

This draft report is based on data and information collected through interviews held with EURO MEI members and external organisations to EURO MEI. It will be amended following the feedback of all interviewed parties.

WORKING CONDITIONS IN FILM, TV AND LIVE ENTERTAINMENT PRODUCTION IN EUROPE

October 2015

Report prepared by Ramón Vivanco Mugarra for EURO MEI

EU project VS 2014/0553

This project is supported by the European Union Programme for Employment and Social Innovation (EaSI)



FOREWORD

The following report is part of the outcomes of the EU co-funded project¹ *dignity@work* implemented by EURO MEI between January 2015 and June 2016. The report focuses on working conditions in film, TV and live performance entertainment production in 15 European countries². It is based on in-depth research through analysis of previously published studies and data on the subject, written questionnaires, face-to-face interviews with EURO MEI members, as well as an online survey targeting trade union members and anonymous workers from across Europe.

EURO MEI also organised two workshops on working conditions in 2015, one in film & TV production in Paris, and one in live performance production in Helsinki. The aim of these workshops was to provide a platform for exchange of workers and trade union representatives on changes in working conditions and the impact on collective bargaining processes and social dialogue. The contributions made by participants during the workshops also proved to be very valuable to feed into the present report.

The report is divided into two main parts, namely, working conditions in film & TV production and working conditions in live performance production, with slight differences in terms of the countries covered but with identical thematic structure. Each country report contains information on the main types of employment status' and work relationships, working time, remuneration, occupational health and safety, and freedom of association and collective bargaining.

EURO MEI wants to thank all members and trade unions that contributed with their comments and replies to the questionnaires and attended the workshops, including those coming from European countries not covered by the report. EURO MEI's appreciation also goes to Mr. Ramón Vivanco Mugarra, who carried out the research and drafted the report.

The report aims to identify common challenges to dignity at workplaces, to formulate common positions and put forward concrete measures to improve working conditions in film & TV and live performance productions.

The ultimate objective is to engage employers' organisations, public funding bodies, and public authorities at both EU and national levels in a dialogue over prospects of ensuring good working conditions and dignity at work in film & TV and live entertainment productions across Europe.

Johannes Studinger
Head of UNI MEI

¹ European Commission (DG Employment, Social Affairs and Inclusion)

² Belgium, Denmark, Finland, France, Germany, Italy, The Netherlands, Poland, Portugal, Romania, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom.

PREFACE

The audiovisual and live performance sectors are facing a complete change across Europe. Some key factors are the modifications in the operational environment, the fragmentation of productions, and the technological progress that is taking place in both sectors.

Across Europe, due to reduced public funding, entertainment productions have seen their budgets reduced dramatically. This concerns equally public broadcasting bodies that commission film productions, as well as publicly funded live entertainment institutions. The financial and economic crisis has exacerbated this tendency and affects privately and public funded productions equally.

The overall loss of funding has provoked the competition for funds, which in turn entails savings on crew and staff costs. Entertainment productions are also faced with fragmentation, as an increasingly bigger part of productions is being outsourced. Outsourcing to very small companies and SMEs leads in turn to an ever-increasing number of work contracted with self-employed workers or short-term employed workers in the sectors. A relatively large proportion of workers work in micro-workplaces, and the percentage of workers who work in SME workplaces in the sector is above the average of the EU. One key point is also the competition between European countries, with many productions going to those countries with more advantageous tax regimes, provoking a race to the bottom in working conditions.

A constant feature in audiovisual and live performance productions across European countries is that they remain very labour intensive, with a slight male predominance and with self-employment being quite prevalent. Another common feature is that workers often have to work for long hours to be able to meet deadlines and budget objectives in film productions, and to ensure performances of scheduled shows in theatres and on tour. The pressure to lower costs by producers and investors in entertainment productions across Europe is reported to be increasingly high, which in turn puts pressure on working conditions.

The project *dignity@work* and the following report take stock of the situation of working conditions in entertainment productions, in both film & TV and in live performance productions. The focus is to map the changes that are taking place in the sector, to see how they are affecting workers, and how trade unions can respond by engaging employers and authorities in a dialogue over dignity in the workplace.

William Maunier
President EURO MEI

CONTENTS

Foreword	2
Preface	3
Working conditions in film and TV production	5
– Belgium	6
– Denmark	11
– Finland	14
– France	17
– Germany	21
– Italy	25
– The Netherlands	28
– Poland	31
– Portugal	33
– Romania	38
– Slovenia	40
– Spain	42
– Sweden	45
– Switzerland	48
– United Kingdom	51
Working conditions in live performance production	55
– Belgium	56
– Finland	59
– France	62
– Germany	65
– Italy	72
– Poland	75
– Portugal	78
– Romania	81
– Slovenia	83
– Spain	87
– Sweden	89
– United Kingdom	92
Conclusions and key findings	95
Annexes	100
– List of interviewed people and questionnaires received	
– Analysis of the online questionnaire	
– Questionnaire sample (EN)	

**WORKING CONDITIONS
IN FILM AND TV PRODUCTION**

DRAFT

BELGIUM

EMPLOYMENT STATUS AND WORK RELATIONS

In Belgium, there are many workers under full-time indefinite permanent contracts, especially those working in broadcasting companies of the public sector. In general, all workers have employment contracts³. When looking at the production companies or the providers of services for the sector, workers are generally under fixed-term contracts or they are self-employed⁴ independent workers, freelancers, or fall under a new modality of employment contract⁵. There are also temporary workers that are mainly recruited for a short-term period of time, to face concrete sudden increases of the workload in a peak period, recruitment of a new collaborator, provision of an artistic service through the Social Bureau for Artists, etc.

The recent employment and work relationship patterns show that while the number of companies has grown, the number of workers under full-time permanent employment contracts is decreasing. In Belgium, companies in the audiovisual sector are small companies in terms of the workforce they employ. In this regard, the average number of workers varies from one-person company to four people. The industry is facing several challenges including the increased number of new entrants, the increase of self-employed workers and freelancers, etc. in the whole country. In overall terms and compared to other business sectors in Belgium, the number of workers under full-time permanent employment contracts in the audiovisual sector is higher. The Belgian legislation in line with European standards bans any kind of discrimination in access to employment based on gender, ethnics, etc., and this is respected in practice too.

The average duration of employment contracts depends very much on the project itself and the production. In general terms, this could be three months in film production and two or three months in TV production.

The Belgian law foresees guaranteed indemnities for workers when employment and work relationships end abruptly and/or when cancelled shortly before work begins. Likewise, the Belgian law foresees guaranteed indemnities

³ In Belgium, every worker has to be recruited by an employer in full compliance with the Belgian labour law in force and the provisions therein. Regarding fixed-term contracts, the Belgian law bans the possibility of concluding successive fixed-term contracts without interruption. This means that after a given period under fixed-term contracts, a worker may get a fulltime indefinite permanent employment contract.

⁴ The worker has to have a VAT number and the employer must not be the unique or only client. The Belgian law stipulates that there should not be a subordination link between both parties, as this fact is granted as the existence of a fake self-employed worker, which is illegal face to the Belgian legislation.

⁵ Since January 2014, a new form has entered into play. The Belgian law now allows a third party to take part of one part of the worker's salary, without being considered an employer. This is used when there are no conditions for an employment contract and it is mainly used for artistic services or the production of artistic works. The artistic nature of the work has to be proved through an artistic visa delivered by the Commission of Artists.

that are upheld in practice for unfair terminations in cases of pregnancy, absence of the workplace due to sick leave, etc. In this regard, a worker in Belgium is entitled for an indemnity after working under a short or long-term contract for either the private or the public sector. The indemnity is linked to the amount of the salary. The Belgian law also provides workers with a number of days per year for absence.

A worker in Belgium enjoys the unemployment benefit when an employment or work relationship ends. According to the Belgian law, the unemployment is linked to the salary and the time of effective work⁶. In general terms, it can be stated that the criteria to get unemployment benefit are linked to the realities and patterns in the sector.

The Belgian law foresees social security coverage for workers. In the case of independent workers in both sectors, they are obliged to pay for a state fund, but they can also have a private insurance if they want to have higher coverage. It is up to them to take the responsibility for a private insurance.

There are a lot of collective agreements in Belgium in the whole sector⁷ with generally better working conditions in the public sector. In public broadcasting the collective agreements are negotiated company by company and for the others, it is based on sectors. The collective agreements in Belgium are applicable to all workers regardless their employment status. The new entrants in the business are obliged to follow the collective agreement in the company where they work. The collective agreements in Belgium are applied in practice by and large and this is respected in practice. In Belgium, the judiciary system and the social inspection system work effectively so it is easy to claim rights and seek redress if necessary.

WORKING TIME

The Belgian law states that the weekly maximum working time has to be 38 hours. However, a worker may be entitled to work longer hours weekly⁸ without exceeding the threshold of 38 hours computed on an annual basis. If a worker works more than the 38 hours, the overtime is compensated with supplement remuneration or additional time off. The limits of the daily and weekly working time may be exceeded in 3 hours per day and 15 hours per week maximum.

⁶ A worker may need to prove three salaries before getting unemployment benefit.

⁷ There are three main collective agreements, 1) a collective agreement for public broadcasters (one for the RTBF (French TV) and one for the VRT (Flemish TV) 2) a collective agreement for private broadcasters for radio and TV, and 3) a collective agreement for the joint-committee for the movie industry (303.1 joint committee). In the Belgian regions, there are regional collective agreements where the application is regional.

⁸ The weekly maximum working time is set at 53 hours, what it involves 15 hours of authorized supplementary work weekly.

It is difficult to assess what the reality in practice is in terms of working time since the size and duration of the production affect the working time in practice.

The turnaround between two days of production work is 11 hours but in some cases it can be 10 hours. Overtime is paid with an increase of 15% over the basic salary and overtime during holidays or night work with an increase of 100%.

Working hours on Saturdays are increased at 50%, and Sundays and public holidays with 100%. Working on Sundays and public holidays is generally avoided. Working on Sunday is authorized but it is limited to 42 Sundays annually. The worker is entitled to request the compensation to be converted in additional rest time off as long as it is done within the time frame of one year.

Night work goes from 1:00 to 6:00 and it is authorized as long as it is compensated. For those workers with fixed night contractual services, there is no compensation as long as the compensation is integrated in the salary. The night premium payment is at least 50% of the basic salary and it can be converted in additional rest time off within one year. One worker may be employed maximum 48 nights per year, except for those workers with a fixed night contractual service.

During the execution of the employment contract, the production headquarters or the production place is the reference point in terms of transport and travelling. The time for travelling within a distance limit of 35 kilometres starting from the point of reference is not considered working time and it is not remunerated. The time of transport going beyond the 35 kilometres and lasting more than one hour is not considered working time but it is remunerated on the basis of an increase of 100% of the basic salary.

Workers in the film and TV production sector enjoy annual leave and bank holidays. The Belgian law states the number and dates of bank holidays.

REMUNERATION

In general terms, the remuneration in Belgium permits a decent standard of living. This is due to the fact that the Belgian law stipulates minimum wages that permit a decent standard of life.

Overtime, work on weekends and public holidays and night work is compensated with premium payments and additional time-off. Regarding per-diems and travel costs, they are provided and the collective agreements include provisions on this and they are respected in practice. The per-diem policy is mainly done through company agreements that hold the responsibility for this.

The Belgian law provides annual leave and ten bank holidays⁹. In Belgium, the employer is obliged to pay for the holidays of the year after following the termination of an employment relationship. The Belgian law also stipulates the payment of a bonus¹⁰ at the end of the year in the audiovisual sector and this applies to all staff in a company regardless their employment status.

OCCUPATIONAL HEALTH AND SAFETY

Occupational health and safety issues are not enough and they are poorly enforced in Belgium. This does not necessarily mean that they don't take health and safety issues seriously but rather that it is not enough and it could be much better. In Belgium there are no specialized companies dealing with health and safety issues as for instance in the Netherlands or the UK. In this regard, you can only find expertise among some freelancers experts on the subject.

In Belgium, the law states that it is compulsory to have health and safety representatives in companies with more than 20 employees¹¹. This poses a major challenge since most of the companies of the sector are small companies with a very limited number of staff. In 2104 a new law was adopted focusing on health and safety issues at the workplace. This law also includes new regulations and has opened the way for workers to express and mainstream their health and safety concerns. The law applies to all companies regardless the number of employees. Health and Safety is generally a joint employer-employee concern and they tend to work together on it. For instance, both trade unions and employers govern Mediarte.be and they collaborate to facilitate improvements on health and safety issues, through joint workgroups, etc.

The new platform of the Social Fund of the Audiovisual and Film Production Sector¹² in collaboration with the Social Fund of Arts of the Spectacle, the RTBF, the VRT, and the Belgian Event Supplier Association, is working on drawing the attention on health and safety at workplaces in the audiovisual sector, the world of theatre and the events sector. They have some projects on this issue.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

Trade union density is unknown since they don't have official figures and don't know how many members they have. They have many temporary workers. The Belgian law in line with international standards does not limit the freedom of

⁹ When a worker works under a full-time permanent contract, the law provides 20 days of paid holidays. Freelancers may enjoy annual leave but it is up to them how to arrange it and to pay the statutory contributions for this entitlement.

¹⁰ If a worker has had several fixed-term contracts without interruption, the bonus is calculated based on the average of the last 12 gross salaries. If an employee has not been recruited a whole year, he is entitled to the bonus on a pro rata basis as long as he/she has worked at least 130 days for the employer.

¹¹ Companies with more than 50 workers should have a health and safety committee and those with more than 100 a health and safety advisory board.

¹² www.thinksafe.be

association and the possibility of joining freely a trade union of one's choice. However, the fact that a worker has to pay a trade union fee annually and that this is paid by the employer may play a disincentive role in potential trade union memberships in practice.

There is no blacklisting or discrimination against trade union leaders based on trade union affiliation and membership.

Trade unions are considered bargaining agents and are fully involved in the bargaining process with employers' association in joint committees. Trade union organisations sit together to discuss and negotiate collective agreements on an equal foot with the employers' associations.

DRAFT

DENMARK

STATUS OF EMPLOYMENT AND WORK RELATIONS

The main existing types of employment contracts in Denmark are indefinite full-time permanent contracts and fixed-term contracts and the main type of workers are employees and independent workers, including freelancers. The Danish legislation in line with European standards bans any kind of discrimination in access to employment based on age, gender or ethnic group and this is respected in practice. However, there may be some isolated cases of hidden discrimination, but they are difficult to prove and the possibility to seek redress under the judiciary seems limited.

The characteristics and the nature of the film and TV production sector makes it difficult to determine the average duration of employment contracts in Denmark. The duration depends on the type of production and project's workload. However, in general terms, the average duration in film production is 8 weeks, whereas the typical average duration of an employment contract in independent TV production may vary from just 4 weeks in TV documentary to 12 weeks in TV drama. The duration of employment contracts in live events is linked to the type of event itself, and therefore, the contracts may be daily contracts or weekly contracts on average.

Workers in the film and TV production sector enjoy guaranteed indemnities in the case of abrupt cancellation of the employment relationship or when employment is suddenly cancelled shortly before the work begins. Likewise, workers also enjoy guaranteed indemnities in the case of unfair termination of employment due to pregnancy or temporary absence due to sick leave, to name but a few. The employer may recourse to the termination of an employment relationship under some circumstances duly justified.

When employment finishes, workers in the sector are entitled to unemployment benefit should defined criteria are met, mainly the fact of holding an insurance. The system in force seems adapted to the reality of the sector. Denmark has a universal social security system and therefore, workers in the film and TV production sector enjoy full social security coverage for the cases of sickness, invalidity, maternity, and for their pension entitlements.

In Denmark, there are collective agreements covering the film and TV production sectors and the applicable to all types of workers. The Danish Labour Law and the collective agreements provisions are applied in practice by and large in Denmark.

WORKING TIME

In Denmark, the legal maximum daily working time is 13 hours on the basis of a working week of 6 days, with the maximum weekly working time being 78 hours. The working time in film and TV production reaches in practice peaks of 48-50 hours weekly. In Denmark, a standard working week is 39 hours going from

Monday to Friday and it is split in 4 days of 8 working hours and 1 day of 7 working hours, including a 15 minutes break. In Denmark, accepted working hours go from 6:00 to 19:00.

Working¹³ on Saturday, Sunday and/or a statutory public holiday is not considered regular working time and therefore compensations apply in the form of additional time off or/and premium payment. For instance, work on public holidays and on Christmas Eve, New Year's Eve and Constitution Day is payable with a premium payment of 100% over the basic hour rate. Likewise, work on a Saturday, Sunday or public holiday is compensated by two consecutive days off or by one day off plus payment of the premium payment.

Overtime¹⁴ is all working time exceeding 39-40 hours on a weekly basis and it is a very common and recurrent practice at workplaces in the film and TV production sectors in Denmark, with an average overtime weekly varying from 5 to 15 hours. Overtime from Monday to Friday is compensated on the basis of the basic hourly rate plus 50% for the first five hours and 100% for additional hours. During overtime, the film worker is entitled to a 30 minute paid break every four hours.

In Denmark, travelling to location is always considered as working time. On-call is not a common practice in Denmark and if used, it is exceptionally. The average turn-around between two days of production is 11 hours and it has to be observed within every period of 24 hours. However, this break is not always respected and in some cases it may be shortened. This happens for instance when deadlines in a production apply. Workers enjoy annual leave with the employer contributing with a 12.5% of the worker's salary to the national public system, from which the worker benefit.

REMUNERATION

Salaries and wages in Denmark in the film and TV production sector permit a decent standard of living. Overtime, night work, work on weekends and public holidays in the sector is compensated with additional time off and with premium payments and this is respected in practice. The premium payment may go to up 175% of the basic hourly rate. Travelling costs to workplaces and per diems for working abroad and on location are always provided and holidays and annual leave are always paid and this is respected in practice.

¹³ In Denmark, working during special unsocial hours may be agreed for an indefinite number of weeks. However, compensations apply.

¹⁴ In Denmark, there is a flexible working time scheme that permits the film workers within the standard 39 hour working week to work for up to 9 hours and 45 minutes daily during 4 days without overtime premium payment. However, a worker under this scheme is entitled for a working day off on the 5th day within the standard working week, and always immediately before or after the weekend.

OCCUPATIONAL HEALTH AND SAFETY

In the film and TV production sector in Denmark, the health and safety policies and tools in place at workplaces are limited and in general terms, the implementation of related policies is poor and shows weaknesses.

Workers elect a health and safety representative and their concerns may be channelled and mainstreamed effectively in principle but in practice there are limitations. The limitations are linked to the fact that the health and safety policies are not strongly implemented at workplaces.

In Denmark, trade unions and employers are involved in ensuring health and safety policies at the workplace in film and TV production. In film production, there is an agreement on joint employer-trade union cooperation but it is limited in content and the enforcement needs improving. In TV production, there is no agreement what it implies in practice that the health and safety policies and practices are poor and the enforcement limited.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

Estimations say that the trade union affiliation and representation among the workforce is around 50% in both the film and TV production sector.

In Denmark, there are no legal shortcomings preventing a worker joining freely a trade union of his/her choice, but in practice there are some obstacles. Blacklisting and discrimination against trade union leaders and unionized workers happens in practice. In this regard, unionized workers tend to have more difficulties in securing employment and finding jobs assignments.

The Danish trade union is regarded as a bargaining agent and it is fully involved in collective bargaining processes in both sectors without legal or practical barriers.

FINLAND

STATUS OF EMPLOYMENT AND WORK RELATIONS

In Finland, the most common type of employment relation is a fixed-term contract. There are almost no indefinite permanent jobs, with the vast majority of workers being self-employed workers and freelancers. In Finland, the current tendency is the proliferation of temporary contracts¹⁵.

The Finnish law in line with European standards bans all kind of discrimination in access to employment and this is in overall terms respected in practice. However, there are cases of hidden discrimination in access to employment based on age. It is very common that older people find more difficulties in securing employment and work assignments than young people.

