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Community action  
in the cultural sector

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## Supplements 1977

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## Introduction

1. Preparations for Community action in the cultural sector were begun following the European Parliament's Resolution on this subject, adopted unanimously on 13 May 1974.<sup>1</sup>

In another Resolution, dated 8 March 1976 and also adopted unanimously,<sup>2</sup> the European Parliament expressed its approval of a preliminary working paper describing the main lines of this action.

In addition to the support of the European Parliament, the Commission has been encouraged by certain statements made at the Summit meetings of 1969, 1972 and 1973:

— At The Hague, the Heads of State or Government declared that they regarded Europe as an 'exceptional seat of development, culture and progress', and that it was 'indispensable to preserve' it.<sup>3</sup>

— The final Declaration of the Paris Summit contains observations such as: 'economic expansion is not an end in itself', 'it should result in an improvement in the quality of life as well as in living standards', 'particular attention will be given to intangible values'.<sup>4</sup>

— The Communiqué on European identity, which was adopted at the Copenhagen Summit, shows that culture is recognized at the highest political level as being one of the fundamental elements of this identity.<sup>5</sup>

The Commission has also noted that, in the report by the Prime Minister of Belgium on European Union, culture is referred to several times as a means of arousing a greater feeling of belonging and solidarity amongst Europeans.<sup>6</sup>

Lastly, as well as feeling that something was expected of it by a great many cultural workers and a section of public opinion, the Commission was motivated by the factual material gathered by its departments concerning the economic and social difficulties of the cultural sector.

2. Community action in the cultural sector has been prepared cautiously. So far the Commission has restricted itself to formulating ideas and undertaking experiments which it considered essential before going further.

Ideas were mainly developed on the basis of:

— studies carried out for the Commission on situations which were still practically unexplored at Community level;

— the work of a group of experts who are giving the Commission substantial assistance in determining guidelines and means of action. These experts come from all the countries of the Community and participate in a private capacity. The Council of Europe is represented by an observer.

Some experiments were launched in 1976 with the aid of a transfer of 20 700 u.a. and others a little later, thanks to an appropriation of 100 000 u.a. entered under Article 393 of the 1977 budget.

3. This Memorandum will endeavour to describe the present state of progress of Community action in the cultural sector and indicate further developments to be aimed at.

However, the scope of this action—which is defined by the significance of the expression 'cultural sector'—must first be discussed.

The cultural sector may be defined as the socio-economic whole formed by persons and undertakings dedicated to the production and distribution of cultural goods and services.

Community action in the cultural sector is therefore necessarily centred on solving the economic and social problems which arise in this sector as in all others—sometimes, even in more acute form. Firstly, it aims to support culture by gradually creating a more propitious economic and social environment.

Just as the 'cultural sector' is not in itself 'culture', Community action in the cultural sector does not constitute a cultural policy.

4. As will be seen throughout this Memorandum, Community action in the cultural sector

<sup>1</sup> OJ C 62 of 30.5.1974 and Bull. EC 5-1974, point 2406.

<sup>2</sup> OJ C 79 of 5.4.1976 and Bull. EC 3-1976, point 2418.

<sup>3</sup> Point 4 of the Communiqué; Bull. EC 1-1970, Part One, Chap. I.

<sup>4</sup> Point 3 of the Declaration; Bull. EC 10-1972, Part One, Chap. I.

<sup>5</sup> Bull. EC 12-1973, point 2501.

<sup>6</sup> Supplement 1/76 — Bull. EC.

strengthens cooperation between the Community and the international organizations concerned with culture.

Cooperation with UNESCO mainly concerns studies. On the basis of documentation collected and made available to it by UNESCO, the Commission had a study carried out on the means of combating theft and illegal traffic in works of art. A new idea was introduced in connection with the study on the cultural dimension of development, which is being prepared by two experts chosen by mutual agreement: the cost of this study is being shared.

Cooperation with the Council of Europe, which was greatly intensified by the opening, in 1975, of the liaison Office in Brussels, operates through a regular exchange of studies and documents and by joint work at meetings organized by the Council of Europe, which representatives of the Commission are invited to attend.

Far from duplicating the Council of Europe's own programme, Community action in the cultural sector provides the starting point for a combined advance.

In view of the differences between the objectives, legal resources and working methods of the Community and the Council of Europe, it is easy to determine what each can best achieve and to make optimum use of this division of labour on both sides.

Thus, it is undeniably the task of the Council of Europe to continue its high-level, fundamental research on culture itself (definitions, subject matter, aims, development, etc.) which enables it to update and adapt basic concepts—cultural democracy, socio-cultural leadership, or integrated conservation—to the changes taking place in society. These concepts, which it has developed and publicized, to a great extent inspire the cultural policies of the Member States.

The Community's task is now firstly to move on to practical measures in well-defined spheres such as, for example, the taxation system applying to cultural foundations or copyright law and secondly to obtain the maximum possible practical benefit from the decisive results achieved by the Council of Europe as regards the preservation of our architectural heritage.

## Application of the Treaty to the cultural sector

5. Most Community action in the cultural sector is nothing more than the application of the EEC Treaty to this sector. This involves freedom of trade, freedom of movement and establishment, harmonization of taxation systems and legislation. The legal basis is the Treaty itself.

The various Community instruments envisaged by the Commission will, as they are prepared, be submitted to the Council as formal proposals.

### Freedom of trade in cultural goods

6. Cultural goods are classed by the Commission amongst the types of goods for which the formalities involved in movement across internal Community frontiers must be simplified.

The various possible ways of achieving such a simplification are at present being studied with the assistance of the Customs Legislation Committee.

7. It is still all too often apparent to Europeans that administrative formalities impede the free movement of cultural goods between the countries of the Community.

The point should be reached at which formalities become so simple that those concerned can easily carry out customs operations themselves without being forced to resort to a clearing agent.

The practice of exempting creative artists in the plastic arts from formalities when transporting their own works should be generally applied and legalized.

Similarly, the systems of sureties applied in respect of sales of cultural goods must be improved so that the financial burden is as small as possible.

### Combating thefts of cultural goods

8. Since thefts of cultural goods have become a real menace in all member countries, the problem

of preventing them is a Community one; further, the measures called for have more chance of proving effective if implemented at Community, rather than national, level.

Just as the world framework is too broad, because of the differences in situations and methods, the national framework is too narrow in so far as the first thought for thieves and illicit dealers is to get their loot out of the country. The intermediate scale and relative homogeneity of the Community seem to provide the best framework in which to combat thefts of cultural goods.

9. While it may be impossible to put a stop to thefts of cultural goods altogether, they may be curbed sufficiently to reduce their number and lessen their seriousness. To achieve this, the question should be attacked indirectly rather than directly, since thefts can most readily be detected through the illicit dealings to which they give rise; in other words, a campaign against illicit dealings would be more effective than any action against the thefts themselves.

The best procedure is to partly deprive thieves of cultural goods of their motivation by making theft less rewarding, that is to say, by making it more difficult and risky to dispose of the goods. This means harmonizing legislation, since disparities between one country and another aid and abet thieves and illicit dealers, who are skilled in profiting from them.

