



Unit 1:

Management and Entrepreneurship in CCIs

Theme 1.3. Cultural Policies and Institutions. Intellectual Property.

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1 THEME Overview

The starting point of the theme titled **Cultural Policies and Institutions. Intellectual property** is to define the terms "culture", "cultural policy" and "institution". It will testify to the complex structure of their meanings, to the antagonisms in them, but also to their causal connections. All this will lead to the thesis that cultural policies - their institutional, administrative and operational aspects are the basis for the creation of institutions representing the CCI, that these institutions represent their extended power (arm)", and that they all together appear as parts of the same unit. In the end, we will talk about intellectual property, since without regard to that, it is neither possible to implement a transparent cultural policy nor develop creative and cultural industries. When it comes to this, one should not regard only the intellectual property of artists, producers, designers and other participants in CCI projects, but also the CCI institutions themselves which implement cultural programmes and claim the right to a certain level of intellectual property.

2 THEME Reader

Culture. Cultural Policy and Institutions. Meaning of the Term.

In a Small Dictionary of Philosophy from 1736, evil is described as striving for discord and destruction¹. By habit, we think that the culture is on the opposite side.
(S. Beljanski)

By habit, we view culture in a positive context. We refer to it as something positive, pleasant, advanced. Even when we talk about the "downfall of culture" or the "clash of cultures", we still do not use the term "non-culture". Let's take Petar for example. He is "cultured" because he is well-read, he is aware of etiquette rules in a certain society, he is aware of the dress codes for different occasions, he knows how to choose which concert or exhibition to visit. However, something doesn't really work even in the very use of this colloquial term "cultured", and if we go into the analysis of each of these cultural "aspects" of our "cultured friend", it becomes clear how much each of these aspects can become subject to criticism. If Petar is a cultured man who is also "well-read", what is it that he reads? If he is aware of the etiquette rules in a society, what particular society do they refer to? If he is aware of the dress codes for each occasion, in which part of the world (in which - culture!?) does he demonstrate that "awareness? And so on and so forth. As we can see, we have here used the most general examples to relativize the positivist understanding of the concept of culture by simply transposing its aspects to the global level, in order to conclude that the final decision about how "cultured" somebody is (or

¹ Definitiones Philosophicae, AR. D. Joanne Thierry, 1736, p. 82.

how “cultural” something is), is usually determined by several factors such as the country, the society and - last and not the least - the individual.

In order for one society to reach some kind of an “agreement” on the term culture, one creates cultural policies – “legal systems, regulatory measures, flows of action and financing of priorities in a given area” (Vukanović 2011:2). The above mentioned example with Petar shows that in every society there are certain “rules” of culture, and the task of cultural policies are to monitor changes at the local and global level, striving to meet the cultural needs of citizens. Until recently, European countries were trying hard to balance their cultural policies. This process was going on a global level as well. However, it was noticed that besides the need to find a “cross-section” cultural policies, it was also necessary to work on preserving local cultural values, because they began to be marginalized under the pressure of globalization. Today, cultural policies in Europe are based on the idea of preserving local culture, while respecting the culture of the Other. What contributes to this is the fact that one person rarely represents only one culture, as by moving through life he/she becomes a truly multicultural being. Depending on his/her job, environment, home, he/she can accept certain aspects of the new culture, while still keep the other. Also, cultural policies are highly influenced by history as some cultural attitudes are disappearing, while other are emerging. The most dramatic example of this is the attitude of right-wing parties before the start of the Second World War in Europe, who considered the works of expressionists to be “unappealing”, while today we admire them. This extreme example proves that the criteria for the positivist definition of “culture” and “cultural” are primarily in the hands of those who manage culture and who are most often responsible for its financing.

The complexity of the term culture does not help us define it. Culture can be sown in the field, and a person can not only be cultured, but can come “from a culture” - a geographical area inhabited by a group of people who cultivate a similar language and customs. In a narrower sense, culture is usually very generally considered as “the realm of human values, in which the human race, rising above the struggle for survival, reduces aggression, violence and misery, and builds a nobler world, higher than the world of ordinary civilization” (Beljanski 2011:45). However, as early as in the 1970s, Marcuse, Huizinga, Fichte and many other philosophers and sociologists pointed out the dichotomies of culture, its bright, but also its dark sides, blurry areas and spaces that can be described by negative words which at the same time reveal the potential consequences of such “bad culture”. Over time, one has formed the opinion that culture is full of contradictory elements, and therefore it contains both good and bad human actions. The complete predominance of bad over good in a culture, therefore, does not imply the end of it, but simply the current state of affairs. Finally, there is also a certain objective view of culture which describe it “a jigsaw puzzle without coordinates, made up of various inventions that escape categorization and evaluation” (Beljanski 2011: 46). There is, of course, the problem of defining “high-brow” and “low-brow” culture. Members of the Frankfurt School of thinkers, led by Adorno, declared the culture which is based on mass production as kitsch. Both Nikolaj Berđajev (1990) and Thomas Stern Eliot (1967) thought that culture loses its value as it becomes more democratized. Contrary to this view, English culturalists, Hall, Fiske and Williams, stand up against elitist views of culture trying to emphasize the values of *popular culture*...

