



EU WORK PLAN FOR CULTURE 2019–2022
June 2023

THE STATUS AND WORKING CONDITIONS OF ARTISTS AND CULTURAL AND CREATIVE PROFESSIONALS

REPORT OF THE OMC (OPEN METHOD OF COORDINATION)
WORKING GROUP OF MEMBER STATES' EXPERTS



EUROPEAN UNION

The report was prepared and edited for the Publications Office of the European Union on behalf of the OMC group of Member States' experts on the status and working conditions of artists and cultural and creative professionals by:

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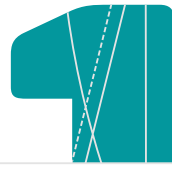
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1

INTRODUCTION AND CONTEXT





INTRODUCTION AND CONTEXT



1.1. INTRODUCTION

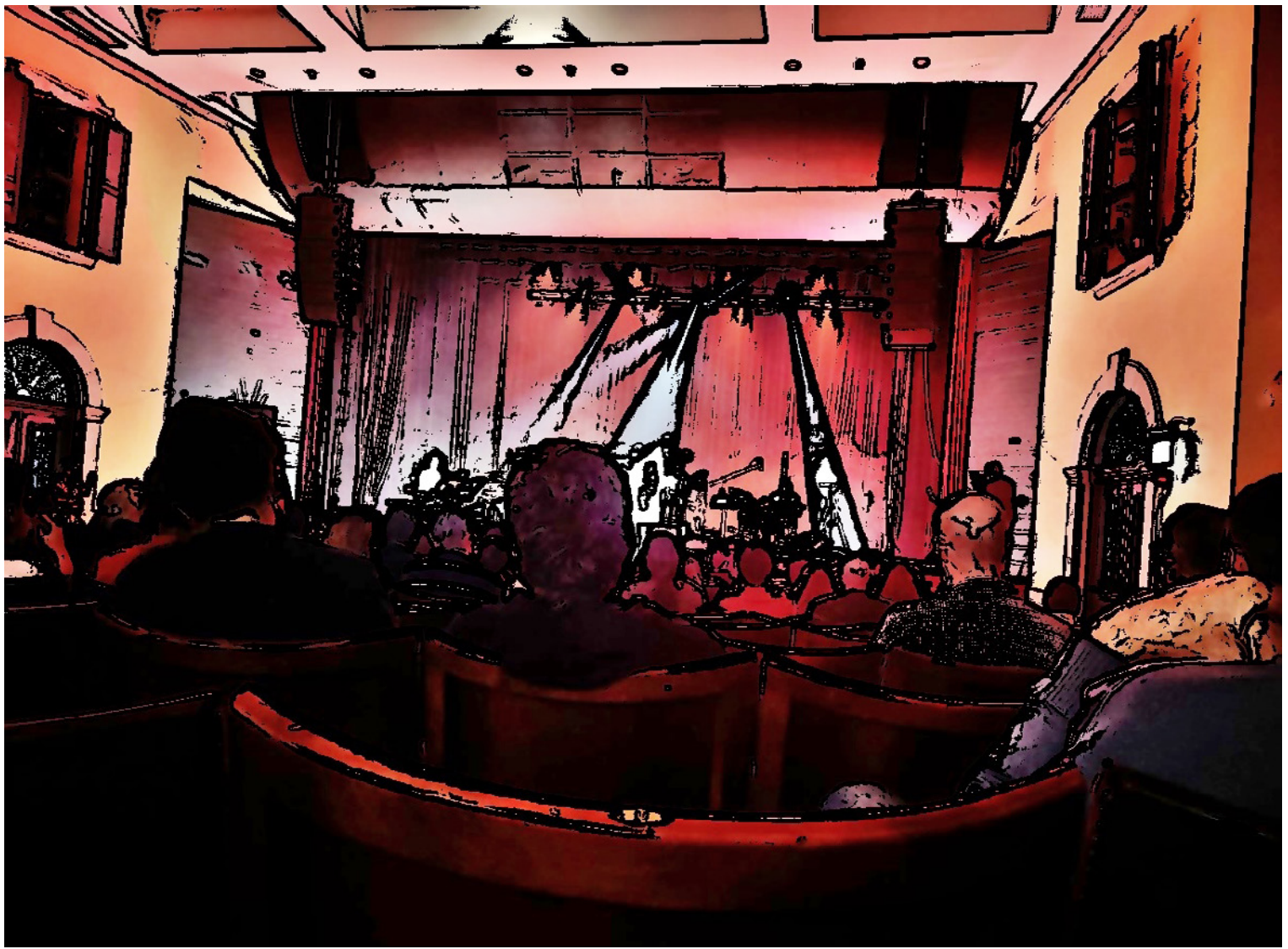
1.1.1. Why do we need better working conditions for artists and cultural and creative sector professionals?

Art and culture are an integral part of our societies and enrich the quality of our lives in many ways. The ability of art to imagine, to connect, to innovate and to bring people from different backgrounds and cultures together is becoming increasingly recognised at EU and Member State levels – not only because of the intrinsic value of culture, but also because of its proven social and economic impacts. But does this recognition also extend to the artists and cultural and creative professionals who make this happen? Many of them are faced with precarious working conditions and a lack of legal structures to provide social protection and sustainable frameworks for their career development.

The COVID-19 crisis has shaken artistic and cultural life across Europe and has been particularly hard on artists and cultural professionals. This crisis further revealed and exacerbated the depth and scope of the fragile nature of work in the cultural and creative sectors (CCS). They were among the first to close and among the last to reopen. Large numbers of artists and cultural workers lost their work and income. Many countries when trying to help discovered that they did not have enough information and means of reaching artists and cultural workers. This reinforced the call for better policy measures to protect and support artists and cultural and creative professionals.

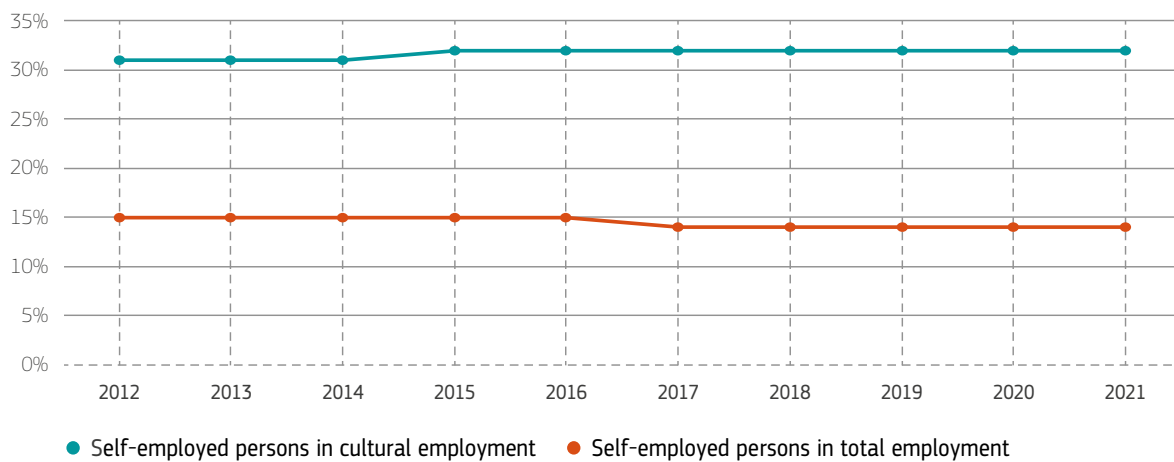
The lessons learned about the CCS through the crisis are too important to be wasted. To truly unleash the potential of art and culture in Europe and reap their benefits to our societies, immediate action is needed to significantly improve the working conditions of artists and cultural workers.

Already before the COVID-19 pandemic, the CCS were characterised by their atypical working patterns and often complicated employment status as well as their delicate economic situation. Despite growth trends in number of workers and added value, the CCS across Europe suffered from an endemic vulnerability due to their organisational structures and the intrinsic characteristics of their labour markets (e.g. project-based working, high rate of freelancers, public-good character, insecure and fluctuating income, unpredictability of success). This fragility is revealed by numerous data and analyses related to the ecosystem structure, employment and working conditions, access to finance and remuneration models.



The CCS ecosystem is made up of a large number of freelancers, and temporary and intermittent workers. According to Eurostat, the percentage of self-employed cultural workers is considerably higher (32 %) than in employment for the total economy (14 %), and this difference has remained almost stable over many years (Figure 1).

Figure 1. Self-employed persons in cultural employment and in total employment



Source: Eurostat, *Cultural employment by sex and selected labour market characteristics (cult_emp_wsta)*.



Artists and cultural and creative professionals are highly likely to be self-employed, freelancers, work part-time, combine two or more jobs, or do not have a permanent contract, which means that they are often excluded or only partially covered by social security protection.

Many artists and cultural professionals therefore have a secondary job in either an arts- or non-arts-related field, motivated either by (artistic) interest, or by (financial) necessity, which provide access to a certain degree of (social) security. One of the biggest challenges for such artists is to ensure that there is enough time to devote to their art or creative endeavours.

(EENCA, 2020)

Cultural and creative sectors and industries have indeed suffered in an unprecedented way during the COVID-19 crisis. During the pandemic, culture kept our spirits up, despite the hardship cultural workers were going through: The CCS have been dramatically hit by the crisis, especially in the case of activities based on venues and visits, performing arts, music and heritage sectors. Music venues reported a 76 % drop in attendance and museums lost up to 75–80 % of their revenues in popular tourist regions (Live DMA, Dee, 2021). Precarity became more widespread during the COVID-19 crisis.

COVID-19 became a catalyst for a growing awareness that it is high time to tackle artists' working conditions, which has already been demanded for a long time by CCS representative organisation and networks EU-wide and beyond.

With the pandemic not quite over, the EU is currently facing additional challenges and other crises: Russia's military aggression against Ukraine, with thousands of Ukrainian artists and cultural workers being displaced in their homeland and in other countries, including in the EU; the energy crisis, with manifold economic impacts; the climate crisis; and growing inequalities and imbalances. It is obvious that these crises will have multiple prolonged effects on the EU and its Member States, including the CCS, and they require a coherent EU response, as well as better preparation for future challenges.

Strengthening the resilience and the working environment of the CCS will be imperative to deal with crises that could have direct or indirect impacts on the sectors in the future, and will require robust long-term measures, as well as flexibility to design and administer ad hoc policies. Greening the CCS and tackling the digital challenges will also remain high on political agendas at all governance levels. Arts and culture are indispensable for strengthening social cohesion, tolerance and democratic values in times of instability, profound transformation and gaining a new equilibrium.

1.1.2. Ukraine crisis and other crises and challenges

On 24 February 2023, the Russian war of aggression in Ukraine reached its first anniversary. The suffering and consequences of this war are devastating and fatal. Over the past year, the EU and its Member States have repeatedly condemned this attack. Together with international partners, they have reiterated steadfast support for Ukraine's independence, sovereignty and self-defence, and provided aid in the billions of Euro. Russia's invasion of Ukraine is also an attempt to eradicate the identity and culture of a sovereign nation and hit the entire CCS hard, forcing artists and cultural workers, journalists and academics to flee and leave their country (European Parliament, 2022a). From the beginning of this tragedy, the EU institutions and Member States have not only expressed their solidarity with Ukraine but also sheltered Ukrainian artists and cultural professionals, and reinforced support for and solidarity with the Ukrainian cultural ecosystem, including support to its artists and cultural workers. Many Ukrainian artists and cultural professionals were offered opportunities to continue their artistic and cultural practices far away from their war-torn country. It enabled them to raise their voice internationally, to express the devastating effects on human lives, and it also helped to ensure their right to artistic freedom. The EU's Council conclusions on at-risk and displaced artists are another important instrument to highlight and address the need for support for Ukrainian artists and cultural professionals, as well as for artists who have to flee countries where democratic values are oppressed or prohibited and where they are subjected to threats and persecution.

In our report, we are focusing on the status of artists in the EU and recommending ways it could be further developed and strengthened. We would like to express our solidarity here not only with Ukrainian artists and cultural professionals, but with all those who are suffering and facing tremendous challenges and/or have to cope with difficult political circumstances. We hope that our report will also be of use to the Ukrainian and other authorities and serve as guidance in improving the status of artists in Ukraine and the recovery of its cultural sector, as well as to countries that have to cope with displaced or at-risk artists.

1.1.3. What do we aim to achieve?

This Open Method of Coordination (OMC) report on the status and working conditions of artists and cultural and creative professionals tries to increase information, transparency and comparability of,

governmental measures supporting artists and cultural and creative professionals. This can be a turning point and, building upon previous work by Europe-wide network organisations, can help towards better and informed policymaking. As we illustrate in this report, there is a wide range of diverse systems across the EU. Our intention is therefore not to promote one particular solution as ideal, but to provide an overview of different measures and systems. In our report, we provide a collection of good practice for advancing further policy learning and development, as well as policy recommendations.

The **target groups** of this report are primarily policymakers at European, national, regional and local levels from different policy areas, including beyond employment/social affairs and culture, as well as CCS professionals, academics and others interested in the topic. Readers will hopefully be inspired by this report and use it as a source of information and a basis for further assessments of possible ways forward to improve artists and creative sectors professionals' working conditions in their respective countries.

1.1.4. Scope of this report

The EU **Work Plan for Culture 2019–2022**, Priority C 'An ecosystem supporting artists, cultural and creative professionals and European content', provides for the creation of an OMC group of Member States' experts focusing on the status and working conditions of artists and cultural and creative⁽¹⁾ professionals.

The **scope** of this OMC report is the status and working conditions of artists and cultural and creative professionals, taking into account the wider ecosystem supporting artists and cultural and creative professionals.

According to the **mandate** given by the Council via its Cultural Affairs Committee, this OMC group builds upon existing work, avoiding possible overlaps, actively seeking synergies with related initiatives and working in a cross-sectoral and innovative way. It followed up on recommendations of the OMC report *The role of public policies in developing entrepreneurial and innovation potential of the cultural and creative sectors* (European Union, 2018) ⁽²⁾. The work and perspective of the OMC group kept in mind the intrinsic value of culture and cultural diversity, as enshrined in the EU Treaties.

1.1.5. The Open Method of Coordination group's composition and working methods

The OMC group worked in a cross-sectoral way and brought together a mix of experts in the field of **culture** and in the field of **employment / social affairs / economy**. The OMC group consisted of representatives of **all 27 EU Member States** ⁽³⁾. The group met six times between September 2021 and January 2023. Because of COVID-19, the group's first three meetings were online, but the last

⁽¹⁾ According to the definition given in Article 2 of the Creative Europe Programme, the cultural and creative sectors include inter alia architecture, archives, libraries and museums, artistic crafts, audiovisual (including film, television, video games and multimedia), tangible and intangible cultural heritage, design, festivals, music, literature, performing arts, publishing, radio and visual arts (Regulation (EU) 2021/818).

⁽²⁾ For example, the recommendation on p. 38: 'Ensure social protection for CCS professionals: Policy frameworks designed to foster innovation in the cultural and creative sectors should make special provisions to enable all the professionals of these sectors to be creative and innovative. This can be done by ensuring that those who work on a project or other unconventional basis have access to appropriate employment rights and labour rights.'

⁽³⁾ All 27 EU Member States participated in the OMC group: Belgium, Bulgaria, Czechia, Germany, Denmark, Estonia, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland and Sweden.



three meetings and the drafting group meeting took place in person in different countries (Belgium, Austria, Cyprus, Czechia), which helped the group in its discussions.

The OMC group was **co-chaired** by Heidemarie Meissnitzer (Counsellor for Arts, Culture and Audio-visual, Permanent Representation of Austria to the EU) and Toby Dennett (Strategic Development Manager, Arts Council of Ireland). The OMC experts express their gratitude to the co-chairs and to the **drafting group** (Adrian Debattista, Lukas Declercq, Toby Dennett, Zuzana Došeková, Manochehr Endalib, Martina Hájková, Joost Heinsius, Heidi Meissnitzer, Céline Renchon, Barbara Stacher and Amanda Van Rij), as well as to all experts from the EU Member States, the European Commission and the participants from the CCS, academia and civil society for their valuable commitment and contributions. Special thanks also go to the fantastic **hosts** of our meetings in Brussels, Vienna, Limassol and Prague, who enabled exchanges of views with policymakers and CCS participants, and very inspiring discussions.

In addition to presentations and discussions in plenary, the group used the **'world café' format**, splitting members into different subgroups (SGs) and discussion tables for in-depth conversations on particular topics. From the group's third meeting onwards, the following SGs with SG chairs were formed: SG 1 Artist status (status of artists and cultural and creative professionals), SG 2 Fairness and public funding, SG 3 Fairness/regulatory (fair environmental regulations, rights and representation), SG 4 Social security (social security / tax / other benefits or supports), SG 5 Skills development and SG 6 Artistic freedom. These subgroups were later merged and regrouped into four thematic subgroups, corresponding to the main chapters of the OMC report and organically leading into the OMC report's drafting group (see above). This working method allowed the experts to have in-depth discussions from an early stage onwards, and the subgroup chairs were very committed throughout the whole process and invested a lot of their time, knowledge, effort and enthusiasm.

Before the beginning of the OMC process, as laid down in the EU Work Plan for Culture, the **Commission issued a study on the status and working conditions of artists and cultural and creative professionals** ⁽⁴⁾ at the end of 2020. It was carried out by the European Expert Network on Culture and Audiovisual (EENCA, 2020) on behalf of the Commission, in close collaboration with several sectoral stakeholder organisations, such as Culture Action Europe (CAE), the International Network for Contemporary Performing Arts (IETM), On the Move, PEARLE – Live Performance Europe and Freemuse. The study looked at characteristics of the employment of artists and cultural and creative professionals in the EU Member States with regard to artist status and entitlements, social security, self-employment, support ecosystems and alternative financing, artistic freedom, career development and measures countering the COVID-19 crisis. The Commission also initiated a **Voices of Culture** civil society group ⁽⁵⁾, which presented the **results** of its discussions in June 2021 and also had an exchange of views with the OMC group at the OMC group’s second meeting in November 2021.

During the OMC group’s meetings, relevant stakeholder/sector representatives were invited as **guest speakers**, in particular Voices of Culture and CAE. The EU-funded Creative FLIP (Finance, Innovation, Learning and Patenting/IPR for CCSI) project also invited OMC members to a stakeholder conference ⁽⁶⁾ in Brussels in March 2021. Other guest speakers made presentations on specific topics from different fields, in particular from the European Commission’s Directorates-General for Education, Youth, Sport and Culture (DG EAC), for Employment, Social Affairs and Inclusion (DG EMPL), and for Competition (DG COMP). The following countries made **presentations about their relevant good practices** to the OMC group: Austria and the Netherlands (fairness process / good practice code), Ireland (basic income for artists), Germany (artists’ social security system), Luxembourg (current and new planned initiatives concerning freelance arts professionals), France (*intermittent du spectacle*), Cyprus, Czechia and Latvia, Greece, Estonia, Bulgaria, Romania (update on relevant ongoing initiatives), Portugal (new status of artists’ law), Belgium, Spain (update on current artist status reform), as well as the Dutch-based Platform Arbeidsmarkt Culturele en Creative Toekomst (Platform Labour Market Cultural and Creative Future).

1.1.6. Content of the report

This report presents the results of all the lively exchanges and discussions of six plenary sessions and the many exchanges between them, convened by the European Commission in 2021–2023, among the EU Member States’ experts appointed to the OMC group on the topic of the status and working conditions of artists and cultural and creative professionals.

The content of the report is structured along the key areas of work set jointly by the experts, according to the group’s mandate. The report starts out by providing an introduction explaining the background and general questions and objectives, followed by a policy context, including relevant EU regulations and relevant documents adopted by international organisations on this topic, and then definitions of key terms. The second chapter focuses in detail on the identified topic areas: the status of the artist and social security; fair practice; skills and lifelong learning; and artistic freedom. Each of these sections includes a description of challenges, a selection of good practice cases, OMC survey results and proposals for specific and/or general policy recommendations. Finally, conclusions, main recommendations and an outlook on the way forward are given.

⁽⁴⁾ <https://ec.europa.eu/culture/news/study-artists-working-conditions-published>

⁽⁵⁾ <https://voicesofculture.eu/2021/07/06/brainstorming-report-status-working-conditions-for-artists-cultural-and-creative-professionals/>

⁽⁶⁾ <https://creativeflip.creativehubs.net/2022/02/10/flipping-perspectives/>.



1.2. POLICY CONTEXT – EU AND BEYOND

1.2.1. EU competences in the fields of culture and social affairs

According to Article 167 of the Treaty on the Functioning of the European Union (TFEU), ‘The Union shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore. Action by the Union shall be aimed at encouraging cooperation between Member States’. According to the same article, only ‘incentive measures, excluding any harmonisation of the laws and regulations of the Member States,’ can be adopted at EU level.

Article 45 of the TFEU provides for the freedom of movement for workers, which is a fundamental right, complementing the free movement of goods, capital and services within the European single market. Article 13 of the EU Charter of Fundamental Rights, attached to the TFEU, focuses on artistic freedom. Article 15 provides for the freedom to choose an occupation and the right to engage in work. The European Pillar of Social Rights was launched by the European Commission in 2017, and serves as a guide for the renewed process of convergence towards better working and living conditions in Europe.

Despite limited EU competences in the fields of culture and social security, there seems to be political will and a historic opportunity to tackle the challenges of working conditions of artists together at EU level, to compare notes, learn from good practice in other countries and see how to best move forward for the benefit of all. This is what this OMC group tried to do.

1.2.2. EU policy context

For many years, **EU cultural policy action** has been guided by the priorities defined in the Commission’s European Agendas for Culture, the European Framework for Action on Cultural Heritage and the Joint Communication ‘Towards an EU strategy for international cultural relations’, on the one hand, and the multiannual Work Plans for Culture, on the other. The cultural and creative sectors and industries have been identified as one of the 14 industrial ecosystems in the 2020 New Industrial Strategy.

The 2017 **European Pillar of Social Rights** sets out 20 key principles and rights essential for a fair and well-functioning labour market and welfare system in the 21st century. Relevant provisions include active support for employment, the right to fair and equal treatment regarding working conditions, access to social protection and training, the right to fair wages, social dialogue, involvement of workers regardless of the type and duration of their employment relationship, and adequate social protection for salaried workers and self-employed, as well as other relevant EU legislation.

A relevant piece of EU legislation is Regulation (EC) No 883/2004 on the **coordination of social security systems** ⁽⁷⁾. While the regulation does not harmonise national social security systems, and each Member State is free to determine the details of its own system, it does lay down common rules and principles that Member States must respect, such as equality of treatment. These ensure that differences between the national systems do not adversely affect persons who exercise their

(7) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02004R0883-20140101>).

right to free movement. The 2019 Council **Recommendation on access to social protection for workers and the self-employed** aims to support all people who, because of their employment status or duration, are not adequately covered by social security and thus are exposed to higher economic precariousness and instability. In June 2016, the European Commission adopted a communication on the **collaborative economy** ⁽⁸⁾. In June 2017, the European Parliament adopted a resolution for a European agenda on the **collaborative economy** as a ‘first step towards a well-balanced, more comprehensive and ambitious EU strategy on the collaborative economy’.

Other **important legislative initiatives at EU level** are:

- the directive on adequate minimum wages;
- the Council recommendation on minimum income (in draft at the time of writing);
- the proposal for a directive on working conditions of Platform workers (in draft at the time of writing);
- the proposal for a directive on pay transparency measures, which refers to more transparency and effective enforcement of the equal pay principle between women and men, and to improved access to justice for victims of pay discrimination (in draft at the time of writing).

At EU level, it is also worth mentioning:

- the work of the High-Level Group on the future of social protection and of the welfare state in the EU ⁽⁹⁾
- the report on the implementation of the Council recommendation on access to social protection;
- Commission communication – Proposal for a Council recommendation on strengthening social dialogue in the European Union: Harnessing its full potential for managing fair transitions.

In 2022, following a public consultation, the Commission adopted **guidelines** ⁽¹⁰⁾ on the application of EU **competition law and collective agreements** regarding the working conditions of solo self-employed persons. The guidelines clarify the circumstances in which certain solo self-employed people, can negotiate collectively to improve their working conditions without breaching EU competition rules. They are thus also highly relevant to artists and creative sector workers.

The **EU gender equality strategy 2020–2025** was adopted on 5 March 2020. It comprises policy objectives and actions aiming to achieve significant progress by 2025 and moving towards a gender-equal Union. Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and Directive (EU) 2019/1152 on transparent and predictable working conditions in the European Union are also highly relevant. In the field of cultural policy, the Presidency conclusions on gender equality in the field of culture, adopted in November 2020 ⁽¹¹⁾, acknowledged persistent gender inequalities in the sector, in particular as regards equal access to the cultural and creative labour market, equal payment and representation in creative and decision-making positions, and equal appreciation and recognition of their work. This was further acknowledged by the EU-financed study on gender gaps in the CCS ⁽¹²⁾ and the report of

⁽⁸⁾ Commission communication – A European agenda for the collaborative economy (COM(2016) 0356 final) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2016%3A356%3AFIN>).

⁽⁹⁾ report presented in a high-level conference on 7 February 2023.

⁽¹⁰⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022XC0930%2802%29>

⁽¹¹⁾ <https://data.consilium.europa.eu/doc/document/ST-13097-2020-INIT/en/pdf>.

⁽¹²⁾ <https://eenca.com/index.cfm/publications/gender-gaps-in-the-cultural-and-creative-sectors/>.



the OMC group on gender equality in CCS ⁽¹³⁾. Both these studies conclude that women active in the sector face numerous challenges, which often put them in a more vulnerable position than their male counterparts, including when it comes to working conditions. While employment in the CCS recorded the smallest ever gender gap, with 3.76 million men and 3.60 million women employed (Eurostat, 2022a), there is a gender pay gap between men and women working at the same seniority level, and women are less likely to advance to more senior (and better paid) positions (EENCA, 2020), which is unfortunately comparable to many other sectors.

Various **primary law provisions** ⁽¹⁴⁾ focus on **artistic freedom**. Article 15 of the EU Charter of Fundamental Rights provides for the freedom to choose an occupation and the right to engage in work. Furthermore, EU directives ⁽¹⁵⁾ in the field of copyright are important to ensure appropriate and proportionate remuneration for authors and performers.

Cultural and creative sectors and industries are gaining in importance in the EU context: in 2021–2027, funding has been increased within various EU programmes, in particular Creative Europe and Horizon Europe (cluster 2), the newly adopted KIC (Knowledge and Innovation Community) ‘Culture and Creativity’, the cultural components of the national plans for Recovery and Resilience, the EU Pact for Skills partnership and, in general, the increased importance as a topic across EU policies and support programmes. **EU funding programmes** also contribute to improving artists’ working conditions, such as the Creative Europe Programme, the European Social Fund, the European Regional Development

⁽¹³⁾ <https://op.europa.eu/en/publication-detail/-/publication/36e9028b-c73b-11eb-a925-01aa75ed71a1>.

⁽¹⁴⁾ Article 3(3) of the Treaty on European Union, Articles 2, 151, 153 and 157 of the TFEU and Article 13 of the EU Charter of Fundamental Rights, attached to the TFEU, focus on artistic freedom.

⁽¹⁵⁾ In particular, Directive 2001/29/EC and Directive (EU) 2019/790 are especially important in this context.

Fund, the Erasmus programme, Horizon Europe, the Single Market Programme and other programmes. A good overview of funding opportunities for the cultural sector in all relevant EU programmes is available on the **CulturEU** ⁽¹⁶⁾ guide and web tool. Of particular importance in this context are EU **mobility** programmes. A specific mobility scheme for artists and creative professionals has been in place since 2019 (i-Portunus); it has now become the new **Culture Moves Europe** mobility scheme for artists and professionals. It will allow around 7 000 artists, creators and cultural professionals to go abroad for professional development or international collaborations. This will enable them to grow, co-produce, co-create and present their works to new audiences. **Creatives Unite** ⁽¹⁷⁾ is a platform for and by the CCS, which has been set up with the help of the European Commission. Various tools are available on the platform: a **mobility search tool**, which helps CCS professionals with finding EU-wide residency and other mobility programmes available for the sectors; a new funding tool that complements CulturEU, called ‘So, you need money’, explains what **funding** is available in addition to EU sources, at regional, local and national levels, including private sector funding, and has additional functionalities; another tool help CCS players, notably individual creators and smaller players, navigate **intellectual property (IP)** rights.

The following **Council conclusions** refer to the topic of artists’ working conditions: on the recovery, resilience and sustainability of the cultural and creative sectors ⁽¹⁸⁾, June 2021, and on building a European strategy for the cultural and creative industries ecosystem ⁽¹⁹⁾, April 2022.

The **European Parliament** adopted a resolution in June 2007 on **the social status of artists**, drawing attention to artists’ social security and revenue problems, and their often precarious employment situation, following an earlier extensive report. The resolution of 20 October 2021 on the situation of artists and the cultural recovery in the EU ‘calls on the Commission to propose a European Status of the Artist, setting out a common framework for working conditions and minimum standards common to all EU countries’, following an earlier resolution of 17 September 2020 on Europe’s cultural recovery. Members of the European Parliament (MEPs) across the political spectrum agree that something needs to be done to improve artists’ and creative professionals’ working conditions, in particular in the wake of the COVID-19 crisis and the precarity of the sectors. Some MEPs of the Cultural Creators Friendship Group ⁽²⁰⁾ have called for a roadmap towards a European framework for an artists’ status, to be drafted with Member States.

EU sectoral social dialogue and social partners: European social dialogue is very strongly anchored in the EU Treaties (Articles 152, 154 and 155 of the TFEU), as is the way it is organised: bipartite or tripartite (trade unions, employers, and Commission and Council). There are 43 sectoral social dialogue committees, 2 of which are of relevance to the topic of artists’ working conditions. **Social dialogue – Live performance** ⁽²¹⁾ covers performing arts (i.e. live theatre, concerts, opera, dance and other stage productions, and related support activities) and the operation of venues (e.g. concert halls, theatres and other arts facilities). There is a separate **social dialogue – Audiovisual**. The OMC chairs regularly kept the social partners updated via the social dialogue – Live performance and informed them of the progress of the OMC’s work. Very constructive exchanges of views and mutual updates happened at these meetings over the almost 2 years, and an update and exchange of views about the OMC group’s work became a fixed agenda point of the social dialogue – Live performance at every meeting it held. This can be considered yet another example of good practice in the work of this OMC, with a sustainable and lasting effect.

⁽¹⁶⁾ <https://culture.ec.europa.eu/funding/cultureu-funding-guide>.

⁽¹⁷⁾ <http://creativesunite.eu/>.

⁽¹⁸⁾ [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XG0602\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021XG0602(01)&from=EN).

⁽¹⁹⁾ [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022XG0413\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022XG0413(01)).

