

Lists and logos for the intangible - German lessons of hierarchy and exclusion

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I. Introduction

Heritage – even if it is tangible – is always intangible heritage. At the same time heritage – even if it is intangible – is always written heritage. It is written down in nomination files, in national inventories, in international lists. Without this written testimonia heritage could not be addressed by the measures of heritage politics, on neither the local nor the national nor the international level. Although the creation, designation and purpose of such written heritage was perhaps the most controversial issue in the negotiation of the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, it is this process of listing that has become the core element of the international intangible heritage regime. ‘Quod non est in actis non est in mundo’ (if it is not in the file it does not exist) is one of the oldest principles of western procedural law tracing back to roman times. It could not be more true for the field of the safeguarding of intangible heritage, especially in Germany: Here, Intangible Heritage *is* a list.

In Germany, the implementation of the ICH Convention is limited to the compilation of a national inventory, which, however, at a closer look turns out to be rather an exclusive list than an inventory in the sense of an open compilation. Besides the creation of this list, Germany established a special logo that only bearers of those elements of Intangible Heritage inscribed in the list are allowed to use. As I will outline in the next 25 minutes, this creation and “awarding” of a national Intangible Heritage Logo turns out to be an instrument to intensify the effects of hierarchy and exclusion that are – in part unintentionally – inscribed in the German implementation of the ICH Convention.

II. The ICH-Convention in Germany

The process of setting up a German national inventory of Intangible Heritage as prescribed in the ICH Convention has been designed in a highly formalized bureaucratic procedure.

Two factors predetermine this process fundamentally: the federal state structure and the existing legal framework for cultural heritage focusing on immovable goods. The German political and administrative structure is strongly predominated by the idea of federalism. Germany is a federal state consisting of 16 states, responsible for the legislation and administration especially in the cultural sector. The relations with foreign states (i.e. especially the negotiation and adoption of international treaties like the ICH-Convention), in

contrast, are conducted by the Federation. This federal framework is strongly shaped by the idea of subsidiarity, an aspect that is often linked to cultural diversity and an increased relevance of local communities within the states. However, in the German federal system the division into the 16 states does not follow culturally, historically or socially marked borders, but is a rather arbitrary political construction that was established after World War II. At the same time, the legal frame of cultural heritage politics in Germany is not only strongly dominated by aspects of tangible heritage, as it is in many European countries. Additionally, it is almost completely reduced to immovable goods, i.e. the protection of historical buildings and monuments that are in private ownership. Therefore, the established legal and administrative instruments in the sector of cultural heritage politics include restraints and commands that are confined by the constitutionally guaranteed right to property, but not the inventorying of the heritage as it is laid down in the ICH Convention. These two aspects led to an implementation process in Germany that widely lost sight of the original concept of the ICH.

Despite its federal structure in the cultural sector, Germany (unlike other federal states in Europa like Belgium or Spain) decided to establish only one inventory of intangible heritage on the national level. At the same time, vast parts of the identification process were delegated to the 16 states, which, however, were bound to identical nation-wide rules. In relation to the federal level, therefore the governments of the respective states are responsible for the implementation and inventorying process. This political responsibility hindered a further delegation of the inventorying task to other, non-governmental units. Consequently, the responsible actors in the German implementation process are administrative units of the states' governments following a primarily bureaucratic functional logic. As the responsible public officials within these administrative units normally are not specifically trained in the field of intangible heritage, most of the states appointed independent juries of experts to counsel the selection process.

Additionally, both the decision criteria and the involvement of the communities were developed in a rather bureaucratic way. The states launched an identical very formal first call for applications in 2013, addressing the relevant groups, communities and individuals as bearers of the ICH. The applications, which are a mandatory element for the inclusion in the inventory, had to obey a special schedule based on the corresponding UNESCO-Form for the Representative List. Other than on the international level, however, the German implementation has found a special way to incorporate certain academic expertise into the application process: Together with the application form, applicants have to submit two letters

of recommendation by independent experts. Through the application process, therefore, two tasks should be fulfilled: involving the relevant communities and obtaining external expertise. However, the procedure that was chosen is not only a very bureaucratic one, but also rather excluding and confrontational.

Although the selection criteria for the implementation process was not specified beyond the description of intangible heritage laid down in the ICH-Convention, the German implementation sets a total limit of inscriptions for each call for applications and at the same time an equal limit of inscriptions for every state. Therefore, for the first call launched in 2013 the 16 states were limited to two proposals they could select and submit to the national level, out of all the applications they received Together with two intra-German cross-border nominations that could be selected, these 34 elements were supposed to form the national inventory.

