

REPORT OF THE INTERNATIONAL FEDERATION OF COALITIONS FOR CULTURAL DIVERSITY (IFCCD) ON CIVIL SOCIETY ACTIVITIES

1. PRESENTATION OF THE IFCCD

The IFCCD was founded in Seville on September 19, 2007 to replace the International Liaison Committee of Coalitions for Cultural Diversity (ILC). This Committee was created in 2003 at the initiative of the Coalitions for Cultural Diversity to facilitate cooperation and the development of common positions and actions. In particular, the ILC encouraged the elaboration of UNESCO's Convention on the Protection and Promotion of the Diversity of Cultural Expressions by coordinating the participation of civil society representatives and professionals from the cultural sector in international negotiation sessions. The entry into force of the UNESCO Convention on 18 March 2007 marked a new turning point for the work of ILC, which became the International Federation of Coalitions for Cultural Diversity (IFCCD).

The IFCCD was the first international organisation dedicated to promoting civil society perspective in the implementation of the Convention's aims. It has among its founding members 43 national coalitions for cultural diversity that bring together a total of more than 600 professional cultural organizations representing creators, artists, independent producers, distributors, broadcasters and publishers in the book, film, television, music, performing arts and visual arts sectors.

The Federation is incorporated in Canada and its General Secretariat is located in Montreal. The French Coalition for Cultural Diversity represents the IFCCD at UNESCO in Paris. The 6th IFCCD International Congress will be held in autumn 2019 in Africa.

2. INTRODUCTION

IFCCD members actively participated in the preparation of the report of civil society organizations, submitted in December 2017. At the time, a questionnaire collected contributions from about 70 civil society organizations in the fall of 2017.

Barely a year later, the IFCCD considers that this report is still relevant. In addition, since the IFCCD adopted an ambitious action plan at the Montreal Congress in October 2018, and given the tight deadlines for the production of the 2019 report, this report is intended to complement the 2017 report rather than replace the recommendations already made.

It is also noted that to date there has been no official response to the thirteen key recommendations of the first report. Nor is there a process in place for feedback from the Parties which is something we come back to below.

In this first IFCCD Report, we will focus on topics that were not specifically recommended in the 2017 report. We will also revisit the recommendations of the 2017 report on the topics that are priorities for the IFCCD and its members.

3. EMERGING PRIORITIES FOR THE IFCCD

3.1. OVERSEE THE PROGRAMMING AND DISSEMINATION OF CULTURAL EXPRESSIONS ONLINE

The increasing access to cultural expressions online and the reconfiguration of actors' positions, particularly with the arrival of new global players taking advantage of cultural contents, have profoundly disrupted cultural ecosystems and value chains. While the intensity of impacts may vary from one State to another, the challenges of this transformation, which are many and complex, do not spare any territory.

The *Operational Guidelines on the implementation of the Convention in the digital environment* generally invite parties to adopt "policies and measures (which) shall aim to address all areas - creation, production, distribution, dissemination, access and enjoyment - taking into account the profound changes to the value chain and the arrival of new actors"¹.

The IFCCD can only support all the recommendations of the operational guidelines and the Roadmap for the implementation of these guidelines. **Today, it stresses the urgent need to implement these new policies and measures.** In practice, except for the gradual implementation of directives in the European Union², the presence of cultural expressions online does not currently benefit from any legal framework throughout the world. As access to cultural content increasingly passes through the Internet, many societies risk gradually losing much of the means they currently have to protect and promote the diversity of cultural expressions. This is particularly true for two types of measures, but not limited to them.

First, measures which promote the discoverability of cultural expressions, such as those that set quotas for the promotion of national content. Second, the revenues collected in the form of contributions, taxes or other charges from companies that benefit from the programming or broadcasting of cultural content.

Most of the work needs to be done in each of the States to adapt existing legislation to the digital environment, or to adopt new legislation where the framework is non-existent or insufficient. Obviously, it is essential that civil society and especially organizations representing artists, creators and producers in the cultural sector be involved in the development of these laws.

The European Coalitions for Cultural Diversity has been very active in promoting the principles of the Convention in the context of the development of the guidelines on Audiovisual Media Services and Copyright: production of information for cultural networks, recommendations on draft legislation, meetings with stakeholders and parliamentarians in Brussels, organisation of events, publication of press releases.

