

## National and international protection of immoveable cultural heritage

الحماية الوطنية والدولية للتراث الثقافي المادي غير المنقول

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### **abstract:**

Heritage represents the legacy left by ancestors to subsequent generations in different areas of life, and the tangible property (movable and immovable), intangible property together constitute the cultural heritage, so the real estate cultural property constitutes the widest space. That is why we are going to link this study to its protection, because they are now vulnerable to destruction and threatened by many factors, including natural, human, material and moral factors . in addition to what we consider violations due to armed conflict in the world, especially in Islamic countries.

Algeria has put some restrictions on the actions individuals in the law 98/04 of 15/06/1998 relating to the protection of the cultural heritage , this is why we are wondering about the legal structure that Algeria has devoted to the protection of Islamic and other cultural property and the effectiveness of this protection at the .national and international levels .

**Keywords :** buildings, historical monuments, archaeological sites, inventory list , classification.

### **ملخص :**

كان التراث ولا يزال للأمم ركيزة أساسية من ركائز هويتها الثقافية ، ومعبر حقيقي على العراقة والأصالة و الانتماء الحضاري ، فالتراث عموما يتكون حاليا من ممتلكات مادية ، عقارية ومنقولة وممتلكات غير مادية ، تشكل في مجملها التراث الثقافي ومن أصنافه توجد الممتلكات الثقافية العقارية محل الدراسة ، هذه الممتلكات التي كان من اللازم إحاطتها بحماية صارمة ، خاصة وهي الآن معرضة للإتلاف ، وتواجه أخطار بفعل عوامل كثيرة ومختلفة منها عوامل طبيعية وبشرية

ومادية ومعنوية ، إضافة إلى ما نراه من انتهاكات بسبب النزاعات المسلحة في أنحاء العالم وخاصة في البلدان الإسلامية .

وقد نظم التراث الثقافي في الجزائر من وقت وجود المستعمر الفرنسي عن طريق العديد من النصوص القانونية ، آخرها قانون رقم 04/98 ، لهذا نتساءل حول الهيكلة القانونية التي خصتها الجزائر لحماية الممتلكات الثقافية العقارية الإسلامية وغيرها ، وما مدى نجاعة وفعالية هذه الحماية على المستوى الداخلي والدولي ؟ .

**الكلمات المفتاحية :** المباني ، الآثار التاريخية ، المواقع الأثرية ، قائمة الجرد ، التصنيف .

### Introduction:

Heritage<sup>1</sup> has been and is still a fundamental pillar of the cultural identity of nations because it truly reflects authenticity, originality and cultural belonging. and that currently it plays an important role in the economy of many states.

These facts have led to scientific research that comes from valuable historical information, finds application in various fields, because heritage represents the legacy left by ancestors to subsequent generations in different areas of life, including civilization (among others, construction, industry, agriculture, etc.

One of the most important legacies is the Arab-Islamic heritage, which differs from the Greek heritage by its characteristics, reacts to the variables of life, taking and giving without losing its originality and excellence, so its roots are still deeply rooted in the ground by force in various fields of knowledge: language, history, culture, legislation, literature, archeology, ethics, wisdom, philosophy and science.

Tangible property (movable and immovable) and intangible property together constitute the cultural heritage, even if real estate cultural property constitutes the widest space. That is why we are going to link this study to its protection, because they are now vulnerable to destruction and threatened by many factors, including natural, human, material and moral factors ... in addition to what we consider violations due to armed conflict in the world, especially in Islamic countries.

The Algerian law number 98/04 of 15/06/1998 relating to the protection of the cultural heritage, put general methods of protection which is concentrated on the protection of the cultural property real estate because Algeria represents a cradle of many civilizations through the ages that have borne a rich legacy as some countries of the world, from Berbers to the Romans and then to the Islamic conquest and the Ottoman period, especially as the international community has also been interested in cultural real estate through international organizations responsible for the protection and management of these properties, such as UNESCO.

