

II. Safeguarding System and Policy

The Law on Culture and the Law on Cultural Heritage regulate a general arts policy in Kazakhstan. Dance, theatre, puppet theatre, plastic arts, art productions... all feature in these laws. Heritage can consist of both tangible and intangible testimonies. Heritage encompasses those cultural expressions which people find sufficiently valuable to transmit. One can notice that movable heritage (including artefacts and utensils), intangible heritage (including practices, customs and knowledge) and immovable heritage (including buildings and landscapes) are often interrelated and reinforce each other. The policy on arts and amateur arts works with phenomena, traditions, customs, knowledge and practices. As outlined at the beginning, a continuum exists in the development and evolution of culture and art. The attention is given to intangible cultural heritage within the immovable heritage policy.

The ratification of the Convention (2003) in December 2011 by the Kazakhstan Parliament is the only legal document in which 'intangible cultural heritage' was included as a term so far. However, in broader terms, the national legislation protects the intangible national heritage in the number of legal acts and regulations. Hence the ICH safeguarding policy did not start from 'zero' level in 2012. There was a policy for folk culture that also focused on traditions, customs, knowledge and techniques transmitted from generation to generation. There were academic ethnic and cultural researches in traditional beliefs, oral and musical heritage, crafts, applied arts. Also there was the long-term practice of musical competitions, festive events and folklore performances.

1. National Legislation/Acts

The Law 'On Safeguarding and Usage of the Historical and Cultural Heritage Objects'

Entered into force: 2 July 1992

The Law 'On Amendments to the Certain Legal Acts of the Republic of Kazakhstan on the Issues of the Safeguarding and Usage of the Historical and Cultural Heritage' as of 21 July 2007, ref.no. 307 and as of 20 December 2004, ref.no 13.

This legal act: provides definition of the provisional list of the historical and cultural heritage; objects (elements) of the historical and cultural heritage (Article 3); describes the state of the objects (elements) of the historical and

cultural heritage to be inscribed in the State Registry of the National Cultural Heritage (Article 5); authorizes the Government to adopt the regulations on the inventory, inscribing and withdrawing of the objects of the historical and cultural heritage to/from the State Registry of the National Cultural Heritage (Article 17); authorizes the local authorities to ensure the inventory and safeguarding of the local cultural heritage; promoting the intangible heritage, such as traditions, social practices; and submitting the nominations to the State Registry of the National Cultural Heritage (Article 18); authorizes the Ministry of Culture to ensure the safeguarding of the national cultural heritage, designing and implementing the national programs on safeguarding of the historical and cultural heritage; and adoption the procedures and checking lists on the state conditions of the National Cultural Heritage (Article 19); subdivides the objects (elements) of the historical and cultural heritage into three groups: (1) nominated or to be nominated to the UNESCO World cultural and natural heritage lists; (2) the objects of great historical and cultural significance for the national history; and (3) the objects of special historical and cultural significance for the history of the local territories and communities (Article 26); endorse the procedures for nominating the elements and adoption of the State Registry of the National Cultural Heritage (by the Government) and the State Registry of the Local Cultural Heritage (by the local authorities) (Article 27); and determines the procedure on establishment and proceedings of the special expert commissions (Article 27).

The Law 'On Culture'

Entered into force: 15 December 2006
Amendments: 27 May 2010, ref.no. 280-IV

The given legal act: provides definition of the cultural heritage of the people of Kazakhstan, cultural values, national cultural heritage and the State Registry of the National Cultural Heritage (Article 1); names the revival and safeguarding of the national and ethnic identities among the main tasks of the public cultural policy (Article 4); authorizes the Government to adopt the regulations on the State Registry of the National Cultural Heritage (Article 6); authorizes the Ministry of Culture to ensure the safeguarding of the national cultural heritage and designing/revising the State Registry of the National Cultural Heritage (Article 7); authorizes the local authorities to ensure the inventory and safeguarding of the local cultural heritage and promoting the intangible heritage, such as traditions, social practices (Article 8); reminds the citizens on their duties on safeguarding of the historical and promoting respect to the Kazakh cultural heritage as well as other ethnic groups and communities (Article 11); endorses the folk art and crafts as the part of the cultural and social practices (Article 30); provides formal description to the different types of the cultural heritage, including tangible heritage, art works and crafts (Article 32); describes the procedures for inscription of the cultural heritage objects to the State Registry of the National Cultural Heritage (Article 33); and determines the procedure on the

special treatment of the national cultural heritage (Article 34) and export and import of cultural heritage objects.