The collaboration of States on these issues, as required by article 21 of the Convention, seems fundamental in several respects. Metadata challenges, whether they are related to the proliferation of models or to how to identify national content, can pose obstacles to requirements for the discoverability of cultural expressions. **These issues would benefit from international collaboration. The publication of data on the diversity of cultural expressions is another area where transnational mobilization seems relevant.** We will get back to this point later.

1 Article 10.

2 Those on audiovisual media services and copyright.

3.2. CULTURAL EXEMPTION AND FAIR TRADE

Unfortunately, almost 12 years after the entry into force of the Convention, culture continues to be liberalized in trade negotiations. Indeed, despite significant progress, an in-depth study of 59 trade agreements reveals that parties to the Convention do not systematically incorporate an exemption clause in their trade negotiations, nor other suggested provisions to protect and promote the diversity of cultural expressions³. This is all the more worrying as the digital environment is increasingly integrated into trade agreements, with clauses preventing parties from granting preferential treatment to national digital products, including cultural content. Only about one-third of the agreements studied include a cultural exemption (or exception) clause, the scope of which may vary from one agreement to another. In addition, only six of the agreements studied include provisions on articles 16 and 21 of the Convention.

IFCCD members in Africa also deplore a lack of general knowledge of the Convention on the part of their governments, as well as the absence of cultural exemption clauses in agreements signed by States on the continent. Representations had also been made by IFCCD representatives in Asia-Pacific to improve the mobility of artists in the context of the Transpacific Partnership negotiations, but had not been successful. Taking note of this assessment, **the IFCCD has decided to develop, in the coming months, tools to support civil society representations in trade negotiations.**

One of the main objectives behind the adoption of the 2005 Convention was specifically to protect cultural expressions from trade liberalization, while ensuring that these agreements promote the diversity of cultural expressions. This imperative is further reiterated in the Operational Guidelines on the implementation of the Convention in the digital environment, particularly in Article 19, of which we can mention two paragraphs here:

19. Consistent with their obligations in Article 21 of the Convention to promote the objectives and principles of the Convention in other international fora, and in order to foster an integrated approach in the areas of culture, trade and investment in the digital environment , Parties are encouraged to promote:

19.4 the consideration of introducing cultural clauses in international bilateral, regional or multilateral agreements, namely provisions that take into account the dual nature of cultural goods and services, including preferential treatment clauses, with particular attention to the status of e-commerce that shall recognize the specificity of cultural goods and services;

19.5 the incorporation of explicit references to the Convention and these guidelines on the digital environment in trade and investment agreements, as well as provisions that enable their implementation, including the preservation of the capacity to design new public policies when necessary.

The inclusion of a chapter on "The Convention in other International Forums: A Crucial Commitment" in the 2018 Global Report of the Convention is already an important contribution to assist the parties in their trade negotiations, and a valuable source of information for civil society. We believe it would be appropriate to continue efforts in this direction. This could take the form of specific issues in the preparation of quadrennial reports, or the adoption of operational guidelines on the implementation of the Convention in trade agreements.

At the Intergovernmental Committee meeting in December 2018, the German Commission for UNESCO, founder and coordinator of the German Coalition for Cultural Diversity, organized an interesting debate on "Fair Trade for Culture"⁴.

³ Guèvremont Véronique and Ivana Otašević (2017), Culture in treaties and agreements : implementing the 2005 Convention in bilateral and regional trade agreements, UNESCO, 123 pages

⁴ See the Conference Report prepared by Jordi Baltà Portolés, available on the German Commission website: <https://www.unesco.de/kultur-und-natur/kulturelle-vielfalt/kulturelle-vielfalt-weltweit/fair-trade-culture>

We encourage the parties to continue this reflection. This issue could be further developed in the context of future meetings in order to strengthen the principles of the Convention and implementation of SDGs (e.g. 8 and 10). It would be wise to take into account the concept of "fair trade" and sustainable supply chains in other sectors to understand the benefits, as well as the specificities and challenges for the cultural sector. While fair trade initiatives can play a very positive role in transforming mindsets, consumer behaviour and production conditions, it would be important at the same time to continue to aim for a profound transformation of trade principles in order to ensure fair trade.

3.3. REMUNERATION OF ARTISTS, CREATORS AND CULTURE PROFESSIONALS

In their report in 2017, civil society organizations addressed the issue of the remuneration of artists in recommendation 8 (Support for skills development of artists and cultural professionals). It referred to "fair and equitable remuneration for artists and cultural professionals; transparency in the distribution of income between digital distributors, Internet service providers (ISPs) and rights holders". For the IFCCD, support for skills development and remuneration issues are two areas that each deserve specific attention.

