

## Monitoring Government Action to Implement Social and Fiscal Measures for Self-Employed Artists

For more information on these developments see chapter 5.1.4 “Social Security Frameworks” and chapter 5.3.9 “Legislation for Self-Employed Artists”.

Country	Status at the end of the 90s	Status following the turn of the millenium	New Developments?
1. Austria	There were no specific social security provisions for artists in all professional fields. Only artists in the music and visual arts sectors were covered. Several funds were created to help artists pay part of their social security insurance, e.g. the <i>Künstlerhilfe Fonds</i> for visual artists. The <i>Employment and Social Security Law Amendment Act 1997</i> provided initial steps to enable freelance artists in all fields to be treated as professionals on a self-employed basis.	In January 2001, a new law was passed on social security measures for self-employed artists, <i>Künstler-Sozialversicherungsfondsgesetz</i> . It gives all freelance artists the right to be treated the same as other self-employed professionals. The new law also established a social security insurance fund ( <i>Künstlersozialversicherungs-Fonds</i> ) to replace the <i>Künstlerhilfe Fonds</i> for visual artists.	Reform of the <i>Social Security Insurance for Artists</i> is one of cultural policy priority of the new coalition government; a draft version of an amendment of the law (2007) provides only small changes.
• Belgium	No social security provisions for self-employed artists. Artists Associations united under a <i>National Platform of Artists</i> to campaign the government for improved conditions and status.	In December 2002, the federal parliament ratified measures to improve the social security system for artists. On July 1 <sup>st</sup> 2003, this regulation came into effect. The regulation seeks to provide complete coverage (sickness-disability, health care, family benefits, unemployment, annual holidays, old age pension, employment injuries and occupational diseases) for the entire artistic population and, at the same time, freedom of choice between self-employed status and affiliation to the salaried workers' scheme, through the intermediation of an artists' bureau accredited by the Regions. This regulation allows artists to work on a self-employed basis; at the same time it enables them to work more easily with short-term contracts as an employee. Those organisations which frequently hire artists can apply to the "Social Bureau for Artists" to take care of the employer's share of administrative procedures.	Current debates focus on those aspects of the 2003 reform which have not yet been put in place such as: alternative funding models, adjustment of the time periods to qualify for social security coverage, and extension of all social security benefits including unemployment, fiscal status for artists.

2. Bulgaria	Social security for artists is regulated by the <i>Labour Code</i> and the <i>Ordinance on Social Security of Persons Who Practise a Liberal Profession or Engage in Trade, or Work without Entering into an Employment Relationship</i> . Under these laws, artists are treated equally with those who have registered companies as sole traders or partners in commercial corporations under the <i>Commercial Code</i> . In all three cases, artists have two options. First, to pay compulsory social security contributions at the rate of 22% of an income of their choice, OR to pay voluntary contributions at the rate of 32% for all types of social insurance.	Social security and economic laws supporting artists were reviewed and revised including tax exemptions and unemployment benefits. An amendment was made to the <i>Transitional and Final Provisions of the Protection and Development of Culture Act</i> which entitles artists who have worked for at least 4 of the past 12 months (without entering into an employment relationship in artistic associations) to obtain unemployment benefits.	No new developments.
3. Canada	1995 <i>Status of the Artist Act</i> created a framework to regulate professional relations between self-employed artists and cultural institutions/producers under federal jurisdiction (e.g. national broadcasting company). As labour law is under provincial jurisdiction in Canada, the <i>Status of the Artist Act</i> applies only to freelance artists engaged by the federal government. It does not apply to artists working for provincial institutions. 2 provinces have separate legislation: Québec and Saskatchewan.	2002-2003 review of <i>Status of the Artist Act</i> . Conclusion that the legislation by itself is insufficient to significantly improve the social economic status of artists and other complementary measures are urgently needed such as: <ul style="list-style-type: none"> <li>• allowing self-employed artists to claim dual status in order to benefit from new income tax deductions;</li> <li>• an income averaging mechanism to help stabilize artists' economic situation;</li> <li>• access to unemployment insurance;</li> <li>• a new classification for artists as preferred or secured creditors in the event of a bankruptcy;</li> <li>• improved access to pension plans, occupational health and safety measures and other social benefit programs.</li> </ul> Further calls from the artistic community have been and continue to be made to better define who is a professional artist across all government departments.	The Federal Department of Finance has refused to give artists the right to income averaging -despite the numerous calls from artists associations and parliamentary commissions stating that artists can defer their taxes on income through investments/contributions to the Canadian Registered Retirement Savings Plan (RRSP). The main problem is the fact that artists do not earn enough income to make contributions to the RRSP. In 2004, the province of Québec introduced an income averaging provision for artists within its jurisdiction which gives self-employed artists the possibility to purchase income averaging annuities and to spread, over a maximum period of 7 years, the tax applicable on artistic income up to a certain amount.
4. Croatia	<i>Law on the rights of self-employed artists and on the promotion of cultural and artistic creativity</i> . This law gives self-employed artists the right to health, pension and disability insurance. Contributions are paid by the State. They also have the right to receive special tax benefits.	Protest of independent artists and a public debate with the Ministry of Culture over the Ministry of Finance and the Ministry of Social Affairs' presentation of the draft of a new law on retirement benefits and health insurance in the cultural sector.	After two years of negotiations and debate, independent artists maintained their right to retirement and disability insurance and to health insurance. Changes have been made in the by-laws of the Association of Independent Artist providing artists with social security.

