

# THE ROLE OF THE EUROPEAN COMMUNITY CONCERNING THE CULTURAL ARTICLE 151 IN THE TREATY OF AMSTERDAM

sustaining the development of intercultural competence within europe

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*research paper*

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## introduction

The European Union has in its Treaty of Amsterdam a promising article 151 which invites, stimulates and obliges all different players in the Union to take care of the flourishing diversity of cultures. In this article the division of responsibilities is more or less adequately balanced, according to the principle of subsidiarity. First, cultural policies should be developed at the lowest level possible: member states, regions, local authorities. Second, member states and regions should co-operate. And, third the Community itself has an active role to play, and the Community shall take cultural aspects into account in all its actions. This last point has stayed thus far too much in the shadow, which will change, hopefully, after this publication.

Since Maastricht, 1992 (article 128) and even since Amsterdam, 1997 (when 128 became article 151) the Community failed to clearly articulate its role and take on its responsibilities. Nevertheless, there is a great need for Community action on several cultural issues, where the old and the new member states alone, or even in the co-operation between them, cannot shape the conditions for the flourishing of the much desired cultural diversity. In this research paper I will discern a list of issues for which the Community is responsible.

For each topic I will describe the situation, analyse arguments and formulate concrete proposals; all not longer than one page; and divided into three clusters:

- A. proposals with a general cultural policy character;
- B. proposals which concern specific fields of the arts;
- C. and proposals which have an eye on the rest of the world.

What I present here is a research paper, it is a work in progress: the debate is open. And then, the Parliament, the Commission and the Council should do what the Treaty of Amsterdam obliges them to do in its article 151: to take action in the cultural field, and also on the Community level.

In order to raise awareness that the Community has an active role to play concerning culture I will print here the full text of article 151, and italicise those segments which explicitly mention that there is a common task:

'1. *The Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.*

2. *Action by the Community shall be aimed at encouraging co-operation between Member States and, if necessary, supporting and supplementing their action in the following areas:*
  - improvement of the knowledge and dissemination of the culture and history of the European peoples;
  - conservation and safeguarding of cultural heritage of European significance;
  - non-commercial cultural exchanges;
  - artistic and literary creation, including in the audiovisual sector.
3. *The Community and the Member States shall foster co-operation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe.*
4. *The Community shall take cultural aspects into account in its action under other provisions of this Treaty, in particular in order to respect and to promote the diversity of its cultures.*
5. In order to contribute to the achievement of the objectives referred to in this Article, the Council:
  - acting in accordance with the procedure referred to in Article 251 and after consulting the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States. The Council shall act unanimously throughout the procedure referred to in Article 251;
  - acting unanimously on a proposal from the Commission, shall adopt recommendations.'

There is no doubt that the article 151 refers several times to the fact that the Community itself has its own responsibility and obligations to act. Before analysing the article 151 more closely, it is important to distinguish between culture in the anthropological sense on one side, and artistic cultures and artistic cultural life on the other. Culture in the anthropological sense includes all aspects of human life and ways of life; not only how people express themselves and organise their emotional life and ideologies, but also how they regulate, for instance, their social and economic relations, and how they take care, or not, of the ecology and (mental) health in their societies. This is not the scope of the article 151.

The reach of article 151 is the field of artistic cultures, which means making sure that a great diversity of forms of theatre, music, dance, operas, soap operas, visual arts, design, films, books, and mixed media will be and can be created, produced, distributed, promoted, received and discussed all over Europe, independent from genre or dominant preferences. What some people may love as artistic expressions, other people may find offensive. This broad field of artistic expressions should have the chance to exist in Europe, whilst not being threatened by homogenising tendencies. To the promotion of this purpose should be added the development of *intercultural* competence among people living in Europe. Article 151 should be interpreted as the guarantee that real artistic diversity can exist permanently in Europe. There is no reason to exclude certain kinds of works of arts from the working of article 151. It does not matter whether the carrier is paper, stage, television, computer, or the wall of a gallery or museum, from big to very small, from very popular to more experimental.

When we investigate the article 151 through a loupe, we discover that within the political arena of the last ten years it is far richer than has been previously thought.

1. The first words of the article stipulate that the Community must do something. It is not written: can contribute or may contribute. It is the more imperative: shall contribute. Contribute is an active concept: those who have been asked to contribute must do something. In this case: contribute to the flowering of the cultures of the member states. In the following pages I will indicate several issues, where this contribution, as a specific own role of the Community, is to be implemented.  
Also, the Community must bring the common cultural heritage to the fore. It would be a misunderstanding to limit the concept of heritage to what the cultural past has delivered to us in the field of concrete works of art, objects and buildings. The common European heritage is as well the capacity to develop diversity of works of art. Thus, the common cultural heritage has this rich and ongoing capacity, which should be promoted.
2. Clause 2 says, that the Community shall encourage co-operation between Member States in the cultural field. However, it appears that the co-ordination of such co-operation 'has never really been implemented either on the initiative of the Council or by Commission proposal.' This is the conclusion by the

member of the European Parliament, Giorgio Ruffulo, who as a rapporteur has prepared the Resolution on Cultural Co-operation in the European Union (2000/2323, INI, adopted on the 5th of September 2001). In the Explanatory Statement on this Resolution it is written: 'The current absence of systematic co-operation between EU cultural measures and national cultural policies is due to a restrictive interpretation of the subsidiarity principle.'<sup>1</sup> Even in the European Parliament the awareness is growing that the article 151 does not mean waiting and seeing what the member states will do in the cultural field. Therefore, it is a good moment to start the discussion about what the role of the Community should be! The Community includes Parliament, Commission and Council.

In this clause 2 again, it is stipulated that the Community should do something. What? If necessary, support and supplement the actions of the member states, and particularly in a wide range of areas. I will indicate some of these issues here, which later on in this text will be discussed more elaborately. For instance, the Community should support, if necessary, the improvement of the dissemination of the cultures of people living in Europe (which is a more adequate expression than 'the European peoples' as mentioned in this clause 2). It is necessary to contribute, for example, to the improvement of the distribution of films made in Europe through the whole continent. This is what the individual member states cannot do on themselves.

As said already, the cultural heritage of European significance includes the European capacity to renew and diversify. This capacity should be safeguarded.

Care should be provided for the rich stock of cultural material and non-material works which has been delivered to us from the past. They should be available and open to the public, there should be means to restore them, and more than is the case now, there should be elaborate theft prevention and Europe-wide tracking of stolen objects.

One of the areas requiring support are non-commercial exchanges. This concept demands clarification. Commercial exchanges are those exchanges with as its main purpose, the commercial gain or effect. Other cultural

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<sup>1</sup> See: *The Unity of Diversities. Cultural Co-operation in the European Union*, edited by the Parliamentary Group of the PSE European Parliament, Firenze (Angelo Pontecorboli Editore) 2001, pp. 17/18 and 66/67.

exchanges fall within the category non-commercial. It is evident, that an artist must earn money to make a living, that a big orchestra needs a lot of money, and that a gallery cannot exist without making some revenue. Subsidies are often necessary for making artistic work possible, but also the box office and sales count. When the purpose is mainly cultural rather than economic, all these activities are covered by the concept non-commercial.