Artists, even in Europe, who contribute to the production of cultural goods and services still suffer from significant precariousness. Already, in many countries, project-based funding generated a significant proportion of non-standard employment (contract, temporary or part-time) and self-employment rather than regular hiring. This precariousness tends to increase with digitization and has impacts on working conditions, social protection and remuneration⁵.

For example, in the music sector, although it is quite difficult to know in what proportion artists' revenues have been affected, it takes one million streams for a song to generate \$4,000 of income, based on a rate of about \$0.004 per listening⁶. These revenues are then distributed throughout the whole production chain.

In addition, the data indicates that revenues for the entire music industry worldwide fell significantly from the late 1990s to 2014, and that they have been slowly increasing since 2014⁷.

This has many impacts, of course, for companies in the sector, particularly for independent producers who invest significant sums in the development of musical content. These revenue losses also result in a decrease in the number of projects that can be supported or the resources available to promote them. In short, digitization has an impact on the entire value chain, and it also affects the diversity of expressions that emanate from it.

States can also contribute to improving the living conditions of artists, creators and cultural professionals. Moreover, the Operational Guidelines on Measures to Promote Cultural Expressions stipulate that "Parties are encouraged to develop and implement policy instruments and training activities in the field of culture ". These tools may take the form of " Financial support: e.g. development of financial support programmes including tax incentives that provide assistance for the creation, production, distribution and dissemination of domestic cultural activities, goods and services "⁸.

5 See, for example, the most recent (2019) ILO study on the subject Challenges and opportunities for decent work in the culture and media sectors : https://www.ilo.org/sector/Resources/publications/WCMS_661953/lang--en/index.htm

6 Spotify rate in 2018: <https://www.digitalmusicnews.com/2018/01/16/streaming-music-services-pay-2018/>

7 As reported by ADISQ: https://adisq.com/medias/pdf/fr/Examen_of_the_Canadian_legislative_framework_for_intervention_ADISQ.pdf, with particular reference to data from IFPI, State of the industry, 2018: <https://gmr.ifpi.org/state-of-the-industry>

8 Article 2.3. https://en.unesco.org/creativity/sites/creativity/files/convention2005_operational_guidelines_en-.pdf#page=4

The 2018-2019 consultation on the status of the artist, the conclusions of which will be shared at the 2019 General Conference, should provide an important update on the conditions of artists. Developing the capacity to provide a clearer picture of artists' current remuneration is important, and it will also be necessary to closely monitor technological developments in the cultural sector. As described by the Canadian Coalition for the Diversity of Cultural Expressions in its discussion paper on artificial intelligence, the development of artificial intelligence could lead to a decrease in income-generating activities in the cultural sector, causing significant social and cultural economic impacts⁹.

3.4. FEEDBACK FROM THE SECRETARIAT AND PARTIES TO CIVIL SOCIETY REPORTS

Civil society organizations have several opportunities to report on their actions and to communicate their priorities and recommendations on specific issues (e. g. consultation on the status of the artist) or more generally, when invited to participate in the drafting of the quadrennial report, although this consultation is not common practice in all countries. In fact, civil society organizations are frequently asked to produce reports of all kinds and they agree to devote time to them in order to contribute to the evolution of the many discussions that concern them.

That is why it is important to **identify the best ways to encourage feedback from the parties on recommendations from civil society**. The IFCCD is available and ready to collaborate with the secretariat to identify the best opportunities for dialogue.

4. FOLLOW-UP TO THE CIVIL SOCIETY REPORT 2017

4.1. SUPPORT THE PARTICIPATION OF CIVIL SOCIETY

Recommendation 3 of the 2017 report of civil society organizations emphasized the need for "measures to facilitate the effective participation of civil society in the work of the governing bodies". Various options are available to the parties to support this objective. **The first is to support, in particular financially, the participation of independent and representative representatives of civil society in the Convention's bodies**. For the IFCCD, participation in these meetings is a prerequisite for civil society to play its role in the implementation of articles 14 and 16 of the Convention, among others.

In order to be able to assess the real extent of civil society participation in the meetings, it would be useful to publish a register of representatives (name and organisation) per country who actually participated in the meetings.

