



*Asesorías y Tutorías para la Investigación Científica en la Educación Puig-Salabarría S.C.*  
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RFC: ATI120618V12

**Revista Dilemas Contemporáneos: Educación, Política y Valores.**

<http://www.dilemascontemporaneoseducacionpoliticayvalores.com/>

**Año: VII      Número: Edición Especial      Artículo no.:33      Período: Diciembre, 2019.**

**TÍTULO:** El registro del patrimonio cultural en Ucrania como mecanismo legal para preservar los monumentos históricos y culturales.

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**RESUMEN:** El artículo destaca la disposición legal de formar y llenar los registros del patrimonio cultural en Ucrania. Como fundamentos metodológicos de la investigación están los métodos: históricos, análisis y síntesis, y de análisis comparativo. Los resultados de la investigación establecen que la legislación ucraniana en el campo de la protección del patrimonio cultural se basa básicamente en las normas de la legislación soviética, que prevé la aprobación de la Lista de monumentos arquitectónicos que están bajo la protección del estado. El registro no está aprobado oficialmente en forma de un solo documento, y se mantienen registros para colecciones de archivos, museos y bibliotecas. La consecuencia de esto es la ausencia real del Registro Estatal de Bienes Culturales Nacionales, que no garantiza el almacenamiento adecuado, y complica el procedimiento de control asociado con la prohibición de la exportación al extranjero de valores culturales únicos.

**PALABRAS CLAVES:** política en el ámbito de la cultura, derecho, registro, gestión administrativa, desarrollo del ámbito social y cultural.

**TITLE:** The register of the cultural heritage in Ukraine as a legal mechanism for preserving the historical and cultural monuments.

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**ABSTRACT:** It is highlighted the legal provision of forming and filling the registers of cultural heritage in Ukraine. As methodological foundations of the research: historical, analysis and synthesis, and comparative analysis methods. According to the results of the research, it was established that the Ukrainian legislation in the field of the protection of cultural heritage is basically based on the norms of the Soviet legislation, which provided for the approval of the List of Architectural Monuments that are under state protection. The registry is not officially approved in the form of a single document, and registers maintained for archival, museum and library collections. The consequence of this is the actual absence of the State Register of National Cultural Property, which does not guarantee its proper storage, and also complicates the control procedure associated with the prohibition of the export abroad of unique cultural values.

**KEY WORDS:** policy in the sphere of culture, law, register, administrative management, development of social and cultural sphere.

**INTRODUCTION.**

Ukraine belongs to the states on whose territory the first settlements appeared in the era of the early Paleolithic.

An ancient and rich cultural tradition is expressed, among other things, in the monuments of the past that have survived to our time. In total, about 130,000 cultural heritage sites are on state registration in Ukraine, including 7 unique cultural sites included in the UNESCO`s World Heritage List. Without exaggeration, it can be attributed to the "golden fund" of the world cultural heritage. However, quite a few monuments have been destroyed or damaged already in our time because of their neglect by the state, the lack of proper protection and conservation; that is why, the improvement of legal regulation of the process of forming and filling up the registers of the cultural heritage of Ukraine is extremely important for world culture as a whole.

The purpose of the article is to analyze the regulatory support of the process of forming and filling up the registers of the cultural heritage in Ukraine, identifying legislative shortcomings and gaps and developing proposals for amending the current legislation in order to improve the preservation of the national cultural heritage.

At the time of proclaiming the state independence of Ukraine (August 24, 1991), accounting and protection of cultural monuments were settled by numerous national regulations, including the Resolution of the Council of Ministers of the USSR of December 30, 1948 No. 3076 "On measures to improve the protection of cultural monuments in the territory of the Ukrainian SSR", the Law of the Ukrainian SSR "On the Protection and Use of the Historical and Cultural Monuments" on July 13, 1978, as well as international agreements and conventions that have been ratified by the USSR, including the Convention on the Protection of the World Cultural and Natural Heritage, adopted by UNESCO November 16, 1972, etc. (Myshchak, 2013). In particular, the Resolution of the Council of Ministers of the Ukrainian SSR dated August 24, 1963 No. 970 have been approved the List of Architectural Monuments of the Ukrainian SSR under state protection.