The Law 'On Local Government and Self-Government in the Republic of Kazakhstan'

Entered into force: 23 January 2001, ref.no. 148

Amendments: 2 February 2009, ref.no. 126

The given legal act: authorizes the local governments to ensure the inventory and safeguarding of the local cultural heritage and promoting the intangible heritage, such as traditions, social practices and ethnic sports (Article 27-18); authorizes the local governments to submit nominations of the cultural heritage to the State Registry of the Local Cultural Heritage (Article 31-15); and defines the duties of the local communities on respect of the national languages, traditions and practices of the people of Kazakhstan (Article 39-2).

The Act of the Government 'On Adoption of the Procedures on Handling the State Registry of the Objects of the National Cultural Heritage'

Adopted: 18 April 2007, ref.no. 311

The regulation stipulates that the State Registry is handled by the authorized government agency for culture on the basis of the applications made by the local governments and/or physical persons. The local governments and research institutions dealing with the historical sites and objects are obliged to provide the information on the relevant objects of cultural heritage to the authorized government agency for culture for consideration. The information should be updated upon identification of the new objects or sites (Article 2-3).

The Regulations on Safeguarding and Keeping the Historical and Cultural Monuments, Public Natural Sites recognized as the International and National Objects of the Cultural Heritage

Adopted: 8 July 2003, ref.no. 673

Amendments: Acts of the Government from 2 November 2007, ref.no. 1033
and from 6 November 2007, ref.no. 1044

The regulation defines the procedures of safeguarding the objects of cultural heritage (Article 2).

The State Registry of the Historical and Cultural Monuments of the National Significance

Adopted: 21 March 2008, ref.no 279

Amendments: Act of the Government of 3 July 2010, ref.no 690

The regulation describes the sacred sites and petroglyphs of Tamgaly.

The Regulations on Compiling, Keeping, Inventorying and Utilization of the Documents at the National Archive Fund, and Other Archive Documents by Public and Special State Archives

Adopted: 26 December 2011, ref.no. 1604

The regulation: defines the archive documents of the significant historical and cultural value for the people and nation (Article 48); describes the procedures for identification, usage and safeguarding of the archive documents recognized to be the part of the national cultural heritage (Articles 214-216); determines the procedures of inventorying and keeping the objects of the national cultural heritage (archive documents) (Articles 276-280).

The Act of the Government 'On Public Fund of Support of the Culture and Arts in the Republic of Kazakhstan'

Adopted: 31 December 1998, ref.no. 1394

Amendments: Act of the Government of 23 December 2008 ref.no. 1226
'On Fund of Spiritual Development of the People of Kazakhstan'
(following the Decree of the President of 1 December 2008, ref.no 703)

The regulation: defines the monitoring procedures and support of the cultural heritage and traditions of the people of Kazakhstan (Article 2-1); describes the implementation of the projects aimed on ethnic identification of Kazakhstan in the global cultural space (Article 2-3); ensures promotion of the spiritual enrichment of the ethnic cultures of the people of Kazakhstan and its participation to the global cultural exchange (Article 2-5).

The Act of the Government 'On Concept of the Craftsmanship Development in the Republic of Kazakhstan'

Adopted: 31 December 1998, ref.no. 1394

The regulation stipulates the crafts specialists training and retraining, strengthening the role of qualification and professionalism improvement as well as craftsmanship skills development as the most important aspect of human potential.

2. Cultural Policy

The National Program on Development and Function of the Languages in the Republic of Kazakhstan in 2011-2020

(adopted by the Decree of the President of 29 June 2011, ref.no 110)

Purpose:	Harmonious language's policy to support the wide-scale use of the national language as the most important factor for strengthening the ethnic unity on the condition of preserving the languages of all ethnic groups in Kazakhstan
Duration:	2011-2020
Amendments:	
Reference to ICH:	Design and publishing of the dictionaries, compendiums; translation of the world classic literature into Kazakh; translation of the famous Kazakh classics into world languages.

