Unit 4

**who can do what in implementing the convention?**

**participant’s text**

This unit discusses who can, may or should do what in the implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage[[1]](#footnote-1) at the national level. The following topics are covered:

* The role of States Parties.
* The role of the communities, groups and individuals concerned.
* The role of NGOs, experts, centres of expertise and research institutions.

Relevant entries in Participant’s text Unit 3 include: ‘Category 2 centres’, ‘Communities groups and individuals’ and ‘International, regional, subregional, local’.

An example relevant to this unit can be found in Case study 1.

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4.1 Stakeholders in implementing the Convention
at the national level

There are various stakeholders involved in implementing the Convention at the national level: the States, communities concerned and others.

For an example of how they can work together to safeguard intangible cultural heritage (ICH) elements refer to Case study 1, which reviews the roles of government, communities and organizations in safeguarding Yamahoko, the float ceremony of the Kyoto Gion festival in Japan.

#### States

The Convention is an agreement between States, and States accept various obligations by ratifying it. States Parties take on the obligation, for example, to take the necessary measures required for ensuring the continued enactment, development and transmission of the ICH present in their territories. It is also the State, through the appropriate agencies, that communicates with the Organs of the Convention, periodically reports about the implementation of the Convention at the national level and bears final responsibility for all actions undertaken in the framework of the implementation of the Convention at the international level, such as requests for financial assistance and nominations to the Lists and the Register of the Convention.

#### Communities concerned

Communities are not signatories to the Convention, and States do not need their consent to ratify it. Nevertheless, the Convention is about living heritage created, enacted, adapted and transmitted by people – without them there is no ICH. These people are referred to in the Convention as the communities, groups and – where appropriate – individuals concerned. No safeguarding of elements of their ICH can take place without their involvement and commitment, especially that of practitioners and other active tradition bearers. That is why the Convention requires that they be involved in identification and definition of their ICH, and in its management. It is also why the Operational Directives (ODs) insist on the participation of the communities concerned in, and their consent to, any safeguarding or other activity carried out in States Parties concerning their ICH.

#### Other stakeholders

Although the State and the communities concerned are the main stakeholders involved in the implementation of the Convention, other stakeholders can also play an important role. They include NGOs, individual experts, consultative bodies, coordination mechanisms, centres of expertise, documentation centres, museums and archives (these are all mentioned in the Convention and/or in the ODs).

In many countries, whether States Parties to the Convention or not, such organizations, institutions and individual experts have already worked (often for a considerable time) towards the safeguarding of ICH, often in ways advocated by the Convention. The Convention takes this situation into account when it encourages States Parties to create or designate competent bodies to assist in the safeguarding of ICH (Article 13).

The roles played by all these stakeholders in implementing the Convention and safeguarding ICH may vary widely, depending on the way in which the State has organized the implementation of the Convention at the national level, on the capacities, resources and interests of the various stakeholders, and on the needs, wishes and capacities of the communities concerned. When their actions concern specific elements of ICH, they should be working with the communities concerned from the very beginning and not proceed without their consent.

4.2 ROLES OF STATES PARTIES

#### ROLES OF STATES PARTIES AT THE NATIONAL LEVEL

Obligations

The obligations of States Parties to the Convention were also mentioned in Participant’s text Unit 2. There are four main categories of activities that States Parties to the Convention are encouraged, or in some cases required, to undertake at the national level:

* Taking the necessary (general) **measures to safeguard the ICH** present within their territories (Article 11(a)), with the active involvement of the communities concerned when measures concern specific elements of ICH (Article 15).
* **Raising awareness** (recommendation in Articles 1(b) and 14, OD 81, 100-106): to make ICH better known in general, ensuring appropriate access to it (Article 13(d)(ii)), to encourage general respect and appreciation for it, and to inform the public about the function of ICH in society and the importance of safeguarding it. It also includes raising awareness about the Convention and its role in safeguarding ICH.
* **Identifying, defining and inventorying ICH** elements (obligation in Articles 11 and 12) within their territories, with the participation of communities, groups and relevant NGOs, to aid in safeguarding and raising awareness.
* **Creating a legal and administrative context** to support the safeguarding of ICH (recommendation in Article 13, and references in many ODs).

