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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. The third questionnaire shall cover the situation from the angle of a selection of regional and regional 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 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.

Legal survey

The legal questionnaire will focus on legal aspects of the implementation of the Convention. We send our survey to law firms specializing in international public law in Canada, Brazil, China and Senegal. In Europe, we will directly investigate the legal situation in Italy (as a larger jurisdiction) and Switzerland (as a smaller jurisdiction). In addition, we will send the legal questionnaire to a sample of eight National UNESCO Commissions of EU Member States, which will reflect geographic, political and economic diversity. This legal survey shall allow us to assess the current state of implementation of the UNESCO Convention in these countries in terms of regulations and administrative practice.

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

LEGAL QUESTIONNAIRE

A General questions

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

PLEASE INSERT YOUR ANSWER HERE:

The UNESCO Convention was ratified by the Parliament of the Azerbaijan Republic on November 26, 2009.

This law entered into force since date of publishing; so it was published in official newspaper "Azerbaijan" of Azerbaijan Republic on December 31, 2009.

2 Are those provisions of the UNESCO Convention that are precise and clear directly applicable ("**self-executing**") in your country?

(X) Yes () No

3 Please list any **non-governmental organizations** that deal with cultural diversity concerns and that represent a substantial part of the stakeholders concerned by cultural policies in your country.

PLEASE INSERT YOUR ANSWER HERE:

There are no NGO's in the Azerbaijan Republic, that deal with cultural diversity issues, however, there are following NGO's working in the field of culture:

1. Coalition of Cultural Enterprises of Azerbaijan, currently chaired/operated by Caspian Digital c/o Mr. Togrul EFENDIYEV digital@khatt.az ; mobile phone :+ 994 50 513 91 05

2. Azerbaijan Film Directors' Guild, chairman – Mr. Huseyn Mehdiyev azdgfilm@azintex.com ; mobile phone: + 994 50 3154 50 08

3. Centre for Cultural Development, chairman - Mr. Geray ALIBEKOV gerayalibekov@mail.ru ; mobile phone + 994 50 204 44 36

4. Creative Initiatives Public Union, chairman - Mr. Tariel Mamedov tmamedov@azdata.net ; mobile phone + i994 50 373 99 41

5. Labyrinth Creative Association, chairperson - Ms. Sabina Shikhliinskaya < sabianart7@gmail.com> mobile phone : + 994 50 311 77 85

6. Tutu Publishing House, Director - Mr. Tarlan Gorchu tarlan@tutubooks.az ; mobile phone : + 994 50 220 95 51

7. Ecosfera Natural and Cultural Heritage NGO, chairperson - Ms. Firuza Sultanzade ecosfera@azeurotel.com ; mobile phone + 994 50 373 13 00

8. ARTS etc... - Centre for Contemporary Culture, President – Mr. Chingiz Babayev, artchingiz@yahoo.com ; mobile phone : + 994 50 333 10 66

9. Ayan-Z Art Management, Director - Ms. Zemfira Babayeva babayeva_z@mail.ru ; mobile phone : + 994 50 30 222 00

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 Parliament of the Azerbaijan Republic ratified the named convention only on November 26, 2009 and the law entered into the force since December 31, 2009. However, the relevant state bodies are working on the issues on membership of Azerbaijan Republic to the UNESCO Convention.

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 How does your country comply with points 4, 7 and 8 of article 2 of the 2005 UNESCO Convention ("principle of **international solidarity and cooperation**" and "Principle of **equitable access**" and "principle of **openness and balance**") and with articles 12 to 17 of the 2005 UNESCO Convention ("promotion of international cooperation") in its implementing national law?

PLEASE INSERT YOUR ANSWER HERE:

4.2 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:

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

PLEASE INSERT YOUR ANSWER HERE:

4.4 How are articles 20 and 21 of the 2005 UNESCO Convention (“**relationship to other treaties**” and “**international consultation and coordination**”) regulated in the implementing national law?

PLEASE INSERT YOUR ANSWER HERE:

4.5 How does your country assess and insure the compliance of its efforts to implement the UNESCO Convention with respect to its **human rights obligations**?

PLEASE INSERT YOUR ANSWER HERE:

*As a complement to your replies to questions 4.1 to 4.5, 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 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?

(X) Yes () No

If yes, please describe the project(s) for which your country will ask for funding:

PLEASE INSERT YOUR ANSWER HERE: The relevant Azerbaijani State bodies are working on the governmental strategy (action plan) regarding the implementation of the UNESCO convention. There planned to reflect the provisions on cooperation with international fund for cultural diversity, according to the article 18 of the UNESCO convention.

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 redress these situations?

PLEASE INSERT YOUR ANSWER HERE:
The Azerbaijan Republic is affected by the special situations where cultural expressions on its territory are at risk of extinction, under serious threat, or otherwise in need of urgent safeguarding. The main risk was because of the occupation of 20% of Azerbaijani territories by Armenia. At present the Nagorno-Karabakh territory of Azerbaijan and the adjoining 7 administrative districts are under the occupation of the Armenian Republic.

As a result of the aggression of the Republic of Armenia, 20 percent of the territory of Azerbaijan has been occupied; over 20,000 people have been killed, and over 50 000 people disabled. Over 10 years, about million of people have been living as refugees and displaced persons. They became the victims of ethnic cleansing, the policy of genocide of Armenia, and deprivation of elementary human rights.