⁽²⁰⁾ <http://www.culturalcreators.eu/>.

⁽²¹⁾ <https://ec.europa.eu/social/main.jsp?catId=480&langId=en&intPagId=1842>.

Following the **COVID-19 crisis**, various initiatives have been taken at EU level: the communication ‘Coronavirus: a common path to Europe’s safe re-opening’; **additional financial resources**, which have been made available through the Coronavirus Response Investment Initiative; the European Instrument for Temporary Support to Mitigate Unemployment Risks in an Emergency; the Recovery and Resilience Facility (RRF), which can also be used for the CCS; Recovery Assistance for Cohesion and the Territories of Europe; and the cohesion policy. A special EUR 100 million call was also issued under Erasmus for Partnerships for Creativity during the pandemic. At Member State level, support measures have been put in place as well.

The cultural and creative sectors and industries will benefit to a large extent from the support under the **Recovery and Resilience Facility**. Numerous national recovery and resilience plans include reforms and investments that will help the sectors recover and emerge stronger from the crisis as well as accelerate their digital and green transitions. The measures directly supporting culture and the creative industries amount to more than EUR 10 billion, representing approximately 2 % of total investments ⁽²²⁾. Several Member States have included reforms related to artists’ working conditions in their national recovery and resilience plans (such as Czechia, Greece, Spain and Romania).

At the same time, it also **became apparent in various countries that, in order to be able to disburse the additional funding to artists, more information was needed about who actually was working as an artist** and how to best reach and support artists and creative sector workers.

1.2.3. International policy context

The EU and all its Member States are parties to the **2005 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Protection and Promotion of the Diversity of Cultural Expressions** ⁽²³⁾. The 2005 UNESCO Convention ‘is an international agreement that provides a unique policy framework to implement Sustainable Development Goal 16 and gives a new impetus to promote and protect artistic freedom as a pillar of the fundamental freedom of expression’ ⁽²⁴⁾. Artistic freedom furthermore falls under the broad scope of freedom of expression, which is a universal human right (EENCA, 2020, p. 110). **UNESCO’s 1980 recommendation concerning the status of the artist** ⁽²⁵⁾ calls upon Member States to improve the professional, social and economic status of artists through the implementation of policies and measures related to training, social security, employment, income and tax conditions, mobility and freedom of expression. It also recognises the right of artists to be organised in trade unions or professional organisations that can represent and defend the interests of their members. The 1980 recommendation serves as a roadmap to improve artists’ status and reshape cultural policies aimed at creating an enabling environment for artists’ work. There are monitoring mechanisms, and parties to the convention have to report every 4 years (through a quadrennial periodic report), and there is also a global survey related to the 1980 recommendation; UNESCO invites the governments of all its Member States, non-governmental organisations and international non-governmental organisations to respond to it every 4 years.

The **International Labour Organization (ILO)** is the only tripartite UN agency, i.e. with government, employer and worker representatives. It held a first technical meeting on the future of work in the arts

⁽²²⁾ For an overview, see European Commission (2022a).

⁽²³⁾ <https://www.unesco.org/creativity/en/2005-convention>.

⁽²⁴⁾ https://en.unesco.org/creativity/sites/creativity/files/artistic_freedom_pdf_web.pdf.

⁽²⁵⁾ <https://unesdoc.unesco.org/ark:/48223/pf0000114029/PDF/114029eng.pdf.multi.page=144> and <https://en.unesco.org/creativity/governance/status-artist>.



and entertainment sector in February 2023 in Geneva, and adopted conclusions ⁽²⁶⁾. In addition, artists' working conditions are also discussed at the **G-20** and other international fora. A commitment to foster the strengthening of the economic and social rights of artists and uphold their status (including by reinforcing intellectual property), as well as the protection and promotion of artistic freedom and freedom of expression, was reaffirmed in the **Mondiacult** declaration adopted by the Ministers of Culture at the UNESCO World Conference on Cultural Policies and Sustainable Development in Mexico City in September 2022.

The right to work, the right to social security and the right to take part in cultural life are enshrined in several human rights instruments, such as the 1948 Universal Declaration of Human Rights and the International Covenant of Economic, Social and Cultural Rights from 1966. The 2030 Agenda (United Nations, General Assembly, 2015), adopted by the international community in September 2015, is structured around 17 **sustainable development goals (SDGs)**, providing a framework for policy design and implementation for a more sustainable future. The mandate of the present OMC group is linked in particular to target 8.8 'Protect labour rights and promote safe and secure working environments of all workers' including 'those in precarious employment' and to target 16.10 referring to the 'protect fundamental freedoms', as well as to other SDGs (4, 10 and 17, given the work already developed by UNESCO in this area).

⁽²⁶⁾ https://www.ilo.org/sector/activities/sectoral-meetings/WCMS_848345/lang-en/index.htm.

1.3. DEFINITIONS

Artist, according to UNESCO (1980), means any person who creates, gives creative expression to, or recreates works of art, who considers his or her artistic creation to be an essential part of his or her life, who contributes in this way to the development of art and culture, and who is or asks to be recognised as an artist, whether or not he or she is bound by any relations of employment or association. Concerning formal regulations of the status of artists and cultural professionals, ‘artist’ refers more specifically to any occupationally active person who is defined or accepted as such in at least one of the following legal frameworks: taxation, labour law, social security and access to public funding. For stylistic reasons, the word ‘artist’ in this report is used as a general term that includes artists and other cultural and creative workers, for example ‘status of the artist’ rather than ‘status of artists and cultural and creative workers’, unless specified otherwise.

Cultural and creative sectors (CCS), according to Article 2(1) of the EU regulation establishing the Creative Europe programme ⁽²⁷⁾, ‘means all sectors: (a) whose activities, many of which have potential to generate innovation and jobs in particular from intellectual property: (i) are based on cultural values and artistic and other individual or collective creative expressions; and (ii) include the development, the creation, the production, the dissemination and the preservation of goods and services which embody cultural, artistic or other creative expressions, as well as related functions such as education or management; (b) irrespective of: (i) whether the activities of those sectors are market-oriented or non-market-oriented; (ii) the type of structure that carries out those activities; and (iii) how that structure is financed; those sectors include, inter alia, architecture, archives, libraries and museums, artistic crafts, audiovisual (including film, television, video games and multimedia), tangible and intangible cultural heritage, design (including fashion design), festivals, music, literature, performing arts (including theatre and dance), books and publishing, radio, and visual arts’.

Cultural and creative workers, for the purpose of this report, refers to all persons working in the CCS in occupations that involve tasks and duties of creating, producing and disseminating cultural goods and services, which generally embody creative expressions protected by intellectual property rights and generate, develop, preserve or reflect cultural or symbolic meaning. The terms cultural and creative ‘workers’ and ‘professionals’ are used interchangeably in this report. It is important to note that the term is not defined at EU level; this is a Member State competence.

Employment, based on the statistical classification of status in employment according to the International Labour Office (2018a,b), refers to work for pay or profit, and covers employees, self-employed or family workers. Even though they are used differently across the EU and may refer to distinct legislative areas in certain Member States, the terms ‘employment’, ‘labour’ and ‘work’ are used interchangeably in this report.

Lifelong learning is broadly defined as the ongoing, voluntary and self-motivated pursuit of knowledge for either personal or professional reasons. It is important for an individual’s competitiveness and employability, but also enhances social inclusion, active citizenship and personal development.

Non-standard forms of employment, based on the statistical classification of status in employment according to the International Labour Office (2020), refers to employment arrangements that deviate from the standard employment relationship, understood as work that is full-time, indefinite, formal, and part of a subordinate relationship between an employee and employer. These non-standard

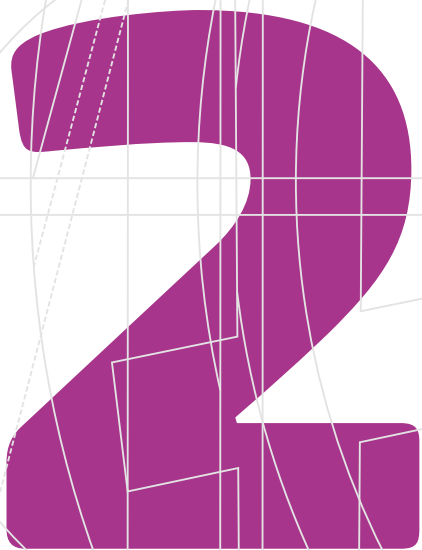
⁽²⁷⁾ Regulation (EU) 2021/818 of the European Parliament and of the Council of 20 May 2021 establishing the Creative Europe Programme (2021 to 2027) and repealing Regulation (EU) No 1295/2013 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0818>).

forms include temporary employment; part-time and on-call work; temporary agency work and other multiparty employment relationships; and disguised employment and dependent self-employment, when dependent workers have contractual arrangements of a commercial nature. According to the International Labour Office, this does not include independent self-employment, which is a separate employment category.

Professional artist, for the purpose of this report, refers to a person with an artistic occupation performed either as an employee or as a self-employed person or both. Artists may work professionally part-time, full-time or intermittently.

Status of the artist, according to UNESCO (1980), means, on the one, hand, the regard accorded to artists, defined as above, in a society, on the basis of the importance attributed to the part they are called upon to play therein, and, on the other hand, recognition of the liberties and rights, including moral, economic and social rights, with particular reference to income and social security, that artists should enjoy. In this report, the status of artists and cultural workers refers more specifically to the way in which their position is regulated, that is, in the sphere of employment, taxes, social security and access to public funding.





**ARTISTS'
WORKING
CONDITIONS**





ARTISTS' WORKING CONDITIONS



2.1. ARTIST STATUS AND SOCIAL SECURITY

2.1.1. Introduction

It has often been said that some characteristics of artistic labour patterns correspond to general trends observed in different sectors, such as the increase in self-employment and non-standard forms of employment including project-based employment, temporary and part-time work, economically dependent self-employment and new forms of labour relations, etc. The challenges posed by the status of artists and the creative professions can thus be linked to some more general issues related to the labour market. However, these challenges are particularly compelling in the case of artistic professions insofar as it is mainly the very nature of the activities carried out – as described above (1.1.1) – that leads to the atypical forms of work. Furthermore, the intrinsic value of culture, as well as its social, economic and societal impact, often leads public authorities to pay special attention to creative professionals, as **key actors in the creative value chains**.

At a crossroads between service to society, commercial activity, innovation, research and development activities, and activity with a non-market purpose that is de facto part of competitive markets, labour in the arts sectors shows **very contrasting socioeconomic features**. From a political and legislative point of view, the means to control these features fall within several fields of competence, which makes reflection and progress in this area complex.

The way in which each Member State addresses these issues depends of course on the historical, political, social and economic context in which they arise. The systems adopted are therefore very different from one country to another; however, they generally share a common objective, namely to ensure that artists have **access to an adequate status and social protection scheme, despite the often atypical forms of their work patterns, which might prevent access to social safeguards that typically exist for those in standard employment**.

As the COVID-19 crisis has highlighted **the precariousness of many workers in the sector and the need to improve their situation**, various countries have recently adopted – or are in the process of adopting – important legislative reforms to improve the working conditions of artists and cultural workers. New forms of status or support are thus emerging (e.g. Ireland, Spain, Luxembourg, Poland, Portugal and Romania), alongside models that have existed for longer (e.g. in Belgium, Germany, France, Lithuania, etc.).

2.1.2. Challenges and recommendations

2.1.2.1. Legal status of artists and creative professionals

A) What 'Status of the artist'?

As formulated by UNESCO (1980, p. 9), the term 'status' of an artist or an art worker refers to:

- 'on the one hand, the regard accorded to artists ... in a society, on the basis of the importance attributed to the part they are called upon to play therein';
- 'on the other hand, recognition of the liberties and rights, including moral, economic and social rights, with particular reference to income and social security, which artists should enjoy'.

These two aspects are closely related and both have an impact – direct or indirect – on the socioeconomic situation of arts workers:

- the importance and place accorded to artists in a society contributes to their recognition and feeds the legitimacy of policies regarding them;
- the policies implemented to protect or develop their rights contribute to their recognition and to the importance accorded to them in a society.

In accordance with its mandate and in line with the study conducted by EENCA (2020) as a significant background for this OMC group, we focus here on policies, laws and measures related to the working conditions of artists and creative workers. When referring to 'status of the artists' in this report we are therefore concentrating on **the way in which their professional situation is regulated**.

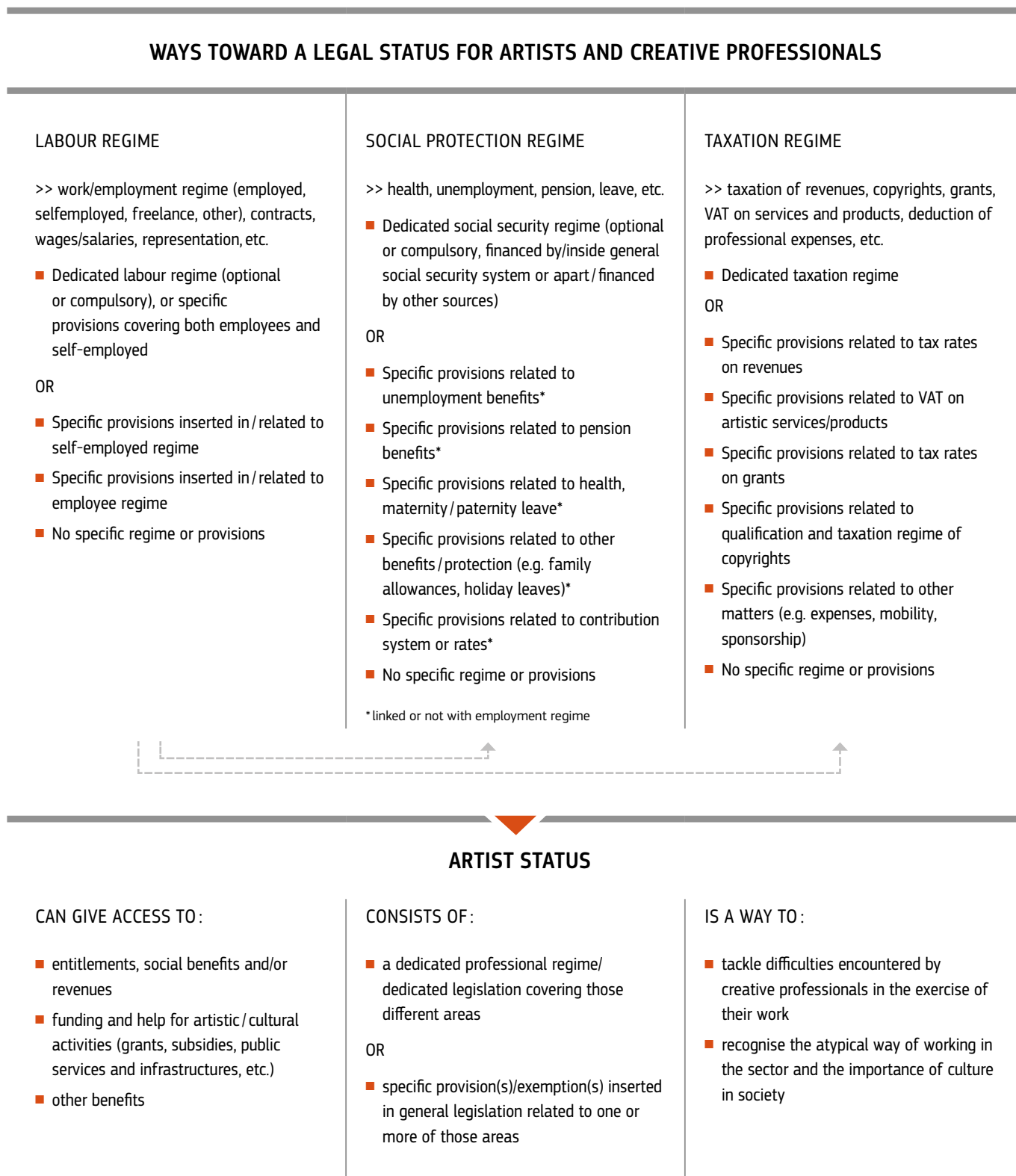
While it is often underlined that explicit declaration of recognition of artistic work in legislation helps convey the message that artists should have adequate and decent working conditions to exercise their creative role, the **legal status of artists and creative professionals should not be seen as a privilege or an honorary title**; rather, policies in that area are usually implemented in order to reduce the disadvantages in social and economic situations that come with the profession.

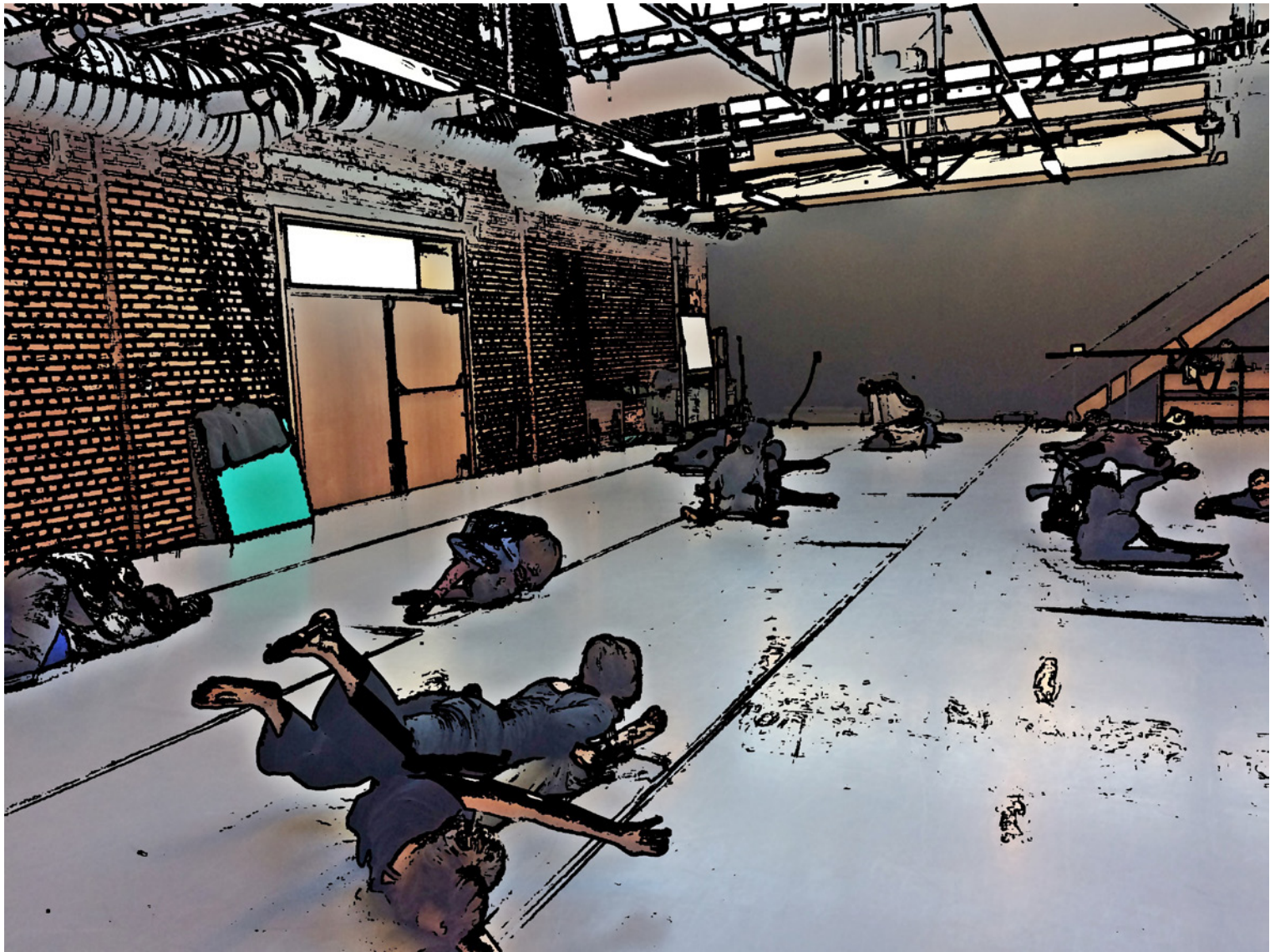
Legal status can consist of and be built upon **different policy branches**, which are most often:

- labour/employment policies;
- social security;
- tax; and/or
- cultural policies.

It may consist of legislation entirely dedicated to artists (*sui generis* status, covering several policy areas), or specific provisions regarding artists inserted into (one or several) existing regulations on more general matters (Figure 2).

Figure 2. Ways towards a legal status for artists and creative professionals





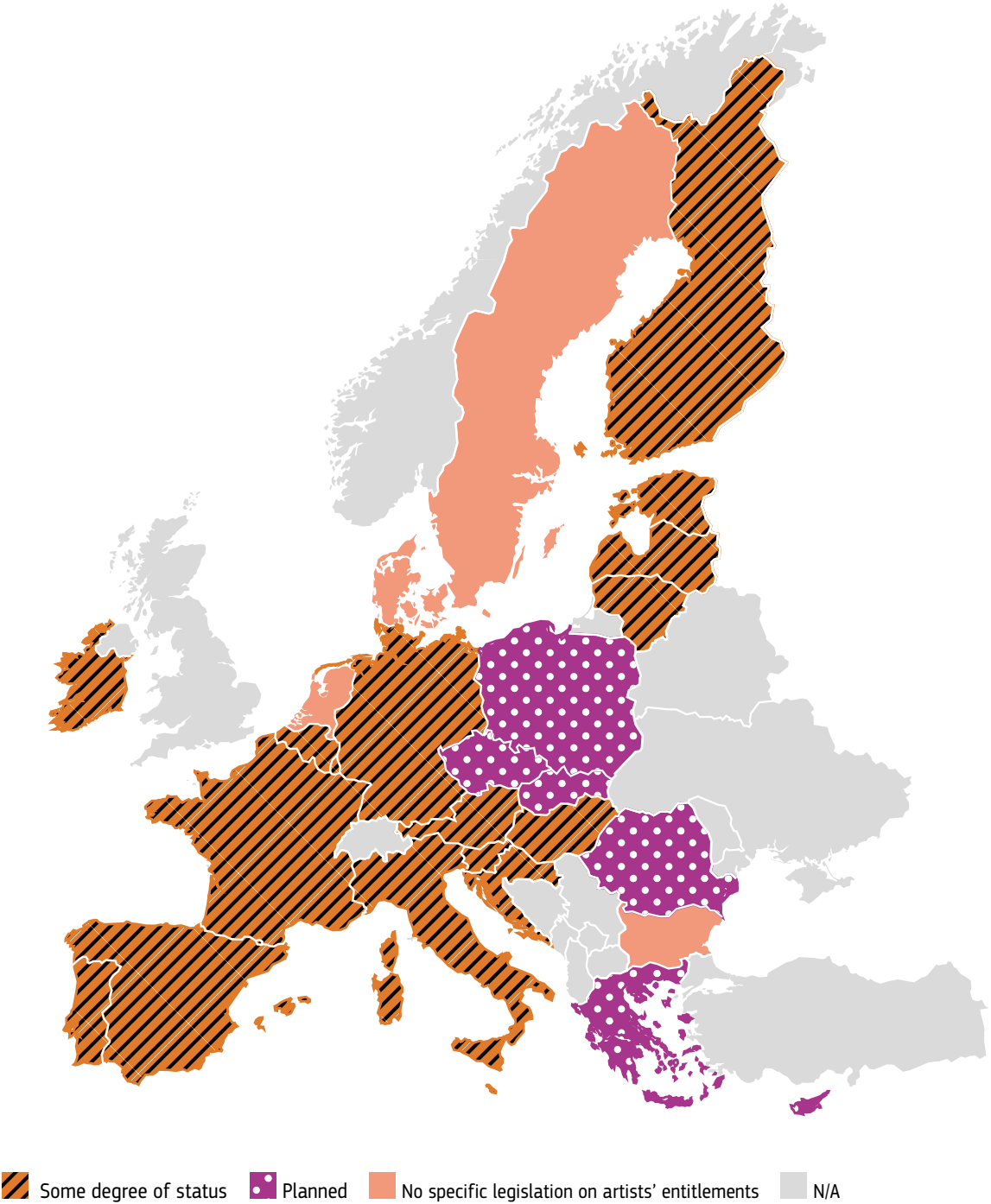
The national labour market and the role of social partners in each country naturally play an important role in the models adopted by each country. The chosen approach itself both reflects and has an impact on the way in which measures are conceived, negotiated with stakeholders, financed and implemented.

Regardless of the path taken, regulation of the professional status of artists in each Member State usually takes as a starting point the existing labour regimes – being generally employees or self-employed/freelance – and is based on the assessment of the relevance, opportunities and threats of either creating a distinct dedicated legal status or adapting existing labour regimes to challenges faced by creative professionals.

When we look at the different types of legal status of artists adopted within the European Union (see Annex 1), we see that most Member States have chosen to take measures linked to the self-employed/freelance regime, such as specific unemployment insurance schemes for freelance artists, access to pension, disability and health insurance, dedicated taxation systems, specific contribution systems and collective representation, etc. (e.g. Germany, Croatia, Poland and Slovenia).

Some Member States have developed systems linked with employee regime, such as assimilation to employees, protection of intermittent work and unemployment benefits for employed artists (e.g. Belgium and France).

Figure 3: Overview of legislation recognising artist status in the EU



Source: OMC Survey

Others conceived dedicated *sui generis* systems for artists, applicable regardless of their labour regime, or to both employees and self-employed/freelance professionals, such as social and financial aid (allowances) schemes, specific work relations and conditions, or tax benefits (e.g. Spain, Latvia, Lithuania, Luxembourg, Poland and Portugal).

Still others chose not to adopt any specific regime regarding the professional status of artists (e.g. Sweden); artists fall then within the existing general frameworks and are, as the case may be,

supported by other means, such as grants, subsidies, indirect support through subsidies to cultural institutions, residencies, infrastructures, etc.

Moreover, as mentioned above, certain Member States are currently working on new provisions and legal solutions regarding the status of artists (e.g. Czechia, Cyprus, Malta, Poland, Romania and Slovakia) and on other specific measures to support artists (Estonia, Ireland, Latvia and others).

Recommendations:

- While each system – and/or combination of systems – has its advantages and faces its difficulties, as often stressed, **dedicated regulations regarding artists are more likely to have a strong impact** on their socioeconomic situation, where appropriate and especially when the existing social protection is insufficient or cannot be adapted to the specificities of artistic work.
- When considering which system(s) to apply to artists, whether through dedicated regulations or through general regimes, public authorities should **take into account the diversity, combination and alternation of their labour regimes**; artists often alternate and combine various forms of work and profession, types of contracts and employment relationships/statuses, whether out of interest (artistic or financial) or necessity (artistic or financial), within the CCS or outside these sectors (e.g. in education, health, tourism). **This diversity of work practices should not be an obstacle to obtaining rights.**
- The usually strong interconnection between labour regimes (work/employment relationships, types of contracts, wage/income regulation, consultation methods, etc.), social security schemes (unemployment insurance, health insurance, pensions, contributions, etc.) and tax regimes (qualification and taxation of revenues, taxes on grants, deduction of expenses, etc.) can also be emphasised in this context. **Comprehensive approaches and measures**, which consider the different aspects of the professional status of artists, are therefore highly recommended. The ecosystem in which artists and creative professionals work – as characterised above (1.1.1) – also argues for the development of comprehensive systems in order to tackle the issues faced.
- When adopting regulatory measures related to existing labour regimes, the situation of both employees and self-employed artists should be considered; **make sure no one is left behind, whatever his or her status.**

More generally:

- Policy frameworks regarding artists' status should be based not only on the recognition of the intrinsic value of culture or the fundamental role it plays in society, but also and more decisively on the **need to improve their socioeconomic situation**, linked with the atypical nature and conditions of their work practices.
- Member States should ensure that professionals in the CCS **are covered by general or dedicated legal frameworks**; as recommended by EU Member States' experts within the OMC group on innovation and entrepreneurship in cultural and creative sectors (European Commission, OMC working group of Member States' experts, 2018), where existing schemes are inadequate, special provisions should be made in order to **enable those in the cultural field working on a project or other unconventional basis to have access to appropriate rights**. In other words, artists should be allowed to practise their work and pursue their activities in a viable and sustainable socioeconomic environment, with an appropriate professional status;



- **Reducing administrative burdens** related to the employment and social security of artists, regardless of their status, should be an overall objective, at all levels.
- The adoption of **measures on employment and social security related to (cross-border) mobility**, contributing to **facilitating such mobility**, is also strongly **recommended** ⁽²⁸⁾, at Member State and EU levels.
- At European level, we recommend the setting up of **a platform for sharing information and good practice around statuses and working conditions for artists**. The different forms of support for artists could in that context be further discussed between the Member States, in order to arrange and secure the optimal working conditions for artists and cultural and creative professionals, both nationals and artists from other Member States. This platform should be equipped with a follow-up mechanism to keep track of changes in policies and regulations. We recommend that Member States appoint contact persons responsible for updating information and data corresponding to the categories on the platform, and for participation in meetings and good practice-sharing exercises. When Member States collect and publish relevant information and national statistics, this also improves transparency for artists and other actors within the CCS.

⁽²⁸⁾ For a deeper insight on those issues, see among others PEARLE – Live Performance Europe (2021).

LEGAL STATUS

Spain – The Statute of the Artist

The Spanish Statute of the Artist (*Estatuto del Artista*) is a set of labour, social security, fiscal and educational measures. The objective is to improve the working and living conditions of artists and creators, recognising the specificities of their activity, particularly intermittency. It is the result of the mandate of the Congress of Deputies, which in 2018 unanimously approved a report with 75 recommendations.

To facilitate the debate and discussion of the measures to be adopted, it was decided to create an interministerial commission. This commission was established on 22 September 2021 with the participation of eight ministries (Culture and Sport; Finance and Civil Service; Education and Vocational Training; Labour and Social Economy; the Presidency, Parliamentary Relations and Democratic Memory; Inclusion, Social Security and Migration; Economic Affairs and Digital Transformation; and Universities). To help achieve the objectives of this Commission, four working groups were created (technical level, not political) on taxes, labour, social security and education issues, with the active participation of the cultural sector. In each thematic group, the corresponding ministry participates as the person in charge of the working group, and the Ministry of Culture and Sport participates in all of them, as coordinating ministry and responsible for the status of artist.

During 2022 and 2023 (Royal decree-laws 5/2022 and 1/2023), two sets of measures have been approved. The most important measures are creating a fixed-term contract model, specifically designed for artists; adapting and extending the definition of artist to include technical and auxiliary staff; introducing a reduction in withholding tax rates for artists; creating a new unemployment benefit for artists; and extending the regulation on the compatibility of retirement pensions with the exercise of artistic activity and the benefits derived from intellectual property rights.

There are still issues on the agenda to be addressed in the coming months (2023), such as cultural self-employed workers, diseases of artists and tax issues.