This kind of implementation is not only somewhat contradictory to the idea of a national inventory that shall identify and promote national ICH rather than select it. It is also completely stuck to the political ambitions of the states and is therefore blind for the understanding of the Convention's ideas. As most states in Germany are legal entities without a coherent historic tradition, they have hardly any link to the communities or groups the Convention refers to as the bearers of the ICH. At the same time, the numbers of communities and groups within the states are hardly comparable as the respective population number varies from 650.000 to 18 million. Setting an equal limit of nominations for the national inventory therefore turns the process of identification into a beauty contest, which reincarnates the idea of 'outstanding universal value' known from the World Heritage Convention, but which is explicitly not adopted for the ICH. The current national inventory in Germany shows how dramatically the implementation process failed so far. Originally, only 27 entries in the inventory could be made, 7 entries were added by the end of 2015 after the application files had been amended, at the same time 94 applications were rejected. Twenty of the 34 final entries could not be assigned to a single state but are intra-German cross-border nominations. The remaining 14 entries are assigned to only eight different states. For the second call for applications in 2015 the guidelines were slightly changed. This time every state was able to propose four applications for the national list including intra-German cross-border nominations. However, after having rejected nearly 100 applications in 2014, two years later despite the 64 new slots on the list only 34 new entries could be made.

Interestingly, a similar example of quotation and exclusion can be seen in Switzerland, where, similar to the German case, a federal state decided to set up a unitary national inventory and at

the same time delegated the core task of identifying the Intangible Heritage to the single states. Similar to the German model, in Switzerland also every state was asked to propose the same number of items for the nation-wide inventory, regardless of the states' size, demography, landscape or economic profile. Though during the process some changes were made (especially the number of allowed propositions per state) the idea of competition has dominated the whole process, so that the logics of distinction that historically made up Switzerland were re-formulated and even reinforced.

III. Administration of attention and appreciation

This idea of competition that dominates the implementation of the ICH Convention in Germany is not at all new to the idea of heritage. The process of setting up national inventories as well as international lists is above all a tool for creating visibility through scribality or, in other words, for creating attention. As contemporary societies, at least in the global north, do no longer suffer from a lack of information but, on the contrary, from a lack of attention caused by too much information, it is this attention that has become a scarce resource nowadays. As heritage practices and especially the process of listing are always selective and structured on exclusion, it is above all this phenomenon of limited attention producing the inevitable need for selection and therefore exclusion and competition. In this sense, heritage practices are tools for administrating and distributing attention to certain aspects of human culture (and not to others). This is particularly true for the ICH-Convention that aims for visibility of the heritage and therefore for attention, not for (material) preservation like the 1972 World Heritage Convention does.

The German model of implementation carries this to extremes, not doing anything but administrating attention by setting up a list. Despite the adoption and the implementation of the ICH Convention by Germany, from a legal point of view the concept of Intangible Heritage does not exist. Neither exist legal binding rules for any of the aspects the ICH Convention deals with nor is there any special funding or any other measure of "safeguarding". There is no such thing as Intangible Heritage Law in Germany.

As there are no legal resources to be administered through the acknowledgment as Intangible Heritage, Germany has decided to strengthen the idea of administrating attention and at the same time appreciation by creating and awarding a special logo (Knowing. Doing. Passing it on). This idea is to a certain extent copied from the international level, where an "emblem of the Convention for the Safeguarding of the Intangible Cultural Heritage" was created five years after the Convention's adoption. Its use, however, differs clearly from the use of the

German emblem. On the international level UNESCO can authorize the use of the emblem for two different purposes: On the one hand the emblem can be used for the purpose of patronage, that means for various kinds of activities such as performances, cinematographic works and other audiovisual productions, publications, congresses, meetings and conferences, the awarding of prizes and other national and international events, if those exceptional activities are likely to have a real impact on safeguarding intangible cultural heritage and to enhance significantly the Convention's visibility. The bearers of the intangible heritage appearing on one of the international lists are as well encouraged to use the Convention's emblem with regard to their activities and special events to safeguard and promote their cultural heritage. On the other hand, UNESCO may conclude contractual arrangements regarding the use of the emblem with outside organizations in the framework of partnerships, co-publication and co-production agreements, or promotional and commercial activities, if the proposed association is relevant for the Convention's purposes and objectives. Hence, on the international level we have a quite open frame for the use of the logo, solely determined by the idea of the promotion of the ICH Convention's ideas and objectives.

The German logo, in contrast, works as a kind of award granted to those bearers of the intangible heritage having filed the application for the inscription in the German inventory. This idea of "awarding" starts with the inscription of the respective elements in the national inventory. At the end of each application round a formal ceremony is organized where all the organizations whose application has been successful receive a certificate documenting the inscription of "their" intangible heritage into the national inventory. This kind of certificate does also exist for the inscription in the Representative List, in Germany it is handed over in a similar ceremony.

When inscribed in the national inventory, the bearers of the intangible heritage who filed the application are allowed to use the German logo. However, the process is highly formalized: every single use of the logo has to be authorized by the German Commission for UNESCO. For every kind of use, the bearers of the heritage are strictly obliged to point out the connection with the inscription in the national inventory. The use for any commercial activity is forbidden. The bearers of the heritage have to report to the German Commission for UNESCO annually about the use they make of the logo. Copyright law protects the logo itself. It is as well registered as a trademark. Unfortunately, neither the concrete guidelines for the use nor the reports on the use are published. The German Commission for UNESCO also refused to provide this information for my research. The use of the logo therefore is not only quite bureaucratic but also to a certain degree quite opaque.