What usually happens? Stolen cultural goods are bought and sold a number of times to 'wash' them and give them respectability. The parties to the initial sales, which are kept secret, are aware that they are fraudulent; they lead—and often, let us stress the fact, after the goods have crossed one or more frontiers—to regular sales conducted openly.

### *Record card for cultural goods*

10. Since theft is always a possibility, it is of great value to photograph cultural goods and draw up an accurate description of them in advance. Most failures to recover such goods are due to the fact that the police did not possess photographs or, if a photograph was available, to

## Thefts of cultural goods

### Works of art

The seriousness and continued worsening of this problem are so well known, not only to specialists in this field but to the public at large, that there is no need to illustrate it with statistics covering the whole Community. In any case, such statistics would be incorrect in view of the fact that, even when goods of substantial value are involved, thefts are by no means always declared by the victims.

However impressive they may be, the figures below are incomplete since they cover only four countries and, of course, relate only to thefts actually declared.

	1970	1971	1972	1973	1974
<i>France</i>	1 261	1 824	2 712	3 330	5 190
<i>Italy</i>	2 466	5 927	5 843	8 520	10 952

It is estimated that 44 000 works of art have been stolen in Italy since the end of the Second World War.

*Belgium* (from 1970 to 1973): more than 300 thefts reported.

*Luxembourg* (since 1965): 140 thefts reported.

Of course, the police recover a certain number of the stolen cultural goods (damaged or otherwise); an example is the recovery of 199 Picassos stolen from the Palais des Papes in Avignon on 31 January 1976.

### Archaeological finds

There is even greater uncertainty here than, for example, as regards paintings. In this case, thieves take possession of cultural goods whose chief characteristic is that their existence was unknown before their clandestine removal. The only way to form an idea of the number of thefts is to make an extrapolation (necessarily subjective) based on the number of archaeological finds which the police and other Government agencies have succeeded in recovering from thieves and illicit dealers.

*In Italy*, where the archaeological heritage is particularly rich, 41 592 objects were recovered from 1970 to 1974.

the fact that the lapse of time between notifying them of the theft and providing them with a description to supplement the photograph was too long.

The Commission intends to instruct a group of experts to draw up a Community model, in the shape of a printed form, for a record card with one or more photographs attached, depending on the nature of the goods in question, and a supplementary description.

Copies of the form would be made available to persons responsible for cultural goods or to owners, who would then complete one form for each major item in their care or possession, thereby establishing a record card of the goods in question.

Use of the record card system would of course be voluntary: there would be no obligation to complete a card, but the facility would be available, in their own interests, to those responsible for cultural goods or to owners.

Each would simply keep the card in his possession unless a theft occurred.

On the other hand, as soon as a theft was discovered, the person responsible for the goods or its owner would hand over the corresponding record card to the local police. The latter would send it to the customs and to Interpol (International Criminal Police Organization) which would in turn transmit it to the police forces in other countries so that they could alert their own customs authorities. Details of the record card would be communicated, at the same time as to the police (that is to say, immediately after the theft had been discovered), to the greatest possible number of persons to whom thieves and illicit dealers might try to sell the stolen goods; museum curators, dealers, collectors, etc. It would also be possible to publish the record in the art press and in the case of particularly precious items, in the daily press and on television.

Whilst taking into account the private owner's concern for discretion (due, in particular, to the fear of providing a 'finger' for thieves) until a theft occurs, the proposed system would have two advantages:

— it would ensure rapid and detailed publicity for thefts of cultural goods—an essential condition for their recovery;

— it would enable an inventory of thefts to be drawn up without difficulty, simply by collecting the record cards concerning stolen cultural goods.

An organization (either a Community body, or an institution or bureau set up in one of the Member States) would be responsible for keeping the inventory and for making the necessary arrangements to ensure that all those concerned could consult the inventory if there were any doubt as to the origin of cultural goods which had been offered for sale.

#### *Ratification of international agreements*

11. The Commission recommends the ratification of the Council of Europe agreement on the protection of the archaeological heritage, signed in London on 6 May 1969<sup>1</sup> and the ratification of the Convention 'on measures to be taken to prohibit and prevent the import, export and transfer of illegally acquired property' which was adopted on 14 November 1970 at the sixteenth session of UNESCO's General Conference.<sup>2</sup>

In ratifying the UNESCO Convention, certain reservations might be attached, notably, to preclude any later dispute of its non-retroactive character.

#### *Fakes in the plastic arts sector*

12. The objective of increasing trade in cultural goods, which flows from the principles of the Treaty and also from cultural needs, implies that this trade must be made as safe as possible. It is not, therefore, sufficient to combat theft; steps should also be taken to prevent the fabrication and distribution of fakes. In addition to the detriment to creative artists, honest dealers and purchasers, these crimes affect the functioning of the common market in so far as they give rise to

<sup>1</sup> Two of the Member States of the Community have not yet ratified this Agreement.

<sup>2</sup> This Agreement has not yet been ratified by any of the Member States of the Community.



mistrust on the part of the potential buyers of cultural property.

Depending on the results of a study which is at present under way, the Commission may make proposals for harmonizing two groups of laws to improve their effectiveness:

— legislation on the prevention of the fabrication and distribution of fakes;

— legislation governing the recognition of experts' qualifications for the authentication of works of art.

The campaign against the fabrication and distribution of fakes must be based on determining what is authentic and what is not; its effectiveness therefore depends to a great extent on the competence and integrity of experts and, as a result, on raising the technical and ethical standards of their profession.

### **Freedom of movement and establishment for cultural workers**

13. For wage and salary earners since the adoption of the Regulation of 15 October 1968,<sup>1</sup> and for self-employed persons following several judgments handed down by the Court of Justice of the European Communities, it has been established that possession of the nationality of the host country can no longer be made a condition for Community workers.

However, freedom of movement and establishment have still to become a reality; to achieve this, workers must be informed of opportunities for employment in the Community countries to which they plan to go to pursue their trade.

Cultural workers are particularly ill-served in this respect. They can scarcely rely on private agencies, impresarios' offices and other 'artistic agencies', whose activities could not be said to be primarily guided by social or cultural considerations.

Inasmuch as the official employment services will operate a Community-wide system for the clearing of vacancies and applications for employment, the SEDOC<sup>1</sup> could be used to supply employers and workers in the cultural sector with

exact, regular and objective information on the market with which they are concerned.

But since the system was conceived for jobs in which the qualifications necessary are more technical than personal, the inclusion of some cultural professions of which it is difficult to give a precise definition raises certain difficulties.

Now that preparations for the SEDOC to enter into its operational phase are sufficiently advanced, the Commission is attempting to overcome these difficulties as far as possible.

### **Training periods for young cultural workers**

14. Those young cultural workers who wish to undertake a fairly long period of training in a Community country other than their own will have the opportunity to do so—in the same way as young workers in industry and agriculture—under the 'second joint programme to promote exchanges of young workers within the Community', which the Commission is preparing on the basis of Article 50 of the Treaty.

Since several of the guidelines which it intends to adopt for this programme differ from those of the first programme, the Commission has considered it necessary to test them by carrying out a number of pilot schemes.

