

# Intangible Cultural Heritage, Europe, and the EU: Dangerous Liaisons?

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## 1 Introduction

'United in Diversity' (lat. *in varietate concordia*) is well-known—either as the European Union's empty slogan or as its first commandment, depending on whether we choose the sceptical or the optimistic narrative concerning the content used to fill in this motto. It rhetorically expresses the goal of the European project, which is to achieve unity among EU Member States while at the same time acknowledging and fostering the diversity of their cultures. Although it is a catchy phrase on paper, it seems to be hard to enforce in reality, and the significant challenges that the EU has been facing in recent years have undermined the faith in this motto. In order to counteract this trend and find a safe way out of the EU's economic and political crisis (sometimes described as 'Europe's sustained decay'<sup>1</sup>), one option is to reach (again) for the 'culture argument' (the values, norms, and heritage which are to be 'shared, common and European') and embed it into the 'homogenising rhetoric'.<sup>2</sup> It should be noted that this is not happening for the first time in EU history. The economic and integrative crisis of the EU in the 1970s evoked the same kind of actions and reflections, which eventually resulted in the adoption of the 1973 Declaration on European Identity,<sup>3</sup> a tool of legitimization and an answer to

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- 1 Iliana Olivié and Manuel Gracia, *Elcano Global Presence Report 2016* (Real Instituto Elcano 2016) 17.
- 2 Elisabeth Niklasson, 'The Janus-Face of European Heritage: Revisiting the Rhetoric of Europe-Making in EU Cultural Politics' (2017) 17(2) *Journal of Social Archaeology* 138, 139.
- 3 'Summit Conference of the Heads of State or Government of the Member States of the European Community, Copenhagen, 14–15 December 1973. Declaration on European Identity' (1973) 12 EC Bull 118.

the perceived lack of identity in order to foster the process of integration<sup>4</sup> and help define the place which [the then EC] occupy in world affairs. These beliefs in the power of culture, including cultural heritage, in times of crisis (especially those sometimes called ‘multiculturalism retreats’, underpinned with fears that the accommodation of diversity has gone too far),<sup>5</sup> seems to also have been an important underlying factor in proclaiming the European Year of Cultural Heritage in 2018, which came about after decades of developing EU cultural (heritage) policies. Accordingly, it has been emphasized that

Cultural heritage plays an important role for community cohesion at a time when cultural diversity is increasing in European societies. (...) New participatory and intercultural approaches to heritage policies and educational initiatives that attribute equal dignity to all forms of cultural heritage have the potential to increase trust, mutual recognition and social cohesion.<sup>6</sup>

In this regard, Irina Bokova, the former UNESCO Director-General, stated at the Abu Dhabi Culture Summit that ‘[t]here is a global awakening about the power of culture for security and development.’<sup>7</sup> The UN’s ‘intellectual agency’—UNESCO—has to be credited for the creation and adoption of the most successful legal instrument pertaining to cultural heritage in recent decades, the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage (the 2003 Convention), with its broad and all-encompassing definition of intangible cultural heritage, understood as follows:

the practices, representations, expressions, knowledge, skills—as well as the instruments, objects, artefacts 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

4 Monica Sassatelli, *Becoming Europeans: Cultural Identity and Cultural Policies* (Palgrave Macmillan 2009) 39.

5 Will Kymlicka, ‘The Rise and Fall of Multiculturalism? New Debates on Inclusion and Accommodation in Diverse Societies’ (2010) 61 *ISSJ* 97.

6 Decision (EU) 2017/864 of the European Parliament and of the Council of 17 May 2017 on a European Year of Cultural Heritage (2018) [2017] OJ L131/1, para 11.

7 UNESCO, “‘There Is a Global Awakening about the Power of Culture for Security and Development’, says UNESCO Director-General in Abu Dhabi Culture Summit’ (11 April 2017) <[www.unesco.org/new/en/media-services/single-view/news/there\\_is\\_a\\_global\\_awakening\\_about\\_the\\_power\\_of\\_culture\\_for/](http://www.unesco.org/new/en/media-services/single-view/news/there_is_a_global_awakening_about_the_power_of_culture_for/)> accessed 28 January 2019.

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.<sup>8</sup>

The examples from Europe, already labelled according to this definition and inscribed as ICH, include, inter alia: Art of Neapolitan ‘Pizzaiuolo’ (Italy); Basel Carnival (Switzerland); Craft of the miller operating windmills and watermills (the Netherlands); Cultural practices associated to with 1st of March (Bulgaria, The Former Yugoslav Republic of Macedonia, Republic of Moldova, Romania); Kolo, traditional folk dance (Serbia); Multipart singing from Horehronie (Slovakia); Organ craftsmanship and music (Germany)—to mention just a few of latest inscriptions made into the Representative List of ICH in December 2017.<sup>9</sup> They usually belong to, but need not be limited to, one of the listed Convention domains: oral traditions and expressions, including language as a vehicle of intangible cultural heritage; performing arts; social practices, rituals, and festive events; knowledge and practices concerning nature and the universe; and traditional craftsmanship. The chosen elements for inscription have to be 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 (Article 2 of the 2003 Convention). In order to be nominated to the Representative List they have to first be inscribed into a national ICH inventory (Article 12 of the 2003 Convention).

This Chapter seeks to answer two major questions: What is the place of Europe in the global ICH safeguarding regime?; and How has the EU introduced the ICH concept following the adoption of the 2003 Convention?<sup>10</sup> In order to answer these questions it analyses the number of inscriptions stemming from European countries to the Representative List of ICH, taken as a proof of the

8 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage (adopted 17 October 2003, entered into force 20 April 2006) 2368 UNTS 1, art 2.

9 <<https://ich.unesco.org/en/lists>> accessed 28 January 2019.

10 It is important to underline that this Chapter deliberately omits the issue of concepts, regulations and documents aimed at protection of elements that belong to traditional cultural expressions, such as geographical indications, traditional knowledge/medicine, or the ‘indigenous exception’ present in the EU regulation on trade in seal products. Though they also form what is defined today as intangible cultural heritage, the history of their presence at the level of the EU is a separate issue (see e.g. the PhD dissertation by Lily Martinet, *Les expressions culturelles traditionnelles en droit international*, Sorbonne Law School 2017, unpublished). Here, the history of the mutual EU-UNESCO recognition with the reference to the concept of ICH and the 2003 Convention is at the centre of the analysis.

interest shown by States Parties to the 2003 Convention. It also examines how the EU defines ‘intangible cultural heritage’ in practice, e.g. via diverse funds and programmes, with the aim of seeing how close (or how far) it is to the 2003 Convention’s definition. At the end the Chapter presents the challenges and possible pitfalls that might be encountered in the process of including ICH in the current EU heritage policies and actions. The structure of this Chapter follows the sequence of the above-mentioned issues.

In order to provide a clear referential framework, the research presented in this Chapter is based on an interdisciplinary approach, involving the legal, institutional, and political dimensions. In terms of the sources used, information was drawn from international organizations (EU and UNESCO) primary sources—e.g. conventions (with a focus on the 2003 Convention), institutional agreements, directives, memoranda of understanding (especially those between the EU and UNESCO), policy documents, operational directives, open calls for funds, and others. Ethnographic methods (participant observation and semi-structured interviews, conducted during four research visits to UNESCO Headquarters in Paris and to the EU Commission and Parliament between June 2016 and September 2017) are also used to provide an important source of information relevant for this analysis.

## 2 Europe, the EU, and the Lists of the 2003 Convention: ‘The West over the Rest’ Again?

The idea of safeguarding non-material heritage and its depositaries is actually rooted in Asia, and the first legal initiatives launched to protect the bearers of folklore and traditional culture were established at the national level by Japan (in 1950), and subsequently by South Korea (1962) and the Philippines (1972). The formal proposal to establish a UNESCO system of ‘Living Cultural Properties’ was made by the Republic of Korea in June 1993 to the UNESCO Executive Board.<sup>11</sup> At its 142nd session in 1993, the Executive Board of UNESCO adopted a resolution on the creation of the Living Human Treasures programme.<sup>12</sup> This was, following the Recommendations on the Safeguarding of

11 UNESCO Section of Intangible Heritage and Korean National Commission for UNESCO, ‘Guidelines for the Establishment of Living Human Treasures Systems. Updated Version (2002)’ (2002) 13–15.

12 UNESCO, ‘Establishment of a System of “Living Cultural Properties” (Living Human Treasures) at UNESCO’ (10 August 1993) UN Doc 142 EX/18 and UNESCO, ‘Draft decisions recommended to the Executive Board by the Programme and External Relations Commission’ (21 October 1993) UN Doc 142 EX/48.

Traditional Culture and Folklore (1989)—adopted a decade earlier—another important step towards appreciating the intangible aspects of cultures and their bearers.<sup>13</sup> However, it had a limited impact and no legal power to introduce more profound changes. Koichiro Matsuura, a Japanese citizen who was appointed as UNESCO Director-General in 1999, decided to bring this idea to the UNESCO forum again and work on the preparation of the new legal instrument commenced the same year.<sup>14</sup> However, the arguments for protecting not only tangible but also intangible heritage had already been raised when the Convention Concerning the Protection of the World Cultural and Natural Heritage (the 1972 Convention) was being drafted,<sup>15</sup> with the Bolivian proposal formulated a year later (in 1973) to protect folk arts and cultural heritage of the various nations of the world and create the International Register of Folkloristic Cultural Property.<sup>16</sup> The undisputed success of the most recognizable international ‘promotion machine’ for cultural heritage—the List of the World Cultural and Natural Heritage (WHL) established by the 1972 Convention and now comprised of more than 1,000 entries—served as a model for the 2003 Convention, which established the Representative List of the Intangible Cultural Heritage of Humanity. This list currently includes 429 inscriptions from 118 countries (as of December 2018).

The listing system is the most visible (and controversial) similarity between these two Conventions, which otherwise differ widely. In both cases, it requires professional and efficient administrative personnel, who must deal with heritage protection and safeguarding; appropriate allocation of financial resources to cultural policy, including for the promotion of heritage abroad; and conduct of effective diplomacy at the international level, which includes the skilful crafting of coalitions in order to gain an entry on the selected list. Inscription on any international heritage list is, therefore, the culmination of a complex process, taking place mainly, but not only, within the sphere of cultural diplomacy.<sup>17</sup> The current enlargement of the international heritage arena leads even

13 Janet Blake, *Commentary on the UNESCO 2003 Convention on the Safeguarding of the Intangible Cultural Heritage* (Institute of Art & Law 2006). See also Janet Blake, ‘From Traditional Culture and Folklore to Intangible Cultural Heritage: Evolution of a Treaty’ 3 (2) SAACLR 41.

14 ‘Cécile Duvelle Talks to Hanna Schreiber and Lucas Lixinski’ (2017) 3(2) SAACLR 21.

15 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage (adopted 16 November 1972, entered into force 17 December 1975) 1037 UNTS 151.

16 Cécile Duvelle, ‘A Decade of Implementation of the Convention for the Safeguarding of the Intangible Cultural Heritage: Challenges and Perspectives’ (2014) 36 *Ethnologies* 27, 29.

17 Hanna Schreiber, ‘Intangible Cultural Heritage and Soft Power—Exploring the Relationship’ (2017) 12 *International Journal of Intangible Heritage* 43, 48.

to the conclusion that a distinct field has emerged—that of heritage diplomacy.<sup>18</sup> An important difference between the two Conventions concerns the aims of their respective lists. The WHL objective is to inscribe sites of outstanding universal value, which also meet at least one out of ten established criteria (Article 11 of the 1972 Convention), whereas the Representative List seeks to ensure better visibility of the intangible cultural heritage and awareness of its significance [as a whole, not only the elements listed—HS], and to encourage dialogue which respects cultural diversity (Article 16 of the 2003 Convention).

