

Classifications: ANTIQUITIES AND FINE ARTS

Current Text

**LEGISLATIVE DECREE 22 January 2004 No. 42 (as ordinary Supplement No. 28 to Gazz. Uff., 24 February No. 45). – Code of cultural and landscape heritage, in accordance with article 10 of the law of 6th July 2002, No. 137. (CODE OF CULTURAL AND LANDSCAPE HERITAGE (1) (2) (3) (4)**

THE PRESIDENT OF THE REPUBLIC

[...] Issues the following legislative decree:

The joint code of cultural and landscape heritage, consisting of 184 articles and Attachment A, is approved with the endorsement of the proposing Minister. This decree, bearing the State seal, will be included in the official collection of legislative acts of the Italian Republic. It must be obeyed and enforced by all those to whom it applies.

PART ONE General provisions (1)

**Article 1: Principles**

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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, Regional Authorities, Metropolitan Areas, Provincial authorities 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, including ecclesiastical bodies with civil-law recognition, shall ensure its conservation (1).**
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.

Paragraph amended by Article 1, paragraph 1, letter a) of Legislative Decree of 26th March 2008, No.62.

**Article 2: Cultural Heritage**

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- 1. Cultural heritage consists of cultural property and landscape assets.**
- 2. Cultural property consists of immovable and movable items which, pursuant to articles 10 and 11, present artistic, historical, archaeological, ethno-anthropological, archival and bibliographical interest, and of any other asset identified by law or in accordance with the law as testifying to the values of civilization.**
- 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 state 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**

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- 1. Protection consists of the exercise of the functions and of the regulation of the activities aimed at identifying, on the basis of adequate investigative procedures, the properties constituting the cultural heritage and at ensuring their protection and conservation for purposes of public enjoyment.**
- 2. Protection functions shall also be carried out by means of provisions aimed at harmonising and regulating rights and behaviors concerning the cultural heritage.**

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

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In order to guarantee the united exercise of the protection functions, in accordance with article 118 of the Constitution, those functions shall be attributed to the Ministry for Cultural Assets and Activities, hereafter referred to as the «Ministry», which exercises them directly and may delegate them to regional authorities,

in the form of agreements and coordination, according to Article 5, paragraphs 3 and 4. This is without prejudice to functions already delegated to regional authorities under paragraph 6 of the same Article 5 (1).  
[...]

**Article 5: Cooperation of the regional authorities and other territorial public bodies in the protection of the cultural heritage**

Regional authorities, as well as municipalities, metropolitan cities and provincial authorities, hereafter referred to as “other territorial public bodies” shall cooperate with the Ministry in exercising the functions of protection in compliance with the provisions of Title I of Part 2 of this Code.

[...]

**Article 6: Enhancement of the cultural heritage**

1. Enhancement consists of the exercise of functions and regulation of activities aimed at promoting knowledge of the cultural heritage and at ensuring the best conditions for public use and enjoyment of this heritage, also by differently-able people, in order to foster the development of culture. It also includes promoting and supporting conservation work on the cultural heritage. As regards landscape, enhancement also includes the requalification of protected immovable assets and areas at risk or degraded, i.e. the creation of new coherent and integrated landscape values (1).

2. Enhancement shall be implemented in forms compatible with protection such as not to jeopardize its requirements.

3. The Republic shall foster and support the participation of private subjects, whether single or associations, in the enhancement of the cultural heritage.

[...]

**Article 7 bis: Expressions of collective cultural identity**

1. Expressions of collective cultural identity contemplated by the UNESCO Conventions for the safeguard of immaterial cultural heritage and for the protection and promotion of cultural diversities, adopted in Paris respectively on 3rd November 2003 and 20th October 2005, shall be subject to the provisions of this code when they are represented by material testimonies, and the requisites and conditions for application of article 10 are fulfilled (1).

***PART TWO Cultural Assets***

***TITLE I Protection***

***Chapter I Items protected***

**Article 10: Cultural assets**

1. The cultural assets protected are immovable and movable items, belonging to the State, to regional authorities and to other public territorial bodies as well as to any other not for profit body or public institute or private legal subject, including ecclesiastical bodies having civil-law recognition, which have artistic, historical, archaeological or ethno-anthropological interest. (1).

[...]

3. Cultural assets are also, following the declaration provided for in article 13:

a) immovable and movable assets having particularly important artistic, historical, archaeological or ethno-anthropological interest, belonging to subjects other than those specified in paragraph 1;

[...]

d) immovable and movable assets, belonging to whomsoever, having a particularly important interest due to their pertinence to political or military history, the history of literature, art, science, technology, industry and culture in general, that is to say, as testimonies of the identity and of the history of public, collective or religious institutions. (3);

[...]

