



INTERNATIONAL FEDERATION
OF COALITIONS FOR
CULTURAL DIVERSITY

Analytical Elements Related to a Survey on Legal Options in the Framework of the 2005 Convention and Its Application to the Digital Environment

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PRESENTATION OF THE IFCCD

The [International Federation of Coalitions for Cultural Diversity](#) (IFCCD) is the voice of culture professionals around the world. It brings together about thirty national organizations representing creators, artists, independent producers, and publishers from various cultural sectors, including books, film, television, music, performing arts, and visual arts.

Born out of a major mobilization of civil society in favor of the adoption and subsequent ratification of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), the IFCCD continues today to fulfill an essential mission: coordinating civil society efforts to support the effective implementation of this Convention.

In accordance with Article 11 of the Convention, which recognizes the fundamental role of civil society in protecting and promoting the diversity of cultural expressions, the IFCCD acts as a driving force within platforms for dialogue with UNESCO's governing bodies. It ensures that the voices of cultural actors are heard in international decision-making processes affecting culture.

The Federation supports the work of its members through research production, the provision of tools, and the organization of events aimed at strengthening civil society participation in debates on contemporary issues related to cultural diversity. These initiatives notably address the revision of cultural policies, international trade negotiations, and the discoverability of local content in the digital age.

Thus, the IFCCD is a key actor in the dialogue between civil society and multilateral institutions in defending and promoting the diversity of cultural expressions on a global scale.

1. INTRODUCTION

The objective of this document is to provide analytical elements of the relevant international legal framework in response to a survey on legal options within the framework of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions that could address various issues related to the digital environment. The survey is conducted as part of the multi-stakeholder approach requested by the Conference of Parties to the Convention in its [Resolution 10.CP 8.b](#), adopted in June 2025, which asked the UNESCO Secretariat to continue its analysis on the feasibility, technical, and legal aspects of an additional protocol and other legal options based on a multi-stakeholder approach, and to present its preliminary study on feasible options to the nineteenth session of the Committee in February 2026 for discussion.

To contribute to the reflections of civil society and the Parties to the Convention, the IFCCD has chosen to produce a written document intended for broad circulation, rather than solely responding to the survey sent by the Secretariat. The key elements presented here have also been summarized in the survey response.

Following the [previous work](#) of the Reflection Group on the Diversity of Cultural Expressions in the Digital Environment, submitted to the Intergovernmental Committee for the Protection and Promotion of the Diversity of Cultural Expressions at its 18th session in February 2025, the Conference of Parties examined, in June 2025, [seven legal options](#):

Non-Binding Legal Options

- Option 1: Revision of the Operational Guidelines on the implementation of the Convention in the digital environment by the Conference of Parties (ongoing, in accordance with Resolution 10.CP 8.b)
- Option 2: Adoption of a general declaration by the Conference of Parties
- Option 3: Adoption of an action plan by the Conference of Parties
- Option 4: Adoption of a recommendation by the UNESCO General Conference

Binding Legal Options

- Option 5: Amendments to the Convention
- Option 6: Adoption by the Conference of Parties of an interpretative declaration of the Convention
- Option 7: Adoption of an Additional Protocol to the Convention

The survey poses three substantive questions, along with an open opportunity to provide additional comments.

- a. In addition to the seven legal options considered by the Reflection Group and examined by the Conference of Parties in June 2025, are there any other legal options you would recommend for consideration by the Parties to the 2005 Convention?
- b. To what extent could the legal option(s) consider most appropriate complement existing international frameworks, in particular UNESCO's Recommendations on the Ethics of Artificial Intelligence and on the Promotion and Use of Multilingualism and Universal Access to Cyberspace?
- c. Would you like other existing legal frameworks to be considered in the preliminary study on feasible legal options (in addition to UNESCO's Recommendation on the Ethics of Artificial Intelligence and UNESCO's Recommendation on the Promotion and Use of Multilingualism and Universal Access to Cyberspace)?