This is why we are wondering about the legal structure that Algeria has been devoted to the protection of Islamic and other cultural property and the effectiveness of this protection at the national and international levels. ; To answer these questions, we propose this study:

### **First main title : the identification of real estate cultural assets**

The concept of heritage<sup>2</sup> means the diligence of Muslims to detail this heritage, to deepen it and to respond to it through ages, circumstances, events and environments.

### **First subtitle: the concept of estate cultural assets**

According to Article 02 of Algerian Law 98/04, all cultural property set of furniture and real estate existing on and in the soil of national property, belonging to natural or legal persons under private law, are considered as cultural heritage of the nation. as well as in the subsoil such as national inland and territorial waters and other wealth bequeathed by the different civilizations that have succeeded each other since prehistoric times to the present day.

The cultural heritage of the nation also includes intangible cultural property, products of social events and individual and collective creations that have been expressed since time immemorial to the present day.

This article indicates that the Algerian legislator has classified the cultural heritage according to the nature of the property taken up by article 683 of the civil law<sup>3</sup> , that is to say immovable property, movable material

and moral, for this cultural heritage in general even Islamic is composed of the tangible heritage (real estate cultural property including movable property), and intangible heritage, the latter was not covered by the former Law No. 67/281 on the excavation and protection of historic and natural sites and monuments, because Article 19 of this law limits on tangible heritage<sup>4</sup> .

This broad trend taken by the Algerian legislator is not related to the Paris Convention of 23 November 1972 on the protection of the world cultural and natural heritage, Despite that Algeria has ratified it by Ordinance 73/38<sup>5</sup>, but to other international conventions such as Article 01 of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict dated 14 / 05/1954, which provides for protection of archaeological and historical objects by giving importance to immaterial property , states that "for the purposes of the present convention, the term "cultural property" shall cover, irrespective of origin or ownership:

(a) movable or immovable property are of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books , archives or of reproductions of the property defined above;

(b) buildings whose main and effective purpose is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in sub-paragraph (a);

(c) centres containing a large amount of cultural property as defined in sub-paragraphs (a) and (b), to be known as "centres containing monuments".

As for Islamic countries, a bill on Arab archeology defines monuments as "all that remains of civilizations or abandoned by previous generations, discovered or found, whether it is a real estate or related furniture science,

the arts, literature, ethics, beliefs or everyday life, or public and other events dating back 100 years of artistic or historical value."

**second subtitle : Types of cultural property real estate in law 98/04**

Despite the many definitions that have been given to the archaeological heritage, they meet in the sense that they combine the national collective memory, because the heritage necessarily implies the mention of the sense of continuity, which is at the heart of heritage in terms of language and terminology. it combines two material aspects (immovable and movable cultural property<sup>6</sup>) and intangibles (immaterial cultural property<sup>7</sup>), a true and tangible testimony of its historical memory and reflects the greatest manifestations of human civilization, linking the present to its past and to the common heritage of future generations<sup>8</sup>.

Real estate cultural property is generally composed of historical monuments, including buildings of a civil and religious character ..., characterized by their value and character, and also by archaeological sites, urban or rural groups.

**1. Historical monuments:**

Its definition is found in Article 17 paragraph 1 of Law 98/04 which stipulates that historic monuments are defined as any isolated or grouped architectural creation that testifies to a given civilization, a significant evolution and a historical event.

Are concerned, including monumental architectural works, painting, sculpture, decorative art, Arabic calligraphy, monumental buildings or sets of religious, military, civil, agricultural or industrial, the structures of the prehistoric era, funereal monuments, cemeteries, wineries, rock shelters, rock paintings and engravings, memorials, structures or isolated elements.

These monuments are subject according to paragraph 2 of the same article to the classification system by order of the Minister of Culture on the initiative of the latter or anyone who sees an interest. The classification extends even to real estate built or not, located in a protection zone and which have a relationship with the monument and not less than 200 meters in length to avoid damage to the monumental view in particular<sup>9</sup>, and to classify the

material heritage as a historical monument, it must have the following specifications:

-It should be a real estate such as monumental architectural works, monumental buildings or ensembles of religious, military, civil, agricultural or industrial, funerary monuments, cemeteries, caves, rock shelters.

