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VOICES OF CULTURE REPORT

JUNE 2021

This report represents the individual contributions of the participants taking part in the group discussion. The views are not necessarily shared by all.

Status and Working Conditions for Artists, Cultural and Creative Professionals



VOICES OF CULTURE

Structured Dialogue between the European Commission and the cultural sector



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Introduction

Cultural and creative sectors (CCSs) play an immense role in shaping democratic, cohesive and reflexive societies. Artistic, cultural and creative activity is essential for individual well-being and empowerment; it creates a pluralistic space for debate, triggers social innovation and helps comprehend the complex and accelerated realities we live in. Culture is the basis of Europe's diversity and shared identity, as well as an essential component of the EU's economic dimension.

Over the past few years, these multiple values of CCSs have been increasingly recognised and highlighted at the EU level. The New European Agenda for Culture (2018) features the vital contribution of those sectors to the various fields of social life, economic development, and international relations.

However, this growing acknowledgement of culture, and CCSs as such, goes at odds with the lack of coordinated and comprehensive EU-wide approach to improving the working conditions of the individuals who “make culture” - artists, authors, performers, actors, cultural managers, and many other types of professionals working in the CCSs. The vitality of European culture depends on the well-being, freedom, professional growth and development of the people professionally engaged in culture and the arts. Economic, social, and any other role of culture and the arts cannot be fulfilled if a primary, vital condition is not ensured - **a free and fair environment for artistic value to flourish, and for artists to pursue their ideas and aspirations.** Such a context entails sufficient public recognition (legal, social, political) as well as adequate protection and support, freedom from various types of pressure (economic, political, etc.), and ample space for the necessary ingredients of a vibrant artistic and cultural path - cross-border exchanges, life-long learning, research and innovation, etc.

The European cultural ecosystem is not homogenous: it encompasses various disciplines and sub-sectors, which function on very different business logics, with various extents of public recognition and support. The issues which are at stake when it comes to working conditions of cultural and creative workers are numerous and complex: legal status, social security, nature of incomes, taxation, intellectual property rights, collective bargaining, mobility, access to funding, freedom of expression, diversity and equality, access to training and education, and more. All those issues are to various extents relevant to each of the CCSs. Moreover, those issues are interrelated and partially stem from some common root causes.

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Here are just a few of them:

- The **atypical nature of artistic work** and the lack of the acknowledgement of this atypical nature at different levels. Many of the artistic and cultural practices are highly laborious and time-consuming, while having to face a very unpredictable and subjective market.
- The **digital** is a natural professional sphere for some CCSs, and it also generates more and more opportunities for artists and cultural and creative professionals predominantly working in physical realms. However, the digital world also brings challenges for the CCSs, such as infringement of intellectual property rights, censorship by digital platforms, privacy and safety issues.
- The **unbalanced power and resources distribution along the creative value chains**: artists, the base of the value chain, are often in a weaker position than the rest of it, especially compared to presenters, broadcasters, institutions, museums, publishers, etc. Thus, they often have to accept unfair conditions of collaboration.
- **Artistic and cultural education systems** are not sufficiently adjusted to the changing social, ecological, and economic realities, which young artists and cultural and creative workers face upon graduation.
- Finally, there is also a general **struggle to achieve the full official recognition** - at different levels - of the importance of artistic work and culture as such, its indisputable intrinsic value for societies, communities and individuals. This results in insufficient legal recognition of the status of those working in culture and the arts and the lack of various types of support and protection.

The efforts to address the actual socioeconomic situation of artists and cultural workers are scattered over various levels, legal domains, public initiatives and debates, and overall those efforts remain scarce. This is one of the underlying reasons why many artists and cultural workers' livelihood and professional future are under threat today, amidst the COVID-19 crisis, which has had an unprecedented negative impact on the cultural ecosystem, with an average of 31% income loss and peaks of up to 90% in some sub-sectors, according to the recent study by EY¹.

¹ Rebuilding Europe. The cultural and creative economy before and after the COVID-19 crisis, January 2021, EY Consulting

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The realities in regard to the situation of artists and cultural and creative workers differ widely across EU Member States. There are no common definitions at the EU level, nor are there consistent and regularly updated EU-wide data and statistics on CCSs. Moreover, the uneven landscape of support measures taken by Member States during the pandemic has deepened the existing gaps in addressing the status of artists and cultural and creative workers across the EU. As a result, there will be even bigger asymmetries and imbalances among various Member States, which will create additional impediments for European artists and cultural and creative workers to collaborate across borders, co-produce, and show their work abroad. Ultimately, **this is not a sustainable and relevant context to promote and celebrate European cultural diversity.**

Therefore, there is a need for a comprehensive EU action to improve and protect working conditions in the CCSs. The last official document on behalf of the European institutions on working conditions of artists and cultural and creative workers is the *2007 European Parliament Resolution on the social status of artists*. Working conditions of artists and cultural and creative workers have not improved since then, while the economic, social and political realities in which they work have only become more challenging.

The most recent *UNESCO Report on Culture and Working Conditions for Artists* (November 2019) states: “New policy solutions need to be found to address [...] emerging challenges to the status of artists, to their rights to create without censorship or intimidation. To their right to have artistic work supported, distributed and remunerated. To their rights to freedom of movement and of association. To their rights to social protection and to citizens’ rights to participate in the cultural life of their choosing.”

Thus, **it is high time the EU adopts a holistic approach to determining social and economic position of artists and cultural workers, which would embrace the CCSs as a whole.** There is a need for the EU and Member States to address the multiple problems related to the working conditions in CCSs as an interrelated complex of issues, look into their root causes, while also developing policies and advancing on each of them separately, at different paces, depending on the nature of the problem.

This report has been drafted on the basis of the exchanges in the framework of the Voices of Culture on the “Status and Working Conditions for Artists, Cultural and Creative Professionals” that held its two-day brainstorming session on 27-28 April 2021.

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Each chapter summarises the key insights of the various discussion groups. For the sake of consistency, some overlapping elements have been grouped in one single chapter. The views presented in the report are not necessarily shared by all participants

Chapter 1

Legal Status, Recognition, Social Security of Artists, Cultural and Creative Workers

Chapter 2

Fair Pay, Collective Bargaining, Intellectual Property, Flattening Income Variations, Financial Support

Chapter 3

Research, Lifelong Learning, Representation, Entrepreneurship

Chapter 4

Mobility (Physical, Greener, Digital, Blended, Regulations, Obstacles)

Chapter 5

Artistic Freedom & Freedom of Expression: Diversity and Inclusion, Threats to Artistic Freedom, Measures and Regulations.



Chapter 1

Legal Status, Recognition, Social Security of Artists, Cultural and Creative Workers

*Professional cultural work is work, and it needs
to be recognised as such*

Writer

Alessandra Saviotti - Art Workers Italia

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CHAPTER 1

Legal Status, Recognition, Social Security of Artists, Cultural and Creative Workers

Professional cultural work is work, and it needs to be recognised as such

Despite previous attempts at European and global level to secure measures and models aimed at improving the status of artists, cultural and creative workers, there are still gaps as regards access to social protection and social benefits, especially in light of the pandemic.

According to the *UNESCO Recommendation concerning the Status of the Artist* (1980) and the more recent 2007 European Parliament Resolution on the Social Status of the Artists, Member States are recommended to develop and implement a legal and institutional framework for creative artistic activity through the adoption of a number of coherent and comprehensive measures in respect of contracts, social security, health insurance, direct and indirect taxation and compliance with the European rules. This plea has been reiterated by the *2020 European Parliament Resolution on the Cultural Recovery of Europe*, which - among other things - calls on the Commission to introduce a European Framework for Working Conditions in the cultural and creative sectors and industries (CCSI), which would provide guidelines and principles with a view to improving working conditions in the CCSIs.

The crisis caused by the Covid-19 pandemic revealed that many Member States still lack basic protection instruments for artists and cultural workers. This further exacerbates the existing precarity in the whole sector.

Since the European Union has only limited competences in the area of culture, the main challenge is to find the terrains in which the EU can act to improve working conditions in the CCSs. Firstly, there is a need to treat this matter as a **social policy issue**, by involving the sectoral social partners and relevant ministries responsible for economic development, labour and fiscal policies. Secondly, it is necessary to take into consideration the diversity of the cultural and creative sectors, types of cultural and creative work, and the context in which it is produced, performed and presented.

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ISSUE 1

The Legal Status of Artists, Cultural and Creative Workers

Trying to frame cultural work in just one definition proves to be a tough task. Rather, it must be acknowledged that by its nature, cultural work is processual, diverse, in constant transformation in responding to the urgency of the world, a collective effort, and it aims at being multiformed. Beyond production and presentation, it includes research, rehearsing, planning, dissemination, education, training, creation, which through their nature are invisible and are often not immediately perceived as work. Every cultural worker performs a highly skilled activity that must be recognised and valued.

Artists, cultural and creative workers do not have a specific legal status in most of the Member States, nor there is an umbrella European status of the artists. They need to try to fit in the existing legal frameworks which are frequently oriented toward long-term employment.

