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pour l'éducation,
la science et la culture

Organización
de las Naciones Unidas
para la Educación,
la Ciencia y la Cultura

Организация
Объединенных Наций по
вопросам образования,
науки и культуры

منظمة الأمم المتحدة
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联合国教育、
科学及文化组织

. Item 6.1 of the provisional agenda

38 C/24

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DRAFT RECOMMENDATION CONCERNING THE PRESERVATION OF, AND ACCESS TO, DOCUMENTARY HERITAGE INCLUDING IN DIGITAL FORM

OUTLINE

Source: 36 C/Resolution 59, 37 C/Resolution 53.

Background: By 36 C/Resolution 59, the General Conference requested the Director-General to initiate an in-depth reflection on evaluating and strengthening the Memory of the World Programme (MoW). At its 190th session the Executive Board requested the Director-General to undertake a preliminary study of the technical, financial and legal aspects on the desirability of a standard-setting instrument on preservation and access to documentary heritage for examination by its 191st session. At its 191st session, the Executive Board recommended that the 37th session of the General Conference decide that the issue of preservation and access to documentary heritage, including digital heritage, be regulated at the international level by means of a Recommendation. The General Conference, to it at its 37th session, invited the Director-General to submit to it at its 38th session, for possible adoption, a draft standard-setting instrument in the form of a Recommendation (37 C/Resolution 53).

Purpose: The document presents the final draft of the Recommendation concerning the Preservation of, and Access to Documentary Heritage, including in Digital Form, for consideration and possible adoption by the General Conference.

Decision required: Paragraph 10.

I. BACKGROUND

1. At its 190th session, the Executive Board (190 EX/Decision 16) requested the Director-General to undertake and present to it the results of a preliminary study of the various elements to be taken into consideration in developing an instrument to lay the legal basis for the protection of documentary heritage especially in light of the diversity of preservation and access issues that have arisen.
2. By 191 EX/Decision 11 (II), the Executive Board invited the Director-General to submit the preliminary study contained in document 191 EX/11 Part II to the General Conference, together with the relevant observations and decisions of the Executive Board, and recommended that the General Conference decide, at its 37th session, that the question of preservation and access to documentary heritage, including digital heritage, be regulated at the international level by means of a recommendation.
3. The General Conference, at its the 37th session, invited the Director-General to submit to it at its 38th session a draft recommendation on preservation and access to documentary heritage, including digital heritage (37 C/Resolution 53).

II. REPORT ON THE CONSULTATION PROCESS

4. Member States have been increasingly concerned about the fragility of the world's documentary heritage, due – among others – to natural disasters, conflicts/wars and rapid technological changes. On several occasions they have expressed the need for its improved safeguarding through effective legislation, policies and strategies.
5. The tenth meeting of the Memory of the World International Advisory Committee (2011) recommended exploring legal means to reinforce the Memory of the World Programme (MOW). The findings were presented to the Experts' Meeting (Poland, 2012) which proposed to UNESCO to develop a normative instrument on preservation and access to documentary heritage. The international conference on "The Memory of the World in the Digital Age: Digitization and Preservation" (Canada, 2012) also recommended that UNESCO consider the inclusion of protection of digital heritage in a normative instrument on safeguarding documentary heritage.
6. Pursuant to 37 C/Resolution 53, an international experts' meeting was held in Warsaw, Poland, in June 2014. The Government of Poland offered its valuable cooperation and financial support for hosting the event. The main goal of the collective consultation of experts was to advise UNESCO on the substantive issues to be addressed with respect to the elaboration of the new standard-setting instrument.
7. Consequently, an initial draft text of the Recommendation was prepared by the Director-General and submitted to Member States in September 2014.
8. In conformity with the Rules of Procedure concerning Recommendations to Member States and international conventions, covered by the terms of Article IV, paragraph 4, of the Constitution, a revised draft of the Recommendation, incorporating the comments and observations made by Member States during the consultation process, was presented for discussion by the Intergovernmental Special Committee Meeting of Experts (category II) that took place at UNESCO Headquarters from 1 to 2 July 2015.
9. The intergovernmental meeting was attended by experts representing 46 Member States. After extensive debates, on 2 July 2015, a final draft text of the UNESCO Recommendation concerning the Preservation of, and Access to Documentary Heritage, including in Digital Form, was approved by the Intergovernmental Meeting (Annex).

