

The Promotion of Cultural Diversity via New Media Technologies: An Introduction to the Challenges of Operationalisation

by *Tarlach McGonagle*

EDITORIAL

Sometimes it might be unavoidable to use catchall phrases when discussing legislative programmes and policies. Perhaps more often than not, this is even warranted inasmuch as it helps to unite discussants with very different backgrounds and agendas. Catchall policy and catchall law-making risk, however, that people stay united in theory but not in practice.

Cultural diversity is one of those terms that manage to accommodate different meanings and varying concepts. In addition, the term cultural diversity is often deployed together with other concepts as important as social tolerance, freedom of expression and democracy. At the same time, it is held out in defence against perceived threats from a global market and serves as justification for concrete state action in support of the creative industry.

This IRIS *plus* presupposes that it is important to clarify potential meanings of cultural diversity and arising concepts if we wish to experience cultural diversity in the form of concrete results. The need for clarification becomes more pressing with a view to technological advances which already by themselves, and all the more in tandem with vague concepts, challenge existing legal frameworks. This IRIS *plus* is a first and very useful step on a long way to go.

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Susanne Nikoltchev

IRIS Coordinator

*Head of the Department for Legal Information
European Audiovisual Observatory*

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TEL. +33 (0)3 88 14 44 00 • FAX +33 (0)3 88 14 44 19
<http://www.obs.coe.int>
e-mail: obs@obs.coe.int

The Promotion of Cultural Diversity via New Media Technologies: An Introduction to the Challenges of Operationalisation

Tarlach McGonagle
Institute for Information Law (IVI^R)
University of Amsterdam

Introduction

Culture has been described as “an overworked concept with little semantic precision”,¹ and cultural rights as “the Cinderella of the human rights family”.² To continue in the same metaphorical vein, the objective of promoting cultural diversity could be considered a jaded ideal, worn-out by unfulfilled ambition and under-appreciation. Preambular provisions of treaties and non-binding standard-setting texts routinely refer to the objective of promoting cultural diversity, but only intermittently attempt to prise open the notion or provide for its concrete application. In recent years, however, the substantive sections of a variety of normative texts at European and international levels have begun to explore the content and scope of cultural diversity, as well as its relationship with new media technologies. The purpose of this article is to examine what cultural diversity actually entails; explain why it ought to be promoted, and assess the important role of new media technologies in advancing that aim. As such, it seeks to engage with the challenges of operationalising cultural diversity.

I. Contextualisation: Theory and Practice

Defining Culture and Cultural Rights

Culture is, as has already been suggested, a very nebulous concept, which explains why international instruments rarely seek to define its content or scope. One notable exception to this general reluctance is the UNESCO Universal Declaration on Cultural Diversity (2001),³ the Preamble of which reaffirms that culture should be regarded as:

the set of distinctive spiritual, material, intellectual and emotional features of society or a social group, and that it encompasses, in addition to art and literature, lifestyles, ways of living together, value systems, traditions and beliefs.

Even if they are in short supply in international instruments, attempted definitions of “culture” are important because they can serve as a basis for defining and determining the scope of cultural rights.⁴ In the past (again as already hinted in the Introduction, *supra*), cultural rights have suffered from relative neglect and their development has proved somewhat stunted as a result. This relative neglect can be attributed to a number of factors, all of which concern perceptions about the status of cultural rights. For example, for as long as the view was entertained that a dichotomy existed between so-called first and second generations of human rights, i.e., civil and political rights on the one hand and economic, social and cultural rights on the other hand, cultural rights tended to be located in the latter category. Nowadays, the dominant view is that all human rights are interdependent and inter-related⁵ and purported qualitative distinctions between both sets of rights (e.g. the assumption that economic, social and cultural rights do not give rise to firm State obligations) are consequently dismissed.⁶ In any case, cultural rights would be best understood as spanning both categories, as will be demonstrated, *infra*. Whether cultural rights should be classed as individual or collective rights has also tended to be a perennial subject of debate.⁷ A balanced view has been proposed which styles cultural rights as individual rights with a powerful collective dimension. Very often, cultural rights are primarily regarded as minority rights. While it cannot be gainsaid that cultural rights are indeed of vital importance for persons belonging to minorities who wish to protect and

develop their cultures, it is inaccurate to claim that cultural rights are the preserve of minorities: dominant societal groups also have very valid and vested interests in maintaining their cultures.⁸ It is therefore more correct to speak of the enhanced value of cultural rights for persons belonging to minorities than to claim exclusivity of relevance.

Next to the UNESCO Declaration – with its specific focus on cultural *diversity* – other more general international human rights instruments also contain occasional references to various rights associated with the enjoyment of culture, but without attempting to provide a comprehensive definition of the concept. For instance, Article 27(1) of the Universal Declaration of Human Rights reads: “Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits”.⁹ Pursuant to Article 27 of the International Covenant on Civil and Political Rights (ICCPR), persons belonging to ethnic, religious or linguistic minorities “shall not be denied the right” *inter alia* “to enjoy their own culture”. Article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), formulates the right of everyone to participate in cultural life, to benefit from scientific progress and its applications and to enjoy intellectual property rights.¹⁰

For present purposes, cultural rights will be understood as a cluster of rights, and as including distinct cultural rights as well as cultural dimensions to a range of other human rights.¹¹ The exercise of cultural rights therefore entails the right to maintain and develop one’s cultural identity, lead particular lifestyles, participate in cultural life and assemble, associate and organise for cultural purposes. The right to participate in cultural life implies the ability to access and exploit cultural heritage (including as recorded in audiovisual formats). Cultural heritage has been described as “a group of resources inherited from the past which people identify, independently of ownership, as a reflection and expression of their constantly evolving values, beliefs, knowledge and traditions. It includes all aspects of the environment resulting from the interaction between people and places through time”.¹²

Defining Cultural Diversity

When examining the notion of cultural diversity, it is important to avoid terminological entrapment. It is not sufficient to monitor the frequency with which the precise term, “cultural diversity”, appears in normative human rights texts at the international level. One must instead look beyond the term and ensure that terminological variants and adjacent notions are also identified and examined. Thus, “cultural pluralism”, will often be relevant, given its semantic congruence with “cultural diversity”. Furthermore, “cultural heritage” and “cultural rights” can also usually lay claim to relevance, due to their relationship with “cultural diversity”, as set out, *supra*. The same is true of “linguistic diversity” and “media pluralism”.¹³