The first steps in the legal provision of the protection of cultural heritage in independent Ukraine were made with the adoption of the “Fundamentals of Ukrainian Legislation on Culture” dated February 14, 1992 (invalidated under the Law of Ukraine No. 2778-VI dated December 14, 2010)<sup>1</sup>. According to part two of the art. 14 of the Law, the state has committed itself to the preservation and use of cultural property located on the territory of Ukraine or abroad; ensuring the protection of historical and cultural monuments of Ukraine. In addition, the Fundamentals of the Ukrainian legislation on culture provided for the formation of the State Register of National Cultural Property in order to account for objects of material and spiritual culture of exceptional historical, artistic, scientific or other cultural value, which are important for the formation of the national identity of the Ukrainian people and determine its contribution cultural heritage.

The formation of the State Register of National Cultural Heritage has not been started; in turn, the List of Architectural Monuments was expanded further, or the monuments were excluded from this List.

At the same time, the integration of Ukraine into the world cultural space, joining the Council of Europe and the proclamation of a strategic course for joining the EU put on the agenda the formation of a qualitatively new legislative framework that would meet international democratic standards of the rule of law and ensuring human rights cultural heritage (Jarmuševiča et al, 2019a, Jarmuševiča et al, 2019b, Nenkov et al, 2016, Petrova&Nenkov, 2015; Petrova, 2013; Petrova, 2015; Popova et al, 2019). So, according to the art. 2 European Convention on the Protection of the Archaeological Heritage (Revised) 1992 each Party undertakes to introduce a legal system for the protection of the archaeological heritage, which provides, among other things, the accounting of its

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<sup>1</sup>Fundamentals of Ukrainian Legislation on Culture: Law of Ukraine dated February 14, 1992 No. 2117-XII. - Information from the Verkhovna Rada of Ukraine, 1992, No 21, p. 294.

archaeological heritage and the monuments and areas to be protected<sup>2</sup>. In turn, in accordance with the Art. 2 Convention for the Protection of the Architectural Heritage of Europe 1985 for a clear definition of monuments, architectural ensembles and places of interest to be protected, each Party undertakes to keep their records and, in the event of a threat to such monuments, prepare relevant documentation as soon as possible. According to Art. 3 of this Convention, each Party undertakes: to take legal measures to protect the architectural heritage and through measures and procedures in force in each state or region to ensure the protection of monuments, architectural ensembles and places of interest.<sup>3</sup>

The norms of international act have been considered in the preparation of the Law of Ukraine "On Protection of Cultural Heritage", adopted on June 8, 2000<sup>4</sup>. The law provides for the formation of the State Register of Immovable Monuments of Ukraine (hereinafter - the Register), which includes cultural heritage objects, regardless of ownership, in accordance with their archaeological, aesthetic, ethnological, historical, artistic, scientific or artistic value. Storing an object of cultural heritage in the Register and changes in it (withdrawal from the Registry to change the category sights) made in accordance with monument category:

- a) The monuments of national importance - by a resolution of the Cabinet of Ministers of Ukraine, as proposed by the central executive body, ensuring the formation of state policy in the field of the protection of cultural heritage within one year from the date of receipt of the presentation.
- b) Local monuments - by decision of the central executive body, ensuring the formation of the state policy in the field of cultural heritage protection (now the Ministry of Culture of Ukraine) on the

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<sup>2</sup> European Convention on the Protection of the Archaeological Heritage (Revised). Valetta, 16.01.1992. Council of Europe. [online]. Last accessed: 30.01.2019. <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007bd25>

<sup>3</sup> Convention for the Protection of the Architectural Heritage of Europe. Granada, 03.10.1985. Council of Europe. [online]. Last accessed: 30.01.2019. <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007a087>

<sup>4</sup> On the Protection of the Cultural Heritage: Law of Ukraine of 08.06.2000 No 1805-III. [online]. Last accessed: 30.01.2019 <http://zakon4.rada.gov.ua/laws/show/1805-14>

proposal of the relevant cultural heritage protection authorities or on the proposal of the Ukrainian Society for the Protection of Historical and Cultural Monuments, other public organizations the tasks of which include the protection of cultural heritage, within one month from the date of receipt of the presentation.