Rights

States Parties may apply for international assistance (ODs 8–12) and may also submit nomination files to the Lists and Register of the Convention (ODs 1-7).

#### ROLES OF STATES PARTIES AT THE INTERNATIONAL LEVEL

At the international level, States Parties have two obligations and various rights.

Obligations

States Parties shall undertake to pay a contribution to the ICH Fund.

**Article 26.1**: Without prejudice to any supplementary voluntary contribution, the States Parties to this Convention undertake to pay into the Fund, at least every two years, a contribution, the amount of which, in the form of a uniform percentage applicable to all States, shall be determined by the General Assembly.

States Parties are obliged to report periodically to the Committee on their progress in implementing the Convention at the national and international levels.

**Article 29:**The States Parties shall submit to the Committee, observing the forms and periodicity to be defined by the Committee, reports on the legislative, regulatory and other measures taken for the implementation of this Convention.

These general periodic reports are due every six years (ODs 151–169). Every four years, States Parties must report about elements inscribed on the Urgent Safeguarding List. The ODs (and Form ICH 10) indicate the types of information the States Parties should provide in these periodic reports.

Rights

The States Parties also have various rights at the international level. In the first place, they make up the General Assembly (Article 4), the supreme Organ of the Convention. States Parties, meeting in the General Assembly, elect the Intergovernmental Committee (Articles 5-10) and may be elected to it.

States Parties are encouraged to cooperate wherever possible – for example, by sharing information and expertise with other States Parties, by applying for international assistance (ODs 8–12) and by submitting multi-national safeguarding projects and nominations to the Convention’s Lists (see Article 19; ODs 13-15 and 1-7).

#### SUMMARY OF ROLES OF STATES PARTIES

In summary, States Parties may (or should) play the following roles at the national and international levels, as indicated in the Convention and the ODs:

Take measures to safeguard the ICH present in their territory:

* ensure recognition of, respect for and enhancement of ICH (Article 14; ODs 103–107);
* build capacities for safeguarding (Articles 13(d)(i) and 14; ODs 82, 105(b) and 107);
* identify and define ICH (with communities and relevant NGOs) (Article 11(b));
* develop inventories of ICH (Article 12.1); and
* engage in or support specific safeguarding actions for ICH (Articles 11(a), 13-15).

Create a general infrastructure for safeguarding by:

* developing ICH-related policy, regulations and legislation (Article 13; ODs 103–105);
* establishing or designating bodies to assist in safeguarding ICH (Article 13(b); OD 154);
* creating or strengthening documentation centres for management and access to information about ICH (Article 13(d); OD 154); and
* creating consultative bodies or coordination mechanisms for the identification of ICH, inventorying, implementing programmes, etc. (OD 80).

Involve communities in (Article 15):

* identifying and defining their ICH (Article 11(b));
* inventorying their ICH (Article 12);
* developing and implementing safeguarding measures for their ICH (ODs 1, 2 and 7); and
* preparing nomination files concerning their ICH to the Lists and Register of the Convention (ODs 1,2 and 7).

Build capacity for safeguarding:

* among the communities concerned (Articles 1(a) and 14(a)(ii); OD 82);
* among NGOs, researchers and academics (Article 14(a)(iii));
* among relevant staff of State departments and agencies (Article 14(a)(iii));
* by encouraging research for safeguarding ICH (Article 13(c); ODs 86 and 107(k));
* by creating or strengthening institutions for training in the management of ICH and its transmission (Article 13(d)(i); and
* by encouraging cooperation and networking between communities, experts, centres of expertise and research institutes (ODs 79–80, 86 and 88).

