



United Nations  
Educational, Scientific and  
Cultural Organization

German Commission  
for UNESCO

# DIVERSITY. COOPERATION. ACTION

## ACTION PLAN 2013 to 2016

Recommendations for Action from Civil Society  
for the Implementation in and by Germany of the  
UNESCO Convention on the Protection and  
Promotion of the Diversity of Cultural Expressions

October 2015 will mark ten years since the adoption of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005).

This Magna Carta of international cultural policy is the only UNESCO Convention to focus on promoting **contemporary art and cultural production** and the **international cooperation** this entails. It aims to foster local/regional (self-)development and democratic self-governance, while also correcting the imbalances of the global market, in particular with regard to music, books, films, visual arts, graphic services, IT, games, fashion and other branches of the artistic and creative industries. Co-production, co-distribution and knowledge partnerships, as well as granting preferential treatment and increasing mobility, are all effective ways to achieve these goals. Germany acceded to this UNESCO Convention in March 2007. The objectives and instruments of this agreement are, therefore, binding at federal, *Länder* (state) and municipal level. **During the process of implementation**, each party to the Convention is faced with the **key issue** of deciding which regulatory measures and which promotional policies are **necessary** and **effective** to protect and promote the diversity of cultural expressions. A report on the implementation of the Convention is compiled every four years to examine these two issues. The present discussion paper aims to stimulate a forward-looking cooperative approach over the next four years, in which the Federal Government, the *Länder* and the municipalities will play a specific role. The action points aim to provide the necessary impetus.

One of the key goals of the UNESCO Convention is to **influence the balance of power between culture and trade for the benefit of sustainable cultural (self-) development and to boost freedom of choice** regarding artistic and cultural expressions. In addition to accounting for cultural policy issues in a narrowly defined sense, the process of implementing this Convention must therefore inevitably take into consideration the relation between the WTO/GATS regulations<sup>1</sup> and the United Nations' instruments of international law, as well as EU policies on the internal market, competition, employment and foreign trade. In this respect, implementing this particular Convention differs from other well-known UNESCO Conventions in the area of cultural heritage.

**Three levels of action** are important:

- **National policy in and by Germany** involving all stakeholders who hold a particular responsibility and/or a particular ability to take action (the Federal Government and the *Länder*, including the legislative and the executive, as well as grant-giving foundations, municipalities, directors of cultural institutions, specialist civil society associations and civil society partners organised in other platforms, foundations, the scientific community, cultural intermediaries and implementing organisations of development cooperation, cultural producers, companies in the cultural industry, *inter alia*).
- **Germany in and as part of the EU and Europe in cooperation** with the EU's 27 other member states, as well as in wider Europe, with the 47 members of the European Council, and as the geo-political region of Europe/North America (Europe I) in UNESCO.
- **Germany as a Party to the Convention**, in cooperation with the other 126 Parties and the EU as a ratifying party of the UNESCO Convention (as of May 2013).

## SMART Objectives – Action from 2013 to 2016

In 2015/2016 Germany will be preparing its second periodic report charting the progress made and the challenges involved in protecting and promoting the diversity of cultural expressions. The following action plan outlines ten objectives formulated by experts from civil society with the aim of implementing the Convention over the next four years. The working paper aims to provide impetus for improved cooperation between the various bodies responsible for implementation.

The SMART objectives (specific / measurable / attainable / relevant and timely) are addressing the following key points: **International cooperation** and the strategic **contribution of**

<sup>1</sup> The General Agreement on Trade in Services (GATS) is a World Trade Organization (WTO) international trade agreement which regulates the delivery of services in cross-border trade with the aim of progressively liberalising these services.

**culture to development**, the **intensification of the European debate**, the role of **(public) broadcasters and media** in enhancing the diversity of cultural expressions, **preferential treatment for artists and cultural practitioners** from developing countries, including issues concerning the mobility of artists, **culture and sustainable development strategies** in Germany, **digital diversity – how?**, the **Kaleidoscope (Project) of relevant practice** and the **International Fund for Cultural Diversity**.

### Diversity of Cultural Expressions – 2015, 2020, 2050?

In 2012, together with fifty other signatories, Germany submitted its first report on the implementation of the Convention. This paves the way to develop a specific vision of what this UNESCO Convention can help to achieve over the next five, ten, twenty or thirty years. Most of the periodic reports contain interesting descriptive material on cultural policy measures and strategies adopted by the Parties. The German periodic report was also compiled ex-post by individual sections of the ministries involved. The periodic reports thus only take a rudimentary look at the *effectiveness* of these measures, i.e. how they have helped contribute to the diversity of cultural contents and cultural expressions. There are a few interesting independent evaluations – for example, of the Brazilian “Cultura Viva” strategy or Berlin International Film Festival’s World Cinema Fund.

It is important that the Parties to the **Convention** and expert civil society partners develop manageable indicators which make it possible to identify **qualitative development trends** over the next five, ten and twenty years. To this end, the UNESCO Institute for Statistics published first case studies in the field of film and television/broadcasting in 2011.

The **Convention** provides a long-term framework **to enable the structured sharing of information on interesting practices and policy approaches between international knowledge networks**. A look at commons-based models of artistic and cultural production and cultural life worldwide reveals numerous highly interesting action strategies. Examples that particularly stand out include the case study series “Prácticas exitosas” (*Organización Iberoamericana, 2011*), the compilation “Mapping Cultural Diversity” developed by the U40 Network (German Commission for UNESCO/Asia-Europe Foundation, 2010), the UNESCO/EU Programme on Cultural Governance in Developing Countries launched in 2012 ([www.unesco.org](http://www.unesco.org)), the international initiative to create a database of country profiles of cultural policies, WorldCP ([www.ifacca.org](http://www.ifacca.org)) and the analysis of the first 50 reports on the implementation of the Convention from a strategic and action-oriented viewpoint (UNESCO CE/12/6.IGC/4) prepared by the UNESCO Secretariat (Paris) in November 2012.