Following the results of these pilot schemes, the Commission will propose to the Council the regulation which will enable the second programme of exchanges to be launched.

One of the pilot schemes will involve young cultural workers.

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<sup>1</sup> Regulation (EEC) No 1612/68, OJ L 257 of 19.10.1968 and L 295 of 7.12.1968.

<sup>2</sup> European System for the international clearing of vacancies and applications for employment.

## **Harmonization of taxation in the cultural sector**

### **Removal of tax barriers to the development of cultural foundations and patronage**

15. It is generally recognized that, without adequate financial support, various cultural activities would experience a deterioration in quality, or even the total disappearance of any quality. Consequently, since governments and local authorities cannot be expected to increase their subsidies above a certain level, the future of culture depends to a large extent on foundation and patronage.

It should be stressed, firstly, that the possibilities which foundations and patrons have for action are closely linked to the taxation system applied to them and, secondly, that any loss of revenue resulting from tax concessions to foundations and patrons would scarcely be comparable to the expenditure which would have to be borne by the State if foundations and patrons did not provide the public service in question.

16. The Commission has sent a Memorandum to the Standing Committee of Heads of National Revenue Departments on the elimination of tax barriers to the development of cultural foundations and patronage.

Amongst the problems raised in the Memorandum are the disparities between the national taxation system applicable to foundations and patronage, the discrepancies in the tax concessions granted to them in the various countries and the national compartmentalization which taxation often imposes on their activities.

It suggests, in particular, that the nine fiscal territories should be merged to form a single fiscal territory within which the tax concessions granted to cultural foundations would be calculated without regard to the country of origin of income and the country of destination of expenditure.

### **Uniform VAT charges**

17. The effect of VAT on culture is not a neutral one. By making cultural goods dearer it restricts the circulation which they could enjoy.

The situation is particularly worrying in the case of contemporary works. Their very creation may be threatened by marketing difficulties.

In this connection the myth of the automatic and continued increase in the value of contemporary works should not be allowed to be spread. In so far as it leads to the penalization of these works by a harsh taxation system, it constitutes a serious deterrent to creation.

Of course, examples of spectacular operations may be cited; but this does not mean that contemporary works are the chosen hunting ground of speculators or thought of as a sound long-term investment. The way in which they fluctuate according to the whims of fashion exposes buyers to the risk of a sudden drop in value. Striking examples are provided by numerous painters who were highly regarded around the end of the 19th or beginning of the 20th century: their pictures, which cost enormous sums at the time, are unsaleable today.

18. If cultural goods are to be made subject to VAT, its effect should at least be kept within reasonable limits. This would not be the case if the entire selling price were to be used as the base of assessment. The Commission therefore intends to propose to the Council a directive under which the base of assessment for original works of art, antiques and collectors' pieces would simply be the dealer's profit margin, and the dealer would be able to opt either for the real margin (on provision of documentary evidence) or a fixed margin of 30% of the selling price.

### **Taxation of cultural workers**

19. Although it would certainly not be desirable for cultural workers to become privileged taxpayers, it is absolutely essential that they should cease to be discriminated against. With this in mind, the harmonization of taxation on cultural workers will make it possible to introduce provisions which take into account the situations peculiar to them.

Suffice it to give one example.

The majority of cultural professions are marked by the irregularity with which those who pursue

them receive the income arising from this activity. Thus a work may bring remuneration for its creator after a long period of preparation during which he has been reduced to living off the income from his previous work.

Similarly, as a result of progressive income tax, an actor pays high taxes during a year in which he has had the good fortune to work a lot, but which falls between years in which, through no fault of his own, he is virtually unemployed.

The system in force in certain countries of the Community, whereby cultural workers are allowed to spread taxable earnings arising in one exceptional year over several years, should be generally applied.

### **Harmonization of laws on copyright and related rights**

20. The Commission has instructed its departments to undertake a series of consultations with representatives of rights management societies and the two sides of the industries concerned, both cultural workers (writers, composers, creative artists in the plastic arts, craftsmen, photographers, directors, choreographers, performers, audio-visual technicians, etc.) and intermediaries: publishers, librarians, art dealers, auctioneers, producers of shows, films, records and videotapes, those in charge of radio and television networks, etc.

These consultations will make it possible to determine the guidelines to be reviewed concerning:

- problems common to copyright and certain related rights;
- problems concerning copyright proper;
- resale rights of creative artists in the plastic arts;
- the right of protection for the creations of craft workers.

Since the findings of a special study in progress are not yet available, rights governing the artistic property of photographers will not be dealt with for the moment.

Other problems will also have to be dealt with subsequently; for example, those relating to cultural workers employed by radio and television networks, 'independent' collaborators (short-term contracts) of these organizations, mergers between manufacturers of audio material (records and tapes) and music publishers, and the campaign against pirate editions of disc and tape recordings and illicit impressions of publications.

### **Problems common to copyright and certain related rights**

21. In considering the complex sphere of copyright and related rights one should not lose sight of the economic and social position of cultural workers and the principle that any professional activity should procure the means to live reasonably for those who pursue it.

#### *Non-discrimination as regards nationality*

22. The harmonization of the laws on copyright and related rights should lead to a situation, pursuant to the Treaty, in which cultural workers from Community countries are no longer subject to any discrimination as regards these rights on the basis of nationality.

Thus, all rights management societies will have to guarantee cultural workers from other Community countries the same treatment as those of their own country.

#### *Distribution*

23. The proceeds of royalties and related rights could be distributed on an individual basis by the rights management societies wherever this did not cause excessive administrative difficulties; royalties would be paid directly to the cultural worker who had earned them.

There are also societies which allocate part of the individual royalties collected to a social fund or cultural foundation. This practice gives good results, particularly in the financing of supplementary retirement schemes.

The partial self-financing of the promotion of dissemination, which directly concerns every cultural profession (cultural foundation) would, to some extent, make up for the inadequacy of the subsidies granted by the public authorities—subsidies which should obviously be continued and even increased as far as possible—and help to guarantee the independence of culture.

Several societies could get together to form a common social fund and cultural foundation.

### *The consequences of technical progress*

24. The boom in audio and visual reproduction equipment confronts performers with a situation identical to that facing authors as a result of the massive photocopier boom. In both cases, outlets shrink without the subsequent loss being compensated by remuneration. Nor is the latter any longer in proportion to the use made of the original work. Lastly, there is no remuneration at all when a programme can be distributed by cable across national frontiers to reach an audience other than that of the television network which produced it. While the greater spread of culture and, more generally, communication between peoples, may be applauded, a new problem is raised by the existence of a new audience for which the original producer has not remunerated authors, publishers or performers.

Duplicators (photocopiers, microcopiers) are now extensively used in libraries, schools, universities, research institutes, documentation centres, etc., and it is only a matter of time before individuals also buy and use copiers as commonly as tape recorders. This poses the difficult problem of establishing a balance between the interests of users and the need for authors and publishers to obtain a reasonable return for their work. Whilst it is true that what is in the interests of users often also aids the spread of culture, one cannot discount the risk, particularly with regard to books and high-quality magazines, of a reduction in the numbers printed, which would in turn lead to a fall in publishers' revenue and, as a result, in authors' remuneration. If a large number of authors and publishers were unable to continue, then the copier would ultimately be the victim of its own prodigious success—it would suffer the conse-

quences of having killed off the publications which provided its originals. Similarly, the audiovisual sector will continue to prosper only if there are enough skilled performers. For this, 'secondary utilization' must receive fair remuneration.