-the real estate contains prehistoric structures such as painting and drawings, engraving, decorative art and calligraphy, paintings and drawings, structures and isolated elements related to major events in national history.

## **2. archaeological sites:**

In accordance with Article 28 of Law 98/04 archaeological sites are structured and unstructured spaces that have no active function and that testify to the actions of man or the combined actions of man and nature, including the associated basements, which have historical, archaeological, religious, artistic, scientific, ethnological or anthropological value. These include, archaeological sites, including archaeological reserves and cultural parks.

Given the importance of the sites involved in archeology as an integral part of anthropology and to seek specific knowledge about it, this is why the legislator found necessary into the Article 30 of Law 98 / 04 <sup>10</sup> to organize them by Decree No. 03/323 of 5 October 2003 on plans for the protection and enhancement of archaeological sites, and according to Article 28 of the same law archaeological sites must include:

a- archaeological reserves: these are areas that have not been enumerated and have not been explored and excavated by archaeologists, resulting in an archeological site or a site of interest in the future.

b- Cultural parks: They are defined in the World Classification as natural monuments, because these areas carry many historical cultural functions, natural and tourist recreational, educational and sports.

## **3. urban or rural housing estates:**

Named safeguarded areas such as kasbahs , medinas , ksours , villages and traditional agglomerations characterized by their predominance of housing area, and which, by their homogeneity and their historical and

aesthetic unity, present a historical interest, architectural, artistic or traditional to justify the protection, restoration, rehabilitation and enhancement.

According to Article 42 of Law 98/04 the safeguarded sectors are created and delimited by joint decree of the ministers in charge of culture, the interior, the local authorities and the environment, town planning and tourism. architecture. They can be proposed by the local authorities or the associative movement to the minister in charge of the culture.

### **third subtitle: Formation of cultural property real estate**

In order to protect, preserve and maintain cultural property, the competent authority must first identify such property as belonging to private property or national private property.

#### **1. The competent authority to establish and register real estate cultural property in Algeria:**

According to legal texts, There are several bodies responsible for the establishment of a real estate cultural property, namely the Ministry of Culture, the local authorities dépendent of the Ministry of the Interior ...:

a- Regarding the Ministry of Culture, it has the right to classify real estate cultural property , either by an order based on a joint report between the two ministries, or by issuing a ministerial decision, or with other powers designated by law 98/04:

-Notification of the classification decision of real estate cultural property

-Open a classification file and specify the boundaries of the zones for the cultural parks <sup>11</sup>.

b- The local authorities: -wilaya and communes- have a centralized role, the first makes the decision to register the additional inventory of cultural property real estate which has a local value for its publication and the classification decision in the real estate conservation <sup>12</sup>, the second has the ability to gather the necessary elements to classify and encourage historical monuments and cultural places <sup>13</sup>.

## **2. Acquisition of cultural property real estate**

The legislator applies normal means for the acquisition of public real estate, namely:

- a- By consent of the owners, that is to say by the purchase after the payment of compensation.
- b- or by donation.
- there are also exceptional means used in case of dissatisfaction of the owners.

### **second main title : national and international protection of real estate cultural property**

Real estate cultural property among them Islamic cultural property, are protected by Algerian law and in international conventions (international protocols and treaties).

#### **First subtitle: Internal mechanisms for the protection of real estate cultural property**

Real estate cultural property in general and Islamic in particular are subject to a number of risks, some of human origin and others of nature, and to stop these offenses and protect these assets Algeria has put some restrictions on the actions individuals in the law 98/04.

### **1. Protection system linked to the establishment of real estate cultural property:**

Protection provided for in Article 8 of Law 98/04 on immovable cultural property, whatever their legal status, and according to its nature and the class to which it belongs, these systems represent a means of protection, but at the same time an operation to create them:

- a- **registration in the supplementary inventory list** <sup>14</sup>: This means the temporary placement of cultural property that have historical significance or interference in: archeology, science, ethnography, anthropology, art and culture ... that require preservation.

