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Foundations and Charitable Giving in Europe

Appreciating Cultural Differences Between Europe and America to Better Serve Donors

by Jan Jennings Cailleux

*Il faut mettre sur la même ligne de
mire la tête, l'oeil et le coeur.*

[It is putting one's head, one's eye
and one's heart on the same axis.]

— Henri Cartier-Bresson,
photographer
(1908–2004)

Much like the way photographers capture an instant while organizing “visually perceived forms . . . to . . . give it meaning,” as Cartier-Bresson said, American and European professional advisors and fund raisers can view the alignment of their cultural differences to work better with donors. Perhaps the best way to sharpen our perceptions is to question our assumptions and ask how other cultures and countries are treating foundations and charitable giving.

How does language affect our perception of donors making gifts to nonprofit organizations? How do Europeans and Americans perceive time differently? How do these elements influence the expression of philanthropy and the role of donors?

What is the state of foundations in Europe now? Given the current economic climate, what are advisors observing from donors, and how are not-for-profit organizations responding in Europe? What are the available mechanisms for making cross-border

gifts and recent foundation developments in Europe?

A Vantage Point From Europe

America—with its history of philanthropy and its uniform federal tax code—has been developing a culture of giving for generations. European governments, in contrast, have historically provided many social services that the not-for-profit sector does in the United States. The “third sector,” however, is growing in Europe, along with the use of new charitable vehicles.

Having worked for charities as a planned giving professional in the United States and England before moving to Paris, I am making first-hand observations on philanthropy and fundraising in Europe. Based now in Paris, I am half-Norwegian and half-American. I spent 15 years in Washington, DC, and Boston, Massachusetts, working for national environmental and health care not-for-profits. In 2005 Viking Consulting Services (VCS) was founded, providing planned giving services in Europe and the United States. A member of the European Association for Philanthropy and Giving (EAPG), the Partnership for Philanthropic Planning (formerly the National Committee on Planned Giving), and l'Association Française des Fundraisers (AFF), I also serve on the board of the Stanford Club of France.

In the UK and France, VCS has facili-

tated seminars, interviewed fundraising professionals, and attended training sessions. This exposure has fostered a greater appreciation for cultural differences and similarities when working with donors.

The five VCS planned giving sessions in European cities from 2007 to 2009 were hosted by EAPG, the Center for Nonprofit Success (CFNPS), and AFF. “Tales and Tips from the Trenches,” was an EAPG roundtable in London held on September 10, 2007. “Challenges and Approaches for Environmental Organisations and Museums” took place in Belfast on September 12, 2007. An EAPG workshop, “Funding Your Future,” was attended in London on July 1, 2008. CFNPS and its London Fundraising Summit featured “Planned Giving” on September 25, 2008. The EAPG “Memorable Marketing & a Culture of Caring Service” took place in London on March 17, 2009. In Paris AFF at its Eighth Annual Fundraising Conference featured “Marketing des legs: inspirez-vous des Expériences d’Outre Atlantique” on June 11, 2009.

In London VCS attended EAPG’s “Philanthropy in the Recession” on March 18, 2009. EAPG, a membership network of nonprofit fund raisers and for-profit professionals like attorneys, bankers, wealth managers, and philanthropy advisors, aims to cross borders, cross sectors, and cross causes to advance philanthropy in Europe.

See CULTURAL DIFFERENCES, next page

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CULTURAL DIFFERENCES, from page 1

A panel addressed the following questions, among others, “Will different intermediaries need to work more closely with one another and charities in order to encourage a robust culture of giving in the current economic environment? To what extent are these individuals talking to their client about philanthropy, and does this differ by profession, for lawyers, accountants and bankers?”

VCS interviews in London and Paris also have provided perspectives on how donors and charities have reacted historically and how they are responding in the current economic climate. Theresa Lloyd, who is based in London, was the Founder Director of Philanthropy UK, and is a leading philanthropy advisor to individuals and institutions. She devised and wrote the first edition of *A Guide to Giving* (2003) and *Why Rich People Give* (2004), based on interviews with 100 wealthy people. It is the first major UK study of the rich and their charitable giving patterns. *Cultural Giving* (2006) is her most recent book.