PROPOSED RESOLUTION

10. The General Conference may wish to adopt the following resolution:

The General Conference,

Having examined document 38 C/24,

Reiterating the need for a standard-setting instrument concerning the preservation of, and access to documentary heritage, including in digital form, in the form of a Recommendation,

Recognizing that such a standard-setting instrument could be an essential tool to harmonize policies and strategies in this field, as well as to strengthen international cooperation, and public awareness about the challenges of safeguarding documentary heritage,

Thanking the Director-General for her substantial efforts to further the consultation process and reach a consensus in the proposed recommendations,

1. *Commends* the Member States and the international partner organizations which have contributed to the consultation process and have supported UNESCO in this important task;
2. *Decides* to adopt the Recommendation concerning the Preservation of, and Access to Documentary Heritage, including in Digital Form, contained in the Annex to this resolution;
3. *Recommends* that Member States initiate appropriate steps to adapt this new instrument to their specific contexts, disseminate it widely across their national territories, facilitate its implementation through the formulation and adoption of supporting policies, strategies and legislation, and to monitor its impact;
4. *Decides* that the periodicity of reporting on the action Member States have taken to give effect to this Recommendation will be every four years.

ANNEX

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

SAFEGUARDING THE MEMORY OF THE WORLD – UNESCO RECOMMENDATION CONCERNING THE PRESERVATION OF, AND ACCESS TO, DOCUMENTARY HERITAGE INCLUDING IN DIGITAL FORM

PREAMBLE

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 2015, at its 38th session,

Considering that documents produced and preserved over time, in all their analogue and digital forms through time and space, constitute the primary means of knowledge creation and expression, having an impact on all areas of humanity's civilization and its further progress,

Also considering that documentary heritage records the unfolding of human thought and events, the evolution of languages, cultures, peoples and their understanding of the world,

Underlining the importance of documentary heritage to promote the sharing of knowledge for greater understanding and dialogue, in order to promote peace and respect for freedom, democracy, human rights and dignity,

Noting that the evolution of documentary heritage enables intercultural education and personal enrichment, scientific and technological progress and is a crucial resource for development,

Considering at the same time that the preservation of, and long-term accessibility to documentary heritage underpins fundamental freedoms of opinion, expression and information as human rights,

Also considering that universal access to documentary heritage must respect both the legitimate interests of rights-holders and the public interest in its preservation and accessibility,

Recognizing that aspects of the history and culture which exist in the form of documentary heritage may not be conveniently accessible,

Recognizing also that over time considerable parts of documentary heritage have disappeared due to natural or human disasters or are becoming inaccessible through rapid technological change, and **underlining** that lack of legislation impedes memory institutions to counter irreversible loss and impoverishment of that heritage,

Recalling that, in response to this challenge, UNESCO established the Memory of the World Programme in 1992 to increase awareness and protection of the world's documentary heritage, and to provide for its universal and permanent accessibility,

Taking into account the rapid evolution of technology, and the challenge of establishing models and processes for preserving digital heritage objects including complex ones, such as multi-media works, interactive hypermedia, online dialogues and dynamic data objects from complex systems, mobile content and future emerging formats,

Also taking into account the international standard-setting instruments and other relevant treaties and statements, as listed in the Appendix,

Bearing in mind the need for States, communities and individuals to take appropriate measures for the protection, preservation, accessibility and enhancement of the value of documentary heritage,

Having decided at its 37th session that this question should be the subject of a Recommendation to Member States,

Adopts, the day of 2015, the present Recommendation:

DEFINITIONS

For the purposes of this Recommendation, a **document** is an object comprising analogue or digital informational *content* and the *carrier* on which it resides. It is preservable and usually moveable. The content may comprise signs or codes (such as text), images (still or moving) and sounds, which can be copied or migrated. The carrier may have important aesthetic, cultural or technical qualities. The relationship between content and carrier may range from incidental to integral.