This registration must be made by a decision of the Minister or the wali containing information on the nature and description of the cultural property, its location, its documentary and historical sources.



However, cultural properties registered in the list of supplementary inventories that have not been classified in the final inventory for a period of ten years will be deleted (Article 10).

**b- Classification of protected cultural property:**

the classification is a final registration of the cultural property, which has been applied since 1967 on historical monuments, archaeological sites and even archaeological reserves, by a classification procedure (pursuit) under a decision of the minister also the cultural parks that need to be decreed because it is a space that intervenes in several sectors such as the environment and agriculture ...

These real estate cultural property must be classified after the results of the classification of the same entity to which they are transferred, regardless of the entity concerned<sup>15</sup>.

**c- Development in the form of reserved areas:**

This is the second method of final creation of these properties after the classification, applied on the urban or rural real estate such as kasbahs, medinas, ksours, villages and traditional agglomerations characterized by their predominance of habitat zone

which are characterized by its homogeneity and its architectural and aesthetic unity, are of historical, architectural, artistic or traditional importance, which will highlight its protection, repair, rehabilitation and enhancement <sup>16</sup>.

**2. Preventive protection systems:**

Law 98/04 has developed a set of systems to prevent the abuse of these cultural property , its systems are:

**a- Authorization system or license<sup>17</sup> :**

The license represents a system for the protection of real estate cultural property against abuse, applies to all work concerning the modification of properties and conservation , as well as the repair , and the law has added the change and configuration to done on the historic monuments proposed for the classification even classified or real estate property located in the protected area.

there are several examples of these works:

- Basic installations such as the installation of electrical and telephone networks, air or groundwater, gas pipes, drinking water or disinfection channels, as well as all work likely to damage the architecture.
- Establish factories or carry out major public or private works.
- Plant trees if it affects the external appearance of the sign concerned ... (Article 21).
- To put signs and advertising plates or to stick them on the classified or projected historical monuments of classification (article 22 ...).
- Work to be carried out on a historic site classified or proposed for classification, or on a property based on a historical monument classified in its protected area, requiring a building permit or a land partition for construction (Article 23).
- Division of historical monuments classified or planned for classification: this action is subject to the prior authorization of the Minister after consultation with the National Commission for Cultural Property (Article 24...).
- Use of the cultural monument must have prior authorization issued by the Minister of Culture, which determines the duties adapted to the preservation requirements (Article 25 ...).
- Organization of cultural activities in cultural property classified or proposed for classification, or registered in the supplementary inventory, also requires the prior authorization of the Ministry of Culture. This license is also required for each photograph or film (Article 27).

therefore all these actions, whether materiel or legal subject to authorization and prior technical control of the services of the Ministry of Culture, and if the Minister objects to the work to be carried out, these cultural property can be categorized Permanently.

b- **Reporting system:** in accordance with Article 14 of Law 98/04 public or private owners are required to submit to the Minister of Culture any substantial modification of the building that would result in removing, to

make disappear or delete the elements that allowed its inscription and which may thus undermine the interest which justified its preservation.

This obligation applies from the date of notification of the registration decision in the supplementary inventory.

c- **Prevention system:** the prohibition will take place by a legal text preventing the setting up of a project in the reserve during the period starting from the day of opening by a decision of action of classification until the classification real (does not exceed 6 months), as the prohibition can be done by the Minister by stopping any project without the need to resort to justice, whether before or after the classification.

### **3. Protection organizations :**

There are several bodies responsible for defending real estate cultural property, including Islamic cultural property, through the search for crimes, then the application of sanctions.

#### **a- National Commission for Cultural Property:**

A national commission for cultural property is set up under the authority of the Minister in charge of Culture:

- to issue opinions on all matters relating to the application of this Act referred to it by the Minister responsible for culture;
- to deliberate on proposals for the protection of movable and immovable cultural property, as well as on the creation of safeguarded sectors of urban or rural housing estates of historical or artistic interest (Article 79).

#### **b- Commission on Cultural Property :**

A committee of cultural property is instituted at the level of each wilaya, charged with studying and proposing to the national commission of the cultural goods any request for classification, creation of safeguarded sectors or inscription on the supplementary inventory of the cultural property.

