

# GERMANY<sup>1</sup>

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## 1. Historical perspective: cultural policies and instruments

In contrast to most European states, Germany for centuries was made up of many independent feudal states and city republics that each pursued their own cultural policies and established a host of cultural institutions. Among them were distinct cultural traditions that were not centralized nor assimilated in the German Empire (Reich), founded in 1871. While, the new Reich government was accorded competence for foreign cultural policy, the constituent states retained responsibility for their own cultural policies. The special autonomy of the municipalities extended to the area of cultural affairs which was supported by a strong civic commitment to the arts and culture. Under the new constitution of the Weimar Republic (1919-1933), public responsibility and support for the arts and culture was divided among the Reich government, the governments of the Länder (the constituent states), the city and municipal councils.

The approach adopted by the National Socialist regime (1933-1945) replaced the diversity that had evolved over the course of centuries with forced centralization, stifling civic commitment and instrumentalizing culture to serve the aims of the Regime. This experience with centralization later led to the emergence of a strong penchant for federalism in the Federal Republic of Germany.

The National Socialist tyranny and World War II ended on 8 May 1945. The German Reich was then divided into three Western occupation zones. These three zones eventually became two: the Federal Republic of Germany and the German Democratic Republic (formally a Soviet occupation zone). Following a brief period marked by co-operation between the Federal Republic and the GDR, cultural policy evolved independently and developed along different lines in the two German states; a pattern that did not end until Germany's reunification 40 years later on 3 October 1990.

Cultural policy in the German Democratic Republic was based on a concept of culture that encompassed the "humanistic heritage" of the classical art forms on the one hand and new forms of everyday culture on the other. It enabled the working class led by the Socialist Unity Party of Germany (SED) to participate in cultural events, the ideological basis of which, however, was a one-sided view of history that embraced only certain traditions of the workers' movement. In addition to the reactivation of the traditional cultural institutes, new institutions engaged in cultural activities emerged, such as "houses of culture" or youth clubs. Particularly important were those activities organised by social and cultural associations as well as worker's unions within larger companies, all of which were under tight state control. Such companies, along with the state, were the most important supporters of this "popular culture". As a rule, the cultural work of all organizations was funded by the state and orchestrated by the SED. In the German Democratic Republic, a break was made with the tradition of cultural federalism that had prevailed in Germany until 1933. In 1952 the Länder were dissolved and replaced by 15 districts. From 1954, the state-controlled cultural sector was headed by the Ministry of Culture.

This phase of cultural policy development ended with the accession of the German Democratic Republic to the Basic Law (constitution) of the Federal Republic of Germany on 3 October 1990 (reunification). Responsibility for many of the traditional cultural institutions supported by the state or the districts was passed to the newly re-constituted Länder and municipalities. Virtually all cultural activities and facilities of the state run companies and worker's unions were discontinued and shut down; responsibility for some of the activities run by the social and cultural associations were taken over by voluntary sponsors. Since then, the structures of cultural policy in Germany's eastern Länder have essentially become similar to those of the "old" Federal Republic.

Following World War II, Western Allies prescribed a very narrow role for the government of the new Federal Republic of Germany in the field of cultural policy, mainly as a consequence of the National Socialists' former abuse of culture and the arts. Following the restoration of the cultural infrastructure, cultural policy remained largely limited to the promotion of traditional art forms and cultural institutions. Not until the process of social modernization got under way – accompanied by the youth and civic protest movements of the 1960s onward – did the scope of cultural policy broaden to include other areas of activity.

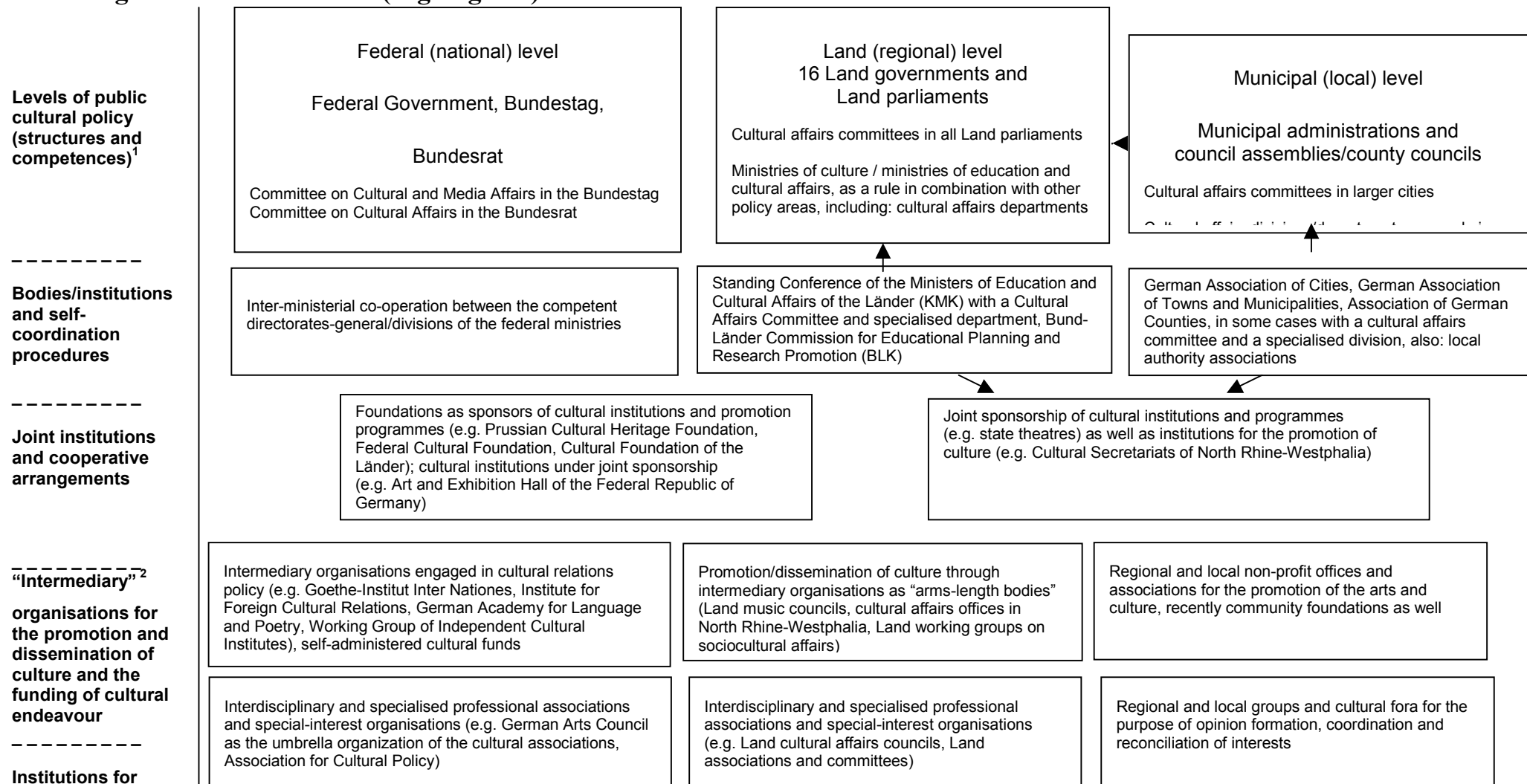
A "New Cultural Policy" emerged in the 1970s as part of a general democratization process within society, the thrust of which was expanded to encompass everyday activities. The arts were to be made accessible to all members of society if at all possible. In the 1970s, the call for "culture for everyone" and for a "civil right to culture" led to a tremendous expansion of cultural activities, the further development of cultural institutions and the emergence of numerous new fields of cultural endeavour financed by increasing public expenditure. This growth was matched by continuously rising popular demands for a variety of cultural goods and services.

