heritage. Enhancement also includes the promotion and the support of conservation work on the cultural heritage.
2. Enhancement is carried out in forms which are compatible with protection and which are such as not to prejudice its exigencies.
3. The Republic shall foster and sustain the participation of private subjects, be they single individuals or associations, in the enhancement of the cultural heritage.

Article 7

Functions and Tasks relating to the Enhancement of the Cultural Heritage

1. This Code establishes the fundamental principles concerning the enhancement of the cultural heritage. The Regions shall exercise their legislative powers in compliance with these principles.
2. The Ministry, the Regions and the other local government bodies shall pursue the co-ordination, harmonisation, and integration of the activities for the enhancement of public property.

Article 8
Regions and Provinces with Special Autonomy

1. In the matters regulated by this Code, the powers attributed to the special statute Regions and the autonomous provinces of Trento and Bolzano by statute law and by the relevant implementation regulations, shall remain in effect.

Article 9
Cultural Property of Religious Interest

1. The Ministry and, where applicable, the Regions shall attend to the exigencies of cultural property of religious interest belonging to bodies and institutions of the Catholic Church and of other religious denominations, according to the needs of worship, and in agreement with the respective authorities.
2. Likewise, the provisions established in the agreements concluded under article 12 of the Agreement for the Modification of the Lateran Agreement signed on February 18, 1984, ratified and made enforceable with law no. 121 of 25 March 1985, or by the laws issued on the basis of agreements underwritten with religious denominations other than the Catholic Church, under article 8, paragraph 3 of the Constitution, shall also be complied with.

SECOND PART
Cultural Property

TITLE I
Protection

Chapter I
Object of Protection

Article 10
Cultural Property

1. Cultural property consists in immovable and movable things belonging to the State, the Regions, other territorial government bodies, as well as any other public body and institution, and to private non-profit associations, which possess artistic, historical, archaeological or ethno-anthropological interest.
2. Cultural property also includes:
 - a) the collections of museums, picture galleries, art galleries and other exhibition venues of the State, the Regions, other territorial government bodies, as well as any other government body and institute;
 - b) the archives and single documents of the State, the Regions, other territorial government bodies, as well as of any other government body and institute;
 - c) the book collections of libraries of the State, Regions, other territorial government bodies, as well as any other government body and institute.
3. Cultural property shall also include the following, when the declaration provided for in article 13 has been made:
 - a) immovable and movable things of particularly important artistic, historical, archaeological or ethno-anthropological interest, which belong to subjects other than those indicated in paragraph 1;
 - b) archives and single documents, belonging to private individuals, which are of particularly important historical interest;
 - c) book collections, belonging to private individuals, of exceptional cultural interest;
 - d) immovable and movable things, to whomsoever they may belong,

- which are of particularly important interest because of their reference to political or military history, to the history of literature, art and culture in general, or as testimony to the identity and history of public, collective or religious institutions;
- e) collections or series of objects, to whomsoever they may belong, which through tradition, renown and particular environmental characteristics are as a whole of exceptional artistic or historical interest.
4. The things indicated in paragraph 1 and paragraph 3, letter a) include:
- a) the things which pertain to palaeontology, prehistory and primitive civilisations;
 - b) things of numismatic interest;
 - c) manuscripts, autographs, papers, incunabula, as well as books, prints and engravings with their relative matrixes, of a rare or precious nature;
 - d) geographical maps and musical scores of a rare and precious nature;
 - e) photographs, with their relative negatives and matrixes, cinematographic films and audio-visual supports in general, of a rare and precious nature;
 - f) villas, parks and gardens possessing artistic or historical interest;
 - g) public squares, streets, roads and other outdoor urban spaces of artistic or historical interest;
 - h) mineral sites of historical or ethno-anthropological interest;
 - i) ships and floats possessing artistic, historical or ethno-anthropological interest;
 - j) types of rural architecture possessing historical or ethno-anthropological interest as testimony to the rural economy tradition.
5. Without prejudice to the provisions of articles 64 and 178, the things indicated in paragraph 1 and paragraph 3, letters a) and e), which are the work of living authors or which were not produced more than fifty years ago, are not subject to this Title.

Article 11
Property Subject to Specific Protection Provisions

1. Without prejudice to the application of article 10, the following shall, whenever the premises and conditions occur, be considered cultural property, insofar as they are the object of specific provisions of this Title:

- a) frescoes, escutcheons, graffiti, plaques, inscriptions, tabernacles and other building ornaments, whether or not they be exhibited to public view, referred to in article 50, paragraph 1;
- b) artists' studios, referred to in article 51;
- c) public areas referred to in article 52;
- d) works of painting, sculpture, graphic art and any art created by a living author or which was not produced more than fifty years ago, referred to in articles 64 and 65;
- e) the works of contemporary architecture of particular artistic value, referred to in article 37;
- f) photographs, with their relative negatives and matrixes, samples of cinematographic works, audio-visual material or sequences of images in movement, the documentation of events, oral or verbal, produced by any means, more than twenty-five years ago, referred to in article 65;
- g) means of transport which are more than seventy-five years old, referred to in articles 65 and 67, paragraph 2;
- h) property and instruments of interest for the history of science and technology which are more than fifty years old, referred to in article 65;
- i) the vestiges identified by the laws in force pertaining to the protection of the historical heritage of World War I, referred to in article 50, paragraph 2.

Article 12

Verification of Cultural Interest

1. Immovable and movable things indicated in article 10, paragraph 1, which are the work of artists who are no longer living and which were produced more than fifty years ago, shall be subject to the provisions of this Title until such time as the verification referred to in paragraph 2 has been carried out.
2. The competent organs of the Ministry shall, ex officio or upon request accompanied by the relative identifying information made by the parties to whom the things belong, verify the presence of artistic, historical, archaeological and ethno-anthropological interest in the things indicated in paragraph 1, on the basis of guidelines of a general nature established by the Ministry itself in order to ensure uniformity of assessment.
3. For immovable property belonging to the State, the request referred to in paragraph 2 shall include lists of the properties and the relative descriptive information sheets. The criteria for the preparation of the lists, the modalities for drawing up the descriptive information sheets and the transmission of lists and information sheets shall be established

by means of a ministerial decree adopted in accord with the State Property Agency and, for buildings granted in use to the Defence administration, also in agreement with the competent directorates general for works and State property. The Ministry shall, with its own decrees, fix the criteria and the procedures for the preparation and submission of the request for verification and of the relative identifying documentation, on the part of the other parties referred to in paragraph 1.

4. Should the interest mentioned in paragraph 2 not be found in the things subjected to verification, the same things shall be excluded from the application of the provisions of this Title.
5. In the case of a negative assessment for things belonging to the State, the Regions and other territorial government bodies, the file containing the relative information shall be forwarded to the competent offices so that they may order the release of the property from State ownership, should, according to the assessment of the administration concerned, no other reasons persist to the contrary in the public interest.
6. The things referred to in paragraph 3 and those referred to in paragraph 4 for which release from public ownership has been ordered may, for the purposes of this Code, be freely alienated.
7. The ascertainment of artistic, historical, archaeological or ethno-anthropological interest, carried out in accordance with the general guidelines referred to in paragraph 2, shall constitute declaration under article 13, and the relative measure shall be registered in the manner provided for by article 15, paragraph 2. The properties shall remain definitively subject to the provisions of this Title.
8. The descriptive information sheets for immovable properties belonging to the State which have been assessed positively, along with the measure referred to in paragraph 7, shall be stored in a computerised archive accessible to the Ministry and the State Property Agency, for the purposes of monitoring immovable property assets and planning work according to their respective institutional competences.
9. The provisions of this article shall apply to the things referred to in paragraph 1 even when the subjects to whom they belong in any way change their legal status.
10. The provisions of article 27, paragraphs 8, 10, 12, 13 and 13-*bis*, of decree law no. 269 of 30 September 2003, converted, with modifications into law no. 326 of 24 November 2003, shall remain in force.

Article 13

Declaration of Cultural Interest

1. The declaration shall ascertain the existence, in the thing in question, of the interest required under article 10, paragraph 3.

2. The declaration is not required for properties referred to in article 10, paragraph 2. Such properties remain subject to protection even when the subjects to whom they belong in any way change their legal status.

Article 14
Declaration Procedure

1. The superintendent shall initiate the procedure for the declaration of cultural interest, and may also do so in response to a motivated request from the Region or any other interested territorial government body, notifying the proprietor, possessor or holder, by whatever legal right, of the thing in question.
2. The notification shall contain the elements for the identification and assessment of the thing resulting from preliminary investigations, the indication of the effects referred to in paragraph 4, as well as the indication of the time limit, which in any case may be no less than thirty days, for the presentation of any observations.
3. If the procedure concerns building complexes, the notification shall also be forwarded to the Municipality or Metropolitan Area.
4. Notification shall, as a preventive measure, entail the application of the provisions set out in Chapter II, in Section I of Chapter III, and in Section I of Chapter IV of this Title.
5. The effects indicated in paragraph 4 shall cease upon expiry of the time limit for the declaration procedure, which the Ministry shall establish in accordance with article 2, paragraph 2 of law no. 241 of 7 August 1990.
6. The declaration of cultural interest shall be adopted by the Ministry.

Article 15
Notification of Declaration

1. The declaration provided for under article 13 shall be notified to the owner, possessor or holder, by whatever legal right, of the thing in question, by a process server or by means of registered letter with receipt of delivery notification.
2. Where things subject to public notice with regard to immovable or movable property are concerned, the declaration measure shall, at the request of the superintendent, be recorded in the relative registers and shall have efficacy for any subsequent owner, possessor or holder by whatever legal right.

Article 16
Administrative Appeal against Declaration

1. Appeal against the declaration referred to in article 13 may be made to the Ministry, on grounds concerning legitimacy or the merits, within thirty days of the declaration notification.
2. The proposition of appeal shall entail the suspension of the effects of the measure contested. As a precautionary measure, the application of the provisions established under Chapter II, under Section I of Chapter III and under Section I of Chapter IV of this Title shall remain in force.
3. After consulting the competent advisory body, the Ministry shall rule on the appeal within the time limit of ninety days from receipt of the same.
4. Should the appeal be granted, the Ministry shall annul or modify the contested measure.
5. The provisions of decree no. 1199 of the President of the Republic of 24 November 1971 shall apply.

Article 17 *Cataloguing*

1. With the participation of the Regions and other territorial government bodies, the Ministry shall ensure the cataloguing of cultural property and shall co-ordinate related activities.
2. The procedures and modalities for cataloguing shall be established by ministerial decree. To this end, the Ministry shall, with the collaboration of the Regions, identify and define common methodologies for gathering, exchanging, accessing and processing data at the national level and for the computerised integration of the same into the databanks of the State, the Regions and other territorial government bodies.
3. The Ministry and the Regions, which may also avail themselves of the collaboration of universities, shall work together for the definition of programmes concerning studies, research and scientific initiatives regarding cataloguing and inventory methodologies.
4. Following the modalities set out in the Ministerial decree referred to in paragraph 2, the Ministry, the Regions and other territorial government bodies shall be responsible for cataloguing the cultural property in their possession and, in agreement with the proprietors, other cultural property as well.
5. The data referred to in this article shall be gathered into the national catalogue of cultural properties.
6. The consultation of the information concerning the declarations issued in accordance with article 13 shall be regulated so as to guarantee the safety of the property and the safeguarding of confidentiality.

Chapter II *Supervision and Inspection*

Article 18
Supervision

1. The supervision of cultural property is the task of the Ministry.
2. The supervision of the things indicated in article 12, paragraph 1, belonging to the State, irrespective of the party holding them in use or having them in their care, shall be carried out directly by the Ministry. For the exercise of supervisory powers over the things indicated in article 12, paragraph 1, belonging to the Regions and to other territorial public bodies, the Ministry shall also proceed by availing itself of forms of agreement and co-ordination with the regions.

Article 19
Inspection

1. The superintendents may at any time proceed to carry out inspections for the purpose of ascertaining the existence and the state of conservation and conditions of custody of the cultural properties, with prior notification of no less than five days, with the exception of cases of extreme urgency.

Chapter III
Protection and Conservation

Section I
Protection Measures

Article 20
Forbidden Actions

1. Cultural properties may not be destroyed, damaged or adapted to uses not compatible with their historic or artistic character or of such kind as to prejudice their conservation.
2. The archives cannot be dismembered.

Article 21
Actions subject to authorisation

1. The following actions are subject to the authorisation of the Ministry:
 - a) the demolition of things constituting cultural property, even with subsequent reconstitution;

- b) the removal of cultural properties, even when temporary, without prejudice to the provisions of paragraphs 2 and 3;
 - c) the dismemberment of collections and series;
 - d) the discarding of documents in the public archives and in private archives for which a declaration under article 13 has been issued;
 - e) the transfer to other corporate entities of organised sets of documentation belonging to public archives, as well as of archives belonging to private persons.
2. The removal of cultural properties, as a result of a change in the holder's residence or place of business, shall be declared in advance to the superintendent, who may, within thirty days of receipt of notification, prescribe the measures necessary to prevent damage to the properties during transportation.
 3. The removal of current archives of the State and of government bodies and institutions shall not be subject to authorisation.
 4. In cases other than those set out in the above paragraphs, the execution of work of any kind on cultural properties is subject to authorisation by the superintendent.
 5. The authorisation shall be granted on the basis of the project drawing or, when sufficient, on the basis of the technical description of the work presented by the applicant, and may contain prescriptions.

Article 22

Authorisation Procedure for Construction

1. In cases other than those set out in articles 25 and 26, the authorisation provided for in article 21, paragraph 4, relating to public and private construction shall be issued within the time limit of one hundred and twenty days of receipt of application on the part of the Superintendency.
2. Whenever the Superintendency requests clarification or additional elements for assessment, the time limit indicated in paragraph 1 shall be suspended until the requested documentation is received.
3. In cases where the Superintendency proceeds to carry out verifications of a technical nature, having notified the applicant in advance, the time limit indicated in paragraph 1 shall be suspended until the results of the official verification are acquired and in any case for not more than thirty days.
4. When the time limit established in paragraphs 2 and 3 has elapsed with no response, the applicant may enjoin the administration to take action. The request for authorisation shall be deemed granted should the administration fail to take action within thirty days following receipt of the enjoinder.

Article 23
Simplified Building Permit Procedures

1. When works authorised under article 21 also require a building permit, it is possible to resort to declaration of the start of works, in the cases provided for by the law. To this end, the interested party shall forward the acquired authorisation, along with the related project design, to the Municipality when the declaration is made.

Article 24
Work on Public Property

1. For work on public cultural properties to be carried out on the part of administrations of the State, Regions, other territorial government bodies, as well as any other government body and institution, the authorisation necessary under article 21 may be expressed within agreements between the Ministry and the government body concerned.

Article 25
Conference of Services

1. In procedures related to projects and works affecting cultural properties, in which a conference of services is used, the authorisation necessary under article 21 shall be issued during the conference session by the competent organ of the Ministry with a reasoned declaration, shall be recorded in the minutes of the conference and shall include any prescriptions established for the realisation of the project.
2. Should the Ministerial organ express justified dissent, the acting administration may request the President of the Council of Ministers to rule on the conclusion of the proceeding, following deliberation of the Council of Ministers.
3. The recipient of the favourable conclusive decision adopted in the services conference shall inform the Ministry of the fulfilment of the prescriptions established by the conference.

Article 26
Assessment of Environmental Impact

1. For work projects to be subjected to environmental impact assessment, the authorisation provided for in article 21 shall be expressed by the Ministry in a joint session of the government bodies concerned for the decision on environmental compatibility, on the basis of the final project plan to be submitted for the purpose of the aforesaid assessment.

2. When an examination of the plan effected in accordance with paragraph 1 shows that the project is not in any way compatible with the protection exigencies of the cultural properties which would be affected, the Ministry shall take a negative decision, notifying the Ministry of the Environment and Land Protection. In such case, the environmental impact assessment procedure shall be deemed to have been concluded negatively.
3. If, while the work is being carried out, actions occur which conflict with the authorisation expressed in the forms set out in paragraph 1, and are such as to put at risk the integrity of the cultural properties subject to protection, the superintendent shall order suspension of the work.

Article 27
Emergency Situations

1. In cases of absolute urgency, temporary work which is indispensable to avoiding damage to the protected property may be carried out, on condition that the Superintendency be immediately notified. The project design of the definitive work must be forwarded to the Superintendency in due time for the necessary authorisation.

Article 28
Precautionary and Preventive measures

1. The superintendent may order the suspension of works begun contrary to the provisions of articles 20, 21, 25, 26 and 27 or of those carried out in a manner that fails to conform with the authorisation.
2. The superintendent shall also have the power to order the interdiction or suspension of work relative to the things indicated in article 10, even when the assessment referred to in article 12, paragraph 2 has not yet been carried out, or the declaration referred to in article 13 has not yet been issued.
3. The order referred to in paragraph 2 shall be deemed to be revoked if, within thirty days of receipt of the same, notification of the start of the assessment or declaration procedure has not been communicated by the superintendent.
4. In cases of public works carried out in areas of archaeological interest, even when assessment referred to in article 12, paragraph 2 has not been carried out, or the declaration referred to in article 13 has not been issued, the superintendent may request that preventive archaeological sample analysis be carried out on the aforesaid areas at the expense of the principal commissioning the public work.

Section II *Conservation Measures*

Article 29 *Conservation*

1. The conservation of the cultural heritage is ensured by means of a consistent, co-ordinated and programmed activity of study, prevention, maintenance and restoration.
2. Prevention is defined as the set of activities capable of limiting situations of risk connected to the cultural property within its context.
3. Maintenance is defined as all the activities and work carried out for the purpose of controlling the conditions of the cultural property and maintaining the integrity, functional efficiency and identity of the property and its parts.
4. Restoration is defined as direct intervention on a property by means of a set of operations aimed at the material integrity and the recovery of the aforesaid property, the protection and the transmission of its cultural values. In the case of immovable property situated in areas declared to be at risk of earthquake on the basis of the laws and regulations in effect, restoration shall include work for structural upgrading.
5. The Ministry shall define guidelines, technical regulations, criteria and models for the conservation of cultural properties, and in doing so may avail itself of the participation of the Regions and the collaboration of universities and competent research institutes.
6. With the provisions of existing laws and regulations regarding the design and execution of works to be carried out on architectonic property remaining in effect, the work of maintenance and restoration of movable cultural properties and the decorated surfaces of architectonic properties shall be carried out exclusively by those who are qualified restorers of cultural property in accordance with the regulations in this regard.
7. The job descriptions of restorers and other workers who carry out activities which are complementary to restoration or to other activities of conservation of movable cultural property and of decorated surfaces of architectonic properties are defined by the Minister's decree adopted under article 17, paragraph 3, of law no. 400 of 23 August 1988, in agreement with the State-Regions Conference.
8. The criteria and quality control levels to be met by the teaching of restoration are defined by the Minister's decree pursuant to article 17, paragraph 3, of law no. 400 of 1988 in accord with the Minister of

Education, Universities and Research, and with prior consultation of the State-Regions Conference.

9. Instruction in restoration is provided by schools of higher education and training established under article 9 of legislative decree no. 368 of 20 October 1998, as well as by the centres referred to in paragraph 11 and other public and private bodies accredited by the State. The Minister's decree adopted in accordance with article 17, paragraph 3 of law no. 400 of 1988 in accord with the Ministry of Education, Universities and Research, and with prior consultation of the State-Regions Conference, identifies the procedures for accreditation, the minimum requirements for the organisation and functioning of the educational bodies referred to in the present paragraph, the procedures for the supervision of teaching activities and of the final examination, which must include the participation of at least one Ministry representative, as well as the characteristics of the teaching staff.
10. The training of professional figures who carry out activities which are complementary to restoration or other activities of conservation is ensured by public and private entities in accordance with Regional regulations. The relative courses shall meet the criteria and quality control levels defined by agreement in the State-Regions Conference, pursuant to article 4 of legislative decree no. 281 of 28 August 1997.
11. By means of special arrangements or agreements, the Ministry and the Regions, with the participation of universities and other public and private entities as well, may together establish centres, which may also be of an inter-regional nature, and which are endowed with corporate personality and entrusted with activities in research, experimentation, study, documentation and execution of conservation and restoration work on cultural property, of particular complexity. Schools of superior training for the teaching of restoration may likewise be established within these centres, under paragraph 9.

Article 30

Conservational Obligations

1. The State, the Regions, and other territorial government bodies as well as any other government body and institution must ensure the safety and conservation of the cultural property in their possession.
2. The bodies indicated in paragraph 1 and private non-profit associations shall, with the exception of current archives, collocate the cultural properties in their possession in the place of their destination and in the manner indicated by the superintendent.
3. Private proprietors, possessors or holders of cultural properties must ensure the conservation of the aforesaid properties.
4. The bodies indicated in paragraph 1 must conserve and organise their archives in their entirety, and compile an inventory of their historical archives, consisting of documents relating to matters concluded over

forty years ago. Proprietors, possessors or holders by whatever legal right, of private archives for which a declaration has been issued under article 13 are subject to the same obligation.

Article 31

Voluntary Conservation Work

1. Restoration and other conservation work carried out on cultural property on the initiative of the proprietor, possessor or holder by whatever legal right shall be authorised under article 21.
2. In issuing the authorisation, the superintendent shall, at the request of the interested party, give his opinion as to the eligibility of the work for State funding provided for under articles 35 and 37 and may certify the necessary nature of the aforesaid work for the purpose of eligibility for the tax deductions provided for by law.

Article 32

Obligatory Conservation Work

1. The Ministry may oblige the proprietor, possessor or holder by whatever legal right, to carry out work necessary to ensure the conservation of cultural property, or it may take direct action.
2. The provisions in paragraph 1 shall also apply to the obligations set out in article 30, paragraph 4.

Article 33

Procedures for the Execution of Obligatory Conservation Work

1. For the purposes of article 32, the superintendent shall compile a technical report and declare the necessary nature of the measures to be carried out.
2. The technical report shall be sent, along with notification of start of procedure, to the proprietor, possessor or holder of the property, who may submit his/her observations within thirty days of receipt of the documents.
3. If the superintendent does not deem direct execution of the measures to be necessary, he/she shall assign the proprietor, possessor or holder a time limit for the presentation of the plans for the work to be carried out, in execution and pursuance of the technical report.
4. The plan presented shall be approved by the superintendent with any prescriptions that may be deemed necessary and a time limit shall be fixed for the start of work. For immovable property, the plan presented shall be forwarded by the superintendent to the Municipality or to the Metropolitan Area, which may express a reasoned opinion within thirty days of receipt of notification.

5. If the proprietor, possessor or holder of the property fails to fulfil the obligation to present the plan, or fails to take action to modify it according to the indications of the superintendent within the time limit fixed by the latter, or if the project is rejected, the Ministry shall proceed to direct execution.
6. In cases of urgency, the superintendent may immediately adopt the necessary conservation measures.

Article 34

Charges for Obligatory Conservation Work

1. The expenses incurred for measures carried out on cultural properties, whether they have been imposed or directly executed by the Ministry under article 32, shall be paid by the proprietor, possessor or holder. Nevertheless, if the measures are of particular significance or if they are carried out on properties granted in use to, or for enjoyment by, the public, the Ministry may participate in the expenses in whole or in part. In this case, it shall determine the amount of the expenses it intends to sustain and shall notify the party concerned.
2. If the expenses of the measures have been sustained by the proprietor, possessor or holder, the Ministry shall proceed to their reimbursement, and may also do so by part payments on account under article 36, paragraphs 2 and 3, keeping within the amount determined under paragraph 1.
3. With regard to expenses incurred in direct action measures, the Ministry shall determine the amount to be charged to the proprietor, possessor or holder and shall pursue recovery of the expenses in the forms provided for by the laws in force regarding the compulsory collection of government property revenues.

Article 35

Financial Contribution by the Ministry

1. The Ministry may contribute to the expenses borne by the proprietor, possessor or holder of the cultural property for the execution of measures provided for in article 31, paragraph 1, for a sum not exceeding half of the same. If the measures are of particular significance or if they concern property used or enjoyed by the public, the Ministry may contribute to the expenses for up to the entire amount.
2. The provision in paragraph 1 shall also apply to measures taken with regard to historical archives provided for in article 30, paragraph 4.

3. In determining the percentage of the funding contributions referred to in paragraph 1, other public funding and any private funding for which taxation benefits have been obtained shall be taken into account.

Article 36

Disbursement of Funding

1. Funding shall be granted by the Ministry after the work has been completed and the costs effectively borne by the beneficiary have been verified.
2. Payments on account may be disbursed on the basis of the regularly certified progress of the work.
3. The beneficiary must return amounts received if the work has not been -completely or in part - properly carried out. The recovery of the relative sums shall be achieved following the procedures provided for by the laws in force regarding the compulsory collection of government property revenues.

Article 37

Interest Subsidies

1. The Ministry may grant interest subsidies for mortgages granted by credit institutions to proprietors, possessors or holders by whatever legal right of immovable cultural properties, for carrying out authorised conservation works.
2. The funding is granted in the maximum amount corresponding to the interest calculated at an annual rate of six percentage points on the capital disbursed as mortgage.
3. The funding is disbursed directly to the credit institution following procedures to be established by agreement.
4. Funding under paragraph 1 may also be granted for conservation work on works of contemporary architecture for which the superintendent has, at the request of the owner, acknowledged particular artistic value.

Article 38

Opening to the Public of Buildings That Have Undergone Conservation Work

1. Buildings that have been restored or on which other conservation measures have been carried out with the State participating in the expenses in whole or in part, or for which interest subsidies have been granted, shall be made accessible to the public according to procedures established, for each individual case, by special arrangements or agreements to be stipulated between the Ministry and the individual

proprietors upon the assumption of the burden of expenses under article 34 or upon granting of funding under article 35.

2. The arrangements and agreements shall establish the time limits for the obligation to open to the public, taking into consideration the type of work done, the artistic and historical value of the buildings and of the cultural property contained therein. Arrangements and agreements shall be forwarded, by the superintendent, to the Municipality or the Metropolitan Area in which the buildings are located.

Article 39

Conservation Work on State Property

1. The Ministry shall provide for the conservation exigencies of cultural properties belonging to the State, even when these are committed to the care of - or granted in use to - other administrations or other entities, following consultation with the aforesaid administrations or entities.
2. Except in cases where a different agreement has been stipulated, the planning and execution of the measures referred to in paragraph 1, relative to immovable property, shall be taken on by the aforesaid administration or entity, with the Ministry retaining competence for issuing the authorisation for the project and for supervising the work.
3. For the execution of work referred to in paragraph 1, relative to immovable property, the Ministry shall forward the plan and notify start of work to the Municipality or Metropolitan Area.

Article 40

Conservation Work on Property Belonging to the Regions and Other Territorial Government Bodies

1. For cultural properties belonging to the Regions and to other territorial government bodies, the measures provided for under article 32 shall be established, except in cases of absolute urgency, on the basis of agreements with the interested body.
2. The agreements may also pertain to the contents of the prescriptions referred to in article 30, paragraph 2.
3. Conservation measures on cultural property involving the State, the Regions and other territorial government bodies, as well as other public and private entities, are ordinarily the object of preventive planning agreements.

Article 41

Obligation to Deposit Documents Kept by State Administrations with

the State Archives

1. The judicial and administrative organs of the State shall deposit with the Central Archive of the State and with the State Archives the documents concerning matters concluded more than forty years ago, along with the instruments which ensure their consultation. Military service and extraction rolls shall be deposited seventy years after the birth year to which they refer. Notary archives shall deposit notary deeds received by notaries who retired from the exercise of the profession prior to the last one hundred-year period.
2. The superintendent of the Central Archive of the State and the directors of the State Archives may accept the deposits of more recent documents when there is danger of dispersal or damage.
3. No deposit may be received unless discarding operations have been carried out. Deposit expenses are charged to the depositing administrations.
4. The archives of government offices which have been abolished or of public bodies which have been extinguished shall be deposited with the Central State Archive and with the State Archives, unless their transferral, in whole or in part, to other bodies becomes necessary.
5. Commissions, which are to include representatives of the Ministry and the Ministry of Internal Affairs as members, shall be established within the organs indicated in paragraph 1, with the tasks of supervising the proper keeping of current and deposited archives, of collaborating in the definition of criteria for the organisation, management and conservation of documents, of proposing the discarding of documents referred to in paragraph 3, of managing the deposits provided for in paragraph 1, and of identifying documents of a confidential nature. The composition and functioning of the Commissions shall be regulated by a decree adopted by the Minister for Cultural Heritage and Activities in agreement with the Minister of Internal Affairs, under article 17, paragraph 3 of law no. 400 of 23 August 1988. Discarding shall be authorised by the Ministry.
6. The provisions of the present article shall not apply to the Ministry for Foreign Affairs, nor shall they apply to the General Staff of the Army, the Navy and the Air Force as concerns documentation of a military and operational nature.

Article 42

Conservation of the Historical Archives of Constitutional Organs

1. The Presidency of the Republic shall conserve its documents in its own historical archives, according to the rules and regulations adopted by the President of the Republic by his own decree, on the recommendation of the General Secretary of the Presidency of the Republic. The procedures for consultation and access to the documents preserved in the historical archives of the Presidency of the Republic shall be established by the same decree.

2. The Chamber of Deputies and the Senate of the Republic shall conserve their documents in their own historical archives, in accordance with the rules and regulations of their respective presidential offices.
3. The Constitutional Court shall conserve its documents in its own historical archives, in accordance with the provisions established by the regulation adopted under the laws in force pertaining to the constitution and functioning of the same Court.

Article 43
Obligatory Custody

1. The Ministry shall have the power to have movable cultural property transferred and temporarily conserved in public institutions, in order to guarantee its safety and ensure its conservation pursuant to article 29.

