

INTERGOVERNMENTAL COPYRIGHT COMMITTEE

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COMITE INTERGOUVERNEMENTAL DU DROIT D'AUTEUR

Quatorzième session du Comité de la Convention universelle révisée en 1971 Paris 7-9 juin 2010

COMITE INTERGUBERNAMENTAL DE DERECHO DE AUTOR

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ASSISTANCE TO MEMBER STATES

The purpose of this document is to provide Member States with an overview of various UNESCO standard-setting instruments and activities related to the Universal Copyright Convention, since the thirteenth session of the Intergovernmental Copyright Committee.

1. Standard-setting activities

As a standard-setter, UNESCO has produced several binding international legal instruments in the four core areas of cultural diversity: cultural and natural heritage, movable cultural property, intangible cultural heritage and contemporary creativity. The most recent international legal instrument is the **Convention on the Protection and Promotion of the Diversity of Cultural Expressions** adopted by the General Conference of UNESCO on 20 October 2005. This Convention stands out among the UNESCO conventions in that it focuses primarily on the diversity of cultural expressions, resulting from the creativity of individual, groups and societies and materializing as cultural activities, goods and services. Thus, it effectively complements the set of legal instruments adopted by UNESCO Member States to promote creativity and cultural diversity, including the Universal Copyright Convention.

The Convention strives to create an enabling environment in which the diversity of cultural expressions may be protected and promoted. To this end, one of the main objectives of the Convention is to create conditions for cultures to flourish and to interact freely in a mutually beneficial manner. The Convention recognizes the distinctive nature of cultural activities, goods and services as vehicles of identity, values and meaning, beyond their commercial value. The Convention provides a new framework for international cooperation.

More specifically, the Convention provides that national measures for protecting and promoting the diversity of cultural expressions should be aimed at nurturing and supporting artists and others involved in the production and distribution of cultural expressions and that Parties should endeavor to recognize the important contribution of artists. It identifies the strengthening of the cultural industries in developing countries as one of the major means of fostering the emergence of a dynamic cultural sector in these countries. Further, it emphasizes the importance of innovative partnerships, as well as of appropriate collaboration between developed and developing countries in the areas, inter alia, of music and film. Another essential aspect of the Convention is its focus on facilitating the mobility of artists from the developing world.

The Convention entered into force on 20 March 2007 and has 104 Parties (as of 28 January 2010). The Convention entered into its operational phase in June 2009 when a substantial part of the operational guidelines for the implementation of the provisions of the Convention was adopted by the second Conference of Parties.

The Convention does not deal specifically with intellectual property. However, it does not overlook the importance of intellectual property rights in the protection and promotion of the diversity of cultural expressions. In its preamble, the Convention recognizes the importance of these rights for individuals participating in cultural creativity (paragraph 17). More specifically, the operational guidelines adopted by the Conference of Parties refer to copyright legislation as one of the policy instruments in the field of culture that should aim at supporting the creation, production, distribution, dissemination and access to cultural activities, goods and services.

More particularly, the operational guidelines on measures to promote cultural expressions (Art. 7), provide that:

...the Parties are encouraged to develop and implement policy instruments and training activities in the field of culture.2. These instruments could be related to the following fields:

2.1 Legislative: e.g. establishment of structuring legislation in the cultural field (for example, legislation on broadcasting, **copyright**, status of the artist, etc.);

2. Information and awareness-raising activities

2.1. World Observatory on the Status of the Artist

The Recommendation on the Status of the Artist, adopted by the General Conference of UNESCO in 1980, reaffirms the rights of artists to be considered as cultural workers and the need to improve their working conditions. Further to the Final Declaration of the World Congress on the application of the Recommendation on the Status of the Artist, UNESCO created the **World Observatory on the Status of the Artist in 2003** (www.unesco.org/culture/fr/statusofheartist). A practical web tool for follow-up to the Recommendation, the Observatory is also one of the operational tools for the implementation of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

The Observatory is a collection of information on national laws and policies that are aimed at supporting the social and economic status of artists and other stakeholders in the creative process. This information is regularly updated on the basis of annual contributions by UNESCO Members States. Its main objectives are:

- Analysis;
- Raising public authorities' awareness and promoting the Recommendation;
- Measuring the progress accomplished on a national level concerning the implementation of the Recommendation;
- Improvement of national measures to support artists and creators.

The Observatory currently contains information from over 60 countries and addresses three main topics:

- Social Benefits and Taxes: employment and social protection systems, social dialogue, tax system and mobility of artists
- Allowances and Fellowships
- Networks and Partners

2.2. World Anti-Piracy Observatory

At its thirteenth session in 2005, the Intergovernmental Copyright Committee proposed that UNESCO contribute to the fight against piracy by creating a pool of information and providing a forum for awareness-raising and exchange. In light of this recommendation, UNESCO developed and launched the **World Anti-Piracy Observatory**, a web-based resource to monitor anti-piracy issues and serve as a clearinghouse for the exchange of information and best practices.