### The Principle of Responsibility – Today and Tomorrow

A review of the first 50 periodic reports paints a fairly positive picture of the overall situation concerning the preservation and the development of the cultural scene in Germany – and, to a large extent, also in (western) Europe – with regard to the goals and concerns outlined in the 2005 UNESCO Convention. This also applies to the numerous activities in the sphere of cultural exchange, co-production and other forms of international cooperation. There is a firmly rooted principle of public democratic responsibility for creating conditions which favour the development of cultural diversity as well as cultural exchange and cooperation.<sup>2</sup> The diversity of cultural expressions and the broad range of options for artistic expression in Germany are not under immediate threat.<sup>3</sup>

What is needed, however, are measures to preserve this overall productive framework in the medium and long term. In many places, this is clearly a question of responding to demographic and social changes and ensuring the provision of financial resources from the bodies responsible for supporting public culture structures (Federal Government, *Länder*, municipalities). The process of discussing and renewing cultural policy is in full swing. Creating

2 However, only half of the population of Germany make use of the opportunities provided by this cultural infrastructure (the *Abiturpublikum* or well-educated audience), cf. the various “Kultur-Barometer” surveys by the Centre for Cultural Research since 1990, most recently the Kulturbarometer Interkultur 2012. These figures provide impetus for change and inspire new practices (e.g. “Kulturlogen”, which give people on low incomes the chance to take part in Berlin’s social and cultural life, a social action replicated in other cities throughout Germany).

3 The “debt brake” incorporated into the German constitution in 2006 stipulates the consolidation of budgets at federal and *Länder* level. Many municipalities are under budgetary supervision. This means that all public authority investments and expenses are subject to review, including cultural expenses. Since 2012, the German Cultural Council has regularly profiled endangered cultural institutions, associations and programmes in the magazine “Politik & Kultur” – at least 20 have been published to date – in order to raise awareness of their value for the city or place in question (“The red list”).

a solid democratic, conceptual and financial foundation to adapt and enhance basic cultural services remains key to ensuring the successful medium and long-term implementation of this Convention in and by Germany.

### Political Commitment – Obligation and Choice

Cultural conventions of this kind are primarily political agreements concluded with the signatories' own best interests in mind. The view that this Convention merely provides a non-binding political framework is a fallacy. It aims to have a long-lasting impact. The UNESCO Convention 2005 contains numerous mandatory “*shall*” provisions, above all regarding international cooperation aiming to foster art and culture and facilitate an exchange of knowledge on cultural policy and development strategies. By ratifying the Convention, the Parties signal that they voluntarily commit themselves to its goals. This above all applies to monitoring and knowledge exchange. With regard to the specific objectives of this agreement (cf. the overview in Annex II), it is immediately clear in the text of the Convention which points are *mandatory* and which are *voluntary*. The verb used plays a decisive role: *Shall* provisions are mandatory, whereas *may* refers to recommendations for action.<sup>4</sup>

### Action Points enable Focus and boosts Effectiveness<sup>5</sup>

The action points are primarily aimed at government stakeholders who are accountable from a constitutional, political and legal perspective for the protection and promotion of the diversity of cultural expressions and/or have a particular ability to take action.

Specifically, this refers to the **Federal Foreign Office** (AA – responsible for the periodic report), the **Federal Government Commissioner for Culture and Media** (BKM), the **Federal Ministry of Economics and Technology** (BMWi), the **Federal Ministry for Economic Cooperation and Development** (BMZ), the **Federal Ministry for Labour and Social Affairs** (BMAS), the **Federal Ministry of Family, Seniors, Women and Youth** (BMFSFJ) and in particular the **Länder** because of their responsibility for culture and broadcasting as enshrined in Germany's constitution. The ministries responsible for art and culture in the individual *Länder* are structured in various ways. The state chancelleries in the *Länder* are generally responsible for broadcasting and media policy and in some cases also for cultural policy. **The local authority associations** have set up their own cultural affairs committees.

Periodic reports on implementing instruments under international law are most effective when viewed as progress reports. Benchmarks or action points enable comparisons and make it possible to monitor progress during the implementation period between reports. This concentrates energies, enables focus and thus boosts effectiveness.

The following action points are the result of a one-year-long series of consultations initiated by the German Commission for UNESCO (cf. Annex I). They specify *direction of action* and identify starting points and do so following the **SMART** criteria as closely as possible: **specific / measurable / attainable / relevant and timely**. Nearly every recommendation is a synergy of **knowledge and action**.

A conscious decision was made to not include a catalogue of measures in this action plan. From July to September 2013, the National Point of Contact will compile a list of possible measures (National Point of Contact Concept 4.0). Developing this list requires individual consultations with the various partners.

4 The 2005 Convention contains SHALL provisions on key tasks and objectives:

1. Organising and sharing knowledge, Point of Contact, periodic reporting (Art. 9, 19)
2. Education, public awareness (Art. 10)
3. Measures and cooperation to deal with threats to cultural expressions (Art. 7, 17)
4. International cooperation, culture and sustainable development (Art. 12, 13, 14, 15)
5. Preferential treatment for artists and cultural professionals and practitioners from developing countries (Art. 16)
6. Establishing an international fund for cultural diversity (Art. 18), and
7. to foster political cooperation of Parties to the Convention in other multilateral organisations (Art. 20, 21).

5 The process of implementing several important agreements ratified by Germany involved the formulation of action points, which were then incorporated into national action plans or national strategies. Three key examples of these are:

1. The UN Convention on the Rights of Persons with Disabilities: Ratified by Germany in 2007, entered into force in 2008. National action plan (236 pages), approved by the German Federal Cabinet in June 2011. The Federal Ministry for Labour and Social Affairs organised a consultation session with various associations. The process was supervised by experts. The results of the congress are available online.
2. UN Convention on Biological Diversity: passed in 1992, ratified by Germany and entered into force in 1993. National strategy (180 pages) on implementing the Convention developed by the Federal Ministry for the Environment and adopted by the Federal Government on 7 November 2007.
3. UN Convention on the Rights of the Child: passed in 1989, entered into force in 1990, ratified by Germany in 1997. The Federal Cabinet approved a National Action Plan (104 pages) for a Germany Fit for Children (2005-2010), which was compiled by six working groups.

