

Legal Protection of the Intangible Cultural Heritage

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Abstract: *Intangible cultural heritage is a crucial factor in shaping personality and identity of a man. At the beginning of the 21st Century, in the face of deepening globalization, commercialization, consumerism, technological progress, and urbanization, there is a need to undertake, without undue delay, multifaceted, correlated and taking account of future circumstances' actions for the protection of the non-material cultural heritage. This study presents genesis, legal regulations and mechanisms which have been developed under the aegis of the United Nations Educational, Scientific and Cultural Organization. Measures taken by the UNESCO and particular states in view of reaching the set targets should follow the spirit of tolerance, empathy, cultural plurality and respect for human rights.*

Key Words: *Intangible Cultural Heritage; Monuments; Cultural Diversity; Legal Protection; Human Rights; UNESCO; Law.*

Introduction

Cultural heritage plays an inestimable role for the existence, lasting and development of a society. Historical memory and a proper attitude towards cultural heritage significantly influence shaping the personality and identity of a man. Monumental edifices, architectural structures, inventions and as subtle products of human ingenuity as pieces of music, literature and art arouse excitement and encourage reflection. Observations of flora and fauna and products of the inanimate nature prompt admiration and provide a sense of wonder. However, despite intensive and strenuous efforts on the part of scientists, numerous secrets of nature have not yet been revealed or explored.

Law can be treated as evidence of civilizational development of humankind and an element of cultural heritage. Law also reflects, in a given social group, the acceptable and unacceptable value system. The right of access to cultural goods and to the protection of cultural heritage is one of human rights. Numerous regulations concerning the protection of tangible cultural and natural heritage have been worked out on the interna-

tional arena.¹ However, the protection of intangible cultural heritage is an area that has been dealt with merely for the last few years. What is often forgotten, not only the material dimension but also the message conveyed by historical monuments builds cultural heritage. Nearly every edifice, text, or an artistic vision carries an idea or value system marked with individual perceiving, gradation and understanding of the world. Nurturing non-material cultural heritage is indispensable for preserving continuity and development of a society, the maintenance of dialogue between the present and the past and for drawing conclusions with a view to the future.

Non-material cultural heritage is requisite for understanding and proper reading and deciphering of material cultural heritage. Multiple attempts have been made on the international arena to define the notion of intangible cultural heritage. It is not an easy task as it is challenging to make a linguistic framework for a phenomenon which is not visible, not literal in a form. However, the phenomenon exists in the oral tradition taking on, e.g. the shape of values, beliefs, language dialects, fairy tales, legends, songs, or proverbs. Non-material cultural heritage eludes analytical and descriptive trials. What makes the trials a bigger challenge is the fact that the matter under discussion involves closely related notions as follows: *cultural heritage, cultural goods, or culture.*²

Protection of the intangible cultural heritage under the auspices of the UNESCO

The designatum of the notion *intangible cultural heritage* has been inserted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage.³

¹ *Convention Concerning the Protection of the World Cultural and Natural Heritage* [1972-11-16]. Journal of Laws, 1976, no. 32, item 190; *Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention* [1954-05-14]. Journal of Laws, 1957, no. 46, and *Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict* [1954-05-14]. Journal of Laws, 1957, no. 46, item 212; and *European Convention on the Protection of the Archaeological Heritage* [1992-01-16], Journal of Laws, 1996, no. 120, item 564 are some of the examples of multilateral treaties on this matter.

² See PRUSZYŃSKI, J. *Dziedzictwo kultury Polski: Jego straty i ochrona prawna: Tom 1*. 1. wyd. Kraków: Kantor Wydawniczy Zakamycze, 2001, p. 40 and following. ISBN 83-88551-55-8.

