

# ACTIVITY 2009 REPORT

# PEARLE

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# REPORT 2009 PEARLE



Dear Reader,

The year 2009 was without doubt a transitional year, with elections for a new European Parliament, the slow process of ratification of the Lisbon Treaty and the appointment of the new European Commission. As a result, certain decisions were pushed through and others were put on hold. Pearle observed that deadlines were constantly shifting while fewer and fewer texts were published as the year progressed. 2009 is definitely the year in which the full impact of the financial and economic crisis was felt. This, together with the international climate debate, dominated the European politics.

What shall we remember from the year 2009? As the trade federation of the live performance sector, Pearle\* is focusing its attention on the broad spectrum of European initiatives which may have an impact on the sector. In this context it supports European policies that aim to improve mobility and the free movement of people and services, integrate the internal market further while reducing administrative burdens and cutting red tape. Whereas certain initiatives have been seen to improve due to a harmonised or better European integrated market, not all of those initiatives have been to the advantage of the better functioning of performing arts organisations and enterprises. As a result, costs have risen due to European regulations.

This report cannot be presented without mentioning the impact of the financial crisis. Towards the end of the year, Pearle\* came to two important conclusions: on the one hand, audiences and consumers were still actively supporting cultural events, with ticket sales for performances remaining steady, sometimes even growing. On the other hand, other income coming from areas such as sponsorship or endowments has declined. In general, the sector had responded with greater prudence. Nevertheless, while good audience figures clearly showed the importance people attach to culture, governments in many countries seemed to use the economic crisis as an excuse to withdraw their investment in the live performance sector. Is this crisis only in the minds of politicians? There is a genuine need for policy-makers across Europe to carry on investing in and subsidising the arts. In the USA, where there is little public funding, the impact of the financial crisis on the sector has resulted in job losses and even the closing down of some orchestras and theatres.

Policy-makers at national, regional and local level need to understand that European regulations are driving up costs and this is putting pressure on the sector. This must be taken into account in the development of cultural policy.

In this report on our activities in 2009 we mention some of the European regulations affecting the sector, describe projects in which Pearle is involved as a partner and report updates on the internal functioning of the association. First of all, we present the general cross-cutting themes of the year.

*All position papers referred to in the texts below can be read and downloaded from [www.pearle.ws](http://www.pearle.ws).*



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### 1.1. CULTURE

Culture has begun to assume a much more prominent role in the activities of Pearle\* since 2007, when the first political document in Europe on culture was published. This was the EC Communication on a European agenda for culture in a globalising world (COM(2007)242). The three main objectives (intercultural dialogue, potential of cultural and creative industries, and Europe in the world) aroused the interest of the cultural sector. Implementation of this Communication led to the introduction of a new form of dialogue with civil society and to another process for the Member States through the Open Method of Coordination.

Civil society platforms were set up in June 2008 on the initiative of the European Commission. As a member of the two platforms set up by DG Culture 'Access to culture' and 'Cultural and creative industries', Pearle\* took active part in the different platform working groups whose work finally led to a single document presenting a set of recommendations to the EU. As a member, Pearle\* was able to add its input to the group discussions, particularly contributing its know-how on mobility and other areas in which it is active. Pearle\* has always aimed to seek a balanced approach in the topics discussed, even when it felt that there was no balanced representation. This was the case, for instance, for intellectual property where there was no balanced representation between rights holders and users, especially in the culture industries platform.

As part of the process of dialogue between stakeholders in the sector, it is good that such platforms should exist. The goal of the European Commission is for the cultural sector to speak with one voice, and this has found concrete form in a document which addresses some of the broader themes. However, when it comes to considering the interests of the different sectors and the different ways in which they feel the impact of European regulatory initiatives, it is vital to have detailed information and opinions from the different sectors to enable the Commission to understand fully the impact of its policy. It is here that sectoral trade federations play such an important role.

At the mid-term European Culture Forum, organised on 29-30 September, there was an opportunity for civil society to present their texts and recommendations at one of the "flash info" sessions. In a similar session, Pearle\*, as the European employers association, together

with its European trade union social partner EAEA, presented a joint position paper on "Creativity and the role of the cultural sector". With this paper the social partners made their contribution to the European Year on Creativity and Innovation 2009.

#### PEARLE\* ACTIONS IN 2009:

The importance and role of the live performance sector was taken into consideration in the final documents, thanks to Pearle\*'s active participation in the working groups.

In a joint position paper, produced together with EAEA, the role of social partners in creativity was emphasised, and the importance and intrinsic value of creativity were underlined.

When the new European Parliament started its work halfway through 2009, Pearle\* delivered a briefing to inspire the Parliamentary work for the next years. Its message: "Now is the time to nurture Europe's cultural values and to create a sustainable environment for the performing arts in Europe."

#### Priority:

Pearle\* urges the European Commission to develop a policy which creates opportunities and possibilities for the performing arts to flourish and which ensures sustainability for the thousands of live performance organisations and businesses in Europe.

### 1.2. MOBILITY

The publication of Pearle\*'s study "Impediments to mobility in the EU live performance sector and on possible solutions", (researched by Richard Polacek) was greeted with great interest. This study has been regularly quoted at conferences all across Europe and been referred to in other papers. It was also presented on a number of occasions throughout the year.

The proposal for creating single points of information on mobility across the EU was further developed in a study commissioned by DG Culture, with the title "Feasibility study for a comprehensive scheme designed to provide a Europe-wide information system".

It was encouraging to learn that the OMC (open method of coordination) Mobility working group paid great attention to the recommendations on setting up 'contact points on mobility in the cultural sector'. This working group, composed of Experts of different EU Member States, will present recommendations to the European Parliament's Cultural Affairs Committee for further consideration. It is hoped that this will lead to a political endorse-

ment (agreement) in the Council. The process is helped by the fact that the functioning of cultural mobility contact points (CMCP) is also piloted in the “PRACTICS” project in Flanders (Belgium), Netherlands, Wales (UK) and Spain. This Europe-funded project finishes in 2010.

