



United Nations
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German Commission
for UNESCO



SHAPING CULTURAL DIVERSITY

Recommendations for Action from Civil Society for the
Implementation in and by Germany of the UNESCO
Convention on the Diversity of Cultural Expressions (2005)

– WHITE PAPER –

Preface by the President of the German Commission for UNESCO

We are pleased to share with you version 1.0 of the White Paper *Shaping Cultural Diversity*, which contains 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 (2005).

The heart of the matter is the public responsibility for creating favourable conditions for the development of cultural diversity, which can only be achieved through the joint efforts of the government, industry, and civil society. This White Paper is a first contribution to the discussion from civil society.

If we look at the wealth of cultural offerings in Germany, it becomes clear that the successful implementation of the new UNESCO Convention is of keen interest to us. The diversity of cultural expressions is an indispensable resource for freedom, the basis of our pluralistic society, and the means of enabling livelihoods and lifestyles. International trade agreements have to take into consideration the unique and dual nature of cultural services as a cultural and economic good.

The UNESCO Convention establishes that cultural policy and public support for arts and culture shall remain possible, even in the context of opening markets and progressive deregulation under the World Trade Organization (WTO) and the European Union (EU). This was made clear surprisingly quickly in the form of a foundational ruling by the European Court of Justice in March 2009.

The European Community (EC) acceded to this UNESCO cultural agreement in December 2006, along with the EU member states (in two states the ratification process is ongoing). It is for the first time that the EC has joined party to a UNESCO Convention. The ruling on 30 June 2009 by the German Federal Constitutional Court (Bundesverfassungsgericht) on the Treaty of Lisbon, calls for closer co-operation between the *Bundestag* (German National Parliament) and the *Bundesrat* (Upper House)¹ in European affairs. The ruling invokes enhanced “integration responsibility”.

This UNESCO Convention was negotiated unusually quickly, adopted by a resounding majority in October 2005, and ratified at record speed. Among the over one hundred Parties to the Convention one finds nearly all OECD member states, important

emerging markets, and a large number of developing countries from around the world. As a result of joining, the Federal Republic of Germany, its *Länder* (states), cities and local governments are bound to the objectives and instruments of the Convention.

Through its election to the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions, with a mandate from 2007 to 2011, Germany has assumed special international responsibility. Consequently, those responsible in the area of cultural policy should actively use this window of opportunity to foster a process of discussion and renewal with regard to the objectives and instruments of national, European and multi-lateral cultural policy.

We express our sincere thanks to all the experts of the Federal Coalition for Cultural Diversity and the German Commission for UNESCO as well as to the presidents of the *Deutscher Kulturrat* (German Culture Council) and *Kulturpolitische Gesellschaft* (Society for Cultural Policy) for their dedicated collaboration.

This White Paper is a first step. The implementation of the UNESCO Convention on the Diversity of Cultural Expressions calls for long-term commitment and a great deal of analytic expertise.

I cordially invite you to actively contribute in this process.



Walter Hirche

¹ The *Bundesrat* is a legislative body that represents the 16 *Länder* (states) of Germany at the federal level.

Objectives of the UNESCO Convention on the Diversity of Cultural Expressions

Cultural diversity creates a rich and varied world, which enhances democracy, tolerance, social justice, and mutual respect. Cultural diversity increases the range of choices, nurtures human capacities and values, and is as such a mainspring for sustainable development.

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. The basis for this is the full realisation of the rights and freedoms proclaimed in the preamble to the Universal Declaration of Human Rights. No one may invoke the provisions of this Convention in order to infringe human rights and fundamental freedoms as enshrined in the Declaration.

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

Cultural goods and services are both commodities and means of conveying identities, values, and meanings. As such they are the subject of cultural policy. The goal is to create the conditions for “cultures to flourish and to freely interact in a mutually beneficial manner” (Article 1). It is in the broad interest of society not to leave the cultural sector to the whims of market forces.

Right to cultural policy

Every state is entitled to formulate its own cultural policy to ensure fundamental public goods and to establish a framework for a pluralistic cultural landscape. The Parties to the UNESCO Convention commit themselves to protect and promote the diversity of cultural expressions within their territory (Article 6).

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 co-operation

The Parties commit themselves to international co-operation with binding rules and regulations for exchange of cultural products. This includes the protection of sustainable 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) – this in particular in situations of serious threat (Article 8 and 17).

Integration of culture in sustainable development

The Parties to the Convention integrate culture as strategic element at all levels in their national and international development policies and thus contribute towards 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).

Equality with other international treaties

The UNESCO Convention is complementary to other international treaties, such as GATT (1994) and GATS (1995) of the World Trade Organisation, and is neither subordinate nor of higher ranking. The Parties shall also take the objectives of cultural diversity into account when implementing other agreements and consult each other to this end (Article 20 and 21).

Introduction

From the very beginning, the discussion about the diversity of cultural expressions has been a global and international debate. Knowledge and creativity are increasingly becoming an important impetus for sustainable development. In a country such as Germany, which finds itself in a transition from being an industrial society to a knowledge-based society, this is particularly relevant. The strengthening of cultural diversity is as such an investment in the future. Politically, our society will face the question again and again, *how many* and in particular *which* of the existing and emerging cultural activities and offerings are indispensable for the common good (democratic, social, and cultural). The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions² provides a current, dynamic and internationally co-ordinated approach for social and political reflection, developed with input from artists and cultural intermediaries.

Naturally we must begin by asking how cultural diversity is faring in our own country. To what extent is the diversity of cultural expressions visible and within the experience of children, young people, and adults, across the nation, and especially in our cities? In a globally networked but extremely unequal world, it is in our enlightened self-interest that countries that are less developed – countries that are barely represented in the global cultural market – should be able to allow their vital cultural expressions to blossom, and to contribute to the global discussion on cultural diversity. This would pave the way to fruitful and lasting co-operation. How much room for manoeuvring does the Convention provide for? How can it be brought to life?

The rules and regulations of the UNESCO Convention have been legally binding for the German Federal Government, the *Länder* (states), cities, and local governments since March 2007. The Federal Coalition for Cultural Diversity (Bundesweite Koalition Kulturelle Vielfalt), which has been following the negotiation process since 2004, agreed upon the compilation of a civil society White Paper. The experts of the coalition were able to build upon several surveys:

- the substantial Final Report of the *Bundestag* Study Commission on Culture in Germany (2004-2007, final report issued in 2008);
- the instructive *Medien- und Kommunikationsbericht der Bundesregierung* (Media and Communications Report of the Federal Government, December 2008);
- and the research study (February 2009) by the Culture and Creative Industries Initiative of the Feder-

al Government (Initiative Kultur- und Kreativwirtschaft der Bundesregierung).

To date there is not a comparable body of research on the range of possibilities for action in the field of cultural co-operation and development; on ways to couple foreign trade agreements with questions of development and culture; or on raising public awareness for the importance of cultural diversity.

Cultural policy is still formed predominantly with an awareness of national borders, whereas, for instance, Internet technologies or digital production methods are developing independently of territorial jurisdiction. As a result, contradictions and asynchronies are emerging at increasing speed. The more digitalisation progresses, the more media, cultural, education, technology, and economic policy have to work together, so that sturdy rules for the digital world can be developed. In addition to cultural promotion policies, there's a need for cultural regulatory policies, with an eye to both economic objectives and the adverse effect on diversity that arises when the cultural economies are driven only by market forces.

The political recommendations for action in this White Paper are to be understood as a contribution to this transitional phase from promotion policies to would-be regulatory policies. They include project proposals that can be implemented in the short term, and speak to the emerging need for regulation, and perhaps to a new political focus. The UNESCO Convention relies on initiative and self-organisation, which means that it is important to share know-how, and compile research on the importance of all aspects of cultural diversity. Those addressed in these proposals are seven players and stakeholders politically accountable for the protection and promotion of diversity of cultural expressions and/or who have a particular ability to take action³.

Cultural diversity is more than cultural policy. The development of cultural diversity requires a constructive local and global environment. This White Paper aims to contribute towards a stronger and more dynamic cultural diversity.

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Hartwig Lüdtke, Chair, Sub-Committee for Culture and the Advisory Committee on "Diversity of Cultural Expressions", German Commission for UNESCO
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² Henceforth referred to as the "UNESCO Convention".

³ Cf. "Deutsche UNESCO-Kommission als nationale Kontaktstelle für das UNESCO-Übereinkommen über den Schutz und die Förderung der Vielfalt kultureller Ausdrucksformen, Konzeption und Arbeitsplan 2007-2011" (German Commission for UNESCO as National Point of Contact for the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, Concept and Work Schedule, 2007-2011, Version 3.0, July 2008, under www.unesco.de).

Shaping Cultural Diversity

Recommendations for Action at a Glance

The UNESCO Convention on the Diversity of Cultural Expressions is breaking new ground with regard to international law. It is shaping the “rules of the game” for globalisation, and points the way towards securing diversity of cultural offerings and exchanges in the 21st century. Its objectives and instruments have been legally binding for the Federal Government, the *Länder* (states), cities, and local governments since ratification by the Federal Republic of Germany in March 2007. The inter-disciplinary character of the Convention makes an integrated and inter-ministerial approach necessary, combining promotion and regulatory policies.

The White Paper’s recommendations for action are addressed to the players and stakeholders bearing political responsibility for the protection and promotion of diversity of cultural expressions and/or who have the particular ability to take action. In addition to the various ministries at the federal, state, and community level – including the funding agencies – these players include members of the German national and regional parliaments and of the Euro-

pean Parliament; organised civil society (including national cultural associations); civil society partners not organised into associations; and the research, science, and technical community (including specialists on political education, networks of journalists, and cultural institutions).

This version 1.0 of the White Paper “Shaping Cultural Diversity” contains six thematic chapters. Each chapter concludes with political recommendations for action for German and European cultural policies; for cities and local governments; for international co-operation; for the independent culture and creative economy; for media diversity; and for cultural education. In each of these areas of action, the following measures are needed to implement the objectives of the Convention: public and institutional awareness-raising, the education and training of relevant professional staff including management, inter-disciplinary research and knowledge-sharing (including by the network of UNESCO Chairs), and empirically supported monitoring of the frameworks for cultural diversity.

A Selection of the Most Important Recommendations

Ensure coherence at Federal level: Coherent implementation in and by Germany of the UNESCO Convention entails inter-ministerial objectives and co-ordination. This includes co-ordination between the Federal Government and the *Länder* for a new approach to co-operation at the national and European level in the *Bundestag* (National Parliament) and in the *Länder*. Appropriate involvement by the major national cultural institutions and associations and European networks of civil society should also be supported financially.

Consider the dual nature of cultural goods and services – promote inter-ministerial co-operation: The natural interest in the economic realisation of cultural goods and services, and their significance to a society’s values and creative freedom are at odds, and must continuously be balanced. This dual nature calls for inter-ministerial co-operation towards coherent implementation of the UNESCO Convention. Ministries and areas of responsibility at the national and European level must co-operate. In light of the dynamism of the digital era and the structural weakness of cultural policies in Europe, this is a task not

to be under-estimated. The Constitutional Court, the Federal Government and the *Länder* should comply with enhanced integration responsibility when working on future EU-directives.

Internationalise ministries: The ministries of the Federal Government should work together to realise the objectives of the Convention through international co-operation programmes (including the emphasis on “Culture and Development”), and culture and education projects in Germany as they relate to development policy (Global Learning, Education for Sustainable Development).

Benefit from the Culture and Creative Industrie Initiative: The ministries and individuals responsible for the Culture and Creative Industrie Initiative should develop proposals that can contribute to the implementation of the UNESCO Convention in Germany (export promotion, microfinance, development aid policy, cultural exchange).

