

THE LAW OF THE REPUBLIC OF BELARUS
of March 5, 2024, No. 356-3

On Genetic Resources Management

Adopted by the House of Representatives on 31 January 2024

Approved by the Council of the Republic on 19 February 2024

This Law was enacted in furtherance of the *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity* of October 29, 2010 (hereinafter referred to as “the Nagoya Protocol”), and it establishes legal bases for state regulation in the field of genetic resources management and/or associated traditional knowledge for the purpose of their protection and the fair and equitable sharing of benefits arising from their utilization to ensure the conservation and sustainable use of biological diversity, preservation of human health and provision of food security.

CHAPTER 1 GENERAL PROVISIONS

Article 1. Main Terms Used in This Law and Their Definitions

1. “*Mutually agreed terms*” means the terms of the fair and equitable sharing by a provider, a user and/or a third party of benefits arising from the utilization of genetic resources (hereinafter referred to as “benefits”).

2. “*Genetic resources*” means genetic material of actual or potential value, as well as digital nucleotide sequence information.

3. “*Genetic material*” means any material of animal, plant, microbial or other origin containing functional units of heredity.

4. “*Access to genetic resources*” means the right to obtain genetic resources and/or traditional knowledge associated with them for the purpose of their utilization outside the Republic of Belarus, confirmed by the Internationally Recognized Certificate of Compliance.

5. “*Utilization of genetic resources*” means carrying out of research, developments in relation to the genetic and/or biochemical composition of genetic resources; the development, modification and/or commercialization of products and materials based on or involving genetic resources; the disposal of rights to such products and materials; the use of traditional knowledge associated with genetic resources; other activities involving the utilization of genetic resources.

6. “*Checkpoint in the field of genetic resources management*” (hereinafter referred to as “the checkpoint”) means an organization or its structural subdivision exercising monitoring in the field of genetic resources management.

7. “*Internationally Recognized Certificate of Compliance*” (hereinafter referred to as “the International Certificate”) means a document in electronic form confirming access to genetic resources in accordance with this Law, valid without limit of time.

8. **“Clearing-House for the Nagoya Protocol”** means an information resource over the global computer network Internet developed for the implementation of the Nagoya Protocol and providing international information exchange on access to genetic resources and benefit-sharing; on legislation in the field of genetic resources management and other related information.

9. **“Monitoring in the field of genetic resources management”** means the collection, systematization and analysis of information on provided genetic resources and/or associated traditional knowledge, their utilization, benefit-sharing, as well as compliance with this Law during the transfer of genetic resources and/or associated traditional knowledge.

10. **“National Coordination Centre on Access to Genetic Resources and Benefit-sharing”** (hereinafter, unless otherwise provided, referred to as “the National Coordination Centre”) means the structural subdivision of the State Scientific Institution “Institute of Genetics and Cytology of the National Academy of Sciences of Belarus” (hereinafter referred to as “the Institute of Genetics and Cytology of NAS of Belarus”), which provides access (changes the terms of access) to genetic resources; carries out coordination of activities and international cooperation in the field of genetic resources management; and also performs other tasks in this field.

11. **“Genetic resources management”** means activity associated with the provision (a change in terms) of access to genetic resources, the transfer of genetic resources and/or associated traditional knowledge outside the Republic of Belarus and to the Republic of Belarus from outside its borders, the utilization of genetic resources and benefit-sharing, monitoring in the field of genetic resources management and the provision of related information.

12. **“User”** means a legal entity or an individual of the Republic of Belarus, including an individual entrepreneur, a foreign or an international legal entity (an organization that is not a legal entity), a foreign citizen, a stateless person who accept genetic resources and/or associated traditional knowledge transferred to them by a provider for the purpose of their utilization.

13. **“Provider”** means a legal entity or an individual of the Republic of Belarus, including an individual entrepreneur, who provides available genetic resources and/or associated traditional knowledge to a user for the purpose of their utilization.

