

**Verband Deutscher Drehbuchautoren e.V. /
German Screenwriters' Guild**
www.drehbuchautoren.de

Report 2015/16

ABOUT VDD

General Information

The German Scriptwriters' Guild represents about 500 professional scriptwriters who write for film and television in Germany.

The Guild's board, which is based entirely on voluntary work and is assisted by a small administrative staff, deals with a variety of issues related to the employment of scriptwriters and writers' rights in Germany.

Guild's Activities

- lobbying concerning
 - o copyright law
 - o film funding law
 - o regulations for collecting organizations
 - o new regulations on film and TV (national and EU)
 - o culture and media politics in general
 - collective agreement negotiations
 - service to the members (i.e. legal advice, information on prizes, grants, etc.)
 - improvement of the scriptwriters' visibility
 - events (a. o. Award Ceremony German Screenwriter's Prize (Goldene Lola) at Berlinale)
 - networking (VDD is member of powerful national organizations of authors and industrial partners like Initiative Urheberrecht, Deutscher Kulturrat, Deutsche Content Allianz a. o.)
 - annual call for ideas of VDD and private broadcaster ProSiebenSat.1 (funding of selected authors to develop their personal ideas to exposés; ProSiebenSat.1 has only a first look right)
 - international campaigning
 - Public Relations via website, press work, social media (facebook, twitter), VDD podcast
- See www.drehbuchautoren.de

Legal background

The German Creators' and Copyright law (Urheberrechtsgesetz) is a droit d'auteur-law. The last important revision passed Parliament in 2001. According to the German creators' and copyright law we have the legal possibility to negotiate and reach an agreement on screenwriters' fees with associations of rights users (like the German Film Producers' Alliance) or single users of our rights (like the broadcasters); this law complies with German and EU competition law.

ORGANISATION

Board Members

The VDD board is represented by Katharina Amling, Dinah Marte Golch, Susanne Schneider, Sebastian Andrae, Klaus Arriens, Peter Henning and Uwe Petzold. A new board will be elected in February 2017.

Advisory Board

The VDD board is supported by an advisory board. Members of the advisory board are former VDD board members Carolin Otto (international affairs), Jochen Greve (VG Wort/SAA) and Pim Richter (Deutscher Kulturrat, Initiative Urheberrecht)

Managing Director

VDD managing director is Jan Herchenröder. The VDD office is located in Berlin.

NEWS

Campaign for more and sustainable development funding continues

Since 2015 VDD is rolling out a campaign which focuses on the development, the evident lack of money in this important production phase and, of course, the inequitable remuneration of authors. The VDD is active on different levels:

1) German State Aid Legislation

The new draft of a reformed German State Aid Legislation (FFG) has almost passed parliament. VDD has succeeded to install more funding for screenwriters and a new development funding model. The new model will consist in two different levels. The first as it used to be is the development of first draft scripts by funding the original author of a selected project (treatments as well as “seed funding”).

The second phase will focus on the professional development of first, second or third draft scripts to screenplays ready for shooting in cooperation between the original author as well as producers or directors, professional script consultants. Each selected project could be funded up to 100.000 Euros. Aim of this model is to raise the overall quality of the funded scripts while spending the subsidies on a limited number of high quality projects.

The FFA has an annual budget of around € 76 million at its disposal. The funding for first draft scripts and development will get 4 percent of the budget which means 100% more budget then before! (more information about the FFA – also in English: www.ffa.de).

During the process of reforming the FFG it has been remarkable that within the industry there is a new awareness of the importance of the development phase and of the positive effects on the quality of films that a higher budget for development means. We recognize a brought support for development funding among producers, distributors, cinema owners and broadcasters. This fact has strengthened our arguments for higher development budgets in negotiations with producers and broadcasters.

2) Collective agreement negotiations

ARD (Public Broadcaster)

Since end of September 2015 VDD is trying to get into official collective agreement negotiations with German Public Broadcaster ARD and the German Film Producers Alliance. As reported last year, negotiations have been interrupted for two years. In the first meeting in September 2015 with ARD representatives VDD has been confronted with a new negotiation strategy of ARD.

Instead of bargaining with the guilds of authors, directors, actors, editors, sound designer and so on separately they want to negotiate at a round table to find a solution that fits to all groups of creators and authors that are involved in film production for the public broadcasters and that are generating – in the meaning of the law and at least sometimes - author's rights through their work. This negotiation strategy is supported by German trade union Verdi which is powerful negotiating fees for employees but also tries to get more and more negotiation mandates of creators who work for hire. Their argument is that the united filmmakers get more power to negotiate with a big tanker ship as it is the public broadcaster when they stay together. Only together they can reach the goal of sustainably raising the production budgets of the ARD. As actors and other groups have already negotiated minimum fees the round table will obviously concentrate on negotiating about share revenues.

The members of VDD are strictly against participation at a round table. VDD is convinced that the work situation and especially the risks authors take into account developing scripts could not be negotiated properly with other groups of film makers. Also VDD could not see any strategic advantage when all authors fight to raise one budget which should fit to all needs instead of fighting for adequate budgets for the main authors of a film (screenwriter, director, music). In German copyright law the script of screenwriters has a status comparable with a drama text. As so called "vorbestehendes Werk" (work that already exists or work that could be licensed separately from the film as text) also the script itself has a special status which is an argument to get into direct negotiation with ARD concerning nothing else than fair minimum fees, contracts and shares for screenwriters.