The law also provides for the procedure for excluding a monument from the register. So, according to the norms of art. 15 removal of the monument from the Register is carried out only in the following cases:

- If the monument is destroyed.
- If the archaeological monument, which was not found in the terrestrial volumetric forms, was investigated on the whole area and throughout the depth of the cultural layer, while no objects of cultural heritage were discovered that could be preserved or museified in place and further used.
- If the monument has lost the object of protection.

For the execution of the norms of the Law, a number of by-laws were developed. In particular, the Resolution of the Cabinet of Ministers of Ukraine dated December 27, 2001 No. 1760 approved the Procedure for determining categories of monuments for entering cultural heritage objects into the State Register of Real Estate Monuments of Ukraine<sup>5</sup>.

According to the Order, for each cultural heritage object, which is proposed by the relevant cultural heritage protection body for inclusion in the Register, accounting documents are compiled, which include a registration card, his passport, a brief historical certificate, a technical status certificate, a certificate of property value. At the same time, the cultural heritage sites of the national significance are of the particular historical or cultural value and must meet the criterion of authenticity, as well as at least one of the following criteria:

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<sup>5</sup> The procedure for determining the categories of monuments for the inclusion of objects of cultural heritage in the State Register of immovable monuments of Ukraine: Approved by the decree of the Cabinet of Ministers of Ukraine dated December 27, 2001 No 1760. [online]. Last accessed: 30.01.2019. <http://zakon4.rada.gov.ua/laws/show/1760-2001-n>

- Made a significant impact on the development of culture, architecture, urban development, art of the country.
- Directly related to historical events, beliefs, life and activities of prominent people.
- Represent a masterpiece of creative genius, have become the stage works of prominent architects or other artists.
- Were creatures of a disappeared civilization or artistic style.

The criterion of authenticity also means that the monument should largely preserve its form and material structure, historical layers, and the role in the environment.

In turn, sites of cultural heritage of local importance must meet the criterion of authenticity, as well as at least one of the following criteria:

- Influenced the development of culture, architecture, urban development, the art of a certain settlement or region.
- Connected with historical events, beliefs, life and activities of prominent people of a certain settlement or region.
- Are works by famous architects or other artists.
- Is a cultural heritage of a national minority or a regional ethnic group.

However, even under the condition that these criteria are met the process of filing a submission on inclusion in the Registry is rather lengthy. First of all, there is the problem of registration records of attractions. And after its execution in accordance with the procedure, the compliance of each cultural heritage object with the specified criteria is assessed by scientific (scientific) councils of institutions and organizations whose activities are connected with the protection of cultural heritage, which is the protocol. This protocol, together with the accounting documentation, is reviewed by the expert commission of the central executive body in the field of cultural heritage protection, which prepares a conclusion on the cultural heritage object. This conclusion, after its approval by

the Scientific and Methodological Council of the central executive body in the field of the protection of cultural heritage, is the basis for entering the landmark in the Register.

On the execution of the norms of the Law of Ukraine "On the Protection of Cultural Heritage" by the Resolution of the Cabinet of Ministers of Ukraine of December 27, 2001 No. 1761 "On the Recording of Historical, Monumental Art and Archeology of National Importance in the State Register of Real Estate Monuments of Ukraine"<sup>6</sup>. The List of monuments of history, monumental art and archeology of national importance, which are entered in the State Register of Real Estate Monuments of Ukraine, was approved. At the same time, the resolution of the Council of Ministers of the Ukrainian SSR dated July 21, 1965 No. 711 "On the approval of the list of monuments of art, history and archeology of the Ukrainian SSR" remained in force.