An interview with Judith Symonds, based in Paris, provided insights on continental Europe and French philanthropy. She is a philanthropy and strategy advisor for foundations, individuals and corporations. In addition, she lectures on philanthropy and is founder of the seminar on New Philanthropy and Social Investing at ESSEC Business School in Paris, France and gives a seminar on Philanthropy, Policy and Advocacy at the Masters in Studies in Philanthropy at the University of Bologna. She also briefed me on the meeting of foundations and academics, held during the recent European Foundation Centre conference in Rome in May, 2009. This group discussed the challenge of strengthening the research and teaching infrastructure and the knowledge base of philanthropy in Europe.

Language and Time Considerations

In Europe, governments provide many social services and tax laws vary not only by country but sometimes by canton. Culture and the use of language also play a large role in shaping our expectations and actions. Compared to the United States, consider these observations.

The Use of “I.” The way the first-person singular is written informs our perceptions. In America and in the UK, “I” is used. “I” is a capital letter, and it is a single character. Because it is capitalized, it draws attention to the word itself. Is there another single character in the English language that actually is a word?

If “I” is an attention-drawing, punchy word, then what does that mean about individuals who make gifts? Are cultures that refer to “I” more ready to stand out and promote individuals as donors? Are Americans more apt to donate because “I” feel “I” can make a difference? Do American major donors expect to be recognized often with naming opportunities because they already occupy an attention-drawing and direct force in language?

In other languages, the first-person singular does not stand out with greater prominence than “you,” “we,” or “they.” In French, for example, “je” means “I.” It is lowercase, and it is two letters. The Norwegians use “jeg” for the first-person singular. Again, it is not capitalized, and it does not draw particular attention to itself. In Italian, “io” (or the first-person singular) is often omitted in a sentence. The sentence simply commences with the verb.

Do these simple differences in language imply a different notion of the individual? Do cultures that place the same linguistic emphasis on other members of the community—“she,” “he,” “you,” “they,” and “we”—also foster a less active role for individual donors?

Expressions of Time. Ways of writing dates and time also convey different notions. These language differences may also inform the way donors and advisors perceive immediate needs or long-term investments addressed by charitable giving.

Americans write the month and the day, interrupted by a comma, and then finish with the year. In addition, attention is drawn to the month by using a capital letter. For example, “April 22, 1970” was Earth Day. Is a country—whose citizens place the emphasis on the month first and then the day—one that is more future-oriented?

Are Americans more apt to point to specific events and draw attention to them? Are Americans ready to punctuate a greater role in changing society through charitable gifts because they perceive time and mark

singular events—like large charitable gifts—differently than Europeans? Are they also more inclined to invest in endowments and take the long-term view?

In many places in Europe, including the UK, France, and Norway (covering the UK, continental Europe, and Scandinavia), dates are written with the day first. There is no pause with a comma. For example, Earth Day, or “La Journée de la Terre” celebrated in France, is written “22 avril 1970.” Perhaps this way of writing dates also underlines the greater fluidity of time appreciated here in Europe and often the focus on living each day. Very few not-for-profits have endowments in the UK, for example, and recent legislation in August 2008 just made these types of entities available in France.

Foundations in Europe

Statistics on Foundations in Europe and the United States. The number of foundations in the European Union and the assets held by them exceed those of the United States. Most foundations in Europe are operating foundations providing direct services, not grantmaking entities like most American foundations.

Data collection on foundations in Europe remains problematic. Definitions, data collection techniques, and dependable sources often vary from country to country. Some sources, however, can provide reliable information.

Approximately 273,000 foundations exist in Europe (Foundations in the EU: Facts and Figures Report on work by the European Foundation Centre Research Task Force, May 2008). Assets are estimated at €1,000 billion euros, ranging from €350 billion to €1,000 billion. This figure is from the Centre for Social Investment at the University of Heidelberg and the Max Planck Institute for Comparative and International Private Law and its report in the winter of 2008 entitled, “Feasibility Study on a European Foundation Statute: Final Report.”

In comparison, the United States has approximately 71,000 foundations with assets totaling approximately €300 billion (or \$418 billion), according to this report. Most of the giving in America, in contrast to

See CULTURAL DIFFERENCES, next page

CULTURAL DIFFERENCES, from page 2

Europe, is done by individuals. Typical of recent years, the Giving USA Foundation and its report, *Giving USA 2008*, released on June 10, 2009, showed that individual giving accounted for 75% of total charitable contributions. American foundation grantmaking totaled nearly 13% of all charitable giving, with \$15 billion (or nearly €10 billion) distributed to charities in 2008.

