

A NEW INTERNATIONAL STANDARD-SETTING INSTRUMENT: THE PROPOSED UNESCO RECOMMENDATION CONCERNING THE PROTECTION AND PROMOTION OF MUSEUMS, THEIR DIVERSITY AND THEIR ROLE IN SOCIETY

Report to the Special Committee of Technical and Legal Experts (category II)

(UNESCO Headquarters, 27-28 May 2015)

Background

The General Conference of UNESCO at its 37th session (November 2013) recognized the need for a new standard-setting instrument in the field of museums and adopted 37 /Resolution 43 requesting the Director-General to proceed with the elaboration of a new non-binding standard-setting instrument in the form of a Recommendation. In accordance with the Rules of Procedure concerning recommendations to Member States and international conventions covered by the terms of Article IV, paragraph 4, of the Constitution (hereafter "Rules of Procedure"), the General Conference by its 37 C/Resolution 43 also set working methods for the preparation of the new Recommendation. In particular, it invited the Director-General to prepare a preliminary text of a new non-binding standard-setting instrument on the protection and promotion of various aspects of the role of museums and collections, in close collaboration with the International Council of Museums (ICOM), to complement existing standard-setting instruments, and to submit a draft text to it at its 38th session. Prior to this phase, in conformity with Article 10, paragraph 2, of the Rules of Procedure, the Director-General of UNESCO sent to Member States on 12 September 2014, a Circular Letter (CL/4076) with a preliminary report for their comments and observations at least ten months before the opening of the 38th session of the General Conference, i.e., by 10 January 2015.

Comments on the preliminary report

More than 30 comments and observations from Member States of UNESCO were received on the preliminary report sent by the Director-General on 12 September 2014.

All welcomed and were supportive of the process to prepare the proposed Recommendation on museums and collections.

These comments are available in their entirety at the following web address:

<http://www.unesco.org/new/en/culture/themes/museums/recommendation-on-the-protection-and-promotion-of-museums-and-collections/observations-by-member-states-on-the-draft-preliminary-report/>

Some respondents expressed concerns about the scope and the nature of the Recommendation itself; a number of respondents also raised specific and technical issues and expressed observations on the nine elements specified in the preliminary report.

Working method and timetable

The present report contains a draft text of the proposed Recommendation, which has been elaborated by the Secretariat in light of the comments and observations to the preliminary report, and in conformity with 37 C/Resolution 43, through an extensive consultation process led with ICOM and its constituency. The Secretariat has taken due note of its observations in the preparation of the draft.

In accordance with Article 10, paragraphs 3 and 4, of the Rules of Procedure, the present report is submitted to Member States of UNESCO and to the special committee of technical and legal experts (category II) scheduled to take place at UNESCO Headquarters on 27 and 28 May 2015.

The purpose of this meeting is to consider the draft text of the Recommendation in light of the comments and observations received from Member States, with a view to approving a draft to be submitted to the General Conference at its 38th session (3-18 November 2015), for consideration and possible adoption. Pursuant to Article 10, paragraph 5, of the Rules of Procedure, the final report and final draft should be communicated to Member States at least 70 days before the opening of the session of the General Conference, i.e. 25 August 2015.