³ The UNESCO Organization took multiple actions to protect traditional and folk culture before the Convention came into existence. Some of them should be noted, e.g. the

The preamble of the Convention invokes earlier documents concerning the aforementioned problematic aspects. The Recommendation on the Safeguarding of Traditional Culture and Folklore adopted on November 15th, 1989, is one of those documents. According to the Recommendation folklore embraces such forms as customs, myths, language, dances, music, literature, or handicrafts. Folklore is a part of the universal heritage of humanity. The document accentuates that folklore functions mainly in the oral tradition, and as being of a passing and elusive nature, are on the edge of oblivion. Actions to protect the traditional and folk culture by means of legal regulations and other instruments elaborated by countries should be taken without any needless delay. Steps should be taken on two tracks: through international cooperation (projects concerning scholarly research and documentation, training, technical and financial support, establishing contacts between countries and regional institutions) and through the country context (producing catalogues and inventories, staff training, maintenance of folklore forms in the open air folklore museums, popularization of folk culture with the aid of symposia, festivals, exhibitions, publications, radio/television and educational programmes). All these activities should be conducted with full respect for intellectual property rights on the part of the creators involved in the protection of traditional and folk culture.

According to the UNESCO Universal Declaration on Cultural Diversity adopted in Paris on November 2nd, 2001, respect and regard for cultural diversity is one of the serious guarantors of peace and security in the world, likewise properly balanced functioning of nature is possible due to biological diversity. Originators of the aforesaid Declaration point to the fact that cultural diversity is that what should be affirmed and protected for the sake of contemporaries and subsequent generations. As stated by the document, cultural diversity is the root of creativity, innovations and exchange; living in a world of cultural diversity provides the man with conditions to develop one's personality, to ennoble oneself, to draw satisfaction. Protection of cultural diversity favours building the mutual understanding and respect; it also conduces to undertake joint activities

UNESCO Collection of Traditional Music of the World (recordings were started in 1961), the Red Book of Endangered Languages (started in the Eighties of the 20th Century), the Living Human Treasures (the programme started in 1994), the Proclamation of Masterpieces of the Oral and Intangible Heritage of Humanity (the programme launched in 2001). The above-mentioned endeavours on the part of the UNESCO have enabled the formation of the broadened notion of intangible cultural heritage.

and initiatives. It has been observed that cultural diversity may foster economic development; however, any actions concerning that kind of growth should be based on rationalism and common sense. As an example, increasing uncontrolled tourism may cause inconveniences in people's everyday life, make professional life of inhabitants difficult or drive sensitive ecosystems to the brink of destruction. The Declaration underlines the importance of the cultural diversity protection and points to the fact that the process should take place in accordance with respect for human rights. Dignity does not allow arbitrary interference in the lives of other people; similarly, cultural diversity should be an ethical imperative which protects from appropriation, violation of law and culture of ethnic minorities and indigenous people (autochthons). In the Declaration human dignity, human rights and cultural diversity are intimately connected. Protection of cultural diversity embraces also actions towards a free circulation of ideas, both in the verbal form (language, word) and in the non-verbal one (e.g. picture). For a proper development of artistic activity it is necessary to guarantee the freedom of the speech, press and of the other mass media, the equal access to cultural goods, scientific research, and technological achievements. The access should offer a wide range of possibilities to use virtual (digital) resources of art and science in view of the fact that cultural goods and services cannot be treated as commercial goods. Countries should implement a policy through which cultural diversity will be properly protected. The cultural policy of any country should contain not only a solid legal framework but also operational one so as to the circulation of ideas, works and creative processes, popularization of cultural goods and services connected with it, was unhampered and real. Countries should establish and support cooperation with the private sector and nongovernmental organizations with a view to achieving the aforesaid political goals. Civil societies, supported by the UNESCO, are expected to undertake actions to popularize creativity on a large scale, based on international solidarity.

The Declaration adopted in Istanbul in September 2002 is another document invoked in the preamble of the Convention. The document points to the fact that formation of cultural identity is closely connected with the intangible cultural heritage. The Third Round Table of Ministers of Culture⁴ has underlined the need to propagate the principles of the UNESCO Universal Declaration from the year 2001. The countries have

⁴ The Istanbul Declaration was adopted during the debates of the Third Round Table of Ministers of Culture.

been addressed to elaborate and implement proper measures and actions in order to protect the intangible cultural heritage. Participants pointed to the role of the UNESCO in the hitherto protection of the intangible cultural heritage and in the newly undertaken endeavours. The members of the meeting stood for the UNESCO resolution on international protection standards to be adopted in the new Convention.