14. **“Traditional knowledge associated with genetic resources”** means knowledge related to the use of species (breeds, varieties) of animals and plants inhabiting (being bred), growing (being cultivated) in a certain area, their parts and/or derivatives; acquired on the basis of accumulated experience by the population living in this area and transmitted from generation to generation.

15. **“Functional units of heredity”** means deoxyribonucleic acid (DNA) and ribonucleic acid (RNA) molecules and their parts.

16. **“Digital nucleotide sequence information”** means information in electronic form about nucleotide sequences in the functional units of heredity.

Article 2. Legal Regulation of Relations in the Field of Genetic Resources Management

1. Relations in the field of genetic resources management, except for the relations specified in paragraph 4 of this Article, shall be regulated by legislation in the field of genetic resources management, the Nagoya Protocol, as well as other international treaties of the Republic of Belarus and other international legal acts containing the commitments of the Republic Belarus.

2. Legislation in the field of genetic resources management shall be based on the Constitution of the Republic of Belarus and consist of this Law and other legislative acts.

3. If an international treaty of the Republic of Belarus establishes rules other than those provided for by this Law, then the rules of an international treaty shall apply.

4. Legislation in the field of genetic resources management shall not regulate the relations:

4.1. associated with the management of genetic resources of a human, as well as potentially pathogenic and pathogenic microorganisms;

4.2. associated with the transfer and utilization by legal entities and individuals, including individual entrepreneurs, of genetic resources within the borders of the Republic of Belarus, except for the utilization of genetic resources transferred to the Republic of Belarus from outside its borders in accordance with the provisions of the Nagoya Protocol;

4.3. associated with the utilization of genetic resources transferred to the Republic of Belarus from foreign states that are not Parties to the Nagoya Protocol;

4.4. arising during the trade in agricultural and other products of animal, plant and microbial origin, unless further research and development is implied in relation to the genetic and/or biochemical composition of such products and/or the development or modification of products and materials based on them or with their inclusion;

4.5. associated with the demonstration (exposition) of genetic resources at educational, exhibition, cultural, awareness-raising, advertising and other events without the use of those resources;

4.6. associated with the provision and use of digital nucleotide sequence information, which its owner:

has posted in the public domain over the global computer network Internet; published in a scientific journal, other printed media specializing in the dissemination of scientific information or provides it for such posting outside the Republic of Belarus;

has provided to information systems (sites over the global computer network Internet, applications) for its computer analysis for similarity with other digital nucleotide sequence information and information on the genetic functions determined by the corresponding functional units of heredity.

5. In order to stimulate and encourage research that contributes to the conservation and sustainable use of biological diversity; during the provision (a change in terms) of access to plant genetic resources for food and agriculture, simplified measures for providing access to those genetic resources for non-commercial research purposes shall apply in accordance with paragraph 12 of Article 14 of this Law.

Article 3. Main Principles of Genetic Resources Management

The main principles of genetic resources management shall be as follows:

conservation of biological diversity;

sustainable use of genetic resources;

the fair and equitable sharing of benefits;

voluntariness, equity and cooperation during access to genetic resources and their utilization;

ensuring access to information in the field of genetic resources management;
compliance with generally accepted principles of international law and the norms of international treaties of the Republic of Belarus in the field of the conservation and sustainable use of biological diversity;
liability for a violation of legislation in the field of genetic resources management.

Article 4. Objects of Relations in Genetic Resources Management

Objects of relations in the field of genetic resources management shall be genetic resources and associated traditional knowledge provided outside the Republic of Belarus or provided to the Republic of Belarus from outside its borders, as well as derived benefits.

Article 5. Subjects of Relations in Genetic Resources Management

Subjects of relations in the field of genetic resources management shall be as follows:

The President of the Republic of Belarus, the Council of Ministers of the Republic of Belarus, the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus (hereinafter referred to as “the Ministry of Nature”), the National Academy of Sciences of Belarus (hereinafter referred to as “the NAS of Belarus”);

legal entities and individuals of the Republic of Belarus, including individual entrepreneurs, involved in genetic resources management;

foreign states, their administrative and territorial (state and territorial) entities, which are, in accordance with legislation of these states, the participants of civil relations; foreign and international legal entities (organizations that are not legal entities), international organizations and interstate entities, foreign citizens, stateless persons involved in genetic resources management.