Article 44
Gratuitous Loan and Deposit of Cultural Property

1. The directors of archives and of institutions which administer or have on deposit artistic, archaeological, bibliographical and scientific collections may, with the prior consent of the competent Ministerial organ, receive movable cultural property from private owners on gratuitous loan for the purpose of permitting its enjoyment by the public, when property of particular importance or which represents a significant addition to public collections is concerned, and on condition that the conservation of the aforesaid property in public institutions does not prove to be particularly onerous.
2. The term of the gratuitous loan cannot last less than five years and shall be deemed to be tacitly extended for a period equal to the agreed term whenever one of the contracting partners has not communicated notification of cancellation to the other at least two months prior to the expiry of the term. The parties may consensually dissolve the gratuitous loan before expiry as well.
3. The directors shall adopt any measure necessary for the conservation of the property received on gratuitous loan, notifying the lender. The related expenses shall be borne by the Ministry.
4. The properties shall be protected by suitable insurance coverage at the expense of the Ministry.
5. The directors may, with the prior consent of the competent Ministerial organ, also receive on deposit cultural properties belonging to government bodies. The costs of conservation and custody referred specifically to the deposited properties are borne by the depositing body.

6. With regard to what is not expressly provided for by the present article, the provisions regarding gratuitous loans and deposits shall apply.

Section III *Other Forms of Protection*

Article 45 *Prescriptions for Indirect Protection*

1. The Ministry shall have the power to prescribe the distances, measures and other regulations aimed at preventing that the integrity of immovable cultural property be put at risk, that their perspective or natural light be damaged or that conditions of the setting or decorous aspect of the buildings be altered.
2. The prescriptions referred to in paragraph 1, adopted and notified under articles 46 and 47, shall be immediately enforceable. The territorial government bodies concerned shall incorporate the same prescriptions into building regulations and urban planning instruments.

Article 46 *Indirect Protection Proceeding*

1. The superintendent shall initiate the proceeding for indirect protection, which he may also do at the request of the Region or other interested territorial government bodies, and shall notify the proprietor, possessor or holder by whatever legal right of the building to which the prescriptions refer. If the number of recipients is such that personal notification is not possible or proves particularly burdensome, the superintendent shall communicate the start of proceeding by means of suitable forms of advertising.
2. The notification of start of proceeding for indirect protection shall identify the building for which there is intent to adopt prescriptions for indirect protection and shall indicate the essential contents of such prescriptions.
3. In the case of complexes of buildings, notification shall also be sent to the Municipality or the Metropolitan Area.
4. As a precautionary measure, notification shall entail the temporary prohibition to modify the building with regard to the aspects referred to in the prescriptions contained in the aforesaid notification.
5. The effects indicated in paragraph 4 shall cease upon expiry of the term of the relative proceeding, established by the Ministry under article 2, paragraph 2 of law no. 241 of 7 August 1990.

Article 47

Notification of Prescriptions for Indirect Protection and Administrative Appeal

1. The provision containing the prescriptions for indirect protection shall be notified to the proprietor, possessor or holder by whatever legal right of the buildings concerned, by a process-server or by means of registered letter with notification of receipt of delivery.
2. The provision shall be recorded in the building registers and shall have efficacy for any successive proprietor, possessor or holder by whatever legal right of the buildings to which the same prescriptions refer.
3. Administrative appeal against the provision containing the prescriptions for indirect protection shall be admissible under article 16. The intent to appeal, however, shall not entail the suspension of the effects of the provision contested.

Article 48

Authorisation for Exhibits and Expositions

1. The loan of the following for exhibits and expositions is subject to authorisation:
 - a) movable things indicated in article 12, paragraph 1;
 - b) movable properties indicated in article 10, paragraph 1;
 - c) movable properties indicated in article 10, paragraph 3, letters a) and e);
 - d) collections and individual items pertaining to them, referred to in article 10, paragraph 2, letter a); book collections indicated in article 10, paragraph 2, letter c) and paragraph 3, letter c); as well as archives and single documents indicated in article 10, paragraph 2, letter b), and paragraph 3, letter b).
2. When authorisation concerns properties belonging to the State or which have been placed under State protection, the request shall be presented to the Ministry at least four months prior to the start of the event and shall indicate the party responsible for the safekeeping of the works on loan.
3. The authorisation shall be issued taking into consideration the conservation exigencies of the properties and also, for those belonging to the State, the exigencies of public enjoyment; it shall be subject to the adoption of measures necessary to ensure the integrity of the properties. The criteria, procedures and modalities for issuing the authorisation shall be established by ministerial decree.
4. The granting of authorisation is moreover subject to the insurance of the things and properties on the part of the applicant, for the value

indicated in the application, with prior verification of its adequacy by the Ministry.

5. For exhibits and events within the national territory promoted by the Ministry, or with the participation of the State, or government bodies or institutions, the insurance provided for in paragraph 4 may be substituted by the assumption of the relative risks on the part of the State. Government guaranty is issued according to the procedures, modalities and conditions established by ministerial decree, in consultation with the Ministry for the Economy and Finance. The relevant costs will be provided for through the utilisation of the resources available in the reserve fund for obligatory and routine expenses established in the statement of expenditure estimates of the Ministry for the Economy and Finance.
6. The Ministry shall, at the request of the party concerned, have the power to declare the important cultural or scientific interest of exhibits or expositions of cultural properties and of any other initiative of a cultural nature, for purposes of the application of tax relief measures provided for under tax law.

Article 49

Advertising Bills and Hoardings

1. It is forbidden to place or affix hoardings or other means of advertising on buildings or in areas protected as cultural property. The superintendent may nevertheless authorise placement or posting when no harm ensues to the appearance, decorous aspect or public enjoyment of the said buildings or areas. The authorisation shall be forwarded to the Municipality for the purposes of any authorising provision to be granted under its competence.
2. It shall be forbidden to place hoardings or other means of advertising along roads located within or near the properties indicated in paragraph 1, unless authorisation is granted in accordance with the laws and regulations regarding road traffic and advertising in the streets and on vehicles, with the prior favourable decision of the superintendent with regard to the compatibility of collocation and type of means of advertising with the appearance, decorous aspect and public enjoyment of the properties under protection.
3. In relation to the properties indicated in paragraph 1, the superintendent may, after assessing compatibility with their artistic or historical nature, authorise or permit the use for advertising purposes of the coverings of the scaffoldings mounted for the execution of conservation or restoration work for a period of time that does not exceed the duration of the work. For this purpose, the tender contract for the aforesaid works must be attached to the application for the permit or assent.

Article 50
Detachment of Cultural Properties

1. It is forbidden to order and carry out, without the authorisation of the superintendent, the detachment of frescoes, escutcheons, graffiti, tablets, inscriptions, tabernacles and other ornaments, whether or not they be displayed to public view.
2. It is forbidden to order and carry out, without the authorisation of the superintendent, the detachment of escutcheons, graffiti, tablets, inscriptions, and tabernacles, and to remove memorial stones and monuments, constituting vestiges of World War I under the laws and regulations in this regard.

Article 51
Artists' Studios

1. It is forbidden to change the designated use of artists' studios, or to remove their contents, consisting of works, documents, relics and the like, when such contents, considered as a whole and in relation to the context within which they are contained, are declared to be of particularly important interest for their historical value, under article 13.
2. It is moreover forbidden to change the designated use of artists' studios which fall within the traditional studio with skylight typology and which have been adapted to this use for at least twenty years.

Article 52
Commercial Activity in Areas of Cultural Value

1. With the resolutions provided for in the laws on the reform of the regulations pertaining to the commercial sector, the Municipalities shall, with prior consultation of the superintendent, identify the public areas having archaeological, historical, artistic and environmental value in which commercial activity is to be forbidden or subject to particular conditions.

Chapter IV
Circulation Within the National Territory

Section I
Alienation and Other Means of Transferral

Article 53
State Cultural Property

1. Cultural properties belonging to the State, the Regions and other territorial government bodies which correspond to the characteristics of the typologies indicated in article 822 of the civil code constitute the cultural property of the State.
2. The properties of the State cultural heritage may not be transferred, nor may they be the object of rights in favour of third parties, except in the ways set out in this Code.

Article 54
Non-alienable Properties

1. The following cultural properties belonging to the State cannot be alienated:
 - a) buildings and areas of archaeological interest;
 - b) buildings recognised as national monuments by measures having the force of law;
 - c) the collections of museums, picture galleries, art galleries and libraries;
 - d) archives.
2. The following cannot equally be alienated:
 - a) immovable and movable things belonging to subjects indicated in article 10, paragraph 1, which are the work of non-living artists and whose production goes back more than fifty years, until release from State ownership occurred, if necessary, following the verification procedures set out in article 12;
 - b) movable things which are the work of living artists or whose production does not go back more than fifty years, if these are included in collections belonging to the bodies indicated in article 53;
 - c) single documents belonging to the bodies referred to in article 53, as well as the archives and single documents of government bodies and institutions other than those indicated in the aforesaid article 53;
 - d) immovable things belonging to the bodies indicated in article 53 which have been declared to be of particularly important interest, testifying to the identity and history of public, collective or religious institutions as set out in article 10, paragraph 3, letter d).
3. The properties and things referred to in paragraphs 1 and 2 may be transferred between the State, the Regions and other territorial government bodies.

4. The properties and things indicated in paragraphs 1 and 2 may be used exclusively according to the modalities and for the purposes provided for in Title I of this Part.

Article 55

Alienability of Buildings Belonging to State Cultural Property

1. Immovable cultural properties which are part of the State's cultural property and which are not included among those listed in article 54, paragraphs 1 and 2, cannot be alienated without the authorisation of the Ministry.
2. The authorisation referred to in paragraph 1 may be granted under the following conditions:
 - a) alienation must ensure the protection and enhancement of the properties, and in any case must not hinder public enjoyment;
 - b) the authorisation provision must indicate designated uses that are compatible with the historical and artistic nature of the buildings and
must be such that no harm is done to their conservation.
3. The authorisation to alienate entails the release from State ownership of the cultural properties to which it refers. These properties remain subject to protection under article 12, paragraph 7.

Article 56

Other Types of Alienation Subject to Authorisation

1. The following are also subject to authorisation by the Ministry:
 - a) the alienation of cultural properties belonging to the State, the Regions and other territorial government bodies, other than those indicated in article 54, paragraphs 1 and 2, and article 55, paragraph 1.
 - b) the alienation of cultural properties belonging to government bodies other than those indicated in letter a) or to private non-profit associations, with the exception of the things and properties indicated in article 54, paragraph 2, letters a) and c).
2. Authorisation is also required in cases of partial sale of collections or series
of objects and of book collections by bodies and associations indicated
in
in paragraph 1, letter b).
3. The provisions of the preceding paragraphs shall also apply to the constitution
of mortgages and pledges and to legal transactions which may entail
the transfer of the cultural properties indicated therein.

4. The deeds which entail the transfer of cultural properties to the State, including transfers in payment of taxes owed, shall not be subject to authorisation.

Article 57

Regulations for Authorisation to Alienate

1. The application for authorisation to alienate shall be submitted by the body to which the properties belong and shall be accompanied by the indication of the current designated use and the programme of necessary conservation measures.
2. With regard to the properties indicated in article 55, paragraph 1, the authorisation may be issued by the Ministry at the recommendation of the Superintendency, after consultation with the Region and, through the Region, with other interested territorial government bodies, under the conditions established in paragraph 2 of the aforesaid article 55. The prescriptions and the conditions contained in the authorisation provision shall be included in the deed of transfer.
3. The alienated property may not undergo work of any kind unless the relative project has had prior authorisation under article 21, paragraph 4.
4. With regard to the properties indicated in article 56, paragraph 1, letter *a*), and the properties of the government bodies and institutions indicated in article 56, paragraph 1, letter *b*) and paragraph 2, authorisation may be granted when the same properties bear no interest for public collections and alienation does not seriously harm their conservation or impair public enjoyment.
5. With regard to the properties indicated in article 56, paragraph 1, letter *b*) and paragraph 2, belonging to private non-profit organisations, authorisation may be granted when no serious harm ensues from the transfer to the conservation or the public enjoyment of the aforesaid properties.

Article 58

Authorisation to Exchange

1. The Ministry may authorise the exchange of properties indicated in articles 55 and 56, and of single properties belonging to government collections, with others belonging to bodies, institutions and private individuals, including foreign bodies, institutions and individuals, when an increase in the national cultural patrimony or an enrichment of public collections ensues from the exchange.

Article 59
Declaration of Transfer

1. Deeds which transfer, in whole or in part, by whatever legal right, property or the possession of cultural properties shall be reported to the Ministry.
2. The declaration shall be made within 30 days:
 - a) by the alienor or the transferor of possession of the property, in the case of alienation made for a money consideration or not for value, or of transferral of possession;
 - b) by the purchaser, in the case of transferral occurring in procedures of forced or bankruptcy sale or by force of an adjudication which produces the effect of a transfer contract which is not concluded;
 - c) by the heir or the legatee, in the case of succession because of death. For the heir, the time limit begins with the acceptance of the inheritance or with the presentation of the declaration to the competent tax offices; for the legatee the time limit begins with the opening of the will, except in the case of renunciation under the provisions of the civil code.
3. The declaration shall be presented to the competent superintendent in the
place where the properties are located.
4. The declaration shall contain:
 - a) identification of the parties and the signature of the same or of their legal representatives;
 - b) the information identifying the properties;
 - c) the indication of the place where the properties are located;
 - d) the indication of the nature and conditions of the deed of transfer;
 - e) the indication of the habitual residence in Italy of the parties concerned for the purposes of any communications provided for by the present Title.
5. A declaration lacking any of the indications provided for in paragraph 4
or with incomplete or imprecise indications shall be deemed not to have
been submitted.

Section II
Pre-emption

Article 60
Purchase by Pre-emption

1. The Ministry or, in the case provided for in article 62, paragraph 3, the Region or another interested territorial government body, shall have the power to purchase by pre-emption cultural properties alienated for a money consideration at the price established in the deed of transfer.
2. When the property is alienated with other properties for a single money consideration or is transferred without a money consideration or is exchanged, its monetary value shall be officially determined by the party which proceeds to pre-emption under paragraph 1.
3. When the alienor does not wish to accept the assessment established under paragraph 2, the monetary value of the thing shall be determined by a third party, designated by agreement between the alienor and the party exercising pre-emption. If the parties do not agree on the appointment of the third party, or on a replacement should the nominee not wish or not be able to accept the appointment, the designation shall, at the request of one of the parties, be made by the president of the court in the area in which the contract was concluded. The relative costs shall be advanced by the alienor.
4. The assessment of the third party may be contested in the case of error or manifest inequity.
5. Pre-emption may be also exercised when the property is by any legal right given in payment.

Article 61

Conditions of Pre-emption

1. Pre-emption shall be exercised within sixty days of the date of receipt of the declaration provided for in article 59.
2. In the case in which the declaration is omitted or presented late or proves incomplete, pre-emption shall be exercised within one hundred and eighty days from the time that the Ministry receives the late declaration or in any case acquires all the elements constituting the same under article 59, paragraph 4.
3. The pre-emption provision shall be notified to the alienor and the purchaser within the time limits indicated in paragraphs 1 and 2. The property shall pass to the State from the last notification date.
4. When the time limit prescribed in paragraph 1 is still pending, the effects of the deed of transfer are suspended until the exercise of pre-emption occurs and the alienor is forbidden to carry out delivery of the thing.
5. The State is not bound by the clauses of the contract of alienation.
6. In the case in which the Ministry exercises its right of pre-emption on part of the things alienated, the buyer is entitled to rescind the contract.

Article 62
Pre-emption Procedure

1. Upon receipt of declaration of a deed subject to pre-emption, the superintendent shall give immediate notification to the Region and the other territorial government bodies in whose territory the property is located. Where a movable property is concerned, the Region shall inform the public through its own Official Bulletin and, if necessary, through any other suitable means of advertising at the national level, with the description of the work and the indication of its price.
2. The Region and other territorial government bodies shall, within thirty days of the declaration, present a recommendation for pre-emption to the Ministry, accompanied by the resolution of the competent organ which shall order the necessary financial coverage for the costs, to be provided for in the budget of the body concerned.
3. When the Ministry does not wish to exercise its right of pre-emption, it shall notify the interested body within forty days of receipt of declaration. The aforesaid body shall take on the relative expenses, adopt the pre-emption provision and notify the alienor and the purchaser within and not beyond seventy days of the aforesaid declaration. Ownership of the property shall be transferred to the body which has exercised right of pre-emption, from the last notification date.
4. In the cases referred to in article 61, paragraph 2, the time limits indicated in paragraph 2 and in the first and second sentences of paragraph 3 are respectively, ninety, one hundred and twenty, and eighty days from the late declaration or from the date of the acquisition of the elements constituting the same declaration.

Section III
Commercial Activity

Article 63

Obligation to Report Commercial Activity and Keep a Register. Obligation to Declare Sale or Purchase of Documents

1. The local authority for public safety authorised, under the laws pertaining to the matter, to receive preventive declaration of commercial trade in antique or used objects, shall forward to the

- superintendent and to the Region a copy of the aforesaid declaration, presented by the dealer in the things included in the categories indicated in letter A of Annex A of the present legislative decree.
2. Those who deal in the things indicated in paragraph 1 shall make daily entries of the operations carried out in the register prescribed by the regulations pertaining to public safety, and shall describe the characteristics of the aforesaid things. The value limits above which a detailed description of the things commercially traded becomes obligatory shall be defined by decree adopted by the Ministry in agreement with the Ministry of Internal Affairs.
 3. The superintendent shall verify the fulfilment of the obligation indicated in the second sentence of paragraph 2 by means of periodical inspections, which may also be carried out by officers delegated for the purpose by him/her. The verification shall be carried out by officers of the Region in cases where protection under article 5, paragraphs 2, 3 and 4 is exercised. The inspection report shall be notified to the concerned party and to the local public safety authorities.
 4. Dealers in documents, the owners of auction houses, as well as public officials charged with the sale of real estate must forward to the superintendent the list of documents of historical interest offered for sale. Private owners, possessors or holders by whatever legal right of archives who purchase documents having the aforementioned interest, shall be subject to the same obligation within ninety days of acquisition. The superintendent may start the procedure referred to in article 13 within ninety days of notification.
 5. The superintendent may in any case ascertain ex officio the existence of archives or single documents of which private individuals are proprietors, possessors or holders by whatever legal right, or for which a particularly important historical interest may be presumed.

Article 64

Certificates of Authenticity and Provenance

1. Whosoever conducts activities of sale to the public, of exposition for commercial purposes or of mediation for the purpose of selling works of painting, sculpture, graphic art or of antique objects or objects of historical or archaeological interest, or whosoever in any case habitually sells the aforesaid works or objects, must provide the buyer with documentation certifying authenticity, or at least probable attribution, and provenance; or, lacking such, declaration must be provided containing all the information available with regard to the authenticity of the work or object or to its probable attribution and provenance, according to the procedures provided for by the legislative and

regulatory provisions pertaining to administrative documentation. Such a declaration, where the nature of the work or the object permits, shall be affixed upon a photographic copy of the same.

Chapter V
Circulation Within International Territory

Section I
Exit from National Territory and Entry into National Territory

Article 65
Definitive Exit

1. The definitive exit of movable cultural property indicated in article 10, paragraphs 1, 2 and 3 from within the territory of the Republic is forbidden.
2. The exit of the following is also forbidden:
 - a) movable things belonging to the subjects indicated in article 10, paragraph 1, which are the work of no longer living artists and whose production goes back more than fifty years, until the verification provided for by article 12 is carried out.
 - b) properties, to whomsoever they may belong, which are included in the categories indicated in article 10, paragraph 3, and which the Ministry, after consultation with the competent advisory body, has preventively identified and for which it has excluded exit, for defined periods of time, because it would be harmful for the cultural heritage in relation to the objective characteristics and the provenance of the aforesaid properties and to the milieu to which they belong.
3. Apart from the cases provided for in paragraphs 1 and 2, the definitive exit of the following from the territory of the Republic are subject to authorisation according to the procedures established in the present

Section

and in Section II of this Chapter:

- a) things, to whomsoever they may belong, which present cultural interest and which are the work of no longer living artists and whose production goes back more than fifty years;
- b) archives and single documents, belonging to private individuals, which present cultural interest;
- c) properties included in the categories indicated in article 11, paragraph 1, letters *f)*, *g)* and *h)*, to whomsoever they may belong:

4. The exit of the things referred to in article 11, paragraph 1, letter *d*) is not subject to authorisation. The interested party must nevertheless demonstrate to the competent export office that the things to be transferred abroad are the work of a living artist or that their production does not go back more than fifty years, according to the procedures and modalities established by Ministerial decree.

Article 66 *Temporary Exit for Events*

1. The temporary exit from the territory of the Republic of the things and cultural properties indicated in article 65, paragraphs 1, 2, letter *a*), and paragraph 3, may be authorised for art events, exhibits or expositions of great cultural interest, on condition that the integrity and safety of the aforesaid things are ensured.
2. The following may not, in any case, be removed from national territory:
 - a*) properties which are susceptible to damage during transportation or in unfavourable environmental conditions;
 - b*) properties which constitute the principal collection of a determined and integral section of a museum, picture gallery, art gallery, archive or library or of an artistic or bibliographical collection.

Article 67 *Other Cases of Temporary Exit*

1. The things and cultural properties indicated in article 65, paragraphs 1, 2, letter *a*), and 3 may also be authorised to exit temporarily when:
 - a*) these constitute the private furniture of Italian citizens who, in diplomatic and consular seats, European Union institutions or international organisations, fill offices which require the persons concerned to move abroad, for a period of time which is not to exceed the duration of their mandate;
 - b*) they constitute the interior décor of diplomatic and consular seats abroad;
 - c*) they must undergo analysis, investigations or conservation work which must necessarily be carried out abroad;
 - d*) their exit is requested in the implementation of cultural accords with foreign museum institutions under reciprocity agreements, for the duration established in the same accords, which may nevertheless not exceed four years.

2. The temporary exit from the territory of the Republic of means of transportation over seventy-five years old for participation in international exhibits and meetings is not subject to authorisation except when a declaration has been made for them under article 13.

Article 68

Certificate of Free Circulation

1. Whosoever wishes to definitively remove the things and properties indicated in article 65, paragraph 3, from the territory of the Republic, must make a declaration to that effect and present them to the competent export office, indicating at the same time the market value for each item, in order to obtain the certificate of free circulation.
2. Within three days of presentation of the things or properties, the export office shall notify the competent offices of the Ministry, which within the following ten days shall furnish it with any useful cognitive element with regard to the objects presented for definitive exit.
3. Having ascertained the fairness of the indicated value, the export office shall, with a reasoned decision, which may also be based on information received, issue or deny the certificate of free circulation, notifying the party concerned within forty days of the presentation of the thing or property.
4. In assessing granting or denial of the certificate of free circulation the export offices shall abide by the general guidelines established by Ministry, after consultation with the competent advisory body.
5. The certificate of free circulation is valid for a three-year period and shall be issued in three original copies, one of which shall be filed in the official documents archive; the second shall be consigned to the party concerned and must accompany the circulation of the object; the third shall be forwarded to the Ministry for the formation of the official certificates register.
6. Denial shall entail the start of declaration proceedings, under article 14. To this purpose, contemporaneously with denial, the elements indicated in article 14, paragraph 2, shall be communicated to the party concerned and the things or properties shall be subject to the provisions of paragraph 4 of the aforesaid article.
7. For the things or properties belonging to bodies subject to Regional supervision, the export office shall consult the Region, whose opinion shall be delivered within the peremptory term of thirty days from the date of receipt of the request and, when the aforesaid opinion is negative, it shall be binding.

Article 69

Administrative Appeal Against Denial of Certificate

1. Appeal to the Ministry against a denial of certificate is admissible, within the thirty days following, on grounds of legitimacy or merits.
2. After consulting the competent advisory body, the Ministry shall rule on the appeal within the term of ninety days from the presentation of the same.
3. The declaration proceedings shall be suspended from the date of presentation of administrative appeal and until the expiry of the term indicated in paragraph 2, but the properties shall remain subject to the provisions indicated in article 14, paragraph 4.
4. When the Ministry acknowledges the appeal as valid, it shall return the relative documents to the export office, which shall take action accordingly within the following twenty days.
5. The provisions of decree no. 1199 of the President of the Republic of 24 November 1971 shall apply.

Article 70
Compulsory Purchase

1. Within the time limit indicated in article 68, paragraph 3, the export office may recommend to the Ministry the compulsory purchase of the thing or the property for which the certificate of free circulation has been requested, contemporaneously notifying the Region and the party concerned, to whom it shall moreover declare that the object subject to the purchase recommendation shall remain in the custody of the aforesaid office until the conclusion of the relative procedure. In such case, the time limit for issuing the certificate is extended to sixty days.
2. The Ministry shall have the option to purchase the thing or property for the value indicated in the declaration. The purchase provision shall be notified to the party concerned within the peremptory term of ninety days from the declaration. Until such time as notification of the purchase provision occurs, the party concerned may decide against the exit of the object and take action to withdraw the same.
3. Should the Ministry not wish to proceed to purchase, it shall, within sixty days of the declaration, notify the Region in whose territory the recommending export office is located. The Region shall have the option to purchase the thing or the property in accordance with the provisions of article 62, paragraphs 2 and 3, pertaining to the financial coverage of the costs and the assumption of the relative promise to purchase. The relative provision shall be notified to the party concerned within the peremptory term of ninety days from the declaration.

Article 71
Certificate of Temporary Circulation

1. Whosoever intends, under articles 66 and 67, to temporarily remove from the territory of the Republic the things and properties indicated therein, must declare such intention and present the items to the competent export office, indicating at the same time the market value for each item and the party responsible for its safekeeping abroad, in order to obtain the certificate of temporary circulation.
2. Having ascertained the fairness of the value indicated, the export office shall, with a reasoned decision, issue or deny the certificate of temporary circulation, dictating the prescriptions necessary and notifying the party concerned within forty days of the presentation of the thing or property. Administrative appeal against denial of temporary circulation shall be admissible following the procedures set out in article 69.
3. When the thing or property presented for temporary exit possesses the interest required under article 10, the elements indicated in article 14, paragraph 2 shall be communicated to the party concerned, contemporaneously with the positive or negative decision, for the purposes of the start of declaration proceedings, and the object shall be subject to the measures set out in article 14, paragraph 4.
4. In assessing the granting or denial of the certificate, the export offices shall abide by the general guidelines established by the Ministry, after consulting the competent advisory body. For cases of temporary exit regulated by article 66 and article 67, paragraph 1, letters *b*) and *c*), the granting of the certificate shall be subject to authorisation under article 48.
5. The certificate shall also indicate the time limit for the return of the things or properties, which may be extended at the request of the party concerned, but may not in any case exceed eighteen months from the time of their removal from the national territory, with the exception of the provisions of paragraph 8.
6. The granting of the certificate shall always be conditional to the insurance of the properties on the part of the party concerned for the value indicated in the application. For exhibits and events promoted abroad by the Ministry or, with State participation, by government bodies, by Italian Cultural Institutes abroad or by supra-national organisations, the insurance may be substituted by the assumption of the relative risks by the State, under article 48, paragraph 5.
7. For cultural properties indicated in article 65, paragraph 1, as well as for the things or properties indicated in paragraph 3, temporary exit shall be guaranteed by means of a security bond, which may consist of a surety policy, issued by a banking institution or an insurance company, for a sum exceeding by ten per cent the value of the property or thing as assessed when the certificate was issued. The surety shall be seized by the administration when the objects admitted for temporary exportation do not return to the national territory within the time limit established. Surety is not required for properties belonging to the State and to public administrations. The Ministry may exonerate institutions of particular cultural importance from the obligation to provide surety.

8. The provisions of paragraphs 5 to 7 do not apply to the cases of temporary exit provided for in article 67, paragraph 1.

Article 72
Entry into National Territory

1. The shipment to Italy by a Member State of the European Union or the importation from a third country of the things or properties indicated in article 65, paragraph 3, shall, upon application, be certified by the export office.
2. Certificates declaring that shipment and importation have occurred shall be issued on the basis of documentation suitable for identifying the thing or the property and for proving provenance from the territory of the Member State or third Country from which the thing or property has been respectively shipped or imported.
3. The certificates declaring that shipment and importation have occurred shall be valid for five years and may be extended upon request by the party concerned.
4. Conditions, modalities and procedures for granting and extending certificates may be established by ministerial decree, with particular regard for the ascertainment of the provenance of the thing or property shipped or imported.

Section II
Exportation from European Union Territory

Article 73
Denominations

1. In the present Section and in section III of this Chapter the following denominations shall be used:
 - a) "EEC Regulation" shall mean Council Regulation (EEC) no. 3911/92 of 9 December 1992, as modified by Council Regulation (EC) no. 2469/96 of 16 December 1996 and by Council Regulation (EC) no. 974/01 of 14 March 2001.
 - b) "EEC Directive" shall mean Council Directive 93/7/EEC of 15 March 1993, as modified by Directive 96/100/EC of the European Parliament and of the Council, of 17 February 1997, and by

Directive 200/38/EC of the European Parliament and of the Council, of 5 June 2001;

- c) "requesting State" shall mean the Member State of the European Union which initiates the action for restitution under Section III.