Form new alliances with the national and European media system: Modern regulatory structures

in the realm of media and cultural regulatory policy are self-commitment agreements, such as those that have emerged to govern national and trans-national online trade, or the development and implementation of quality benchmarks for telecommunications media as a basis for the common welfare of a future knowledge-based society (self-commitment and mandated self-regulation). In view of this, new alliances with the national and European media system are needed.

Mobilise the *Länder*: A co-ordination group following the example of the inter-service working group of the European Commission should develop its own benchmarks and objectives for implementation of the UNESCO Convention at the *Länder* level. It would be sensible for the Standing Conference of the Ministers of Education and Cultural Affairs of the *Länder* in the Federal Republic of Germany (Kultusminister Konferenz) similarly to form a working group from the appropriate committees. Civil society is to be involved at the *Länder* level.

Link cities: An inter-community working group, “Inter-cultural Urban Profile”, with initial membership of 15-20 cities (small, medium, and large) should be established with the involvement of the German Association of Cities (Deutscher Städtetag). This group could, among other things, publish a collection of best practices and develop a “Vitality Index of Cultural Diversity” (monitoring).

Be prepared to use European institutions: The Culture and External Trade committees of the EU Council of Ministers and the European Parliament have to develop regular working relations to address the questions raised by the new generation of EU trade agreements (with cultural protocols) in order to ensure conformity to the spirit and letter of the UNESCO Convention in the pending rounds of negotiations. The Federal Government and the *Länder* should pursue this aim stringently. In addition, the federal ministries in charge and the relevant committees of the German *Bundestag* should actively support the European “Culture and Development Co-operation” area of activity.

Make use of the European Union: As a Party to the Convention, the German Federal Government should seek allies among EU member states to establish a common EU “Arts Education for Cultural Diversity” programme by 2013 that innovatively links the sectors of culture, education, and youth. The German Federal Government and the German states are called upon to ensure that it will still be possible to subsidise projects in the sectors of culture, youth and education under the next generation of EU Structural Funds (European Regional Development Fund and European Social Fund).

Offer culture from the very beginning: When culture is discussed, people seldom refer to children and young people; and when children and young people are discussed, the conversation is seldom about culture. A quota for children and youth culture should be envisioned. The diversity of the public must be taken seriously. The *Länder* should commit themselves to reversing the marginalisation of the (few) school subjects that pertain to the arts.

Ensure artists’ livelihoods: The Survey of the Social and Economic Situation of Dancers and Theatre Professionals (autumn 2009) reveals once again the precarious situation of artists in Germany. Artists are one of the central social groups contributing to cultural diversity. A basic income should be considered.

Enable mobility of artists: Increasing the mobility of artists and cultural intermediaries is a relatively easy way to promote the diversity of cultural expressions. The granting of visas to artists and cultural intermediaries should therefore be transparent, simplified (with clear instructions for embassies and consulates), and ideally, harmonised within the Schengen area.

Re-Examine the practice of funding and grant making: A professional workshop comprised of the German Federal Cultural Foundation and the relevant regional cultural foundations should scrutinise the existing instruments of promoting and funding culture, with an eye to the objectives of the UNESCO Convention and the lifecycle of cultural goods. Particular attention should be paid to cultural conveyance and making structures more inter-cultural.

Raise public awareness – broaden institutional awareness: Festivals and competitions should be used actively to make the objectives of the Convention (better) known among the participating national and international artists, directors, cultural intermediaries, and audiences. Intermediary and implementing organisations can play a supporting role by virtue of their international networks. Ongoing training for executives and staff in the various sectors of education, culture, media, and research regarding the objectives, focus, and implementation of the UNESCO Convention is essential. Such training is especially important in implementing organisations of foreign culture and education policy and development co-operation.

Make use of the UNESCO World Day for Cultural Diversity – 21 May: Libraries, music schools, museums, theatres, cinemas, art galleries, schools and the like should offer effective programmes and activities for the public on the occasion of the annual UNESCO World Day for Cultural Diversity.

The Political Dimension of Cultural Diversity

The Need for Action in German and European Cultural Policy

"The essential pre-conditions for the preservation and development of the diversity of cultural life in Germany are: its federal structure, the interaction of the various levels of the state-supported cultural apparatus (*Kulturstaat*), public responsibility for arts and culture, the wide range of funding and organisational models, and the public's awareness of the importance of culture for our polity. The task of ensuring and promoting these pre-conditions is a basic requirement for the further development of our society" (Final Report of the *Bundestag* Study Commission on Culture in Germany, 2008: 5).

Over 600 pages long, the Study Commission report "Culture in Germany" prepared for the German *Bundestag* focuses from the start on the political dimension of cultural diversity. In almost 500 recommendations for action, it formulates the ensuing cultural policy measures for cities and local governments, *Länder* (states), the Federal Government, for Europe and within the context of UNESCO. Just one year later the Federal Government presented a roadmap *Medien- und Kommunikationsbericht* (Media and Communications Report). The latter declared the classic separation of policies for press, radio and film to be largely obsolete (December 2008, 230). Digitalisation is defined as the fuel that propels media development. Both reports provide impetus for the implementation of the UNESCO Convention, though they are very different, and in part contradictory.

Need for action: digitalisation and convergence

The digital revolution is just as decisive for arts and culture, for artists, cultural intermediaries, culture consumers, and for users as the industrial revolution was at its time. The music industry, the film industry, and audio visual media services are changing before our very eyes. Political, economic, and legal facts are being established by the application of digital technologies at a previously unheard of speed. The more digitalisation progresses, the more urgent the questions about the "rules of the game" for the digital world become. According to the *Medien- und Kommunikationsbericht* (Media and Communications Report) of the Federal Government, "in the future, media, culture, education, technology, and economic policy will be more interconnected" (210).

This new political challenge was already clear during negotiations for the UNESCO Convention:

Questions of cultural diversity arise "whatever the means and technologies used" (Article 4.1).

Wealth of cultural infrastructure – but only for half the population?

Germany is rightly proud of its well-developed cultural infrastructure. This historic and rich cultural landscape is seen by many as both the source and the expression of a culturally imbued national identity ("Culture nation Germany"). It is however crucial to note the fact that this wealth of culture fails to reach 50% of the people in Germany, whether because they do not avail themselves of it or possibly prefer other forms of cultural life. Culture speaks primarily to a well-educated audience (*Abiturpublikum*) (cf. various "Kultur-Barometer" surveys by the Centre for Cultural Research since 1990). Modern cultural policy based on the UNESCO Convention is oriented towards equal access for all social groups to a rich and diverse spectrum of cultural expressions.

Germany is a nation of immigration. In the year 2050, roughly 30% of the population will have a migration background. In just ten years approximately 50% of people under age 25 in conurbations in Germany will have a migrant background. In major cities it is already common to find districts where at least half the population consists of migrants from numerous nations, with varying cultures and languages. Just as these people themselves have to become aware of their migrant history, German culture must become aware of their various backgrounds and points of reference, and their different cultural expressions. Culture is subject to constant change. Cultural policy, as the public moderator of cultural developments, should make use of this process (cf. Article 6 and Article 7 of the UNESCO Convention).

The pre-condition for effective cultural policy in Germany is recognising the domestic diversity of arts and cultural expressions.

As a matter of principle, public cultural policy shares responsibility for the development and conveyance of all arts and cultural expressions, however divergent their needs for support and promotion may be. Structurally, cultural funding has changed little over the past decades. As a rule, new artistic and cultural forms (even in the field of media), not-for-profit organisations, and institutions serving people of a migration background have difficulty getting onto the public authorities' list of what gets funded, even when they reach an audience of millions. It is often the case that these reach the young people and the half of the population that otherwise rarely visits a cultural institution. The principle of diversity of cultural expressions requires effective strategies. It holds out the possibility of opening doors to new audiences.

The need for local cultural policies

Cultural policy in the Federal Republic of Germany is primarily a matter for the cities and local governments to decide. Municipalities, towns, and districts representing the interests of culture can contribute to the cohesion of interests in the face of diverse and conflicting ways of living, and promote a local and regional identity. The Study Commission considers the cultural mandate of the *Länder* as a mandate to ensure and develop the cultural infrastructure in the community. This is generally an "obligatory self-administration mandate".

The Study Commission report "Culture in Germany" continues as follows: "The cities and local governments shall therefore comply with their responsibility for the cultural infrastructure by providing the relevant resources" (118). Legal protections and culture-development planning are required in order to engage a discussion with artists and cultural intermediaries, which keeps things in perspective and ensures sustainability. Careful thought must go into cultural policies of the cities and local governments in order to achieve coherence, sustainability, and assuredness.

The future of cultural policy is inter-cultural

The diversity of cultures necessitates that cultural institutions become more inter-cultural, and that the sorts of offerings change appreciably. The cities and local governments and public cultural institutions are only gradually getting ready. At present, migrants are poorly represented in locally funded cultural institutions, let alone in arts administration and cultural advisory boards. A large majority of them have virtually no access, even though they are interested in arts and culture (cf. Culture in Germany, ch. 3.5.5, 308ff.).

Cultural policies and education policies have to be more closely co-ordinated at the community level. Cultural operations, community and regional education networks and schools have to co-operate more intensively and bindingly. The promotion of culture in the cities and municipalities requires review of promotional strategies and acquisition of new partnerships with civil society, the churches, and industry.

The need for regional cultural policies

The *Länder* should take advantage of federalism reform to set a new course for their cultural policies and allow these to be integrated into regional conceptions of culture, concepts for regional cultural co-operative efforts, and/or their own cultural promotion laws. Models can be found in the cultural development planning of Brandenburg, the cultural secretariats in North Rhine-Westphalia or the *Kulturraumgesetz* (Cultural Areas Law) of the Free State Saxony. It is particularly important to include large public facilities such as museums, theatres and libraries, and thereby to come closer to the objectives of the UNESCO Convention and the general principle of cultural diversity.

The regulations of the UNESCO Convention have been legally binding for the Federal Government, the *Länder*, cities and local governments since March 2007. The state chancelleries, the ministries of culture and education, advocates for the culture economy, and the state media are responsible for the implementation within the *Länder*. They also have to adapt the existing programmes for cultural promotion and the promotion instruments for arts and culture to the new legal situation. Finally, the implementation of the agreement in the scope of international co-operative efforts is necessary. "The implementation of the Convention is not trivial and requires mutual dialogue", said State Secretary Georg Boomgaarden, of the Foreign Office, shortly after German ratification of the Convention (cf. Cultural Diversity – Our Common Wealth, The Essen/RUHR.2010 Bellini Handbook of Perspectives of Cultural Diversity, Bonn: 2007, 50ff.).

A glance towards Brussels – the European Community is also Party to the Convention – makes it clear that the objectives of the UNESCO Convention touch upon the responsibilities of seven Directorates-General. Under the leadership of the Directorate-General for "Education and Culture", an Inter-service Working Group of the European Commission was founded, representing the expertise in connection with cultural and media policy; intellectual property; copyright; and international trade and development policy.

Community cultural policy should treat cultural education as an inter-sectoral task.

Fundraising, grant making and promoting policies must, however, also be put to test. Flexible instruments must be able to react to new developments in the cultural environment. In reaching funding decisions, committees of experts should understand that the artistic challenges are increasingly interdisciplinary, international, and inter-cultural. In terms of the Convention, cultural policy should pay attention not just to production but to dissemination, and in the end to enjoyment. A shift in cultural promotion and funding from production to dissemination to enjoyment seems in order. The UNESCO Convention refers to all five stages of the life of cultural expressions (Article 4).

