



CEST

Centro de Estudos Sociedade e Tecnologia



Universidade de São Paulo

Bulletin - Volume 1, Number 4, April/2016

Diversity of cultural expressions and new technologies

Lilian Richieri Hanania

The concept “diversity of cultural expressions” was consecrated when, in October 2005, the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (“CDCE” or “Convention”) was adopted, and, then, came into force in March 2007. “Cultural Expressions” are defined therein in a very ample manner as “expressions that result from the creativity of individuals, groups and societies, and that have cultural content” (CDCE article 4.3). The CDCE objectives are not easily deduced, thus, from the usual meaning of the terms contained in its title. Chosen during the Convention negotiation so as to simplify the name initially proposed (“Convention on the Protection of the Diversity of Cultural Contents and Artistic Expressions”), one can say that these terms ultimately brought about, in practice, bigger inaccuracies and, perhaps, made it difficult for those who read the CDCE text for the first time to understand it.

The CDCE is not an international treaty on cultural diversity in its widest sense, nor is it a convention about cultural rights. Although the CDCE has the ultimate purpose of promoting cultural diversity (like other UNESCO conventions), and though it strongly takes into consideration the necessity of respect towards cultural rights (stated in other international documents already), it is, in a few words, an instrument that provides a framework for cultural policies and measures at the local, national, regional, and international levels, and which adopts a material and economic perspective of cultural diversity, linked to the creation, production, diffusion, distribution, and access to cultural expressions transmitted by cultural activities, goods and services. Its implementation is, thus, associated to the wider issue of governance of the cultural sector.

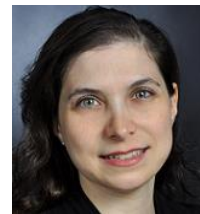
Public intervention towards diversity should be able to adapt itself with flexibility and rapidity to market reality.

Initially promoted by countries like France and Canada with the main objective of assuring the legitimacy of cultural policies at stake on the occasion of the negotiations of international trade liberalization agreements (in search of the famous “cultural exception”), the CDCE soon conquered a lot of supporters, among others, for its international cooperation provisions, mainly in favor of developing countries’ cultural sectors. Acknowledging the cultural dimension of sustainable development, as the UNESCO Universal Declaration on Cultural Diversity (“UDCD”) had already done back in 2001 (UDCD article 3), CDCE article 13 foresees that the Parties should endeavor “to integrate culture in their development policies at all levels for the creation of conditions conducive to sustainable development (...)”. The sustainable development concept, requiring coordination and integration of quite diverse policies and regulations, can infer the potential impact of this Convention onto the most varied sectors. In fact, it is a very encompassing text, which raises a wide range of issues considered relevant to promote more balanced international exchanges of cultural goods and services. A little over ten years after its adoption, the CDCE gathers today 143 Parties (142 States plus the European Union). On January 16, 2007, Brazil was the 40th country to ratify it, enacting it by Decree #6177, of August 1st, 2007.

The CDCE is technologically neutral, that is, its provisions are to be applied “whatever the means and technologies used” (CDCE article 4.1). The Convention-new technologies relation raises many fundamental questions, even for a country like Brazil to be able to stand itself effectively in the current “creative economy”, marked by the intensive use of new technologies, innovations, and convergence of economic sectors. Innumerable benefits for the country can be pointed out in this regard. Cultural diversity is a source of creativity, exchanges, and innovation (UDCD article 1). To protect diversity means “[ensuring] harmonious interaction among people and groups with plural, varied and dynamic cultural identities as well as their willingness to live together. Policies for the inclusion and participation of all citizens are guarantees of social cohesion, the vitality of civil society and peace.” (UDCD article 2). Considered as the “policy expression to the reality of cultural diversity” and “indissociable from a democratic framework”, “cultural pluralism is conducive to cultural exchange and to the flourishing of creative capacities that sustain public life” (UDCD article 2). The dynamics and rapidity of technological advances, however, transform the understanding of this new reality and the determination of appropriate public policies and measures that may guarantee the diversity in the supply of cultural goods and services in the digital age into a complex task. For example, screen or radio quotas for national films and music, respectively, may appear outdated or little effective today, due to the immense storage capacity for films, music, and digital books on the Internet.

To guarantee the diversity of cultural goods and services online requires, however, taking into consideration not only what is offered (potentially unlimited content), but also how this diversity is consumed. For such, it is imperative to act in each phase of the cultural value chain, from cultural creation and production, to distribution and visibility of contents, and to effective access, so as to make sure that the new economic models can have positive effects upon diversity. The convergence of economic sectors makes it significant to act, in some cases, in fields connected to the cultural sector, such as, the telecommunications sector, due to the participation of mobile phone operators and Internet providers in the market of cultural goods and services online. In addition, new big cultural sector intermediaries (the “Net Giants”, such as, Google, Amazon, Netflix, etc) should be encouraged to contribute to diversity, either in terms of investing in creation and production or via mechanisms that favor the transparency of algorithms used by these actors, and allow consumers to see and discover new contents. Moreover, policies in the field of education and training for the use of technologies are evidently essential, both for creation and production, and for access to content and the

effective exercise of citizenship which results from this access, based on critical spirit, tolerance, and openness to new cultures. Finally, the dynamics of new technologies and the velocity with which they alter the market of cultural goods and services furthermore require that public intervention towards diversity should be able to adapt itself with flexibility and rapidity to market reality evolution. Attention is now turned again to the importance of the “cultural exception” in commercial agreements defended by initiators of the CDCE negotiation process, so as to ensure the States’ widest policy space possible in favor of the diversity of cultural expressions.



Lilian Richieri
Hanania *lawyer, and*
CEST researcher; PhD.
in International Law from
the University Paris 1 -
Panthéon-Sorbonne.

Journalist-in-Charge: Edson Perin
 Coordinator: Edison Spina

This article is a result of the author’s
 ascertainment and analysis, without
 compulsorily reflecting CEST’s opinion.