It is difficult to determine the average duration of employment contracts since this depends very much on the project type, project duration and existing funding. In general terms, in the film and TV production sectors, the concluded employment contracts vary from one to three months. There are cases of very successful opera soaps or a series, and then the employment contracts may be longer.

The Finnish labour law and the existing collective agreements in the sectors foresee rules for indemnities of around 50% of the salary¹⁶ if a worker is informed with less than a week on the termination of employment and work relationships or when they are cancelled shortly before the work begins. Likewise, there are guaranteed indemnities that are upheld in practice when unfair terminations of employment and work relationships happen (i.e. pregnancy, temporary absence due to sick leave, etc.).

Workers enjoy unemployment benefit. The Finnish law sets a set of strict criteria for securing unemployment benefit, linked to the fact of having worked for a minimum period of time and paid the contributions to the state system¹⁷. The system in force seems adapted to the realities of the sector. Workers have access to the benefits of the Finnish social security system and schemes. This is due to the fact that the Finnish social security system is comprehensive and universal and targets all Finnish citizens. If you get sick, you get 70% of the salary.

In Finland, there are several collective agreements in the sector that target a company or a group of companies. The agreements are applicable to all type of

¹⁵ In Finland there are 4 film commissions, which are the Finnish Lapland, North Finland, East Finland and West Finland Film Commissions. Most of the Finnish films are shot in the capital city, Helsinki. At least 75% of the workforce in film and TV are in Helsinki with 96% of the post-production facilities being in Helsinki too.

¹⁶ Full salary with one day short notice

¹⁷ They may get up 70% of the salary for 500 day if member of a trade union fund. If not, they get about 40 EUR per day for an indefinite amount of time. The amount of unemployment benefit makes it difficult to live or survive in cities like Helsinki.

workers and employment relationships, and they are in general terms enforced. The Finnish law is integrated in the collective agreements and therefore all benefits are foreseen in the law.

WORKING TIME

The general weekly maximum working time in Finland is 40 hours within the base of five working days per week, and an average of 8 working hours on a daily basis. The regular daily working time comprises a lunch break of 30 to 60 minutes. This break is not considered working time. The turn around is 11 hours and this is respected in practice.

Regarding overtime, it is considered all worked time going beyond 8 hours per working day. Overtime is compensated, with 50% payment premium for the first two hours and 100% after the two hours¹⁸. In Finland overtime is very common and recurrent.

Working on Saturday is considered a regular working day if Saturday is not the 6th day in a row. The 6th day has a premium payment of 50% for the first 8 hours and 100% after that. Working on Sunday and public holidays are compensated with a premium payment of 100% and 200% respectively. Working on Sunday is rare, though. The reason may be the costs. Working on Sunday should be paid the double and this makes producers reluctant to work on Sunday. On-call is not considered working time.

Travelling to the workplace from the home residence is not considered working time. However, travelling for work purposes from the workplace to a shooting place is considered working time. When a worker is responsible for the film equipment, travelling from the home residence to the workplace is considered working time.

Workers enjoy annual leave and bank holidays. In this regard, when you work 48 days you are entitled for 2 days leave. After one year of work, you get two days and a half. You then put them together in one-month leave, for instance July.

REMUNERATION

The existing remuneration permits in general a decent standard of living. The Finnish law and the collective agreements in force establish a good system for the compensation of overtime, work on weekends and public holidays and night work.

¹⁸ In the film and TV production sector, it is very common to hire the technical equipment and therefore, there is a tendency to take the utmost advantage of the rental period.

In Finland, the employer has to provide travel and accommodation costs and is obliged to facilitate the catering services during the production. The Finnish law states that the employer has to pay the normal salary for the annual leave.

OCCUPATIONAL HEALTH AND SAFETY

According to the Finnish law, there have to be plans for education, misuse of alcohol, etc. In Finland, alcohol is a problem and actors and technicians sometimes drink more than they should do. There are health and safety inspectors at workplaces and a worker can mainstream and channel health and safety concerns anonymously. If a company has 20 or more people working, there should be a health and safety committee. Employers and trade unions collaborate closely in the management of health and safety issues.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The affiliation rate and representativeness is 65-70% in film and TV production. The Finnish law is in line with international standards regarding the freedom to join a trade union of one's choice without obstacles and this is upheld in practice. However, there may be prejudices. Many workers think that joining a trade union is not good and has no added value. In principle there is no discrimination and blacklisting based on trade union membership but could happen. This is very difficult to prove.

Their trade union is considered a bargaining agent and they are involved in the bargaining process of eight collective agreements¹⁹.

¹⁹ In the film and TV production sectors, there are foreign firms that don't like collective agreements and don't join employers' organisations to be able to circumvent the implementation of the collective agreements. In the field of TV production, there is no binding collective agreement.

FRANCE

STATUS OF EMPLOYMENT AND WORK RELATIONS

In France, the main type of employment contract is the fixed-term contract²⁰. The fixed-term contracts and the fixed-term contracts (CDD)²¹ have different provisions. The French law in force bans all kind of discrimination in access to employment and this is respected in law and in practice.

The average duration of employment contracts in film and TV production depends on the characteristics and nature of the production project, but it is rare that employment contracts last more than 12 consecutive weeks. In general terms, the average duration of an employment contract in film production lasts less than three months whereas employment contracts in TV drama can go from three to several months. The average duration of employment contracts in TV documentary depends on the type of documentary production project. The employment contracts in live events are generally concluded on a daily or weekly basis.

In France, there are guaranteed indemnities for workers when employment and work relationships end abruptly and/or when they are cancelled shortly before the work begins. Except for cases of 'force majeure', the employer is linked to the provisions of the employment contract. There is French jurisprudence on this and the provisions of the French Labour Code also apply. In this regard, the employer may be obliged to compensate the worker for the part of the contract that has not been executed. There are also guaranteed indemnities upheld in practice for the cases of unfair termination of employment and work relationships (i.e. pregnancy, temporary absence due to sick leave, etc.), but they are subject to some conditions. Workers also enjoy social security and they are covered in cases of sickness, invalidity, maternity and pension entitlements.

In France, workers enjoy unemployment benefit. The eligibility and qualifying criteria for this entitlement are linked to the termination of the fixed-term contract and the total amount of worked hours. Technicians under fixed-term contracts can enjoy a special unemployment benefit scheme. In this regard, they have access to unemployment benefit as long as they have had a job for 507 working hours in the last 10 months in companies of the entertainment or the audiovisual sector. The qualifying criteria are not adapted to the work patterns in the sector.

²⁰ contrat à durée déterminée d'usage. This type of employment contract applies mainly to technicians.

²¹ contrats à durée déterminée (CDD)

In film production there is a national collective agreement²². In TV production there are national collective agreements and enterprise agreements in some cases. The collective agreements are applied in general²³. However, in film production, the national collective agreement is recent and there are still a lot of provisions that are not enforced effectively. However, in general terms it can be stated that the collective agreements are respected.

In France the film industry has been well financed with high salaries historically. However, the current context is different and it is more and more difficult to make a film²⁴. One big problem seems to be the fierce competition based on more advantageous tax schemes and incentives to make films in other EU countries²⁵.

WORKING TIME

The French Labour Code sets the legal daily and weekly working time in 7 hours and 35 hours with a maximum peak of 10 and 48 working hours respectively²⁶. However, the total working time including effective working time, supplementary hours, lunch breaks, rest periods, and transport time cannot exceed 13 hours daily. Working time in France is organised under the basis of a minimum weekly working time of 39 hours including 4 supplementary hours increased 25%²⁷. The allocation of the working time must be as to give workers two full days of continuous rest, including Sunday. However, it is allowed to work on Sunday under exceptional circumstances. The overall turnover in France is 11 hours (break between two days of production) and it is respected in practice.

Working on Sunday and public holiday can be considered a regular working day under certain conditions. The French Labour Code states that beyond 35 working hours weekly, there are premium payments applying. The increases may go from 25% to 50% on the basic salary²⁸. Salaries on Sundays are increased 100%. Working during a public holiday, the basic salary is increased 100% and a day of additional time off is granted.

²² There are two main trade unions in France in the film and TV production sector (1) 'Syndicat National des Techniciens et Travailleurs de la Production Cinématographique et de Television' (SNTPCT) 2) and the 'Syndicat des Professionnels des Industries de l'Audiovisuel et du Cinéma' (SPIAC – CGT).

²³ The French National Collective Agreement on Film Production applies to technicians employed in the film production sector. The Title II specifically and exclusively applies to employees of the technical team involved in film production under a fixed-term contract and also to some staff members recruited under fixed-term contracts (CDD).

²⁴ In France they have the 'Fonds Soutien'. When the commercial exploitation of a film takes place, the 11% of the price tickets is allocated to make another film.

²⁵ Belgium and Luxembourg, amongst others. This provokes a social dumping with a race to the bottom degradation of working conditions.

²⁶ The collective agreements in the sector have set specific working times per activity branch. In this regard, for instance in publicity the duration may reach 12 working hours daily and in film production the working hours may reach 60 hours weekly.

²⁷ The supplementary hours carried out during the week are compensated with the following increases (36-45: 25%; 44-48: 50%; beyond 48 hours: 75% of the basic scheduled salary). Working hours beyond the 10th hour during the same day in shooting have an increase of 100% of the basic salary.

²⁸ The collective agreements improve the provisions of the French Labour Code in terms of increases.

Overtime is considered all worked hours beyond the 35 hours weekly. Overtime is common and recurrent at workplaces in France. Night work is considered work between 22:00 and 6:00 from the 1st of April to the 30th of September, and between 20:00 and 6:00 from the 1st of October and 31st of March²⁹. Night work is compensated with a premium payment of 50% for the first 8 hours of night work and beyond that with 100%. If night work takes place during a Sunday or public holiday, then it is also increased according to the rules applying for Sundays and public holidays.

Transport within a touring is always considered as effective working time. Travel time between two shooting places during the same working day is considered effective working time. On-call is not used in France and collective agreements do not cover it.

Workers enjoy annual leave and public holidays. All public holidays are paid. The law defines the number and dates of public holidays.

REMUNERATION

The existing remuneration permits in overall a decent standard of living³⁰. However, it is very difficult to have a life career in the sector. There is a minimum salary guaranteed of 39 hours weekly, including the 35 working hours of basic salary and 4 supplementary working hours increased at a rate of 25%. Overtime is compensated in all the sectors and this is foreseen in the collective agreements. Night work is also compensated.

Travel costs and per diems are provided. When a shooting takes place at external places, the employer has to provide workers with hot and cold drinks, snacks and lunches, or otherwise a lunch indemnity. The employer is also in charge of all the travelling costs and related administrative requirements (i.e. transport tickets, visas...). All this is generally organised through the provision of single defrays that are granted to all members of the crew. Defrays are paid on a weekly basis and in advance and includes the hotel room, the breakfast and the lunches not covered by the production company and taken outside the working day. Defrays are adjusted to the living costs of the place where the shooting takes place.

The annual leave and bank holidays are paid with a special fund³¹. When an employment contract terminates, the employer is obliged to grant each worker with the employment certificate justifying the rights to annual leave linked to the employment period.

²⁹ Winter and summer time

³⁰ In film production in a 39 hour base the salary goes from 834,76 EUR to 2605,56 EUR per week. In independent TV production depending on the post, the salary can go from 418,29 EUR to 1860,27 EUR per week in TV documentary and live events and from 704,10 EU to 2337,85 EUR per week in TV drama. In the cases of technicians, the minimum salaries are revised the 1st of January and the 1st of July every year.

³¹ Caisse de Congés Spectacles

OCCUPATIONAL HEALTH AND SAFETY

Regarding health and safety issues, the general provisions of the French law apply to all workers. In the film and TV production sectors there are biannual visits. Regarding safety, the situation is quite bad. There is a delegate that goes to a touring set but that's all. Employers have a criminal responsibility and trade unions have to put in place means to verify and assess that health and safety conditions are respected in touring sets and workplaces.

There are health and safety representatives at workplaces and workers can normally channel their health and safety concerns. Both employers and workers take part and hold the responsibility for health and safety at workplaces. In general terms, trade union work has been effective as to be able to reduce the number of accidents in the last years³².

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

In France, there are seven trade union organisations in the sector. In overall terms, it is difficult to put numbers but it can be stated that the trade union affiliation rate is of around 7-14% of the workforce, which is very low.

The French law does not put obstacles in trade union affiliation. It is an individual step to join a trade union and there are no obstacles in both legal and practical terms. However, the type of employment contract mainly used in the sector makes it difficult to have affiliations. There is blacklisting and discrimination against trade union leaders based on trade union membership but it is difficult to prove. In principle, they can defend themselves thanks to the Labour Code and the collective bargaining processes.

The SNTPCT and the SPIAC-CGT are bargaining agents and are involved in collective bargaining processes.

³² The French Social Security keeps records of the number of accidents in the last years and states that the number of accidents has decreased in France.

GERMANY

STATUS OF EMPLOYMENT AND WORK RELATIONS

The type of employment and work relations in Germany depends very much on the production type and duration in time. There are mainly fixed-term employment contracts and self-employment, including freelancers. In TV documentary the activity is completely free and all kind of employment contracts may be concluded.

The German law in line with international and European standards bans all kind of discrimination in access to employment and this is respected in practice. However, there is a sexually biased allocation of jobs in the film production sector, with male predominance. In TV production there is also a clear male predominance mainly in technical jobs and in live events. In this regard, men tend to dominate camera work, editing and management of control room and women costume and make-up areas.

The average duration of employment contracts depends very much on the duration of the production project and the funding. In this regard, in film production, for instance 21 working days could be one scene and therefore 4 weeks of work, or there could be assignments of 3 months duration. The average duration of employment contracts in TV documentary is very much dependent on the workload and work assignments whereas in TV drama depends mainly on the duration of the project itself. In live events, the duration of employment contracts tend to be daily.

In Germany, there are no guaranteed indemnities for workers when employment and work relationships end abruptly or when they are cancelled shortly before the work begins. Likewise, there are not either any guaranteed indemnities upheld in practice for unfair terminations of employment and work relationships, in the case of pregnancy, temporary absence due to sick leave, etc.).

Workers are entitled for unemployment benefit provided they fulfil some statutory requirements³³. In this regard, they have to meet 360 days of social insurance within the last 2 years. This general rule may be waived with just 180 working days. However, these rules have restrictions too. The time for the entitlement is 10 weeks and the overall income in the last 12 months has to be higher than the standard reference salary for comparison³⁴. These restrictions are very strong and not linked to the reality of the work patterns. If a worker is not entitled for unemployment benefit under the previous conditions, Hartz IV applies³⁵, which provides a subsistence income. Self-employed workers are only entitled for unemployment benefit (ALO-I) provided they have taken up the self-employment status on a voluntary basis and they have an insurance for

³³ ALO I

³⁴ 32,400 EUR

³⁵ VERDI is trying to promote the cancellation of the standard reference salary for comparison and the extension of the entitlement to 14 weeks.

unemployment. Otherwise, they have the Hartz IV. The collective agreement for Film and TV production (TV FSS) foresees the working time account³⁶ in which holidays, overtime and supplementary fares are computed, so that the time of the social insurance can be extended to be able to achieve the entitlement.

Regarding social security coverage and the case of sickness, the statutory law states the payment of 6 weeks through the employer when the employer-employee relationship has lasted 4 weeks. All the rest has to be paid through a sickness fund. For accidents, the employee is covered through professional associations. The law states that for the case of maternity, the minimum payment for the father and the mother is granted statutorily for a maximum period of 14 months and with coverage of the 67% of the income salary. Regarding pension entitlements and contributions, it is statutory by law and it can also be complemented with individual private precaution and provisions. For cases of invalidity, the worker has to cover the provisions privately through insurances.

In Germany there are collective agreements in force for film and independent TV production. The collective agreements are concluded between VERDI and producers' alliances and they are valid nationwide. The collective agreements are applied in practice.

WORKING TIME

The German law states that the maximum daily and weekly working time is 8 hours and 60 hours respectively in five weekdays from Monday to Friday. The maximum daily working time can go up to 10 hours when the average in six months does not go up to 8 hours daily. The collective agreement³⁷ permits that in some cases the maximum daily working time can go up to 12-13 hours but compensation applies. When the limit of 12-13 hours is passed, there is an inspection of extreme work to observe, which comes out of the good collaboration between the trade unions and the inspection. There is a time account computation mechanism set by the collective agreement for records of payment of overtime and compensations.

According to the German law, working on weekends and during a public holiday is a regular working day. In general, working on Sunday and public holidays is compensated with additional time off. In addition, a premium payment applies for both Sunday work (50%) and public holidays (100%). Night work is considered the working time going from 22:00 to 6:00 and it is compensated with a premium payment of 25%. The German law states that 15 Sundays have to be free at least annually. There should also be at least one free weekend of two days monthly.

³⁶ Arbeitszeitkonto

³⁷ ³⁷ Tarifvertrag für Produktionsdauer beschäftigte Film und Fernsehschaffende (TV FSS)

Overtime is working time exceeding 10 hours daily. Overtime is a very common and recurrent issue at workplaces. There is a clear connection between budget and shooting days and the working time. Besides, the working time and the overtime also depend on the type of work. The production managers, and functions with revisions and preparations (i.e. equipment setting) have overall more overtime. For overtime, from 51 up to 60 working hours weekly a premium payment of 25% applies. Beyond this, an increase of 50% applies. If 13 hours are worked on a day, a premium payment of 50% applies, and any supplementary hour is compensated with a premium payment of 100%.

Arranged travelling departing from the production workplace is considered working time. According to the collective agreement, the travel time is considered working time when the workplace is 20 km outside the limit boundaries of the worker's home residence. On-call may be considered working time. For instance, if a worker has to work for 13 hours and out of the 13 hours, he has to show readiness during three hours, this time is considered working time.

The turnaround is 11 hours and this is regulated. Workers enjoy annual leave and bank holidays.

REMUNERATION

The level of remuneration does not permit a decent standard of living for many and there is no protection for older workers either. According to statistics,³⁸ 60% of the workers in the film sector are under the average income and only 40% of the workers in both film and TV production sectors earn more than the standard salary for comparison set at 32,400 EUR. In live events, there is often a dumping system on salaries with huge stress on prices and affecting therefore the standard of living of workers, who have no protection.

Regarding overtime, night work, work on weekends and public holidays, the German law and the collective agreement state alike that they have to be compensated. Night work generates supplementary premium payments that are tax exempted. Overtime generates additional time that goes to the time account.

Travel costs and per diems are paid. The annual leave and bank holidays are also paid. However, workers in TV documentary or live events, do not get paid annual leave.

OCCUPATIONAL HEALTH AND SAFETY

The German law states that there have to be health and safety policies and tools set in each workplace. There are health and safety representatives at shooting places and workers have in general the chance to express health and safety concerns.

³⁸ Survey: Abgedreht und Abgelehnt, 2012

Trade unions and employers work together and in collaboration to ensure the enforcement of health and safety policies at workplaces.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The rate of trade union affiliation among the workforce is very low, of around 5%. There are no legal shortcomings that prevent freedom of association. However, many employers put a lot of obstacles on trade union membership in practice. There is no culture to confess trade union membership.

There is blacklisting and discrimination. Some members of a trade union and trade union leaders state that as a result of making it public their trade union membership they get less job assignments. In Germany, being an active trade union member may influence the number of jobs you get.

VERDI is considered a bargaining agent and is fully involved in collective bargaining processes.

DRAFT

ITALY

EMPLOYMENT STATUS AND WORK RELATIONSHIPS

In Italy, workers in the film and TV production industry are recruited under permanent contracts or under fixed-term contracts (short-term contracts). Besides, there are freelancers, who send their own invoices, and atypical workers (casual workers also called intermittent workers).

The Italian legislation in force in line with European standards bans all kind of discrimination in access to employment, and this is respected in practice. However, access to employment seems to be influenced by the worker's age.

The average duration of employment contracts in the film and TV industry in Italy can go from indefinite permanent contracts to contracts done on monthly or daily basis.

There are several collective agreements, namely, 1) the collective agreement for permanent workers in the film industry (cinema); 2) the collective agreement for the film crews (casual workers); 3) the collective agreement for the state TV; 4) and the collective agreement for private TVs³⁹. The collective agreements in Italy have not been renewed for a long time. The collective agreements are in general observed and respected.