The reform-oriented cultural policy objectives of the 1970s were replaced in the 1980s by new priorities which saw culture as a factor enhancing Germany's attractiveness as a location for business and industry.

The 1990s were profoundly influenced by the unification of Germany. In the new eastern Länder, adoption of the administrative structure of the "old" Federal Republic and its approach to cultural policy prompted a restructuring of and radical changes in the cultural landscape. These years have also been marked by austerity measures and budgetary constraints and by the increasingly evident structural problems of the major traditional cultural institutions in particular.

## 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.

## 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. In 1998, the Federal Government created for the first time the office of the *Federal Government Commissioner for Cultural Affairs and the Media* (today: *Federal Commissioner for Cultural and Media Affairs*) 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). A significant share of federal competence in the area of cultural affairs, namely foreign cultural policy, 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 Inter Nationes e.V. (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.

### **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.

Except for the "Act on the Cultural Areas in the Free State of Saxony", which enables large-scale financial compensation to be transmitted from the Land government of Saxony to its counties and cities for the maintenance of cultural institutions and activities, there are only general statutory compensation schemes available in the other Länder which are not culture specific.

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.

## 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 Inter Nationes*, an intermediary organization with a new programme thrust formed by the merger of its two predecessors, the Goethe-Institut and Inter Nationes. 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).

### **3. General objectives and principles of cultural policy**

#### **3.1 Main elements of the current cultural policy model**

Cultural policy in Germany is governed by the principles of decentralization, subsidiarity and plurality, a tradition rooted in the nation's historical development and reaffirmed in its constitution. Within the framework of their competence, the municipalities and the Länder maintain their own cultural institutions and programmes and fund or support a number of other vehicles of culture and cultural events.

The various levels of government strive to complement one another in the field of cultural policy as a matter of principle. Joint sponsorship of cultural institutions and activities is a manifestation of these efforts (cooperative cultural federalism). In all other respects, cultural life in the Federal Republic of Germany is characterized by the principle of competition: competition among cultural institutions, cultural activities, creators and artists and cultural intermediaries within a town, among different towns and among different Länder. This principle of competition – restrained by the political commitment to cooperative cultural federalism – is a key driving force behind all cultural and artistic activities within the framework of German federalism.

Another distinctive feature of the cultural policy of the Federal Republic of Germany is the principle of government non-interference coupled with a strong sense of public-sector responsibility for ensuring the existence and funding of cultural institutions and programmes. The constitution guarantees freedom of the arts (Article 5 (3) of the Basic Law) which not only constitutes the basis for artistic autonomy and self-governing rights of cultural institutions and organizations but also their protection from state directives and regulation of content. As an objective value based judgement in favour of freedom of the arts, it is also understood that the state is responsible to actively encourage, support and uphold this artistic freedom. This principle governing the role of government in a "cultural state" – state support coupled with respect for artistic autonomy – and a primarily supply-oriented approach to cultural policy have led to a situation where to this very day, the bulk of the cultural infrastructure is under the public-law sponsorship of the cities and the Länder. Not until recently, as an outgrowth of the discussion concerning privatization of public services and institutions and intensified efforts to promote efficient arts management, has a greater receptiveness to public-private partnership models and willingness to privatize institutions become discernible.

For a number of years there has been an ongoing debate in Germany's federally structured cultural sector on the subject of greater pooling of resources and disentanglement. The driving force behind this is the problematic financial situation of many Länder, which has prompted a desire for more substantial involvement of the Federation as co-financer of so-called "cultural landmark institutions" (as is already the case in the Länder in the territory of the former GDR pursuant to the provisions of the 1990 Unification Treaty). Especially the new capital city Berlin has been confronted with a plethora of structural and financial problems as a consequence of German unification – not least in the cultural sphere – that appear to defy a solution without more substantial support from the Federation. Thus the Federation derives additional obligations and competences as well as the right to have a greater say in cultural matters at the national level, a development that is contested by some of the Länder on constitutional grounds.

### **3.2 National definition of culture**

Germany has no binding definition of culture that could serve as the basis for cultural programmes and measures. In contrast to the situation in the first two decades after the founding of the Federal Republic of Germany, one can safely say that today the cultural philosophies of the democratic parties at all levels of government no longer significantly differ. One reason for this convergence is the intense cultural policy debate that began in the early 1970s in the context of the "New Cultural Policy". This debate led to a broadening of the narrow concept of culture prevailing in the 1950s and 1960s, which had still been very strongly oriented towards the traditional cultural value system handed down for generations, and the addition of new content and focus. The term "culture" thus encompasses contemporary creative and artistic activity as well as (both inside and outside the framework of the traditional cultural institutes) if not particularly, the culture of everyday life.

### **3.3 Cultural policy objectives**

From the very beginning, the "New Cultural Policy" of the 1970s and 1980s – the underlying principles of which have meanwhile been embraced by the public at large – reflected the priorities put forward by the Council of Europe on issues related to cultural identity, cultural heritage, cultural diversity and participation in cultural life.