In short, it is about settling a debt with artists and creators to dignify their profession and recognise the specificities that define the exercise of their profession.

<https://www.culturaydeporte.gob.es/destacados/estatuto-del-artista.html>

Luxembourg – Support measures for independent professional artists and temporary entertainment industry workers

Professional artists can benefit from a substantial financial measure intended to help them practice and develop independently and freely. This career support is based on a law passed in 1999 to improve the situation of artists in line with the 1980 UNESCO recommendation on the status of the artist.

The amended law of 19 December 2014 relating to (1) support measures for independent professional artists and intermittent performers or workers in the entertainment industry and (2) promotion of artistic creation does not provide direct social security coverage but continuous financial assistance that may be requested by artists and short-term workers in the entertainment industry. Applicants must be insured with the Joint Social Security Center of the Grand Duchy of Luxembourg before the support measures can take effect. However, the average monthly disbursement from the Ministry of Culture is up to more than double the social security contribution to be paid (based on a gross income equal to the Luxembourg minimum wage) and is thus a means of increasing income and indirectly ensuring entitlement to social security and pension benefits. In March 2023 a reform of the aforementioned law came into force, the changes were elaborated in a participatory approach and are intended to ease the entry requirements and adapt the support system to the reality of work. A grant for aspiring artists who begin their profession after completing university studies in an artistic field and adapted conditions for older beneficiaries aim to meet needs related to different career stages. From the age of 50, more flexible conditions apply for the renewal of the rights, and from the age of 55 an increase in the financial benefits takes effect as recognition and appreciation of the achievements.

<https://guichet.public.lu/en/citoyens/travail-emploi/activite-independante/statut-artiste.html>



REFORMS THROUGH THE EU RECOVERY AND RESILIENCE FACILITY – CZECHIA, GREECE, SPAIN, ROMANIA

Several EU Member States have included in their national recovery and resilience plans reforms related to artists' working conditions: Czechia (measures on the status of artists), Greece (labour reform in the cultural sector), Spain (development of the status of the artist and promotion of investment, cultural sponsorship and participation) and Romania (reform of the funding system for the cultural sector, including a proposal to pass legislation on the status of cultural workers).

https://ec.europa.eu/economy_finance/recovery-and-resilience-scoreboard/assets/thematic_analysis/scoreboard_thematic_analysis_culture.pdf

B) Eligibility of artists: who is considered an artist within the status?

UNESCO's (1980) definition of an artist includes artists who are not bound by any relations of employment or association (see Section 1.3).

On the other hand, status of the artist regulations are as a rule aimed at professional artists, that is, persons with an artistic occupation (performed either as an employee or as a self-employed person or both; see 'Professional artist' in Section 1.3).

However, the specifics of what is considered an artistic occupation or artistic work within status of the artist regulations vary across Member States. The definitions and criteria for being considered an artist are not universal, only instrumental, for the purpose of a specific regulation and associated benefits within the legislative framework of the Member State in question.

Therefore, for the purpose of status of the artist regulations, the term 'artist' refers to an occupationally active person who is defined or accepted as such in at least one of the following legal frameworks: taxation, labour law, social security and access to public funding.

Where such a status exists, it usually covers, as a minimum, the most obvious artistic professions: performers, such as actors, dancers and musicians, and creators of works of art, such as writers, composers, choreographers, and audiovisual and visual artists. The scope of activities and occupations considered artistic ranges from conservative (a limited group of high-ranking professional artists) to broader conceptions including creative professionals in entertainment shows, journalism, design, traditional and folk art, cultural heritage professions, etc.

It is less common to include professions in arts education, research and criticism, or supporting professions such as technicians, stylists, producers, managers, marketing or communication experts. However, these also play an important role in the process of creation and dissemination, and often face similar instability and precariousness in their work to that of performing or creative artists, which



became evident during the COVID-19 crisis (EENCA, 2020). In countries where these professions have the status of artists, two approaches can be observed: either the status makes a clear line between art creators/performers and other cultural professionals, or cultural professionals have the same status as artists (e.g. France (workers and technicians in performing arts), Germany, Lithuania).

C) Access criteria for the status

To access an artist status, artists and cultural professionals must typically prove that they meet a set of specific criteria (usually a combination of several, or a given minimum out of a set; see Table 1). In some systems these criteria are different for access to public grants, for unemployment and for other social security rights. In addition, different fields of art might have different practices for demonstrating artist status. A Member State is referred to in the table if it uses the criterion in question at least in some cases.

TABLE 1. HOW DO ARTISTS GAIN ACCESS TO THE STATUS?

CRITERION	EXAMPLE	MEMBER STATES
Proof / track record of artistic or cultural activities	Exhibitions, concerts, books, contracts with arts organisations, etc. Published articles/reviews, teaching activities	BE, DE, EE, FI, FR, HR, LT, LU, LV, PL, PT, SE, SI
Proof of income/minimum income from artistic or cultural activities	From self-employed work by tax code / by contract for artistic work, scholarships, copyright income, etc. Income might have a minimum threshold (to prove that artistic activities are conducted as a profession) and/or a maximum threshold (social support not available to high-earning artists)	AT, BE, DE, FI, FR, HR, IE, IT, LU, LV, PL, PT, RO (planned), SI
Proof of relevant education/training	For example an arts college/academy diploma	BE (planned), DE, FI, PL, SE, SI
Membership of a professional association	Membership of a professional creative association may be a necessary condition, or just one of the possible ways of accessing the status	BG, DE, EE, FI, HR, IE, LT, LV, PL
Artistic quality / recognition	Previously awarded grants National/international awards Positive reviews Art works acquired/exhibited by established arts institutions Art works taught in schools and/or universities	AT, DE, FI, HR, LT, PL, SE, SI
Dominance/exclusivity of artistic activities in professional career	Artistic activities have a dominant/exclusive role in the artist's income or hours worked	HR, RO (planned)
Other	Registration in a national register of artists Meeting specific administrative criteria (e.g. being enrolled in artists' pension fund / registered as artist in the social security system) Having paid compulsory or voluntary social insurance contributions Having an employment relationship as an artist Having worked in a public institution for a given number of years	AT, EE, ES, FR, IT, LT, LU, LV, NL, PL (planned), PT, SI, SK

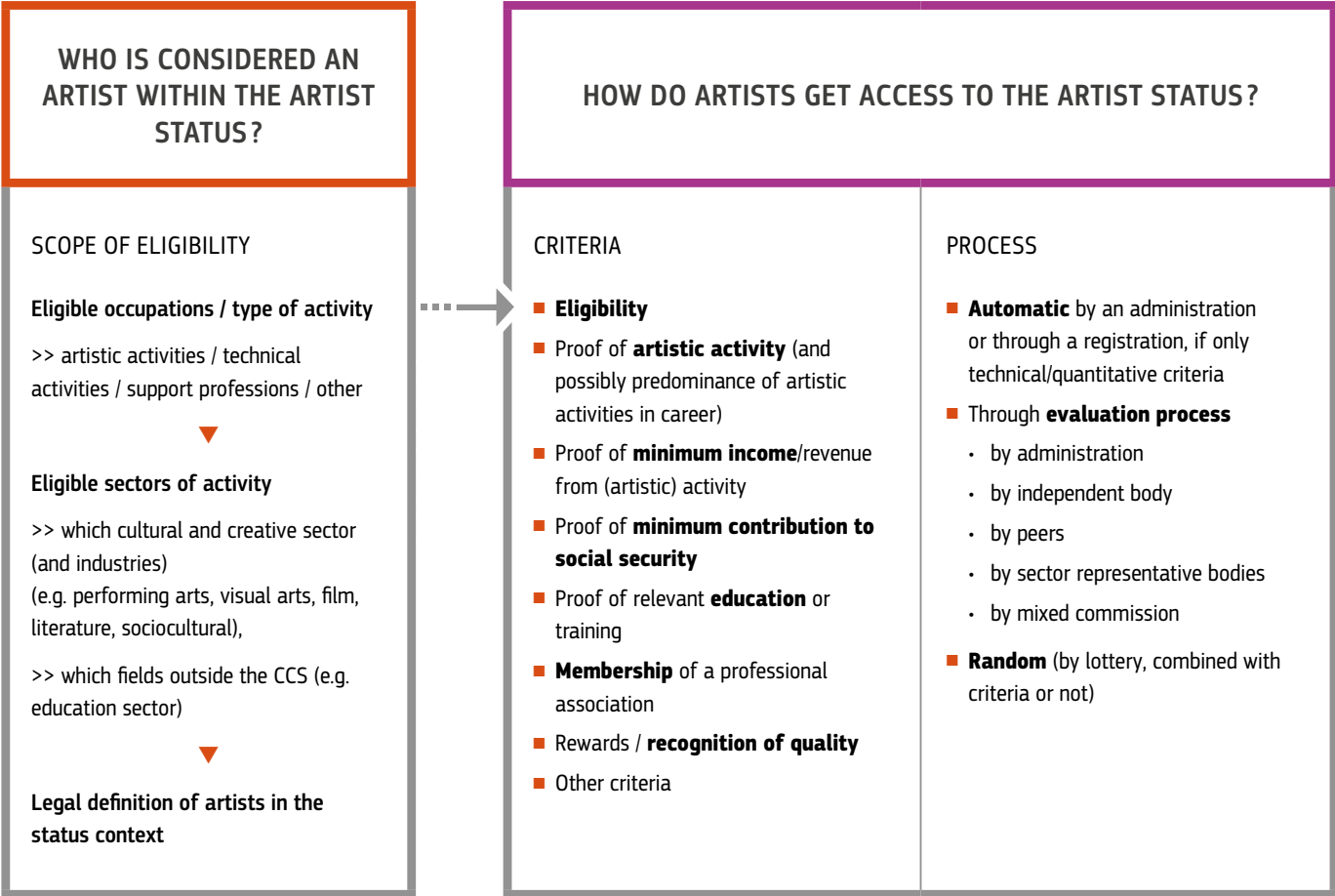
Source: OMC Survey.

The granting of the status is usually decided by an administrative department, a commission of the artist's peers or an independent body. If an administrative department is responsible, the granting process can be automatic if the criteria are unambiguous; if, on the other hand, they are open to interpretation, a consultative commission with representatives from other administrative bodies / peers / sector representatives may be available for borderline cases.

Recommendations:

- When designing policies regarding the status of artists, include professionals who occupationally create, give creative expression to or re-create works of art, as a minimum; consider the inclusion of other types of cultural and creative professionals who face the same challenges.
- The methods and criteria to access recognition as a professional artist, and the rights that may be linked to this recognition, should take into account not only artistic income, but also 'invisible' working time (experimentation, research, rehearsals, etc.) and related activities that are fundamentally linked to the artist's practice (reflection, consultation and sharing of expertise, cultural activities, etc.).

Figure 4. Eligibility and access to the status of the artist



ELIGIBILITY AND ACCESS TO STATUS

In **Belgium**, the recently reformed social protection system for artists provides for, among other things, innovative arrangements regarding recognition as a professional art worker and access to specific social benefits.

From 1 January 2024, a Working in the Arts Commission will be in charge of:

- issuing three types of ‘working in the arts certificates’ (starter, standard or plus), each with specific requirements and giving access to specific rights;
- informing those working in the arts of their social security rights and obligations at their request;
- acting as a centre of expertise and a contact point for all socioeconomic aspects of working in the arts within the federal administration, in particular through the production of anonymised statistics on those working in the arts fields;
- supporting and informing arts federations and other organisations who provide assistance to those working in the arts;
- developing and maintaining a register of activities and criteria applied by the commission;
- advising on draft laws, decrees and all draft standards submitted by their authors.

Half of the Working in the Arts Commission will be composed of experts appointed by arts federations. The other half will be made up of:

- representatives of the federal administration;
- representatives appointed by interprofessional trade unions;
- representatives of employer organisations or trade unions of self-employed workers.

The working in the arts certificate will ensure that the holder is eligible for specific social security schemes, but access to benefits themselves (such as unemployment allowances for art workers) will still have additional requirements and rules. This certificate is therefore a necessary but not sufficient condition to access benefits.

The scope of eligibility of artistic activities has been extended; it will cover artistic, technical and support activities, in the fields of audiovisual arts, visual arts, music, literature, entertainment, theatre, choreography and comics. Those activities have to be necessary for the creation or performance of an artistic work. Activities related to administrative support, sales, communication, legal support, marketing, logistics or IT support in the context of the creation remain out of scope.

The reasoning for decisions on eligibility will be entered into a live register by the secretariat of the Working in the Arts Commission. The register will present a summary of the different criteria used to evaluate the artistic, technical artistic and artistic support activities, and establish a list of activities that meet these criteria.

Applications for recognition as an art worker will be entered on a digital platform. Artists must prove a professional practice in the arts (in terms of time spent and revenues) that must be sufficient to support part of their subsistence. In its evaluation, the commission will take into consideration, among other things, the fees received over the past 5 years, the investment of time and, where appropriate, the *invisible work* (searching for grants, participation in casting, writing a book, etc.).

<https://www.workinginthearts.be/> (temporary; e-platform under construction)

Portugal has recently introduced ‘status of the professional in the area of culture’ (not ‘status of the artist’) with a broad definition of cultural professions, including web designers, stylists, casting coordinators and lighting technicians, just to name a few examples. The status began to be applied in January 2022 and since then more than 2 000 artists have registered. This law regulates work contracts and the social security regime, and introduced a new discontinuity allowance, relevant to professionals without regular activity.

<http://www.estatutocultura.pt/>

Germany’s Artists’ Social Insurance Act (applicable since 1983) contains a broadly conceived definition of who is deemed an artist or publicist within the scope of that particular law. See Article 2: ‘For the purposes of this Act, an artist is anyone who creates, performs or teaches music, the performing arts or the visual arts. A publicist for the purpose of this Act is a person who is active as a writer, journalist or in a similar way as a publicist, or who teaches in that field.’ The category of artist includes, for example, the following professions: stunt performer, web designer, or make-up artist. Artists and publicists are subject to compulsory insurance if they work professionally as self-employed/freelance workers and have no more than one employee. Insurance starts the day they apply to the Artists’ Social Security Fund for the Artists’ Social Security Insurance or register for it. Artists are exempted from the compulsory insurance if they have a yearly income of less than EUR 3 900 and have (or could have) other social security rights (e.g. students or retired people) – in total over 190 000 people in 2020. Only half of the social security contribution is paid for by the artist, and the other half by users of works of art and the federal government via a federal subsidy ⁽²⁹⁾.

<http://www.gesetze-im-internet.de/ksvg/index.html>

⁽²⁹⁾ German social insurance for independent artists has been well documented in previous reports; see EENCA (2020) for a more detailed summary.



2.1.2.2. Social protection

Social protection systems, historically conceived as insurance schemes for workers based on contributions covering risks, are usually structured around employment status/regime (mainly whether they are employees or self-employed). Access to rights and benefits regarding health, unemployment or pensions, among other issues related to social security, is thus usually contribution-based, through standard employment models.

For artists, who tend to work in atypical forms of employment, earning less and on a more irregular basis than other workers, this can lead to difficulties in obtaining the same social rights as other workers.

This situation is not unique to artists and also affects other professionals or service providers. However, as recalled above and in the EENCA (2020) study, in the EU the percentage of the cultural workforce working on a self-employed basis is higher than in other sectors, while the other particularities of artistic work increase the difficulties of artists in accessing (public or private) social protection, compared with most self-employed people. As pointed out in the Voices of Culture report in 2021 ⁽³⁰⁾, this further exacerbates the precariousness in the whole sector.

As detailed in Table 2, several Member States have put in place specific mechanisms addressing some of the challenges faced by artists and cultural and creative professionals in those regards. They include:

- providing more favourable conditions to access existing social security systems, for example by adapting eligibility criteria or the level of contribution/proof of minimum revenues;
- extending the scope of activities or forms of employment covered in the existing systems;
- developing a dedicated status (see Section 2.1.2.1) or protection systems for artists and creative professionals, diversifying sources and/or ways of financing artists' contributions, etc.

⁽³⁰⁾ EENCA (2020).

TABLE 2. WHICH BENEFITS ARE PART OF A SPECIFIC SOCIAL SECURITY REGIME FOR ARTISTS

MEMBER STATE	UNEMPLOYMENT BENEFIT	DISABILITY ALLOWANCE	SICKNESS BENEFIT	HEALTH INSURANCE	MATERNITY/ PATERNITY LEAVE	BASIC PENSION	SUPPLEMENTARY PENSION	EARLY PENSION FOR DANCERS/PERFORMERS WITH SHORT CAREER SPAN ^(a)	WORK ACCIDENT	VOCATIONAL TRAINING, CAREER TRANSITION AID	FAMILY ALLOWANCES	OTHER
Belgium	x											x
Bulgaria	x											
Czechia												
Denmark												
Germany		x	x	x	^(b)	x	x					
Estonia				x		x						x
Ireland	x											
Greece												
Spain	x									x		
France	^(c)	x	x	x	x	x	x	^(d)	^(e)	x		
Croatia		x		x		x		x		x		
Italy	x	x	x	x	x	x	x	x	x	x		x
Cyprus												
Latvia ^(e)	x	x	x			x	x	x		^(f)		
Lithuania				x	x		x	x				
Luxembourg	x											x
Hungary												
Malta												
Netherlands	^(g)	^(g)	^(g)									

^(a) Either as the possibility of early access to regular pension or as a special benefit received until regular pension age.

^(b) Statutory protection in the context of pregnancy and birth but no benefits for maternity/paternity.

^(c) For employees, depending on contributions based on salaries; for more details, see Annex 1.

^(d) For the employed dancers of the Paris National Opera.

^(e) In Latvia, the general social security system generally entitles artists to most of the benefits above. Special additional solutions for artists exist under the responsibility of the Culture Capital Foundation.

^(f) Career transition put in place by the Public Employment Services (not a social security benefit).

^(g) Only for performers under the artist ruling in the Dutch law on income tax. This special ruling entails that artists can choose to let their clients pay payroll taxes and benefits on their income. It ensures that the artist works for a short period of time as if he or she were an employee of the client.

MEMBER STATE	UNEMPLOYMENT BENEFIT	DISABILITY ALLOWANCE	SICKNESS BENEFIT	HEALTH INSURANCE	MATERNITY/ PATERNITY LEAVE	BASIC PENSION	SUPPLEMENTARY PENSION	EARLY PENSION FOR DANCERS/PERFORMERS WITH SHORT CAREER SPAN ^(e)	WORK ACCIDENT	VOCATIONAL TRAINING, CAREER TRANSITION AID	FAMILY ALLOWANCES	OTHER
Austria						x						
Poland ^(h)								x		x		
Portugal	x	x						(i)	x	(f)		x
Romania	(j)		(j)	(j)	(j)				(j)			(j)
Slovenia			x	x	x		x	x	x			
Slovakia								(k)				
Finland ^(l)							x					
Sweden ^(m)												

Source: OMC Survey.

Notes: The table shows only social security provisions designed specifically for artists. If no specific provisions are available, artists may still be covered by general social security regulations. In some Member States, they might combine general and specific provisions.

^(h) In Poland, artists employed as salaried employees have access to all stated solutions under the current insurance system. Special solutions – early retirement, retraining assistance scheme – apply only to dancers. The problem is that many artists work exclusively on work contracts (earning small amounts of money), which are not covered by social security contributions and are therefore outside the system.

⁽ⁱ⁾ Early access to regular pensions for professional full-time classic and contemporary dancers. This special pre-retirement labour regime is supported by the employer (not a social security benefit).

^(j) New provisions and legal solutions planned regarding the status of artist.

^(k) For the employed dancers, singers and wind instrument players of the national and regional theatres and orchestras.

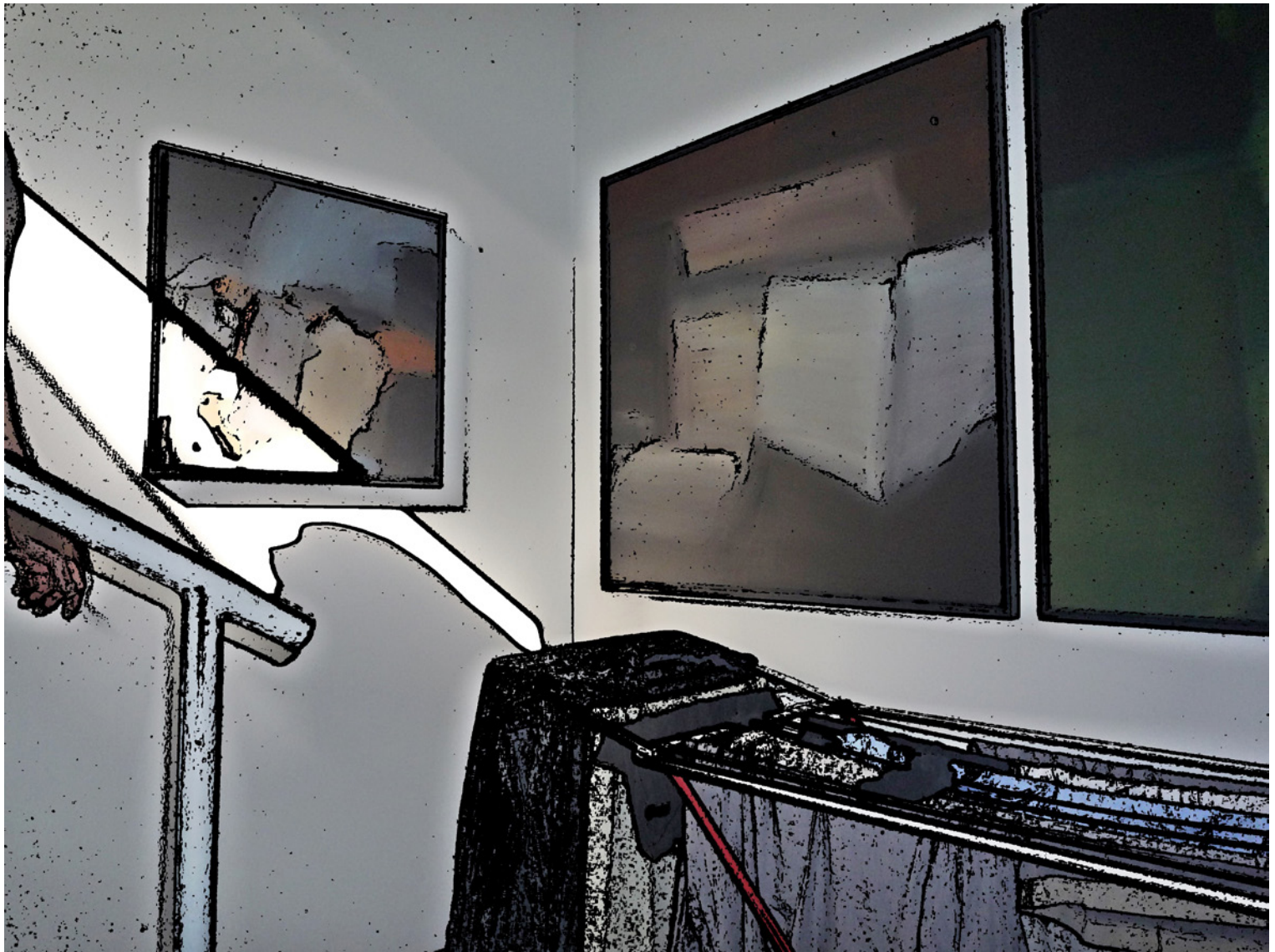
^(l) If an artist has been awarded a grant in Finland, artists' pension insurance is provided by Mela (an insurance institution) if the grant has been awarded for work lasting at least 4 months and the amount of grant when converted into annual income is EUR 4 288 or more. Artists have a legal obligation to apply for pension insurance from Mela. An insured grant recipient is entitled to an old age pension, vocational rehabilitation and a disability pension. The insurance entitles family members to a family pension and group life insurance compensation. It also includes occupational accident and disease insurance for the same period, which covers accidental injuries caused by a sudden and unforeseen event, and occupational diseases caused by work. Finland also has a separate supplementary artist pension that artists can apply for.

^(m) In Sweden, regular social security systems generally entitle artists to most of the benefits above. Special solutions for artists exist; among other things, the partners on the labour market have created an opportunity for dancers and singers to retire earlier. A pension supplement is also paid for long-term government grants to artists. Another example is the alliances for the performing arts, which are a unique Swedish form of employment for actors, dancers and musicians. It is a kind of third form of employment for stage artists whereby they, during periods of unemployment, are employed by the alliances at the same time as they get the opportunity for education and training.

Recommendations:

- In line with the 2021 European Parliament resolution on the situation of artists and the cultural recovery in the EU, we recommend that Member States:
 - **ensure full access to social protection for artists and cultural workers regardless of their labour regimes** (see Section 2.1.2.1), including access to unemployment allowance, healthcare and pensions;
 - take specific measures in order to **tackle the unstable income and job insecurity** of creative professionals, as well as to safeguard a minimum income for them.
- When artists are not sufficiently covered by social security through their status and are thus exposed to higher economic precariousness and instability, Member States **should provide special support and/or care services**. This should include maternity/paternity leave, as well as occupational illness and other relevant issues.
- As recommended by the Council of the European Union in 2019 ⁽³¹⁾, Member States should also ensure that:
 - within a given social protection branch and depending on national circumstances, **entitlements** – whether acquired through mandatory or voluntary schemes – **are preserved, accumulated and/or transferable across all types of labour statuses** throughout the person's career or during a certain reference period;
 - the conditions and rules for all social protection schemes are transparent and that individuals have **access to updated, comprehensive, accessible, user-friendly and clearly understandable information** about their individual entitlements and obligations free of charge;
 - the administrative requirements of social protection schemes for workers, the self-employed and employers, in particular micro-, small and medium-sized enterprises, are simplified, where necessary; **reducing administrative burdens** related to social security for artists, regardless of their status, should be an overall objective, at all levels.
- Furthermore, as highlighted above (see Section 2.1.2.1), the adoption of **measures regarding social security related to the mobility of artists is recommended**, at Member State and EU levels.
- As this is a very complex and highly technical area of legislation, **a more in-depth analysis of the systems developed for artists by each Member State should be carried out by experts** in the field and shared at European level. The results of this analysis could be integrated into the reflection and work carried out around the European Pillar of Social Rights.

⁽³¹⁾ Council recommendation of 8 November 2019 on access to social protection for workers and the self-employed (2019/C 387/01).



SOCIAL PROTECTION

France ⁽³²⁾ – Reducing administrative burdens: the Single Window (GUSO)

The one-stop-shop for occasional shows (GUSO) is an administrative simplification mechanism for making declarations and paying social contributions on behalf of the social protection bodies (social security contributions ⁽³³⁾, unemployment insurance, paid leave contributions, vocational training, supplementary pension and provident insurance ⁽³⁴⁾, occupational health and medicine).

GUSO aims to simplify the declarative obligations of employers, to reduce illegal work in the performing arts sector, to improve the social security coverage of artists and technicians, and to reduce unfair competition.

The scope of GUSO is employers who organise live performances but whose main activity or purpose is not performance, and groups of volunteer amateur artists who use one or more paid performing artists and one or more technicians contributing to the performance by fixed-term contract.

⁽³²⁾ The French concept of *intermittent du spectacle*, which enables artists to benefit from unemployment insurance when they are not performing but rehearsing, has been well documented in previous reports; see EENCA (2020) for a recent summary.

⁽³³⁾ Contributions for work-related accidents are included in the social security contributions.

⁽³⁴⁾ Provident insurance (*prévoyance*) covers benefits for temporary incapacity to work, permanent total disability and death.

Several measures complete this system:

- declarations must be made as far as possible virtually on the internet, for the purposes of carrying out the declaratory formalities and paying the contributions due;
- the employer's declaration is considered to be an employment contract, in accordance with the obligations relative to the form, content and transmission of the fixed-term employment contract. However, the parties retain the right to establish a fixed-term employment contract on another document;
- the monthly employment certificate issued by GUSO to the employee is equivalent to a salary slip;
- applying the collective agreements of the performing arts industry is mandatory for employers who use GUSO;
- GUSO is also the intermediary organisation for the collection of the withholding tax.

<https://www.guso.fr/information/accueil>

Ireland – Basic Income for the Arts pilot scheme

In 2022 Ireland introduced the Basic Income for the Arts pilot scheme. The scheme provides 2 000 artists and arts workers with a basic weekly income of EUR 325 over a continuous 3-year period. The payment is taxable but not means tested and there are no requirements on artists to deliver any particular output or activity. The scheme was established by the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media in response to challenges faced by independent artists and arts workers, highlighted by the pandemic.

There is a strong emphasis on the scheme being a pilot and a research project. The only requirement on recipients is that they commit to participating in surveys over the course of the study. An additional 1 000 artists are also participating in a control group (completing the same surveys) against which recipients of basic income can be compared. The objective is to test the impact of receiving a basic income on a number of variables including retention of knowledge and skills in the sector, time spent on creative practice, 'creative risk / entrepreneurship', well-being and diversity in the ecology of the arts sector.

At application stage, the scheme was open to both artists and creative arts workers. To be eligible for consideration, applicants were required to demonstrate that they could meet two out of three criteria: (1) membership of a relevant professional body; (2) evidence of income from creative practice; and (3) evidence of creative practice. Over 9 000 applications were received and approximately 8 500 were deemed eligible. The 2 000 participants for the pilot were then selected at random from the eligible applicant group. A further 1 000 were selected to join the control group and offered a payment equivalent to a 2-week per year basic income to incentivise their participation in the process.

<https://www.gov.ie/en/campaigns/09cf6-basic-income-for-the-arts-pilot-scheme/>

Lithuania – Programme for social security of art creators

Since 2011, Lithuania has run the programme for social security of art creators, ensuring financial support and social support (pension, health, maternity/paternity) for artists with low and irregular incomes or artists having the status of an art creator who experience a hiatus in their artistic activities, would it be employment or individual activity. Artists holding the status of an artist, be they employees or self-employed, are entitled to such support. 'Creative downtime payments', paid for 3 months, are the main measure to support artists financially. In 2020–2021, the numbers of those receiving such support increased by between four and six times, since the Lithuanian government relaxed the requirements for the applicants and increased the budget of the programme to mitigate the effects of the pandemic. Since 2017, persons holding the status of artist have access to an additional source of income – they are allowed to accept financial support from other natural persons (taxpayers can redirect up to 1.2 % of paid personal income tax to a selected artist). The only condition for this is that artists need to obtain the status of a beneficiary. Currently, there are more than 1,700 artists holding the status of a beneficiary, on a list available to the public.

Social protection programme for artists: <https://lrkm.lrv.lt/lt/meno-kurejams/meno-kureju-socialine-apsauga-1>

Beneficiary status: <https://lrkm.lrv.lt/lt/veikla/s-k-i-r-k-i-t-e-1-2-proc-menininkams;>

LATEST DEVELOPMENTS IN POLAND – DRAFT LAW ON PROFESSIONAL ARTISTS

The draft Law on Professional Artists is currently going through the legislative process.