The essence and principles of the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage

The Convention for the Safeguarding of the Intangible Cultural Heritage was adopted on October 17th, 2003. In the preamble the will has been expressed to take actions for the sake of protecting the intangible cultural heritage. The discussed Convention has become the first multilateral act legally binding in this matter in the world.


On the authority of the above-mentioned act, “the intangible cultural heritage” means “the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artifacts, and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity” (art. 2 para. 1). The definition is descriptive in its character; it refers to the presently cultivated, on the basis of intergenerational transmission, phenomenon, due to which members of a given social group shape their self and identity.

According to art. 2 para. 2, the non-material cultural heritage is expressed, for example, in: a) oral traditions and expressions, involving language as an instrument of the intangible cultural heritage; b) plays and other forms of performing art; c) customs, rituals and festive events; d) knowledge and practices related to nature and the universe; e) skills concerning craftsmanship. The aforementioned problematic aspects are not a subject to a value judgment or hierarchization.

The non-material cultural heritage is a part of the concept of the *world heritage of humanity*. The Convention for the Safeguarding of the Intangible Cultural Heritage is vulnerable to criticism on the grounds that the document aims at taking care of the heritage of local communities,

individuals, aboriginals. As a result, some critics claim, the traditional local cultures become conditioned by the predominant ones, that is to say, cultural elements of minorities may be appropriated. This stand does not seem to be fully justified as art. 2 para. 1 states the following: “For the purposes of this Convention, consideration will be given solely to such intangible cultural heritage as is compatible with existing international human rights instruments, as well as with the requirements of mutual respect among communities, groups and individuals, and of sustainable development.” Besides, the preamble articulates that “the international community should contribute, together with the States Parties to this Convention, to the safeguarding of such heritage in a spirit of cooperation and mutual assistance;”⁵ the document does not contain any reference to competition, appropriation, or any other forms of modern colonization. The analyzed legal act accentuates the seriousness and gravity of the aforementioned problems. Practicing international cooperation and helping play an important role in the face of deepening globalization, intolerance, uniformization, industrialization, the growth of modern technologies, consumerism, and commercialization. Therefore, the State Parties while elaborating their own regulations, programmes, or actions, should bear in mind the essence and principles of the Convention.

With a view to protect the non-material cultural heritage on a world-scale, two lists have been compiled. The first one – the UNESCO Representative List of the Intangible Cultural Heritage of Humanity⁶ serves to increase the awareness of the importance of the heritage, to make the cultural inheritance clearly visible, and to promote a dialogue which should express itself in the respect and attention to the cultural diversity.⁷ The following elements, among others, were inscribed on the Representative List of the Intangible Cultural Heritage of Humanity:


 Traditional silkworm raising and silk craftsmanship, China:

⁵ See also art. 19 – 24 of the *Convention for the Safeguarding of the Intangible Cultural Heritage* [2003-10-17]. United Nations Educational, Scientific and Cultural Organization, UN Doc. MISC/2003/CLT/CH/14.


⁶ On the basis of art. 31 para. 1 – 2, the elements from the previous editions of the List of Masterpieces of the Oral and Intangible Heritage of Humanity (which existed before the adoption of the discussed Convention) have been inscribed on the Representative List of the Intangible Cultural Heritage. The criteria for the inscription of new elements of non-material heritage on the Representative List have not been changed.

⁷ Legal basis art. 16 para. 1 in connection with art. 5 para. 1 of the *Convention for the Safeguarding of the Intangible Cultural Heritage* [2003-10-17]. United Nations Educational, Scientific and Cultural Organization, UN Doc. MISC/2003/CLT/CH/14.


