

## Report Seminar #6- Lighthouses

### Artistic contracts, status and program costs

Bruxelles, 11<sup>th</sup> to 13<sup>th</sup> may 2015

#### Summary of the project

LIGHTHOUSES is a professional training programme carried by seven organisations (Live DMA, ACCES, Court Circuit, Clubcircuit, Dansk Live, FEDELIMA, and VNPF). The aim of the project is to have a prospective vision of: what will be our venues and our occupations in 5 years? What is our future, how our business models have to evolve, and how we have to deal with the evolution of our sector? This project aims to identify the skills and abilities needed in artistic professions on the European scale; through international workshops and exchange of good practices and experiences. In order to identify the scope of employability on a European level, at the end of the project we will produce job descriptions and focus on the skills and abilities needed by these professions.

#### Purpose of Seminar #6

This seminar dealt with the artistic contract's legislation. In a globalised system, venues bookers have to deal with foreign stakeholders and deal with different rules and habits regarding the contracts and the costs. Concerning this point, there is no uniformed European legislation, and the national regulation can be different. Moreover, some parts of the agreements are not ruled by the law and are based on trust and habits. The purpose of this seminar was to learn about the most important rules from each country and exchange about the bookers' practises.

This seminar was divided in 3 days. The first afternoon was a workshop session in Magasin 4. The participants had to bring an example of contract and set the 5 most important points they put in a contract. On the second day, the participants went to new town of Louvain-La-Neuve, close to Bruxelles, to visit and work in La Ferme du Biéreau. The building was constructed in 1972 and it is now managed as music venue by 2 participants of the

Lighthouses project. It is one of the most important place for music in Wallonia where tables are going to be renovated as a new concert hall.

Some law experts came for an interactive conference to present what should be in the artistic contracts. Then on the third day, participants were invited to talk about employment contracts in the venues, observe some data collected on Live DMA's music venues and give their wishes for the future of Lighthouses.

During the evenings, the Lighthouses participants got the chance to be invited to a conference about Scandinavian professional networking by the Music Export Office. The attendance of such a group of participants was very valuable for the organisers. The Lighthouses team was also invited to join Les [Nuits Botaniques](#) festival on Monday evening to enjoy concerts and network with musical representatives who were assisting to the same event. On Tuesday evening, Court-Circuit organised a "Goodbye Party" in [Recyclart](#). Once again, this seminar proved that the project Lighthouses led to strong links between the participants.

## Summary of workshops and conferences:

### Day 1 : Workshop session

Ali Smith, from Superact, was invited to facilitate the workshop but she had to cancel her attendance on the last minute, so Court-Circuit's organisers held the workshop session.

The participants had to list the five most important things to put in a contract, and here are the results :

In France, the 5 (or 6) most important conditions can easily be listed :

- Distribution of incomes between the contracts partners with their numbers of registration/ licence
- Details about the deal : who when where, when do you pay ?
- What happen in case of problems, cancellation remarks, insurance...
- Technical details
- Rights (recording...)
- The support

In Denmark, all the venues and promoters have agreed on a code of good practices. Then they just have to fill a sheet for short details and everything is respected. This code is mostly used with national bands or with national booking agencies for international bands.

In Spain, smallest venues only have mouth agreement and it is very well respected so they do not use so much contracts. In bigger venues it's not the same.

We can see that trust is very important in the contract's deal.

## **Day 2 : Conference, debates and exchanges : How to deal with bands (from your country and from abroad)?**

**Jean-Christophe Lardinois, Belgian famous entertainment lawyer (copyright lawyer)**

**François-Xavier Kernkamp, Artistic consultant**

Are contracts mandatory ? In Belgium, you are not obliged to make a contract. So why to make a contract ? for confort, to avoid problems, ... ? A contract is concluded in case of there is a separation/ divorce.

A contract is the law between parties. England are not under the same laws as other countries in the EU. You cannot put illegal stuff in a contract (drugs...). You can't break a contract without valid reasons.

Which format? In England, everything must be define. In Europe, it can be easier, a memo deal (one sheet paper) + a rider is enough and you do not have to make "nice" sentences.

Is an email between two parties a contract ? It might be, it's a proof but the problem is the signature to be valid because you dont know who is being the computer so there is a problem of identifying the parties. A contract must be signed by the two parties

It is not allowed to contract for third parties – in Belgium, an agent is not recognised (in the legal rules) so you must check if he has the power to represent the artist to be sure he can sign the contract for him.

