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Why we need European cultural policies

by Nina Obuljen

the impact of EU enlargement on cultural policies in transition countries

the 1990s, the number of people in the world who are living in poverty has increased from 1.2 billion to 1.6 billion. The number of people who are living in extreme poverty has increased from 600 million to 800 million.

There are a number of reasons why the number of people in poverty has increased. One reason is that the world's population has increased. The world's population is now over 6 billion, and it is expected to reach 9 billion by the year 2050.

Another reason is that the world's economy has not grown fast enough. The world's economy has grown at an average rate of 3% per year since 1990. This is not enough to keep up with the growth of the world's population.

A third reason is that the world's resources are being used up. The world's forests are being cut down, and the world's oceans are being overfished. This is leading to a decline in the world's natural resources.

There are a number of things that can be done to reduce the number of people in poverty. One thing is to increase the world's economic growth. This can be done by investing in infrastructure, such as roads and bridges, and by providing education and training for the world's workforce.

Another thing is to conserve the world's natural resources. This can be done by protecting forests and oceans, and by using resources more efficiently.

There are a number of other things that can be done to reduce the number of people in poverty. These include providing social safety nets, such as unemployment benefits and food stamps, and providing access to basic services, such as clean water and electricity.

It is important to note that reducing the number of people in poverty is not just a matter of providing money. It is also a matter of providing opportunities. People need to have the skills and resources to be able to support themselves and their families.

There are a number of organizations that are working to reduce the number of people in poverty. These include the World Bank, the International Monetary Fund, and the United Nations Development Programme.

It is important to note that reducing the number of people in poverty is a global issue. It is not just a problem for the developing world. It is a problem for the entire world.

There are a number of things that we can do to help reduce the number of people in poverty. We can donate to organizations that are working to reduce poverty, and we can volunteer our time and skills.

We can also make changes in our own lives. We can live more simply, and we can support companies that are committed to social responsibility.

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**Why we need European cultural policies:
the impact of EU enlargement on cultural policies
in transition countries**

by Nina Obuljen

edited by Janet Hadley

Cultural Policy Research Award

Granted by the European Cultural Foundation and
the Bank of Sweden Tercentenary Foundation

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Foreword

The Cultural Policy Research Award (CPRA) was launched in 2004 with three main aims in mind: to support and promote young talents in cultural policy research, to strengthen cultural policy research as an academic discipline, and to contribute to a knowledge-base of issues related to European cultural integration.

The two organisations behind the award – the European Cultural Foundation (ECF) and the Bank of Sweden Tercentenary Foundation (Stiftelsen Riksbankens Jubileumsfond) – recognized the importance for young cultural policy researchers of having proper frameworks for their research projects – frameworks which would enable them to carry out their projects, which would guide them through this process, and which would later promote the results of their research.

The CPRA encourages the analysis of contemporary cultural issues from a European perspective, using a comparative approach and considering the issues from a cultural policy point of view. Research projects are evaluated and selected with regard to their intrinsic quality as well as their potential contribution to cultural policy thinking and design.

The first CPRA winner was Ms Nina Obuljen, a junior research fellow at the Institute for International Relations (IMO) in Zagreb and now Assistant Minister of Culture of the Republic of Croatia. Her research project on the influence of EU enlargement on cultural policies in transition countries was selected because of the importance of its subject-matter, its sound research methodology, and the potential use of its conclusions in public policies.

We congratulate Nina Obuljen for her academic endeavour and professional rigour. The completed research project is an achievement indeed, and we hope it will contribute to a better understanding of the impact of Community policies on culture and the possibility of streamlining these effects positively. It should certainly inform debates on a European agenda for cultural policies.

We also thank the CPRA jury, which was chaired by Prof. Dr. Milena Dragicevic-Sesic of the Faculty of Dramatic Arts in Belgrade, for its continued and committed involvement in the project's pilot phase (2004-2006). The jury members' advice and selection are greatly valued by both the ECF and the Bank of Sweden Tercentenary Foundation.

This is the first in a series of publications which will present the completed CPRA research projects. We hope it will serve the field of cultural policy research *and* that of cultural practice. We also hope that the CPRA series will help talented young researchers to gain a greater profile within their own academic disciplines and within the academic circles of Europe and possibly beyond.

Isabelle Schwarz

Cultural Policy Development Manager, European Cultural Foundation

Prologue

When I decided to research the role and possible impact of the 2004 European enlargement on culture, I tested the idea with several colleagues. Some tried to dissuade me from pursuing this research claiming, in a friendly manner, but with firm conviction, that European Union (EU) enlargement had very little to do with culture. This reflects a common belief that, simply because culture does not figure prominently in the *acquis communautaire*¹ – the umbrella term which covers all the EU's current laws and policies – it is only marginally affected by the EU enlargement.

In some ways this is true. If we think about the impact of EU enlargement as meaning solely those changes that have resulted from harmonizing legislation which was explicitly related to the cultural field (such as audio-visual policy), it would be very difficult to justify this research. However, I have always understood EU enlargement as a process that goes beyond the technical adjustment of policies and laws in any policy field. This is just the surface.

The European Union is a complex sphere of interlinked rules and interests, policies, recommendations and directives. When entering this universe, it is difficult to imagine that any sector or any segment of life can be ignored. Even if the European Commission has not been directly regulating some fields, societies have been going through profound changes and everyone who lives and works in that environment is being affected. This is particularly evident in the transition countries – a term which broadly covers the post-socialist nations – which have been going through many changes and reforms.

In my research I have tried to look at this sphere and to identify some of those policies, developments or events that have had an impact on culture. While trying to assess the current situation and developments, I have tried to look at possible future scenarios for EU involvement in the field of culture. One of my main assumptions was that in the future, the regulation of cultural markets will be one of the key, if not the most important, element of cultural policies. I wanted to find out how Europe has been responding to trends of commodification in all aspects of culture in order to see if the EU's often publicly declared priority of promoting cultural diversity and 'unity in diversity' was really accompanied by the most effective policy instruments. Has Europe found a way to integrate adequately both cultural and economic aspects of cultural goods and services in its policies?

In that context, the study tried to identify those 'other' common, (in other words, shared) EU policies that affect cultural policies as well as to assess such influences – can they be considered as positive or negative? How have new EU member states been responding to change? Are there some policies that should be adopted at the EU level in order to counterbalance the impact of cross-cutting measures, such as taxation, for instance, on cultural policies?

I have been much encouraged by the global movements for the protection of cultural diversity and the role of the EU during the negotiations in 2005 on the UNESCO *Convention on the protection*

and promotion of the diversity of cultural expressions as well as some other developments within the EU, such as 'Stop Bolkenstein' – the strong opposition to the proposed 'Bolkenstein Directive' on liberalization of services in the internal market. This is partly why exploring the impact of EU enlargement on cultural policies in transition countries has turned out to be much more a reflection on cultural policy in the European Union.

When analyzing existing literature, I found an interesting quote from Maja Breznik, a Slovenian researcher:

European cultural policies foster two goals that produce conflicting effects: through state interventions in the name of 'democratization' they want to broaden access to cultural goods, but through liberalization, once again in the name of 'democratization' they destroy the effects of their own measures and impose limits on the access to culture.

(Breznik 2004)

It is impossible to know which one of these two 'democratizations' is going to prevail. This dilemma is particularly pertinent for the post-socialist countries, which have in the past 15 years been faced with two processes – democratization and globalization – and are still searching for the most effective strategies to overcome the difficulties of this transition.

Some ideas, as well as parts of this study, have been published in my post-graduate thesis, defended at the University of Zagreb ² and in an article published in the *Culturelink Review* in 2004, ³ which was completed during the study period in preparation for the Cultural Policy Research Award grant scheme. ⁴

If I had the opportunity of starting again the integration process from scratch,

perhaps it would be more efficient if it was started by cultural integration.

The unification of Europe and the integration of culture together.

(Erhard Busek's speech, concluding the conference, bigger... better... beautiful?
the impact of EU enlargement on cultural opportunities across Europe,
Budapest, February 2002.)

Introduction

Quotes like this are often used as to ornament texts about European integration, but the fact is that, from the very beginning, culture as a field has been marginalized in a majority of studies about European integration as well as in the eyes of those determining priorities at the European level.

In most current debates about European integration, culture remains an abstract term, often used to illustrate how European integration brings more than economic benefits. It is commonplace to read or hear statements declaring that an economically, monetarily and politically integrated European space will confirm a centuries-old European identity, respect for common values and common European cultural heritage, which have all been foundations for the development of modern European states.

The significance of cultural policy-making

Even though culture is said to be so fundamentally important, the European Union has never explicitly formulated its cultural policy. Culture and cultural policies were not considered priorities during the first period of European integration and were discussed only in the later phases. Even though most member states still reject the idea of formulating 'common cultural policy' and insist on respect for the principle of 'subsidiarity',⁵ there has also been a consensus in favour of establishing a certain degree of cooperation in the cultural field, because many issues require European-level coordination.

While debates still focus mainly on the need for European cultural policy, at the same time it is possible to claim that a *de facto* European cultural policy already exists, even if it is not yet clearly articulated. Provisions from various common policies have an impact on culture, including both policies that refer specifically to culture and those that have a more indirect impact on culture. A number of published studies have shown that cultural policies depend on, and are influenced by, provisions and rules arising from other spheres of public policies.⁶

Topics in this category include:

- obstacles to the mobility of artists
- cultural industries
- analysis of employment opportunities across Europe
- tax systems
- copyright
- the liberalization of marketplaces.

Measures directly referring to culture make up only a small portion of the *acquis communautaire*. Therefore, any assessment of the impact of EU enlargement on culture means exploring the effects that EU regulations – for example, for the harmonization of fiscal, social or tax policies, competition policies, free circulation of goods, people and services, and so on – may have had on cultural policies. Despite the principle of subsidiarity or numerous, ‘exceptions of culture from general rules’, the space for intervention by national governments in the cultural field has been narrowing. Traditional divisions between different policy areas are changing and it is sometimes difficult for national governments to determine what is internal and what constitutes foreign policy.

It is also very important to acknowledge the jurisprudence of the European Court of Justice. That court has occasionally has been called upon to interpret ambiguous rules affecting culture. These have not only included cases about state aid in the audio-visual sector, particularly affecting public service broadcasters (Pauwels 2003), but also cases about interpretation of the fixed book price rules or social security regulations, which can be important for the mobility of artists. As European law has been growing and becoming more complex, it is logical to expect that there will be more cultural disputes requiring judgment in this court.

Ambiguous attitudes

In spite of these developments, the position of the EU towards cultural policies can still be described as the protection of the status quo and a rather defensive approach to policy-making. As there is no articulated common cultural policy, culture has found itself in a rather ambiguous position.

On one hand, there has been continuous lobbying from cultural activists and policy-makers to recognize the special role and the importance of culture and to give culture a more prominent place; on the other hand, EU member states have been unable to achieve a consensus on how to make policies about culture at the EU level. Culture has been generally evoked only when it needs to be ‘exempt’ from certain regulations, but it is not likely that culture will achieve a more prominent place in the EU agenda unless it is included in mainstream policy-making at EU level.

This ambiguous position of culture is even more evident in the new EU member states and candidate countries.⁷ Because, with a few exceptions cultural matters are not an explicit part of the EU agenda, and because defining policy priorities in the new member countries has been profoundly influenced by those priorities set already by Brussels, culture is lagging behind other sectors. These factors tend to mean that national governments’ cultural policy-making, where and

when it does occur in the EU, not only lacks innovation, but also that it tends to be a fairly low priority. At the same time, in these countries it has often been difficult to determine if reforms are a consequence of what is colloquially labelled as impact of globalization, European integration, the transition from one system to another, or simply as a natural transformation of public policies that comes with development, often inspired by policy solutions in other countries or other policy areas.⁸

One result of the way culture is dealt with within the EU is that there is still very little research on the impact of EU enlargement on culture in transition countries other than in those aspects explicitly covered by the *acquis communautaire*, such as audio-visual policy⁹ or copyright. It is therefore difficult for governments to monitor the potential consequences of enlargement on cultural policies and eventually decide what laws they should adopt to counteract some potentially negative effects and to adapt cultural policies to changing realities.

Background to this research

This is why the primary goal of this study is to identify those elements of cultural policies that might be directly or indirectly affected by the EU enlargement. From the information gathered so far, one can identify at least three reasons for the lack of interest and research about this topic.

First, in Europe (in new and old EU member states as well as potential future members), there are continuing debates concerning the EU and culture, primarily about whether or not it is necessary to move towards the adoption of shared cultural policies. This has shifted the focus of debate from the possible impact of EU policies on culture to the validity of even having a European cultural policy. In line with one of the basic principles of researching public policies – that public policy comprises not only a government's action but also its inaction in a specific field (Dye 1976; Parsons 1999; Heidenheimer et al 1990) – this research has looked at numerous laws and regulations which directly or indirectly affect culture, and has tried to show how, implicitly, a European cultural policy already exists. For culture, it would simply be much better if this policy were more explicitly articulated (as is stated frequently in the report known as the Ruffolo Report [Ruffolo, 2001] see page 30 and 35).

Another reason for the lack of research has been the absence of basic comparable information and statistics on the European level – a problem already identified, analyzed and explained during the process of the assessment of the Council of Europe's project on *National reports on cultural policy*, (Gordon, in Gordon and Mundy, 2001). This research has shown that many of the

obstacles encountered during the period of evaluation of the results of the Council of Europe's project also apply when trying to understand the confusion in the approach to culture at EU level.

The third reason for the lack of comprehensive research is the sheer range of policy approaches within the cultural sector itself. Some believe that this means it is better to simply stick to studying specific policy fields, such as book policy, audio-visual policy or copyright issues. However, some topics, such as mobility of artists and cultural professionals, or regulation of markets for cultural goods and services, require a more holistic approach that goes across more than one sector. I have used many of those valuable studies on specific sectors for this research because it would have been totally impracticable to try to gather original information on each of these issues.

Focus of the research

Following on from these preliminary reflections, this study focusses on three main topics.

The first focusses on methodological problems relevant for comparative research of cultural policies in Europe. In my view, these methodological problems and debates have contributed to the rather confusing treatment of culture and cultural policies in the European Union. Some of these issues include reflections on the existence or non-existence of European cultural policy, debates about the need to have a European cultural policy or, for example, the consequences of the way in which policies on culture in general and policies about audio-visual matters are administratively kept apart by the European Commission. Even though there have been many valuable studies of these topics, it was necessary to repeat some of the findings of those studies here, as they are crucial for understanding the position of culture in the process of European integration.

The second part of the study gives an overview of different policies and policy areas that have already had an impact on culture, or might do so in the future. My aim was to identify in particular those policies, shared by different countries, which have been establishing links between cultural and economic aspects of production and distribution of cultural goods and services.

In order to find out more about researchers' and policy-makers' perception of the importance of EU enlargement for cultural policies in post-socialist countries, I surveyed a small number of respondents in ten selected countries to see if these policy areas, which I had identified as relevant for culture, have been perceived as such and if there was any evidence of direct or indirect impact on policy-making. The results of this survey, as well as the results of several related

comparative studies were analyzed together in an attempt to describe a framework in which cultural policies in transition countries are being redefined and reformulated. This is by no means an exhaustive list of issues. It is simply an indication of selected policy areas that, in my view, should be monitored as they might have increasing impact on cultural policy-making.

Thirdly, in final reflections, while referring to some examples of contemporary policy-making at the global and the EU levels, I have tried to explain why I believe that there is a need for more proactive policy-making at EU level. This should not be about harmonizing cultural policies unnecessarily, but rather to ensure that current and future policy measures adopted at national level remain compatible with the European and international regulatory framework that is having more and more of an impact on culture.

Although this last part of the study might not seem particularly relevant for the new EU member states or current candidate countries, I believe that their cultural markets and cultural policies are particularly vulnerable due to challenges of the transition and that there is a need to establish closer links between cultural policies and other sectors. During the transition, new topics were included to the cultural policy agenda of these transition (and candidate) countries, such as investing in culture, privatization, media ownership or exploring the job potential of the cultural sector but the results of this study show that little attention if any was given to these specific topics during the most recent accession process. This study has also tried to discover the ostensible logic behind the general consensus that it was better to exclude culture from these processes. It questions whether the decisions to leave culture out was indeed beneficial for the cultural sector.

Part 1

The conceptual frame of the study

The main goal of this study is to find out how enlargement of the European Union influences or might influence the development of cultural policies in transition countries. It seems logical to start with some of the methodological problems in comparative research of cultural policies in Europe. In my view, these have contributed to the rather confusing assessment of culture and cultural policies in the European Union. These methodological challenges include the basic definitions of culture and cultural policy as well as methodological choices.

Policy analysis

The most appropriate methodology to approach this complex problem seems to be policy analysis. The chief goal of policy analysis is to understand what governments do, how they do it and what they achieve from it (Dye, 1976; Heidenheimer et al 1990; Petak, 2001).

According to Heidenheimer there are four elements that are important for research (Heidenheimer et al *ibid*). The study of *what* governments do includes, primarily, an analysis of the scope of government intervention. Secondly, says Heidenheimer, it is equally difficult to answer the question of *why* governments do certain things as it is important to ask this particular question. Answers often include historical reasons or particular features of certain states, which are very difficult to analyze and explain in an objective way. The third element important for research of public policies is to analyze *the consequences* of governments' actions; this is usually the most obvious one and is what counts for citizens/voters who will, in the end, decide if they will renew their government's mandate. The fourth element is the decision of whether a certain policy area will be regulated at all, in other words, an analysis of a government action or inaction in a specific policy field.

This general framework is extremely pertinent to our topic – both for looking at specific governments' choices at the national level and also for analyzing the policy-making process at the EU level. There is still much confusion about the approach to culture and it is not always clear why a certain decision has been taken or why certain policy areas have been included on the EU policy agenda while others have been left aside. It is in fact difficult to analyze any of the four elements identified by Heidenheimer et al, if we apply this conceptual framework to the policy decisions about culture which are made by the European Union.

Looking across borders

The explanation by Heidenheimer et al as to why it is important to undertake comparative analysis of public policies is also particularly relevant for this study (Heidenheimer et al, *ibid*). The first

argument referred to identifying examples of good practice and good ideas for the development of public policies so that they can be put into effect in other countries. Another goal of the comparison of public policies is to reach an understanding of the process of decision-making and the functioning of government institutions in solving specific problems. Thirdly, there is the global context, where certain challenges 'spill over' national borders, and where a number of internationally legally binding instruments directing and limiting the formulation of national policies grow, making it impossible to analyze public policies at a national level without taking account of the broader context that affects them.

This third reason is particularly pertinent for the discussion about the need for a more coordinated European policy towards culture. Even if one can understand the legal, political and ideological obstacles that have hitherto prevented EU member states from deciding on a European-level cultural policy, it is questionable if the most rational choice was to leave culture aside. It is obviously difficult for nation states to cope with some global problems if they rely solely on measures and policies conceived and introduced at the national level.

Comparative cultural policy research in Europe

Even though there are many theoretical approaches to comparative research of public policies, there is no model that can claim to be universal for all areas of public policies and that would be self-sufficient in a way that it could apply to the entire field. In any case, the choice of methodology tends to be very much influenced by the definition of a specific area of public policy. While it is fair to say that each area of policy – economic, social and so on – has its own unique aspects, additional problems arise in cultural policy, because its content and scope is defined differently in specific states or traditions, often a consequence of the numerous definitions of the term 'culture' itself. **10**

Ministers of culture are managing a field which is constantly changing and is often considered marginal compared with other areas of government interest (Landry and Matarasso 1999).

While ministers of health or education have thousands of hospitals and schools as well as millions of employees, ministers of culture manage directly only a very small number of institutions. The development and managing of cultural policies remains one of the most complex issues for today's governments, a sort of balancing act, not so much among competing priorities as in other policy areas, but rather among differing visions of the role that culture plays in the society.

Defining this role of culture in society is also linked with the fact that the word culture is difficult to define (Williams 1976), and thus it is difficult to define the field of cultural policy.

One possible approach to defining cultural policy is to accept that each government's decisions about what matters is what will be covered by its cultural policy. Along these lines, Vestheim defined cultural policy, 'as an area where certain activities are taking place, a randomly defined category into which certain activities are placed and called culture, while other activities are kept away and are, therefore, not considered culture or cultural' (Vestheim 1995).

Three possible frameworks

Even though such definitions can be useful when describing the differences of scope of cultural policies between different countries, they do not help us analyze the reasons behind those differences nor can they explain why some governments may decide to have policies about specific areas while others leave such areas well alone. In this context, Gray had an interesting suggestion for reformulation of comparative research of cultural policy: he stressed that the definition of culture has a fundamental impact on the choice of methods for analyzing policy areas which ensue from that definition. He argued for a multidimensional approach that can be adapted depending on what needs to be studied or compared (Gray 1996).

Gray identified three approaches that, in many aspects, follow the model of Heidenheimer et al (Heidenheimer et al, *ibid*). Gray's first approach included defining the scope of cultural policy or rather, what is and what is not included in the definition of cultural policy of particular governments or 'transnational [ie international] integration regions', such as the European Community. For Heidenheimer et al, the first of 'four choices' in defining public policy was also 'a choice of scope', a definition of the borderline between private and public responsibility.