The number of foundations in each country in Europe varies widely. According to *Le Monde*, vendredi 12 juin 2009, and its “Fondations” seven-page insert dedicated solely to foundations (Avec 1571 fondations, la France est loin de pouvoir rivaliser avec le top 5 des pays européens: la Hongrie, l’Allemagne, le Danemark et la Suède—qui comptent chacun plus de 10000 fondations—et l’Espagne (8800). Or, “With 1,571 foundations, France is far from rivaling the top five European countries: Hungary, Germany, Denmark, and Sweden, each counting more than 10,000 foundations, and Spain (8,800)”) (translation mine).

An Example: Foundations in France.

To take one European country as an example, France and its foundations are “coming out the shadows, at last!” (“Sorties de l’ombre. Enfin!” *Le Monde*, 12 juin 2009). This lead article addressed the poor image that foundations suffered until recently. Suspect, and even accused of social abuses—this law of 2003 and then in 2007—created for foundations a precise frame, rules, and assorted fiscal incentives. At the same time, the State, long distrustful regarding private philanthropy, has relaxed its vision and its rules. All of a sudden, foundations have multiplied. Proof of this dynamism: of the 1,571 listed in 2008, 1 out of 3 is less than 10 years old.

In France, there are seven different types of foundations that have come into effect with laws dating from 1987 until 2008. Three principle regimes for foundations exist. According to the article in *Le Monde*, “Les fondations reconnues d’utilité publique” (FRUP), or “Certified Public Utility Foundations,” amount to 556 of the foundations. Following the “Loi du 1er juillet 1901 relative au contrat d’association,” or “Law of July 1, 1901, relating to the contract of association” that

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European Association for Philanthropy and Giving

www.eapg.org.uk

Network for nonprofit members and for-profit advisors promoting best practices for cross-border philanthropy, with roundtables & and a cross-border directory of members and resources.

Giving in Europe

www.givingineurope.org

Transnational Giving Europe network, along with European cross-border database for donors and charities with information and best practices concerning cross-border giving in the EU.

first created associations to serve the general interest, FRUP organizations serve the general interest in the domains of research, education, health, protection of the environment, art, culture, and sport.

“Les fondations d’entreprise,” or “Corporate Foundations,” legislated in 1991, amount to 222. They may support areas of general interest, have a duration of at least five years (during which all funds must be used to fund a charitable interest), and may only be funded by gifts from the founders of the foundation or salaried employees. In contrast to endowment funds described later, Corporate Foundations are funded by a yearly cash flow installments determined in advance in the bylaws (“financement de flux”) and are eligible for public subsidies.

“Les fondation abritées,” or “Shelter foundations,” comprise 766 of the foundations. Also known as “Les fondations Sous Egide,” created under the aegis of another institution, they are similar to federation charities in the United States. Examples of these types of foundations are La Fondation de France, La Fondation WWF-France, La Fondation Caisse d’Epargne pour la Solidarité, and La Fondation de Judaïsme Français.

Since 2005 three new types of foundations have come into law in France. There are 23 “fondations de coopération scientifique,” or “Foundations for Scientific Cooperation,” that facilitate large research projects. “Les fondations partenariales,” or “Partnership Foundations,” total two. Both Partnership Foundations and University Foundations aim to sustain superior education and research. University Foundations

are under the aegis of the university and permit them to enlarge their sources of funding.

Only as recently as August 2008 were endowment funds created by the law of “modernisation de l’économie,” inspired by the Anglo-Saxon model. “Fonds de dotation” will help develop the private philanthropy sector in France more and make it much easier and less time-consuming to create foundations. This law allows for all the legal and tax advantages of FRUP organizations without the heavy administrative obligations. A French endowment fund may be funded with any type of donation.

According to Stéphane Couchoux, attorney at law and head of the department of Patronage, Foundations, and Associations at AKLEA law firm in Paris, “le fonds de dotation” present the principal characteristics of a FRUP. They are easy to create, serve a general interest purpose, are not-for-profit, and are governed by a simple board.

Maître Couchoux estimates that since February 2009 (since the publication of the Decree of application) approximately 20 endowment funds have already been created in France. Perhaps 100 more will be created before 2009 ends, compared to the 10 or 20 FRUPs established annually in France.