5. Without prejudice to the provisions of articles 64 and 178, this Title does not regulate:

- items indicated in paragraph 1 that are works of a living creator or were created no longer than fifty years, if movable, or than seventy years ago, if immovable,

- items indicated in paragraph 3, letters a) and e), which are works by a living creator or created no longer than fifty years ago (7).

**Article 11: Items subject to specific protection provisions (1)**

The following types of item shall be subject to the provisions expressly stated (2):

[...] e) works of modern architecture having particular artistic value, covered by article 37 (5):

**Article 12: Verification of cultural interest**

1. The items indicated in article 10, paragraph 1, which are works by a creator no longer living and created over fifty years, if movable, or over seventy years ago, if immovable, shall be subject to the provisions of this Part until the verification referred to in paragraph 2 has been conducted (1).
2. Competent Ministerial bodies or bodies appointed by the Ministry or requested by the subjects owning the items, in possession of pertinent information, shall check the existence of artistic, historical, archaeological or ethno-anthropological interest in the items specified in paragraph 1, based on the general guidance laid down by the Ministry in order to assure harmonised assessment (2).  
[...]
7. Ascertainment of artistic, historical, archaeological or ethno-anthropological interest, achieved in compliance with the general guidance as per paragraph 2, constitutes the declaration provided for by article 13 and the related provision shall be transcribed as specified in article 15, paragraph 2. The assets shall then definitively be subject to the provisions of this Title.

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#### **Article 13: Declaration of cultural interest**

1. The declaration shall ascertain the existence, in the item covered by it, of the interest required by article 10, paragraph 3.  
[...]

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#### **Article 14: Declaration procedure**

1. The director may start the procedure for declaring cultural interest also following a justified request by the regional authority or by any other territorial body involved, informing the owner, possessor or holder in any capacity of the item covered by it.  
[...]

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#### **Article 15: Notification of the declaration**

1. The declaration provided for by article 13 shall be notified to the owner, possessor or holder in any capacity of the item it covers, by the municipal messenger or by registered mail with return receipt.  
[...]

### ***Chapter II Vigilance and inspection***

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#### **Article 18: Vigilance**

1. Vigilance over cultural assets, the items specified in article 12, paragraph 1, and areas involved by indirect protection prescriptions, in accordance with article 45, shall be the responsibility of the Ministry (1).  
[...]

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#### **Article 19: Inspection**

1. Superintendents may conduct inspections aimed at ascertaining the existence and state of preservation or of safekeeping of cultural assets, giving notice of at least 5 days except in cases of extreme urgency (1) . 1-bis. As specified in paragraph 1 superintendents may also ascertain compliance with the indirect protection orders issued according to article 45 (2) .

### ***Chapter III Protection and conservation***

#### ***Section I Measures of protection***

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#### **Article 20: Actions prohibited**

1. **Cultural assets shall not be destroyed, degraded, damaged or designated uses not compatible with their historical or artistic nature or such as to jeopardise their conservation (1).**  
[...]

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#### **Article 21: Actions subject to authorisation**

1. Authorisation from the Ministry must be obtained for:
  - a) removal or demolition, even with subsequent reconstruction, of cultural assets (1);
  - b) moving, even temporary, of movable cultural assets, without prejudice to the provisions of paragraphs 2 and 3 (2);[...]
4. **In cases other than those specified in the previous paragraphs, any work done on cultural assets shall be subject to authorization by the superintendent. The superintendent shall be informed of any change in use of the assets** for the purposes specified in article 20, paragraph 1 (6).
5. **Authorisation is given on the basis of plans or, if sufficient, on a technical description of the work, presented by the applicant, and may contain limitations.** If work does not begin within five years of issue of the authorisation, the superintendent may impose orders, i.e. integrate or change those already given with respect to

changes in conservation techniques (7).

#### **Article 22: Authorisation procedure for building work**

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- 1. In cases other than those provided for in articles 25 and 26, the authorisation referred to in article 21, paragraph 4, concerning public and private building work, shall be issued within one hundred and twenty days of receipt of the application by the superintendence.**
  2. If the superintendence asks for clarifications or additional information to carry out assessment, the term indicated in paragraph 1 shall be suspended until the documentation requested is received.
  3. Where technical investigations are needed, the superintendence shall give advance notice to the applicant and the term indicated in paragraph 1 shall be suspended until the outcome of investigations by the superintendence has been achieved and in any case for no longer than thirty days (1) .
- [...]

#### **Article 27: Urgent situations**

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- 1. In the event of extreme urgency, temporary indispensable work may be done to prevent damage to the protected asset, as long as the superintendence is immediately informed and plans for definitive work are promptly presented for the required authorisation.**

#### **Article 28: Cautionary and preventive measures**

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- 1. The superintendent may order the suspension of work started contrary to the provisions of articles 20, 21, 25 , 26 and 27, i.e. not carried out in compliance with the authorisation.**
  - 2. The director shall also be entitled to order work concerning the items indicated in article 10 to be stopped or suspended, even when the verification as per article 12, paragraph 2, or the declaration as per article 13 have not yet been carried out.**
- [...]

