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► **To cite this version:**

Esteban Buch. On Herbert von Karajan's European Anthem. Proceedings of the conference Beethoven-Perspektiven 2020, Beethovenhaus, Bonn, 10 February 2020., inPress. hal-03217472

HAL Id: hal-03217472

<https://hal.science/hal-03217472>

Submitted on 4 May 2021

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Esteban Buch

On Herbert von Karajan's European Anthem

The “Ode to Joy” melody became the European anthem in the wake of the Beethoven 1970 Bicentenary. At the behest of the Federal Republic of Germany, the meeting of the Standing Committee of the Consultative Assembly of the Council of Europe, during which the resolution on the anthem was adopted, took place the 8 July 1971 in Berlin-West. This unusual place was selected with the explicit aim of strengthening the ties between the city and the Strasbourg-based institution, and the immediate result of the government of the German Democratic Republic denouncing a “provocation”.¹ Thus, from the start the adoption of the “Ode to Joy” as an official symbol of European institutions was part of the cultural dispute of the Cold War, with Berlin at its core.

In 1985, the choice of the Council of Europe was confirmed by the European Community, thus making of Beethoven's music a material part of the supranational state later called the European Union, as a kind of Hegelian sonic utopia. For that very reason, the European anthem arguably embodies some of the contradictions of the political construction of Europe in the last fifty years. I have addressed them in my 1999 book on the political history of the Ninth Symphony, starting with the very idea of turning the “Ode to Joy” into a piece of state music. It is obvious that excerpting two minutes from Beethoven's symphony drastically reduces the aesthetic richness of the original work. On the other hand, the European anthem arguably contributed to the historical exceptionality of the melody, and to its acknowledgment as a sonic fetish of modern culture.

Also, contrary to the national anthems on which it is modeled, this is an anthem nobody can sing.² Only Beethoven's melody was mentioned in official texts, thus making of Schiller's words a message simultaneously assumed and repressed. At the time, the difficulties for translating the text in all European languages, and the acknowledgment that Schiller did not speak of Europe, but of humanity in general, were solved, or rather hidden, by the claim that

¹ *Westberlin für Provokationen mißbraucht*, in: *Berliner Zeitung* 27 (1971), Nr. 185 from 7 July 1971, p. 5.

² Esteban Buch, *Beethoven's Ninth. A Political History*, Chicago 2003, pp. 233–242. See also Thomas Betzwieser, *Europa-Hymnen – Musikalische Insignien von Verständigung und Identität*, in: *The Role of Music in European Integration. Conciliating Eurocentrism and Multiculturalism*, ed. Albrecht Riethmüller (Discourses on Intellectual Europe, 2), Berlin and Boston 2017, pp. 125–147.

instrumental music is a “universal language”. The solution was not satisfactory, though. As much was acknowledged from the start by René Radius, the French chairman of the committee that prepared the Consultative Assembly’s resolution:

“The committee therefore preferred, for the time being, to propose only the tune for a European anthem, without words, and to allow some time to pass. One day perhaps some words will be adopted by the citizens of Europe with the same spontaneity as Beethoven’s eternal melody has been”.³

This hope was to remain unfulfilled. After all, the genre of the anthem is defined by the very idea of the unified voice of an assembled community. Yet the European anthem is performed as an instrumental work on official occasions, and sung with Schiller’s words in informal settings.

Anyway, Radius’s statement is a useful reminder that the history of political symbols is always open-ended. This has direct relevance for the apparently narrower issue this essay focuses on, namely the fact that the European Anthem is an artwork copyrighted by a former Nazi party member, Herbert von Karajan. This part of the story was addressed in my previous publications,⁴ but supplementary evidence strengthens the case that Karajan’s role in the history of the anthem, far from being an anecdote, throws a disturbing shadow on the political significance of Beethoven for the present time.⁵ The 250th anniversary of his birth is celebrated seventy-five years after the liberation of Auschwitz, when the European Union’s fundamentals are being shaken by the rise of populist and revisionist trends all over the world, while Germany is haunted by the ghosts of its Nazi past. Also, the brutal disruption of the Beethoven 2020 year by the

³ René Radius, *Report by the Consultative Assembly of the Council of Europe on a European Anthem*, 10 June 1971, Doc. 2978, p. 4

(https://www.cvce.eu/en/obj/report_by_the_consultative_assembly_of_the_council_of_europe_on_a_european_anthem_10_june_1971-en-564e2cbf-2254-41bc-8070-83bc07943bf0.html, 22 July 2020).

⁴ See Buch, *Beethoven’s Ninth* (n. 2), pp. 239–240; idem, *Beethoven in the Shadows of Berlin: Karajan’s European Anthem*, in: *Dissent* (fall 2009), pp. 14–19; see also Betzwieser, *Europa-Hymnen* (n. 2), pp. 138–140.

⁵ All documents mentioned in this essay belong to the archives of the Council of Europe in Strasbourg. Most of them are now available online at <https://www.coe.int/fr/web/documents-records-archives-information/hymne-europeen> (21 July 2020) and <https://www.cvce.eu/en/education/unit-content/-/unit/eeacde09-add1-4ba1-ba5b-dcd2597a81d0/17080d69-d765-4a98-8836-1484bc40efe1/Resources> (21 July 2020).

