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THEMA: Cultural Policy in Germany  
– Claims & Competences

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„Mit Politik kann man keine Kultur machen, aber  
vielleicht mit Kultur Politik.“

*(Theodor Heuss)*

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## 1 Introduction

Cultural policy is not in the focus of every day politics. Economics and education, social security and health services overlay most of the time cultural issues. Culture is handled quite often as a—political—*quantité négligeable*, serving only to brush up politicians' images, to impress one's voters-to-be, or simply as a budget to cut money.

In this paper, I will discuss and depict the current situation of cultural policy in Germany. First of all, the term *cultural policy* undergoes a process of definition in chapter 2. Then I continue with an analysis of the legal assignment by constitutional texts, laws, and treaties under international law in chapter 3. In the following, I will focus on the actual assignment of cultural policy, that—on my opinion—depends quite a lot on the financing structure. In order to illustrate the problems arising from multi-sided contracts and versatile influence, in chapter 5 a case study on the French-German performing arts festival "*Perspectives*" is conducted. Finally, a conclusion is drawn in chapter 6.

## 2 Terms & Definitions

An applicable definition of Cultural Policy is provided by the Community Arts Network [11]:

”[Cultural Policy] Describes the values and principles that guide any social entity in cultural affairs.”

The purpose of Cultural Policy in Germany is—with regard to the legal assignment discussed in chapter 3—the promotion of culture<sup>1</sup>. That means, according to Ritter [8], that the awareness of Germany’s intellectual and historical foundations has to be secured. Thus, *culture* comprehends the entirety of typical ways of life of the population, including the underlying state of mind.

To push further the deconstruction of terms, *culture* may be seen, according to Di Fabio [3], as ”a different expression for a system of basic answers to questions, arising within every language-forming human social body”<sup>2</sup>. Connemann [2] avoids abstract definitions by simply enumerating theaters, music, dance, literature, and visual arts.

So, what Cultural Policy is aiming for, is to influence the spheres mentioned before, frequently by means of providing—or withdrawing—subsidies<sup>3</sup>.

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<sup>1</sup>cp. [8], p.90

<sup>2</sup>cp. [3], p.22 (author’s translation)

<sup>3</sup>Redistributive aspects of subsidizing cultural activities are discussed in detail by Frey [4] in the context of the Salzburg Festival

Another assumption has to be made in order to clarify the following discussion. When we talk about *political institutions*, we use the term of *institution* not in an economic, but constructivist meaning. Therefore, *institutions* do not reflect "the equilibrium outcome of a game"<sup>4</sup>. In contrast to this, institutions are understood as repeated mutual—so called *habitualised*—actions<sup>5</sup>. This approach allows for a less quantitative evaluation of institutions, since economic measures as for example welfare effects are neglected.

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<sup>4</sup>cp. [10]

<sup>5</sup>see [1]

### 3 Legal Assignment

Under constitutional law, Article 30 of the German *Grundgesetz* is the corresponding norm<sup>6</sup>, assigning the general exertion of governmental cognizances and the discharge of duties to the federal states—provided that there is no other regulation within the *Grundgesetz*. No other political institutions, e.g. the European Union, or the UN, are mentioned.

Since—according to Scheytt [9]—there is no explicit assignment of competences concerning the federal level, law making is restricted to the German federal states. The German Constitutional Court<sup>7</sup> refers to this as the "*Kulturhoheit der Länder*", that means "cultural sovereignty of the federal states"<sup>8</sup>.

Despite, Scheytt [9] and Connemann [2] both comply on the fact, that the federal level is in charge of international cultural policy, the representation of Germany as a whole, and—last but not least, although with a characteristic indirect influence—the law making concerning intellectual property, taxation, social security, and corporations. The Federal Government of the former chancellor Gerhard Schröder introduced the institution of a special purpose Minister of State, who acts as a Commissioner for Cultural and Media Affairs<sup>9</sup>. His duties are to take

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<sup>6</sup>cp. [9], p.34

<sup>7</sup>in German: *Bundesverfassungsgericht*

<sup>8</sup>author's translation

<sup>9</sup>see <http://www.kulturstaatsminister.de>

care of cultural institutions and projects with a national and representative scope. At the moment, the position is held by the Christian Democrat Bernd Neumann

The third level of legislative competence being involved in cultural policy is represented by the local communities. By means of actual abandonment of law making by the federal states, transparency of political assignment is fostered. Thanks to this fact, it is for the voter much more easy to indentify the key players in charge, to assign responsibility. Article 28 of the German constitution guarantees local self-administration, this including culture<sup>10</sup>. The federal state of the Saarland has codified these competences in a special law<sup>11</sup>. Cultural affairs are named explicitly in Article 5 section 2:

The communities have in particular the duty to foster the social, cultural, and economic welfare of their inhabitants[.].<sup>12</sup>

So, legally forthcoming leeways are not exploited by superior organizational levels for the sake of unambiguousness and a down-to-earth-style of policy. This is consistent with the image of a *citizenship-based*<sup>13</sup> society.

