policies for culture

Recommendations for follow-up

based on conclusions of the Policies for Culture workshop
(Sinaia, Romania, 6-8 July, 2000)

Legislation and Cultural Policy Development

by Mara Galaty

The first workshop in the new programme *Policies for Culture* brought together a diverse group of experts and practitioners from government, parliament and civil society, from Eastern and Western Europe, and offered three-days of rich discussions. Debates touched on particularities in the policy-making process both in Romania and in the region of South-Eastern Europe as a whole and explored recommendations for co-operative action on issues related to cultural policy.

Although many concerns were highlighted and consensus on action did not always emerge, certain optimism prevailed as workshop actors found common ground in their desire for dialogue and to manage conflict. Unfortunately, the workshop did not really begin to touch on the complex issue of allocating responsibilities for cultural policy-making. However, and perhaps more importantly, for many participants the workshop was the first opportunity to sit together at one table and confront one another with issues of mutual interest.

Priorities

The main workshop priorities or recurring themes can be summarised as:

- **Transparency:** create a more transparent decision-making system – share information, goals, and accomplishments;

- **Partnership:** undertake an effort on *both* sides (state institutions and civil society) to break down rhetorical walls in order to begin co-operating more in planning strategies;

- **Role of civil society:** identify ways and instances when civil society can step into the legislative process with a chance for success in influencing decisions; and

- **Political will:** co-operate across sectors in order to garner the political will necessary for establishing important cultural legislative issues as top agenda priorities in the parliamentary and governmental processes.

This report is structured into four parts:

I.   **Introduction**;
II. **Region-specific realities** that highlight special challenges when working in the region;
III. **Romania-specific problems and potential actions** to address those problems;
IV. **Short conclusions of the 3 working groups** of the workshop and suggestions made for further action (Finland, Netherlands, France).

The report does not give a summary of the workshop proceedings, or a resume of things said, but aims to provide only a **synthesis of the main points raised** and, more importantly, provide recommendations from which the Project Management and the Romanian Steering Committee can determine concrete follow-up micro-projects. The

workshop can be said to have been, besides a platform for discussion, a successful 'needs assessment' for further action. It formed the beginning of a dialogue which should be ongoing, not a conclusion.

I.   Introduction

Workshop discussions covered a broad range of issues relevant to the cultural sector in any country. Working groups addressed different cultural policy models in a variety of European countries. Each discussion emphasised the reality that although cultural policy is particular to each country, in Europe there seems to be an increasing convergence of priorities – such as partnerships and the economic aspect/role of culture. Culture plays a number of fundamental roles for any society – it impacts a country's overall image; it stimulates dialogue that brings people together and lessens conflict; and it often helps societies or individuals by expressing the inexpressible.

Thus, the development of cultural policy should represent a core component of any national strategy. A foundation of this policy must be direct feedback from artists. In general, all actors in the policy process must work together to advertise and promote the importance of culture and cultural projects, instead of struggling to advertise themselves and their own organisations and actions.

Funding for the cultural sector represents a universal, core problem. A number of countries have developed creative ways to generate support and to earmark funding for the arts, which contributes to the stability of the sector – initiatives have included national lotteries and various tax incentives. However, each country must consider options that will work in its own social, economic and political context.

II.   Region-Specific Realities

The workshop participants emphasised the importance of recognising a ***distinct Balkan reality*** that must be considered in formulating and discussing cultural policy and strategy in the region. For this reason, the proceedings stressed the need to look at and get inspiration from appropriate western cultural policy models – but to avoid simply adopting these models.

A major challenge common to most states of South-Eastern Europe involves the existence of a great degree of mistrust among government institutions, as well as between the government and civil society. This mistrust is heightened by an overall lack of government transparency. Citizens in general suspect corruption at all levels of government and business. Although such suspicions may sometimes be well founded, measures to increase transparency would go far towards establishing greater stability and confidence in existing mechanisms and structures.

The current situation in the region is further characterised by a series of psychological obstacles. For example, most societies have not yet answered the question *of who exactly holds responsibility for the development of the cultural sector*, in the absence of a centralised state. In fact, citizens and governments deal daily with a variety of "leftovers" from former communist states – such as the belief that it is "illegal" to

have personal interests (which makes lobbying suspicious) and a general arrogance of public authorities and unwillingness to be held accountable for their actions (which affects transparency).

