

## THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

*The following comments were received through a communication from the Ministry of Culture of the Republic of Macedonia. The communication reads as follows: "On the behalf of the Ministry of Culture of Republic of Macedonia I wish to express our respect and to inform you that Republic of Macedonia welcomes the activities of the World Intellectual Property Organization in the field of preparation of adequate instruments for the protection of expressions of folklore."*

On the behalf of the Ministry of Culture of Republic of Macedonia I wish to express our respect and to inform you that Republic of Macedonia welcomes the activities of the World Intellectual Property Organization in the field of preparation of adequate instruments for the protection of expressions of folklore. At the same time, I wish to inform you that we accept the text of the draft Report of the seventh session of the Intergovernmental Committee for Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, which took place in Geneva, from November 1 to 5, 2004.

Allow me to give you some information about the jurisdiction of the Ministry of Culture in the field of the protection of the expressions of folklore and about the actual legislation and the system for its protection.

We think that WIPO, in cooperation with UNESCO and other specialized international nongovernmental organizations, have indisputably settled the necessity of preparing an international instrument for protection and use of the expressions of folklore from the aspect of the intellectual property and with such instrument it is possible to achieve equalization of the international practice in this field.

At the same time, we point out that at the international level it is necessary to establish legal measures for identification, documentation, production, preservation and other protection of the expressions of folklore (in material and non-material form) outside the legislation for intellectual property.

In the legal system of Republic of Macedonia, the protection of expressions of folklore is subject to few laws, mainly the protection of copyright and related rights, cultural heritage and other laws.

In our country which is very rich with traditional, folklore and other cultural heritage, at the institutional level the protection is of the responsibility of many institutions, such as "Institute for folklore 'Marko Cepenkov'" - Skopje; "Institute for Macedonian language" - Skopje; "Institute for Ancient Slavic Culture" - Skopje; "Museum of Macedonia" - Skopje and other museums all over the country; "The Film Archives of Macedonia" - Skopje; "National and University Library Sv. Kliment Ohridski" - Skopje and other libraries all over the country, as well as other institutions which have collections of

publications, programs and phonograms of folk songs, dances, tales, riddles and other works and performances of folklore. Those are national institutions, which protect expressions of folklore among other things.

The state, through the Ministry of Culture, in accordance with the yearly program for financing the cultural projects of the national interest, financially supports projects for maintenance and presentation of the expressions of folklore, customs, crafts and traditional cultural values.

At the municipality level there are also activities for maintenance, presentation and use of the traditional knowledge and expressions of folklore, folklore festivals, manifestations and other activities, which are financed by the municipalities in accordance with the Law for local government.

Non-governmental organizations preserve expressions of folklore on the non-profit basis, in accordance with the Law for citizen associations and foundations, and those are mainly folklore groups, choirs, bands, etc., which are financially supported by the state, municipalities and private donors.

#### Legal protection of the folklore

The CONSTITUTION OF THE REPUBLIC OF MACEDONIA guarantees the freedom of artistic and other kinds of creativity and the rights concerning the scientific, artistic and other kinds of intellectual creativity. With the Constitution, in the frames of the corpus of cultural rights, it is established that ethnic communities have the right to express, maintain and develop freely their identity and characteristics of their communities and to establish cultural, artistic and educational institutions as well as scientific associations, with the purpose of expressing, maintaining and developing of their identity

According to The LAW FOR COPYRIGHT AND RELATED RIGHTS ("Official Gazette" 47/96, 3/98, 98/02 and 4/05), arrangement of the work of expression of folklore which is individual and intellectual creation, is substantive copyright work. Collection of works of expression of folklore: encyclopedia, anthology, repertory, databasis, etc., is also substantive copyright work if it is provided that by the choice, purpose and contents it represents individual and intellectual work.

Works of expressions of folklore are not copyright works, but in adapted form they can be used in copyright works or through copyright works, which are the subject of direct protection of the copyright.

According to the Law, works of expressions of folklore are used freely. This regime applies to all kinds of uses of these works (reproduction, distribution, publication, renting, public performances, public transmission, public presentation, public exposure, broadcasting and re-broadcasting, adaptation).

But, if the work of folk creativity is used, it is obligatory to acknowledge the source and origin of the work. The mutilation and improper use are not allowed.

For enforcement and protection of the rights for the works of expression of folklore, in accordance with the free use of these works, responsible is Institute for folklore “Marko Cepenkov” - Skopje.