# Ten Action Points to Facilitate Implementation 2013 to 2016

## I. International Cooperation and the Strategic Contribution of Culture to Development

Strengthening the art and cultural sector in emerging and developing countries is one of the key goals of the UNESCO Convention. This requires increased awareness in these countries for the importance of public funding for art and culture as an investment as well a support for efficient local and regional markets. To this end, it is essential to *qualitatively strengthen* international art and cultural cooperation by promoting co-production, co-distribution, first-rate content, knowledge and educational partnerships and by fostering the mobility of artists. Germany boasts a wealth of internal and external alliances and networks involving a large number of players: Alongside the Federal Government, the *Länder* and the municipalities, cultural intermediaries and development cooperation organisations are also active in this area, as well as numerous associations, initiatives, NGOs and individuals.

The goal by 2016 is to ensure that it is easier to document *in qualitative terms* the desired *impact* of these cultural alliances which have been formed to effectively promote the diversity of cultural expressions in keeping with the objectives of the Convention. This requires greater synergy among the aforementioned stakeholders. Initiatives and measures must be pooled, prioritised and evaluated on the basis of common criteria. By 2016, it should also be possible to establish *in quantitative terms* what percentage of Official Development Assistance provided by Germany (ODA<sup>6</sup> funds in line with the criteria of the OECD Development Assistance Committee, DAC) in the field of Foreign Cultural and Education Policy (AKBP) and State Development Aid (EZ) is deployed in/with the help of the art and cultural sector to foster cooperation and (self-)development.<sup>7</sup> At present, it is not possible to collect this data for Germany. Other EU member states do have accessible data on this matter.

Since 2012, voluntary contributions made to the International Fund for Cultural Diversity (Article 18 of the Convention) have become 100% Official Development Assistance (ODA) eligible in line with the OECD regulations (cf. also Action Point X). This gives a major boost to the integration of culture into sustainable development policies at all levels (Article 13 of the Convention). The Federal Government and *Länder* discontinued their deliberations into the possibility of establishing a special joint programme for “Culture and Development” in 2009. By 2016, the Federal Government and *Länder* should designate the cultural sector as a strategic starting point for fostering the development of a democratic society through international cooperation.

### Starting Points:

- 1.1 Elaborate the format of the annual **AKBP reports to the German Bundestag (German Federal Parliament)** in a systematic and *impact-oriented* manner on the basis of the objectives of this UNESCO Convention aiming to strengthen international cooperation.<sup>8</sup> To date, these reports have been predominantly descriptive. This step will require a parliamentary initiative, as the annual AKBP report is addressed to the German *Bundestag*.
- 1.2 Account for **cultural cooperation** in Official Development Assistance (ODA funds) **statistics**: Action can be taken here at the level of the OECD’s Development Assistance Committee (DAC) as well as within the Federal Foreign Office (AA) and the Federal Ministry for Economic Cooperation and Development (BMZ). In the 2014 to 2016 period, the Federal Foreign Office (AA) could use ODA funds to develop its own cultural programme, which could be assigned to a new ODA cultural category. Good proposals at a technical and political level are required to address these statistical challenges. To this

6 Official Development Assistance

7 This data was requested as part of the Periodic Report 2012.

8 In particular, Articles 12-15 (international cooperation), 16 (preferential treatment), 18 (fund)

end, it is important to analyse the debate at international level on enhancing and expanding the OECD's ODA criteria,<sup>9</sup> as well as the periodic reports by other EU and OECD member states.

- 1.3 Facilitate and document the **mobility of artists**: encourage all players to actively use the online information platform "Touring Artists"<sup>10</sup> and develop other data sources.
- 1.4 **Intensify the impact of international cooperation – strengthen synergies between players**: Look for ways and formats to bring together knowledge and practical experience (players and measures) of international cooperation, e.g. through regional centres of competence (such as the Anna-Lindh Foundation Network for Euro-Mediterranean Cooperation). It is important to incorporate perspectives from partner countries into this process. The Federal Government, *Länder* and municipalities must take suitable measures within the scope of their responsibilities and in consultation and cooperation with civil society. All aforementioned parties must review the effectiveness of their respective measures.
- 1.5 **Culture and trade**: International cooperation and the strategic contribution of culture to development are also subject to the international trade regime. It is therefore necessary to safeguard their dual nature in the long term. The Federal Government and the *Länder* must actively apply Article 20 and 21 of the Convention.
- 1.6 Enhance the **competencies of government decision-makers** with regard to specific artistic and cultural matters in Germany and in the partner countries involved in international cooperation.

## II. Intensifying the European Debate

Measures to promote cultural policy in relation to this UNESCO Convention are faced with the constant challenge of tension arising from regulations at EU level.<sup>11</sup> In addition to its 27 member states, the European Union has also ratified this agreement, making it the only UNESCO Convention with this kind of political constellation. Key aspects here are state aid law e.g. in competition and subsidy law, other EU Internal Market regulations (in particular with regard to the Digital Agenda<sup>12</sup>), and EU external relations (especially free trade and investment negotiations), not to mention culture and media policy and the relevant support programmes in a narrowly defined sense.

In order to effectively implement the 2005 UNESCO Convention, awareness of problems and coherence at inter-ministerial level are essential. This requires a routine exchange of information and coordination between, for example, the Federal Foreign Office (AA), the Federal Government Commissioner for Culture and Media (BKM), the various committees of the Standing Conference of the Ministers of Education and Cultural Affairs (KMK), the Federal Ministry of Economics and Technology (BMW) and, on a case-by-case basis, various other ministries, as well as willingness on the part of cultural administrative bodies at federal and *Länder* level and civil society to continually develop their skills. It is important for all of these players to receive and discuss the European Union's first report on the implementation of the Convention.

The EU decision-making process completed in December 2012 on the future format of European cultural and media programmes (Creative Europe) and the Agenda for Development also influences the framework for implementing this UNESCO Convention from 2013 to 2016. It is essential to build upon the concepts of key EU programmes, such as "Investing in People", which enabled an important cooperation programme to strengthen *cultural governance* in developing countries from 2011 to 2013, and provide them with greater resources. The EU's foreign trade policy is particularly significant here. The European Union and its

9 Cf. <http://www.welt-sichten.org/artikel/6287/geber-beraten-ueber-oda-definition>

10 Online information portal of International Association of Art (IAA) in Germany (Internationale Gesellschaft für Bildende Künste) and the International Theatre Institute (Internationales Theaterinstitut), supported by the Federal Government Commissioner for Culture and Media (BKM), available since 18 April 2013 at [www.touring-artists.info](http://www.touring-artists.info).

