

The law of the Republic of Azerbaijan

«On legal protection of expressions of the Azerbaijan folklore»

The present Law regulates the relations arises in connection with maintenance of a legal protection, use and enforcing of expressions of national folklore being a component of a cultural heritage of Azerbaijan, as special kind of the intellectual property.

Chapter I. The general provisions

Article 1. The basic concepts

1.0. the basic concepts, used in the present Law, express the following meanings:

1.0.1. expressions of the Azerbaijan folklore (further - the expressions of folklore) that are created and kept by the people, its separate individuals reflecting in traditional art values, outlook, hope and expectation, feature of character of an art heritage of the Azerbaijan people, expression of verbal art created in an oral kind, national music, games and dances, expression of national creativity and applied art (in a material and non-material kind), and also other kinds of national creativity;

1.0.2. a legal protection of expressions of folklore:

- protection of expressions of folklore from any of illegal use and actions, cost them harm;

1.0.3. illegal use of expressions of folklore:

- infringement of the requirements determined by the present Law in the case of the non-conventional and unusual use of the expressions of folklore with the purpose of commercial aim;

1.0.4. Action, cost harm to expressions of folklore:

- not the indication of an exact source, and also geographical name of a place of an origin and (or) name of the people community, to which belongs, at use of expressions of folklore in cases stipulated by the present Law;

1.0.5. Traditional use of expressions of folklore:

- use of expressions of folklore, were based on long experience of a community, adhering features of essence, contents and form;

1.0.6. Usual use of expressions of folklore:

- use of expressions of folklore according to daily need(requirement) and necessities of a community;

1.0.7. Non-conventional and unusual use of expressions of folklore:

- use of expressions of folklore with change of essence, contents, purposes of applicability and art form.

1.0.8 Use of expressions of folklore in commercial aims:

the publication, reproduction, distribution of samples, public recitation and performance, transfer to an ether and on cable of expressions of folklore, and also performance in the form of the public rent for leading to public with the purpose of reception of the profit.

Article 2. Protected expressions of folklore

2.1. The expressions of folklore protected in the present Law, consisting from national art creativity, national art and applied art are the following products:

2.1.1. Concerning to verbal creativity labor, ceremony and children's expressions of folklore, myths, legends, traditions, fairy tales, dastans, jokes, national dramas, proverbs, saying, riddles, expressions of national and ashugs poetry, bayati and other expressions of oral literature.

2.1.2. National songs and dancing melodies, national - professional music - ashugs tunes, mugam-destgah, zerbi-mugam, tesnifs (vocal), rengs (instrumental) and other musical expressions of folklore.

2.1.3. National dances, yalli, games, ceremony and holidays and other motional expressions.

2.1.4. Expressions of felt applied art and national creativity, including graphic professional - figures, pictures, series of pictures, shadow figures, stamping work and fretwork, product of a sculpture, ceramics, clay products, mosaic, work on metal, cast products from copper and bronze, sericulture, carpet weaving, work on copper, jeweler business, tanning business, embroidery, business on braiding of baskets, Gobelin tapestries, buta, clothes as expressions of folklore art, ornaments, patterns, musical instruments, joinery, architectural business, and other similar expressions.

2.2. The creation of protected expressions of folklore specified in Article of 2.1. present Laws, is not limited to time and space, the created new expressions of folklore are brought too in to the protected list and their legal protection is termless.

Article 3. The legislation of the Azerbaijan Republic on a legal protection of expressions of the Azerbaijan folklore

3.1. The legislation of the Azerbaijan Republic on a legal protection of expressions of the Azerbaijan folklore consists of the Constitution of the Azerbaijan Republic, present Law, other normative-legal acts and international contracts, which the Azerbaijan Republic has joined.

3.2. In case of occurrence of the contradiction between the present Law and international contract, this international contract is applied.

Article 4. Scope of the use of the Law

The present Law is distributed on created and kept by the Azerbaijan people, its separate persons of expression of folklore specified in Article 2 of present Law.

Article 5. The basic directions of policy of the state in the field of a legal protection of expressions of folklore.

5.1. Preservation of expressions of folklore, development and report up to the future generation.

5.1.2. Creation of legislative base ensuring safety of expressions of folklore.

5.1.3. Creation of conditions for the international cooperation with the purpose of maintenance of a legal protection of expressions of folklore which belongs to the Azerbaijan people in territory of the foreign states.

5.2. Appropriate body of the executive authority within the framework of the powers with the purpose of a legal protection of expressions of folklore:

5.2.1. According to the international practice prepares the offers on improvement of the existing legislation:

5.2.2. Represents the Azerbaijan Republic in the international organizations on a legal protection of expressions of folklore and organizes cooperation in this field:

5.2.3. Represents and protects interests of the state in case of infringements of the requirements of the present Law on use of expressions of folklore.