The traditional expression 'secondary utilization' is, in any case, less and less in keeping with reality. Performers have for a long time been working for an audience sitting at home rather than the public which comes to them—and the proportion is now overwhelmingly to the detriment of the live show or performance, which can be re-used virtually *ad infinitum* in different places and at different times.

As regards the reproduction of the written word, sounds and images, a sum ought to be included in the selling price of equipment (photocopiers, tape-recorders, video recorders) and the material they use (photocopy papers, tapes) to guarantee the remuneration which authors, publishers, and performers are entitled to expect (and must not be denied); it could be based on a percentage of the retail price. For example, when purchasing equipment or materials, users could pay a fixed fee which would cover subsequent utilization coming under the heading of copyright (including publishers' rights) and performers' rights. For large-scale reproduction equipment (libraries, universities, etc.) a periodic fee could be charged on top of that paid at the time of purchase or rental.

As regards cable television (and, in the near future, satellite retransmission), not enough is known about all the problems involved for a definitive solution to be proposed at this moment. One possible solution would, however, be for those responsible to be obliged to sign contracts with the television networks requiring the latter to pay authors, publishers and performers.

### **Problems of copyright**

#### *Duration of copyright*

25. Copyright lasts for seventy years after the death of an author in the Federal Republic of Germany and fifty years in the eight other countries of the Community; extensions of varying length were introduced in Belgium, France and

Italy, to compensate for the reduced opportunities for commercializing works during the war.

The different durations of copyright have negative effects on the free movement of literary, musical and artistic works. Whereas a work may be exploited freely in a country in which it no longer benefits from protection, this is not the case in another country in which it is still protected.

The harmonization of laws should aim at bringing the duration of copyright into line.

There are three possible solutions:

— the period of fifty years in force in Denmark, Ireland, Luxembourg, Netherlands and the United Kingdom;

— the period of seventy years in force in the Federal Republic of Germany;

— a period of seventy years broken down into an initial period of fifty years, during which copyright would remain an individual right, and a second, twenty-year period during which it would fall within the public domain subject to payment.

The public domain subject to payment exists in Italy and, in a slightly different form, in France: after a certain period the royalties on an author's works no longer go to his heirs, but to all living authors.

#### *Public lending right*

26. The public lending right system in use in Denmark and the Federal Republic of Germany (and, in a related form, in the Netherlands) should be applied throughout the Community.

The general application of this system would provide the two-fold advantage of procuring additional resources for authors and publishers in all the countries of the Community and providing (from the part of the product not distributed individually) a contribution towards the social funds and cultural foundations in the literary sector.<sup>1</sup>

For practical reasons public lending rights should be charged at a fixed rate.

#### *Playwrights and composers*

27. Subsidies do permit access to theatres for age groups and socio-professional categories who would otherwise be excluded by high prices and enable works to be performed in cases where this would be impossible without financial aid from national, regional or local authorities. But the financial contribution made by the public authorities does not effectively benefit authors by providing a quantifiable increase in remuneration: it may even be to their disadvantage. The fact that a theatre is subsidized means that it can charge relatively low prices, on which royalties are calculated; this in turn means that authors' remuneration is inadequate.

A solution might be sought either in simply regarding subsidies as part of normal operating receipts when calculating royalties or, at least, in granting authors a levy on subsidies (whose scope would have to be fixed). Authors would then receive a percentage of all subsidies allocated.

The discussion has been confined to theatrical and dramatic authors solely for the sake of simplicity. Clearly, the problems faced by composers are the same and should be solved in the same way.

#### *Literary translators*

28. Special attention should be paid to the improvement—essentially via action in the field of authors' rights—of their status and material situation, both of which are totally unsatisfactory.

The remuneration of literary translators is generally very low and in no way matches either the talent and effort which their work demands or its importance for cultural exchanges between the various linguistic groups in the Community.

#### **Resale rights of creative artists in the plastic arts sector**

29. A directive should be introduced on the basis of Article 100 of the EEC Treaty to ensure

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<sup>1</sup> Point 23.

## Resale rights

Resale rights concern creative artists in the plastic arts following the original sale of their works, where the selling price exceeds a certain level.

They consist of payments to the artist or his heirs of a percentage either of the price obtained on successive sales of the work or on the capital gain from one sale to the next.

In this way the artist obtains a financial share in the success obtained by his works throughout his career, and not just when they first appear. For creative artists in the plastic arts the time limit applying to resale rights is of great importance, since it is very rare for their talent to be appreciated immediately: this generally demands a considerable lapse of time.

In the absence of resale rights any appreciation in value brings no return to the creator or his heirs; however great the profits on each resale (a picture, for example, is often re-sold several times), they go exclusively to the successive owners and dealers.

Although the nine countries of the Community are all signatories of the 'Berne Convention on the Protection of Literary and Artistic Works', of 9 December 1886, into which resale rights were introduced by the revision of 26 June 1948,<sup>1</sup> such rights only exist *de jure* or *de facto* in six of these countries: Belgium, Denmark, France, Italy, Luxembourg and the Federal Republic of Germany.

Since major sales (high value) tend to be held in countries where costs are lower, those countries where no resale rights apply benefit from a distortion of competition within the meaning of the EEC Treaty.

The same is true for transactions which are not subject to resale rights. Amongst countries in which resale rights are applied, distortions of competition arise from differences in the rates payable.

The latter are generally progressive. Depending on the sale price, the lowest rate in force in the Community is 1% (on works whose sale price is low) and the highest 6%, in the case of works sold for more than BFR 50 000.

Resale rights are always paid by the vendor, except in Belgium, where the purchaser pays.

In Belgium, where resale rights apply only to sale by auction, an official of the Ministry of Education and Culture, the 'Percepteur du droit de suite' (collector of resale rights) receives the sums levied and pays them, free of charge, either to artists or their heirs or to an artists' association designated by one or the other. Elsewhere, resale rights are collected, against payment for services rendered, by artists' associations.

<sup>1</sup> Article 14 b(1) of the Convention.

the harmonization of the laws on resale rights in force in several Community countries and the general application of these rights throughout the Community.

The Treaty provides for the harmonization of laws when disparities between legal provisions distort the conditions of competition; in line with this concept, harmonization should cover the types of transactions subject to taxation, the threshold beyond which resale rights would become applicable, the rate payable and the means of collection.

To prevent transactions which should normally take place in the Community from being attracted to some non-member country where resale rights are not applicable, a Community measure should be adopted under which resale rights would be levied on the declared customs value when art works cross a Community frontier.

30. The general application of resale rights would not only eliminate the socially unacceptable inequality between artists in the various countries of the Community but also a situation which, in so far as it distorts competition, is inadmissible as regards the functioning of the common market.