11 The most recent example from spring 2012: the introduction of a reduced rate of VAT for works of art aimed at indirectly promoting the art sector infringes EU VAT guidelines.

12 For instance, on grid regulation, spectrum policy, net neutrality, intellectual property law, audiovisual services etc.

member states must stand by their political consensus on excluding the cultural and audiovisual sector from future negotiations on liberalisation. Article 20 and 21 of the UNESCO Convention provide a foundation for this position.

### Starting Points:

- 2.1 Initiate a discussion of the first EU report on the implementation of the UNESCO Convention from 2012 at all levels (Federal Government, *Länder*, municipalities, civil society) and draw conclusions for the implementation in and by Germany from 2013 to 2016.
- 2.2 Obligate inter-ministerial working groups involved in the implementation of this UNESCO Convention and agreements between the Federal Government and the *Länder* to politically articulate the objectives of the Convention in other national and international forums in an active manner (Article 20 and 21).
- 2.3 Ensure that the process of political steering at German domestic level of EU agreements relevant to the implementation of this UNESCO Convention, i.e. on state aid law e.g. in competition and subsidy law, other EU Single Market regulations (in particular with regard to the Digital Agenda), EU external relations (especially free trade negotiations) and cultural policy in a narrow sense of the term, is transparent and accessible to the National Point of Contact.
- 2.4 Within the scope of activities to disseminate information organised by the National Point of Contact and the Coalitions for Cultural Diversity, ensure that the Federal Government and in turn the Federal Government/*Länder* and the EU (e.g. the European Parliament) continue to actively safeguard and enforce the political commitment arising from this UNESCO agreement to completely exclude the cultural and audiovisual sector from negotiations initiated in February 2013 on a transatlantic trade and investment partnership agreement between the EU and the US.
- 2.5 Continue to systematically evaluate and more closely monitor the EU's free trade negotiations with Canada and the implementation of the EU-Korea and EU-Cariforum free trade agreements within the scope of activities to disseminate information organised by the National Point of Contact and the Coalitions for Cultural Diversity by, for example, setting up a university-based observatory (in the area of European law, international law).<sup>13</sup>
- 2.6 Actively safeguard and enforce the political commitment arising from this UNESCO agreement to completely exclude the cultural and audiovisual sector from the plurilateral negotiations initiated in 2013 in the WTO in accordance with GATS to liberalise trade in services.
- 2.7 Develop the Digital Agenda of the European Union into a "Cultural and Creative Agenda" with a far greater focus on creative content in keeping with the objectives of the UNESCO Convention.
- 2.8 Help strengthen *cultural governance* in developing countries following the example of "Investing in People" and drawing on the experiences of the UNESCO/EU Programme 2010 to 2013.
- 2.9 Assure the quality of the work of (European) Points of Contact, including representatives from the five other world regions (conference project in spring 2014, if necessary in Brussels).

13 A great deal of information is available in French. It is necessary to establish language-proficient teams to systematically follow developments in this area.

### III. The Role of Public Service Broadcasters and Media in Protecting and Promoting the Diversity of Cultural Expressions

This Convention reinforces the rights of Parties at national level. Taking into account its particular circumstances and needs, each Party is able to take appropriate protective and promotional measures to realise its goals. Article 6 also lists a range of cultural policy starting points, such as enhancing the diversity of the media through public service broadcasting.<sup>14</sup> However, the role of public service broadcasters not only involves informing the public and thus raising awareness of the importance of protecting and promoting the diversity of cultural expressions; they also act as producers, commissioners and intermediaries of services (programme contents) which are part of this diverse range of cultural expressions, which help create, protect and strengthen them. The current debate on the framework for public service broadcasting should *also* examine what political, regulatory and financial conditions are required to fulfil these tasks in keeping with the objectives of the Convention, especially in light of the economic and financial crisis in Europe.

The Conference of Parties has yet to actively explore this particular point concerning the rights of the Parties at national level, in spite of the issue's key international significance. At European level, the CJEU passed an initial landmark ruling in this area in 2010 with reference to the UNESCO Convention. Acting on a proposal from the German Commission for UNESCO and the Portuguese Coalition for Cultural Diversity, the Congress of the International Federation of Coalitions for Cultural Diversity therefore made a decision to address this issue more closely from the perspective of civil society from 2013 onwards. In their first periodic reports (December 2012) Argentina, Denmark, Ecuador, France, Montenegro, Norway, Austria, Peru, Sweden, Switzerland, the Slovak Republic, Slovenia, Uruguay and other countries gave an account of their activities to promote the diversity of cultural expressions in and through public service broadcasting.

#### Starting Points:

- 3.1 The Federal Government and the *Länder* should join forces with public service broadcasters and launch an initiative on this matter during the Conference of Parties in June 2013, and;
- 3.2 Propose this to the Intergovernmental Committee 2013 to 2015 as a core theme for its activities.

### IV. Preferential Treatment for Artists and Cultural Professionals and Practitioners from Developing Countries

In order to strengthen the artistic and cultural sectors in developing countries, Article 16 stipulates preferential treatment for artists and cultural professionals and practitioners, as well as for cultural goods and services and even entire sectors of the culture industry from developing countries. This preferential treatment also has a dual nature, i.e. cultural and economic/trade components. This is a *mandatory* article for *industrial nations* such as Germany.

There are a number of interesting practical approaches in and originating from Germany, which are relatively unheard. They are mostly related to the area of film (e.g. Berlin International Film Festival's World Cinema Fund and the Talent Campus), books (e.g. Frankfurt Book Fair's invitation programme for publishers from the Global South) and music (e.g. coaching for bands from developing countries). The impact of a number of programmes is

<sup>14</sup> Article 6, 2h

coaching for bands from developing countries). The impact of a number of programmes is well documented. Other programmes often lack assessment reports and data which would help gauge their impact.<sup>15</sup> It should be noted here that the impact of cooperation generally becomes only clear in the medium to long term. It is particularly important to take decisive steps forward on the key issue of preferential treatment by 2015/2016 and to agree on a working method with a long-term perspective.