Definitions of Culture

Cultural diversity is no longer
just a given of the human condition
but has become a globally shared normative meta-narrative.
(Yudhishtir Raj Isar 2009:61)

In recent decades, it has often been the case that different European countries have officially defined culture quite differently in their writings. However, the definition set as the **overall** definition at the 1998 Intergovernmental Conference on Cultural Policies is very much comprehensive and implies: “Culture includes within a wider sense, aggregate, form and type of all achievements of people and mankind, which pervades any human activity and existence. Culture incorporates socially recognised values, tolerance, external and internal orientation, beliefs, creative spirit and interests of individuals and the society. The language, folklore, customs, rituals, traditions, knowledge and education process, diversity and interest regarding other cultures, as well as contemporary product of creative work are the basis for preservation and development of culture. In a more narrow sense, culture is art, architectural, music, literature expressions and other creative expressions”² (see: <https://www.culturalpolicies.net/> Compendium of Cultural Policy). Since the time when definition was set until today, attitudes towards defining culture have changed. France views culture very broadly and dedicates cultural policies to “protecting and developing all facets of cultural heritage, encouraging creative artistic and other creative work, and promoting the development of artistic training and activities” (Article 1 of the Decree of 15 May 2002, from the Compendium of Cultural Policy: Country profile: France 2007, p. 8, cited according to Vukadinović 2011: 6). On the other hand, Germany and Great Britain do not have an official definition of culture, as they see themselves as multicultural societies which nurture numerous languages, customs, etc. In Portugal, culture is described as “an indispensable element in developing intellectual capabilities and the quality of life, important as a factor in citizenship and a key instrument for a critical understanding and knowledge of the real world” (see: <http://www.portaldacultura.gov.pt/ministeriocultura>). It is interesting that in this definition there is a term “critical understanding” which highlights culture as an engaging content. In Bulgaria, culture is seen as cultural heritage, visual arts, performing arts, books, reading and libraries, amateur arts, audio vision and media, copyright and related arts, international cultural heritage, and education (compendium cultural policy and trends <https://www.culturalpolicies.net/database/search-by-country/country-profile/?id=6> visited on Mar 23, 2022). In Serbia, there is no official definition of culture, but the term is determined on the basis of three aspects: the term implies 1) description of the areas the Ministry of Culture is in charge of (policy creation and policy implementation, network of institutions and organizations, projects, cultural heritage, etc.). In a somewhat broader sense, culture includes 2) education in the field of art, research in the field of culture and art and cultural tourism.

² Compendium Cultural Policy and Trends https://www.culturalpolicies.net/wp-content/uploads/pdf_full/latvia/Full-country-profile_Latvia.pdf pristupljeno 24. 3. 2022

Finally, the broadest definition of culture implies 3) lifestyles, values and visions of a multi-ethnic society in Serbia (Vukanović 2011: 7).

The intricate practice of defining the concept of culture to a certain degree facilitates defining of the concept of cultural policy³ simply because it helps position the term culture within a clearly defined field of action that we need to consider. Cultural policy is understood as “public practical politics in the field of culture, art and media” (Đukić 2010: 24). Contemporary cultural policy implies conscious regulation of the public interest in the field of culture including the decision-making on all issues related to the cultural development of a society. Cultural policy usually focuses on three basic tasks: “1) preservation of cultural heritage and cultural identity; 2) development of contemporary artistic creation; 3) encouraging the availability of cultural goods and the participation of citizens in cultural events. (Dragičević Šešić 2011: 35). According to UNESCO, the term cultural policy refers to: a) “the total number of intentional interventions or the absence of interventions from the state or its bodies, especially those aimed at responding to certain cultural needs through optimal use of physical and human resources available to society at a given time; b) certain criteria for the management of cultural development should be established and culture should be related to the personal development of individuals, as well as with the social and economic development of the society. Like other public policies, cultural policy is modeled in different ways. Which model is applied depends on the general situation in the country and how culture is defined at the national level. Most of the debates about public policies (and cultural policy is no exception) are related to regulatory proposals and the distribution of funds. The reason for this is that laws and finances are the most important instruments for the implementation of public (cultural) policies, and they are implemented by representatives of relevant ministries” (Vukanović 2011: 3).

