

# ***from pillar to post***

## **a comparative review of the frameworks for independent workers in the contemporary performing arts in Europe**

**Judith Staines**



**An IETM Publication**

**IETM** (formerly Informal European Theatre Meeting), international network for contemporary performing arts, is a membership organisation which exists to stimulate the quality, development and contexts of contemporary performing arts in a global environment, by initiating and facilitating professional networking and communication, the dynamic exchange of information, know-how transfer and presentations of examples of good practice

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## **From Pillar to Post**

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## **Why this review?**

For several years already, IETM, alongside other associations such as EFAH (European Forum for the Arts and Heritage), certain members of the European Parliament such as Helena Vaz da Silva, and experts such as André Nayer (Université Libre de Bruxelles) had participated and provoked debates on the European level, concerning the social and legal status of arts professionals. We were seeking a "harmonised" European solution which would make it simpler for arts professionals to be "mobile": to work in various countries. Alas, most legal competencies for regulating tax and social protection are based firmly on national, not EU levels. ... and each national system is relatively complicated, based on national precedents, long struggles, negotiations...with little national will or energy to change, much attachment to the status quo, and much resistance to "harmonisation".

Summer 2003: in the midst of the strikes and manifestations of the 'intermittents' (most artists and arts professionals in the performing arts in France, apart from a minority on full time permanent contracts), IETM wanted to act - supportively and positively – in solidarity with our members and colleagues. Being, however, an international network and not a national one, it was important to identify an action which could clarify the status of all independent workers, in the EU area at least, and not only on the basis of one nation. Their situation is our day to day reality: amongst the 400+ IETM member-organisations, there is an extremely high incidence of working independently or engaging independent workers.

IETM decided to commission a simple, practical guide or comparison of the status of independents in various EU countries: a first step for those who need to find out more in detail. We hoped that this would be of use to the professionals as well as to civil servants looking for some practical information about what models exist and where their own countries stand, in terms of the social protection and tax regimes for artists and cultural operators.

We are grateful to the Arts Council of Ireland/An Chomhairle Ealaíon for their support to the research and publication, under the Irish presidency of the European Union in the first half of 2004.

Judith Staines has entered into a complex and multi-layered legal and fiscal arena. Many 'experts' warned her that it would be impossible to present a simple guide. We are grateful that she has so successfully achieved her task to set out the basic information in a clear and readable style. Although not aiming at all to be a scientific study, this publication shows what most of us know already: arts professionals working with an independent, rather than salaried or 'employee' status in Europe are amongst the most 'flexible' and least 'protected' workers.

IETM joins with those who believe Europe's future is only as strong as her creative abilities, and that care and investment must be committed to those who bring contemporary art and culture to life. We also believe that Europe – and all her neighbours both far and near – must provide welcoming and open spaces in which creative people may meet, move and work freely without bureaucratic, legal or fiscal snares. Only then will our imaginative energies become creative synergy.

Mary Ann DeVlieg  
Secretary General  
IETM

Laurent Dréano  
President  
IETM

November 2004

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The information provided in this report has been researched from various sources which are acknowledged. The author and publishers cannot be held liable for any inaccuracies. Readers are always advised to check the current situation before acting on such information, in particular as regards employment frameworks, legislation, social protection, access to social benefits and other aspects of working life.

**Judith Staines  
November 2004**

### **A note on the title**

*From pillar to post* is a colloquial English expression. When a person is pushed from pillar to post, they are obliged to move "from one place or predicament to another" (Webster's Dictionary). The phrase suggests that a person is engaged in a state of perpetual movement from one situation to another and that no situation is entirely satisfactory.

The original phrase described the movement of the ball in an early form of tennis played in the 16<sup>th</sup> century in England and France.

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## Executive summary

**From Pillar to Post** is a comparative review of the employment frameworks for independent workers in the contemporary performing arts in Europe. Judith Staines was commissioned by IETM – informal European theatre meeting in 2004 to survey the network members and research the legal, fiscal and social statutes for self employed artists and cultural operators. The report contains profiles for twenty-five countries.

*Section I* of the report presents the main issues and arguments identified in research by labour market specialists into self employment. It outlines the criteria for defining and describing self employment and reveals the widespread concern, across all employment sectors, that the borders between self employment and wage salary employment are becoming more blurred. Difficulties in defining employment status are explored, giving examples of the differences in approach between European countries.