Clause 2 includes explicitly artistic and literary creation, including the audiovisual sector. The inclusion of the audiovisual sector in an article on culture is self-evident, however this is still less widely practised than is desirable. In the next pages I will come back on this issue.

In the context of the Spanish Presidency of the EU the Spanish delegation has written a Note *Ten Years On. Reflections on Article 151 of the EC Treaty: expectations and outcomes.*<sup>2</sup> In this Note, it is mentioned that, 'in practice, developments in promoting the audiovisual sector have been channelled not through Article 151 but through Article 157 of the Treaty, whose objective is to ensure that Community industry is competitive.' (nr. 17) However, this economic purpose and this practise could be at odds with an explicit cultural purpose, such as the necessity that in Europe there are many cultural producers and distributors instead of only a few large ones, who are considered able to compete with, for instance, American cultural conglomerates.

3. Clause 3 demands, besides what the member states already do, the active role of the Community in fostering cultural co-operation with third countries. This has been largely lacking, until now.
4. For one reason or another the reach of clause 4 has been underestimated in European cultural policy making. First, there is an obligation: the Community shall take cultural aspects into account in its action under the provisions of this Treaty. The process of taking into account must take place, explicitly. This systematic task, which has been given to the Community under the Treaty of Amsterdam, has been neglected. Therefore, there are two things to be done. All existing regulations, etcetera, should be evaluated on their cultural consequences. This is a deferred match, and not a minor one. Furthermore, a set of procedures should be developed, which guarantee that in the future the

cultural aspects of new Community regulations, etcetera, will be systematically taken into account.

This clause 4 does not stop here. Explicitly this taking into account has a purpose: in particular in order to respect and to promote the diversity of cultures. So, this is not a process without engagement. When every Community action under the provisions of the Treaty of Amsterdam is evaluated in this perspective, as should be done, public debate can take place on, for instance, what price we are likely to pay for the promotion of cultural diversity, or what kind of regulations should be avoided.

5. I cannot do more than agree with the analysis made in the Note of the Spanish Presidency (nr. 69), that the requirement of unanimity has 'unnecessarily slowed the development of Article 151.' Therefore it is a productive sign that the European Parliament in its above mentioned Resolution on Cultural Co-operation in the European Union (nr. 7), 'calls for the extension of qualified majority voting in any future revision of the Treaty to ensure support for measures in the cultural sector.'

The Treaty of Amsterdam includes an article 3q, which says that the Community shall contribute to the development of the cultures of the member states. In Maastricht, and again in Amsterdam, the Council has decided to be more explicit on the importance of caring for cultural diversity, to which the development of intercultural competence between the peoples of Europe belongs. The result is the article 151 (formerly 128), which, after a decade, should be implemented in *all* its aspects.

This essay is a set of proposals. Each of them will be commented upon shortly. It must function as a discussion paper. Do we really think that these are the issues, which demand common attention and policies from the Community as a whole, and are these the arguments why? This is also the reason why this is a short text and not a large book.

However, at the same time this is an invitation to lay the building blocks for a future book, which describes how cultural policy could flourish in Europe by the marvellous complementarity of: a. the efforts of local, regional and national authorities; b. the co-operation of the member states concerning cultural policies; and c. the active role of the Community itself contributing to the flowering of the cultures of member states and taking cultural aspects into account in its actions in

<sup>2</sup> Council of the European Union. Brussels, 12 December 2001 (16.01/ OR.es/ 15249.01).

order to respect and to promote the diversity of its cultures.

The booklet is a publication of the Utrecht School of the Arts in the Netherlands, which feels, that arts education has a special responsibility in promoting the debate on European cultural policies. Therefore the School has, not without reason, a master of arts programme, called Arts and Media Management in a European Context (MA Ammec).

The composition of this essay on the role of the Community concerning the flourishing of artistic cultural diversity all over Europe has been generously supported by Anne-Marie Autissier, Els Baeten, Frédérique Chabaud, Jantien Hadders, Dragan Klaić, Therese Kaufmann, Lisa Kölker, Ritva Mitchell, Martin Prchal, Veronika Ratzenböck, Gerald Raunig, Hilde Teuchies, Claude Véron, Andreas Wiesand, Raymond Weber and Antonio Zapatero. Their years of experience and creativity have made it possible for me to refine this long awaited set of proposals, for which I am very grateful. We see each other in Europe.

It must be said, however, that the sole responsibility for the approach taken concerning the article 151 is mine.

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Utrecht/ Amsterdam  
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A 1 the europe of cultures: member states should be encouraged to spend part of their subventions for artistic cultures on projects in which artists co-operate europe-wide

In Europe there is now more cultural communication than during the period of the Cold War. Artists and their companies, initiatives and institutes have a great desire to collaborate, to have common projects; and theatres, concert halls, galleries, publishers, and also many cinemas like to confront their audiences and public with what is coming out from all corners of this continent. For the existence of a unified Europe these initiatives are like a godsend. European integration will not really take place, and will not mean a thing for European citizens, without a cultural dimension.

The primary goal of European cultural policy should be to support the development of the intercultural competence of citizens. Cultural diversity is important; but even more urgent is that people from many different cultural backgrounds are able to communicate with each other. Looking at the social map of Europe, one must recognise that there are people walking around in this continent with all sorts of cultural backgrounds, with different artistic desires and expressing themselves distinctively. This may be a joy for everybody, and for the construction of a unified Europe, that cherishes good relations with all its neighbours (east and south as well). It may also be a source of dangerous conflicts.

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The economic base for almost all forms of cultural co-operation is extremely delicate. Many concrete initiatives of European collaboration, which artists and their groups and institutes initiate, do not get off to a good start because of the lack of financial resources.

Would the solution be to have massive funds on the European level to finance all different forms of cultural collaboration and exchange? Nobody would believe so. It would be too far away from where the initiatives are ripening and it would become a bureaucratic mess. Only in some cases, there is no other possibility than that the Community provides infrastructural support for cultural collaboration and exchange, because no individual member state can get this

done on its own. Some examples of needed Community action will be discussed later in this essay; for instance, the support for the existence of the European cultural networks, and the initial infrastructural support for a completely new way of distributing films made in Europe throughout Europe.

For the rest, it is up to the individual member states to support different kinds of European cultural collaboration and exchange, whether these projects are bilateral, trilateral or multilateral. We must stem the flow of the many states that are re-nationalising their cultural policies, which is a dangerous trend all over Europe, certainly in an economically globalising world.