The French endowment funds take on gifts received at their creation and during the course of their existence as an endowment fund. From there, three functional modalities for a French endowment fund are possible in France. First, an endowment may be created for an indeterminate

See CULTURAL DIFFERENCES, next page

CULTURAL DIFFERENCES, from page 3

duration, and it uses only the earnings produced by the principal to finance general interest works. Second, an endowment may be created for a determined duration to support a project serving the general interest defined in the statutes that allow it to consume its principal. Third, an endowment may mix the two preceding solutions: It may be created with an endowment with principal that may not be consumed but the statute foresees that a part of this endowment may be consumed by a decision of the board. The law on French endowment funds also will allow for it to act as its own charity with operating funds (“fonds opérationnel”) and/or it can support a charity (“fonds relai”).

Although the law is new and the practical applications of it are in process, it bodes for a future with great potential. As Maître Couchoux said, “The French endowment fund could be at least a good vehicle for increasing national and international philanthropy in France.”

Role of Advisors in Europe

Having attended EAPG’s “Philanthropy in the Recession” on March 18, 2009, I share some remarks from panelists and also insights from interviews.

New Philanthropy Capital (NPC) of London has conducted research on the role of philanthropy with 100 different private client advisors in Europe. NPC’s mission is to help make effectiveness central to how charities work and how funders give. The results of this survey indicated a demand from donors to hear more about philanthropy and a clear need to increase this service. Those who do are differentiated from other firms. According to NPC’s 2008 research with 100 private client advisors across Europe, “Sixty percent believe that philanthropy will become a core service offered to clients within the next five years.”

Warren Lancaster of Geneva Global International (GGI), an advisory service for international philanthropy founded in 1999 by investment bankers, cited trends that his firm is observing. Mr. Lancaster, as International and European Advisory Director at GGI said, “People are taking more of an investment approach to giving.

There is now a value placed on independent advice rather than from a specific charity.” In addition, he said that particularly now in the recession, the question is “how to convince people to invest in the developing world. The challenge for wealth managers is to not to pull back but how to respond to a great need.”

In France, of the professional advisors available the role of the “notaire,” or the equivalent of an estate-planning attorney in the United States, is very important. The role of the “notaire,” in contrast to financial planners and wealth managers, is related to the client’s “patrimoine,” or wealth owned in property. Because the notaire is integral to buying or selling property, the notaries have a much closer relationship to clients and often to their families than wealth managers do.

Based in Paris, Judith Symonds, a philanthropy advisor to individuals and foundations in Europe, spoke to some of the challenges for advisors. “People don’t talk about wealth in France, as it’s a very private area, nor do people talk about how they manage their financial affairs and as a consequence there is very little apparent individual advisory in the philanthropy field.” Advisors could facilitate the growth of philanthropy in France by helping their clients to understand how a strategic approach to philanthropy can address their family’s social concerns and the many options available for philanthropic investment. “In this way, philanthropy can become a normal part of their life and an expression of their values,” said Ms. Symonds.

Asked about some of the greatest cultural obstacles between advisors and donors, Theresa Lloyd, the philanthropy advisor in London I interviewed, shared these thoughts. “It’s changing. Some people have complained that advisors assume that the primary motivation of their clients is the desire to avoid taxes, without paying attention to values. My feedback from clients has been that they want to talk about philanthropy as an end in itself. There are some financial advisors who are not themselves philanthropic, even on a small scale, and do not understand how to relate to those who genuinely want to make a difference.”

Ms. Lloyd suggests that advisors should involve empathetic experts who can talk

with their clients about values and criteria to think about when supporting charities. She also explained that some donors have appreciated being put in touch with other donors so that they can learn in a private unthreatening context, fostering understanding and sometimes, in due course, “shared giving.”

How Donors Are Reacting in Current Economic Climate

In Ms. Lloyd’s work with private individuals, she has noticed them “waiting to see” what will happen. Most are continuing to support the causes and institutions in which they have confidence and about which they are “passionate already, giving both time and money.” Some will not wish to add to their portfolio support of organizations that are new to them unless the charity makes a very “compelling case” that responds to the downturn in the economy. These may include causes and advisory services such as the homeless, domestic violence, debt counseling, and telephone help lines for the depressed and suicidal. For some donors this will include international development. In these situations of portfolio diversification it may be that causes they already support may receive less.