It should be recalled that the [IFCCD firmly supports the adoption of an Additional Protocol to the 2005 Convention](#), which it considers an essential step toward strengthening the application of the normative framework in the digital and artificial intelligence environments. At the same time, during the June 2025 Conference of Parties, the IFCCD supported the revision of the Operational Guidelines, which represents an opportunity to reaffirm the founding principles of the Convention and to update them. The IFCCD recommended that this revision include, in particular, the following principles:

- Protection and promotion of the diversity of cultural expressions
- Measurement of the impact of algorithmic and editorial recommendations
- Transparency regarding the use of data by generative AI systems
- Recognition of the uniqueness of human creativity
- Equitable and inclusive access
- Fair remuneration of creators and rights holders
- Improvement of the socio-economic conditions of creators and the financial viability of local and independent cultural ecosystems

It also emphasizes that the revision must be accompanied by concrete commitments, adequate resources, and transparent monitoring mechanisms to ensure effective implementation.

In the context of the present survey, **the IFCCD does not wish to make additional recommendations regarding other legal options to be submitted for consideration by the Parties to the 2005 Convention** (Question a).

This analysis has four objectives:

- In Section 2, to assess the effectiveness and shortcomings of UNESCO's Recommendation on the Ethics of Artificial Intelligence (2021) and UNESCO's Recommendation on the Promotion and Use of Multilingualism and Universal Access to Cyberspace (2003) regarding the protection and promotion of the diversity of cultural expressions.
- In Section 3, to assess the effectiveness and shortcomings of instruments under the World Intellectual Property Organization (WIPO), as well as the Principles for Internet Governance, with respect to the protection and promotion of the diversity of cultural expressions.
- In Section 4, to briefly identify relevant international instruments to ensure that all essential elements are considered.
- In Section 5, and in light of these analyses, to assess the relevance and complementarity of an Additional Protocol to the Convention.

2. ANALYSIS OF THE 2021 AND 2003 RECOMMENDATIONS

Recommendation on the Ethics of Artificial Intelligence

This [Recommendation](#), adopted in 2021, provides States with a comprehensive framework to consider artificial intelligence issues, to adjust their policies to rapid technological developments, and to report periodically on their actions and their effects. The Recommendation includes in particular a section on culture (articles 94-100) which addresses points relevant to the Convention, among which algorithmic impact on linguistic diversity (article 95), strengthening the capacities of artists and cultural professionals (article 96), economic concentration in the culture sector (article 97), visibility and discoverability of local content (article 98), and intellectual property issues (article 99).

While the Recommendation is not a binding legal instrument, it is nonetheless relevant in several respects to the questions put forward by the survey.

First, it is a recent and – given unanimous adoption by the General Conference – authoritative statement of principles that any future normative development would benefit from building on. Furthermore, it includes a periodic reporting mechanism that could usefully include consideration of the effects of AI on the diversity of cultural expressions and a review of action undertaken at the national level to respond to them. Indeed, the Conference of Parties has specifically recognized this relevance in [Resolution 10.CP 8.a, paragraph 4](#).

Nonetheless, the substance of the Recommendation is generic, insofar as diversity of cultural expressions is mentioned only in passing, and shows a concern for balance that promotes (ethical) development and deployment of AI as much as it cautions against abuses and dangers. This is striking with respect to the status of creative professionals. Article 96 recommends that “Member States should promote AI education and digital training for artists and creative professionals to assess the suitability of AI technologies for use in their profession, and contribute to the design and implementation of suitable AI technologies, as AI technologies are being used to create, produce, distribute, broadcast and consume a variety of cultural goods and services, bearing in mind the importance of preserving cultural heritage, diversity and artistic freedom”. The same favourable inclination towards new technologies is found in article 99, which recommends that “Member States should foster new research at the intersection between AI and intellectual property (IP), for example

to determine whether or how to protect with IP rights the works created by means of AI technologies. Member States should also assess how AI technologies are affecting the rights or interests of IP owners, whose works are used to research, develop, train or implement AI applications”.