Gray's second possible approach compared policy processes, or rather structures and instruments used to create public policies. There have certainly been many studies, models, theories and so on, developed within this framework, as it focusses on analysis of different phases of the policy process as well as the actors and activities engaged to achieve the specific policy goals.

Gray's second approach corresponded to the second and third choices of Heidenheimer et al, which are the choice of policy instruments and the choice of distribution (Heidenheimer et al, *ibid*).

These varied possible approaches are particularly relevant when it is necessary to decide whether or not to continue putting a certain policy into practice, to stop it or to adjust it. Again, this can be compared with Gray's stress on the fact that cultural policy is not a static phenomenon, it is subject to different influences which have an impact on the scope, management and administration as well as the choice of instruments applied. In that sense, changes of policies can be initiated either by someone involved with the policy itself or by changes occurring in other policy areas which are connected with, or have an impact on, the processes in the cultural sector (Gray *ibid*).

Gray called for comparative research of cultural policies to be reformulated in a way which would more resemble the analysis of other public policies. He suggested possible elements important for policy analysis, while asking questions such as, what is the subject of that analysis and how is the subject being analyzed. This approach could be described as an approach demanding continual interaction between theory and administrative practice.

If we look at the matrix proposed by Gray and try to apply the first approach to our topic of interest or to look at the possible impact of EU enlargement on cultural policies in transition countries, numerous obstacles immediately crop up. The first one is the lack of definition of a cultural policy of the European Union. Because of this, it is impossible either to define a 'choice of scope', or to draw a line between not only public and private responsibility, but also between national responsibility in the field of culture and handing such responsibilities up to a higher 'umbrella' body, such as the EU. This is an issue which will occur again in this study.

However, the second approach, the definition of structures and instruments used in creating public policies, could serve as a good starting point. If we start by analyzing cultural policies at the national level, then look at different structures and instruments on the European level relevant for what we consider to be the scope of cultural policies nationally, we discover – perhaps unexpectedly – numerous laws that significantly affect culture but are not explicitly ordered within the EU's restrictively envisioned policies on culture.

The third approach, which highlights the fact that cultural policy is a shifting, even volatile phenomenon, subject to different influences, illustrates the complexity that we need to deal with as we navigate the labyrinth of conflicting understandings and interpretations of the role of culture in the European Union.

In other words, the main challenge remains:

- how to define our field of study
- how to identify which instruments to consider as an integral part of European cultural policy
or
- how to identify which factors are relevant for culture in the broader enlargement policy agenda.

Culture: a lack of theory?

A number of authors have explored possible definitions of culture. Notably Bennett, for example, who calls for culture to be regarded primarily as an area of government intervention, akin to health, education and so on, not as a subject for abstract debate (Bennett 1992). He argued for a restrictive definition of culture, which includes a range of 'institutionally conceived processes' which in turn form the main parameters of action in this area, especially those that are characteristic of contemporary societies. These, even if they are not exclusively within a government's competence, in some ways are determined by governments (Bennett 1989).

Similarly, Mercer stressed the importance of leaving aside debates about different interpretations of the term 'culture'. Instead, he advocated focussing on the development and creation of a new methodological framework for studying culture, in which it will not be necessary to create new knowledge, but rather to create new links between existing knowledge and research results in cultural studies, anthropology, political theory, economy, sociology and practical experiences derived from cultural policies. Mercer believes that it is important to connect cultural theory and policy, an approach which is embraced in other policy areas such as social or economic policy, but which has, for various reasons, still not been embraced in cultural policy (Mercer 2002).

Mercer is correct in pointing out that the hitherto inadequate connections between cultural theory and cultural policy are to blame for the fact that research on cultural policies is lagging behind other public policy research (Mercer *ibid*). This must change if we are to avoid a situation where other public policies will have greater influence on culture simply because cultural policies fail to transform and respond to the challenges of modern development.

As the main focus of this study is cultural policy in the context of European enlargement, after reading many studies about European cultural policy a logical question presents itself. Is the lack of a formulated European cultural policy really a result of a profound conviction that there is no need for such a policy, or does it flow from the fact that so many conflicting understandings of the definition, main scope and goals of cultural policy inhibit a consensus on shared goals and, even more importantly, shared policies for achieving those goals? This is why, before proceeding to a possible formulation of common cultural policy, it would first be necessary to assess the compatibility of existing cultural policies and identify all those policy areas in which some sort of coordination would be possible and desirable.

Probably the most relevant source of data for such a comparison of cultural policies in Europe in the past two decades is the Programme of National Cultural Policy Reviews, national reports produced within the Council of Europe.¹¹ Even if this study focusses on the European Union, it is valuable to be reminded of findings derived from this exercise, as they are relevant and illustrative for the debate on European cultural policies.

Another reason for starting with the Council of Europe's reviews is because, for the purpose of this study, I use the definition of cultural policy similar to the one used by the Council of Europe national cultural policy reviews, which includes all public policies and government measures which have a direct or indirect impact on the field of culture and cultural expressions.

The Council of Europe and comparative research of cultural policies

The Council of Europe was the first European organization to take on the responsibility of developing cultural cooperation across the European continent. As early as 1954, member countries adopted the European Cultural Convention, marking the beginning of European cultural cooperation. During the 1960s, a concept of cultural democracy, embraced through numerous initiatives, promoted a model of cultural development based on *animation socio-culturelle*, decentralization, participation and later democratization, as well as intersectorial cooperation.

In Oslo in 1976 the first Council of Europe conference of ministers of culture of the member states was held.¹² By this time most member countries had ministers of culture, and the Council had adopted numerous documents referring to culture.¹³ When, cultural differences notwithstanding, states agree to common rules, they can draw up an international agreement, which may be legally binding, or simply a recommendation. These are often known in international law as standard-setting instruments. Such instruments, adopted within the Council of Europe framework, had helped improve cultural policy-making across Europe and to the setting up of legal standards, which were widely accepted by member states.

For the purposes of this study, however, the Council's most interesting initiative was the European programme of national cultural policy reviews, which started in 1985 and continues to the present. These reviews analyzed the cultural situation in individual countries and helped them to devise cultural strategies. More importantly the project has highlighted some serious methodological, practical and political problems, which have not only made comparative research of cultural policies in Europe difficult, but have also inhibited the development of common cultural policy of the European Union.

The first reports were about France and Sweden, two countries which already had well-developed systems of monitoring cultural policies. For many countries that undertook this exercise in the following years, writing a national report represented the first attempt systematically to describe all cultural sectors and all policies which have direct or indirect impact on culture.¹⁴

Lessons learned

In the extremely valuable study analyzing the results and achievements of the programme, Gordon identified several limitations and obstacles that appeared during this process (Gordon, in Gordon and Mundy 2001). The difficulties which were revealed serve to bolster the argument that it is impossible to imagine a common European cultural policy.

The first problem was understanding the term, 'national'.¹⁵ Several European states with a federal structure of government were unable to define what any national cultural policy might be. Even though this included countries with elaborated cultural policies and long traditions of public support, they did not want to, or could not, participate in this project.

Gordon listed the most important topics of this research as defined by the Council of Europe:

- decentralization
- support for creativity
- cultural identity and diversity
- access and participation
- cultural minorities and fundamental rights
- cultural industries.

He concluded that one of the biggest obstacles to completing these reports was the inability to arrive at an objective assessment of cultural needs. Without universally accepted definitions or indicators, these reports could not give an objective assessment of specific countries' cultural life. They could only attempt to assess the effectiveness of policies based on the criteria of the public authorities which had formulated and implemented them.

Quite apart from the problems of definition (eg of 'national' and 'culture'), we immediately encounter the dilemmas of what can reasonably be included in public policy – much of culture being commercially provided – and the reality that different aspects of cultural policy (whether overtly or by default) are usually located in a variety of different departments of government at national level.
(Gordon, in Gordon and Mundy, [2001])

Gordon pointed to other challenges; the question of whether the concept of national cultural policy was inclusive enough to cover the activities of local and regional authorities; and the challenge of conducting research of both institutional and non-institutional culture, which has been gaining more and more importance in contemporary European societies.

While the national cultural policy reviews continue to be undertaken, debates about some of the main features of this project are also taking place. These include a debate about the possibility of measuring the objective and subjective achievements of cultural policies and the need for the development of indicators to enable quantitative and qualitative comparative analysis of the impact of cultural policies (see d'Angelo and Vespérini 1999).

While the setting up of indicators is an essential step towards achieving 'comparability', that is the capacity to compare cultural policies, there is nevertheless a risk of manipulation, or even far-fetched comparisons, if categories that have already been set up in each country are used as a basis, because the objectives and data collection methods generally differ from country to country, which may seriously affect the results.
(d'Angelo and Vespérini *ibid*)

The above authors nevertheless concluded that the Council of Europe's programme of national cultural policy reviews has contributed to aligning European cultural policies and to developing

a broader understanding of culture, in the sense intended by the European Cultural Convention. They also believed that some positive effects of the programme included awareness-raising and bringing a measure of order to the 'organized chaos' in the cultural sector.

Most recent comparative studies of European cultural policy use the Council of Europe data. The range of obstacles and limitations encountered in its reviews – the definition of culture, defining the scope and goals of state intervention in the cultural field, the term 'national cultural policy', and the lack of reliable indicators – all support the argument that a shared cultural policy at EU level is an impossible vision and that policies about culture have to remain with individual EU member states.

The role of the Council of Europe was recognized explicitly in Article 128 of the Maastricht Treaty. ¹⁶ The European Union opted, however, for a rather conservative approach and ignored one of the most valuable outcomes of the Council of Europe's programme – that is, a broad understanding of cultural policy as a field, which consists of all measures having a direct or indirect impact on culture. In fact, a common, narrow, interpretation of the principle of subsidiarity, has resulted in a situation in which policies and actions concerning culture remain restricted to so-called 'harmless areas', such as cooperation and exchange (Kaufman and Raunig, 2002).

In the following chapters, we will look more closely at how culture is defined and understood within the EU, including whether it is possible to justify the EU's recent separation – in 2004 – of culture and audio-visual sectors between two directorates of the European Commission; culture now comes under Education and Culture and media comes under the Information Society and Media. (How the Commission is going to deal with the digitalization of heritage remains to be decided.) This contrasts with the methodology scope of cultural policy in the Council of Europe's programmes, which has meant that, in that forum, these same European states have taken a much more inclusive view of cultural policy, encompassing audio-visual policy.

This choice of scope, used for the purpose of this study, is therefore closer to the definition of cultural policy used in the Council of Europe reports, rather than the restrictive definition of the European Union's competence in the field of culture.

The work of the Council of Europe is especially important for researching the possible impact of the EU enlargement on cultural policies, because the Council of Europe was in some ways a driving force for involving researchers in broader European debates, long before their countries became candidates or member states of the European Union. As culture has for many years been among the priorities of the Council of Europe, this has spawned close cooperation and many collaborative research projects. At the same time, the fact that culture has not yet figured prominently on the EU agenda has had the consequence of rather modest interest in research, other than in those areas directly covered by the *acquis communautaire*.

The impact of EU enlargement on public policies

A final element in the methodological framework is how to study the impact of the European enlargement on public policies and, in this case, cultural policies. As culture remains mostly outside the *acquis communautaire*, a search for the most appropriate methodology has to start with an overview of methods applied in other policy areas and an assessment of whether those methods can be applied to culture.

Since the signing of the Treaties of Rome in 1957,¹⁷ the European Community has grown and accepted new members.¹⁸ One of the main driving forces for the enlargement was the fact that, with each new member state, the free trade zone, known then as the common market, grew and this created new opportunities for economic development and enhanced trade.

With the 2004 enlargement, the EU now embraces 450 million people and became one of the biggest free trade zones in the world. It is therefore understandable that the primary focus of political interest in each enlargement has been its economic costs and benefits. The most recent wave of enlargement was, however, also regarded as fundamentally important for achieving political stability and completing the political and economic transition that started in central and eastern Europe with the fall of communism in 1989.

Since the beginning of European integration, the idea of building a powerful and competitive single market has always been accompanied with discussions about the political implications of integration. This has included a commitment to a Europe free of war and the conflicts that have hitherto dominated its history, a space governed by the rule of law and respect for human rights. European intellectuals and policy-makers have been discussing other issues, such as how 'to bring Europe closer to its citizens', including reflections on several issues relevant for cultural policy such as European identity, intercultural dialogue and cultural cooperation, mobility of artists and cultural professionals, and so on. While these important issues may have been debated, it is manifestly difficult to assess the practical impact of European integration, or in our case European enlargement, on all these topics and more.

It is relatively easy to establish economic benchmarks, or to demand a degree of harmonization by a particular deadline. However, it is difficult, if not impossible, in advance, to set targets in fields normally reserved for member states, such as cultural policy, especially where priorities and the expectations of the EU were difficult to grasp. The EU's enlargement policy has, not surprisingly, been clear and well articulated in some policy areas and difficult to grasp in others.

The European Union has an extremely complex set of policies towards the countries of central and eastern Europe. It has been pointed out that the enlargement policy is not one specific and articulated policy, nor is it a simple combination of all existing policies, but that it is best described as a multi-level policy with at least two dimensions (Sedelmeier, in Wallace and Wallace [2000]).

The first one is a 'macro' dimension of policy, which aims to determine the general goals and parameters of different policies. The other dimension consists of determining the specific details and contents of these macro policies. In designing this policy, which Sedelmeier called 'mesa policy' – it is necessary to have the active involvement of experts in specific policy fields, who can translate the goals of macro policy into concrete policy measures and instruments.

In order to translate general priorities into concrete policy instruments, it is necessary not only to decide what instruments to apply but also how and when to apply them. This entails an extremely complex process of decision-making that has to simultaneously take into account different policy areas. In other words, this 'macro' policy consists of a series of 'mesa' policies that are in fact defining the content of policies and enabling the monitoring of the results of their application (Sedelmeier in Wallace and Wallace *ibid*).

If we apply this division to our field of interest, it is possible to argue that, in cultural policy, the European Union did not have a clear vision of a 'macro' level of policy which made it impossible to design 'mesa' policies. Numerous studies were undertaken on the impact of the enlargement on a whole range of policies, both in old and new member states,¹⁹ to anticipate positive and negative consequences and eventually to suggest measures that could directly influence their consequences. Even though there has been more intense discussion about cultural aspects of enlargement during the last decade, there have been no studies assessing overall changes in cultural policies occurring as a consequence of enlargement, nor has there been much debate about a specific methodology that could be used for this type of research.

Wallace described five major challenges to research into policy-making processes in the European Union and evoked Puchala's famous article²⁰ about researching European integration (Wallace H, in Wallace and Wallace [2000]).

The first research challenge is to avoid the trap of forming general conclusions by mechanically applying methods arising from the analysis of one sector to all others. Another is to resist the tendency to simplify policies, both at EU and national level, in order to make it easier to compare. The next challenge is to the researchers and their skills; they should not limit themselves to only one research tool but should be prepared to use a range of methods. The fourth possible challenge is to be able to clearly distinguish between research into European integration as a broad phenomenon and research into policy-making within the European Union. The final challenge calls for an ability to assess the vast policy-making process even as it is continuously changing and developing.

Wallace suggested that research into the policy-making process in the European Union could be based on at least three disciplines: international relations, comparative policy and policy analysis (Wallace *ibid*). It is clear that all three fields of study can be applied to research into the impact of enlargement on culture.

The international relations perspective would focus on the history of the EU's involvement in culture; it might also reflect on specific interests and positions that the member states took when they were making important decisions having an impact on culture, such as, for example, the decision to ask for a unanimous vote when making decisions about culture.

Comparative analysis could shed light on changes that were taking place in EU member states as they were joining the Union; comparison of cultural production and consumption; degree of harmonization of legislation, and so on. It could also be useful when assessing the impact of EU funding on national funding programmes and schemes.

Policy analysis would certainly be valuable, both in determining what adjustments should be made but also what new policy instruments should be adopted and what their scope should be (Obuljen 2004b).

Analysis of the policy-making process is particularly interesting if we look at the central and eastern European 'transition' countries which became members of the European Union in 2004. Initial analysis of steps taken before and immediately after enlargement, can help identify to what extent this first phase of the enlargement of the European Union has had an impact on cultural policy. First a word of caution:

The goal of policy analysis is the solution of practical problems. Because of this objective, it cannot recognize the limits of any field established for purposes of analysis. By its nature, it must follow its problems wherever they go. It cannot ignore anything that may be relevant to a solution. To the policy analyst, then, the entire attention span and the whole of the operational domain of political science would only be the beginning. For public policy, vast and complicated as it has become, reaches into every substantive area of life. And to be faithful to his [sic] objective, the policy analyst would soon have to engulf all of social science and a hell of a lot of hard technology to boot. With so extensive a domain of inquiries, the enterprise is bound to be disordered.

(Landau 1977)

Despite the lack of a well-defined methodological framework and taking into account Landau's belief that a certain degree of disorder is acceptable, the next chapters of this study will describe various developments relevant for culture in the European Union. It will also establish links with the current problems of new and future member states of the EU.

The main focus will be on evaluating existing studies, as well as opinions of researchers and policy-makers, and the indication of trends, without attempting to give an exhaustive comparative analysis of cultural policies of the new EU member states and candidate countries. However, this study will also point to the need for further research into the impact of European integration on cultural policies in order to contribute to the future of European cultural policy-making.

Part 2

European Union, culture and cultural policy: the impact of EU enlargement

European Union policy towards culture

It is very difficult, if not impossible, to describe the policy of the European Union towards culture. Some authors, taking a lead from the dominance of the subsidiarity principle in matters of EU cultural policy, maintain that there is no such policy. There are others who have recognized that even though this policy is not explicitly formulated, it exists and has a significant impact on EU member countries.

Commentaries on the EU and culture have defined 'culture' differently. Within the field of culture, Niedobitek included education, science and the cultural sector in the narrow sense (Niedobitek 1997). According to Niedobitek, the cultural sector in the narrow sense included, among other things, legislation on the free movement of goods and services in the cultural sector, authors' rights and copyright, as well as legal instruments related to the audio-visual sector and media. Niedobitek justified his choice of scope of the cultural field by arguing that it is not possible to base a study that deals with public administration, and especially legal aspects, on anything but wider definition of culture. Instead, it is better to stick to the concepts enshrined in the German legal tradition, which defines culture as encompassing education, science and arts. Such a descriptive concept of culture has many advantages because it is legally applicable, and because it is close to what would be included in the field of culture in a common understanding of this term (Niedobitek *ibid*).²¹

Other authors, seeking to define the cultural field relevant for the European Union, such as Smiers – in his study about the article 151 of the Amsterdam Treaty – limited their interest to arts and cultural industries (Smiers 2002a).

It is interesting that in the division of EU policies at an administrative level, there has always been a distinction between cultural and media/audio-visual policy, even though in most member states both are considered to be equally important elements of cultural policies and that, in a majority of states, both come under the aegis of the ministry of culture.

This distinction results from the European Union having identified the audio-visual sector, relatively early on, as one where there is a need for common policy; whereas the field of culture – in the

narrow sense – still remains excluded from harmonization. However, given recent developments and changes in structure of cultural markets, it is very difficult to justify such a division and therefore, for the purpose of this study, it is necessary to treat both aspects as integral elements of European cultural policy.

Besides more technical and methodological questions about what should be considered within the scope of the European Union in the cultural sector, many authors have also looked at perceptions of the role of culture in the process of European integration. Thus, Kaufman and Raunig argued that one of the main characteristics of the cultural policy of the European Union is that it seems to be caught up in a condition of ambiguity, '... in a state informed by inconsistency between grand ambitions on the one hand and a lack of political *pouvoir* on the other, between financial neglect, disinterest and its instrumentalisation as an ideological battlefield' (Kaufman and Raunig, 2002). They suggested that international cultural activities in Europe and beyond have significantly increased, and there is an obvious need to translate the functions that culture should and could take into concrete action in response to current political and social developments within the EU as well as in a global context (Kaufman and Raunig *ibid*).

*This difficult situation is largely due to the fact that culture is bound to a relatively limited legal framework at EU level and a more than modest budget is allocated to it ... Because it is of minor importance and yet ideologically highly charged at the same time, culture is considered a controversial issue – especially when it comes to discussing the division of competencies between the EU and its member states. (Kaufman and Raunig *ibid*)*

Mucica raised a question about cultural policy of the European Union in a similar way, highlighting the fact that the concept of European cultural policy is still considered very controversial:

The idea of a 'European cultural policy' has been advanced in recent years, especially in the context of the growing policy-making role of the European Union. But the concept of a common European cultural policy is a highly controversial one, and a number of critics disagree with the notion, considering that what is indeed needed is 'European cooperation', 'policies for culture in Europe', rather than a 'European cultural policy'. (Mucica 2003)

In 2001, a report of the European Parliament offered very interesting reflections on the current situation and the future of cultural policies. In this report, Ruffolo, a member of the European Parliament, argued that economic prosperity alone, or the single market and single currency, could not have mobilized member states and their citizens for European integration if there had not been a clear political goal behind it (Ruffolo 2001). Such a political union, if it wants to become a real union, has to enable member states to also share some common cultural values beside simple economic interests. Ruffolo suggested that the formulation of European cultural policy would be of

utmost importance, not to foster some new form of homogenization, but rather to design a model affording all member states equal opportunities for the promotion of cultural diversity, in order to achieve the goal of what he called 'unity in diversity':

Such a policy would serve three principal functions. It would be a factor of cohesion making the most of diversities as a richness shared, not as grounds for division. It would be a factor of identity in the world, and identity that is not self-centered and over-protected but open to the world. And, it would be a factor empowering all European citizens to take democratic part in their common destiny. It would be a way, in short, to instill a 'feeling of union'.

