

## GERMANY

### Preliminary Notes:

In addition to official and semi-official data from Germany, which is available on the Internet, the following information is based mainly on:

1. Previous studies for the European Commission and the European Parliament conducted by
  - a) the Centre for Cultural Research (Zentrum für Kulturforschung – ZfKf), e.g. *Rapport sur le statut social et fiscal des artistes en Allemagne* (1997) and
  - b) the European Institute for Comparative Cultural Research (ERICarts Institute), e.g. *The Status of Artists in Europe* (2006) and *Mobility Matters* (2008);
2. The German country profile in the Council of Europe/ERICarts *Compendium of Cultural Policies and Trends in Europe*, last updated by Bernd Wagner in November 2008;
3. Answers to a previous UNESCO questionnaire prepared by the German section of the International Association of Art (IGBK) and the German Arts Council (Deutscher Kulturrat).

### ***The Artist's Place in Society***

*Since the "Künstler-Report" of 1975, no representative survey covering all artistic professions was conducted. However, questionnaire-type surveys have been made for some professions and can indicate whether the general assumption is correct, that less than 10% of the artists can live only from their artistic work (this figure is likely to be realistic e.g. in the visual arts, but only if all those that have once studied an artistic discipline are compared to those actually practicing an artistic profession today).*

*One of these studies is from Martin Kretschmer and Philip Hardwick: Authors' earnings from copyright and non-copyright sources: a survey of 25,000 British and German writers, Bournemouth University 2007 (<http://www.cippm.org.uk>). Quoting the 2001 EU Information Society Directive (2001/29/EC) where it is stated that creators and performers have to "receive appropriate reward for the use of their work" through copyright earnings and that there is a need to "ensure that European cultural creativity and production receive the necessary resources", the authors comment:*

*"This study shows quite conclusively that current copyright law has empirically failed to meet these aims. The rewards to best-selling writers are indeed high but as a profession, writing has remained resolutely unprosperous. For less than half of the 25,000 surveyed authors in Germany and the UK, writing is the main source of income. Typical earnings of professional authors are less than half of the national median wage in Germany..."*

*Indeed, if only 53% of all German authors practicing today derive 75% or more of their income from their writing activity and the average receipts (median) from their copyright licensing society amounts only about 500 € per year, many in this profession will definitely depend on teaching jobs, working in publishing houses or in newspapers and other sources of income.*

## INSTITUTIONAL AND LEGAL FRAMEWORK

### International laws (conventions, agreements and recommendations) in the field of culture ratified by Germany

Note: The following list covers some of the more important legal instruments from UN and European contexts. However, one needs to be aware that this picture is constantly changing. Three examples: While the 2001 *European Convention for the protection of the Audiovisual Heritage* is currently in the process of ratification, there are also examples of (more recent) conventions where a decision is still pending, such as the 2003 UNESCO *Convention for the Safeguarding of the Intangible Cultural Heritage* and the 2005 *Council of Europe Framework Convention on the Value of Cultural Heritage for Society*.

#### A. Legal instruments in the UN Framework (incl. ILO, UNESCO, WIPO):

- The 1952 *Universal Copyright Convention*;
- The 1961 *International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations*;
- The 1966 *International Covenant on Economic, Social and Cultural Rights*;
- The 1970 *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*;
- The 1971 *Berne Convention for the Protection of Literary and Artistic Works*;
- The 1972 *Convention concerning the Protection of the World Cultural and Natural Heritage*;
- The 2005 *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*.

Among the many international recommendations, the following examples could be regarded as being fully implemented in Germany:

- The 1976 *Recommendation on Participation by the People at Large in Cultural Life and their Contribution to It*;
- The 1976 *Recommendation concerning the International Exchange of Cultural Property*;
- The 1980 *Recommendation for the Safeguarding and Preservation of Moving Images*.
- Concerning the 1980 *Recommendation concerning the Status of the Artist*, where German standards are for the most part in line with the propositions of this Recommendation, e.g. as regard the training, legal or social protection and freedom of work and of association of artists. However, this has, for the most part, already been the case before the 1980 General Assembly of UNESCO in Belgrade passed this Recommendation, which may be one of the reasons why the latter has not really been a major topic in German cultural and social policy, except in papers of some artists' associations.

#### B. Legal instruments in European Frameworks (Council of Europe, European Union):

- The 1955 *European Cultural Convention*;
- The 1992 *European Charter for Regional or Minority Languages*;
- The 1992 *European Convention on Cinematographic Co-Production*.

