

AMENDMENTS TO THE CULTURE CODE OF THE REPUBLIC OF BELARUS SUBMITTED TO THE MINISTRY OF CULTURE OF THE REPUBLIC OF BELARUS

Analysis of the legal regulation of access to traditional knowledge associated with genetic resources performed by project experts has identified the provisions of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Belarus acceded to the Protocol in 2014) (hereinafter referred to as “the Nagoya Protocol”) and the Convention for the Safeguarding of the Intangible Cultural Heritage (ratified in 2005). The Provisions should be integrated into national legislation on culture.

In particular, we are talking about defining the term of “traditional knowledge” and approaches to its safeguarding in our country and the concept of “local communities/associations”, which are the main holders of such knowledge and this requires responsible attitude to them and their protection at the state level.

Taking into account the initiated revision of the Culture Code of the Republic of Belarus and the need to implement the concepts and provisions used in International Treaties of the Republic of Belarus into legislation, we propose to introduce a set of changes and additions to the Culture Code of the Republic of Belarus:

Article 1 shall be supplemented with the following terms:

“Traditional knowledge”– knowledge, skills and experience of an applied character and are developing in the form of an intellectual response to the needs of life, are the result of human creative expressions and constitute part of the intangible historical and cultural heritage, are transmitted from generation to generation, develop and restore within the boundaries of local communities’ interest in them and contribute to the conservation and sustainable use of biological and cultural diversity;

“Local community” – an association of people connected with each other by a common territory of residence, identity, and history that has found its embodiment in practice and during the transfer of its intangible historical and cultural heritage, including traditional knowledge;

“Holders of the intangible cultural and historical heritage” – people belonging to a local community or are located close to it and are of outstanding abilities, skills, knowledge and features (traits) that enables them to undertake important roles in the creation, restoration and transfer of their heritage, including traditional knowledge;

“Protocol of a local community” – a protocol developed by a local community to interact with other communities, legal persons, citizens, including individual entrepreneurs, according to their own values based on customs/traditions;

Chapter 16 shall be supplemented with the Article entitled “Types of Intangible Historical and Cultural Values” of the following content:

“Intangible historical and cultural values include:

Traditional knowledge that includes knowledge and practices related to the nature and universe, traditional arts and crafts and narratives, knowledge related to local foodways, medicine, veterinary medicine and other fields of human interaction and the natural environment;

Traditional cultural expressions, which include oral traditions and forms of embodiment, including language and its dialects; performing arts; social practices, rites and festivals; forms of folk art and design, names and symbols, as well as other artistic and cultural expressions;

Article 107 entitled “Ensuring the Safeguarding of Intangible Historical and Cultural Values” shall be worded as follows:

“To ensure the safeguarding of intangible historical and cultural values, the Ministry of Culture and local executive and regulatory bodies shall:

1.1. take measures to ensure recognition, preservation, development and transfer to descendants, as well as an enhanced role of and respect for traditional knowledge related to ethnomedicine, agriculture, animal breeding, fishing, hunting, cooking and food storage, including related beliefs and practices, that will contribute to the food security of the country;

1.2. take measures to preserve and restore conditions for revival, safeguarding, development and transmission to descendants of national cultural traditions, including the traditions of folk arts and crafts, lifestyle specifics unique to the culture of the Belarusian people, factors determining the formation of the national frame of mind;

1.3. promote scientific research aimed at the study of traditional knowledge and its implications for sustainable development;

1.4. adopt legal, technical, administrative, financial and other measures to regulate access to traditional knowledge and the equitable sharing of benefits arising from their utilization;

1.5. take into account the interests of local communities in planning of economic and household activities in the territories where traditional agriculture, fishing or other traditional practices are continued;

1.6. take measures, including financial, to encourage the holders of intangible cultural values, contributing to the preservation, development and transmission of the content of such values to descendants.

2. A significant change in the conditions or the creation of obstacles to the existence, development and transmission to descendants of intangible historical and cultural values, as well as unauthorized access to intangible historical and cultural values and the illegal receipt of benefits, arising from the use of the activity results of the holders of intangible historical and cultural values, shall be prohibited.

3. Access to intangible historical and cultural values, which are products of the collective creativity of local communities, shall be realized in line with local community protocols.”