### *Section II Conservation measures*

#### **Article 29: Conservation**

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- 1. Conservation of the cultural heritage shall be ensured by means of coherent, coordinated and planned activities for study, prevention, maintenance and restoration.**
  - 2. Prevention is intended as all those activities able to limit situations of risk connected with cultural heritage in its context.**
  - 3. Maintenance is intended as all those activities and works dedicated to verifying the conditions of the cultural asset and maintaining the integrity, functional efficiency and identity of the asset and of its parts.**
  - 4. Restoration is intended as work done directly on the asset through all those operations favouring the material integrity and recovery of the asset, and the protection and sharing of its cultural values. In the case of immovable assets situated in areas declared as having a seismic risk according to current regulations, restoration includes structural improvement.**
  5. The Ministry shall lay down, also with the involvement of regional authorities and with the collaboration of universities and competent research institutes, guidelines, technical regulations, criteria and methods for intervening with respect to the conservation of cultural assets.
  - 6. Subject to the provisions of regulations concerning the planning and carrying out of work on architectural assets, maintenance and restoration work on movable cultural assets and decorated surfaces of architectural assets shall be done exclusively by those who are deemed to be restorers of cultural assets in accordance with the pertinent regulations.**
- [...]

#### **Article 30: Conservation obligations**

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- 1. The State, regional authorities, other territorial public bodies and any other public body or institute are obliged to guarantee the safety and conservation of cultural assets belonging to them.**
  2. The subjects indicated in paragraph 1 and not for profit private legal persons, including ecclesiastical bodies with civil-law recognition, shall keep the cultural assets belonging to them in the place destined to them as indicated by the superintendent, with the exception of current archives (1).
  - 3. Private owners, possessors or holders of cultural assets are obliged to guarantee their conservation.**
- [...]

#### **Article 31: Voluntary conservation work**

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- 1. Restoration and any other conservation work on cultural assets on the initiative of the owner, possessor or holder in any capacity shall be authorised in accordance with article 21.**
- [...]

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**Article 32: Imposed conservation work**

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**1. The Ministry may compel the owner, possessor or holder in any capacity to carry out the work needed to ensure conservation of the cultural assets or carry out such work itself.**

2. The provisions of paragraph 1 shall apply also to the obligations in article 30, paragraph 4.

[...]

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**Article 35: Financial intervention of the Ministry**

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**1. The Ministry shall be entitled to contribute to the cost borne by the owner, possessor or holder of the cultural asset to carry out work provided for by article 31, paragraph 1, for a sum not exceeding half of the same. If the work is particularly extensive or concerns assets for public use or enjoyment, the Ministry may contribute up to the full amount of the cost.**

[...]

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**Article 37: Interest subsidies (1)**

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**1. The Ministry may grant interest subsidies for mortgages or other forms of financing by banking institutes to the owners, possessors or holders in any capacity of (immovable) cultural assets to carry out authorised conservation work (2).**

**2. The maximum contribution given shall correspond to the interest calculated at an annual rate of six per cent on the capital lent [as a mortgage] (3).**

**3. The contribution shall be paid directly by the Ministry to the banking institute as established in agreements.**

[...]

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**Article 38: Public access to cultural assets having undergone conservation work (1)**

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**1. Cultural assets restored or subjected to other conservation work with the total or partial contribution of the State to the cost, or for which interest subsidies were contributed, shall be made accessible to the public according to methods set out on a case-by-case basis in dedicated agreements or conventions to be stipulated between the Ministry and the single owners at the time of committing to bear the cost in accordance with article 34 or of the [...]**

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**Article 40: Conservation work on assets belonging to regional or other public territorial bodies**

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**1. For cultural assets belonging to regional or other public territorial bodies, the measures provided for by article 32 shall be executed, except in cases of extreme urgency, based on agreements with the body involved.**

2. The agreements may concern also the contents of the rules referred to in article 30, paragraph 2.

3. Conservation work on cultural assets that involves the State, regional and other public territorial bodies and other public or private subject is normally subject to agreements made in advance on timelines.

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**Article 45: Indirect protection rules**

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**1. The Ministry shall be entitled to prescribe the distances, measurements and other regulations aimed at preventing the integrity of immovable cultural assets from being jeopardised, or its prospective or light being damaged or its environmental conditions or decorum being changed.**

**2. The prescriptions as per paragraph 1, adopted and notified in accordance with articles 46 and 47, shall immediately be enforceable.**

[...]

