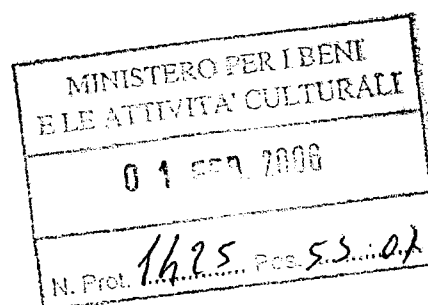


Osservatorio dello Spettacolo

**IL QUADRO NORMATIVO DEL SETTORE  
DELLO SPETTACOLO NEGLI ALTRI  
PAESI EUROPEI**

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<b>INTRODUZIONE.....</b>	<b>1</b>
<b>1) STATI FEDERALI.....</b>	<b>4</b>
<b>1.1 <u>Il caso tedesco</u>.....</b>	<b>4</b>
1.1.1 Struttura istituzionale e cenni normativi.....	4
1.1.2 Gli effetti della riunificazione tedesca.....	7
1.1.3 Cenni sulle politiche di alcuni Länder.....	9
<b>1.2 <u>Cenni su altri paesi europei</u>.....</b>	<b>12</b>
1.2.1 La Spagna.....	12
1.2.2 Il Belgio.....	16
1.2.3 L'Austria.....	17
<b>2) IL SISTEMA INTERMEDIO: I CONSIGLI DELLE ARTI.....</b>	<b>18</b>
<b>2.1 <u>Il caso britannico</u>.....</b>	<b>18</b>
2.1.1 Struttura istituzionale e cenni normativi.....	18
2.1.2 Politiche di sostegno alla produzione artistica.....	21
2.1.3 Politiche per favorire la diffusione dell'arte.....	27
<b>2.2 <u>Cenni su altri paesi europei</u>.....</b>	<b>30</b>
2.2.1 La Svezia.....	31
2.2.2 La Finlandia.....	33
2.2.3 I Paesi Bassi.....	34
<b>3) LO STATO UNITARIO.....</b>	<b>36</b>
<b>3.1 <u>La Francia</u>.....</b>	<b>36</b>
3.1.1 Struttura istituzionale e cenni normativi.....	36
3.1.2 Il Ministero della Cultura e della Comunicazione.....	37
3.1.3 Le leggi di decentralizzazione.....	40
3.1.4 La collaborazione tra il Ministero e le collettività.....	40
3.1.5 Obiettivi della politica culturale nazionale.....	42
<b>3.2 <u>Cenni su altri paesi europei</u>.....</b>	<b>45</b>
3.2.1 La Polonia.....	45
3.2.2 L'Ungheria.....	47

<b>3.2.3 Il Portogallo.....</b>	<b>48</b>
<b>CONCLUSIONI.....</b>	<b>49</b>
<b>BIBLIOGRAFIA TELEMATICA.....</b>	<b>50</b>
<b>ALLEGATI : STRUTTURA NORMATIVA, LEGISLAZIONE, DIVISIONE DELLA SPESA NEI VARI PAESI EUROPEI.....</b>	<b>53</b>

## INTRODUZIONE

Tenuto conto dell'eterogeneità dei dati disponibili questo studio non pretende di essere esaustivo riguardo alle discipline esaminate nell'ambito dello spettacolo né soprattutto riguardo alle politiche di sostegno prese in considerazione.

Esso si propone, piuttosto, di mettere in luce le varie tipologie esistenti di politiche culturali e di modelli nazionali ed illustrare di conseguenza i rispettivi quadri normativi e le variegate forme di sostegno allo spettacolo che da ciò derivano.

Diverse sono, infatti, le variabili che interagiscono tra loro, solo per citarne alcune: la legittimità d'intervento dei ministeri della cultura paese per paese, il grado di autonomia della gestione culturale all'interno del singolo stato, la commistione non sempre vera tra i concetti di cultura e di servizio pubblico o infine la difficoltà di trovare un accordo tra attori sociali nel delimitare un preciso perimetro d'intervento degli uni rispetto agli altri.

Un approccio sistematico inerente al contesto normativo dello spettacolo in Europa non risulta fattibile dal momento che buona parte dei più importanti paesi europei non contemplano leggi specifiche per lo spettacolo.

Infatti, mentre in Nord Europa e nello specifico in Scandinavia le leggi sullo spettacolo esistono ed hanno una valenza strategica e programmatica nella vita della società in buona parte degli altri paesi europei non vi è la stessa trasparenza.

Risulta così per i paesi di natura federale come Germania, Spagna e Belgio; risulta così per il Regno Unito che non ha una costituzione scritta; risulta, così, infine, per la Francia, paese, caratterizzato da un rapporto particolare tra Stato e cultura.

La mancanza di leggi chiare nei paesi appena citati non significa, tuttavia, che lo spettacolo non venga disciplinato in altre forme.

In tal senso, proprio il caso francese dimostra che per quanto venga a mancare una vera e propria legge sullo spettacolo lo Stato transalpino vanta grazie alla *Charte des missions de service public du spectacle vivant*<sup>1</sup>, un buon sistema di tutela previdenziale per tutti i lavoratori impiegati nel settore dello spettacolo.

In altri paesi, invece, il gap legislativo viene compensato da specifiche politiche di sostegno allo spettacolo.

Lo studio del contesto normativo e delle diverse tipologie di sostegno allo spettacolo in Europa non potrà, perciò, evolvere senza cenni esaustivi riguardo alla classificazione dei diversi modelli di amministrazione culturale in Europa.

L'intervento pubblico europeo in favore della cultura ha cominciato a concretizzarsi solo nel corso del XX secolo in maniera del tutto eterogenea a seconda dei paesi.

La legittimità d'intervento dei ministeri della Cultura in Europa ancora oggi varia molto riguardo alle materie trattate e riguardo alla gestione del perimetro d'intervento nei confronti delle altre istituzioni siano esse statali o locali.

Una classificazione dei diversi modelli di amministrazione culturale in Europa risulta perciò fondamentale a capire all'interno di quale contesto si esercitano le politiche di sostegno allo spettacolo.

Solo una volta chiarito il contesto si potranno definire le diverse tipologie di sostegno allo spettacolo in Europa.

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<sup>1</sup> Circolare del 1998 inviata dall'allora Ministro della Cultura Trautmann a tutti i prefetti del paese.

In tal senso, se si dovesse sommariamente canonizzare i diversi tipi d'intervento statale in ambito culturale conosciuti in Europa tre sarebbero le categorie:

- Gli Stati di tipo federale: l'essenziale delle competenze in ambito culturale appartiene alle collettività locali o agli stati componenti la Federazione. Lo studio verterà qui sul caso tedesco senza però prescindere da importanti cenni sui casi belgi e spagnoli.
- Gli Stati in cui le competenze culturali vengono delegati a dei consigli pressoché autonomi. Lo studio verterà qui sul caso britannico senza però prescindere da importanti cenni sui casi svedesi e finlandesi.
- Gli Stati in cui le competenze culturali sono a stretto appannaggio del Ministero della Cultura. Lo studio verterà qui sul caso francese senza però prescindere da importanti cenni sui casi polacchi, ungheresi e portoghesi.

Lo studio si dividerà in due parti ben precise: una prima parte analitica e una seconda parte composta da allegati estrapolati in lingua originale dalla rassegna cultural policies a cura del Consiglio d'Europa.

La seconda parte risulta fondamentale per completare la prima riguardo alla strutturazione delle politiche culturali nei vari paesi europei (ad eccezione del caso spagnolo), lo stato della legislazione ed, infine, la quantificazione e la qualificazione per il livello di spesa di ogni Stato analizzato.

# **1) STATI FEDERALI**

Il sistema federale si caratterizza, soprattutto, per l'esistenza di politiche diverse e a volte anche concorrenti tra gli Stati appartenenti alla Federazione.

Il fenomeno di autonomia regionale ha l'effetto di accentuare l'emergere di disparità nella gestione delle politiche e nel rapporto con i cittadini.

Il modello federale, perciò, tra i vari modelli allo studio risulta di gran lunga il modello tendente più all'eterogeneità e meno al coordinamento.

## **1.1) Il caso tedesco**

### **1.1.1) Struttura istituzionale e cenni normativi**

La Costituzione tedesca è l'unica costituzione in Europa che faccia esplicito riferimento ad un'organizzazione federale della politica culturale.

Essa stabilisce infatti che sono i sedici stati componenti la Federazione (i Länder) ad avere la responsabilità politica sul piano culturale<sup>2</sup>.

In concreto, ciò significa che le istituzioni culturali si dividono sull'intero territorio tedesco e sono quante sono le capitali dei Länder.

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<sup>2</sup> Le ragioni per cui la politica culturale non segue delle specifiche direttrici nazionali sono di ordine storico.

In primo luogo, i tedeschi sono rimasti scottati dall'accentramento culturale subito durante il periodo nazista; in secondo luogo la tradizione culturale in Germania è rimasta molto radicata all'esperienza delle città libere medievali.

Questi ultimi avranno competenza sia per progetti di rilevanza regionale sia per le fondazioni e le istituzioni culturali presenti all'interno del loro territorio.

Essi, in tale ambito sono equiparabili a veri e propri stati sovrani e di conseguenza, stabiliscono le loro linee guida programmatiche, le modalità di finanziamento e d'aiuto.

Tuttavia, il federalismo non sarebbe compiuto se le municipalità non avessero anche loro competenze in materia; in tal proposito è proprio il dettato costituzionale a stabilire mediante l'articolo 28 della Legge Fondamentale che la promozione della cultura a livello locale risulta a discrezione della singola municipalità<sup>3</sup>.

Riassumendo, il quadro normativo riguardante la cultura risulta essere la risultante di disposizioni contenute nella Legge Fondamentale, nelle costituzioni dei singoli Länder, negli statuti municipali e nella legislazione federale per ciò che riguarda specifiche tematiche ritenute d'importanza nazionale come per esempio la legge del Patrimonio artistico in cui si vieta il trasporto di opere nazionali di alta rilevanza culturale all'estero, la legge sul Copyright, la legge per la promozione del cinema o la legge per la protezione previdenziale degli artisti.

In riferimento alla Legge Fondamentale, desta grande interesse l'articolo 5 sulla la divisione delle competenze tra Stato Federale e Länder nei settori della cultura, della scuola e dell'insegnamento; secondo il dettato costituzionale, infatti, la Federazione deve portarsi garante del libero insegnamento e della libera divulgazione; in altre parole saranno i Länder

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<sup>3</sup> In tal modo ogni land risulta libero sia di organizzare la propria costituzione nei dei principi definiti dalla Legge fondamentale del 1949, sia di legiferare sul diritto comunale col vincolo, però, di garantire a comuni e quartieri il diritto di regolare in maniera autonoma gli affari locali.



ad essere competenti in ambito culturale salvo che per le materie citate in precedenza.

Tale competenza, incontra limitazioni, da una parte, nei compiti assegnati dalla Legge Fondamentale alla Federazione, dall'altra, dalle stesse costituzioni degli stati federati quando consentono alle municipalità di promuovere la propria cultura.

In realtà, le competenze dei Länder non sono definibili unicamente in negativo (ovvero ciò che il Land non può fare) esse, infatti, risultano riscontrabili di volta in volta nelle singole costituzioni regionali e da leggi specifiche. In tal senso, la legge riguardante le aree culturali di Freistaat (Sassonia) nel conciliare l'apporto del Land con quello delle comunità locali oltre ad aver fatto riscontrare nel concreto ottimi risultati ha creato i presupposti per fare del caso Freistaat una *best practice* istituzionale da ripetere in altri contesti della Federazione.

Riguardo alle municipalità va, infine, precisato che non esiste alcuno statuto specifico riguardo alle loro competenze all'interno dei vari Länder; ma, tuttavia, l'articolo 28 della Legge Fondamentale stabilisce che le municipalità hanno il diritto "di regolare tutti gli affari locali in loro propria responsabilità".

Non è un caso che la tutela dei teatri dei Länder competa in gran parte alle municipalità. Per i tedeschi, infatti, il teatro viene considerato elemento essenziale di prossimità. Un tale riconoscimento viene confermato da la scarsa mobilità delle strutture e degli artisti quest'ultimi garantiti o con contratti a tempo indeterminato o da statuti di funzionari municipali.

Una tale impostazione risulta efficace per due specifici motivi; in primo luogo, consente il consolidamento sul territorio di un tessuto culturale denso ed omogeneo ed, inoltre, favorisce l'adattamento a livello locale della politica culturale del singolo Land; aspetto, quest'ultimo,

fondamentale per il funzionamento dell'intero sistema tedesco dal momento ogni singolo Land ha facoltà di decidere in ambito culturale sia su quali interventi concreti apportare, sia sul come verranno gestite le istituzioni culturali locali.

Ogni città tedesca considera fondamentale possedere il proprio teatro e la propria orchestra dal momento che queste due istituzioni rispecchiano la comunità di appartenenza dell'individuo.

A questo proposito da notare che a differenza delle altre nazioni europee il valore del servizio pubblico nel caso della cultura viene garantito dalle collettività locali piuttosto che dalla collettività nazionale.

Le grandi città ben illustrano la diversità dei poli culturali tedeschi: la cultura alternativa e il cinema a Berlino, la Fiera del libro a Francoforte, la stampa ad Amburgo, la danza a Stoccarda, le accademie scientifiche a Dusseldorf e Heidelberg

Il trend che vuole le comunità cittadine come vere e proprie promotrici della cultura in Germania, trova conferme nelle lobby nate in questi ultimi anni; tra queste di notevole interesse la *Deutscher Stadtetag* (DST) comprendente le 500 più importanti città tedesche o la *Deutscher Städte und Gemeindebund* (DSGB) comprendente le 7000 località più piccole.

### **1.1.2 Gli effetti della riunificazione tedesca**

Nel 1990, la riunificazione tedesca ha in parte cambiato gli equilibri istituzionali in tema di cultura. Lo Stato, infatti, allo scopo di estendere la decentralizzazione culturale ai 5 länder orientali sino al 1989 abituati a concepire la gestione della cultura come una materia estremamente centralizzata, ha dovuto stanziare importanti fondi per accompagnare il passaggio da una gestione centralizzata ad una gestione decentralizzata.

Tuttavia, l'intervento dello Stato oltre a veder il bilancio del Ministero degli Interni quintuplicare ha cambiato di fatto il concepimento della cultura in Germania.

Il Trattato di unificazione, infatti, vincola la Federazione a prendere le misure necessarie affinché l'unione politica tra le due germanie non si traduca sul piano culturale in un'amputazione della sostanza culturale est-tedesca.

Le conseguenze di un tale cambiamento hanno determinato un embrione di una politica nazionale culturale.

Dal 1998 lo Stato tedesco ha un sottosegretario di Stato presso la cancelleria che si occupa della materia culturale e un dipartimento Cultura e Media è nato presso il Ministero degli Interni.

Inoltre dal 2002 è stata istituita la Fondazione culturale federale (*Kulturstiftung des Bundes*) organismo di emanazione statale col compito di promuovere l'arte e la cultura in ambito delle competenze generali attraverso il sostegno di progetti selezionati secondo i seguenti criteri:

- L'innovazione artistica in un contesto internazionale;
- La cooperazione e gli scambi culturali con l'estero;
- L'integrazione culturale delle minoranze immigrate.

Tale fondazione ha facoltà di finanziare per intero o parzialmente un determinato progetto.

La struttura della Fondazione culturale federale è quella secondo il diritto civile di una fondazione di pubblica utilità all'interno della quale sono rappresentati nel Consiglio:

- Il delegato del governo federale per la Cultura e i Media (che presiede il Consiglio);
- Un rappresentante del Ministero degli Affari esteri;
- Un rappresentante del Ministero delle Finanze;
- Tre membri del Bundestag (tra cui il suo presidente);
- Dei rappresentanti dei Länder e dei comuni;
- Delle personalità appartenenti al mondo dell'arte e della cultura.

Compongono, invece, il comitato direttivo quindici membri permanenti, che avranno facoltà di valutare i progetti sino ad un ammontare di 250.000 euro. Mentre per le somme superiori a tale somma sarà il Consiglio ad esprimersi.

La Fondazione solo nel 2003 ha beneficiato di un bilancio di 32 milioni di euro e ha sostenuto più di 90 progetti.

### **1.1.3 Cenni sulle politiche di alcuni Länder**

#### **a) La Baviera**

Il governo bavarese destina in media all'anno ad arte e cultura almeno 1.5% del proprio bilancio ovvero 0.5 miliardi di euro.

Anche le municipalità contribuiscono ad arte e cultura per il 60 % del loro bilancio.

Il principio di sussidiarietà viene scrupolosamente rispettato: lo Stato nazionale interviene solo se la taglia del problema supera le competenze del potere locale.

La Costituzione della Baviera stabilisce attraverso il suo articolo 3 che la Baviera è uno “Stato culturale” (*Kulturstaat*) e che esso accorda ai propri cittadini un’ autonomia culturale.

Inoltre l’ articolo 48 precisa che ogni distretto risulta competente riguardo alla gestione della propria politica culturale.

A ciò si aggiunga che il governo della Baviera si è impegnato affinché si incoraggi la creazione ed il rispetto dell’ individuo nella sua attività artistica.

In concreto, ciò si traduce nell’ impegno di promuovere l’ attività culturale e di sostenere l’ attività teatrale.

Il Land, ad esempio investe annualmente 46 milioni di euro per sostenere il tre principali teatri di Monaco di Baviera: il Bayerische Staatsoper, il Bayerische Staatsschauspiel e il Theater am Gärtnerplatz.

In tale contesto anche la musica gode di attenzioni importanti, perché considerato il viatico ideale per coinvolgere sempre di più i giovani nel mondo della cultura.

Oltre al finanziamento dei conservatori di Monaco e di Würzburg, infatti, il Land ambisce di decentralizzare sempre di più l’ offerta culturale aprendo a nuove forme di musica.

Infine, per quel che riguarda i finanziamenti pubblici, vanno considerati anche i contributi del Fondo culturale di Baviera, fondi provenienti da privatizzazioni e stornati annualmente per un ammontare quasi di 11 milioni di euro al finanziamento di progetti innovanti.

Oltre al contributo pubblico l’ arte e la cultura bavarese godono, altresì, di importanti finanziamenti privati provenienti sia da sponsors come per esempio il Siemens Art Program che annualmente sponsorizza il festival di musica sacra di Norimberga o l’ Audi che sostiene l’ Orchestra filarmonica di Berlino.

## b) Renania Nord-Westfalia

Il governo del Land spartisce le sovvenzioni tra comuni senza però imporre le linee ed i modi di utilizzo.

L'iniziativa culturale viene, infatti, lasciata alle associazioni e alle istituzioni culturali come per esempio i teatri.

Una dimostrazione chiara di questa politica di delega, si evince dal megastanzamento di 17.3 milioni nel 1995 destinato alla ristrutturazione di 26 teatri municipali.

Le città dalla loro, usano completare tali stanziamenti con finanziamenti propri anche se negli ultimi anni le casse cittadine hanno subito un ridimensionamento generale causa una congiuntura economica poco favorevole.

Di questa situazione di crisi economica hanno fatto le spese anche le principali istituzioni culturali del Land; ad esempio, il prestigioso Tanztheater di Wuppertal dopo il tagli del 30% dei finanziamenti cittadini è stato salvato sin extremis grazie ad aiuti straordinari del Land e di privati.

Da notare, infine, l'ambizioso tentativo di riconvertire la zona industriale della Ruhr in uno spazio multifunzionale per la cultura: il Festival della RuhrTriennale, sostenuto annualmente dal Land, nel 2003 ha ospitato 129 spettacoli culturali raggiungendo uno share di presenza dell'88% dei posti disponibili.

## c) Berlino

Nel 1999 il Ministro del governo tedesco delegato alla Capitale ha deciso di erogare annualmente alla città di Berlino 50 milioni di euro all'anno per la cultura.

Tuttavia, già nel 2001 lo stesso Ministro accortosi che buona parte dei finanziamenti non arrivavano a destinazione ha deciso di privilegiare la strada del finanziamento *ad hoc*. Tra i vari finanziamenti mirati si possono annoverare la Fondazione del museo ebraico, la Casa delle culture del mondo, il Museo Martin Gropius, il Festival del Cinema e per l'Isola dei musei.

Tale impostazione sembra poi aver prevalso su quella precedente dal momento che la Federazione dal 2001 si è impegnata a stanziare 75 milioni di euro l'anno a condizione che questi venissero destinati a progetti precisi prestabiliti ovvero in gran parte progetti destinati alle strutture sopracitate.

Da sottolineare, infine, che lo Stato federale stanziava annualmente 10 milioni di euro alla città di Berlino affinché questa incoraggi le forme di arte che favoriscano il dialogo interculturale.

## **1.2) Cenni su altri paesi europei**

Il modello federale è il modello che vanta più interpretazioni; ad esempio Belgio, Austria, Germania e Spagna si dividono in regioni definite da criteri di appartenenza linguistica e culturale molto specifici.

### **1.2.1) La Spagna**

Per quanto la Costituzione del 1978 stabilisca che la cultura sia una competenza dello Stato (art. 149) lo stesso testo prevede, altresì, la

possibilità per le 17 comunità autonome componenti il Regno di rivendicare in nome della tutela della diversità culturale la competenza in ambito culturale.

Tale rivendicazione, come dimostrano gli esempi di Catalogna, Paesi Baschi, Navarra, isole Canarie ed Aragona sembra diventare sempre più prassi.

La discrasia tra teoria e pratica emerge nei casi frequenti di contrasto tra i locali Consigli di cultura e gli orientamenti dettati dall'autorità centrale.

In tal proposito, in ambito statale prevale la linea di non interferire nelle singole politiche culturali delle comunità. Una tale tendenza trova del resto una sponda importante nella Costituzione spagnola del 1978 ove questa s'impegna a tutelare la diversità culturale e le specificità linguistiche, entrambe, nel passato messe a repentaglio dal franchismo.

In realtà lo Stato spagnolo dispone di un Ministero della cultura e di istituzioni centrali come il Sottosegretariato alla programmazione politico culturale, un o il sottosegretariato generale tecnico alla documentazione e alla pubblicazione.

Tuttavia, le varie comunità sembrano tendere a sviluppare soprattutto programmi locali, non ultime Catalogna e Paesi Baschi ovvero le due regioni più lontane dai tentativi di coordinamento provenienti da Madrid.

Ciononostante lo Stato investe molto nel sostegno alla cultura.

#### a) Un investimento massiccio nelle infrastrutture

Durante i primi anni della transizione democratica le amministrazioni spagnole hanno ritenuto prioritario colmare il deficit d'infrastrutture culturali accusato in occasione del periodo franchista.



Tale priorità, inizialmente avvertita dallo Stato centrale è presto stata fatta propria anche dalle municipalità.

Il ruolo delle municipalità è stato fondamentale nella politica di riassorbimento della crisi delle infrastrutture teatrali.

Nell'ambito dell'opera congiunta Stato-comunità locali di riabilitazione dei teatri dal 1983 ad oggi sono stati investiti 30 milioni di euro

Grande importanza è stata poi data alla riabilitazione delle sale musicali come l'antico Auditorium di Granata o la costruzione di nuove sale come il Kursal di San Sebastian o gli Auditorium di Barcellona e di Tenerife.

#### b) Aiuti diretti alla creazione e alla produzione

Per quanto previsti soprattutto per il settore pubblico, gli aiuti alla creazione e alla produzione risultano importanti anche per la sopravvivenza del settore indipendente.

Tra i due settori, però, variano sensibilmente le modalità di distribuzione.

Per il settore pubblico, innanzitutto, le somme allocate sono nominative e versate in maniera automatica ad intervalli regolari, il che significa che non vige nessun tipo di giustificazione di spesa.

Al contrario per quel che riguarda il settore indipendente l'attribuzione di sovvenzioni avviene su preciso progetto e verte a coprire unicamente i costi di mantenimento e di funzionamento delle strutture.

#### c) Aiuti alla diffusione

Diversa è la situazione riguardo agli aiuti alla diffusione dal momento che lo Stato interviene solo marginalmente ed unicamente in campo musicale.

Per il resto, spetta alle comunità autonome fare rete promuovendo i propri palinsesti attraverso una razionalizzazione dei costi ed oculate campagne pubblicitarie.

Strumento privilegiato impiegato dalle collettività locali sono i finanziamenti ai circuiti e alle tournées locali ; mediante tale impostazione si raggiungono, infatti, due risultati: razionalizzare i costi ed assicurare ai piccoli e medi centri del paese un livello omogeneo di offerta culturale.

L'esperienza del Circuito Teatrale Valenciano (CTV) costituisce un interessante esempio di questa impostazione. Dal 1986 i servizi culturali della comunità valenciana hanno contribuito all'estensione e alla territorializzazione in tutta la comunità di una rete di diffusione teatrale in grado in grado di consolidare le programmazioni di strutture stabili.

#### d) Il sostegno del settore privato

Ad esclusione di alcune specifiche operazioni pubblicitarie il settore privato manca completamente nel mondo della cultura.

Va comunque detto che si attendono gli effetti di due leggi spagnole che nel dicembre 2002 hanno riformato il dispositivo legislativo che si occupa del mecenato e delle fondazioni.

La legge del 23 dicembre 2002 relativa al regime fiscale delle entità a fine non di lucro e ai vantaggi fiscali propri al mecenato ha definito il concetto di "organismo a fine non di lucro" per rendere più conveniente il regime fiscale della donazione.

In concreto, ciò sembra funzionare dal momento che le donazioni provenienti da privati sono aumentati del 25 % in due anni.

La legge del 26 dicembre 2002, poi, ha facilitato la creazione ed il funzionamento delle fondazioni.

## 1.2.2) Il Belgio

Se l'esempio spagnolo dimostra che le politiche culturali vengono negoziate caso per caso, anche in Belgio la situazione presenta alcune similitudini.

Il Belgio è uno stato federale diviso in 3 regioni (Fiandre, Vallonia e Bruxelles) e in 3 comunità linguistiche (fiamminga, vallone e tedesca) tutte rispettivamente titolari di proprie competenze.

In ambito culturale ed educativo sono le comunità linguistiche a detenerne la responsabilità.

L'autonomia culturale riconosciuta nel 1970 alle due grandi comunità linguistiche ha avuto per conseguenza che alcune minoranze culturali presenti nelle Fiandre ed in Vallonia hanno invocato ed ottenuto il cosiddetto Patto culturale ovvero la garanzia da parte dell'autorità centrale la partecipazione alla vita culturale del paese.

In concreto, ciò significa che l'infrastruttura pubblica possa essere messa a disposizione delle iniziative di tutti senza discriminazioni e restrizioni di nessun tipo.

In tal modo lo stato belga ha acquisito una struttura federale in cui la politica culturale risulta emanazione delle entità federate.

Tuttavia, contrariamente agli altri stati federati il Belgio non dispone a livello nazionale di uno Ministero incaricato in maniera specifica di politiche culturali.

La complessità della situazione belga risiede nel fatto che ad esclusione dei settori della Difesa, Giustizia, Moneta ed Affari esteri di competenza dello

Stato centrale il resto dipende dalle regioni e dalle comunità. Le prime (Fiandre, Vallonia, Bruxelles) gestiscono dei budget economici su dei perimetri geografici ben delimitati; al contrario, le comunità nel confrontarsi con la tematica culturale devono fare i conti anche col fattore linguistico (a seconda francese, fiammingo o tedesco).

La complessità della situazione emerge soprattutto alla luce del fatto che ad esclusione della gestione del patrimonio, settore di competenza regionale, tutto il resto (relazioni culturali internazionali, politica linguistica, cultura ed audiovisivo, ricerca scientifica ecc) è di competenza delle comunità

Ad oggi con una comunità fiamminga (6 milioni di persone) con un proprio ministero della cultura ed una comunità francofona (4.5 milioni di persone) anch'essa con un'istituzione simile risulta molto difficile capire quali siano le forme di sostegno allo spettacolo, soprattutto alla luce della difficoltà di intendersi tra le due comunità riguardo alla gestione delle istituzioni intra-comunitarie come per esempio il Teatro della Monnaie di Bruxelles.

### **1.2.3) L'Austria**

Per quanto di norma gli Stati federali hanno scarsa vocazione nell'interferire nelle politiche di sostegno allo spettacolo a cura delle loro entità federate, l'Austria, paese a struttura federale, sembra costituire un'eccezione di tipo rilevante.

Lo Stato austriaco, infatti, contribuisce per il 50% delle spese culturali del paese, in parte sostenendo iniziative volte a rafforzare l'identità nazionale, dall'altra finanziando comuni e province incapaci da soli a promuovere la cultura.

## **2) IL SISTEMA INTERMEDIO: I CONSIGLI DELLE ARTI**

Un tale sistema può definirsi intermedio dal momento che per quanto il responsabile ultimo rimanga lo Stato, sono i Consigli delle arti a gestire in concreto la politica culturale.

E' il sistema cosiddetto socialdemocratico dal momento che ripone su un pluralismo sia politico che sociale che nella sua dimensione culturale ha il merito di moltiplicare le strutture di negoziato per l'organizzazione e la concertazione.

E' presupposto di base per i fautori di tale sistema che un lavoro artistico non può che risultare fruttuoso per lo stato generale e per il benessere della società e che perciò vada sostenuto.

In un tale contesto, il rendere più fruibile la politica culturale al cittadino significa rafforzare la propria politica sociale.

### **2.1) Il caso britannico**

#### **2.1.1) Struttura istituzionale e cenni normativi**

Per quanto il modello britannico di sostegno allo spettacolo si contraddistingua tradizionalmente per uno scarso interventismo statale e per una forte propensione ai finanziamenti privati, risulta innegabile che con l'avvento al potere del Partito Laburista nel 1997 lo Stato si sia implicato in ambito culturale con maggior decisione rispetto al passato.

In tal senso, l'avvicendamento del tradizionale Ministero del Patrimonio Nazionale (*Department of National Heritage*) col Ministero per la Cultura, i Media e lo Sport (*Department for Culture, Media and Sports*) e soprattutto il raddoppio dei fondi passati da 900 M di sterline nel 1994 a 1881 nel 2002.

Il Ministero per la Cultura, i Media e lo Sport è competente riguardo a:

- Musei e gallerie a cui destina gran parte del proprio budget;
- Biblioteche d'importanza nazionale;
- Le dimore e i parchi reali;
- Le arti, di cui ad eccezione della Collezione d'arte del Governo la gestione compete agli *Arts Councils*;
- La televisione e il cinema di cui la gestione di quest'ultimo compete al *Film Council*;
- Lo sport la cui gestione è in delega al *Quango Sports England*;
- Il turismo.

Il Ministero si occupa poi dal 1994 della gestione e della regolazione dei fondi della Lotteria nazionale. Una parte dei proventi è infatti divisa in percentuali uguali tra il *New Opportunità Fund* (ambiente, educazione e salute) e il fondo per le buone cause (*good causes*) comprendente le organizzazioni caritatevoli, le arti, lo sport e il patrimonio.

Se la Lotteria ha conseguito un successo importante nei suoi primi anni, ultimamente questa sembra rendere meno in valore assoluto; fatto grave, dal momento che negli ultimi anni si è fatta strada in ambienti governativi britannici la convinzione che i proventi della Lotteria avrebbero potuto consentire un disimpegno dei contributi diretti statali dal mondo della cultura.

Tuttavia, malgrado una rinvigorita presenza statale, il sistema britannico di sostegno allo spettacolo si caratterizza per un'importante decentralizzazione fondata su continue deleghe ad istituti collegiali integrati ai dipartimenti ministeriali ma da loro dipendente solo indirettamente.

Questi istituti, infatti, godono di una certa autonomia riguardo alle politiche da condurre.

Da notare, che nello specifico ambito delle arti, parte dei proventi spetta ai vari *Arts Councils* britannici.

Gli *Arts councils* sono degli organismi incaricati di occuparsi della politica artistica in toto con le *mission* specifiche di:

- Sviluppare e migliorare la conoscenza e la comprensione e la pratica delle arti;
- Accrescere la loro accessibilità in cooperazione con i dipartimenti del governo, le autorità locali e tutte le altre istituzioni pubbliche che si occupano d'arte.

Tali organismi, che si trovano a ridistribuire la quasi la totalità dei fondi emanati dal Ministero e dei proventi provenienti dalla Lotteria nazionale, per quanto indipendenti, devono rendere conto delle loro operato davanti al governo.

Originariamente l'Arts Council era un organismo unico, l'Arts Council of Great Britain; poi nel 1994 a seguito di un vasto processo di decentralizzazione ogni nazione britannica ha avuto il suo Arts Council.

Oggi esistono quattro Arts Council: l'Arts Council inglese, l'Arts Council scozzese, l'Arts Council gallese e l'Arts Council nordirlandese tutti esclusivamente responsabili davanti alla loro governo di riferimento.

## **2.1.2) Politiche di sostegno alla produzione artistica**

Prima dell'avvento del Partito Laburista il sostegno alla produzione mancava del tutto di coordinamento alternandosi tra generici interventi a pioggia e il finanziamento episodico di rari progetti mirati.

Soltanto dal 1997, infatti, sono emerse vere e proprie linee direttrici e precise categorizzazioni per ordini tematici.

In un tale contesto quattro sono i campi d'intervento:

- Il sostegno alle organizzazioni;
- Il sostegno agli artisti;
- Il favorire l'investimento privato;
- Il mecenatismo.

### **a) Il sostegno alle organizzazioni**

Il finanziamento pubblico delle organizzazioni artistiche britanniche avviene in tre forme diverse: sovvenzioni pubbliche classiche, sovvenzioni pubbliche specifiche e sostegno tecnico.

- Finanziamento classico

Le organizzazioni artistiche percepiscono i fondi ministeriali attraverso i vari *Arts councils*.

Nello specifico, le organizzazioni finanziate stabiliscono con l'*art council* di riferimento un accordo di finanziamento il *Funding Agreement* in cui esse per quanto abbiano totale libertà sul come allocare le risorse



s'impegnano a rispettare una serie di parametri. Tra questi, l'obbligo di fornire quattro rapporti trimestrali sull'utilizzazione dei fondi, l'obbligo in ordine annuo di realizzare un certo numero di attività e di coinvolgere un certo numero di spettatori e l'obbligo di aprirsi al pubblico.

Al fine di garantire maggiore stabilità alle organizzazioni artistiche dal 2003 la formula del *Funding Agreement* da annuale è diventata triennale.

Va comunque detto che non tutte le organizzazioni sembrano condividere a pieno la filosofia del *Funding Agreement* ritenuto uno strumento troppo dirigista per poter convivere col principio di creazione artistica.

- Forme di finanziamento specifiche

Sempre lo Stato attraverso i propri *Arts councils* ha previsto forme di sostegno mirate diventate ben presto delle *best practices* degne di attenzione.

Qui verranno brevemente esaminate tre linee programmatiche finanziate dall'Art Council England.

In primo luogo merita attenzione il programma *Art for Everyone (A4E)* programma aperto a tutti nato nel 1996 per favorire la creatività artistica.

Per poter attingere ai contributi che vanno da 500 a 500.000 sterline i richiedenti devono poter soddisfare alcuni specifici canoni come la promozione della cultura tra i giovani, il favorire l'innovazione artistica ma anche il garantire al progetto un'altra forma di cofinanziamento di almeno il 10% del valore totale.

L' *Art for Everyone* è uno dei fiori all'occhiello del governo laburista fortemente determinato a dare al cittadino la possibilità di creare e di innovare.

Altro programma di forte impatto è il *New Framework*, programma, volto a risollevare lo stato del teatro locale. In tal senso il *New Framework*

soprattutto dal 2001 ha consentito a 160 teatri regionali e a 40 compagnie itineranti, oltre che di sopravvivere di poter pianificare almeno per il medio periodo un'importante attività artistica.

Infine, non ultimo in ordine di importanza il *Stabilisation and Recovery*, programma, nato per sostenere le grandi organizzazioni in difficoltà finanziaria. Per essere parte del progetto, infatti, queste organizzazioni devono fatturare annualmente almeno 250.000 sterline e coinvolgere almeno 25.000 spettatori. Questo fondo ha sostenuto nei loro periodi di crisi tra gli altri la Royal Shakespeare Company, la Royal Opera House e l'English National Theatre.

- Forme di sostegno tecnico

Alla luce di un legame sempre più forte tra il mondo dell'arte e il mondo degli affari i rispettivi *Arts councils* hanno focalizzato di recente il management artistico come sfera d'intervento.

Nello specifico, per esempio, l'Art Council Scotland consente a sette organismi all'anno di consolidare comunicazione e management.

In tal senso il governo sostiene poi direttamente alcune associazioni di professionisti come per esempio Arts & Business al fine che queste sostengano al livello di consulenza il mondo dell'arte.

Di rilevante interesse anche il programma Arts@Work facilitate che consente a professionisti della gestione e a professionisti del mondo artistico di interscambiarsi e di completarsi a vicenda nel campo dell'altro.

Il Regno Unito sembra puntare molto sui "manager artistici".

## **b) Il sostegno agli artisti**

In questi ultimi anni gli *Arts councils* hanno concentrato la loro attenzione oltre che sulle organizzazioni, altresì, sui singoli artisti. Ad esempio, l'Art Council England nel suo piano triennale 2003-2006 calca sull'importanza dell'artista in quanto volano di creatività.

In tal senso gli *Arts councils* hanno di creare un contesto ideale intorno all'artista: miglioramento della sua situazione finanziaria, sostegno della sua crescita professionale sia a livello nazionale che internazionale e fruizione agevolata degli strumenti di lavoro.

Due sono le linee direttrici utilizzate per concretizzare tali buoni propositi:

- Agevolazione del contesto sia giuridico che fiscale in cui l'artista opera

In realtà, la prima via non risulta molto percorsa dal momento che l'artista britannico in generale non gode, a differenza di altri paesi, di uno statuto particolare.

Unica eccezione rispetto alle altre professioni è quella che vede la possibilità per l'artista, se capace di dimostrare di percepire redditi molto di tenore finanziario molto diverso nel corso degli anni, di spalmare il pagamento delle tasse nel medio periodo.

Visto la mancanza di una cornice di garanzia l'artista tende sempre di più a rivolgersi ai sindacati di artisti di riferimento; organismi quest'ultimi poco efficaci perché numerosi e poco coesi.

Va comunque detto che in questi ultimi anni l'Art Council England ha condotto una serie di studi volti a capire quali conseguenze potrebbe comportare il fissare un minimo salariale per gli artisti; studi, che hanno incontrato una certa ostilità da parte dei numerosi sindacati di artisti, determinati a mantenere propria la facoltà di negoziare caso per caso.

Va infine aggiunto che dalla galassia degli artisti fanno eccezione gli autori unici garantiti grazie al meccanismo di protezione dei diritti d'autore (*public lending rights*).

- Regime di aiuti generalizzati

Viste le reiterate difficoltà ad intraprendere il primo percorso gli *arts councils* si propongono di combattere lo stato di precarietà dell'artista britannico attraverso l'erogazione di sovvenzioni *ad hoc* sotto forma di borse di studio, di contributi a progetto o di alloggi pagati il tutto per una durata massima di tre anni e non superante la somma totale omnicomprensiva di 30.000 sterline.

Da non sottovalutare poi le numerose borse di studio fruibili attraverso fondazioni ed associazioni. Tra queste la Royal Court, la Jerwood Charitable Foundation o la Clore Duffield Foundation.

### **c) Il favorire l'investimento privato**

Il governo britannico trova il modo di sostenere il mondo dell'arte anche grazie ad una sempre maggiore *partnership* col mondo privato.

Tale impostazione ereditata dai governi Thatcher si articola sia attraverso un contesto legale favorevole agli investimenti privati che attraverso dei programmi specifici misti tra pubblico e privato.

Organismo di raccordo tra pubblico e privato è l'Arts & Business organizzazione finanziata dagli *arts councils* comprendente 335 operatori del mondo degli affari e capace in vent'anni di stornare al mondo dell'arte un investimento superiore al miliardo di sterline.

Tra i propri programmi emerge il New partners, programma capace di generare sino ad oggi 271 collaborazioni tra mondo dell'arte ed imprese e di stornare 8 milioni di investimenti privati.

Altro programma importante risulta essere Art@Work, programma capace di alimentare scambi professionali continui tra esponenti del business e del mondo dell'arte.

Oltre alla preziosa attività fruita da Arts & Business va segnalato il programma Private Financial Iniziative, partenariato nato nel 1992 tra le autorità locali e il settore privato volto alla ristrutturazione di costruzioni di grande interesse culturale.

Infine sempre nell'ambito simbiosi pubblico-privato non si può dimenticare l'Enterprise Investment Scheme, strumento che consente allo stato di realizzare deduzioni fiscali sino al 20% dell'imposta sul reddito (per un massimo di 150.000 sterline l'anno) in favore delle imprese impegnate in azioni di mecenato.

#### **d) Il mecenato**

Per quanto all'interno del Regno Unito l'attività di mecenato sia stata per il mondo dell'arte molto rilevante nei decenni passati, in seguito alla recente presa d'impegno laburista e alla conseguente rivisitazione del rapporto tra il mondo dell'arte e lo Stato, tale attività sembra essersi un po' ridimensionata. Non a caso nel tra il 1999 e il 2002 gli investimenti privati sono diminuiti del 26% in valore assoluto.

Resta però il fatto che in tema di finanziamenti privati il Regno Unito resta in Europa all'assoluta avanguardia.

Si pensi soltanto che sui 2 miliardi di sterline che associazioni e fondazioni donano ogni anno il 30% ovvero un po' più di 600 milioni di sterline viene destinato al mondo dell'arte.

Tuttavia, per quanto i proventi delle donazioni risultino particolarmente importanti, il mecenato al momento non ha nessuna possibilità di sostituirsi allo Stato dal momento che i propri finanziamenti per quanto cospicui dipendono troppo dalla congiuntura economica e perciò non garantiscono quel minimo di stabilità di cui il mondo dell'arte ha bisogno per realizzarsi.

### **2.1.3) Politiche per favorire la diffusione dell'arte**

All'interno del Regno Unito sono gli *Arts councils* a sostenere la diffusione del prodotto artistico.

Nello specifico, all'interno degli *Arts councils* articolano la loro opera di sostegno direttamente facilitando all'interno del paese la mobilità del prodotto artistico possibile attraverso finanziamenti mirati, sia finanziando organismi intermedi specializzati nella comunicazione specifica di un determinato prodotto artistico, tra questi il Jazz services o l'agenzia per la danza la Dance 4.

Inoltre in aggiunta alle forme classiche di finanziamento alla diffusione del prodotto artistico esistono importanti partnership tra lo Stato e i privati, tra queste la Barclays Stage Partners, partnership che consente ad una decina di compagnie teatrali all'anno di poter produrre la propria opera almeno in 3 luoghi diversi del paese.

Rilevante nella diffusione del prodotto artistico all'interno del paese anche il ruolo della British Broadcasting Corporation (BBC) vera e propria leader nella diffusione musicale; prima organizzatrice di

concerti nel paese, titolare di 5 grandi orchestre e sostenitrice di una trentina di progetti musicali l'anno.

Per quel che riguarda, invece, la diffusione dell'arte britannica all'estero il compito spetta al British Council, organismo sotto tutela non del Ministero per la Cultura, i Media e lo Sport bensì del Ministero degli Affari Esteri.

Il British Council, diretto da un consiglio di amministrazione di nomina ministeriale, ha gestito nel periodo 2002-2003 ha gestito 115 milioni di sterline di cui il 10% è stato destinato alla promozione artistica con il risultato di aver reso possibile la realizzazione dei 1900 progetti artistici britannici in più di cento paesi del globo.

Altro compito del British Council è quello di portare artisti stranieri nel Regno Unito e di aiutarli ed orientarli durante il loro soggiorno.

Da non sottovalutare, infine, il ruolo dei festivals, strumento che consente, soprattutto, alle piccole realtà artistiche di ammortizzare i costi.

Riguardo al loro finanziamento, i festivals minori vivono dei contributi sia di sponsors che delle collettività locali, mentre i cosiddetti festivals maggiori si appoggiano sugli *arts councils* tra loro il Dance umbrella e l'Edinburgh International Festival entrambi, di rilevanza internazionale.

#### **a) Politiche per rilanciare le infrastrutture**

La ristrutturazione delle infrastrutture culturali insieme al riavvicinamento del cittadino alla cultura fa parte delle priorità del governo laburista che una volta arrivato al potere nel 1997 non ha esitato un solo istante a stornare gli importanti proventi della Lotteria Nazionale nei confronti delle suddette priorità.

In concreto, la gestione della ristrutturazione delle infrastrutture, risulta di competenza del Arts Capital Programme costola dei rispettivi *arts councils*. Di questo programma hanno beneficiato tra gli altri la Royal Opera House, l'English National Opera, la Scottish Opera, il du tRon Theatre di Glasgow il Soho Theatre ma anche il Millennium Dome.

In un primo tempo tale meccanismo operava solo in presenza di un regime di cofinanziamento, in altre parole chi voleva ristrutturare una data infrastruttura doveva garantire con fondi privati una parte importante della somma; nel caso della ristrutturazione del Soho Theatre per esempio, sono stati impiegati 8 milioni di sterline "statali" e 3 milioni di capitali privati. Dal 1998 poi, il vincolo del cofinanziamento è stato allentato al fine di penalizzare le realtà artistiche d'ingombro minore naturalmente sfavorite nella materia del *fund raising*.

In realtà, la priorità di finanziare le infrastrutture non ha costituito il volano sperato per riavvicinare i cittadini alla cultura; inoltre la ripartizione di fondi è andata a favorire le regioni economicamente più floride e perciò meglio organizzate a livello di lobby a discapito di centri meno sviluppati e più periferici rispetto al sistema.

E' per questo motivo che di recente il governo laburista ha deciso di reimpostare i criteri redistributivi dei proventi della Lotteria nazionale a parziale discapito delle infrastrutture e in favore dei progetti artistici.

## **b) Il riavvicinamento del cittadino alla cultura**

Alla luce del parziale fallimento del rilancio delle infrastrutture, il governo laburista ha deciso di deviare la propria attenzione sull'educazione alla cultura e all'apertura dell'arte al pubblico.



Alla luce di tale mutamento di rotta la libera fruizione della cultura è diventata *conditio sine qua non* per percepire fondi dagli *arts councils*. In concreto, ciò si traduce nel fatto che chi vuol percepire contributi deve impegnarsi a combattere ogni forma di discriminazione, raggiungere un certo numero di spettatori, calibrare le proprie proposte sui giovani e sulle scuole (palinsesti diurni).

Questa nuova esigenza si è ricalcata anche sulla struttura degli *arts councils* oggi tutti dotati di un dipartimento per l'apertura al pubblico.

Di grande impatto poi, anche la campagna di educazione e di sensibilizzazione all'arte come testimonia il successo del programma Arts 2000, programma che associa con cadenza annuale una città britannica ad una specifica disciplina artistica.

Infine da notare i diversi programmi diretti ai giovani e alle scuole da parte del Ministero per la Cultura, i Media e lo Sport; tra loro l'Artsmark for School, progetto capace nel 2001 di coinvolgere 556 scuole del regno nella promozione dell'arte.

La via intrapresa per quanto risulti una via molto difficile sembra funzionare come prospetta l'ambizione, peraltro, del manifesto programmatico dell'Art Council England "21 th Century Arts Organisation" di "fare dell'Arte uno specchio della società britannica".

## **2.2 Cenni su altri paesi europei**

I sistemi cosiddetti intermedi sono tipici del Nord Europa e sono definiti tali dal momento che per quanto la responsabilità in ambito culturale compete allo Stato, questo tende delegare numerose competenze, che variano da paese a paese, ai rispettivi Consigli delle Arti.

In Nord Europa le leggi sullo spettacolo definiscono con chiarezza l'azione strategica e programmatica del ministero della Cultura e delimitano con precisione le responsabilità dei vari attori istituzionali operanti nel settore.

Per quanto il modello nord europeo di governo della cultura appaia come un modello dirigista, questo risulta essere un modello molto partecipato al livello degli attori sociali dal momento che in Europa settentrionale e nello specifico in Scandinavia è convinzione storica che la partecipazione culturale e la democratizzazione della cultura sono parte integrante della politica sociale.

In concreto ciò significa che per quanto la gestione della politica culturale resti responsabilità dei vari ministeri della Cultura, questi ricorrono regolarmente all'ausilio dei rispettivi Consigli delle Arti e all'apporto delle istituzioni locali ritenute vettore imprescindibile all'interno della società.

Un tale impianto risponde ad una forte impostazione socialdemocratica fondata su un pluralismo politico e sociale che nell'ambito sociale si sviluppa attraverso la moltiplicazione delle strutture per il negoziato e la concertazione e che presuppone che lo sviluppo di arte e cultura non può che giovare al benessere e allo sviluppo della società.

### **2.2.1) Svezia**

La Svezia costituisce il paradigma di tale impostazione.

Non è un caso che gli investimenti dei governi succedutesi alla guida del paese non abbiano fatto che crescere in ambito sanitario e culturale e che gli attori sociali siano stati sempre più coinvolti da tale progetto.

Nello specifico della politica culturale l'amministrazione del settore avviene di concerto tra istituzioni centrali e istituzioni locali.

In primo luogo, sono i 229 comuni del paese, forti degli introiti dovuti alla loro autonomia fiscale, a mantenere gli impianti culturali pubblici; l'autonomia fiscale consente poi ai 18 dipartimenti (*Landsting*) di garantire lo stato dei teatri e delle orchestre regionali. In entrambi i casi, l'opera delle collettività locali viene resa possibile dall'aiuto diretto e compensatorio dello Stato mediante l'utilizzo delle prefetture (*Länsstyrelser*).

Anche il mondo dell'associazionismo partecipa e concerta col potere centrale allo sviluppo culturale della società svedese.

Il paese scandinavo è forse il primo paese ad aver portato avanti l'idea di promuovere una socializzazione di massa mediante la cultura come testimoniano le miriadi di associazioni popolari sparse sul territorio nazionale.

Nella Storia svedese, infatti, tali associazioni oltre a gestire per l'educazione dei cittadini hanno, altresì, sostenuto la domanda artistica.

Ancora oggi tali associazioni dedicano all'arte e alla cultura il 40% delle loro attività come dimostrano i seguenti dati: 6000 corali, 40.000 musicisti, 200 compagnie teatrali, 500 associazioni folkloristiche ed infine 1500 associazioni artistiche.

Non sorprende perciò che il Ministero della Cultura svedesi destini ogni anno un terzo del proprio bilancio a tali associazioni.

Resta, però, il fatto che il Ministero per la Cultura avrebbe grandi difficoltà nell'attuare le proprie linee programmatiche senza il Consiglio Nazionale degli Affari culturali (*Statene kulturråd*), l'unica istituzione che amministra e finanzia per conto del ministero, seppur tramite mediazione delle collettività locali, teatri, orchestre, musei e biblioteche

Da notare la diversità di gestione del finanziamento nel caso di istituzioni culturali d'interesse nazionale come per esempio la *Royal Opera*. In tali occasioni, lo Stato nomina un direttore ed un consiglio di amministrazione

coi quali interfaccerà solo quando si tratterà di finanziare l'ente in considerazione e in nessun caso potrà interferire nell'ambito del palinsesto artistico.

Infine, ultima forma di sostegno degna di menzione "Cultura per il futuro" linea di bilancio annuale di 57 milioni di euro tendente a favorire progetti culturali innovativi.

### **2.2.2) Finlandia**

Come dimostrato dal caso svedese l'organizzazione istituzionale del Nord Europa tende molto ad amalgamare una larga autonomia delle collettività locali con un "dirigismo dolce" da parte delle istituzioni centrali.

Nello specifico, in Finlandia avviene una netta divisione di responsabilità pubbliche tra istituzione centrale ed istituzione locale. Mentre l'istituzione centrale tende a sostenere la cultura in generale, le istituzioni locali hanno competenza, invece, nello specifico sostegno della politica dello spettacolo. In Finlandia, infatti, lo Stato al fine di garantire l'omogeneità di offerta culturale all'interno del paese stanziava importanti somme pari al 57% del bilancio annuale per la cultura alle collettività locali senza preoccuparsi minimamente sul come queste vengano spese.

L'idea fondamentale alla base delle politiche di sostegno dello spettacolo in Finlandia si può desumere dalla legge del 1993 relativa al sostegno delle orchestre: " la condizione imprescindibile affinché lo Stato intervenga è che il proprietario del teatro o dell'orchestra sia un comune, una rete di comuni, una collettività privata o una fondazione di cui i compiti statutari corrispondano all'esercizio di un'attività artistica o al mantenimento delle strutture teatrali o orchestrali; e che il teatro e l'orchestra si esibiscono in maniera permanente e professionale".

Nello specifico, alla luce della normativa per quanto lo Stato non intervenga specificamente nelle attività delle orchestre, esso ne garantisce la continuità ed assicura la sicurezza economica.

Ogni anno lo Stato finanzia 22 orchestre sul territorio.

### **2.2.3) Paesi Bassi**

Un classico esempio di modello intermedio in cui Ministero e Consiglio delle Arti coabitano è il modello olandese.

Oltre ad un ministero forte che si limita però quasi esclusivamente a determinare le linee strategiche alla base della politica culturale del paese, agiscono il Consiglio delle Arti (dal 1997 rinominato Consiglio della Cultura) e le collettività locali.

Il primo è un organo, composto da quindici esperti nominati dalla Corona e dal governo, col compito di consigliare il Ministro della cultura nelle varie materie di competenza; l'aspetto esecutivo, per conto del Ministero compete a delle commissioni nominate *ad hoc* dal Ministro.

Parallelamente accanto al Ministero, al Consiglio e alle Commissioni operano le comunità locali che dal 1970 godono d'importanti competenze; rispettivamente: per le province la gestione sul piano locale dei musei, delle orchestre sinfoniche, dei teatri nazionali e delle compagnie di danza; per le municipalità il mantenimento a livello locale degli edifici di alto valore culturale come per esempio il Concertgebouw, la Nederland Opera, il Teatro Nazionale o le Orchestre filarmoniche dell'Aia e di Rotterdam.

In questi ultimi anni il sistema si è andato articolando mediante l'elaborazione di Piani strategici quadriennali atti a migliorare il coordinamento tra attori sociali.

In concreto, tali piani rispondono ad una doppia esigenza da parte del Ministero:

- Riparametrare sia sul piano strategico che sul piano finanziario il coordinamento tra attori sociali su un orizzonte di quattro anni. Di grande importanza in tal senso, il dare maggiore stabilità al sistema di sostegno nei confronti dei diversi organismi, delle compagnie, dei singoli artisti (ad esempio un'istituzione in un arco di tempo quadriennale può compensare il deficit del primo anno con l'eccedente del secondo o viceversa);
- Monitorare meglio i contributi erogati alle collettività locali e controllarne il modo di spesa.

## **3 LO STATO UNITARIO**

Anche negli Stati a forte vocazione unitaria la cultura non sembra volersi accentrare troppo: la sua gestione, infatti, anche in questi casi avviene insieme agli altri attori istituzionali sia di carattere nazionale che locale.

### **3.1) Il caso francese**

#### **3.1.1) Struttura istituzionale e cenni normativi**

Il modello francese di politica culturale si caratterizza per l'importante tenore d'intervento pubblico.

Oltre alle misure legislative e regolamentari attuate dallo Stato riguardo ai beni e alle attività e agli attori culturali, sia l'amministrazione centrale che le collettività territoriali tendono a stanziare risorse in quantità importanti in tutti i settori del mondo culturale.

Una tale attenzione, si giustifica col fatto che l'uguale accesso dei cittadini alla cultura è un principio costituzionale; di conseguenza lo Stato deve assicurare a tutti la possibilità di partecipare alla vita culturale.

Lo Stato francese ha predisposto politiche ben precise affinché in tema di accesso alla cultura i vari ostacoli esistenti non sussistano.

La legittimità d'intervento pubblico in campo culturale trova giustificazione nella volontà di tutelare il bene comune nazionale inteso sia come patrimonio artistico che culturale dai rischi inerenti al funzionamento del mercato economico come per esempio la concentrazione e

standardizzazione delle produzioni culturali che equipara a torto il prodotto culturale ad una merce.

Va ricordato, infine, che un'importante impronta pubblica sulla cultura risulta necessaria alla luce del rapporto inscindibile che esiste in ogni società tra cultura ed educazione e formazione.

Il Ministero della cultura e della comunicazione è incaricato dell'attuazione sull'intero territorio nazionale dell'azione pubblica in ambito culturale.

Per quel che riguarda l'intervento dello Stato nella materia culturale, va precisato che anche altri ministeri realizzano nei loro specifici ambiti interventi finanziari di tipo indiretto nel settore culturale (Ministero degli Esteri, Ministero dell'Educazione).

In ambito regionale, dipartimentale e locale sono, invece, i consigli regionali (nel caso delle regioni), dipartimentali (nel caso dei dipartimenti) e municipali (nel caso dei comuni) che sono incaricati dell'amministrazione territoriale della cultura.

Tali collettività locali, non dipendono dallo Stato e si amministrano liberamente senza che tra loro viga nessun tipo di tutela o gerarchia: esse esercitano, ognuna a livello di propria circoscrizione territoriale, un certo numero di competenze definite dalle leggi di decentralizzazione.

Le collettività territoriali hanno discrezionalità di attuare politiche culturali nel loro ambito territoriale che sia esso comunale, intercomunale, dipartimentale o regionale.

### **3.1.2) Il Ministero della Cultura e della Comunicazione**

Il Ministro della cultura e della comunicazione esercita un'attività di orientamento della politica culturale francese.



Esso determina le priorità e gli orientamenti generali dell'azione del Ministero; per far ciò ha il compito di dividere le risorse contenute in bilancio tra i vari servizi.

Gli ambiti d'intervento del Ministero della cultura e della comunicazione sono di due tipi:

- L'ambito regolamentare;
- L'ambito dell'intervento diretto.

#### **a) L'ambito regolamentare**

Il Ministero della cultura e della comunicazione è incaricato di attuare e di controllare l'applicazione di testi e di misure specifiche in ambito culturale. Le regolamentazioni giuridiche riguardanti per esempio la protezione del patrimonio, gli obblighi e le norme tecniche e scientifiche di conservazione degli archivi, la proprietà letteraria e artistica, la protezione sociale degli artisti, la creazione di tasse per certi settori della cultura (cinema e spettacolo) ma anche gli obblighi di produzione e diffusione (le cosiddette quote audiovisive).

Queste regolamentazioni hanno un forte impatto sul finanziamento delle collettività locali e per sugli attori culturali.

#### Il quadro regolamentare e legale riguardante gli artisti

La *Charte des missions de service public du spectacle vivant* del 22 ottobre 1998 <sup>4</sup> supplisce l'assenza di una vera e propria legge sullo spettacolo disciplinando l'aspetto previdenziale dei lavoratori del settore.

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<sup>4</sup> Documento politico consistente in una circolare fatta trasmettere dall'allora Ministro della Cultura Catherine Trautmann ai prefetti.

Lo Stato assicura un regime di assicurazione sociale sia agli autori (scrittori, autori, compositori, coreografi, fotografi ecc) sia artisti-autori (grafici, ceramisti ecc). Tale assicurazione per status è equiparabile a quella percepita dalla categoria dei lavoratori salariati, per quanto questi siano da considerare lavoratori autonomi.

### Regolamentazione fiscale

Cinque sono i settori della cultura beneficianti di particolari status fiscali (riduzione dell'IVA):

- Creazione letteraria e artistica;
- Conservazione del patrimonio culturale;
- Valorizzazione e diffusione della cultura;
- Cinema, dischi e audiovisivo;
- Stampa e libri.

### **b) Gli interventi diretti**

Gli interventi diretti, invece, riguardano la gestione diretta di istituzioni nazionali pubbliche (una trentina di musei nazionali, i teatri nazionali, le scuole nazionali superiori ecc), la gestione e la valorizzazione del patrimonio artistico, l'attribuzione di sovvenzioni agli attori locali e alle collettività locali per le loro azioni culturali.

L'intervento dello Stato in ambito culturale si sforza di rimanere aperto a tutti i generi e alle forme artistiche e culturali, senza, però, che ciò sfoci in un'azione dirigistica.

Quanto alle sovvenzioni, esse vengono decise all'interno di appositi comitati di valutazione a cui partecipano esperti della materia con lo statuto di consulenti esterni.

Riguardo agli interventi diretti, va precisato che non vanta il monopolio dell'intervento pubblico in ambito culturale, dal momento che anche le collettività locali vantano una forte discrezionalità.

### **3.1.3) Le leggi di decentralizzazione**

Per quanto le città francesi con un certo numero di abitanti siano abituate da più di duecento anni ad amministrare in proprio il proprio patrimonio artistico, le leggi di decentralizzazione del 1982 e 1983 hanno rafforzato ulteriormente tale prassi investendo la Direzione Regionale degli Affari Culturali (DRAC). In concreto, il Ministero si è spogliato di alcune sue competenze a livello regionale, prima, con la nascita del DRAC, e a livello dipartimentale, poi, con altri scorporamenti.

Oggi il contributo delle collettività locali in ordine di finanziamento pubblico alla cultura è del 60%.

Tra scorporamenti vari e decentralizzazione oggi l'intervento pubblico si caratterizza in un contesto di cooperazione in cui i diversi attori pubblici e privati interagiscono.

### **3.1.4) La cooperazione tra il Ministero e le collettività**

Lo Stato esercita tramite il Ministero della cultura e della comunicazione un inquadramento regolamentare di alcune attività culturali realizzate dalle collettività locali. Tra queste attività figurano la conservazione degli archivi, il controllo scientifico e tecnico dei musei e delle biblioteche e il

controllo scientifico, tecnico e pedagogico delle strutture di formazione artistica e culturale ad esempio le scuole di musica).

Tra le principali caratteristiche dell'azione culturale pubblica in Francia, va annoverata l'azione congiunta dei diversi attori pubblici ai diversi livelli, nazionale, regionale, dipartimentale e locale, tali attori nel co-finanziare istituzioni, azioni e dispositivi culturali danno vita ad importanti partnership a tutti i livelli amministrativi. Tra i principali esempi sono da annoverare le azioni di sviluppo musicale e coreografico su scala regionale o dipartimentale, le orchestre e le opere regionali e le agenzie di cooperazione regionale per il libro.

Un tale tipo di coordinamento ha dato vita a numerosi reti nazionali.

In tal senso, poi, dei dispositivi specifici cofinanziati dal Ministero e dalle Regioni sono stati creati; tra loro il Fondo regionale d'acquisto dei musei (FRAM), il Fondo regionale d'acquisto delle biblioteche (FRAB) entrambi, consacrati all'acquisto di opere d'arte e all'arricchimento delle collezioni dei musei e delle biblioteche delle collettività locali. alimentati per metà dal Ministero della cultura e della comunicazione e per metà dalle regioni. Esistono poi anche dei fondi regionali di arte contemporanea (FRAC) al fine di sensibilizzare alla diffusione dell'arte contemporanea.

Vanno poi considerati anche gli accordi convenzionali e contrattuali firmati tra Ministero e collettività locali mirati a creare i presupposti per realizzare degli interventi culturali su scala territoriale; tra loro per esempio figurano le convenzioni con le città d'arte, convenzioni, miranti a definire un'insieme di azioni condivise sui temi dello sviluppo sociale, urbano e culturale.

Altre forme di contrattualizzazione di partnership tra Stato e collettività locali sono i contratti piano Stato-regioni, contratti che definiscono priorità

d'investimento congiunto settenali sui temi dello sviluppo economico, sociale e culturale delle regioni.

Da sottolineare poi che a seguito del buon esito della partnership tra Stato da parte e regioni e città dall'altra, tale impostazione ha cominciato ad essere adottata anche a livello comunale mediante il sostegno d'iniziative prese da più comuni in ambito culturale.

### **3.1.5) Obiettivi della politica culturale nazionale**

Per il governo francese la diversità culturale si definisce in funzione della mondializzazione. Il rispetto della diversità culturale è prima di tutto un'esigenza identitaria e culturale. Come ebbe modo di dichiarare nel 1999 all'Unesco l'allora Ministro della cultura e della comunicazione Catherine Trautmann "i beni e i servizi culturali sono essenziali alla preservazione dell'identità dei popoli e del legame sociale. Essi veicolano dei valori e delle idee. La loro specificità deve essere chiaramente riconosciuta, dal momento che non sono vere e proprie merci".

Si aggiunga a ciò che affermare l'importanza della diversità culturale risponde, altresì, ad un'esigenza economica di promozione dell'industria culturale europea.

La tutela della diversità culturale risponde, infine, anche ad un'esigenza politica essenziale dal momento che consente il pluralismo dell'espressione artistica e delle idee. Non è un caso che diversità culturale ed eccezione culturale sono due concetti estremamente legati. Come ha avuto modo di sostenere di recente un altro Ministro della cultura e della comunicazione, Jean jacques Aillagon: "L'eccezione franco-francese non è franco-francese,

ma corrisponde ad una volontà di difendere tutte le culture. In tal senso, essa è il fondamento stesso della diversità culturale “.

In un tale ambito, il Ministero della cultura e della comunicazione ha previsto numerose forme di sostegno allo sviluppo dell'arte e della cultura.

#### **a) Forme di sostegno alla creatività**

La prima frase del decreto che fissa le missioni del Ministero della cultura e della comunicazione (2002) ricorda che il Ministero ha per missione di rendere accessibile a tutti il più gran numero di opere capitali sia francesi che mondiali.

#### **b) Forme di sostegno all'educazione artistica**

L'educazione artistica è uno dei settori all'interno del quale interagiscono l'insieme degli attori della politica culturale.

Essa comprende l'educazione artistica scolastica di competenza strettamente statale; l'educazione artistica durante il tempo libero, di competenza in gran parte delle comunità locali.

L'educazione artistica scolastica in primo luogo, risulta regolamentata da una legge del 6 gennaio 1988 ed è di competenza riguardo alla progettazione e alla gestione dei programmi del Ministero dell'educazione nazionale.

Dal 2000 poi un documento congiunto del Ministero dell'educazione nazionale e del Ministero della cultura e della comunicazione stabilisce che “la scuola è un luogo d'eccellenza per favorire l'incontro di tutti con l'arte e per ridurre le disuguaglianze di accesso ad arte e cultura”.

In seguito a tali propositi sempre nel 2000 i due ministeri hanno lanciato un piano d'azione quinquennale che consiste, a dotare le strutture artistiche e culturali (più di 6000 luoghi di cultura tra musei, teatri ecc) dei mezzi necessari e a dare vita ad iniziative di partnership col mondo della scuola.

Le collettività locali dalla loro contribuiscono occupandosi di ciò che a loro compete come per esempio la gestione dei locali o operando con loro azioni mirate come il finanziamento all'educazione musicale.

L'insegnamento artistico in ambito culturale costituisce uno dei campi di competenza più importanti per i comuni. Nel 1996 contava per il 17% nel bilancio culturale dei comuni e si piazzava al secondo posto nella graduatoria delle spese culturali. Si calcola che i comuni spendevano in media 23 euro per abitante.

Tra questi corsi, l'insegnamento della musica sembra di gran lunga primeggiare. Si calcola che in tutto il paese sono 3000 le scuole di musica finanziate dalle collettività locali.

### **c) Sviluppo del patrimonio**

La Francia vanta una grande tradizione riguardo alla valorizzazione e alla salvaguardia del patrimonio.

Dal 1980 ad oggi dal punto di vista locale sono nate diverse migliaia di associazioni col fine della salvaguardia e della valorizzazione del patrimonio, associazioni di cui la gran parte collaborano attivamente con le municipalità.

A quest'opera di "patrimonizzazione" partecipa chiaramente il Ministero; tra i progetti da lui di recente sostenuti la messa in rete della Biblioteca nazionale di Francia con le biblioteche municipali a vocazione regionale; la

ristrutturazione degli Archivi nazionali; o la messa in rete in un futuro prossimo del materiale contenuto all'interno degli archivi nazionali.

### **3.2) Cenni su altri paesi europei**

In realtà come dimostrato ampiamente dal caso francese, oggi in Europa non esiste uno Stato in cui la cultura risulti del tutto accentrata.

Ogni configurazione istituzionale del Vecchio continente deve, infatti, misurarsi con la problematica della divisione dei poteri sia con le collettività locali che con altri attori emergenti della scena culturale.

La situazione in Europa orientale in ambito di politiche culturali e dello spettacolo si presenta al quanto variegata da paese a paese.

A seguito della caduta del Muro, infatti, i paesi che erano appartenuti al blocco sovietico in riferimento alla loro struttura amministrativa hanno operato scelte molto diverse tra loro, alcuni mantenendo una struttura statale forte altri decentralizzando.

In un tale contesto evolutivo, la gestione della politica culturale, già capisaldo imprescindibile per i regimi comunisti, ha subito importanti variazioni da paese a paese.

Polonia ed Ungheria paesi fortemente rappresentativi dell'ex blocco sovietico verranno presi ad esempio per illustrare brevemente per illustrare i suddetti cambiamenti.

#### **3.2.1) La Polonia**



In Polonia, innanzitutto, le riforme della politica culturale hanno coinciso con un forte processo di decentralizzazione che investe le autorità locali di importanti responsabilità.

La riforma globale del sistema che si è affermata nel periodo 1995-2002 oltre ad attribuire le principali competenze culturali alle attività locali ha, altresì, prodotto due nuovi livelli di gestione locale le regioni ed i dipartimenti (*Voïvodie*).

La responsabilità delle attività culturali locali e la creazione di istituzioni culturali a livello locale ha messo regioni e dipartimenti allo stesso livello delle municipalità nella gestione della cultura locale il che non ha mancato come nel caso della capitale Varsavia di creare a più riprese incomprensioni e malumori.

Nello specifico, il processo di decentralizzazione culturale va ricondotto ad una legge del 1991 in cui viene meno il monopolio dello Stato in ambito culturale. In concreto, gli operatori sia pubblici che privati hanno la possibilità di realizzare delle istituzioni culturali a livello comunale. Tuttavia, alcuni aspetti della legge risultano presto inadatti al nuovo contesto di economia di mercato, in particolare alcuni vincoli di bilancio richiesti agli operatori culturali considerati troppo rigidi.

Solo nel 2002 un'altra legge riuscirà a calibrare meglio il sistema. Tale legge avrà il merito di creare un contesto favorevole agli investimenti privati in ambito culturale senza però che il potere pubblico si disimpegni sia materialmente, sia a livello di garante del bene comune.

Un esempio di un tale approccio combinato è la decisione del governo polacco di destinare dal 2002 parte dei proventi della Lotteria ai settori culturali.

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Per quanto il processo di decentralizzazione non risulti ancora un meccanismo del tutto fluido va sottolineato che già nel 2002 l'81% dei fondi pubblici destinati alla cultura erano ad uso delle collettività locali.

### **3.2.2) L'Ungheria**

Riguardo al caso ungherese, va sottolineato che il processo di decentralizzazione si è concentrato su un unico livello, il livello comunale. I diciannove dipartimenti, storicamente livello intermedio tra Stato e comune, a causa del loro importante ruolo di organo decentrato del partito comunista durante il periodo di Guerra Fredda, hanno perso quasi del tutto peso amministrativo.

In concreto è una legge del 1990 che consente ai comuni di gestire un proprio bilancio, di gestire i redditi municipali, il diritto di chiedere tasse locali e l'onere di gestire le proprie istituzioni culturali.

Lo Stato mantiene, tuttavia, un importante controllo sulla vita culturale del paese dal momento che i contributi che vanno dal centro alla periferia sono soggetti a quote percentuali stabilite in funzione dei dati statistici dei singoli comuni.

Il Ministero degli Interni, infatti, principale garante del meccanismo ha come priorità l'equità culturale all'interno del paese condizione imprescindibile per la salvaguardia dell'unità nazionale.

Alla luce dei casi polacco ed ungherese emerge che per quanto il ruolo dello Stato rimanga importante sono sempre di più le collettività locali a farsi carico della gestione del settore culturale e dello spettacolo.

Una tale evoluzione sembra, però, ancora ad oggi non risultare del tutto sostenibile a livello finanziario; non è un caso che proprio Polonia ed Ungheria al fine di garantire al mondo della cultura e dello spettacolo

maggior finanziamenti stiano considerando di adottare il modello inglese delle fondazioni o dei *board of trustees*.

### **3.2.3) Il Portogallo**

Particolare, poi il caso del Portogallo, paese che per quanto subito dopo la Rivoluzione dei garofani si è dato un importante Ministero della cultura, il monopolio statale risente pesantemente della concorrenza di altri due attori, le collettività locali capaci di rappresentare nel 2002 il 53.3% delle spese per la cultura e la Fondazione Gulbenkian, fondazione che dal 1956 ad oggi ha investito più di 700 milioni di dollari per la cultura del paese.

## CONCLUSIONI

Per quanto permangano tra i singoli Stati europei importanti differenze di struttura sembrano emergere, tuttavia, importanti similitudini in ambito di amministrazione culturale.

