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Study on the Implementation of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions for the European Parliament

Introduction

The Geneva based law firm Germann Avocats and its interdisciplinary research team are completing a study for the European Parliament's Committee on Culture and Education (CULT). The overall objective of the study is to provide a summary of the state of implementation of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), in particular in fields where the European Community would be expected to provide leadership or coordination.

This study shall give assistance and long-term guidance to the EU on implementing the UNESCO Convention by carrying out a detailed analysis of the obligations set out by this international treaty. In particular, we shall gather information on the various practices in implementing the UNESCO Convention, from a legal and practical viewpoint, and identify challenges and measures to help achieve the objectives of this instrument.

For these purposes, we drafted three sets of questionnaires. The first questionnaire shall allow us to gather legal data. The second questionnaire shall inform us about the implementation of the UNESCO Convention from the perspective of representatives of civil society. The third questionnaire shall cover the situation from the angle of a selection of regional organizations (African Union, Association of Caribbean States, Association of Southeast Asian States, Commonwealth, Council of Europe, European Union, International Organization of the Francophonie, League of Arab States, and Organization of American States).

Expected results from the surveys

We expect to collect valuable information on public measures that are specifically undertaken to protect and promote cultural diversity on the national level in different jurisdictions. We will obtain rich data, which will allow us to compare regulatory practice in varying economic and political situations. We shall use and compare this information in our subsequent analysis that will eventually provide the basis of our conclusions and recommendations to the European Parliament.

Civil society survey

This questionnaire addresses the implementation of the UNESCO Convention from the perspective of civil society. For this purpose, we invite 14 National Coalitions for Cultural Diversity to reply to our survey. The sample of Coalitions shall reflect

geographical, economic and political diversity. The objective of this questionnaire is to clarify the perception and evaluation by representatives of civil society of the achievements of the UNESCO Convention in their respective countries. The main goal of this survey, beyond an inventory of the current factual situation, shall reside in understanding the various national civil societies' expectations and their demands vis-à-vis regulators.

We will attach the replies to this questionnaire to our study, which will be available over the internet.

For the text of the Convention and other useful documents, please consult:

www.unesco.org/culture/en/diversity/convention

CIVIL SOCIETY QUESTIONNAIRE

A General questions

1 Do you need **assistance** in providing the information requested in this questionnaire?

() Yes () No

If "Yes", please send a request for assistance to info@germann-avocats.com

2 When did the UNESCO Convention enter into force in your country?

PLEASE INSERT YOUR ANSWER HERE:
[2007](#)

3 **Representativity and independence** of your umbrella organization:

3.1 What approximate percentage of all non-governmental individuals and/or organizations professionally engaged in cultural activities, including cultural policies, does your umbrella organization represent in your country?

() Less than 25%

(X) Between 25% and 50%

(X) Between 50% and 75%

() More than 75%

3.2 Does your umbrella organization represent a large part of civil society of your country regarding cultural diversity concerns?

(?) Yes () No

Please note that the Council of the Danish Artists represent the professional artists' organisations - that represent 80-90% of the professional artists. We don't represent producers and cultural organisers. We are not a Coalition for Cultural Diversity.

3.3 Are there other organizations than yours in your country that are not members of your umbrella organization and that represent a large part of civil society in your country regarding cultural diversity concerns?

() Yes () No ?

If "Yes", please list these organizations:

PLEASE INSERT YOUR ANSWER HERE: [There are producers, organisers of events, associations etc. but only few of have been active in this context.](#)

3.4 How do you assess the independence of your umbrella organization and its non-governmental members engaged in cultural activities, including cultural policies, vis-à-vis the government of your country?

- Full independence
- Substantial independence
- Fair independence
- Little independence
- No independence
- No comment

3.5 Does the government of your country influence the activities of your umbrella organization and its non-governmental members related to their cultural policies?

- Yes No

If "Yes", please describe this influence:

PLEASE INSERT YOUR ANSWER HERE:

If "No", please indicate how these activities are protected from governmental influence.

PLEASE INSERT YOUR ANSWER HERE: [Most of the organisations in the umbrella are independent associations with democratic structures settled in their articles, with a basic financing from their members.](#)

3.6 Do you qualify your umbrella organization as a "non-governmental organization" in your country?

- Yes No

3.7 How do you assess the independence of your umbrella organization and its members engaged in cultural activities vis-à-vis private corporations that have a dominant position in the market of cultural goods and services of your country?

- Full independence
- Substantial independence
- Fair independence
- Little independence

No independence

No comment

3.8 Do private corporations that have a dominant position in the market of cultural goods and services of your country influence the activities of your umbrella organization and/or its members related to their cultural policies?

Yes No

If "Yes", please describe this influence:

PLEASE INSERT YOUR ANSWER HERE:

If "No", please indicate how these activities are protected from such influence.

PLEASE INSERT YOUR ANSWER HERE: [See comment 3.5.](#)

3.9 Are there organizations other than yours that deal with cultural diversity concerns and that represent private corporations having a dominant position in the market of cultural goods and services of your country?