The point here is not to set up a contrast between a “tech-friendly” instrument and another that might be “technophobic” or “technosceptical”. Nonetheless, in the specific field of diversity of cultural expressions, and particularly as regards the status and rights of creators, there is space for statements more sensitive to the risks attendant on AI deployment, which themselves are more clearly apparent in 2025 than they were in 2021.

The impacts of AI technologies on the rights or interests of intellectual property rightsholders whose works are used are already well documented. The threats that these uses pose to the diversity of cultural expressions as well as to the socio-economic and employment conditions of artists and cultural professionals leave no room for doubt.

Indeed, there is today within IFCCD members, and more broadly among civil society organizations representing creators and rights-holders, a clear consensus around the **ART principles: Authorization, Remuneration, and Transparency**. The solution to enable the deployment of generative AI in a manner that respects these principles is well known: the adoption of legislative and regulatory frameworks that allow for and promote the establishment of licensing markets. This implies, on the one hand, prohibiting copyright exceptions that allow text and data mining for the purpose of training AI models, and, on the other hand, establishing an obligation of transparency regarding the training data used to develop these systems.

From this perspective, **the Recommendation on the Ethics of AI is insufficient**.

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In this regard, the IFCCD invites the reader to refer to a study published in November 2024 by CISAC, entitled [*Study on the Economic Impact of AI in Music and Audiovisual Industries*](#), whose conclusions are unequivocal:

“In an unchanged regulatory framework, creators will actually suffer losses on two fronts :

- the loss of revenues due to the unauthorised use of their works by Gen AI models without remuneration;
- and replacement of their traditional revenue streams due to the substitution effect of AI-generated outputs, competing against human-made works.”

Furthermore, CISAC estimates that, by 2028, 24% of the income of music creators and 21% of that of audiovisual creators will be at risk, with a cumulative loss of 22 billion euros over five years for creators in these two sectors.

The IFCCD also wishes to draw the reader’s attention to [*the Report of the Special Rapporteur in the field of cultural rights – Artificial Intelligence and Creativity*](#), published in July 2025. Ms. Alexandra Xanthaki provides a remarkable synthesis of the risks that the uncontrolled development of generative AI poses to the diversity of cultural expressions and the realization of cultural rights. She notably emphasizes that: “Transparency across the entire AI life cycle and standardized protocols to effectively implement an opt-in model on the Internet must be put in place by States” while stressing the urgency of action: “**There is no time to continue with mere reflection on these issues, nor time to plan lengthy and complex reforms.**”

In sum, the existence and credibility of the 2021 Recommendation, cited as a reference in all recent analyses on the subject, as well as in the Global Digital Compact, invite the governing bodies of the 2005 Convention

to use it as a basis both to initiate faster actions than the necessarily lengthy process of developing a new binding legal instrument, and to ensure coherence between the specific action taken under the Convention and UNESCO's broader approach in this field.

Recommendation concerning the Promotion and Use of Multilingualism and Universal Access to Cyberspace

The [Recommendation](#) shows obvious thematic convergence with the Convention, which likely explains why it has been explicitly mentioned in the latest decisions of the Conference of Parties. It is perhaps also of relevance that the Recommendation was not cited in the Convention, which indeed does not mention "multilingualism", while "linguistic diversity" appears just once, in the preamble, as "a fundamental element of cultural diversity". Conversely, the preamble of the Convention, in "referring to the provisions of the international instruments adopted by UNESCO relating to cultural diversity and the exercise of cultural rights" specifically cites only the 2001 Universal Declaration on Cultural Diversity.

However, apart from thematic convergence, the 2003 Recommendation seems to have limited relevance to current issues of cultural diversity in the digital environment. Insofar as it long predates the emergence of AI as an issue, it can actually be interpreted as contradicting the concern to protect creators which seems to be a priority in the current technological and economic context.