Concepts such as "culture for all" (Hilmar Hoffmann, *Kultur für alle*, Frankfurt am Main, 1979) or "culture as a provision for existence" (Deutscher Kulturrat, *Kultur als Daseinvorsorge*, Berlin, 2004, www.kulturrat.de) can be successfully realised if the *Länder* conclude sustainable general framework agreements with the institutions and projects receiving support. Furthermore, the Study Commission recommends that the *Länder* " earmark an appropriation for culture in the equalisation of revenue and costs" (Culture in Germany, 204).

The need for Federal cultural policies

The Study Commission recommends that the Federal Government "bundle and institutionalise tasks in the field of 'culture' because cultural policies are a central inter-sectoral task of domestic and foreign policy" (*Kultur in Deutschland*, 70). Coherent implementation in and by Germany of the UNESCO Convention requires inter-ministerial objectives and co-ordination.

The Federal Government takes care of so-called across-the-board tasks and also promotes culture by creating framework laws, of which the centrepiece is the *Künstlersozialgesetzgebung* (Artists' Social Welfare Act). It has proven its worth and must be maintained in the interest of cultural diversity. Under this law, artists and journalists receive medical, nursing, and retirement insurance. In the process of European integration, this instrument should not only be maintained but also developed further. The Artists' Social Welfare Fund could be a model for the rest of Europe.

Scrutiny of both the focus and the practice of funding and promotion is necessary to establish how they actively advance the objectives of the UNESCO Convention. The status quo is insufficient. If one takes a glance around Europe for comparison, it becomes obvious that a focus on "international co-operation for culture and development" is long overdue for German foreign cultural policy.

As dense as the cultural scene in Germany may be, there are certainly inequalities, which should be tackled to promote the diversity of cultural expressions as foreseen in the UNESCO Convention. Such disparities are found in various dimensions: with regard to regional disparities and certain aspects of cultural participation; and with regard to the presence of various art disciplines. The *Studie zur Lage der professionellen Tanz- und Theaterschaffenden* (Survey of the Social and Economic Situation of Dancers and Theatre Professionals) once again reveals the precarious situation in which artists in Germany live (Internationales Theaterinstitut, Bundesverband Freier Theater, et al., autumn 2009).

The need for European cultural policies

The awareness of the importance of Europe's cultural foundations has increased over the course of the European integration process. Cultural diversity is the key model. The Study Commission therefore recommends that the Federal Government and the *Länder* "play an active part in working out a European cultural agenda" (*Kultur in Deutschland*, 622). With its ruling of 30 June 2009 on the Treaty of Lisbon, the Federal Constitutional Court has mandated a closer link between the national and European levels. In the future this will lead to a new practice of collaboration on deliberation and decision making at the national and European levels, in the German *Bundestag* and in the *Länder*. So far the EU member states have not come to a binding agreement to develop a cultural regulatory policy.

What's decisive for the current legislation in Brussels is this: the introduction of digital technology, the increasing globalisation, and the culture economy require new political rules and regulations. In addition to culture promotion policy, a new cultural regulatory policy is in order! This is of vital importance for culture in the EU member states (cf. Ruth Hieronymi, former Member of the European Parliament, at a talk in Wolfenbüttel, 25 - 26 August 2009).

Concretely, it is not just about increasing the EU budget for culture to at least 1% of the overall EU budget, about establishing a culture fund for the group of African, West Indian and Pacific nations, or about establishing creative partnerships between the culture sector and other sectors, as proposed by the findings of the European Commission regarding a European cultural agenda (2007). It is notably also about co-ordinating decisions, particularly of the EC Directorates-General for "Internal Market and Services", and "Education and Culture", thereby overcoming the separation of technology and indus-

Federal cultural policies should eliminate inequalities and inadequacies in the interest of promoting the diversity of cultural expressions.

Cultural policies are a central inter-sectoral task of domestic and foreign policy.

trial policies on one hand, and cultural and media policies (most notably content regulation) on the other.

An official EU concept is still lacking for the implementation of the “cultural contract” clause, an effective concept for the creation of a “Voice of Europe” to reflect Europe’s full diversity in radio, on TV and on the Internet, and a programme for a co-ordinated European foreign cultural policy.

The European Year of Intercultural Dialogue (2008) brought to light ideas that are worth translating into cultural policy. Examples are a civil society initiative’s “Rainbow Paper” (www.intercultural-europe.org) and ideas developed in a civil society forum entitled “A Soul for Europe” (www.asoulforeurope.eu). The White Paper “Living Together as Equals”, adopted by the Council of Europe is a substantial reservoir of ideas (www.coe.int).

“Diversity” refers not only to the cultural contents, but also to the diversity of political players. The acceptance of Europe proves repeatedly to be fragile and unstable. With a view to strengthening the political legitimacy of the European Union, civil society organisations must take this weakness very seriously.

The need for monitoring

An essential concern of the UNESCO Convention is information-sharing between the Parties and civil society with regard to measures taken in light of the objectives of the Convention (Articles 9 and 19). This is where Europe can make interesting contributions, such as the researchers’ cultural policy research network “Compendium” (www.culturalpolicies.net) and the methodology underlying the national cultural policy reviews by the Council of Europe (applied in 29 countries, currently in Turkey: www.coe.int).

In Germany, the cultural statistics reports issued jointly with the Federal Government and the *Länder* represent the first nation-wide instrument for ongoing reporting on cultural financing. This tool should be developed further to take into account existing European and international approaches, to develop cultural policies to protect and promote cultural diversity on the basis of valid data. The Parties to the UNESCO Convention are to submit progress reports on implementation every four years, beginning with 2012.

A sensible supplement to the existing instruments may be a “Germany Culture Report” that brings together the viewpoints of the various players of cultural life, and that draws up concrete proposals to improve the general conditions for arts and culture. This report should be compiled by a professional cultural organisation from civil society, with a comprehensive view of all the sectors and the full “lifecycle” of cultural production, and of the developments among the various cultural players.

Additionally, at the cities and local governments level a “Vitality index of Cultural Diversity” can be developed.

As an instrument of cultural policy, and as an early warning system, there should be an annual “risk assessment atlas” on threats to the protection of cultural diversity and the need for action.

European cultural policy faces the task of establishing practical and legal measures for the protection and promotion of cultural expressions.

Recommendations for action

Ensure coherence at Federal level: Coherent implementation in and by Germany of the UNESCO Convention entails inter-ministerial objectives and co-ordination. This includes co-ordination between the Federal Government and the *Länder* for a new approach to co-operation at the national and European level in the *Bundestag* and in the *Länder*. Appropriate involvement by the major national cultural institutions and associations and European networks of civil society should also be supported financially.

Consider the dual nature of cultural goods and cultural services: One must continuously clarify how cultural goods are handled in grey zone where commercial interests overlap with values and creative freedom.

Mobilise the Länder: A co-ordination group following the example of the inter-service working group of the European Commission should develop its own benchmarks and objectives for implementation of the UNESCO Convention at the *Länder* level. It would be sensible for the Standing Conference of the Ministers of Education and Cultural Affairs of the *Länder* in the Federal Republic of Germany similarly to form a working group from the appropriate committees. Civil society is to be involved at the *Länder* level.

Translate the UNESCO Convention into cultural regulatory policy: Technology and globalisation are bringing about far-reaching changes. There's a need for a political response to questions such as: which cultural regulatory policies are priorities, and at what level they should be addressed and implemented? It is therefore of some interest where responsibility should lie for a control mechanism for German and European cultural regulatory policy.

Ensure artists' livelihoods: The Survey of the Social and Economic Situation of Dancers and Theatre Professionals (autumn 2009) reveals once again the precarious situation of artists in Germany. Artists are one of the central social groups contributing to cultural diversity. A basic income should be considered.

Reform cultural infrastructure: Reforming the cultural infrastructure is crucial if it is to become "future-friendly" with regard to the objectives of the UNESCO Convention. For instance, the theatre scene is in need of reorganisation.

Open structures: At present, migrants are poorly represented in locally funded cultural institutions, in arts administration, and cultural advisory boards. Cultural institutions should commit themselves to inter-cultural openness, and be sensitive to discrimination.

Re-examine the practice of funding and grant making: A professional workshop comprised of the German Federal Cultural Foundation and the relevant regional cultural foundations should scrutinise the existing instruments of promoting and funding culture, with an eye to the objectives of the UNESCO Convention and the lifecycle of cultural goods. Particular attention should be paid to cultural conveyance and making structures more inter-cultural.

Conduct research on cultural diversity: The bodies that make decisions about German cultural and research policies, as well as key multipliers – such as the *Deutsche Forschungsgemeinschaft* (German Research Foundation), the *Hochschulrektorenkonferenz* (German Rectors' Conference), and the Standing Conference of the Ministers of Education and Cultural Affairs – should put "Protection and Promotion of the Diversity of Cultural Expressions" on their agenda.

Start monitoring: At the community level, a "Vitality Index of Cultural Diversity" can be developed. In light of State Parties' reporting obligations, expertise and effort should go into developing a meaningful format for reports. Civil society can contribute an annual "risk assessment atlas" as an early warning system, drawing attention to the current state of cultural diversity in Germany.

Microcosms of Cultural Diversity

Diversity of Cultural Expressions in an Urban Environment

In cities and municipalities the complexity of cultural expressions is particularly apparent. On one hand there is a diverse array of individuals directly involved in the cultural life of the city: the artists and other players representing civil society, public administration, culture and creative economies. On the other hand, there is the cultural heterogeneity of the urban population itself, which is perhaps the distinguishing characteristic of (urban) society. The urban cultural landscape is constantly growing more complex, as is the urban society itself. Correspondingly the cities and local governments are called upon to respond through policy-formation to ever-changing urban realities.

The public library and the bookshop are both part of the urban environment, just as the private theatre, the children's theatre, and the actors are; just as the art gallery, the auction house, and the city museum are; just as the music club, the record label, the street musician, and the music academy are; just as the media company and the film production studio are. Cities and municipalities are the places in which the "diverse modes of artistic creation, production, dissemination, distribution and enjoyment" of cultural expressions (cf. Article 4.1 of the Convention) and the cultural and economic dimension of "activities, goods and services" (cf. Article 4.4) become "public". This dense and complementary coexistence and cohabitation of diverse cultural players and providers – whether for-profit, non-profit, or public – holds great promise for urban development. It is a challenge to local politics and local cultural policy. In particular, integrated urban industrial, cultural, and development policies can be a catalyst for local growth.

In cities, the cultures of the world are "on location". This is where the diversity of cultural and artistic expressions is vivid and within one's experience. The diversity consists of different cultural contents, sometimes in conjunction with each other, and innovative or unfamiliar artistic expressions. Cultural diversity is an impetus for the creation of new and hybrid formats, (*repertory innovation*). This is most obvious in the area of dance and music, and can be experienced by tens of thousands of spectators in nation-wide competitions such as "Creole". Today's cities and municipalities are "local but international". As the places where people of different migration backgrounds live, cities and local governments have a special responsibility to protect and promote these aspects of the diversity of cultural expressions. The "city of today" understands that it is both a European and an international place of economic activity. Internationalisation in the sense of looking outward through cultural, economic and social involvement

also requires internationalisation in the sense being culturally receptive to the world.