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**Article 46: Procedure for indirect protection**

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**1. The director shall start the procedure for indirect protection, also on the justified request of the regional or other public territorial bodies involved, by informing the owner, possessor or holder in any capacity to whom the prescriptions refer. If the number of recipients makes personal communication impossible or particularly onerous, the director shall communicate the start of the procedure by means of suitable forms of publicity.**

[...]

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**Section II Pre-emption**

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**Article 60: Purchase with right of pre-emption**

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**1. The Ministry or, in the case provided for by article 62, paragraph 3, the regional or other public territorial bodies involved, shall be entitled to purchase with right of pre-emption cultural assets alienated whether in return for payment or transferred to companies, respectively, at the same price laid out in the alienation deed or at the same value attributed in the deed of transfer (1).**

[...]

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## **Article 62: Procedure for pre-emption**

[...] 3. **The Ministry may renounce the right of pre-emption by transferring entitlement to the body in question within twenty days of receipt of the declaration.** This body shall assume responsibility for expenses, accept the pre-emption provision and notify it to the alienating body and to the purchaser within no more than sixty days of the declaration. Ownership of the asset shall be transferred to the body that exercised pre-emption as of the date of the latest notification (1).  
[...]

## **Chapter VII Expropriation**

### **Article 95: Expropriation of cultural assets**

- 1. Immovable and movable cultural assets may be expropriated by the Ministry for purposes of public use, when expropriation corresponds to an important interest in improving the conditions of protection for the purposes of public enjoyment of the assets.**
- 2. On request, the Ministry may authorise regional or other public territorial bodies or other public bodies or institutes, to carry out expropriation as referred to in paragraph 1. In this case it declares public use for the purposes of expropriation and transfers the deeds to the body involved for prosecution of the procedure.**
3. The Ministry may also order expropriation in favour of not for profit private legal persons, dealing directly with the procedure.

## **TITLE II Enjoyment and enhancement**

[...]

### **Chapter II Principles of enhancement of cultural assets**

#### **Article 111: Enhancement activities**

- 1. Enhancement activities on cultural assets consist of setting up and organising stable structures or networks, i.e. of making available the technical skills or financial or regulatory resources aimed at exercising the functions and at pursuing the objectives indicated in article 6. Private subjects may contribute to, or cooperate or participate in, these activities.**
- 2. Enhancement shall be through public or private initiative.**
- 3. Enhancement through public initiative shall comply with the principles of freedom of participation, plurality of subjects, business continuity, equality of treatment, cost-effectiveness and transparent management.**
- 4. Enhancement through private initiative is a socially useful activity and its aims of social solidarity are recognised.**

#### **Article 112: Enhancement of publicly-owned cultural assets (1)**

- 1. The State, regional and other public territorial bodies shall ensure the enhancement of assets held in institutes and places indicated by article 101, respecting the basic principles set out in this code.**  
[...]

#### **Article 113: Enhancement of privately-owned cultural assets**

- 1. Enhancement activities and structures of privately-owned cultural assets through private initiative may benefit from public support by the State and by regional and other public territorial bodies.**
2. The extent of support given will take into account the importance of the cultural assets enhanced.
3. Enhancement methods shall be established in an agreement to be stipulated with the owner, possessor or holder of the asset at the time the support measures are adopted.
4. Regional and other public territorial bodies may also contribute to enhancement of the cultural assets referred to in article 104, paragraph 1, by taking part in the agreements provided therein under paragraph 3.  
[...]

#### **Article 120: Sponsorship of cultural assets (1)**

- 1. Sponsorship of cultural heritage is any contribution, also in goods or services, for the planning or implementation of initiatives aimed at protecting or enhancing cultural heritage, with the aim of promoting the name, brand, image, activity or product of the activity of the subject of sponsorship. Sponsorship may involve initiatives of the Ministry, of regional authorities, or of other public territorial bodies, as well as other not for profit public subjects or private legal persons, i.e. initiatives by private subjects on cultural assets belonging to them.**

The compatibility of these initiatives with protection requirements is verified by the Ministry in compliance with the provisions of this code (2).

2. The promotion referred to in paragraph 1 is effected by associating the name, brand, image, business or product to the initiative sponsored, in forms compatible with its artistic or historical nature and the appearance and decorum

of the cultural asset to be protected and enhanced, to be set out in the sponsorship contract.

3. The sponsorship contract shall also specify how the contribution is paid, as well as methods by which the funding body controls accomplishment of the sponsored initiative.

[...]

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## ***PART THREE Landscape assets***

### ***TITLE I Protection and enhancement***

#### ***Chapter I General provisions***

##### **Article 131: Landscape (1)**

**1. Landscape is intended as the territory expressing identity, formed by the action of natural and human factors and their interrelations.**

**2. This Code shall protect the landscape with respect to all those aspects and features which constitute a material representation and visible national identity, as an expression of cultural values.**

3. Subject to the exclusive power of the State in protecting landscape as a limit to the exertion of obligations of the autonomous regions and provinces of Trento and Bolzano on the territory, the provisions of this Code define the principles and regulations for protecting landscape assets (2).