Thus, articles 23-25, which address copyright issues, do so in terms of "Reaffirming the equitable balance between the interests of rights-holders and the public interest". While reaffirming copyright and related rights as enshrined in international law, the aforementioned articles are concerned more with the possibly excessive restrictions such rights could impose on access to online content than with the possibility that online access might infringe the rights of creators.

More generally, the Recommendation is mainly driven by concern for access to information in one's own language (along with the infrastructure issues that follow from it), without really integrating issues of creativity or distribution from the perspective of the culture sector.

It is undoubtedly salutary to reiterate that international law is based on a fair balance between the interests of rights-holders and the public interest. But it is equally important to recognize that the threats to this balance are not the same as in 2003. Indeed, some threats go beyond anything that the normative framework could envisage in 2003. On this basis, **the 2003 Recommendation appears to have limited relevance to the questions put forward by the survey.**

3. ANALYSIS OF INSTRUMENTS UNDER THE WIPO AND PRINCIPLES FOR THE GOVERNANCE OF DIGITAL PLATFORMS

World Intellectual Property Organization (WIPO)

Intellectual property issues fall within the competence of WIPO. Any UNESCO initiative to specify the application of the 2005 Convention to intellectual property must therefore be based on WIPO normative instruments.

However, while WIPO has in the last five years done considerable work on all aspects of AI as it affects the various dimensions of intellectual property, it has not, so far, taken normative form.

In May 2020, WIPO published a [Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence](#). The paper, which is of great technical interest, reviews questions covering the whole field of intellectual property in terms of AI challenges. These relate to patents as well as to copyright, and in the latter area cover issues not directly connected to the scope of the 2005 Convention, such as the status of software.

In order to follow up on the issues paper, WIPO has conducted numerous consultations, including in particular the organization of 11 “Conversations”, which provide extensive technical information, but so far without any intergovernmental dimension. The 11th Conversation specifically addressed “AI and IP: Infrastructure for rights holders and innovation” and has considerable thematic relevance for the thinking of the 2005 Convention governing bodies. WIPO presents this Conversation as follows:

“Copyright infrastructure, the generally unseen set of organizational systems, processes and technical means that support the implementation of copyright law, is essential to ensure fair protection for creators and copyright owners while allowing for technological innovation to flourish. The rise of generative AI is accelerating the need for a strong copyright infrastructure to ensure that creators are fairly protected while allowing innovation to flourish. As copyright-protected works are increasingly used to train AI models and as AI-generated content becomes more common, the challenges around rights management, attribution, and compensation are growing.

This session explored how different creative industries have developed tailored infrastructure to manage, license, and enforce their rights in the digital environment, and how the development and deployment of AI tools is presenting challenges and opportunities for existing infrastructure. It examined how emerging regulations like opt-out mechanisms and transparency requirements are shaping the landscape and highlighted the importance of building scalable systems that can work across jurisdictions, including for developing countries, and across different creative industries.

The Eleventh session of the WIPO Conversation addressed the role of infrastructure in enabling transparency, consent, and compensation—ensuring the IP system can keep pace with technological change.”

WIPO explicitly clarifies that ongoing work is not to be construed as preparatory to normative action. WIPO has announced the creation of a “The AI Infrastructure Interchange (AIII)”, which “is a new WIPO initiative for global dialogue on copyright and artificial intelligence”. The Interchange is designed to provide “a neutral platform for creators, rights-holders, developers, and experts to exchange ideas and explore practical solutions”. The Interchange “does not set policy or legal standards. Instead, it focuses on how technical systems and tools can effectively support creators and copyright owners while also promoting the development of innovative AI technology in a rapidly evolving environment”. The Interchange is planned to be launched on 8 December 2025.

Interpretation of this state of affairs is necessarily somewhat speculative. However, taking account of the various available analyses, published in particular by specialist intellectual property law firms, it is possible to sketch a tentative, but reasonable, conclusion. **In the intellectual property field, given the challenges of AI, both national legislation and case law show significant differences between jurisdictions, and appear to be diverging rather than converging.** *Prima facie*, the situation thus appears ripe for process to harmonize rules and practices in global digital economy.

