



STEERING COMMITTEE FOR CULTURE, HERITAGE AND LANDSCAPE (CDCPP)

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Paris, 20-21 September 2012

Council of Europe Offices
55 Avenue Kléber, 75016 Paris

REVISION OF THE EUROPEAN CULTURAL CONVENTION

DOCUMENT FOR DISCUSSION AND DECISION

Draft decision

The Bureau:

- **exchanged** on the document and **decided** to pursue reflections on a possible review of the European Cultural Convention;
- **asked** the Secretariat to consult other Steering Committees whose action is governed by the European Cultural Convention on this matter.

Democratic Governance, Culture and Diversity Directorate
DG II

REVISING THE EUROPEAN CULTURAL CONVENTION?

Back in 2009 an idea was raised by the Secretariat to launch the revision of the European Cultural Convention which sets the overall objectives for work in the fields of culture, education and youth. The Culture Committee responded with interest and instructed the Bureau to consider the issue. However, this was not seen as a priority at that time and no real discussion was held within the secretariat beyond the Culture sector to prepare the Bureau debate so finally the point was not put on their agenda for November 2009 although a document had been prepared (see Appendix II).

With the agreement of Robert Palmer, former Director of Democratic Governance, Culture and Diversity, the possible revision was finally put on the agenda of CDCPP Bureau for their September 2012 meeting. We are however not certain to what extent such a discussion would be pertinent at this moment, given the on-going Council of Europe reform continues and programme re-orientation discussions within DG II. The rationale for revision would be to:

- **Bring the objectives of cultural co-operation in line with contemporary challenges.** The Convention was drafted 58 years ago and its scope is de facto very restricted (cultural heritage, teaching of languages and history, joint cultural actions). In practice work carried out under the convention has by far exceeded the original objectives (non-formal education, protection of natural heritage, development of educational and cultural policies, education for democratic citizenship, higher education reform/Bologna process, management of diversity, intercultural competence and dialogue etc.). A revised convention would endorse these developments and open up new avenues for work in relation to promoting fundamental values, adapting policies and institutions to a global networked society, involving youth in social and political life etc.
- **Open the convention to non-European countries.** Kazakhstan is the first and only Central Asian country to become a party to the Convention. Tajikistan requested accession but was refused because it is not a European country. An increasing number of projects in the field of culture interest non-European partners, and the extension of the Bologna process to non-European states is hampered because it is restricted by accession to the European cultural convention. The Arab spring has opened up new opportunities for the Council of Europe to co-operate with North African countries and there is a new impetus to work with countries in Central Asia. While all new Council of Europe conventions are open to the entire world, the restriction of the Cultural Convention to Europe is a hindrance in such global co-operation.

The idea of the revision of the convention was first raised before the reform and before the re-focusing of the work of former DGIV on democracy. In light of the reform, such a revision might not be the best course of action. DGII needs to find a new coherence and specify its goals, which could take the form of an innovative, targeted framework document, eg a Strategy, that responds to the above concerns, albeit without the binding and long-term character of a Convention.

Below is a brief SWOT analysis of the two hypotheses: a revision of the convention and the development of a new framework document. There may, of course, be other ways of addressing the concerns above, which have not yet been considered.

Hypothesis I

Revision of the ECC (either through an additional or amending protocol, or as an entirely new convention, see also appendix II)

<p>Strengths</p> <p>A convention is a solid, legally binding co-operation framework which gives a long-term legitimacy of a given field of work and provides the structures and conditions for co-operation with state parties and other partners.</p>	<p>Weaknesses</p> <p>Cultural co-operation as such is no longer a priority for most member states despite its key importance for the European process and fundamental values.</p> <p>Conventions are no longer in vogue and difficult/lengthy to negotiate, the need for all member States to agree makes the process difficult and risky.</p> <p>The structures to be set up to ensure the monitoring and follow up to the convention may be complicated to set up and run, especially if they are very multidisciplinary (many ministries concerned) and include many more member States</p>
<p>Opportunities</p> <p>A revised convention would set new objectives for cultural co-operation based on the promotion of fundamental values and in line with key challenges of modern society (diversity and living together, democratic participation, network society, climate change etc.).</p> <p>The convention will be open for non-European countries, creating a new global co-operation framework.</p> <p>Work on the revision will involve several committees and could encourage more synergies in future work.</p>	<p>Threats</p> <p>A revision of the fundamental convention for culture/education/youth work in the CoE will open a discussion of principle on the validity of these fields for the organization that could potentially threaten them with extinction.</p> <p>The difference between the work of CoE on cultural co-operation and UNESCO may become blurred.</p>