The draft law civilises the conditions of artistic work and provides the lowest-paid artists with a minimum of social security in the form of access to social and health insurance. The costs of the proposed solutions will not burden the taxpayer, as they will be financed from the proceeds of the reprographic fee and the fee on blank media (known as fair compensation) paid by producers and importers of electronic equipment. The draft Law on Professional Artists is a response to a number of demands made by the artistic community for many years. Most artists are in a very difficult material situation, living on irregular incomes, often below the minimum wage. Unstable employment and low wages mean that artists in Poland live outside the social security system. Many artists cannot afford to pay pension contributions, which means that they are not entitled to a pension when they reach retirement age.

The draft law proposes the following entitlements for professional artists:

- subsidies for insurance premiums (from 20 % to 80 %, depending on income);
- exemptions from contributions to civil law contracts (commissions) for self-paying artists;
- possession of a professional artist card;
- the possibility of obtaining a scholarship or an allowance.

<https://www.gov.pl/web/premier/projekt-ustawy-o-uprawnieniach-artysty-zawodowego2>

2.1.2.3. Data and research

Accurate and reliable data about the CCS are indispensable for informed and evidence-based policymaking (decisions, monitoring, impact assessment), advocating for the interests of artists and cultural workers, and raising awareness of topics.

The atypical nature of activities in the CCS makes the task of collecting reliable sectoral data difficult. Reliability is limited for various reasons: the difficulty of distinguishing CCS from non-CCS activities, the variety of contracts, combinations of dependent and independent work, income from work inside and outside CCS, lack of data on secondary activities, inconsistent use of statistical sorting codes (such as Statistical Classification of Economic Activities in the European Community (NACE) or International Standard Classification of Occupations (ISCO)), and the fact that some cultural activities are conducted within the informal economy (Isernia and Lamonica, 2021). There are also sectoral specificities that entail diverse structures as to how economic activities can be defined and mapped; for example, accounting for expenses and income in the performing arts sectors within a for-profit context requires data collection mechanisms that might significantly differ from those of the community arts sectors within a non-profit context. This aspect also affects data comparability within and between sectors, and comparability between Member States.

The COVID-19 pandemic made more compelling the need for accurate data to measure and manage the impact on the CCS and to develop relevant support measures. Existing tools were not adapted for identifying workers in the CCS and monitoring their rapidly changing situation, for the purpose of planning and implementing speedy and targeted support. Thus, there is the need to develop flexible and robust datasets and data collection methods that are updated regularly and are suitable to rapidly changing situations.



At EU level, basic harmonised **data about the CCS in Member States** are published by Eurostat. Apart from **economic data** about the sector, there are modules for **cultural employment and cultural participation**. **More detailed indicators**, such as the structure of cultural occupations and the incomes of employed and self-employed workers in the CCS, including those who conduct cultural activities in their second job, are not available. The NACE categorisation used in the statistics does not have sufficient granularity to distinguish sub-sectors; for example, it is not possible to separate music from the performing arts category ⁽³⁵⁾. There is currently no focus on the gender perspective; however, a new ‘Gender’ subsection on the Eurostat website with all the already available data on CCS disaggregated by sex, including indicators for gender pay gaps and numbers of women in managerial positions, is planned in 2023.

The research project Measuring the Cultural and Creative Sectors in the EU, concluded in 2022 ⁽³⁶⁾, aimed to revise and update the existing framework to better quantify the CCS and ensure comparability at EU level. It identified the main challenges as the lack of a common definition of the CCS, poor or inadequate data collection mechanisms for specific indicators, and outdated statistical classifications regarding accounting for digitalisation and capturing the value generated by online services. Adjusting systems for better quality and harmonisation of EU data is needed.

Member States can work with a combination of sources beyond the scope of aggregated data from business and tax administration. Sources of additional information include:

- CCS-specific administrative data (e.g. social security data, awards of artist status, grants and other public support);
- artists’ registers;
- professional associations;
- collective rights management organisations;
- cultural organisations (including non-governmental organisations and civil society organisations);
- regular or topic-based surveys conducted by academic institutions, national agencies, etc.

Converging data from different sources allow views from different perspectives. However, data owners are sometimes unwilling to share them even in forms that protect artists’ privacy. This can be true even of data sharing across public administrative departments. Consultations with sectoral representatives help improve the design of data collections.

Registers of artists allow the identification of individual artists for targeted policy instruments. Compared with administrative registers (e.g. of people awarded the status of artist), they offer a larger view of the size and diversity of the sector, and can be also used in Member States that so far have not introduced status of the artist regulations.

It is important to bring the perspective of equality and diversity into data gathering. Women particularly suffer from specific challenges and face cultural disparities in the CCS, such as gender stereotyping, gendered occupations, gender pay gaps and limited access to the full artistic labour market, in particular to prestigious and/or leadership positions. Other potentially vulnerable groups are young people and graduates, who encounter exploitative practices while trying to find a foothold within their chosen field, and disabled artists (EENCA, 2020).

⁽³⁵⁾ NACE codes are under revision by Member States, and its implementation is expected by the end of 2024.

⁽³⁶⁾ <https://www.measuring-ccs.eu/>.

Recommendations:

- **Improve the existing EU cultural statistics** policy and make recommendations at EU level on how to harmonise national CCS statistics data and indicators to ensure their reliability and comparability across EU Member States. **Comparable employment figures** for the CCS across the EU should be transparently produced and published based on verified indicators, including income/remuneration from dependent and independent work, including cultural occupations as a second job; the structure of cultural occupations; and gender equality data.
- **Member States should regularly map the stakeholders in the CCS** through the existing networks/institutions to gather statistical information about cultural and creative workers, including freelance. Such regular mapping can also facilitate longitudinal analysis of the CCS. Ensure that artists are not penalised for providing data (whether directly or indirectly), that their privacy is protected, and that they have clear information on sector and occupation categories so they can report accurately. Remove barriers to sharing data between administrative departments.
- In addition to basic statistics, Member States should **collect more detailed data about the situation of artists and cultural workers for evidence-based policymaking**. Data collections should provide better understanding of the realities and needs of the CCS, e.g. combining multiple occupations, work relationships and various sources of income (payment methods and frequencies, income rates), the nature of work contracts, access to security and protection, time spent on artistic work, working environment, atypical working hours, motivations and barriers that facilitate or limit work in the CCS, well-being indicators and educational backgrounds. A gender perspective should be kept in mind in all data collections.
- Consider creating **registers of artists for the direct identification of cultural and creative professionals**. Such registers, administrative or other, could be valuable for multiple purposes, such as establishing a status of the artist, better policymaking, informed legislative and non-legislative measures, targeted support, research, funding, promotion or networking. To motivate artists to register, there should be a clear link to a benefit, and transparency about the use of the data. Registers require regular updating.
- **Encourage open data** as much as possible, for example from collective rights management organisations, professional associations, and public and administrative bodies.
- During the recent COVID-19 pandemic, new policies and support instruments were introduced in aid of the CCS, and they may be suitable for future use. **Evaluate policies** implemented during the COVID-19 pandemic to find out their impact on the CCS in the short and long terms.

OPEN DATA

Malta – the official Malta Data Portal, although a work in progress at the time of writing, is a promising project that aims to bring official registers and datasets under one roof as part of the national open data policy. It has a ‘Culture and Leisure’ section.

<https://open.data.gov.mt>

Finland – Theatre info Finland draws up comprehensive statistics on performing arts each year: statistics on income and expenditure, personnel, salaries, spectators and repertoires. All statistics are available in Finnish, Swedish and English (https://www.tinfo.fi/documents/ett_2021_web.pdf).

Many employer organisations and art trade unions publish various kinds of data on their websites. For example:

- Musicians' Union - salary tables (<https://www.muusikkojenliitto.fi/in-english/tariffs-audition-recommendations/>),
- Association of Finnish Theatres (<https://suomenteatterit.fi/lakipalvelut/palkkataulukot/>),
- Trade Union for Theatre and Media Finland (<https://www.teme.fi/fi/tyoelama-ja-toimeentulo/palkat/>).



REGISTERS

Slovakia – the register of artists and other cultural professionals is a general public register of workers in the CCS regardless of employment status or affiliation, currently with more than 2,700 entries. There are two categories: ‘professional artist’ and ‘other cultural professional’. The register started during the pandemic in 2020 when it transpired there was not a reliable dataset of individual workers in the sector, with the aim of providing targeted financial support. The definition of cultural professionals is broad and includes, for example, sound engineers, disc jockeys, stage technicians and managers of cultural events. Arts Council Slovakia (an arm’s-length body) administers the register, and approves applications upon proof of cultural activities.

<https://podpora.fpu.sk/evidencia>

Slovenia – the Ministry of Culture of the Republic of Slovenia enables freelance cultural professionals to register their professional activity by entering themselves in the public register of self-employed professionals in culture.

The registration of self-employed professionals in culture and the conditions for obtaining the right to contributions for their social insurance are laid down in the special law: Exercising of the Public Interest in Culture Act. The related conditions and procedures are regulated in more detail in the Decree on Self-employed Professionals in Culture (which contains the special criteria). The ministry already plans to revise the regulation in 2023 to improve it.

<https://remk.ekultura.gov.si/razvid/samozaposleni>

RESEARCH

Sweden – the Swedish Arts Grants Committee is tasked with monitoring and analysing artists’ economic and social conditions. It collaborates with the Swedish Agency for Cultural Policy Analysis, which is tasked by the government to evaluate, analyse and present the effects of proposals and measures taken in the cultural field.

<https://www.konstnarsnamnden.se/publikations-kategori/rapporter/>

Finland – ‘As an Artist in Finland’ is a research project on the situation and societal status of professional artists working in Finland. Cupore (a cultural policy research expert body in Finland) is collaborating on the research with Statistics Finland, Arts Promotion Centre Finland and the Finnish Ministry of Education and Culture. In addition, various stages of the research are in collaboration with artists’ associations, grant-making foundations and copyright organisations. The objective of the research is to provide a solid and diverse information base on the employment situation and social status of professional artists in Finland. In the project, professional artists are examined in the light of registry data. The topics of these reports relate to, among other things, the preconditions for professional activity in different fields of art, the diversity and interrelationships of the fields of art, and the livelihoods and sources of income of artists. The research is being conducted in 2021–2024.

In addition to 'As an Artist in Finland', many other Cupore research projects also examine artists and their operating conditions. These include an annual Arts and Culture Barometer (<https://www.cupore.fi/en/research/research-projects/the-arts-and-culture-barometer>) and a study on the cultural activities of municipalities as part of the development of visual arts structures (<https://www.cupore.fi/en/research/research-projects/regional-art-museums-and-their-operations-related-to-municipal-cultural-activities>). The project is being implemented in 2022–2023.

<https://www.cupore.fi/en/research/research-projects/as-an-artist-in-finland>

Poland – Statistics on the cultural sector are collected by the Central Statistical Office and the Centre for Cultural Statistics in Krakow, which operates within it. The Central Statistical Office publishes regular reports on the state of the cultural sector on an annual basis, and short quarterly reports. In addition, the National Centre for Culture carries out sectoral research, publishing reports on specific areas of culture, such as 'Counted! Artists in Poland'. The report shows the number of professionally active artists and presents an evaluation of their professional situation and detailed data relating to the economic situation and social condition of this professional group. Several reports on the situation of artists during the COVID-19 pandemic were also prepared.

<https://swps.pl/my-universytet/aktualnosci/nawosci-wydawnicze/22898-policzone-i-policzeni-artystki-i-artysci-w-polsce>

2.1.3. Conclusions

Whatever the provisions made by Member States in relation to the status and social security of artists and creative professionals, the key factors for these to have an impact rely on the fundamentals of public policies:

- identification of the issues tackled and the objectives pursued (cultural, labour, economic, social, a combination of these or others), based on data, observations, studies and recommendations;
- considering developments on the ground, in an approach that keeps a balance between support for beneficial trends, checks on undesirable developments, protection of acquired rights and adaptation/development of new rights when deemed necessary;
- consultation and involvement of artists, social partners and representative bodies at all stages;
- regular measurement and evaluation of the systems put in place.

Although policy responses on these issues fall within the responsibility of the Member States, the efforts made could usefully be supported at European level, through the use of certain Union policies (such as the European Pillar of Social Rights or on mobility).



As suggested by the European Parliament in its resolutions on the cultural recovery of Europe (2020) and on the situation of artists and the cultural recovery in the EU (2021), we also support and recommend the **setting up of an EU framework for artists' and creative professionals' working conditions**, providing **guidelines and minimum standards** for non-binding measures, which are crucial and relevant to improving working conditions in the CCS. While fully respecting the competences as laid down by the EU Treaties and the Member States, as well as the principle of subsidiarity, such an EU framework could be proposed by the Commission either as Council recommendations or as Council conclusions prepared by a Member State holding the EU presidency. In any case, with such a European framework, a transnational tool would be available to help the Member States to tackle the issues faced on the matter and could cover the following areas:

- status of artists and creative sector professionals – all types of regulatory settings pertaining to regulation of the status, including how the status is defined (artistic output, income, education, etc.);
- social security – providing information on access to benefits such as unemployment, sickness, healthcare, parental leave, pension, accidents at work and occupational diseases;
- taxes – how CCS professionals are taxed, including special tax regimes and exemptions with regard to personal income tax and value added tax (VAT);
- cross-border mobility – information on the legal and administrative framework regarding visas and residence regulation, cross-border taxation, social security issues, intellectual property regulations, recognition of diplomas and other qualifications, and available programmes supporting mobility;
- public funding – information on requirements and conditions to access public funding;
- sharing information and good practices – through the proposed online platform on working conditions for artists and other cultural workers in the CCS (specified in more detail in Annex 3 of this report).

2.2. FAIR PRACTICE

2.2.1. Introduction

Concern about ‘fair practice’ in the environment in which artists and cultural and creative workers operate has been consistent and widespread among policy and research reports over a number of decades. The rise in precarious work practices across other sectors has also put fairness on the agenda as a wider societal and employment issue, as demonstrated by its inclusion in the 2017 European Pillar of Social Rights. Calls for fairness in the arts and culture sector have intensified in the wake of the COVID-19 pandemic, which exposed the fragility of the sector. Priority C of the 2019–2022 work plan for culture references fair pay and working conditions as one of a number of issues that are of specific interest for research and exchange at European level.

At its core, fairness is about recognition of value. The arts and the CCS are recognised for the value they bring to society and the economy. Fairness requires that we recognise and value the work of artists and CCS professionals and that we compensate them appropriately and consistently as professionals for their inputs.

While fairness as a value or principle is regularly referenced across a number of policy areas, there is no commonly accepted definition of the notion of fairness in the arts and culture sector. In addressing the issue of fairness in this chapter, the OMC group asserts that fairness is not just about a rate of pay. The issue is broader and more complex, and extends into fair exchange, fair terms and contractual arrangements, safe working environments, fair opportunity, equality and diversity, fair representation and a fair regulatory environment.

Fairness is increasingly acknowledged not just as a principle or a right but also as a factor in sustainability and the retention of skills and expertise within the arts and CCS. Fairness is also a recognised factor in strengthening cultural diversity and inclusivity: if only those who have other means of support or occupy privileged positions can work in the arts and cultural sectors, then we limit the voices that can be heard.

Fairness also incorporates access to social security under non-discriminatory conditions (ideally considering the specific, often non-continuous, employment situation of artists and its effect on retirement provisions). However, the subject of social security is dealt with in Section 2.1 and therefore it is not covered within this section.

In its deliberations, the OMC group considered the legislative environment at EU and Member State levels that provides the legal basis for basic rights, including in the areas of representation, terms and conditions of engagement for workers, and legal protections for workers. The group also considered, and made recommendations that acknowledge, the level and amount of public money that is invested in arts and culture sectors, and the developmental role that can be played by those government bodies and agencies responsible for those funds in showing leadership and determination to effect change in delivering a fair working environment for artists and cultural and creative workers.



In considering issues of fairness and making recommendations, the OMC group has reviewed the wide range of existing policy, research and advocacy material at EU and Member State levels, in particular the European Parliament resolution on the situation of artists and the cultural recovery in the EU, the EENCA (2020) study and the Voices of Culture (2021) report. The chapter also draws on and references a number of highly relevant and practical interventions operating at Member State level that demonstrate good practices.

2.2.2. Context and key challenges

In promoting fair practice it is important to understand and identify the nature and characteristics of practices in the CCS that are unfair. Unfair practices have been well documented and reported across numerous reports.

Precariousness is a recognised feature of work within CCS. The EENCA (2020) report describes how artists and cultural and creative professionals are highly likely to be self-employed, freelancers, work part-time, combine two or more jobs or not have a permanent contract. It reports on the shift away from the standard model of employment to more insecure forms of work and the significant

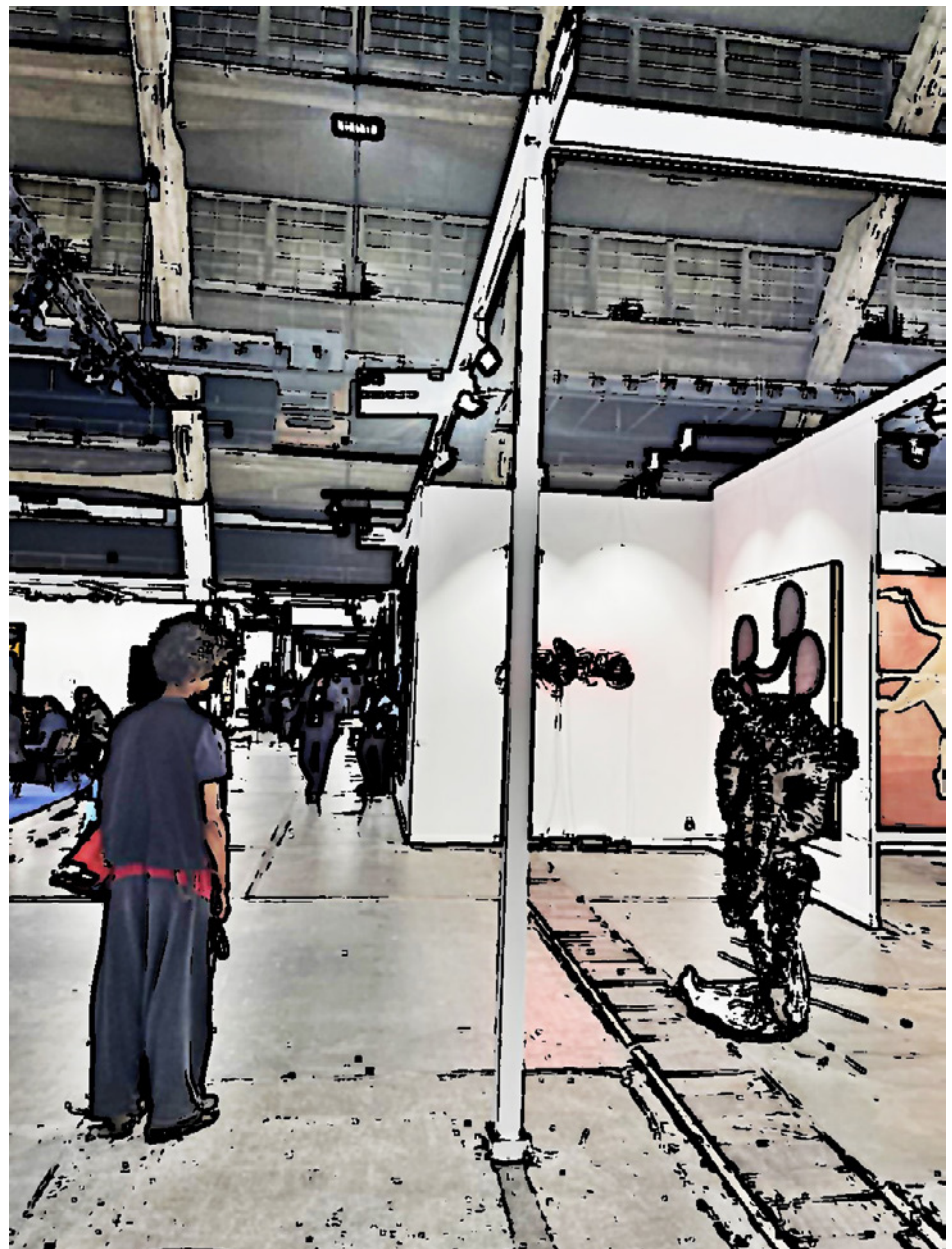
repercussions of the rise of the platform economy. Precariousness leaves workers vulnerable and open to exploitation and unfair treatment. Precariousness is perhaps the most significant factor underlying a wide range of unfair practices at play within the CCS. Other key factors that have been well documented as affecting unfair practices include the following:

- Contractual terms – for example, fixed-fee contracts, buy-out clauses, and those that lean towards bogus self-employment and thereby reduce social security contributions by employers. Further terms relating to remuneration, the lack of an adequate minimum wage or a fair wage, and unpaid artistic work are a form of exploitation.
- Power dynamics – a disparity in power relations between artists and those who subsequently present, promote and distribute their work leaves them in a weak negotiating position and puts them at risk of harassment, bullying or other abusive practices.
- The digital environment and the rise of online platforms – these have created unprecedented opportunities for the work of artists to be created, distributed and consumed, and for the monetisation of creative content. However, creators face challenges to be rewarded to a fair or reasonable extent. A number of provisions of Directive (EU) 2019/790 on copyright and related rights in the digital single market (the DSM copyright directive) are expected to strengthen the position of creators, helping them to get fair remuneration for the exploitation of their works and performances, but these are still at an early stage of implementation in most Member States and it is too early to draw any conclusions on their impact.
- Motivational drivers for working in the CCS – financial reward is not the primary motivating factor for many CCS workers, who are more likely to be driven by a desire to create, share and contribute to culture and society. CCS workers are therefore more likely to accept unfair terms as a compromise if it helps them achieve their artistic and creative goals.
- Burden of creative risk – the unknown and speculative nature of creative work means that the burden of risk is most commonly borne by the artist or creative professional.
- Lack of representation – as self-employed workers, artists and others in the CCS are far less likely to be represented by professional associations. The low incomes of arts workers mean that, where representative bodies do exist, they tend to be less well resourced and therefore less able to effectively advocate and campaign on behalf of their members.
- Collective bargaining – legal restrictions around collective bargaining for self-employed workers have prevented artists and independent CCS professionals from collectively negotiating better deals and thus improving their working conditions. New EU competition law guidelines have been issued recently that should remove an obstacle in this area. It now remains to be seen how this will translate into the various national contexts.
- Competitive environment / limited choice – artists and CCS workers often face the unfair dilemma that, in the competitive environment, if they turn down unpaid or low paid work there will likely be others who will take it on. The offer of ‘good publicity’ in lieu of payment continues to be a practice reported by artists as operating at many levels across both the public and commercial sectors. The dilemma of whether to accept poor pay/conditions in the hope it may pay back in the longer term is a common scenario faced by many working in the CCS.

The context for considering and addressing fair practice in this report is informed by key policy and research materials. Of particular significance are the following.

- Priority C of the 2019–2022 work plan for culture refers to fair pay and working conditions as among a number of issues that are of specific interest for research and exchange at European level.
- The 2017 European Pillar of Social Rights sets out 20 key principles and rights essential for a fair and well-functioning labour market, including the right to fair and equal treatment regarding working conditions and the right to fair wages.
- The European Social Charter explicitly states that all workers have the right to fair remuneration.
- The DSM copyright directive contains a chapter on fair remuneration in exploitation contracts of authors and performers. Its impact is not yet clear but it prompted significant debate on the issue in the lead-up to its introduction.
- The European Parliament’s resolution on the situation of artists and the cultural recovery in the EU encourages the Member States to establish minimum standards for artists and cultural professionals in relation to, among other things, fair remuneration and working conditions.
- The Council conclusions on the recovery, resilience and sustainability of the cultural and creative sectors (2021/C 209/03) remark on the need to address vulnerabilities in CCS by promoting fairness.
- The EENCA (2020) report recommends that Member States take measures to ensure fair working conditions for artists and cultural and creative professionals.

The above references demonstrate a consistent demand for fairness to be addressed within the CCS. In addressing these challenges there are many factors at play, and the distinct natures of individual art forms and cultural sectors mean that the way in which challenges manifest themselves vary from sector to sector. However, there are core issues and principles that can be addressed, and these are the focus of the recommendations that follow.



2.2.3. Recommendations

Recommendation 1. Public funders should promote fair practices (including fair pay) for CCS workers in their own polices and funding programmes.

Government ministries, departments and agencies at national and regional/local levels are substantial funders of arts and culture. These public funders occupy a leadership role, have significant influence over the sectors they invest in and therefore have the capacity to leverage change. They are involved both in policy development and in setting the conditions of funding and making decisions that can influence others to implement change.

While the OMC group want to see change across the commercial, private and publicly funded sectors, it is recognised that the use of public money brings with it obligations beyond and in addition to standard practices. Public bodies have an obligation and opportunity to influence improved standards of remuneration and working conditions, which have the potential to influence the ecosystem across sectors.

It is **recommended** that public funders at EU, national and regional levels introduce terms and conditions on the use of public funding that encourage fair practices in the remuneration and working conditions of artists and cultural and creative professionals, and that they should monitor the compliance and impact of these measures.

In particular, funding programmes using public money should require:

- that applicant institutions/organisations seeking funding clearly state the policies and practices they use when employing/engaging artists and CCS professionals;
- that an assessment of employment/contracting policy and practice be a standard part of the assessment criteria;
- that funding offers be contingent on a commitment to fair practices;
- that recipients of funding report on key measures that allow for monitoring and evaluation.

It is **recommended** that public funders and public policymakers at EU, national and regional levels engage in policy development work with the aim of establishing and promoting standards of fair practice through the development and publication of good practice guides or toolkits. In developing standards and guides on good practice, policymakers and funders should engage with mandated representative bodies in the CCS.

GERMANY: MINIMUM REMUNERATION MODELS

In Germany, the public sector has set out to introduce funding regulations that include binding minimum remuneration when commissioning freelance artists and creative professionals.

Germany's federal system has different administrative levels, each with its own budget and competences. Nationwide uniform solutions are often difficult to achieve. In order to arrive at standards nonetheless, three different models in particular are being discussed.

Matrix model. In 2022, the 16 German *Länder* (federal states) agreed to proceed according to a calculation structure developed by an expert commission on their behalf and in consultation with professionals and employers' associations. It is designed to determine activity- and sector-specific basic fees at the level of each federal state while providing for variable factors for individual surcharges, such as special qualifications, impediments or the economic strength of the client. The aim is to put figures into the overall structure, in consultation with regional interest groups, and to link federal states' and municipalities' public funding as comprehensively as possible to the requirements.

Reference model. According to the reference model, the public sector links its funding regulations to fee recommendations from the relevant artist's associations, thus automatically taking into account sector-specific peculiarities while creating incentives to establish and update fee recommendations. It includes minimum requirements for the transparency of the recommendations, to ensure a plausibility check.

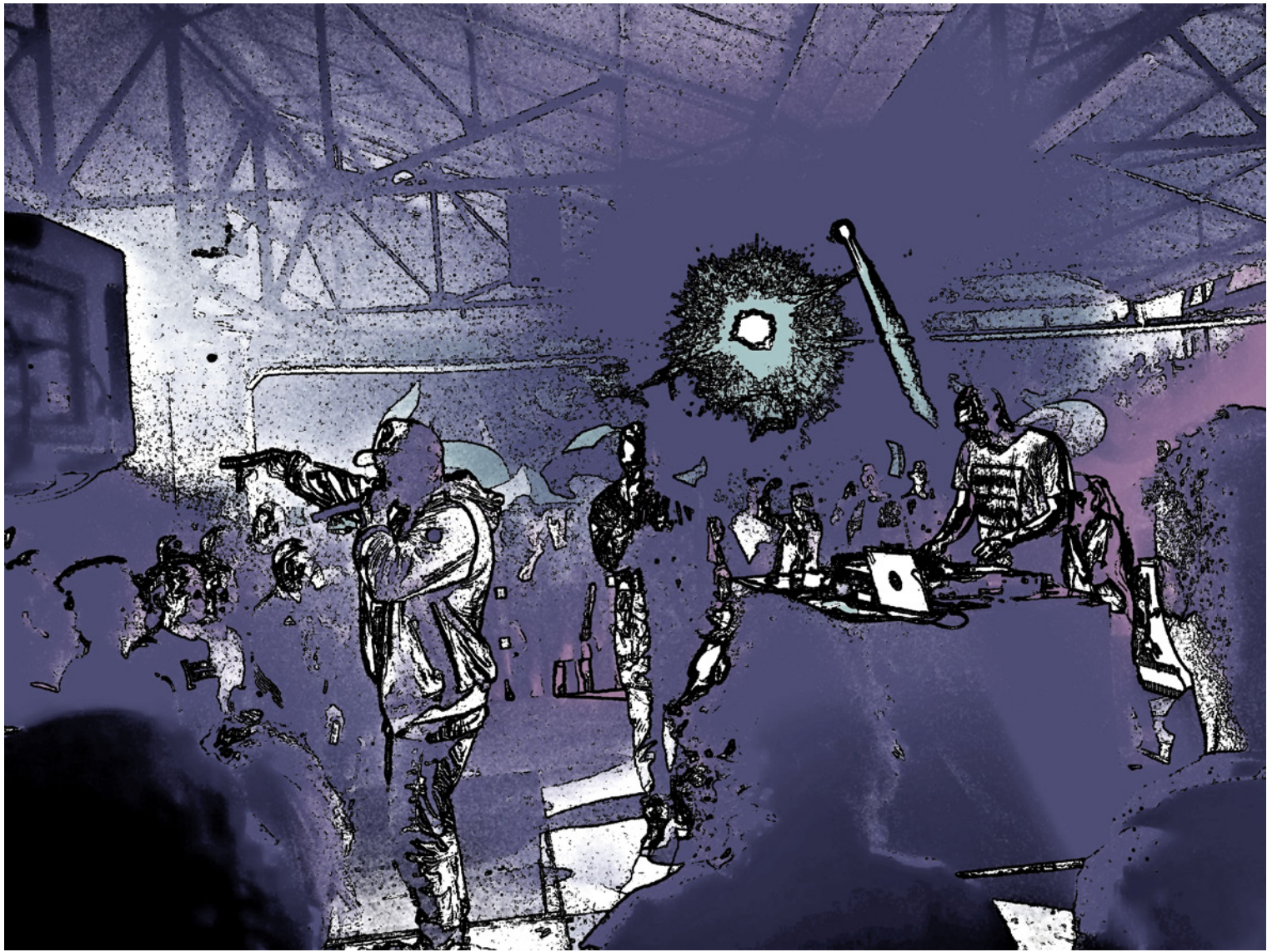
Collective agreement model. According to this proposal, provided by one of the largest trade unions in Germany, elements of the tried and tested remuneration system of the collective agreement for (dependent) public sector employees would be used to define an appropriate minimum fee for freelance artists and creatives. A key feature is a pay scale based on activity, qualification and experience according to time units. Supplemented by additional amounts for social security and operating expenses, this model aims to enable the calculation of living wages for freelancers and to provide a reference to which public funding can then be linked.

