

## Report on freedom of expression and the role of the artist in European society (25 September 1973)

**Caption:** On 25 September 1973, with a view to the forthcoming meeting of the Conference on Security and Cooperation in Europe (CSCE), the Austrian Franz Karasek, rapporteur for the Political Committee of the Consultative Assembly of the Council of Europe, submits a report on the importance of freedom of expression and on the role of the artist in European society.

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## Report on freedom of expression and the role of the artist in European society<sup>1</sup> - Rapporteur: Mr. KARASEK (25 September 1973)

### I. Draft Recommendation on the place of freedom of expression in the work of the Conference on Security and Co-operation in Europe presented by the Committee on Culture and Education<sup>2</sup>

The Assembly,

1. Considering the work of the Florence Symposium on Freedom of Expression and the Role of the Artist in European Society (29-30 June 1973);
2. Having noted the report of its Committee on Culture and Education (Doc. 3329);
3. Recalling that this symposium brought together, for the first time at European level, political figures (government representatives, chairmen of parliamentary committees on culture and education, members of the Consultative Assembly) and writers and artists representing the major forms of artistic expression;
4. Noting that during the Florence Symposium many participants, especially among the artists, stressed the danger of collusion between State capitalism and private capitalism which would be detrimental to writers' and artists' freedom of expression and might endanger the foundation of the cultural values common to the parliamentary democracies;
5. Urging that the agreements which will be concluded following the Conference on Security and Co-operation in Europe (CSCE) should not lead, in the member States, to any retreat from freedom of expression;
6. Stressing that security and détente cannot be allowed to serve as alibis for deals or compromises dangerous to freedom of expression, which should never be used as a bargaining counter, as it has no market value;
7. Aware that European public opinion, in the East and the West, in the North and the South, will undoubtedly judge the results of the Conference on Security and Co-operation in Europe by the solutions it brings to the problem of the free movement of persons and ideas, and that in this respect the intensification of official cultural exchanges (opera, theatre, ballet etc.) cannot be considered by Europeans, and by artists in particular, as an adequate response to their desire for freedom;
8. Considering that during the second phase of the CSCE particular attention should be given to the protection of minorities, whose cultural role — an important factor in European co-operation — should be recognised, and maintaining that the member States should vigorously defend the principle of non-discrimination towards them,
9. Recommends that the Committee of Ministers ask member governments:
  - (a) to give greater importance to the third aspect of the CSCE (free movement of persons and ideas) during the second phase of the conference, and to see to it, in particular, that the desirable and necessary improvement in relations between countries with different social systems is accompanied by practical measures designed to guarantee freedom of expression in compliance with the standards defined in Article 10 of the European Convention on Human Rights and Fundamental Freedoms;
  - (b) to request the CSCE to recognise the cultural role of minorities as a factor favouring European co-operation.

## **II. Draft Recommendation on the exercise of freedom of artistic expression presented by the Committee on Culture and Education<sup>3</sup>**

The Assembly,

1. Considering the results of its symposium held in Florence on 29 and 30 June 1973 on freedom of expression and the role of the artist in European society;
2. Having regard to the report presented by its Committee on Culture and Education (Doc. 3329);
3. Believing that the work of the Florence Symposium should be pursued and intensified, both at intergovernmental and at parliamentary level, in order to increase the protection provided for freedom of artistic expression by Article 10 of the European Convention on Human Rights and Fundamental Freedoms,
4. Recommends that the Committee of Ministers ask the Committee of Experts on Human Rights, in co-operation with any other intergovernmental committees concerned, and with the working party set up under Order No. 341:
  - (i) to examine the cultural co-operation agreements concluded by and between European States, whether or not they are Members of the Council of Europe, in order:
    - (a) to ascertain the place allotted to artists and their professional organisations, on the understanding that the artists' contribution is essential to ensure that these agreements are implemented in a manner consonant with the necessary respect for freedom of artistic expression;
    - (b) to work out certain fundamental principles which might constitute the basis of a model co-operation agreement;
  - (ii) to study the question of the free movement of artists between European countries whether or not Members of the Council of Europe, particularly in the case of travel for professional reasons, and to prepare an appropriate draft convention;
  - (iii) to determine whether and to what extent the essential copyright protection which provides the material basis for freedom of artistic expression could lead to restriction of that freedom;
  - (iv) to consider the expediency of setting up, for the benefit of all categories of artist, a moral right in their works combined with an artistic conscience clause, so that an artist's works shall not become propaganda instruments of the State to the detriment of freedom of artistic expression.

