

Литература

1. Постановление Парламента Республики Молдова nr.55din 17.03.2020 о введении чрезвычайного положения. Опубликован в MONITORULOFICIAL № 86, ст. 96 от 17.03.2020 г. URL: https://www.legis.md/cautare/getResults?doc_id=120817&lang=ru

2. Постановление НЧКОЗ № 42 от 13 января 2021 г. URL: https://cancelaria.gov.md/sites/default/files/postanovlenie_nchkoz_no_42_ot_13.01.2021.pdf

3. Коммюнике Министерства здравоохранения, труда, социальной защиты Республики Молдова. URL: <https://msmps.gov.md/comunicare/comunicate/546-cazuri-de-covid-19-inregistrate-in-ultimele-24-ore/>

4. Постановление НЧКОЗ № 10 от 15 мая 2020 г. URL: https://cancelaria.gov.md/sites/default/files/hotarirea_cnesp_nr.10_15.05.2020.pdf

5. Закон № LP100/2017 о нормативных актах от 22.12.2017 г. Опубликован: 12.01.2018 в MONITORULOFICIAL № 7-17, ст. 34. URL: http://base.spinform.ru/show_doc.fwx?rgn=103704

6. Информация МВД Республики Молдова. URL: <https://mai.gov.md/ro/news/angajatii-mai-asigura-monitorizarea-respectarii-de-catre-cetateni-masurilor-de-protectie>

UDC 347.68 (043.2)

Valiyeva Gunel Mohubbat, PhD.,
Baku State University, Baku, Azerbaijan

LEGAL ISSUES ARISING FROM THE COMMERCIALIZATION OF CULTURAL HERITAGE

Cultural heritage and natural resources belonging to indigenous people and local communities may constitute significant contribution for them. However, commodification of cultural heritage has both positive and negative impacts. Appropriation, loss of culture, pseudo-culture, loss of the authenticity of the culture, exclusion of the heritage owners to get benefits and economic gains, commodification of the culture and loss of identity of indigenous communities are some of the problematic issues. However, concerns on responsibility, regulations of trade in relation with cultural heritage, sustainable development, preservation of culture, conservation of cultural and natural heritage raised by the world community in different levels (such as academician, lawyers, non-governmental organizations, etc.) create opportunity to find solutions for reconciliation between the culture and commerce.

International Law instruments provide numerous mechanisms for the protection and preservation of cultural heritage. There are several definitions of cultural heritage in various international legal instruments, which means existence of multiple definitions of cultural heritage from different points of view. Various legal instruments deal with legal regulation of cultural heritage in

International Law, specifically Human Rights, International Environmental Law, International Humanitarian Law. Protection of the ethnic groups and communities, rights of minorities, protection of cultural property during the armed conflicts, conservation of biological diversity are the issues of the protection of cultural heritage as well. The UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage, 1972 provides definition for cultural heritage and natural heritage. For the purposes of this Convention cultural heritage are monuments, groups of buildings, which are of outstanding universal value from the point of view of history, art or science, and, sites, which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view. Natural heritage are natural features, geological and physiographical formations, natural sites, which have outstanding universal value [1]. It is debated that the scope of this Convention is narrow [2, p. 4]. Natural resources and cultural heritage is closely inter-related, as sometimes communities identify themselves with their natural resources, traditional knowledge and practices, cultural values, religion or beliefs, and geographical area or landscape. Cultural property is also part of cultural heritage as a physical object. The concept «universal value» mostly refers to the common importance of the cultural heritage and natural heritage for the present and future generations of the humanity. It also goes beyond the borders and valuable to the world community. World cultural and natural heritage entails economic and cultural values both in national (local) and international level. In national level, it mostly implies to the well-being and cultural life of the community, and, people (individual or community) use these resources to meet their moral and material needs. In international level, it implies to diversity and availability of cultural resources, goods and services for the people and world community. Cultural property may also be the essential dimension of human rights [3, p. 2].

Commercialization is a method and process for introduction of goods or services to the market and get commercial gains from that. In respect to cultural heritage, commercialization of the culture refers to marketing of the culture. It can be products or services produced by various communities based on their cultural heritage (resources, knowledge, practices). In this way, culture becomes a good or commodity, which is called commodification of the culture.

Although commercialization of cultural heritage creates values and brings gains to the communities that it belongs, controversial situations arise as well. One of the negative impacts of commercialization to the cultural heritage (such as in the example of tourism) is that it can result in destroy and loss of the cultural heritage. However, commercialization can influence the behavior of the owners of that culture, and it can become an instrument for reviving of the culture. Nevertheless, this does not happen every time and not all need to be commercialized. Due to commercialization, selection process in the formation of the cultural heritage, identity of people, and authenticity of the culture can

transform under additional commercially purposeful influences. When there is the aim of maximizing gains from the commercialization of the cultural heritage, there should be prediction of the result of this process, and relevant measures must be taken to minimize the negative impacts. Commercialization of the cultural heritage always has social and cultural impacts. Sometimes, it is reasonable to have commercialization as an integral part of the cultural heritage to survive and contribute to the well-being of the owner community. By this way, people can get interested in conservation of their culture. However, the problem of over-commercialization of the heritage needs to be prevented within the normative regulation elaborated by international legal instruments.

Cultural heritage reflects in itself moral and material values. It reflects in itself a common interest of the world community and is the subject matter of international law. Numerous international treaties provide protection for cultural heritage, encourages cooperation in conservation of cultural heritage. There are some main points for the International Law to be taken into consideration when applying instruments for the protection and conservation of cultural heritage and natural resources when it is commercialized. One of the most important measures involves providing international legal guarantees for the continuous maintenance of natural resources and cultural heritage. Some legal theories proposes solutions such as prevention of over-commercialization (commercialization without over-commercialization) of the cultural heritage, cultural control [4, p. 14], and acceptance of the commercialization of culture as an integral part of that culture. Effectiveness of such kind of theoretical approaches depends on elaboration of those concepts comprehensively within the framework of international treaties taking into consideration the sustainable development, human dimensions and choosing individual strategies.

Literature

1. Convention Concerning the Protection of the World Cultural and Natural Heritage. URL: <https://whc.unesco.org/en/conventiontext/>
2. Federico Lenzerini. European Journal of International Law. Volume 22. Issue 1. February 2011. Pages 101-120. URL: <https://doi.org/10.1093/ejil/chr006>
3. Francesco Francioni. European Journal of International Law. Volume 22. Issue 1. February 2011. Pages 9-16. URL: <https://doi.org/10.1093/ejil/chr018>
4. Gabriela Coronado. Selling culture? Between commoditisation and cultural control in Indigenous alternative tourism. Vol. 12. N. 1. 2014. P. 11-28. URL: <https://doi.org/10.25145/j.pasos.2014.12.002>