Article 6. Financing of the Activity of the National Coordination Centre

Financing of the activity of the National Coordination Centre and the tasks assigned to it shall be provided out of:

funds provided to the Institute of Genetics and Cytology, NAS of Belarus, to carry out the tasks assigned to the National Coordination Centre within the limits of the republican budget provided for the financing of scientific and scientific-technical activities allocated to ensure the statutory activity of the NAS of Belarus;

funds received from the services provided in the field of genetic resources management;

funds received from the distribution of monetary benefits in accordance with subparagraph 3.1 of paragraph 3 of Article 25 of this Law if the National Coordination Centre acts as a provider;

funds received from the distribution of monetary benefits in accordance with subparagraph 3.2 of paragraph 3 of Article 25 of this Law;

other sources not prohibited by this Law and other legislative acts.

CHAPTER 2
STATE ADMINISTRATION AND SCIENTIFIC SUPPORT
IN THE FIELD OF GENETIC RESOURCES MANAGEMENT

Article 7. State Administration in the Field of Genetic Resources Management

State Administration in the field of genetic resources management shall be exercised by the President of the Republic of Belarus, the Council of Ministers of the Republic of Belarus, the Ministry of Nature and NAS of Belarus.

Article 8. Powers of the President of the Republic of Belarus in the Field of Genetic Resources Management

1. The President of the Republic of Belarus in the field of genetic resources management shall determine the unified state policy and exercise other powers in accordance with the Constitution of the Republic of Belarus, this Law and other legislative acts.

2. The President of the Republic of Belarus may establish the specifics of the legal regulation of relations regulated by this Law.

Article 9. Powers of the Council of Ministers of the Republic of Belarus in the Field of Genetic Resources Management

The Council of Ministers of the Republic of Belarus in the field of genetic resources management shall:

- ensure the implementation of the unified state policy;
- establish the procedure for providing (changing terms of) access to genetic resources;
- determine checkpoints and establish the monitoring procedure in the field of genetic resources management and its data use;
- establish the procedure for spending funds received from the distribution of monetary benefits;
- exercise other powers in accordance with this Law and other legislative acts.

Article 10. Powers of the Ministry of Nature in the Field of Genetic Resources Management

1. The Ministry of Nature is the competent national authority for access to genetic resources and benefit-sharing related issues.

2. The Ministry of Nature in the field of genetic resources management shall:

- 2.1. implement the unified state policy;
- 2.2. carry out, jointly with the National Coordination Centre, coordination of activities and international cooperation;
- 2.3. establish the form of the Transfer Act for genetic resources and/or associated traditional knowledge (hereinafter referred to as “the Transfer Act”); notifications of the transfer of genetic resources and/or associated traditional knowledge; notifications of the results of genetic resources’ utilization;
- 2.4. accomplish the harmonization of providing (changing terms of) access to genetic resources;
- 2.5. exercise other powers in accordance with this Law and other legislative acts.

**Article 11. Powers of the NAS of Belarus
in the Field of Genetic Resources Management**

The NAS of Belarus in the field of genetic resources management shall:
exercise coordination of scientific activity;
approve the provision on the National Coordination Centre on Access to Genetic Resources and Benefit-sharing;
take part in the preparation of draft normative legal acts;
exercise other powers in accordance with this Law and other legislative acts.

