

ONLINE SURVEY ON INFORMATION SYSTEMS, REGISTERS AND DATABASES

Submitted by the Republic of Slovenia

This Online Survey has a fact-finding objective. The aim is to gather relevant experiences and already implemented practical solutions for the establishment, functioning and management of information systems on genetic resources (GRs), traditional knowledge (TK) and traditional cultural expressions (TCEs).

The term “information systems” is used in this survey to generally cover databases, registers, inventories, lists and other kinds of documentation of GRs, TK and TCEs.

Such information systems may have been established for a wide variety of purposes, some related to intellectual property (IP) and others not. For example, many countries have established and maintain registers, lists and inventories for the safeguarding and preservation of intangible cultural heritage (which encompasses both TK and TCEs). In some cases, information systems may have both IP and non-IP purposes, or the distinction between the two may not be clear.

Therefore, while the purpose of this Survey is to gather information on information systems that have IP-related purposes and functions, respondents are invited to provide as much information as possible.

1. Is there any formal domestic or customary legal system in your country requiring, or at least relating to, the establishment and/or maintenance of an information system on GRs, TK and/or TCEs, such as:

- conventional intellectual property (IP) law?
- a specific law for the protection of TK and/or TCEs?
- access and benefit-sharing legislation or legislation dealing with biodiversity, the environment, intangible cultural heritage, publicly-funded research, food and agriculture?
- customary laws and practices?
- the law of confidentiality/trade secrets/undisclosed information?

If so, please provide details, such as the title of the law(s) and the relevant provisions.

Yes

The Republic of Slovenia is a Member State of the European Union and a requirement for establishing and keeping of records and registers related to the use of genetic resources and associated traditional knowledge is provided under the REGULATION (EU) No 511/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union.

National Competent Authorities should check whether users comply with their obligations, have obtained prior informed consent and have established mutually agreed terms. Competent authorities should also keep records of the checks made. The Competent Authorities shall keep, for at least five years, records of such checks indicating, in particular, their nature and results, as well as records of any remedial actions and measures.

The said Regulation also provides legal basis for Register of collections of genetic resources within the EU which includes the references of the collections of genetic resources, or of parts of those collections. The National Competent Authority after verifying that the collection, or a part of it, meets the criteria notifies the Commission to include the information received in the register.

In addition, the EU ABS legislation gives Associations of users of GA and TK or other interested parties a possibility to register their combination of procedures, tools or mechanisms, developed and overseen by them, recognised as a best practice. Such internet-based register has been established and kept up-to-date by the European Commission.

Regarding the TK and/or TCEs we would like to point out that Slovenia is a nationally homogeneous country, as Slovenes are a distinct majority nation. The indigenous population is mostly Slovenians who have lived on the national territory for centuries. In Slovenia, there are three recognized minorities: Italian (coastal towns and their hinterland), Hungarian (Prekmurje), and the Roma ethnic community (Prekmurje, Dolenjska, and Bela krajina).

TK and/or TCEs (in broader understanding), among others, can be registered as cultural heritage. The Register of cultural heritage is the central collection of data on heritage in Slovenia. It is run to provide informational support to the implementation of heritage protection, and it is also intended to represent and research heritage and educate, and develop public awareness of heritage. TK and TCEs can be categorized and entered in the Register as intangible heritage and declared to be an intangible heritage of special importance, whereby the provisions on public hearing are carried out by inviting into the procedure communities groups and individuals who are bearers of intangible heritage that is the subject of the declaration process, and other interested public. Intangible heritage of national importance is declared by a government decree, and intangible heritage of local importance by a decree of the representative body of the province or municipality. The declaration act contains the identification of the intangible heritage of special importance, the values justifying the declaration as intangible heritage of special importance, provisions on the integral preservation of the intangible heritage of special importance, supporting the communities, groups, and individuals who bear it, and the protection of cultural spaces, related to it. The declaration act also defines the method of exercising copyright and related rights related to intangible heritage of special importance, taking into account the regulations governing copyright and other related rights, but in a way that enables public access to intangible heritage of special importance and its transfer from generation to generation.

2. Is your country party to any international or regional legal instrument (such as a convention, treaty or declaration) that requires the establishment of or participation in information systems for the protection, promotion and/or safeguarding of GRs, TK and/or TCEs? If so, please indicate which international or regional legal instrument.

The Republic of Slovenia signed the Nagoya Protocol Nagoya Protocol to the Convention on Biological Diversity on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in September 2011, but has not yet ratified it. However,

Slovenia implements the obligations related to users of genetic resources and associated traditional knowledge through common EU ABS regulations. All users of genetic resources and traditional knowledge associated should exercise due diligence to ascertain whether they have been accessed in accordance with applicable legal or regulatory requirements to ensure that benefits are fairly and equitably shared.

The common EU ABS regulations provide legal basis for establishment of information systems for the protection, promotion and/or safeguarding of GRs and TK.