The tradition is deeply rooted in the Chengdu region (成都). The silkworm raising, unreeling silk, thread making and weaving fabric is accompanied by culture festivals and ceremonies which unite the whole community. The life-cycle of the silkworm is perceived as a kind of a metaphor which represents the life-cycle of a man. Silkworms raising, secrets of silk weaving are important parts of both the Chinese non-material and material heritage as the products of silk craftsmanship are used for everyday objects, e.g. clothes, fans, or flowers.

 Art of seal engraving, China:

Originally the seals were used by the Chinese dignitaries and clerks; later they were put to use by all social classes. The tradition of seal making is still cultivated in Xiling. The technique and the art at the same time involve considerable skills, precision, artistic vision, and the art of calligraphy. First the design is drafted on paper and then it is engraved on stone with a knife. The pattern on the seal is the result of the vision of the artisan, thus giving evidence of his/her craft and respect for the maintenance of tradition.

 Verbal and graphic expressions of the Wajapi:

Inhabitants of the Brazilian state Amapá from the Wajapi tribe are indigenous people to the part of the Amazonian region. In the course of centuries they have worked out their very own verbal and graphic way of communication, expressing thoughts and world-view. The graphic system, for which red dyes extracted from the local vegetable are used, serves to ornament bodies and objects. Kusiwa is a very complex system – it requires decades to get proper knowledge, skills and proficiency. The means of expressions applied in the system make a technical challenge. Furthermore, to use the system the artist needs to sense the essence of it, to be able to express himself/herself. Kusiwa is metaphysical in its nature. This particular language is still alive as it is continuously evolving.

 Vimbuza, Malawi:

This ritual has been practiced since the Fifties of the 19th Century. For the Tumbuka people the Vimbuza healing dance is an important element of the folk culture. It is mainly applied to cure mental illnesses in women. The therapy may last for several months and it is used to complement professional medical treatment. In the opinion of the Tumbuka people, the dance provides its performers with the possibility to express oneself through the virtuosity of body movements.

✚ Textile art, the Peruvian island Taquile:

The inhabitants of the island lived in isolation to the Fifties of the 20th Century, which favoured the maintenance of local traditions. The community lives on the island of Lake Titicaca and it is famous for its textile art which was already known to the ancient Andean civilizations. Both women and men are involved in the production of fabrics and clothes worn by all the inhabitants of the island. The garment reflects the knowledge and stylistics that draw inspiration from the culture, history, and oral Inca tradition. There exists a school on the island where the young generation acquires Taquile handicrafts.

✚ Wood crafting of the Zafimaniry, Madagascar:

The ethnic group Zafimaniry that lives in the highlands of Madagascar is famous for elaborated and unique wood crafting. They do not use any metal parts for the structures but traditional wooden mortise and tenon joints. Structures and objects are rich in sophisticated ornaments which convey symbolic meaning. Craftsmen draw inspiration for geometrical ornaments from codified sources which bear traces of the Indonesian and Arabic origins. The type of ornamentation used by an artisan tells about his social position in the community.

✚ Cultural space of the Bedu in Petra and Wadi Rum, Jordan:

In the course of centuries the Bedu have learned to live in deserts, to coexist with nature through drawing knowledge from observations of flora and fauna. Nomadic Bedu tribes have worked out their own culture, art, traditional medical practices, animal husbandry (camels, goats, and sheep), pastoral and hunting tradition, and craftsmanship targeted at tent-making. The tribes are known for their hospitality and passion for poetry and music.

✚ Falconry – Austria, the Czech Republic, Belgium, Spain, France, Saudi Arabia, the United Arab Emirates, Morocco, Qatar, Mongolia, Syria, the Republic of Korea:

The tradition is transmitted from one generation to the next. The falconer has to be emotionally involved in performing his/her training tasks, which leads to building bonds with the birds, and eventually to a success. Falconers from different countries share the same values, such as commitment, loyalty, the way of bird caretaking, and passions which represent the very essence of their lives. In the course of time falconers

have developed their characteristic culture which manifests itself through poetry, songs, and the fine arts.