**Article 12. Powers of the National Coordination Centre
in the Field of Genetic Resources Management**

The National Coordination Centre in the field of genetic resources management shall:
carry out, jointly with the Ministry of Nature, coordination of activities, including in part of monitoring in the field of genetic resources management;
ensure liaison between providers and users and checkpoints, as well as competent national authorities, on the issues of access to genetic resources and benefit-sharing and the checkpoints of foreign states Party to the Nagoya Protocol;
provide access (change access terms of) to genetic resources on a paid basis;
submit information in the field of genetic resources management to the Clearing-House for the Nagoya Protocol, including for issuing International Certificates;
maintain an electronic monitoring database in the field of genetic resources management;
provide to legal entities and individuals of the Republic of Belarus, including individual entrepreneurs, foreign states, their administrative and territorial (state and territorial) entities, which are, in accordance with legislation of these states, the participants of civil relations; foreign and international legal entities (organizations that are not legal entities), international organizations and interstate entities, foreign citizens, stateless persons involved in genetic resources management information on the procedure for access to genetic resources, as well as provided genetic resources and/or associated traditional knowledge;
carry out, jointly with the Ministry of Nature, international cooperation;
raise awareness in the field of genetic resources management, including by posting information on the website of the National Coordination Centre over the global computer network Internet;
provide services in the field of genetic resources management on a paid basis.

**Article 13. Scientific Support
in the Field of Genetic Resources Management**

1. Scientific support for the implementation of the international treaties of the Republic of Belarus and other international legal acts containing the commitments of the Republic of Belarus in the field of genetic resources management shall be provided by the NAS of Belarus.
2. Other scientific organizations in the field of genetic resources management shall take part in the provision of scientific support for the execution of the international treaties of the Republic of Belarus and other international legal acts containing the commitments of the Republic of Belarus, as well as carrying out of scientific research in accordance with legislation on scientific, scientific and technical and innovation activity.

CHAPTER 3 ACCESS TO GENETIC RESOURCES AND THEIR UTILIZATION

Article 14. Access to Genetic Resources

1. Providing (changing terms of) access to genetic resources shall be carried out by the National Coordination Centre in accordance with legislation on administrative procedures.
2. In order to obtain access to genetic resources, a user shall conclude a transfer agreement for genetic resources and/or associated traditional knowledge (hereinafter referred to as “the transfer agreement for genetic resources”) with a provider.
3. After concluding a transfer agreement for genetic resources, a provider or a user shall apply to the National Coordination Centre for obtaining (changing terms of) access to genetic resources.
4. Providing (changing terms of) access to genetic resources shall be carried out upon agreement with the Ministry of Nature requested by the National Coordination Centre independently, except for the case stipulated by paragraph 12 of this Article.
5. Providing (changing terms of) access to genetic resources shall be confirmed by the International Certificate.
6. Providing (changing terms of) access to genetic resources shall be carried out by the National Coordination Centre on a paid basis in accordance with the procedure established by the Council of Ministers of the Republic of Belarus. The term of the execution of the specified administrative procedure shall be no more than one month after the submission to the National Coordination Centre by a provider or a user of an application or documents determined by the Council of Ministers of the Republic of Belarus.
7. If at the moment of the conclusion of a transfer agreement for genetic resources, wild animals and/or wild plants, their parts and/or derivatives subject to the transfer are in their natural habitat, then during the conclusion of the transfer agreement for genetic resources, a legal entity or an individual of the Republic of Belarus, including an individual entrepreneur, who has obtained a permit for the removal of those wild animals or wild plants, their parts and/or derivatives from their habitat in accordance with legislation on the protection of the environment, on the protection and use of the animal kingdom, on the protection and use of the plant kingdom shall act as a provider.
8. In the case of the transfer of wild animals and/or wild plants, their parts and/or derivatives that are in their natural habitat and for their removal, in accordance with legislation on environmental protection, on the protection and use of the animal kingdom, on the protection and use of the plant kingdom, no permit for the removal of those wild animals or wild plants, their parts and/or derivatives from their habitat is required, as well as in the case of the transfer of microorganisms, including those contained in the samples of the components of the natural environment (soils, bowels, water, atmospheric air), during the conclusion of the transfer agreement for genetic resources, a legal entity or an individual of the Republic of Belarus, including an individual entrepreneur, who has removed or is planning to remove wild animals or wild plants, their parts and/or derivatives from their natural habitat or the samples of the components of the natural environment containing microorganisms shall act as a provider.
9. During the transfer of traditional knowledge associated with genetic resources, an individual of the Republic of Belarus directly possessing such knowledge or a legal entity or an individual of the Republic of Belarus, including an individual entrepreneur, to whom an individual has given consent in a written form to the use and/or the transfer of his/her knowledge, shall act as a provider.
10. In order to change the terms of access to genetic resources, including the purpose of the transfer of genetic resources and/or associated traditional knowledge and/or the expected results of the utilization of genetic resources, a user shall conclude an additional agreement to the transfer agreement for genetic resources with a provider.