Irrespective of the different options, the broad discussion process that has been initiated and the awareness that comes with it are widely welcomed as a ground breaking step on the way to sustainably improve the often precarious remuneration situation of freelancers.

FINLAND: FAIR ART CAMPAIGN

Fair Art, launched in 2020, is a cross-cutting communication and advocacy campaign for artists' fair remuneration. It is part of the Arts Promotion Centre Finland's work to improve the working conditions of professional artists in Finland. The Arts Promotion Centre Finland is an expert and service agency for promoting the arts under the Ministry of Education and Culture.

The Fair Art campaign promotes fair practices and increases information about issues related to the livelihood of professional artists. As a part of the Fair Art campaign, guidelines and procurement models are developed to help artists' consumers/commissioners/clients with realistic budgeting, and the artists with pricing and contract negotiations. The campaign website serves as a permanent bank of tools for fair remuneration in various art fields. The pricing guidelines are based on the fee recommendations of the artists' associations. National artists' associations are also involved in the planning work of the campaign. Campaign work will be continued in the coming years as a permanent part of the development of artists' working conditions.



IRELAND: PAYING THE ARTIST POLICY

In 2020, Ireland introduced paying the artist, an Arts Council policy on the fair and equitable remuneration and contracting of artists. The policy:

- asserts core values underpinning fair practice;
- sets out best practice principles for all those working in the arts to aspire to;
- sets out expectations for those in receipt of public funding.

It is supported by programmes of research, developmental initiatives, requirements on funded organisations and advocacy actions.

<https://www.artscouncil.ie/about/artists-pay-policy/>

AUSTRIA: FAIRNESS PROCESS

Austria's fair pay strategy is anchored in the 2020–2024 national government programme and was launched in September 2020 with focuses on working conditions in arts and culture, fair pay, transparency, cooperation, respect and sustainability. Owing to the COVID-19 crisis, the challenges for artists and the cultural sectors had intensified at this point and confirmed the importance of the process.

From the very beginning, the objective was to involve all affected actors at all governance levels. Therefore, two parallel committees were set up for continuous and extensive discussions: a working group with representatives from federal, regional and local governments on the one side; and the Fairness Forum with stakeholders and interest groups in arts and culture on the other side. On 30 September 2021, the Federal Ministry of Arts, Culture, Civil Service and Sports organised a fairness symposium with international and European speakers, including from the European Commission, the European Parliament and Member States, and took stock of experiences and progress achieved so far.

In the meantime, a number of other specific measures have been implemented, such as the Fairness Codex with general guidelines for the sector, which will be introduced step by step by regional and local authorities too. There was also a review of the legal framework of fee guidelines. Furthermore, a study was commissioned on what is known as the fair pay gap in arts and culture, to figure out existing financial deficits and to allow analyses of additional public money required for concrete actions on fair payment. In September 2022 an Office of Trust for victims of harassment and violence in arts, culture and sports started work.

In 2022, the ministry provided an additional budget of EUR 6.5 million for fair pay measures to support artists, artistic projects and organisations, aimed at reducing the fair pay gap. This additional money was only distributed on certain conditions, such as improving the income of existing employees and artists. Applicants also had to fill out a data sheet to analyse their current personnel costs. Finally, the corporate fair pay strategy – an agreement of all federal states to implement their own strategies and efforts in their respective spheres of responsibility.

In 2023, the exchange between the federal, regional and local levels of government and the art sector will be continued and an additional EUR 9 million is dedicated to fair pay measures in arts and culture. More information is available at (<https://www.bmkoes.gv.at/en/Topics/arts-and-culture/fairness-and-fair-pay.html>).

Recommendation 2. Support the formation, capacity building and empowerment of both representative organisations and service organisations in the CCS.

The way in which CCS workers are represented across Member States through labour unions and professional associations varies greatly from country to country. This diversity was evidenced in the survey responses from OMC experts on this topic. There are also very different models operated across areas within the CCS associated with different art forms. Some countries and sectors do benefit from strong representation; however, overall, artists and CCS professionals, particularly those working in a self-employed capacity, lack strong and effective representation. The lower incomes of CCS workers means that where representative bodies do exist they tend to be less well resourced and therefore less able to effectively advocate and campaign on behalf of their members. It has also been noted by OMC experts that representation can only be truly effective if there are structures and mechanisms in place for those organisations to give input into national and EU decision-making and policymaking processes. In order to strengthen the voice of artists and CCS professionals in policymaking and negotiation, it is **recommended** that Member States should support the formation, capacity and empowerment of artists' representative organisations. Member States should also support and/or establish formal processes for dialogue between politicians, authorities, policymakers, arts and culture organisations, and representative bodies. Member States should facilitate the formation and funding of organisations representing artists and CCS to ensure that their voice can be better represented in negotiations. Member States and local or regional governments should ensure that terms and conditions negotiated or recommended by representative organisations are respected when distributing public funding.

Service organisations that provide resources, information and other support to artists and CCS professionals are also recognised as critically important. Artists and CCS professionals, especially freelancers working in less institutionalised fields, often lack professional, vocational and work-related support systems. Advice and information on matters such as contracts, remuneration and copyright are not always easily accessible. It is **recommended** that the EU and Member States should support the formation and capacity (including funding) of accessible service organisations that provide targeted support to CCS workers.

Recommendation 3. Implement cultural and creative sector specific policies and practices that encourage safe and dignified working environments free from bullying, harassment and discrimination, and put in place structures and resources to assist and support those who do experience such abuses.

As in many areas of life, it has been well documented that abuses of power, harassment and discrimination also occur within the CCS. In fact the nature of work in the CCS, such as imbalances in power structures combined with highly competitive and unstructured working environments, has been shown to leave CCS workers in a particular vulnerable position.

Such incidents have many faces and it is often not easy for those affected to act against these abuses by individuals or institutions. They are often discouraged from doing so because they fear negative consequences for their own professional activity, they lack capacity to act constructively and/or they perceive disadvantages in complying with existing legal regulations. It is clear that the experience of exploitation, humiliation or assaults leaves its mark on the victims. Witnessing someone else being humiliated and disgraced can also be difficult to experience and deal with.



Putting preventative measures in place should be a priority. Therefore, it is **recommended** that public policymakers in CCS, along with mandated representative bodies and relevant experts, develop good practice guides (i.e. handbooks/toolkits) that promote a fair, dignified and safe working culture and environment, for adoption and application within CCS.

As well as implementing preventative measures, it is also important that those affected by abusive behaviours have somewhere they can turn to anonymously for help and support. It is **recommended** that Member States should establish and resource appropriate and independent structures at national or regional level to which artists and CCS professionals can confidentially report unfair practices (including cases of abuse of power, harassment, bullying and discrimination), obtain advice, receive support and, if or where appropriate, be facilitated to engage in dispute resolution.

We see a need for public authorities at various levels to develop and encourage the establishment of such counselling contact points for artists and employees in the CCS. In cases of abuse of power, discrimination, unequal treatment, assault and violation of labour law, these counselling contact points should be available to provide appropriate advice and support for action.

IRELAND: SAFE TO CREATE

Safe to Create is a resource for the Irish arts and creative sectors to promote dignity at work. It aims to change the culture and practices of the arts sector in Ireland to provide safer working conditions for artists and arts workers through a programme of training, information, voluntary compliance and certification, and the provision of key support for victims/survivors in the areas of reporting, counselling and legal advice.

<https://www.safetocreate.ie/>

AUSTRIA: OMBUDSMAN

Austria has financially and organisationally supported the founding of an independent ombudsman board, Vertrauensstelle Kunst und Kultur (VERA), which is open to workers in the cultural sector. Currently it has no specific legal basis; it is organised as a non-profit organisation. The organisation is funded by the Federal Ministry of Arts, Culture, Civil Service and Sports and is granted full independence. It can be confidentially consulted in any alleged case of abuse of power. So far, VERA has no legal basis to resolve conflicts but has been developing tailor-made solutions for every specific case based on a 'hierarchy of needs' approach. Since the initiation of its work in October 2022, 30 cases have been referred to VERA.

The project is still at its very beginning and will develop on the basis of the experience it is steadily gathering. Stable funding is required to reach further stages of development. It is intended to develop a system of reporting to also address structural issues arising from work on specific cases.

<https://www.vera-vertrauensstelle.at/>

NETHERLANDS: FAIR PRACTICE CODE

The Netherlands has introduced a Fair Practice Code. It was developed through a bottom-up process, involving membership organisations for the arts, supported through government funding. Aligning with the code is becoming a condition for receiving government subsidies. The challenge now is how to achieve fair pay if the pie is not getting bigger. Not only artists but the whole ecosystem, including art workshops with government officials, has been asked that question and also about how to monitor and measure the outcomes? The Fair Practice Code focuses on fair pay (payments and agreements) for employees and freelancers, fair share (fair distribution of resources between the different parts of the production process) and fair chain (ecosystem, dependence on each other). Trust and abuse of power are central topics, as is creating a sustainable career in the arts. Using a web tool, people can set their own direction, raise awareness and handle a conversation. Tools have been developed to aid critical reflection. In some sectors' collective labour agreements, such as those for architects, where independents work alongside employees, independents are paid 130 % to 150 % of the regular pay for an employee, for example for voluntary contributions to social security. In the Netherlands, people have to attend many aspects of social security themselves. There is no exact definition of 'fair pay'. In Dutch, the English word 'fair' is used to signal that it is going beyond payment and is broader.

<http://www.fairpracticecode.nl/>

Recommendation 4. Implement fair treatment in context of gender equality

Women play highly active roles as artists and cultural professionals in the CCS. Their equal access, participation and visible share in the entire cultural and creative value chain are essential not just for reasons of diversity, but for the dynamic and lively expansion of the CCS as a whole. The specific working conditions in the CCS – unorthodox working hours, including engagements during evenings and weekends, unpaid overtime, reliance on mobility and flexibility, freelance and project-based work, lack of transparency in salaries, missing social welfare support and schemes, unsatisfactory work–life balance – represent major challenges for female artists and professional workers. In addition, women are still societally expected to deliver the bulk of unpaid care duties, which means that they face a number of obstacles as well as disadvantages in pursuing their professional careers. For these reasons, it is suggested that any fairness concept incorporate a gender perspective with an intersectional approach so that overlapping forms of discrimination are considered and addressed.

The EU's first gender equality strategy, for 2020–2025, was adopted in March 2020 with the primary goal of integrating gender equality in all policy areas in order to achieve a Union of equality. In this context, it provides a framework and a mandate to reduce the persistent and proven disparities for women in the CCS.

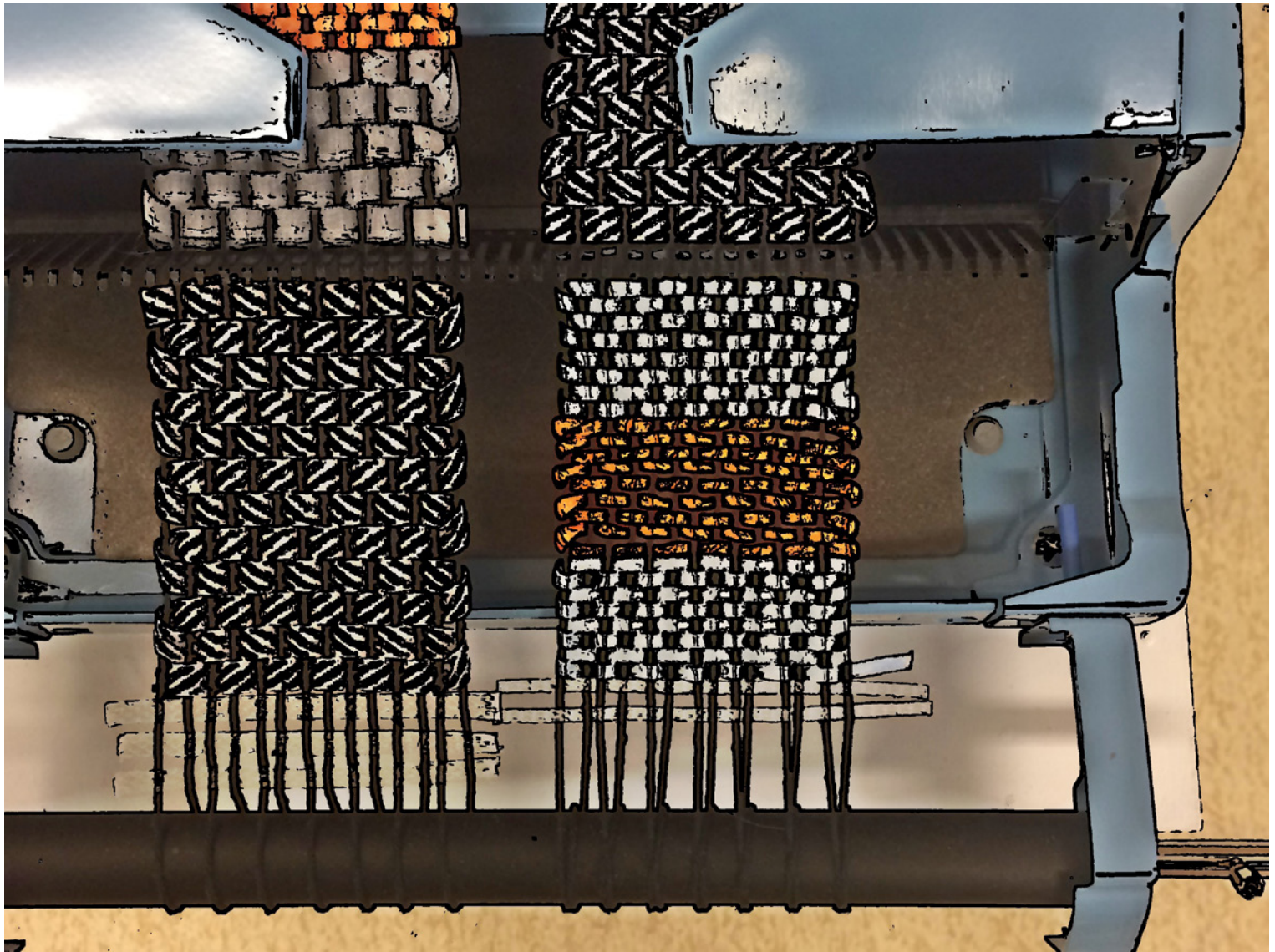
Any fairness concept should be aware of and consider existing gender disparities and address them with an intersectional lens and targeted measures in their funding programmes. It is **recommended** to:

- reduce the gender pay gap by applying the equal pay for equal work principle;
- promote equal access to resources and the labour market, and gender parity in publicly funded programming and leadership positions;
- break down gender stereotypes, encourage reporting of sexual harassment and provide easily and freely accessible contact points for victims.

Recommendation 5. Promote awareness of new guidelines on the application of competition law to collective agreements of solo self-employed people and analyse how they will operate at Member State level.

While employed artists could profit from collective bargaining in a system of social partnership, attempts to establish similar tools for self-employed artists have been facing a lot of obstacles. Especially, Article 101 of the TFEU (prohibition of cartels and agreements between companies that could disrupt free competition) was considered fully applicable to self-employed artists under EU competition law. Even attempts to draft recommendations of minimum fees for artistic work faced the risk of being challenged under competition law. That has resulted in considerable disadvantages for artists, who may be unable to negotiate fair fees or other trading conditions for themselves as a consequence of their weaker negotiating position. In recent years the case-law of the European Court of Justice has offered a broader interpretation, which is now opening up some opportunities for artists and representative organisations of self-employed people to bargain collectively ⁽³⁷⁾.

⁽³⁷⁾ Judgment of 4 December 2014, *FNV Kunsten Informatie en Media*, C413/13, EU:C:2014:2411, paragraph 42; judgment of 21 September 1999, *Albany International BV v Stichting Bedrijfspensioenfonds Textielindustrie*, C-67/96, EU:C:1999:430, paragraph 60.



The European Commission, building on this case-law, has issued guidelines in a recent communication ⁽³⁸⁾. The OMC group gladly welcomes this communication, as it provides clear guidelines about which collective agreements among self-employed persons concerning their working conditions are compatible with Article 101 of the TFEU. However, the communication clearly states that the authority to create a legal framework for collective bargaining as such clearly lies with the Member States. In other words, Member States, trade unions and chambers of trade and commerce are provided with a new material tool, yet the use of the tool is regulated exclusively by the Member States.

It is **recommended** that the EU and Member States should foster broad awareness-raising activities among state actors, cultural institutions, non-governmental organisations (particularly with a focus on arts and culture) and social partners about the guidelines on the application of Union competition law to collective agreements regarding the working conditions of solo self-employed persons.

It is **recommended** that Member States should analyse whether their current systems of regulation on collective bargaining offers a sufficient framework to conduct negotiations and whether their current systems are sufficient in case such negotiations fail.

⁽³⁸⁾ Commission communication – Guidelines on the application of Union competition law to collective agreements regarding the working conditions of solo self-employed persons (COM(2022)C 374/02).

Recommendation 6. Member States should work to fully realise the potential of the DSM copyright directive to strengthen artists' ability to obtain fair remuneration for exploitation of their copyright, and the Commission should monitor the effectiveness of its implementation.

The DSM copyright directive contains key provisions that are critical to addressing the challenge of fairness in relation to the economic exploitation of creative works. It includes an entire chapter on 'Fair remuneration in exploitation contracts of authors and performers' (Title IV Chapter 3), which sets out the following:

- Article 18 asserts the principle of 'appropriate and proportionate remuneration' in the exploitation of rights;
- Article 19 aims to ensure that authors and performers have access to information about the exploitation of their works so that they can assess the economic value of their rights;
- Article 20 requires that authors and performers have a contract adjustment mechanism when 'the remuneration originally agreed turns out to be disproportionately low' compared with the success of their work or performance and the resulting revenues generated;
- Article 21 provides for an alternative dispute resolution procedure in respect of the obligations set out in Articles 19 and 20;
- Article 22 sets out the circumstances under which creators can reclaim rights that are not being effectively exploited.

These provisions have the potential to be transformative for creators in the CCS. However, rights-holder organisations representing creators have questioned how effective the directive will be in driving the change that creators may have originally envisaged (e.g. in respect of revocation of rights).

While many Member States have now incorporated the directive into national law, many have not provided further indications, guidelines or direction within their legislation to support its practical functioning, for example on how the right to information should be managed, or how contract adjustment or dispute resolution mechanisms should work.

The implementation of the DSM copyright directive is a unique opportunity to address shortcomings, correct revenue streams and strengthen artists' rights. It is **recommended** that Member States continue to develop copyright legislation, provide supporting tools and facilitate appropriate mechanisms to better ensure that authors and performers can share in the economic value of what they create.

It is important that the Commission monitor the impact of the DSM copyright directive in regard to how its implementation has benefited authors and performers.

Recommendation 7. The Commission should ensure the proper application of EU rules, promote fair commercial practice between creators and content distributors, and address the buyout and work-for-hire clauses that are imposed on creators and deprive them of their rights.

The power relationship between the artists, their organisations and large, often global, players has developed so that copyright no longer works as it was intended in these contexts, and the European model of authors' right as well as the principle of appropriate and proportionate remuneration guaranteed by EU law is endangered. Creators sign away their author rights / copyrights in perpetuity in exchange for a one-time upfront payment. This phenomenon has grown in recent years, in particular for authors whose works are exploited in the video on demand market (including screen composers). Fair remuneration for creators is crucial for the protection and enhancement of European artistic

creation. One should support fair mechanisms based on transfer of rights in return for royalties. To prevent unfair commercial practices in buyouts of rights from becoming an established practice, further legislation may be considered.

It is **recommended** that the Commission should further analyse the contractual practices imposed on creators, such as buyouts and work for hire, and their impact on remuneration and creation, in order to ensure the proper application of EU rules.

Recommendation 8. Reinforce the capacity of the existing mobility information points (MIPs) and establish new MIPs in all other EU Member States.

It is well documented that artists and CCS professionals have complex working arrangements. For those artists who live, work or earn income in multiple Member States, the complexity is significantly greater. Mobility is a key feature of the arts and CCS across Europe. Mobility provides significant creative and economic opportunities and is a driver of cultural diversity for artists and audiences. However, it can also leave professionals vulnerable or exposed as they struggle to align with, access or comply with an array of administrative mechanisms, schemes, support systems or regulations across Member States.

In this context, access to good information is critically important. Access to tailor-made information and advice on their rights and issues related to social protection, taxation, contracts, health and safety, visas, access to finance, customs, etc. is crucial.

MIPs have proven to be effective information providers that aim to tackle the administrative challenges that artists and cultural professionals face when working across borders ⁽³⁹⁾. This effectiveness is facilitated through the regular interactions MIPs have with one another at European level, but also through the strong relations they have nurtured with local and national administrations as well as ministries dealing with these topics.

MIPs are very often mentioned at UNESCO and EU levels as cases of good practice in efficient services while facilitating the (high) mobility of artists and cultural professionals ⁽⁴⁰⁾.

This existing network of MIPs has proven its efficiency but lacks support to operate more consistently at a European level through a stronger and larger group of information centres.

It is **recommended** that the EU and Member States reinforce the capacity of the existing MIPs and establish new MIPs in all other EU countries.

Better working conditions in the sector are interlinked with this administrative and legal support, which should be reachable by a greater diversity of artists and cultural professionals, particularly freelancers, to allow them to practise their mobility in a safe environment and achieve a fair living.

⁽³⁹⁾ See the list at the On the Move website (<https://on-the-move.org/network/working-groups/mobility-information-points>).

⁽⁴⁰⁾ See the list of documents and recommendations highlighting MIPs under 'MIPs in case studies' (<https://on-the-move.org/network/working-groups/mobility-information-points>).

Recommendation 9. Member States should ensure effective implementation and delivery mechanisms for existing legislation and EU directives on working conditions, accounting for the special characteristics of work in the creative sector so as to enable fair treatment of artists and creative sector workers.

Working conditions and remuneration

Fair treatment of workers in the creative sector with regard to working conditions in the Member States of the European Union should be ensured by implementing and enforcing existing instruments at national, EU and international levels. This recommendation calls on Member States to implement or improve the labour standards that are in force, making sure that labour legislation is respected and complied with by workers and employers in the CCS. Member States should ensure that:

- the minimum requirements are properly enforced in the cultural sector in accordance with the purpose of the relevant EU directives;
- the rights in the employment relationship are guaranteed in national law without distinction between types of artistic work, unless the EU directive allows for a derogation that is legitimate, proportionate and objectively justified, achieving a balance between flexibility and security.

In order to prevent the misuse of contracts, Member States should examine whether the criteria for classification of an employment relationship and other legal relationships for work are sufficiently clear in national law, and if they are transparent for employed and self-employed people in the CCS.

In regulating forms of contracts or legal relationships relating to artistic work, Member States should grant safeguards to prevent arbitrary practices hindering the parties from realising the purpose of the employment contract or contract for work.

Member States should ensure in national law and practice that:

- parties may choose the most appropriate type of contract in accordance with the genuine nature of the engagement, grounded on their voluntary and mutual agreement;
- the disparity in the individual bargaining power of the parties cannot lead to the unilateral setting of contractual terms and unilateral determination of contract type by the employer;
- informal and illicit practices for the purpose of obtaining or retaining employment or a contract are prohibited;
- upon terms and clauses, the parties may agree in accordance with the general principles of national labour law or civil law, e.g. good faith and fair dealing, prohibition of retaliation;
- informal incentives or advantages may not be established as a precondition for the conclusion of an employment contract, professional development or a career;
- effective enforcement mechanisms are available in case of breach of general principles in employment and contract law.



Fair remuneration constitutes one of the core elements for further improving the working conditions in the creative sector (EENCA, 2020, p. 93; Voices of Culture, 2021, p. 57). In Europe, the right to fair remuneration is anchored in Article 4 of the European Social Charter, and the majority of Member States have undertaken to consider themselves bound by its obligations.

In this context, the recommendation reaffirms Member States' obligations, considering the specificities of employment in the cultural sector, to ensure especially:

- a decent standard of living for workers and their families, guaranteeing protection against material deprivation;
- the right of men and women workers to:
 - equal pay for work of equal value;
 - non-discriminatory determination of conditions of remuneration, based on objective criteria;
 - elimination of inequalities in remuneration based on subjective grounds.

Work safety and health

Artists and creative professionals have to face a number of challenges regarding their working environment and occupational safety and health (EENCA, 2020, pp. 26–27).

Member States should take measures to ensure the effective implementation of requirements for occupational safety and health for workers in the cultural sector pursuant to European occupational safety and health law. They should ensure protection against occupational safety and health risks with appropriate means, ensure more sustainable and fair working conditions for workers, and improve the prevention of workplace accidents and occupational diseases.

2.2.4. Conclusions

OMC experts agree that the arts and CCS are negatively affected by a range of unfair practices, which undermine their sustainability, diversity and potential.

A series of recommendations aimed at policymakers and sectoral bodies at EU and Member State levels have been proposed in this section, and seek to address the key challenges.

Cultural policy is primarily a Member State competency; therefore, Member States have a key role to play in bringing about change. Many of the recommendations are built on the premise that core aspects of the arts and CCS are directly funded by national state institutions utilising public funding. There are therefore opportunities for these public institutions/bodies/agencies to initiate and lead positive change, especially through the placing of conditions on the use of grants and public funding. These principles can also be applied to EU-level funding.

The arts and CCS are also embedded in and overlap with a wider commercial sector. For this reason, the OMC group members also make a series of recommendations around the legislative and regulatory environment in which the arts and CCS operate. While acknowledging the important role played at Member State level by ministries and government departments responsible for arts and CCS, it is also stressed that the work to improve artists' conditions is a cross-governmental issue and cannot be solved only through changes in cultural policy.

The OMC group recommends that a broad approach to fairness, which touches upon core challenges, should be adopted by Member States. A balance in the sector of arts and culture can be achieved when all these aspects are equally acceptable to most of its stakeholders. The calibration of these measures will find more acceptance in politics and interest groups if it is being driven within the bigger picture of the goal of fairness. Thus, fairness should serve as a concept in improving working and social conditions for artists and should be realised by transversal cooperation.

2.3. SKILLS AND LIFELONG LEARNING

2.3.1. Introduction

The cultural and creative sectors and industries' labour markets encompass a wide range of sectors and have been growing in recent years. In 2019, their total number of workers was 7.6 million, working in approximately 1.2 million enterprises. Some 80 % of these enterprises are small or micro-enterprises, with 32 % being self-employed people, which is double the general self-employment rate in the EU ⁽⁴¹⁾. The general self-employment rate within the CCS goes up to 65 % in some countries. Overall, the situation of the CCS labour markets is complex because the contexts of the sectors are so different, for example concerning the degree of commercialisation, market size, market regulations and levels of preparation for working conditions that graduates in the arts face. These characteristics pose extra challenges for education and lifelong learning, such as demanding self-directed learning by the self-employed to continuously reskill and upskill themselves.

Although representing dynamic and changing labour markets, the CCS – like many other sectors – are increasingly affected by skills and labour shortages. In addition, the COVID-19 crisis had a significant impact on these sectors, with many cultural and creative workers experiencing job losses, and reduced and even more unstable incomes. Furthermore, the cultural heritage sector is unattractive to young people, endangering the continued survival of some specific heritage-related skills.

Since a larger than average part of the working population is self-employed, access to skills development is not straightforward, in particular considering the low income levels. This calls for close collaboration between governments, educational institutions and social partners in providing education and vocational programmes to the sector.

In the new European Skills Agenda proposed by the EU, the goal is for 50 % of all Europeans to have followed some form of learning by 2025 ⁽⁴²⁾ – currently, this participation rate is 38 %. Some of the recommendations proposed are individual learning accounts and micro-credentials, which value the learning outcomes of short courses and informal education. There are no data available for the CCS in this respect.

The President of the European Commission, Ursula von der Leyen, declared 2023 a European Year of Skills: 'We need much more focus in our investment on professional education and upskilling ... but we also have to attract the right skills to our continent, skills that help companies and strengthen Europe's growth' ⁽⁴³⁾. The aims of the European Year of Skills is to help address the skills gap in the EU, to promote a mindset of reskilling and upskilling, to boost the competitiveness of European companies and to create high-quality jobs. Focusing on reskilling and upskilling should also help to close skill gaps and shortages ⁽⁴⁴⁾. The emphasis on skills for the green and digital transitions stresses the need for a skilled workforce within the CCS to keep the sector innovative and growing in importance ⁽⁴⁵⁾. Keeping skills up to date and stimulating lifelong learning are crucial for all CCS workers.

⁽⁴¹⁾ http://creativeflip.creativehubs.net/wp-content/uploads/2021/07/FINAL-WP2_Final-Report-on-Skills-mismatch-2.pdf.

⁽⁴²⁾ <https://ec.europa.eu/social/main.jsp?catId=1223&langId=en>

⁽⁴³⁾ <https://digital-skills-jobs.europa.eu/en/latest/news/2022-state-union-2023-will-be-european-year-skills#:~:text=The%20annual%20speech%20of%20the,investments%20in%20education%20and%20upskilling>.

⁽⁴⁴⁾ <https://www.consilium.europa.eu/en/press/press-releases/2023/03/07/council-and-parliament-pave-the-way-for-a-european-year-of-skills/#:~:text=Today%2C%20the%20Council%20presidency%20and%20European%20Parliament%20negotiators,competitiveness%20of%20European%20companies%20and%20create%20quality%20jobs>.

⁽⁴⁵⁾ <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=10431&furtherNews=yes>.



AT EU LEVEL, THE FOLLOWING MAJOR INITIATIVES DEAL WITH SKILLS FOR CCS.

1. The **EU Pact4Skills** is an open process working towards a large-scale partnership aiming to mobilise relevant stakeholders to take concrete actions for the upskilling and reskilling of the workforce, addressing at EU level the needs of the labour market, supporting the green and digital transitions as well as national, regional and local skills and growth strategies. Within the EU Pact for Skills initiative, the Large-Scale Partnership for the Cultural and Creative Industries Ecosystem is based on endorsing the **Creative Pact for Skills** Manifesto, which outlines the challenge, ambition and priority skills needs to be addressed by the partnership, as well as the proposal, objectives and main action points. This bottom-up partnership includes European umbrella associations, networks, sectoral associations, vocational education and training providers, and trade unions. By joining the partnership, stakeholders will get access to networking, guidance and resources regarding high-quality upskilling and reskilling. Some 100 organisations have endorsed the manifesto (<https://ecbnintra.notion.site/Creative-Pact-for-Skills-C-P4S-Manifesto-7ab34b220bf54dfc98fb7bac8ad93627>).