General issues

Scope and nature of the proposed Recommendation

1. Given the diversity of needs and circumstances regarding museums' financial, institutional and human resources, the new Recommendation should be an instrument that is general nature, and defines a strategic vision and policy guidelines as universally applicable as possible so as to help all Member States improve their national laws and strategies concerning museums and collections. It focuses on the promotion of international cooperation in the various fields of museum work;
2. The Recommendation provides policy guidelines addressing different stakeholders, at international, national and technical levels. It should be stressed that the Recommendation is not intended to provide detailed guidance on specific issues, which are covered by the ICOM Codes of Ethics referred to in the text. Moreover, the present draft focuses on museums and does not deal with related fields such as archives and library;
3. A number of Member States have expressed the wish that the new Recommendation suggest an integrated approach, presenting a well-balanced vision on the definition, roles and functions of museums, placing importance both on traditional/conventional and new/contemporary functions. The primary and traditional roles of museums for preservation, research, education, and communication are stressed, while the contemporary vision of museums, i.e. social and economic roles, which is strongly related to UNESCO's current mandate for sustainable development and intercultural dialogue, is also included. While the integrity of collections remains one of the central issues of the Recommendation, it also promotes the vision of museums as "creator/generator/communicator" of culture and fora and space for reflecting on communities and collective cultural identities and current cultural issues;
4. The role of museums for sustainable development is presented not only in terms of its economic potential but also, and most importantly, as an inclusive approach to human development in harmony with the environment, linking science, education, and tourism;
5. In light of past debates, resolutions and decisions of previous sessions of the General Conference and the Executive Board on this topic, the new Recommendation seeks increased synergy and complementarity with existing international standard-setting instruments and particularly UNESCO's conventions in the field of culture; the importance of observing principles stated in existing international instruments adopted by UNESCO and other bodies was also stressed by Member States. The Recommendation thus includes as an endnote, the list of related international standard-setting instruments without specifying an order of importance as priorities could vary from one country to another. However, the need to protect museums and collections as well as the importance of combating illicit trafficking in cultural property are explicitly mentioned;
6. As regards the reporting by Member States on the implementation of the Recommendation once it has been adopted, in accordance with Articles IV and VIII of the UNESCO Constitution, the reports of the Member States on the implementation of

the Recommendation will be submitted every four years to the General Conference, unless decided otherwise;

7. Pursuant to 32 C/Resolution 77 and in accordance with the multi-stage procedure adopted by the Executive Board (177 EX/Decision 35 I), the Executive Board, in particular the Committee on Conventions and Recommendations, will examine their reports. The Committee on Conventions and Recommendations will then report on its work in this respect to the General Conference, ultimate addressee of reports from Member States.

Specific Issues

1. The provisional title used during the previous debates “Recommendation concerning the Protection and Promotion of Museums and Collections” was changed on ICOM’s initiative to “Recommendation concerning the Protection and Promotion of Museums, their Diversity and their Role in Society” so that the core subject of the Recommendation should remain museums. Two basic characteristics of museums, which are at the heart of the Recommendation, have been added to the title. The first is the diversity of museums in reference to the UNESCO 2001 Universal Declaration of Cultural Diversity and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The second, the educational, social and economic role of museums in society, is also a factor that is considered important to highlight in the title;
2. The term “collections” has different definitions in legal and cultural terms worldwide and difficulties may be encountered in attempting to reach a consensus on a single definition; the concept could include both private and public collections, as well as collections of all kinds. It was therefore preferable to stress the importance of collections within the functions of museums, especially for their scientific value, i.e. in terms of research and learning. In this regard, it is considered that collections in their entirety are valued, as items inventoried and registered by and in museums;
3. “Heritage” as museum collections defined in the text, encompasses not only the properties defined in the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, but also expressions of human genius and in this sense, includes both heritage transmitted from the past and more contemporary forms of culture such as digital arts;
4. The importance of Information and Communication Technologies (ICTs) is highlighted not only for the management of collections (inventories, documentations) but also for dissemination and communication of knowledge (virtual collections, digitized artefacts) and in relation to interactivity and creativity. The property rights and copyright issues related to the digitisation of collections are not included as they should be addressed in other instruments specifically devoted to these issues;
5. The topics presented below are not addressed in depth in the present instrument, for the reasons specified:
 - (a) A large number of specific issues concerning museum funding, studies, questions of provenance, collections mobility, accessioning and deaccessioning etc., are also amply discussed in the ICOM Code of Ethics for Museums and the Recommendation refers to it explicitly;
 - (b) Issues such as the protection of collections and museums in the event of armed conflict, illicit trafficking, and the issues of education and access are amply

covered in existing international instruments, i.e., the 1954 Convention and its two protocols, the aforementioned 1970 Convention and the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects, the 1960 Recommendation concerning the Most Effective Means of Rendering Museums Accessible to Everyone; as well as by a significant number of Member States national legislations.