#### **PEARLE\* ACTIONS IN 2009:**

Pearle\* took part in several events and meetings as further action in its commitment to raising awareness on the mobility difficulties for the performing arts sector.

In April, an informal briefing on ‘cultural mobility’ was organised, enabling members and interested stakeholders to learn the latest situation on the initiatives of the European Commission, the working group, the cultural contact points and on the mobility projects “Practics” and “Space”.

In November, Pearle organised a conference focusing on two policy areas that create real impediments to mobility in the sector: social security and taxation (withholding taxes and VAT).

#### **Priority:**

Pearle\* urges the EU to consult Pearle and its members on matters regarding cultural mobility. Pooling a large amount of know-how from professional organisations right across Europe, these associations are well placed to deliver practical advice on the particular requirements of the sector. As intermediaries for their members, national trade federations provide advice and support to their members and are also advising their national governments on such matters.

## **1.3. INTELLECTUAL PROPERTY**

During the first half of 2009 under the Czech Presidency, activities in the area of intellectual property were dominated by the further progress on the “intellectual property package”, encompassing two initiatives: a proposal to extend the copyright protection for recorded performances and the recording itself, and a Green Paper on Copyright in the knowledge economy.

### **1.3.1. Extension of copyright term for performers and recordings**

The purpose of the European Commission’s initiative, launched in April 2008, proposing an extension of the term of copyright from 50 to 90 years, was to improve the situation of musicians and of group session musicians in particular. The intention is to provide them with additional income, and an income towards the end of their lives.

In May 2009 at Strasbourg, shortly before it ended its mandate, the European Parliament

approved the report of Brian Crowley MEP which argued in favour of extending the copyright protection for performers and of the recordings themselves from 50 to 70 years. The extended term would also benefit the record producers. It would generate additional revenue from the sale of records in shops and on the Internet. This should allow record companies to adapt to the rapidly changing business environment, such as the fast decline in physical sales and the slow growth of online sales revenue. The second part of the proposal was concerned with the harmonisation of the calculation of co-written music works.

#### **PEARLE\* ACTIONS IN 2009:**

Together with other trade federations and the consumers, Pearle\* advocated other measures to address the issue of performers who do not receive a pension when they retire. It was generally felt that the proposal would not guarantee the outcome for the target group and the purpose for which it was intended.

Pearle\* also issued a position paper on the issue of the harmonisation of calculation for co-written works, which had been taken to ease the administrative handling of the rights. Pearle\* argued that the administrative handling could easily be overcome by some technical improvements in the collecting of the rights, for which no change in the law was needed. It was argued that this proposal was not proportionate to the amendments it would require in the legislation of the Member States.

#### **Priority:**

Pearle\* would like to see a balanced approach that takes the interests of all stakeholders into account. The EU should carefully consider whether the proposal is the right answer to the problems presented, i.e. a pension for retired artists, and the administrative handling of rights clearance of co-written works.

### **1.3.2. Green paper on Copyright in the Knowledge Economy**

As part of the package on intellectual property proposed in April 2008 the European Commission also adopted a Green Paper on Copyright in the Knowledge Economy. The scope of the Green Paper is based on the need to promote free movement of knowledge and innovation as the “Fifth freedom” in the single market. The main issues it was addressing were certain exceptions and limitations to the directive on copyright in the knowledge society such as digitisation, preservation, archiving and making available archive material for research and educational purposes.

**Priority:**

The topic of archiving, exceptions for educational use, etc should not be limited to cultural institutions such as museums. Other areas of the arts sector should also benefit from these exceptions. If the digitalisation of our cultural heritage (which, in the opinion of the performing arts world, also includes archived material on performances) is a goal of the European Union, then the scope should be widened.

**1.3.3. Live performances and intellectual property**

In the framework of the heated debates in Europe on protection of intellectual property rights, enforcement, piracy, etc, some members of Pearle\* identified particular problems with regard to rights clearance and the increasing number of collecting management societies, and also the difficulties faced by performing arts companies with regard to the digital environment.

The live performance sector is primarily a payer of copyrights owned by others, but it has no initial ownership of any right on its productions. In contrast, other cultural industries automatically have rights ownership, unless a performing arts organisation also has its own record label or production house. This situation is often quoted as a problem in the context of the digital market because more and more performances are being made available online. What is more, the unauthorised recording by individuals taking part in a performance and putting this recording online cannot be controlled. The performance arts organisations themselves often have no means to take legal action against this activity.

But the major problem facing performing arts organisations concerns their relationship with the collecting management societies and (mostly music) publishers. There is a contradiction, embedded in the role of the live performance organisation itself, between the benefit presented by the live performance for the rights owner and the increasing difficulties faced by the performers themselves. The performance provides a stage for copyright-protected works to become alive and to be presented to a wide audience, thus contributing to the reputation of the author/composer and bringing it to a wider audience. In contrast, the live performance sector is increasingly faced with higher tariffs, more fragmentation of the rights and greater complexity of rights clearance in the context of touring companies, and this obstructs the principles of the internal market on free movement of services.

**PEARLE\* ACTIONS IN 2009:**

This conflict was brought to light after an internal survey amongst the members of Pearle, when an external expert presented the preliminary survey results at the General Assembly meeting on 11-12 December 2009 in Stockholm. The main findings of the survey will be published at the beginning of 2010.

**Priority:**

Pearle\* believes that several issues affecting the industry should be tackled at European level. As Europe is seeking to preserve certain industries, there should be a particular focus on the potential growth of the live performance sector especially in the digital agenda context.

**1.4. INFORMATION SOCIETY**

The information society is raising new challenges for the European Union, yet is an area where technological developments promise to create economic growth. The live performance sector has interests here, both in the field of the technical framework of operating in the available radio spectrum and in the offer of creative content online.

**1.4.1. Creative content online and the digital single market**

Across Europe, live performance organisations and businesses are researching the boundaries of online creative content. Experiments are being made in new forms of creativity for creating performances by using online content as a part of the performance. The offer of creative content is mainly applied for communication and marketing purposes. Performing arts organisations are looking for ways to distribute to a wider audience and new niche markets. The sector also deploys activities with a view to reaching out to specific groups in society (elderly people, schools, and so on). For live performances the offer of creative content online is a tool for communicating with their existing and new audiences, but the development of this instrument is hindered by barriers in the regulatory framework for intellectual property. The Directive on copyright in the information society (Dir 2001/29/EC) did not take account of these developments in the live performance sector.