✚ Fujara, its music, Slovakia:

The Fujara and its music are inseparable parts of the pastoral and cultural heritage of the Central Slovakia. Each of the musical instruments is a masterpiece of the local craftsmanship and an expression of artistic abilities of the maker. The music performed on the Fujara alludes to the pastoral life. It imitates the sounds of nature, e.g. the burble of a mountain stream, or whistling of wind. The instrument has become popular outside the region and shepherds' milieu. Political, social, and economic transformations have caused a change in people's life, especially young ones, which resulted in the loss of interest in this particular subject. There is a need to popularize the instrument, its music and skills connected with it.

✚ Traditional Mongolian singing, Khöömei (Hooliin Chor):

This kind of singing makes an essential element of the Mongolian cultural heritage. The characteristic throat singing can be heard during religious holidays and events important for the local community. The length of a given vocal show and the order of songs are often strictly defined. Songs performed by individuals or groups pay respect for ancestors, tradition, and nature.

✚ Fire-dancing rite, Nestinarsvo, Bulgaria:

At the beginning of June in the Strandža (Странджа) Mountains, inhabitants of two villages, after the Orthodox Church ceremonies, take part in a procession with the sacred icons which moves to a holy spring outside the village. In the evening, at the drums' sounds dancing on the embers starts, which is the culmination of the ceremonies. The rite is a part of Saints Constantine and Helena days celebrated so as to bring fertility, well-being, and health.

✚ Gingerbread making, Croatia:


The cultural heritage encompasses culinary art as well. In Croatia baking is given equal status to art. The recipe, transmitted from one generation to the next, originally was known only to men. Nowadays, women are also involved in the activity. There is only one recipe for the dough but the way of decorating it is a matter of an artist's taste. Gingerbreads

are ornamented with pictures, images, or even poetic verses. Gingerbread craft is a significant element of the Croatian identity and culture.


In order to protect endangered elements of non-material cultural heritage, the List of Intangible Cultural Heritage in Need of Urgent Safeguarding has been prepared.⁸ Here are some of the properties inscribed on the List:

 Design and practices for building wooden arch bridges, China:

In order to build wooden arch bridges a specific technical knowledge is required concerning types of wood, craft, tools, design approach, or environmental constraints. The knowledge is passed on by masters from one generation to another through practice. Bridges join river banks and members of local communities who meet at them, pray, talk, and have meals, which promotes social cohesion. Therefore, keeping this tradition alive is crucial both for its technical thought and social meaning. At present, building wooden arch bridges seems to be threatened by shortage of timber and shrinking construction space.

 Traditional sailing boats, Iran:

Iranian boats Lenj have been built by the people of the northern part of the Persian Gulf. They are made of wood according to traditional techniques. Sailors could voyage taking advantage of celestial navigation that it is to say, they could navigate by stars, the moon, and the sun. They were able to forecast the weather through observations of various types of winds and the sea. The boats were used for travel and trade, for fishing, and pearl fishing. Presently, the traditional knowledge concerning the art of boat building, sailing, and navigational skills is slowly vanishing. The aforesaid features are really worth preserving as they constitute a kind of philosophy of life.

 Al Sadu, Bedouin weaving skills, the United Arab Emirates:

Men shear the sheep, camels, and goats. Women make fabrics through applying a traditional way of weaving passed from one generation to the next. They create ornamented pieces of cloth for camels and horses, and soft furnishings. These days, older women, living in rural surroundings, are the only repositories of the weaving skills. More and more

⁸ Legal basis art. 17 para. 1 in connection with art. 5 para. 1 of the *Convention for the Safeguarding of the Intangible Cultural Heritage* [2003-10-17]. United Nations Educational, Scientific and Cultural Organization, UN Doc. MISC/2003/CLT/CH/14.

people move to urban areas, which makes the tradition to disappear. The Bedouin weaving practices have played a crucial role for tightening and strengthening human relations, which makes the loss of Al Sadu more extensive.