WORKING TIME

The Italian law establishes the legal maximum daily and weekly working time in 8 and 40 hours respectively and this is applicable to all types of employment contracts. The law also establishes the minimum daily rest in 11 hours. However, the law permits some flexibility on this. For instance, and among other possibilities, the law permits to work a maximum of 48 hours weekly in the time frame of 4 months. The working week is considered based on 5 days and working 7 hours straight daily is also possible. It is possible to negotiate working time deals at 10 hours daily.

Permanent workers enjoy annual leave. However, freelancers and casual workers may not.

REMUNERATION

The remuneration in Italy permits a decent standard of living for those employees recruited under permanent and fixed-term contracts. However, the situation for freelancers and atypical workers (casual workers) seems to be much more challenging. For instance, it is common that atypical workers are not paid or paid with some delays. Overtime, work at the weekend and public holidays is

³⁹ In Italy there are a lot of local TVs to which a collective agreement that has not been signed by the most representative trade union organisations applies.

compensated. In this regard, Saturdays can be worked on location at 1/5 of the weekly salary. Travelling to location and per diems are paid. Permanent workers enjoy paid annual leave.

OCCUPATIONAL HEALTH AND SAFETY

In Italy there are workers that suffer from stress, burnout and employment-related illnesses but in general there are not major problems in the field of health and safety. In Italy, there is a health and safety delegate⁴⁰ that is selected among the workers, with the exception of freelancers that cannot. There is a special fund for this. Technicians have one training course on health and safety issues every year. When a problem related to health and safety issues arises at workplaces, the delegates can have the direct support of a local trade union. The delegates have a strong power within workplaces and they can even stop a shooting if they consider that health and safety issues are not observed at the workplace. Workers have the chance to channel and mainstream their health and safety concerns at workplaces.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The trade union affiliation rate in film and TV production in Italy is low. There are no legal obstacles preventing freedom of association in Italy. There is no blacklisting or discrimination against trade union leaders and unionized workers based on trade union membership.

In terms of unionization, they target both workers in film and TV production and in live performance. In Italy, most of the workers were employees 15 years ago. The proliferation of freelancers has come up in the last 15 years. As a result, the main trade unions in Italy created specific ad-hoc trade union sections for freelancers and atypical workers regardless their sector of origin. In Italy, many associations have been created/ founded in the last years to take up the role of trade union organisations.

Italian trade unions are strong in the old situation but much weaker in the current new context. Two employer associations⁴¹ have signed an agreement with the permanents of the film. APT takes part in the film and TV collective agreement but not the trade unions. The film industry in Italy is in crisis and the TV drama is three times more important than the films. The public TV uses independent producers that are mainly associated to APT. Pier's trade union organization is quite strong in the film industry but weak in TV production. The majority of workers in TV are freelancers.

⁴⁰ The Italian law obliges to have two health and safety representatives at workplaces, one from the employer side and one from the trade union side.

⁴¹ ANICA (National Association of Film, Audiovisual and Multimedia Industry) and APT (National Association of TV producers).

Regarding freelancers, Italian trade unions are trying to see how they can target and represent freelancers and have the right to negotiate on behalf of them. They have some ideas. They think that the existence of two collective agreements does not make sense and there should be just one collective agreement. In Italy, they still have the concept of national collective agreement, which is something unique in the EU.

In Italy, there are also a lot of external producer organisations not associated to any professional association and therefore they are not counterparts of any trade union organization. These external producer organisations recruit many workers.

DRAFT

THE NETHERLANDS

EMPLOYMENT STATUS AND WORK RELATIONS

The type of existing employment contracts is a mixture of fulltime indefinite permanent employment contracts, fixed-term employment contracts, and temporary workers and freelancers. In the Netherlands there seems to be a big difference between the quality of the employment contracts offered within the film and TV production sectors. In this regard, workers in film production and TV drama tend to enjoy better employment contracts than workers in TV documentary and live events that normally enjoy poor working conditions and precarious employment contracts.

The Dutch legislation in line with European standards bans all kind of discrimination in access to employment, and this is enforced in practice in general terms. However, there is a hidden discrimination based on age and access to employment. In this regard, old people tend to get less contracts and employment assignments in comparison to young people and new entrants in the labour market. The new entrants in the labour market put pressure and stress on the working conditions, including on working time and on remuneration.

The average duration of the employment contracts offered may vary from one day to three months. The contracts are normally signed on short-term basis.

In the Netherlands, there are no guaranteed indemnities for workers when employment and work relationships end abruptly or when they are cancelled shortly before the work begins. Likewise, there are no guaranteed indemnities upheld in practice for unfair terminations of employment and work relationships in cases of for instance pregnancy, or temporary absence due to sick leave, etc. In the case of unemployment benefit, the key point is to be recruited on an employment contract basis by an employer. In these cases, workers are entitled for unemployment benefit.

Regarding social security coverage, workers are covered in case of illness, accident, invalidity and maternity and for their pension. In this respect, a small amount is covered by the Dutch administration and the remainder falls within the direct responsibility of the worker.

In the Netherlands, there are no collective agreements in the sectors and the enforcement of applicable labour law does not happen in practice in the sector, and if it does, it is in a minimal way.

WORKING TIME

The daily normal average standard working time in film production is 10 hours. However, the working time is much longer in practice. Working on Saturday, Sunday and on a public holiday is considered as working on a regular working day in both sectors.

Overtime is considered the working time that exceeds the standard normal time. Overtime is very frequent and a very recurrent issue at workplaces.

Travel to location is not always paid and on-call is considered working time. The turn-around is of 10 hours but this timing may be shortened depending on workloads and productions. Workers do not enjoy annual leave.

REMUNERATION

The level of remuneration permits a decent standard of living for workers in film production and TV drama. However, the situation of workers in TV documentary and live events seems to be worse and workers often cannot enjoy a decent standard of living.

Overtime is compensated⁴². However, night work and work on weekends and public holidays is not.

Travelling to workplaces is sometimes paid depending on the nature of the shooting. Regarding the payment of annual leave and holidays, they are not generally paid.

OCCUPATIONAL HEALTH AND SAFETY

In general terms, there are not health and safety policies and tools in place at workplaces. There are not representatives dealing with health and safety issues at workplaces and workers don't have the chance to express their concerns regarding health and safety issues.

Employers and trade unions are not generally involved in ensuring health and safety at workplace.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The rate of trade union affiliation and representation among the workforce is very low. The Dutch legislation ensures freedom of association and the possibility of joining freely a trade union of one's choice. There are no obstacles in

⁴² Overtime is compensated with a premium payment of 150% the first 4 hours, 200% the following 5-6 hours and 300% the 7-8 hours.

law and in practice. Blacklisting and discrimination based on trade union memberships does not happen.

Their trade union is not considered a bargaining agent and they are not involved in collective bargaining processes.

DRAFT

POLAND

STATUS OF EMPLOYMENT AND WORK RELATIONS

In Poland, the main type of employment contract is the fixed-term contract⁴³. Employers/ producers also offer business contracts what it implies that workers have to be self-employed workers and operate as if they were a business⁴⁴. In this respect, in film production and in TV documentary and TV drama most of the workers are freelancers recruited through castings and agent offers.

The Polish law in force, in line with European standards, bans all kind of discrimination in access to employment and this is respected in practice. In this regard, members of a crew team are selected based on merits, skills and professionalism without unbiased preferential or arbitrary treatment.

The average duration of employment contracts in both film production and in TV documentary and TV drama depends very much on the employment contract and the type of production and the duration.

Regarding guaranteed indemnities for workers when employment and work relations end abruptly and/or when they are cancelled shortly before the work begins, there are some guarantees in force. In this regard, all production group members receive remuneration in proportion to the status of the production project at the time of the interruption. The producer/ employer is in principle obliged to observe the provisions of the Polish Labour Code. The indemnities may also be negotiated depending on the employment contract.

Regarding guaranteed indemnities upheld in practice for unfair termination of employment and work relationships (i.e. pregnancy, temporary absence due to sick leave, etc.), there are some guarantees covered by the Labour Code. The indemnities may also be negotiated depending on the employment contract.

In terms of social security coverage, workers in a production team are covered in the cases of civil liability and accidents. In general terms, only workers recruited under employment contracts in film production and in TV documentary and TV drama enjoy social security coverage. There are no collective agreements in the sector in Poland.

⁴³ Works/ services contracts

⁴⁴ This situation prevails when the employer/producer is a film studio or a TV station, with the exception of a limited number of workers recruited under indefinite permanent employment contracts.

WORKING TIME

In Poland, the average daily working time in both film and TV production reaches 12 hours daily but the working time in practice may also depend on the employment contract given the fact that there are no collective agreement provisions. In Poland it is allowed to work six days weekly. Work on Saturdays, Sundays and public holidays may take place when the shooting so requires and depending on the producer's will. This possibility is always negotiated with the workers. The turnaround between two shooting days is 10 hours and it is respected in practice. Workers in film and TV production do not enjoy annual leave in general terms.

REMUNERATION

In Poland, the existing level of remuneration permits a decent standard of living in general terms for those workers in film and TV production recruited under employment contracts. Overtime exceeding 12 hours applies to technical employees and it is negotiated every time. Overtime is compensated with a premium payment of 10% for each extra hour. Night work overtime is compensated with a premium payment of 25%. Working on Sunday and public holidays is subject to premium payments of 150% or 200%, subject to negotiations. There are per diems paid⁴⁵. The compensation for overtime, night work, weekend work and public holidays depend often on the employment contract. In this regard, self-employed and freelancers may not enjoy compensation.

OCCUPATIONAL HEALTH AND SAFETY

In Poland, there are binding rules and policies that should be implemented at workplaces and be observed. However, the level of enforcement and implementation shows some weaknesses and varies from one workplace to another. For instance, every member of the camera crew holds an insurance against accidents for travelling to the film set and for travelling home from work. In general terms, there is no trade union-employer involvement in ensuring health and safety at workplaces. It is a field where only employers are involved and not the trade unions.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The rate of trade union affiliation and representation is very low in Poland with no trade union representation among the workforce. The Polish legislation does not put any obstacle in terms of freedom of association and does not prevent from joining a trade union organization of one's choice. This is respected in law and in practice. In Poland there is no discrimination against trade union leaders or unionized workers based on trade union membership.

⁴⁵ The per diems for breakfast and dinner are 17,5 PLN and 35 PLN respectively. If the lunch is not served by catering, a per diem of 42 PLN (= 10 EUR) applies.

PORTUGAL

EMPLOYMENT STATUS AND WORK RELATIONS

In Portugal there are two main types of workers, employees and self-employed workers. Most of the workers in the film and TV production are contracted under a self-employment status⁴⁶. Despite the fact that they may have all the features of an employment relationship, the current Portuguese law in force regards them as employers and obliges them to hold the responsibility for their social security entitlements, private insurance, etc. As a result of this, the responsibility of the employer towards the worker is very limited or barely existent. In the independent TV production sector and mainly in TV drama, there are more employment contracts but just for production backstop technicians and professionals.

The Portuguese law in line with European standards bans all kind of discrimination in access to employment. There is no discrimination based on gender, nationality, or age and this is respected in practice. There may be cases of hidden discrimination based on ethnic origin⁴⁷, but this is difficult to prove and seek redress in the Portuguese courts. On the other hand, the labour market in the sector in Portugal is accessible only for those who can prove they are self-employed and the Portuguese law does not protect against this common practice. This provokes overt discrimination.

The average duration of contracts depends on the production project's characteristics and the funding. In general terms, the duration of employment contracts under film production could be one day for actors, and weekly and/or monthly for backstop technicians. The average duration of an employment contract in TV drama may go from 8 to 10 months whereas the duration in TV documentary remains very unpredictable depending completely on the project's characteristics. In the cases of TV drama, the duration of contracts in soap operas may be 9-10 months, whereas the duration in series may be just 2 months. There is a big staff turn over in the sector with mostly freelancers working and showing availability as the project comes up. Regarding live events, the duration of contracts may be a bit longer if there is prep. The type of live events also influences the duration of contracts. In this regard, the contracts concluded for political campaigns are in general terms longer.

In Portugal workers do not enjoy any guaranteed indemnities when employment and work relationships end abruptly and/or when they are cancelled shortly before the work begins. This may be different sometimes if the employer/producer shows a nice attitude towards the worker. However, the reality is that the vast majority of workers would not complain out of fear of not

⁴⁶ Most of the workers in the sector work with 'green invoices', the regular invoicing system for self-employed people in Portugal. Pronobis has published a booklet where they have compiled all working conditions and workers' rights in the film production sector, TV series and TV commercials (publicity). The booklet does not target workers in TV drama (soap operas) and TV documentary.

⁴⁷ Mainly workers of African origin

securing more job assignments with the producer in the future. Likewise, workers do not enjoy guaranteed indemnities that are upheld in practice for unfair terminations of employment and work relationships (i.e. pregnancy, temporary absence due to sick leave, etc.). When a worker is pregnant, a maternity indemnity can be requested to the social security, but the amount is very low. Given the fact that most of the workers are self-employed and don't have regular employment contracts, they are only entitled for the general maternity scheme. Employees have the right for financial support from the social security after the 4th day of sick leave, whereas self-employed workers do get support after the 30th day of sick leave, which is not compatible with the duration of the film productions, the TV documentaries or the TV dramas. The coverage of social security is rather limited and does not include accidents or invalidity because workers are supposed to have their own private insurance. There is nothing legally-binding for the employers/producers.

Regarding unemployment benefit, there is currently a law for the film and TV production sector and live performance that establishes a special unemployment benefit for those workers who don't work for the same employer all year round. This law⁴⁸ was passed in 2011 but has been partially enforced and in practical terms the provisions are not effective for the workers in the sector and the system is not adapted to the realities of work patterns in the sector.

In Portugal there are no collective agreements in the film and independent TV production sectors and have never existed. There are collective agreements for workers in the state TV, though. One of the main problems is the lack of bargaining agent from the employer side. Producers need to associate and create their own business organization. However, this does not happen because producers work separately from each other and don't intend to organize themselves. Some producers are organized in associations but their aim seems to be the possibility of getting financial support from the state through grants. The fact that the vast majority of the workers are self-employed workers prevents the workforce from unionizing.

WORKING TIME

The legal daily and weekly working time in Portugal is 8 and 40 hours respectively within a working week going from Monday to Friday. The working time in practice is different, though. The average working time in reality in both film and TV drama is 12 hours whereas in TV documentary there is no real working time because you are obliged to film when it happens. In general terms, and given that there are no collective agreements, working time in Portugal can go from 10 to 12 working hours daily to 60 to 72 working hours weekly. In all

⁴⁸ This law establishes a difference with the general workers system where a worker has to prove 365 days of work in 24 months. The law states that workers in the theatre, cinema, TV or music need to prove 365 days of work in 36 months.

cases, there is one-hour lunch break. In the case of live events, working time can even go up to 24 hours for some workers⁴⁹.

Working on Saturday, Sunday and/or public holidays is considered regular working time. In TV drama, work is generally done from Monday to Friday, with some compensation in the form of a premium payment or additional time off when working on Saturday.

Overtime is very common and recurrent at workplaces. Overtime is considered working time after 11 hours in film production and after 12 hours in TV drama. In TV documentary, there is not such a thing as overtime, since you work when it happens. The average overtime is around 6 hours weekly.

Travelling to shooting places from the worker's home residence is not considered working time whereas travel to location from the workplace is considered working time in all cases. On-call is not considered working time in general but some exceptions may apply⁵⁰.

The turn-around in film production is 10 hours and in TV drama it can be something between 10 and 12 hours. In TV documentary and live events, there is no turnaround.

Workers in film and independent TV production sectors do not benefit from annual leave because they don't have a regular employment contract and work only until the end of the production. In TV drama and live events, there may be some employees, like technicians, who may benefit from annual leave but it is rather rare.

REMUNERATION

Remuneration does not permit in overall terms a decent standard of living for workers in film production, TV documentary and live events. Workers in TV drama and workers in commercial films can enjoy a decent standard of living whereas workers in feature films cannot. In general, the majority of workers need to secure additional funding and sources of income to survive.

In Portugal, overtime, night work, and work on public holidays and weekends is not compensated with additional time off or premium payments, and there are no applicable rules on this in force. However, in TV drama, there may be some compensation in the form of premium payments or additional time off and in film production some members of the staff (camera crew, electricians, technicians involved in lighting and rails, etc.) may get some compensation too.

⁴⁹ Technicians may have to take the equipment at 6am, load all the stuff in the truck, set the stage, be around during the rehearsal and the performance and take the equipment back when the event is over.

⁵⁰ In TV drama, on-call may be considered working time when actors have an exclusivity contract with a TV broadcast company. Depending on the weather, on-call may be considered working time too.

Per diems and travelling costs are paid but they are limited to the boundaries of the two main Portuguese cities, Lisbon and Porto, where the production structures are mainly based.

The majority of workers do not benefit from annual leave and therefore there is no paid annual leave. However, some production technicians and professionals in TV drama recruited with a regular employment contract may enjoy paid annual leave.

OCCUPATIONAL HEALTH AND SAFETY

In Portugal, there are no health and safety policies in place at workplaces in general. The fact in practice is that a production company would only recruit someone who holds an insurance against accidents. Some big production companies may have some policies in place but it is rare. It is common to have a first aid kit at workplaces in both film production and TV drama, though.

There are no health and safety representatives at workplaces, except for the cases when the production takes place in a dangerous location or in a country that does not meet the basic health and safety working conditions. However, it can be stated that workers have the chance to speak about their health and safety concerns and they can even refuse to undertake work that they consider risky or not safe enough.

There is no collaboration between the employers and the trade unions in enforcing health and safety issues at workplaces. This is due to the very low affiliation rates among the workforce. The collaboration between employers and trade union may take place only when there is a trade union complaint on behalf of a worker.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The trade union affiliation rate is very low in Portugal⁵¹ in both film and TV production. In some cases, the trade union affiliation may be mainly due to ideological reasons and not based on the benefits that a trade union membership may bring.

The Portuguese law is in line with international and European standards as regards the possibility of joining freely a trade union of one's choice, and there are no legal shortcomings in this regard. The issues that limit in practice the full exercise of freedom of association are mainly linked to the existing fear among the workers to lose their jobs or not securing further job assignments in the future. In addition, the characteristics of the sector and the existing type of employment also make it very difficult or impossible to forge a necessity to unionise among the workers.

⁵¹ For instance, in film production, among a workforce of 30 workers, a maximum of 1 or 2 workers may be unionized. In TV drama there may be some employees members of a trade union among the workforce. However, the rate is still very low.

In film production, workers may show more willingness to belong to a trade union or an association because the crews tend to be bigger and workers spend some periods away from home and they know each other. However, in TV documentary, the crews are very small so workers do not tend to think about becoming a member of a trade union. In live events, the job duration is too short and therefore workers do not feel inclined to unionise.

Blacklisting and discrimination based on trade union membership may exist but it is difficult to prove. The interviewed trade unions are not considered a bargaining agent and are not involved in any type of collective bargaining process, simply because there are no collective agreements and have never existed and they cannot simply speak on behalf of workers that are not members of any trade union organization.

DRAFT

ROMANIA

EMPLOYMENT STATUS AND WORK RELATIONS

In the film and TV production sector in Romania there are permanent workers and self-employed workers working under fixed-term contracts. There are also service contracts for technical and administrative staff. The Romanian Labour Code establishes exactly the rules concerning the employment contracts. One provision states that after three years of consecutive short-term contracts, the employer is obliged to turn the short-term contract into a permanent contract.

WORKING TIME

The working time in practice in Romania is 72 hours per week on a basis of 6 days per week, or 12 hours per day, including one-hour lunch time break. The working hours are the hours spent on set and a minimum of 10 hours turnaround has to be observed between two consecutive working days. Sunday is considered a day off. However, it is possible to work on Sundays and get a compensation of additional time off in the form of an additional day rest as long as no more than six working days are scheduled in a row.