Furthermore, cultural organisations in the region have to deal with frequent political change (parliamentary, ministerial, presidential), which affects the order of priorities at the top and continually forces both the state and civil society to start anew seeking partners, drafting legislation and formulating strategy. Such complications created by frequent political change make the on-going process in South-Eastern Europe of exploring changes to *all* legislation (not just cultural) seem endless. Some feel that parliaments may need another 2-3 years before they can truly shift their focus from general legislative change to the development of real policy and strategy.

Contact and exposure with western markets and colleagues represents an important component to progress in the cultural sector of the region. Stringent visa requirements often make important interaction and co-operation unnecessarily difficult. Finally, in order to really move ahead and implement workable policies, the cultural sector throughout the region will have to develop methods for evaluating successful programmes and strategies. These measures need to be coupled with an effort to work more cross-sectorally, and to establish more solid partnerships with the private sector and the media.

III.   Romania-Specific Challenges

This section details the various specific issues that emerged as being central to cultural policy development in Romania.

A. Problems

1) Although the Ministry of Culture in Romania has a committee for dialogue with civil society, that dialogue currently focuses mainly on trade unions and associations – the Ministry feels that it is difficult to find representative organisations for cultural issues in Romania;
2) It was said that people in lower-level positions at the Ministry of Culture seem to be sabotaging cultural projects, and ultimately the overall strategies of the Ministry;
3) The Romanian legislative process is unusually tedious and slow (due to the fact that the two chambers of parliament have identical responsibilities so that everything must be done twice);
4) Political instability in Romania (in particular) has been frequent, undermining consistent strategy and the development of a sound legislative foundation – furthermore, with each internal government change, civil society loses key lobbying contacts;
5) Civil society is not well organised -- over 6.000 cultural organisations exist in Romania -- they must understand that they cannot each negotiate as individuals;
6) Individual artists face special challenges, as they fall into a no-man's land, standing outside of existing institutions, programmes and projects.

B. Concrete suggestions for immediate effective action in Romania

Many concrete steps need to be taken to optimise the presence and use of cultural in all of our societies. For Romania, certain areas have been identified for immediate attention – including the improvement of access to information and the quality of cultural administration. Following are some specific next-steps suggested during this workshop in micro-projects, although sufficient time was not available to develop the necessary follow-up approaches. It now rests on local leaders to take action based on these ideas:

1) Involve civil society in the preparations for the Romanian national debate on the reform process in the field of culture, which will take place September 2000;
2) Begin publishing an annual report of the Ministry of Culture, which details who received grants and what was achieved in terms of strategy and programmatic goals – this will contribute to transparency;
3) Print a guide to the legislative process for civil society, including ways and means for civil society to effectively participate in that process;
4) Create a forum of the major cultural NGOs to help co-ordinate/communicate internally in order to have a more unified/clear voice and to more effectively lobby issues of importance to the cultural community;
5) Take a public opinion poll on the national budget allocations to culture (does the public think it is enough?);
6) Conduct lobbying exercises.

C. Ideas for further exploration

The following ideas and suggestions came up, which should also be explored.

For the Ministry
1) Create a colourful board of advisors for the Ministry of Culture and change it regularly;
2) Invite civil society to participate more in Ministry structures and Commissions;
3) Institute a method for regular interface between government and civil society organisations;
4) Develop a way for presenting legislation to its potential users – explain it to them and how it may affect them;
5) Look at long-term market prospects and project potential changes (including birth rates, technological development), then identify priorities for the future;
6) Convene an inter-ministerial committee to deal with issues that cross ministerial domains and require co-operation, such as the problem of social security for freelancers (instead of trying to establish a special status for artists alone) and other legislation with financial or tax implications;
7) Provide training for public servants to change long-term institutional behaviour and values -- since permanent ministry/parliamentary staff often represents a source of continuity in times of political change.
For the cultural sector at large
8) Initiate and strengthen new, constructive relationships with business and the media;

9) Investigate new funding methods and opportunities for the arts (be aware that some western models such as the lottery have been considered and rejected for the Romanian context);
10) Consider a code of conduct to identify roles and responsibilities for all actors (take into account civil society, the private sector, parliament, ministries, local authorities, etc.) – it is especially important to establish a framework for responsibilities in situations of joint funding (for accountability to the public);
11) Define better the roles of existing cultural organisations, and explore their capacities to carry out these roles;
12) Educate journalists on cultural concerns and issues;

D. Romanian civil society's involvement in the legislative process

Certain advice emerged at the table, which might enable civil society to more effectively gauge appropriate times and means of involvement in the legislative process. As a rule, when considering the creation of laws, actors in the development of cultural policy must ask how many laws are truly necessary and what their potential consequences may be. They must not forget that legislation is a tool for regulation that includes many legal provisions and thus may not always be the optimal tool choice.