Tra questi:

- La necessità di mantenere istituzioni culturali a livello centrale. In tutti i paesi d'Europa esistono ministeri della Cultura. Da qui la domanda se questa necessità porterà ad un'amministrazione comune della cultura in Europa o rispecchia unicamente necessità di riequilibratura interna nell'ambito di ogni singola amministrazione nazionale.
- La differenziazione crescente dei finanziamenti alla cultura: fondazioni, organizzazioni transnazionali e rete; pur tenendo conto, ad esclusione del Regno Unito, del contributo ancora marginale del mecenato e della politica ancora embrionale in favore delle fondazioni.
- L'incremento della cooperazione decentrata a prescindere da quale che sia la struttura degli Stati. A riprova di ciò il fatto che alcune importanti regioni europee come la Baviera, la Catalogna o le Fiandre risultano fautori convinti di una propria politica estera a livello culturale.
- La crescita di un *expertise* locale in ambito culturale sempre più in grado di coadiuvare le linee direttrici provenienti dall'amministrazione centrale.

## **BIBLIOGRAFIA TELEMATICA**

### **Austria**

Sito della Direzione Spettacolo del Ministero della Cultura:  
[www.bmbwk.gv.at](http://www.bmbwk.gv.at)

### **Belgio**

Sito della Regione Vallonia: [www.cfwb.be](http://www.cfwb.be)

### **Germania**

Sito della Fondazione culturale federale : [www.kulturstiftung-des-bundes.de](http://www.kulturstiftung-des-bundes.de)

### **Finlandia**

Sito del Ministero dell'Educazione e della Cultura: [www.miniedu.fi](http://www.miniedu.fi)

Sito dell'Art Council Finland: [www.miniedu.fi/artcoun/english](http://www.miniedu.fi/artcoun/english)

Sito dell'Helsinki Festival: [www.helsinkifestival.fi](http://www.helsinkifestival.fi)

### **Francia**

Sito del Ministero della Cultura: [www.culture.gouv.fr](http://www.culture.gouv.fr)

### **Paesi Bassi**

Sito del Ministero dell'Educazione, della Cultura e della Scienza:  
[www.minocv.nl](http://www.minocv.nl)

Sito del Consiglio della Cultura dei Paesi Bassi: [www.cultuur.nl](http://www.cultuur.nl)

Sito del Festival d'Olanda: [www.hollandfestival.nl](http://www.hollandfestival.nl)

### **Portogallo**

Sito del Ministero della Cultura: [www.min-cultura.pt](http://www.min-cultura.pt)

### **Regno Unito**

Sito di Art & Business: [www.aandb.org.uk](http://www.aandb.org.uk)

Sito dell'Arts Council England: [www.artscouncil.org.uk](http://www.artscouncil.org.uk)

Sito dell'Arts Council of Wales: [www.artswales.org](http://www.artswales.org)

Sito dello Scottish Arts Council: [www.scottisharts.org.uk](http://www.scottisharts.org.uk)

Sito del British Council: [www.britishcouncil.org](http://www.britishcouncil.org)

Sito dell' DCMS: [www.culture.gov.uk](http://www.culture.gov.uk)

Sito dell'Arts Journal: [www.artsjournal.com](http://www.artsjournal.com)

### **Spagna**

Sito dell'Istituto Nazionale delle arti sceniche/Ministero della Cultura:

[www.inaem.mcu.es](http://www.inaem.mcu.es)

Sito della Fondazione Interarts: [www.interarts.net](http://www.interarts.net)

### **Svezia**

Sito del Dipartimento per la cultura: [www.kultur.regeringen.se](http://www.kultur.regeringen.se)

Sito dell'Arts Council: [www.kultuurradet.se](http://www.kultuurradet.se)

Sito di Interkult: [www.Intercult.se](http://www.Intercult.se)

### **Ungheria**

Sito del Ministero del Patrimonio nazionale: [www.nkom.hu](http://www.nkom.hu)

Sito del Festival d'autunno e del Festival di primavera:

[www.fesztivalvaros.hu](http://www.fesztivalvaros.hu)

### **Altri siti utili**

Sito dell'Unesco: [www.unesco.org/culture](http://www.unesco.org/culture)

Sito della Fondazione europea della cultura: [www.eurocult.org](http://www.eurocult.org)

Sito di Cultural policies del Consiglio d'Europa:

[www.culturalpolicies.net](http://www.culturalpolicies.net)

Sito di Relais culture Europe: [www.relais-culture-europe.org](http://www.relais-culture-europe.org)



**ALLEGATI: SCHEDE PAESE PER STRUTTURA  
ISTITUZIONALE, LEGISLAZIONE, SPESA**  
(Fonte:cultural policies)

- **Austria**
- **Belgio**
- **Finlandia**
- **Francia**
- **Germania**
- **Ungheria**
- **Paesi Bassi**
- **Polonia**
- **Portogallo**
- **Svezia**
- **Regno Unito**



## **Austria/ 2. Competence, decision-making and administration**

### **2.1 Organisational structure (organigram)**

There is no organigram available.

#### ***Federal Level***

The **State Secretary for the Arts and Media** and the divisions of the **Arts Department of the Federal Chancellery (BKA)** are responsible for:

- promotion of visual arts, architecture, design and fashion;
- promotion of music and performing arts;
- promotion of film and media art, photography;
- legal matters;
- budget management and grant control;
- literature and publishing matters;
- bilateral and multilateral cultural foreign affairs; awards
- EU coordination (Cultural Contact Point), Association of Austrian Federal Theatres; and
- regional cultural initiatives and cultural centres; support for multi-cultural activities, interdisciplinary projects.

#### ***Institutions within the responsibility of the Arts Department of the Federal Chancellery***

- Austrian Film Institute – ÖFI;
- Bundestheater Holding, consisting of the Burgtheater (National Theatre), Vienna State Opera House, Volksooper Wien, Theaterservice GmbH, the world's largest theatre company;
- Artothek: the administration of this collection, which contains more than 28 000 objects was contracted out in 2002; the federal state remains the owner of the collection itself;
- Österreichische Fotogalerie (together with the Rupertinum, Salzburg); and
- KulturKontakt Austria (see chapter 7.1).

The **Constitutional Law Department of the Federal Chancellery (Verfassungsdienst / Medienangelegenheiten)** is in charge of media policy and matters concerning the new media:

- interpretation of media laws (Rundfunkgesetz, Privatradiogesetz, Kabel- und Satellitenrundfunkgesetz, KommAustria-Gesetz); and
- co-ordination of legal matters concerning the new media and the Internet (since October 1998: advisory board for new media and Internet).

The **Federal Ministry for Education, Science and Culture (BMBWK)** is in charge of culture (cultural heritage, arts education etc.), educational, school and university matters. More specifically, the Ministry is responsible for:

- museums, collections (*MuseumsQuartier*, promotion / support);
- protection of monuments, cultural heritage protection (legal agendas, promotion, EU funding (Cultural Contact Point), international agendas: UNESCO);
- National Library;
- Vienna Court Orchestra;
- Audio Library (*Phonothek*);
- public libraries, school libraries, folklore culture; and
- restitution of cultural goods to the victims of the Nazi regime.

#### ***Institutions within the responsibility of the BMBWK***

- *KulturKontakt Austria*

The Cultural Policy Department of the **Federal Ministry for Foreign Affairs (BmaA)** is responsible for:

- multilateral and bilateral cultural affairs;
- cultural institutes and departments abroad (29 *Kulturforen*, formerly *Kulturinstitute*, in 26 countries);
- 51 Austrian libraries abroad; and
- 8 branches of the Austria Institute (*Österreich Institute*: institutes offering German language courses in Slovakia, the Czech Republic, Poland (3), Hungary, Slovenia and Italy).

The **Federal Ministry for Education, Science and Culture** and the **Federal Ministry for Foreign Affairs** share responsibility for:

- centres for Austrian studies and chairs (professorships);
- Austrian-Ukrainian Co-operation Office for Science, Education and Culture in Lvov; and
- science and education attachés.

There are other government Ministries which deal with culture including:

The **Federal Ministry of Economic Affairs and Labour** is responsible for:

- various awards in the realm of the cultural industries (e.g. architecture, design, award for best advertising spot on TV);
- bilateral agreements on film (with Germany, Switzerland, France, Spain and Italy);
- historical buildings; and
- (cultural) tourism.

The **Federal Ministry of the Interior** is in charge of:

- commemoration of the Holocaust;
- association for the commemoration service at the Holocaust Memorials (24 positions per year);
- "Never Forget" Association for the Protection of Holocaust Memorials (16 positions per year); and
- association for services abroad at memorials according to the *Community Service Act* (26 positions per year).

### **Provincial level**

The *Bundesländer* (federal provinces) in Austria are: Burgenland, Carinthia, Lower Austria, Salzburg, Styria, Tyrol, Upper Austria, Vienna, Vorarlberg. There is a cultural department in the executive offices of each provincial government. In some cases, these are combined with science and / or education. With the exception of Vienna, every *Bundesland* has its own *Cultural Promotion Act*, most of which were implemented during the 1980s.

General cultural responsibilities of *Bundesländer* include:

- all legal agendas concerning cultural policy (*Kulturhoheit*, i.e. cultural sovereignty);
- promotion of cultural activities with a relationship to the respective *Bundesland*, often in co-operation with the federal level (different priorities for promotion);
- promotion of activities to preserve the appearance of villages and towns – maintenance of the old town centres;
- foundations and funds owned by the *Bundesländer*;
- music schools;
- theatres, cinemas, events, festivals (e.g. Salzburg Festival, Ars Electronica in Linz, Bregenz Festival, steirischer herbst, Graz);
- heritage, tradition and folk art; and
- sports.

### **Local level**

Political responsibility for culture at the local level rests with either the city / town councillor or in smaller municipalities with the mayor. The majority of local government offices – or municipal administrations – have **cultural departments** (often combined with science and / or education) which are responsible for libraries, folklore and ensemble preservation. Communities with fewer than 20 000 inhabitants generally have no culture department

of their own.

**Local level competence** includes:

- preservation of the appearance of villages, towns, old town centres;
- festivals, especially in provincial capitals such as Bregenz, Salzburg, Linz (in co-operation with the respective *Bundesland* and the federal government);
- promotion of urban institutions in the cities (stages, cultural centres, etc.);
- amateur art (amateur theatres, brass bands, folklore groups);
- local museums; and
- libraries, adult education facilities.

## **Austria/ 2. Competence, decision-making and administration**

### **2.2 Overall description of the system**

Austria is a federal state. The general clause of *Article 15 of the Constitutional Law* assigns most cultural competence to the provinces or *Bundesländer* (an arrangement known as "cultural sovereignty"), while the federal government has competence over "sovereign" matters such as scientific and technical archives and libraries, artistic and scientific collections and federal facilities (federal museums, the National Library), federal theatres, historic monuments, religious denominations, foundations and funds.

Even though public responsibility is clearly defined for some specific cultural fields, public bodies (at any level of government) may take an active role in supporting all arts and cultural activities. In this case, the relations between the various government bodies are shaped by informal co-operation as much as by competition (see also chapter 2.3). While the Austrian constitution is federalist in principle, in practice the federal government is more active than the *Bundesländer* in supporting the arts and culture.

#### ***Cultural Administration of the Federal Republic***

In 1997, the arts were transferred to the Federal Chancellery and assigned a State Secretary who is responsible for culture, arts, and media. For the first time since the 1970s, cultural and arts affairs are now under the same rubric as media policy. Decisions on subsidies are made upon the recommendations of several advisory boards which consist of experts from the respective fields in almost all divisions of the Chancellery's Arts Department (see chapter 5.1): visual arts, music, theatre, dance, film – Austrian Film Institute (Selection Commission / *Auswahlkommission*), literature, translation, publishing, architecture, *Kunst und Bau* (arts and construction / public art), cultural initiatives. The advisory boards' recommendations are not binding.

Bills are usually drafted in the relevant ministries, often in (informal) consultation with experts. After adoption by the Cabinet, bills are passed on to the National Council where they are discussed and partly revised in the relevant committee (e.g., for culture). Further changes can be made in the plenary, the final voting process requires a quorum of a third of all members of Parliament, with the exception of *Constitutional Acts* and (until 2005) legislation pertaining to schools (two-thirds of votes).

An annual report (*Kunstbericht*) published by the Arts Department gives information on state expenditure for the arts and cultural activities. To achieve as much transparency and comparability as possible – especially between the expenditures of the *Bundesländer* and those of the federal level – a new system was set up in 1996 and organises the data by sector (e.g. literature; film and photography etc.) rather than by the administrative departments (LIKUS system, see chapter 6). The annual culture report published by the Federal Ministry for Education, Science and Culture provides information on its funding activities.

#### ***Cultural Administration of the Federal Provinces (Bundesländer) and Local Authorities***

The *Bundesländer* are active in promoting culture in all relevant fields, based on elements of private law. All *Bundesländer* governments have at least one department that concerns itself with cultural affairs. A member of the government generally assumes the political responsibility for this department. Occasionally, some cultural competence is reserved for the governor. The capitals of the *Bundesländer* as well as small rural municipalities allocate considerable resources to cultural promotion, aimed at urban institutions, local museums, libraries and adult education facilities.

## **Austria/ 2. Competence, decision-making and administration**

### **2.3 Inter-ministerial or intergovernmental co-operation**

Annual intergovernmental information meetings (*Landeskulturreferentenkonferenz*) are held between the nine *Bundesländer* and the federal government where important cultural projects or events are discussed (e.g. within the Austrian EU presidency, the 250th anniversary of Mozart's birthday and the Sigmund Freud Year in 2006).

Political and administrative staff are invited to participate in these meetings upon invitation from the federal government. On request, informal, inter-ministerial meetings are organised between the responsible ministries and administrators.

## **Austria/ 2. Competence, decision-making and administration**

### **2.4 International cultural co-operation**

The main tasks of international cultural policy were outlined in a concept paper (*Auslandskultur Neu*, 2001) prepared by the Federal Ministry of Foreign Affairs in 2001. One key element was to restructure the cultural institutes and the culture departments of the Austrian Embassies in the form of 29 "Cultural Fora" (*Kulturforen*) in 26 countries.

The concept identified the following priorities:

- support for discussions about Europe and "European Values" in large scale events and seminars;
- analysis of Austrian history in the 20<sup>th</sup> century (e.g. stolen and displaced art, literature in exile);
- cultural co-operation with EU-candidate countries, especially in central Europe;
- cultural-co-operation as a contribution towards stabilisation of the Balkan region; and
- cultural co-operation with partner countries in the "Third World".

The Platform "Culture – Central Europe" was founded with "cultural neighbour" countries (Austria, Poland, the Czech Republic, Hungary, Slovakia, Slovenia) in 2001. It is a forum to facilitate cultural dialogue with the purpose of providing support for bilateral and multilateral cultural projects focusing on common Central European cultural interests. The "Dialogue of Culture" initiative aims to foster a dialogue between the major world religions.

Multilateral issues of international cultural policy deal with cultural matters within the framework of UNESCO, the European Union, the Council of Europe and the OSCE. On a bilateral level, conventions on cultural co-operation have been signed with 25 countries (eight EU member states). Additional conventions on co-operation were signed with 12 countries in the scientific and technical fields. Informal co-operation in the fields of culture and science has developed with six partner countries without requiring any underlying written agreement. (See also chapter 4.2.10)

## **Austria/ 5. Main legal provisions in the cultural field**

### **5.1 General legislation**

The purpose of the newly expanded chapter 5 on legal provisions for culture is to provide you with a more indepth overview of the legal instruments used to support culture in the individual Compendium countries.

Chapter 5.1 provides you with information on those pieces of general legislation which have an important impact on culture, for example, articles in the Constitution of individual countries or legislation used to govern the allocation of public funds.

Chapter 5.2 provides a list as overview of the main legislation for culture. Some countries may have hundreds of laws while others may have only one "Culture Act".

Chapter 5.3 is sub-divided to provide you with information on sector specific legislation in the following fields: visual and applied arts; performing arts and music; cultural heritage; literature and libraries; architecture and environment; film, video and photography; culture industries; and mass media.

### **Austria/ 5.1 General legislation**

#### **5.1.1 Constitution**

An attempt to take stock of the prevailing legal regulations in the cultural sector in Austria is impeded by two factors. First, Austria is a federal state with relatively independent *Bundesländer*; this independence is reflected in the assignment of responsibilities for culture to the *Bundesländer*. Secondly, the Austrian Federal Constitution does not explicitly mention arts and culture. Statutory provisions regulating the cultural sector have not been laid down in a comprehensive Cultural Act, nor have they been systematically collected.

Therefore, each of the statutes referring to the cultural sector are found throughout the legal system: for example in the *Federal Constitution Act* (see chapter 5.1.2) or the *Basic Law on Civil Rights* (including Freedom for the Arts – Paragraph 17a, decided 1982).

## Austria/ 5.1 General legislation

### 5.1.2 Division of jurisdiction

*Article 15*, para 1 of the *Federal Constitution Act* states that all matters not assigned to the national government are to be paid for from the *Bundesländer*, including culture. However, in *Article 10*, responsibility over "sovereign" matters such as scientific and technical archives and libraries, artistic and scientific collections and federal facilities (federal museums, the National Library), federal theatres, historic monuments, religious denominations, foundations and funds are assigned to the national government. The *Bundesländer* are responsible for preserving the appearance of towns and villages, for foundations and funds owned by the *Bundesländer*, theatres, cinemas, events, heritage, tradition and folk arts. According to *Article 17* of the *Federal Constitution Act*, however, the national government and the *Bundesländer* as upholders of civil law are not bound by the above distribution of competences.

## Austria/ 5.1 General legislation

### 5.1.3 Allocation of public funds

The *Federal Arts Promotion Act* adopted in 1988 (amended in 1997 and 2000) includes the provision that the federal budget must include the requisite funds for public arts promotion and that the social situation of artists and the framework for private sponsoring need to be improved. The law stipulates that promotion has to be directed mainly at "contemporary art, its spiritual changes and its variety" and lists the fields to be supported by way of production, presentation, dissemination and preservation of works and documents. Facilities that serve this purpose have to be similarly supported. The law also lists individual measures that may be taken (e.g. funds, grants, acquisitions, loans, commissions, prizes awarded).

An advisory system has been operating since 1973 and includes specialised bodies such as juries to make decisions on the granting of funds. Mention was also made in the act of the potential conflicts of responsibility that needed to be avoided between the federal and state governments, stating that the principle of "subsidiarity" must be employed. The federal government nevertheless supports activities and projects at regional or local levels that are "of supra-regional interest or suitable to be exemplary, of an innovative character or which are promoted within the scope of a single promotion programme".

With the exception of Vienna, every *Bundesland* has its own *Cultural Promotion Act*, most of which were implemented during the 1980s.

The *Arts Support Act (1981)* states that in addition to the monthly radio and television fees, an appropriate contribution to support contemporary arts is to be raised and distributed between the state and the *Bundesländer* (provinces) on a 70:30 ratio. 85 per cent of the state share is given to the Arts Department of the Federal Chancellery, the rest is spent on heritage protection and museums. In 2000, further contributions were dedicated to the social security insurance fund (see chapter 5.1.4).

## Austria/ 5.1 General legislation

### 5.1.4 Social security frameworks

For a long time there were no specific regulations to ensure that social security provisions for artists reached across all professional fields. Only artists in the music and visual arts sectors were covered by the obligatory social security provisions. All other artists were free to enrol in a social security insurance plan of their choice. Several funds were created to help artists pay part of their (non-obligatory) social security insurance, the *Künstlerhilfe Fonds* for visual artists, for example (see chapter 8.1.1).

The *Employment and Social Security Law Amendment Act (1997)* produced an initial change: up until 1997 artists had widely differing social security coverage, depending on their professional status, nature of labour relations and field of work. This amendment generally regulated labour conditions and required contracts for all freelance workers in the form of either a *Werkvertrag* (contract for work) - also called "new" self-employed, a term that describes one person enterprises without a trade licence - or a *freier Dienstvertrag* (self-employed contract of service), depending on the nature of the work (people who work under the *freier Dienstvertrag* have more social protection than self employed but less than employed).

Following this amendment, anyone earning over 6 453 euros was forced to pay social security insurance (24% of annual *Werkvertrag* profit, 17.5% of *Dienstvertrag* income). Artists were exempt from this law until the end of 2000, and were not obliged to pay social security insurance. Those who chose to pay the insurance could apply to the above mentioned funds, like *Künstlerhilfe Fonds* (see chapter 8.1.1) to help cover the costs of their social security fees.

Since January 2001, freelance artists have been given the same treatment as other self-employed professionals. Under certain conditions a pension supplement is paid within the framework of the Social Security Insurance Fund

for Artists (see chapter 5.3.9).

## Austria/ 5.1 General legislation

### 5.1.5 Tax laws

In Austria, only an estimated 1.8 % of the overall cultural funding is supplied by the private sector despite the existence of a "Sponsors' Ordinance" regulation adopted by the Federal Ministry of Finance in 1987. Under this regulation an enterprise / entrepreneur is granted a tax break on expenses for sponsoring cultural events. The ordinance lists various criteria that must be fulfilled in order to qualify for the tax break (sponsoring must, for example, be in the form of an advertisement). This regulation only allows for a very small amount of expenditure to be tax deductible; plans for the introduction of new legislation, which has long been discussed, have been announced.

A study commissioned by the Arts Department of the Federal Chancellery was concerned with the effects of these planned tax breaks on the purchase of art objects (*Österreichisches Institut für Wirtschaftsforschung (Wifo)*, 2002). The study estimated, in case of such tax breaks, that the market potential of private households and enterprises is between 50 and 70 million euros.

On the basis of an amendment to the *Federal Arts Promotion Act* (1988) in 1997, certain public subsidies are now tax free, retrospectively to 1991. These include: grants, prizes and supplements from the Austrian Film Institute for promoting the creation of film concepts and screenplays; income and assistance from public funds or from the funds of public or private foundations, as far as compensation for expenditure or expenses is concerned, or – with the exception of private foundations – for activities abroad.

Amendments to the tax law in 2000 provide that an estimated 12 per cent (not more than 8 725 euros per annum) of artists' / authors' income is tax-deductible. Furthermore, their (often irregular) incomes can be spread over three years (income averaging). Also in 2000, tax privileges for foreign artists taking up residence in Austria were introduced: foreign creative artists can now apply for the partial or full cancellation of tax liabilities in Austria that are in excess of tax liabilities in their country of origin if their establishment of residence serves to advance art in Austria and if there is public interest in their work.

A new legal incentive was introduced in October 2002 which stipulates that donations made to museums (to important Austria-wide private museums as well as to federal museums) are tax deductible.

There are two tax rates under the *Austrian VAT Law* (1994), one at 20% and a reduced rate at 10%. The reduced rate applies to turnover related to artistic activities, cinema, theatre and concert tickets, entry to museums, botanical gardens or nature parks, as well as services by the Austrian Broadcasting Corporation (ORF) and cable TV companies, books magazines and dailies. There is 20% VAT on music CDs.

## Austria/ 5.1 General legislation

### 5.1.6 Labour laws

Alongside the growing rate of unemployment, the structure of employment in Austria has changed considerably in recent years. For example, the number of people working under a *freier Dienstvertrag* (self-employed contract of service) has risen by 150% within five years. At the end of 2002, the figure was approximately 24 300. It is similar for people working under a *Werkvertrag* (contract for work) – or "new" self-employed: here the number almost quadrupled between 1998 and 2002, from 7 700 people to 30 300. Generally all freelance persons fall outside of the system providing entitlements and protective measures envisaged by the general Austrian *Labour Law*.

In the field of the performing arts there is a specific labour law, the *Actors' Law* (*Schau-spielergesetz*, 1922) regulating the working hours, holiday rights and bonuses for actors which are different from the employees regulations. Formerly the actors were assumed to be employees but full employment with all the costs and obligations for employers (e.g. festival-organizers) is now often circumvented.

## Austria/ 5.1 General legislation

### 5.1.7 Copyright provisions

According to the Austrian *Copyright Act*, copyright arises with the creation of a work by its originator. No formal act (notification or registration) is required in order to obtain copyright protection for a work. According to para. 1, such works must be "personal intellectual creations in the fields of literature, music, visual arts and film". Since the 1980s, developments have increasingly tended towards lump-sum compensation. Proceeds from claims for compensation that are asserted by the copyright collecting societies are partly devoted to social / cultural purposes, and partly distributed to the copyright holders.

An amendment to the *Copyright Act* in 1980 introduced a copyright fee on blank tapes. The copyright collecting

society Austro-Mechana is entrusted with collecting the royalties. The fee varies between 0.04 euro and 0.27 euro, depending on whether it is regulated by contract or an autonomous tariff and depending on the type of recording medium. In 2002, total royalties amounted to 10.9 million euros.

Comparable to this fee, a copyright fee for reprography – for single devices and for (large-scale) operators – was introduced in 1996. It is collected by the copyright collecting societies Literar-Mechana, VBK (copyright collecting society for visual artists) and Musikedition.

In 1994, an author's claim to funds collected via public lending rights from approximately 2 500 public libraries was established in copyright law; the sum of which is to be agreed upon by the authors collecting society. In 1996, a lump sum payment between the federal government (116 276 euro), the Federal Provinces (465 106 euro) and the authors' rights society was contractually agreed.

Further amendments to the *Copyright Act* were implemented in 2003, in accordance with the EU Directive on the harmonisation of certain aspects of copyright and related rights in the Information Society. Minor changes were made including the list of types of free use, and the improvement of legal protection against the circumvention of technical measures. Authors' long-term expectations of a wider reform of the *Austrian Copyright Act* (e.g. amendments to the author rights – (implementation of a "best-seller clause") have not been fulfilled.

A further amendment of the *Austrian Copyright Act*, including the introduction of a resale right for artists, is expected in the near future.

## Austria/ 5.1 General legislation

### 5.1.8 Data protection laws

Data protection has been legally secured in Austria for 20 years. The *Data Protection Act 2000*, which primarily implements the EU data-protection guidelines, regulates all rights and obligations of operators of information collections and applies both to public-legal (authorities etc.) as well as to private legal information collections (such as for companies, associations and other organisations etc.), including those held by cultural institutions. Fundamentally, according to *Paragraph 47*, the transfer of addresses requires the agreement of those affected, although there are exceptions (for statistical or scientific reasons, for example).

## Austria/ 5.1 General legislation

### 5.1.9 Language laws

The new *Broadcasting Act* (2001) stipulates that the ORF is obliged to ensure that "all aspects of democratic life are to be understood by the public", and an appropriate share of their programming has to be broadcast in the language of ethnic minorities. Although there is regulatory support for programmes broadcast in the languages of ethnic minorities, the article is general and the management can apply it "as appropriate", which means without obligation. The third radio programme is required to broadcast mainly in a foreign language (English).

Since the passage of the *Private Broadcasting Act* in 1998, many small (non-commercial) free radio stations have been founded and currently provide programmes for (national) minorities and immigrants – e.g. *Radio Orange* (free radio Vienna), *Radio Mora* (Croatian private radio station, run by the Croatian cultural centre *Kuga* in Burgenland) or *radio Korotan / Radio Agora* (the two Slovenian radio stations in Carinthia). Until 2001, such broadcasts were supported by the federal government. Since then, these free radio stations have been continually struggling and *Radio Mora* has been forced to close down due to financial reasons.

The city of Vienna is providing support to the open channel TV-programme "Offener Kanal", which will start in the near future, providing space for programmes in other languages than German. Since 2003 the city of Vienna has supported a Bosnian / Croatian / Serbian and Turkish edition of the district journal. Moreover, the former Viennese Integration Fund (Wiener Integrationsfonds) published monthly magazines in Turkish and in Bosnian / Croatian / Serbian language providing information on social services and migration policy regulations. This fund (and other initiatives) was dissolved and its activities were integrated within the department for integration and diversity policy established in 2004.

## Austria/ 5.2 Legislation on culture

Specific federal regulations or acts include:

- *Allocation of State Subsidies Act (1977)*;
- *Federal Arts Promotion Act (amended in 2000)*;
- *Public Broadcasting Act (amended in 2001)*;
- *Copyright Act (amended in 2003)*;



- *Film Promotion Act (amended in 2004);*
- *Federal Theatre Organisation Act (1998);*
- *Federal Museums Act (1998); and*
- *Monument Preservation Act (amended in 1999).*

Laws on the promotion of culture have also been adopted by the federal *Bundesländer*, with the exception of Vienna.

In addition to direct public support for the arts and culture, Austrian legislation provides for a number of important instruments of indirect support for the arts. This refers to various legal provisions of social policy and fiscal policy, the system of social insurance for artists, measures taken in the field of labour market management, copyright legislation (both direct and indirect payments such as library royalties), the encouragement of private sector support for the arts by means of tax exemptions, tax deductions for private donations and for arts sponsorship, as well as promotion of art-works for buildings financed with public money. While such policies are welcome, surprisingly few sector specific legal regulations have been formulated in areas such as orchestras or theatres.

### **Austria/ 5.3 Sector specific legislation**

#### **5.3.1 Visual and applied arts**

Generally the *Federal Arts Promotion Act* stipulates that promotion has to be directed mainly at "contemporary art, its spiritual changes and its variety" in the fields of literature, performing arts, music, visual arts, photography, film, video and experimental art forms (para. 2 (1)).

### **Austria/ 5.3 Sector specific legislation**

#### **5.3.10 Other areas of relevant legislation**

Information is currently not available.

### **Austria/ 5.3 Sector specific legislation**

#### **5.3.2 Performing arts and music**

There are special regulations concerning theatre funding stating that the government is obliged to pay an annual supplement (currently 21.3 million euros) to the regional and city theatres under the regularly agreed *Financial Equalisation Act*.

The *Federal Law on the Establishment of the Salzburg Festival Fund* (1950) envisages joint funding of the Salzburg Festival by the federal government (40%) and the province of Salzburg (20%).

In August 1998, federal theatres (*Burg- and Akademietheater, Staats- und Volksooper*) were reorganised as limited companies under private law (see also chapter 7.2). The "owner" of such companies is the Republic of Austria. Their cultural tasks are defined in the *Federal Theatre Organisation Act*, 1998. This states that the government is to provide an annual basic payment of 133.6 million euros.

The private Vienna theatres (Theater in der Josefstadt, Volkstheater, Theater der Jugend, Kammeroper) are likewise co-funded by the Federal government on the basis of a special contract with the City of Vienna.

### **Austria/ 5.3 Sector specific legislation**

#### **5.3.3 Cultural heritage**

The most crucial reform made in recent years concerns the federal museums. The *Federal Museums Act* of 1998 grants full legal capacity to museums and has transformed them into scientific institutions under public law – an important step towards more autonomy. The federal museums are still under the authority of the Federal Ministry for Education, Science and Culture and receive basic grants from the Ministry. The rest of the budget must be financed by the museums themselves. Critics of "partial autonomy" feared that smaller museums would not be able to withstand the increasing financial pressure as it would be difficult for them to raise money in the private sector. As a result, the main programmes of the Museum of Ethnology and the Austrian Theatre Museum have been incorporated into the Historical Art Museum.

In 1998, the *Federal Law for the Restitution of Works of Art from Austrian Collections to their Jewish Heirs* was passed and a working group set up to clarify the provenance of works of art in question. In addition, an advisory committee was set up in 1998 by the Ministry for Education, Science and Culture (*Restitutionsbericht*, 2001/2002).

A Historical Commission has also been created (jointly by the Austrian Federal Chancellor, the Vice-Chancellor, the Speaker of the National Assembly and the Speaker of the Federal Council) with a mandate to investigate and report on the whole complex of expropriations in Austria during the Nazi era and on restitution and / or compensation (including other financial or social benefits) after 1945 by the Republic of Austria.

The *Federal Law for the Restitution of Works of Art* does not concede any legal position to the heirs. It refers to holdings of the federal museums and state collections; exceptions include the Leopold Collection (confiscation of two paintings of this collection in New York initiated the debate which led to the federal law) and holdings of art universities.

Under an amendment to the *Monument Preservation Act* in 1999, the federal monument office (under the Ministry of Education, Science and Culture) can issue a decree provisionally placing monuments owned by public bodies under monument preservation. By 2010, these monuments are to be registered in a list of monuments. Further, in the framework of the amendment, the export ban on cultural goods has been brought in line with the corresponding EU guideline and 56 historical gardens have been integrated into monument preservation.

### **Austria/ 5.3 Sector specific legislation**

#### **5.3.4 Literature and libraries**

The government subsidises public libraries under the *Federal Law on the Promotion of Adult Education and Public Libraries* from federal funds (1973). The government ministry responsible is the Federal Ministry for Education, Science and Culture. Alongside direct subsidies, support includes funds for staff training and further education, nation-wide projects and software.

### **Austria/ 5.3 Sector specific legislation**

#### **5.3.5 Architecture and environment**

In 1985, a decree by the Council of Ministers established a mandatory share to the arts to be included in Federal civil construction projects: 1% of the net construction cost is made available to art in public projects. The selection procedure is decided upon by an expert advisory body. The government's building and real-estate administration was outsourced in 1992 to the foundation of the *Bundesimmobiliengesellschaft (BIG)* (federal real-estate company). Since then, the "Kunst und Bau" projects have been coordinated between a government expert advisory body, the BIG and the property developers.

### **Austria/ 5.3 Sector specific legislation**

#### **5.3.6 Film, video and photography**

The *Film Promotion Act* (1998) regulates the Austrian Film Institute (ÖFI) which is in charge of promoting and supporting the Austrian film industry, i.e., to allocate subsidies for Austrian films, e.g. for filmmakers and film producers. The projects are selected by members of the Austrian Film Institute. Amendments made in 1998 were designed to strengthen the economic base of the Austrian film scene by making international co-productions easier, encouraging support for distribution systems, and creating a cinema support scheme (15% of the budget reserved for a new generation of film makers and film producers). Due to a recent amendment (2004) to the *Film Promotion Act* *inter alia* an Austrian Film Council will be established and an annual report on the Austrian film economy will be published by the ÖFI.

The global development in the audio-visual media sector and media industry as well as the severe competition in this sector required prompt reorganisation and proper regulations in the Austrian audio-visual media sector (e.g. referring to the monopoly held by the Austrian Broadcasting Corporation, ORF). Amendments were subsequently made to the *Public Broadcasting Law* 1997-1999 to enable the public TV broadcasting system to be efficiently managed in the face of increasingly fierce competition (see chapter 4.2.6).

The "*Film / Television Agreement*" (*Fernsehabkommen* 1981) was signed by the Austrian Broadcasting Corporation, ORF, and by the Austrian Film Institute to promote and support Austrian films with funds from the Austrian Broadcasting Corporation (5.3 million euros in 2004).

According to an amendment to the "*KommAustria*" Act (see chapter 4.2.4) an "Austrian Television Endowment Fund" was set up in 2004. This fund receives an annual endowment of 7.5 million euros and is derived from broadcasting fees to support the production of Austrian television films, series and documentaries. This fund is administrated by the Austrian Regulatory Authority for Broadcasting and Telecommunications (RTR), which acts as the operative arm of the Austrian Communications Authority ("KommAustria"). Public debate was held on the general orientation of commercial criteria to be used as well as the fact that the fund is run by the RTR (a purely administrative body) and not by the Austrian Film Institute.

## Austria/ 5.3 Sector specific legislation

### 5.3.7 Culture industries

In 2000, a *Federal Law on Fixed Book Prices* was implemented. The law (until an amendment in 2004 limited the measure to five years) refers to publishing, import and trade, but not to the cross-border electronic trade. This law was important to ensure that small publishing houses, booksellers, distribution firms etc., which play a crucial role to maintain media diversity, can still compete with the big publishing and distribution firms / enterprises.

In 2001, a law was passed to privatise the biggest Austrian publishing house (*Österreichischer Bundesverlag*). This process was completed in 2002. The purchaser, a German publishing group, has to maintain the levels of production of school books as well as the publication and / or preservation of works by Austrian authors until 2007.

Under an amendment to the *Federal Arts Promotion Act* in 2000, selected federal, provincial and municipal museums can receive an annual supplement in order to acquire art from the holdings of Austrian galleries. In addition, support is granted (since 2002) for the participation of Austrian artists (galleries) at international arts festivals.

## Austria/ 5.3 Sector specific legislation

### 5.3.8 Mass media

Austrian regulations on content correspond to the European Directive "Television without Frontiers" (see *Austrian Broadcasting Act, Article 1, 2 b, 1999*).

Advertising is regulated by the *Austrian Broadcasting Act*, the latest version of which (in force since January 1, 1999) stipulates that only 35 minutes of advertising is allowed per day and per TV channel and 120 minutes of advertising per day and channel in radio programmes. Austria 1 is the only "advertising-free" public station and *Radio Orange* one of the advertising-free private radio station.

Amendments to the *Austrian Broadcasting Act* forbid "interruption advertising" (i.e. advertising that interrupts running programmes). Advertising is not permitted on Good Friday, Christmas and All Saints Day on either public radio or television. Furthermore, advertising for newspapers, magazines etc., on television is limited to two minutes per day; cross-promotion is permitted and "interrupting advertising" is only allowed for the transmission of events (e.g. sports events). Since 1999, TV-programmes considered unsuitable for minors have been flagged on screen.

An amendment to the *Broadcasting Act ("Austrian Broadcasting Corporation Act")* in 2001 included the legal transformation of the ORF into a foundation and the production of a new version of the statutory programme directive. It also included a new clause on the promotion of Austrian artistic and creative production. Nominations for the foundation council are partly submitted by the government. A significant change has been the introduction of a new regulation that forbids the nomination of politicians to the council. The statutory tasks are to be more clearly separated from other commercial activities of the ORF. Although this reform was intended to reduce party-political influence on the ORF, many commentators remain doubtful about the success of this step towards independence.

The new *Broadcasting Act*, laying down the promotion of arts and culture, also includes a limitation on advertising. This led to financial cuts in the ORF budget: one result was the cancellation of the high-quality TV programme *Kunst-Stücke* – under protest from many artists – which had primarily presented contemporary arts and films over the last 20 years.

In 2004, a new *Press Subsidy Act (Presseförderungsgesetz)* came into force. In addition to distribution subsidies for daily and weekly newspapers and special subsidies for the preservation of diversity in regional daily newspapers, the *Press Subsidy Act* also provides new measures, such as support for the education of journalists and for research projects. The *Journalism Subsidy Act (Publizistikförderungsgesetz, 1984)* sets out, among other things, provisions for support to periodicals if they deal with the topic of culture or related scientific disciplines. Since 2004, the Austrian Communications Authority (*KommAustria*) has been responsible for administering the press subsidies and subsidies under the *Journalism Subsidy Act*. A digitalisation fund (euros 7.5 million annually, derived from broadcasting fees) was launched in 2004 to foster digital terrestrial broadcasting in Austria.

An amendment to the *Private Radio Broadcasting Act* was made in 2004. In the future, nation-wide radio broadcasters and those who can demonstrate long-term financing will receive preferential treatment in the granting of licences. Critics fear this will lead to further media concentration in the radio sector which, above all, will drive out the non-commercial, free radio stations.

## Austria/ 5.3 Sector specific legislation

### 5.3.9 Legislation for self-employed artists

Artists have been comparatively successful in creating, improving and consolidating lobbies for themselves. Authors and translators in particular, as well as cultural initiatives, and to some extent independent theatre groups, cinematographers and media artists have been able to create associations and interest groups to represent them in public, to lobby for more funds and commissions, to fight for legal and social improvements and for the maintenance of artistic freedom. Among their major achievements has been an improvement in the flow of information on market opportunities and mutual communication among artists. As to their social security status, several reforms and improvements (copyright, social security scheme for artists and other social benefits) have been achieved of umbrella organisations, interest groups and collecting societies.

Since January 2001, when the new *Law on Social Security for Artists (Künstler-Sozialversicherungsfondsgesetz)* came into force, freelance artists are treated the same as other self-employed professionals, which means they must pay their statutory social security insurance if they earn more than 6 453 euros per annum. In many cases, the new law created a situation whereby artists end up making two different types of social insurance payments: statutory insurance for freelance work and any other social security insurance payments which result from other part-time employment contracts they may have. As many freelance artists are employed both part-time and do free-lance work, the contribution to the social security system is relatively high compared to total income.

A working group with representatives of all parties involved in this matter discussed the possibility of special regulations and helping artists with these payments. The new law set up a *Social Security Insurance Fund for Artists (Künstlersozialversicherungs-Fonds)* which grants artists a pension supplement of up to 85.5 euros per month if their income is between 323 euros and 1 635 euros per month. Those artists entitled to receive a grant must meet certain requirements such as being specifically trained (art university graduates, for example). Others are selected by a specific board (commission). This new Social Security Insurance Fund replaces the former *Künstlerhilfe Fonds*. From 2000 until 2003 the social security insurance fund was supported by the Federal Chancellery / Arts Department.

The new Social Security Insurance Fund was widely criticised by artists and their professional associations, because of the exclusion of artists on very low incomes. Further demands are to secure obligatory contributions to the fund by the federal government and a supplement not only for pension but also for health and accident insurance.

## Austria/ 6. Financing of Culture

### 6.1 Short overview

In 2001, approximately 1.83 billion euros, or 1.27% of all public expenditure, was spent on culture and the arts by the federal, provincial and local governments; in 2002, the total sum spent on culture and the arts was 1.89 billion euros, or 1.29% of all public expenditure. 38% of this budget is spent by the federal government, while the remainder is divided among the provincial governments, including Vienna with 38%, and the municipalities with 23%.

The year 2001 was the first year in the history of public funding of the arts and culture that the total provided by provincial governments including Vienna in nominal terms was greater than that provided by the federal government. From the budget year 2000, the first one calculated in euros, public funds for the arts and culture increased at federal level in nominal terms from 668.8 million euros to 710.4 million euros by 2002. This is an increase of 6.4%. During the same period the total sum at the level of provincial governments increased from 593.5 million euros to 722.41 million euros. This is an impressive increase of 21.7%.

A high percentage (approx. 50%) of federal expenditure on culture goes towards the maintenance of large-scale projects and institutions such as the federal theatres and museums as well as to performing arts activities – the majority of which are located in Vienna. Federal theatres are financed by the Federal Chancellery while the federal museums are financed from the budget of the Federal Ministry of Education, Science and Culture.

Subsidies from the Bundesländer (excluding Vienna) have more than tripled since 1980. The majority of resources are spent on education, followed by the performing arts. The former includes considerable investments in music schools and conservatories.

Additional support for "non-traditional" fields of culture, such as contemporary art or more general art promotion, is derived from indirect levies e.g. on radio licences. An advisory board monitors spending within the Federal Chancellery and the Federal Ministry of Education, Science and Culture. Seven Bundesländer have emulated this example and levy a "broadcasting, radio or culture schilling". The extra funds have, in fact, made quite an impact on the budgets of some public institutions (in some cases up to 15% of the culture budget). Funds are also obtained from "blank tapes" levied by collecting societies.

## Austria/ 6. Financing of Culture

### 6.2 Public cultural expenditure per capita

In 2000, cultural expenditure per capita in Austria amounted to 227.70 euros; the share of GDP in 2001 was

0.83%.

In 2002, cultural expenditure per capita amounted to 234.2 euros; the share of GDP in 2002 was 0.88%. The two years in comparison represent a slight increase.

## Austria/ 6. Financing of Culture

### 6.3 Public cultural expenditure broken down by level of government

**Table 1: Public cultural expenditure: by level of government, in million euro, 2001**

Level of government	Total expenditure	% share of total
Federal	699.77	38.17%
Länder	704.76	38.45%
Municipal	428.62	23.38%
<b>TOTAL</b>	<b>1 833.15</b>	<b>100%</b>

Source: Kulturstatistik 2001/02.

**Table 2: Public cultural expenditure: by level of government, in million euro, 2002**

Level of government	Total expenditure	% share of total
Federal	710.74	37.63%
Länder	722.41	38.25%
Municipal	455.67	24.12%
<b>TOTAL</b>	<b>1 888.82</b>	<b>100%</b>

Source: Kulturstatistik 2001/02.

Public cultural expenditure broken down by level of government is calculated in table 1 for the year 2001 and in table 2 for the year 2002. The figures in both tables are calculated on the basis of table 3 and table 4 presented in chapter 6.4. The main message of table 1 and 2 is to examine the proportion between levels of government in the field of public cultural expenditure; the main message of table 3 and 4 is to shed some light on the share of the subcategories within the levels of government. Austrian culture statistics is not yet in a position to identify exactly all transfers between the levels of government. Especially the amount and flow of transfers from the provincial governments to the local level cannot be shown in all its complexity. The funds for arts education represent in most of the provinces a huge share of total cultural expenditure, in most cases around 50%. The average figure of around 26% is influenced strongly by the province of Vienna which provides in this field only an arbitrary sum with respect to total cultural expenditure. Money for arts education means at federal level funds for the arts universities, at provincial level and at the level of municipalities funds for the music schools.

Music schools are organised in very different forms and status. Organising music schools as part of the provincial administration or as independent associations or as organisations by business law influences the flow of subsidies from the provinces to the music schools. Because of these problems the Austrian yearbook on music schools has not yet dealt with this delicate problem, but there are plans to do so in the next edition. Problems like these are the main reason the aggregated sum of the subdivisions' funds - based on the "funding reports" - is not the same as when we calculate the total arts funds from the budgeting documents. But the budgeting documents are not helpful for relating the total funds to the subcategories. For the compendium series in 2005 this problem will be much better served by the findings of the forthcoming music schools statistical yearbook next spring. In the meantime the solution was to subtract the total overlapping sum from the funds calculated at local level.

## Austria/ 6. Financing of Culture

### 6.4 Sector breakdown

**Table 3 State cultural expenditure, sector breakdown, in million euro, 2001**

Field / Domain / Sub-domain	Federal State		States		Municipalities		Total	
	Total	in %	Total	in %	Total	in %	Total	in %
Cultural Goods	230.88	32.99%	163.03	23.13%	171.37	30.92%	550.55	30.02%

Cultural Heritage	204.23		131.77		148.65		470.65	
<i>Historical Monuments</i>	98.14	14.02%	30.82	4.37%	80.95	14.60%	203.39	11.09%
<i>Museums</i>	106.09	15.16%	100.95	14.32%	67.7	12.21%	267.26	14.57%
Archives								
Libraries	26.65	3.81%	31.26	4.44%	22.72	4.10%	79.90	4.36%
<b>Arts</b>	<b>232.25</b>	<b>33.19%</b>	<b>232.73</b>	<b>33.02%</b>	<b>130.46</b>	<b>23.54%</b>	<b>549.06</b>	<b>29.94%</b>
Architecture								
Visual Arts (incl. Design)	8.48	1.21%	20.00	2.84%	6.76	1.22%	34.27	1.87%
Performing Arts	223.77		212.73		123.70		514.79	
<i>Music</i>	12.18	1.74%	53.96	7.66%	45.14	8.14%	106.44	5.80%
<i>Theatre, Musical Theatre</i>	175.27	25.05%	114.35	16.23%	66.43	11.98%	316.20	17.24%
<i>Multidisciplinary</i>	36.32	5.19%	44.42	6.30%	12.13	2.19%	92.15	5.02%
<b>Media</b>	<b>45.11</b>	<b>6.45%</b>	<b>18.56</b>	<b>2.63%</b>	<b>5.56</b>	<b>1.00%</b>	<b>69.17</b>	<b>3.77%</b>
Books and Press	23.01		4.27		1.65		28.91	
<i>Books</i>	7.25	1.04%	2.61	0.37%	1.65	0.30%	11.50	0.63%
<i>Press</i>	15.76	2.25%	1.66	0.24%		0.00%	17.41	0.95%
Audio, Audiovisual and Multimedia	22.10		14.29		3.91		40.26	
<i>Cinema</i>	15.55	2.22%	14.23	2.02%	2.96	0.53%	32.71	1.78%
<i>Radio</i>	6.55	0.94%	0.06	0.01%	0.95	0.17%	7.55	0.41%
<i>Television</i>								
<b>Other</b>	<b>191.53</b>	<b>27.37%</b>	<b>290.44</b>	<b>41.21%</b>	<b>246.93</b>	<b>44.55%</b>	<b>665.37</b>	<b>36.28%</b>
<i>Interdisciplinary</i>	185.01		219.96		228.51		573.27	
<i>Socio-cultural</i>	5.37	0.77%	42.77	6.07%	95.87	17.30%	143.42	7.82%
<i>Cultural Relations Abroad</i>	33.74	4.82%	0.38	0.05%	3.00	0.54%	37.12	2.02%
Administration								
Educational Activities	145.90	20.85%	176.81	25.09%	129.64	23.39%	392.73	21.41%
Not allocable by domain	6.52	0.93%	70.48	10.00%	18.42	3.32%	92.10	5.02%
<b>Total</b>	<b>699.77</b>	<b>100.00%</b>	<b>704.76</b>	<b>100.00%</b>	<b>554.32</b>	<b>100.00%</b>	<b>1 834.15</b>	<b>100.00%</b>

Source: Kulturstatistik 2001/02.

Table 4 State cultural expenditure, sector breakdown, 2002

Field / Domain / Sub-domain	Federal State		States		Municipalities		Total	
	Total	in %	Total	in %	Total	in %	Total	in %
Cultural Goods	268.62	37.79%	166.69	23.07%	181.96	30.67%	599.30	31.73%
Cultural Heritage	241.31		133.97		158.71		516.45	
<i>Historical</i>	131.83	18.55%	36.33	5.03%	82.86	13.97%	243.01	12.87%

<i>Monuments</i>								
<i>Museums</i>	109.48	15.40%	97.64	13.52%	75.85	12.78%	273.44	14.48%
Archives								
Libraries	27.31	3.84%	32.72	4.53%	23.25	3.92%	82.85	4.39%
<b>Arts</b>	<b>204.68</b>	<b>28.80%</b>	<b>224.22</b>	<b>31.04%</b>	<b>131.88</b>	<b>22.23%</b>	<b>513.63</b>	<b>27.19%</b>
Architecture								
Visual Arts (incl. Design)	7.80	1.10%	13.66	1.89%	6.58	1.11%	27.43	1.45%
Performing Arts	196.88		210.56		125.30		486.20	
<i>Music</i>	12.58	1.77%	46.32	6.41%	47.86	8.07%	101.54	5.38%
<i>Theatre, Musical Theatre</i>	173.04	24.35%	108.86	15.07%	64.08	10.80%	306.06	16.20%
<i>Multidisciplinary</i>	11.26	1.58%	55.38	7.67%	13.36	2.25%	78.60	4.16%
<b>Media</b>	<b>37.41</b>	<b>5.26%</b>	<b>17.30</b>	<b>2.39%</b>	<b>5.59</b>	<b>0.94%</b>	<b>60.23</b>	<b>3.19%</b>
Books and Press	23.55		3.04		1.76		28.33	
<i>Books</i>	7.67	1.08%	2.33	0.32%	1.76	0.30%	11.74	0.62%
<i>Press</i>	15.88	2.23%	0.71	0.10%		0.00%	16.59	0.88%
Audio, Audiovisual and Multimedia	13.86		14.26		3.83		31.90	
<i>Cinema</i>	13.86	1.95%	14.17	1.96%	3.24	0.55%	31.22	1.65%
<i>Radio</i>		0.00%	0.09	0.01%	0.59	0.10%	0.68	0.04%
<i>Television</i>								
<b>Other</b>	<b>200.03</b>	<b>28.14%</b>	<b>314.20</b>	<b>43.49</b>	<b>273.91</b>	<b>46.16</b>	<b>715.66</b>	<b>37.89</b>
Interdisciplinary	193.93		232.54		255.24		617.26	
<i>Socio-cultural</i>	5.61	0.79%	43.22	5.98%	114.04	19.22%	162.48	8.60%
<i>Cultural Relations Abroad</i>	32.69	4.60%	0.34	0.05%	2.99	0.50%	36.02	1.91%
<i>Administration</i>								
<i>Educational Activities</i>	155.63	21.90%	188.98	26.16%	138.21	23.29%	418.76	22.17%
Not allocable by domain	6.10	0.86%	81.66	11.30%	18.67	3.15%	98.40	5.21%
<b>Total</b>	<b>710.74</b>	<b>100.00%</b>	<b>722.41</b>	<b>100.00%</b>	<b>593.34</b>	<b>100.00%</b>	<b>1 888.82</b>	<b>100.00%</b>

Source: Kulturstatistik 2001/02.

The main message of table 3 and 4 is to shed some light on the shares of the subcategories within the levels of government. How are these figures calculated and what quality standards are behind them? All departments funding the arts and culture at federal and provincial level provide so-called "funding reports". Basing data sets on these reports achieves a reasonably high quality of analysis and comparison of arts policy. The funding reports are documents describing where the funds are going at project level. The structure used to document these subsidies and make the figures comparable in Austrian culture policy is the LIKUS scheme, which provides aggregated figures for around 20 000 projects. It is important to indicate this with respect to table 2 and its subdivisions into the levels of government. Since the transfer of the Austrian funding figures in the LIKUS scheme to the compendium scheme is possible with only a limited loss of documentation quality the background for the share figures in table 2 is reasonable.

For the municipal level the funding figures for arts and culture do not have the same quality as for the federal and provincial levels, especially when it comes to separating the figures according to the subcategories of the LIKUS

scheme and finally for the compendium scheme. For this level there is still a huge amount of clarification necessary, especially of which field the money is used in. The subdivisions currently provided are estimates from Statistics Austria but are still the best available. The main idea at this level is to complete table 2 at all levels for Austria. On the one hand providing the figures and on the other being aware of this weakness at municipal level generally, there is a need and a desire to improve the comparative quality at least for the larger towns in the near future, since the willingness to provide a substantial amount of the total budget for arts and culture at this governing level is greater than elsewhere.

The figures in the culture policy reports do not indicate where transfers are involved. Separating out transfers is currently only possible using budgeting documents. However, these documents have a different structure and subdivisions. The biggest average share devoted to arts and culture was achieved in 2002 with 4.07% at the level of municipalities. The year before this figure was 4.01%, so this represents a slight increase. A substantial increase from 2001 to 2002 in the share figures was achieved at provincial level even though the share at that time was only half that of the municipalities'. The provincial level in Austria is represented by the nine *Länder* (provinces) such as the Tyrol, Upper and Lower Austria and the capital Vienna. On average the share of the funds devoted to arts and culture at provincial level was 1.99% in 2001 and 2.29% in 2002.

The lowest share for arts and culture in Austria is provided at federal level. That said, it must be underlined that this share is much higher than that at federal level in Germany or Switzerland. It is also important to see and comment on the tendency at federal level. Although there was an increase in the shares from 2001 to 2002 from 0.71% to 0.74%, the general trend over a longer period is a substantial decrease. This steadily decreasing trend overlaps even the change of governments at federal level from the coalition between the historically larger political parties in Austria, the Social Democratic Party (SPÖ) and the conservative Christian Democratic People's Party (ÖVP) to the current coalition of the conservative People's Party (ÖVP) and the right wing Freedom Party (FPÖ). The highest share of funds for arts and culture at federal level was measured in the years 1995 and 1996 in the region of 1% at the end of the first-named coalition's final term in office. The lowest share was reached with 0.57% in the year 2000, when the current coalition started with its first budget. These comparatively large changes also indicate the need for a permanent, qualified and highly professional observation of the trend in willingness to support funding of arts and culture.

The shares of cultural public expenditure at federal, provincial and local level in table 2 are based on the analytical quality mentioned at the beginning of this section with respect to the data sets on public funding figures in Austria. Some budget lines have not yet been filled in. That means that with improved calculation of funding figures in Austria the aggregated sums will also increase. In Austria there are no figures at all for the costs of administration. Compared to the funding figures from Germany, this would mean an increase of around 6%. Beyond the need to meet all the demands of the new scheme the funds provided for administration seem to be a figure of strategic importance. And this is not only the case for Austria.

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The Council of Europe/ERICarts "Compendium of Cultural Policies and Trends in Europe, 6th edition", 2005

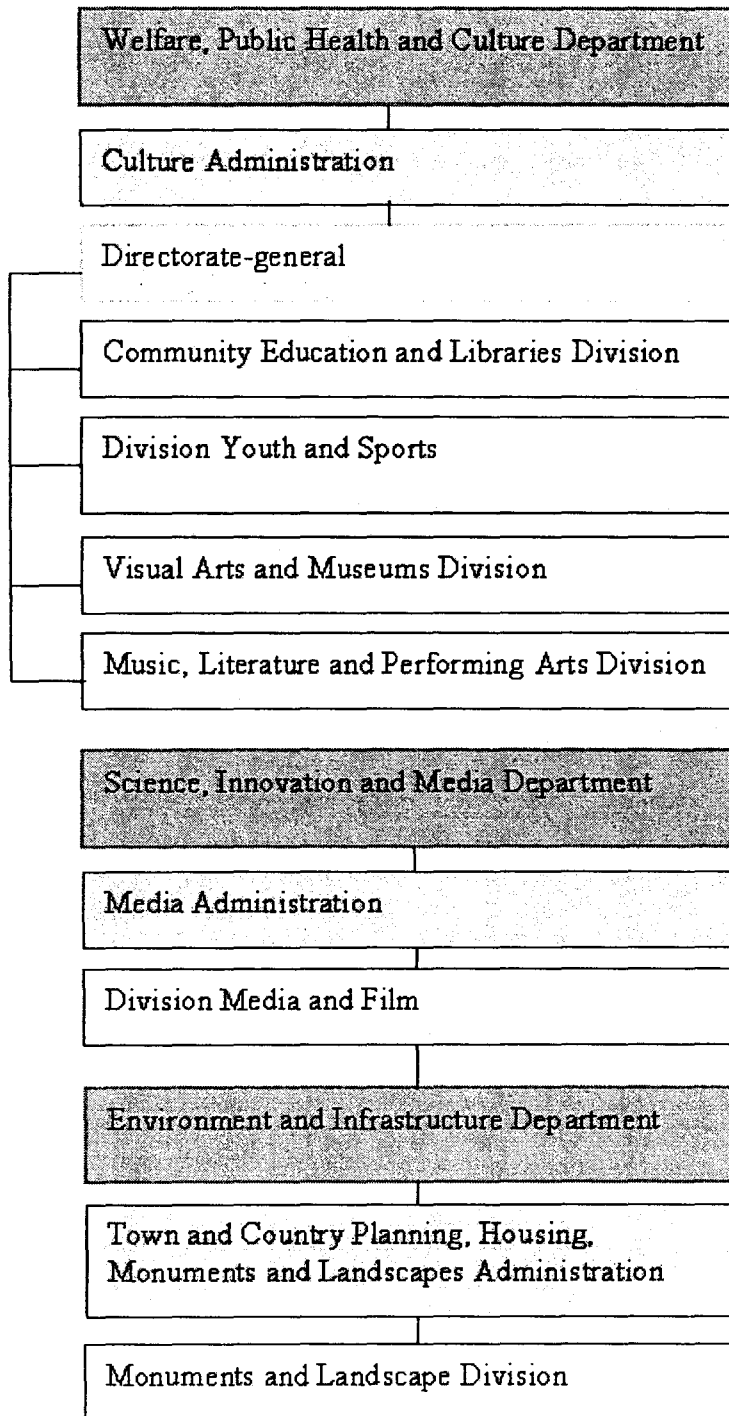




**Belgium/ 2. Competence, decision-making and administration**

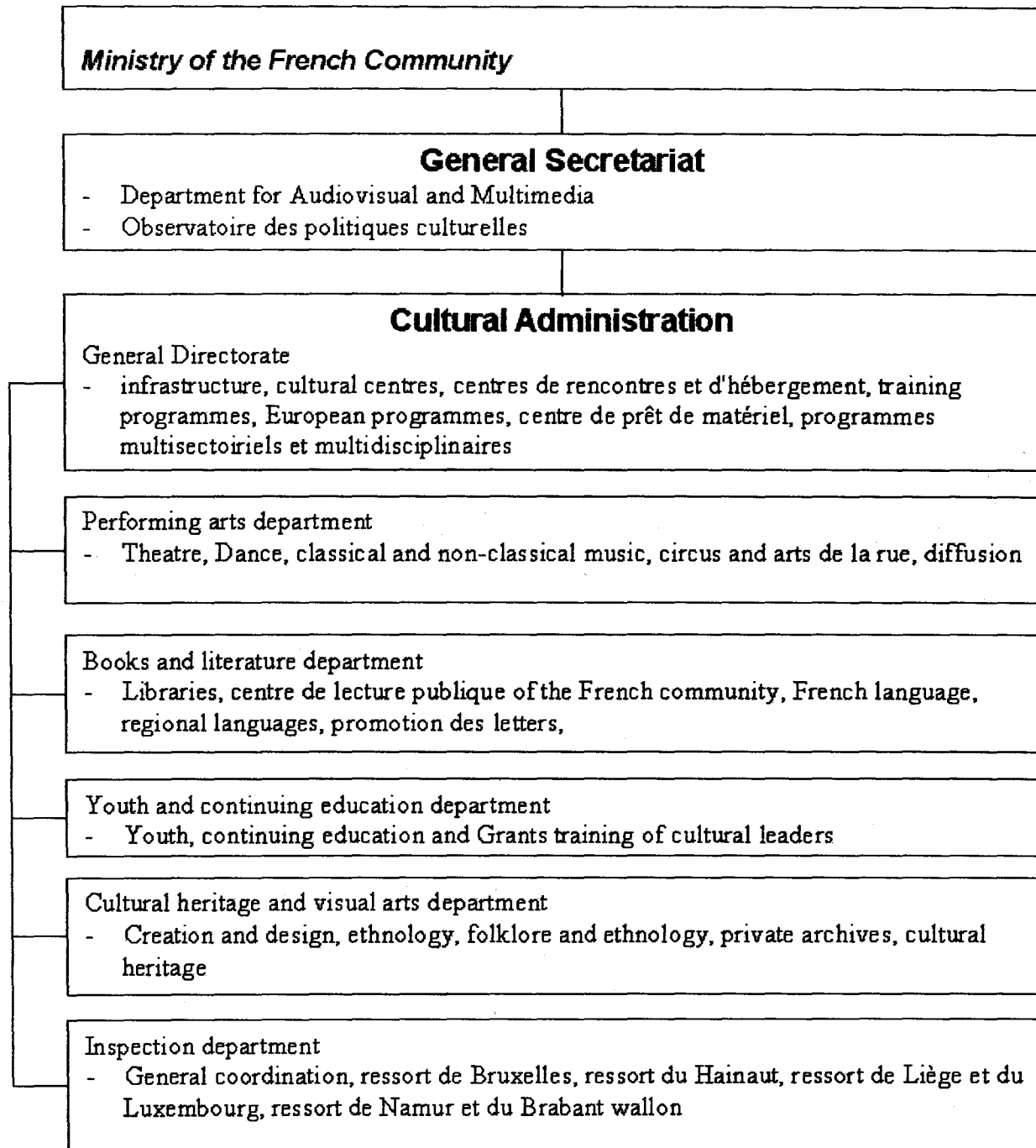
**2.1 Organisational structure (organigram)**

***Flemish Community***



***French Community***

Community level



**Department for Arts Education** which supervises all public arts schools of the Community and allocates funds to institutions that are dependent on the Community (e.g. Art academies) as well as grants to independent schools.

A **General Commission for International Relations** was created during the 1980s as a special administrative structure for international relations

Regional level:

Some cultural competencies are ensured by the Regions via:

- Brussels-Capital Region: French Community Commission (Cocof);
- Walloon Region: Department of Town planning, Housing and Heritage- Heritage Division: Protection, Restoration and Archaeology

The Regions also take in charge matters that are of significant importance for the cultural development: tourism, national and regional development, the development of urban and rural life, social integration, employment, economy, new technologies, etc.

**Provincial and local level**

Each province and many towns and communes develop (their own) cultural policies. In some areas, such as arts centres and libraries, these policies are devised between the French Community, the provinces and the communes.

The French Community offers culture-contracts to provinces and communes who want them. The aim of these contracts is to coordinate every levels of authority for the cultural policies conducted in the area.

**German-speaking Community**

The cultural portfolio forms part of the Cultural Affairs Department of the Ministry for the German-speaking Community. In addition to cultural affairs, the Cultural Affairs Department also administers the areas of youth, continuing and adult Education, media, sport, tourism, monument and countryside protection and archaeological excavations.

The culture portfolio encompasses the arts (music, theatre, dance, plastic and visual arts, and literature), cultural centres, museums, historical research, protection and preservation of moveable cultural heritage, folklore, cultural initiatives and projects together with inter-Community and international cooperation.

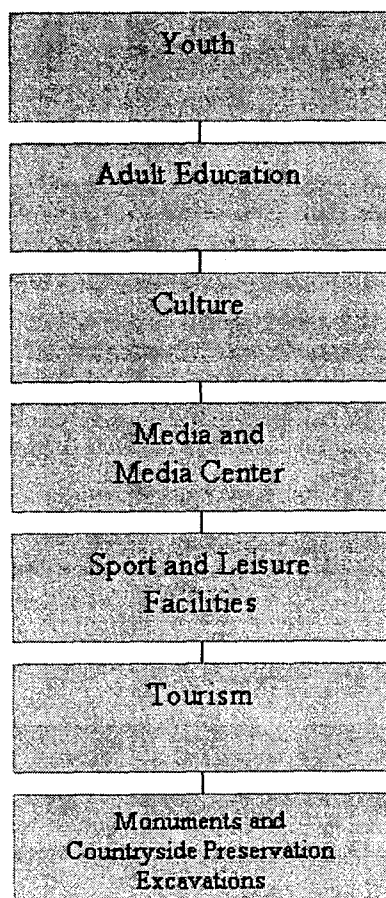
Certain transversal subject-areas are administered by the general offices of the Ministry, such as infrastructure and certain activities in the area of foreign relations.

**Organisational chart**

**Ministry of the German-speaking Community**

**General Secretariat**

*Department for Cultural Affairs*



**Belgium/ 2. Competence, decision-making and administration**

**2.2 Overall description of the system**

Belgium is a federal country which is divided into 3 regions (Flanders, Wallonia and Brussels) and 3 linguistic communities (Flemish, French and German speaking communities), each with their competence for self-governance. The Regions are responsible for matters relating to territory including economy, environment, housing

and employment. The Communities are responsible for culture, education, some aspects of health and welfare, language usage and inter-community co-operation. The Regions and Communities have competence in the area of international co-operation and are authorised to engage in international agreements and sign treaties.

Each Region and Community is organised on the basis of a legislative power (Council) and an executive power (government headed by a minister-president). In Flanders there is one government for both the Region and the Community which also covers the Dutch-speaking population in Brussels. In the French speaking area of Belgium there is a government and a council for both the region and the community (with equal status) which includes the French-speaking population in Brussels.

The Federal state is responsible for cultural institutions of national importance (see chapter 2.1), as well as for certain policy areas including labour law, social security, taxation, and intellectual property rights. The Regions are responsible for monuments and sites and conservation of archaeological monuments. Basic principles for cultural policy to be followed by all 3 communities are laid out in the *Cultural Pact Act of 1973* which is administered by the Federal state. It also sets out a compulsory consultative process, including the set up of Councils or Commissions, to ensure that all political and minority voices are heard and integrated into policy development and implementation.

### ***Flemish Community***

The aim of the current cultural policy is to achieve a relationship with the provinces and municipalities which is based on the principles of subsidiarity and complementarity. A recent example of this policy-in-action is the decree on local cultural policy. The Government of Flanders has entered into an experiment which sets up "Covenants" with certain cities in the field of cultural heritage. At this moment, the Flemish government, municipalities and provinces are negotiating a division of responsibilities which will lead to the ratification of Covenants (see chapter 7.1).

### ***French Community***

The French Community exercises its competence over the territories of Wallonia and Brussels, the latter of which is home to the majority of cultural institutions and associations in French-speaking Belgium. Over the past decade, the government has been examining means to decentralise responsibility for cultural institutions in Wallonia and for more equitable division with Brussels. They have devised their cultural policies to reinforce partnership with the towns, municipalities and rural areas via special contracts in fields such as cultural centres, libraries, youth and continuing education organisations, community centres of expression and creativity, youth centres, regional drama centres, community television stations, and reception and production units.

### ***German-speaking Community***

Due to its size, the German-speaking Community is generally able to develop and carry out a cultural policy which closely reflects the needs of its citizens and the community. Thanks to its extensive degree of autonomy, it has the necessary freedom of action to develop its identity through socio-cultural events, while at the same time building up its national presence through the promotion of high-quality cultural products and productions.

The Constitution of Belgium grants a transfer of regional authority through the Walloon Region to the German-speaking Community. In the cultural field, responsibility for monuments and landscape protection (1994) and excavation (2000) has already been transferred to the Community to allow for better self-administration. Also in 2001, the exercise of powers in the area of employment was transferred, as a result of which the German-speaking Community's room for negotiation in the socio-cultural area was indirectly enlarged. On 1 January 2005, there followed a transfer of supervisory powers over local authorities; these relate to the nine German-speaking boroughs that constitute the German-speaking Community.

## **Belgium/ 2. Competence, decision-making and administration**

### **2.3 Inter-ministerial or intergovernmental co-operation**

Inter-ministerial co-operation, whether at the federal, regional or community level, takes place between Ministers in the following fields that have an impact on cultural policy: foreign affairs, education, employment, environment, media, mobility, tourism, etc.

Official inter-community co-operation takes place between the French Community and the German-speaking Community, the French Community and the French Community Commission in Brussels, and between the Flemish Community and the German-speaking Community.

At present, there is no co-operation agreement between the Flemish and French-speaking Communities.

### ***French Community***

In 2004, the government of the French Community decided to implement a Strategic Plan for the coordination of policies related to the promotion of equal opportunities for men and women, for inter-culture, and for social inclusion. These three inter-sectorial, transversal priorities thereby concern the full range of its competencies:

culture, education, sport, youth care, social affairs and health prevention.

In a first phase, which is currently under way, an inventory is conducted. This inventory lists, for each sector and for each priority, the status of the concerned legislations, the history of the issue, the general objectives guiding the action, ongoing projects, the related budget, the evaluation, and the perspectives (prospects).

### ***German-speaking Community***

The German-speaking Community has concluded co-operation agreements with the French Community and with the Flemish Community, as well as with the Walloon Region and the Province of Liège. These agreements govern the cooperation of the partners in all corresponding areas of responsibility (cultural affairs, personal / social matters, teaching / training, employment). Special agreements have been signed with the French Community, including for cultural and audiovisual matters.

## **Belgium/ 2. Competence, decision-making and administration**

### **2.4 International cultural co-operation**

Since 1993, the Communities have enjoyed self-government in terms of international relations, which allows them to enter into agreements not only with states, but also with Regions or Provinces of foreign countries. The Community Ministers responsible for culture rotate their participation on European Councils and international bodies.

#### ***Flemish Community***

Flanders has concluded several international conventions, co-operation and cultural agreements with various countries and regions. Bilateral co-operation with the Netherlands is the first priority, not only in terms of internal exchange and co-operation between them, but to act jointly on external relations. Multilateral co-operation remains a major issue, especially in dealing with the European Union, the Council of Europe, UNESCO and informal networks like the International Network on Cultural Policy.

The Flemish Minister of Culture is the sole administrator of funds for the development of the international policy for culture, without the intervention of the Minister of Foreign Affairs.

Flanders sets great store by the international activities, which are coming about on the initiative of the cultural sector. There are various possibilities for financial intervention: work grants, project cost subsidies, travel and transport cost subsidies, etc.

#### ***French Community***

In 1993, the French Community set up a public body to be solely responsible for international relations (General Commission for the International Relations of the French Community of Belgium - GCIR). This body is mandated to carry out the French Community's foreign policy, and for administering cultural agreements signed with other countries, regions or provinces of foreign countries. The GCIR develops its own priorities for the promotion and dissemination of culture and the arts created in the French Community, for multilateral action with UNESCO, the Council of Europe, the European Union (and associated bodies), with industrialised or otherwise French-speaking countries, for more strategic action towards countries in the South, and for youth exchange policies.

To carry its missions to a successful conclusion, the CGRI works with specialized agencies, which are managed jointly with the Ministry for the French Community: Wallonia-Brussels Music (WBM), Wallonia-Brussels Images (WBI), Wallonia-Brussels Theatre (WBT – Cultural Contact Point, in charge of the European programme Culture 2000), the International Youth Bureau (BIJ) and the Quebec Wallonia-Brussels Agency for Youth.

In addition to these specialized agencies, Wallonia-Brussels delegations relay the action of the French Community abroad, in particular in Berlin, Warsaw, Prague, Bucharest, Rabat, Tunis, Algiers, Dakar, Kinshasa, Quebec, Santiago of Chile, and Hanoi. In Paris, the General Delegation is more specifically in charge of the diplomatic relations with France and with international organizations based in Paris. In Geneva, the Wallonia-Brussels Delegation represents the French Community to the United Nations Office and specialized agencies (WCO, WHO, UNAIDS, HCR, OIM, UNESCO, UNHCHR, UNESCO, ILO, OMPI). In Brussels, the Delegation to the European Union, the Human Rights Delegation and the Delegation to International Audiovisual Issues and AGCS-related issues complete the network.

In the area of the French language, the French Community, through the CGRI, joined the Ministry for Foreign Affairs and the Alliance Française to create the European Centre for the French language (CELF) aimed at the European public based in Brussels.

The French Community also has its own delegation within the summits of French-speaking Heads of State.