The formation of a unified list of cultural heritage sites of national significance, which are entered into the State Register of Real Estate Monuments of Ukraine, took place on the basis of the Resolution of the Cabinet of Ministers of Ukraine No. 928 dated September 3, 2009. "On the Registration of National Heritage Sites into the State Register of Real Estate Monuments of Ukraine"<sup>7</sup>. With its adoption, the decrees of the Council of Ministers of the Ukrainian SSR dated July 21, 1965 No. 711 and the Cabinet of Ministers of Ukraine of December 27, 2001 No. 1761 became invalid.

According to the Resolution of the Cabinet of Ministers of Ukraine No. 928 dated September 3, 2009, 744 sights were entered into the State Register of Real Estate Monuments of Ukraine. In turn, the Resolution of the Cabinet of Ministers of Ukraine dated October 10, 2012 No. 929 "On inclusion of cultural heritage sites of national importance in the State Register of Real Estate

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<sup>6</sup> On the introduction of monuments of history, monumental art and archeology of national importance to the State Register of Real Monuments of Ukraine: Resolution of the Cabinet of Ministers of Ukraine dated December 27, 2001 No 1761. [online]. Last accessed: 30.01.2019 <http://zakon4.rada.gov.ua/laws/show/1761-2001-ii>

<sup>7</sup> On the inclusion of objects of cultural heritage of national importance to the State Register of immovable monuments of Ukraine: Resolution of the Cabinet of Ministers of Ukraine of 03.09.2009 No 928. [online].[Last accessed: 30.01.2019] <http://zakon4.rada.gov.ua/laws/show/928-2009-ii>



Monuments of Ukraine”<sup>8</sup>. The 147th attractions have been added to the registry. These additions are made to this day.

Worth mentioning that according to part two of art. 14 of the Law of Ukraine "On the Protection of Cultural Heritage" the List of Cultural Heritage Objects is formed separately. It includes cultural heritage sites until the issue of their registration, as a monument in the State Register of Real Estate Monuments of Ukraine is resolved. Such objects acquire the legal status of the newly discovered cultural heritage object. Currently, the Ministry of Culture of Ukraine continues to process accounting documentation for hundreds of cultural heritage sites that claim to be included in the State Register of Real Estate Monuments of Ukraine of national significance.

However, the decision on registration of monuments in the State Register of immovable monuments of Ukraine is very slow, including due to imperfect regulatory framework. Thus, the Procedure for recording the objects of cultural heritage, according to which the List of objects of cultural heritage is formed, was approved by the order of the Ministry of Culture of Ukraine No. 158 only on March 11, 2013<sup>9</sup>. According to the Procedure, the identification of objects of cultural heritage includes: physical examination (research), historical-archival and bibliographic research, definition of the object of protection, establishment of the degree of safety, original purpose, modern use, photo phixation (if necessary graphic fixation), manufacturing of a short historical certificate and registration card.

According to the results of evaluation of the discovered objects of cultural heritage scientific and methodical councils on issues of cultural heritage protection of the executive body of the Autonomous Republic of Crimea, advisory councils of the cultural heritage protection regional,

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<sup>8</sup> On Incorporation of Cultural Heritage Objects of National Importance into the State Register of Real Monuments of Ukraine: CMU Decree of October 10, 2012 No 929. [online].[Last accessed: 30.01.2019] <http://zakon4.rada.gov.ua/laws/show/929-2012-n/page>

<sup>9</sup> On Approval of the Procedure for Accounting of Objects of the Cultural Heritage: Order of the Ministry of Culture of Ukraine of 11.03.2013 No 158. [Last accessed: 30.01.2019] <http://zakon4.rada.gov.ua/laws/show/z0528-13>

Kyiv and Sevastopol city state administrations and scientific (scientist) council of the institution whose activity is related to the protection of the cultural heritage, draw up a protocol on the compliance of the object with the criteria specified in paragraphs 10 and 11 of the Procedure for determining the categories of monuments for the inclusion of objects of cultural heritage in the State Register of immovable monuments of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine dated December 27, 2001 No. 1760. This protocol is the basis for entering (not putting) an object of cultural heritage into the List of objects of cultural heritage. The relevant decision for entering (not putting) objects of cultural heritage into the List on the basis of the conclusions of the protocol is approved by the executive body of the Autonomous Republic of Crimea, the bodies of cultural heritage protection regional, Kyiv and Sevastopol city state administrations.