It issues its opinion and deliberates on the applications for inscription on the list of the supplementary inventory of cultural property having a significant local value for the wilaya concerned (Article 80).

c- **Committee for the Acquisition of Cultural Property:** it is instituted with the Minister in charge of Culture, and intended for the enrichment of

national collections and a commission charged with the expropriation of cultural property (Article 81 ...)

concerning sanctions:

Are punished of a fine of 10,000 DA to 100,000 DA and of a prison term of one (1) year to three (3) years, without prejudice of any damages and interests, the following infractions:

- archaeological research without authorization from the Minister of Culture;
- the non-declaration of fortuitous discoveries;
- non-declaration and not handing over to the State objects discovered during authorized archaeological research.

The Minister of Culture may also require the restoration of the premises at the exclusive expense of the offender. and in case of recidivism, the penalty is doubled. (Article 94).

#### **second subtitle: International efforts devoted to the protection of cultural property property**

The rules, found in the Qur'an and Sunnah in this regard, devoted to the moral side, emphasizing that war and jihad in Islam is not an end in itself, but to uphold the larger and more important values thus preventing Islam, the demolition of silos and places of worship during wars, He ensured that war and jihad had an ambitious goal, including the protection of vulnerable people<sup>18</sup>.

At the international level, there is the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954 and its two Protocols (1954 and 1999)<sup>19</sup>.

#### **1. period of peace:**

The High Contracting Parties undertake, in accordance with Article 2 and 3 of the Convention, to protect cultural property which entails the safeguarding and respect of such property, it must undertake to prepare, in peacetime, the safeguarding of cultural property situated in their own territory against the foreseeable effects of an armed conflict, taking the measures they consider appropriate.

As they undertake to respect the cultural property situated both on their own territory and on that of the other High Contracting Parties by prohibiting the use of such property, that of their protective devices and their immediate surroundings for purposes which could expose such property to destruction or deterioration in the event of armed conflict, and refrain from any act of hostility towards them<sup>20</sup>.

Without forgetting the obligations mentioned in Article 4 of the Convention concerning the further undertaking to prohibit, prevent and, if necessary, put an end to any act of theft, plunder or embezzlement of cultural property in any form whatsoever it is, as well as any act of vandalism with regard to these property. They shall refrain from requisitioning movable cultural property in the territory of another High Contracting Party, and shall refrain from reprisals against cultural property.

In addition, Article 05 of the Second Protocol dated 26 March 1999 provides for certain preparatory measures taken in peacetime by the High Contracting Parties for the safeguarding of cultural property against the foreseeable effects of armed conflict in accordance with Article 3 of the Convention include, where appropriate:

- the establishment of inventories: that is, the preparation of inventories of cultural property containing information, data, a description, the source and use of the property.
- the planning of emergency measures to ensure the protection of property against the risk of fire or collapse of buildings.
- the designation of competent authorities responsible for the safeguarding of cultural property.

## **2. Principles of protection in times of armed conflict**

### **a- The principle of protection or the so-called principle of respect for cultural property in the event of armed conflict :**

Provided for in Article 4 of the 1954 Hague Convention, noted that this agreement is not the only one that dealt with the principle, but preceded by Article 27 of the Hague Regulations of 18/10/1907 concerning the laws and customs of war on land<sup>21</sup> .

This principle is based on the concept of respect for cultural property belonging to the State or other State party to the Convention, provided for in Article 4 paragraph 1 of the Convention, to prevent the use of such property for purposes that could expose such property to the destruction or the deterioration in armed conflict, and refraining from any act of hostility towards them.

However, we are not in relation to this article which is repeated in paragraph 2 (exception) concerning the possibility of exposure of such goods in cases of imperative military necessity, which does not serve the purpose of the protection.