#### ***German-speaking Community***

The German-speaking Community is actively engaged in building and enlarging its own foreign relations. Due to the size of the Community (854 km<sup>2</sup>) and the number of its population (70 000), this cooperation is mainly directed

at other German speaking regions, or European autonomous regions of comparable size. The main focus is the direct transborder neighbouring regions, such as the German Bundesländer Rhineland-Palatinate and Northrhine-Westfalia, Luxembourg or the Netherlands.

The German-speaking Community has signed bilateral agreements with 7 European states: Germany, France, Luxembourg, the Netherlands, Austria, Hungary, Italy (South Tyrol). Many of these agreements are based on accords previously drawn up by the then Belgian central state; some have been complemented by individual agreements, some have been changed to structurally accommodate the new distribution of competences, others simply remain with their original wording and action. Most of them, while referring to cultural agreements, define culture widely to include education, sports and science.

Two multilateral agreements have been drawn up on regional basis; they are founded on the Euro region structure, which has been consolidated over the past years in European transborder regions. One is the Euregio Maas-Rhein, which includes regions in three countries (Belgium, Germany and the Netherlands), the other the European Greater Region Saar-Lor-Lux, with Luxembourg and regions from Belgium, France and Germany.

The German-speaking Community of Belgium is represented since 1994 in the EU *Committee of the Regions* through its president. It also participates in the *Initiative of Regions with legislative Competences*, which includes Flanders, the Walloon Region, Bavaria, North Rhine-Westphalia, Salzburg, Scotland and Catalonia. Furthermore, it participates in the *Advisory Inter-parliamentary Committee of the Benelux-States* and the *Advisory Congress on Municipalities and Regions in Europe*.

## **Belgium/ 5. Main legal provisions in the cultural field**

### **5.1 General legislation**

The purpose of the newly expanded chapter 5 on legal provisions for culture is to provide you with a more indepth overview of the legal instruments used to support culture in the individual Compendium countries.

Chapter 5.1 provides you with information on those pieces of general legislation which have an important impact on culture, for example, articles in the Constitution of individual countries or legislation used to govern the allocation of public funds.

Chapter 5.2 provides a list as overview of the main legislation for culture. Some countries may have hundreds of laws while others may have only one "Culture Act".

Chapter 5.3 is sub-divided to provide you with information on sector specific legislation in the following fields: visual and applied arts; performing arts and music; cultural heritage; literature and libraries; architecture and environment; film, video and photography; culture industries; and mass media.

### **Belgium/ 5.1 General legislation**

#### **5.1.1 Constitution**

The Constitution of Belgium includes the right of freedom of expression (*Article 19*), the right to cultural development (*Article 23, 5*) and freedom of the press (*Article 25*).

### **Belgium/ 5.1 General legislation**

#### **5.1.2 Division of jurisdiction**

The Constitution determines cultural affairs, cultural cooperation between the communities and international cultural cooperation within the scope of the Flemish and the French Community (*Article 127, § 1*).

### **Belgium/ 5.1 General legislation**

#### **5.1.3 Allocation of public funds**

The fundamental part of federal legislation is the *Cultural Pact Act* passed in 1973. This act has also served as the basis for legislation (in the form of decrees) at community level.

According to the *Cultural Pact Act*, regulation regarding recognition and funding of regular cultural activities is determined according to a decree or discussion of a representative government meeting. In the event of a lack of these regulations all subsidies and benefits must be allocated from a specific budget. This excludes subsidies for new experimental initiatives, but these starting subsidies may only be granted for a maximum of three years, on the basis of advice from an authorised advisory body.

The *Cultural Pact Act* also prescribes that government aid – in whatever form – must guarantee the equality of rights between citizens, regardless of their conviction.

The *Cultural Pact Act* also obliges every government to set up participation or advisory structures and to involve these in the preparation and implementation of the cultural policy.

Complaints against infringements on the stipulations of the *Cultural Pact Act* can be submitted to a special commission.

## Belgium/ 5.1 General legislation

### 5.1.4 Social security frameworks

In 2000, measures were taken to enable artists who receive unemployment benefits to practise their art more freely, which hitherto had been prohibited by law.

In December 2002, the federal parliament ratified measures to improve the social security system for artists. On July 1st 2003, this regulation came into effect. The main points are:

- artists are treated either as employees or as self-employed for the purposes of social security. To stimulate salaried work for artists, employers are given a discount on their share of social security contributions to compensate for these additional costs;
- child and holiday allowances for artists which are covered by the employees' regulation will be paid by the federal government. This will simplify the payment of allowances caused by working for different employers; and
- those who infrequently hire artists (e.g. for an occasional show in a café or for an individual commission) can apply to the "Social Bureau for Artists" to take care of the employer's share of administrative procedures. These bureaux, mostly interim offices, must be recognised by the regional authorities.

## Belgium/ 5.1 General legislation

### 5.1.5 Tax laws

#### VAT

A new VAT system has been in force since 1993, which was the result of a harmonisation of the different systems in the European Union.

The VAT system is divided into two rates: a high rate of 21%, and a low rate of 6%. The low rate applies to most cultural objects (magazines, books, original works of art, collector's objects) and services (tickets for productions, copyright).

Belgian legislation allows for many cultural exemptions (*Article 44, §2, 6-9°, VAT Code*) including:

- the hire (renting) of objects of a cultural nature, if these are made available on a non-profit basis;
- visits to museums, (natural) monuments, botanical gardens and zoos which are not exploited for profit;
- services by performing artists for organisers / companies provided by actors, leaders of orchestras, musicians and other artists; and
- the organisation of theatre, ballet or film productions, exhibitions, concerts or conferences by institutions recognised by the competent authorities, provided the income they gain from their activities is used exclusively to cover the costs incurred.

Such exemptions mean that there is no right to deduct tax in advance. The exemption for performing artists providing services to organisers / companies was also extended to unions of performing artists such as theatre companies. However, on 1 April 1998, this tax exemption was limited to individual performing artists (*Letter no. 13 of the Minister of Finance, dated 19/11/1997*). Since then performances which are not given by individuals are subject to tax at 6%.

The scope and application of this new interpretation remains very unclear and local tax inspectors are sometimes confused regarding the allocation of VAT status to theatre companies applying on the basis of Letter no 13. Sometimes local officials decide to make other activities subject to VAT, but not ticket sales for performances.

#### Income tax

In some cross-border situations, the Belgium government is allowed to tax the income of non-residents who earn money by working in Belgium. However, this depends on co-operation agreements (double taxation laws) reached

with the corresponding countries. For visiting artists, this system can lead to a deduction of company tax from the income which they earn for their performances in Belgium. This tax should be deducted by the Belgian organisers of the performances.

#### **Tax shelter**

From January 2003 onwards, investors can enjoy a tax exemption for the amount they invest in Belgian audiovisual work. This amount may partly consist of loans.

### **Belgium/ 5.1 General legislation**

#### **5.1.6 Labour laws**

Labour laws are the responsibility of the *Federal Government* and are carried out by the Employment Minister (Federal Employment, Labour and Social Negotiations Government Service). Exemptions for the cultural sector are provided in legislation relating to night work and the protection of Sunday as a rest day.

The social partners, represented by unions and employer federations, are deeply involved in the realisation of regulation in the labour sector.

The *joint committees* (JC) include an equal amount of employer and employee organisation representatives, under the direction of an independent chairperson. JCs have been set up for all branches of industry with the aim of grouping companies with similar activities and to develop instructions adapted to labour conditions. The JC assignments consist mainly of concluding collective labour agreements, preventing or solving social disputes and advising on policy.

In principle an employer does not freely choose which JC deals with its activities. This is determined on the basis of an employer's activity and the responsibility of each JC. The following JCs are important for the cultural sector:

- PC227 (audiovisual sector office workers);
- PC303 (film company employees including office workers);
- PC304 (employees including office workers of entertainment companies, incl. music and performing arts); and
- PC329 (employees including office workers in the socio-cultural sector).

The collective labour agreements that are concluded in the JCs can be accessed at <http://www.meta.fgov.be/>.

A *collective labour agreement* (CLA) is an agreement that determines individual and collective relations between employers and employees in companies or branches. When an employer is bound by a CLA, the resulting rights and obligations apply to all employees, regardless of whether they are members of the union(s) in question. The sectoral CLAs are mainly concluded in joint committees or sub-committees. They determine the jobs and corresponding wages for a sector and can include arrangements regarding flexibility.

These agreements can be declared generally binding by the King of Belgium and an employer or employee cannot divert individually from this type of CLA. A major example is the Music CLA concluded in PC 304, which is generally declared binding so it applies to everyone who employs a musician, including for example a pianist who plays part-time in a hotel or restaurant.

The Performing Arts CLA provides arrangements for flexible work in all companies and organisations subsidised by the Flemish Community.

### **Belgium/ 5.1 General legislation**

#### **5.1.7 Copyright provisions**

##### **Authors' rights systems**

The Minister of the Economy is responsible for copyright legislation. The *Belgian Copyright Act* was passed in 1994 and covers copyright, secondary rights, copying for own use, borrowing and lending rights.

The protection of the *Copyright Act* is reserved for work which expresses a clear idea in a particular material form determined by the author, with an adequately original character. The copyright protects the work and the relationship between the artist and his work. The act also makes a distinction between the author's moral and property rights. The act should be adapted to *European Directive 2001/29/EG* but is delayed due to discussions concerning educational and cultural use of protected work.

##### **Blank tape levies**



The *Copyright Act* makes a distinction between copying audio and audio-visual works for home use on the one hand and copying graphic works on the other hand. The payment for copying audio and audio-visual works for home use should be paid by the manufacturer, importer, wholesaler or carrier (audio cassettes, video cassettes, etc. or reproduction equipment such as video equipment, recorders etc.). The amount of the payment is determined by royal decree. The distribution of the payment is made at a rate of 1/3 for each of the following: authors, the performing artists, and the producers.

For graphic works, fees are collected from the manufacturer, importer or wholesaler of reproduction equipment as well as the person making copies. This payment can also be made by the people or institutions that make reproduction equipment available. The level and control of payments, collection and distribution are arranged by royal decree. Half of the payment is made to the authors, the other half to the publishers.

#### **Public lending rights**

The new *Copyright Act* recognises the right of the author to payment for the lending or loaning of his / her work with an educational or cultural aim. This payment is determined by *royal decree (25 April 2004)*.

#### **Adequate compensation**

Since October 1999 public rendition of recorded music includes an "adequate compensation" for the benefit of musicians and producers. The rates were determined after extensive consultation with users, where a separate arrangement was provided for the socio-cultural sector.

### **Belgium/ 5.1 General legislation**

#### **5.1.8 Data protection laws**

Databases are protected by law (*Directive 96/9/EC of 11 March 1996 and Belgian Law of 31 August 1998*).

The maker of the database has a property right if there has been a substantial investment - in terms of quality or quantity or a combination of both - in obtaining, verifying or presenting the contents of the database.

The maker of the database can oppose:

- the extraction or re-utilisation of all or a substantial part of the contents of the database in terms of quality or quantity or a combination of both; and
- repeated extraction or re-utilisation of insubstantial parts of the content of the database if these acts are incompatible with normal use of the database or if these acts cause unjustified damage to the rightful interests of the maker of the database.

Database rights expire 15 years after the 1st of January of the year following the date of completion of the database. If the database is made available to the public before the end of the aforementioned period, this right shall expire 15 years after the 1st of January of the year following the date when the database was made available to the public.

A simple update of the database will not initiate new copyright protection however a substantial modification of the database, whether quantitatively or qualitatively, will start new copyright protection of 15 years under the Belgian Law.

### **Belgium/ 5.1 General legislation**

#### **5.1.9 Language laws**

##### ***German-speaking Community***

29.03.1982 – *Regulatory Order on the language regulations for primary schools;*

21.12.1987 – *Decree to encourage nurture of the standard German language in schools;*

26.10.1998 – *Decree on the introduction of the new German spelling rules;*

10.05.1999 – *Decree on naming of public roads; and*

19.04.2004 – *Decree on the intermediation and use of languages in teaching.*

### **Belgium/ 5.2 Legislation on culture**

#### ***Flemish Community***

For several years, Flanders has been working on a thorough restructuring of the legislation on culture. Important principles are:

- changing as many regulations into decrees as possible. Decrees are suggested by the government or the Flemish Parliament and submitted for approval to the Flemish Parliament;
- combating the disintegration of regulation as much as possible, also in view of a more coherent, integrated cultural policy. Good examples are the *Arts Decree* and the *Local Cultural Policy Decree*. New coordinating decrees also include stipulations for sub sectors or disciplines to take related characteristics or laws into account; and
- the system of subsidising organisations over the longer term, which was already implemented for several sectors, will become a common principle for the entire cultural sector. The system is based on the policy plans of the organisations funded, which are also regularly updated and evaluated. In addition, project-based subsidies are also possible. The range of support for individual artists will be extended.

#### **Recent examples:**

*The Local Cultural Policy Decree - Decree concerning the stimulation of a qualitative and integral local cultural policy (13 July 2001).*

With this decree, the Flemish government would like to stimulate an integral local cultural policy. Local authorities are assigned a large role in policymaking and are responsible for their cultural policy. The decree includes obligations in the areas of participation and consultation (cultural council) and public library operation. Other issues are optional: drawing up or carrying out a cultural policy plan, cultural centres or community centres and inter-municipal cooperation. Municipalities can benefit by financial support from the Flemish government (see chapter 8.4.2).

*The Arts Decree - Decree concerning the subsidising of arts organisations, artists, arts education and social-artistic organisations, international initiatives, publications and support centres (2 April 2004).*

This decree will replace the current decrees from 2006 (from 2007 for music) and many regulations for the various art forms: performing art, music, visual and audiovisual arts, literature, architecture, design, new media and all hybrid art forms.

*The Heritage decree - Decree concerning the organisation and subsidising of a cultural heritage policy (7 May 2004)*

This is a coordinating decree regarding the recognition and subsidising of museums, heritage covenants, projects and publications. The decree will come into force in phases.

#### **German-speaking Community**

The cultural policy is currently based on various sets of rules (Decrees, Orders of the government, Circulars). The German-speaking Community has set itself the goal of renewing this legislation taking account of certain principles, such as considering a specific sector as a whole, consolidating individual sets of rules in an overall text and simplifying administrative processes.

### **Belgium/ 5.3 Sector specific legislation**

#### **5.3.1 Visual and applied arts**

##### ***Flemish Community***

The current regulation will be replaced by the *Arts decree from 2006* (see chapter 5.1):

- regulation of subsidies for contemporary visual arts organisations (subsidies for annual programmes or projects, subsidies for visual arts centres); and
- regulation of subsidies to those involved in contemporary visual arts (work grants, projects).

##### ***French Community***

- *Decree of 10 May 1984 in respect of the integration of works of art into public buildings;*
- *Order of the French Community Government mandating the involvement of artists in Commission meetings regarding the integration of works of art into public buildings; and*
- *Order of 10 June 1988 of the French Community Executive to set up its Consultative Commission for Visual Arts.*

## Belgium/ 5.3 Sector specific legislation

### 5.3.10 Other areas of relevant legislation

#### *Flemish Community*

- Regulations for subsidising cultural projects with an international dimension will be replaced by the *Arts decree* and the *Heritage decree* (see chapter 5.1);
- Regulation for the financial support of socio-artistic projects. This form of support is also provided in the *Arts decree*;
- Regulation for subsidising the cultural infrastructure with a supra local importance;
- *Decree concerning socio-cultural work (4 April 2003)*;
- *Decree concerning amateur arts (22 December 2000)*;
- *Decree of 14 February 2003 concerning the support and stimulation of communal, inter-communal and provincial youth and youth work policy (B.S. 24 March 2003)*; <http://212.123.19.141/cgi-bin/toonfiche.exe?nr=11184&tab=2>
- *Decree of 29 March 2002 concerning Flemish youth policy*; and
- *Decree of 3 March 2004 concerning recognition of and subsidising of youth hostels, youth accommodation centres, support structures and the General Youth Tourism Service (B.S. 2 April 2004)*. <http://212.123.19.141/cgi-bin/toonfiche.exe?nr=12889&tab=2>

#### *French Community*

##### **Culture Centres**

- *Decree of 28 July 1992 in respect of recognition and subsidies for culture centres; decree of 10 April 1995 (amendments)*; and
- *Order of 22 July 1996 determining the procedure for granting and withdrawal of awards, category classification and granting subsidies for cultural centres.*

##### **Continuing Education**

- *Decree of 17 July 2003 governing the recognition of and the granting of subsidies in the field of continuing education*;
- *Ministerial Circular of 1 November 1976 in respect of Centres of Expression and Creativity*; and
- *Ministerial Circular of 2 December 1997 organising support for training programmes for leaders of socio-cultural animation and action.*

##### **Youth**

- *Royal Order of 28 August 1977 to create the Council of Youth of French expression*;
- *Decree of 20 June 1980 governing the recognition of and the granting of subsidies to youth organisations*;
- *Ministerial Order of 3 March 2004 governing the recognition of and the granting of subsidy to youth organisations*; and
- *Decree of 20 July 2000 governing the recognition of and the granting of subsidies to youth hostels, community and accommodation centres and centres of information for young people and their federations.*

#### *German-speaking Community*

##### **Infrastructure**

- 18.03.2002 – *Infrastructure Decree.*

##### **Continuing Education**

- 18.01.1993 – *Decree on the recognition of and award of grants to organisations for continuing and adult education*;
- 23.03.1992 – *Decree on the award of grants for the costs of staff for recognised museums, creative workshops, regional organisations for continuing and adult education and youth organisations, youth*

*centres and youth services; and*

- 16.12.2003 – *Decree on the promotion of creative workshops.*

#### **Youth**

- 23.03.1992 – *Decree on the award of grants for the costs of staff for recognised museums, creative workshops, regional organisations for continuing and adult education and youth organisations, youth centres and youth services; and*
- 14.12.1998 – *Decree on the recognition of and award of grants to youth organisations, youth centres and youth services.*

### **Belgium/ 5.3 Sector specific legislation**

#### **5.3.2 Performing arts and music**

##### ***Flemish Community***

- *Decree concerning the regulation of the recognition and subsidising of professional Dutch-language dramatic arts organisations, professional dance organisations, professional musical theatre organisations, professional arts centres, professional performing arts festivals, the support centre for the performing arts, and regulation of commissioning work (18 May 1999).*

This decree will be replaced by the *Arts decree from 2006* (see chapter 5.1)

- *Decree concerning the regulation of the recognition and the subsidising of professional music ensembles, concert organisations, music clubs, music education organisations and festivals, the support centre for music, subsidising of music projects, composition assignments and bursaries (31 March 1998).*

This decree will be replaced by the *arts decree* (see chapter 5.1) from 2007.

##### ***French Community***

- *Framework decree of 10 April 2003 in respect of the recognition of and subsidising of the Professional Sectors of the Performing Arts (and orders implementing the law).*

##### ***German-speaking Community***

- 28.06.1988 *Decree governing the recognition of and grants for amateur art;*
- 18.04.1995 – *Decree setting down the grant provisions for the procurement of items of equipment by associations and clubs for practising amateur art activities.; and*
- 25.05.1999 – *Decree governing the recognition of and grants for chamber music ensembles.*

### **Belgium/ 5.3 Sector specific legislation**

#### **5.3.3 Cultural heritage**

##### ***Flemish Community***

- *Decree concerning the recognition and subsidising of museums (20 December 1996).*
- This decree will be replaced by the *Heritage Decree from 1 January 2005* in phases (see chapter 5.1).
- *Decree concerning private law on cultural archiving (19 July 2002);*
- *Decree concerning the recognition and subsidising of organisations for popular culture and the establishment of the Vlaams Centrum voor Volkscultuur [Flemish Centre for the Study of Popular Culture] (27 October 1998);*
- *Decree concerning the protection of moveable cultural heritage of exceptional importance (24 January 2003); and*
- *Regulation for the subsidising of periodic scientific publications regarding folklore and history.*

##### ***French Community***

- Decree of 5 July 1985 instituting the Heraldic and Vexillogical Council of the French Community of Belgium and laying down the flag, seal and coat of arms of the towns and municipalities and Decrees of 8 August 1988 and of 26 February 1991;
- Decree of 26 May 1981 instituting the Superior Council of Popular Art and Tradition and of Folklore;
- Order of 26 June 1990 of the French Community Executive instituting the Superior Council of Ethnology of the French Community;
- Decree of 12 May 2000 regarding the private archive centres in the French Community;
- Decree of 11 July 2002 concerning moveable cultural property and the immovable heritage of the French Community; and
- Decree of 17 July 2004 concerning the recognition and subsidising of museums and other museum institutions.

### **German-speaking Community**

- 29.03.1982 – Regulatory Order to lay down the provisions for the award of grants in favour of museums not subject to state control;
- 23.03.1992 – Decree on the award of grants for costs of staff for recognised museums, creative workshops, regional organisations for continuing and adult education and youth organisations, youth centres and youth services;
- 14.03.1994 – Decree on the Royal Monuments and Countryside Protection Commission of the German-speaking Community; and
- 16.02.1998 – Decree on the recognition of and award of grants to associations and clubs involved in folklore activities.

## **Belgium/ 5.3 Sector specific legislation**

### **5.3.4 Literature and libraries**

#### **Flemish Community**

##### **Literature**

The following administration regulations will be replaced by the *Arts Decree* and the *Heritage Decree* (see chapter 5.1) from 2006:

- subsidy regulation for the production of cultural publications; and
- regulation concerning subsidies for art and cultural magazines.

All other regulations emanate from the Vlaams Fonds voor de Letteren [Flemish Literature Fund] (*established by decree of 30 March 1999, changed on 29 July 2004*):

Subsidy regulations for the production of literary publications and magazines, for literary readings and performances, work grants for authors, project grants and subsidies for translators.

##### **Libraries**

*Decree concerning the stimulation of a qualitative and integral local cultural policy (13 July 2001).*

#### **French Community**

- Order of 5 July 1985 of the French Community Executive creating a Literary Commission of the French Community and order of 19 May 1989 (amendments);
- Order of 4 April 1988 of the French Community Executive laying down the models of aid for publishing in the French Community;
- Order of 28 March 1990 of the French Community Executive creating the Book Council of the Wallonia-Brussels French Community;
- Order of 23 October 1991 of the French Community Executive laying down the forms of aid for dissemination in the French Community;
- Decree of 28 February 1978 organising the public reading service; decrees of 21 October 1988, of 19 July 1991 and of 30 November 1992 (amendments); and
- Order of 14 March 1995 of the French Community Government in respect of the organisation of the public reading service; orders of 2 September 1997 and of 8 November 1999 (amendments).

**German-speaking Community**

- 15.06.1994 – *Public Libraries Decree*.

**Belgium/ 5.3 Sector specific legislation****5.3.5 Architecture and environment****Flemish Community**

Subsidy arrangement for architecture and design will be replaced by the *Arts decree* (see chapter 5.1) in 2006.

**French Community**

- *Decree of 28 January 2004 concerning the agreement of cooperation between the French Community and Walloon Region regarding education on the environment.*

**Belgium/ 5.3 Sector specific legislation****5.3.6 Film, video and photography****Flemish Community**

The administration grants subsidies to audiovisual organisations, festivals and projects on the basis of regulations. These regulations will be replaced by the *Arts decree* from 2006 (see chapter 5.1)

Support for new work and education is granted by the Vlaams Audiovisueel Fonds [Flemish Audiovisual Fund], established by decree on 13 April 1999. There are regulations for supporting production, development and promotion, as well as other grants and training initiatives.

**French Community**

- *Royal order of 22 June 1967 aiming to promote French language cinematographic culture (MB 06.02.1968).*

**Amendments**

- *Royal order of 17 February 1976 acting to amend the Royal order of 22 June 1967 aiming to promote French-speaking cinematographic culture (MB 11.03.1976);*
- *Royal order of 24 March 1978 acting to amend the Royal order of 22 June 1967 aiming to promote French-speaking cinematographic culture;*
- *Order of the Government of the French Community of 4 April 1995 amending the Royal order of 22 June 1967 aiming to promote French-speaking cinematographic culture (MB 23.06.1995);*
- *Order of the Government of the French Community of 25 March 1996 amending the Royal order of 22 June 1967 aiming to promote French-speaking cinematographic culture (MB 14.06.1996);*
- *Order of the Government of the French Community of 21 December 1998 amending the Royal Order of 22 June 1967 aiming to promote French-speaking cinematographic culture (MB 02.03.1999);*
- *Order of the Government of the French Community of 5 May 1999 amending the Royal Order of 22 June 1967 aiming to promote French-speaking cinematographic culture (MB 11.11.1999);*
- *Order of the Government of the French Community of 18 December 2001 amending the Royal Order of 22 June 1967 aiming to promote French-speaking cinematographic culture (MB 21.02.2002);*
- *Order of the Executive Powers of the French Community of 26 July 1990 relating to the agreement, subsidising of production, and hosting workshops for films and videograms (MB 28.11.1990);*
- *Decree of 22 December 1994 defining various measures relating to audiovisual production and education (MB 14.05.1995);*
- *Order of the Government of the French Community of 12 April 1995 regarding the budgetary, financial and accounting management of the "Centre of Cinema and Audiovisual" (MB 20.05.1995); and*
- *Order of the Government of the French Community of 9 July 1996 relating to the creation of the consultation committee for the Centre for Cinema and Audiovisual (MB 04.09.1996).*

**Amendment**

- Order of the Government of the French Community of 18 September 1996 amending the order of 9 July 1996 regarding the creation of the Committee for Dialogue of the Centre for Cinema and the Audiovisual (MB 14.12.1996);
- Order of the Government of the French Community of 21 May 1997 amending the structure of the Consultation Committee for the Centre for Cinema and the Audiovisual (MB 05.11.1997); and
- Order of the Government of the French Community of 20 February 2003 amending the decree of 9 July 1996 establishing the Consultation Committee for the Centre for Cinema and the Audiovisual (MB 24.07.2003).

#### **German-speaking Community**

- 26.04.1999 – Media Decree.

#### **Belgium/ 5.3 Sector specific legislation**

##### **5.3.7 Culture industries**

#### **Flemish Community**

- The Law of 17 May 2004, regarding the change of Article 194b of 1992 on income tax, with regard to the tax shelter arrangement for the benefit of audiovisual production.

#### **French Community**

- Law of 17 May 2004, regarding the change of Article 194b of 1992 on income tax with regard to the tax shelter arrangement for the benefit of audiovisual production.

#### **Belgium/ 5.3 Sector specific legislation**

##### **5.3.8 Mass media**

#### **Flemish Community**

- Decrees concerning radio and television coordinated on 25 January 1995.

#### **French Community**

- Decree of 27 February 2003 on radio broadcasting (MB 17.04.2003);
- Decree of 20 December 2001 re sound broadcasting in frequency modulation in band 87,5 - 108 MHz and modifying the decree of 27 July 1997 concerning the higher Council for audio-visual and the private services of sound broadcasting of the French Community (MB17.01.2002);
- Order of the Government of the French Community of 8 June 2004 referring to events of major interest and laying down the mode of enforcement for access by the public of the French Community using a free access service of televisual broadcasting (MB 06.09.2004);
- Order of the Government of the French Community of 12 July 2004 relating to the protection of minors from programmes likely to harm their physical, mental or moral development (MB 08.11.2004);
- Order of the Government of the French Community of 3 December 2004 relating to the transparency of radio broadcasting service editors;
- Order of the Government of the French Community of 11 June 2004 laying down the procedures to extend the area for reception coverage in which local television stations broadcast their work (MB 06.09.2004);
- Order of the Government of the French Community of 11 June 2004 laying down the methods of granting authorisation to local television stations (MB 06.09.2004);
- Order of the Government of the French Community of 3 December 2004 laying down the daily transmission time devoted to videotext advertising for local televisions;
- Order of the Government of the French Community of 3 December 2004 laying down the methods of payment for the contribution of televisual radio broadcasting service editors to the Centre for Cinema and the Audio-visual Sector;
- Order of the Executive Power of the French Community of 18 December 1991 laying down the methods of granting, of suspension and of withdrawal of the recognition of the service companies whose activity is the supply of services related to the programming, the promotion, the information or the management of

advertising slots to private radio stations (MB 07.04.1992);

- Order of the Government of the French Community of 29 December 1993 amending the decree of the Executive Power of 24 December 1991 relating to the recognition of private radio stations (MB 21.04.1994);
- Order of the Government of the French Community of 13 July 2000 laying down the requirements relating to the private services of digital sound broadcasting of block 12B (MB 13.10.2000);
- Order of the Government of the French Community of 11 June 2002 determining the applicable mode of enforcement for the modification of the range of attributable frequencies referred to in Article 2 of the decree of 20 December 2001 laying down the initial reference of the French Community for frequency modulation sound broadcasting in band 87,5 - 108 MHz, and modifying the decree of 27 July 1997 relating to the higher Council of Audio-visual and private sound broadcasting services (MB 23.08.2002);
- Order of the Government of the French Community of 22 May 2003 determining the applicable mode of enforcement for the modification of the range of frequencies attributable in band 87.5 - 108 MHz for sound broadcasting (MB 09.07.2003);
- Order of the Government of the French Community of 3 July 2003 modifying the frequency modulation in band 87.5 - 108 MHz (MB 22.07.2003);
- Order of the Government of the French Community of 20 April 2004 laying down the declaration model of the cable television network operators (MB 08.07.2004);
- Order of the Government of the French Community of 20 April 2004 laying down the declaration model for broadcasting services distributors (MB 08.07.2004);
- Order of the Government of the French Community of 21 June 2004 laying down the modes of enforcement relating to the assistance fund for radiophonic creation (MB 08.09.2004);
- Order of the Government of the French Community of 2 October 2002 concerning the designation of the members of the Commission of radiophonic projects selection (MB 16.01.2003); and
- Decree of 14 July 1997 defining the statute of the Belgian French Community Radio-Television (RTBF) (MB 28.08.1997).

#### **Amendment**

- Decree of 19 December 2002 amending the Decree of 14 July 1997 defining the statute of the Belgian-French Community Radio-television (RTBF) (MB 28.12.2002 and 03.06.2004);
- Decree of 19 May 2004 amending the decree of 19 December 2002 amending the decree of 14 July 1997 defining the statute of the RTBF (MB 15.06.2004);
- Order of the Government of the French Community of 14 July 1997 setting the date of enforcement of Articles 33 and 36 of the decree of July 14, 1997 defining the statute of the RTBF (MB 28.08.1997);
- Order of the Government of the French Community of January 26, 1999 determining regulations relating to the minimum programme and to the equipment that must be constantly maintained in working order at the Belgian Radio-television (MB 05.05.1999);
- Order of the Government of the French Community of March 22, 2001 recognizing the representative associations to which the RTBF radio and television programmes may be entrusted (MB 29.06.2001); and
- Order of the Government of the French Community of 11 October 2001 defining the application of the management contract of the Belgian Radio-television of the French Community (R.T.B.F.) (MB 05.03.2002).

#### **German-speaking Community**

- 27.06.1986 – Decree on the Belgian Radio and Television Centre of the German-speaking Community;
- 07.02.1994 – Decree on assistance to daily newspapers; and
- 26.04.1999 – Media Decree.

#### **Belgium/ 5.3 Sector specific legislation**

##### **5.3.9 Legislation for self-employed artists**

###### **Flemish Community**

See chapter 5.1.4.

###### **French Community**

See chapter 5.1.4.

#### **Belgium/ 6. Financing of Culture**



## 6.1 Short overview

All levels and communities of government support culture: the Federal state (bi-cultural institutions), the Communities, the Regions (monuments and sites), the Provinces, the French and Flemish Community Commission of the Brussels Region and the municipalities.

## Belgium/ 6. Financing of Culture

### 6.2 Public cultural expenditure per capita

According to a study made by the French Community, total cultural expenditure per capita in Belgium in 1999 was 245 euros including expenditure by the Flemish and French Community for non-professional arts education (or 223 euros excluding this item). This amount includes inter-governmental transfers.

In 2003, cultural expenditure per capita in the Flemish Community was 119.20 euros for youth, continued education, libraries, arts, heritage monuments and sites, media and other cultural activities.

Expenditure per capita in the French Community is 105 euros for the period of 2000-2004. A survey conducted in 2001 shows the breakdown of cultural expenditure per capita according to the cultural sectors:

- audiovisual and multimedia: 35%;
- artistic education: 22%;
- performing arts: 12%;
- youth and continuing education: 6%;
- international relations: 5% ;
- cultural infrastructures: 4% ;
- books and literature: 3%; and
- fine arts and non-moveable heritage: 2%.

## Belgium/ 6. Financing of Culture

### 6.3 Public cultural expenditure broken down by level of government

A study carried out by the French Community found that both in Flanders and in Wallonia, the Communities are the most important financial supporters of the cultural sector. The study also found that the municipalities play a more important part in Flanders than in Wallonia. As the cultural support system is federalised, the Belgian government provides only 2.4 percent of the total budget.

**Table 1: Public cultural expenditure: by level of government, 2002**

Level of government	Expenditure in euro	% share of total
Federal state	76 391	2.4
National lottery	27 776	0.9
Brussels-capital region	25 376	0.8
Flemish Community Commission in Brussels	16 282	0.5
French Community Commission in Brussels	10 944	0.4
The 19 communities in Brussels	104 199	3.3
Flemish Community	879 315	28.1
Flemish provinces	198 888	6.4
Flemish municipalities	763 794	24.4
French Community	554 516	17.7
Walloon provinces	92 584	3.0
Walloon municipalities	291 170	9.3
German speaking Community	16 500	0.5

Source: Faits&Gestes, nr. 13, 2004. Ministère de la Communauté française.

## Belgium/ 6. Financing of Culture

### 6.4 Sector breakdown

#### French Community

The fields included in Table 2 do not cover the full range of the subjects, nor do they cover the full range of the budget of the Directorate-General of Culture and the General Service for audio-visual production, hence there is no percentage distribution.

A complete table 3 is suggested below.

Reminder: immovable heritage is managed by the regions, and is therefore not included in the tables below.

**Table 2: State cultural budget: by sector, by level of government, French Community, 2005**

Field / Domain / Sub-domain	Direct Expenditure	Transfers (to other levels of government)	Total	%Total
<b>Cultural Goods</b>				
Cultural Heritage				
<i>Historical Monuments</i>				
<i>Museums</i>	6 485 000			
Archives	2 120 000			
Libraries	11 370 000			
<b>Arts</b>				
Visual Arts (including design)	4 568 000			
Performing Arts				
<i>Music</i>	27 782 000			
<i>Theatre and Musical Theatre</i>	35 327 000			
<i>Multidisciplinary</i>	5 265 000			
<b>Media</b>				
Books and Press				
<i>Books</i>	3 378 000			
<i>Press</i>	5 528 000			
Audio, Audiovisual and Multimedia				
<i>Cinema</i>	11 646 000			
<i>Radio</i>	See Television			
<i>Television</i>	183 671 000			
<b>Other: Cultural centers</b>	11 835 000			
Interdisciplinary	13 540 000			
<i>Socio-cultural</i>	54 096 000			
<i>Cultural Relations Abroad</i>	107 000			
<i>Administration*</i>	1 175 000			
<i>Educational Activities</i>	155 000			

Not allocable by domain	9 162 000			
<b>TOTAL</b>				

Source: French Community, Directorate General for Culture, 2005

A few comments:

Educational activities are managed in each area: it is therefore not possible to differentiate them.

International activities are mainly handled by the CGRI.

The cultural centres representing a significant area of activities appear under the "other" heading.

"Radio and television" includes the RTBF grant, which represents the highest slice of the budget: 175 653 000 EUR.

The "Cocof" (Brussels French Community Commission) grant appears under the heading "not allocable by domain".

**Table 3 Budget for General Directorate, General Department for Audiovisual and Multimedia of the French Community, in '000 euro, 2005**

Departments	Total expenditure	Field	Expenditure	% share of budget
General matters	49 258	General matters	3 359	12.73%
		Promotion of employment	10 000	
		Multidisciplinary	13 540	
		Educational activities	155	
		Archives	1 207	
		Cultural centres	11 835	
		Cocof dotation	9 162	
Performing arts department	68 481	Multidisciplinary	4 834	17.69%
		Theatre	30 052	
		Music	27 782	
		Dance	5 171	
		International	107	
		Circus and street arts	535	
Books & literature department	15 159	General matters	82	3.92%
		Libraries	11 370	
		Books and literature	3 378	
		Regional languages	125	
		French languages	204	
Youth & continuing education department	41 912	Youth	17 077	10.83%
		Continuing education and creativity	23 696	
		Training of cultural leaders	1 139	
Cultural heritage & visual arts	12 053	Cultural heritage and museums	6 485	3.11%
		Ethnology and folklore	87	
		Archives	913	
		Visual arts & design	4 568	

Audiovisual & multimedia department	200 181	General matters	1 440	6.34%
		Cinema and video	11 646	
		Radio Television (excluding RTBF)	5 914	
		Press	5 528	
		RTBF dotation	175 653	45.38%
<b>Total</b>	<b>387 044</b>		<b>387 044</b>	

Source : French Community, Directorate General for Culture, 2005

### German-speaking Community

Table 4: State cultural budget: by sector, by level of government, German Community, 2005

Field / Domain / Sub-domain	Direct expenditure	Transfers to institutions	Transfers (to other levels of government)	Total	%Total
<b>Cultural Goods</b>				<b>765 000</b>	<b>100</b>
Cultural Heritage				663 000	87
<i>Historical Monuments</i>		525 000		525 000	69
<i>Museums</i>		118 000		118 000	15
<i>Folklore</i>		20 000		20 000	3
Archives					
Libraries		102 000		102 000	13
<b>Arts</b>				<b>864 000</b>	<b>100</b>
Visual Arts (including design)	10 000	42 000		52 000	6
Performing Arts	22 000	790 000		812 000	94
<i>Music</i>					
<i>Theatre and Danse</i>					
<i>Multidisciplinary</i>					
<b>Media</b>				<b>5 293 000</b>	<b>100</b>
Books and Press				347 000	6.6
<i>Books</i>	146 000	27 000		173 000	3.3
<i>Press</i>		174 000		174 000	3.3
<b>Audio, Audiovisual and Multimedia</b>				<b>4 946 000</b>	<b>93.4</b>
<i>AV</i>	86 000	27 000		113 000	2
<i>Cinema</i>		18 000		18 000	0.4
<i>Radio and Television</i>		4 570 000		4 570 000	86
<i>Media Center</i>		245 000		245 000	5
<b>Other</b>					
Interdisciplinary					

<i>Socio-cultural</i>				
<i>Cultural Relations Abroad</i>				
<i>Administration*</i>				
<i>Educational Activities</i>				
Infrastructure Arts and Media		229 000		229 000
<b>TOTAL</b>	<b>264 000</b>	<b>6 887 000</b>		<b>12 098 000</b>

Source: Ministry of the German-speaking Community, 2005

The Council of Europe/ERICarts "Compendium of Cultural Policies and Trends in Europe, 6th edition", 2005

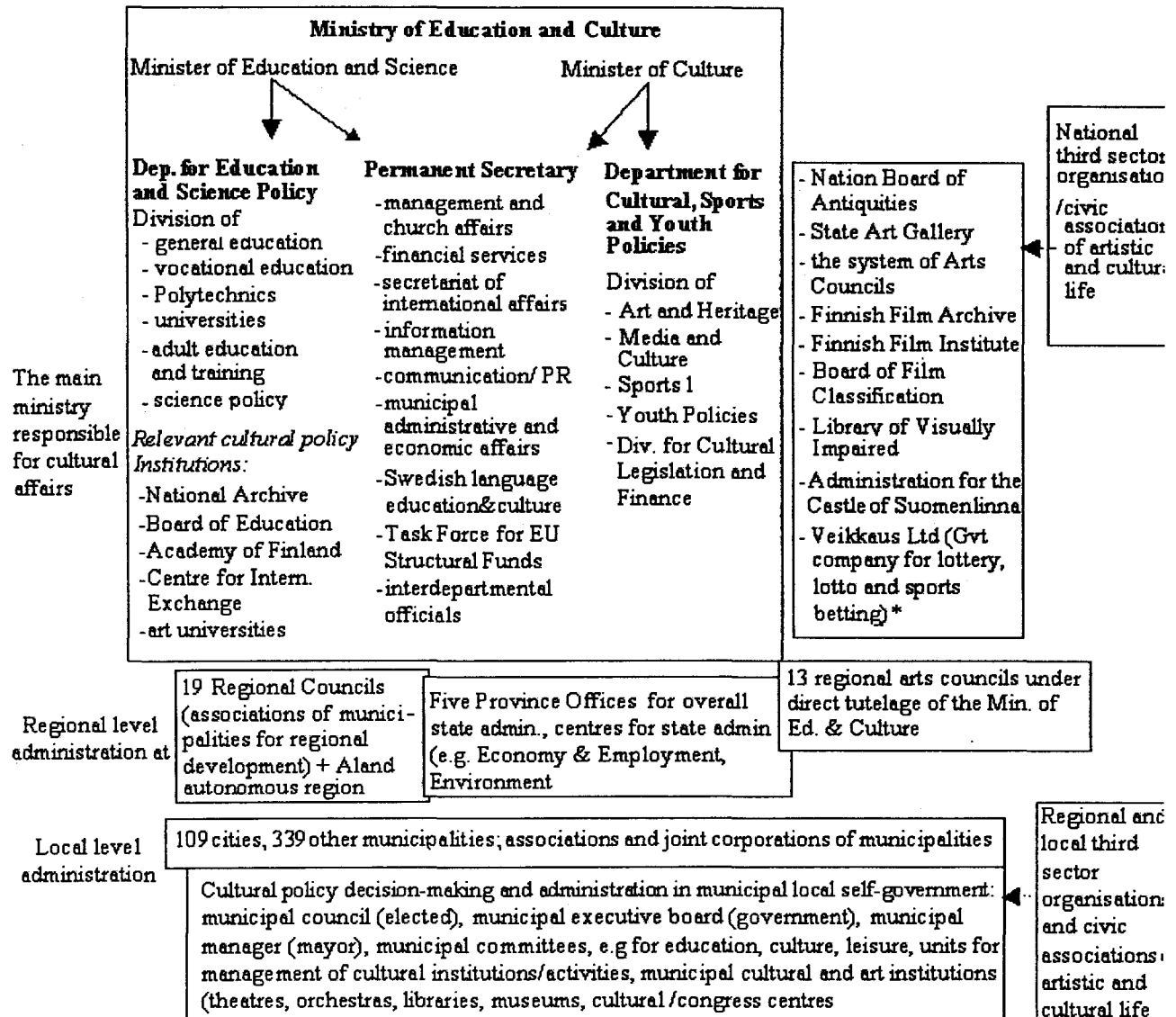
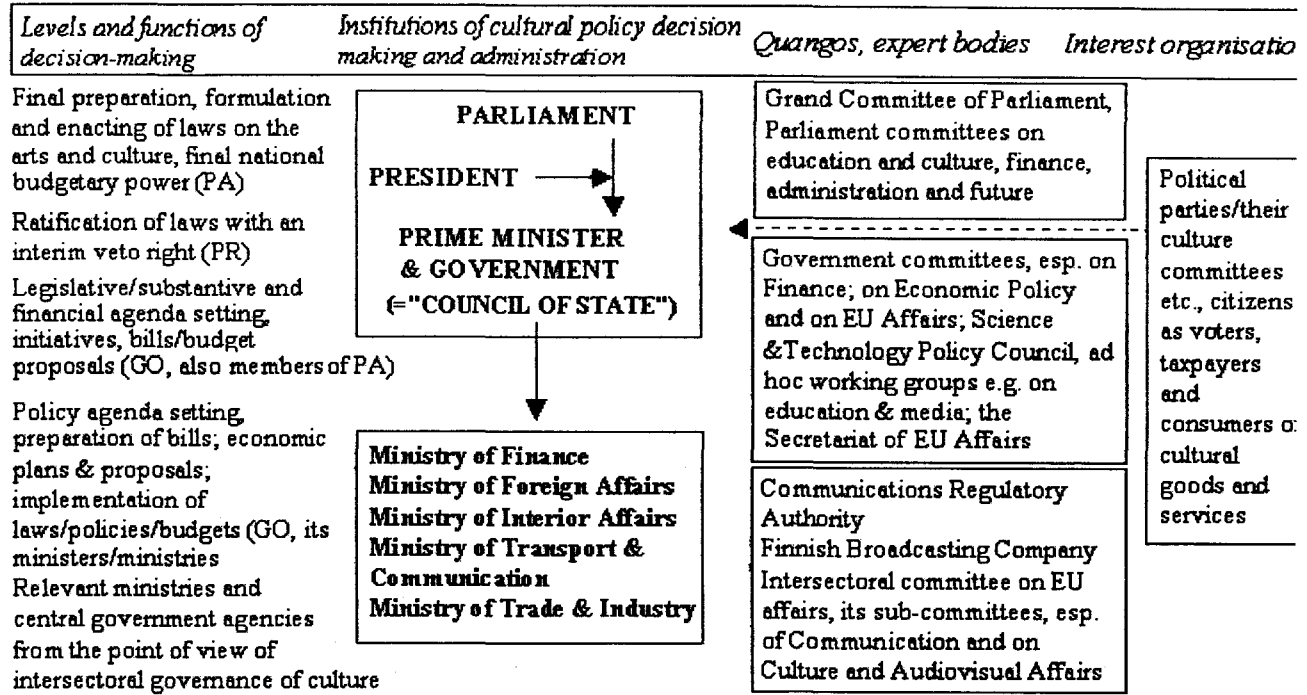


## Finland/ 2. Competence, decision-making and administration

### 2.1 Organisational structure (organigram)

The following organigram gives a detailed overview of Finnish cultural policy decision-making and administration. The solid line and vertical overlapping arrows indicate authority relations; the dotted line and horizontal overlapping arrows indicate relations of influence and co-operation. The titles and texts indicate the status and the role of advisory and planning organisations.

The chart includes central government administration of education and science to pinpoint interrelated and joint activities with the cultural policy administration. N.B: responsibility for general and professional education in the arts and culture belongs to the Ministry of Education and Culture within the Department of Education and Science Policy.



\* Other expert bodies are: Grant Committee for Authors and Translators, Grant Committee for Composers and Music, Council for High Education Evaluation, Exhibition Grant Committee for Visual Art, Committee for MEDIA, Committee for State Guarantees for Art Exhibitions, Delegation for the Promotion of Finnish Literature, Finnish National Commission for UNESCO, Copyright Council, Cour

## Finland/ 2. Competence, decision-making and administration

### 2.2 Overall description of the system

Finland – like the other Nordic countries – is at the same time a highly decentralised and highly centralised country. This is due to the fact that the local government is strong and autonomous in principle, because of the constitutional and legislative provisions and income taxation right of the municipalities. On the other hand, with the advent of the social welfare state, the main burden of implementation of public service systems was shouldered upon municipalities; the state set the legislative frames and levelled the expenditure between well-to-do and less so municipalities by financial transfers. In the late 1980s and in the 1990s, this system, which had earlier covered public libraries and adult education, was expanded to include museums, theatres, orchestras and basic art education. As the result of this development, the state takes care of art support systems and national cultural and art institutions, professional and university level cultural and art education, and international cultural co-operation; and it shares the financial responsibility of maintaining the national service systems with the municipalities. The municipalities, besides taking care of service provision – and financing about 2/3 of it – maintain the infrastructure and finance and support local cultural and art activities. Thus the state and the municipal sector are formally on the equal footing as to the cultural policy competence; yet the state has a much stronger hold of the steering wheel. There is no autonomous regional administration, although the EU-membership strengthened the role of regional councils, which actually are federations of municipalities.

The final legislative and budgetary powers rest with Parliament; the overall and co-ordinating executive powers of policy initiation, planning and implementation with the Government (Council of State), and sector policy initiation, planning and implementation powers with ministers and ministries. The counterbalance to these central government powers can be found at the bottom of the graph in the strong system of local (municipal) self-governance. The regional level is manned on the one hand by the regional authorities of central government (province offices, sector district offices, sector development centres), on the other hand by the co-operative bodies of the municipalities. Of the latter, the regional councils bear the main responsibility for overall co-ordination of physical planning and regional development.

In Parliament, the main work in the final preparation of bills and budget proposals is carried out in parliamentary committees, which play a major role in this process. The Parliamentary Committee of Education and Culture deals with cultural policy issues, but the powerful Committee of Finance proposes the financial limits for all budget allocations. After Finland's accession to the European Union, the Grand Committee became an increasingly important body that monitors the relations between national and Union legislation and policies. For that purpose it hears the ministers before and after the Union Council meetings. This means that the ministers, among them the Minister of Culture, are in a new and direct manner responsible to Parliament.

After its appointment, a new government is obliged by the constitution to submit its programme as a formal communication to Parliament for discussion. The programme sets the agenda for the Government and it is accompanied by a portfolio of projects and / or strategic plans to be initiated and implemented. The projects and plans of the programme set – either in *expressis verbis* or latently (through more comprehensive policy proposals) – objectives for cultural policy.

The Government does not have any permanent committees or other expert bodies responsible for cultural policy purposes. It can set up special working groups to monitor and prepare decisions in important policy sectors.

On the sector level, the main planning and executive responsibility lies with the Ministry of Education and Culture, in Finnish Opetusministeriö (verbatim, the Ministry of Instruction). It is customary to indicate in English translation that also the arts and culture belong in its jurisdiction. In the Ministry, there are two ministers, the Minister of Education and Science and the Minister of Culture, Youth and Sports. The Department for Cultural, Sports and Youth Policies is divided into the Division of Art and Heritage, the Division of Media and Culture, the Division for Cultural Legislation and Finance, the Division of Sports, and the Division of Youth Policies.

The Ministry and its departments and divisions are supposed to focus on strategic planning and govern and guide through information provision and performance contracts. Consequently, actual operative policy implementation in cultural and art administration has been increasingly delegated to the arm's length bodies, special agencies and quasi-governmental organisations. In cultural policy implementation the following organisations are of prime importance:

- the system of arts councils (Arts Council of Finland and its specific art form councils for cinema, literature, visual arts, theatre, design, architecture, photography, music and dance), which is responsible for implementing arts and artist policies and provides peer group evaluation mechanisms for deciding on grants for artists and artist-led projects;
- the National Board of Antiquities that, besides its archaeological functions, is also the main governmental expert body for the whole heritage sector and professional museum activities; and
- the Finnish Film Foundation that allocates public support for film production and distribution.

Furthermore, more specific expert and national policy implementation functions are carried out by such bodies as



the National Art Gallery, Finnish Film Archive, Board of Film Classification, the Library of Visually Impaired, and the Administration for the Fortress of Suomenlinna (Unesco World Heritage Site). The government joint-stock company, Veikkaus Ltd also has a special function of organising, as a licensed national monopoly, the lottery, lotto, football pool and sports betting. Its profits are used to finance, through central government budget, the arts, culture, science, youth policies and sports.

Among the other ministries the following have important trans-sector influence on cultural policy planning and implementation:

- The Ministry of Finance has in Finland, as practically in all Western democracies, a guiding and controlling role in respect to the economic planning and budget processes of all ministries;
- The Ministry of Interior is responsible for regional development and has a central role in organising and co-ordinating regional development programmes and related EU-initiated financing;
- The Ministry of Transport and Communications has an important planning and implementing role in telecommunications and radio- and television activities; and
- The Ministry of Trade and Industry provides support for the R&D in general and also more specifically for the ICT and media and culture industries.

Finland has an extensive system of local self-government, in which the municipalities have the right of taxation (including income taxation). The state (central government) levels inequalities in public services and infrastructure development through finance transfers, at present mainly through statutory subsidies. Most provisions for the arts and culture are transferred via the statutory subsidy system.

Cultural policy decision-making at the municipal level is basically in the hands of *the Municipal Council* (elected assembly), the *Executive Board* (reflecting the party divisions and coalitions in the Council), sector municipal committees and the executive staff, headed by the municipal manager / mayor. Regarding the sector committees and administration, the trend in the 1980s was to integrate all cultural matters (theatre, music, amateur arts, etc.) under one municipal committee, that of culture. In the 1990s the trend has been reversed, and cultural matters have been increasingly distributed to trans-sector committees with broader responsibilities (committees on leisure, tourism, etc.).

There is no autonomous regional administration with elected bodies. The Provincial offices are extensions of the central government, carrying out the general task of monitoring regional development in general and the development of public service systems in particular. Their number was decreased in 1997 from eleven to five and many specific functions have been transferred to more specialised regional agencies of the central government. At the same time nineteen regional councils (federations of municipalities) have gained a greater role in regional development and planning, partly because of their responsibilities in planning and monitoring programmes financed within the framework of the EU programmes.

*The Regional Art Councils* are an extension of the system of Arts Council of Finland to the regional level. They are, however, under the direct jurisdiction of the Ministry of Education and Culture and they are located administratively in the Provincial Offices. Basically they have regionally the same functions (grant-giving to artists, project grants) as the system of Arts Council of Finland and art form councils have nationally.

## Finland/ 2. Competence, decision-making and administration

### 2.3 Inter-ministerial or intergovernmental co-operation

In the Finnish political system, the plenary sessions of the Government (Council of State) and its standing committees and working groups have a strong role in controlling and guiding individual ministries and in co-ordinating their work.

The issue of inter-sectoral co-operation was debated in the late 1980s and a special ad hoc committee of ministers has recently been planning reforms in this respect. No clear instructions exist in general or in respect to joint cultural policy planning. The EU-membership has, however, brought forth a need for new inter-ministerial co-ordination; there is, for the co-ordination of EU-affairs, a special Committee of Ministers and, on the top civil servant level, an Inter-Ministerial Committee of EU-Affairs, with a number of sub-committees, among them a sub-committee for culture and audio-visual affairs.

Cultural policy planning and decision-making rests with the Ministry of Education and Culture but important roles are also played by the Ministry of Trade and Industry (e.g. in respect to R&D and SMEs in the cultural sector), the Ministry of Transportation and Communications (e.g. concerning media, communications and information technologies), the Ministry of Justice (copyright and other intellectual property rights issues) and the Ministry of Labour (public works, construction projects and employment policies). The position of the Ministry of Interior Affairs has also become accentuated because of its leading role in regional development policies, which gives it a definite say in directing the choice of projects financed from the EU Regional Development Funds.

It is practically impossible to assess how much influence these ministries actually have in the implementation of

cultural policy and the level of resources they allocate directly or indirectly to the arts and culture.

There are no inter-governmental bodies in cultural policy-decision making and administration. To a certain extent the regional art councils function as intermediators between the central government and municipal administration. As to public cultural services the Association of the Finnish Regional and Local Authorities is an important intermediary between the central government and the municipalities.

## **Finland/ 2. Competence, decision-making and administration**

### **2.4 International cultural co-operation**

Within the jurisdiction of the Ministry of Education and Culture the management of international cultural co-operation is assigned to a special unit, the Secretariat for International Cultural Affairs. Its main function is managing bilateral and multilateral relations. The former are based on bilateral cultural agreements (with 34 countries) and memoranda of understanding (with six countries), the latter on international conventions, agreements and Finnish membership in such international organisations as UNESCO, the Council of Europe, ITU and WIPO. In addition, Finland has a network of cultural institutes in 15 countries. The EU Desk of the Ministry is also located at the secretariat. Most of the budget allocations of the Ministry of Education and Culture for international cultural co-operation are channelled to these bilateral and multilateral activities.

The Nordic co-operation has a special position in the international co-operation policies of Finland. Finland is represented on the cultural and educational committees, working groups and steering groups subordinate to the Nordic Council of Ministers, and participates in the Nordic Cultural Fund (1996), which is administered by the Nordic Council of Ministers Secretariat in Copenhagen. Finland has bilateral Cultural Funds with all the other Nordic countries: Iceland (1974), Norway (1979), Sweden (1960) and Denmark (1981). These cultural funds are administered by the Swedish-Finnish Cultural Centre Hanasaari. The Ministry of Education and Culture allocates funds to Nordic co-operation.

EU membership and the new network relations have, however, dispersed the participation in the international cultural co-operation to different divisions and to the different agencies that have been decentralised horizontally from the main administration. Thus the EU Media Desk is located at the Finnish Film Foundation, the National Board of Antiquities is responsible for international co-operation in cultural heritage sector, and CIMO, the Centre for International Mobility, is responsible for student exchange programmes and functions as a EU Contact Point for the Culture 2000 programme.

The Ministry of Foreign Affairs promotes the Finnish arts and culture abroad and has its say, in the spirit of cultural diplomacy, in all affairs of intentional cultural co-operation that may have wider political implications. The programme of co-operation with for adjacent regions where the emphasis is on new types of cultural co-operation initiatives within the Baltic and the Barents Sea Regions is co-ordinated and financed by the Ministry of Foreign Affairs, although other ministries are responsible for the choice of projects and allocation of financing. The art universities, research centres and the main cultural and art institutions have their own cultural co-operation relations and are well linked to their respective European and wider international networks (European Theatre Convention, European Theatre Union, ITI, ICOM, ICOMOS, ELIA etc). The municipalities have their own town twinning programmes and belong to such organisations as the Union of the Baltic Cities and Eurocities. Associations of artists are well linked to European networks (IETM, International PEN, European Jazz network, TransEurope Halles etc.).

## **Finland/ 5. Main legal provisions in the cultural field**

### **5.1 General legislation**

The purpose of the newly expanded chapter 5 on legal provisions for culture is to provide you with a more indepth overview of the legal instruments used to support culture in the individual Compendium countries.

Chapter 5.1 provides you with information on those pieces of general legislation which have an important impact on culture, for example, articles in the Constitution of individual countries or legislation used to govern the allocation of public funds.

Chapter 5.2 provides a list as overview of the main legislation for culture. Some countries may have hundreds of laws while others may have only one "Culture Act".

Chapter 5.3 is sub-divided to provide you with information on sector specific legislation in the following fields: visual and applied arts; performing arts and music; cultural heritage; literature and libraries; architecture and environment; film, video and photography; culture industries; and mass media.

### **Finland/ 5.1 General legislation**

#### **5.1.1 Constitution**

The following provisions of the new Finnish Constitution have immediate relevance for focusing and limiting the sphere of cultural policies. The first item defines the Constitutional basis of cultural policy decision-making and administration; the other Constitutional provisions guarantee the citizens' rights and liberties – including freedom of the arts – and the cultural rights of cultural minorities.

*Chapter 2, paragraph 16*

Deals with citizen's rights and freedoms; paragraph 16 gives constitutional guarantee for the freedom science, the arts and higher education.

*Paragraph 17*

Defines Swedish language as a parallel national language to Finnish, specifies Sami, Rom and Finnish Sign Language as minority languages; designates Sami as an indigenous culture and stipulates the rights of the Sami and other minority groups to develop their own culture.

*Paragraph 128*

Stipulates that the Island / Province of Aland will have such an autonomy as will be defined by special legislation.

*Paragraph 121*

Guarantees cultural autonomy for the Sami living in Sami Homeland municipalities.

## Finland/ 5.1 General legislation

### 5.1.2 Division of jurisdiction

The Finnish cultural policy system evolves along the state-municipalities axis. The constitution and legislation on municipal administration defines the role of municipalities vis-à-vis the state.

Despite the autonomy of the municipalities (which includes rights to collect income tax), municipal cultural institutions are to a large extent dependant on central government subsidies (transfers) to the municipalities. These transfers, aiming at equity in the regional and local provision of the arts and cultural services, go either to municipalities and through municipalities to municipal institutions and activities or to cultural and art institutions which are operated as voluntary organisations or foundations.

The central government system is also decentralised to a large extent: the role of cultural and art institutions, agencies and arm's length bodies is defined by specific legislation. The Constitution stipulates that no non public organisation can exercise authoritative public decision-making powers without such special legislation.

Key pieces of legislation are:

- *Act on State Subsidies to Municipalities (1998)*: a general financing law which defines the rules for calculating and allocating the transfer of state subsidies to municipalities.
- *Municipal Cultural Activities Act (1992)*: the legislative basis for central government support to non-institutional cultural activities in municipalities.

## Finland/ 5.1 General legislation

### 5.1.3 Allocation of public funds

The following Acts provide the legislative basis for financing the arts and culture. The first two Acts provide the legal basis for the national lottery and specify the use of profits. The remaining Acts provide the legislative basis for state aid (transfers) to municipal and local cultural services and activities.

**Table 1: Legislation covering the allocation of public funds**

LEGISLATION	COMMENTS
<i>Lottery Act (1047/2001)</i>	The revision of two decades old legislation; gives government the right to contract monopoly of 1) lottery / lotto, football pool and betting, 2) slot-machine and casino, and 3) harness race betting to their organisers, orders the return of the profits to the state budget and earmarks their use to specific purposes
<i>Act Regulating the Use of the Profits of Lottery/Lotto, Football Pool and Betting (1054/2001)</i>	Defines the shares of the annual returns of lottery / lotto, football pool and betting for purposes: 25% to sports, 5% to youth policy measure, 17.5% for scientific research and

	35% to the arts
<i>Act on State Subsidies to Municipalities</i> (688/1992, amended 1313/1993 1147/1996, 1102/1997, 1061/1998, 1126/1998)	General financing law defining the rules for calculating and allocating the transfer of state subsidies to municipalities
<i>Act on Financing Education and Culture</i> (originally 705/1992; now 642/1998, amended 1186/1999)	Specific "financing law" defining the rules for calculating and allocating central government subsidies to e.g. to professional theatres, museums, orchestras and general art education
<i>Municipal Cultural Activities Act</i> (728/1992, amended 1681/1992)	Legislative basis for the central government support to non-institutional cultural activities in municipalities
<i>Museums Act</i> (729/1992, amended 1959/1995, 1166/1996)	Legislative basis defining professional museum eligible for central government subsidies according to the "financing law"
<i>Theatres and Orchestras Act</i> (730/1992, amended 1277/1994, 1460/1995, 642/1998)	Legislative basis defining professional theatres and orchestras eligible for central government subsidies according to the "financing law"
<i>(Public) Library Act</i> (originally 235/1986; now 904/1998, amended 134/1990, 725/1992)	Legislative basis defining the tasks of public (municipal) libraries eligible for central government subsidies according to the "financing law"

## Finland/ 5.1 General legislation

### 5.1.4 Social security frameworks

Cultural workers, including most of the cultural professionals employed in publicly owned or publicly supported cultural service systems – including the performing arts – are covered within the sphere of the compulsory social security and pension systems. The same is the case with persons more permanently employed by enterprises of the culture industries and by professional / trade associations in the fields of the arts and culture. This overall social security protection does not, cover free lance artists and cultural workers.

There have been attempts to improve the unemployment insurance and social security system (especially pension) of artists. The general pension law, "*Act on the Pensions of Artists and Some Particular Groups of Short - Time Workers*", has standardised the situation somewhat, but a lot of problems remain. There have been demands for reforms in three areas:

- to include unemployment insurance and pension payments as part of the social security costs in the longer term accumulation of artists grants;
- to make the pension and social security system of artists and free lancers to suit better the uneven and varied flow of artists' income; and
- to improve the rights of artists as freelance entrepreneurs.

Some progress has been made in all of these areas (e.g. as to the insurance and pension payments based on the accumulation of artists' grants), but most reform proposals still wait to be enacted legislatively.

## Finland/ 5.1 General legislation

### 5.1.5 Tax laws

There is no legislation or special administrative arrangements that would offer incentives for sponsorship. On the other hand, income taxation legislation (*Income Tax Law*, paragraph 57) offers tax deductions within a narrow limit (min. 850 euros, max. 27 000 euros) for donations to the State, universities or to non-profit organisations in the arts and science considered culturally significant by a special *Tax Relief Board*. Tax-deductible donations to the preservation of national cultural heritage do not, however, have an upper limit. A special law allows tax relief for commercial transactions carried out by voluntary associations and other non-profit organisations, providing that the income is used for "good causes".

The Finnish legislation on value-added taxation has been enacted within the framework of relevant EC / EU

directives. The rate of VAT is 8 per cent for books and income fees of cultural, art and entertainment services and performances (entrance fees to museum, box office receipts of cinemas, theatres, orchestras and circus, music and dance performances. There is an eight per cent VAT rate also on radio and television broadcasting; zero rate has been set for prescriptions of newspapers and journals. The overall VAT-rate in Finland is 22 per cent.

## Finland/ 5.1 General legislation

### 5.1.6 Labour laws

The main legal instruments that regulate the use of Finnish labour force are the *Act on Labour Contracts* and the *Act on Civil Servants*. Both define the rights of the employees and the obligations of the employers. The Finnish three-partite system of collective bargaining (income negotiations) "activates" these laws regularly and may cause their alterations. They – as well as the rounds of collective bargaining – are relevant from the point of view of performing arts and cultural services. Artists and free lance workers are, of course, outside these laws and the more comprehensive system of collective bargaining, although the result of the latter may influence the level of compositions the latter groups receive from their work.

General labour laws also have regulations that concern discrimination; yet the protection against gender discrimination is left to gender *Equality Act* (see also chapter 4.2.2).

## Finland/ 5.1 General legislation

### 5.1.7 Copyright provisions

The present Finnish *Copyright Act* was passed in 1961, and has since then been altered twenty times. The latest changes have been due to the seven EU Directives. The Government Bill outlining the changes (precipitated by the EU Information Society Directive) was sent to Parliament in a new revised form in March 2004 and is at present going through the committee work stage with interest group / expert hearings. The Bill follows closely the outlines of the EU directive.

Within the legislative frame of the *Copyright Act*, the main copyright and neighbouring rights organisations (of authors and translators, composers, performing artists, producers of records and audiovisual programme etc.) proctor effectively the authors' and producers rights, the rights for the public performance of music and the reproduction rights. As indicated earlier the Finnish copyright law stipulates that an extended collective licence permits the use of an author's work or an artist's performance, when a licence agreement has been reached between the user and the copyright management / compensations collecting organisation (CMO) representing an important number of Finnish authors or performers in a particular field.

The turnover (collected photocopying compensations, including the re-transmission of television programmes and the share of blank cassette fees) of the collecting organisation Kopiosto and its affiliate AVEK, the Finnish Promotion Centre for Audiovisual Culture, was in 2000 some 16 million euros. The corresponding turnover in music copyright compensations, consisting of composer's and neighbouring rights for playing recorded music in public places (including TV and radio) was at the same time some 50 million euros.

Since 1984 there has been a system of collecting levies on blank tapes to compensate private audio and audiovisual copying. This system has accumulated since its start copyright compensations equalling to some 140 million euros. The returns are distributed by the main copyright organisations, in partly directly to copyright owners, and partly as indirect compensations for training, R&D and production subsidies. The latter are also administered by the copyright organisations or their promotion centres, like the Promotion Centre for Audiovisual Culture. This centre is maintained by Kopiosto, the copyright organisation that collects compensations for photocopying (including the retransmission of radio and television broadcasts). The centre has become an important financier of production projects in video art and multimedia.

## Finland/ 5.1 General legislation

### 5.1.8 Data protection laws

Data protection – or the protection of the owners rights to information systems – are in Finland dealt together with other copyright issues. There have been disputes concerning the right of "owners" to information systems that seem to belong to "public domain" because they have been financed by public money or the designers and implementers have been on the public payroll. These cases have been solved *in casu* and disputes have been prevented by new contract practices. In the commercial sector there was a recent international challenge as the British football league match programme designer and distributor (Fixtures Marketing Ltd) started to demand financial compensation from the Finnish national lottery monopoly company for using their programme information in the design of their sports betting system. The case was taken to the European Court of Justice and was decided in favour of Veikkaus Ltd, which do not need to pay compensations to Fixtures Marketing. This decision implied higher profits for Veikkaus and more money for "good causes", including the arts and culture.

**Finland/ 5.1 General legislation****5.1.9 Language laws**

The Swedish-speaking Finnish population is not only a minority. The basic ideology of nation building stipulates that Finland has two parallel Finnish cultures, one based on Swedish-language and the other on Finnish. The rights of the Swedish-speaking population are guaranteed in the newly re-codified Finnish Constitution (1999) and further enacted by a special *Language Act*, which, together with some special laws, provides for equality for official (administrative, court) use of the native language and access to education and public careers. The new *Language Act* was passed in 2003 and will be enforced from the beginning of 2004: it does not expand language rights but aims at better safeguarding of these rights in practice.

The Constitution gives a special position also to Sami people (as an indigenous culture), to the Roma people and to the users of sign language, and guarantees all three groups the right "...to maintain and develop the language and culture of their own". The language rights of these minorities as well as foreigners in legal and administrative processes are guaranteed with laws and statutes. The cultural rights of these groups are also enshrined by the ratification of international conventions, especially by the European Framework Convention for the Protection of National Minorities and the European Charter for the Protection of Regional or Minority Languages.

**Finland/ 5.2 Legislation on culture**

Finnish politicians and civil servants still often repeat an old adage inherited from the period of Swedish rule: "*land skall med lag byggas*" (the nation shall be built by laws). This, of course, refers first and foremost to Constitutional order, but it is also the basic principle of policy implementation. Even the reforms that characterised the construction of the Finnish welfare state were legislatively enshrined, and the easiest way to identify the principal elements of Finnish cultural policy is to examine the corpus of laws and statutes pertaining to the cultural sector.

Table 1 below gives an overall view of legislation currently in force by the end of 2004 that directly addresses cultural policy issues or indirectly shapes them. It also indicates some recent amendments, which, in a way, documents the implementation of the new policy objectives and items of debates listed in chapter 4.2. The comments explain the contents and cultural policy relevance of the legislative acts, decrees and international conventions and agreements. More details on sector specific legislation is available in the sub-chapters 5.3.1-5.3.10.

General legislation, namely, the Constitutional and other legislative basis of cultural policy decision-making and administration is included in this compilation. It demonstrates the supremacy of the Parliament as the final instance in deciding on the state budget and in Constitutional and other legislation; the leading role of the Council of State as main initiator of new legislation, as the main actor in guiding state and national economy and the sole co-ordinating implementer of overall state policies. The first part of the Table lists the main piece of legislation which names the Ministry of Education and Culture as the main initiator, planner and implementer of cultural policies.

The horizontal decentralisation of the Finnish cultural policy system as discussed in chapter 3.3 is reflected in the laws and decrees found throughout the Table. This body of law stipulates the status and role of the national cultural institutions, agencies and arm's length bodies. The role of the regional authorities and the autonomous local administration (municipalities) become apparent in the section listing the more specific legislation concerning the financing of the arts and culture.