Key contracts:

Does the manager have the power of representation?

Definition of the performance (date, place time and length)

Most important is the payment terms : who gets the money ?

Pay after or before the show ? it is big part of the negotiation.

How does it work in Belgium to compare with other countries? The structure of artistic contracts in Belgium depends on the format of the organisation. ASBL and VZM have special legislation. It is the same in Spain, but VAT is mandatory. In France, you need licenses to prove you can pay someone or do invoices for shows. Being an association is not enough to pay artists and technicians.

Concerning taxes and author rights, you just need to say that you book a foreign band and the national agencies have cooperation with other countries and make the transfers. If a Belgium artist come in France, how does it work ? There is an agreement with copyright agencies. What about bands who are not registered in the copyright agency? In that case, you have put the % in the contract fee. You should also pay neighbouring rights for recorded music.

Artistic status: The European law allows the artist to get the social security from the country where he plays to import it in its country then.(U1)

In France, artists can benefit of “intermittent status” when they are not working (they must have been working 500H during 10 months). In Belgium it is 312 days in the last 18 months. This is a problem because it is a lot, and if you work that much, then you do not need those unemployment benefits. That is why a lot of Belgium artists include the travelling days as working days.

In Belgium, there is nothing for amateur musicians. In France, if you announce a show with amateurs with pros, you must pay them. A stage/studio is a working space so you need a work document, you must insure the persons, you have to communicate it to the unemployment bureau.

What are the different kind of artists status? There are different contracts in Belgium: volunteering contract, RPI, or employment contract.

In Denmark, you can be self employed but in France, artist is not the kind of job you can do as self company. In Spain, many musicians are free lance workers. In belgium it is very expensive to be self employed because you need to pay social security on your own.

Volunteering contract in belgium is when the artists does is not paid at all : no salary, no sandwich, no fuel...

Are there minimum wages to pay the supports? Yes.

In France, it is not possible not to pay an artist except if there is no tickets and no bars incomes. In this case it's better NOT to state any contract. In Spain, you are not obliged to pay the artists. In Belgium, minimum wages + taxes are around 200€ per musician. You cannot not pay an artist if you make money out of it. So RPI is a solution between 0 and 200€. It is RPI (regime des petites indemnités): but you cannot make RPI for foreign artists.

In France the minimum wage (depending on the union agreement) is 77€ per artists (150 as employer) or depending on the work code (it decrease the numbers of hours worked, make half-cachet for support act when they are more than 5 or 6 people on the stage).

In Denmark, the union agreement is 300€ as minimum wage but you do not have to follow it. It is a standard for medium bands, if you have subsidies you have to follow this rule. In Spain, minimum wage is 60€

Technically in EU workers can work wherever they want but the legislation about temporary work is not the same. For ex it is illegal for belgium bands to have temporary contract in Switzerland. They have to have a swiss contract.

The « acts of god » has a real meaning in law. In case of cancellation, there can be penalisation. Instead of cancellation when not enough tickets are sold, venues bookers prefer to try to postpone the concert. Cancellations are often negociated. In Denmark its impossible to cancel.

Are you limited to pay in cash? In Spain it's 3000€. There is no limit in Denmark.

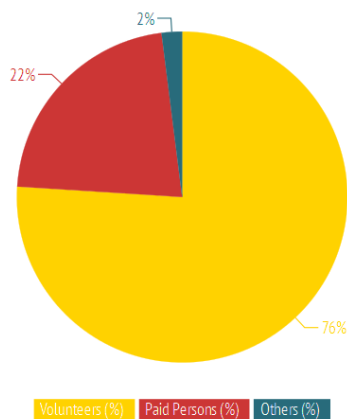
Hugues Tenret, International taxation of entertainers hugues@quiz-tax.be

Each state can tax residents on a worldwide base income but each state can tax non-resident on certain income. So one person can be taxed in two states (source state and residence state).

### Day 3: Workshop and exchanges about cultural employment

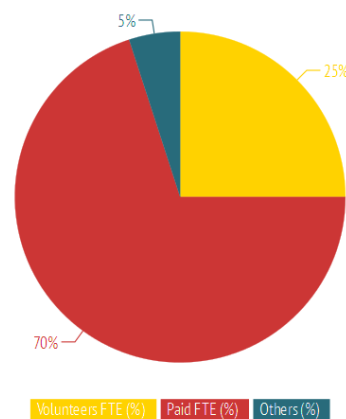
Presentation and discussion about Live DMA's member's employment in Europe. Live DMA's survey is a collect of information about activities, finances and employment. Those data comes from the collect of year 2013.

