

Culture: an added value for Europe

The European Coalitions for Cultural Diversity met in Brussels on Tuesday January 31st, 2012. Supported by the European Platform on the Potential of Cultural and Creative Industries, they reiterated the urgent need of a new European cultural policy.

Panelists spotlighted specific cases – books in Great Britain, films in Portugal, music in Belgium, performing arts in France – as well as more general aspects of European policy: the difficult balance to be found between competition law and cultural diversity; free trade agreements, particularly the agreement under discussion between the European Union and Canada; the future "Creative Europe" programme (2014-2020) including the Culture and MEDIA programmes; and the need to take the 2005 UNESCO Convention into account beyond the strict confines of culture.

Six professionals from the world of culture detailed what they expect from European policies: Maureen Duffy, British author and poet; Dirk de Clippeleir, Manager of the concert venue *l'Ancienne Belgique*; Fernando Vendrell, Portuguese director and producer; Fabienne Herenberg, Deputy administrator of the *Comédie de Reims* in France; Yvette Masson-Zanussi, Manager, European Forum for Architectural Policies (EFAP) and President of the European Platform on the Potential of Cultural and Creative Industries; and Pascal Rogard, CEO of the Société des Auteurs et Compositeurs Dramatiques (SACD) and President of the French Coalition for Cultural Diversity. Two Members of the European Parliament (MEPs) also took the floor - Metin Kazak (International Trade) and Luigi Berlinguer (Legal Affairs) - before a short debate with the audience.

Carole Tongue, President of the UK Coalition for Cultural Diversity and former MEP moderated the debates. In her introduction, she stressed that despite legal texts recognising the specificity of cultural goods and services, the principle is not always clearly grasped. Positions adopted within the European Commission remain ambiguous - on the one hand there is the wish to support the creative industries, but on the other a lack of concrete proposals.

Maureen Duffy, British author and poet and President of Honour of the *British Copyright Council*, described the disastrous situation of books in Great Britain since the abolition of the price regulation system (*Net Book Agreement*) in 1997. She pointed out that France had fortunately not yielded to this trend. "It was to respect the competition law and the supposedly self-regulating domestic market, as if in an ideal world. But in practice, it pushes us towards the lowest common denominator and the exclusion of quality and uniqueness."

Independent bookshops have been wiped off the map. Books sell for a handful of euros in supermarkets, with books on film, TV and cookery on the best-seller shelves. Major conglomerates dominate the market, offering up to 5 million pounds for the memoirs of a 20-year-old football player! Meanwhile, professional writers are forced to turn to small publishers who don't have the means to advertise. Although some publishers are managing to regain control over digital books, revenue is low: books usually sell for €1, which means 25 cents for the authors - or 50 if they negotiate well."

Maureen Duffy feels that Great Britain's glowing statistics in the field of culture – a sector that employs 1.5 million people, has 4.3% growth and accounts for 10.6% of British exports – are largely due to the English language and do not reflect real life as experienced by authors and artists. "The value of a work is not measured in terms of increased market share," she declared before concluding on Canada and the need to protect French-language literature there.

Dirk de Clippeleir, Manager of the concert venue *l'Ancienne Belgique*, evoked how difficult it is for music bands to work outside their country of origin. He highlighted two points: the lack of harmony between tax systems and the need for financial support from Europe.

He explained the tax headache of a European tour, taking the example of an Austrian band playing in Amsterdam and then Brussels. With a fee of €1,000 per gig, the band would receive €1,000 in Amsterdam but only €820 in Belgium and would pay tax in Austria for both of the concerts. "Just imagine if they were a success and went on a 27-country tour! And what if the singer was Italian?" he continued ironically. 2 of the 50 employees at the *Ancienne Belgique* work exclusively on tax issues. That's a lot – but not many compared to Madonna's 50 tax experts ...

Another problem is the domination of songs in English. At the *Ancienne Belgique*, 80% of the bands are either local or English-speaking. "If we hire a non-English-speaking foreign artist, we get no audience because the radio only plays local artists and songs in English," he explained. He pointed out, however, that some countries such as Denmark and Finland support their artists by funding venues and festivals that feature them. According to Dirk de Clippeleir, if Europe wants its music to be known, it must finance venues such as the *Ancienne Belgique* for two reasons: to enable bands to travel and clock up enough gigs to survive (a Flemish band would have difficulty finding more than 30 gigs per year in its own country) and to give the public access to Europe's wealth of music, which is practically impossible at the moment.