Germany has also contributed to the development of the *EU Charter of Fundamental Rights*, which has been signed by all Member States in 2000. Several of its provisions are relevant to cultural issues in general, and to the status of artists in particular, including:

- a. freedom of thought, conscience and religion;
- b. freedom of expression and information;

- c. freedom of arts and sciences; and
- d. cultural, religious and linguistic diversity; and

**Governmental units in charge of:**

**a) Cultural affairs:**

The following answer implies that "cultural affairs" is to address the field of foreign cultural policy / international cultural relations (for domestic cultural affairs see the next paragraph):

The main state body in charge of political guidelines for, and the execution of, foreign cultural policy is the Federal Ministry of Foreign Affairs (Auswärtiges Amt - AA). The Federal Government Commissioner for Culture and the Media in the Chancellor's Office (BKM) is responsible for some specific fields, for example foreign broadcasting services or the restitution of art works ("looted art"). Other federal ministries, such as the Federal Ministry of Education and Research (BMBF) or the Ministry for Economic Co-operation (BMZ) are also active in their specific domains. The German Federal States (Länder) participate, through their relevant bodies or through individual programmes, in foreign cultural policy-making.

**b) Cultural policy-making:**

Due to its federal organization, cultural policy making depends on a division of responsibility and competencies among the three levels of government: the *Bund* or Federal Government on the national level (with the BKM as the main co-ordinating and executive body) the *Länder* (autonomous states and their ministries in charge of culture), and the *municipalities* (cities, towns, counties). However, according to Article 30 of the German Constitution, the main competencies are assigned to the *Länder*: "...the exercise of state powers and competencies lie with the Länder, except where specifically stipulated or permitted by the German Constitution".

**c) Working conditions of artists including disabled artists:**

Federal Ministry of Labour and Social Affairs (BMAS)

**d) Continuing training of artists and cultural workers:**

This field of action falls mainly into the competence of the *Länder* and their ministries in charge of culture, education and training.

**e) Cultural research:**

There is no special competence for this field, but for about 25 years some research lines have been supported by the BMBF.

**f) Tax policies and taxation in the field of culture:**

Federal Ministry of Finance (BMF).

Further information : <http://www.munem.org/30.0.html>

*Note: A comprehensive overview of German cultural policy is provided in the respective country profile of the Council of Europe/ERICarts Compendium of Cultural Policies and Trends in Europe (<http://www.culturalpolicies.net>). See also the Website of the German Federal Government for further details of the division of labour on the national level (<http://www.bundesregierung.de/Webs/Breg/EN/Federal-Government/Ministries/ministries.html>)*

## **Cultural Policies**

### **Percentage (average) of the national budget allocated to culture**

Since the competencies of the Federal Government in cultural policy are limited, only a general share of all public budgets can be given, which currently amounts to 1.3%.

This percentage reflects a slightly falling trend in most of the *Länder* and on the municipal level, while the Federal expenditure has increased in recent years.

### **Policies aimed at promoting the arts**

In order to make the arts and cultural events accessible to a wide segment of the population, the individual *Länder* and cities maintain large parts of the cultural infrastructure, in particular 143 theatres, 136 orchestras and thousands of museums and libraries; they also provide, to a lesser extent, subventions to private arts organizations. The 11 public broadcasting companies also play an important role in cultural production and dissemination and run their own arts ensembles (orchestras, choirs etc.).

Generally, arts education has gained more importance, in recent years; ca. 650 municipal music schools, many children's art schools and socio-cultural initiatives are active in this field. Relatively new lines of support aim at culture/creative industries (venture capital, marketing, advisory services etc.) and at community-oriented policies that try to take account of the cultural needs of different age groups and of people with immigrant background.

Artist-directed promotion includes the maintenance of over 50 public academies and universities in the field of higher arts education; in addition, some 3,500 awards and bursaries for individual artists exist, most of them provided by public bodies or in the form of public-private partnerships.

### **Indicators used to evaluate the outcomes of cultural policies**

No generally accepted indicators are known in Germany, since true evaluations of cultural policies are still more an exception than a rule. However, this problem has recently been discussed in the context of the [Commission of Enquiry "Culture in Germany" of the Federal Parliament](#). However, the implementation of resulting conclusions remaining an open question due to the limited competencies of the Federal authorities in matters of culture.

### **Structures involving the participation of the artists in cultural policy-making at local and national levels**

An extensive network of intermediaries between the state and cultural actors complements public-sector activity and helps to maintain the pluralism of cultural life and its financing. While a firmly organized co-operation structure relating state bodies and non-governmental actors does not exist, intermediaries (arms-length bodies) and umbrella organizations play an important role, in this respect.

For example, the German Arts Council (<http://www.kulturrat.de>) unites over 200 national organizations of artists, culture industries, arts education bodies and other cultural actors; it plays an important role as an arts lobby and advises the government and the parliament in specific legislative and organizational matters. Similar bodies exist in most of the *Länder* and in some larger cities.

### **Measures aimed to improve the infrastructures for the spread of the arts**

As described above, the artistic infrastructure in Germany is comparatively rich, particularly as regards dissemination. This explains the large attendance figures in major cultural institutions, e.g. in 2005 or 2006: over 100 million visits in museums, ca. 19 million attendances in public theatres, 7.5 million users of public libraries, over 900 thousand students in music schools.

Some measures also address private infrastructures, e.g. subventions for art house cinemas or the maintenance of literature houses in larger cities.