2. **Erasmus+** is a widely used EU programme for cooperation on reskilling and upskilling (<https://erasmus-plus.ec.europa.eu/>). Under Erasmus+, the following **Skills Blueprint projects for CCS** are worth highlighting. **Cyanotypes** is a large-scale Alliance for Sectoral Cooperation on Skills project, applied to the whole of the CCS. Cyanotypes is a 4-year project, starting in 2022, which looks into scenario-based learning for the CCS in order to anticipate future skills needs and to look at innovating in the way we learn. Based on innovative multidisciplinary approaches, the project tackles the sector's potential for innovation and competitiveness, and also deals with challenges presented by the pandemic and other crises, the digital transition and the green transition (<https://cyanotypes.website/>). The Cultural Heritage Actions to Refine Training, Education and Roles (Charter) project aims to build a methodology enabling the heritage sector to assess, design and produce a holistically integrated sectoral skills strategy. Its main goal is to identify and bridge the skills gaps between the educational and occupational worlds by developing a matrix mapping skills and competences in the heritage sector (<https://charter-alliance.eu/>).

3. The **European Institute of Innovation and Technology (EIT)** supports pan-European partnerships, EIT KICs, composed of leading companies, research labs and universities. So far, the EIT has set up nine KICs, the newest one being **EIT Culture & Creativity** (<https://eit.europa.eu/eit-community/eit-culture-creativity>). KICs foster innovation by working across the entire innovation chain: they design education courses that combine technical and entrepreneurial skills, support innovation-driven research projects, and offer business and acceleration services, enabling European innovators and entrepreneurs to connect and cooperate. The EIT is an EU body and an integral part of Horizon Europe, the EU Framework Programme for Research and Innovation. The KIC plans to carry out a comprehensive mapping of lifelong learning and aims to have more than 44 000 professionals upskilled in lifelong learning courses and 150 graduates from EIT-labelled programmes by 2030. Among the aims of the KIC is to break boundaries in CCS education by teaching cutting-edge technology to creatives, as well as creativity as a cross-industry skill. EIT Culture & Creativity plans to strengthen the CCIs' innovation uptake, skills and competitive position, and complement ongoing and new projects in the sectors starting in 2023. In addition, the EIT's **Deep Tech Talent Initiative** is a core element of the **European Commission's new European Innovation Agenda**, which aims to position Europe at the forefront of the new wave of deep tech innovation and start-ups.

Through the initiative, Europe's largest innovation ecosystem, led by the EIT has been entrusted with training 1 million people in deep tech areas (<https://www.eitdeeptechtalent.eu/>)

4. The EU-funded **Finance, Learning, Innovation and Intellectual Property Rights for the Cultural and Creative Sectors and Industries (Creative FLIP)** is an EU project carried out by the Commission (Directorate-General for Education, Youth, Sport and Culture) since 2019 (<http://creativeflip.creativehubs.net/>). In addition to its different activities, the project has also issued a report entitled *Learning – Skills needs and gaps in the CCS*, that discusses the practical usage of soft, technical entrepreneurial and managerial skills in nine professions in three CCS across nine countries, with the purpose of understanding the current and future skills needs and gaps in selected occupations. The findings of the analysis are used to develop recommendations for policymakers to overcome the skills

mismatch and untap the full potential of the CCS ⁽⁴⁶⁾. Creative FLIP also works on skills enhancement activities, in particular through its Learning Labs, partnering with creative hubs and schools, or with European Skills, Competences, and Occupations to enhance skills classification in the CCS.

5. The EU funded **Innovation and Creative Solutions for Cultural Heritage (INCREAS)** project's main objective was to explore activities which aim to bridge the gap between, on the one hand, cultural heritage education and skills development and, on the other hand, the labour market (<https://www.increas.eu/>).

6. **Creative Skills Europe** is a platform where a wide range of stakeholders from the European audiovisual and live performance sectors meet: trade unions, employers' organisations, national skills bodies, education and training providers, professional associations, etc. Their objectives are to better adjust the sectors' training offer to the needs on the ground, to facilitate access to training for all types of workers at different moments of their careers, to contribute to the development of the sector and to secure professionals' career paths (<https://www.creativeskillseurope.eu/>).

⁽⁴⁶⁾ http://creativeflip.creativehubs.net/wp-content/uploads/2021/07/FINAL-WP2_Final-Report-on-Skills-mismatch-2.pdf.

2.3.2. Challenges in the cultural and creative sectors

The context of workers in the CCS is dynamic, following societal and sectoral changes, and was so in the past. Education and training programmes do not adapt quickly enough to respond to new demands, making it difficult, on the one hand, to formally recognise skills and, on the other, to provide a sufficient conceptual framework in which to establish the new knowledge and skills. Public authorities could strengthen the social value of culture within several other policies such as urban planning, environment, employment and education, and promote common professional skills taxonomies at European level, tailoring their adaptations to a regional scale based on professionals' needs and according to different policy contexts.

Skills and lifelong learning policies are thus directed at a permanently shifting target. The necessity to create policies for lifelong learning is more acute than ever, since many workers left the CCS during the COVID-19 crisis to find jobs elsewhere. Policymakers and politicians need to support the creation of good working conditions, and stimulate fair pay and fair practices, in order not to lose, as a society, the invaluable contribution of arts and culture. The younger generation might not continue to accept the current precarious working conditions and might look for work in sectors where their qualities are more highly valued.

The role of the CCS in society could grow considerably if the workers in the CCS were equipped with the required skills. The CCS can be of importance in, for instance, establishing more social cohesion, providing imaginative contributions to the greening of society and providing young people with the creative skills needed for the future. And, of course, by producing art works that enrich our society and enable us to enjoy our life and reflect upon our human condition.

How can cultural policy provide and equip the CCS as a whole with the necessary skills to develop a flourishing and competitive sector and support a healthy work–life balance?

This question does not stipulate that, at national level, the ministry of culture is responsible for providing workers and organisations in the CCS with all the training they need directly, but it does stipulate that the ministry sees to it that the skills needs of CCS workers and organisations are met, by stimulating, initiating and delegating activities that lead to meeting the goals of lifelong learning.

Five key challenges need to be addressed to clarify the direction of policies targeting the development of a skilled workforce in the CCS that is capable of fulfilling its potential role in society:

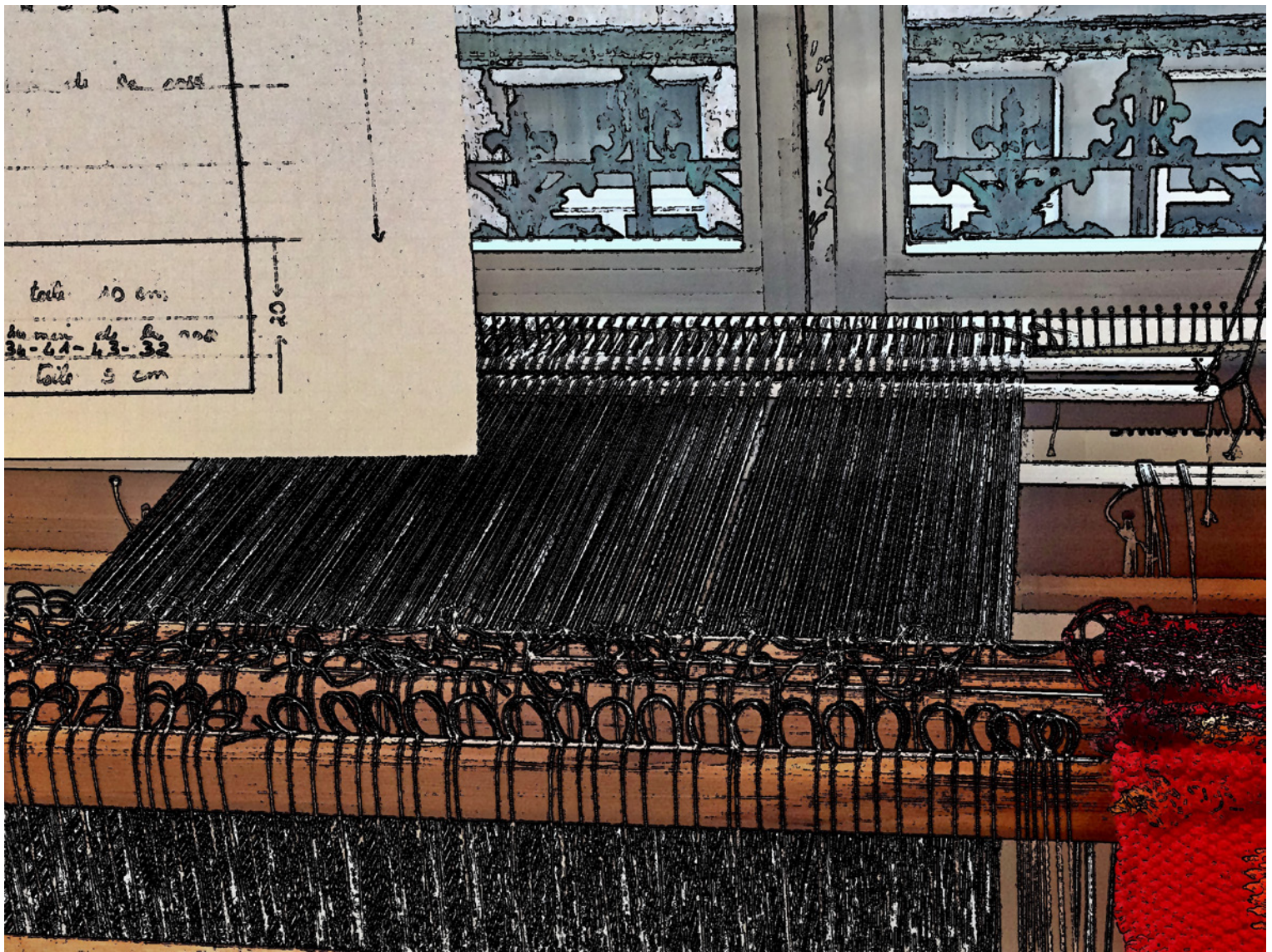
- 1) **CCS workers need to be more polyvalent than ever before.** CCS workers do not just master their craft or art but must continuously adapt and learn new skills linked to cooperation, digitalisation, management, etc. Today, not only CCS workers need to be aware of this trend, but also policymakers, who often lack knowledge of what new skill sets are needed and how to define them.
- 2) CCS workers want to learn new skills and are motivated to do so but there is a **lack of an overview** on what is available.
- 3) Artists who decide to learn a new skill or deepen their expertise often have difficulties finding the right skills development programme. Member States often lag behind in **providing assistance in matching needs with learning opportunities.**
- 4) When CCS workers find the right learning opportunity and are ready to enrol on it, **access to courses** represents yet another challenge. Paywalls, lack of mobility, uncertainty about what level of mastery a course will provide, etc. make it not self-evident that artists can invest time and/or money in adopting new skills or improving the current level of a specific skill set.
- 5) Another challenge concerns a **lack of feedback** on learning materials and learning providers. Providers of learning opportunities are often at a distance from what is needed in practice and, because of a lack of knowledge exchange, learning programmes stay behind and have no up-to-date course material. Even more, learning providers and educational institutions often lack self-reflection and evaluation systems that can be broadly used. Often there is also a recurring need to take an inventory of changing work contexts and the consequences for revising skill sets at a higher governmental level.

2.3.3. Context and concepts: skill sets, developing professional skills and learning types

2.3.3.1. Different skill sets

A) Artistic and technical skills

Artistic and technical skills are **abilities that a person masters** in order to **operate in the CCS**. They are, for example, composing music, drawing, painting, sculpting or designing. These skills can be learned, especially when it comes to carrying out technical jobs in the cultural sector, which often require certain authorisations and qualifications, but they can also be based on natural aptitude and on intrinsic motivation to be creative combined with practice and opportunities to experiment.



B) Soft skills and cross-sectoral collaboration

More and more artists and creatives work across a wide variety of fields, bringing their **artistic producing and process skills** into fields that are in need of new and imaginative ideas and ways to face challenges and tasks that can no longer be resolved within the field itself. CCS workers are active in healthcare, greening economies, empowering communities, city and rural place making, and industrial sectors, for example. They play a role in non-technological innovation where new technology needs social acceptance for its uptake; they can help to reach the hearts and minds of people, as only artists are able to do. This emphasises the value of culture in a broader sense, producing spillovers from technology and innovation to other sectors and industries. This requires specific skills enabling artists to adapt swiftly to different cultural values, norms, environments and business practices, and to work in international and cross-border contexts.

For cross-sectoral collaboration, artists and creatives need **transferable skills**, skills that can be used in different contexts: **research** (into the content and language of another field, into the workings of organisations and organisational politics in different fields), **translation** (of their own artistic processes and products into another specific context outside the arts, making them tailor made) and **soft skills**, which include deep listening, dealing with group dynamics and finding the right tone of voice ⁽⁴⁷⁾. To work and cooperate successfully on an international basis they often also need to master other **language(s)** than their native one(s).

⁽⁴⁷⁾ See for example Lehtikoinen and Heinsius (2013), ArtIST (n.d.) and European Commission (n.d.).

C) Digital skills

Digital skills have gained in importance over the last few years not only because of their impact on artistic skills but also because of their impact on all aspects of professional life. More than ever, and partly because of the COVID-19 crisis, we see a shift in digital skills, especially if we take a closer look at digital creative activities and digital content creation. The process of **digital transformation concerns the integration of digital technology into all aspects** of work and organising processes with the goal of creating new value through digital technologies. The issue of digital skills involves more than just acquiring new skills: it calls for reflection on all methods of operation and cuts across all other skill sets. Artistic and creative workers who can effectively leverage digital tools and technologies are likely to have a competitive advantage in the job market.

Digitalisation intervenes in all aspects of (entrepreneurial) behaviour of CCS workers, when working on their own, in small organisations, or with or in larger institutions. The production of art and culture has partly shifted into the digital realm; the opportunities to reach audiences and the possibilities of audience involvement in all stages of production have multiplied (Voices of Culture, 2022); and online cooperation with others, performing in online and hybrid forms and digital archiving have blossomed.



Even if the degree of adoption of artificial intelligence (AI) technologies varies from sector to sector, AI tools are being increasingly used at various stages of the value chain in the CCS, and raise, among other things, the need for reflection on their impact on the content of jobs and the related skills requirements in these sectors as well as others, as shown by a recent EU study (European Commission, 2022b). In addition, reliance on AI technologies for or during the creative process may also raise **challenges in relation to copyright protection**, opening up a new area of necessary digital skills to protect artistic work ⁽⁴⁸⁾, as illustrated by another study published by the European Commission on copyright and new technologies (European Commission, Directorate-General for Communications Networks, Content and Technology, 2022), which looks at the use of new technologies in the creative sectors, including AI, from a copyright perspective, and identifies avenues for further exploration by policymakers, stakeholders and academics. The Commission's proposal for an AI Act and the 2021 review of the coordination plan on AI are the first steps to build an ecosystem of trust and promote uptake of human-centric AI.

Artists and other cultural workers have to make conscious decisions on how to involve digitalisation in their work and which skill sets are needed within the digital domain.

In order to structure and frame different digital skill sets, the EU Science Hub has created a Digital Competence Framework (*The DigComp framework*), which elaborates on five areas of essential digital competence.

1. The **first** area is **information and data literacy**. Artists and creatives need to know how to judge, store, manage and articulate information and data in order to get hands on with it.
2. The **second** area is developing soft skills, linked to **communication and collaboration**. In order to manage one's digital presence, identity and reputation, artists and creatives must be aware of cultural and generational diversity. If so, they can successfully participate in society through public and private digital services and participatory citizenship.
3. The **third** area talks about **digital content creation**, copyright, licences and a general link with artistic creation.
4. In order to protect digital content and data, artists must be aware of a **fourth** area, which is **safety**. Improving the physical and mental health, social inclusion, environmental impact and personal data, the CCS have to develop knowledge, and need to learn new skills in order to operate in a **safe digital and/or physical environment**.
5. These four previously mentioned areas lead to a **fifth**, which is the skill set of **problem-solving**. In order to identify various needs and resolve complex problems, digital tools and innovative processes can help artists and creatives among their digital journey ⁽⁴⁹⁾.

⁽⁴⁸⁾ For instance, the use of copyright-protected works as input for text and data mining for other purposes than scientific research, which is now covered by a copyright exception under the DSM directive, raises some questions about the ways creators can express their opt-out from this use of their works.

⁽⁴⁹⁾ https://joint-research-centre.ec.europa.eu/digcomp/digital-competence-framework_en.

On the crucial topic of digital audience engagement in the cultural heritage and performing arts sectors, the report *Re-(Engaging) with Digital Audiences in the Cultural Sectors* (Voices of Culture, 2022), published under the 2019–2022 Work Plan for Culture, confirms cultural operators' different speeds of taking up new technologies, notes the lack of digital literacy and data management skills within the CCS, and acknowledges the urgent needs for support. As regards **skills and training**, it comes with a series of recommendations for policymakers, such as to train local administrators and governments to support the CCS digitally; to provide free/accessible/affordable educational programmes on digital audience engagement and digital content management to empower cultural organisations and local administrations to access funding and write proposals; and to facilitate access to information on the technical side of digital audiences and data management, including information on the environmental sustainability of different providers and systems.

Digital transition is one of the key themes in the EU Member States' **National Recovery and Resilience Plans**, with several measures to ensure the digital transition in the cultural sector. Among those, special attention has been given in some countries to capacity-building of cultural actors and operators by providing them with **digital skills**, supporting the digital transition (Czechia and Italy). In addition, cultural and creative professionals may also benefit from other measures that have a wider policy focus, such as those concerning digital skills training open to companies and professionals in the sector.

D) Entrepreneurial and managerial skills, including green skills

The last type of skills that have increased in relevance to the CCS are **managerial and entrepreneurial skills in a green environment**. Given the importance of sustainable and mindful cultural business models, CCS workers need to know where to find finance, materials, distributors, audiences, etc. Especially when green skills are linked to the Green Competence Framework⁽⁵⁰⁾ and the European Green Deal, the CCS can play a dual role in exemplifying how to embody sustainability. On the one hand, the sectors often strive to become more green and sustainable themselves in terms of production, touring, building and other aspects. On the other hand, they have the imaginative, process and experimental skills to help society through the transformation towards a green future through collective and individual action⁽⁵¹⁾.

Developing specific business and administrative skills as well as cultural entrepreneurship has gained more and more attention in the CCS ecosystem over the last years, especially because of the high proportion of independent workers, and even more because for many years developing entrepreneurial skills has already been one of the eight key competences for lifelong learning⁽⁵²⁾. The abilities to identify new opportunities, generate innovative ideas, to plan and calculate risks, to develop strategies, and to inspire, motivate and communicate effectively with a team are key for success. The Danish Foundation for Entrepreneurship and Young Enterprises suggested the following definition of entrepreneurship: 'Entrepreneurship is when you **act upon opportunities and ideas and transform them into value** for others. The value that is created can be **financial, cultural or social**'⁽⁵³⁾.

This definition is also the fundament of **EntreComp**: the entrepreneurship competence framework described by the European Commission's Joint Research Centre, in partnership with the Directorate-

⁽⁵⁰⁾ https://joint-research-centre.ec.europa.eu/greencomp-european-sustainability-competence-framework_en.

⁽⁵¹⁾ http://creativeflip.creativehubs.net/wp-content/uploads/2021/07/FINAL-WP2_Final-Report-on-Skills-mismatch-2.pdf.

⁽⁵²⁾ <https://op.europa.eu/s/yzaf>

⁽⁵³⁾ <https://eng.ffe-ye.dk/knowledge-centre>.

General for Employment, Social Affairs and Inclusion ⁽⁵⁴⁾. EntreComp focuses on three competence areas that are essential to develop entrepreneurial capacity:

- formulating **ideas** and seeking **opportunities**,
- gathering and **managing resources**,
- putting everything into **action**.

A broad concept of **good governance** is also gaining more attention and interest, because of the fast-changing conditions CCS workers are operating in and the multiple crises we are facing as a society. Good and mindful governance is not only about financial management (and financial literacy as part of managerial skills), but also about the **balance** between artistic drive, fair practice and business goals.

The **Competence Centre for CCS** in Germany provides a broad spectrum of online and offline events for entrepreneurs, such as Innovation Camps, Learning Journeys and Creative Labs, covering a vast variety of creative topics. An example of a good practice is the award Kultur- und Kreativpiloten, which rewards entrepreneurs and startups for their creative ideas and provides the winners with free mentorships and workshops for 1 year to further develop the entrepreneurial skills of the winners and to secure their success in the long term ⁽⁵⁵⁾.

2.3.3.2. Developing professional skills

When looking at the four skill sets previously described (artistic and technical, social and cross-sectoral, digital, and entrepreneurial and managerial), it becomes evident that it is almost impossible for individual artists and cultural workers to master all these skills at a professional working level.

CCS workers tend to have received training primarily in artistic and technical skills before entering the professional domain of arts and culture. As a result, they will have to acquire some or more of those and other skill sets along the way. To profit as a society from the imagination and sensitivity of artists to their surroundings, it is urgent to provide them with the learning opportunities to develop an adequately skilled and sustainable career.

⁽⁵⁴⁾ https://joint-research-centre.ec.europa.eu/entrecomp-entrepreneurship-competence-framework_en.

⁽⁵⁵⁾ <https://kreativ-bund.de/>.



There are various **policy opportunities** for supporting the professional development of artists and cultural workers:

- policies for and within professional art education that push for **better preparation of CCS workers** for working life (art market, labour market, taxation, social security),
- policies that enable **supporting structures** to provide information on and assistance in upskilling activities (e.g. in digitisation, marketing or management) that CCS workers need but do not possess at professional level,
- policies supporting the **self-organisation** of CCS workers, e.g. in co-working spaces and creative hubs where they can gain expertise and learn from each other and are able to organise educational activities,
- policies supporting **gender equality and inclusion** in the CCS to give everyone access to professional development (OMC working group of Member States' experts, 2021).

Discussing these policies is outside the scope of this report, but they are very helpful in equipping artists and cultural workers with the skills to develop a sustainable and future-proof career.

The **Arts and Theatre Institute Academy** in Czechia is an educational programme for cultural managers. It enhances the skills necessary for effective management and development of cultural organisations. The activities are designed for both the leaders of organisations and other workers in culture.

The key event of the academy is a 6-month management programme for directors of selected cultural organisations to focus on strengthening soft managerial skills necessary to create a strategic plan, set up effective communication or competently lead a team. The institute also organises irregular open lectures, workshops and courses; the topics and focuses of events are chosen based on the current needs of practice.

<https://akademie.idu.cz/>

2.3.3.3. Types of learning

The skills cultural workers need depend on various factors such as the subsector they are working in, their role in that subsector, or the stage of their career (starting, mid-career, senior). Here, we describe only the main categories of skills they need to build a sustainable and future-proof career.

Learning in the CCS happens in various forms.

- **Formal learning** takes place inside education that is ‘institutionalised, intentional and planned through public organisations and recognised private bodies, and – in their [sic] totality – constitute the formal education system of a country’ ⁽⁵⁶⁾. This type of learning is thus **recognised by a national education authority or equivalent authorities**. In the CCS, a typical formal education framework would be arts academies.
- **Non-formal learning** takes place in forms of education that can be defined as ‘an addition, alternative and/or complement to formal education within the process of lifelong learning of individuals’ ⁽⁵⁷⁾. Like formal education, non-formal learning has been **intentionally institutionalised, and is organised/planned, yet outside the formal system**. The CCS can benefit from a wide range of non-formal education offers, such as training courses in all kinds of creative sectors and skills (e.g. short-term cultural management courses).
- **Informal learning** can take the form of courses, lectures, workshops, distance education, private lessons, guided on-the-job-training, or learning from digital platforms, such as YouTube and Skillshare, but also from influencers around the world. Furthermore, informal learning represents ‘forms of learning that are **intentional or deliberate, but are not institutionalised**’ ⁽⁵⁸⁾. They are less organised and structured than the previous two categories. Informal learning also comprises activities such as coaching or informal tuition, guided visits, self-learning, peer learning, learning groups, practice and non-guided visits. Informal training is a widespread activity in the CCS both on the supply side (e.g. museum visits) and on the demand side (e.g. conference festival participation).

2.3.4. Systemic approach to skills building

When we look at the system of skills building, there are four building blocks that need to function well.

1. **Availability. Are opportunities available** to acquire the skills needed for a sustainable and future-proof career? Is formal education in place for those skills that need official qualifications? Are there suppliers for different kinds of non-formal learning? Are mechanisms available and supported for informal learning?

⁽⁵⁶⁾ http://creativeflip.creativehubs.net/wp-content/uploads/2021/07/FINAL-WP2_Final-Report-on-Skills-mismatch-2.pdf, p. 16.

⁽⁵⁷⁾ *Ibid.*

⁽⁵⁸⁾ *Ibid.*, p. 17

Sweden has a long tradition and well-developed systems for lifelong learning. Opportunities for lifelong learning within the CCS are, as for all other sectors, offered within, for example, municipal adult education, liberal adult education, higher vocational education and higher education. This may consist of stand-alone courses as well as short and long educational programmes. Information on education possibilities for adults are available through websites such as *Hitta utbildningar för vuxna – Utbildningsguiden* (<https://www.skolverket.se/>) (adult education offers at various levels) and *Allt du behöver veta om dina studier* (<https://www.studera.nu/>) (higher education), where educational possibilities within the CCS can easily be selected. Tuition is usually free of charge, and students who attend publicly funded programs are usually also eligible for student financial aid.

2. **Findability.** There may be endless opportunities available for learning, but if they are not easy to find, or they are hidden in brochures that reach hardly anybody, there will be a lack of skills development. **Is there an overview of the available skill-development opportunities**, at either sectoral or national level, or through subsectoral intermediaries such as trade organisations? Is it online or available from intermediate organisations or trusted people, so that CCS workers are able to find the courses or training they need?

In Belgium, in the Flemish Region, **Cultuurloket** is an organisation that mainly delivers managerial and juridical advice and inspires CCS workers with innovative organisational tools. It also bundles its own on- and offline education possibilities. On its website, there is a central platform with a knowledge database, and on its YouTube page, one can find webinars, educational programmes, tips and tricks for good governance, and upcoming workshops and events ⁽⁵⁹⁾.

3. **Accessibility.** Even when skills building is available and easy to find, there is the question of accessibility. The biggest factors are **time and money**. For employees, there is the question of whether their employer is willing to pay and allocate work time for learning. Employers tend to restrict learning opportunities for people in temporary or part-time employment. Independents have to find the time themselves, and the budget when the course is not for free. Spending time on training does not make money in the short term, especially when income is small. The availability of funding to support their learning is hereby crucial.

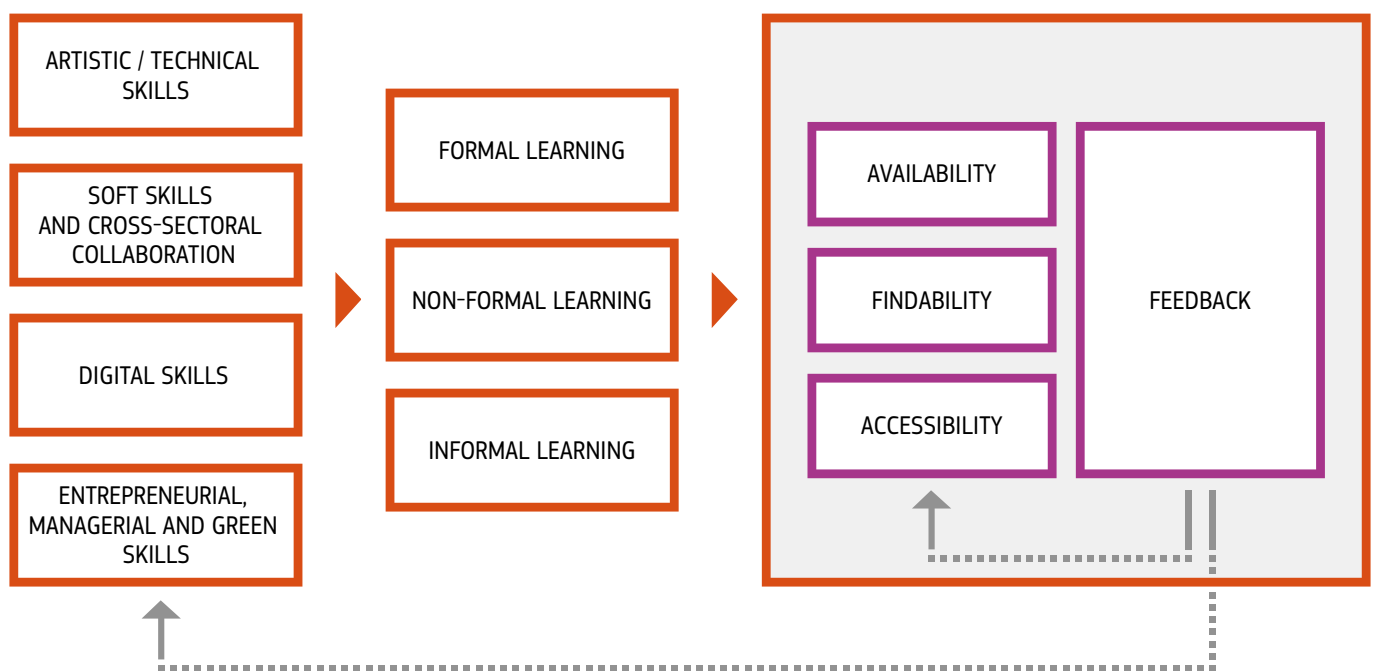
⁽⁵⁹⁾ <https://www.cultuurloket.be/opleidingen>.

WerktuigPPO is a Dutch fund, financed by the Ministry of Culture, which finances lifelong learning for all employees and independents in the CCS. It is demand driven (there is no shortlist of suppliers) and it finances one third of the costs up to EUR 2 000 per year. Every applicant gets a yes or no after a maximum of 3 days. Between October 2020 and October 2022, the fund received 18 000 applications, of which 70 % were approved. Rejections were mostly due to applicants coming from outside the CCS. The average application was for EUR 1 100 ⁽⁶⁰⁾.

4. **Evaluation and installing feedback loops.** A fast-developing context of sustainability, digitalisation and possible shrinking budgets calls for an entrepreneurial mindset and thus **perpetually challenges existing learning schemes**. The answer lies not only in continuous evaluation and improvement, but also in **providing feedback loops** about availability, findability and accessibility, and about the four skill sets themselves.

The skill sets, the types of learning and the four building blocks together form the framework for lifelong learning policies and recommendations (Figure 5).

Figure 5. Lifelong learning framework



⁽⁶⁰⁾ <https://werktuigppo.nl/>.