11. After the conclusion of an additional agreement to the transfer agreement for genetic resources between a provider and a user, the provision (changing terms) of access to genetic resources shall be carried out in accordance with legislation on administrative procedures.

12. During the provision (changing terms) of access to plant genetic resources for food and agriculture a list of which is established by the Council of Ministers of the Republic of Belarus, for noncommercial research purposes, the approval of the Ministry of Nature shall not be requested.

Article 15. Essential Terms of a Transfer Agreement for Genetic Resources

1. A transfer agreement for genetic resources must contain the following essential terms:

1.1. purposes of the transfer of genetic resources and associated traditional knowledge with an indication of their nature (commercial or non-commercial);

1.2. information on the provided genetic resources:

a species, including in Latin, a subspecies, a variety, a breed etc. with an indication of the inclusion of the genetic material of other species and other information on genetic engineering in the case of its use (except for the genetic resources transferred to establish a species affiliation);

the form and number of samples (specimens of animals, plants, microorganisms; parts and/or derivatives of animals (organs, tissue fragments, caviar, eggs etc.); plants (leaves, flowers, tissue fragments, grains, fruits etc.); samples of natural environment components (soil, bowels, water, atmospheric air); test tubes, other containers containing genetic resources subject to the transfer; holders of information about traditional knowledge associated with genetic resources, digital nucleotide sequence information (a hard copy and/or in electronic form) etc.;

the place and time period of removal (for wild animals and wild plants, their parts and/or derivatives, samples of natural environment components containing microorganisms); creation and/or storage (for animal breeds, plant varieties); storage (for the genetic material contained in gene banks, specimen collections, herbaria etc.); formation (for traditional knowledge associated with genetic resources); sequencing (for digital nucleotide sequence information);

1.3. expected results from genetic resources utilization;

1.4. terms of the transfer of genetic resources and/or associated traditional knowledge;

1.5. rights and obligations of a provider;

1.6. rights and obligations of a user;

1.7. mutually agreed terms containing one or more benefits;

1.8. terms and/or procedure for third party participation in relation to genetic resources utilization;

1.9. liability of Parties, dispute settlement procedure.

2. The results of genetic resources utilization may be as follows:

2.1. a research and development report;

2.2. publication in a scientific journal, other printed media specializing in the dissemination of scientific information, in the public domain over the global computer network Internet;

2.3. creation or modification of a product, material, other object;

2.4. including the transferred traditional knowledge associated with genetic resources or digital nucleotide sequence information in the national or international database, which corresponds to the composition of genetic resources;

2.5. any other result of genetic resources utilization specified in the transfer agreement for genetic resources.

3. The scope of persons who may act as a third party in a transfer agreement for genetic resources may be limited by the terms of such an agreement.

Article 16. Transfer of Genetic Resources and/or Traditional Knowledge Associated with Them

1. The transfer of genetic resources and/or associated traditional knowledge outside the Republic of Belarus shall be accomplished on the basis of a transfer agreement for genetic resources.

2. The transfer of genetic resources and/or associated traditional knowledge to the Republic of Belarus from foreign states Party to the Nagoya Protocol shall be accomplished on the basis of the International Certificate.

3. In the case of the transfer of genetic resources and/or associated traditional knowledge outside the Republic of Belarus, a Transfer Act shall be issued according to the form established by the Ministry of Nature, which shall be signed by a user and a provider; shall be submitted by a provider to the National Coordination Centre and hereinafter used for monitoring in the field of genetic resources management in accordance with the procedure established by the Council of Ministers of the Republic of Belarus.