Raise awareness about ICH:

* at the local, national and international levels, encouraging appreciation and respect for ICH (Articles 1(b)–1(c) and 14; ODs 100–117);
* among general public, in particular young people (Article 14(a)(i));
* within communities (if required, especially where their ICH is threatened) (Article 14; OD 107);
* by supporting the dissemination of appropriate information about ICH within their territory, e.g. through media campaigns, education and workshops (Article 14; ODs 100–115);
* by promoting good safeguarding practices, including those inscribed on the Register of Good Safeguarding Practices (Article 18; ODs 3–7); and
* by promoting the ICH on the Lists of the Convention (OD 157(d)).

Submit nominations to the Convention’s Lists and Register or withdraw them: submit requests for international assistance with the involvement and the free, prior and informed consent of the communities concerned (Articles 15, 16–18 and 19–24; ODs 1–2, 7, 8–12 and 13–25).

Encourage/engage in international cooperation (Articles 1(d) and 19):

* by sharing expertise and information (ODs 86–88);
* through international networks of ICH-related institutions and category 2 centres (ODs 86–88);
* by initiating or supporting multi-national nominations of shared heritage and safeguarding projects (ODs 13–15); and
* by making joint applications for international assistance (OD 10(a)).

4.3 ROLES OF THE COMMUNITIES, GROUPS
AND INDIVIDUALS CONCERNED

The Convention does not impose obligations on communities, groups or individuals, but only on States Parties.

Although people will not be able to use the Convention to establish intellectual property rights over their ICH, or to substantiate territorial or historical claims, the Convention does acknowledge the stewardship of the communities concerned over their ICH. According to the Ethical Principles for Safeguarding Intangible Cultural Heritage, communities, groups and, where applicable, individuals should have the primary role in safeguarding their own ICH. Any activity concerning ICH should therefore take place with the fullest possible participation and the free, prior and informed consent of the communities, groups and individuals concerned.

As such, under the Convention, and in accordance with a gender responsive and ethical approach to ICH safeguarding, people should not be forced to define, practise or transmit their ICH in ways that are unacceptable to them.

#### SUMMARY OF ROLES OF THE COMMUNITIES CONCERNED

The communities concerned, who enact and transmit ICH, should benefit from the Convention (OD 81). Under the Convention, they may or should play the roles summarized below.

The communities concerned may or should be involved in:

* identifying and defining their ICH (Article 11(b));
* inventorying their ICH (Article 12.1);
* developing and implementing safeguarding plans for their ICH (Article 15; OD 23);
* managing their ICH (Article 15);
* developing nomination files for their ICH to the Lists and Register of the Convention for submission by the State Party (OD 24); and
* developing requests for international assistance under the Convention for submission by the State Party (OD 12(A.1)).

They may give (or deny) free, prior and informed consent to:

* inventory their ICH (Article 12.1);
* nominate their ICH to the Lists or nominating safeguarding projects involving their ICH to the Register of the Convention (ODs 1–2, 7 and 24); and
* awareness-raising activities about their ICH (OD 101(b)).

4.4 ROLES OF NGOS, EXPERTS, CENTRES OF EXPERTISE AND
RESEARCH INSTITUTIONS

Many possible tasks are indicated for NGOs, individual experts and various kinds of institutions and organizations in the implementation of the Convention, both at the national and the international level (Articles 8, 9 and 11(b); ODs 79–99).

The Convention makes explicit reference to possible tasks for NGOs (in Articles 9 and 11(b)), but says little about other types of organizations. It only mentions the desirability of having competent bodies at the national level for the safeguarding of ICH, as well as training and documentation institutions (Article 13). The ODs, on the other hand, recommend many possible activities that may be undertaken by experts, centres of expertise and research institutes, as well as NGOs, when implementing the Convention at the national and regional levels.