2.3.5. Recommendations

The recommendations are grouped according to the four building blocks of the systemic policy approach of skills development and lifelong learning for the CCS.

Main recommendation. Adapt a systemic approach to a skills-building and lifelong learning policy through mapping Availability, improving Findability, guaranteeing Accessibility and installing Feedback Loops.

- **Availability**
 - **Map the availability of formal and non-formal courses and workshops.** Use the knowledge of sectoral organisations and formal education providers to **develop a clear overview**. Also map the existence of available informal and on-the-job methods of learning, such as mentoring and communities of practice, in order to stimulate the use of such methods.
 - **Map the availability of courses and workshops based on the different skill sets.** Rather than having an exhaustive classification system, the framework discussed above – artistic/technical skills, soft skills, digital skills and entrepreneurial skills – can provide a guide towards a clear overview.



- **Findability**
 - The results of the mapping should be available at different levels of the sector (government, intermediaries and individuals). **Add search methods and career advice possibilities to the mapping** to make it easier to match skills needs with available learning offers.
- **Accessibility**
 - **Make funding available** for both employees (including employees in temporary and part-time jobs) and independents to stimulate participation. Make the funding easily accessible.
 - **Encourage negotiating parties, in collective labour agreements** and when funding organisations in the sector, to make skills development and lifelong learning a permanent part of the agreements.
- **Feedback loops**
 - **Develop standards of evaluation** for formal and non-formal education and make those standards obligatory for all training where public money is involved. Keep in mind that the prevalence of the different skill sets varies among sectors, jobs and projects. One might use the 8-level European Qualification Framework to provide participants with more portable and internationally transferable qualifications ⁽⁶¹⁾. **Organise exchanges between educational providers** to enhance quality, using the results of the evaluations. Install a mechanism to evaluate existing skill sets in order for them to adapt to changing contexts and challenges. This can be done at national level or connected to the European level.
 - **Set a goal for participation in lifelong learning:** the European Pillar of Social Rights has set a goal of 60 % of the working population by 2030. Measure participation and develop policy actions to fill existing gaps (availability, findability, accessibility) ⁽⁶²⁾.

2.3.6. Conclusions

Europe needs a highly skilled workforce to cope with the challenges ahead of us. Lifelong learning policies stimulate continuous learning and growing. The same applies to the CCS workforce. However, many artists and other workers in the sector lack the opportunities and possibilities to participate in lifelong learning because of their fragmented and project-based working circumstances, the high proportion of self-employed workers and the relatively low income levels.

These characteristics require a systemic and intensive educational policy within Member States, and coordination and additional financial means at national and EU levels. Massive investments in skills at EU level, such as through EIT Culture & Creativity, and the increased funding in other EU programmes in this field, is a very good signal. Essentially, this is a call upon all of us to help the CCS acquire the skills to flourish as a sector and play the creative role in society we need for the future.

⁽⁶¹⁾ <https://europa.eu/europass/en/european-qualifications-framework-efq>.

⁽⁶²⁾ https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights/european-pillar-social-rights-action-plan_en.

2.4. ARTISTIC FREEDOM

2.4.1. Introduction

The protection and promotion of artistic freedom is crucial both to ensure that people can express themselves freely through various art forms without fear of censorship or repercussions and for audiences to be able to enjoy diverse cultural expressions, including having their beliefs and opinions challenged by others. Artistic expression is a medium by which people can examine new and challenging ideas, experience diverse viewpoints, and hold a mirror up to themselves as individuals and as societies. In that sense, artistic freedom can be considered an essential ingredient for the growth and success of the CCS and for the flourishing of democratic societies. Artistic expression is also a way to express our common heritage, and in that way it can create connections, understanding and empathy between people. Thus, artistic freedom can be considered a fundamental aspect of cultural rights. If artistic freedom is threatened, artists cannot produce high-quality work and explore their artistic potential, and cultural diversity cannot exist.

Since the extent of artistic freedom determines the scope for people to create art and perform their artistic activities, it is also an important aspect of artists' and cultural and creative professionals' working conditions ⁽⁶³⁾. Moreover, for artists at risk and displaced artists, artistic freedom is linked to their right to life, liberty and security ⁽⁶⁴⁾.

All of the above is why this topic is included in the mandate of the OMC group.

Artistic freedom can be described as an ideal that is based on the notion that the arts and culture should, as far as possible, reflect free creative processes and be valued on the basis of their artistic qualities' ⁽⁶⁵⁾.

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.' It incorporates the following rights:

- 'the right to create without censorship or intimidation';
- 'the right to have artistic work supported, distributed and remunerated';
- 'the right to freedom of movement';
- 'the right to freedom of association';
- 'the right to protection of social and economic rights';
- 'the right to participate in cultural life' ⁽⁶⁶⁾.

⁽⁶³⁾ https://en.unesco.org/creativity/sites/creativity/files/artistic_freedom_pdf_web.pdf.

⁽⁶⁴⁾ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁽⁶⁵⁾ https://kulturanalys.se/wp-content/uploads/2021/06/2021_1-webb.pdf, p. 18.

⁽⁶⁶⁾ https://en.unesco.org/creativity/sites/creativity/files/artistic_freedom_pdf_web.pdf, p. 2; see also <https://unesdoc.unesco.org/ark:/48223/pf0000380474> and <https://unesdoc.unesco.org/ark:/48223/pf0000380474>.



The OMC group has done research on the topic of artistic freedom and sent out a questionnaire to all the Member States on the status of protection of the right to artistic freedom. In addition, the group has collected information on challenges and best practice from different Member States. On the basis of the feedback received, the experts have developed a list of recommendations.

2.4.2. Context and key challenges

Artistic freedom should be understood in the overall context of human rights. The research of the OMC group shows there is a difference between how the UN-adopted international legal instruments define and protect the right to freedom of artistic expression and how the legal instruments of the Council of Europe (European Convention on Human Rights, ECHR) and those of the European Union (Charter of Fundamental Rights of the EU) do.

The UN-adopted international law instruments, such as the Universal Declaration of Human Rights ⁽⁶⁷⁾, the International Covenant on Civil and Political Rights ⁽⁶⁸⁾, the International Covenant on Economic, Social and Cultural Rights ⁽⁶⁹⁾ and UNESCO legal instruments ⁽⁷⁰⁾ all outline the principle of a **distinct** right to freedom of artistic expression. This right entails all elements in UNESCO's definition,

⁽⁶⁷⁾ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁽⁶⁸⁾ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

⁽⁶⁹⁾ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

⁽⁷⁰⁾ <https://en.unesco.org/creativity/convention>.

mentioned in Section 2.4.1. Enforcement of these instruments is normally subject to the willingness of the Member State in question to cooperate with the relevant treaty body. These legal instruments are therefore less binding than, for example, the ECHR ⁽⁷¹⁾ or the Charter of Fundamental Rights of the EU ⁽⁷²⁾.

The Charter does not explicitly mention the right of freedom of artistic expression, although Article 13 states that ‘the arts and scientific research shall be free of constraint’. The ECHR does not explicitly mention the right to freedom of artistic expression either; however, the European Court of Human Rights has recognised the importance of artistic expression as a specific type of expression under Article 10 of the ECHR. Nevertheless, its case-law on artistic expression remains rather superficial, ⁽⁷³⁾ and its rulings are usually in favour of the states when striking a balance between conflicting rights (for example artistic freedom versus freedom of religion or artistic freedom versus public morals) ⁽⁷⁴⁾.

Neither legal instrument, therefore, seems to acknowledge the same sort of distinct right to freedom of artistic expression as the aforementioned UN-adopted legal instruments, including all the elements that were mentioned in Section 2.4.1 ⁽⁷⁵⁾.

This creates a situation in which Member States can assert the right to freedom of artistic expression in multifaceted ways. The right becomes influenced by the local moral norms prevailing in a certain society at a given time. This creates a lot of insecurity for artists and professionals working in the CCS, especially those working across borders.

The research also shows a growing tendency of governments within the EU to restrict the right to freedom of artistic expression through, for example, antiterrorism legislation, blasphemy laws (which currently exist in 14 EU countries), and laws that prohibit and criminalise insults to the state, including national symbols ⁽⁷⁶⁾. The research also shows cases of governments taking over administrative control of national museums and cultural institutions to ensure that they favour art with nationalistic or pro-government messages in their exhibitions. The deliberate interference in the programming and leadership of cultural and arts institutions can place undue restrictions on the rights of those accessing the arts. Freemuse, an independent international organisation advocating freedom of artistic expression and cultural diversity, has documented cases of ‘anti-homosexual propaganda’ laws, in which works of art that either feature LGBTQ and other gender non-conforming themes or are produced by LGBTQ and other gender non-conforming artists are subjected to restrictions ⁽⁷⁷⁾.

The effects of populist ideologies on the definition of the freedom of expression can also be considered a worrying trend. According to a Freemuse report, populism has had a negative impact globally on the ability to create art on issues around LGBTQ+, women’s rights or religion, and other works challenging traditional norms. Women, members of the LGBTQ+ community and artists of a minority ethnic background often face limited opportunities to express themselves through art and culture ⁽⁷⁸⁾.

In general, the threats to the freedom of artistic expression can be grouped into four different forms of constraints: political, ideological, religious and socioeconomic. The threats to artistic freedom have worsened recently under multiple challenges: political extremism, economic collapse, a global pandemic, threats from digitisation, an emerging environmental catastrophe and the return of war

⁽⁷¹⁾ https://www.echr.coe.int/documents/convention_eng.pdf.

⁽⁷²⁾ https://www.citizensinformation.ie/en/government_in_ireland/european_government/eu_law/charter_of_fundamental_rights.html.

⁽⁷³⁾ https://www.greens-efa.eu/files/assets/docs/cae_freedom_of_artistic_expression_in_the_european_union_en.pdf, p. 12.

⁽⁷⁴⁾ <https://globalfreedomofexpression.columbia.edu/publications/rights-legal-frameworks-for-artistic-freedom/>, p. 22.

⁽⁷⁵⁾ https://www.greens-efa.eu/files/assets/docs/cae_freedom_of_artistic_expression_in_the_european_union_en.pdf, p. 56.

⁽⁷⁶⁾ <https://freemuse.org/resource-list/the-new-european-agenda-on-freedom-of-artistic-expression/>.

⁽⁷⁷⁾ *Ibid.*, p. 50

⁽⁷⁸⁾ <https://freemuse.org/media/yk2paxxb/saf-report-2022.pdf>.

within Europe ⁽⁷⁹⁾. As mentioned in Section 1.1 of this report, special attention should be paid to artists at risk and displaced artists, who can no longer continue their artistic work safely in countries all over the world where democratic values are oppressed or prohibited. At EU level, policy initiatives have been developed to better protect the freedom of artistic expression. These initiatives go beyond the 2019–2022 work plan for culture; for example the European democracy action plan, which pledges that ‘The Commission will also continue to promote and to defend the freedom of artists to create without censorship or intimidation’ ⁽⁸⁰⁾, or the work of the European Union Agency for Fundamental Rights (FRA).

However, almost none ⁽⁸¹⁾ of the EU-countries include a constitutional protection of the right to freedom of artistic expression and the intensity of these constraints varies across Member States, creating heterogeneity in European public policy and legislation, finally resulting in different levels of protection of the freedom of artistic expression ⁽⁸²⁾.

This influences not only the conditions of artists and professionals working in the CCS in any one country, in terms of insecurity and safety, but also the possibilities of sharing culture and creativity across the national borders within the EU.

The above shows the fragile nature of the right to freedom of artistic expression and the necessity to strengthen it. The recommendations below are all aimed at taking the necessary legislative and other measures to promote and protect the right to freedom of artistic expression and artists’ right to live without harassment and violence in the public and private sectors.

2.4.3. Main recommendations

Recommendation 1. The right to freedom of artistic expression should be reflected in a binding fashion in EU treaty reforms, national legislation and also policy in practice.

This recommendation aims to get Member States, the European Commission and other EU institutions to work together to better protect the right to freedom of artistic expression and make it part of their constitutions. This could contribute to solving the issue of the multifaceted ways in which countries interpret the freedom of artistic expression at the moment. Likewise, it could protect against restrictions of the right to freedom of artistic expression by the aforementioned political, ideological, religious and socioeconomic constraints.

At national level, **good practices** in this respect can be found in Czechia, Germany, Estonia, Greece, Spain, France, Croatia, Malta, Austria, Slovakia, Finland and Sweden. These EU countries explicitly protect the right to freedom of artistic expression, either in their constitutions or by other legislation.

⁽⁷⁹⁾ <https://rm.coe.int/free-to-create-council-of-europe-report-on-the-freedom-of-artistic-exp/1680aa2dc0>.

⁽⁸⁰⁾ Commission communication – On the European democracy action plan (COM(2020) 790 final), Section 2.4.

⁽⁸¹⁾ With the notable exception of Italy, please see table in Annex 1.

⁽⁸²⁾ https://www.greens-efa.eu/files/assets/docs/cae_freedom_of_artistic_expression_in_the_european_union_en.pdf, pp. 22–25.



At European level, the interpretation of Article 13 of the Charter of Fundamental Rights of the EU could be adapted and updated, as is also suggested in the study *Freedom of Artistic Expression in the European Union – An overview of the relevant normative and jurisprudential framework* ⁽⁸³⁾, or by going even further and creating a new distinct right to freedom of artistic expression in the Charter in line with the UNESCO definition.

To achieve meaningful, proportionate and effective legal action, the artistic community should be involved. For this, a structured dialogue could be initiated at both national and EU levels between academics, stakeholders and policymakers about the relation between artistic freedom and societal values. From this structured dialogue, an indicator could be developed on how freedom of artistic expression is being respected.

This could also result in creating an **EU guide/handbook** for artists and CCS professionals with respect to the right to freedom of expression, artistic freedom, societal values, jurisprudence and related matters. An example of **good practice** is the resource pack that **Malta** has created. This will be discussed in more detail under Recommendation 3.

⁽⁸³⁾ https://www.greens-efa.eu/files/assets/docs/cae_freedom_of_artistic_expression_in_the_european_union_en.pdf.

The recommendation about policy practice further entails the prevention of political influence on cultural expression, for example through funding. A **good practice** example is the **'arm's-length' principle**, as found in countries such as **Lithuania, Slovakia, Finland** and **Sweden**. This principle is based on two key aspects. Firstly, politicians and political assemblies should generally refrain from engaging in steering committees that influence, or could influence, what and how artists and other professionals working in the CCS create. Secondly, the principle is predicated on an organisational distance between political decision-making, on the one hand, and decisions that have to do with artistic judgements, on the other. The arm's-length principle thus intends to create favourable conditions for artistic freedom by advocating organisational protection from political decisions about artistic content ⁽⁸⁴⁾.

Under this arm's-length principle, the government determines the overall funding to artists, but it is the professionals who decide to what and to whom funding is allocated. This means that the authorities within the cultural field that allocate grants and funding to artists, do so with the help of peer review groups, consisting of professionals from the artistic field, with the ability to analyse the quality of the art/performance, etc. These groups are changed regularly, and they also have very strict policies regarding conflicts of interest and bias issues. In other words, the principle assures artists of artistic freedom without political involvement ⁽⁸⁵⁾.

Finally, we would recommend the good policy practice of supporting civil society organisations working on better protecting the right to freedom of artistic expression internationally, such as the International Cities of Refuge Network ⁽⁸⁶⁾, Freemuse ⁽⁸⁷⁾, Artists at Risk Connection ⁽⁸⁸⁾, Index on Censorship ⁽⁸⁹⁾ and Arterial Network ⁽⁹⁰⁾.

Recommendation 2. Cooperate with an EU observatory system for the right to freedom of artistic expression.

This recommendation aims to create more attention to and awareness of the responsibility of the Member States to protect the right to freedom of artistic expression. At the moment, the right to freedom of artistic expression is not explicitly mentioned in the yearly EU rule of law questionnaire that is sent out to Member States on a regular basis to keep track of the state of play regarding important societal topics ⁽⁹¹⁾. It is **recommended that this questionnaire mention more explicitly the topic of freedom of artistic expression.**

⁽⁸⁴⁾ See, for example, https://kulturanalys.se/wp-content/uploads/2021/06/2021_1-webb.pdf, p. 18, and <https://www.taik.fi/en>.

⁽⁸⁵⁾ <https://www.kulturradet.se/en/about-us/how-we-make-decisions/>.

⁽⁸⁶⁾ <https://icorn.org/>.

⁽⁸⁷⁾ <https://freemuse.org/>.

⁽⁸⁸⁾ <https://artistsatrisk.org/?lang=en>.

⁽⁸⁹⁾ <https://www.indexoncensorship.org/>.

⁽⁹⁰⁾ <https://www.arterialnetwork.org/>.

⁽⁹¹⁾ https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2022-rule-law-report_en.

To avoid creating an additional new structure, it would be advisable to use and cooperate with an already **existing observatory** organisation at EU level, for example FRA ⁽⁹²⁾.

A **'rating' system** could also be introduced at EU level, inspired by the World Press Freedom Index ⁽⁹³⁾.

Another **good practice** in this context is the Agency for Cultural Policy Analysis, which has been commissioned by the **Swedish** government to report the effects of cultural policy governance on artistic freedom. These reports are very helpful for the government to understand the outcomes of its cultural policies ⁽⁹⁴⁾.

Recommendation 3. The right of access to culture for the public and the artist should be reinforced, and all obstacles to gaining access to culture, and to gaining funding for culture, should be reduced.

As described in UNESCO's definition, the right to artistic freedom implies the equal ability of all members of society to freely participate in artistic and cultural activity, without any social, economic or political constraints. The presence of obstacles and limitations to the right of access to culture impinges upon individuals' and communities' freedom to participate equally in a society's cultural expression. This is why Member States should proactively ensure that all members of society are granted equal access to opportunities to practise their artistic and creative endeavours, including artists at risk and displaced artists, who are in a particularly fragile situation.

A **good practice** for this could be to subsidise **'discount passes' for low-income households**, and for young and retired people. These passes give access to cultural events and activities at a reduced price. This practice is happening in the **Netherlands**, for example.

Moreover, opportunities for funding or access to public goods should not be hindered by linguistic, technological, cultural and social barriers. Special attention should be given to migrants and ethnic minorities as well as other types of minorities, such as LGBTQ+ or disabled persons.

⁽⁹²⁾ <https://fra.europa.eu/en/about-fra>.

⁽⁹³⁾ <https://rsf.org/en/index>.

⁽⁹⁴⁾ https://kulturanalys.se/wp-content/uploads/2021/06/2021_1-webb.pdf, p. 18.

In addition, Member States should ensure equal access to financing and to spaces for all art forms.

A **good practice** for this is the resource pack '**Right to Culture**' developed by the Arts Council in **Malta**. This aims to help cultural organisations (including public organisations) identify the obstacles that stand in the way of inclusive funding, project management and programme development. Moreover, it aims to help develop strategies and tools to address them. This resource pack sheds light on the basic tools and approaches organisations and practitioners may use when working with a diverse range of communities ⁽⁹⁵⁾.

2.4.4. Conclusions

OMC experts agree that artistic freedom is a necessity for a culturally diverse and flourishing democratic society. The recommendations underline the importance of upholding, strengthening and protecting artistic freedom and the right to create without fear of censorship or repercussions.

Furthermore, the recommendations are aimed at policymakers to take necessary legislative measures to protect the right to freedom of artistic expression, and to highlight responsibility, at all levels, for the promotion and protection of the right to freedom of artistic expression. Cooperation between and within Member States, and with the EU level, is necessary for maintaining the protection of artistic freedom.

The recommendations contain measures that should be taken to extend reasonable working conditions for artists in order to increase artistic freedom, for example by recommending structured dialogue. They give examples of good practices and principles to ensure that artists have freedom to create without constraints. Moreover, it is of great importance to make art and culture accessible to all in society, and to support organisations working for the right to freedom of artistic expression globally.

A free and vibrant cultural life is a prerequisite for a sustainable democracy – and vice versa. Artistic freedom can therefore not be taken for granted and should be protected and supported. Limitations to artistic freedom should be prevented through appropriate measures at local, regional, national and EU levels, in the international context.

⁽⁹⁵⁾ <https://www.artscouncilmalta.org/pages/guidance-advice/resources/right-to-culture/>.



3

CONCLUSIONS AND MAIN POLICY RECOMMENDATIONS





CONCLUSIONS AND MAIN POLICY RECOMMENDATIONS



3.1. CONCLUSIONS

The CCS are known for their unique work as well as their specific working conditions, which can be sometimes rewarding, but mostly challenging and precarious. The work of the OMC expert group adds to a growing body of evidence built up over many years that highlights the nature and impact of these challenging working conditions.

The COVID-19 crisis had the effect of exposing the precarious and instable working conditions in the CCS labour markets, and revealed that the sectors were less resilient than some might have assumed. The pandemic had a heavy impact on these sectors, with closures of cultural institutions, and many workers facing job losses and reduced incomes. While this was and continues to be extremely challenging, it has had the effect of focusing great attention on the subject, and it has become a highly topical issue on political agendas in the EU and its Member States.

In response to the pandemic, a number of new and exciting policy initiatives, schemes and actions have been initiated that seek to address these challenges. For some Member States, it was difficult to rapidly disburse financial support during the pandemic owing to a lack of information concerning artists and cultural workers. That has highlighted the value and importance of providing artists and cultural and creative professionals with a designated status.

A lot has happened in the meantime and progress has been made, but a lot remains to be done. Improving the status of artists and working conditions in the CCS requires continued commitment and policy action.

The important role of the CCS for our economies, societies and individual well-being and empowerment has been increasingly recognised at both EU and Member State levels, nationally, regionally and locally. However, this existing and growing acknowledgement of culture also requires recognising the importance of a fair and supportive environment for artists and cultural and creative professionals. There is no doubt that well-functioning labour markets including and offering fair and comprehensive social protection schemes are crucial for the future of vital, dynamic and internationally competitive European CCS. As highlighted in this report, new and important measures, including legislative initiatives, have been launched in the Member States, as well as at EU level. In some EU Member States, funds from the national recovery and resilience plans are also used for social reform and improving the working environment, including for artists. International organisations, in particular UNESCO, have been active for decades on artists' working conditions (UNESCO, 1980), and conduct regular surveys and monitoring. Recently, the ILO also explicitly dealt with questions about the future

of work in the arts and entertainment sector⁹⁶, and the topic is also discussed by the G-20 and other international fora.

This OMC report builds upon all the existing expertise, knowledge and ongoing initiatives from different governance levels, and provides an updated overview about the different situations and wide range of measures and approaches in EU Member States. The OMC group also built its work on reports by and exchanges with European CCS networks such as CAE, IETM, On the Move, PEARLE – Live Performance Europe, Freemuse, also via the “Voices of Culture” civil society group as well as via regular exchanges with the European Sectoral Social Dialogue partners in Live Performance.

The OMC experts reconfirmed the findings documented by other studies, especially the precarious labour conditions characterised by uncertainty and an overall low and fluctuating income, freelance and project-based work, late and weekend engagements, second-jobbing, lack of transparency in salaries and inadequate social protection. As different as the specific situations in each EU Member State and across the different subsectors of the CCS may be in this regard, common challenges and areas of priority for actions have been identified by the experts and addressed in detail in this report with regard to the status of artists, social protection, fairness, skills and artistic freedom. Cross-sectoral topics such as cross-border mobility, gender and diversity, the digital and green transitions, and lessons learnt from the COVID-19 crisis were included in the consideration and discussions.

OMC experts agree that ‘status of the artist’ regulatory frameworks are important because they acknowledge cultural and creative work as a legitimate profession and recognise the unique and specific challenges of their working environment. They are also a potential way to regulate the working conditions regarding access to resources and entitlements such as social protection, and help to raise the profile of artistic work and provide creative professionals with the support they need to succeed.

OMC experts agree that fairness and fair practice are crucial for the CCS. A series of recommendations has been proposed to policymakers at different governance levels to address key challenges concerning their sustainability, diversity and potential by highlighting their fundamental role as public funders and to initiate positive change through the placing of terms and conditions on access and use of grants and funding.

Without any doubt, the CCS have undergone a fast-paced transformation, driven by digitalisation, but also by unequal access to technology, finance, training and skills development. CCS represent important and dynamic labour markets that, like other sectors, face increasing shortages of skills and labour. To make use of their potential to create employment, new skill sets and systematic learning approaches as well as investment in skill development are required.

OMC experts agree that professional artists and cultural creators play a significant role in a vibrant cultural life. That artists and cultural creators can work under reasonable conditions is of decisive importance for artistic freedom. A free and vibrant cultural life is a prerequisite for a sustainable democracy, but it is also of great importance for the creative process, the quality of the final product and the advancement of access to culture. Therefore, it is essential to create an environment that supports and protects artistic freedom.

Due to the limited EU competences, many of the challenges raised in this report require action at Member State level that goes beyond the work of culture ministries and needs a political and multidisciplinary approach involving different ministries.

⁽⁹⁶⁾ https://www.ilo.org/sector/Resources/publications/WCMS_865323/lang--en/index.htm



We hope that the good practice provided by Member States can help to orient and inspire those who are looking for new approaches and solutions. The following key recommendations have been selected by the experts of the OMC group for implementation and are addressed in particular to policymakers at all governance and institutional levels with the aim of improving the employment situation in the CCS.

3.2. MAIN POLICY RECOMMENDATIONS

A) Artist status and social security

- Aim for specific and coherent legislation regarding artists, covering all areas of their work (employment/labour, social security, taxation), in addition to general existing legislation.
- Scope of eligibility of artists: include professionals who create, give creative expression to or re-create works of art, as a minimum; consider including other types of cultural and creative professionals who face similar challenges.

- Make sure that artists and creative professionals, regardless of their labour/employment regime, have access to adequate social protection.
- Collect data about the situation of artists for evidence-based policymaking; identify workers in the CCS through relevant sources, or by establishing registers of artists and cultural professionals, to allow for targeted policies.

B) EU framework for working conditions in the cultural and creative sectors

Set up an EU framework for artists' and creative professionals' working conditions, in order to encourage Member States to adopt measures adapted to the specificities of artists, providing guidelines and minimum standards via a Council Recommendation or Council Conclusions for non-binding measures which cover relevant areas for improving working conditions in the CCS such as:

- the status and labour regime of artists and creative professionals;
- social protection schemes (such as unemployment, sickness, parental leave and pensions);
- taxes;
- public funding;
- cross-border mobility.

Recommendation to encourage information sharing through an online platform, based on the data collected during the OMC group's work⁹⁷

C) Fair practice

- Public funders at EU, national and regional levels should introduce terms and conditions for the use of public funding, skill and working conditions of artists and cultural and creative professionals; that is, they should include fair pay as an eligibility criterion in new calls for proposals, and monitor compliance with these criteria.
- The EU and Member States should encourage and support the setting up, capacity-building and empowerment of both *service* organisations and *representative* organisations in the CCS.
- Public policymakers in CCS, along with mandated representative bodies and relevant experts, should develop good practice guides for adoption and application within CCS. These would be handbooks or toolkits that promote a fair, dignified and safe working culture and environment.
- Member States should establish and resource appropriate and independent structures at national or regional level for artists and CCS professionals to confidentially report unfair practices (including cases of abuse of power, harassment, bullying and discrimination), get advice and, when appropriate, be helped to engage in dispute resolution.

⁽⁹⁷⁾ In the meantime, this recommendation has already been incorporated into the new EU Work Plan for Culture 2023–2026.

D) Skills and lifelong learning

Skills building and lifelong learning need to be developed in a systemic way. Make learning opportunities visible and easy to find, make them accessible through funding and evaluate existing skills development systems to learn and improve.

E) Artistic freedom

- Artistic freedom should be better protected by European and national legislation, and policy practices.
- Add freedom of artistic expression as a topic in the EU rule of law reports.
- Cooperate with an EU observatory system on the right to freedom of artistic expression.
- Member States should enable access to, participation in and practice of culture for the public and artists.

3.3. WAY FORWARD

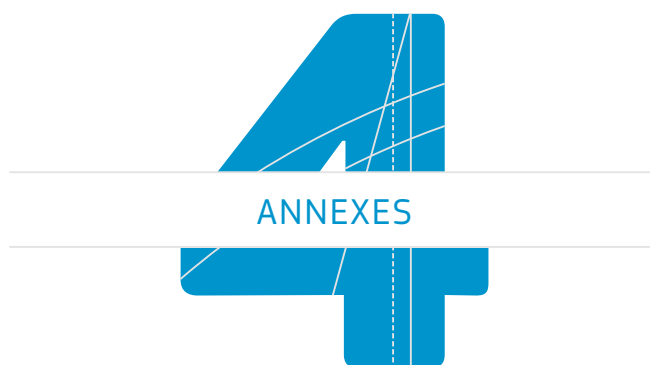
Although some very promising recommendations have been delivered in this report, the work must continue. Further progress is needed to support the resilience and the sustainability of CCS and to improve their working conditions.

For this reason, the OMC expert group is delighted that the EU's Council of Culture Ministers has adopted a new Work Plan for Culture covering 2023–2026, which sets out further actions and initiatives on the status and working conditions of artists and cultural and creative professionals as well as follow up reflections on the output and impact of this OMC expert group. Against this background, the data collected from a comprehensive survey of this group will be used to develop an online sharing platform. It will allow on the one hand an overview of existing data and on the other hand regular updates on new initiatives and measures. This will be an important step towards ensuring that artists' working conditions remain on political agendas and that there is a follow-up to this report and its recommendations. In addition, it is necessary to unite and join forces with all those organisations, sector representatives, networks, social partners, CCS professionals and international organisations that are committed to improving artists' and creative sector professionals' working conditions.

4

ANNEXES





ANNEX 1. OVERVIEW TABLE OF LEGISLATION RECOGNISING ARTISTS' STATUS IN THE EU

COUNTRY	LEGISLATION RECOGNISING ARTIST STATUS	BRIEF DESCRIPTION
Belgium	Royal decree of 25 November 1991 on unemployment	<p>The decree on unemployment provides specific rules for salaried art workers or those who are treated as salaried.</p> <p>Workers carrying out artistic activities paid by performance (by the job or by the piece) can benefit from:</p> <ul style="list-style-type: none"> ■ a more favourable rule for calculating the number of working days required to qualify for unemployment benefit (cachet rule); ■ a more favourable system for determining the amount and duration of their unemployment benefits.
	Law of 16 December 2022 to establish the Working in the Arts Commission and to improve the welfare of workers in the arts (from 1 January 2024)	The new law of 16 December 2022 provides for the establishment of a commission, half of whom are experts in the field of artistic work. The commission will issue different types of certificates of working in the arts, allowing art workers to claim for specific social schemes (each with specific prerequisites and conditions), such as the dedicated unemployment system for salaried art workers described above.
Bulgaria	<p>Labour Code, Ordinance on social security of persons who practise a liberal profession and of Bulgarian citizens working abroad (2000)</p> <p>Copyright Act (1993)</p> <p>Law on taxes on individuals (2007)</p>	<p>The Labour Code states that artists (practising a liberal profession) are to be treated in the same manner as and equally to those who have registered companies as sole traders or partners in commercial collaborations in regard to social security.</p> <p>In the Copyright Act, there is a possibility for freelance artists to enter into a copyright agreement that does withhold social payments. The only condition is that the artists pay social payments themselves. Up to 40 % of the legally recognised expenses for citizens practising free professions are allowed before taxes, including artists registered as self-insured persons by the law on taxes on individuals.</p>
Czechia	No specific legislation covering artists' entitlements	In general, there are two schemes in Czechia: one for employees and one for self-employed persons of all professions. There is no special regime just for artist, they belong to one category or the other, or combine both. Self-employed persons are obliged to pay health insurance, while the employer pays all the payments for employees. The Czech government is preparing for the legislative process of adopting the status of artist with the binding adoption of new legislation by the end of 2025.