(Ruffolo *ibid.*)

In spite of different approaches and significant opposition to the idea of formulating common cultural policy of the European Union, it is possible to claim that a process that began with the explicit introduction of culture in the Maastricht Treaty – adopted in 1992 – will sooner or later result in a certain form of explicitly formulated common European cultural policy.

A brief history of cultural policy-making in the European Community

The first notions of cultural policy were conceived at the time of the Treaty of Rome. While the treaty did not contain any special provisions or chapters relating directly to cultural policy, there was a reference to, 'culture as a factor capable of uniting people and promoting social and economic development'. After its 1973 meeting in Copenhagen, the European Council published a communiqué which highlighted the importance of culture and cultural identity for further integration at the European level.

In 1974, the European Parliament adopted a resolution ²² calling for the protection of common cultural heritage. In fact, the resolution was quite broad and also included the protection of objects of art and cultural monuments, harmonization of legislation in the field of copyright, and harmonization of tax laws relating to culture. In January 1976 the European Commission submitted to the Parliament for the first time a document articulating the need for coordination of cultural activities.²³ By the end of 1977, the Commission published a document, which dealt primarily with existing measures that affected the cultural sector, such as regulations in favour of free circulation of goods, tax regulations or copyright; it also made some suggestions for future action, particularly for protection of architectural heritage and promotion of cultural exchange.²⁴

Niedobitek (see page 29) drew attention to the fact that at this point the Commission justified its involvement in cultural issues because it had redefined the cultural sector as a socio-economic framework, in which people produce and distribute cultural goods. In that sense it was understandable that the Commission focussed on economic and social problems related to the cultural field. Niedobitek questioned whether this in itself could be labeled as a cultural policy, or should rather be explained as a logical consequence of developments in other fields where culture had become an issue of legitimate interest for the Commission (Niedobitek 1997).

In 1976 and 1979,²⁵ the European Parliament adopted two resolutions inviting the Commission to submit formal proposals for the treatment of culture at the Community level.

Up until the present, the European Parliament has remained one of the main advocates of culture at the European level.

In 1982, the first conference of the ministers of culture of the EC adopted a declaration, signed in Stuttgart in 1983 (Kaufman and Raunig, 2002). This invited the ministers responsible for culture to:

- explore possibilities for the promotion of cultural cooperation with special emphasis on audio-visual media
- identify possibilities for cooperation in promoting and protecting cultural heritage
- facilitate contacts between artists and writers in member countries
- work on the promotion of their activities within the Community and beyond
- work on better coordination of cultural activities when cooperating with third countries [by 'third countries, the EU denotes nations which are outside the Union]

From 1984 until 1986 the European Council adopted a number of resolutions on several topics including:

- fighting piracy
- the distribution of European films
- treatment of audio-visual products of European origin
- the resolution establishing the European cultural capital
- networking of libraries
- promoting the participation of youth
- international cultural itineraries
- protection and conservation of heritage
- promoting the translation of literary works

The year 1987 represented another turning point: the European ministers of culture officially established the Council of Ministers of Culture and the ad hoc Commission for Cultural Issues. The European Parliament also adopted another important document, *Initiating cultural activities in the EC*.²⁶ The Directive on *Television without frontiers*²⁷ was first adopted in 1989 and in 1991 the first framework programme for the support of the audio-visual industry, MEDIA I,²⁸ was established. It is worth stressing here that, in the beginning, the audio-visual sector was not part of the *acquis communautaire*. However, the powers of the Community were introduced gradually, some resulting from decisions of the

European Court of Justice, which extended to the audio-visual sector, namely radio, television and cinema. (Pauwels 2003, Ellmeier in Ellmeier and Rasky [1998], Peruško 1999).²⁹

This is why it is important to stress that besides the European Commission, the European Parliament and the national governments, mainly through ministers of culture and the Council of Ministers of Culture, the role of the European Court of Justice was equally important in the establishment and interpretation of the European cultural policy.

In 1992, Article 128 in the Maastricht Treaty – later to become Article 151 in the Treaty of Amsterdam, the first Article explicitly relating to culture. (See Annex 2 for the wording of Article 151).

The Article calls for:

- contributions to the flowering of the cultures of the member states and respect for diversity
- encouragement of cooperation
- support and supplementing of actions of member states
- fostering cooperation with third countries.

The Article also stipulated that the Community should take cultural aspects into account in all its actions under other provisions of the Treaty and that all decisions about culture should be adopted unanimously. This is also the only Article of the Treaty that made specific reference to the audio-visual sector, thus confirming it as an integral part of cultural policy.

Conclusions adopted by the Council of Ministers of Culture in November 1992,³⁰ represented the first authentic interpretation of the inclusion of this Article in the Treaty and include a reference to the Commission's communication on *New prospects for community cultural action*. In 1996, the Commission published the first report³¹ about the cultural aspects of Community activities.

Numerous papers and studies³² after 1992 included analysis and reflections on the importance of the inclusion of Article 128 in the Maastricht Treaty. Cultural communities, European cultural networks and professional organizations supported the inclusion of this Article and, generally speaking, were in favour of the new developments. It was anticipated that it would strengthen the role of culture and contribute to fostering of cultural cooperation without undermining the principle of having culture excluded from harmonization.

Ellmeier analyzed the inclusion of Article 128 in the Maastricht Treaty in the context of complex connections between theoretical debates on the definition and the role of culture, which were mostly taking place within UNESCO and the Council of Europe, and a need to adjust those debates to the new realities of more intense trade in cultural goods and services and the growing importance of this sector in the so-called 'new' economy³³ (Ellmeier, in Ellmeier and Rasky 1998).

Even though the author thought that Article 128 had only confirmed the principle of subsidiarity and explicitly enabled involvement in the field of culture, which in reality already existed, she believed that the inclusion of this Article had contributed to the greater engagement of legal and economic experts in describing the role of culture. Before 1992 those debates had been exclusively the territory of cultural policy and cultural studies theoreticians. In that context, she correctly pointed to the fact that it was only after the inclusion of this Article that the Commission published a document that presented all existing instruments and activities of the Community in the field of culture.³⁴

Niedobitek, however, argued that the importance of Article 128 has been overestimated and that, in fact, it did not bring anything new. Analyzing some directives having an impact on culture, which were adopted before the inclusion of Article 128 in the Maastricht Treaty, he argued that Article 128, and paragraph 4 in particular, did not bring any new competences nor does it limit the ability and the rights of the Community to act in the field of culture.³⁵ According to Niedobitek, the only real contribution of Article 128 towards extending the scope of European institutions on cultural matters was its explicit call to include cultural aspects when making *all* decisions in *all* common institutions. This meant that the competences of the Community were not reduced exclusively to legal measures, but also extended to those instruments of supervision that the Commission adopted in fulfilling its role as the 'guardian of the Treaty'.³⁶

According to Kaufman and Raunig, in a detailed analysis of Article 151 and its significance, the first paragraph at once pointed to a tension between two crucial concepts – an assumed shared history on the one hand, and the cultural diversity of the people now living in Europe on the other (Kaufman and Raunig 2002). The authors interpreted the second paragraph as a new sign of responsibility of the European Union for cultural matters. Smiers arrived at a similar interpretation (Smiers 2002a).

Paragraph 3 calls for enhanced cooperation with third countries (countries outside the Union) and international organizations; Kaufman and Raunig judged it to be an important step forward, but with some reservation, because artists and cultural operators in third countries do not have to abide by the same legal and financial preconditions for successful implementation of whatever is the subject of exchange and cooperation. In that context, this paragraph should have enabled the Commission to take a more proactive position and to have opened up different cooperation programmes to the candidate countries, to other member countries of the Council of Europe and also to countries in the Euro-Mediterranean partnership.

At the 2004 Congress of the Academy of European Law, Crawford Smith discussed the role and interpretation of Article 151, analyzing primarily the jurisprudence of the European Court of Justice. She assessed the legal value of the Article from different viewpoints. Although she recognized the importance of including a specific article about culture in the Treaty she drew attention to the lack of a clear definition of culture, which means that the courts have had to interpret its meaning in individual cases.

It is difficult for courts to interpret existing rules, however, if policy-makers have no consensus on culture's remit, interpreted through some sort of European Union regulatory framework. When the conceptual boundaries of culture are being left for courts to decide, the question is which definition is going to prevail: the often confusing 'cultural' aspects or those derived from well-established policy fields relying on elaborate regulatory systems? It is no surprise that, so far, most of the cases that involved cultural aspects have included a conflict between so-called 'cultural interests' and requests for respect of existing rules and regulations. Parties in such cases might be arguing, for example, about whether or not a 'cultural interest' is present which, if it is indeed present, makes it possible not to apply conventional EU laws of, say competition or state aid.

During 1996 and 1997, three new programmes aimed at financing culture were introduced, namely Kaléidoscope, Ariane and Raphaël, as well as a new framework programme, MEDIA II. The Amsterdam Treaty, adopted in 1997, brought no new developments regulating the position of culture. After Amsterdam, and as a consequence of interest of the EU member states on exploring social problems in the Union, the European Commission published a document, *Culture, cultural industries and employment*, which discusses the socio-economic impact of cultural activities in opening new employment possibilities. In 1998, the first cultural forum of the EU brought together cultural administrators and the programme *Culture 2000* was conceived.³⁷

Another example of how cultural and audio-visual policies are linked with other policies was the *Protocol on the system of public service broadcasting* that was annexed to the Treaty of Amsterdam in 1997. This confirmed how much the member states valued the role of public service broadcasting, which is linked to the democratic, social and cultural needs of each society. It also confirmed the need to safeguard plurality in the mass media and to ensure that each member state had a right to define the remit of public service broadcasting in its jurisdiction and to provide funding.

Behind these principles was an attempt to reconcile two conflicting goals. On the one hand, there was the objective of individual member states being entitled to set the public service broadcasting remit that best suits their needs, history and their particular cultural and democratic forms. On the other hand, states needed to conform to the competition laws of the Union, which sought to ensure a space where both commercial and public service broadcasters would be able to operate.

It is worth ending this brief overview of culture at the EU level, with the closing words of the *Report on cultural cooperation in the European Union*, also known as the Ruffolo Report. This report represented an important moment in debates about the role of culture and cultural policies in the European Union:

It is time that the EU replaces numerous declarations about the importance of culture with taking some concrete responsibilities.

(Ruffolo 2001)

In spring 2005 two founding members of the European Union – France and The Netherlands – voted against the proposed Constitutional Treaty, thus provoking, or rather making even more visible, a crisis in current reflections on the future of the European Union. Even though the Draft Constitution was not supposed to bring any radical changes in the treatment of culture,³⁸ it certainly represented a step forward in making the European Union a stronger political entity and also making the structure of Europe easier to understand, with the legal integration of the European Union and the European Communities.

In relation to culture, the Draft Constitution sought to reaffirm the exclusion of any harmonization of laws and regulations of member states,³⁹ but also put an obligation on the European Council – the highest body of the European Union – to act unanimously for the negotiation and conclusion of agreements in the field of trade in cultural and audio-visual services where there might be a risk of prejudicing the Union's cultural and linguistic diversity.⁴⁰

In a way, treatment of culture in the Draft Constitution was only confirming an approach that has dominated cultural policy-making process in the European Union for several decades and that is the concept of *l'exception culturelle*. Even though this term has been used primarily to describe European policy of excluding culture from the international trade negotiations,⁴¹ it is possible to claim that the same logic of excluding culture from 'other rules' was applied internally within the EU.

Although the concept of *l'exception culturelle*⁴² was not conceived as an integral part of the European Union's policies, nor was it part of the EU's formal agenda during the enlargement, it influenced the position of culture in that process. The fact that culture was only marginally present in the EU Treaty and the *acquis communautaire*, did not provide a foundation for including culture on the agenda.

The question remains: could the European Constitution have gone beyond the current wording of Article 151, as proposed in the Ruffolo Report, to forge a new legal framework, in which concern for the future of culture was translated into more concrete language, including obligations on member states to respect and promote culture and cultural diversity?⁴³

Cultural issues in the process of EU enlargement

The background to the 2004 enlargement

The most recent EU enlargement, bringing into the Union in May 2004 ten new member states, was certainly one of the most important moments in the history of the European Union. It was politically more sensitive than any enlargement before, not only because of the large number of countries simultaneously joining the Union, but also because this meant opening the door for post-socialist countries and leaving behind the historic division between East and West that had dominated the continent during the second half of the last century. The enlargement took place at the same time as some very important reforms within the Union itself, including the introduction of a single currency for most members and negotiations about the future constitution.

Suteu's article about the importance of a cultural approach towards the accession process opened with a quote from the Polish historian Draus, who had pointed out that eastern and western Europe had different perceptions of the accession process (Suteu 2002).⁴⁴ Whereas in the West, concern was directed mainly towards the technical complexity of the process to be engaged, in the East people gave it more of a meaning of an, 'historical act of justice... an acknowledgement of moral duty toward people who went through half a century of communist regimes' (Draus 2001).

Suteu further analyzed the dual nature of this process, on one side a technical EU enlargement and on the other a concept that she called 'cultural Europe'. She raises a question of the average EU citizen's awareness of the enlargement process and their attitude towards it. In 2005, a year after the accession of the ten new member states and a few months after the rejection of the Draft Constitution by the citizens of France and The Netherlands, it is evident that, while the technical aspects of the enlargement might be steadily progressing towards more functional integration, the political and cultural aspects of the process are still difficult to assess.

I am focussing more on the technical aspects of the process as Suteu termed them. It is important to acknowledge, nevertheless, that any real assessment of results of the so-called technical aspects of the accession will be evaluated mainly by scrutinizing what impact the enlargement might have had, politically and in a broader cultural sense, not only on the member states – both old and new – but also on cultural communication and cooperation with those European countries that remain outside the Union.

The 2004 enlargement included eight post-socialist countries, whose economies and political systems are in transition. Another two countries of this kind – Bulgaria and Romania – are now finalizing negotiations and will soon become full members. Croatia officially became a candidate for entry in 2004, and began negotiations for full membership in autumn 2005 at the same time as Turkey. This is a large number of countries that are simultaneously going through major reforms. It will be interesting in the future to compare their strategies and achievements and to evaluate the success of their reforms.

Concerns about entry

Despite their differences and individual features, all these countries embarked on the road towards the EU with similar goals and expectations. Initially, most citizens looked at this process with great enthusiasm. But, as the process continued, they weighed up what they saw as the costs and benefits of integration; preliminary assessments and the concrete results began to change people's general attitudes.

Mucica's discussion of the impact and results of the enlargement asked:

How can existing or future structures and policies best address the issues of enlargement towards the East, while retaining a pan-European perspective? How can enlargement promote and protect national cultural identities as well as cultural diversity, whilst promoting a European identity? Does enlargement offer broader access to diverse cultural products and cultural services, as well as means of production and distribution? Or will enlargement have another form of a homogenizing effect on the culture of European countries?
(Mucica 2003)

In the light of my earlier exploration of the lack of definition of culture and cultural policy, it is arguable that many of these questions remain unanswered precisely as a result of that lack. As there were no targets or elaborated strategies, there were no benchmarks from which to evaluate the results. An overview of the negotiating position of the candidate countries presented by the national teams before the beginning of negotiations included only technical aspects of harmonizing with the *acquis communautaire* and preparation for participation in community programmes; there was no reference to broader targets.

While enlargement negotiations were going on, debates about its cultural impact explored much broader topics and included discussions about national identity, the position of national cultures in the common European space, cultural cooperation within the EU and beyond, and other issues

such as linguistic diversity, social cohesion, cultural diversity, intercultural communication and dialogue.

However, as many of these topics were not tied to any regulatory measures at EU level, other than some funding schemes aimed at enhancing some specific areas, the actual impact of the enlargement on those broader topics was not explored and the so-called technical aspect of the enlargement was focussed on the *acquis communautaire* and its 31 chapters. Beginning negotiations meant opening all chapters.⁴⁵ As soon as candidate countries met the requested criteria, individual chapters were closed. Chapter 20 of the *acquis communautaire* covered culture and audio-visual and it was necessary to harmonize legislation with the Directive on *Television without frontiers*. Even though *Culture 2000* and MEDIA Plus also fall within this chapter, those two programmes were not topics for negotiations.

The entry process

Before deciding on whether to grant a country the status of candidate for membership of the Union and starting negotiations with that country, the Commission had evaluated each country's level of development. One step in that process was a questionnaire, which examined all sectors and public policies. The analysis of the questionnaire's responses about cultural policy highlighted those elements in which there was a need for harmonization or another form of cooperation at the European level.

For Croatia, for example, the questionnaire had 30 questions on culture and audio-visual policy. Some dealt with the legal framework and existing legislation in the field of broadcasting; the bodies responsible for the audio-visual and regulating broadcasting; information about licence fees and financing of radio and TV broadcasters; protection of minors; the right to respond, and so on. Other questions covered the systems of support for artistic creation; innovative cultural projects; professional training of artists and cultural cooperation. There were questions about books: support for books and translations; legislation on book prices.

The questionnaire to Croatia also asked about conditions for sale and movement of cultural goods and services; legislation for protecting cultural heritage and about the legal framework for lending rights to different aspects of cultural heritage (such as digitalization of artistic collections). Finally, there was a question about gathering of statistics in the cultural sector and the level of their harmonization with European standards.

The scope of the European Commission's questionnaire pointed to areas about which the EU was concerned. It has greatly influenced the scope of this study. The questionnaire served to identify where Croatia's cultural policy might fall within the EU competence, either directly under the *acquis communautaire's* Chapter 20 or through harmonization of regulations in other areas.

Although this study did not set out to assess the impact of Community funding programmes,⁴⁶ they are the most visible evidence of the EU's approach to culture and were widely discussed during the enlargement process. This was particularly relevant because

while enlargement negotiations were in progress, there were some changes to the Community programmes, aimed at making it easier to take part in them. In the *Agenda 2000* the Commission noted that the participation of the countries of central and eastern Europe in programmes for the implementation of the *acquis communautaire* would provide, 'a useful preparation for accession in familiarizing the candidate countries and their citizens with the Union's policies and working methods', and enhance their ability to apply the *acquis communautaire* and not just to incorporate it into national law.⁴⁷

Besides the MEDIA and *Culture 2000* programmes, cultural projects can be financed from several other Community programmes⁴⁸ as well as from pre-accession funds.⁴⁹ In his study of structural funds, enlargement and the cultural sector, Mercouris notes that the structural funds represented an important source for financing culture in the EU member states. However, when he completed his study in 2002, with the exception of Bulgaria and Romania, candidate countries were not making use of the cultural components of the structural funds through PHARE, ISPA and SAPARD (Mercouris 2002).

Culture in the EU Treaty and *acquis communautaire*

Culture can be found in only a few articles of the EU Treaty. Article 3 refers to general support for the promotion of culture and education, Article 5 explains the principle of subsidiarity and Article 30 refers to the free circulation of cultural products. Article 87.3.b, which highlights the importance of culture in the context of state aid regulations, provides an exception from these rules about aid to states in cases where aid is granted to promote culture and heritage conservation. This only applies where such aid does not significantly affect trading conditions and competition in the Community, or as Article 87 puts it, 'to an extent contrary to the common interest'.

Article 151 is certainly the most important reference point for culture in the Treaty.⁵⁰

However, given our understanding of the broader scope of cultural policy, which includes any policies that have an impact on culture, there are many more provisions in the Treaty and many parts of the *acquis communautaire*, which should be taken into consideration. Articles 23, 24, 39 and 55 of the Treaty refer to the free circulation of goods and services and the free movement of people within the Union. Article 30 limits free circulation of goods when it concerns the import, export or transit of cultural goods of special artistic, historic or archaeological value. In 1992, the Council of the European Union adopted the directive on the export of cultural goods⁵¹ that was amended by two directives adopted in 1996 and 2001.⁵²

Besides the *Television without frontiers* Directive, the *Protocol on the system of public service broadcasting* and the MEDIA programmes discussed earlier, there are several other instruments relevant for European audio-visual policy. During the 1980s, the European Council adopted resolutions concerning the development of a European audio-visual production industry, measures to combat audio-visual piracy and the harmonization of the rules on the distribution of films by the various media. In the mid-1980s, the Commission also introduced various initiatives intended to open up the audio-visual market to competition and to promote high-definition television.