The topic of cultural diversity is not new in local politics and community cultural policy. In 1992, the German Association of Cities (Deutscher Städtetag) published its first policy paper, "*Kulturelle Vielfalt in Deutschland: Empfehlungen für das Zusammenleben in deutschen Städten*" (Cultural Diversity in Germany: Recommendations for Living Together in German Cities). A second policy paper followed in 2004: "*Kulturelle Vielfalt in der Stadtgesellschaft: Chance und Herausforderung für die kommunale Politik*" (Cultural Diversity in Urban Society: Opportunities and Challenges for Local Politics). In 2007, the *Städtetag Nordrhein-Westfalen* (North Rhine-Westphalia Association of Cities) approved and passed the "*Kölner Appell: Interkulturelle Arbeit in den Städten: Verbindendes suchen, Verschiedenheiten zulassen*" (Cologne Appeal for Inter-cultural Work in Cities: Seek Connections, Allow Differences). Also in 2007, the importance of cultural diversity for sustainable cities was highlighted during the German EU Council Presidency by the "Leipzig Charter on Sustainable European Cities".

"In the long run cities cannot fulfil their function as engines of social progress and economic growth as described in the Lisbon Strategy unless we succeed in maintaining the social balance within and among them, ensuring their cultural diversity and establishing high quality in the fields of urban design, architecture and environment" ("*Leipzig Charter on Sustainable European Cities*", 2007, 1-2).

The complexity of urban cultural landscapes makes new strategies necessary.

Cities and municipalities bear a special responsibility to protect and promote cultural diversity.

The rapidly changing social realities in our cities make it clear that local politics faces new challenges.

In 2004, the international umbrella organisation United Cities and Local Governments (UCLG) published "Agenda 21 for Culture", creating a platform for 300 cities throughout the world for which the promotion of cultural diversity is a foundation of urban development. Within the context of the migration and integration debate, these cities and municipalities themselves have drafted concepts, development plans, and strategy papers. Furthermore, since 2008 the "Inter-cultural Cities" project of the Council of Europe and the European Commission has had the participation of twelve cities and the EUROCITIES network. It aims to improve political strategies for cultural diversity at the community level. The German cities Berlin-Neukölln and Cologne are involved. (Cologne is also a EUROCITIES member).

Anchoring cultural diversity in local politics and cultural policy requires critical reassessment of the programmes, content, and personnel structures of cultural institutions.

The activities reveal that cultural diversity is on the community political agenda – whether in a national, European, or international context. The rapidly changing social realities in our cities clearly show that local politics must increasingly be directly involved with the theme of "Cultural Diversity".

One aspect of this is consistently communicating to the urban community that cultural diversity is enriching for the city. At the same time, this means that cultural diversity has to become a matter for all areas of activity in local politics. Once one acknowledges that cultural diversity is a natural distinguishing feature of urban society, this diversity becomes a permanent, inter-sectoral aspect of local politics.

Arts and culture thrive on international exchange; they are international. This fact does not, however, automatically imply that arts and culture are anchored in a culturally diverse urban society. The more internationalised and diverse the cities and municipalities in Germany become, the more cultural facilities must rise to the challenge.

The underlying question is simple: how do urban cultural institutions do justice to the diversity of urban society? In most cities and municipalities there is a lively inter-cultural project scene. But for sustainable protection and promotion of cultural diversity it is not sufficient simply to sponsor projects. Fundamentally, it's a matter of structural and permanent change – the reorientation of urban cultural policies and their instruments of promotion.

Theatre

European and German classics find their way to theatres and concert halls throughout the world. But are urban cultural institutions presenting productions from beyond Europe's borders? Are these to be seen on German stages? Are we familiar with them at all? Is it not true that urban theatres need more artistic

programmes, directors, and curators who mirror the cultural diversity of the city? What is meant by this are programmes that are cosmopolitan *and* do justice to heterogeneous, ethno-cultural demands. European classics have enriched the entire world. What riches are slipping away because of our Eurocentric cultural practices? Anchoring cultural diversity in local politics and cultural policy requires critical reassessment of the programmes, content, and personnel structures of cultural institutions.

Culture of remembrance and (city) museums

And what about the culture of remembrance in our urban landscapes and city museums? To what extent do urban development, and exhibit and museum concepts take into account the various backgrounds and horizons of the people living in the city? Where is there a place for immigrant or emigrant history?

Artists

Artists of non-German origin often complain that their artistic achievements are often reduced to their phenotypic characteristics and/or to their – sometimes merely ascribed – origin. Thus it is still assumed that a Turkish-German director makes "Turkish theatre" and an Afro-German painter paints "African pictures". While these statements simplify, many artists look forward to the day when cultural practice is free of discrimination.

Arts and culture have the potential to influence and form social participation processes. Conversely, artists and cultural intermediaries bring about social disintegration if they reinforce stereotypes and prejudices. Through ongoing education and setting targets, cultural policies can improve art administrators' sensitivity to discrimination.

Cultural diversity is a challenge: Cultural institutions have to find new ways to keep pace with social change, and do so successfully. This includes cultural institutions actively seeking to engage in dialogue with various *communities* residing in cities. In the end, it is all about making cultural institutions more inter-cultural, and about welcoming an inter-cultural public.

The need for more cultural education is not something to be justified on the basis of increased immigration. It is a fundamental necessity and has nothing to do with the cultural heterogeneity of the population. The notion that increased cultural education in the migrant population is necessary to create future audiences for institutions is a view of immigrant society that focuses on its social problems.

From a cultural policy perspective what matters is whether the cultural offerings in our towns and

municipalities speak to the trans-cultural experiences of a growing portion of the population, and whether it is possible to overcome the distance that still separates the providers and recipients of art by supplying appealing offerings and formats, and new forms of communication. The latter requires empirical and scientific cultural research, making existing networks visible, active personnel development through education and training, and network-building from the local level all the way to the international level.

From a cultural policy perspective what matters is whether the cultural offerings in our towns and municipalities speak to the trans-cultural experiences of a growing portion of the population.

It is of secondary importance which instruments – best practice, strategy papers, public debates, etc. – the cities and municipalities should use to come closer to the task of “diversity of cultural expressions in an urban environment”. What is important is that these processes of change be initiated and realised with the participation of all cultural players, with benchmarks and a schedule.

Recommendations for action

Link cities: An inter-community working group, “Inter-cultural Urban Profile”, with initial membership of 15-20 cities (small, medium, and large) should be established with the involvement of the German Association of Cities. This group could, among other things, publish a collection of best practices and develop a “Vitality Index of Cultural Diversity” (monitoring).

Develop strategies for cities and municipalities: Local and cultural-policy strategies – such as development planning, examples and guidelines for “diverse/culturally diverse cities and municipalities” – have to be developed in the medium and long term.

Open up community cultural institutions: “Desiderata” should be gathered through participant surveys. On the basis of this data, strategies for follow-up and targeting can be developed (special offers, socially staggered entrance fees). Setting objectives with artistic directors, curators, and managing directors will allow institutions to make their programmes, content, committees, and personnel structures more inter-cultural.

Initiate North-South-South Partnerships: In view of the objectives of the Convention, five ten-year “Creative Cities” programme partnerships could be developed, consisting of two towns each from Africa, Asia, the Arab world, or Latin America.

Raise public awareness: Festivals and competitions should be used actively to make the objectives of the Convention (better) known among the participating national and international artists, directors, cultural intermediaries, and audiences (for example, informal dialogues, “freebie” copies of the Convention to hand out to audience members).

Make use of the UNESCO World Day for Cultural Diversity – 21 May: Libraries, music schools, museums, theatres, cinemas, art galleries, schools and the like should offer effective programmes and activities for the public on the occasion of the annual UNESCO World Day for Cultural Diversity.

Fair Culture

Protecting and Promoting Diversity of Cultural Expressions in International Co-operation

A large number of developing countries have pursued initiatives over the past ten years that reflect a consciousness of the inter-relation of culture and development. These initiatives include Poverty Reduction Strategy Papers for the International Monetary Fund (IMF). Meanwhile, various industrialised nations (including the Nordic countries, the Netherlands, Switzerland, Spain, Great Britain, and Germany) have been working to integrate the socio-cultural dimension into their development co-operation policies, partly through sustained political support, partly through exemplary programme commitments. For the first time, the UNESCO Convention is connecting these efforts with an agreement under international law, the general principle of which is the "integration of culture in sustainable development" (Article 13). The basis for these efforts is the Universal Declaration of Human Rights. Co-operation should be the foundation on which a dynamic cultural sector in developing countries is built.

First initiated as a counterbalance to trade agreements, the Convention represents a corrective for the State Parties and for the European Union since 1 December 2009 that should hinder further liberalisation in the WTO with regard to cultural goods and services. The states thereby maintain broad leeway to shape cultural policy and pursue a new quality of global co-operation.

Throughout Germany one finds a wealth of examples of private and public co-operation with artists from developing countries and emerging markets. It is worthwhile to grasp the quantity and quality of this "invisible" aspect of international co-operation. The practical and logistical frameworks of these initiatives, however, often pose challenges for event organisers and artists that one can hardly fathom. So for example, a film festival invites an Indonesian director to the premiere of her film in Germany, but must in the end make do without her. Her visit fell apart due to difficulties related to obtaining her visa. Meanwhile, a composer from Columbia, whose well-loved music is performed in Germany, neither receives GEMA⁴ royalties nor benefits from the *Künstlersozialkasse* (Artists' Social Welfare Fund).

Throughout the world there are worthwhile individual attempts that need a boost. So for example, even if a music conservatory in Malawi can fall back on highly specialised experts, there are no permanent structures that would allow their knowledge to be shared. A mobile library in Bolivia receives start-up help from Germany in the form financial and in-kind contributions, but no local sponsor to ensure its survival can be found. Arts administrators in developing countries work on contemporary art projects – but they lack connections with counterparts in neighbouring countries, and the network required for international exchange is still in its infancy.

The UNESCO Convention creates the conditions to promote international dialogue by way of cultural policy; to improve cultural exchange programmes; and to promote partnerships with civil society, non-governmental organisations and the private sector. It calls for the integration of culture in national development policies with regard to sustainable development and poverty reduction. In particular the cultural industries need to be enhanced in developing countries. (Planning) capacities in the cultural sector have to be improved through exchanges and co-operation, and cultural management know-how has to be passed on (Articles 12-15).

The industrialised nations are called upon to simplify cultural exchange by creating suitable legal frameworks (meaning preferential treatment) for artists and cultural intermediaries, as well as for cultural goods and services from the South; in situations of serious threat to cultural expressions, help is to be granted (Articles 8, 16, 17). An international fund for cultural diversity is being established through voluntary donations to highlight exemplary demonstration projects. This fund currently (March 2010) has an approximate value of \$2,4 million, contributed by fourteen Parties and one private party. On the occasion of the first Conference of Parties in Paris in June 2007, the German Government held out the prospect of a six-figure contribution to the fund.

The UNESCO Convention creates a new basis under international law for partner-based international co-operation in culture and development.

⁴ Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (Society for Musical Performing and Mechanical Reproduction Rights = Collecting society).

Cultural policy, like most policy areas, has been internationalised by the global interconnectedness of its players and goods. Internationally agreed upon standards are therefore of fundamental importance – be it for the cultural industries or the exchange of artists. In order to protect and promote the diversity of cultural expressions at home and abroad, cultural policy know-how regarding the frameworks in Germany and the partner countries is a must. By the same token, cultural policy and cultural exchange are politically sensitive topics, since they touch on questions of identity as well as on power structures and individual freedoms.

“Fair culture”: “The cultural sector plays an important role in enabling sustainable social and cultural development and in reducing poverty. Fair culture means realising cultural rights and including everyone in cultural signification, irrespective of age, gender, disability, or ethnic, religious and cultural background. These are aspects that should also be guidelines for development co-operation” (“Fair Culture – Culture for Sustainable Development. Background Paper on Cultural Sector and Development Work in the Nordic Countries”. Helsinki: Ministry of Education, 2006).