Documentary heritage comprises those single documents – or groups of documents – of significant and enduring value to a community, a culture, a country or to humanity generally, and whose deterioration or loss would be a harmful impoverishment. Significance of this heritage may become clear only with the passage of time. The world's documentary heritage is of global importance and responsibility to all, and should be fully preserved and protected for all, with due respect to and recognition of cultural mores and practicalities. It should be permanently accessible and re-usable by all without hindrance. It provides the means for understanding social, political, collective as well as personal history. It can help to underpin good governance and sustainable development. For each State, its documentary heritage reflects its memory and identity, and thus contributes to determine its place in the global community.

Memory institutions may include but are not limited to archives, libraries, museums and other educational, cultural and research organizations.

1. IDENTIFICATION OF DOCUMENTARY HERITAGE

- 1.1 Member States are encouraged to support their memory institutions in establishing selection, collection and preservation policies by research and consultation, guided by internationally established and defined standards regarding documentary heritage in their territories. The documents, fonds and collections should be managed in a way that ensures their preservation and accessibility over time, and assigns means of discovery, including cataloguing and metadata.
- 1.2 Policies, mechanisms and criteria for selecting, acquiring and de-selecting documentary heritage should be developed by memory institutions in coordination with civil society, taking into account not only key documents but also their contextual material, including social media. Selection criteria must be non-discriminatory and clearly defined. Selection must also be neutrally balanced with respect to knowledge fields, artistic expressions and historic eras. Because of their inherently temporary nature, decisions concerning the preservation of digital documents may need to be made at or before the time of creation.
- 1.3 Member States are encouraged to identify specific documentary heritage the survival of which is at potential or imminent risk, and draw it to the attention of competent bodies able to take appropriate preservation measures. They should support and strengthen their relevant

memory institutions and, where practical and appropriate, encourage research communities and private owners to care for their own documentary heritage in the public interest. Similarly, public and private institutions should ensure professional care for the documents which they themselves create.

- 1.4 Member States should encourage the identification and nomination of significant documentary heritage to national, regional or international Memory of the World Registers as a means of raising awareness.
- 1.5 Member States are invited to develop training and capacity-building schemes as appropriate to ensure the identification, preservation and access to documentary heritage.

2. PRESERVATION OF DOCUMENTARY HERITAGE

- 2.1 Preservation of documentary heritage means encompassing techniques, treatments, procedures and technologies of any nature, preventive and remedial, aiming at the preservation of the documents and of the information contained therein.
- 2.2 Preservation is an ongoing process requiring the management of both analogue and digital objects and can be enhanced by scholarship, technology and science. Analogue carriers should be retained where they have continuing value as authentic originals, artefacts or information bearing objects. In the case of digital documents, action and intervention are desirable from before the point of creation and acquisition, in order to optimize further management, minimize costs and to properly manage the risks involved. Cooperation should be further encouraged among governments, memory institutions and the private sector.
- 2.3 In pursuing measures of preservation, integrity, authenticity and reliability should be the guiding principles. Concrete measures and actions should follow the international legislation and the recommendations, guidelines, best practices and standards developed or supported by memory institutions. The Memory of the World Programme, should provide a platform to promote standards and share best practices.
- 2.4 Member States are encouraged to develop awareness-raising and capacity-building measures and policies as a key component of preservation, including promoting research as well as training for documentary heritage professionals and providing facilities for such. These should embrace curatorial best practices, current and emerging technologies, forensic skills and core competencies in relevant scholarship, science, technology and engineering, thereby raising awareness of the urgency of timely preservation action in a constantly changing environment.
- 2.5 The existence of possibly legitimate access restrictions on any part of the documentary heritage should not inhibit or limit the ability of memory institutions to take preservation action. Member States are invited to take this consideration into account while implementing this recommendation and through updating their relevant domestic legislation.
- 2.6 Member States that hold collections originating in, or of relevance to, other States in their memory institutions are encouraged to share digital programmes and copies of such heritage with the Parties concerned.
- 2.7 Member States should encourage consistency of best practice and preservation standards across memory institutions, including risk management, such as the degradation and theft of documents, and investment in appropriate technical infrastructure. This may include nationwide coordination and sharing of tasks among memory institutions, based on their existing roles, strengths and responsibilities.