It was in 1986, with the proposal for a European Council directive on broadcasting activities ⁵³ that the first real reference was made to a 'Community audio-visual policy', involving in particular, Directive 86/529/EEC on the adoption of common technical specifications of the MAC/packet family of standards for direct satellite television broadcasting, and encouragement for the establishment of a European television channel.

The EU audio-visual policy, which included regulations on cultural aspects of audio-visual media, as well as rules and requirements regarding technical standards, mainly dealt with economic aspects of the audio-visual industry and aligned these rules with the principles of competition and free movement within the single market. ⁵⁴ The main goal was to create a single market for production and distribution in the audio-visual sector and freedom of television transmission, while at the same time maintaining the responsibilities of the member states over the organizing, financing and programming content.

The EU's MEDIA programme was the second strand of the European audio-visual policy and participation in this programme by candidate countries depended on how far they had succeeded in bringing their legislation into line with European standards. The programme aimed to help the European film and television production industry become more competitive and better equipped to meet the ever-increasing needs of television channels.

Tax and copyright

Another area of interest for researchers of cultural policy has been taxation regulations and particularly value-added tax (VAT). Annex H of the Directive, adopted in 1997, permits one or two reduced rates of VAT that should not be lower than 5 per cent for goods and services which have social or cultural purposes. In principle, cultural goods and services have been subject to VAT, but the Union has allowed member states to have a lower or zero rate on books, magazines, cinema tickets, broadcasting signals, as well as certain artistic services. ⁵⁵ Resale of cultural goods, antiques and objects from artistic collections has been regulated by legislation on double taxation.

The European Union has also adopted numerous regulations for the harmonization of copyright laws. The directive adopted in October 1993 included certain copyright measures, 'neighbouring rights' and provisions dealing with protection of rights for literary, artistic or audio-visual works. The European Union has also regulated lending rights and other aspects of intellectual property

rights.⁵⁶ Since the mid-1990s, the European Council has adopted or amended several directives, and, in recent years, the EU has put a special emphasis on copyright in the 'information society', trying to formulate legislation which can cope with technological development and convergence, such as the use of television material on the internet.

Competition and mergers

The compatibility of cultural policy with the competition rules has been a further issue. One of the often-quoted instruments, the *Resolution on the application of national fixed book-price system*, which has been in effect since 2001, has aimed to exclude books from the general competition policy and single-market regulations.⁵⁷ Although the fixed book-price regulations fall under the exclusive aegis of member states, there have been several cases where the Commission has intervened in pricing agreements for cross-border sales, made between 'undertakings' – enterprises – in the same language area. Special treatment has also been applied for the audio-visual sector, which was confirmed by the resolution on subsidies for films and the audio-visual industry, highlighting the importance of public funding of cultural industries to promote and preserve cultural diversity.

Finally, mergers and acquisitions, which can have a direct impact on the diversity of cultural expressions within the internal market; this is especially important in the audio-visual media, including the music industry. The European Commission has been assessing the possible impact of these mergers and acquisitions both before and after the merger takes place. Regulations about mergers and acquisitions have changed since 1989 and certain space for the respect of the specificity of culture has been reserved. In practice, however, Commission decisions have not seemed to take this specificity into account.⁵⁸

The impact of EU enlargement: results of the survey of researchers and policy-makers

To understand the status of cultural policies in the EU before negotiations for the enlargement that took place in 2004, during the negotiations for that event, and immediately after it, I have analyzed resources which were available. I also undertook a survey, to find out if researchers' and policy-makers' perceptions corresponded to the findings which I had drawn from reviewing the literature.

Methodology

Countries selected for this survey included eight of the ten countries which became new members in 2004,⁵⁹ two candidate countries, which have almost completed negotiations,⁶⁰ and Croatia. Croatia had not yet started negotiations at the time of my survey but had completed most of the preparatory work. It had also made some significant changes in its legislation to come into line with the *acquis communautaire*.

Given the methodological confusion which I have outlined, several resources were used to look at the impact of the enlargement on culture and cultural policies. These included reports about the process of the enlargement, progress reports and first assessments of the results published on the website of the European Commission, information gathered through the *Compendium of cultural policies and trends in Europe*,⁶¹ studies about specific policy fields or the EU cultural policy in general⁶² as well as the responses to my questionnaire.

Progress reports on the enlargement

These offered information about progress made in harmonizing legislation with the *acquis communautaire*, including some general data about Community programmes and funds.⁶³

This included information about Chapter 20 of the *acquis communautaire* on culture and audio-visual policy, as well as chapters on taxation, statistics, intellectual property rights, competition policy and the free movement of goods and persons.

Compendium of cultural policies and trends in Europe

This was an extremely useful source for information about the changes resulting from the enlargement.⁶⁴ Even though it offered rather general information, it was valuable because it used the same methodology to monitor cultural policies in all countries covered by this project; it also documented the most important trends, including updates on legislation, cultural policy priorities and orientation. Although the Compendium did not refer specifically to legal documents or policy recommendations originating from the European Union, it still contained much information about the process of harmonization as well as reflections of the authors of country profiles about current changes in their respective countries.

Questionnaire

Following the initial analysis of available data and literature, a questionnaire was designed and circulated.⁶⁵ The objectives were first, to provide a basis for comparative analysis to test or confirm trends and changes occurring in cultural policies as a consequence of the EU enlargement observed through existing resources. The second aim was to gather opinions from individuals who were either directly involved in the process of accession or knowledgeable about the issues.

I wanted to see if the policies identified in the initial research as having had an impact on culture were perceived as such by experts and policy-makers, and also to find out which issues they considered pertinent and which they did not see as relevant. Another aim was to canvas whether so far – in other words since enlargement – there have been any significant changes in cultural policies which connect with other policies identified as having possible impact on culture. The questionnaire consisted of two types of questions, some of which requested a personal assessment by the respondents and some of which requested specific data.

Initially, one of the ideas of this research was to include a comparison of cultural policies of new member countries with those of old member countries. The point of this was to see if enlargement in 2004 had had more or less of an impact on cultural policies, when compared with 1995 enlargement. However, such a comparison is not feasible: first, because the European Union is constantly changing⁶⁶ and secondly, because in the new member countries major reforms in other social and economic spheres are ongoing or anticipated. Thus, analysis based solely on cultural policies could be misleading.

The questionnaire sample

Those selected to receive the questionnaire were chosen either because of their institutional affiliation (individuals responsible for legal affairs, European affairs or cultural policy at ministries of culture) or based on their research, writing and academic references. The main criteria for selection included individual's knowledge of European issues and expertise in cultural policy (preferably not exclusively specialized in one specific policy field), either as policy-makers or researchers. The questionnaire was sent to 18 respondents in ten countries.⁶⁷ Of these, 11 responded within a period of one month and it is on their data that the findings are based.⁶⁸

These specific criteria limited the number of possible respondents to a very small sample, but it was more important to get responses from those individuals who have an insight into broader cultural policy debates in their countries than to have a large number of respondents that might have been able to answer only some of the questions. It would have been interesting to compare answers received from different respondents from the same country in order to see which questions provoked the most divergent answers. The small sample size however, did not permit any such generalizations, and therefore some differences are being referred to simply to suggest those divergences without drawing any definite conclusions.

From the outset, I intended to analyze the results of the questionnaire alongside the literature review. Preliminary conclusions gathered from the latter were tested against the data gathered through the questionnaire.

General assessment

The results of the questionnaire indicated some possible trends on a selected list of issues – the aim being to point to areas where cultural policies have already been affected by enlargement or might be so in the future.

It is also important to stress that it is still too early for an in-depth analysis of the consequences of the accession.⁶⁹ The last progress reports for the audio-visual sector, released before the 2004 enlargement, stressed that, while there were no major obstacles in harmonizing legislation, there was still much to be done to ensure adequate implementation and monitoring.⁷⁰ In the progress reports Commission stated that efforts were gradually moving from legislative alignment to implementation of the *acquis communautaire*. The Commission monitors this implementation process and pays particular attention to the development of what the Commission refers to as 'a suitable administrative and judicial capacity'.

Gradual development and introduction of new measures of media policy were also partly inspired by the jurisprudence and rulings of the European courts. Similarly, changes happening as a consequence of enforcing regulations in other policy fields, such as for example competition rules, are also evolving and it is only after enforcement and implementation of the *acquis communautaire* that it will be possible to monitor and assess properly the possible impact on culture and cultural policies.

The questionnaire results

The first part of the questionnaire aimed to gather information about respondents' overall assessment of the impact of the enlargement.

The first question asked, 'How do you assess the impact of the EU enlargement on cultural policies?' (An accompanying letter explained the context of the questionnaire.)

This required individual assessment, as it was clear that there was no data or surveys to inform their responses. The responses were quite varied. Most of the respondents thought that the impact of the EU enlargement on cultural policies was rather important; some believed that it was very important; two respondents believed that it was not important.

This range of responses underlines the complexity of the state of European cultural policy, described in earlier chapters. Respondents' views depended on whether they believe there was a cultural component to the enlargement. It is evident that in the first period after the accession, changes in cultural policy were not so important, or at least were not yet visible.

The second question asked respondents whether, '... the cultural policies of your country been reformed as a consequence of the accession to the EU to a greater or lesser extent than other public policies?'

As anticipated, respondents said almost unanimously that cultural policies had been reformed to a lesser extent than other public policies. One respondent commented that the concept, 'other public policies' was too broad and prevented them from answering.

The next two questions asked if, 'cultural workers and artists' [in the respondent's country had been] 'mostly in favour, indifferent to or against the accession?'; and whether there had, 'been debates and discussions among artists and cultural workers about the impact of the accession on culture?'. If there had indeed been debates, the questionnaire asked, 'around which topics did they focus?'

The answers showed some interesting discrepancies. Most respondents thought that, in general, cultural workers and artists in their respective countries had been in favour of the accession. At the same time, most believed that cultural workers and artists had not been adequately informed about the impact of the accession on cultural policies.

'I don't think that cultural workers and artists have been adequately informed about the possible positive and negative impacts of accession on cultural policies in my country. However some action was taken to inform and prepare cultural workers for the new situation after accession...'

(Poland)

'I believe that cultural operators have been informed by means of publications in all kinds of media, seminars, conferences and public discussions. However this information is usually targeted at giving clear information about EU cultural policy, Latvia's role, obligations and rights as EU member-state in EU cultural forum, development of Latvia's and EU cultural policies. This information includes also aspects of accession impact. Specific information about positive and negative impacts of accession has been delivered at the time of accession and before accession to EU.'

(Latvia)

'The cultural sector did not undergo any significant reform since 1989 and, therefore, it is hardly possible to talk about cultural policy here. Consequently, our cultural workers and artists are almost completely occupied with the catastrophic national situation and the necessity to survive, so the impact of EU accession on the cultural policies was not an issue at all.'

(Slovakia)

'I do not believe that anybody seriously analyzed all the impacts. The analyses had been, according to my knowledge, concentrated on the legislative aspects of the accession/harmonization.'

(Slovakia)

'The impacts of the EU enlargement on national cultural policy are, I believe, mostly indirect and in the long run very important. However, the direct and immediate consequences are very hard to grasp. The debate that there was on the EU enlargement did not concern much with cultural policies and the closest it came to that issue was when issues related to national identity were discussed.'

(Estonia)

'Ironically, yes. Since even senior administrators and experts have no consensual views about the impacts of accession on cultural policies, various information they provided was adequate to their level of knowledge.'

(Hungary)

The overwhelming support by cultural workers and artists for the accession to the EU, even though they may not have been well-informed about what it might bring, has to be seen in the light

of the background presented earlier about how culture is defined and people's understanding of the scope of European Union policy towards culture. How is it possible to be adequately informed about something that cannot be defined? It raises a further question: what should have been included in the information about the cultural context of the enlargement?

The question which asked whether there had been debates about the impact of accession on culture, also itemized five specific topics; the respondents were asked to indicate if these had been debated during the period of negotiations. The aim of the list was to find out what was really perceived as being relevant to cultural policy during and after enlargement:

- harmonization with the *acquis communautaire*
- new opportunities for financing
- preservation of cultural identity
- mobility of artists
- cultural cooperation.

Preservation of cultural identity and the issue of financing came top: all the respondents said that these issues had been discussed among cultural workers and artists in their countries. Harmonization with the *acquis communautaire*, mobility of artists and new opportunities for cultural cooperation were also discussed in most of the countries, but not in all. Other topics which have been debated in the process of negotiations, included: language and minority policies (Estonia) and preservation of cultural heritage (Lithuania).

One of the respondents stressed that, *'the discussions were only led on a very general level and in an atmosphere of enthusiasm rather than fear'*.

Harmonization with the *acquis communautaire*

The second part of the questionnaire focussed on the impact of the harmonization with the *acquis communautaire* and the impact of changes in other policy fields on culture. Progress reports by the European Commission about the process of negotiations gave exhaustive information about harmonization of legislation in the field of audio-visual policy and intellectual property rights, these being usually perceived as the only areas relevant for culture. My research aimed to discover how researchers and officials of the ministries of culture assessed the process of harmonization, particularly in those fields that might have more indirect effect on cultural policies. I also wanted to explore whether they saw a link between the accession process and other reforms taking place in their countries. **71**

Audio-visual policy

The first question requested information about, 'problems or obstacles in harmonizing legislation with Chapter 20 (culture and audio-visual) of the Acquis?'.⁷² The main focus of Chapter 20 was on bringing legislation into line with the Directive on *Television without frontiers*. Because it figured rather prominently on the EU agenda and because audio-visual policy was articulated as a common European policy, all accession countries agreed to make the necessary adjustments and to align their media legislation with this Directive before joining the Union.

Although all countries had needed considerable reforms to adjust their audio-visual policies to the requirements, by a small majority, most respondents reported that their countries had not experienced major problems in harmonizing their legislation with Chapter 20. Several respondents stated that, as a consequence of this process, audio-visual and media policy had become fully integrated within cultural policy, which was not the case before: '*The main unusual thing was the work with the audio-visual policy that has never been the responsibility of the Ministry of Culture before*'.

The Commission, in its regular progress reports for all accession countries, monitors the ability of the candidate countries to implement and strengthen administrative capacities in culture and the audio-visual sector. It was interesting to note that even the final reports before accession emphasized the need for legislative changes to be consolidated and for continuing work on improving the transparency and efficiency of newly established structures, including regulatory bodies.⁷³

With audio-visual policies in particular, countries not only had to harmonize their legislation to meet EU conditions, but also had to comply with some instruments – regulations, declarations, recommendations, and so on – adopted by the Council of Europe.⁷⁴ Mucica pointed to the difficulty of distinguishing between changes brought about by enlargement of the EU and those due to other influences, such as having to comply with other internationally binding laws and regulations. Other influences towards change might include the transition to democracy and a market economy.⁷⁵

Obstacles quoted by some respondents included challenges to introducing and implementing quota systems in favour of European audio-visual works as well as some aspects of enforcing media regulation, in particular on advertising in Hungary. This was regarded more as a technical issue which had little to do with cultural policy *per se*.

The Romanian example shows that some commitments undertaken under the GATS⁷⁶ prior to the beginning of Romanian negotiations with the EU prevented Romania from participating in the MEDIA II and Media Plus Programmes.

'Eventually, a solution was found, so that current audio-visual legislation states that harmonization with Television without frontiers Directive (Art. 5 and 6) shall be effective no later than 1 January 2007, the expected date of accession of Romania.'
(Romania)

The European Commission carefully monitored the negotiations of future candidate countries when they were joining the World Trade Organization (WTO), as well as when they were negotiating other free trade agreements,⁷⁷ in order to make sure that the special treatment of audio-visual services, as defended within the WTO by the European Commission, was respected by potential members of the EU. However, discussion about the impact of the liberalization of trade, particularly in the audio-visual sector, although it has slowly spread to the countries of central and eastern Europe, has not yet emerged as a priority, and countries are very slowly introducing measures whose aim is to intervene in their cultural markets.

Taxation policy

The questionnaire asked three questions seeking information about changes to tax systems – both the VAT and general tax rules – and the effect this might have had on cultural policies.

Taxation is one of the clearest instances of another policy field, having an impact on culture. For this reason, negotiations about special treatment for specific goods or services have been more transparent and the need for the cultural community to get involved has been quite obvious.

When the European Union originally set out its regulations for harmonization of VAT rates, it permitted member countries time to adjust to the new tax regime. The transition countries, however, had to adopt most of these regulations before joining the EU. During negotiations, it was theoretically possible to negotiate some special provisions or delays in applying certain rules, but because most countries do not consider culture as a priority, not surprisingly, few of them made special requests for culture, at the expense of other sectors, usually considered to be 'more important'. It was interesting to note that Poland⁷⁸ was the only country which managed to maintain zero VAT for books. Generally speaking, when joining the Union, transition countries had little scope to ask for reduced or zero VAT rates for cultural goods and services.⁷⁹

The *Compendium of cultural policies and trends in Europe* offered updated information about tax systems, including comparative tables giving an overview of tax rates and regulations in various

countries (ERICarts/Council of Europe 2005). Responses to the questionnaire corresponded to information in the Compendium. A study about the mobility of artists has given a very good analysis of the tax systems and explained the relevance of tax policy (Audéoud, 2002). Audéoud pointed to a paradox, in which most of the barriers and incentives to mobility, such as employment policy, tax policy, and social security, are controlled by policies at EU level. Yet because of the hitherto accepted principle that cultural policy is not something to be harmonized, all rules for improving artists' opportunities for mobility have to be promulgated at the level of member states.

Value added tax (VAT)

Responses to the questions about the impact of changes in tax policies were quite varied. In all countries VAT rates have been changed during the process of accession, but only half the respondents reported changes in other areas of taxation policy. One of the visible consequences in several countries was the change of the VAT rate for books and some other cultural goods that increased their prices.

In assessing the impact of VAT changes, it is interesting to note that those respondents who reported that there had been no impact or that the impact could be regarded as positive, did not provide examples to illustrate any positive effects. On the other hand, those who believed that there had indeed been a negative impact or that the changes had had both positive and negative aspects, included some examples:

'Negative! The VAT on CDs and videocassettes was raised from 8.5 per cent to 20 per cent as audio-visuals are not included in the annex H of the 6th Directive on VAT which permits the reduced rate of VAT.'
(Slovenia).

*'VAT exemption is applied to culture... [including]:
Services connected with videos, advertising and promotional films;
Services connected with projecting films, videos tapes and on other data carriers;
Admittances on concerts, shows and performances;
Publishing services; Authors are taxed with 7 per cent or 22 per cent rate might be exempt from taxes, if only their incomes by virtue of copyrights don't overrun an equivalence of 10.000 Euro.'*
(Poland)

'Changes in the VAT system were independent of the accession. Incentives to investing in film-making and lowering VAT on books were greeted positively by the affected circles. Abolition of the possibility to withdraw VAT after payments made from public subsidy was a heavy blow and cultural operations are suffering and complaining. Their subsidies became worth 20 per cent less from January 2004.'
(Hungary)

In regard to other taxes, opinions were split: approximately half responded that there had been no significant changes in tax rules, and half said that there had been some important changes relating to culture. It is also important to note that this was not necessarily linked with the harmonization with the *acquis communautaire*; it could be better described as a consequence of policy transfer (see footnote 8). This means that the rule changes have not been imposed by the EU but rather have resulted from a country having decided to follow the majority thinking in Europe, even when it has meant changing some practices specific to the society.

In this context, it is worth mentioning two examples where a flat rate of tax was introduced. Romania has a flat tax rate of 16 per cent on incomes and on goods; Slovakia of 19 per cent.

'Slovakia is a special case in terms of tax policy. Since 2004 we have a completely new tax system based on the flat tax principle (all tax rates unified on certain level – in our case it is 19 per cent), which is rather unique in Europe. It was adopted by the current right-wing government and is not highly appreciated by EU.

a) equal tax rate (19 per cent) for all personal and corporate tax income groups

b) all tax deduction were in general abolished (included for arts)

c) there exists a new possibility for support from public sources: all taxpayers have the right to order the tax administration to assign 2 per cent from their personal income tax or corporate tax for social benefit purposes (included for arts)

This reform had [a] very negative impact on cultural sector, since none of the cultural products were exempted from the 19 per cent VAT and also the income tax has become a problem, since it has lowered artists' incomes and complicated employment in artistic sector.'

(Slovakia)

Some other tax rule changes that had a negative impact on taxation of the artists' income included the Slovenian example:

'From January 2005, authors lost their rights to a 40 per cent income tax deduction on material expenses. This deduction has been reduced to 10 per cent. Self-employed persons in the field of culture continue to have the right to deduct 40 per cent from their income tax base, if they earn less than 5 million SIT. If they exceed this amount, they must provide accounts and receipts to justify the actual costs. However, these changes are not consequences of the harmonization with the acquis communautaire however, this decision by Slovenian authority was inspired by practice of other European states that usually do not have any special provisions for authors.'

(Slovenia)

As reported in the Compendium, the tax reform introduced in Slovenia brought a confrontation between two different views (2005 edition; Country Profile: Slovenia). The Ministry of Finance stressed the significance of a neutral fiscal policy and opposed any exceptions, while the Ministry of Culture argued that fiscal policy is an irreplaceable instrument of contemporary cultural policy. The view of the Ministry of Finance prevailed, so the tax deductions for culture were reduced.