The European Commission's consultation on "Creative Content in a European digital single market", published in October, addressed the role of legal online markets and explored a variety of copyright management models that may induce a more rapid development of such markets.

### PEARLE\* ACTIONS IN 2009:

In a response to the consultation on 'Creative content in a European digital single market' Pearle\* explained the role of creative content online in the live performance sector and its main challenges and gave feedback on possible EU actions for a single market on creative content in Europe.

#### Priority:

Pearle\* is strongly in favour of better governance and regulatory environment in the management of rights by collecting societies, record companies, publishers and other intermediary representatives of right holders. This goes more through hard regulation than soft recommendation.

When models such as a one-stop-shop or multi-territorial licensing are proposed, it is vital that a major impact analysis is carried out on the costs likely to be incurred for each. Neither model automatically guarantees users any reduction in their costs. This reduction is essential for the live performance sector, as any further rise in costs threatens to put pressure on the cultural diversity in the sector.

When proposing the consolidation of rights or the creation of new layers of rights, there is a great danger that users will have to pay more. The live performance sector, which is already facing the payment of multiple rights, has only seen a further fractioning of the value chain, resulting in greater complexity, more administrative burdens, less transparency, more pressure on its programming (with fewer contemporary or still copyright-protected works). The result of all this is less cultural diversity and a smaller offer of choice to audiences and consumers.

#### 1.4.2. A harmonised European Radio Spectrum – digital dividend

The European Commission proposed a road map to accelerate the digital switchover by 2012. In July the European Commission published a consultation paper on "Transforming the digital dividend opportunity into social benefits and economic growth in Europe". The Commission also undertook a study (conducted by Analysys Mason). These initiatives followed on from the Commission Communication COM(2007)799 on 'Reaping the full benefits of the digital dividend in Europe: A common approach to the use of the spectrum released by the digital switchover'.

The aim of the exercise was to develop an EU roadmap, to be endorsed by the Member States, for accelerating the digital switchover. The Economic Recovery Plan aims for a 100% broadband coverage by 2013 and the EU transition to digital TV is expected to be

completed by 2012.

Pearle\*, as the European trade federation representing the interests of over 4,000 performing arts companies and organisations, has been addressing the particular impact of this process since 2006. The European Commission has acknowledged the legitimate claims of the sector on using spectrum. The CEPT has also given a mandate to the Radio Spectrum Committee (RSC) to include Programme Making and Special Events - PMSE services in its work programme. These services refer to all wireless production tools used for front-end solutions in the field of professional multimedia production (art, culture, concerts, conferences, trade fairs, entertainment applications, education, sports events etc).

Amongst the diversity of sectors involved under the umbrella of the PMSE-services, the common issue at stake concerns the fact that in conducting its activities the digital dividend is not providing for economic added value. On the contrary, the costs and complications resulting from the process may well jeopardise the sustainability of many companies and organisations, most of whom are SMEs.

Note was taken of the report of the Radio Spectrum Committee of March 2009, including a description of the challenges faced by Programme Making and Special Events (PMSE) services. This includes services provided by live performance requiring wireless microphones.

### PEARLE\* ACTIONS IN 2009:

Pearle\* responded on 3 September 2009 to the consultation of the European Commission on the proposal for a roadmap to accelerate the digital switchover by 2012.

Pearle\* also took part in a hearing organised in September where the final report from Analysys Mason was presented and discussed.

#### Priority:

The proposal from the European Commission to accelerate the analogue switch-off represents a highly worrying initiative for the live performance sector in the context of the current economic crisis.

In view of developing the most appropriate strategy from an EU perspective, there is an urgent need to formulate a strategy which embraces the positions of all industries concerned. The process of transformation is not easy for all sectors, especially not for those who will not be deriving any additional economic benefit, but will rather find their businesses strewn with obstacles. A specific strategy should

therefore be developed to allow for all sectors to adapt themselves to the transition.

In Pearle\*'s view there must be a strategy that guarantees the use of spectrum for cultural purposes, thereby endorsing the EU's engagement to promote cultural diversity and to support the development of creativity in the cultural sectors. This would assist Member States to develop answers to respond to its cultural goals.

#### **1.4.3. Post i2010: a new strategy for the European information society**

Building on the i2010 initiative, the Information society in the EU is also inviting stakeholders to help prepare a new EU initiative for the information society in 2010. Therefore in autumn 2009 the European Commission invited stakeholders to contribute ideas on the development of a new digital agenda. This digital agenda must meet the emerging challenges for creating a world-beating infrastructure. It must also unlock the potential of the internet as a driver of growth and the basis for open innovation, creativity and participation. The Commission is convinced that if Europe wants to be a global player it needs to:

- . accelerate the economic recovery and maintain its world leadership in high-tech sectors;
- . spend research budgets more effectively so that bright ideas are marketed and generate new growth;
- . kick-start ICT-led productivity to offset GDP stagnation as the labour force begins shrinking once the baby boomers start retiring;
- . foster new, smarter, cleaner technologies that can help Europe achieve a factor of growth;
- . use networking tools to rebuild trust in Europe as an open and democratic society.

#### **PEARLE\* ACTIONS IN 2009:**

In response to the consultation, Pearle underlined the sector's specific needs. At a hearing organised on the topic, it was clear that a coherent strategy needs to be developed.

#### **Priority:**

The vision on an overall ICT policy should be cross-disciplinary and include other policy areas in order to develop a coherent approach. While the live performance sector may not appear in the league of ICT-related sectors, it is a sector where policy decisions in this area will affect its functioning. The European Commission should therefore take a broad approach when addressing the post i2010-strategy, since many sectors are in a research and

development phase on products and services being offered via these technologies.