Article 74

Exportation of Cultural Properties from the European Union

1. The exportation outside European Union territory of the cultural properties indicated in Annex A of this Code is governed by the EEC Regulation and the present article.
2. The export licence provided for in article 2 of the EEC Regulation shall be issued by the export office contemporaneously with the certificate of free circulation, or not more than thirty months from the granting of the latter on the part of the same office. The licence shall be valid for six months.
3. In the case of temporary exportation of a property listed in Annex A of this Code, the export office shall issue the temporary export licence under the conditions and according to the modalities established in articles 66, 67 and 71.
4. The provisions of Section I of this Chapter shall not apply to cultural properties which have entered State territory with an export licence which has been issued by another European Union Member State in accordance with article 2 of the EEC Regulation, for the duration of the validity of the same licence.
5. For the purposes of the EEC Regulation, the Ministry's export offices shall be the authority responsible for granting export licences for cultural properties. The Ministry shall compile and keep the list of export licences granted, notifying the Commission of the European Communities of any changes within two months of their occurrence.

Section III

Restitution of Cultural Properties Illegally Taken out of the Territory of a Member State of the European Union

Article 75

Restitution

1. Cultural properties illegally taken out of the territory of a European Union Member State after 31 December 1992 shall be returned in accordance with the provisions of the present section.

2. Cultural properties are deemed to be those properties which, even after their exit from the territory of the requesting State, are defined, on the basis of the laws in force therein, as belonging to the national cultural heritage, in accordance with article 30 of the Treaty Establishing the European Economic Community, substituted by article 6 of the Treaty of Amsterdam, and by the relative laws and regulations of ratification and execution.
3. Restitution is admissible for the properties included in one of the following categories:
 - a) properties indicated in Annex A;
 - b) properties which are part of public collections inventoried in museums, archives and collections of books for conservation. Public collections are defined as the collections owned by the State, the Regions, other territorial government bodies and any other public body and institution, as well as collections which are significantly financed by the State, the Regions or the other territorial government bodies;
 - c) properties included in ecclesiastical inventories.
4. The exit of cultural properties shall be deemed illegal when aforesaid exit occurs in violation of the EEC Regulation or of the legislation of the requesting State on the protection of the national cultural heritage, or when the property has not been returned upon expiry of the temporary exit or export term.
5. The exit of properties for which temporary exit or export has been authorised shall be deemed illegal when the prescriptions established under the provision set out in article 71, paragraph 2 have been violated.
6. Restitution shall be admissible if the conditions indicated in paragraphs 4 and 5 subsist when the application is brought forward.

Article 76

Assistance and Collaboration for European Union Member States

1. For Italy, the central authority established under article 3 of the EEC Directive is the Ministry. In carrying out the various tasks indicated in the Directive, the Ministry shall avail itself of its central and branch organs, as well as of the co-operation of other Ministries, other organs of the State, the Regions and other territorial government bodies.
2. For the discovery and restitution of cultural properties belonging to the heritage of another European Union Member State, the Ministry shall:
 - a) ensure its collaboration with the competent authorities of the other Member States;
 - b) arrange for investigations within its national territory with the aim of localising the cultural property and identifying the possessor or holder. The investigations shall be ordered upon request of the requesting State, which is to be accompanied by any useful

- information or documents for facilitating the investigation, with particular attention paid to the location of the property;
- c) notify the Member States concerned of the discovery on national territory of a cultural property whose illegal exit from a Member State may be presumed on the basis of precise and concordant evidence;
 - d) facilitate the operations which the Member State concerned carries out, with regard to the property which is the object of the notification referred to in letter c), to verify the existence of the premises and conditions indicated in article 75, on condition that such operations be carried out within two months of aforesaid notification. When the verification fails to be carried out within the established term, the provisions contained in letter e) shall not apply;
 - e) order, where necessary, the removal of the property and its temporary safekeeping in public institutions, as well as any other measure necessary to ensure its conservation and prevent its removal from the restitution process;
 - f) promote the amicable settlement of any dispute concerning restitution between the requesting State and the possessor or holder by whatever legal right of the cultural property. To this purpose, and taking into consideration the character of the parties concerned and the nature of the property, the Ministry may recommend to the requesting State and the possessing or holding parties the settlement of the dispute by means of arbitration, to be carried out according to Italian law, and it shall to this end acquire the formal agreement of both parties.

Article 77 *Action for Restitution*

1. For cultural properties illegally taken out of their territory, European Union Member States may bring an action for restitution before the ordinary courts of law, in accordance with article 75.
2. The action shall be brought before the court which has jurisdiction over the area in which the property is located.
3. In addition to the prerequisites established in article 163 of the civil procedures code, the summons must contain:
 - a) a document describing the item claimed which certifies it as cultural property;
 - b) the declaration by the competent authorities of the requesting State regarding the illegal exit of the property from national territory.
4. The summons shall, in addition to the possessor or the holder by whatever legal right of the property, be notified to the Ministry in order

to be filed in the special register for recording judicial claims for restitution.

5. The Ministry shall immediately notify the central authorities of the other Member States that the summons has been filed in the register.

Article 78

Lapse of Time-limit for Action

1. The action for restitution shall be brought within the peremptory term of one year, starting from the day when the requesting State knew that the property illegally taken out of its national territory is to be found in a determined place and identified the possessor or holder of the property by whatever legal right.
2. The action for restitution is limited in any case within the term of thirty years from the day of the illegal exit of the property from the territory of the claimant State.
3. There is no time limit for action for restitution for the properties indicated in article 75, paragraph 3, letters *b)* and *c)*.

Article 79

Compensation

1. In ordering the restitution of the property, the court may, upon request of the party concerned, award compensation determined on the basis of equitable criteria.
2. In order to obtain the compensation provided for in paragraph 1, the party concerned must demonstrate that, in the act of purchasing he/she exercised due diligence under the circumstances.
3. The possessor of the property through donation, inheritance or bequest may not enjoy a more favourable position than that of the person from whom he/she acquired the object.
4. The requesting State which is obliged to pay compensation may recoup its losses from the party responsible for illegal circulation residing in Italy.

Article 80

Payment of Compensation

1. Compensation is paid by the requesting State contemporaneously with the restitution of the property.
2. Payment and delivery of the property shall be transcribed in a procès verbal by a notary public, a court official or a public officer designated

for the purpose by the Ministry which shall receive a copy of the aforesaid procès verbal.

3. The procès verbal shall constitute title for the cancellation of the registration of the claim.

Article 81

Charges for Assistance and Collaboration

1. The expenses related to the search for, removal and temporary custody of the property to be returned, as well as other expenses ensuing from the application of article 76, and those inherent to the implementation of the ruling which orders restitution, shall be borne by the requesting State.

Article 82

Action for Restitution on Behalf of Italy

1. The action for restitution of cultural property which has been illegally taken from Italian soil shall be brought by the Ministry, in accord with the Ministry for Foreign Affairs, before the judge of the European Union Member State in which the cultural property is found.
2. The Ministry shall avail itself of the law officers of the State.

Article 83

Destination of the Returned Property

1. In cases where the returned cultural property does not belong to the State, the Ministry shall provide for its custody until it is delivered to the person having legal right to it.
2. The delivery of the property is subject to reimbursement to the State of the expenses incurred for the action for restitution process and custody of the property.
3. When it is not known who has the right to delivery of the property, the Ministry shall inform the public of the action for restitution through notice published in the *Official Gazette* of the Republic of Italy and through other forms of advertising.
4. In cases where the person having a right to the property fails to request its delivery within five years of the date of publication in the *Official Gazette* of the notice provided for in paragraph 3, the item shall become government property. After consulting the competent advisory body and the Regions concerned, the Ministry shall order that the property be assigned to a museum, library or archive of the State, a Region or another territorial government body, in order to best ensure protection for it and public enjoyment within the most suitable cultural context.

Article 84

Information to the European Commission and the National Parliament

1. The Ministry shall inform the Commission of the European Community of the measures adopted by Italy to ensure implementation of the EEC Regulation and shall receive the corresponding information forwarded to the Commission by other Member States.
2. On an annual basis, the Ministry shall, in an annex to the budgetary expenditure estimates of the Ministry, forward to Parliament a report on the implementation of this Chapter as well as the implementation of the EEC Directive and EEC regulation in Italy and in the other Member States.
3. Every three years, after consultation with the competent advisory body, the Ministry shall prepare a report for the Commission on the application of the EEC regulation and the EEC directive indicated in paragraph 1. The report shall be forwarded to Parliament.

Article 85

Databank of Stolen Cultural Property

1. A databank of stolen cultural property is established within the Ministry, according to modalities established by ministerial decree.

Article 86

Agreements with other European Union Member States

1. For the purpose of encouraging and fostering greater reciprocal knowledge of the cultural heritage, as well as of the legislation and the way in which protection is organised in the other European Union Member States, the Ministry shall promote suitable agreements with the corresponding authorities of the other Member States.

Section IV

UNIDROIT Convention

Article 87

Stolen or Illegally Exported Cultural Properties

1. The restitution of cultural properties indicated in the annex to the UNIDROIT Convention on the international return of stolen or illegally exported cultural properties is governed by the provisions of the aforesaid Convention and the related laws of ratification and enforcement.

Chapter VI *Findings and Discoveries*

Section I *Searches and Fortuitous Discoveries within the National Territory*

Article 88 *Search Activities*

1. Archaeological searches and, in general, activities for finding the things indicated in article 10 in any part of the national territory shall be reserved to the Ministry.
2. The Ministry may order the temporary occupation of the buildings where the searches and activities indicated in paragraph 1 are to be carried out.
3. The proprietor of the building shall be entitled to compensation for the occupation, which shall be determined in accordance with the modalities established by the general provisions for expropriation for public use. The compensation may be paid in money, or, upon request of the proprietor, by releasing the things found or part of them when these are not of interest to the collections of the State.

Article 89 *Search Concession*

1. The Ministry may grant concession to public or private subjects to carry out the search activities and work indicated in articles 88, and may on behalf of the concessionaire issue the order for occupation of the buildings where the work is to be carried out.
2. In addition to the prescriptions set out when concession is granted, the concessionaire must comply with all other prescriptions which the

Minister shall deem necessary. If the concessionaire fails to comply with the prescriptions, the concession shall be revoked.

3. The concession may also be revoked when the Ministry wishes to take over the execution or continuation of the works. In such case, the expenses incurred by the concessionaire for work hitherto carried out shall be reimbursed to the aforesaid concessionaire and the amount shall be established by the Ministry.
4. When the concessionaire decides not to accept the assessment of the Ministry, the amount shall be established by a qualified assessor appointed by the president of the tribunal. The related costs shall be advanced by the concessionaire.
5. The concession provided for in paragraph 1, may also be granted to the proprietor of the buildings in which the works are to be carried out.
6. The Ministry may, upon request, consent that the things found remain, in whole or in part, within the Region or other territorial government body for exhibition purposes, on condition that the body should possess a suitable venue and can ensure the conservation and custody of the aforesaid things.

Article 90

Fortuitous Discoveries

1. Whosoever fortuitously discovers immovable or movable things indicated in article 10 shall report the discovery to the superintendent or mayor or to the public security authorities within twenty-four hours and shall provide for the temporary conservation of the things, leaving them in the condition and place in which they were found.
2. When movable things are concerned for which it is not possible to ensure custody otherwise, the discoverer shall have the power to remove them in order to better ensure their safety and conservation until such time as the visit of the competent authorities occurs and, if need be, the discoverer may ask for the assistance of public authorities.
3. Every holder of things discovered fortuitously must abide by the provisions for conservation and custody set out in paragraphs 1 and 2.
4. Costs incurred for custody and removal shall be reimbursed by the Ministry.

Article 91

Ownership and Qualification of the Things Found

1. The things indicated in article 10, found underground or in sea beds by whomsoever and howsoever, shall belong to the State and, depending on whether they be immovable or movable, shall become part of government property or of its inalienable assets, pursuant to articles 822 and 826 of the civil code.

2. Whenever demolition of a building is carried out on behalf of the State, the Regions, other territorial government bodies or other public bodies or institutions, the by-product material which by contract has been reserved for the demolition firm shall not include the things found as a result of the demolition which possess the interest indicated in article 10, paragraph 3, letter *a*). Any agreement to the contrary shall be null and void.

Article 92
Finding Reward

1. The Ministry shall offer a reward not exceeding one quarter of the value of the things found to:
 - a*) the proprietor of the building in which the finding occurred;
 - b*) the concessionaire of the search activities, pursuant to article 89;
 - c*) the accidental discoverer who has fulfilled the obligations set out in article 90.
2. The proprietor of the building who has obtained the concession provided for in article 89 or is the discoverer of the thing in question, shall be entitled to a reward which may not exceed half of the value of the things found.
3. A discoverer who has entered and searched the property of another person without the consent of the proprietor or holder shall not be entitled to a reward.
4. The reward may be paid in money or with the release of a part of the things found. In lieu of the reward, the interested party may obtain, upon request, a tax credit for the same sum, in accordance with the modalities and with the limits established by decree adopted by the Ministry of the Economy and Finance in accord with the Ministry, pursuant to article 17, paragraph 3 of law no. 400 of 23 August 1988.

Article 93
Assessment of Reward

1. The Ministry shall provide for the assessment of the reward for the persons or parties entitled pursuant to article 96, following assessment of the value of the things found.
2. During the assessment process, each of the persons or parties entitled shall receive partial payment of the reward in an amount not exceeding one fifth of the value, assessed on a provisional basis, of the things found.
3. If the persons or parties entitled do not accept the definitive assessment of the Ministry, the value of the things found shall be determined by a third party, appointed by agreement of the parties concerned. If they do not reach agreement for the appointment of a third party or for its replacement, whenever the third party appointed

does not wish to or cannot accept the appointment, the appointment shall be made, upon request of one of the parties, by the president of the court having jurisdiction over the area in which the things were found. The costs of the assessment shall be advanced by the person or party entitled to the reward.

4. The assessment of the third party may be contested in case of error or manifest inequity.

Section II

Searches and Fortuitous Findings in Areas Adjacent to National Waters

Article 94

UNESCO Convention

1. Archaeological and historical objects found in the seabed of areas of seawaters extending for twelve marine miles from the external boundary of national waters are protected under the "Rules pertaining to measures for underwater cultural heritage" annexed to the UNESCO Convention on the protection of the underwater cultural heritage, adopted in Paris on November 2, 2001.

Chapter VII

Expropriation

Article 95

Expropriation of Cultural Property

1. Immovable and movable cultural property may be expropriated by the Ministry for reasons of public use, when the expropriation responds to an important need to improve the conditions of protection for the purposes of public enjoyment of the aforesaid properties.
2. The Ministry may, upon request, authorise the Regions and other territorial government bodies, as well as other public bodies and institutions, to carry out the expropriation referred to in paragraph 1. In such case it shall declare public use for the purposes of expropriation and shall transfer the deeds to the interested body for the prosecution of the procedure.
3. The Ministry may also order expropriation on behalf of a public non-profit association, taking direct responsibility for the relative procedure.

Article 96

Expropriation for Instrumental Purposes

1. Buildings and areas may be expropriated for reasons of public use when this is necessary for insulating or restoring monuments, for ensuring natural light or perspective, for protecting or improving their decorous aspect or increasing public enjoyment, or for facilitating access to them.

Article 97

Expropriation for Archaeological Interest

1. The Ministry may proceed to the expropriation of buildings for the purpose of carrying out work of archaeological interest or search activities for the discovery of the things indicated in article 10.

Article 98

Declaration of Public Use

1. Public use shall be declared by ministerial decree or, in the case of article 96, by a provision adopted by the Region and communicated to the Ministry.
2. In the cases of expropriation provided for under articles 96 and 97, the approval of the project shall be equivalent to the declaration of public use.

Article 99

Compensation for Expropriation of Cultural Property

1. In the case of expropriation provided for by article 95, compensation shall consist of the fair price that the property would have in a free contract of sale within the State.
2. Payment of compensation shall be made in accordance with the modalities established by the general provisions for expropriation for public use.

Article 100

Reference to General Laws

1. In the cases of expropriations governed by articles 96 and 97, the general provisions for expropriation for public use shall apply, insofar as they are compatible.

TITLE II
Enjoyment and Enhancement

Chapter I
Enjoyment of Cultural Property

Section I
General Principles

Article 101
Institutions and Places of Culture

1. For the purposes of this Code, museums, libraries and archives, archaeological parks and areas, and monumental complexes are deemed institutions and places of culture.
2. The following definitions apply:
 - a) "museum" shall mean a permanent facility which acquires, conserves, arranges and exhibits cultural property for the purposes of education and study;
 - b) "library" shall mean a permanent facility which gathers and conserves an organised collection of books, materials and information, written or published on any kind of support, and ensures consultation for the purposes of promoting reading and study;
 - c) "archive" shall mean a permanent facility which collects, inventories, and conserves original documents of historical interest and ensures consultation for purposes of study and research;
 - d) "archaeological area" shall mean site characterised by the presence of remains of a fossil nature or of artefacts or prehistoric or ancient structures;
 - e) "archaeological park" shall mean a land area characterised by important archaeological evidence and the presence of historical, landscape or environmental values, organised as an open-air museum;
 - f) "monumental complex" shall mean a collection of a number of structures which may have been built in different periods, and which over time have, as a whole, acquired autonomous artistic, historical or ethno-anthropological importance.
3. The institutions and places indicated in paragraph 1 which belong to government bodies are designated for public enjoyment and offer a public service.

4. The exhibition and consultation facilities as well as the places indicated in paragraph 1 which belong to private individuals and are open to the public offer a private socially useful service.

Article 102

Enjoyment of Publicly Owned Institutions and Places of Culture

1. The State, the Regions, other territorial government bodies and any other public body and institution shall ensure the enjoyment of the properties present in the institutions and places indicated in article 101, in compliance with the fundamental principles established by this Code.
2. In the respect of the principles indicated in paragraph 1, regional legislation shall govern the enjoyment of the properties present in the institutions and places of culture not belonging to the State or for which the State has transferred use on the basis of the laws in force.
3. The enjoyment of public cultural properties outside the institutions and places indicated in article 101 shall be ensured in accordance with the provisions of the present Title and compatibly with the implementation of the institutional purposes to which the aforesaid properties are designated.
4. For the purposes of co-ordinating, harmonising and increasing enjoyment in relation to the publicly owned institutions and places of culture, the State, and, on its behalf, the Ministry, the Regions and other territorial government bodies shall define agreements in this sphere, with the procedures set out in article 112. Where no agreement exists, each public body must guarantee the enjoyment of the properties under its jurisdiction.
5. By means of the agreements indicated in paragraph 4, the Ministry may also transfer jurisdiction of cultural institutions and places to the Regions and other territorial government bodies, on the basis of the principle of subsidiarity, for the purpose of ensuring adequate enjoyment and enhancement of the properties located therein.

Article 103

Access to Cultural Institutions and Places

1. Access to public cultural institutions and places may be free of charge or by admission fee. The Ministry, the Regions and other territorial government bodies may stipulate agreements for co-ordinating access to them.
2. Access to libraries and public archives for purposes of reading, study and research is free of charge.
3. In cases where access involves an admission fee, the Ministry, the Regions and the other territorial government bodies shall determine:
 - a) the cases of free access and free admission;

Article 106
Individual Use of Cultural Property

1. The Ministry, the Regions and other territorial government bodies may grant the use of cultural properties - committed to their care - to individual applicants, for purposes which are compatible with their original cultural designation.
2. For properties which are committed to the care of the Ministry, the superintendent shall establish the fee to be paid and adopt the relative procedures.

Article 107
Instrumental and Temporary Use and Reproduction of Cultural Property

1. The Ministry, the Regions and other territorial government bodies may permit the reproduction as well as the instrumental and temporary use of the cultural properties committed to their care, without prejudice to the provisions in paragraph 2 and those with regard to copyright.
2. The reproduction of cultural properties is generally forbidden when it consists in producing casts from the originals of works of sculpture or of works in relief in general, regardless of the material from which such works are made. Casts from already existing copies of the originals are ordinarily permitted, with the authorisation of the superintendent. The procedures for reproducing casts are regulated by ministerial decree.

Article 108
Concession Fees, Payment for Reproduction, Security Deposits

1. Concession fees and payments connected to the reproduction of cultural properties are established by the authority to whose care the property is committed, also taking into account:
 - a) the nature of the activities to which concession of use refers;
 - b) the means and modalities for producing the reproduction;
 - c) the use the spaces and property will be put to and for what period of time;
 - d) the use and purpose for which the reproductions are made, as well as the economic benefits which will accrue to the applicant.
2. The fees and payments shall as a rule be paid in advance.
3. No fee is owed for reproductions requested by private individuals for personal use for purposes of study, or by public bodies for purposes of enhancement. The applicants shall nevertheless reimburse the administration granting concession for any costs incurred.

4. In cases where the activities granted in concession may harm the cultural properties, the authorities to whose care the properties are committed shall establish the amount of security deposit, which may be made through a bank or insurance surety. For the same reasons, the security deposit is also required in cases of exemption from payment of fees.
5. The security deposit is returned when it has been ascertained that the property granted in concession has not suffered damage and that expenses incurred have been reimbursed.
6. The minimum amounts of the fees and payments for use and reproduction of the property shall be established by a provision on the part of the administration granting concession.

Article 109

Catalogue of Photographic Images and of Films of Cultural Property

1. When the concession concerns the reproduction of cultural property for purposes of collections and catalogues of photographic images and films in general, the concession provision shall prescribe:
 - a) the deposit of an original duplicate of each film or photograph;
 - b) the restitution, after use, of the original colour photograph with the relevant code.

Article 110

Cash Receipts and Division of Proceeds

1. In the cases provided for in article 115, paragraph 2, the proceeds deriving from the sale of tickets for admission to cultural institutions and sites, as well as concession fees and payments for the reproduction of cultural property, shall be paid to the government bodies to which the institutions, sites or individual properties belong or to whose care they are committed, in conformity with the respective public accounting provisions.
2. Where institutions, sites or properties belonging to or committed to the care of the State are concerned, the proceeds indicated in paragraph 1 shall be paid to the provincial section of the State treasury. Payment may also be deposited into a postal current account registered to the aforesaid treasury, or into a current account opened by each cultural institution or site officer at a credit institution. In this last hypothesis the banking institution shall deposit the amounts received into the section of the provincial treasury of the State, not more than five days after receipt. The Ministry for the Economy and Finance shall re-assign the sums received to the competent base budget units for the Ministry's

expense budget, according to the criteria and measures established by the same Ministry.

3. The proceeds from the sale of tickets for admission to institutions and sites belonging to or committed to the care of the State are designated for the realisation of works for the safety and conservation of the aforesaid sites, pursuant to article 29, as well as to the expropriation and purchase of cultural properties, which may also be carried out by means of the exercise of pre-emption.
4. The proceeds from the sale of tickets for admission to the institutions and sites belonging to or committed to the care of other government bodies are designated for the increase and enhancement of the cultural patrimony.

Chapter II

Principles of Enhancement of the Cultural Heritage

Article 111

Enhancement Activities

1. The activities for the enhancement of the cultural heritage consists in the stable constitution and organisation of resources, facilities or networks, or in providing technical skills or financial or instrumental resources, designed for carrying out the functions and pursuing the aims indicated in article 6. Private subjects may concur, co-operate or participate in such activities.
2. Enhancement may be carried out by public or private initiative.
3. Enhancement carried out by public initiative shall conform to the principles of freedom of participation, plurality of participants, continuity of activity, equality of treatment, economic feasibility and management transparency.
4. Enhancement carried out by private initiative is deemed a socially useful activity and its aims of social solidarity are recognised.

Article 112

Enhancement of Publicly Owned Cultural Property

1. The State, the Regions and other territorial government bodies shall ensure the enhancement of the property held in institutions and in the places indicated in article 101, in observance of the fundamental principles established by this Code.

2. In observance of the principles referred to in paragraph 1, regional legislation shall govern the enhancement of properties held in institutions and places of culture not belonging to the State or of those for which the State has transferred use on the basis of the laws in force.
3. The enhancement of publicly owned cultural properties outside the institutions and places referred to in paragraph 1 shall, in accordance with the provisions of this Title, be ensured compatibly with the institutional uses for which the said properties have been designated.
4. For the purposes of co-ordinating, harmonising and supplementing enhancement activities for properties forming the cultural heritage belonging to the government, the State shall, through the Ministry, the Regions and other territorial government bodies, stipulate agreements on a regional basis, in order to define objectives and establish the timetable and modalities for achieving them. Suitable forms of management, pursuant to article 115, shall be identified through the same agreements.
5. When, within the fixed term, the agreements indicated in paragraph 4 have not been reached among the competent organs, their definition shall be referred back to joint decision of the Ministry, the president of the Region, the president of the Province and the mayors of the Municipalities concerned. Where there is no agreement, each government body must guarantee the enhancement of the properties under its jurisdiction.
6. The State, through the Ministry, the Regions and other territorial government bodies may, within a Unified Conference, define the general guidelines and procedures for harmonising the agreements indicated in paragraph 4 throughout the national territory.
7. Private persons may also participate in the agreements indicated in paragraph 4, and, with the consent of the interested parties, the same agreements may pertain to privately-owned properties.
8. Interested public bodies may also enter into special agreements with cultural or volunteer associations which carry out activities of promotion and dissemination aimed at knowledge of cultural property.

Article 113

Enhancement of Privately Owned Cultural Property

1. Privately initiated activities and facilities for the enhancement of privately owned cultural property may obtain public support from the State, the Regions and other territorial government bodies.
2. The extent of the support shall be established by taking into account the importance of the cultural properties to which it refers.

3. The modalities of enhancement shall be established by an agreement to be stipulated with the proprietor, possessor or holder of the property, when the support measures are adopted.
4. The Region and other territorial government bodies may also concur in the enhancement of the properties indicated in article 104, paragraph 1, by participating in the agreements provided for therein under paragraph 3.

Article 114

Enhancement Quality Control

1. The Ministry, the Regions and other territorial government bodies, with the possible participation of universities, shall establish standard levels of quality for enhancement, which shall be revised periodically.
2. The quality control levels referred to in paragraph 1 shall be adopted with a decree of the Ministry, after agreement is reached within a Unified Conference.
3. The parties which, under article 115, detain management of enhancement activities must ensure observance of the levels established.

Article 115

Forms of Management

1. Enhancement of cultural property undertaken by private initiative are managed directly or indirectly.
2. Direct management is carried out by means of organisational structures within the administrations, which are endowed with suitable scientific, organisational, financial and accounting autonomy, and provided with proper technical staff.
3. Indirect management is carried out by:
 - a) direct assignment of such management to institutions, foundations, associations, consortiums, corporations or other entities, which to a prevalent extent are incorporated by the public administration to which the property pertains or in which the said administration holds a major interest;
 - b) concession to a third party, on the basis of criteria indicated in paragraphs 4 and 5.
4. The State and the Regions may resort to indirect management in order to ensure an adequate level of enhancement for cultural property. The choice between the two forms of management indicated in letters a) and b) of paragraph 3 shall be made following a comparative assessment, in terms of efficiency and efficacy, of the aims to be pursued and the relative means, methods and timetables.

5. When, following the comparative assessment referred to in paragraph 4, it is preferable to resort to concession to a third party, the same is provided for through open competition procedures, on the basis of a comparative assessment of the projects presented.
6. Other territorial government bodies ordinarily resort to indirect management as referred to in paragraph 3, letter *a)* except where, because of the limited extent or of the type of enhancement activity, direct management proves to be economically advantageous or more suitable.
7. By means of prior agreement between the parties having legal title to the activities of enhancement, the assignment or concession provided for in paragraph 3 may be arranged on a shared and joint basis.
8. The relationship between title-holder of the activities and the party to whom they have been entrusted or granted in concession is governed by a services contract, which shall specify, among other things, the qualitative levels of services provided and the professional level of the staff, as well as the powers of direction and control to be detained by the title-holder of the activity or the service.
9. The title-holder of the activity may share in the assets or capital of the parties indicated in paragraph 3, letter *a)*, which participation may also consist in the conferral of use of the cultural property to be enhanced. The effects of the conferral of use shall end, without indemnity, in all cases of the total cessation of sharing on the part of the title-holder of the activity or service, of the discharge of the participating party, or of the cessation, for whatever cause, of the assignment of the activity or the service. The properties granted in use are not subject to specific financial security unless by virtue of their equivalent economic value.
10. The concession in use of the cultural property to be enhanced may be linked to the assignment or concession referred to in paragraph 3. The concession loses efficacy, without indemnity, in any case whatsoever of cessation of assignment or concession of the service or activity.

Article 116

Protection of Cultural Property Conferred or Granted in Use

1. Cultural properties which have been conferred or granted in use under article 115, paragraphs 9 and 10, shall remain to all effects subject to their own legal regulations. The functions of protection shall be exercised by the Ministry, which may also provide for protection at the request of or with regard to the parties on which use of the same properties have been conferred or to which they have been granted.

Article 117

Additional Services

1. Services of cultural assistance and hospitality for the public may be established in the institutions and places of culture indicated in article 101.
2. Included in the services referred to in paragraph 1 are:
 - a) publishing and sales services related to catalogues and to catalogue, audio-visual and computer aids, to all other informational material, and to the reproduction of cultural property;
 - b) services related to book and archival properties for the provision of reproductions and library lending delivery;
 - c) the management of record, slide and museum library collections;
 - d) the management of sales outlets and the commercial utilization of the reproduction of cultural properties;
 - e) public relations services, including assistance and entertainment for children, information and educational guidance and assistance services, meeting places:
 - f) cafeteria, restaurant and cloakroom services;
 - g) the organisation of cultural exhibits and events, as well as promotional initiatives.
3. The services referred to in paragraph 1 may be managed in conjunction with cleaning, security and box office services.
4. The management of the aforesaid services shall be effected in the forms provided for by article 115.
5. The fees from the concession of services shall be received and shared out as set out in article 110.