### Starting Points:

- 4.1 Conduct an in-depth evaluation of data from the last few years for three to five particularly essential areas (film, books etc.) where Germany is especially active in order to establish the effectiveness of preferential treatment in line with the Convention's objectives.
- 4.2 Starting in 2014, incorporate a chapter on preferential treatment in the Foreign Cultural and Education Policy (AKBP) report, which builds on the definitions from the 2005 Convention and the implementation guidelines (Article 16) and applies them in a structured manner. As the AKBP report is addressed to the German *Bundestag*, a parliamentary initiative would be the most effective way to introduce this.
- 4.3 At the same time, it would be important to consult sections of specific knowledge-based resources and portals<sup>16</sup> and establish what they would require to provide informative data on the preferential treatment of artists, cultural professionals and practitioners and others active in the cultural sector as well as cultural goods and services from developing countries.
- 4.4 Clarify the legal basis of preferential treatment (tax law, ancillary copyright law).

## V. Mobility of Artists

The core aim of cooperation for development (Article 14) is to foster the emergence of a dynamic cultural sector through a package of measures, which will support creative activities and create and strengthen cultural production and distribution capacities in developing countries. Increasing the mobility of artists and cultural intermediaries is a relatively uncomplicated way of promoting the diversity of cultural expressions. The Convention thus particularly highlights the need to facilitate this mobility wherever possible. In their initial reports on the implementation of the Convention (December 2012), the majority of the Parties cited measures to promote the mobility of artists and cultural professionals and practitioners as a considerable step towards granting preferential treatment (see above).

Varying procedures for issuing visas and a range of contrary decisions are particular trouble spots that artists and organisers of cultural events are all too familiar with. However, the same problems apply to cooperative endeavours in education, science and business. The costs (visa, passports, visa procurement services) – some of which have increased significantly – present a particular obstacle. The work of the French NGO Zone Franche/ the Network for World Music is an example of a pioneering approach in this area: in 2010 it founded the “Artist’s Visa” committee, which represents a total of nine organisations. On 23 April 2013, the NGO “On the Move” published recommendations on “Artists’ Mobility and Schengen Visas” addressed to the EU Commission, EU member states and cultural organisations based in the EU (<http://on-the-move.org>).

2013 is a strategic year for conditions affecting the mobility of artists. By the end of 2013 the EU aims to have made considerable improvements to the administrative procedure for issuing short-term visas in the Schengen area and is looking for civil society partners to achieve

<sup>15</sup> For example, Frankfurt Book Fair’s publisher’s/visitor’s programme: In 2011/2012 there was not enough information to obtain reliable data on the effectiveness of Frankfurt Book Fair’s publisher’s programme in terms of the Convention’s objectives. How many publishers from developing countries are invited each year and according to which criteria? Which (ODA-eligible) countries do they come from? Does their attendance at Frankfurt Book Fair result in licensing agreements for publishing houses from the Global South? In the placement of book titles on the international market which convey different perspectives? In greater diversity of books on sale in industrial nations? In the exchange of experiences and knowledge etc.? Could this be tracked by, for example, categorising ISBN numbers (“translated book from country XYZ”)?

<sup>16</sup> Such as the German Music Information Centre (Deutsches Musikinformationszentrum – [www.miz.org](http://www.miz.org)).

this goal. On 23 April 2013 the Commissioner for Culture held a consultation session on this matter with artists' organisations and NGOs in Brussels. Up to 17 June 2013, a public online consultation was held. The information is available in English, French, Spanish, Portuguese, Russian, Turkish, Chinese and Arabic.

Unfortunately, it is neither possible at present to estimate how many artists and cultural professionals travel from Germany to different parts of the world each year, nor how many artists and cultural professionals are travelling from different parts of the world to Germany. There is also no information to indicate what proportion of these artists are performers (disciplines), whether they are involved in (long-term) co-productions and co-creations etc. For countries within the EU, empirical methods have been developed to track cross-border mobility of artists within Europe (e.g. <http://on-the-move.org/> in the area of performing arts). The EU Commission (Directorate General for Education and Culture) is currently working on expanding and systematising its acquisition of data on the mobility of artists (priority area of the Work Plan for Culture 2011-14). It is also important to learn from this at national level. Nearly all EU member states are failing to collect reliable data. The increasing significance of *green mobility* needs little explanation (cf. <http://on-the-move-org/files/Green-Mobility-Guide.pdf>).

### Starting Points:

- 5.1 Monitor the procedure for issuing visas when inviting artists to Schengen countries within the scope of the revision of the EU Visa Code by the EU Directorate General for Home Affairs (by the end of 2013, followed by approval from the European Parliament).
- 5.2 Use this as a basis to suggest specific improvements to administrative procedures in order to make the process of issuing visas more coherent (Federal Foreign Office – AA/, Federal Ministry of the Interior – BMI), and incorporate the normative framework of this UNESCO Convention (internal quality assurance processes, e.g. co-signing by cultural attachés at embassies).
- 5.3 Encourage the Parties to (voluntarily) submit all data concerning mobility in projects which are supported using public funds and/or by foundations to a suitable data collection agency (in a similar way to the registration of translations in the Index Translationum).

## VI. Culture and Sustainable Development Strategies

The Convention aims to reinforce the link between culture and development for all countries. Cultural diversity is a rich asset for individuals and societies. The protection, promotion and maintenance of cultural diversity are an essential requirement for sustainable development for the benefit of present and future generations (Article 1.f and 2.6). The Federal Government appointed a Council for Sustainable Development in April 2001. During the period 2010 to 2013, the Council added “cultural diversity and education for sustainable development” and “consumption and lifestyles in the context of a sustainable economy” to its priority areas for the first time. It will prepare a policy paper on these topics in 2013.