## **III. Draft Resolution on violations of freedom of expression presented by the Committee on Culture and Education<sup>4</sup>**

The Assembly,

1. Considering that freedom of expression constitutes one of the splendours and servitudes of any democracy worthy of the name;
2. Reasserting the right of artists and writers to express their views on the evolution of the society in which they live, even if their opinions are critical of the existing system;

3. Deploring the persecutions of which intellectuals and artists are victim in several European countries, and condemning all violations of the freedom of expression now perpetrated in Europe and other continents;
4. Keenly regretting that at a time when a desire for a more open approach in international relations was becoming evident in the East, and particularly in the Soviet Union, severe measures were taken for the political control of cultural activities;
5. Noting that this evolution leads to the growing isolation and regimentation of Soviet culture by comparison with the outside world and that it is in danger of compromising progress in respect of one of the major objectives of the CSCE: the free movement of persons and ideas;
6. Recalling that, in its Recommendation 521, it advocated in 1968 "an overall multi-lateral policy aimed at restoring the cultural unity of all Europe",
7. Holds that this aim cannot be achieved as long as freedom of expression is not guaranteed in all European countries in accordance with the spirit of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

#### **IV. Draft Order on the follow-up action to be taken on the Symposium on Freedom of Expression and the Role of the Artist in European Society presented by the Committee on Culture and Education<sup>5</sup>**

The Assembly,

1. Having noted the report of its Committee on Culture and Education on freedom of expression and the role of the artist in European society (Doc. 3329);
2. Desirous of pursuing and intensifying the fruitful dialogue begun with leading personalities in the world of art and culture at the symposium held on this subject in Florence on 29 and 30 June 1973;
3. Considering that ways and means should be sought of ensuring, in democratic societies, the highest measure of freedom for artistic creation and of artist participation in formulating the cultural policies of the member States;
4. Considering, in particular, that it is desirable to find a reasonable answer to the question of the role of the State in artistic creation;
5. Believing that encouragement should be given to education which will awaken cultural and artistic curiosity and sensibility in all citizens,
6. Instructs its Committee on Culture and Education to set up a working party composed of parliamentarians, writers and artists, whose general terms of reference would be:
  - (a) the drafting of a European artist's charter and definition of the artist's social status;
  - (b) investigation of a radio and television "model" best suited to guarantee freedom of expression;
  - (c) the setting-up of a European fund for artists which could help to furnish the material basis for the life of artists while respecting their freedom of expression;
  - (d) the definition of the basis of an educational syllabus designed to awaken curiosity and cultural and artistic sensibility.

#### **V. Explanatory Memorandum by Mr. KARASEK**

## Introduction

1. In application of Resolution 531 (1972) of the Consultative Assembly of the Council of Europe, the Committee on Culture and Education organised a symposium on freedom of expression and the role of the artist in European society. This symposium, held in Florence on 29 and 30 June 1973, was attended by politicians (government representatives, chairmen of national education and culture committees, members of the Consultative Assembly) and artists (see Appendix V). This represented an original initiative which was suggested in the report (Doc. 3185) which our Chairman, Mr. G. Kahn-Ackermann, presented last September on cultural policies in Europe.

2. We will not reiterate the motives which inspired the committee and the Assembly to adopt Resolution 531 (1972). They are made sufficiently explicit in the report quoted above, and also in the programme for the symposium which is appended hereto (Appendix I).

3. In presenting this report, the Committee on Culture and Education wishes not only to place before the Assembly the findings of the Florence Symposium, but also to draw conclusions from events which have occurred since, making freedom of expression a burning issue. On the eve of the second phase of the Conference on Security and Co-operation in Europe, it is the Assembly's duty to strike a political attitude and to make it clear to the member governments that it shares the grave concern expressed by artists and writers.

I am pleased to acknowledge that my task as Rapporteur was made much easier by the brilliant summing-up delivered at the closing meeting by our former Chairman, Mr. Capelle, with his customary mastery and faultless objectivity. We take this opportunity of expressing our sincere gratitude to him.

