

## POSSIBLE SOLUTIONS TO HUMAN RESOURCES WORKING TIME PROBLEMS IN SYMPHONY ORCHESTRAS

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**Abstract:** *This paper explores the critical importance of accurate measurement and fair compensation for work in orchestras, highlighting the unique challenges faced by performing artists. Unlike conventional professions with standard hourly rates, the workload in orchestras is characterised by varying intensities and complexities. This necessitates a specialised approach to work measurement, focusing on participation or sessions rather than traditional hours.*

*Proper compensation is vital for acknowledging the dedication and skill of musicians and fostering a supportive environment that promotes artistic excellence. Fair pay not only attracts and retains top talent but also enhances the overall quality of performances, enriching the cultural landscape. By adopting flexible and realistic compensation models, orchestras can ensure the well-being of their artists and contribute to the sustainability and advancement of the performing arts. This approach ultimately benefits both the performers and the audiences, fostering a vibrant and dynamic cultural environment.*

**Keywords:** *human resources, music industry, sustainable development, management.*

**JEL:** E24, J22

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### Introduction

According to their composition, orchestras can be divided into several groups, ranging from a chamber ensemble to a large symphony orchestra, and in world practice, there is no unified number of musicians for each type of orchestra. The belonging of each composition to the respective group can be defined to a credible extent, according to the performed repertoire, as well as the presence of specific instruments in the composition of the orchestra. The clearest distinction of the individual types of orchestra groups is in

Germany, where each category is precisely dependent on the number of musicians in the orchestra.

Symphony orchestras can be divided into several categories according to their operational objectives. These categories are not directly related to the completion of the orchestra compositions; visually, they may look identical. The different purposes cause the difference in their various qualities. In order to choose what kind of symphony orchestra we wish to work with, we need to be clear about the product we need. Despite the different purposes of their existence, on stage the various types of symphony orchestras can, if necessary,

perform a role other than their primary role, and the difference in their performance would, in most cases, be invisible to the average listener. As a sum of qualities resulting from the ensemble's operational goals, however, the philharmonic orchestra is best suited for high overall performance on the concert stage.

*Which option is better for musicians – to be co-owners or to be hired?*

In the first option – of cooperative ownership, the orchestra members are part of the orchestra not only in their capacity as musicians but also with their ideas for the development of the composition, with active participation in the selection of the repertoire, guest performers, additional commitments such as recordings, tours, etc. Of course, in this situation, musicians also take corresponding risks, since in the case of an economically unbalanced policy or force majeure events beyond their control (like the pandemic of 2020), they actually lose their proportional pay as well.

In times of general financial and, therefore, social insecurity, most people prefer the second option – to be employed on a contract and fulfil their obligations related to their professional training without taking risks that could threaten their financial stability.

### **Music Industry**

The musical and performing arts, and in particular symphonic music, have all the characteristics to be defined as a "music industry". At the same time, it should be noted that their great power is in a completely different field – the beneficial influence of music on the human psyche. In the consumer age in which we live, the state and municipal apparatus cannot afford to finance an activity that is at an absolute loss, which is why the musical arts exist in a quasi-market state. At the same time, their impact on society precisely in their capacity as "arts" far outweighs the economic benefits of their existence.

Based on the review of the legislation related to the development of cultural institutions, there is a considerable discrepancy and lack of harmonisation between the normative documents. Thus, in the presence of non-harmonised legal frameworks (e.g. the Gambling Act) and in the

absence of a Performing Arts Act, a series of reform efforts have been undertaken over the past 30 years in this apparently management-problematic sector.

Regarding the rationing of working time in symphony orchestras, what prevails worldwide is not the calculation of a daily hourly rate but that by participations/services/diensts. The reason is rather practical – the workload in the performing arts can hardly be equalised not only with other professions but also between the professions in the performing arts themselves. It has been practically proven in the past that it is not possible to carry out an eight-hour work process in the musical and dance arts with complete concentration throughout the work process. Over time, the practice was born in countries where these arts are seriously spread to measure the working time in participation and ensure that the participations themselves have a duration adequate to the complexity of the activity being carried out.

The analysis of the criteria and their implementation by the various orchestras and other cultural institutes would be much easier if the Ministry of Culture's website had some clarity and logic when entering the information. Still, the administrative problems in the MC are not the subject of this study. From the two possible evaluation models of the Ministry of Culture, and for the reasons listed above, it is clear that there is no criterion for the quality of the performance. In short, the criteria used are not "important" for the momentary experience in the concert hall, but they are things that make that experience possible.

### **Analysis of the legislation**

When it comes to the employment of musicians, one cannot fail to mention their working hours – a complicated topic that has not been resolved in Bulgaria to this day. What is it about?

The working hours for employees employed with an employment contract in Bulgaria are regulated by the Labor Code. This includes creative jobs, such as musicians, actors, ballet dancers, etc. Art. 107I of the Code defines the main parameters of working time but without its duration. The duration of the working day/working week is regulated by Art. 136:

**Art. 136.** (Amended – SG No. 100 of 1992) (1) (Amended – SG No. 25 of 2001, in force from 31.03.2001) The working week is **five days** with an average duration of weekly working hours up to 40 hours.

(2) (Repealed – SG No. 25 of 2001, in force from 31.03.2001)

(3) (Amended – SG No. 25 of 2001, in force from 31.03.2001) The average length of working hours during the day is up to **8 hours**.

(4) (Supplement – SG No. 25 of 2001, in force from 31.03.2001) The average duration of working hours according to the preceding paragraphs cannot be extended except in the cases and according to the order provided for in this Code.

It should be noted that the working hours can be less than 8 hours. But in this case, by law, it is not full-time, the salary is not 100% of the one established for the position and, last but not least, the insurance period is also not 100% (for example, with a 4-hour working day, two working days are counted as one insurance day).

The Labor Code also allows for reduced working hours, detailed in Art. 137, as in compliance with the provisions of para. 1 and 2 conditions of this article, the labour remuneration of the workers is not reduced. These paragraphs, however, do not include the artistic professions. The exact text of Art. 137 reads:

**Art. 137.** (1) (Previous text of Art. 137 – SG No. 25 of 2001, in force from 31.03.2001) Reduced working hours are established for:

1. (amended – SG No. 100 of 1992, amended – SG No. 83 of 2005) Workers and employees who perform work under specific conditions and the risks to their life and health cannot be removed or reduced, regardless of the measures taken, but the reduction of the length of working hours results in limiting the risks to their health;

2. (amended – SG No. 100 of 1992) workers or employees under the age of 18.