Cultural diversity is not a right, as such, or at least not a right that is straightforwardly justiciable. For the purposes of this article, it will be treated as an operative public value, in the sense developed by Bhikhu Parekh. He labels “operative public values” those values “that a society cherishes as part of its collective identity and in terms of which it regulates the relations between its members”, and which “constitute the moral structure of its public life and give it coherence and stability”.¹⁴ To describe cultural diversity as an operative public value is therefore to insist that it

is more than just a guiding interpretive principle for law- and policy-making. It is to point to the need to operationalise the notion; to incorporate it into regulatory, policy-making and institutional structures and practices and thereby ensure that it is meaningfully applied. Although the term, “operative public value” is academic in origin, the approach it implies is broadly consistent with that envisaged by a number of standard-setting texts at the international level, which employ different terminology. For instance, cultural diversity is described as an “essential public interest objective” in the Council of Europe’s Committee of Ministers’ (CM) Recommendation Rec(2003)9 to member states on measures to promote the democratic and social contribution of digital broadcasting.¹⁵ Irrespective of the precise terminology used, the challenges of operationalisation remain the same.

Rationales for the Promotion of Cultural Diversity

Various rationales are advanced for promoting cultural diversity in normative texts at the European and international levels. For present purposes, they will be loosely grouped as follows: the intrinsic argument; the identity argument; the non-discrimination/equality argument; the democratic argument; the societal argument, and the economic argument. Each of these rationales will now be briefly considered in turn.

Intrinsic Argument

Simply stated, this argument holds that cultural diversity is valuable in and of itself. It is intrinsically beneficial. The argument derives from the view that every culture is an inherent source of wealth and that their co-existence ultimately leads to their mutual enrichment.¹⁶

Identity Argument

This argument is premised on the view that cultural diversity arises from the co-existence of a multiplicity of cultural identities and practices. As such, the identity argument can be grounded in concerns for individual and group dignity. If individuals and groups are denied the freedom to maintain and develop their identities, including through exercising their rights to freedom of expression, association, etc., their dignity can be adversely affected.

Non-discrimination/Equality Argument

This argument draws on the transversal effects of the right not to be subjected to discrimination: the right necessarily extends to cultural rights. If the principles of non-discrimination and equality were not applied in respect of cultural rights, the prospect of achieving cultural diversity in society would be seriously curtailed.

Democratic Argument

The non-discrimination/equality argument also feeds into the democratic argument, which prioritises participation in public life, including cultural life¹⁷ and public debate.¹⁸ Access to cultural heritage is of considerable practical importance for democratic participation.¹⁹

Societal Argument

The societal argument holds that cultural diversity is “a source and factor, not of division, but of enrichment for each society”.²⁰ It also holds that “a climate of tolerance and dialogue” is necessary for the realisation of this aim.²¹ In other words, pluralistic tolerance is a precondition for cultural diversity, which in turn enhances societal cohesion and stability.

Economic Argument

This argument acknowledges the economic importance of the

culture industries.²² Creativity and diversity (cultural and linguistic) can stimulate economies and (labour) markets. Such acknowledgements complement a strictly human rights-based approach and make for a more multi-faceted approach to cultural diversity. Another dimension to this argument implicates cultural heritage, the active protection of which has been identified as “a central factor in the mutually supporting objectives of sustainable development, cultural diversity and contemporary creativity”.²³

Enabling Cultural Diversity

As affirmed by various pertinent texts, the attainment of cultural diversity in society presupposes the existence of a favourable enabling environment for the effective exercise of cultural rights.²⁴ Cultural diversity can only be achieved when pluralism is safeguarded at societal level, meaning that groups are able to develop and express their cultural identities and to practise their distinctive cultures both in public and in private. This thinking also finds clear expression in the Council of Europe’s Framework Convention for the Protection of National Minorities (FCNM). It recognises the link between the freedom to exercise cultural rights, societal pluralism and cultural diversity, *inter alia*, in the following provisions:

Considering that a pluralist and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop this identity; (Recital 7, Preamble to FCNM).

The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage. (Article 5(1), FCNM).

The right to freedom of expression is a prerequisite for the exercise of cultural rights and for the enablement of cultural diversity.²⁵ As stated succinctly by the Council of Europe’s Committee of Ministers: “Cultural diversity cannot be expressed without the conditions for free creative expression, and freedom of information existing in all forms of cultural exchange, notably with respect to audiovisual services”.²⁶ This approach also logically requires that expressive and dialogical fora are available and accessible on a non-discriminatory basis. By extension, the media, as vectors of culture and cultural identities, are capable of making a major contribution to the promotion of cultural diversity. This observation applies, *mutatis mutandis*, to new media technologies, as will be demonstrated in the next section.

II. The Normative Framework

The foregoing section elucidated the meaning of cultural diversity; explored the (often overlapping) rationales for its promotion; identified the most important features of a favourable enabling environment for the realisation of cultural diversity, and introduced the importance of freedom of expression and the media for the promotion of cultural diversity. This section will sketch the normative framework for the promotion of cultural diversity at the European and global levels. Selected focuses within that normative framework which deal specifically with the role of new media technologies in the advancement of cultural diversity, will be examined accordingly.

Council of Europe

Various Council of Europe treaties serve to promote cultural diversity, either directly or indirectly. The ECHR does not explicitly provide for the protection of cultural rights and an initiative proposing to draft an additional protocol to the Convention on



cultural rights in the 1990s never came to fruition.²⁷ However, given that cultural rights include a range of different rights, as outlined, *supra*, it is clear that the ECHR does, in practice, afford cultural rights a considerable degree of protection. Indeed, the growing recognition of cultural rights by the European Court of Human Rights accounts in large measure for what has been termed the Court's "burgeoning minority rights jurisprudence".²⁸

One of the early treaties elaborated by the Council of Europe was the European Cultural Convention. It is deliberately general in character and was designed to "foster [...] the study of the languages, history and civilisation of the others and of the civilisation which is common to [all nationals of States Parties to the Convention]".²⁹ It is an important point of general reference, but it does not specifically address the potential contribution of the media to the promotion of cultural diversity (or, needless to say, that of new media technologies).