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But with this statement, the story is not over. The article 151 lays it explicitly at the Community's door to convince, to incite, to stimulate member states to co-operate. Clause 2 states, that action by the Community shall be aimed at encouraging co-operation between member states, and if necessary, supporting and supplementing their action. One can imagine, that member states will be prompted by the Community to spend a substantial part of their subventions for the development of artistic cultures on projects in which artists, and their groups and institutes, co-operate Europe-wide.

Fascinating examples of cultural co-operation should be listed. European bureaucrats will hopefully transform themselves into people who think creatively about the kinds of services that can be given in order to facilitate effective forms of cultural collaboration. The outcome should be inspiring forms of coherence in cultural politics between all different layers of the Community. With one purpose in mind: The recognition of projects of cultural exchange and collaboration as strong instruments to underpin the construction of one Europe. A Europe, which is a more desirable place for people from many different cultural backgrounds to live in, and who are able to communicate with each other, interculturally.

## A 2 the new member states: culture at the forefront

Over the next few years, with the enlargement of the European Union, a new challenge is coming. Will it simplify economic processes only, or will the new unification be based upon senses of belonging, which enriches entire societies? From what has been said before, it is clear that there is an urgency for cultural co-operation within the widest scale.

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However, there is a specific aspect that demands attention. The situation between the old and the new member states is in many perspectives unequally balanced, and not only economically: in the social make up on both sides recent history has implanted different experiences, and the new member states have to adapt to the far-reaching realities of the existing Union, which they did not co-shape. Also, the infrastructure for artistic creation, production, distribution, promotion and consumption or enjoyment has different backgrounds. Contacts between West and East were complicated, to say the least.

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Therefore, a specific effort should be made in order to ensure that cultural collaboration between the new and the old member states can take place on a broad scale. Here the Community has to play a prominent role, in many perspectives. Evaluation is needed to discover the barriers to the development of cultural co-operation. This should be done now, before it is too late. There must be growing awareness, that the new member states will be faced with many EU regulations, for instance in the fields of taxation, safety and labour, which affect their cultural sectors substantially. This obliges them to more investment and effort than they are used to do. This transition may harm their cultural sectors enormously.

The Community should establish a fund, which in the early years facilitates projects of exchange and collaboration between the new and the old member states. These projects have a wider range than can be covered by the individual member states. Also the new member states should be stimulated to include

cultural projects in their Structural Funds programmes. We must make sure that the new member states are not forced to give up the many positive aspects of their cultural policies by the strict application of existing Community regulations. These countries should also be challenged to think about the suggestions made in the national cultural policy reviews by the Council of Europe.

This is the right moment to list examples of good practice of national, regional and local cultural policies in both parts of Europe. Not as a competition, but as inspiring demonstrations of how cultural policies can contribute to the flourishing of cultural diversities and the development of intercultural competences.

Invited to speak about theatre in Central and East Europe by the Committee on Culture, Education and Sport of the European Parliament on 26 November 2001, Dragan Klaić stood up for the hope, that the theatre systems in those countries 'will sufficiently be strengthened and readied so as to survive the pressures of the market economy and some loss of status in a democracy, but also to survive the EU membership of the respective countries. Moreover, that the EU membership will provide additional development opportunities, broaden diversity instead of imposing uniformity, that it would encourage institutional and infrastructural modernisation and create new opportunities for international mobility and collaboration. Only then will the performing arts function as an asset of the society, capable of making European integration palpable and graspable to its citizens.' What has been said about theatre holds true for the other arts as well.



### A 3 meeting points: supporting the cultural networks in europe

When it is undesirable that a limited number of cultural industries organise cultural life in Europe, and when we acclaim the exchange and co-operation of many artistic cultural initiatives throughout this continent, then opportunities should be supported where cultural mediators from different ilk meet. It is a good sign that many of these opportunities exist already and have done for more than a decade. These are the hundred or so networks that are active in all different fields of the arts, Europe-wide.



What is the interest of such networks? Let us start with what they are not. They are not booking offices, they do not select which artists or projects will be prioritised, they do not control copyrights, they do not own massive resources of cultural production, distribution and promotion, and they do not create the cultural ambiances in which the arts will be consumed. This makes them different from cultural industries, and at the same time extremely attractive. What Europe does not need are oligopolistic constructions, which set the tone of what culture is, and what culture is not. What Europe needs is the opportunity to facilitate and the continuity to let many different artists and their groups and institutes work together, and contribute to the construction of a pluriform cultural landscape.

The cultural networks create the opportunity for cultural mediators to meet, exchange experiences, learn from each others activities and artistic desires, generate ideas, reflect on needs, engage in projects with new partners, test the waters for co-operation and interchange, acknowledge cultural differences, learn to deal with them, create new adequate infrastructures for collaboration, and provide the opportunity for on-the-job training, technical exchange and administrative support. This informality of the networks is based on a solid democratic conviction and on the experience, that the arts flourish best when they are getting the appropriate setting, which is not by definition steered by market considerations.



If the result of the meetings of the networks is the much desired co-operation among cultural initiatives throughout the whole of Europe, then the artists and the projects should be funded by the participating member states. But experience shows, that many of the member states are not prepared to fund the infrastructure of such networks which facilitate the meeting of artists and their projects. This might look understandable, because why should one member state pay for something that is in the interest of all? Some member states generously fund some networks, which have their secretariat in those countries.

This is not enough to achieve the goal of bringing cultural mediators from all parts of Europe together and provide them with the fertile, loose infrastructures for their meetings and for initiating promising projects. Therefore it is a specific role for the Community to fund such informal networks on such a scale that they really can create the effective opportunities for cultural initiators to meet and to make first steps in forms of co-operation. Also funds should be created on a Community level, so that cultural mediators from the new member states can easily participate in these informal gatherings.

The declaration of the Explanatory Statement of European Parliament's Resolution on Cultural Co-operation in the European Union is promising (see above), that cultural networks could be extended, strengthened and digitalised. However, it is not could, but should!

#### A 4 curb cultural market domination in europe: the right of access

Freedom of expression does not only mean not censoring, it also means as many social and cultural forces as possible having access to the means of communication. This is contrary to the dominant tendency that a limited number of cultural conglomerates dominate substantial parts of cultural markets, specifically effecting the distribution, the promotion and the organisation of the reception of artistic creations.

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Cultural diversity can exist only when this market domination is curbed. Of course, cultural industries will say that they provide the market with diverse cultural offers, and actually they earn part of their money in niches. However, this is not what is meant by cultural diversity. For cultural diversity it is a necessity that many suppliers of cultural contents, goods and values have access to the market. This multiplicity should be extensive and no enterprise should be present on the cultural market too strongly, actually playing the role of gatekeeper.