5. Estonia	No socio-economic framework for artists. Self-employed artists have the right to income averaging and to deduct expenses. Writers treated as entrepreneurs and subject to normal tax rates. Composers and musicologists have access to a health insurance provided by their Union.	An <i>Act on Creative Artists and Creative Artists' Unions</i> was adopted November, 2004. The Act provides freelance artists the same tax benefits as for registered entrepreneurs, and a guaranteed minimum income and social and health insurance for freelance artists for a limited period. The income support scheme is administered by the creative artists' unions, for which they receive subsidies based on their number of registered members.	The <i>Act on Creative Artists and Creative Artists' Unions</i> entered into force on January 1, 2005. It was amended in 2006 to introduce additional sources of government funding and new means to calculate the yearly subsidies for artists unions. A full evaluation of the new Act has not yet been made nor has there been any public debates on the issue.
6. Finland	No specific social security protection covers self-employed freelance artists. <i>Act on the Pensions of Artists and Some Particular Groups of Short-Time Workers</i> (1985) provides pensions to freelance artists as a part of the wage earners pension system and thus excludes self-employed artists.	Demands for reform in three areas: <ul style="list-style-type: none"> <li>• to include unemployment insurance and pension payments as part of the social security costs in the longer term accumulation of artists grants;</li> <li>• to make the taxation pension and social security system of artists and free lancers to suit better the uneven and varied flow of artists' income; and</li> <li>• to mitigate the prerequisites and generally enhance opportunities of free lance artist to become entrepreneurs and participants in the respective social security systems.</li> </ul>	Proposed reforms still to be enacted legislatively.
7. Hungary	The EKHO law (Act CXX/1995) offers a simplified social insurance payment scheme for artists and a number of similar professions, both freelance and employed. EKHO is also an incentive to turn quasi independents into employees. It is estimated that over 75% of actors, dancers, musicians, arts organisers, technicians, designers and other cultural operators working for a variety of clients formed Limited Partnership Company (Betéti Társaság – Bt.) or other quasi entrepreneurial structures, even if they were <i>de facto</i> employed by e.g. a theatre. Basic healthcare costs and maternity allowance were covered by the minimum social insurance payments. Independents were not able to claim unemployment benefit. Additional health benefits could be covered by paying into a private insurance policy. Most independent artists paid into a private pension fund to top up the state pension.	The EVA law (Act XLIII/2002) offered a tax regime which allows freelance artists and all other individual entrepreneurs to pay a so called simplified flat rate enterprise tax of 25%. The basis of the tax is the gross amount of the invoices (including 20% VAT). This eliminates the need to keep receipts that would otherwise be required to deduct professional expenses. It is considered favourable in comparison with regular taxation rates. This simplified enterprise tax replaces the corporate tax, capital return tax and personal income tax which would otherwise have to be paid.	No new developments.