## Legal framework

### Laws and regulations governing the work of artists

*Note: Specific national laws governing the training and work life of artists are not common in Germany, except in the area of social insurance (see below). Some general regulations of the Länder address the organization of radio and television, but are of little relevance for the work of artists. The same can be said for the Länder laws addressing the heritage (archives, care of monuments etc.) and adult education (partly also music schools or libraries).*

#### **a) Employment and working conditions:**

In Germany, no specific legal instruments governing employment and work conditions for artists exist. The EURES database provides an overview of general employment and work conditions in Germany (<http://www.europa.eu.int/eures/main.jsp?acro=lw&lang=en&catId=2648&parentId=0>).

Some of the general regulations can be of particular relevance for artists; such is the case e.g. with laws addressing the group of "quasi-employees" (Arbeitnehmerähnliche Personen) which are frequently found among freelance cultural and media workers, because they maintain recurrent or quasi-permanent contracts with a single company and could then find themselves, despite the absence of a fixed employment relationship, in a position of economic dependence. Laws addressing the group of "Arbeitnehmerähnliche Personen" are (details on: <http://www.gesetze-im-internet.de>):

- Article 5 paragraph 1 ArbGG (*Law on Labour Courts*): disputes about contracts of such individuals fall under the system of labour courts;
- Article 12 a TVG (*Collective Agreement Law*): the fees and conditions of work can be regulated by collective agreements, contrary to competition laws;
- Article 2 BUrlG (*Federal Vacation Law*): economically dependent freelancers are entitled to 24 working days holiday pay.

In the most important cultural and media institutions such as public theatres, orchestras or broadcasting, branch organizations usually conclude collective agreements with labour unions, in the field of broadcasting also for freelance staff.

Special regulations concern private employment agencies.

With the necessary permit from the Federal Employment Agency, they can work within Germany, from and for EU and EEA Member States. Private placements involving countries outside the EU and EEA area are normally handled exclusively by the Central Placement Office (ZAV), but exceptions for artists and similar professionals are possible, if private agencies have acquired a special permit.

#### **b) Social welfare (health insurance, occupational accidents, disability, unemployment and pensions):**

While regularly employed artists in Germany are covered by the same social security system with regard to health care, pensions, occupational accidents and unemployment payments as other employees. The same could not be said for those who work as self-employed or on a freelance basis. This situation prompted the Federal Parliament, in the early 1970s, to commission the Centre for Cultural Research (ZfKf) with a large-scale empirical survey among professional artists. Following publication of this "Künstler-Report" in 1975 and debates with professional organizations, the Federal Government developed a specific social insurance system for self-employed artists, the "Künstlersozialkasse" (KSK). The 1981 Artists' Social Security Act (Künstler-Sozialversicherungsgesetz - KSVG) established the KSK with strong links to the public social security system in the fields of health insurance and pensions (<http://www.kuenstlersozialkasse.de>).

### **c) Training:**

Laws and regulations concerning arts and music academies in two of the *Länder* (Kunsthochschulgesetze) concern mainly organizational matters, not the work or profession of artists.

## **WORKING CONDITIONS**

### **Work permit or “professional” status**

Specific work permits for artistic professions and similar regulations do not exist in Germany. There are, however, general regulations: Foreign nationals other than European Union (EU), European Economic Area (EEA) and Swiss citizens can take up gainful employment only if they possess a compulsory residence permit. Australian, Canadian, Israeli, Japanese, South Korean, New Zealand and US citizens may acquire this residence permit from the competent foreigners' authority after their arrival in Germany. Citizens of countries that acceded to the EU on 1 May 2004 can apply for an EU work permit from their local German employment office. Nationals of all other states must apply for a work visa from their local German mission prior to coming to Germany.

### **Health care system**

The German health service is highly decentralized and not arts-specific. The 16 *Länder* share responsibility with the central government for the building and maintenance of health services such as hospitals, the majority of which are public or non-profit organizations. The state-regulated health insurance providers exert some control over running costs. Until they reach the retirement age of 65 (soon 67), people must, by law, pay into health insurance plans (and, since 1994, an additional long-term care plan); contributions currently make up around 15% of an employee's gross income and are paid equally by the employee and the employer. The health insurance plans are either state-regulated or private.

Self-employed people are excluded from the state-regulated plans and must normally pay 100% of the contributions to private insurance companies. However, artists and journalists covered by the KSK are entitled to a reduction of 50%.

### **Disabled artists**

Special regimes for disabled artists do not exist.

### **Administrative inspections**

Different types of inspections cover a wide range of issues, starting from machine safety, maintenance and environmental control; over work conditions of disabled persons and work or residency permits of foreign staff; to contributions and benefits of social welfare.

If legal obligations are not met, this can result in fines and, in worst cases scenarios, in the closure of an establishment. However, such control mechanisms are again not arts-specific, except as regards obligations of contractors towards artists' social insurance in the KSK.