The National Program on Development of the Physical Culture and Sports in the Republic of Kazakhstan in 2007-2011

(adopted by the Act of the Government of 19 March 2007, ref.no 209)

Purpose:	Regular ethnic sport competitions ('togyz kumalak', 'kazaksha kures' etc. among children and student youth)
Duration:	2007-2011
Amendments:	Under revision
Reference to ICH:	Promotion of the ethnic sports among youth and their families

After joining the Convention in December 2011, the Kazakhstan National Commission for UNESCO took a number of initiatives. It broadly pursued a two-track policy. Already in December 2011, the Chairman of the National Commission sent the memo to the Head of the Office of the President of the Republic of Kazakhstan where he expressed the need on drawing up a long-term policy for Intangible Cultural Heritage. The President's Office shared the memo for consideration and comments with the Ministry of Culture, Ministry of Education and Science, Ministry of Foreign Affairs and the State Agency on Physical Culture and Sports. This process resulted in design of a draft Concept on Safeguarding the Intangible Cultural Heritage in Kazakhstan. The draft document consisted of an analysis of the existing and past efforts, the charting of the policy framework to bring the cultural heritage programs in line with the Convention.

Often, indeed, certain elements of ICH are linked to specific locations, which is why the preamble of the 2003 Convention refers to a deep-seated interdependence between the ICH and the tangible cultural as well as natural heritage. Objects and places that are instrumental in ICH performances and representations, however, do not have a specific outstanding or universal value

by themselves. Because of their function in existing intangible heritage practices a community may recognize it as its cultural heritage. However, the communities' objects that are related to living practices are to be used and not to be preserved in a museum. This anticipates the need in replacement if heritage object is damaged or destroyed, and therefore a need in specific skills.

The term 'cultural space' is not without its history in the UNESCO context. The cultural space is defined as a place that brings together a concentration of popular and traditional cultural activities or as a time for a normally regularly occurring event.¹ The definition includes natural spaces as well as human-made spaces, and also natural spaces influenced by people. Since all these spaces can be recognized as holy, or sacred, it is clear that sacred natural sites, which are common to nomadic culture, will also be covered by the notion of 'cultural space'.

Sacred natural sites are areas where nature, the divine and remembrances come together in special combinations that are particularly meaningful to a community, society, or people. They can be the abode of deities, nature spirits and ancestors. They can be feared and secret places and they can be benign areas for contemplation and meditation allowing also communication with the transcendental. Common to most sacred natural sites is that they are areas removed from everyday access and resource use. Thus, while the term may refer to sites of religious importance, it also encompasses places that are of symbolic significance; where space, place, memory, and spiritual meaning come together; a sacred natural site may also be a place valued for contemplation or meditation.²

Monuments, city and townscapes, landscapes, archaeological sites and movable cultural heritage are always placed under the protection of the national and/or local authorities from a national or general interest or due to their (symbolic) value to the Kazakh people. The Law on Historical and Cultural heritage tries to objectify the designation as heritage by arguing on the basis of criteria, such as:

- The archaeological, historical, cultural/historical, artistic or scientific significance and the general interest thereof.
- The rareness and indispensability. In order to be indispensable a cultural property must have special value for the collective memory, act as a link, or be a reference point or have special artistic value.

The authority can, however, assist, guide and support groups and communities in transmitting intangible cultural heritage. The national legislation safeguards intangible cultural heritage by giving heritage communities opportunities to transmit the intangible cultural heritage. In this way, the authorities offer the heritage community chances to cherish intangible cultural heritage. Thus, the government policy focuses on people, their knowledge and skills, their customs and practices and the way of transfer of such a knowledge and skills, customs and practices.

¹ See para. 7 of the Guide for the Presentation of Candidature Files for the Programme of the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity.

² In: Conserving Cultural and Biological Diversity: The Role of Sacred Natural Sites and Cultural Landscapes. UNESCO-MAB, Proceedings of the Tokyo Symposium, 2006, p. 186.

3. The Registry

In Kazakhstan, at the national level, the Ministry of Culture and Information and the local governments carry the responsibility for the safeguarding, inventorying and promotion of the cultural heritage. The Mukhstar Auezov' Research Institute of Literature and Arts under the Ministry of Education and Sciences and the Kazakh Society of Historical Sites and Monuments are involved in the process. The State Registry is comprised of two levels, national and regional-local according to the existing administrative divisions, and combined the territorial principle with classification according to historical monuments, sites and objects. In accordance with legislation the Government adopts the State Registry of the National Heritage Objects and also the State Registries of the Local Heritage Objects. Even though the registries already incorporates the petroglyphs of Tamgaly and some sacred sites, the intangible heritage elements are not part of the registries yet.

Although the Registry does not establish property rights for the stakeholders of this heritage, the ensuing documents may serve as proof of the right to claim. And in-as-much as it is connected to a database open to research, it becomes a valuable instrument for seeking alternatives for the development of communities.