**Table 2: Current legislation pertaining to cultural policy and cultural administration**

MAIN CATEGORIES OF CULTURAL POLICY LEGISLATION	COMMENTS
<b>I. CULTURAL POLICY DECISION-MAKING AND ADMINISTRATION</b>	
Decree on the Ministry of Education and Culture (162/1997, amended 873/1997, 170/1998,442/2000, 319/2000); the Order of Organisation and Functions of the Ministry of Education (438/2000).	The higher legislative basis of the state administration consists of the (newly codified) Constitution (731/1999); the Act on the Council of State 1120/1993; the Order of Organisation and Functions of the Ministries (1522/1995)
Act on the Organisation of Promotion of the Arts (328/1967, amended 635/1997, 366/2000, 667/2002)	Created the present system of national and regional arts councils
1353/1999 Act on the National Administration of the Structural Funds, amended 1286/2000	Organises the relation between the national authorities and administrative units in the planning

	financing and implementing the programmes financed within the framework of EU structural funds
Decree of the Ministry of Education on the jurisdiction of the Board Education and Province Offices in the Management of Structural Funds Administration (933/2001)	Delegates the planning, implementing and decision-making functions of the Ministry in the EU Structural Funds Programme to the Board of Education and Provincial Offices
Act on National Board of Antiquities (31/1972, amended 1016/1987, 1080/2001)	Confirmed the legislative basis for the main expert and policy implementing body on heritage
Decree on National Board of Antiquities (119/1992)	Specified the previous law e.g. in respect to the status of the National Museums
National Art Museum Act (originally 185/1990; present 566/2000)	Provide an umbrella organisation for three state-owned art museums (those of domestic, foreign and contemporary art)
National Art Museum Decree( 658/2000)	Specifies the previous law
Finnish Film Archive Act (891/1978, amended 590/1989)	Organises the administration of film archiving
Act on the Library for the Visually Impaired (11/78, 638/1996, amended 835/1998)	Provides national book services for the visually impaired
Decree on the Board for Specific Grants to Visual Artists (116/1997)	Organises the administration of the compensation for displaying public art works in public places
Act on the Board for Film Classification (775/2000)	Legislates the administration of the previous law
Decree on the Board for Film Classification (823/2000)	Specifies the previous law
<b>II. PROMOTING THE ARTS, ARTISTS AND CREATIVITY</b>	
Art Professors and State Artists' Grants Act (734/1969, amended 143/1995, 367/2000, 666/2002)	Provides the legislative basis for the artists' grants system; amendment 143/1995 abolished the 15-year grants and made the system more purposive
Act on Grants and Subsidies for Authors and Translators (236/1961, amended 1080/83, 1067/1993, 1272/1994, 1358/1995, 1040/1996249/ 2002, 665/2002)	Provides grants to authors and translators to compensate the library use of their works
Act on Some Specific Grants for Visual Artists (115/1997)	Provides grants for visual artist for the display of their work in public places
Council of State Decision on Extraordinary Artists' Pensions ( 75/1974)	Provides additional pensions for seniors artists – and finances also their artistic work
Act on State Guarantees for Art Exhibitions (411/1986, amended 639/1991, 336/1994, 390/1997, 1116/2001))	Guarantees insurance for the organiser of art exhibitions
Act on the Pensions of Artists and Some Particular Groups of Short-Time Workers (662/1985, amended numerous times).	Safeguards the pension payments and pension right in short-tern employment that is typical for musicians, perfuming artist, journalists, scene-designers, etc.
<b>III. FINANCING CULTURAL AND ART INSTITUTIONS AND CULTURAL SERVICES</b>	
Act on Financing Education and Culture (originally 705/1992; now 642/1998, amended 1186/1999)	Specific "financing law" defining the rules for calculating and allocating central government subsidies to e.g. to professional theatres, museums, orchestras and general art education
Act on State Subsidies to Municipalities (688/1992, amended 1313/1993 1147/1996, 1102/1997, 1061/1998,	General financing law defining the rules for calculating and allocating the transfer of state

1126/1998)	subsidies to municipalities
Lottery Act (1047/2001)	The revision of two decades old legislation; gives government the right to contract monopoly of 1) lottery / lotto, football pool and betting, 2) slot-machine and casino, and 3) harness race betting to their organisers, orders the return of the profits to the state budget and earmarks their use to specific purposes
Act Regulating the Use of the Profits of Lottery / Lotto, Football Pool and Betting (1054/2001)	Defines the shares of the annual returns of lottery / lotto, football pool and betting for purposes: 25% to sports, 5% to youth policy measure, 17.5% for scientific research and 35% to the arts
Act Regulating the Use of the Profits of Lottery / Lotto, Football Pool and Betting (1054/2001)	Defines the shares of the annual returns of lottery / lotto, football pool and betting for purposes: 25% to sports, 5% to youth policy measure, 17.5% for scientific research and 35% to the arts
Government Decree on Organising Lotteries (1345/2001)	Specifies the technical rules for all forms of lotteries
<b>IV. PROFESSIONAL CULTURAL AND ART INSTITUTIONS AND MUNICIPAL CULTURAL SERVICES</b>	
Municipal Cultural Activities Act (728/1992, amended 1681/1992)	Legislative basis for the central government support to non-institutional cultural activities in municipalities
Museums Act (729/1992, amended 1959/1995, 1166/1996)	Legislative basis defining professional museum eligible for central government subsidies according to the "financing law"
Theatres and Orchestras Act (730/1992, amended 1277/1994, 1460/1995, 642/1998)	Legislative basis defining professional theatres and orchestras eligible for central government subsidies according to the "financing law"
(Public) Library Act (originally 235/1986; now 904/1998, amended 134/1990, 725/1992)	Legislative basis defining the tasks of public (municipal) libraries eligible for central government subsidies according to the "financing law"
(Public) Library Decree (1078/1998)	Specifies the previous act
<b>V. ADULT EDUCATION</b>	
Act on Voluntary Adult Education (632/1998)	A new integrating law that defines the traditional forms of voluntary adult education and lays the ground for public support
Decree on Voluntary Adult Education (805/1998)	Specifies the previous act
<b>VI. ARTS EDUCATION AND TRAINING OF THE ARTISTS</b>	
Higher Education Development Act (1052/1986, amended 1207/1993 943/1996, 1279/2001)	Guarantees the stable financing of the universities – including art universities (University for Arts and Design, Sibelius-Academy, Academy of Fine Arts, Theatre Academy) - and defines related performance expectations
Universities Act (645/1997 amended 1059/1998). Originally: Act on now Universities Act (645/1997, amended 1059/1998)	Integrates the structure, functioning and internal and external organisation of the higher education and its units, including the arts universities (see the comment above).
Act on Basic Education in the Arts (originally 424/1992, now 633/1998, amended 518/2000)	Integrates the organisation of extracurricular art education for children and youth and lays basis for its public financing



Decree on Basic Education in the Arts (255/1995)	Specifies the previous law
Vocational Education Act (630/1998)	Legislative basis for lower vocational education, including culture (handicraft, design, audiovisual media, visual expression, dance and music)
Decree on Vocational Education (811/1998)	Specifies the previous law
Polytechnics Act (633/1998)	Defines the objectives and organisation of polytechnic education, including higher professional/vocational education in the arts, culture, media and humanities
Polytechnics Decree (256/1995)	Specifies the previous act
Act on Pilot Programme on Postgraduate Studies in Polytechnic Institutions (645/2001)	A further step to remodel polytechnics to parallel universities degree structure
<b>VII. BROADCASTING, FILM, MASS MEDIA, CULTURE INDUSTRIES</b>	
Film Art Promotion Act (28/2000)	This act was needed to provide legal basis for the function of the Finnish Film Institute
Decree on the Promotion of Film Art (121/2000)	Specifies the previous act
Act on Radio and Television Activities (744/1998)	Defines the prerequisites for the broadcasting operations and their licensing by public authorities
Act on the Finnish Broadcasting Company (FBC, 1380/1993, amended 746/1998)	Defines the role of the FBC as a public service radio- and television company and defines the mode of its (parliamentary) control
Previously, Act on the Inspection of Video and Other Audiovisual Programmes (697/1987), now Act on the Classification of Audiovisual Programmes (775/2000)	Age classification of programmes for the protection of children against exhibition of pornography and violence; violations punishable according to the Chapter 17 of the Finnish Penal Code
Decree on the Board for Film Classification 823/2000	Specifies the previous law
<b>VIII. TAXATION</b>	
Act on Value Added Tax (1501/1993), especially amendments 1265/1997 and 1071/2001 of the paragraph 85a that define lower decreased tax rate (8%) for cultural products (books) and cultural and entertainment services (tickets to performing arts, performances, cinema, zoo, museums, etc.)	Several amendments due to the EU directives, the latest (1071/2002) extended the law to cover the trade on art objects
Decree on Value Added Tax (50/1994)	Specifies the previous law
<b>IX. FREE COMPETITION</b>	
Law on the Restriction of Competition (480/1992)	Harmonised to correspond to the EU directives
<b>X. COPYRIGHT AND NEIGHBOURING RIGHTS</b>	
Copyright Act (original 174/19271, now 404/1961, since then more than twenty amendments). The latest amendment Bill, precipitated by the Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society was not passed by Parliament in 2002, was drafted new and presented to the present Parliament in March 2004 and is now going through the legislative process. Parallel to this process	Numerous special amendments due to the EU copyright directives and international agreements; an extensive system of copyright organisations has evolved for the enforcement of the law and for collecting and distributing the revenues of copyright compensations.

the Parliament will also decide on the ratification of the WIPO Copyright Treaty and the WIPO Treaty on Performances and Phonograms.	
<b>XI. CULTURAL HERITAGE</b>	
Museums Act (729/1992, amended 1459/1995, 1166/1996)	
Act on Archaeological Sites (295/1963, amended 68/1995, 563/1995, 702/1995, 798/1996)	Provides legislative basis for protection of sites and their excavations
Archives Act (previously 184/1981, now 831/1994)	Provides legislative basis for the National Archive system and for the principles for deposition of relevant archive materials in and support for public and private archives
Decree on Archives (1012/1982)	Specifies the previous act
Act on Film Archiving (576/1984)	Provides legislative basis and principles for archiving film material
Physical Planning and Construction Act (132/1999)	Provides the legislative basis for physical planning and protection of built environment
Protection of Buildings Act (60/1985, amended 1152/1993)	Provides a legislative resort for the protection of historically significant buildings
Act on Restricting Export of Objects of Cultural Value (previously 445/1978, now 115/1999)	Takes into consideration the Council Regulation (EEC) 3911/1992
Act on the Administration of the Site of Suomenlinna Fortress (1145/1988)	Provides the legislative basis for the administration of a fortress site that belongs to the UNESCO World Heritage List
<b>XII. MINORITIES AND IMMIGRANTS</b>	
Finnish Constitution (731/1999), paragraph 17	Defines Swedish language as a parallel national language to Finnish, specifies Sami, Rom and Finnish Sign Language as minority languages; designates Sami as an indigenous culture and stipulates the rights of the Sami and other minority groups to develop their own culture
Language Act (423/2003) and Sami Language Act 1080/2003	Language Act specifies the right and obligation to official use of the two national languages in different Swedish-Finnish population contexts. The Sami Language Act provides for the right to use the Sami language officially at least through interpretation and receive official document in Sami.
Decree on the Board for Developing the Official Use of Swedish Language (1037/2000)	Provides an organ for co-ordinating and developing the official use of Swedish language
Finnish Constitution, paragraph 121	Guarantees cultural autonomy for the Sami living in Sami Homeland municipalities
Act on the Sami Parliament (974/1995, amended 975/1995, 1726/1995, 888/1996)	Provides the legislative basis for the advisory elected body that must be heard in Sami affairs
Act on the Autonomy of Aland (144/1991)	Stipulates the internationally and constitutionally confirmed autonomy of the province of Aland
Finnish Constitution, Chapter 2	Deals with human rights issues from general equality and probation of discrimination to educational rights and rights to own native language and culture

Aliens Act (378/1991)	Stipulates the rules for foreigners to enter and stay in Finland, defines their human and political rights and rights to stay and unite with their family members; the law has been amended numerous times, a new integrative bill is debated now (2002-2003) in Parliament
Decree on Aliens (142/1994)	Specifies the previous law
Act on the Integration of Immigrants and Reception of the Refugees (493/1999, amended 118/2002, 1292/2002)	Guarantees material and economic basis for the immediate care and integration of the immigrants and refugees
Decree on the Integration of Immigrants and Reception of the Refugees (511/1999)	Specifies the previous law
<b>XIII. INTERNATIONAL CULTURAL CO-OPERATION</b>	
Decree on the National Entry into Force of the Constitution of UNESCO (549/1956, amended 426/1967)	International agreements, conventions, charters, etc. are entered in force by national legislation (by acts of Parliament or decrees) that incorporate them into national legislation or amends the latter to the required extent.
Decree on the National Commission for UNESCO (163/1966, amended 1168/1992)	See the comment above
Decree on the National Entry into Force of the Constitution of the Council of Europe (410/1989)	See the comment above
Decree on the National Entry into Force of the European Cultural Convention (98/1970)	See the comment above
Decree on the National Entry into Force of the Nordic Cultural Treaty (909/1971)	See the comment above
Decree on the National Entry into Force of the Statutes of the Nordic Cultural Fund (199/1977)	See the comment above
<b>XIV. THE MAJOR INTERNATIONAL CONVENTIONS, CHARTERS AND AGREEMENTS ON HUMAN AND CULTURAL RIGHTS RATIFIED BY FINLAND</b>	
<ul style="list-style-type: none"> <li>• ICCPR, International Covenant on Civil and Political Rights</li> <li>• ICESCR, International Covenant on Economic, Social and Cultural Rights</li> <li>• CERD, Convention for the Elimination of all forms of Racial Discrimination</li> <li>• CRC, Convention of the Rights of the Child</li> <li>• CEDAW, Convention Eliminating All kinds of Discrimination Against Women</li> </ul>	
<ul style="list-style-type: none"> <li>• European Framework Convention for the Protection of National Minorities</li> <li>• European Charter for the Protection of Regional or Minority Languages</li> <li>• European Convention for the Protection of Human Rights and Fundamental Freedoms</li> <li>• European Social Charter</li> <li>• Protocol No 3 to the Act of Accession to the European Union</li> </ul>	
Finland co-operates on the national basis and as a Member State of the European Union with the following international organisations in minority issues: the United Nations, Council of Europe, Council of the Baltic Sea States, OSCE, ILO, UNESCO	

### Finland/ 5.3 Sector specific legislation

#### 5.3.1 Visual and applied arts

The Finnish legislation on the arts and artists covers on the one hand public support and artists' rights on an individual level and, on the other hand, public support to the cultural and art institutions. The latter will be discussed in greater detail in chapter 7.2.

The following table contains information on the main legislation for the arts and individual artists. It indicates that this legislation pertain mainly to the financial support, that is the systems of artists grants and support to projects

and enhancement of the creative environments.

**Table 3: Promoting the arts, artists and creativity**

LEGISLATION	COMMENTS
<i>Art Professors and State Artists' Grants Act</i> (734/1969, amended 143/1995, 367/2000, 666/2002)	Provides the legislative basis for the artists' grants system; amendment 143/1995 abolished the 15-year grants and made the system more purposive
<i>Act on Grants and Subsidies for Authors and Translators</i> (236/1961, amended 1080/83, 1067/1993, 1272/1994, 1358/1995, 1040/1996249/2002, 665/2002)	Provides grants to authors and translators to compensate the library use of their works
<i>Act on Some Specific Grants for Visual Artists</i> (115/1997)	Provides grants for visual artist for the display of their work in public places
Council of State Decision on Extraordinary Artists' Pensions ( 75/1974)	Provides additional pensions for seniors artists – and finances also their artistic work
<i>Act on State Guarantees for Art Exhibitions</i> (411/1986, amended 639/1991, 336/1994, 390/1997, 1116/2001))	Guarantees insurance for the organiser of art exhibitions
<i>Act on the Pensions of Artists and Some Particular Groups of Short-Time Workers</i> (662/1985, amended numerous times).	Safeguards the pension payments and pension right in short-term employment that is typical for musicians, perfuming artist, journalists, scene-designers, etc.

### Finland/ 5.3 Sector specific legislation

#### 5.3.10 Other areas of relevant legislation

The importance of the legislation on promotion / prevention of unfair competition has proved to be important from the point of view of providing an even playground for small and medium sized enterprises and for guaranteeing entry to the market for new firms and for new ideas / works of art as part of cultural production.

### Finland/ 5.3 Sector specific legislation

#### 5.3.2 Performing arts and music

Legislation for performing artists is the same as the general legislation covering individual artists presented in Table 3 in chapter 5.3.1, see also chapter 7.2.

### Finland/ 5.3 Sector specific legislation

#### 5.3.3 Cultural heritage

Policies for the preservation and presentation of cultural heritage consist of the following elements: protection of monuments and historically significant buildings, archaeological and cultural sites, preservation and presentation of cultural heritage items in museums, and the protection of cultural sites and built environment through physical and construction planning (zoning). In all these activities, the National Board of Antiquities has a central role together with the Ministry of Environment; physical planning (zoning) is the responsibility of the regional councils and municipalities.

**Table 4: Main legislation on cultural heritage**

LEGISLATION	COMMENTS
<i>Museums Act</i> (729/1992, amended 1459/1995, 1166/1996)	Privies the basis for the recognition of professional museums and guarantees them

	steady public support
<i>Act on Archaeological Sites</i> (295/1963, amended 68/1995, 563/1995, 702/1995, 798/1996)	Provides legislative basis for protection of sites and for the right to archaeological excavations
<i>Archives Act</i> (previously 184/1981, now 831/1994)	Provides legislative basis for the National Archive system and for the principles for deposition of relevant archive materials in and support for public and private archives
<i>Decree on Archives</i> (1012/1982)	Specifies the previous act
<i>Act on Film Archiving</i> (576/1984)	Provides legislative basis and principles for archiving film material
<i>Physical Planning and Construction Act</i> (132/1999)	Provides the legislative basis for physical planning and protection of built environment
<i>Protection of Buildings Act</i> (60/1985, amended 1152/1993)	Provides a legislative resort for the protection of historically significant buildings
<i>Act on Restricting Export of Objects of Cultural Value</i> (previously 445/1978, now 115/1999)	Takes into consideration the Council Regulation (EEC) 3911/1992
<i>Act on the Administration of the Site of Suomenlinna Fortress</i> (1145/1988)	Provides the legislative basis for the administration of a fortress site that belongs to the UNESCO World Heritage List

### Finland/ 5.3 Sector specific legislation

#### 5.3.4 Literature and libraries

Public lending right compensations are covered by a special legislation *Act on Grants and Subsidies for Authors and Translators* (1961, latest amendment 2002) that provides a special grant system for authors and translators. There is a special board for peer group evaluation and the system is now administratively integrated into the Arts Council of Finland. In 2000, some 2 million euros were distributed in the form of grants to fiction writers and translators.

The *Public Library Act* was originally passed in 1986 (latest amendment in 1998). It provides the legislative basis defining the tasks of public municipal libraries eligible for central government subsidies according to the "financing law". The *Public Library Decree* (1998) specifies this Act. Legislation on archives is presented in Table 4, chapter 5.3.3.

For more detailed information see Table 3 in chapter 5.3.1 and Table 8 in chapter 7.2.

### Finland/ 5.3 Sector specific legislation

#### 5.3.5 Architecture and environment

Architecture is considered to be an art form and architects as artists. Therefore, public support of architecture and architects on an individual level is outlined in legislation presented in Table 3 in chapter 5.3.1 for individual artists.

The *Protection of Buildings Act* (60/1985, amended 1152/1993) protects buildings, built areas and built cultural environments, which have value from the perspective of cultural history. This protection pertains to buildings in zoned areas. The *Land Use and Building Act* (132/1999) defines the zoning system (where municipalities have the zoning monopoly) and thus the "ex ante protection" of built environments. Archaeological sites and monuments and church buildings are protected by the *Act on Archaeological Sites and Monuments* (295/1963) and the *Church Act* (635/1964) respectively.

### Finland/ 5.3 Sector specific legislation

#### 5.3.6 Film, video and photography

Legislation pertains mainly to feature film production, to television and radio and the censorship of films and videos (and, nowadays also to computer and console games).

Support to national production of feature films is channelled via the Finnish Film Foundation. The *Act and Decree*

on *Film Production* (2000) defines the organisation of the financial support channelled via the Foundation and also other forms of support for the promotion of film production and distribution. The *Acts on Radio and Television*, on the Finnish Broadcasting Company and on the State Television and Radio Fund are all important from the point of view of the "markets" for national feature film and independent television programme producers. The Finnish censorship system for the films, videos and games, is in its present form, considered both flexible and effective.

**Table 5: Legislation on film, radio, television**

LEGISLATION	COMMENTS
<i>Film Art Promotion Act</i> (28/2000)	This act was needed to provide legal basis for the function of the Finnish Film Institute
<i>Decree on the Promotion of Film Art</i> (121/2000)	Specifies the previous act
<i>Act on Radio and Television Activities</i> (744/1998)	Defines the prerequisites for the broadcasting operations and their licensing by public authorities
<i>Act on the Finnish Broadcasting Company</i> (FBC, 1380/1993, amended 746/1998,)	Defines the role of the FBC as a public service radio- and television company and defines the mode of its (parliamentary) control
<i>Act on the State Television and Radio Fund</i> (745/1998)	Defines the organising and mode of use of radio and television licence fees
Previously, <i>Act on the Inspection of Video and Other Audiovisual Programmes</i> (697/1987), now <i>Act on the Classification of Audiovisual Programmes</i> (775/2000)	Age classification of programmes for the protection of children against exhibition of pornography and violence; violations punishable according to the Chapter 17 of the Finnish Penal Code
<i>Decree on the Board for Film Classification</i> (823/2000)	Specifies the previous law

## Finland/ 5.3 Sector specific legislation

### 5.3.7 Culture industries

There are only few laws that pertain directly to the culture industries. They pertain to film production and radio and television (see also chapter 5.3.6). There is also legislation over content, that is, age classifications on audiovisual products for the purpose of preventing children from being exposed to the exhibition of pornography, violence, horror or "...other contents that may have a detrimental effect on their development". On the other hand, there is extensive legislation on freedom of expression, libelling and protection of privacy.

VAT legislation, which, (congruent to the respective EU directives) allows levies at a lower tax rate (8% instead of 22%) on cultural goods and services. An income tax law that allows tax relief on donations to a number of socially significant associations and foundations (charities).

Legislation guarding free competition has obviously had some preventive effects also in the culture industries as to the formation of price-setting monopolies and cartels. The Finnish agency responsible for the implementation of this legislation (Finnish Competition Authority) undertook an investigation (1998-1999) into a major fusion of the leading Finnish media company with a major publishing house and a company of kiosks distributing books and journals. In some other EU countries, the EU directives that aim at preventing competition restrictions have jeopardised the prevailing systems of setting fixed book prices by publishers, and therefore, these systems have been interpreted as a cartel-based restrictions of competition. The fixed book price system was abolished in Finland already in 1972.

The Finnish Film Foundation, which is the main public agency responsible for the support of cinema, formerly had no legislative basis besides the *Foundation Act* that stipulates for the founding, organisation and administration of public and private foundations. In the re-codification of the Finnish Constitution, special attention was paid to the importance of not delegating public powers to private organisations without affirmation by an enacted law. This led to the need to prepare and pass the *Film Art Promotion Act* in 2000. Basically, the new law has not altered the modus operandi of the Film Foundation.

## Finland/ 5.3 Sector specific legislation

### 5.3.8 Mass media

See Table 5 in chapter 5.3.6 for main broadcasting legislation.

TV programme quotas are set out in the 1998 *Act on Radio and Television Activities* and adhere to the stipulations of the EU Directive "Television Without Frontiers". The Finnish legislation follows Articles 4.1 of the directive that presupposes the transmissions of European programmes on TV-channels for ... *a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising and teletext services*". Following the stipulations of Article 5 of the Directive, the Finnish *Act on Radio and Television Activities* set a quota of 15% for programmes by independent producers with a clause that these programmes must have been produced during the last five years.

## Finland/ 5.3 Sector specific legislation

### 5.3.9 Legislation for self-employed artists

The main legal framework pertaining to direct support to the arts and artists and its organisation is based on the *Act on the Organisation of Promotion of the Arts and Art Professors and State Artists' Grants Act* (see also chapter 8.1.1). In addition, we can mention the *Act on State Guarantees for Art Exhibitions*, providing indirect support measures that facilitate the dissemination of creative work.

The framework for artists aims at overcoming economic and social handicaps due to the atypical nature of artistic work. A major issue is income and company taxation. Attempts have been made to improve the tax treatment of grant and copyright income and to introduce the right to income averaging (including tax deductible costs) over several years.

See also chapter 5.1.4.

## Finland/ 6. Financing of Culture

### 6.1 Short overview

The major role in financing the arts and culture in Finland is played by the central government and the municipal sector. The main fields financed by the state and the municipalities are creativity (arts and artists), heritage, cultural and art institutions (including those of the performing arts) and the services they provide, and general and professional education in the arts and culture. The main forms of finance are direct budget financing, transfers (directly or via other public authorities to the recipients) and tax expenditure. There are quite reliable statistics on the public expenditure covering current costs; the data on capital investments is less reliable.

There is no autonomous regional level of government in Finland. Regional cultural institutions are municipal institutions receiving additional state subsidies. Using the broader definition of culture and the figures presented in chapter 6.3, the share of the central government finance is 58.3% and that of the municipal sector is 41.7%. If we use the traditional narrow definition, leaving out archives, scientific libraries and education in the arts and culture, the expenditure is divided fifty-fifty between the two levels of government. It should be noted that we speak here of the current expenditure. According to the statistics of 2001, the total capital investments and transfers of the central government were only 18.1 million euros and those of local (municipal) governments 85.5 million euros. The very fact that central government property management has been recently gathered to be managed under the auspices of a public corporation makes it, for the time being, difficult to assess the actual central government capital investment in the arts and culture. Using the broader definition and including the above assumedly too low figures of capital investments, the share of cultural expenditure on culture was in 2001 about 3 % of the total state budget.

There is no exact measure of the household spending on art and culture. The household surveys on cultural spending include items such as newspapers and journals, TV-licence fees, PC-equipment, programmes, games, etc., schoolbooks, encyclopaedias, and material and services of photographing. If we take these items, the share of "culture" of the total household spending is about 1.6 - 1.8%. If we consider only the real cultural items. e.g. paintings, works of design, cinema theatre and orchestra tickets, tickets to exhibitions and museums, video rental and purchases, records, books of fiction, etc., the share of arts and culture of the total household spending is about 0.4%.

## Finland/ 6. Financing of Culture

### 6.2 Public cultural expenditure per capita

According to a broader (EUROSTAT) definition of culture, the annual public cultural expenditure (current and capital, net, without media and education) per capita in Finland was 140.35 euros in 2001. The ratio of the expenditure (current and capital, net, without media and education) to the GDP was 0.54 %.

## Finland/ 6. Financing of Culture

## 6.3 Public cultural expenditure broken down by level of government

Table 6: Public cultural expenditure: by level of government, in million euros, 2001

Level of government	Expenditure	
	million euros	% share of total
Central government		
<i>direct expenditure</i>	181.3	24.3
<i>transfers to municipalities</i>	117.9	15.8
<i>other transfers</i>	120.0	16.2
Municipalities		
<i>all direct expenditures &amp; transfers</i>	325.8	43.7
<b>Total public expenditure</b>	<b>745.0</b>	<b>100</b>

Source: Finnish data compiled for the EUROSTAT survey, 2004

## Finland/ 6. Financing of Culture

## 6.4 Sector breakdown

Table 7 below provides statistics on the distribution of expenditure by sectors (domains and sub-domains) of cultural activities in 2001. The data pertains only to current expenditure (net). It should also be noted that the heritage sector includes arts museums and the figures on education include only the higher (university level) education in the arts.

The figures reflect the overall dominance of two sectors: libraries and performing arts. This is understandable both ideologically and economically. The public library system, theatre, opera, and classical music have been the flagships of Finnish culture abroad; they also are the most "labour intensive" sectors that are supported by the central and local governments.

The category of socio-cultural activity includes public expenditure on extracurricular arts education and the cultural expenditure used by the municipalities for cultural administration and to support non-institutional cultural activities and productions. Municipalities receive central government transfers for maintaining these sub-sectors.

Table 7: Public financing of culture in 2001; current expenditure, net, by tiers of government and domains, in euros

DOMAINS	Current public expenditure		Central govt	Central govt	Central govt	Local govt
	%	euros	<i>direct ex- penditures</i>	<i>transfers to municipalities</i>	<i>other transfers</i>	<i>all current expenditure</i>
			euros	euros	euros	euros
<b>CULTURAL HERITAGE</b>	<b>15.2</b>	<b>113 564 329</b>	<b>35 354 551</b>	<b>12 238 000</b>	<b>17 132 778</b>	<b>48 839 000</b>
<i>Historical monuments and archaeological sites</i>		11 917 676	11 917 676			
<i>Museums (historical &amp; art)</i>		101 646 653	23 436 875	12 238 000	17 132 778	48 839 000
<i>Others</i>						
<b>ARCHIVES</b>	<b>1.7</b>	<b>12 188 516</b>	<b>12 188 516</b>			
<b>LIBRARIES</b>	<b>30.53</b>	<b>226 895 533</b>	<b>16 633 774</b>	<b>81 000 000</b>	<b>3 363 759</b>	<b>125 898 000</b>
<i>Public</i>		214 695 533	4 433 774	81 000 000	3 363 759	125 898 000
<i>National library</i>						



<i>functions</i>		12 200 000	12 200 000			
<b>ARCHITECTURE</b>	<b>0.1</b>	<b>1 011 716</b>	<b>513 375</b>		<b>498 341</b>	
<b>VISUAL ARTS</b>	<b>5.5</b>	<b>40 749 871</b>	<b>35 991 835</b>		<b>4 758 036</b>	
<i>Visual arts</i>		5 639 928	4 079 144		1 560 784	
<i>Design</i>		3 795 210	959 562		2 835 648	
<i>Photography</i>		979 497	617 893		361 604	
<i>Multidisciplinary</i>		237 951	237 951			
<b>Education</b>		24 842 000	24 842 000			
<b>Non-allocable</b>		5 255 285	5 255 285			
<b>PERFORMING ARTS</b>	<b>30.0</b>	<b>223 685 778</b>	<b>55 523 060</b>	<b>17 961 000</b>	<b>69 017 718</b>	<b>81 157 000</b>
<i>Music</i>		55 066 949	17 168 414	9 321 000	2 035 535	26 482 000
<i>Dance</i>		3 255 233	940 269		1 699 964	615 000
<i>Music theatre, opera</i>		37 800 840			35 936 840	3 864 000
<i>Theatre</i>		88 715 986	1 473 339	8 640 000	28 406 647	50 196 000
<i>Multidisciplinary</i>						
<i>Other arts</i>		938 732			938 732	
<b>Non-allocable</b>		5 795 038	5 795 038			
<i>Education</i>		30 146 000	30 146 000			
<b>BOOKS AND PRESS</b>	<b>3.0</b>	<b>22 368 491</b>	<b>8 047 536</b>		<b>14 320 955</b>	
<i>Books</i>		6 198 943	4 497 988		1 700 955	
<i>Press</i>		13 380 000	760 000		12 620 000	
<i>Not allocable</i>		2 789 548	2 789 548			
<b>AUDIOVISUAL &amp; MULTIMEDIA</b>	<b>2.0</b>	<b>14 987 775</b>	<b>4 055 560</b>		<b>10 932 215</b>	
<i>Cinema</i>		14 987 775	4 055 560		10 932 215	
<i>Radio</i>						
<i>Television</i>						
<i>Video</i>						
<i>Sound recordings</i>						
<i>Multimedia</i>						
<b>INTERDISCIPLINARY</b>	<b>7.4</b>	<b>55 359 228</b>	<b>12 900 474</b>	<b>6 718 754</b>		<b>35 470 000</b>
<i>Socio-cultural activities</i>		42 458 754		6 718 754		35 740 000
<i>Cultural relations abroad</i>		6 432 946	6 432 946			
<i>International institutions</i>		3 676 108	3 676 108			

<i>Administration</i>		2 791 420	2 791 420			
<b>NOT ALLOCABLE BY DOMAIN</b>	<b>4.6</b>	<b>34 210 570</b>	<b>98 570</b>			<b>34 112 000</b>
<i>Not allocable</i>		34 210 570	98 570			34 112 000
<b>TOTAL</b>	<b>100.00</b>	<b>745 0001 807</b>	<b>181 314 251</b>	<b>117 917 754</b>	<b>120 023 802</b>	<b>325 746 000</b>

Source: Finnish data compiled for the EUROSTAT survey, 2004

Table 7 also bears witness to the fact that the culture industries are marginally supported by the central government— and even less so by the municipalities. The only sub-sector that receives substantial support is national film production. One must add that public broadcasting is not included in these statistics. The public service television and radio of the Finnish Broadcasting Company, FBC, is financed by licence fees; this income makes up (after the compensations from private television channels has ended) close to 90 per cent of the total turnover of the FBC, that in 2001 was 375 million euros. Radio- and television broadcasting are the main sources of copyright and neighbouring right compensations for music creators, musicians and producers.

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The Council of Europe/ERICarts "Compendium of Cultural Policies and Trends in Europe, 6th edition", 2005

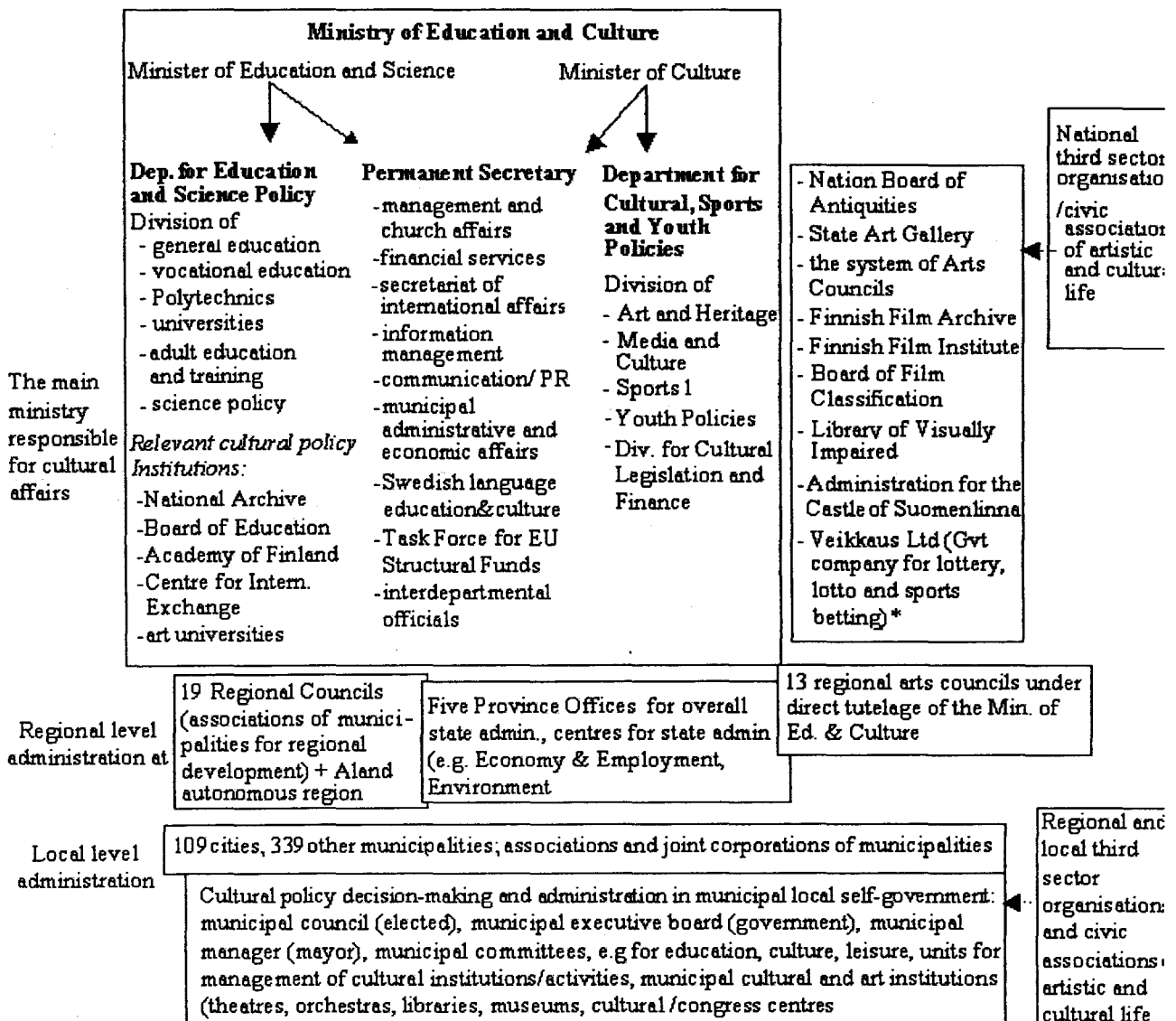
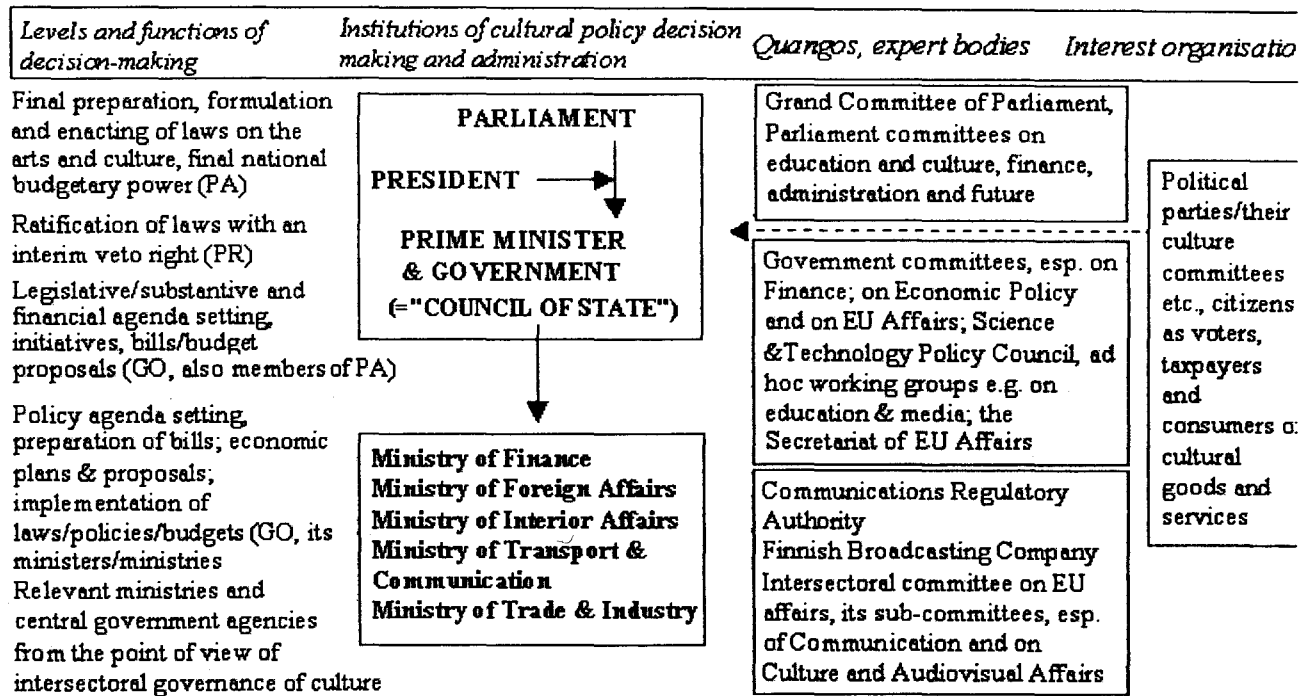


## Finland/ 2. Competence, decision-making and administration

### 2.1 Organisational structure (organigram)

The following organigram gives a detailed overview of Finnish cultural policy decision-making and administration. The solid line and vertical overlapping arrows indicate authority relations; the dotted line and horizontal overlapping arrows indicate relations of influence and co-operation. The titles and texts indicate the status and the role of advisory and planning organisations.

The chart includes central government administration of education and science to pinpoint interrelated and joint activities with the cultural policy administration. N.B: responsibility for general and professional education in the arts and culture belongs to the Ministry of Education and Culture within the Department of Education and Science Policy.



\* Other expert bodies are: Grant Committee for Authors and Translators, Grant Committee for Composers and Music, Council for High Education Evaluation, Exhibition Grant Committee for Visual Art, Committee for MEDIA, Committee for State Guarantees for Art Exhibitions, Delegation for the Promotion of Finnish Literature, Finnish National Commission for UNESCO, Copyright Council, Cour

## Finland/ 2. Competence, decision-making and administration

### 2.2 Overall description of the system

Finland – like the other Nordic countries – is at the same time a highly decentralised and highly centralised country. This is due to the fact that the local government is strong and autonomous in principle, because of the constitutional and legislative provisions and income taxation right of the municipalities. On the other hand, with the advent of the social welfare state, the main burden of implementation of public service systems was shouldered upon municipalities; the state set the legislative frames and levelled the expenditure between well-to-do and less so municipalities by financial transfers. In the late 1980s and in the 1990s, this system, which had earlier covered public libraries and adult education, was expanded to include museums, theatres, orchestras and basic art education. As the result of this development, the state takes care of art support systems and national cultural and art institutions, professional and university level cultural and art education, and international cultural co-operation; and it shares the financial responsibility of maintaining the national service systems with the municipalities. The municipalities, besides taking care of service provision– and financing about 2/3 of it – maintain the infrastructure and finance and support local cultural and art activities. Thus the state and the municipal sector are formally on the equal footing as to the cultural policy competence; yet the state has a much stronger hold of the steering wheel. There is no autonomous regional administration, although the EU-membership strengthened the role of regional councils, which actually are federations of municipalities.

The final legislative and budgetary powers rest with Parliament; the overall and co-ordinating executive powers of policy initiation, planning and implementation with the Government (Council of State), and sector policy initiation, planning and implementation powers with ministers and ministries. The counterbalance to these central government powers can be found at the bottom of the graph in the strong system of local (municipal) self-governance. The regional level is manned on the one hand by the regional authorities of central government (province offices, sector district offices, sector development centres), on the other hand by the co-operative bodies of the municipalities. Of the latter, the regional councils bear the main responsibility for overall co-ordination of physical planning and regional development.

In Parliament, the main work in the final preparation of bills and budget proposals is carried out in parliamentary committees, which play a major role in this process. The Parliamentary Committee of Education and Culture deals with cultural policy issues, but the powerful Committee of Finance proposes the financial limits for all budget allocations. After Finland's accession to the European Union, the Grand Committee became an increasingly important body that monitors the relations between national and Union legislation and policies. For that purpose it hears the ministers before and after the Union Council meetings. This means that the ministers, among them the Minister of Culture, are in a new and direct manner responsible to Parliament.

After its appointment, a new government is obliged by the constitution to submit its programme as a formal communication to Parliament for discussion. The programme sets the agenda for the Government and it is accompanied by a portfolio of projects and / or strategic plans to be initiated and implemented. The projects and plans of the programme set – either in *expressis verbis* or latently (through more comprehensive policy proposals) – objectives for cultural policy.

The Government does not have any permanent committees or other expert bodies responsible for cultural policy purposes. It can set up special working groups to monitor and prepare decisions in important policy sectors.

On the sector level, the main planning and executive responsibility lies with the Ministry of Education and Culture, in Finnish Opetusministeriö (verbatim, the Ministry of Instruction). It is customary to indicate in English translation that also the arts and culture belong in its jurisdiction. In the Ministry, there are two ministers, the Minister of Education and Science and the Minister of Culture, Youth and Sports. The Department for Cultural, Sports and Youth Policies is divided into the Division of Art and Heritage, the Division of Media and Culture, the Division for Cultural Legislation and Finance, the Division of Sports, and the Division of Youth Policies.

The Ministry and its departments and divisions are supposed to focus on strategic planning and govern and guide through information provision and performance contracts. Consequently, actual operative policy implementation in cultural and art administration has been increasingly delegated to the arm's length bodies, special agencies and quasi-governmental organisations. In cultural policy implementation the following organisations are of prime importance:

- the system of arts councils (Arts Council of Finland and its specific art form councils for cinema, literature, visual arts, theatre, design, architecture, photography, music and dance), which is responsible for implementing arts and artist policies and provides peer group evaluation mechanisms for deciding on grants for artists and artist-led projects;
- the National Board of Antiquities that, besides its archaeological functions, is also the main governmental expert body for the whole heritage sector and professional museum activities; and
- the Finnish Film Foundation that allocates public support for film production and distribution.

Furthermore, more specific expert and national policy implementation functions are carried out by such bodies as

the National Art Gallery, Finnish Film Archive, Board of Film Classification, the Library of Visually Impaired, and the Administration for the Fortress of Suomenlinna (Unesco World Heritage Site). The government joint-stock company, Veikkaus Ltd also has a special function of organising, as a licensed national monopoly, the lottery, lotto, football pool and sports betting. Its profits are used to finance, through central government budget, the arts, culture, science, youth policies and sports.

Among the other ministries the following have important trans-sector influence on cultural policy planning and implementation:

- The Ministry of Finance has in Finland, as practically in all Western democracies, a guiding and controlling role in respect to the economic planning and budget processes of all ministries;
- The Ministry of Interior is responsible for regional development and has a central role in organising and co-ordinating regional development programmes and related EU-initiated financing;
- The Ministry of Transport and Communications has an important planning and implementing role in telecommunications and radio- and television activities; and
- The Ministry of Trade and Industry provides support for the R&D in general and also more specifically for the ICT and media and culture industries.

Finland has an extensive system of local self-government, in which the municipalities have the right of taxation (including income taxation). The state (central government) levels inequalities in public services and infrastructure development through finance transfers, at present mainly through statutory subsidies. Most provisions for the arts and culture are transferred via the statutory subsidy system.

Cultural policy decision-making at the municipal level is basically in the hands of the *Municipal Council* (elected assembly), the *Executive Board* (reflecting the party divisions and coalitions in the Council), sector municipal committees and the executive staff, headed by the municipal manager / mayor. Regarding the sector committees and administration, the trend in the 1980s was to integrate all cultural matters (theatre, music, amateur arts, etc.) under one municipal committee, that of culture. In the 1990s the trend has been reversed, and cultural matters have been increasingly distributed to trans-sector committees with broader responsibilities (committees on leisure, tourism, etc.).

There is no autonomous regional administration with elected bodies. The Provincial offices are extensions of the central government, carrying out the general task of monitoring regional development in general and the development of public service systems in particular. Their number was decreased in 1997 from eleven to five and many specific functions have been transferred to more specialised regional agencies of the central government. At the same time nineteen regional councils (federations of municipalities) have gained a greater role in regional development and planning, partly because of their responsibilities in planning and monitoring programmes financed within the framework of the EU programmes.

The *Regional Art Councils* are an extension of the system of Arts Council of Finland to the regional level. They are, however, under the direct jurisdiction of the Ministry of Education and Culture and they are located administratively in the Provincial Offices. Basically they have regionally the same functions (grant-giving to artists, project grants) as the system of Arts Council of Finland and art form councils have nationally.

## Finland/ 2. Competence, decision-making and administration

### 2.3 Inter-ministerial or intergovernmental co-operation

In the Finnish political system, the plenary sessions of the Government (Council of State) and its standing committees and working groups have a strong role in controlling and guiding individual ministries and in co-ordinating their work.

The issue of inter-sectoral co-operation was debated in the late 1980s and a special ad hoc committee of ministers has recently been planning reforms in this respect. No clear instructions exist in general or in respect to joint cultural policy planning. The EU-membership has, however, brought forth a need for new inter-ministerial co-ordination; there is, for the co-ordination of EU-affairs, a special Committee of Ministers and, on the top civil servant level, an Inter-Ministerial Committee of EU-Affairs, with a number of sub-committees, among them a sub-committee for culture and audio-visual affairs.

Cultural policy planning and decision-making rests with the Ministry of Education and Culture but important roles are also played by the Ministry of Trade and Industry (e.g. in respect to R&D and SMEs in the cultural sector), the Ministry of Transportation and Communications (e.g. concerning media, communications and information technologies), the Ministry of Justice (copyright and other intellectual property rights issues) and the Ministry of Labour (public works, construction projects and employment policies). The position of the Ministry of Interior Affairs has also become accentuated because of its leading role in regional development policies, which gives it a definite say in directing the choice of projects financed from the EU Regional Development Funds.

It is practically impossible to assess how much influence these ministries actually have in the implementation of

cultural policy and the level of resources they allocate directly or indirectly to the arts and culture.

There are no inter-governmental bodies in cultural policy-decision making and administration. To a certain extent the regional art councils function as intermediators between the central government and municipal administration. As to public cultural services the Association of the Finnish Regional and Local Authorities is an important intermediary between the central government and the municipalities.

## **Finland/ 2. Competence, decision-making and administration**

### **2.4 International cultural co-operation**

Within the jurisdiction of the Ministry of Education and Culture the management of international cultural co-operation is assigned to a special unit, the Secretariat for International Cultural Affairs. Its main function is managing bilateral and multilateral relations. The former are based on bilateral cultural agreements (with 34 countries) and memoranda of understanding (with six countries), the latter on international conventions, agreements and Finnish membership in such international organisations as UNESCO, the Council of Europe, ITU and WIPO. In addition, Finland has a network of cultural institutes in 15 countries. The EU Desk of the Ministry is also located at the secretariat. Most of the budget allocations of the Ministry of Education and Culture for international cultural co-operation are channelled to these bilateral and multilateral activities.

The Nordic co-operation has a special position in the international co-operation policies of Finland. Finland is represented on the cultural and educational committees, working groups and steering groups subordinate to the Nordic Council of Ministers, and participates in the Nordic Cultural Fund (1996), which is administered by the Nordic Council of Ministers Secretariat in Copenhagen. Finland has bilateral Cultural Funds with all the other Nordic countries: Iceland (1974), Norway (1979), Sweden (1960) and Denmark (1981). These cultural funds are administered by the Swedish-Finnish Cultural Centre Hanasaari. The Ministry of Education and Culture allocates funds to Nordic co-operation.

EU membership and the new network relations have, however, dispersed the participation in the international cultural co-operation to different divisions and to the different agencies that have been decentralised horizontally from the main administration. Thus the EU Media Desk is located at the Finnish Film Foundation, the National Board of Antiquities is responsible for international co-operation in cultural heritage sector, and CIMO, the Centre for International Mobility, is responsible for student exchange programmes and functions as a EU Contact Point for the Culture 2000 programme.

The Ministry of Foreign Affairs promotes the Finnish arts and culture abroad and has its say, in the spirit of cultural diplomacy, in all affairs of intentional cultural co-operation that may have wider political implications. The programme of co-operation with for adjacent regions where the emphasis is on new types of cultural co-operation initiatives within the Baltic and the Barents Sea Regions is co-ordinated and financed by the Ministry of Foreign Affairs, although other ministries are responsible for the choice of projects and allocation of financing. The art universities, research centres and the main cultural and art institutions have their own cultural co-operation relations and are well linked to their respective European and wider international networks (European Theatre Convention, European Theatre Union, ITI, ICOM, ICOMOS, ELIA etc). The municipalities have their own town twinning programmes and belong to such organisations as the Union of the Baltic Cities and Eurocities. Associations of artists are well linked to European networks (IETM, International PEN, European Jazz network, TransEurope Halles etc.).

## **Finland/ 5. Main legal provisions in the cultural field**

### **5.1 General legislation**

The purpose of the newly expanded chapter 5 on legal provisions for culture is to provide you with a more indepth overview of the legal instruments used to support culture in the individual Compendium countries.

Chapter 5.1 provides you with information on those pieces of general legislation which have an important impact on culture, for example, articles in the Constitution of individual countries or legislation used to govern the allocation of public funds.

Chapter 5.2 provides a list as overview of the main legislation for culture. Some countries may have hundreds of laws while others may have only one "Culture Act".

Chapter 5.3 is sub-divided to provide you with information on sector specific legislation in the following fields: visual and applied arts; performing arts and music; cultural heritage; literature and libraries; architecture and environment; film, video and photography; culture industries; and mass media.

### **Finland/ 5.1 General legislation**

#### **5.1.1 Constitution**

The following provisions of the new Finnish Constitution have immediate relevance for focusing and limiting the sphere of cultural policies. The first item defines the Constitutional basis of cultural policy decision-making and administration; the other Constitutional provisions guarantee the citizens' rights and liberties – including freedom of the arts – and the cultural rights of cultural minorities.

*Chapter 2, paragraph 16*

Deals with citizen's rights and freedoms; paragraph 16 gives constitutional guarantee for the freedom science, the arts and higher education.

*Paragraph 17*

Defines Swedish language as a parallel national language to Finnish, specifies Sami, Rom and Finnish Sign Language as minority languages; designates Sami as an indigenous culture and stipulates the rights of the Sami and other minority groups to develop their own culture.

*Paragraph 128*

Stipulates that the Island / Province of Åland will have such an autonomy as will be defined by special legislation.

*Paragraph 121*

Guarantees cultural autonomy for the Sami living in Sami Homeland municipalities.

## Finland/ 5.1 General legislation

### 5.1.2 Division of jurisdiction

The Finnish cultural policy system evolves along the state-municipalities axis. The constitution and legislation on municipal administration defines the role of municipalities vis-à-vis the state.

Despite the autonomy of the municipalities (which includes rights to collect income tax), municipal cultural institutions are to a large extent dependant on central government subsidies (transfers) to the municipalities. These transfers, aiming at equity in the regional and local provision of the arts and cultural services, go either to municipalities and through municipalities to municipal institutions and activities or to cultural and art institutions which are operated as voluntary organisations or foundations.

The central government system is also decentralised to a large extent: the role of cultural and art institutions, agencies and arm's length bodies is defined by specific legislation. The Constitution stipulates that no non public organisation can exercise authoritative public decision-making powers without such special legislation.

Key pieces of legislation are:

- *Act on State Subsidies to Municipalities (1998)*: a general financing law which defines the rules for calculating and allocating the transfer of state subsidies to municipalities.
- *Municipal Cultural Activities Act (1992)*: the legislative basis for central government support to non-institutional cultural activities in municipalities.

## Finland/ 5.1 General legislation

### 5.1.3 Allocation of public funds

The following Acts provide the legislative basis for financing the arts and culture. The first two Acts provide the legal basis for the national lottery and specify the use of profits. The remaining Acts provide the legislative basis for state aid (transfers) to municipal and local cultural services and activities.

**Table 1: Legislation covering the allocation of public funds**

LEGISLATION	COMMENTS
<i>Lottery Act (1047/2001)</i>	The revision of two decades old legislation; gives government the right to contract monopoly of 1) lottery / lotto, football pool and betting, 2) slot-machine and casino, and 3) harness race betting to their organisers, orders the return of the profits to the state budget and earmarks their use to specific purposes
<i>Act Regulating the Use of the Profits of Lottery/Lotto, Football Pool and Betting (1054/2001)</i>	Defines the shares of the annual returns of lottery / lotto, football pool and betting for purposes: 25% to sports, 5% to youth policy measure, 17.5% for scientific research and



	35% to the arts
<i>Act on State Subsidies to Municipalities</i> (688/1992, amended 1313/1993 1147/1996, 1102/1997, 1061/1998, 1126/1998)	General financing law defining the rules for calculating and allocating the transfer of state subsidies to municipalities
<i>Act on Financing Education and Culture</i> (originally 705/1992; now 642/1998, amended 1186/1999)	Specific "financing law" defining the rules for calculating and allocating central government subsidies to e.g. to professional theatres, museums, orchestras and general art education
<i>Municipal Cultural Activities Act</i> (728/1992, amended 1681/1992)	Legislative basis for the central government support to non-institutional cultural activities in municipalities
<i>Museums Act</i> (729/1992, amended 1959/1995, 1166/1996)	Legislative basis defining professional museum eligible for central government subsidies according to the "financing law"
<i>Theatres and Orchestras Act</i> (730/1992, amended 1277/1994, 1460/1995, 642/1998)	Legislative basis defining professional theatres and orchestras eligible for central government subsidies according to the "financing law"
<i>(Public) Library Act</i> (originally 235/1986; now 904/1998, amended 134/1990, 725/1992)	Legislative basis defining the tasks of public (municipal) libraries eligible for central government subsidies according to the "financing law"

## Finland/ 5.1 General legislation

### 5.1.4 Social security frameworks

Cultural workers, including most of the cultural professionals employed in publicly owned or publicly supported cultural service systems – including the performing arts – are covered within the sphere of the compulsory social security and pension systems. The same is the case with persons more permanently employed by enterprises of the culture industries and by professional / trade associations in the fields of the arts and culture. This overall social security protection does not, cover free lance artists and cultural workers.

There have been attempts to improve the unemployment insurance and social security system (especially pension) of artists. The general pension law, "*Act on the Pensions of Artists and Some Particular Groups of Short - Time Workers*", has standardised the situation somewhat, but a lot of problems remain. There have been demands for reforms in three areas:

- to include unemployment insurance and pension payments as part of the social security costs in the longer term accumulation of artists grants;
- to make the pension and social security system of artists and free lancers to suit better the uneven and varied flow of artists' income; and
- to improve the rights of artists as freelance entrepreneurs.

Some progress has been made in all of these areas (e.g. as to the insurance and pension payments based on the accumulation of artists' grants), but most reform proposals still wait to be enacted legislatively.

## Finland/ 5.1 General legislation

### 5.1.5 Tax laws

There is no legislation or special administrative arrangements that would offer incentives for sponsorship. On the other hand, income taxation legislation (*Income Tax Law*, paragraph 57) offers tax deductions within a narrow limit (min. 850 euros, max. 27 000 euros) for donations to the State, universities or to non-profit organisations in the arts and science considered culturally significant by a special *Tax Relief Board*. Tax-deductible donations to the preservation of national cultural heritage do not, however, have an upper limit. A special law allows tax relief for commercial transactions carried out by voluntary associations and other non-profit organisations, providing that the income is used for "good causes".

The Finnish legislation on value-added taxation has been enacted within the framework of relevant EC / EU

directives. The rate of VAT is 8 per cent for books and income fees of cultural, art and entertainment services and performances (entrance fees to museum, box office receipts of cinemas, theatres, orchestras and circus, music and dance performances. There is an eight per cent VAT rate also on radio and television broadcasting; zero rate has been set for prescriptions of newspapers and journals. The overall VAT-rate in Finland is 22 per cent.

## Finland/ 5.1 General legislation

### 5.1.6 Labour laws

The main legal instruments that regulate the use of Finnish labour force are the *Act on Labour Contracts* and the *Act on Civil Servants*. Both define the rights of the employees and the obligations of the employers. The Finnish three-partite system of collective bargaining (income negotiations) "activates" these laws regularly and may cause their alterations. They – as well as the rounds of collective bargaining – are relevant from the point of view of performing arts and cultural services. Artists and free lance workers are, of course, outside these laws and the more comprehensive system of collective bargaining, although the result of the latter may influence the level of compositions the latter groups receive from their work.

General labour laws also have regulations that concern discrimination; yet the protection against gender discrimination is left to gender *Equality Act* (see also chapter 4.2.2).

## Finland/ 5.1 General legislation

### 5.1.7 Copyright provisions

The present Finnish *Copyright Act* was passed in 1961, and has since then been altered twenty times. The latest changes have been due to the seven EU Directives. The Government Bill outlining the changes (precipitated by the EU Information Society Directive) was sent to Parliament in a new revised form in March 2004 and is at present going through the committee work stage with interest group / expert hearings. The Bill follows closely the outlines of the EU directive.

Within the legislative frame of the *Copyright Act*, the main copyright and neighbouring rights organisations (of authors and translators, composers, performing artists, producers of records and audiovisual programme etc.) proctor effectively the authors' and producers rights, the rights for the public performance of music and the reproduction rights. As indicated earlier the Finnish copyright law stipulates that an extended collective licence permits the use of an author's work or an artist's performance, when a licence agreement has been reached between the user and the copyright management / compensations collecting organisation (CMO) representing an important number of Finnish authors or performers in a particular field.

The turnover (collected photocopying compensations, including the re-transmission of television programmes and the share of blank cassette fees) of the collecting organisation Kopiosto and its affiliate AVEK, the Finnish Promotion Centre for Audiovisual Culture, was in 2000 some 16 million euros. The corresponding turnover in music copyright compensations, consisting of composer's and neighbouring rights for playing recorded music in public places (including TV and radio) was at the same time some 50 million euros.

Since 1984 there has been a system of collecting levies on blank tapes to compensate private audio and audiovisual copying. This system has accumulated since its start copyright compensations equalling to some 140 million euros. The returns are distributed by the main copyright organisations, in partly directly to copyright owners, and partly as indirect compensations for training, R&D and production subsidies. The latter are also administered by the copyright organisations or their promotion centres, like the Promotion Centre for Audiovisual Culture. This centre is maintained by Kopiosto, the copyright organisation that collects compensations for photocopying (including the retransmission of radio and television broadcasts). The centre has become an important financier of production projects in video art and multimedia.

## Finland/ 5.1 General legislation

### 5.1.8 Data protection laws

Data protection – or the protection of the owners rights to information systems – are in Finland dealt together with other copyright issues. There have been disputes concerning the right of "owners" to information systems that seem to belong to "public domain" because they have been financed by public money or the designers and implementers have been on the public payroll. These cases have been solved *in casu* and disputes have been prevented by new contract practices. In the commercial sector there was a recent international challenge as the British football league match programme designer and distributor (Fixtures Marketing Ltd) started to demand financial compensation from the Finnish national lottery monopoly company for using their programme information in the design of their sports betting system. The case was taken to the European Court of Justice and was decided in favour of Veikkaus Ltd, which do not need to pay compensations to Fixtures Marketing. This decision implied higher profits for Veikkaus and more money for "good causes", including the arts and culture.

## Finland/ 5.1 General legislation

### 5.1.9 Language laws

The Swedish-speaking Finnish population is not only a minority. The basic ideology of nation building stipulates that Finland has two parallel Finnish cultures, one based on Swedish-language and the other on Finnish. The rights of the Swedish-speaking population are guaranteed in the newly re-codified Finnish Constitution (1999) and further enacted by a special *Language Act*, which, together with some special laws, provides for equality for official (administrative, court) use of the native language and access to education and public careers. The new *Language Act* was passed in 2003 and will be enforced from the beginning of 2004: it does not expand language rights but aims at better safeguarding of these rights in practice.

The Constitution gives a special position also to Sami people (as an indigenous culture), to the Roma people and to the users of sign language, and guarantees all three groups the right "...to maintain and develop the language and culture of their own". The language rights of these minorities as well as foreigners in legal and administrative processes are guaranteed with laws and statutes. The cultural rights of these groups are also enshrined by the ratification of international conventions, especially by the European Framework Convention for the Protection of National Minorities and the European Charter for the Protection of Regional or Minority Languages.

### Finland/ 5.2 Legislation on culture

Finnish politicians and civil servants still often repeat an old adage inherited from the period of Swedish rule: "*land skall med lag byggas*" (the nation shall be built by laws). This, of course, refers first and foremost to Constitutional order, but it is also the basic principle of policy implementation. Even the reforms that characterised the construction of the Finnish welfare state were legislatively enshrined, and the easiest way to identify the principal elements of Finnish cultural policy is to examine the corpus of laws and statutes pertaining to the cultural sector.

Table 1 below gives an overall view of legislation currently in force by the end of 2004 that directly addresses cultural policy issues or indirectly shapes them. It also indicates some recent amendments, which, in a way, documents the implementation of the new policy objectives and items of debates listed in chapter 4.2. The comments explain the contents and cultural policy relevance of the legislative acts, decrees and international conventions and agreements. More details on sector specific legislation is available in the sub-chapters 5.3.1-5.3.10.

General legislation, namely, the Constitutional and other legislative basis of cultural policy decision-making and administration is included in this compilation. It demonstrates the supremacy of the Parliament as the final instance in deciding on the state budget and in Constitutional and other legislation; the leading role of the Council of State as main initiator of new legislation, as the main actor in guiding state and national economy and the sole co-ordinating implementer of overall state policies. The first part of the Table lists the main piece of legislation which names the Ministry of Education and Culture as the main initiator, planner and implementer of cultural policies.

The horizontal decentralisation of the Finnish cultural policy system as discussed in chapter 3.3 is reflected in the laws and decrees found throughout the Table. This body of law stipulates the status and role of the national cultural institutions, agencies and arm's length bodies. The role of the regional authorities and the autonomous local administration (municipalities) become apparent in the section listing the more specific legislation concerning the financing of the arts and culture.

**Table 2: Current legislation pertaining to cultural policy and cultural administration**

MAIN CATEGORIES OF CULTURAL POLICY LEGISLATION	COMMENTS
<b>I. CULTURAL POLICY DECISION-MAKING AND ADMINISTRATION</b>	
Decree on the Ministry of Education and Culture (162/1997, amended 873/1997, 170/1998, 442/2000, 319/2000); the Order of Organisation and Functions of the Ministry of Education (438/2000).	The higher legislative basis of the state administration consists of the (newly codified) Constitution (731/1999); the Act on the Council of State 1120/1993; the Order of Organisation and Functions of the Ministries (1522/1995)
Act on the Organisation of Promotion of the Arts (328/1967, amended 635/1997, 366/2000, 667/2002)	Created the present system of national and regional arts councils
1353/1999 Act on the National Administration of the Structural Funds, amended 1286/2000	Organises the relation between the national authorities and administrative units in the planning

	financing and implementing the programmes financed within the framework of EU structural funds
Decree of the Ministry of Education on the jurisdiction of the Board Education and Province Offices in the Management of Structural Funds Administration (933/2001)	Delegates the planning, implementing and decision-making functions of the Ministry in the EU Structural Funds Programme to the Board of Education and Provincial Offices
Act on National Board of Antiquities (31/1972, amended 1016/1987, 1080/2001)	Confirmed the legislative basis for the main expert and policy implementing body on heritage
Decree on National Board of Antiquities (119/1992)	Specified the previous law e.g. in respect to the status of the National Museums
National Art Museum Act (originally 185/1990; present 566/2000)	Provide an umbrella organisation for three state-owned art museums (those of domestic, foreign and contemporary art)
National Art Museum Decree( 658/2000)	Specifies the previous law
Finnish Film Archive Act (891/1978, amended 590/1989)	Organises the administration of film archiving
Act on the Library for the Visually Impaired (11/78, 638/1996, amended 835/1998)	Provides national book services for the visually impaired
Decree on the Board for Specific Grants to Visual Artists (116/1997)	Organises the administration of the compensation for displaying public art works in public places
Act on the Board for Film Classification (775/2000)	Legislates the administration of the previous law
Decree on the Board for Film Classification (823/2000)	Specifies the previous law
<b>II. PROMOTING THE ARTS, ARTISTS AND CREATIVITY</b>	
Art Professors and State Artists' Grants Act (734/1969, amended 143/1995, 367/2000, 666/2002)	Provides the legislative basis for the artists' grants system; amendment 143/1995 abolished the 15-year grants and made the system more purposive
Act on Grants and Subsidies for Authors and Translators (236/1961, amended 1080/83, 1067/1993, 1272/1994, 1358/1995, 1040/1996, 249/ 2002, 665/2002)	Provides grants to authors and translators to compensate the library use of their works
Act on Some Specific Grants for Visual Artists (115/1997)	Provides grants for visual artist for the display of their work in public places
Council of State Decision on Extraordinary Artists' Pensions ( 75/1974)	Provides additional pensions for seniors artists – and finances also their artistic work
Act on State Guarantees for Art Exhibitions (411/1986, amended 639/1991, 336/1994, 390/1997, 1116/2001))	Guarantees insurance for the organiser of art exhibitions
Act on the Pensions of Artists and Some Particular Groups of Short-Time Workers (662/1985, amended numerous times).	Safeguards the pension payments and pension right in short-term employment that is typical for musicians, performing artist, journalists, scene-designers, etc.
<b>III. FINANCING CULTURAL AND ART INSTITUTIONS AND CULTURAL SERVICES</b>	
Act on Financing Education and Culture (originally 705/1992; now 642/1998, amended 1186/1999)	Specific "financing law" defining the rules for calculating and allocating central government subsidies to e.g. to professional theatres, museums, orchestras and general art education
Act on State Subsidies to Municipalities (688/1992, amended 1313/1993 1147/1996, 1102/1997, 1061/1998,	General financing law defining the rules for calculating and allocating the transfer of state

1126/1998)	subsidies to municipalities
Lottery Act (1047/2001)	The revision of two decades old legislation; gives government the right to contract monopoly of 1) lottery / lotto, football pool and betting, 2) slot-machine and casino, and 3) harness race betting to their organisers, orders the return of the profits to the state budget and earmarks their use to specific purposes
Act Regulating the Use of the Profits of Lottery / Lotto, Football Pool and Betting (1054/2001)	Defines the shares of the annual returns of lottery / lotto, football pool and betting for purposes: 25% to sports, 5% to youth policy measure, 17.5% for scientific research and 35% to the arts
Act Regulating the Use of the Profits of Lottery / Lotto, Football Pool and Betting (1054/2001)	Defines the shares of the annual returns of lottery / lotto, football pool and betting for purposes: 25% to sports, 5% to youth policy measure, 17.5% for scientific research and 35% to the arts
Government Decree on Organising Lotteries (1345/2001)	Specifies the technical rules for all forms of lotteries
<b>IV. PROFESSIONAL CULTURAL AND ART INSTITUTIONS AND MUNICIPAL CULTURAL SERVICES</b>	
Municipal Cultural Activities Act (728/1992, amended 1681/1992)	Legislative basis for the central government support to non-institutional cultural activities in municipalities
Museums Act (729/1992, amended 1959/1995, 1166/1996)	Legislative basis defining professional museum eligible for central government subsidies according to the "financing law"
Theatres and Orchestras Act (730/1992, amended 1277/1994, 1460/1995, 642/1998)	Legislative basis defining professional theatres and orchestras eligible for central government subsidies according to the "financing law"
(Public) Library Act (originally 235/1986; now 904/1998, amended 134/1990, 725/1992)	Legislative basis defining the tasks of public (municipal) libraries eligible for central government subsidies according to the "financing law"
(Public) Library Decree (1078/1998)	Specifies the previous act
<b>V. ADULT EDUCATION</b>	
Act on Voluntary Adult Education (632/1998)	A new integrating law that defines the traditional forms of voluntary adult education and lays the ground for public support
Decree on Voluntary Adult Education (805/1998)	Specifies the previous act
<b>VI. ARTS EDUCATION AND TRAINING OF THE ARTISTS</b>	
Higher Education Development Act (1052/1986, amended 1207/1993 943/1996, 1279/2001)	Guarantees the stable financing of the universities – including art universities (University for Arts and Design, Sibelius-Academy, Academy of Fine Arts, Theatre Academy) - and defines related performance expectations
Universities Act (645/1997 amended 1059/1998). Originally: Act on now Universities Act (645/1997, amended 1059/1998)	Integrates the structure, functioning and internal and external organisation of the higher education and its units, including the arts universities (see the comment above).
Act on Basic Education in the Arts (originally 424/1992, now 633/1998, amended 518/2000)	Integrates the organisation of extracurricular art education for children and youth and lays basis for its public financing

Decree on Basic Education in the Arts (255/1995)	Specifies the previous law
Vocational Education Act (630/1998)	Legislative basis for lower vocational education, including culture (handicraft, design, audiovisual media, visual expression, dance and music)
Decree on Vocational Education (811/1998)	Specifies the previous law
Polytechnics Act (633/1998)	Defines the objectives and organisation of polytechnic education, including higher professional/vocational education in the arts, culture, media and humanities
Polytechnics Decree (256/1995)	Specifies the previous act
Act on Pilot Programme on Postgraduate Studies in Polytechnic Institutions (645/2001)	A further step to remodel polytechnics to parallel universities degree structure
<b>VII. BROADCASTING, FILM, MASS MEDIA, CULTURE INDUSTRIES</b>	
Film Art Promotion Act (28/2000)	This act was needed to provide legal basis for the function of the Finnish Film Institute
Decree on the Promotion of Film Art (121/2000)	Specifies the previous act
Act on Radio and Television Activities (744/1998)	Defines the prerequisites for the broadcasting operations and their licensing by public authorities
Act on the Finnish Broadcasting Company (FBC, 1380/1993, amended 746/1998)	Defines the role of the FBC as a public service radio- and television company and defines the mode of its (parliamentary) control
Previously, Act on the Inspection of Video and Other Audiovisual Programmes (697/1987), now Act on the Classification of Audiovisual Programmes (775/2000)	Age classification of programmes for the protection of children against exhibition of pornography and violence; violations punishable according to the Chapter 17 of the Finnish Penal Code
Decree on the Board for Film Classification 823/2000	Specifies the previous law
<b>VIII. TAXATION</b>	
Act on Value Added Tax (1501/1993), especially amendments 1265/1997 and 1071/2001 of the paragraph 85a that define lower decreased tax rate (8%) for cultural products (books) and cultural and entertainment services (tickets to performing arts, performances, cinema, zoo, museums, etc.)	Several amendments due to the EU directives, the latest (1071/2002) extended the law to cover the trade on art objects
Decree on Value Added Tax (50/1994)	Specifies the previous law
<b>IX. FREE COMPETITION</b>	
Law on the Restriction of Competition (480/1992)	Harmonised to correspond to the EU directives
<b>X. COPYRIGHT AND NEIGHBOURING RIGHTS</b>	
Copyright Act (original 174/19271, now 404/1961, since then more than twenty amendments). The latest amendment Bill, precipitated by the Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society was not passed by Parliament in 2002, was drafted new and presented to the present Parliament in March 2004 and is now going through the legislative process. Parallel to this process	Numerous special amendments due to the EU copyright directives and international agreements; an extensive system of copyright organisations has evolved for the enforcement of the law and for collecting and distributing the revenues of copyright compensations.

the Parliament will also decide on the ratification of the WIPO Copyright Treaty and the WIPO Treaty on Performances and Phonograms.	
<b>XI. CULTURAL HERITAGE</b>	
Museums Act (729/1992, amended 1459/1995, 1166/1996)	
Act on Archaeological Sites (295/1963, amended 68/1995, 563/1995, 702/1995, 798/1996)	Provides legislative basis for protection of sites and their excavations
Archives Act (previously 184/1981, now 831/1994)	Provides legislative basis for the National Archive system and for the principles for deposition of relevant archive materials in and support for public and private archives
Decree on Archives (1012/1982)	Specifies the previous act
Act on Film Archiving (576/1984)	Provides legislative basis and principles for archiving film material
Physical Planning and Construction Act (132/1999)	Provides the legislative basis for physical planning and protection of built environment
Protection of Buildings Act (60/1985, amended 1152/1993)	Provides a legislative resort for the protection of historically significant buildings
Act on Restricting Export of Objects of Cultural Value (previously 445/1978, now 115/1999)	Takes into consideration the Council Regulation (EEC) 3911/1992
Act on the Administration of the Site of Suomenlinna Fortress (1145/1988)	Provides the legislative basis for the administration of a fortress site that belongs to the UNESCO World Heritage List
<b>XII. MINORITIES AND IMMIGRANTS</b>	
Finnish Constitution (731/1999), paragraph 17	Defines Swedish language as a parallel national language to Finnish, specifies Sami, Rom and Finnish Sign Language as minority languages; designates Sami as an indigenous culture and stipulates the rights of the Sami and other minority groups to develop their own culture
Language Act (423/2003) and Sami Language Act 1080/2003	Language Act specifies the right and obligation to official use of the two national languages in different Swedish-Finnish population contexts. The Sami Language Act provides for the right to use the Sami language officially at least through interpretation and receive official document in Sami.
Decree on the Board for Developing the Official Use of Swedish Language (1037/2000)	Provides an organ for co-ordinating and developing the official use of Swedish language
Finnish Constitution, paragraph 121	Guarantees cultural autonomy for the Sami living in Sami Homeland municipalities
Act on the Sami Parliament (974/1995, amended 975/1995, 1726/1995, 888/1996)	Provides the legislative basis for the advisory elected body that must be heard in Sami affairs
Act on the Autonomy of Aland (144/1991)	Stipulates the internationally and constitutionally confirmed autonomy of the province of Aland
Finnish Constitution, Chapter 2	Deals with human rights issues from general equality and probation of discrimination to educational rights and rights to own native language and culture

Aliens Act (378/1991)	Stipulates the rules for foreigners to enter and stay in Finland, defines their human and political rights and rights to stay and unite with their family members; the law has been amended numerous times, a new integrative bill is debated now (2002-2003) in Parliament
Decree on Aliens (142/1994)	Specifies the previous law
Act on the Integration of Immigrants and Reception of the Refugees (493/1999, amended 118/2002, 1292/2002)	Guarantees material and economic basis for the immediate care and integration of the immigrants and refugees
Decree on the Integration of Immigrants and Reception of the Refugees (511/1999)	Specifies the previous law
<b>XIII. INTERNATIONAL CULTURAL CO-OPERATION</b>	
Decree on the National Entry into Force of the Constitution of UNESCO (549/1956, amended 426/1967)	International agreements, conventions, charters, etc. are entered in force by national legislation (by acts of Parliament or decrees) that incorporate them into national legislation or amends the latter to the required extent.
Decree on the National Commission for UNESCO (163/1966, amended 1168/1992)	See the comment above
Decree on the National Entry into Force of the Constitution of the Council of Europe (410/1989)	See the comment above
Decree on the National Entry into Force of the European Cultural Convention (98/1970)	See the comment above
Decree on the National Entry into Force of the Nordic Cultural Treaty (909/1971)	See the comment above
Decree on the National Entry into Force of the Statutes of the Nordic Cultural Fund (199/1977)	See the comment above
<b>XIV. THE MAJOR INTERNATIONAL CONVENTIONS, CHARTERS AND AGREEMENTS ON HUMAN AND CULTURAL RIGHTS RATIFIED BY FINLAND</b>	
<ul style="list-style-type: none"> <li>● ICCPR, International Covenant on Civil and Political Rights</li> <li>● ICESCR, International Covenant on Economic, Social and Cultural Rights</li> <li>● CERD, Convention for the Elimination of all forms of Racial Discrimination</li> <li>● CRC, Convention of the Rights of the Child</li> <li>● CEDAW, Convention Eliminating All kinds of Discrimination Against Women</li> </ul>	
<ul style="list-style-type: none"> <li>● European Framework Convention for the Protection of National Minorities</li> <li>● European Charter for the Protection of Regional or Minority Languages</li> <li>● European Convention for the Protection of Human Rights and Fundamental Freedoms</li> <li>● European Social Charter</li> <li>● Protocol No 3 to the Act of Accession to the European Union</li> </ul>	
Finland co-operates on the national basis and as a Member State of the European Union with the following international organisations in minority issues: the United Nations, Council of Europe, Council of the Baltic Sea States, OSCE, ILO, UNESCO	

## Finland/ 5.3 Sector specific legislation

### 5.3.1 Visual and applied arts

The Finnish legislation on the arts and artists covers on the one hand public support and artists' rights on an individual level and, on the other hand, public support to the cultural and art institutions. The latter will be discussed in greater detail in chapter 7.2.