The second is **to support representative civil society organizations such as the IFCCD and its members, which are dedicated to mobilizing civil society to achieve the objectives of the Convention**, by supporting the participation of delegates in the Convention's bodies, organizing training activities, conferences, generating studies and providing forums for debate to coordinate and advocate for the diversity of cultural expressions. This is the direction that the governments of Quebec and Canada have chosen to take by supporting the Canadian Coalition for the Diversity of Cultural Expressions, which notably provides the IFCCD secretariat.

The lack of support for national coalitions has resulted in the disappearance of many of them. For example, in Latin America, of the 11 coalitions that were active, there are only a few left (Chile, Paraguay), while elsewhere efforts are currently being made to revitalize dormant coalitions (in Mexico and Argentina).

⁹ See the document online: <https://cdec-cdce.org/en/ethical-principles-for-the-development-of-artificial-intelligence-based-on-the-diversity-of-cultural-expressions/>

We have no doubt that the support of the parties and UNESCO would have a decisive effect in ensuring the participation of civil society in the implementation of the Convention. However, **this support must be continuous** in order to ensure the quality of their contribution and leadership's renewal. Experience shows us that interesting results can be achieved if at least one, ideally two people can be identified to carry out monitoring, research, coordination of civil society organisations and contribution to the revision of public policies.

As a third option, we can recall recommendation 4 of the 2017 report, which **proposed "that Parties take more action to harness the full potential of CSOs in working papers and discussion structures"**. The role of the national contact points is fundamental in this regard, particularly in promoting civil society participation in the preparation of the quadrennial reports, but our members have highlighted the absence of national contact points in some countries many times in the past.

Finally, the development of multi-stakeholder initiatives, such as a capacity development programme, a series of seminars, developed for and by the parties, civil society and researchers represent a fourth option. This type of initiative can include training components, but also collaborative workshops on specific topics to propose solutions, implement pilot projects, etc. We are thinking, for example, of subjects such as the mobility of artists, cooperation policies, trade negotiations or the quest for data and the production of statistics.

This vision is inspired by the Canadian Coalition, in collaboration with the Togolese Coalition for Cultural Diversity, the Beninese Coalition for Cultural Diversity and the Arterial Network. It involves the submission of a joint request for a training activity on the margins of the next IFCCD congress: "Meeting the challenges of digital technology to promote French-speaking cultural expressions". If accepted, this project will promote the pooling and sharing of knowledge on the issues related to the dissemination and visibility of cultural content online (importance of metadata, functioning and impact of recommendation algorithms, challenges posed by the development of artificial intelligence, etc.), in a context of the growing evolution of the African continent in terms of the use of information and communication technologies.

In the past, the U40 Network played an important role to involve and empower young cultural experts in the context of the Convention. The independent civil society network was a concrete step towards the implementation of the Convention, by stimulating debates and ideas to better formulate cultural policies for cultural diversity throughout the world. There is an appetite to revitalize the network in collaboration with IFCCD, the German Commission for UNESCO, UNESCO Chairs as well as the UNESCO Secretariat and other actors.

4.2. FREEDOM OF ARTISTIC EXPRESSION

Freedom of artistic expression continues to be a major issue for the international cultural community and represents a clear obstacle to the diversity of cultural expressions, as recalled in Article 2 of the Convention. While there has been some recent progress in legislative amendments to support freedom of artistic expression in recent years, the 2005 Convention's global report published in 2018 also shows an increase in attacks on artists of 378% from 2014 to 2016 for a total of 430 attacks¹⁰.

Rights violations appear to be systematic in some countries and concentrated in some regions. However, Freemuse's 2018¹¹ report "The State of Artistic Freedom" reveals a number of emerging and worrying trends. Indeed, the report notes that violations of freedom of artistic expression are increasingly spreading in the countries of the North.

¹⁰ See Chapter 10, Promoting the freedom to imagine and create, p. 210.

¹¹ Online : <https://freemuse.org/wp-content/uploads/2018/05/Freemuse-The-state-of-artistic-freedom-2018-online-version.pdf>

For example, six of the top 10 censoring countries are members of the G20¹². Another trend is the involvement of social media and online platforms in new forms of censorship or exchanges between Internet users leading to arrests or persecution.