Main Recommendations

- **The definition of ‘Artist, Cultural and Creative Workers’** must be inspired by the 1980 UNESCO Recommendation concerning the status of the artists, and it has to be open and inclusive for all those who work in the sector.
- On the basis of a shared understanding about what legal status means for artists, cultural and creative workers, we suggest that a **European social security card for cultural workers** is recognised across all Member States. This would also be a follow-up to some of the still valid recommendations that are part of the 2007 European Parliament resolution on the social status of artists, in particular those referring to coherent and comprehensive measures in respect of contracts, social security and taxation, as well as the introduction of a Europass-type European professional registry, the development of a handbook with relevant information, a strong focus on mobility and the interplay between amateur activities and professional art.
- In addition, there is a need for special attention in the legislation of the Member States to provide decent social **protection for professionals working with irregular, project-based contracts.**



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- While amateur art has a key social function in bringing our communities together, **a clear distinction between workers, on the one hand, and volunteers and amateurs** on the other must be taken into consideration especially in terms of the temporal nature of the activity. This would imply the recognition of lifelong learning aimed at the professionalisation of artists, cultural and creative workers as a specific set of skills that, as such, need to be acknowledged during job negotiation. Institutional and employers' accountability should be encouraged through the principles of 'comply or explain' - if best practices are not applied, it has to be explained why.

ISSUE 2

Recognition of the Artistic, Cultural and Creative Work

The recognition of artists, cultural and creative workers should not only be defined in economic terms. The professionalisation of the sector should not become exclusive and/or limit creativity. Institutions which employ highly skilled artists, cultural and creative workers apply collective agreements defining the framework in which they employ those workers. The agreements are negotiated by social partners - employers and unions, and set the details of wages and other working arrangements.

Main Recommendations

- **Artistic, cultural and creative work is a process, not only a product or an object.** It is often a very time-consuming task, and it does not always immediately appear as visible/tangible. Nevertheless, work in the CCSs needs to be recognised and paid as such; research grants should be encouraged and existing institutional barriers to access should be lowered.
- As most artists and cultural and creative workers are self-employed, **their independent position should be acknowledged** across the sectors and consequently allow for **collective bargaining**, where desirable (on this topic, see in particular Chapter 2), and **appropriate social protection** should be ensured.

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ISSUE 3

Social Security

Given the multifaceted nature of artistic, cultural and creative work, and the irregular employment opportunities in the CCSs, social security of artists, cultural and creative workers is profoundly at risk - if not non-existent.

One of the challenges that emerged during the brainstorming meetings was to think about who are the most protected workers across the Member States. We started looking at what it would imply to demand giving artists, cultural and creative workers the status of civil servants: would it be such an advantage for them to be considered public servants? What would this new status imply in terms of freedom of expression?

We recognised that artists, cultural and creative workers have a certain kind of freedom (of speech, expression, movement, etc.). However, there is a lack of decent social protection across all the sectors, especially for self-employed cultural workers. For example, in some Member States, artist-entrepreneurs are not eligible for public grants, and those who are eligible cannot claim pension rights.

Main Recommendations

- In order to guarantee decent social protection across the CCSs (which should include pension, paid sick leave, unemployment benefit, accident insurance, parental leave), there is a need for a safety net that would take into account the multiform nature of cultural work. **Bureaucracy has to be simplified**, for example, through the writing of common guidelines in compliance with relevant national legislations. A special consideration should be given to cultural workers through the facilitation of research and/or training grants, as well as through mentoring programmes that would take into account training in administration and management skills.
- Member States should consider the integration of schemes such as the **Universal Basic Income (UBI)** in their social security systems, not as an emergency measure, but as a political instance toward the recognition and dignity for all workers, as



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done by [Finland](#) in a pilot phase in 2017-2018. [Ireland](#) has very recently announced that it will pilot a guaranteed basic income scheme for artists and cultural and creative workers as part of its recovery plan starting in 2022.

- **Vulnerability of intellectual workers' mental energy and health has to be acknowledged**, so that they do not necessarily have to work and study to exhaustion and demonstrate they are valuable. For example, paid sick leave should include mental health support for relevant conditions.



- **Competition law restrictions for collective bargaining should be removed**, where desirable, and **minimum rates for services should be fixed**. Those measures would improve the working conditions in the sector, providing an EU-level minimum standard.



Chapter 2

Fair pay, Collective Bargaining, Intellectual Property, Flattening Income Variations, Financial Support

Writers

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CHAPTER 2

Fair pay, Collective Bargaining, Intellectual Property, Flattening Income Variations, Financial Support

There are differences between various types of employment/statuses in the cultural and creative sectors: some professionals are self-employed/freelancers, others have employment contracts. For example, visual artists are mostly self-employed, while performing artists can be either employed or self-employed - often also combining both statuses when juggling between jobs. There are commonalities and differences among the different groups and sectors (e.g. live performers, musicians, audio-visual authors etc.).

Therefore, **there are no one-size-fits-all solutions.**

Hence, there is a need to design and promote (locally and transnationally) a **European model of fair practices**, based on European authors' rights vs. e.g. the US work for hire model, largely dominating the current digital market.

ISSUE 1

Fair practices

While collective agreements ensure a level playing field which defines the applicable remuneration in different sectors, there are also problems reported of no payment (e.g. visual artists often get no compensation for exhibitions in museums), non-negotiable payment (e.g. library compensations are fixed), or negotiable conditions, but with a very weak starting position of art workers.

Examples of unfair practices:

- **Exhibition remuneration** system can be unfair towards artists, when museums and galleries ask them to give up on their copyright in exchange for the opportunity of presenting their work.

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- **Public lending rights** mean that when a library lends a book, artists must be remunerated. This is covered by an EU Directive 2006/115/EC. Unfortunately, the way the system is set up in some countries discriminates among artists, eg. visual artists (illustrations, comics, photos featured in the books) being excluded without justification.
- There are other examples of **unfair contracts between various parts of the creative value chains**, in which the beginning of the value chain (artists, creators) are often in a more disadvantaged position than its end (presenters, etc.)

Main Recommendations

- **Make fair practice a compulsory condition for funding**, ensure fair share and fair chain.
- Set up agreements between workers and employers on fair payment, which includes **gender equal payment**, to be promoted on EU and national level (same rules to apply when working with global players from outside the EU)
- Allow for **EU-comparable employment figures** for the cultural and creative sectors to be transparently produced based on verified indicators including on income/remuneration, gender pay gap and overall equality data (gender and diversity).
- Encourage the drafting of fair and balanced contract guidelines (concerns all types of artistic services, e.g. exhibition, design, illustration, photo to visual arts, performing arts etc.) to ensure proportionate remuneration.
-



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- **Educate and raise awareness** about fair practices and pay by providing information and support:
 1. on contracts, rights, legal perspectives, remuneration models etc., both for the rightsholder and the employer, and also addressing information to graduates from art schools/conservatories entering the labour market.
 2. on copyright among artists and users, its benefits for artists and society, with a special focus on the usage of social media and technologies as an easy, accessible and free source of content.

ISSUE 2

Collective bargaining and intellectual property rights

Often authors and performers cannot keep their rights on the works they created and are offered/forced to sign **buy-out contracts** (especially with big commercial clients in e.g. audio-visual industry). These are usually work-for-hire contracts which deprive them from their rights and royalties in exchange for single lump sum payment. This means that authors and performers do not benefit from the success of their works. Not accepting buy-outs can lead to less opportunities or even being blacklisted. Use of buy-out contracts should therefore be limited to a minimum.

Collective bargaining is about terms and conditions, including of payment, mostly for employed workers, with a few exceptions in countries where it applies to the self-employed, predominantly providing their own work opportunities. It is the basis of relations between management and workers, about arranging the working conditions for people in employment in the various CCSs. A fundamental debate on a right for collective bargaining for the self-employed is currently underway within the EU. Authors' place within the creative process and their IP rights should be respected.

Intellectual property is about fair revenue sharing models for the exploitation of works and performances, also in the online environment. Freelancers, more precisely in the

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capacity of self-employed, in most countries do not have the right to collective bargaining, therefore are in a weaker position. Some have a stronger bargaining position but most have little or none. Statutory remuneration mechanisms and collective bargaining both have a role to play.

The rise of global streamers on the audio-visual production market has led to a “**work-for-hire**” logic to infiltrate an increasing number of European authors’ and performers’ contracts, which generally aims at expropriating the IP of authors to the benefit of the commissioning party (affecting authors’ and performers’ economic rights, buy-outs, moral rights and creative/artistic freedom). Streaming platforms rarely, if ever, remunerate authors and performers proportionately to their works’ success (pay lump-sum). They produce their own content and hire actors directly through executive producers. There is an opportunity to negotiate terms and conditions, but only in a handful of countries can authors and performers collectively bargain (while in some countries we also see new remuneration models being developed).

With the COVID-19 crisis, art dealers, galleries and auction houses are increasingly failing to report sales, due to transactions moving online or being done privately. This decreases the possibility to monitor the market for the collection of authors’ resale rights by collective copyright management organisations.

Main Recommendations

- Preserve the European vision of authors’ rights and ensure that EU copyright law applies in all Member States. EU and Member States must **improve status of artists and all stakeholders in payment and pricing negotiation where and when necessary, including in relation to streaming platforms.**
- When developing future cultural policy and/or sector-specific regulations, Member States and the EU institutions should **monitor the worrisome trend of foreign “work-for-hire” contractual practices** of streaming platforms that impact European cultural diversity.