Our thanks are likewise due to all who took part in the symposium, both artists and parliamentarians, the quality, pertinence and number of whose speeches made the event a resounding success.

Among them, we owe special thanks to the governmental representatives: Mr. Frank Cluskey, Parliamentary Secretary of State (Ireland), Mr. Norman St. John-Stevás, Parliamentary Under-Secretary of State (United Kingdom), and Professor Jean Cazeneuve, representing Mr. Maurice Druon, French Minister for Cultural Affairs, for having enhanced and enriched the proceedings by their presence.

Last, but not least, we must pay tribute to our three lecturers: Mr. Günter Grass, Mr. Guido Piovene and Professor René Jean Dupuy, whose excellent lectures set the tone for the whole symposium.

4. For convenience's sake, we retain in this report the pattern of the three working sessions which related to the nature, the need and the protection and limitation of freedom of expression. We point out, however, in passing, that certain themes or questions, such as the artist as a citizen, the role of the State in artistic creation, art and politics, were implicit throughout the symposium and that it is impossible and pointless to seek to establish watertight divisions between the different themes included in its programme.

### **East-West relations seen from the point of view of freedom of expression and the situation of artists**

5. Before discussing the different meetings of our symposium we feel that it is necessary, if not indispensable, to introduce a parenthesis on a subject which was constantly being raised — namely East-West relations and the implications of closer agreement between the Eastern and Western countries for freedom of expression and the situation of the artist. Also, it must be stressed that the committee had never conceived of the aim of our symposium as being to find fault with the East as regards freedom of expression and the artist, whilst attributing a blameless record to the West in an over-simplified way. It would be politically unrealistic and furthermore too convenient, for, as certain speakers stressed, the Western countries whose political systems have a cornerstone in the European Convention on Human Rights are far from being absolved from certain criticisms.

6. It was after all logical that as the symposium was held immediately prior to the opening of the Helsinki Conference on Security and Co-operation in Europe, the subject of East-West cultural relations extended far beyond the context in which we had originally intended to discuss it. But the symposium provided a further opportunity for confirming our belief that it is our duty as parliamentarians to follow up, in the framework of our Assembly, and by the most appropriate methods, the results of the Helsinki and Geneva Conferences and, when the time comes, to make recommendations to our governments.

7. Having said this, we all came to realise during this meeting between artists and politicians to what extent the anxiety of artists is justified in the world we live in, not only because the implications of its technological achievements make it hard, but also because political, and perhaps still more commercial, interests lead us to underestimate a certain number of inestimably precious values, such as cultural values and their freedom both for artists and for those to whom they have a message to give.

8. Mr. Günter Grass<sup>6</sup> was the first eloquent exponent of this anxiety, and we feel that it should be of concern to the politicians during the discussion which will be held during the Conference on Security and Co-operation in Europe.

9. In this context, the recent statements of Mr. Andrei Sakharov, which threw a particularly harsh light on the apprehensions which have been expressed during our symposium, spring readily to mind. This most eminent of Soviet dissidents has just, at the risk of provoking serious reprisals, alerted the Western countries to the dangers of a one-way understanding with Moscow. "Beware", exhorted the father of the "H" bomb for the Western countries, "of a rapprochement with the USSR which is not accompanied by the democratisation of this country and the breakdown of its isolation. A détente without democratisation, a détente whereby the West would in fact accept our rules of the game, would be a dangerous détente. It would not solve any of the world's problems and would constitute a capitulation to our power, whether real or exaggerated".

10. The Soviet physicist, and here we touch directly on the business of our symposium, reproached Western businessmen with confining their interests to Soviet oil and gas while "ignoring all other aspects of the problem". Importing Western technology is no solution, and Mr. Sakharov stressed that the Western countries must impose conditions for the détente and make a stand against "the closed countries where everything that happens is unseen by foreign eyes" and which "disguise their true faces".

11. In allowing this distinguished physicist to talk, is Moscow arming itself with a sound alibi on the eve of the resumption of the Conference on Security and Co-operation in Europe? The future alone will tell. This courageous warning may well be the statement of a man who, as a citizen and partisan of freedom, is assessing the side-effects of any external aid to the Soviet Union on the fate of men in a country dominated by the uncontrollable machinery of bureaucracy. These and many other questions could be raised.