### Starting Point:

- 6.1 Initiate a cooperation with the Council for Sustainable Development in order to integrate culture into sustainable development during the period 2013 to 2016.

## VII. Digital Diversity– How can it work?

There is much debate about the impact of digitalisation on the diversity of cultural expressions and the diversity of media content. Factors that boost diversity are faced with changes that reduce diversity. From 2003, the negotiations on the Convention text addressed the massive changes in the art sector and the cultural industry in light of digitalisation and subsequently accounted for them in the process of implementation. Specific examples include the Federal Government’s cultural-industry initiative since 2007/2008, the debates on ACTA in 2011/2012, and the 9th consultation of the Federal Coalition for Cultural Diversity in 2011 on audiovisual developments and copyright law in Potsdam. The core theme of the World Day for Cultural Diversity (21 May 2012) in Germany was “The value of creativity – being an artist in the digital age”. Various forms of collective financing are under discussion in Germany to complement the private fee-based funding of digital media (a media fee, a cultural flat-rate fee, funding through foundations). At European level, the EU Commission has also proposed various forms of “collective rights management”. Digital markets have long been a focal point for research in the field of economics. Cultural and scientific information have become accessible worldwide.

### Starting Points:

- 7.1 Together with other Parties to the Convention, the Federal Republic of Germany should systematically evaluate these discussions and use the findings to develop a political, legal and financial framework to intensify intercultural transfer (technological neutrality).
- 7.2 Coordinate German approaches and strategies with those in other EU member states and at EU level.
- 7.3 Coordinate with the opinions and agendas of cultural associations across Germany.
- 7.4 Develop the Digital Agenda 2020 into a “cultural and creative agenda”.
- 7.5 Involve macro economists in the process of analysing and evaluating value chains.

## VIII. Evaluate and Continue the Kaleidoscope of Relevant Practice

The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions entered into force seven years ago. The Federal Republic of Germany compiled its first report on the implementation of the Convention in April 2012. In 2011/2012, as a contribution of civil society to the report, the project “Kaleidoscope of the Diversity of Cultural Expressions” brought together information on projects, initiatives and measures that reflect the diversity of cultural expressions and the implementation of the Convention in and by Germany. What opportunities does the Convention create in Germany? How has it been implemented in and by Germany to date? To what effect? What are the challenges and weaknesses? How can these be overcome?

Following a transparent set of criteria, civil society players, associations and groups, publicly funded organisations and institutions, and political stakeholders submitted examples of practice that contributed to the objectives of the UNESCO Convention on the diversity of cultural expressions and would persuade and inspire others to follow suit. The Kaleidoscope Project illustrated the diverse range of initiatives in Germany which help implement the Convention to promote the diversity of cultural expressions. It is necessary to evaluate this pilot phase, enhance the methodology and continue the Kaleidoscope project.

enhance the methodology and continue the Kaleidoscope project.

### Starting Points

- 8.1 Raise awareness of the activities of third parties [“Why project ABC or regulation XYZ make a particularly effective contribution to implementing this Convention?”].
- 8.2 Conduct research on initiatives from municipalities and civil society.
- 8.3 Develop Kaleidoscope into a joint project of UNESCO Chairs, involving young researchers and students.
- 8.4 Encourage interested parties to apply; appoint an expert panel (peer review) to validate these applications on the basis of a transparent set of criteria.

## IX. Impact Monitoring – Data and Facts

Nearly all of the 50 periodic reports published in 2012 had a key weakness: they lacked a solid empirical foundation and only provided a rudimentary documentation of the impact of the cultural-policy measures implemented.<sup>17</sup> A few periodic reports (Finland, Switzerland) do, however, offer some interesting initial approaches on this matter. The UNESCO Institute for Statistics has also published pilot studies (e.g. the diversity of content on television, a comparative study of England, France, Turkey).

In this respect, the main priority here is not (only) to collect traditional cultural statistical data, but rather to gather data and facts that are interesting in qualitative terms and able to convey the complex cause-and-effect relationships in keeping with the objectives of the 2005 UNESCO Convention. It is important to allocate the necessary resources to give these tasks a solid grounding and enable a regular exchange between players on these specialist issues.

### Starting Points

- 9.1 Studies conducted by the UNESCO Institute for Statistics and the OECD on indicators to track changes in the diversity of cultural expressions; impact analyses of measures (Stirling Model) (training workshops).
- 9.2 Identify the most important gaps in the statistics available on the Convention by 2016 and investigate if and how it is possible to bridge them (cooperation with the Federal Statistical Office in Wiesbaden and/or other capable specialist bodies).

## X. German Contribution to the International Fund for Cultural Diversity

The International Fund for Cultural Diversity (IFCD) was set up as instrument to implement the objectives of this UNESCO Convention (Article 18). The voluntary contributions made by the Parties to the Convention particularly help developing countries strengthen their cultural industries, their cultural policies and their cultural infrastructures. Beneficiaries of the fund include NGOs, cultural producers and those responsible in the area of cultural policy. Parties to the Convention and private donors have provided USD 5.6 million to date. Since 2010 this has enabled the realisation of 61 projects in 40 countries with a total volume of USD 3.9 million. The selection round in December 2012 featured, for example, 218 projects from a total

<sup>17</sup> E.g. index of programme contents on television, use of cultural facilities according to age and gender, use of UNESCO Statistical Framework to analyse the cultural and artistic employment markets.

of 68 countries, the majority from NGOs operating at national level. Typical projects include innovative income-generating measures for young people in the creative industry, training structures, municipal initiatives to promote the diversity of cultural expressions and the creation of informal art spaces, *inter alia*. One-off activities such as festivals only receive funding if they play an indispensable role in creating cultural infrastructures.

Unlike funds for other UNESCO cultural conventions, such as the World Heritage Fund (World Heritage Convention from 1972) and the Fund for Intangible Cultural Heritage (Convention for the Safeguarding of the Intangible Cultural Heritage from 2003), the IFCD is supported by voluntary payments from the Parties to the Convention instead of mandatory contributions. Around a quarter of the Parties have paid into the fund to date. The list of these countries and the amount contributed is published each year on the UNESCO homepage. France, Canada, Spain, Norway and Finland have been the most important contributors so far. In 2007 at the first session of the Conference of Parties, Germany pledged to contribute a six-figure sum to the fund. It has not been possible to realise this contribution to date. As a result, Germany's voluntary contribution for the 2008 to 2011 period was recorded as 0.00 EUR in the 2012 report on the implementation of the Convention.