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- **Transpose the EU Copyright directive 2019/790²:**
 - Transpose the directive in a timely, ambitious and meaningful way, with the author/performer at the centre, without watering it down.
 - As the COVID-19 crisis has severely impacted our sectors, and has allowed for an accelerated rise of global streaming platforms, two key provisions must be given special attention:
 - Right to appropriate and proportionate remuneration (art 18) to effectively ban buy-out contracts and to be made mandatory and implemented via collective bargaining and other suitable remuneration mechanisms allowing for them to generate revenues from worldwide exploitation, beyond national/European borders.
 - Transparency obligation: provide verified figures on exploitation, revenues generated across various modes of exploitation (and, for on-demand platforms, basic information on services turnover/subscriber base/share of European catalogues), otherwise, both individuals and representative organisations negotiate their contracts blindfolded.
- **Monitoring of the transposing measures, including:**
 - Article 18, the proportionate remuneration principle, to ensure that whatever model is chosen at national level does provide a fair share of revenues to all who contribute to works/performances.
 - Article 17, not to give online platforms loopholes, nor discriminate between certain types of works/artists. The article is designed to support tackling the transfer of value and rebalancing this unfair current relationship between right holders and online sharing content service providers, and it should be implemented with this aim in mind.



² The legal text: <https://eur-lex.europa.eu/eli/dir/2019/790/oj>

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- **Collective bargaining is essential also for self-employed workers, many of whom are in a weak bargaining position.**
 - Provide a structured dialogue and an **enabling environment** to encourage social partners to engage in collective bargaining in full respect of locality and the autonomy of social partners.
 - Implement **international labour principles**, granting collective bargaining rights to all workers, regardless of the nature of the work relationship and a clarification regarding the scope of competition rules and principles with respect to these workers
- Recognise the role of **social partners and representative organisations** in undertaking collective bargaining and on different elements of collective agreements. They have a role in different bodies, such as pension funds, training bodies, artist committees. Further encourage a **social dialogue** to tackle working conditions in a specific sector.
- **The EU should help to clarify competition law on collective bargaining for self-employed.** This should be aligned with international labour/competition law.
 - In many EU Member States, self-employed workers are de facto identified as undertakings/companies and prevented from bargaining minimum acceptable terms and conditions collectively. A clarification is needed with a view to limiting the scope of competition rules to enable all workers, regardless of their work status, to access fundamental labour rights and freedoms, as recognised by all main international labour law conventions and established social charters.

ISSUE 3

Grants/financial support

Financial support can mean direct subsidies and grants, but can also mean indirect support such as reduced taxes, low VAT rates, subsidised/reduced social security

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contributions, tax incentives, investments, other incentives or reward systems (e.g. when organisations develop a green policy or a fair practice or a non-discrimination policy). A majority of grant schemes is dedicated either to NGOs, institutions or companies. There is also a need for programmes (on all levels) enabling individual artists to apply directly (to leave space of independence for those who are not part of any legal entity) for specific schemes. Regardless of the dimension of the projects and their budgets, there should be more simplified application procedures for funding.

Main Recommendations

- **Grants available** to individual artists (e.g. a percentage of budgets for culture in Member States could be allocated to grants for creators, such as visual artists, composers, authors, performing artists, etc.)
- Governments should provide **grants which correspond to the salary/fees** that are needed to perform the resulting work (production, creation, presentation, etc.), including payment of social contributions.
- Increase the **budget for culture** to at least 1 to 2% of each Member State's budget.
- **Donations** to artists and cultural organisations should be made tax deductible (for that, it is necessary to provide clear **tax deduction** measures).
- Member States should make changes in legislation for culture in order to boost the possibility to **deduct purchase of artworks** from the tax base and the **allocation of a percentage of the construction costs** of public buildings for the purchase of artworks.
- **Stimulus packages** (especially now in the frame of the COVID-19 recovery), whereby there is a shared funding between an institution or cultural organisation and the creator. This is a way to again provide work for creators and artists after a period of inaction due to the current crisis. The support should be awarded on the basis of joint applications.
- Increase possibilities of **patronage**, for institutions as well as directly to artists/creatives.

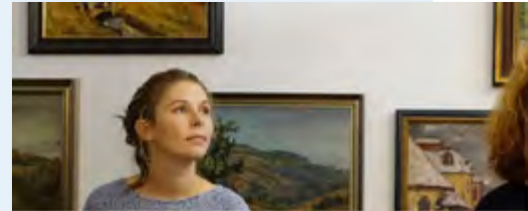


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- Consider the **fair treatment of authors/performers/creative workers** as a criteria for the evaluation of funding applications in all national/EU public funding systems (based on e.g. respect of local copyright/labour legislation, equal opportunities and inclusion, safety and harassment prevention policies, as well as other and general indicators, like authors' moral rights, etc.)
- Providing easy-to-apply, **small-scale micro-granting programmes** such as, for example, the i-Portunus programme for individual artists, or a cascading grant schemes, like a pilot [UPscale programme](#) of the [European Network of Cultural Centres ENCC](#) (presented as best practice), alongside more long-term and complex large-scale funding programmes.
- Provide sufficient funding for various stages of artistic work - not only production and presentation, but also research, preparation, experimentation, networking, audience development, sharing skills and knowledge, etc., taking into account that those stages are essential, but highly time-consuming parts of work, and often require focusing on the process rather than on a final product.



Other profiles

Main Recommendations

- **Determine and clarify the conditions of copyrights' property status.** **Eternal copyright:** instead of having expiring copyrights, we would have eternal copyright, passed on to children and/or the state. The state getting the royalties would fund contemporary art.
- Shorter contracts for the transfer of rights and possible return of transferred copyright to the author after a certain amount of time;



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- **Ombudsman (public defender) for freelancers** in the cultural sector to work on “a European Status of the artist” framework
- **Civic advisory of board for culture** - local grass-rooted councils, with an advisory / watchdog approach.
- Promote local representative organisations / legal bodies to e.g. organise **scholarship programmes** etc.
- Need for European **collection of relevant data** - statistics. Across sectors (CCSs) and sector-specific.

Good practices examples

FAIR PRACTICES

- Belgium, Flanders’ example of Juist is Juist (<https://www.juistisjuist.be/en/>) that defines clear and fair principles and practices for collaborating in the arts sector. Art organisations can mention on their website that they follow these principles, so that artists can know it before engaging in a partnership. Similar guidelines exist also for example in Finland (<https://www.artists.fi/en/artists/making-living-visual-artist#guidelines-for-pricing-visual-artists-work>).

- Participation and exhibition remuneration agreements. For example MU-agreement, in Sweden (http://www.kro.se/documents/88/MU21_eng.pdf).
- Paying Artists Campaigns and guidance on fees, for example UK (<https://www.a-n.co.uk/tag/paying-artists/>) and in Finland (https://www.artists.fi/sites/default/files/inline-files/2021-03/Guidelines%20for%20pricing%20visual%20artist's%20work_1.pdf).



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- Simplified application process: GDA Foundation funding programmes for artistic creation, production and touring: [Read more](#). (Portugal)
- Programme dedicated to interventional purchasing/buying of art pieces from visual artists in Wrocław within [Wrocław's Programme of Social Intervention](#) for direct support to the cultural sector during COVID-19 pandemic. (Poland)
- [Scholarship programme](#) in Wrocław (Poland), supporting individual artists over 18 years old (programme dedicated to artistic or community arts programs - not for aid support).
- 1% renting fee for artistic studios, rented from the municipality - part of the [Wrocław's Programme of Social Intervention](#) for direct support to cultural sector during COVID-19 pandemic
- A civic advisory board for culture at local level (supporting the needs of the cultural sector and artists in dialogue with local authorities, by the example of [Wrocław's Civic Advisory Board for Culture](#) (Poland)



COLLECTIVE BARGAINING AND INTELLECTUAL PROPERTY

- **Minimum pay collective agreement:** following a European Court of Justice ruling and a further clarification by the Dutch competition authorities, social partners negotiated an agreement for self-employed, establishing minimum rates (Netherlands).



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- **One portal for copyright information**, for artists as well as users and production companies. [Read more.](#) (Netherlands)
- [Transparency agreement in the audio-visual sector](#) - applicable to all audio-visual production contracts, these provisions ensure that the author is informed each year of the revenue generated by his work. It also allows authors to receive the proportional remuneration agreed upon in the contract, as soon as the film is amortised. (France)
- **Resale Right for Visual Artists works** best when managed collectively (CMOs) and when art sale venues (art galleries, auction houses) and art professionals report on sales transparently, no matter if the sale is done on-site, online or privately.



FINANCIAL SUPPORT/GRANTS

- **A (COVID-19) recovery pool** under the Danish Ministry of Culture of DKK 75 million is proposed, which can be accessed continuously until 31 August for activities that can be implemented before 31 October. The pool will give professional freelance artists access to create quality activities in collaboration with the country's publicly supported cultural institutions through joint applications. (attn: under approval by the government & parliament)
- **Flattening income variations**, allowing authors to alternate periods of work and unemployment without losing all income. It is a system adapted to short contracts, an example that opens up the field of possibilities for dealing with income variations, over and above solutions concerning taxes. Note that this



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practice has been criticised, it is therefore important to learn from mistakes to undertake good decisions and improve practices. (France)

- Tax deduction measures. [Patrion.com](#) is US-based, [petje.af](#) is the Dutch version (better equipped for the Dutch system/culture).





Chapter 3

Research, Lifelong Learning, Representation, Entrepreneurship

Writers

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Anna Ochmann - ARTeria

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CHAPTER 3

Research, Lifelong Learning, Representation, Entrepreneurship

In this chapter we focus on the type of research needed for improving artists' and culture professionals' working conditions. In addition, we elaborate on how research could support lifelong learning, representation and entrepreneurship throughout the process of capacity building for the CCSs. Overall many Member States already have good practices on this topic. To spread and enable these practices, wider international networks could play a crucial role, hence an inclusive European framework for working conditions would be beneficial for various stakeholders.

