

Annex 2|*Regulations*

Regulations of Vietnamese Legal Instrument on IPAspects of ICH

Law No. 36/2009/QH12 Amending and Supplementing a Number of Articles of the Law on Intellectual Property (Promulgated in 2009)

4. To amend and supplement Article 8 as follows:

Article 8. The State's intellectual property policies

1. To recognize and protect intellectual property rights of organizations and individuals on the basis of harmonizing benefits of intellectual property rights holders and public interests; not to protect intellectual property objects which are contrary to social ethics and public order and prejudicial to defense and security.
2. To encourage and promote the creation and utilization of intellectual assets in order to contribute to socio-economic development and improvement of the people's material and spiritual life.
3. To provide financial supports for the receipt and exploitation of assigned intellectual property rights in public interests; to encourage organizations and individuals at home or abroad to provide financial aid for creative activities and the protection of intellectual property rights.
4. To prioritize investment in training and retraining the contingent of cadres, civil servants, public employees and other relevant subjects engaged in the protection of intellectual property rights and the research into and application of sciences and technologies to the protection of intellectual property rights.
5. To mobilize social resources for investment in raising the capacity of the system to protect intellectual property rights, thereby meeting requirements of socio-economic development and international economic integration."

5. To amend and supplement Article 14 as follows:

Article 14. Types of works eligible for copyright protection

1. Literary, artistic and scientific works eligible for copyright protection include:
 - a) Literary and scientific works, textbooks, teaching courses and other works expressed in written languages or other characters;
 - b) Lectures, addresses and other sermons;
 - c) Press works;

- d) Musical works;
 - e) Dramatic works;
 - f) Cinematographic works and works created by a process analogous to cinematography (below collectively referred to as cinematographic works);
 - g) Plastic-art works and works of applied art;
 - h) Photographic works;
 - i) Architectural works;
 - j) Sketches, plans, maps and drawings related to topography, architecture or scientific works;
 - k) Folklore and folk art works of folk culture;
 - l) Computer programs and data compilations.
2. Derivative works shall be protected under Clause 1 of this Article only if it is not prejudicial to the copyright to works used to create these derivative works.
 3. Protected works defined in Clauses 1 and 2 of this Article must be created personally by authors through their intellectual labor without copying others' works.
 4. The Government shall guide in detail the types of works specified in Clause 1 of this Article."

Article 20.*Economic rights*

1. Economic rights [of authors] shall comprise the following rights:
 - a) To make derivative works;
 - b) To display their works to the public;
 - c) To reproduce their works;
 - d) To distribute or import the original or copies of their works;
 - e) To communicate their works to the public by wireless or landline means, electronic information networks or other technical means;
 - f) To lease the original or copies of cinematographic works and computer programs.
2. Authors or copyright holders shall exclusively exercise the rights stipulated in clause 1 of this article or may grant other persons the right to exercise such rights pursuant to the provisions of this Law.
3. When any organization or individual exercises one, several or all of the rights stipulated in clause 1 of this article and in article 19.3 of this Law, such organization or individual must ask for permission from the copyright holder and must pay royalties, remuneration or other material benefits to the copyright holder.

Article 23.*Copyright in folklore and folk art works*

1. *Folklore and folk art work* means a collective creation based on the traditions of a community or individuals reflecting the ambitions of such

community and expressed in a form appropriate to the cultural and social characteristics, standards and values of such community which have been handed down by imitation or other modes. Folklore and folk art works shall comprise:

- a) Folk tales, lyrics and riddles;
 - b) Folk songs and melodies;
 - c) Folk dances, plays, rites and games;
 - d) Folk art products including graphics, paintings, sculpture, musical instruments, architectural models and other artistic expressions in any material form.
2. Organizations and individuals using folklore and folk art works must cite the origins of the folklore and folk art works, and must ensure that the authentic value of such folklore and folk art works is preserved.

Article 28. *Conduct constituting infringement of copyright*

1. Appropriating copyright in a literary, artistic or scientific work.
2. Impersonating an author.
3. Publishing or distributing a work without permission from the author.
4. Publishing or distributing a work of joint authors without permission from the co-authors.
5. Modifying, editing or distorting a work in any way which prejudices the honour and reputation of the author.
6. Copying a work without permission from the author or copyright holder, except in the cases stipulated in sub-clauses (a) and (dd) of article 25.1 of this Law.
7. Making a derivative work without permission from the author or copyright holder of the work used for making such derivative work, except in the case stipulated in sub-clause (i) of article 25.1 of this Law.
8. Using a work without permission from the copyright holder and without paying royalties, remuneration or other material benefits in accordance with law, except in the cases stipulated in article 25.1 of this Law.
9. Leasing out a work without paying royalties, remuneration or other material benefits to the author or copyright holder.
10. Duplicating, producing copies of, distributing, displaying or communicating a work to the public via a communications network or digital means without permission from the copyright holder.
11. Publishing a work without permission from the copyright holder.
12. Deliberately destroying or de-activating the technical solutions applied by the copyright holder to protect copyright in his or her work.
13. Deliberately deleting or modifying electronic information in a work regarding management of the rights to such work.
14. Manufacturing, assembling, transforming, distributing, importing, exporting, selling or leasing out equipment when knowing, or having

grounds to know, that such equipment may de-activate technical solutions applied by the copyright holder to protect copyright in his or her work.

15. Making and selling a work with a forged signature of the author of such work.
16. Importing, exporting or distributing copies of a work without permission from the copyright holder.

Decree No.85/2011/NĐ-CP

Detailing and Guiding the Implementation of a Number articles of the Law on Intellectual Property and the Law Amending and Supplementing some Articles of the Decree No.100.2006/NĐ-CP on Detailed Regulation and Guidance to the Implementation of a Number of Provisions in the Civil Code and the Intellectual Property Law (effective from January 1st 2011).

Based on the Law No. 36/2009/QH12 Amending and Supplementing a Number of Articles of the Law on Intellectual Property, which was effective from 01/01/2011, the Government issued Decree No.85/2011/NĐ-CP amending and supplementing certain articles of the Decree No. 100/2006/ND-CP on detailed regulation and guidance to the implementation of a number of provisions in the Civil Code and the Intellectual Property Law on copy Rights and related rights. Decree No. 85 came into force since 10/11/2011 amended the provisions on the term of protection for posthumous works, photographic works, apply art works, the use of broadcasts, the right to reproduce the works, assignment for an anonymous work, the usage of the works, performance, sound recording, etc. The Decree also clarified some of the terms and supplemented 03 regulations on copyright for computer programs, literature, folk arts; principles and methods of payment of royalties, etc.

Ministry of Culture, Sports and Tourism, Ministry of Finance, Ministry of Information and Communication were commissioned by the Government to promulgate the tariff duties, payment of royalties, remuneration and material benefits as prescribed in clause 1 of 26 and 33 paragraphs 1 and 2 of the Intellectual Property Law were amended and supplemented.