One of the main objectives of cultural policy in the Federal Republic of Germany is to make the arts and cultural events accessible to as many people as possible.

## 4. Current issues in cultural policy development and debate

### 4.1 Cultural policy priorities in the past 5 years

The collapse of the system in Eastern Europe and the unification of Germany in 1989/90 produced new cultural tasks, both within the Federal Republic of Germany and in its relations with its European neighbours. In the past five years, discussions have therefore focused on the following themes:

#### Consequences of German unification

After the expiration of the first federal programme established under Article 35 of the Unification Treaty to safeguard culture in Eastern Germany (which ran from 1991 to 1993), the programme "Culture in the New Länder" was launched in 1998. Under this programme investments in the cultural sector are being funded half by the Federation and half by sponsors of the institutions in question in order to stabilize the cultural infrastructure in the new Länder.

With the move of the German Bundestag, the Bundesrat and the Federal Government to Germany's capital city Berlin, the national cultural significance of this city has grown as well. This is reflected among other things in the Federation's commitment to the restoration of the Museum Island and to its "Capital Culture Contract" with the Land Berlin. In addition, the Federation has assumed sole responsibility for funding the *Foundation Jewish Museum Berlin* and the limited liability company "Cultural Events of the Federal Republic of Germany in Berlin" encompassing the *Berlin Festival*, the *Martin Gropius Building*, the *House of World Cultures* and the *Berlin International Film Festival*.

#### Greater federal competence for cultural affairs

The debate on greater federal competence for cultural affairs was given new impetus in 1998 by the appointment of a *Federal Government Commissioner for Cultural Affairs and the Media* (see chapter 2.2) and plans to create a *Federal Cultural Foundation*, which was launched in January 2002 and took up its work in the city of Halle an der Saale. At the time the office of the *Federal Government Commissioner for Cultural Affairs and the Media* (today: *Federal Commissioner for Cultural and Media Affairs*) was created, a Committee on Cultural and Media Affairs was also set up in the German Bundestag (see chapter 2.2).

In connection with the establishment of the Federal Cultural Foundation there has been an intense ongoing debate between the Federation and the Länder concerning measures to streamline and optimize the system for funding cultural activities.

Since 1998, the Federation has launched **reforms in the area of foundation law**, encompassing the law governing taxation of foundations, copyright law and the law governing social insurance for artists. It has enacted legislation to safeguard the system of fixed prices for books and has broadened the scope of support for research on German culture and history in eastern Central Europe under section 96 of the Federal Expellees Act, support for memorials commemorating the victims of dictatorship and support under the Federal Film Promotion Act.

Since the disappearance of the Iron Curtain, international discussions concerning the **repatriation of cultural assets** unlawfully seized from their rightful owners during World War II have led to the return of individual objects of art. The Federal Government (Federal Foreign Office, Federal Commissioner for Cultural and Media Affairs) is negotiating – in consultation with the Länder – with many European neighbours. In December 1999, the Federation, the Länder and the local authority associations declared that they would continue their efforts to ascertain the whereabouts and bring about the return of cultural assets, especially Jewish property, that had been seized from their rightful owners during

the National Socialist era in order to determine their origin and, taking due account of previous restitution payments, reach satisfactory agreements with the former owners or their descendants.

### **Civic commitment**

Especially in those cities that were formerly home to royal or princely residences, public cultural life was fuelled by civic initiatives in specific disciplines, institutions and projects. Stifled during the National Socialist era and submerged in the decades thereafter, this civic commitment has meanwhile resurfaced, manifesting itself in an increase in, for example, membership to friends' societies, volunteer work, endowments and co-financing. Cultural policy makers, who have long thought solely in terms of state financing, as well as specialists in the field and the general public are now in the process of adapting to this development. Facilitating and encouraging such civic commitment in the cultural sphere is a challenge for the future.

### **Individualization and differentiation of the receptive public**

The members of the culturally interested public are less and less inclined to embrace a limited canon of cultural forms, institutions and events. Their receptiveness to and desire for participation in cultural activities vary widely and are highly individualized. As a result, urban cultural institutions, projects and events have multiplied and diversified to a hitherto unheard-of degree in the past two decades. Due to its relatively narrow focus of support – especially in times marked by financial constraints – state and municipal cultural policy has been unable to react in a sufficiently flexible manner. The task in the years to come will be to more strongly orient state and local cultural funding towards demand. This also means meeting unmet demands and discontinuing unutilized services.

### **Migrants, cultural diversity, interculturality**

The high number of ethnic groups from other cultures – whose members in some cases constitute up to 30% of the population – in (above all western) German cities has long been acknowledged. Numerous associations for members of foreign cultures have emerged in urban areas – over 200 during the past ten years in Hamburg alone. Acting on their own initiative, they work to further intercultural understanding and co-operation. In many cities there are funding programmes to support and encourage their efforts. This type of cultural work, which has long been practised at the local level but is virtually unknown at the Federal and Land levels, but must also be acknowledged as a task of the state. In the interest of national cultural cohesion, efforts to further intercultural understanding will be one of the most important aspects of cultural policy at all levels of government in the years to come. At the same time, they will enhance Germany's cultural diversity.

### **Administrative reform**

In the context of the international "new public management approaches" and the ever greater financial constraints at all policy levels, efforts have been stepped up to modernize policy administration systems and the structure of cultural institutions. The aims have been to increase efficiency, enhance transparency and proximity to the citizen, reorient services and redefine objectives. To this end, for instance, public institutions have been privatized, benchmarking procedures tested, and public-sector tasks delegated or outsourced to third parties. Private commercial and voluntary non-profit organizations have been more widely acknowledged as partners of the public sector in the field of cultural policy (= activating, cooperative cultural policy). Cooperative arrangements and private-public partnerships are to be encouraged and civic commitment accorded a more prominent role.

## 4.2 Recent policy issues and debates

### 4.2.1 Provisions for cultural minorities

No programme-based cultural policy endowed with sufficient public funding exists for (allochthonous) ethnic minorities in Germany, although for years there has been discussion of the need for cultural policy to accord greater attention to the cultural interests and rights to participation and self-organization of ethnic minorities. At all policy levels, however, there are special institutions, concepts and funding for the cultivation of the art and culture of national and ethnic minorities and for intercultural exchange. The Federal Republic of Germany ratified the Council of Europe's Framework Convention for the Protection of National Minorities. Under this Convention, which entered into force for Germany on 1 February 1998, the autochthonous (i.e. traditionally resident) minorities and ethnic groups of German nationality in Germany are protected. These are the Danes, the North Frisians, the Sater Frisians, the Sorbs and the German Sinti and Roma. The Federation and the Länder provide substantial funding for these groups. The Sorbs can invoke statutory provisions of directly applicable German law as the basis for their support: Preservation of their cultural and ethnic identity is guaranteed under an interstate agreement concluded between Land Brandenburg and the Free State of Saxony on 28 August 1998 (where there is traditionally the largest settlement).