The freedom of expression and communication is a sensitive issue, which demands that no social or economic force is in any position to control cultural life more than others. The sentiments, pleasure and sadness, expressed in artistic contents should not be the result of decision making processes within a limited number of huge cultural conglomerates. It might be clear, that this cannot and may not be the effect of the European Declaration on Human Rights.

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What should be done in Europe? First, elaborated data should be produced on cultural market domination concerning all the fields of the arts, in the Union as a whole and in the separate member states as well; also taking into consideration the conditions in the new member states. Therefore, one of my proposals, in this summing up, will be the establishment of a European Cultural Observatory (see A 6), monitoring the implementation of the Community role concerning article 151, and the collection of data concerning market concentrations specifically, in collaboration with Eurostat.

Second, a broad discussion should be organised on what percentage of market position, in what kind of outlets, is detrimental to the free access of huge quantities of cultural producers, distributors and promoters. From a democratic and human rights perspective such huge quantities of producers and distributors are more than desirable; they are a necessity. Therefore, one can imagine that no foreign country may be present on the European cultural markets with a market share bigger than 25%. No individual company may have a bigger market share than 5 to 8%, except for institutions like the opera. Furthermore, the cultural industries may be present locally and nationally in one kind of outlet only. It must be recognised, that it is difficult to find adequate ways to curb the power of cultural industries after all the mergers that have taken place in the cultural field and after a decade of digitalisation.

Nevertheless, in a democratic and human rights perspective this is the task that should be accomplished. It would be a challenge for creative thinkers and courageous politicians. They may know themselves being supported by the article 151. Based on clause 4, the article gives them the opportunity to interpret, for instance, the articles 81 - 83 (which speak about competition) with cultural intent in mind: no enterprise may have such a strong position on the cultural market that access and public functioning of many cultural actors will be harmed.

This point of consideration concerns all the different outlets of the arts: paper, audiovisual media, digital media, gallery walls, and so on and so forth. This means, that the article 157, which speaks about industry, has only a limited application concerning the actors in the cultural field - whether they are big or small.

This prevention of market dominating situations concerns of course not only the cultural industries, but also the working of the extremely limited number of influential auction houses and galleries, which are on the brink of controlling substantial parts of the field of the visual arts.

## A 5 the article 151 and european cultural policy

The article 151 of the Treaty of Amsterdam balances the role of the member states concerning culture, the co-operation between the member states, and the task the Community itself should fulfil.

In clause 5 it has been said that the Council should act unanimously. The question of qualified majority voting versus unanimity voting will be one of the important issues addressed by the upcoming European Convention which must restructure decision making procedures in the EU. With twenty eight member states the unanimity vote will cripple the Union. The Spanish Presidency mentions in its, above mentioned Note (nr. 69), that 'the requirement for Council unanimity in co-decision with the Parliament, systematic use of second readings and conciliation for disputes of substance and on funding have unnecessarily slowed down the development of Article 151.' The principle of unanimity is indeed not helpful and should be abolished and replaced by qualified majority voting.



The balance between the European Parliament and the Council will also be a topic on the agenda of the Convention. The common currency exists, the euro (which is unattractive and less than Europe deserves), but for the rest the European Union is a loose federation of heads of states, which takes at the same time far reaching decisions. It cannot go on this way. As in any normal democracy, parliament should be the main decision making institution in the Union. The Cultural Committee of the Parliament and the Commissioner of Culture should be responsible for the Community's part of European cultural policy, and make it viable. They should stimulate, so that the complementarity and subsidiarity concerning cultural policy in Europe will lead to productive results. It is their task to make sure that the Observatory on European Cultural Policy can play a stimulating role (see next).



The Note of the Spanish Presidency *Ten Years On* rightly concludes (nr. 70), that many of the Community programmes on culture are 'poor copies of existing national-level sectoral cultural policies'. The true aim should be 'to help increase cultural dialogue between Member States as a compliment to the activities of the latter and not merely to make good the presumed shortcomings of those national policies.' This is a harsh criticism.

It is also stimulating. One may wonder whether programmes like Culture 2000 should continue to exist in the future. I would say explicitly yes. In the context of the recognised responsibility of the Community for several specific aspects of cultural policy, specific programmes are needed, for instance, for many of the issues that have been discussed before and that will be discussed in the following pages.

It goes without saying that European cultural policy includes all the issues discussed in this research paper.

## A 6 an observatory of european cultural policy

Hopefully ten years after Maastricht the Community will be able to see that a lot of work still needs to be done to favour cultural diversity, although this will not be at all easy. It will be trial and error. Therefore it is important, that an Observatory of European Cultural Policy is established. In its annual reports, this Observatory should evaluate all the measures, which are tasks of the Community, as proposed above and in the following pages. This should also include what the members states should do as a consequence of Community regulations. Obviously, the much desired cultural co-operation between member states must be evaluated. But, the main task of the Observatory will be monitoring that part of the cultural policy for which the Community itself is responsible.

The Observatory should also study questions which are important for the artistic creation and artistic diversity in Europe, but which are not yet on the political agenda. One of such themes is the question of copyright. It looks like an axiom that this is good for artists and for the artistic creation and distribution. Nevertheless, everybody who looks around knows that the concept of copyright is more problematic than we like to think. Huge cultural industries are piling up enormous quantities of intellectual property rights. This concentration of ownership of our cultural heritage of the past and present squeezes out the public domain of knowledge and creativity. There are not so many artists who really make a living from copyright. In the digitalised era copyright seems to be an outmoded concept. It is a political obligation to reconsider whether existing practices and laws still function the way they were meant a long time ago; in the case of copyright a little bit more than a century ago. Therefore, the Observatory should investigate as well, whether the system of intellectual property rights is still adequate. Or could there be other more suitable ways of remunerating artists, with at the same time keeping substantial parts of our knowledge and creativity in the public domain?

There are other issues the Observatory should study, for instance, the relationship between artistic cultures and the digital domain, which obviously is full of contradictions. Themes are, amongst others, the need for "content" development in addition to technology, and the safeguarding of access to bandwidth for non-commercial purposes. It goes without saying that the Observatory of European Cultural Policy should closely collaborate with Eurostat.



In the above mentioned Resolution on Cultural Co-operation in the European Union, the Cultural Committee of the European Parliament calls on the Commission to take the necessary steps for setting up a European Observatory to monitor cultural co-operation. However, the article 151 indicates *three* levels in the Community as being responsible for cultural policies in complementarity, in accordance with the so called subsidiarity principle: one, the national, regional and local authorities; two, the member states should co-operate; and third, the Community's own responsibility concerning certain aspects of cultural policies. This is the theme of this research paper. A principle task of the Observatory would be to monitor and evaluate the cultural policy that needs to be developed and initiated by the Community itself, and to provide the Community with the necessary data. The Cultural Observatory should collect and disseminate examples of good practice in the matters of cultural collaboration among cities, regions and countries.