(2) (New – SG No. 83 of 2005) The types of work for which reduced working hours are established are determined by an ordinance of the Council of Ministers.

(3) (New – SG No. 25 of 2001, in force from 31.03.2001, previous para. 2 – SG No. 83 of 2005) Right to reduced working hours under para. 1, item 1 have workers and employees who work in the relevant conditions not less than half of the legally established working hours.

(4) (New – SG No. 25 of 2001, in force from 31.03.2001, previous para. 3 – SG No. 83 of 2005) When reducing working hours under para. 1 and 2, the remuneration and other rights of the worker or the employee under the employment relationship shall not be reduced.

There are several problems with this situation:

- There is no working time for instrumentalists, singers or ballet dancers in the world practice determining an 8-hour working day. Due to human physiology, this is impossible without fully depreciating the body for several years. Also, concentration for this type of activity cannot be sustained for 8 hours. Rehearsals in different countries, according to local traditions, vary between 2.5 and 5 hours, with rehearsals lasting between 3 and 4 hours a day being the most common. In some instances, two rehearsals per day are also held, but this is in pre-premier periods, which are rather exceptions. When they are taken out of working hours and holidays (according to paragraph (2) of Article 151), the working hours of the creative staff really seem to be in complete contradiction to the law.

- On days of concerts/performances, if a dress rehearsal were held on the same day (which is not a standard practice for performances, but it is an established practice for concert activity), the working day would last (in violation of the law) around 12 hours, starting in the morning with the rehearsal and ending with the end of the concert in the evening. Lawyers still do not have a unified opinion to this day on whether the hours between the rehearsal and the concert are counted in the working day since Art. 151 of the Code describes only short-term breaks.

- The work of those involved in the performing arts is in most cases on days and hours when average workers rest – in the evening (after the end of the typical working day) and, in almost all the world, also

on holidays – Saturday and Sunday. It is standard practice across the globe for Sunday concerts (for example, all subscription concerts of the Vienna Philharmonic are on Saturdays and Sundays). Also, on weekends, there are family/children's concerts. The reasons are more than objective – people can attend concerts and performances when they are not at work/school. In Bulgaria, however, the law is definite: the week has two consecutive days off, one of which must be a Sunday. Here is the text from the Labor Code that regulates this:

**Art. 153.** (1) (Amended – SG No. 100 of 1992) *In the case of a five-day working week, the worker or employee has the right to a weekly rest in the amount of two consecutive days, one of which is on a **Sunday**. In these cases, the worker or employee shall be provided with at least 48 hours of uninterrupted weekly rest.*

How do the heads of cultural institutions deal with these problems? According to points 2. and 3. (the working time divided into two parts of the day and the work on weekends), a comparative solution is found with the introduction of a cumulative calculation of the working time. Art. 142 of the Labor Code allows for the introduction of such. However, it limits its duration from 1 to 4 months:

**Art. 142.** (1) *Working time is calculated in working days – per day.*

(2) (Amended – SG No. 100 of 1992, amended – SG No. 25 of 2001, in force from 31.03.2001, amended – SG No. 48 of 2006, in force from 01.07.2006, amended – SG No. 107 from 2020, in force from 01.01.2021) **The employer may establish a cumulative calculation of working hours** under conditions and in accordance with Regulation of the Council of Ministers.

(3) (New – SG No. 107 of 2020, in force from 01.01.2021) **In the cases of para. 2, the employer determines a period for which a cumulative calculation of working time is established, lasting from 1 to 4 months.**

(4) (New – SG No. 107 of 2020, in force from 01.01.2021) *With a collective labour*

*agreement under Art. 51b may be a specified period for the cumulative calculation of working time up to 12 months. The branches and industries in which a period for the cumulative calculation of working time can be determined up to 12 months are established by the regulation under para. 2.*

(5) (Amended – SG No. 100 of 1992, amended – SG No. 25 of 2001, in force from 31.03.2001, previous paragraph 3 – SG No. 107 of 2020, effective from 01.01.2021) *Cumulative calculation of working time is not allowed for employees with irregular working hours.*

(6) (Amended – SG No. 100 of 1992, suppl. – SG No. 52 of 2004, in force from 01.08.2004, previous paragraph 4 – SG No. 107 of 2020, effective from 01.01.2021) *The maximum duration of a work shift when calculating the total working time can be up to 12 hours, and the duration of the working week cannot exceed 56 hours, and for employees with reduced working hours – up to 1 hour above their reduced working hours.*

- The directors try to re-introduce it when the duration expires, which can also be interpreted as circumventing the law, the latter not providing for its continuous use. Also, the issue of days off is not settled legally because the way the law is written allows for different interpretations of the question of whether Sunday is a mandatory day off. Most jurists are of the opinion that Sunday is "inviolable", while some interpret para. 2 of Art. 153 as a weekly compulsory rest of a minimum of 36 hours without a precise definition of a fixed day of the week. Of course, over the years, trade union organisations in Bulgaria have developed a solid intolerance to Art. 153, which violates fixed working hours, creating further complications with its continuous introduction, and thus requiring coordination with the unions.