## **1.5. TAXATION**

### **1.5.1. Taxation of artists**

In the first half of 2009 the Commission formally requested several EU Member States to amend their legislation applying discriminatory taxation to non-resident artists and sportsmen. This concerned the following countries: Belgium, Bulgaria, the Czech Republic, Finland, Germany and Spain. The Commission initiative followed from the European Court of Justice cases A. Gerritse and Skorpio. The double taxation of artists finds its origins in article 17 of the OECD Model Tax Treaty.

#### **PEARLE\* ACTIONS IN 2009:**

Members discussed the developments in this area with tax specialists, at Pearle\*'s general assembly meeting in Geneva on 29-30 May, and later in Brussels on 10 November at the seminar on social security and taxation in the context of mobility. At the latter event, a representative from DG Taxation explained the role and competences of the EU in this area, which is very limited as there is no legal basis for tax coordination at EU level.

#### **Priority:**

The sector needs clear information about tax systems, rates, allowances, exceptions and refund procedures for the sector. More transparency is needed regarding tax systems applicable to national artists and the interpretation of double taxation agreements.

The EU Member States need to adopt an income limit for the application of their rules on taxation of non-resident artists and smaller live performance organisations. This is already the case in countries such as Belgium, Germany and the United Kingdom.

### **1.5.2. VAT**

Place of Supply of services

The Council decision on VAT-reduced rates in labour-intensive sectors has narrowed down the option for Member States to offer reduced rates to a limited number of sectors. The initial proposal from the Commission to study the possibility of widening the scope of applying the reduced rate for cultural services was thus set aside.

The directive on the place of supply of services (Council Directive 2008/8/EC) did evoke interest in the sector, for it is making changes regarding the supply of services related to cultural and artistic activities. While these services are being taxed until the end of December 2010 in the country where the activities are

physically carried out (no matter whether it concerns a business-to-consumer or business-to-business situation), this will change after 2011 for services supplied to taxable persons.

**Reduced VAT rates – exemption from VAT**  
In February the Commission published a summary report on the answers provided to the Consultation on “review of existing legislation on VAT reduced rates”, to which Pearle had responded in 2008.

In 2009, the Commission published a call for tender for a study to examine the VAT rules applied to the public sector and the exemptions made in the public interest. Researchers will be studying some problems identified by the Commission such as competition, subsidies, lack of harmonisation, cascade effect, etc.

#### **PEARLE\* ACTIONS IN 2009:**

Pearle\* informed its members extensively on the changes arising from the directive on the place of supply of services. In a seminar focusing on social security and taxation in the framework of mobility, particular questions were addressed to tax specialists about VAT on cultural services.

#### **Priority:**

The live performance sector is in favour of a general application of reduced rates on cultural services. This would relieve the burdens on the organisations and could give room to the deployment of new activities that would benefit employment, artistic creation, cultural diversity and investment in the sector. With regard to the list of eligibility for VAT-reduced rates, clarification is needed on the concepts of locally supplied services and labour-intensive services, and in particular on the relationship and possible overlapping between the different types of services: admission to shows – services from artists – services from promoters and organizers.

## **1.6. REVISION OF THE CONSUMER ACQUIS: CONSUMER RIGHTS DIRECTIVE**

Following the proposal of the Commission of the ‘Consumer Rights Directive’ in October 2008, the European Parliament started discussing the text in the different EP committees involved. This Directive brings together four consumer directives related to the offer of goods and services from Business-to-consumer. The most important Directive within the European acquis for Pearle\* is the one on distance selling. The application of distance selling in our sector involves a very specific approach, since the main feature of our service concerns

the immediate consumption of a performance. This means that it is impossible to apply common rules for consumers such as the possibility of returning ‘the product’, or the option of claiming money back if the performance is ‘not liked’. The distance selling directive therefore envisages the drafting of such a derogation.

#### **PEARLE\* ACTIONS IN 2009:**

Given the great interest that this proposal evokes in Parliament, throughout the year Pearle followed the debates in the different committees.

#### **Priority:**

The derogation regarding cultural services as envisaged in the distant selling directive is important for the sector – it must remain as included in the new consumer rights directive.

Difficulties are reported by some members with the secondary ticket markets, in particular with regard to selling tickets for events and performances. The definition of “intermediaries” in the proposal for the Consumer Rights Directive is quite unclear. Further consideration needs to be given to what extent this provision may be relevant to the secondary ticket market in the live performance sector.

## **1.7. TRADE: CHAPTER ON CULTURAL COOPERATION IN FUTURE TRADE AGREEMENTS**

Following the EU ratification of the UNESCO Convention on Cultural Diversity, from 2007 onwards DG Trade has been including a chapter on ‘cultural cooperation’ in its model trade agreements with third parties. In collaboration with the Commission, Pearle\* drafted a number of sector-specific paragraphs on the performing arts, promoting contacts between practitioners in the sector, joint productions and the promotion of cooperation as regards the different theatre technology standards. The Cariforum-EU Economic Partnership Agreement (EPA) also includes the Cultural protocol. In the course of 2009 the EU negotiated a Free Trade Agreement (FTA) with South Korea, which also includes a cultural protocol to promote cultural cooperation. The agreement is expected to enter into force in the second half of 2010.

Other EU negotiations, such as with the Andean countries, are also expected to include a cultural protocol.

#### **PEARLE\* ACTIONS IN 2009:**

Pearle\* has provided information on specific

questions to DG Culture for the preparation of its negotiations with South Korea and with the Andean countries.

Registered as a civil society stakeholder, Pearle\* took part in a number of information sessions organised by the Commission. Pearle also provides additional information when requested on the sector-specific paragraphs for the performing arts.

**Priority:**

Pearle\* encourages and promotes the further inclusion of a cultural protocol in trade agreements between the EU and third parties. However, the sector is closely monitoring the debates related to trade discussions that focus on the audiovisual sector. In the WTO context, our sector may be affected by activities aiming at the liberalisation of the audiovisual sector.

## 1.8. THIRD-COUNTRY NATIONALS

Different activities in the policy area of justice, freedom and security took place in the course of 2009. On 13 July a Community code was adopted on visas, establishing the procedures and conditions for issuing visas for stays shorter than three months. Initiatives proposed by the Commission include the development of a visa information system and the creation of common visa offices and visa application centres in each of the Member States.