## **SOCIAL WELFARE**

### **Insurance schemes**

The above mentioned *1981 Artists' Social Security Act* (Künstler-Sozialversicherungsgesetz - KSVG) provides health insurance, old age pensions and nursing care for self-employed artists and writers, but does not provide access to unemployment benefits. Contributions towards the KSK amount to ca. 35% of the taxable income derived from artistic activities. Contrary to the regular

social insurance, there is no income threshold. In principle, the contributions are shared between the individual artist (50%), the Federal Government (20%) and enterprises regularly using artists' works and services (30%). Such enterprises include publishers, press, photo and PR agencies, theatres, orchestras, choirs, event managers, broadcasters, AV and music producers, museums, galleries, circuses, artists' training institutions, etc. Their contribution is assessed annually by the KSK, which results in the collection of lump sum payments on all fees paid to artists (currently this share is around 5%).

Membership in the KSK is obligatory for all self-employed professional artists, while the employed artists fall under the general social insurance schemes, which are also compulsory. In January 2008, 160,000 cultural workers were insured by the KSK, of which 36% were visual artists/designers, 27% musicians or composers, 25% authors, translators and freelance journalists, and 12% actors, directors and other performing artists.

To be accepted into the KSK, artists have to prove

- a) that they are self-employed and
- b) that they earn a minimum income of €3,900 per year from their artistic work.

Professional newcomers, e.g. graduates from arts colleges, are exempt from the minimum income rule for a period of three years, but have to prove their freelance status.

If an artist conducts both free-lance and employed activities at the same time, the primary source of income will be asserted. In this case, the KSK will receive social security contributions for the free-lance activity and the employer is responsible for the contributions to the general insurance system, but only regarding the pension insurance. Nursing as well as sickness insurance depend on the primary source of income only. Among the exceptions regarding this regulation are additional marginal employment phases with earnings below €400 ("geringfügige Beschäftigung") on top of self-employed artistic work.

### **Complementary insurance schemes**

Complementary insurance schemes exist for some professions (e.g. journalists, performers and musicians working in public theatres and orchestras); as a rule, these schemes are compulsory. Some institutions such as public broadcasting systems and copyright licensing societies also run special social support plans for independent artists and authors; the latter are normally not "obliged" to join these programmes, but could surely benefit from them.

### **Administration of contributions**

Except for the schemes mentioned under 3.3, Germany's social insurance system is administered by the State. For example, the KSK is a department of the social insurance system for employees.

## **REMUNERATION**

### **The minimum level of payment**

Minimum wages have long been a political issue in Germany and were indeed introduced for a few technical service occupations. However, there are no general minimum standards, particularly not in the arts and media, except those settled in collective agreements. Normally, employees are being paid monthly and self-employed per service.

There is no system for payment through a professional organization in Germany, except as regards (complementary) allocations from licensing societies for copyright and neighbouring rights.

## UNEMPLOYMENT

### Unemployment insurance scheme

A special unemployment insurance scheme for artists does not exist in Germany. However, there are debates about additional improvements for (arts and media) workers that are hired for temporary or short-term jobs and thus have problems meeting the regular occupational standards of the state unemployment scheme.

## ILLEGAL WORK

### Scale of illegal work

While this has been a topic in some occupations, it has not been publicly discussed with regard to artistic professions. In the past, some complaints were discussed about dance musicians working at lower wages than foreseen in collective agreements or about children's working hours, but today such issues do not seem to be of much interest any more. An exception may be the entertainment sector and circus, in particular.

However, "illegal" work could also be seen as a result of bureaucratic hurdles, in some cases. As pointed out by MEP Doris Pack in her *Report on New Challenges for the Circus as Part of European Culture*<sup>1</sup> (8 July 2005) in the Committee on Culture and Education of the European Parliament (PE 357.902v02-00 / A6-0237/2005):

*"The artists and workers in most European circuses are of mixed nationalities. There are complicated rules hindering the migration, employment and movement of non-EU workers within the EU, and in some cases this gives rise to inadvertent illegal employment within the circus."*

Of course, if "illegal work" is understood in the sense that the remuneration for work has not been declared to the tax authorities, there is much more talk about it in Germany: While official figures for this do not exist, there is widespread belief that self-employed artistic work frequently remains undeclared.

### Control and sanctions

While administrative checks and high penalties are expected to generally curb illegal employment in Germany, little is known about such moves in the arts, except as regards the control of social security and tax payments. As pointed out by Judith Staines in her study *Tax and Social Security: a basic guide for artists and cultural operators in Europe*<sup>2</sup>, 2004-7 ([www.on-the-move.org](http://www.on-the-move.org)):

*"The German tax system for visiting artists is rigorously enforced and has been defended in several cases at the European Court of Justice."*

## TAX STATUS AND TAX ADVANTAGES

### Tax status

#### (a) Income tax

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<sup>1</sup> Download the document at:

<http://www.europarl.europa.eu/sides/getDoc.do?sessionId=71A41DECBB3662B965FFDE2316C519BB.node1?objRefId=99023&language=EN>

<sup>2</sup> Download the document on the Observatory website:

[http://portal.unesco.org/culture/admin/ev.php?URL\\_ID=34157&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201](http://portal.unesco.org/culture/admin/ev.php?URL_ID=34157&URL_DO=DO_TOPIC&URL_SECTION=201)



As pointed out in the 2006 [ERICarts study for the European Parliament](#)<sup>3</sup>, Germany is among the majority of countries in the EU which do not foresee a special tax status for artists, that is: artistic income is taxed at the regular rate. This includes that income below a certain limit (in 2008: €7,664 annually for individuals, €15,328 for couples) will be tax exempt.