Soon after the adoption of the 1972 Convention, the WHL proved to be not only a great success story but also a promotional machine—but mainly for one region of the world: Europe, which has the majority of inscribed sites.<sup>19</sup> This situation caused growing international consternation throughout the 1980s, and in the 1990s a number of mechanisms were invented to correct this imbalance, including the launch in 1994 of the Global Strategy for a Representative, Balanced, and Credible World Heritage List.<sup>20</sup> Despite these initiatives, European hegemony on the WHL remains in place, making it still a ‘most European Convention’. Thus it comes as no surprise that one of the arguments raised at the time of drafting the 2003 Convention was that this instrument should finally mitigate this imbalance by raising and promoting the richness of traditions, customs, rituals, and traditional craftsmanship of African, Asian, and Latin American origin.<sup>21</sup>

The hopes for having a 2003 ‘non-Western Convention’ did not materialize however. While indeed in the wings of UNESCO one may hear ‘off the record’ comments that ‘UNESCO is not for Europe, and Europe does not need the 2003 Convention’, or that ‘the governing bodies are clear that they invest only in developing countries, like Africa, Latin America’<sup>22</sup> the statistics show that Europe as a region can handle this neglect quite well. The number of inscriptions are a visible proof of the frozen power structure in the global heritage regime, in which Europe has played a key role for decades. Europe, as a region,

18 Tim Winter, ‘Heritage Diplomacy’ (2015) 21 *IJHS* 997.

19 For more on the history of creating regional groups in the framework of the 1972 Convention, with the aim to ensure an equitable representation of the different regions and cultures of the world, especially in the context of the elections to the Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage (art 8 of the 1972 Convention), see Lynn Meskell, Claudia Liuzza, and Nicholas Brown, ‘World Heritage Regionalism: UNESCO from Europe to Asia’ (2015) 22(4) *IJCP* 437.

20 Ibid 438; Christoph Brumann and David Berliner, *World Heritage on the Ground: Ethnographic Perspectives* (Berghahn Books 2016) 11.

21 Brumann and Berliner (n 20) 12.

22 Interviews in July 2016.

has been highly successful in operationalizing the 2003 UNESCO Convention (or in other words, in ‘capitalising on the new possibilities’)<sup>23</sup> as regards the presence of intangible cultural elements originating from Europe on the Representative List of the Intangible Cultural Heritage of Humanity. Out of the five world regions, Europe has 132 inscriptions, which constitutes the largest share (35%) in the regional representation.

The next step in the analysis of the widespread European presence on the ICH international arena, understood partly through Brumann’s definition of the ‘arena’ as a ‘familiar playing field with agreed-upon rules, (...) detailed procedural routines and set expectations of diplomatic rhetoric and etiquette’,<sup>24</sup> reveals the central role of the activities undertaken by the 27 EU Member States in heritage diplomacy. These activities have resulted in the large number of inscriptions on the Representative List, forming at the same time an overwhelming majority of the inscriptions representing Europe as a geographical region on this UNESCO list. As of December 2016, out of the 46 states forming Groups I and II, (generally representing Europe as a regional group), 27 EU Member States possess 91 elements out of 132 (representing Europe see figure 13.1). All current EU Member States—with the exception of the UK, which is however currently in the process of leaving the EU—are also States Parties to the 2003 Convention (with Malta joining last in spring 2017).

The States Parties to the 2003 Convention are divided into six regional groups:<sup>25</sup> as of March 2018 Group I is comprised of 22 states, representing the region of Western Europe and North America (including Turkey, although neither the US or Canada are States Parties to the Convention); Group II has 24 states (Central and Eastern Europe, with only a few States from Central Asia, such as Tajikistan or Uzbekistan); Group III has 32 states (Latin America and the Caribbean); Group IV has 39 states (Asia and the Pacific); Group Va has 42 states

23 Brumann and Berliner (n 20) 11.

24 Christoph Brumann, *Multilateral Ethnography: Entering the World Heritage Arena*, Max Planck Institute for Social Anthropology Working Papers No 136 (Max Planck Institute for Social Anthropology 2012). In the definition of the ‘arena’, he also includes the feature that it is ‘governed by standard spatial arrangements in the meeting room’, which limits the notion only to the activities taking place during the regular and official sessions and meetings. Here, thus, the ‘arena’ is understood in a wider way and includes all diplomatic and scientific activities taking place between, and against the background of, the regular UNESCO meetings.

25 This was decided at the 1 General Assembly of States Parties to the 2003 Convention in Paris, June 2006, ITH/06/1.GA/CONF.201/6A paragraph 4.

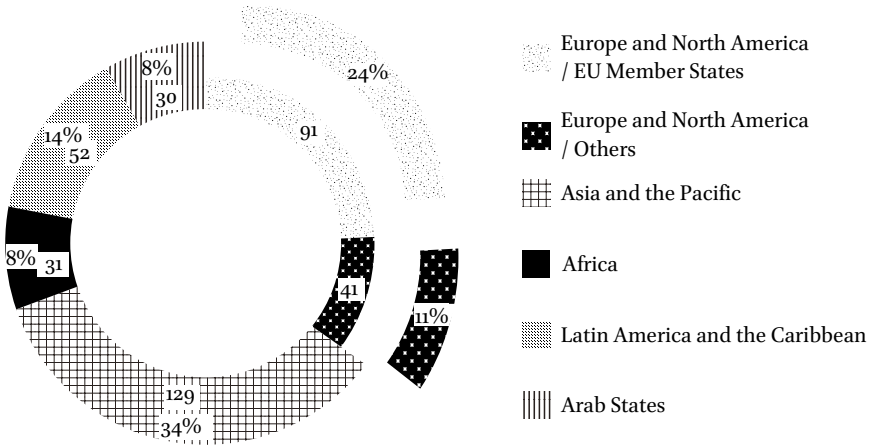


FIGURE 13.1 Regional groups and the EU Member States according to the number of inscriptions on the Representative List of ICH of Humanity (2008–16).  
 Note: Only unique inscriptions were counted for each region (multinational inscriptions were counted as 1 per each region). Only unique inscriptions for the whole group were also counted for EU Member States.  
 SOURCE: OWN ELABORATION

(Africa), and Group Vb has 18 States (Arab).<sup>26</sup> In 2010, out of the 44 elements inscribed that year 18 of them represented Groups I and II, which together—for the needs of comparison to the 1972 Convention—were merged below to form the Europe and North America Group of States. The EU Member States form the strong core of Groups I and II, which cover Western Europe (and North America), as well as Eastern and Central Europe respectively (see Figure 13.1).

The EU Member States (considered as forming a geographic area) also occupy first place when promoting good practices in ICH safeguarding on the UNESCO Register of Good Safeguarding Practices. Out of 19 practices (as of December 2017), 13 come from countries belonging to Groups I and II, with inscriptions from Spain (3), Belgium (2), Bulgaria (2), and Hungary (2) at the top. The one non-EU Member State represented in the Register of Good Safeguarding Practices, Norway, inscribed the ‘Oselvar boat—reframing a traditional learning process of building and use to a modern context’ in December 2016. The aim of the Register is to promote national, sub-regional, and regional programmes, projects, and activities for the safeguarding of the heritage which best reflect the principles and objectives of the 2003 Convention. Somewhat ironically—as there is no inscription from Africa and none from the Arab

26 For the current number of States ascribed to each specific regional group, please check [ich.unesco.org](http://ich.unesco.org).



States—it should take into account the special needs of developing countries (Article 18 of the 2003 Convention).

Although the number of inscriptions do not solely or necessarily reflect the potential, richness, or status of ICH in a given country, they generally reflect the financial and diplomatic capacities of the EU Member States, which have already been mentioned. Thus, it is not surprising that the countries from Groups I and II show much less interest in the last of the three existing ICH lists: the List of Intangible Cultural Heritage in Need of Urgent Safeguarding (Article 17 of the 2003 Convention). Out of 52 elements, corresponding to 28 countries, only 10 of them come from Groups I and II (and out of these 10 only five come from EU Member States: Latvia, France, Croatia, and Portugal—with two elements being endangered: manufacture of cowbells and Bisalhães black pottery manufacturing). Presence on this List makes it possible to receive international assistance (Article 20) and resources (financial support) from the Intangible Cultural Heritage Fund (Article 25).

It has been noted<sup>27</sup> that the differences in countries' conditions (e.g. professional personnel, academic expertise, financial resources, cultural policy, political will, and diplomatic efficiency, to mention just a few factors) impact on their nomination capacities, which are in turn likely to affect the number of sites or other elements of heritage inscribed on any international list. This is why more European heritage examples are on the UNESCO Lists—because they usually stem from richer countries, and although the economic condition of a country is not the sole factor influencing the number of inscriptions (see e.g. the United States) it enhances the chances for visibility of a State's cultural heritage on the international level. It must be underlined, however, following Meskeil and others in relation to the 1972 Convention,<sup>28</sup> that this does not imply that poorer nations have fewer outstanding heritage sites or are less representative of ICH traditions—they just have fewer resources to mobilize towards attaining UNESCO nominations. The large number of inscriptions may even be a proof of inadequate interest in the nomination process, what is again unofficially admitted by some UNESCO experts:

being on the Representative List too much means you do not do anything else. Having a few nominations is OK, but being every year able to

27 Brumann and Berliner (n 20) 445; Enrico E Bertacchini and Donatella Saccone, 'Toward a Political Economy of World Heritage' (2012) 36(4) *Journal of Cultural Economics* 327; Bart JM van der Aa, 'Preserving the Heritage of Humanity? Obtaining World Heritage Status and the Impacts of Listing' (PhD thesis, Netherlands Organisation for Scientific Research 2005), after Meskeil, Liuzza, and Brown (n 19).

28 Meskeil, Liuzza, and Brown (n 19) 446.

propose several nominations means most of time you don't do anything else. (...) But the people very often are attracted for the wrong reasons, because they are not quite informed about the purpose of the list. Because nobody wants to tell them what the purpose of the list is. So for them it is a replica of the 1972 Convention. They want to be on the list; this is normal. But it is clearly a wrong interpretation. The description of the reason for the Representative List is not the same as the World Heritage List, it is not the outstanding, exceptional thing. It is to better understand what the ICH is.<sup>29</sup>

It is also important to note in this regard that this 'European hegemonic trend' could not have been easily foreseen before the entry into force of the 2003 Convention and the first inscriptions to the Representative List, as it was Asia and the Pacific that had the most nominations during the first two years of the functioning of the Representative List (2008–10). The results of the programme directly preceding the 2003 Convention—the Masterpieces of the Oral and Intangible Heritage of Humanity, launched in three editions: 2001, 2003, and 2005—had similarly put Asia and the Pacific in the forefront. Open to every UNESCO Member State and financially supported by Japan, the Proclamation of Masterpieces ended with 90 inscriptions, which, according to the Article 31 of the 2003 Convention, formed the first group of ICH elements inscribed on the Representative List. Asia and the Pacific had 26 masterpieces, followed by Europe with 20, Latin America and the Caribbean with 19, 18 from Africa and 7 from the Arab States.

This situation changed in December 2010, when the number of inscriptions coming from Europe grew significantly in number, in part due to an increase in ratifications of the 2003 Convention by European States. Since 2012, Europe has been on the cutting edge of heritage regimes. It must be underscored, however, that the gap between inscriptions from Europe and those from Asia and the Pacific is not significant at the moment. Whether it will grow in the same way as the regional gap between Europe and the rest of the world on the WHL remains to be seen in the future.

### 3 EU, UNESCO, and the 2003 Convention: An Unclear Picture

One may ask: Did the EU, as a regional organization, play any supportive role in the process of drafting of the 2003 Convention and further the growing

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<sup>29</sup> Interview at UNESCO HQ, September 2017.

recognition of ICH within the EU Member States and on the international ICH arena, especially in comparison to its visible later engagement in the drafting and adoption of the 2005 Cultural Diversity Convention?<sup>30</sup> In order to answer this question, one has to investigate the legal and institutional basis for the cooperation between the EU and UNESCO.

