

Kyrgyz Republic

Kyrgyzpatent presents its compliments to the World Intellectual Property Organization (WIPO) and referring to the letter of February 23, 2007 (ref. C.7430/OMPI-49) would like to thank for the information provided and cooperation established with our office in the filed of protection of Traditional Knowledge, Traditional Cultural Expressions (Folklore) in the Kyrgyz Republic.

Since currently the issues of protection of Traditional Knowledge, Traditional Cultural Expressions (Folklore) are most urgent and discussed in international community, our office also observes the development of Traditional Knowledge and Traditional Cultural Expressions (Folklore) protection in other countries.

At present time the Kyrgyz Republic carries out certain works to investigate these fields.

However we would like to note that the work carried out by the Intergovernmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge and Folklore (ICGR) is also very important in the said fields.

Please find enclosed our comments to the lists of Issues adopted by ICGR.

Thank you in advance and looking forward to our further dialogue and fruitful cooperation in these fields.

Sincerely yours,

Roman O.Omorov
Director

Comments to Traditional Knowledge Issues

1. *Traditional knowledge to be protected* – knowledge, means and methods, including those using genetic resources applied in different fields of human activities, which were transferred from generation to generation during the years in certain order and meaning. This knowledge was kept and adapted for particular needs, local communities and traditional knowledge owners and has certain value for development of different fields of human activities.
2. *Traditional knowledge owners* shall be a local community – people permanently residing in particular territory of respective country possessing their own national and cultural traditions, way of life and traditional knowledge in different fields of human activities, which possibly may be valuable to improve living standards of people as well as natural persons and legal entities of any organizational and legal forms and patterns of ownership possessing traditional knowledge.

Benefits from any traditional knowledge shall be fairly distributed amongst local communities and other traditional knowledge owners through the participation of the Government.

3. *The objective of traditional knowledge protection* is to protect, contribute to maintenance and broad use of thereof in different fields of human activities and to use in industrial production and to further commercialize subjects created on its base.
4. Any forms of illegal use of traditional knowledge and illegal patenting of subjects created on the base of traditional knowledge shall be considered illegal.
5. *Exceptions and limitations* shall be provided in respect of use of traditional knowledge.
6. The period of traditional knowledge protection *shall not be limited*.
7. There is no normative and legal base regulating traditional knowledge protection – this is a gap in legislation of the Kyrgyz Republic. At the same time it should be noted that we have elaborated the draft law “On the Protection of Traditional Knowledge”, which is currently reviewed by the Parliament of the Kyrgyz Republic.
8. Currently legislation of the Kyrgyz Republic does not provide any sanctions or penalties for violation of traditional knowledge use. We intend to identify liability similar to legislation in the field of Intellectual Property.
9. Problems: there are difficulties in identifying the criteria of traditional knowledge, commercial use of traditional knowledge etc.

It is presumed that an international legal mechanism would be elaborated on the base of the work of International Committee on Intellectual Property, Genetic Resources, Traditional Knowledge and Folklore and further common provisions would be taken into consideration and elaborated in a national legislation of respective country.

10. It is presumed that foreign traditional knowledge owners shall receive their rights pursuant to appropriate legislation of respective country.

Comments to Traditional Cultural Expressions / Expressions of Folklore Issues

1. *Traditional cultural expressions (folklore) to be protected* – working and ritual traditional expressions (related to verbal folk arts and used in verbal form) of folklore, myths, legends, tales, heritage (sanjyra), eposes, folk dramas, proverbs, by-words, riddles, expressions of folk poetry, folk and funeral songs (koshok), dance melodies, folk and professional music, folk dances, games, events, celebrations and other expressions of movement, musical expressions of national folklore and verbal expressions as well as expressions of national symbolism, ornament, pattern, contained in items reflecting the idea of semantic purpose.

Protection also cover identified as folk artistic crafts created in the material form and through the folk arts and crafts containing varieties of artistic crafts, including graphic professional pictures, paintings, subject images, shadow pictures, coinage, wooden implements, national clothes, interior decorations, habitations, horses, sculptures, ceramics, earthenware and pottery, bone, stone items, cast items made of steel and bronze, metal works (metallic processing), carved woods, mosaics, embroideries, ornamental paintings, sericulture, patterned hand weaving, felt products, laces, gobelins, pile and pileless carpet weaving, representation of ornaments, patterns,

jewelry, leather works, basketry, ornamental matting (chiy), clothes as expression of folk arts, musical instruments, timbering, architecture, smaller architectural forms etc.

2. Owners of traditional cultural expressions (folklore) are as follows – nations, natural persons and legal entities creating and preserving traditional cultural expressions (folklore).

State shall benefit from use of traditional cultural expressions (folklore), which cultural heritage covers respective traditional cultural expressions (folklore)

3. The objective of protection of traditional cultural expressions (folklore) are as follows – protection, contribution to renaissance, use, distribution and preservation thereof since traditional cultural expressions (folklore) are a part of cultural heritage of particular nation.
4. Illegal appropriation, falsification and other actions damaging traditional cultural expressions (folklore) shall be considered illegal actions.
5. Exceptions and limitations shall be provided in respect of use of traditional cultural expressions (folklore).
6. The period of traditional cultural expressions (folklore) protection *shall not be limited*.
7. There is no appropriate normative and legal base directly traditional cultural expressions (folklore) protection – this is a gap in the legislation of the Kyrgyz Republic. At the same time it should be noted that we have elaborated the draft law “On the Preservation and Legal Protection of Traditional Cultural Expressions”, which is currently reviewed by stakeholder Ministries of the Kyrgyz Republic.
8. There are no sanctions or penalties in the legislation of the Kyrgyz Republic for violation of use of traditional cultural expressions (folklore).
9. Problems: imperfection of the national legislation in this field, lack of traditional cultural expressions (folklore) protection system as such etc.

It is presumed that at international level there will be unified approach in solution of common tasks in order to protect traditional cultural expressions (folklore).

10. It is presumed that rights of foreign holders of traditional cultural expressions (folklore) would be provided pursuant to legislation of respective country.