Article 10 of the European Convention on Transfrontier Television (ECTT), is entitled "Cultural objectives", but its focus is very Eurocentric and does not explicitly embrace the promotion of cultural diversity *per se*. Rather, it seeks to promote European works/production by requiring broadcasters to devote the majority proportion of their transmission time to European works (Article 10(1)) and to get States to "look together for the most appropriate instruments and procedures to support, without discrimination between broadcasters, the activity and development of European production, particularly in countries with a low audiovisual production capacity or restricted language area" (Article 10(3)). As such, its contribution to the promotion of cultural diversity is limited and specific.

The importance of protecting and promoting cultural heritage and audiovisual heritage for ensuring a favourable enabling environment for the promotion of cultural diversity has already been explained, *supra*. Two Council of Europe treaties dealing specifically with those issues are the Framework Convention on the Value of Cultural Heritage for Society³⁰ and the European Convention for the Protection of the Audiovisual Heritage.³¹

The Framework Convention on the Value of Cultural Heritage for Society includes useful measures for promoting the protection of cultural heritage, like the requirement that States develop laws and policies for that purpose.³² Specific emphases within the Framework Convention couple "access to cultural heritage" with "democratic participation" (Article 12) and "cultural heritage" with "knowledge". Such couplings underscore the importance of rendering cultural heritage accessible for the realisation of cultural rights and cultural diversity. A further coupling is of particular relevance for the promotion of cultural diversity by new media technologies: Article 14, entitled "Cultural heritage and the information society". It requires States Parties to "develop the use of digital technology to enhance access to cultural heritage and the benefits which derive from it", *inter alia*, by "encouraging initiatives which promote the quality of contents and endeavour to secure diversity of languages and cultures in the information society".³³

The Convention for the Protection of the Audiovisual Heritage, as its name suggests, focuses on audiovisual material recording and expressing cultural heritage.³⁴ Its central aim is to:

ensure the protection of the European audiovisual heritage and its appreciation both as an art form and as a record of our past by means of its collection, its preservation and the availability of moving image material for cultural, scientific and research purposes, in the public interest.³⁵

This aim is informed by the realisation that "Europe's heritage reflects the cultural identity and diversity of its peoples"³⁶ and the recognition that "moving image material",³⁷ as "a form of cultural expression reflecting contemporary society" and "an excellent means of recording everyday events [...]",³⁸ is a valuable cultural

resource meriting concerted protection by States. Importantly, the Convention anticipates the potential of future technological developments for enhancing the preservation of audiovisual heritage. Article 18 explicitly provides for the conclusion of new Protocols "dealing with moving image material other than cinematographic works [...]" with a view to developing, in specific fields, the principles contained in this Convention".

Two examples of treaties which contribute to the promotion of cultural diversity, without that objective being their central concern, are the European Charter for Regional or Minority Languages (ECRML) and the Framework Convention for the Protection of National Minorities (FCNM). The Preamble to the ECRML acknowledges that:

the protection and promotion of regional or minority languages in the different countries and regions of Europe represent an important contribution to the building of a Europe based on the principles of democracy and cultural diversity within the framework of national sovereignty and territorial integrity. (Recital 7, Preamble to ECRML).

Article 12, ECRML, is entitled, "Cultural activities and facilities" and comprises a list of possible measures to be taken by States Parties with a view to enhancing cultural activities and facilities in regional or minority languages. The activities and facilities include "especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including *inter alia* the use of new technologies". Thus, the exploitation of new media technologies is expressly envisaged for the development of cultural activities and facilities.

Whereas the title of the FCNM may suggest a certain narrowness of focus, it actually addresses many issues concerning society as a whole, and not only persons belonging to national minorities. It pursues its central objective – the protection of national minorities – in a complex, majority-minority dialectic. In other words, it strives to assure the protection of national minorities within the broader context of pluralist society.³⁹ The importance of the FCNM has already been referred to in the context of the so-called "societal" argument for promoting cultural diversity. Other provisions of the FCNM provide further evidence of the strong linkage between the goals of promoting tolerance, intergroup understanding and cultural diversity, and in particular, the instrumental importance of the media in respect of each goal:

The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media. (Article 6(1), FCNM).

In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism. (Article 9(4), FCNM).

Although the actual text of the FCNM does not distinguish between traditional broadcasting and new media technologies, their functional differences are increasingly being explored in the official monitoring processes of the FCNM and also by the Council of Europe's Committee of Experts on Issues Relating to the Protection of National Minorities (DH-MIN).⁴⁰

Alongside the treaty-based standard-setting work of the Council of Europe concerning the promotion of cultural diversity via (new) media, a host of relevant standard-setting measures have also been adopted by its Committee of Ministers, the most important of which will now be presented in tabular form:

Text	Topic
Declaration (2008)	Allocation & management of the digital dividend & the public interest
Rec (2007) 16	Promotion of public service value of the Internet
Rec (2007) 3	Remit of public service media in the information society
Rec (2007) 2	Media pluralism and diversity of media content
Declaration (2007)	Protecting role of media in democracy & in context of media concentration
Declaration (2006)	Guarantee of the independence of PSB in the member states
Declaration (2005)	Human rights and the rule of law in the Information Society
Rec. No. R (2003) 9	Promotion of democratic and social contribution of digital broadcasting
Political Message (2003)	Political Message to WSIS
Declaration (2000)	Cultural diversity
Declaration (1999)	A European policy for new information technologies
Rec. No. R (99) 1	Measures to promote media pluralism
Rec. No. R (99) 14	Universal community service concerning new communication and information services
Rec. No. R (96) 10	Guarantee of independence of public service broadcasting
Declaration (1982)	Freedom of expression and information

Instead of conducting an itemised analysis of these CM texts, their essence will be examined in the context of public service broadcasting/media and, more generally, public service values. Beforehand, though, it is necessary to briefly signal the importance of relevant texts emanating from other limbs of the Council of Europe. The promotion of cultural diversity via the media has regularly appeared on the agenda of European Ministerial Conferences on Mass Media Policy.⁴¹ The prioritisation of the objective in respect of the digital environment, including the potential role of public service broadcasting, was emphatic in the most recent Ministerial Conference in Kyiv, especially in Resolution No. 2, adopted at the Conference: "Cultural diversity and media pluralism in times of globalisation". The Parliamentary Assembly of the Council of Europe has also adopted texts dealing with these issues, most pertinently its Recommendation 1067 (1987) on the cultural dimension of broadcasting in Europe; Resolution 1313 (2003), "Cultural co-operation between Europe and the south Mediterranean countries"; Recommendation 1641 (2004), "Public service broadcasting", and Recommendation 1674 (2004), "Challenges facing the European audiovisual sector".