Overtime is generally all working hours over the 72 hours weekly limit and premium payments apply as compensation.

REMUNERATION

The salaries are negotiated on a bilateral basis, since the fees are not agreed of established on national level. Working on Sunday, the daily, hourly and overtime working hours are compensated with a premium payment double the fee of a regular working hour. Regarding working at night, there is no compensation.

The producer is obliged to provide transport for the crew and actors to/from shooting location. The employer is also obliged to provide minimum one full meal, a sandwich, snacks, coffee/tea and water on set during a regular working day.

A per diem of 10 EUR has to be paid for every working day at more than 60 kilometres from Bucharest. A per diem of 15 EUR has to be paid for every non-working day scheduled at more than 60 kilometres distance from Bucharest.

OCCUPATIONAL HEALTH AND SAFETY

There is a special law in Romania dealing with health and safety issues at workplaces. In most of the workplaces, there is a health and safety representative

and workers therefore have the chance to mainstream and channel health and safety concerns. There are also health and safety committees at workplaces.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

There are no trade unions for film technicians or actors in Romania. The Romanian law is in line with international and European standards as regards the possibility of joining freely a trade union of one's choice, and there are no legal shortcomings in this regard.

DRAFT

SLOVENIA

STATUS OF EMPLOYMENT AND WORK RELATIONSHIPS

The main types of employment and work relationships at workplaces are freelancers⁵² and self-employed workers. In film production and TV documentary, workers are mainly freelancers, with some exceptions⁵³. In TV drama, the employment is generally very precarious since all projects are based on price and price stresses very much the type of contracts offered.

The Slovenian law in line with European standards bans any discrimination in access to employment contracts based on age, gender, ethnic origin or nationality, and this is respected in practice in general terms. However, in TV drama some kind of discrimination based on age can be observed⁵⁴.

The average duration of employment contracts varies from 2 weeks to 4 months depending on the workload linked to the production project. In film production, the average duration of a contract is one month. In TV documentary, the average duration would be two weeks and in TV drama 3 weeks. In live events, workers are recruited on the basis of daily employment contracts.

There are no guaranteed indemnities when employment and work relationships end abruptly and/ or when they are cancelled shortly before the work begins. Likewise, there are no guaranteed indemnities upheld in practice for unfair terminations of employment and work relationships (i.e. pregnancy, temporary absence due to sick leave, etc.).

A worker does not enjoy any type of unemployment benefit when an employment or work relationship ends. Likewise, workers in the sector are not covered in case of illness, accidents, invalidity, maternity or pension entitlements. Workers in film production may enjoy some benefits from the state social security but it cannot be concluded that they are covered. There are no collective agreements in force in the sectors in Slovenia.

WORKING TIME

In Slovenia, the maximum daily working time and applicable rest periods are 10 working hours daily. However, working time is much higher in practice.

Working on Saturday, Sunday and on public holidays is to some extent considered as working on a regular working day. In film production and TV drama

⁵² One person company

⁵³ Production directors may have employment contracts

⁵⁴ Most of the workers in TV drama are beginners or new entrants in the labour market with low salaries what it makes more difficult for older workers to access and secure employment.

and TV documentary working on Sunday and public holidays is not considered regular working time. In live events, production companies and commercials do not respect Sundays, public holidays and working time.

The average weekly overtime is 20 working hours or more. Overtime is a recurrent and common issue at workplaces. Travel time to touring locations is considered working time. On-call is not considered working time and it is not used in Slovenia. The turnaround is 12 hours daily and workers are entitled to two days of time-off after five days of consecutive work. This is respected in practice. Workers do not benefit from annual leave.

REMUNERATION

In general terms, the existing level of remuneration does not permit a decent standard of living in Slovenia and when it does, it is quite limited. For instance, in film production, the level of remuneration permits a decent standard of life if a worker is engaged in several projects during a year. In TV documentary workers do not enjoy a decent standard of living and in TV drama less and less.

Overtime, night work, work on weekend and public holidays is not compensated. Travelling to workplaces for either working abroad or on location is not paid and either per-diems provided. Annual holidays and other annual leave (i.e. bank holidays) are not paid.

OCCUPATIONAL HEALTH AND SAFETY

In Slovenia, there are health and safety policies and tools in place at the workplaces. However, they are poorly implemented and enforced.

There are no health and safety representatives and therefore workers do not have the chance to express health and safety concerns.

The joint employers' and trade unions' responsibility in ensuring health and safety at workplaces is often poorly carried out or it does not happen in practice.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The Slovenian law is in line with international and European standards as regards the possibility of joining freely a trade union of one's choice, and there are no legal shortcomings in this regard. However, there are obstacles in practice. The nature of the employment and the fact that the majority of workers are freelancers that are considered as employers by the Slovenian legislation makes it impossible to unionise. There are some cases of blacklisting and discrimination against trade union leaders and unionized members based on trade union membership.

SPAIN

STATUS OF EMPLOYMENT AND WORK RELATIONS

In Spain, the main existing employment contract is a short-term fixed-term contract based on ad-hoc provision of services and works. In live events, the main type of employment contract is a fake self-employment contract.

The Spanish legislation in line with European standards bans all kind of discrimination in access to employment and it is enforced in practice. However, there may be some cases where discrimination based on age and gender may occur. There are no reliable data on this, though.

The average duration of the employment contracts ranges from 4 weeks for film production to 1 day in live events. In TV documentary and TV drama the average contract duration is generally based on weeks, ranging from 12 to 20 weeks.

There are no guaranteed indemnities when employment and work relationships end abruptly and/or when they are cancelled shortly before the work begins. There is only guaranteed indemnities in case of dismissal/ lay-off based on the number of days worked. This applies to film production, TV documentary and TV drama. However, in live events workers do not normally have an employment contract and much less an indemnity. In the case of guaranteed indemnities for unfair terminations of employment and work relationships (i.e. pregnancy, temporary absence due to sick leave, etc.), there are no indemnities in the sector.

Workers enjoy unemployment benefit as long as they have worked the statutory number of days that grant the right for this entitlement. Some workers contribute under a special scheme targeting artists and may have better conditions and unemployment benefit. However, this scheme is still not complete for the sector. Regarding workers in live events they are mostly fake self-employed workers, and therefore, they do not contribute to the unemployment scheme and are not entitled for it. Regarding social security coverage, all workers enjoy it.

In Spain there are collective agreements in force in the sector and applied to the whole audiovisual sector in all the Spanish territory, mainly audiovisual technicians. However, the enforcement of applicable collective agreements and labour law is curtailed. In this regard, in film, TV drama and TV documentary the collective agreement's provisions are not properly and effectively implemented. In the case of live events, the collective agreement's provisions are not respected.

WORKING TIME

The daily working time is set at 8 hours and 40 hours weekly, with an overall amount of 80 hours fortnightly. Between the end of a working day and the beginning of the next one, there will be at least 12 hours of turnaround. Workers are entitled for a minimum weekly rest period of 36 uninterrupted hours and as a general rule it should include Saturday afternoon and the whole day of Sunday.

The working time in practice is 11 hours daily in film production and longer hours in independent TV production. For instance in TV documentary the working time in practice reaches 10 hours daily and 55 hours weekly without any compensation. In TV drama workers work up to 10 hours average in practice or 60 hours weekly without any compensation. In live events, workers work for 12, 14 and 15 hours daily without respect for the daily minimum rest.

Working on Saturdays, Sundays or public holidays is considered regular working time. Overtime is all working time exceeding 40 hours per week or 80 hours fortnightly. Overtime is very recurrent and common in workplaces and the average overtime is of 10 or 15 hours weekly for film, TV documentary and TV drama and an average of 20-30 in the case of live events. Night work is considered the work carried out between 22:00 and 6:00 and a worker is considered to be carrying out night work if he or she works at least 3 hours of the working day during night work or if it is foreseen that he or she will carry out at least one third of the work under night work. Workers in both sectors do not enjoy annual leave.

REMUNERATION

The existing remuneration permits a decent standard of living for just a limited number of workers. The majority of workers have difficulties in making ends meet.

Overtime, night work and work on weekends and public holidays is generally compensated with additional time off. Collective agreements consider this as working on a regular day.

Travel and per diems are provided and workers have annual paid leave but not bank holidays. In the case of workers in live events, they don't either have paid annual leave.

OCCUPATIONAL HEALTH AND SAFETY

In Spain there are health and safety policies and tools at workplaces. There are not health and safety representatives at workplaces and workers do not have the chance to mainstream and channel health and safety concerns. There is no joint collaboration between trade unions and employers in ensuring health and safety policies at workplaces.

In Spain, each production company is obliged to prepare a risk assessment plan. In general, it is outsourced to a third company. The law obliges to communicate this plan to the workers and they have to sign the document. In practical terms, there is no trade union delegate that oversees that risks are avoided. Employment contracts generally include a page where a worker states that he/she is aware of the risks in the shooting. The Spanish law only permits a health and safety representative where there are company committees.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

There are no legal obstacles for freedom of association and the right to join freely a trade union. However, there is a latent fear among the workers due to the employers' reaction to a trade union membership. There is discrimination and blacklisting against trade union leaders based on membership to a trade union.

TACE has a rate of 10% of the workforce in film production and in TV drama and TV documentary. In live events, there is no data on the subject. The representation is ineffective due to the Spanish law in force. The nature of the sector where short-term contracts and freelancers are the general norm makes it impossible to have trade union elections and to obtain representation.

DRAFT

SWEDEN

EMPLOYMENT STATUS AND WORK RELATIONS

In Sweden the main type of employment and work relationships at workplaces are self-employed (60%) or employed during the project (40%) through fixed-term contracts.

The Swedish legislation bans any kind of discrimination in access to employment. However, there is hidden discrimination. The sector is very closed and most of the assignments are got through contacts or relatives and also actors are very much used to being selected based on their physical look, sex appeal, age and hype. There seems to be a hidden discrimination based on age too.

The average duration of the employment contracts varies from monthly contracts for the crew to daily contracts for most actors and extra crew.

There are guaranteed indemnities for workers when employment and work relationships end abruptly and/or when they are cancelled shortly before the work begins. In this regard, the indemnities exist especially for employed workers. Self-employed workers need to negotiate it in their contract. When it comes to force majeure, there may be exceptions.

There are also guaranteed indemnities that are upheld in practice for unfair terminations of employment and work relationships (i.e. pregnancy, temporary absence due to sick leave, etc.). In general, employed workers have guaranteed indemnities. However, the support from the trade union⁵⁵ is often necessary.

Regarding unemployment benefit, there is the unemployment fund for employed when a project ends. The eligibility/qualifying criteria to be qualified for compensation are a year membership in a UIF and 80 hours of work per month during 6 months. The unemployment benefit applies to all workers of both sectors.

Regarding social security coverage workers employed in a company bound to a collective agreement have automatically social security coverage. For those working as self-employed, they have to make sure that they have their own insurances.

There are collective agreements in the sectors. They target the employed workers but not necessarily the self-employed. Their collective agreements cover almost the whole sector when it comes to film and drama series.

WORKING TIME

The legal maximum working time is set at 40 hours per week. A working week consists of 40 hours and is usually divided on 5 days by may consist of as

⁵⁵ Teaterförbundet

much as 6 days. The turnaround is set at 11 hours but may be slightly shortened sometimes based on the production project and the workload. It is respected in practice. The weekly rest is set at 36 hours weekly in film and TV drama. The working time in practice is difficult to assess since it depends very much on the position of the worker and the production's nature and planning. In general terms, production managers and creative functions often work more.

Working on Saturdays and Sundays and on a public holiday is not considered as working on a regular working day and therefore it is compensated with premium payments and eventually additional time-off. Overtime⁵⁶ is generally used when something unexpected in the production project happens.

Regarding travel to location, working time starts when you start to work. For instance, if you need to load a truck before going to location, then loading and travel time is working time. If you just have to show up on set and start work there then travel time is not considered working time. On-call is not used in Sweden. Working hours start and end at the production office. Travel from the office to set is included in the working day.

Regarding annual leave, workers do not effectively enjoy from annual leave. In short-term contracts, a worker takes his/her annual leave when he/she is in between jobs. In the case of TV drama, if you shoot from February to November some productions try to have some short summer leave without salary. The same happens at Christmas.

REMUNERATION

In Sweden workers in both the film production sector TV drama get remunerations that permit them enjoy a decent standard of living.

Overtime, night work, work on weekends and public holidays are generally compensated through premium payments and they can also be compensated with additional time-off. This is usually respected in practice.

Regarding payment of per diems and travelling costs, they are regulated by the Swedish tax law. This reference is also made in collective agreements. Travelling to the workplace is not paid for unless the shooting takes place in another town. It is also possible and common to negotiate unilaterally and individually per diems and travelling costs.

The payment of the annual leave and bank holidays is respected and upheld in practice. During Christmas production companies usually split the contract so

⁵⁶ Teaterförbundet wants the production companies to include shooting preparations in ordinary working time to uphold the collective agreement. But, unfortunately, today's praxis is to schedule overtime for make-up, costume, pre-rigging light, etc. Their members accept overtime due to good compensation with premium payments. This happens in film production and TV drama.

that it ends just before Christmas and starts again after New Year's Eve. Holiday pay is added on short contracts 13-14.4% of the salary.

OCCUPATIONAL HEALTH AND SAFETY

In film production and TV drama every company needs a health and safety policy according to the Swedish law. During the last years the production companies have realized of the importance of a good health and safety work and for instance, first aid kit and fire extinguishers are always on location.

In TV documentary and live events every company needs a health and safety policy according to the Swedish law. There are always health and safety representatives at workplaces. In this regard, when a company has more than 5 employees the team chooses a safety representative.

In film production and in TV drama, the team chooses a health and safety representative and a trade union representative just before the first day of shooting. This also takes place sometimes during preparation weeks. The health and safety representative receive concerns and complaints from the crew and forward them to the production management and the producers.

Employers and trade unions are fully involved in ensuring health and safety policies at workplaces and they do this through a lot of cooperation⁵⁷.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

In film production and TV drama, the trade union affiliation and representation among the workforce stands at 30% of the film crew, 85% of the actors, 70% of the directors and 70% of the costume designers and set designers.

In Sweden in line with international standards, there are no legal shortcomings that prevent freedom of association and this is upheld in practice. Workers and trade union leaders are not discriminated because of their trade union activity. There may be some isolated cases, though.

Teaterförbundet is considered a bargaining agent and is fully involved in collective bargaining in film production and TV drama. In TV documentary it is not really involved since most of the companies are small with very small teams and mostly self-employed. In live events, it is not involved because it is a field that is not covered by Teaterförbundet.

⁵⁷ Teaterförbundet has selected a health and safety inspector for the Swedish film sector to advise employers and local health and safety representatives.

SWITZERLAND

EMPLOYMENT STATUS AND WORK RELATIONS

In Switzerland, the main type of employment and work relationships at workplaces are short-term fixed-term contracts in both film and TV production. In live events, self-employed workers are the vast majority.

The Swiss legislation in force bans all kind of discrimination in access to employment contracts and this is upheld in practice.

The average duration of employment contracts varies from one day to several weeks. In this regard, the average duration of a contract in film production is 8 weeks, whereas in TV production, the average duration depends very much on the shooting itself and the production project. For instance, in TV drama the average duration is 5 weeks and live events, the duration ranges from one day to many weeks, depending on the event.

The Swiss legislation in force foresees guaranteed indemnities for workers when employment and work relationships end abruptly or are cancelled shortly before the work begins. Likewise, there are guaranteed indemnities that are upheld in practice for unfair termination of employment and work relationships (i.e. pregnancy, absence due to sick leave, etc.). These indemnities are for workers in film and TV production. Regarding live events, the entitlement for the guarantees depends very much on the type of employment contract a worker has.

There are guaranteed indemnities for maternity, for sick leave, accident, and professional and non-professional accidents. The employer is obliged to have insurance⁵⁸ for his employees against professional accidents and also for the risks of non-professional accidents as long as the employees are employed in the company more than 8 hours per week and that they are not covered by a private insurance.

Workers enjoy unemployment benefit when the employment relationship ends. However, in the case of workers in live events it depends very much on the employment contract they have. The general requirement to get unemployment benefit is to prove 200 worked days in the last 2 years. This requirement is not adapted to the reality of freelance work and self-employed workers.

Workers enjoy social security coverage for the cases of illness, accident, invalidity, maternity and pension rights. Workers in live events may or may not enjoy social security coverage based on the type of employment contract they have.

⁵⁸ The contribution for the professional accidents insurance is set between 0,5 and 1% of the gross salary of the employee and the employer is in charge of that. The insurance for the non-professional accidents represents around 1% of the salary and can be deducted from the employee's salary.

In Switzerland, there are collective agreements in force in both sectors. The collective agreements are binding to all technicians as long as one of the parties is a member of the signing organisation. In live events, the collective agreements apply to workers under short-term fixed-term employment contracts. However, they don't apply to self-employed workers and freelancers. All in all, the collective agreements and applicable labour law are applied in practice by and large.

WORKING TIME

A working week consists of 50 hours and the daily working time is 10 hours. A working day has to be completed in a maximum time of 14 hours, including breaks. However, negotiations with crew are possible. If deemed necessary, the weekly working time can go up to 60 hours. The turnaround is 11 hours for a working day of a maximum 13 hours. However, once a week, this timing may be reduced to 8 hours for a working day of a maximum 16 hours of work. As compensation, an additional rest day should be given within a period of two weeks, so that the average rest period remains 11 hours. Self-employed workers in live events do not often have agreements upon terms in relation to working time. The working time in practice is 60 hours per week and 12 hours per day, with turnarounds of 11 or 10 hours.

Working on Saturdays and Sundays is considered as working on a regular working day. However, national public holidays are not considered regular working days. Overtime is considered all work going beyond 50 hours per week. Overtime is a very recurrent issue at the workplace with an average weekly overtime of six hours. In live events, workers under short-term contracts also work an average of six hours of overtime per week, whereas self-employed workers do not have special terms and this can go much higher. Night work is possible. The night working time goes from 23:00 to 5:00 with an overall premium payment of 25%⁵⁹.

In film production and TV drama, travel to touring locations is considered working time if to some extent equipment is transported. If there is only travel then it is not considered working time. In TV documentary, it depends on the travel times and distances. For instance, flight travel is considered working time 50%. In live events, self-employed workers do not have special terms on this. On-call is considered working time.

Annual leave is not applicable to workers in Switzerland given the type of existing employment status and work relations. The wage contains partly the holiday payment. Workers just leave when they are not working.

⁵⁹ In this regard, overtime going from the 50th to the 59th hour has a premium payment of 25%. Overtime after the 59th hour has a premium payment of 100%.

REMUNERATION

The existing remuneration in both sectors permits a decent standard of living for workers of these sectors in Switzerland.

Overtime, night work, work on weekends and public holidays can be either paid or compensated. If it is compensated, a premium payment and additional time off are granted and this is normally respected in practice.

Regarding travelling to workplaces and the provision of per diems for working abroad or on location, transport is either paid or provided by the employer. Per diems are also paid⁶⁰. Annual leave and bank holidays are paid through the inclusion of the holiday payment into the worker's wage.

OCCUPATIONAL HEALTH AND SAFETY

Most production companies in the film production and independent TV production sectors provide a minimum set and tools of health and safety (fire extinguisher, first aid kit, etc.). Trained staff on set is rare, though. If potentially dangerous stunts are involved, then there is a medical service with a doctor and ambulance on set or on call.

There are no health and safety representatives on set. However, workers are encouraged to speak up and express their health and safety concerns. The Swiss law obliges employers to take all necessary measures and precautions to ensure workers' health and wellbeing. However, there is little control on this perhaps by the lack of joint employer-trade union involvement in ensuring health and safety at workplaces.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The rate and trade union affiliation rate in Switzerland is about 50%, depending on the region in the country. In this regard, German-speaking Switzerland shows higher rates whereas the French and the Italian parts have lower rates.

The Swiss legislation in line with international standards permits freedom of association and the freedom to join a trade union and this is respected in law and in practice. Trade unions are in theory not discriminated or blacklisted based on trade union membership. However, in practice there can be discrimination.