Covid-19 pandemic dramatically reminds us of the fragility of cultural rituals such as classical music, and the importance of their transmission on sound ethical and political basis.⁶

Copyrighting Beethoven's music

In 1971, the Resolution 492 of the Consultative Assembly of the Council of Europe proposed “the acceptance by member countries as a European anthem of the *Prelude to the Ode to Joy in the fourth movement of Beethoven's Ninth Symphony*”, considering that it was fitting “to select a musical work representative of European genius and whose use on European occasions is already becoming something of a tradition”.⁷ The “European genius” was not an allusion to Beethoven, but a way to reclaim for Europe a cultural identity akin to those attributed to nations by nationalist discourse. “[B]ecoming something of a tradition” evoked, among other things, the fact that the “Ode to Joy” had been associated with the political construction of Europe at least since 1929, when it was declared the anthem of the Pan Europa movement, an international organization led by Richard Coudenhove-Kalergi, who in 1955 pleaded for making of it the symbol of the new European institutions.⁸

On 24 July 1971, a few days after the Berlin-West meeting, the Secretary General of the Council of Europe, Lujo Tončić-Sorinj, wrote to Herbert von Karajan:

“Lieber Freund!

Ich habe diese Anschrift von Deinem Bruder Wolfgang erhalten und darf Dich mit einer Angelegenheit befassen, die für den Europarat von Wichtigkeit und für Dich vielleicht von Interesse ist. Anlässlich der

“Dear friend,

thanks to the address I got from your brother Wolfgang, I write you about a matter that is important for the Council of Europe, and perhaps of interest to you. During the meeting of the Standing

⁶ See Esteban Buch, *Beethoven at 200 + 50. The Changing Meaning of Commemorations*, in: *Zeitgenosse Beethoven. Eine Ausstellung mit Rezeptionsdokumenten aus der Paul Sacher Stiftung*, forthcoming.

⁷ *Resolution 492 (1971) on a European anthem*, Consultative Assembly of the Council of Europe, twenty-third ordinary session (<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806acc18>, 7 August 2020).

⁸ See Richard de Coudenhove-Kalergi to Paul M. G. Levy, Bern, 3 August 1955 (<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806a9ae7>, 22 July 2020). See Buch, *Beethoven's Ninth* (n. 2), pp. 203f.

Sitzung der Ständigen Kommission der Beratenden Versammlung der Europarates am 8. Juli dieses Jahres in Berlin wurde der Beschluss gefasst, die Hymne An die Freude aus Beethovens Neunter Symphonie zur offiziellen europäischen Hymne zu erklären. [...]

Nun ist es aber für uns von grosser, ich möchte sagen administrativer, Bedeutung, eine offizielle Version der Hymne zu haben, die dann als dokumentarische Unterlage für alle Zukunft gilt. Das ist ausserordentlich wichtig, damit dann nicht bei jeder Veranstaltung irgend eine andere Präsentation der Hymne gegeben wird. Nach Fühlungnahme mit mehreren Kollegen aus der Versammlung möchte ich nun Dich bitten, die offizielle Version der Hymne zu dirigieren. Dabei richte ich mich ganz nach Deinen Ueberlegungen und Wünschen, auch was das Orchester und den Ort betrifft. Nachdem der Beschluss in Berlin gefasst worden ist, kann es in Berlin geschehen, muss aber nicht. Es kann in Verbindung mit einer Aufführung der ganzen Neunten Symphonie erfolgen oder separat. Wenn Du grundsätzlich dem Vorschlag zustimmst, so können wir uns darüber mündlich unterhalten [...]. Ich bin in

Committee of the Consultative Assembly of the Council of Europe that took place in Berlin on 8 July, the anthem An die Freude from Beethoven's Ninth Symphony was declared to be the official European anthem. [...]

Now, for important reasons that I might call administrative, we need an official version of the anthem, as a documental basis for the future. It is of the greatest importance to avoid having a different presentation in every occasion on which the anthem is performed. After having consulted with several colleagues in the Assembly, I would like to ask you to conduct the official version of the anthem. To make this happen, I will place complete trust in your wishes and suggestions, including everything related to the orchestra and the location of the performance. It might take place in Berlin, since the decision was made there, but not necessarily. It might go together with a performance of the whole Ninth Symphony, or otherwise. If the idea suits you, we could speak of it viva voce. [...] I shall be in Salzburg from 4 to 7 August, and then on 30 again."

der Zeit zwischen dem 4. und 7. August in
Salzburg, dann wieder am 30.”⁹

The response to Secretary General Tončić-Sorinj’s friendly letter was written on 12 August, not by Karajan himself, but by his manager, Emil Jucker:

“Herr von Karajan hat sich sehr über Ihren Brief vom 24. Juli 1971 gefreut. Leider konnte er Sie während Ihrer Anwesenheit in Salzburg nicht sprechen, da er zu dieser Zeit in Griechenland war.

Herr von Karajan ist sehr daran interessiert die Hymne an die Freude zu bearbeiten und auch auf Platte zu dirigieren.

Herr von Karajan ist am 30. August noch in Salzburg, hat aber am Abend eine Othello-Vorstellung. Vielleicht würde sich trotzdem, sollten Sie am Vormittag schon in Salzburg sein, noch ein kurzes Gespräch zwischen Ihnen und Herbert von Karajan ermöglichen lassen.”¹⁰

“Herr von Karajan was very happy to receive your letter of 24 July 1971. Unfortunately he could not speak with you during your staying in Salzburg, as he was in Greece at the time.

Mr. von Karajan is very interested in arranging the Ode to Joy anthem and conducting it for a recording.

Herr von Karajan will still be in Salzburg on 30 August, for an evening performance of Othello. If you are in Salzburg in the morning, that might perhaps allow a short conversation between you and Herbert von Karajan.”

The two men did meet in Salzburg to discuss the matter¹¹ on the basis set by Jucker’s letter, namely: “Mr. von Karajan is very interested in arranging the Ode to Joy anthem and conducting it for a recording”. This is evidence that the idea of assigning Karajan not only to conduct the anthem but also to be in charge of its arrangement came not from the Council of Europe, but from

⁹ Lujo Tončić-Sorinj to Herbert von Karajan, Strasbourg, 24 July 1971 (<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806acc1c>, 22 July 2020). – All English translations by the Author.