It notes the growth in self employment in the labour market and the increase in employment situations, commonly described as 'atypical'. These include work on short and intermittent contracts, agency work, freelance and outsourced contract work, variously described as non-permanent work, false self employment, non standard employment and economically dependent work.

Section I looks at precariousness, flexibility and security, central concepts in the debate on labour markets and economic policy in Europe today. At the heart of the matter - and this affects workers in all sectors not just those in the cultural labour market - is the fact that self employed workers have, in almost every country, a reduced level of social protection (social security insurance cover) and reduced protection under employment legislation.

An overview of research in the cultural sector in Europe reveals some interest in the area of self employment but very little specific research into the subject. This in spite of overwhelming evidence from labour force surveys and cultural industries studies that, in almost every European country, the numbers of self employed workers in the cultural sector are increasing. Chapter 3 presents useful studies and initiatives at national and international level which include self employment and employment frameworks.

A review of EU legislation which applies to self employed workers is included in the study, as is an explanation of different classification systems for labour statistics in order to identify self employed workers in the cultural sector. Finally, Section I includes important statistical information from Eurostat on cultural employment across Europe in 2002. This reveals a very high proportion of self employed workers in the cultural sector, around twice the rate in the general working population, an average of 29%. A disproportionately high number of cultural workers also have temporary jobs (i.e. fixed term contracts) and/or second jobs. The Eurostat statistics add weight to the argument for further research into the specific nature of self employment in the cultural sector and the associated difficulties and needs of independent cultural workers.

*Section II* includes the country profiles and gives a picture of entirely different systems and frameworks for independent workers in the contemporary performing arts across Europe. In depth profiles are presented for Austria, Belgium, Denmark, France, Hungary, Ireland, the Netherlands, Portugal and the United Kingdom. Each has an overview of the current frameworks and situation for self employed/independent status artists and cultural operators in the contemporary performing arts, with sections on establishment procedures, tax and social insurance, social protection schemes, special measures for artists, current issues, references and useful resource organisations. Additional information as brief country profiles is for Bulgaria, Czech Republic, Croatia, Estonia, Finland, Germany, Iceland, Italy, Latvia, Lithuania, Norway, Poland, Serbia, Slovenia, Spain and Sweden.

Chapter 8 presents the Comparative Review. It notes that there are certain similarities between the systems described but many more differences. It points out how difficult it is to make useful comparisons between systems as each was set up and has evolved in the context of the country's history, legislation and current economic and employment policy.

Key findings include several positive examples of special measures for artists, often to compensate for inadequate social insurance derived from intermittent contract work.

There are examples of 'hybrid systems', sometimes described as 'freelance', which allow artists and cultural workers to undertake a mix of self employed and salaried work (often the norm in cultural employment). There are some indications that a career as an independent worker in the cultural sector is time-limited and ultimately not sustainable under current arrangements.

Widespread concerns are expressed about semi-freelance work and grey zones on the borders of self employment - semi-subordinate and quasi-freelance work (often undertaken for a sole employer). The relationship of authority between worker and employer is crucial to which charges and obligations apply. Alternative practices reduce employers' costs by outsourcing work to freelancers.

Increases in the numbers of self employed people in the cultural sector seem to be connected in many European countries to the high cost of permanent jobs. This is likely to be allied to reduced cultural subsidies, especially for running costs and salaries. The high social security charges which employers pay on salaries are quoted by respondents in several countries as being behind moves to encourage/oblige cultural workers to take on independent self employed status and accept contracts for service on a project basis rather than salaried employment contracts. At the same time, in some central and eastern European countries, there is a desire to create more scope for independent status work and there are some interesting examples of new legislative frameworks.

Reduced levels of social protection and ineligibility, in most countries, for unemployment benefits are a concern to all independent cultural operators and artists surveyed through the IETM membership. Other issues are the reduced level of employment legislation and the fact that collective conventions which govern many fundamental aspects of work in the performing arts (health and safety, allowances, working hours, union representation) do not apply in most countries to self employed workers, only to company employees.