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<sup>10</sup>see [9], p.37

<sup>11</sup>Kommunaleselbstverwaltungsgesetz [5]

<sup>12</sup>author's translation

<sup>13</sup>in Germany, politicians often refer to the *aktive Bürgergesellschaft*, as a foundation of a vivid society, although most of the time this term appears to mean nothing but privatization of formerly publicly financed duties

## 4 Actual Assignment

Cultural activities of any kind very often rely on private sponsorship: companies as well as trade unions, chambers of commerce, or associations take part in cultural policy. This influence is quite informal, since it is not regulated<sup>14</sup>, versatile up to cluttering. Other important contributors to culture in Germany are the churches and denominations<sup>15</sup>.

In chapter 3, the implications of German constitutional texts were depicted. Besides, one key player was not mentioned at all although he is responsible for major parts of cultural activities in Germany: The European Union.

Despite the lack of constitutional texts dealing with culture with regard to the European Union, Germany signed a treaty concerning this matter in 1997<sup>16</sup>. It says in its Article 151<sup>17</sup>:

1. The Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.
2. Action by the Community shall be aimed at encouraging cooperation between Member States and, if

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<sup>14</sup>apart from rules regarding sponsorship and taxation

<sup>15</sup>see [6]

<sup>16</sup>Treaty of Amsterdam [14]

<sup>17</sup>cp. [14]

necessary, supporting and supplementing their action in the following areas:

- improvement of the knowledge and dissemination of the culture and history of the European peoples;
  - conservation and safeguarding of cultural heritage of European significance;
  - non-commercial cultural exchanges;
  - artistic and literary creation, including in the audiovisual sector.
3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe.
  4. The Community shall take cultural aspects into account in its action under other provisions of this Treaty, in particular in order to respect and to promote the diversity of its cultures.
  5. In order to contribute to the achievement of the objectives referred to in this Article, the Council:
    - acting in accordance with the procedure referred to in Article 251 and after consulting the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws

and regulations of the Member States. The Council shall act unanimously throughout the procedure referred to in Article 251;

- acting unanimously on a proposal from the Commission, shall adopt recommendations.

This treaty serves as a legal foundation for support programmes like **KALEIDOSKOP** (artistic and cultural activities with an European scope), **ARIANE** (reading and literature), or **RAPHAEL** (cultural heritage). In addition, interdisciplinary projects combining culture, education, research, and technology are funded through the action **CONNECT**<sup>18</sup>.

An even broader approach was designed with the setup of the programme **CULTURE 2000**. For a five years period, the European Parliament decided to give financial support and thus encourage and foster artistic output and mobility of artists, access to culture for all citizens, the dissemination of arts and culture, as well as the cultural exchange and knowledge of the history of European peoples.

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<sup>18</sup>cp. [7], p.52

## 5 The French-German Performing Arts Festival "*Perspectives*"

Since 1977, the French-German festival for performing arts "*Perspectives*" takes place each year in May. With venues in Saarbrücken, Metz, Thionville, and Forbach it serves as a cultural melting pot of both German and French drama—on stage as well as on street-side, artistic and political.

The clash of those two cultures may be acknowledged as implied, since it was kind-of a *ménage à trois* from the start, so to speak: Equally financed by the Federal State of Saarland, the Département Moselle, and the City of Saarbrücken, different levels of executive power as well as different styles of politics were brought together right in the beginning [12].

All three parties mentioned before are contributing each year an amount of €205,000<sup>19</sup>. Although this might give reason to assume that the events of the festival are evenly distributed within the borders of the State of Saarland and the Département Moselle, the focus is clearly set to Saarbrücken. On the other hand, the financiers Saarland and Moselle do actually control the bodies of the festival<sup>20</sup>, as there are:

- Steering Committee

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<sup>19</sup>cp. [12], sec.3 art.8

<sup>20</sup>cp. [13], art.6

- Task Force
- Artistic Advisory Board

This asymmetric allocation of power on the one hand, and executive leeway on the other has led to countless conflicts in the past. At this very moment, the position of the Festival Manager is vacant—and parts of the office staff have been fired a few days ago, due to ”communicative misbehaviour”.

Consequently, the Supervisory Board of the Agency *Perspectives gGmbH*<sup>21</sup> is looking into voluntary liquidation. So, the festival and its structure would have come to an end 30 years after the upbeat beginning.

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<sup>21</sup>whose main tasks are the organisational business activities conducted on instructions

## 6 Conclusion

As I showed especially in chapter 5, *cultural policy*'s character is mainly defined by its linguistic component inherited from the term *politics*. Unclear competences, along with rent seeking behaviour of political pressure groups, combined with financial restrictions serving for applying pressure do definitely hamper—hopefully unintended—the—primarily intended—promotion of cultural activities.

Good advise would be to check regularly in each and every single case, whether the influence of the state—or its political bodies—does any good. Otherwise, the state should withdraw from its cultural engagement, avoiding the crowding out of private initiatives by superfluous taxing and subsidizing.

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