Article 17. Genetic Resources Utilization

1. Genetic resources utilization shall be allowed after posting the International Certificate in the public domain in the Clearing-House for the Nagoya Protocol:

1.1. genetic resources and/or associated traditional knowledge transferred outside the Republic of Belarus – after signing the Transfer Act;

1.2. genetic resources and/or associated traditional knowledge transferred to the Republic of Belarus from foreign states Party to the Nagoya Protocol – after submitting by a user to the National Coordination Centre of a notification on the transfer of genetic resources and/or associated traditional knowledge in accordance with the procedure established by the Council of Ministers of the Republic of Belarus for monitoring in the field of genetic resources management.

2. A form of a notification on the transfer of genetic resources and/or associated traditional knowledge shall be established by the Ministry of Nature.

3. When changing the terms of a transfer agreement for genetic resources by concluding an additional agreement, the utilization of genetic resources under the terms of this agreement shall be allowed after a corresponding change in the International Certificate in accordance with the procedure established by the Council of Ministers of the Republic of Belarus.

4. A user shall submit a notification to the checkpoint on the results of genetic resources utilization according to the form established by the Ministry of Nature, in accordance with the procedure established by the Council of Ministers of the Republic of Belarus.

5. In the case of the identification of the transfer of genetic resources and/or associated traditional knowledge outside the Republic of Belarus for utilization in the absence of a transfer agreement for genetic resources, the utilization of genetic resources shall be carried out on the basis of an agreement for the utilization of genetic resources and/or associated traditional knowledge (hereinafter referred to as “an agreement for genetic resources utilization”) concluded between a provider and a user.

6. An agreement for genetic resources utilization must contain essential terms stipulated by subparagraphs 1.1-1.3, 1.5-1.9 of paragraph 1 of Article 15 of this Law.

7. In the case of a written refusal of a provider to conclude an agreement for genetic resources utilization, in the case specified by paragraph 5 of this Article, such an agreement shall be concluded by the National Coordination Centre with a user. At that, the National Coordination Centre shall act as the only provider. In accordance with an agreement for genetic resources utilization, benefit-sharing shall be realized from the moment of the conclusion of such an agreement.

8. In the case of a refusal to conclude an agreement for genetic resources utilization by a

user, in the case specified by paragraph 5 of this Article, or a refusal to remedy other breaches related to the procedure for genetic resources management established by legislation in the field of genetic resources management, he or she shall be added to the bad user list in accordance with the procedure established by the Council of Ministers of the Republic of Belarus for monitoring in the field of genetic resources management.

CHAPTER 4

RIGHTS AND OBLIGATIONS OF PROVIDERS, USERS, OTHER INDIVIDUALS AND LEGAL ENTITIES IN THE FIELD OF GENETIC RESOURCES MANAGEMENT

Article 18. Rights and Obligations of Providers in Genetic Resources Management

1. Providers shall have the right to:
 - 1.1. transfer of genetic resources in accordance with this Law and the terms of a transfer agreement for genetic resources;
 - 1.2. share benefits with a user and/or a third party fairly and equitably;
 - 1.3. exercise other rights in the field of genetic resources management unless their exercise contradicts legislative requirements.
2. Providers shall be obliged to:
 - 2.1. comply with the terms of a transfer agreement for genetic resources, an agreement for genetic resources utilization;
 - 2.2. not to violate the rights of other individuals during the transfer of genetic resources and/or associated traditional knowledge;
 - 2.3. provide information on the transferred genetic resources and/or associated traditional knowledge in cases and in accordance with the procedure established by legislation in the field of genetic resources management;
 - 2.4. fulfill other obligations stipulated by this Law and other legislative acts.