ISSUE 1

The need for research on Europe's CCS

Developing a comprehensive and inclusive EU framework with a global vision to identify and categorise who artists, cultural and creator workers are, the scope of what they do and the typology of agreements with both monetary and non-monetary value (social, educational, political) requires also an in-depth understanding of the cultural and creative sectors' work, in terms of organisations' visions, missions, business and organisational models, and working conditions.

Main Recommendations

Member States should regularly **map the cultural stakeholders** through the existing networks/institutions to gather statistical information about cultural and creative practitioners, including artists and freelance professionals. The EU should support Member States to **start initiatives** mapping the cultural sector (in order to guard uniform data formats). The mapping should cover the different professions of the sector and describe their status, it should allow to analyse data such as the type of contracts (permanent or not), working conditions: fixed or flexible, the existence or absence of wages, the regularity of revenues, the average of revenues compared to poverty line in each country), the average compared to other sectors, the level of taxation, the rate of social and health insurance, etc. The mapping should also cover streaming platforms and their impact on the remuneration of authors and performers.

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The representation of the statistical data in CCSs (business licences) should be more “reader friendly” to make information more visible and to link various data. It should include, for instance, the list of jobs as well as the economic codes (comparable across the EU), but it should also include ‘secondary jobs’ (e.g. a lot of artists combine jobs in the art sector and in the catering industry, and they are usually mapped only in this second job category). The validity of data implicates a prerequisite which is the equivalence of the NACE code (the classification of economic activities in the EU) to these jobs, which is currently not the case. For example, conservators are sometimes registered as: masons, industrial mechanics, cultural teaching, making of objects in glass, surveyors, etc. due to a poor understanding of their activity.

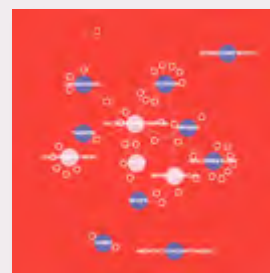
The collecting of such data could be done through different platforms. One possibility is the organisation of field labs, based on public-private-partnerships funded models. Typical field labs include users of such solutions, (potential) suppliers and knowledge institutes.

Statistical numbers have to be narrated and distributed towards the artists/cultural and creative practitioners in an appealing way, to ensure clarity and understanding. The key challenge is to harmonise the statistics at the EU level and make sure Member States generate the same kind of data, starting by creating the general list representing the diversity of jobs in the cultural and creative sectors and industries.

Ministries of Culture in the Member States should evaluate the existence of relevant institutes /associations to research and map the cultural and creative sector. It is key that these institutions work independently and have sustainable means. The introduction of pan-European programmes that are financially stimulating (grants covering membership fees, travel grants to attend associations’ meetings, etc.) would encourage artists, cultural and creative workers to join networks and associations or any other representative organisations.

Good practice examples

- <https://www.cultuurmonitor.nl/> Cultural monitoring by independent organisation

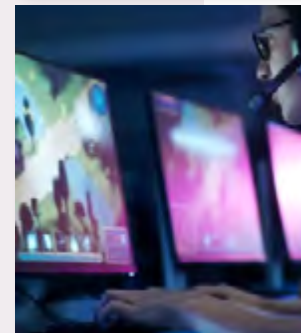


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- The role and complementarity of national federations <https://www.ffcgr.fr/> and ECCO <http://www.ecco-eu.org/> for the cultural heritage conservators
- <https://overlegkunsten.org/en> “Advocating the use of a central digital basic infrastructure to support organizations, administration and government and to relieve them of administrative burdens.
- <https://www.cultuurloket.be/> “promoting entrepreneurship and professionalism in the Flemish cultural sector and to facilitate access to additional funding in order to stimulate and support sustainable entrepreneurship in the Flemish cultural sector.
- <https://www.kunsten.be/en/research/arts-in-flanders-and-brussels/landschapstekening-kunsten-2019/> “Landscape sketching’ of CCSs each 5 years.”
- <https://www.clicknl.nl/en/fieldlabs/> “Field labs, connecting artists, knowledge and society”



ISSUE 2

Lifelong Learning, Capacity Building and Entrepreneurship

COVID-19 has been a triggering factor for artists, cultural and creative workers to leave the sector altogether and seek careers elsewhere. In light of the fact that for a lot of jobs in culture there is no formal education (tour management, cultural management, etc.), structural capacity to propose lifelong learning (LLL) opportunities tailored for artists, cultural and creative workers should be upheld, increasing the capacity to provide training especially tailored for those at the beginning of their career, together with other capacity-building opportunities such as mentoring and peer-learning.

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Main Recommendations

In this regard, Member States should:

- Increase the role of universities/conservatoires/art schools in **developing a network of Alumni to increase the access to lifelong learning opportunities**, including educators/teachers/mentors as the target group;
- Support conservatoires, universities and art schools to offer **education on relevant topics** (digital skills, social engagement, entrepreneurship, international skills), as well as to continuously re-invent themselves to provide education that correlates with the actual needs of the professional field and society.
- To collaborate within educational programmes on **IP/entrepreneurial teaching**.

In addition, the Commission and EU countries, in light of the respective competences, should:

- Provide various institutions with the **legal rights** to develop LLL programmes by various institutions (e.g. universities of second age), including a new earning model.
- Rethink the taxation of services and the products created, produced and delivered by the artists, cultural and creative workers so that they directly benefit from such taxes via education, international networking and training opportunities.
- Stimulate cultural organisations to **share best practices** (peer-to-peer learning)
 - Consider networking organisations (as mentioned above) as good actors to provide a professionalisation offer.
- Provide specific and individual support for **artists to re-invent themselves** professionally and to find the link with the actual needs of today's professional field and society by LLL.
- Encourage universities, conservatoires and art schools to provide more **information to young artists and cultural professionals** on intellectual property rights, value and working conditions.



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- **Link LLL with mobility programmes** for artists, cultural and creative workers. However, to be able to prepare artists to engage in forms of hybrid mobility, we experience a big need for investment in technology within higher art education. If we want artists that are flexible and have the skills to also exchange virtually when physical mobility is not possible, appropriate training is needed.. At the moment, conservatoires and art schools have very basic technology available. The facilities of many European institutes of higher arts education are way behind compared to the UK or the USA.
- Offer professionalisation on giving feedback to artists, cultural and creative workers (for example, with castings/interviews), as well as on working with volunteers.
- Provide **better wages for artists/cultural and creative professionals who invested in extra professionalisation**. It is important to be aware of the real income of artists and cultural and creative professionals, how much they get for their daily life. They are often not able to reserve a percentage of their wages for their own professionalisation.
- To **make legislation more profitable for artists concerning IP**, for instance, to reward TV- and radio-stations that give airplay to less-commercial artists. However, there is one big challenge here - to balance between IP and Creative Commons.
- It is important to **educate the sector on the fiscal aspects of entrepreneurship** (many artists and other freelance professionals avoid contracts/invoices and practice all kind of “fiscal optimisation” that is sometimes more costly for them in the end; if they do not pay social contributions, they have no access to social protection)
- Ensure **reasonable taxation of incomes** (well-scaled to the capacity of small or very small entities, and enterprises of public interest)

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Good practice examples

- In France, employees have a right to access to training, which is embedded in the employment law. Freelancers also have access through their contribution to the CFP (contribution à la formation professionnelle) that they can use for themselves each year (under some conditions). Also there is a system called “validation des acquis de l’expérience” (VAE) which allows to validate your experience in a field. <https://www.legifrance.gouv.fr/codes/id/LEGIARTI000033220410/2016-10-09/>
- Covid recovery plans including the access to LLL for employees having reduced activity <https://www.centre-info.fr/site-droit-formation/plan-de-relance-1555-mds-pour-lemploi-et-la-formation>
- Explore the possibility of an association for lifelong learning in CCS; the following example is in another sector than culture <https://www.anfh.fr/actualites/rhone/actualites-et-agenda-regional/formations-en-ligne-speciales-covid-19-gratuites>
- EQ - ARTS (EQ-Arts embraces the underpinning principles of the European Standards and Guidelines for Quality Assurance (ESG) works to fully embed the common framework for Quality Assurance Tuning Document, describes the characteristics of all subject areas (fine arts, theatre, dance, etc.) considering contemporary art practice and the context in Europe. Helps guarantee the equivalence of minimum threshold standards for any academic qualification offered. <http://www.eq-arts.org/tuning-document-theatre-education/>
- Social funds also provide training for the sector - joint bodies of social partners are responsible for providing training offers for those in the sector; see in Belgium: <https://www.podiumkunsten.be/> and <https://www.mediarte.be/nl/homepage>

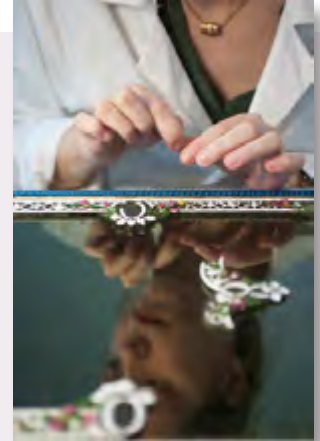


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- Courses on (future) professional activity (choosing a status, accounting, insurances, business aspects etc.) in initial training and updates through LLL. On the one hand, it's desirable to integrate in the initial training of students some preparation to their inception on the work market. <http://www.inp.fr/content/download/2290/8492/version/15/file/Livret-restaurateur-du-patrimoine-INP.pdf>
- <https://www.boschalumni.net/> Bosch Alumni Network
- Mentoring Programme Women in Art (WinART) was established by ARTeria Foundation in 2018 to support female artists and women running their businesses in a creative sector. <https://fundacja-arteria.org/program-mentoringowy-winart-edycja-2020-zapraszmy/>
- Peer-to-Peer Learning Programmes <https://teh.net/shared-recovery-programme/>
- University of arts in Berlin has developed a career centre where graduates can follow additional and targeted courses <http://www.udk-berlin.de/ctc>
- An organisation that offers juridical and financial advice to artists <https://www.cultuurloket.be/kennisbank>
- Chambre de Commerce et d'Industrie (CCI) for certain professions that provide free advice, but no financial support <https://www.cci.fr/>
- Cooperative of activity that support entrepreneurs in a solidary economic model and allow entrepreneurs to become part of a cooperative that mutualise some services and allow them to benefit of the status of employee <https://www.coopaname.coop/article/comment-ca-marche>



