Call for Papers

***On-line Workshop***

***15 years of the Convention for the Protection and Promotion of the Diversity of Cultural Expressions and Lessons for New Ways of International Law-Making: Actors, Processes, Impact***

**9 September 2020**

**[Precise schedule to be determined after selection of papers, taking into account different time zones]**

The Convention for the Protection and the Promotion of the Diversity of Cultural Expressions (the Convention) was adopted by the UNESCO General Conference in 2005. Its main objective is to reaffirm States’ “sovereign right to formulate and implement their cultural policies and to adopt measures to protect and promote the diversity of cultural expressions and to strengthen international cooperation to achieve [its purposes]” (Art. 5), while recognising “the distinctive nature of cultural... goods and services as vehicles of identity, values and meaning” (Art. 1.g). Today, the Convention has 149 Parties, including 148 States and one regional organisation: the European Union (EU). The practice of this treaty over the last 15 years offers several valuable insights as to the present-day ways of international law-making. Their examination will thus bring an important input to the overall theme of the 16th ESIL Annual Conference*.* In fact, the Convention may be credited as a paradigmatic case of “new ways” of creation and implementation of international law. First, it must be noted that the origin of this instrument goes back in part to the work of actors other than States, such as the Coalitions for Cultural Diversity*.* Further, the way the Committee of Cultural Diversity, the Convention’s treaty body, is examining the consistency of States Parties’ actions with the Convention is closer to a “best practice” approach than to a rigid scrutiny of States’ compliance with their international obligations. The idea behind this approach appears to be that the area of culture should not be one of confrontation but one of dialogue, applied as well to the ways of overseeing States’ actions in light of the Convention, giving preference to an operative learning approach instead of a sanction mechanism. If this kind of approach is typical of treaties dealing with culture, a paradox emerges when applied to the Convention, being its main scope of application the international commerce (of cultural products), an area of international law where robust mechanisms of enforcement exist. By passing from the Word Trade Organisation and other economic fora to UNESCO, the norms on commercialisation of cultural products, even with the proper intention of giving them “cultural” legitimacy and specification, would have been deprived of efficacy. Moreover, the position of civil society in this process of “periodic reporting” is closely related to this general approach. In fact, contrary to what happens in other control mechanisms in international law, such as the United Nations international human rights monitoring mechanisms – where civil society entities prepare, for instance, shadow reports independent from those presented by States –, civil society organisations working in the sphere of the Convention realm are asked to contribute to States’ periodic reports. Another idiosyncrasy of the Convention is the particular challenge that it implies for the classical approach of State sovereignty in international law. The initial main goal for the approval of the Convention was the protection of cultural sovereignty of States from the possible threats made by other States: mainly through pressure action to sign free trade agreements. However, the Convention is increasingly invoked as a legal basis by regional and local communities to claim or implement policies in favour of cultural diversity within the State. Noticeably, there has been a shift in the ways in which international lawyers relate to this treaty. In the first years after the approval of the Convention – and during its negotiation – the Convention has been the object of research of many International Law scholars, who addressed classical issues of International Law such as that of conflict of norms. Now, however, the Convention is increasingly the object of research of other social sciences disciplines and that international lawyers who continue to pay attention to the Convention do so most often in the frame of highly interdisciplinary projects. A significant shift can also be observed in relation to the Secretariat of the Convention – who supports its implementation – as well as the Committee. These bodies have given relevance in their implementation work to topics like rights of artists which were not a priority at the moment of the Convention’s entering into force. This shift is also an indicator of the need to rethink the role of international lawyers in relation to the Convention and the pertinence of a research agenda for the Convention in light of the new trends pointed out by this ESIL Conference, and which affected, as it is shown in this call, to the Convention as well.