Among the few arts-related clauses, a flat rate allowance of 30% for professional expenses of independent artists could be mentioned; similar reductions are also granted to performing artists with short contracts. In addition, Germany knows "income averaging" schemes for artists and writers, which apply to honorariums for works created/performed over several years and can be spread for the previous and following years in the respective tax forms. However, if the artistic work does not produce significant financial returns over years, it could be classified as a 'hobby' by the fiscal authorities, which could result in the loss of previously granted tax allowances.

In the case of income from grants and awards, earnings from an award for e.g. the "lifetime achievements" of an artist are tax exempt, while an award granted for a specific work falls under the income tax.

#### **(b) Value added tax (VAT)**

Contracts of liberal professions ("*Freie Berufe*"), which include self-employed artists, are charged with the reduced rate of 7% (instead of 19%). The sale of publications and other works of e.g. writers, composers or visual artists that are protected by authors' rights are also taxed with the reduced rate.

#### **(c) Foreign artists**

While most European states work with the instrument of a withholding tax on the earnings of foreign artists, this method is not applied in a uniform or systematic manner<sup>4</sup>. In Germany, the tax rate varies between 10 and 25%, depending on the earnings, but exemptions from paying withholding tax are granted for individual amounts below 500 € and for some types of performance, e.g. for public or non-profit companies. Until recently, tax-free allowances for expenses were not accepted under this system of taxation.

A court case led to changes or clarifications of this practice in Germany and in other EU Member States with similar tax regulations<sup>5</sup>. When Dutch musician Arnoud Gerritse worked in Germany, a withholding tax rate of 25% had been placed on his earnings and he was informed by the tax authorities that professional expenses were not deductible. The European Court of Justice ruled, in 2003, that his treatment had been unfair and a violation of principles of the European Treaty, since German artists are normally allowed to deduct such expenses.

### **Royalties and tax system**

Income from copyright royalties (intellectual property rights) is subject to normal income tax rates, but VAT is applied at the reduced rate (currently 7%).

### **Exemptions for temporary import duties on cultural products**

Inside of the European Union/European Economic Area, no import duties exist. Regarding the import from countries outside of this area, the [Council Regulation \(EEC\) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty](#) listed, in its Annexes, goods and equipments of "educational, scientific and cultural" character, such as publications, which are either "admitted free of import duties whoever the consignee and whatever the intended use of such mate-

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<sup>3</sup> Download the study at:

<http://www.europarl.europa.eu/activities/committees/studies/download.do?file=13248#search=%20Status%20of%20the%20artists>

<sup>4</sup> cf. Richard Poláček: *Study on Impediments to Mobility in the EU Live Performance Sector*, PEARLE 2007.

<sup>5</sup> <http://www.allarts.nl/artikelen/2003/Gerritse%20-%20decision.pdf>

rials may be" (Annex I) or are admitted free "*provided they are intended for public educational, scientific or cultural establishments or organizations*" or for bodies that were "approved by the competent authorities of the Member States to receive such articles duty-free" (Annex II).

### **Exemptions for temporary import duties on cultural products**

Except for the VAT rules mentioned above, there is no special tax regime for cultural products. However, outside of the tax system, rules regarding the protection of works of art and other cultural goods possessing artistic, historical or archaeological value, which could be considered rather "liberal" in comparison with other countries, have to be taken into account.

### **Provisions on inheritance tax**

The inheritance tax for works of art can be reduced by 60% if their preservation lies, because of their artistic, historical or scientific value, in the public interest. Certain conditions apply, including that the works stay in the possession of the heir for at least 10 years and that eventual profits made of their use do not exceed the annual costs for their preservation.

A total exemption of works of art from inheritance tax is possible, if works of art are in the possession of a family for at least 20 years or, alternatively, are listed in a *National Register of Valuable Cultural Goods*. Successors are obliged to leave works of art in the custody of a museum for at least 10 years.

## **INTERNATIONAL MOBILITY OF ARTISTS**

### **Measures to promote the mobility of artists:**

#### **(a) Official recognition of foreign diplomas in the artistic professions**

This question is of minor importance, since working in artistic professions in Germany does not depend on graduation requirements. However, as far as academic grades are concerned, including those in artistic disciplines, their recognition is being dealt with by a specific Secretariat of the *Länder*, the "*Zentralstelle für ausländisches Bildungswesen im Sekretariat der Ständigen Konferenz der Kultusminister der Länder in der Bundesrepublik Deutschland*" (<http://www.kmk.org/zab/home.htm>).