Article 19. Rights and Obligations of Users in Genetic Resources Management

1. Users shall have the right to:
 - 1.1. receive and use genetic resources in accordance with this Law and the terms of a transfer agreement for genetic resources and an agreement for genetic resources utilization, as well as:
 - in the case of the transfer of genetic resources and/or associated traditional knowledge from the Republic of Belarus to a foreign state – in accordance with legislation of this state;
 - in the case of the transfer of genetic resources and/or associated traditional knowledge from the Republic of Belarus to a foreign state Party to the Nagoya Protocol – in accordance with the Nagoya Protocol;
 - 1.2. share benefits fairly and equitably with a provider or a third party in accordance with the terms of a transfer agreement for genetic resources, an agreement for genetic resources utilization;
 - 1.3. exercise other rights in the field of genetic resources management unless their exercise contradicts legislative requirements.
2. Users shall be obliged to:
 - 2.1. comply with the terms of a transfer agreement for genetic resources, an agreement for genetic resources utilization;
 - 2.2. not to violate the rights of other individuals during the utilization of provided genetic resources;

2.3. provide information on the genetic resources and/or associated traditional knowledge provided to the Republic of Belarus, as well as on their utilization results in accordance with the procedure established by legislation in the field of genetic resources management;

2.4. fulfill other obligations stipulated by this Law and other legislative acts.

Article 20. Rights of Legal Entities and Individuals, Including Individual Entrepreneurs, to Obtain Information in the Field of Genetic Resources Management

1. Legal entities and individuals, including individual entrepreneurs, shall have the right to obtain information on the procedure for access to genetic resources, as well as on provided genetic resources and/or associated traditional knowledge.

2. Information on provided genetic resources and/or associated traditional knowledge refers to ecological information and shall be provided in accordance with legislation on environmental protection.

CHAPTER 5 MONITORING IN THE FIELD OF GENETIC RESOURCES MANAGEMENT. LIABILITY FOR A VIOLATION OF LEGISLATION IN THE FIELD OF GENETIC RESOURCES MANAGEMENT

Article 21. Monitoring in the Field of Genetic Resources Management and its Data Use

1. Monitoring in the field of genetic resources management shall be carried out by checkpoints.

2. Based on the information obtained from providers, users and checkpoints, the National Coordination Centre shall maintain an electronic monitoring database in the field of genetic resources management.

3. Monitoring data in the field of genetic resources management may be used for the assessment of compliance with legislation in the field of genetic resources management, the Nagoya Protocol and the terms of a transfer agreement for genetic resources utilization.

4. In the case where the facts of the transfer of genetic resources and/or associated traditional knowledge outside the Republic of Belarus for the purpose of their utilization are established in the absence of a transfer agreement for genetic resources and/or the International Certificate or the facts of a change in the purposes of genetic resources utilization transferred outside the Republic of Belarus, the nature of such purposes (commercial or non-commercial), the results of genetic resources utilization compared to those established in a transfer agreement for genetic resources, an agreement for genetic resources utilization, the National Coordination Centre shall, within the scope of its competence, implement measures for notifying the Ministry of Nature and the checkpoint of a foreign state Party to the Nagoya Protocol and other measures provided for by legislation in the field of genetic resources management, as well as the international treaties of the Republic of Belarus and other international legal acts containing commitments of the Republic of Belarus, to establish the circumstances and harmonize the utilization of genetic resources with legislation in the field of genetic resources management.

Article 22. Checkpoints

1. The main checkpoint objectives shall be as follows:

1.1. collection of information from providers and users on the genetic resources transferred, as well as their utilization, its consolidation and submission to the National Coordination Centre;

1.2. analysis of databases hosted in the public domain over the global computer network

Internet and containing information on genetic resources in terms of the availability of information on the transfer of genetic resources and/or associated traditional knowledge outside the Republic of Belarus and to the Republic of Belarus from foreign states Party to the Nagoya Protocol and their utilization;

1.3. assessment of information obtained for compliance with legislation in the field of genetic resources management, the Nagoya Protocol and the terms of a transfer agreement for genetic resources management, an agreement for genetic resources utilization;

1.4. informing providers and users about the facts of breach of terms of a transfer agreement for genetic resources, an agreement for genetic resources utilization, including benefit-sharing, as well as about detected violations of legislation in the field of genetic resources management;

1.5. informing state bodies exercising control in the field of genetic resources management about detected violations of legislation in the field of genetic resources management.