The List itself is approved by the decision of the executive body of the Autonomous Republic of Crimea, cultural heritage protection authorities of the regional, Kyiv and Sevastopol city state administrations, and within one month after approval, it is sent to the Ministry of Culture of Ukraine together with accompanying documents. On the inclusion of the object of cultural heritage in the List and obtaining it the legal status of the newly discovered object of cultural heritage, the executive body of the Autonomous Republic of Crimea, the bodies of protection of cultural heritage regional, Kyiv and Sevastopol city state administrations within 30 days by the recommended letter with a notification about the handouts send a written notice to the owner of the object or his authorized body (person). Consequently, the procedure is quite lengthy and needs to be simplified.

Today, an acute problem for Ukraine and a significant obstacle to the preservation of immovable monuments is their deliberate destruction to clear the sites for development or reconstruction in such a way that the monument loses its original appearance.

Particularly threatening measures such actions took place in Kiev. In this regard, the introduction of monuments to the State Register of Real Estate Sites of Ukraine is considered by experts and specialized services of local councils as an element of protection of these buildings from encroachments of developers (Myshchak, 2015).

As far as information support is concerned, the Ministry of Culture of Ukraine is currently actively working on the creation of the State Register of Real Estate Sites of Ukraine. The list of objects recently published on the official website of the Ministry. However, according to the Register can only determine which monuments are included. Instead, there is no information in what condition they are in, whether they require restoration or conservation, are in possession or use, or have access to them to tourists, etc. Therefore, today preparations are being made for the introduction of a unified state system for recording and preserving the immovable cultural heritage of Ukraine, which will be available on the Internet and will include all of the above information. The Ministry of Culture of Ukraine, the National Academy of Sciences of Ukraine and certain public organizations, carries out the corresponding work jointly.

As already noted, with the adoption of the “Fundamentals of the Legislation of Ukraine on Culture” dated February 14, 1992 (invalidated on the basis of the Law of Ukraine No. 2778-VI dated December 14, 2010), then the Soviet legislation in the field of the protection of cultural heritage was significantly changed and provided for the formation of the List of Architectural Monuments subject to State Protection and the formation on its basis of the State Register of Real Estate Monuments of Ukraine, create a State Register of National Cultural Heritage (hereinafter - SRNCH).The Resolution of the Cabinet of Ministers of Ukraine dated August 12, 1992, No. 466, approved the "Regulation on the State Register of National Cultural Property"<sup>10</sup>, according to which

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<sup>10</sup> Regulation on the State Register of National Cultural Property: Approved by the Resolution of the Cabinet of Ministers of Ukraine dated August 12, 1992 No 466. [online]. [Last accessed: 31.01.2019] <http://zakon.rada.gov.ua/laws/show/466-92-п>

five types of monuments were identified that were to be entered in the State Register: historical monuments, archeology, monuments of urban planning and architecture, art monuments and documentary sights. However, this list was not exhaustive, and in paragraph, 2 of the Regulation it was stated that other objects of exceptional value from the point of view of history, culture, ethnology or science can be entered in the State Register.

According to the paragraph 3 of the "Regulation on the State Register of National Cultural Property", the right to enter objects of national cultural property in the State Register is carried out in accordance with the established procedure by the Ministry of Culture and other bodies whose competence includes the functions of public administration in the field of accounting and protection of history and culture monuments. Principle points became paragraphs 6- on the prohibition of the privatization and privatization of objects of national cultural heritage, which are state property, as well as 7 - regarding the prohibition on the export of objects entered in the State Register outside Ukraine, with the exception of their temporary exhibiting abroad with permission in each individual case. However, approval of the Regulation did not lead to the operative formation of the State Register of National Cultural Property.

Despite the actual absence of the State Register of National Cultural Property, the rules on its formation and the procedure for the introduction of monuments to it have been included in a number of special laws (Myshchak, 2014; Petrova&Varbanov, 2013a, Petrova&Varbanov, 2013b). So, according to part one of the article. 14 of the Law of Ukraine "On the National Archival Fond and Archival Institutions" of December 24, 1993, No. 3814-XII<sup>11</sup>, the procedure for assigning the documents of the National Archival Fond to unique ones, entering them in the State Register of National Cultural Property, as well as storage, shall be approved by the Cabinet of Ministers of Ukraine.