Cultural policies are created according to certain models. “There are several approaches in the typology of models: in relation to whether the implementation of cultural policy depends on public support or market conditions; in relation to whether there is a public or para-public body behind the legal, financial and political authorities required for the implementation of cultural policy, and therefore, the model can be public or para-public; in relation to cultural policy characteristics, so the model can be, for example, liberal or transitional ” (Đukić 2010: 96-118). Today, we usually say that cultural policies in America are more market-oriented than the European ones (Vukanović 2011).

³ We need to point out that Kevin Robins at the very beginning of his paper *Cultural Policy and Cultural Politics in the Twenty-First Century*, 2016, 1, distinguishes “cultural policy” from “cultural politics”, emphasizing that “politics“ focuses mainly on artistic creation, while “cultural policies” also deal with a wide range of activities, but their activities, of course, still coincide ([PDF\) Cultural Policy and Cultural Politics in the Twenty-First Century \(researchgate.net\)](#) (On the basis of this distinction, we make a certain differentiation between ‘cultural policy’ and ‘cultural politics’. The former we regard as the domain of public administration and policy-making that governs and regulates activities specifically related to the spectrum of what are conventionally regarded as arts practices. Cultural politics, on the other hand, pertain to questions concerning the more fundamental social meanings and norms that underpin policy procedures and choices. It is in the domain of cultural politics, then, that foundational values are defined and struggled over. But, of course, we have to acknowledge the considerable overlap that may actually exist between policy and political dimensions).

The comparison of different cultural policies among not only European, but also world trends indicates, as Yudhishthir Raj Isar (2009) points out, that they are often pragmatic, so they mostly neglect theoretical and scientific analysis of the real state of culture in a society⁴. Cunningham adds that there is a “broad field of public processes involved in formulating, implementing, and contesting governmental intervention in, and support of, cultural activity” (Cunningham 2004:14). Thus, it is clear that (European) cultural policies are like living organisms: they are constantly changing its contents depending on the political circumstances of a particular country; whether their programmes are pro-European or nationally oriented (or mixed); they depend on the NGO sector whose relative independence usually gives impetus to innovation; but also on the citizens and their initiatives, most often at the local level, which brings the necessary dose of popular culture to the whole picture. Another problem with the creation of cultural policies is the fact that the ones who create and implement them are easily changed (change of governments, ministers), so it is difficult to talk about a direct continuity in the implementation of certain ideas. Also, there is a constant balance between supporting profitable and “non-profitable” cultural contents, which helps keep a balance in the satisfaction of citizens with cultural policies, i.e. the accessibility to culture⁵.

When it comes to institutions which implement cultural policies, we must bear in our minds that in history sees “institutions as formal or informal procedures, routines, norms, and conventions in the organizational structure of the policy or the political economy, where sociological institutionalists add cognitive scripts, moral templates and symbol systems that may reside at supra-state or supra-organizational levels” (Amenta, Ramsey 2009: 5). Cultural policies pursued by various institutions – governmental or non-governmental organizations or associations can implement certain aspects of that policy depending on how much they are financially supported⁶ (by public or private funds), and then depending on how much organizational strategies are effective. Cultural policies of private institutions usually imply the support of profitable projects⁷.

⁴ Isar wonders whether prosperous ideas in building cultural policies are like “fighting the windmills”? (Isar 2000).

⁵ It is often the case that theatres enjoy the support of the state for their productions. The reason for this is the fact that if the theatres were exclusively market-oriented, ordinary citizens would not be able to visit the theatres due to high prices of the tickets.

⁶ The most prominent feature within European countries is the consistent reduction of funds for culture every year.

⁷ In Serbian legislation, “tax benefits are provided only for gifts (donations) of *legal entities* that were founded for the purpose of performing *profitable* activities (businesses, companies, cooperatives, or other legal entities established for profit). The law does not prescribe any incentives for *natural persons* - taxpayers and *entrepreneurs* for public benefit purposes“. See: Dragan Golubović, *Vodič za korporativnu filantropiju “Dobro se dobrim vraća: kako darovati u opštekorisne svrhe* (<https://old.tragfondacija.org/pages/sr/javne-politike/poreske-olaksice.php>). Gifts that provide tax relief can only be given for projects in the field of art and similar, but not for the development of democracy, animal welfare, the fight against corruption, etc. (Ibid).

Today, cultural policies focus not only on the needs of their citizens and certain cultural contents as such, but also their sustainability in the aspect of economy, i.e. to what extent certain cultural contents financially affect certain environment, provide jobs, attract tourists, etc. A good example of how CCIs influenced cultural policies are creative clusters, which at the beginning of the millennium assumed the cooperation of various art formations and associations, but then they grew into “cultural districts”, and finally “capitals of culture”⁸.