¹⁰ Emil Jucker to Lujo Tončić-Sorinj, Zürich, 12 August 1971 (<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806acc1c>, 22 July 2020).

¹¹ Lujo Tončić-Sorinj, *Erfüllte Träume. Kroatien – Österreich – Europa*, Vienna 1982, p. 430.

Karajan himself. Eventually, it led to what the diplomat called in his memoirs a history rich in “dramatic details”.¹²

Herbert von Karajan was born in Salzburg in 1908 into an ennobled bourgeois family of a conservative political persuasion. Lujo Tončić-Sorinj, born in Vienna in 1915 to a line of aristocratic diplomats, attended the Akademisches Gymnasium in Salzburg, and after serving in the Wehrmacht during the war, he started his political career in the same city, as a member of the Österreichische Volkspartei. This might explain his friendship with the Karajan brothers, who a few years earlier went to the same high school, as most of the local elite. Tončić-Sorinj’s election in 1969 to head the Council of Europe followed his serving as Austria’s foreign minister between 1966 and 1968. His successor as Austria’s top diplomat was his fellow ÖVP member Kurt Waldheim, future secretary general of the UN, still remembered for the scandal that erupted in 1986 over his past as an intelligence agent for the Wehrmacht.

Herbert von Karajan’s Nazi party membership – already known in music circles in the 1950s, and described in detail in a 1957 article by journalist Paul Moor – became widely discussed in the years before and after his death in Anif, near Salzburg, in July 1989.¹³ As it is well-known, the conductor filled out an inscription form to join the NDSAP on 8 April 1933 in Salzburg, but the process came to a halt because of the recruitment freeze following Hitler’s seizure of power. In March 1935 in Aachen, he submitted a second request which was completed in due form. Karajan said before the Austrian Denazification Committee that this was a necessary condition for him to secure the post of Generalmusikdirektor in that city. Thus, it was the conductor himself who put forward the longtime accepted theory that his conduct was opportunistic, hence, apolitical. Amoral on its own grounds, the story did not explain why this young Austrian had wanted to join the German Nazi party in April 1933, with no material advantage in sight. All things considered, the most likely explanation is, of course, sympathy for Hitler’s ideas. This is reinforced by Karajan’s anti-Semitic comments on Austrian musical life in

¹² Ibidem.

¹³ Paul Moor, *The Operator*, in: *High Fidelity* 7 (1957), no. 10, pp. 52–55 and 190–196, here p. 190; Fred K. Prieberg, *Musik im NS-Staat*, Frankfurt am Main 1982, pp. 107f.; Robert C. Bachmann, *Karajan. Anmerkungen zu einer Karriere*, Düsseldorf and Wien 1983; Richard Osborne, *Herbert von Karajan. A Life in Music*, Boston 1996, pp. 61–65 and 742–750; Michael H. Kater, *The Twisted Muse. Musicians and Their Music in the Third Reich*, New York and Oxford 1997, pp. 57–60; Oliver Rathkolb, “Geschichte(n) einer Karte”. *Anmerkungen zur Wechselbeziehung zwischen Nationalsozialismus und Künstlern am Beispiel von Karajans NSDAP-Mitgliedschaft, in: Über die österreichische Geschichte hinaus. Festschrift für Gernot Heiss zum 70. Geburtstag*, ed. Friedrich Edelmayr etc., Münster 2012, pp. 181–204.

correspondence with his family, by his spontaneous self-description as “arisch” in official documents from 1927 and 1928, and by his earlier participation in Rugia, a Salzburg far-right Pan-German youth association.¹⁴

Now, it is clear that Karajan, dubbed Generalmusikdirektor of Europe, was recruited in 1971 by Tončić-Sorinj to perform the new European symbol firstly because of his celebrity – and incidentally, perhaps, because of their Salzburg connections and the strategic importance of Berlin, a city of which he was a kind of icon himself. A lifelong post as conductor of the Berlin Philharmonic, a position as guest conductor of the Vienna Philharmonic, as well as his heading the Salzburg Festival, his recent time at the Orchestre de Paris, and his recordings with Deutsche Grammophon, among other prestigious activities, made him the best-known and highest-paid classical musician in the world. There is no question that collaborating with him was an asset to the European anthem project. As it turned to be, it was also an asset for Karajan’s own ambitions.

In January 1972, the Committee of Ministers of the Council of Europe confirmed the Resolution 492 of the Consultative Assembly. According to the official minutes of the meeting, “the Director of Press and Information informed the Committee that the Secretary General had approached Mr. Herbert von Karajan who had agreed to prepare the official score and to conduct the recording. Mr. von Karajan would not accept a fee and the recording would be on a commercial basis. The duration of the anthem in the Karajan version would be exactly fifty-eight seconds”. In response, says the document, the delegates “asked the Chairman to address a letter to Mr. von Karajan expressing the Committee’s appreciation of his services in this matter”.¹⁵

This strongly suggests that the Committee of Ministers confirmed the choice of Karajan without being informed of his claim on copyrights, and thanked him for a collaboration its members thought free of any financial benefits for him, except for the “commercial exploitation” of the record. Also, the official minutes say that in that meeting the Committee of Ministers “listened to a recorded version of the music adopted for the anthem”.¹⁶ Now, 58 seconds is the duration of one time the “Freudenmelodie”, and not two like in Karajan’s published arrangement, whose recording by the Berlin Philharmonic lasts 2’17”. The fact that Karajan recorded “the

¹⁴ Rathkolb, *Geschichte(n) einer Karte* (see n. 13), p. 184.

¹⁵ [Conclusions of the 206th Meeting of the Ministers’ Deputies, Strasbourg from 11 to 18 January 1972](#), p. 28 (22 July 2020).