Public Service Broadcasting/Media

By virtue of its philosophy and mandate, public service broadcasting (or public service media, as they are increasingly being called in deference to the diversification of technological forms across which they (may) operate) is simultaneously an ideal agent to, and an ideal forum in which to, promote cultural diversity. The promotion of cultural diversity is widely regarded as a general objective of PSB,⁴² but it can also feature in a more detailed fashion among the more specific objectives of PSB.⁴³ For example, the CM's Recommendation on the remit of public service media in the information society emphasises that:

In their programming and content, public service media should reflect the increasingly multi-ethnic and multicultural societies in which they operate, protecting the cultural heritage of different minorities and communities, providing possibilities for cultural expression and exchange, and promoting closer integration, without obliterating cultural diversity at the national level.⁴⁴

It should be noted that the Recommendation understands cultural diversity in an open, inclusive way – there is no question of the notion being restricted to European cultural diversity, as in the aforementioned regulatory measures prescribing the transmission

of European audiovisual works. This is clear from para. 24 of the Recommendation, which states: "Public service media should promote respect for cultural diversity, while simultaneously introducing the audience to the cultures of other peoples around the world".

PSB is currently in a state of transition, but as Karol Jakubowicz has noted, "there was hardly a time in the eight decades of PSB's existence when it was not 'in transition'".⁴⁵ He describes the challenges constantly faced by PSB as being "at once conceptual and contextual": different understandings of the role of PSB and the fact that "changing contexts of PSB operation have always affected the shape, nature and objectives of that media institution and positioned it in society and on the media scene in a variety of ways".⁴⁶ The current state of transition has been triggered by technological, market-related and socio-cultural trends.⁴⁷ How PSB engages with these new trends will largely determine its future, but its engagement must also remain within relevant parameters set by EU law, e.g. rules and guidelines governing State funding for PSB and the relationship between such funding and PSB mandates. Broadcasting technologies are becoming inexorably digitised and converged. If PSB is to retain its previous (or even current) level of influence in this new technological environment, it is imperative that it develops into an effective player across diverse media types and formats.

Calls for increased general PSB exploitation of new technological opportunities are also increasingly being linked to the specific goal of promoting cultural diversity. For example, again in its Recommendation on the remit of public service media in the information society, the CM stated:

Public service media should play a particular role in the promotion of cultural diversity and identity, including through new communication services and platforms. To this end, public service media should continue to invest in new, original content production, made in formats suitable for the new communication services. They should support the creation and production of domestic audiovisual works reflecting as well local and regional characteristics.⁴⁸

Public Service Values

The CM's Recommendation on measures to promote the public service value of the Internet,⁴⁹ picks up on this theme. Its central objective is to prompt States Authorities, where appropriate in cooperation with all interested parties, to take all necessary measures to promote the public service value of the Internet, *inter alia* by "upholding human rights, democracy and the rule of law [...] and promoting social cohesion, respect for cultural diversity and trust" in respect of the Internet and other ICTs. States authorities are expected to draw on the guidelines appended to the Recommendation in their efforts to realise its central objective. The guidelines have five main focuses: human rights and democracy; access; openness; diversity, and security. The guidelines' focus on diversity strives for equitable and universal involvement in the development of Internet and ICT content. As such, they encourage, *inter alia*:

- the development of a cultural dimension to digital content production, including by public service media;
- strategies and policies geared towards the preservation of digital heritage;
- participation in "the creation, modification and remixing of interactive content";
- measures for the production and distribution of user- and community-generated content;
- capacity-building for local and indigenous content on the Internet;
- multilingualism on the Internet.

The CM's Declaration on a European Policy for New Information Technologies⁵⁰ also engages in a detailed way with the specific potential of new media technologies for stimulating cultural diversity. The most relevant section of the Declaration, section (iv) concerning diversity of content and language, includes the following aims:

- to encourage the development of a wide range of communication and information networks, as well as the diversity of content and language, so as to foster political pluralism, cultural diversity and sustainable development;
- to promote the full use by all, including minorities, of the opportunities for exchange of opinion and self-expression offered by the new information technologies;
- to acknowledge the usefulness of these technologies in enabling all European countries and regions to express their cultural identities;
- to encourage the provision of cultural, educational and other products and services in an appropriate variety of languages and to promote the greatest possible diversity of these products and services;
- [...]

These engagements with the specificities of new media technologies and their identification of how they can serve the goal of promoting cultural diversity are welcome. They represent a significant step forward from numerous generalised affirmations of the potential of new media technologies for promoting cultural diversity (which, while welcome in their own right, offered little practical guidance as to how they actually promoted the goal).⁵¹

European Union

Under the Treaty of Lisbon, the European Union's commitments to human rights are strengthened considerably, including in ways which have implications for the promotion of cultural diversity. For instance, the proposed new Article 1a to the Treaty on European Union (TEU) sets out an extended range of foundational values of the Union, including respect for human dignity, human rights, minority rights, societal pluralism and non-discrimination.⁵²

Relatedly, the reworked Article 2, TEU, states that the Union "shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced". Very significantly, the new Article 6.1 accords the Charter of Fundamental Rights of the European Union "the same legal value as the Treaties".⁵³ Under the new Article 6.2, the EU "shall accede" to the ECHR.⁵⁴ Article 6.3 affirms that fundamental rights, as guaranteed by the ECHR and resulting from the constitutional traditions of Member States, "shall constitute general principles of the Union's law".

One of the most important legal bases for the protection of cultural heritage and diversity (including languages) has heretofore been Article 151 of the Treaty establishing the European Community.⁵⁵ Article 151(1) states: "The Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore".⁵⁶ Article 151(4) follows up on that commitment: "The Community shall take cultural aspects into account in its action under other provisions of this Treaty, in particular in order to respect and to promote the diversity of its cultures".