Chapter II. Rules of use of expressions of folklore

Article 6. The requirements for use of expressions of folklore

6.1. Use of expressions of folklore in the conventional and usual form, and also with a commercial aims in territory of the Azerbaijan Republic is free.

6.2. The purpose, applicability and art form can be changed at use of expressions of folklore with a commercial aims in non-conventional and unusual form, publication in any form, reproduction and distribution of samples, any public recitation or performance, transfer to an ether or on cable, and also in any forms of the public rent with the purpose of leading to public, not costing a harm to essence and contents.

Article 7. Exceptions on use of expressions of folklore

7.1. Use of expressions of folklore are not accepted as the non-conventional and unusual form in the below-mentioned purposes:

7.1.1 Use of expressions of folklore for creation original author s (-s') product (s);

7.1.2. Use of expressions of folklore in original author s (-s') product in purposeful volume of performance in the illustrative form.

7.2. The below-mentioned casual forms of use of expressions of folklore are considered non-conventional and unusual:

7.2.1. Use of expressions of national creativity which is possible to see and to hear, in any daily case for granting the information with the help of a photo, announcement, sound recording, under condition of use of such kind in volume necessary for the purpose to the information.

7.2.2 Use of the image of objects containing expression of folklore constantly located in places open for free visiting, switching them in a photo, film or television transfer.

Article 8. Indication of a source on using of expressions of folklore

8.1. In case of public performance and the rents in all published expressions of folklore should be precisely specified a source, and also geographical name of a place of an origin or name of belonging of the nation (community).

8.2. In case of use of expressions of folklore specified in 7 Articles of the present Law, the requirements of Article 8.1 are not applied.

Article 9. Legal infringements on using of expressions of folklore

9.1. As legal infringements at use of expressions of folklore by the physical and legal persons the following actions are considered:

9.1.1. Infringement of Article of 6.2. present Laws at use of expressions of folklore irrespective of casual or deliberate action;

9.1.2. Deliberate or on not of care infringement of Article of 8.1. present Laws at use of expressions of folklore;

9.1.3. Deliberate granting of expressions of folklore as own or introduction of public in error about a source of an origin or granting them as expressions of other country without an actual source at use of expressions of folklore, directly or indirectly leading to public;

9.1.4. Use of expressions of folklore, which was reported to the public directly and indirectly with being deliberated distortion and being caused loss to cultural interests of the country;

9.2. Collecting the sum for the infringements, stipulated by the present Law, of rules of use of expressions of folklore on the basis of the sent applications are listed(transferred) by the appropriate body of the executive authority in the state budget and are directed on encouragement of creativity in field of the intellectual property, maintenance of state policy in field of the copyright and legal protection of expressions of folklore.

Chapter III. Protection of the rights of the intellectual property on folklore expressions

Article 10. Means of civil-law protection

10.1. The appropriate state bodies in the right to require(demand) cancellation breaking corrected of lawful use of expressions of folklore or infringement, creating threat.

10.2. On going into court with the purpose of protection of expressions of folklore, on demand of the claimant, besides general civil-law methods of protection, the following can be applied:

10.2.1. Collecting the income received by the infringer owing to infringement of the rights;

10.2.2. Payment of indemnification in the sum from 100 up to 50 thousand minimal salaries in a place of collecting of the income.

10.3. The sanctions for infringements with the criminal contents do not exclude application of civil-law methods of enforcing.

Article 11. Counterfeit copies

Any copies of folklore objects, manufacturing or which distribution entails infringement of the requirements on use of expressions of folklore of the present Law, are counterfeit and are withdrawn according to rules established in the legislation.

Article 12. The responsibility for infringements of the requirements on use of expressions of folklore

The persons guilty of infringement of rules on use of the requirements stipulated by the present Law, carries civil, administrative and criminal liability.

Chapter IV. The final provisions

Article 13. A legal protection of expressions of folklore in the foreign states

The legal protection for expressions of folklore of the foreign states in the Azerbaijan Republic and Azerbaijan expressions of folklore abroad is adjusted according to the international contracts, which the Azerbaijan Republic has joined.

Article 14. The relations to other forms of protection

The present Law does not limit other forms of the civil-law legislation, intellectual and industrial property, which can be applied to expressions of folklore, and also normative-legal acts on safety of expressions of folklore and form of protection stipulated in the international contracts, to which the Azerbaijan Republic has joined.

Article 15. Interpretation

The legal protection, stipulated by the present Law, can not be interpreted as the form interfering creation and normal use of expressions of folklore.

Article 16. The introduction of the Law

This Law comes into force since the day of publication.

The President of the Azerbaijan Republic

Heydar ALIYEV

City of Baku, May 16, 2003.

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