What use can the bearers of intangible heritage make of the logo? In other words, how at all do you label the intangible? Above all, the logo is used on letterheads, e-mail footers and any sort of publications. Here again, as in the list, the logo is above all linked to scribal expressions.

Besides this kind of use, another kind of labeling has come up that contains strong parallels to the use of the logo for the 1972 World Heritage Convention. Similar to the plates installed at buildings or other heritage sites of the World Heritage Convention in Germany, some organizations officially recognized as bearers of intangible heritage have begun to design similar plates for the intangible heritage. An example of this use is the German “Schützenwesen“, a complex and popular tradition tracing back to the Middle Ages, maintained by local rifle clubs wearing and using arms, organizing competitions and festivals. Since the inscription of the “Schützenwesen” in the national inventory in 2015, bearers can use these plates to fix them to local clubhouses. Up to today about 1200 of these plates have been made. Besides, you can sometimes find similar plates at museums that deal with the special kind of intangible traditions. Therefore, in the end there are buildings as symbols for the intangible heritage that are labelled in the same way as the World Heritage is. Following the tradition of most western countries, where heritage for centuries was only known as tangible heritage, this labeling of those buildings that „house“ the intangible heritage can be seen as an attempt to make something tangible out of the intangible. In a certain way, this recalls the unofficial plates attached to the World Heritage Sites and the official “Blue Shield” under the “Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict”.

How close tangible and intangible heritage can become via the use of labels and logos can be seen by a recent example from the city of Aachen, which some of you might know as Aix-la-Chapelle. The Aachen cathedral is listed as World Heritage under the 1972 Convention since 1978. It was the first German site ever to be listed on the UNESCO list. Additionally, since 2014 the Rhenish Carnival, which is intensely celebrated in the city of Aachen, is inscribed in the German inventory for Intangible Heritage. This led the main organizers of the Carnival in Aachen to combine both “awards” as heritage in their public campaign for the season 2017/18. The organizers chose the slogan: “Our culture is first class with the cathedral and the carnival” (in the German version this slogan rhymes). The logo of the German Intangible Heritage Inventory was embedded into this publicity. Therefore, what you see here very clearly is how the German logo, linked to the exclusive and excluding German inventory, carries on the idea of competition, selection and hierarchy within the field of heritage.

IV. Hierarchy and exclusion

What the German example shows is how the official creation and the use of the logo strengthen the parallels between the 1972 World Heritage Convention and the Intangible Heritage Convention. In correspondence with the hierarchical and elitist process of creating inventories in Germany on the one hand and the lack of any other implementation act apart from the listing process on the other hand, the logo for the intangible heritage is part of national heritage politics, hardly compatible with the idea of the safeguarding of intangible heritage as laid down in the UNESCO Convention.

On the international level, the strict and formal equality of all forms of intangible heritage is one of UNESCO's fundamental principles in its intangible heritage work. This aspect of equality is sometimes described with the label of 'democratization' of heritage. It stands in sharp contrast to the older tradition of the tangible World Heritage that, by using the criteria of 'outstanding universal value', establishes a clear hierarchy between the heritage sites present on the UNESCO list and those ones not listed. For the intangible heritage field, however, this kind of hierarchy was considered as 'discrimination' because the inequality of elements of intangible heritage could always be interpreted as inequality of the groups and individuals standing behind these traditions. Therefore, it is the idea of equality of individuals (and hence, an essential political and legal human rights issue) that renders the equality of intangible cultural expressions that important within the structure of the ICH-Convention.

The labeling of the intangible heritage as practiced in Germany is, in contrast, a measure to administer inequality, hierarchy and exclusion. It does primarily express the selection that has been made by setting up the national inventory and therefore has very close links to the idea of "outstanding universal value" known from the 1972 World Heritage Convention. The programs of some bigger German states like Bavaria and North Rhine-Westphalia partly soften this effect. As already during the first application round a number of local applications could not be passed on to the federal level, the two states started to create their own state inventory that is independent from the national inventory. Here, the number of entries is not limited, although only those elements of intangible heritage can be inscribed whose bearers actively apply for the list. Bavaria even created its own label for the Bavarian intangible heritage that bearers of inscribed heritage are allowed to use. The Bavarian Minister of Culture also created its own certificates and plates that are handed over to the bearers of the intangible heritage. However, as Bavaria is up to now the only German state to be active in

this way, in the end it even increases the inequalities for the intangible heritage within Germany.

Finally, the invention of logos and labels can only facilitate intangible heritage politics, but not replace it. As long as Intangible Heritage in the national implementation process of the ICH Convention has no other meaning than just compiling an elitist list, the idea of labeling the intangible heritage must remain void.