The Covid-19 crisis underscored the need for States to take measures in order to ensure that the Convention’s objectives - already difficult to achieve in non-pandemic times due to concentration of cultural expressions in some transnational companies - can be promoted in the post-crisis period. Different civil society actors, like the International Federation of Coalitions of Cultural Diversity have already expressed concerns in this regard. Moreover, an on-line meeting of Ministers of Culture that took place in April, under the auspices of UNESCO, and discussed novel policies for responding to the Covid-19 crisis in the context of the Convention. The digital aspects of cultural products, which have already been the object of the Operational Guidelines adopted by the Conference of the Parties of the Convention, seem to be a key issue of this health crisis and is spurring original debates and policies. In Spain, for instance, the VAT on digital books has been equated to that of the physical book. In France, as the editor Antoine Gallimard recently said, a debate is ongoing about the need to reopen small bookshops –those who assure cultural diversity- soon, respecting of course necessary public health measures.

All these characteristics pose relevant questions in terms of “changes in international law-making: actors, processes, impact” that we invite addressing in the responses to this call. This call is open not only to academics but also to practitioners and other stakeholders whose work offers means to reflect on the questions raised by this call. Specific questions include:

1. Is this “best practices” approach more adequate –in terms of effectiveness or in other terms – than a more classical oversight mechanism? A comparison could be made with other UNESCO Conventions, for instance.
2. Can this kind of “best practice” approach contribute to losing focus from one of the main objectives of the Convention, which is the respect of the obligation to promote and respect cultural diversity in the negotiation of free trade agreements? Can this kind of analysis contribute to offering new lenses for the debate on fragmentation of international law?
3. How can the relationships between civil society organisations and States Parties promoted by the Secretariat of the Convention be assessed? What is the role of civil society in implementing the Convention, and how to value its participation in the meetings of the Committee in terms of representativity or others?
4. Is it possible to identify a kind of emerging transnational regional (or local) law on cultural diversity?
5. What is the role played by some private institutions, such as the Internet Corporation for Assigned Names and Numbers (ICANN), which are not subject to international public obligations but have a fundamental role in the diversity of cultural expressions? This angle is particularly relevant taking into account that the majority of cultural products are transmitted online nowadays.
6. While the EU has always been one of the major actors in regional and global promotion of the Convention, the nature of its engagement has considerably evolved. To what extent the Convention has affected the EU’s international law-making praxis?
7. Whether and how is the Convention used in making international economic agreements? There is increasing reference to the Convention in different bilateral and regional agreements, including those promoted by the EU. What do these practices tell us about the (real) implementation of the Convention’s goals? Is there any role assigned to non-state actors in the creation and/or implementation of these agreements?
8. What is the real impact of the projects financed by the International Fund of Cultural Diversity measured against the main objective of the Convention, namely, to contribute to a more balanced presence of cultural products in the international sphere in terms of cultural diversity?
9. What are the advantages and disadvantages of linking the Convention with other international instruments or agendas, for instance the 2030 Agenda of Sustainable Development, which would find its basis in Art. 13 of the Convention?
10. What is the Covid-19 crisis putting in relief about the need of measures such as those foreseen in the Convention? How can the objectives of the Convention be promoted in the post-Covid-19 global landscape?

**Application Process**

Please submit an abstract in .Doc or PDF format (in English) of no more than 500 words by midnight on 30 June 2020 (Brussels time) to all of the IG Convenors: beatriz.barreiro@urjc.es; l.lixinski@unsw.edu.au; andrzejjak@poczta.fm.

The following information must be provided with each abstract:

•The author’s name and affiliation;

•The author’s brief bio note (up to 200 words), and a short list of relevant publications (up to 5);

•The author’s contact details, including email address and phone number.

Only one abstract per author will be considered. Multi-authored abstracts are welcome.

Applicants will be informed of the selection committee’s decision no later than 10 July.

Full papers (between 8,000-8,500 words, including footnotes) should be submitted by 30 September 2020. We envisage papers to be published in an edited collection or a special edition of a journal, given the topicality of the 2005 Convention’s anniversary.