✚ Moorish epic T'heydinn:

Griots recite the epic accompanied by stringed instruments. This piece of literature glorifies in the Hassaniya (حسانية) language heroic deeds of rulers and dignitaries and praises the values that constitute the basis for the functioning of the Moorish society. T'heydinn is performed on local social occasions and ceremonies, thus contributing to consolidation within communities. The language of the epic, a dialect of Arabic, is itself a medium of the cultural heritage. However, the number of Griots endowed with the knowledge of full text T'heydinn is decreasing.

The Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, established within the UNESCO structure, is responsible for the preparation, updating and publication of the above-mentioned Lists.⁹ The States Parties concerned are entitled to propose to the Committee cultural properties to be inscribed on the List. The Convention contains provisions to act in the case of urgent situations. If such one occurs, the procedure is simplified, that is, the Committee, having consulted the State Members concerned, may inscribe a heritage property on the List as mentioned in paragraph 1 (art. 17 para. 3).¹⁰

The Convention has created a financial mechanism to ensure effectiveness of the actions directed at the safeguarding the intangible cultural heritage. On the legal basis of the art. 25 para. 1 – 2, a Fund for the Safeguarding of the Intangible Cultural Heritage has been established, for

⁹ The State Members of the Committee are elected for four years according to the principle of rotation and equitable geographic representation decided upon in the Convention. The states are to be represented in the Committee by individuals with the proper knowledge and qualifications required for the work in the range defined by the Convention. The knowledge should not be limited to a particular field of science but rather embrace various spheres of knowledge compatible with the safeguarding of non-material cultural heritage (art. 6 para. 1 – 2 and 7). Moreover, the Committee may invite for its meetings individuals, private or public bodies, who, as stated by the art. 8 para. 4, possess “recognized competence in the various fields of the intangible cultural heritage, in order to consult them on specific matters.”

¹⁰ On the authority of art. 16 para. 2 and art. 17 para. 2 the General Assembly of the State Parties, the sovereign body of the Convention (art. 4 para. 1), approves the criteria for establishment, updating, and publication of the two Lists.

which money is raised according to the principles delineated in the UNESCO Financial Regulations. As defined in art. 25 para. 6, contributions made to the Fund cannot be connected with any political, economic, or other conditions contrary to the objectives of the Convention.

In a free market economy, monuments and cultural properties are often treated in a mercenary fashion. There must not be any situation that decisions concerning cultural heritage are made through the prism of politics, groups of interests, or for investments reasons.

The State Parties are obliged to submit to the Committee reports on the decisions and measures taken for the enforcement of the Convention (art. 29)¹¹ and to prevent declarativity in their activities.

Cultural activity, production, and distribution of cultural goods and services make an important factor for the protection and promotion of cultural diversity – as well as for the well balanced social development. The Convention on the Protection and Promotion of the Diversity of Cultural Expression, adopted on October 20th, 2005, in Paris by the General Conference of the UNESCO, has defined a new model of cultural diversity.¹² While working on it, the experts drew from the European Community the *acquis* and the international legal patrimony. Cultural diversity is a value which allows a human being to achieve his/her goals as an individual, a member of a social group, a nation, and of the international community. The UNESCO Convention from 2005 points to cultural services and goods as a medium of identity, meanings, and values. Additionally, the document underlines that culture should become “a strategic element in national and international development policies, as well as in international development cooperation.”¹³ The inclusion of culture into national and international strategies, promotion and culture management should take place on the “principle of equal dignity and respect for all cultures,” sovereignty, balance, and equitable access.¹⁴ Culture should

¹¹ On the basis of submitted reports the Committee draws conclusions referred to the General Assembly. The Committee’s reports that concern also its own activities are stated to the General Conference of the UNESCO (art. 30).

¹² The Convention was ratified by Poland (Journal of Laws, 2007, no. 215, item 1585).

¹³ The Preamble of the *Convention on the Protection and Promotion of the Diversity of Cultural Expression* [2005-10-20]. United Nations Educational, Scientific and Cultural Organization, UN Doc. CLT-2005/CONVENTION DIVERSITE-CULT REV.