Article 118

Promotion of Study and Research Activities

1. The Ministry, the Regions and other territorial government bodies shall, with the possible participation of universities and of other public and private entities, carry out, promote and support research, studies and other cognitive activities related to the cultural heritage, and may do so jointly.
2. For the purpose of ensuring the systematic gathering and dissemination of the results of studies, research and other activities referred to in paragraph 1, including cataloguing, the Ministry and the Regions may enter into agreements to create, on the regional or inter-regional level, permanent centres for the study and documentation of the cultural heritage, providing for the participation of universities and other public and private entities.

Article 119

Dissemination of Knowledge about the Cultural Heritage in the Schools

1. The Ministry, the Ministry for Education, Universities and Research, the Regions and other interested territorial government bodies may conclude agreements to spread knowledge of the cultural heritage and promote its enjoyment on the part of students.
2. On the basis of the agreements provided for in paragraph 1, the directors of the institutions and the places of culture referred to in article 101 may, with schools of every type and level belonging to the national educational system, enter into special agreements for the development of didactic programmes, the preparation of audio-visual material and aids, as well as for the education and training of teachers. The programmes, materials and teaching aids shall take into account the specific nature of the applicant school and any particular needs resulting from the presence of disabled students.

Article 120

Sponsorship of Cultural Property

1. Sponsorship of cultural property is defined as any form of contribution in goods or services on the part of private subjects to the planning or carrying out of initiatives of the Ministry, the Regions and other territorial government bodies, or of private subjects, in the field of protection and enhancement of the cultural heritage, with the aim of promoting the name, brand, image, activity or the product of the aforesaid subjects.
2. The promotion referred to in paragraph 1 occurs through the association of the name, brand, image, activity or product with the initiative which forms the object of the contribution, in forms which are compatible with the artistic or historical nature, the appearance and the decorous aspect of the cultural property to be protected or enhanced, and which are to be established under the sponsorship contract.
3. The sponsorship contract shall also define the modalities for the disbursement of funding as well as the forms of supervision, on the part of the disbursing party, over the realisation of the initiative to which the funding refers.

Article 121

Agreements with Bank Foundations

1. The Ministry, the Regions and the other territorial government bodies may, each within its own sphere of competence and jointly as well, enter into memoranda of understanding with the granting foundations referred to in the provisions for the restructuring and regulation of

credit institutions, which by statute pursue socially useful aims in the sector of the arts and cultural heritage and activities, for the purpose of co-ordinating work for the enhancement of the cultural heritage and, within this context, of ensuring the balanced utilisation of the financial resources made available. The government may participate with its own financial resources in order to ensure the pursuit of the aims set out in the memoranda of understanding.

Chapter III

Consultation of Archive Documents and Safeguarding of Confidentiality

Article 122

State Archives and Historical Archives of Public Bodies: Consultation of Documents

1. The documents kept in the archives of the State and in the historical archives of the Regions, of other territorial government bodies as well as those of any other public body and institution, may be freely consulted, with the following exceptions:
 - a) those declared confidential under article 125, relative to the foreign or domestic policies of the State, which may be consulted fifty years after their date;
 - b) those containing sensitive information as well as information relative to measures of a penal nature expressly indicated in the laws on the use of personal data, which may be consulted forty years after their date. The term is seventy years if the information is such as to reveal state of health, sexual experiences or private family relationships.
2. Prior to the expiry of the time limitations indicated in paragraph 1, the documents shall remain accessible in accordance with the regulations on access to administrative documents. The petition for access is dealt with by the administration which held the document before its filing or deposit.
3. Also subject to the provisions of paragraph 1 are privately-owned archives and documents deposited in the archives of the State or in the historical archives of public bodies, or in the same archives which have been donated or sold or left as inheritance or bequest. Depositors and those who donate or sell or leave as inheritance or make a bequest of the documents may also establish a condition of non-consultation of all or part of the documents of the last seventy-year period. Such limitation, like the general limitation established in paragraph 1, does not apply to the depositors, donators, sellers and any other person they designate; nor does the said limitation apply to assignees of the

depositors, donators and sellers, when documents related to property are concerned, in which they have an interest by right of purchase.

Article 123

State Archives and Historical Archives of Public Bodies: Consultation of Confidential Documents

1. The Ministry of the Interior, after acquiring the advisory opinion of the director competent for State Archives and having heard the Commission on questions pertaining to the consultation of confidential archival documents, which has been established within the Ministry of the Interior, may authorise consultation for historical purposes of documents of a confidential nature preserved in the archives of the State, even before expiry of the terms indicated in article 122, paragraph 1. Authorisation is granted, under equal conditions, to each applicant.
2. The documents for which consultation is authorised under paragraph 1 shall maintain their confidential nature and may not be disseminated.
3. Also subject to the provisions of paragraphs 1 and 2 is the consultation for historical purposes of documents of a confidential nature preserved in the historical archives of the Regions, other territorial government bodies, and any other public body and institution. The opinion referred to in paragraph 1 is given by the archival superintendent.

Article 124

Consultation of Current Archives for Historical Purposes

1. Without prejudice to the provisions of the laws in force on access to public administration documents, the State, the Regions and other territorial government bodies shall establish regulations for consultation for historical purposes of their current and deposited archives.
2. Consultation for the purposes of paragraph 1 of current and deposited archives of other public bodies and institutions, shall be regulated by the same bodies and institutions, on the basis of general guidelines established by the Ministry.

Article 125

Declaration of Confidentiality

1. The ascertainment of the existence and the nature of documents which may not be freely consulted indicated in articles 122 and 127 is carried out by the Ministry of the Interior, in agreement with the Ministry.

Article 126
Protection of Personal Data

1. When the owner of personal data has exercised the rights granted to him/her by the laws which govern their use, the documents of the historical archives shall be preserved and may be consulted along with the documentation pertaining to the exercise of the same rights.
2. At the request of the same owner, a freeze may be ordered on personal data which are not of great interest to the public, whenever their use involves a concrete danger of harming the dignity, privacy or personal identity of the individual concerned.
3. The consultation for historical purposes of documents containing personal data is also subject to the provisions of the code on ethics and good conduct established under the laws on the use of personal data.

Article 127
Consultation of Private Archives

1. Private proprietors, possessors or holders by whatever legal right of archives or of single documents declared under article 13 are obliged to permit scholars, who make a justified request through the archival superintendent, to consult the documents in accordance with the procedures agreed upon between the private parties themselves and the superintendent. The related expenses shall be borne by the scholar.
2. Excluded from consultation are the single documents declared to be of a confidential nature under article 125. Documents for which the condition of non-consultation has been ordered under article 122, paragraph 3, may also be excluded from consultation.
3. The provisions referred to in article 123, paragraph 3, and article 126, paragraph 3, shall apply to private archives used for historical purposes, even if they have not been declared in accordance with article 13.

TITLE III
Transitional and Final Provisions

Article 128
Notifications Served Under Prior Legislation

1. Cultural properties referred to in article 10, paragraph 3, for which notifications served in accordance with laws no. 364 of 20 June 1909 and no. 778 of 11 June 1922, have not been renewed and registered are subject to the procedure referred to in article 14. Until the conclusion of the same procedure, the said notifications shall in any case remain valid for the purposes of this Part.
2. Notifications served in accordance with articles 2, 3, 5 and 21 of law no. 1089 of 1 June 1939 and the declarations adopted and notified under article 36 of decree no. 1409 of the President of the Republic of 30 September 1963 and under articles 6, 7, 8 and 49 of legislative decree no. 490 of 29 October 1999, shall also remain in effect.
3. In the presence of elements which effectively occurred subsequently or which had not been previously known or had not been assessed, the Ministry may, ex officio or at the request of the proprietor, possessor or holder concerned, renew the procedure of declaration for properties which have been the object of the notifications referred to in paragraph 2, for the purpose of verifying the continuing presence of the premises for the subjection of the same properties to the provisions for protection.
4. Administrative appeal is admissible under article 16 against the decision of denial of the application to renew the procedure of declaration, produced under paragraph 3, or against the final declaration of the same procedure, even when it has been initiated ex officio.

Article 129

Particular Legislative Provisions

1. The laws pertaining to single cities or parts of them, architectonic complexes, national monuments, sites of historical, artistic or archaeological interest shall remain in force.
2. The provisions relating to *ex fideicommissum* artistic collections, issued with law no. 286 of 28 June 1871, law no. 1461 of 8 July 1883, royal decree no. 653 of 23 November 1891 and law no. 31 of 7 February 1892, shall also remain in force.

Article 130

Prior Regulatory Provisions

1. Until the emanation of the decrees and regulations provided for by this Code, the provisions of the regulations approved by royal decrees no. 1163 of 2 October 1911 and no. 363 of 30 January 1913, and any other regulatory provision pertaining to the laws contained in this part, shall remain in force, insofar as they are applicable.

THIRD PART
Landscape Assets

TITLE I
Protection and Enhancement

Chapter I
General Provisions

Article 131
Safeguarding of Landscape Values

1. For the purposes of this Code, the term landscape is defined as an integral part of the territory whose characteristics are derived from nature, the history of humanity or from their reciprocal inter-relationships.
2. The protection and enhancement of the landscape shall safeguard the values which it expresses in terms of perceptible identifying manifestations.

Article 132
Co-operation Between Public Administrations

1. Public administrations shall co-operate in the definitions of guidelines and criteria related to activities of protection, planning, reclamation, upgrading and enhancement of the landscape and the management of related works.
2. The guidelines and criteria shall also pursue the aims of safeguarding and re-integrating the values of the landscape environment, with a view to sustainable development as well.
3. For the purpose of disseminating and increasing knowledge about the landscape, the public administrations shall carry out training and educational activities.
4. The Ministry and the Regions shall define the policies for the protection and enhancement of the landscape, also taking into account studies, analyses and proposals made by the National Observatory for Landscape Quality, established by ministerial decree, as well as those made by Observatories established in each Region for the same purpose.

Article 133
International Agreements

1. The activities carried out for the protection and enhancement of the landscape environment shall conform to the obligations and principles of co-operation between States deriving from international agreements.

Article 134
Landscape Assets

1. Landscape assets include the following:
 - a) the immovable properties and areas indicated in article 136, identified under articles 138 to 141;
 - b) the areas indicated in article 142;
 - c) the immovable properties and areas in any case subjected to protection by landscape plans provided for in articles 143 and 156.

Article 135
Landscape Planning

1. The Regions shall ensure that the landscape is suitably protected and enhanced. To this purpose, they shall subject the territory to suitable zoning laws, by approving landscape plans or urban land plans with specific consideration for landscape values, concerning the entire regional territory, both of which shall hereinafter referred to "landscape plans".
2. With particular reference to the assets indicated in article 134, the landscape plan shall define transformations which are compatible with landscape values, initiatives for the reclamation and upgrading of immovable properties and of areas subjected to protection, as well as measures for the enhancement of the landscape, in relation to prospects for sustainable development as well.

Chapter II
Identification of Landscape Assets

Article 136
Buildings and Areas of Notable Public Interest

1. The following are subject to the provisions of this Title by virtue of their notable public interest:
 - a) immovable things of outstanding natural beauty or geological singularity;

- b) the villas, gardens and parks not protected by the provisions of the Second Part of this Code, which stand out for their uncommon beauty;
- c) complexes of immovable things which constitute a characteristic aspect having aesthetic and traditional value;
- d) beautiful views considered to be of picturesque quality as well as vantage points and belvederes which are accessible to the public and from which the spectacle of those beauties may be enjoyed;

Article 137
Provincial Commissions

1. A Commission with the task of making proposals for the declaration of notable public interest for the immovable property indicated in letters a) and b) and the areas indicated in letters a) and d) of article 136, shall be established for each Province by a Regional measure.
2. The Regional director, the superintendent for architectonic property and the landscape and the superintendent for archaeological property with competence for each area shall, by right, serve on the Commission. The remaining members, who are not to exceed six, shall be appointed by the Region among individuals with particular professional expertise and experience in the protection of the landscape. The Commission shall hear the opinion of the mayors of the interested Municipalities and may consult experts.

Article 138
Recommendation for Declaration of Notable Public Interest

1. On the initiative of the Regional director, of the Region or of other interested territorial government bodies, the Commission indicated in article 137 shall acquire necessary information through the superintendent and Regional and Provincial offices, assess the existence of notable public interest in the immovable properties and areas indicated in article 136, and recommend declaration of notable public interest. The recommendation shall include the grounds for the aforesaid declaration with reference to the historical, cultural, natural, morphological and aesthetic characteristics belonging to the immovable properties and areas which have identifying significance and value for the territory in which they are located and which are perceived as such by the population. The recommendation shall contain the prescriptions, measures and criteria for management indicated in article 143, paragraph 3.
2. The recommendations for declaration of notable public interest are aimed at establishing specific regulations for protection and

enhancement, which would be more responsive to the peculiar elements and the value of the specific landscape contexts and would be an integral part of the regulations provided for in the landscape plan.

Article 139

Participation in the Procedures for the Declaration of Notable Public Interest

1. The recommendation of the Commission for the declaration of notable public interest of immovable properties and areas, accompanied by the relative planimetric drawings drawn in a scale suitable to their identification, shall appear for ninety days on the municipal notice board and be deposited for public consultation with the offices of the Municipalities concerned.
2. Notice of the recommendation and its relative publication on the municipal notice board shall be published without delay in at least two dailies of wide circulation in the area concerned, as well as in a daily newspaper with nation-wide circulation and, where these have been established, on the Web-sites of the Region and of other territorial government bodies in whose jurisdiction the immovable properties or the areas to be subjected to protection are located.
3. Within the sixty days following publication of the Commission's recommendation on the municipal notice board, the Municipalities, the Metropolitan areas, the Provinces, associations for the common public interest identified under article 13 of law no. 349 of 8 July 1986 and any other interested parties may present their observations to the Regions, which shall likewise have the power to order a public enquiry.
4. Following fulfilment of the measures referred to in paragraphs 1, 2, and 3, the Region shall, for the immovable properties indicated in letters *a)* and *b)* of article 136, notify the start of the declaration procedure to the proprietor, possessor or holder of the property, and to the Metropolitan Area or Municipality concerned.
5. The notification referred to in paragraph 4 shall include the elements identifying the immovable property, including cadastral elements, as well as the indication of the consequent obligations to be taken on by the proprietor, possessor or holder.
6. Within sixty days of the date of receipt of the notification referred to in paragraph 4, the proprietor, possessor or holder of the immovable property may present observations to the Region.

Article 140

Declaration of Notable Public Interest and Relative Cognitive Measures

1. On the basis of the recommendation of the Commission and having examined the observations and taken into account the result of any

- public enquiry, the Region shall emanate the provision of declaration of notable public interest of the immovable properties indicated in letters *a)* and *b)* and of the areas indicated in letters *c)* and *d)* of article 136.
2. The provision of declaration of notable public interest of the immovable properties indicated in letters *a)* and *b)* of article 136 shall likewise be notified to the proprietor, possessor or holder, deposited in the Municipality, and recorded in the land registers by the Region.
 3. The provisions of declaration of notable public interest are published in the *Official Gazette* of the Italian Republic and in the Official Bulletin of the Region.
 4. A copy of the *Official Gazette* shall be displayed on the notice board of all the Municipalities concerned for the period of ninety days. A copy of the declaration and the relative planimetric drawings shall be deposited for public consultation with the offices of the Municipalities concerned.

Article 141 *Ministerial Measures*

1. When the Commission fails to carry out its assessments within the term of sixty days from the request made under article 138, or when the Regional provision of declaration of notable public interest is not in any case emanated within the period of one year from the aforesaid request, the Regional director may request the Ministry to proceed instead.
2. Having received a copy of any documentation which may have been acquired by the provincial Commission, the competent Ministerial organ shall carry out the preliminary investigation for the purpose of formulating the recommendation for the declaration of notable public interest.
3. The Ministry shall forward the recommendation to the Municipalities concerned so that they may fulfil the obligation set out in article 139, paragraph 1, and it shall directly fulfil the obligations indicated in article 139, paragraphs 2, 4 and 5.
4. The Ministry shall assess the observations presented under article 139, paragraphs 3 and 6, and shall make provision by decree. The decree of declaration of notable public interest shall be notified, deposited, registered and published in the forms provided for by article 140, paragraphs 2, 3 and 4.
5. The provisions set out in the preceding paragraphs shall also apply to recommendations for the integration of existing provisions for declaration of notable public interest, with reference to the contents indicated in article 143, paragraph 3, letters *e)* and *f)*.

Article 142
Areas Protected by Law

1. Until the landscape plan is approved under article 156, the following are in any case subject to the provisions of this Title by virtue of their landscape interest:
 - a) coastal territories including a swath of land to a depth of 300 metres from the waterline, and also land elevated over the sea;
 - b) territories conterminous with lakes, including a swath of land to a depth of 300 metres from the waterline and also land elevated over the lakes;
 - c) the rivers, streams and water courses indicated in the lists provided for in the consolidated law on provisions for waters and electric power plants, approved with royal decree no. 1775 of 11 December 1933, and the relative banks or base foundations of embankments for a swath of 150 metres each;
 - d) mountains for the part exceeding 1,600 metres above sea level as regards the Alpine chain and 1,200 metres above sea level as regards the Apennines and the islands;
 - e) glaciers and glacial cirques;
 - f) parks and national or regional reserves as well as the external protection areas of the parks;
 - g) territories covered with forests or woods, even if marked and damaged by fire, and areas subject to reforestation constraints, as defined by article 2, paragraphs 2 and 6, of legislative decree no. 227 of 18 May 2001;
 - h) areas assigned to agricultural universities and zones designated for civic uses;
 - i) marshlands included in the list provided for by decree no. 448 of the President of the Republic of 13 March 1976;
 - j) volcanoes;
 - k) zones of archaeological interest identified at the time this Code comes into force.
2. The provisions of paragraph 1 shall not apply to areas which on 6 September 1985 were:
 - a) defined in urban planning instruments as zones A and B;
 - b) defined in the urban planning instruments under ministerial order no. 1444 of 2 April 1968, with reference to only the parts included in the multiyear implementation programmes, as zones other than those indicated in letter a) and, in municipalities without such instruments, as zones situated in the built-up centres whose perimeters were fixed pursuant to article 18 of law no. 865 of 22 October 1971.
3. The provisions of paragraph 1 do not apply to places listed therein under letter c) which, in whole or in part, can be considered irrelevant for landscape purposes, and which as such have been entered in a

special list compiled and made public by the Region concerned. The Ministry may, with a measure adopted under the procedures provided for by article 141, nevertheless confirm the landscape importance of the aforementioned assets.

4. The regulations deriving from the actions and measures indicated in article 157 shall in any case remain in force.

Chapter III *Landscape Planning*

Article 143 *Landscape Plan*

1. On the basis of natural and historical characteristics and in relation to the level of relevance and integrity of the landscape values, the plan shall organise the territory into homogenous areas, from those of high landscape value to those which have been significantly compromised or degraded.
2. The plan shall assign corresponding objectives regarding landscape environment values to each area in function of the different levels of landscape values recognised. In particular, landscape quality objectives provide for:
 - a) the maintenance of the characteristics, constituting elements and morphologies, also taking into account architectonic typologies, as well as construction materials and techniques;
 - b) the preparation of lines of urban and construction development that are compatible with the different value levels recognised and which are such that they do not diminish the landscape value of the territory, with particular attention to the safeguarding of sites included in UNESCO's world heritage list, and of agricultural areas;
 - c) the reclamation and upgrading of the buildings and areas subject to protection which have been compromised or degraded, with the aim of recovering pre-existing values or of creating new landscape values which are consistent with and integral to the previous ones.
3. The landscape plan shall contain descriptive and prescriptive content and include recommendations and proposals. Its development shall include the following phases:
 - a) a survey of the entire land area, through the analysis of its historical, natural and aesthetic characteristics and their inter-relationship, and the consequent definition of the landscape values to be protected, reclaimed, upgraded and enhanced;
 - b) analysis of the dynamics of land transformation through the identification of risk factors and elements of landscape

- vulnerability, comparison with other land programming and planning and protection actions;
- c)* identification of landscape areas and the relative aims of landscape quality;
 - d)* definition of general and operative prescriptions for protection and use of the land included in the defined areas;
 - e)* definition of measures for the conservation of the distinctive features of areas protected by law and, where necessary, definition of management criteria and work for landscape enhancement to be carried out on buildings and areas declared to be of notable public interest;
 - f)* identification of work to be carried out for the reclamation and upgrading of areas that have been significantly compromised or degraded;
 - g)* identification of the measures necessary to ensure that work changing the aspect of the territory be harmonised with the landscape context, with actions and investments for the sustainable development of the areas concerned being under the obligation to refer to the aforesaid measures;
 - h)* identification, under article 134, letter *c)*, of any categories of buildings or areas, different to those indicated in articles 136 and 142, to be subjected to specific safeguarding and use measures.
4. The landscape plan shall, in relation to the different typologies of projects and works transforming the territory, distinctly identify the areas in which such works and projects are permitted on the basis of verification of the compliance with the prescriptions, measures and management criteria established in the landscape plan under paragraph 3, letters *d)*, *e)*, *f)* and *g)*, and those for which the landscape plan also defines binding parameters for the specific provisions to be introduced into land planning instruments when harmonisation and adjustment is effected under article 145.
5. The plan may likewise identify:
- a)* the areas, protected under article 142, in which the realisation of projects and works permitted, in consideration of the level of excellence of the landscape values or the advisability of assessing impact on the planning scale, in any case requires the prior granting of the authorisation referred to in articles 146, 147 and 159;
 - b)* the areas, to which actions and measures emanated under articles 138, 140, 141 and 157 do not pertain, and in which, instead, projects and works may be carried out on the basis of verification of conformity with the provisions of the landscape plan and of the urban planning instrument, carried out during the building permit procedure and with the modalities set out by the relative regulations, and which do not require the authorisation referred to in articles 146, 147 and 159:

- c) the areas which have been significantly compromised or degraded in which reclamation and upgrading work does not require the authorisation referred to in articles 146, 147 and 159.
6. The entry into force of the provisions set out in paragraph 5, letter *b*), shall be made conditional on the approval of the urban planning instruments adjusted to the landscape plan under article 145. The aforesaid authorisation shall entail the modification of the effects deriving from the provisions referred to in articles 157, 140 and 141, and from the inclusion of the area in the categories listed in article 142.
 7. The plan may make the entry into force of the provisions permitting works and projects under paragraph 5, letter *b*), conditional on the positive outcome of a period of monitoring which verifies effective conformity with the provisions in force pertaining to the transformations of the territory carried out.
 8. The plan in any case provides that in the areas referred to in article 5, letter *b*), sample checks be carried out on the work done and that ascertainment of a significant level of violation of the provisions in force shall determine the re-introduction of the obligation of authorisation referred to in articles 146, 147 and 159, with regard to the municipalities in which violations have been ascertained.
 9. The landscape plan shall also identify priority for projects for the conservation, reclamation, upgrading, enhancement and management of the regional landscape indicating the instruments to be used, including incentive measures.
 10. The Regions, the Ministry and the Ministry of the Environment and Land Protection may enter into agreements for the joint development of landscape plans. The agreement shall establish the time limit within which the joint plan will be developed, as well as the time limit within which the Region shall approve the plan. When the joint development of the plan is not followed by a Regional provision, the plan shall be approved in its stead by Minister's decree, after consultation with the Minister of the Environment and Land Protection.
 11. The agreement referred to in paragraph 10 shall likewise establish premises, procedures, and a timetable for the periodical revision of the plan, with particular reference to supervening provisions emanated under articles 140 and 141.
 12. When the agreement referred to in paragraph 10 is not entered into, or when it is not followed by the joint development of the plan, the provisions of paragraphs 5, 6, 7 and 8 shall not apply.

Article 144

Advertising and Participation

1. The procedures for the approval of landscape plans shall ensure concerted government action, participation of interested parties and of associations created for the protection of common public interests,

identified under article 13 of law no. 349 of 8 July 1986, and a wide variety of forms of advertising.

2. When from the application of article 143, paragraphs 3, 4 and 5 a modification of the effects of the actions and provisions referred to in articles 157, 140 and 141 ensues, the coming into force of the relative provisions of the landscape plan is conditional on the fulfilment of the forms of advertising indicated in article 140, paragraphs 3 and 4.

Article 145

Co-ordination of Landscape Planning with other Planning Instruments

1. Pursuant to article 52 of legislative decree no. 112 of 31 March 1998, the Ministry shall identify the fundamental lines for the organisation of the national territory as regards the protection of the landscape, with the aim of defining planning direction.
2. Landscape plans provide for measures of co-ordination with land and sector planning instruments, and with national and regional economic development instruments.
3. The provisions of the landscape plans referred to in articles 143 and 156 are compulsory for the urban planning instruments of the Municipalities, Metropolitan areas and the Provinces, have immediate prevalence over any non-conforming provisions contained in urban planning instruments, establish safeguarding regulations which may be applied until urban planning instruments conform, and are likewise binding for sector intervention. As regards protection of the environment, the provisions of landscape plans shall in any case prevail over the provisions contained in planning instruments.
4. Within the time-limit established in the landscape plan and in any case not more than two years after its approval, the Municipalities, Metropolitan Areas, Provinces and managing bodies of protected natural areas shall conform and adjust land and urban planning instruments to the provisions of the landscape plans, introducing, when necessary, additional conforming provisions which, in light of the specific characteristics of the territory, will prove useful in best ensuring protection of the landscape values identified in the plans. The limitations to property ensuing from such provisions shall not be eligible for indemnity.
5. The Regions shall regulate the procedures for conformation and adjustment of the urban planning instruments to the provisions of landscape planning, ensuring the participation of the Ministerial organs in the same procedures.

Supervision and Management of Properties Subject to Protection

Article 146 *Authorisation*

1. The proprietors, possessors or holders by whatever legal right of immovable property and areas to which pertain the actions and measures listed in article 157, or the recommendation formulated pursuant to articles 138 and 141, or which are protected under article 142, or subject to protection by the provisions of the landscape plans, may not destroy them, or introduce modifications which may harm the landscape values which are to be protected.
2. In order to obtain preventive authorisation, the proprietors, possessors or holders by whatever legal right of the properties indicated in paragraph 1, shall be obliged to submit the plans of the works they intend to carry out, accompanied by the required documentation, to the Region or the local body to which the Region has delegated the relative competence.
3. Within six months of the coming into force of the present legislative decree, the documentation necessary for the verification of the compatibility of the proposed works with landscape values shall be defined by decree of the President of the Council of Ministers, in agreement with the State-Regions Conference.
4. The application for authorisation of work shall indicate the current state of the property concerned, the elements of existing landscape values, the impact of the proposed changes on the landscape and the mitigating and compensatory elements necessary.
5. In examining the request for authorisation, the competent administration shall verify the conformity of the work with the prescriptions contained in the landscape plans and shall ascertain:
 - a) compatibility with respect to the landscape values recognised in the constraint order;
 - b) congruity with the management criteria of the building or area;
 - c) consistency with the objectives of landscape quality.
6. Having ascertained landscape compatibility of the work and acquired the opinion of the Commission for the Landscape, the administration shall, within the term of forty days from receipt of the application, forward the recommendation for authorisation, accompanied by the project plan and the relative documentation, to the competent Superintendency, notifying the parties concerned. This latter notification shall constitute notification of the start of the relative procedure, pursuant to and for the purposes of law no. 241 of 7 August 1990. Should the administration verify that the documentation attached does not correspond to the documentation requested in paragraph 3, it shall ask for the necessary additional documentation; in such case, the aforementioned term is suspended from the date of the request until receipt of the documentation. Should the administration

- deem it necessary to acquire documentation additional to that established in paragraph 3, or to carry out ascertainment, the term shall be suspended, once only, from the date of request until receipt of the documentation, or from the date of notification of the necessity of ascertainment to the date of carrying out the same, for a period which in any case may not exceed thirty days.
7. The Superintendency shall communicate its opinion within the peremptory term of sixty days from receipt of the recommendation referred to in paragraph 6. Should the term expire without receipt of the above communication, the administration shall in any case rule with regard to the request for authorisation.
 8. Authorisation shall be issued or denied by the competent administration within the term of twenty days from receipt of the superintendent's opinion and shall constitute a distinct action and the premise for concession or other titles legitimising the construction work. Work may not start if authorisation has not been issued.
 9. Should the term referred to in paragraph 8 expire without a decision being taken, power is granted to the parties concerned to request authorisation from the Region, which may also respond through an commissioner appointed for the purpose within the term of sixty days from the date of receipt of the request. Should it be deemed necessary to acquire additional documentation or to carry out ascertainment, the term shall be suspended once only until the date of receipt of the requested documentation or until the date on which ascertainment is carried out. In cases where the Region has not delegated competence to local bodies to issue landscape authorisation, the request for authorisation shall be made instead to the competent Superintendency.
 10. Landscape authorisation:
 - a) becomes efficacious after twenty days have elapsed from its emanation;
 - b) shall be forwarded without delay to the Superintendency which had given its opinion during the procedure, and, along with the opinion, to the Region and the Province and, where these exist, to the mountain community and to the park authority in whose territory the building or area under a constraint order is located;
 - c) may not be issued under any curative statute subsequently to the completion, even if partial, of the works.
 11. Landscape authorisation may be challenged with appeal to the Regional administrative court or with extraordinary appeal to the President of the Republic by the environmental associations created to protect common public interests identified under article 13 of law no. 349 of 8 July 1986 and by any other public or private entity which has an interest in doing so. A ruling with regard to the appeal shall be issued, even if after its presentation or during the appeal process, the party appealing declares that it withdraws appeal or that it no longer has an interest in it. The decisions and orders issued by the Regional administrative tribunal may be challenged by any party having the right

to appeal against a landscape authorisation, even if that party did not lodge the appeal in the first instance.