6. The following items are not covered by the present draft recommendation, because they do not meet consensus among the international museum community:
 - (a) The issue of the ownership of collections, as well as the classifying of collections, is a subject on which a consensus could not be reached among Member States. For it to be included, a significant number of countries must have already addressed this issue in their own national legislation;
 - (b) The text refers only to the mobility of museums' pieces in the context of the primary functions of museums, particularly in connection with preservation of the integrity of collections, educational and research purposes;
 - (c) The issues of museum management and administration are discussed (§29), but the technical nature of these issues and differences between Member States and the size of museums make it difficult to specify in greater detail the management techniques that should be used. Best practices in this area are also presented and shared within various networks and national and international groups of museum professionals;
 - (d) The role of museums with respect to indigenous communities is not directly addressed, as the approach to this issue varies greatly depending on the Member States. It is also a subject that deserves specific attention in a form other than this text. However, this issue is amply discussed in the ICOM Code of Ethics, to which the Recommendation refers.

DRAFT RECOMMENDATION CONCERNING THE PROTECTION AND PROMOTION OF MUSEUMS, THEIR DIVERSITY AND THEIR ROLE IN SOCIETY

Preamble

The General Conference,

Considering that museums share some of the fundamental missions of the Organization, as stipulated in its Constitution, including its contribution to the wide diffusion of culture, and the education of humanity for justice and liberty and peace, the foundation of the intellectual and moral solidarity of humanity, full and equal opportunities for education for all, in the unrestricted pursuit of objective truth, and in the free exchange of ideas and knowledge,

Also considering that one of the functions of the Organization, as laid out in its Constitution, is to give new impulse to popular education and to the dissemination of culture: by collaborating with Members, at their request, in the development of educational activities; by instituting collaboration among countries to advance the ideal of equality of educational opportunity without regard to race, gender or any distinctions, economic or social; and to maintain, increase and disseminate knowledge,

Recognizing the importance of culture in its diverse forms in time and space, the benefit that peoples and societies draw from this diversity, and the need to strategically incorporate culture, in its diversity, into national and international development policies, in the interest of communities, peoples and countries,

Affirming that the preservation, study and transmission of cultural and natural, tangible and intangible heritage, in its movable and immovable conditions, are of great importance for all societies, for intercultural dialogue among peoples, for social cohesion, and for sustainable development,

Reaffirming that museums can effectively contribute towards accomplishing these tasks, as stated in the 1960 Recommendation concerning the Most Effective Means of Rendering Museums Accessible to Everyone, which was adopted by the General Conference at its 11th session (Paris, 14 December 1960),

Also reaffirming that museums contribute to the enhancement of human rights, as set out in the Universal Declaration of Human Rights, in particular its Article 27, and in the International Covenant on Economic, Social and Cultural Rights, in particular, its Articles 13 and 15,

Considering that they also play an ever-increasing role in stimulating creativity, providing opportunities for creative and cultural industries, thus contributing to the material and spiritual well-being of citizens across the world,

Considering that it is the responsibility of every Member State to protect the cultural and natural heritage, tangible and intangible, movable and immovable, in the territory under its jurisdiction, and to support the actions of museums to that end,

Recalling that a body of international standard-setting instruments – adopted by UNESCO and elsewhere – including conventions, recommendations and declarations, exists on the subject of the role of museums, all of which remain valid,¹

Taking into account the magnitude of socio-economic and political changes that have affected the role and diversity of museums since the adoption of the 1960 Recommendation concerning the Most Effective Means of Rendering Museums Accessible to Everyone,

Desiring to supplement and extend the application of the standards and principles laid out in existing international instruments referring to the role of museums, in favour of cultural and natural heritage, in its tangible and intangible forms, its movable and immovable conditions, and to related roles and responsibilities,

Having considered proposals on the Recommendation concerning the Protection and Promotion of Museums, their Diversity and their Role in Society,

Adopt this Recommendation on the XXth of November 2015.