¹⁴ More on it, art. 2 pt. 1 – 8 of the *Convention on the Protection and Promotion of the Diversity of Cultural Expression* [2005-10-20]. United Nations Educational, Scientific and Cultural Organization, UN Doc. CLT-2005/CONVENTION DIVERSITE-CULT REV.

not be perceived exclusively through the prism of trade or economic values, as it may lead to the destruction of social relationships and cultural diversity which are the common heritage of humankind. The authors of the Convention were inspired by the message “to develop cultural interaction in the spirit of building bridges among peoples.”¹⁵

In border regions cultures blend and merge, which is a result of centuries – old cultural coexistence of nations and ethnic groups. To preserve cultural identity in these regions, it is essential to cultivate dialects and languages of ancestors as they are a medium of interpersonal and social communication, the main element of material and non-material heritage. There are regions where just few individuals use a given language. Disappearance of languages, as a phenomenon, seems to be increasing significantly as users of native languages are passing away. Globalization poses a threat to the linguistic diversity, owing to the fact that this process favours using one or a limited number of languages in international communication which leads to the marginalization of vernacular languages. Within the framework of the UNESCO, numerous programmes for the protection of non-material heritage have been prepared and multiple actions have been commenced to coordinate steps taken by particular states. For example, the experts of the UNESCO Ad Hoc Group of Endangered Languages have produced a special report entitled “Language Vitality and Endangerment”, and an Atlas of the World’s Languages in Danger has been published.

Cultural and linguistic diversity, according to the Council of Europe’s Resolution on the European Strategy for Multilingualism of November 21st, 2008,¹⁶ contributes to the European identity. It constitutes the common European heritage; however, the phenomenon of the European identity also poses a challenge in the context of labour migration, prevalence of audiovisual media, digitization, virtual communication which more and more often replaces face to face conversations. The resolution accentuates the potential hidden in the spoken language which may come

¹⁵ More on it, art. 1d of the *Convention on the Protection and Promotion of the Diversity of Cultural Expression* [2005-10-20]. United Nations Educational, Scientific and Cultural Organization, UN Doc. CLT-2005/CONVENTION DIVERSITE-CULT REV.

¹⁶ BAŃ, S. A. *Działania Unii Europejskiej na rzecz kultury i turystyki kulturowej*. 1. wyd. Warszawa: Difin, 2007, p. 77 and following. ISBN 978-83-7251-705-0. See also TÖKÖLYOVÁ, T. Quo vadis, európska kultúra? *Politické vedy* [online]. 2011, roč. 14, č. 3, p. 79-86 [cit. 2014-07-02]. ISSN 1338-5623. Available at: http://www.politickevedy.fpvvmv.umb.sk/userfiles/file/3_2011/TOKOLYOVA.pdf.

as an advantage for economic contacts. Moreover, multilingualism “contributes to developing creativity by allowing access to other ways of thinking, interpreting the world, and expressing the imagination.”¹⁷ Language, in the context of non-material heritage, makes a domain which can be reflected through various means and forms of expression.

The Convention for the Safeguarding of the Intangible Cultural Heritage became applicable in Poland in September 2011 (Journal of Law, 2011, no. 172, item 1018). In the context of the protection of non-material cultural heritage numerous irresistible questions arise. Who and in which form should perpetuate elements of cultural heritage? Is it not contrary to the nature of the intangible cultural heritage to compile inventories, documents, or records? In what way the access to the compiled goods should be protected? Current copyright regulations do not provide effective solutions that could be applied for all arising situations.¹⁸ Presently, works on implementation and coordination of the necessary actions are conducted on the central, regional, and local levels. It is believed that emphasis should be also placed on the participation of scientists in research, investigation, identification, taking inventory of goods, and maintenance of documentation regarding the non-material cultural heritage. As far as protection of the intangible cultural heritage is concerned, formal and informal education seem to face an important task. The increased inter-ministerial cooperation is a condition sine qua non of success. The role of disinterested, selfless community workers who, in that regard, do not their spare efforts, skills, and resources is invaluable. In January 2013, the Polish Minister of Culture and National Heritage announced readiness to receive proposals for the National List of the Intangible Cultural Heritage. The first inscriptions were made in August 2014. Despite the fact that the protection of the intangible cultural heritage is a complicated and difficult task, adequate safeguards should not be delayed for any reasons as numerous phenomena may disappear together with the people who co-create them (“living books”).¹⁹ This postulate for