However, it should not be forgotten that the Intergovernmental Conference on Cultural Policies in Europe organized by UNESCO in Helsinki from 19 to 28 June 1972 recommended that member countries should 'recognize the copyright of the artists concerned on all public sales of their works'.<sup>1</sup>

### **Protection of the property of creative craftsmen**

31. Throughout the Community (except, perhaps, the Federal Republic of Germany) creative craftsmen encounter serious financial difficulties. They might well be able to overcome them by expanding their market; however they are not very anxious to sell outside their own country since they fear that, beyond national frontiers, their works would be even less well protected against reproduction or adaptation than at home.

Craftsmen form a socio-professional group which may be considered as particularly vulnerable. Legislative provisions concerning this group should pay the greatest attention to the psychological conditions and human and day-to-day situations involved.

To help creative craftsmen (and, in particular, safeguard those whose crafts are dying out), the lack of international protection against plagiarism—which hinders trade in their creations—must be remedied.

The chief objective is to ensure effective protection, both at national and Community level, for the act of conception and creation given form in the works of craftsmen.

### *Ways and means*

32. The simplest and quickest procedure would be for the Council to adopt a regulation, on a proposal from the Commission.

A regulation combining all the provisions applicable in all the countries of the Community would, in particular, have the advantage of being 'decipherable'. This is an important point, since craftsmen are not generally the heads of large undertakings with the financial means to maintain their own legal service. They cannot keep themselves constantly up to date with complex and fragmented legal provisions.

Only when they have available a complete and clear regulation will craftsmen have the feeling that their works are really protected; they may then adopt a positive attitude towards intra-Community trade in these works.

### *The Community Regulation*

33. It should be based on the principle that craftsmen's creations should generally benefit from both copyright (i.e., as artistic property in the applied arts) and registered design royalties (as industrial property). It is essential that craftsmen should enjoy both these rights in view of the variety of situations which may arise in prac-

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<sup>1</sup> Recommendation No 12-I, 8.

tice. Thus, by their nature, craftsmen's creations are both works of art—or, at least, works of applied art—and objects with a utilitarian function in the broadest sense. As a result, whilst on some occasions only one copy or a small series may be made, on others the works may be reproduced on an industrial scale.

The regulation should, therefore, contain some provisions borrowed from copyright law and others borrowed from legislation governing design patents and registered designs.

Certain provisions of the two systems would be modified to avoid ambiguity.

For instance, the protection of craftsmen's creations might be of shorter duration than that applying to author's copyright; e.g., a period of 25 years from the date of creation could be adopted, as provided for by the Berne Convention—of which all Community Member States are signatories—covering applied art products.

#### *Cultural effects*

34. By improving their material situation through better protection of their creations, the Community could enable craftsmen to fulfil to the full their recognized cultural role.

The creative crafts meet the need felt by many of our contemporaries (in ever-increasing numbers) not to be surrounded exclusively by mass-produced articles, help to embellish the habitat, contribute towards improving taste (both by contacts between the creator and the buyer and through the originality of the articles made available to the public) and give scope to democratic patronage by those who cannot buy paintings or sculptures: craft goods are financially accessible to the majority of the population.

Generally speaking, craftsmanship is part of the cultural tendency towards a concept of growth in which progress is assessed in terms of quality rather than quantity. Without being a large-scale consumer of energy and raw materials, craftsmanship helps to improve the quality of life both as an activity (upgrading of manual work) and by producing articles which are durable goods and at the same time satisfy both practical and aesthetic needs.

Moreover, craftsmen frequently play a part, as restorers, in preserving historic buildings and sites: there are very few of them who are not or cannot become restorers. The prosperity thus assured by the Community would maintain in being the body of highly skilled specialists who are essential at a time when the preservation of the architectural heritage is assuming an important place in the cultural policies of the Member States.

Lastly, by their very presence, craftsmen restore life to historic sites, old districts or picturesque abandoned villages. They are, thus, active agents in developing regions and promoting tourism.

#### *Social consequences*

35. The adoption of a regulation would provide practical proof that the Community is aware of the fact that craftsmen constitute a category of cultural workers worthy of special attention.

They are men and women who, finding it difficult to adapt to work in industry and urban life, have had the courage to take on the risks involved in working as individuals and, often, transferring to the country or to a historic site. More and more young people are joining them. Furthermore, artists who do not possess the exceptional talent necessary to become great painters or sculptors (or who, although possessing these talents, have not had the opportunity) have found an honourable and satisfactory substitute in crafts, where they do not suffer a feeling of frustration.

#### **Social aspects**

36. The material success of some individual cultural workers has led to a misunderstanding about cultural workers in general on the part of the public as a whole. In fact, such success is very rare.

The majority of industrial workers would not accept the living standards of all but a few cultural workers, which are precarious and generally lower than their own.



The highest proportion of 'proletarians' (i.e., the underprivileged) is nowadays to be found in the socio-professional category constituted by cultural workers.

37. In educated circles people no longer believe that culture develops in an ideal world, unaffected either positively or negatively by events in the real world. All Europeans, however ill-informed about cultural problems, realize that whilst the prosperity of cultural workers does not necessarily stimulate the creation of masterpieces, poverty is perfectly capable of preventing it. There is general agreement of the idea that cultural workers should share the advantages of social progress, not only for obvious reasons of social justice but to ensure that culture itself is maintained and developed.

38. Although still far from adequate, the results obtained over the years for the majority of other workers demonstrate that a move can now be made towards a gradual improvement in the social situation of cultural workers.

This improved social situation will be a pioneering move in so far as cultural workers in the Community will not have to pay for it with their liberty: they will not become prosperous by ceasing to be free.

#### *General guidelines*

39. It emerges from the previous pages of this Memorandum that almost all the measures envisaged as part of the application of the Treaty to the cultural sector are designed to improve the social situation of workers in this sector. Thus the harmonization of laws on copyright and related rights on the basis of the most favourable will result in an increase in the financial yield from the entire range of rights from which many cultural workers live—or should live. Likewise, the simplification of the administrative formalities which hinder the free exchange of cultural goods will lead to wider distribution; by increasing the demand for cultural goods and services, wider distribution will lead to an increase in cultural workers' incomes and, above all, a fall in the high rate of unemployment in many—if not

all—cultural professions. By eliminating tax barriers to the development of cultural foundations, the major issue of the employment of cultural workers can be tackled: larger and more active foundations will find additional outlets for them.

However, one should not live in a fool's paradise. In the first place, it will take rather a long time for the measures just described to be finally adopted and still longer before cultural workers begin to feel their effects in day-to-day life.

On the other hand, as far as social security is concerned, it is possible to decide more quickly on the various measures, where effects will be felt more rapidly.

#### *Social security for cultural workers*

40. Since cultural workers are still often badly protected by social security, a series of measures should be taken to increase their cover against social risks, in the form of sickness, invalidity and old-age insurance and family allowances.

The first problem is to adapt existing social security systems to the particular situation of cultural workers in paid employment. This situation arises mainly from the fact that, by no means from choice, many cultural workers are employed by more than one employer (hence the difficulty in collecting employers' contributions) or work only intermittently, hence their high and often catastrophic unemployment rate. Cover against employment, which is the major social problem in the cultural sector, urgently needs improving.