¹⁶ *Ibidem*.

music adopted for the anthem” before writing down his score shows that it was completely possible to fit the expectations of the Council of Europe, without conceiving a specific arrangement in the first place. On the other hand, the longer version might have better suited Deutsche Grammophon’s releasing a LP with the European anthem followed by the national anthems of the seventeen members of the Council of Europe on side A, and the “final chorus” [sic] of Beethoven’s Ninth on side B, all performed by Karajan and the Berlin Philharmonic.¹⁷

The copyright issue emerged later on, towards the end of January, during the preparation of the 5 May Europe Day, when the fact that “the musical arrangement of the anthem has been entrusted to Mr. Herbert von Karajan” had already been made public,¹⁸ and it was too late to change course without severely damaging the project. It quickly became “a concern for many people”, according to Henri Leleu, the Director of Political Affairs of the Council of Europe:

“La question des droits d’auteur sur l’enregistrement de l’Hymne européen évoquée dans la note de M. Renborg du 24 janvier semble effectivement constituer une préoccupation pour de nombreuses personnes.

J’ai pour ma part recueilli chez les Représentants Permanents des propos identiques à ceux tenus par M. Sneum à M. Renborg; Mes interlocuteurs, comme celui de M. Renborg, estimaient que M. H. von Karajan devait être persuadé de renoncer à ses droits d’auteur au profit d’une activité, d’une oeuvre à définir du Conseil. Il n’est pas

“The issue of copyrights on the recording of the European anthem, evoked in Mr. Renborg’s 24 January note, seems indeed to be a concern for many people.

Several Permanent Representatives have said to me the same thing that Mr. Sneum said to Mr. Renborg, namely that they think that Mr. H. von Karajan should be persuaded to give up his copyrights in favor of a charity to be defined by the Council. This issue might well be addressed in the next meeting of the Delegates”.

¹⁷ Herbert von Karajan, Berliner Philharmoniker, *The European anthem – L’hymne européen*, LP DG 2530250 (1972).

¹⁸ “European Anthem”, Press Communiqué, Council of Europe, 19 January 1972, C (72) 1. Archives of the Council of Europe, Strasbourg.

impossible que cette question soit évoquée
lors de la prochaine réunion des Délégués.”¹⁹

Sten Renborg was the Director of Environment and Local Authorities of the Council of Europe, and Thomas Sneum was the Secretary General of the European Association of Advertising Agencies. There are other traces of many high officials’ hope that Karajan would renounce his copyright claims altogether. The 28 January 1972, a memo by Roland Muller, the Deputy Director of Legal Affairs, proposes a list of conditions to be negotiated with the conductor:

“1. M. von Karajan ayant été chargé pour le compte du Conseil de l’Europe d’adapter l’oeuvre de Beethoven pour en faire l’hymne européen, il faudrait faire valoir que le droit d’auteur appartiendrait exclusivement au Conseil de l’Europe; en revanche, le Conseil de l’Europe fera état que cette oeuvre a été réalisée par M. von Karajan.
2. La partition de M. von Karajan est à remettre au Conseil de l’Europe qui prendra les arrangements nécessaires avec la maison d’édition Schott et Söhne. Celle-ci ne bénéficiera d’aucune exclusivité, mais seulement d’une priorité.
3. M. von Karajan pourra enregistrer un disque avec l’Orchestre Philharmonique de Berlin; la vente de ce disque bénéficiera donc à M. von Karajan, le Conseil de l’Europe renonçant à tout redevance (*).

“1. Now that Mr. von Karajan has been asked by the Council of Europe to adapt Beethoven’s work to become the European anthem, a case should be made for copyrights belonging exclusively to the Council of Europe; on the other hand, the Council of Europe will state that this work has been made by Mr. von Karajan.
2. Mr. von Karajan’s score is to be send to the Council of Europe, which will make the necessary arrangements with the Schott and Söhne publishing house. This will not benefit from an exclusivity, but only from a priority.
3. Mr. von Karajan will be allowed to make a recording with the Berlin Philharmonic Orchestra: the sales of this recording will benefit Mr. von Karajan,

¹⁹ Henri Leleu, “Mémorandum à l’attention de M. le Secrétaire Général”, 25 January 1972 (<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806acc8a>, 22 July 2020).

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|---|---|
| 4. Le Conseil de l'Europe a le droit d'autoriser tout autre interprète à enregistrer un disque (*). | and the Council of Europe will give up all claims to royalties. |
| 5. Le Conseil de l'Europe devrait de son côté renoncer à la perception de toute redevance lorsque l'hymne européen sera joué dans un lieu public ou lors de manifestations, etc.” ²⁰ | 4. The Council of Europe has the right to authorize other performers to make a recording.
5. The Council of Europe should give up receiving any fee when the European anthem will be performed in public places or manifestations, etc.” |

Asterisks refer to a footnote asking for a hundred copies of the recording to be handled to the Council of Europe “gratuitement”. The memorandum concludes with this comment : “Ces considérations sont dictées dans le souci d’éviter que l’hymne européen ne profite financièrement à une personne ou une maison d’édition”.²¹

The archives reveal the tenacity with which Karajan refused any concession and insisted that the score and recording should be done by himself with his usual business partners, Schott Musik and Deutsche Grammophon. After several telephone calls and correspondence, on 18 February 1972, Jucker sent a letter to Lothar Hertwig, the Director of Press and Information: “Wir hatten das Problem der Autorenrechte diskutiert und ich glaube, Sie waren mit mir einig – nach Darlegung meiner Argumente – daß eine solche Übertragung weder möglich noch seinerzeit vorgesehen war.”²² In the letter kept in the archives of Strasbourg, an unknown hand – perhaps Hertwig’s himself – underlined the words “weder möglich” and wrote “non!” in the left margin

²⁰ Roland Muller, “Note à l’attention de Monsieur le Secrétaire Général”, 28 January 1972 (<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806acc98>, 20 July 2020).

