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The 20th Anniversary of the 2005 UNESCO Convention on the Protection and Promotion of Cultural Expressions: Are the Convention's Objectives (still) "Fit for Future"?

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Introduction

The 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (DCE)[1] is the first instrument ever providing a legal basis for the enhancement of culture and contemporary creation in international law, expected to persist and remain relevant for decades, if not centuries.

Already in 2001, the UNESCO Universal Declaration on Cultural Diversity set forth that cultural goods and services are "commodities of a unique kind"[2] while cultural policies act as "catalysts of creativity."[3] In this light, the nine objectives stated in Art. 1 of the 2005 Convention – holding a prominent place in the very first article – mirror the long-term vision by the Parties who decided that working towards such a new instrument in international cultural law was needed.

Now, in the year 2025, the Convention is celebrating its 20th anniversary, bringing to the fore the question how relevant the purpose and the aims of this universal treaty actually are, in particular given major challenges of the 21st century such as poverty, climate change, digitization, gender, not to talk about warfare.

Against this backdrop, this article explores the significance, the legal and policy horizons, and signposts of Art. 1 of the 2005 Convention two decades after the adoption by the UNESCO General Conference, gathering evidence how the stated Objectives of this international treaty have helped in making the 2005 Convention an effective agenda-setting instrument in a changing multilateral environment.

A. Overview and legal structure

Together with the preambular part and the guiding principles in Art. 2, the Objectives set forth in Art. 1 constitute the legally binding framework of the Convention and are a valuable tool to interpreting the treaty provisions and monitoring the progress of their realization. Therefore, the "*stated* objectives of the Convention will deserve particular attention in any interpretative effort."[4]

The wording of Art. 1 provides a broad picture of what is expected to be achieved with this important UNESCO cultural convention. The Objectives range from the overarching goal "to protect and promote the diversity of cultural expressions" (Objective 1 set forth in Art. 1 (a)), to establishing "the conditions for cultures to flourish and to freely interact in a mutually beneficial manner" (Objective 2, Art. 1 (b)), to encouraging "dialogue among cultures with a view to ensuring wider and balanced cultural exchanges in the world" (Objective 3, Art. 1 (c)), and fostering "interculturality" (Objective 4, Art. 1 (d)).

In addition, Objective 5 in Art. 1 (e) stresses the need "to promote respect for the diversity of cultural expressions and raise awareness of its value," while Objective 6 in Art. 1 (f) reaffirms "the link between culture and development for all countries," thus reflecting important aspirations of State Parties and other stakeholders in the Global South, while also pre-shaping the inclusive approach of the 2030 Agenda as adopted by the United Nations in 2015.

The centerpiece of Art. 1 has been formulated in the light of the fact that the 2005 Convention was adopted at the crossroads of cultural policies and developments in international trade law and against the backdrop of fast-paced regulatory changes in trade in goods and services (World Trade Organisation): Objective 7 mentioned in Art. 1 (g) requires "to give recognition to the distinctive nature of cultural activities, goods and services as vehicles of identity, values and meaning." This stated Objective is of exceptional importance, as it reflects the essence of the Convention, forming also "one of the raisons d'être of the Convention. It aims at extracting cultural goods and services from the exclusive regime of international economic law."[5]

Moreover, in accordance with international law, Art. 1 (h) corroborates "the sovereign rights of States to maintain, adopt and implement policies that they deem appropriate for the protection and promotion of the diversity of cultural expressions on their territory" (Objective 8). This legal statement is complemented by Objective 9 enshrined in Art. 1 (i) "to strengthen international cooperation"

The authors are grateful to Emily Sara Adams, student collaborator of the UNESCO Chair in International Relations at TU Dresden, for her support in research and editing.

[1] Convention on the Protection and Promotion of the Diversity of Cultural Expressions (18 March 2007), 2440 UNTS 43977 (hereafter: DCE).

[2] UNESCO, Universal Declaration on Cultural Diversity, UNESCO Doc. 31C/Resolutions + CORR., 2 November 2001, https://unesdoc.unesco.org/ark:/48223/pf0000124687.page=67, para 25, annex 1, art. 8 [last accessed: 26 November 2024].

[3] Ibid; art. 9 DCE.

[4] M. Hahn, Art. 1. Objectives, in: S. v. Schorlemer/P.-T. Stoll (eds.), The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Explanatory Notes (2012), p. 64.

[5] Ibid, p. 78.

with special regard "to enhancing the capacities of developing countries."

Against this backdrop, it is important to note that the nine Objectives declared in Art. 1 are not static. Instead, certain words used in them "will develop their meanings through the application of the Convention and their use in the international discourse."[6] As international relations are constantly bringing along new challenges and chances for stakeholders on a national, regional and global scale, flexibility in the process of implementation of the Convention is needed. It is argued therefore that the understanding of the Convention's objectives has evolved in recent years and continues to evolve.

New endeavors of the Contracting Parties emerged in their debates since the entry into force of the Convention in 2007. They concern various important issues, political and/or legal in nature, as for example the diversity of cultural expressions in the digital environment, gender justice, artistic freedom, Priority Africa 2063, resilience, the cultural dimension of sustainable development, the role of multilingualism for the diversity of cultural expressions and – last not least – fair culture.

B. Realization of the stated Objectives of the 2005 Convention

I. Obligations of Parties to the Convention regarding the Convention's Objectives

As the nine Objectives set forth in Art. 1 DCE express the long-term vision and aspirations by the Parties, including their sovereign rights to develop public policies in the fields of the 2005 Convention, the main obligation for their realization lies with the 157 Parties that have acceded to the Convention according to Art. 27 and also the EU as a regional economic integration organization.[7] It goes without saying that the Contracting Parties pledge to advance the achievement of the diversity of cultural expressions' objectives of the 2005 Convention.

Given the broad wording of the 2005 Convention, its interpretation takes place by way of interaction and dialogue between the Contracting Parties. In that respect, debates and decision-making in the Conference of Parties (CoP) are crucial, as will be seen, alongside the activities of the Intergovernmental Committee (IGC).

Contracting Parties may also take further relevant legal and political initiatives. Being members of other UNESCO's governing bodies at the same time, as well as being represented in other UN and multilateral fora and organizations, they are able to support the realization of the 2005 Convention's objectives in manifold ways.

II. Role of the Conference of Parties

The bi-annual Conference of Parties, being the plenary and supreme body of the Convention according to Art. 22 DCE, serves as an important forum to channel the various positions the Parties put forward in the light of their international, regional, and national interests. To put it simply, the State Parties gathered in the CoP help to align these – all too often diverging and sometimes even conflicting – positions to the overarching objectives and guiding principles of the Convention.

As each Conference of Parties adopts the work program of the Intergovernmental Committee for the following two years, CoP members' deliberations and decisions indicate how they fulfil their obligations for meeting the aims of the Convention. Generally, the Parties' arguments put forward in the CoP make either direct or indirect reference to the Objectives stated in Art. 1.

Also, Operational Guidelines prepared by the Intergovernmental Committee[8] and approved by the CoP[9] when a draft is consolidated are of crucial relevance for the interpretation of treaty provisions by the Parties. As will be seen in this chapter, Operational Guidelines are also helpful to realize the Objectives outlined in Art. 1.

In addition, the Quadrennial Periodic Reports (QPR) of the Parties provide information as to what extent the objectives and guiding principles are actively pursued and respected on the national level, what challenges and hindrances exist, and how these might be overcome in the future. It may also be discernible to what extent Parties have new intentions when it comes to realizing the objectives of the Convention in the next implementation cycle. Thus, the CoP's examination of the Quadrennial Periodic Reports frames the objectives of the Convention and brings them to the fore.

[6] Ibid, p. 81.
[7] State of ratification as of November 26, 2024: UNESCO, Convention on the Protection and Promotion of the Diversity of Cultural Expressions, https://www.unesco.org/en/legal-affairs/convention-protection-and-promotion-diversity-cultural-expressions [last accessed: 26 November 2024].
[8] See art. 23, para 6 (b) DCE.
[9] Art. 22, para 4 (c) DCE.