Intercultural programmes are offered or sponsored *inter alia* by the federally funded *House of World Cultures*, by the federally endowed *Sociocultural Fund* and in the context of projects (such as the celebrations of foreign cultures) launched by individual Länder and numerous municipalities.

### 4.2.2 Gender equality and cultural policies

Women continue to be underrepresented not only in leadership positions in the cultural policy sector but also in artistic professions and cultural institutions. More recent studies, however, indicate a certain trend towards greater involvement, and positive developments are discernible in public cultural policy as well. A number of Land ministries for cultural affairs, for instance, have budgeted funds to promote cultural activities by and for women or support independent organizations that shoulder this task (such as the *Frauenkulturbüro NRW*, an office for female artists in North Rhine-Westphalia). At the federal level there is the Gabriele Münter Prize, a substantial art prize awarded by the *Federal Ministry for Family Affairs, Senior Citizens, Women and Youth* to professional women artists over the age of 40 for their works. Numerous cultural institutions and programmes for women have become firmly established at local level as well (such as the "Frauen Museum" in Bonn, the Women's Film Festivals "Feminale" in Cologne and "femme totale" in Dortmund). The cultural activities of the local gender equality offices deserve mention in this context as well.

### 4.2.3 Language issues and policies

German is the official language in the Federal Republic of Germany and the language used in schools, the media and other forms of communication. Cultivation of the German language is the task of all groups in society. Learning the German language is also an important prerequisite for the integration of foreigners living in Germany. Improvement of the language skills of immigrants and foreign residents is therefore a focus of efforts to further their integration. In addition to programmes of the Länder and the municipalities, the Federal Government itself funds a multitude of measures to promote language learning. A broad range of courses are offered by the private sector as well.

Dialects are cultivated and promoted on a regional and local basis. The European Charter for Regional or Minority Languages entered into force in Germany on 1 January 1999. Under this Charter, Low German (*Niederdeutsch*) is protected as a regional language, and funding is provided to further its use in the Länder where it is spoken. Minority languages that are protected and benefit from funding provided by the Federation and the Länder in which they are spoken are the languages of the minorities traditionally resident in Germany (i.e. autochthonous minorities) that are protected under the Framework Convention for the Protection of National Minorities. These languages are Danish, North Frisian, Sater Frisian, Sorbian and the Romani language spoken by German Sinti and Roma.

#### **4.2.4 Relation between media and culture**

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.

#### **4.2.5 Culture industries: development programmes and partnerships**

The culture industries are a separate and autonomous pillar of cultural life in the Federal Republic of Germany. *Kulturwirtschaft*, refers to all private businesses and independent contractors operating in the different fields of the culture sector such as book, art and music markets or film and other audiovisual production and distribution. Germany is well known for its achievements in the markets for popular music, film and books.

As in other countries, strategic partnerships are increasingly being formed in Germany between the public and private sectors (public-private partnerships) in order to fund cultural projects and institutions. These strategic partnerships are expected to proliferate in the future. Even during periods of sluggish economic activity, the culture industries have been determined as a economic growth factor. Evidence of this can be found in the culture industry reports of individual Länder (North Rhine-Westphalia, Mecklenburg-Western Pomerania, Bremen/Northern Lower Saxony, and Saxony-Anhalt).

#### **4.2.6 Employment policies for the cultural sector**

The extent to which the cultural sector figures in labour market policy has been the subject of discussion for many years. Thus far, however, this discussion has had no sustained practical impact. While ideas and suggestions have been floated and small-scale programmes implemented at Land level to generate employment effects in the cultural sector (such as the funding of centres for culture industry business start-ups in North Rhine-Westphalia), no domestic cultural policy strategy has thus far become discernible. Worthy of special mention in this context is the implementation of the employment promotion programmes of the European Social Fund (ESF) in Lower Saxony and Brandenburg which requires the input of complementary funds by the Länder.

#### **4.2.7 New technologies and cultural policies**

The information society has considerable untapped potential for improving productivity and enhancing the quality of life. This potential is growing as a result of the technological development of broadband and platform-independent access, i.e. the possibility of accessing the Internet not only via PC but also via digital TV and 3G devices. Drawing a clear line between teleservices (individual use) and media services (available to the general public, of relevance to publishing) is extraordinarily difficult. These technological developments are opening up not only new economic and social opportunities but new cultural opportunities as well. New services, applications and content will afford easy access to information and communication vehicles and further "electronic integration", social cohesion and cultural diversity. All in all, from the perspective of cultural policy, the positive effects associated with digitalization outweigh the negative. The Internet opens up new scope for creativity, brings people closer together – performing musicians and their listeners, for example – and tends to break down high brow hegemonic market power structures. In the online environment, intermediaries retain control of the mass market; only on the fringes of the market and in niches has it been possible for new forms of marketing to take hold that concede creative artists greater control over the exploitation of their work. Globalization tendencies in the culture industry are marked by an interplay of globalization and localisation. "Cultural globalization" is furthered by economic globalization: As the latter progressively extends the range of markets and the scope of entrepreneurial activity (to the point where corporations are active worldwide), the central cognitive activity associated with "cultural globalization" manifests itself in a proliferation and intensification of comparative social processes. The Internet changes the cultural significance of near and far – building and strengthening cultural cohesion and a sense of belonging, for example.

#### **4.2.8 Arts education: programmes and models**

Art, literature and music education are elements of school curricula and hence fall within the purview of the Länder, which structure them as they see fit. Classroom instruction therefore varies in scope and quality. Precisely in the subjects of music and the fine arts, shortfalls or lack of instruction are a widespread problem. Cultural opportunities are also available outside of schools, however, offered by independent institutions engaged in cultural (youth) work (such as music schools, art schools for young people, interdisciplinary cultural workshops and media centres), some of which are private or rely on mixed funding. These out-of-school opportunities for cultural and arts education are taking on ever greater importance, exhibiting higher quality and broader scope. New concepts and institutions that increasingly combine classical arts education with the use of new media have been developed and established by non-governmental sponsors with the aid of public funds. Key impetus for efforts to further arts education for children and young

people came in 1991, when this task was enshrined in Section 11 of the Child and Youth Services Act. Munich and Hamburg, for example, have meanwhile launched new initiatives to promote cultural activities for children and young people.