The Observatory should be an institute capable of operating autonomously. It should therefore have independent status. For the establishment of such an Observatory it is plausible, that the professional expertise within Europe (and which is available in the cultural sector ) be used.

A special endeavour of the Observatory will be to sustain the work of the Commission, Council and Parliament in accordance with clause 4 of article 151. I repeat this clause: 'The Community shall take cultural aspects into account in its action under other provisions of this Treaty, in particular in order to respect and to promote the diversity of its cultures.' In the introduction I have stipulated that this is a far reaching task, which should be taken seriously, and which demands a lot of energy. However, in a European cultural perspective this is more than feasible.

## **B 1 film production is not the problem, it's the distribution**

It is a misunderstanding to think that there is a problem with the production of films in Europe. Yearly, six to seven hundred films are being produced, some of them good, some of them bad, as elsewhere in the world. Most of these films do not cost enormous amounts of money. Nevertheless these films can rarely recoup their investments and only few of them cross borders within Europe. Actually, we have the artistic diversity which we desperately need, but we cannot watch and enjoy it. This is a tragic loss for Europe.

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The lesson is thus, that much more attention should be given to the distribution of this enormous diversity. This can only be done by the Community, because no country alone can take the initiative to make a new infrastructure for the distribution of films made in Europe throughout Europe.

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What can be done? A proposal: A European Film Service should be established, which gets initial investment in the early years from, amongst others, the Community. With this money the rights of a couple of hundred films from all parts of Europe will be bought, they will be subtitled or dubbed, copies will be made and then marketed through a Europe-wide organisation. Distributors in all European countries will get these films for free. Then, they do what they always do: rent out the films to different outlets for prices that are competitive, and lower than the Hollywood product. The distributors keep a percentage of the earned money; the rest goes to the European Film Service, which after the initial years will no longer need the financial contribution of the Community. Most of the film producers will gain enough money from their films, so that national or regional film subsidy is less necessary.

In order to make the whole process easier, the films will be digitalised. This substantially reduces the costs of making copies and subtitling or dubbing. Movie theatres that agree to show at least 30% of European made films will get the digital machinery for the projection of films for free.

Such a system, which obviously needs to be elaborated upon, provides Europe with a cultural and an economic gain. The first calculations seem hopeful. The cultural gain is clear: the cinematographic diversity that exists in Europe will be distributed again (as was the case some decades ago) and may become a living reality providing enjoyment for many people all over Europe. Interestingly in Europe most of the films have been produced not by cultural conglomerates but by middle sized or even small producers. In this proposed system the diversity of producers can be kept alive, which is extremely important for the survival of cultural democracy all over Europe.

The economic gain is this: a substantial part of the money earned from these films will stay in Europe instead of crossing the ocean.

## **B 2 the revision of the directive television without frontiers**

The 1989 Directive *Television without Frontiers* is under revision. From the cultural perspective, and in the context of the reconsideration of article 151 of the Treaty of Amsterdam, this is the moment to be extremely attentive. In article 4 the Directive says that member states shall ensure, where practicable and by appropriate means, that broadcasters reserve a majority proportion of their transmission time for European works. Article 5 says, that member states shall ensure, that broadcasters reserve at least 10% of their transmission time for European works created by producers who are independent of broadcasters.



Perhaps in 1989 this effort to protect the European audiovisual landscape against intruders and dominant market forces was groundbreaking. In the beginning of the twenty first century, however, this is not sufficient anymore. There exists a broad cultural diversity in Europe, which hardly ever finds its way into radio and television broadcasting. Exchange of this diversity between countries is almost absent.



What should be taken into account then while revising the directive Television without Frontiers? First of all, the Community - Parliament, Commission and Council - should understand and acknowledge the cultural wealth of Europe, and that is much more than a subdivision in rough categories like entertainment, fiction news and sports! It should be underlined that each country continues to need a strong public broadcasting system, whose board operates independently from political and commercial forces. Also in the public domain of broadcasting publicity should be reduced substantially. Children should not be the target group for commercial messages. For the first time radio and the new media must be included in a new Directive.

There should be a guarantee, that in radio and television, as stated before, productions from one country should not be represented with a bigger percentage than 25%. Constructions meant to circumvent this regulation should be monitored

thoroughly. It should be monitored to make sure that the huge majority of all radio and television programmes throughout Europe really do come from all European countries, and that these programmes for a substantial part have been made by a large number of producers.

The logic in Brussels seems to be, that Europe should compete with the United States, so we need to have large competitive cultural industries. But, also in the cultural field we should cherish our own approach. This is the promotion of cultural diversity, cultural collaboration and exchange between regions and countries, production and distribution by many producers and intermediaries, and this all in order to sustain the development of the intercultural competence of the people living in Europe. This should be the aim for a new Directive radio and Television without Frontiers.

### B 3 fixed book prices

If the purpose is that all over Europe a huge cultural diversity should exist, then certainly there should be care over book production and distribution. One could hope that the principle of demand and supply would insure that many different kinds of books would be available in many bookshops, in cities, towns and neighbourhoods, for long periods. It is not. Experience shows that many bookshops are driven out of the market, when huge book chains and supermarkets offer some blockbuster books for considerably lower prices. As a consequence, the smaller and the more specialised bookshops do not earn enough money. And so, no longer have the means to invest in the diversity of books they offer and which they keep in stock for long periods.

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Partly, people buy books because they know a book exists. If it is not available in the bookshop, it can be ordered. However, most books are bought because people see the book, keep it in their hands, read a little bit of it, and recognise that this is what they really would like to have or even need to possess. If there are no longer any specialised or small bookshops who can pay the cost of diversity with the earnings of best-sellers, then something gets lost. Call it artistic diversity. When outlets are disappearing it becomes more difficult for many publishers to survive. Many will close, and again something gets lost. Call it artistic diversity. Even in the UK, where the system of fixed book prices, the net book agreement, has been given up, prices of books on average have become higher instead of lower as was the purpose. And many bookshops and publishers are closing their cultural activity. Something got lost. Call it artistic diversity.

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Clause 1 of article 151 says, that the Community shall contribute to the flowering of the cultures of the member states, and clause 4 mentions that the Community shall take cultural aspects into account in its actions under other provisions of this Treaty. The contribution of the Community to the flowering of cultures is to mitigate competition on the national, and cross border, book markets and to oblige

publishers and bookshops to (continue to) fix prices, so that the cultural diversity may continue to exist instead of being harmed.

Individual states cannot do this by themselves, because they are no longer isolated entities. There is cross-border trade, there are imports from outside the Union, there is more and more e-commerce, also concerning books. The freedom of trade should be matched with the protection that is needed for the survival of cultural diversity. This is not easy in a rapidly changing, economically driven and digitalising world.