On this score, Dirk de Clippeleir would like funding request procedures in the new "Creative Europe" programme to be simpler and more flexible; venues such as the *Ancienne Belgique* simply do not have the human and financial resources to deal with so much paperwork!

Fabienne Herenberg, Deputy Administrator of *La Comédie de Reims*, spoke on behalf of the Manager of the National Centre for Dramatic Arts, **Ludovic Lagarde**, who had not been able to leave Rheims.

She talked about the paradox between the founding texts of the European Union, recognising the importance and the specificity of culture in the construction of Europe's identity, and the Europe that is being constructed on foundations that are mainly economic: "We feel that the symbolic value of culture in the construction of Europe's identity is important, as is solving the crises Europe is facing today – but crises are not only economic as the example of Hungary shows." She suggested that culture should be considered as "common property", taken into account in all of the European Union's policies, not only in its cultural policies. As for the future "Creative Europe" programme (2014-2020), she fears that it "focuses essentially on digital culture" privileging the economic angle once again.

Fabienne Herenberg also brought up the subject of the competition law which cannot suitably apply to culture. She mentioned the example of performing arts, which she considers particularly threatened by the new rules governing Services of General Economic Interest (SGEI) and State aid. She underlined that France is fortunate enough to benefit from an efficient public aid system, adding that it should be reaffirmed and secured. She feels that "the European Commission must scale its initiatives according to the economic stakes and adapt its political decisions in function of the real impact on competition. When it comes to performing arts, the risk of distorting competition is extremely low. Rules that are too rigid will jeopardise the perpetuation of performing arts and the networks linked to them, and the long-term survival of national theatres and national centres of dramatic arts, which are hives of creativity in France, as well as drama companies.

Fernando Vendrell, a director and producer from Portugal, described the dire straits of the film and audiovisual sectors in Portugal: "It has never been easy to work in this sector, but today our very survival is hanging in the balance." Over the past 10 years, the culture budget has been reduced by 75% and financial aid for films by 100%. Portuguese films have a 1.5% to 2% share of the market compared to 80% for American movies. Production is ensured by small companies that find it harder to survive each year. The Portuguese authorities do not encourage TV channels to respect the obligation to devote 10% to independent productions (by small independent companies). The main TV channel, RTP1, is to be privatised this year.

This should be an ideal case for financial support from Europe - to help them to produce better. But Portugal has the lowest access to funding as its production companies only manage to obtain aid for the development of individual projects (and not catalogues of projects "Slate funding"). "We don't have the administrative skills to satisfy European demands. We often don't have all the information and we do not manage to respect deadlines. And we can't muster the co-funding, which goes to show how weak we have become," explained Fernando Vendrell.

Fernando Vendrell feels the problem is political: "Portugal is considered as a negligible quantity, not a driving force for European culture." Irrespective of the size of its member States, the European Union must recognise artistic work. "Whereas finance is undermining the European Union, the arts and culture can take us towards unity and diversity."

Yvette Masson-Zanussi, Manager of the European Forum for Architectural Policies (EFAP), described the work of the European Platform on the Potential of Cultural and Creative Industries over which she presides. The platform hosts 40 cultural organisations (including the EFAP) from civil society. It was set up in 2008 by the European Commission as part of a structured dialogue with civil society. Yvette Masson-Zanussi explained that member organisations meet on a voluntary basis and that their goal is cultural diversity, staying clear from competition between sectors and seeking profit.

From the very outset, the different organisations agreed that their efforts would not be remunerated and that they would reflect together about operational mechanisms to foster the production, exposure, promotion and circulation of works and to improve legislation in favour of artists. Five working groups met for a year, producing an initial series of recommendations in September 2009 (taken up by the European Economic and Social Committee, the Committee of the Regions and the European Parliament).

However, it soon became obvious that these recommendations needed to be translated into more direct political tools if any further progress was to be made. Five workshops were thus set up, open to experts, members of the Commission and MEPs (cohesion funds; mobility and circulation of works and artists; education and professional training; distribution and digital promotion; encouraging investment in cultural industries). They resulted in "concrete and precise measures that could be implemented very quickly."