In the case of self-employed cultural workers (e.g. writers, painters, etc.), the changes should be based on new solutions which have already been introduced or are being prepared in several countries of the Community.

## Other action

41. Contributions are to be made towards the preservation of the architectural heritage and the promotion of cultural exchanges, over and above the application of the Treaty to the cultural sector. These measures are in harmony with the two Parliamentary Resolutions referred to in the introduction to this Memorandum: in the first, the European Parliament gave priority to the architectural heritage; in the second it laid particular emphasis on cultural exchanges.

The Commission is also intending to take action with respect to cooperation among the Member States' cultural institutes and the promotion socio-cultural activities at European level.

### Contribution to the preservation of the architectural heritage

42. In accordance with the proposals contained in the *European Community action programme on the environment* of 17 May 1977,<sup>1</sup> the Community could contribute to the preservation of the architectural heritage by promoting training for restorers and developing new conservation and restoration techniques.

#### *Promotion of specialist training for restorers*

43. It is vital that more highly skilled specialists should be recruited to join those already working on restoration sites: there are not enough of them in any of our countries.

To meet this need, Community scholarships are awarded to nationals of the Member States to enable architects, engineers and town planners to attend courses given by the Centre d'études européennes pour la conservation du patrimoine urbain et architectural (*European Study Centre for the preservation of the architectural and urban heritage*) at the College of Europe in Bruges and the course in architectural preservation given by the *International Centre for the study of the preservation and the restoration of cultural property* at the University of Rome.

Scholarships for craftsmen are also available from the *European Centre for training craftsmen in the conservation of the architectural heritage*, which opened on 15 September 1977. This Centre has the advantage of being located in Venice, which is in itself both a laboratory and a particularly critical situation as regards preservation: students find numerous opportunities to practise *in situ* and, at the same time, to make themselves useful straightaway. Moreover, since the creation of the Centre was the result of collaboration between the European Pro Venetia Viva Foundation and the Council of Europe, the award of Community scholarships constitutes an additional aspect of the practical cooperation being established between the Community and the Council of Europe.

It is expected that the 1978 budget will make it possible to continue granting scholarships for Bruges, Rome and Venice, as in 1976 and 1977.

#### *Promotion of nuclear conservation techniques*

44. Nuclear conservation has been successfully practised for nearly ten years by the *Centre d'études nucléaires (Nuclear research centre) in Grenoble* which, with the aid of an experienced team and high-performance equipment, has perfected techniques superior not only to that in use elsewhere in the Community but throughout the world. However, until recently—apart from works and objects of French origin—only works and objects submitted by the Institut Royal du Patrimoine Artistique de Belgique have been treated at the Centre. The reason for this unsatisfactory situation was that the potential of nuclear conservation techniques was still practically unknown in the other countries.

The Community, as was proper, acted in the following way.

— At the end of 1976 financial aid was granted to the Centre to carry out a large-scale Community information campaign; it thus became possible to draft, print and circulate a booklet and a prospectus intended for the competent services in the Member States and local authorities, as well as private owners of buildings and sites.

<sup>1</sup> OJ C 139 of 13.6.1977.

## Nuclear conservation

Nuclear conservation may involve simply the irradiation of stone, marble or old wood or, in certain cases needing more refined methods, irradiation preceded by impregnation by a substance which hardens under treatment by gamma rays.

In addition to furniture and objets d'art, disassembled ceilings, floors, panelling, wood-work, façades (dressed stone) paving stones, statues (in wood, stone or marble), capitals, balustrades and wooden ornaments, whether or not coated, are particularly suitable for treatment.

This is not a small-scale process but an industrial technique which can be used on large quantities of objects.

The treatment protects:

- woods against normal wear and tear, humidity and parasites;
- stone and marble against the ailments to which they are prone; atmospheric pollution (which is an ever-increasing hazard—façades break up and the contours of statues become blurred); weather cycles (variations in humidity and temperature, freezing and thawing).

The treatment puts an end to deterioration, increases resistance to the elements and strengthens objects by hardening them.

Once an object has been treated it can withstand restoration work which could have been impossible in its previous fragile state. The restorer can use traditional methods in safety. It is, therefore, possible to attend to the most urgent things first; i.e. to save a large number of threatened objects rapidly until the time and resources are available for their complete restoration.

Treatment by radiation can in no way cause radioactivity in the object treated. The surface aspect is unchanged.

The *Centre d'études nucléaires* in Grenoble comes under the French Commissariat à l'Énergie Atomique (CEA).

It has a shielded cell 4 m × 4 m × 3 m and two impregnation tanks: a horizontal vessel 3 m long and 80 cm in diameter and a vertical vessel 2.5 m high and 1.2 m in diameter.

Before receiving financial aid from the Community the Centre had three engineers and two nuclear conservation technicians on a permanent, full-time basis

Other scientists also helped occasionally.

Engineers from the Centre make direct contact with expert restorers: they give series of lectures on nuclear conservation in specialist training establishments attended by Community scholarship holders.

— The sum allocated from the 1977 budget amounts to half the cost of an additional engineer which the Centre would have been unable to recruit without this aid. The Community's financial contribution is intended to encourage the Centre to make a similar contribution itself. The cost of the operation is shared between the Community and the Centre.

The additional engineer is essential if the Centre is to be able to deal with the increasing number of requests for assistance expected as a result of the information campaign, whilst maintaining reasonable prices for users.

In 1978 the Community is to continue helping the Centre under the same conditions as in 1977.

### **Contribution towards the development of cultural exchanges**

45. The peoples of the Community do not yet know each other well enough. There are still areas of mistrust—if not of prejudice or preconceived ideas.

One of the objectives of cultural exchanges should be to show the cultural similarities, links and affinities between all the countries and regions of the Community and, at the same time, the various national and regional contributions to that culture.

Thus, the peoples of the Community will be able to reflect on this phenomenon which makes it possible for them to understand and mutually enrich each other and then weigh the cultural component against economic interests and political considerations.

46. Obviously, the Community will not be able to assume the same responsibilities as impresarios or rich patrons in cultural exchanges. Apart from rare exceptions, it can only contribute indirectly to their development.

### *Community Youth Orchestra*

47. In a Resolution of 8 March 1976<sup>1</sup> the European Parliament asked the Commission to take the necessary steps to grant Community patronage to this orchestra, whose creation, organization and administration had been proposed by the Foundation of the International Festival of Youth Orchestras. A few weeks later the Commission acceded to the wishes of the European Parliament.

In accordance with the FIFYO proposal the orchestra will consist of 100 young amateur musicians, aged 14 to 20, from all the countries of the Community. It will spend the Christmas, Easter and summer holidays every year rehearsing for concerts to be given in the nine capital cities under the leadership of famous conductors. The first series of concerts is planned for 1978.

### *Evaluation of cultural events in the Community*

48. It will only be possible to develop cultural exchanges if the works exchanged have a significant impact on the public to which they are presented. The problem is to select works for different audiences. There is still a great deal of uncertainty concerning the aspirations, tastes and receptiveness of Europeans, the obstacles encountered in one Community country in disseminating the culture of another Community country, and the key to this dissemination; what would be likely to drive one or another audience away and what might attract it. In the absence of more detailed knowledge, the organization of cultural exchanges rarely gets beyond the stage of improvisation—or at the best, empiricism.