When fixed book prices or net book agreements are not enough to keep book markets diverse, then other measures should be taken by the Community as well. It may not be the case, for instance, that dominant publishers settle conditions which are fatal for smaller or medium sized bookshops, because of delivering conditions, terms of payment or return policies. The Community should effectively intervene in order to keep book markets open for a huge variety of publishers and bookshops. For the time-being Competition rules from the Community should not hinder the small publishers and bookshops from getting cheap credits and other public support measures, under certain conditions, making them viable again. Measures should be taken to prevent a small number of market dominating electronic bookshops from completely taking over book distribution in the future.

#### **B 4 language is what you are: stimulate the use of many languages**

Of course, it is easy to use English as a lingua franca. More and more entertainment products introduce English as the normal carrier of our communications. This is all understandable. But this phenomenon has also another side: the active use of many languages is diminishing. Of course, German will not disappear. But when scientists publish less and less in German, and when commercial messages are less in German than in English, the German language becomes poorer. A language should be used in all circumstances of human life in order to be the adequate tool for people to express their deep emotions, to say exactly what they mean, and to make jokes, and thus to develop their identities in the way that is most proper to them.



The maintenance of the diversity of languages costs substantial amounts of money and energy. In Europe this concerns the civil society, as well as the Parliament, Council, Commission and regulations of all different kinds. Using one language as a communication vehicle is cheaper than making translations all the time, or interpreting. In his book *Words of the World* Abram de Swaan refers to the movements that advocate the right of all people to speak the language of their choice. 'Alas, what decides is not the right of human beings to speak whatever language they wish, but the freedom of everyone else to ignore what they say in the language of their choice.'<sup>3</sup> Multilingualism concerns thus the promotion of the active practice of communication in the national or regional languages.



If it is worthwhile having one European Union, it is worthy only when the diversity of languages is a living practice. The disappearance of the cultural wealth, unique for every language, should be prevented by all means possible. It would be a loss no less terrible than the destruction of the Acropolis. Countries themselves should invest heavily in subsidising translations for literary and scientific works, for essays and journalism, in both directions, from the mother tongue to other

languages and the other way around. They should regulate as well, that the national and regional languages be used as much as possible. This would be the cornerstone of the development of a shared European feeling about multilingualism.

But, the article 151, in all its aspects, cannot be interpreted otherwise than that actually the Community should play a vital, stimulating, and co-ordinating role in the promotion and practice of multi-lingualism. It is not only a matter of the individual member states whether they invest heavily in all different kinds of translations and oblige enterprises to use the national or regional languages, it is also a common interest that this will happen. Abram de Swaan even proposes, that ideally, 'the European Union should establish its own language academies, where translation is taught not merely as a technical skill, but as the core of a linguistic, cultural and intellectual vocation of bringing together different languages, nations and cultures.'<sup>4</sup>

One could even say, that the dominant position of English as a language is the facade for another reality. Abram de Swaan concludes, that 'the adoption of English as the universal language of science has gone together with the adoption of American models and standards . . .'<sup>5</sup> In our discussion on cultural policies in the European Union we may replace the word "science" by "culture", and we know what the threat is.

One way of stimulating the daily practice of multi-lingualism would be to substitute all dubbing of films, television (including news and entertainment) by subtitling. Actually hearing the many languages that are spoken in Europe (and in the world for that matter), whilst receiving a simultaneous translation not only diminishes xenophobe reactions when confronted with other languages, but also creates great opportunities for young and old to learn or improve their knowledge of foreign languages and to be allowed to discover their richness. Moreover, subtitling permits us to hear the actual voice of the actor or speaker. If we recognise that the voice is a substantial part of someone's personality or character, subtitling shows a great deal more of respect for the actors' art or the speakers personality. The Community should stimulate the debate about dubbing versus subtitling, because any choice has far reaching economic consequences as well.

<sup>3</sup> Abram de Swaan, *Words of the World*, Cambridge 2001 (Polity): 52.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.: 192.



## B 5 the protection of the cultural heritage

The European cultural heritage is the ongoing creation of rich diversities of works of art. So, cultural heritage is not a closed book, which should be guarded, and possibly restored. However, in this section the discussion will be about what has been delivered to us from the past. In most member states, the care for the different forms of material cultural heritage has been developed on a high level. In the new member states the leeway is considerable, but in any case the awareness exists that there are important values that should be protected.



Europe-wide there are four issues which demand great attention. This is the theft of important parts of the cultural heritage. The different forms of pollution are a threat for the continued existence of treasures. Tourism can harm what is fragile. And, in all different fields of restoration and safeguarding of the cultural heritage training and research is more needed than ever, because the problems which arise for the cultural heritage are immense and often new.

Quite a lot of works of art and heritage represent financial value on the market, which is not inconsiderable, and which attracts thieves as well. The almost uncontrolled free trade system we presently have encourages such forms of criminality, not only in Europe but world-wide. However, the markets for stolen works of art (the commissions for stealing and the black money market) can be found in the richest parts of the world. Individual countries are not in the position to curb those forms of cultural criminality anymore. Acid rain, which does not stop at borders, destroys the subtle shapes of many monuments, which represent the enormous cultural diversity which exists in this part of the world. Pollution causes old handwritings disintegrate, and our film history gets lost. Many monuments are not tourist-proof.



Besides what the member states do, the Commission has primarily a co-ordinating role concerning the protection of our common cultural heritage, but should also intervene in specific fields where the member states alone cannot solve problems. The new member states should be encouraged to include projects of safeguarding

their cultural heritage in their applications for the Structural and Regional Funds, and they must be supported technically in formulating their demands.

The Community should do more to fight against the present raid on art, by amongst other things actively co-operating with Interpol and by monitoring suspicious bank accounts and money transfers. This is an issue which until now is hardly ever on the political agenda, but meanwhile churches, castles, museums, private collections and archives are plundered. Member states should agree, supported by the Community, to sign collectively the so called Unidroit Treaty, which obliges the trader to prove that he or she has acquired a work of art while being attentive and scrupulous. This means that all precautions are taken in order to assure oneself about the origin of the object and the legal character of the transaction. Third world countries should be supported in developing adequate methods to protect their archaeological sites and other parts of their cultural heritage. This can be done by lending expertise, by training, by providing financial support in specific situations, and by tracing criminal movements together with the police and embassies of those countries.

Stopping acid rain and other forms of pollution, which harm monuments, old documents, films, paintings, and so on, should be a priority of the Community. Indeed ecological and cultural questions are closely related. From the cultural perspective the Kyoto agreement does not go far enough in forging the conditions to save our cultural heritage. It should be prevented that the only place where we will be able to see our cultural heritage in the future be the internet. Tourism has almost by definition cross border effects. Containing streams of tourists in order to preserve that what is fragile asks for some co-ordination and regulation. This is exactly where the Community should have a role.