#### **(b) Fellowships and financial aid to promote the mobility of artists**

In German arts policy, "mobility" as such is not considered a dominant issue – quite in contrast to the educational sector. For example, the index of the extensive 2007 report of the Commission of Enquiry of the Federal Parliament, "Culture in Germany", does not list this term. This may be due to the fact that the cultural life in Germany today is already quite international (as regards e.g. artists or writers working in theatres, orchestras or in dance/ballet, being presented on literary "bestseller" lists or being shown in art galleries), partly also intercultural (the latter mainly in pop music and increasingly in film and literature). Therefore, transnational mobility of artists and other cultural workers may be more or less taken for granted in Germany.

Regardless of that, there are a number of residency schemes designed to receive foreign artists in Germany, some of which with a long tradition and reputation, such as the *Berlin Artists-in-Residence Programme of DAAD* (<http://www.daad.de/deutschland/foerderung/musik-kunst/04986.en.html>) or the *Akademie Schloss Solitude* near Stuttgart ([http://www.akademie-solitude.de/pdf1/info\\_application.pdf](http://www.akademie-solitude.de/pdf1/info_application.pdf)).

As regards Germans travelling abroad, activities funded by the Federal Ministry of Foreign Affairs (AA) remain important. Frequently, they are conducted by arm's length agencies, the most important of which being the *Goethe Institute* (GI) with many branches around the world (at present: 147 Institutes in 83 countries), or the *Institut für Auslandsbeziehungen* (IfA).

While its activities are rarely associated with the term and concept of "mobility", an important policy instrument of GI has always been to send German writers, artists and filmmakers abroad to speak, perform, exhibit or participate in cultural events.

Within the jurisdiction of the Federal Government Commissioner for Culture and the Media (BKM), mobility of artists is supported through institutions such as *Deutsche Akademie Villa Massimo*, or *Villa Romana* (both in Italy). These activities are now being complemented by other domestic actors, including the *Culture Foundation of the Federation* (Kulturstiftung des Bundes) which carries out co-operation and exchange programmes with countries in Central Europe (<http://www.projekt-relations.de/en/know/start.php?menuopen=5&lang=en>).

As evidenced in the 2001 *Handbuch der Kulturpreise 4 / Handbook of Cultural Awards* prepared by ZfKf for the Federal Government, the extensive and still growing landscape of schemes with at least an element of "incoming" or "outgoing" mobility receives public visibility mostly in the form of awards and travel grants. Among the more than 3000 cultural awards, bursaries or regular grants organised in Germany, an increasing part (now over 25%) has an international or "European" scope, that is: promotes works of foreign artists and authors, encourages German artists to travel abroad or collaborate with foreign colleagues, or is meant for foreigners only (see <http://www.kulturpreise.de>).

**(c) Fellowships and financial aid to promote the mobility of works**

An overview of some main actors and their programmes is provided by the Internet platform: <http://www.deutsche-kultur-international.de/en.html>.

In the context of the broadening "European" cultural market place and, after the fall of the Berlin Wall, during the reconstruction of East-West relations also in the cultural domain, processes of a diversification of forms of collaboration intensified. For example, international agents now play a larger role in both the book and art trade, as can be seen in large events such as the *Frankfurt Book Fair* or *Art Cologne*. In the past, cross-border co-productions were mainly relevant in the film business; today they are commonplace also in theatrical, entertainment and literary productions, as many festivals bear witness. Geopolitical orientations also changed, with priority at first being given to Eastern Europe and now increasingly to exchange programmes with the Arab countries and South- or East Asia.

**(d) Networks catering for foreign artists**

Most trans-national contacts and cultural co-operation activities in Germany happen outside of the direct purview of the national government. In addition to quite a few incentives provided by public bodies from the local or regional level as well as by a number of public and private foundations, "direct encounters" between cultural professionals and institutions from Europe and beyond dominate, most of which are not funded through regular schemes but by the actors themselves, by arts institutions and sponsors or in the context of commercial productions. In addition to that, German sections of international arts organizations such as the International Theatre Institute (ITI) or the International Association of Art (IGBK) contribute to exchanges and dialogue.

**(e) Facilities for obtaining visas and residence permits**

The following Foreign Office website provides an overview of main bodies and regulations: <http://www.auswaertiges-amt.de/diplo/en/WillkommeninD/EinreiseUndAufenthalt/uebersicht.html>

### **Legal requirements for producers and impresarios**

As pointed out by Richard Poláček in his *Study on Impediments to Mobility in the EU Live Performance Sector and on Possible Solutions* (Brussels: PEARLE, 2007)<sup>6</sup>, the answer to this issue depends largely on whether or not the artist comes from an EU member state or is a "third country national". The latter or their agents and producers could face more red tape and difficulties to get visa or work permits in the EU, even if formalities in Germany may be slightly less complicated than elsewhere, as productions with foreign artists are not subject to official authorization.