The Council directive on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment has created a “blue card” designed to implement a fast-track procedure for this category of third-country nationals. The text was adopted by the Council in June 2009.

The proposal for a Council directive on a single application for residence and work, which was originally proposed jointly with the blue card proposal as part of the migration package, is still on the table in Council.

**PEARLE\* ACTIONS IN 2009:**

Although the sector was initially strongly in favour of the blue card proposal, as the legislative process continued, it became clear that disappointments were arising with the conditions set out by the blue card directive.

**Priority:**

The entry of third-country nationals and access to the EU Member States to allow people with another nationality to be able to perform in the EU is a

priority area for Pearle\*. It is understood that the issue is a complex topic which needs to be thoroughly studied due to its highly political sensitivity and given the particularity of the sector. The problems are not just related to visas, although often only cited in relation to third-country nationals working with performing arts organisations in Europe; solutions also have to be found to simplify the application procedures for work and residence permits. In several Member States, artists are subject to tests relevant to economic needs or the labour market before being granted entry, and this causes particular problems for the sector.

## 1.9. EMPLOYMENT AND SOCIAL AFFAIRS

Pearle\* followed many topics with interest, including: the revision of the working time directive, the parental leave directive, the pregnant workers directive, the proposal for a non-discrimination directive beyond the workplace, the coordination of social security systems, the new skills for new jobs and the sectoral skills council, the future communication on sectoral social dialogue, the consultation of social partners in the framework of impact assessment which have a social implication, the posting of workers, the employment equality rules, health and safety issues such as on risk assessment or on musculoskeletal disorders and, last but not least, the economic crisis discussed in the special Employment Summit last May. Pearle\* provided information to members on all of the above.

It was noted that neither EP delegations nor the Council were able to reach agreement on conciliation for the revision of the working time directive. Another proposal for legislation (the revision of the directive on workers who are pregnant or have recently given birth or are breastfeeding) was blocked in Parliament at one of its final sessions in May, as no agreement could be found on the report proposed by the Women’s Rights committee.

**PEARLE\* ACTIONS IN 2009:**

The Commission’s initiatives on improving coordination and administrative procedures between Member States were welcomed by Pearle\*. The difficulties encountered by performing arts organisations in these areas were addressed in detail at a seminar organised in November by Pearle\* on social security and taxation in the context of mobility. Panel discussion speakers included Jean Lambert MEP and representatives of the TRESS-network, DG Employment, and the national social security unit in Belgium. In response to the special Employment summit on

the economic crisis, the European social partners issued a joint statement. The organisation of conferences on "Restructuring and the crisis", and "New skills for new jobs" were of interest to Pearle\*.

#### **Priority:**

The live performance sector has particular dynamics, work patterns, organisation of work and questions with relevance to health and safety issues. While European policy and regulations are being drafted, Pearle\* carefully monitors their possible implications for the sector, especially as this is a highly labour-intensive sector where the people are at the core of the 'live performance product'. This means that the sector copes with specific questions of employing its "team" regardless of their nationality but where the quality and talents of individuals are the prevailing criteria.

Pearle\* emphasises in its communication that European legislation should provide for a framework allowing Member States and social partners to respond to the realities of the local market and sectoral specificities. It believes that social dialogue is an instrument that allows for creating sustainability, providing a framework in which both employers and workers can operate. Collective bargaining by national social partners, when accompanied by a supporting cultural policy, helps to create a more sustainable environment.

## **1.10. EMPLOYMENT AND SOCIAL AFFAIRS AND EUROPEAN SECTORAL SOCIAL DIALOGUE 'LIVE PERFORMANCE'**

The 'live performance' sectoral social dialogue committee was created about ten years ago. The employers side is represented by Pearle\* while the EAEA, European arts and entertainment alliance – including musicians (FIM), actors (FIA) and technicians (Euro-Mei) – represent the trade unions. Sectoral social partners held six meetings in 2009: four working group meetings and two plenary meetings. The social side initiated two projects and produced two joint statements.

A project on Theatre technical training, already initiated in 2008, culminated in a seminar which took place on 13 - 14 March 2009 in Milan. A substantial report was presented that gave an overview of European projects and social partner initiatives on theatre technical training. At the seminar discussions revolved around developments in the profession, problems relating to the mobility of technical staff, the assessment and validation of skills and competences, training in the workplace and

training in educational institutes. One major conclusion was the need for access to information via a communication platform. An action plan was produced from this project.

The second project was initiated in the second half of the year, in line with the committee's undertaking to integrate the new Member States in social dialogue. The focus was on Southern Europe, where social dialogue has its own dynamics and processes. A dozen countries were involved, being a mix of old and new Member States and candidate countries. Both sides (trade unions and employers) appointed an expert to visit these countries and draft a joint report describing the situation of social dialogue in the different countries and identifying common issues.

At social dialogue meetings, the social partners discussed health and safety issues. Inspired by the campaign on risk assessment run by the European Agency for Safety and Health, the social partners decided to set up a working group. It first met in October with a mandate to explore the possibilities for the committee to act in this area. In particular, it examined the feasibility of developing an Interactive Risk Assessment Tool for the Live Performance sector. Social partners published a joint statement on the impact of the economic crisis ahead of the special Council summit in May. Social partners also presented a joint statement following the European year 2009 on creativity and Innovation. This statement was presented at a Flash info session during the Culture Forum on 30 September 2009 in Brussels.

The committee also followed with interest the activities deployed by DG Employment, following the Communication on 'New skills for new jobs', particularly the proposal on sectoral skills councils, which were also presented in discussion forums on restructuring.