**4. For the purposes of this Code, landscape protection is aimed at recognising, safeguarding and, where necessary, recovering the cultural values it expresses. When intervening on the landscape, the subjects indicated in paragraph 6 shall ensure conservation of its appearance and particular features.**

**5. Enhancement of landscape contributes to promoting cultural development. To this end, public administrations shall promote and support, with respect to their respective responsibilities, dedicated fact-finding, information and training and landscape requalification and use activities, as well as, where possible, creating new coherent, integrated landscape values. Enhancement shall be implemented respecting protection requirements.**

6. The State, regional and other public territorial bodies as well as all those subjects which, in the exercise of public functions, intervene on the national territory, shall ensure their activities are consistent with the principles for conscious land use and creating new integrated, coherent landscape values, meeting quality and sustainability criteria.

[...]

##### **Article 132: International agreements (1)**

**1. The Republic shall comply with the obligations and principles of cooperation between States laid down by international agreements concerning landscape conservation and enhancement.**

**2. The assignment of competencies as regards landscape shall be established in compliance with constitutional principles, also with respect to application of the European Landscape Convention, adopted in Florence on 20th October 2000, and to related ratification and implementation laws.**

##### **Article 133: Cooperation between public administrations for landscape conservation and enhancement (1)**

**1. The Ministry and regional authorities shall, in agreement, define the policies for conserving and enhancing landscape, also taking into account studies, analyses and proposals put forward by the National Observatory for Quality of Landscape, set up through a Ministerial Decree, as well as by observatories having the same aims set up in all regions.**

**2. The Ministry and regional authorities shall also cooperate in defining guidelines and criteria concerning land planning activities, as well as managing subsequent interventions, in order to ensure the conservation, recovery and enhancement of the aspects and features of the landscape indicated by article 131, paragraph 1. While respecting protection requirements, the aforesaid guidelines and criteria shall also take into account aims of sustainable land development.**

**3. Other public territorial bodies shall plan their activities in compliance with the guidelines and criteria referred to in paragraph 2 and immediately update their current regulations.**

(1) Article substituted by article 2, paragraph 1, letter c) of Legislative Decree of 26th March 2008, No. 63.

##### **Article 134: Landscape assets**

**1. Landscape assets consist of :**

a) immovable assets and areas referred to by article 136, identified in accordance with articles from 138 to 141 (1);

b) areas referred to by article 142 (2);

c) further immovable assets and areas specifically identified in the terms of article 136 and [in any case] subject to the landscape plans provided for by articles 143 and 156 (3).

(1) Letter amended by article 2, paragraph 1, letter d), number 1), of Legislative Decree of 26th March 2008, No. 63.

(2) Letter amended by article 2, paragraph 1, letter d), number 2), of Legislative Decree of 26th March 2008, No. 63.

(3) Letter amended by article 4, paragraph 1, of Legislative Decree of 24th March 2006, No. 157 and subsequently by article 2, paragraph 1, letter d), number 3), of Legislative Decree of 26th March 2008, No. 63.

### **Article 135: Landscape planning (1)**

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**1. The State and regional authorities shall ensure that all the territory is adequately known, safeguarded, planned and managed according to the various values expressed by the different landscapes present. To this end the regional authorities shall subject the territory to specific regulations for use by means of landscape plans, i.e. town –territorial planning regulations [...]**

**2. As regards the territory in question, landscape plans shall recognise its peculiar aspects and characters, as well as its landscape features, and show the boundaries of each zone.**

**3. With reference to each zone, the plans shall state specific regulations for use, for the aims indicated in articles 131 and 133, and attribute appropriate quality targets..**

**4. For each zone, the landscape plans shall specify rules and provisions aimed in particular:**

**a) at conserving the fundamental components and morphology of the landscape assets subject to protection, taking into account also the types of architecture, techniques and building materials, as well as the need to re-establish landscape values;**

**b) at requalifying damaged or degraded areas;**

**c) at safeguarding landscape features of other territorial zones, while ensuring less land loss;**

**d) at identifying town planning and building guidelines, based on their compatibility with the various landscape values recognised and protected, paying particular attention to safeguarding rural landscapes and sites on the UNESCO world heritage list.**

### **Chapter II Identification of landscape assets**

#### **Article 136: Immovable assets and areas of considerable public interest**

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**1. Given their considerable public interest, the following are subject to the provisions of this Title:**

a) immovable items having outstanding natural beauty, unique geographical features or historical memory, including monumental trees (1);

b) villas, gardens and parks not protected by Part Two of this code which are distinctive due to their outstanding beauty;

c) complexes of immovable items creating a characteristic appearance having aesthetic and traditional value, including town centres and old town centres (2);

d) beautiful views [considered like paintings] as well as viewing points and belvederes, accessible to the public, from which those beautiful views can be enjoyed (3).