In view of this general problem it seemed that the most effective action the Community could take would be to commission high-level scientific studies to summarize the lessons to be learned from particularly noteworthy projects.

The 1977 budget made it possible to engage two multi-disciplinary teams of university professors, senior lecturers and post-graduate students to

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<sup>1</sup> OJ C 79 of 5.4.1976.

evaluate *Europalia*<sup>1</sup> and the *Saisons européennes* (*European seasons*) in Brest.<sup>2</sup> These evaluations are based on direct observation (survey of audience reaction, analysis and interpretation) of 'Europalia - Germany' and the 'German Month' in October 1977, which in many cases presented the same exhibitions, concerts, etc., in Belgium and Brest respectively.

In 1978 the evaluation of *Europalia* and the *European seasons* in Brest should be continued, but by making use of their respective records, rather than by direct observation.

By applying the same methodology as for direct observation, the financial contribution already approved will be exploited to the full. A considerable part of the 1977 appropriation has been used to finance work carried out by the university teams on developing methods which, in the absence of any precedent, had to be 'invented'.

Moreover, since time is also an important factor, the use of records covering quite a long period will provide answers to questions which are raised whenever an attempt is made to develop cultural exchanges.

— Some of these questions are of a general nature. How can the public—at first taken aback by contact with the culture of a country other than their own—be attracted in greater numbers? Which cultural events are most likely to attract larger audiences, more diversified in their socio-professional composition?

— Other questions are peculiar to the native culture of each of the countries which took part in the previous *European seasons* in Brest and in *Europalia* (before 'Europalia - Germany'). In the case of *Europalia*, the countries were Italy (1969), the Netherlands (1971), the UK (1973) and France (1975).

In 1978 the *Flanders Festival* should also be evaluated. The festival-type of cultural event is very important because of the considerable success it has had in the last twenty years and, above all, because it attracts a great many young people. By evaluating the *Flanders Festival*, the research carried out in relation to *Europalia*, staged for the multinational public of a capital city, and the *European seasons* in Brest, which had the homogeneous (but more varied from the socio-profes-

sional point of view) public of a medium-sized town, can be extended to young people.

Collaboration will be arranged between the Festival university team and those of Brussels and Brest, which already cooperate.

The reports of the three university teams will be widely circulated in all countries of the Community, amongst the circles concerned and the national and local authorities.

#### *Museums: Europeans rooms*

49. If one compares most museums with icebergs, the intention is certainly not to imply that they are chilly places (on the contrary, ingenious efforts have succeeded in making them lively and welcoming) but to illustrate a phenomenon which has become almost general: their greater part is hidden.

Obviously, a return to the dusty jumbles of yesteryear is not to be recommended. It is perfectly acceptable for a museum to store away works which would suffer by comparison with those which it has chosen to display and which would distract attention from them uselessly. What is, on the other hand, regrettable is that access to these works is refused to visitors from other museums where they would not be duplicated and where, since environment plays an important part in appreciation, they would no longer be regarded as secondary.

Furthermore, it should be added that hallowed masterpieces are not indispensable to the task of artistic education/dissemination (both in and out of school) which museums nowadays regard as one of their prime objectives. Less intimidating works are often more effective in throwing light on an era or a technique.

These are just a few of the reasons for thinking that exchanges between museums should go beyond large-scale temporary exhibitions.

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<sup>1</sup> *Europalia* may be described as a series of festivals illustrating the culture of one or other Community country held in Brussels and certain other Belgian towns for one month every two years.

<sup>2</sup> These present highly varied aspects of the cultures of several Community countries every year.

However, many curators are reticent with regard to any other type of exchanges, largely because of their attachment—however praiseworthy—to the works for which they are responsible (and which they tend to over-estimate compared with those which they might obtain in exchange) and their distaste—which is understandable—for the cumbersome administrative work involved in the smallest transaction.

Consequently, to develop exchanges significantly:

— the public must be induced (by making it aware of the scope of the reserve stocks in our museums, of which it is ill-informed) to exercise moral pressure to prevent works which form part of the Community's heritage from remaining inaccessible;

— curators must be persuaded to adopt a more favourable attitude towards exchanges, and the work involved must be facilitated.

In 1978 the Community is to make funds available to a museum to cover part of the expense involved in carrying out a pilot scheme: the organization of 'European rooms'.

It will be better to have a medium-sized museum than a large, illustrious institution, whose example could not subsequently be followed on an adequate scale because of lack of comparable means.

This museum will bring together in adjacent rooms works from several Community countries other than its own (works already belonging to the museum but previously scattered throughout its collections).

To attract a public which does not normally go to museums (because of lack of interest in a specific field) and give them a broader view of European culture, the European rooms will be diversified, showing not only paintings but sculptures, tapestries, furniture, objets d'art (vases, clocks, utensils produced by folk art and traditions, etc.) and articles of archaeological or historical interest.

If the pilot scheme has the success which may reasonably be expected, a great many curators will be encouraged to organize their own European rooms, and at a later stage, to carry out exchanges with other Community museums which,

by filling certain gaps, will enable them to enrich these rooms. The reserves of each museum constitute an almost inexhaustible source of supply for such exchanges.

Even when the psychological barrier has been removed, however, administrative barriers will remain. Curators will continue to hesitate in view of the formalities involved.

The pilot scheme will, therefore, have to be the subject of a study intended for the curators of all the Community's museums; it should contain an account of the solutions found to difficulties (which will undoubtedly have arisen) and an administrative guide: the formalities involved in crossing the internal frontiers of the Community, types of insurance, etc.

The Commission staff would take advantage of the preparation and distribution of the study to draft and circulate the texts of three standard contracts on different exchange schemes for items to be exhibited: shorter or longer-term loans, storage, formal transfer. It is important for curators to have models which are easy to use and none the less guarantee them the necessary legal security.

### **Cooperation between the cultural institutes of the Member States**

50. Whether they are established in a Community country or a non-Community country, these institutes should cooperate with each other as regards timetables, activities and programmes. They should also set up certain events and projects together.

This system of joint projects would not only reduce the costs of cultural activities for each of the States participating (which would be no small advantage in the present economic situation), but would also broaden the impact of these activities. This is particularly true in the case of non-member countries a long way from the Community. In these countries the 'theme' running through all European culture attracts, interests and impresses much more than the 'variations' which distinguish the different cultures or the European peoples. To a Japanese person, for instance,

Dürer, Tiepolo, Hogarth and Poussin are first and foremost four European painters, and only after that a German, Italian, British and French painter.

51. The Member States which are not culturally represented in one country or another could provide considerable stimulus to cooperation with the cultural institutes of the other Member States. If they were to ask the existing institutes (there are often more than one in one country) to be responsible for their cultural representation, these institutes would become committed to a form of cooperation of whose practical importance and cultural value they would soon be convinced and which they would not fail to develop.

The aim is to have one day, in a carefully chosen non-member country, a cultural institute which would represent all the Member States of the Community.