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<sup>11</sup> About the National Archival Fond and Archival Institutions: Law of Ukraine dated 24.12.1993, No. 3814-XII. - Information from the Verkhovna Rada of Ukraine, 1994, No 15, p. 86.

In turn, in accordance with part three of Art. 16 of the Law of Ukraine "On Libraries and Library Affairs" of January 27, 1995 No. 32/95- VR<sup>12</sup>, especially valuable, rare documents and collections are included in the State Register of National Cultural Property of Ukraine, and in accordance with part five of the same article, archival documents, collected in the library, are part of the National Archival Fond of Ukraine in accordance with the Law of Ukraine "On the National Archival Fond and Archival Institutions". For such documents, a special regime of protection, storage and use is established, and their export abroad is forbidden.

Inclusion in the State Register of National Cultural Property in accordance with Art. 16 of the Law of Ukraine "On Museums and Museum Affairs" dated June 29, 1995, No. 249/95-VR<sup>13</sup>, the museum objects of the Museum Fund of Ukraine are also subject.

The procedure for assigning the objects of the Museum Fund of Ukraine to the State Register of National Cultural Property and the conditions for their storage are approved by the central executive body, which ensures the formation of state policy in the fields of culture and arts.

In addition, in Art. 14 of the Law of Ukraine "On Export, Import and Return of Cultural Property" on September 21, 1999<sup>14</sup> contains a provision that cultural values entered in the State Register of National Cultural Property are not subject to exportation from Ukraine.

At the same time, with the adoption on June 8, 2000 of the Law of Ukraine "On the Protection of the Cultural Heritage" in accordance with the provisions of Part One of Art. 13 as it was already mentioned, the Ministry of Culture of Ukraine actively started the formation of the State Register of Real Estates of Ukraine, which in fact replaced the State Register of National Cultural Properties, although it is considerably narrower in its composition and can in no way be a complete substitute

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<sup>12</sup> On Libraries and Library Affairs: Law of Ukraine dated January 27, 1995 No. 32/95-VR. - Information from the Verkhovna Rada of Ukraine, 1995, No 7, p. 45.

<sup>13</sup> On Museums and Museum Affairs: Law of Ukraine dated 29.06.1995 No. 249/95- VR. [online].[Last accessed: 31.01.2019] <http://zakon.rada.gov.ua/laws/show/249/95-вр>

<sup>14</sup> On Export, Import and Return of Cultural Property: Law of Ukraine dated September 21, 1999 No 1068-XIV. - Information from the Verkhovna Rada of Ukraine, 1999, No 48, p. 405.

for it. Characteristically, that in the Law of Ukraine "On the Protection of the Cultural Heritage", there are no norms on the formation or introduction of monuments in the State Register of National Cultural Property - it is simply not mentioned. Instead, according to part two of Art. 14 of the Law introduces the List of objects of cultural heritage. It includes objects of cultural heritage to decide on their registration as monuments in the State Register of immovable monuments of Ukraine. Such objects acquire the legal status of the newly discovered cultural heritage object.

Consequently, at the same time, in Ukrainian legislation there were rules that led to a legal collision. In fact, it is about the formation of several registers of cultural monuments, but the state authorities are not able to ensure their proper formation.

Despite such a collision, responsible state bodies ensured the preparation and adoption of by-laws aimed at implementing the law on the formation of the State Register of National Cultural Property. Thus, among others, on November 19, 1998, the Main Archival Department under the Cabinet of Ministers of Ukraine and the National Academy of Sciences of Ukraine issued a joint order no.: 73/298, which approved the Methodology and criteria for the identification and inclusion of unique documentary monuments of the National Archival Fond of Ukraine to the State Register of National Cultural Property<sup>15</sup>.