The following table contains information on the main legislation for the arts and individual artists. It indicates that this legislation pertain mainly to the financial support, that is the systems of artists grants and support to projects



and enhancement of the creative environments.

**Table 3: Promoting the arts, artists and creativity**

LEGISLATION	COMMENTS
<i>Art Professors and State Artists' Grants Act</i> (734/1969, amended 143/1995, 367/2000, 666/2002)	Provides the legislative basis for the artists' grants system; amendment 143/1995 abolished the 15-year grants and made the system more purposive
<i>Act on Grants and Subsidies for Authors and Translators</i> (236/1961, amended 1080/83, 1067/1993, 1272/1994, 1358/1995, 1040/1996249/2002, 665/2002)	Provides grants to authors and translators to compensate the library use of their works
<i>Act on Some Specific Grants for Visual Artists</i> (115/1997)	Provides grants for visual artist for the display of their work in public places
Council of State Decision on Extraordinary Artists' Pensions (75/1974)	Provides additional pensions for seniors artists – and finances also their artistic work
<i>Act on State Guarantees for Art Exhibitions</i> (411/1986, amended 639/1991, 336/1994, 390/1997, 1116/2001))	Guarantees insurance for the organiser of art exhibitions
<i>Act on the Pensions of Artists and Some Particular Groups of Short-Time Workers</i> (662/1985, amended numerous times).	Safeguards the pension payments and pension right in short-term employment that is typical for musicians, performing artist, journalists, scene-designers, etc.

#### Finland/ 5.3 Sector specific legislation

##### 5.3.10 Other areas of relevant legislation

The importance of the legislation on promotion / prevention of unfair competition has proved to be important from the point of view of providing an even playground for small and medium sized enterprises and for guaranteeing entry to the market for new firms and for new ideas / works of art as part of cultural production.

#### Finland/ 5.3 Sector specific legislation

##### 5.3.2 Performing arts and music

Legislation for performing artists is the same as the general legislation covering individual artists presented in Table 3 in chapter 5.3.1, see also chapter 7.2.

#### Finland/ 5.3 Sector specific legislation

##### 5.3.3 Cultural heritage

Policies for the preservation and presentation of cultural heritage consist of the following elements: protection of monuments and historically significant buildings, archaeological and cultural sites, preservation and presentation of cultural heritage items in museums, and the protection of cultural sites and built environment through physical and construction planning (zoning). In all these activities, the National Board of Antiquities has a central role together with the Ministry of Environment; physical planning (zoning) is the responsibility of the regional councils and municipalities.

**Table 4: Main legislation on cultural heritage**

LEGISLATION	COMMENTS
<i>Museums Act</i> (729/1992, amended 1459/1995, 1166/1996)	Privies the basis for the recognition of professional museums and guarantees them

	steady public support
<i>Act on Archaeological Sites</i> (295/1963, amended 68/1995, 563/1995, 702/1995, 798/1996)	Provides legislative basis for protection of sites and for the right to archaeological excavations
<i>Archives Act</i> (previously 184/1981, now 831/1994)	Provides legislative basis for the National Archive system and for the principles for deposition of relevant archive materials in and support for public and private archives
<i>Decree on Archives</i> (1012/1982)	Specifies the previous act
<i>Act on Film Archiving</i> (576/1984)	Provides legislative basis and principles for archiving film material
<i>Physical Planning and Construction Act</i> (132/1999)	Provides the legislative basis for physical planning and protection of built environment
<i>Protection of Buildings Act</i> (60/1985, amended 1152/1993)	Provides a legislative resort for the protection of historically significant buildings
<i>Act on Restricting Export of Objects of Cultural Value</i> (previously 445/1978, now 115/1999)	Takes into consideration the Council Regulation (EEC) 3911/1992
<i>Act on the Administration of the Site of Suomenlinna Fortress</i> (1145/1988)	Provides the legislative basis for the administration of a fortress site that belongs to the UNESCO World Heritage List

### Finland/ 5.3 Sector specific legislation

#### 5.3.4 Literature and libraries

Public lending right compensations are covered by a special legislation *Act on Grants and Subsidies for Authors and Translators* (1961, latest amendment 2002) that provides a special grant system for authors and translators. There is a special board for peer group evaluation and the system is now administratively integrated into the Arts Council of Finland. In 2000, some 2 million euros were distributed in the form of grants to fiction writers and translators.

The Public *Library Act* was originally passed in 1986 (latest amendment in 1998). It provides the legislative basis defining the tasks of public municipal libraries eligible for central government subsidies according to the "financing law". The Public *Library Decree* (1998) specifies this Act. Legislation on archives is presented in Table 4, chapter 5.3.3.

For more detailed information see Table 3 in chapter 5.3.1 and Table 8 in chapter 7.2.

### Finland/ 5.3 Sector specific legislation

#### 5.3.5 Architecture and environment

Architecture is considered to be an art form and architects as artists. Therefore, public support of architecture and architects on an individual level is outlined in legislation presented in Table 3 in chapter 5.3.1 for individual artists.

The *Protection of Buildings Act* (60/1985, amended 1152/1993) protects buildings, built areas and built cultural environments, which have value from the perspective of cultural history. This protection pertains to buildings in zoned areas. The *Land Use and Building Act* (132/1999) defines the zoning system (where municipalities have the zoning monopoly) and thus the "ex ante protection" of built environments. Archaeological sites and monuments and church buildings are protected by the *Act on Archaeological Sites and Monuments* (295/1963) and the *Church Act* (635/1964) respectively.

### Finland/ 5.3 Sector specific legislation

#### 5.3.6 Film, video and photography

Legislation pertains mainly to feature film production, to television and radio and the censorship of films and videos (and, nowadays also to computer and console games).

Support to national production of feature films is channelled via the Finnish Film Foundation. The *Act and Decree*

on Film Production (2000) defines the organisation of the financial support channelled via the Foundation and also other forms of support for the promotion of film production and distribution. The *Acts on Radio and Television*, on the Finnish Broadcasting Company and on the State Television and Radio Fund are all important from the point of view of the "markets" for national feature film and independent television programme producers. The Finnish censorship system for the films, videos and games, is in its present form, considered both flexible and effective.

**Table 5: Legislation on film, radio, television**

LEGISLATION	COMMENTS
<i>Film Art Promotion Act (28/2000)</i>	This act was needed to provide legal basis for the function of the Finnish Film Institute
<i>Decree on the Promotion of Film Art (121/2000)</i>	Specifies the previous act
<i>Act on Radio and Television Activities (744/1998)</i>	Defines the prerequisites for the broadcasting operations and their licensing by public authorities
<i>Act on the Finnish Broadcasting Company (FBC, 1380/1993, amended 746/1998,)</i>	Defines the role of the FBC as a public service radio- and television company and defines the mode of its (parliamentary) control
<i>Act on the State Television and Radio Fund (745/1998)</i>	Defines the organising and mode of use of radio and television licence fees
Previously, <i>Act on the Inspection of Video and Other Audiovisual Programmes (697/1987)</i> , now <i>Act on the Classification of Audiovisual Programmes (775/2000)</i>	Age classification of programmes for the protection of children against exhibition of pornography and violence; violations punishable according to the Chapter 17 of the Finnish Penal Code
<i>Decree on the Board for Film Classification (823/2000)</i>	Specifies the previous law

## Finland/ 5.3 Sector specific legislation

### 5.3.7 Culture industries

There are only few laws that pertain directly to the culture industries. They pertain to film production and radio and television (see also chapter 5.3.6). There is also legislation over content, that is, age classifications on audiovisual products for the purpose of preventing children from being exposed to the exhibition of pornography, violence, horror or "...other contents that may have a detrimental effect on their development". On the other hand, there is extensive legislation on freedom of expression, libelling and protection of privacy.

VAT legislation, which, (congruent to the respective EU directives) allows levies at a lower tax rate (8% instead of 22%) on cultural goods and services. An income tax law that allows tax relief on donations to a number of socially significant associations and foundations (charities).

Legislation guarding free competition has obviously had some preventive effects also in the culture industries as to the formation of price-setting monopolies and cartels. The Finnish agency responsible for the implementation of this legislation (Finnish Competition Authority) undertook an investigation (1998-1999) into a major fusion of the leading Finnish media company with a major publishing house and a company of kiosks distributing books and journals. In some other EU countries, the EU directives that aim at preventing competition restrictions have jeopardised the prevailing systems of setting fixed book prices by publishers, and therefore, these systems have been interpreted as a cartel-based restrictions of competition. The fixed book price system was abolished in Finland already in 1972.

The Finnish Film Foundation, which is the main public agency responsible for the support of cinema, formerly had no legislative basis besides the *Foundation Act* that stipulates for the founding, organisation and administration of public and private foundations. In the re-codification of the Finnish Constitution, special attention was paid to the importance of not delegating public powers to private organisations without affirmation by an enacted law. This led to the need to prepare and pass the *Film Art Promotion Act* in 2000. Basically, the new law has not altered the modus operandi of the Film Foundation.

## Finland/ 5.3 Sector specific legislation

### 5.3.8 Mass media

See Table 5 in chapter 5.3.6 for main broadcasting legislation.

TV programme quotas are set out in the 1998 *Act on Radio and Television Activities* and adhere to the stipulations of the EU Directive "Television Without Frontiers". The Finnish legislation follows Articles 4.1 of the directive that presupposes the transmissions of European programmes on TV-channels for ... *a majority proportion of their transmission time, excluding the time appointed to news, sports events, games, advertising and teletext services*". Following the stipulations of Article 5 of the Directive, the Finnish *Act on Radio and Television Activities* set a quota of 15% for programmes by independent producers with a clause that these programmes must have been produced during the last five years.

## Finland/ 5.3 Sector specific legislation

### 5.3.9 Legislation for self-employed artists

The main legal framework pertaining to direct support to the arts and artists and its organisation is based on the *Act on the Organisation of Promotion of the Arts and Art Professors and State Artists' Grants Act* (see also chapter 8.1.1). In addition, we can mention the *Act on State Guarantees for Art Exhibitions*, providing indirect support measures that facilitate the dissemination of creative work.

The framework for artists aims at overcoming economic and social handicaps due to the atypical nature of artistic work. A major issue is income and company taxation. Attempts have been made to improve the tax treatment of grant and copyright income and to introduce the right to income averaging (including tax deductible costs) over several years.

See also chapter 5.1.4.

## Finland/ 6. Financing of Culture

### 6.1 Short overview

The major role in financing the arts and culture in Finland is played by the central government and the municipal sector. The main fields financed by the state and the municipalities are creativity (arts and artists), heritage, cultural and art institutions (including those of the performing arts) and the services they provide, and general and professional education in the arts and culture. The main forms of finance are direct budget financing, transfers (directly or via other public authorities to the recipients) and tax expenditure. There are quite reliable statistics on the public expenditure covering current costs; the data on capital investments is less reliable.

There is no autonomous regional level of government in Finland. Regional cultural institutions are municipal institutions receiving additional state subsidies. Using the broader definition of culture and the figures presented in chapter 6.3, the share of the central government finance is 58.3% and that of the municipal sector is 41.7%. If we use the traditional narrow definition, leaving out archives, scientific libraries and education in the arts and culture, the expenditure is divided fifty-fifty between the two levels of government. It should be noted that we speak here of the current expenditure. According to the statistics of 2001, the total capital investments and transfers of the central government were only 18.1 million euros and those of local (municipal) governments 85.5 million euros. The very fact that central government property management has been recently gathered to be managed under the auspices of a public corporation makes it, for the time being, difficult to assess the actual central government capital investment in the arts and culture. Using the broader definition and including the above assumedly too low figures of capital investments, the share of cultural expenditure on culture was in 2001 about 3 % of the total state budget.

There is no exact measure of the household spending on art and culture. The household surveys on cultural spending include items such as newspapers and journals, TV-licence fees, PC-equipment, programmes, games, etc., schoolbooks, encyclopaedias, and material and services of photographing. If we take these items, the share of "culture" of the total household spending is about 1.6 - 1.8%. If we consider only the real cultural items. e.g. paintings, works of design, cinema theatre and orchestra tickets, tickets to exhibitions and museums, video rental and purchases, records, books of fiction, etc., the share of arts and culture of the total household spending is about 0.4%.

## Finland/ 6. Financing of Culture

### 6.2 Public cultural expenditure per capita

According to a broader (EUROSTAT) definition of culture, the annual public cultural expenditure (current and capital, net, without media and education) per capita in Finland was 140.35 euros in 2001. The ratio of the expenditure (current and capital, net, without media and education) to the GDP was 0.54 %.

## Finland/ 6. Financing of Culture

### 6.3 Public cultural expenditure broken down by level of government

Table 6: Public cultural expenditure: by level of government, in million euros, 2001

Level of government	Expenditure	
	million euros	% share of total
Central government		
<i>direct expenditure</i>	181.3	24.3
<i>transfers to municipalities</i>	117.9	15.8
<i>other transfers</i>	120.0	16.2
Municipalities		
<i>all direct expenditures &amp; transfers</i>	325.8	43.7
<b>Total public expenditure</b>	<b>745.0</b>	<b>100</b>

Source: Finnish data compiled for the EUROSTAT survey, 2004

### Finland/ 6. Financing of Culture

#### 6.4 Sector breakdown

Table 7 below provides statistics on the distribution of expenditure by sectors (domains and sub-domains) of cultural activities in 2001. The data pertains only to current expenditure (net). It should also be noted that the heritage sector includes arts museums and the figures on education include only the higher (university level) education in the arts.

The figures reflect the overall dominance of two sectors: libraries and performing arts. This is understandable both ideologically and economically. The public library system, theatre, opera, and classical music have been the flagships of Finnish culture abroad; they also are the most "labour intensive" sectors that are supported by the central and local governments.

The category of socio-cultural activity includes public expenditure on extracurricular arts education and the cultural expenditure used by the municipalities for cultural administration and to support non-institutional cultural activities and productions. Municipalities receive central government transfers for maintaining these sub-sectors.

Table 7: Public financing of culture in 2001; current expenditure, net, by tiers of government and domains, in euros

DOMAINS	Current public expenditure		Central govt	Central govt	Central govt	Local govt
	%	euros	<i>direct expenditures</i>	<i>transfers to municipalities</i>	<i>other transfers</i>	<i>all current expenditure</i>
			euros	euros	euros	euros
<b>CULTURAL HERITAGE</b>	<b>15.2</b>	<b>113 564 329</b>	<b>35 354 551</b>	<b>12 238 000</b>	<b>17 132 778</b>	<b>48 839 000</b>
<i>Historical monuments and archaeological sites</i>		11 917 676	11 917 676			
<i>Museums (historical &amp; art)</i>		101 646 653	23 436 875	12 238 000	17 132 778	48 839 000
<i>Others</i>						
<b>ARCHIVES</b>	<b>1.7</b>	<b>12 188 516</b>	<b>12 188 516</b>			
<b>LIBRARIES</b>	<b>30.53</b>	<b>226 895 533</b>	<b>16 633 774</b>	<b>81 000 000</b>	<b>3 363 759</b>	<b>125 898 000</b>
<i>Public</i>		214 695 533	4 433 774	81 000 000	3 363 759	125 898 000
<i>National library</i>						

<i>functions</i>		12 200 000	12 200 000			
<b>ARCHITECTURE</b>	<b>0.1</b>	<b>1 011 716</b>	<b>513 375</b>		<b>498 341</b>	
<b>VISUAL ARTS</b>	<b>5.5</b>	<b>40 749 871</b>	<b>35 991 835</b>		<b>4 758 036</b>	
<i>Visual arts</i>		5 639 928	4 079 144		1 560 784	
<i>Design</i>		3 795 210	959 562		2 835 648	
<i>Photography</i>		979 497	617 893		361 604	
<i>Multidisciplinary</i>		237 951	237 951			
<b>Education</b>		24 842 000	24 842 000			
<b>Non-allocable</b>		5 255 285	5 255 285			
<b>PERFORMING ARTS</b>	<b>30.0</b>	<b>223 685 778</b>	<b>55 523 060</b>	<b>17 961 000</b>	<b>69 017 718</b>	<b>81 157 000</b>
<i>Music</i>		55 066 949	17 168 414	9 321 000	2 035 535	26 482 000
<i>Dance</i>		3 255 233	940 269		1 699 964	615 000
<i>Music theatre, opera</i>		37 800 840			35 936 840	3 864 000
<i>Theatre</i>		88 715 986	1 473 339	8 640 000	28 406 647	50 196 000
<i>Multidisciplinary</i>						
<i>Other arts</i>		938 732			938 732	
<b>Non-allocable</b>		5 795 038	5 795 038			
<i>Education</i>		30 146 000	30 146 000			
<b>BOOKS AND PRESS</b>	<b>3.0</b>	<b>22 368 491</b>	<b>8 047 536</b>		<b>14 320 955</b>	
<i>Books</i>		6 198 943	4 497 988		1 700 955	
<i>Press</i>		13 380 000	760 000		12 620 000	
<i>Not allocable</i>		2 789 548	2 789 548			
<b>AUDIOVISUAL &amp; MULTIMEDIA</b>	<b>2.0</b>	<b>14 987 775</b>	<b>4 055 560</b>		<b>10 932 215</b>	
<i>Cinema</i>		14 987 775	4 055 560		10 932 215	
<i>Radio</i>						
<i>Television</i>						
<i>Video</i>						
<i>Sound recordings</i>						
<i>Multimedia</i>						
<b>INTERDISCIPLINARY</b>	<b>7.4</b>	<b>55 359 228</b>	<b>12 900 474</b>	<b>6 718 754</b>		<b>35 470 000</b>
<i>Socio-cultural activities</i>		42 458 754		6 718 754		35 740 000
<i>Cultural relations abroad</i>		6 432 946	6 432 946			
<i>International institutions</i>		3 676 108	3 676 108			

<i>Administration</i>		2 791 420	2 791 420			
<b>NOT ALLOCABLE BY DOMAIN</b>	<b>4.6</b>	<b>34 210 570</b>	<b>98 570</b>			<b>34 112 000</b>
<i>Not allocable</i>		34 210 570	98 570			34 112 000
<b>TOTAL</b>	<b>100.00</b>	<b>745 0001 807</b>	<b>181 314 251</b>	<b>117 917 754</b>	<b>120 023 802</b>	<b>325 746 000</b>

Source: Finnish data compiled for the EUROSTAT survey, 2004

Table 7 also bears witness to the fact that the culture industries are marginally supported by the central government– and even less so by the municipalities. The only sub-sector that receives substantial support is national film production. One must add that public broadcasting is not included in these statistics. The public service television and radio of the Finnish Broadcasting Company, FBC, is financed by licence fees; this income makes up (after the compensations from private television channels has ended) close to 90 per cent of the total turnover of the FBC, that in 2001 was 375 million euros. Radio- and television broadcasting are the main sources of copyright and neighbouring right compensations for music creators, musicians and producers.

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The Council of Europe/ERICarts "Compendium of Cultural Policies and Trends in Europe, 6th edition", 2005



**France/ 2. Competence, decision-making and administration**

**2.1 Organisational structure (organigram)**

**Chart 1: Key actors in public cultural policy**



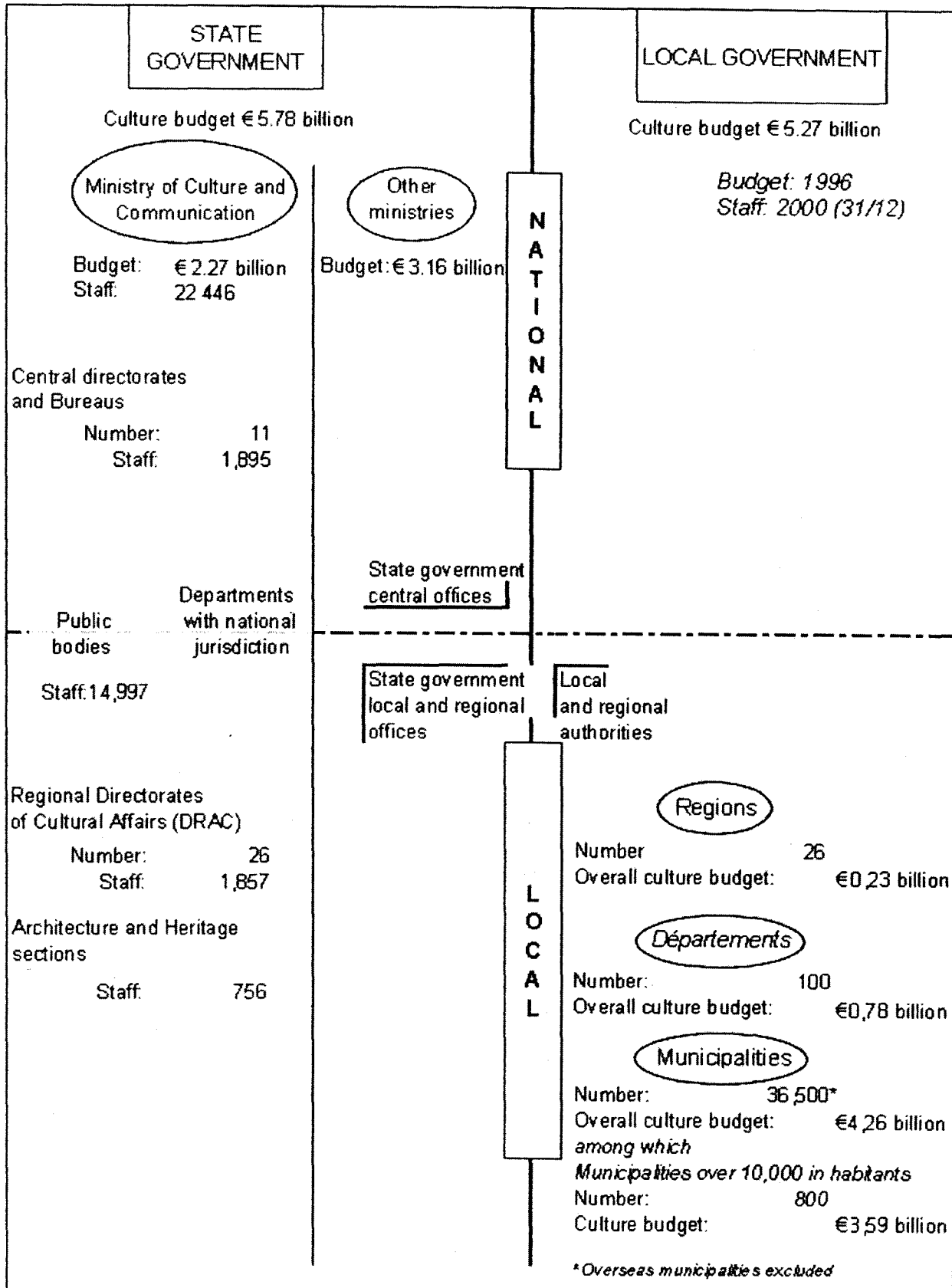


Chart 2 : Fields of action of the Ministry of Culture: Central Directorates and Bureaus

**Minister**  
**Departmental staff**

—	Directorate of General Administration
—	Directorate of Architecture and Heritage
—	Directorate of Archives
—	Media Development Directorate
—	Directorate of Books and Readership
—	Directorate of Music, Dance, Theatre and Performing Arts
—	Directorate of Museums
—	Visual Arts Bureau
—	Bureau of Development and Regional Initiatives
—	Bureau of the French Language and Regional Languages of France
—	National Film Centre

**France/ 2. Competence, decision-making and administration**

**2.2 Overall description of the system**

France is a parliamentary (presidential) democracy of which the principal representative bodies are the National Assembly and the Senate. The President of the Republic appoints the Prime Minister, who is responsible for forming the government and whose task it is to define and implement the nation's policies. The government is made up of ministers, each with specific responsibilities, who exercise their authority over the national departments relevant to their portfolios. Within the government, the Minister of Culture participates in the definition and implementation of national policies and is specifically responsible for cultural affairs.

The Minister of Culture exercises political authority over the directorates and other services of the Ministry of Culture. It is the minister's task to define the overall priorities and guidelines for ministerial initiatives. Accordingly, he / she decides on how funds are to be distributed between the directorates and oversees their allocation. The distribution of funds is determined at the draft budget stage and subjected to the overall guidelines defined by the government under the authority of the Prime Minister and with parliamentary endorsement.

The Ministry of Culture is not the only government body that provides financial support for culture. A certain number of other ministries allocate substantial funds to the provision of cultural services. These funds can be allocated either directly (in the context of the ministry's brief) or indirectly. Those principally concerned are the Ministry of Youth, Education and Research and the Ministry of Foreign Affairs. A wide range of cultural projects is initiated by other ministries: training in the arts; conservation of specialised libraries, national museums, monumental heritage and the historical archives of ministries; cultural initiatives outside of France; communication.

The Ministry of Youth, Education and Research supervises, for example, the natural history museums the *Institut de France* and the French Academy. The Ministry of Foreign Affairs is responsible for cultural and linguistic exchanges and French language teaching outside of France through a network of French cultural institutions, French schools, *Alliance Française* and the French-Language Teaching Agency.

Directly elected local authorities (regions, *départements* and town councils) are responsible for local administration throughout the Republic of France. They are not answerable to the state, manage their own affairs in total freedom, and, in compliance with the laws of the Republic, are independent of each other. France's devolution laws define each council's scope of activity.

Local authorities – the town councils in particular – are highly active in the cultural field. Town councils manage most local cultural facilities and organise a large number of cultural events in their area (festivals), partly in collaboration with the Ministry of Culture.

## France/ 2. Competence, decision-making and administration

### 2.3 Inter-ministerial or intergovernmental co-operation

#### *Co-operation between the Ministry of Culture and local and regional authorities*

The government, via the Ministry of Culture, controls and supervises certain cultural activities put in place by local and regional authorities. These comprise the keeping of archives, the scientific and technical inspection of museums and libraries, the scientific, technical and pedagogic inspection of cultural and arts training establishments (e.g. music schools, art colleges).

One of the principal features of public cultural development in France is joint action between the various public actors, and numerous institutions, cultural initiatives and facilities at national, regional and local levels are co-funded by these actors, who form lasting partnerships. The main examples of the above are: regional associations for the development of music, and choreography (and occasionally drama); music and dance institutes and teacher training centres; contemporary arts centres; cultural exchange centres; national theatres; regional opera houses and orchestras; regional co-operation agencies for books; and heritage restoration centres. Many of these institutions benefit from a quality classification and / or are part of a national network. The funding potential of the different public actors varies according to the nature of individual structures and sometimes varies between structures of a similar type.

Specific measures have been drawn up: the two funds *Fonds régionaux d'acquisition des musées* (FRAM) and the *Fonds régionaux d'acquisition des bibliothèques* (FRAB), are supplied on an equal basis by the Ministry of Culture and the regions. These funds are intended for the acquisition of art works and the enlargement of the collections of museums and libraries under the control of local and regional authorities. The funding association *Fonds régionaux d'art contemporain* (FRAC) was also created to set up contemporary art collections in each region and to carry out awareness-raising and diffusion actions in the sphere of contemporary art.

In addition, specific contractual agreements between the Ministry of Culture and the local and regional authorities were signed in order to implement cultural development at a given regional level: the 'cultural development agreements' – which have the broadest scope – support the definition and implementation of local cultural projects; the 'villes d'art' and 'villes et pays d'art et d'histoire' agreements; agreements covering the Heritage Inventory and ethnology in regard to heritage development; the 'ville-architecture', 'ville-lecture' (books), and 'ville-cinéma' agreements benefit joint initiatives and cultural development in the fields in question.

There are also broader partnership and contractual frameworks (not specifically cultural) involving the government and the local and regional authorities, such as the state / region project contracts and the city contracts.

The project contracts define the priorities for joint investment over a period of 7 years, and are aimed at the economic, social and cultural development of the regions. The city contracts define an overall group of joint initiatives between the different ministries and municipal councils that encounter problems of an economic, social or urban nature.

The state / region project and city contracts frequently include a large cultural content covering, for example, arts teaching, vocational training, and regional cultural development.

The laws on inter-municipal co-operation and regional development (dated 25 June 1999 and 12 July 1999) led to the creation of new inter-municipal co-operation structures and mechanisms in which the Ministry encourages the inclusion of cultural aspects.

#### *Co-operation between the Ministry of Culture and other ministries*

Ministries other than the Ministry of Culture participate directly in public cultural development. Other than their own expenditure and cultural programmes, joint initiatives are carried out with the Ministry of Culture, usually in the context of inter-ministerial agreements.

The Ministry of Education and the Ministry of Culture are putting into place a five-year plan covering art and culture in schools (see also chapter 4.2.8). This measure is complemented by the protocol signed on 31 October 2001 by the Minister of Culture and the Minister of Youth and Sport, which confirms 'a joint effort by the two ministries to provide government support for arts activities, [and their commitment to] harmoniously develop educational projects that bring art and culture to children and young people'.

In regard to international cultural relations, the Ministry of Foreign Affairs, responsible for cultural co-operation, is encouraging cultural and artistic exchanges and the use of the French language around the world. The *Association française d'action artistique* (AFAA) is the operator assigned by the Ministry of Foreign Affairs and the Ministry of Culture to supervise international cultural exchanges and development aid (see also chapter 2.4).

Agreements have been signed between the Ministry of Culture and other ministries: the Ministries of Agriculture (for the development of socio-cultural education in agricultural teaching establishments), Tourism, Health (for culture in hospitals, for example), and Justice (for the development of cultural activities in penal establishments).

In the context of urban policies, an agreement between the Inter-Ministerial Delegation to Cities and the Ministry of Culture is aimed at developing the cultural aspects of city contracts.

## France/ 2. Competence, decision-making and administration

### 2.4 International cultural co-operation

In addition to its long-standing approach of promoting French culture in foreign countries, France is developing a policy of international co-operation aimed at promoting cultural pluralism and diversity. Several government departments and local authorities share the responsibility for initiatives in this area.

#### *Promoting French culture outside of France*

The promotion of French culture abroad is one of the oldest elements of France's foreign policy. Mainly the responsibility of the Ministry of Foreign Affairs, it involves a wide range of activities including the promotion of the use of the French language, education and academic exchanges, scientific and technical co-operation, exchanges in the arts, books, and the promotion of French films, radio and television. The policies laid down by Ministry of Foreign Affairs are put into place abroad by an external cultural co-operation network comprised of the cultural departments of French embassies and consulates, French cultural centres and institutions (numbering approximately 150), 25 human and social sciences research centres, and the Alliances Françaises (approximately 1 000 of varying size).

The Ministry of Culture plays a key role in the field of cultural industry exports via the organisations partly co-funded by the Ministry of Foreign Affairs and the culture industries (*Unifrance* for cinema, *France Edition* for books, *Bureau export de la musique française*, and a partnership with the *Association française d'action artistique – AFAA*). Established in 1922, the AFAA facilitates the cultural exchange policies defined by the Ministry of Foreign Affairs in collaboration with the Ministry of Culture. The AFAA also works in partnership with numerous local and regional authorities in France (municipalities, *départements*, regions). It carries out distribution initiatives and implements co-operation, co-direction, training and residential projects around the world. It is also co-ordinates foreign cultural seasons in France.

#### *The promotion of foreign cultures in France*

In order to foster the expression of other cultures, the Ministry of Culture encourages culture operators to expose French audiences to foreign productions. In collaboration with the Ministry of Foreign Affairs, the Ministry actively participates in the organisation of foreign cultural 'seasons' and supports a large number of initiatives that place particular emphasis on foreign cultures in their programming, festivals and institutions (*Maison des cultures du monde*) throughout France. As a result, many hundreds of events and structures are helping to extend foreign culture in France.

#### *Cultural co-operation*

The vitality of France's cultural scene and its experience in cultural administration and management give rise to a significant demand for co-operation (in the form of expertise and training) with foreign governments and culture operators. In addition to the programmes '*Courants*' (Streams) and '*Formation Internationale Culture*' (International Cultural Training), a good number of the Ministry of Culture's directorates and establishments provide training for foreign professionals, and numerous expert missions covering a wide range of fields are organised yearly.

#### *Promotion of European and multilateral co-operation*

The Ministry of Culture attends all European Community negotiations pertaining to culture. It informs French operators on European funding, provides support for certain European networks, and participates in the activities of the Council of Europe and UNESCO. The Ministry pays particular attention to cultural diversity issues dealt with by the numerous multilateral establishments (WTO and OECD in particular).

## France/ 5. Main legal provisions in the cultural field

### 5.1 General legislation

The purpose of the newly expanded chapter 5 on legal provisions for culture is to provide you with a more indepth overview of the legal instruments used to support culture in the individual Compendium countries.

Chapter 5.1 provides you with information on those pieces of general legislation which have an important impact on culture, for example, articles in the Constitution of individual countries or legislation used to govern the

allocation of public funds.

Chapter 5.2 provides a list as overview of the main legislation for culture. Some countries may have hundreds of laws while others may have only one "Culture Act".

Chapter 5.3 is sub-divided to provide you with information on sector specific legislation in the following fields: visual and applied arts; performing arts and music; cultural heritage; literature and libraries; architecture and environment; film, video and photography; culture industries; and mass media.

## France/ 5.1 General legislation

### 5.1.1 Constitution

Information is currently not available.

## France/ 5.1 General legislation

### 5.1.2 Division of jurisdiction

General code on local and regional government: more particularly: Part I, Volume IV, Section II, items I, II & III (local public services), and Vol. VI, item IV (compensation of competence transfers) and VI (Measures specific to art works): defines the competence in the cultural field of regions, départements and municipalities.

*Law n° 84-53 of 26 January 1984*: creation of a public regional and local civil service including cultural occupations.

*Law n° 2002-6 of 4 January 2002* relating to the creation of the Public Cultural Co-operation Establishments (EPCC): creation of a legal structure for the partnership between the state and local and regional governments for the administration of cultural public services.

*Decree n° 82-394 of 10 May 1982* (amended) relating to the organisation of the Ministry of Culture.

*Decree n° 2002-898 du 15 May 2002* relating to the competence of the Ministry of Culture.

## France/ 5.1 General legislation

### 5.1.3 Allocation of public funds

Information is currently not available.

## France/ 5.1 General legislation

### 5.1.4 Social security frameworks

Since 1 January 1977, artist-authors benefit from a specific social security scheme which stipulates: although artist-authors are self-employed, at the end of their second year of activity, they become entitled to social security benefits under the same conditions as salaried employees.

## France/ 5.1 General legislation

### 5.1.5 Tax laws

While there are no overall tax measures affecting culture, a number of specific measures are applied to different areas of culture. This section will thus provide only a broad outline of these measures and present several examples. Comprehensive information on this subject can be found at: <http://www.culture.gouv.fr/culture/infos-pratiques/fiscal/index.htm>

Five broad areas are concerned by tax measures relating to culture: literary and artistic creation; the protection of cultural heritage; the development and diffusion of culture, cinema, audio-visual and recorded music; the press and publishing. These measures mainly comprise: income tax relief; reduction of VAT (5.5%, 2.1% or total exoneration); exoneration of professional tax; exoneration of wealth tax and registration dues.

Books, for example, are subject to a reduction of VAT (5.5% in metropolitan France). This reduction also applies to ticket prices for theatre, cinema (excepting cinemas showing pornographic films or films inciting violence), circus, concerts, variety entertainment, etc.

The overall framework for legal incentives for public-private partnerships was laid down in *Law n° 87-571 of 23*

July 1987 on the development of sponsoring. It specifies the conditions under which sponsor companies are authorised to benefit from a range of tax incentives.. Companies may deduct from their taxable earnings gifts of a cultural nature to charities or organisations of general interest up to a maximum of 0.225% (or, under certain conditions: 0.325%) of their turnover.

A specific provision relates to contemporary art. Companies that purchase original works by living artists can, over a period of 20 years, deduct from their taxable earnings an amount equal to the purchase price. To benefit from this deduction, the company must exhibit the acquired work or works in public.

Jean-Jacques Aillagon, Minister of Culture since May 2002, has outlined a series of new projects relating to sponsorship aimed at: encouraging company sponsoring through incentive measures; and developing the sponsorship of private individuals and people receiving average or low incomes in particular.

*Law n° 90-559 of 4 July 1990* relating to the creation of corporate foundations: authorises companies to set up cultural foundations, defines their scope of activity.

## France/ 5.1 General legislation

### 5.1.6 Labour laws

Information is currently not available.

## France/ 5.1 General legislation

### 5.1.7 Copyright provisions

*Law n° 92-597 of 1 July 1992* (amended) and *decree n°95-385 of 10 April 1995* (amended): define literary and artistic property.

The principle of the protection of authors' rights is laid down in the Intellectual Property Code. The creator is central to the provisions contained in the code: 'The author of an intellectual work, by virtue of having created that work, shall enjoy exclusive rights to incorporeal ownership [of the work]. These rights include moral, intellectual and patrimonial attributes.' Ownership is deemed to cover the actual creation of the work and not the material object containing the creation: authors' rights are independent of the rights to corporeal possession covering the material object. The French system of authors' rights is thus different to that of the copyright system practised in English-speaking countries.

The creator enjoys ongoing and permanent moral rights, whereas exploitation rights are accorded to an author for a limited period of time. After a maximum period of 70 years following the death of the author, the work enters the public domain and, subject to respect for the moral rights of the author, can be exploited at will and free of charge. The Intellectual Property Code also accords legal protection known as 'neighbouring rights' to certain collaborators in the exploitation of the creation. These include performing artists, sound and video recording producers and television companies.

Authors' rights and neighbouring rights are administered by some thirty collective management societies, which collect and distribute rights. Following a series of complaints by members of certain of these organisations, a Control Commission was set up in 2001 to audit the accounts of societies that collect and distribute the rights of authors, performing artists and producers.

Over the last several years author's rights have been central to numerous disputes: legal and commercial wrangles on authors' rights versus copyright in GATT and WTO negotiations; the debate on lending rights in public libraries; the MP3 and Napster affairs. The Ministry of Culture's policies on authors' rights and neighbouring rights were framed to respond, on both domestic and international levels, to two basic challenges: the globalisation of trade and the development of new networking technologies. The policies of the different culture ministers since 1997 have been based on the same set of principles: creative works are not tradable commodities and creative effort is not simply the economic act of producing a marketable item.

Within the context of the adaptation of the legal environment to the development of digital content, the Council for Literary and Artistic Property (*Conseil supérieur de la propriété littéraire et artistique*) was created in May 2001 as a consultative and evaluation body focussed on the problems associated with literary and artistic property linked to the information society, the internet and multimedia in particular. The Council's work programme includes:

- the transposition of the EU Directive of 22 May 2001 relating to certain aspects of authors' rights and neighbouring rights in the information society. This directive is aimed at harmonising the authors' rights system in European Union countries in order to facilitate the development of network content while working to prevent the sale of pirated works on the European market; and
- the setting up of four specialised committees to deliberate on the following themes: the establishment of a regime covering equal rights between salaried creative workers and their employers and creative status for

government officials; the setting up of a single agency to facilitate the administration of authors' and neighbouring rights in the digital field; the extension of the scope and methods of payments to authors and editors of visual images and written work for the private reproduction of their works (following the adoption of the law of 17 July 2001).

Presentations on certain of the above themes can be consulted at the following address:

<http://www.droitsdauteur.culture.gouv.fr> The Council for Literary and Artistic Property has also included the following subjects in its work programme: literary and artistic property and individual freedom; literary and artistic property and applicable legislation.

The reproduction of works for private use is authorised, which is an exception in terms of authors' rights. A compensation payment for private copying collected by the various societies that administer authors' rights was laid down in the law of 3 July 1985, supplemented by the law of 17 July 2001.

The law of 3 July 1985 exclusively concerned audio-visual works. This fee covered blank tapes suitable for the analogue re-recording of sound and video recordings (e.g. cassettes). The growth of private copying in digital form of different types of works has highlighted the gaps in the law in regard to the remuneration of authors as well as substantial material loss. The law of 17 July 2001 accorded a compensation payment for private copying to authors and publishers of works reproduced on digital recording media regardless of their original medium (images, texts, sound).

An independent commission was appointed to calculate the compensation payment due from manufacturers and importers of digital recording media. The initial decision of the Brun-Buisson Commission – set up to determine the fees for private copying on digital media (4 January 2001) – established the amount payable on all removable digital recording media. A more recent decision (4 July 2002) laid down the amount of the fees for recording media integrated into decoders, television sets, hi-fi systems and personal stereos.

The opportunity of subjecting computer hard disks to the same compensation payment is currently being studied.

In regard to books, two legitimate demands were taken into consideration when the lending rights issue was approached: that of the authors who are seeking to be fairly remunerated to enable them to pursue their creative activities, and that of library professionals directly concerned by the imperatives of equal access to books by all citizens. A report on this issue prepared by Jean-Marie Borzeix was followed by a bill covering payments for public library book lending and authors' social security.

The bill provided for the establishment of a legal licence giving libraries the 'right to lend' books in accordance with the laws pertaining to author's rights. Authors will be remunerated via a 'lending royalties' mechanism (as opposed to the 'lending fees' paid by book users each time they borrow a book), conjointly guaranteed by the state government and local and regional authorities

Lending royalties are to be distributed by one or more of the societies that administer authors' rights. Payments are to be divided between an immediate payment to authors and publishers as royalties and a deferred payment to authors via the funding of a complementary retirement scheme.

The range of legal texts relating to the protection of authors, the protection of minors, and the prevention of illegal photocopying and reproduction apply to new technology media.

## France/ 5.1 General legislation

### 5.1.8 Data protection laws

Information is currently not available.

## France/ 5.1 General legislation

### 5.1.9 Language laws

*Law n° 94-665 of 4 August 1994*: defines regulations on the use of French in public information, international organisations and conferences, the media, advertising and scientific publications, and fosters multilingualism.

It is obligatory for all television networks to invest in cinematographic production. Unencrypted terrestrial networks, encrypted terrestrial networks and cablevision and satellite networks each have different obligations. Unencrypted analogue terrestrial networks, for example, must contribute 3.2% of their turnover to the production of original French language works. A large share of this contribution must be accorded to independent production. This proportion is higher for the encrypted channel Canal Plus, which, in exchange for the right to broadcast films with primary exclusive showing rights one year after their theatrical release, made a commitment to support French cinematographic production in specified ways.

At least 60% of films broadcast by television networks – particularly during prime time – must be European

cinematographic and televisual productions with at least 40% original French language content. The maximum number of times feature films can be broadcast and rebroadcast per year is also fixed.

Canal Plus must devote at least 20% of its total annual resources to the acquisition of the broadcasting rights for original European and French language cinematographic works in the proportion 12% for European works and 9% for French-language works.

Private radio station programming must include a minimum 40% content of French language songs (or songs performed in a regional language in use in France). The public company Radio France is not bound by this quota, but *Article 30* of its General Conditions stipulates that it must give priority to French language songs in its variety programmes and endeavour to promote fresh talent.

## France/ 5.2 Legislation on culture

There is no overall legal text covering the entire field of culture. Each area of culture has its own laws and regulations.

The site Legifrance provides access to the texts of French laws and regulations – <http://www.legifrance.gouv.fr>

Principal laws and regulations relating to different culture sectors are distributed throughout the subchapters of chapter 5.3.

## France/ 5.3 Sector specific legislation

### 5.3.1 Visual and applied arts

Public Service Missions Charter for Contemporary Art Institutions (circular of 27 November 2000): defines the responsibilities of national, local and regional government and contemporary art institutes with regard to the fostering of creativity and cultural devolution.

## France/ 5.3 Sector specific legislation

### 5.3.10 Other areas of relevant legislation

Information is not currently available.

## France/ 5.3 Sector specific legislation

### 5.3.2 Performing arts and music

*Ordonnance n° 45-2339 of 13 October 1945*, amended by *law n° 99-198 of 18 March 1999*: regulation of the professional activity of performing arts entrepreneurs and defines conditions under which licences are attributed (other than occasional events).

Public Service Missions Charter for the Performing Arts (circular of 22 October 1998): although it has less status than a law, this important text defines public service missions in partnership with local and regional government assigned by the state government to private legal persons or entities.

*Law n° 89-468 of 10 July 1989* relating to dance teaching: state qualification compulsory for teachers; regulations on the safety and hygiene of premises.

## France/ 5.3 Sector specific legislation

### 5.3.3 Cultural heritage

*Ordonnance n° 45-1546 of 13 July 1945* (amended) on the provisional organisation of fine arts museums: definition of museums; defines national, classified and supervised museums, operating procedures.

*Law n° 80-532 of 15 July 1980* relating to the protection of public collections against vandalism: imposition of penalties for the degradation of art works.

*Law n°93-20 of 7 January 1993* relating to the institution of a government guarantee for certain temporary art exhibitions: enables the state to replace private insurance companies for this purpose.

*Law n° 2002-5 of 4 January 2002* relating to France's museums: definition of France's museums (state-owned or owned by any other non profit-making private or public legal entity), their brief, state supervision and guidance.



The project relating to the grouping together of existing laws on heritage in a single Heritage Code expresses the government's intention to make legal texts more accessible and more coherent. For historical reasons, particularly those involving the organisation of cultural administration by sector, heritage law currently exists in the form of dispersed and complex provisions.

The Heritage Code will cover heritage in the wide sense of the term, covering all public and private buildings and movable property of historical, artistic, archaeological, aesthetic, scientific or technical interest.

The Code will provide for the retention of the unity of the major laws in the field of culture such as the law of 31 December 1913 on historic monuments, the law of 27 September 1941 on the regulation of archaeological excavation, and the law of 3 January 1979 on archives. It will also cover recent laws such as the law of 17 January 2001 on preventive archaeology and the law of 5 January 2002 on French museums.

*Law n° 41-401 of 27 September 1941 (amended) relating to archaeological excavations: government authorisation must be obtained prior to excavation; defines conditions under which the discoverer can claim ownership of objects recovered.*

*Law n° 89-874 of 1 December 1989 relating to maritime goods of a cultural nature: extended the regulations covering objects found on land to objects found at sea.*

*Law n° 2001-44 of 17 January 2001 relating to preventive archaeology: definition of preventive archaeology; creation of a national public body; establishment of a levy to be paid by town planners and used for diagnostic and excavation work.*

*Law of 31 December 1913 (amended) on historic monuments and its application laws: levels of protection, conditions and procedures for the different types of protection applied to buildings and objects and obligations of classified or registered historic monument owners.*

*Law of 2 May 1930 relating to the protection of natural monuments and sites with artistic, historic, scientific, legendary or aesthetic value: measures to protect monuments and natural sites.*

*Law n° 96-590 of 2 July 1996 relating to the 'Heritage Foundation' (Fondation du patrimoine): creation of partnership associating the government, local authorities and private legal entities for the funding of unclassified and unregistered monuments.*

### **France/ 5.3 Sector specific legislation**

#### **5.3.4 Literature and libraries**

*Law n° 79-18 of 3 January 1979: defines public archives and the time period governing the release of documents to the public.*

*Law n° 92-546 of 20 June 1992 relating to legal deposit: compulsory registration of all documents available to the general public, including by broadcasting.*

*Decree n° 93-1429 of 31 December 1993 specifies with which public bodies different types of documents must be deposited.*

### **France/ 5.3 Sector specific legislation**

#### **5.3.5 Architecture and environment**

*Law n°77-2 of 3 January 1977 on architecture: scope of the activities of architects and state qualifications.*

### **France/ 5.3 Sector specific legislation**

#### **5.3.6 Film, video and photography**

*Law of 25 October 1946 on the National Film Centre: creation of a public body to support and promote the French film industry.*

*Decree n° 91-1131 of 25 October 1991 on the definition and classification of arts cinemas.*

*Law n° 92-651 of 13 July 1992 on local government action in support of cinemas: authorising local and regional governments to allocate funds to arts cinemas. Cultural Goods*

*Law n° 92-1477 of 31 December 1992 amended by Law n° 2000-643 of 10 July 2000 relating to products subjected to certain circulation restrictions: definition of cultural goods and national treasures and conditions for the circulation of works; creation of an export certificate; possibility for the state to select and purchase 'national treasures'.*

*Law n° 95-877 of 3 August 1995* relating to the restitution of cultural goods illegally removed from French territory: aimed at preventing illegal trading in art works; facilitates collaboration between EU member countries

*Law n° 2000-642 of 10 July 2000* on the regulation of voluntary sales of furniture to public auction houses: abolition of auctioneers' monopoly; approval procedure for sales organisations

See also chapter 5.3.7 and chapter 5.3.8.

## France/ 5.3 Sector specific legislation

### 5.3.7 Culture industries

There is currently no overall legal framework for cultural industries. However, sector frameworks – often highly developed – do exist, for example in the book industry.

*Law n° 81-766 of 10 August 1981* (amended) relating to fixed book pricing: compulsory application of fixed book prices by all book sellers, price to be stipulated by the publisher; to books; authorisation of a maximum discount of 5%. This law operates in accordance with professional agreements with a number of other European countries, it aims to regulate the different forms of competition in the book sector. It encourages the taking into account of the quality of book selections rather than the systematic search for the lowest price. As well as ensuring editorial diversity and creativity, the provision is aimed at reinforcing the bookstore network, thus ensuring that all citizens pay the same price for books throughout France.

French regulations covering cinema and television are aimed at promoting independent national cinematographic and televisual production.

The National Film Centre (*Centre national de la cinématographie* – CNC) was set up in 1946. Its responsibilities include the regulation and economic support of cinema, television and multimedia, the promotion of cinema and television and their diffusion to all publics, and the safekeeping and circulation of cinematographic heritage. Since 1992, it is also responsible for the legal deposit for cinematographic works.

The system of aid to the cinema and television industry is funded by several taxes (mainly the tax on seat prices and the tax on television diffusers). Support from the state is intended for producers, distributors and cinema owners and is divided into two categories. Automatic aid is systematically granted, according to objective criteria, for all works that fulfil the conditions laid down in the regulations: in 2001, 204 films (including 78 international coproductions) benefited from automatic aid to cinematographic production; in the same year 4 215 hours of programmes intended for all television networks were granted aid. Selective aid was granted following the advice of a commission in accordance with a qualitative evaluation of the project or work (advance on box office receipts for feature films, aid to short films, aid to the distribution of little-shown foreign cinematographic works, aid to cinemas exhibiting 'art films', aid to the promotion of sales outside of France, etc.). Other forms of support include aid to publishing (within the context of *Fonds d'aide à l'édition multimédia*) and to multimedia creation (DICREAM).

In the 1980s there was an increase in the competition between cinema and television for the diffusion of films and a number of major industrial groups started to invest in communication.

The European directive Television Without Frontiers (1997) prohibited existing regulations aimed at restricting competition between different media by stipulating a minimum time period between the theatrical release of a film and its diffusion on video cassette, pay per view, and on television networks ('media chronology'). The law on freedom of communication (*Law n° 2000-719 of 1 August 2000*) stipulates that this time period be subject to agreement between professional cinema associations and distributors. The time period between the date a film is theatrically released and when it can be shown on unencrypted terrestrial television is now 24 or 36 months, and a film can be distributed on video cassette or DVD six months after its theatrical release. In 2001, there were 1 492 broadcasts of feature films on the terrestrial networks.

For the obligations of television networks in terms of diffusion of and investment in cinematographic and televisual production (see also chapter 5.3.1).

The risk of the balance of power tipping heavily on the side of the major groups resulting from the concentration of distribution and exploitation that is threatening to weaken the independent and art cinemas has given rise to a number of measures.

In 1996, the opening of multiplex cinemas with 'over 1 500 seats' was subjected to an authorisation process by the National Film Centre. This threshold has been successively reduced to 1 000 and later 800 seats. Added to the various criteria in regard to the economic situation of the exploitation sector in the area attracting the future establishment that were already included in the 1996 law, an appraisal was made in 2001 of the cultural vocation of these complexes – the envisaged programming and relationship with other establishments in the area, the behaviour of operators in already active multiplexes, the architectural quality of the project.

The system of cards offering unlimited access to a cinema or cinemas, proposed for the first time by UGC in 2000, is under inspection (*Decree of 25 October 2002*).

## France/ 5.3 Sector specific legislation

### 5.3.8 Mass media

*Law n° 86-1067 of 30 September 1986* relating to freedom of communication, amended in 1994 and 2000 (by *law n° 2000-719 of 1 August 2000*). The Law confirmed the termination of the state monopoly of radio and television broadcasting. It also created an independent regulatory authority for French broadcasting, the *Conseil supérieur de l'audiovisuel*, privatisation of TF1 and created a single group uniting three public television companies.

In accordance with the law, national companies must comply with the following general interest assignments: to foster democratic debate, social integration, and citizenship; to promote the French language and develop linguistic and cultural heritage in all its regional and local diversity; and to work towards the development and dissemination of intellectual and artistic creations, civic, economic, social, technical and scientific knowledge, and audio-visual and media education.

The radio and television licence fee is the principal source of funding for the national radio and television companies.

Commercial television supply consists of three terrestrial networks and numerous theme-based networks diffused by cable or satellite. Radio broadcasts are diffused by several hundred commercial and associative radio stations.

The independent authority *Conseil supérieur de l'audiovisuel* is assigned to ensure the quality and diversity of programming, the development of the national television production and creation, and to defend and promulgate the French language and French culture. The authority can draw up proposals for the upgrading of programmes and quality of content. For the obligations of television networks and radio stations (investment in cinematographic production, distribution of French and European cinematographic and audio-visual works, and the diffusion of French-language songs).

The contribution to cultural, educative and consumer protection initiatives is laid down in the terms and conditions of all audio-visual companies requesting broadcasting licenses.

It is obligatory for all television networks to invest in cinematographic production. Unencrypted terrestrial networks, encrypted terrestrial networks and cablevision and satellite networks each have different obligations. Unencrypted analogue terrestrial networks, for example, must contribute 3.2% of their turnover to the production of original French language works. A large share of this contribution must be accorded to independent production. This proportion is higher for the encrypted channel Canal Plus, which, in exchange for the right to broadcast films with primary exclusive showing rights one year after their theatrical release, made a commitment to support French cinematographic production in specified ways.

At least 60% of films broadcast by television networks – particularly during prime time – must be European cinematographic and televisual productions with at least 40% original French language content. The maximum number of times feature films can be broadcast and rebroadcast per year is also fixed.

Canal Plus must devote at least 20% of its total annual resources to the acquisition of the broadcasting rights for original European and French language cinematographic works in the proportion 12% for European works and 9% for French-language works.

Private radio station programming must include a minimum 40% content of French language songs (or songs performed in a regional language in use in France). The public company Radio France is not bound by this quota, but Article 30 of its General Conditions stipulates that it must give priority to French language songs in its variety programmes and endeavour to promote fresh talent.

## France/ 5.3 Sector specific legislation

### 5.3.9 Legislation for self-employed artists

Since 1 January 1977, artist-authors benefit from a specific social security scheme which stipulates: although artist-authors are self-employed, at the end of their second year of activity, they become entitled to social security benefits under the same conditions as salaried employees.

## France/ 6. Financing of Culture

### 6.1 Short overview

Table 1: Overview of funds allocated to culture in France, 1996

	In billion euros	%

1. Public financing	11.05	24%
2. Other sources of finance	35.03	76%
Households	26.37	57%
Sponsors (estimate)	0.17	0.4%
Business		
press advertising	3.82	8.3%
TV advertising	3.45	7.5%
radio advertising	1.14	2.5%
cinema advertising	0.08	0.2%
<b>3. Total expenditure on culture</b>	<b>46.08</b>	<b>100</b>

Source: Public financing: DEP-Ministry for Culture and Communication; Households: Comptes de la nation-INSEE; Sponsors : Admical; Business: IREP

## France/ 6. Financing of Culture

### 6.2 Public cultural expenditure per capita

In 1996 public cultural expenditure was estimated at 189 per head of population, which corresponds to 0.9 % of the gross domestic product (GDP).

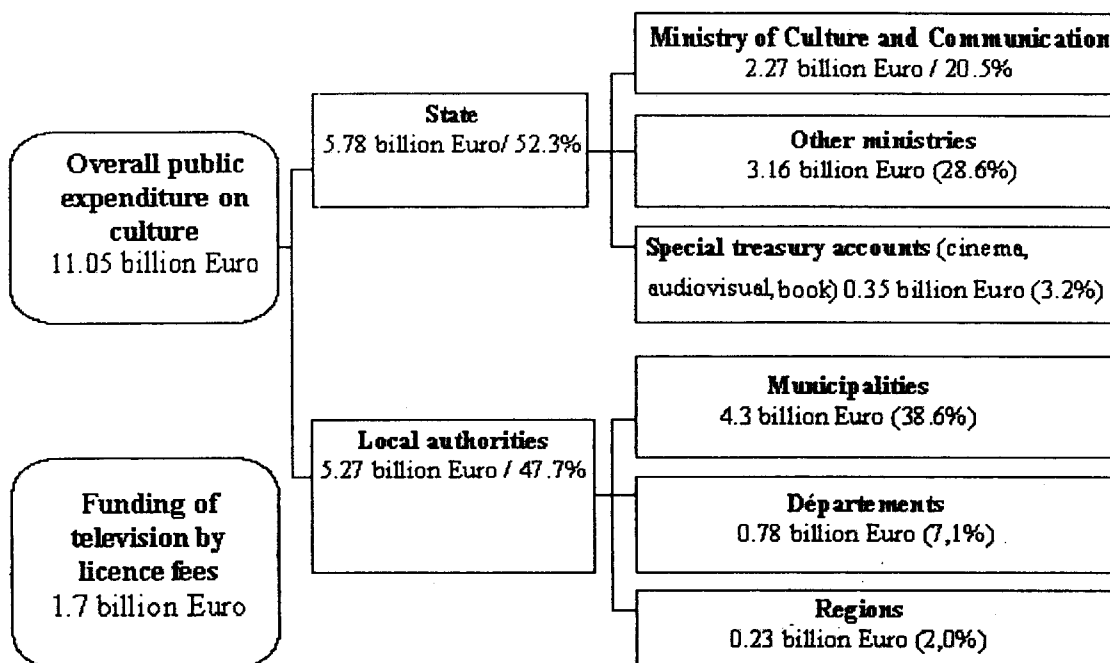
This figure is approximate as state grants to local and regional authorities and regional grants to the municipalities are not deducted from expenditures at each level. Moreover, only the expenditure of local and regional authorities in metropolitan France is taken into consideration (overseas municipalities, *départements* and regions being excluded). The amount spent on culture by municipalities with populations of less than 10 000 is a global estimate.

## France/ 6. Financing of Culture

### 6.3 Public cultural expenditure broken down by level of government

Both national government (Ministry for Culture and Communication, other ministries and special treasury accounts) and the local authorities (municipalities, *départements* and regions) contribute equally to the public funding of culture. In 1996, overall public expenditure on culture in France was 11.05 billion euros, not including the funding of television by television licence fees (1.7 billion euros).

**Table 2: Public cultural expenditure: by level of government (1996)**



\* The radio and television licence fee is the principal source of funding for public radio and television services (Group France Télévision, Arte France, Radio France, RFO, RFI and the National Audio-visual Institute). The fee is payable annually by owners of television sets or any other device enabling the reception of television broadcasts.

\*\* Overseas municipalities, *départements* and regions excluded.

Table 3: Public cultural expenditure in the overall budget, 1996

Level of government	Cultural expenditure in billion of euros	% share of total
State	5.78	2.3
Municipalities of more than 10 000 habitants	3.59	8.6
<i>Départements</i>	0.78	2.4
Regions	0.23	2.3

France/ 6. Financing of Culture

6.4 Sector breakdown

Table 4: Public cultural expenditure: sector breakdown, different years

4a) Expenditure by the Ministry for Culture and Communication, 2000

Field	% share of total
Performing arts	21
Heritage, archaeology, architecture	18
Museums	15
Books, libraries	9
Visual arts	3
Film and audio-visual production	3

Archives	1
<i>Not broken down by sector</i>	30
Arts training	14
General administration	6
Cultural development	3
Other	7
<b>Total</b>	<b>100</b>

## 4b) Expenditure of other ministries, 1993

Field	% share of total
Arts training	38
Books, libraries	17
Cultural initiatives outside of France	14
Press subsidies	10
Administration	7
Other	14
<b>Total</b>	<b>100</b>

## 4c) Expenditure of the regions, 1996

Field	% share of total
Performing arts	35
Heritage and museums	23
Amateur activities	18
Film and audio-visual production	5
Arts training	3
Books and reading	2
Communication	2
Administration	7
Other	6
<b>Total</b>	<b>100</b>

4d) Expenditure of *départements*\*, 1996

Field	% share of total
Amateur activities	18
Heritage	15
Libraries ( <i>départements</i> )	12
Performing arts	12
Archives ( <i>départements</i> )	11

Museums and exhibitions	10
Arts training	5
Communication	2
Administration	5
Other	10
<b>Total</b>	<b>100</b>

#### 4e) Expenditure of municipalities\*, 1996

Field	% share of total
Performing arts	19
Arts and music schools	17
Libraries	17
Amateur activities	16
Heritage and Museums	16
Communication	3
Administration	7
Other	6
<b>Total</b>	<b>100</b>

Source: DEP-Ministry for Culture and Communication

\*c) d) e) Overseas regions, *départements* and municipalities excluded

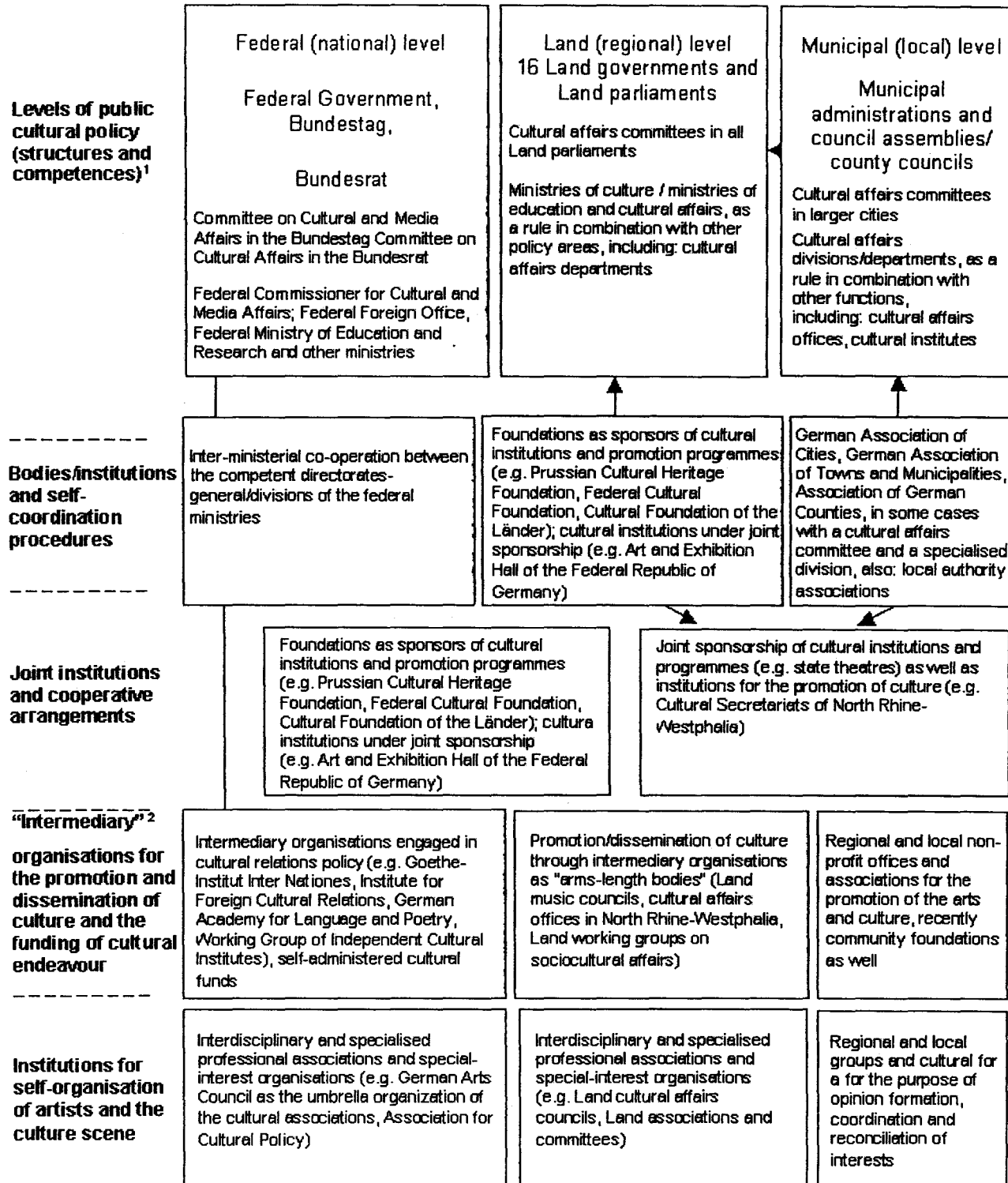
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The Council of Europe/ERICarts "Compendium of Cultural Policies and Trends in Europe, 6th edition", 2005



Germany/ 2. Competence, decision-making and administration

2.1 Organisational structure (organigram)



- 1) Under the Basic Law, the municipalities are part of the Länder. They are furthermore guaranteed the right (Article 28 [2] of the Basic Law) to regulate all local affairs on their own responsibility, in other words, to also voluntarily and autonomously take decisions concerning the cultural affairs of the local community.
- 2) The concept of "intermediary" is very broadly interpreted here because the spectrum of private-law organisations that sponsor "public" cultural institutions, implement cultural programmes or distribute funds for cultural activities and institutions is very heterogenous and all exhibit a varying degree of proximity to the state.



## Germany/ 2. Competence, decision-making and administration

### 2.2 Overall description of the system

The exercise of state powers and competencies are considered to lie with the Länder, except where specifically stipulated or permitted by the German Constitution (*Article 30 of the Basic Law*). This federal structural principle governing the division of responsibility is particularly applicable to cultural policy because the Federation (i.e. central government bodies) has limited competence in this area (see chapter 5.1). For this reason, cultural affairs - together with competence for schools and higher education - are considered to be the very essence of the autonomy of the Länder, a concept that is reflected in the term "cultural sovereignty of the Länder".

However, the Federation and the Länder are by no means the only public-sector actors in the area of cultural policy. The municipalities, i.e. the towns, cities and counties, also bear responsibility for cultural affairs under the Basic Law (*Article 28 (2)*). The respective Länder Constitutions have, as a rule, assigned the municipalities specific cultural responsibilities of their own within the overall context of public activities.

German cultural policy is thus federally organized and decentralized. The municipalities are responsible for the promotion of culture at local level. The Länder are responsible for funding cultural institutions and projects of regional importance. The Federation is essentially responsible for cultural policy in relation to third countries and federal legislation pertaining to cultural affairs. The extent to which the Federation should be accorded "natural" competence in matters having a nationwide impact or national or international significance is currently the subject of discussion between the Federation and the Länder. Additional federal competences arise out of instruments such as the Unification Treaty and the Act to Establish the *Prussian Cultural Heritage Foundation* (see chapter 5.1).

Together the Federation, the Länder and the municipalities form a tried and tested system of public cultural policy formulation and implementation. Within this system, political and subject-matter competence is exercised on the one hand by the legislative or self-governing bodies (parliaments, council assemblies) and their (cultural affairs) committees and, on the other hand, by the governments or administrations (ministries / departments for cultural affairs). The structure of the specialized ministries and departments varies. For the first time, in 1998, the Federal Government created the office of the *Federal Government Commissioner for Cultural Affairs and the Media* (today: *Federal Commissioner for Cultural and Media Affairs / Beauftragte für Kultur und Medien*) and thus a central contact point for cultural affairs at the federal level. Since this time a corresponding *Committee on Cultural and Media Affairs* has been set up in the German Bundestag (Parliament) to focus on cultural policy discussions among the parties involved. It controls the work of the *Federal Commissioner for Cultural and Media Affairs* and of the Foreign Office as far as external cultural policy is concerned. One of the most important responsibilities of the Committee on Cultural and Media Affairs is to examine all legal initiatives and changes with respect to their possible effect on culture (*Kulturverträglichkeit*), e.g. tax laws or the association law. It also initiates cultural policy debates like the discussion about setting up a monument for the victims of the Holocaust, the refugees after the Second World War or the victims of bombing. The most prominent right of the parliament is the budgetary right. The Culture Committee possesses a decisive steering and decision function in matters of culture and the arts to live up to the expectations of the voters.

Culture related issues are not only dealt with by the Culture Committee but also by sub-committees (e.g. more recently by the sub-committee for "Civic Engagement" or "New Media"). Furthermore, a special "Enquete-Commission Culture in Germany" made up of 11 members of Parliament and 11 independent experts was created in the Autumn 2003 for a limited period of time to look into basic questions of cultural policy and support to culture. Its final report on the situation of the cultural field and recommendations for cultural policies is expected in the Autumn of 2005.

A significant share of federal competence in the area of cultural affairs, namely foreign cultural policy and cultural education, continues to lie with the Federal Foreign Office.

*Article 32 (1) of the Basic Law* states: "Relations with foreign states shall be conducted by the Federation". Foreign cultural and education policy is an integral part of German foreign policy and is guided by the latter's objectives and interests. The political guidelines for foreign cultural and education policy are therefore formulated and coordinated by the Federal Foreign Office (most recently in its "Concept 2000"). Pluralism and legal autonomy guarantee the diversity and independence of cultural work abroad. The Federation and the Länder cooperate closely in the field of foreign cultural policy. Municipalities and groups in society are likewise actively involved in cultural work abroad. The most important areas of foreign cultural and education policy are cross-border co-operation in education and science, international cultural dialogue, promotion of the German language abroad, and exchanges in the fields of art, music and literature. For the most part, this policy is implemented by intermediary organizations funded by the Federal Foreign Office, such as the *Goethe-Institut (GI)*, the *German Academic Exchange Service (DAAD)*, the *Institute for Foreign Cultural Relations (IfA)*, the *Alexander von Humboldt Foundation (AvH)*, and the *German UNESCO Commission (DUK)*, which are essentially free to create their own programmes.