²¹ “These considerations are dictated by the will to avoid the European anthem financially benefiting an individual or a publishing house” (ibidem).

²² “We had discussed the problem of copyrights and I believe you agreed with me – after I gave you my reasons – that such a transfer was neither possible, nor was it discussed beforehand”. Emil Jucker to Lothar Hertwig, Zürich, 18 February 1972 (<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806acc9b>, 22 July 2020).

of the page; the following words, “noch seinerzeit vorgesehen war”, are also underlined, and “oui” is annotated in the right margin. As we see, the issue was turning into an open controversy.

In fact, Secretary General Tončić-Sorinj sided with his colleagues, as showed by another memorandum addressed to him by a personal collaborator, Maud de Boer, who explicitly mentions “your interest in Mr. von Karajan’s waiving his copyrights”. This document also gives a hint of how difficult it was, for the officials of the Council of Europe, to negotiate with Karajan and his manager:

“M. Jucker, qui sera jusqu’en avril à Berlin, m’a répondu qu’il lui était extrêmement difficile de se déplacer, vu son agenda très chargé. Il a ajouté qu’il estimait avoir déjà suffisamment exposé son point de vue à M. Hertwig, notamment en ce qui concerne la question des droits d’auteur. Bien que j’aie insisté, M. Jucker a promis de vous téléphoner le 6 mars au lieu de venir à Strasbourg.

D’autre part, M. Hertwig vous a soumis un projet de réponse (ci-joint) à la lettre de M. Jucker du 18 février, dans lequel il réitère l’intérêt que vous portez à ce que M. von Karajan renonce à ses droits d’auteur.

Personnellement, je pense qu’il sera difficile de changer la position de M. Jucker, même s’il vient à Strasbourg, pour en discuter, comme le propose également M. Hertwig, et c’est la raison pour laquelle je vous suggère de prendre personnellement contact avec M. von Karajan, puisqu’il est bien possible que M.

“Mr. Jucker, who will be in Berlin until April, answered me that his very busy schedule did not allow him to travel. He also said that he thought he had sufficiently presented his views to Mr. Hertwig, including on the issue of copyrights. I insisted, but Mr. Jucker promised to give you a call on March 6th rather than coming to Strasbourg.

Mr. Hertwig has submitted to you the draft of a response (here attached) to Mr. Jucker’s February 18th letter, where he restates your interest in Mr. von Karajan’s waiving his copyrights.

My personal view is that it will be difficult to obtain from Mr. Jucker that he changed his mind, even if he does come to Strasbourg to discuss the matter, as Mr. Hertwig also proposes. This is why I suggest that you contact Mr. von Karajan personally, as it is quite possible that Mr.

von Karajan adopte une attitude différente de celle de son manager à votre égard.

D'autre part, je vous rappelle que lors de leur 208ème réunion, les Délégués seront invités à prendre note de la partition de l'hymne européen avant sa publication; (à vrai dire ils écouteront d'une bobine la version créée par M. von Karajan)."²³

von Karajan's attitude towards you differs from his manager's.

I also remind you that in the occasion of their 208th meeting the delegates will be invited to acknowledge receiving the score of the European anthem before its publication; (even if in fact they will listen to a tape of the version created by Mr. von Karajan)."

Following the advice of his collaborator, Lujó Tončić-Sorinj personally asked Karajan to relinquish his rights. Yet after this new private conversation – it is unclear whether it took place in person or by telephone – “he informed the Committee of Ministers that Mr. von Karajan remained the owner of the new adaptation of Beethoven's work conceived as the European anthem”.²⁴ Eventually, the Secretary General declared to the Committee of Ministers that

“legally Mr. Karajan was entitled to receive royalties when his arrangement of the music was played by orchestras of paid musicians. He would have liked to obtain Mr. Karajan's agreement to give up these rights completely, but that was unfortunately not possible in view of the precedent which would be created. It should, however, be pointed out that Mr. Karajan had already made a European donation by setting up a foundation for European musicians”.²⁵

In 1972, as far as royalties were concerned, that was the end of the story. The Secretary General did not explain a precedent for *what*, though.

²³ Maud de Boer, Mémoire à l'attention du Secrétaire Général, 2 mars 1972 (<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806acd00>, 22 July 2020).

²⁴ Henri Golsong, “Memorandum” du directeur des Affaires juridiques du Conseil de l'Europe, “Objet: Utilisation de l'Hymne Européen par la Rhodésie comme hymne national”, 30 September 1974 (<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806acd24>, 22 July 2020). For the complete text in French, see below.

²⁵ *Conclusions of the Two Hundred and Ninth Meeting of the Ministers' Deputies*, held in Strasbourg from 11 to 19 April 1972, p. 124 (<https://rm.coe.int/native/09000016808fe2fb>, 22 July 2020).

An original work?

On 5 May 1972, the European anthem debuted on Eurovision with interlaying images of the blue flag with twelve stars and Herbert von Karajan and the Berlin Philharmonic, broadcasted by televisions of eleven European countries. The Deutsche Grammophon LP, previously distributed by European officials, was played by nearly fifty radio stations in the seventeen countries affiliated to the Council of Europe, plus Spain and Finland. The anthem was also performed live in several cities, including Strasbourg, where Lujko Tončić-Sorinj stressed that “every great idea, every great movement needs a symbol”.²⁶

Now, crucial for the whole episode is that during the discussions over copyrights Karajan reportedly argued that his arrangement was a creative endeavor. In a meeting held at the Council of Europe in March 1972, while somebody proposed, to no avail, to give “an ‘award’ or a ‘medal’” to Karajan in exchange for his waiving the rights, the Director of Legal Affairs Golsong reminded his colleagues that “Mr. von Karajan has a reputation of being a ‘tough’ businessman” (“‘dur’ en affaires”), and said that “the issue of copyrights is especially important for Mr. von Karajan, since he thinks he has made an original work”.²⁷

The claim about Karajan’s arrangement being “an original work” should now be addressed directly. In fact, the music of the European anthem is by Ludwig van Beethoven, not more, and not less. Karajan’s score is in D major, like the finale of the Ninth Symphony, and it begins with a phrase lifted directly from bars 77 to 80 of the fourth movement. It continues with the melody played in its entirety by the violin section, then with a solemn march variation, exactly as in bars 140 to 187 of the original. Its conclusion is a reproduction of the transition phrase that, in the choral part of the original, follows each stanza of Schiller’s poem, with the last chord prolonged as a cadential closure.