Key points for effective civil society involvement in the legislative process include:
1) Organise civil society better internally in order to have an impact;
2) Attend/Listen to parliamentary debates in order to be aware of the moment when the bill goes to a committee for debate;
3) Intervene when a bill goes to a committee for debate (which should already include consultations with a few civil society organisations or experts) because this is where the bulk of work is done – by the time a draft reaches the floor for discussions, not many changes will be made;
4) Pressure the committee to make that bill a priority on its agenda – if necessary, use the existence of political opposition to play on political differences (to help make it a priority) – long legislative cycles *can* be compressed when the political will exists;
5) Foster relationships with individual MPs on a committee – they can bring the views of NGOs into official discussions – and each and every one of them has different perspective/opinion so it is worth taking the time to explain your position to each one;
6) Initiate dialogue with authorities who will be responsible for implementing a bill in order to know whether or not it is realistic and will succeed;
7) Take advantage of the full range of assistance available from the outside (including the European Commission) – most successful civil society initiatives and campaigns have done this.

Despite this good advice, it seems necessary to point out that in Romania a contradiction exists between principle and practice in terms of civil society's ability to participate in the legislative process. As one presenter asserted, "legal text is one thing – real life is much less ideal." Experiences of representatives from Romanian cultural organisations in their efforts to participate in the legislative process document primarily failures and discontents. In *principle*,

Romanian citizens can initiate a bill, can have access to draft legislation, and can visit plenary sessions of the parliament.

However, a Romanian parliamentarian explained that in *practice* if a bill comes directly from civil society then the parliament and ministries generally don't like it. In *reality*, getting hold of draft legislation can be next to impossible. Experience shows that it is not always possible to get into the plenary and listen to discussions at crucial moments. It also emerged in discussion that civil society comments on draft legislation usually come too late to be integrated into committee discussions. Another harsh reality is the fact that business lobbies are stronger and faster than those of civil society are.

Government use of its power to pass government ordinances during parliamentary recess represents an important controversial practice particular to the Romanian legislative process. It is worth pointing out this particularity, since not only will this practice continue into the foreseeable future, but it also emphasises the number of complex factors involved in effective legislative co-operation and change in Romania.

Government ordinances become immediately valid as laws, until the parliament has time to discuss them, and to accept, reject or amend them. The exceptionally slow process for discussing and adopting legislation in Romania makes this government shortcut for quick decisions attractive -- and it is sometimes truly necessary. In Romania a draft law needs an *average* of two years to get to the promulgation stage with the President. Clearly, legislative deliberation must be *relatively* slow to allow for comments from all necessary people – but the extreme situation in Romania adds aggravation to an already complicated process.

On the bright side, one parliamentary expert did assert that while the practice of issuing government ordinances represents an intrusion on the job of the legislature, it offers the advantage of acting as a kind of pilot-test for laws. By the time parliament begins discussing these ordinances, it is often possible to see how well a law would do in practical implementation. Initiators can then identify weak points and offer amendments to the committee, so that by the time it becomes a law it has been well thought out. Currently, government ministries co-ordinate with the presidency in order determine priorities for ordinances that will be passed during parliamentary recess.

IV   Working Group Conclusions

This section details the results of the discussions of small working groups on pre-identified topics.

A. Romanian Law on Sponsorship

The current law is inapplicable and cannot be implemented as it is. At the moment, it is simply one more tax law and its only advantage is that may help make corporations aware of the need to sponsor culture. According to the working group, two options exist:

1) Scrap the current law -- include aspects of it in provisions of other financial laws and find other ways to make corporations aware that they need to sponsor culture.
2) Keep the law on the basis that it helps raise awareness among corporations that they need to sponsor culture. *However*, the law should be changed from a law on "sponsorship" to be called a law on "Corporate Giving" (in order to avoid stressing the tax aspect) and should include provisions for patronage and corporate foundations. The law needs to be more clearly co-ordinated with other laws, in particular the NGO/Foundation Law and the Publicity Law. There need to be clear guidelines included for establishing and operating corporate foundations in order to ensure the existence of clear economic incentives to motivate corporations to sponsor culture. Also, the law should encourage sponsorship in-kind, due to the lack of financial liquidity at this time in Romania.

N.B. Next-steps in Romania must take the following into account:

1) The need to educate sponsors about why they should give to artists and cultural activities;
2) The need to create a cadre of better prepared personnel/professionals in the area of fundraising for culture – these people should have good and convincing arguments to present to potential sponsors.