At the plenary meeting on 9 November 2010, the work programme was endorsed, covering the following main subjects:

- . Project on strengthening social dialogue in the live performance sector in Southern Europe
- . Working group on risk assessment in the sector
- . Training theatre technicians
- . Mobility of workers in the performing arts sector
- . Cultural policy

## II. PROJECT ACTIVITIES

### 2.1. INDUSTRIAL RELATIONS

#### 2.1.1. "Strengthening social dialogue in the performing arts sector in Southern Europe"

The European social partners EAEA and Pearle\* have in the past tackled the issue of social dialogue in enlarged EU countries through three projects that were carried out at both national and sub-regional levels between 2003 and 2007. The impact of enlargement was identified by the social partners as a key issue on the work programme to be discussed and developed continuously.

This project aims to assess the impact of EU enlargement on social dialogue in the sector and will lead to a policy for the integration of the new Member States and candidate countries. The project also stimulates cross-border exchanges between countries with long traditions of social dialogue and countries with young structures.

Partnership is key to success in processing social dialogue between countries where this is not strongly established and countries that have long experience in this. Social partners have learned that the concept of partnership strengthens each other's work and therefore may achieve quicker results. The purpose of this project is to build or consolidate effective partnerships between workers' and employers' organisations from old and new Member States (also involving the relevant ministries). The idea is to exchange best practices and to respond to the need for information and experience on how to set up and organise associations and how to develop bilateral autonomous social dialogue further.

In October, experts appointed by both employers and trade-unions, visited the twelve targeted Southern European countries to take stock of the situation on social dialogue, its structures and functioning and to identify key issues in this region. The twelve targeted countries are: older Member States (France, Spain, Portugal, Italy, Greece), newer Member States (Cyprus, Malta, Slovenia, Bulgaria), and candidate countries (Croatia, FYR Macedonia, Turkey).

#### 2.1.2. Theatre Technical Forum

In the framework of the EU social dialogue, PEARLE\* and EURO-MEI have been working together on the issue of training since the committee started up in 1998. After the first joint conference on training in Turku, Finland in 2000, when the committee adopted its first

joint text, the social partners carried out several projects, including a seminar on training in Madrid in 2002. Recently the social partners took part in a Leonardo project "Theatre Technical Training – TTT EU", which ended in October 2007 and was followed by a second more specialised Leonardo project, Live Performance Technics - LPT focussing on the areas video and light.

This project is designed to implement the social partners' work programme, stepping-up and enlarging cooperation in the field of theatre technical training. It is also aimed at improving the knowledge and co-operation of social partners and training institutions in the area of theatre technical training.

It seeks to promote the exchange of information and experience among parties actively involved in industrial relations and further develop and interconnect the different networks between schools and training centres and social partners. The social partners hope that this initiative will also promote new cooperation among different players in the sector. This project seeks to bridge the gaps and bring together the relevant players in the sector.

Initiated in 2008, the project had following outcomes:

- . A report, including an evaluation of PEARLE\* - EURO-MEI actions on training 1998 – 2007, national social partners projects and EU funded training projects in the field of theatre training.
- . Exchange of experience and promotion of best practice in training at a seminar gathering about 60 participants from across Europe at the prestigious school Accademia Teatro alla Scala in Milan on 13-14 March 2010.
- . PEARLE\* - EURO-MEI training action plan.

### 2.2. LEONARDO PROJECT LPT IN EU – LIVE PERFORMANCE TECHNICIS PROJECT

Throughout 2009, the partners continued their work on the Live Performance Technics (LPTinEU) in the two-year project which started towards the end of 2007. Partners from Belgium, Italy, Sweden and UK are delivering the core work, led by the Finnish partner Metropolia University of Applied Sciences. The Live Performance Technics (LPTinEU) project aims to widen the scope to other technical professions, including the use of a diction-

ary, enlarging the scope of the competence analysis tool, and piloting the use of a portfolio tool. The combination of the three could lead towards a tool that could be used for different purposes by individuals, supervising managers and employers, and also in education.

The core analysis of the light, sound and stage competence areas, conducted during the TTTinEU project (2005-2007), also revealed the need for a description of other related fields. The fields of design and management are closely related to light, sound and stage competence areas, since they are the typical career moves for technicians seeking promotion.

The LPT project is also developing a tool to create online profiles for providing proof of earlier acquired skills and knowledge and for methods of assessing those competences in different countries. This responds to the needs of the growing group of professionals working across Europe. Hence, developing this tool also facilitates the mobility of technicians in Europe.

The role of Uni-Mei and Pearle\* as social partners includes validation and dissemination. Pearle\* also participated in October 2009 at a partners' meeting in Antwerp, Belgium. The project was also proposed and included in a report in the framework of the social partner project "theatre technical forum" (see 2.1.2.).

## **2.3. POLIFONIA ERASMUS PROJECT**

"Polifonia" is a project on higher music education. It started in 2004 and is studying various subjects related to professional music training in Europe. Since 2007 the project has been continuing its work in a second cycle. The project is coordinated through the AEC, the European Association of Music Academies and Conservatoires. The partnership in "Polifonia" involves more than 60 organisations in professional music training and the music profession in 30 European countries. As a partner, Pearle\* is a member of the External stakeholders group, whose tasks are:

- . evaluation of the professional relevance of the work being done in "Polifonia"
- . Promotion of dialogue between higher music education institutions and the music industry, so that higher music education institutions may be assisted in their current studies on the professional relevance of their study programmes
- . discussion on ways to intensify dialogue between education and the music industry and to make it more beneficial to individual

higher music education institutions (such as student placements and creative partnerships)

As a partner Pearle\* hosted a meeting of the external stakeholder group in Brussels on 5 October 2009, which was chaired by Martin Prchal of the European Association of Conservatoires (AEC). In addition, Pearle\* invited the chair of the group, Gretchen Amussen of the Conservatoire of Paris, to lead a working group for the orchestral associations at the General Assembly meeting of Pearle\* members at the end of May. A presentation on the impact of the Bologna process was made by the AEC president, Johannes Johansson, at the General Assembly meeting in Stockholm on 12 December; this process is designed to help the sectoral representatives gain a better understanding of the new form of higher education.

## **2.4. MOBILITY PILOT PROJECT: 'SEE MOBILE SEE PRACTICAL' PRACTICS**

PRACTICS is a three-year project that started in December 2008 and is coordinated by the Finnish Theatre Information Centre, which joined forces with ten other cultural organisations from six EU countries. The aim of this project is to facilitate the provision of information on EU cross-border mobility in the cultural sector.