12. For finally, if we refer to the state of discussions at the end of the first stage of the Helsinki Conference, we have to admit that there is still disagreement between East and West as to the free movement of persons and goods. The first phase of the Helsinki Conference concluded on 7 July with a definition of the general principles of security and co-operation in Europe. Whereas the Western Ministers made a special point of emphasising the free movement of persons and ideas, the representatives of the socialist States, whilst not actually rejecting the principle, were much more reserved on this point.

13. At this time, when questions of cultural relations and exchanges between East and West are so much in the forefront, we must be fully aware that at the same time as there was a willingness in the East to open up international relations, severe measures of cultural control were taken, which in practice lead to isolation of Soviet culture from the outside world and render the most innovatory and original internal movements sterile.

14. The attitude of the Soviet regime is a calculated one based on a defence reflex which generates a cultural asphyxia of inconceivable proportions. This is a reaction against what could be called the intrusion of ideas, and in relation to this it would be appropriate to quote a passage from an article by Mr. Vadim Zagladine, a

close adviser of Mr. Brezhnev's, published in October 1972: "At the present time", wrote Mr. Zagladine, "it is often claimed that the European Conference (on Security and Co-operation) must be based on 'the development of exchanges of persons and ideas'. These aims seem quite innocent, but in reality they conceal intentions which it would be impossible to approve. It is well known that when the West talks of 'exchanges of persons and ideas', that frequently implies an intrusion of ideas or more accurately ideological intervention in the socialist world. This is clearly unacceptable."

15. Soviet art, deliberately isolated, is made even more so by the undeniable internal sterilisation of culture which is an even more serious phenomenon. The various means of "silencing" from which writers have suffered must lead to the stifling and stagnation of literature. Everything therefore leads us to think that at a time when the official representatives of the East are agreeing in Helsinki to discuss cultural exchanges and the movement of ideas and persons throughout Europe, every precaution has been taken to ensure that these plans will have the least possible effect in the USSR itself.

### **The role of the artist**

16. Professor Dupuy<sup>6</sup> rightly stressed the ambiguity inherent in the concept of the artist. One of the committees at the Helsinki Conference pointed out that it would be valuable to seek a definition of the term "artist", though it failed to do so. However, whilst observing due caution, we can isolate a certain number of features which make up the concept of the artist. We shall select two of those which were much discussed, at times with some animation, by the participants in the symposium: freedom of artistic creation and the need for participation by the artist.

17. We are agreed to see in the artist a visionary, a man who has a greater commitment and a more highly developed sensitivity, whose imagination spans in a more lasting way the range of its problems together with all the pressures of which he is aware in the society in which he lives and his aspirations towards the building of a new society.

18. In the address which Mr. Druon, French Minister for Cultural Affairs, kindly gave us, he attributed to artists not only the know-how, but also the will to act, and this view concurs with the dynamic concept of the artist's mission which was so frequently emphasised during our symposium.

Mr. Druon referred in these terms to the role of the State: although the State "cannot, obviously, guarantee success to everyone, which would be frankly absurd, it must preserve and multiply the technical means which the creative artist has at his disposal to communicate with the public, which is and must remain, by virtue of its own freedom — the freedom to judge — the *supreme arbiter of success*. *The artist, like the politician, is subject to the vote*. It is for the State to create the conditions and the wherewithal which enable artists to present themselves fairly to the voters". And he continued: "Art being one of the principal means which man has mastered to relish and enhance his condition, it is important that governments do everything to encourage the teaching of the arts" — we talked a lot about this at the symposium — "not only to generate more artists, but equally to prepare their publics, that is to say the recipients of creative art."

