

**DRAFT CONVENTION ON THE PROTECTION AND PROMOTION OF THE
DIVERSITY OF CULTURAL EXPRESSIONS****GESAC POSITION**

GESAC, representing European authors through their collective management societies, welcomes the opportunity to comment on the agreement reached by the UNESCO delegates in Paris on 3 June, after 2 weeks of negotiations, on a draft Convention on the protection and promotion of the diversity of cultural expressions.

Cultural diversity is a cornerstone of the global economy and society: in the music field as well as audiovisual, graphic and plastic arts, literary and dramatic works, consumers want the ability to choose from a wide range of different creative traditions and cultures to enjoy.

As UNESCO rightly points out, protecting and promoting the diversity of cultural expressions is a fundamental objective. GESAC strongly supports the principle and concept of encouraging cultural diversity and finds it crucial for UNESCO to affirm the ability of Member States to decide on the implementation of cultural policies destined to ensure the promotion and diversity of the national and European cultural heritage, which consists of the cultures of each Member State¹.

Growing trade globalization makes cultural diversity a pressing issue for European authors. Cultural goods and services are not goods and services like any other, but vehicles for a people's identity and creativity. What countries need, therefore, is to develop an innovative, strong international convention that gives recognition to this distinctive nature, and offers an effective means of protecting and preserving cultural diversity.

¹ The British authors' society, PRS, however, considers that this aim is best promoted by supporting the creative sector generally at home and facilitating trade abroad, ensuring that international standards of copyright protection are met and market access barriers are removed. From a general view point, PRS believes that cultural diversity can be achieved within the existing framework.

Accordingly, European authors can only warmly welcome the UNESCO discussions on the draft convention on the protection of the diversity of cultural contents and artistic expressions.

The current text in many cases holds out hopeful prospects for the cultural community; the following provisions in particular are of great significance:

- Protecting and promoting the genuine diversity of cultural expressions, in accordance with human rights, fundamental freedoms and the equal dignity of all cultures, are fundamental objectives (Articles 1 and 2);
- Recognition of the distinctive nature of cultural goods and services is a prerequisite for establishing a specific international convention on cultural diversity; especially given the wholly satisfactory nature of the definitions of concepts such as “cultural diversity”, “cultural content”, “cultural activities, goods, services and industries” (Article 4)
- The affirmation of the sovereign right of the States Parties to adopt measures to protect and promote genuine cultural diversity within their territory and at the global level, is paramount; Articles 5 and 6 enable the Member States to maintain and develop their own cultural and audiovisual policy, while enabling the EU to maintain and develop its measures for the promotion of cultural content;
- The objectives of international cooperation in a world where conditions need to encourage real diversity of expression are crucial, in particular to help restore balance to cultural exchanges, and encourage cultural pluralism (Articles 12 to 18);
- Finally, the text insists on compliance with international obligations, and requires the Signatory Parties to take the requirements of cultural diversity into account when interpreting and applying other international obligations, and when negotiating new international agreements. This is a first in public international law (Article 20).

GESAC wishes to recall the significant contribution made by intellectual property rights to cultural diversity. Copyright law, through international conventions, gives impartial reciprocal protection to works created by authors of different countries and works published in different countries, and new methods of dissemination, like on-line transmission, make it as important as ever for copyright law to create the conditions under which quality works of different cultures can be created and made available.

The reference to IPR in the preamble (Recital 17) is neutral in this regard, but GESAC understands this as a clear signal that the current text should never defeat the obligations that the States Parties have contracted at Community and international level on intellectual property rights (EU directives, WIPO treaties, TRIPs, etc. – see Article 20 of the draft Convention).

Finally, GESAC is particularly gratified that, at European level, the Commission has been mandated for the first time to take part in international negotiations on cultural issues in the name of the Community, enabling the Union to present a united resolve to create a binding international instrument that gives legitimacy to cultural policies. The unanimous backing given to the outcome of negotiations by the 25 Member States at their Paris coordination meeting is a welcome development, therefore.

GESAC looks forward to and hopes for a positive outcome to these negotiations at the autumn General Conference in October, so that the opportunity is taken to give international recognition to the big issues of cultural diversity and cultural policies. GESAC calls on all governments to ratify the draft convention as it stands.

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GESAC is a European grouping comprising 34 of the largest authors' societies in the European Union, Norway and Switzerland. In this capacity, it represents more than 500 000 authors or their successors in title in the music, graphic and plastic arts, literary and dramatic fields, as well as the audiovisual sector and music publishers.