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**German Federal and State Indemnities –**  
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*Reflections about guarantees and insurance on the art market*

Around 30 years ago there was a lively discussion in Germany about the big Tutanchamun exhibition in Hamburg. The sum insured at that time was 15 million EUR, the approximate insurance premium 42.000 EUR. But also the Tutanchamun exhibition from November 2004 until May 2005 in Bonn was well-insured. However, this time the approximate sum insured amounted to 540 million EUR, whereas the amount of the insurance premium increased only up to 400.000 EUR.

Thus the sum insured was 36 times higher than in 1975, but within the same period of time the insurance premium rose to an amount only nine times higher. Regarding the proportional relation, the insurance costs decreased by 75 per cent. This is magic.

The magic formula behind this seems to be the existence of federal and state guarantees, which are granted mostly to big exhibition projects of public financed institutions. They are awarded whenever an institution or an organisation does not dispose of adequate financial potential to buy insurance coverage on the art insurance market .

On the art market, especially those institutions or exhibitions are supported, which are realising projects representing the Federal Republic of Germany or which are representative for it. Among them are, for instance, the Deutsches Historisches Museum and the Kunst- und Ausstellungshalle of the Federal Republic of Germany.

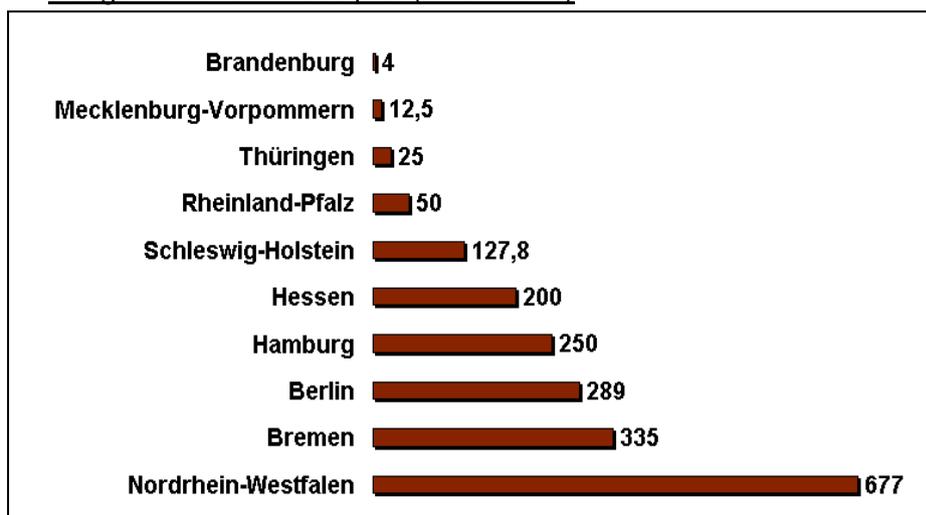
It depends on different factors whether a project is granted a federal and state indemnity and to which amount. Among these factors are the federal and state budgets, which are adopted every one or two years.

The classification of a guarantee varies according to the budget of the individual state.

Bavaria is the only state out of 16, which does not grant any guarantees. Lower Saxony, Baden-Württemberg, Saxony, Saxony-Anhalt and Saarland define no fixed budgets for guarantees, but after all they grant some.

Within the other states the budgets for guarantees vary substantially. Brandenburg, e.g., budgets 4 million EUR per annum, North Rhine Westphalia provides 677 million EUR per annum.

Budget for Guarantees p.a. ( Mio. EUR )



Variations concerning the federal and state level do also exist in terms of liability. The different legal regulations for the art market are based on the Allgemeinen Versicherungsbedingungen für Ausstellungen (AVB für Ausstellungen) from 1998. Paragraph eight thirty-nine Civil Code as well as article thirty-four Basic Law and the aspect of negligence count to further relevant general regulations.

Depending on the state in which a guarantee was granted, damages due to the lack of packaging or to the quality of the forwarder are not covered. There are also different general security conditions to be complied with that need to be taken into account.

Although the idea of a federal promotion of cultural projects is a good one, but on closer inspection some drawbacks become apparent. Besides the legal differences from state to state another drawback is the fact that there are no reserves within the public budget for eventually emerging damages. In case of a substantial claim regulation will take time due to the public democratic decision process for extra household decisions of the affected state.

Due to this background, private collectors as well as professional art dealers are sceptical of those federal indemnities. In case a situation might occur in which the state has to answer for the damages, it consequentially takes some time until the sum is available and due to the dramatic rise of individual art value aspects of envy are likely to enter the regulation process.

The combination of state guarantees and insurances in regard to major exhibition projects is the basis of the necessary financial and legal frame for collectors, dealers and museums. By these means states and insurances support and promote cultural projects and thus they help to preserve them. At the same time the insurance business offers solutions specially-tailored for the art market which, among other things, consider the special demands on transport and security conditions during an exhibition. It is finally the choice of the highest grade of professionalism regarding packing and transporting art heritage which avoids damages and not the cheapest price.

The symbiosis of state guarantees and insurances is the precondition to continually ensure the magic of low priced insurance premiums with high sums insured. Another prerequisite is the existence of sufficient insurance premiums on the world market to be able to cover the high expenses on the art market. Regarding volatility art insurance is highly exposed. Claims are rare due to the professionalism of all participants in the exhibition world, but when they occur they immediately consume a high amount of world capacities. And when prices of single pieces of art constantly rise above the 100.000.000 € level it is finally cheaper to insure.