To have flexibility in achieving the objectives of the Convention, the Conference of Parties also identifies so-called "transversal issues." Transversal issues open a "new space" by introducing a focus on a specific field of policy making.[10] In the reporting cycle from 2016 to 2019, it was to be seen that Parties were able to present policies and measures of a transversal nature that were not or not fully covered by the existing monitoring areas of the Convention, including, for example, gender equality, inclusion, and integration, as well as enhancing cultural production and participation in the digital context. Subsequently, these transversal issues are integrated into the periodic reporting cycle. Therefore, Parties can make use of the option to report on "emerging transversal issues identified."[11]

Apart from the functions mentioned – a forum for debate, guidance through Operational Guidelines and examination of periodic state reports on their implementation of the Convention –, the CoP may "take whatever other measures it may consider necessary to further the objectives of this Convention."[12] This may also include the establishment of subsidiary bodies or the adoption of modifications in the reporting mechanisms at any time. Such measures present a remarkable extension of the powers of the Convention's plenary body as they allow for various instruments that are deemed politically, ethically or technically necessary to promote and advance the Convention's Objectives stated in Art. 1.

To conclude, sessions of the Conference of Parties offer important guidance for the realization of the Convention's objectives. They give the Parties to the Convention the chance and responsibility to direct, focus, and guide the Convention's implementation in an innovative manner.

III. Role of the Intergovernmental Committee

Several functions of the Intergovernmental Committee relate directly to the Objectives stated in Art. 1 DCE. As Art. 23 para 6 (a) stipulates, "without prejudice to the other responsibilities conferred [...], the Intergovernmental Committee shall [...] promote the objectives of this Convention and [...] encourage and monitor the implementation thereof." In that respect, resolutions of the Intergovernmental Committee are pertinent, but not legally binding instruments. Still, they do not only analyze the status of the implementation but also assess the impact of measures taken by the Parties.

To render the 2005 Convention more influential in the international sphere, the Committee has the right to establish procedures and other mechanisms for consultations "aimed at promoting the *objectives* and principles of this Convention in other international forums."[13] This procedure underlines the fact that diversity of cultural expressions also depends on decisions taken in other sectors and other organizations than UNESCO, emphasizing at the same time Objective 9 in Art. 1 (i) that requires strengthening of "international cooperation and solidarity in a spirit of partnership."

Consultation processes between Parties concerning the objectives of the Convention prove to be helpful regarding the WTO, the UN General Assembly as well as regional organizations like the African Union, trans-regional groupings as the G20, and others. Thus, the outreach of the Objectives stated in Art. 1 to arenas outside UNESCO is organized in a well-orchestrated way.

Moreover, among the five basic criteria that have been identified within the IGC's work plan from 2022 to 2023 is the "promotion of the Convention's objectives and the development of new partnerships."[14] Furthermore, the Committee's activities from 2024 to 2025 are guided by four strategic orientations, including, among others, to "[i]ncrease the visibility of the Convention and its objectives."[15]

To conclude, the Intergovernmental Committee, while functioning under the authority and guidance of the CoP, is an important body for achieving the Objectives enshrined in Art. 1 in practice. Leadership of its members and chairpersons plays a crucial role for making the IGC's work strategically relevant for achieving the aims of the Convention, including through innovative approaches to multistakeholder cooperation and consultation as part of its deliberations, thus mobilizing expertise and resources.

[10] UNESCO, UNESCO Doc. DCE/17/6.CP/4, 24 February 2017, https://www.unesco.org/creativity/sites/default/files/medias/fichiers/2023/02/6cp_Adoption%20of%20the%20summary%20record%20of%20the%20fifth%20ordinary%20session_en.pdf, annex, para 122 [last accessed: 26 November 2024].
[11] UNESCO, UNESCO Doc. DCE/19/7.CP/Res., 7 June 2019, https://unesdoc.unesco.org/ark:/48223/pf0000378129, p. 18 (hereafter: UNESCO Doc. DCE/19/7.CP/Res.) [last accessed: 26 November 2024].
[12] Art. 22, para 4 (d) DCE.
[13] Art. 23, para 6 (e) DCE. Emphasis added by the authors.
[14] UNESCO, UNESCO Doc. DCE/23/9.CP/3, 2 May 2023, https://unesdoc.unesco.org/ark:/48223/pf0000385271_eng?posInSet=18&queryId=N-EXPLORE-fa9ba758-cd36-4d5d-9632-bfdaa77048d0, annex, para 191 [last accessed: 26 November 2024].
[15] UNESCO, UNESCO Doc. DCE/23/9.CP/14, 4 May 2023, https://unesdoc.unesco.org/ark:/48223/pf0000385301_eng, para 19 (hereafter: UNESCO Doc. DCE/23/9.CP/14) [last accessed: 26 November 2024].

IV. Contribution of the Convention's Secretariat

The Secretariat of the Convention is committed to raising awareness of the objectives and principles of the Convention, as this lies "at the heart of the Secretariat's mandate."[16] Indeed, the range of the Secretariat's activities that support the Conference of Parties and the Intergovernmental Committee in their tasks to achieve the purpose of the Convention is comprehensive. Practically all its activities are related to the Objectives mentioned in Art. 1.

Based on the IGC's decisions and resolutions, the Convention's Secretariat has been co-shaping the achievement of the objectives from the very beginning and making the policy framework of this Convention work.

From 2007 to 2010, the focus was on mobilizing internal and external expertise to assist the State Parties in drafting and adopting a total of 13 Operational Guidelines, all intended to deepen the understanding of this complex instrument, to help State Parties strengthen their stocktaking of already existing public policies for the diversity of cultural expressions, as well as to enhance forward-looking strategic policy design, based on multi-stakeholders' needs and knowledge.

As State Parties repeatedly indicated their need for capacity building to advance the objectives of this Convention, the Secretariat successfully designed and initiated an international technical expert facility, apt to assist State Parties in developing or updating sector policies, enhance cultural governance and fundamental freedoms as well as upgrade policy monitoring for periodic reporting. Started in 2010, with support by the European Union and the Swedish and Norwegian development agencies, this world-wide expert facility was continued and expanded every four years, with its current cycle running from 2023 until 2026. In addition, regional expertise platforms and next generation experts were strengthened throughout Africa and Asia.

Coordinated by the Secretariat, this expert facility can be considered a backbone for achieving the objectives of the Convention through knowledge sharing and policy monitoring. It has developed into a cumulative and vibrant community of practice across generations of expertise, working hand in hand with the Secretariat of the Convention, State Parties and UNESCO's Field Offices.

The core task of the Secretariat being the coordination, facilitation, and assessment of periodic reporting on objectives achieved by State Parties with contributions by civil society, the need to design and develop a data and indicator-based policy monitoring framework became clear after the first periodic reporting cycle from 2008 to 2011.

From 2016 onwards, with the 2030 Agenda for Sustainable Development newly adopted by the United Nations, the Secretariat took initiatives to analyse how achieving the objectives of the 2005 Convention also contributes to advancing the SDGs. As the update of the monitoring framework of June 2019 shows,[17] the implementation of the 2005 Convention contributes substantially to the achievement of a total of six SDGs, namely ranging from SDG 4 (quality education), SDG 5 (gender equality), SDG 8 (decent work and economic growth), SDG 10 (reduced inequalities), and SDG 16 (peace, justice and strong institutions) to the overarching Goal 17 (partnerships for the goals). This nexus required innovative research, discussions, and communication to promote possible convergence.