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- The TAKEOFFAntwerp initiative offers students a statute of “student entrepreneur”. This offers them financial and legal benefits and they get support to start up a business. Students can also be student-independents <https://www.takeoffantwerp.be/studeren>
- In Belgium, self-employed students enjoy more advantageous rates under certain conditions <https://www.vlaio.be/nl/begeleiding-advies/start/je-statuut-als-zelfstandige/statuut-van-student-zelfstandige>
- Learn2Create is a project focused on design, test and validate a new work-based learning (WBL) programme in Europe’s Creative and Cultural Industries <https://www.learn2create.eu/>



ISSUE 3

Representation

Better representation is needed for artists and cultural and creative workers to participate in the discussions and decision making concerning the status and working conditions of artists. There is a need to develop more forms of representation, e.g. by solidarity movements, cooperatives and commons, as the existing ones are often dominated by unions.

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Main Recommendations

- Use new, more “democratic”, networking and inclusive formulas (to define the mandate for representatives and alternative ways of being represented)
- Set up programmes for externals to raise awareness of the working conditions of their interlocutors (artists, cultural and creative workers) and the impact of their work (processing of invoices, delays, drafting of tender calls, pricing, importance of IP, etc.)
- Establish an Art House / Culture House - a centre to provide services for artists, such as LLL, counselling, legal advice etc.
- Traineeships/internships for young practitioners should be paid and be combined with mentorship; the system of scholarships/residencies for young artists should be established, covering social rights.
- Job openings and positions need to be made public (also in NGOs through calls); it is important to provide feedback to candidates
- The professionalisation offer on entrepreneurship for mid-career artists and workers should be established and developed because they are in a good position to start independently or start a new organisation.
- Ensure funding for culture is mainstreamed into other relevant EU programmes and actions, notably Horizon Europe, Erasmus+, Digital Europe, European Skills Agenda, Cohesion and Regional Development Funds as well as Europe’s external action. Having advocated for the doubling of the financial envelope of the Creative Europe programme, we praise the almost doubling of this envelope. Creative Europe is the cornerstone of European cross-border cultural cooperation, which should be further strengthened in view to building a resilient European cultural space.” (<https://cultureactioneurope.org/files/2020/11/statement-Final-1.pdf>)



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- Large scale EU projects should impose an obligation to involve trainees in culture management
- Make sure that Knowledge and Innovation Communities bring together businesses, research centres and universities that are in close contact with artists, to encourage projects that can involve different profiles and specialities.
- Raise awareness about the representation of CCSs and their social impact in relation to their work. Through existing events we could popularise culture by devoting a part of the programme to the working conditions.
- Involve volunteers to create strong links between artists and cultural and creative professionals and society.



Chapter 4

Mobility (Physical, Greener, Digital, Blended, Regulations, Obstacles)

Writers

Faye Hobson - Salzburg Global Seminar

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Chapter 4

Mobility (Physical, Greener, Digital, Blended, Regulations, Obstacles)

Recently, artists, cultural and creative workers have been deprived of exchange opportunities, inspiration, learning and ability to bring their cultural and creative content and experiences to audiences. Thus, return to mobility for artists, cultural and creative workers will be an essential element for post-pandemic recovery. The pandemic has not only halted almost all international travels, it has also led to the suspension of funds for touring and individual mobility of all sorts.

Mobility is a central aspect of artistic practice. Whereas creativity is used to open up new perspectives and create impulses, mental and spatial mobility is fundamental. The gathering and processing of new impressions, the exchange with foreign cultures and the continuous shifting of one's own point of view and perspective have always been part of artistic work. Mobility can also be an important factor in contributing to a continuous income for artists, cultural and creative workers and organisations, especially in countries with smaller internal markets for the arts.

Mobility of artists and cultural professionals is essential, but the pandemic has almost brought it to a complete standstill. It has, however, also created time and space to reflect on how mobility of artists and cultural professionals intersects with acute issues such as climate change, equity, well-being, and artistic development. It is time to reflect on the infrastructure, systems and policies that affect cultural mobility and through which artist mobility is supported. There is an evident urge in the sector to rethink mobility in more sustainable terms. Sustainability is understood in a holistic way: not only ecological, but also artistic, economic, and human sustainability - with all these aspects being closely interconnected.

This chapter tackles and sets out a series of key themes related to mobility of artists, cultural and creative workers and makes a set of recommendations on how conditions of cultural mobility can be improved.

ISSUE 1

Environmentally Sustainable Mobility

While there is an acknowledgement within the CCSs of the need for more climate-friendly and lower carbon approaches to mobility, there is also a recognition that there are considerable differences between countries and regions: in terms of transport

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infrastructure, economic situations, political priorities, and environmental awareness. These differences can create equity challenges for artists and cultural professionals to undertake greener mobility. This does not mean that the ambition of making cross-border mobility more sustainable should not become a high priority for the entire cultural and creative ecosystem. On the contrary, mobility schemes of all levels must adapt to this priority, while recognising the local differences and the costs green mobility implies. Thus, they should also create solidarity mechanisms in the sector that would allow stronger players to share their resources and knowledge with more fragile ones in order to make cross-border mobility more sustainable.

It is recommended that solutions to mobility, rather than focusing explicitly on climate and carbon outputs, also integrate meaningful and sustainable approaches to mobility into the design of support schemes.

Main Recommendations

- **Rethinking priorities** of mobility schemes to be more sustainable in terms of longevity of projects, climate impacts of venues and accommodations, usage of/ sourcing of materials and resources.
- Design schemes that take a **local development approach** to mobility and that are locally-based, bring in traditional knowledge, cultural practices and/or skills, and share resources and knowledge at the local level.
- Create schemes that use mobility as a **tool for local ecosystem development** in communities or locations that need investment (e.g. in rural, peripheral and/ or less connected areas).
- Invest in **research and work creation** (instead of just focusing on presentation).
- It is crucial to correct asymmetries, by creating **incentivising mobility programmes for artists living in less central areas**.
- Reinforcing support and creating **opportunities for disadvantaged people** and those based in countries with smaller mobility support, since there is still an inequality of access to mobility among EU Member States.



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- By investing in more mobility and exchange opportunities in locations outside of urban centres, mobility can serve as a way of **mitigating brain drain** by supporting local artists and cultural professionals to access the networks they need while continuing working in their communities/home locations and without being forced to move to more central places.

Good practice examples

- Julie's Bicycle published this guide to environmentally sustainable mobility for performing arts: [Green Mobility \(juliesbicycle.com\)](http://juliesbicycle.com)
- Creative Carbon Scotland provides training and information on reducing the carbon footprint <https://www.creativecarbonscotland.com/carbon-management/>
- Pulse-transition network <https://www.pulsenetwerk.be/english> has developed a comprehensive green transition toolbox <https://www.docdroid.net/3q9wOop/gtb-web-pdf#page=12>
- Rural touring <https://takeart.org/rural-touring> <https://www.nightout.org.uk/> <https://arts.walles/our-impact/how-we-encourage-sustainability/night-out>



ISSUE 2

Procedures for Mobility

A widespread and common barrier to cultural/artistic mobility across geographies and artforms is linked to the administrative processes of applying for funding, dealing with international taxation, travel, and accessing social services.

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Main Recommendations:

- Create a simplified and common design of application and reporting procedures for cultural mobility funding schemes at the EU level.
- Increase the support, capacity and information available for mobility funding e.g. through mobility information points in every EU Member State.
- Provide workshops or training on how to complete applications for mobility schemes and how to effectively manage/report on grants.
- Set up a dialogue between applicants and the organisers of schemes to identify the barriers to application.
- Create a special status for artists and cultural workers that allows them to receive money for mobility and mitigates the challenges of taxation for residencies or international exchanges.
- Facilitate access to visas for artists and cultural professionals from non-EU member states/third countries; implement a touring visa policy for artists and cultural and creative professionals from non-EU/third countries.
- Implement mobility schemes that allow for the continuation of mobility and cultural exchange between artists and cultural workers based in the UK and those willing to travel to the UK post-Brexit.
- Travelling with instruments can be a serious hindrance for musicians. Implement consistent policies across the EU for airlines to adhere to so that musicians can take their instruments on board (as carry-on) as well as regards the music instruments certificates needed when travelling with instruments which contain protected species.
- Double Taxation: When working internationally, performing artists are often faced with excessive or double taxation and high administrative costs. All EU member states should exempt non-resident performers (following the example of the Netherlands, Ireland and Denmark).
- The taxation of artist grants should be the same in all EU countries. The bureaucratic burden should be as little as possible.