The General Conference recommends that Member States should apply the following provisions by taking whatever legislative or other steps may be required to give effect, within their respective territories under their jurisdiction, to the principles and norms set forth in this Recommendation.

Introduction

1. We live in a time of unprecedented climate, demographic and technological change, with repercussions on culture and the environment.
2. Our relationship to culture and nature and, in particular, to heritage and the development of knowledge, is being singularly affected. The rapid changes occurring throughout the world pose a constant challenge to societies, including their relationship to history and the preservation of their environment and its tangible and intangible testimonies.
3. The protection and promotion of cultural and natural diversity have emerged as a major challenge of the twenty-first century. In this respect, museums constitute primary institutions, where tangible and intangible testimonies of nature and human cultures are protected and promoted. From time immemorial, humanity has maintained a specific relationship to reality, by selecting a certain number of objects, and by studying and presenting them to current and future generations. This relationship has been exemplified by the establishment of museums open to the public and dedicated to preservation, study, education and enjoyment.
4. Museums have become a popular phenomenon around the world, and particularly since the second half of the twentieth century; their number has practically tripled in a half-century. As spaces for cultural transmission, learning, discussion and training, they play an important role in education, social cohesion and sustainable development. Beyond their essential role in culture and society, by opening themselves up to a wide range of audiences, they also contribute to economic development, notably through cultural and creative industries and global tourism.
5. Museums are recognized as contributing to all forms of education, formal, informal and lifelong learning, in a variety of subjects. Furthermore, museums have great potential to raise public awareness on the benefits of heritage, its value and importance for societies, and the responsibility of all citizens to contribute to its care and transmission.
6. This Recommendation clarifies the role of museums and addresses the importance of their protection and promotion, so that they can fully contribute to sustainable development and intercultural dialogue, through the preservation and protection of heritage, the protection and promotion of cultural diversity, the transmission of scientific knowledge, the development of educational policy, lifelong learning and social cohesion, and the development of the creative and tourism economy.

I. Definition and diversity of museums

7. In this Recommendation, the term *museum* is defined as a “non-profit, permanent institution in the service of society and its development, open to the public, which acquires, conserves, researches, communicates and exhibits the tangible and intangible heritage of humanity and its

environment for the purpose of education, study and enjoyment”.ⁱⁱ As such, museums are institutions that seek to represent the natural and cultural diversity of humanity, playing an essential role in protection, preservation and transmission of cultural heritage.

8. Museums conserve and present collections. In the present Recommendation, the term *collection* is defined as “an assemblage of natural and cultural properties, tangible and intangible, past and present, whose different elements cannot be separated without damaging the coherence of the set, and whose scientific value is greater than the sum of the individual values of its components”. A museum collection is a collection whose objects are included in the museum inventory.

9. In the present Recommendation, the term *heritage* is defined as a group of tangible and intangible resources that people select and identify, independently of ownership, as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions, deserving of protection, enhancement and transmission to future generations.

II. Issues for museums in society

10. Museums are currently confronted with considerable changes, related to those of the societies in which they have developed, which could force them to redefine their future roles, at the risk of having some of their missions called into question and their diversity restricted; these challenges are presented below.

Globalization

11. Globalization has led to an unprecedented rise in the international mobility of museum professionals, visitors, collection objects and sources of funding. This mobility is leading to new practices in museum management, as well as higher expectations on the part of stakeholders and new preservation risks. This could also lead to a situation in which large museums attract millions of visitors and have access to considerable resources, while smaller museums remain under-resourced to fulfil their basic missions. Another potential effect of globalization is the standardization of museums, their collections and their business models, all tied to a single international model, at the risk of losing their diversity.

Museum relations with the economy and quality of life

12. Museums can be major economic actors in society by contributing to income-generating activities. Moreover, they participate in the tourism economy and can contribute to the quality of life of the communities and regions in which they are located. More generally, they promote the development of the creative economy.

