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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 Carribean 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](http://www.unesco.org/culture/en/diversity/convention)**

## LEGAL QUESTIONNAIRE

### **A General questions**

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

2008.

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

( ) Yes ( X) 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.

Hungarian Coalition for the Cultural Diversity (Magyar Koalíció a Kulturális Sokszínűségért) member of the International Federation of Coalitions for Cultural Diversity (IFCCD).

### **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?

( X) Yes ( ) 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:

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?

Among the purpose of the Act XCIX of 2008 on the support and special employment rules of performing arts organisation is to: promote freedom of performing arts life, contribute to the achievement of the diversity of artistic expressions, promote the creation of Hungarian language products, including also the value creating activities of the cross-border performing arts organisations, the performance of works of Hungarian authors, the creation and performance of works created in the language of ethnic minorities and thereby increase the cultural assets and heritage of the nation and the country, support the national and international mobility of theatre, dance and music and presentation of high-quality foreign performances in Hungary and the performance of Hungarian and other works created in Hungary or abroad, encourage the cultural realignment of areas lacking performances and concerts of artistic value by creating opportunities to reduce the social gap and segregation, support the professional documentation and research activities, as well as to support the value creation activities of performing arts groups.

In order to achieve these objectives, the Act lays down the rules for central budgetary support granted to theatre, dance and music organisations, defines the regulatory and other public tasks related to performing arts organisations, and establishes the special employment rules applicable to people employed by performing arts organisations.

The Parliament has adopted - in accordance with Section 61 of the Constitution - the Act I of 1996 on Radio and Television Broadcasting, which is based on the freedom of expressing opinions, the independence, balance and objectivity of providing information, the freedom of obtaining information, as well as supporting universal and national culture, and promoting the diversity of opinions and culture, as well as to prevent the development of monopolies in providing information.

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?

At the national level, the Hungarian legislation protects the languages of the minorities, and gives the possibilities in all fields to use them.

The Act XCIX of 2008 on the support and special employment rules of performing arts organisation promotes the creation and performance of works created in the language of ethnic minorities and thereby increase the cultural assets and heritage of the nation and the country.

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

The Ministry of Culture and Education has a fruitful cooperation with the Hungarian Coalition for the Cultural Diversity which is a non-governmental organization.

The civil society plays an important and widely acknowledged role in promoting the convention, notably in terms of communicating its principles and objects.

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?

The Act XXXVIII of 2006 has implemented the Convention for the safeguarding of the intangible cultural heritage.

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**?

The Hungarian Constitution and the legislation respects and protects all human rights. The Government has taken steps to improve the rights of the minorities and persons with disabilities.

In order to promote the enforcement of the right to culture provided in the Constitution, the Act CXL of 1997 on the Protection of Cultural Goods, Museum Institutions, Public Library Services and Community Culture declares that all persons have the right to use the services of the public library system, museums and community cultural institutions.

Among the basic principles of the Act I of 1996 on Radio and Television Broadcasting is the rule, that broadcasting may not be aimed, openly or surreptitiously, at insulting or for the disassociation of any minority or majority group of society, or to depict any view of them, discriminating or otherwise, on the basis of racial considerations.

The Act also declares that public service broadcasters and broadcasters of public programming shall pay special attention to: fostering the values of the universal and national cultural heritage, endorsing the diversity of culture; showing programs serving the physical, psychological and moral development and interest of minors, and to enhance their knowledge; presenting the values of religious, national, ethnic and other minority cultures.

*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?

( ) Yes ( X) No

If yes, please describe the project(s) for which your country 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 redress these situations?

PLEASE INSERT YOUR ANSWER HERE:

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 no such institutional measures.

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)?

Enhancing the mobility of artists and museum collections is based on cultural diversity and cultural dialogue. The European Commission has published the names of nine projects selected in favour of artist mobility issued in March 2009. Its general objective was to explore new ways of funding mobility at the E.U. level, with a view to promoting cultural diversity, reducing imbalances (regional and ingoing/outgoing), and fostering intercultural dialogue. Hungary actively participates in the work.

The aim of collections mobility arises from the concern that a major part of our common cultural heritage cannot be actively shared, enjoyed and visited by the public.

Mobility of museum collections has been one of the key issues of cultural action at the European Union's level since 2002. The theme has been developed further during the EU Presidencies of Greece, Italy, the Netherlands, the United Kingdom, Austria and Finland.

## 1, CM 2.0 project

In 2009 ten European heritage institutions took the initiative to develop the project Lending for Europe/ Collection Mobility 2.0. The goal of the project is to introduce into the every day museum practice the most recent concepts, standards and procedures on lending and borrowing museum collections.

Within the framework of the CM 2.0 project, three successive EU presidencies, namely Spain, Belgium and Hungary decided to develop an innovative collections mobility expert training package.

The training will be organised in three different venues. The choices for the venues have been made on the basis of the EU chair list:

Madrid, Prado	May 2010
Antwerp	December 2010
Budapest, Museum of Fine Arts	February 2011

As one of the priorities of the Hungarian EU presidency is collections mobility, besides the training, Hungary will lay special emphasis on the theme of collections mobility.

## 2, OMC working group

Based on the priorities of the Culture Plan 2008-2010 the European Union set up five OMC (Open Method of Coordination) sub-working groups dealing with the promotion of collections mobility.

Hungary participates in two of the groups, focusing on immunity from seizure and state indemnity/insurance/non-insurance. In this latter group Hungary holds the post of the co-chair together with the representative of the Netherlands.

## **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](http://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: [No Response]

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

PLEASE INSERT YOUR ANSWER HERE: [No Response]

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: [No Response]

11.2 in the worst case scenario?

PLEASE INSERT YOUR ANSWER HERE: [No Response]

11.3 in the most likely scenario?

PLEASE INSERT YOUR ANSWER HERE: [No Response]

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: [No Response]

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: [No Response]

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: [No Response]

#### **D Identification of respondent to this questionnaire**

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