Yes No

If "Yes", please list these organizations:

PLEASE INSERT YOUR ANSWER HERE:

3.10 Did your organization or another organization recently assess the situation of cultural diversity in your country?

Yes No

If "Yes", please indicate the author, title, scope, place and date of this assessment and specify where written documentation on this assessment, if any, can be consulted:

PLEASE INSERT YOUR ANSWER HERE:

B Questions on the implementation of the UNESCO Convention so far

For the purpose of this questionnaire, "national law" includes national legislation, regulations, administrative practice and case law that entered into force before or after the entry into force of the UNESCO Convention in your country.

4 Does your country have national law implementing the UNESCO Convention as of 1 January 2010?

() Yes (X) No

If the answer is "No", please explain the absence of national law implementing the UNESCO Convention and how this treaty is implemented in your jurisdiction as of 1 January 2010:

PLEASE INSERT YOUR ANSWER HERE: [Denmark has ratified it as member of EU](#)

If the answer is "Yes":

Please reply to the questions as follows that refer to the legal situation as of 1 January 2010, and specify for each of your replies, where applicable, whether the relevant national law existed already prior to the entry into force of the UNESCO Convention in your country:

4.1 What **measures** in the sense of articles 6, 7 and 8 of the 2005 UNESCO Convention, including but not limited to measures aimed at protecting and promoting linguistic diversity, were adopted in your country by the implementing national law?

PLEASE INSERT YOUR ANSWER HERE:

4.2 How is article 11 of the 2005 UNESCO Convention ("**participation of civil society**") regulated in the implementing national law?

PLEASE INSERT YOUR ANSWER HERE:

4.3 How does your organization assess your country's compliance with **human rights obligations** when implementing the UNESCO Convention?

PLEASE INSERT YOUR ANSWER HERE:

*As a complement to your replies to questions 4.1 to 4.3, please provide a copy of, or references to, your country's implementing **national law**, if any, together with related commentaries and web site addresses where such national law and related documentation may be found.*

5 Does your country or your organization or any of its members intend to ask for a contribution to one or more own projects from the **international fund** for cultural diversity according to article 18 of the UNESCO Convention for the purpose of implementing the UNESCO Convention on the national level?

() Yes (X) No () Confidential

If "Yes", please describe the project(s) for which your country or your organization will ask for funding:

PLEASE INSERT YOUR ANSWER HERE:

6 Is your country affected by **special situations** contemplated under articles 8, 12 para. 1, 17 and 23, point 1 of the UNESCO Convention ("special situations where

cultural expressions on its territory are at risk of extinction, under serious threat, or otherwise in need of urgent safeguarding")?

Yes () / No (X)

If yes, please describe these special situations, and the measures that your country adopts to address these situations?

PLEASE INSERT YOUR ANSWER HERE:

7 From the perspective of your organization, how do you assess your country's contribution to meet the objectives of the UNESCO Convention on the **regional and international levels** (e.g. coordination and collaboration with regional organizations, promotion of exchanges between National UNESCO Commissions, involvement in negotiating the operational Guidelines of the UNESCO Convention, activities within the Intergovernmental Committee)?

PLEASE INSERT YOUR ANSWER HERE: [The Danish agency for development has passed a cultural strategy and is carrying out some projects for the cultural sector in third countries.](#)

8 From the perspective of your organization, which **major problems**, if any, related to the implementation of the UNESCO Convention do you identify so far for your country?

PLEASE INSERT YOUR ANSWER HERE:

[Lack of development of concrete goals from political side](#)
[Parameters not developed in various sectors](#)
[Inter ministerial collaborations are not efficient](#)
[Civil society not active in defining concrete goals](#)
[Institutional slowness in incorporating issues of cultural diversity](#)

9 From the perspective of your organization, which **best practices** related to the implementation of the UNESCO Convention do you identify so far for your country?

PLEASE INSERT YOUR ANSWER HERE:

[Integration of convention as a reference in overseas development programmes](#)
[Larger consciousness of the convention at level of Arts Council](#)

10 From the perspective of your organization, what are civil society's **expectations** in your country regarding the further implementation of the UNESCO Convention

10.1 in the best case scenario?

PLEASE INSERT YOUR ANSWER HERE:

[Civil society engaged this question is limited and in general either involved in national/integration issues or larger policy issues such as must carry principles in media](#)

10.2 in the worst case scenario?

PLEASE INSERT YOUR ANSWER HERE:

That the convention will not be further discussed and further incorporated in various cultural policies.

10.3 in the most likely scenario?

PLEASE INSERT YOUR ANSWER HERE:

That the convention will be highlighted at official events with limited project funding for special occasions rather than incorporated in general policies.

11 From the perspective of your organization, what should be the **priorities** when implementing the UNESCO Convention in your country in the near future?

PLEASE INSERT YOUR ANSWER HERE:

Measurable targets in specific sectors such as the public media sector and integration of policies in cultural institutions and educational systems.
Upgrading of ministerial and institutional staff - not only in culture, education and foreign affairs, but also in other policy areas such as trade and enterprise.

12 From the perspective of your organization, which concrete actions in terms of **legal and policy measures** should your country's government take in order to implement the UNESCO Convention in the near future?