The project develops "EU Cultural Mobility Contact Points" (CMCPs) which are being piloted in four EU countries: Belgium, Spain, Wales (UK) and the Netherlands. Their task is to offer relevant and user-friendly information to foreign cultural workers who want to work in the country in which the CMCP is based and also to national cultural workers who want to work in another EU country. The partners piloting the CMCPs are Kunstenloket from Belgium (Flanders), SICA from the Netherlands, the Arts Council of Wales/Wales Arts International and Interarts from Spain.

As a core partner in this project, Pearle\* undertook several initiatives during the year. In April it organised an informal briefing for its members and co-partners about the context of the pilot mobility project. As well as the Practices project, in which Pearle is a partner, another initiative on mobility – the 'SPACE' project was presented. Representatives from DG Culture and the OMC group on mobility reported on their activities to the participants.

## III. PEARLE\*: 2009 INTERNAL OPERATIONS

- 1. Office:** three interns from France, Germany and Italy joined Pearle\* for a period varying between three and six months. Isabelle Vass came from Grenoble, Bettine Gola from Berlin and Caterina Pasqui from Bologna. Giulia Sofia Petrarulo, a student, continued working one day per week until the summer break. Following a selection procedure in June a new place was created for a part-time European legal adviser: Sophie Pilette joined the office in August for a short period until September. To fill the new vacancy, Julija Sproge joined the office in October as part-time EU affairs and legal adviser. Charles-Henry Massa, an expert on Intellectual Property, was assigned to conduct a survey amongst the membership in autumn.
  - 2. Executive Committee:** The Executive Committee (Excom) held five meetings in 2009. Two of them were held the day before each General Assembly (on 28 May in Geneva and on 10 December in Stockholm). An extra meeting was held on 30 May, for the members of the Committee to elect from their number a new Treasurer and Executive Officer. The two other meetings took place in Brussels (16 February and 12 October). Following the elections at the spring General Assembly in Geneva, Richard Pulford stood down as Chairman as he had already served two consecutive terms. Matti A. Holopainen from the Finnish Theatre Association, the sole candidate, was unanimously elected by the members as the new Chairman. All the other members of the Executive Committee were confirmed in their positions.
  - 3. Communication:** The activity report 2008 was available in printed version in English and in French. It was sent to EU stakeholders over the summer. An executive summary, available from the website was also available in German, Spanish and Italian. A printed "briefing to the European Parliament" was sent to the members of the newly installed European Parliament in August, and each MEP also received copies in English and French electronically in pdf. Prior to the elections, Pearle\* had been circulating a weekly newsletter to its members starting ten weeks before the June parliamentary elections. A dossier with information on the European political groups and parties had been prepared for the pre-election period. Other in-house publications concerned the survey on the impact of the financial crisis on the sector, and a comparison with the situation in the United States. A publication was drafted on the free movement of people and the consequences for social security in the context of mobility. Pearle\* members were also consulted with a view to writing position papers, responses to consultations, statements and letters. Several reports on conferences and meetings attended were made available. The Pearle\* website was redesigned, making the items clearer, the
- website more user-friendly and more attractive due to the use of photos and many colours. Pearle\* warmly encourages members to share their views at General Assembly meetings, and to exchange information and know-how.
- 4. Pearle\* conferences:** The spring conference took place on 29 and 30 May in Geneva, Switzerland, at the invitation of the UTR, Union des Théâtres romandes in cooperation with UTS, l'Union des Théâtres Suisses. The autumn conference was organised on 11 and 12 December in Stockholm, Sweden and was hosted by Svensk Scenkonst, the Swedish Performing Arts. At the start of each General Assembly the minutes from the previous meeting were presented and endorsed by the members. Each meeting ended with a number of action points for implementation by the Pearle\* office, its board and the members.
  - 5. Membership:** In 2009, Pearle\* admitted the following two federations as full members: the French association Syndicat National des entrepreneurs de Spectacles SNES (National Syndicat of producers in the performing arts) and ASOPS (the Association of Czech Symphony orchestras and choirs). The European Early Music Network (REMA-EEMN) having joined as observer at the spring meeting, became an associate member in December. One observer member was the ENCC, the European Network of Cultural Centres. Due to the political situation for culture in Italy, the Italian association and founding member of Pearle\*, AGIS, did not renew its membership in 2009. Pearle\* counts now 45 members: 40 full members and 5 associate members.
  - 6. Finances:** Up until 2008, the association's income was derived solely from membership contributions. To respond to the growing pressure on the office to respond to the activities developed in the EU, a larger budget was needed. At the end of 2008 members agreed to a substantial increase of the membership fees. Pearle\* had also applied for a structural subsidy with the Flemish Community as international network organisation for the maximum duration of one calendar year. Thanks to the support of the Flemish Community, Pearle\* was now to engage an extra person in the office and receive external expertise.