Article 22 of the Charter of Fundamental Rights of the European Union⁵⁷ is entitled "Cultural, religious and linguistic diversity"; it reads: "The Union shall respect cultural, religious and linguistic diversity". It is based on Article 6, TEU, and Article 151(1) and (4) of the EC Treaty.⁵⁸ Although the explicit reference to cultural diversity is welcome, "shall respect" is a significantly weaker formulation than, for example, "guarantee", "secure" or "promote". As such, it involves a considerably lighter commitment for States. Second, the Explanatory Note does not spell out the essence or scope of cultural diversity, which suggests a non-committal attitude to – or wariness of – its actual or potential implications.

The commentary on Article 22 provided by the EU Network of Independent Experts on Fundamental Rights is very brief and does

not meaningfully engage with the treatment of relevant legal issues under international (human rights) treaties, including the ECHR.⁵⁹ The commentary does, however, usefully refer to the link between cultural diversity and broadcasting. It describes the "Television without Frontiers" Directive as being the text that is probably the closest to Article 22 of the Charter because of the instrumentality of its quota system for European works for preserving cultural creation and therefore diversity.

The quota system for European, and independent European, works is set out in Articles 4-5, *juncto* 6, of the "Television without Frontiers" Directive. Those Articles tend to be regarded as the main provisions in the Directive which, by design or in effect, serve the goal of promoting cultural diversity in broadcasting.⁶⁰ As no other Article in the Directive deals with cultural diversity *per se*, it is perhaps predictable that the Articles promoting European, and independent European, works might, by default, be considered to be the most relevant. However, upon closer scrutiny, the perceived relevance of Articles 4 and 5 turns out to be somewhat specious as the (intended and actual) contribution of these Articles to the goal of promoting cultural diversity in broadcasting is actually quite limited.

Articles 4 and 5 pursue dual economic and cultural objectives, but those objectives are not evenly weighted. The actual wording of relevant preambular Recitals and of the Articles themselves, as well as the *Realpolitik* of their drafting history, all suggest that Articles 4 and 5 were really conceived of as protective economic measures, designed to support the European audiovisual industry in the face of US dominance of global audiovisual markets. The purported cultural objectives of Articles 4-5 suffer from a number of shortcomings: they lack any qualitative criteria; they lack any stipulations about time-scheduling and they lack any requirement to reinvest percentages of *profits* in new, independent European production. Such shortcomings increase the likelihood of mere *pro forma* compliance with Articles 4 and 5 by cost-conscious broadcasters who might prefer to meet their obligations by transmitting cheap, low-quality programming at off-peak hours. The reporting system concerning Articles 4 and 5 is primarily statistical, which makes it very difficult to gauge the qualitative impact of the provisions.⁶¹ All in all, it must be concluded that any contribution made by Articles 4 and 5 to the promotion of cultural diversity in broadcasting should be regarded as incidental to their primary focus, i.e., the separate objective of promoting European and independent European works. The two objectives are not necessarily mutually exclusive, but they should not automatically be equated with one another.

The preamble to the Audiovisual Media Services (AVMS) Directive⁶² is sprinkled with references to the goal of promoting cultural diversity in the European audiovisual sector: most saliently, Recitals 1, 4, 5, 8 and 48. Of these, the first four are, by and large, differently-crafted re-affirmations of the importance of cultural (and linguistic) diversity. Recital 48, for its part, deals more specifically with the goal of promoting cultural diversity specifically in respect of on-demand audiovisual media services. It states that because "On-demand audiovisual media services have the potential to partially replace television broadcasting [...], they should, where practicable, promote the production and distribution of European works and thus contribute actively to the promotion of cultural diversity". It then suggests different possible support measures for European works, such as "financial contributions by such services to the production of and acquisition of rights in European works, a minimum share of European works in video-on-demand catalogues, or the attractive presentation of European works in electronic programme guides".

Recital 48, as shored up by Article 3i, AVMS Directive,⁶³ carries over the logic that the promotion of European and independent European works constitutes an active contribution to the promotion of cultural diversity. Nevertheless, they do usefully provide illustrative/non-prescriptive examples of how cultural works can be promoted in respect of on-demand audiovisual services.

UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions

The UNESCO Declaration on Cultural Diversity elucidates and collates the various rationales for promoting cultural diversity, as outlined in the first section of this article. Its explanatory value is very helpful. It teases out important links between theory and practice. The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions⁶⁴ represents a semantic and conceptual shift from the Declaration. The Convention shows greater attention for means than for ends and for the conviction that cultural diversity is instrumental in securing a range of cultural freedoms and exchange, including the free flow of cultural activities, goods and services.⁶⁵

The Convention seeks to protect and promote the diversity of cultural expressions and to create an appropriate climate in which cultures can thrive. Other key goals are to strengthen awareness of and respect for such diversity at all levels and to encourage inter-cultural interaction and dialogue. The Convention also aims to stress the linkage “between culture and development for all countries, particularly for developing countries” and to “give recognition to the distinctive nature of cultural activities, goods and services as vehicles of identity, values and meaning”. Of particular importance is its reaffirmation of “the sovereign rights of States to maintain, adopt and implement policies and measures that they deem appropriate for the protection and promotion of the diversity of cultural expressions on their territory” (see also, Article 5 of the Convention).

Article 2 sets out those “Guiding Principles”: respect for human rights and fundamental freedoms; [State] sovereignty; equal dignity and respect for all cultures; international solidarity and cooperation; the complementarity of economic and cultural aspects of development; sustainable development; equitable access, and openness and balance.

Article 6 proceeds to explore a range of measures that States Parties may adopt with a view to protecting and promoting the diversity of cultural expressions. A list of illustrative examples of appropriate measures is preferred to a general definition of the same. The indicative list of measures includes: regulation; public financing; provision of opportunities for the “creation, production, dissemination, distribution and enjoyment of such domestic cultural activities, goods and services, including provisions relating to the language used for such activities, goods and services”; ensuring effective access for “domestic independent cultural industries and activities in the informal sector” to “the means of production, dissemination and distribution of cultural activities, goods and services”; encouragement of [efforts of] non-profit organisations, public and private institutions, artists and other cultural professionals; establishment and support of public institutions, “as appropriate”. Last, but certainly not least, “measures aimed at enhancing diversity of the media, including through public service broadcasting”, are also contemplated.