PLEASE INSERT YOUR ANSWER HERE:

Implementation of recommendations of preferential treatment of artistic productions from developing countries.
Incorporation of recommendations in public media sector.

13 From the perspective of your organization, what is the **degree of satisfaction** regarding the implementation of the UNESCO Convention by your country as of 1 January 2010?

Full satisfaction

Limited satisfaction

No satisfaction

No comment

If your answer is "Limited satisfaction" or "No satisfaction", please summarize your critique:

PLEASE INSERT YOUR ANSWER HERE:

Interministerial committees are weak and inefficient
Lack of political interest
Lack of interest from public media

14 From the perspective of your organization, how do you evaluate the **UNESCO Convention's Guidelines addressing the civil society's participation** that were contemplated and/or adopted as of 1 January 2010?

Very satisfactory

Satisfactory

Not satisfactory

No comment

If your answer is "Not satisfactory", please summarize your critique:

PLEASE INSERT YOUR ANSWER HERE:

15 From the perspective of your organization, how do you evaluate the **quality of the collaboration between civil society and government** aiming at the implementation of the UNESCO Convention in your country during the relevant period?

Very satisfactory

Satisfactory

Not satisfactory

No comment

If your answer is "Not satisfactory", please summarize your critique and indicate how this collaboration could be improved:

PLEASE INSERT YOUR ANSWER HERE: *There have been few opportunities, probably because it is an issue of low priority.*

16 From the perspective of your organization, how do you evaluate the **degree of the civil society's interest** in your country in contributing to the implementation of the UNESCO Convention during the relevant period?

Very satisfactory

Satisfactory

Not satisfactory

No comment

If your answer is "Not satisfactory", please summarize your critique and indicate how this interest could be improved:

PLEASE INSERT YOUR ANSWER HERE: *Once again it is an issue of low priority -*

although there are some initiatives. A committed cooperation between civil society actors and the government could be a way to improve the situation. Some project money together with a consultant in the ministry could be a way of doing it.

17 From the perspective of your organization, how do you assess the **quality of the UNESCO Convention** as a policy instrument in terms of

17.1 its strengths?

PLEASE INSERT YOUR ANSWER HERE: [Good arguments and important provisions for cultural diversity.](#)

17.2 its weaknesses?

PLEASE INSERT YOUR ANSWER HERE: [That the Convention is not binding, no consequences if the provisions are not implemented](#)

17.3 its threats?

PLEASE INSERT YOUR ANSWER HERE: [That is stays with the talking](#)

17.4 its opportunities?

PLEASE INSERT YOUR ANSWER HERE: [That the convention can be used in a political context to secure measures in favour of cultural diversity.](#)

18 From the perspective of your organization, how do you assess the **strength and influence of non-governmental organizations lobbying for cultural interests** in comparison to non-governmental interest groups lobbying for trade interest in your country in matters affecting cultural policies?

- Cultural interest groups are more effective than trade interest groups
- Cultural interest groups are less effective than trade interest groups
- Cultural interest groups and trade interest groups are equally effective
- The respective effectiveness depend on the concrete matters at stake
- Other

If your answer is "Other", please explain:

PLEASE INSERT YOUR ANSWER HERE:

19 From the perspective of your organization, how do you rank the priority given **by the civil society** of your country to policies aimed at protecting and promoting cultural diversity?

High priority

Medium priority

Low priority

No priority

If your answer is "Low priority" or "No priority", please explain:

PLEASE INSERT YOUR ANSWER HERE:

20 From the perspective of your organization, how should the **degree of cultural diversity** according to the UNESCO Convention be measured in your country?

Based on data regarding the supply of cultural goods and services

Based on data regarding the consumption of cultural goods and services, for example market shares

Based on other approaches

If your answer is "Based on other approaches", please explain:

PLEASE INSERT YOUR ANSWER HERE:

21 Does your organization and/or its member organizations have **new ideas** to implement the UNESCO Convention in your country in the near future?

Yes No

If your answer is "Yes", please summarize these new ideas:

PLEASE INSERT YOUR ANSWER HERE: [We suggest a public fund for implementing initiatives and a consultant - that can support NGOs, municipalities, schools etc.](#)

22 Does your organization and/or its member organizations plan to take **specific actions** to implement the UNESCO Convention in your country in the near future?

Yes No

If your answer is "Yes", please summarize the action plan:

PLEASE INSERT YOUR ANSWER HERE: [We have recently established a committee to monitor the implementation - and we are also in contact with the European Coalition for Cultural Diversity and the International Network for Cultural Diversity in order to get good ideas from abroad on how to strengthen the focus on the implementation.](#)

23 Does your organization and/or its member organizations expect **specific actions** from your government, from regional organizations and/or from the UNESCO in order to implement the UNESCO Convention in your country in the near future?

() Yes (X) No

If your answer is "Yes", please summarize these expectations:

PLEASE INSERT YOUR ANSWER HERE:

24 If you have **further comments** on the questions of this survey or **additional information** that is useful for assessing the implementation of the UNESCO Convention in your country, please state them here:

PLEASE INSERT YOUR ANSWER HERE:

D Identification of respondent to this questionnaire

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