In this context, the IFCCD **notes the absence of a structuring normative initiative and the limited scope of WIPO’s approach, especially when compared to what an additional protocol to the 2005 Convention could achieve, particularly in integrating dimensions related to the diversity of cultural expressions and cultural rights.** This situation highlights the importance of ensuring complementarity between international instruments and the principles they promote, in order to avoid the creation of normative gaps in the global governance of culture in the era of artificial intelligence.

This observation reinforces the position that **an additional protocol to the 2005 Convention would constitute a more suitable instrument to fill existing normative gaps and to ensure comprehensive and equitable protection of the diversity of cultural expressions and the rights of rightsholders in the era of artificial intelligence.**

Guidelines for the Governance of Digital Platforms

These [Guidelines](#), which were published by UNESCO in 2023, have no legal standing. They represent the outcome of multistakeholder consultative process that led to consensus on a number of principles addressed both to states in their regulatory capacity and to business in their commercial capacity. The Guidelines stem mainly from programmes relating to freedom of expression, and deal only to a limited extent with cultural issues, still less to specific issues of diversity of cultural expressions. While they should be taken into account, they therefore offer little substance towards the development of specific principles for the questions within the scope of the 2005 Convention. On the other hand, the Guidelines impose few limits on work conducted under the 2005 Convention.

Nonetheless, the first two of the five Guidelines, which explicitly reference rights, lend themselves to development of their application to cultural rights as an essential component of human rights. Furthermore, principle 4, which addresses accessibility, provide a framework for considerations on discoverability and accessibility of cultural content that are of great importance in terms of diversity of cultural expressions.

1. Platforms conduct human rights due diligence;
2. Platforms adhere to international human rights standards, including in platform design, content moderation, and content curation;
3. Platforms are transparent;
4. Platforms make information and tools available for users;
5. Platforms are accountable to relevant stakeholders.

In addition, the Guidelines stress the importance for businesses of evaluating the risk that arise from their technical or commercial action in certain cases, and specifically:

- Prior to any significant design changes, major policy decisions (including those related to the advertising system, if applicable), changes in operations, or new activity or relation/partnerships.
- Regularly, to protect the rights of all groups in situations of vulnerability and marginalization, including women and girls, as well as journalists, artists, human rights defenders, and environmental defenders.

Both cases clearly apply to cultural content as well as to its creators.

Thus, even though they are non-binding and do not specifically address the diversity of cultural expressions, the Guidelines for the Governance of Digital Platforms can nonetheless inform reflections on the content of a possible additional protocol to the 2005 Convention, particularly with regard to discoverability, cultural rights, and the accountability of digital actors.

4. OTHER RELEVANT INTERNATIONAL INSTRUMENTS

Academic or institutional publications have provided a number of inventories of international instruments. Combined with the research conducted in preparing this note, they confirm the absence of any authoritative instrument that has not yet been taken into account in reflections and discussions under the aegis of the governing bodies of the 2005 Convention. Furthermore, while coverage of ongoing drafting processes may not be exhaustive, it seems that no instrument is about to be adopted at international level. Things are different, obviously, at the regional level, where various initiatives are ongoing. Encouraging progress has also been observed, but it remains insufficient regarding the integration of the culture–digital interface in recent international instruments.

Nonetheless, there are two documents that deserve mention. While not exactly “international instruments”, they could usefully be taken into consideration in any future resolution on AI issues by the governing bodies of the 2005 Convention.

Pact for the Future and its Annex, the Global Digital Compact (September 2024)

At the conclusion of the Summit for the Future held in New York on 22–23 September 2024, Heads of State and Government adopted the [Pact for the Future](#) and its annexes, including the [Global Digital Compact](#), aiming to reinvigorate multilateralism and achieve the Sustainable Development Goals (SDGs). These instruments have a normative level similar to that of UNESCO recommendations.