#### **4.2.9 Heritage issues and policies**

Heritage cultivation is a central task of cultural policy at all levels and a duty that has been enshrined in the constitutions of most of Germany's Länder. Especially in museums and within the framework of conservation of historic monuments and sites, objects bearing witness to the country's cultural traditions bring this past alive. The cultivation and further development of these traditions in keeping with the times is reflected *inter alia* in museum presentation techniques that highlight their relevance to contemporary issues and in the use of historic buildings for modern purposes. The importance of conservation of historic monuments and sites lies not only in its preservation of cultural heritage but also in its economic significance for the construction industry, in particular specialized small and medium-size businesses.

Germany's non-material cultural heritage is continuously addressed and examined from a modern perspective in theatrical, musical and literary productions. The voluntary, municipal and state sponsors of cultural institutions make facilities available for this purpose as well.

#### **4.2.10 Other relevant issues and debates**

Information is currently not available.

## 5. Main legal provisions in the cultural field

### 5.1 Overview of legal competence for cultural policy making

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 Free State 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 Free State 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.

## **5.2 Legal frameworks for artists**

### **5.2.1 Social security/labour relations**

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.

### **5.2.2 Tax measures**

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.

### **5.3 Culture industries**

The German cultural sector can be subdivided into three areas: 1) the publicly funded and maintained cultural institutions, b) the activities and facilities funded and run by voluntary non-profit organizations and c) 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.

#### **5.3.1 TV quotas**

See chapter 4.2.4

#### **5.3.2 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.

### 5.3.3 Film or other promotion laws

Both the Federation and the Länder provide support for film.

Federal film support is based on the *Act on Measures to Promote German Film* (Federal Film Promotion Act), which was adopted in 1967 and amended in 1993. Until 1998, financial support for film productions fell within the purview of the Federal Ministry of Economics as "economic support for film". Since 1951, there also has been "artistic support for film" at the federal level, most notably via German Film Prizes. Upon the establishment of the office of the *Federal Government Commissioner for Cultural Affairs and the Media* (today: *Federal Commissioner for Cultural and Media Affairs (BKM)* in 1998, federal economic and artistic support for film was consolidated. Under the Federal Film Promotion Act of 6 August 1998, an institution incorporated under public law bearing the name "German Federal Film Board" was founded to promote German film.

Film promotion programmes exist at the Land level as well. 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 their state chancelleries and economic ministries.

## 5.4 Copyright amendments

### 5.4.1 Systems of author's rights/droits d'auteur

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 and Related Rights" (Copyright Law). Its provisions regulate protection of works, remuneration rights and exploitation rights (see chapter 5.4.3) for literary, scientific and musical works, works of pantomime and cinematographic works as well as works of fine art, the performing arts and architecture. The term of protection is 70 years after the death of the author. Another element of the Copyright Law is the "resale royalty right" (Article 26) pursuant to which artists who have created works of fine art are entitled to five% of the selling price in excess of 50 euros in the event of a resale of their work. After a five-year discussion, agreement was finally reached in July 2001 on a Directive for an EU-wide resale royalty right that must be enacted as domestic law by the year 2006.

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 collection of royalties for subsidiary 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 (VG) Wort*, and the *Verwertungsgesellschaft (VG) Bildkunst*, for example, which collect, administer and distribute the monies in trust. Only *GEMA* also exercises primary exploitation rights for composers and lyricists.

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

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 (see chapter 5.4.3) and distributed among entitled persons.

#### **5.4.3 Public lending rights**

Public lending rights were first introduced to the general Copyright Law in 1972 (paragraph 27).

### **5.5 Cultural heritage and properties**

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.

## **5.6 Legal incentives for private sector investment in culture**

See chapter 5.2.2.

## 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 outstrips 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 Federation bears only a smaller share (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, their public cultural expenditure statistics often vary widely, in some cases by billions of euros. In addition to the different standards of cultural statistics used in German municipal statistics and the statistics of the *Standing Conference*, the Federal Government and the *Federal Statistical Office*, moreover, a number of other different categories are used in EU cultural statistics and in the very broadly defined UNESCO statistics.

Regardless of these differences in figures, cultural expenditure increased disproportionately in comparison to other public expenditure in the 1970s and 1980s. In the 1990s, however – aside from the rise in cultural expenditure at federal level as a consequence of unification – it increased nominally but declined in real terms.

### 6.2 Public cultural expenditure per capita

Due to the various different definitions of "culture", the available statistics differ widely. In the interests of presenting the most comprehensive picture possible, two sets of statistics are given here: those from the statistical survey "Zur Lage der öffentlichen Kulturfinanzierung in Deutschland" (The State of Public Financing of Culture in Germany) by Michael Söndermann, published in the "Jahrbuch für Kulturpolitik 2000" (Cultural Policy Yearbook 2000), which used figures adjusted to reflect revenues and the flow of payments between the various policy levels, and those 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 2000, overall from DM 14.97 billion ( 7.65 billion euros) to DM 15.54 billion (7.95 billion euros) and per capita from DM 183 ( 93.57 euros) to DM 189 ( 96.63 euros). During the same period, the general price index rose 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 DM 12.07 billion (6.17 billion euros) to DM 12.32 billion (6.3 billion euros) and per capita from DM 148 (75.67 euros) to DM 150 (76.69 euros). The percentage of overall public expenditure (all public budgets) attributable to cultural expenditure thus increased from 1.09% to 1.26%

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

**Table 1: Public cultural expenditure: by level of government\*, in billion DM/euros and in %**

	1995	1996	1997	1998	1999	2000
Municipalities						
billion DM	6.68	6.67	6.89	6.78	6.79	6.79
billion euros	3.42	3.41	3.52	3.47	3.47	3.47
% share of total	44.6%	43.2%	46.0%	45.7%	44.2%	43.7%
Länder						
billion DM	7.07	7.62	7.02	6.98	7.19	7.39
billion euros	3.61	3.90	3.59	3.57	3.68	3.78
% share of total	47.2%	49.3%	46.9%	47.0%	46.8%	47.5%
Federation						
billion DM	1.22	1.17	1.06	1.08	1.39	1.36
billion euros	0.62	0.60	0.54	0.55	0.71	0.70
% share of total	8.2%	7.5%	7.1%	7.3%	9.0%	8.7%