**b- The principle of special protection of cultural property:**

according to Article 8 of the Convention, cultural property may be classified under special protection, it is indeed about monumental centers and other immovable cultural property of very great importance, provided that:

I-that they are at a sufficient distance from a large industrial center or any important military objective constituting a sensitive point, such as, for example, an aerodrome, a broadcasting station, an institution working for national defense, a port or a railway station of some importance or a great communication route;

II- that they are not used for military purposes.

this special protection is granted to cultural property by its inclusion in the "International Register of Cultural Property under Special Protection". Such registration may be made only in accordance with the provisions of this Convention and under the conditions provided for in the Detailed Regulations (Article 8, paragraph 6), which is why the High Contracting Parties undertake to ensure the immunity of cultural property under special protection by prohibiting any act of hostility against them from the moment of entry in the International Register.

**3. During the period of occupation (obligations of the colonial state):**

The Hague Convention authorizes in Article 5 the High Contracting Parties occupying in whole or in part the territory of another High Contracting Party to support the efforts of the competent national authorities of the occupied

territory for the purpose of safeguarding and conservation of its cultural property, as far as possible,  
and in the event that an urgent intervention is necessary for the conservation of cultural property situated in occupied territory and damaged by military operations, and if the competent national authorities are unable to do so, the Occupying Power shall take the most appropriate precautionary measures in close collaboration with these authorities .

But that was not enough . Therefore , the second Protocol to the Convention dated 26 March 1999 in paragraph 1 of Article 9 prevents and prohibits any Party occupying wholly or partly the territory of another party, the following acts :

- \*any illicit export, other removal or transfer of ownership of cultural property;
- \*any archaeological excavation unless absolutely necessary for the purpose of safeguarding, recording or conserving cultural property;
- \*any transformation, or change of use, of cultural property intended to conceal or destroy cultural, historical or scientific.

but paragraph 2 of the same article has allowed the possibility of archaeological excavation or transformation or change of use of cultural property of an occupied territory to be effected, in close co-operation with the competent national authorities of that territory, unless circumstances do not allow it, this last sentence has provoked several critics explaining that they do not serve the idea of protection.

#### **4. Enhanced protection of cultural property in armed conflict through the Second Protocol to the Hague Convention:**

For the application of enhanced protection, the State concerned requests that these properties be included in the enhanced protection list in accordance with the procedures set out in Article 11 of the Second Protocol, which must meet the following requirements:

- Having an important aspect for humanity: that is to say, the object of enhanced protection must have entered the cultural heritage which is of the highest importance for humanity (Article 10 paragraph 1).

- Must be legally and administratively protected nationally who recognizes its historical and exceptional value and who.
- its cultural property must not be used for military purposes or to protect military sites, and the Party under whose control it is confirmed in a statement that it will not be so used (Article 10 paragraph 3).

To achieve all these types of protection, there are governmental organizations (such as UNESCO, the International Center for the Study of the Conservation and Restoration of Cultural Property (ICCROM) and non-governmental organizations (International Committee of the red cross).

### **Conclusion:**

The preservation of the heritage will be achieved only by the sharing of the efforts of the State and its organs and the efforts of the community, but at the level of the Islamic countries it is necessary "to set up a legal system for the protection of the archaeological heritage" and also with the introduction of protection in development projects, not to mention the integration of the heritage of archaeological research into urban and regional planning policies.

This legal regime mentioned must be based on:

- have an awareness of the importance of this heritage both at the state level and for the population, after it is necessary "to maintain the inventory of the existing archaeological heritage, including Islamic archeology by activating the deterrents for anyone who violates the property cultural.
- Encourage researchers to discover these properties, as it is necessary to "obligatorily report the competent authorities" in case of "discovery of the elements of the archaeological heritage".
- Cooperation and consultation between archaeologists and project promoters and setting up programs and training.
- Definition of criteria for funding and preservation of heritage used in the study of "knowledge of human history"



**References :**

<sup>1</sup> Heritage in the Arabic language derived from the verb "inherited" and inheritance, its inherited source, inherits an inheritance, And whose term: all that the nation has left behind is religious heritage, cultural, literary, folk, scientific, architectural and cultural . For more details on heritage , see: Dr. Abdulaziz Othman Altwaijri : Heritage and Identity, ISESCO Publications, 2011, p12.