²⁶ “Table Ronde pour la Journée de l’Europe – Journée de l’Europe 1972”, Document d’information, Conseil de l’Europe, 6 July 1972, TR (72) 6 prov. Archives du Conseil de l’Europe, Strasbourg.

²⁷ Memorandum, Compte Rendu de la réunion des directeurs V/92, 8 March 1972, p. 1–2. Archives of the Council of Europe, Strasbourg. “... qu’il soit remis à M. von Karajan, pour sa renonciation aux droits, un ‘prix’ ou une ‘médaille’” ... “M. Golsong est d’avis que dans ce cas précis la question des droits d’auteur est particulièrement importante pour M. von Karajan qui estime qu’il a fait une oeuvre originale. Il rappelle que M. von Karajan est connu pour être particulièrement ‘dur’ en affaires”.

The European anthem distinguishes itself from Beethoven's original score by its slower tempo, the suppression of six notes in the four opening bars, a slightly fuller orchestration in the march variation – a “trombonisation”, as Berlioz said in similar situations – and the final *ritenuto molto*. Except for these details, the arranger just cut-and-pasted three fragments of Beethoven's Ninth.

Now, together with the symphony orchestra version, Schott published a wind orchestra arrangement and a piano arrangement, also signed and copyrighted by Karajan. In the first, Beethoven's music is transposed to C major, and the original string parts are played by clarinets, with piccolo, saxophones, euphonium, and still more trombones joining in the march variation²⁸. The piano version, in D major, is almost identical to the corresponding excerpts of the piano arrangement of the *Ninth Symphony* by Jan Brandts Buys (1868-1933), published before the war by Universal Edition²⁹. Karajan reportedly claimed to have made an original work, but the result does not look very original, to say the least. And yet, Beethoven's music still bears Karajan's signature.

The European anthem is available for purchase from Schott Musik and Deutsche Grammophon, for the benefit of private firms and individuals. And if one asks today for archival documents on the history of the score and record, and for selling figures during the years elapsed since their release, one gets no answer whatsoever from Deutsche Grammophon,³⁰ and the following answer from Schott:

“Je vous remercie pour votre requête et l'intérêt que vous portez à l'histoire des éditions Schott Music concernant l'hymne européen. Malheureusement, ces informations faisant appel à des données soit confidentielles, soit protégées par la loi de

“I thank you for your query and your interest in the history of Schott Music and the European anthem. Unfortunately, this information concerns data that are either confidential, or protected by the data protection regulation. It is thus

²⁸ Beethoven, *The European Anthem*, version for wind orchestra, arr. H. von Karajan, ED 6489, Mainz, Schott & Söhne, 1972.

²⁹ Beethoven, *The European Anthem*, piano version, arr. H. von Karajan, ED 5203, Mainz, Schott & Söhne, 1972; Beethoven, *Neunte Symphonie*, piano arr. Jan Brandts Buys, U.E. 526, Vienna, Universal Edition, n.d.

³⁰ Email from author to Deutsche Grammophon, 30 June 2020.

protection des données, nous ne sommes pas impossible for us to communicate them to
en mesure de vous les communiquer”.³¹ you”.

Thus, the European anthem and its history have been *privatized* for the profit of an individual and a publishing house, exactly as in the Council of Europe’s worst fears. And the most worrisome issue is not the money the Karajan family received for Beethoven’s music over the last fifty years. It is rather the fact that, for the legal reasons mentioned in Schott’s email, it is impossible to know how much money that is. Adding to the refusal to allow seeing the correspondence and other documents, one cannot but conclude that Europeans, and the people in general, have been deprived of access to part of the history of the political construction of their own collective identity.

And this is not only a thing of the past. The Karajan arrangement is still the official version, witness the European Union website, whose page “European anthem” ends with the mention “Musical arrangement by Herbert von Karajan”, and a footnote: “All rights of the producer and owner of the work reproduced reserved”.³²

The meaning of a symbol

Copyright is a form of property, and so are collective legacies. The contradiction is blatant. The European anthem was thought of as a symbol of the European Union’s democratic and universal values, but, sadly enough, the exemplary status of its history is rather that of the political compromises out of which it arose, and of its recurrent difficulties to be truthful to its commitment to human rights.

An example of the latter, where Karajan’s signature on Beethoven’s score directly influenced the outcome, took place less than two years after the 1972 inauguration of the European anthem. In January 1974, the cabinet of the racist self-proclaimed Republic of Rhodesia – today’s Zimbabwe, and a former British colony that in 1965 issued a Unilateral Declaration of Independence as its white ruling class refused citizenship to the black majority –

³¹ Email from Schott Musik to author, 3 December 2019.

³² https://europa.eu/european-union/about-eu/symbols/anthem_en (1 July 2020).

selected the “Ode to Joy” as the tune of its national anthem, to replace *God Save the Queen*³³. It was played for the first time on 27 August 1974 at the opening of the all-white Parliament by a military band, under the guise of a simple 16-bars tune. It was eventually completed by appropriately nationalist lyrics, *Rise, O voices of Rhodesia*, by Mary Bloom, and an official recording made by the orchestra of the South African Broadcasting Corporation, thus strengthening the association of Beethoven with apartheid itself.