Three things are of vital importance for successful communication and co-operation: respect for the cultural sovereignty of the partner country; an ongoing exchange regarding individual and collective rights to cultural free expression and development; and a general awareness of the particular cultural context in which the partners are situated. German organisations and their partners must be sensitive to these relationships, and to the possibility of tensions arising. In international cultural exchange, it is important to develop a sense of “fair play” to promote co-operation. Increased mobility of artists and cultural intermediaries is a relatively simple way to promote the diversity of cultural expressions.

In civil societies, whether in developing countries and emerging markets or in Germany, there are a number of experiences and innovative approaches that may produce fruitful outcomes. In this regard it is particularly important that on the basis of the UNESCO Convention the Parties expressly acknowledge the participation of civil society when promoting the diversity of cultural expressions (Article 11).

The Convention lists a comprehensive catalogue of objectives for international co-operation, “next steps”, and areas of responsibility. International

co-operation, and global protection and promotion of the diversity of cultural expressions affect a multitude of stakeholders in Germany. In addition to policymaking, the Convention specifically encourages the engagement of civil society. This poses a great opportunity, which is at the same time a difficulty. The convention applies just as much to an artist, a religious charitable organisation, or a public or privately run cultural festival, as it does to domestic and foreign development policies of the Federal Republic of Germany or the programme work of intermediary organisations. This places special demands on consultation and co-ordination.

Important European partners have recognised the strategic potential of this task.

Thanks to the UNDP’s 500 million fund for implementation of the UN Millennium Development Goals, Culture and Sustainable Development programmes garnered tremendous visibility since 2007. UNESCO is in charge of its technical implementation. Until now solely a Spanish initiative, starting in 2010 this fund will be increased considerably as a joint fund of Spain, Great Britain, and Norway.

The “European Agenda for Culture in a Globalised World”, adopted in December 2007 by the European Council, includes the UNESCO Convention in the normative foundation of European cultural policy. In November 2008, the Council of Ministers expressly declared the goal “Enhancement of Cultural Diversity” a part of the political dialogue and of co-operation in EU foreign relations. Initial budgets have been established. Furthermore, the two Directorates-General (“Education and Culture”, “Development Co-operation”) continue to jointly move the implementation process forward.

For German foreign and development co-operation policy, and private initiatives, the UNESCO Convention affords attractive opportunities to promote and be involved in the creation and implementation of national cultural policies in partner countries.

These include, for instance, artists’ professional organisations, cultural networks, and the strengthening of communication and management capacities among artists, curators, organisers, fundraisers, journalists, broadcast managers, technicians and other cultural intermediaries. Nations that want to modernise and further develop their cultural policies can be supported in this strategic planning with the assistance of cultural policy reviews.

International cultural exchange is to be shaped sustainably according to the principles of “fair culture”.

The protection and promotion of the diversity of cultural expressions is an inter-sectoral political challenge.

The diversity of cultural expressions must be continuously protected and promoted around the world, irrespective of national interests.

Measures for *capacity development* in administration and consulting services – for example in connection with copyrights – also help to improve and promote the infrastructure and the general conditions for the exchange of artistic and cultural activities, goods and services. At the same time it is important to ensure that the activities are not limited to only the privileged elites and the higher middle-class in the capitals and metropolises, but that they reach a wider circle of the population across the entire country. Such approaches enhance a more balanced cultural sector in the partner country and ensure the sustainability of cultural policy initiatives. Research, education and training programmes are also important.

All the stages of cultural expressions – the complete cycle from the artistic idea to production, dissemination, distribution, consumption, and enjoyment – are based in different contexts, as is the case in the established sectors of development co-operation such as education, local administration or health. The inherent power of culture and its effect on development processes is difficult to measure. It should be verified whether instruments of promotion and forms of co-operation that have been common in development co-operation thus far can be transferred to the sector of cultural expressions without hesitation, even if Official Development Assistance (ODA) resources are being used. The UNESCO Convention provides a binding legal framework for this purpose.

The key ministries of the German Federal Government have not yet acknowledged "Culture and Development" as an important area for action.

In 2009, the Federal Government looked into the possibility of establishing a special programme for "Culture and Development". However, the Federal Ministry for Economic Co-operation and Development and the Federal Foreign Office have yet to take a clear position on a "Culture and Development" focus. This is highly regrettable, given the internationally acknowledged wealth of experience embodied in German cultural policy, and the outstanding global networking of cultural intermediaries and development co-operation organisations. It delays development of a medium and long-term strategy, as well as timely positioning in the co-operation with possible European partners.

It is worth revisiting the topic through inter-ministerial co-ordination and sector policy and furthermore to increase German public awareness of culture and development in the field of global learning. Politics can provide a motivating and financial contribution. Germany has committed itself to increase Official Development Assistance expenditures to 0.7% of GDP by 2015..

The Federal Government, the German *Bundestag* (National Parliament) and the *Länder* (states) can all give impetus to these efforts, notably in co-operation

with the other EU member states that negotiated the Convention and made it possible. In October 2008 the Prime Ministers of the German states voted to actively support the implementation of the UNESCO Convention through international co-operation (cf. *Zukunftsfähigkeiten sichern: Entwicklungspolitik in gemeinsamer Verantwortung von Bund, Länder und Kommunen* (Ensuring Sustainability: Shared Federal, State, and Community Responsibility for Development Policy), resolved 22 October 2008). It is essential that the cultural institutions in the Federal Government, the *Länder*, cities and local governments promote the diversity of cultural expressions in their contexts, strengthen exchange through partner projects and partner groups, and develop creative forms of public awareness-raising.

To understand cultural and creative activities as an object of development, and to promote them as a contribution towards the development of a country, backing from the public and from within institutions is needed.

The direct contributions towards the implementation of the Convention could be much more significant if both the implementing organisations of development co-operation and the intermediary organisations of foreign cultural and educational policy would invest more in the internal training of their executive staff and employees, as well as in institutional awareness-raising and inter-ministerial knowledge-sharing. Employees require appropriate training. The "Culture and Development" area of action must be placed on a sturdy footing, both in terms of personnel and finances, to ensure that the basis for success goes beyond a handful of engaged individuals.

Foreign trade and cultural protocols

Within the context of the new generation of EU Economic Partnership Agreements, the European Commission developed a cultural supplemental protocol at the end of 2007 based on the spirit and text of the UNESCO Convention. This cultural supplemental protocol contains inter-sectoral tasks (development of cultural policies, cultural exchange, mobility of artists, technical co-operation) and sector-specific projects (audiovisual services and cinema, performing arts, literature, monument conservation). It is based on principles of cultural co-operation and should not lead to further trade liberalisation. The Commission hereby refers to Article 20 of the UNESCO Convention in its arguments. This article is interpreted to mean that the European Community shall have to consider the objectives of the Convention in all future international agreements, including trade agreements. The first cultural supplemental protocol was agreed on in 2008 between the EU and the Caribbean states

(CARIFORUM Agreement, *Official Journal of the European Union*, L.289/i/3, 30 October 2008); a second one was signed in October 2009 between the EU and Korea. The chapter contained in the agreement dealing with culture gave rise to very critical comments arising from both European and Korean civil society. The chapter on culture will not come into force until both Korea, and Belgium and the Czech Republic (the two EU members not yet Parties) have ratified the UNESCO Convention. Further comparable agreements are currently being prepared and negotiated with Canada, India and South Africa.

Promoting young professionals is worthwhile

Certain universities in Germany have committed themselves to the topic. So far, however, there are no inter-disciplinary research clusters, networks or inter-disciplinary co-operative efforts among political, cultural and development experts. It would be worthwhile to create near- and medium-term possibilities for PhD students and partnerships with foundations, and particularly to sound out the creation of a “special research field” through the *Deutsche Forschungsgemeinschaft* (German Research Foundation), or comparable programmes.

Like any instrument under international law, this UNESCO Convention is primarily a political agreement negotiated by the Parties to lay out their national cultural policies in such a manner that the artistic creation, production, dissemination, distribution and enjoyment is ensured, and a diversity of cultural expressions and international exchange and co-operation is intensified. However, a solid empirical initial basis for the appraisal of the cultural infrastructure does not yet exist in many countries. In October 2009 the UNESCO Institute for Statistics (UIS) published *Statistical Framework for Culture*, a modern, up-to-date work instrument. In this connection, too, co-operation on the part of German universities could be of service and result in visible outcomes.

A solid empirical basis is important.

Recommendations for action

Internationalise ministries: The ministries of the Federal Government should work together to realise the objectives of the Convention through international co-operation programmes (including the emphasis on “Culture and Development”), and culture and education projects in Germany as they relate to development policy (Global Learning, Education for Sustainable Development).

Be prepared to use European institutions: The Culture and External Trade committees of the EU Council of Ministers and the European Parliament have to develop regular working relations to address the questions raised by the new generation of EU trade agreements (with cultural protocols) in order to ensure conformity to the spirit and letter of the UNESCO Convention in the pending rounds of negotiations. The European Commission will establish a committee to oversee the implementation of the cul-

tural supplemental protocols. This committee must be composed of culture experts. The Federal Government is called upon to fill this committee in close consultation with the *Länder* (states) and with participation of civil society. The negotiation of cultural supplemental protocols should be permanently assigned to the Directorate-General for Education and Culture, with participation of the Directorate-General for Trade. In addition, the federal ministries in charge and the relevant committees of the German *Bundestag* should actively support development of the European “Culture and Development co-operation” area of activity.

Enable mobility of artists: Increasing the mobility of artists and cultural intermediaries is a relatively easy way to promote the diversity of cultural expressions. The granting of visas to artists and cultural intermediaries should therefore be transparent, simplified (with clear

instructions for embassies and consulates), and ideally, harmonised within the Schengen area.

Broaden institutional awareness: The intermediary organisations of foreign cultural and educational policy and the implementing organisations of development co-operation should invest more visibly in internal ongoing training for executives and staff, as well as in institutional awareness-raising about the objectives and orientation of the UNESCO Convention. Where applicable, they can play a supporting role in raising awareness of this important Convention by virtue of their broad international networks in their programme and partner countries.

Fund cultural development: German funding institutions (public and private) that support co-operative efforts with developing countries and emerging markets (North-South and South-South) should make more funds available for the protection and promotion of the diversity of cultural expressions, for example by contributing to the International Fund for Cultural Diversity.

Intensify research: German research facilities of various disciplines are called upon to further develop the "Protection and Promotion of the Diversity of Cultural Expressions" area of activity and in this context to establish collaborative efforts with research institutes in partner countries (for example, the Network of UNESCO Chairs).

Activate civil society: Those in civil society involved in the cultural sector and in development co-operation are also called upon to take a stand on the UNESCO Convention, to draw inspiration from it, to use it as a frame of reference, and to start a dialogue to exchange ideas with national authorities.

Manage culture: The professional skills of those involved locally in the sector of cultural management, conveyance, and consulting are to be enhanced. Targeted capacity development measures must be implemented to create efficient local and regional markets, and to differentiate the structures relevant to cultural policy in the partner country.

Develop "best practices": There is a need to develop indicators of what constitutes a good and effective development or promotion project in the cultural sector. These represent a good start: the programme criteria of the UNDP Millennium Fund; the criteria of ACP-EU sponsorship; the implementation guidelines of the International Fund for Cultural Diversity; the UNESCO Statistical Framework for Culture; the groundwork laid over the course of many years by the UNESCO Institute for Statistics and the OECD on "Measuring Cultural Diversity"; and the planning instrument "Programming with a Diversity Lens" (UNESCO-Bangkok). A dialogue on processes of quality assurance in development co-operation would be useful. Towards this end, the relevant intermediary and implementing organisations can jointly organise a professional consultation series.