Republic of Slovenia is also a Party to the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) which constitutes a specialised international access and benefit-sharing instrument for plant GR.

3. Does any information system(s) of GRs, TK and/or TCEs exist in your country (whether IP-related or not)? If so, please provide a description of such information system(s).

YES. Please see answers under question 1 above.

DECLARE is an EU-wide web-based tool which enables users of genetic resources to submit the due diligence declarations required under the EU ABS Regulations to the relevant competent authorities responsible for their implementation. The competent authorities also use DECLARE to transfer non-confidential information from the due diligence declarations to the ABS Clearing House (ABSCH). The ABSCH is an international IT platform for exchange of all relevant ABS information between actors in different countries which are Parties to the Nagoya Protocol.

The use of DECLARE is not mandatory. Nevertheless, users are strongly encouraged to use DECLARE rather than submit due diligence declarations on paper but if for some reason a user does not want to use the electronic system, paper declarations can also be submitted. Please note also that individual EU Member States may develop their own national systems for users to submit due diligence declarations. Those systems will generally be linked with DECLARE. Slovenia has not developed its own system and uses the DECLARE system that has been developed by the European Commission.

The following questions relate specifically to information systems that have an IP-related purpose or function.

4. Which IP-related objectives are sought to be achieved through this information system(s)?

Fair and equitable sharing of the benefits arising from the utilisation of genetic resources in accordance with the Nagoya Protocol.

5. What types of information are included in such an information system, including potentially sensitive categories of information such as sacred TK/TCEs and/or secret TK/TCEs?

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Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union.

6. What are the roles of various stakeholders in the establishment of the information system(s):

- **who characterizes and documents GRs?**

For use of GR and TK, the European Commission is responsible for creating and keeping the EU- wide registers and data information systems. Member states may also develop their own national registers and on-line databases if they wish.

- **who writes down, films, records, translates and compiles TK and/or TCEs?**
- **who administers the information system/database/register(s)**
- **who can add new entries/registrations?**

In accordance with the EU ABS Regulations, declarations need to be submitted by users of genetic resources. The user of genetic resources can be an individual person or an entity (laboratory, university, company etc.). If the user in question is an individual person, he/she should register as such.

The authorities relevant for submitting due diligence declarations are defined in the Commission Implementing Regulation. For the first checkpoint (receipt of research funding), the declarations are to be submitted to the competent authority where the recipient of funding is established (and in case the recipient is not established in the EU but the research is carried out in the EU, where the research is carried out). For the second checkpoint (final stage of product development), the due diligence declaration is to be submitted to the competent authority of the Member State where the user is established. The DECLARE system automatically submits the due diligence declarations to the relevant authorities according to these criteria, on the basis of information provided by the users.

7. Which are the principles and modalities regulating access to relevant information:

- **who retains control of the information system?;**

The European Commission.

- **who is authorized to access the content?;**

The National Competent Authorities, The European Commission, users of GA and TK.

The non-confidential information in a due diligence declaration can eventually be seen by anybody, as they are transferred to the ABSCH and thus made public. Prior to transmission of the information to the ABSCH, the non-confidential information can be seen by the relevant competent authority (to whom the user submitted the due diligence declaration), by the EU Commission (when the due diligence declaration is validated by the competent authority) and by other EU competent authorities (in cases where a product is put on the market of more than one EU Member State.

- **are there tiered levels of access to different categories of content?**

Confidential information included in a due diligence declaration in DECLARE can be accessed by the other members of the same user's organisation and by the competent authorities to whom the due diligence declaration is submitted. These are the only entities which can see confidential information. Other competent authorities or the European Commission cannot see the confidential information. Confidential information is also not transferred to the ABSCH.

8. What are the involvement and rights of Indigenous Peoples, as well as local communities, in the process of the establishment, functioning and management of the information system(s)?

N/A

9. What is the legal effect of inclusion of GRs, TK and/or TCEs, as the case may be, into the information system? For example, does inclusion establish IP rights?

N/A

10. How are disputes resolved (for example, competing claims by more than one community to a certain body of GRs, TK or TCEs)? How are transboundary GRs, TK and/or TCEs dealt with?

N/A

11. Are there interoperability standards between the existing information systems in your country and other information systems or services? Do these interoperability standards concern: (i) data formats (e.g., XML, data fields, etc.); (ii) content data (e.g., characterization, function, technical use of GRs, TK or TCEs); (iii) rights metadata (e.g., right holder, subject matter, date of documentation, etc.); or (iv) structures of the information systems and services (e.g., APIs, etc.)? If so, please provide a description of these standards.

N/A

12. Do you have any other views or experiences relating to the establishment, functioning and management of information systems?

N/A

13. Do you have any suggestions for future work under the auspices of the WIPO IGC and/or by the WIPO Secretariat on these issues?

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