To make this interplay visible and understood, Create|2030 Talks have been organized by the Secretariat as part of the sessions of the Intergovernmental Committee and the Conference of Parties. These talks, first introduced during the 12th session of the IGC in 2018, aimed at encouraging the direct interaction of State Parties with "artists, policy makers and enterpreneurs to discuss how implementing the Convention can have a direct impact on achieving the 2030 Sustainable Development Agenda."[18]

For example, during the 7th Conference of Parties (2019)[19] three Create|2030 Talks were held:

- Strengthening cultural entrepreneurship: IFCD invests in vocational training – contributing to SDG 4;
- Rethinking the status of the artist: a new policy agenda – contributing to SDG 8;

[16] UNESCO, UNESCO Doc. DCE/21/8.CP/4, 3 May 2021, https://unesdoc.unesco.org/ark:/48223/pf0000378142?posInSet=21&queryId=N-EXPLORE-d8c206de-1499-462f-9ebb-7b8f9505626e, para 67 (hereafter: UNESCO Doc. DCE/21/8.CP/4) [last accessed: 26 November 2024].

[17] UNESCO, Framework for Quadrennial Periodic Reports on Measures to Protect and Promote the Diversity of Cultural Expressions, UNESCO Doc. DCE/19/7.CP/Res., annex to Resolution 4, pp. 13–19.

[18] UNESCO, UNESCO Doc. DCE/20/13.IGC/4, 13 January 2020, https://www.unesco.org/creativity/sites/default/files/medias/fichiers/2022/12/13igc_4_secretariat_report_en_0.pdf?hub=93, para 7 (hereafter: UNESCO Doc. DCE/20/13.IGC/4) [last accessed: 26 November 2024].

[19] UNESCO, UNESCO Doc. DCE/19/7.CP/INF.1.REV., 29 May 2019, https://unesdoc.unesco.org/ark:/48223/pf0000389130_eng?posInSet=3&queryId=N-EXPLORE-be742e87-3fff-4108-ba05-7ee96734610a, p. 3 [last accessed: 26 November 2024].

— Rebalancing trade flows: making the case for preferential treatment in culture – contributing to SDG 10.

In 2020, during the 13th Intergovernmental Committee, the Create|2030 Talk "The discoverability of diverse content in the digital environment" highlighted unique online platforms for cultural content such as music, books, and films, addressing challenges and opportunities presented by the digital revolution in culture, especially in the Global South.[20]

By stressing the enormous imbalance between the Global North and South – with 30 million jobs created in the cultural and creative industries, but only seven percent of these being located in Africa and the Middle East and six percent in Latin America and the Caribbean[21] – the Talks also aimed at raising "awareness of […] [the] value (of cultural expressions) at the local, national and international levels" as Objective 5 sets forth in Art. 1 (e).

While this brief overview is in no way exhaustive, it is obvious that the UNESCO Convention's Secretariat plays a vital role in supporting the stakeholders in achieving the objectives. To further improve the Knowledge Management System,[22] a Policy Monitoring Platform was launched at the end of 2017, revealing different ways in which the Convention is implemented at the local, national, regional, and international level. Since the launch of the Policy Monitoring Platform more than 2,000 public policy measures were reported by over 100 Parties until 2021,[23] a number growing further until nowadays.

V. Involvement of Civil Society Stakeholders

Reflecting the importance of civil society stakeholders for the implementation of the Convention, the wording of the 2005 Convention contains a direct link between civil society and the Objectives stated in Art. 1. According to Art. 11, Parties "shall encourage the active participation of civil society in their efforts to achieve the objectives of this Convention," thus recognizing a "new constellation of actors in societies."[24]

Progress is apparent not only in accepting civil society organizations as stakeholders, but also in integrating them in the day-to-day work to achieve the objectives of the Convention. For example, in order to promote cooperation with civil society in the preparation of Quadrennial Periodic Reports, civil society organizations can, among others, share with the reporting State Parties "information on […] the main implementation challenges encountered or foreseen."[25] This helps to identify whether there is a risk of underachieving or not achieving the Convention's objectives and how problems could be tackled.

Since the adoption of the 2005 Convention, a remarkable degree of consensus has emerged that civil society is a key partner in achieving its objectives. The enhancement of the role of civil society has happened at three levels: First, from the reporting cycle from 2016 to 2019 onwards, Parties have included a specific chapter with contributions by civil society in their Quadrennial Periodic Reports. In addition, civil society organizations have been able to also table their own reports to UNESCO, using a grid offered by the Secretariat.

Second, since 2017, for the IGC and CoP sessions, the Convention's governing bodies have offered a structured dialogue and exchange with civil society prior to the meetings, including the option to table amendments for draft resolutions.

Third, the Civil Society Fora, starting from 2017 onwards, have created an additional space connected to the CoP sessions for civil society to meet, exchange, and plan their future activities for achieving the objectives. The concept of partnership gained a new structured format and momentum with the First Civil Society Forum in Paris in June 2017, and when the first civil society reports were submitted to the Intergovernmental Committee in December 2017. In June 2023, when taking note of the results of the Fourth Civil Society Forum, the 9th CoP recalled the contribution of civil society "to the efforts of the Parties to achieve the *objectives* of the Convention," reiterating its "commitment to the fundamental role of civil society […], since […] [it] provides the expertise that is needed to guarantee

[20] UNESCO Doc. DCE/20/13.IGC/4, p. 3, footnote 4 and UNESCO, UNESCO Doc. DCE/20/13.IGC/7, 6 January 2020, https://www.unesco.org/creativity/sites/default/files/medias/fichiers/2022/12/13igc_7_roadmaps.pdf?hub=93, para 15 [last accessed: 26 November 2024].
[21] UNESCO Doc. DCE/21/8.CP/4, annex II, para 1.
[22] See UNESCO, UNESCO Doc. DCE/17/6.CP/11, 2 February 2017, https://unesdoc.unesco.org/ark:/48223/pf0000380150?posInSet=10&queryId=N-EXPLORE-fca7bca1-78e4-4f65-9596-6509db2147ca, annex, para 27.2 (hereafter: UNESCO Doc. DCE/17/6.CP/11) [last accessed: 26 November 2024].
[23] UNESCO Doc. DCE/21/8.CP/4, annex 1, para 115.
[24] C. M. Merkel, Art. 11. Participation of Civil Society, in: S. v. Schorlemer/P.-T. Stoll (eds.), The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Explanatory Notes (2012), p. 349.
[25] UNESCO Doc. DCE/19/7.CP/Res., p. 19.

an inclusive, efficient, and human-rights based implementation of the Convention."[26]

As a result, civil society organizations are much better integrated in efforts to achieve the objectives of the Convention than had been the case when the Convention was adopted in 2005. In effect, this is related to major changes in international relations during the last years, with the palpable effect of strengthening non-state activities in the international sphere.

C. Relevance of Global Reports and policy monitoring frameworks

With the stated Objectives in Art. 1 of this Convention raising high expectations, an in-depth analysis of new approaches to their implementation became necessary. Since 2015, UNESCO has published three Global Monitoring Reports, analyzing the manifold ways Parties across the world are innovating cultural policies and international cooperation, as well as providing "an integrated monitoring framework in the field of culture with proposed indicators of change and progress."[27]

The key conceptual achievement was to reiterate "the guiding principles and values that underpin the Convention," presenting them "as implementation goals."[28] This unpacking of the Convention's Objectives (Art. 1) and principles (Art. 2) proved to be crucial to improving the understanding of the comprehensive and innovative thrust of the Convention, thus giving a boost to achieving its stated objectives, as will be shown in the next sections.

I. Developing the policy monitoring framework as a basis for periodic reporting and policy development

From the outset, it was decided to use a thematic approach for Quadrennial Periodic Reporting by Parties, combining qualitative and quantitative information and providing space for reporting by civil society actors. Hence, "the objective of the QPR exercise is to share information and identify global trends and challenges, rather than to compare or rate Parties with regard to the state of implementation of the Convention."[29]

In 2019, the Conference of Parties endorsed this reappraisal of the Convention's stated objectives (Art. 1) and guiding principles (Art. 2) in the form of four implementation goals.[30] These implementation goals concern/refer to "[s]upport[ing] sustainable systems of governance for culture" (Goal 1), "[a]chiev[ing] a balanced flow of cultural goods and services and increas[ing] the mobility of artists and cultural professionals" (Goal 2), "[i]ntegrat[ing] culture in sustainable development frameworks" (Goal 3) and "[p]romot[ing] human rights and fundamental freedoms" (Goal 4).[31]

The monitoring framework of the Convention is thus oriented towards an innovative direction. Together with their eleven areas of monitoring, indicators, and means of verification, these four goals are the backbone and the structuring grid in the "Framework for Quadrennial Periodic Reports on Measures to Protect and Promote the Diversity of Cultural Expressions." Hence, they can consequently be viewed as a concretization of the Objectives stated in Art. 1 when it comes to the monitoring of the Convention.