#### **Article 142: Areas protected by law (1)**

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**1. The following, in any case, are deemed to have landscape interest and are subject to the provisions of this Title:**

a) coastal areas extending inland in a stretch to a depth of 300 metres from the shoreline, also for land rising above sea level;

b) areas bordering lakes in a stretch to a depth of 300 metres from the shoreline, also for land rising above the lake level;

c) rivers, torrents, water courses on the lists provided for by the consolidated bill of legal provisions covering water and electricity power plants, approved by the Royal Decree of 11th December 1933, No. 1775 , and their banks or base of embankments for a stretch of 150 metres each;

d) parts of mountains exceeding 1,600 metres above sea level for the chain of the Alps and 1,200 metres above sea level for the Appenine chain or islands;

e) glaciers and glacial cirques;

f) national or regional parks and reserves, as well as the external protection areas of the parks;

g) land covered by forests or woods, even if affected or damaged by fire, and those subject to reforestation regulations, as defined by article 2, paragraphs 2 and 6, of the Legislative Decree of 18th May 2001, No. 227 ;

h) areas assigned to agricultural universities and areas encumbered by civil uses;

i) wetlands on the list provided for by the Decree of the President of the Republic of 13th March 1976, No. 448;

l) volcanoes;

m) areas of archaeological interest [identified at the date this Code came into force] (2).

**2. The provision referred to in paragraph 1, letters a), b), c), d), e), g), h), l) and m) does not apply to areas which at the date of 6th September 1985 (3):**

a) were designated in planning regulations, in accordance with the Ministerial Decree of 2nd April 1968, No. 1444, as homogenous territorial zones A and B (4);

b) were designated in planning regulations, in accordance with the Ministerial Decree of 2nd April 1968, No. 1444, as homogeneous territorial areas other than zones A and B, limited to the parts of them included in multi-year implementation plans, on condition that the plans have actually been accomplished (5);

c) in municipalities not having these regulations, came under built-up areas with perimeters fixed in accordance with article 18 of the law of 22nd October 1971, No. 865.

### ***Chapter III Landscape planning***

#### **Article 143: Landscape plan (1)**

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##### **1. Drawing up a landscape plan entails at least:**

- a) **surveying of the territory to be planned**, by analysing its landscape features, created by nature, history and their interrelationships, in accordance with articles 131 and 135 ;
- b) **surveying the immovable assets and areas declared as having considerable public interest according to article 136**, their boundaries and suitably scaled maps enabling the identification and definition of the specific regulations for use, in the terms of article 138, paragraph 1, without prejudice to the provision referred to in articles 140, paragraph 2, and 141-bis;
- c) **surveying the areas referred to in paragraph 1 of article 142, their boundaries and suitably scaled map enabling the identification**, and definition of regulations for use aimed at ensuring the conservation of the distinguishing features of these areas and, compatibly with them, enhancement;
- d) **identification of any further immovable assets or areas having considerable public interest in the terms of article 134**, paragraph 1, letter c), their boundaries and suitably scaled maps enabling the identification and definition of specific regulations for use, in the terms of article 138, paragraph 1;
- e) identification of any further landscapes, other than those indicated in article 134, to be subjected to specific measures of safeguard and use;
- f) **analysis of the transformation dynamics of the territory in order to identify risk factors and aspects of vulnerability** in the landscape, as well as comparison with other land planning and defence actions;
- g) **identification of interventions for recovering and requalifying significantly damaged or degraded areas** and other enhancement work compatible with protection requirements;
- h) **identification of the measures needed to correctly incorporate interventions for transforming the territory into the landscape**, in order to achieve sustainable development of the areas involved;
- i) **identification of the various zones and their quality targets**, in the terms of article 135, paragraph 3.

**2. Regional authorities, the Ministry and the Ministry of the Environment and Protection of Land and Sea may stipulate agreements** to define how to draw up joint landscape plans, with no prejudice to the provisions of article 135, paragraph 1, third sentence.

[...]

##### **4. The plan may include:**

- a) **the identification of areas subject to protection in accordance with article 142 and not involved by specific processes or provisions in accordance with articles 136 , 138 , 139 , 140 , 141 and 157, in which interventions may be done following verification, during the procedure to issue the building permit, of the compliance of the work with the land plan and municipal planning regulations;**
- b) **the identification of areas seriously damaged or degraded**, in which the issue of authorisation referred to in article 146 is not required to carry out work actually aimed at recovery and requalification.

[...]