- The biggest problem in the cultural industry remains point 1. – the working day. In order not to turn out that all cultural organisations presenting performing arts violate the laws of the Republic of Bulgaria, the Branch agreement signed every two years between the trade union organisations, the employers' organisations, and the Ministry of Culture includes texts (with

slight variations during the years) to "legitimise" reduced working hours. In the latest Branch Collective Labor Agreement, "Musical and Performing Arts", dated July 1, 2020, we can read the following text:

*Art. 39. The institutes' working regime is a five-day working week with 40 (forty) hours of weekly work.*

*Art. 40. (1) Working time includes the time when the artistic staff and other employees are busy at the institute – concerts, performances, rehearsals, work related to the specifics of the workplace, **technological breaks (breaks), and time for self-preparation.***

*(2) In institutes, working hours during the day are 8 (eight) hours. For artistic and creative ensembles, this includes up to 5 (five) hours of rehearsal time, performances (concert performances), and up to 3 (three) hours of self-preparation.*

*(3) If necessary, after agreement with the trade union organisations, exceptions may be made to the duration and organisation of working hours.*

In this text, we notice several legal inconsistencies. One is the inconsistency of para. 1 of Art. 40 with Art. 151 par. 2 of the Labor Code:

**Art. 151. (1) (Amended – SG No. 100 of 1992):** *The worker's or employee's working time is interrupted by one or several breaks. The employer provides the worker or employee with a meal break, which must last at least 30 minutes.*

**(2) Holidays are not included in working hours.**

- The other problem is with para. 2 of Art. 40, which describes that rehearsals can last up to 5 hours and self-preparation – up to 3 hours. This immediately raises the question of what happens when the rehearsal or self-training do not reach the appropriate length. While this is difficult to prove for self-preparation, the rehearsals have a specific and easy-to-measure duration, and no symphony orchestra in Bulgaria performs five-hour rehearsals. This automatically leads to the idea that every unreached hour of the working time,

which, as the law says, is 8 hours a day, should be sanctioned with a corresponding reduction in the monthly labour remuneration. Beyond this purely legal issue, there is the issue that musicians do not practise every day, let alone three hours a day. This is a fact that has not been documented because no one wants to get into the still-unsolved case of the working hours of people involved in the performing arts.

- The additional problem is that the working hours thus regulated exclude the performance of some opera titles (for example, by Wagner), which, unless performed without any pauses (no intermission), exceed 5 hours in duration.

- All these problems lead to the conclusion that the branch contract of musical and performing arts in our country is not in full compliance with national legislation and functions only due to a "gentlemen's agreement" between the individual parties to it (the Minister of Culture used the expression during the negotiations for its acceptance).

- So, according to Bulgarian legislation, musicians work too little (they do not observe the 8-hour working day), and they work illegally a lot (they work on legally regulated days off and, on concert days, the length of the working day reaches 12 hours).

### **What could be the solution, and how are those involved in the performing arts coping?**

In an attempt to solve the problem at the State Opera-Ruse (SO-Ruse) in the period 2013-2016, the internal regulations of the symphony orchestra experimentally introduced the calculation of the working time for the musicians, using the unit "*dienst*" (in an accurate translation from German it would mean "service", but in practice, it means *one working session*, regardless of whether it is a rehearsal or a concert). It is essential to specify that this regulation is not the regulation for the internal working order of the institution but an unofficial normative document of the orchestra from a legal point of view, regulating the internal structure and hierarchy, the selection of the members of the Arts Council (AC), as well as its powers, the function of the

inspector, the working hours of the orchestra players, and the principle of admission of new musicians. The adopted text reads:<sup>1</sup>

#### DIENSTS

-) *The amount of work done by the orchestra of SO-Ruse is measured in the unit "Dienst". A dienst is a rehearsal, recording session, concert or performance lasting a minimum of 60 minutes for a concert or performance and a minimum of 150 minutes for a rehearsal or recording session.*

-) *Every six months, there is a review of the number of diensts produced by the members of the symphony orchestra.*

-) *The Artistic Council accepts the minimum number of diensts for the different categories for a six-month period for the different categories of musicians in the orchestra.*

-) *If the mandatory minimum number of diensts of a member of the orchestra is not reached, a meeting of the AC is held, at which the reasons for the shortage are discussed.*

*In the case of a decision on the existence of objective reasons, a protocol of the AC is drawn up, which is presented to the management of SO-Ruse and no other actions are taken.*

*In the case of a decision of the AC for lack of objective reasons for not reaching the minimum, the relevant member of the orchestra is offered for attestation.*

-) *If members of the orchestra exceed the salary norm for six months, the HS makes a written proposal to the management of SO-Ruse for a salary adjustment. In this case, the complexity of the performed parts, possible participation in chamber concerts and educational activities, the observance of the Job Description, the Rules for the internal work order of the SO-Ruse, the Regulations of the Symphony Orchestra of the SO-Ruse and the Code of Ethics of the SO-Ruse are taken into account."*

The system is insufficiently effective, but it partially solves the problem of the musicians' uneven workload in SO-Ruse. At the

same time, it is questionable to what extent this type of working time calculation is legal in Bulgaria.

A similar system was also adopted in 2018 by the Sofia Philharmonic Orchestra, whose regulations include the following text:<sup>2</sup>:

*"11. The workload and difficulty of the tasks for the individual positions and tools in the SO of the NISF are measured by a system of hard work based on a unit of participation – "Dienst".*

*12. One dienst is equivalent to one rehearsal, one recording session, one concert or one (children's) performance with a duration as follows:*

*For rehearsals – the duration is between 120 and 240 minutes, including breaks.*

*For concerts – the duration is between 60 and 140 minutes, including a break.*

*13. The group to which the position belongs in the relevant program determines the optimal degree of workload and difficulty in the performance of the person occupying it.*

*14. The organisation of work within the working hours for one month, without including the hours for self-preparation, takes into account the optimal degree of workload in diensts/participations for the individual groups in the orchestra as follows:*

*Group A: 15 diensts*

*Group B: 16 diensts*

*Group C: 18 diensts*

*Group D: 20 diensts*

*Group D: 22 diensts*

*15. At the end of each month, the inspector reviews the diensts made by the members of the orchestra."*

The groups mentioned above represent the internal hierarchy in the symphony orchestra as follows:

*Group A: Concertmasters*

*Group B: Conductors and assistant concertmasters*

*Group C: Soloists (Assistant conductors and "third" instruments)*

*Group D: Wind instrumentalists*

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<sup>1</sup> Rules for the activity of the SO of DO-Ruse, 2013.

<sup>2</sup> Regulations for the activity of the SO of NISF, 2018.

*Group D: String instrumentalists*

It is worth mentioning that in various Bulgarian orchestras before 1989, there was a similar internal (respectively – unofficial) practice for equalising the workload among the musicians, which was called the "point system".