The material and immaterial cultural heritage should actively be made available and should be open as sources of inspiration for new creations. Adequate conditions should be created so that works of art can be enjoyed, can play a significant role in education, can be made part of civic activities, and can be put in the right relation with tourism. A lot of good work in these fields takes place all over Europe. Nevertheless, there is still a great need for training and exchange of experiences on a European level, specifically concerning the promising field of digitalisation, for which there are already some possibilities in Culture 2000 and in the IST programme.

## B 6 the free movement of artists

If there is a Europe without frontiers, and if its main characteristic is its cultural diversity, this implies that the exchange of artists, their tours and their travelling projects should be a major point of attention for the Community. Above, we have mentioned that member states should be stimulated to spend part of their cultural budget on projects, in which European collaboration takes place. But even then, there are problems to be solved, and these concern the social security of artists, taxation of incomes and more specifically VAT. These are serious obstacles that make the cultural exchange more complicated and full of risks.

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Concerning the social security of artists, it happens often that they work for a company - an orchestra, a theatre group -, which performs in another country, or work as an independent person abroad: what happens then to their social protection? In which member state do they have to pay their social contributions? Where may they claim their social benefits?

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Actually, the European regulation 1408/71 co-ordinates the national social security systems for migrant workers within the EU. The first problem, however, is that the social administrations of the member states do not always take this regulation into account and specifically not when applied to artists. The second problem is that the Commission itself does not actively supervise and enforce the application of this regulation according to the European principles, which concern here the freedom of work and the freedom of circulation. The consequences? Many times artists pay double contributions for their social security in two different countries. Moreover, it is uncertain in which country they will get the social benefits, if at all. Another uncertainty is whether the tax officer will take into account all the different jobs that they have practised in the many different member states. To get this recognised may mean many battles before the courts.

Concerning income taxation, what artists actually get paid for is partly the costs they incur, and, partly their real remuneration. It is unfair that the non-

resident artists are taxed on both these parts in many member states. It is also unfair that the very irregular income that comes from their artistic activities are submitted to taxation at an increased rate, because the year they earn the most for several years' work, is the year they pay taxes. The role of the Community should be to actively prevent these social abuses.

In European countries the VAT for cultural products and services differs. For the spread of artistic diversity it should be important for a low tariff to be applied, Union-wide for a broad range of cultural products and services,.

## B 7 working conditions

Besides the social questions, there are other important aspects to name which influence artistic creation and distribution. In his speech to the Committee of Culture of the European Parliament Dragan Klaic mentioned, that much of the classical theatre structure (buildings and technology) in Eastern and Central European countries is in bad shape and will not pass the EU safety and labour occupancy norms. 'There is little awareness in candidate countries, in the governments and in professional circles, that EU regulations for non-cultural fields will affect theatre as a vulnerable, impoverished system that has no margins to cope with extra costs imposed by new standards and rules.' A systematic effort by the Community and the new member states is needed in order to prevent, the cultural catastrophe of many outlets being forced to close.

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In general, some health and labour regulations of the EU, which might be extremely important, may affect cultural institutions in such ways that they cannot continue to operate. For instance, the implementation of norms of allowed sound may have as a consequence that substantial parts of an orchestra's repertoire cannot be performed, or that many pop concerts must be cancelled; the regulation on allowed working hours does not match with the actual work rhythm of touring theatre companies; for the restoration of the cultural heritage sometimes products must be used that otherwise would not be allowed for health safety or for ecological reasons.

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There should be permanent consultations between the bureaucrats of the Community and the interested groups from the cultural sector in order to find adequate solutions to these questions, which do not fit standard solutions.

We have already discussed the question of the visa regimes and other border inconveniences for artists, their works and their materials, for which the Community, in co-operation with the member states, should find adequate solutions in order to make sure that cultural exchange and collaboration do not become bureaucratic burdens.

## B 8 less publicity and noise in the public domain

Corporate businesses feel obliged to attract the attention of potential buyers and consumers as much as possible. The result is that no place is sacred and free from publicity anymore. Much of these places are in the public domain. When walking along the street, whether one likes it or not, you are obliged to lend your eyes to an enterprise which tries to entice you. When waiting for a bus for example it is becoming more and more rare that this can take place without being confronted with or by publicity.

In most European constitutions freedom of expression is not by definition the same as having the right to confront people at any moment of the day with commercial messages. It is clear that the flood of publicity in the public domain should be brought back to a more modest level, say 20% of what is now in the picture, and certainly in schools it should be completely forbidden. Of course, it is up to individual countries to take the appropriate measures, but it is also a matter for the Community. It should not be the case for example that a country which diminishes publicity in the public domain is punished by enterprises who will just transfer their activities to other countries.



Noise! Television is louder than several years ago, people speak louder, and in the public domain noise is becoming the unavoidable consequence of not living in one of the few isolated places that are still left in Europe. It is a big taboo to speak about undemanded sounds. However, sounds do penetrate the human body and mind even more than images. It might be difficult to avoid seeing the flood of commercial images in the public domain, however for sounds this is impossible: you can't close your ears.

There is a noise epidemic going around. The Community should take noise as a serious issue which affects the mental health of a substantial part of the European population. The Community should initiate research into this field and incite the member states to take the appropriate measures, which would make this part of the world a bit calmer.



People may wonder why the overload of publicity and noise in the public space should be dealt with in an essay about the article 151 of the Treaty of Amsterdam, and Community action based on this article is desired.

Indeed publicity is the sea of commercial messages, but the carrier is the work of artists: dancers, musicians, designers, writers. And where stops music and starts noise? It would be improper to include in the concept of the arts only those works which we can accept more or less, and who are the "we"? But using the concept of the arts in the neutral sense, one should accept, that the process of the creation of publicity materials is partly an artistic act, and the unsolicited background music in shopping malls and railway stations, for instance, .... it is nothing else than music. The place where we see or hear works of art is not relevant for the inclusion or exclusion in the broad category of artistic creations. Therefore, the article 151 is the appropriate tool for demanding less images and less sounds in the public space. Silence and the void of images is a cultural heritage of European significance, and the clause 2 of article 151 says that this should be conserved and safeguarded.

### **C 1 peace and stability in europe: cultural co-operation with the e.u. bordering states**

A strange phenomenon is taking place in Europe. Until 1989, the continent was clearly divided into two parts. With the enlargement of the European Union by a series of new member states, the certainty is that many other European states will not be members of the European Union. It is not unthinkable that this new division of Europe will produce again a confrontation between two blocks.

Too often people forget that Europe has not only eastern, but southern neighbours as well, with whom close relations exist. In history the Mediterranean was not a border, but just the transit road for knowledge and creativity. Many immigrants from Arab countries live in Europe, but obviously have close ties with their families in their countries and regions of origin, which leads, for instance, to intercultural marriages. The events of the 11th of September 2001 urge the Arab and the western world to think over their mutual connections and interests. The tensions between Israel and Palestine have been caused by the holocaust, a European catastrophe. It should not be missed, that Turkey by its membership of NATO and the Council of Europe, and as a candidate member of the EU, has specifically narrow ties with the European Union.