As regards social security, employers must cover a share of the contributions to KSK also for artists working on a freelance basis (see the Foreign Office website: <http://www.kmk.org/zab/home.htm>). Regarding German artists travelling abroad, they are usually expected to clarify their status and insurance requirements on their own.

### **Provisions in national laws in regard to foreign artists**

Particular regulations or provisions regarding foreign artists do not exist in Germany, except in the field of taxation. Withholding taxes for non-resident performers were reduced from a 25% rate to rates varying between 10 and a little more than 20%, depending on the level of income above a threshold of 250€ As exemptions may be granted by the tax authorities, e.g. for non-profit organizations, advice from tax specialists is recommended<sup>7</sup>.

### **Provisions (as the host country) aimed at protecting national artists**

Except for employability checks or the proof of a valid contract for artists from countries outside of the EU/EEA area, such provisions do not exist in Germany.

## **COLLECTIVE REPRESENTATION**

*Note:* The issues addressed under this topic do not really reflect main issues and concerns dealt with in recent German (and to a certain extent: European) debates of collective representation in the arts and culture. Among the reasons for this, we could mention a few trends which became relevant since the middle of the 1970s:

- On the one hand, the traditional fragmentation of collective representation in the arts has increased, due to a high number of specialised or competing organizations;
- On the other hand, the importance and influence of traditional unions faded, due to the emergence of a more general, well organised "arts lobby" that unites organizations of employers as well as unions: the *German Arts Council* (Deutscher Kulturrat);
- This was accompanied by a general decline of state intervention in the arts and media and the rise of commercial culture industries;
- In particular, the fast growth of micro-businesses run by artists absorbed a more active group of professionals;
- The fast implementation of new information technologies in the arts and media partly dissolved the traditional division of labour in institutions and enterprises.

All of these and additional factors led to a decline of enthusiasm of individual artists and writers to join unions or engage in their work. This does not mean, however, that professional organizations would not play a role in German cultural policies; the same is true for some trade unions when it comes to wage negotiations or overall working conditions (DOV,

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<sup>6</sup> Download the report: [http://www.on-the-move.org/documents/Polacek\\_report.pdf](http://www.on-the-move.org/documents/Polacek_report.pdf)

<sup>7</sup> Cf.: <http://www.on-the-move.org/documents/TaxandSocialSecurity.pdf>.

the union of orchestra musicians, which organises over 90% of the orchestra staff, is a good example for this latter group).

### **Main trade union prerogatives**

Freedom of coalition and the right to defend social and professional interests, including through industrial action, are guaranteed in the German constitution and also part of the general labour law. Labour unions also can play a role in the organization of works councils, which may be relevant especially in larger companies. Since the foundations of cultural life in Germany are only to a lesser extent regulated by laws, important legal documents describing the role of trade unions and other professional organizations in the arts are practically absent.

### **Main legal provisions to protect trade unions freedom and role**

The participation of employees and their unions in strategic decisions inside of German arts and media companies has never been very strong; among other factors, this is due to legal provisions that limit the influence of unions and works councils in arts and media companies (the so-called "tendency protection" or *Tendenzschutz*). However, in some of the firms and organizations, customary law or collective agreements led to specific rights which all employees enjoy, such as participating in the choice of a new conductor or of new colleagues in a public orchestra.

During the last two decades the German Arts Council and also some of the professional associations and unions gained influence in cultural and social policy making that can affect the working practices of artists, however, not in the form of strictly enforced procedures.

### **Negotiation of collective agreements**

Collective agreements are very important in areas where larger institutions or companies exist, that is, mainly, in theatres and orchestras and in the field of broadcasting. Most of the other public institutions or private companies in the arts fall under collective agreements that are not arts-specific.

### **Promotion of social dialogue**

Such bodies do not exist in the arts and media, even if informal talks may be held from time to time in the context of the German Arts Council, where both employer organizations and those of employees and freelancers are members.

### **Bodies concerned with mediation and/or appeals**

Traditionally, such bodies exist as works councils in larger companies (*Betriebsrat*) or public institutions (*Personalrat*). Their status and the rights of their members are regulated by law (*Betriebsverfassungsgesetz*), however not arts-specific.

### **Other activities of professional associations or unions in the arts**

At the federal level, individual support to artists is provided through special funds such as the *Visual Arts Fund*, the *German Literature Fund*, the *Socio-cultural Fund* and the *Federal Fund for the Performing Arts* as well as projects implemented by the *German Music Council*. All of these, while being funded from state budgets with around 4 million €/year, enjoy a certain autonomy or are controlled by artists' organizations. Measures funded include competitions, scholarships and prizes, prominent exhibitions of contemporary art, special publication and other appropriate forms of support.

In addition, public funds are made available to support operative expenses of bodies such as the German Arts Council, the German Music Council and two Federal associations of visual artists. A portion of these funds are earmarked to assist individual projects.