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Good practice examples

- Roberto Cimetta Fund uses in applications the question: “How does your mobility contribute to local development?”
- I-Portunus is an example of a decentralised and simplified approach to mobility funding. It would be beneficial to assess how successful this approach has been and use the results to inform future schemes.
- Mobility Information Points: (MIPs) are information centres and/or websites in several countries –mainly in Europe– who aim to tackle administrative challenges that artists and cultural professionals can face when working across borders. The relevant issues tackled by MIPs are related to visas, social security, taxation, customs etc. https://www.touring-artists.info/fileadmin/user_upload/Home/Information_on_MIP.pdf
- Pearle* and the European Festival Association (EFA) provide helpful guidance for those in the cultural and creative sector across borders, especially for those that are self-employed:
 - The Ultimate Cookbook for Cultural Managers: Social security in an international context (updated 2021): <https://www.pearle.eu/publication/the-ultimate-cookbook-for-cultural-managers-social-security-in-an-international-context-update-2021>
 - The Ultimate Cookbook for Cultural Managers: VAT in an international context (update 2021) <https://www.pearle.eu/publication/the-ultimate-cookbook-for-cultural-managers-vat-in-an-international-context-update-2021>
 - The Ultimate Cookbook for Cultural Managers: Artist taxation in an international context: <https://www.pearle.eu/publication/the-ultimate-cookbook-for-cultural-managers-artist-taxation-in-an-international-context-update-2021>
- Infographics on posting developed in framework of Mobilive project-issued May 2021 <https://www.pearle.eu/activity/mobilive>



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ISSUE 3

Equitable Mobility

There is a need for increased awareness and strategies for action that address inequalities of access to cultural mobility within the EU.

Main Recommendations:

- Conduct **research on the gaps** that exist in cultural mobility and access to support for mobility between different groups: e.g. geographical, urban/rural, emerging/established, minorities, gender, etc.
- Use this research to inform strategies for access and programmes that are dedicated to bridging these gaps by focusing on different **priority subjects, demographics, or themes**.
- Allow applications to mobility funding to be **open all year long**, available in all languages, open to all ages.
- Designing **schemes for individuals** (and not only organisations), that take into account the diverse needs of individuals, for example, in relation to their family responsibilities, caregivers, people with disabilities, etc.
- In order to fight inequalities, policies must **encompass the parental situation** and help or encourage caregivers (especially if they are mono-parental families and are, therefore, in a more fragile situation) to travel with their families, by giving funds that cover expenses for a family to travel.
- Design programmes and funds that **support meeting partners** for further project development
- Make sure that mobility opportunities are available for a wide range of **non-artistic professionals** (e.g. technicians) and other cultural professionals.
- Work with the travel industry and policy-makers to ensure that the practicalities and **rights of travel for artists and cultural workers**, particularly those travelling with musical instruments are protected.

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Good practice examples

- Expert group on mobility information standards - facilitated by DG EAC
- Research study of May 2021 on cross-border employment in the live performance: social security and posting, by the KULeuven-HIVA, UGent, Univ of Strasbourg and Pearle* in the framework of the Mobilive project <https://www.pearle.eu/activity/mobilive>

ISSUE 4

Expand the Evidence Base about the Stakes and the Impact of Artistic and Cultural Mobility

There is a need to develop a deeper understanding of mobility as a topic, including its aims, purpose, nature, and outcomes, as well as the way it has evolved due to the pandemic. There is also a need for more exchange between researchers, practitioners and policy-makers, to ensure that the results of studies conducted on the topic are disseminated and utilised by policy-makers, funders and the sector itself in the design of mobility schemes/projects.

Main Recommendations:

- Mobility should be identified as one of the priority topics for research in dedicated funding schemes, such as the Horizon Europe Programme.
- Specific projects contributing to a mapping of intra-EU artistic mobility and exchange would provide a clearer picture of the landscape for mobility. This should be supplemented with a review of the academic literature and existing studies on mobility.
- A particular emphasis should be placed on building out pathways for transfer and exchange between practice to research and research to practice. This could



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be achieved through investment into platforms and knowledge infrastructure that connect across sectors, as well as opportunities for joint meetings and projects. Mechanisms for evaluating how studies are used should form part of the evaluation criteria for research funding programmes.

Good practice examples

- On the Move operational study informing i-Portunus pilot project <https://www.i-portunus.eu/report/operational-study-about-a-mobility-scheme-for-artists-and-culture-professionals/>
- Feasibility study for the establishment of a European Music Observatory <https://op.europa.eu/en/publication-detail/-/publication/a756542a-249d-11eb-9d7e-01aa75ed71a1/language-en/format-PDF/source-171307257>



ISSUE 5

Post-Covid Mobility

The pandemic has made the existing gaps in the cultural mobility landscape even wider and more considerable than before. Financially fragile players, which had a lesser access to mobility opportunities before the pandemic, have suffered from the restrictions the most and will be even less fit to take part in mobility projects in the post-pandemic future. Those who considered mobility as their main source of income and career development (due to the local political situation and / or size of the internal market) have also undergone the pandemic with bigger losses. Therefore, once the pandemic is over, it should be a

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priority to ensure a swift, and safe and also more inclusive and sustainable return of cultural professionals to mobility, cultural exchanges, and cross-border collaboration post-COVID.

Main Recommendations

- Draw on the **lessons learned** during the pandemic on how cultural exchange and mobility can be done in a more sustainable way (longer travels, exchange of concepts and artistic ideas instead of actual touring of sets and crews, rethinking the notions of 'scale' and 'success', deeper connections with local communities, use of digital technologies and hybrid formats).
- Share scientifically-based **guidelines for safe mobility projects**, safe reopening and provide the financial support needed to resource this effectively.
- Protect the need for artistic and cultural mobility by recognising this specifically within **travel policies and restrictions as exemption**.
- Include the **cost of testing and additional accommodation** if needed for waiting for test results as an eligible expense within project budgets for mobility schemes.
- Consider that more **fragile players within the sector** (self-employed, professionals from minority backgrounds, emerging artists and young non-profit organisations) may be even more excluded from mobility opportunities and provide extra support for them to recover and integrate into the mobility landscape.

Good practice examples

- Artists and cultural professionals included in exceptions for travel restrictions (Netherlands).
- Study on the lessons learned from the COVID-19 pandemic: <https://www.ietm.org/en/publications/the-moment-for-change-is-now-covid-19-learning-points-for-the-performing-arts-sector>

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ISSUE 6:

Blended/Online/Digital Mobility

One outcome of limited physical mobility has been the increased usage and awareness of the potentials of online and/or digital mobility and exchanges. Although online engagement cannot fully replace physical mobility, it can complement in-person interactions or create alternative digital activities, while offering opportunities for certain activities and for those who cannot travel for geographical, health, visa, or other reasons. The use of blended/online mobility also needs investment in infrastructure, equipment, digital technology and skills to make sure it is accessible to those producing cultural content and to audiences across Europe. Privacy, safety and copyright issues should be better explored and tackled.

Main Recommendations

- Continue to provide **support for digital and/or blended mobility** in future funding schemes, leaving a choice for professionals on what parts of their exchange they prefer to undertake online and what parts should be organised physically.
- Use **online methods** for preparatory meetings and other activities that do not need physical presence, while allowing artists to decide on how they present their art works (physically or digitally, or in a hybrid way).
- Encourage **resource sharing** (access to platforms and tools, knowledge, skills, etc.) between more experienced and financially stronger players in the sector and those less equipped for the digital shift.
- Provide a fund for **upskilling the sector** using online technology and support infrastructure development by providing specific funding for specialised tools and technology for online events (eg. groups or choirs).

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Good Practice Examples

- New York Public Library - Tech Kit - Online public performance kit that can be borrowed by artists if they need to perform online and can provide them with access to equipment.
- Blended mobility, artistic residences: <https://www.sommerakademie-paul-lee.ch/call-for-applications-2021-22>
- Report Spanish Cultural Action Abroad, Fundación Alternativas 2020



Chapter 5

Artistic Freedom & Freedom of Expression: Diversity and Inclusion, Threats to Artistic Freedom, Measures and Regulations

Writers

Paige Collings - Freemuse

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Chapter 5

Artistic Freedom & Freedom of Expression: Diversity and Inclusion, Threats to Artistic Freedom, Measures and Regulations

“Artists, like journalists and human rights defenders, are at particular risk as their work depends on visibly engaging people in the public domain. Through their expressions and creations, artists often question our lives, perceptions of ourselves and others, world visions, power relations, human nature and taboos, eliciting emotional as well as intellectual responses”

former UN Special Rapporteur in the field of cultural rights, **Farida Shaheed**.

Artistic and cultural expressions are imperative in shaping communities, affirming democracy, and representing narratives from different perspectives to contribute to the feelings of solidarity and social cohesion.

UNESCO defines artistic freedom as the “freedom to imagine, create and distribute diverse cultural expressions free of governmental censorship, political interference or the pressures of non-state actors. It includes the right of all citizens to have access to these works and is essential for the wellbeing of societies.”

At a European level, Article 10 of the European Convention on Human Rights (ECHR) of the Council of Europe guarantees the right to freedom of expression, including, the “freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers”.

Article 11 of the Charter of Fundamental Rights of the European Union also states:

- Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers;
- The freedom and pluralism of the media shall be respected.

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Similarly, Article 13 of the Charter on ‘Freedom of the Arts and Sciences’ states:

- The arts and scientific research shall be free of constraint. Academic freedom shall be respected.

The human right to artistic freedom is also protected under the wider definitions of freedom of expression under international human rights instruments like Article 19 of the International Covenant on Civil and Political Right and Article 15 of the International Covenant on Economic, Social, and Cultural Rights. The *2005 UNESCO Convention for the Protection and Promotion of the Diversity of Cultural Expressions*, of which the EU is a party. Further, 22 states include the right to artistic freedom in their constitutions.