UNESCO commissioned an evaluation of the pilot phase of the IFCD's work in summer 2012. This resulted in further improvements to its mode of operation in December 2012. The fund aims to use its financial resources above all to support projects that help build structures. Following a decision made by the OECD (DAC Committee) in 2012, voluntary contributions made to the International Fund for Cultural Diversity are 100% Official Development Assistance (ODA) eligible. Funds for development cooperation can therefore be used to finance the voluntary contributions.

## Starting Points

- 10.1 Action by the ministries in charge and resolve on the part of the Federal Government and the *Länder* is necessary to constructively honour the promises made in 2007 et seq.
- 10.2 Insist on binding statements from responsible authorities specifying when and how much will be contributed to the International Fund for Cultural Diversity (*Bundestag*, other stakeholders).

The interdisciplinary objectives of the 2005 UNESCO require a well-structured, qualitative, inter-ministerial approach, in which the Federal Government, the *Länder* and the municipalities cooperate in a practice-oriented manner and reach agreement on key guidelines and priorities for a specific time period. This paper aims to provide impetus for this process.

Bonn, 21 May 2013

A project of the German Commission for UNESCO (the Advisory Committee on Diversity of Cultural Expressions, Programme Committee for Culture) and the Federal Coalition for Cultural Diversity

German Commission for UNESCO  
National Point of Contact for the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions

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# METHODOLOGY AND TIMELINE FOR THE DEVELOPMENT OF ACTION POINTS ON THE DIVERSITY OF CULTURAL EXPRESSIONS FROM 2013 TO 2016

The process of developing action points with SMART objectives in 2012/2013 to implement the 2005 UNESCO Convention in and by Germany, as well as in and by (EU-) Europe in the period from 2013 to 2016, was initiated on the basis of **Germany's first periodic report published in April 2012** (complete text with appendices is available at [www.unesco.de](http://www.unesco.de)). It actively built upon the findings of the **White Paper** (2008/2009, English version 2010), the compilation of inspiring good practices aimed at implementing the Convention entitled **"Mapping Cultural Diversity"** (2010) and the **Kaleidoscope Project** showcasing relevant practice (2011/2012) (all available online at [www.unesco.de](http://www.unesco.de)).

Germany's first periodic report approved by the Federal Cabinet was submitted to UNESCO on 30 April 2012 and discussed in the Intergovernmental Committee from 10-14 December 2012 together with all other available reports, including the EU report (Commission). **All of the periodic reports submitted by the Parties in 2012** have been **available to the public** since December 2012 at [www.unesco.org](http://www.unesco.org).

The UNESCO Secretariat used **the first series of reports** as a basis to develop an action-oriented *analytical summary* entitled **"lessons learned"** and assigned five experts to pinpoint **innovative examples, measures and practices** from the 48 reports submitted. A summary document (UNESCO CE/12/6.IGC/4) was then produced to bring together key examples of approaches of implementing the Convention from individual countries.

It highlighted the following examples from Germany:

- The Federal Government's cultural and creative industries initiative as an example of a "coherent, joint information and capacity-building infrastructure" (Art. 6)
- Berlin International Film Festival's World Cinema Fund as an effective tool for the preferential treatment of filmmakers and films from developing countries (Art. 16)
- The international U40 Network "Cultural Diversity 2030" (Art. 10, 12)
- The practice of involving civil society in the development of cultural policy and the related consultation and cooperation processes that have been established (Art. 11)
- The creation of the National Point of Contact in Germany and its activities to raise awareness in Germany and in the Arab region (CONNEXIONS) (Art. 9, 10, 12)

## May 2012

Initiation of the process to develop benchmarks, involving the evaluation of the first German periodic report during the 10th consultation of the Federal Coalition for Cultural Diversity in Hildesheim.

## October 2012

Session of the Advisory Committee on "Diversity of Cultural Expressions" and the Programme Committee for Culture of the German Commission for UNESCO: First review of draft (I); feedback phase until 30 November 2012.

### 10-14 December 2012

Session of the Intergovernmental Committee in Paris: lessons learned from the 48 periodic reports submitted in 2012 as well as the EU report. Identification of innovative measures and implementation practices.

### February 2013

Session of the Advisory Committee on “Diversity of Cultural Expressions” and the Programme Committee for Culture of the German Commission for UNESCO: Second reading of the revised draft (II), submission of comments by 6 March 2013.

### March 2013

Submission of the draft (III) to the core group of players in the Federal Coalition for Cultural Diversity, including representatives of important cultural associations across Germany, representatives of actively involved civil society (e.g. initiatives, competitions, festivals), those responsible for cultural planning processes at *Länder* level, such as cultural councils, cultural senates/cultural conventions *inter alia*, cultural foundations, local authority associations, other initiatives at city level (e.g. cultural concept development processes, e.g. Intercultural Cities), parliamentarians and research assistants of parliamentary groups, UNESCO Chairs, cultural policy researchers, German-speaking European colleagues, with the request for collegial, web-based comments (google.docs); feedback phase until 12 April 2013.

### 18/19 April 2013

11th consultation of the Federal Coalition in Frankfurt/Main: DIVERSITY. ACTION. EUROPE. Comparative evaluation of the implementation of the Convention in and by the EU member states and in and by the EU. Rounding off/Completing feedback on the action points on the basis of the collegial comments submitted in writing (draft IV).

### May 2013

Third and final reading by the Advisory Committee on “Diversity of Cultural Expressions” and the Programme Committee for Culture of the German Commission for UNESCO (procedure of circulation).

### 21 May 2013

World Day for Cultural Diversity

Transmission of the action points to the Federal Government and the *Länder* as a contribution to the 4th session of the Conference of Parties (Paris, 11-14 June 2013).