\* as broken down in: "Jahrbuch für Kulturpolitik 2000" (Cultural Policy Yearbook 2000)

**Table 2: Public cultural expenditure: by level of government\*, in billion DM/euros and in %**

	1995	1996	1997	1998	1999	2000
Länder and municipalities						
billion DM	11.28	11.76	11.44	11.63	11.47	11.64
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%
Federation						
billion DM	0.79	0.38	0.42	0.44	0.77	0.68
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%

\* as broken down in: "Kulturfinanzbericht 2000" (Cultural Finance Report 2000)

## 6.4 Sector breakdown

**Table 3: Public cultural expenditure: by sector\***

(1995 and 2000, in billion DM/euros and in %)

	1995	2000
Performing arts (theatre and music)		
billion DM	5.38	5.47
billion euros	2.75	2.80
% share of total	44.6%	44.4%
Libraries (non-academic)		
billion DM	1.28	1.34
billion euros	0.65	0.69
% share of total	10.6%	10.9%
Museums (non-academic)		
billion DM	1.89	1.99
billion euros	0.97	1.02
% share of total	15.7%	16.2%
Monuments and sites (protection/conservation)		
billion DM	0.62	0.66
billion euros	0.32	0.34
% share of total	5.1%	5.4%
Other cultural heritage conservation		
billion DM	1.99	2.03
billion euros	1.02	1.04
% share of total	16.5%	16.5%
Administration		
billion DM	0.91	0.83
billion euros	0.47	0.42
% share of total	7.5%	6.6%

\* as broken down in: "Kulturfinanzbericht 2000" (Cultural Finance Report 2000)

## 7. Cultural institutions and new partnerships

The more people come to realize that cultivation of the cultural heritage and promotion of the arts are not just the duty of the state but are also complemented and supplemented by private commercial and voluntary non-profit actors and institutions, the more often there is talk of the necessity for the state, the business sector and society as a whole to cooperate and share responsibility in this area as partners. More and more voices are contending that while the state indeed has a responsibility to ensure the availability of and funding for cultural institutions and programmes, it need not shoulder the financial burden for them itself, much less run them. Instead, they say, the role of the state should be to activate forces in society and enable them to assume and perform these tasks on their own. The reforms of the foundation law and the law governing donations in recent years have provided important impetus in this direction.

This organizational restructuring of the cultural sector is not only strongly advocated by the state but also favoured by representatives of the business sector and groups in society, provided it does not involve an abdication of the state from its responsibility to ensure financing.

The transfer of public-sector tasks to private sponsors in the cultural sector began in Germany as early as the 19<sup>th</sup> century. Prominent national and internationally renowned cultural institutes such as the *Bach Archives* in Leipzig, the *Beethoven House* in Bonn, the *Archives of German Literature* in Marbach, the *Goethe Museum* in Frankfurt am Main, the *Weimar Classics Foundation* in Weimar, and the *National Museum of German Art and Culture* in Nuremberg are privately run but receive public funding from all three levels of government. Many of these institutions belong to the *Working Group of Independent Cultural Institutes*.

### 7.1 Re-allocation of public responsibilities

Over the past few years, the Federation, the Länder and the municipalities have increasingly relinquished direct responsibility for running cultural facilities and programmes. Their institutional forms now reflect a growing preference for new sponsorship models, whereby, however, the public sector is not abdicating from its responsibility to ensure funding. Two strategies should be distinguished in this context:

- The partial liberation of cultural institutions from the confines of budgetary and public service law and from municipal and other administrative structures through choice of another legal form such as a limited liability company or a foundation. The assumption that such change of legal form would result in a reduction of public funding, however, has thus far proved erroneous.
- The transfer of tasks (such as allocation of public resources and maintenance of facilities) to institutions in civil society (generally foundations and associations). This strategy of cooperating with intermediary organizations is particularly prevalent at federal and Land level.

Irrespective of these trends, which certainly reflect an increasingly widespread acknowledgement of the important role of civil-society actors, or the third sector, the fact remains that most municipal cultural institutions are still integrated into and bound by the structures and hierarchies of public administration.

## **7.2 Status/role and development of major cultural institutions**

The wealth of vibrant cultural institutions in all of Germany's regions – a number of which are renowned throughout Europe – is an outgrowth of German history, especially the emergence and flourishing of many small territorial states. After each profound societal change (in 1918, in 1945 and – in eastern Germany – in 1990), the Länder and the municipalities reaffirmed their responsibility for theatres, orchestras and museums. The increasingly severe financial problems of the Länder and the municipalities in recent years have prompted an ongoing nationwide debate on a reform of state-run cultural institutions such as theatres and museums, especially in regard to wage and salary scales at theatres.

## **7.3 Emerging partnerships or collaborations**

Numerous types of and models for partnerships between public cultural institutions and private firms have emerged in Germany in recent years. Most cultural institutions, including the largest ones, are still exclusively state-run, however. Permanent co-operation and co-financing arrangements have been reached mainly for smaller institutions at local level, i.e. between local businesses and the respective city administration. There are now more and more examples of institutionalized collaboration in the realization and maintenance of larger institutions (such as the *Pinakothek der Moderne* in Munich and the *NRW-Forum Kultur und Wirtschaft* in Düsseldorf) where the Länder, the municipalities and private firms/patrons are jointly functioning as permanent sponsors.

## 8. Support to creativity and participation

### 8.1 Direct and indirect support to artists

Artistic production and its reception by the public are furthered on the one hand through the funding of arts institutions (see chapter 6) and, on the other hand, through the creation of general conditions conducive to the flourishing of the arts (see chapter 5.2). This also includes the opportunities for basic and further training in artistic professions provided above all by the 22 colleges of art and 23 colleges of music, drama and dance operated by the Länder as well as the four federal academies jointly funded by the Federation and the Länder. Support for individual art forms and individual artists in the various fields of artistic endeavour are likewise very important.