19. It has been said that the artist is a revolutionary. Professor Cazeneuve<sup>6</sup> made a subtle analysis of what this really means. A revolutionary artist is one who introduces something radically new in his art. The example of Debussy was quoted, as the music he introduced was revolutionary in relation to that which had gone before. But it is known that Debussy in fact had conservative political opinions. Professor Cazeneuve revealed rather a sceptical attitude, and rightly so, towards the "valuation" of an artist by his political commitment. The proof is that, in the course of their lives, many of our writers and artists have changed their political opinion several times, but this development did nothing to alter their talent for better or for worse. Artists have talent once and for all, they can prove almost mathematically that talent has nothing to do with political involvement. So, in order to avoid tiresome verbal confusion, we can say that writers as artists are revolutionaries, and that they may also be politically, though not of necessity. It must be stated that the artist has the right to be politically uncommitted if he so wishes, and that he cannot be deprived of his right to separate his artistic inspiration from his political attitudes.

20. For Mr. St. John-Stevas<sup>6</sup>, the artist, with his heightened sensitivity, may be particularly aware of the rights and wrongs of society and his job is to reveal them although society may not like what it sees in the artist's mirror.

### **Participation by the artist**

21. As Mrs. de Backer<sup>6</sup>, Mr. Cazeneuve, Mr. Dejardin<sup>6</sup> and Mr. Kahn-Ackermann all pointed out, participation by the artist assures him not only respect for his freedom of expression but also State aid for his works and, as Professor Dupuy made a point of observing, non-discrimination should be the golden rule guiding State intervention: the European Commission saw to this each time it was called upon, which happened whenever problems arose. Professor Dupuy joined Professor Cazeneuve in considering that to leave the artist to manage his affairs alone would be extremely conformist and might end up, for instance amongst successful and secure artists, by establishing a traditionalism worse than that which might emanate from an ill-informed authority. Hence, as Mrs. de Backer said, it must ultimately be agreed that the way to salvation lies in the diversity of the bodies in which artists are called to participate. The answer is to encourage the setting up everywhere of bodies with multilateral participation, composed of artists of course, but also of men such as parliamentarians, who have a special responsibility towards the nation, and who could bring influence to bear. This participation by the artist in open bodies must extend to international level, for as Mr. Kahn-Ackermann stressed, there are no "national parks for culture". At international level, the artist is presented with the opportunity to overcome the difficulties he may encounter.

### **The nature of freedom of expression**

We take up the theme which was dealt with by Mr. Günter Grass, our first speaker.

22. In his speech, which was followed with sustained interest, Mr. Grass laid special emphasis on the freedom of the artist's political commitment. It must be recognised that this freedom is all the more essential in that the political world or authority, in other words, force, may be tempted to constrain in some way, whether direct or indirect, those artists who would oppose the political regime. The problem thereby raised goes beyond the simple East-West confrontation and our speaker, wishing perhaps to draw our attention in a somewhat provocative manner to the fact that this problem does not arise under the guise of a simplified interchange between East and West, chose to draw the parallel between two examples of regimes which give no security to the artist. He spoke of Greece and Czechoslovakia. This gave rise to observations on the part of Mr. Rubin<sup>6</sup>, followed by the Rapporteur and other participants, to the effect that in the Western bloc Greece is among the exceptions, whilst in the Eastern countries Czechoslovakia is in no way an exception. This observation is however merely quantitative, it does not touch on the root of the problem.

23. Mr. Rubin drew attention to the danger of an agreement, likely in the near future, between State capitalism and private capitalism, and the danger that a discreet veil will be drawn over certain abuses against human rights in the form of commercial, or even cultural, agreements.

24. Mr. Günter Grass was adamant that the future Helsinki agreements should not represent an occasion for parliamentarians to disregard freedom of expression and the artist's rights. He stated, and we warmly applauded him on this point, that tolerance must not become the cynical accomplice of intolerance. Security and détente should not pose as alibis or excuses for dangerous compromises.

25. It was emphasised by the Rapporteur that East and West failed to speak the same language when the topic of cultural exchange was broached.

The artist's freedom of expression is an intangible value, and we believe that it is not for the State, whether in the West or in the East, to set itself up to judge this freedom.

26. In his summary, Mr. Capelle raised the question of whether there was an analogy between the problem of the freedom of the artist and the problem which we believed could be solved in the past, and even today by the concept of academic freedom. As an academic himself, whose opinion carried special weight, Mr.