#### SUMMARY OF ROLES OF NGOS AND OTHER ORGANIZATIONS

NGOs and research and documentation institutions, as well as experts, are encouraged to play the following roles in implementing the Convention at the national and international levels:

* Identifying, defining and inventorying ICH (Articles 11(b) and 12; ODs 80 and 90).
* Documenting ICH (Article 13(d)(iii); OD 85).
* Developing and implementing safeguarding activities (Article 13(b)).
* Conducting training in the management and appropriate transmission of ICH (Article 13(d)(i); OD 82).
* Undertaking and/or coordinating ICH-related scientific, technical, legal, economic and other studies (Article 13(c); ODs 105(b), 105(c) and 107(k)).
* Raising awareness about the value and diversity of ICH and ensuring respect for it, for example by making information about ICH easily accessible (Articles 1(b), 1(c), 13(d)(ii) and 14(a); ODs 85, 105 and 107(b)).
* Contributing to international cooperation and exchange (Article 8.4; ODs 84, 86–88 and 123(b)).
* Preparing nomination files to the Lists and Register of the Convention for submission by the State Party (OD 80(d)).
* Ensuring community participation and consent in all activities concerning their ICH by, for example:
	+ keeping them informed and involved in all matters that concern their ICH (Article 15; ODs 79–89);
	+ ensuring their capacity building (OD 82) where necessary;
	+ facilitating their participation in consultative bodies and coordination mechanisms (OD 80); and
	+ ensuring their rights are protected when raising awareness (OD 104).

If accredited under the Convention, NGOs can support its implementation internationally by advising the Committee where requested, and by assisting the Secretariat in the exchange of information about ICH (Article 9; OD 96).

#### NGOS: ACCREDITATION

NGOs may be accredited as advisory organizations of the Committee:

Article 9.1: The Committee shall propose to the General Assembly the accreditation of non-governmental organizations with recognized competence in the field of intangible cultural heritage to act in an advisory capacity to the Committee.

Article 9.2:The Committee shall also propose to the General Assembly the criteria for and modalities of such accreditation.

NGOs are encouraged to request accreditation if they meet the selection criteria (OD 91). They may apply for accreditation following the procedures outlined in ODs 92–95 and 97–99. The Committee examines the requests received and proposes (or does not propose) them to the General Assembly for accreditation. The NGOs accredited to provide advisory services to the Intergovernmental Committee created an ICH NGO Forum in order to facilitate communication and cooperation among them (see: http://www.ichngoforum.org/).

For the current list of accredited NGOs, see: <http://www.unesco.org/culture/ich/index.php?lg=en&pg=00331>

Accreditation does not require the intervention of any State Party. NGOs may themselves submit requests for accreditation to the Committee through the Secretariat. Some accredited NGOs are based in States that are not yet Parties to the Convention.

**Role of accredited NGOs**

Article 9.1 of the Convention limits itself to stating that accredited NGOs may be called upon to act in an advisory capacity to the Committee. OD 96 is more specific and presents a non-exhaustive list of specific tasks:

Accredited non-governmental organizations who, according to Article 9.1 of the Convention, shall have advisory functions to the Committee, may be invited by the Committee to provide it, inter alia, with reports of examinations as a reference for the Committee to evaluate:

(a) nomination files for the List of Intangible Cultural Heritage in Need of Urgent Safeguarding;

(b) the programmes, projects and activities mentioned in Article 18 of the Convention that may be recognized as good practices;

(c) requests for international assistance; and

(d) the effects of safeguarding plans for elements inscribed on the List of Intangible Cultural Heritage in Need of Urgent Safeguarding.

#### CONSULTATION OF ORGANIZATIONS AND EXPERTS BY THE COMMITTEE

The Committee may invite individual experts as well as organizations of any type for consultation during its meetings (Article 8.4). For this purpose, no accreditation is required.

This provision is formulated in an extended way in OD 89:

Within the limit of available resources, the Committee may invite any public or private body (including centres of expertise and research institutes) as well as private persons with recognized competence in the field of intangible cultural heritage (including communities, groups, and other experts) to participate in its meetings in order to sustain an interactive dialogue and consult them on specific matters, in conformity with Article 8.4 of the Convention.

This reflects the desire of the Committee and the General Assembly to emphasize the importance (and the possibility) of involving individual experts and a broader range of institutions and organizations than (accredited) NGOs in the implementation of the Convention.

1. 1. Frequently referred to as the ‘Intangible Heritage Convention’, the ‘2003 Convention’ and, for the purpose of this unit, simply the ‘Convention’. [↑](#footnote-ref-1)