Competition policy and state aid

'Have there been any changes in cultural policy as a consequence of strengthening the competition rules and/or rules regarding state aid?'. Most replies to this question were that there had not.

Competition policy, another part of the *acquis communautaire*, has been having a profound impact on culture, especially in media and the audio-visual sector and in book policies. The Directive on *Television without frontiers* attempted, in some of its sections, to exempt the audio-visual field from competition policy. The same was the case with the Resolution on fixed book price, which has, at least in principle, gone against the logic of competition policy.⁸⁰

The introduction of these rules can be looked at from different angles. On the one hand, they have meant aligning rules and legislation with the European standards, on the other hand they signalled to the cultural sector that it must bow to the market and that policies such as simple subsidies and state support were inadequate for regulating the new cultural markets. Once again, because of the lack of common policy, other than these two measures and the earlier mentioned resolution on subsidies for film and audio-visual industry, and because culture is theoretically exempt from harmonization, countries in transition were left to decide what adjustments were needed to provide their cultural producers with the same environment as their 'old' EU member counterparts.

Most respondents thought that, so far, competition rules and rules about state aid had had no impact on the cultural field. Only two respondents (one from Slovenia and the other from Poland) reported certain changes. However, this was not necessarily perceived as a consequence of the accession to the EU, but rather to do with overall reform of the public funding or more specifically, introduction of necessary changes and some incentives to facilitate participation in the EU structural funds.

A recent Croatian example shows the relevance of some of these rules for culture. The Croatian regulatory body for competition proposed that the rules for financing films should be changed to

meet the recently introduced regulations on state aid. This would represent a positive incentive and bring much needed transparency in film industry financing. However, it was likely to provoke negative reactions from film directors and producers, because for many decades a direct state subsidy was almost the only source of funding for feature films. This is a typical example of indirect impact on cultural policy, in which the indirect influence of harmonization of laws in some other policy area – in this instance, state aid – has been changing the environment for cultural production.

Status of the artist: free movement of people, social security

An overview of existing literature as well as insights picked up from various conference reports and the activities of networks and professional organizations has shown that the questions of free movement of people and social security regulations have been debated mostly in the context of enhancing artists' mobility in the cultural sector. Audéoud made a clear distinction between 'obstacles' and 'hindrances' to the mobility of artists (Audéoud 2002). According to the results of his study there are comparatively few rules and practices preventing cultural workers and their products from moving around the Community area which can be said to constitute real obstacles to the freedom of movement.

More numerous, however, are the shortcomings or other constraints which hamper or are a disincentive to mobility, without actually constituting an obstacle (Audéoud *ibid*). Audéoud's research showed that numerous obstacles existed already among 'old' member states, and that all kinds of artists and cultural workers from the new member states have had to deal with additional restrictions to opportunities for their nationals to obtain work in the EU.

The questionnaire yielded a range of responses when it asked, 'Can artists and cultural workers from your country freely obtain work in other EU countries without any restrictions?'

'The issue is complex. On one side artists and cultural workers through work grants and scholarships, may work and study abroad. What's more, there is a possibility, except getting money for journeys, to get a residency status. On the other side, some countries have restricted the possibility for Polish citizens to obtain work in their country for the future few years (this applies to all professions).'
(Poland)

Generally, respondents believed that free employment in other EU countries was not specifically connected with the cultural sector.

'Most of the EU countries do not yet want to open their labour market fully to people from new EU member states. These issues do not seem to be particularly discussed in the cultural sector.'

(Slovakia)

Some noted that various support schemes, numerous travel grants and other forms of support for mobility were made available, and this indirectly helped to 'break down' some barriers. Several respondents however emphasized that it was difficult to respond to this question, as they were not aware of any reliable data.

In 2001, the Council of the European Union adopted a resolution on exchange of information and experience concerning conditions for professional artists in the context of EU enlargement.⁸¹ Such resolutions are not legally binding and this one has not had much relevance outside of the cultural sector. Recommendations from this resolution were mostly incorporated in the Union's policies through funding programmes, *Culture 2000* in particular.

The questionnaire next asked whether there had been, 'any recent changes in the social security regulations relating to artists?'. Again there was a range of responses with several comments about changes that have indeed occurred, but not necessarily as a consequence of the enlargement.

*'Because of the harmonization with the *acquis communautaire*, the rules limiting social security benefits for only Slovenian citizens (artists) have been abolished. All artists who are EU citizens are now entitled to receive the same benefits.'*

(Slovenia)

'Since 2005 it is not any more obligatory for freelancers to pay the social security and pension levy, of course with all the consequences. But not as a result from accession to the EU.'

(Slovakia)

'A new law on creative workers (passed November, 2004) as a social security measure, it provides support for creative work, which can be paid in an amount corresponding to the minimum wage for a person who is member of one of the creative artists' unions and who has no other income. The support can be paid during a period of six months and it can be renewed by the same person only after two years have passed from the end of the previous support period. The support will be administered through the unions and they receive for this purpose a fixed sum, which is dependent on their number of members. The same law also

introduces the possibility of making reductions from one's taxable income for persons who are members of the creative unions.'
(Latvia)

Except for some minor changes, directly linked with the harmonization, such as the Slovenian example, reform of the social security regulations has not been exclusively inspired or influenced by the *acquis communautaire*. In fact, this issue and its relevance for cultural policy can be examined at two different levels. First, there is the importance of the social security protection regulations for artists within their own country, an issue that is still almost entirely left to each member state to decide. The second issue is how this affects mobility across borders, including not only regulations for EU nationals when working abroad but also those applicable to foreign artists;⁸² the diversity of systems creates many obstacles to the free movement of artists.

For new EU member states and candidate countries, this issue has also been linked with the question of how to create at least similar opportunities for workers across the EU and how to avoid the negative consequences of social dumping sometimes involving the nationals of some of these countries (Audéoud 2002).

Free movement of goods: relevance for movable cultural heritage

The next question focussed on possible, 'changes in legislation regarding the free movement of goods, special export arrangements for national treasures and provisions facilitating the return of cultural goods'.

According to the responses, harmonization with the *acquis communautaire* on the topic of free movement of goods within the internal market did not have much impact, or at least it was not perceived as having a direct impact on cultural policies. No negative effects were reported. Some replies mentioned tighter rules on the export of national heritage, aimed at better protection and preservation.⁸³

Rules regarding the free circulation of goods have, from the beginning, taken into consideration the specificities of the art market and the trade of cultural objects. At the beginning of the transition, with the opening of borders, there was a sudden increase in illegal export of antiques from east and central European countries. Aligning legislation with EU standards certainly meant

improvement of the level of protection, especially for movable cultural goods. In this case, the enlargement of the EU represented a positive incentive both in terms of aligning legislation but also in opening new possibilities for countries to cooperate to reduce illicit trafficking through a unified system of export controls within the borders of the EU.

In the Slovenian negotiation, it was clearly noted that the trade and free movement of goods would have an impact on movable cultural heritage and that it needed to be the subject of negotiations in chapters other than just the one on culture. In that context, the legal framework on competition and free markets has taken into account the EU rules protecting movable cultural heritage.

Statistics

The questionnaire's final question asked, 'Have there been any changes necessary to harmonize statistics in your country with the Eurostat methodology?'. Although most respondents reported that there were some changes and improvements of statistics, it seemed that this was not a priority in any of the countries.

'Only to certain extent because Eurostat also has some challenges related to culture. We have had the biggest improvement in the audio-visual field and that was primarily due to the participation in the European Audio-visual Observatory.'
(Slovenia)

'I would say the harmonization of the statistics had no remarkable impact on evaluation of cultural policies in Latvia. As I know there have been a few small changes in the field of cultural statistics, too, but the cultural statistics are definitely not the priority of our statisticians, and we still have huge problems to gather the data harmonized with the other economic sectors and corresponding to the needs of a contemporary cultural policy.'
(Latvia)

'There are no specific results yet, since the newly adopted system doesn't work at all – it was only formally established (so-called Register of Culture).'
(Slovakia)

'At least a year ago I was informed about very preliminary consultations only.'
(Hungary)

One of the recommendations in the *Feasibility study concerning the creation of a European observatory of cultural co-operation* **84** was that additional impetus should be given to developing and collecting cultural statistics. The findings of my study have confirmed the need for extra effort in cultural statistics, to facilitate an improved understanding of the cultural sector in general and cultural cooperation in particular; it will be costly both in terms of time and resources. As culture is not part of the *acquis communautaire*, it is difficult to find resources and, as it is not a clear responsibility, there always seem to be other priorities.

It is clear that the work of the Council of Europe and the European Audio-visual Observatory, as well as UNESCO, have had much more impact on the improvement of statistics in transition countries than has Eurostat. The lack of formulated shared policy on culture, has meant that there is no legal obligation to monitor quantitative data at a European level. There is in turn no pressure from the European statistical authorities for harmonization (as is there is in some other policy areas).

Other issues

Several other issues of direct relevance for culture were not included in the questionnaire; the two particularly important ones being community funding programmes and intellectual property rights (IPR). **85**

Community funding programmes, such as *Culture 2000*, for instance, have been the most visible evidence of accession being linked to cultural policies. This explains why there has been and continues to be so much interest in them and so many studies assessing their impact on culture. However, as noted earlier, the scope of this study did not permit us to analyze these in detail, and the whole issue of funding has been tackled only marginally. **86**

The impact of different funding schemes on cultural policies in countries in transition has been relatively easy to assess. It has mainly been in the form of grants and other financial incentives for culture and arts. However, it also included changes in financing mechanisms in the new member states, transfer of knowledge and 'best practices', as well as enhancing cooperation which has resulted in new partnerships and cross-border projects.

While Community funding programmes have remained the most visible aspect of the European Union's involvement in the field of culture, their importance and potential have often been overestimated. Before the start of negotiations and in the first phase of the accession to the EU,

there were very high expectations from the candidate countries regarding possible financial benefits of participation in Community programmes. At first, the biggest obstacle to obtaining funds was a lack of knowledge and experience about application procedures. Eventually, cultural operators began competing equally with others from all member states and the most recent reports – from the European Forum for the Arts and Heritage (EFAH) or the Budapest Observatory, for example – have not revealed significant gaps.

All Compendium country reports, analyzed for this study have referred to the EU funding programmes. Some authors of those reports claimed, and this has been confirmed in various studies, that cooperation within the EU, including new members and candidate countries, was increasing. However, it is important to mention that there have also been reports about a lack of resources or interest for neighbouring countries to the east, which are outside the new EU borders. The consequences of developments such as this have been widely debated by policy-makers and cultural operators.

With limited budgets and a focus on multilateral cooperation, the goals of the Community funding programmes have been quite different from those of the individual EU member states. The programmes were meant to complement rather than to replace funding provided by national governments. They could be seen as exemplifying the EU principles of complementarity and subsidiarity, as these are translated into concrete policy actions.

The evidence from the programmes has also drawn attention to the fact that cultural policy of the European Union has consisted of two inseparable parts. Nation states have more or less clear strategies for culture, enabling their financing to follow fairly clear guidelines. At EU level, however, the lack of an elaborated cultural policy has certainly impaired the effectiveness of monitoring the results of Community programmes in that sphere. As one authoritative report on cultural cooperation argues, EU Programmes should aim to support projects with a clearly elaborated European dimension and added value, even though it is not really clear what that would mean. **87**

When looked at in the context of the EU enlargement, it is possible to claim that these programmes did not seem to deal with any specific challenges facing cultural policy priorities of the future member states. In fact, the assumptions behind the programmes' design was that the new member states would comply with existing priorities. This had a positive side-effect as cultural operators in new member states had to adopt their ways of working in order to be eligible for the money. At that time, at least for the cultural sector, there was no other support for the major structural reforms that the sector was undergoing as a consequence of the transition from socialism. The exception was the audio-visual sector: the Programme MEDIA did make resources available for some structural changes as well as for education of creators and producers in order to prepare them for the participation in the single audio-visual market.

The questionnaire did not ask specific questions about intellectual property rights (IPR). Soon after the beginning of the transition, post-socialist countries started bringing their copyright and

IPR legislation into line with World Intellectual Property Organization (WIPO) and World Trade Organization (WTO) regulations, at the same time making preparations to meet relevant EU directives. As with the audio-visual and media sectors, legislation in most of these countries was amended several times during the transition **88** and only the most recent changes were brought about by the need to harmonize with the *acquis communautaire*.

Copyright has generally been perceived as an inseparable part of cultural policies, and specific interests of the cultural sector have usually been taken into account. Much information about the most important changes in the IPR legislation can be found in the European Commission's 'progress reports' as well as in the *Compendium of cultural policies and trends in Europe* (ERICarts/Council of Europe 2005).

According to the *Compendium* most countries reported that they have been following the civil law *droit d'auteur* tradition. **89** They have made changes to every aspect of their IPR legislation directly relevant for culture such as:

- extending rights for up to 70 years after the author's death
- regulating resale of IPR products within the European Economic Area **90**
- changing rental and lending rights.

In spite of the various Europe-wide regulations, the way in which some important aspects of the IPR relevant for culture are regulated is still very varied. Examples of this include public lending rights and also coordination between the systems for managing and collecting the rights of artists from different EU countries. What's more, intellectual property rights have been one of the most debated, and sometimes controversial topics. **91**

As with audio-visual legislation, where the revision of the Directive *Television without frontiers* is underway, the field of intellectual property is being constantly revised primarily in response to developments in digital technologies.

Finally: regionalization and the 'Copenhagen Criteria'

There were two other issues, which although not included in the survey, have been impinging on cultural policy-making.

The first, which seems to have been connected indirectly with the accession process, is the change of territorial, or regional, organization of new member states. The *Compendium of cultural policies and trends in Europe* stated that EU membership would compel Hungary and Slovenia to finalize a new territorial organization. First Hungary:

'The EU membership will compel Hungary into finalizing the (probably seven) regions and give them real administrative power, including competence over regional cultural policies. The same reason has speeded up the formation of 167 so-called small or micro-regions: these are not yet full partners of the central

government, however, they have an increasing opportunity to apply for EU funds, also for cultural ends.'

(ERICarts/Council of Europe, 2005)

It was reported that Slovenia, directly linked with the requirements of the EU, needed to introduce 12 statistical regions. It is unclear if this regionalization will affect cultural development or cultural infrastructure (ERICarts/Council of Europe *ibid*). This was a typical example of an indirect impact that could be incurred by the process of accession.

The so-called 'Copenhagen Criteria', for the enlargement of the European Union in 2004, introduced specific political criteria for EU membership, which had not been requested from those countries which had joined the Union earlier, such as Austria in 1995. These conditions were additional to the need for harmonization with the *acquis communautaire*. The Copenhagen Criteria were agreed at the European Council meeting in Copenhagen in 1993. They defined eligibility for EU membership.

The Copenhagen Criteria referred, among other things, to the stability of institutions, democracy, the rule of law, human rights and the protection of minorities, which complicated the process of accepting new countries into European Union membership (Amann 2002). Many cultural policy provisions specifically addressed human rights and protection of minorities.

The Croatian example showed the relevance of the inclusion of political criteria for cultural policies. Discussions about preparing for EU membership highlighted the need for media legislation and practices to be aligned with EU legislation. In reality, only the field of audio-visual media in Croatia had to be harmonized while the remaining demands, especially in the field of printed media, only called for respect of the political criteria usually known as 'freedom of the press' (Peruško Čulek, 1999).

Preliminary assessment of the impact of EU enlargement

The results of the questionnaire confirmed the findings of most studies and articles on the role of culture in the enlargement. The general perception has been that the EU's enlargement did not have much impact on cultural policies in those countries of central and eastern Europe which had joined the Union in 2004.

During the run-up to accession artists and cultural operators in those countries were not specifically targeted by information campaigns and there was very little information as to what the accession might bring to this sector. On the whole people working in the cultural sectors of the countries which were joining the Union supported the move to join it.

There was very little assessment of the possible consequences of enlargement of the EU on the countries which were becoming members. Several authors of the profiles of individual countries, in the *Compendium of cultural policies and trends in Europe*, however, suggested that accession to the EU had been directly linked to the development and reform of cultural policy in their respective countries (ERICarts/Council of Europe, 2005).

The author of the Hungarian country report, for example, claimed that the protracted process of joining the European Union was a major factor in shaping cultural policy in Hungary, although the impact of the accession itself has yet to be assessed. He also acknowledges that the EU demands comply with international standards in certain areas, while others are left to be determined internally.

The author of the Slovenian country profile concluded that although 'culture' still enjoys some special attention from Slovenia's politicians, it is largely rhetorical and the new social climate has meant that culture has been pushed to the margins of political agenda-setting. According to the preliminary assessments of the results of the enlargement on economic and social climate in Slovenia, much had changed.

A year after enlargement, economic indicators in the post-socialist countries were slowly improving, and the market economy and the rule of law were becoming stronger. Even though these countries were economically still lagging behind old member states and will not catch up in the short-term, overall public attitudes towards accession has remained optimistic. Because of

inherited problems and challenges of overcoming the transition crisis, there has been pressure to reduce public spending, to privatize state-owned companies and to undertake other reforms necessary to achieve a functioning market economy.

It is still too early to see many specific changes in cultural policies that have resulted from the economic reforms and there have been very few areas in which there have been explicit requests for reforms in the cultural field. To sum up: there is still almost no information about the effects of the enlargement on culture, other than the assessment of the funding programmes. **92**

General conclusions from the existing literature and from the responses to the questionnaire show that there has been, however, an impact of some kind on cultural policies: sometimes positive, sometimes negative.

Cultural changes at several levels

Generally speaking, changes influenced by accession to the EU have been and are taking place at two levels.

First, accession has required in some areas, direct reform of national cultural policy. These have been visible and easy to assess, as with audio-visual or copyright policy. In these circumstances, because the influence of accession has been either exclusively focussed on a cultural topic, or because certain regulations could have been predicted to impinge on cultural policies, this influence has in some ways taken the concerns of the cultural sector into consideration. However, even in those examples, the short-term effects of the reforms may have been positive or negative; it is unlikely that there could ever have been a 'one-size-fits-all' solution.

Indirect changes were, however, more difficult to identify and assess. Any impact they may have had – whether positive or negative – has lagged behind the more direct reforms. They hardly took account of the concerns of the cultural sector, and have been able to override the principle of subsidiarity or the exclusion of the cultural field from harmonization.

Evidence from the questionnaire

The questionnaire's results pointed to some of those direct and indirect changes in cultural policy, which occurred in the new member states or is taking place now in the candidate countries, that is, those which are in the process of negotiating to join.

Those which were in some ways easiest to identify were the audio-visual sector and intellectual property rights (IPR), as they were both covered by the *acquis communautaire* and there were incentives and guidelines for new member states and some technical assistance. It was clear, however, that even here, the impact of accession to the EU could not be separated from the general reforms which ensued as these countries transformed themselves in the wake of the fall of communism. For example, to assess the impact of accession in the field of IPR was complicated by the fact that the transition countries were already having to align their legislation with other international regulations from WIPO and the WTO. Nevertheless, there was data available.

Changes in taxation policies were necessitated by several reasons: demands from the European Union to harmonize with the *acquis communautaire*, because of policy transfer, or simply attempts to apply models that offered good results in other countries. Reports from the questionnaire about the relevance of these changes for culture included both positive and negative reactions. However, responses about VAT showed something interesting. When the changes were regarded as positive, there was not much information, little research and it was difficult to extract data. If the change was perceived as negative, it was more visible, much easier to identify and more often quoted in various reports and discussion papers.

The issue of tax policy has been directly linked with one of the topics being widely debated in cultural policy circles across Europe, mobility of artists and cultural workers. At the moment, the only incentive for mobility at an EU level is funding, targeted at encouraging mobility. However, there is evidence that action also needs to be taken at a policy level, for example harmonizing taxation or social security to reduce these types of barriers to mobility.

In the run-up to accession, when tax policy was being reformed, cultural aspects were not specifically considered. It was reported that the impact on cultural policy was taking place mostly as a side-effect of broader changes in tax laws. Also, this question has been perceived almost exclusively as an internal question. None of the literature nor the respondents (except for Slovenia) linked taxation policy to the issue of facilitating mobility and cultural cooperation within Europe.

Neither did the changes which took place in new member states' social security regulations – also very important for mobility – take into account culture and cultural cooperation. Social security has not been a matter needing to be harmonized, it is up to individual member states and there was little coordination in the drawing up of new laws. Tax and social security regulations affecting artists still vary greatly.

Lately, there have been several judgments at the European Court of Justice which referred directly and indirectly to mobility within the internal market.⁹³ The adjudicated topics included artists' taxation and payment of social and health benefits in different EU member states. Some countries have taken account of these rulings while some have completely ignored their implications.⁹⁴

The questionnaire also focussed on competition rules and legislation regarding free movement of goods. Responses indicated that, so far, very few changes relevant for cultural policy in the new member states have resulted from harmonizing rules about competition and state aid. This was not really perceived as an issue even in old member states⁹⁵ until the European Commission started interpreting some cultural policy measures as contrary to the rules. It is likely that with the strengthening of institutions and implementation of the rules, some regulations of the new member states will be challenged.