The Sustainable Development Goals adopted by UN General Assembly Resolution 70/1 of 25 September 2015, entitled "Transforming our World: The Agenda for Sustainable Development"[32] and their progress

[26] UNESCO Doc. DCE/23/9.CP/Resolutions, 13 June 2023, https://unesdoc.unesco.org/ark:/48223/pf0000385712, Resolution 9.CP 6, p. 4 (hereafter: UNESCO Doc. DCE/23/9.CP/Resolutions). Emphasis added by the authors [last accessed: 26 November 2024].

[27] UNESCO, Re|Shaping Cultural Policies: A Decade Promoting the Diversity of Cultural Expressions for Development. 2005 Convention Global Report, 2015, https://uis.unesco.org/sites/default/files/documents/reshaping-cultural-policies-a-decade-promoting-the-diversity-of-cultural-expressions-for-development-2015-en_0.pdf, p. 4 [last accessed: 26 November 2024]. Compare also H. K. Anheier, Towards a monitoring framework, in: ibid, p. 43 concluding: "The comprehensive and innovative thrust of the Convention […] has to be matched by an equally comprehensive and innovative monitoring system."

[28] D. Cliche, Introduction, in: UNESCO, Re|Shaping Cultural Policies: A Decade Promoting the Diversity of Cultural Expressions for Development. 2005 Convention Global Report, 2015, https://www.unesco.de/sites/default/files/2018-05/2015_Global_Monitoring_Report_2015_EN.pdf, p. 21 [last accessed: 26 November 2024].

[29] Ibid, p. 21.

[30] UNESCO, UNESCO Doc. DCE/17/6.CP/Res., 15 June 2017, https://unesdoc.unesco.org/ark:/48223/pf0000378130, para 8 [last accessed: 26 November 2024] and UNESCO Doc. DCE/19/7.CP/Res., annex, para 2.

[31] UNESCO Doc. DCE/19/7.CP/Res., annex, para 2.

[32] Regarding the relevance of the Agenda 2030 (its goals and targets) for the 2005 Convention, cf. S. v. Schorlemer, "Kultur" in der Agenda 2030: nachhaltige Entwicklungsziele (SDGs) und

monitoring practice through Voluntary National Reviews from 2016 onwards also created a new dynamic regarding the achievement of the 2005 Convention's objectives.

This evolving architecture of the Convention's monitoring framework facilitated "an understanding of the core areas of policy implementation, as well as to enable evaluation and learning."[33] It further strengthened participatory information gathering and policy monitoring: The Quadrennial Periodic Reports since then feature a new section on measures implemented by civil society. "This new tool was widely used by Parties from 2020; 77% of the reports submitted since 2019 included measures or initiatives undertaken by civil society organizations (CSOs)."[34]

In 2023, Parties decided to "rationalize the periodic reporting calendar by setting a single global submission date for all Parties, [...] set to 30 June 2027 and every four years thereafter."[35] This is another important step to strengthening the policy monitoring framework of the Convention.

II. Reaching the Objectives: Assessments based on Global Reports

Global Reports have become an important policy informing tool. As the principal editor of the 2015 and 2018 reports, *Yudhishthir Raj Isar*, highlighted, they serve to "monitor the impact of the Convention" and "identify challenges."[36]

While the success of Global Reports depends on various aspects, such as the number and quality of QPRs received and analysed, the pertinence of qualitative and quantitative data available and accessible, they summarize the progress towards achieving the objectives of the Convention and gaps to be filled. They also play a crucial role for making the Convention "fit" for new challenges. The four implementation goals developed since 2015 were consistently used to structure the second and third reports of 2018 and 2022. A fourth edition is due in 2025.[37]

The first two reports "Re|Shaping Cultural Policies" fully explored both the objectives of the Convention and synergies with the then-emerging 2030 Agenda. They boosted the aspirational understanding of the instrument as a pathway to transforming societies by investing in creativity, in line with the Objectives as stated in Art. 1. This is emphasized by their subtitles "A Decade promoting the Diversity of Cultural Expressions for Development" (2015) and "Advancing Creativity for Development" (2018).

Ahead of the third Global Report, two special editions highlighted the clearly under-implemented goal of fundamental freedoms and gender equality. One was UNESCO, "Gender & Creativity: Progress on the precipice. 2005 Convention Global Report" (2021), the other UNESCO, "Freedom & Creativity: Defending art, defending diversity. 2005 Convention Global Report" (2020).

The third edition, "Re|shaping policies for creativity" (2022), benefitted from the largest QPR evidence base. Produced during the COVID-19 pandemic, which massively hampered cultures to flourish and freely interact (Objective 2, Art. 1 (b)), it also examined issues such as resilience and recovery responses and the accelerated digital transformation of the cultural value chain. This report concludes that "the Convention has fostered policy change in the cultural and creative sectors"[38], although there is "an ongoing downward trend in public investment for culture."[39] Based on measures included by Parties in their Quadrennial Periodic Reportings to the Convention, this report shows, however, that "more attention is being paid to promoting the Convention's objectives at the national level than at the international level. Fewer efforts are mobilized for rebalancing cultural exchanges [...] than for establishing sustainable systems of governance of culture at the national level."[40]

It should be noted that progress concerning the realization of the objectives is uneven in part. While "two-thirds of the trade agreements concluded between 2017 and 2020 contain clauses recognizing the *specific nature* of cultural goods and services"[41] – compare Objective 7, Art. 1 (g), during this period, "[g]lobal trade has shown no signs of opening up to

UNESCO-Weltkulturerbe, in: Thomas Groh et al (eds.), Verfassungsrecht, Völkerrecht, Menschenrechte – Vom Recht im Zentrum der internationalen Beziehungen (2019), p. 234.

[33] E. R. Ottone, Introduction: Addressing culture as a global public good, in: Re|shaping policies for creativity: Addressing culture as a global public good. Global Report, 2022, https://unesdoc.unesco.org/ark:/48223/pf0000380474, p. 19 (hereafter: E.R. Ottone, Introduction) [last accessed: 26 November 2024].

[34] Ibid, p. 20.

[35] UNESCO Doc. DCE/23/9.CP/Resolutions, Resolution 9.CP 7, p. 5.

[36] UNESCO, UNESCO Doc. DCE/19/7.CP/4, 2 May 2019, https://unesdoc.unesco.org/ark:/48223/pf0000378128?posInSet=22&queryId=N-EXPLORE-5ea76836-6431-43f8-9f52-ec67a458f331, annex, para 69 [last accessed: 26 November 2024].

[37] Compare UNESCO Doc. DCE/23/9.CP/14, para 11.

[38] E. R. Ottone, Introduction, p. 23.

[39] Ibid, p. 23.

[40] Ibid, p. 31.

[41] Ibid, p. 25. Emphasis added by the authors.

cultural services from developing countries“[42] – compare Objective 3, Art. 1 (c).

This indicates that political will, skill, and leadership will be crucial to make more substantial progress in achieving in particular the Objectives 3, 5, 6, and 9 stated in Art. 1 (c), (e), (f), and (i) at the global level in the next decade. That means, specific attention should be paid not only to encouraging dialogue among cultures, promoting respect for the diversity of cultural expressions and awareness-raising, but also to reaffirming the link between culture and development. Not least, the focus should be on strengthening international cooperation in order to enhance the capacities of developing countries.