**8. The landscape plan may also define priority guidelines for conservation, recovery, requalification, enhancement and management projects of regional areas, indicating the regulations for implementation, including incentives.**

**9. As of the adoption date of the landscape plan, no interventions in contrast with the protection prescriptions included in the plan shall be allowed on immovable items and in the areas referred to in article 134. As of the approval date of the plan, its provisions and prescriptions are immediately enforceable and overrule the provisions of territorial and town plans.**

### ***Chapter IV Control and management of protected assets***

#### **Article 146: Authorisation (1)**

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- 1. The owners, possessors or holders in any capacity of immovable assets and areas of landscape interest, protected by law in the terms of articles 136 , 143 , paragraph 1, letter d), and 157, may not destroy, nor make any changes that jeopardise the landscape values protected.**
- 2. The subjects referred to in paragraph 1 shall be obliged to present to competent administrations the plans for work they intend to do, along with the required documentation, and must not start work until authorisation has been granted.**
- 3. The documentation accompanying the plans is aimed at verifying the compatibility between protected landscape interest and the work planned.** It is identified, as proposed by the Minister, with a decree of the President of the Council of Ministers, in agreement with the State-Regions Conference, and may be updated and integrated following the same procedure.
- 4. Landscape authorisation constitutes an autonomous deed and is a pre-requisite for building permits or other permits legitimising urban development or building work. [...]**
- 6. The regional authority shall exercise the authorisation function as regards landscape using its own offices**

having appropriate technical-scientific skills and suitable equipment. **It may, however, delegate this exercise, for the respective territories, to provincial authorities, or local associations or cooperatives** as laid down by current provisions on the organisation of local bodies, to park bodies, or to municipalities, as long as the delegated bodies have structures able to ensure an appropriate level of technical-scientific skills and to guarantee the distinction between landscape protection and exercise of administrative functions in urban development and building (4).

[...]

**8. The superintendent shall give the judgement referred to in paragraph 5, limited to landscape compatibility of the planned intervention as a whole and to its compliance with the provisions of the landscape plan, i.e. with the specific regulation referred to in article 140,** paragraph 2, within forty five days of receipt of the documents. In the event of a negative answer, the director shall forewarn the interested parties of the refusal in accordance with article 10-bis of the law of 7th August 1990, No. 241. Within twenty days of receipt of the judgement, the administration shall take action accordingly (6).

#### **Article 149: Work not subject to authorisation**

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**1. Without prejudice to application of article 143, paragraph 4, letter a) [and of article 156, paragraph 4], the authorisation prescribed by article 146, by article 147 and by article 159 (1) is not, however, required:**

- a) for work consisting of ordinary or extraordinary maintenance, static consolidation or conservative restoration that does not alter the state of locations or the exterior appearance of buildings;**
- b) for work entailing the exercise of agro-forestry-pastoral activities that do not include permanent alteration of the state of the locations (with building or other civil engineering works), as long as they are activities and works that do not change the hydrogeological structure of the area;**
- c) for thinning, forestation, reforestation, reclamation, fire control and conservation work to be carried out in woods or forests indicated in article 142, paragraph 1, letter g), as long as included and authorised in pertinent regulations.**

#### **Article 150: Stopping or suspension of work**

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**1. Independently of the publication on the municipal notice board provided for in articles 139 and 141, that is to say, the communication done as prescribed by article 139, paragraph 3, the regional authority or Ministry are entitled to (1):**

- a) stop work done without authorisation or which, in any case, harms the landscape (2);**
- b) order the suspension of work started, even when the formal notice provided for at letter a) has not been given.**

[...]

### ***PART FOUR Sanctions***

#### ***TITLE I***

##### ***Administrative sanctions***

#### ***Chapter I Sanctions related to Part Two***

##### **Article 160: Order to reinstate**

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**1. If the cultural asset is damaged through violation of the protection or conservation obligations established by the provisions of Chapter III of Title I of Part Two, the Ministry shall order the person responsible to carry out the work needed to return the asset to its original state at his/her own expense.**

[...]

**3. In the event of non-compliance with the order issued in accordance with paragraph 1, the Ministry shall carry out the reinstatement work itself at the expense of the person liable.** The amount of money involved shall be recovered in the ways provided for by regulations concerning the forced collection of government capital revenues.

**4. When reinstatement is not possible, the person responsible shall be compelled to pay the government a sum equal to the value of the asset lost or to the decrease in value undergone by the asset.**

[...]

##### **Article 164: Violations in legal transactions**

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**1. Alienations, agreements and legal transactions in general, carried out in violation of the prohibitions established by the provisions of Title I of Part Two, or without observing the conditions and modalities prescribed therein, shall be null and void.**

[...]