Hypothesis II

Non-conventional framework – eg CoE Democracy Strategy

<p>Strengths</p> <p>Flexible and relatively simple to negotiate and update, no need for ratifications by member States, only adoption by CM.</p> <p>Possibility to go beyond cultural co-operation and focus on democracy matters proper, in line with the current DGII mandate and involve all DGII sectors and not only those currently under the European Cultural Convention.</p>	<p>Weaknesses</p> <p>Not a binding instrument, no longer-term guarantee for financing and sustainable co-operation structures (eg committees).</p>
<p>Opportunities</p> <p>The “Strategy “ would be an innovative instrument that would define the long-term objectives of DGII in line with key democratic challenges of modern society (democratic management of diversity, democratic participation, democracy in a network society, democracy and social/environmental responsibility etc.). It would provide for the creation of standards and tools for democratic development, as well as practical projects on the ground.</p> <p>The document would allow for and define conditions for co-operation with non-European countries.</p> <p>Work on the document will involve several sectors and committees and could encourage more synergies in future work.</p>	<p>Threats</p> <p>Not clear what the role of some of intergovernmental committees would be, unless they clearly accept to reconsider their priorities and focus their efforts on issues that relate to democratic development and not on their core business (education, arts and culture, youth work).</p>

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26/07/2012

EUROPEAN CULTURAL CONVENTION

Paris, 19.XII.1954

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose, among others, of safeguarding and realising the ideals and principles which are their common heritage;

Considering that the achievement of this aim would be furthered by a greater understanding of one another among the peoples of Europe;

Considering that for these purposes it is desirable not only to conclude bilateral cultural conventions between members of the Council but also to pursue a policy of common action designed to safeguard and encourage the development of European culture;

Having resolved to conclude a general European Cultural Convention designed to foster among the nationals of all members, and of such other European States as may accede thereto, the study of the languages, history and civilisation of the others and of the civilisation which is common to them all,

Have agreed as follows:

Article 1

Each Contracting Party shall take appropriate measures to safeguard and to encourage the development of its national contribution to the common cultural heritage of Europe.

Article 2

Each Contracting Party shall, insofar as may be possible,

- a encourage the study by its own nationals of the languages, history and civilisation of the other Contracting Parties and grant facilities to those Parties to promote such studies in its territory, and
- b endeavour to promote the study of its language or languages, history and civilisation in the territory of the other Contracting Parties and grant facilities to the nationals of those Parties to pursue such studies in its territory.

Article 3

The Contracting Parties shall consult with one another within the framework of the Council of Europe with a view to concerted action in promoting cultural activities of European interest.

Article 4

Each Contracting Party shall, insofar as may be possible, facilitate the movement and exchange of persons as well as of objects of cultural value so that Articles 2 and 3 may be implemented.

Article 5

Each Contracting Party shall regard the objects of European cultural value placed under its control as integral parts of the common cultural heritage of Europe, shall take appropriate measures to safeguard them and shall ensure reasonable access thereto.

Article 6

- 1 Proposals for the application of the provisions of the present Convention and questions relating to the interpretation thereof shall be considered at meetings of the Committee of Cultural Experts of the Council of Europe.

- 2 Any State not a member of the Council of Europe which has acceded to the present Convention in accordance with the provisions of paragraph 4 of Article 9 may appoint a representative or representatives to participate in the meetings provided for in the preceding paragraph.
- 3 The conclusions reached at the meetings provided for in paragraph 1 of this article shall be submitted in the form of recommendations to the Committee of Ministers of the Council of Europe, unless they are decisions which are within the competence of the Committee of Cultural Experts as relating to matters of an administrative nature which do not entail additional expenditure.
- 4 The Secretary General of the Council of Europe shall communicate to the members of the Council and to the government of any State which has acceded to the present Convention any decisions relevant thereto which may be taken by the Committee of Ministers or by the Committee of Cultural Experts.
- 5 Each Contracting Party shall notify the Secretary General of the Council of Europe in due course of any action which may be taken by it for the application of the provisions of the present Convention consequent on the decisions of the Committee of Ministers or of the Committee of Cultural Experts.
- 6 In the event of certain proposals for the application of the present Convention being found to interest only a limited number of the Contracting Parties, such proposals may be further considered in accordance with the provisions of Article 7, provided that their implementation entails no expenditure by the Council of Europe.