Within the scope of their competence, the Federation, the Länder and the municipalities are largely free to shape cultural policy as they see fit, in other words, to determine the form, extent and priorities of their cultural programmes.

Alongside public cultural policy and funding for culture, a host of very different forms of cultural work and cultural programmes are sponsored by public and private radio and television broadcasters, business-sector institutions, various groups in society (churches, unions, associations), civic organizations and initiatives, clubs and private individuals.

This extensive network of intermediaries between the state sector and the culture scene complements public-sector activity and is indispensable for a vibrant and progressive cultural life in civil society. Pluralism of sponsors and vehicles of culture is a structural element of the system established under the constitution and the laws governing Germany's cultural sector. The various forms of commercial cultural activities likewise play an important role in the nation's cultural life.

As a rule, there is no organized co-operation or coordination of cultural activities between "the state" and this diverse network of non-governmental actors. There are, however, more and more instances where public cultural affairs administrations at the federal, Land and local level are cooperating with intermediaries (arms-length bodies) in order to implement their support programmes or to generate sponsorship for cultural institutions.

## Germany/ 2. Competence, decision-making and administration

### 2.3 Inter-ministerial or intergovernmental co-operation

Given the autonomy of the Länder - and also the municipalities - in the field of cultural policy, the scope and focal areas of cultural activity can vary greatly from Land to Land and from municipality to municipality. While there are a multitude of bodies at the various levels of cultural policy making and implementation, binding recommendations or binding arrangements in the form of decisions by such bodies are rare in the cultural sphere. An exchange of experience - and, to a certain extent, voluntary self-coordination as well - takes place at the Land level through the *Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany (KMK)*.

A similar structure also exists at the municipal level. Here it is the local authority associations (*German Association of Cities, German Association of Towns and Municipalities, Association of German Counties*) that address specific topics of supraregional importance at the Land and federal level in their specialized divisions and cultural affairs committees and pass the results of their deliberations on to the local authorities in the form of recommendations.

There is no official body in charge of coordinating cultural policy initiatives, programmes and measures undertaken at the individual levels of government. An exchange of opinion on specific individual topics takes place as needed between the bodies of the *Standing Conference* (Cultural Affairs Committee, Conference of Deputy Ministers, Plenum) and the office of the *Federal Commissioner for Cultural and Media Affairs (BKM)*. There are also more or less regular contacts on a working level. Representatives of the Federation regularly attend meetings of the *Standing Conference's* Commission for European and International Affairs and the Film Committee of the Länder, thus ensuring ongoing communication in matters pertaining to cultural relations and film policy.

Consultation and coordination of cultural policy between the Länder and their municipalities is handled in a number of ways. In addition to bilateral contacts between the relevant ministry and individual municipalities, consultations take place between the ministry and the local authority associations on issues of significance for the Land as a whole. In several of Germany's Länder, secretariats for joint cultural work have been founded by the municipalities on their own initiative in order to facilitate co-operation at the supraregional level. In other Länder, this aim is pursued by means of regional conferences on cultural affairs.

There are only general statutory compensation schemes available in the other Länder which are not culture specific.

Besides general allocations of the Länder to the municipalities, about half of them provide special allocations for cultural activities, e.g. support to theatres, museums, libraries and music schools. In this context, the "*Act on the Cultural Areas in the Freistaat of Saxony*" is of special importance. It had been passed in 1993 for a period of 10 years and extended in 2003 up to July 31, 2007. It stipulates that 76.6 million euros are transferred from the budget of the Land to 9 rural and 3 urban areas to support cultural institutions and activities of regional and trans-regional importance. In other Länder (e.g. Baden-Württemberg), state support to individual sectors, for example theatre, is given in the form of co-financing, the amount of which is determined on the basis of a fixed percentage of the total spending invested by the municipality.

The various levels of government have rather different approaches to the systematic integration of cultural policy into other policy areas and to strategic development planning. However, dwindling resources at all governmental levels have encouraged greater coordination in terms of the definition of goals and the use of resources.

## Germany/ 2. Competence, decision-making and administration

### 2.4 International cultural co-operation

International co-operation in the cultural sphere is taking on increasing significance. A particularly important

example in this context is the intensified efforts to cultivate a dialogue between cultures.

Foreign cultural policy in the narrower sense continues to be largely shaped and implemented by the *Goethe-Institut* which merged with *Inter Nationes*, an intermediary organization with a new programme in 2001 and has subsequently received a new programme. Independently of this, co-operation in the area of cultural policy has evolved since 1992 within the European Union on the basis of *Article 151* (formerly *Article 128*) of the Treaty Establishing the European Community through jointly adopted directives (such as *Directive 96/100/EC* of the European Parliament and of the Council on the return of cultural objects unlawfully removed from the territory of a member state) and actions and promotion programmes supporting both co-operation among the member states themselves and between the member states and neighbouring third countries (such as Culture 2000, MEDIA Plus and European Capital of Culture). In addition to the longstanding international town twinning arrangements, communities in all the Länder have meanwhile entered into bilateral or multilateral regional partnerships with comparable territorial communities or authorities of other states, primarily - but not exclusively - in Europe. This cross-border cultural exchange is particularly lively in the so-called "Euregios" (Saar-Lor-Lux, Euregio Egrensis, Euroregion Erzgebirge e.V., Euroregion Elbe / Labe, and the Communal Association of the Euroregion Neisse, for instance).

## Germany/ 5. Main legal provisions in the cultural field

### 5.1 General legislation

The purpose of the newly expanded chapter 5 on legal provisions for culture is to provide you with a more indepth overview of the legal instruments used to support culture in the individual Compendium countries.

Chapter 5.1 provides you with information on those pieces of general legislation which have an important impact on culture, for example, articles in the Constitution of individual countries or legislation used to govern the allocation of public funds.

Chapter 5.2 provides a list as overview of the main legislation for culture. Some countries may have hundreds of laws while others may have only one "Culture Act".

Chapter 5.3 is sub-divided to provide you with information on sector specific legislation in the following fields: visual and applied arts; performing arts and music; cultural heritage; literature and libraries; architecture and environment; film, video and photography; culture industries; and mass media.

#### Germany/ 5.1 General legislation

##### 5.1.1 Constitution

Information currently not available.

#### Germany/ 5.1 General legislation

##### 5.1.2 Division of jurisdiction

Information currently not available.

#### Germany/ 5.1 General legislation

##### 5.1.3 Allocation of public funds

Information currently not available.

#### Germany/ 5.1 General legislation

##### 5.1.4 Social security frameworks

Artists and journalists / authors in the Federal Republic of Germany enjoy comprehensive social security coverage. If they are employed, they are covered under the general social security regime. Self-employed artists and journalists / authors can join the Artists' Social Insurance Fund. The special protection for self-employed artists and journalists / authors provided under the *Artists' Social Insurance Act* encompasses statutory health, long-term care and pension insurance. Like employees, the artists and journalists / authors must only pay half of the social insurance contribution. The "employer's share" is paid by the firms that exploit the works of artists and journalists / authors in the form of an artists' social insurance levy (currently 3.9%) on the remuneration and royalties paid. In addition, the Federation provides a subsidy to help fund the "employer's share"; this subsidy currently covers 20% of the expenditures of the Artists' Social Insurance Fund.

## Germany/ 5.1 General legislation

### 5.1.5 Tax laws

Indirect state support for the arts and culture in the form of tax breaks is not laid down in a separate piece of legislation but instead consists of a multitude of regulations contained in various specialized acts. In the case of VAT, some cultural products (such as books) are subject to a lower rate of 7% instead of the usual 16%; under certain conditions, public cultural operations and non-profit theatre performances are exempted from VAT and corporate tax altogether. In the case of wage and income tax, no significantly different arrangement applies to domestically resident artists and culture-sector intermediaries. Foreign artists or, as the case may be, the German organizers of their events, must pay withholding tax as income tax; small-scale remuneration, however, is exempted from this requirement.

Since 1 January 2000 a new act on the taxation of foundations has been in force, which contains tax incentives for the establishment of and donations to foundations. In the past few years, additional tax breaks have been incorporated into the law governing donations, and the tax-exempt ceiling for income from voluntary activity (the so-called standard exemption for course instructors) has been raised and extended to apply to other groups of persons.

## Germany/ 5.1 General legislation

### 5.1.6 Labour laws

See chapter 5.1.4.

## Germany/ 5.1 General legislation

### 5.1.7 Copyright provisions

The right of creative and performing artists to their intellectual property is codified in copyright law. The basis for the protection of intellectual property in the Federal Republic of Germany is the *Law dealing with Copyright in the Information Society*, which was adopted by the Federal Parliament in April 2003 and came into force in September 2003. Its provisions regulate the protection of works, remuneration rights and exploitation rights for literary, scientific and musical works, works of pantomime and cinematographic works as well as works of fine art, performing arts and architecture.

For the first time, the new version of the Copyright Law deals with the digital use of creative works. There has been a long debate about the formulation of this new law, especially between representatives of the culture industries and cultural policy.

After a five-year discussion, agreement was finally reached in July 2001 on an EU Directive on resale royalty rights that must be enacted as national law by the year 2006. *Article 26* of the new German law includes this "resale royalty right" stating that fine artists are entitled to a 5% share of the selling price in excess of 50 euros in the event of a resale of their work.

In 2002, the Copyright Law was amended by *the Act to Strengthen the Contractual Position of Authors and Performing Artists*, which lays down a statutory right of authors and performing artists to "appropriate remuneration". The amount of the remuneration is to be specified in agreements between associations of authors / artists and associations of users of such works.

The Copyright Law also regulates exploitation rights, i.e. the authority to commercially utilize creative work. This includes *inter alia* the right to reproduce, distribute and exhibit the work as well as the right to communicate the work to the public by means of broadcasting or by means of video or audio recordings. Primary exploitation rights are vested in the authors, performing artists and other entitled persons under copyright exploitation agreements. Against payment of remuneration, the corresponding rights to use are assigned to the parties exploiting the works (such as publishers or broadcasting companies). Responsibility for the collection of royalties on secondary exploitation rights (such as broadcasting rights) is assumed on behalf of the authors by collecting societies such as the *Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (GEMA)*, the *Verwertungsgesellschaft Wort*, and the *Verwertungsgesellschaft Bildkunst*, for example, which collect, administer and distribute the monies in trust. Only the *GEMA* collects remuneration on primary exploitation rights for composers and lyricists.

Along with the Copyright Law, the introduction of a standard levy on audio equipment was passed in 1965 which the collecting societies were to distribute among entitled persons. A levy on audio and video recording equipment was added in 1985. This applies to recording and reproduction equipment with a certain playing time and capacity. Authors and performing artists also receive levies on digital reproductions, for example, those made with the aid of computer technology. These standard levies are collected by the collecting societies and distributed among entitled persons.

Public lending rights were first introduced to the general Copyright Law in 1972 (*paragraph 27*).

## Germany/ 5.1 General legislation

### 5.1.8 Data protection laws

Information currently not available.

## Germany/ 5.1 General legislation

### 5.1.9 Language laws

There are no regulations governing the representation of languages in the media. In areas with ethnic minorities, such as Saxony, Brandenburg and Schleswig-Holstein, the languages of these minorities are represented in the media (see chapter 4.2.5). In larger cities, especially in Berlin, there are not only entire foreign-language VHF channels (RFI and BBC) but also programmes for ethnic minorities produced by public broadcasters (such as SFB Multikulti or the WDR channels) and broadcast in alternating foreign languages. Private radio and television stations feed foreign-language programmes into the cable network as well.

## Germany/ 5.2 Legislation on culture

Cultural policy is governed by the provisions of constitutional and administrative law relating to the cultural sector. This law is not codified in a single text but consists of a host of constitutional and statutory provisions, above all the Basic Law and the constitutions of the Länder, the municipal and county codes, a few specialized statutes of the Länder relating to cultural affairs, federal legislation such as the *Act on the Protection of German Cultural Heritage against Removal Abroad*, the *Copyright Law*, the *Federal Film Promotion Act* and the *Artists' Social Insurance Act*, and various provisions relating to cultural matters in legislation such as the *Federal Building Act*, the *Federal Regional Planning Act* and the *Federal Expellees Act (Section 96)*. In addition, German cultural policy is bound by the provisions of international legal instruments such as the United Nations Universal Declaration of Human Rights, which among other things stipulates that "everyone has the right freely to participate in the cultural life of the community, to enjoy the arts ..."

The culturally relevant passages in the Basic Law for the Federal Republic of Germany and the constitutions of the Länder encompass statements concerning basic rights and the aims of the state as well as the division of competences. According to the interpretation of the highest courts, *Article 5 (3)*, first sentence of the Basic Law - which states that "art and scholarship, research, and teaching shall be free" - not only lays down a right of creative artists to protection from state interference but also - as an objective value judgement - mandates the state to preserve and promote freedom of the arts and defines the Federal Republic as a "cultural state", thus laying the basis for the duty of the state to promote culture and the arts. This was explicitly reaffirmed as a responsibility of the new Länder in *Article 35 of the 1990 Unification Treaty*. The definition of the state as a "cultural state" and the duty of the state to provide general and in some cases specific forms of support for the arts and cultural life have been expressly enshrined in a number of Land constitutions (*Article 3 (1)* and *Article 140 (1) and (2) of the Constitution of the Freistaat of Bavaria*, for example, as well as *Article 2 (1)* and *Article 34 (1) and (2) of the Brandenburg Constitution*).

With regard to the division of competences between the Federation and the Länder, the Basic Law stipulates that "except as otherwise provided or permitted by this Basic Law, the exercise of state powers and the discharge of state functions is a matter for the Länder" (*Article 30*). Legislative and executive powers must hence be specifically conferred on the Federation by individual provisions of the Basic Law. Accordingly, a few powers have been expressly conferred on the Federation in several areas of cultural policy. One example is cultural policy in relation to third countries. It falls under the subject heading "foreign affairs" which is the exclusive remit of the Federation under *Article 73 (1) of the Basic Law*.

Moreover, the Federation - invoking the jurisdiction of the Federal Constitutional Court - lays a claim to competence originating "in the nature of the matter" where the matters in question are tasks that in a federally structured union are peculiar to the Federation and cannot be effectively handled or regulated by a Land. In practice, it is from this that the Federation derives its competence to discharge functions of significance for the state as a whole, such as representation of the state in its entirety. These also include concrete activities in the area of culture promotion, whereby the Federation - aside from exceptions such as its contractual commitment to fund cultural institutions in the capital - generally only acts together with one or more Länder or with a municipality. Prior to unification, cultural matters relating to Germany as a whole also fell within the purview of the Federation. Upon unification, the aspect "promotion of unity" as expressed in *Article 35 of the 1990 Unification Treaty* took centre stage.

The cultural competence of the Länder is limited by the tasks of the Federation defined in the Basic Law and by the tasks transferred to the municipalities within the framework of "local self-government" (*Article 28 (2) of the Basic Law*) as well as by the obligation of the municipalities under many Land constitutions to cultivate and

promote cultural life. In contrast to the other two levels, the competence of the Länder is more precisely defined by provisions of the Land constitutions and individual laws. Fourteen of the sixteen Land constitutions contain provisions dealing specifically with art and culture, some so extensive that they encompass several articles. In addition to this constitutional framework, individual laws have been enacted in some of the Länder that contain more precise provisions for specific areas of cultural activity such as archives and protection of monuments and sites.

*The Act on the Cultural Areas in the Freistaat of Saxony*, which provides for joint funding of cultural endeavours of regional or supra-regional importance by the Land, the counties and the municipalities, constitutes a special case, as do the acts existing in many of the Länder governing their respective cultural foundations.

There are no special statutory bases for the competence of the municipalities in the cultural field. Their competence is enshrined in the Basic Law in the form of their right "to regulate all local affairs on their own responsibility" (*Article 28 (2)*) as well as in various Land constitutions and county and municipal codes.

## **Germany/ 5.3 Sector specific legislation**

### **5.3.1 Visual and applied arts**

Information currently not available.

## **Germany/ 5.3 Sector specific legislation**

### **5.3.10 Other areas of relevant legislation**

Information currently not available.

## **Germany/ 5.3 Sector specific legislation**

### **5.3.2 Performing arts and music**

Information currently not available.

## **Germany/ 5.3 Sector specific legislation**

### **5.3.3 Cultural heritage**

One of the central tasks of cultural policy is the protection and preservation of the built heritage, i.e. cultural monuments and landscapes including architectural, archaeological and paleontological monuments as well as parks. At the Land level, monument protection legislation has been passed. In addition to their sovereign right to define their own tasks, the Länder also consider it their duty to preserve such monuments and provide budget funds for this purpose. Monument conservation is also, as a general rule, a task of the municipalities.

Despite the primary competence of the Länder for monument conservation, there has also been a programme at federal level operating since 1950 to promote monument conservation measures in order to preserve the substance of and restore immovable cultural monuments of national significance (co-financing competence of the Federation derived from the nature of cultural monuments having significance for Germany as a whole). In the wake of the country's unification, the Federation launched monument conservation programmes to help meet the special need for long overdue monument conservation work in Germany's eastern Länder. These programmes are co-financed by the Land involved.

The Federation and the Länder work together in the *German National Committee for Monument Protection*. Private endeavours in the area of monument conservation have taken on great importance as well. To begin with, there are a substantial number of volunteer monument conservators in the Federal Republic of Germany who work hand in hand with the respective public authorities. Furthermore, private funding has become indispensable for this task.

The German Foundation for the Protection of Monuments functions as a useful and effective link between public and private endeavours in this area. The Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany (KMK) serves as the national clearinghouse for recommendations for the entry of monuments that are particularly worthy of protection under the UNESCO World Heritage List.

Whereas the aforementioned monument conservation measures are designed to preserve and safeguard immovable cultural assets and thus protect this part of the nation's cultural heritage, other cultural heritage protection measures serve to protect its movable cultural treasures. These, too, are at risk of deterioration and destruction. The greatest threat to the nation's movable cultural heritage, however, is the loss of these treasures, especially through their sale abroad.

The statutory basis for state protection against the export of such objects is the *Act on the Protection of German Cultural Heritage against Removal Abroad*. This legislation is in line with the law of the European Union, which - contrary to the freedoms otherwise generally applicable to the movement of goods within the EU internal market - expressly provides for such a restriction on trade and movement in the case of "cultural objects classified ... as national cultural treasures possessing artistic, historic or archaeological value". Protected from export are objects that have been entered by the Länder in their registers of cultural treasures and archives possessing national value. The vast majority of these objects are privately owned cultural treasures such as paintings, medieval books, musical instruments, archaeological objects or archives. The *Federal Commissioner for Cultural and Media Affairs (BKM)* maintains a consolidated register of cultural treasures and archives possessing national value that is compiled from the Land registers and published in the Federal Gazette. The Commissioner is also responsible for deciding whether to permit the export of such objects.

In order to safeguard national treasures, the Federation also helps the Länder and the municipalities purchase such objects when it is feared that they may be sold abroad.

### **Germany/ 5.3 Sector specific legislation**

#### **5.3.4 Literature and libraries**

Information currently not available.

### **Germany/ 5.3 Sector specific legislation**

#### **5.3.5 Architecture and environment**

Information currently not available.

### **Germany/ 5.3 Sector specific legislation**

#### **5.3.6 Film, video and photography**

See chapter 5.3.7.

### **Germany/ 5.3 Sector specific legislation**

#### **5.3.7 Culture industries**

The German cultural sector can be subdivided into three areas:

- the publicly funded and maintained cultural institutions,
- the activities and facilities funded and run by voluntary non-profit organizations and
- the private commercial culture industry, notably the book, film, music and fine arts market, as well as the communication and information systems on the Internet associated with all three areas.

In general there are no special statutory provisions or forms of state support for the culture industry that set it apart from other sectors of the economy, aside from the aforementioned lower rates of VAT for some products. Exceptions to this rule are film promotion (see chapter 5.3.3) and the areas in which public and private providers are both active, such as radio, television and the computer-based communication media.

The statutory basis for the public radio and television corporations (financed mainly by licence fees) and the private (commercial) television broadcasters (financed by advertising revenue) is the *Interstate Broadcasting Agreement* concluded among the Länder. On the basis of this Agreement and within the framework of their competence for radio and television broadcasting, the individual Länder have enacted detailed provisions in their respective Land broadcasting acts.

The legal framework for the new information and communications technologies is defined by the *Telecommunications Act*, which entered into force on 1 August 1996, the *Federal Information and Communication Services Act*, which entered into force on 1 August 1997, and the essentially identically worded *Interstate Agreement on Media Services* concluded among the Länder.

The national system of fixed prices for books, formerly a self-imposed obligation of the parties engaged in the book trade, was safeguarded through the adoption of an act that entered into force on 1 October 2002.

Below the statutory level there are numerous forms of public support for the culture industry, such as special breaks for the music industry or, in the case of individual artists and small institutions, support for business start-

ups in individual Länder.

Both the Federal government and the Länder provide support for film.

Federal film support has been determined by recent amendments to the *Federal Film Promotion Act* marking an increase in the level of funding by 40% (total of 64 million euros). This increase is to be financed from increased contributions provided by broadcasting companies, cinemas and the video industry. However, film industry associations are planning to take legal action against this law.

Until 1998, the Federal Ministry of Economics provided financial support for film production. Since 1951, the federal government also provided "artistic support for film" through measures such as the prizes for German films. Economic and artistic support for film production was consolidated in 1998 upon the *Federal Government Commissioner for Cultural Affairs and the Media* (today: *Federal Commissioner for Cultural and Media Affairs, BKM*). The *Federal Film Promotion Act* of 6 August 1998, established the German Federal Film Board to promote German films.

Film promotion programmes also exist at the Land level. These differ considerably in scope and are funded by a variety of sponsors and bodies. In order to coordinate the film policies of the Länder among themselves and with the Federation, the *Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany (KMK)* established the *Film Committee of the Länder*, which also involves the participation of their state chancelleries and economic ministries.

## Germany/ 5.3 Sector specific legislation

### 5.3.8 Mass media

Only in recent years have the media come to be a greater focus of public cultural policy in the narrower sense. Prior to this, only measures to promote the film sector were adopted by both the Federation and the Länder in order to further the development of film as an element of the country's cultural heritage and to support the national culture industry. Television and radio programmes in Germany are produced and broadcasted by both public corporations and private firms (the so-called "dual system" of broadcasting). All broadcasters, however, agree that programme content should help to promote the cultural diversity of the regions and the country as a whole. *Article 6 of the Interstate Broadcasting Agreement* of 31 August 1991 (as amended by the *Sixth Act to Amend the Interstate Broadcasting Agreement*) stipulates that "television broadcasters shall reserve the greater part of total time scheduled for the transmission of feature films, television plays, series, documentaries and comparable productions for European works in accordance with European law". There are nevertheless no official quotas to which the broadcasters must adhere. Cultural and media policy in the Federal Republic of Germany has thus far reflected the view that the imposition of quotas - also in regard to certain groups - is an unsuitable instrument for the promotion of European film and television production.

Media policy formulated at the European level is also taking on increasing importance for the relation between the media and culture. The *Television Without Frontiers Directive* of 1989/1997 is playing a particularly prominent role in this context. As a result of the - in some cases breathtakingly rapid - pace of technological developments in the media sector, the *Television Without Frontiers Directive* will be revised in the next few years. In the course of this revision, attention will also be given to other Community regulatory instruments affecting the media.

## Germany/ 5.3 Sector specific legislation

### 5.3.9 Legislation for self-employed artists

Indirect state support for the arts and culture in the form of tax breaks is not laid down in a separate piece of legislation but instead consists of a multitude of regulations contained in various specialized acts. In the case of VAT, some cultural products (such as books) are subject to a lower rate of 7% instead of the usual 16%; under certain conditions, public cultural operations and non-profit theatre performances are exempted from VAT and corporate tax altogether. In the case of wage and income tax, no significantly different arrangement applies to domestically resident artists and culture-sector intermediaries. Foreign artists or, as the case may be, the German organizers of their events, must pay withholding tax as income tax; small-scale remuneration, however, is exempted from this requirement.

Since 1 January 2000 a new act on the taxation of foundations has been in force, which contains tax incentives for the establishment of and donations to foundations. In the past few years, additional tax breaks have been incorporated into the law governing donations, and the tax-exempt ceiling for income from voluntary activity (the so-called standard exemption for course instructors) has been raised and extended to apply to other groups of persons.

## Germany/ 6. Financing of Culture

### 6.1 Short overview



The financing of culture in the Federal Republic of Germany rests on several pillars. In keeping with the subsidiarity principle, culture - and thus the public financing thereof - is first and foremost the responsibility of the citizens and their local communities. Only when the scope or nature of a cultural policy task is beyond the community's resources does the state step in as a sponsor. The municipalities thus bear the lion's share of the cost of financing public cultural activities and institutions, followed by the Länder. Due to its limited competence in the field of cultural policy, the Federal government provides only a small share of the total support for culture in Germany (see chapter 6.2). Impossible to quantify from financial statistics - but by no means insignificant - are the funds stemming from other policy fields, especially job promotion. In Germany's western Länder, the overwhelming majority of these funds were allocated to voluntary sponsors of cultural activities and institutions even prior to unification. In the eastern Länder, they have taken on great importance in the course of the past ten years for all cultural institutions.

Cultural institutions, events and projects are also privately funded to a considerable extent. Estimated private-sector expenditure for publicly subsidized institutions alone is approximately 500 euros million.

The municipalities, the Länder and the Federation operate on the basis of rather different definitions of the term "culture", however. As a result, public cultural expenditure statistics often vary considerably, in some cases by billions of euros. Different standards to collect cultural statistics are used by German municipal statistical offices, the *Standing Conference of the German Länder*, the Federal Government and the *Federal Statistical Office*. This is further complicated by the number of different categories used by EUROSTAT and UNESCO.

Regardless of these differences, cultural expenditure increased disproportionately in comparison to other areas of public expenditure in the 1970s and 1980s. In the 1990s, however - aside from the rise in cultural expenditure at the federal level due to unification - total public expenditure increased nominally but declined in real terms.

## Germany/ 6. Financing of Culture

### 6.2 Public cultural expenditure per capita

Due to the various definitions of "culture", the available statistics differ widely. In the interest of presenting the most comprehensive picture possible, two sets of statistics are given here: those from the statistical survey "*Zur Lage der öffentlichen Kulturförderung in Deutschland*" (The State of Public Financing of Culture in Germany) by Michael Söndermann, published in the "*Jahrbuch für Kulturpolitik 2000 and 2002/03*" (Cultural Policy Yearbook 2000 and 2002/03), which used figures adjusted to reflect revenues and the flow of payments between the various policy levels. A second set is provided from the "*Kulturfinanzbericht 2000*" (Cultural Finance Report 2000) published by the Federal Statistical Office and the statistical offices of the Länder.

According to the survey conducted by Michael Söndermann, public cultural expenditure increased 3.8% between 1995 and the year 2002, overall from 7.65 billion euros to 8.27 billion euros and per capita from 93.57 euros to 100.36 euros. During the same period, the general price index rose by 6.9 %. The percentage of overall public expenditure (all public budgets) attributable to cultural expenditure thus declined from 1.319% to 1.298%.

According to the "Kulturfinanzbericht 2000" (Cultural Finance Report 2000) published by the Federal Statistical Office and several statistical offices of the Länder, public cultural expenditure increased 2.1% between 1995 and the year 2000, overall from 6.17 billion euros to 6.3 billion euros and per capita from 75.67 euros to 76.69 euros. The percentage of overall public expenditure (all public budgets) attributable to cultural expenditure thus increased from 1.09% to 1.26%

## Germany/ 6. Financing of Culture

### 6.3 Public cultural expenditure broken down by level of government

Table 1: Public cultural expenditure: by level of government\*, in billion euros and in % from 1995 to 2002

	1995	1996	1997	1998	1999	2000	2002
<b>Municipalities</b>							
in billion euros	3.42	3.41	3.52	3.47	3.47	3.47	3.59
% share of total	44.60	43.20	46.00	45.70	44.20	43.70	43.41
<b>Länder and city states**</b>							
in billion euros	3.61	3.9	3.59	3.57	3.68	3.78	3.85
% share of total	47.20	49.30	46.90	47.00	46.80	47.50	46.55
<b>Federal Government</b>							

in billion euros	0.62	0.6	0.54	0.55	0.71	0.7	0.83
% share of total	8.20	7.50	7.10	7.30	9.00	8.70	10.04
<b>Total</b>	<b>7.65</b>	<b>7.91</b>	<b>7.65</b>	<b>7.59</b>	<b>7.86</b>	<b>7.95</b>	<b>8.27</b>

\* as broken down in: "Jahrbuch für Kulturpolitik 2000 and 2002/03"

\*\* Berlin, Bremen, Hamburg

**Table 2: Public cultural expenditure: by level of government\*, in billion euros and in % from 1995 to 2000**

Level of Government	1995	1996	1997	1998	1999	2000
<b>Länder and municipalities</b>						
billion euros	5.77	6.01	5.85	5.95	5.86	5.95
% share of total	93.50%	96.90%	96.45%	96.35%	93.70%	94.50%
<b>Federal Government</b>						
billion euros	0.40	0.19	0.21	0.22	0.39	0.35
% share of total	6.50%	3.10%	3.55%	3.65%	6.30%	5.50%
<b>Total</b>	<b>6.17</b>	<b>6.20</b>	<b>6.06</b>	<b>6.17</b>	<b>6.25</b>	<b>6.30</b>

\* as broken down in: "Kulturfinanzbericht 2000" (Cultural Finance Report 2000)

## Germany/ 6. Financing of Culture

### 6.4 Sector breakdown

**Table 3: Public cultural expenditure: by sector\*, in billion euros, and in %, 1995, 2000**

Field	1995	2000
<b>Performing arts (theatre and music)</b>		
billion euros	2.75	2.80
% share of total	44.6%	44.4%
<b>Libraries (non-academic)</b>		
billion euros	0.65	0.69
% share of total	10.6%	10.9%
<b>Museums (non-academic)</b>		
billion euros	0.97	1.02
% share of total	15.7%	16.2%
<b>Monuments and sites</b>		
billion euros	0.32	0.34
% share of total	5.1%	5.4%
<b>Other cultural heritage conservation</b>		
billion euros	1.02	1.04
% share of total	16.5%	16.5%
<b>Administration</b>		
billion euros	0.47	0.42
% share of total	7.5%	6.6%
<b>Total</b>	<b>6.18</b>	<b>6.31</b>

\* as broken down in: "Kulturfinanzbericht 2000" (Cultural Finance Report 2000)

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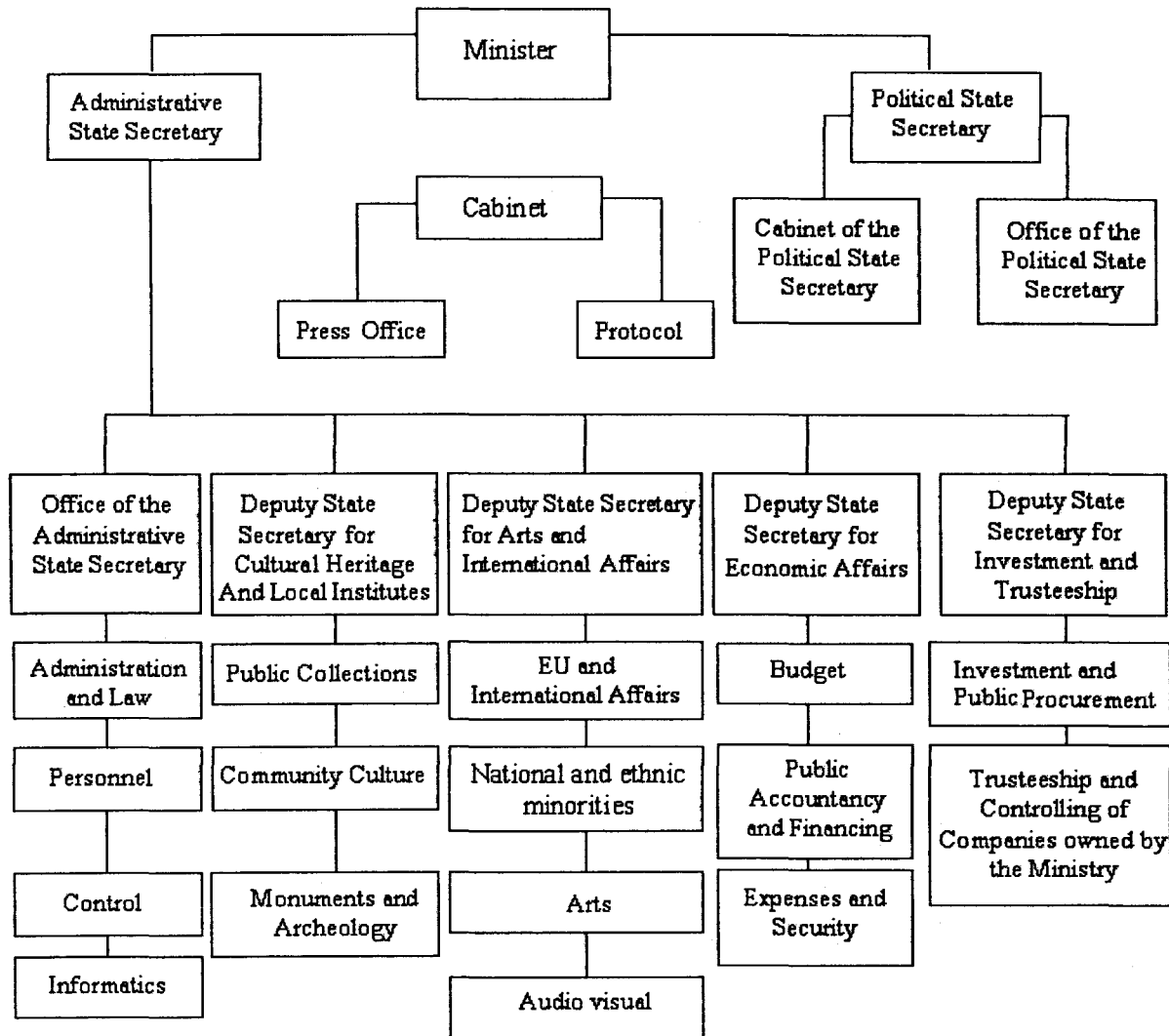
The Council of Europe/ERICarts "Compendium of Cultural Policies and Trends in Europe, 6th edition", 2005



**Hungary/ 2. Competence, decision-making and administration**

**2.1 Organisational structure (organigram)**

**Ministry for National Cultural Heritage**



**Hungary/ 2. Competence, decision-making and administration**

**2.2 Overall description of the system**

Competencies related to culture have been restructured several times over the past decades.

Actually, the remit of the Minister for National Cultural Heritage includes protection of monuments, the supervision of cultural institutions abroad, and religious affairs. Although there is an audio-visual department, the Minister has no direct mandate with regard to radio and television. Artistic education as well as the financial support to culture in local governments are beyond the responsibility of the Ministry as well. On the other hand, a separate unit is in charge of the professional guidance of community cultural centres.

The major part of support for cultural and ethnic minorities is being administered by the Prime Minister's Cabinet Office.

The National Cultural Fund is a semi-autonomous branch of the Ministry in charge of financing projects.

The country has been unable to cope with the reorganisation of its regions. The 19 traditional counties still have cultural functions (especially maintaining institutions like county museums, libraries and archives, some of these

jointly with cities). Besides the central government the only real level that matters is that of the 3 167 local governments.

The EU membership will compel Hungary into finalising the (probably seven) regions and give them real administrative power, including competence over regional cultural policies. The same reason has speeded up the formation of 167 so-called small or micro-regions: these are not yet full partners of the central government, however, they have an increasing opportunity to apply for EU funds, also for cultural ends.

The one-chamber Parliament is in charge of legislation. In addition to its role in preparing laws, the Committee for Culture and Press and the Committee for Education and Science also fulfill supervisory functions by occasionally putting various issues of culture on its agenda. On the whole, however, the Parliament and its Committees have limited autonomy, in most cases reflecting the will of the government on the one hand and opposition parties on the other.

## **Hungary/ 2. Competence, decision-making and administration**

### **2.3 Inter-ministerial or intergovernmental co-operation**

Inter-ministerial co-operation is mandatory by government decree. There are no formal institutions to facilitate such governmental co-operation. The only exception is the National Development Office that co-ordinates the contributions of the respective ministries with regard to the National Development Plan.

## **Hungary/ 2. Competence, decision-making and administration**

### **2.4 International cultural co-operation**

There are currently 22 Hungarian cultural institutes in operation all over the world. They fall under a separate division next to the Ministry. The latest addition was the Hungarian Cultural Centre in Brussels in December 2004. These cultural institutes are responsible for promoting Hungarian culture abroad through exhibitions, lectures, concerts, etc. The government also supports participation in major international cultural events. More recently, a major emphasis has been given to concentrated strings of events, such as:

- "MAGYart", the Hungarian Cultural Season in France in 2001;
- "Ungheria in primo piano" (Hungary in highlight) in Italy in 2002;
- "Magyar Magic" in England in 2003-2004; and
- "Hongarije an Zee" in the Netherlands in 2004.

Similar seasons are planned for Russia in 2005 and Germany in 2006.

In addition to traditional bilateral international relations, the Ministry has nurtured multilateral co-operation with countries of the region within the framework of the Visegrad Four and the Central European Initiative. In 1990, Hungary became a member of the Council of Europe and entered the European Union in 2004. A Cultural Contact Point has been set up to deal with EU related questions and to give support to those wishing to apply for funding in the Culture 2000 programme. Its operation is instrumental. From 2000-2003, 9 project leader and 140 co-organiser and associated organisations from Hungary participated in C2000 projects.

## **Hungary/ 5. Main legal provisions in the cultural field**

### **5.1 General legislation**

The purpose of the newly expanded chapter 5 on legal provisions for culture is to provide you with a more indepth overview of the legal instruments used to support culture in the individual Compendium countries.

Chapter 5.1 provides you with information on those pieces of general legislation which have an important impact on culture, for example, articles in the Constitution of individual countries or legislation used to govern the allocation of public funds.

Chapter 5.2 provides a list as overview of the main legislation for culture. Some countries may have hundreds of laws while others may have only one "Culture Act".

Chapter 5.3 is sub-divided to provide you with information on sector specific legislation in the following fields: visual and applied arts; performing arts and music; cultural heritage; literature and libraries; architecture and environment; film, video and photography; culture industries; and mass media.

### **Hungary/ 5.1 General legislation**

### 5.1.1 Constitution

The Constitution has the usual obvious references to culture:

*Article 35.*

*(1) The Government shall -*

*f) define state responsibilities in the development of science and culture, and ensure the necessary conditions for the implementation thereof.*

*Article 66.*

*(1) The Republic of Hungary shall ensure the equality of men and women in all civil, political, economic, social and cultural rights.*

*Article 70/F.*

*(1) The Republic of Hungary guarantees the right of education to its citizens.*

*Article 70/G.*

*(1) The Republic of Hungary shall respect and support the freedom of scientific and artistic expression, the freedom to learn and to teach.*

Although the English translation of 70/F does not contain the word *culture* or the *arts*, this is the most often cited part in our context. For *education* the Hungarian original is *művelődés*, a term which is commonly understood broader than education proper (for which there are also more specific terms), and includes the activities of doing or "consuming" culture.

Nevertheless these passages have little direct impact on actual cultural phenomena in the country. The hundreds of resolutions of the Constitutional Court almost never touch upon them. If so, then not in a purely cultural sense: e.g. 70/G is sometimes consulted with regard to political statements or publications.

Similarly, the records of the activities of the parliamentary Ombudsman of civic rights contain negligible instances that only relate to cultural rights.

## Hungary/ 5.1 General legislation

### 5.1.2 Division of jurisdiction

There is a three tier system, between the national level and the over 3 300 municipalities the 19 historical counties which are gradually losing importance. However, they still have elected local governments, differently from the 7 regions formed to meet the criteria of the EU (see also chapter 7.1).

On legal obligations of local governments see chapter 5.3.4.

## Hungary/ 5.1 General legislation

### 5.1.3 Allocation of public funds

The legislative scene is in agreement with actual European standards with regard to spending public money. In the area of dispensing of public funds for culture, however, the picture is contradictory. On the one hand, there are laws that provide excessive obligations, while there are other opaque areas.

Examples of unnecessary administrative burden:

- for the receipt of grants from the National Cultural Fund it is not enough to declare that the cultural organisation has no public debt, original certificates are required from a couple of authorities on every single occasion; and
- in order to control payments to civic organisations, ministries are obliged to apply for the approval of the government over a certain amount of the grant. This causes delays, and apparently is a formal procedure only, judged by the lists put up on the web site of the Ministry at intervals of two or three months.

On the other hand, the budget of the Ministry contains vague items of considerable amounts. Here are a few examples from the budget of 2005:

- HUF 5 000 million (cca EUR 20 million, cca 6.2% of the cultural budget of the Ministry) serves "support to cultural corporations", i.e. the 19 public benefit companies owned by the Ministry, including two Budapest theatres, the National Philharmonic Orchestra, the National Cinema, several museums, the Royal Castle in Gödöllő and a huge 19th century fortress at Komárom.
- HUF 9 475 million (cca EUR 39 million, cca 11.8% of the cultural budget of the ministry) on expenses of running the new Palace of the Arts, built by the largest Hungarian real estate investor in a PPP scheme, in a process that was rather short of political and professional transparency, and which will house a concert hall and a contemporary art museum.
- A quarter of the HUF 9 600 million budget of the National Cultural Fund is for grants decided by the minister.

No wonder that the exact division of the Ministry funds between cultural sectors in 2005 is hardly possible before mid-2006, when the analytical report of the spending of the government is presented to Parliament.

## Hungary/ 5.1 General legislation

### 5.1.4 Social security frameworks

Hungary has gone a far way from the socialist era when nearly all cultural actors were either civil employees, or as members of the monolithic artistic associations enjoyed benefits comparable to salaried persons. The most difficult task has been to transform the system of health care and pension plans of the so-called "Art Fund", inherited from the communist period, to a new insurance system. The state guarantees the payment of old age support (de facto pension) to those artists and writers who had been paying members of the Art Fund before it was transformed into the Hungarian Public Foundation for Creative Art (Magyar Alkotóművészeti Közalapítvány, MAK) in 1992. The budget for 2005 of the culture Ministry contains a subsidy of HUF 1 252 million (ca. 5 million euros) (see also chapter 8.1.1).

It is estimated that over 75% of actors, dancers, musicians, arts organisers, technicians, designers and other cultural operators working for a variety of clients are now self employed, generally through companies called '*betéti társaság*' or Bt. This limited partnership company is simple and cost effective to set up and run. A Bt must have at least two signatories, one 'internal' and one 'external'. Social protection benefits are extended to the partners who sign the Bt, thus offering healthcare and other benefits for members of the same family, whether they are working or not.

Basic health care costs and maternity allowance are covered by the minimum social insurance payments.

Independents are not able to claim unemployment benefit. Sickness benefit may be covered by paying into a private insurance policy. Most independents in the cultural sector pay into a private pension fund to top up the state pension.

## Hungary/ 5.1 General legislation

### 5.1.5 Tax laws

There are two income tax rates for individuals: 16 and 38% from 2005. Taxes can be reduced by a maximum amount of HUF 50 000 (by about 200 euros) on income generated by copyright or other royalty payments. Donations for charitable purposes (including culture) can also be reduced from personal taxes.

State prizes, awards and fellowships are tax exempt; artists may claim material expenses on their income tax.

Company income tax is 16% with an additional 20% tax on dividend.

The so-called *non-profit Act (CLVI/1997)* promotes the operational conditions of third sector organisations and foundations. It includes tax incentives to facilitate the involvement of private support in supporting public goals. As a result of the bureaucratic regulations involved, these incentives have had little effect in practice. Improving the image of the brand by association with culture is the main motivation for sponsorship.

VAT is applied: 25% is to be paid on music recordings, 15% on periodicals, performing arts (including theatre tickets), handicraft products, film making, video lending, cinema, etc., whereas 5% for books, including textbooks. VAT registration is obligatory for undertakings, unless an individual tax exemption is granted, for those with an annual turnover under four million HUF.

Artists pay their taxes in the same way as any other citizen, but the majority of free-lances are recognised as "*betéti társaság*", the simplest form of business companies. A significant innovation in the fiscal system radically simplified the administration and taxation of small enterprises (called EVA: simplified enterprise tax), which is beneficial for many artists and self-employed cultural operators.

Under EVA, small businesses such as Bts are not required to record their expenses but are taxed a flat rate of

15%. This compares favourably with the general income tax rate of 25% and eliminates the need for keeping receipts and accounting for deductible professional expenses. On the other hand, those who charge VAT are not able to reclaim VAT on their expenditure. In fact, no record is required about business expenditure: finished is the collection, storing and book-keeping of bills and accounts. Since the introduction of EVA the amount of tax collected by the authorities has increased.

There is another speciality in the Hungarian tax system. When taxpayers submit their annual tax return, they can allocate 1% of their income tax to a non-profit company of their choice. The options include charities and some cultural organisations. For more information see chapter 8.1.3.

## Hungary/ 5.1 General legislation

### 5.1.6 Labour laws

The minimum monthly wage from January 2005 is HUF 57 000 (about EUR 230). The average net income is about double this amount.

Social partnership functions relatively effectively on the national level and on large scale, e.g. between the government and civil employees. It is less so, or even non-existent, in respective cultural sub-sectors.

Labour conditions of civil servants and civil employees are regulated by the acts on civil service and on public finances. They contain the detailed schedules and criteria of salaries and wages – with many direct references to cultural and artistic jobs. These are updated each year, in which the trade unions of the respective cultural sectors take an active part.

As was described in chapter 5.1.3, the major part of cultural workers acts in the frames of a *betéti társaság* (Bt). Bt is also used by employees receiving a regular wage who do occasional freelance work.

It is also possible to register as self employed under the normal statute. However, this is seen as more complicated, more expensive and adapted for higher paid self employed people with regular work and paying higher taxes.

In some of the national cultural institutions a two-tier salary system operates with some artists on full time contracts, albeit at a very low salary, while other artists are self-employed and able to generate higher earnings in a variety of ways.

There are some provisions in the pensions system to permit performers to retire early, e.g. dancers and some other performing artists under certain circumstances.

There are no specific provisions concerning the involvement of volunteers that are relevant to culture.

## Hungary/ 5.1 General legislation

### 5.1.7 Copyright provisions

Hungary follows the continental, *droit d'auteur* tradition. The new *Copyright Act LXXVII/1999* closely observes requirements of the *acquis* of the European Union.

The duration of protection was extended up to 70 years after the death of an author by the new Act.

The law of 1999 specifies the rights attached to transmitting and downloading via Internet.

This law introduced reprography right, and led to the establishment of the Hungarian Reprographic Association (RSZ) that collects and distributes reprography fees. Schools and public libraries are exempt from paying this fee. Fees are paid by the importers and manufacturers of copy machines and related equipment; the RSZ has been trying to extend the obligation to printers, so far without success. The various categories of fees are annually determined by the culture minister.

The same system has been in effective use with regard to fees connected to public performances of literature and music. Fees are contained in a complex table with over 400 grids by various criteria. Examples on daily fees in 2005: HUF 1 855 (ca. 7.5 euros) must be paid by night clubs at tourist resorts with seasons shorter than three months; at the other end HUF 175 (ca. 0.7 euros) is due from confectionaries and ice-cream shops in settlements with less than 1 000 inhabitants. These amounts are 20% higher if multiple-choice slot-machines are in operation; 60% higher in case of live music (30% only if at least two musicians are lawfully employed).

Levies to be paid on the sale of blank cassettes was introduced in 1994. Subsequently new items have been added: CD, DVD, MP3 etc; for example the fee for the latter is HUF 530 (ca. 2.1 euros) per 32 MB in 2005.

## Hungary/ 5.1 General legislation



### 5.1.8 Data protection laws

Hungarian data protection laws and their implementation are rather strict. Among others, there is a special Ombudsman for data protection, who (both the actual and the previous, first person to fulfil this office) has been vigilant and active. This, for example, has led to tensions in the work of our archives during the process of attempting to identify victims of the Jewish Holocaust.

### Hungary/ 5.1 General legislation

#### 5.1.9 Language laws

*Act 2001/XCVI* was passed aiming to limit the use of foreign expressions especially in commercial advertisements. The proposal was followed by a lively debate in the press, but very little information is available as to the implementation of the law.

### Hungary/ 5.2 Legislation on culture

In Hungary, there is no comprehensive law on culture or art. *Act CXL/1997* is often referred to as the "law on culture", but in fact it regulates libraries, museums and local socio-cultural activities only. The annually renewed Acts on the budget, on taxation and on regulating the competency of local governments have a pivotal role to play. The Acts on public finance and public servants pertain to the operation (creation and winding up) of publicly owned cultural institutions.

The Act on companies also plays an increasingly important role. A few years ago, the status of "*public benefit company*" or "*kht*" was created, which makes it possible to set up non-profit economic enterprises, and an increasing number of cultural institutions are transforming themselves into such "businesses"; most of newly founded cultural institutions choose this status. Similarly, public foundations are also a recent formation, the operation of which is basically regulated by the Civil Code.

*Act XXIII/1993* on the National Cultural Fund stipulates a cultural contribution of usually 1% to be paid on certain cultural goods and services, including on advertisements, which is the most important source. Each year, between HUF 8-10 000 million are collected. A quarter is reserved for the discretion of the minister, the rest is spent according to the guidelines of the main board, and actually administered by 16 professional boards.

*Act CXXVII/1996* on "1%" has evoked great attention outside the country as well. According to its stipulations individual taxpayers may direct 1% of the income tax paid in the previous year to a non-profit organisation by indicating its tax identification number. (Similarly, another 1% can be directed to a religious denomination.)

### Hungary/ 5.3 Sector specific legislation

#### 5.3.1 Visual and applied arts

Information is currently not available.

### Hungary/ 5.3 Sector specific legislation

#### 5.3.10 Other areas of relevant legislation

The *Act on Companies* also plays an increasingly important role. A few years ago, the status of "public benefit company" or "*kht*" was created, which makes it possible to set up non-profit economic enterprises, and an increasing number of cultural institutions are transforming themselves into such "businesses", similarly most of the newly founded cultural institutions choose this status. Public foundations are also a recent formation, the operation of which is basically regulated by the *Civil Code*.

### Hungary/ 5.3 Sector specific legislation

#### 5.3.2 Performing arts and music

Information is currently not available.

### Hungary/ 5.3 Sector specific legislation

#### 5.3.3 Cultural heritage

Acts on archaeological, built and movable cultural heritage were passed in 1997, whereas the *Act on Archives* was

passed in 1995. These acts define the specific ownership requirements of state, local government and private (including Church) enterprises, and stipulate the rules for the protection and utilisation of heritage. In 2001, a new Act was passed on the *protection of cultural heritage*, covering the areas of archaeology, built heritage and protection of movable objects. Earlier institutions fused into a new national authority for the protection of cultural heritage, with eight regional offices. A few new items have been added to the collection of legal instruments in the service of protection.

A major addition to the legislation on, and also the system of safeguarding cultural heritage, was the Act on the National Audio-visual Archive (NAVA) passed in autumn 2004 (see also chapter 4.2.7).

As another important new element, the central budget for 2005 determined an amount up to which the Minister of Finance may take security guarantee for the insurance of major cultural exhibits in the country. This amount is equivalent with more than a third of the cultural budget of the government and constitutes about one fifth of all kinds of government guarantees in 2005.

## **Hungary/ 5.3 Sector specific legislation**

### **5.3.4 Literature and libraries**

Hungary has no law to support literature, although upon the successful culmination of over 15 years of work on the Act on films all writers' associations combined their strength for a short lived, intensive yet failed attempt to achieve a similar Act on Literature.

The cause of libraries, however, is regulated in detail by *Acts CXL/1997 and XX/1991*, the latter stipulating that local governments are obliged to assure library supply, with special regard to youth and cultural minorities. In settlements with a few hundred inhabitants only the local governments fulfil this obligation by reaching joint agreements with neighbouring towns or villages.

## **Hungary/ 5.3 Sector specific legislation**

### **5.3.5 Architecture and environment**

Information is currently not available.

## **Hungary/ 5.3 Sector specific legislation**

### **5.3.6 Film, video and photography**

A significant achievement was the passing of *Act L/2003* on Motion Pictures, commonly called the Film Law. It established a national Co-ordinating Council and a Film Bureau. The law reinforced the role of the Hungarian Public Foundation for Motion Pictures (MMA) in distributing state subsidies, the amount of which (against expectations of the trade) is not specified by the law; in 2005 the MMA budget is HUF 3 839 million (ca. 15 million euros), almost a quarter less than in 2004.

A new feature of the law is the system of automatic (called "normative") subsidy given retroactively to filmmakers who have met certain targets set upon their previous creations; also to distributors of Hungarian or art films – this category is determined by the Film Bureau.

The greatest expectations are attached to passing of a tax exemption which would offer film makers 50% company tax relief, as well as tax exemptions after their state subsidies. The construction of a large film studio in the countryside by a US-Hungarian joint venture has already been announced.

## **Hungary/ 5.3 Sector specific legislation**

### **5.3.7 Culture industries**

See chapter 5.3.6 for films and chapter 5.1.5 on lowering VAT on books.

## **Hungary/ 5.3 Sector specific legislation**

### **5.3.8 Mass media**

The most important regulations concerning radio and television broadcasters are the following:

- content quotas for Hungarian programmes produced in Hungary by private and public radio stations are

15% and 30% respectively;

- content quotas for Hungarian programmes produced in Hungary by private and public television stations is 20% and 51% respectively (annual average, not including advertisements, news, sports broadcast and quizzes), quotas for programmes of European origin are 70% in the case of public television;
- a minimum of 20% of films broadcast by the public televisions should have Hungarian participation in them; and
- a minimum of 6% of the income from television advertisement should be spent on domestic film production.

## Hungary/ 5.3 Sector specific legislation

### 5.3.9 Legislation for self-employed artists

There are no special laws on the arts or artists. The specific exemptions and conditions referred to in chapters 5.1.4 through 5.1.6 are included in the general legislation on social insurance, taxes and labour.

## Hungary/ 6. Financing of Culture

### 6.1 Short overview

As in other former communist countries, the process of transition has caused a crisis in the system of financing for culture. In addition to the decreasing GDP and reduced state budget, the population has shown less interest in culture and the arts during these years of reorientation. The main channels of financing are, however, becoming more stable and in some fields there has been a certain increase of resources (such as the protection of monuments where new forms of investment is notable).

## Hungary/ 6. Financing of Culture

### 6.2 Public cultural expenditure per capita

Cultural expenditure per capita in the central budget for 2004 is HUF 9 112 or USD 39.5 (ca. 35.7 euros). That corresponds to about 0.5 % of the projected GDP.

## Hungary/ 6. Financing of Culture

### 6.3 Public cultural expenditure broken down by level of government

The state expenditure for culture in the budget for 2004 is HUF 92.92 thousand million (ca. 364 million euros) corresponding to 1.53% of the over-all state budget.

**Table 3: Public cultural expenditure: central government, 1991-2004**

	1991	1995	2000	2003	2004
Central cultural budget, billion HUF	10.31	21.57	71.28	79.40	92.92
Percentage of culture in central budget, %	1.11	1.11	1.88	1.50	1.53
Percentage of cultural budget related to GDP, in %	0.41	0.38	0.55	n.a.	n.a.
Central cultural budget per capita, HUF	995	2 106	7 097	7 787	9 112
Real value of cultural budget (1991 = 100)	100	91.2	149.3	n.a.	n.a.
Central cultural budget, USD million	137.8	171.6	252.5	360*	400*
Central cultural budget per capita, USD	13.3	16.8	25.1	35.5	39.5
Share of investment and reconstruction in %	16.0	23.0	39.6	n.a.	n.a.

Source: Collection of the Regional Observatory on Financing Culture in East-Central Europe from the yearly Parliamentary Acts on the Central Budget.

\* Estimated values: final data based on median annual exchange rates.

The figures in Table 3 include the resources of the National Cultural Fund, which is the main public source of

funding for cultural projects. In 2003, the Fund disposed of HUF 7.5 billion. It is a quasi independent institution with its own administration comprised of a staff of about thirty people. Its President reports to the Minister; but the actual financial decisions are taken in the 13 expert committees (for theatre, libraries, etc.). The Minister has the right to distribute funds upon his own discretion up to 25% of the resources of the Fund. This rate was 50% until 2002 but in fact the Ministers never came close to that ceiling: in 2003 the minister spent HUF 1.7 billion (about 22%).

## Hungary/ 6. Financing of Culture

### 6.4 Sector breakdown

Table 4: Public cultural expenditure by sector, by level of government, 2003

	HUF '000 million			Euros million			% share of sectors			% share of levels		
	P & L	C	Total	P & L	C	Total	P & L	C	Total	P & L	C	Total
Museums and archives	13.081	16.469	29.550	53.4	67.2	120.6	21	35	27	44	56	100
Libraries	11.917	10.002	21.919	48.6	40.8	89.5	19	21	20	54	46	100
Music	333	7.772	8.105	1.4	31.7	33.1	1	17	7	4	96	100
Performing arts	22.385	3.872	26.257	91.4	15.8	107.2	36	8	24	85	15	100
Socio-cultural activities	14.595	4.483	19.078	59.6	18.3	77.9	23	10	17	77	23	100
Other	176	4.066	4.242	0.7	16.6	17.3	0	9	4	4	96	100
<b>Total</b>	<b>62.487</b>	<b>46.664</b>	<b>109.151</b>	<b>255.0</b>	<b>190.5</b>	<b>445.5</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>57</b>	<b>43</b>	<b>100</b>

Source: 2003. évi beszámoló; Annual reports of the Hungarian State Treasury

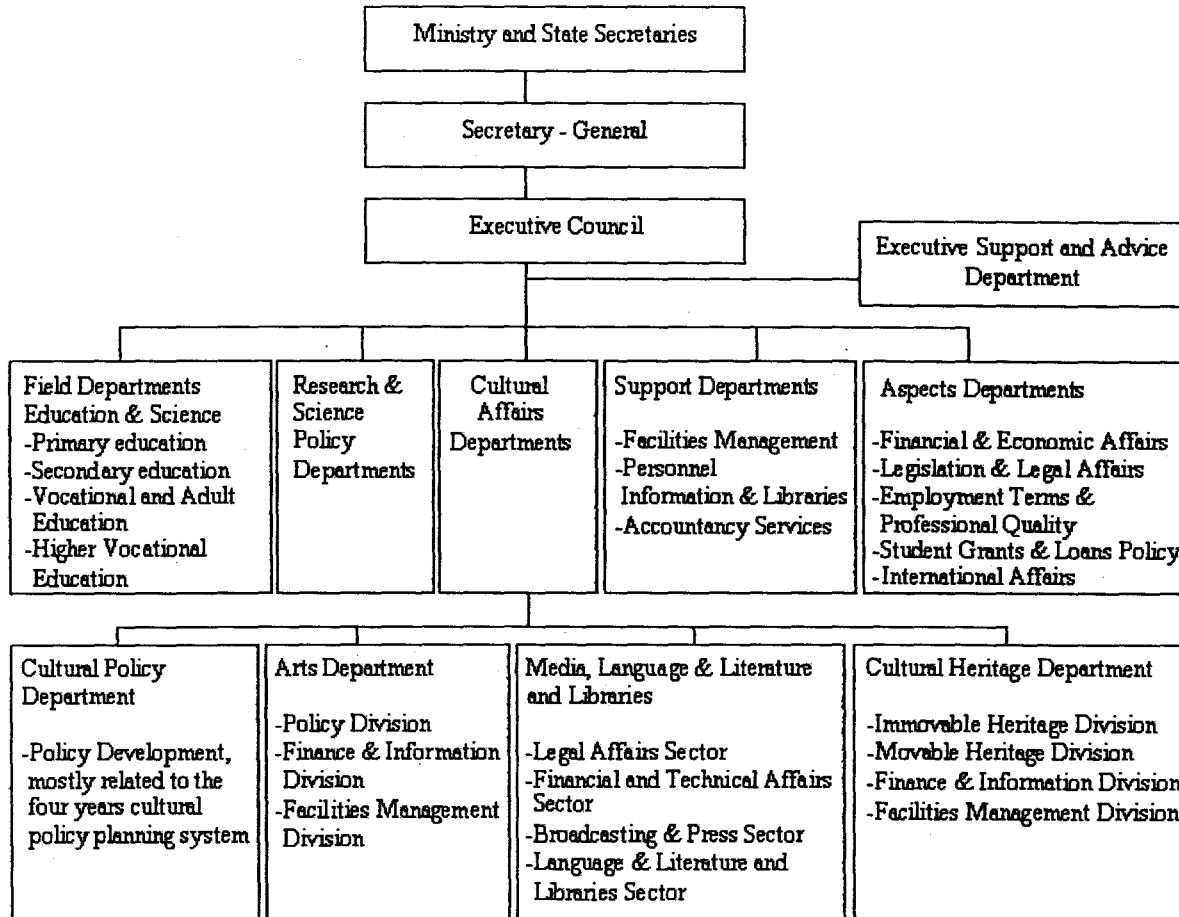
Notes: P&L = Provincial and Local governments, C = Central government

The Council of Europe/ERICarts "Compendium of Cultural Policies and Trends in Europe, 6th edition", 2005



Netherlands/ 2. Competence, decision-making and administration

2.1 Organisational structure (organigram)



Netherlands/ 2. Competence, decision-making and administration

2.2 Overall description of the system

Public governance in the Netherlands is organised in a three layer system: central government, provincial government and municipal government. Everywhere a system of dual responsibilities prevails: parliament, county councils and local council have the right to amend the financial and governmental doings of the Cabinet, Provincial Deputies and of the Mayor and Aldermen. In everyday life cultural policy, initiatives are taken by the governing bodies, in most cases after consulting the official advisory bodies. Parliament and councils have give their consent to these initiatives (or not) after public discussion . Most important moment in decision making is discussing and fixing the year budget for the coming year.

In preparing and fixing regulation, laws and cultural policy programs, central government takes the lead in cultural matters, although it covers only one third of all expenses related to art and culture. Major cultural institutes like the Royal Library, the National Archive, the Netherlands Heritage Institute, a number of larger national museums, the and almost all educational facilities like conservatories and other higher art education institutes are closely related to state government. The main task to be taken care of by central government is to guarantee a sound performance of these institutes and companies. Central government also subsidizes several hundreds of performing arts companies, visual art institutes, all kind of artistic initiatives and a number of infrastructural institutes and expertise centres. Next to arts and cultural heritage, central government is the first responsible for the national public broadcasting system.

Municipalities and provinces, spending almost two third of the national budget on arts and culture, add to the central government by taking care of distribution and mediation between local and regional supply and demand.

The majority of Dutch museums is financially dependent on municipalities. Public cultural facilities like libraries are decentralised in the Netherlands. Central government only supports libraries by funding an expertise centre.

In order to understand the Dutch cultural policy system better, it is important to pay attention to four key issues: the relationship between state and other levels of government, the role of advisory committees, the role of funding bodies in the arts and, to start with, the introduction of law-based regulations for planning cultural policy four years ahead.

The *Cultural Policy Act* (Special Purpose Funding) [*Wet op het specifiek cultuurbeleid 1993*] determines aspects of cultural policy, such as the government's obligation to submit a cultural policy plan to parliament every four years. This four-year plan outlines activities for the forthcoming period as well as reviewing achievements from the previous period. Furthermore it regulates the government's option to issue subsidies to provinces and municipalities.

In the early 1970s, a debate began concerning the issue of decentralisation. In the 1980s, the division of tasks among the state, the provinces and the municipalities was reconsidered, in order to increase the efficiency of public cultural policy. The performing arts, for example, were centralised. A system of mixed responsibilities came to an end and the state took full responsibility for maintaining symphony orchestras, including regional orchestras, and performing arts groups with a national reach. Apart from a small number of state museums, museums in general were placed under the responsibility of municipalities and provinces. The same applied to libraries and archives. The Royal Library and the Netherlands Archive in The Hague are supported by the state. In addition, a number of infrastructural and umbrella organisations receive subsidies in order to provide support and other culture-related activities.

In a more general sense, the *provinces* were given the task of spreading, regulating and maintaining the supply of culture at a provincial level. The municipalities bore responsibility for maintaining the various venues and facilities and for scheduling performances. In practice, however, this division of tasks was not always applicable and centralisation and decentralisation tendencies became intertwined.

At present, *municipalities and provinces* are partners in a number of national cultural policy programmes. Since 1997, joint financing agreements between central government, regions and cities have been made for shared activities. These are mostly implemented by institutions, but shared responsibility is also taken in specific participation policy schemes. The partners involved are the eight covenant partners, as they are called, including the three largest cities, Amsterdam, Rotterdam and The Hague and five clusters of provinces and bigger cities: Central Netherlands [*Midden Nederland*], Northern Netherlands, Eastern Netherlands, Southern Netherlands and Western Netherlands.

The original principle of the Dutch government remaining neutral in assessing arts issues is still intact. The government is expected to focus solely on policy issues, which is the reason why the government leaves decision making about the arts mainly to various committees of independent experts.

The Culture Council (until 1995, the Arts Council) is a separate body that cooperates with the government on formulating policy. While the government is no longer (since 1997) obliged to consult the Council, a healthy amount of cooperation remains between the government and the Council.

Advisory bodies also exist at municipal and provincial levels including, for example, the Amsterdam Arts Council. At the provincial level, there are several cultural councils, whose tasks are usually advisory but which are occasionally involved in consultations, supply and demand mediation, support and public information activities.

The State Secretary of Culture frequently appoints external committees and private consultants to advise on politically and administratively charged reorganisational issues. In the 1980s, for instance, special committees were appointed to advise on restructuring the state policy on theatre, dance and music. In 1993, an expert report was produced, "Stimulating the Audiovisual Production in the Netherlands", which greatly influenced restructuring in the film sector.

There are several public and semi-public funds that have traditionally supported the creative arts. The national governments responsibility goes no further than furnishing money and determining the specific conditions under which the fund must operate. The parliament has the final word when it comes to the size of the budget. Some examples are the Literature Fund, the Mondriaan Foundation and the Fund for Visual Arts, Design and Architecture. The Cultural Council evaluates the funds every four years. A full list of operating funds can be found in chapter 7.1.

## Netherlands/ 2. Competence, decision-making and administration

### 2.3 Inter-ministerial or intergovernmental co-operation

Since Cultural Affairs are only a small and relatively unimportant issue in the central government, the State Secretary of Culture is highly dependent on cooperation with other ministries. Negotiations with the Ministry of Financial and Economic Affairs have to be undertaken constantly in order to safeguard the interests of the arts and culture. In principle all kind of contacts between ministries are possible. In some cases, committees for

interdepartmental co-operation are installed – the duration of their existence may vary enormously.

Some examples of inter-ministerial or inter-governmental cooperation are:

- the Dutch Ministry of Housing, Spatial Planning and the Environment has established a subsidy scheme which sets aside a percentage ranging from 0.5 to 2% of the building costs for public buildings to commission or purchase works of art intended to furnish and decorate the relevant building. This Ministry works closely together with Dutch Ministry of Transport, Public Works and Water Management with respect to historic buildings and sites and architectural policy;
- belvedere, a 1997 policy document concerning the relationship between the history of culture and spatial planning as a joint project of the Ministry of Education, Culture and Science; the Dutch Ministry of Agriculture, Nature and Food Quality and the Ministry of Housing, Spatial Planning and the Environment;
- the Dutch Ministry of Economic Affairs makes a limited contribution to cultural events and projects related to export and the promotion of tourism. Until recently, the Ministry facilitated a tax exemption measure for private investors wanting to invest in films, see chapter 5.3.3;
- the Dutch Ministry of Foreign Affairs bears a share of the responsibility for international cultural relations. Cultural delegates at the embassies, for example, represent Dutch culture abroad, activities carried out within the Council of Europe and UNESCO, but also bilateral cultural relations. There is also cooperation between the Ministry of Foreign Affairs and the Ministry of Education, Culture and Science to stimulate international cultural projects, the HGIS funds, as they are called. These funds are used for projects that strengthen the international aspect of Dutch cultural policy. In 2004, approximately EUR 11 million were made available. In September 2004, a budget reduction of approximately 20% was announced;
- the Dutch Ministry of Justice takes care of the concessionary system of private lotteries. About 8% of the total budget transferred to good causes through private lotteries goes to art and culture, approximately EUR 30 million in 2003. This Ministry is also responsible for copyright legislation;
- the Dutch Ministry of Finance is involved in cultural policy through tax incentives, see chapter 5.1.5; and
- the Dutch Ministry of Public Health, Welfare and Sports coordinates all activities related to volunteering, including education and culture. A policy document was launched in 1999. A financial regulation was also introduced and recently it was confirmed that the programme will last until 2005. Due to budget reductions, however, new projects will not be accepted from September 2004 onwards. The regulation enables provinces and municipalities to spend money on supplementary and innovative voluntary projects. Tax law permits volunteers to receive an annual tax-free expense allowance of up to EUR 667 (indexed on 1 January 2000). Up to this amount, volunteers do not need to account for expenses. Costs above this amount may be reimbursed, but it has to be proved that these costs were incurred. Voluntary organisations may accept tax-free donations under special conditions. Fundraising is exempt from tax up to EUR 31 766 (indexed on 1 January 2000).

## Netherlands/ 2. Competence, decision-making and administration

### 2.4 International cultural co-operation

The Ministry of Foreign Affairs and the Ministry of Education, Culture and Science support international cultural policy, both financially and as regards substance. The international cultural policy frameworks for the current four-year period were put in place in 2004. On that occasion, the principle of geographical and thematic concentration was confirmed. Priority was assigned to EU member states, Russia, the United States, Canada, Japan, Turkey, Morocco, Egypt, Surinam, South Africa and Indonesia. In the border regions (Germany, Belgium), several forms of international cooperation exist. In 1995, a Treaty was concluded with Flanders for educational, scientific and cultural purposes (Treaty of Antwerp, 1995).

A larger separate culture budget for international activities is available via the Netherlands Culture Fund [*HGIS-C gelden*]. This fund is governed by the policy priorities of the four-year plan including cultural diversity, cultural entrepreneurship and audience-reach.

The Service Centre for International Cultural Activities SICA [*Stichting Internationale Culturele Activiteiten*] was set up in 1999 to coordinate and advise on the activities of Dutch cultural organisations abroad. SICA plays a role in promoting coordination and cooperation between institutions, providing information and evaluation, as well as organising international cultural manifestations. This Centre has also been designated as the European Cultural Contact Point (CCP) with the specific remit of encouraging and assisting individuals and organisations to make successful applications to the EU framework programme Culture 2000.

The Netherlands participates in multilateral cultural relationships through its membership of the BENELUX, the European Union, the Council of Europe and the United Nations (Unesco). Its membership of the World Trade Organisation is also relevant where the cultural aspect of international trade is at stake.

Recently, the Netherlands joined the European project 'CinemaNetEurope' which promotes its domestic audiovisual industry by digitally distributing films to non-commercial cinema houses. Because of the quota system linked to the project, it was welcomed with some reservation. There were also doubts about the film picture quality,

missing the specific celluloid characteristics. It is expected that these initial problems will be overcome within five years.

A proposal was recently put forward by the State Secretary of Culture and the Minister of Justice to sign up to the 1970 UNESCO treaty to prohibit illegal international art trade. Until 2004, it was expected that the Netherlands would ratify the UNIDROIT treaty to attain the same goal. During the Dutch presidency of the EU (July-December 2004), special attention has been paid to culture and media in a European context.

More detailed information on the position of the Netherlands within official and non-official European networks can be found in a report (2003) on this subject drawn up by Interarts (Barcelona) and EFAH (Brussels) and commissioned by the EU.

## **Netherlands/ 5. Main legal provisions in the cultural field**

### **5.1 General legislation**

The purpose of the newly expanded chapter 5 on legal provisions for culture is to provide you with a more in-depth overview of the legal instruments used to support culture in the individual Compendium countries.

Chapter 5.1 provides you with information on those pieces of general legislation which have an important impact on culture, for example, articles in the Constitution of individual countries or legislation used to govern the allocation of public funds.

Chapter 5.2 provides a list as overview of the main legislation for culture. Some countries may have hundreds of laws while others may have only one "Culture Act".

Chapter 5.3 is sub-divided to provide you with information on sector specific legislation in the following fields: visual and applied arts; performing arts and music; cultural heritage; literature and libraries; architecture and environment; film, video and photography; culture industries; and mass media.

## **Netherlands/ 5.1 General legislation**

### **5.1.1 Constitution**

Two articles of the *Grondwet* (Dutch Constitution) are relevant to the cultural field:

- *Article 22, Part 1*, states that the government is assigned to create adequate conditions for cultural development for all citizens; and
- *Article 7*, protects freedom of speech.

## **Netherlands/ 5.1 General legislation**

### **5.1.2 Division of jurisdiction**

There is no law-based division of responsibilities between central government, provinces and municipalities. In the *Monumentenwet* (Dutch Monuments and Historic Buildings Act), the *Archiefwet* (Public Records Act) and the *Wet op de inkomensvoorziening voor kunstenaars* (Artists' Income Scheme Act), specific tasks and competences for municipalities and provinces are indicated.

