

Symposium

## **“The European Dimension of Cultural Cooperation – The Role of Foundations”**

**(A Satellite Event of the Berlin Conference “A Soul for Europe”)**

This symposium discusses the development of a European cultural cooperation policy and the role, which foundations can play in this process. That reaches far beyond the sector of leading arts institutions – it is rather a key component of a developing European public arena, defined by shared values. Foundations - and cooperation among them - contribute to a new understanding of a European public good/public benefit.

The situation in Europe is characterized by the limitations of public budgets in many countries, by the dramatic scarcity of European funds and the need for the cultural sector to draw both on public and private resources, especially in cross-border European cultural cooperation. Public-benefit organizations play an increasingly important role for a thriving cultural sector. To what extent can they also contribute to a European public “cultural good”?

The essential independence of the cultural sector from the state, while being highly “political” as far as public well-being in the broadest and critical sense is concerned also questions the role of foundations as agents operating in the public (and European) arena.

The panel will highlight results from exemplary projects and studies.  
Four practical and systemic approaches will be discussed:

1. Foundations do increasingly consider cross-border European cultural funding as strategic operational options – under certain conditions, among them non-institutional, lean arrangements, which provide the proper “cooperation milieus”.

It will be essential to define the relationship between this new type of private European “engagement” and the public European space as shaped by the legitimate European institutions.

*Ugo Bacchella* will present the conclusive part of the study carried out by the Torino based Fondazione Fitzcarraldo.

2. Foundations across Europe do embark on significant European pilot projects such as the “laboratory of European cultural cooperation”, set up in a public private partnership and in a perspective to contribute substantially to a new complementary paradigm beyond the stalemate (or mantra) of subsidiarity. The specific context can be described as a contribution to ‘culture and the Lisbon agenda’, enhancing Europe’s creative competitiveness.

It will explore why and how foundations complement national and European policies by risk taking and incubating investment with a perspective of sustainability within a framework of public commitment.

*Gottfried Wagner* from the Amsterdam based European Cultural Foundation will briefly summarize the state of the art.

3. On a more systemic level, the role of foundations between legal provisions for private, autonomous funding and public well-being (public good) will be

explored. Andreas Schlueter<sup>1</sup> will resume his main findings and present his position for the debate:

- Foundations are a legal form in which cultural activities can well be organized or by which they can be funded in a sustainable way.
  - Foundations can draw on the growing amount of existing private wealth and make it available for culture.
  - Foundations are a means to provide culture with the autonomy it needs to thrive.
  - Foundations are an expression of civic spirit to organize private contributions to the European public good, and have a potential for citizens' participation.
  - Foundations can organize public issues independently of the state.
  - Foundations historically form part of European traditions and identity.
  - Foundations today can help developing a European public good.
  - Foundations exist in various legal forms all over Europe and can be adapted to local needs.
4. Finally reporting from The Bertelsmann Foundation/Maecenata Institute project<sup>2</sup>, criteria for the success of cultural foundations operating an institution will be elaborated. Also, drawing on The Bertelsmann Foundation project<sup>3</sup> on the legal form of a European Foundation, conclusions for a legal form currently lacking for both donors who wish to get involved in cross-border giving, as well as for institutions of a European purpose and mission will be drawn. *Volker Then and Rupert Graf Strachwitz* will summarize the main findings of the projects:

- Independent Foundations enjoy the autonomy of asset-based organizations defined by donor intent. Being defined by their charters/statutes, they can play a dual role both as funders of cultural activities and as legal form to run cultural activities.
- Foundations can provide for culture on a sustainable, but long-term basis because building up the asset base of a new organization takes time.
- Keys for success are: independence of public interference, relative autonomy, an independent governance structure that reflects the civil society values of donors which the foundation hopes to attract, and the development of a sustainable asset base.
- Foundations can be suitable forms for cultural institutions.

The "European Foundation project" assumes that both donors who wish to get involved in cross-border giving, as well as institutions of a European purpose and mission are lacking a legal form today. Proposals will be presented<sup>4</sup>. The presenters will give reasons to start developing such a legal instrument<sup>5</sup> as part of a European identity:

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<sup>1</sup> as of Jan. 1- 2004 secretary general of the Goethe Institut. He has previously completed his habilitation thesis now published under title of: „Stiftungsrecht zwischen Privatautonomie und Gemeinwohlbindung“, Munich 2004, comparing England, France, Italy, Germany and the US.

<sup>2</sup> the conversion of public institutions to Foundations: Rupert Graf Strachwitz, Volker Then (eds.), *Kultureinrichtungen in Stiftungsform*, Guetersloh 2004.

<sup>3</sup> in collaboration with the Compagnia di San Paolo, the ZEIT-Foundation, the Max-Planck-Institute for international and international private law (Hamburg) and the Bucerius Law School

<sup>4</sup> The actual legal draft of the project will be available. The full publication including comparative law analysis and rationale will be published in spring 2005.

<sup>5</sup> The European Foundation Centre has developed activities to promote and develop proposals, supported by collaborative efforts such as the project mentioned.

- Donors should be able to effectively contribute from their wealth in several Union member states.
- Companies should have a giving vehicle at their disposal, which allows them to give back to Europe rather than to member states only.
- Friends-of-organizations or the creation of several legal entities in each union state, in which giving or spending is intended is only an inefficient substitute existing to date.
- In the spirit of subsidiarity, national law on foundations should not be harmonized because it reflects a great wealth of different historical traditions in European philanthropy which cannot easily be reconciled without losing liberal opportunities.
- An instrument such as a “European Foundation” should therefore be available on an optional basis to donors wishing to use it or to institutions which raise funds from across the Union.
- The European Commission has opened a window of opportunity in its Action Plan of May 2003.
- Legal forms for the corporate world have been/are being developed. Therefore not only for-profit investment should have its legal framework, but also public-benefit investment.

Gottfried Wagner will moderate the discussion.

Volker Then  
Gottfried Wagner