Yvette Masson-Zanussi feels that the "Creative Europe" programme has been well received by the Platform. It takes up several of its proposals, such as the guarantee funds tried out in France with IFCIC (Institute for Funding Film and Cultural Industries). "We must remain vigilant, however, and ensure that the programme is adopted and can be enriched with further measures. We also have to take a look at the other directorates as culture applies to all of them. It can be extremely disappointing to see recommendations listed near the top of the European Union's agenda, but followed up by very modest effective measures."

Yvette Masson-Zanussi was keen to conclude on a positive note, pointing out that greater attention is paid to culture today. She mentioned the Epson regional development programme that encourages regions to support cultural industries.

Pascal Rogard, CEO of SACD and President of the French Coalition for Cultural Diversity, apologised to Fernando Vendrell for France's thriving cultural policy, underlining that it is market activity (movie theatres, TV, video, telecom operators, etc) that finances production thanks to a system of support funds (approximately €700m). "Culture is above all a question of political commitment. In France, we have been lucky to have had governments that have defended culture and creation. Culture is seen as a basic necessity, and investing in culture in a crisis period is deemed essential, as it's a huge asset for Europe."

After this preamble, he broached three topics: trade negotiations; competition law applied to culture; and circumvention of the law by American Internet giants.

After victorious battles waged first within the framework of the GATT for cultural exception, and then at the UNESCO for cultural diversity, Pascal Rogard sees bilateral agreements as the next bone of contention. "Culture is no longer discussed in commercial agreements but in cultural agreements, negotiated at the same time by the same people," he said with some irony mentioning agreements with the Cariforum that "merrily combine commercial negotiations and cultural cooperation," and with South Korea, "which has quite a different economic dimension, notably in the audiovisual sector." Pascal Rogard pointed out that the Commission has not kept its promise on this point: in the wake of work carried out a year ago by France's Ministry of Foreign and European Affairs, it was supposed to clarify relations between commercial agreements and cultural cooperation agreements. On this score, "the agreement between the European Union and Canada constitutes a unique opportunity to design a model agreement that protects and defends cultural diversity."

Moving on to a second theme, he mentioned the persistent hiatus between the policy to support culture and the single market policy. "When we want to support culture in Europe, we have to raise our hand and ask permission, which is rather ridiculous for performing arts, but also for audiovisual and films where there may be competition between services but not on/between the works." Pascal Rogard was struck by a new concept mentioned in a Commission's communication: "the effectiveness of aid" and wonders how this can possibly be assessed. He believes on the contrary that the European Commission should rather encourage countries to support their own domestic creation.

To round off, Pascal Rogard indicated that the enemy in the battle for cultural diversity has changed and it is now time to move on to Phase 2. "The problem is less American policy than the major Internet groups that are in a position to benefit from European laxity." He mentioned iTunes which takes advantage in Luxembourg from a reduced VAT rate and Google "who settled in Ireland to escape certain regulations."

To avoid such tax dodging - which will increase with connected TV - he feels legislation needs to be redesigned so that businesses are taxed where they provide their services (and not where they reside). This would ensure they contribute to creation.

Metin Kazak, MEP and member of the Committee on International Trade, thanked the organisers for a debate "very useful for the MEPs who try to promote culture within the framework of European Union cooperation with third countries." He underlined the Court of Justice of the European Union's explicit reference to UNESCO's Convention through its judgement dated 5 March 2009 ("*A Member State can require television operators to earmark part of their operating revenue for the funding of European cinematographic and TV films*", *editor's note*) and the Convention's influence on Europe's cultural agenda as well as the EU's foreign relations strategies.

As Vice-President of the Human Rights Sub-Committee and a citizen of a former communist country (Bulgaria), he said he was "particularly sensitive to the diversity of cultural expression." As coordinator of the group of liberals within the Committee on International Trade, he said he was "seeking a fair balance between the economic benefits of increased trade exchanges and the place of human, social and environmental rights and protecting culture."

Metin Kazak reminded us that since the Lisbon Treaty, the Parliament is co-legislator in the field of foreign policy. He will ensure that the principle of the specificity of cultural goods and services as carriers of identity and value is respected in cultural protocols independently of free trade agreements. He stressed the need to distinguish between developing countries – which come under Article 16 of the Convention and benefit from preferential treatment, such as Cariforum countries – and developed countries, with which the policy of reciprocity takes priority, as was the case with South Korea and will soon be with Canada, India and Japan.