#### 8.1.1 Special artists support schemes

At the federal level, support to artists is provided above all through the institutions for the self-organization of artists and culture-sector actors such as the *Visual Arts Foundation*, the *German Literature Fund*, the *Sociocultural Fund* and the *Federal Foundation for the Performing Arts* as well as projects implemented by the *German Music Council*. This support encompasses nationally prominent exhibitions of contemporary art, competitions, scholarships and prizes, for example, as well as other appropriate forms of support. Resources are also provided from federal government via the *Cultural Foundation of the Länder*. Since the 1970s, there has been a budget for art purchases and a collection of contemporary art at federal level, as well as funding for German artists' stays abroad at facilities such as the *German Academy* at the *Villa Massimo* in Rome.

Support for artists is provided mainly by the municipalities and the Länder through a wide variety of instruments. In addition to the support programmes for the various fields of artistic endeavour existing at Land level, the individual Land foundations for the arts and culture play a particularly important role in this context. Widespread forms of support at Land and municipal level include financial assistance for art projects, the purchase of works of art, the commissioning of artwork, the awarding of scholarships, the provision of facilities for exhibitions and performances as well as studios and workshops, the awarding of monetary prizes and the granting of publication subsidies. Support is also provided through municipal art lending libraries and programmes such as "Art on Buildings" and "Art in Public Spaces" as well as through business management advisory services for artists and financial help with business start-ups.

An additional support instrument for the eastern German Länder of Berlin, Brandenburg, Mecklenburg-Western Pomerania, Saxony-Anhalt and Thuringia is provided via the *Cultural Fund Foundation*. Six expert commissions decide on the allocation of project funds, work stays, continuing education opportunities etc.

#### 8.1.2 Support to professional artists associations or unions

In addition to the support provided via institutions for the self-organization of artists and culture-sector actors (see chapter 8.1.1), funds are made available to associations such as the German Arts Council, the German Music Council, the Federal Association of Artists of the Fine Arts and the German Federation of Artists. Part of these funds are earmarked to assist these associations as such as well as for individual projects.

### 8.1.3 Grants or other schemes for artists

Cultural awards and art prizes are a particularly noteworthy support instrument and have increased both in number and importance in recent years. In 1978 the "Handbuch der Kulturpreise" (Handbook of Cultural Awards) listed 776 prizes and scholarships; by 1985 the number had already risen to 1 329 and by 1994 to just under 2 000. The latest edition of the handbook (for the year 2000) lists no fewer than 2 400 prizes with 3,100 individual awards. General cultural awards account for 23% of these, followed by the visual arts and music with 15% each, literature with 13% and film with nine%. Recent years have also seen an increase in scholarships and prizes endowed by private individuals and firms.

## 8.2 Participation trends and figures

Despite the continuously increasing number and variety of cultural and leisure-time activities since the 1970s – especially those made available by the culture and media industries – attendance and participation figures for public cultural institutions have continued to rise over the long term, though they have fluctuated widely and declined in some areas.

**Table 4 Visitors/Users (in thousands)**

Field	1992	1995	1999
Museums	93 020	91 062	96 190
Theatres	22 123	23 002	22 716
Public libraries	8 939	9 387	11 100**
Music schools	792	854*	867
Film	105 900	124 500	148 900**

\* 1996, \*\* 1998

Theatre attendance: *Theaterstatistik des Deutschen Bühnenvereins* (Theatre Statistics of the German Theatre Association), Cologne; all others: *Statistisches Jahrbuch für die Bundesrepublik Deutschland* (Statistical Yearbook for the Federal Republic of Germany), Federal Statistical Office, Wiesbaden, edition for the given year

In 2000, the market share of the eleven public television broadcasting corporations (14 programmes) was 43.2% and the market share commanded by the private (commercial) broadcasters was 56.8%. The average viewer spent 190 minutes per day actually watching television and had the television set switched on for a total of 251 minutes. A breakdown of viewing habits by category yielded the following percentages for public versus private broadcasters: information 84:16; sports 23:77; entertainment 58:42; feature films (fiction) 32:68, and advertising 2:98.

## 8.3 Programmes or policy initiatives to promote participation in cultural life

The basic principle governing cultural policy in Germany – a principle that has been enshrined in some of the Land constitutions – is to enable the greatest possible number of citizens to participate in the country's cultural life. All public cultural policy endeavours and expenditures serve the aim of creating the conditions for free and unfettered participation in cultural life. As in the past, however, some segments of the population are still afraid of trying something new and unfamiliar. Appropriate cultural support measures – in the fields of museum, theatre and arts education – are therefore being undertaken at all policy levels to reduce obstacles to access posed by educational deficiencies.

#### **8.4 The role of amateur arts/cultural associations and centres**

The importance of cultural associations in Germany is just as great as their diversity. They range from small local or neighbourhood sponsors of cultural activities to museum associations that run their own institutions. Despite this tremendous diversity they all have one thing in common: They are the ideal breeding ground for civic commitment and involvement. Precisely the larger ones are prime examples of how volunteers and professionals can work hand in hand. Cultural associations thus form an indispensable structural framework for the sponsorship of cultural activities in the Federal Republic of Germany.

In some areas of cultural activity – in the case of sociocultural centres, local heritage societies and choirs, for instance – they are even the dominant organizational form. The public sector has long supported cultural associations in keeping with the subsidiarity principle and has drawn greater attention to them in recent years, especially in the context of efforts to boost civic commitment and involvement. Cultural associations are also the primary sponsors of the amateur arts.

Another type of cultural association is the "friends' society". The purpose of these societies, which are generally composed of volunteers, is to procure funds for individual institutions, especially museums, art galleries and theatres.

## 9. Sources and links

### 9.1 Key documents on cultural policy

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Deutscher Kulturrat: *Der deutsche Kulturrat in guter Begleitung. Zwei Jahrzehnte DKR*. Bonn/Berlin, 2001, 176 p., ISBN 3-934868-08-8.

Deutscher Musikrat: *Musikalmanach 2003/2004. Daten und Fakten zum Musikleben in Deutschland*. Kassel: Bärenreiter/Bosse, 2002, 1415 p., ISBN 3-7618-2484-X.

Glaser, Hermann: *Kleine Kulturgeschichte Deutschlands im 20. Jahrhundert*. Munich: Beck, 2002.

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Institut für Kulturpolitik der Kulturpolitischen Gesellschaft (publisher): *Jahrbuch für Kulturpolitik, Kulturstatistik, Chronik, Literatur, Adressen. 2000 Band 1: Thema: Bürgerschaftliches Engagement*. Essen: Klartext Verlag, 2000, 446 p., ISBN 3-88474-958-7.