D. The Convention's Objectives and UNESCO's strategic priorities 2022–2029

As the Conference of Parties identifies at each of its sessions the main strategic lines regarding the Convention's objectives that will guide its work, it should be recalled that the 2005 Convention's objectives also pay into achieving UNESCO's two overarching global priorities: Gender Equality and Africa. These priorities have first been identified in 2007 and continued to be reaffirmed, most recently in UNESCO's Medium-Term Strategy for 2022 to 2029.[43]

I. Achieving gender equality and justice

The equality and justice orientations of the Objectives as stated in Art. 1[44] are explicitly linked to gender justice through Art. 7 (1) (a) of the Convention, which encourages Parties "to pay due attention to the special circumstances and needs of women."

Already the 2015 first Global Report, assessing the achievement of these objectives, saw great room for improvement. Subsequently, reporting on policies and measures to promote gender justice in the field of the Convention was included in the QPR grid by the Parties. While this helped for gender equality to "increasingly being recognized as a priority for the cultural and creative industries, as evidenced by the high percentage of Parties reporting measures to ensure gender equality in the sector […], acting for gender equality remains one of the main [implementation] challenges."[45]

This had been exacerbated by the COVID-19 pandemic: "An analysis conducted by the McKinsey Global Institute in 2020 shows that women's jobs are 19% more at risk than men's jobs, as women are disproportionately represented in the sectors most affected by COVID-19, which includes the culture sector. COVID-19 could thus have a regressive effect on gender equality if our response is not adequate."[46]

Hence, as reiterated on the 9th CoP in June 2023, Parties implementing the 2005 Convention from 2024 to 2025 need to pay "particular attention to closing the gender gap and empowering women artists to create, produce, distribute and access cultural goods and services."[47]

Achieving the 2005 Convention's objectives has thus become intertwined with UNESCO's Global Priority Gender Equality, as demonstrated, i.e., by the organization's roadmap for gender transformative work across UNESCO's mandate,[48] pointing to the need of gender equality being promoted in and through the media and cultural sectors.

II. Enhancing the African Union's Agenda 2063: "The Africa we want"

UNESCO has a strong focus on Africa, as the Operational Strategy "UNESCO's Priority Africa 2022–2029" demonstrates.[49] As part of UNESCO's Priority Africa, contributing to Agenda 2063 of the African Union (AU) and the 2030 Agenda of the United Nations, "UNESCO and the International Labour Organization (ILO) combined their mandates

[42] Ibid, p. 25.
[43] UNESCO, Medium-Term Strategy 2022-2029, UNESCO Doc. 41 C/4, 2022, https://unesdoc.unesco.org/ark:/48223/pf0000378083, p. 16 [last accessed: 26 November 2024].
[44] Especially Objectives 1 (Art. 1 (a)), 2 (Art. 1 (b)) and 5 (Art. 1 (e)) DCE.
[45] A. V. Planas, Gender equality: one step forward, two steps back, in: Re|shaping policies for creativity: Addressing culture as a global public good. Global Report, 2022, https://unesdoc.unesco.org/ark:/48223/pf0000380474, p. 243 [last accessed: 26 November 2024].
[46] E. R. Ottone, Foreword, in: UNESCO, Gender & Creativity: Progress on the precipice. 2005 Convention Global Report, 2021, https://unesdoc.unesco.org/ark:/48223/pf0000375706, p. 3 [last accessed: 26 November 2024].
[47] UNESCO Doc. DCE/23/9.CP/14, para 2, footnote 1; compare the results matrix for UNESCO's 42 C/5 Programme and Budget 2024-2025 with the expected Output 5. CLT 5, Performance Indicator 3.
[48] UNESCO, UNESCO in Action for Gender Equality: 2022-2023. Report of 20 October 2023, 20 October 2023, https://unesdoc.unesco.org/ark:/48223/pf0000387300, p. 7 [last accessed: 26 November 2024] includes for the first time UNESCO's Global Priority Gender Equality Framework.
[49] UNESCO, The Operational Strategy for Priority Africa 2022-2029, UNESCO Doc. ADM-22/WS/1, 2022, https://unesdoc.unesco.org/ark:/48223/pf0000382928 [last accessed: 26 November 2024].

and expertise to stand beside the African Union in developing an ambitious programme to advance decent work and so harness the full potential of an inclusive, resilient and sustainable culture and creative economy in Africa."[50] This first of its kind ILO study of 2023 examines realities and potential of cultural occupation in Africa and "recommends integrating decent work into the Revised AU Plan of Action on Cultural and Creative Industries (2022). This will support the inclusion of decent work principles in national cultural policies and labour laws."[51]

The Charter for African Cultural Renaissance, in force since 2020, invites AU Member States to "create an enabling environment that fosters creativity in all its diversity," making explicit reference to the 2005 DCE Convention as "an important instrument on the protection of local languages, arts and culture against the effects of standardization arising from cultural globalization […]."[52] Herewith, the fruitful nexus between regional and universal cultural law is strengthened.

UNESCO's Report on the African Film Industry[53] and its first African Fashion Report[54] examine Pan-African trends and national market mappings, African creativity, brands and human capacities, intellectual property challenges, gender, and youth opportunities as well as the growth in e-commerce and market access challenges. These reports of 2021 and 2023 underline UNESCO's commitment to fostering a dynamic creative economy in Africa aligned with the 2005 Convention's objectives.

Thus, as stated by *Jordi Baltà Portolés,* "it is increasingly crucial to have an interconnected understanding of the Convention and […] broader societal challenges in a way that transcends the traditional scope of cultural policy. An interconnected reading of the Convention and Agenda 2063 of the African Union (AU) is necessary for achieving the AU's key transformation outcomes, including inclusive and sustainable economies, good governance, regional integration and peace. The Convention can provide an excellent roadmap to inspire these processes."[55]

E. Promoting the Objectives of the 2005 Convention in other international fora

Achieving the objectives of the 2005 Convention, in particular the link between culture and development (Objective 6, Art. 1 (f)) and the strengthening of international cooperation and solidarity in a spirit of partnership (Objective 9, Art. 1 (i)), requires resonance and initiatives also in other international fora, beyond UNESCO.

I. United Nations General Assembly

During the negotiation process of the 2030 Agenda, a 30-member strong Group of Friends on Culture and Development was created as a pioneering advocacy mechanism in 2013, led by Peru. With one exception, all group members were also Parties to the 2005 Convention. The group successfully engaged with the UN General Assembly and the Economic and Social Council (ECOSOC) in advancing culture as a transformative force for sustainable development. This led to the adoption of several UN resolutions on culture and development.

In 2019, a 27-country strong group, including Australia, Canada, China, Colombia, India, Indonesia, Morocco, and Turkey as well as twelve other Parties to the 2005 Convention successfully initiated the 2021 United Nations International Year of Creative Economy for Sustainable Development,[56] launched jointly by the United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Program (UNDP), and UNESCO at the (online) IGC session of February 2021. The urgent need to reconfigure the cultural dimension of sustainability was increasingly

[50] F. E. Matoko, Statement from UNESCO, in: ILO, Promoting decent work in the African cultural and creative economy, 2023, https://researchrepository.ilo.org/esploro/outputs/report/Promoting-decent-work-in-the-African/995321004402676, p. 8 [last accessed: 26 November 2024].
[51] Ibid, p. 5.
[52] Charter for African Cultural Renaissance (14 October 2020), Art. 22. For more detail see S. v. Schorlemer, Die panafrikanische "Charter for African Cultural Renaissance". Eine postkoloniale Agenda für das Kulturerbe Afrikas und für Restitutionen (2025), p. 88.
[53] UNESCO, The African Film Industry: Trends, Challenges and Opportunities for Growth, 2021, https://unesdoc.unesco.org/ark:/48223/pf0000379165 [last accessed: 26 November 2024].
[54] UNESCO, The African Fashion Sector: Trends, Challenges & Opportunities for Growth, 2023, https://unesdoc.unesco.org/ark:/48223/pf0000387230 [last accessed: 26 November 2024].
[55] J. B. Portolés, COVID-19: Testing times for the diversity of cultural expressions, in: Re|shaping policies for creativity: Addressing culture as a global public good. Global Report, 2022, https://unesdoc.unesco.org/ark:/48223/pf0000380474_eng, p. 37 [last accessed: 26 November 2024].
[56] UN General Assembly, International Year of Creative Economy for Sustainable Development, 2021, UN Doc. A/C.2/74/L.16/Rev.1, 8 November 2019, https://documents.un.org/doc/undoc/ltd/n19/359/41/pdf/n1935941.pdf [last accessed: 26 November 2024].

understood by governments and positively acknowledged, prompted also by the poor results of achieving both the SDGs and the 2015 Paris climate agreement commitments.