In short, between the European Union and its neighbours, east and south, there are as many opportunities as there are threats. Why not exploit the chances? The arts are not a panacea for all problems and not all artistic cultures are guarantees for peace, but artists have the capacity to speak out, to voice what cannot be said in normal language, and to represent what otherwise may stay unnoticed. Their work may be embarrassing. But it is better to test the waters of complicated questions in the cultural field than to use weapons.

Let us acknowledge the works of artists from the neighbouring parts of our world. It may help us, on both sides, to more fully understand what is going around here and there, to appreciate each others' cultures more profoundly, and to make collaboration a more self-evident phenomenon than confrontation.

In this perspective, the European Union seems to be extremely self-centred. Why have extensive programmes not been developed to help bridge the

gap between the EU and the countries of the former Soviet Union culturally? Why is there little or no understanding, that the cultural debate, exchange and collaboration between Europe and the Arab world is urgent? Why is there no special attention for facilitating cultural contacts between Israeli, Palestinian and European artists and their groups and their institutes? Why is the Euromed programme, which should bridge the Mediterranean countries culturally, more a symbolic action than an effective support mechanism? The arts are the field where communication can start, which will not be easy, but it can at least be tried.



On the one hand it is the task of the individual member states to contribute to those kinds of cultural contacts. On the other hand it is the role of the Community to stimulate the states, regions and local authorities to do so and to sustain their actions where necessary. The Community itself should make financial and logistic means available to support the building of the desired cultural bridges. A start could be made by asking what the barriers are for artists and their works in crossing the borders of Europe and then to eliminate those obstacles.

## C 2 wto, the cultural exemption, and a new international treaty on cultural diversity

It is not enough to say that we live in a globalised world - this has been the case for many centuries -, it is a globalised world in which unlimited free trade is the order of the day. In the framework of WTO, states are more and more obliged to suppress all the measures they have taken on protecting cultural diversity. There is a transformation going on from considering cultures as separate values in societies which should be cherished, to cultural expressions as marketable products like any others. In this last option all measures which protect the development of a diversity of cultures should be banished, and we should wait and see what the free market has to offer in the cultural field.

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In all terrains of economic and social life, the absolutist free market approach has been contested during the last years. Concerning culture it is now more desirable that economic forces do not take over the complete organisation of cultural development wherever in the world. This would be against the intent of all existing Declarations on Human Rights. There should be a more adequate balance between commercial forces and the public interest in protecting access for many in the production, distribution and promotion of the arts. No force should control markets, and certainly not in the fields of distribution and promotion, in such a way that diversity has little or no chance to exist.

This demands, that national states and regions have the full right to regulate their cultural markets in such ways that utmost artistic diversity can flourish. During the 1993 negotiations on transforming GATT into WTO, the European Union has claimed that for culture, in the context of GATS, an exemption should be made. However, such an exemption-position - however useful it may be for the time being - is too weak a base for taking those policy measures, unhampered by any outside forces, which are necessary for protecting the development of cultural diversity.

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Therefore, the Community should do two things. First, it should continue to defend the cultural exemption during the Doha Round of negotiations, which the World Trade Organisation started in November 2001. But it should go further. The Community should take culture away from the WTO, which is a trade-only context, and bring it into a legal framework which respects cultural values in more appropriate ways. The European Community should contribute, together with other states in the world, to the establishment of a new International Treaty on Cultural Diversity. In the above mentioned Note of the Spanish Presidency it has been mentioned (in point 12), that already some countries propose such a 'new international instrument, in the Unesco framework, to protect cultural diversity just as biodiversity is protected, i.e. by establishing basic principles for preserving cultural policies and trade in cultural goods and services.' This is also one of the most concrete proposals of the Universal Declaration on Cultural Diversity, which has been accepted unanimously by the General Conference of Unesco in November 2001, and which means that actually all (and not some) member states of the European Union are in favour of establishing such a new international legal instrument.

Such a new International Treaty on Cultural Diversity would give states the full right to create the proper conditions in their territory for the flourishing of cultural diversity, without being hampered in doing so by having to keep to economic interests only (for a draft text for such a treaty see: [www.incd.net](http://www.incd.net)). It would be the task of the European Community to actively contribute to the establishment of such a new International Treaty on Cultural Diversity together with other interested countries, and to forge a coalition worldwide for getting such a treaty widely accepted and implemented.

### C 3 cultural co-operation with other parts of the world

Probably one of the most complicated aspects of European cultural policy concerns the cultural relations we have, or do not have, with other parts of the world. While discussing WTO and market domination, I have dealt already, implicitly, with the USA. Here the focus will be on Latin America, Africa, the Arab world, and Asia.

Many European countries have relations with countries in those parts of the world which are at least ambivalent, because of colonialism, exploitation and support of corrupt regimes. The gap between rich and poor in the world does not happen just by coincidence. One must fear that forms of racism are growing in many corners of Europe. In western eyes it is only the "exotic" aspects of the third world which count, which is rather dehumanising. Many countries in the poorer parts of the world suffer from brain-drain. Their artists only can make a living in western surroundings. Indeed, the (cultural) relations between Europe and huge parts of the world are far from simple, and full of contradictions.



These kind of issues are almost completely absent from the European cultural policy agenda, besides some highly symbolic programmes of cultural co-operation. Nevertheless there is a great need for contacts between artists from different corners of the world. Opera director Peter Sellars<sup>6</sup> stipulates that 'artists can express fundamental questions, with their tools and in unexpected ways, which otherwise would be absent from the public debate, like: Where are we when it comes to public policy? What is it you are willing to live and to die for? Where does morality bring you when you have to take action? What is it that you allow to be beautiful, to be pleasure or joy?' Of course, there is no reason to romanticise about artists, but, in any case, they have the crowbar to open deeply hidden sentiments and possibilities. Who else?



It is worthwhile trying. There is a role to play for individual member states. Some of them have specific (historic) ties with countries far away. It would be wise for member states to co-operate in their cultural relations with other parts of the world. Although huge bureaucratic structures must be avoided. Networks and associations which are closely related to the concrete work of artists and their initiatives of co-operation should be supported generously. All that is possible to be done should be done in third world countries to promote stable infrastructures that can be built up for the production and distribution of works of artists from their own and from neighbouring countries.

The responsibility of the Community is to stimulate member states to build up intelligent, not exploitative, cultural relations with third world countries, which are by definition different because these countries are different. The Community can co-ordinate forms of cultural co-operation, support them logistically, take away barriers like visa and work permits, take care that the cultural heritage from these countries will not be stolen, and prevent western copyright industries from misusing the cultural sources from the poor countries. For more extensive projects of cultural co-operation the Community must have some specific programmes, which are not just symbolic.

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<sup>6</sup> Interview with the author.