Fragile cultural markets

There is an ongoing debate in Europe, not only about the future of cultural and media policy in the light of the EU's strengthening of competition law, but also about the impact of the World Trade Organization's measures to liberalize trade. However, so far, there has been no special consideration for the fragile cultural markets in the new member states. Western European countries, with a long tradition of the market economy, are always on the lookout for innovative policies that will reverse the historical trade deficit in the import/export of cultural goods and services, but it is easy to understand why such topics are only beginning to be discussed in the transition countries.

Most of the new member states have focussed, up to now, on issues such as preserving and reforming their cultural infrastructure, on the functioning of specific cultural policy areas and on the search for additional and alternative sources of funding. They have had little time or energy with which to fine-tune cultural policies to the rules of the market economy, nor to develop policies that will balance the cultural and economic aspects of cultural goods and services.

Respondents to the questionnaire did not express too much concern about regulations on the free movement of goods. They generally perceived the strengthening of rules on illegal export of art objects as positive.

It is important to note that one of the topics widely debated internationally – the trade of cultural goods and services – has not been perceived as an issue within the enlarged Europe. In spite of the accession of new member states, which might be thought to create something of an imbalance in the trade of cultural goods and services within Europe, nothing has been devised to intervene in the European cultural market beyond some (limited) funding, certain provisions of the Directive on *Television without frontiers*, and the Resolution on the application of national fixed book-price systems. What's more, the latter two measures had nothing to do with enlargement, they were introduced or envisaged before that began.

It is doubtful whether the generally symbolic funding programmes, together with the cultural policies of individual member states can address the imbalances, or whether more proactive European Commission involvement is required. At the moment, achieving a more balanced exchange of European cultural contents within the European market is an issue that the member states have to address on their own. As they mostly rely on financial instruments, it is understandable that there is concern about the limited ability of new member states to invest in the production and distribution of their cultural goods and services.

Need for better data

The questionnaire's last topic was about improvements of data gathering and analysis in the field of culture that might have resulted from enlargement. The statistics issue illustrates what happens where there is very little harmonization and consequently no legally backed basis for data gathering at the European level. It is logical to expect that the harmonization of statistics in other

policy areas and the ensuing transfer of methodology will indirectly bring about improvements in the capacities of statistical offices of the new member states; this should benefit all sectors.

However, at least in the first period, areas which are not directly affected by data-gathering requests from the EU will remain marginalized. Even though many researchers of cultural policies in transition countries put the improvement of cultural statistics as a high priority, given the ambiguous position of culture in the Treaty and the lack of a legal basis for more direct involvement of the Eurostat, it is not surprising that most of the questionnaire respondents and the reports which I analyzed, expressed the view that UNESCO and the European Audio-visual Observatory remained the chief resource for the improvement of statistics in the new member states.

These provisional conclusions cannot overlook the impact of cultural financing on trends in cultural policy. Community funding programmes brought many changes and indirectly contributed to the reform of cultural financing in new member states, to increased openness in the way projects are funded, and to the transfer of knowledge. They also initiated new partnerships and new forms of cooperation.

Sometimes these funding programmes offered a direct incentive for cross-border projects and cooperation. Even though *Culture 2000* has been fiercely criticized for its bureaucracy and modest funding, it has certainly had a very positive impact in the new member states. The role of cultural contact points – part of the structure of *Culture 2000* – as places for information and help in applying to the Community programmes has also contributed to better cultural cooperation between artists and cultural operators in new EU member states.

Culture was marginal

Preliminary assessment of the impact of the enlargement on cultural policies in countries on transition confirms that the EU did not have any specific enlargement policy referring to culture. The long-established policy of excluding culture from harmonization and leaving it in under the aegis of individual member states, meant that the specific needs of future member states in the cultural field were not addressed during enlargement. Because there was no formulated policy, there was also no direct need for reforms of cultural systems or specific incentives for structural changes in the cultural field.

It is obvious that cultural budgets and other internal issues which make up most of the methods for putting cultural policy into practice, should be left to the EU's individual states to decide. However, the issue of a having a 'European policy on culture' will not go away until the EU adequately discusses, from a cultural point of view, those policy areas that have an indirect effect on culture.

Even officially proclaimed EU goals of enhancing unity in diversity, protecting and promoting cultural diversity, and contributing to 'European added value', were not addressed during the

process of enlargement. Perhaps people believed that these goals would be achieved as a natural consequence of the process itself. Recalling this study's earlier exploration of the difficulty of defining cultural policies, it is not hard to see that besides the lack of political will, the lack of clarity on this point was certainly the most important reason for the lack of clearly established priorities and policies. This explains why, even in fields where it was obvious that accession would have an indirect impact on cultural policies, there were no formal consultations on how to cope with the changes.

The process of enlargement really did not bring any significant improvements, guidelines or directions for cultural policies of new member states. This left coordination of cultural policies mostly on the level of informal discussions among politicians, or cultural operators and researchers, as it was before.

Part 3

What will the future bring?

The EU has reached a stage of its history where

its cultural dimension can no longer be ignored.

It would be a mistake to pretend that culture and economy are

two totally separate worlds.

Without proper attention to knowledge, science and culture,

our societies at large, our economies, cannot prosper.

(Manuel Barroso, President of the European Commission,
speech at the conference *A soul for Europe*, Berlin, November 2004)

Manuel Barroso, President of the European Commission, was speaking – see previous page – at a conference which marked the first of a series of events **96** gathering top intellectuals and European policy-makers to discuss the future of culture in the European Union.

I agree fully with Barroso. What, however, does the term, 'proper attention', mean? After all, as my study has indicated after analyzing the effects of EU enlargement on culture in nearly all the countries which joined, culture was ignored in that process. Not only that – the link between culture and economy was not established directly, only indirectly, and no mechanisms have been put in place to examine any possible future interaction between these two. It is not at all clear how 'proper attention' will be manifested.

In other words, what is the future of the treatment of culture in the EU? In my view, there are only two possible scenarios. The first one continues an approach towards culture which can best be described as the concept of '*l'exception culturelle*'. This mostly focusses on cultural identity and therefore should be dealt with by the government which is closest to that culture. Its concern is to preserve national cultures and existing policies. This is the concept that has so far dominated European cultural policy-making.

Cultural diversity: the way forward?

The alternative would be to move towards a more dynamic and contemporary view of culture. It would be both about commercial and non-commercial culture, and about cultures growing and interacting with each other. This approach to culture perhaps could be best described as the concept of 'cultural diversity'. In my view, adopting this approach would require the EU member states agreeing to pursue more proactive cultural policy-making. This is essential, to deal with issues such as all aspects of culture being liable to be turned into products with a price (commodification), and conceptual issues such as 'the horizontal and vertical integration of cultural markets'. Issues such as this have been much affected by developments in those sectors which have long been on the EU agenda and where member states have agreed to shared policies.

And if policy-makers turn away from this strategy, what then? Then there will be a need for even more 'exceptions' for culture, to protect it from the impact of measures which indirectly impinge on culture. Indeed, for those concerned about cultural policy issues this would be the only way to include culture on the agenda.

Alongside this, Community funding programmes, such as *Culture 2000* and its successors, will remain the most visible structures for shared cultural effort in the Union. There will be even more pressure to increase EU funding for culture. Given the growing costs of EU administration, the need to find money for those areas which are firmly the current business of the EU, as well as calls from member states to reduce spending, it is not realistic to expect significant increases in EU budgets for culture. We all know that when budgets are tight or declining, spending on culture is the first to be reduced, because the arts are seen as a frill and not central to the economy.

Cultural policy will more often appear on the agenda only indirectly, either when there is resistance to regulations that might have a negative impact on this field such as happened with the so-called Bolkenstein Directive on services,⁹⁷ or when there is a legal dispute.

One of the main characteristics of cultural goods and services is their dual nature – cultural and economic. If culture remains outside the EU agenda, a rift will deepen, and cultural matters will be dealt with at a national level, while economic matters will be dictated more and more by rules adopted at EU level.⁹⁸ However, a proper development of culture can be ensured only if both elements are treated as equally important; this view was put forward strongly by EU member states and the European Commission during negotiations in 2005 in UNESCO about the *Convention on the protection and promotion of the diversity of cultural expressions*.⁹⁹

The recent division of the responsibilities of the European Commission, in which audio-visual matters were transferred to the Directorate for Information Society and Media, is another example directly linked with the debate about the impact of convergence on culture.¹⁰⁰ According to this logic behind that transfer, the cultural field has been divided between those elements which will be largely digital, and those which will remain produced in traditional media and distributed in a more traditional way.

From a cultural point of view this distinction is highly problematic; the main concern of cultural policy is to support artistic creation as well as participation, cultural consumption, and providing a choice of cultural events and products, regardless of the technology or media used in their production. Yet now we have the definition and boundaries of cultural policies being changed as consequence of the fact that some cultural contents are becoming largely digital. A significant percentage of creators and their works primarily those creating in new media, remain outside of the reach of national cultural policies simply because it is impossible to confine them to national borders. The area where the overlap between cultural and audio-visual policies is obvious is the field of artistic expressions, which is why there is a constant need for link-up and fine tuning of cultural and media/audio-visual policies both at national level and at EU level.

The second scenario replaced 'l'exception culturelle', which has always been just a political concept anyway, by a strategy of cultural diversity. The protection and promotion of cultural diversity requires adoption of specific policies on different levels, both nationally and internationally – an approach followed with the elaboration of the UNESCO Convention. Although the concept

has been embraced by the European member states internationally and internally within their national borders, it has not been adequately applied on the level of the European Union thus leaving much space for different interpretations of cultural diversity as I have already explained in analyzing Article 151.

Following the logic of UNESCO's 2005 Convention

This is why I believe that, if member states agree to proceed with more proactive policy-making, a positive step might be to follow the logic of the *Convention on the protection and promotion of the diversity of cultural expressions* that was adopted at UNESCO in October 2005.

In Europe, this would mean accepting regulation of some aspects of culture, not in order to unnecessarily harmonize rules, but rather to ensure that other policies having an impact on culture do not override cultural policy measures (Ruffolo 2001). Secondly, there would need to be explicit recognition of the fact that cultural matters have, in some way, already become a common responsibility. **101**

The next task would be to create a clearer interpretation of the concept of 'culture', not leaving this by default to court judgments, which tend to give primacy to already well-defined principles in other policy fields, such as freedom of movement, competition rules, and so on. A clearer definition of the concept and its boundaries would make it easier to distinguish between cultural matters pertaining to individual member states and those which would be better dealt with at EU level.

A consequence of this more proactive policy towards culture would be to oblige all member states to take steps to not only to protect and but also to promote cultural diversity and to encourage a better balance of cultural exchange among European countries. **102**

If such a policy was to become a Commission responsibility, then the Commission would have to monitor and assess exchanges of cultural goods and services from the cultural point of view. That in turn would create a need to develop adequate cultural statistics in all member states. Similar to the UNESCO Convention, in which certain incentives are foreseen for developing countries, **103** this principle could be used to create a framework of EU regulation for the promotion of more balanced trade and exchange within Europe, whether or not those exchanges were commercial. **104** (So far, EU countries have seemed to be more concerned with the imbalances of cultural trade between the EU as a whole and, pre-eminently, the United States, at the expense of those in Europe.) Indirectly, this could also have an impact on policies that are blamed for creating obstacles for mobility.

Following the EU principle of 'complementarity', some of the rules designed to achieve such policy goals could still be implemented at the level of member states. The difference would be that there would be a clear responsibility, at EU level, not only to support their national cultures but also to invest in more balanced exchanges within the EU. Indirectly, this would ease the pressure on the EU budget. It would also be likely to make future EU funding programmes more effective as their objectives would be based on a well-established and articulated policy.

There are at least two major obstacles to a more proactive approach towards cultural policy-making in the EU. First is Article 151, with its explicit exclusion of culture from any harmonization of the member states' laws and regulations. This is a barrier, despite various interpretations of the legal value of the exclusion and the claims of some authors that the legal strength of the Article 151 is overestimated. (Pauwels 2003; Niedobitek 1997)

The second obstacle is a lack of political will for such a shift. This is highly controversial, and given current developments in the EU it is really hard to imagine any such a shift in the near future.

For the new member countries and candidate countries, still in the middle of fundamental changes and searching for models to adapt their cultural markets to the new requirements, lack of a more articulated cultural policy means that they will have to rely almost exclusively on their own policy solutions, without much guidance. Had there been a more proactive European cultural policy, it would have helped move culture higher on the policy agendas of these countries because, as pointed out by one of the respondents to my questionnaire, national priorities are very much shaped by those formulated in Brussels. While 'old member states' have a much longer tradition of balancing cultural and economic aspects of culture, the cultural sector in transition countries has had to deal with the transitional crisis, including requests for rapid privatization in the cultural field and restructuring, at the same time as it has been having to fight for the survival of basic cultural infrastructure.

Despite such difficulties, all these countries have started to build functional cultural markets, depending on their specific circumstances. As with the World Trade Organization negotiations, it is important to monitor developments in Brussels to ensure that adequate policies are put into practice and that cultural aspects do not lose out as the logic of the economy and free market takes over.

On the other hand, full membership of the EU has created an opportunity for the new member states to fully participate in the decision-making process and to put pressure, where necessary, to get some of their priorities onto the agenda. It has also opened up yet another channel for knowledge and experiences to be exchanged; this can benefit culture even if it is not a result of a deliberate cultural policy.

Instead of a conclusion

The aim of this study was to analyze the impact of EU enlargement on cultural policies in transition countries and in the light of that, to explore the need for European-level cultural policies.

My project used the example of EU enlargement to ask the following questions:

- Which are those 'other' shared policies that affect cultural policies?
- Is the influence of such policies positive or negative?
- What are the responses to the enlargement from new EU member states?
- Are there some measures that the EU should adopt to counterbalance the impact of cross-cutting measures – such as taxation – on cultural policies?

This research has come up against numerous obstacles; as a result many important elements have been left out altogether or mentioned only marginally. Some questions remained unanswered either because it was difficult to gather necessary information and data, or it was simply too soon to assess certain processes. However, from the beginning the idea was to argue for more research and for more consideration of the need for further integration of cultural aspects in the EU's policy-making.

It is difficult to predict how European integration is going to proceed, especially after the rejection of the Draft Constitution in 2005 by two founding EU member countries and the current debates about the need for future enlargement. Still, it is likely that the liberalization and integration of a single market will continue. If so, European cultural policies will face a dilemma; in the name of 'democratization' they will want to broaden access to cultural goods and at the same time, they will be concerned about liberalization, again in the name of 'democratization', destroying the effects of their own measures (Breznik 2004).

The solution of this dilemma has to be found. I believe a common cultural policy for the EU could help to ensure that culture is treated equally with other sectors. It would also lead to the creation of measures to protect and promote cultural diversity and would ensure equal respect for both the economic and the cultural aspects of cultural goods and services.

This brings me back to the beginning of the study and its discussion of the definition of culture and the methodology for research of cultural policies. Even though there are both some legal barriers and political unwillingness to change current treatment of culture in the European Union, I believe that an equally important obstacle lies in the existence of so many conflicting understandings of the definition, main scope and goals of cultural policy. This prevents any consensus on possible common goals of cultural policies and, even more importantly, common instruments for achieving those goals. I believe that there is a need, therefore, for more policy-oriented research of culture and also that it is necessary to realize that culture will be more and more dependent and interlinked with other policies, especially where its economic or technological aspects are becoming dominant.

Notes

1 The French term *acquis communautaire* refers to the set of EU laws and policies. Conditions for candidate countries joining the EU included achieving a stable democracy, a competitive market economy, and the capacity to implement EU laws and policies (incorporating and implementing *acquis communautaire*).

2 Obuljen N, (2004a) *Impact of European integrations on Croatian cultural policy* Master's thesis, University of Zagreb: Faculty of Political Sciences, 25 February.

3 Obuljen N, (2004b). 'Assessing the impact of the EU Enlargement on cultural policies in countries in transition.' in *Cultural transitions in southeastern Europe*, Švob-Dokić, Nada (eds) pp 123–141 Zagreb: Institut za međunarodne odnose.

4 I would like to thank the European Cultural Foundation and the Bank of Sweden Tercentenary Foundation as well as the CPRA Jury for giving me the opportunity to work on this research. Thanks also to my colleagues Biserka Cvjetičanin, Nada Švob-Dokić, Zrinjka Peruško, Jaka Primorac, Joost Smiers, Garry Neil, Jadran Antolović and Igor Bukatko who gave their comments on this study as well as to my thesis adviser Zdravko Petak, professor at the Faculty of Political Science, University of Zagreb.

5 The principle of subsidiarity is explained in Article 5(2) of the Treaty, which states that the Community shall take action only if and

in so far as the objectives of the proposed action cannot be sufficiently achieved by the member states and can therefore, by reason of scale and effects of the proposed action, be better achieved by the Community. The general aim of the principle of subsidiarity is to guarantee a degree of independence for a lower authority in respect to a central authority. It involves sharing of powers between several levels of authority, a principle that forms the institutional basis for federal states. When applied in the Community context, the principle means that the member states remain responsible for areas that they are capable of managing more effectively themselves, while the Community is given those powers that the member states cannot discharge satisfactorily.

6 See for example:

a) Audéoud O, (2002).

Study on the mobility and free movement of people and products in the cultural sector, Study No. DG EAC/08/00, Partnership CEJEC - Université PARIS X-EAEA

b) MKW Wirtschaftsforschung GmbH, (2001). *Exploitations and development of the job potential in the cultural sector in the age of digitalisation: Final report*, Munich: MKW Wirtschaftsforschung GmbH.

c) European Commission, (2002).

Fourth report from the European Commission to the European Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the application of Directive 89/552/EEC "Television without frontiers", COM (2002) 778, final, Brussels.

d) (European Commission (2003). *Commission Green Paper of 21 May 2003 on services of general interest*. COM (2003) 270 final. Brussels; or European Forum for the Arts and Heritage (EFAH and Interarts), (2003). *Report on the state of cultural cooperation in Europe*, EFAH, Interarts, October.

7 The 'new member states', which joined the EU in the accession of 2004, were Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia, plus Cyprus (the Greek part) and Malta. Post-accession developments in Cyprus and Malta have to be looked at separately as they did not go through the transition from one political system to the other, such as occurred in central and eastern Europe. Hence they were not included in this study.

At present candidate countries include Bulgaria and Romania, which have almost completed negotiations, and Croatia and Turkey which have just started negotiations for full membership.

8 This phenomena is described in political science as *policy transfer*. See for example James and Lodge, 2003; and Dolowitz and Marsh, 1996.

9 According to the IMCA (International Media Consultants Associates) study for the European Commission, published in 2004, *A survey of the landscapes and policies of the European Community candidate countries in the broadcasting industry*, even the area of broadcasting is under-researched.

10 Beside Williams (1976), see also Kawashima (1995), Gray (1996), Vestheim (1995), Hugoson (1997) as well as more recent studies by Gordon and Mundy (2001) or Mercer (2002).

11 The Council of Europe is not an EU body. It is an intergovernmental organisation, embracing 46 European member countries. See Glossary for more information.

12 Around this time the United Nations Educational, Scientific and Cultural Organization (UNESCO) also launched more in-depth research on cultural policies. UNESCO ministerial conferences had been held in Venice in 1970 and in Helsinki in 1972.

13 Some of the documents adopted by the Council of Europe since the 1970s illustrate its fields of interest.

- *Declaration on the future of cultural development*, 1972
- *European declaration on cultural objectives*, 1984
- *Resolution on the establishment of the European Fund for support of co-productions and distribution of films and audio-visual products 'Eurimages'*, 1988
- *Declaration 'Multicultural society and European cultural identity'*, 1990
- *European convention for the protection of the audio-visual heritage*
- *European convention on cinematographic co-productions* 1992
- *European charter about regional and minority languages*, 1992
- *Declaration on European policy and new information technologies*, 1999
- *Declaration on cultural diversity* 2000

14 When deciding on the methodology and scope of research, authors used methodology from other public policies: that is, education, higher education, science and research and environment, developed in early 1980s within the Organization for Economic Cooperation and Development (OECD) (d'Angelo and Vespérini 1999).

15 The Council of Europe brief was for reviews of national cultural policy.

16 Cooperation with the Council of Europe is explicitly mentioned in the paragraph 3 of the Article 128 of the Maastricht Treaty that became Article 151 in the Treaty of Amsterdam.

17 The Treaty of Rome in which the European Economic Community was set up and signed by six states: Belgium, France, Italy, Luxembourg, The Netherlands and The Federal Republic of Germany [West Germany].

18 In 1973 Denmark, Ireland and UK joined, followed by Greece in 1981, Spain and Portugal in 1986 and Austria, Finland and Sweden in 1995. The biggest enlargement occurred in 2004 with ten new member countries joining: Cyprus [Greek part], Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

19 Methodology used for this type of research includes, for example, cost-benefit analysis, SWOT analysis, and others. Some

of these methods could also be applied to the research of culture; cost-benefit analysis of enlargement, for example, could be useful to work out what will happen with the opening of the cultural markets and their integration into a common market. It could show the weaknesses as well as the strengths and the competitive potential of domestic cultural industries compared to European ones, and especially cultural goods and services distributed by global cultural conglomerates. It is most probably still too early for this type of research and it would also demand adequate cultural statistics and indicators that are not available at the moment.