In accordance with paragraph 4.4. parts of the section of the State Register of National Cultural Property, compiled by the owners of unique documentary monuments, are formed in archival institutions in a special case "State Register of National Cultural Property".

According to paragraph 5.3, the central record of the unique documentary monuments of the National Archival Fond of Ukraine included in the consolidated section of the State Register of National Cultural Property is carried out by the Main Archive of Ukraine, which permanently stores

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<sup>15</sup> Methodology and criteria for identifying and incorporating unique documentary monuments of the National Archival Fond of Ukraine into the State Register of National Cultural Property: Approved by Order of the Main Archival Department under the Cabinet of Ministers of Ukraine and the National Academy of Sciences of Ukraine dated November 19, 1998, No 73/298.[online]. Last accessed: 31.01.2019. <http://zakon.rada.gov.ua/laws/show/z0801-98>

one copy of all parts of the consolidated section of the specified State Register. (Order No. 73/298 has expired on the basis of the order of the State Committee of Archives No. 32/34 of 19.02.2008). In turn, in pursuance of Article 16 of the Law of Ukraine "On Museums and Museum Affairs," as well as resolution of the Cabinet of Ministers of Ukraine dated August 12, 1992 No. 466 "On Approval of the Regulation on the State Register of National Cultural Property", the Ministry of Culture and Arts of Ukraine by Order No. 653 dated October 25, 2001, approved the Procedure for entering unique monuments of the Museum Fund of Ukraine into the State Register National Cultural Heritage<sup>16</sup>.

The order provided the implementation of a set of organizational, research, scientific, methodological and practical measures to establish principles and criteria for determining the uniqueness of monuments, the methods for their detection and entry into the State Register, the organization of accounting and storage. Obligations to identify and incorporate unique attractions regardless of ownership, as well as their registration and storage are the responsibility of the owners. The monuments of the state part of the Museum Fund of Ukraine, which are entered in the State Register, cannot be objects of bail, are not subject to denationalization, privatization, and alienation. The deadline for carrying out works on making unique monuments to the State Register of National Cultural Property was determined in December 2005. Almost simultaneously with this decree, the Ministry of Culture of Ukraine developed and, on November 20, 2001, approved Order No. 708 "Instructions on the procedure for selecting hand-written books, rare and valuable editions from library collections to the State Register of National Cultural Property"<sup>17</sup>.

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<sup>16</sup> The procedure for entering unique monuments of the Museum Fund of Ukraine into the State Register of National Cultural Property: Approved by the Order of the Ministry of Culture and Arts of Ukraine dated 25.10.2001 No. 653. [online]. [Last accessed: 31.01.2019] <http://zakon.rada.gov.ua/laws/show/z0144-02>

<sup>17</sup> Instruction on the procedure for the selection of handwritten books, rare and valuable publications from library funds to the State Register of National Cultural Property: Approved by the Order of the Ministry of Culture and Arts of Ukraine of 20.11.2001 No. 708. [online]. Last accessed: 31.01.2019 <http://zakon.rada.gov.ua/laws/show/z1027-01>

The action of the Instruction was extended to a network of libraries of all forms of ownership and subordination. It remained in force until it was approved by Order No. 437 of the Ministry of Culture of Ukraine dated June 14, 2016, "The Procedure for Selection of Manuscript Books, Rare and Valuable Publications in the State Register of National Cultural Property"<sup>18</sup>, which is still in effect today. According to the Order, the State Register of National Cultural Property includes book monuments (single book monuments and collections - book monuments) of world and state levels. For the organization of work on the selection of book monuments in the State Register in libraries, museums, archives, educational institutions, scientific institutions, other enterprises, institutions, organizations of state and municipal forms of ownership, in which book monuments are stored, appropriate expert groups are created as advisory deliberative collegiate bodies.

The descriptions of materials developed by them are transmitted to the National Parliamentary Library of Ukraine, which compiles the descriptions obtained and transfers them to the Ministry of Culture of Ukraine for consideration. The final decision on the inclusion of book monuments in the State Register is made by the Ministry of Culture of Ukraine.