Capelle did not conceal that he was not in favour of exemptions, namely the granting of privileges to one particular category of citizens rather than others, by virtue of their responsibilities, however special. His opinion was supported by many, and especially by Mr. Gölter<sup>6</sup> who, giving many illustrations, analysed the duties of the artist as such and his duties as a citizen. As regards the political orientations of the artist, he was in the same position as every citizen and as the politicians themselves. Seen from this viewpoint, the rights and duties of the artist were the same as those of all citizens subject to the law.

27. We do not share the pessimism of those for whom Mr. Van Gasteren<sup>6</sup> spoke with some spirit, who tell us that there is no room for artists in our society and who predict the end of the human race in a hundred years' time, for many kinds of reasons, especially those which have been brought to light by the work of the Club of Rome.

28. There were those amongst us who wished to see absolute recognition of the freedom of the artist. This raises, in somewhat different terms, the question of the limits to the exercise of freedom, for no one would deny, as Bernanos well said, that the freedom of each individual is necessarily limited by the freedom of others, otherwise there would be no freedom at all.

### **The need for freedom of expression**

29. This was the theme of the second meeting of the symposium, introduced by Mr. Piovene's<sup>6</sup> lecture. In his words, freedom of expression has long been the rallying point; and he remarked, impressing us all with his seriousness, that our society, indifferent to many things, revealed a certain apathy, even in the face of persecution. Freedom of expression threatens to become, in Mr. Piovene's words, a commodity to be bandied about; it is no longer an article of faith. Sharing Mr. Günter Grass's anxieties, Mr. Piovene said that the problem of freedom may be played down, and he remarked that we are entering a society where freedom is becoming more personal, more modest, and in this context he used an expression which impressed us all: that of unearthly monasteries. Above all he dreaded conformity, even in protest, and he shared Mr. Grass's suspicion of the dialectic which threatens to oppose peace and culture, culture becoming the coinage of peace, because this would be an opposition between peace and liberty.

30. The arts consolidate and enrich freedom, just as freedom is necessary to the development of the arts.

Mr. St. John-Stevas spoke of the cultural malnutrition of Europe, a striking expression on which we should reflect.

31. In order that the world of production and return should not become hell for man, art is even more essential than ever, not only for a select group of initiates, but for everyone without exception; it is paradoxical that, at a time when the harsh demands of economic development instil a feeling of alienation, when men are becoming aware, as perhaps never before, of the need for the qualities of life and the artistic contribution, the artists themselves seem to be most anxious. But we want all peoples to enjoy art, it must be taught at school. Several speakers stressed this point, especially Professors Grochowiak<sup>6</sup> and Dupuy.

32. This kind of education need not strive to produce artists but to stimulate vocations and instil an understanding of artists' needs. In the primary school, characterised by the exclusive pursuit of the rational, sensitivity must also have a place. This, as Mr. Kahn-Ackermann pointed out, calls for political decisions.

### **The limits and protection of freedom of expression**

33. In his lecture introducing the third sitting, Professor Dupuy, as a lawyer, emphasised the role of the European Convention on Human Rights and the institutions set up to guarantee its efficiency and observance — the European Court and Commission of Human Rights.

34. Freedom of expression has thus begun to figure explicitly in European law. Ideologies generate differences of conception and interpretation, and this probably marks the gulf between our countries and the countries of the East: in one case the right of the individual predominates over that of society, in the other

the right of society over that of the individual. Mr. Dupuy described the role of the State as particularly complex, since it may at one and the same time restrict and protect the rights of artists. State supremacy is feared, whereas State intervention is essential. Some kind of reconciliation of the two extremes of this dialectic must therefore be sought.

35. Mr. Dupuy quoted Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms, where it is stipulated:

"Article 10

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

36. There are two fundamental limitations: those concerning law and order and the prevention of crime. The others are of an ethical nature, or are dependent on the audience, in that the restrictions imposed on cinema and television take account for example of the age of the public to which they are addressed. But there are also possible limitations deriving from danger to morals, and this is an extremely complex problem.

37. There was much discussion of the mass media, which to some appeared as a sort of *deus ex machina*, and to others as an inhuman tyrant and usurper.

Mr. Jean Capelle usefully commented that in fact, whether we like it or not, the influence of mass media has an impact on man's civilisation like seven-league boots, or messengers of unprecedented power, whereby every individual may enjoy the benefits of thought and culture.