8. Ireland	<p>Tax-exempt status for self-employed creative artists resident in Ireland was introduced in the 1969 <i>Finance Act</i>. This was generally perceived as an imaginative piece of legislation, which has been lauded internationally. It allows exemption from tax on income from sales or copyright fees in respect of original and creative works of cultural or artistic merit, as well as on Arts Council bursaries, payments of annuities under the Aosdána scheme and foreign earnings.</p> <p>There are no specific social security frameworks for artists in Ireland outside of the general social security regime. Artists registered as self-employed can apply for Unemployment Assistance if their income falls below the current level of the social welfare benefit as determined by a means test, and as long as they are available for and actively seeking work. This poses difficulties for artists who may be urged to take up non-artistic work.</p>	No new developments.	<p>The <i>Artists' Exemption Scheme</i> from paying tax on earnings generated much debate in the lead-up to the 2006 government budget. The Arts Council and other bodies argued for its retention and were successful. The scheme was capped at €250,000 by the Minister for Finance. New study on the Socio-Economic Conditions of Theatre Practitioners in Ireland published by the Arts Council.</p>
9. Latvia	There are no special social security laws for artists.	<p>In 2004 a Law was adopted on "Long-service pensions for performing artists employed by state and local government professional orchestras, choirs, concert organizations, circuses and theatres". It gives the right to receive pension, when the artist is not longer able to perform. No social security system for the artists in other fields.</p>	No new developments.
10. Lithuania	There are no special social security laws for artists. 1 <sup>st</sup> and 2 <sup>nd</sup> rate state pensions are available to artists.	A working group was established by the Minister of Culture to prepare amendments and supplements to the laws and other legislation which define the status of artists and are expected to regulate social guarantees for artists.	First law defining state obligations towards artists is passed in 2004, <i>Law on the Status of Art Creators and their Organisations</i> . It has been designed to improve the legal status of artist organisations and the social and economic status of self-employed artists.

11. FYRO Macedonia	<p>According to the former Law on Independent Artists (1982), the legislator acknowledged the special status of freelance (unemployed) artists in comparison with other cultural workers. According to this law, the Ministry of Culture recognised their status as freelance artists and provided budgetary resources to cover monthly health, retirement and disability insurance taxes.</p> <p>In 1998, this law was abolished with the passing of the Law on Culture that distinguishes between freelance professional and amateur artists. Every person, regardless of age, sex, education and religion has the freedom and the right to engage in creative work. The law defines an artist as a person who creates or performs an authored artistic activity.</p> <p>If an individual chooses art as a profession (the only one from which an income is earned), then he / she must legally register him / herself as such with the court in order to obtain the legal legitimacy as an freelance artist. Related rights and obligations that are available for freelance professionals in the other fields accompany this professional status.</p>	<p>In the year 2000, a Book of Rules was published. It outlines the selection criteria to be used in the allocation of public funding to freelance artists derived from the budget of the Republic. An annual competition is announced each September in the newspapers. In 2001, 31 freelance artists were successful; 39 in 2002 and the same number (39) in 2003.</p>	<p>For 2008 the Ministry of culture has announced the introduction of a new category / position: national artist. The title will be reserved for the most significant artists for their contribution to the development and popularization of the Macedonian culture. The "national artist" should have a kind of honourable status, but also other important benefits: higher salary, better pension etc.</p>
12. Poland	<p>There is no comprehensive legal framework for self-employed artists in Poland.</p> <p>The state has implemented a 50% income tax-free for artist's provision which allows creative artists to deduct 50% of their income from their creative work as expenses for income tax purposes.</p> <p>Two important pieces of legislation regarding social security passed in 1998: <i>Act on the Social Security System</i> and <i>Act on Pensions from the Social Security Fund</i>.</p>	<p>While the <i>Labour Code</i> was amended in 2003, there were no new provisions for cultural workers.</p>	<p>In 2006, the government attempted to dismantle the provision which allows creative artists to deduct 50% of their income from their creative work as expenses for income tax purposes. After public debate and firm protests against the plans, the tax provision remains unchanged.</p>
13. Russia	<p>By the end of the 1990es, self-employed artists lost most 'privileges' enjoyed by members of the Artists' Unions and joined other liberal professions. They had general social security rights, tax reductions and access to facilities provided by their Unions.</p>	<p>A law on <i>Creative Workers in Literature and Arts and on their Creative Unions</i> has twice passed through the Parliament, but has been twice declined by the President, as it was perceived to provide privileges and exemptions from existing laws. One of the reasons why the President did not approve the proposed law was because of its provisions "for special norms of taxation for creative workers".</p>	<p>The law on <i>Creative Workers in Literature and Arts and on their Creative Unions</i> is under revision process together with the <i>Basic Law on Culture</i></p>