Here again, we recall recommendations 12 and 13 of the 2017 report of civil society organizations, which aim to "assist countries to develop legal frameworks and instruments to promote and monitor artistic freedom of expressions" and to "abolish prior-censorship bodies". We could also take up some of the proposals submitted by Sara Whyatt in the 2018 World Report, such as **the inclusion of this issue in the Convention's periodic reporting process or the establishment of a United Nations Action Plan on the Safety of Artists.** It should also be recalled, as Garry Neil did in his 2015 report¹³, that the United Nations Special Rapporteur in the field of cultural rights recommended that **Member States "[should review critically their legislation and practices imposing restrictions on the right to freedom of artistic expression and creativity, taking into consideration relevant international human rights law provisions and in cooperation with representatives of independent associations of artists and human rights organizations]".**

Finally, it is important to highlight the work done by civil society organizations, whether to document cases of violations, support victims or develop educational programmes to reduce the occurrence of attacks, by some governments, particularly those that set up shelter cities and by many other actors (academics, lawyers, etc.) who play an essential role on this important issue.

4.3. MOBILITY OF ARTISTS

There are still major obstacles to the mobility of artists and cultural professionals between nations and regions that hinder exchanges and cooperation, as well as the achievement of a balanced flow of goods and services. The IFCCD would like to recall recommendation 9 of the 2017 report of civil society organizations, which called for

Parties, in cooperation with UNESCO and CSO, [to] organise a conference with the aim of devising a global action plan to address the challenges that prevent or restrict the mobility of artists and cultural professionals and to identify measures necessary to address the increasingly restrictive global environment, with due respect to balanced and legitimate measures to promote local employment and labour standards. The results of this conference shall be presented in a report to inform Parties and cultural ministers' options for action.

Parties could collaborate with CSOs to facilitate the mobility of artists and their work, and in particular to reduce administrative procedures related to visas for artists and cultural practitioners, while respecting balanced and legitimate measures to promote local employment and labour standards.

It is with this objective in mind that the European Coalitions for Cultural Diversity co-signed a letter, initiated by other cultural organisations and addressed to decision-makers, calling for changes to the European Union's visa policy in order to facilitate the mobility of artists who come to perform there.

4.4. ACCESS TO DATA AND MEASUREMENT OF THE DIVERSITY OF CULTURAL EXPRESSIONS

While data are one of the largest sources of wealth creation in the world, data on the cultural sector have never been so difficult to obtain, as Lydia Deloumeaux noted in the 2018 World Report¹⁴.

¹² See the report on page 27.

¹³ Full Analytic Report (2015) on the implementation of the UNESCO 1980 Recommendation concerning the Status of the Artist prepared by Mr Garry Neil. Online: https://en.unesco.org/creativity/sites/creativity/files/analytic-report_g-neil_sept2015.pdf

¹⁴ See «Chapter 6, Persistent imbalances in the circulation of cultural goods and services».

At recent meetings, IFCCD members shared observations on the matter. On the one hand, there is less and less data to capture the "traditional" reality, and very little data to capture reality online. Moreover, qualitative data, which are essential for assessing the diversity of cultural expressions, are even more difficult to obtain. It also noted that the necessary and colossal work of registration of metadata on digitized content is paramount for obtaining data, an area in which international consultation is deficient, but nevertheless essential. Other issues include the privacy of data, the limitations of national agencies' resources and the lack of transparency of online service platforms that do not disclose usage data. Admittedly, there are increasing demands for more transparency in this area on several levels.

Dealing with global players, we must stress the relevance of developing global tools. Clearly, **UNESCO and the bodies of the 2005 Convention have an essential role to play in making progress in this area. Recommendation 6 of the 2017 Civil Society Report is worth recalling:**

Support for synergies between university, statistical institutions and CSO need to be increased to gather data on the sector, CSO activities and corporate organisations. There should be transparency in the data and information gathering processes which inform the QPR, even when produced by private institutions. We welcome the agreement to include indicators in the QPR framework to monitor the mobility of artists and cultural professionals, freedom of expression and the balanced flow of goods and services and recommend that CSOs should participate fully in the gathering and monitoring of data for future policy.

We also suggest extending the monitoring work to a regular monitoring of the implementation of the 1980 UNESCO Recommendation concerning the Status of the Artist.

Partnerships should be established or expanded further with international organisations, private sector and government agencies such as WTO, OECD, UNCTAD, ILO and WIPO, to inform the global monitoring report, particularly on issues of flows and consumption of cultural goods and services, on and off-line, the status of the artist, and trends in mobility of artists and cultural professionals, notably between the North and South as well as South-South cooperation.

Increased support is needed for the development of national cultural policy profiles (such as the European Compendium of Cultural Policies, OIF country profiles & Trends and World CP model), and the facilitation of review by CSOs and Parties to build robust information systems (maintained on online platforms and publicly accessible) at the national level and also, to support the QPR process.