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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

BACKGROUND INFORMATION

Introduction

The Geneva based law firm Germann Avocats and its interdisciplinary research team is completing a study for the European Parliament's Committee on Culture and Education (CULT) whose overall objective 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 of 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. Eventually, the third questionnaire shall cover the situation from the angle of a selection of regional and international organizations (the ASEAN, the African Union, the Association of Caribbean States, the Commonwealth, the International Organisation of La Francophonie, the Council of Europe, the European Union, UNESCO, WTO and WIPO).

Expected results from the surveys

We expect to collect valuable information on the public measures that are specifically undertaken to protect and promote cultural diversity on the national level in different jurisdictions. We shall obtain insights to compare regulatory practice in a variety of economic and political situations that characterize the selection of countries located in different geographical area. 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 the 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 the 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 that 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 (X) 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:

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%

() 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?

(X) Yes () No

If "No", please explain:

PLEASE INSERT YOUR ANSWER HERE:

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 (X) No

If "Yes", please list these organizations:

PLEASE INSERT YOUR ANSWER HERE:

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:
The Italian government refused until Today's to provide grants or subventions to the activity of the Coalition. The Coalition has received till today only support from local authorities, from private sector and from her members.

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

- Yes but this term doesn't have a specific meaning in the cultural sector 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:

The representatives of the dominant forces in the Italian market of cultural goods have made pressures on SIAE (the Italian society of authors) in order to stop to support the Coalition, despite the fact that has been one of the founding members.

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:

The government is convinced that there is no need of a specific law of implementation for the Convention, but that specific lines could be found in existing legislation.

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: NONE

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: THERE IS NOT SUCH A LAW

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: WE DONT

*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 () No (X) 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 (X) / No ()

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: Italian delegation has provided an important contribution from the legal point of view and in terms of International Law. But no concrete involvement of the related national authorities has been provided till now.

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

PLEASE INSERT YOUR ANSWER HERE: The cultural sector is currently under a serious threat due to the constant and progressive erosion of the funds available for culture, at all level, and especially for NGOs.

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:

- At the local level: there is a growing number of activities and initiatives in favour of multiculturalism, but they found their biggest obstacle in the national policies against immigration
- Within some cultural institutions there is a growing awareness of the Cultural Identity perspective

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:

- Try to strength cooperation between national cultural industries within EU, before that their presence in the market will become totally irrelevant in sector where the market counts a lot (cinema, tv, etc.)
- Try to bring national cultures and identities over the Internet, before that a common model would be imposed world wide
-

10.2 in the worst case scenario?

PLEASE INSERT YOUR ANSWER HERE:

10.3 in the most likely scenario?

PLEASE INSERT YOUR ANSWER HERE:

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:

- Create a specific law of implementation, that would be cross cutting among all different sectors concerned and that relies on NGO and self organized structure, using a bottom-up approach

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:

- Create such a law
- Participate to the UNESCO fund for cultural diversity
- Extend the use of the Cooperation funds to the cultural sector
- Stop the budget cuts to the cultural sector
- Create a policy of incentives for the electronic media to enhance the production of culture identities

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: see answers to points 7 and following

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: During the phase of the ratification of the Convention there was a tension and an attention to obtain concrete and immediate results, through the law of adoption of the Convention in Italy. Since then, the topic has fallen in the oblivion, while the cultural policies of the country are under threat.

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: Each organization in the cultural sector nowadays in Italy is more concerned to ensure its survival, than to think to implement the 2005 convention.

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:

- It finally give a legal basis for European measures to protect and develop national cultural identities
- It provided a legal basis for preferential treatment in the cultural sector between Europe and Developing countries

17.2 its weaknesses?

PLEASE INSERT YOUR ANSWER HERE:

- These good basis are not accompanied by the needed funding in order to develop the related policies

17.3 its threats?

PLEASE INSERT YOUR ANSWER HERE:

- A misinterpretation of the role of cultural diversity could bring to measures of isolation and closures to the culture of the others, while the sense of the Convention is exactly the opposite
- The effects of the Convention would have to act as an incentive for European cultural industries to better cooperate among them in order to create a more harmonious and open market for all non-dominant cultures of the world

17.4 it opportunities?

PLEASE INSERT YOUR ANSWER HERE:

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

() in general Cultural interest groups are less effective than trade interest groups

() Cultural interest groups and trade interest groups are equally effective

but the respective effectiveness depend on the concrete matters at stake

Other

If your answer is "Other", please explain:

PLEASE INSERT YOUR ANSWER HERE: in general Cultural interest groups are less effective than trade interest groups but the respective effectiveness depend on the concrete matters at stake

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: Because of the general climate on culture funding and, moreover, because is not clear the relationship that exists between the 2005 Convention and the life of national cultural industries.

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: the traditional 2 approaches above mentioned are not enough. You also need to detect :

- If the traditional funding of the cultural production is still effective or if it on the edge of collapsing
- If there are relevant minorities (long-term or even recent) in the country, how their needs are included in the national policies for cultural identities and how they're funded and protected;
- If the trends in the traditional cultural markets and on new media consumptions are equivalent or if are diverging. And if there is a worst situation in the new media of the convergence (Internet, mobiles, etc.), how this phenomenon could be measured (and later tackled);

- The presence and relevance of cultural diversity in the national education system

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

(X) Yes () No

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

PLEASE INSERT YOUR ANSWER HERE: See attached document on the Campaign of the Italian NGO's for the insertion of a Ninth Millennium Goal on Cultural Diversity in the UN chart (see annexe)

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?

(X) Yes () No

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

PLEASE INSERT YOUR ANSWER HERE:

- All the year 2010 will be characterized by the campaign for the 9th Millennium Goal in the UN objectives of the new century
- A celebration of the World Cultural Diversity day on May 21st
- Some public initiatives in Rome during 2010 to stress the attention of citizens and cultural professionals on the advantages of the implementation of the Cultural Diversity convention

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?

(X) Yes () No

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

PLEASE INSERT YOUR ANSWER HERE:

- We expect specific funds from the EU institutions to support the permanent activities of the civil society in this field (advocacy, awareness, campaigns, etc.), especially in those countries where such funds are not locally available.

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

Name: Silvana Buzzo ,

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