In May 2021, UNESCO launched at the United Nations level "the Inter-agency Platform on Culture for Sustainable Development to combine efforts, strengthen collaboration and maximize coherence of UN-wide action to harness culture's contribution to sustainable development across the UN System […]. [T]he Platform reflects on three SDGs where culture's contribution can be expanded and championed – reducing inequalities (SDG 10), combatting climate change (SDG 13) and promoting dialogue and peace (SDG 16)."[57]

Given the rather sobering results of the 2030 Agenda,[58] the 2021 report by the UN Secretary-General "Our Common Agenda"[59] came as a wake-up call to speed up the implementation of the SDGs with a focus on "global public goods." In para 12, the Our Common Agenda report identified some "global public goods," defined as "those issues that benefit humanity as a whole and that cannot be managed by any one State or actor alone." In response, UNESCO suggested to include culture as one of those global public goods,[60] echoed in the 2022 UNESCO World Conference MONDIACULT final declaration.[61] While this also includes other important UNESCO instruments in the fields of culture, these initiatives are in full synergy with the 2005 Convention's objectives as the conceptional backbone and springboard.

Ahead of the ministerial meeting on sustainable development during the ECOSOC High-Level Political Forum in July 2023, the UN Secretary-General offered a mid-way point Special Edition report, reiterating "that many of the SDGs are moderately to severely off track"[62], with five recommendations "towards a rescue plan for people and planet."[63]

The report considers "[c]ulture [as] a global public good and a critical enabler and driver of (SDG) progress […]," stating that "[c]ulture and respect for cultural diversity, however, remain undervalued and underutilized in the push for Goals-related progress. Greater consideration of culture's role in supporting the achievement of the Goals – including within relevant (SDG) indicators – would generate an important boost for implementation of the Goals between now and 2030."[64] In this context, the Group of Friends on Culture and Development was reactivated, convening a high-level forum in cooperation with UNESCO and the European Union. Despite Member States putting on record in the political outcome of the SDG summit that "we are alarmed" they did not go further than "reaffirm[ing] the role of culture as an enabler of sustainable development" in very general terms.[65]

The consultations following the UN Secretary-General's report Our Common Agenda (2021), the 2023 UN Secretary-General's Special Edition report as well as the June 2024 United Nations Sustainable Development Goals Report[66] further refined the identification of sustainability-relevant public global goods, with the aim to retrofit the multilateral system in a networked and inclusive way.

As of September 2024, the United Nations General Assembly has adopted an ambitious Pact for the Future,[67] in a context that includes wars raging *inter alia* in Ukraine, Gaza/Lebanon, Sudan, and Yemen. It is a human rights-based blueprint that aims to

[57] E. R. Ottone, Introduction, p. 30.
[58] Compare C. Kroll/A. Warchold/P. Pradhan, Sustainable Development Goals (SDGs): Are we successful in turning trade-offs into synergies?, in: Palgrave Communications 5, 140 (2019), pp. 8–11; M.-G. Barberà-Mariné et al, One Step Away from 2030: An Assessment of the Progress of Sustainable Development Goals (SDGs) in the European Union, in: The European Journal of Development Research 36 (2024), pp. 1372–1397; C. Allen et al, Initial progress in implementing the Sustainable Development Goals (SDGs): a review of evidence from countries, in: Sustainability Science 13 (2018), pp. 1453–1467.
[59] UN Secretary-General, Our Common Agenda: Report of the Secretary-General, 2021, https://www.un.org/en/content/common-agenda-report/assets/pdf/Common_Agenda_Report_English.pdf [last accessed: 26 November 2024].
[60] Compare the subtitle of the UNESCO 2022 Global Report and its Introduction.
[61] See UNESCO World Conference on Cultural Policies and Sustainable Development – MONDIACULT 2022 (28-30 September 2022, Mexico City), UNESCO Doc. MONDIACULT-2022/CPD/6, 2022, https://www.unesco.org/sites/default/files/medias/fichiers/2022/09/6.MONDIACULT_EN_DRAFT%20FINAL%20DECLARATION_FINAL_1.pdf, paras 19–20 [last accessed: 26 November 2024].
[62] UN General Assembly Economic and Social Council, UN Doc. A/78/80-E/2023/64, 27 April 2023, https://digitallibrary.un.org/record/4014344/files/A_78_80--E_2023_64-EN.pdf?version=1, summary, p. 1 [last accessed: 26 November 2024].
[63] UN Secretary-General, Progress towards the Sustainable Development Goals: Towards a rescue plan for people and planet. Report of the Secretary-General (special edition), UN Doc. A/78/80E/2023/64, 2023, https://digitallibrary.un.org/record/4014344?v=pdf [last accessed: 26 November 2024].
[64] Ibid, para 56.
[65] UN General Assembly, UN Doc. A/RES/78/1, 16 October 2023, https://documents.un.org/doc/undoc/gen/n23/306/65/pdf/n2330665.pdf, paras 8 and 16 [last accessed: 26 November 2024].
[66] UN, The Sustainable Development Goals Report 2024, June 2024, https://unstats.un.org/sdgs/report/2024/The-Sustainable-Development-Goals-Report-2024.pdf [last accessed: 26 November 2024].
[67] UN, Summit of the Future Outcome Documents, Pact for the Future, Global Digital Compact and Declaration on Future Generations, September 2024, https://www.un.org/sites/un2.un.org/files/sotf-pact_for_the_future_adopted.pdf [last accessed: 26 November 2024].

transform global governance, including the UN Security Council, with a long-term view.

While the Pact includes a clear pledge by Member States to move faster towards achieving the UN's Sustainable Development Goals by 2030 and beyond, the cultural dimension of sustainability continues to be addressed in a very generic and clearly insufficient way.[68]

Additional momentum might stem from the Call to Action of the newly created UNFCCC[69] related Group of Friends of Culture-Based Climate Action, co-convened at COP 28 by Brazil[70] and the United Arab Emirates, also involving UNESCO, the European Union, the Arab League of Educational, Cultural and Scientific Organization (ALECSO), and the Islamic World Educational, Scientific and Cultural Organization (ICESCO), in addition to ministries from 30 countries and 1500 supporters.[71]

II. The Group of Twenty (G20)

In contrast to other transcontinental groupings such as the International Network for Cultural Policy (INCP), the G77 or the Francophonie, the G20 played no role in shaping the objectives and implementation of the 2005 Convention. However, this changed visibly in 2020, when the then G20 chair Saudi Arabia for the first time invited Culture Ministers to this group, historically established for international coordination of economic policy.

The G20 Rome Leaders' Declaration of July 2021 can be considered a landmark statement,[72] clearly establishing culture as an area of joint policy efforts in recovery and reconstruction after the COVID-19 pandemic. Cultural professionals and the creative economy were recognized as key actors and drivers of sustainable development. The subsequent G20 chairs Indonesia (2022), India (2023), and Brazil (2024) – all three countries being active Parties to the 2005 DCE Convention – further promoted this approach.

A Culture Working Group of the Presidency was established in 2023, featuring good practices and action-oriented recommendations to fully leverage the potential of culture as a global public good, with UNESCO as a knowledge partner, also involving WTO, World Intellectual Property Organization (WIPO), International Labour Organization (ILO), and other relevant stakeholders. Investing in the cultural and creative industries and the creative economy as drivers of employment and inclusive growth, particularly through conceptual and monitoring frameworks was stressed as one of four priorities,[73] as the creative economy accounts for 3.1% of GDP (UNESCO Global Report 2022), being one of the most rapidly growing sectors of the world economy and employing more people aged 15–29 than any other sector.