#### ***Chapter II Sanctions related to Part Three***

##### **Article 167: Order to return to original state or pay a monetary sanction (1)**

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1. In the event of violation of the obligations or of the orders provided for by Title I of Part Three, the transgressor shall be compelled to return the asset to its original state at his/her own expense, subject to the provision of paragraph 4.

2. With the order to return the asset to its original state, the transgressor shall be assigned a period within which to comply.

3. In the event of non-compliance, the administrative authority in charge of protecting the landscape shall carry out the reinstatement work itself through the Prefect and execute the bill of expenses.

[...]

4. The competent administrative authority shall verify landscape compatibility according to the procedures referred to in paragraph 5, in the following cases:

a) for works done without or in non-compliance with landscape authorisation, that have not caused the creation of usable surfaces or volumes, that is to say, increase in those created legitimately;

b) use of materials not in compliance with the landscape authorisation;

c) works that may, however, be construed as ordinary or extraordinary maintenance in accordance with article 3 of the Decree of the President of the Republic of 6th June 2001, No. 380 .

[...]

## ***TITLE II Penal Sanctions***

### ***Chapter I Sanctions related to Part Two***

#### **Article 169: Unlawful work**

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1. A sanction consisting of from six months to one year arrest with a fine from 775 to 38,734.50 euros shall be inflicted on:

a) anyone who, without authorisation, demolishes, removes, alters or restores, that is to say, does any kind of work, on the cultural assets indicated by article 10;

b) anyone who, without authorisation of the superintendent, removes frescoes, coats of arms, engravings, inscriptions, tabernacle frames or other ornaments from buildings, whether or not displayed to public view, even if there has not been the declaration provided for by article 13;

c) anyone who carries out, in cases of absolute urgency, temporary work essential to avoid considerable damage to the assets indicated in article 10, without immediately informing the superintendence, that is to say, without sending as promptly as possible the plans for definitive work for authorization.

2. The same penalty provided for by paragraph 1 applies in the event of non-observance of the order to suspend work issued by the superintendent in accordance with article 28.

[...]

#### **Article 172: Non-observance of indirect protection prescriptions**

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1. Anyone who does not observe the prescriptions issued by the Ministry in accordance with article 45, paragraph 1, will be punished with from six months to one year arrest and a fine from 775 to 38,734. 50 euros.

2. Non-observance of the safeguard measure contained in the document referred to in article 46, paragraph 4, shall be punished according to article 180.

#### **Article 173: Violations concerning alienation**

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Imprisonment up to one year and a fine from 1,549.50 to 77,469 euros will be inflicted on:

a) anyone, without the prescribed authorisation, who alienates the cultural assets indicated in articles 55 and 56;

b) anyone, being obliged to do so, who does not present the declaration of the property transfer deeds or of owning cultural assets, within the term indicated in article 59, paragraph 2;

[...]

#### **Article 180: Non-observance of administrative provisions**

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1. Unless it is no longer deemed a serious crime, anyone who does not observe an order issued by the authority in charge of protecting cultural assets in compliance with this Title is punished with the penalties provided for by article 650 of the Penal Code.

### ***Chapter I Sanctions related to Part Three***

#### **Article 181: Work done without, or not in compliance with, authorisation**

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1. Anyone who, without or not in compliance with the prescribed authorisation, carries out any type of work on landscape assets is punished with the penalties provided for by article 44, letter c), of the Decree of the President of the Republic of 6th June 2001, No. 380 (1).

1-bis. The penalty is from one to four years imprisonment if the works referred to in paragraph 1:

**a) impact on immovable assets or areas which, [in accordance with article 136,] due to their landscape features, have been declared as having considerable public interest by a dedicated provision issued prior to the work being carried out (2);**

**b) impact on immovable assets or areas protected by law in accordance with article 142 and have led to an increase of over thirty per cent in the volume of the original construction or, in alternative, an extension of the same greater than seven hundred and fifty cubic metres, or that have led to a new building with a volume exceeding one thousand cubic metres (3).**

1-ter. Without prejudice to application of the administrative [reinstatement or] monetary sanctions referred to in article 167, if the competent administrative authority ascertains landscape compatibility according to the procedure referred to in paragraph 1-quater, **the provision referred to in paragraph 1 is not applicable (4):**

**a) for works carried out without, or not in compliance with, landscape authorisation that have not caused creation of usable surfaces or volumes, that is to say, increase over those created legitimately;**

**b) due to the use of materials not complying with the landscape authorisation;**

**c) due to work that can be construed as ordinary or extraordinary maintenance in accordance with article 3 of the Decree of the President of the Republic of 6th June 2001, No. 380 (5).**

[...]

**1-quinquies. The return to their original state of areas or immovable assets subject to landscape limitations by the transgressor prior to such work being carried out by the administrative authority, or in any case prior to the conviction being executed, the offence referred to in paragraph 1 shall be extinguished (7).**

[...]