B. The status of the artist in Romania

The primary question of the status of artist in Romania proved too controversial to come up with a definitive answer. Instead, it seemed to generate questions, such as whether or not Romania actually needs a special treatment for artists. Thus, these statements should not be considered consensual conclusions, but rather ideas for follow-up discussion.

Romania is in a crisis at this moment, which requires certain immediate actions. The following statements are remedies for the present situation and not necessarily the long-term development of the sector (which will have to come when the crisis settles).

1) In Romania there exists a need to restructure public institutions and in this process many artists currently employed by the state will lose jobs. Romania needs to be prepared for this and have means of offering these artists some kind of social security. This requires the creation of a clear new status or framework for freelancers. Then artists have the freedom of choice – to seek

work or to become freelancers. Croatia and Slovenia have created a fund to encourage freelancers (which must be considered a form of entrepreneurship), so it clearly is an option that works and is applicable in the region.

2) A possible idea to promote social security for artists that could be set up rather quickly would be to take part of the taxes that artists pay and funnel those funds directly into a social security system for artists. It is clear that this system would not benefit the artists immediately, but a mechanism needs to be put in place now for freelancers to benefit in the long run. However, this suggestion brings up the questions of whether or not it is necessary to establish a special status for the artist.

3) Overall development of the cultural industry would help create jobs and would help absorb some of those who will lose jobs in the restructuring of public institutions.

C.   The Finnish cultural policy model

The group's discussion of the Finnish model in the context of the Romanian situation established that:

1) The situation in Romania is such that when decentralisation takes place, nothing can happen due an overall lack of resources. Thus, in Romania it is necessary to empower municipalities *before* delegating new responsibilities to them (laws can be used as tools to help in this process).

2) Romania needs a code of conduct on how the public and private sectors can work together and how the cultural sector can benefit from money it receives from the private sector. Funds from the private sector should not limit or reduce state funds the cultural sector currently receives – instead this money should be viewed as extra project funds.

3) Laws are useless without the resources to implement them and without a tradition of the rule of law (to obey them) – but this is case that needs to be addressed in Romania.

4) Lotteries and excise taxes are already used by governments in South-Eastern Europe as a tool/funds for overall economic development, but this has not benefited the cultural sector. Importantly, this demonstrates that this kind of earmarked funding (used in many western European countries) is not a serious option for these countries at this moment.

5) There exists a need to look more closely at what kinds of arm's-length models would most benefit artists in Romania.

6) Romania needs to make it a priority to ensure artistic works are circulated on a global market – and this involves creating healthy creative industries.

7) In general, it is necessary to change current discourse/rhetoric -- don't talk about "spending" in the arts, but rather about "investment" in the arts. The public and the government should perceive this as an investment in public infrastructure. Although it is difficult to show the direct financial impact of investment in the arts, it is clear that a healthy civil society is one with many cultural activities.

D. The Dutch cultural policy model

The group's discussion of the Dutch model in the context of the Romanian situation established that:

1) If an Arts Council or Council for Culture is created in Romania, it must be open for membership to people both inside and outside the cultural world. Such a Council will never be totally objective – but relative subjectivity is acceptable in this case.

2) To use this kind of Council it is necessary to create a framework for determining quality. This can be accomplished by comparing like institutions or types of art (if you narrow the discussion to "folk art", for example) you can begin to discuss quality). Although criteria for quality may differ between countries it must be clear and established before a Council takes decisions – this will require advance political agreement regarding the quality criteria.

3) A funding cycle can facilitate necessary change (i.e. a flexible model). Romania could consider stimulating a national debate on culture every few years and this debate must involve everyone, especially the municipalities. Such a cycle need not necessarily be a fixed-term one, as it is in the Netherlands.

4) The first step for Romania towards this "cycle" system would be to establish a good system of feedback (for debate).

E. The French cultural policy model

The French cultural model in the context of the Romanian situation established that:

1) An exclusively state run cultural policy implementation brings about investment in very heavy structures which demantling later on is very difficult (no transparent assessment process existing, no regular evaluation of projects either);

2) At the same time, the strong linkage between cultural policies and politics ensures that different cultural sectors (such as policy linked to regional languages for example) would take into account more the political reasoning than the cultural factor;

3) Important investment in culture and a very strong role of the Ministry of Culture can induce large consumption, but also immobility of structures and inertia in creativity.

Please see the dossiers you received at the workshop for background information on the policy-making models of the above-mentioned countries. For more information on these countries, we would like to direct your attention to the Compendium of Cultural Policies in Europe on www.culturalpolicies.org, issued by ERICarts and the Council of Europe.