**Employment - Live DMA's members**

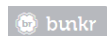


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**Employment FTE - Live DMA's members**



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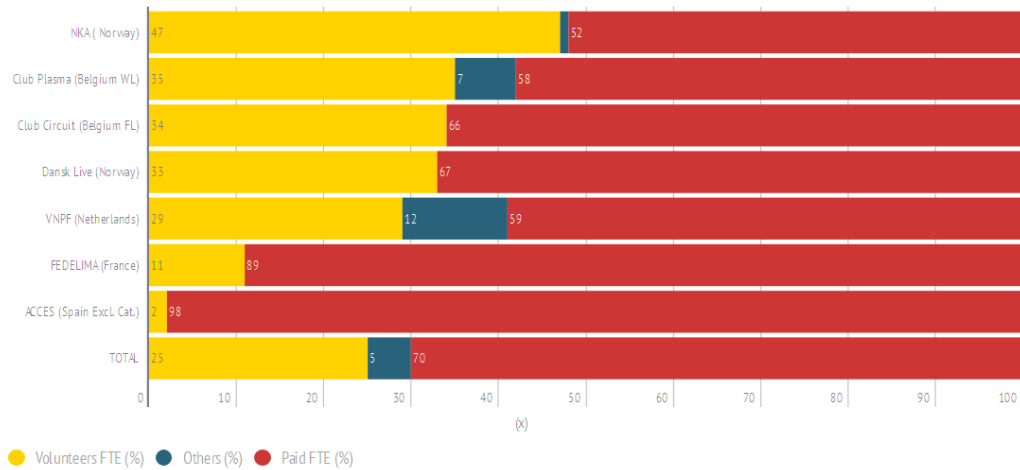


**Paid persons:** Includes all paid employees, including on payroll, hired staff, subsidised employees, freelancers, etc.

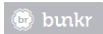
**FTE:** Stands for Full Time Equivalent. A staff member with a workweek of 40 hours equals 1,0 FTE (40/40=1,0). A staff member with a work of 32 hours equals 0,8 FTE (32/40=0,8).

Others: Mainly includes interns or trainees who are neither consider as paid persons nor as volunteers.

## EMPLOYMENT FTE - Per country

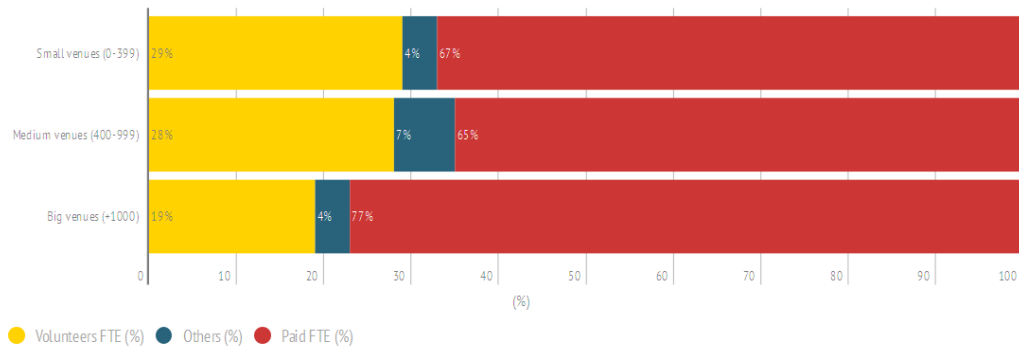


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How to read this document ? In total, among Live DMA’s network, 70% of FTE employees are paid, 25% are volunteers and 5% are considered as “others” (mainly interns or trainees),

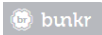
## EMPLOYMENT FTE - Per range capacity



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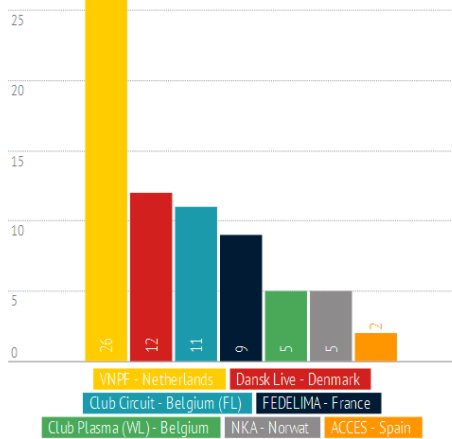


How to read this document ?