In his opinion, consolidating culture's place in future trade agreements involves rising to four challenges: creating a coherent framework for cultural cooperation with third countries; encouraging partner countries to ratify the Convention by imposing it as a condition for future international agreements, as was the case with South Korea; reinforcing the legal weight of the Convention by setting up effective mechanisms for settling disagreements; working more closely with representatives of civil society, including more experts from artistic milieus during negotiations, carrying out impact studies on the content of the protocols, and launching a debate within the WTO.

Luigi Berlinguer, MEP, Vice President of the Legal Affairs Committee, claimed the UNESCO Convention to be a crucial text whose principles should be integrated into all of the Commission's policies. He stated that his colleagues in the European Parliament always keep these issues in mind.

Luigi Berlinguer mentioned three projects:

- a proposal for a directive on orphan works: the European Parliament will find a compromise between the public interest and recognition of creators' rights and fair remuneration for them;
- the long-awaited proposal for a directive on collective management: due for the spring, the Parliament will hear what creators have to say;
- a proposal to amend the 2004 Intellectual property rights enforcement directive

Luigi Berlinguer concluded by saying how aware he is of the stakes involved in trade negotiations, and guaranteeing to do all he can to promote the 2005 Convention.

Debate with the floor

Ann Branch, Head of Unit, Culture Programme and Actions, DG EAC (Education and Culture), European Commission, reacted to comments about the "Creative Europe" programme which she believes to be "good news for cultural diversity". In her mind, the problem evoked by Dirk de Clippeleir – the public's tendency to consume local or English-language works – applies to all sectors of culture and is one of the precise challenges "Creative Europe" intends to tackle through aid for international careers, translation and promoting works to the public. She contested the idea that the "Creative Europe" programme did not recognise the intrinsic value of culture. "It's implicit," she stated.

She went on to underline that the programme benefited from an increase of 37% compared to MEDIA, Culture and MEDIA Mundus, i.e. an extra 450 million euros over 7 years, which is not much in terms of the EU budget, but a huge amount for the sector. She concluded by saying that the Education & Culture Directorate would never have been able to obtain such an increase if it wasn't also a social programme that creates jobs and growth.

Carole Tongue thought this view optimistic. As the final decision is *in fine* down to the Council of Ministers of Finance and DG Budget, the European Coalitions will keep on working with DG Culture to succeed on this issue.

Marie-Paule Roudil, UNESCO's representative in Brussels, noted the contradiction between the "goodwill" of DG Education & Culture and the other directorates that do not incorporate culture at all.

She claimed to be "very worried" by the absence of any reference to the term "culture" in the *Agenda For Change*, prepared in the name of the EU's development policy with a view to reducing poverty. "As an international organisation with a mandate to promote the 2005 Convention, we wonder how we will accomplish our task if the Commission itself does not include the word "culture" in its *Agenda for Change* and mentions the Convention even less!"

She also pointed out that despite the efforts of many representatives from civil society and cultural protagonists, the communication on the *Agenda for Change* dated 13 October 2011 has not progressed.

Charles Vallerand, Secretary General of the International Federation of Coalitions for Cultural Diversity (IFCCD), invited the representatives of the different national Coalitions (Portugal, United Kingdom, Hungary, Sweden, Switzerland, France, Belgium) to stand up to demonstrate the vitality of the Coalitions in Europe.

In the same spirit, he gave a few examples of good practices from around the world: the government of Catalonia in Spain has adopted a legislation to promote its regional film industry, specifically mentioning the 2005 UNESCO Convention; support for a project to foster training and audiovisual production in Latin America; and UNESCO funding allocated to Mali for country-wide communication and consultation with a view to developing a national cultural platform.

Concerning the free trade agreement between the European Union and Canada, "two partners from the very outset", Charles Vallerand echoed Pascal Rogard, recognising this as a unique opportunity. "We will reach an agreement about the scope of exemption, but in the preamble we have to find an explicit and articulate reference that links exemption and the UNESCO Convention in order to anchor its legal value in the international legal context."

He feels that the field of cultural diversity is vast, mentioning:

- a recent debate in Copenhagen on the freedom of expression and artistic creation: a pertinent debate given the attitude of several countries that have

signed the Convention yet deny and censor the work of their creators, forcing them to move abroad;

- a forthcoming debate in Strasbourg on Diversity and the Media: it will focus on minority expression.

Carole Tongue thanked the Coalitions team and all of the speakers. She stressed that culture is a unifying factor for forging Europe's identity and that reforms are essential. She concluded: "There are a lot of good intentions about; but now is the time to take action."

Summary by Beatrice de Montdenard