The VDD has still three aims:

- A complete revision of the cooperation between the Broadcasters – especially the editorial staff – and the authors and an optimization of the development process concerning decision making, defining relevant themes and programmes, better contracts and payment rates etc.
- A higher and fair remuneration
- A formal collective agreement referring to the German contract law

For more than 10 years the remuneration of authors in ARD productions has not been augmented. On the contrary, compared with the growing inflation rate in this period the remuneration has evidently declined.

ARD – VDD – workshop in 2017

Concerning the VDD campaign for more and sustainable development, in summer 2017 a meeting of all the ARD program chiefs and the ARD intendant with VDD-representatives is planned. As the structure of ARD is very complex this event could be seen as a big move of ARD and a step in the right direction. This meeting would not focus on negotiation but on an intense dialogue about how in future fictional narration for ARD could be successfully developed. It will be the first workshop directly between program planners and decision makers of a public broadcaster on one side and screenwriters on the other. So far, the traditional attitude at ARD has been that program development should be discussed solely with the Producers Alliance.

Information about ARD: [https://en.wikipedia.org/wiki/ARD_\(broadcaster\)](https://en.wikipedia.org/wiki/ARD_(broadcaster))

ZDF (Public Broadcaster)

Since Juli 2016 we are officially negotiating a new agreement with the German Public Broadcaster ZDF and the German producers alliance. As reported last year, the members of VDD had decided in 2015 to terminate the collective agreement with ZDF and the German Film Producers Alliance which was signed in 2012. The evaluation process has proved that instead of higher fees for scripts the agreement has led to an evident decline of remuneration above all in the series sector. Also the agreement did not provide a regulation for equitable remuneration for nonlinear rights.

The preliminary talks with ZDF gave us the impression that ZDF is willing to move not only concerning the dysfunctional construction and parameters of the old agreement but also concerning higher fees for the authors. The preliminary talks took place when the German Federal Ministry of Justice and Consumer has published the highly expected draft of a new version of the German contract law which provided more legal power and advantages to the authors.

In the meantime a totally rewritten government draft of the contract law has been published which in contrary fits strongly to the needs of publishers, producers and distributors (s. below). In consequence the first negotiation round with ZDF has shown that the move the ZDF is willing to do now is almost invisible. In so far, it is astonishing how strong and direct the influence of the development of the contract law is on negotiations between author's organisations and the broadcasters.

RTL (Private Broadcaster)

In 2016, VDD has also started preliminary talks with private broadcaster RTL to negotiate an agreement similar to the existing agreement with private broadcaster ProSiebenSat.1. With ProSiebenSat.1 we defined minimum fees for buy-out-contracts concerning movies (90 Min.) and series episodes (45 Min.) combined with defined shares at defined levels of use of rights. Hereby, the level of use of rights are defined by counting each use of rights – from the audiences reached by broadcasting a program, DVDs sold up to each click users made online. Shares in relation to the use of rights are necessary to have stable regulation compatible with the bestseller paragraph in German contract law.

The preliminary talks with RTL have been very friendly and RTL seems to be willing to get an agreement as soon as possible. The reason is obvious, because there are several authors recently filing a lawsuit against RTL concerning the bestseller paragraph. An agreement with VDD will provide solutions also for the past and could terminate RTL's conflicts at court.

We expect that the most critical aspect of the negotiations will be to define reasonable and fair levels of use of rights, even if in our perspectives the definitions found in the agreement with ProSiebenSat.1 should be a market standard to be valid also to RTL.

Producers Alliance

VDD has rebooted preliminary talks with the German Producers Alliance about negotiating an agreement for scripts for film. We have developed a new model how to fairly remunerate a script for the big screen reflecting especially the risks authors take into account developing scripts during a long period of time. We are expecting an answer from the Producers Alliance this autumn.

Copyright law/Contract law

As mentioned above the process of the reform of German contract law has been full of surprising plot points. The reform started to reach contractual fairness between both the ones who generates rights and the ones who uses the rights. Explicit aim of the governing coalition of CDU/CSU and SPD was to strengthen the contractual position of authors. Instead, the position of publishers and distributors has never been more comfortable as in the recent government draft of the law.

But we are slightly optimistic that the political discourse will bring some positive changes in aspects that are especially important to screenwriters. These are transparency about use made of rights required not only by the contractual partner (producer) but also by the main user of rights (f. e. broadcasters), remuneration for each use of rights, stabilization of collective agreement negotiation through a. o. binding arbitration.

The political legislation process for a reformed contract law is recently superimposed by the question in how far the contract law could offer solutions to provide publishers in the future shares on revenues of collecting managing organisations. (f. e. VG Wort, GEMA)

Also the EU copyright legislation could have an impact on the national legislation process - while we are hoping that the German contract law, which is still providing more advantages to authors than the recent EU proposals, in the end would have an impact on EU legislation.

VDD is very active in public debates, single talks to politicians or organizing manifestations of authors at the Reichstag (Berlin), all this as member of the Initiative Urheberrecht.