**Obviously, these attempts are not in sync with the Bulgarian legislation, which makes them legally ineffective, and they can only serve to maintain internal self-regulation in the compositions.** But how did this idea come about? Through various Bulgarian musicians who worked abroad and brought their experience of calculating working hours in orchestras in other countries with them to Bulgaria.

In Europe, the unions are fighting for more holidays (for people to rest more in the summer) because all the orchestras work on permanent employment contracts, with year-round wages and insurance included. In America (US), most orchestras struggle

for shorter vacations (summer) because they are unpaid, i.e. orchestra players in these periods are not insured and do not have a current salary.

### Examples from the contracts of various orchestras

In **America**, orchestrators' working time is measured in *diensts* with a weekly calculation period.

Before that, however, let us clarify exactly the content of the concept of *diensts*. In the contract of the *Fort Worth Symphony Orchestra* (Art. 6.2a), for example, it is described as follows:

*The term "diensts", when used in this agreement, is understood to mean any gathering of the musicians called by the institution for any rehearsal (including audition), performance, seminar, lecture, photo shoot or specified meeting with the administration, provided that the activity is of a nature traditional to the work of symphony orchestra musicians.*

## ARTICLE 7

### WINTER SEASON WEEKS

7.1 Services in Winter Seasons and Downtown Weeks Other Than Pops: There will be a maximum of eight (8) services in each week, not subject to averaging. Excluded from this rule are weeks subject to tour service limitations as set forth herein, and weeks devoted exclusively to Children's Concerts, which may have ten (10) services in five (5) days

7.2 Free Day in the Winter Season: During subscription weeks in the winter season (not including any week divided between tour and Cleveland activity), the regular free day shall be Monday with the following exceptions:

- 7.2.a Thanksgiving: For Thanksgiving week, services may be scheduled on Monday, providing there are no more than seven (7) services, there are two (2) free days in the week, and there are no additional or extra services.
- 7.2.b Opera: In the case of opera weeks that are part of the subscription season, services may be scheduled on Monday, providing there are two (2) free days in the week.
- 7.2.c Opening Week: During the opening week of the season, services may be scheduled on Monday, under the following conditions:

Figure 1. Cleveland Orchestra appointment contract

Working hours in each orchestra are determined in a Collective Trade Agreement after negotiations between the management of the orchestra and representatives of American musicians' unions. Some calculations will be necessary to compare the employment of the American with that of

the European orchestras, for in the former, the unit of calculation is a week. In contrast, in the latter, with few exceptions, the unit of calculation is a month. To make the average employment map of American orchestras clear, below are examples from several leading ensembles. From a reading

of the contracts, it may be inferred that the average employment rate of the same class of orchestras is generally equal throughout the country.

The employment of the **Cleveland Orchestra** is presented in their contract (Fig. 1).<sup>3</sup>

The text indicates a maximum of 8 diensts per week, with a Monday off. A curious detail is the distribution of 10 diensts in 5 days when it comes to children's concerts.

Working hours at the Chicago Symphony Orchestra are noted as follows in the orchestra's Collective Trade Agreement (Fig. 2)<sup>4</sup>:

#### Section 12.2 Normal Services.

(a) **Number.** Except as otherwise provided in this Agreement, normal services for a week shall not exceed:

(1) eight scheduled on no more than six days;

(2) an average of 7.5 in any Contract Year, excluding foreign and domestic tour weeks, Ravinia summer weeks, vacation weeks, and weeks

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Figure 2. Chicago Symphony Orchestra's Collective Trade Agreement

#### 6.7 Work Day, Work Week, Free Day.

6.7A A "work week" shall be defined as that seven (7) day period beginning with Monday as the first day. The season, however, may begin on any day of the week. In such a case, the balance of the first week's work shall be scheduled immediately following the final full week of the season. The total number of services in this split week shall be not greater than eight (8), except that nine (9) services may be scheduled according to the provisions of Article 6.7 (B2,3,8).

6.7B During the period of this agreement, the Association shall have the right to schedule services on the following basis:

6.7B(1) The number of services per week shall be eight (8), except as provided in Article 6.7 (B2,3,8).

6.7B(2) The maximum number of services without a day off shall be nine (9), except that on six (6) occasions each season, the number of services without a day off may be ten (10).

6.7B(3) Nine-Service Weeks.

6.7B(3)a During the 2016-2020 seasons, the Association may schedule a maximum of seven (7) nine-service weeks.

Figure 3. Fort Worth Symphony Orchestra Contract

What is apparent from the definition of working hours of the orchestra in Chicago is a 6-day work week with up to 8 diensts per week. Further in the contract, the exceptions where a more significant load is possible are defined. These exceptions are

related to tours and festival appearances. Interestingly, it is noted in the contract that on an annual basis (excluding tours, festivals and vacations), the average working time per week should be 7.5 diensts.

<sup>3</sup> TRADE AGREEMENT between the Musical Arts Association operating the CLEVELAND ORCHESTRA and the Cleveland Federation of Musicians, Local no.4 AFM, 2015-2018, p. 24.

<sup>4</sup> AGREEMENT between the CHICAGO SYMPHONY ORCHESTRA ASSOCIATION and the Chicago Federation of Musicians, Local 10-208 AFM, September 14, 2015 through September 16, 2018, p. 17.



The diensts agreed in the Contract (Fig. 3) between the **Fort Worth Symphony Orchestra** and the union organisations<sup>5</sup> are in the normal working process – 8 per week, and it is expressly noted that under normal circumstances, there should be a day off after 9 diensts at the latest.

As with other orchestras, deviations from the standard workflow are possible under certain circumstances. In this case, it is agreed that six times during the season, 10 diensts will take place without a day off. It is also mentioned that during the seven weeks in the season, the week's diensts can be 9.

The Fort Worth Symphony Orchestra's contract also contains a summary that is missing in most orchestra contracts in the USA – Art. 6.1a reads: *"The 2016-2020 seasons shall be forty-six (46) weeks (368*

*services for Contract B musicians) in length."* Thus, the annual services for an ordinary orchestra player (tutist) are 368.