The *Pact for the Future* invites signatories to “ensure that culture [...] can [...] contribute to more effective, inclusive, equitable, and sustainable development, integrate culture into economic, social, and environmental development policies and strategies, and ensure adequate public investment in the protection and promotion of culture” (PFA, Ch. I, M11, para. 30(a)).

As for the *Global Digital Compact*, it is explicitly and systematically built upon the SDG framework. The Compact gives little attention to culture, which illustrates the very practical consequences of [the absence of a dedicated Culture SDG](#). Nevertheless, the Compact is an unavoidable reference for any future normative development, offering relevant entry points in terms of process and procedure.

Specifically, under the *Global Digital Compact*, States and Governments worldwide have set five objectives (GDC, para. 7 (Objectives)):

1. Close all digital divides and accelerate progress across the Sustainable Development Goals;
2. Expand inclusion in and benefits from the digital economy for all;
3. Foster an inclusive, open, safe and secure digital space that respects, protects and promote human rights;
4. Advance responsible, equitable and interoperable data governance approaches;
5. Enhance international governance of artificial intelligence for the benefit of humanity.

Moreover, the *Global Digital Compact* recognizes the importance of international cooperation to “support linguistic and cultural diversity in the digital space.”

It also explicitly refers, in article 52, to the *Recommendation on the Ethics of Artificial Intelligence*, which is an additional reason, on top of those already mentioned, to rely on it.

Article 56 (b) of the *Compact* commits Member States to “initiate, within the United Nations, a Global Dialogue on AI Governance involving Governments and all relevant stakeholders which will take place in the margins of existing relevant United Nations conferences and meetings”. This invites the governing bodies of the Convention to consider their sessions as contributing to the dialogue in their field of competence and therefore to set the possible development of a legally binding instrument within follow-up to the *Compact*. A necessary condition is to stay strictly within its logic, but this is all the easier that culture is essentially absent from the *Compact*. And this is all the more relevant that article 66 of the *Compact* invites “international and regional organizations, the private sector, academia, the technical community and civil society groups to endorse the *Compact* and take active part in its implementation and follow-up”, which gives UNESCO grounds for action in this area.

Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law (September 2024)

The [Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law](#) is the first legally binding international instrument in this field.

Opened for signature on 5 September 2024, it aims to ensure that activities throughout the lifecycle of AI systems are fully compatible with human rights, democracy, and the rule of law, while fostering progress and technological innovation.

Although it does not explicitly mention cultural rights, these are included within its scope, as illustrated by the following provision: “Each Party shall adopt or maintain measures to ensure that the activities within the lifecycle of artificial intelligence systems are consistent with obligations to protect human rights, as enshrined in applicable international law and in its domestic law”. Under international law, Article 15 of the 1966 International Covenant on Economic, Social and Cultural Rights is the main source recognizing cultural rights as fundamental human rights.

Furthermore, the Framework Convention includes a specific commitment regarding transparency, in line with requests from cultural industries in several countries: “Each Party shall adopt or maintain measures to ensure that adequate transparency and oversight requirements tailored to the specific contexts and risks are in place in respect of activities within the lifecycle of artificial intelligence systems, including with regard to the identification of content generated by artificial intelligence systems”.

Paris Statement on Inclusive and Sustainable Artificial Intelligence for People and the Planet (February 2025)

The [Statement on Inclusive and Sustainable Artificial Intelligence for People and the Planet](#), adopted in February 2025 in Paris during the Summit for Action on Artificial Intelligence, emphasizes “the need for a global reflection integrating [...] respect of international laws including [...] linguistic diversity, protection of consumers and of intellectual property rights”. However, it fails to explicitly address the challenges related to the diversity of cultural expressions.

