

The Unesco Convention and its implementation in the EU Comment on the Commission's answer to MEP Mrs Hieronymi

Comment on the Commission's answer :

1- The Unesco Convention now "forms part of EC law". The European Court of Justice always took into account the International treaties the EC was bound by. The use of the word "binding" leaves no doubt on this strong submission of the Community law. The predominance of the international laws over the Community laws therefore obliges the EU to integrate this international "acquis" into its own rules.

2 - On the subsidiarity principle: the Community and the Member States are respectively responsible for implementing the aspects of the Convention that are part of their fields of competencies. This allows Member States to implement specific national policies. Everything related with the EC integration remains in the field of competence of the Community.

3- As to the last point, ("the Convention applies in Member States' mutual relations" and not only in the relations between the EU and third countries) it seems obvious since these mutual relations are governed by the EC laws.

4 - This answer makes no reference whatsoever to the disconnexion clause that was added by the Council when the Convention was ratified. Obviously the clause's role was to prevent any retroactive effect on the EC law : the EU is bound to change its legislation but all the rules that were adopted previously to the ratification cannot be considered as violations of the Convention. Therefore this clause would only be a guarantee related to the laws that are already into force.

Eurocinema's observations :

This answer by the Commission is obviously quite precise as far as the description of the different levels of laws, and their links are concerned (International, Community and National laws). Unfortunately, it does not give any hints on the dynamics that should be put forward in order to achieve the Convention's goals. How is the EC going to implement these goals? What will the agenda be? What will be the role of the different actors on the EU stage?

That is why, we feel and advice you that the Commission, as a first step, shall do an assessment on the legal implications of the cultural diversity issue faced with the competition policy, and the internal market etc... Trade policy by the way is taking into account this cultural diversity issue since it did not take any commitment in favour of liberalization for advertising as well as for some cultural services. What then about competition law and internal market ?