In small venues, 67% people working the venues are paid employees, 29% are volunteers and 4% are others/



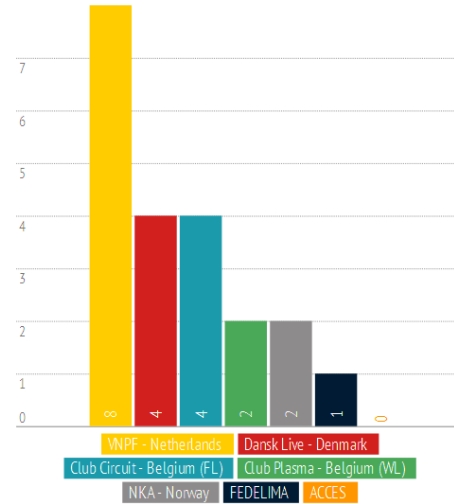
### FTE EMPLOYEES - Per venue



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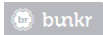
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### FTE VOLUNTEERS - Per venue



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After converting the previous percentages into whole numbers, a big diversity appears in the average number of FTE employees according to each venues, ranging from 26 persons (VNPF - Netherlands) to 2 persons (ACCES – Spain).

### The future of Lighthouses

Participants were invited to join a brainstorm meeting about what they would expect once Lighthouses project is over. This project was very successful for the participants; they enjoyed a lot the meetings and the topics, even if they did not feel concerned all the time. They really wish to keep contact between them.

In the European programs, it is not possible to fund twice the same kind of projects. Moreover, Live DMA represents 1300 venues and festivals, so next Live DMA projects should not be towards the same 50 participants. This project was an opportunity for the participants to get to know each other, now they have to maintain the relationships thanks

to tools that can be provided by Live DMA and the national organisations. Here are some ideas for Lighthouses' continuation:

- Exchanges between similar venues: Klaverfabrikken and La Ferme du Biéreau will exchange their venues managers during one week each to have a deeper overview of practises in Europe. We could extend those kinds of initiatives.
- As volunteers were one of the main themes of Lighthouses project, it could be a nice idea to create a platform of volunteer's exchanges for the festivals.
- Mailing list: we have to make sure all the participants will get each other emails and the possibility to exchange. Facebook groups already exist but are maybe not the best way to promote exchanges.
- Resource on the website: the results from Lighthouses will have to be disseminated to the participants via the website. Tips and tricks sheets can be done on different subjects: vocabulary, contracts, legislation...
- Live DMA and the national organisation must think about meeting points during big conferences events with subjects related to Lighthouses where the participants, and other Live DMA members, could join. The problem is that if we do not have funds for the travels and the accommodation of the participants, they might not be able to join.
- Many venues are interested in an artistic tour or a European itinerary festival concept. Live DMA can support those kind of initiatives but cannot head the project.

## Conclusion

From the received- answers to the questionnaires, the participants still seem satisfied by the contents and the shape of the seminar. With an average of 3,45/5 this seminar was especially a success regarding the welcome and facilities (4,45/5) and the contents were appropriated to the participants' needs. Participants showed less interest for the conference with the Scandinavians on the first day, which was judged out of topic, and the conference about double artists' taxation, which was the most intricate.

## Participants

### **VNPF**

Stijn Mertens  
Ingrid den Heijer

### **DANSKE LIVE**

Jens Enggaard Jepsen - Klaverfabrikken Live  
Morten Vilhelm Jørgensen - Gjethuset  
Lauritz Jørgensen - Gimle  
Susanne Docherty - Dansk Live

### **ACCESS**

Armando Ruah  
Armand Llacer  
Alberto Grandío  
Tomas Gomez Perry  
Miguel Angel Tudanca  
Esther Ubeda

### **CLUB PLASMA**

David Dehard  
Samuel Baems  
Denis Jalocho  
Antony Salas Curiel  
Gabriel Alloing  
Vassilia Van Der Heyden  
Phil Henrion

### **CLUBCIRCUIT**

Marc Steens  
Jade Corbey (Kultuurkaffee)  
Steven De Ryck (Nijdrop)  
Jelle De Clerck (N9)  
Felix Van De Loock (Cactus)

### **FEDELIMA**

Arnaud Monnier  
Mathieu Gervais  
Thomas Blanquart  
Théo Richard  
Bertrand Biennier  
Laurent Philippe



**Live DMA**

Audrey Guerre

**COURT-CIRCUIT**

Quentin Anciaux

Caroline Lambert

David Dehard