14. Serbia	The status of freelance artists is regulated by the <i>Law on the Rights of Self-employed Artists</i> 1998. According to the law, freelance artists are entitled to health, pension and disability insurance, which are paid by the municipalities. Freelance artists are usually organized in different professional arts associations, which keep a register of their status.	No new developments.	As of 2005, the law had not yet been put into force and free-lance artists continue to be treated as any other self-employed professionals. This provoked a huge protest and revolt from art associations and they are currently asking for a revision of their status.
15. Slovakia	No socio-economic framework for artists. Self-employed artists have the right to apply an income averaging and to deduct expenses. Until 2003 self-employed artists had the right to apply a flat rate tax 2% on income.	The <i>Labour Code</i> adopted in 2001 does not contain any special provisions on social status of self-employed artists. Flat rate tax on income has been cancelled by the <i>Act on Income Tax</i> adopted in 2003.	No new developments reported.
16. Slovenia	The social security scheme for freelance artists that had been introduced in socialist period (legal provisions giving self-employed artists the right to get health, pension and disability insurance paid by the state budget) was preserved. However, in 1994 the so called financial census was introduced. Those freelance artists whose income is more than 20 200 EUR loose the right.	No new developments.	National program for culture 2008-2011 announced: »In order to establish better conditions for production of art and cultural activities as a whole, reform of the public sector and a comprehensive solution of the status of self-employed artists in culture is necessary. a special commission comprised of representatives of the Ministry of Culture, Ministry of Public Administration and Ministry of Labour, Family and Social Affairs and under the auspices of the Ministry of Culture should be established in 2008.«
17. Spain	By virtue of Decree 26/1985, self-employed artists obtained the same rights and obligations as all other workers. Performing artists and bullfighters were then grouped together under a special heading within the general social security system. One year later, another Decree (2621/1986) made specific provisions for income averaging in view of the considerable monthly fluctuations in artists' income as well as a provision regarding the possibility of early retirement for performing artists in an effort to compensate them when they reached an age when they could no longer perform. Authors, on the other hand, are considered self-employed workers. Again, efforts were made to establish a fair level of disability insurance and a retirement plan considering the fluctuations in their annual income.	The Intellectual Property Act (23/2006 Act) obliges copyright societies to set up welfare and support services for "authors, performing artists or cultural workers", either themselves or through third parties. Societies are to spend 20% of their copyright fees on such services..	A debate on this status of artists is ongoing and figures on the political agenda of the new Minister appointed in July 2007.

18. UK	<p>No specific social security provisions for artists.</p> <ul style="list-style-type: none"> <li>• Public Lending Right Act 1979</li> <li>• Visiting entertainers, sports people and (where applicable) artists subject to Withholding Tax above a certain threshold (relief for expense and normal tax returns). AT registered artists can claim back VAT on supplies and services.</li> <li>• Grants are non-taxable if they are "in respect of training schemes or to enable artists to devote time to research and development". All other grants are taxable (1979 agreement on arts grants between the Arts Council and the Inland Revenue, though different rules apply to companies). Tax can be spread over a number of years if an artist can demonstrate their income fluctuates.</li> <li>• 1998: change to National Insurance payments for 'entertainers' to enable actors to claim Job Seekers Allowance whilst 'resting'.</li> </ul>	<ul style="list-style-type: none"> <li>• 2001: HM Revenue &amp; Customs replaces the income averaging rules for creative artists with a profits averaging system.</li> <li>• Artists, taxes and benefits - an international review, Clare McAndrew, ACE Research Report is published in 2002 <a href="http://www.artscouncil.org.uk/documents/publications/316.doc">http://www.artscouncil.org.uk/documents/publications/316.doc</a></li> <li>• 2004: The New Deal for Musicians (NDfM) was introduced to enable unemployed musicians, who are eligible for either the New Deal for 18 to 24 year olds or New Deal 25+ programmes, to pursue a career in the music industry.</li> </ul>	<p>Still no specific labour or social security measures governing the cultural sector in general or for freelance artists in particular.</p> <ul style="list-style-type: none"> <li>• EU Directive on Artists' Resale Right introduced into UK law from January 2006</li> <li>• Investigations by HM Revenue &amp; Customs found that orchestras had not been paying enough National Insurance since the 1998 change to taxing 'entertainers'.</li> </ul>
19. Ukraine	<p>The status of freelance artists is determined in the Law of Ukraine <i>On professional artists and artistic unions</i> (1997). The creative activity is defined as the key source of revenues. According to the law, the professional artist has the right to minimal pension, to additional room (studio) and to decreased rent payment for studio.</p>	<p>No new developments.</p>	<p>Current debates initiated by independent artists and cultural producers are focused on issues such as special rent rates for artists and cultural organizations as well as on the protection of freelance artists.</p>

Source: Council of Europe/ERICarts, "Compendium of Cultural Policies and Trends in Europe, 10th edition", 2008.