

[NO] Proposed Culture Act and Possible Constitutional Protection of Cultural Matters

IRIS 2007-1:1/25

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In a recent Green Paper, the Norwegian Ministry of Culture has proposed the introduction of a new Culture Act. The Green Paper also raises the question of a constitutional protection of cultural matters, however, without yet presenting a proposal in that respect.

Contrary to existing laws relating to cultural matters, the proposed Culture Act is to have general application, i.e. it is to comprise cultural activities throughout the entire cultural sector. In this context, “cultural activities” shall be understood in a broad sense and shall encompass the creation, production, performance, communication and distribution of cultural expression; the protection and promotion of insight into cultural heritage; the participation in cultural life; and the development of knowledge and competence within cultural professional circles (Section 2 of the Act). Thus, the Act will also have a bearing on audiovisual matters.

The stated purpose of the Act is to increase the weight and status of culture as an area of public responsibility. In particular, the Act clarifies the public authorities’ responsibility for facilitating a broad spectrum of cultural activities so that everyone has the possibility to participate in cultural activities and to experience a diversity of cultural expression (Section 1 of the Act). Against this backdrop, specified areas of responsibility are assigned to the authorities at the three different levels of administration; the State, the County Municipality and the Municipality. According to Section 3 of the Act, the State shall have prime responsibility for promoting cultural activities through legal, economic, organisational and informative measures and instruments, in conformity with international rights and obligations. According to Section 4 of the Act, the County Municipality and the Municipality shall, within their respective regions, see to it that legal, economic, organisational and informative measures and instruments are applied in order to promote and facilitate a broad diversity of cultural activities. This provision also assigns some additional tasks to the County Municipality and the Municipality.

The Green Paper further raises the question of whether to introduce a constitutional protection of cultural matters in Norway. According to the Ministry, the purpose of such a constitutional provision would be to secure national manoeuvring space in cultural matters, something that is held to be necessary in

order to protect the Norwegian cultural heritage and language. In this respect, the Green paper especially mentions the limitations of national freedom that follow from the WTO and EEC obligations, underlining that a constitutional provision would precede such Treaty obligations. Making culture a constitutional matter is also viewed as a way of confirming Norway's commitment to the UNESCO Convention on Cultural Diversity (see IRIS 2005-10: 2). Further consideration of such constitutional questions - and a possible proposal - is stated to take place after the hearing round, based on the comments received.

Forslag til Lov om Offentlige Myndigheters Ansvar for Kulturvirksomhet

<http://www.regjeringen.no/nb/dep/kkd/pressesenter/pressemeldinger/2006/Legger-frem-forslag-til-kulturlov.html?id=424416>