38. Emphasis was placed in discussion on television and its role. Mr. Günter Grass expressed the hope that all countries would take their cue from the management model used in the Federal Republic of Germany, which he thought to be exemplary as regards the guarantees given to freedom of expression.

39. Censorship was also discussed and universally condemned. However, even if official censorship is prohibited, there remain certain insidious forms of censorship and various factors were cited as introducing limitations which virtually amount to censorship. This is the case with monopolies, where for example the monopoly of the press frequently constitutes a severe restriction, as Mr. Günter Grass indicated.

40. There are also conditions fixed by publishers and the problems of copyright, on which topic Mr. Kahn-Ackermann will be reporting separately and which we shall therefore refrain from discussing, except to emphasise that, on this point as well, the symposium once again demonstrated the merits of the action recommended by our Chairman as regards the need for harmonisation of copyright laws and, in general, the measures to be taken to prevent literature from being subject to exclusively commercial criteria.

41. Professor Cazeneuve stressed the powerful influence of "fashions" and emphasised that, the State is persuaded to resist one kind of conformity, it may be confronted with another type of conformity: the

conformity of the non-conformity.

The duty of the State is to resist both these courses. Freedom of expression must transcend both primary and secondary conformity, the latter being a type of non-conformity. In the circumstances, we come to the ultimate conclusion, as stressed by Mr. St. John-Stevas, that freedom of expression makes artists aware of their duty to safeguard their own freedom both in relation to those bodies whose role it is to protect such freedom and also in relation to other groups, including the important group of the artists themselves.

42. In this context, it should be observed that the artist's self-discipline, in his awareness of his responsibility, is undoubtedly the primary guarantee of the satisfaction of ethical demands.

43. MM. Rubin and Astalos<sup>6</sup> movingly drew our attention to the practical consequences of the USSR's accession to the Universal Copyright Convention. It has dual implications:

— Western artists will receive no royalties when presenting their works in the East;

— It will no longer be possible to publish works which are banned in Soviet Russia abroad.

44. The implications of the latter are drastic, and they are illustrated by the case of Alexander Solzhenitsyn, whose name came up frequently in this connection. Solzhenitsyn revives the tradition of protest of Russian literature and the writer's mission of establishing new values and contesting the ideological values imposed by the powers that be.

45. We were deeply moved by Mr. Astalos's reproach to politicians for having let such a thing happen. We were unanimous in concluding that it was unthinkable that the works which a writer such as Solzhenitsyn might yet produce for the good of humanity and the dignity of man should be consigned to obscurity.

### **Conclusions**

46. Under this heading, we were required to put forward suggestions or concrete proposals which could be incorporated in texts, resolutions or recommendations to be submitted for adoption by the Assembly.

47. There are a few general observations to be made, however.

One of the most striking aspects of the symposium was the extent of the malaise it revealed in artists, who feel themselves to be misunderstood and unwanted or at times torn or crushed by movements in the society where profit-seeking or political agreements are in danger of forgetting them.

Where artists are not adequately understood, it is mainly because the practical weapons of their freedom are inadequate. The public fails to understand them because artistic culture is itself inadequate and the means available to artists for reaching this public are likewise inadequate.

48. Politically and in the short term, the attention of the Committee of Ministers and of governments should be drawn, in the context of the Conference on Security and Co-operation in Europe, to the following points:

— Greater importance must be attached to the third aspect of the conference, particularly with a view to the second phase, which will open on 18 September in Geneva. In this connection, it should be emphasised that the artists taking part in the symposium repeatedly voiced the fear that governments might seek spectacular and immediate political or economic advantages at the expense of cultural values, especially the freedom of expression of artists and writers, and that less importance might be attached to the third aspect of the conference than to the other two (security and economic co-operation);

— Although the East European countries will hold out for the principle of non-interference in internal

affairs, the governments of the Council of Europe member States must realise that public opinion in the democratic countries is bound to judge the outcome of the Conference on Security and Co-operation in Europe, and especially the prospects of increased cultural co-operation between East and West, by the solutions found to the problem of the free movement of persons and ideas and that the West will not be satisfied with the expansion of official cultural exchanges (opera, theatre, ballet etc.);

— Furthermore, it might well be advisable to assert that the restrictions permitted for the purpose of preventing disorder or crime under Article 10 of the European Convention on Human Rights must be interpreted strictly, so as to guarantee maximum freedom of expression;

— Special attention at the second phase of the CESC in Geneva must be given to the protection of minorities; the European countries should vigorously defend the principle of non-discrimination, for the cultural and artistic stifling of cultural minorities leads in the long run to their total loss of identity.