The first step in the relations between UNESCO and the European Communities can be considered to have taken place already in 1964, via an exchange of official letters between the European Economic Community, which was eventually transformed into the EU, and UNESCO. The next exchange of letters occurred almost a decade later, in 1973.<sup>31</sup> In 1995, UNESCO and the European Commission concluded a framework agreement harmonizing their administrative and financial procedures in order to strengthen their cooperation.<sup>32</sup> In February 2004 a new UNESCO-Commission agreement was signed, which amended the previous one and allowed UNESCO to accede to the Financial and Administrative Framework Agreement (FAFA) concluded between the UN and the Commission in 2003.<sup>33</sup> The Commission is also involved as an official observer in the institutional discussions developed by the UNESCO bodies, i.e. the General Conference and the Executive Board. In this context, the Commission gained visibility within UNESCO during the negotiations on the 2005 Convention for the Protection and Promotion of the Diversity of Cultural Expressions (2005 UNESCO Convention).<sup>34</sup> This followed a mandate from the EU Council of Ministers to the Commission to negotiate on behalf of the European Community and its Member States.<sup>35</sup> On this occasion, the Commission was granted enhanced observer-status by the Executive Board and by the General Conference, which enabled it to negotiate on behalf of the European

30 Lucia Cavicchioli, 'The European Community at UNESCO: An Exceptionally Active Observer?' in Jan Wouters, Frank Hoffmeister, and Tom Ruys (eds), *The United Nations and the European Union: An Ever Stronger Partnership* (T.M.C Asser Press 2006).

31 Edith Drieskens and Lien De Tavernier, 'The EU Performance in Relation to Palestine's Membership of UNESCO' in Spyros Blavoukos and Dimitrios Bourantonis (eds), *The EU in UN Politics: Actors, Processes and Performances* (Palgrave Macmillan 2017) 213.

32 UNESCO, 'Co-operation between the European Commission and UNESCO' (13 December 1995) UN Doc 147 EX/44.

33 'Financial and administrative framework agreement between the European Union represented by the European Commission and the United Nations' (2014) <[https://en.unesco.org/sites/default/files/procedures-fafa-un-consolidated\\_en\\_o.pdf](https://en.unesco.org/sites/default/files/procedures-fafa-un-consolidated_en_o.pdf)> accessed 28 January 2019.

34 (Adopted 20 October 2005, entered into force 18 March 2007) 2440 UNTS 311.

35 Commission of the European Communities, 'Recommendation from the Commission to the Council to authorise the Commission to participate, on behalf of the Community, in the negotiations within UNESCO on the convention on the protection of the diversity of cultural contents and artistic expressions' SEC (2004) 1062 final.

Community. Today, this still remains the most visible example of cooperation in the field of culture between the EU and UNESCO, although the process encountered severe difficulties at the beginning and the EU's role and capacity to operate were only hammered out in the negotiation process itself.<sup>36</sup> An analysis of this process, carried out by Psychogiopoulou,<sup>37</sup> Cavicchioli,<sup>38</sup> Wouters and others,<sup>39</sup> seems to indicate that the focus and engagement of the EU (since 2001) in the process of drafting and adopting the 2005 Convention were, as part of the Barroso-Ashton Strategy,<sup>40</sup> driven by clearly formulated economic interests (e.g. the protection of internal cultural markets from US dominance) and might have resulted in its lack of interest in the parallel process of drafting and adoption (since 1999) of the community-driven 2003 Convention and the EU's lack of awareness of its potential future role as well as its incredible success.<sup>41</sup> As the analysis conducted in this Chapter demonstrates, even to this day the EU does not recognize the 2003 Convention as an important legal instrument that might lie in the interests of the EU.

Following up on the establishment the UNESCO Liaison Office in Brussels in 2011, UNESCO and the EU signed a new Memorandum of Understanding (MoU) on 8 October 2012, with a view toward enhancing their dialogue, strengthening their cooperation, and fostering the exchange of best practices.<sup>42</sup> The field of cultural heritage, however, was not mentioned separately in this document. Section C of this MoU—concerning areas for dialogue and

36 Jan Wouters and others, 'Improving the European Union's Status in the United Nations and the UN System: An Objective Without a Strategy?' in Christine Kaddous (ed), *The European Union in International Organisations and Global Governance: Recent Developments* (Hart 2015) 72.

37 Evangelia Psychogiopoulou, 'The Convention on the Diversity of Cultural Expressions and the European Union: The Quest for Competence and Implementation' in Toshiyuki Kono and Steven Van Uytsel (eds), *The UNESCO Convention on the Diversity of Cultural Expressions: A Tale of Fragmentation in International Law* (Intersentia 2012).

38 Cavicchioli (n 30).

39 Wouters and others (n 36).

40 European Commission, 'Communication to the Commission from the President in agreement with Vice-President Ashton. Strategy for the progressive improvement of the EU status in international organizations and other fora in line with the objectives of the Treaty of Lisbon' C (2012) 9420 final.

41 The only reference to the EU during the process of drafting the Convention appears at the expert meeting in Paris from 23 to 27 September 2002. The Representative of Denmark stressed, in the name of the EU (this was during the Danish presidency) that it is important to take the time to prepare a normative instrument thoroughly and to carefully take all relevant points into consideration. Doc.CLT-2003/CONF.205/5.

42 'Memorandum of Understanding. Concerning the establishment of a partnership between the United Nations Educational, Scientific and Cultural Organisation Secretariat and its subsidiary bodies (hereinafter referred to as "UNESCO") and the European Union'

cooperation—lists the following fields: education and culture, media, science, technology, innovation, maritime policy, human rights, especially freedom of expression, bioethics and ethics of science, and new technologies.

The latest UNESCO initiatives bringing the EU and UNESCO closer have been undertaken by national commissions for UNESCO. A very important regional initiative established a European Network of National Commissions, in order to include all EU Member States as well as those four in the European Free Trade Association (Iceland, Liechtenstein, Norway, and Switzerland). Following a meeting organized by the German Commission for UNESCO in Bonn in February 2015, the network was formally launched. Its goal is to strengthen the cooperation within the EU.<sup>43</sup> This forum has the potential to allow for more reflexive discussions on the relationship between the EU and the 2003 Convention in the future. Cooperation between the EU and UNESCO is also taking place via the EU Liaison Office in Paris and the UNESCO Liaison Office in Brussels, set up after the Lisbon Treaty. However, research visits and interviews revealed that the topic of the 2003 Convention has not yet come to the particular attention of either office. The answers given several times to questions about the EU's possible interest in the 2003 Convention (on both EU and UNESCO sides) contained a simple explanation, eg: 'They [the EU bureaucrats] have no idea about it', 'they just do not understand what ICH is', 'they think it is for tourists'.<sup>44</sup>

Nevertheless UNESCO, through the Regional Bureau for Science and Culture (based in Venice, Italy) as well as the Regional Centre for the Safeguarding of Intangible Cultural Heritage in South-Eastern Europe in Sofia (UNESCO Category 2 Centre), support the cooperation with and between States from South-Eastern Europe (some of them being non-EU Member States, i.e. Albania, Bosnia and Herzegovina, Moldova, Montenegro, Serbia, The Former Yugoslav Republic of Macedonia, and Turkey) in the field of ICH via a network of ICH experts and regular meetings (since 2007) as well as training in the field. When it comes to the cooperation of these actors with the EU however, one may hear on one hand that 'cooperation with the EU is a process full of uncertainties and question marks, but we do attach a great importance to it'; and on the other—specifically regarding the interest and awareness of the EU about ICH: '[They are asking] what is ICH? [And they say:] We do not want to support folklore

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(8 October 2012) <[https://en.unesco.org/sites/default/files/unesco-eu\\_mou\\_8\\_october\\_2012.pdf](https://en.unesco.org/sites/default/files/unesco-eu_mou_8_october_2012.pdf)> accessed 30 January 2019.

43 [2014] Polish National Commission for UNESCO Review Bulletin <[www.unesco.pl/fileadmin/user\\_upload/pdf/Biuletyn\\_2014\\_ENG.pdf](http://www.unesco.pl/fileadmin/user_upload/pdf/Biuletyn_2014_ENG.pdf)> accessed 29 January 2019.

44 Interviews in July 2016 (with Liaison Office in Brussels and with UNESCO Venice Office), April 2017 (European Parliament), and September 2017 (UNESCO HQ).

studies. We [ICH experts from the region] always receive these questions when coming to the European Commission with projects including ICH. (...) There is still a lot of work to be done on building understanding'.<sup>45</sup> Interestingly, the EU is presented as a strategic partner for UNESCO according to the statements on the UNESCO website.<sup>46</sup> As one UNESCO insider put it: 'They have much more money than UNESCO', but at the same time, 'They have a wrong idea even for tangible heritage. They have an idea of a very economic nature of heritage'.<sup>47</sup> No one among my respondents at the UNESCO HQ, UNESCO Liaison Office in Brussels, as well as the UNESCO Venice Office, was able to mention even one person working at any EU institution that they could contact and ask about ICH and the 2003 Convention: '[For us] the most important partners are the European Commission and European Parliament (...) There is no specific competence on ICH in the EU, maybe in DG Culture people know [something], but they are not requested to do it'.<sup>48</sup>

#### 4 Introducing 'Intangible Heritage' and the 2003 Convention into EU Policies and Actions

The engagement of the EU in the field of cultural heritage is part of both its involvement in the field of culture and the discussion related to European values and identity. Its legal basis was determined first by the provisions of Article 128 of the Treaty establishing the European Community (TEC) under the Maastricht reform (1992), then Article 151 as amended by the Treaty of Amsterdam (1997), and finally the present Article 167 of the Treaty on the Functioning of the European Union (TFEU).<sup>49</sup>

In analysing the provisions of Article 167, one can observe that cultural heritage, in the light of EU treaties, is promoted and protected as long as it is perceived as 'common' and as 'having European significance'. The vagueness of these formulations has been widely and critically addressed, including in this volume.<sup>50</sup> The idea of 'respecting' national and regional diversity limits the activity of the European Community. 'Bringing the common cultural heritage to the fore' thus acts as a counterweight against diversity. Therefore, the principle of subsidiarity, meaning that the Union shall act only if and insofar as its

45 Interviews in July 2016.

46 <[https://en.unesco.org/partnerships/intergovernmental\\_organizations](https://en.unesco.org/partnerships/intergovernmental_organizations)> accessed 30 January 2019.

47 Interview at UNESCO HQ, September 2017.

48 Interviews in July 2016.

49 Consolidated version: OJ C 326, 26.10.2012, pp. 47–390.

50 See Chapters by Cynthia Scott and Evangelia Psychogiopoulou in this volume.

action is more efficient than that taken at the national, regional, or local level, is enhanced in the field of cultural heritage. This excludes the harmonization of national laws and regulations in this area.

Cultural heritage itself has not been precisely defined in the treaties nor in any EU policies or actions. However, subsequent actions taken after the adoption of Article 128 of TEC (Maastricht) present a somewhat narrow perception of cultural heritage, as material, tangible heritage that shall be first and foremost reconstructed or conserved.<sup>51</sup> This trend—reducing cultural heritage only to tangible assets—was visible also in the pre-Maastricht actions on the EU level.<sup>52</sup>

In 2007, the EU adopted the European Agenda for Culture in a Globalizing World, where cultural heritage again appears in the following context: ‘Europeans share a *common cultural heritage*, which is the result of centuries of creativity, migratory flows and exchanges. They also enjoy and value a rich cultural and linguistic diversity, which is inspiring and has inspired many countries across the world’.<sup>53</sup> [emphasis added] It was later explained that:

Since the adoption of the Agenda in 2007, heritage has been a priority for the Council’s work plans for culture, and cooperation at the European level has advanced through the Open Method of Coordination. Political interest at the EU level has steadily grown—cultural and heritage stakeholders recently highlighted in the Declaration on a New Narrative for Europe: ‘Europe as a political body needs to recognise the value of cultural heritage. Heritage reveals what it has meant to be a European throughout time. It is a powerful instrument that provides a sense of belonging amongst and between European citizens’.<sup>54</sup>

The above description of the role of heritage at the EU level comes from the EU document referring to cultural heritage adopted in Brussels in July 2014 by the Commission: ‘Towards an integrated approach to cultural heritage for Europe’, in which the definition of cultural heritage and its place in the EU Agenda is presented as follows:

Europe’s cultural heritage, both tangible and *intangible*, is our common wealth—our inheritance from previous generations of Europeans and our legacy for those to come. It is an irreplaceable repository of

51 See Chapter 14 by Kristin Hausler in this volume.

52 As discussed in Chapter 3 by Evangelia Psychogiopoulou in this volume.

53 Commission of the European Communities, ‘European agenda for culture in a globalizing world’ (Communication) COM (2007) 242 final.