The EAPG roundtable panel, “Philanthropy in the Recession” on March 18, 2009, also gave some observations on how donors are reacting in the current environment. Clare Brooks, Director of Philanthropy for the Community Foundation Network in London, shared that donors have had mixed reactions. Given the recession’s human impact, people are turning to local charities for assistance with family problems, debt, alcohol abuse, and mental health problems. Some individual donors have made larger gifts to try to address these needs, while most are trying to remain at the same level. Ms. Brooks said that “most are planning more carefully, and some are looking at new approaches.”

“There is a fear of . . . ‘Ehkistan,’” Warren Lancaster added in a humorous tone, sharing that when he lived in the Netherlands, the Dutch had used this word to refer to Middle Eastern and other countries. Using this analogy, Mr. Lancaster suggested that

See CULTURAL DIFFERENCES, next page

CULTURAL DIFFERENCES, from page 4

some funders may pull back resources and put their gifts to work locally rather than internationally. Mr. Lancaster, of Geneva Global International, said that “funders are still fulfilling obligations for 2009. But 2010 may be a different scene.”

Impact on Charities During the Recession

Along with the obvious difficulties of providing more services to respond to the downturn in the economy coupled with a more challenging time for fundraising, there are some benefits for charities. Like all entities challenged with lesser resources and greater demands, charities must focus their work to become more effective yet not lose their vision and creativity for the long term.

The Charities Aid Foundation (CAF) of London has noticed that planned giving is increasing. Richard Harrison, Director of Research at CAF on the EAPG panel, said that likely it would be one and a half years before the true effect is seen on charities. In the meantime, Mr. Harrison offered this analogy used in marketing. He talked about the “lipstick effect.” During harder financial times, women still want to feel beautiful and as if they have a little bit of luxury. They might pass on going to the expensive spa but instead buy a very nice lipstick. He suggested that perhaps “charitable giving could be positioned as the new ‘lipstick,’” a way to feel and do something nice even during difficult times.

During these times donors also want to see results. New Philanthropy Capital’s representative on the panel said that there are clear demands pushing charities to become more effective. Many charities will need to have the ability to adapt their services and to measure their results. As some donors are looking at the “social return on investment,” Warren Lancaster of GGI has noted a demand for metrics to “monetize the value of social investment” so that “investments” may be compared.

How to Increase Cross-Border Giving

Many American and European citizens would like to help international causes and

foreign charities by making cross-border gifts while saving taxes in their home country. Often, however, donors and their advisors face complicated legal, fiscal, and political barriers because charitable giving mostly remains outside the scope of European treaties.

For example, a donor residing in France may wish to make a gift to a university that she attended in England. Furthermore, if she wishes to use her second home in the south of France as the funding asset, this gift scenario becomes extremely complex and cumbersome.

There have been some developments, however, that simplify the process of donating to European not-for-profits. Highlights include the Transnational Giving Europe network, a legal ruling from the European Court of Justice, and the European Foundation Centre’s work to launch a European Foundation Statute.

Transnational Giving Europe. Transnational Giving Europe (TGE), according to its website (www.givingin europe.org), is a partnership of leading European foundations and associations that facilitates tax-efficient cross-border giving within Europe. The TGE network enables donors, both corporations and individuals, residing in one of the participating countries, to financially support non-profit organizations in other member countries, while benefiting directly from the tax advantages provided for in the legislation of their country of residence.

Transnational Giving Europe now covers 14 countries. TGE facilitates donations from and to Belgium, the United Kingdom, France, the Netherlands, Germany, and Poland. After recent additions of Italy, Hungary, Bulgaria, Romania, and Slovakia earlier in 2008, the TGE network extended it to Luxembourg as of June 18, 2009.

Donors can contact their national foundation in one of the 14 aforementioned countries to find out how to make a gift to their home-country foundation that will support charitable organizations in the country desired. TGE helps to ensure that qualified beneficiaries receive your support and that your gift is made in a tax-effective manner. It charges a 5% contribution on the donated amount toward administrative costs.

For American citizens living in the United States who wish to support European not-for-profits, to save taxes donors may wish to give to 501(c)(3) organizations and/or “Friends of . . .” charities in the United States. Alternatively, they may donate to a fiscal sponsor like the King Baudouin Foundation United States or CAF America, the equivalent of the Charities Aid Foundation in the UK.