### 11-14 June 2013

Consultation and approval of the first periodic reports by the 4th session of the Conference of Parties. The session of the Conference of Parties assigns tasks to the Intergovernmental Committee for the period from December 2013 to June 2015. Re-election of 50% of the members of the Intergovernmental Committee.

### July to September 2013

Further elaboration of action points: identification of suitable measures to enable operational implementation in 2013/2014 et seq., to be developed as part of an ongoing plan from 2014/2015 up until 2016. Formulation of the National Point of Contact Concept 4.0.

### Autumn/winter 2013

After the German parliamentary election on 22 September 2013

The ministry responsible for the 2005 Convention should pro-actively clarify and communicate the expectations of the target groups to the executive and the legislative for the 2013 to 2016 implementation period by, for example, convening a one-off consultation session.

With regard to the relevant ministries and administrative offices involved (Part 1) at federal, *Länder* and municipal level, it is important that all relevant players/actors assume responsibility for the tasks that fall within their remit during the 2013 to 2016 implementation period.

With regard to the civil society and the scientific community (Part II), it is important to clarify and communicate the expectations of these target groups to the executive and the legislative for the 2013-2016 implementation period and to examine how they can contribute.

### 2014 – Plannings of the National Point of Contact:

A professional workshop on indicators to track changes in the diversity of cultural expressions, impact analyses of measures (studies conducted primarily by the UNESCO Institute for Statistics and the OECD, e.g. the Stirling Model, e.g. the EU's Media Diversity Model, *inter alia*).

A conference organised by the National Points of Contact in the European region with the participation of the National Points of Contact from the Asia-Pacific, Arab, African, Latin and Central America regions.

### 22/23 May 2014

Celebrating ten years of existence of the Federal Coalition for Cultural Diversity (Mannheim).

### 20 October 2015

Tenth anniversary of the adoption of the 2005 Convention!

# THE OBJECTIVES OF THE UNESCO CONVENTION ON THE DIVERSITY OF CULTURAL EXPRESSIONS (2005)

## **Unlimited cultural self-determination**

On the basis of human rights, individuals and social groups have the right to make personal decisions about artistic and cultural expression and to access and participate in culture freely (Preamble).

## **Recognition of the “dual nature” of cultural goods and services**

Cultural goods and services are both commodities and the means of conveying identities, values and meanings. This is necessary in order for “cultures to flourish and to freely interact in a mutually beneficial manner” (Article 1).

## **Right to cultural policy**

Every nation is entitled to formulate its own cultural policy. At the same time, the Parties to the UNESCO Convention commit themselves to protect and promote the diversity of cultural expressions within their territory (Article 6).

## **Active participation of civil society**

The Parties acknowledge the “fundamental role of civil society in protecting and promoting the diversity of cultural expressions” and encourage the active participation of civil society in the implementation process (Article 11).

## **International cooperation**

The Parties commit themselves to international cooperation with binding rules and regulations for the exchange of cultural products. This includes the protection of viable local and regional markets of independent cultural industries (Article 6), the conclusion of co-production and co-distribution agreements (Article 12) and preferential treatment for developing countries for cultural exchange with developed countries (Article 16) – in particular in situations of serious threat (Article 8 and 17).

## **Integration of culture in sustainable development**

The Parties to the Convention aim to integrate art and culture at all levels into their development strategies and thus contribute to sustainable development (Article 13).

## **Information sharing**

In order to assess the global situation of diversity of cultural expressions, analyses, best practices and relevant information should be shared and disseminated systematically (Article 19), for example by designating National Points of Contact (Article 9 and 28). The Parties publish reports on the implementation of the Convention every four years.

## **Equality with other international treaties**

The UNESCO Convention is complementary to other international treaties, such as the GATS and the GATT of the World Trade Organisation and is neither subordinate nor of higher ranking. The Parties should aim to actively cooperate as a “club” in order to also account for the objectives of this Convention in other multi-lateral forums and when implementing other agreements (Art. 20).

## The 2005 UNESCO Convention, Magna Carta of International Cultural Policy, is Regarded as a Complex Instrument. With Good Reason!

Its key concern is to influence the balance of power between culture and trade for the benefit of sustainable cultural (self-)development and to boost freedom of choice regarding cultural expressions.

This involves seven dimensions relating to cultural policies and cultural cooperation that have an impact on the public and the interplay between these dimensions:

1. (Enabling) access to art and culture based on the principles of human rights, including (granting) artistic freedoms and the necessary status of artists and cultural producers.
2. Conveying a diverse range of cultural and aesthetic experiences through media (such as public broadcasters) and enabling access for wider sections of society.
3. (Using) art and culture as a vehicle to foster sustainable self-development in societies (“vitamins for the senses”) and as intellectual nourishment on the basis of universally recognised values.
4. Promoting cultural cooperation to balance out the asymmetries of the global market and taking decisive action to strengthen the South-South exchange – preferential treatment from industrial countries through co-production, co-distribution and knowledge partnerships.
5. Fostering creativity, innovation, independent cultural industries and regional and structural development.
6. Providing cultural education and raising awareness.
7. Boosting the value of artistic activities faced with the conditions resulting from changes in value chains in the age of digitalisation.

The press and also a large number of experts have difficulties grasping the complexities of this new UNESCO instrument. Part of the reason for this is presumably because they are more familiar with the “lists” published by UNESCO on an annual basis (World Heritage, Memory of the World, Intangible Cultural Heritage). This formula cannot be applied to the implementation of the 2005 Convention.

Furthermore, key players and target groups (cultural associations, the scientific community, cultural administrative bodies) have expectations that are in some ways contradictory: Many would prefer to have clear-cut definitions (“what is cultural diversity” in a Reader’s Digest-style format) which meet both the highest academic standards, but can also be grasped by a wider audience. Some instrumentalise the Convention for limited advocacy without meeting the challenge presented by the aforementioned interplay of the various dimensions.

It is essential for each Party to the Convention to develop a specific vision of what they aim to achieve with the help of this UNESCO Convention over the next five, ten, twenty or thirty years. The matter should also be examined in debates involving experts from civil society. This Magna Carta can help to pinpoint highly interesting approaches and action strategies used in commons-based models of artistic and cultural production. Much can be learned here from the international knowledge network created within the scope of the Convention.