Another interesting text (6.1B) states that the management of the composition can extend the season, in the presence of additional work, without consulting the union organisations: *If, during a season within the term of this Master Agreement, the FWSO obtains additional services so that additional work becomes available, the Association may unilaterally extend the length of that particular season, without negotiating and regardless of contrary language in this Master Agreement.*

The contract (Fig. 4) of another of America's leading orchestras, the **San Francisco Symphony**<sup>6</sup> (Kollektivvertrag, 2018), includes the following text:

#### ARTICLE IX: NUMBER OF SERVICES

**9.1 Total per Week** Nine services may be scheduled in the first week of any regular season, one of which is paid as an extra rehearsal (at an hourly rate of 1/18 of personal weekly salary) and seven in the week before the mid-winter vacation. When nine services are not scheduled in the first week, eight services may be scheduled in the week before the mid-winter vacation. Nine services may be scheduled in a week with a Saturday containing one Family matinee and one evening concert as described in 9.2 below. In weeks with two or more back-to-back concert services, no more than six services may be scheduled except as in 9.4. In all other weeks eight services may be scheduled, except as provided in Articles XIII (Festival Weeks) and XVI (tours).

There shall be no more than 10 services of any kind in a work week excluding a patch session. During the regular season and Beethoven Festival there shall be a maximum of 20 services of any kind in any 13-day segment wherein one free day separates two segments of six consecutive days of service. If there is a total of 20 services, there shall be no more than ten services in each six-day segment. Once per season eleven services will be permitted in one of the six-day segments, eight of which may be non-electronic. The other six-day segment may contain a maximum of nine services.

**9.2 Total per Day** No more than two services and no more than one concert may be scheduled per day except as provided in 9.6 (Retirement Fund Services) and 9.7 (In-School Services). However, two concerts may be scheduled in the same day if both are ballet performances, or if one is a single youth concert of up to one hour. Only one service may be scheduled on either the first or last day of the mid-winter vacation.

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Figure 4. San Francisco Symphony Contract

As can be seen from the text, the San Francisco Orchestra allows, in certain cases, up to 9 and even 10 diensts, and the limit during festival events of 20 diensts for 13 consecutive days is also set. But average employment, as described at the end of the first paragraph of Art. 9.1, is 8 diensts per week.

So, evident from the various contracts of professional orchestras in the USA, their working hours are calculated in diensts

(services), including rehearsals, concerts, performances and children's shows, as the average employment of musicians in these orchestras, excluding travel, festival events and children's performances are 8 diensts per week. The contracts of the orchestras with the union organisations do not exclude a higher workload of the compositions. Still, they must be described as special cases or exceptions in the relevant contract.

<sup>5</sup> MASTER AGREEMENT between the FORT WORTH SYMPHONY ORCHESTRA ASSOCIATION and the Dallas - Fort Worth Professional Musicians Association, Local 72-147 AFM, For the term of December 26, 2016 through July 31, 2020, p. 11

<sup>6</sup> SAN FRANCISCO SYMPHONY AGREEMENT between the San Francisco Symphony and Local 6, AFM, 2015-2018, p. 16

What about working hours in Europe? Austria, which is considered the birthplace of classical music (Vienna School, Second Vienna School, etc.), is an example of many other countries in the world, so it is interesting to see how the system works there. Like Bulgaria, Austria has an official 8-hour working day, but has adopted, like many other countries in Western Europe and the USA, to measure musicians' working hours in *diensts*. Unlike in the US, here, the calculation period is one month, and the exact number of *diensts* for different instruments in different orchestras is determined in the Orchestras' Collective Agreement.

The **Wiener Symphoniker** is one of the leading orchestras in Austria, and in paragraph 9, para. 1 of its Collective Agreement (Fig. 5), the orchestra determines the monthly employment of the musicians, graded according to their different positions. Seventeen special instruments (concertmasters, bandleaders and soloists), a group of wind instruments and a group of tutists are defined. Employment per month varies between 20 *diensts* (for 1. Concertmasters) and 29 *diensts*. It is important to note that the contract states that the *dienst* is a "limit"; that is, it cannot be exceeded. Exceptions are described in paragraph 10.

In the Collective Agreement (Kollektivvertrag, 2015) of another of the most important orchestras in Austria – the **Grazer Philharmonisches Orchester** – the concertmasters of violins and cellos are given a special status, and the other members of the orchestra are divided into 4 categories (Fig. 6). Another feature of the contract of the Graz Philharmonic is that the *diensts*, which are described in paragraph 16 and paragraph 2, are presented on a monthly and seasonal basis. In addition, in paragraph 3, it is mentioned that on an annual basis, up to 45 *diensts* can be added per person – for an additional fee. It is also evident that in Graz, the workload is higher than that of the Vienna Symphony Orchestra. The lowest number of *diensts* is again for the concertmaster – 22, and the highest – for the tutists – is 33 *diensts* per month.

#### § 9 Ausmaß der Dienstverpflichtung

(1) Die den Bezügen (§ 20) zugrunde liegende normale dienstliche Tätigkeit der Orchesterangehörigen wird nach Diensten (§ 8 Abs. 16) geregelt. Die Anzahl der Dienste ("Limit") beträgt im Kalendermonat

1. Konzertmeister	20 Dienste
2. Konzertmeister	23 Dienste
1. Solocellist	23 Dienste
1. Bläser	24 Dienste
3. Konzertmeister	25 Dienste
1. Solobratscher	25 Dienste
2. Solocellist	25 Dienste
1. Stimmführer der Violinen	27 Dienste
1. Solobassist	27 Dienste
4. Konzertmeister	27 Dienste
1. Harfenist	27 Dienste
1. Paukist	27 Dienste
alle 2. bis 4. Bläser	28 Dienste
2. Stimmführer der 2. Violinen	28 Dienste
2. Solobratscher	28 Dienste
3. Solocellist	28 Dienste
2. Solobassist	28 Dienste
2. Paukist	28 Dienste
alle übrigen Orchesterangehörigen	29 Dienste

Figure 5. Wiener Symphoniker Collective Agreement

(2) Die den Bezügen (§ 29) zugrunde liegende normale dienstliche Tätigkeit der Dienstnehmer wird nach Diensten (Konzert-, Theater- und Proben- und Aufnahmendienste) geregelt. Die Anzahl der Dienste beträgt:

	Monatslimit	in der Spielzeit
1. Konzertmeister	22 Dienste,	200 Dienste,
1. koordinierter Konzertmeister und 1. Solocellist	24 Dienste,	220 Dienste,
2. Konzertmeister und 2. Solocellist	26 Dienste,	240 Dienste,
Gruppe I	30 Dienste,	280 Dienste,
Gruppe II	31 Dienste,	290 Dienste,
Gruppe III	32 Dienste,	300 Dienste,
Gruppe IV	33 Dienste	310 Dienste

Als Spielzeit gilt der Zeitraum vom 1. September bis zum 31. August des darauf folgenden Jahres. Die Dienststimmgruppen werden folgendermaßen eingeteilt:

Gruppe I	1. Bläser, 1. Pauker, Harfenisten, die Stimmführer der Streicher;
Gruppe II	stellvertretende 1. Bläser, 3. Bläser, stellvertretende Pauker, die stellvertretenden Stimmführer der Streicher
Gruppe III	2. und 4. Bläser, alle 1. Geiger;
Gruppe IV	alle übrigen Musiker.

Figure 6. Grazer Philharmonisches Orchester Collective Agreement

Another important orchestra in Austria is the **Bruckner Orchester** in Linz (Fig. 7). The famous orchestra, which has also visited Bulgaria in the past, describes the musicians' working hours in a similar way in paragraph 15 of its Collective Agreement (Kollektivvertrag, 2015). What is interesting in this case is that the concertmaster, the first viola and the first cello are not described in the contract. Still, it is noted that they have special agreements, with their conditions, freely negotiated between the instrumentalists and the management. The remaining musicians of the orchestra in Linz are divided into 4 groups, like their counterparts in Graz.

(2) Die den Monatsbezügen gemäß § 30 zugrunde liegende normale dienstliche Tätigkeit der Dienstnehmer (Dienstlimit) wird nach Diensten geregelt und beträgt im Kalendermonat für:

Angehörige der Dienstlimitgruppe 1	29 Dienste,
Angehörige der Dienstlimitgruppe 2	30 Dienste,
Angehörige der Dienstlimitgruppe 3	31 Dienste,
Angehörige der Dienstlimitgruppe 4	32 Dienste.

Das Dienstlimit der Konzertmeister, Solocellisten und Solobratschen unterliegt der freien Vereinbarung.  
Die Dienstlimitgruppen sind im Stellenplan festgelegt.  
Die Stimmführer-Stellvertreter sind nicht verpflichtet, mehr als 16 erste Dienste pro Monat zu leisten.

Figure 7. Bruckner Orchester Collective Agreement

#### § 18 Dienstlimit

(1) Ein Dienst ist nach Maßgabe der in diesem Vertrag festgelegten Ausnahmen:

- a) jede Konzertveranstaltung (konzertante Aufführung)
- b) jede Theatervorstellung
- c) jede Probe
- d) jede andere in diesem Kollektivvertrag als Dienst bezeichnete Leistung

(2) Die den Monatsbezügen zugrunde liegende, normale dienstliche Tätigkeit der Dienstnehmer (Dienstlimit) wird nach Diensten geregelt und beträgt für:

	Monatslimit	Jahreslimit
1. Konzertmeister	20 Dienste	240 Dienste
2. Konzertmeister	24 Dienste	288 Dienste
Solocellisten	23 Dienste	276 Dienste
Angehörige der Dienstlimitgruppe 1:	27 Dienste	324 Dienste
Angehörige der Dienstlimitgruppe 2:	29 Dienste	348 Dienste
Angehörige der Dienstlimitgruppe 3:	30 Dienste	360 Dienste
Angehörige der Dienstlimitgruppe 4:	31 Dienste	372 Dienste

Figure 8. Mozarteum Orchester Collective Agreement

#### § 32 Funktionsgruppen und Sonderverträge

(1) Jede Berufung eines Dienstnehmers in eine Funktion wird nach dem Leistungsprinzip vorgenommen. Orchestermittglieder haben je nach vertraglich vereinbarter Funktion Anspruch auf folgende Funktionszulagen:

Zulage		Limit
SV	Sonderverträge 1. und 2. Konzertmeister und Solo-Cello	24/26/27
Z1	3. Konzertmeister, Solo-Viola, Stimmführer Violinen II 1. Bläser, 1. Schlagwerker, 1. Kontrabass, Harfe*	28
Z2	3./1. Bläser, 2./1. Posaune, Bassposaune, 5./1. Horn stv. Solo-Cello, stv. Solo-Viola Stimmführer Violinen I, stv. Stimmführer Violinen II Tuba*, Schlagwerker/Pauker, 2. Kontrabass	29
Z3	2. und 4. Bläser, 2./3. Horn stv. Stimmführer Viola, stv. Stimmführer Cello 2. stv. Stimmführer Violinen II, stv. Stimmführer Violinen I	30
Z4	Violinen I tutti, 3. Kontrabass	31
Z5	Violinen II tutti, Kontrabässe tutti, Violen tutti, Celli tutti	31

Figure 9. Tiroler Symphonie Orchester Collective Agreement

Of course, when it comes to Austria, one cannot fail to mention the **Mozarteum Orchester** in Salzburg. In paragraph 18 of the Collective Agreement (Kollektivvertrag, 2004), there is again a division of the orchestra into 4 groups, and the two concertmasters and the first cellist are described separately. In addition, in paragraph 3 of the same paragraph, it is said that in the case of monthly equalisation of diensts (compensation between months), the limit of diensts cannot exceed 36 (Fig. 8).

In Tirol, things are a little different – not so much in terms of workload, but in terms of dividing the orchestra into groups. In

paragraph 32 of the Collective Agreement (Kollektivvertrag, 2009) of the **Tiroler Symphonie Orchester** in Innsbruck (Fig. 9), again, the two concertmasters and the first cello are brought out on separate contracts, but with precisely described diensts, and the rest of the orchestra is divided into 5 groups. The workload varies from 24 diensts (for the first concertmaster) to 31 diensts (for the tutists in the orchestra).

#### § 63. Erreichbarkeit

Das Mitglied hat während der Spielzeit seine Erreichbarkeit bis zu 3 Stunden vor Vorstellungsbeginn sicherzustellen und seinen Aufenthaltsort so zu wählen, dass es auch dann noch rechtzeitig zum Dienst erscheinen kann.