Under Article 7 (“Measures to promote cultural expressions”), States Parties “shall endeavour to create in their territory an environment which encourages individuals and social groups” to carry out a number of activities. Reliance on weak wording like “endeavour” and vague aims like the creation of an environment which encourages certain action, does not augur well for the effective attainment of the aims in question. For example, the Article states that individuals and social groups should be encouraged:

to create, produce, disseminate, distribute and have access to their own cultural expressions, paying due attention to the special circumstances and needs of women as well as various social groups, including persons belonging to minorities and indigenous peoples;

Nevertheless, this reference to creation, production, dissemination, distribution and access to cultural expressions, like other

similarly itemised references elsewhere in the Convention, is important as it implicates a range of actors at different stages of the generation and transmission of cultural expressions.⁶⁶ The explicit call for attention for the situational specificities of particular groups is also welcome.

Having been ratified by the requisite 30 States, the Convention entered into force on 18 March 2007, less than 18 months after its adoption. The speed with which the requisite ratifications were achieved owes much to support for the Convention from Europe. The accession of the European Community to the Convention on 18 December 2006 proved a major catalyst for its entry into force, but active support for the Convention was also forthcoming from the Council of Europe. A Recommendation adopted by the Council of Europe’s Committee of Ministers called on Member States to ratify, accept, approve or accede to the UNESCO Convention at the earliest opportunity, on account of “the commonality between the objectives and guiding principles” set out in the Convention and various Council of Europe instruments concerning culture and the media.⁶⁷ The Recommendation also declared that the Council of Europe would have due regard for the provisions of the Convention in its work and that it would “contribute to their implementation”. While it is still too early to meaningfully evaluate the impact of the Convention, it is clearly of symbolic and political importance: it affirms the principle of State sovereignty in cultural matters and its general, multi-faceted approach to the diversity of cultural expressions represents an important counterweight to the predominantly commercial or trade-oriented approaches at the international level, e.g. under GATT and GATS.

World Summit on the Information Society (WSIS)

The Declaration of Principles adopted at the Geneva Phase of WSIS brackets cultural diversity and identity with linguistic diversity and local content.⁶⁸ Its approach to the promotion of cultural diversity is content-oriented and technologically-informed. Like the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, WSIS explicitly links the wider goal of promoting cultural diversity to the discrete goals of promoting the production of, and accessibility to, different types of content in diverse languages and formats.⁶⁹ These goals are, in turn, linked to the goal of promoting wide and inclusive participation in the Information Society.⁷⁰ It also emphasises the instrumental role that technology can play in preserving cultural heritage, which it recognises as “a crucial component of identity and self-understanding of individuals that links a community to its past”.⁷¹ At the Tunis Phase of WSIS, signatory States committed themselves to “promote the inclusion of all peoples in the Information Society through the development and use of local and/or indigenous languages in ICTs” and to generally continue to “protect and promote cultural diversity, as well as cultural identities, within the Information Society”.⁷² In the context of follow-up work to WSIS, relevant issues continue to be addressed, *inter alia*, by the International Association for Media and Communication Research (IAMCR), under so-called Action-line C8 (cultural diversity).

Conclusion

This article has briefly mapped emergent trends in European and international standard-setting texts seeking to promote cultural diversity. Those trends reveal broad congruence in their understandings of how the potential of new media technologies can be harnessed in order to advance the objective of cultural diversity. Engagement with the specific features of new technologies is essential, as is the unravelling of the concept, “cultural diversity”, and its contextualisation in the broader perspective of culture and cultural rights. This article hopes to have provided some introductory orientation for more detailed engagement with the challenges of operationalisation.⁷³