20 Puchala likens analysts of European integration to a group of blind men who, while only touching the animal, are trying to describe the elephant. As each of them can touch only one part of the elephant, one will describe the elephant as a tall animal because he touched the trunk, and the other will think that the elephant is in fact flat because he touched its ear. Even though their individual impressions are wrong, each has enough 'evidence' to discuss the real appearance of the elephant and is therefore sceptical about the facts presented by other participants in the discussion (Puchala 1971).

21 In the introduction to *Cultural policy in Croatia: national report*. published by Strasbourg: Council for Cultural Co-operation, Katunarić and Cvjetičanin regretted that it was difficult to recognize today's cultural sector as a descendant of the creative cultural environment of the age of Romanticism: '*Throughout 20th century development important sections of culture*

have been relocated. Scholarship, as the main system of knowledge, and education, as the main system of transferring knowledge and social values, are no longer considered part of the cultural sector.'

Katunarić V, Cvjetičanin B, (1999)

22 OJ 1974 C 62

23 EC General Report 10/1976

24 *Community action in the cultural sector.*

Commission Communication to the Council sent on 22 November 1977.

COM (77) 560 final, 2 December 1977.

Bulletin of the European Communities, Supplement 6/77

25 OJ 1976 C 79 and OJ 1979 C 39

26 Adopted by the European Parliament on 17 November 1989

27 OJ L 298, 17 October 1989, p 23: European Council Directive on the coordination of certain provisions laid down by law, regulation or administrative action in member states concerning the pursuit of television broadcasting activities (89/552/EEC). This was amended in 1997 by Directive 97/36/EC).

28 The first programme – MEDIA I – was adopted by the Council in December 1990 and was allocated ECU 200 million for

a period of five years (1990–1995). When this programme ended in July 1995, the Council adopted the Media II programme (1996–2000), to which ECU 310 million were allocated. Following on from Media II, the Media Plus programme (2001–2005), which was adopted in December 2000, has a budget of € 400 million, split into € 50 million for training and € 350 million for development (creation, distribution, promotion, and pilot projects).

In July 2004, the Commission adopted a proposal for a decision on the MEDIA 2007 programme, which is intended to follow on from MEDIA Plus and MEDIA Training (which were extended until 2006). The proposed budget is more than € 1 billion for the period 2007–2013, which is an indication of the Union's very strong commitment to the audio-visual sector.

Community action will relate to pre-production (for example by supporting initial training for trades in the audio-visual sector or by facilitating access to finance for small and medium-sized enterprises) and post-production (support for the distribution and promotion of audio-visual works). (see www.europa.eu.int)

29 Such as, for example, the historic decision of the European Court of Justice in the Sacchi case (1974), when a television signal was considered a provision of services under Articles 59 and 60 of the Treaty of Rome, and national barriers to cross-frontier broadcasting <http://www.encatc.org/downloads/RuffoloReport.pdf> or the establishment of broadcasters from one member state in another are intended to be abolished in most circumstances.

30 OJ C 336, 19/12/1992.

31 *1st Report on the consideration of cultural aspects in European Community action*, European Commission, 1996.

32 See Niedobitek 1997; Ellmeier and Rasky 1998; Kaufman and Raunig 2002; Smiers 2002; Crawford-Smith 2004; Pauwels 2003.

33 Referring to the document of the European Commission *A fresh boost for culture in the European Community* (Bulletin of the European Communities, Supplement 4/87; Luxembourg, 1988), Ellmeier, in Ellmeier and Rasky (1998) claimed that the development of cultural policy of the EU was based on a skeleton of cultural policies in particular member states. Those segments that were of interest for particular member states also became of interest for the EU, namely: technological development and its impact on culture; structural projects with a clear cultural dimension; cultural tourism; small and medium-size enterprises; copyright, and the trade of cultural goods and services.

34 *Texts concerning culture at European community level* European Council, 1994.

35 Directive 92/100/EEC from November 1992 on lending rights and certain rights related to copyright in the area of intellectual property rights, or Directive 92/77/EEC from 19 October 1992 (amending Directive

77/388/EEC) on harmonization of the rates of VAT, which takes into account cultural aspects and enables member states to apply reduced VAT rates to certain goods and services (books, services such as writing or composing).

36 This hypothesis was confirmed just a few years after Niedobitek published his book. From 1997 until today, the Commission has published several reports analyzing the role and the position of culture in relation with other common policies.

37 The Framework Programme *Culture 2000* is the current programme for cross-cultural cooperation in Europe, legally based on Article 151. It covers as a single programme of financing annual and multiannual projects in the areas of heritage, literary and artistic creation. It seeks to encourage creativity and mobility, public access to culture, the dissemination of art and culture, inter-cultural dialogue and knowledge of the history of the peoples of Europe. Besides *Culture 2000*, cultural activities and projects are financed from other EU funding programmes and funds including structural funds. Still, when compared with the average percentage (1 per cent) earmarked for culture in state budgets, EU funding for culture can be deemed marginal. (European Parliament, [2000] *Culture 2000 programme* [Decision no. 508/2000/EC])

38 Analysis of the Draft EU constitution done by the Budapest Cultural Observatory, (www.budobs.org), shows the frequency of the words 'culture', 'cultural' or 'artistic' in

the *Draft Treaty Establishing a Constitution for Europe*, as adopted by the European Commission in July 2003 and by the European Council in June 2004.

39 Art III-181 of the Draft Constitutional Treaty

40 Art III-217 of the Draft Constitutional Treaty

41 Term 'l'exception culturelle' first appeared sometime between 1986 and 1994, during the so-called Uruguay round of prolonged world trade negotiations about GATS (General Agreement on Trade in Services). The member states of the European Communities, under strong French influence, did not offer to liberalize certain services in cultural sectors and included numerous exceptions from the MFN principle (Most Favoured Nation Clause). European states refused to offer liberalization of audio-visual services as well as those related to libraries, archives and museums. However, it is important to note that in fact exception of culture does not really exist as such. The EU has agreed in December 1993 that culture is a part of GATS but did not make commitments.

42 In the final chapter of this study, when reflecting on current and future development of the European cultural policy, I will further explain why I believe that this approach cannot offer a solution for major challenges of contemporary cultural policies in the long run.

43 At the Informal Council of EU Ministers of Culture and Audio-visual in May 2003, it was stressed that the enlargement together with the discussion on the future of Europe are two developments which raise the issue of the European cultural identity as a basis for the operation of the internal market in the sectors of culture and audio-visual and the question of the position of culture and cultural policy in the future European Constitution. The ministers also established a clear link between the discussion on the European cultural identity after the 2004 enlargement and the functioning of the economy of leisure, the tourist market and the cultural industries. They recognized also a direct link between the need for protecting and promoting the identity of member states with the discussion on the institutional and political image and perspective of the EU, as well as its position in the world.

However, even though they recognized that existing measures for the promotion of European culture are necessary but not sufficient and that there is a need for more active cultural policy, they once again concluded that they insisted on the respect of their primary competence in the field of culture, and thus turned once again exclusively towards increasing the community budget distributed in the field of culture and audio-visual as well as towards improvement of existing instruments in the audio-visual sector.

44 Draus F, (2001)

'Est-Ouest, le dit et le non dit', *Sociétal*, no 32.

45 After the signing and entry into force of the European Agreements (Association Agreements between each individual candidate country and the European Community) and after receiving an *avis* of the European Commission, candidate countries began negotiations for full membership in the EU.

46 My decision not to include specific questions about the impact of financing in the questionnaire was taken because this would have been far too optimistic given the scope of the study, but also because much analysis has been done and the results of these studies have been taken into account.

47 The proposal to include the candidate countries in Community programmes was put forward at the June 1993 European Council meeting in Copenhagen. The Luxembourg European Council in December 1997 made it a pre-accession strategy instrument. A communication from the Commission to the Council of 20 December 1999 on the 13 candidate countries proposed new guidelines for consolidating this instrument, extending it to Cyprus, Malta and Turkey and simplifying procedures. More information can be found on the Europa server at <http://europa.eu.int/comm/enlargement/pas/ocp/index.html>. In December 2003, the Commission published a Communication to the Council and Parliament preparing for the participation of the Western Balkan countries in Community programmes and agencies which describes in details the strategy for further opening of the Community programmes.

48 For example, YOUTH, SOCRATES II, LEONARDO DA VINCI, NETDAYS EUROPE and so on.

49 PHARE programme of assistance was established in 1989, after the fall of communism in central and eastern Europe, aiming to help countries of this region achieve economic reform. Beside economic help, PHARE was the main financial instrument for the pre-accession strategy of the central and eastern European countries which applied for EU membership. Besides PHARE, the European Commission has also opened programmes ISPA and SAPARD but they are not relevant for the cultural field.

50 See Annex 2 for the wording of Article 151.

51 EEC No. 3911/92 of 9 December 1992

52 EU 2469/96 16 December 1996 and EU 974/2001 of 14 May 2001

53 COM(86) 146 final

54 For example in 1989, the Council of Ministers adopted Decision 89/337/EC on high-definition (HD) television. This set out a number of objectives as the basis of an overall strategy for introducing HD television services in Europe and called on the Commission to produce a detailed action plan. In December 1989, the Council issued

Decision 89/630/EEC on the common action to be taken for the adoption of a single world-wide HD television production standard by the Plenary Assembly of the International Radio Consultative Committee.

55 Directive 94/5/EC and 77/388/EEC

56 92/100/EEC: *Directive on rental right and lending right* sets out the principle of granting an exclusive lending right – allowing those concerned to prohibit or authorize the lending of their works by public institutions. Member states are allowed to simply introduce a right to remuneration and may totally exempt certain categories of public establishment, such as public libraries or academic libraries from having to observe lending rights and to remunerate authors.

57 OJ C 073 6 March 2001.

58 In her paper at the Annual Congress of the Academy of European Law in December 2004, Wekstein-Steg argued that in the application of competition rules to mergers in the media sector, so-called 'small' players have very little with which to challenge the major players in the European arena. This is a particularly sensitive issue with regard to new technologies and Wekstein-Steg warned that according to the recent opinions of the European Commission, it is an emerging market and the Commission does not consider that there is any threat that particular players will be able to become dominant. She analyzed mergers that have taken place in Europe in the past few years, and together

with some other speakers at the conference (Herold [2004], and Germann [2004]) she argued that competition law, if adequately applied and interpreted, could be used to benefit cultural diversity.

59 Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia

60 Romania and Bulgaria

61 ERICarts/Council of Europe, (2005). *Compendium of cultural policies and trends in Europe*, 6th Edition, www.culturalpolicies.net

62 For example: *A survey of the landscapes and political policies of the European Community candidate countries in the broadcasting industry* (IMCA 2004), a discussion paper – *Structural funds enlargement and the cultural sector* (Mercouris 2002) – studies about cultural cooperation, mobility, the audio-visual sector, copyright, and so on. If they had been published in the past few years, all of these studies also included information about candidate countries and the new member states

63 http://europa.eu.int/comm/enlargement/index_en.html

64 The 2005 edition includes 36 country profiles

65 See Annex 1 for a copy of the questionnaire.

66 This is line with Sedelmeier who indicated that one of the challenges lies in the need to assess the vast policy-making process regardless of the fact that it is continuously changing and developing (Sedelmeier, in Wallace and Wallace [eds] [2000]).

67 Two slightly different versions of the questionnaire were sent out to the respondents in the eight new member states from central and eastern Europe and to the respondents in Rumania and Bulgaria.

68 Eleven respondents included six researchers, four public servants and one cultural activist.

69 This is an opinion shared by several respondents.

70 Progress reports can be found at the EC website.

71 This is particularly interesting for post-socialist countries because they have not yet completed the process of structural changes and have barely begun to adjust their cultural markets to the new rules of the market economy (Mucica 2003). Mucica stressed that the adjustment of existing instruments regulating culture or drafting new legislation, which are the most important goals of the reform of cultural sectors, cannot

be assessed without taking into account the reform of public administration, tax systems or initiatives for decentralization, which have not necessarily been aimed at culture, but have been fundamentally changing the cultural sector. She also emphasized that it is very difficult, if not impossible, to draw a line between the changes that are happening in post-communist countries as a consequence of the enlargement and those that are consequences of the transition to a market economy or adjustments to requests for the liberalization of trade.

72 Negotiations on Chapter 20 were opened between 1998 and 2000 and were provisionally closed with most of the countries in 2002, without any 'transitional arrangements' (meaning that matters were administered in a straightforward way, and there was no need for delay in applying specific laws or policies).

<http://europa.eu.int/comm/enlargement/negotiations/chapters/chap20/>

73 This was not reported by any of the respondents. Usually this kind of assessment/evaluation comes from outside. In this case, it was the opinion of the Commission, which constantly stresses that the harmonization is an ongoing process.

74 Such as: European Convention on Cinematographic Co-production (ETS No.147, 2 October 1992); the Fund for funding co-productions, 'Eurimages' (1988), and the European Convention on Transfrontier Television (ETS No.132, 1998). Progress reports on the pre-accession

countries disclosed regularly by the European Commission also acknowledged that these countries were having to comply with the Council of Europe Convention on Transfrontier Television. However, the main difference between this Convention and the EU's Directive on *Television without frontiers* (Directive 97/36/EC) is that the latter Directive applies both to domestic and 'transfrontier' broadcasting, while the Convention only applies to 'transfrontier' programmes.

75 In fact, the reform of the audio-visual sector started soon after the fall of communism and at first countries undertook many privatization reforms: such as privatization of companies producing and distributing audio-visual services and other cultural industries and generally eliminating state control.

76 General Agreement on Trade in Services.

77 In the Draft Constitution of the European Union unanimity was required for negotiating international trade agreements relevant to culture. Also, even before some of these countries became members or even started negotiations, the European Commission was actively participating in international trade negotiations to secure the special treatment of culture. One example was the so-called 'Baltic model', negotiated within GATS for the three Baltic countries or in the case of Croatia when there was a pressure not to include any audio-visual services on the agenda (Obuljen, 2002)

78 The Polish negotiating position in the sphere of, 'culture and audio-visual policy', agreed to by the negotiating team in July 1998, states the following: '*As concerns Council Directive of September 22, 1997, Poland, accepting the requirements of the EU concerning VAT, should be able to apply for a VAT reduction on books and magazines, which is allowed under the acquis communautaire. Polish legislation envisages 0% VAT rates for the aforementioned cultural goods, until the year 2000. Member States shall consider this issue individually. The Polish notion of the best solution is close to that of Italy, i.e. 0% VAT for book publications and 4% VAT for magazines*'.

79 Study of cultural cooperation in Europe has also argued that even in countries with fewer than 2 million inhabitants, it will be necessary to introduce a standard minimum VAT rate of 6 per cent on books (EFAH/ Interarts Report 2003).

80 A question about fixed book price was not included in the questionnaire. The *Resolution on fixed book price* is just a resolution and is not legally binding for new member states (whereas the Directive on *Television without frontiers* is part of the *acquis communautaire* and therefore has to be built into national legislation). According to the data presented by the *Compendium of cultural policies and trends in Europe* (2005) Slovenia is the only country among new member states included in the *Compendium* which has so far introduced the fixed book price.

81 32001G0731(01) *Council Resolution of 23 July 2001 on exchange of information and experience concerning conditions for professional artists in the context of EU enlargement.*

82 In this case, EU nationals – that is anyone holding an EU passport.

83 According to the *Compendium of cultural policies and trends in Europe* (2005), all countries were revising their legislation regarding movable cultural goods during the period of negotiations.

84 Establishment of the *European observatory of cultural co-operation* was initially proposed in the *Ruffolo Report* (Ruffolo 2001).

85 A decision not to include copyright in the questionnaire was taken because there is enough information available about harmonization with the *acquis communautaire*.

86 Analysis of the impact of the funding programmes and *Culture 2000* in particular was done by the Commission, European Parliament, European networks (such as EFAH for example) as well as research institutes and consulting companies. Much information can be found at the website of the Budapest Observatory (www.budobs.org).

87 See European Forum for the Arts and Heritage (EFAH) and Interarts (2003) *Report on the state of cultural cooperation in Europe*, October.

88 Estonia was an example: the Copyright Act has been changed in 1992, 1996, 1998, 1999, 2000 and 2001. This was accompanied by several amendments to other laws, for instance, the criminal code, consumer protection (ERICarts/Council of Europe, 2005)

89 Although most transition countries opted for the continental model, (sometimes known as *droit d'auteur*), at the same time there is a clear conflict at the EU between two concepts – a) Anglo-American and b) continental or *droit d'auteur* – in which the Anglo-American tradition, strongly supported by the interests of major media companies seem to be gaining ground (Macmillan 2004). Macmillan cited the example of the Information Society Directive, which is extremely important for the future of so-called 'content industries', and is, according to Macmillan, firmly rooted in the Anglo-American tradition.

90 European Economic Area (EEA): 25 EU Member States plus Liechtenstein, Iceland and Norway.

91 The two most recent IPR public debates internationally have been about medicines for developing countries and piracy – the infringement of copyrights by unauthorized

reproduction. The *Compendium* (ERICarts/ Council of Europe 2005) recorded the introduction of anti-piracy measures in almost all countries in Europe, as the enforcement of the IPR regulations is always linked with the fight against piracy. Piracy has become a main focus of the debate about IPR primarily because of the interest of media conglomerates which have from the early 1990s successfully penetrated the markets of the transition countries.

92 Evaluation of these programmes included all member states and not only the new ones.

93 Such as Arnoud Gerritse decision of the European Court of Justice (2003, C-234/01), Matthias Hoffmann (2003, C-144/00), or Barry Banks' case against the Théâtre royale de la monnaie

94 See: <http://www.allarts.nl/artikelen/2003/Gerritse%20-%20decision.pdf>

95 Even though Article 87, which refers to culture, indicates that competition policy can have an impact on culture and was the reason why culture was made an exception in the Treaty of the European Union itself.

96 After Berlin, a second meeting took place in Paris in May 2005; the third one was in Budapest in November 2005. [Late note – April 2006: Granada.]

97 The proposed Services Directive, known for a while as *Bolkenstein* after former Dutch commissioner Frits Bolkenstein, was widely debated in 2004 and 2005. It was temporarily withdrawn after fierce opposition of some EU member countries, EU parliamentarians and civil society. This legislation had proposed opening up Europe's service sector for more competition. It was similar to General Agreement on Trade in Services (GATS), which seeks to liberalize services on a global scale. The services directive had a very vague reference to exclusion of 'public services', including education, public health or culture and audio-visual. [Late note: a watered down version of the directive was finally passed by the European Parliament in February 2006.]

98 For example, this is especially clear in discussing the competitiveness of cultural industries or trade in cultural goods and services; member states have already given up their sovereign rights to negotiate these issues internationally and transferred their responsibilities to the European Commission.

99 See: http://portal.unesco.org/culture/en/ev.php-URL_ID=11281&URL_DO=DO_TOPIC&URL_SECTION=201.html

100 From certain statements of the Commissioner for Information Society and Media, Viviane Redding, this division can also be interpreted differently. Redding has expressed her conviction that this shift of competences will permit the Commission to deal with audio-visual field in a more systematic way. However, this is possible only if it explicitly bypasses any reference to

culture, which needs to be exempt from any harmonization.

101 This can also be illustrated by the recent negotiations in UNESCO: the scope of that Convention, although it refers to culture, also touched upon exclusive and shared competences of the Union (for instance, development policy, trade policy, IPR and so on). It was therefore necessary for all member states to achieve a consensus and to ensure that they were represented during negotiations either by the current Presidency or by the European Commission in order to respect the provisions of the *acquis communautaire*. At first it was difficult for some member states to accept that they needed this consensus, since they were accustomed to the principle that cultural matters were solely a matter for decision at a national level. However, developments in UNESCO also prove that it is no longer possible to exclude culture from other policies with which it is linked.

102 A study which set out some interesting ideas about this, also referred to the need for more coordinated policy on cultural cooperation beyond the borders of the EU (Dittrich van Weringh and Schürmann, 2004).

103 For example preferential treatment for cultural goods and services for developing countries.

104 In this context, it is important to highlight that Article 151 refers explicitly to non-commercial cultural exchanges.

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Annex I

Questionnaire on the impact of EU enlargement on cultural policies

Within the framework of the Cultural Policy Research Award – <http://www.cpraward.org> – sponsored by the European Cultural Foundation and The Bank of Sweden Tercentenary Foundation, I have been working on the research about the impact of the EU enlargement on cultural policies in former countries in transition. A short description of the research proposal can be found at the: http://www.cpraward.org/winner_2004.html

The objective of this questionnaire is to serve as a basis for comparative analysis in order to indicate some trends about the changes occurring in cultural policies as a consequence of the EU enlargement. The questionnaire will help to identify those fields where changes might have had more or less direct impact on cultural policy.

I would be very grateful if you could answer and return the questionnaire possibly before May 15 at nina@irmo.hr or by fax at +385 1 4828 361.