13. In contemporary market-driven economies, museums have been led to increase their income-generating activities, which could detrimentally affect their primary functions – preservation, research and communication. The benefits of such primary functions, while of utmost importance for society, cannot be mainly expressed in financial terms.

Social role

14. The social role of the museum was highlighted by the 1972 Declaration of Santiago de Chile. Modern museums are increasingly viewed in all countries as playing a key role in the social system and as a factor in social integration and cohesion. In this sense, they can help communities to face profound changes in society, including those leading to a rise in inequality and the breakdown of social ties.

15. Museums are vital public spaces that address all classes of society and can therefore play a leading role in the development of social ties and cohesion, and in reflecting on collective identities. Museums are places that are particularly open to all and are committed to the idea of providing

access to everyone, in particular, the most fragile and alienated populations who, due to financial reasons, physical difficulties or educational inequality, do not normally visit cultural or natural sites. They can constitute spaces for reflection and debate in terms of the respect of human rights and gender equality within society. As agents for social inclusion, museums can also play a role in discussions on current cultural issues.

Museums and Information and Communication Technologies (ICT)

16. The changes brought about by the rise of Information and Communication Technologies offer extraordinary opportunities in terms of the preservation, study, creation and transmission of heritage and related knowledge. Such changes can also create a gap between more technologically advanced institutions and those that are unable to keep up with technological developments, along with members of the public who do not have access to these tools or training in their use.

III. Primary functions of museums

Preservation

17. The preservation of cultural and natural heritage is one of the primary functions of museums. Preservation comprises activities related to acquisition, collection management, analysis of risks and development of emergency plans, security, preventive and curative conservation, and restoration of museum objects.

18. A key component of collection management in museums is the creation and maintenance of a professional inventory and regular control of collections. An inventory is an essential tool for protecting museums, preventing and fighting illicit trafficking, and helping them fulfil their role in society. It also facilitates the sound management of collections mobility.

Research

19. Research, including the study of collections, is another primary function of museums. It is only through the understanding gleaned from such research that the full potential of museums can be realized and offered to the public.

Communication

20. Communication is another primary function of museums. Communication activities include the exhibition and interpretation of permanent collections, the organization of temporary exhibitions and public events, publication, education, and other interactions with the public, provided that they respect the integrity of collections.

21. Museums participate in formal and non-formal education and lifelong learning, through the development and transmission of knowledge, educational and pedagogical programmes, in partnership with other educational institutions, notably schools. Educational programmes in museums primarily contribute to educating various audiences about the subject matters of their collections, and help raise greater awareness on the importance of preserving cultural and natural heritage, and fostering creativity.

22. Communication policies take into account integration, access and social inclusion, and are conducted in collaboration with the public, including groups that do not normally visit museums. Museum actions are also strengthened by the actions of the public and communities in their favour.

IV. Policies

General policies

23. Existing international instruments recognize the importance and role of museums in the protection and promotion of natural and cultural heritage, both tangible and intangible, and in the overall accessibility of this heritage to the public. In this regard, museum collections should benefit from the protective and promotional measures granted to cultural heritage by these instruments.

24. Museums must observe applicable national and local laws, and should adhere to the principles of international instruments for the protection and promotion of cultural and natural heritage, both tangible and intangible, and the fight against illicit traffic of cultural property. Museums must also take into account the primary ethical and professional standards established by the professional museum community. Therefore, Member States are strongly encouraged to ensure that the role of museums in society is exercised in accordance with legal and professional standards in the territories under their jurisdiction.

25. Member States should take all appropriate measures to ensure the protection and promotion of museums located in the territories under their jurisdiction, by supporting and developing those institutions in accordance with their primary functions. Therefore, the development of the necessary human, physical and financial resources needed for them to function properly should be considered a priority.

26. The diversity of museums and the heritage for which they are responsible constitutes their greatest asset. This diversity should be taken into account when museums carry out their primary functions of preservation, research, and communication. Member States are encouraged to protect and promote this diversity, while encouraging museums to draw on high-quality criteria defined and promoted by national and international museum communities.

