

SOME OBSERVATIONS ON THE FIA ACTIVITIES

By Rolf Rembe, General Secretary 1968-73 and 1983-91

“FIA – THE FIRST THIRTY YEARS” gives a presentation of how the federation during its initial period developed along two lines: as a Forum and as Instrument.

FIA is a *forum* for analysis and debate, for information and inspiration. It is a meeting place for unions representing not only stage actors but all categories of performing artists (excluding musicians) variety and circus artists for several years had their own international organisation (FIAV) but since 1970 they too are represented by FIA; from 1982 to 1992 the President of FIA was the Austrian illusionist and entertainer Peter Heinz Kersten.

Conditions and problems by necessity differ from category to category and from place to place. They could not be the same for the ensemble of the Bolshoi opera as for a cast of actors in a cinema production in Hollywood or a group of street performers in Santiago de Chile. Yet they have in common that they have a need for social security and that they more than anything else wish to exercise their profession.

At congress after congress delegates demanded decent conditions in all areas affecting performers' professional and social life. At the end of the 1960s it was felt that so many resolutions had been adopted by congresses and meetings that it was necessary to compile them into one, authoritative document. It was called “The FIA Code of Principles and Declarations”. One of its purposes was to give new members an easy access to what FIA stood for.

Through letters and bulletins FIA tries to keep its members informed of the struggle and the developments in the field of performers both on a national and an international level. In the 1980s a computerised project was started to keep the members informed of the performers' rights situation – national legislation, practical application – in the member countries.

The situation in the live theatre was always at the heart of FIA. It has, therefore been a natural matter for FIA to accept invitations to take part in congresses and other activities of the International Theatre Institute (ITI). In 1969 FIA organised a seminar on the live theatre in Dublin jointly with its Irish member union. Separate meetings and workshops have been organised on the problems of dancers and variety artists.

Unions had early on discovered that no matter how strong and efficient they were their achievements would always be dependent on the general economic, social and politic climate in their countries. This led FIA to engage in what is generally defined as ‘cultural policy’ – covering the whole field of legislation and institutions that affect the cultural life and therefore the conditions of professional artists. A broad conference on this subject was organised in Tashkent in 1993 in co-operation with the Cultural Workers' Union of the USSR.

FIA also applied for a consultative status with UNESCO and its secretariat in Paris. Eventually UNESCO agreed to establish a document with a wide range of recommendations covering the cultural activities in all countries and the needs and rights of all professional artists. The FIA played an active part in the development of that instrument, called the “UNESCO Recommendation on the Status of the Artist”. In 1984 FIA organised a conference on the practical application of the recommendation in Moscow, and several studies and meetings have since been devoted to this task. It must, however, be admitted that the concrete results emerging from this document have been limited. It contains almost

everything that could be beneficial to the professional life of performing and other artists, but since it is a recommendation rather than a binding instrument it leaves it to the 'local forces' to get it materialised.

In its contact with UNESCO the federation moves into its other function, that of an *instrument*. For individual national unions it is not possible to establish a direct contact with intergovernmental bodies; that can only be done through an international organisation such as FIA. For performers, the main area where this has applied is that of 'intellectual property rights'. The first international body to be approached by the performers was the International Labour Office (ILO). Later contacts in this area were established with UNESCO. But the dominant organisation to apply to and try to influence soon became the World Intellectual Property Organisation (WIPO). Numerous meetings on the problems of establishing a legal protection of the rights of performers have over the years taken place in Geneva (the headquarter of ILO and WIPO) and Paris (UNESCO).

The reason why the performers in the first place approached the ILO was that they felt threatened by what was later to be labelled as 'technological unemployment': gramophone records and cinema films had begun to replace the live performance of musicians and performing artists. The phonograph and cinema film made it possible to repeat a performance over and over again – without the participation of the performer. There and then it would perhaps have been possible to establish the principle the performers' organisations implicitly tried to introduce many decade later: *a performance is a performance* regardless of whether it comes live or from a recording, and it cannot take place without the consent of the performer. But by then a whole industry of gramophone and cinema recording had been built on the opposite position: once a recording has been made *all rights belong to the producer*. The struggle at long last introduced by the performers was, therefore, indeed uphill.

Initially FIM and FIA had been hoping for a preservation of the live music and the live theatre through some instrument within the labour legislation established by the ILO. When this proved impossible they had to turn to the intellectual rights' arena under the auspices of WIPO. Once cannot say that they were warmly welcomed by the other interested parties. The traditional authors (composers, writers, visual artists) had achieved an international protection through the Berne Convention already in 1894. For the writers, the invention of the Guttenberg printing machine in the late fifteenth century had been the equivalent of the technology affecting performers four hundred years later. An important part of this picture is that 'the authors' rights' from early on were acquired by the large publishing companies who exercised these rights through a powerful organisation called CISAC. The CISAC has never concealed that it is anxious to keep the authors' (and thereby the publishers') piece of the cake untouched by the performers.

(This animosity between authors and performers does not necessarily exist on a national level. E.g. in the Nordic countries an effective co-operation exists between artists of all categories.)