#### § 64. Dienstlimit

(1) Das Dienstlimit für das einzelne Mitglied beträgt für einen Zeitraum von jeweils 2 zusammenhängenden Monaten (Durchrechnungszeitraum) in der 10-monatigen Spielzeit, jeweils beginnend mit den Monaten September/Oktober:

Konzertmeister	42
Solocelli	46
Solobratschen	46
Solokontrabässe	52
1. Blasinstrumente	46
Tuben	46
Harfen	46
Pauken	46
2. Blasinstrumente mit Sonderinstrumenten	52
2. Blasinstrumente ohne Sonderinstrumente,	
3. und 4. Blasinstrumente, Wechsellposaune	52
Stimmführer und Vorgeiger der Streichinstrumente	54
Tuttistreichinstrumente	58
Schlagwerk	58

(2) Das Mitglied ist weiters zur Leistung von 6 Überdiensten pro Durchrechnungszeitraum verpflichtet, die gemäß Nebengebührenordnung entlohnt werden, soweit nicht vom Dienstgeber eine Übertragung gemäß Abs. 3 vorgenommen wird.

Figure 10. Vienna Philharmonic Collective Agreement

Probably the most interesting is the situation with the most famous orchestra in the world – the **Vienna Philharmonic**. This orchestra has a dual function – both a philharmonic and an opera orchestra. The philharmonic status of the orchestra, however, is more special than that of other orchestras because, from a legal point of view, it is a joint-stock company of the musicians in the orchestra. For this reason, the Vienna Philharmonic does not have unions in its philharmonic activities; everything is decided there in any way according to the principle of direct democracy. There are unions, however, in the other face of the orchestra – such as the opera orchestra of the *Wiener Staatsoper* (Vienna State Opera). An important detail is that the Vienna Opera, although it has its director, is part of Austria's *Bundestheater Holding*. The Bundestheater (Bundestheater, n.d.) (in translation federal/state theatre) is an organisation that includes 5 autonomous units: *Burgtheater*,

*Wiener Staatsoper, Volksoper, Wiener Staatsballett and ART Theaterservice* (Theatre, State Opera, National Opera, State Ballet and production company – sets and costumes). In this sense, the trade unions of the orchestra, known as the Vienna Philharmonic, conclude their Collective Agreement (Kollektivvertrag, 2011) with the central organisation, the Bundestheater. In paragraph 64 of this contract, the orchestra is not divided into groups, as it is in other orchestras, and the calculation period for the *diensts* is two months (Fig. 10).

According to this contract, everyone is required to accept up to 6 additional *diensts* for the calculation period, which are paid extra. Calculated on a monthly basis, the main *diensts* of the orchestra vary between 21 and 29. Another important point is that, regardless of employment, the musicians are required to be available up to 3 hours before a performance, in case they need to be called to work. And the most special thing in the case of the Vienna Philharmonic is that these *diensts* include only the opera and ballet performances. All recordings, symphonic concerts and rehearsals for them are outside the official working hours of the orchestra. This is probably one of the main reasons why subscription concerts of the Vienna Philharmonic are always during the day (on Saturdays at 3:00 p.m. and Sundays at 11:00 a.m.) – because in the evenings, the orchestra is busy with performances at the State Opera.

The only orchestra in Austria where working hours are calculated on an annual basis is the **Austrian Radio Symphony Orchestra** (RSO-Wien). In his Collective Agreement (Anlage 1, §3, item 10 pt.2), the following annual *diensts* limits are recorded (Aacamera, 2014):

384 *diensts* – Tutists  
360 *diensts* – solo instruments  
336 *diensts* – leading instruments  
312 *diensts* – first cellist  
288 *diensts* – second concertmaster  
276 *diensts* – first concertmaster

In the same contract, it is noted that if a *dienst* is canceled 24 hours before it takes place, it is not respected (Anlage 1, §3, item 8 pt.A).

Oddly enough, it is noted that these *diensts* also include annual leave, during which each day off counts as one *dienst*. Calculated in this way, the monthly workload is comparable to the rest of the Austrian orchestras, as one tutist in the composition is paid 32 *diensts* per month. What is particularly impressive is that the working conditions of RSO-Wien are actually described in the general Collective Agreement of Austrian Radio, which is not a creative organisation. This means that the *diensts* system for calculating the work of musicians is not an internal system of the country's creative institutions but is recognised at the national level as a method for calculating the employment of artists.

### Comparative analysis with other European countries

How is the issue treated in other European countries? Everyone has their own way of calculating musicians' working hours, but in most cases, the *diensts* system is used.

In **Poland**, which has followed the path followed by Bulgaria, this system is also a fact, albeit in a different version. It can be seen that the load is slightly lower than in the neighbouring Western countries. However, musicians' labour is measured not in hours (for example, an 8-hour workday) but in "standards", which are of two types. In paragraph 9 of the Ordinance on the remuneration of employees<sup>7</sup> of the Lodz Philharmonic, based on the Labor Code (from 26.06.1974), the Act on the Organization and Conduct of Cultural Activities (from 25.10.1991) and the Regulation of the Minister of Culture on the remuneration of employees in cultural institutions (from 22.10.2015) the working time of musicians, calculated in "concert standards" and "rehearsal standards", is described. According to this document, the concertmaster and deputy concertmaster are entitled to fewer concerts per month but not less rehearsal time. The average monthly standard is 3 concerts and 21 rehearsals. Paragraph 10 describes that when re-

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<sup>7</sup> Regulamin wynagradzania pracowników Filharmonii Łódzkiej im. Artura Rubinsteina, §9, p. 2.

hearsal standards are exceeded, musicians are entitled to additional remuneration (for each "rehearsal standard") commensurate with one working day's salary, and for concert overtime – 16% of the basic wage for any "concert standard".

The country with the most orchestras in Europe is probably **Germany**, where 129 publicly funded orchestras currently exist (Deutschen Musikrat, 2021). How are working hours calculated for musicians in this country? Reading the data presented in paragraph 12 of the Ministerialblatt of the Ministry of Finance of Saxony<sup>8</sup>, we come across the following text:

*"The number of diensts of the musicians depends on the size and tasks of the orchestra. Musicians are required to perform up to 183 diensts in a compensation period of 24 weeks."*

Of interest is the selected period for calculating working hours. A closer look at the seasons of German orchestras reveals that 24 weeks is the size of one half-season. Broken down by week, the distribution of diensts means that, on average, a musician in Saxony has a weekly working time of 7.6 diensts, making about 31 diensts per month.