Apart from these laws, municipalities are free to develop cultural policy in whatever direction. On the other hand, the Minister (or State Secretary) of Culture is obliged to consult provinces and municipalities before sending the four-year cultural policy documents to parliament. As part of this process, a contract system has been developed to coordinate cultural policy initiatives launched by the three levels of government, for example the Cultural Outreach Action Plan (see chapter 8.3). For more information see chapter 2.2.

## **Netherlands/ 5.1 General legislation**

### **5.1.3 Allocation of public funds**

In the *Cultural Policy Act* (1993), Section 9 enables the Minister to create Funds to finance the arts and culture. These Funds operate at arm's length and the Minister only decides about the quantity of money reserved for them.

Domestic legislation is laid down in the *Begrotingswet* (Budget Act), which stipulates that all public spending should be annually approved by Parliament. Due to special laws, long-term subsidies in culture are in principle possible. According to EU legislation, the compulsory tendering for larger funds is also applicable to culture and architecture.



## Netherlands/ 5.1 General legislation

### 5.1.4 Social security frameworks

General laws (including social security legislation) related to independent entrepreneurs also apply to artists. Specific regulations are indicated in the *Artists Income Scheme Act 1998* (see chapter 5.3.9).

In the *Werkloosheidswet* (Dutch Unemployment Insurance Act), an exception is made for freelance artists. Acceptance criteria (based on the period of unemployment) are less severe for freelance artists in comparison with other professions.

## Netherlands/ 5.1 General legislation

### 5.1.5 Tax laws

Businesses as well as private individuals can profit from tax exemption regulations. This applies both to sponsoring activities and gifts, see chapter 4.2.10.

The system of VAT is divided into three rates: a high rate of 19%, a low rate of 6% and a 0% rate. European legislation allows the member states to charge the low VAT rate on show tickets, theatres, circuses, funfairs, amusement parks, concerts, museums, zoos, cinemas, exhibitions and similar cultural events and venues. In 1993, the Netherlands lowered the VAT rate on cinema tickets, admission tickets to public museums (and on the sale of catalogues, photographs and photocopies produced by these museums), theatres and concert halls. Artists who work on commission, such as text writers, composers of advertising jingles, architects and designers, all charge the higher VAT rate.

Tax authorities consider that certain forms of subsidy are subject to VAT. However, the Ministry of Finance determined that subsidies arising from the *Bekostigingsbesluit cultuuruitingen* (Dutch Cultural Projects Funding Decree) would not be subject to VAT. This decree covers all subsidies granted by the Ministry of Education, Culture and Science on the grounds of the *Cultural Policy Act* (Special Purpose Funding), including subsidies furnished by the cultural funds set up by this Ministry.

## Netherlands/ 5.1 General legislation

### 5.1.6 Labour laws

There are many collective bargaining agreements [*collective arbeidsovereenkomst* – CAO] in the performing arts and more generally in the cultural sector. CAOs are labour-agreements between employers and employees. This means that a CAO only applies to employees who are working with an employer. When this is not the case, the national legal agreements are enforced. The existing CAOs are used mostly in broadcasting, cinema, public libraries, arts training, performing arts / television, subsidised theatre, orchestras, mime, dance, independent museums. Special trade unions exist to enforce or monitor these agreements.

Almost all art and cultural institutions are organised in the Culture Federation [*Federatie Cultuur*], an umbrella employers organisation which monitors the results of annual collective bargaining with respect to work and related conditions between the large Dutch unions, central government and the employers organisations.

Tax law permits volunteers to receive an annual tax-free expense allowance of up to 667 euro (indexed on 1 January 2000). Up to this amount, volunteers do not need to account for their expenses. Costs above this amount may be reimbursed, but it has to be proved that these costs were incurred (see chapter 2.3).

## Netherlands/ 5.1 General legislation

### 5.1.7 Copyright provisions

The Minister of Justice is responsible for copyright legislation. All laws are extensions of the *Auteurswet (1912)* (Dutch Copyright Act, 1912). Due to changes in the art world, these extensions became necessary.

*Systems of author's rights / droits d'auteur*

The *Dutch Copyright Act* was passed in 1912. It enables the creator of a work of literature, science or art to earn a reasonable income. It was considered to be an important contribution to the flourishing of such fields in the Netherlands.

Recently (2003), the State Secretary of Culture reminded policymakers that the effects of copyright are voluminous (in the financial sense) enough for developing a culture political vision on its consequences for the makers and users of artistic and cultural products. Copyright relating to the digitalisation of state collections, in particular, is in the process of being regulated.

*Blank tape levies*

The Reproduction Rights Organisation [*Stichting Reprorecht*] has been responsible for collecting copying fees since 1988. Authors and publishers of educational and academic publications, including magazines or journals, are the main recipients of these fees. The copyright act allows private parties to make photocopies for private practice and study. When the cassette recorder and video recorder made it possible for private parties to copy sound recordings and broadcast programmes on an unprecedented scale, it became clear that some form of compensation was required. This led to a tax on blank audiotapes and videotapes in 1991 collected by the Home Copy Association [*Stichting de Thuiskopie*] which distributes the moneys among the copyright owners.

In 1993, the *Dutch Neighbouring Rights Act* came into force. This act protects creative achievements of performing artists, music producers and broadcasting associations.

*Public lending rights*

In 1996, a public lending right was enacted which allows copyright owners to receive a fee for the loan or lease of their works. In the case of commercial hire, the copyright owner may determine the size of this fee. In the case of public libraries, the state determines a fixed fee. Moneys are collected and redistributed by the Public Lending Right Office [*Stichting Leenrecht*].

**Netherlands/ 5.1 General legislation****5.1.8 Data protection laws**

In 1996, the European guidelines on databases were adopted. In the Netherlands, these guideline were implemented into national law in 1999 (*Databankenwet*). The law can be seen as an extension of copyright regulation.

**Netherlands/ 5.1 General legislation****5.1.9 Language laws**

In 1980, the Dutch Language Union [*Nederlandse Taalunie*] came into being. It implements an intergovernmental treaty between the Netherlands and the Flemish Community which aims to integrate the Dutch and Flemish community as far as the Dutch language is concerned, see also chapter 4.2.3.

Frisian is one of the official languages of the Netherlands that is used in budget planning exercises, in the National Education Examination Programme and in official parliamentary reports, see also chapter 4.2.3.

**Netherlands/ 5.2 Legislation on culture**

The *Cultural Policy Act* (Special Purpose Funding) of 1993 was considered a milestone in the legal basis of Dutch policy. It defined and redefined a number of aspects of cultural policy. This Act was needed to ratify specific payments by the government to local authorities and national cultural funds. It also regulates specific policy and financial relations with provinces and municipalities. The *Cultural Policy Act* focuses on long term (four years) subsidies meant for arts and cultural institutions (see chapter 3.1). Short term subsidies (mostly one year) are administered by funds (see chapter 8.1.1).

**Netherlands/ 5.3 Sector specific legislation****5.3.1 Visual and applied arts**

The Ministry of Housing, Spatial Planning and the Environment has established a subsidy scheme which sets aside a percentage ranging from 0.5 to 2% of the building costs for public buildings to commission or purchase works of art. See also chapter 2.3.

**Netherlands/ 5.3 Sector specific legislation****5.3.10 Other areas of relevant legislation**

Information is currently not available.

**Netherlands/ 5.3 Sector specific legislation****5.3.2 Performing arts and music**

To preserve the rights of performing artists, the *Wet op de naburige rechten (Dutch Neighbouring Rights Act, 1993)* was introduced in the Netherlands.

## Netherlands/ 5.3 Sector specific legislation

### 5.3.3 Cultural heritage

Several laws exist, the most important ones are listed below:

- 1985 *Cultural Heritage Preservation Act*: this act aims to prevent the export of objects that are significant to Dutch cultural history. One illustration includes a dispute between a manager and the staff of the Boijmans van Beuningen Museum. The manager was planning to sell a Rothko painting to a private person. His staff disagreed sharply, pointing out the existence of the Act. In the end, the painting was not sold;
- 1988 *Monuments and Historic Buildings Act*: legally the preservation of monuments is the government's task, albeit indirect, as care for monuments and historic buildings is the responsibility of municipalities and private institutions;
- 1995 *Public Records Act*: stipulates that all government records must be transferred to the Dutch State Archives Services and be kept for fifty years; and
- within the framework of the *Valletta Treaty*, archaeological monument care and heritage preservation will be integral parts of overall environmental planning practices.

## Netherlands/ 5.3 Sector specific legislation

### 5.3.4 Literature and libraries

For information on copyright, see chapter 5.1.7.

A law prepared to continue the fixed book price system [*vaste boekenprijis*] in the Netherlands was accepted by the Lower House in October 2004. Only the liberals voted against this measure. An exception was made for school books, for which publishers are free to fix the price (see chapter 5.3.6 and chapter 7.3). The continuation or otherwise of the fixed book price was recently decided by the members of the Senate.

A specific act on libraries was abolished in 1987 due to general political ideas on governmental decentralisation. During the decentralisation process, prime responsibility for public libraries was transferred to the municipal governments. Subsidies coming from the central government are only meant for stimulating expertise and policy development.

## Netherlands/ 5.3 Sector specific legislation

### 5.3.5 Architecture and environment

The aesthetic aspect of the built environment is protected by the 1992 *Woningwet (Dutch Housing Act)*, regulating and controlling the aesthetic standard of building activities.

## Netherlands/ 5.3 Sector specific legislation

### 5.3.6 Film, video and photography

In 1997, the censorship system was replaced by a new approach to protect minors against violence and related issues on the screen; namely a system of self-regulation developed by the Netherlands Institute for the Classification of Audiovisual Media.

In 1999, the Ministry of Education, Culture and Science and the Ministry of Economic Affairs agreed on the introduction of a tax exemption measure for private investors wanting to invest in films. It was expected that this measure would encourage private investors to support cultural enterprises and generate profits on their investments. In practice, this meant that investors supported mainstream film productions; art films and documentary films were less attractive. In general, however, the tax exemption measure was welcomed by filmmakers, because it improved the situation of the Dutch film industry as a whole.

In 2003, the Ministry of Economic Affairs decided to revoke the tax exemption because it was considered only as a temporary measure to help entrepreneurs. According to the Ministry it was never envisaged as a form of long term structural support. However, at the beginning of November 2004, State Secretary Wijn (Financial Affairs) announced that it would not revoke the exemption but raise the amount of investments which could benefit from the tax exemption from 25 000 euros to 100 000 euros. A budget of 20 million euros is being made available to finance the implementation of this measure which will be available in 2005.

**Netherlands/ 5.3 Sector specific legislation****5.3.7 Culture industries**

For information, please see chapter 4.2.5 (culture industries), chapter 5.3.4 (fixed book pricing) and chapter 5.3.6 (film).

**Netherlands/ 5.3 Sector specific legislation****5.3.8 Mass media**

The 1987 *Mediawet* (Dutch Media Act), which not only sets out rules for radio and television but also for the press, was revised in 2000. The *Media Act* states that broadcasting associations should represent a religious, social or ideological school of thought. To be assigned air time on public channels they must have at least 300 000 paying members. The minimum contribution or memberships fee is around six euros a year. This is sufficient to be recognized as paying member. There were eight public broadcasting associations in 2004. New associations wishing to enter the system must have at least 50 000 members. These associations must also add something new to the existing programming so as to increase the diversity of broadcasting.

The umbrella organisation of the public broadcaster is called the Netherlands Broadcasting Corporation [*Nederlandse Omroep Stichting – NOS*]. It coordinates the programming and promotes common interests of public broadcasters. It also provides the main portion of news and sports programmes. The Netherlands Programme Foundation [*Nederlandse Programma Stichting – NPS*] complements the programmes of other broadcasters by an additional broadcasting of cultural programmes, youth and educational programmes and programmes devoted to ethnic minorities. Churches, spiritual organisations, educational institutions, political parties and the government also have a small amount of air time on public channels. The three public broadcasting channels are subject to programming requirements shown in the following table:

**Table 1: Programming requirements**

Type of programme	Air time share	Broadcaster
Information and education	35%	All broadcasting associations together
Arts	12.5%	All broadcasting associations together
	20%	NPS
Culture (including arts)	25%	All broadcasting associations together
	40%	NPS
Minority programmes	20%	NPS television air time
	25%	NPS radio air time
Entertainment	25%	Maximum per network
European productions	50%	Per network
Commissioned productions	25%	Public broadcasting as a whole, minimum
	17.5%	Per network
Original Dutch or Frisian	50%	Per broadcasting organization
With subtitles for the hearing impaired	50%	Public broadcasting as a whole

Source: Cultural Policy in the Netherlands. The Hague: Ministry of Education, Culture and Science, 2003. p 118.

Advertising is restricted to a maximum of 6.5% of the annual television and radio air time.

The *Media Act* stipulates the same programming requirements for commercial broadcasters, as listed in the EU Directive, "Television without Frontiers". At least 50% of the time must be reserved for European productions, excluding information, sports, game shows, commercials and teletext. At least 10% of the time must be devoted to programmes made by independent producers. To prevent the monopolisation on the supply of information, the *Media Act* places limits on cross media ownership. In fact, permission to run a national commercial station is refused if the company has 25% or more of the Dutch newspaper market.

**Netherlands/ 5.3 Sector specific legislation**

### 5.3.9 Legislation for self-employed artists

General laws (including social security legislation) related to independent entrepreneurs also apply to artists. Specific regulations are indicated in the *Artists Income Act* (1998)

The *Artists' Income Scheme Act* provides artists with a basic income (70% of welfare payments). However, artists can still work and sell their paintings and collect a value of up to 125% of the income they receive via this Act. In addition to legislation, the government has many funds that provide support to the arts. For example, the Literature Fund encourages the production of Dutch language literature by offering scholarships to literary writers and translators, extra payments above their normal salary, start-up grants and travelling scholarships. The Creative Music Fund provides the same kind of support.

## Netherlands/ 6. Financing of Culture

### 6.1 Short overview

The public expenditure for culture has doubled since the 1980s, from EUR 1 168 million in 1985 to EUR 2 378 million in 2001. From 1999 to 2001 (the most recent data available) this expenditure rose by 21%. Due to a booming economy during that period, all layers of government spent more money on culture. Public spending for historic buildings and sites increased by 43% (from EUR 178 million to EUR 255 million), funding for performing arts venues increased by 35% (from EUR 233 million to EUR 315 million). Museums received 15% more public funds (EUR 291 million to EUR 334 million) and funding for performing arts companies rose by 7% (from EUR 228 million to EUR 243 million).

These increases came to an end in 2004. In accordance with the coalition agreement of the present government, the culture budget of the Ministry of Education, Culture and Science will decrease by EUR 16 million in 2005: from EUR 761 million in 2004 to EUR 745 million in 2005. This budget cut, however, has still to be approved by parliament.

According to an estimate drawn up by a consultancy firm, the cutbacks in cultural expenditure at the municipal level will amount to some EUR 28 million in 2005, being approximately 2% of the current budget. Due to other government measures – such as the termination of subsidised employment schemes – cuts in public expenditure for culture in 2005 are estimated at EUR 59 million, or 2.5 % of current funding.

## Netherlands/ 6. Financing of Culture

### 6.2 Public cultural expenditure per capita

The gross cultural expenditure per capita in 2001 was EUR 148, an increase of 19% (EUR 24 euro) since 1999. That results in 0.6% of GDP in 2001.

The substantial growth of government spending on culture can be explained by the economic boom in the Netherlands, particularly in the years 1996-2002. So far, the economic recession in the Dutch economy has caused a budget cut in the cultural sector of approximately 50 million euros. Most of the cuts are implemented by municipalities.

## Netherlands/ 6. Financing of Culture

### 6.3 Public cultural expenditure broken down by level of government

Table 2: Public cultural expenditure: by level of government, in million euro, 1999-2001

	1999		2000		2001	
	Expenditure	% share of total	Expenditure	% share of total	Expenditure	% share of total
All levels	1 968	100	2 167	100	2 378	100
State	550	28	690	32	725	30
Provinces	150	8	127	6	176	8
Municipalities	1 268	64	1 350	62	1 477	62

Source: Statistics Netherlands [CBS] 2004

Note: Expenditures on broadcasting, arts education, cultural relations abroad and other interdisciplinary items are excluded

## Netherlands/ 6. Financing of Culture

## 6.4 Sector breakdown

Table 3: Public cultural expenditure per sector: all levels of government in millions of euro and %

	1999		2000		2001	
	Expenditure	% share of total	Expenditure	% share of total	Expenditure	% share of total
Cultural heritage	550	19	687	22	698	21
Media	966	34	950	31	966	29
<i>Broadcasting*</i>	890	31	830	27	836	25
Arts	919	32	1 040	33	1 193	36
Public libraries	423	15	441	14	487	14
<b>Total</b>	<b>2 858</b>	<b>100</b>	<b>3 118</b>	<b>100</b>	<b>3 344</b>	<b>100</b>

Source: Statistics Netherlands [CBS] 2004

\* Contributions to broadcasting associations that are not part of the government budget for culture but are direct transfers to these associations.

Table 4: Public cultural expenditure: by sector, 2000

Field / Domain / Sub-domain	State million euros	Provinces million euros	Municipalities million euros	Total million euros
<b>Cultural Goods</b>	<b>310.6</b>	<b>75.0</b>	<b>663.0</b>	<b>1048.6</b>
Cultural Heritage	281.90	43.00	233.00	557.90
<i>Historical Monuments</i>	94.80	20.00	91.00	205.80
<i>Museums</i>	183.50	23.00	142.00	348.50
<i>Archaeological sites</i>	3.60			3.60
Archives	2.70		75.00	77.70
<i>Archives (main)</i>	1.70			1.70
<i>Education</i>	1.00			1.00
Libraries	26.00	32.00	355.00	413.00
<i>Libraries (main)</i>	23.40			23.40
<i>Education</i>	2.60			2.60
<b>Arts</b>	<b>222.56</b>	<b>21</b>	<b>379</b>	<b>622.56</b>
Architecture	6.60			6.60
Visual Arts (including design)	47.95	11.00	44.00	102.95
Performing Arts	168.01	10.00	335.00	513.01
<i>Music</i>	58.38			58.38
<i>Dance</i>	17.90			17.90
<i>Musical theatre</i>	30.70			30.70
<i>Theatre</i>	31.20			31.20
<i>Multidisciplinary</i>	9.93			9.93
<i>Venues</i>	0.00	2	253	255.00

<i>Other, not allocable</i>	13.10			13.10
<i>Education</i>	6.80			6.80
<b>Media</b>	<b>29.72</b>			<b>29.72</b>
Books and Press	18.00			18.00
<i>Books</i>	18.00			18.00
<i>Press</i>				
Audio, Audiovisual and Multimedia	11.72			11.72
<i>Cinema</i>	11.72			11.72
<i>Radio</i>				
<i>Television</i>				
<b>Other</b>	<b>167.90</b>	<b>33.00</b>	<b>308.00</b>	<b>508.90</b>
<i>Socio-cultural</i>				
<i>Cultural Relations Abroad</i>	7.30			7.30
<i>Administration</i>				
<i>Educational Activities</i>	140.00	9.00	204.00	353.00
<i>Not allocable by domain</i>	20.60	24.00	357.00	401.60
<b>TOTAL</b>	<b>730.78</b>	<b>129.00</b>	<b>1 350.00</b>	<b>2 209.78</b>

Source: Statistics Netherlands [CBS] and Ministry of Education, Culture and Science 2004

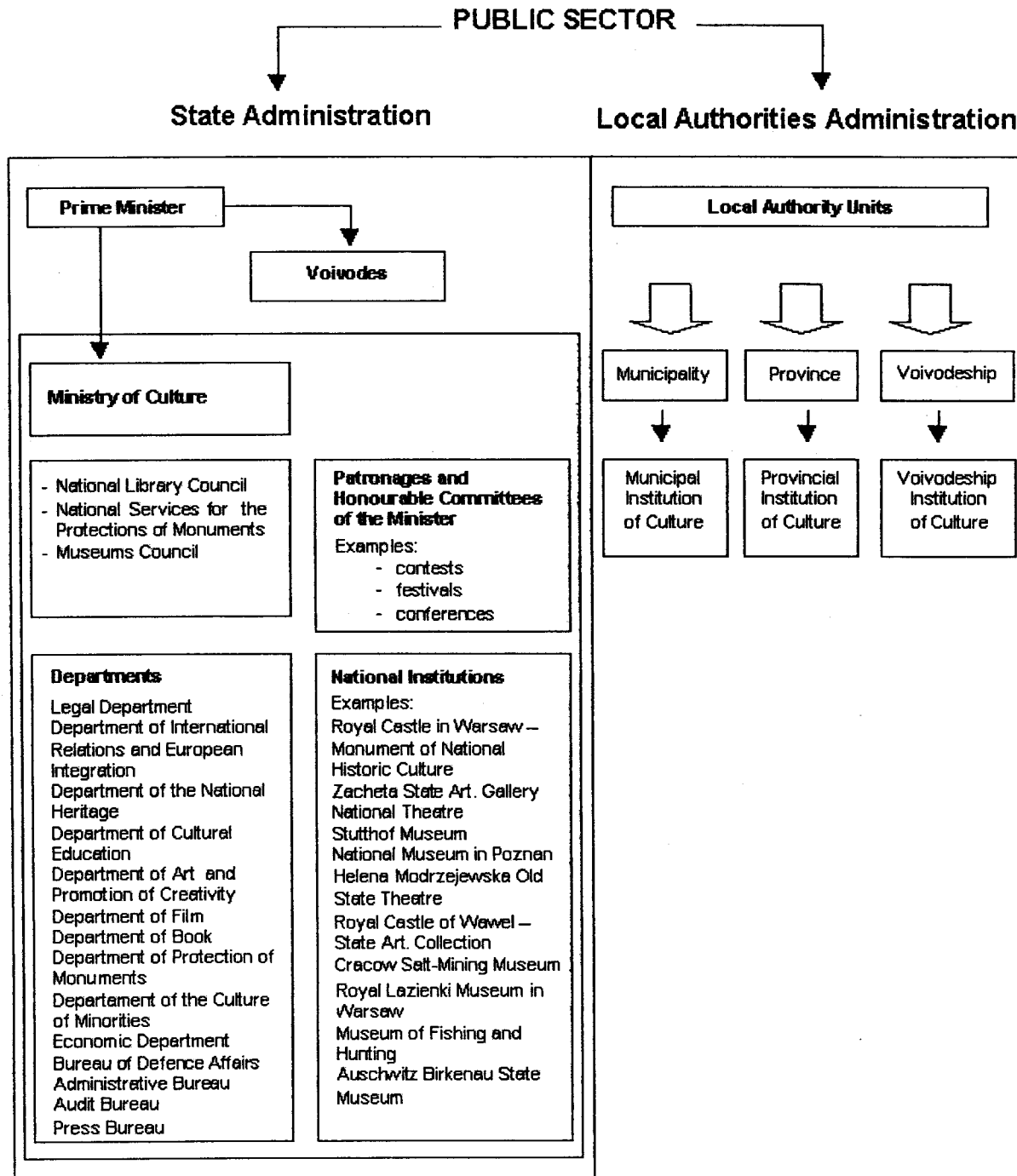
Note: There are, with one exception, no transfers between different levels of government regarding public expenditure on culture. The exception is visual arts: EUR 16.7 million are transferred annually from the state budget to the budget of the provinces and 15 larger cities.

\* No data are available on provincial expenditure on different sub-domains of performing arts. The only distinction Statistics Netherlands makes is between (all kinds of) performing art companies and performing art venues.

The Council of Europe/ERICarts "Compendium of Cultural Policies and Trends in Europe, 6th edition", 2005

**Poland/ 2. Competence, decision-making and administration**

**2.1 Organisational structure (organigram)**



**Poland/ 2. Competence, decision-making and administration**

**2.2 Overall description of the system**

There are cultural administration bodies located at the central (state), regional (Voivodship[1]), provincial (poviat) and municipal (gmina) levels.

The central state administration is the main actor which sets cultural policy objectives and funding principles. The



Ministry of Culture (former Ministry of Culture and National Heritage) is responsible for legislation, searching and securing new sources of non-public financing for culture, monitoring the implementation of cultural policy and keeping track of ongoing changes in the system. In other words, the main Ministerial tasks are to set the legal, financial and programme frameworks which facilitate the development of culture. The Ministry does not engage in the direct management of culture, even though it organises a few activities for the most important cultural institutions and provides financial support to cultural events of a regional or local character.

Local authorities (at all tiers: region, province and municipality) and – to a certain degree – non-governmental organisations have acquired an important role in cultural policy whether it be according to state set objectives or creating their own development strategies. In the latter case, it is important to underline the autonomy and independence of local governments.

The institutional picture of Polish culture is changing gradually. The main changes deal with a shift from the state monopoly over cultural institutions towards diversification of ownership (including changes to their legal status to private organisations, foundations or associations) and the creation of third sector institutions. There is a lack of arm's length culture institutions in Poland, which in other European countries play a key role in protecting the autonomy of decisions taken in the sphere of culture.

The Cultural Commissions located in two houses / chambers of the Parliament of the Republic of Poland – *Sejm and Senat* - are responsible for legislation in the field of culture. Their role is to:

- propose candidates for positions in the state cultural policy administration;
- amend, consider and present opinions for legalisation or legal acts;
- consider reports and communications of the Minister of Culture;
- analyse activities in the cultural field; and
- prepare responses on budget related requests.

The Commission of Culture and Mass Media of the *Sejm* specifically deals with issues arising in the following fields: creativity, dissemination of culture, protection of cultural heritage, press, radio and television, publishing houses, socio-cultural movement and cultural co-operation on the international forum / foreign cultural co-operation.

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[1] Voivodships were formerly part of the State. The new Voivodships are now part of both the State and local government (self-government) structure. Responsibility for culture is now in the hands of the self-governing Voivodships.

## Poland/ 2. Competence, decision-making and administration

### 2.3 Inter-ministerial or intergovernmental co-operation

Since 1998, inter-ministerial co-operation in the field of culture has been extensively organised around the programmes devoted to the preparation of Poland for EU membership. The European Committee of the Council of Ministers was formed in March 2004 to operate as a decision-making forum and is responsible for drafting EU integration policy.

There are also a few examples of other intergovernmental cooperation:

- *National Health Programme*. This programme was established for the period 1996-2005 and is realised in co-operation with the Ministry of Health (leading body) and other ministries. The Ministry of Culture co-finances approximately 27 projects / events under the auspices of this programme such as *Therapy through the Arts* for disabled people and those with social problems.
- In December 2004 the Minister of Culture and the chairman of the Central Statistical Office established a research group. The aim of the group is to carry out research of primary and secondary sources of quantitative and qualitative data for the cultural sector and to establish a methodological basis for the qualitative data of the cultural system. The National Centre of Culture is responsible for providing assistance to the group.
- The Adam Mickiewicz Institute (IAM) is a state cultural institution created in 2000 by the Minister of Culture in agreement with the Minister of Foreign Affairs. The main goal of IAM is popularisation of Polish culture to the wider world as well as cultural co-operation with other countries. Therefore, the Institute shares responsibility for the realisation of Polish foreign cultural policy.

IAM co-operates with Polish and foreign cultural operators, experts in the domain of culture, translators and editors who deal with translations of Polish literature, universities and diplomatic representations.

Its main tasks are:

- creation of cultural projects;
- initiating an integrated system of information on Polish culture;
- supporting the initiatives presented by Polish cultural operators at the international level;
- funding for scholarships directed to artists;
- realisation of promotional programmes; and
- co-ordination of actions aimed at preparing documentation on Polish national heritage.

Since 2000, IAM has participated broadly in various bilateral projects in Europe e.g. Polish Culture Days in Russia (2001), Festival Europalia in Belgium (2001), Polish Year in Spain (2002), Polish Year in Sweden (2003), Polish Year in Austria (2002-2003) and Polish Year in Ukraine (2004-2005) and Polish Season in France (2004).

## **Poland/ 2. Competence, decision-making and administration**

### **2.4 International cultural co-operation**

There are two forms of co-operation:

1. Bilateral co-operation has its legal basis in inter-governmental agreements with different countries. Principles and conditions for co-operation and cultural exchange between countries are set out in formal agreements; and
2. Multilateral co-operation is carried out via;
  - international organisations, e.g. Council of Europe, UNESCO, OECD, WTO, ICCROM;
  - regional bodies / units e.g. the European Union;
  - regional agreements: Visegrad Group, Ars Baltica;
  - cultural co-operation networks: INCP; and
  - cultural institutions.

The most distinct change in foreign cultural policy has been fuelled by Poland's accession to the European Union and is aimed at strengthening the relationship between EU structures and developed west European countries. Simultaneously, there has been a visible set-back in former East-East relations. Over the past years, the significance of state bilateral co-operation has been decreasing and is being replaced by activities initiated by European organisations and initiatives undertaken by networks, institutions and individual artists who have pursued their own (direct) forms of co-operation.

Poland was Chair of the Committee of Ministers of the Council of Europe from November 2004 until May 2005 and took the initiative to organize the opening conference to mark the 50th anniversary of the Council of Europe's European Cultural Convention. Ministers of Culture, Education, Youth and Sport from across Europe, as well as eminent personalities gathered at the Ossolinski National Institute in Wroclaw on 9 and 10 December 2004, defining the way ahead for European cultural policy. Participants at the conference analyzed 50 years of achievements and discussed future co-operation. The conference concluded with the adoption of a "Wroclaw Declaration", suggesting the main lines of action for the future of Council of Europe-led collaboration in these areas.

## **Poland/ 5. Main legal provisions in the cultural field**

### **5.1 General legislation**

The purpose of the newly expanded chapter 5 on legal provisions for culture is to provide you with a more indepth overview of the legal instruments used to support culture in the individual Compendium countries.

Chapter 5.1 provides you with information on those pieces of general legislation which have an important impact on culture, for example, articles in the Constitution of individual countries or legislation used to govern the allocation of public funds.

Chapter 5.2 provides a list as overview of the main legislation for culture. Some countries may have hundreds of laws while others may have only one "Culture Act".

Chapter 5.3 is sub-divided to provide you with information on sector specific legislation in the following fields: visual and applied arts; performing arts and music; cultural heritage; literature and libraries; architecture and environment; film, video and photography; culture industries; and mass media.

### **Poland/ 5.1 General legislation**

### 5.1.1 Constitution

*Article 6* of the Constitution states:

- The Republic of Poland creates the conditions for the dissemination and equal access to culture, which is the source of the Poland's national identity, its continuance and development.
- The Republic of Poland grants assistance to Poles living abroad in fostering their bond with the national cultural heritage.

*Article 73* directly refers to the field of culture and states that everyone is granted the right of freedom of creation, to conduct scientific research and announce their results, freedom of education and use of cultural assets.

### Poland/ 5.1 General legislation

#### 5.1.2 Division of jurisdiction

Poland is administratively divided into the central (state), regional (Voivodship\*), provincial (powiat) and municipal (gmina) levels. The central state administration – the Ministry of Culture – is the main actor legislatively and financially responsible for culture.

There are laws which oblige municipalities to realise *public tasks* to satisfy the needs of the local community. Among them are cultural responsibilities such as establishing local cultural institutions.

Provinces and cities assume responsibility for cultural institutions registered on the voivodeship level based on the following legal Acts:

- the *Act on Local Authority of 8 March 1999*; and
- the *Act on the change of some laws defining the competencies of the national administration bodies of 24 July 1998*.

### Poland/ 5.1 General legislation

#### 5.1.3 Allocation of public funds

The following acts provide the legal bases which enable the Minister of Culture to provide subventions for cultural institutions (of which the Ministry is the founding body) and to provide project funding outside the public sector:

- the *Act on Organising and Conducting Cultural Activity of 25 October, 1991* (OJ 110, p.721 with later amendments and annexes); and
- the *Act on Public Finances of 26 November, 1998*.

The following laws enable local authorities to grant aid for state administration tasks (financial aid is granted on the basis of an agreement between the Minister of Culture and the local authority units):

- the *Act on the change of some laws defining the competencies of the national administration bodies of 21 January 2000*; and
- the *Act on the establishment of tasks in the field of culture which are covered by state's patronage of 9 May 2000*.

Tenders in the field of culture do not fall under strict procedural rules specified in the *Act on Public Tendering*.

Tenders can be granted through any procedure without the need of agreement from the Head of the Public Tender Office. *Article 71* of the act allows granting a public tender freely for creative and artistic activities in the field of art and culture and in the case of issues linked with protection of exclusive laws consequential to separate regulations.

Cultural institutions are, however, bound by the *Act on Public Tendering* through regulations concerning issues such as:

- the obligation to announce tenders;
- announcement of the outcome of proceedings or in the case of granting a tender freely, announcement of contracting the agreement;

- the obligation to treat all applying subjects equally;
- rules of specifying the subject of the tender;
- exclusion from applying;
- acting as a representative of the tendering party; and
- appointing tender commissions, etc.

## Poland/ 5.1 General legislation

### 5.1.4 Social security frameworks

Within the Ministry of Culture, a Commission for Pension Provisions for Artists was set up to determine the starting date of a creative and / or artistic career for pension purposes. Decisions are made in accordance with the following legal acts:

- *Act on the Social Security System of the 15<sup>th</sup> of October 1998 / DZ.U.Nr.157, poz.887 /;* and
- *Act on Pensions from the Social Security Fund of the 17<sup>th</sup> of December 1998.*

Those concerned must send the Commission a form together with necessary documents confirming the duration and character of their work.

According to the *Prime Minister's Decree from the 7<sup>th</sup> February 1983*, some groups of artists can retire earlier. For example:

- dancer / acrobat: women at the age of 40, men at the age of 45;
- singer: women at the age of 45, men at the age of 50; and
- musician: women at the age of 55, men at the age of 60.

*Subsistence allowances* are granted by the Minister of Culture from the Fund for Creation and Promotion to artists who are in a difficult financial situation.

## Poland/ 5.1 General legislation

### 5.1.5 Tax laws

According to amendments made to the *Income Tax Act* (1993, amendments 2003), deductions of up to 10% are available on donations made by legal persons (organisations, foundations etc.) for "public good purposes". In the case of private persons / individuals, a ceiling of PLN 350 has been introduced – a maximum which can be deducted from income tax for donations to culture.

Since 1991, state cultural institutions are allowed to receive private donations from individuals or legal persons.

The following tax exemptions are made available for NGO's – including both foundations and associations: goods and services tax (1993); the tax on increase of remuneration within the framework of statutory activities (1992); property tax which exists within the framework of statutory activities (1991). Foundations are also exempt from paying court fees when registering.

According to Annex 2, of the *Act on Goods and Services Tax (1993)* and the *Act on Toll Tax*, the sale of services *connected with recreation, culture and sport* is exempt from tax with some exceptions, for example:

- cultural institutions are not exempt from VAT (status: end of 2003). They are obliged to pay VAT from the sale of goods and services and on advertising (which is subject to a rate of 22% - the standard rate);
- there is either a reduced 0% VAT or 7% VAT on the sale of books, periodicals and music scores in Poland with the ISSN or ISBN symbol and in the Braille language; and
- a 22% VAT is applicable to the sale of CD's, audio and video cassettes and DVD's.

According to widespread opinion, the tax changes in Poland do not encourage sponsors and donors to adequately support culture. Transparency and new solutions / measures are being called for.

## Poland/ 5.1 General legislation

### 5.1.6 Labour laws

The *Labour Code* passed in 1974 (amended 2003), is used as a basic legal regulation for labour laws. There are no specific provisions regarding culture within the *Labour Code*.

## Poland/ 5.1 General legislation

### 5.1.7 Copyright provisions

The *Act on Copyright and Related Rights* was passed on 4 February 1994, and amendments adopted on 9 June, 2000 in order to make the act compatible with EU law. Some of the main areas of change were:

- cancellation of computer amnesty;
- introducing regulations to prohibit the removal of technical security devices installed in computer programmes;
- adoption of new terminology used to designate the rights of authors, artistic performers and producers;
- increase in the number of people entitled to remuneration generated by rental rights;
- granting broadcasters neighbouring rights;
- introduction of statutory definitions for some institutions;
- extension of the period of copyright protection to 70 years and a new model to count the period of protection;
- new levels of protection for phonograms and artistic performances realised before 1974; and
- special protection for works which have not been published during the defined protection period, so called posthumous publishing or critical and scientific publishing, which are already in the public domain.

The *Act on Copyright and Related Rights* provides the legal basis to levy fees on blank tapes and copying / reprographic machines. Payments to producers of blank tapes, records, video and other similar machines amounted to 3% of the net price. Fees are distributed according to the following scheme:

- creators receive up to 50% of the total amount of all fees;
- artists and performers receive up to 25% of the total amount of all fees; and
- producers of phonograms and videograms receive ca. 25% of the total amount of fees.

The payments / fees for producers and importers of copy machines equal 1% of the net price.

There is no public lending rights scheme in Poland.

## Poland/ 5.1 General legislation

### 5.1.8 Data protection laws

Since the 29<sup>th</sup> of August 1997, the *Act on Protection of Personal Data* has been in force. Until now, there has not been any significant impact of this law on cultural organisations.

## Poland/ 5.1 General legislation

### 5.1.9 Language laws

The *Law on the Polish Language* (7 October 1999) introduced particular obligations on the use of the Polish language within the territory of the Republic in legal transactions involving Polish entities, or if one of the parties in a given transaction is a Polish entity. This pertains in particular to the names of goods and services including foreign language advertisements which must be accompanied by a Polish translation. The use of foreign language names is allowed even without translation. However, this law is quite general and does not refer directly to the film or television industry or other cultural activities such as theatre.

## Poland/ 5.2 Legislation on culture

The legal basis for cultural institutions is the *Act on Organising and Conducting Cultural Activity of 25 October, 1991* (OJ 110, p.721 with later amendments and annexes);

It is essential that a new legal act regulating the terms of organising and financing cultural activities in Poland is prepared. The one in force at the moment is being strongly criticised. The core of the current act has been inherited from the planned economy system with its *budgetary rules* which constrains the functioning of modern

cultural institutions. The consequence is that Poland has financially unstable institutions managed by directors who are limited in their autonomy. The paradox of the current act is that it discourages institutions to seek additional sources of financing (income from private sources during a year cause a decrease of public funds in the following one).

### **Poland/ 5.3 Sector specific legislation**

#### **5.3.1 Visual and applied arts**

There are no detailed legal regulations for painting, sculpture, photography, video, graphic art, design, ceramics, textiles and decorative arts / crafts. Several reference are however found in the the *Act on Protection of Cultural Goods of 15 February, 1962 (OJ 98, p.1 150)*.

### **Poland/ 5.3 Sector specific legislation**

#### **5.3.10 Other areas of relevant legislation**

Information is currently not available.

### **Poland/ 5.3 Sector specific legislation**

#### **5.3.2 Performing arts and music**

There are no detailed legal regulations for theatre, dance, opera, music theatre, music, circus, street arts.

### **Poland/ 5.3 Sector specific legislation**

#### **5.3.3 Cultural heritage**

The following laws are relevant to the field of cultural heritage:

- the *Act on Museums, 21 November, 1996 (OJ5, p.24, with amendments and annexes)*;
- the *Act on Protection of Cultural Goods, 15 February, 1962 (OJ 98, p.1 150)*;
- the *Act on the change of some laws defining the competencies of the national administration bodies, 24 July, 1998*; and
- the *Act on Voivodship Local Authority, 5 June, 1998*.

### **Poland/ 5.3 Sector specific legislation**

#### **5.3.4 Literature and libraries**

An *Act on Libraries* was passed on 27<sup>th</sup> of June 1997.

### **Poland/ 5.3 Sector specific legislation**

#### **5.3.5 Architecture and environment**

There are no detailed legal regulations for architecture or the environment. References to both can be found in the *Act on Protection of Cultural Goods of 15 February, 1962 (OJ 98, p.1 150)*.

### **Poland/ 5.3 Sector specific legislation**

#### **5.3.6 Film, video and photography**

The *Act on Cinematography* was passed in July 1987. Since then, work has been carried out to develop new market principles, financing models and regulations as amendments to the act. These amendments are pending.

In recent years, there has been increased interest on the part of the private sector (e.g. large banks) to invest in the development of the film industry in Poland. Such interest supports a transformation from the former state controlled film production industry to one based on co-operation between the public and private sector. Interest from the private sector to invest in film production is not based on any new kind of specific legal or tax incentive.

In former times, the Committee on Cinematography distributed budgetary funds for the financing of film productions and subventions for film houses. About 20 feature films and 546 short films were produced in 2000. The main co-production partners were the public broadcasters or foreign companies. The Committee was dissolved in spring 2003 and will be replaced by the Film Institute, which will be established on the basis of a proposed amendment to the *Act on Cinematography*. Work on amendments to the act had been initiated several times in recent years without any result. A new draft was elaborated in 2005 and eventually passed by the Parliament. The *New Law on Cinematography* is binding since 19<sup>th</sup> August 2005.

Public funds have supported the realisation of feature and non-feature films in Poland at different stages including creation (through the Screenplay Agency), the production stage (through the Film Production Agency) and the so-called film notation / archiving phase (registration of the most important social, cultural and political events recorded on film by the "KRONIKA" Film Studio).

**Table 3: Feature and non-feature films supported by state funds, 1999-2003**

Year	Total feature films	Non-feature films (documentaries, educational and animated)	Expenditure for film production (in PLN)
1999	22	31	16 183°000
2000	18	34	17 067°500
2001	21	23	11 456°600
2002	13	21	6 093°000
2003	9	30	17 415°000
<b>Total</b>	<b>83</b>	<b>139</b>	<b>68 215°100</b>

Source: Polish Ministry of Culture

**Table 4: Public cultural expenditure for film production and film archives, in thousand PLN, 1999-2003**

Year	Film production development	Film archives
1999	800 000	425 000
2000	840 000	412 500
2001	647 000	327 000
2002	547 000	328 000
2003	1 390 000	350 000

Source: Polish Ministry of Culture

## Poland/ 5.3 Sector specific legislation

### 5.3.7 Culture industries

There is no overall legal framework to specifically promote and develop the culture industries. However, there are sector specific measures, e.g. for film. (see chapter 5.3.6).

## Poland/ 5.3 Sector specific legislation

### 5.3.8 Mass media

The media sector in Poland is mainly based on two legal acts: the *Press Law of 26<sup>th</sup> January 1984* and *Broadcasting Act of 29<sup>th</sup> December 1992*, which came into force on March 1 1993.

The major part the *Press Law* concerns both the printed press and the audiovisual media sectors irrespective of their kind and type. It contains general provisions concerning freedom of expression, access to information, media rights and duties, and the system of the right to reply. It also refers in particular to the legal preconditions to start, register and conduct publishing activity in the printed media market. Since 1989 it has been changed several

times, although the regulation of key matters remained untouched. In 2004 no amendment was made to the *Press Law*.

The *Broadcasting Act* was amended during the last ten years, mainly due to the fulfilment of Poland's international obligations (Poland has ratified the European Convention on Transfrontier Television of the Council of Europe and is implementing the EU Directive "Television without Frontiers" according to its EU accession obligations).

Programme quotas, which were finally regulated in a detailed manner in line with EU standards, are outlined in the *Broadcasting Act of 29 December 1992*. According to the final consolidated version of the act, with amendments in 2004, broadcasters of television programmes are obliged to reserve at least 30% of their quarterly transmission time to programmes originally produced in the Polish language. This binding legal measure is aimed at protecting and promoting the Polish language. A discriminatory article setting out the conditions based on criteria of nationality and citizenship was withdrawn earlier and confirmed in the abovementioned consolidated version of the act with 2004 amendments.

A duty of fulfilment to the European majority quota has been laid down in a normative manner ensuring that the broadcasters will earmark a majority of the transmission time for European works (*Article 15 par.4*). A definition of European work has also been elaborated on the basis of standards stipulated by the *Community Law*. This act includes an amendment concerning the share of works of independent producers as well as new works in the regular television programming schedule. The broadcasters of television programmes shall reserve at least 10 % of their quarterly transmission time for European works produced by independent producers, taking into account certain exclusions provided by the EU law (e.g. advertisements). Programmes produced not later than 5 years before their transmission in the programme service shall constitute at least 50% of the time reserved for European works produced by independent producers (*Article 15 par. 1*). The quota of independent production has been also clarified as well as the criteria of preference for recent works raising the period from 3 to 5 years in reference to the time of their production.

The consolidated act also covers changes affecting the public radio and television sector, mainly the issues related to the public mission i.e. introducing the definition of a public broadcaster, the manner of financing, the organizational structure of public broadcasters and the role of their supervisory bodies.

Since the 2004 amendments, public broadcasters are authorized to produce and transmit thematic programme services, however a license is required to broadcast (*Article 21 par. 1a*). In 2004 Polish Public television [kiedy - miesiac] was granted the first license for a thematic programme - TVP Kultura to be transmitted via satellite, devoted to cultural issues (TVP Kultura started transmission in 2005).

## Poland/ 5.3 Sector specific legislation

### 5.3.9 Legislation for self-employed artists

There is no comprehensive legal framework for artists in Poland.

The state has implemented a *50% income tax-free for artists* provision (1991) which allows creative artists to deduct 50% of their income from their creative work as expenses for income tax purposes.

## Poland/ 6. Financing of Culture

### 6.1 Short overview

The Polish model of financing culture is similar to other European countries: the public sector is the major but not the only patron / mécénat of culture and the arts. The current level of private patronage should not, however, be seen as an alternative source of financing for culture, but as a supplementary one.

After 1989, the culture sector (including its financial problems) was moved down the ladder of government priorities. The rate of public expenditure on culture represented a low share of GDP and of total government expenditure.

Public expenses for culture and national heritage protection in 2004 amounted to 3 807.1 million PLN (nominally about 15.7% more than in 2003). The cultural share of GDP was 0.43% (in the previous year it was 3 291.3 million PLN, that is 0.40%)

Expenditure from the state budget for culture and national heritage protection (together with grants and subventions for local government units) amounted to 1 062.5 million PLN (in the previous year - 898.2 million PLN). Their share of participation in general expenses in the state budget expenditure was 0.54% (in comparison to 0.47% in 2003).

There are three main areas of change in the financing of culture in Poland:

First, the withdrawal of the Ministry of Culture from direct management of culture. The Ministry is responsible for the most important cultural institutions and events with a local character.



Second, there has been a shift of public funding from the central to the local authority level. Local authorities are financing cultural institutions and activities from their own budget and from state subventions. They set both the level of expenditure for culture and determine their own administrative structures. In 1996, spending by the municipalities on culture exceeded state budget expenditures on culture for the first time (=51% of total public spending). 1999 reforms led to the wider decentralisation of culture and tasks up to now realised by the Ministry and Voivodes were overtaken by the local level authorities including the voivodship and municipalities. As a result, the level of local authority spending on culture in 2004 amounted to 78.1% and was lower than in the previous year (2003- 79.4%; 2002- 81.1%; 2001- 77.9%).

Third, two new goals to finance cultural activities have been introduced: to combine public and private funds and to encourage the establishment of non-governmental institutional structures. A system of earmarked funds and tax incentives for sponsors and donors has been developed which local authorities and non-governmental organisations can take advantage of when undertaking state tasks. In 2001, Ministry of Culture spent in the framework of so called state Tasks transferred to non-governmental organisations around PLN 36 million (which equals 3.9% of the total state expenditure on culture). The tax solutions adopted by the Polish system are close to those adopted in EU countries, and in some cases are more profitable for culture (e.g. 0%VAT on books).

By the end of 2002, the possibility of assigning funds from the lottery to culture was introduced. The precedent to this was the transfer of part of the income from the lotteries to the sports sector. This sector currently receives funds derived from a 20% increase in the price of lottery tickets which was introduced in the second half of 1994. As could be expected, proposals to share this income between the sports and culture sector met with strong resistance from the sports lobby since this would reduce the income allocated to it. Consequently, it was proposed to increase the price of lottery tickets by an additional 5% which the *lotto player* would have to bear and to divide this sum between the sports and culture sectors at a ratio of 80:20.

According to *Article 47 of the Gambling Act*, funds from the increase of lottery ticket prices in games are to be transferred to the so-called *Special Account* which is at the disposal of the Minister of Culture. These funds are to be allocated to support and promote the following activities:

- international all-Polish artistic undertakings, also of an educational character;
- literary creation and periodical press as well as activities connected with the culture of the Polish language, development of reading habits, supporting cultural periodicals with low circulation;
- safeguarding Polish national heritage;
- young artists; and
- activities aimed at creating wider access to cultural goods by the disabled.

The special funds to support culture from the *Gambling Act* were estimated by the *Budgetary Act 2004* at 120 million PLN. The amount was based on estimates relating to the National Lottery (Totalizator Sportowy). However, funds generated from gambling were higher (147 429 325 PLN) and they were transferred as follows:

- a sum of 48 million PLN was transferred as an obligatory sum to the state budget;
- a sum of 88 641 190 PLN was given to support and promote cultural tasks such as: *cultural enterprises* – 62 906 030 PLN (45.7 % of expenditure); *investments and investment purchases* - 25 735 160 PLN (18.7%); and
- a sum of 1 million PLN for grants for culture animators, artists and performers;

The following sums were transferred for realisation of particular tasks resulting from the *Law on the Lottery*:

- nationwide and international artistic events of an educational nature – 43 238 998 PLN;
- literary activity and issue of periodicals, promotion of cultural periodicals and low circulation literature, activities aimed at promotion of the Polish language and enhancement of reading habits – 7 714 165 PLN;
- protection of the national heritage – 36 750 527 PLN; and
- young artists – 1 185 000 PLN.

*The average yearly expenditure on the purchase of cultural goods and services per capita* in households in the year 2004 was PLN 281.88 (2003 - 246.24). Their nominal value in comparison to the previous year increased by 14.5% (2003 - 5.1%).

## Poland/ 6. Financing of Culture

### 6.2 Public cultural expenditure per capita

The total public cultural expenditure per capita in 2004 was PLN 106.33 (86.18 in 2003) (author's own calculation).

It corresponded to 26.1 euros and 0.47% of the GDP in 2004 (the official rate of Euro was equal to 4 079 PLN – 31<sup>st</sup> December 2004). There is a slight positive change in the overall volume of funds for culture or in its calculation per capita. An increase in 2004 is surely the result of additional funding derived from the lottery (see chapter 6.1).

## Poland/ 6. Financing of Culture

### 6.3 Public cultural expenditure broken down by level of government

Table 5: Public cultural expenditure: by level of government, in PLN, 2004

Level of government	Total	% share of total
State (1)	831 876 000	21.85
Regional (Voivodship)	760 688 000	19.98
Provincial (2)	1 050 533 000	27.59
Local (municipal)	1 164 024 000	30.58
<b>Total</b>	<b>3 807 121 000</b>	<b>100.00</b>

Source: Central Statistical Office, *Culture in 2004*

(1) Without transfers to local authorities

(2) Including cities with the status of province

In comparison to 2003, the share of cultural expenditure on the regional, provincial and local level in the total public expenditure has slightly decreased in 2004.

## Poland/ 6. Financing of Culture

### 6.4 Sector breakdown

Polish statistics on culture are not adapted to EUROSTAT requirements but rather to the following classifications.

Table 6: State cultural expenditure: sector breakdown, in thousands of PLN, 2004

Field	State expenditure (1)		Local authority expenditure (2)	
	Total in '000 PLN	% share of total	Total in '000 PLN	% share of total
Museums	273 698	25.76	384 806	12.84
Protection and restoration of historic monuments	44 410	4.18	90 723	3.03
Other activities regarding the protection of monuments	91 580	8.62	1 549	0.05
Galleries and arts exhibitions (offices)	7 709	0.73	29 888	1.00
Cultural and arts centres	57 066	5.37	72 408	2.42
Libraries	118 167	11.12	744 315	24.83
Cultural houses, art centres, clubs and art rooms	51 400	4.84	787 761	26.28
Archives	83 123	7.82	682	0.02
Drama and puppet theatres	63 504	5.98	281 962	9.41
Music theatres, opera houses and operettas	96 001	9.04	192 761	6.43
Philharmonics, orchestras, choirs	99 957	9.41	135 561	4.52
Other expenditure	75 881	7.13	274 851	9.17

<b>Total</b>	<b>1 062 487</b>	<b>100.00</b>	<b>2 997 267</b>	<b>100.00</b>
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Source: Central Statistic Office, Culture in 2004 plus own author calculations

1. Including transfers to local authorities
2. Including transfers within local authorities

The levels of expenditure for different cultural institutions and forms of cultural activity have remained more or less consistent in comparison to previous years. In 2004, the majority of state expenditure was allocated to museums 25.76% (22.20 % in 2003; 20.4% in 2002). Together with the amount spent on the protection and conservation of monuments, the overall expenditure figure on cultural heritage activities rises to 38.56% (35.90% in 2003; in 2002 – 35.22%). Expenditure on theatres, operas and opera houses was 15.02% in 2004 (16.02 % in 2003; 16.03% in 2002).

In 2004, local authority spending priorities were on cultural houses and centres and clubs, representing a share of 26.28% (27.21% in 2003) and libraries 24.83% (26.0 % in 2003; 26.8 % and 25.6% respectively in 2002).

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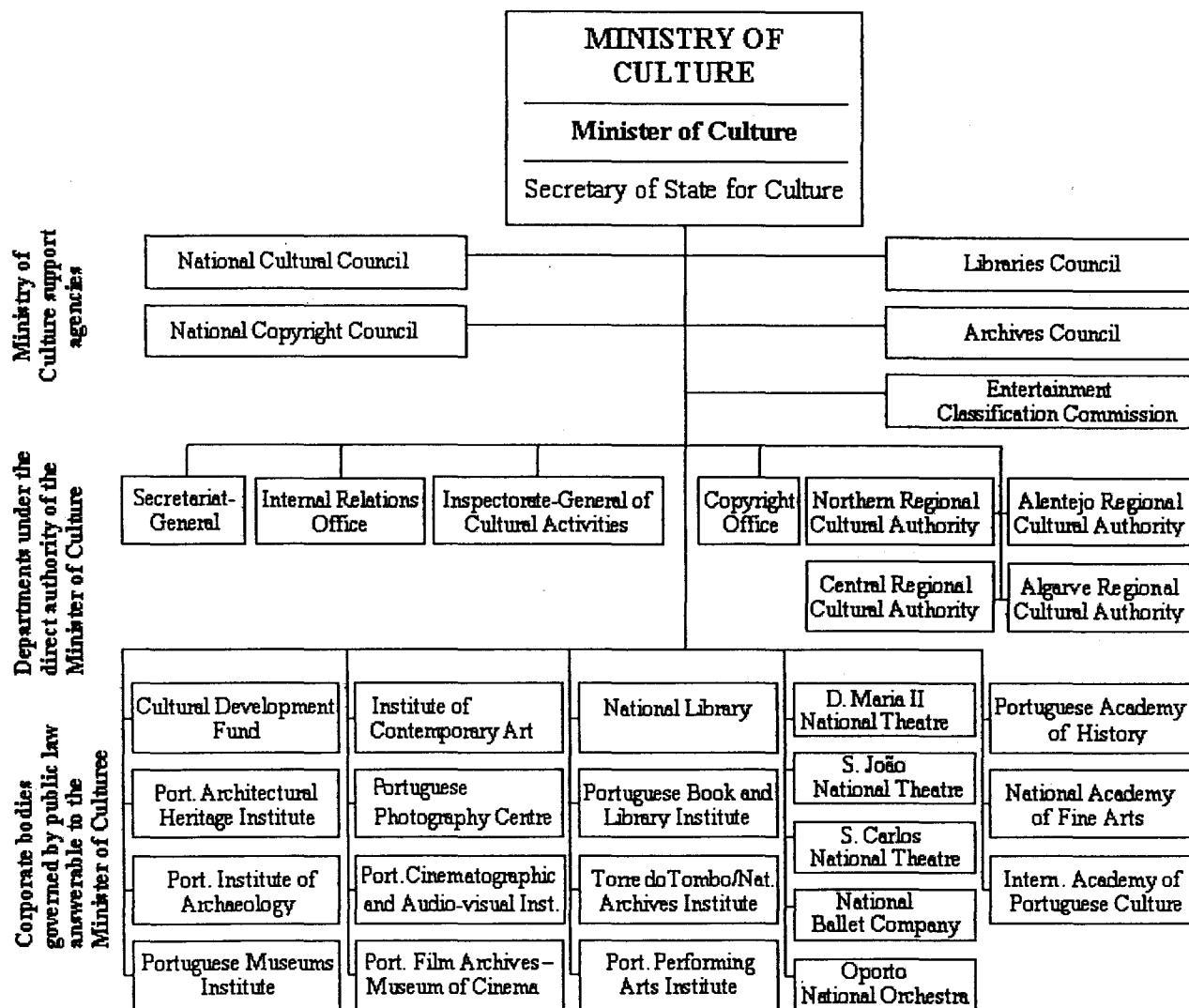
The Council of Europe/ERICarts "Compendium of Cultural Policies and Trends in Europe, 6th edition", 2005



Portugal/ 2. Competence, decision-making and administration

2.1 Organisational structure (organigram)

Internal organisation of the Ministry of Culture



Portugal/ 2. Competence, decision-making and administration

2.2 Overall description of the system

Following the revolution of 25 April 1974, and the end of the colonial empire, Portugal was divided into territories which also included the archipelagos of the Azores and Madeira.

The administration of the country has three levels: central administration, municipal administration and the autonomous regions of the Azores and Madeira which have been granted their own special political administrative status and political organs.

Despite the intentions of governments to collaborate with local authorities on cultural programmes since 1995, there has been a delay in devolving responsibility for culture from Central Government to regional and local level. Cultural Regional Delegations were created in 1980 with the aim of reducing social and regional imbalances in access to culture. In the absence of real autonomy and with very slim budgets, the role of these Delegations can be compared mostly to "embassies" of the Ministry of Culture in the outlying regions. By the end of 1990s, local authority intervention in the cultural field has grown substantially. Meanwhile, the National Association of Portuguese Municipalities has often called attention to the unequal distribution of national resources. However, some positive examples of decentralisation can be mentioned: the acquisition or restoration of cultural facilities in

several district capitals; the development of networks (of public libraries, museums, public performance centres, archives, etc); the launch of training programmes; the boom in festivals.

## Portugal/ 2. Competence, decision-making and administration

### 2.3 Inter-ministerial or intergovernmental co-operation

A number of protocols have been signed between the Ministry of Culture and other ministries with the aim of promoting inter-ministerial co-operation through transversal policies. There has, for example, been collaboration with the Ministry of Education over the creation of a National Library Network; with the Ministry of Labour and Solidarity over the promotion of reading as a way of combating social exclusion; with the Ministry of Health over the publication of material on the prevention of disease; with the Ministry of the Environment, Planning and Regional Development over the promotion of training for local authority cultural workers; with the Ministry of Foreign Affairs on the world wide promotion of the Portuguese language and culture; with all ministries on the participation of Portugal in the Information Society, etc.

## Portugal/ 2. Competence, decision-making and administration

### 2.4 International cultural co-operation

Internationalisation of cultural co-operation has been focused mainly on the promotion of the Portuguese language and culture via:

- co-operation with communities and countries whose official language is Portuguese, via national institutes (e.g. the Camões Institute - IC) and international bodies (e.g. the Community of Portuguese-speaking Countries - CPLP);
- dissemination of the Portuguese language and culture via the establishment of cultural centres abroad and the transmission of programmes via a network of radio and television broadcasters as well as multimedia organisations;
- dissemination of Portuguese works of creative art abroad and organisation of major cultural events such as Lisbon 1994 – European Culture Capital or the World Exhibition "The Oceans, a heritage for the future" – Expo 98, Lisbon. Support is provided for the circulation of foreign artists and their productions in Portugal; and
- support for the participation of Portugal in international forums and programmes.

Strategies for stronger participation by Portugal in international cooperation have begun recently (e.g. in the framework of the programme Culture 2000) with the support of the Community Structural Funds Management POC (Operational Programme for Culture).

## Portugal/ 5. Main legal provisions in the cultural field

### 5.1 General legislation

The purpose of the newly expanded chapter 5 on legal provisions for culture is to provide you with a more indepth overview of the legal instruments used to support culture in the individual Compendium countries.

Chapter 5.1 provides you with information on those pieces of general legislation which have an important impact on culture, for example, articles in the Constitution of individual countries or legislation used to govern the allocation of public funds.

Chapter 5.2 provides a list as overview of the main legislation for culture. Some countries may have hundreds of laws while others may have only one "Culture Act".

Chapter 5.3 is sub-divided to provide you with information on sector specific legislation in the following fields: visual and applied arts; performing arts and music; cultural heritage; literature and libraries; architecture and environment; film, video and photography; culture industries; and mass media.

## Portugal/ 5.1 General legislation

### 5.1.1 Constitution

The Portuguese Constitution defines that one of the basic responsibilities of the state is "to promote the welfare and quality of life of the people, and actual equality between Portuguese citizens in their enjoyment of economic, social and cultural and environmental rights, through the transformation and modernisation of the economic and

social structures" (*Article 9 d*)

The Constitution also states that "intellectual, artistic and scientific creativity shall not be restricted. This freedom includes the right to create, produce and disseminate scientific, literary or artistic works, and includes legal protection for copyright" (*Article 42*).

The articles relating to cultural education are: "The State shall not plan education and cultural development in accordance with any philosophical, aesthetic, political, ideological or religious precepts" (*Article 42 point 2*); "Everyone has the right to education and culture" (*Article 73 point 1*); "The State shall promote the democratisation of education and the other conditions that enable education, both at school and elsewhere, to contribute to equality of opportunity, to surmounting economic, social and cultural inequality, to the development of the personality and the spirit of tolerance, mutual understanding, solidarity and responsibility, to social progress and to democratic participation in public life" (*Article 73 point 2*).

"In conjunction with the mass media, cultural associations and foundations, cultural and recreational groups, associations for the protection of the cultural heritage, organisations of residents and other cultural agencies, the State shall promote the democratisation of culture by encouraging and guaranteeing access by all citizens to the fruits of culture and cultural creativity." (*Article 73 point 3*)

With regard to cultural enjoyment and creativity, the Portuguese Constitution states that:

1. Everyone has the right to cultural enjoyment and creativity, and the duty to preserve, protect and extend the cultural heritage.
2. It is the duty of the state, in co-operation with all cultural agencies:
  - to encourage and ensure access for all citizens to the means and mechanisms of cultural activity, and to correct present imbalances in this respect;
  - to support initiatives to stimulate the broad variety and expression of individual and collective creativity, and a wider availability of cultural works and assets of quality;
  - to promote the protection and increased respect for the cultural heritage, making it a vital element of the common cultural identity;
  - to develop cultural relations with all peoples, particularly those that are Portuguese-speaking, and ensure the protection and promotion of Portuguese culture abroad; and
  - to co-ordinate the policies for culture with other state policies. (*Article 78*)

## Portugal/ 5.1 General legislation

### 5.1.2 Division of jurisdiction

Government administration consists of three levels in Portugal: central administration, municipal administration and the autonomous regions of the Azores and Madeira which have been granted their own special political administrative status and political organs.

The governmental bodies responsible for cultural issues are the Ministry of Culture (internal cultural affairs) and the Ministry of Foreign Affairs (external cultural affairs).

## Portugal/ 5.1 General legislation

### 5.1.3 Allocation of public funds

Information is currently not available.

## Portugal/ 5.1 General legislation

### 5.1.4 Social security frameworks

Social security for arts professionals are regulated under common law.

## Portugal/ 5.1 General legislation

### 5.1.5 Tax laws

The regulation of fiscal policies and tax laws in the cultural domain is the responsibility of the Ministry of Finance.

The *Sponsorship Act* was introduced 1986 and was followed by new laws, particularly the *1999 Statute of Sponsorship (law n. 74/99)*, which regulates the different types of sponsorship, enlarges the area to include sponsorship of education, environment, sport, science and technologies, and increases the tax incentives available (the highest level is for long term contracts).

#### **Portugal/ 5.1 General legislation**

##### **5.1.6 Labour laws**

Labour laws for arts professionals are regulated under common law.

#### **Portugal/ 5.1 General legislation**

##### **5.1.7 Copyright provisions**

The *Copyright Act* was adopted in 1985 (*law-decree n. 63/85*) and has undergone a number of amendments under subsequent governments, in particular amendments made to harmonise with EU legislation.

In general terms, the law on author's rights stipulates that there should be remuneration for the reproduction or registration of works. This remuneration benefits the author, the editor or producer of a work, but it may be included in the price of reproduction devices and their supports, a means which is not within the control of the author or editor.

A governmental office for author's rights (Gabinete do Direito de Autor) was established in 1997 (*decree-law n 57/97*) to provide information to the public and official support for new legislative initiatives by the government in copyright matters.

There are also private institutions for the management of copyright and related rights in terms of the national legislation: the Portuguese Authors Society (SPA, founded in 1925), the Management of Artists Rights (GDA, founded in 1995) and the Association for the Management of Private Copies (AGECOP, founded in 1998).

#### **Portugal/ 5.1 General legislation**

##### **5.1.8 Data protection laws**

Information is currently not available.

#### **Portugal/ 5.1 General legislation**

##### **5.1.9 Language laws**

The Community of Portuguese-speaking Countries (CPLP) was set up in 1996 to provide a system of linguistic and cultural communication (in Portuguese and its geographical and social variants) which diverse peoples can use to express themselves in their mother tongue or official language.

#### **Portugal/ 5.2 Legislation on culture**

See chapter 5.3.

#### **Portugal/ 5.3 Sector specific legislation**

##### **5.3.1 Visual and applied arts**

Information is currently not available.

#### **Portugal/ 5.3 Sector specific legislation**

##### **5.3.10 Other areas of relevant legislation**

Information is currently not available.

#### **Portugal/ 5.3 Sector specific legislation**

### 5.3.2 Performing arts and music

There has been a significant amount of legislative activity in the music sector, largely in the fields of arts education and support for production (grants for creative artistic work and other forms of financial support, especially for the establishment of regional orchestras and for non-governmental professional musical activities), although the numerous organisational changes make it difficult to control this sector.

#### Portugal/ 5.3 Sector specific legislation

##### 5.3.3 Cultural heritage

New legislation on cultural heritage was recently approved by the parliament:

- the *Portuguese Heritage Protection Law (law n. 107/2001)* establishes the basis for the policy and cultural heritage protection and improvement regime; and
- the *Framework Law on Portuguese Museums (law n. 47/2004)* defines principles of national policies for museums. This legal document establishes guidelines for recognition of Museum and Visiting collections and defines the criteria for the licensing process of museums. It also officially establishes and develops the Portuguese Network of Museums (RPM) – a former project structure launched in 2000.

#### Portugal/ 5.3 Sector specific legislation

##### 5.3.4 Literature and libraries

The most significant legislation produced in the field of books concerns networking of municipal public libraries (RNBP) and school libraries (RBE), which is in line with the principles of decentralisation and cultural participation.

The RNBP was initiated in 1987 (*decree-law n 111/87*) to construct and develop municipal libraries according to principles outlined in the Manifesto of UNESCO. The programme is based on the creation of partnerships between the Portuguese Book and Reading Institute (IPLB) and local administrations, which assist in modernizing the public libraries.

The IPLB grants technical and financial support annually to the creation of public libraries in all the local administrations in Portugal.

By June 2005, 258 of the 308 local administrations had joined the RNBP. Since 1987, 133 libraries have been established.

A programme regarding a school libraries network – promoted by the Ministry of Education – was created in 1997.

#### Portugal/ 5.3 Sector specific legislation

##### 5.3.5 Architecture and environment

Information is currently not available.

#### Portugal/ 5.3 Sector specific legislation

##### 5.3.6 Film, video and photography

Regulations governing the film sector were enshrined in the *Film Act of 1971 (Law n 7/71)*, which remained in force until 1993, with a series of amendments. In 1996, a commission was set up to draft a new Film and Audiovisual Bill. One year later, an inter-ministerial committee was established to draw up an integrated policy in this field (the new Bill being defeated in Parliament by the Opposition). In 2004, after a long period of public discussion, a new *Law on Audiovisual and Cinematographic Art (law n 42/2004)* was approved by the parliament. However, some essential aspects regarding the regulation of this new law are yet to be defined. State intervention in the film sector is subject to various regulations.

The new law represents a further step towards establishing a regulatory framework for the film and television sector. This Law extends the range of measures which support the cinema and audiovisual sectors by creating an investment fund that is co-financed by film and television distributors and operators, in particular cable TV operators.

#### Portugal/ 5.3 Sector specific legislation



### 5.3.7 Culture industries

The present debate on the *Law on Audiovisual and Cinematographic Art (2004)* points out two main different positions of the Portuguese film producer's and audiovisual producer's associations: The Portuguese Directors' Association (APR) believes that the new law represents a constraint on the development of film-making as an "art". This association believes that there should be a clear separation between the film and audiovisual sectors, as it considers that films and audiovisual products are highly distinct in terms of their objectives, means of production, distribution and consumption. However the Film and Audiovisual Director's Association (ARCA) views the new law as a means to enhance the creation of a "film industry" in Portugal. ARCA views film and television as "allies" and considers that the new law, despite being "unclear", will diversify the financing sources for film production.

#### Portugal/ 5.3 Sector specific legislation

##### 5.3.8 Mass media

In the radio and television sector, the role of the state is essentially that of a regulatory body. In 1988, after a period of deregulation during which a large number of "pirate radio stations" appeared, a law was passed to control radio activity within national borders, and a licensing scheme was subsequently drawn up. The Constitutional Review of 1989 opened the way to grant licences to the first private television operators.

In 1997, the CIMA Report (of the Inter-ministerial Committee on the Audio-visual Media) had proposed monthly quotas for television programming: 10% original production, 40% in the Portuguese language, 30% national production.

In 1981 the first legal instrument establishing quotas concerning the radio diffusion of Portuguese music (*law n. 12/81*) was approved by the parliament. However, this law, which establishes a minimum of 15% of Portuguese music and 25% of music performed by Portuguese performers, had no associated regulation. In 2005 a new law is under discussion by the Parliament.

#### Portugal/ 5.3 Sector specific legislation

##### 5.3.9 Legislation for self-employed artists

There is no overall legal framework for artists in Portugal.

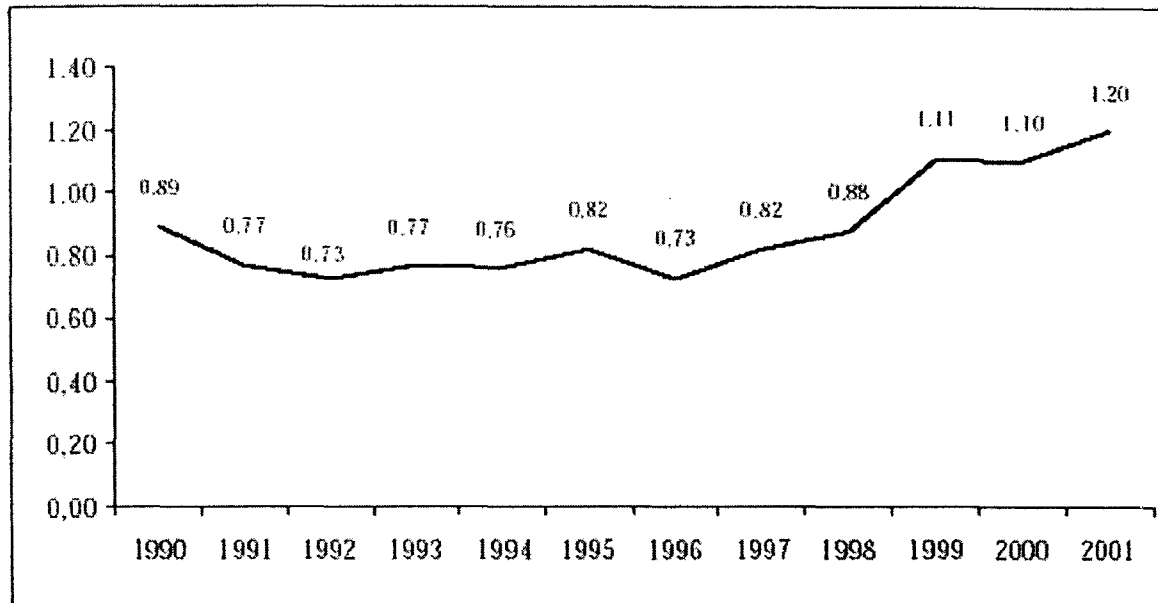
The setting up of the Operational Programme for Culture (POC, 2000/2006), benefits artists directly or indirectly through its measures for the network of cultural spaces, the use of new information technologies, the broadening of audiences, the financing of "immaterial projects", etc.

#### Portugal/ 6. Financing of Culture

##### 6.1 Short overview

Expenditure on culture by public authorities demonstrated an upward trend from 0.73% of GDP in 1996 to 1.2% of GDP in 2001 (Figure 3).