52. It would be highly desirable if something was done to follow up the excellent initiative taken by the Dutch President of the Council when he brought together all the Cultural Counsellors of the Embassies of the Member States in Washington.

If it comes to that, regular meetings between Cultural Counsellors would have a precedent in the cooperation between Commercial and Press Counsellors stationed in non-member countries.

### **Promotion of socio-cultural activities at European level.**

53. By carrying out valuable studies and bringing together the best experts, the Council of Europe has shifted from the concept of making culture democratic to that of cultural democracy, in other words, from the concept of spreading culture to that of fostering socio-cultural events. The promotion of socio-cultural events has gradually been defined, given a theoretical basis, and described to a degree of detail which embraces the techniques for achieving it.

At the present time, when what might be defined as *general* promotion of socio-cultural activ-

ities is normal in all the Member States, some thought should be given to which could be a very specialized and particular form of it, i.e. the promotion of socio-cultural activities at European level.

54. The word 'European' defines the scope of the planned socio-cultural activities and is not just a vague expression. It simply means that, instead of being restricted to one country, the field of application of these socio-cultural activities will extend to all the countries of the Community.

It is not a question of introducing to each nation the other nations either as models to copy or, on the contrary, as inferior beings whose failings give cause for smug self-satisfaction. Nor is it a question of persuading each nation that the other nations resemble it. It is a question of showing each nation the past and, more especially, the present state of the other nations: what they think, what they do, what they are.

After having judged each other for so long without knowing each other, the nations now need to know each other in order to understand each other.

55. Promotion of socio-cultural activities at European level will be based essentially on cultural exchanges of a new type.

As compared with traditional cultural exchanges, the novel aspect of the cultural exchanges which are to fuel European socio-cultural activities will lie in their objective, the people for whom they were intended, and their purpose.

— They will aim to encourage active participation in cultural life, going beyond the passive consumption of cultural products.

— They will not simply involve the so-called 'élite' (that is, those who are already 'cultured', in the old sense), but

— They will correspond to the modern concept of an open, broader, diversified, pluralist and consequently democratic, culture.

Whilst culture used to be limited to literature, music and the plastic arts, to the cultural heritage and the so-called 'higher' or 'noble' genres, it is now reckoned to include genres which were pre-

viously considered minor or popular, that it is situated in the present as much as in the past, and that it comprises, in addition to the aesthetic side, i.e. literature, music, plastic arts, a scientific side (sciences, technology), a physical side (sports, open-air life) and a social side: man in his working environment, in the context of everyday living, the economy and politics.

56. In order to promote socio-cultural activities at European level, use will have to be made of the assistance which the mass media and, in particular, radio and television can give or, with a little help, could give.

The major cultural phenomenon of the last twenty years is that radio and television penetrate daily into the homes of all Europeans, including those who, through lack of education, money or time, do not read, do not travel and do not go to museums, theatres or concert halls. This phenomenon is more positive than negative, and it could be even more positive, since, besides mediocre programmes, there are many excellent broadcasts which testify that culture is not systematically ignored or distorted by radio and television and that it is not impossible to extend the range of subjects and improve the general level.

The following are two undertakings which the Community should encourage by at least according them its patronage:

— The Dutch language Belgian television organization is producing, under the title of 'Europa Nostra', a series to which the German, French and Italian television organizations have already contributed and which will consist of 365 broadcasts, each of which will last five minutes and be devoted to a great European of the past or present;

— Nine television organizations have joined together to produce a periodical magazine each on a subject of European interest, which all the partners have agreed to broadcast.

The Community should also offer a number of the people responsible for the various mass media the opportunity to carry out research together into solutions to problems raised by the participation of each of them in the promotion of socio-cultural activities at European level: practical problems concerning production, co-production

and purchases or exchanges for broadcasting purposes; problems of style which arise from the need to avoid both cheap popularization and pedantry which bores the public.

Those responsible for the mass media will need to be informed of the potential which information science, despite its being still a new discipline, already has at its disposal.

57. *Sports* do at least have one thing in common with the production of certain mass media: they have become a spectacle and, what is more, a spectacle with a huge audience. For both these reasons they are a means of mass communication and they may be one of the channels for promoting European socio-cultural activities. The latter should also provide room for the practice of sport, alongside sport for the spectator.

To begin with, the Community could take two measures:

— organize, with the help of the competent federations, *Europiades* at which a large public would see (on the spot or via Eurovision) young amateurs from the nine countries participating in competitions in the different disciplines of light athletics and in gymnastics and swimming;

— launch a research project on the causes of *sporting jingoism* and on the campaign necessary to combat a phenomenon which is degrading to the public and, at the same time, deprives sport of a great deal of its cultural value. The festive spirit should not be obliterated by the implacable will to conquer (or to see conquered...) at any price.



## *Draft Council Resolution*

The Council of the European Communities,  
Having regard to the Treaty establishing the European Economic Community,  
Having regard to the draft Resolution presented by the Commission,  
Having regard to the Opinion of the European Parliament,  
Having regard to the Opinion of the Economic and Social Committee,  
Referring to the Final Declarations of the Summits of The Hague (1969) and Paris (1972) and the Declaration on European Identity (1973),  
Convinced that the economic and social difficulties of the cultural sector can be progressively overcome by stricter application thereto of the EEC Treaty, and in particular the provisions thereof regarding free trade, freedom of movement and establishment, tax harmonization, the harmonization of laws, and social measures,  
Concerned at the constantly increasing number of thefts of cultural goods,  
Desiring that the Community should make its own contribution towards the preservation of the Community wealth constituted by the architectural heritage of the nine Member States and towards the development of cultural exchanges as a means of promoting understanding between nations,  
Taking account of the European Parliament Resolutions of 13 May 1974 and 8 March 1976,<sup>1</sup>  
In the light of the Commission Communication of 16 November 1977 entitled 'Community action in the cultural sector',

has adopted this Resolution:

1. Community action in the cultural sector shall be implemented on the basis of the guidelines laid down in the Commission Communication.
2. To that end, the Council hereby takes note that the Commission will continue the various

activities already undertaken and take any appropriate action.

3. Priority shall be given to measures likely—directly or indirectly—to enable cultural workers to benefit as much as possible from social progress.

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<sup>1</sup> OJ C 62 of 30.5.1974 and C 79 of 5.4.1976.

European Communities — Commission

**Community action in the cultural sector**

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As well as setting out the objectives, principles and methods of Community action in the cultural sector, the Commission Communication describes what has already been done and plots developments for which preparations should now be made. It is an operational programme. In accordance with statements—relating in varying degrees to culture—made at the 1969, 1972 and 1973 summits and with the guidelines drawn up by Parliament, the programme provides:

— that the articles of the EEC Treaty relating, for instance, to the freedom of trade, the freedom of movement and establishment, the harmonization of taxation, the approximation of legislation and the social provisions should be applied more fully to the production and distribution of cultural goods and services;

— that the Community should contribute towards the conservation of the valuable asset constituted by the architectural heritage of the nine Community countries and towards the development of cultural exchanges, which can be promote mutual understanding between nations.