2. Financing of checkpoints' activity on the implementation of their functions shall be provided from the sources stipulated by legislation.

Article 23. Liability for a Violation of Legislation in the Field of Genetic Resources Management

Violation of legislation in the field of genetic resources management shall entail a liability in accordance with legislative acts.

CHAPTER 6 BENEFIT-SHARING

Article 24. Benefits

1. As a result of genetic resources utilization, a provider, a user and/or a third party may derive monetary and/or non-monetary benefits.

2. Specific benefits in each particular case of the transfer of genetic resources and/or associated traditional knowledge and the terms of their sharing between a provider, a user and a third party shall be specified in mutually agreed terms of a transfer agreement for genetic resources, an agreement for genetic resources utilization.

Article 25. Distribution of Monetary Benefits

1. A transfer agreement for genetic resources, an agreement for genetic resources utilization shall specify the following monetary benefits:

1.1. distribution of monetary benefits derived by a user and/or a third party in the form of royalties as a result of the launch of mass production, other commercial use of products and materials during the development or modification of which genetic resources and/or associated traditional knowledge were used;

1.2. preferential terms of purchasing by a provider of products and materials developed or modified by a user and/or a third party using genetic resources and/or associated traditional knowledge (medications, biologically active supplements and agents and other products and materials);

1.3. other monetary benefits.

2. The amount of monetary benefits and/or the procedure for their calculation, the terms of money transfer by a user and/or a third party shall be established in mutually agreed terms of a transfer agreement for genetic resources, an agreement for genetic resources utilization in compliance with the provisions of paragraph 3 of this Article.

3. When distributing monetary benefits arising from the utilization of genetic resources

provided from the Republic of Belarus in the form of monetary funds, a user and/or a third party shall transfer such funds in the proportion as follows:

3.1. 90 % of the amount of funds subject to the transfer – to a provider;

3.2. 10 % of the amount of funds subject to the transfer – to the current (settlement) bank account with a special operating mode of the Institute of Genetics and Cytology, NAS of Belarus.

4. The funds specified in subparagraph 3.2 of paragraph 3 of this Article shall be allocated for activities in the field of conservation and sustainable use of biological and landscape diversity, including for carrying out of research and development works and the financing of the activity of the National Coordination Centre to fulfill the tasks assigned to it, in accordance with the procedure established by the Council of Ministers of the Republic of Belarus.

Article 26. Distribution of Non-monetary Benefits

1. The following non-monetary benefits may be specified in a transfer agreement for genetic resources, an agreement for genetic resources utilization:

1.1. sharing of benefits by a provider, a user and/or a third party of research and development results using genetic resources and/or associated traditional knowledge;

1.2. transfer by a user and/or a third party of technologies of the utilization of genetic resources to a provider;

1.3. participation of a provider in biotechnology and other research on genetic resources carried out by a user and/or a third party;

1.4. delivery by a user and/or a third party of equipment associated with genetic resources to a provider;

1.5. improvement by a user and/or a third party of the infrastructure of a provider associated with genetic resources;

1.6. other non-monetary benefits.

2. The procedure for distributing non-monetary benefits shall be established in a transfer agreement for genetic resources, an agreement for genetic resources utilization.

CHAPTER 7 FINAL PROVISIONS

Article 27. Measures to Implement the Provisions of this Law

Within the year, the Council of Ministers of the Republic of Belarus shall:

prepare and introduce, in accordance with the established procedure, proposals for harmonizing legislative acts with this Law;

harmonize the decisions of the Government of the Republic of Belarus with this Law;

ensure the harmonization by the Republican Bodies of the State Administration subordinate to the Government of the Republic of Belarus of their normative legal acts with this Law;

adopt other measures to implement the provisions of this Law.

Article 28. Entry of this Law into Force

This Law shall enter into force in the following order:

Articles 1-26 – in a year after the official publication of this Law;

other provisions – after the official publication of this Law.

President of the Republic of Belarus

A. Lukashenko