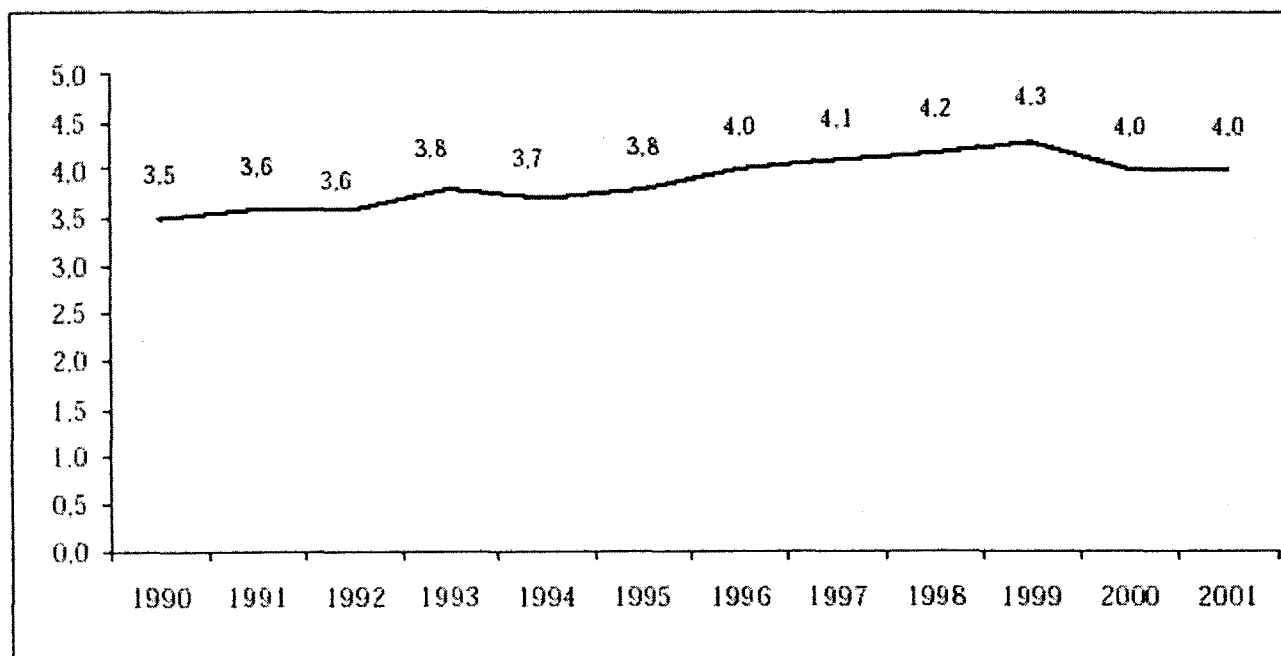
Figure 3: Portugal: expenditure by public authorities on culture by year, in% of GDP, 1990-2001



Source: (Neves, 2004, 9).

An examination of the total expenditure on culture by Portuguese families also shows the same upward trend but in a much larger proportion – rising to 5 008 millions of euros in 2001, which represented 4% of GDP (Figure 4).

**Figure 4: Portugal: expenditure on culture by Portuguese families by year, in %, 1990-2001**



Source: (Neves, 2004, 10).

**Portugal/ 6. Financing of Culture**

**6.2 Public cultural expenditure per capita**

Public culture spending per capita by central government in 2001 was 9.55 euro. Equivalent figures for local government were not available. See also chapter 6.1 and chapter 6.3.

**Portugal/ 6. Financing of Culture**

**6.3 Public cultural expenditure broken down by level of government**

The Central Government recorded its highest levels of expenditure on culture in 1991, 94 447.38 euro at constant

prices, corresponding to 0.32% of GDP or expenditure per inhabitant of 9.55 euro.

Closer examination of public expenditure shows that the Central Government was the main contributor to culture until 1994, the year when expenditure by the two levels of government was practically the same. The Central Government share fell in 1995. It should also be noted that Local Government expenditure during this period showed a far greater increase than that of the Central Government. In short, there was a cross-over in expenditure on culture by Central and Local Government, the former declining and the latter increasing.

**Table 3: Public cultural expenditure: by level of government, in euros, 2003**

Level of government	Total expenditure
State (federal)	237 800 000
Regional (provincial, Länder)	---
Local (municipal)	394 887 000

Source: INE for "Local (Municipal)." MF/DGO for "state (federal)".

Note: Public cultural expenditure by sector is only available with separated figures for each level (state and local authority).

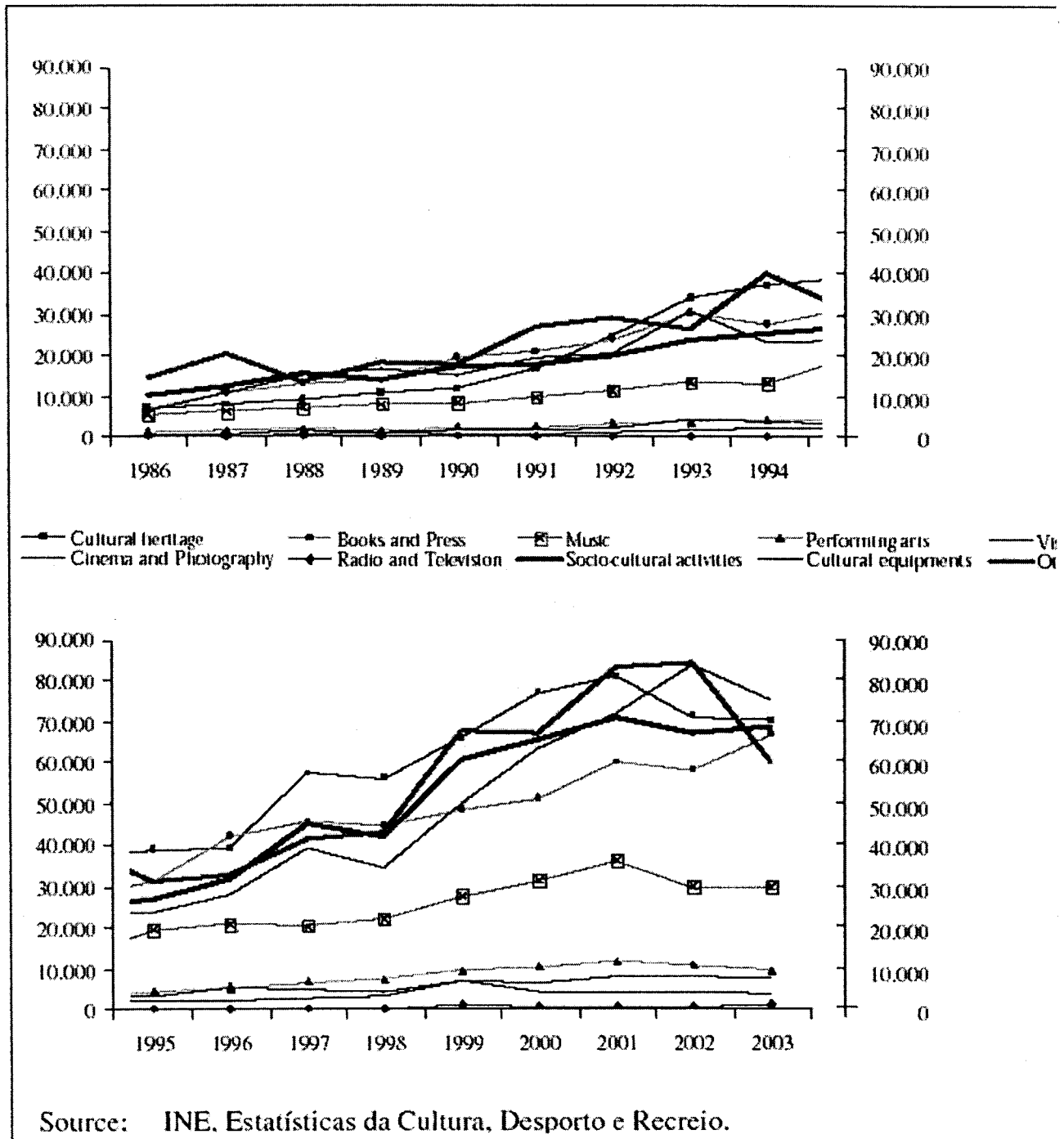
## Portugal/ 6. Financing of Culture

### 6.4 Sector breakdown

Public cultural expenditure by sector is only available with separated figures for each level (state and local authority).

Figure 5 illustrates the evolution of local authority expenditure by cultural sub domain. Over this period, expenditures tend to increase in all cultural domains, especially those related with Cultural heritage, Cultural equipment, Socio-cultural activities and Books and Press.

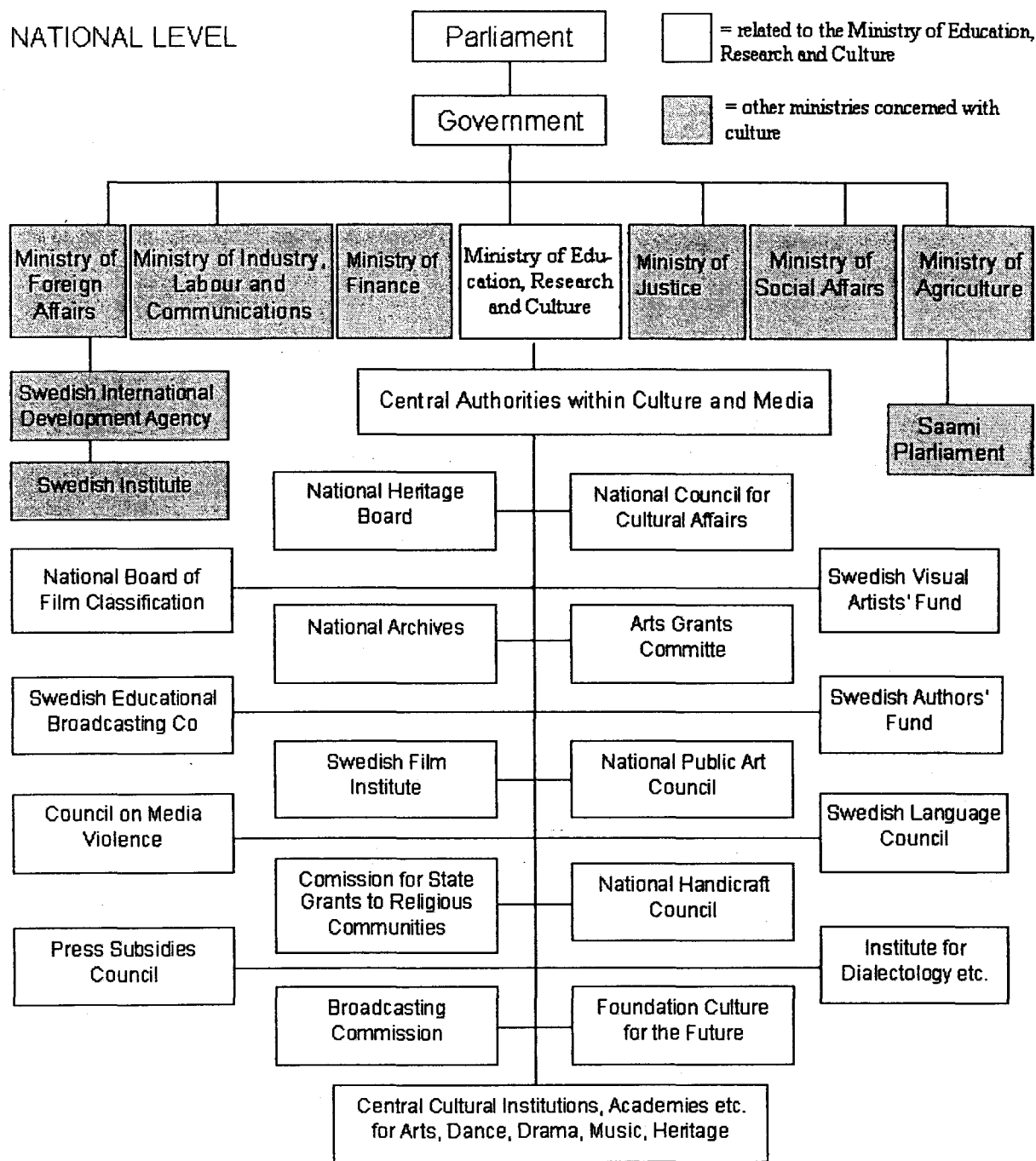
**Figure 5: Local authorities' expenditure by cultural sub domain, 1986-2003**



The Council of Europe/ERICarts "Compendium of Cultural Policies and Trends in Europe, 6th edition", 2005

**Sweden/ 2. Competence, decision-making and administration**

**2.1 Organisational structure (organigram)**



**Sweden/ 2. Competence, decision-making and administration**

**2.2 Overall description of the system**

The national, regional and municipal authorities share responsibility for financing culture. They share the all-embracing goals of cultural policy in Sweden (see also chapter 3.1, 7.1 and 7.2), yet make their own decisions on priorities, goals, budgets, programs and special activities. The arm's length principle is applicable to the relationship between the political structures and the cultural institutions, concerning their artistic and educational programmes at all levels of government.

**The Municipalities** (Kommuner), numbering 290, are tax levying, elective units, i.e. local councils, responsible for public libraries and cultural activities, such as music schools, theatres, art galleries and museums, as well as local branches of adult-education organisations. Funding comes mainly from locally derived municipal income, mainly taxes (additional resources may include regional and / or central-government grants).

**The County Councils** (Landsting), numbering 18 + 2 regional unions, are also tax levying, elective units / i.e. councils, geographically covering several adjacent municipalities. They are mainly responsible for regional health services, but provide support for regional theatres, orchestras, museums, and libraries, mainly county and hospital (additional resources may include municipal and / or central-government grants).

**The Swedish Association of Local Authorities and Regions:** The Swedish Association of Local Authorities and the Federation of Swedish County Councils represent the governmental, professional and employer related interests of Sweden's 290 local authorities, 18 county councils, and 2 regions and strive to promote and strengthen regional / local self-government. From 1 January 2005, The Swedish Association of Local Authorities (SALA) and the Federation of Swedish County Councils (FCC) have formed a new headquarter with joint administrative units - The Swedish Association of Local Authorities and Regions (SALAR). In 2007, the two organisations (SALA and FCC) will merge and form a new, joint federation. Their activities are largely financed by membership fees.

**Provinces' County Administrative Boards** (Länsstyrelser) numbering 21, may coincide with the area of a county, but are the regional offices of the central government. Each province is led by a governor, appointed by the central government. With a view to enlarging provinces to sizes comparable to those of other European regions, some are being reorganised. The regional offices have a special responsibility for the natural environment and cultural heritage. Some have a co-ordinating role with respect to the EU structural funds including culture initiatives.

**The Parliament** (Riksdagen), decides upon the individual budgets of most central / national institutions and authorities in the field of culture and heritage like for example the Opera, the Museum of Modern Art and the Authors Fund. Other institutions receive national financing administered by the National Council for Cultural Affairs as part of a lump-sum provision out of which yearly grants are allocated to regional theatres or symphony orchestras, regional museums, county libraries, independent theatre groups, artists consultants etc., a financing often shared with municipalities and / or regions.

**The Central Government's** principal responsibility lies in co-ordination and longer-term planning of cultural policy via the appropriate ministries and related bodies (see organigram in chapter 2.1) and in presenting the annual Bill to the Parliament.

**Ministry for Education, Research and Culture:** In October, 2004, a partial reorganisation of the government was made. The Ministry of Culture, since 1994 a ministry of its own will, from 2005, again be combined with the Ministry of Education, still keeping the responsibility for policies related to film, media (broadcasting), religions, and leisure. The new Ministry of Education, Research and Culture (Utbildnings- och kulturdepartementet) is responsible for matters regarding pre-school education and child care for school children, pre-school classes, compulsory school and equivalent schools, upper secondary school, independent schools, adult education, popular adult education, post-secondary education, universities and university colleges, research, study support, student social issues, youth policy, culture, and media. Cultural policy departments are responsible for issues concerning cultural heritage, theatre, dance and music, artistic activities, architecture, form and design, film, literature and reading, etc. The media policy departments are responsible for issues concerning public service radio and television, daily newspapers, media concentration, action against the portrayal of violence in the media, including film censorship, new media and new technologies.

**The National Council for Cultural Affairs** is a government authority whose principal task is to implement national cultural policy determined by the Parliament. The Council's area of responsibility includes all cultural areas, except film. The main responsibility for cultural heritage lies with the Cultural Heritage Board. The Council is responsible for the allocation of state cultural funding to theatre, dance, music, literature, arts periodicals and public libraries, and to the fine arts, museums and exhibitions, providing the Swedish government with the basic data it needs to make cultural policy decisions by evaluating state spending in the cultural sphere, etc. and providing information about culture and cultural policy.

The Council for Cultural Affairs supports, develops and initiates interaction between the state, the regions, municipalities, and representatives for cultural life in Sweden, e.g. libraries, museums and performing arts centres. The aim is to safeguard and develop Swedish national cultural policy and to promote cultural diversity and an even geographical spread in cultural provision.

The Astrid Lindgren Memorial Award, the Swedish Cultural Contact Point and The Swedish-South African Cultural Partnership Programme are situated in the Council for Cultural Affairs.

**The National Heritage Board** (Riksantikvarieämbetet) administers the cultural heritage law and its issues, including the 12 Swedish sites on the UNESCO World Heritage list. The Board works with the regional heritage offices of the County Administrative Boards; the latter cooperates with the county councils, the regional museums and the municipalities on projects, documentation, and long term strategies for preservation and access to information related to the cultural heritage.

**The National Archives** (Riksarkivet) are responsible for the collections of the national archives and for their maintenance and conservation throughout the country, via the provincial / regional archives and related collections, including advanced programs of IT and public access.

The **Arts Grants Committee** (Konstnärnämnden) and the **Authors' Fund** (Författarfonden) are presented in detail in chapter 8.1.3.

**The National Public Arts Council** (Statens konstråd) is presented in greater detail in chapter 8.1.

**Swedish Film Institute** (Svenska Filminstitutet) is responsible for carrying out the national film policy, which is laid down in a financial agreement between the state and the video- and film industry. The main goals for film policy are the production and wide distribution of quality films especially for children and young people and to achieve better access for handicapped persons. 17 Regional Film Resource Centres were established in the last decade. They are active contributors to a new wave of important filmmaking in Sweden, also in respect to productions made by women and by ethnic groups.

#### **Institutions for culture related to other ministries**

**The Swedish Institute** (Svenska Institutet, SI), together with the National Council for Cultural Affairs, is responsible for support and initiatives promoting international cultural exchanges. The SI is further entrusted to disseminate information about Sweden abroad and to facilitate exchanges in the spheres of education, research and public life in general. The SI has special assignments as part of its regular international development work and as part of its work in Central and Eastern Europe. The SI falls under the Ministry of Foreign Affairs and cooperates with Swedish embassies and consulates throughout the world.

**The Saami Parliament** (Sametinget): The Saami Parliament falls under the Ministry of Agriculture. The state hearing on Sami rights initiated in the beginning of the 1980s led to the Riksdag's decision to set up a special Parliament for the Saami people living in Sweden in December 1992. The Saami also have strong interregional bodies. The Sametinget aims at increasing Sami influence and self determination on issues related to professional skills development, culture and language. The purpose of the Saami Parliament is decided by Sweden's Riksdag and regulated by law.

## **Sweden/ 2. Competence, decision-making and administration**

### **2.3 Inter-ministerial or intergovernmental co-operation**

In the last few years the government has increased its horizontal working practices on long-term policy issues. This has led to new areas of co-operation, for example, between culture and education which has led to the new "combined" Ministry of Education, Research and Culture but also with other areas and ministries. Co-operation also takes place between the Council for Cultural Affairs and other sector authorities.

- **Culture and learning:** The combined Ministry of Education, Research and Culture will hopefully strengthen the position of the arts in the education system. School libraries and their needs were addressed in the 2003 budget, where extra means were allocated for more "teacher-librarians". Centres for adult learning are linked to public libraries to support people finding their way to books, web pages and other sources for information.
- **The physical environment:** The Ministries of Education, Research and Culture, of Environment and of Industry, Employment and Communications have presented a national policy for architecture, form, and design. During 2004, a Committee for Architecture, Form and Design was set up and began preparations for the 2005 Year of Design. The Svensk Form, inaugurated its new Forum for Design in 2001, is the co-ordinator of Year of Design.
- **Culture for regional growth** and its effects for development, public life, artists, and industry are being jointly studied by the National Council for Culture and the Ministry of Industry, Employment and Communications. Culture and tourism, regional cultural industries and festivals are promoted with artists and entrepreneurs from the regions. The impact of EU Structural Funds in the cultural field is being evaluated.
- **The social conditions for artists** e.g. taxes, copyright, pensions and labour market provisions, continue to be on the agenda of the Ministries Education, Research and Culture, of Finance, Social Affairs, Legal Affairs and the Ministry of Industry, Employment and Communications and in dialogue with artists' unions and cultural institutions.
- **Culture and health:** New goals to promote public health and well-being in Sweden have been decided upon by the Parliament in 2003, and are being implemented by the Ministry of Social Affairs via the National Public Health Institute. Regions and local communities are implementing plans for health promotion as well. A nationwide evaluation was due to be presented by the Public Health Institute to the government in October 2005 and will refer to medical and social factors including cultural conditions and access to culture.
- **International relations.** A joint study conducted by the former Ministry of Culture and the Ministry of

Foreign Affairs investigated international relations in the field of culture in 2002/2003. New guidelines and a division of responsibilities and budget were due to be presented to the Parliament during Autumn, 2005 (see also chapter 2.4).

- The UN declaration on the **eradication of extreme poverty** has challenged the government to engage all authorities to develop plans and actions addressing problems of consumption, pollution, communication, and migration and to take into consideration the global context. Likewise, an overall policy for the various areas of government was launched and outlines aims and measures required for a **sustainable society**.

## Sweden/ 2. Competence, decision-making and administration

### 2.4 International cultural co-operation

Sweden actively promoted the decision of the UN to establish the World Commission on Culture and Development, as well as its programme connected to the World Decade on Culture and Development (1987-1997). In 1998, Sweden hosted the intergovernmental UNESCO conference, *The Power of Culture*, where the reports, *Our Creative Diversity* (UNESCO) and the Council of Europe report *In from the Margins* were discussed. The *Action Plan for Cultural Policies for Development*, proposed to governments, is often referred to in national policy discussions with close links to local life, culture, and the environment. In order to evaluate the use and impact of this Action Plan, the Swedish UNESCO Commission invited UNESCO counterparts and cultural policy researchers from all over the world to a workshop "Stockholm + 5", in 2003.

EU membership has also brought new perspectives and possibilities for international cultural co-operation, as well as to realise cultural projects in less populated areas in Sweden via the EU-Structural Funds. The National Council for Cultural Affairs and the National Heritage Board function as contact points for cultural programmes within the EU, and since 1998, also as the official EU- cultural contact point in Sweden together with the National Archives and the Swedish Film Institute.

Swedish cultural institutions actively exchange and co-operate with colleagues in many parts of the world and take part in many international organisations and networks. The National Council for Cultural Affairs gives grants for international cultural exchange, e.g. for performances, seminars, support to the national committees of cultural NGOs, etc. The Council also manages the state insurance provisions for exhibitions on loan. The International Artists Studio Programme in Sweden (IASPIS) offers art-in residence grants to artists from abroad and supports artists from Sweden exhibiting abroad. The programme is connected to the Academy of Arts in Stockholm and to other cities in Sweden like, Göteborg, Malmö and Umeå. In addition to the Nordic Ministers Culture Fund in Copenhagen there are also bilateral funds available for the Nordic countries to realise common projects. Some government measures are being taken in order to stimulate cultural institutions and professionals in Sweden to broaden their international scope. Since 2002, the Swedish National Council for Cultural Affairs has been providing resources for a network of regional consultants to promote cultural diversity.

Sweden is an active member of the Organising Committee of Ars Baltica, which was founded in 1988 to enhance cultural exchange and co-operation among the countries of the Baltic Sea region. The term of the Committee Chairperson is a maximum of two years. In 2004-2005, Lithuania has the chair while the secretariat is hosted in Gdansk, Poland for a period of three years. Ars Baltica operates closely with the Council of the Baltic Sea States (CBSS).

Sida (Swedish International Development Authority) reports to the Ministry for Foreign Affairs and is responsible for most of Sweden's contributions to international development cooperation. The goal of Sida's work is to improve the standard of living of poor people and, in the long term, to eradicate poverty. Sida takes on a great responsibility to develop cultural support and exchange projects closely linked to their general support to third world countries and to East European countries. Throughout the years, Sida has supported large cultural exchange projects developed in cooperation with NGO's like the Swedish-African Museum Programme (SAMP). From 2004, resources dedicated to a long term support and exchange programme with South Africa were transferred from Sida to the National Council for Cultural Affairs. These resources are augmented by a contribution from South Africa and are to be invested in continued co-operation with the Ministry of Culture of South Africa. Priority areas are the development of creativity and cultural structures in both countries via mutual partnerships between institutions, actors etc.

The Swedish Government commissioned a study on Sweden's international cultural activities and relations. The study looks at all the actors involved in this field, such as authorities, institutions, and NGOs and includes related areas like foreign affairs, trade, and third world development programmes. It addresses issues of financing, responsibility, and the need for co-operation. The report was published in 2003, and was due to be presented in a government Bill to the Parliament, in Autumn 2005. The Bill will potentially result in a shift in priorities towards a higher degree of internationalisation in the area of Culture.

## Sweden/ 5. Main legal provisions in the cultural field

### 5.1 General legislation



The purpose of the newly expanded chapter 5 on legal provisions for culture is to provide you with a more indepth overview of the legal instruments used to support culture in the individual Compendium countries.

Chapter 5.1 provides you with information on those pieces of general legislation which have an important impact on culture, for example, articles in the Constitution of individual countries or legislation used to govern the allocation of public funds.

Chapter 5.2 provides a list as overview of the main legislation for culture. Some countries may have hundreds of laws while others may have only one "Culture Act".

Chapter 5.3 is sub-divided to provide you with information on sector specific legislation in the following fields: visual and applied arts; performing arts and music; cultural heritage; literature and libraries; architecture and environment; film, video and photography; culture industries; and mass media.

## Sweden/ 5.1 General legislation

### 5.1.1 Constitution

The Swedish Constitution (Sw. *Grundlagen*) consists of four fundamental law; the *Instrument of Government*, the *Act of Succession*, the *Freedom of the Press Act* and the *Fundamental Law on Freedom of Expression*. The central provisions are contained in the Instrument of Government, and this corresponds most closely to the Constitution of other countries. The *Riksdag Act* is not a fundamental law: special rules however govern its amendment.

Noteworthy is *Article 2*, concerning the basic principles of government (chapter 1):

"Public power shall be exercised with respect to the equal worth of all and the liberty and dignity of the private person.

The personal, economic and cultural welfare of the private person shall be a fundamental aim of public activity. In particular, it shall be incumbent upon the public institutions to secure the right to health, employment, housing and education, and to promote social care and social security.

Public institutions shall promote sustainable development leading to a good environment for present and future generations.

Public institutions shall promote the ideals of democracy as guidelines in all sectors of society and protect the private and family lives of private persons. Public institutions shall promote the opportunity for all to attain participation and equality in society. The public institutions shall combat discrimination of persons on grounds of gender, colour, national or ethnic origin, linguistic or religious affiliation, functional disability, sexual orientation, age or other circumstance affecting the private person.

Opportunities should be promoted for ethnic, linguistic, and religious minorities to preserve and develop a cultural and social life of their own. "

In addition to articles on fundamental democratic rights and freedom of expression, information, religion, and assembly, there is a special *Article 19* concerning artists:

"Authors, artists and photographers shall own the rights to their works in accordance with rules laid down in law".

The provisions on the *Freedom of the Press Act* (1766) shall apply concerning the freedom of the press and the corresponding freedom of expression on sound radio, television and certain like transmissions, as well as in films, video recordings, sound recordings, and other technical recordings. It also contains provisions concerning the right of access to official documents.

## Sweden/ 5.1 General legislation

### 5.1.2 Division of jurisdiction

The Supreme Court is the highest court of general jurisdiction and the Supreme Administrative Court is the highest administrative court. The right to have a case tried by the Supreme Court or by the Supreme Administrative Court may be restricted in law. A person may serve as a member of the Supreme Court or the Supreme Administrative Court only if he holds currently, or has held previously, an appointment as a permanent salaried justice of the Court.

A court of law other than the Supreme Court or the Supreme Administrative Court must be established by virtue of law. No public authority, including the Riksdag, may determine how a court of law shall adjudicate an individual case or otherwise apply a rule of law in a particular case.

The Chancellor of Justice, the Prosecutor General, the central administrative boards and the county administrative boards come under the government. Other state administrative authorities come under the government, unless

they are authorities under the Riksdag according to the present *Instrument of Government* or by virtue of other laws.

Administrative functions may be entrusted to a local authority or may be delegated to a limited company, association, collective, foundation, registered religious community or any part of its organisation, or to a private person. If such a function involves the exercise of public authority, delegation shall be made by virtue of law (see chapter 5.2).

## Sweden/ 5.1 General legislation

### 5.1.3 Allocation of public funds

The Swedish National Council for Cultural Affairs is a governmental agency which administrates the national funding of the autonomous regional and local cultural institutions whose legal status range from limited companies, foundations or public administrations. Such institutions usually have joint financing shared by the state, regional public authorities, and / or the local public authorities in addition to their own income. The same applies to funds allocated by the National Heritage Board to the documentation and preservation of sites, buildings and monuments; the National Public Arts Fund and the Art Grants Committee. Other additional government sources of funding are the National Board of Housing, Building and Planning, the Swedish Employment Service, the National Board for Youth affairs, the Public Fund of Inheritance and the Foundation Culture of the Future.

## Sweden/ 5.1 General legislation

### 5.1.4 Social security frameworks

There is no comprehensive legal framework for artists in Sweden. General principles for social security and taxes apply.

There are several artists' unions, which represent their members in labour market negotiations and which also function as lobbying groups with the government and the public authorities.

In general, artists have lower incomes than the average person which affects general social security for the individual. Self-employed artists have specific problems vis-à-vis public health insurance, pensions and unemployment insurance, since their "business", often small-sized, is not comparable to the usual trade or enterprises.

Some of the specific national or regional grants to individual artists are not taxable (one- and two-year scholarships) and thus, cannot be included in the life-income that relates to their pension.

There are, however, certain experimental projects being conducted by the employment office service. Support is given for intermediary employment centres within the fields of theatre, music, photography and film, for data banks, and for training facilities for professional dancers and actors during periods between job contracts. Work is in progress to introduce more stringent employment criteria (see also chapter 4.2.6).

## Sweden/ 5.1 General legislation

### 5.1.5 Tax laws

The issue of corporate sponsorship in the arts is very much under debate, both in the media and in political fora. Culture and Business (Sw. *Kultur och näringsliv*) is a forum especially created to further debate, obtain contacts and experiences from joint projects, and to find financial contributions from the market. So far there are no special legal incentives, like tax deductions, aimed at promoting private sponsoring of culture, as is the case for sports.

In 2001, after intense criticism, the 25% VAT on books was lowered to 6% by the Parliament. The effects of VAT is now being analysed by the Value Added Tax Rate Inquiry. In an interim report (Statens Offentliga Utredningar, SOOU 2005:57) the Inquiry recommends a switch to a single flat rate of 21.7 per cent (provisional estimate) for all categories of goods and services, the cultural area included.

The general tax system also applies to artists. This means that all costs incurred in order to earn an income are tax deductible, provided that the income is generated from professional activities. Tax deductions outlined by local tax authorities may sometimes be of great importance for the individual artist.

Self-employed artists face a number of problems within the current tax system: for example, basic pensions are calculated on the income generated over their lifetime and as most scholarships or grants are not taxable, they are not included in the overall total of lifetime-income.

## Sweden/ 5.1 General legislation

### 5.1.6 Labour laws

The following list of labour laws are relevant to the field of culture be it on a national or local level, with regards to private persons, a cultural institution or a free theatre group:

- *Prohibition of Discrimination in Working Life because of Sexual Orientation Act* (Swedish Code of Statutes 1999:133);
- *Prohibition of Discrimination in Working Life of People with Disability Act* (Swedish Code of Statutes 199:132);
- *Measures to Counteract Ethnic Discrimination in Working Life Act* (Swedish Code of Statutes 1999:130);
- *Parental Leave Act* (Swedish Code of Statutes 1995:584);
- *Public Employment Act* (Swedish Code of Statutes 1994:260);
- *The Equal Opportunities Act* (Swedish Code of Statutes 1991:433);
- *Working Hours Act* (Swedish Code of Statutes 1982:673);
- *Employment Protection Act* (Swedish Code of Statutes 1982:80);
- *Work Environment Ordinance* (Swedish Code of Statutes 1977:1166);
- *Work Environment Act* (Swedish Code of Statutes 1977:1160);
- *Annual Leave Act* (Swedish Code of Statutes 1977:480);
- *Employment (Co-Determination in the Workplace) Act* (Swedish Code of Statutes 1976:580); and
- *Employee's Right to Educational Leave Act* (Swedish Code of Statutes 1974:1981).

### Sweden/ 5.1 General legislation

#### 5.1.7 Copyright provisions

The development of copyright in the artistic field has long been a part of the priorities of national cultural policy.

In Sweden, basic copyright provisions are similar to those of other European countries. Important developments concerning authors' rights have been linked to the implementation of EU-directives within the copyright field, aimed at harmonising and facilitating the single market. Sweden has implemented the following EU-directives:

- rental and lending rights;
- satellite broadcasting and cable retransmission; and
- harmonisation of the duration of rights protection (70 years after the death of an author).

Legal measures against copyright infringement have been intensified. The digitalisation of production, access and consumption of protected works and performances are continuously producing new possibilities and new problems.

Since 1998, possessors of legal rights in the music field have been awarded copyright-based financial compensation for the losses that have been caused by private copying of phonograms, such as on blank cassette tapes. Revenues are estimated to be about SEK 60 million per year and are allocated to creators and performers by their respective collecting societies.

Reimbursement to composers and musicians has also been introduced for public lending of phonograms and to composers for public lending of sheet music. For authors, translators, and illustrators such reimbursement has existed since the 1960s.

### Sweden/ 5.1 General legislation

#### 5.1.8 Data protection laws

Information is currently not available.

### Sweden/ 5.1 General legislation

#### 5.1.9 Language laws

There is no special language law regulating the media in Swedish. However, there are generally formulated rules

on the use of the Swedish language in the legislation for radio and TV and public administration. For many years, there has also been an effort to preserve the purity of the Swedish language, including supervision of the development of the language, guidelines for setting language standards, the production of manuals and dictionaries, and promotion of relevant guidance and research. There are three main institutions responsible for these activities: the Swedish Language Council, the Centre for Technical Terminology, and the Swedish Academy. Sign language is declared a language in its own right, accompanying news and debates, yet on a limited scale.

As a consequence of recent immigration to Sweden, radio and TV programmes in various immigrant languages are supported.

The Riksdag has enacted special laws in 1999, entitling individuals to use Sami, Finnish and Meänkieli in dealings with administrative authorities and courts of law in localities, in which these languages continue to be used. The law also requires municipalities to offer pre-school activities, but also elderly care in official minority languages.

## Sweden/ 5.2 Legislation on culture

There is very little overarching legislation in the cultural field. There are only two basic laws: one on local public libraries and the other on preservation of the national heritage.

Apart from general legislation adopted by the Parliament, there are a great number of regulations issued by the government to guide central institutions on the use of government funds for various cultural purposes.

## Sweden/ 5.3 Sector specific legislation

### 5.3.1 Visual and applied arts

Information is currently not available.

## Sweden/ 5.3 Sector specific legislation

### 5.3.10 Other areas of relevant legislation

Information is currently not available.

## Sweden/ 5.3 Sector specific legislation

### 5.3.2 Performing arts and music

Information is currently not available.

## Sweden/ 5.3 Sector specific legislation

### 5.3.3 Cultural heritage

The *National Heritage Act* (1988:950) contains regulations on ancient monuments, historic buildings, religious monuments and export and restoration of cultural objects etc. The Act stipulates that responsibility for the cultural environment is shared by all people in Sweden. Authorities and individuals alike, shall show consideration and respect for the cultural environment. Some of the issues in focus during recent years have been: public access also via Internet, the safeguarding and use of the industrial heritage, and the promotion of objects in Sweden on the World Heritage List. The following authorities and institutions have a special role in safeguarding the cultural environment:

- **The National Heritage Board** (Riksantikvarieämbetet) is the central administrative authority. At the national level the Board has overall responsibility for disseminating knowledge about the cultural environment and for information campaigns and contact with the public;
- **The provincial county administrative boards** (Länstyrelserna) have responsibility for the cultural environment at the regional level. This means that they decide on matters related to the *National Heritage Act* and are responsible for ensuring that protection of the cultural environment is taken into account in regional planning and development. The county administrative boards also allocate state funds for the restoration of historic buildings, ancient monuments and historic landscapes;
- **The regional museums** are responsible, together with the provinces' administrative boards, for major regional efforts to protect heritage resources. Their task includes collecting and disseminating knowledge about the cultural heritage of the county. The regional museums are often involved in care or restoration of buildings, ancient monuments and historic landscapes, including also industrial heritage;

- at the local level **municipalities** are responsible for the protection and development of the cultural heritage. This role is exercised, inter alia, with physical municipal planning and through the application of the *Planning and Building Act (1987:10)*. Several municipalities run municipal museums and / or keep municipal antiquarians; and
- voluntary efforts to preserve the cultural heritage and environment are of great importance in Sweden. Every year substantial efforts are made to preserve and to disseminate knowledge about cultural heritage sites and properties of cultural interest by local heritage societies, local associations, museum associations and individuals.

### Sweden/ 5.3 Sector specific legislation

#### 5.3.4 Literature and libraries

Since the introduction of general library legislation in January 1997, municipalities have been obliged by law to maintain a public library and to refrain from levying any direct charge for its loans to members of the public. The novelty of this law is that these principles are now legally enforceable and it remains to be seen whether these provisions will change library services in Sweden – considered by international experts as among the best equipped and organised in the world.

Originators of literary works (authors, translators and illustrators) are compensated for public lending through the Swedish Authors' Fund. The Fund allocates state compensation for public lending from libraries. A portion of this compensation is given to the individual author in direct proportion to the number of public loans of his / her work; another portion is transferred to the Fund itself, from which grants and scholarships are allocated to writers etc.

### Sweden/ 5.3 Sector specific legislation

#### 5.3.5 Architecture and environment

Information is currently not available.

### Sweden/ 5.3 Sector specific legislation

#### 5.3.6 Film, video and photography

Swedish film policy is regulated by an agreement between the state, the film industry and television companies. The agreement contains provisions governing revenue generation. The most important purposes for which funds are used, include: supporting Swedish film production and supporting distribution and exhibiting of films throughout the country. The latest agreement was entered into by the parties in September 2005 and enters into force on the 1<sup>st</sup> of January 2006.

### Sweden/ 5.3 Sector specific legislation

#### 5.3.7 Culture industries

There is no law or comprehensive framework for the culture industries in Sweden.

### Sweden/ 5.3 Sector specific legislation

#### 5.3.8 Mass media

Radio and TV transmissions other than via satellite are subject to agreements between the government and the public-service radio and TV companies, and TV4, an independent company. The Swedish Radio and TV Authority, established in 1994, is responsible for regulations on commercial and satellite transmissions. It is also the licensing and registration authority for local and similar radio stations, temporary transmissions and distribution by cable and satellite and collects fees from local radio and commercial TV transmissions within Sweden.

The *Radio and Television Act* applicable to television companies under Swedish jurisdiction contains a provision equivalent to *Articles 4 and 5* of the European Union television broadcasting directive. This implies that more than half of the annual broadcasting time or at least 10% shall be of programmes of European origin and that at least 10% of the annual broadcasting time or at least 10% of the programme budget shall refer to programmes of European origin produced by independent producers. As large a proportion as possible of these should have been produced in the past five years. The television companies should report annually to the Swedish Radio and TV Authority on how they have complied with these regulations.

## Sweden/ 5.3 Sector specific legislation

### 5.3.9 Legislation for self-employed artists

Improving the legal, economic and social conditions for artists is one of the government's main cultural policy priorities. A programme of measures to improve artists' working conditions was one of the most important features in the *Cultural Policy Bill* presented by the government in the Autumn of 1996. Four commissions have since been working on this task with their efforts focused on providing better compensation for artists work and to stimulate the labour market for artists in order to increase demand.

The general tax system also applies to artists. This means that all costs incurred in order to earn an income are tax deductible, provided that the income is generated from professional activities. Tax deductions outlined by local tax authorities may sometimes be of great importance for the individual artist.

Self-employed artists face a number of problems within the current tax system: for example, basic pensions are calculated on the income generated over their lifetime and as most scholarships or grants are not taxable, they are not included in the overall total of lifetime-income.

## Sweden/ 6. Financing of Culture

### 6.1 Short overview

In the proposed state budget for 2006, the sector entitled Culture, Media, Religious organizations and Leisure will receive SEK 9.6 billion which equals around 1.3% of the total budget. This includes cultural activities, such as theatres, dance, music, cultural journals, architecture, crafts, film, archives, popular education, museums, exhibitions, fine arts, as well as grants and compensation to artists, etc.

An average household spent around SEK 250 000 in 2004, of which 18 percent was spent on culture and leisure, making this the next largest item of expenditure after housing.

## Sweden/ 6. Financing of Culture

### 6.2 Public cultural expenditure per capita

Total public culture expenditure per capita in 2002, was SEK 1.957. Private *and* public cultural consumption, i.e. the value of cultural goods and services, was estimated to account for 2.5% of GDP in 2000.

## Sweden/ 6. Financing of Culture

### 6.3 Public cultural expenditure broken down by level of government

Table 1: Public cultural expenditure: by level of government, in billion SEK, 2002

Level of government	Total expenditure		% share of total	
	2000	2002	2000	2002
Central government	7.565	8.050	47	46
County councils	1.589	1.743	10	10
Municipalities	6.919	7.640	43	44
TOTAL	16.073	17.433	100	100%

Source: Cultural Financing 2002 (*Kulturen i siffror 2003:6*). National Council of Cultural Affairs, Sweden

Central government spending on culture including media and popular education in 2002, equalled SEK 8.05 billion or 46% of the total public spending on culture. The corresponding figures for the 20 regional units and the 290 municipalities were SEK 1.74 billion (10% of total public spending on culture) and SEK 7.64 billion (44% of total public spending on culture) respectively. Approximately 40% of the local expenditure is allocated to public libraries, 30% to various other cultural activities, 9% to music / culture schools and 8% to popular education. Regional expenditure mainly goes to regional theatres, museums, and orchestras.

However, household consumption accounts for the bulk of all expenditure on culture in Swedish society. In 2001-2002, it was estimated that private consumption – mainly in the form of purchases of books, journals, digital equipment, and tickets – amounted to SEK 38.2 billion, which corresponds to around 70% of all cultural expenditure in the country.

After a period of fiscal austerity during the early and mid-nineties, public expenditure has once again increased at all levels of government. Nonetheless, the level and composition of public expenditures may vary substantially between regions and municipalities.

#### **Sweden/ 6. Financing of Culture**

##### **6.4 Sector breakdown**

Information is currently not available.

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The Council of Europe/ERICarts "Compendium of Cultural Policies and Trends in Europe, 6th edition", 2005

## United Kingdom/ 2. Competence, decision-making and administration

### 2.1 Organisational structure (organigram)

No up to date organisational diagrams are available incorporating all four countries of the UK.

The UK Parliament and government are responsible for all cultural issues in England, and for some issues such as broadcasting across the whole of the United Kingdom. However, in Scotland, Wales and Northern Ireland, most cultural issues are now the responsibility of the Scottish Parliament and Executive, the National Assembly for Wales and the Welsh Assembly government, and the Northern Ireland Assembly and Executive respectively ("the devolved administrations"). The Northern Ireland Assembly was established as part of the Belfast Agreement and is the prime source of authority for all devolved responsibilities and has full legislative and executive authority. However, the Assembly was suspended from midnight on 14 October 2002 and was dissolved on 28 April 2003. The Secretary of State has assumed responsibility for the direction of Northern Ireland Departments. The *Scotland Act 1998*, the *Government of Wales Act 1998* and the Orders in Council made under it, and *The Northern Ireland Act 1998* specify which issues remain the responsibility of the UK government in each of those parts of the UK. It should be noted that while the Scottish Parliament and the Northern Ireland Assembly are able to make primary legislation in respect of those issues which have been devolved, the National Assembly for Wales is only able to make secondary legislation; responsibility for primary legislation for Wales remains with the UK parliament and government.

## United Kingdom/ 2. Competence, decision-making and administration

### 2.2 Overall description of the system

The **Department for Culture, Media and Sport (DCMS)** implements government policy and administers government grants to national museums and art galleries in England, **Arts Council England**, the **British Library** and other national culture and heritage bodies. Its other responsibilities include the regulation of the film and music industries, broadcasting and the press, the National Lottery, gambling and the export licensing of cultural objects. DCMS is headed by a Secretary of State, who is assisted by a Minister of State and two Parliamentary Under-Secretaries of State. There is a Parliamentary Select Committee for Culture, Media and Sport.

In all parts of the UK spending on culture operates on an "arm's length" basis, through a number of Non-Departmental Public Bodies (NDPBs). These include organisations responsible for the arts, sport, film and heritage in England and their counterparts in Scotland, Wales and Northern Ireland. Many museums and galleries are also run as NDPBs, including the Victoria and Albert Museum, the National History Museum and the Tate Gallery. Some "public bodies", including the four arts councils, also act as distributors of National Lottery funds.

The UK parliament and government retain both legislative and policy responsibility for the whole of the UK in the following areas:

- Acceptance in Lieu of Tax;
- Broadcasting;
- Export Controls on Cultural Objects;
- Government Indemnity Scheme (i.e. insurance);
- National Lottery; and
- Public Lending Right.

DCMS also retains legislative and policy responsibility for film in Wales. All other subject areas are the responsibility of the devolved administrations in Scotland, Wales and Northern Ireland.

In addition to the specific reserved subjects, EU and international issues are also the responsibility of the UK government. As with other such matters, however, it has been agreed that the devolved administrations retain a legitimate interest.

There have been significant structural changes to Non-Departmental Public Bodies in England in recent years including, for example, the creation of Re:source, the Council for Museums, Archives and Libraries (which merged the Museums & Galleries Commission and the Library and Information Commission and has now been renamed) the creation of a new Film Council, and the merging of the Royal Commission on Historic Monuments and English Heritage under the name of the latter. A new Commission for Architecture and the Built Environment was established to promote better quality building and urban design. Arts Council England was created by the merger of former regional arts boards in England with the Arts Council to create a single, unified development body for the



arts.

Non-Departmental Public Bodies working in England, or covering the UK as a whole, receive funding directly from DCMS. This is now done for three years at a time, to allow bodies more freedom in planning ahead. Funding agreements, which are publicly available, set out the aims, objectives and targets that each NDPB has agreed with DCMS.

Cultural policies in the English regions are determined by regional agencies working in DCMS sectors. DCMS has established a **Regional Cultural Consortium** in each of the eight English planning regions outside London. There are plans to devolve some central government responsibilities to proposed Regional Assemblies in England which will be formally established if approved in public referenda. This could have some impact on cultural administration at a regional level by 2005.

The administration of cultural matters in Scotland is the responsibility of the Scottish Executive. The Minister for Tourism, Culture and Sport and the Scottish Executive Education Department (SEED) have responsibility for policy covering the arts, film, architecture, the cultural heritage, the Gaelic language, tourism, sport and liaison with the UK government on broadcasting and the National Lottery. Historic Scotland is an Executive Agency of the Department. It is responsible for safeguarding the country's heritage. The Tourism, Culture and Sport unit within SEED also has responsibility for grant-aiding a number of cultural agencies, including the Scottish Arts Council and Scottish Screen, whose task is to develop and promote film, TV and new media.

The National Assembly for Wales has devolved responsibilities in that country for culture and related issues. Within the Welsh Assembly government the portfolio of the Assembly Minister for Culture, Welsh Language and sport covers the arts, museums and libraries, language, media and broadcasting, heritage (CADW), sport and recreation and Lottery issues. Since 1999 a number of public agencies, e.g. the Arts Council of Wales, the Welsh Language Board, Sports Council for Wales and National Museums & Galleries of Wales, have been funded by, and accountable to, the Assembly following the transfer of responsibility from the former Welsh Office. CADW is part of the National Assembly and is responsible for the country's built heritage. The Design Commission for Wales, established in 2002, champions sustainable development, equality of opportunity and social inclusion. CyMal ("joining together") will be established as a new, specialist unit within the Welsh Assembly government from April 2004 to develop strategic direction and advice for the Museums, Archives and Libraries sector.

The Northern Ireland Executive was established as part of the Good Friday Agreement. The Department of Culture, Arts and Leisure (DCAL) is one of 10 Executive Departments. Its remit covers the central administration of arts and culture, film, museums, libraries, sport and leisure amenities, language policy and matters relating to the National Lottery. DCAL supports a number of Non-Departmental Public Bodies. These include: the Arts Council of Northern Ireland, which became a statutory body in 1995; the National Museums and Galleries of Northern Ireland, established in 1998 by the merger of four major museums and heritage collections; and the Northern Ireland Museums Council, which is the main channel of the Executive's support to local museums. DCAL also supports the Northern Ireland Film Commission, now known as the Northern Ireland Film and Television Council, which is a company limited by guarantee. Local government also has a role in supporting local museums.

## **United Kingdom/ 2. Competence, decision-making and administration**

### **2.3 Inter-ministerial or intergovernmental co-operation**

The UK government is committed to ensuring greater co-ordination between government departments and between tiers of governance to ensure effective delivery of policy. This relates both to cultural matters and to cross-cutting issues. By way of illustration, local authorities in England were required by government to prepare local cultural strategies by 2001 to improve the quality of life. In Northern Ireland DCAL is required by government to work with the district councils to develop local strategies for culture through a Cultural Forum. The Arts Council of Northern Ireland consults regularly with district councils on the exercise of its functions through a Forum for Local Government and the Arts (FLGA). In this regard the Arts Council is instituting a GBP 2.1million Challenge Fund over four years to support local organisations and projects on the basis of priorities agreed with local authorities.

The Social Exclusion Unit of the UK government is another example. The Unit set up a series of Policy Action Teams to recommend how policies in different areas of government responsibility could address deprivation and disadvantage caused by social exclusion. One of these, Policy Action Team 10, was asked to consider how to maximise the impact on poor neighbourhoods of government spending and policies on culture and leisure, and also to identify best practice in using arts, sport and leisure to engage people living in deprived areas, particularly those who may feel most excluded, such as disaffected young people and people from ethnic minority groups.

## **United Kingdom/ 2. Competence, decision-making and administration**

### **2.4 International cultural co-operation**

A considerable amount of international cultural co-operation is undertaken by individuals and organisations

through networks, exchanges and personal contact. This is an integral dimension of the work of many organisations and individuals as well as the cultural and creative industries, which do much business overseas. The British Council (which is part-funded by the Foreign & Commonwealth Office) continues to have an important role to play. Its focus is increasingly on cultural development opportunities, new partnerships and cultural relations. The level of resources available for international engagement remains an issue of concern to cultural practitioners.

International collaboration is encouraged by such organisations as Visiting Arts, a quasi independent body funded by the British Council, the Arts Councils and the Foreign Office. In Wales a small specialist unit, Wales Arts International, has been set up to advance two way opportunities for the arts supported by the Arts Council of Wales and The British Council. The Arts Council of Northern Ireland works closely with its counterpart in the Republic in cross-border co-operation. The Programme for Peace and Reconciliation in Northern Ireland (PEACE II) of the EU aims to address the legacy of conflict and take opportunities from peace.

The UK government (through the DCMS) has the lead responsibility for cultural co-operation in the EU, and on cultural policy issues in the Council of Europe. The UK government had been one of the founders of UNESCO and, after a 12 year absence due to financial and political differences, the UK rejoined UNESCO in 1997. The UK UNESCO National Commission sector committee for culture was set up in 2000 and administered by the British Council. However, the Commission, along with the culture committee (and other sector committees), was dissolved in 2003.

DCMS, with the Film Council, sits on the management committee of the EU's Media Plus programme. The UK government is working closely and positively with the European Commission and other member states to ensure that the programme contributes to a sustainable European film industry. DCMS also represents the UK on the Executive Council of the European Audiovisual Observatory, a Council of Europe organisation, which collects and disseminates data on the audiovisual sector. The key objectives of DCMS are to ensure that British industry derives the maximum benefit from UK participation and involvement in these organisations and to ensure that they are run in an efficient and coherent manner in order to best address the needs and interests of the broadcasting sectors.

The UK model of mixed public private financing is becoming increasingly attractive in the light of the pressures on state funding by other countries. Arts & Business has been involved in training in over 32 countries and also holds the presidency of CEREC, the European Committee for Business, Arts and Culture which promotes business arts relationships at the international level.

## **United Kingdom/ 5. Main legal provisions in the cultural field**

### **5.1 General legislation**

The purpose of the newly expanded chapter 5 on legal provisions for culture is to provide you with a more indepth overview of the legal instruments used to support culture in the individual Compendium countries.

Chapter 5.1 provides you with information on those pieces of general legislation which have an important impact on culture, for example, articles in the Constitution of individual countries or legislation used to govern the allocation of public funds.

Chapter 5.2 provides a list as overview of the main legislation for culture. Some countries may have hundreds of laws while others may have only one "Culture Act".

Chapter 5.3 is sub-divided to provide you with information on sector specific legislation in the following fields: visual and applied arts; performing arts and music; cultural heritage; literature and libraries; architecture and environment; film, video and photography; culture industries; and mass media.

## **United Kingdom/ 5.1 General legislation**

### **5.1.1 Constitution**

The UK has no written constitution, depending instead on the body of case law.

## **United Kingdom/ 5.1 General legislation**

### **5.1.2 Division of jurisdiction**

Information is currently not available.

## **United Kingdom/ 5.1 General legislation**

### **5.1.3 Allocation of public funds**

Information is currently not available.

## **United Kingdom/ 5.1 General legislation**

### **5.1.4 Social security frameworks**

Artists fall within the general body of case-law in this area. Arts Council England has commissioned the Institute for Employment Research and the Centre for Educational Development, Appraisal and Research, at the University of Warwick, to undertake research on artists' labour markets and the effect of tax benefit systems.

## **United Kingdom/ 5.1 General legislation**

### **5.1.5 Tax laws**

The British model has traditionally focused on the role of business in supporting the cultural sector, but several developments have encouraged a new view of the possibilities of increasing individual support for the arts. Not only has personal wealth grown in the UK, but new models of donor involvement, known as venture philanthropy, have encouraged a more positive view of the proactive donor. The Treasury has also sought to encourage this by implementing more advantageous tax regimes, since tax planning has an obvious attraction for the individual donor. This new way of giving to charities took effect from April 2000 as part of the government plans "to get Britain giving". Following a review of charity tax law, the Chancellor of the Exchequer proposed major simplifications and improvements to the treatment of gifts to charities including an introduction of a tax efficient way to donate gifts of shares. The changes were made in part to encourage private support, to complement the public money given to the arts, museums and heritage, and to increase the amount of money going to charities. Many cultural organisations in the UK have charitable status and are thus able to take advantage of these changes.

There are a number of schemes to encourage public-private partnerships using tax and customs relief. For example, if a business temporarily second an employee to a charity or educational establishment, such as an arts organisation, the salary cost and other expenses which the employer would normally continue to pay will continue to be tax deductible. An Enterprise Investment Scheme was introduced by the government to help small companies raise money. It offers income and capital gains tax breaks to investors of at least GBP 1 000, though is potentially high risk. New British films and plays have been the main beneficiaries.

The direct tax (corporation tax) and indirect tax (VAT) implications of business support for the arts depends on the nature of the support, who is giving it and the status of the recipient, most particularly if the arts organisation is a registered charity. More information can be found on the websites of the Inland Revenue (<http://www.inlandrevenue.gov.uk/>), Customs and Excise (<http://www.hmce.gov.uk/>) and Arts & Business site (<http://www.aandb.org.uk/>).

## **United Kingdom/ 5.1 General legislation**

### **5.1.6 Labour laws**

Artists fall within the general body of case-law in this area. Arts Council England has commissioned the Institute for Employment Research and the Centre for Educational Development, Appraisal and Research, at the University of Warwick, to undertake research on artists' labour markets and the effect of tax and benefits systems.

## **United Kingdom/ 5.1 General legislation**

### **5.1.7 Copyright provisions**

Original literary, dramatic, musical or artistic works (including computer programmes and databases) films, sound recordings, cable programmes, broadcasts and the typographical arrangement of published editions, are automatically protected by copyright in the UK if they meet the legal requirements for protection. In general terms, copyright protection may also be given to works first published in (or, in the case of a broadcast or cable programme, made in or sent from) EU member states, or from countries party to international copyright conventions, the World Trade Organisation, or reciprocal agreements. The copyright owner has rights against unauthorised reproduction, public performance, broadcasting, rental and lending, issue to the public and adaptation of his or her work; and against importing, possessing, dealing with or providing means for unauthorised copies. In most cases the author is the first owner of the copyright, and the term of copyright in literary, dramatic, musical and artistic works is generally the life of the author and a period of 70 years from the year in which he or she dies. For films the term is generally 70 years, and sound recordings and broadcasts are protected for 50 years.

The EU Directive which harmonises Droit de Suite (artist's resale rights) will be implemented in 2006 in the UK.

Meanwhile, Arts Council England commissioned research on the most appropriate arrangements for administering the scheme and the report exploring the possible models was published in 2002 (*Implementing Droit de Suite in England* by Clare McAndrew and Lorna Dallas-Conte).

Blank tape levies are not applicable in the UK.

#### **United Kingdom/ 5.1 General legislation**

##### **5.1.8 Data protection laws**

Information is currently not available.

#### **United Kingdom/ 5.1 General legislation**

##### **5.1.9 Language laws**

The only specific legal provisions for the use of indigenous or foreign languages in the culture industries are in Scotland, where the Gaelic Television Fund was set up to grant-aid for Gaelic television production under the *Broadcasting Act* 1990, and in Wales, where the grant-aided Welsh Fourth Channel Authority was established by the *Broadcasting Act* 1980 to provide a Welsh language television service.

*The Communications Act* 2003 established a new Gaelic broadcasting body, with wider powers, to secure the provision in Scotland of a range of high quality and diverse Gaelic television and radio programmes. The 2003 Act also introduced amendments to the Welsh Authority's public service remit, but retained the provision of Welsh language broadcasting as its core.

#### **United Kingdom/ 5.2 Legislation on culture**

There are no over-arching legislative acts specifically governing culture, though legislation has been introduced over many years concerning specific cultural sectors (e.g. museums and library laws date from the mid 19<sup>th</sup> century).

#### **United Kingdom/ 5.3 Sector specific legislation**

##### **5.3.1 Visual and applied arts**

Information is currently not available.

#### **United Kingdom/ 5.3 Sector specific legislation**

##### **5.3.10 Other areas of relevant legislation**

Information is currently not available.

#### **United Kingdom/ 5.3 Sector specific legislation**

##### **5.3.2 Performing arts and music**

Information is currently not available.

#### **United Kingdom/ 5.3 Sector specific legislation**

##### **5.3.3 Cultural heritage**

Statutory controls exist to protect historic buildings and monuments when this is considered to be in the public interest. Buildings of special architectural or historic significance (including occupied premises) are "listed" according to specific grades of importance by the relevant government departments or their appointed agencies in all four countries of the UK. Government departments are also responsible for compiling a schedule of ancient monuments, which offers a similar level of protection to that of "listed" buildings. There were more than 29 000 such monuments in the UK in 1998. Local planning authorities in Britain and central government in Northern Ireland are legally obliged to designate as "conservation" areas those places (as opposed to buildings) of special historic or architectural interest. There were more than 10 000 such areas in 1998.

In July 2003, the government published a consultation paper *Protecting our historic environment: Making the*

*system work better.* This is a review of the designation system in England. It proposes one unified designation system for England in place of the considerable range of statutory and non-statutory schemes now in place.

The principal agencies which support the work of the central government authorities protecting the heritage are English Heritage, Scottish Heritage, CADW: Welsh Historic Monuments, and the Environment and Heritage Service in Northern Ireland. They discharge statutory responsibilities relating to the preservation, protection and maintenance of ancient monuments, historic buildings and conservation areas.

The National Heritage Memorial Fund provides financial assistance towards the acquisition, maintenance and preservation of buildings, land, works of art and other objects of outstanding importance to the national heritage. An independent agency, the National Trust, is responsible for more than 240 historic building in England open to the public. It is funded largely from membership subscriptions and income generated from the sale of products, souvenirs, etc. The bulk of historic buildings and archaeological sites remain in private ownership.

#### **United Kingdom/ 5.3 Sector specific legislation**

##### **5.3.4 Literature and libraries**

The Public Lending Right Scheme gives registered authors royalties from a central fund (totalling just over GBP 5 million in 2000-2001) for the loans made of their books from public libraries in the UK. Payment is made according to the number of times an author's books are borrowed. The maximum yearly payment an author can receive is GBP 6 000.

#### **United Kingdom/ 5.3 Sector specific legislation**

##### **5.3.5 Architecture and environment**

Information is currently not available.

#### **United Kingdom/ 5.3 Sector specific legislation**

##### **5.3.6 Film, video and photography**

The Film Council was set up in April 2000 to develop a sustainable film industry and develop film culture in the UK. Public funding available for film production, and other initiatives intended to help the film industry, e.g. funding for training, is administered by the Film Council. Tax relief is available on production expenditure and / or the acquisition cost of "British" films, as defined in *The Films Act 1985*. The Act sets out the criteria to qualify as "British", including complying with the provisions of one of the UK's co-production treaties with other film producing countries, or the European Convention on Cinematographic Co-production to which the UK is a signatory.

The Film Council has engaged specialist consultants to advise on a future strategy for cultural diversity to ensure that it reflects a multicultural Britain in its attitudes and practices and also takes into account the British Screen Advisory Council report on the employment of ethnic minorities in the film industry. The Film Council has set up a committee to take forward a detailed action plan.

British films can also take advantage of "sale and lease back" arrangements, whereby a production company or producer can reduce their borrowing by up to 12% of the budget by selling the rights to their film to a UK purchaser, who can then claim tax relief on the purchase price while leasing the rights back to the production company.

#### **United Kingdom/ 5.3 Sector specific legislation**

##### **5.3.7 Culture industries**

See chapter 4.2.5 and chapter 4.2.6.

#### **United Kingdom/ 5.3 Sector specific legislation**

##### **5.3.8 Mass media**

The UK television industry is acknowledged as one of Europe's most dynamic. Satellite and cable audiences continue to increase. Commercial radio was forecast to grow at twice the rate of other media in 2000 (12%). Digital technology, the Internet and developments in telecommunications are allowing for a number of new and innovative methods of service delivery by radio and television. The *New Future for Communications* White Paper covers the main issues the industry faces. These include regulation of cross-media ownership, regulation of converging markets, and spectrum management. In addition, emerging technologies (i.e. video on demand, personal

television recorders) will create further challenges for traditional broadcasters.

The BBC's Royal Charter and its agreement with the government include obligations to provide a properly balanced service consisting of a wide range of subject matter and to serve the tastes and needs of different audiences. There are five terrestrial channels - BBC1, BBC 2, ITV 1, Channel 4 and Channel 5. Under the provisions in the *Broadcasting Act 1990*, ITV and Channel 5 are required to provide a diverse programme service calculated to appeal to a wide variety of tastes and interests. Channel 4 has a statutory duty to provide information, education and entertainment; a wide range of programmes must be provided.

Under the 1990 and the 1996 *Broadcasting Acts*, ITV 1, Channel 4, Channel 5, National Radio Licence holders and digital terrestrial programme licence holders are also required to promote equality of opportunity in employment between men and women and between persons of different racial groups.

Within this framework, decisions about programme content and presentation are a matter for the regulators and the broadcasters themselves. They have set out detailed requirements in the Independent Television Commission (ITC)'s Programme Code and the BBC's Producer Guidelines, including on the specific issues of the portrayal of ethnic minorities in programming.

*Article 4* of the EC Broadcasting Directive *Television Without Frontiers*, implemented by the UK through the *Broadcasting Acts 1990* and 1996, requires that member states shall ensure, where practicable and by appropriate means, that broadcasters within their jurisdiction reserve a majority proportion of their qualifying transmission time for European works. Additionally, under *Article 5*, at least 10% of their transmission time must be earmarked for European independent works, including an "adequate" proportion for recent independent European works. Programme content quotas have been statutorily imposed in relation to the UK's terrestrial and public service broadcasters.

The UK government, through the Department for Culture, Media and Sport, collates and monitors all UK-based cable and satellite channel quota returns. The Independent Television Commission (ITC) monitors digital terrestrial quotas directly. The *Broadcasting Act 1990* requires the BBC, the ITV companies, Channel 4 and Channel 5 to devote at least 25% of their qualifying programming time to broadcasting a range and diversity of independent productions. European and independent production obligations provide continuous investment in the European audiovisual industry, while encouraging innovation and creativity.

A *Cultural Diversity Network (CDN)*, which held its first meeting in February 2000, was set up by television broadcasters in response to concerns raised by the Secretary of State for Culture, Media and Sport and others about the adequacy of the representation of the UK's multicultural society on and behind the screen. The network is a cross-industry initiative. As part of its work, the CDN has produced an action plan with shared objectives - *Changing the face of television, Manifesto 2000*. This has formed the basis of individual action plans, containing targets and measures to integrate ethnic minorities into television at all levels, that were launched by individual broadcasters in October 2000. DCMS welcomed the initiative as a demonstration of the broadcasters' commitment to increasing the diversity of those both in front of and behind the scenes, and will be watching progress.

A *Communications White Paper* published in 2000 reaffirms the government's commitment to ensuring that public service broadcasters continue to celebrate and reflect culturally diverse communities, and broadcast programmes which appeal to a wide range of tastes and interests as well as to people of different ages and backgrounds. This may be achieved through the realistic portrayal of people from diverse or varied cultural backgrounds or through new services, including community radio and television. The scope for such services increases in a digital environment whether they are delivered through terrestrial spectrum, cable, satellite or the Internet.

In recent years there has been much (and, arguably, unresolved) media debate about "dumbing down" – the notion that quality is being sacrificed in the arts and broadcasting in the pursuit of broadening the audience base.

## United Kingdom/ 5.3 Sector specific legislation

### 5.3.9 Legislation for self-employed artists

There is no overall legal framework for self-employed artists in the UK.

Inland Revenue has ruled that grants and awards to artists are taxable. Creative people, such as writers, composers, playwrights etc, can arrange with the Inland Revenue authorities to have their tax spread over a period of years if they can demonstrate that their income fluctuates significantly as a result of spending more time some years on the creative process when their income is lower than normal. However, the Inland Revenue do regard "buying time" bursaries as tax free.

## United Kingdom/ 6. Financing of Culture

### 6.1 Short overview

In England, central government expenditure through the DCMS in the financial year (April to March) 2002/03 was

**Table 2a: Public arts expenditure : by level of government: state, in GBP and in %, 2002/2003**

Level of government	Expenditure figures GBP	% share of total
<b>state</b>		
<i>England</i>	1 002 183 000	79.26
<i>Scotland</i>	118 400 000	9.36
<i>Wales</i>	90 100 000	7.13
<i>N. Ireland</i>	53 700 000	4.25
<b>Total (UK)</b>	<b>1 264 383 000</b>	<b>100</b>

Source: DCMS, Scottish government, Welsh government, DCAL

**Table 2b: Public arts and cultural expenditure : by level of government: local authorities, in GBP and in %, 2000/2001**

Level of government	Expenditure figures GBP	% share of total
<b>Local Authorities</b>		
<i>in England</i>	1 088 597 965	85.76
<i>in Scotland</i>	134 174 000	10.57
<i>in Wales</i>	23 464 000	1.85
<i>in N. Ireland</i>	23 097 000	1.82
<b>Total (UK)</b>	<b>1 269 332 965</b>	<b>100</b>

Source: Re:source, Scottish local government, Welsh government, Offices of National Statistics

**United Kingdom/ 6. Financing of Culture****6.4 Sector breakdown****Table 3: Public cultural expenditure: by sector breakdown for England, in million GBP, and in %, 2002/03**

Field	Total million GBP	% share of total
Museums, galleries and libraries (in-cluding archives)	379.8	37.90
Arts	296.4	29.58
Historic buildings, monuments and sites	153.7	15.34
Broadcasting and media (UK)	113.1	11.29
National Lottery Commission	0.001	0.00
Facilities / spaces for sports and the arts	50.4	5.04
Culture online	8.1	0.81
Unallocated reserve	0.3	0.04
<b>Total</b>	<b>1 002.2</b>	<b>100.00</b>

Source: DCMS, 2003

Note: Percentage figures have been rounded

**Table 4: Public cultural expenditure: by sector breakdown for Scotland, in million GBP, and in %, 2002/03**

GBP 1 002 million, made up primarily of:

- GBP 379 million for national museums, galleries and libraries;
- GBP 296 million for the arts;
- GBP 113 million for broadcasting and the media (including film);
- GBP 153 million for historic buildings, monuments and sites;
- GBP 50 million for spaces for sports and the arts; and
- GBP 8 million for culture online

See chapter 6.2 for details.

Expenditure in 2002/03 in actual figures, by the Arts Council for England and Arts Councils for Wales, Scotland and Northern Ireland was respectively GBP 290 million, 21 million, 36 million and 8.7 million. The Scottish Executive provided GBP 65 million to National Institutions (including National Museums of Scotland, National Galleries of Scotland and National Library of Scotland). The National Assembly for Wales in the same period gave GBP 24.4 million to National Museums and Galleries of Wales, GBP 13.5 million to National Library for Wales and GBP 28.5 million to the arts. The Department for Culture Arts and Leisure of Northern Ireland in the same period gave GBP 11.6 million to Museums.

The National Lottery was established in 1994. The net proceeds are divided between five "good causes". These are the arts, sport, heritage, charities (the Community Fund), and the New Opportunities Fund (covering health, education and environmental issues). The actual distribution of funds to the arts has been delegated to the four Arts Councils in the UK. By the beginning of 2000, Lottery awards of over GBP 1.4 billion had been announced for arts projects. Grants for the acquisition of works of art from the Heritage Lottery Fund to museums, galleries and other organisations between June 1995 and December 2003 amounted to GBP 2.8 billion.

Local authorities maintain about 1 000 local museums and art galleries, and a network of public libraries. They also provide grant aid for professional and amateur orchestras, theatres, opera and dance companies, festivals, arts centres, cultural venues, etc. Expenditure by Local Authorities in the UK for culture (variously defined) was at least 1.269 billion in 2000-01.

Total business investment in the arts in the UK in 2001-02, was estimated at GBP 111 million, down 3% on the figure in 2000-01 and considerably below the highest recorded figure of more than GBP 150 million in 1999-2000.

## United Kingdom/ 6. Financing of Culture

### 6.2 Public cultural expenditure per capita

Table 1: Direct arts expenditure per capita by the four Arts Councils in the UK, 2001/02 and 2002/03

Arts Councils	Year	Population 2001	Revenue funds GBP	Per capita spending GBP
England	2002/03	49 138 831	290 400 000	5.91
	2001/02	49 138 831	249 044 000	5.07
Wales	2002/03	2 903 085	21 759 000	7.50
	2001/02	2 903 085	15 171 000	5.23
Scotland	2002/03	5 060 211	36 812 000	7.27
	2001/02	5 060 211	33 706 000	6.66
N. Ireland	2002/03	1 685 267	8 770 551	3.41
	2001/02	1 685 267	7 564 659	4.49

Source: Arts Councils, 2003

NB: These figures include only direct arts expenditure and do not include any spending on administration or salaries for either revenue or Lottery funding.

## United Kingdom/ 6. Financing of Culture

### 6.3 Public cultural expenditure broken down by level of government



2002/03

Field	Total million GBP	% share of total
National institutions (including national museums of Scotland, national galleries of Scotland, National Library of Scotland)	65.00	54.90
Scottish Arts Council	37.20	31.42
Other arts	16.20	13.68
<b>Total</b>	<b>118.40</b>	<b>100.00</b>

Source: Scottish government, 2003

Note: Percentage figures have been rounded

**Table 5: Public cultural expenditure: by sector breakdown for Wales, in million GBP, and in %, 2002/03**

Field	Total million GBP	% share of total
National museums & galleries of Wales	24.40	27.08
National Library for Wales	13.50	14.98
Arts Council for Wales	21.60	23.97
Welsh language	7.50	8.32
Other arts and libraries	6.90	7.66
Royal Commission of Ancient and Historic Monuments	1.80	2.00
Millennium center for Wales	14.40	15.98
<b>Total</b>	<b>90.10</b>	<b>100.00</b>

Source: Welsh government, 2003

Note: Percentage figures have been rounded

**Table 6: Public cultural expenditure: by sector breakdown for Northern Ireland, in million GBP, and in %, 2002/03**

Field	Total million GBP	% share of total
Education & Library Boards	2.87	11.23
Library and other services	0.29	1.13
Arts Council of Northern Ireland	10.80	42.25
Museums	11.60	45.39
<b>Total</b>	<b>25.56</b>	<b>100.00</b>

Source: DCAL, 2003

Note: Percentage figures have been rounded

The Council of Europe/ERICarts "Compendium of Cultural Policies and Trends in Europe, 6th edition", 2005