Institut für Kulturpolitik der Kulturpolitischen Gesellschaft (publisher): *Jahrbuch für Kulturpolitik, Kulturstatistik, Chronik, Literatur, Adressen. 2002 Band 3: Thema: Interkulturelle Kulturarbeit*. Essen: Klartext Verlag, (scheduled to appear in April 2003), approx. 460 p., ISBN 3-89861-184-1 .

Institut für Kulturpolitik der Kulturpolitischen Gesellschaft (publisher): *Jahrbuch für Kulturpolitik, Kulturstatistik, Chronik, Literatur, Adressen. 2001 Band 2: Thema: Kulturföderalismus*. Essen: Klartext Verlag, 2001, 469 p., ISBN 3-89861-096-9.

Köstlin, Thomas: *Die Kulturhoheit des Bundes. Eine Untersuchung zum Kompetenz- und Organisationsrecht des Grundgesetzes unter Berücksichtigung der Staatspraxis in der Bundesrepublik Deutschland*. Berlin: Duncker & Humblot (Tübinger Schriften zum Staats- und Verwaltungsrecht, 3), 1989, 292 p., ISBN 3-428-016710-X.

Kulturpolitische Gesellschaft/Deutscher Kulturrat (publishers): *Europa fördert Kultur. Ein Handbuch zur Kulturförderung der Europäischen Union*. Essen: Klartext Verlag, 2002, 446 p., ISBN 3-89861-129-9.

Palm, Wolfgang: *Öffentliche Kunstförderung zwischen Kunstfreiheitsgarantie und Kulturstaat*. Berlin: Duncker & Humblot (Schriften zum öffentlichen Recht, 748), 1998, 304 p., ISBN 3-428-09292-9.

Presse- und Informationsamt der Bundesregierung (publisher): *Im Bund mit der Kultur. Neue Aufgaben der Kulturpolitik (as of March 2002)*. Bonn: Beauftragter der Bundesregierung für Angelegenheiten der Kultur und der Medien (cultural policy - background information), 2002, 83 p.

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Wiesand, Andreas Johannes: *Handbuch der Kulturpreise. Preise, Ehrungen, Stipendien und individuelle Projektförderungen für Künstler, Publizisten und Kulturvermittler in Deutschland und Europa. 4. Neuausgabe 1995-2000*. Bonn: AR CULT Media, 2001, 1606 p., ISBN 3-930395-24-X.

## 9.2 Web links

### Culture/arts portals

Das KulturinformationsZentrum

In addition to a "news ticker", the Cultural Information Centre offers search options for access to information on many specific subjects such as the artists' social insurance regime, the music industry, arts education, tax law and copyright law.

<http://www.nmz.de/kiz/>

Deutscher Bildungsserver [DBS] (German education server)

Compilation of activities and events, documents, extensive links to other education portals, documentation and databases including a job exchange.

<http://www.bildungsserver.de>

Deutscher Museumsbund e.V. (Federation of German Museums)

Self-portrayal, references to expert groups, specialist conferences and exchange forum of the museums.

<http://www.museumsbund.de>

Kulturportal

With the "culture portal", the Federation and the Länder have created a common Internet forum providing access to all the cultural facilities offered by the Länder and the municipalities as well as those of many other providers. The culture portal is intended to serve as an information and communication platform and contains both the culture database and references (with Web links) to many cultural institutions.

<http://www.kulturportal-deutschland.de>

Portal of the culture servers of the Länder

The culture servers offer artists and cultural institutions assistance and Web space for

posting their own homepages (in various stages of development in the individual Länder).

<http://www.kulturserver.de>

WebMuseen

Museums and exhibitions in the German-speaking region.

<http://www.museen.de>

### **Cultural policy making bodies**

Goethe-Institut Inter Nationes

Tasks, position papers and press releases of Goethe-Institut Inter Nationes, Germany's largest intermediary organization in the field of cultural relations policy.

<http://www.goethe.de>

Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany (KMK)

Tasks, position papers and press releases of Goethe-Institut Inter Nationes, Germany's largest intermediary organization in the field of cultural relations policy.

<http://www.kultusministerkonferenz.de>

### **Grant-giving bodies**

Cultural Foundation of the Länder

Overview of the tasks, structure, activities and exhibitions of the Cultural Foundation of the Länder.

<http://www.kulturstiftung.de>

Federal Cultural Foundation

Structure, tasks, bodies and promotion principles of the Federal Cultural Foundation.

<http://www.kulturstiftung-bund.de>

### **Umbrella organisations**

Bundesvereinigung Kulturelle Jugendbildung e.V. [BKJ] (Federation of Youth Cultural Associations)

Self-portrayal, tips, documentation centre, project database, links to Land associations, pilot project "Freiwilliges soziales Jahr im kulturellen Bereich (FSJ Kultur)" (voluntary year of social service in the cultural sector).

<http://www.bkj.de>

Deutscher Bibliotheksverband e.V. [dbv] (German Library Association)

Information on libraries in Germany.

<http://www.bibliotheksverband.de>

Deutscher Bühnenverein – Bundesverband deutscher Theater

Position papers and press releases, links to Land associations, addresses of theatres and orchestras as well as career information of the German Theatre Association.

<http://www.buehnenverein.de>

Deutscher Kulturrat

The German Arts Council is the national umbrella organization of federal cultural associations with more than 180 member associations in eight specialized sections. The council offers inter alia assistance and links to parliamentary printed papers as well as dossiers on cultural policy issues.

<http://www.kulturrat.de>

Deutscher Volkshochschulverband (German Adult Education Association)

<http://www.dvv-vhs.de>

Verwertungsgesellschaft Bild-Kunst (Bild-Kunst Royalty Collectors)

Information on the copyright societies of German artists, photographers and film copyright owners including a database of members.

<http://www.bildkunst.de>

### **Cultural statistics and research**

Cultural Contact Point Germany

The national contact and information office for cultural promotion programmes of the European Communities, sponsored by the German Arts Council and the Association for Cultural Policy.

<http://www.kulturrat.de/ccp>

Kulturpolitische Gesellschaft e.V.

In addition to current events and association news, the Association for Cultural Policy (Institute for Cultural Policy) operates a cultural policy information system offering search options in a number of different databases (in particular an extensive cultural policy bibliography).

<http://www.kupoge.de>