54 European Commission, ‘Towards an integrated approach to cultural heritage for Europe’ (Communication) COM (2014) 477 final.

knowledge and a valuable resource for *economic growth, employment and social cohesion*. It enriches the individual lives of hundreds of millions of people, is a source of inspiration for thinkers and artists, and a *driver for our cultural and creative industries*. Our cultural heritage and the way we preserve and *valorise* it is a major factor in defining Europe's place in the world *and its attractiveness as a place to live, work, and visit*. Cultural heritage is a shared resource, and a common good.<sup>55</sup>

Point 2.3 of this Communication is devoted to cultural heritage in EU external relations, importantly listing two priority organizations for co-operation in this field: the Council of Europe and UNESCO.<sup>56</sup> The resolution of the European Parliament under the same title, adopted on 8 September 2015,<sup>57</sup> mentions in its Preamble, among numerous EU instruments, only two non-EU legal instruments: the 2005 UNESCO Convention and the Council of Europe's Framework Convention on the Value of Cultural Heritage for Society (Faro Convention) of 13 October 2005.<sup>58</sup>

Another short reference to intangible heritage can be found in the Council conclusions of 21 May 2014 on cultural heritage as a strategic resource for a sustainable Europe:

cultural heritage consists of the resources inherited from the past in all forms and aspects—tangible, *intangible* and digital (born digital and digitized), including monuments, sites, landscapes, skills, practices, knowledge and expressions of human creativity, as well as collections conserved and managed by public and private bodies such as museums, libraries and archives. It originates from the interaction between people and places through time and it is constantly evolving.<sup>59</sup>

The Council's definition again attributes a very specific role for cultural heritage in achieving the Europe 2020 strategy goals for a smart, sustainable, and inclusive growth (point 7).<sup>60</sup>

55 Ibid (emphasis added).

56 Ibid *ii*.

57 European Parliament resolution of 8 September 2015 towards an integrated approach to cultural heritage for Europe, P8\_TA-PROV(2015)0293 <[www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0293+0+DOC+XML+Vo//EN](http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0293+0+DOC+XML+Vo//EN)> accessed 30 January 2019.

58 (Adopted 27 October 2005, entered into force 1 June 2011) CETS 199.

59 Council conclusions on cultural heritage as a strategic resource for a sustainable Europe [2014] OJ C183/36 (emphasis added).

60 Ibid.



Other provisions which are relevant for analysing the references to the field that might be described as ICH include the following formulations: the EU Member States draw ‘inspiration from the cultural, religious and humanist inheritance of Europe’ (the Preamble of the TEU), ‘spiritual and moral heritage’ (the Preamble of the Charter of Fundamental Rights), and respect the EU Member States customs relating ‘to religious rites, cultural traditions and regional heritage’ (Article 13 TFEU, referring to animal welfare).

The latest EU document where cultural heritage is deemed to be important, entitled ‘Towards an EU strategy for international cultural relations’, adopted in 2016, is even more interesting as it states in its first paragraph that:

promoting diversity through international cultural relations is an important part of the EU’s role as a global actor. This involves a commitment to both promoting ‘international cultural relations’, through the support and assistance the EU provides to third countries, and supporting the promotion of the Union and the diverse cultures of EU Member States through ‘cultural diplomacy’. As a key partner of the United Nations (UN), *the EU cooperates closely with UNESCO to safeguard the world’s cultural heritage*.<sup>61</sup>

While intriguing for every ICH expert working within the UNESCO ICH paradigm, this last formulation is also a puzzling one, as it refers only to ‘the world’s cultural heritage’ and thus can be read as either excluding ICH from EU cultural heritage policies or—which is more probable—‘embracing’ ICH and placing it under the ‘world heritage’ umbrella.<sup>62</sup> The term ‘world heritage’ is however, according to the UNESCO Evaluation Body, established to examine nominations

61 European Commission, ‘Joint Communication to the European Parliament and the Council: Towards an EU strategy for international cultural relations’ JOIN (2016) 29 final (emphasis added).

62 An anonymous reviewer offered the following comment: ‘World Heritage with capital letters is related to the WH convention (which comprehends cultural and natural heritage), while “world heritage” is not, or not necessarily so. The reference to the “world’s cultural heritage” in this document rather echoes the Agenda 2030, SDG 11.4. This broad reference to the cultural heritage of the world (which, again, is not the same thing as World Heritage) can be legitimately interpreted as comprehending ICH’. I believe, however, that the term ‘world heritage’ as such echoes, for a majority of readers, the meaning of this term transmitted via the 1972 Convention, and although one can legitimately interpret this term as embracing ICH, it unfortunately remains a matter of interpretation, and does not reflect a clear and visible intent and awareness on the part of the drafters of this text.

to the 2003 Convention's three lists (Representative List, Urgent Safeguarding List and Register of Good Practices), on the list of 'taboo words':<sup>63</sup>

*Inappropriate language and unwarranted publicity.* Submitting States are reminded to avoid inappropriate language, such as 'world(wide)/global heritage', 'masterpieces', 'original', or 'unique(ness)' that is not in keeping with the spirit of the 2003 Convention. Unnecessary publicity for specific organizations or personalities should also be avoided.

This wording clearly shows the lack of ICH experts within the EU institutions where these documents are created and adopted. It is also a visible sign of the perspective which continues to reign in the EU cultural heritage policy generally, namely the 'world heritage' paradigm.

Nevertheless, the decision of the European Parliament and of the Council on the European Year of Cultural Heritage (2018) repeated the definition of cultural heritage adopted by the Council in the 2014 Conclusions on cultural heritage as a strategic resource for a sustainable Europe, which mentions intangible heritage resources inherited from the past, adding only one new category: film heritage (Paragraph 7).

Perhaps a better way to contain ICH within the EU's initiatives is on the expert level, i.e. through the Open Method of Coordination (OMC), which has been established in the field of culture since 2008.<sup>64</sup> The OMC gathers together experts, on a voluntary basis, to work in specially-dedicated working groups. During the last decade four working groups (out of 14 groups set up to discuss topics related to culture<sup>65</sup>) have been dealing with the topic of cultural heritage, but none of them are focused solely on ICH.<sup>66</sup> Interestingly, the working group established in March 2017 on sustainable cultural tourism is directed to consider 'ways to create a European tourism offer based on tangible *and*

63 Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage, 'Report of the Evaluation Body on Its Work in 2016' (31 October 2016) UN Doc ITN/16/11.COM/10, 8 (emphasis added), para 31.

64 See Evangelia Psychogiopoulou, 'The Cultural Open Method of Coordination: A New Boost for Cultural Policies in Europe?' (2017) 24(2) MJECL 264.

65 <[https://ec.europa.eu/culture/policy/strategic-framework/european-coop\\_en](https://ec.europa.eu/culture/policy/strategic-framework/european-coop_en)> accessed 30 January 2019.

66 See CEU, 'Conclusions of the Council and the Representatives of the Governments of Member States, meeting within the Council, on a Work Plan for Culture 2008–2010' [2008] OJ C143/9; CEU, 'Conclusions of the Council and the Representatives of the Governments of Member States, meeting within the Council, on the Work Plan for Culture 2011–2014' [2010] OJ C325/1; CEU, 'Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on a Work Plan for Culture (2015–2018)' [2014] OJ C463/4.

*intangible cultural heritage* as a competitive factor to attract new forms of sustainable tourism'.<sup>67</sup> As the topics for OMC are chosen and agreed upon by the EU Member States and are part of the Work Plans for Culture, adopted every three years since 2005 by EU Culture Ministers (identifying priority areas for action by the CEU, the Commission and the Member States), they show a specific way of interpreting the potential role of ICH in the EU, as is detailed below.<sup>68</sup>

## 5 Intangible Cultural Heritage in the 'World Heritage' Trap and on 'the EU Heritage Market'

The analysis of the place of ICH in EU policies and actions reveals two important problems: the first is the prevalence of the tangible heritage paradigm, referred to here as the 'World Heritage' trap; and the second is the economy-driven approach to heritage, described below as creating 'the EU heritage market'.

The tangible heritage paradigm clearly has its roots in the European dominance on the WHL,<sup>69</sup> as well as in the 'Authorised Heritage Discourse' as identified by Laurajane Smith.<sup>70</sup> Rooted in the 19th century archaeological and conservation doctrine, this Western-centric way of thinking about heritage as having to be material, authentic, historic, and universal, is massively reflected in the language of the 1972 World Heritage Convention. To make the picture more complicated however, this specific, tangible, 'material' approach seems to be grounded at the EU level in the abstract discourse of a 'common, shared and European heritage'. This wording is vague and theoretical, and thus very problematic, even though it has been present in the EU heritage policies since the 1970s, with its own aims and objectives.<sup>71</sup> As emphasized by Niklasson:

67 European Commission, 'Mapping of Cultural Heritage Actions in European Union Policies, Programmes and Activities' (August 2017) 7 <[http://ec.europa.eu/assets/eac/culture/library/reports/2014-heritage-mapping\\_en.pdf](http://ec.europa.eu/assets/eac/culture/library/reports/2014-heritage-mapping_en.pdf)> accessed 30 January 2019 (emphasis added).

68 This topic goes in line with the adopted Conclusions on the Work Plan for Culture 2011–14, where in 'Priority Area B: Cultural and Creative Industries', the description of actions to be taken by the Commission states the following: 'In the context of the Commission Communication on the new policy context for tourism in Europe, the Commission will establish close collaboration between its services, including Enterprise DG, in order to promote the development of cultural tourism and related industries and to identify good practices in sustainable management of cultural tourism, including tangible and intangible heritage, in an integrated regional development strategy'.

69 See point 2 of this Chapter.

70 Laurajane Smith, *Uses of Heritage* (Routledge 2006).

71 For more, See Cris Shore, 'Inventing the "People's Europe": Critical Approaches to European Community "Cultural Policy"' (1993) 28 *Man* 779.

'monuments and sites were expected to work, not only as economic assets and a means to anchor a sense of European belonging to something solid, but as an origin myth for the institutions themselves'.<sup>72</sup>

This 'heroic discourse' of 'values, norms, identities' that are 'common, shared and European' today produces 'an imagined cultural community' of Europe which is 'united in diversity'.<sup>73</sup> However, because it is so abstract and based on specific EU rhetorical language, it needs anchoring in reality in order to make it understandable. This has led to critical academic reflections<sup>74</sup> which describe the process of its materialization into concrete objects and sites, thus keeping the EU cultural heritage policy in the tangible 'World Heritage' trap:

The abstract character of a common European cultural heritage in EU policy discourse is, however, concretized when the policies are put into practice. The EU initiatives seek to make a European cultural heritage concrete by *fixing its abstract and intangible meanings to material objects and physical sites*.<sup>75</sup>

This explains why the EU cultural heritage policies reach so enthusiastically for material labels and prizes. By taking the European Heritage Label (EHL), 'the most emblematic heritage initiative as of yet' as an example that has already been applied with regard to 29 material sites,<sup>76</sup> it is interesting to note that three of those inscriptions are of an interpretative, documentary, and intangible character, which had to be linked to a physical site in order to be given the EHL. For example, the Union of Lublin (1569) from Poland is materialized via three historic monuments: the Chapel of the Holy Trinity; the Union of Lublin monument; and the Dominican monastery, all of which are linked to the signing of the Union of Lublin in 1569.<sup>77</sup> Although the official description says that 'the Union was an exceptional case of the democratic integration of two countries with peaceful and inclusive coexistence of people from various ethnic and religious backgrounds', while considering its intangible, heroic

72 Niklasson (n 2) 144.

73 Tuuli Lähdesmäki, 'Rhetoric of Unity and Cultural Diversity in the Making of European Cultural Identity' (2012) 18 IJC Policy 59; Luca Zan, 'Economic Discourse and Heritage Conservation: Towards an Ethnography of Administrations' (2013) 6(2) Heritage & Society 167, 181–82.

