

# EUROPEAN PARLIAMENT

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*Committee on Culture and Education*

PROVISIONAL  
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28.2.2006

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## **DRAFT REPORT**

on the proposal for a Council decision on the conclusion of the UNESCO  
Convention on the Protection and Promotion of the Diversity of Cultural  
Expressions  
(5099/1/06 – COM(2005)0678 – C6-0025/2006 – 2005/0268(CNS))

Committee on Culture and Education

Rapporteur: Christa Prets

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council decision on the conclusion of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (5099/1/06 – COM(2005)0678 – C6-0025/2006 – 2005/0268(CNS))**

### **(Consultation procedure)**

*The European Parliament,*

- having regard to the proposal for a Council decision (COM(2005)0678)<sup>1</sup>,
  - having regard to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, adopted at the General Conference of UNESCO in Paris on 20 October 2005,
  - having regard to Article 300(2), first subparagraph, and Articles 89, 133, 151, 181 and 181a of the EC Treaty,
  - having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0025/2006),
  - having regard to Rules 51 and 83(7) of its Rules of Procedure,
  - having regard to the report of the Committee on Culture and Education,
1. Approves the conclusion of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions;
  2. Instructs its President to forward its position to the Council and the Commission, to the governments and parliaments of the Member States and to UNESCO.

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<sup>1</sup> OJ C ..., ..., p. ....

## **EXPLANATORY STATEMENT**

### **The European Parliament and the UNESCO Convention**

In its resolution of 14 January 2004 on ‘preserving and promoting cultural diversity: the role of the European regions and international organisations such as UNESCO and the Council of Europe’, and in its resolution of 14 April 2005 on ‘working towards a Convention on the protection of the diversity of cultural content and artistic expression’, the European Parliament considered it essential to recognise cultural diversity within the field of international law by adopting a Convention within UNESCO, and strongly defended the dual nature – cultural and economic – of cultural goods and services.

The European Parliament welcomed the Council’s decision, taken at a later stage, to give a mandate to the European Commission to negotiate at UNESCO on behalf of the European Community. It also congratulated the Commission and the Council for their fulfilment of the mandate, which made it possible for the Commission to negotiate the Convention on behalf of the European Community and of the 25 Member States and to accelerate the global process of negotiation.

On several occasions the Committee on Culture considered the progress of the negotiations and the fruitful role of the Commission in this regard and also called for fast ratification by the EU Member States.

### **Progress towards the Convention**

The present Convention is the result of a long process of maturation and of sharp negotiations. From the European Community’s point of view, it is worthwhile to recall the most important steps leading up to this point.

1. The UNESCO Universal Declaration on Cultural Diversity of 2 November 2001,
2. The meetings of independent experts between December 2003 and May 2004 with a view to producing a first preliminary draft Convention,
3. Starting in September 2004, a series of intergovernmental meetings in order to finalise the preliminary draft Convention and report,
4. The Council decision of 16 November 2004 to give a mandate to the Commission to negotiate on behalf of the Community those parts of the UNESCO draft text which fall within Community competence,
5. The Convention was adopted by the General Conference of UNESCO on 20 October 2005 in Paris.

### **A new instrument in international law**

The UNESCO Convention has as an objective the promotion and protection of the diversity of cultural content and artistic expressions and aims to facilitate the development and the adoption of cultural policies and appropriate measures for the protection and promotion of the

diversity of cultural expressions and also to encourage wider international cultural exchanges.

The Convention establishes, at international level, recognition of the sovereign right of States and governments to draw up and implement cultural policies allowing the development of their own cultural sectors.

The Convention acknowledges that cultural diversity is strengthened by the free flow of ideas and reaffirms the importance of freedom of thought and diversity of the media. It recognises the right of States to adopt audiovisual policies and foster their audiovisual industries. It reaffirms the important role of public service broadcasting for cultural diversity and media pluralism.

It emphasises the links between culture, development and dialogue and creates an innovative platform for international cooperation, in a wider context of sustainable development.