The next stage of the revitalization of the formation of the State Register of National Cultural Property is associated with the adoption of the Law of Ukraine "On Culture" of December 14, 2010<sup>19</sup>, with the entry into force of which the Fundamentals of Ukrainian Legislation on Culture have lost their force. According to part three of art. 16 of the Law of Ukraine "On Culture" unique cultural values that have exceptional historical, artistic, scientific and other cultural significance for the formation of the national cultural space and determine the contribution of the Ukrainian people to the world cultural heritage are recognized as objects of national cultural heritage and are included

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<sup>18</sup> The procedure for the selection of handwritten books, rare and valuable editions to the State Register of National Cultural Property: Approved by the Order of the Ministry of Culture of Ukraine dated June 14, 2016 No. 437. [online]. Last accessed: 31.01.2019. <http://zakon.rada.gov.ua/laws/show/z0936-16>

<sup>19</sup> About culture: Law of Ukraine dated December 14, 2010 No. 2778-VI in the wording of 01.04.2014 // Official Web portal of the Verkhovna Rada of Ukraine. [online]. Last accessed: 31.01.2019. <http://zakon4.rada.gov.ua/rada/show/2778-17>



in the State Register of National Cultural Property. In this case, according to part three of Art. 20 of the Law, archives (archival institutions), objects of culture, art, including exceptional historical, artistic, scientific or other cultural values, which are listed or to be entered in the State Register of National Cultural Property, are not subject to privatization, and according to part five of the same article, objects of state and communal property that are registered or subject to entry in the State Register of National Cultural Property cannot be pledged. In fact, these norms repeated the relevant provisions of special laws that have been in force until now.

So, unique cultural values that are listed or subject to entry in the State Register of National Cultural Heritage are in Ukraine under the protection of the law. However, the problem lies in the fact that a unified State Register of National Cultural Heritage has not yet been formed. As a result, the work on filling the State Register of National Cultural Heritage is conducted separately; for example, the National Library of Ukraine named after V. I. Vernadsky, after conducting a significant amount of preparatory work, formed in electronic form the “Materials in the State Register of National Cultural Heritage: Book Monuments”, containing descriptions of valuable and ancient book monuments: manuscripts; incunabula; paleo types; old printed cyrillic, civil, latin type; Ukrainian editions up to 1860 inclusive. This information, according to library staff, will provide available book collections with the status of book monuments specially protected by the state and automatically excludes the possibility of its legal export from Ukraine.

At the same time, further legislative work is needed to create the State Register of National Cultural Property as a single document. Such a document, in our opinion, should also be kept by the Ministry of Culture of Ukraine and officially published and posted on the ministry’s web page; it should be used by border and law enforcement agencies to inspect cultural heritage sites moved across the state border of Ukraine to prevent their illegal export.

## **CONCLUSIONS.**

Of the approximately 130 000 objects of cultural heritage in Ukraine, which are publicly registered, only a small proportion is protected by the state. This is due to the fact that, in accordance with the law, only those monuments that are listed in the State Register of National Cultural Property, the State Register of Real Estate Monuments of Ukraine and the List of Cultural Heritage Objects are protected.

Actually, only the State Register of Real Estate Monuments of Ukraine is formed and constantly updated by the Ministry of Culture, and monuments claiming to be included in this register are included in the List of Cultural Heritage Objects. The corresponding procedure is quite long, and does not allow to respond quickly to changes in the situation, resulting in the destruction and destruction of the cultural heritage of Ukraine.

Provided by the current legislation, the State Register of National Cultural Heritage, which should include valuable monuments of both fixed and mobile cultural heritage, has not yet been formed. It is conducted separately by separate departments by categories of monuments of the museum fund, archival fund, book monuments.

As a result, Ukrainian legislation on the protection of cultural heritage requires the approval and adoption of the necessary by-laws for the early formation and promulgation of the State Register of National Cultural Heritage. Such a register will allow both to prevent the destruction and damage of immovable monuments of cultural heritage, and to serve for law enforcement officers and border guards a database of objects of cultural heritage prohibited for export outside Ukraine.

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**RECIBIDO:** 5 de noviembre del 2019.

**APROBADO:** 15 de noviembre del 2019.