74 Lähdesmäki, 'Rhetoric of Unity' (n 73) 59.

75 Tuuli Lähdesmäki, 'Politics of Tangibility, Intangibility, and Place in the Making of a European Cultural Heritage in EU Heritage Policy' (2016) 22 IJHS 766, 768 (emphasis added).

76 Niklasson (n 2) 152.

77 European Heritage Label, '2014 Panel Report' (19 December 2014) 8 <<https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/library/ehl-2014-panel-report.pdf>> accessed 30 January 2019.

significance it still needed 'a site' and concrete objects (chapel, monument, monastery) to be anchored within the EU heritage arena. In two other cases (The 3 May 1791 Constitution, Warsaw, Poland; and The Charter of Law of Abolition of the Death Penalty [1867], Lisbon, Portugal), a very similar and interesting re-classification occurred. As both historical documents are definitely not sites but birthplaces of ideas, reflecting strong non-material content, the possibility to classify them as such was resolved by references to the places in which they are stored: The State Archives (Archives of Historical Records) in Warsaw, and the strongroom in the National Archive of Torre do Tombo.<sup>78</sup>

Another example of the existence of the tangible paradigm is visible within the EU Prize for Cultural Heritage/Europa Nostra Awards. Over the past 15 years, organizations and individuals from 39 countries have submitted a total of 2,720 applications for these Awards. With regard to the categories, Conservation has had the most submissions (1,606).<sup>79</sup>

Moreover, the limited understanding of what constitutes 'cultural heritage' is also reflected in Part 3.3 of Joint Communication 2016 'Towards the strategy...', devoted solely to cultural heritage. The Communication describes heritage as fragile and often threatened by disasters, wars, looting, and pillaging, with tangible artefacts sold on the black market as possible sources to support terrorist activities.<sup>80</sup> Among the three mechanisms for reinforcing cooperation on cultural heritage, there are none which could be applied to the topic of ICH. These three priorities for cooperation include: (1) research with the aim of preservation and management of cultural heritage in Europe that is jeopardized by climate change; (2) taking steps to create a legislative proposal to regulate the import of cultural goods into the EU, based on the results of a recently launched study aimed at identifying gaps in national legislation; and (3) contributing to international efforts led by UNESCO to set up a rapid reaction mechanism for the protection of cultural heritage sites. The EU will include the expertise to assess damages to cultural heritage as part of its post-disaster and post-conflict recovery measures.<sup>81</sup> This Joint Communication also tellingly encapsulates the narrow, economic approach to cultural heritage. Its first paragraphs present culture, cultural exchange, and cultural expressions as 'stimulating jobs and growth' 'bringing economic benefits', being 'a central element in the new

78 Ibid 11, 13.

79 Next comes Education, Training and Awareness-Raising (457), then Research (340), and, finally, Dedicated Service to Heritage (317), <[www.europeanheritageawards.eu/facts-figures](http://www.europeanheritageawards.eu/facts-figures)> accessed 30 January 2019.

80 JOIN (2016) 29 final (n 61). See also Chapter 14 by Kristin Hausler in this volume.

81 Ibid 3.3.

economy driven by creativity, innovation and access to knowledge', 'promoting creative industries', and 'attracting tourism and boosting economic growth'.<sup>82</sup>

Perhaps the only cultural heritage programme that allows for wider consideration of ICH is the European Heritage Days, launched by the Council of Europe in 1985 and joined by the EU in 1999. Among the 23 categories of events, many may serve as an umbrella for including ICH in a way that satisfies the UNESCO definition: dance, music, tradition, crafts, heritage education, cultural routes, landscape/nature, creativity and innovation, family heritage, shared history, theatre, or sport.<sup>83</sup> Indeed, the chosen themes and organized events quite often refer to a broader understanding of cultural heritage, focusing on communities, traditions, and processes of transmitting knowledge, thus presenting a quite unique offer in this regard.

At the same time it should be noted that the scope of the analysed EU documents related to cultural heritage and referring to ICH seems quite wide and all-encompassing at the moment. This means that there are no real obstacles to adopting the UNESCO perspective and its definition of ICH. However, the prevailing understanding and interpretation of the goals that are to be accomplished by introducing ICH and cultural heritage more broadly locate ICH in the context of the 'EU heritage market'. Moreover, the prevailing way of thinking about cultural heritage is dominated by the 'World Heritage' paradigm.

Within the above-mentioned framework, as well as within the described conceptual limitations, financial support for actions and research embracing the ICH field has been established. However, as noted by Niklasson, funding is not only a question of outside interference with the autonomy of researchers or how their findings are used, but something which influences the values, hierarchies, and content of the heritage domain.<sup>84</sup> This is why, when describing the ways of implementation of ICH into the EU actions and policy, one cannot omit this important aspect of the process (see Table 13.1).

Interestingly, the funding field is the first one with a clear reference to ICH and the 2003 Convention. When the Creative Europe Programme (2014–20) was adopted, with a budget of €1.46 billion, the phrase 'intangible heritage' appeared for the first time.<sup>85</sup> The programme builds on and brings together the former

82 Ibid.

83 <[www.europeanheritagedays.com](http://www.europeanheritagedays.com)> accessed 30 January 2019.

84 Niklasson (n 2) 140.

85 Within the scope of the preceding Culture Programme (2007–13), 'Implementation of the programme actions: multi-annual cooperation projects; cooperation measures; special action (third countries); and support for bodies active at European level in the field of culture' [2010] OJ C204/7, the term 'intangible' does not appear at all ('heritage' appears twice); and a similar situation occurs in the Education, Audiovisual and Culture

TABLE 13.1 Possible sources of ICH projects—funding within EU (after the entry into force of the 2003 Convention)

Area	Source	Searched phrase	2007–13	2014–17	
CULTURE	The Culture Programme (2007–13) <sup>a</sup>	intangible culture	9	–	
		intangible heritage	6	–	
	Creative Europe (2014–17) <sup>b</sup>		intangible culture	–	100
			intangible heritage	–	42
			intangible culture		37
		intangible heritage		244	
EDUCATION	ERASMUS+ <sup>d</sup>	intangible culture	3	139	
		intangible heritage	7	57	
RESEARCH & INNOVATION	CORDIS (Horizon 2020, FP7, FP6) <sup>e</sup>	intangible culture	2	17	
		intangible heritage	3	12	
MARITIME POLICY <sup>f</sup>	European Fisheries Fund (EFF) 2007–14	intangible culture	NDA	NDA	
		intangible heritage	NDA	NDA	
	European Maritime and Fisheries Fund (EMFF) 2014–20	intangible culture	NDA	NDA	
		intangible heritage	NDA	NDA	
COMMON AGRICULTURAL POLICY	European Agricultural Fund for Rural Development (EAFRD) <sup>g</sup>	intangible culture	NDA	NDA	
	European Network for Rural Development (ENRD) <sup>h</sup>	intangible heritage	NDA	NDA	
		intangible culture	0		
		intangible heritage	0		
		culture (keyword)	15		
		food and drink (keyword)	3		
		local food (keyword)	17		
INTERNAL MARKET, INDUSTRY, TOURISM AND ENTREPRENEURSHIP	COSME Programme (2014–20) <sup>i</sup>	intangible culture	–	0	
		intangible heritage	–	1	

Area	Source	Searched phrase	2007–13	2014–17
DEVELOPMENT	European Regional Development Fund (ERDF)	intangible culture	NDA	NDA
		intangible heritage	NDA	NDA
	European Social Fund (ESF)	intangible culture	NDA	NDA
		intangible heritage	NDA	NDA
	Cohesion Fund (CF)	intangible culture	NDA	NDA
		intangible heritage	NDA	NDA
AND EXTERNAL RELATIONS <sup>l</sup>	Keep.eu (Interreg, Interreg IPA CBC, and ENI CBC) <sup>k</sup>	intangible culture	0	0
	European Development Fund (EDF)	intangible culture	–	1
		intangible heritage	–	1
	Development Cooperation Instrument (DCI)—Human and Social Development	intangible culture	–	2
		intangible heritage	–	2

- a Based on search results of phrases ‘intangible heritage’ and ‘intangible culture’ via Creative Europe website <<http://ec.europa.eu/programmes/creative-europe/projects#>> accessed 28 January 2019.
- b Ibid.
- c Based on search results of phrases ‘intangible heritage’ and ‘intangible culture’ via Europeana website <[www.europeana.eu/](http://www.europeana.eu/)> accessed 28 January 2019.
- d Based on search results of phrases ‘intangible heritage’ and ‘intangible culture’ via Erasmus+ Projects website <<http://ec.europa.eu/programmes/erasmus-plus/projects/>> accessed 28 January 2019.
- e Based on search results of phrases ‘intangible heritage’ and ‘intangible culture’ via CORDIS website, aggregating the research and innovation projects, realized within Horizon 2020, FP7, FP6, FP5 and earlier programmes stretching back to 1990 <[http://cordis.europa.eu/projects/home\\_en.html](http://cordis.europa.eu/projects/home_en.html)> accessed 28 January 2019.
- f There is no official project database for EFF and EMFF funds.
- g There are no official databases with all European Agricultural Fund for Rural Development’s projects—each country provides information on the beneficiaries of the fund separately.
- h Based on search results of phrases ‘intangible heritage’ and ‘intangible culture’, and filtering projects via ‘culture’, ‘food and drink’, ‘local food’ keywords via ENRD official website <[https://enrd.ec.europa.eu/projects-practice\\_en](https://enrd.ec.europa.eu/projects-practice_en)> accessed 29 January 2019.



- i Based on search results of phrases ‘intangible heritage’ and ‘intangible culture’ via COSME official data website <<https://cosme.easme-web.eu/#>> accessed 29 January 2019.
- j There are no official databases aggregating ERDF, ESF, and CF projects data—each country provides information on the beneficiaries of each fund separately. A part of data concerning ERDF is provided within Keep.eu website <[www.keep.eu](http://www.keep.eu)> accessed 29 January 2019. Regional funds project’s data could be also browsed via European Commission Regional Policy website <[http://ec.europa.eu/regional\\_policy/en/projects](http://ec.europa.eu/regional_policy/en/projects)> accessed 29 January 2019, but provided search infrastructure does not allow finding exact project data.
- k Based on search results via KEEP.eu website, the source of aggregated data regarding projects and beneficiaries of EU cross-border, transnational, and interregional cooperation programmes within the EU, and between Member States and neighbouring countries <[www.keep.eu/keep/search](http://www.keep.eu/keep/search)> accessed 30 January 2019.
- l Based on search results of phrases ‘intangible heritage’ and ‘intangible culture’ via European Commission International Cooperation and Development Website <[https://ec.europa.eu/europeaid/search/site\\_en](https://ec.europa.eu/europeaid/search/site_en)> accessed 30 January 2019.

Culture, MEDIA, and MEDIA Mundus Programmes (2007–13).<sup>86</sup> Paragraph 6 of the Preamble of Creative Europe Programme states the following aim:

promoting tangible *and intangible cultural heritage, in the light of, inter alia, the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage* and the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage, should also contribute to the enhancement of the value of the *relevant sites* whilst giving to peoples a sense of ownership of the cultural and historical value of such *sites*.<sup>87</sup>

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Executive Agency, ‘Programme Guide. Culture Programme (2007–2013)’ (May 2010) <<http://eacea.ec.europa.eu/culture/programme/documents/2010/may/EN.pdf>> accessed 30 January 2019, where ‘heritage’ appears five times without any references at all to ‘tangible’ or ‘intangible’ heritage. However, as the table 13.1 shows, ‘intangible heritage’ appeared in the description of the projects financed by this programme—but they were accepted and implemented not because of the topic itself but because of the fact that they fulfilled the requirement of cooperation between different EU Member States. The Programme Guide uses the vague notion of ‘common cultural heritage (...) with a view to encouraging the emergence of European citizenship’ (Education, Audiovisual and Culture Executive Agency, ‘Programme Guide’ 8). The Programme was aimed at three specific objectives: promotion of the trans-national mobility of people working in the cultural sector; support for the trans-national circulation of cultural and artistic works and products; and promotion of inter-cultural dialogue.

