

NORWAY
QUESTIONNAIRE

Article 16 – Preferential treatment for developing countries

Developed countries shall facilitate cultural exchanges with developing countries by granting, through the appropriate institutional and legal frameworks, preferential treatment to artists and other cultural professionals and practitioners, as well as cultural goods and services from developing countries.

CONTENT OF ARTICLE 16

- Article 16

The debate underlined that preferential treatment under Article 16 of the Convention is to be understood as having both a trade and a cultural cooperation dimension and that Article 16 must be put in relation to other articles of the Convention.

- 1. Please list the articles that seem to you particularly relevant to Article 16 and explain briefly the overall rationale.**

Article 16 should not be viewed in isolation. The article is one of a number of articles in the Convention that seeks to facilitate the exchange of cultural goods and services from developing countries.

The basis for preferential treatment is enshrined in the objectives as well as the guiding principles of the Convention. Article 2. 7) underlines the principle of equitable access; i.e. “access of cultures to the means of expressions and dissemination constitute important elements for enhancing cultural diversity and encouraging mutual understanding”.

Furthermore, the provisions on rights and obligations of Parties, article 7 and those on international cooperation and development cooperation, in particular articles 12, 14, 15 and 18 are all relevant to article 16. Article 16 provides the legal basis for preferential treatment to be granted in the cultural field with regard to goods, services and persons. Article 7 brings out the obligations of Parties to create in their territory an environment which encourages individuals and social groups to create, produce, disseminate, distribute and have access to their own cultural expressions, and to have access to diverse cultural expressions from within their territory as well as from other countries of the world. Articles 14 (on cooperation for development), 15 (on collaborative arrangements) and 18 (on the International Fund for Cultural Diversity) have the potential to convey some of the institutional framework and tools for the implementation of preferential treatment/ exchanges, training collaborations and technical assistance as well as temporary movement of artist and other cultural professionals.

- Role of Parties

The debate underlined that Article 16 is binding on developed countries.

2. Should developing countries have a proactive role as beneficiaries? If yes, please provide examples.

Yes, the developing countries have an active role to play. Preferential treatment must build on partnership and cooperation.

Effective and sustainable development cooperation is dependent on both parties' active engagement and participation. Responsibility for the success of development cooperation lies as much with the beneficiary of aid as with the donor. Developing countries are the ones to define the needs and priorities of the beneficiaries of assistance.

According to the Convention, Parties, i.e. developing as well as developed countries, shall create within the framework of their cultural policies in their territory an environment conducive to the creation, production, dissemination, distribution and enjoyment of domestic cultural activities, goods and services.

Cooperation should also promote exchanges among developing countries themselves.

IMPLEMENTATION OF ARTICLE 16

- Frameworks

Preferential treatment should be granted “*through appropriate legal and institutional frameworks*”.

3. Please provide examples of the main legal and institutional frameworks to be used by taking into account the following dimensions:

- a) **trade**
- b) **cultural cooperation**
- c) **a combination of the trade dimension and the cultural cooperation dimension**

c) A good example of a combination of the trade dimension and the cultural cooperation dimension is to include i.a. film coproduction agreements in third country trade agreements. A similar example is the cultural protocol in some EU trade agreements.

- Categories

In accordance with Article 16 developed countries grant a preferential treatment to:

- a) “*artists and other cultural professionals and practitioners*” from developing countries
- b) “*cultural goods and services*” from developing countries

4. Please provide examples of priority measures relevant to each of these categories.¹

- a) *artists and other cultural professionals and practitioners*” from developing countries

Specific visa arrangements could be considered.

As for all visitors to whom the visa obligation applies, also artists and other cultural professionals and practitioners from developing countries and other third countries, are required to hold a visitor’s visa (Schengenvisa, type C) to enter Norway. As regards the visa policy, Norway, as a contracting party to the Schengen Convention (cf. article 9), undertake to adopt a common policy on the movement of persons and, in particular, on the arrangements for visas.

Norway has one arrangement regarding the visa procedure for artists and cultural practitioners. Some cultural institutions in Norway are authorized to apply for a visa on behalf of a performing artist. This practice aims to ensure that the relevant authorities are provided with sufficient information to handle the visa application prior to the particular event.

In principle, a national from a developing country (as well as other third country nationals) need a work permit to perform in Norway, as a performance in Norway is defined as work. Certain work permits are aimed in particular at artists, The concrete rules depend on the purpose of the stay in Norway, the duration of the stay and the individual’s occupational qualifications. The artist is exempt from the obligation to obtain a work permit if the duration of the performance does not exceed ten days within one calendar year.

- b) *cultural goods and services*” from developing countries

Preferential treatment must draw on cultural cooperation mechanisms. Funding agreements and exchange agreements, sharing of resources and experience on best practices, technical capacity-building and transfer of technology

Norway’s support for cultural cooperation with developing countries has three main approaches: Establishing and strengthening cultural infrastructure in developing countries, promoting exchanges between cultural actors and supporting cultural heritage in developing countries mainly through UNESCO.

• **Criteria**

In the trade environment, preferential treatment involves criteria such as: eligibility, rules of origin, graduation, reciprocity and conditionality.

5. Are all or some of these criteria relevant for preferential treatment under Article 16? Please explain briefly why.

One should avoid one-size-fits-all solutions which do not address the reality and specificity of the partner’s relation. It would not be appropriate to establish a single set of measures in a single framework. Effective preferential treatment requires a case by case approach, taking into account the reality and specificities of the partners’ relation. The criterion of reciprocity does not seem relevant when it comes to preferential treatment of developing countries.

¹ Please refer to the document attached ‘Overview’.

- Measures at national level

The debate underlined the role of national measures and policies in increasing the supply of cultural goods and services in developing countries. Coordination of different national institutions is therefore of the utmost importance.

6 In your country, is there an existing coordination mechanism between the ministry responsible for culture and the ministry responsible for trade? Or other mechanisms?

In Norway there is an increasing cooperation between the ministries responsible for trade (Ministry of Trade and Industry and Ministry of Foreign Affairs) and the Ministry of Culture when issues involving trade and culture appear. If needed, intergovernmental working groups etc are set up.

- Civil society

7. What role should civil society play with regard to preferential treatment under Article 16?

Reference to civil society is made explicitly and implicitly in several provisions of the Convention. Civil society plays an essential role in the implementation of the Convention. The draft operational guidelines for article 11 foresee a.o. that civil society could contribute to cooperation for development at local, national and international levels. Work closely with civil society on both sides of the partnership, is fundamental in order to better target the measures and enhance their effectiveness.

MONITORING AND MEASURING

In order to monitor and measure the processes of implementation and the impact of Article 16, the mechanisms foreseen in articles 9 and 19 of the Convention (periodical reporting, information sharing and best practices) could be invoked.

8. Are these mechanisms sufficient?

The monitoring of the implementation of article 16 is ensured by the provisions of the Convention related to the general monitoring of all obligations enshrined in the Convention, and in particular through the reporting obligations of article 9 and article 19 on the exchange, analysis and dissemination of information.

We also believe that the UNESCO Institute of Statistics may assist in the monitoring of the Convention.

Should other mechanisms (e.g. research, a specially created body, other) be considered?

We do not see the need for establishing any new monitoring mechanism. Mechanisms to monitor specific articles of the Convention should be avoided.

9. Would you have any other comment to add?