Their trade union is considered as a bargaining agent and they have regular meetings with employers' associations even though there is no bargaining. They are in general in good contact with associations.

⁶⁰ Regarding allowances, 30 and 35 CHF are granted for lunch and dinner respectively. Per diems outside the Swiss territory are subject to negotiation.

UNITED KINGDOM

EMPLOYMENT STATUS AND WORK RELATIONS

In the UK, there is a mixture of both permanent staff and freelancers⁶¹. Some British broadcasters such as the BBC or the ITV do some in-house productions. In these cases, some roles are covered under full-time employment contracts. When big broadcasters produce in-house, they tend to outsource staff working in the in-house production, normally through independent producer companies that usually have a very small team with for instance one or two full-time staff under permanent contracts and many freelancers. In general terms, freelancers are a big part of the film and TV production in the UK. Generally, the more fragmented the work appears to be, the more challenging it becomes to give and ensure good working conditions⁶².

The UK legislation in line with European standards bans all type of discrimination. This means that the UK legislation protects people against discrimination in access to work. In practice, the reality is a bit different. There is hidden discrimination based on race with severe underrepresentation of black people. BBC, ITV and PACT all accept that they have to do more to ensure black people have the capacity to show their skills and to have more inclusive workplaces. The challenge is to know how to ensure this. There are many discussions on the subject and solutions on the table (i.e. quotas, positive discrimination, etc.). In the UK, if you are not a white man you are in full disadvantage in the sector.

The average duration of the employment contracts is very much determined by the budgets and the scale of the project. In general terms, the duration can go from 4 to 6 months but it could be shorter. In independent TV production, for instance in TV documentary, the duration may be longer with a general duration time of 6 months. TV drama can go from daily employment contracts to 3 month employment contracts and live events are generally covered by daily employment contracts and very much linked to the duration of the event.

Regarding the termination of employment relationships and guaranteed indemnities, it depends on the employment contract and how it has been negotiated. There seems to be a mixed picture. In general people tend not to protect themselves. There is a tendency to implicit trust and then the employer has the 'carte blanche'. It is a difficult area.

⁶¹ In general, production staff are recruited under full-time employment contracts whereas lower-level posts such as make-up, costumes, etc are covered by freelancers. In film production, the broad majority of workers are freelancers.

⁶² BECTU is currently under negotiations and discussions with PACT to achieve an agreement that covers rates and working conditions for US productions being done in the UK. BECTU has not had an agreement with PACT for many years. In terms of collective agreements, they have one for freelancers working for the BBC. The relationship with PACT is not easy since PACT does not seem to do the necessary efforts to make collective agreements be enforced at workplaces. BECTU has also had for many years discussions with ITV for a collective agreement for freelance workers.

Regarding unfair termination of employment and work relationships, in the past it was necessary one year of service. However, the government has introduced the requirement of two years and also there are fees that apply now what it provokes that it becomes a disincentive. In general, it has become for staff more difficult to protect themselves. Regarding freelancers, they can only show a discrimination claim since this does not need a service element. With one day of work, the freelance can claim. When there is a breach of employment contract, you can go to a court to get money due. Sometimes, it gets a lot of time to get paid. In general, freelancers have a lot of difficulties in enforcing their rights. Staff have more resources since they have a HR person, a manager, etc. where they can go.

For unemployment benefit, there is a qualifying period before unemployment benefit may be claimed. It is a fixed rate. Freelancers are continuously seeking work so they may not be willing to go for unemployment benefit. The staff after having a certain amount of time, they are entitled for redundancy pay. If you have to rely on statutory benefits, the sum is fixed. Company benefits may provide more.

Regarding the social security coverage, the company sick pay is likely to be more generous than the statutory benefits. It depends on how big the company is. In general, the company's benefits are better than those from the state. The statutory system is very low. You have to be sick for 4 days before claiming for the pay. Regarding accident and invalidity, it depends if you are a member of a health insurance. The statutory rules on maternity leave and pay make it possible for instance to be one year-off work if you want but a part of it wouldn't be paid. Freelancers find themselves in a disadvantageous position since the state regards them as self-employed entrepreneurs and considers they have to cover for themselves. In the case of pension, it depends on the national insurance⁶³ what they can get. In general terms, staff are more likely to have a company pension scheme⁶⁴.

Regarding collective agreements, in the case of staff all the agreements will apply fully or partly⁶⁵. The majority of members of BECTU are in the production departments, support staff (facilities management), catering, freelancers, etc. The agreements provide for all those who want to be covered by the agreements⁶⁶. Most of the agreements are not legally binding but they may be incorporated into a contract and therefore, it can become legally binding through the contract but not the agreement itself.

⁶³ Class 1 or class 2

⁶⁴ The UK legislation states that every employer that employs more than 25 employees has to give access to state holder pension scheme (company pension scheme).

⁶⁵ There is a massive collective agreement for TV drama and TV documentary in BBC. The agreement with ITV is also across the board, but not in the case of SKY.

⁶⁶ For instance, they have an agreement with SIS and SIS Link and it applies throughout the company. They have a collective agreement with REPI MEDIA that undertakes outsourced work for the BBC. In this regard, BECTU negotiated so that the working conditions remained the same than previously in the BBC.

WORKING TIME

In film production 11 hours on camera day that may be longer if you are dealing/ are involved with prep and wrap. Costumes more time and longer hours for prep and wrap. In TV drama the working time is 10 or 11 hours and in TV documentary 8 or 9 hours. In live events, it can be as long as it takes. This is the practice and it is a good indicator of the working time in practice.

Saturdays and Sundays can be working days and public holidays too, but the agreement provides additional premium payment. The normal working time is 6 days per week with public holidays involving additional payments. Regarding overtime, freelancers would go over 55 hours per week and staff over 40 hours per week. Overtime is a common fact at workplaces.

Freelancers have an allowance pay (one hour) as an indicator for travel time. On call is rare and not usual but when it happens it is compensated and paid. The turn-around is 11 hours provided by the Working Time Directive. However, this may be shorter when there is prep and wrap and also on the workload. Staff enjoy annual leave and they would have it in the collective agreement but it also depends on the nature of the production. Freelancers enjoy annual leave in proportion to what they have worked.

REMUNERATION

In a broadly sense, remuneration provides for a decent life and makes a decent life possible. New entrants are not paid sometimes and if so, under the minimum state wage⁶⁷. BECTU has concerns about the new entrants. New entrants are expected to work for free for a while. Employers take advantage of the huge number of young people that want to work in the film industry. They come to London with a huge university debt and the accommodation in London is very expensive. In overall terms, it is difficult to do a life career in the sector.

Staff is compensated for the overtime. Freelancers would have it in the contract and would get a premium payment. Travel costs and per diems⁶⁸ are provided. Regarding social benefits, the employer's part contribution to the National Insurance in the UK is 13.8% and the contribution for the holiday pay is 11%.

OCCUPATIONAL HEALTH AND SAFETY

In the UK there are health and safety policies and tools at workplaces. It is a joint employer-trade union responsibility. The UK law states that employees and employers have the responsibility to maintain a healthy working environment. Employers are responsible to do the risk assessments, to eliminate risks,

⁶⁷ The UK minimum wage is set at 6.5 pounds sterling per hour

⁶⁸ For instance, when working abroad, catering is provided and per diems of an average of 30-40 pounds sterling are provided.

hazardous things, review the risk assessments etc. There are very big fines for non-compliances. In general, there is a good health and safety culture in the UK.

Staff has the chance to mainstream health and safety concerns. However, freelancers face more difficulties due to the temporary workplaces and the challenging environments. BECTU has been fighting for many years to have a roaming health and safety representative for this purpose with limited success. The staff has the legal right to have a health and safety representative, right to inspections, a health and safety committee, etc.

The UK formal provisions state the right to have a Health and Safety Committee, with both sides in order to ensure health and safety is delivered at the workplace.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

It is difficult to say but in those areas where they are organized (trade union agreements), there is between 40% and 70% of trade union affiliation. In established areas of production, the intensity is high. There are different things impacting the trade union density.

There are no legal shortcomings in the UK legislation preventing freedom of association and the right to join freely a trade union organization of one's choice. In practice, it depends on the employer's attitude to trade union organisation, on the structure of the business, the level of freelance engagement and how this impacts on the ability to organize, workers' fears, etc. BECTU sometimes organizes meetings (awareness raising, etc.) on Sundays because people don't have the time outside working time. Blacklisting and discrimination against trade union leaders and members for trade union membership occurs but it is very hard and difficult to prove.

BECTU is recognized as an important player in this arena and as a bargaining agent. They are regarded as an important voice for workers across these sectors and they are involved in collective bargaining processes.

**WORKING CONDITIONS
IN LIVE PERFORMANCE PRODUCTION**

DRAFT

BELGIUM

EMPLOYMENT STATUS AND WORK RELATIONS

In Belgium, there is the federal law that sets the types of contracts that may be used to recruit someone. These can be employee, civil servant and independent worker. The employee employment status includes two main groups, namely, the regular employee and the interim⁶⁹, which is an employment type mainly used for exceptional circumstances like for instance a sudden increase of the workload. Among the three main types of employment, the civil servants are a minority. Independent workers are mainly self-employed workers that work for one or several employers/ customers, and freelancers that can be considered as a worker with short-term assignments with several employers.

The Belgian law forbids all kind of discriminatory practices in access to employment and this is respected in practice. For those who don't have a EU passport, some cases of discrimination may happen since they fall under other types of regulations.

It is difficult to say what the average duration of the employment contracts in the live performance sector is. The contracts may go from one day to one year and everything in between. In addition, there are the indefinite permanent contracts.

There are guaranteed indemnities when the employment relation ends abruptly and/or when they are cancelled shortly before the work begins. The Belgian law provides protection on this but it also depends on the type of employment contract and other conditions, such as who terminates the employment relationship (employer or worker) or what the remaining part of the contract is. The situation is a mixture of both, namely, the provisions of the law and the private bilateral negotiation undertaken by the worker and the employer. Likewise, there are also guaranteed indemnities upheld in practice for unfair terminations of employment or work relationships (i.e. pregnancy, temporary absence due to sick leave, etc.). In this regard, the Belgian law protects the worker and the employer has to duly justify the decision. Otherwise, there are fines that apply. In the case of redundancy, the employer has to pay a number of extra months to the worker.

Regarding unemployment benefit, the general system applies. For artists they have better conditions due to the existence of a special regulation applicable to artists⁷⁰. There are some criteria that apply, though. For instance, a worker has to prove a number of days in the sector to be able to refuse a job proposed by the unemployment office. The system seems to be adapted to the realities of the work patterns in the sector.

⁶⁹ The use of the interim employment type has to be justified according to the Belgian law.

⁷⁰ The statute of artists

Regarding social security, the federal law covers everything. In general the employer takes care of the worker and then the mutual insurance company takes over. There are no gaps on this and everything is covered. Regarding pensions, there are three pillars one paid by the general state system, one by the employer and the other by the individual worker. The state system is very basic and low, like a subsistence pension.

In Flanders⁷¹ there are two main collective agreements, one for music and one for performing arts. In Wallonia one has just been approved on salaries. The public sector has its own collective agreements. The collective agreements apply to all types of workers and their application is in principle is fine but it is difficult to know to what extent. There are no big abuses, though.

WORKING TIME

The Belgian system sets a week of 38 hours. However, some organizations use 40 hours and grant one extra holiday day per month. There are several regulations on working time in force in Belgium. Sometimes there are working days of 10 hours with peaks of working hours of 12 hours when exceptional cases, like festival periods, premiers, etc. In practice, the working time is in general respected. The turnaround is 11 hours but it can be 10 hours in some cases.

Working on Saturday, Sunday and public holidays is considered regular working days. If you work more than 10 hours daily they are compensated with additional time-off. If you cross the annual threshold of 65 hours this is compensated with premium payments. When you work on a public holidays this is compensated with additional time off, normally with another free rest day. In Belgium there are ten official holidays foreseen by the law.

Overtime is very recurrent in the sector and common. On an annual basis, there can only be 65 hours of overtime. Overtime depends on your schedule and it is considered all time going beyond your scheduled working time. Overtime is compensated in most of the organisations with additional time off.

From the office to the touring or set place is considered working time. Flying to a place or going to a place for work is also considered working time. On-call is not considered working time.

Workers enjoy annual leave with a minimum part of the year fixed. This is due to the fact that many organizations close at some point during the summer. At federal level, the Belgian labour code sets 12 days minimum. However, some organizations grant more days and the collective agreement on performing arts includes the possibility of 10 days more. In Belgium, there are ten official holidays foreseen by the law.

⁷¹ A requirement for obtaining grants from the Flemish government is to respect the applicable collective agreements.

REMUNERATION

The existing salaries permit a decent standard of living in the live performance sector. This is due to the fact that in Belgium there are minimum wages with salary groups with minimum wages. Some workers like freelancers may find it hard to make ends meet, though.

There is no federal framework on the compensation but there is on the hours⁷². Per diems are provided, when travelling from the workplace to another workplace location. Per diems include meals and also mile allowances for the use of own private transport. The annual leave is always paid.

OCCUPATIONAL HEALTH AND SAFETY

There are a lot of regulations on health and safety issues. The implementation seems to depend on the size of the organisation. The bigger the organisation it is, the better the health and safety policies are implemented.

The Belgian law states that you have to have a health and safety representative if you have 20 or more workers, otherwise, the employer can do it. External services may be hired for organizations of any size.

Workers have the chance to express their concerns on health and safety issues. If there are more than 50 employees there should be a health and safety committee and more than 100 an advisory board. Trade unions are included and collaborate with employers in implementing and enforcing health and safety issues at workplaces.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The trade union affiliation and representation is of around 20-25%, but the exact number is difficult to say. There are no obstacles for joining a union and no blacklisting or discrimination. They have three trade unions and they are considered bargaining agents, and they are involved in collective bargaining processes.

⁷² The collective agreements' provisions state that working over 10 hours or more than 65 hours on an annual basis you get additional time off.

FINLAND

EMPLOYMENT STATUS AND WORK RELATIONS

In Finland, the main type of employment contract existing in live performance (theatres) is the permanent employment contract. In touring, workers are mainly self-employed workers.

The Finnish legislation, in line with European standards bans all kind of discrimination and it is enforced in practice. There may be some discrimination practices based on the age, since old people tend to be often excluded from the labour market.

In theatre, the average duration of employment contracts in the case of technicians is permanent, whereas designers may have contracts with an average duration ranging from three to six months.

In general terms, there are guaranteed indemnities for workers when employment and work relationships end abruptly and/or when they are cancelled shortly before the work begins. In this regard, around 50% of salary has to be paid to the worker if informed less than a week before. The Finnish law and the collective agreements include the indemnities. Likewise, there are guaranteed indemnities upheld in practice for cases of unfair termination of employment and work relationships (i.e. pregnancy, temporary absence due to sick leave, etc).

In Finland there are laws concerning unemployment benefit⁷³ with quite strict criteria. The adaptation to the sector seems to be correct. All workers have access to social security schemes.

In Finland there are eight different collective agreements in the live performance sector, both for company and groups of companies. The agreements are applicable to all type of workers and employment relationships, and they are generally enforced. Freelancers enjoy the same rights than those recruited under employment contracts and they have their own collective agreement.

WORKING TIME

In Finland, the maximum daily and weekly working time is 8 hours and 40 hours respectively. Overtime is common and frequent at workplaces in live performance, with an average weekly overtime between 4 and 10 hours. Overtime is considered all working time exceeding the maximum daily and weekly working time.

⁷³ In dance theatres, 90% of workers are freelancers and they get unemployment benefits between contracts.

Saturday is a regular working day and Sundays and public holidays at some point, but it is rare. Night work starts at 22:00.

Travel to touring location from home is not considered to be working time and either on-calls. However, when travel happens during working days, it is considered working time. The turn-around is 11 hours and it is generally respected but not always.

Regarding annual leave, workers effectively benefit from annual leave. The law defines the rules for the entitlement. However, the collective agreements improve the scope and set better terms for the entitlement.

REMUNERATION

The existing remuneration permits to have a decent standard of living⁷⁴. Work on weekends and public holidays is compensated with premium payments and additional time off and workers decide generally what they prefer. Overtime is compensated with a premium payment of 150% the first two hours, and 200% after that. Premium payments for overtime are observed and respected.

Working on Saturdays and Sundays is compensated with a premium payment of 60% and 100% respectively. Travelling costs and per diems are provided and the annual leave, including bank holidays, is also paid.

OCCUPATIONAL HEALTH AND SAFETY

The Finnish law on health and safety obliges employers to make plans for health and safety, education and equality. In Finland, the implementation and enforcement of health and safety policies and tools is better in big companies in overall terms.

The Finnish law on health and safety states that if there are 10 or more workers at a workplace, there must be a health and safety representative and when there are 20 or more workers, there must be a health and safety committee.

In Finland, in general, both employers and trade unions are involved in ensuring health and safety at the workplace, through close cooperation, a health and safety representative, a trade union representative, and a health and safety manager.

⁷⁴ The average salaries in live performance in Finland are below the average salaries in other Finnish sectors.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

In live performance, around 75-80% of workers are trade union members. In Finland, there are no obstacles that prevent freedom of association and the freedom to join a trade union of one's choice and this is respected in law and in practice. Blacklisting and discrimination against trade union leaders and unionized members based on trade union membership does not happen in general terms. However, there may be some isolated cases.

Trade unions in Finland are considered as bargaining agents and are fully involved in collective bargaining.

DRAFT

FRANCE

EMPLOYMENT STATUS AND WORK RELATIONS

The main existing type of employment contract in live performance is the indefinite permanent contract and the fixed-term contract. The collective agreements state that the reference contract in the sector should be the indefinite permanent employment contract but they also establish the possibility of fixed-term contracts (CDD) and fixed-term contracts (called d'usage).

The French law in force bans all kind of discrimination in access to employment and this is respected in practice. However, men dominate some jobs in the sector, especially those related to technical work. Workers under fixed-term contracts have often difficulties in securing and maintaining a job after 40 years old. The sector is continuously facing the entrance of many young workers.

In France, the legal working time is 35 hours weekly. Workers with indefinite permanent contracts are generally subject to an annual assessment of working time that considers the threshold of 1575 working hours the limit to start computing overtime. This permits the employer to make them work up to 48 hours per week without paying overtime. As a result, these workers have very busy weeks. For those workers with fixed-term contracts, the collective agreements rarely impose a minimum duration of the contracts. As a result, contracts are shorter and shorter, with an average of three days duration. It is even possible to call a worker to work for just half an hour of work.

When the employment and work relationships end abruptly and/or when they are cancelled shortly before the work begins, there are guaranteed indemnities. When a fixed-term contract has been signed, the amounts are due to the worker.

Regarding guaranteed indemnities upheld in practice for unfair termination of employment or work relationships (i.e. pregnancy, temporary absence due to sick leave, etc.), there are no guaranteed indemnities and a worker should go to the court to seek redress. The French law forbids these practices. Given the fact that they are forbidden it becomes impossible to regulate them in collective agreements.

Regarding unemployment benefit, the technicians recruited under a fixed-term contract (CDD) may benefit from a special unemployment scheme that grants them 8 months of unemployment benefit provided they have worked a total number of 507 working hours in companies of entertainment or audiovisual sector in a specific job.

Regarding social security, casual workers⁷⁵ can benefit from sick leave coverage provided they have worked 150 hours in the last 3 months. Women face difficulties in enjoying maternity leave given the fact that they cannot work before the legal maternity leave that starts one month before giving birth. Besides, the amounts of the social security daily indemnities of workers under precarious employment contracts are very weak⁷⁶. It is very uncommon that a casual worker declares a sick leave. The unemployment periods are valid for the calculation of the pension retirement in terms of timing, but they are not considered for the calculation of the amount⁷⁷.

In France, there are three collective agreements⁷⁸ in live performance. They cover all the workers of the sector regardless the type of employment contract.