However, despite these multi-faceted definitions of artistic freedom and cultural diversity, they are both nuanced and vague, consequently leading to an inadequate and inconsistent incorporation of normative protections on artistic freedom into policy vernaculars across Europe. Further, as a number of these provisions do not make specific references to their artistic freedom and instead fall under the general definition of freedom of expression, the structural protections on artistic freedom are yet to be widely implemented consistently across Europe.

Global state of artistic freedom

In the State of Artistic Freedom 2021 report — a research publication produced annually — Freemuse documented 978 incidents of artistic freedom violations documented in 89 countries and online. At least 322 artists were arbitrarily detained, prosecuted or sentenced to prison terms, primarily on political grounds. Artists were sanctioned for their expressions considered critical of public authorities or insulting of state officials and national symbols, alongside violations of their human rights for staging and participating in anti-government protests and criticising the authorities’ responses to the COVID-19 pandemic.

Artistic freedom in Europe

The protection and promotion of freedom of artistic expression is crucial to ensure that artists can express themselves freely through various artforms and for audiences to

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be able to enjoy diverse cultural expressions. In Europe, democracy is dependent on a shared vision of culture and values. In May 2018, the European Commission emphasised how, “Europe’s rich cultural heritage and dynamic cultural and creative sectors strengthen European identity, creating a sense of belonging. Culture promotes active citizenship, common values, inclusion and intercultural dialogue within Europe and across the globe.”

However, the right of artists and creatives to freely express themselves is being violated by imprisonments, censorship - undertaken by governments, religious authorities, and other non-state groups, threats and harassment. These restrictions diminish and weaken cultural expressions whilst also negatively impacting individual wellbeing and quality of life. State authorities in Europe predominantly suppress artistic creativity within the region compared to the role of non-state actors and media platforms.

Impact of COVID-19 on artistic freedom

Following the outbreak of the COVID-19 pandemic, an unprecedented health crisis spread across the globe. Among the first measures imposed by governments worldwide to control the spread of COVID-19 were restrictions on freedom of movement which introduced restrictions on physical assembly. These restrictions automatically resulted in a total closure of arts and culture spaces and stopped cultural activities organised in physical spaces.

Deprived of the access to physical cultural spaces, many artists and representatives of cultural institutions had begun to stage online concerts, create online theatre plays and organise digital book readings or virtual museum and gallery exhibitions. Artists and creatives offered their work for public consumption free of charge, despite being disproportionately affected by the pandemic, with artists and cultural workers losing their jobs and having their projects cancelled.

Public spaces

Public spaces play an integral role for artistic expression insofar they are important for democratic and public action. It is, therefore, important to ensure access for artists and cultural actors to perform in these spaces, and for audiences to freely engage with the artistic content.

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However, this is not always provided. On the occasion of Plovdiv in Bulgaria, hosting the European Capital of Culture in 2019, recognised as an opportunity for cities to platform their culture, the district of Stolipinovo – which is predominantly populated by the Roma community - did not receive financial support to convert public spaces in the district into artistic showcases contrasting with the situation across Plovdiv. Further, the artistic performances that were held, mainly by international rather than national artists, did not receive significant media attention or support from the authorities. This contrasted with the promotion for other events across the city of Plovdiv. The right to artistic freedom includes the right to access and engage with art in publicly available spaces and this was not ensured in Stolipinovo by the authorities during Plovdiv's European Capital of Culture tenure. Further, disallowing the spontaneous use of public spaces in Bulgaria has meant that artists are required to obtain formal permission from the mayor of the city; thus, restricting the frequency and content of artistic expressions in public spaces. In Plovdiv, this time not as part of the ECoC activities, there is a discriminatory hierarchy amongst artists based on their level of education which has contributed to structures of inequality where artists without a diploma are limited to using peripheral public spaces whereas those with formal education have the possibility of platforming their art in central locations.

Artist remuneration and funding processes

The research on this topic has also noted attempts by governments to take administrative control of national museums and cultural institutions to ensure that they favour and promote artworks with pro-government narratives. This has taken the form of museums being coerced into complying with certain measures to avoid withdrawal of State funding or where staff in leadership positions are replaced with those aligned with the government authorities. This deliberate interference in the freedom to artistically express oneself places undue restrictions on the rights of those accessing the arts.

These restrictions are particularly notable in the process of funding or artistic projects, which is often exclusionary and inaccessible to large sections of the artistic community. The complexity of the application process itself excludes various artists on account of information asymmetry or a lack of knowledge; and requirements for organisations to be formally registered or the refusal of the State to partner with particular non-governmental organisations adds hindrances to the availability of grants. Artistic and creative funding

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applications and processes often reinforce structural inequalities, and that cultural, social and political diversity is not reflected in the grants process.

Political dissent and censorship

The research highlights how musicians with dissenting or politically oppositional views, often expressed through their music, are disproportionately targeted. There is a particularly proliferating trend of governments prosecuting artists, particularly rap musicians, under anti-terrorism legislation for their lyrical content on grounds that they contain forms of expression which “praise” or “glorify” terrorism; whereby these incidents often occur despite weak prosecutorial evidence.

There are two central forms of censorship occurring against artistic expressions. Firstly, state-sanctioned censorship of artistic expression is occurring at all ends of the political spectrum. For example, in its report entitled, ‘Painting the Rainbow: How LGBTI Freedom of Artistic Expression is Denied’, Freemuse observed that LGBTI expression was censored from those who criminalized homosexuality as well as those who did not. Governments often employ various rationales to censor artists, ranging from anti-terror measures, blasphemy to the regulation of hate speech. However, these interpretations often lack nuance and contribute to violations of the right to freedom of artistic expression.

Secondly, there has been an increased censorship of artistic expressions on social media platforms with community guidelines and AI systems determining what content is accepted onto platforms. These guidelines and technology mechanisms do not always incorporate human rights standards into their considerations on content which has contributed to a significant number of artistic profiles being permanently removed and artists subject to harassment, doxing and threats for their artistic expressions. The anonymity of online platforms accentuates this issue whereby it is challenging to hold perpetrators of online violations accountable.

It is worth noting the emerging tracking of self-censorship, especially among teachers and professors in schools, academies and universities - marking a rising level of fear and self-monitoring levelled to the ‘norm’ of the political leadership and mainstream-society patterns.

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Some examples within the context of Plovdiv - European Capital of Culture 2019

- <https://www.theguardian.com/world/2019/apr/07/homophobia-scandal-hits-plovdiv-bulgaria-european-capital-of-culture>
- <https://sofiaglobe.com/2019/04/08/balkan-pride-row-city-council-rejects-call-for-plovdiv-2019-artistic-director-to-resign/>



Limitations on the audio-visual sector

The audio-visual sector has faced censorship on multiple levels which has led to a deep impact on local audio-visual ecosystems. Firstly, governments have been yielding their executive power to influence the nature of projects and content that are produced. Secondly, global streaming services often impose contractual obligations on local filmmakers to ensure that their content would fit local censorship regulations in different territories covered by their service. As a result, filmmakers are experiencing self-censorship.

Another development in the audio-visual sector is the introduction of new technologies such as artificial intelligence, automated editing tools as well as virtual production. These have a strong potential to challenge the authorship status of individuals if creative decision-making is removed from the artists themselves.

Main Recommendations

At the European Union level:

1. Mechanisms for Assistance: Recommend establishing national initiatives to support and assist artists and creative professionals. The EU should develop networks of local representatives to report on artistic freedom and refer cases to European or international organisations working in the space. The EU must also create and



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effectively implement mechanisms to ensure that adequate support is available to artists and cultural workers who are facing challenges in their countries.

2. European Capitals of Culture: It is crucial that the European Capital of Culture process be structured to ensure that the capitals chosen reflect human rights values on freedom of all to perform and participate in artistic and creative expressions, not only during the selection process and the preparation phase but also in the title year. Special attention to artistic expression in public space must be supported and encouraged by these cities.
3. IFAPS for example is working on the creation and development of a label for European cities “arts in public spaces friendly” with the aim that creation finds audiences as soon as possible in the public space and thus participates in treating the social bond very deteriorated by the crisis COVID 19.
4. Role of international organisations: International organisations working in the field of artistic freedom and creative rights should tailor content to specific contexts to ensure accessibility, such as providing linguistic diversity in online resources and hosting workshops to implement knowledge.
5. Encouragement of national engagement: The EU must recommend all Member States to uphold artistic freedom and to strengthen their legal and policy frameworks to ensure the realisation of this right. Further, Member States must be encouraged to engage with each other in the Universal Periodic Review Process.

At the National/Local Level:

6. Ensuring public access to the arts: Recommend establishing mechanisms to ensure safe public spaces are available without restriction to artists and audiences to engage, including mechanisms to counter harassment, attacks, violence as well as legal support. Capacity building through education to help support artworks that could potentially face backlash would help promote artistic freedom.



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7. Fair remuneration: Legal clarification on the process of how artists can sign contracts and design budgets for projects. This will reduce the information asymmetry and help artists get access to remuneration. Artistic voices should be included in the decision-making process so that governmental measures can be robust and effective. It is also important that decision making bodies be independent, transparent and follow due democratic procedures; such as reflecting the Scandinavian countries who follow the 'arm's length policy' to ensure equity and equality in access to grants and artistic spaces and this. The right to fair payment is an integral aspect of artistic freedom so specific measures need to be taken to ensure this right.
8. Legal Assistance for artists: The EU should also initiate the training of lawyers to assist artists across Member States. Such training should be contextualised through national and local contexts.
9. Diversity: It is important to ensure that cultural, political, social and economic diversity be at the helm of promotion of artistic freedom. Recommend also spotlighting organisations and artistic-led movements that are raising their voices against oppression of any kind; such as ENGAGEMENT which is an artist-led movement tackling sexual harassment, sexism and abuse of power in the Belgian arts field.