- 2.8 Member States are encouraged to support memory institutions' participation in the development of international standards for preservation. Member States are further invited to encourage memory institutions to link with the appropriate professional associations to both enhance and share their technical knowledge, and contribute to the ongoing development of international standards.
- 2.9 Member States are invited to support the development of academic curricula for digital preservation, as well as networking activities at national, regional and international levels for more effective implementation of the Memory of the World Programme, and the promotion of exchanges of experiences among UNESCO Member States based on best practice models.

3. ACCESS TO DOCUMENTARY HERITAGE

- 3.1 Member States are encouraged to provide appropriate legislative frameworks for memory institutions and ensure their necessary independence in preserving and providing access to documentary heritage, so as to sustain public trust in the scope of material selected, and the way in which it is preserved. The provision of access is visible evidence and justification of public expenditure on preservation.
- 3.2 Member States are urged to promote and facilitate maximum inclusive access to, and use of, documentary heritage by empowering memory institutions to provide accurate and up-to-date catalogues and finding aids, equitable person-to-person access services to the original documents, if necessary for research, Internet and web-based publications and portals, electronic and digitized content, using international best practice standards. Member States are further encouraged to support memory institutions in the development of international standards for access and use, using recognized standards that support interoperability. Whenever possible, content should be structured, machine-readable and linkable.
- 3.3 The avenues for providing access to documentary heritage are multiplying through the growth of Information and Communication Technologies and the development of global networks among memory institutions and their partners. Member States should encourage and support the development of outreach programmes, including exhibitions, travelling presentations, radio and television programmes, publications, consumer products, online streaming, social media, lectures, educational programmes, special events and the digitization of content for downloading.
- 3.4 Programmes for access to documentary heritage may be facilitated by partnerships, including public-private ones. Member States are invited to encourage such arrangements if they are responsible and equitable.
- 3.5 Where restrictions to accessing documentary heritage are necessary to protect privacy, human safety, security, confidentiality or for other legitimate reasons, they should be clearly defined and stated and be of limited duration. They should be underpinned by appropriate national legislation or regulation by including an appeals mechanism against such decisions.
- 3.6 When updating or enacting new legislation which impacts on access to documentary heritage, Member States should consider the need to maximize such access while respecting the legitimate interests of the rights-holders. Member States are encouraged to extend this public access to countries with which they have shared a historical documentary heritage.
- 3.7 Member States are invited to enhance the visibility and accessibility of their documentary heritage through the outreach activities and publications of the Memory of the World Programme as appropriate, with investment in digitization of content for access purposes now being one of its key components. Member States should support and promote public

domain access, and wherever possible, encourage the use of public licensing and open access solutions.

4. POLICY MEASURES

- 4.1 Member States are urged to consider their documentary heritage as an invaluable asset and to apply this perspective in national legislation, development policies and agendas. They are further encouraged to recognize the long-term need for new investment in the preservation of different types of originals in analogue format, in digital infrastructure and skills, and to adequately endow memory institutions.
- 4.2 At the same time, in the context of their national heritage policies, Member States are encouraged to take a global view of the needs of memory institutions, beyond the practicalities of infrastructure, and encourage logical partnerships and cost sharing with other entities in setting up shared facilities, processes and services.
- 4.3 Private and local institutions and individuals holding valuable collections need public encouragement and support as well as adequate visibility in national directories.
- 4.4 Member States should improve access to documentary heritage by encouraging the development of new forms and tools of education and research on documentary heritage and their presence in the public domain.
- 4.5 Through legislation and policy, Member States are encouraged to create in a participatory approach a stable, enabling environment that will give incentives to sponsors, foundations and other external parties to support memory institutions and, with them, to invest in the preservation, accessibility and use of documentary heritage in the public interest.
- 4.6 Member States are encouraged to periodically review copyright codes and legal deposit regimes to ensure they are fully effective, with limitations and exceptions, for preserving and accessing documentary heritage in all its forms. Effectiveness would also profit from the strengthening and harmonization of legislation and alignment of policies among Member States.
- 4.7 Where preserving and accessing documentary heritage requires the use of software or other proprietary technology not covered by copyright exceptions, Member States are invited to facilitate access to proprietary codes, keys and unlocked versions of technology on a non-profit basis.
- 4.8 In order to facilitate optimal exchange of data, Member States should encourage the development and use of internationally recognized open source software and standardized interfaces for managing digital documentary heritage, and seek the cooperation of software and hardware developers in extracting data and content from proprietary technologies. Likewise, their memory institutions should aim for international standardization and interchangeability of cataloguing methods and standards.
- 4.9 Member States are invited to support and develop policies and initiatives affecting documentary heritage, including monitoring the status of documentary heritage inscribed on the Memory of the World Registers.
- 4.10 Member States are encouraged to contribute building synergies between the Memory of the World Programme and other heritage programmes in order to assure further coherence of actions.