Article 7

If, in order to further the aims of the present Convention, two or more Contracting Parties desire to arrange meetings at the seat of the Council of Europe other than those specified in paragraph 1 of Article 6, the Secretary General of the Council shall afford them such administrative assistance as they may require.

Article 8

Nothing in the present Convention shall be deemed to affect

- a the provisions of any existing bilateral cultural convention to which any of the Contracting Parties may be signatory or to render less desirable the conclusion of any further such convention by any of the Contracting Parties, or
- b the obligation of any person to comply with the laws and regulations in force in the territory of any Contracting Party concerning the entry, residence and departure of foreigners.

Article 9

- 1 The present Convention shall be open to the signature of the members of the Council of Europe. It shall be ratified, and the instruments of ratification shall be deposited with the Secretary General of the Council of Europe.
- 2 As soon as three signatory governments have deposited their instruments of ratification, the present Convention shall enter into force as between those governments.
- 3 With respect to each signatory government ratifying subsequently, the Convention shall enter into force on the date of deposit of its instrument of ratification.
- 4 The Committee of Ministers of the Council of Europe may decide, by a unanimous vote, to invite, upon such terms and conditions as it deems appropriate, any European State which is not a member of the Council to accede to the present Convention. Any State so invited may accede by depositing its instrument of accession with the Secretary General of the Council of Europe. Such accession shall take effect on the date of receipt of the said instrument.

- 5 The Secretary General of the Council of Europe shall notify all members of the Council and any acceding States of the deposit of all instruments of ratification and accession.

Article 10

Any Contracting Party may specify the territories to which the provisions of the present Convention shall apply by addressing to the Secretary General of the Council of Europe a declaration which shall be communicated by the latter to all the other Contracting Parties.

Article 11

- 1 Any Contracting Party may denounce the present Convention at any time after it has been in force for a period of five years by means of a notification in writing addressed to the Secretary General of the Council of Europe, who shall inform the other Contracting Parties.
- 2 Such denunciation shall take effect for the Contracting Party concerned six months after the date on which it is received by the Secretary General of the Council of Europe.

In witness whereof the undersigned, duly authorised thereto by their respective governments, have signed the present Convention.

Done at Paris this 19th day of December 1954, in the English and French languages, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatory and acceding gover

This document was prepared by the CDCULT Bureau and the Secretariat in October 2009 in response to the CDCULT's request at the Plenary session of 14 - 15 May 2009

Document for information

FIRST INSIGHTS ON A POSSIBLE UPDATE OF THE EUROPEAN CULTURAL CONVENTION OF 1954

Item A.1. of the draft agenda

Draft decision

The Bureau:

- *Following the request by the CDCULT at its Plenary session in May 2009 for further study of the issue, **confirmed** the need to assess in more detail the implications of revising the European Cultural Convention (ECC, 1954) as a future activity carried out by the CDCULT together with other relevant Steering Committees;*
- ***thanked** the Director General for her constructive intervention on this issue;*
- ***proposed** that as part of this exercise, a review of the current and potential responsibility of relevant organisations, including the European Commission in areas covered by the European Cultural Convention, could be undertaken to define the Council of Europe's optimal role in actions governed by the ECC;*
- ***invited** the Secretariat to report back and prepare for an in-depth debate on the issue of revising the ECC at the plenary session in May 2010;*
- ***thanked** the Secretariat for this information document;*
- ***underlined** the importance of an open, future-oriented and fully operational framework for cultural co-operation, reflecting the Council of Europe's standards and values and addressing the needs for intercultural dialogue in an increasingly interdependent world.*

Background

At its plenary session in May 2009, the CDCULT asked the Bureau to consider the proposal and process for updating of the European Cultural Convention (ECC) of 1954 and to report back to the Committee before 30 September 2009. The deadline was prolonged by one month and finally the Bureau advised postponing the circulation of the Secretariat's draft document with Committee members until the Bureau has had a chance to discuss the matter in more detail (CDCULT Bureau session on 9 - 10 December).