ITU Standards and Policy Considerations on Multimedia Authenticity (July 2025)

In July 2025, the International Telecommunication Union (ITU) published [Standards and Policy Considerations on Multimedia Authenticity](#). While these do not bear directly on the issues of the 2005 Convention, and do not at present have any intergovernmental normative character, there are nonetheless some important connections. In particular, technical modalities and regulatory challenges in authenticating content is a level of action that is required both to ensure effective protection of protected content (from the perspective of authors and other rights-holders) and to enable consumers to act responsibly in the face of content of uncertain origin. It would be relevant for work conducted under the 2005 Convention to take account of these standard-setting processes, both in [their strictly technical dimension](#) and, perhaps even more importantly, in [their political dimension](#).

Mondiacult Outcome Document (October 2025)

From 29 September to 1 October 2025, the IFCCD participated in Mondiacult, the world’s largest conference on cultural policy and sustainable development, held in Barcelona. At the conclusion of the meeting, Ministers of Culture adopted a final document affirming their commitment to act “in response to the urgent and complex challenges of our time.” They reaffirmed their commitment in “promoting a human-centric and human rights-based approach to a digital environment that respects cultural rights, fosters equity and accessibility, promotes diversity of cultural expressions”.

The final document contains strong commitments regarding the protection of the rights of artists, creators, and rights holders in the digital environment, combating unethical uses of AI, and recognizing human creativity. It also emphasizes the discoverability of multilingual cultural content, the involvement of the cultural sector in AI policy-making, and the defense of copyright, clear commitments confirming that AI regulation has become an unavoidable global issue.

In summary, recent international developments in digital and AI governance demonstrate increasing recognition of the interdependence between technology, society, and culture. These initiatives emphasize im-

portant principles, such as the contribution of culture to sustainable development, the need to preserve linguistic and cultural diversity, and respect for human rights, including intellectual property, in technological development. It is essential that work conducted under the 2005 Convention concerning legal options to strengthen its implementation in the digital environment takes these principles into account, ensuring that the evolution of the normative framework fully supports the creation, circulation, and discoverability of cultural expressions in an ethical, inclusive digital environment that respects the rights of creators.

5. RELEVANCE AND COMPLEMENTARITY OF AN ADDITIONAL PROTOCOL

5.1 The need for a binding instrument on cultural expressions in the AI era

From the preceding analysis, it is clear that issues relating to the diversity of cultural expressions, as impacted by artificial intelligence, are not currently covered by a legally binding instrument. This point is also emphasized in the report by Ms. Xanthaki, mentioned earlier:

"Measures should be taken as soon as possible to prevent further data loss, the flood of cheap substitutes and copies of creative productions on platforms, and the erosion of cultural rights due to indiscriminate use of AI. Current international law does not address these issues. (...) Several international political declarations refer to the human rights implications of AI, but have not been followed by concrete action. Real political will is important in addressing the violation of cultural rights by AI. States need to set limits and respect their human rights obligations when it comes to technological progress" (emphasis added).

Despite encouraging mentions of cultural or linguistic diversity in recent international documents, no instrument specifically and adequately covering this field appears to be under development.

5.2 The contribution of an Additional Protocol to the 2005 Convention

The 2005 Convention is technologically neutral. However, this did not prevent the group of 18 experts selected by the Secretariat from [recommending](#) in December 2024 the adoption of an Additional Protocol to the Convention to "complement, strengthen and enhance the principles, rights and obligations set out in this treaty, so as to promote the achievement of its objectives in the digital environment, in particular given the growing challenges posed by artificial intelligence (AI) systems" (emphasis added). We endorse this approach.

In other words, an Additional Protocol would:

- **Clarify the scope of the 2005 Convention** with respect to AI-specific issues, including generative AI, the discoverability of cultural content, linguistic diversity, and transparency of digital platforms.
- **Strengthen the effectiveness of the protection and promotion of the diversity of cultural expressions in the digital environment** through a legally binding instrument.

In this sense, an Additional Protocol to the 2005 Convention is both relevant and complementary to other instruments or initiatives in related fields.