Sector Specific

10. The Audio-visual Sector: It is important for the EU to acknowledge the growing pressure on common EU democratic standards in the field of media and artistic freedom, and to tackle the same through the setup of a formal monitoring framework related to infringements of the same. Recommend the EU request a formal commitment from Member States to a general principle of autonomy from influence of political authorities.

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Conclusions

The COVID-19 pandemic has shed some light on the considerable fragility of the European cultural and creative sectors, revealing the gravity of various systemic issues related to the working conditions in the CCSs, most of which are described in this report. The pandemic has also shown the enormous socio-economic gaps among various CCS players - depending on the country they are based in, their positions and roles in the value chain, their privileged/disadvantageous background, the extent of dependency on public support, and many other factors.

These gaps and asymmetries, if not addressed in a structured and comprehensive way, will only further weaken the European cultural ecosystem and make it even less sustainable than it was before the pandemic.

In the meantime, the EU is in full swing of embracing its ambitious and large-scale sustainability strategy - the European Green Deal. This action plan is expected to “transform the EU into a modern, resource-efficient and competitive economy, ensuring no net emissions of greenhouse gases by 2050, economic growth decoupled from resource use, no person and no place left behind”. Also, the New European Bauhaus project is meant to involve “creative minds” in “bringing the European Green Deal closer to people’s minds and homes”. Culture, art and creativity are, therefore, recognised as essential drivers of sustainable and inclusive transition of European societies and economies.

Artists and other cultural and creative workers, indeed, have the great potential to create and share tools for innovation, stimulate critical thinking, help rethink current practices and behaviour patterns, create awareness, transmit the moment of urgency and empower people for change. All these are intangible yet vital factors for a sustainable and inclusive transition. However, not being able to pursue their artistic values - due to the multiple economic, political and other pressures and the lack of legal protection - and being forced to accept unfair and unsustainable working models and practices, cultural and creative professionals are limited in their power to foster sustainability in our societies. Nor are they equipped to fully contribute to the inclusive and sustainable post-pandemic recovery of Europe, being among the most devastated of all sectors.

With this acutely obvious reality aggravated by the pandemic and in the light of the EU’s Porto Social Commitment (May 2021), reinstating the commitment to implement the European Pillar of Social Rights Action Plan, the time is ripe to create a European

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Framework for Working Conditions in Cultural and Creative Sectors and Industries. Such a Framework, proposed by many in the sectors as well as by the European Parliament, should be a tool to frame and support the elaboration of coherent EU-wide definitions of artist, and cultural and creative workers, as well as of cultural and creative work. The Framework might be a set of principles and recommendations, which would trigger legislative and non-legislative activity at the Member States level, on most crucial issues related to socio-economic conditions of artists, such as contracts, taxes, wages, social benefits, mobility issues, and many more. Such a Framework would be based on the recognition of the atypical nature of artists' work and the acknowledgement that their situation requires improvement.

Considering that competencies of the EU vary across policy fields, the Framework would interact with various EU policies in a different way (cultural action, social policies, competition, internal market, fundamental rights and equality, etc.)³.

The process of shaping such a Framework should be furthered in close collaboration with the sectors and various competent DGs.

Moreover, this report has detailed some of the main recommendations that should be taken along in this process:

- The definition of 'Artist, Cultural and Creative Workers' must be inspired by the 1980 UNESCO Recommendation concerning the status of the artists, and it has to be open and inclusive for all those who work in the sector.
- On the basis of a shared understanding about what legal status of artists, cultural and creative professionals means, we suggest that a European social security card for cultural workers is recognised across all Member States.^g
- Member States should regularly map the cultural stakeholders through the existing networks/institutions to gather statistical information about cultural and creative workers, including freelance.
- Allow for EU-comparable employment figures for the cultural and creative sectors to be transparently produced based on verified indicators including income/remuneration, gender pay gap and overall equality data (gender and diversity).

³ The Situation of Artists and Cultural Workers and the postCOVID-19 Cultural Recovery in the European Union, Background analysis for the European Parliament, Culture Action Europe

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- Promote and enhance fair collaboration practices among artists, cultural and creative professionals and organisations, through, inter alia, integrating the fair collaboration principles as a requirement for public funding support.
- Preserve the European vision of authors' rights and ensure that EU copyright law applies in all Member States. EU and Member States must improve the position of artists and all stakeholders in payment and pricing negotiation where and when necessary, including in relationship to streaming platforms.
- Transpose the EU Copyright directive 2019/790 in a timely, ambitious and meaningful way, with the author/performer at the centre, without watering it down.
- Provide a structured dialogue and an enabling environment to encourage social partners to engage in collective bargaining. Implement international labour principles, granting collective bargaining rights to all workers, regardless of the nature of the work relationship and a clarification regarding the scope of competition rules and principles with respect to these workers.
- Provide sufficient funding - both for organisations and individual artists - for various stages of artistic work - not only production and presentation, but also research, preparation, experimentation, networking, audience development, sharing skills and knowledge, etc.
- Create a sustainable and relevant framework for artists, cultural and creative professionals to access and pursue a lifelong learning process, in order to get equipped in the face of the multiple contemporary challenges (climate change, digitalisation, social changes, economic developments), to renew their professional practices, develop and grow as professionals.
- Develop a comprehensive strategy to tackle multiple imbalances and inequalities in the CCSs - in relation to gender, ethnic and geographic origin, generations, socio-economic background, etc.; take those differences into account when designing and implementing post-pandemic recovery strategies.
- Establish sustainable, long-term and inclusive mobility support schemes that would stimulate and support artists and cultural and creative professionals to undertake meaningful and sustainable mobilities - in terms of connecting various projects, residencies, research initiatives, networking, engagement with local communities;

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usage of greener accommodation and transport means, and ensuring decent conditions for every individual involved (work-life balance, space for professional growth, etc.). Such schemes should tackle the existing geographic imbalances and inequalities of the European cultural mobility landscape.

- Recommend establishing national initiatives to support and assist artists and creative professionals, and develop networks of local representatives to report on artistic freedom and refer cases to European or international organisations working in the space. The EU must also create and effectively implement mechanisms to ensure that adequate support is available to artists and cultural workers who are facing challenges in their countries.

We believe that the need to tackle those challenges at the EU level has become as urgent as ever. Therefore, we recommend the establishment of the European Framework for working conditions in the CCS - as a comprehensive translational tool to raise awareness and create mechanisms to navigate the complexities of those issues and their place within the EU competencies.

In parallel, where possible, the EU should address those issues within their respective domain, in a dialogue with the Member States and in a continued consultation with the sectors.

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Working Groups

GROUP 1

Income and Status: Recognition, Legal Status, Societal Recognition and Income, Social Security

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Stijn Michielsen - Cultuurloket
Gabriele Rosana - Culture Action Europe
Jetta Huttunen - Kulttuuri Kauppila
Wika Trel - European Federation of Tourist Guide Associations
Alessandra Saviotti - Art Workers Italia

GROUP 2

Income and Status: Fair Pay, Flattening Income Variations, Collective Bargaining, Intellectual Property, Grants

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Barbara Lesclauze - GARRD
Thomas Dayan - FIM
Sjoerd Feitsma - Platform ACCT
Francesco Guerzoni - European Visual Artists
Teemu Mäki - Artist's Association Finland
Pauline Durand - FERA
Dominick Luquer - FIA - Johannes Studinger - UNI MEI
Anita Debaere - PEARLE
Annica Ryngbeck - SAA
Rafaela Ribas - Associacao Espetaculo
Piotr Michalowski - City of Wroclaw
Alicja Swierczek - Marc du Moulin - ECSA
Pedro Wallenstein - GDA Foundation
Andy Kristek Kozarova - IAA Europe

GROUP 3

Income and Status: Research & Recommendations, Lifelong Learning, Representation, Entrepreneurship / IP

Lucie Abou - JAMU
Maria Giangrande - OCP

Anca Lupes - Indiero
Anna Ochmann - ARTeria
Barna Petranji - Pro Progressione
Ellen Loots - Erasmus University Rotterdam
Burak Sayin - TEH
Pauline Chassaing - INP
Charlotte Saelemakers - RCA
Simona Katzer - Sisters of Music
Giorgia Boldrini - Director Culture and Creativity Division (Municipality of Bologna)

GROUP 4

Mobility: Physical Mobility, Greener Mobility, Digital Mobility, Blended Mobility, Measures & Regulations, Obstacles to Mobility, Social Security

Paulina Maloy - Culture Zone Wroclaw
Faye Hobson - Salzburg Global Seminar
Filipa Francisco - Acao Cooperativista
Katharina Weinert - EMC
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Corina Bucea - Cluj Cultural Centre
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GROUP 5

Artistic Freedom & Freedom of Expression: Diversity and Inclusion, Threats to Artistic Freedom, Measures and Regulations

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Gina Kafedzhian - Plovdiv 2019
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VOICES OF CULTURE REPORT JUNE 2021



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Structured Dialogue between the European Commission and the cultural sector

Status and Working Conditions for Artists, Cultural and Creative Professionals

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Special thanks to The Goethe-Institut Voices of Culture team:
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