COUNTRY	LEGISLATION RECOGNISING ARTIST STATUS	BRIEF DESCRIPTION
Denmark	No specific legislation covering artists' entitlements	N/A
Germany	Artists' Social Insurance Act (1981)	The law aims to ensure protection comparable to that enjoyed by employees with regard to social security for independent artists and publicists. As a result, they are subject to mandatory social security contributions and are insured in the general pension insurance scheme, the statutory health insurance scheme and the long-term social care insurance scheme. As all compulsorily insured persons do, they also have access to a voluntary pension supplement.
Estonia	Creative Persons and Artistic Associations Act (2004)	The legislation provides temporary support for creative activity, including social guarantees, to authors or performers in eight fields of culture, if they lose their income. The aid is 6 to 12 months of the Estonian minimum wage, and it is paid either through the artistic association or directly through the Ministry of Culture, if the applicant is not a member of any association. The legislation also lays down the process for recognising artistic associations'.
Ireland	Section 195 of the Taxes Consolidation Act (1997)	The act provides for an income tax exemption for certain earnings of writers, composers and visual artists.
Greece	No law covering the status of artists. A draft scheme for the status of artists is under preparation	N/A
Spain	<i>Artists' statute</i> : a set of measures in labour, social security, tax and education matters	<p>The statute recognises artistic work and functions through 75 measures that aim to improve the status of artists and other cultural professionals with regard to tax, labour and social protection issues. It recognises the intermittence, heterogeneity and instability of artistic professions; addresses fiscal (including the reduction of the VAT rate) and social security measures by regulating contributions during periods of inactivity.</p> <p>Throughout 2022–2023, together with the sectors, concrete measures were developed to improve artists' working conditions, social security and taxes. Most are contained in two royal decrees (5/2022 of 22 March 2023, and 1/2023 of 10 January 2023).</p> <p>Among the approved measures, the following can be highlighted: the creation of a fixed-term contract model for the arts sector, including technical and auxiliary professionals; the creation of specific unemployment benefits for artists adopted to cover the intermittent character of their activities and updating and expanding the regulation of the compatibility of retirement pensions with the exercise of artistic activity.</p> <p>In March 2023, three working groups have been created to study specific measures for cultural freelancers (self-employed), occupational diseases and career transitions.</p>

COUNTRY	LEGISLATION RECOGNISING ARTIST STATUS	BRIEF DESCRIPTION
France	<p>Specific measures related to salaried status:</p> <p><i>C. trav. Art L. 7121-2; L.7121-3</i></p> <p><i>C. séc. Soc. L. 311-3, 15°</i></p> <p><i>Intermittence du spectacle</i> (1936, with multiple amendments over the years)</p>	<p>Artists in performing arts who benefit from the presumption that they are salaried workers, in accordance with the French labour code, have access, as employees, to measures for social security coverage, and unemployment benefits despite discontinuous employment. The rules are adapted to take into account the discontinuous nature of the work of performing artists. The unemployment insurance scheme for performing artists is subject to specific rules that are distinct from the general scheme applicable to employees (known as <i>intermittence du spectacle</i>). The rates applied for social security contributions, including basic pension contributions for performing artists – excluding the autonomous social contribution and unemployment insurance contributions – are set at 70 % of the general scheme rates.</p>
	<p>Specific measures related to independent author status (called 'independent artist-authors'):</p> <p>Malraux Law of 26 December 1964</p> <p>Law of 31 December 1975 on social security of authors</p> <p><i>L. 382-1 à L. 382-14 du code de la sécurité sociale</i></p>	<p>Artist-authors are self-employed artists whose income is based on artistic creation (creation of work of art: Code of Intellectual Property Article L. 112-2 or L. 112-3). They are affiliated to the general system of social security for employees. As a result they have access to social security coverage and family benefits in the same way as employees, except for unemployment insurance and work accident protection. They have a specific complementary pension scheme.</p> <p>If they do not qualify for artist-author status, they have the status of a self-employed person affiliated to the social security system for the self-employed.</p>
Croatia	<p>Law on the rights of independent artists and promotion of cultural and artistic creativity (1996, amended 2000)</p>	<p>This legislation governs the rights of independent artists, the founding and operation of arts organisations, and measures to promote cultural and artistic creativity. The definition of an independent artist comprises self-employed artists who engage in artistic creation and operation as their only and main occupation. This act gives independent artists access to pensions and to disability and health insurance.</p>
Italy	<p>Constitution of the Italian Republic, 1947, Article 9 and Article 33</p> <p>Law No 633 of 22 April 1941 (Protection of copyright and other rights related to its exercise)</p> <p>Legislative Decree No 708/1947 (Provisions concerning the National Welfare and Assistance Board for Performing Arts Workers)</p> <p>Decree of the Ministry of Labour and Social Security of 10 November 1997 (Classification into three groups of the categories of persons insured by the pension fund for Performing Arts workers)</p> <p>Ministerial Decree of Labour and Social Security of 15 March 2005 (Adaptation of the categories of workers compulsorily insured with the National Welfare and Assistance Board for Performing Arts Workers)</p>	<p>The Italian Constitution promotes culture and indicates that art is free.</p> <p>Artistic creations are protected by the Copyright Law.</p> <p>With reference to the legislation on artistic professions, the only properly regulated sector is performing arts. In Italy, there used to be a special social insurance office (National Social Security and Assistance Board for Performing Arts Workers, Enpals), which now has been merged into the general National Social Security Institute (INPS) into a section named 'Artists, musicians, writers and performing arts workers' by which artists and art workers are registered.</p> <p>In Italy, an artist or art worker is also a self-employed person with a VAT number with an economic activity code for activities in the field of artistic representation, performing arts, or other artistic and literary creations. The artist may also not have a VAT number, and may use the assignment of copyright for tax payment, i.e. a form of contract in which the artist assigns the proceeds of his or her work. However, this should only be for occasional works.</p>

COUNTRY	LEGISLATION RECOGNISING ARTIST STATUS	BRIEF DESCRIPTION
Italy (continued)	<p>Law No 175 of 22 November 2017 (Provisions on performing arts and entertainment and delegation to the government of the reorganisation of the matter)</p> <p>Law No 106 of 15 July 2022 (Delegation to the government and other provisions concerning the performing arts)</p>	<p>Italy recognises non-artist art professionals, as far as performing arts and cinema are concerned. These recognised art workers are employed or self-employed. Art workers in Italy are those who are registered with Enpals or the INPS performing arts section. The standard reference to identify performing arts workers is Article 3 of Legislative Decree No 708/1947 and Decree of the Ministry of Labour and Social Security of 10 November 1997.</p> <p>At the time of writing, the Italian government is drafting a legislative decree related to new protections for entertainment and performing arts workers in Italy. The decree deals with (among other topics) employment contracts and fair remuneration; the introduction of the discontinuity allowance; the introduction of a national register of performing art professionals; and the Performing Art Observatory and National Network System.</p>
Cyprus	No law covering the status of artists. Legislation is currently being developed	N/A
Latvia	Law on the status of creative persons and professional creative organisations (2004)	<p>The law provides support to artists who because of the specific nature of their employment do not generate regular income or are experiencing a temporary loss of capacity to work. Moreover, assistance is provided to freelance artists.</p> <p>The Latvian social security system covers all insured persons or, where applicable, resident citizens, including artists, regardless of whether they are self-employed or employed either permanently or temporarily, full time or part time.</p>
Lithuania	<p>Law on the status of art creators and their organisations (2004)</p> <p>Law on professional performing arts (2004)</p> <p>Government resolution (2011) on the Social Security Programme for Artists</p> <p>Law on state pensions (1994)</p> <p>Charity and Support Act (1993)</p>	<p>The law on the status of art creators and their organisations lays down the provisions regulating procedures and requirements for obtaining the professional status of art creator.</p> <p>The law on professional performing arts regulates certain aspects of activities of state and municipal theatre and concert institutions, the requirements for recognition of non-state performing arts institutions as professional performing arts institutions, and social guarantees for creative workers (performers, creators).</p> <p>The aim of the Social Security Programme for Artists is to ensure social guarantees for artists, holding the status of art creators, with low or irregular incomes, and for artists experiencing creative downtime, when a working-age artist temporarily does not have the conditions to create and/or disseminate his or her works for objective reasons beyond his or her control. Since 2011, artists have been covered by pension social insurance and by sickness and maternity social insurance.</p> <p>The law on state pensions establishes that the right to receive a state pension of the first degree shall be given to the persons awarded the Lithuanian National Prize for Culture and Arts.</p> <p>Since 2017, art makers who have the status of an art maker may acquire the status of a beneficiary. Beneficiaries have the right to receive up to 1.2 % of the personal income tax paid by natural persons.</p>

COUNTRY	LEGISLATION RECOGNISING ARTIST STATUS	BRIEF DESCRIPTION
Luxembourg	Law of 19 December 2014 regarding (1) measures for the benefit of independent professional artists and intermittent entertainment workers and (2) the promotion of artistic creation (amended 2016, 2020 and 2022)	(1) The law provides financial measures for the benefit of independent professional artists and intermittent entertainment workers, and an additional aid scheme that may come into force upon the occurrence of an event having an impact on their activities (e.g. the COVID-19 pandemic). (2) It provides support measures to promote artistic creation, and specific provisions concerning taxation.
Hungary	„EKHO” law (2005) - Act CXX of 2005 on the simplified contribution to public revenues	The legislation provides more favourable conditions and simplified procedures in relation to social security for a list of professions, typically in the cultural sector.
Malta	No specific legislation covering artists' entitlements	N/A
Netherlands	No specific legislation covering artists' entitlements	N/A
Austria	Law on social security for artists (2001)	The law treats freelance artists as self-employed. As a result, they are subject to mandatory social security contributions and have access to a pension supplement and voluntary unemployment insurance.
Poland	The bill on artists is at the governmental level in Poland. The bill envisages the introduction of social insurance subsidies for low-income artists who remain without health and pension insurance.	The law in development aims to support artists whose small incomes force them to work without health and pension insurance; it provides subsidies for insurance premiums. The law provides for the establishment of a Polish Chamber of Artists, in which participation will be voluntary. All arts organisations will be represented in the Chamber of Artists. Artists will be qualified to participate in the artists' support system on the basis of their education and artistic achievements. Tax concessions for artists have existed in the tax system for many years. The amount of the maximum deduction for the application of the 50 % CIT (Corporate Income Tax) depends on the amount representing the upper limit of the first bracket of the tax scale, i.e. the so-called tax threshold. The maximum deduction is PLN 120 000 (approximately EUR 25 500).
Portugal	Legislation on the status of the cultural sector professional was published in 2021 and entered into force on 1 January 2022. The special social security scheme for artists entered into force on 1 July 2022	This legislation regulates the working and social conditions of professionals in the performing arts, audiovisual, visual arts and literary creation, who pursue an authorial, artistic, technical-artistic or cultural mediation activity. Under this law, a national register for all the arts professionals will permit access to a special protection regime for this sector. This law regulates the work contracts, the social security scheme for workers and self-employed people, and implements a discontinuity of activity allowance. The national register is not compulsory and will allow better knowledge of the Portuguese cultural sector. In January 2024, this status will be revised.

COUNTRY	LEGISLATION RECOGNISING ARTIST STATUS	BRIEF DESCRIPTION
Romania	The Government Ordinance no. 21/2023 on the status of the cultural worker, published in the Romanian Official Journal 297/07.04.2023 (Law on the status of the cultural worker)	<p>The new legislative framework applicable to professional cultural workers addresses a wide range of social protection measures and employment policies meant to enable the reform of the funding system of the cultural sector and to ensure the legal recognition of cultural workers on the labour market.</p> <p>It regulates coherent and comprehensive measures with respect to contracts, social security, health, insurance, taxation, collective agreements, and mobility of cultural workers under a National Mobility Programme, supporting the development of their skills and competences. A public register of professional cultural workers will be established and managed by the Ministry of Culture in Romania.</p> <p>At the time of writing, the national law approving this Ordinance is in the Parliament and is expected to be adopted soon. The Ministry of Culture is also preparing the implementation norms (secondary legislation).</p>
Slovenia	Decree on self-employed professionals in culture (2004)	The legislation recognises that self-employed persons/freelancers in the CCS, which ensures a basic level of social security, grants a favourable taxation and offers an option to the low-earning self-employed cultural workers for the basic social security to be covered by the government (Ministry of Culture) while others pay for these services individually.
Slovakia	Act on the Slovak Arts Council (2002, as amended in 2020) Act on theatrical and musical activities (2014)	The Slovak Arts Council administers the register of professional artists and other cultural professionals. The register was introduced in response to the COVID-19 pandemic. Registration does not bring social security or tax benefits but was required as a condition for applying for one of the sector-specific COVID-19-related support programmes. There is a plan to draw up a separate act on cultural professionals. Under the Act on theatrical and musical activities, a professional dancer who decides to finish his or her professional career after having worked for 22 years in a theatre or music institution run by the state or administrative region has the right to receive a monthly payment (50 % of the national average wage) until the time he or she reaches retirement age and becomes eligible for a regular pension. The same benefit is available to professional singers and wind instrument players after they have worked in a state or regional theatre or music institution for 25 years.
Finland	Act on state artist grants (1969/734)	The basic criterion for distributing state grant to artists is purely the artistic quality of their work. According to artists' grants legislation, working grants for periods of 3 years or longer must be awarded primarily 'to artists who have already proved their creative capability' and at least 30 grants a year have to be reserved for 'young artists and artists at the beginning of their careers'.
	Act on grants for authors and translators (1961)	Grants are awarded to authors, non-fiction writers and literature translators who live or have lived permanently in Finland. The grants are intended for full-time vocational work.
	Act on certain grants awarded to visual artists (115/1997)	Grants are awarded for 6 months of full-time work by professionals in the visual arts, photography, media arts, design, handicraft, comics and illustrations, which are shown in public. The grant is discretionary and no direct compensation for the work in question.

COUNTRY	LEGISLATION RECOGNISING ARTIST STATUS	BRIEF DESCRIPTION
Sweden	<p>No specific legislation on the social security systems that regulates artists' rights.</p> <p>Value Added Tax Act (1994:200), Chapter 7 'Tax rate and basis of taxation'</p> <p>Ordinance (1976:528) on grants to artists</p>	<p>The Swedish social security systems cover all citizens, including artists, regardless of whether they are self-employed or not.</p> <p>The VAT rate is reduced within the culture sector.</p> <p>The basic criterion for distributing state grant to artists is purely the artistic quality of their work.</p> <p>As an alternative to special solutions in social security systems, there is a special government authority (The Swedish Arts Grants Committee), active since the mid 1970s, with the task of monitoring artists' economic and social conditions. That work leads to reports and analyses, among other things, and to various dialogues with other authorities in Sweden about artists' conditions.</p>

N/A, not applicable.

Sources: Compendium of Cultural Policies (2020) and Panteia (2020), updated by members of the OMC expert group, March 2023.





ANNEX 2. OPEN METHOD OF COORDINATION SURVEY

To assist in gathering information and data from the OMC experts across all Member States, the decision was made to issue an online survey to be completed by each expert or a nominated representative.

The survey was structured under five separate sections:

- status
- social security and tax
- fairness
- skills development
- artistic freedom.

The sections reflected the subgroup designations, and questions were created and posed in consultation with the chair and/or representatives of each subgroup. For the topics of status and social security, framing the questions was a particularly complex process.

Participation in the survey was optional, but all 27 Member States participated to some degree. Experts were encouraged to respond as fully as possible but it was acknowledged that not all experts would be able to answer all questions.

There were no mandatory questions (other than identifying the Member State). Throughout the survey, where tick box answer options were sought, respondents were also provided with one or more answer options such as 'other', 'other write in', 'don't know' and 'not applicable'. These options have not been included in the list below.

Set out below is an overview of the questions that were asked under each section and how they were posed.

Status

In framing the questions on status, we were conscious that there are different types of status. Questions such as how an artist qualifies for the status, what the criteria are, who decides that the artist should qualify and what the benefit of that status is – are all related to and dependent on the type of status. It was therefore concluded we could not just ask about status generally but would need to ask a consistent set of questions about a number of different types of status.

The section on status commenced with the following question and answer options.

Do artists or other cultural creative professionals have a specific 'status' in relation to any of the following?

- No status of any type
- Status related to social security / unemployment benefits
- Status related to taxation
- Status concerning contracts / remuneration / employment rights
- Status related to recognition/achievement
- Status that provides access to grants/funding

The nature of the status for each of these was then explored further. For each of the above we then asked:

What is the legal or administrative basis for each status type?

- A law or a set of laws – set out in legislation
- A measure, or a set of measures – e.g. administrative circulars
- A derogation or a set of derogations from ordinary law

Is employment/self employment a relevant factor in determining the status?

- It's the same for both employed and self employed
- It's different for employed and self employed
- It's only for employed
- Only for self-employed
- Employment status is not relevant

Is the status dependent on the art form / arts sector and/or the professional type, e.g. artist/non artist?

- Performing artists (theatre, music, circus, street arts, dance, etc.)
- Visual artists (visual arts, photography, graphic arts, design, etc.)
- Writers / composers / choreographers – other creative artists
- Audiovisual arts
- Non-artist – other cultural/creative professionals (e.g. technicians)

What are the criteria to access each status type?

- Proof of artistic activities
- Proof of income / minimum income from artistic activities
- Proof of relevant education/training
- Membership in a professional association
- Artistic quality (awards, positive reviews, etc.)

Who decides on the granting of the status for each status type?

- A commission of professionals (peers)
- An administrative department
- An independent body

Against each of the questions above, respondents were also given the option to include additional commentary to qualify or clarify their responses.

In this section we also asked whether the Member State operated a register of artists and, if so, how it was managed and what it was used for.

Social security

In framing questions on social security we were conscious of the very wide range of approaches across Member States. It was an important consideration in constructing the questionnaire that it would need to allow all Member States to identify and record the characteristics of their social security provisions. It was important not to frame the questionnaire based on the system used in any one country.

The section on social security commenced with the following question.

Are there any social security provisions that exist specifically for artists or other cultural creative professionals?

- Yes – there are some measures specifically for artists or other cultural creative professionals
- No – there are no measures specifically for artists or other cultural creative professionals

If No – How are artists covered then?

- By general social security
- Private insurance
- No coverage



Where respondents identified that some form of social security provision existed **specifically** for artists or CCS professionals, the following set of questions and answer options were posed.

Which of the following are part of a specific social security regime for artists?

- Income
- Unemployment benefit
- Disability allowance
- Sickness benefit
- Health insurance
- Maternity/paternity
- Basic pension
- Supplementary pension
- Before-pension supplement for dancers/performers who finish their career early
- Work accident insurance
- Vocational training, career transition aid
- Family allowances

Are social security contributions for artists:

- Obligatory, paid by the artist
- Obligatory, paid by the state
- Voluntary
- Supplemented by the state if paid by the artist

Is the artist's status/special regime accompanied by assistance (allowance, grant, etc.) in the event of low income or a drop in income?

- Yes/No

If relevant – Is there an organisation responsible for managing a specific social security scheme for artists?

- Yes/No

If relevant – Are the contributions flat-rate?

- Yes / No – proportional to income

If relevant – Are there any capping measures for social security contributions?

- Yes/No

If relevant – What is the overall rate for social contributions for artists / arts workers under the special regime?

- Same as for all self-employed/employed persons
- Higher
- Lower

If relevant – What is the basis for calculating social contributions for artists / arts workers under the special regime?

- Turnover
- Profit

At the end of this section, one additional question on **taxation** was also posed as follows.

On taxation – Do artists have access to:

- Specific tax regimes for artistic income compared to other sectors of activity
- In the event of significant variations in income, rules for spreading income over several financial years
- Incentives (allowances, exemptions, etc.) for young artists
- Other allowances or exemptions

Fairness

In this section we posed a wide range of questions combining both narrative / open text responses and questions with set answer options.

We started by asking what was understood by the notion of ‘fairness’.

What is fairness? Fairness is often named as an important ‘value’ or ‘principle’ in relation to artists’ pay and conditions. But what exactly do we mean by ‘fairness’? Why is fairness important? Do you have any definitions that are used in contracts or wordings used in funding criteria that explain what is meant by the term ‘fair’?

- Open text responses

We asked about whether fairness was a consideration in the allocation of grants and public funding.

Do any of these things happen when public money is given in grants to independent arts organisations / institutions / companies / arts projects, etc.?

- Grant programmes tell applicant organisations that they must pay artists fairly
- The proposed pay and conditions being offered to artists are reviewed as part of the assessment process
- There are terms and conditions attached to any funding offered setting out minimum rates or employment conditions or other requirements for fair pay
- There are monitoring or reporting requirements to ensure that these rates/terms are followed

We asked about fair practices and policies.

- For state-owned/state-run organisations/institutions/companies/theatres/galleries, etc. – are there any **agreed/set rates of pay / terms of employment** for artists / creative professionals?
- In your country there any **policy measures** which specifically promote fair treatment or fair opportunity for artists?

- Has there been any **research** in your country on rates of pay / contractual terms / artists' living and working conditions?
- Both open text and answer option list responses for each of the above

On **collective bargaining** we asked:

- Do you have collective bargaining in the arts sector? How does it work?

On **unions and representative bodies** we asked:

- In your country are there active representative bodies / unions / artists' associations that represent or advocate on behalf of artists?
- Which artforms / arts sectors have the most or least representation?
- How much power or influence do the main unions / representative bodies have?
- How are the main unions / representative bodies funded or organised?
- If they are not active / not well organised in your country – Why do you think this is?
- Both open text and answer option list responses for each of the above

On **information provision and dispute resolution** we asked:

- How are artists informed and knowledgeable about their rights? Especially in the fields of labour law and protection from dismissal, social security? Do you have examples of good practice that you can share? Do you have information points for the cultural sector, or similar structures – how does it work?
- Are there any structures (like an ombudsman) for the cultural sector? If yes, how does it work?
- Open text and answer options for both of the above

Skills development

In this section we sought narrative / open text responses to each of the questions below.

- **Quality of education:** How do educational institutions in the CCS in your country evaluate/ benchmark/monitor their offers to help develop skills? Do you have examples of supra-institutional frameworks for evaluation?
- **Formal/non-formal learning:** Which skills are better learned in a formal and which in an informal way and how can a digital context come to help?
- **Bundling of education for the cultural and creative sectors (CCS):** Does your country bundle education possibilities for the CCS and make this available to the sector? Give an example of good/ bad practices.
- **Life Long Learning (LLL):** How does your country provide and stimulate LLL? What are examples to overcome LLL-barriers? What kind of facilities are in place that stimulate access (e.g. vouchers / funding / formation leave)?

- **Knowledge capturing and sharing with the next generation:** How can a government / private institution facilitate knowledge capturing and sharing skills with the next generations? Is an 'emeritus' status for an artist valuable in order to share and reflect on practices across generations?

Artistic freedom

In this section we sought narrative / open text response to each of the questions below.

- Is the right to freedom of artistic expression protected by legislation/constitution in your country? If so – are you able to provide any further information or link to these provisions?
- How in your country is the right to freedom of expression protected, exerted and/or enforced in practice?
- Has your country adopted any official policy relating to art and artistic freedom? If so, please provide a summary of the main elements included in such a policy
- Under national law, what kind of legitimate restrictions can be imposed on artistic freedoms? Please provide information on most recent relevant cases in your country, if any.
- In your view, what are the main impediments encountered by artists in their work in your country?
- Are you aware of any situation in your country when artistic freedom was limited? Please specify by whom (state, political or peer or social pressure).



ANNEX 3. ONLINE SHARING PLATFORM ON ARTISTS' WORKING CONDITIONS

The survey carried out by this OMC group on artists' and creative sector professionals' working conditions gives a picture of current initiatives, but developments are continuously changing, and to keep the information up to date the information needs to be stored and updated on an online platform.

The current OMC report includes a wealth of information, good practices and recommendations from EU Member States. In order to make sure that the available information is updated and easily searchable, the group decided to set up an online platform on working conditions for artists and other cultural workers in the CCS.

The idea came about after a workshop on social security for independents in March 2022 during a Creative FLIP ⁽⁹⁸⁾ conference and was first tested in a small workshop in June 2022 by Creative FLIP. The project will also produce the online platform. It developed into a proposal, which was presented at the fifth OMC meeting, in September 2022, in Vienna, where it was met with enthusiasm and adopted by the OMC group. The proposal has now been incorporated into the next EU Work Plan for Culture (2023–2026).

The online platform is therefore intended to extend the lifespan of the written report, make it possible to capture the continuous changes in policies of the Member States, social partners and other stakeholders, and make those available to a wider audience.

The goal is to have an online platform that:

- provides structured information on the regulations and policies that have an impact on the working conditions of workers in the CCS from all the Member States, organised by relevant categories and easily searchable;
- provides space for continuous and systematic updates and contributions by different stakeholders and target groups to keep the portal up to date.

This goal can be only achieved through a step-by-step approach, where each step builds on the previous step and is tested along the way. The portal is set up as part of Creatives Unite ⁽⁹⁹⁾, which already contains a lot of information for workers in the CCS, e.g. on funding, intellectual property and mobility, and provides news for and from the sector.

⁽⁹⁸⁾ <https://creativeflip.creativehubs.net/>.

⁽⁹⁹⁾ <https://creativesunite.eu/>.



The development of the platform is divided into two phases.

- 1) The first phase is the development of a platform that should be available in the first half of 2023, following the planning of the EU Work Plan for Culture. In this phase, the basic structure of the platform is developed to use the existing information of the OMC group to put into the framework of the platform. This consists of the information contained in the OMC report and of those answers to the questionnaire (filled in by representatives of all Member States) that are not used in the report. This will be a prototype version in which all Member States can edit existing information and add new content. This version will use all the content collected by the OMC group and will be made public once validated by the OMC members.
- 2) The second phase should build on the experience of working on the first phase of the platform to further develop the platform and make the information more detailed. It should also link to the European social partners (as discussed in the sectoral social dialogue on performing arts in December 2022, in which social partners offered their full help and input). This phase is planned to start in 2024, depending on the availability of the necessary funding and other requirements being in place.

ANNEX 4. COMPILATION OF LINKS / BIBLIOGRAPHY

Artists' working conditions

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Additional resources and webtools

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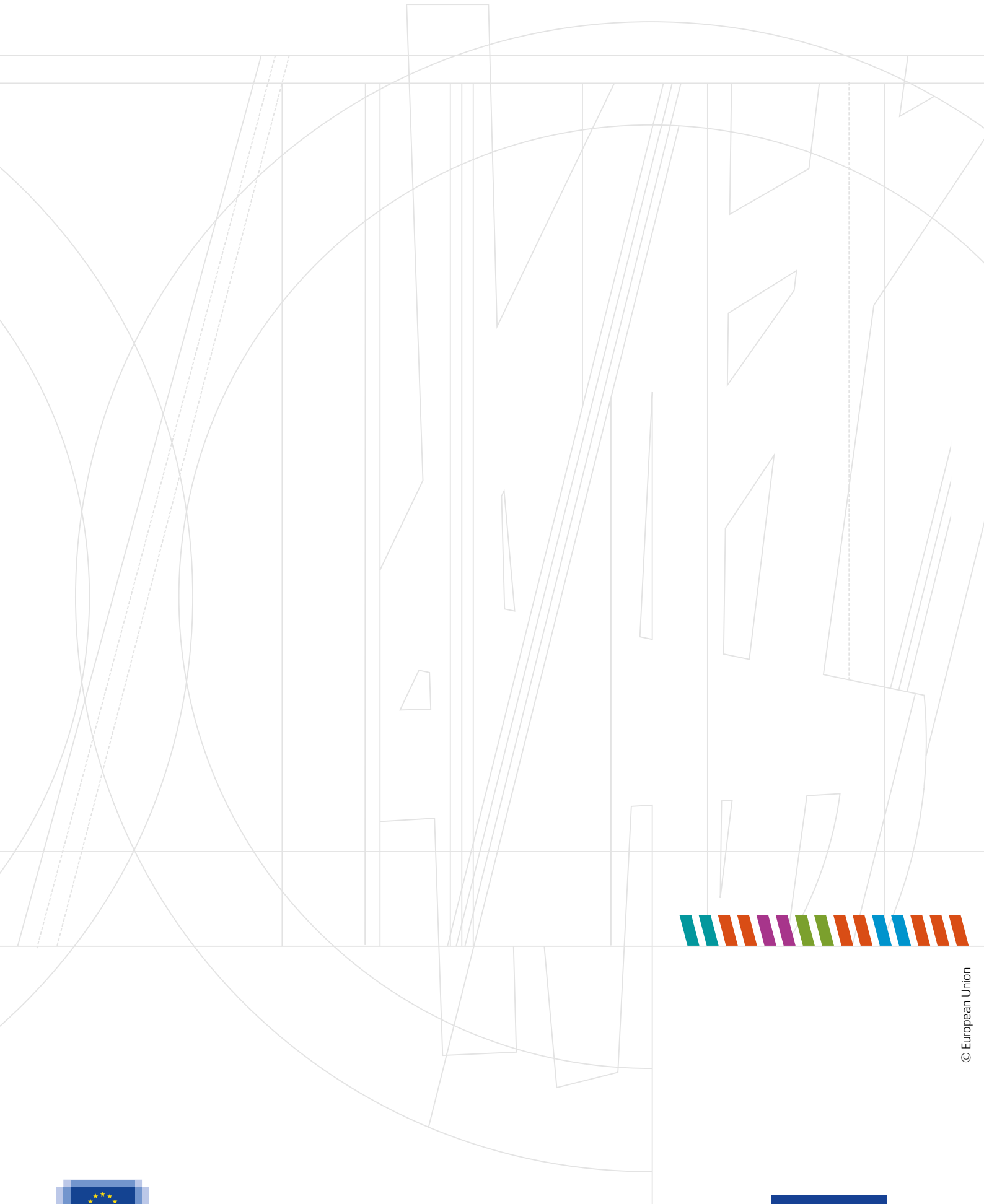
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