Creativity and Innovation

How Independent Culture and Creative Economies Contribute to the Diversity of Cultural Expression

The cultural sector consists of three sub-sectors: one representing public and state-run structures, one borne by civil society, and one consisting of private enterprise. Among these spheres of activity there are numerous inter-dependencies. In Germany, the concept of a private, entrepreneurial culture and creative industry has taken root (in particular refer to the Final Report of the *Bundestag* Study Commission on Culture in Germany 2008). Under this new paradigm, fields such as advertising, design, and the games industry are tracked statistically alongside the traditional sectors of the “culture economy” (*Kulturwirtschaft*) as well as for economic, and policy purposes.

The terms *Kulturwirtschaft* (Germany), *arts and culture industries* (Canada) or *industries culturelles* (France) came into being as political concepts, due to the fact that in recent decades the cultural markets in many countries have been on shaky ground. The presumed culprits are developments in media technology and the concentration of influence into the hands of global conglomerates. The negative consequences of deindustrialisation had to be cushioned with economic and employment policies, and/or countered through structural policy measures. The relatively recent political interest in cultural and creative economies is a clear indicator of the structural transformation from an industrial to an information society that is currently taking place in many countries and regions around the world (cf. UNCTAD Creative Economy Report, 2008).

In this context, strategies have been developed to enhance national and regional markets for music, books and other publications, film and video, and other media (one example is the German Government’s 2008 Culture and Creative Industries Initiative (Initiative Kultur- und Kreativwirtschaft). The smallest, small and medium-sized enterprises make up an important target group. This independent culture and creative economy holds the keys to opportunity in the labour market and development at the local or regional level.

Cultural economic policy focused on promoting a vibrant, independent culture and creative economy must address the following questions:

- I.) What conditions are necessary for the culture and creative economy to develop favourably within the constraints posed by social milieu and physical infrastructure?
- II.) In what ways must work and leisure time, industry and innovation be woven together (spatially, socially, functionally) in order to promote the culture and creative economy?

- III.) To what extent is an independent culture and creative economy able to create authentic cultural goods and services that are sustainable for the regions and countries in question and also provide a livelihood for those involved?

International co-operative efforts promote successful culture and creative economy

International co-operation is a pre-condition for a successful culture and creative economy. The steady march of globalisation and global migration pose new challenges for inter-cultural dialogue, but also open the door to international business co-operation for the independent culture and creative economy.

To promote the diversity of cultural expression, the UNESCO Convention includes measures to ensure that independent, domestic cultural industries, as well as the informal sector, have effective access to the means of manufacture, dissemination, and marketing (Article 6). The Convention also seeks to enhance the cultural industries in developing countries through the establishment of functioning local and regional markets, and through other means (Article 14).

A basic premise of development co-operation policy is that cultural exchange serves international understanding and contributes to international conflict prevention (refer to the resolution of the Prime Ministers of the German *Länder* of 22 October 2008, “*Zukunftsfähigkeit sichern – Entwicklungspolitik in gemeinsamer Verantwortung von Bund, Ländern und Kommunen*” (Ensuring the future – The joint responsibility of the Federal Government, the *Länder* and cities and local governments in development co-operation policy)). In international co-operation efforts, favourable attention should be paid to the role regions play as catalysts of the cultural industries (for example, through clusters, cultural exchanges, and promotion of exports).

Public policy should promote a vibrant, independent culture and creative economy that is in a position to create original and genuine culture products and services.

Creativity and innovation require diverse players to produce, use, and acquire.

Artists and cultural mediators and what they create are central to the culture and creative economy.

Artists and other creative professionals are at the heart of the culture and creative economy. As a rule they work within culture and creative communities. They nourish the rich soil on which the culture and creative economy thrives. Without the work of the authors, musicians, film directors, actors, dancers, and painters, not to mention designers, architects and video game developers, there would be no music industry, no film industry, no art market, and so on. Conversely, these intermediary industries and markets are necessary for the livelihood of artists and others in the creative industries.

The market conditions between the creators on the one hand, and the intermediaries of the culture and creative economy on the other, are in flux. The prevailing conditions are becoming increasingly fragile in the face of changes in production, in particular digitalisation. The ensuing conflicts between creative originators and the market-oriented distributors also make the development of local and regional culture and creative output more difficult. Meanwhile, with the help of technology, local and regional artistic and creative output is less dependent on exclusively market-oriented channels of distribution. Whether of necessity or by choice, artists are becoming their own marketers and distributors (so-called 360-degree models⁵, office co-ops, clubs/record labels, etc.).

The most important policy challenge with regard to promoting the culture and creative economy is currently overcoming the displacements in the value creation chain brought on by digitalisation. On one hand, the erosion of copyright and on the other, hopes of being reintegrated as agents in the conveyance and distribution of artistic goods are two poles of the currently heated debate over the future of the culture and creative economy. The interests of the various players (artists, intermediaries, users) overlap, and are frequently at odds.

To ensure cultural diversity, instruments must be developed to enable the players of the culture and creative economy to make the transition from analogue to digital. In this regard, particular attention should be paid to the small enterprises, as they invest considerable sums in the livelihood and training of artists.

The point is to strike a balance between the accessibility of digital expressions on one hand, and commercial interests on the other. National legislatures, the European Union, and international organisations for the protection of intellectual property must expand existing legal standards such that the protection of intellectual property is guaranteed, or – as the case may be – that it *regains* the significance to which it is entitled. In a world based on market principles, artistic goods and services can only be marketed if

the artists stand to benefit financially from their efforts. By the same token, access to know-how is a pre-condition for innovation in society. So in addition to working on copyright law, it is important to work towards a culture-friendly tax law. The reduced value-added tax rate applied to some culture products is an important instrument for the preservation of cultural diversity.

Even though the culture and creative scene is a cornerstone of the culture and creative economy in Germany and Europe, and even though the culture and creative economy has been identified as an industry of the future, politicians should take more responsibility for the *nucleus* of the culture and creative scene. To an increasing extent, the artistic, cultural, and creative professions must find new markets, engage in self-promotion, and at the same time develop and maintain the integrity of their work. This is the only way in which they can ensure the basis for their personal livelihood and their economic survival. In this context, it is essential that policies address the structural framework within which the culture and creative economy operates. Among other things, this includes a social safety net for artists and the businesses of the culture and creative economy. In Germany, thanks to the *Künstler-sozialversicherung* (Artists' Social Welfare Insurance programme), artists and journalists benefit from health and long-term care insurance, as well as a pension scheme. With the increasing number of one-man companies in the culture and creative economy, the matter of social welfare is an important pre-condition of economic success.

Historically, there has been tension between the culture and creative economy and public cultural institutions. The public and private sector are not the same, and should not be treated as such.

The culture and creative economy is marked not only by intramural conflicts among the players involved. Historically speaking, in Germany and many other European countries, there has been a tension between the culture *economy* – referring to the traditional commercial sectors such as music, books, art, and film – and public-sector, non-commercial cultural endeavours.

These enterprises were established democratically and are intended as such for the public good. Public museums, theatres, music academies and libraries do not rely upon the marketplace for legitimisation. They need not – and this is one of Europe's historic accomplishments – be measured by their economic value.

⁵ The so-called „360-degree model“ refers to the ambition of music producers to increase their shares of the added value created by the artists whom they have under contract.

Ideally, the private and public culture subsectors would be complementary. Focusing solely on the culture *economy* – which is to say, focusing solely on the market-oriented perspective, as suggested by the English term *creative industries* – is fraught with danger. What that term suggests is that everything, including public-sector arts institutions, should be viewed and treated as if it were subject to the conditions of the private sector. If policymakers fail to make this distinction, they run the risk of ruining a significant portion of the culture sector, and of reducing the diversity of cultural expressions. A clear understanding of the bright line between the culture economy and public-sector culture, as well as an awareness of the interdependencies (artists, for example, work in all three sectors: public and state-run structures, civil society-generated opportunities and private enterprises) can lead to a strengthening of both public culture endeavours, and the culture and creative economy.

In the end, the public does not distinguish whether arts and culture products were financed privately or publically. It assesses the quality of cultural offerings on the basis of experience. Portraits would hardly find their way into museums' august marble halls if it weren't for commercial galleries and auction houses. One could never make a suitable distinction between art films and commercial films by saying that one is more valuable than the other. There are musical ensembles in every genre that are of high quality, that have a claim to cultural relevance, and that are private enterprises. From this perspective, organisational pluralism is an important pre-condition for the development and preservation of the diversity of cultural expressions.

High-quality arts and culture production can arise anywhere, whether publically funded or as a commercial enterprise. The question is, however, what receives public sponsorship, and how, as a consequence, the livelihood of small, subsidiary cultural businesses is influenced for the better, or sometimes for the worse!

In the future, cultural policy must monitor the market-oriented conditions that affect culture production, and should recognise the significance of the private enterprise sector. In addition to cultural promotion policies, there is a need for jointly developed cultural regulatory policies, the goal of which should be to keep an eye on societal economic objectives, and the negative impact of a purely market-oriented approach on the provision of cultural goods.

The culture and creative economy requires a tandem of economic and cultural policies. Neither a purely economic way of thinking nor a purely

cultural policy approach is sufficient. At the community level, urban planning-, labour market- and education policy are part of the mix. The culture and creative economy is an inter-sectoral task.

The German Federal Government's Culture and Creative Industries Initiative (Initiative Kultur- und Kreativwirtschaft) was established in May 2008 and is spearheaded by the Federal Ministry of Economics and Technology (Bundesministerium für Wirtschaft und Technologie (BMWi) and the Commissioner for Culture and Media (Beauftragter für Kultur und Medien (BKM)). They see themselves as co-ordinators seeking to win over the relevant ministries of the Federal Government (labour, justice, urban development), as well as the temporary implementation agencies called for by the Study Commission in its final report "Culture in Germany" (2008, p. 554f and p. 556ff, German language edition). Increasingly, the two political bodies responsible are developing in tandem, which underscores that in the long run, the culture and creative economy can only be developed as a shared undertaking. It remains to be seen whether this tandem initiative launched at a federal level will be imitated at the regional and community level such that a creative, diverse, and independent culture and creative economy can thrive in Germany.

The frequently repeated notion of the dual nature of cultural goods and services – they are both cultural and economic goods – is no longer a cliché for Sunday talk. The Culture and Creative Industries Initiative means that the two most important Federal Ministries have teamed up to study the dual function of art and cultural goods through demonstration projects. Within just the first year (2008/2009) it became clear how groundbreaking this work is for both economic and cultural policy. The projects exist in a liminal zone, as neither purely economic thinking nor a purely cultural approach by any means does justice to the matter of culture and creative economy. In the future, reports on the culture and creative economy drawn up at the federal and regional level should be able to do a better job of tracking the variety of products, companies, channels of distribution, and reciprocal relationships.

Further qualitative evidence on appropriate measures (in the context of the objectives of the UNESCO Convention) is necessary. Additionally, interesting examples from other countries regarding the implementation of relevant instruments of promotion should be consulted.

High-quality arts and culture production can arise anywhere, whether publically funded or as a commercial enterprise.

Recommendations for action

Benefit from the Culture and Creative Industries Initiative: The ministries and individuals responsible for the Culture and Creative Industries Initiative should develop proposals that can contribute to the implementation of the UNESCO Convention in Germany (export promotion, microfinance, development aid policy, cultural exchange). The Culture and Creative Industries Competence Centre in Eschborn with its information services for producers is an important step in this direction (the Centre was established in November 2009).

Accept responsibility: Cultural policies have to bear the responsibility to protect the livelihood and economic survival of artists, cultural intermediaries and users.

Develop frameworks: The reduced value-added tax rate and the Artists' Social Welfare Law should be maintained as pre-conditions for economic success. Copyright regulations that address the challenges of digitalisation should be created.

Link cultural and economic policies: The example of the inter-ministerial tandem initiative at the federal level should be followed at the regional and community levels, and the efforts at the various levels of government should be linked.

Draw up qualitative analyses: Future culture and creative industry reports should place more emphasis on detailed analysis of the business structures (business plan, competitive forces, strategies, barriers). In particular they should assess to what extent these may contribute towards the diversity of cultural expressions (variety of products, channels of distribution, and forms of acquisition).

Diversity in the World of Digital Media

Basis of Public Communication, Lifeblood of Democracy

The transition to digital media creates new opportunities for participation in public communication. “Cultural diversity is made manifest... through diverse modes of artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used” (Article 4). Through the Internet, citizens have access to an exponentially expanding array of entertainment, information, and audiovisual content. The Internet allows them to share their own audiovisual content more easily, and take an active part in public communication, including the exchange of cultural expressions and political opinions. The transition to digital media, however, also poses dangers: it makes it more demanding to assess the validity and quality of content, and it contributes to the fragmentation of the society. It increases the pressure to make the production, dissemination, and consumption of media content conform to the laws of the international media market, which is trending towards monopolisation and which targets its products at the commercially lucrative mainstream (refer to the chapter on media in the Pérez de Cuellar report “Our Creative Diversity”, UNESCO, Paris 1995).

To ensure and promote diversity in the world of digital media, the rules of the market for certain sorts of content must be softened or abolished. Furthermore, for non-commercial audiovisual media, there is a need for non-state, civil society institutions that can make content available online. In Germany, the public service broadcasters have traditionally supplemented and counterbalanced commercial offerings. This is now explicitly the case for new digital and non-linear audiovisual media. The UNESCO Convention expressly identifies measures that may be taken at a national level “aimed at enhancing diversity of the media, including through public service broadcasting” (Article 6).

The points made regarding cultural goods in the previous chapter (“Creativity and Innovation: How Independent Culture and Creative Economies Contribute to the Diversity of Cultural Expression”) also apply to new audiovisual media. There has been an explosive expansion of audiovisual media in recent years, driven by falling prices, and the ubiquity of the digital devices with which media can be produced, disseminated, and used. The market alone, however, cannot ensure the diversity of cultural expressions. On the contrary: economies of scale, strong resistance to regulation, and various barriers to Internet access all favour the concentration of new media, and limit diversity in many ways. In light of the increased importance of new media relative to traditional broadcasters, these factors will over time lead to a diminished diversity of media offerings overall, and thus to diminished public communication. This is particularly true for the younger generation, which gets its information and expresses itself primarily through new media. There needs to be limits on the market, and there must be incentives to ensure diversity. Organised and non-organised civil society both have a role to play, as does the

state, which can enhance the professional capability of civil society in this task, particularly through modern cultural regulatory policy.

Current jurisdiction of EU cultural regulation policy

At the beginning of March 2009, a ruling by the European Court of Justice in Luxembourg gave a boost to the cultural diversity of European film production with surprising clarity. According to the ruling, EU states may require television producers to invest part of their operating income in the production of domestic and European films (File C-222/07, quoted in *epd-Medien* No. 18, 7 March 2009). The Spanish private broadcasters’ association Uteca had gone to the European Court of Justice complaining that in Spain 5% of income had to be channelled into European film productions, of which 60% was to be used for films in Spanish or one of Spain’s other official languages. In the view of Spanish commercial broadcasters, this was a violation of the principle of free trade and other civil liberties. The judges were of a different opinion and expressly referred to the UNESCO-Convention in their verdict, holding

The diversity of audiovisual media is in the public interest. The media industry alone cannot guarantee the diversity of the cultural expression.

that this Spanish cultural and media regulation was grounded in cultural considerations. Its aim was the protection and promotion of multilingualism and the diversity of the cultural offerings, and was as such in accord with both the European regulatory "Television without Frontiers/Audiovisual Media Services Directive" and with other Community law (2007, final version: PE-CONS 3683/09, Brussels, 26 January 2010).

There is a need to deliberately create and strengthen opportunities for users to participate in the creation of diverse audiovisual media.

At issue in such cases is who holds the strings, and how the culture industry and cultural policy are intertwined. As it turns out, the European regulatory "Television without Frontiers/Audiovisual Media Services Directive" which is focused on content rather than technology may point the way towards coherent classification of electronic communications services. The EU guidelines for audiovisual media services are in line with the UNESCO Convention, which makes the Convention also a framework for European regulation. This has, as yet, not been understood in all quarters. The greatest challenge is political: National, European, and multinational cultural policies must forge a consensus as broad as the one on which international trade regulations have been based for sixty years. The goal is a cultural regulatory policy that harmonises the goals of cultural industries and cultural policy.

A modern toolkit for cultural regulatory policies

The new audiovisual media are characterised by the convergence of content and technology. To guarantee users and content providers equal-opportunity non-discriminatory access, an all-embracing regulatory approach is needed (one that overcomes the separation of technology and economic policy on the one hand, and content regulation on the other). A glance at other countries' practices reveals the existence of a complex catalogue of instruments, or "tool kit" (cf. the Canadian media expert Peter S. Grant, in: *Politik und Kultur* No. 1/2006, 1). These tools can be used to correct discrepancies in the market. Furthermore, these instruments can be used to protect and promote the diversity of cultural expressions in the media in general and in audiovisual media in particular. This assurance of diversity and creativity is just as important for the development of a society as for the innovative capacity of its economy.

The tools at hand can be used for many tasks, ranging from the traditional task of building infrastructure (developing broadband platforms, digital dividends available for tasks at national level), to asserting network neutrality, which ensures non-discriminatory access to diverse content despite vertical integration, to reconciling the competing interests of providers and customers with regard to targeting and protection of data privacy, to finding

new approaches to incremental regulation and participation. In addition to these there are a number of methods for adjusting relative prices (such as subsidies and taxation) and state decrees (ranging from "soft" recommendations all the way to requirements and prohibitions). Examples include specifying minimum or maximum quotas for national productions, the licensing of foreign media companies – which is something the US Federal Communications Commission (FCC) is carrying out – or hindering the loss of plurality of opinions by using competition and media laws. It remains as always the case that safeguarding comprehensive and reliable journalism is one aspect of safeguarding media pluralism. The European Commission's "Information Society" Directorate-General is developing initial monitoring approaches (see: *Media Pluralism Monitor*, 2008 ff).

It is of central importance to adjust the copyright framework to the digital era, with the goal of making as much knowledge and information as possible accessible to as many citizens as possible, while also making clear that high-quality content comes with a price (cf. "Open Access: Opportunities and Challenges", German Commission for UNESCO, Bonn 2007).

The transformation in the media is marked above all by the extension to the individual of the technical and economic means to create and distribute media content, and thereby to contribute to the diversity of audiovisual offerings. The possibilities of Web 2.0 should be recognized and enhanced. However, it must also be made clear that by the same token, the social responsibility of the individual provider of audiovisual media has increased. To protect these media, benchmarks for the quality and relevance of audiovisual media must be developed and brought within users' experience. This will serve at once the interests and the societal function of users who, through the selection, appraisal, and further dissemination of the ever-expanding array of offerings on the Web, are acquiring increasing influence over the efficacy of media.

Developing measures of this sort requires private commitment as well as collective measures by the state, for instance to promote responsible media and self-regulation on the Web (an example of self-regulation is the "Internet Manifesto: How Journalism Works Today – Seventeen Declarations", www.internet-manifesto.org). But it also requires that civil society have more possibilities for participation, as it is civil society, in concert with high culture and the creative industries, that can make high-quality, up-to-date audiovisual materials available. The existing monitoring and regulatory processes, which were designed with vertical and unidirectional communication (broadcasting) in

mind, can be adapted to the horizontal and multi-directional communication of Web 2.0.

In particular, this task requires the full array of broadcasting and media laws to take the UNESCO Convention on the Diversity of Cultural Expressions sufficiently into account, while heeding various principles of freedom of information (safeguarding access for users and providers, technological neutrality, promotion of cultural diversity in light of competitive policies and consumer protections). This task also requires inclusion of these principles in international trade agreements. Due to the previously mentioned tension between culture and the marketplace, this is a difficult but necessary task – in particular with regard to commercial broadcasting and private newspaper publishers, which can only promote public communication if they are also profitable as private enterprises. If successful, the partly contradictory demands made on the media industry and media culture can be reconciled. A vibrant array of high-quality media content will contribute to the implementation of the UNESCO Convention, and at the same time become a motor of the media industry and thus of the culture industry as a whole.

Public service broadcasters are of central importance for ensuring diversity – even for new media.

Because of its purview in traditional linear broadcast programming, and because many programmes can be accessed in a variety of ways (think of archives and media libraries), public service broadcasters can and should contribute to the diversity of cultural expression, including in non-linear audiovisual media. Its task – to create a public space, to impart values, and ensure pluralism of opinion – remains indispensable in the digital world. The European Union, as a Party to the UNESCO Convention, has introduced the European regulatory “Television without Frontiers/Audiovisual Media Services Directive” (2007, final version: PE-CONS 3683/09, Brussels, 26 January 2010).

In June 2009 the *Zwölfter Rundfunkänderungsstaatsvertrag* (12th Broadcast Modification Agreement) instituted these guidelines as German national law. The agreement, however, also highlighted the particular obligation of public service broadcasters for the cultural and journalistic diversity of its media offerings. In keeping with the UNESCO Convention, the agreement, through the so-called three phase test, has strengthened civil society’s voice in defining and shaping telecom’s mandate.

Countries with other traditions must weigh whether a legal mandate can guarantee the diversity of audiovisual media offerings, and what further or alternate safeguards of diversity might be established.

Recommendations for action

Building consensus among the Directorates-General of the European Commission: The implementation of the Convention at the European level requires the consensus among the seven Directorates-General pertaining to the UNESCO Convention, notably "Internal Market and Services", "Digital Agenda" and "Education, Culture, Multilingualism and Youth", thereby overcoming the separation of technology and economic policies on the one hand, and content regulation on the other.

Re-balance the public and private sectors: As defined by EU Charter Article 11, *Grundgesetz* (German federal constitution) Article 5 (democratic participation), and Article 6 of the UNESCO Convention (enhanced media diversity) certain media content must be accessible free of charge. Most notably this includes content that contributes to the formation of public and in particular political opinions, and content that contributes to cultural diversity. Initiatives to secure the *public domain*, such as the German Digital Library, the European Digital Library, and the World Digital Library also play an important role. If necessary, new forms of collective financing must be found for these media contents (flat rates for culture, protection lists, added-value partnerships).

Form new alliances with the national and European media system: Modern regulatory structures in the realm of media and cultural regulatory policy are self-commitment agreements, such as those that have emerged to govern national and trans-national online trade, or the development and implementation of quality benchmarks for telecommunications media as a basis for the common welfare of a future knowledge-based society (self-commitment and mandated self-regulation). In view of this, new alliances with the national and European media system are needed.

Found strategic partnerships: The new balance between the public and private sectors in the 21st century will be facilitated by the development of partnerships, in which the state engages with industry (corporate social responsibility) and with the forums of civil society. Possible strategic stakeholders for the state in the sector of media policy, media diversity and media development (models for the future) are international institutions such as the European

Broadcasting Union (Geneva), the Audiovisual Observatory (Strasbourg), the UNESCO Observatory on the Information Society (Paris) and national and trans-national organisations which represent the interests of the media users (compare Article 15 of the Convention as Collaborative Arrangements).

Enhance audience development at the national, European and international level: The purview of the media can be expanded and "audience development" can be strengthened. The instruments for this are platforms that allow citizens to communicate with the media, and the media to communicate with citizens, through which citizen-participation in the media is enhanced, consensual regulatory systems are developed, and innovative models come into being (e.g. learning partnerships, projects, and networks that enhance the responsibility of the individual for the use and creation of audiovisual media). In this way, exemplary innovations can be communicated through new channels (e.g. cultural promotion of new bands on Bavarian Broadcast Corporation's "on3" radio station, the *Netzwerk Junge Ohren* (Young Ears Network), orchestra sponsorships, or the student competition for YouTube videos promoting tolerance).

Arts Education for Cultural Diversity

Education and Public Awareness-Raising

Arts education plays a prominent role in the implementation of the objectives of the Convention. Arts education is not only a vehicle for achieving the overriding objective of cultural diversity; it is itself the subject of political discourse. It is particularly important that the UNESCO goal of “Arts Education for All” will be achieved. A “Road Map for Arts Education” came out of the 1st World Conference on Arts Education in Lisbon in 2006. Arts education needs to be a focus of attention in both formal and informal educational and cultural settings. An effective strategy is establishing community or regional education-networks, consisting of cultural and arts-education institutions. Binding legal safeguards for the offerings and the institutions are necessary. The UNESCO Convention commits the Parties to promoting the understanding of cultural diversity in the public realm through educational programmes. Article 10 focuses on the idea that education can contribute to the objectives of the Convention – in the near term by creating greater public awareness and in the long term by ensuring that the objectives will be achieved. Arts education promotes these objectives through the transfer of knowledge, capabilities, and skills, and through the development of competencies, values and attitudes.

For many German players active in the culture and education sector, the protection and promotion of cultural diversity is currently an important topic in political discourse, and in everyday practice.

The “Road Map for Arts Education” that came out of the UNESCO World Conference on Arts Education (Lisbon 2006) is particularly relevant. It states: “Awareness and knowledge of cultural practices and art forms strengthens personal and collective identities and values, and contributes to safeguarding and promoting cultural diversity”.

Moreover, arts education is set in the context of the UN Decade of Education for Sustainable Development (2005-2014) and the resulting demands for social change. It aims to appraise cultural diversity in the horizon of sustainable development, and thereby to be able to cope with it. Arts education in this sense can be understood as a discussion with the contents of an education for sustainable development.

Arts education is a part of general education that enables an individual to take part in society and actively participate in shaping the future. It is an aspect of lifelong learning in the arts, with the arts, and through the arts: literature, music, fine arts, theatre, dance, applied art, film, photography, digital media, circus, and so on. Arts education is the task of art and cultural institutions, kindergartens, schools, universities, extracurricular arts education and training programmes, as well as the media. Federal Government, the *Länder* (states), cities and local governments

create the general conditions for arts education. Arts education for all can only be ensured with strong engagement on the part of civil society – from the very beginning and throughout life.

In terms of developing and making a variety of arts education offerings available, Germany offers a relatively high standard. However, there are differences between regions, and certainly among different population groups. Levelling these disparities in the interest of equal access is an important challenge that all players must address.

The Convention on the diversity of cultural expressions represents a paradigm shift that also has to take place in arts education.

For the time being, more is happening in the cultural sector than in the education sector that addresses the terms contained in the Convention. Those involved in both formal and informal education are insufficiently aware that they too, in their own capacities, can and must contribute to the implementation of the Convention.

On this front, what is needed is an effort to raise awareness and disseminate information. Those with a stake in the politics and practice of culture and education should be made aware of the Convention’s demands. The UNESCO Convention must be communicated in the field of arts education. Good political and practical examples of implementing the Convention should be made available. There is a

Culture and art are indispensable to a comprehensive education that allows each individual to develop fully.

need for the development of a conceptual basis for the promotion and protection of cultural diversity in arts education.

Building upon the Convention, easier access to arts education for all must be ensured – from the very beginning and throughout life.

Sites of arts and cultural conveyance, of education and training must be open to the task of arts education.

Easier access for all to arts education can also be ensured by more numerous and more diverse opportunities for arts education as a component of formal education.

The current trend of marginalising the (few) school subjects that pertain to the arts should be reversed. This will provide a greater diversity of cultural practice and spaces for artistic experience in formal education institutions that reflect the diversity and heterogeneity of the beneficiaries.

All local, regional, state, and federal sites of arts and culture for the creation, production, dissemination, distribution, and enjoyment of cultural expressions, whether for profit or for pleasure, should see themselves not only as places of arts and cultural conveyance, but at the same time as places of arts education and cultural diversity. Correspondingly, they should actively expand and enhance their offerings.

Likewise all sites of formal or informal education should also be understood as places of arts education and cultural diversity. In light of this paradigm shift, organisational structures, concepts, and daily practice – not to mention the political framework and funding practice – must evolve correspondingly.

Community and regional education-networks, consisting of both institutions of formal education and cultural and arts education institutions, should be established widely. This will contribute to the development of stringent, locally responsive strategies for the implementation of the UNESCO Convention across Germany. The result will be concrete steps to promote cultural diversity in everyday practice.

The implementation of the Convention will require a long-term strategic reorientation. These measures cannot, however, be carried out on an economically insecure, year-to-year basis, or on the basis of projects on short-term contracts.

In Germany it would be useful to create binding legal safeguards for the offerings and institutions of arts education, since it is already the case that they often fear for their survival in weak economic

periods and can hardly meet the challenge of promoting cultural diversity adequately.

For the development of far-reaching ideas for the promotion of arts education for cultural diversity, increased professional exchange with practitioners from other Parties to the Convention must be made possible. This is necessary for the professionalization of stakeholders and to encourage – even in Germany – unfamiliar approaches to developing arts education offerings (see above). Concretely, the sharing of experience can be promoted by the prompt creation of a mobility programme in the sector of arts education, for instance through relevant EU programmes.

As Party to the Convention, the German Federal Government should work towards getting the other EU member states (two of which are currently still in the ratification process) to work out a strategy for European implementation in co-operation with the European Community. To this end, the next EU budget should foresee financial support for an EU programme entitled "Arts Education for Cultural Diversity" after 2013. This would, for the first time, provide an important inter-ministerial programme at the European level, strategically linking the potential of the culture, education, and youth sectors, strengthening the protection and promotion of cultural diversity across Europe in the long run.

The German Federal Government and the *Länder* are called upon to ensure that it will still be possible to subsidise projects in the sectors of culture, youth and education under the next generation of EU Structural Funds (European Regional Development Fund and European Social Fund).

Civil society plays an important role in the field of arts education for cultural diversity. This is clearly emphasised in Article 11 of the Convention. Regardless of their particular organisational structure or composition, civil society players are to be provided the opportunity to contribute, particularly where culture and state-run formal education overlap.

Above all, the formal education sector should embrace new forms of dialogue, participation and decision-making in partnership with civil society players and those in the field to develop new forms of arts education for cultural diversity.

Arts education in Germany needs professional exchanges with practitioners in other countries.

Recommendations for Action

Make use of the European Union: As a Party to the Convention, the German Federal Government should seek allies in other EU member states to establish a common EU “Arts Education for Cultural Diversity” programme by 2013 that innovatively links the sectors of culture, education, and youth. The German Federal Government and the *Länder* are called upon to ensure that it will still be possible to subsidise projects in the sectors of culture, youth and education under the next generation of EU Structural Funds (European Regional Development Fund and European Social Fund).

Reverse the marginalisation trend: All *Länder* should commit themselves to reversing the marginalisation of the (few) school subjects that pertain to the arts.

Offer culture from the very beginning: When culture is discussed, people seldom refer to children and young people; and when children and young people are discussed, the conversation is seldom about culture. A quota for children and youth culture should be envisioned. The diversity of the public must be taken seriously.

Ensure infrastructure sustainably: Binding legal protection for the offerings and institutions of arts education should be created throughout Germany.

Act as an inter-disciplinary network: The institution of community and regional education-networks in collaboration with cultural and arts education facilities should have sustained support throughout Germany.

Develop institutional awareness: Ongoing training for executives and staff in the various sectors of education, culture, media, and research regarding the objectives, focus, and implementation of the UNESCO Convention, including international education in the form of a mobility programme, must be carried out at regular intervals.

Enhance visibility: A campaign should be started under the umbrella of the Federal Coalition for Cultural Diversity (Bundesweite Koalition Kulturelle Vielfalt) to communicate the UNESCO Convention on a broad basis, to make good political and real-world examples visible, and to develop concepts for the promotion and protection of cultural diversity.

Definitions

Article 4 of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) verbatim

1. Cultural diversity

“Cultural diversity” refers to the manifold ways in which the cultures of groups and societies find expression. These expressions are passed on within and among groups and societies.

Cultural diversity is made manifest not only through the varied ways in which the cultural heritage of humanity is expressed, augmented and transmitted through the variety of cultural expressions, but also through diverse modes of artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used.

2. Cultural content

“Cultural content” refers to the symbolic meaning, artistic dimension and cultural values that originate from or express cultural identities.

3. Cultural expressions

“Cultural expressions” are those expressions that result from the creativity of individuals, groups and societies, and that have cultural content.

4. Cultural activities, goods and services

“Cultural activities, goods and services” refers to those activities, goods and services, which at the time they are considered as a specific attribute, use or purpose, embody or convey cultural expressions, irrespective of the commercial value they may have. Cultural activities may be an end in themselves, or they may contribute to the production of cultural goods and services.

5. Cultural industries

“Cultural industries” refers to industries producing and distributing cultural goods or services as defined in paragraph 4 above.

6. Cultural policies and measures

“Cultural policies and measures” refers to those policies and measures relating to culture, whether at the local, national, regional or international level that are either focused on culture as such or are designed to have a direct effect on cultural expressions of individuals, groups or societies, including on the creation, production, dissemination, distribution of and access to cultural activities, goods and services.

7. Protection

“Protection” means the adoption of measures aimed at the preservation, safeguarding and enhancement of the diversity of cultural expressions. “Protect” means to adopt such measures.

8. Interculturality

“Interculturality” refers to the existence and equitable interaction of diverse cultures and the possibility of generating shared cultural expressions through dialogue and mutual respect.

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Shaping Cultural Diversity

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 (2005)

White Paper Version 1.0

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The UNESCO Convention on the Diversity of Cultural Expressions is breaking new ground with regard to international law. It is shaping the “rules of the game” for globalisation, and points the way towards securing diversity of cultural offerings and exchanges in the 21st century. Its objectives and instruments have been legally binding for the Federal Government, the *Länder* (states), cities, and local governments since ratification by the Federal Republic of Germany in March 2007. The inter-disciplinary character of the Convention makes an integrated and inter-ministerial approach necessary, combining promotion and regulatory policies. The White Paper’s recommendations for action are addressed to the players and stakeholders bearing political responsibility for the protection and promotion of diversity of cultural expressions and/or who have the particular ability to take action.

This version 1.0 of the White Paper “Shaping Cultural Diversity” is a project of the Federal Coalition for Cultural Diversity, and was compiled by more than sixty experts. It contains six thematic chapters. Each chapter concludes with political recommendations for action for German and European cultural policies; for cities and local governments; for international co-operation; for the independent culture and creative economy; for media diversity; and for cultural education. In each of these areas of action, the following measures are needed to implement the objectives of the Convention: public and institutional awareness-raising, the education and training of relevant professional staff including management, inter-disciplinary research and knowledge-sharing (including by the network of UNESCO Chairs), and empirically supported monitoring of the frameworks for cultural diversity.