- 1) Asbjorn Eide, "Cultural Rights as Individual Human Rights", in Asbjorn Eide *et al.*, Eds., *Economic, Social and Cultural Rights* (2nd Edition) (The Netherlands, Kluwer Law International, 2001), pp. 289-301, at 290.
- 2) G. Filibek, as cited in Halina Niec, "Casting the foundation for the implementation of cultural rights", in Halina Niec, Ed., *Cultural Rights and Wrongs: A collection of essays in commemoration of the 50th anniversary of the Universal Declaration of Human Rights* (United Kingdom, UNESCO, 1998), pp. 176-189, at 176. See also in this connection, Yvonne Donders, *Towards a Right to Cultural Identity?* (Antwerpen/Oxford/New York, Intersentia, 2002), pp. 65 *et seq.*
- 3) Adopted unanimously by the UNESCO General Conference at its 31st session on 2 November 2001. For a detailed overview of UNESCO's other standard-setting and activities in the realm of culture, see generally: Yvonne Donders, "The History of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions" (forthcoming 2008, text on file with author).
- 4) See generally: Adam Kuper, *Culture: The Anthropologists' Account* (Cambridge, Massachusetts/London, England, Harvard University Press, 1999).
- 5) World Conference on Human Rights - The Vienna Declaration, 1993 (esp. Article 5).
- 6) See further: Christian Tomuschat, *Human Rights: Between Idealism and Realism* (United Kingdom, Oxford University Press, 2003), Chapter 3.
- 7) For a representative view of both sides of the debate, see, respectively: Asbjorn Eide, "Cultural Rights as Individual Human Rights", *op. cit.*; Lyndel V. Prott, "Cultural Rights as Peoples' Rights in International Law", in James Crawford, Ed., *The Rights of Peoples* (Oxford, Clarendon Press, 1988), pp. 93-106.
- 8) See generally: Asbjorn Eide, "Cultural Rights and Minorities: Essay in Honour of Erica-Irene Dae", in Gudmundur Alfredsson & Maria Stavropoulou, Eds., *Justice Pending: Indigenous Peoples and Other Good Causes* (The Hague, Martinus Nijhoff Publishing, 2002), pp. 83-97; Wolf Mannens, "The International Status of Cultural Rights for National Minorities", in Peter Cumper & Steven Wheatley, Eds., *Minority Rights in the 'New' Europe* (Great Britain, Kluwer Law International, 1999), pp. 185-196.
- 9) For commentary on Article 27, UDHR, and its drafting history, see, Albert Verdoordt, *Naissance et signification de la Déclaration des droits de l'homme*, *op. cit.*, pp. 252-257; Yvonne Donders, *Towards a Right to Cultural Identity?*, *op. cit.*, pp. 139-144; Elsa Stamatopoulou, *Cultural Rights in International Law: Article 27 of the Universal Declaration and Beyond* (Leiden/Boston, Martinus Nijhoff Publishers, 2007).
- 10) For commentary on Article 15, ICESCR, its drafting history and application, see, Yvonne Donders, *Towards a Right to Cultural Identity?*, *op. cit.*, pp. 144-162.
- 11) *Ibid.*, p. 73.
- 12) Article 2a, Council of Europe Framework Convention on the Value of Cultural Heritage for Society, CETS No. 199, 27 October 2005 (see further, *infra*).
- 13) The multivalent character of the notion of cultural diversity is captured in Article 6 of the UNESCO Declaration on Cultural Diversity, cited *infra*.
- 14) Bhikhu Parekh, *Rethinking Multiculturalism: Cultural Diversity and Political Theory* (2nd Edition) (New York, Palgrave Macmillan, 2006), p. 363.
- 15) Adopted on 28 May 2003.
- 16) The intrinsic argument is approximated in Article 1, UNESCO Declaration on Cultural Diversity, the Preamble to the UNESCO Convention on the Protection and Promotion of Cultural Expressions, and in a Eurocentric way in Article 151 EC.
- 17) Article 15, Framework Convention for the Protection of National Minorities (FCNM), CETS No. 157, 1 February 1995 (entry into force: 1 February 1998).
- 18) European Commission, White Paper on a European Communication Policy, COM(2006) 35 final, Brussels, 1 February 2006, pp. 5-6.
- 19) Article 12, Council of Europe Framework Convention on the Value of Cultural Heritage for Society.
- 20) Recital 8, Preamble to FCNM.
- 21) *Ibid.*
- 22) This argument features strongly in relevant EU texts, but its relevance is also readily acknowledged in other texts, such as those emanating from the Council of Europe (e.g. CM Declaration on cultural diversity, 7 December 2000, para. 2.2) and the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.
- 23) Article 5, Council of Europe Framework Convention on the Value of Cultural Heritage for Society.
- 24) Article 5 of UNESCO's Universal Declaration on Cultural Diversity and Section 3 of the Council of Europe's CM Declaration on Cultural Diversity.
- 25) See further: Article 6, UNESCO Declaration on Cultural Diversity. It reads: "Freedom of expression, media pluralism, multilingualism, equal access to art and to scientific and technological knowledge, including in digital form, and the possibility for all cultures to have access to means of expression and dissemination are the guarantees of cultural diversity."
- 26) CM Declaration on Cultural Diversity, para. 1.2.
- 27) For an overview of the process, see: Patrick Thornberry & María Amor Martín Estébanez, *Minority Rights in Europe* (Germany, Council of Europe, 2004), p. 205.
- 28) Geoff Gilbert, "The Burgeoning Minority Rights Jurisprudence of the European Court of Human Rights" 24 *Human Rights Quarterly* (2002) 736-780.
- 29) European Cultural Convention, ETS No. 18, 19 December 1954 (entry into force: 5 May 1955), Preamble (Recital 5).
- 30) *Op. cit.*
- 31) ETS No. 183, 8 November 2001 (entry into force: 1 January 2008).
- 32) Article 5.
- 33) Article 14.a. Undertakings listed in subsequent sub-sections of Article 14 are as follows:
 - b. supporting internationally compatible standards for the study, conservation, enhancement and security of cultural heritage, whilst combating illicit trafficking in cultural property;
 - c. seeking to resolve obstacles to access to information relating to cultural heritage, particularly for educational purposes, whilst protecting intellectual property rights;
 - d. recognising that the creation of digital contents related to the heritage should not prejudice the conservation of the existing heritage."
- 34) For an overview of the Convention, see: Sabina Gorini, "The Protection of Cinematographic Heritage in Europe", *IRIS plus* 2004-8.
- 35) Article 1.
- 36) Recital 3, Preamble.
- 37) "[M]oving image material" is defined in Article 2a of the Convention as "any set of moving images recorded by whatever means and on whatever medium, whether or not accompanied by sound, capable of conveying an impression of movement".
- 38) Recital 5, Preamble.
- 39) This is evident from various preambular provisions and, more substantively, Article 6(1), FCNM.
- 40) The initiative centres on a Report and accompanying Comments: Tom Moring, "Access of national minorities to the media: new challenges", Report for the Committee of Experts on Issues Relating to the Protection of National Minorities (DH-MIN), Council of Europe, Doc. No. DH-MIN(2006)015; Tarlach McGonagle, "Comments on the report on 'Access of minorities to the media: new challenges'", Committee of Experts on Issues Relating to the Protection of National Minorities (DH-MIN), Council of Europe, Doc. No. DH-MIN(2006)016; Karol Jakubowicz, "Comments on the report on 'Access of minorities to the media: new challenges'", Committee of Experts on Issues Relating to the Protection of National Minorities (DH-MIN), Council of Europe, Doc. No. DH-MIN(2006)017.
- 41) See generally, *European Ministerial Conferences on Mass Media Policy: Texts Adopted*, Media Division, Directorate General of Human Rights, Doc. No. DH-MM (2006) 4 (Strasbourg, 2006).