By recognising the distinctive nature of cultural goods and services as transmitters of values and identity, the Convention establishes that they transcend their commercial dimension, legitimising thus domestic and international cultural policies.

In this connection it should be stressed that the Convention, which is not subordinated to other treaties or international agreements, complements them, requiring negotiating and/or contracting parties to consider the objectives of cultural diversity.

The Convention will also be used as an international forum to debate challenges to the diversity of cultural expressions and to the sensitive sector of cultural policies that support it, and will further become a cooperation lever with countries that aim to create durable cultural industries on their territory.

### **The ratification process and entry into force**

The Convention will enter into force three months after its ratification by 30 State Parties.

The rapporteur considers it necessary to underline that prompt ratification by a large number of parties will allow the Convention to become effective and take its due place in the international law system, and its objectives and the means to attain them will thus be recognised.

Ratification of the UNESCO Convention by the European Community and its 25 Member States as quickly as possible would not only guarantee its entry into force but would also send a significant political signal of Europe's major attachment to cultural diversity.

In this context, the rapporteur congratulates the European Commission on the adoption on 21 December 2005 (two months after adoption of the Convention by the UNESCO General Conference) of the present proposal for a Council decision, opening the way for Community ratification.

Approval of the Convention by the European Community should be considered as an invitation to the Member States to speed up their own internal ratification procedures.

In view of the Council decision on the conclusion of the UNESCO Convention to be taken during the 18 May 2006 Education and Culture Council meeting, the rapporteur stresses the importance of supporting and promoting speedy ratification of the Convention within Member States and in this connection urges the Austrian Presidency and the Commission actively to promote ratification by all Member States.

The rapporteur also considers it important that the European Institutions and Member States actively promote ratification of the Convention by third countries in order for the Convention to gain a critical mass of State Parties that would establish it as a major international instrument.

### **Joint ratification by the European Community and the Member States**

A joint ratification of the Convention by the Community and the Member States is required.

Article 27 of the Convention establishes the possibility for the European Community to become a contracting party and to play an active role in the organs of the Convention, in particular the Conference of the Parties established by Article 22 of the Convention.

Article 26 of the Convention clarifies that ratification, acceptance, approval or accession by States is necessary and should take place in accordance with their respective constitutional procedures.

### **The European Union spoke with a single voice at UNESCO**

Stressing that the Convention was negotiated jointly by the Commission on behalf of the Community and by the Council Presidency on behalf of the Member States and that for the first time the European Community spoke at UNESCO with a single voice, speedy ratification within the EU should be seen as the logical continuation of the Community's strong involvement in the negotiations and a concrete sign of the European Union's wish to promote the principle of cultural diversity at international level.

### **The impact of the Convention at European Union level**

The Convention, the first of its kind in international relations, provides a basis for world governance in cultural matters and in several aspects will affect the '*acquis communautaire*'. In particular, it will touch upon matters related to trade policies, the free movement of persons and of goods and services within the European Union, audiovisual and media policy (namely the 'Television Without Frontiers' directive and the Media Programme) and development policies.

In relation in particular to international agreements, the rapporteur calls upon the European Community not to liberalise audiovisual and cultural services but to stick to the specific mandate given by the Council in 1999: 'The Union will take care to guarantee during the next WTO negotiations, as in the Uruguay round, the possibility for the Community and its Member States to preserve and develop their cultural and audiovisual policies for the preservation of their cultural diversity'.



## **Implementation of the Convention**

The European Parliament will follow with great attention the implementation of the UNESCO Convention by the European Community and the Member States.

The rapporteur strongly stresses that close monitoring of the Convention's implementation by the governments, the signatory States and civil society is crucial and necessary, and she encourages the Commission to establish a process to monitor implementation of the Convention in association with the European Parliament.

The rapporteur draws particular attention to the important role civil society plays in protecting and promoting diversity of cultural expressions. She encourages the active participation of civil society in efforts to achieve the Convention objectives.

Finally, the rapporteur also calls on the Council and Commission to involve the European Parliament fully and inform it of any action to be taken in the future in connection with the UNESCO Convention.