The present document provides a first overview of parameters for a revision of the ECC and also presents practical proposals for implementation of the process. It seems, however, that the revision of any key convention requires prior reflection that takes into account the specific achievements and contribution by the Council of Europe as well as the latest developments in international cultural co-operation. Based on the results of such an exercise, parameters for optimal future action by the Council of Europe in the area governed by the ECC could be defined and the Convention text renewed, if need be.

Following the discussions of the joint meeting of the Bureaux of CDCULT and CDPATEP on 9th December 2009 the Secretariat will prepare for an in-depth debate at the plenary sessions of the Committees in May 2010, when the results of the above reflection exercise will also be available.

The ECC - a key instrument for European cultural co-operation

The ECC clearly reflects the spirit of the time when it was drafted and encompasses a great number of key principles¹ and action strands² for possible cultural co-operation, which are still entirely valid. It has, in the fifty-five years of its existence, undoubtedly had a great impact on European reconciliation and understanding. It has also served in past decades as an "antechamber" for new democracies to enter the Council of Europe and become full members. It still serves as a most important mechanism for co-operation with European non-member states and non-European observer states.

Over the years, reflections on the possibility of undertaking a revision of the ECC were held on several occasions, e.g. when preparing the celebration of its 50th anniversary in 2004. Such reflections were nurtured by the Convention's rather "soft" legal follow-up mechanisms compared with other Council of Europe instruments, the growing diversification of cultural players and of cultural differences within and beyond national frontiers, and the fact that new social, cultural and technical developments pose challenges to European societies that are not necessarily reflected in the Convention as originally conceived.

¹ The fundamental principles of the Convention are:

- mutual understanding between the peoples of Europe (second consideration of the preamble)
- European civilization as a common cultural heritage (fourth consideration and first article);
- culture as a living phenomenon that needs to be retained, studied and developed (third consideration).

² To make progress towards these goals, the Convention calls for a 'policy of joint action to safeguard European culture and encourage the development' (third consideration), including:

- educational programs for the study of language, history and civilization of the other European countries (article 2);
- the obligation to safeguard the physical cultural heritage and to facilitate access (article 5);
- the movement and the exchange of persons and objects of cultural value (article 4);
- concerted cultural actions with European interest (article 3).

Fifty-five years have passed, and the perspective of European cultural co-operation has widened due to increasing mobility, migration and a stronger emphasis on the protection and promotion of cultural diversity. New co-operation partners have entered the arena. In 2005, the Third Summit of Heads of State and Government launched an Action Plan that explicitly referred to a new dialogue between Europe and its neighbouring regions, the southern Mediterranean, the Middle East and Central Asia. The White Paper on Intercultural Dialogue launched in 2008 reinforces this message, and a first conference at ministerial level involving Ministers from ALECSO and ISESCO member states was successfully organised in December 2008, culminating in the Baku Declaration. The Council of Europe's working mechanisms for cultural co-operation have also been reinforced with the establishment of the new Wergeland Centre in Oslo and recent focus by the North-South Centre in Lisbon on intercultural dialogue in the Mediterranean region.

A number of co-operation agreements between the Council of Europe and bodies outside Europe have been drawn-up over the past years, under the umbrella of the Open Faro Platform (UNESCO, Anna-Lindh Foundation, ALECSO) and a number of joint activities have been carried out, mainly in the education and youth sectors. For example, a memorandum of understanding was recently signed with the Alliance of Civilisations and the Organisations' Committee of Ministers is currently studying the prospects for enhanced co-operation with ISESCO. The European Union has launched new initiatives such as the Mediterranean Partnership and the Eastern Partnership. The latter includes four platforms, and the Council of Europe has been invited to be a partner on two of them (human rights, democracy, rule of law and youth, education, culture, civil society). With many ongoing developments, it is crucial to analyse achievements and potential, in order to evaluate the best way for the Organisation to continue to promote its values in Europe and beyond.

Although a revision of the ECC would only be a second step, a list of achievements can already be compiled and would contain the following arguments:

The possibility of:

- a comprehensive revision³ of the ECC, firmly based on Council of Europe standards and values and adapted to trigger initiatives that respond to current challenges in compliance with these values;
- making provision for non-European states⁴ to accede to it and establish an open framework in which governments of Council of Europe member states and non-member states can carry out exchanges on issues of cultural, educational, youth/sport and related policies and develop joint initiatives;⁵
- dealing explicitly with some of the challenges today's societies are facing (intercultural dialogue; global migration, management of diversity, sustainable development/climate change, reaching growth limits, conscientious use of resources, ageing and demographic changes, the 'network society' democratic participation and skills for active citizenship, etc.);
- making a reference to the principle of participation of specialised Ministries and civil society as partners in the work to be carried out under the revised Cultural Convention;
- providing a framework for systematic co-operation based on Council of Europe standards (as opposed to ad-hoc platforms often limited in scope and not directly linked to policy developments) as part of the Council of Europe

³ See also the section "options" below.