12. In every Municipality, a list shall be established in which the date of issue of each landscape authorisation is indicated, with a brief description of the relative property in question and indication of whether it was issued contrary to the opinion of the superintendent. The list shall be updated at least every seven days and may be freely consulted. A copy of the list shall be forwarded on a quarterly basis to the Region and the Superintendency, for the purpose of exercising the functions of supervision pursuant to article 155.
13. The provisions of the preceding paragraph shall also apply to the instances concerning mining activities of search and extraction.
14. The provisions of this article do not apply to authorisation for farming activities in quarries and peat bogs. For such activities the powers of the Ministry of the Environment and Land Protection shall remain in effect pursuant to the laws pertaining to such matters, which shall be exercised taking into account the assessment expressed by the competent Superintendency as regards landscape profiles.

Article 147

Authorisation for Works To Be Carried Out by State Administrations

1. When the request for authorisation provided for under article 146 concerns works to be carried out by State administrations, including service accommodation for military personnel, the authorisation shall be issued following a conference of services pursuant to articles 14 ff., of law no. 241 of 7 August 1990 and subsequent modifications and additions.
2. For work projects which are in any case subject to environmental impact assessment pursuant to article 6 of law no. 349 of 8 July 1986 and which are to be carried out by State administrations, the authorisation prescribed by paragraph 1 shall be issued according to the procedures established in article 26.
3. The modalities for the joint and preventive assessment of the works of national defence which affect buildings and areas subject to landscape protection shall be identified within six months from the date on which this Code comes into force, by decree of the President of the Council of Ministers, upon recommendation of the Ministry and in agreement with the Ministry of Defence and the other State administrations concerned.

Article 148

Landscape Commission

1. Within one year of the coming into force of this Code, the Regions shall take action to establish the Commission for the Landscape within the local bodies to which competence for landscape authorisation has been delegated.
2. The Commission shall be composed of individuals with particular and qualified experience in the protection of the landscape.
3. The Commission shall express an obligatory opinion with regard to the granting of authorisations provided for under articles 146, 147 and 159.
4. The Regions and the Ministry may enter into agreements which establish the modalities of participation of the Ministry in the activities of the Commission for the Landscape. In such case, the opinion referred to in article 146, paragraph 7, shall be expressed in that session according to the modalities established in the agreement, with the application of the provisions of article 146, paragraphs 10, 11 and 12 remaining in effect.

Article 149

Works Not Subject to Authorisation

1. Without prejudice to the application of article 143, paragraph 5, letter *b*) and of article 156, paragraph 4, the authorisation prescribed by article 146, article 147 and article 156 is in any case not required in relation to:
 - a*) works for ordinary and extraordinary maintenance, of consolidation and of restoration for purposes of conservation which do not alter the condition of the sites and the exterior appearance of the buildings;
 - b*) works related to the exercise of agricultural, forestry and pastoral activities which do not involve the permanent alteration of the condition of the sites with building structures and other civil works, and on condition that these are works and activities which do not alter the hydro-geological system of the territory.
 - c*) the cutting of the vegetation cover, and for works of forestation, reforestation, reclamation, fire prevention and conservation to be carried out in the woods and forests indicated in article 142, paragraph 1, letter *g*), on condition that these are provided for and authorised by the laws pertaining to the matter.

Article 150

Interdiction and Suspension of Works

1. Independently of the publication on the municipal notice board provided for by articles 139 and 141, of the notification prescribed by article 139, paragraph 4, the Region or Ministry shall have the power to:
 - a) interdict the execution of works without authorisation or which in any case are capable of harming the property;
 - b) order the suspension of works begun, even when the interdiction established in letter a) has not been applied.
2. The interdiction or suspension of work on buildings or areas which have not yet been declared to be of notable public interest shall cease to have efficacy if within the term of ninety days the recommendation of the Commission referred to in article 138 or the recommendations of the Ministerial organ provided for under article 141 have not been published on the municipal notice board, or if the notification provided for under article 139, paragraph 4 has not been received by the parties concerned.
3. The provision for interdiction or suspension of works impinging on a landscape property for which landscape planning foresees reclamation or upgrading measures ceases to have efficacy if within the term of ninety days the Region has not informed the parties concerned of the prescriptions to be observed in the execution of the works in order not to compromise planning implementation.
4. The provisions indicated in the preceding paragraphs shall also be notified to the Municipality concerned.

Article 151

Reimbursement of Expenses following Suspension of Works

1. For works on environmental assets which have not previously been the object of the provisions referred to in articles 138 and 141, or which have not previously been declared to be of notable public interest, and suspension of which has been ordered without the preventive interdiction order referred to in article 150, paragraph 1, the party concerned may obtain the reimbursement of expenses incurred until notification of suspension. The works already carried out shall be demolished at the expense of the authority which ordered the suspension.

Article 152

Works Subject to Particular Prescriptions

1. In the case of opening up of roads and quarries and in the case of conduits for industrial plants and of pilings within and in view of the areas indicated at letters c) and d) of article 136, or in proximity to the buildings indicated in letter a) and b) of the same article, the Region shall have the power to prescribe distances, measures and variations to

the work projects in the process of being carried out, which, taking into due account the economic utility of the works already completed, shall serve to prevent harm to the properties protected by this Title. The Ministry shall have the same power, which it shall exercise after prior consultation with the Region.

Article 153
Advertising Hoardings

1. Within and in the proximity of the landscape assets indicated in article 134, it is forbidden to collocate hoardings and other advertising means without prior authorisation by the competent administration identified by the Region.
2. Along the roads located within and in proximity of the assets indicated in paragraph 1, it is forbidden to collocate hoardings or other advertising means, except with the authorisation issued pursuant to article 23, paragraph 4, of legislative decree no. 285 of 30 April 1992 and subsequent modifications, with the prior favourable opinion of the competent administration identified by the Region regarding the compatibility of the collocation or of the type of advertising means with the landscape values of the buildings and areas subject to protection.

Article 154
Colour of Building Facades

1. The competent administration identified by the Region may order that, in the areas contemplated in letters *c)* and *d)* of article 136, the facades of the buildings whose colour jars with the beauty of the whole be given a different colour which is more in harmony with that beauty.
2. The provision of paragraph 1 shall not apply to buildings referred to in article 10, paragraph 3, letters *a)* and *d)* , declared under article 13.
3. For buildings which fall within the areas of archaeological interested listed in article 136, letter *c)* or in article 139, paragraph 1, letter *m)*, the administration shall as a precautionary measure consult the competent Superintendencies.
4. In case of non-fulfilment on the part of proprietors, possessors or holders of the buildings, the administration shall proceed to ex officio execution.

Article 155
Supervision

1. The functions of supervision of landscape assets protected by this Title are to be exercised by the Ministry and the Regions.
2. The Regions shall monitor compliance with the provisions contained in the present legislative decree on the part of the administrations they have identified for the exercise of the competences pertaining to landscape matters. Non-compliance or persistent inactivity in the exercise of such competences shall entail the activation of substitutive powers.

Chapter V
First Application and Transitional Provisions

Article 156
Verification and Adjustment of Landscape Plans

1. Within four years of the coming into force of the present legislative decree, the Regions which have drawn up the plans provided for in article 149 of legislative decree no. 490 of 29 October 1999 shall verify conformity between the provisions of the aforementioned plans and the provisions of article 143 and, when such conformity is lacking, they shall proceed to the necessary adjustments.
2. Within one hundred and eighty days of the coming into force of this Code, the Ministry, in agreement with the State-Regions Conference, shall prepare a general scheme of agreement with the Regions establishing methodologies and procedures for the survey, analyses, census and cataloguing of the buildings and areas subject to protection, including techniques for their cartographical representation and the features most suitable to ensuring the inter-operability of computer systems.
3. The Regions and the Ministry may enter into agreements to regulate the carrying out of joint activities for the verification and adjustment of land plans, on the basis of the general scheme of agreement referred to in paragraph 2. The agreement shall establish the term within which the Region shall approve the adjusted plan. When upon completion of activities no Regional provision follows, the plan shall be approved in its stead by Ministerial decree.
4. If, from verification and adjustment, in application of article 143, paragraphs 3, 4 and 5, a modification ensues of the effects of the actions and provisions referred to in articles 157, 140 and 141, the coming into force of the relative provisions of the landscape plan shall be conditional to fulfilment of the forms of advertising indicated in article 140, paragraphs 3 and 4.

5. When the agreement set out in paragraph 3 is not entered into, or when it is not followed by joint verification and adjustment of the plan, the provisions of paragraphs 5, 6, 7 and 8 of article 143 shall not apply.

Article 157

Notifications Served, Lists Compiled, Provisions and Actions Issued Under Pre-existing Laws

1. Without prejudice to the application of article 143, paragraph 6, of article 144, paragraph 2, and of article 156, paragraph 4, the following shall maintain efficacy to all intents and purposes:
 - a) the notification of important public interest of natural or panoramic beauties, served on the basis of law no. 778 of 11 June 1922;
 - b) lists compiled under law no. 1497 of 29 June 1939;
 - c) the provisions for declaration of notable public interest issued under law no. 1497 of 29 June 1939;
 - d) the provisions for the recognition of the areas of archaeological interest issued pursuant to article 82, fifth paragraph, of decree no. 616 of the President of the Republic of 24 July 1977, with the addition of article 1 of decree law no. 312 of 27 June 1985, converted with modifications into law no. 431 of 8 August 1985;
 - e) the provisions for declaration of notable public interest issued pursuant to legislative decree no. 490 of 29 October 1999;
 - f) the provisions for recognition of the areas of archaeological interest issued pursuant to legislative decree no. 490 of 29 October 1999.
2. The provisions of this Part shall also apply to buildings and areas regarding which, on the date of the coming into force of this Code, the recommendation was formulated or the perimeter defined for the purposes of the declaration of notable public interest or of recognition as area of archaeological interest.

Article 158

Regional Provisions for Implementation

1. Until special Regional provisions for the implementation of this Code are emanated, the provisions of the regulations approved with royal decree no. 1357 of 3 June 1940 shall remain in effect, insofar as they are applicable.

Article 159

Procedure for Provisional Authorisation

1. Until the approval of landscape plans, under 156 or article 143, and the consequent adjustment of the urban planning instruments is effected pursuant to article 145, the competent administration for granting the authorisation provided for under article 146, paragraph 2, shall give immediate notification of the authorisations granted to the Superintendency, forwarding the documentation produced by the interested party as well as the results of any verifications carried out. Notification shall be sent simultaneously to the parties concerned, for which said notification shall constitute notification of start of procedure, pursuant to and for the intents and purposes of law no. 241 of 7 August 1990.
2. The competent administration may produce a report describing the verifications indicated in article 146, paragraph 5. Authorisation shall be granted or denied within the peremptory term of sixty days from the relative request and shall in case constitute a separate and distinct action and the premise for the building permit or other titles authorising building activity. The works cannot be started without authorisation. In the case of a request for additional documentation or verifications the term shall be suspended once only until the date of receipt of the requested documentation or until the date when verification is carried out. The provisions established in article 6, paragraph 6-*bis*, of ministerial decree no. 495 of 13 June 1994 shall apply.
3. The Ministry may in any case, by means of a justified provision, annul the authorisation within the sixty days following receipt of the relevant and complete documentation.
4. When the term indicated in paragraph 2 expires with no action taken, the interested parties may submit a request for authorisation to the competent Superintendency, which shall take a decision within the term of sixty days from the date of receipt of request. The application, accompanied by the prescribed documentation, is presented to the competent Superintendency and the competent administration is notified. In cases where additional documentation or verifications are requested the term shall be suspended once, only until the date of receipt of the requested documentation or until the date verifications are carried out.
5. For landscape assets which on the date in which this Code comes into force are the object of provisions adopted under article 1-*quinquies* of decree law no. 312 of 27 June 1985, converted with modifications into law no. 431 of 8 August 1985 and published in the *Official Gazette* prior to 6 September 1985, the authorisation set out in paragraph 1 and in articles 146 and 147 may be granted only after approval of the landscape plans.

FOURTH PART
Sanctions

TITLE I

Administrative Sanctions

Chapter I Sanctions Relative to the Second Part

Article 160 Order to Restore Places to Original State

1. If a cultural property is harmed as a result of violations of the protection and conservation obligations established by the provisions of Chapter III of Title I of the Second Part, the Ministry shall order the transgressor to carry out the work necessary to restore the property to its original state at his/her own expense.
2. When the works to be ordered pursuant to paragraph 1 have urban planning-building importance the start of procedure and the final provision shall also be notified to the Metropolitan area or Municipality concerned.
3. In case of non-compliance with the order issued pursuant to paragraph 1, the Ministry shall carry out the order ex officio at the expense of the transgressor. The collection of the relative expenses shall be effected in the forms established in the regulations on the compulsory collection of State property revenues.
4. When restoration to original state is not possible, the transgressor must pay to the State an amount which is equal to the value of the thing lost or to the reduction in the value of the thing.
5. If the assessment of the amount, made by the Ministry, is not accepted by the party obliged to pay, the same sum shall be determined by a commission composed of three members, one of which shall be appointed by the Ministry, one by the party obliged to pay and a third by the president of the court. The relative costs shall be advanced by the party obliged to pay.

Article 161 Damage to Things Found

1. The measures established in article 160 shall also apply to those who cause damage to the things referred to in article 91, in violation of the obligations indicated in articles 89 and 90.

Article 162 Violations Relating to Collocation of Advertising

1. Whosoever collocates hoardings or other advertising means in violation of the provisions set out in article 49 shall be punishable with the

sanctions established in article 23 of legislative decree no. 285 of 30 April 1992 and subsequent modifications and additions.

Article 163

Loss of Cultural Property

1. If, as the result of violation of the obligations established by the provisions of Section I of Chapter IV and Section I of Chapter V, a cultural property is no longer traceable or proves to have been taken out of the national territory, the transgressor shall be obliged to pay to the State a sum equal to the value of the property.
2. If the offence can be charged to more than one person, the persons shall be obliged to pay the sum jointly and severally.
3. If the assessment of the sum made by Ministry is not accepted by the party obliged to pay, the same sum shall be determined by a commission composed of three members, one of which shall be appointed by the Ministry, one by the party obliged to pay and a third by the president of the court. The relative costs shall be advanced by the party obliged to pay.
4. The assessment of the commission may be challenged in case of error or manifest inequity.

Article 164

Violations Relating to Jural Acts

1. Transfers, agreements and legal transactions in general, performed in violation of the prohibitions established by the provisions of Title I of the Second Part, or in non-compliance of the conditions and modalities prescribed therein, shall be null and void.
2. The power of the Ministry to exercise pre-emption pursuant to article 61, paragraph 2 shall stand.

Article 165

Violations of the Provisions Pertaining to International Circulation

1. Apart from the cases of complicity in a crime provided for in article 174, paragraph 1, whosoever transfers abroad the things or properties indicated in article 10, in violation of the provisions set out in Sections I and II of Chapter V of Title I of the Second Part, shall be punishable with administrative sanction consisting in the payment of a sum ranging from € 77.50 to € 465.00.

Article 166

Failure to Submit Exportation Documents

1. Whosoever effects the exportation of a cultural property beyond the territory of the European Union pursuant to EEC regulations and fails to submit to the competent export office 3 copies of the forms provided for in (EEC) Commission regulation no. 752/93 of 30 March 1993, in application of the EEC regulation, shall be punishable with administrative sanction consisting in the payment of a sum ranging from € 103,50 to € 620.00.

Chapter II
Sanctions Relative to the Third Part

Article 167
Order to Restore to Original State or to Pay Compensation

1. In case of violation of the obligations and orders set out in Title I of the Third Part, the transgressor shall, if the administrative authority responsible for landscape environment protection shall deem it more opportune in the interest of the protection of the properties indicated in article 134, be obliged to restore the cultural property to its original state at his/her own expense or pay a sum equivalent to the greater amount between the damage caused or the profit derived through the transgression. The sum shall be determined on the basis of an official assessment.
2. With the restoration to original state order the transgressor shall be assigned a term for complying with the order.
3. In case of non-compliance, the administrative authority responsible for landscape protection shall proceed ex officio through the prefect and make the bill of costs enforceable.
4. The sums received as a result of the application of paragraph 1 shall be utilised for safeguarding purposes, works for reclamation of landscape values and the upgrading of deteriorated areas.

Article 168
Violations Relating to Hoardings

1. Whosoever collocates hoardings or other advertising means in violation of the provisions referred to in article 153 shall be punishable with the sanctions set out in article 23 of legislative decree no. 285 of 30 April 1992 and subsequent modifications.

TITLE II
Penal Sanctions

Chapter I
Sanctions Relative to the Second Part

Article 169
Unlawful Works

1. The following shall be punishable by imprisonment for a period of six months to one year and by a fine ranging from € 775.00 to € 38,734.50:
 - a) whosoever without authorisation demolishes, removes, modifies, restores or carries out works of any kind on the cultural properties indicated in article 10;
 - b) whosoever, without the authorisation of the superintendent, proceeds to detach frescoes, escutcheons, graffiti, inscriptions, tabernacles or other ornaments decorating buildings, whether or not they be displayed to public view, even when no declaration under article 13 has been made;
 - c) whosoever carries out, in cases of absolute urgency, temporary works indispensable to avoiding substantial damage to the properties indicated in article 10, without immediately notifying the superintendent or without submitting for authorisation, in the briefest time possible, the project design for the definitive works.
2. The same punishment established in paragraph 1 shall apply in cases of non-compliance with an order to suspend works issued by the superintendent pursuant to article 28.

Article 170
Unlawful Use

1. Whosoever designates the cultural properties indicated in article 10 for a use that is incompatible with their historical or artistic nature or which is harmful to their conservation or integrity shall be punishable with imprisonment for a period ranging from six months to one year and a fine ranging from € 775.00 to € 38,734.50.

Article 171
Unlawful Collocation and Removal

1. Whosoever fails to collocate cultural properties belonging to the subjects established in article 10, paragraph 1 in their designated place and in the manner indicated by the superintendent shall be punishable

by imprisonment for a period ranging from six months to one year and a fine ranging from € 775.00 to € 38,734.50.

2. Subject to the same punishment is the holder who fails to notify the competent superintendent of the removal of cultural properties to another locality, due to a change in place of abode, or the holder who fails to comply with the prescriptions issued by the superintendent in order to avoid damage to the same properties during transport.

Article 172

Non-compliance with the Prescriptions of Indirect Protection

1. Whosoever fails to comply with the prescriptions issued by the Ministry pursuant to article 45, paragraph 1 shall be punishable by imprisonment for a period ranging from six months to one year and a fine ranging from € 775.00 to € 38,734.50.
2. Non-compliance with the precautionary measures contained in the action referred to in article 46, paragraph 4, is punishable under article 180.

Article 173

Violations Pertaining to Alienation

1. The following are punishable with imprisonment for a period of up to one year and fine ranging from € 1,549.50 to € 77,469.00 :
 - a) whosoever, without the prescribed authorisations, transfers cultural properties indicated in article 55 and 56;
 - b) whosoever, being under the obligation to present declaration of the deeds of transfer or of the detention of cultural properties, within the term indicated in article 59, fails to fulfil the aforesaid obligation;
 - c) the transferor of a cultural property subject to the right of pre-emption who effects delivery of the thing pending the term set out in article 61, paragraph 1.

Article 174

Unlawful Exit and Exportation

1. Whosoever transfers abroad things of artistic, historical, archaeological, ethno-anthropological, bibliographical, documental or archival interest, as well as the things indicated in article 11, paragraph 1, letters *f)*, *g)*, and *h)*, without certificate of free circulation or export licence, shall be punishable by imprisonment for a period of one to four years or with a fine ranging from € 258.00 to € 5,165.00.
2. The punishment established in paragraph 1 shall likewise apply to whosoever, upon expiry of term, fails to return to national territory

cultural properties for which temporary exit or exportation was authorised.

3. The judge shall order confiscation of the things, except when these belong to a person extraneous to the crime. Confiscation shall take place in accordance with the regulations of the customs laws pertaining to contraband.
4. If the offence is committed by a person who carries out activities of sale to the public or of exhibition for the purposes of sale of objects of cultural interest, the sentence is followed by the prohibition established under article 30 of the penal code.

Article 175

Violations Relating to Archaeological Research

1. The following are punishable by imprisonment of up to a year and a fine ranging from € 310.00 to € 3,099.00:
 - a) whosoever carries out archaeological searches or, in general, works for the discovery of things indicated in article 10 without concession, or fails to comply with the prescriptions established by the administration.
 - b) whosoever, being under such obligation, fails to declare within the term prescribed by article 90, paragraph 1, the things indicated in article 10, found fortuitously, or fails to provide for their temporary conservation.

Article 176

Unlawful Appropriation of Cultural Property Belonging to the State

1. Whosoever appropriates cultural property indicated in article 10 belonging to the State under article 91 shall be punishable by imprisonment for a term of up to three years and with a fine ranging from € 31.00 to € 516.50.
2. Punishment shall be imprisonment for a period of one to six years and a fine ranging from € 103.00 to € 1,033.00 if the offence is committed by a person who has obtained the search concession provided for in article 89.

Article 177

Collaboration in the Recovery of Cultural Property

1. The punishment applicable for the crimes set out in articles 174 and 176 shall be reduced by one to two thirds when the offender offers collaboration that is decisive or at any rate of substantial importance for the recovery of properties unlawfully removed or transferred abroad.

Article 178
Forgery of Works of Art

1. The following shall be punishable by imprisonment for a period of three months to four years and with a fine ranging from € 103.00 to € 3,099.00:
 - a) whosoever, for purposes of gain, counterfeits, alters or reproduces a work of painting, sculpture or graphic art, or an antique object or an object of historical or archaeological interest;
 - b) whosoever, even if he/she did not participate in the counterfeiting, alteration or reproduction, puts on sale, or holds for purposes of sale, or introduces into the territory of the State for such purpose, or in any case puts into circulation, as authentic, counterfeited, altered or reproduced samples of works of painting, sculpture, graphic art or antique objects, or objects of historical or archaeological interest;
 - c) whosoever, knowing them to be false, authenticates works or objects, indicated in letters a) and b) which have been counterfeited, altered or reproduced;
 - d) whosoever, through other declarations, evaluations, publications, affixation of stamps or labels or by any other means, certifies as authentic or contributes to the certification as such of works or objects indicated in letters a) and b) which have been counterfeited, altered or reproduced, knowing them to be false.
2. If the offences are committed in the exercise of a commercial activity punishment shall be increased and conviction shall be followed by the prohibition established under article 30 of the penal code.
3. Conviction for offences set out in paragraph 1 shall be published in three daily newspapers with national circulation to be designated by the judge and published in three different localities. Article 36, paragraph 3, of the penal code shall apply.

Article 179
Non-punishable Cases

1. The provisions of article 178 shall not apply to whosoever reproduces, holds, puts on sale or otherwise distributes copies of works of painting, sculpture or graphic art, or copies or imitations of antique objects or objects of historical or archaeological interest which are expressly declared to be inauthentic when exhibited or sold, by means of a written annotation on the work or on the object or, when this is not possible because of the nature or size of the copy or imitation, by means of a declaration issued upon exhibition or sale. Nor do the provisions apply

to artistic restorations which do not reconstruct the original work in a determinant manner.

Article 180

Non-compliance with Administrative Measures

1. Except in cases where the offence constitutes a more serious crime, whosoever fails to comply with an order issued by the authority responsible for the protection of cultural properties in accordance with this Title shall be punished with the penalties set out in article 650 of the penal code.

Chapter II

Sanctions Relative to the Third Part

Article 181

Works Carried Out Without Authorisation or Contrary To Its Provisions

1. Whosoever, without the prescribed authorisation or contrary to it, carries out works of any kind on landscape assets shall be punishable with the penalties provided for in article 20 of law no. 47 of 28 February 1985.
2. The judgment convicting the guilty party shall rule that the sites be restored to their original state at the party's expense. A copy of the judgement shall be forwarded to the Municipality in whose territory the violation has been committed.

FIFTH PART

Interim provisions, abrogation and coming into effect of laws

Article 182

Transitional Measures

1. Article 7, paragraph 1, of ministerial decree no. 294 of 3 August 2000, as substituted by article 3 of ministerial decree no. 420 of 24 October 2001, shall continue to apply restrictively to those who, as of the date of this law coming into effect, are enrolled in State university degree courses or schools of restoration therein established.
2. The provisions set out in article 7, paragraph 2, letters *a)*, *b)* and *c)*, of decree no. 294 of 2000, as substituted by article 3 of decree no. 420 of 2001 shall remain in effect. The provisions set out in article 7,

paragraph 2, letters a) and c) of decree no. 294 of 2000, as substituted by article 3 of decree no. 420 of 2001, shall also apply to those who, on the date when such latter decree came into force, were enrolled, even if not yet in possession of a diploma, in a State or Regional school for restoration established therein until the 2002-2003 academic year.

3. Within sixty days of this Code coming into effect, the Regions and other territorial government bodies shall adopt the necessary provisions for adjustment to the prescription set out in article 103, paragraph 4. In the case of non-fulfilment, the Ministry shall proceed to act in their stead, pursuant to article 117, fifth paragraph, of the Constitution.

Article 183 *Final Provisions*

1. The provisions set out in articles 13, 45, 141, 143, paragraph 10, and 156, paragraph 3, are not subject to preventive control pursuant to article 3, paragraph 1, of law no. 20 of 14 January 1994.
2. The implementation of articles 5 and 44 shall not entail new and greater burdens for the public purse.
3. Service on the commissions established by this Code is intended to be proffered free of charge, and such service shall in any case not entail new or greater burdens for the public purse.
4. The costs ensuing from the exercise on the part of the Ministry of the powers set out in articles 34, 35 and 37 shall be taken on within the limitations of the budget allocation for the relative items of expenditure.
5. The sureties provided by the State in the implementation of article 48, paragraph 5, are listed in an annex to the budgetary provisions of the Ministry of the Economy and Finance, pursuant to article 13 of law no. 468 of 5 August 1978. In the case of discussion of the said surety the Ministry shall forward the pertinent report to Parliament.
6. The laws of the Republic may not introduce forms of derogation to the principles of this legislative decree except through the express modification of its provisions.
7. This Code shall come into effect on the first day of May 2004.

Article 184 *Abrogated Laws*

1. The following provisions are abrogated:
 - law no. 1089 of 1 June 1939, article 40, in the text last substituted by article 9 of law no. 237 of 12 July 1999;
 - decree no. 1409 of the President of the Republic of 30 September 1963, restrictively: to article 21, paragraphs 1 and 3, and paragraph 2, in the text, respectively, modified and substituted by

- article 8 of legislative decree no. 281 of 30 July 1999; to articles 21-*bis* and 22, paragraph 1, in the text, respectively, integrated and modified by article 9 of the same legislative decree;
- decree no. 3 of the President of the Republic of 14 January 1972, restrictively to article 9;
 - legislative decree no. 285 of 30 April 1992, restrictively to article 23, paragraph 3 and the first sentence of paragraph 13-*ter*, integrated by article 30 of law no. 472 of 7 December 1999;
 - law no. 127 of 15 May 1997, restrictively to article 12, paragraph 5, in the text modified by article 19, paragraph 9, of law no. 448 of 23 December 1998; and paragraph 6, first sentence;
 - law no. 352 of 8 October 1997, restrictively to article 7, as modified by articles 3 and 4 of law no. 237 of 12 July 1999 and by article 4 of law no. 513 of 21 December 1999;
 - legislative decree no. 112 of 31 March 1998, restrictively to articles 148, 150, 152 and 153;
 - law no. 237 of 12 July 1999, restrictively to article 9;
 - legislative decree no. 281 of 30 July 1999, restrictively to article 8, paragraphs 2 and 9;
 - legislative decree no. 490 of 29 October 1999 and subsequent modifications and additions;
 - decree no. 283 of the President of the Republic of 7 September 2000;
 - legislative decree no. 196 of 30 June 2003, restrictively to article 179, paragraph 4;
 - law no. 172 of 8 July 2003, restrictively to article 7.

Approved, *Minister for Cultural Heritage and Activities*
URBANI

Annex A

(Provided for by articles 63, paragraph 1; 74, paragraphs 1 and 3; 75, paragraph 3, letter a)

A. Categories of cultural property:

1. Archaeological finds dating back more than one hundred years and found in:
 - a) terrestrial and marine excavations and discoveries;
 - b) archaeological sites;
 - c) archaeological collections.
2. Elements, that are an integral part of artistic, historical or religious

monuments and are the result of dismemberment of monuments which date back more than one hundred years.

3. Paintings and pictures other than those belonging to categories 4 and 5, entirely created by hand on any base and with any material (1).

4. Watercolours, gouaches and pastels, entirely painted by hand on any base.

5. Mosaics, other than those of categories 1 and 2, entirely made by hand with any material (1) and drawings made entirely by hand on any base.

6. Original engravings, prints, serigraphs and original lithographs and their relative matrices, as well as original posters (1).

7. Original works of statuary art or sculpture and copies obtained with the same procedures as the original (1), other than those in category 1.

8. Photographs, films and relative negatives (1).

9. Incunabula and manuscripts, including geographical maps and musical scores, singly or in collections (1).

10. Books over a hundred years old, singly or in collections.

11. Printed geographical maps dating back more than two hundred years.

12. Archives and supports, including elements of any nature dating back more than fifty years.

13. a) Collection and samples from zoological, botanical, mineralogical and anatomical collections:

b) Collections of historical, paleontological, ethnographical or numismatic interest

14. Means of transport dating back more than seventy-five years.

15. Other antique objects not contemplated by categories 1 to 14, dating back more than fifty years.

Cultural properties which fall into categories 1 to 15 are governed by this Consolidated Text only if their value is equal to or exceeds the values indicated in letter B.