WORKING TIME

The legal maximum working time is 35 hour with a maximum peak of 48 hours. The maximum duration is 60 hours but a previous authorization of the labour inspection is requested. The break between two days (turnaround) is 11 hours but this can be derogated under certain cases⁷⁹. The minimum weekly rest is set at 35 hours. Working time is better observed and respected in companies that have organized trade unions, whereas small companies tend to not respect working time and not compensate overtime.

Working on Sunday and public holidays is considered regular working time, except for the 1st of May. Overtime is not always paid. On-call can be compensated but it does not fall within the reach of overtime consideration. Workers recruited under fixed-term contracts (CDD) enjoy from a specific annual leave fund to which employers make a contribution.

REMUNERATION

The existing remuneration permits a decent standard of living for those workers recruited under indefinite permanent employment contracts. On the other hand, a technician recruited under a fixed-term contract (CDD) for instance could not have a decent standard of living if he/she didn't have access to unemployment benefit that constitutes the 40% of his/her income.

Overtime, night work, and work on the weekends and public holidays is compensated. Overtime start at the 36th working hour and is compensated at a premium payment of 25% from the 36th to the 43rd working hour and at 50% from

⁷⁵ Travailleurs discontinus/ intermittents

⁷⁶ This is due to the way they are calculated. Only the salaries/wages of the last 12 months and not the unemployment indemnities are considered for the calculation. This implies a serious drop of income in practical terms.

⁷⁷ For instance, technicians recruited under precarious contracts have often to work until the age of 67.

⁷⁸ 1) CBA: Spectacle vivant subventionne | Subsidised Live Performance 2) CBA: Spectacle vivant privé | Private Live Performance and 3) CBA: Prestation technique | Technical Provision.

⁷⁹ 9 hours in the case of editing, disassembly or during the last 15 days in the repetition of a creation.

the 44th working hour onwards. Night work starts at 1:00 and has a premium payment of 15%. Working on Sunday is only compensated if there is an enterprise agreement. The provisions on overtime, night work, work on the weekends and public holidays apply in in-house but not in touring. Travel costs and per diems are paid in both in-house and touring.

OCCUPATIONAL HEALTH AND SAFETY

There are tools and policies on health and safety issues at workplaces in live performance in France. In this regard, it is compulsory to have a unique document on health and a safety and a risk assessment and prevention plan. In practical terms, the vast majority of companies are very small and therefore don't have an ad-hoc staff for health and safety issues and don't meet their obligations.

The French law establishes that it is compulsory to have a Health and Safety Working Conditions Committee in those companies with more than 50 employees. Most of the companies in live performance are very small and therefore very few have established committees.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The trade union affiliation rate is unknown but it remains low. There are no legal obstacles preventing freedom of association in France. Representative institutions of the staff are compulsory in companies with more than 11 employees⁸⁰. There is discrimination against trade union leaders based on trade union membership due to certain social movements.

The trade union is a bargaining agent from the moment it is considered representative by the Ministry of Labour and Employment.

⁸⁰ Only 3% of the total number

GERMANY

EMPLOYMENT STATUS AND WORK RELATIONS

In the field of technical and administrative jobs, most of the contracts are indefinite permanent contracts under the basis of collective agreements. In the artistic field, the main type of employment contracts is a fixed-term contract based on performance duration or seasonal timing under the basis of collective agreements⁸¹. In the artistic field, the majority of employment contracts turn into indefinite permanent employment contracts after a trial period. There are also self-employed independent artists and freelancers.

The German law bans all kind of discrimination in access to employment based on ethnic, nationality, sex or race and this is respected in practice. There may be some isolated cases of discrimination but it is rare. The law is strict in this field.

The average duration of employment contracts in the case of administrative and technical staff is indefinite and permanent and therefore the contracts are up to the retirement. On the other hand, the average duration of employment contracts for workers recruited under production needs, the duration of the employment contract is linked to the number of productions that can be one or several. In Germany the majority of communes and departments face financial problems and as a result they tend to replace more and more former jobs by students, interns or freelancers, mainly in the field of stage setting, lighting, and sound. The current tendency is to replace former indefinite permanent jobs for fixed-term employment contracts⁸².

In the field of ballet dancers, solo singers, actors and dramaturgy, the employment contracts are mainly fixed-term contracts under the basis of the collective agreement⁸³. A fixed-term employment contract under this lasts one or two seasons with the possibility of automatic prolongation of the employment contract up to 15 seasons and as long as the parties do not contravene. If after 15 seasons, the artist is not invited to report to the management, the employment contract becomes indefinite and permanent. However, theatres have the possibility to circumvent this obligation through an agreement with the artist. The agreement consists of not considering 4 seasons and then prolonging the employment contract up to 19 seasons. Nevertheless, and even if an artist has been able to secure employment for up to 19 seasons and therefore is entitled for an indefinite permanent employment contract, the management of the theatre can weaken the contract. In this regard, the theatre intendant may offer the artist another job in the theatre of whatever nature with a lower salary. If the artist does

⁸¹ Orchestras have their own collective agreement and their own trade union and choral groups too.

⁸² For instance, theatres are entitled to recruit someone for three consecutive periods if they don't overpass 24 months in all. This can be done thanks to a law that permits a big flexibility to recruit someone without the obligation to declare the reasons.

⁸³ NV Bühne Solo

not accept the offer, he/she would be fired. In Germany 15-20% of employees in theatres and operas are recruited under the basis of the NV Bühne Solo.

The average duration of the employment contracts of artists is difficult to determine. As an example, a ballet dancer does almost never cross the time threshold of 15 years and very exceptionally reach the 19 years. The theatre intendant has the right to use all kind of employment contracts and duration starting on daily contracts and up to 15 or 19 years, and stop when the intendant thinks that the artist's skills are not suitable anymore for the intendant's ideas, tendencies and projects.

In the field of artists, the NV Bühne Solo foresees guaranteed indemnities when there is an unforeseen or sudden change of intendant in a theatre. When a new intendant arrives, he/she has the right to finish all contracts before the end and at the end of the current season. In this case, the management is obliged to pay an indemnity based on the number of years that the artist has worked in the theatre⁸⁴. For a contract that ends after signature but before the employee starts work, there is no fixed regulation or provision in collective agreements. This has to be negotiated bilaterally and a worker may even seek redress in the court and get an indemnity.

The collective agreements do not foresee provisions on unfair termination of employment and work relationships (i.e. pregnancy, temporary absence due to sick leave, etc). Besides, the German law explicitly forbids these practices. The indemnities may come out from sentences of the Labour Court.

Regarding unemployment benefit, every worker has the right for it but some requirements and conditions apply. In this respect, an employee has the right to unemployment benefit provided the employee has been working under an employment contract for 12 months in the last 24 months. This requirement includes the obligation of paying the unemployment provision during this time. In order to calculate the 12 months, all working periods under employment contract in the last 24 months have to be included, even if it just one day of work. The obligation of being able to show and prove 12 months of work is a requirement foreseen by the general German law and that applies to the whole country and all the professions. An adaptation to the patterns of the sector of live performance and theatres is missing. Given the nature of the contracts and the collective agreements based on laws that permit employers a big flexibility to recruit and make redundant very easily, artists find it very difficult to show enough work as to prove the 12 months work in 24 months requirement. The unemployment benefit is for 12 months.

All workers under indefinite permanent contracts or fixed-term contracts based on productions are covered by the social security without difference between artists, musicians, or staff in administrative, organisational or technical

⁸⁴ According to the NV Bühne Solo, for 4 seasons (3 monthly salaries), for 6 seasons (4 monthly salaries), for 9 seasons (5 monthly salaries), for 12 seasons (6 monthly salaries).

activities⁸⁵. For accidents, the insurance is compulsory. For maternity, women are protected and are exempted from working for instance after 20:00, they cannot be exposed to noises, and when a woman declares that she is pregnant, she has her salary paid. Regarding sickness, the employee is paid for 6 weeks and after the sickness insurance takes over and pays 70% of the gross salary. Some collective agreements improve the conditions and sometimes they have provisions that permit a worker to have the salary paid for longer periods.

All theatres and operas managed by the communes or departments conclude employment contracts under the basis of the collective agreements used in the communes or specific theatre and orchestra contracts⁸⁶. Because of financial constraints and austerity, many theatres and orchestras have created home collective agreements that include provisions less favourable than the ones under the general collective agreements. For employees in the artistic field, there are the TVK, NV Bühne Solo, etc. Workers under fixed-term contracts in the professions included in the TV ÖD and TVL are remunerated according to the provisions included in the collective agreements. Workers recruited under fixed-term contracts in orchestras and choristers are also remunerated according to the provisions of the specific collective agreements for orchestras and choral groups. Actors, singers, ballet dancers, and head of departments use the NV Bühne with the branch specificities. Freelancers are paid outside the collective agreements and individual negotiations apply.

The collective agreements and the German labour law are applied in practice by and large. In all the cultural institutions of the public service, the staff delegates and the enterprise committees⁸⁷ are obliged by law to supervise all collective agreements and the labour law. The enterprise committees are very strong in Germany and there are effective instruments to intervene when necessary.

WORKING TIME

The German law states that the maximum daily working time is 8 hours. The maximum daily working time is 10 hours as long as that during the last 6 months the average working hours daily does not overcome 8 hours. This means that it is possible to work 48 hours per calendar week and exceptionally 60 hours as a definite maximum. However, anyone recruited under a fixed-term contract will not complain when requested to work for longer, which is a problem. Freelancers can be requested to work longer and if they complain they will not be asked to work again.

Regarding theatres and under TVÖD and TVL, the weekly working time is 39 hours. Exceptionally 46 or even 60 hours may be worked, but the annual average cannot exceed eight hours per day. It is possible to work 5 days per week

⁸⁵ A Social Welfare Allowance for Artists also exists targeting all artists regardless their field of activities and salaries. The Social Welfare Allowance for Artists is financed through a state grant and the contributions of some companies. Workers pay 50% of the contribution.

⁸⁶ The main collective agreements are TV ÖD and TV L.

⁸⁷ Personalrat and Betriebsrat

or 6 days per week. However, this cannot alter the maximum of 60 hours per week full time. This is the case for all employees in the administration, technicians, sound and lights, scene, and different workers. These workers are the 30-40% of all employees in a theatre. Under the NV Bühne technical branch, the contracts are done in terms of working time based on the TVÖD and TVL, with a total number of workers in the theatre going from 5 to 15%.

Under the TVK, NV Bühne Solo and orchestras (i.e. solo singers, actors, ballet dancers, etc.), the working time is not considered as such but rather actions or services that could be a repetition, an opera performance, a concert, etc. The actions or services are regarded on a weekly basis. For instance, in the case of orchestras, not more than 10 services weekly, but in average not more than 8 per week in a time frame of 6 months.

Saturdays and Sundays are not considered regular working days. There are exceptions, though. For instance, employees in theatres that have to work on Sunday or on a public holiday are entitled for compensation with additional time off.

Musicians are entitled for a day rest. If this is not possible within one week, the management is obliged to give later after 10 consecutive days of work two days of rest. In principle, everything is possible when the rest period is respected. Actions are limited by the rest periods. In this regard, five and eleven hours have to be respected before and after a performance. This is valid for all musicians and all artistic employees.

Solo singers, actors, and all those workers employed under the NV Bühne solo branch face a worse situation. Solo singers under NV Bühne have only a free day per week on average. These free days may be cumulated, though. Solo singers have the right to at least 12 free Sundays per year, and on average one day per week, without distinction between public holidays, Sundays and regular working days. They face a total flexibility in terms of working time and rest period. This happens because there are no provisions on working time in the collective agreements. The general rule is that they can have rest periods when the management doesn't need them.

Overtime is very common and recurrent in the theatre work but provisions on overtime only exist in the domains of the collective agreements TVÖD and TVL and to some extent in the NV Bühne in the technical branch⁸⁸. Most of the overtime can be compensated with additional time off within the same season. It may be that 10% of the overtime is compensated with a premium payment but preference is given to additional time off.

Among the technicians of the TVÖD or TV L the value of the travelling time is regulated in most of the theatres in an agreement/ convention between the management and the staff representatives. Thanks to these agreements/ conventions the travelling time is often recognized and fully paid. Among the musicians of TVK, from 4 hours onwards within 24 hours, a proper travel service

⁸⁸ For instance, the average overtime per week is 3 hours in the opera in Kaiserslautern.

is considered. For choristers, baller dancers, etc., the travelling time is not considered as working time.

On-call only exists in the TVÖD and TVL. In most of the theatres it is regulated or specified in particular conventions/agreements. Thanks to the agreements, they recognize on-call as working time and it is 100% paid.

Generally there is a turnaround⁸⁹ of 11 hours rest at night before the next working day. The 5 hours rest before a performance is always valid but this does not exist in the scope of the TVÖD and TVL. In the normal working day the turnaround is strictly respected. There is also a possibility for artists to decrease the 11 hours turnaround to 9 hours. In this case, the decrease has to be compensated with premium payments.

Workers effectively benefit from annual leave and the national law establishes this entitlement⁹⁰. Following the traditional seasonal break in the summer, all employees are given the holidays at the same time. The collective agreements set some modifications and even improve the number of days. Holidays that have not been taken due to a long period of sick leave have also to be remunerated.

REMUNERATION

It can be stated that employees under TVÖD and TVL, because of the collective agreements, enjoy a remuneration permitting a decent standard of living. However, this fact is very much dependent on the location where the worker lives. For instance, employees in cities like Hamburg, Munich or Berlin may have more difficulties to make ends meet than those living in small villages. Rental fees are much higher in the big cities than in the small cities.

Regarding employees under TVK (orchestras) and NV Bühne (choristers), there is a particular German specification. In this regard, orchestras are classified based on the number of musicians. The orchestras with more number of musicians have also higher salaries. The big orchestras are located in the big cities and they may earn more money but life costs are also higher. It can be stated that the members of the orchestra and the musicians alike have in general terms a decent standard of living. The major problems are found with the workers under NV Bühne Solo branch, ballet and technicians. There is a minimum salary for the artists as a general rule. For instance, the starting salary for a dancer, a solo singer or a technician in the biggest or most important theatre may start at 1,650 EUR. After the worker has to negotiate every year with the management/ intendant to have an increase. Workers under NV Bühne (solo, ballet, technicians) cannot have a life with perspective. Their salaries are low compared to their skills and the risk for unemployment is high. It is exceptional that these workers can stay the rule of the 15/19 seasons in the same theatre. It is very common that they fall in poverty.

⁸⁹ Das Arbeitszeitgesetz (Working Time Law).

⁹⁰ Bundesurlaubsgesetz.

Under the scope of TVÖD or TVL all forms of exceptional work are compensated, either through premium payment based on the provisions of collective agreements or with additional time off. It is common the existence of specific collective agreements in theatres between the management and the staff representatives that regulate these issues respecting the individual situation of the theatre. Regarding artists, the definition of exceptional work does not exist.

The German law⁹¹ regulates all travelling costs and the law also applies for all the domains of the theatre. They don't pay the travelling costs because the management of the theatres offer buses for instance for the travelling. The management is obliged and is responsible for the transport of the staff of the theatre to external places. From an absence period of more than 8 hours it starts with a small amount of expenses, with other time thresholds applying (i.e. 12 hours, etc.).

Workers enjoy paid annual leave and bank holidays and they are paid everywhere without problems. Bank holidays are in the collective agreements of TVÖD and TVL. If a technician has to work on a bank holiday, the technician receives additional premium payment. This is regulated in the collective agreements but it is even sometimes improved by specific collective agreements applying to a specific theatre. In the field of NV Bühne with all its branches (solo, ballet, etc.) bank holidays are regarded as regular working days and it is often considered that working on bank holidays is already included in the salary.

OCCUPATIONAL HEALTH AND SAFETY

The German law⁹² regulates all aspects of health and safety policies and tools at workplaces. The law states a lot of provisions and rules that are compulsory to follow regarding health, safety and prevention measures. The law also foresees the cooperation between staff representatives and specialists and experts. Every institution is obliged to engage a specialist in health and safety at work. All activities in Germany are classified based on risks. When an activity has a lot of risks, then it is very much monitored. The specialist is generally externalized.

There are work safety delegates. Besides, there is a doctor specialized in health and safety at work. There is a committee on safety at work⁹³ that is obliged to meet 4 times per year. The committee meets the experts, the doctor, the management, the staff representatives, and all the responsible staff in the field of production.

The law also foresees risk assessments. However, the risk assessments are not done everywhere. This part foreseen by the law has not been completed fully yet and needs development. All employees have the chance to speak with someone and raise concerns on health and safety issues.

⁹¹ Das Landesreisekostengesetz

⁹² Das ArbeitsSicherheitsgesetz

⁹³ Die ArbeitsAusschusssitzung

One problem in theatres is the common language at work. Most of the theatres have a workforce of 20-30 nationalities. Many instructions (i.e. case of fire, alerts, etc.) are only written in German and many artists do not understand German.

The law obliges employers to respect all norms of security at workplaces and the law also obliges them to work together with the staff delegates.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The orchestras are organized in the DOV, with a trade union affiliation rate of more or less 87%. The traditional trade unions of artists are the GdBA Genossenschaft des Bühnenangehörigen⁹⁴ and the VDO Vereinigung der Opernchöre⁹⁵. These two trade unions negotiate the NV Bühne. In Germany, many artists think that the NV Bühne does not respect their interests and they estimate that the collective agreement respects much more the interests of the theatres and the management. Because of these collective agreements, the two trade unions represent around 25% of the potential employees, with a clear tendency to decrease.

There are no legal obstacles or shortcomings preventing freedom of association in Germany. However, a new law⁹⁶ that has been recently adopted states that when there are several trade unions within the same company and competing for improvements in the same field of working conditions and/or relations, only the trade union with more members in the company is entitled to negotiate. This law goes against the basic principles of freedom of association and collective bargaining. In terms of discrimination or blacklisting towards trade union leaders because of their trade union activity, there are no major problems and no discrimination happens.

VERDI is the only trade union in stage entertainment Deutschland and represents all fields in the theatres. Employees in theatres under TVÖD and TVL accept VERDI without major problems. In the traditional sector of artists, VERDI is not accepted as a bargaining agent in front of DBV. DBV has failed to improve the working situation of artists for many years.

⁹⁴ Cooperative of Theater Employees

⁹⁵ Association of Opera Choristers

⁹⁶ Das Tarifeinheitsgesetz

ITALY

EMPLOYMENT STATUS AND WORK RELATIONS

The main types of employment contracts existing in the live performance sector in Italy are indefinite permanent contracts, intermittent contracts, and self-employment.

The Italian legislation in force bans all kind of discrimination in access to employment and this is respected in practice. However, despite the fact that there is not any overt discrimination, age influences very much access to employment.

The average duration of employment contracts depends on the project's characteristics, mainly the workload and the funding. In the field of technical and administrative backstop, the employment contracts are mainly monthly or multi-monthly. In the field of artists, the employment contracts concluded are generally on week or daily basis.

When employment and work relationships end abruptly and/ or when they are cancelled shortly before the work begins, the law foresees indemnities for fixed-term contracts that oblige to pay the whole period. The CCNL⁹⁷ foresees proportional indemnities to the contracted emoluments of each ceased worker.

Regarding guaranteed indemnities, upheld in practice for unfair termination of employment and work relationships, there are contractual and legal guarantees for different cases, like maternity, sickness, accident, etc. For other types there is the unemployment benefit.

Regarding unemployment benefit, the New Social Insurance for the Employment (NASPI) has recognised since 2012 an indemnity for unemployment including for workers in the artistic sector provided there are employer-employee employment relationships. The requirement is to have worked at least 13 weeks in the previous calendar year. Regarding the social insurance coverage, there are legal and contractual norms in force to cover workers under certain cases.

Regarding collective agreements, there is the national collective agreement that applies to the sector in all the national territory. This collective agreement may be integrated into another collective agreement of second level, applied in a regional or business setting. The targeted workers can be in the artistic, technical or administrative fields. Regarding the enforcement of applicable labour law and collective agreements, the total or partial application of the law and of the CCNL may change according to the sector and the professional staff included. It is certainly true that the application is more comprehensive and better in very structured businesses and in administrative sectors.