If the works of expression of folklore are used contrary of the above mentioned conditions, the Law provides for penalties and protection measures: prohibition for activity for a period between 3 months and 1 year and taking away the samples of copyright and subject matter of related rights.

The LAW FOR INDUSTRIAL PROPERTY (“Official Gazette” 47/02, 42/03 and 09/04) provides that expressions of folklore which are works of crafts or handicrafts in origin form cannot be protected through rights for industrial property, except through the right of sign for the origin of the product. al

With the sign for the origin of the product the name of the product can also be protected if it is provided that by its long standing use in trade it became well known for defining certain kind of products. The sign for the origin of the product can be used, among other things, for indication of works of crafts and handicrafts.

Certain product of craft or handicraft made in traditional folklore way can be protected through the sign for origin of the product. The State Institute for the Protection of Industrial Property is responsible for enforcement of this right.

According to the LAW FOR THE USE OF MACEDONIAN LANGUAGE (“Official Gazette” 5/98), Macedonian language is intangible heritage of special cultural and historical significance for the country, and its use, protection, promotion and enrichment are regulated with this Law. At the same time, there is no restriction of the right for free creation of dialects and for development of cultural and lingual identity of all ethnic communities in Republic of Macedonia and the right of the members of these communities to use their language and letters, in accordance with the Constitution and special laws.

The LAW FOR CULTURE (“Official Gazette” 31/98 and 66/04) as a basic law for the area of culture guarantees the right for free creativity. According to this Law, anyone can realize culture as a particular, local and national interest, with profit or non-profit purpose. Anyone has a right for free creativity, independently of the age, education, religion, nationality, in professional or non-professional way.

The LAW FOR PROTECTION OF THE CULTURAL HERITAGE (“Official Gazette” 20/04), for the first time in Macedonian legislation, establishes the category of intangible cultural heritage, which refers to the expressions of folklore, language and toponyms. The protection of cultural heritage, along with the making and saving the records of it, includes maintenance and regular use, in accordance with the Law and document for protection. Maintenance of the expressions of folklore, customs, old crafts and similar cultural values, as well as activities of free creativity which are expression of the identity of one people, nation or community, are not regulated with exact procedures or standards for their enforcement.

For the processes of identification, documentation, valorization, categorization, preservation and other forms of protection of the intangible cultural heritage, minister of

culture, depending of the kinds of goods, will appoint responsible institutions (the procedure is going on not finished yet) from the line of public institutions for protection or from the line of scientific institutions, for fulfilling activities related to the protection of diverse kinds of intangible cultural heritages such as language, phonograph and cinematograph goods, toponyms and etc. The entitled institutions will collect, process and keep records of intangible cultural heritage, as a public interest. The maintenance and use of intangible cultural heritage are encouraged through special projects and programs in the area of culture, education, science and information. The Administration for protection of the cultural heritage (new agency as a part of the Ministry of Culture, with appropriated document can define special measures for maintenance and adequate use of protected intangible good and temporary can stop or prohibit improper use of protected intangible good. Those measures are provided only for the intangible cultural heritage which acquired the status of cultural heritage of exceptional significance or of special significance, through the procedure established with the Law.

The LAW ON THE MUSEUMS (“Official Gazette” 66/04) provides the protection and presentation of the ethnological objects, which indirectly concern the protection and the presentation of the expressions of folklore.

The LAW ON LIBRARIES (“Official Gazette” 66/04) and The LAW ON FILM AND ARCHIVE OF REPUBLIC OF MACEDONIA (“Official Gazette” 20/74) also indirectly provide protection of the literary and audio-visual records of expressions of folklore.

The legislation in our country provides for some ways of reducing the taxes for the sponsors of the projects for publications and presentation of expressions of folklore, but they are not sufficient.

Unfortunately, the traditional knowledge is in the process of dying and for now there are no special programs for their support. This question needs broader level of considerations as cultural and economic policy, with the purpose of presentation of the expressions of folklore and encouragement and revitalization of traditional old crafts, especially as a form of cultural tourism.

International exchange and presentation of expressions of folklore from the Republic of Macedonia abroad is done through international presentation of expressions of folklore, such as literature, folk songs and dances, according to the bilateral international agreements in the area of culture, but also with direct cooperation between domestic and foreign institutions and between domestic and foreign organizers of cultural manifestations.

In the end, we would like to emphasize once more that Republic of Macedonia acknowledges the long standing efforts of WIPO to establish international standards for the protection of the traditional cultural values and supports all activities of WIPO in this area.