5. NATIONAL AND INTERNATIONAL COOPERATION

- 5.1 In view of the need to intensify national and international cooperation and exchanges, in particular through the pooling of human and material resources to assist research and the protection and preservation of documentary heritage, Member States should support the exchange of research data, publications, and information; the training and exchange of specialist personnel and equipment. They should promote the organization of meetings, study courses and working groups on particular subjects, such as cataloguing, risk management, identification of endangered documentary heritage and modern research.
- 5.2 Member States should encourage cooperation with international and regional professional associations, institutions and organizations concerned with documentary heritage preservation and access, with a view to implementing bilateral or multilateral research projects and publishing guidelines, policies and best practice models.
- 5.3 Member States are invited to facilitate the exchange between countries of copies of documentary heritage that relate to their own culture, shared history or heritage, and of other identified documentary heritage, in particular due to their shared and entangled historical nature or in the framework of the reconstitution of dispersed original documents, as appropriate, which has been the object of preservation work in another country. The exchange of copies will have no implications on the ownership of originals.
- 5.4 To the best of their ability, Member States should take all appropriate measures to safeguard their documentary heritage against all human and natural dangers to which it is exposed, including the risks deriving from armed conflicts. Likewise, they should refrain from acts likely to damage documentary heritage or diminish its value or impede its dissemination or use, whether it is to be found on the territory of one Member State or on the territory of other States.
- 5.5 Member States are encouraged to engage in international cooperation to safeguard endangered documentary heritage through digitization or other means following a request made by another Member State.
- 5.6 Member States are invited to strengthen their cooperation with the Memory of the World Programme through their memory institutions by establishing national Memory of the World committees and registers, when deemed appropriate.

The General Conference recommends that Member States should apply the above provisions concerning the preservation of and access to documentary heritage by taking whatever legislative or policy measures or other steps may be required, in conformity with the constitutional practice of each State, to give effect, within their respective territories to the principles, measures and norms set forth in this Recommendation.

The General Conference recommends that Member States bring this Recommendation to the attention of the appropriate authorities and bodies.

The General Conference recommends that Member States should report to it, by the dates and in a manner to be determined by it, on the action they have taken to give effect to this Recommendation.

APPENDIX

International instruments covering the protection of elements of documentary heritage:

I. UNESCO Conventions and Recommendations

Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954);

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970);

Convention Concerning the Protection of the World Cultural and Natural Heritage (1972);

Convention for the Safeguarding of the Intangible Cultural Heritage (2003);

Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005);

Recommendation for the Safeguarding and Preservation of Moving Images (1980);

Recommendation concerning the Promotion and Use of Multilingualism and Universal Access to Cyberspace (2003);

Charter on the Preservation of Digital Heritage (2003).

II. Declarations and other documents

The Universal Declaration on Archives (2010) accepted by the International Council on Archives (ICA), and endorsed by the 36th session of the General Conference of UNESCO (2011);

Warsaw Declaration: 'Culture – Memory – Identities' (2011);

The Moscow Declaration on Digital Information Preservation (2011) adopted by the International Conference on "Preservation of Digital Information in the Information Society" organized by the UNESCO Information for All Programme (IFAP);

UNESCO/UBC Vancouver Declaration "The Memory of the World in the Digital Age: Digitization and Preservation" (2012);

The IFLA (International Federation of Library Associations and Institutions) Statement on Libraries and Intellectual Freedom (1999).

III. International treaties

Berne Convention for the Protection of Literary and Artistic Works (last amended in 1979);

Universal Copyright Convention (1952);

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961).