Besides CISAC the cinema industry has been a solid opponent of the performers' rights, for reasons already indicated – the claim for 'all rights of the producers'. For similar reasons the broadcasters have been steadfast opponents of the performers' interests. The governmental representatives who form the deciding bodies of WIPO have in front of these confronting interests mostly vacillated or discretely supported the mighty – CISAC, the film industry, the broadcasters. That it has nevertheless been possible to establish something that could be called an international protection of performers' rights is to a large extent thanks to the brilliance, the devotion and the persistence of three men: Gerald Croasdell, General Secretary of FIA, and Hardie Ratcliffe and John Morton, Presidents of FIM.

Admittedly, the achievements must also be related to the emergence of certain alliances. Performers and manufacturers of sound records (IFPI) found themselves in the same position vis-à-vis those who

use the records for broadcasts or in public places such as cafés and department stores: there was nothing they could do to prevent the use, or to force the user to pay. A solution was eventually found in the Rome Convention in the form of a compulsory licence which makes the use permitted but forces the user to make a payment, to be shared between the producer and the performers and to be fixed by some form of public body.

Similar situations have emerged in relation to the distribution via cable of television programmes captured from programmes broadcast over the air – but this time affecting all contributors, including the producers. Regulations have been established in the form of compulsory licenses – which have resulted in considerable amounts being paid out, also to performers, via national collecting societies.

Gradually, the performers' organisations have had to accept that technology in the entertainment sector cannot be removed or reversed, and that in certain cases compulsory licenses can be an acceptable method of providing the performers with an equitable share of the vast income generated from the use of their contribution. They have, however, continued to claim a recognition and a protection on a par with that of the authors, i.e. a full right to authorise or prohibit any use of their performance.

It has, on the other hand become evidently clear that whatever rights the performers possess, they can only be made productive with the help of strong unions. Without such organisations most performers are weak in individual negotiations and virtually have to hand over their rights to the producer. Where unions have been strong they have, on the contrary, been able to make substantial inroads into the monopoly position of the producer even where no legal rights of performers have existed.

In Europe FIA and FIM somewhat sensationally had managed to establish the 'Eurovision Agreement' with the European Broadcasting Union (EBU). The optimism created by this achievement did, however, not last. The Eurovision relays were soon to be replaced by recordings acquired mainly from Britain and the United States, and over this market the federations had very little influence.

From 1970 the unions in both the USA and the USSR were members of FIA. The on-going 'cold war' between the East and the West affected also the trade union world, but the position of FIA was unique in that it belonged neither to the 'eastern' World Federation of Trade Unions (WFTU) with its secretariat in Prague nor to the 'western' International Confederation of Free Trade Unions (ICFTU) which was seated in Brussels. This independent position was consistent with its constitution as well as the factual situation within the federation. For example, of the two main founding organisations the French SFA adhered to the communist-dominated central French union which belonged to the WFTU, while the British Actors' Equity defined itself as "religiously non-political".

During two decades FIA served as a bridge between artists from the two sides of the iron curtain. That the situation from time to time could be sensitive was illustrated by the fate of the 'peace resolution' that came up at the congress of 1979 and 1982 but was rejected. Not because FIA unions were opposed to peace, but because 'the peace movement' and 'peace resolutions' were in those days part of the propaganda in the cold war. The FIA insisted on not being used as an instrument in that conflict. The embarrassing matter could be neutralized and removed from the agenda in 1985 by a FIA congress adopting a declaration by UNESCO.

With the fall of the Berlin Wall in November 1989 and the subsequent abolition of the USSR a new situation emerged. From having in many respects a privileged professional situation the performers in the East European countries had to adjust, for good or for worse, to the market conditions prevailing in the West. Through FIA the colleagues in the western countries tried to alleviate the process. A consequence of the change in the overall political climate and the disappearance of the WFTU was that

contacts could be established between the ICFTU with its affiliates in the entertainment area and FIA and FIM.

The establishment of the European Common Market, later to be developed into the European Union placed new tasks on FIA and its secretariat. Gradually a separate structure had to be built up to deal with the rising number of matters that were handled by the vast EU machinery in Brussels and Strasbourg. In the beginning the FIA unions regarded the Common Market and the EU with some suspicion, fearful that the rich and varied European cultural spectre might be neglected and standardised. On the whole, these fears have turned out not to be justified. On the contrary, in some respects the European authorities have shown a more positive attitude than many of the national governments, in particular in relation to the cinema film production and performer's rights.

The generally rising awareness and belligerence in society among women during the 1970s and 1980s was noticed also within FIA. The dramatic art had always by necessity nee, marked by the artistic interaction between men and women and therefore a mutual professional respect. Women performers from early on played an active and often leading role in the national unions and the FIA. France Delahalle of the Syndicat Français des Acteurs was the first woman to become the President of FIA in 1973. There were, however, many examples of unfairness from a gender point of view in the professional life of performers. Reports were presented to FIA congresses, working groups were established and seminars took place.

The widening membership of FIA and the growing expectations on its activities placed an increasing burden both on its Executive Committee and its secretariat. For many years the secretariats of FIA and FIM did their best to share the burden of taking part in numerous actions and meetings by preparing documents on behalf of both federations and occasionally even representing each other.

The growing membership also made it necessary to find a structure within the federation that was both representative and effective. At the congress in Leningrad 1988 a new composition of the Executive Committee was agreed. It would consist of fifteen members; the President and six Vice Presidents form a Presidium which can meet for urgent and 'executive' decisions.