Functional policies

27. Member States are invited to support active preservation, research and communication policies allowing museums to protect and pass down tangible and intangible heritage to future generations. In this perspective, collaborative and participative efforts between museums, communities and the public should be strongly encouraged.

28. Member States should take appropriate measures particularly to ensure that the compiling of an inventory based on international standards is a priority in the museums established in the territory under their jurisdiction. The digitization of museum collections may be of help in this regard, but should not be considered as a replacement for the conservation priorities of physical properties.

29. Good practices for the functioning, protection and promotion of museums and of their diversity and role in society have been recognized by national and international museum networks. These good practices are continually updated to reflect innovations in the field. In this respect, the Code of Ethics for Museums adopted by the International Council of Museum (ICOM) constitutes the most widely shared reference. Member States are encouraged to promote the adoption and dissemination of these and other good practices and to use them to inform the development of standards, museum policies and national legislation.

30. Member States should ensure that museums in the territory under their jurisdiction employ qualified personnel with the expertise required to meet all responsibilities. Adequate opportunities for the continuing education and professional development of all museum personnel should be arranged to maintain an effective workforce.

31. The effective functioning of museums is directly influenced by the public and private funding mechanisms put in place for their support. Member States should strive to ensure a clear vision,

adequate planning and funding for museums, and a harmonious balance among the different funding mechanisms to enable them to carry out their mission to the benefit of society with full respect for their primary function. The functions of a museum are also influenced by new technologies and their growing role in everyday life. These technologies have great potential for promoting museums throughout the world, but they also constitute potential barriers for people and museums that do not have access to them or the knowledge and skills to use them effectively. Member States should strive to provide full access to these technologies for both museums and individuals.

32. The spirit of the 1960 Recommendation concerning the Most Effective Means of Rendering Museums Accessible to Everyone remains important in creating a lasting place for museums in society. The social role of museums, along with the preservation of heritage, constitutes their fundamental purpose. Member States should strive to include these principles in the laws concerning the museums established in the territories under their jurisdiction.

33. One of the most effective ways of protecting and promoting museums, their diversity and their role in society is through cooperation with other museums and institutions responsible for the protection and promotion of culture, heritage and education. Member States should therefore encourage cooperation and partnerships among museums at local, regional, national and international levels, including their participation in professional networks and associations that foster such cooperation.

-
- i List of the international instruments directly and indirectly relating to museums and collections:
The Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954), and its two Protocols (1954 and 1999);
The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970;
The Convention Concerning the Protection of the World Cultural and Natural Heritage (1972);
The UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (1995);
The Convention on the Protection of the Underwater Cultural Heritage (2001);
The Convention for the Safeguarding of Intangible Cultural Heritage (2003);
The Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005);
The International Covenant on Economic, Social and Cultural Rights (1966)
The Recommendation on International Principles Applicable to Archaeological Excavations (UNESCO, 1956);
The Recommendation concerning the Most Effective Means of Rendering Museums Accessible to Everyone (UNESCO, 1960);
The Recommendation on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property (UNESCO, 1964);
The Recommendation concerning the Protection, at National Level, of the Cultural and Natural Heritage (UNESCO, 1972);
The Recommendation concerning the International Exchange of Cultural Property (UNESCO, 1976);
The Recommendation for the Protection of Movable Cultural Property (UNESCO, 1978);
The Recommendation on the Safeguarding of Traditional Culture and Folklore (UNESCO, 1989);
The Universal Declaration of Human Rights (1949);
The UNESCO Declaration of Principles of International Cultural Cooperation (1966);
The UNESCO Universal Declaration on Cultural Diversity 2001;
The UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage (2003);
The United Nations Declaration on the Rights of Indigenous Peoples (2007)
- ii This definition is the one given by the International Council of Museums (ICOM), which brings together, at an international level, the museum phenomenon in all of its diversity and transformations through time and space. This definition describes a museum as a public or private non-profit agency or institution.