Another example, this time with a radio orchestra in Germany (radio orchestras are not classified as creative organisations but as media structures) – in paragraph 6 of the NDR Collective Agreement (Deutsche Orchestervereinigung, 2001), the **Elb-Philharmonie** orchestra is assigned a 5-day working week, with no more than 10 diensts, with the duration of one diensts set at 2.5 hours.

The calculation of working hours in **Great Britain** is significantly different, as it is not uniform for the whole country. Examining the contracts of the various orchestras also provides information on a possible different way of calculating the musicians' employment – by hours.

After all, people in post-socialist countries often forget that in a market society, pay and working hours are fundamentally connected and dependent on each other. This applies particularly to Great Britain. In connection with the suspension of the performing arts due to the corona crisis, in his

interview with Bavarian Radio, the chief conductor of the **London Symphony Orchestra** (one of the most respected orchestras in Great Britain, founded in 1904) Simon Rattle says: *"Ich bin der Chefdirigent eines Orchesters in London, das im Grunde nur bezahlt wird, wenn es spielt."* (Gröger, 2020) – "I am the chief conductor of an orchestra in London, who generally only gets paid when he plays." In other words, UK working hours are of much more fundamental importance to musicians than in continental Europe.

The **BBC Symphony Orchestras** (Musicians' Union, 2022) are active in recording and performing symphonic concerts. In these orchestras, however, the calculation of working time is entirely on an hourly basis. In point 5.1.1 of the contract, the working hours for the whole year are described, with the maximum employment of the musicians being 2080 hours per year. The following describes the various possibilities for distributing these hours by quarters, weeks, etc.

The opening hours of the **Royal Opera House Orchestra** (Covent Garden) are entirely different (Musicians' Union, 2022). It is also calculated in hours, with hours worked forming the salary. An interesting fact is that unlike the Central European orchestras, in the Royal Opera House, the pay of the orchestra is divided (similar to Austria) into 4 groups, according to the functions of the musicians in the orchestra, but the employment for the different groups is absolutely the same; the difference is in the pay. Until 31 August 2022, the annual employment of musicians at the Royal Opera House in London was 900 hours, and from 1. September 2022, it has been 1000 hours per year. It is also essential that salary is calculated on the basis of hours worked (salary rates are based on hourly rates by category).

Different – and very close to the European model – is the calculation of the employment of musicians at the **Welsh National Opera** (Musicians' Union, 2022). The orchestra's contract (item 2.3.2) states that the working week is from Monday to Sunday, and the working year is divided into 13 periods of 4 weeks each (item 2.3.3). For each period (of 4 weeks), working

<sup>8</sup> Ministerialblatt des Sächsischen Staatsministerium der Finanzen 3/2010 p.36, §12, 2

hours are up to 32 diensts, with a total duration of up to 96 hours.

The **Birmingham Symphony Orchestra** (Musicians' Union, 2022) is a typical symphony orchestra in Great Britain, mainly performing concerts with symphonic music. With the nationally accepted 40-hour working week, the working week for Birmingham musicians is 25 hours. These hours can be used in diensts of up to 3 hours in length, with no more than 2 diensts per day (up to 6 hours total). In case of excess, the musicians are owed additional remuneration.

The employment of musicians at the **Royal Liverpool Philharmonic** is calculated differently, closer to the European working time calculation system (Musicians' Union, 2022). Clause 3.4 of the orchestra's contract states that the base unit for calculating working hours is a "session" (equivalent to a dienst, as is the word "service" in the US). The norm/limit for diensts on an annual basis is 440. The meaning of the word is also described – a dienst can be a concert, rehearsal, school concert, family concert, general meeting, workshop, or recording session. The length of a dienst at the Royal Liverpool Philharmonic is up to 3 hours.

The **Royal Scottish National Orchestra** (Musicians' Union, 2022) calculates its working hours using a model similar to the American way of calculation. In item 9.1 of the orchestra's contract, we read: the musicians, if required of them, participate in more than one dienst per day, the total duration of which cannot exceed 6 hours; the maximum number of diensts for six consecutive working days is, in principle, 12, with up to 5 exceptions possible in the year, when up to 16 diensts, spread over eight consecutive days, is possible.

## Conclusions

The accurate measurement and fair compensation of work in orchestras are crucial for maintaining the high standards and sustainability of the performing arts. Unlike many other professions where a standard hourly rate is applicable, the

workload of musicians and other performing artists varies significantly in intensity and complexity. This necessitates a specialised approach to measuring their work, one that recognises the unique nature of their contributions. By focusing on participation or sessions rather than conventional hourly rates, orchestras can ensure that the effort and skill required for each performance are adequately valued.

Proper compensation not only acknowledges the artists' dedication but also fosters a supportive environment where musicians can thrive. In orchestras, each performance demands a high level of technical proficiency, emotional expression, and physical endurance. Standardising these diverse and demanding requirements into a typical eight-hour workday would undermine the quality of performances and the well-being of the artists. Therefore, a more flexible and realistic approach to measuring working hours helps to align the artists' remuneration with the actual demands of their profession.

Moreover, ensuring fair pay for orchestra members is essential for attracting and retaining top talent. Competitive compensation packages reflect the artists' expertise and dedication, making it possible for orchestras to secure and maintain a roster of highly skilled musicians. This, in turn, elevates the overall quality of performances, enriching the cultural landscape and providing audiences with exceptional artistic experiences. A well-compensated orchestra is also more likely to engage in innovative and ambitious projects, further contributing to the advancement of the performing arts.

In conclusion, the unique demands of orchestral work necessitate a departure from traditional hourly compensation models. By adopting a system that measures work through participation and aligns pay with the complexity and effort involved, orchestras can ensure fair treatment of their artists. This approach not only benefits the musicians but also enhances the overall quality and sustainability of the performing arts, fostering a vibrant and dynamic cultural environment.



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