<http://unesco.org/culture/en/antipiracy-observatory>

More detailed information concerning the World Anti-Piracy Observatory is contained in document IGC (1971)XIV/5B.

2.3 Collection of National Copyright Laws

UNESCO's Collection of National Copyright Laws allows rapid and free-of-charge access to national copyright and related rights legislation, available in official or non-official English or French translations. In addition, some laws are available in their original language as well. The Collection currently contains laws from about 145 UNESCO Member States and is constantly updated.

<http://www.unesco.org/culture/copyrightlaws>

2.4. e-Copyright Bulletin

Nine issues of the UNESCO's online legal journal, the *Copyright Bulletin*, were published after the thirteenth session of the Committee until 2007, when it ceased to be published due to a restructuring of the Culture Sector. During its 60 years of publication, the *Copyright Bulletin* assisted copyright lawyers, as well as government officials, collecting societies, law professors, researchers, industry experts and students in studying and understanding the complex and ever-evolving copyright landscape by publishing articles and studies, information on national, regional and international developments, new legal instruments and case law. Its authors have included the most prominent scholars, academics and practitioners in the copyright arena from all regions of the world.

3. Studies and research

The 33rd General Conference of UNESCO in 2005 mandated UNESCO to play a proactive role in the discussion of the draft of an international instrument on the protection of the rights of broadcasting organizations by the WIPO Standing Committee on Copyright and related Rights (SCCR), so that the objectives of the promotion of freedom of expression and universal access to information and knowledge would not be hindered.

Further to this mandate, UNESCO commissioned and published several studies on the subject. The “Draft WIPO Broadcasting Treaty and its Impact on the Freedom of Expression”, a study of Patrícia Akester, and the “Reflections on the Draft WIPO Broadcasting Treaty and its Impact on Freedom of Expression” by Prof. Thomas Dreier aimed to make a constructive contribution to the debate on the intersection between the protection of intellectual property rights and freedom of expression in the draft international instrument, under discussion at that time. In the light of the ongoing discussion on broadcasters’ rights, UNESCO presented points of view of different stakeholders on this subject. More specifically, the reflections of the Dr W. Rumphorst, from the European Broadcasting Union (EBU), were published in UNESCO’s *Copyright Bulletin*.

4. Capacity-building activities

4.1. Enforcement of rights: Anti-Piracy Training for Trainers project

Further to the first Anti-Piracy Training for Trainers (APTT) course, launched as a pilot project in the sub-region of South-East Europe in 2004, UNESCO developed and extended the project to other regions and sub-regions.

Three sub-regional APTT seminars have taken place in Africa:

- 2006 - Windhoek (Namibia) for copyright enforcement officials from the following countries of Southern Africa: Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe.
- 2007 - Dar es Salam (Tanzania) – for copyright enforcement officials from the following countries of Eastern Africa: Burundi, Kenya, Madagascar, Mauritius, Rwanda, Seychelles, Tanzania and Uganda.
- 2008 – Dakar (Senegal) - for copyright enforcement officials from the following countries of Western Africa: Benin, Burkina Faso, Côte d’Ivoire, Guinea, Mali, Niger, Senegal, and Togo.

The participants included representatives of national authorities responsible for the enforcement of copyright protection, notably second-instance court judges specializing in intellectual property, high-level prosecutors, customs officials and police officers.

The Anti-Piracy Training for Trainers project aims to achieve a multiplier effect, as the participants commit themselves to organizing national follow-up seminars in order to convey the acquired knowledge and expertise to a much larger circle of national authorities involved in anti-piracy activities. UNESCO has contributed to these national events with methodological, technical and financial assistance. National anti-piracy seminars have been organized in the following countries: Namibia, Zimbabwe, Zambia, Malawi, Madagascar, Botswana, Burundi. As a result, more than 400 copyright enforcement officials have received practical training in the field of anti-piracy.

4.2. Training and tools for the music sector

A training seminar for musicians entitled "Copyright as a Tool for Music Industry Development" was organized in Dar es Salaam, Tanzania, in 2007. Further to the recommendations of the seminar, a publication *10 Music Contracts* containing several major types of contracts for the music sector has been published by UNESCO. This publication is also available on-line and can be downloaded free of charge.

5. Methodological and financial assistance to Member States

5.1. Request for policy advice

UNESCO has provided comments and advice concerning draft legislation in the field of copyright and related rights to three Member States, namely the Bolivarian Republic of Venezuela, the Former Yugoslav Republic of Macedonia and the Russian Federation.

5.2. UNESCO Participation programme

The following Member States have received support within the framework of the UNESCO Participation programme for projects related to copyright protection or anti-piracy : since the thirteenth session of the Committee in 2005: Burkina Faso, Chad, Congo, Madagascar, Malawi, Nigeria, Zimbabwe, Uganda.