<sup>2</sup> The concept of heritage means the diligence of Muslims to detail this heritage, to deepen it and to respond to it through the ages, circumstances, events and environments, see Islamic Bureau, Beirut , second edition , 1982 .

<sup>3</sup> Article 682 of the Algerian civil code stipulates: "anything having a fixed and immobile base, which can not be moved without deterioration, is a real estate thing , All other things are movables."

<sup>4</sup> Touil hadj messaoud Amel: The environment of real estate cultural property between urban reality and the requirements of protection ,city life, architecture review, urban planning and society , N° 05,Algeria ,2006, p 70.

<sup>5</sup> Order 73/38 of 25/07/1973 ratifying the Convention for the Protection of the World Cultural and Natural Heritage, signed in Paris on 23 November 1972, Official Journal , N° 69.

<sup>6</sup> The movable cultural heritage represented movable objects and artefacts derived from terrestrial and underwater archaeological research, including pottery, antiques, coins, seals, ornaments, traditional clothing, weapons, remains of manuscripts or remains of manuscripts. And as well as archival documents.

<sup>7</sup> Intangible cultural property (non-material heritage) includes cultural resources, knowledge, innovations and practices of communities. It is a true expression of the customs, traditions, culture, identity and cultural belonging of the people.

<sup>8</sup> Abdul Karim Azzouk : Archaeological heritage - its concept, types, importance, protection and exploitation as economic wealth -, symposium on archaeological heritage and its role in economic development on 2016/05/11 in the University of Continuing Education TV, p 01 .

<sup>9</sup> Bouzar Habiba : State and Prospects of the Legal Protection of the Material Archaeological Heritage in Algeria - Case Study - Memorandum of Master in Folklore, Abu Bakr Belqayd University, Tlemcen , Unpublished thesis , 2008, p13.

<sup>10</sup> article 30 of Law 98/04 stipulates: "There is a plan for the protection and enhancement of archaeological sites and their protection zone.

The protection and enhancement plan sets the general rules of organization, construction, architecture, urban planning, occupancy where applicable, and land use easements,

including those relating to the determination of activities that may be carried out within the boundaries of the classified site and of its protection zone.

The procedure of elaboration, instruction, approval and the content of the protection and enhancement plan are specified by regulation ".

<sup>11</sup> Article 13, 14, 15 of Law 98/04

<sup>12</sup> Hassan Hamida : Protection of Protected Spaces and Sites in Algerian Legislation, Thesis for the Master Degree in Real Estate and Agricultural Law, Faculty of Law, Blida University, Unpublished thesis ,2001, p. 101.

<sup>13</sup> Article 3 of Executive Decree No. 81/382 of 26/12/1981 determining the powers of the municipality and the state and its jurisdiction in the culture sector, the Official Gazette No. 52.

<sup>14</sup> according to Article 2 of Executive Decree No. 03/311 of 14 September 2003 laying down the procedures for establishing the general inventory of protected cultural property: "is understood by general inventory, identification, census and registration all protected cultural property in the public domain and the private domain of the State, the wilaya , the municipality and held by the various bodies and institutions of the State or assigned to them in accordance with the regulations in force.

It also concerns protected cultural property, property of legal or natural persons of private law".

<sup>15</sup> Article 16 of Law 98/04

<sup>16</sup> Article 41 of Law 98/04

<sup>17</sup> Hassan Hamida : p. 56 .

<sup>18</sup> Salama Saleh Al-Rhaeefa : Protection of Cultural Property during Armed Conflict, Dar Al-Hamed Publishing and Distribution, First Edition, 2012 , Amman.

<sup>19</sup> This Convention is not the first, but preceded by the provisions of the Hague Conventions of 1899 and 1907, the Washington Charter of 1935, the 1954 Hague Convention for the Protection of Cultural Property complementary to the Convention and its Additional Protocols signed in 1954 and 1999.

<sup>20</sup> Article 3 of the Hague Convention.

<sup>21</sup> See the website: [www.icrc.org/ara](http://www.icrc.org/ara).