As a result of the aggression, over 900 settlements have been plundered, burned and destroyed, 6000 industrial, agricultural and other enterprises destroyed and plundered, 150 000 residential buildings with over 9,000,000 square meters of living space, 4366 facilities for social and cultural purposes have been ruined, and 695 medical centers and institutions had the same lot. The total damage of the economy of Azerbaijan was US\$ 60 billion.

927 libraries, 464 historical monuments and museums, over 100 archeological monuments, 6 state theatres and concert studios have been destroyed and plundered in the occupied Azerbaijani territories. Over 40 000 precious articles and exhibits have been robbed from these museums. After the capture of Kelbadjar the rare gold and silver articles, old handmade carpets of its museum have been taken to Armenia. The historical museum in Shusha, the museum of bread in Agdam, the museum of Rock Monuments in Zengilan shared the same fate. It's impossible to identify and to asses the value of the stolen and destroyed historical-cultural heritage. In other words, Armenia grossly violated the provisions of the Hague convention "On the protection of cultural monuments during military conflicts" and those of the Paris Convention "On the illegal circulation of cultural monuments" and is engaged in plundering of the cultural monuments of Azerbaijan.

In direct violation of United Nations Security Council Resolutions 822, 853, 874, 884 adopted in 1993 obliging Armenia to recognize the territorial integrity of Azerbaijan and to liberate the occupied territories without any condition, Armenia is still pursuing a policy of occupation.

7 What **institutional measures**, if any, does your government take to facilitate dialogue and coordinate action between culture and trade ministries and other relevant ministries (e.g. foreign affairs ministry) on the national level in order to meet the objectives of the UNESCO Convention?

PLEASE INSERT YOUR ANSWER HERE:

There are activities on the local and international level.

On the local level, the Azerbaijan Republic is conducting the national cultural festival for national minorities every 2 years.

On the international level, during last 2 years, the Azerbaijani government had conducted two international conferences in the field of cultural cooperation:

2-3 December, 2008 for European Cultural Ministers "Intercultural dialogue as a basis for sustainable development and peace in Europe and its neighbouring regions"; Here was adopted the Baku Declaration for the Promotion of Intercultural Dialogue;

13-15 October, 2009 the Azerbaijan hosted the 6th Islamic Conference on Cultural Ministers. Within the Conference there were held a round table with topic: Dialogue between the civilizations; As a result of round table there were issued a Communiqué named "Fostering dialogue and cultural diversity-Baku process: new challenge for dialogue between civilizations".

The Azerbaijan Republic is planning to conduct the World forum for Intercultural dialogue, in 2011.

The Azerbaijani first lady, Ms. Mehriban Aliyeva presently is the UNESCO good-will

Ambassador. And in frames of her activity the following activities were conducted in Azerbaijan during the last 2 years:

June 10, 2008 the Azerbaijan Republic hosted International Forum "EXPANDING THE ROLE OF WOMEN IN CROSS-CULTURE DIALOGUE";

May 14, 2008 the Azerbaijan Republic hosted UNESCO REGIONAL CONFERENCE "ADDRESSING LITERACY CHALLENGES IN EUROPE WITH A SUB-REGIONAL FOCUS: BUILDING PARTNERSHIPS AND PROMOTING INNOVATIVE APPROACHES"

8 How does your country contribute 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:

Azerbaijan Republic is not currently deal in frames of UNESCO Convention on the regional and international levels. However, the Azerbaijan Republic has a broad experience working with International and Regional Organizations, and would like to expand its cooperation within the UNESCO Convention upon the joining to the UNESCO Convention.

C Questions on the further implementation of the UNESCO Convention

To reply to the following questions, you may consult with the competent agency within the Ministry of Culture of your country, or with your national contact point for the UNESCO Convention (articles 9, letter b, and 28) as listed in

www.unesco.org/culture/fr/diversity/convention/3igc/3IGC_INF6_Points_de_contact_des_Parties.pdf

9 Which **major problems**, if any, related to the implementation of the UNESCO Convention does your country identify so far?

PLEASE INSERT YOUR ANSWER HERE: **Please see also replies to question 6 above.**

The major problem related to the implementation of the UNESCO Convention is aggression by Armenia and occupation of 20% of territories of Azerbaijan Republic shall considered the main problems for the implementation of UNESCO Convention.

10 Which **best practices** related to the implementation of the UNESCO Convention does your country identify so far?

PLEASE INSERT YOUR ANSWER HERE:

The Azerbaijani Republic's best practices are based on the cooperation between national or local authorities, non-governmental organizations (NGOs) and local communities, the private sector, and academic communities.

However, the Azerbaijani government had not identified yet, the best practices with respect to the implementation of the UNESCO Convention.

11 What are the **expectations** of your country regarding the further implementation of the UNESCO Convention

11.1 in the best case scenario?

PLEASE INSERT YOUR ANSWER HERE:

11.2 in the worst case scenario?

PLEASE INSERT YOUR ANSWER HERE:

11.3 in the most likely scenario?

PLEASE INSERT YOUR ANSWER HERE:

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

PLEASE INSERT YOUR ANSWER HERE:

13 Which concrete actions in terms of **legal and policy measures** does your country contemplate to take in order to implement the UNESCO Convention in the near future?

PLEASE INSERT YOUR ANSWER HERE:

14 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:

Organization:

Position (title) within the organization:

Postal address:

Phone:

Fax:

Email:

Website:

Date and place: