

**Articles 7, 8 and 17 of the Convention on the Protection and Promotion of the
Diversity of Cultural Expressions**

Operational Guidelines

Measures to Promote and Protect Cultural Expressions

Approved by the Conference of Parties at its second session (June 2009)

Chapter xxx: Measures to promote cultural expressions

Article 7

1. *Parties shall endeavour to create in their territory an environment which encourages individuals and social groups:*
 - (a) *to create, produce, disseminate, distribute and have access to their own cultural expressions, paying due attention to the special circumstances and needs of women as well as various social groups, including persons belonging to minorities and indigenous peoples;*
 - (b) *to have access to diverse cultural expressions from within their territory as well as from other countries of the world.*
2. *Parties shall also endeavour to recognize the important contribution of artists, others involved in the creative process, cultural communities, and organizations that support their work, and their central role in nurturing the diversity of cultural expressions.*

Principles

1. Cultural policies and measures developed by Parties to promote the diversity of cultural expressions should:
 - 1.1 be part of an integrated approach at the appropriate level and in accordance with the constitutional frameworks;
 - 1.2 be based upon the guiding principles as set forth in Article 2 of the Convention;
 - 1.3 foster the full participation and engagement of all members of society contributing to the diversity of cultural expressions, particularly persons belonging to minorities, indigenous peoples and women;
 - 1.4 take into account the provisions of other international legal instruments in the field of culture which are applicable thereto;
 - 1.5 foster the emergence of a dynamic cultural sector, taking into account all aspects of the cultural activities, goods and services in their diverse modes of creation, production, dissemination, distribution and access, whatever the means and technologies used.

1.6 aim, more specifically to:

- 1.6.1 at the stage of creation, support artists and creators in their efforts to create cultural activities, goods and services;
- 1.6.2 at the stage of production, support the development of cultural activities, goods and services by promoting access to production mechanisms and encouraging the development of cultural enterprises;
- 1.6.3 at the stage of distribution/dissemination, promote the opportunity of access in the distribution of cultural activities, goods and services through public, private or institutional channels at the national, regional and international level; and
- 1.6.4 at the stage of access, provide information about available domestic or foreign cultural activities, goods and services by making the appropriate incentives available, and develop the capacity for the public to avail itself of such access.

Measures used to facilitate the promotion of cultural expressions (best practices)

In accordance with the sovereign right of States to formulate and implement cultural policies and adopt measures (Article 5.1 of the Convention), the Parties are encouraged to develop and implement policy instruments and training activities in the field of culture. Such instruments and activities should aim at supporting the creation, production, distribution, dissemination and access to cultural activities, goods and services with the participation of all stakeholders, notably civil society as defined in the Operational Guidelines.

2. These instruments could be related to the following fields:

- 2.1 Legislative: e.g. establishment of structuring legislation in the cultural field (for example, legislation on broadcasting, copyright, status of the artist, etc.);
- 2.2 Creation/production/distribution: e.g. creation of cultural organizations mandated to create, produce, present or render access to domestic cultural content;
- 2.3 Financial support: e.g. development of financial support programmes including tax incentives that provide assistance for the creation, production, distribution and dissemination of domestic cultural activities, goods and services;
- 2.4 Advocacy and promotion: e.g. participation in exchanges on various international legal instruments to advocate and promote the rights of Parties;
- 2.5 Export and import strategies: e.g. develop both export-driven (promoting cultural expressions abroad) and import-driven strategies (enabling the distribution of diverse cultural expressions in their respective markets);
- 2.6 Access strategies: e.g. encourage programmes for economically disadvantaged groups and incentives so as to facilitate their access to cultural goods and services.

3. Bearing in mind the technological changes underway in the field of culture and which have the potential to bring considerable change in matters related to the creation, production, distribution and dissemination of cultural content, Parties are encouraged to promote the following types of intervention:
 - 3.1 place specific emphasis on measures and policies aimed at promoting the diversity of cultural expressions that are best adapted to the new technological environment; and
 - 3.2 foster the transfer of information and expertise to help cultural professionals and the cultural industries, with particular regard for youth, to acquire the knowledge and skills required to benefit fully from the perspectives offered by these new technologies.
4. Policy measures and instruments should, wherever possible, be based on existing structures and networks, including grass root communities. These structures should be examined to see how they could be further developed into strategic platforms. At the same time, the development of cultural policies and the establishment of creative industries at the national level could be reinforced through, *inter alia*, regional approaches, wherever possible.
5. Beyond the principles that Parties should endeavour to apply and the measures they are encouraged to implement, Parties are encouraged to communicate better and share information and expertise on the policies, measures, programmes or initiatives that have achieved the best results in the field of culture.

Chapter xxx: Measures to protect¹ cultural expressions - special situations

Article 8:

1. *Without prejudice to the provisions of Articles 5 and 6, a Party may determine the existence of special situations where cultural expressions on its territory are at risk of extinction, under serious threat, or otherwise in need of urgent safeguarding.*
2. *Parties may take all appropriate measures to protect and preserve cultural expressions in situations referred to in paragraph 1 in a manner consistent with the provisions of this Convention.*
3. *Parties shall report to the Intergovernmental Committee referred to in Article 23 all measures taken to meet the exigencies of the situation, and the Committee may make appropriate recommendations.*

Article 17:

Parties shall cooperate in providing assistance to each other, and, in particular to developing countries, in situations referred to under Article 8.

¹ According to Article 4.7 of the Convention, "Protection" means the adoption of measures aimed at the preservation, safeguarding and enhancement of the diversity of cultural expressions, and "Protect" means to adopt such measures.

Special situations

1. The nature of threats to cultural expressions can be *inter alia* cultural, physical or economic.
2. Parties may take all appropriate measures to protect and preserve cultural expressions within their territories in special situations in conformity with Article 8 of the present Convention.

Measures to protect and preserve cultural expressions

3. Measures taken by the Party under Article 8(2) will depend on the nature of the “special situation” determined by the Party and may include but will not be limited to: short-term or emergency measures designed to have an immediate effect; reinforcement or amendment of existing policies and measures; new policies and measures; long term strategies; and appeals to international cooperation.
4. Parties should ensure, that the measures taken under Article 8(2) do not hinder the guiding principles of the Convention nor are, in any other way, inconsistent with the letter and the spirit of the Convention.

Reporting to the Committee

5. Whenever a Party reports to the Intergovernmental Committee under Article 8.3, it should be able to:
 - 5.1 determine that the situation cannot be subject to action under other UNESCO Conventions;
 - 5.2 identify the risk or threat to the cultural expression or the urgent safeguarding needed, involving experts, civil society, and including grass root communities as appropriate;
 - 5.3 demonstrate the source of the threat *inter alia* with factual data;
 - 5.4 determine the vulnerability and importance of the cultural expression at risk;
 - 5.5 determine the nature of the consequences of the risk or threat to the cultural expression, and demonstrate the nature of the cultural consequences;
 - 5.6 explain the measures taken or proposed to remedy the special situation, including short-term and emergency measures, or long-term strategies;
 - 5.7 if necessary, appeal for international cooperation and assistance.
6. Where a Party has identified a special situation under Article 8(1) and taken measures under Article 8(2), the concerned Party will report to the Committee regarding the measures taken. The report should contain the information listed at paragraph 5 of this chapter.

7. The report should be provided to the Committee at least three months before the opening of an ordinary session of the Committee in order to allow for the dissemination of information and consideration of the issue.

Role of the Intergovernmental Committee

8. The Committee will include reports on special situations under Article 8 on the agenda of its ordinary sessions. It will examine the reports and the elements attached thereto.
9. Where a Party has determined a special situation on its territory and brought it to the attention of the Committee, the latter may make recommendations and propose remedial measures to be implemented by the Party concerned, if deemed necessary, in compliance with Article 8(3) and Article 23(6)(d).
10. Where a special situation under Article 8(1) has been determined by a Party, the Committee may also recommend the following appropriate measures:
 - 10.1 foster the dissemination of information on best practices of Parties in similar situations;
 - 10.2 inform the Parties of the situation and invite them to take action in order to provide assistance within the framework of Article 17;
 - 10.3 suggest to the Party concerned that it seek assistance, if needed, from the International Fund for Cultural Diversity. This request should be accompanied by the information and data described in paragraph 5 of this chapter and all other information deemed necessary.

Periodical Report

11. Where a Party has determined a special situation under Article 8(1) and measures have been taken under Article 8(2), the Party concerned will include appropriate information about these measures in its periodical report to be provided to UNESCO under Article 9(a).

International cooperation

12. In accordance with Article 17, the Parties shall cooperate in providing assistance to each other, paying particular attention to developing countries, in situations referred to under Article 8.
13. Cooperation may take various forms: bilateral, regional or multilateral. In this context, Parties may seek assistance from other Parties in accordance with Article 17, and that assistance may be *inter alia* technical or financial.
14. In addition to the individual action by the Parties concerned to remedy a special situation, coordinated actions by the Parties should be encouraged.