Since the combined economies of the G20 Member States make for 85% of global GDP, it will continue to be a strategic platform to promote the objectives of the 2005 Convention. As of 2023, the G20 comprises 19 states. With the newly joined African Union (see above), together with the European Union, it also includes two regional economic integration organizations.

Thus, in the decades to come, effective implementation of the stated objectives of the 2005 Convention will strongly benefit from well-orchestrated initiatives both within the United Nations and the G20.

[68] Action 11 of the Pact for the Future sets forth: "Culture as well as sport […] are important enablers of sustainable development," ibid, p. 16.

[69] UNFCCC stands for United Nations Framework Convention on Climate Change, compare UNFCCC, What is the Convention?, https://unfccc.int/process-and-meetings/what-is-the-united-nations-framework-convention-on-climate-change [last accessed: 26 November 2024].

[70] In 2024, Brazil is the chair of the Group of Twenty and in 2025 the host of COP 30, see G20, About the G20, https://www.g20.org/en/about-the-g20 [last accessed: 26 November 2024] and Presidência da República, Brazil is formally elected host country for COP 30, https://www.gov.br/planalto/en/latest-news/2023/12/brazil-is-formally-elected-host-country-for-cop-30 [last accessed: 26 November 2024].

[71] See Europa Nostra/European Heritage Hub, Press Release. "Group of Friends of Culture-Based Climate Action" launched at COP 28 in response to Global Campaign by Cultural Voices, 9 December 2023, https://www.europanostra.org/wp-content/uploads/2023/12/Press-release-%E2%80%9CGroup-of-Friends-of-Culture-Based-Climate-Action%E2%80%9D-launched-at-COP-28-9-Dec-2023.pdf [last accessed: 26 November 2024].

[72] European Commission: Directorate-General for Education, Youth, Sport and Culture, Stormy times: Nature and humans. Cultural courage for change. 11 messages for and from Europe, 2022, https://data.europa.eu/doi/10.2766/90729, p. 10 [last accessed: 26 November 2024] and E. R. Ottone, Introduction, p. 30.

[73] Cf. G20 Culture Ministers' Meeting. Kashi Culture Pathway. Outcome Document and Chair's Summary, 26 August 2023, https://www.g20.in/content/dam/gtwenty/gtwenty_new/document/2--new/G20_Culture_Ministers_Meeting_Outcome_Document_and_Chairs_summary.pdf [last accessed: 26 November 2024]; Indian Ministry of Culture, G20 Culture. Shaping the Global Narrative for Inclusive Growth, 2023, https://www.indiaculture.gov.in/sites/default/files/G20/REV_G20_Thematic_Webinars_Report_2023_India_FINAL_05092023.pdf [last accessed: 26 November 2024].

F. The Convention's Objectives in view of future challenges and opportunities

Achieving the objectives of the 2005 Convention both nationally and transnationally with the time horizon of 2030 and beyond, requires strategic and innovative action of all stakeholders. Deeply entrenched global inequalities, exacerbated by the COVID-19 pandemic, climate change, and digital transformation, persist as key challenges to the culture and creative sector. Promoting artistic freedom and the status of the artist, including in emergency situations, as well as fair remuneration in the digital environment, are key, as this Convention is the prime enabler for artists, creators, and cultural professionals.

What does that mean vis-à-vis future challenges and opportunities?

First of all, with its Objectives 6, 8, and 9 (Art. 1 (f), (h) and (i)), the cultural dimension of, in, and for sustainable development for *all* countries will remain crucial beyond 2030. This Convention "could play (a key role) in promoting the inclusion of culture in future international sustainable development frameworks,"[74] possibly as a distinctive goal in its own right, thereby strengthening the link between cultural diversity and sustainability.

Second, an array of preferential treatment measures will be needed to *fully* achieve the Convention's objectives, in particular Objectives 2, 3, and 9 (Art. 1 (b), (c), and (i)). This implies access to markets, funding opportunities, mobility of artists and cultural professionals, and the availability of cultural goods and services in digital networks. As part of the rights and obligations of Parties, a full article, Article 16, is dedicated to Preferential Treatment for Developing Countries, stipulating that "developed countries shall facilitate cultural exchanges with developing countries by granting […] preferential treatment," elaborated in detail in the attached Operational Guidelines. While the entire Convention is legally binding, this *shall* provision of Article 16 is "one of the strongest obligations of the Convention."[75] However, this mechanism "remains largely unimplemented"[76] (UNESCO Global Report 2022:25) and poorly understood. By 2025, some progress is to be expected.[77]

Third, promoting multilingualism is a necessity to ensure linguistic diversity of cultural content, including in media and digital platforms (Objectives 8, 5 (Art. 1(h), (e)) and cross-cutting.[78] For the European Union, a 2009 Court of Justice ruling confirmed investment obligations to promote linguistic diversity, referring to the objectives of the 2005 Convention.[79] The UNESCO Global Reports provided pertinent examples of media diversity quota on content in a wide range of languages while indicating the lack of availability of content in multiple languages as a challenge. That means that enabling the production of cultural expressions and media content in as many languages as possible among the several thousand languages in use world-wide is key.[80]

Hence, linguistic diversity would deserve a specific focus in the Convention's Policy Monitoring Platform, making inspiring policy and investment measures of multi-ethnic and multi-lingual State Parties more visible and available for comparison. Also, developing implementation synergy with the 2003 UNESCO "Recommendation concerning the Promotion and Use of Multilingualism and Universal Access to Cyberspace"[81] could further strengthen the pertinence of the 2005 Convention in this respect.

Fourth, for enhancing the diversity of cultural expressions in the digital environment, the overall appraisal is that accessibility to local digital content and greater transparency in the use of algorithms demand more attention, in addition to the diversity of content on digital platforms, including the

[74] UNESCO Doc. DCE/23/9.CP/Resolutions, Resolution 9.CP 14, p. 17.
[75] X. Troussard et al, Article 16. Preferential Treatment for Developing Countries, in: S. v. Schorlemer/P.-T. Scholl (eds.), The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Explanatory Notes (2012), p. 424.
[76] E. R. Ottone, Introduction, p. 25.
[77] Ibid, inviting the IGC to establish a reflection group on preferential treatment.
[78] UNESCO Doc. DCE/23/9.CP/Resolutions, Resolution 9.CP 14, p. 17.
[79] See C. M. Merkel, New voices: encouraging media diversity, in: Re|Shaping Cultural Policies: A Decade Promoting the Diversity of Cultural Expressions for Development. 2005 Convention Global Report, 2015, https://unesdoc.unesco.org/ark:/48223/pf0000242866, p. 70 [last accessed: 26 November 2024] and ECJ, Judgement of the Court (Second Chamber) (*Unión de Televisiones Comerciales Asociadas (UTECA) v Administración General del Estado*), Judgement of 5 March 2009, Case No. C-222/07, para 33.
[80] Compare the data of the UNESCO World Atlas of Languages, https://en.wal.unesco.org/world-atlas-languages [last accessed: 26 November 2024]: "According to the World Atlas of Languages' methodology, there are 8324 languages, spoken or signed, documented by the governments, public institutions and academic communities; out of 8324, around 7000 languages are still in use."
[81] UNESCO, Recommendation concerning the Promotion and Use of Multilingualism and Universal Access to Cyberspace, UNESCO Doc. 32C/Resolutions, 17 October 2003, https://unesdoc.unesco.org/ark:/48223/pf0000133171.page=76 [last accessed: 26 November 24].

promotion of linguistic diversity, changes in copyright systems and the income of creators.

Whether a complete exception for culture in future negotiations on electronic commerce in WTO will be a realistic option is debated as well.[82] By 2025, Parties want to further enhance meeting the Convention's objectives in the digital environment[83] when it comes to Artificial Intelligence, e-commerce and/or digital platforms, thus building on the Operational Guidelines adopted in 2017[84] and the "Open Roadmap" developed in 2019[85] as well as on the culture-relevant elements of the 2021 UNESCO "Recommendation on the Ethics of Artificial Intelligence."[86]

To remember: In the past it was vividly debated whether the application of the Convention in a digital environment would require the formulation of new objectives or principles. As a result, it was fully reconfirmed that the Convention embraces the concept of technological neutrality.[87] Consequently, the "distinctive nature of cultural activities, goods and services as vehicles of identity, values and meaning" being emphasized in Objective 7 (Art. 1 (g)) does not alter fundamentally in the digital environment.