**FULL MEMBERS**

AUSTRIA	<b>Wiener Bühnenverein</b> Association of Theatres in Vienna
	<b>Theatererhalterverband Österreichischer Bundesländer und Städte</b> Association of regional and city theaters in Austria
BELGIUM	<b>Belgische Schouwspelvereniging - BSV/ Association Belge du Spectacle - ABS</b> Association of performing arts in Belgium
	<b>Overleg Kunstenorganisaties - oKo</b> Platform for arts organisations in Flanders
BULGARIA	<b>BAROK</b> Bulgarian Association of employers in Culture
CZECH REPUBLIC	<b>Asociace profesionálních divadel České republiky - APD ČR</b> Association of the Professional theatres in the Czech Republic
DENMARK	<b>Danske Teatres Faellesorganisation</b> Danish Association of Theatres
	<b>LandsdelsOrkesterForeningen</b> Association of Danish Regional Symphony Orchestras
ESTONIA	<b>Eesti Etendusasutuste Liit /EETEAL</b> Estonian Theatre Association
FINLAND	<b>Suomen Teatterit ry / Finlands Teatrar rf</b> Association of Finnish Theatres
	<b>Suomen Sinfoniaorkesterit</b> Association of Finnish Symphony Orchestras
FRANCE	<b>Syndicat National des Entreprises Artistiques et Culturelles - SYNDEAC</b> National employers organisation of artistic and cultural enterprises in France
	<b>Chambre Professionnelle des Directeurs d'Opéra - CPDO</b> French Chambre of Opera house directors
	<b>Syndicat des ensembles professionnels vocaux et instrumentaux spécialisés - PROFEVIS</b> Union sets professional vocal and instrumental specialist
	<b>Syndicat National des producteurs, diffuseurs et salles de spectacle - PRODISS</b> National employers' organisation of producers, broadcasters and theaters
	<b>Syndicat National des Scènes Publiques - SNSP</b> National employers' organisation of city theatre directors in France
	<b>Syndicat des Directeurs de Théâtres Privés - SDTP</b> Association of French private theatres
	<b>Association française des Orchestres - AFO</b> Association of French Orchestras
GERMANY	<b>Syndicat National des Orchestres et Théâtres Lyriques subventionnés de droit privé - SYNOLYR</b> Association of French orchestras and lyric theatres
	<b>Deutscher Bühnenverein - Bundesverband der Theater und Orchester</b> German Theatre and Orchestra Association
HUNGARY	<b>Magyar Szimfonikus Zenekarok Szövetsége</b> Association of Hungarian Orchestras
LUXEMBOURG	<b>Fédération Luxembourgeoise des théâtres professionnels - FLTP</b> Federation of professional theatres in Luxembourg
NETHERLANDS	<b>Contactorgaan van Nederlandse Orkesten - CNO</b> Association of Dutch Orchestras
	<b>Vereniging van Nederlandse Theatergezelschappen - VNT</b> Association of Dutch Theatre Companies
	<b>Vereniging van Schouwborg- en Concertgebouwdirecties - VSCD</b> Association of Dutch Venues and Concert halls Directors
NORWAY	<b>Norsk Teater- og Orkesterforening - NTO</b> Association of Norwegian Theatres and Orchestras
SLOVAKIA	<b>Asociácia riaditeľ'ov profesioálnych orchestrov Slovenska</b> Association of Slovak Professional Orchestra Directors

SPAIN	<b>Federación Estatal de Asociaciones de Empresas Productoras de Teatro y Danza - FAETEDA</b> State Federation of Associations of Theatre and Dance production enterprises
	<b>Asociación Española de Orquestas Sinfónicas - AEOS</b> Association of Spanish Symphony Orchestras
SWEDEN	<b>Svensk Scenkonst</b> Association of Swedish Theatres and Orchestras
SWITZERLAND	<b>Schweizerischer Bühnenverband-SBV/Union des Théâtres Suisses-UTS/Unione dei Teatri Svizzeri</b> Association of theatres in Switzerland
	<b>Union des Théâtres Romands - UTR</b> Association of 'Roman' theatres in Switzerland
UNITED KINGDOM	<b>The Society of London Theatre - Theatrical Management Association - SOLT/TMA</b>
	<b>Association of British Orchestras - ABO</b>
	<b>Independent Theatre Council - ITC</b>
	<b>Federation of Scottish Theatre - FST</b>

## ASSOCIATE MEMBERS

AUSTRALIA	<b>Live Performance Australia</b>
EUROPEAN NETWORKS	<b>Opera Europa</b>
	<b>EFA- European Festivals Association</b>
	<b>ETC –European Theatre Convention</b>

## OBSERVER MEMBERS

CZECH REPUBLIC	<b>ASOPS - Asociace symfonických orchestrů a pěveckých sborů České republiky</b> Association of the Czech Symphony Orchestras and Choirs
FRANCE	<b>SNES - Syndicat National des Entrepreneurs de Spectacles</b>
EUROPEAN NETWORK	<b>REMA - EEMN European Early Music Network</b>
	<b>ENCC - European Network of Cultural Centres</b>

COMPOSITION OF THE EXECUTIVE COMMITTEE UNTIL JUNE 2009

**CHAIRMAN**

**RICHARD PULFORD** Society of London Theatre & Theatrical Management Association - SOLT/TMA, U.K.

**SECRETARY & EXECUTIVE OFFICER**

**LIESBETH DEJONGHE** oKo - Overleg Kunstenorganisaties, Belgium

**TREASURER**

**STURE CARLSSON** Svensk Scenkonst, Sweden

**MEMBERS**

**ROLF BOLWIN** Deutscher Bühnenverein - Bundesverband der Theater und Orchester, Germany

**GÉZA KOVÁCS** Magyar Szimfonikus Zenekarok Szövetsége, Hungary **CATHERINE BAUMANN**  
Syndicat National des Orchestres et Théâtres Lyriques subventionnés de droit privé - SYNOLYR, France

**KATHLEEN LOPEZ KILCOYNE** Federación Estatal de Asociaciones de Empresas Productoras de Teatro y Danza - FAETEDA, Spain

COMPOSITION OF THE EXECUTIVE COMMITTEE FROM JUNE 2009

**CHAIRMAN**

**MATTI A. HOLOPAINEN** Suomen Teatterit ry / Finlands Teatrar rf, Finland

**SECRETARY & EXECUTIVE OFFICER**

**LIESBETH DEJONGHE** oKo - Overleg Kunstenorganisaties, Belgium

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**PEARLE\* OFFICE**

**DIRECTOR**

**ANITA DEBAERE**

**EUROPEAN LEGAL ADVISER** August-September

**SOPHIE PILETTE**

**EU AFFAIRS AND LEGAL ADVISER** October onwards

**JULIJA SPROGE**

**EXTERNAL EXPERT, INTELLECTUAL PROPERTY LAWYER** October-December

**CHARLES-HENRY MASSA**

**INTERNS** February-June 2009 **ISABELLE VASS** March-May 2009 **BETTINE GOLA** June-December 2009 **CATERINA PASQUI** **STUDENT** January-May 2009 **GIULIA SOFIA PETRARULO**

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