Let us now consider the aspect of education that was pointed out at the beginning, in the Bulgarian model of cultural policy. Although cultural and creative industries are usually simplified as “entertainment industries” with their activities relying on cultural policies, today the issue is no longer just about entertainment, but about the activities that go along with it. It is astonishing how little attention is paid to edutainment - learning through entertainment within the CCI, as experts in the field of audience development increasingly recognize the need of the audience for participatory practices, i.e., entertainment models that offer knowledge. Whether it is a concert, a trip, or an exhibition - people increasingly want something more than just fun. That is, they want to learn something new while having fun, have a unique experience that will take them to a new experience, etc. This is why before concerts there are sometimes “introduction about the compositions on the programme”, musicians gladly involve the audience to make music themselves⁹, and visual artists allow direct contact with their works¹⁰. It is not just a matter of learning something on the spot, but of following the “echo” of the impression received at a cultural event that functions as a kind of “sustainable development” of a certain cultural stimulus. Therefore, it seems that education is becoming increasingly important within the framework of cultural policies and their implementation within the CCI.

⁸ The cultural policies of European countries have recognized the cultural potential in this. That is how the title of European Capital of Culture was created, which was awarded to the City of Novi Sad in 2022.

⁹ The simplest example of this participatory practice is the New Year's concert in Vienna broadcast all over the world, in which the famous *Radetzky March* is applauded by the entire audience in Musikverein, which is just unimaginable in the classical music world! There are also concerts where the audience is actively involved in making music - examples of such events are common at percussion concerts.

¹⁰ In 2019, an exhibition *From Noise to Sound* by the artist Nikola Macura was opened in Novi Sad. He presented music instruments made from military waste and unused weapons he found in the trash. The audience had the opportunity to play on the exhibits, which included different percussion instruments, string instruments etc.

Intellectual Property.

“We cannot negotiate with people who say
what's mine is mine and
what's yours is negotiable.”
(J. F. Kennedy, 1961)

When the *Pulcinella* ballet by the then young Igor Stravinsky was premiered in 1920, no one accused him intellectual property theft. The ballet was based on the music of several old masters of the 18th century¹¹. What would happen today if someone did something like that? Nothing! Because, Stravinsky used two centuries old music, which he partially changed (by adding new music to the existing one!). If someone did something similar today, the only issue would be how old the original is. If it was a work from, let's say, 1723, critics would only consider the originality of the *arrangement*, and lawyers would have nothing to work with. Strict copyright laws govern music as well as other arts. Authorship starts automatically, from the moment an artist completes his/her work throughout his life and 70 years post mortem¹². However, the laws also protect another type of creative work which we call *intellectual property*. “In a broader sense, the term intellectual property implies various creations of the human mind. Those creations and innovations that meet the conditions prescribed by law, can be protected by certain forms of intellectual property rights¹³. Only a “materialized” idea can be protected - a logo, a technical type of invention, the design of some objects, an original art work, a television show¹⁴, but not the idea itself. Intellectual property can be protected within a certain territory - country, but it is possible to extend the protection to other countries with which they have signed a contract. The intellectual property of CCI is most often related to the already mentioned “copyrights and related rights”. This addition “related rights” refers to other rights in the creation of the art work and are enforced by special legal regulations. Intellectual property in creative industries is controlled much better today than in the past, thanks to the specialized agencies that take care of the performance of works, keep statistics on the number and place of the performances, etc. The Internet is a space which allows the illegal use of copyrights, but there are less and less of these offenses thanks to the music tracks recognition programmes (the most famous is *shazam*). However, they are not absolutely effective either, because these programmes one can control absolutely identical pieces. For example, it is possible for someone to perform someone else's song in a similar way, but the application will

¹¹ The authors whose works were used were most probably: Domenico Gallo, Unico Wilhelm van Wassenaer, Carlo Ignazio Monza i Alessandro Parisotti

¹² <https://www.zis.gov.rs/prava/autorsko-i-srodna-prava/#section-1>

¹³ See: Šta je intelektualna svojina? <https://www.zis.gov.rs/prava/intelektualna-svojina/> last visited on Mar 23, 2022.

¹⁴ It is interesting that the TV show in itself as a genre is not a subject of intellectual property, however, the show with an appropriate original name, concept etc. is. Recently, a court procedure has been conducted in Serbia for the theft of intellectual property in this field. Namely, the author of the TV show *Utisak nedelje*, Olja Bečković, sued the author of similar TV show *Hit Tvit* for stealing the concept of the show.

not recognize it as copyright theft. Intellectual property theft is also common in industrial design or in the creation of logos of various institutions and companies, where court proceedings are often conducted to prove the degree of similarity, etc.

Intellectual property is an important segment of the CCI development because it values art work in an adequate and transparent way. This sensitive area must be respected during the implementation of various projects in culture, because the ways of distributing the culture are often so original that they can be seen as intellectual property themselves. Therefore, the CCI strategies of action must be recorded and monitored in order to identify (in time) the values that under certain circumstances can be recognized and protected as intellectual property.

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