⁴ The ECC of 1954 limits access to "European states", whilst not precisely defining what these limitations are.

⁵ Several existing Council of Europe agreements testify to the growing global interconnection and the outreach of Council of Europe action, which could be well reflected in a Cultural Convention as well.

system and overseen by the Committee of Ministers and relevant Steering Committees of the sectors concerned⁶;

- engaging, via a Convention implementation mechanism, in joint action between the contracting parties on the basis of clearly defined objectives to make co-operation more predictable and result-oriented, yet simple and flexible in terms of management;
- referring explicitly to recent relevant standards in the cultural field such as the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), the Council of Europe White Paper on Intercultural Dialogue (2008), etc.;
- making provision for the EU and UNESCO to accede to it and to renew existing partnerships and collaborations as a result;
- the enhanced visibility that the process and product of revision work would provide to the Council of Europe (i.e. the Committee of Ministers, Steering Committees, the Parliamentary Assembly, the Congress, and DG IV);
- repositioning of culture/heritage, education, youth and sport as Council of Europe sectors directly contributing to the organisation's core values by providing 'competences' and a framework for public debate in order to strengthen democracy and European values in a globalised and networked world.

⁶

See also below "The work process - a tentative road map".

Appendix I

Practical information on the options and process of revising the ECC

Options

There would be several options for updating the ECC. The first would consist of producing a protocol to be added to the Convention of 1954. This could take the form of an “*Additional Protocol*” or an “*Amending Protocol*”.

1 a) An “*Additional Protocol*” could be envisaged if nothing substantial in the ‘Mother Convention’ text would be changed, and simply an addition or specification was made to the text.

1 b) An “*Amending Protocol*” would be required if a new dimension was to be added, which would be the case for the ECC if, for example, it were to be opened up to countries beyond Europe. An Amending Protocol would actually require the signature and ratification of all Convention states (n=49) before it could enter into force. Such a process would probably be lengthy and complicated.

2) Another option would be the production of a *new Convention or Framework Convention*. A new Convention could enter into force with only a limited number of signatures/ratifications (e.g. 10). Advantages would be speed (it could be achieved in one to one and a half years) as well as the opportunity for a more comprehensive revision of the original ECC, if desired by the political stakeholders of the organisation. The production of a new Convention or framework convention would position the organisation and provide visibility to the Council of Europe and relevant bodies concerned, consistent with the visibility achieved through the White Paper process and its natural outreach beyond Europe’s narrowly defined borders.

The work process - a tentative road map

During the reflection process and eventual decision-making period whereby a revision of the ECC would be formally proposed (perhaps in May 2010 at the CDCULT’s next plenary session), other appropriate Committees would need to be contacted and involved. A CDCULT task force or the Bureau or joint CDCULT/CDPATEP initiative could take this work forward initially, following the joint meeting of the Bureaux in December 2009.

The Committee of Minister’s (CM) Rapporteur Group for Culture, Education Youth and Sport (GR-C) ought to be involved from the outset to oversee, advise and accompany the process and possibly act as a co-ordinator of an Ad-hoc Committee to be set up for the purpose of updating/drafting the new Convention text.

The Ad-hoc Committee could comprise representatives from the CDCULT, CDPATEP, and the Education and Higher Education Committee, as well as the Youth/Sport Committees and the Bern Convention Committee. Respective Committee Chairs and Vice-Chairs could be invited to participate in the ad-hoc Committee. The terms of this drafting Committee could be prepared following previous examples of Convention updates through ad-hoc Committees, and endorsed by the CM/GR-C.

The most economical working method could be used, possibly using an on-line shared work space with only a few meetings necessary.

Close co-operation with Legal Affairs would be key. The conceptualisation of the *modus operandi* and working methods of a new, open Convention would require in-depth study of all examples available within the Organisation and beyond. Possibly, a Convention Committee would need to be set up to oversee the implementation and follow-up of a new Convention.⁷

⁷ The Secretariat’s participation could be assured by rotating Committee Secretariats.