86 The legal basis for the programme is Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020—the Framework Programme for Research and Innovation (2014–2020) and repealing Decision No 1982/2006/EC [2013] OJ L347/104.

87 Ibid para 6 of the Preamble (emphasis added).

However, even here ICH is directly linked to relevant 'sites', not to inter-generationally transmitted knowledge, skills, or identity.

'Intangible heritage' also appears as part of the definition of 'cultural and creative sectors' (Article 2(1)) and an element of the Culture Sub-Programme priorities (Article 12). Interestingly, the amendment to this programme, adopted in 2017,<sup>88</sup> introduced a novel concept that combines intangible heritage with cultural production, outlined in the part devoted to the description of the European Union Youth Orchestra, one of the objectives of which is to promote 'the intangible heritage of local, regional and European cultural production'.<sup>89</sup>

Cultural Programmes preceding the Creative Europe Programme had never included any 'intangible heritage' terminology in their descriptions or guidelines.<sup>90</sup> Interestingly, the Creative Europe Programme is not the only one that funds projects designed for safeguarding ICH. The European Regional Development Fund and Cohesion Fund also provide financial support for ICH. The references to ICH began to appear and grow in visibility also in more (or less) appropriate configurations in Horizon 2020 and Interreg.<sup>91</sup>

It needs to be noted that the only project funded by both the EU and UNESCO which was devoted solely to ICH—Mediterranean Living Heritage (MEDLIHER)—was realized outside the EU (2010–12) and aimed at supporting the implementation of the 2003 Convention in Egypt, Jordan, Lebanon, and Syria (with a total budget of €1.34 million, co-funded up to 80% by the EU through the Euromed Heritage 4 Programme).<sup>92</sup> According to an unofficial opinion presented within UNESCO, it did not however prove to be efficient. The administrative staff on the EU side did not consider the aims of the 2003 Convention and the potential subsequent cooperation between UNESCO and

88 European Commission, 'Amendment of the 2017 Annual Work Programme for the Implementation of the Creative Europe Programme' (6 June 2017) 9 <[https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/c-2017-3717\\_en.pdf](https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/c-2017-3717_en.pdf)> accessed 30 January 2019.

89 Ibid 8.

90 Among the three pilot programmes (so-called first-generation programmes) which have been introduced since 1996 (until 1999), one was specifically devoted to cultural heritage, i.e. Raphael (formally established by the European Parliament and Council Decision of 13 October 1997). Although the objectives and areas of the Raphael programme were set quite broadly, only the projects related to tangible cultural heritage were covered by the programme funding of €70 million. It ended in 2000 and was substituted by the programme Culture 2000–2006 (with a budget of €240 million), and subsequently Culture 2007–2013, with a budget of €400 million to support projects and activities designed to protect and promote cultural diversity and heritage.

91 For detailed data on the number of projects in each funding stream, please refer to Table 13.1. A more detailed analysis of the number of projects referring to ICH and intangible culture in all EU funds and programmes is presented in Table 13.2 attached to this Chapter.

92 See <[www.euromedheritage.net](http://www.euromedheritage.net)> accessed 30 January 2019.

the EU in the ICH field, and the project did not produce any concrete steps for the future.<sup>93</sup>

Despite the fact that 'EU engagement in heritage has always been linked to the developments within UNESCO and the Council of Europe',<sup>94</sup> the adopted terminology in the above-mentioned programmes veers far away from the ICH definition as contained in the 2003 Convention, and instead places ICH merely in the sphere of 'cultural and creative industries', thus including it in the strong 'economy-based paradigm', with the role of bringing 'comparative advantage in an increasingly competitive tourism marketplace' (see below). In the *Ex post evaluation of Cohesion Policy programmes 2007–2013, focusing on the European Regional Development Fund (ERDF) and Cohesion Fund (CF)—Work Package nine: Culture and Tourism*, adopted in November 2014, one can read two interesting passages that reveal the understanding of the role of culture as an 'intangible product' and heritage as a mainly tangible asset (whether natural, historical, or cultural) which must be preserved and restored. If we extract from this paragraph ICH elements such as music, crafts, or performing arts, we see that they work in the broader context of 'culture and creative industries', although the drafters of this text also admit that culture is an 'intangible product' and that there has been a move away from product-based definitions to process-based definitions of culture.<sup>95</sup> When referring to cities, the document introduces another cultural term: 'tangible and intangible cultural assets', which are identified and used with the sole aim of rendering places more attractive to tourists, other visitors, or to live, work, and invest in.<sup>96</sup>

93 Interview at UNESCO HQ, September 2017. There is yet however an ongoing large scale UNESCO-EU project (€1.07 million) funded by the EU entitled 'Protecting Cultural Heritage and Diversity in Complex Emergencies for Stability and Peace', implemented in Iraq, Libya, Syria, and Yemen. One component is dedicated to the safeguarding of ICH: community-based needs identification of intangible cultural heritage at risk and developing of safeguarding plans; implementing safeguarding plans with concerned communities with a focus on identification and/or (re)creation of cultural spaces needed for practice and transmission of ICH at risk, as well as implementation of safeguarding activities. See UNESCO, 'Protecting Cultural Heritage and Diversity in Complex Emergencies for Stabilization and Peace' <<https://ich.unesco.org/en/projects/protecting-cultural-heritage-and-diversity-in-complex-emergencies-for-stabilization-and-peace-00385>> accessed 30 January 2019. First actions related to ICH are planned to be conducted in Mosul in the second half of the 2018.

94 Niklasson (n 2) 141.

95 European Commission, 'Ex Post Evaluation of Cohesion Policy Programmes 2007–2013, Focusing on the European Regional Development Fund (ERDF) and Cohesion Fund (CF)—Work Package Nine: Culture and Tourism' (November 2014) 8 <[https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/files/2015-european-capitals-culture-evaluation-report\\_en.pdf](https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/files/2015-european-capitals-culture-evaluation-report_en.pdf)> accessed 30 January 2019.

96 Ibid 9.

'Intangible' terminology appearing at the EU level thus presents a whole spectrum of diverse connotations. In the EHL *Panel Report on Monitoring*, issued on 19 December 2016, one can find a reference to the 'intangible value of a site' and a specific example of such a site: the heart of Ancient Athens, which conveys 'intangible values of specifically European origin: philosophy, democracy and political theory, theatre and music and all kinds of visual arts that were developed and practiced in these places'.<sup>97</sup> On the occasion of the presentation of the logo of EHL, readers could learn that alongside elements constituting European heritage such as entire sites, landscapes, places of remembrance, cultural goods, or objects, other 'intangible treasures' also exist.<sup>98</sup> And in the discussions concerning the experiences of the European Capitals of Culture programme, one can become acquainted with the fact that the long-term development of cities is also based on 'intangible factors'.<sup>99</sup> This terminological versatility of 'intangible', linked mainly with products, assets, treasures, and tourism, is proof of a very remote understanding of what constitutes 'intangible cultural heritage' under the 2003 Convention.

## 6 Concluding Remarks

EU policy documents and actions that introduce 'intangible' aspects into the EU heritage discourse seem to acknowledge only the presence of this new heritage dimension, but without taking into serious consideration the way in which it is defined by the 2003 Convention. The vagueness of the 'intangible' terminology used in the diverse EU actions and policies leads to the fragmentation of ICH's presence and visibility on the EU level. As a result, there is no coherent EU policy and strategy for the safeguarding of ICH and no real implementation of UNESCO's understanding of ICH within the broader framework of the EU cultural heritage policies and actions.

There is, however, a very strong post-Maastricht trend to promote 'European cultural heritage' as a tool for boosting EU Member States' economic markets. This visible but merely instrumental trend, referred to as creating 'the

97 European Heritage Label, 'Panel Report on Monitoring' (19 December 2016) 11 <[https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/ehl-report-2016\\_en.pdf](https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/ehl-report-2016_en.pdf)> accessed 30 January 2019.

98 European Heritage Label, 'Graphic Charter' 4 <[https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/files/graphic-charter\\_en.pdf](https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/files/graphic-charter_en.pdf)> accessed 31 January 2019.

99 Tim Fox and James Rampton, 'Ex-Post Evaluation of the 2015 European Capitals of Culture, Final Report, November 2016' (November 2016) 117 (123) <[https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/files/2015-european-capitals-culture-evaluation-report\\_en.pdf](https://ec.europa.eu/programmes/creative-europe/sites/creative-europe/files/files/2015-european-capitals-culture-evaluation-report_en.pdf)> accessed 31 January 2019.

EU heritage market', must be taken into consideration and confronted with the delicate and identity-driven nature of ICH. By doing so, it is argued in this Chapter that the way in which ICH (as defined by the 2003 Convention) is integrated into the current EU heritage practices (actions and policies) might create in some cases not only problematic but also dangerous liaisons. A possible soothing of this tension could be the concept of sustainable development, which is rooted firmly in the 2003 Convention, UNESCO actions, as well as in the EU policies, thus offering a bridge to overcome existing threats and gaps to the presence of ICH in the EU. The current research reveals that this idea has not yet been adequately explored and remains a topic for further analysis, which should deal with the potential opportunities and developments of co-operation for both organizations in this field.

Europe, taken as a geographical region divided into two UNESCO regional groups (Groups I and II), has been highly effective in operationalizing the possibilities of all cultural conventions. This effectiveness is not, however, due to efforts stemming from the strongest regional organization—the EU. Despite attempts, mainly by the European Parliament, to create a narrative on the 'values', 'norms' and 'identity', or 'musical and ethno-anthropological heritage' and 'culture of ethnic, religious and linguistic minorities' linked to what is called ICH today,<sup>100</sup> it has not changed the main narrative of tangible cultural heritage as an 'economy booster', which is vivid and visible in EU policies and actions dispersed throughout the EU. Though many ICH elements are related to economic development and to income generation (a link which is not in contradiction to the 2003 Convention itself), finding a balanced approach to this matter is crucial. 'Commercialisation, (...) should not lead to over-commercialisation',<sup>101</sup> which constitutes a threat to ICH in general and is also a problem at the UNESCO level regarding inscriptions on the Representative List, including those coming from the EU Member States. In addition, an analysis of the funding of projects which include 'intangible' cultural heritage references creates a very fragmented and incoherent picture, with serious gaps, misunderstandings, and a very loose interpretation of ICH.<sup>102</sup>

The quest for a European 'common' and 'shared' heritage might even collide with one of the main goals of the 2003 Convention, which is to ensure respect for the ICH of communities, groups, and individuals as bearers of diverse cultural identities, through their empowerment (including their involvement at

100 European Parliament resolution on stronger Community action in the cultural sector [1983] OJ C342/127, point 16.

101 Benedetta Ubertazzi, 'EU Geographical Indications and Intangible Cultural Heritage' (2017) 48 IIC—International Review of Intellectual Property and Competition Law 562, 567.

102 See Tables 13.1 and 13.2.

all stages of safeguarding ICH, as well as the obligation to obtain the free, prior, and informed consent of communities, groups, and individuals for any actions concerning their ICH, in accordance with the bottom-up approach); and to adopt the meaning of ICH as developed by the ICH bearers themselves, not by its 'common' or 'shared' top-down application (as is done at the EU level).