5.3 Requirements for the effective adoption of an Additional Protocol

Ensuring complementarity with other instruments is a necessary but not sufficient condition to guarantee the relevance of an Additional Protocol to the 2005 Convention. **Relevance also depends on its effective adoption, which entails an opportunity cost compared to other,** less ambitious but faster-to-implement actions. This calls for a multi-temporal approach, similar to that of Parties who have already begun revising the Operational Guidelines. Relevance also implies, if not universality, at least broad adherence to the Protocol among the 157 Parties to the 2005 Convention.

From these considerations, at least provisional conclusions can be drawn.

First, the diversity of cultural expressions must be considered as one among other fields where the technical development and deployment, including commercial deployment, of AI raises major and sometimes urgent questions of both fundamental values and legal rules. **A necessary condition for developing an Additional Protocol is that it be embedded in a broader legal framework, drawing on principles and mechanisms intended for wider application, particularly under the auspices of WIPO or ITU,** notably regarding intellectual property.

Furthermore, analysis of ongoing processes in other international institutions shows that it is unrealistic to expect fully developed universal principles in other forums to be immediately adapted or transposed to the specific issues of cultural diversity. In this context, **the field of cultural diversity, and more specifically the 2005 Convention, can play a pioneering role relative to general reflection and codification,** justified in part by the urgency of the issues, well documented, notably by the Reflection Group in its December 2024 report.

For this approach to gain effective consensus, two main requirements must be met:

1. **Principle of strict jurisdiction:** the Protocol must limit the expansion of the Convention's scope to integrating AI, including generative AI, discoverability of cultural content, linguistic diversity, and platform transparency, without encroaching on the competences of other organizations.
2. **Principle of explicit articulation:** the Protocol must be coordinated with work undertaken by WIPO, ITU, and under the *Global Digital Compact*, while reinforcing the internal coherence of UNESCO's action.

These requirements assume a concerted position by the Parties to the 2005 Convention, requiring each to clearly articulate its positions within the governing bodies of the Convention, UNESCO, WIPO, ITU, and at the UN in New York. This aligns with Articles 20 and 21 of the Convention, which provide for mutual support, complementarity, and non-subordination with other instruments, while promoting international consultation and coordination.

For this reason, when formulating the proposal to develop an Additional Protocol to the Director-General, it is essential to adopt an action plan that:

- (a) frames the necessary articulation for preparing a draft Additional Protocol, and
- (b) ensures continuity of action through already available avenues, including the existing (and, when appropriate, revised) Operational Guidelines, as well as synergies with the Recommendation on the Ethics of Artificial Intelligence.

In conclusion, the IFCCD considers that the most appropriate option would be the adoption of an Additional Protocol to the 2005 Convention, explicitly incorporating AI, generative AI, discoverability, linguistic diversity, and platform transparency. This option, preceded as planned by an update of the Operational Guidelines, would consolidate the action of Parties and civil society in support of the diversity of cultural expressions, clarify the scope of the Convention, and establish a legally binding framework commensurate with the transformations induced by the digital environment.

This document was financially supported by the Coalition for the Diversity of Cultural Expressions – Canada, Québec (CDCE). Research and co-authorship were carried out by John Crowley, from the PHGD group, and the IFCCD Secretariat, following consultations with members.

PRESENTATION OF THE CDCE

The [Coalition for the Diversity of Cultural Expressions](#) (CDCE) brings together the main francophone and anglophone professional organizations in Canada's cultural sector. It is composed of around fifty organizations that collectively represent the interests of more than 350,000 creators and professionals, as well as 3,000 companies in the book, film, television, new media, music, performing arts, and visual arts sectors. The CDCE speaks as a Coalition after consulting its members.

Concerned equally with the economic health of the cultural sector and the vitality of cultural creation, the CDCE primarily advocates for the exclusion of cultural goods and services from trade negotiations and for the presence of cultural diversity in the digital environment.

It promotes UNESCO's 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions and ensures its implementation to give it full effect at the national level. The CDCE also serves as the Secretariat of the IFCCD.