⁹⁷ CCNL: Contratto collettivo nazionale di lavoro | National Labour Collective Agreement

WORKING TIME

The Italian law establishes the legal maximum daily and weekly working time in 8 and 40 hours respectively and this is applicable to all types of employment. However, the law permits some flexibility on this. For instance, and among other possibilities, the law permits to work a maximum of 48 hours weekly in the time frame of 4 months.

Regarding the live performance sector, the time schedule may vary from a minimum of 28 hours per week for the artistic workers of the lyric foundations to a maximum of 173 hours monthly for the technical and artistic workers in the theatre. Regarding touring, for the technical staff there is an average of 177 hours in the framework of a contract whereas 40 hours per week are foreseen for the artistic staff. Despite the fact that there is a big flexibility in the use of the working time schedules in theatre live performance, it can be stated that in general terms the working time is observed and respected.

Working on Saturday is considered a regular working day whereas working on Sundays and public holidays is possible but it is compensated following the provisions of the CCNL

Overtime is considered all working hours in excess of the weekly working time foreseen in the CCNL. However, the recourse to overtime has decreased recently mainly thanks to the introduction of the working time flexibilities. In the touring live performance, overtime is a recurring problem, especially as regards technical staff.

Travelling to location is not considered working time in the case of theatre live performance. However, in the touring live performance, it is considered as working time but with very reduced remuneration, exclusively the necessary time to the transfer from one spectacle to another. Regarding on-call, all the time spent at the workplace is deemed working time. For the availability (on call), contracts foresee specific economic indemnities.

The Italian law establishes a minimum amount of time of 11 hours between two days of production. In touring live performance, the turnaround is not always observed and respected.

Workers effectively benefit from annual leave. The law foresees 4 weeks annually and it is also foreseen in the CCNL. The amount of leave accumulates in proportion to the months worked. In the case of fixed-term contracts or daily work, the CCNL foresees that the leave can be liquidated with the remuneration.

REMUNERATION

The CCNL establishes decent thresholds of remuneration. However, this is fact is strongly conditioned and influenced by the total quantity of months, weeks or days worked.

Overtime, night work, work on weekends and public holidays are compensated. The compensation is foreseen in a structured way in the national collective agreement or in collective agreements at a secondary level. The norms on compensation when applied are essentially always observed and respected.

Travelling to workplaces and per diems are reimbursed and guaranteed legally by the national collective agreement. Holidays and other annual leave (i.e. bank holidays) are paid.

OCCUPATIONAL HEALTH AND SAFETY

There are health and safety policies and tools in theatres. The Italian law regulates this and it is also included in the CCNL. There are health and safety representatives at workplaces. Again, the Italian law regulates this and this possibility is also foreseen by the CCNL. Workers have the chance to express health and safety concerns, through the workers' representative or the RSU⁹⁸.

Trade unions and employers are always involved in ensuring health and safety at workplaces, mainly through the different modalities and figures identified in the law.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The trade union affiliation rate varies from one sector to the other but in overall terms it is very low. The trade union affiliation rate is stronger in the few businesses with significant presence of staff recruited under indefinite permanent employment contracts.

There are no legal obstacles preventing freedom of association and the right to join a trade union of one's choice in Italy. However, the temporariness of the employment and the general recourse to the modality of self-employment influence strongly the capacity and willingness of the workers to join a trade union. There is no discrimination or blacklisting against trade union leaders because of their trade union membership. However, their presence in the firms/businesses is generally not welcome from the employer side.

Italian trade unions are considered a bargaining agent and are always present in collective bargaining processes at whichever level of negotiations.

⁹⁸ Rappresentanza sindacale unitaria.

POLAND

STATUS OF EMPLOYMENT AND WORK RELATIONS

The main type of employment contracts in live performance in Poland is the indefinite permanent contract⁹⁹, which constitute around 70% of all cases. Besides, there are also seasonal and fixed-term contracts¹⁰⁰, specific task contracts¹⁰¹ and a contracts of mandate¹⁰².

The Polish legislation in line with European standards bans all kind of discrimination practices in access to employment and this is respected in practice.

The average duration of employment contracts are seasonal or indefinite permanent contracts in the case of actors, and indefinite permanent contracts for the technical and administrative backstop staff. The average duration of a seasonal contract is a calendar year. The average duration of indefinite employment contracts is 15 years. The Polish Labour Code regulates the duration of the employment contracts.

In the case of guaranteed indemnities for workers when employment and work relationships end abruptly and/or when they are cancelled shortly before the work begins, the Polish Labour Code sets severance payment ranges going from one to three months depending on the number of years worked. The Polish Labour Code establishes statutory indemnities that are upheld in practice for cases of unfair termination of employment due to temporary absence due to sick leave, maternity, etc.

The current basic amounts of unemployment benefit amounts to PLN 831.10 for the first three months of entitlement and PLN 652.60 for the following months of entitlement. However, the actual amount¹⁰³ depends on the combined periods of employment entitlement. The unemployment benefit¹⁰⁴ is subject to annual indexation on the first day of June.

⁹⁹ Umowa na czas nieokreślony

¹⁰⁰ 10%

¹⁰¹ Umowa o dzieło (5%)

¹⁰² Umowa zlecenia (15%)

¹⁰³ For instance, if an unemployed person has worked for less than 5 years, he/she will get 80% of the unemployment benefit (= PLN 664,90 before taxes). If he/she has worked from 5 to 20 years, he/she will receive 100% of the unemployment benefit (= PLN 831,10 before taxes). If he/she has worked for more than 20 years, then he/she will receive 120% of the unemployment benefit (= PLN 997,40 before taxes). One unemployed person will only get these amounts for the first three months of unemployment entitlement. Subsequently, the unemployment benefit will amount to PLN 652.60 before taxes (base amount, 100%), PLN 522.10 before taxes (reduced amount, 80%), and PLN 783.20 before taxes (increased amount, 120%).

¹⁰⁴ The amount of the unemployment benefit after indexation is announced by the minister of employment and labour affairs through the publication of a public notice in the Official Gazette of the Republic of Poland (Monitor Polski).

The maximum duration of unemployment benefit is of 180¹⁰⁵ or 365 days¹⁰⁶. In the case of sickness, accidents, disability, maternity and retirement, all employees are covered by the social security/ insurance.

In Poland, there are no collective agreements valid nationwide in the culture sector. There was previously an agreement but it is not in force anymore. This was replaced by the work and remuneration regulations negotiated bilaterally between the team and the employer and that apply to all employees recruited under the terms and conditions of an employment contract. In general terms, work regulations and the labour law are observed and respected, with some rare exceptions coming mainly from unfamiliarity with the provisions or bad faith from the part of the employer.

WORKING TIME

In Poland, the maximum daily and weekly working time is 8 and 40 working hours respectively, within the course of a week. Employees under service contracts are allotted the working time with a break of at least 5 hours¹⁰⁷.

The working time in practice in Poland coincides with the formal working time. Working on the weekend and public holidays is allowed for employees under service contracts in accordance with collective agreements and work regulations. This type of work is not considered regular working time. The turnaround is 11 hours and it is observed and respected in practice.

Overtime is common and frequent at workplaces. Travel to the workplace is not considered working time and on-call is considered working time.

Annual leave is taken according to the schedules with the provisions of the Labour Code and the Work Regulations applying.

REMUNERATION

The existing level of remuneration for the team members of employees directly linked to the production permits a decent standard of living. However, other members enjoy a rather low standard of living.

¹⁰⁵ Unemployed people residing within a powiat administrative district where the unemployment rate did not exceed 150% of the average unemployment rate in Poland as of 30 June of the year preceding the day on which one became entitled to unemployment benefit.

¹⁰⁶ Unemployed people a) residing within a powiat administrative district where the unemployment rate exceeded 150% of the average unemployment rate in Poland as of 30 June of the year preceding the day on which one became entitled to unemployment benefit, or b) over 50 years old and having at least a 20-year period entitling them to the unemployment benefit, or c) who has in charge at least one child aged 15 or below and whose spouse is also unemployed and lost entitlement to the unemployment benefit due to the expiry of the entitlement period after the date that unemployed person became entitled to the unemployment benefit, or d) are a single parent raising at least one child aged 15 or below.

¹⁰⁷ Rehearsals take place from 10am through 4pm, and performances from 7pm.

Overtime is compensated with premium payments, whereas working on public holidays is compensated with additional time off in another period of time.

The Polish Labour Code regulates the provisions on this and they are observed and respected in practice. Travel to the workplace is not remunerated. However, per diems and additional costs related to business trip are remunerated. Annual leave and public holidays are paid.

OCCUPATIONAL HEALTH AND SAFETY

In Poland there used to be professional healthcare¹⁰⁸ at workplaces. However, this has been eliminated. There are occupational health and safety training sessions for employees, and an occupational health and safety employee is employed an equivalent of one quarter of full-time and there is also an elected social labour inspector.

The employers meet their responsibility to ensure occupational health and safety through the employee employed one quarter full-time, and the labour unions meet their responsibility through the social labour inspector.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The trade union affiliation rate is of around 30%. They are organized around two main trade union organisations.

In Poland there are no legal shortcomings in law or in practice that curtail the freedom of association. Likewise, there is no blacklisting or discrimination against trade union leaders based on their trade union membership.

The labour unions are signatories to the collective agreement currently in force and they are authorized to negotiate in accordance with the Labour Union Act and the Industrial Dispute Act.

¹⁰⁸ A doctor or a nurse.

PORTUGAL

EMPLOYMENT STATUS AND WORK RELATIONS

In Portugal, the main types of employment and work relationships in theatres and in touring are serviced contracts¹⁰⁹ where workers are self-employed and are considered employers by the Portuguese law. Based on this, workers hold the responsibility for the own social security and insurance against accidents without being entitled for unemployment benefit.

The Portuguese law in line with European standards bans all kind of discrimination in access to employment. In theatres and touring, there is no discrimination based on gender, nationality, or age and this is respected in practice. However, there may be some cases of hidden discrimination based on ethnic origin, but this is difficult to prove. The labour market in the live performance sector is only accessible for those who can prove they are self-employed, which is overtly discriminatory. One special situation to mention in live performance in Portugal is the obligation of those working under a self-employed status to charge VAT in their green invoices. In principle, all those earning more than 10,000 EUR are obliged to charge VAT. There are some workers (i.e. musicians, actors, dancers) working directly with the producer that are exempted from charging VAT. However, those working through an agent are obliged to charge VAT. In the field of live performance, most of the producers are cultural associations, and they only recruit artists that are exempted from charging VAT. This practice is discriminatory.

The average duration of contracts in theatres is generally two months whereas in touring, the contracts are done based on the number of performances, which are normally one or two.

Workers in the live performance sector do not enjoy any guaranteed indemnities when employment and work relationships end abruptly and/or when they are cancelled shortly before the work begins. Likewise, workers don't either enjoy guaranteed indemnities that are upheld in practice for unfair terminations of employment and work relationships (i.e. pregnancy, temporary absence due to sick leave, etc.).

In Portugal, workers in live performance in Portugal do not enjoy unemployment benefits partly because of the poor enforcement of the new law passed in 2011. The current system is conceived for long duration work assignments of at least 6 months and going up to a year. However, the average duration in the theatres is just 2 months. In touring, workers don't enjoy unemployment benefit, except for those cases where the worker has a fixed-term contract under the legislation of another EU country.

¹⁰⁹ Green invoices.

Workers have social security coverage except for accidents where they are obliged to have a private insurance. Sick leave may be granted after a sick leave of 30 days, which is not compatible with the average duration of contracts in the theatres.

There are no collective agreements in the live performance sector in Portugal. There are collective agreements in the national theatres, though.

WORKING TIME

The legal daily and weekly working time in Portugal is 8 and 40 hours respectively within a working week going from Monday to Friday. The working time in practice in live performance is different, though. The daily working time is normally split into two periods, morning/afternoon or evening/night between six and eight hours or just a period of six hours, with generally two rest days. When the opening of the piece of theatre is close, there is only one rest day. In practice, the working time goes from seven to nine hours in theatre with one day of rest whereas in touring there is no limit on working time and no rest.

Working on Saturday, Sunday or public holidays is considered regular working time. Overtime is very common and recurrent at workplaces but it is something that is not considered as a fact. In theatres overtime may be considered the working time after 14 hours. In touring there is simply no overtime.

Travelling to working places is not considered working time and on-call is not used. There are no rules established regarding turn-around and they are not respected in practice. There are no annual leave. Only employees in national theatres¹¹⁰ enjoy one-month annual leave.

REMUNERATION

The remuneration may permit a decent standard of living in theatres but it does not in touring if it is within a Portuguese structure. The situation also varies depending on the contract because there are cases with good remuneration, of for instance 2,500 EUR per month.

In general, overtime, night work, working on Saturday and Sunday and public holidays is not compensated. Workers of national theatres can be compensated, though. Per diems and travelling costs are paid only when travelling to the city where the production takes place. In touring, per diems and travelling costs are generally provided.

Annual leave is not paid in principle. However, it also depends if you have an employment contract. If this is the case, you may have paid annual leave. Employees in national theatres enjoy one month paid annual leave.

¹¹⁰ There are three national theatres in Portugal.

OCCUPATIONAL HEALTH AND SAFETY

In the field of live performance, there are in general no policies and tools in place at workplaces. In touring there may be some but it is rare. There are no health and safety representatives at workplaces. Trade unions and employers don't participate in the enforcement of health and safety policies at workplaces.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The trade union affiliation rate among the workers in the live performance sector in Portugal is very low.

There are no legal shortcomings preventing freedom of association and the right to join a trade union of one's choice in Portugal but the characteristics of the live performance sector and the existing type of employment relationships make it very difficult or impossible to forge a necessity to unionise among the workers.

In theatres there are more artists that are union members than in the film or TV sector because older artists are in general more intellectually and politically involved.

There are no collective agreements in the live performance sector in Portugal and they have never existed.

DRAFT

ROMANIA

EMPLOYMENT STATUS AND WORK RELATIONS

Most of the employment contracts in Romania in theatres are permanent. In touring, the main type of employment contract is a fixed-term contract.

The Romanian legislation, in line with European standards, bans all kind of discrimination in access to employment and this is enforced in practice.

The average duration of employment contracts in theatres are indefinite permanent contracts. In touring, the average duration of employment contracts is several months.

The Romania legislation does not provide any guaranteed indemnities for workers when employment and work relations end abruptly or are cancelled shortly before the work begins. Likewise, there are no guaranteed indemnities that are upheld in practice for cases of unfair termination of employment and work relations (i.e. pregnancy, temporary absence due to sick leave, etc.). If a woman stops working because of maternity leave the state pays the indemnities with a maximum of 200 EUR for a maximum period of 2 years.

The Romanian legislation foresees an unemployment benefit of 100 EUR per month for a maximum duration of 6 months. The unemployment benefit duration depends very much on the length of the employment contract. Workers in the sector are covered by the general system of Romanian social security that is universal and protected by the national general legislation. In Romania there are no collective agreements in the sector. A recent law passed in 2011¹¹¹ does not encourage the conclusion of collective agreements.

WORKING TIME

In Romania, the agreed maximum daily and weekly working time is set to 8 hours and 48 hours respectively¹¹². For all the time exceeding this, an agreement from the local labour inspectorate and the trade unions is required. The reality in practice is that many workers work on weekends and during public holidays. The law states that after 5 days of work, two days of rest must follow.

In the live performance sector, working on Saturday and Sunday or on a public holiday is considered as working on a regular working day. Overtime is considered to be working hours beyond 8 hours daily or 40 hours weekly. Travel to location and on-call are considered working time. The turn around is respected

¹¹¹ This law contains a lot of elements that weakens collective bargaining. Until 2011, the Romanian law imposed sectoral collective agreements, and therefore, employers and trade unions were obliged to negotiate. Since 2011, this has become optional and an element of representativeness has also been included to be able to negotiate (representation of 50% plus one of the workers).

¹¹² The special law dedicated to live performance states that the employer can have activities six days per week but is then obliged to give additional time off to the holidays.

but with some shortcomings. Workers in the sector enjoy an annual leave of minimum 21 days.

REMUNERATION

In Romania, the existing level of remuneration in theatres and in touring does not permit a decent standard of living.

Compensation for overtime and night work is granted through premium payments. Travelling to workplaces and per diems are not paid in general, and the paid annual leave including bank holidays is only granted to those workers/employees recruited under indefinite permanent employment contracts. The paid holidays depend on the number of years of work and experience you have.

OCCUPATIONAL HEALTH AND SAFETY

There is a special law in Romania dealing with health and safety issues at workplaces. There is no law in Romania dealing with professional diseases.

In most of the workplaces, there is a health and safety representative and workers therefore have the chance to mainstream and channel health and safety concerns. There are also health and safety committees at workplaces. The Romanian legislation states that a company with 50 employees at least should have a health and safety committee with workers' representatives. Workers must then elect a number of representatives for the committee and they can raise concerns therein. In overall terms, the health and safety situation in Romania is good.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The affiliation rate is very low in Romania. The current legislation in force dating from 2011 does not encourage collective bargaining practices.

In Romania there are no legal obstacles that prevent the right to join freely a trade union of one's choice. There is blacklisting and discrimination against trade union leaders based on trade union membership. There is no protection against this.

SLOVENIA

STATUS OF EMPLOYMENT AND WORK RELATIONS

In Slovenia, the main type of employment contract in live performance is the fixed-term contract. Besides, there are many self-employed workers. In theatres actors are very much encouraged to register themselves as entrepreneurs, under short or long-term employment prospects. Short-term employment contracts include one or more years of employment¹¹³. The Slovenian labour law states that theatre artists and other workers should conclude in general terms indefinite fulltime permanent employment contracts¹¹⁴.

The Slovenian law in force bans all kind of discrimination in access to employment and this is respected in practice.

The average duration of employment contracts is half a year. In touring, most of the workforce is self-employed so the average duration is very much linked to the project itself that can be 6 weeks plus each performance. If there is a need for an actor the duration could be for more months. If the event just takes place once, then contracts are done on a daily basis. Among the workforce under short-term employment contracts, the average duration would be one year.

There are no guaranteed indemnities when the employment and work relationships end abruptly and/or when they are cancelled shortly before the work begins. Guaranteed indemnities may apply if a worker negotiates and includes this in the employment contract. However, most of the workers neglect this possibility. In general terms, even if it is in the contract it is not observed and therefore not paid. In the case of sudden termination of employment contract, they may enjoy an indemnity if they have negotiated and included a provision on the employment contract¹¹⁵. In general terms, there are no provisions on that.

Regarding guaranteed indemnities upheld in practice for unfair termination of employment and work relationships (i.e. pregnancy, temporary absence due to sick leave, etc.) staff under fulltime indefinite employment contracts enjoy from maternity leave, sick leave, etc. Self-employed workers in touring enjoy a very basic and low compensation in the case of sick leave provided they have worked at least 31 days and have paid a social security contribution.

¹¹³ After signing two short-term employment contracts in a row, the Slovenian labour law obliges by default to turn the contract into a long-term employment contract.

¹¹⁴ There are 13 exceptions foreseen by the Slovenian law where it is possible to conclude fixed-term employment contracts. Likewise, artists may also work on contracts for copyrighted work following the provisions of the Slovenian Copyright Law.

¹¹⁵ When they have negotiated and included a provision in the employment contract, the termination of a short/long-term employment contract involves in general receiving a full wage for a period ranging from one month to six months. Employers may terminate an employment relationship based on a legal valid reason. Workers can terminate employment contracts without the obligation to state a reason.

Workers under employment contract are covered in the case of illness, invalidity, accident, maternity and pension entitlement. Self-employed workers enjoy 31 working days as a sick leave, but in the case of accident and invalidity only if they have insurances. The entitlements for maternity and pension are based on the worker's contributions to the social security system. Employees get approximately 80% of wage per day during the sick leave.

Regarding unemployment benefit, employed enjoy unemployment benefit if they have a contract at least for six months in the last 24 months. The criteria are not linked to the realities of the work patterns in the case of self-employed workers.