European Court of Justice Ruling Allows for Tax-Deductible Cross-Border Gift. Can donors make a gift to a not-for-profit organization in another country and save taxes in their own country? While most of the tax frameworks would suggest this could not be possible, a recent legal case suggests otherwise.

A ruling by the European Court of Justice on January 27, 2009, set a precedent and opened up the way for taxpayers residing in the European Union to deduct gifts to charitable bodies established in a different member state to that of the donor.

In the *Hein Persche v Finanzamt Lüdenschcheid* case, Hein Persche, a German citizen claimed a €18,180 tax deduction for his in-kind donation kind from his 2003 tax return. He made this gift to the Centre Popular de Lagoa, in Portugal (a retirement home that also includes a children’s home). Apparently, the Finanzamt (District Tax Office) refused the deduction because the beneficiary of the gift was not established in Germany, and Mr. Persche had not furnished a donation certificate in proper form.

According to the summary of the judgment, where a “taxpayer claims, in a member state, the deduction for tax purposes of gifts to bodies established and recognised as charitable in another member state, such gifts come within the compass of the Treaty provisions on the free movement of capital, even if they are made in kind in the form of everyday consumer goods.”

As Stéphane Couchoux, from the Paris-based law firm AKLEA, said, “The case raises a number of key questions, in particular how national tax authorities determine whether a beneficiary of a cross-border donation in another member state is equivalent to an institution benefiting from

See CULTURAL DIFFERENCES, next page

CULTURAL DIFFERENCES, from page 5

tax-deductible status in the member state of the donor.”

It will be interesting to see how this ruling may impact future donations or how it may be used as another reason to support the creation of a European Foundation Statute.

European Foundation Statute and Other Initiatives. Trying to overcome the different barriers of 27 countries in the European Union each with their own legal frameworks for foundations, the European Commission on the European Foundation Statute (EFS) was formed. EFS launched a public consultation questionnaire to assess the level of demand for the creation of a Statute.

According to the questionnaire, the objective of the European Foundation Statute (EFS) is “to allow a foundation to register as a ‘European Foundation’ in one Member State, and at the same time be recognised and operational throughout the European Union. This new legal form would exist in parallel to the national legal forms and its use would be optional” (European Foundation Statute—how and why you should act).

The EFS would provide opportunities for foundations, donors, citizens, and companies. For foundations, it would increase cross-border cooperation, offer legal cer-

tainty, and save costs. It would be a trusted legal tool that would ease cross-border operations and enable foundations to further develop their activities. Donors could make gifts to support foundations all across Europe. As a flexible tool to support citizen action at EU level, companies could also use the EFS to help develop and implement a coherent European community investment policy.

An online questionnaire was used to gather input from the public until May 15, 2009. This research will be used along with a feasibility study recommended by the European Commission (EC). The “Feasibility Study on a European Foundation Statute: Final Report,” by the Centre for Social Investment at the University of Heidelberg and the Max Planck Institute for Comparative and International Private Law, was issued in the winter of 2008. The EC will use these resources to complete an impact assessment in 2009. Then, the EC could issue a proposal for a regulation when the new Commission takes office.

Many advisors, fund raisers, and foundations would like to strengthen the research and teaching infrastructure along with the knowledge base of philanthropy in Europe. At the EFC annual conference held on May 16, 2009, Judith Symonds shared that there was a side meeting organized to discuss this issue, attended by European and US foundations and repre-

sentatives of universities from Europe and the United States.

At that meeting, Judith Symonds said that news was exchanged on some important new initiatives in philanthropy at the university level. These include The Centre for Strategic Philanthropy at Erasmus University in the Netherlands; The Pears Business School Partnership between Oxford’s Said Business School, the Cranfield School of Management and the London Business School; The Centre for Social Investment at the University of Heidelberg; the Centre for Charitable Giving and Philanthropy at Cass Business School and City University of London; and the Masters in Studies in Philanthropy (MISP) at the University of Bologna.

James K. Myers, Founder of the European Association for Philanthropy and Giving and now an independent philanthropy advisor in cross-border charity operation and fundraising, had these words to share.

Of all the trends and developments I’ve witnessed over the past ten years, the one that has been the most relevant to me and the organisation I founded is the increase in cross-border charitable giving by both individuals and foundations. This phenomenon is one more manifestation of the ‘global village’ and the challenges this presents to both American and European advisors. ■