49. Lastly, our Assembly should ask national parliaments to develop, or introduce, at national level the dialogue begun in Florence, as requested by the artists. This may have particularly welcome effects on States' policies with regard to subsidies.

50. Lastly, the Florence Symposium could enable the Council of Europe and the different bodies concerned to follow up the work begun in various directions:

(i) to examine the cultural co-operation agreements concluded by and between the European States, whether or not they are Members of the Council of Europe, in order to decide the place to be given to the artist and to professional organisations of artists, on the understanding that the artist's contribution is essential to the implementation of these agreements duly respecting the freedom of artistic expression; certain basic principles could be determined at the end of this exercise, and it may be possible to draft a model co-operation agreement;

(ii) to study the question of the free movement of artists between European countries, whether Members or not of the Council of Europe, especially in the case of movement for professional reasons;

(iii) to determine whether and to what extent the indispensable copyright protection which constitutes the material basis for the freedom of artistic expression might restrict the freedom of the artist;

(iv) to examine the expediency of setting up, for the benefit of all categories of artist, a moral right in their work combined with an artistic conscience clause so that an artist's works shall not become propaganda instruments of the State to the detriment of the essential respect for freedom of artistic expression.

This might constitute the basis of a draft recommendation.

51. Finally, we should, in my opinion, request the Assembly to adopt a resolution instructing the Committee on Culture and Education to set up a working party composed of parliamentarians and artists in order to carry on the productive dialogue instituted at Florence.

This working party could direct its attention to certain of the proposals and ideas raised during the symposium:

— the drafting of a European artist's charter and a social statute for the artist;

— investigation of a television "model" best suitable to guarantee freedom of expression;

— the setting up of a European social fund which could help to furnish the material basis for the life of artists;

— the definition of the principles of an educational syllabus designed to awaken curiosity and cultural and

artistic sensitivity.

The Florence Symposium represented the beginning of a long-term project for the committee and it will be necessary to see it in its proper perspective before being able to realise all its potential.

The basic lesson to which we should hold on is that, in the end, freedom of expression is one of the basic elements of the daily conflict, on all levels, which will last, in Mr. Dupuy's well-chosen expression, as long as freedom is part of the eternal dialogue between Antigone and Creon.

[...]

1. See Resolution 531 (1972) of 20 October 1972.

2. (a) Unanimously adopted by the committee on 25 September 1973.

MEMBERS OF THE COMMITTEE: MM. *Kahn-Ackermann (Chairman)*; *Karasek, Aano (Vice-Chairmen)*; Bächtold (Alternate: *Schuler*), Carachi, Gerard Collins, Cravatte (Alternate: *Spautz*), Damgaard, Gislason, Gölter, Legaret, Leu (Alternate: *Primborgne*), *Lidgard*, La Rosa (Alternate: Mrs. *Miotti Carli*), Moneti, Nothomb (Alternate: *Leynen*), *Oguz*, Pica, Piket, *Roberts, Sir John Rodgers*, MM. Schieder, *Schugens*, Schwencke, *Tomney*, Üstündag (Alternate: *Özlen*), van Ooijen (Alternate: *Letschert*), Vitter, *Wååg*, Pierre Weber.

N.B. THE NAMES OF THOSE WHO TOOK PART IN THE VOTE ARE PRINTED IN ITALICS.

(b) See 15th Sitting, 28 September 1973 (adoption of the draft recommendation), and Recommendation 718.

3. (a) See page 1, footnote 2 (a).

(b) See 15th Sitting, 28 September 1973 (adoption of the draft recommendation), and Recommendation 719.

4. (a) See page 1, footnote 2 (a).

(b) See 15th Sitting, 28 September 1973 (adoption of the draft resolution), and Resolution 553.

5. (a) See page 1, footnote 2 (a).

(b) See 15th Sitting, 28 September 1973 (adoption of the draft order), and Order No. 341.

6. See list of participants (Appendix V).