B. Values applicable to the categories indicated in letter A (in euros).

- 1) of any value
 1. Archaeological finds
 2. Dismemberment of monuments
 9. Incunabula and manuscripts
 12. Archives

- 2) 13,979.50
 5. Mosaics and drawings
 6. Engravings
 8. Photographs
 11. Printed geographical maps

- 3) 27,959.00
 4. Watercolours, gouaches and pastels

- 4) 46,598.00
 7. Statuary art
 10. Books
 13. Collections
 14. Means of transport
 15. Other objects

- 5) 139,794.00
 3. Oil paintings

Compliance with the conditions relative to the values must be ascertained when the request for restitution is presented.

(1) Dating back more than fifty years and not belonging to the author.

Approved, *Minister for Cultural Heritage and Activities*
URBANI

NOTES

Notice:

The text of the notes published herein was written by the administration competent for each matter pursuant to article 10, paragraph 3 of the consolidated text of the provisions for the enactment of laws, the

emanation of decrees of the President of the Republic, and the official publications of the Italian Republic, approved by decree no. 1092 of the President of the Republic of 28 December 1985, for the sole purpose of facilitating the reading of the legal provisions to which the note refers. The value and efficacy of the legislative acts recorded herein remain inviolate. For EEC directives, essential particulars of publication are furnished in the *Official Gazette* of the European Communities (OGEC).

Notes to the premises:

- Articles 76, 87, 117 and 118 of the Constitution of the Italian Republic, published in the extraordinary edition of the *Official Gazette* of the Italian Republic no. 298 of 27 December 1947, as modified by constitutional law no. 3 of 18 October 2001, published in *Official Gazette* no. 248 of 24 October 2001, establish:

<<Art. 76. – The exercise of the legislative function may not be delegated to the Government without the determination of principles and directive criteria and only for a restricted period of time and for definite purposes.

Art. 87. – The President of the Republic is the head of state and represents national unity.

He/she may send messages to the Chambers.

He/she announces the election of the new Chambers and fixes the dates of their first meetings.

He/she authorises the presentation to the Chambers of draft laws initiated by the Government.

He/she enacts the laws and emanates the decrees having the force of law, and regulations.

He/she announces popular referendums in the cases established by the Constitution.

He/she appoints, in the cases established by law, the functionaries of the State.

He/she accredits and receives diplomatic representatives, ratifies International treaties, with the prior authorisation, when necessary, of the Chambers.

He/she detains command of the Armed Forces, presides over the Supreme Council of Defence constituted in accordance with the law, declares state of war deliberated by the Chambers.

He/she presides over the Superior Council of Magistrates.

He/she may grant pardons and commute sentences.

He/she confers the honours of the Republic.

Art. 117. – Legislative power shall be exercised by the State and the Regions in the respect of the Constitution, as well as the constraints deriving from European Community regulations and international obligations.

The State shall have exclusive legislation in the following matters:

- a) foreign policy and international relations of the State; relations of the State with the European Union; right to asylum and legal status of citizens of States which do not belong to the European Union;
- b) immigration;
- c) relations between the Republic and religious denominations;
- d) defence and the Armed Forces; security of the State; arms, munitions and explosives;
- e) currency, protection of savings and financial markets; protection of competition; monetary system; tax and accounting system of the State; equalisation of financial resources;
- f) organs of the State and relative electoral laws; State *referenda*; election of the European Parliament;
- g) administrative regulation and organisation of the State and the national government bodies;
- h) public order and safety, with the exception of the local administrative police;
- i) citizenship, marital status and birth and death registry offices;
- j) trial jurisdiction and regulations; civil and penal system; administrative justice;
- k) determination of essential levels of services concerning civil and social rights which must be ensured throughout the national territory;
- l) general regulations on education;
- m) social security;
- n) electoral legislation, government organs and fundamental functions of Municipalities, Provinces and Metropolitan Areas;
- o) customs, protection of national borders and international disease prevention;
- p) weights, measures and determination of time; statistical and electronic co-ordination of State, Regional, and local administration data; intellectual property;
- q) protection of the environment, the ecosystem and cultural property.

Matters of concurrent legislation include those relative to: international relations and relations with the European Union of the Regions; foreign

trade; job security and safety; education, without prejudice to the autonomy of scholastic institutions remaining, and with the exception of vocational education and training; professions; scientific and technological research and support for innovation in the productive sectors; safeguarding of health; food and nutrition; sports regulations; public safety; management of the territory; civil ports and airports; major transportation and navigation networks; communications regulations; national production, transportation and distribution of energy; complementary and supplementary social security; harmonisation of public budgets and co-ordination of public finances and the tax system; enhancement of the cultural and environmental heritage and promotion and organisation of cultural activities; savings banks, rural savings banks, credit institutions of a regional nature; land and agricultural credit institutions of a regional nature. In matters of concurrent legislation, the legislative power belongs to the Regions, except for the determination of the fundamental principles, reserved to the legislation of the State.

The Regions shall have legislative powers with reference to any matter not expressly reserved to the legislation of the State.

The autonomous Regions of Trento and Bolzano shall, in matters under their competence, participate in the decisions aimed at the formation of European Community regulatory instruments and provide for the implementation and execution of international accords and instruments of the European Union, in compliance with the rules of procedure established by the laws of the State, which govern the modalities for the exercise of substitutive powers in cases of non-compliance.

Law-making powers shall belong to the State in matters of exclusive legislation, except in cases of delegation to the Regions. Law-making powers shall belong to the Regions in all other matters. The Municipalities, the Provinces and the Metropolitan areas shall have law-making powers with regard to the regulation of the organisation and the exercise of the functions attributed to them.

Regional laws shall remove any obstacle which prevents full equality between men and women in social, cultural and economic life and shall promote equal opportunity between women and men for elected office.

Regional law shall ratify the agreements of a Region with other regions in order to improve the exercise of their functions, and may also do so with the identification of common bodies.

In matters under its competence, the Region may conclude accords with other States and agreements with territorial bodies within other States in the cases and forms governed by the laws of the State.

Art. 118. – The administrative functions are assigned to the Municipalities, except in cases where, in order to ensure their unified exercise, these are conferred on Provinces, Metropolitan areas, Regions and the State, on the basis of the principles of subsidiarity, differentiation and appropriateness.

The Municipalities, Provinces and Metropolitan Areas are the title-holders of their own administrative functions and those conferred upon them by State or Regional law, according to their respective competences.

State law governs forms of co-ordination between the State and the Regions in matters set out in letters *b)* and *h)* of the second paragraph of art. 117, and also governs forms of agreement and co-ordination between the State and the Regions in matters of cultural heritage protection.

The State, Regions, Metropolitan areas, Provinces and Municipalities shall promote autonomous initiative on the part of the citizens, both as individuals and in association, for carrying out activities of general interest, on the basis of the principles of subsidiarity >>.

– Article 14 of Law no. 400 of 23 August 1988, containing “Rules and Regulations for Government Activities and the Regulations of the Presidency of the Council of Ministers”, published in the ordinary supplement to *Official Gazette* no. 214 of 12 September 1988 establishes the following:

<<Article 14 (*Legislative decrees*). – 1. The legislative decrees adopted by the Government under article 76 of the Constitution shall be emanated by the President of the Republic with the denomination of “legislative decree” and with the indication, in the preamble, of the law of delegation, of the resolution of the Council of Ministers and of the other fulfilments of the procedure prescribed by the delegation law.

2. The emanation of the legislative decree must occur within the term fixed by the delegation law; the text of the legislative decree adopted by the Government shall be forwarded to the President of the Republic, for emanation, at least twenty days before the expiry date.

3. If the enabling statute refers to a plurality of distinct matters which may be dealt with separately, the Government may exercise it by means of several successive instruments for one or more of the aforementioned matters. With regard to the final term established by the law of delegation, the Government shall periodically inform the Chambers on the criteria it is following in the organisation of the exercise of the legislative power.

4. In any case, when the term established for the exercise of legislative power exceeds two years, the Government must ask for the opinion of

the Chambers on the schemes for the delegated decrees. The opinion shall be expressed by the permanent Commissions of the two Chambers competent for each matter within sixty days, indicating specifically any provisions which are deemed not to correspond to the directives of the law of delegation. In the thirty days following, the Government, having examined the opinion, shall send back the texts, with observations and any changes, to the Commissions for a final opinion which must be expressed within thirty days>>.

– Legislative decree no. 368 of 20 October 1988, containing: “Creation of the Ministry for Cultural Heritage and Activities, pursuant to article 11 of Law no. 59 of 15 March 1997”, is published in *Official Gazette* no. 250 of 26 October 1998.

– Legislative decree no. 490 of 29 October 1999, containing “The Consolidated Text of the Legislative Provisions for Cultural Heritage and Activities, in accordance with art. 1 of law no. 352 of 8 October 1997” is published in the ordinary supplement to *Official Gazette* no. 302 of 27 December 1999.

– Art. 10 of law no. 137 of 6 July 2002 containing “Enabling Statute for the Reform of the Organisation of the Government and of the Presidency of the Council of Ministers, and of Public Bodies”, published in *Official Gazette* no. 158 of 8 July 2002, as modified by art. 1-*bis* of law decree no. 24 of 18 February 2003, published in *Official Gazette* no. 40 of 18 February 2003 and converted, with modifications, into law no. 82 of 17 April 2003, published in *Official Gazette* no. 92 of 19 April 2003, establishes:

– Article 10 (*Enabling Statute for the Re-organisation and Codification of Cultural and Environmental Assets, Entertainment, Sports, Literary Property and Copyright*). – 1. With the enabling statute referred to in art. 1, as regards the Ministry for Cultural heritage and Activities, remaining in force, the Government is empowered to adopt, within eighteen months of the date of the coming into force of the present law, one or more legislative decrees for the re-organisation and, restrictively to letter *a*), the codification of the legislative provisions for:

- a) cultural and environmental assets;
- b) cinematography;
- c) theatre, music, dance and other forms of live entertainment;
- d) sport;
- e) literary property and copyright;

2. The legislative decrees referred to in paragraph 1 shall, without determining new or greater burdens for public purse, adhere to the following guiding principles and criteria:

- a) compliance with articles 117 and 118 of the Constitution;
- b) compliance with European Community regulations and international agreements;

- c) improvement of the effectiveness of measures concerning the cultural heritage and activities, including the aim of bringing about best possible use of the resources granted and increase in revenues; clear indication of public policy in the sector, in order to also achieve a significant and transparent budget accounting system; streamlining and abbreviation of procedures; conformity of the procedures to the new computer technologies;
- d) with reference to the matter referred to in letter a) of paragraph 1: update the tools for identification, conservation and protection of cultural and environment assets, also through the creation of foundations open to participation by Regions, local bodies, bank foundations, private and public associations, without establishing further restrictions to private property, nor abrogation of current instruments and, in an case, in complete respect of international agreements, above all as regards the circulation of cultural property; re-organise services offered, which may also be effected by means of concession to parties other than the State, by establishing foundations open to participation by Regions, local bodies, bank foundations, public and private associations, in line with the provisions set out in letter *b-bis*) of paragraph 1 of art. 10 of legislative decree no. 368 of 2 October 1998, and subsequent modifications; adapt the regulations for public tenders concerning cultural properties, modifying the thresholds for using the different procedures to identify contractors so as to permit the participation of firms of artisans of proven specialisation and experience, redefining the levels of planning necessary for awarding contracts, defining the awarding criteria and foreseeing the possibility of variations beyond the percentage limits ordinarily established, in relation to objective characteristics and the needs of protection and conservation of cultural property; redefine the modalities for the formation and functioning of the advisory organisms which intervene in the procedures for granting funding and facilitations to cultural bodies and institutions, for the purpose of a precise definition of the responsibilities of the technical organs, according to the principle of separation between administration and policy and with particular attention to profiles of incompatibility; identify forms of collaboration, during the procedures process, between the administrations for cultural heritage and activities and defence, for the realisation of works for military defence;
- e) with reference to matters set out in letters b) and c) of paragraph 1: rationalise the advisory organisms and their relative functions, in ways which may include suppression, merging of and reduction in the number of organisms and their components; streamline the procedures for paying out funding and redefine the modalities for the creation and functioning of the organisms which participate in the procedures for the identification of associations and individuals that may receive funding and the quantification of such funding; reform the organisational structure of the organisms and the bodies in the sector; revise the

system of checks and balances on the use of resources assigned and the effects produced by the measures;

- f) with reference to the matter set out in letter d) of paragraph 1: harmonise the legislation with the general principles which inspire the States belonging to the European Union as regards doping; re-organise the tasks of the Sport Credit Institute (Istituto per il credito sportivo), ensuring that the Regions and autonomous local bodies are represented in the organs as well; guarantee funding instruments to private subjects;
- g) with reference to the matter set out in letter e) of paragraph 1; reorganise, in the respect of the guiding principles and criteria indicated in article 14, paragraph 1, letter b) of law no. 59 of 15 March 1997, the Italian Society of Authors and Publishers (SIAE), whose statute must ensure an adequate presence of authors, publishers and other creative individuals in the organs of the Society and maximum transparency in the sharing out of the proceeds from the levy of copyrights among those entitled to them; harmonise the legislation relative to the production and dissemination of digital and multimedia content and software with the general principles followed by the European Union in matters pertaining to copyright and related rights.

3. The legislative decrees referred to in paragraph 1 explicitly indicate the provisions which have been substituted or abrogated, with the exception of the application of article 15 of the provisions on the law in general in the premise to the civil code. The legislative decrees referred to in paragraph 1 are adopted, after consultation with the Unified Conference referred to in article 8 of legislative decree no. 281 of 28 August 1997, with the prior opinion of the Parliamentary Commissions competent in each matter, which shall be expressed within the term of sixty days of receipt of the relative request. Upon expiration of such term, the legislative decrees may in any case be adopted.

4. Provisions which are corrective and supplementary to the legislative decrees referred to in paragraph 1 may be adopted, respecting the same guiding principles and criteria and with the same procedures referred to in the present article, within two years of the date of their coming into force.

Notes to art. 1:

– Art. 9 of the Constitution of the Italian Republic, published in the extraordinary edition of *Official Gazette* no. 298 of 27 December 1947, establishes:

<<Art. 9. – The Republic shall promote the development of culture and scientific and technological research.

It shall protect the landscape and the historical and artistic heritage of the Nation”.

– For the text of art. 117 of the Constitution of the Italian Republic, see note to the premise.

Note to art. 4:

– For the text of art. 118 of the Constitution of the Italian Republic, see note to the premise.

Notes to art. 9:

– Art. 12 of the Accord signed at Rome on 18 February 1984, which introduces modifications to the Lateran Treaty of 11 February 1929 between the Italian Republic and the Holy See, ratified and implemented with law no. 121 of 25 March 1985, published in the ordinary supplement to *Official Gazette* no. 85 of 10 April 1985, establishes:

<<Art. 12. – 1. The Holy See and the Italian Republic, within their respective spheres, shall collaborate for the protection of the historical and artistic heritage. For the purpose of harmonising the application of Italian law with exigencies of a religious nature, the competent organs of the two Parties shall agree upon suitable provisions for the safeguarding, enhancement and enjoyment of cultural properties of religious interest belonging to ecclesiastical bodies and institutions. The conservation and consultation of the archives of historical interest and of the libraries of the same bodies and institutions shall be fostered and facilitated on the basis of agreements between the competent organs of the two Parties.

2. The Holy See shall continue to have at its disposal the Christian catacombs located on Roman soil and other parts of the Italian territory along with the consequent burden of their custody, maintenance and conservation, surrendering the use of the other catacombs. In compliance with the laws of the State and notwithstanding any rights of third parties, the Holy See may proceed to necessary excavations and to the transferral of sacred relics>>.

– Art. 8 of the Constitution of the Italian Republic, published in *Official Gazette* – extraordinary edition – no. 298 of 27 December 1947, establishes:

<<Art. 8. – All religious denominations shall be equally free before the law.

Religious denominations other than the Catholic denomination shall have the right to organise themselves according to their own statutes, insofar as the same are not contrary to Italian laws.

Their relations with the State shall be governed by law on the basis of agreements with the relative agencies of representation>>.

Note to art. 12:

– Art. 27 of decree law no. 269 of 30 September 2003, containing: “Urgent Provisions for Promoting Development and for the Correction of Public Accounts”, published in the ordinary supplement to *Official Gazette* no. 229 of 2 October 2003 and converted, with modifications, into law no. 326 of 24 November 2003, published in the ordinary supplement to *Official Gazette* no. 274 of 25 November 2003, establishes:

<<Art. 27 (*Verification of Cultural Interest of Immovable Government Property*). – 1. The immovable and movable things belonging to the State, the Regions, the Provinces, Metropolitan Areas, Municipalities and to any other public body or institution, referred to in art. 2 of legislative decree no. 490 of 29 October 1999, shall be subject to the provisions for the protection of the cultural heritage until such time as the verification referred to in paragraph 2 is carried out.

2. The verification of the existence of artistic, historical, archaeological or ethno-anthropological interest in the things referred to in paragraph 1, shall be carried out by Superintendencies, ex officio or upon request by the parties to whom the things belong, on the basis of guidelines of a general nature established by the Ministry for Cultural Heritage and Activities.

3. When in the things subjected to verification the interest referred to in paragraph 2 is not found to exist, the same things are excluded from the application of the provisions for protection set out in legislative decree no. 490 of 1999.

4. The negative outcome of the verification of things belonging to the State, the Regions and other territorial government bodies, shall be notified to the competent offices so that they may order their release from State ownership, when there are no other reasons of public interest to be assessed on the part of the Ministry concerned.

5. [*paragraph suppressed by the law of conversion*].

6. The properties in which artistic, historical, archaeological or ethno-anthropological interest has been found to exist, in accordance with the general guidelines referred to in paragraph 2, shall remain definitively subject to the provisions for protection. Positive ascertainment shall constitute declaration pursuant to articles 6 and 7 of the Consolidated Text referred to in legislative decree no. 490 of 1999 and shall be registered in the ways provided for by art. 8 of the aforesaid Consolidated Text.

7. The provisions of the present article shall apply to the things referred to in paragraph 1 even when the subjects to whom they belong change their legal status in any way.

8. Upon the first application of the present article, the competent branch of the State Property Agency shall, within thirty days of the emanation of the decree referred to in paragraph 9, forward to the Regional Superintendency, the lists of the buildings owned by the State or belonging to State property for which verification is to be carried out, accompanied by descriptive information sheets containing the cognitive data relative to the individual buildings.

9. The criteria for the preparation of the lists and the manner in which the descriptive information sheets are to be compiled, as well as the procedures for the transmission of the aforesaid lists and descriptive information sheets, which may also occur through the agency of other administrations concerned, shall be established by decree by the Ministry for Cultural Heritage and Activities, to be emanated in accord with the State Property Agency and with the Directorate General of Public Works and State Property of the Ministry of Defence for real estate assets in use by the administration of defence within thirty days of the coming into force of the present decree law.

10. On the basis of the investigation carried out by the competent Superintendencies and on the basis of the opinion formed by the aforesaid Superintendencies, the regional Superintendency shall, within the peremptory term of thirty days from the request, conclude the process of verification as regards the existence of cultural interest in the building in question with a reasoned provision and shall notify the requesting agency, within sixty days of receipt of the relative descriptive information sheet. Non-notification within the comprehensive term of one hundred and twenty days from receipt of the information sheet shall be deemed equivalent to a negative verification outcome.

11. The descriptive information sheets for buildings owned by the State with a positive verification outcome, along with the measure referred to in paragraph 10, are collected in a computer archive accessible to both administrations, for the purposes of monitoring real estate assets and of planning measures according to their respective institutional competences.

12. For buildings belonging to the Regions and other territorial government bodies, as well as those owned by other public bodies and institutions, the process of verification shall be initiated upon request on the part of the interested bodies, which along with the application shall provide the descriptive information sheets for each building. The provisions of paragraphs 10 and 11 shall be applied to procedures thus initiated.

13. The procedures for enhancement and divestment provided for by paragraphs 15 and 17 of art. 3 of law decree no. 351 of 25 September 2001, converted, with modifications, from law no. 410 of 23 November 2001, as

well as from paragraphs 3 to 5 of art. 80 of law no. 289 of 27 December 2002, shall also apply to real estate assets referred to in paragraph 3 of the present article, as well as to those identified under paragraph 112 of art. 3 of law no. 662 of 23 December 1996, and subsequent modifications, and of paragraph 1 of art. 44 of law no. 448 of 23 December 1998. In art. 44 of law no. 448 of 23 December 1998, and subsequent modifications, paragraphs 1-*bis* and 3 are suppressed.

13-*bis*. The State Property Agency, in concert with the Directorate General of Public Works and State Property of the Ministry of Defence, shall identify real estate assets in use by the administration of defence which are no longer useful for institutional purposes and are to be included in divestment programmes for the purposes referred to in art. 3, paragraph 112, of law no. 662 of 23 December 1996, and subsequent modifications>>.

Note to art. 14:

– Art. 2 of law no. 241 of 7 August 1990, containing: “New Rules and Regulations for Administrative Procedures and Right of Access to Administrative Documents”, published in *Official Gazette* no. 192 of 18 August 1990 establishes:

<<Art. 2. – 1. Where the procedure is the obligatory consequence of an application or must be initiated ex officio, the public administration is obliged to conclude it through the adoption of a special measure.

2. The public administrations shall, for each type of procedure, determine the term within which it is to be concluded, insofar as the said term has not already been directly established by law or regulation. Such term begins with the ex officio start of the procedure or from receipt of the request if the procedure is initiated by another party.

3. When the public administrations do not act pursuant to paragraph 2, the term shall be for a period of thirty days.

4. The decisions adopted pursuant to paragraph 2 shall be made public in accordance with the provisions of the single regulations>>.

Note to art. 16:

– The decree of the President of the Republic no. 1199 of 24 November 1971, containing: “Simplification of Administrative Appeal Procedures”, is published in *Official Gazette* no. 13 of 17 January 1972.

Notes to art. 29

– Art. 17 of law no. 400 of 23 August 1988, containing: “Regulation of Government Activity and Rules for the Presidency of the Council of Ministers”, published in the ordinary supplement to *Official Gazette* no. 214 of 12 September 1988, as modified by art. 74 of legislative decree no. 29 of 3 February 1993 published in the ordinary supplement to *Official Gazette* no. 30 of 6 February 1993, and by art. 11 of law no. 25 of 5 February 1999, published in the ordinary supplement to *Official Gazette* no. 35 of 12 February 1999; and supplemented by art. 13 of law no. 59 of 15 March 1997, published in the ordinary supplement to *Official Gazette* no. 63 of March 1997, establishes:

<<Art. 17 (*Regulations*) – 1. Following resolution by the Council of Ministers, and consultation of the Council of State which must give its opinion within ninety days from the request, regulations may be emanated by decree of the President of the Republic to govern the following:

- a) the enforcement of laws and legislative decrees, as well as European Community regulations;
- b) the implementation and integration of laws and legislative decrees containing rules and regulations of principle, excluding those pertaining to matters reserved to Regional competence;
- c) matters in which no regulations exist by law or by acts having force of law, on condition that matters which are in any case reserved for legal regulation are not concerned;
- d) the organisation and functioning of public administrations according to the provisions dictated by law;
- e) [*suppressed*].

2. By decree of the President of the Republic, following resolution of the Council of Ministers and consultation with the Council of State, regulations shall be emanated for the regulation of matters, not covered by absolute reservation of law provided for by the Constitution, for which the laws of the Republic, authorising the exercise of the regulatory powers of the Government, shall determine the general rules regulating the matter and order the abrogation of laws in force, with the effect of the regulatory laws coming into force.

3. Regulations for matters under the competence of the Ministry or of an authority subordinated to the Ministry may be adopted by ministerial decree when the law expressly confers such power. For matters under the competence of more than one Ministry, such regulations may be adopted by inter-ministerial decree, on condition that proper authorisation is provided by law. Ministerial and inter-ministerial regulations may not dictate rules contrary to the regulations emanated by the Government. They must be notified to the President of the Council of Ministers before emanation.

4. The regulations referred to in paragraph 1 and ministerial and inter-ministerial regulations, which must carry the denomination of “regulation”,

are adopted following the opinion of the Council of State, subject to approval and registration by the Court of Audits and published in the *Official Gazette*.

4-*bis*. The organisation and regulation of the Ministry offices shall be determined, with regulations emanated pursuant to paragraph 2, at the recommendation of the competent Minister in agreement with the President of the Council of Ministers and with the Minister of the Treasury, and in the respect of the principles established by legislative decree no. 29 of 3 February 1993, and subsequent modifications, with the contents of and in compliance with the following criteria:

- a) re-organisation of the offices directly collaborating with the Ministers and the Undersecretaries of State, establishing that such offices have exclusive support competence for the policy direction organ and for the lines of communication between the policy organ and the administration;
- b) identification of the offices at the general, central and peripheral management levels, through diversification between structures with final functions and instrumental functions and their organisation for homogenous functions, according to criteria of flexibility eliminating duplication of functions;
- c) establishment of instruments for the periodical verification of organisation efficiency and results;
- d) periodical indication and revisions of the consistency of staff plans;
- e) provision for ministerial decrees of a non-regulatory nature for the definition of tasks of managerial staff within the general management offices>>.

– Art. 9 of legislative decree no. 368 of 20 October 1998, containing: “Institution of the Ministry for Cultural Heritage and Activities, pursuant to art. 11 of law no. 59 of 15 March 1997”, published in *Official Gazette* no. 250 of 26 October 1998, establishes:

<<Art. 9 (Schools of training and study). – 1. Schools of specialised training and study operate in the following institutes: Istituto Centrale di Restauro (Central Institute for Restoration); Opificio delle pietre dure (Semiprecious Stones Workshop); Istituto centrale per la patologia del libro (Central Institute for Damaged Books).

2. The Institutes referred to in paragraph 1 organise training and specialisation courses, and may avail themselves of the collaboration of universities and other institutions and Italian and foreign bodies, and may, in their turn, participate in and contribute to the initiatives of such institutions and bodies.

3. The regulations regarding the courses offered by the schools, admission requirements and criteria for the selection of the teaching staff are established by ministerial regulations adopted, under article 17, paragraph 3,

of law no. 400 of 23 August 1988, by decree of the Minister, in agreement with the Presidency of the Council of Ministers – Civil Service Department and with the Minister of the Treasury, Budget and Economic Planning. Branches of schools previously established may be established by decree of the Minister.

4. The re-organisation of the schools referred to in art. 14 of decree no. 1409 of the President of the Republic of 30 September 1963 shall be carried out with a regulation adopted with the modalities referred to in paragraph 3>>.

– Art. 4 of legislative decree no. 281 of 28 August 1997, containing: “Definition and Enlargement of the Functions and Tasks of the Permanent Conference for Relations between the State, the Regions and the Autonomous Provinces of Trento and Bolzano and Unification, in matters and tasks of common interest, of the Regions, Provinces and Municipalities with the State-Cities Conference and Local Autonomies”, published in *Official Gazette* no. 202 of 30 August 1997, establishes:

<<Art. 4 (*Accords between the Government, Regions and Autonomous Provinces of Trento and Bolzano*). – 1. The Government, the Regions and the Autonomous Provinces of Trento and Bolzano may, in the application of the principle of fair collaboration and in the pursuit of objectives for the efficacious functioning, economy and effectiveness of administrative action, may conclude accords within the State-Regions Conference, for the purpose of co-ordinating the exercise of respective competences and of carrying out activities of common interest.

3. The accords shall be concluded with the expression of assent on the part of the Government and of the Presidents of the Regions and of the Autonomous Provinces of Trento and Bolzano.

Note to art. 41:

– For the text of art. 17 of law no. 400 of 23 August 1988 see note to art. 29.

Note to art. 46:

– For the text of art. 2 of law no. 241 of 7 August 1990, see note to art. 14.

Note to art. 53:

– Art. 822 of the civil code, approved by royal decree no. 262 of 16 March 1942, published in the extraordinary edition of *Official Gazette* no. 79 of 4 April 1942, establishes:

<<Art. 822 (*Government Property*). – Belonging to the State and part of State property are seashores, beaches, harbours and ports; rivers, streams, lakes and other waters defined as public in the laws pertaining to the matter; and the works designated for national defence.

The following are likewise part of government property, when they belong to the State: roads, motorways and railways; aerodromes; aqueducts; buildings recognised as having historical, archaeological and artistic interest in accordance with the laws on the matter, the collections of museums, picture galleries, archives, libraries; and finally other properties which by law are subject to the system of laws regulating public property>>.

Note to art. 69:

– For decree no. 1199 of the President of the Republic of 24 November 1971, see note to art. 16.

Note to art. 73:

– Council Regulation (EEC) no. 3911/92, of 9 December 1992, on the exportation of cultural properties, is published in *Official Gazette* – 2nd special series – no. 17 of 1st March 1993; it was amended by Council Regulation (EC) no. 2469/96, of 16 December 1996, published in *Official Gazette* – 2nd special series – no. 16 of 27 February 1997 and by Council Regulation (EC) no. 974/01, of 14 May 2001, published in *Official Gazette* – 2nd special series – no. 57 of 23 July 2001.

– Council Directive 93/7/EEC, of 15 March 1993, concerning the “Return of Cultural Objects Unlawfully Removed from the Territory of a Member State”, is published in *Official Gazette* – 2nd special series – no. 54 of 12 July 1993; it was modified by Directive 96/100/EC of the European Parliament and Council, of 17 February 1997, published in *Official Gazette* – 2nd special series – no. 45 of 16 June 1997 and by Directive 2001/38/EC of the European Parliament and Council, of 5 June 2001, published in *Official Gazette* – 2nd special series – no. 71 of 10 September 2001.

Note to art. 74:

– For Council Regulation (EEC) no. 3911/92, of 9 December 1992, see note to art. 73.