There is also another significant threat to ICH with regard to the activities undertaken by States Parties at the national level which eventually flow into the EU arena—that of reducing the meaning of ICH and considering only its *representational* character on the Representative List of ICH, which would in this context emanate from the trend to label, prize, and list cultural heritage at the EU level. Cultural differences in Europe definitely tell a more profound story than what Yasmin Alibhai-Brown describes as the '3Ss': saris, samosas, and steeldrums.<sup>103</sup> This kind of thinking about cultural diversity through iconic examples coming in fact from the ICH domains: culinary practices (samosas), traditional clothing (saris), and music traditions (steeldrums) is dangerous as it provides an extremely superficial image of 'the Other' and concentrates only on celebrating differences, while ignoring the ongoing processes of adaptation, mixing, or *mélange*.<sup>104</sup> Nevertheless, at the same time it captures the 'logic of global capitalism to sell cosmopolitan cultural products'.<sup>105</sup> The 'economy-booster' role ascribed to cultural heritage in the narrative prevailing in the EU might thus easily reduce the impact and meaning of the 2003 Convention, making it yet another product on 'the EU heritage market'. Viewed in this perspective, inscriptions to the Representative List coming from EU Member States, such as the 'Beer culture in Belgium', 'Mediterranean diet', 'Traditional violin craftsmanship in Cremona', 'Flamenco', 'Gastronomic Meal of French', 'Horezu ceramics' from Romania or 'Gingerbread craft from Northern Croatia' (just to mention a few) are, due to their character, especially and specifically vulnerable to oversimplification and commercialization. From this standpoint, no other meanings and aims except for the growing number of tourist visits to the sites—where ICH practices can be touched, bought, eaten, drunk, and digested—can be transmitted or introduced. The tourism industry constitutes, however, 'an integral process of heritage-making'.<sup>106</sup> The supposed credo of the 2003 Convention, 'communities first', seems thus to be in contradiction to the process of heritage-making at the EU level, which appears to focus on 'economy first'.

103 Yasmin Alibhai-Brown, *After Multiculturalism* (Foreign Policy Centre 2000).

104 Will Kymlicka, *Multiculturalism: Success, Failure, and the Future* (Migration Policy Institute Europe 2012) 4–5.

105 *Ibid.* 5.

106 Laurajane Smith, 'Intangible Heritage: A Challenge to the Authorised Heritage Discourse?' (2015) 40 *Revista d'etnologia de Catalunya* 133, 139.

Therefore, I argue here that the EU policy towards intangible cultural heritage is still a ‘work in progress’, and that the great potential associated with bringing ICH onto the European cultural agenda has not yet been raised or adequately addressed. There are more than one possible explanations for this state of affairs. In light of the research provided in this Chapter, based on official EU and UNESCO documents, field visits to Paris and Brussels, and interviews conducted with involved stakeholders, this is mainly the case because of: (i) the EU’s lack of knowledge about the 2003 Convention and, what follows in particular, its lack of understanding of what the Convention’s principles are and how they differ from tangible heritage and the concept of cultural diversity (as enshrined in the 1972 World Heritage Convention and the 2005 Cultural Diversity Convention, which are already very well integrated within the EU institutions as well as in the whole of Europe); (ii) the EU’s lack of will to distribute funding to support the safeguarding of intangible cultural heritage as defined by the 2003 Convention and in cooperation with UNESCO; (iii) the EU’s continuing preference for the ‘common European cultural heritage’ narrative combined with the tangible paradigm, which is in contrast with the 2003 Convention paradigm of local identities and transmitted practices; and (iv) the EU’s lack of political will and competencies to act more extensively in the field of intangible cultural heritage. Moreover, one can also assume that at least some EU Member States have little or no political interest in raising the issues of local identities and regional traditions at the EU level, and instead want to keep them out of the scope of interest and discussion of the EU and continue to treat its role as only complementary, as was designed in the treaties (Article 167 TFEU). Other Member States lack financial and administrative capabilities. One must acknowledge, however, that there is also a clear, growing trend in the establishment of project agreements between the EU and UNESCO, including with respect to cultural heritage. The volume of cooperation and direct financial support from the EU to UNESCO through extra-budgetary activities is increasing, and its scope is growing wider.<sup>107</sup>

Thus, the question remains not only of how to sensibly unlock the ICH potential for the EU in a way that would prevent the key message of the 2003 Convention from becoming lost in translation (and lost in terms of its implementation into EU policies), and how to avoid its consequent transformation into a simple product sold to tourists on ‘the EU heritage market’; but also, whether it is even possible—or desirable—to do so. It remains to be seen whether the ‘all-encompassing’ objectives of EYCH will result in any concrete recommendations regarding the proper and adequate visibility of ICH at the EU level. At this point in time, the relationship between the ICH concept and

<sup>107</sup> I would like to thank an anonymous reviewer for underlining this trend.

the EU seems to amount to both dangerous (due to the visible commodification tendency), as well as ambiguous liaisons. A possible and somewhat promising path to transform them into a more stable and mutually beneficial relationship lies in the concept of sustainable development, which has been enhanced by both the 2003 Convention—especially after the adoption in June 2016 of Chapter VI of its Operational Directives, which are dedicated to the relation between ICH and sustainable development—as well as within many EU policies and actions which have been regularly updated since the adoption in 2001 of the EU Sustainable Development Strategy.<sup>108</sup> In the context of UNESCO, this way was paved by the 2013 Hangzhou Declaration,<sup>109</sup> which called for an attempt to inscribe culture into the newly drafted UN development goals for the next 15 years.<sup>110</sup> Although promising, this sustainable development bridge remains only a potential development at present. However, future research into this path, accompanied by and joined with concrete steps, may open the door to more relevant actions between both institutions, providing that they demonstrate both an interest in it and the will to act on it.

The current absence of interest in the 2003 Convention from the EU side, mixed with the non-official intra-UNESCO opinion that ‘UNESCO is not for Europe’, give a picture of mutual neglect, which, in light of the analysed documents, is not necessarily an unfortunate scenario for ICH, for Europe, and for other regions in the world. It may be the case that no action may be better than ‘bad’ actions. The future analysis of the opportunities embedded in the sustainable development discourse, known and shared by both organizations, may yet provide evidence that a closer and expanded cooperation between UNESCO and the EU in the field of ICH could be very beneficial for ICH, for Europe, and for other regions of the world, as well as for the bearers of ICH living in the EU Member States. And perhaps the strengthening of ICH within the EU in a vitally different manner, more profound and sensitive to its complexity, will fulfil the popular saying: ‘better late than never’.

108 <[http://ec.europa.eu/environment/sustainable-development/strategy/review/index\\_en.htm](http://ec.europa.eu/environment/sustainable-development/strategy/review/index_en.htm)> accessed 31 January 2019.

109 UNESCO, ‘The Hangzhou Declaration: Placing Culture at the Heart of Sustainable Development Policies, Adopted in Hangzhou, People’s Republic of China, on 17 May 2013’ <[www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/images/FinalHangzhouDeclaration20130517.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/images/FinalHangzhouDeclaration20130517.pdf)> accessed 31 January 2019.

110 It needs to be noted that although culture did not make it as an independent point on the list of 17 new Sustainable Development Goals, it appears in many different forms (local culture, cultural diversity, intercultural understanding, culture of peace) in a number of places on the Agenda (point 8, point 36, and goals 4, 8, 11, and 12). See Hanna Schreiber, ‘10 Remarks on 10th Anniversary of the Entry into Force of the 2003 Convention’ in Hanna Schreiber (ed), *Intangible Cultural Heritage* (National Heritage Board 2017) 459.



TABLE 13.2 Creative Europe (2014–17) projects defined in activity type as ‘intangible culture’

Project title	Sub-programme	Action	Call year	Start date	End date	EU Grant award in € <sup>a</sup>	Participating countries
Réseau Tramontana	Culture	Cooperation projects	2014	2014-04-01	2016-01-31	200,000.00	FR,IT,ES,PT
All Strings Attached: Pioneers of the European Puppetry Behind the Scenes	Culture	Cooperation projects	2015	2015-09-30	2017-09-30	199,476.00	IT,ES,HR,SI
„CU TENDA”—STORIES, IMAGES AND SOUNDS ON THE MOVE [Living memory of southeastern Europe]	Culture	Cooperation projects	2015	2015-10-01	2019-09-09	199,725.65	RO,BG,IT,MK
POLYPHONY—Collection of the disappearing European Heritage	Culture	Cooperation projects	2017	2017-05-19	2019-03-18	200,000.00	HU,FR,UA
Common Cultural Connections	Culture	Cooperation projects	2014	2014-10-01	2016-04-01	191,866.59	UK,ES,FR
FOLLOW THE VIKINGS	Culture	Cooperation projects	2015	2015-07-01	2019-06-30	1,960,000.00	UK,SE,DK,FI,IE,NO,ES,IS
MUSIC AND MEMORY	Culture	Cooperation projects	2015	2015-05-01	2017-04-30	200,000.00	BE,BG,CZ,TR
Digitally crafting new communities of practice	Culture	Cooperation projects	2016	2016-05-01	2018-04-30	189,998.44	SE,EE,IT
Intangible Cultural Heritage and Museums Project	Culture	Cooperation projects	2017	2017-07-10	2020-04-17	200,000.00	BE,FR,IT,NL
Euro Fabula Loci	Culture	Cooperation projects	2014	2014-10-01	2017-12-01	180,599.40	FR,IT,PL

Project title	Sub-programme	Action	Call year	Start date	End date	EU Grant award in € <sup>a</sup>	Participating countries
Arts, Rediscovery, Traditions, Eclectic, Contemporary	Culture	Cooperation projects	2015	2015-11-01	2017-10-31	200,000.00	RO,HU,FR,ES
ECHOES from invisible landscapes	Culture	Cooperation projects	2016	2016-05-02	2018-07-31	200,000.00	AT,SI,HR
Participatory Art for Invisible Communities	Culture	Cooperation projects	2016	2016-05-01	2018-10-31	196,900.00	HR,ES,DK,SI
Theatrum Mundi—a journey through European performing arts	Culture	Cooperation projects	2016	2016-07-01	2017-12-31	200,000.00	IT,EL,FR,NL
EDN <sub>21</sub> : strengthen-impact-imagine	Culture	Networks	2017	2017-09-01	2018-08-31	250,000.00	ES
Shared History	Cross-sectorial	Refugee Integration Projects	2016	2016-12-01	2018-11-30	174,312.00	SE,PL,LV
European Opera Digital Project	Culture	Cooperation projects	2014	2014-10-01	2017-07-31	1,855,688.02	BE,FI,FR,DE,IT,LV,NL,NO,PL,ES,UK,AT
an Orchestra Network for Europe—ONE <sup>o</sup> is more	Culture	Cooperation projects	2015	2015-07-01	2019-03-31	1,997,528.15	FR,DE,CZ,BG,UK,PL,SK,SI
Europe Grand Central	Culture	Cooperation projects	2015	2015-09-01	2017-08-31	200,000.00	SE,EL,IT,PL,FR,DE
Urban Layers—New Paths in Photography	Culture	Cooperation projects	2015	2015-05-01	2017-03-01	200,000.00	IT,ES,EL
Understanding Territoriality: Identity, Place and Possession	Culture	Cooperation projects	2015	2015-04-10	2017-06-30	200,000.00	UK,MK,IT,BE
Sharing the Wor(l)d	Culture	Cooperation projects	2015	2015-05-01	2017-04-30	200,000.00	SI,HR,IE

TABLE 13.2 Creative Europe (2014–17) projects defined in activity type as ‘intangible culture’ (*cont.*)