The Questionnaire consists of two types of questions – some requesting your personal opinion and assessment and some requesting more specific information. Filling in the Questionnaire should not take longer than 15 minutes.

If you agree, you will be contacted after May 15 for a short telephone interview.

Part 1: Overall assessment

1. How do you assess the impact of the EU enlargement on cultural policies?

very important rather important not important can't assess

2. In your opinion, have the cultural policies of your country been reformed as a consequence of the accession to the EU to a greater or lesser extent than other public policies?

greater extent lesser extent can't assess

3. Have cultural workers and artists in your country been mostly in favour, indifferent to or against the accession?

in favour indifferent against

4. Do you believe that cultural workers and artists have been adequately informed about the possible positive and negative impacts of accession on cultural policies in your country?

5. Have there been debates and discussions among artists and cultural workers about the impact of the accession on culture? If so, around which topics did they focus?

Harmonization with the *Acquis* yes no
New opportunities for financing yes no
Preservation of cultural identity yes no
Mobility of artists yes no
Cultural cooperation yes no

Other, please specify: _____

Part 2: Harmonization with the *Acquis* and impact of other policies on cultural policy

6. In your country, have there been any problems or obstacles in harmonizing legislation with Chapter 20 (culture and audiovisual) of the *Acquis*?

yes no

If yes, please specify: _____

7. Has the reform of tax system had any impact on culture and cultural policy? If yes, can it be perceived as positive or negative?

8. Have the VAT rates on cultural goods and services been changed?

yes no

If yes, please specify: _____

9. Have there been any other changes in tax policy (i.e. income tax, tax deductions for art etc.)?

yes no

If yes, please specify: _____

10. Have there been any changes in cultural policy as a consequence of strengthening the competition rules and/or rules regarding state aid?

yes no

If yes, please specify: _____

11. Can artists and cultural workers from your country freely obtain work in other EU countries without any restrictions?

yes no

Is this issue being discussed in the cultural sector?

Please specify: _____

12. Have there been any recent changes in the social security regulations relating to artists?

yes no

If yes, please specify: _____

13. Have there been any changes in legislation regarding the free movement of goods, special export arrangements for national treasures and provisions facilitating the return of cultural goods?

yes no

If yes, has it had any impact on the market of cultural objects in your country?
Please specify:

14. Have there been any changes necessary to harmonize statistics in your country with the Eurostat methodology?

yes no

If yes, do you think that this will have a positive impact on policy-making, planning and evaluation of cultural policies in your country?

Part 3: Respondent information

Country of residence: _____

Gender: male female

Profession: _____

Contact details (optional – will be kept confidential):

Name:

Address:

Name of organisation:

Telephone:

Fax:

e-mail:

www:

Annex 2

Extract from the Amsterdam Treaty*

Culture Article 151

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

*Previously Article 128 in the Treaty of Maastricht

Source: http://eur-lex.europa.eu/en/treaties/dat/12002E/htm/C_2002325EN.003301.html#anArt152

Annex 3

List of CPRA jury members

Milena Dragicevic Sestic, President of the Jury (Serbia)

Ritva Mitchell, (Finland)

Lluís Bonet, (Spain)

Veronika Ratzenböck, (Austria)

Michael W. Quine, (UK)

Mikko Lagerspetz, (Estonia)

Milena Dragicevic Sestic, President of the Jury (Serbia)

Professor of Cultural Management and Theory of Mass Media at the Faculty of Dramatic Arts, Belgrade. UNESCO Chair in Interculturalism and Mediation in the Balkans at the University of Arts, Belgrade where she was Rector from 2001-2004. Former Chair of the Art & Culture Sub Board, Open Society Institute, Budapest; President of the Orientation Board of the European Diploma in Cultural Project Management (Marcel Hicter Foundation, Brussels); member of the Executive Board of ELIA, Amsterdam.

Lecturer: Moscow School of Social and Economic Sciences, MA-AMEC, Utrecht School of the Arts, CEU Budapest, Lyon II, Jagiellonian University Krakow, etc.

Published 15 books and more than 100 essays. Translated in English, German, Lithuanian, Hungarian, Polish, Russian, Macedonian, Romanian, Albanian, Mongolian, Turkish and French.

Expert, consultant in cultural policy and management for the European Cultural Foundation, Council of Europe, UNESCO, Marcel Hicter Foundation, Pro Helvetia, British Council, etc. Realized and developed more than 50 projects in cultural policy and management (policy training, strategic management and capacity building training, etc.) in South East Europe but also in Belgium, France, Finland, Mongolia, Kazakhstan, Russia, Latvia, Lithuania, Morocco, etc.

Ritva Mitchell, (Finland)

Director of Research CUPORE (Finnish Foundation for Cultural Policy Research), Lecturer at the University of Jyväskylä, Faculty of Social Sciences. Former President of the Cultural Information and Research Centres Liaison in Europe (CIRCLE). President of the European Association of Cultural Researchers (ECURES) and President of the Board of Governors of the European Institute for Comparative Cultural Research (ERICArts). Former President of the Orientation Board of the European Diploma of Cultural Project Management (Marcel Hicter Foundation, Brussels). Lecturer at the Sibelius Academy of Music (MA Programme in Arts Management) in Helsinki.

Currently she is involved in many European financed research projects (Women in the Arts and Media Professions, Creative Europe, Transmission, Compendium of Cultural Policies, Transformation of Nordic Cultural Policies). Member of the editorial board of the journal *Nordisk Kulturpolitisk Tidskrift* (Nordic Cultural Policy Journal). She has written widely on youth cultures, artists, cultural policies, new technologies and European issues in Finland and in Europe.

Former Head of Research at the Arts Council of Finland. She worked at the Council of Europe as a Programme Advisor (1992-1997). Earlier she worked at the University of Helsinki (Department of Political Science) and the Academy of Finland (four-year research project on Equality and Democracy). At that time she was the secretary of the Finnish Political Science Association (1974-1976) and a member of the board of that association (1977-1979). She has been a part time secretary of the cultural division of the Finnish National Commission for UNESCO (1975-1983).

Lluís Bonet, (Spain)

Professor of the University of Barcelona, and former President of the European Network of Cultural Administration Training Centers (ENCATC). Vice-President of the European Association of Cultural Researchers (ECURES), board member of the Association of Cultural Economics International (ACEI), and member of the Board of Trustees of Abacus (the largest Spanish cooperative on education and culture).

External advisor in cultural policies, statistics and economics at the Council of Europe, the European Union, the Inter-American Development Bank, UNESCO, and the Organization of Ibero-American States for Education, Science and Culture (OEI).

Member of several scientific boards of publications, international conferences, training courses, and jury panels for awards. In 2002 got the Research Award of the Audiovisual Council of Catalonia. Teaching Activity: since 1989 Director of the Graduate Programmes on Cultural Management of the University of Barcelona. Professor undergraduate courses at the University of Barcelona (Schools of Law, Economics, Documentation and Librarianship) concerning

Political Economy Cultural Economics, Cultural Industries and Cultural Management and Policy.
Invited Professor in different graduate programmes on arts and heritage management: Madrid
Complutense University, Granada University, Girona University.

Lecturer of several courses and seminars in more than 20 countries in Europe,
Latin America and USA.

Research Activities and Publications: Director of a large number of research studies in cultural
economics and cultural policies. Research Director in Cultural Economics at the Centre d'Estudis
de Planificació (1985-95). Visiting Scholar at the Massachusetts Institute of Technology
(1991-1992).

Veronika Ratzenböck, (Austria)

Director and founder of the "Österreichische Kulturdokumentation, Internationales Archiv
für Kulturanalysen", an extra-university institute for applied cultural research and cultural
documentation founded in 1991. Applying an interdisciplinary approach, the institute documents,
analyses and publicises national, European and international developments in culture, cultural
policy and cultural research (www.kulturdokumentation.org).

Research projects on culture, economic and social history of the 20th and 21st century; Visiting
professor at the Institute of Philosophy of Law at the University of Salzburg (subject: "The
European project") and lecturer in cultural studies and cultural policy at the University of Vienna.
Since 1998 expert consultant to the Council of Europe, Programme: Evaluation on national
cultural policies (Croatia and Bosnia & Herzegovina).

Member for the selection panel for the European Capital of Culture 2010 in Brussels (2006),
nominated by the European Parliament.

Focus of research and advisory work: Comparative cultural policy, European cultural and media
policy and cultural aspects of European integration, cultural and creative industries, urban cultural
policy, culture and employment, EU cultural policy, cultural studies (Examples: Study "Exploitation
and development of the job potential in the cultural sector" 2001, commissioned by the European
Commission, DG Employment and Social Affairs, in cooperation with MKW Wirtschaftsforschung
and others; "Cultural Competence. New Technologies, Culture & Employment" 1999, or the study
"The potential of Creative Industries in Vienna" commissioned by the City of Vienna, the Vienna
Filmfonds, the Vienna Chamber Institute, and the European Fund for Regional Development, 2004
(www.creativeindustries.at).

Michael W. Quine, (UK)

Senior Lecturer in Arts Management and former Acting Head of Department, Department of Arts Policy & Management, City University London.

An extensive career in managing arts organisations, in educating arts managers and in research. Initially from a theatre background, his interests range from the economics of the arts to arts marketing and financing, and into international comparisons. His international teaching experience includes countries as diverse as the US, Greece, Finland, Moldova, Spain and he is now a frequent visitor to Russia, especially St Petersburg. He is a founding member a multi-university exchange programme, funded by the EU SOCRATES programme, encouraging staff and student mobility as well as annual conferences. For six years until 2005 he was a Vice-Chair and Board member of ENCATC (European Network of Cultural Administration Training Centres).

He organised the first non-Francophone AIMAC conference, in London in 1995, and also works within the Scientific Committee for subsequent conferences (in Brisbane, Helsinki, San Francisco, Milan and Montreal in 2005) dealing with research into international comparisons of these and a range of wider policy issues. President of the Thomassen Fund in support of the mobility of educators and trainers in arts management.

Mikko Lagerspetz, (Estonia)

Professor of Sociology at the Estonian Institute of Humanities.

Born and educated in Finland, and since 1989 he resides in Estonia.

Lecturer of Sociology at the Estonian Institute of Humanities (1990-1997) and now Professor of Sociology.

Rector, 1998-2001.

Docent of Sociology at the University of Turku, 1997-.

President, Estonian Association of Sociologists, 1998-2003 (re-elected twice).

Member of the Board, Open Estonia Foundation, 2001-2004.

Honorary Member, Wind Orchestra of the University of Turku, 1991.

Involved in research and evaluation of Estonian cultural policies. Research on cultural policies, social problems, and civil society.

Publications (among others): *Constructing Post-Communism* (Turku, 1996); *Estonian Cultural Policy and Its Impact, 1988-1995* (with Rein Raud; Strasbourg, 1996); recent article: "How many Nordic countries? Possibilities and limits of geopolitical identity construction". *Cooperation and Conflict*, 2003.

Annex 4

Glossary

Acquis communautaire

The French term *acquis communautaire* refers to the body of EU laws and policies. When countries negotiate to become members of the EU they adopt the EU's existing laws and must begin to put them into effect. At the time of the latest EU enlargement there were more than 80,000 pages of EU law, and this was divided into chapters to make negotiations easier.

Animation socio-culturelle

According to the definition of the Council of Europe, *l'animation socio-culturelle* denotes a social policy which goes across a range of everyday activities, and takes account of the various social, cultural, economic and political aspects of the populations at which it is aimed. The concept behind it is that it is a voluntary and democratic activity appealing to the ideals of citizenship, aiming to mobilize groups and communities in order to improve social standards through certain cultural or artistic activities and enabling minority groups in particular to express themselves.

Bolkenstein Directive

The aim of the directive, proposed by Frits Bolkenstein, the European Commissioner who at that time was responsible for the internal market, was to establish a legal framework to reduce the barriers preventing free movement for providers of services – such as legal and accounting services – between member states. Services account for a large proportion of the wealth created in the EU and it was predicted that the reforms in the directive would create jobs and make the internal market work more smoothly. However, there was much opposition from trade unions and others, (mainly in the pre-2004 member states) to opening up of the markets, and a watered down version of the directive was finally passed by the European Parliament in February 2006.

Candidate countries

This term is used to describe countries which are in the process of applying and negotiating for membership of the European Union. After the 2004 enlargement, the term *candidate countries* includes Bulgaria and Romania, which have almost completed negotiations, and Croatia and Turkey which have just started negotiations for full membership.

Complementarity

This means a situation in which two or more different things enhance each other or form a balanced whole. In EU terminology complementarity means that EU policies are there not to replace national policies but to complement national policies.

Convention on the protection and promotion of the diversity of cultural expressions

Adopted in UNESCO in October 2005. This Convention encourages States to take special care regarding the protection of the diversity of cultural expressions within its borders and in its relations between States as well as to adopt policies and measures for the protection and promotion of the diversity of cultural expressions. It has yet to be ratified.

Copenhagen Criteria

The Copenhagen Criteria were agreed at the European Council meeting in Copenhagen in 1993. They defined eligibility for EU membership. Member states must have:

- stable institutions, guaranteeing democracy, the rule of law, human rights and the protection of minorities
- a functioning market economy
- ability to take on the obligations of membership, including support for the aims of the Union.

Copyright

This is the exclusive legal right – for a fixed number of years – to publish, perform, film, or record literary, artistic, or musical material, and to authorize others to do the same.

Council of Europe

In 1949 ten states set up the Council of Europe. Members were Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden and the United Kingdom. There are now 46 members. The organization's main aims are 'to promote democracy and protect human rights and the rule of law in Europe'.

The European programme of national cultural policy reviews analyzes the cultural situation in individual countries and helps them to devise cultural strategies. The Council uses information from these reviews to form general European strategies extending beyond the cultural field. More than half the signatories to the European Cultural Convention have agreed to assess their aims and methods, collect information on them, analyze trends and have this reviewed by outside experts.

Culture 2000

Culture 2000 is a funding programme run by by the European Commission. It supports contemporary arts and cultural heritage projects, and provides translation grants for contemporary European literature and works of the European humanities. *Culture 2000* aims to promote cultural cooperation between different countries. Most of the funding is for projects that are designed and carried out by collaborative partnerships of cultural organisations from different European countries.

Cultural markets

A term used to describe a market in which cultural goods and services are traded. It refers to national, regional as well as global markets of cultural goods and services.

Euro-Mediterranean Partnership

The Euro-Mediterranean Partnership (Barcelona Process) is a wide framework of political, economic and social relations between the 25 members of the European Union and partners of the Southern Mediterranean. The latter includes ten countries around the Mediterranean Sea – Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia and Turkey. Since 1999 Libya has had observer status.

European added value

The principle of European added value describes the EU principle that anything action undertaken by the EU as a whole should complement actions undertaken by the individual member states. It is one of the funding criteria in *Culture 2000*, requiring projects to have a European dimension.

European Economic Area

The European Economic Area (EEA) began in 1994 following an agreement between the European Free Trade Association (EFTA) and the European Union (EU). It allowed EFTA countries to take part in the European single market without having to join the EU. The current members are three of the four EFTA states – Iceland, Liechtenstein and Norway, (without Switzerland), plus the EU and the 25 EU member states.

European Union

The European Union (EU) is a union of 25 independent states based on the European Community (founded in 1965). The EU itself was founded in 1992 after the adoption of the Maastricht Treaty which came into force on January 1 1993. The European Union aims to enhance political, economic and social cooperation between its member states. See also **Transition countries**.

Eurostat

Eurostat is the statistical office of the European Communities, established in 1953. Its task is to gather and analyze figures from the different European statistics offices in order to provide comparable and harmonized data to European institutions so they can define, implement and analyze community policies.

Intellectual property rights

There is a body of law about rights to 'intellectual property', such as patents, copyright, trademarks, and so on.

L'exception culturelle

This translates in the EU context, to mean 'leaving culture out of the general rules for other sectors'. See also footnote 41.

Maastricht Treaty

It was in this treaty, which was adopted in 1992 and came into force in 1993, that culture was first explicitly addressed – in Article 128.

MEDIA

This is a European Union programme which aims to strengthen the competitiveness of the European audiovisual industry. It is now in its third phase. It supports professional training, development of production companies and helps with distribution and promotion of audiovisual products.

PHARE

The PHARE programme was the EU's first effort to help the post-socialist countries make the transition to multi-party democracies. It has helped ensure that these countries have the administrative capacities to meet the rights and obligations of EU membership. It also provides support for infrastructure projects, ranging from huge transport improvements to supplying medical equipment.

Piracy

Piracy involves the infringement of copyrights by unauthorized reproduction or use of something – it could be computer software, CDs, music on the internet, and so on. It usually involves large-scale or commercial distribution or sale of illegal copies of works. (See **copyright**.)

Post-socialist countries

This term is sometimes used to describe post-socialist countries of Central and Eastern Europe. Some of them became members of the EU in 2004, while some are either candidate countries or applying to become members.

Structural funds

The EU has had four structural funds, which it has been using to help improve economic and social problems. Culture has benefited from use of structural funds. At the time of writing these funds are being reorganized – some are merging.

Subsidiarity

Subsidiarity is the principle that decisions should always be taken at the lowest possible level or closest to where they will have their effect, for example in a local area rather than nationally. See also footnote 5.

Television without frontiers

The *Television without frontiers* directive created a legal framework which made it possible for European-made television programmes to be freely shown throughout the EU. It was passed in 1989 and updated in 1997. It may be updated again to take account of developments in digital broadcasting.

Third countries

EU documents sometimes use this term, meaning countries which are outside the EU.

Transition countries

Eight countries, which were previously part of the Soviet bloc – the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia – which joined the EU in 2004 are often referred to as transition countries. Their economies have been in transition to becoming market economies and their political systems have become democratic. (NB Cyprus [Greek part] and Malta also joined in 2004.)

Nina Obuljen

Nina Obuljen is a research fellow at the Institute for International Relations in Zagreb, Croatia. Currently, she is Assistant Minister for International Relations and EU Affairs at the Croatian Ministry of Culture. She graduated both from the Academy of Music and the Faculty of Arts at the University of Zagreb. She holds a Masters of Political Science from the University of Zagreb and is enrolled in doctoral studies at the same University. She is a member of the Editorial Board of the Culturelink Review and a former member of the Steering Committee of the International Network for Cultural Diversity (INCD).

From 2004 until 2006 Ms Obuljen was the chairperson of the Cultural Council for International Relations and European Integration of the Ministry of Culture of the Republic of Croatia. Ms Obuljen was head of the Croatian delegation for the negotiations about the Draft Convention on the protection and promotion of the diversity of cultural expressions in UNESCO. She is a member of the Croatian negotiating team for the accession to the EU for the chapters on Education and Culture; and Information Society and Media.

In July 2004 Nina Obuljen was awarded the European Cultural Policy Research Award for her research on the impact of EU enlargement on cultural policies. Nina Obuljen is the author of several articles in the field of cultural policy focusing in particular on the issues of the EU integration, transformations of cultural policies and cultural diversity.

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the 1990s, the number of people in the UK who are employed in the public sector has increased from 10.5 million to 12.5 million, and the number of people in the public sector who are employed in health care has increased from 2.5 million to 3.5 million (Department of Health 2000).

There are a number of reasons for the increase in the number of people employed in the public sector. One reason is that the public sector has become a major employer in the UK. Another reason is that the public sector has become a major employer in the health care sector. A third reason is that the public sector has become a major employer in the social care sector.

The increase in the number of people employed in the public sector has led to a number of changes in the way that the public sector is organized. One change is that the public sector has become more decentralized. Another change is that the public sector has become more market-oriented. A third change is that the public sector has become more customer-oriented.

The changes in the way that the public sector is organized have led to a number of challenges for the public sector. One challenge is that the public sector has become more complex. Another challenge is that the public sector has become more competitive. A third challenge is that the public sector has become more demanding.

The challenges that the public sector faces are a result of the changes in the way that the public sector is organized. The public sector must find ways to meet these challenges in order to continue to provide the services that it is responsible for providing.

There are a number of ways that the public sector can meet these challenges. One way is to improve the efficiency of the public sector. Another way is to improve the quality of the services that the public sector provides. A third way is to improve the responsiveness of the public sector to the needs of its customers.

The public sector must find ways to meet these challenges in order to continue to provide the services that it is responsible for providing. The public sector must be able to meet the needs of its customers in a way that is efficient, effective, and responsive.

The public sector must be able to meet the needs of its customers in a way that is efficient, effective, and responsive. The public sector must be able to meet the needs of its customers in a way that is efficient, effective, and responsive.

The main goal of this study is to identify those elements of cultural policies that might have directly or indirectly been affected by the EU enlargement. It aims to identify policies, common to different countries, which have already had an impact on culture, or might do so in future.

Respondents in ten selected countries were surveyed to see if there was any evidence of direct or indirect impact on policy-making in several cultural policy areas. Using the survey results and the findings of comparative studies, it outlines a framework in which cultural policies in transition countries are being redefined and reformulated.

It argues for more proactive policy-making at the EU level, to ensure that national policy measures, especially in new EU member states, remain compatible with the European and international regulatory framework that is having more and more of an impact on culture.