“By the time it was introduced -comments David Kenrick-, the national anthem had become something of a national joke”.³⁴ Yet the cynic appropriation of Beethoven’s melody by a racist regime caused immediate international outrage. *The Times* of London devoted it a scathing editorial, mocking the Rhodesian government’s “five years search for something catchy”,³⁵ and the European Veterans’ Confederation protested “the fact that the European anthem has become the anthem of apartheid”.³⁶ Now, strangely enough, this was discussed at the Council of Europe less as an issue on human rights than as a possible case of plagiarism. In a memorandum addressed to the Bureau of the Consultative Assembly, Henri Golsong, the Director of Legal Affairs, addressed the matter by critically revisiting the 1972 story on copyrights:

“1. La première question qui se pose est celle de savoir si la Rhodésie a pris comme hymne national le ‘Prélude à l’Ode à la joie’ tel que composé par Beethoven ou au contraire, si elle a pris la partition officielle du Conseil de l’Europe telle qu’elle a été réalisée par M. von Karajan. Je tiens à souligner que ces deux versions ne sont pas absolument identiques.

“1. The first thing to know is whether Rhodesia has taken as a national anthem the “Prelude to the Ode to Joy” as Beethoven composed it, or the official score of the Council of Europe made by Mr. von Karajan. I have to stress that these two versions are not absolutely identical.

³³ Buch, *Beethoven’s Ninth* (see n. 2), pp. 243–251.

³⁴ David Kenrick, *Decolonisation, Identity and Nation in Rhodesia, 1964–1979. A Race Against Time*, London 2019, p. 185.

³⁵ *Schiller’s Shadow in Salisbury*, in: *The Times* from 28 August 1974, p. 13.

³⁶ Letter quoted in the report on the 5 September 1974 meeting of the Bureau of the Consultative Assembly, AS/Bur (26) PV3, p. 16. Archives of the Council of Europe, Strasbourg.

Si la Rhodésie a pris le ‘Prélude à l’Ode à la joie’ dans sa version originale, aucun reproche ne peut être fait à la Rhodésie car c’est une version qui est tombée dans le domaine public. Si, au contraire, la Rhodésie a pris la partition officielle du Conseil de l’Europe, rien ne peut être fait sans l’accord de celui qui dispose des droits d’auteur à l’égard de cette partition, à savoir M. von Karajan.

2. Lorsque la question s’est posée en 1972, j’ai insisté auprès du Secrétaire Général que le droit d’auteur soit exclusivement réservé au Conseil de l’Europe. A la suite d’une réunion tenue sous la présidence de M. Toncic [sic], M. Muller, mon adjoint, a adressé au Secrétaire Général la note du 28 janvier 1972, dont copie ci-jointe. Le Secrétaire Général à l’époque n’a pas cru devoir donner suite à notre demande. Après avoir contacté personnellement M. von Karajan à Salzbourg, il a fait savoir au Comité des Ministres que M. von Karajan reste le propriétaire de l’adaptation nouvelle de l’oeuvre de Beethoven conçue en tant qu’hymne européen. Ce point de vue avait d’ailleurs été confirmé par écrit dans une lettre que M. Emil Jucker, en tant que représentant de M. von Karajan, a adressée le

If Rhodesia has selected the “Prelude to the Ode to Joy” in its original version, Rhodesia cannot be subject to reproach since that is a version that is in the public domain. If, on the other hand, Rhodesia has adopted the official score of the Council of Europe, no steps can be taken without the agreement of the person holding the copyright to that score, namely, Mr. von Karajan.

2. When the issue was raised in 1972, I made a case before the Secretary General for the copyrights to be exclusively the Council of Europe’s. After a meeting chaired by Mr. Tončić, my deputy, Mr. Muller, send the Secretary General the note from 28 January 1972, herewith enclosed. At that time, the Secretary General did not follow suit to our request. After contacting in person Mr. von Karajan in Salzburg, he informed the Committee of Ministers that Mr. von Karajan remained the owner of the new adaptation of Beethoven’s work conceived as the European anthem. This view was confirmed by a letter send by Mr. Emil Jucker, Mr. von Karajan’s representative, to Mr. Hertwig, director of the Press and Information on 18 February 1972.

18 février 1972 à M. Hertwig, Direction de la
Presse et de l'Information.

Le Comité des Ministres a pris acte de
la déclaration du Secrétaire Général sans
prendre une position contraire.

En conséquence, c'est M. von Karajan
qui dispose des droits d'auteur sur la partition
officielle.

3. Toujours dans l'hypothèse que
l'hymne national retenu par la Rhodésie
correspond à la version de l'Ode de
Beethoven conçue par M. von Karajan, nous
pourrions évidemment essayer de persuader
M. von Karajan de nous céder son droit
d'auteur dans le seul but d'intenter une action
judiciaire en Rhodésie. Or, même cette action
me semble impossible puisqu'elle devrait être
intentée en Rhodésie. Or, ce pays ne protège
pas sur son territoire les droits d'auteur
appartenant à des étrangers, car elle n'a pas
ratifié la Convention universelle sur le droit
d'auteur.

4. Il découle de toutes ces considérations
que sous l'angle strictement juridique, le
Conseil de l'Europe ne dispose d'aucun
moyen d'action en la matière".³⁷

The Committee of Ministers took
note of the declaration of the Secretary
General without adopting a contrary
position.

As a result, the copyrights of the
official score belong to Mr. von Karajan.