## **CONTINUING TRAINING AND FINANCIAL AID**

### **Vocational training for artists**

Vocational training is not typical for artistic professions in Germany but can be found in some crafts and design occupations (e.g. stage and costume design in theatres).

### **Vocational training for disabled artists**

For different professions, particularly in classical music and dance, summer schools offer courses for the perfection of skills, in addition to private courses and in-house training. Some institutions of higher arts education, e.g. the [University of the Arts](#) and other arts academies in Berlin, have also set up special programmes covering further education for artists (e.g. "Art in Context").

### **Schools and institutions providing [continuing] training**

Several thousands of courses are offered in local music and art schools, socio-cultural centres, professional organizations and private establishments in all parts of the country. The example of music courses can highlight the dimension of this field of education: The annual "Musik-Amanach" of the German Music Information Centre (MIZ) lists, in its [Course Information System](#), 697 data sets for individual advanced and further training programmes in Germany (summer schools, holiday courses, master courses etc.).

In addition to that, many arts and media academies or universities (Musik- und Kunsthochschulen) have started to become active in the field of continuing education, some of them in the context of new Master classes. A list of 55 state-recognised higher arts education institutions and their websites can be found under: <http://www.hochschulkompas.de/> (look under "Hochschulen suchen" and click on "Kunst- und Musikhochschulen"). Some of these also provide opportunities for guest students.

### **Institutions providing training to artists in administration and administrative management**

Over the past 20 years, arts administration or management courses became firmly rooted in the system of German universities and arts academies, but are also offered on private initiative. For an overview of main providers:

[http://www.kulturmanagement.net/ausbildung/prm/57/chi\\_ia\\_1/index.html](http://www.kulturmanagement.net/ausbildung/prm/57/chi_ia_1/index.html)

### **Vocational training for disabled artists**

For addresses of organizations active in this field, see: <http://www.rehadat.de/rehadat/Reha.KHS>

### **Retraining**

Specific efforts for the retraining and professional rehabilitation of artists are not typical for Germany, except in the field of ballet/dance, where individual efforts of retraining older dancers and courses offered by professional bodies (e.g. into professions of physiotherapy or rhythmic and dance education) are frequently supported by public authorities.

### **Fellowships training**

More than 10% of the over 3,000 awards, study and travel grants or bursaries listed in the Handbook of Cultural Awards (2001) offer some kind of assistance for "research" phases in a career, for the training or re-training of artists and other forms of encouragement of mostly young or emerging talents. However, this rarely takes the specific form of direct stipends or fellowships covering fees of, or travel costs to training institutions – which is more typical for individual sponsorship offered by foundations (for more information about activities of cultural foundations in Germany see <http://www.kulturfoerderung.org>).

While some of the *Länder* offer free training programmes at higher arts and music education institutions, others charge study fees which can reach or surpass 500 € per semester. Nearly all of the latter institutions provide some bursaries (with competitions) or fellowships for those who cannot afford such fees or who come from specific countries.

### **Research aid schemes**

Such schemes are part of the highly decentralised system of support for individual artists in Germany.

### **Promotion of copyright and neighbouring rights**

Both professional organizations and copyright licensing societies make efforts to actively inform artists about legal provisions, caveats and individual opportunities in branch magazines, websites, special workshops and the like. This has led to high membership figures in German licensing organizations.

## **ORGANIZATIONS**

### **(a/b) Governmental organizations working in the cultural sector, including ministries, councils and other government bodies in charge of culture**

The most important actors in German cultural policy are:

- The Federal Commissioner for Cultural and Media Affairs (<http://www.kulturstaatsminister.de>);
- The Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany (KMK) (<http://www.kultusministerkonferenz.de>);
- German associations of cities, towns and counties <http://www.kommunale-spitzenverbaende.de>

For other ministries and political actors on the Federal level, see:

<http://www.bundesregierung.de/Webs/Breg/EN/Federal-Government/Ministries/ministries.html>

For an overview of competencies of these and other actors in the cultural sector, see the German national profile in the Council of Europe/ERICarts Compendium (<http://www.culturalpolicies.net>)

### **(c) Government authorities responsible for the social integration of disabled artists within the cultural sector.**

Authorities, which are in charge of all types of disabilities and related professional needs, not only those of artists, are usually found on the local and regional level (e.g. "Versorgungsamt"). Their competencies are being regulated by a national law (Schwerbehindertengesetz of 26. August 1986).

## **REGISTER OF ARTISTS AND CULTURAL PROFESSIONALS**

A specific national register of all artists and other cultural professionals does not exist in Germany. However, there are individual sites, branch portals and Internet-databases, some of which can be accessed through general culture / arts portals. Two of such umbrella-portals are:

- Kulturportal of the Federal Government and the Länder: <http://www.kulturportal-deutschland.de>
- Portal of the culture servers of the Länder: <http://www.kulturserver.de>

**Source: German Federal Foreign Office, 2008.**

[www.auswaertiges-amt.de](http://www.auswaertiges-amt.de)