Still, considering the arrival of new digital actors and their impact on the distribution of cultural goods and services, there is hope that digital platforms could create new opportunities and an increasingly global and fair marketplace for producers of cultural goods and services in the future.

G. Concluding remarks

To conclude, in the first twenty years of the existence of the 2005 Convention there was no need to amend its Objectives. On the contrary, the Convention's Objectives as stated in Art. 1 have been reaffirmed numerous times since its entry into force.

Part of the recent doctrine concentrates on the impact the Convention had and still has on States' cultural policies. Here, all the Objectives set forth in Art. 1 are of particular relevance as they frame cultural policies in a flexible way, being open to new developments at the same time.[88]

As the importance of doctrinal intersections between different fields of international law has constantly increased in the last decade, human rights issues also came to the fore. Cultural human rights are closely linked to the dynamic of the 2005 Convention.[89] This is also underlining the importance of Art. 1 (h) as States have the sovereign right to take measures for the protection and promotion of the diversity of cultural expressions on their territory.[90]

Another part of the doctrine focuses on institutional issues related "to strengthening international cooperation and solidarity in a spirit of partnership" as set forth in Art. 1 (i). Not surprisingly, this concerns the WTO and trade in cultural goods,[91] but also the European Union.[92] A further institutional aspect pertains to the International Fund for Cultural Diversity, which offers a promising instrument for future cooperation,[93] reaffirming at

[82] Recommendations of the June 2023 Civil Society Forum to the 9th CoP in UNESCO Doc. DCE/23/9.CP/6, 2 May 2023, https://unesdoc.unesco.org/ark:/48223/pf0000385276_eng?posInSet=16&queryId=N-EXPLORE-b0c60975-5acb-40ee-bff5-781d4127c2f7 [last accessed: 26 November 2024].
[83] With the help of an expert reflection group (2024–2025), compare UNESCO Doc. DCE/23/9.CP/14, Draft Resolution 9.CP 14, para 19.
[84] UNESCO Doc. DCE/17/6.CP/11.
[85] UNESCO Doc. DCE/19/7.CP/Res., Annex to Resolution 7.CP 13, p. 21.
[86] UNESCO, Recommendation on the Ethics of Artificial Intelligence, UNESCO Doc. SHS/BIO/PI/2021/1, 2022, https://unesdoc.unesco.org/ark:/48223/pf0000381137 [last accessed: 26 November 2024].
[87] See comment on Art. 4 (1): "whatever the means and technologies used."
[88] A. C. Gagnon (ed.), The Impact of UNESCO on States' Cultural Policies. 2005 Convention on Diversity of Cultural Expressions (2024); B. Garner, The Politics of Cultural Development. Trade, cultural policy and the UNESCO Convention on Cultural Diversity (2016).
[89] Y. Donders, Cultural Human Rights and the UNESCO Convention: More than Meets the Eye?, in: C. De Beukelaer et al (eds.), Globalization, Culture, and Development (2015), pp. 117–131. See also F. Mucci, 'No One May Invoke'. The Protection of Cultural Heritage and Cultural Diversity for Human Rights and Sustainable Development, Between Synergies to Build and Conflicts to Prevent, in: L. Pineschi (ed.), Cultural Heritage, Sustainable Development and Human Rights. Towards an Integrated Approach (2023), pp. 66–81.
[90] Cf. also Art. 2, first principle.
[91] J. Loisen/C. Pauwels, Competing Perspectives? WTO and UNESCO on Cultural Diversity in Global Trade, in: C. De Beukelaer et al (eds.), Globalization, Culture, and Development (2015), pp. 43–58; N. Jinji/A. Tanaka, How Does UNESCO's Convention on Cultural Diversity Affect Trade in Cultural Goods?, in: RIETI Discussion Paper Series 15-E-126 (2015).
[92] J. Loisen, The Implementation of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions in EU External Relations, in: E. Psychogiopoulou (ed.), Cultural Governance and the European Union. Protecting and Promoting Cultural Diversity in Europe (2015), pp. 210–224; L.-M. Crăciunean, Implementing Cultural Diversity Within and Outside the European Union: A Test for the Delineation of Competences in Cultural Matters?, in: Christ University Law Journal 4 (2015), pp. 103–123.
[93] Luis A. Albornoz, The International Fund for Cultural Diversity: a new tool for cooperation in the audiovisual field, in: International Journal of Cultural Policy 22 (2016), pp. 553–573. See also C. De Beukelaer/T. Tran, Between cultural trade and cultural development: examining the first decade of UNESCO's International Fund for Cultural Diversity, in: Cultural Trends 33 (2024), pp. 91–110.

the same time "the importance of the link between culture and development for all countries" (Art. 1(f)).

As is to be seen, the Convention's Objectives are being interpreted in an innovative way, giving a fresh look and new impetus to the overall successful implementation of this important UNESCO Culture Convention. *Guèvremont/Varin* depicted the Convention as a successful treaty giving flexibility to all Parties within a broad framework of objectives and principles.[94]

As a matter of fact, the broad framework of the Objectives stated in Art. 1 promotes the role of the Convention as a catalyst not only for international cooperation, but also for the inclusion of culture in government policies and the creation of networks with artists and cultural stakeholders to raise awareness of the value of diversity in arts and culture for sustainable development.

In this respect, the innovative North-South-South "Fair Culture" initiative, having been launched recently, includes a broad range of strategic partners and may act as a change-maker, combining civil society actors, academia, Ministries of Culture and National Commissions for UNESCO.[95] On 6 June 2023, the first public consultation on the draft Charter was held at UNESCO in Paris.[96] Harnessing three decades of experiences in fair trade, the "Fair Culture Charter" adopted in 2024[97] will allow global consensus building on basic principles as, *inter alia*, decent working conditions and fair remuneration, non-discrimination and gender equality, local and long-term cultural development, equal access to markets, including in the digital environment.

As there are "many ways to achieve the overall aim of the Convention to protect and promote the diversity of cultural expressions"[98] the Objectives stated in Art. 1 DCE, together with the preambular part of the Convention and the guiding principles, are a living instrument – capable of continuing to adjust to new burning policy issues that surface in the process of the application of the Convention in the 21st century. In this sense, the 2005 Convention celebrating its 20th anniversary in 2025 – is to be considered "Fit for Future"!

[94] V. Guèvremont/C. Varin, When low level of constraint and effectiveness go hand in hand: The example of the 2005 Convention, in: International Journal of Cultural Property 30 (2023), pp. 62–82.

[95] Full information available under German Commission for UNESCO, Supporters of the Fair Culture Charter, https://www.fair-culture.org/supporters/ [last accessed: 26 November 2024], including the study "Fair Culture – A Key to Sustainable Development" by the UNESCO Chair on the Diversity of Cultural Expressions at Université Laval, Canada, https://www.fair-culture.org/wp-content/uploads/go-x/u/7d433c23-4e26-4dbf-8ea2-81017d37b0d4/FairCulture_2021_study.pdf [last accessed: 26 November 2024].

[96] Cf. German Commission for UNESCO, Fair Culture Charter, https://www.fair-culture.org/ [last accessed: 26 November 2024].

[97] See the text of the Charter: German Commission for UNESCO, Content of the Fair Culture Charter, https://www.fair-culture.org/content/ [last accessed: 26 November 2024] adopted in 2024 by an international partner consortium and open for endorsement, following a global participatory co-design process coordinated by the German Commission for UNESCO.

[98] S. v. Schorlemer, Article 3. Scope of Application, in: S. v. Schorlemer/P.-T. Stoll (eds.), The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Explanatory Notes (2012), pp. 117–130.

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