3. To follow up the hypothesis that
Rhodesia's national anthem corresponds
to the version of Beethoven's Ode made
by Mr. von Karajan, we could of course
try to persuade Mr. von Karajan cede his
copyright to us for the sole purpose to
take legal action in Rhodesia. Yet even
this seems impossible to me, as it should
be done in Rhodesia. This country does
not protect on his territory the copyrights
belonging to foreign citizens, as it has not
ratified the universal Convention of
copyrights.

4. The conclusion of all these
considerations is that, from a strictly legal
point of view, there is nothing that the Council
of Europe can do about this issue".

³⁷ Golsong, "Memorandum" (see. n. 24).

The Secretary General answered to the European Veterans' Confederation: "I understand your feelings, but I am afraid that in this matter no international recourse is available".³⁸ The letter is dated 16 September 1974, the very last day of Lujo Tončić-Sorinj's five-years tenure as top diplomat of European institutions. He died in Salzburg in 2005.

Now, Karajan's copyrights on the official arrangement arguably influence the moral and political signification of the European anthem in any given situation, independently of whether this particular arrangement is performed or not. In November 2013 at Maidan, Kiev's central place, the "Ode to Joy" was sung during the mass demonstrations against anti-European and pro-Russian president Viktor Iouchtchenko.³⁹ In November 2015 in Mainz, it was sung as a reply to xenophobic acts and discourses against the migrants.⁴⁰ In the first case, the European anthem was clearly in the minds of the people. In the second, even if the European symbol might have played a role, it rather reflected an older association with universal fraternity. In turn, the German federal ministry of Culture, Monika Grütters, declared in November 2019, at the opening of the commemoration of the 2020 Beethoven year:

“Ludwig van Beethovens Musik berührt, begeistert und verbindet Menschen überall auf der Welt. Beethoven hat mit unerhörter Radikalität die Musik revolutioniert und die musikalischen Grenzen seiner Zeit gesprengt. Wir brauchen auch heute wieder die visionäre Kraft, mit der Beethoven politisch und vor allem künstlerisch Position bezog. Sein Werk ist ein Zeichen für die demokratischen Errungenschaften eines geeinten Europas und

“Ludwig van Beethoven's music touches, inspires, and connects people all over the world. With unparalleled radicality, he revolutionized music and burst the musical boundaries of his age. Today we again stand in need of the visionary power with which he took his stance, both politically and especially in art. His music is a symbol on behalf of the democratic achievements of a united Europe, and against the growing populist cries for isolation and exclusion.”

³⁸ Letter from the Secretary General to the French National Chairman of the European Veterans' Federation, 16 September 1974. Archives of the Council of Europe, Strasbourg.

³⁹ <https://www.youtube.com/watch?v=XfI-ZukxPcU> (21 July 2020).

⁴⁰ https://www.youtube.com/watch?v=SI8cYmsZ_-Y (21 July 2020).

gegen das Erstarken populistischer Rufe nach
Abschottung und Ausgrenzung.”⁴¹

A year prior, Grütters had explicitly linked this message to the European anthem: “Beethovens Gesamtwerk steht für Werte, die auf der ganzen Welt verstanden und geteilt werden. Der letzte Satz aus Beethovens 9. Sinfonie ist zur Europa-Hymne geworden”.⁴²

If we think this is true, we might conclude that Europe ought to align itself with the values it claims to stand for. Fifty years ago, the choice of Beethoven could be disparaged by those who viewed classical music as elitist, and also by those who saw such a political appropriation of a classical work as an improper vulgarization of high art. Since then, compulsory schooling and official rituals have inscribed the anthem in the Europeans’ collective memory. Yet, the slow but steady decay of the consumption and social significance of classical music has weakened its association with a shared cultural heritage. The last movement of the *Ninth Symphony* might well be heard already by some as a set of variations on the European Anthem, rather than the other way round.

The question arises of whether Beethoven’s legacy might still appear in the years to come as a convincing instrument of democratic politics, as well as a democratized source of aesthetic pleasure. If the European anthem is to symbolize that, it is clearly less convincing under the signature of a former Nazi party member. As René Radius claimed in 1971 about the text while calling “to allow some time to pass”, today, on the eve of the anthem’s fiftieth anniversary, the power to change this belongs to the citizens of Europe. And if some of them think that Karajan’s adding the intro and the conclusion, the trombones and the *ritenuto molto*, are original features after all, the solution is simple: remove them. The “Ode to Joy” does not need such bombastic

⁴¹ “Kulturstaatsministerin Monika Grütters und Ministerpräsident Armin Laschet stellen Höhepunkte des Beethoven-Jahres 2020 vor”, press release 400, 29 November 2019, Die Bundesregierung, <https://www.bundesregierung.de/breg-de/suche/kulturstaatsministerin-monika-gruetters-und-ministerpraesident-armin-laschet-stellen-hoehepunkte-des-beethoven-jahres-2020-vor-1700356> (3 March 2020).

⁴² “Beethoven’s entire output stands for values that are understood and shared all over the world [...] The final movement of his Ninth Symphony has become the European anthem”. *Bund fördert Beethoven-Gedenkjahr 2020 – Grütters: “Erlebnisse über kulturelle Grenzen hinweg”*, Presse- und Informationsamt der Bundesregierung, press release 56 from 18 February 2019 (<https://www.bundesregierung.de/breg-de/bundesregierung/staatsministerin-fuer-kultur-und-medien/aktuelles/bund-foerdert-beethoven-gedenkjahr-2020-gruetters-erlebnisse-ueber-kulturelle-grenzen-hinweg--1581378>, 19. August 2020).

Preprint for the proceedings of the conference *Beethoven-Perspektiven 2020*,
Beethovenhaus, Bonn, 10 February 2020.

additives, be they also taken from the original score. Indeed, the music written by Ludwig van Beethoven can stand on its own merits, and in his name only.