¹⁷ The Preamble of the *Council Resolution of 21 November 2008 on a European Strategy for Multilingualism* [2008-11-21]. Official Journal of the European Union, 2008-12-16, C 320.

¹⁸ BARTA, J. ed. *Prawo autorskie*. 2. wyd. Warszawa: C. H. Beck; Instytut Nauk Prawnych Polskiej Akademii Nauk, 2007, p. V and following. System Prawa Prywatnego: Tom 13. ISBN 978-83-7483-033-1.

¹⁹ KOWALSKA, S. Wkład Polaków w kreację Listy „Pamięć Świata” UNESCO: Prawne aspekty ochrony ogólnoludzkiego dziedzictwa piśmienniczego. In: S. KOWALSKA, ed. *Stosunki międzynarodowe i wkład Polaków w dziedzictwo kulturowe*. 1. wyd. Poznań – Kalisz: Uniwersytet im. Adama Mickiewicza w Poznaniu, Wydział Pedagogiczno-Artystyczny,

the protection of national heritage could be laid down in any country or region.

Conclusions

In order to protect the cultural and natural heritage multiple regulations have been developed on the national and international levels. The adoption on November 16th, 1972, by the General Conference of the UNESCO, the Convention Concerning the Protection of the World Cultural and Natural Heritage has intensified the actions in favour of the cultural and natural protection.

Humanity has gradually begun to notice, apart from the significance of material cultural heritage, the role played by the non-material cultural legacy for the human “self”. Programmes to safeguard culture and folklore commenced in the Sixties of the 20th Century. The actions were accompanied by legislative works, mainly declarations and recommendations.

Discussions and debates on intangible cultural heritage have been crowned by a success on October 17th, 2003, together with the adoption of the Convention for the Safeguarding of the Intangible Cultural Heritage, by the General Conference of the UNESCO. The Convention defines the notion of non-material cultural heritage which is indispensable for the interpretation and implementation of the aforesaid document. This is the first multilateral legally binding act, within international law regulations, on this matter.

The Convention provides a legal, institutional and organizational framework for the protection of the intangible cultural heritage on the national and international levels. Additionally, it establishes controlling and financial mechanisms to ensure effectiveness of the protection.

Individual countries, supported by the UNESCO, are obliged to take on necessary actions to effectuate provisions of the Convention on the principle of respect for meaning and essence of the heritage and for objectively and rationally understood human rights. Cultural capital of local and regional communities constitutes the legacy of their past. Diversity of

2014, p. 145. ISBN 978-83-62135-53-0. See also KOWALSKA, S. Prawna ochrona dóbr kultury: wybrane regulacje oraz proponowane zmiany. In: M. NOWAK, ed. *Studia prawnicze: Rozprawy i materiały* 3. Kraków: Krakowskie Towarzystwo Edukacyjne; Oficyna Wydawnicza AFM, 2007, pp. 97-111. ISBN 978-83-89823-64-9.

their cultural resources allows a multitude of essence, meanings, functions, and matters. As such, they cannot be a subject to a rigid schema. Protection of the intangible cultural heritage must not have anything in common with mercantile subservience.

Intangible cultural heritage is a living thing. Therefore, there should be no further delay in commencing actions aimed at its protection, as the continued existence of cultural phenomena is often limited by the duration of human life. Cultural heritage is crucial for building interethnic and international relations, challenging prejudices, and for breaking stereotypes and mental barriers. Actions and legal regulations enforced in pursuance of the protection of the intangible cultural heritage on international, national and regional levels should proceed in a spirit of tolerance, plurality, and respect for diversity.

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