Note to art. 75:

– Art. 30 of the Treaty which establishes the European Economic Community, ratified and made enforceable by law no. 1203 of 14 October 1957, published in *Official Gazette* no. 317 of 23 December 1957, substituted and renumbered by art. 6 of the Treaty of Amsterdam, ratified and made enforceable with law no. 209 of 16 June 1998, published in the ordinary supplement to *Official Gazette* no. 155 of 6 July 1998, establishes:

<<Art. 30 [36] – The provisions of articles 28 [30] and 29 [34] shall not preclude the prohibitions or restrictions on import, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of the health and life of humans animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States>>.

– For Council Regulation (EEC) no. 3911/92, of 9 December 1992, see note to art. 73.

Note to art. 76:

– For Council directive 93/7/EEC, of 15 March 1993, see note to art. 73.

Note to art. 77:

– Art. 163 of the civil procedures code, approved by royal decree no. 1443 of 28 October 1940, published in the ordinary supplement to *Official Gazette* no. 253 of 28 October 1940, as modified by art. 7 of law no. 581 of 14 July 1950, published in the ordinary supplement to *Official Gazette* no. 186 of 16 August 1950, and by art. 7 of law no. 353 of 26 November 1990, published in the ordinary supplement to *Official Gazette* no. 281 of 1 December 1990, establishes:

<<Art. 163 (*Contents of the Summons*). – The application shall be made through a summons to appear at a fixed hearing.

The president of the court [*tribunale*] shall, at the beginning of the judicial calendar year, by decree approved by the first president of the appellate court, establish the days of the week and the times of the hearings designated exclusively for the first appearance of the parties in the court.

The summons must contain:

- 1) the indication of the court before which application is made;
- 2) the name, surname and the residence of the plaintiff; the name, surname, residence or domicile or home of the defendant and of

- the persons who respectively represent or assist them. If the plaintiff or defendant, is a corporate entity, a non-recognised association or a committee, the summons must contain its denomination or the company name, with the indication of the organ or office which is to represent it in court;
- 3) the determination of the thing which is the object of the application;
 - 4) the exposition of the facts and elements which by law constitute the reasons for the application, with relative conclusions;
 - 5) the specific indication of the means of evidence of which the plaintiff intends to avail him/herself and in particular of the documents he/she wishes to provide;
 - 6) the name and surname of the attorney and indication of the power of attorney when the latter has already been issued;
 - 7) the indication of the day of the hearing; summons to the defendant to appear twenty days before the hearing indicated pursuant to and in the forms established by art. 166, or ten days before in case of abridgement of time, and to appear, in the hearing indicated, before the judge designated under art. 168-*bis*, with the warning that the appearance after the aforesaid terms constitutes forfeiture under art. 167.

The summons, undersigned in accordance with art. 125, shall be delivered by the party or by the attorney to the court officer, who shall notify it in accordance with articles 137 following>>.

Note to art. 84:

– For Council Regulation (EEC) no. 3911/92, of 9 December 1992, see note to art. 73.

– For Council Directive 93/7/EEC, of 15 March 1993, see note to art. 73.

Note to art. 87:

– The final document of the diplomatic conference for the adoption of the UNIDROIT draft convention on the international return of stolen or unlawfully exported cultural property, with annex, produced in Rome, 24 June 1995, was ratified and made enforceable with law no. 213 of 7 June 1999, published in *Official Gazette* no. 153 of 2 July 1999.

Note to art. 91:

– For the text of art. 822 of the civil code, see note to art. 53.

– Art. 826 of the civil code, approved by royal decree no. 262 of 16 March 1942, published in the extraordinary edition of *Official Gazette* no. 79 of 4 April 1942, establishes:

<<Art. 826 (*Property of the State, the Provinces and the Municipalities*). – The things belonging to the State, the Provinces and the Municipalities, which are not of the kind indicated in the preceding articles, constitute the property of the State or, respectively, of the Provinces or Municipalities.

Forming part of the inalienable property of the State are the forests, which under the laws pertaining to the matter constitute the forest property of the State; mines, quarries and peat bogs when free use is denied to the proprietor of the land; the things possessing historical, archaeological, paleo-ethnological, paleontological and artistic interest, regardless of by whom and in what way they were discovered in the subsoil; the property constituting the furnishings of the Presidency of the Republic, and of barracks, armaments, military aircraft, and warships.

Forming part of the inalienable property of the State or, respectively, of the Provinces and Municipalities, according to which they belong, are the buildings designated to house public offices, with their furnishings, and other property designated for public service>>.

Note to art. 92:

– For the text to art. 17 of law no. 400 of 23 August 1988, see note to art. 29.

Note to art. 128:

– Law no. 364 of 20 June 1909, “which establishes and fixes regulations for the inalienability of antiquities and fine arts”, is published in *Official Gazette* no. 150 of 28 June 1909.

– Law no. 778 of 11 June 1922 containing: “Measures for the protection of natural beauties and buildings of particular historical interest”, is published in *Official Gazette* no. 148 of 24 June 1922.

– Articles 2, 3, 5 and 21 of law no. 1089 of 1 June 1939, concerning the “Protection of things possessing artistic and historical interest”, published in *Official Gazette* no. 184 of 8 August 1939, establish:

<<Art. 2. – Likewise subject to the present law are immovable things which, because of their reference to political or military history, to literature, art and culture in general, have been recognised to possess particularly important interest and as such have formed the object of notification, in administrative form, of the Minister for National Education.

At the request of the Minister, the notification shall be recorded in the Land Register and shall have efficacy with regard to each successive proprietor, possessor or holder of the thing by whatever legal right.

Art. 3. – The Minister for National Education shall notify in administrative form private proprietors, possessors or holders by whatever legal right of the things indicated in art. 1 which possess particularly important interest.

Where buildings by nature or appurtenance are concerned, the provisions established in the second paragraph of the preceding article shall apply.

The list of movable property, for which notification of particularly important interest has been served, shall be conserved in the Ministry of National Education and copies of the same shall be deposited in the Préfectures of the Kingdom.

Any interested person may consult the list.

Art. 5. – The Minister for National Education, following consultation with the National Council on Education, the Sciences and Arts, may proceed to notification of the collections or series of objects which, by tradition, renown and particular environmental characteristics, as a whole possess exceptional artistic or historical interest.

The notified collections and series may not, by virtue of any legal right, be dismembered without the authorisation of the Minister for National Education.

Art. 21. – The Minister for National Education shall have the power to prescribe distances, measures and other provisions in order to prevent harm to the integrity of the immovable things subject to the provisions of the present law, or to their perspective or natural light, or to prevent that conditions of their setting or their decorous aspect be altered.

The exercise of such power shall be independent of the application of building regulations or enforcement of town plans.

The prescriptions established on the basis of the present article must, at the request of the Minister, be recorded in the Land Register and shall have efficacy for each successive proprietor, possessor or holder, by whatever legal right, of the thing to which the aforesaid prescriptions refer > >.

– Art. 36 of decree no. 1409 of the President of the Republic of 30 September 1963 containing: "Provisions pertaining to the Organisation and Personnel of the Archives of the State", published in *Official Gazette* no. 285 of 31 October 1963, establishes:

<<Art. 36 (*Declaration of Notable Historical Interest*). – It is the task of the archival superintendents to declare, with a justified order to be notified under administrative procedure, the notable historical interest of archives or of single documents of which private individuals are the proprietors, possessors or holders, by whatever legal right.

Private individuals may, within the term of sixty days, appeal against the orders of the superintendents to the Minister for Internal Affairs who, following consultation with the Committee of the Superior Council of Archives, shall rule on the appeal>>.

– Articles 6, 7, 8 and 49 of legislative decree no. 490 of 29 October 1999, containing: “Consolidation Text of the Legislative Provisions pertaining to matters of Cultural and Environmental Property, under the provisions of art. 1 of law no. 352 of 8 October 1997”, published in the ordinary supplement to *Official Gazette* no. 302 of 27 December 1999, establish:

<<Art. 6 (*Declaration*). – 1. Without prejudice to the provisions of paragraph 4, the Minister shall declare the particularly important interest possessed by the things indicated in art. 2, paragraph 1, letter *a*), belonging to subjects other than those indicated in art. 5, paragraph 1.

2. The Minister shall likewise declare the particularly important interest possessed by the things indicated in art. 2, paragraph 1, letter *b*), the exceptional interest possessed by the collections or series of objects indicated in article 2, paragraph 1, letter *c*) and the notable historical interest possessed by the things indicated in article 2, paragraph 4, letter *c*).

3. The effects of the declaration are established by art. 10.

4. The Region locally competent shall declare the particularly important interest possessed by the things indicated in art. 2, paragraph 2, letter *c*) under private ownership. In the case of inaction on the part of the Region, the Ministry shall proceed under the provisions of art. 9, paragraph 3, of decree no. 3 of the President of the Republic of 14 January 1972.

Art. 7 (*Declaration proceeding*). – 1. The Minister shall start the declaration proceeding provided for by art. 6 either directly or on the recommendation of the superintendent, which recommendation may also be requested by the Region, the Province or the Municipality, and shall notify the proprietor, possessor or holder.

2. Notification shall include the identifying elements of the property and its assessed value resulting from the initiating action or the recommendation, the indication of the effects foreseen under paragraph 4, as well as the indication of the time limit, which in any case may not be less than thirty days, for the presentation of observations and comments.

3. When the proceeding regards real estate complexes, the notification shall also be forwarded to the Municipality concerned.

4. The notification shall, as a precautionary measure, entail the application of the provisions provided for in Section I of Chapter II and in Section I of Chapter III of this Title.

5. The effects indicated in paragraph 4 shall cease upon expiry of the term of declaration proceeding which the Ministry shall establish under the provisions of art. 2, paragraph 2 of law no. 241 of 7 August 1990.

6. The Regions shall apply the provisions indicated in the preceding paragraphs in the exercise of the functions indicated in art. 6, paragraph 4.

Art. 8 (Notification of Declaration). – 1. The declaration provided for in art. 6 shall be notified to the proprietor, possessor or holder of the things concerning which it was formulated.

2. Where things subject to the advertising of real estate are concerned, the declaration shall, at the request of the Ministry, be recorded in the land registries and shall have efficacy for every successive proprietor, possessor or holder by whatever right.

3. The declarations adopted by the Regions under the provisions of art. 6, paragraph 4, shall be forwarded to the Ministry.

Art. 49 (Prescriptions of Indirect Protection). 1. The Ministry, which may also act upon the recommendation of the superintendent, shall have the power to prescribe distances, measures and other rules and regulations aimed at preventing harm to the immovable things subject to the provisions of this title, and at avoiding damage to the perspective or natural light or alterations to conditions of their setting or their decorous aspect.

2. The exercise of such power shall be independent of the provisions of building codes and urban planning instruments.

3. Notification of the start of proceedings shall be carried out in accordance with the modalities set out in art. 2, paragraph 2, or, when the number of assignees makes personal notification impossible or proves particularly onerous, through suitable means of advertising. For personal notification, the administration shall have the power to adopt precautionary measures.

4. The prescriptions dictated on the basis of this article shall be recorded in the land registries and shall have efficacy for every successive proprietor, possessor or holder, by whatever legal right, of the thing to which the aforesaid prescriptions refer.

5. In the case of real estate complexes, the provision of art. 7, paragraph 3 shall also apply to the notification>>.

Notes to art. 129:

– Law no. 286 of 28 June 1871 “which extends to the Province of Rome articles 24 and 25 of the interim provisions for the implementation of the Civil Code”, is published in *Official Gazette* no. 174 of 28 June 1871.

– Law no. 1461 of 8 July 1883, “which provides for the conservation of galleries, libraries and other collections of art and antiquities”, is published in *Official Gazette* no. 162 of 12 July 1883.

– Royal decree no. 653 of 23 November 1891, “which approves the regulation for the implementation of art. 4 of law no. 286 (2nd series) of 28 June 1871, and of law no. 1461(3rd series) of 8 July 1883”, is published in *Official Gazette* no. 285 of 5 December 1891.

– Law no. 31 of 7 February 1892, “which contains provisions for galleries, libraries and collections of art and antiquities”, is published in *Official Gazette* no. 32 of 8 February 1892.

Notes to art. 130:

– Royal decree no. 1163 of 2 October 1911, containing “ Regulations for State Archives”, is published in *Official Gazette* no. 260 of 8 November 1911.

– Royal decree no. 363 of 30 January 1913, containing the “Regulation for the Implementation of law no. 364 of 20 June 1909 and law no. 688 of 23 June 1912, for Antiquities and Fine Arts”, is published in *Official Gazette* no. 130 of 5 June 1913.

Note to art. 139:

– Art. 13 of law no. 349 of 8 July 1986, containing: “Establishment of the Ministry of the Environment and Provisions in matters pertaining to Environmental Damage”, published in the ordinary supplement to *Official Gazette* no. 162 of 15 July 1986, establishes:

<< Art. 13. – 1. The associations of environmental protection on a national level and those present in at least five Regions shall be identified by decree of the Ministry of the Environment on the basis of programme aims and democratic internal regulations established by their statutes, as well as continuity of action and its external relevance, with the prior opinion of the National Council for the Environment, to be expressed within ninety days of

request. When the aforesaid term expires with no opinion being expressed, the Minister of the Environment shall decide.

2. For the sole purpose of obtaining the short list of three members indicated in the preceding art. 12, paragraph 1, letter c) for the preliminary composition of the National Council for the Environment, the Minister shall, within thirty days of the coming into force of the present law, carry out a preliminary identification of the associations on the national level and of those present in at least five Regions, according to the criteria set out in the preceding paragraph 1, and shall inform Parliament>>.

Notes to art. 142:

– Royal decree no. 1775 of 11 December 1933, containing the “Consolidation of the Statutory Provisions on Waters and Electrical Systems” is published in *Official Gazette* no. 5 of 8 January 1934.

– Art. 2 of legislative decree no. 227 of 18 March 2001, containing “Orientation and Modernisation of the Forestry Sector, under the provisions of art. 7 of law no. 57 of 5 March 2001”, published in the ordinary supplement to *Official Gazette* no. 137 of 15 June 2001, establishes:

<<Art. 2 (*Definition of woods and of wood arboriculture*). – 1. For the effects of the present legislative decree and of any other provision in force in the territory of the Republic the terms woods, forest and woodland are equalised.

2. Within twelve months of the coming into force of the present legislative decree the Regions shall establish the definition of wood for the territory within their jurisdiction and:

- a) the minimum values of width, extension and cover necessary for an area to be considered a wood;
- b) the size of clearings and vacant areas which interrupt the continuity of a wood;
- c) the cases in point which because of their particular nature are not to be considered woods.

3. The following are deemed woods:

- a) lands encumbered with the obligation of reforestation for the purposes of protecting the hydro-geological system of the territory and air quality, safeguarding water resources, conserving biodiversity, protecting the landscape and the environment in general;
- b) forest areas temporarily deprived of tree and bush cover as a result of forestry uses, biotic and non-biotic adversities, accidental events, fire;

c) clearings and all other surfaces with an area under 2000 square metres which interrupt the continuity of the wood;

4. The definition referred to in paragraphs 2 and 6 shall be applied for the purposes of identification of areas covered by woods referred to in art. 146, paragraph 1, letter *g*), of legislative decree no. 490 of 20 October 1999.

5. With the term arboriculture for wood is meant the cultivation of trees, in non-wooded lands, for the sole purpose of producing wood and biomass. Cultivation is reversible upon expiry of the growth cycle.

6. In default of the emanation of the Regional provisions referred to in paragraph 2 and where a different definition has not been established by the Regions themselves, woods are considered to be the lands covered by arboreal forest vegetation, whether or not it be associated with shrub vegetation of natural or artificial origin, in any stage of development, chestnut woods, corkwood plantations and Mediterranean brushwood, and excluding public and private gardens, trees lining streets, chestnut woods under cultivation and plantations of fruit trees and of arboriculture for wood referred to in paragraph 5. The aforesaid plant formations and the lands on which they grow must have an area under 2000 square metres and an average width of not less than 20 metres and cover of not less than 20 percent, with measurement being carried out on the external base of the trunks. The definition of cork-tree wood stands as referred to in law no. 759 of 18 July 1956. Likewise considered woods are the lands encumbered with the obligation of reforestation for the purposes of hydro-geological protection of the territory and air quality, safeguarding the water supply, conserving biodiversity, protecting the landscape and environment in general, as well as the clearings and all other surfaces with an area of less than 2000 square metres which interrupt the continuity of the wood>>.

– Decree no. 448 of the President of the Republic of 13 March 1976, containing: “Implementation of the Convention on Wetlands of International Importance, above all as the Habitat of Water-birds, signed at Ramsar on 2 February 1971”, is published in *Official Gazette* no. 173 of 3 July 1976.

– Ministerial decree no. 1444 of 2 April 1968, containing: “Mandatory Limits for Building Density, Height, Distance between Structures and Maximum Ratios between Areas Designated for Residential and Industrial Uses and Public Spaces or Spaces Reserved for Collective Activities, Public Green Areas or for Parking, to be Observed for the Purposes of the Formation of New Urban Planning Instruments or the Revision of Those Already in Existence, pursuant to art. 17 of law no. 765 of 6 August 1967” is published in *Official Gazette* no. 97 of 16 April 1968.

– Art. 18 of law no. 865 of 22 October 1971, containing “Planning and Co-ordination of Public Residential Building; Regulations on Expropriation for Public Use; Modifications and Additions to law no. 1150 of 17 August 1942;

law no. 167 of 18 April 1962 and law no. 847 of 29 September 1964; and Expenditure Authorisation for Extraordinary Works in the Residential Building Sector, Benefiting from Facilitations and Agreements", published in *Official Gazette* no. 276 of 30 October 1971, establishes:

<<Art. 18. – Within the term of six months from the date of entry into force of this law, the Municipalities shall, for the purposes of the application of the preceding art. 16, proceed to the delimitation of the built-up centres with a resolution adopted in the City Council. When such resolution is pending, the Municipality shall, with Council approval, declare whether or not the area falls within the built-up centres, for the effects of the expropriation procedure being carried out.

The boundaries of the built-up centre shall, for each centre or inhabited area, be defined by the continuous perimeter which includes all the built-up areas continuously and with parcels of land enclosed. Scattered settlements and external areas may not be included in the perimeter of the built-up areas, even when they are affected by the process of urbanisation.

When the term established in the first paragraph of this article expires with no action taken, the Region shall establish the boundaries of the built-up centres.

Note to art. 144:

– For the text of art. 13 of law no. 349 of 8 July 1986 see note to art. 139.

Note to art. 145:

– Art. 52 of legislative decree no. 112 of 31 March 1998, containing "Conferral of Administrative Functions and Tasks of the State to the Regions and Local Bodies, in Implementation of Chapter I of law no. 59 of 15 March 1997", published in the ordinary supplement to *Official Gazette* no. 92 of 21 April 1998, establishes:

<<Art. 52 (*Tasks of National Relevance*). – 1. Under art. 1, paragraph 4, letter *c*), of law no. 59 of 15 March 1997, tasks which have national relevance are those related to the identification of the fundamental lines of the organisation of the national territory with reference to natural and environmental values, the protection of the land, and the territorial organisation of infra-structural networks and of the works under State competence, as well as the system of the Cities and the Metropolitan Areas, and also for the purposes of developing the "Mezzogiorno" area and economically depressed areas of the country.

2. Within the competence of the State fall relations with international bodies and coordination with the European Union referred to in art. 1, paragraph 4, letter e), of law no. 59 of 15 March 1997, on matters pertaining to urban policy and land planning.

3. The tasks referred to in paragraph 1 of the present article shall be exercised by means of agreements established in the Unified Conference.

4. In art. 81, first paragraph, of decree no. 616 of the President of the Republic of 24 July 1977, letter a) is abrogated.

Note to art. 146:

– Law no. 241 of 7 August 1990 containing: “New Provisions on matters pertaining to Administrative Procedure and Right of Access to Administrative Documents”, is published in *Official Gazette* no. 192 of 18 August 1990.

– For the text of art. 13 of law no. 349 of 8 July 1986, see note to art. 139.

Note to art. 147:

– Articles 14, 14-*bis*, 14-*ter* and 14-*quater* of law no. 241 of 7 August 1990, containing “New Provisions on matters pertaining to Administrative Procedure and Right of Access to Administrative Documents”, published in *Official Gazette* no. 192 of 18 August 1990, establish:

– <<Art. 14. – 1. When it is advisable to carry out a contemporaneous examination of the various public interests involved in an administrative procedure, the proceeding administration shall as a rule convene a Conference of Services.

2. The Conference of Services shall always be convened when the proceeding administration must acquire agreements, concerted action, permits or waivers, or the consent, however denominated, of other public administrations, and, having formally requested the same, fails to obtain them, within fifteen days of the start of proceedings.

3. The Conference of Services may also be convened for the contemporaneous examination of interests involved in several connected administrative procedures, regarding the same activities or results. In such cases, the Conference shall be convened by the administration or, with prior informal agreement, by one of the administrations responsible for the prevalent public interest. For public works, art. 7 of law no. 109 of 11 February 1994 and subsequent modifications shall continue to apply. The Conference may be convened at the request of any other administration involved.

4. When activities in the private sector are subordinated to consent, however denominated, falling within the competence of several government administrations, the Conference of Services shall be convened, also at the request of the interested administration, by the administration with competence for the adoption of the final provision.

5. In cases where public works are granted in concession, the Conference of Services shall be convened by the grantor within fifteen days, without prejudice to the provisions of Regional laws with regard to environmental impact assessment.

Art. 14-*bis*. – 1. The Conference of Services may be convened for projects of particular complexity, at the reasoned and documented request of the interested party, before the presentation of a definitive application or project, for the purpose of verifying the conditions that must exist upon presentation in order to obtain the necessary permits. In such cases the Conference shall rule within thirty days of the date of the request and the relative costs shall be charged to the applicant.

2. In procedures dealing with the realisation of public works and with public interest, the Conference of Services shall express its opinion on the preliminary project for the purpose of establishing the conditions for obtaining for the definitive project the agreements, opinions, concessions, authorisations, licences, permits or waivers, however denominated, required by the laws in force. At the same time, the administrations responsible for environmental and landscape-territorial protection, for the protection of the historical and artistic heritage and of health, shall give their opinion, with regard to the interests protected by each, on the project solutions chosen. When, on the basis of the available documentation, no elements emerge which in any case preclude the realisation of the project, the aforesaid administrations shall, within forty-five days, indicate the conditions and elements necessary to obtain the deeds of permit when the definitive project is presented.

3. In cases where environmental impact assessment is requested, the Conference of Services shall express its opinion within thirty days of the conclusion of the preliminary phase in the definition of the contents of the environmental impact study, according to the provisions pertaining to environmental impact assessment. If such conclusion fails to occur within ninety days of the request referred to in paragraph 1, the Conference of Services shall in any case express its opinion within the next thirty days. Within such Conference, the authority responsible for environmental impact assessment shall indicate the conditions for the development of the project and of the environmental impact study. In this phase, which is an integral part of the environmental impact assessment procedure, the aforesaid authority shall examine the main alternatives, including the zero alternative, and, on the basis of the available documentation, shall verify the existence

of any elements of incompatibility, which may also relate to the planned location of the project, and, when such elements do not exist, shall indicate within the Conference of Services, the conditions necessary to obtain the necessary deeds of permit when the definitive project is presented.

4. In the cases referred to in paragraphs 1, 2 and 3, the Conference of Services shall express its opinion on the basis of the documents in its possession and the indications furnished on this occasion may be modified with grounds or added to only in the presence of significant elements which emerged in subsequent stages of the procedure, including those resulting from the observations of private persons on the definitive project.

5. In the case referred to in paragraph 2, the sole party responsible for the procedure shall forward to the administrations concerned the definitive project, drawn up on the basis of the conditions indicated by the same administrations during the Conference of Services on the preliminary project, and shall convene the Conference between the thirtieth and sixtieth day following submission of the definitive project. In the case of government contract for the procurement of goods and services or granting of a concession for public works, the administration awarding the contract or concession shall convene the Conference of Services on the basis of the preliminary project only, in accordance with the provisions of law no. 109 of 11 February 1994 and subsequent modifications.

Art. 14-*ter.* – 1. The Conference of Services shall take decisions relative to the organisation of its work on the basis of a majority vote of the members present.

2. The administrations concerned must receive notice of the convocation of the first meeting of the Conference of Services at least ten days before the relative date, and such notice may be sent through electronic mail. Within the next five days, the administrations convened may, when it is impossible for them to attend, request that the meeting be held at a different date; in such cases, the proceeding administration shall negotiate a new date, which must in any case be within ten days of the first date.

3. In the first meeting of the Conference of Services, or in any case in the meeting immediately following the forwarding of the application or the definitive project pursuant to art. 14-*bis*, the participating administrations shall determine the term for the adoption of the final decision. The work of the Conference may not exceed ninety days, excepting the provisions of paragraph 4. When such terms have expired with no action taken, the proceeding administration shall take action pursuant to paragraphs 2 ff., of art. 14-*quater*.

4. In cases where environmental impact assessment is requested, the Conference of Services shall express its opinion after having acquired the assessment. If the environmental impact assessment fails to occur within

the term established for the adoption of the relative provision, the administration responsible shall express its opinion within the Conference of Services, which shall conclude within thirty days following the aforesaid term. Nevertheless, when the majority of participants in the Conference of Services requests it, the term of thirty days referred to in the preceding sentence is extended by another thirty days when there is an evident need for further preliminary studies.

5. In procedures for which a decision has already been taken concerning environmental impact assessment, the provisions referred to in paragraph 3 of art. 14-*quater*, as well as those referred to in article 16, paragraph 3, and article 17, paragraph 2, shall apply only to the administrations responsible for safeguarding public health.

6. Each administration summoned shall participate in the Conference of Services through a single representative authorised, by the responsible organ, to give the binding expression of the wishes of the administration regarding all the decisions that fall within the competence of the same.

7. Consent shall be deemed to be granted by the administration whose representative has not definitively expressed the wishes of the administration represented and has not, within the term of thirty days from the date of receipt of the concluding decision of the proceeding, notified the proceeding administration, of its reasoned dissent, or when it has not, within the same term, contested the concluding decision of the Conference of Services.

8. During the sitting of the Conference of Services, the proponents of the application or the designers of the project may be asked, once only, for clarifications or additional documentation. If the latter are not furnished during the aforesaid sitting, the provision shall then be examined, within the following thirty days.

9. The final provision conforming to the favourable conclusive decision of the Conference of Services shall, to all intents and purposes, substitute any authorisation, concession, permit or waiver or deed of permit, however denominated, under the competence of the participating administrations, or of the administrations which were in any case invited to participate, in the aforesaid Conference.

10. The final provision concerning works subjected to environmental impact assessment shall be published by the proponent, along with the abstract of the aforesaid environmental impact assessment, in the *Official Gazette*, or the Regional Bulletin in the case of a Regional environmental impact assessment, and in a nationally circulated daily newspaper. The terms for any judicial appeal on the part of interested parties shall lapse from the date of publication in the *Official Gazette*.

Art. 14-*quarter*. – 1. The dissent of one or more administration representatives, regularly summoned to the Conference of Services must, on pain of inadmissibility, be expressed during the Conference of Services, must be adequately motivated, may not refer to related issues which are not the object of the Conference itself, and must contain the specific indications of the design modifications necessary for assent.

2. If one or more administrations have, during the Conference, expressed dissent on the proposal of the proceeding administration, the latter, within the peremptory time-limits indicated in art. 14-*ter*, paragraph 3, shall take the concluding decision of the proceeding on the basis of the majority of the positions expressed during the Conference of Services. The decision shall be immediately enforceable.

3. Should motivated dissent be expressed by an administration charged with environmental and landscape-territorial protection, protection of the historical-artistic heritage or the safeguarding of public health, the decision shall be remitted to the Council of Ministers, when the dissenting administration or the proceeding administration is a State administration, or to the competent governing organs of the territorial bodies, in other cases. The Council of Ministers or the governing organs of the territorial bodies shall deliberate within thirty days, except when, in assessing the complexity of the preliminary investigation, the President of the Council of Ministers or the President of the Regional Council or the President of the Province or the Mayor decide to extend such time limit for a further period not to exceed sixty days.

4. When dissent is expressed by a Region, the decisions under the competence of the Council of Ministers provided for in paragraph 3 shall be taken with the participation of the President of the Regional Council concerned, to whom an invitation is sent to participate in the meeting for this purpose, in order to be heard with no voting right.

5. In the event that the work is subjected to environmental impact assessment and in the case of a negative decision, art. 5, paragraph 2, letter *c-bis*) of law no. 400 of 23 August 1988, introduced by art. 12, paragraph 2 of legislative decree no. 303 of 30 July 1999 shall apply.

– Art. 6 of law no. 349 of 8 July 1986, containing, “Establishment of the Ministry of the Environment and Laws pertaining to Environmental Damage”, published in the ordinary supplement to *Official Gazette* no. 162 of 15 July 1986, establishes:

<<Art. 6. – 1. Within six months of the coming into force of this law, the Government shall present to Parliament the draft law pertaining to the implementation of the European Community directives on environmental impact.

2. Until such time as the European Community directives on environmental impact are implemented into law, the technical regulations and the categories of works capable of producing significant modifications to the environment and to which shall apply the provisions referred to in paragraphs 3, 4 and 5 which follow, shall be identified by decree of the President of the Council of Ministries, following resolution by the Council of Ministers, adopted on the recommendation of the Minister of the Environment, after consultation with the Scientific Committee referred to in article 11 which follows, in accordance with European Community Council directive no. 85/337 of 27 June 1985.