Project title	Sub-programme	Action	Call year	Start date	End date	EU Grant award in € <sup>a</sup>	Participating countries
RISK CHANGE	Culture	Cooperation projects	2016	2016-06-01	2020-05-31	1,570,520.90	SI,MT,EL, UK,FR,RS, HU,LV,HR, NL
SHAKESPEARE IN AND BEYOND THE GHETTO	Culture	Cooperation projects	2016	2016-06-01	2018-12-31	199,189.07	IT,DE, UK,RO
FAMILY SEPARATION THROUGH IMMIGRATION: DRAMATISING ANECDOTAL EUROPEAN HISTORY	Culture	Cooperation projects	2016	2016-10-01	2018-09-30	199,998.62	EL,BG,PL, RO,SE,IT
Living & virtual visiting European World Heritage	Culture	Cooperation projects	2016	2016-10-01	2020-09-30	200,000.00	PT,ES,IT
Ecouter le monde	Culture	Cooperation projects	2016	2016-06-01	2019-03-30	200,000.00	FR,IT,BE
Digital Stories of Small Historic Towns	Culture	Cooperation projects	2016	2016-09-01	2018-06-30	197,978.37	SI,RS,IT
POETRY WANDERS THE STREETS	Culture	Cooperation projects	2016	2016-05-01	2017-11-30	200,000.00	ES,FR,PT,IT
Orpheus & Majnun / Orfeo & Majnun	Culture	Cooperation projects	2017	2017-06-01	2020-12-31	1,999,868.00	BE,NL, PT,PL,AT, FR,MT
Réseau Tramontana III	Culture	Cooperation projects	2017	2017-07-01	2019-06-30	200,000.00	PT,PL,FR, IT,ES
Areas of Inspiration	Culture	Cooperation projects	2017	2017-06-01	2019-05-31	192,000.00	SK,UA,AT, CZ,EE

Project title	Sub-programme	Action	Call year	Start date	End date	EU Grant award in € <sup>a</sup>	Participating countries
BORDERLINE OFFENSIVE: laughing in the face of fear	Culture	Cooperation projects	2017	2017-08-01	2020-12-31	480,453.00	SE,EL,RS,HR,BG,NL,SK
New Mappings of Europe	Culture	Cooperation projects	2017	2017-10-01	2019-09-30	200,000.00	SI,RS,UK,AT
Q.THEATRE—Theatrical Recreations of Don Quixote in Europe	Culture	Cooperation projects	2017	2017-09-01	2019-08-31	199,567.53	ES,IT,FR,PT,UK
Mainstreaming Heritage	Culture	Networks	2014	2014-09-01	2015-08-31	250,000.00	NL
European Music Council (network of European music organizations)	Culture	Networks	2014	2014-05-01	2015-04-30	229,000.00	DE
European Music Council—Network of European Music Organizations	Culture	Networks	2017	2017-05-01	2018-04-30	250,000.00	DE
Sharing Heritage—Sharing Values	Culture	Networks	2017	2017-09-01	2018-08-31	249,999.94	NL
European Industrial Heritage 2020 and beyond—Fit for the Future	Culture	Networks	2017	2017-10-01	2018-09-30	223,824.00	DE
FRH Connect	Culture	Networks	2017	2017-06-01	2018-05-31	250,000.00	BE
Re-build Refugee Europe	Cross-sectorial	Refugee Integration Projects	2016	2016-12-29	2018-11-30	200,000.00	UK,FI,ES,DE,SE
ORPHEUS XXI—Music for Life and Dignity	Cross-sectorial	Refugee Integration Projects	2016	2016-11-01	2018-10-31	200,000.00	FR,NO,ES
Corpus—European network for performance practice	Culture	Cooperation projects	2014	2014-10-01	2017-12-31	612,298.90	NL,ES,DE,LT,BE,UK

TABLE 13.2 Creative Europe (2014–17) projects defined in activity type as ‘intangible culture’ (*cont.*)

Project title	Sub-programme	Action	Call year	Start date	End date	EU Grant award in € <sup>a</sup>	Participating countries
eeemerging, Emerging European Ensembles Project	Culture	Cooperation projects	2014	2014-10-01	2018-09-30	1,971,374.59	FR,SI,UK, RO,DE,LV, IT
In/visible cities—International Festival of Urban Multimedia	Culture	Cooperation projects	2014	2014-09-10	2015-12-30	199,957.50	IT,HR,UK, NL,SI
openHUB Europe	Culture	Cooperation projects	2015	2015-05-04	2016-12-31	180,177.00	DE,PL, BE,IT
LPM 2015 > 2018—Live Performers Meeting	Culture	Cooperation projects	2015	2015-06-01	2018-05-31	740,000.00	IT,AT,EL, PL,ES,DE, CZ,BE,NL, TR,HU,UK
EUROPEAN NETWORK FOR CONTEMPORARY AUDIOVISUAL CREATION	Culture	Cooperation projects	2015	2015-04-30	2017-10-31	200,000.00	ES,AT,RS, DE,FR
WE ARE EUROPE	Culture	Cooperation projects	2015	2015-08-01	2018-12-31	1,912,500.00	FR,ES,EL, NO,RS,DE, AT,NL
EX(S)PORTS	Culture	Cooperation projects	2015	2015-05-01	2017-01-31	137,400.00	FR,UK,BE
PHONE HOME (Working title)	Culture	Cooperation projects	2015	2015-07-15	2017-01-31	167,165.10	EL,DE,UK
IMAGINE 2020 (2.0)—Art, ecology & possible futures	Culture	Cooperation projects	2015	2015-07-01	2019-06-30	2,000,000.00	BE,HR,UK, LV,NL,PT, FR,SI,DE
REENGINEERING THE MOVING IMAGE	Culture	Cooperation projects	2015	2015-11-06	2017-11-05	127,872.91	FR,NL,DE
Flâneur—New urban narratives	Culture	Cooperation projects	2015	2015-03-16	2017-05-30	541,097.00	PT,IE,LT, LV,PL,UK, IT,FR

Project title	Sub-programme	Action	Call year	Start date	End date	EU Grant award in € <sup>a</sup>	Participating countries
Manufactories of caring space-time	Culture	Cooperation projects	2015	2015-05-01	2017-06-30	200,000.00	BE,ES,FR
In Public, In Particular	Culture	Cooperation projects	2015	2015-10-01	2018-12-31	200,000.00	FI,IE, BE,HR
Bite my Skype	Culture	Cooperation projects	2016	2016-09-01	2018-08-31	199,725.00	UK,TR, FI,RO,IT
ALTER CITIES	Culture	Cooperation projects	2016	2016-06-01	2018-12-31	169,956.00	FR,IT,TR
Midstream. New Ways of Audience Development in Contemporary Art	Culture	Cooperation projects	2016	2016-09-01	2018-08-31	199,980.00	AT,ES,LV
IN SITU ACT	Culture	Cooperation projects	2016	2016-11-01	2020-10-31	1,940,000.00	FR,CZ,DK, AT,UK,NL, BE,IT,HU, NO
Cultural Hybridation In Common	Culture	Cooperation projects	2016	2016-07-01	2017-12-31	200,000.00	FR,IT,LV, ES,BE
SHared ART EXHibitions	Culture	Cooperation projects	2016	2016-06-01	2018-05-31	192,570.12	FR,BE,EL
European Light Expression Network	Culture	Cooperation projects	2016	2016-05-01	2018-10-19	199,921.37	UK,NO,IT
Shared Cities: Creative Momentum	Culture	Cooperation projects	2016	2016-06-01	2020-02-28	1,616,423.92	DE,SK,HU, PL,RS,CZ
Meet the Neighbours	Culture	Cooperation projects	2017	2017-06-01	2020-01-31	199,978.00	UK,PL,FR
Artistic Multi Sensorial Experiences	Culture	Cooperation projects	2017	2017-10-01	2019-09-30	182,554.15	MT,LT, IT,NL
Brave Kids Artistic Instructor Training and Practical Dissemination Project	Culture	Cooperation projects	2017	2017-05-01	2019-01-01	57,889.80	PL,UA, GE,SK,RO

TABLE 13.2 Creative Europe (2014–17) projects defined in activity type as ‘intangible culture’ (cont.)

Project title	Sub-programme	Action	Call year	Start date	End date	EU Grant award in € <sup>a</sup>	Participating countries
Our Lives	Culture	Cooperation projects	2017	2017-08-01	2019-04-30	198,026.00	DE,SI, CZ,FR
Culture for Solidarity	Culture	Cooperation projects	2017	2017-12-01	2020-05-31	200,000.00	NL,ES,PL
Colab quarter	Culture	Cooperation projects	2017	2017-09-01	2019-09-01	200,000.00	FR,UA,ES
Cultural Luggage	Culture	Cooperation projects	2017	2017-11-01	2019-10-30	199,096.39	EL,IT,SE
LUCity	Culture	Cooperation projects	2017	2017-08-01	2019-03-31	60,000.00	SI,IT, UK,PT
Living Realities	Culture	Cooperation projects	2017	2017-06-01	2018-12-01	200,000.00	AT,EL,CZ
Women Equal Share Presence in the Arts and Creative Industries	Culture	Cooperation projects	2017	2017-09-01	2021-08-31	1,566,890.33	ES,SI,UK, HR,FR, FI,IE,LT
The Universal Sea—Pure or Plastic!? Exploring new business models for artists and cultural actors	Culture	Cooperation projects	2017	2017-08-01	2019-03-31	200,000.00	DE,PL,HU
Socially Inclusive Literature Operation	Culture	Cooperation projects	2017	2017-09-01	2019-08-31	199,983.39	BE,HU, DK,PT, RS,ES
MAPS—Mapping and Archiving Public Spaces	Culture	Cooperation projects	2017	2017-06-01	2019-09-30	195,000.18	SI,CZ,BG, RS,CY,AT
From Conflict to Conviviality through Creativity and Culture	Culture	Cooperation projects	2017	2017-07-01	2021-06-30	1,781,818.52	PT,LT,UK, DE,DK,SE, FR,ES

Project title	Sub-programme	Action	Call year	Start date	End date	EU Grant award in € <sup>a</sup>	Participating countries
ENGAGE. YOUNG PRODUCERS. BUILDING BRIDGES TO A FREER WORLD	Culture	Cooperation projects	2017	2017-05-01	2019-10-31	199,998.76	ES,UK, PL,SE
Network of European Museum Organizations	Culture	Networks	2014	2014-04-01	2015-03-31	136,500.00	DE
CIRCOSTRADA NETWORK European Hub for circus and outdoor arts	Culture	Networks	2014	2014-09-01	2015-08-31	118,905.00	FR
EUROPEAN DANCEHOUSE NETWORK 14-17	Culture	Networks	2014	2014-09-01	2015-08-31	198,507.98	ES
ExtEND_JMI	Culture	Networks	2014	2014-10-01	2015-09-30	250,000.00	BE
EFA RISE 2: The rise of the community	Culture	Networks	2017	2017-04-01	2018-03-31	250,000.00	BE
CIRCOSTRADA · European Network for Circus Arts and Street Arts	Culture	Networks	2017	2017-09-01	2018-08-31	241,700.00	FR
JMI CONNECT	Culture	Networks	2017	2017-10-01	2018-09-30	250,000.00	BE
ENCATC	Culture	Networks	2017	2017-04-01	2018-03-31	250,000.00	BE
Upgrade—Connect—Reach out, Raising Awareness for Collective Singing in Europe	Culture	Networks	2017	2017-09-01	2018-08-31	250,000.00	DE
The Network of European Museum Organizations	Culture	Networks	2017	2017-04-01	2018-03-31	217,500.00	DE



TABLE 13.2 Creative Europe (2014–17) projects defined in activity type as ‘intangible culture’ (*cont.*)

Project title	Sub-programme	Action	Call year	Start date	End date	EU Grant award in € <sup>a</sup>	Participating countries
Performing Arts in (a world in) Transition II	Culture	Networks	2017	2017-04-01	2018-03-31	250,000.00	BE
IN SITU Platform Refugee Engagement And integration through Community Theatre	Culture	Platforms	2014	2014-11-01	2015-10-31	500,000.00	FR
	Cross-sectorial	Refugee Integration Projects	2016	2016-09-28	2018-09-27	196,304.62	UK,NL,IT
Sounds of Changes	Culture	Cooperation projects	2017	2017-09-01	2019-09-30	200,000.00	SE,SI,DE,FI,PL

a This amount represents the grant awarded after the selection stage and is indicative. Please note that any changes made during or after the project's lifetime will not be reflected here.