In Slovenia, theatres have a general collective agreement and then on this basis, each house has its own. The self-employed do not have anything. There are simply no rules for them. In general terms, collective agreements and applicable labour law are applied in practice by and large for employees mostly in the theatre. However, there are more and more infringements. In touring, labour law and collective agreements are not applicable for self-employed / freelancers.

WORKING TIME

The agreed maximum daily and weekly working time is 8 working hours and 40 working hours respectively in the case of theatres. Regarding touring, the daily working time is 12 hours and the weekly working time is 50 hours. The daily working time includes a break of 30 minutes. The working time in practice is 8 hours daily in theatres and 10-12 hours in touring.

Saturday is a regular working day. Sunday and public holidays are compensated with a premium payment of 50% but this does not apply to freelancers.

Overtime takes place when they have a third service during the day, which means an additional show or performance to the already existing liabilities. This happens several times weekly, including at the weekends. In touring, self-employed workers have to work as much as they have. Their situation is completely unregulated. Overtime work cannot exceed more than 8 hours per week, 20 hours per month, or 170 hours per year.

The travel time to touring locations is considered working time when it is more than 8 hours and only in the cases of employees and sometimes just one way. This is not applicable for freelancers, though. On-call is not considered working time. The turnaround is 12 hours, but in some cases it can also be 10 hours. The turnaround is not applicable for freelancers.

Workers enjoy annual leave. Employees start with 20 days and every three years they get an additional day. When the employee is 50 years old five additional days are granted. The total annual leave can be of 38 days when considering several factors (i.e. age, length of employment, assessment of work performance,

etc.). The annual leave is usually to be used in summer out of season. This is not applicable for freelancers.

REMUNERATION

The existing remuneration¹¹⁶ permits a decent standard of living for employees but not for freelancers. Overnight, night work, work on weekends and public holidays is compensated with a premium payment of 50% for employees and this is respected in practice. However, freelancers do not get compensation and work as many hours as necessary. Freelancers' wages are significantly lower compared to wages of employees working in institutions.

Travelling to workplaces is paid and per diems are granted for employees when working abroad or on location. However, this is not applicable for freelancers. The holidays and other annual leave (i.e. bank holidays) are paid to employees but not to freelancers.

OCCUPATIONAL HEALTH AND SAFETY

In the theatre, there are health and safety policies and tools in place at workplaces. This is guaranteed in theatres as a safety issue, since equipment on stage (lights, stage equipment, etc.) are regularly inspected and maintained. Actors on stage have insurance. In touring, freelancers have to have their own insurance.

In theatres, there are health and safety representatives and employees have health and safety trainings and courses every 2 or 3 years. This is not applicable for freelancers in touring, though. Workers in theatres have the chance to channel and mainstream health and safety concerns.

Trade unions and employers are fully involved in ensuring and implementing health and safety policies at workplaces.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

In theatres the rate of trade union affiliation and representation among the workforce can go from 25% to 65%.

¹¹⁶ Slovenia has a wage system for public servants and employees with short or long-term employment contracts. Freelancers are not incorporated in that system and get just contract for their work.

In Slovenia, there are no legal shortcomings that prevent freedom of association and the right to join a trade union of one's choice. However, in practice freelancers are considered legally as an employer and therefore they don't have any legal right to unionise. In Slovenia there are cases of discrimination and blacklisting based on trade union membership.

GLOSA is a representative trade union considered a bargaining agent and is involved in collective agreements nationwide.

DRAFT

SPAIN

EMPLOYMENT STATUS AND WORK RELATIONS

In Spain the main existing employment contract in live performance is the short-term fixed-term employment contract and the fake self-employment contract, mainly in touring.

The Spanish legislation in line with European standards bans all kind of discrimination in access to employment and this is respected in practice. There may be cases of discrimination based on age but there are no reliable data on this.

The average duration of employment contracts is based on days, weeks and months going from one to several.

There are no guaranteed indemnities when employment and work relationships end abruptly and/or when they are cancelled shortly before the work begins. Likewise, there are no guaranteed indemnities for unfair termination of employment and work relationships (i.e. pregnancy, temporary absence due to sick leave, etc.). Workers do not generally have employment contracts and therefore, they have no indemnities.

Workers in live performance may enjoy unemployment benefit as long as they have worked the statutory number of days that grant the right for unemployment benefit. Regarding social security coverage, all workers enjoy it..

WORKING TIME

The daily working time is set at 8 hours and 40 hours weekly. Workers are entitled for a minimum weekly rest period of 36 uninterrupted hours. The working time in practice is much higher.

Working on Saturdays, Sundays or public holidays is considered regular working time. Overtime is very frequent and common at workplaces. Overtime is considered all working time exceeding 8 hours daily or 40 hours weekly. The turnaround is of at least 12 hours. Workers do not enjoy annual leave.

REMUNERATION

The existing remuneration permits a decent standard of living for just a limited number of workers with the majority of workers having to secure additional income from other sources to survive.

Overtime, night work and work on weekends and public holidays is compensated with additional time off. Workers don't enjoy paid annual leave in

general terms. Some may but it depends on the type of employment contract they have.

OCCUPATIONAL HEALTH AND SAFETY

There are health and safety policies and tools at workplaces. However, there are not health and safety representatives at workplaces and workers in general don't have the chance to channel and mainstream health and safety concerns at workplaces. Trade unions and employers do not collaborate jointly to implement and enforce health and safety policies at workplaces.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

In Spain, there are no legal obstacles that prevent freedom of association and the right to freely join a trade union of one's choice. However, there is a latent fear among workers due to employers' reaction to trade union membership. There is blacklisting and discrimination practices against trade union leaders based on membership to a trade union. In Spain, the trade union representation is not effective due to the Spanish law in force. The nature of the sector where short-term contracts and freelancers are the general norm makes it impossible to have trade union elections and to obtain trade union representation.

DRAFT

SWEDEN

EMPLOYMENT STATUS AND WORK RELATIONS

In Sweden, there is the general tendency to reduce fixed-term contracts. In general, there are less people to do more work. Many workers need to find other sources of income in parallel to their artistic work. In general, technicians and administrative staff have more security at work and are hired under indefinite permanent employment contracts. Working time is under control, at least if we compare it with the film production sector and especially in institutional theatres, where strong collective agreements are enforced. People are paid for the overtime, what reduces excessive working hours.

In Sweden, the main type of employment existing in theatres is the fixed-term contract that can go from 6 months to 5 years. In general, engagements are done per play. There are also permanent employment contracts and workers under a self-employment status. However, self-employed is not as common as in the film production sector. In theatres, most of freelancers are directors and creative designers.

The Swedish law bans all kind of discrimination in access to employment and it is respected in practice. However, there are cases of discrimination based on age. Old people tend to have more difficulties in securing employment and work assignments in theatres and in touring.

The average duration of contracts can go from 6 months to 5 years. The contracts are generally fixed-term contracts. Workers under a fixed-term contract have indemnities when their employment relationship ends or the work is cancelled suddenly or abruptly. Likewise, there are indemnities that are upheld in practice for unfair termination of employment (i.e. pregnancy, temporary absence of work due to sick leave, etc.). These indemnities are regulated in the collective agreements and the Swedish labour law.

There are collective agreements. In this regard, there are collective agreements for private theatres, institutional theatres and independent groups. The collective agreements are enforced, and especially in institutional theatres.

WORKING TIME

The weekly working time is 40 hours on average and 48 hours weekly on average including overtime. The turn around is 11 hours and the weekly rest 36 hours. There are also some local agreements on working hours at institutional theatres, but the working time is pretty much the same.

Working on Saturdays, Sundays or public holidays is not considered as working on a regular working day and compensation applies in both institutional

and private theatres. Overtime is considered all working hours beyond the regular working time. In general terms, there is less overtime than before in Sweden.

Travelling to location is considered working time and on-call is rarely used. When on-call is used, it is considered working time. The turn-around of 11 hours is respected in practice.

According to the collective agreements and the Swedish Annual Leave Act, there are minimum 25 days of annual leave. The employee is entitled to a continuous period of leave of at least 4 weeks during June-August. To enjoy annual leave, you need a permanent or a fixed-term employment contract.

REMUNERATION

The existing remuneration in Sweden permits a decent standard of living and the remuneration is regulated by the collective agreements.

Overtime, night work, work on weekends and public holidays is compensated with either premium payment or additional time off. This is respected in practice. Travelling to another location for work purposes is also paid as long as the production is located in another city. The payment includes per diems and travelling costs.

Workers get a paid annual leave. If you have an employment per play contract, you get 12% extra salary to pay for holidays.

OCCUPATIONAL HEALTH AND SAFETY

A recent survey in Sweden shows that 40% of all the work related illnesses are psychological. Managers are responsible for the accidents so they take the policies and tools related to health and safety very seriously. Even when there are funding cuts and tight deadlines need to be observed, there is no observable increase in the number of accidents. In both institutional and private theatres, there is a health and safety agreement. However, this does not happen in the independent sector.

There are health and safety representatives at workplaces but it is less common in independent groups. In touring, the local safety representative is not always present during touring¹¹⁷.

¹¹⁷ Teaterförbundet has selected a regional health and safety delegate to help and provide advice to local safety representatives and employers in health and safety issues.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

The trade union affiliation rate reaches 90% among actors and 75% among technicians. The Swedish law doesn't have any legal obstacle preventing freedom of association to join a trade union of one's choice. There is no blacklisting or discrimination against trade union leaders or unionised workers based on trade union membership.

Teaterförbundet is considered a bargaining agent and participates fully in collective bargaining processes in Sweden.

DRAFT

UNITED KINGDOM

STATUS OF EMPLOYMENT AND WORK RELATIONS

In the UK, in in-house there are permanent, fixed-term and casual workers. The mix varies depending on the size, funding and programming of the organisation ¹¹⁸. In touring, the main types of employment are fixed-term contracts, often freelance, for the length of the tour.

In the UK, it is illegal to discriminate on the basis of age, gender, ethnic origin, nationality or disability and this is respected in practice.

Regarding the average duration of contracts, staff employed backstage or front of house solely for performances of a particular production will work for the duration of the run. In the West End, this can be years. In touring, the average duration of employment contract is the average tour duration, which is about 6-12 months.

There may be indemnities when employment and work relations end abruptly and/or they are cancelled shortly before work begins, but any indemnity will depend on the individual contractual details. Regarding guaranteed indemnities upheld in practice for unfair terminations of employment or work relationships (i.e. pregnancy, temporary absence due to sick leave, etc.), in order to qualify for unfair dismissal, an employee must have 2 years' continuous service. However, if the dismissal is related to gender or disability there is no qualifying period for discrimination claims. Freelance workers cannot pursue a claim for unfair dismissal.

Workers may enjoy employment benefits when an employment or work relationship ends. Likewise, they may enjoy social security coverage in cases of illness, accident, invalidity, maternity, or for their pension. In the UK, a lot of state benefits are means tested and depend on previous work, earnings and NI contributions, but are not adapted to the sector. In touring, there is no entitlement to redundancy pay and in the case of social security coverage, workers have no entitlements to state illness, maternity, etc., but may have access to welfare benefits if there is no personal insurance or savings.

The collective agreements cover nearly the whole theatre sector and workers, the biggest with UKT covers most main houses outside of the West End and there is one for the 42 West End theatres. There are also theatre variations on these negotiated locally. The collective agreements and labour law are enforced and are applied by and large in practice but with a tendency to be less and less enforced. In touring, there are no collective agreements for freelancer staff.

¹¹⁸ Employment seems to be increasing but job security is getting worse and 0 hour contracts are increasing, so quality of jobs is decreasing. Members of BECTU are getting fed up of eroding income and quality of life.

However, their remuneration is usually based on the existing collective agreements.

WORKING TIME

In general, the maximum daily working time limit is 13 hours and 6 days weekly. If this is infringed paid compensatory rest applies. In practice, mainly technical and production staff infringes daily and weekly working time entitlements but again paid compensatory rest applies. In touring, the working time limits are less strictly applied.

Working on Saturday is common, since it is a normal theatre day. Working on Sunday and public holidays is less common, so premium pay rates often apply. Overtime is usually considered the worked hours beyond 39/40 hours per week. Overtime is a recurrent and common issue, especially during busy production period and on Sunday and public holidays. In touring, overtime does not usually happen as workers tend to be on a buy-out wage, usually for an average 48-hour week. On-call is not considered working time. The turn-around is generally respected.

Regarding annual leave, all theatre workers have a legal entitlement, and benefit from the minimum 5-6 weeks' annual leave.

REMUNERATION

In the UK, there is a differentiation between London (West End) and the rest of the UK. The remuneration is always lower outside London, with an average difference of 20% in terms of remuneration. About 80% of BECTU members have fixed-term contracts. Workers with fixed-term contracts earn less than workers under permanent contracts.

Many people in the sector are obliged to have other sources of income and therefore have other jobs in parallel. There is generally very little night work and no salary dumping has been observed so far. This means that the collective bargaining agreement works and even those companies that are not in the collective bargaining agreement still pay a living wage as otherwise nobody would work there. Travelling time and per diems are always paid in touring. Annual leave and bank holidays are paid.

OCCUPATIONAL HEALTH AND SAFETY

There has been an increase in stress and related illnesses due to the fact that there are less people doing the work. Around 38% of all the absences are because of stress or similar issues. It is generally much easier for employees with permanent contracts to raise concerns on health and safety, whereas freelancers always face more difficulties since they have to secure the next job assignment.

The employer has the duty of carrying out a risk assessment when reducing the workforce.

There are always health and safety policies and tools at workplaces and the management and the workers implement them. The presence of health and safety representatives varies hugely. In touring, there are fewer health and safety representatives, but workers are generally very much conscious about health and safety. Workers can raise their concerns personally or through their health and safety representative if there is one in the theatre. The best way to work collaboratively is through a fully functioning health and safety committee. However, this is rare on tour.

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

There are a hundred of theatres covered by their collective agreement and trade union membership can vary from zero to almost 100% in both theatres and touring.

In the UK, there are no legal obstacles to joining a trade union, but just prejudices. The main issue and challenge could be that especially young workers can have been brainwashed into having a negative view of trade union due to the prevailing right wing press. Discrimination and blacklisting based on trade union membership is illegal but there may be some cases, although very difficult to prove. In touring, if a worker is a freelance and engaged on a per tour basis, he/she would just not be offered further work if thought of as a trouble maker.

BECTU is considered a bargaining agent and it is clearly understood and accepted throughout the theatre industry that BECTU is the sole recognized trade union for the purposes of collective bargaining for all non-performing grades of staff.

CONCLUSIONS AND KEY FINDINGS

DRAFT

1. STATUS OF EMPLOYMENT AND WORK RELATIONSHIPS

- 1.1. The **proliferation of freelancers**, including those working as **self-employed workers**, is growing in both, live performance and film & TV productions. The majority of workers employed under permanent employment contracts are in theatres. In film and TV production, some workers in technical and administrative areas may have permanent employment contracts; however, the total number of permanently employed workers is shrinking.
- 1.2. To envisage a **long-term career** in any of the two sectors is increasingly difficult. Apart from a minority of workers who have permanent employment contracts, the vast majority of workers has fixed-term employment contracts or work under self-employment status with assignments ranging from one day to several months.
- 1.3. The countries included in the report ban **discrimination in access to employment based on gender, age, gender, ethnic origin or nationality**. The applicable law is in general respected in practice. However, there are some cases of discrimination based on age and gender. In several countries, older workers have more difficulties in securing employment and getting work assignments. In some countries, younger workers and men are reported to dominate mainly technical posts.
- 1.4. In general, there are **no guaranteed indemnities for workers when employment and work relationships end abruptly** and/or when they are cancelled shortly before the work assignment begins. Some workers may receive indemnities based on provisions of collective agreements or enforcement of national labour law. Many workers also feel reluctant to claim indemnities out of fear of not securing employment or work assignments in the future.
- 1.5. In general, indemnities for **unfair termination of employment and work relationships** are not guaranteed in practice. In some countries, national law explicitly forbids these practices and therefore workers may seek redress through the judiciary system. Workers with permanent or fixed-term employment contracts are generally better protected compared to self-employed workers or freelance workers in general.
- 1.6. In most of the countries, workers are entitled to **unemployment benefits**. However, the eligibility and qualifying criteria for unemployment benefits are not adapted to the work patterns in both sectors. Workers under permanent or fixed-term employment contracts have in general better chances to enjoy unemployment benefits compared to some freelance workers, and self-employed workers who are often excluded from unemployment benefit schemes.

- 1.7. Workers under permanent or fixed-term employment contracts often have full **social security coverage**, albeit sometimes with important limitations. Freelance workers, including self-employed workers, often have restricted social security coverage, or are obliged to contribute to private insurance schemes.
- 1.8. There are **collective agreements** in force in several EU countries and they are also generally applied in practice. In other countries, there are no collective agreements and the labour law applies, albeit sometimes with important shortcomings. In general, working conditions are better for those workers in countries where collective agreements were concluded.

2. WORKING TIME

- 2.1. In general, there are limits for the **maximum daily and weekly working time** established by national labour law or collective agreements. However, in practice working time tends to be higher. In general, working time of workers under permanent or fixed-term employment contracts is more respected compared to self-employed workers.
- 2.2. **Overtime** is very frequent and recurrent in both sectors. In general, overtime is compensated with premium payments or additional time off. Self-employed workers and freelancers in general may not get any compensation for overtime.
- 2.3. **Working on weekends and public holidays** is frequent and it is in general compensated with premium payments or additional time off. Again, self-employed workers and freelancers in general may not get compensation.
- 2.4. **Travel to location** is in general considered working time and **on-call** is not.
- 2.5. The **turnaround** is generally a number of hours going from 10 to 12 hours and it is respected in practice. However, turnaround may be shorter under some circumstances. There are cases of non-respect of turnaround, mainly when freelancers workers and self-employed workers are involved.
- 2.6. Workers recruited under permanent or fixed-term employment contracts in general enjoy **annual leave**. The law and the provisions of the collective agreements foresee this entitlement. Workers under other types of employment relationships like self-employed workers or freelancers workers in general do not enjoy annual leave.

3. REMUNERATION

- 3.1. In general, **remuneration levels** in film & TV production and live entertainment production allows a decent standard of living for those workers employed under permanent or fixed-term employment contracts. The average salaries in both sectors is lower than the average salaries of other business sectors. The situation is different for self-employed workers and freelance workers in general. Their remuneration often does not allow a decent standard of living.
- 3.2. In general, **overtime, night work, and work during weekends and public holidays** is compensated with premium payments or additional time off. The situation is better for workers of countries where collective agreements exist and for workers under permanent or fixed-term employment contracts.
- 3.3. **Travel costs and per diems** are usually provided for both, workers with permanent or fixed-term employment contracts or self-employed workers. However, the amounts are sometimes limited.
- 3.4. **Annual leave** is generally paid to workers under permanent or fixed-term employment contracts. National labour law and collective agreements foresee the entitlement to annual leave. Workers under self-employment status or freelancers in general usually do not enjoy paid annual leave.

4. OCCUPATIONAL HEALTH AND SAFETY

- 4.1. In general, across Europe there are **health and safety policies and tools** at workplaces. However, their **implementation and enforcement** are weak in several countries.
- 4.2. National law often sets requirements to establish **health and safety committees** and/or **health and safety delegates**. However, they are often not adapted to the reality and size of most of the companies in the sectors.

5. FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

- 5.1. **Trade union affiliation rates** are in general higher among those workers employed under permanent or fixed-term contracts. Self-employed workers and freelance workers in general remain a challenge in terms of affiliation and organising.
- 5.2. In some countries **self-employed workers**, even if they are own-account workers, are considered by law to be “employers” and therefore they are not allowed to join a trade union.
- 5.3. Several countries report cases of **blacklisting and discrimination against trade union leaders and unionised workers** based on trade union membership. As a result, in several countries, workers are reportedly to be **fearful or reluctant to join a union** because they fear that they may not get further employment or work assignments. Also in many countries, employers are reported to not appreciate trade unions’ presence at workplaces.
- 5.4. **Trade unions** are considered to be **bargaining agents** in all countries. They are also involved in collective bargaining processes, although with some exceptions.

DRAFT

ANNEXES

DRAFT