- 42) Preamble, CM Declaration on the guarantee of the independence of public service broadcasting in the member states, 27 September 2006; Preamble, CM Recommendation Rec(2003)9 on measures to promote the democratic and social contribution of digital broadcasting, *op. cit.*; Declaration on Cultural Diversity, *op. cit.*, para. 2.5.
- 43) For an overview of relevant Council of Europe standards in this area, see: Susanne Nikoltchev, "European Backing for Public Service Broadcasting: Council of Europe Rules and Standards", in Susanne Nikoltchev, Ed., *IRIS Special: The Public Service Broadcasting Culture* (Strasbourg, European Audiovisual Observatory, 2007), pp. 7-15. For extensive examples in a range of European States, see the country overviews in *ibid.* See also, Thorsten Ader, "Cultural and Regional Remits in Broadcasting", *IRIS plus* 2006-8.
- 44) Recommendation CM/Rec(2007)3, 31 January 2007, para. 23.
- 45) Karol Jakubowicz, "Public Service Broadcasting: A Pawn on an Ideological Chessboard", in Els De Bens, Ed., *Media Between Culture and Commerce* (Bristol, UK & Chicago, USA, Intellect, 2007), pp. 115-141, at 116.
- 46) *Ibid.*
- 47) See, *ibid.*, at 120.
- 48) Recommendation CM/Rec(2007)3 on the remit of public service media in the information society, *op. cit.*, para. 19.
- 49) Recommendation CM/Rec(2007)16 of the Committee of Ministers to member states on measures to promote the public service value of the Internet, 7 November 2007.
- 50) Adopted on 7 May 1999.
- 51) CM Declaration on cultural diversity, *op. cit.*, Preamble & para. 2.3; CM Declaration on human rights and the rule of law in the Information Society, 13 May 2005, Section 3; CM Declaration on a European Policy for New Information Technologies, *op. cit.*, Preamble.
- 52) It reads: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."
- 53) See further in this connection: Declaration concerning the Charter of Fundamental Rights of the European Union, OJ C 306/249 of 17 December 2007.
- 54) See further in this connection: Protocol relating to Article 6(2) of the Treaty on European Union on the accession of the Union to the European Convention on the Protection of Human Rights and Fundamental Freedoms, OJ C 306/155 of 17 December 2007; Declaration on Article 6(2) of the Treaty on European Union, OJ C 306/249 of 17 December 2007.
- 55) Consolidated version, as published in the *Official Journal of the European Communities* of 24 December 2002, C 325/1.
- 56) See also in this connection, Articles 149, 150 and the subsequent paras. of Article 151, *id.* See also: Rachael Craufurd Smith, "From heritage conservation to European identity: Article 151 EC and the multi-faceted nature of Community cultural policy", 32 *E.L. Rev.* (February 2007), pp. 48-69.
- 57) Charter of Fundamental Rights of the European Union, Nice, 7 December 2000, as published in OJ C 364/1 of 18 December 2000, and revised and published in OJ C 303/01 of 14 December 2007.
- 58) Explanations relating to the Charter of Fundamental Rights, OJ C 303/17 of 14 December 2007, and for Article 22 of the Charter, *ibid.*, at p. 25.
- 59) Florence Benoit-Rohmer, "Article 22 - Cultural, religious and linguistic diversity", in EU Network of Independent Experts on Fundamental Rights, *The Commentary of the Charter of Fundamental Rights of the European Union* (2006), pp. 197-199.
- 60) Note, for example, their thematic coupling during the latest formal process of revision of the Television without Frontiers Directive: European Commission, *Cultural Diversity and the Promotion of European and Independent Audiovisual Production*, Issues Paper for the Liverpool Conference, July 2005.
- 61) See further: Tarlach McGonagle, "European-level Measures for Promoting Cultural Diversity in Broadcasting: Quixotic Tilt in a New Technological Era", in Pia Letto-Vanamo, Ed., *Mikä Osa Yleisillä? Yearbook of Communication Law 2007*, Institute of International Economic Law (KATTI), Faculty of Law, University of Helsinki, Finland (2008), pp. 119-136; Tarlach McGonagle, "The Quota Quandary: An Assessment of Articles 4-6 of the Television without Frontiers Directive", in David Ward, Ed., *The European Union and the Culture Industries: Regulation and the Public Interest* (Ashgate Publishing Limited, forthcoming, June 2008), pp. 187-212; Iirini Katsirea, "Why the European broadcasting quota should be abolished", 28 *European Law Review* (No. 2, 2003), pp. 190-209; Jackie Harrison & Lorna Woods, "Television Quotas: Protecting European Culture?", 12 *Entertainment Law Review* (No. 1, 2001), pp. 5-14.
- 62) Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, OJ L 332/27 of 18 December 2007.
- 63) Article 3i reads: "1. Member States shall ensure that on-demand audiovisual media services provided by media service providers under their jurisdiction promote, where practicable and by appropriate means, the production of and access to European works. Such promotion could relate, *inter alia*, to the financial contribution made by such services to the production and rights acquisition of European works or to the share and/or prominence of European works in the catalogue of programmes offered by the on-demand audiovisual media service.
2. Member States shall report to the Commission no later than 19 December 2011 and every four years thereafter on the implementation of paragraph 1.
3. The Commission shall, on the basis of the information provided by Member States and of an independent study, report to the European Parliament and the Council on the application of paragraph 1, taking into account the market and technological developments and the objective of cultural diversity."
- 64) Adopted by UNESCO General Assembly on 20 October 2005 (entry into force: 18 March 2007).
- 65) Hélène Ruiz Fabri, "Jeux dans la fragmentation: la Convention sur la promotion et la protection de la diversité des expressions culturelles", R.G.D.I.P. 2007-1, 43-87, at 53.
- 66) See also: Hélène Ruiz Fabri, "Jeux dans la fragmentation: la Convention sur la promotion et la protection de la diversité des expressions culturelles", *op. cit.*, at 73.
- 67) Recommendation Rec(2006)3 of the Committee of Ministers to member states on the UNESCO Convention on the protection and promotion of the diversity of cultural expressions, adopted on 1 February 2006.
- 68) WSIS (Geneva Declaration of Principles) "Building the Information Society: a global challenge in the new Millennium", 12 December 2003, Doc. WSIS-03/GENEVA/DOC/4-E, Section 8, paras. 52-54.
- 69) *Ibid.*, para. 53, which reads: "The creation, dissemination and preservation of content in diverse languages and formats must be accorded high priority in building an inclusive Information Society, paying particular attention to the diversity of supply of creative work and due recognition of the rights of authors and artists. It is essential to promote the production of and accessibility to all content - educational, scientific, cultural or recreational - in diverse languages and formats. The development of local content suited to domestic or regional needs will encourage social and economic development and will stimulate participation of all stakeholders, including people living in rural, remote and marginal areas."
- 70) *Ibid.*
- 71) *Ibid.*, para. 54.
- 72) WSIS Tunis Commitment, 18 November 2005, Doc. No. WSIS-05/TUNIS/DOC/7-E, para. 32.
- 73) The author is currently conducting more extensive research on this topic, having been awarded a research grant by the Broadcasting Commission of Ireland for that purpose.