3. The project designs for the works referred to in the preceding paragraph 2 shall, before their approval, be communicated to the Minister of the Environment, to the Minister for Cultural and Environmental Heritage and to the Region concerned at the local level, for the purposes of environmental impact assessment. The notification shall contain the indication of the location of the work, the specification of liquid and solid waste, emission and introduction of pollution in the atmosphere and of noise emissions produced by the work, the description of the devices to be used for the elimination or resolution of damage to the environment and for environmental monitoring. The announcement of the notification served must be published, by the principal, in the daily newspaper most widely circulated in the Region whose area is concerned, as well as a nationally circulated daily.

4. After consulting the Region concerned and in accord with the Ministry for the Cultural and Environmental Heritage, the Minister of the Environment shall express a decision on environmental compatibility within the ninety days following, upon expiry of which the procedure for approval of the project design shall continue its course, except when the Council of Ministers decides to extend the term in cases of particular importance. For works affecting areas subject to ordinances of cultural or landscape protection the Minister of the Environment shall take a decision in agreement with the Minister for the Cultural and Environmental Heritage.

5. When the Ministry responsible for carrying out the work does not wish to conform to the assessment of the Ministry of the Environment, the question shall be remitted to the Council of Ministers.

6. In the event that, in carrying out the works referred to in paragraph 3, the Minister of the Environment perceives behaviour contrasting with the opinion on environmental compatibility expressed pursuant to paragraph 4, or such behaviour as is in any case likely to compromise the fundamental exigencies of ecological and environmental equilibrium, he shall order the suspension of the works and remit the question to the Council of Ministers.

7. The powers of the Ministry for the Cultural and Environmental Heritage shall stand in matters under its competence.

8. The Minister for the Cultural and Environmental Heritage in the case provided for in art. 1-*bis*, paragraph 2 of decree-law no. 312 of 27 June 1985, converted with modifications into law no. 431 of 8 August 1985, shall exercise the powers referred to in articles 4 and 82 of decree no. 616 of the President of the Republic of 24 July 1977, in accord with the Minister of the Environment.

9. Any citizen, in conformity with the laws in force, may present petitions, observations or opinions, in written form, on the work subject to environmental impact assessment, within the time limit of thirty days from the announcement of the notification of the project, to the Ministry of the Environment, the Ministry for the Cultural and Environmental Heritage and to the Region concerned>>.

Note to art. 153:

– Art. 23, paragraph 4, of legislative decree no. 285 of 30 April 1992, containing the “New Highway Code”, published in the ordinary supplement to *Official Gazette* no. 114 of 18 May 1992, as modified by article 13 of legislative decree no. 360 of 10 September 1993, published in the ordinary supplement to *Official Gazette* no. 217 of 15 September 1993, by art. 30 of law no. 472 of 7 December 1999, published in the ordinary supplement to *Official Gazette* no. 294 of 16 December 1999 and by art. 1 of decree law no. 151 of 27 June 2003, published in the *Official Gazette* no. 149 of 30 June 2003, and converted with modifications into law no. 214 of 1st August 2003, published in *Official Gazette* no. 186 of 12 August 2003, establishes:

<<4. The collocation of hoardings and other means of advertising along the roads or in view of the same is in all cases subject to authorisation by the body owning the road in conformity with the current laws. Within the built-up centres, competence belongs to the Municipality, without prejudice to the preventive technical waiver of the owning body if the road belongs to the State, the Region or the Province>>.

Note to art. 156:

– Article 149 of legislative decree no. 490 of 29 October 1999 containing: “Consolidation Text of the Legislative Provisions pertaining to Cultural and Environmental Property, in accordance with art. 1 of law no. 352 of 8 October 1997”, published in the ordinary supplement to *Official Gazette* no. 302 of 27 December 1999, establishes:

<<Art. 149 (*Landscape Planning*). – 1. The Regions shall subject the territory, including environmental assets indicated in art. 146, to specific regulations for environmental use and enhancement, by drawing up

landscape plans or urban land plans having the same purpose of safeguarding the values of the landscape and the environment.

2. Landscape planning prescribed in paragraph 1 is voluntary for the vast localities indicated in letters *c)* and *d)* of art. 139 included in the lists set out in art. 140 and by art. 144.

3. In the event that the Regions fail to fulfil the provisions set out in paragraph 1, the provisions set out in art. 4 of decree no. 616 of the President of the Republic of 24 July 1977, as modified by art. 8 of law no. 59 of 15 March 1997, shall be followed.

4. Without prejudice to the provisions of art. 164, the Minister, in agreement with the Minister of the Environment and with the Region, may adopt measures for the reclamation and upgrading of the assets protected under this title, whose values have in any case been compromised>>.

Note to art. 157:

– For law no. 778 of 11 June 1922, see note to art. 128.

– Law no. 1497 of 29 June 1939 concerning the “Protection of Natural Beauties”, is published in *Official Gazette* no. 241 of 14 October 1939.

– Art. 82 of decree no. 616 of the President of the Republic of 24 July 1977, containing: “Implementation of the Enabling Clause referred to in Art. 1 of Law no. 382 of 22 July 1975”, published in the ordinary supplement to *Official Gazette* no. 234 of 29 August 1977, as supplemented by art. 1 of decree law no. 312 of 27 June 1985, published in *Official Gazette* no. 152 of 29 June 1985, and converted with modifications, into law no. 431 of 8 August 1985, published in *Official Gazette* no. 197 of 22 August 1985, establishes:

<<Article 82 (*Environmental Assets*). The administrative functions exercised by the central and peripheral organs of the State for the protection of natural beauties as regards their identification, protection and relative sanctions shall be delegated to the Regions.

The enabling clause regards, among other things, the administrative functions concerning:

- a) the identification of natural beauties, without prejudice to the power of the Minister for the Cultural and Environmental Heritage to, following consultation with the National Council for the Cultural and Environmental Heritage, add to the lists of natural beauties approved by the Regions;
- b) the granting of authorisations and permits for their modification;
- c) the opening up of roads and quarries;
- d) the installation of hoardings or other means of advertising;

- e) the adoption of preventive measures, even when these assets are not included in the relative lists;
- f) the adoption of measures for demolition and the imposition of sanctions;
- g) the powers of the central and peripheral State organs inherent to the Provincial Commissions provided for in art. 2 of law no. 1497 of 29 June 1939 and in art. 31 of decree no. 805 of the President of the Republic of 3 December 1975;
- h) the authorisation provided for by law no. 1097 of 29 November 1971, for the protection of the Euganean Hills (Colli Euganei)

Notifications of the notable public interest possessed by natural and panoramic beauties served on the basis of law no. 1497 of 29 June 1939 may not be revoked or modified without the advice of the National Council for the Cultural Heritage.

The Minister of the Cultural and Environmental Heritage may prohibit works or order their suspension, when they harm environmental assets which may be defined as natural beauties, even if they are not included in the lists.

The following are subject to landscape constraint orders pursuant to law no. 1497 of 29 June 1939:

- a) coastal territories included within a swath of land 300 metres in depth from the waterline, including elevated land overlooking lakes;
- b) areas conterminous with lakes included within a swath of land 300 metres in depth from the waterline, including elevated land overlooking lakes;
- c) rivers, streams and water courses registered in the lists referred to in the consolidated text of the legal provisions for waters and electricity plants, approved by royal decree no. 1775 of 11 December 1933, and the relative shores or base foundations of the embankments for a swath of land of 150 metres each;
- d) mountains for the part exceeding 1600 metres above sea level for the Alpine chain and 1200 metres above sea level for the Apennine chain and the islands;
- e) glaciers and cirques;
- f) national or regional parks and reserves, as well as the areas of protection external to the parks;
- g) areas covered by forests and woods, even if swept or damaged by fire, and those under a reforestation constraint order;
- h) areas assigned to agricultural universities and zones encumbered for civic uses;
- i) wetlands included in the list referred to in decree no. 448 of the President of the Republic of 13 March 1976;
- j) volcanoes;
- k) areas of archaeological interest.

The constraint order referred to in the preceding paragraph does not apply to zones A, B and – restrictively to the parts included in the multiyear implementation plans – to other zones, as defined in the urban planning

instruments pursuant to ministerial decree no. 1444 of 2 April 1968, and, in Municipalities lacking such instruments, to the built-up centres with perimeters defined under art. 18 of law no. 865 of 22 October 1971.

Subject to landscape constraint as well are the assets referred to in no. 2) of art. 1 of law no. 1497 of 29 June 1939, even in the zones referred to in the preceding paragraph.

In the woods and forests referred to in letter *g*) of the fifth paragraph of the present article, the following are permitted: the cutting of cultivated vegetation, forestation, reforestation, and work for reclamation, fire prevention and conservation provided for and authorised on the basis of laws in force pertaining to the matter.

The authorisation referred to in art. 7 of law no. 1497 of 29 June 1939, must be granted or denied within the peremptory term of sixty days. The Regions shall immediately inform the Minister for the Cultural and Environmental Heritage of the authorisations granted and shall contemporaneously forward the relative documentation. When the aforesaid term expires without action taken, the interested parties may, within thirty days, request authorisation from the Minister for the Cultural and Environmental Heritage who shall take a decision within sixty days of the date of receipt of the aforesaid request. The Minister for the Cultural and Environmental Heritage may, in any case, annul, with a reasoned provision, the Regional authorisation within the sixty days following the relative notification.

Whenever the request for authorisation concerns works to be carried out by the State administrations, the Minister for the Cultural and Environmental Heritage may, in any case, within sixty days, grant or deny the authorisation referred to in art. 7 of law no. 1497 of 29 June 1939, even when such granting or denial differs from the Regional decision.

For the activities of search and extraction referred to in royal decree no. 1443 of 29 July 1927, the authorisation of the Ministry for the Cultural and Environmental Heritage, provided for by the preceding ninth paragraph, shall be granted following consultation with the Minister of Industry, Commerce and Crafts.

The authorisation referred to in art. 7 of law no. 1497 of 29 June 1939 is not required for works of ordinary and extraordinary maintenance, consolidation, and conservational restoration which do not alter the state of the sites and the exterior aspect of the buildings, nor is it necessary for carrying out agricultural, forestry or pastoral activities which do not permanently alter the condition of the sites for building structures or other civil works, and on condition that the activities and works are such that they do not alter the hydro-geological system of the territory.

The tasks of supervision with regard to the constraints referred to in the fifth paragraph of the present article are also exercised by the organs of the Ministry for the Cultural and Environmental Heritage>>.

– For legislative decree no. 490 of 29 October 1999, see note to the premises.

Note to art. 158:

– Royal decree no. 1357 of 3 June 1940, containing the “Regulation for the Application of Law no. 1497 of 29 June 1939”, is published in *Official Gazette* no. 234 of 5 October 1940.

Note to art. 159:

– For law no. 241 of 7 August 1990, see note to art. 146.

– Ministerial decree no. 495 of 13 June 1994, containing the “Regulation concerning Provisions for Implementation of Articles 2 and 4 of Law no. 241 of 7 August 1990, regarding the Time limits and Officials Responsible for the Procedures”, published in the ordinary supplement to *Official Gazette* no. 187 of 11 August 1994, as modified by art. 3 of ministerial decree no. 165 of 19 June 2002, published in *Official Gazette* no. 180 of 2 August 2002, establishes:

<<Article 6 (*Procedural Time Limits*). – 1. The time limits for the conclusion of the procedures refer to the date of adoption of the provision, or, in the case of provisions valid only upon declared receipt, to the date on which the recipient receives notification.

2. When during the procedure certain phases, apart from the cases provided for by articles 16 and 17 of law no. 241 of 7 August 1990, fall within the competence of administrations other than the administration for the cultural and environmental heritage the time limit for the proceeding shall be understood to include the period of time necessary for the completion of the aforesaid phases. To this end, the administrations concerned shall, within sixty days of the coming into force of the present regulation, together verify the adequacy or inadequacy of the time limits established, within the context of the final deadline, for the completion of the phases themselves. When verification demonstrates the inadequacy of the final time limit, the Ministry for the Cultural and Environmental Heritage shall proceed, within the prescribed regulatory form, to vary the term, unless the same is established by law.

3. The time limits referred to in paragraphs 1 and 2 constitute maximum time limits and their expiry does not exonerate the administration from the

obligation of acting with the greatest promptness, without prejudice to any other consequence of non-compliance with the time limit.

4. In cases where review of the actions of the proceeding administration is of a preventive nature, the period of time relative to the integration phase of the enforceability of the provision is not calculated for the purposes of the time limit for the conclusion of the proceeding. In a footnote to the action subject to review, the administration responsible for the proceeding shall indicate the organ responsible for the aforesaid review and the time limits, where established, within which the same must be exercised.

5. When not otherwise established, the same time limits indicated for the main procedures shall apply for the modification of orders previously emanated.

6. When the law establishes that the application of the interested party shall be deemed to be rejected or approved following the lapse of a determined period of time from the presentation of the application itself, the time limit established by law or by regulation for the constitution of silence-rejection or silence-consent shall likewise constitute the time limit within which the administration must adopt its decision. When the law establishes new cases or new time limits for silence-consent or silence-rejection, the time limits contained in the annexed tables are deemed to be integrated or modified accordingly.

6-*bis*. When, during the preliminary investigation, it becomes necessary to obtain clarifications or to acquire additional elements for judgement, or to proceed to verifications of a technical nature, the party responsible for the proceeding shall immediately inform those indicated in art. 4, paragraph 1, as well as, where advisable, the administration which has forwarded the additional documentation. In such case, the time-limit for the conclusion of the proceeding shall be interrupted, once only and for a period not exceeding thirty days, from the date of notification and shall begin to lapse again upon receipt of the documentation or the acquisition of the results of the technical verifications.

– Art. 1-*quinquies* of decree law no. 312 of 27 June 1985, containing: “Urgent Provisions for the Protection of Areas of Particular Environmental Interest. Supplement to art. 82 of decree no. 616 of the President of the Republic of 24 July 1977”, published in *Official Gazette* no. 152 of 29 June 1985 and converted, with modifications, into law no. 431 of 8 August 1985, published in *Official Gazette* no. 197 of 22 August 1985, establishes:

<<Art. 1-*quinquies*. – 1. The areas and properties identified under art. 2 of ministerial decree of 21 September 1984 published in *Official Gazette* no. 265 of 26 September 1984, are included among those in which, until the adoption by the Regions of the plans referred to in the preceding article 1-*bis*, is prohibited any modification of the organisation of the territory, as well as any

construction work, with the exclusion of the works of ordinary and extraordinary maintenance, static consolidation and conservational restoration which do not alter the condition of the sites and the exterior aspect of the buildings>>.

Note to art. 162:

– For the text of art. 23 of legislative decree no. 285 of 30 April 1992, see note to art. 153.

Note to art. 166:

– For Council Regulation (EEC) no. 3911/92 of 9 December 1992, see note to art. 71.

– Commission Regulation (EEC) no. 752/93 of 30 March 1993, containing “Application Provisions for Council Regulation (EEC) no. 3911/92, relative to the Exportation of Cultural Property” is published in *Official Gazette* – 2nd special series – no. 39 of 20 May 1993; it was modified by Commission Regulation (EC) no. 1526/98 of 16 July 1998, published in *Official Gazette* – 2nd special series – no. 87 of 5 November 1998.

Note to art. 168:

– For the text to art. 23 of legislative decree no. 285 of 30 April 1992, see note to art. 153.

Note to art. 180:

– Art. 650 of the penal code, approved by royal decree no. 1398 of 19 October 1930, published in the ordinary supplement to *Official Gazette* no. 251 of 26 October 1930, establishes:

<<Art. 650 (*Failure to Comply with Provisions of the Law*). – Whosoever fails to comply with a provision legally established by law for reasons of justice or public safety or public order or hygiene, shall, if the offence does not constitute a more serious crime, be punishable with arrest of up to three months and with a fine of up to four hundred thousand lire>>.

Note to art. 181:

– Art. 20 of law no. 47 of 28 February 1985, containing: “Provisions for the Control of Urban Planning and Building, Sanctions, Salvage and Curability of

Building Works", published in the ordinary supplement to *Official Gazette* no. 53 of 2 March 1985, as modified by article 7- *bis* of decree law no. 146 of 23 April 1985, published in *Official Gazette* no. 97 of 24 April 1985 and converted, with modifications, into law no. 298 of 21 June 1985, published in *Official Gazette* no. 146 of 22 June 1985, establishes:

<<Article 20 (*Penal Sanctions*). – Unless the offence constitutes a more serious crime and with administrative sanctions remaining in force, the following sanctions are applicable:

- a) a fine of up to 20 million lire for failure to comply with the laws, prescriptions and implementation modalities established by the present law, by law no. 1150 of 17 August 1942, and subsequent modifications and additions, insofar as they are applicable, as well as by building regulations, urban planning instruments and concessions;
- b) arrest of up to two years and a fine from 10 million to 100 million lire in cases of execution of works in total non-conformity with or in absence of concession or the continuance of the same in spite of a suspension order;
- c) arrest of up to two years and a fine from 30 million to 100 million lire in the case of illegal parcelling of land for building purposes, as established by the first paragraph of art. 18. The same punishment shall also apply in cases of construction in zones subject to historical, artistic, archaeological, landscape or environmental constraint orders, which are in essential variance with, in total variance with or in absence of concession.

The provisions referred to in the preceding paragraph substitute those referred to in art. 17 of law no. 10 of 28 January 1977>>.

Note to art. 182:

– Art. 7 of ministerial decree no. 294 of 3 August 2000, containing: "Regulation concerning the Identification of Qualifications of Professionals carrying out Restoration and Maintenance Work on Movable Properties and on the Decorated Surfaces of Architectonic Properties", published in *Official Gazette* no. 246 of 20 October 2000, as substituted by ministerial decree no. 420 of 24 October 2001, published in *Official Gazette* no. 280 of 1 December 2001, establishes:

<<Article 7 (*Restorer of Cultural Properties*). – 1. For the purposes of the present regulation, as well as the purposes referred to in article 224 of decree no. 554 of the President of the Republic of 21 December 1999, by restorer of cultural properties is meant the person who has attained a diploma from a State school of restoration referred to in article 9 of legislative decree no. 368 of 20 October 1998, with a programme of studies lasting not less than four years, or a specialised university degree in the conservation and restoration of the historical-artistic heritage.

2. By restorer of cultural properties is likewise meant the person who on the date of the coming into force of the present regulation:

- a) has attained a diploma from a State or Regional school of restoration lasting not less than two years and has carried out restoration activities on the properties themselves, directly and on his/her own or as a permanent employee or under a continuous contract with direct responsibilities in the technical management of the work, with regular execution of the work certified by the authority responsible for the protection of the property or of the decorated surface, for a period of time which is at least double that of the school period lacking, and in any case not less than two years;
- b) has carried out restoration work on the aforesaid properties, directly and on his/her own or as a permanent employee or under a continuous contract with direct responsibilities in the technical management of the work, for not less than eight years with regular execution of the work certified by the authority responsible for the protection of the properties on which restoration work has been done;
- c) has attained a diploma from a State or Regional school of restoration lasting not less than two years or has carried out restoration work on movable properties or decorated surfaces for a period equalling at least four years, directly and on his/her own or as a permanent employee or under a continuous contract with direct responsibilities in the technical management of the work, with regular execution of the work certified by the protection authority, where qualifications have been certified or where a training programme has been completed according to modalities established by decree of the Minister for the Cultural Heritage and Activities, to be adopted by 31 December 2001 >>.

– For the text to art. 117 of the Constitution of the Italian Republic, see note to the premises.

Note to art. 183:

– For article 3 of law no. 20 of 14 January 1994, containing: “Provisions pertaining to Jurisdiction and Auditing by the Court of Auditors” published in *Official Gazette* no. 10 of 14 January 1994, as modified by art. 2 of decree law no. 543 of 23 October 1996, published in *Official Gazette* no. 249 of 23 October 1996 and converted, with modifications, into law no. 639 of 20 December 1996, published in *Official Gazette* no. 299 of 21 December 1996; by art. 43 of legislative decree no. 80 of 31 March 1998, published in the ordinary supplement to *Official Gazette* no. 82 of 8 April 1998; by art. 27 of law no. 340 of 24 November 2000, published in *Official Gazette* no. 275 of 24 November 2000; by art. 49 of law no. 388 of 23 December 2000, published in the ordinary supplement to *Official Gazette* no. 302 of 29 December 2000; and by art. 72 of legislative decree no. 165 of 30 March 2001, published in

the ordinary supplement to *Official Gazette* no. 106 of 9 May 2001, establishes:

<<Art. 3 (*Regulations on Auditing by the Court of Auditors*). – 1. The preventive review of legitimacy on the part of the Court of Auditors is exercised exclusively on the following measures not having the force of law:

- a) measures emanated after deliberation by the Council of Ministers;
- b) decisions of the President of the Council of Ministers and decisions of the Ministry with regard to the definition of structural plans, the appointment of management functions and general guidelines for directing and carrying out administrative action,
- c) regulatory measures with external relevance, planning decisions involving expenditures and general actions taken for implementing European community regulations;
- d) decisions of inter-ministerial department committees or the designation of funds and other deliberations emanated on matters referred to in letters b) and c);
- e) [*abrogated*];
- f) measures for the disposal of State property and real estate assets;
- g) decrees which approve the contracts of State Administrations, excluding public corporations; assets, of any value, excepting those falling within the hypothesis set out in the last paragraph of art. 19 of royal decree no. 2440 of 18 November 1923; government contracts for the procurement of goods and services, for sums exceeding the value in ECU established by European Community regulations for the application of the procedures for the adjudication of the aforesaid contracts; other liabilities contracts, if they are for amounts exceeding one tenth of the above-indicated value.
- h) decrees of variations in the State budget, of assessment of balances and of preventive consent of the Ministry of the Treasury for charging current expenditures to the following accounting period;
- i) actions for the initiation of which a written order has been issued by the Minister;
- j) actions which the President of the Council of Ministers requests be temporarily subject to preventive review or which the Court of Auditors decides to subject, for a determined period of time, to preventive review in relation to situations of widespread and repeated irregularities detected during subsequent inspection;

2. The provisions subjected to preventive review shall acquire efficacy if the competent inspection office does not remit examination to the inspection section within the time limit of thirty days from receipt. The time limit is interrupted if the office requests clarifications or additional elements for judgement. When thirty days have elapsed from receipt of the counter-arguments of the administration, the provision shall acquire efficacy if the office does not remit examination to the inspection section. The inspection section shall rule on the conformity to law within thirty days of the date of the referral of the provisions or from the date of arrival of the elements requested

with a judicial order. When this term has elapsed the provisions shall be enforceable.

3. The Sections of the Court of Auditors may in assembly, and with a grounded ruling establish that single actions of substantial financial importance, identified according to categories and State Administrations, be subjected to examination by the Court for a determined period of time. The Court may request a re-examination of the actions within fifteen days of receipt, with enforceability remaining valid. The administrations shall transmit the actions adopted following re-examination to the Court of Auditors which shall advise the Ministry when it detects irregularities.

4. The Court of Auditors shall, even within the accounting period currently in progress, carry out further inspections on the management of the budget and assets of public administrations, as well as extra-budgetary activities and on European Community funding, verifying the legitimacy and the regularity of management, as well as the effectiveness of internal inspections within each administration. It shall also, on the basis of other inspections as well, assess the conformity of the outcomes of administrative activity with the objectives established by law, comparatively assessing costs, means and times for carrying out administrative activities. The Court shall annually define the programmes and reference criteria for the inspection.

5. With regard to Regional administrations, inspection of management concerns the pursuit of the aims established by the laws pertaining to principles and programmes.

6. The Court of Auditors shall, at least annually, report to Parliament and to the Regional Councils on the results of the inspections carried out. The Court's reports shall also be sent to the administrations concerned, for which the Court, at any other time, formulates its observations. The administrations shall inform the Court and the elected organs of the measures adopted as a consequence.

7. Relative to local bodies, the provisions referred to in decree law no. 786 of 22 December 1981, converted, with modifications, by law no. 51 of 26 February 1982, and subsequent modifications and additions, shall remain in force, along with the provisions of law no. 259 of 21 March 1958, with relation to the bodies to which the State ordinarily contributes. The reports of the Court shall also contain assessments on the effectiveness of internal inspections.

8. In exercising the powers set out in the present article, the Court of Auditors may request any document or information from the public administrations and internal inspection organs and may carry out and order direct inspections and assessments. Paragraph 4 of art. 2 of decree law no. 453 of 15 November 1993 shall apply. The Court may request non-territorial public administrations to re-examine actions which are deemed not to

conform with the law. The administrations shall forward the provisions adopted following re-examination to the Court of Auditors, which shall notify the general management organ should irregularities be found. The laws concerning additional inspections established by legislative decree no. 29 of 3 February 1993, and subsequent modifications, and by legislative decree no. 39 of 12 February 1993, as well as by article 166 of law no. 312 of 11 July 1980, shall stand, insofar as they are compatible with the provisions of the present law.

9. For the exercise of the powers of inspection, the procedural rules set out in the consolidated law on the Court of Auditors, approved with royal decree no. 1214 of 12 July 1934, and successive modifications, shall apply, insofar as they are compatible with the provisions of the present law.

10. The inspection section is composed of the president of the Court of Auditors who is its presiding officer, by the presidents of the sections responsible for co-ordination and by all the magistrates who have been assigned inspection tasks. The section is annually divided into four committees of which, in any case, the president of the Court of Auditors and the presidents of the co-ordinating sections are members. The committees have specific competences according to the typology of inspection and matters under inspection and make decisions with a minimum of eleven voting members. The plenary assembly is presided over by the president of the Court of Auditors and is composed of the co-ordinating section presidents and of thirty-five magistrates assigned inspection tasks, who are identified annually by the Council of the Presidency on the basis of at least three for each section committee and one for each of the inspection sections for the administrations of the special statute Regions and of the autonomous provinces of Trento and Bolzano. The plenary assembly makes decisions with a minimum of twenty one voting members.

10-*bis*. In the plenary meeting the inspection section annually establishes the programme of activities and the tasks and responsibilities of the committees, as well as the criteria for their composition on the part of the president of the Court of Auditors.

11. With the possibility of referral established by art. 24 of the above-mentioned consolidated law on the Court of Auditors as substituted by art. 1 of law no. 161 of 21 March 1953, remaining valid, the inspections section shall rule in every case in which dissent occurs among the competent magistrates with regard to the legitimacy of actions. The magistrate who refers the question to the section is called upon to participate in the section as referee.

12. The magistrates assigned to the additional inspections referred to in paragraph 4 shall work according to the established annual programmes, but they may temporarily abandon these, for motivated reasons, for situations

and measures which require timely assessments and verifications, notifying the inspection section.

13. The provisions of paragraph 1 do not apply to the acts and measures emanated with regard to monetary matters, credit, movable property and currency.

– Art. 13 of law no. 468 of 5 August 1978, containing: “Reform of Some Regulations on Public Accounting pertaining to the State Budget”, published in *Official Gazette* no. 233 of 22 August 1978, establishes:

<< Article 13 (*Government guaranty*). – A list of the principal and subsidiary guarantees given by the State for government bodies and other subjects is included in an annex to the budgetary provisions of the Ministry of the Treasury>>.

Note to art. 184:

– Law no. 1089 of 1 June 1939, concerning the “Protection of Things Possessing Artistic and Historical interest”, is published in *Official Gazette* no. 184 of 8 August 1939.

– Decree no. 1409 of the President of the Republic of 30 September 1963, containing: “Regulations relative to Organisation and Staff of the State Archives”, is published in *Official Gazette* no. 285 of 31 October 1963.

– Decree no. 3 of the President of the Republic of 14 January 1972, containing: “Transfer to Ordinary Statute Regions of Government Administrative Functions for Assistance to Schools and to the Museums and Libraries of Local Bodies and their Relative Staff and Offices”, is published in the ordinary supplement to *Official Gazette* no. 15 of 19 January 1972.

– Law no. 127 of 15 May 1997, containing: “Urgent Measures for Streamlining Administrative Activities and Decision-making and Inspection Procedures”, is published in the ordinary supplement to *Official Gazette* no. 113 of 17 May 1997.

– Law no. 352 of 8 October 1997, containing: “Provisions for Cultural Properties”, is published in the ordinary supplement to *Official Gazette* no. 243 of 17 October 1997.

– Legislative decree no. 112 of 31 March 1998, containing: “Conferral of State Administrative Functions and Tasks to the Regions and Local Bodies, in Implementation of Chapter I of law no. 59 of 15 March 1997”, is published in the ordinary supplement to *Official Gazette* no. 92 of 21 April 1998.

– Law no. 237 of 12 July 1999, containing: “Establishment of the Centre for the Documentation and Enhancement of the Contemporary Arts and of New Museums, and Modifications to the Legislation on Cultural Property and Measures for Cultural Activities”, is published in *Official Gazette* no. 173 of 26 July 1999.

– Legislative decree no. 281 of 30 July 1999, containing “Provisions pertaining to the Treatment of Personal Data for Historical, Statistical and Scientific Research Purposes”, is published in *Official Gazette* no. 191 of 16 August 1999.

– For legislative decree no. 490 of 29 October 1999, see note to the premises.

– Decree no. 283 of the President of the Republic of 7 September 2000, concerning: “Regulation Containing Laws on the Alienation of Immovable Assets belonging to the Historical and Artistic Property of the State”, is published in *Official Gazette* no. 240 of 13 October 2000.

– Legislative decree no. 196 of 30 June 2003, containing the “Code on the Protection of Personal Data”, is published in the ordinary supplement to *Official Gazette* no. 174 of 29 July 2003.

– Law no. 172 of 8 July 2003, containing: “Provisions for the Reorganisation and Re-launching of Recreational Navigation and Marine Tourism” is published in *Official Gazette* no. 161 of 14 July 2003.