The results of the survey of IETM members are presented. Significantly, although 40% of respondents have independent/self employed status, almost all respondents (96%), both employees and self employed, employ independent workers on a regular or occasional basis. This is an important finding since it shows that the frameworks for independent workers, with their advantages and disadvantages, are an integral part of the daily work reality for almost all IETM members. It exposes the fact that the contemporary performing arts sector in Europe is underpinned by independents working under employment frameworks which, as can be seen in this study, incorporate elements of precariousness, insecurity and lack of sustainability.

Independents in the contemporary performing arts who responded to the IETM survey reported many advantages and many more disadvantages to their employment status. The principal advantages were: independence; flexible working hours; variety of projects, people and working situations; freedom in the choice of work, how, where and when to work; being your own boss; mobility; developing adaptability to different working situations. The main disadvantages were seen as: no social security safety net (inadequate provisions for unemployment, sickness and pensions); financial insecurity: low earnings; job insecurity; precariousness; long hours, no payment for overtime, no holiday pay; too much project-based work; pressure to perform 100% and promote yourself; working conditions sometimes poor; difficulty of self motivation/no support structures; can be isolated with lack of communication with colleagues; difficult to raise bank loan; difficult to have normal family life; lack of recognition for work.

The final section of the Comparative Review compares the situations in the countries surveyed for establishment of self employed businesses, fiscal administration, social protection and special measures for artists. An extensive References and Resources section contains the bibliography and international organisations relevant to the study. Appendix A describes the methodology, Appendix B the short questionnaire to IETM members and its results and Appendix C the detailed questionnaire to IETM independents and its results.

# 1. INTRODUCTION

## 1.1 Background

This report was commissioned by IETM (Informal European Theatre Meeting) in 2004. It was supported by the Arts Council of Ireland/An Chomhairle Ealaíon, under the Irish Presidency of the European Union (January – June, 2004).

The brief was to investigate a subject which affects many performing arts professionals in Europe – the employment frameworks for independent workers in the sector in different European countries – and to draw comparisons between the various systems. The aim was to gain an overview of a complex subject which has seen little research to date and to identify particular issues and trends. Broader intentions for the study were to:

- support professional mobility
- inform individuals, professional associations and others in the field
- act as a stimulus for reflection and action

Research included a survey of IETM membership, interviews, telephone and desk research. The methodology is described in Appendix A.

## 1.2 Definitions

For the purposes of this study, the following definitions have been used:

### *Frameworks*

These are the legal, fiscal and social statutes under which independents are working. They may be specific frameworks (a special statute for artists) or general (regulations for all self employed workers). This excludes the status of the artist in the general social sense of an artist's position in society, although employment frameworks have an impact on this.

### *Independent workers*

This phrase, and the more general 'independents', are used throughout the report to describe self employed workers. Employment policy and labour statistics distinguish between self employed workers and employees. However, as will be seen, there are many grey areas and the boundaries between the two are becoming increasingly blurred. Hybrid situations are often the norm for many cultural workers.

In the cultural sector, 'self employed', 'independents' and 'freelance' are widely used descriptions of autonomous workers. However, 'freelance' has another meaning in some European countries. Where this is the case, it is explained under the country profiles.

A wide range of professions are included: actors, dancers, choreographers, producers, designers, theatre directors, programmers, festival managers, publicity, project managers and arts administrators. Backstage staff and technicians, also often self employed, are included by extension although the research did not target them specifically.

### *Contemporary performing arts*

The survey covers professional workers in the fields of interest of IETM's membership: contemporary theatre, and dance, interdisciplinary work, new circus and performance.

This excludes the traditional performing arts (e.g. classical music and opera), commercial entertainment, film and media, although all these fields have a high proportion of self employed artists, designers and technicians. In most countries, there is likely to be little distinction in employment status between workers in these sectors, so it is hoped the study can be of wider interest and application in the performing arts sector.

One essential point: the study is not uniquely concerned with independent theatre and dance organisations. Although in some countries, these structures are synonymous with

independent workers, it is not the case everywhere. Independent workers may find work in state-funded national institutions as well as in the independent cultural sector. Independent theatre companies can employ regular employees as well as independent workers. What is important here is the employment status, not where a person works.

#### *Europe*

IETM takes the widest definition of Europe and has no geographical restrictions on its membership. The research findings presented here focus on the members of the European Union, the European Economic Area and countries of Central and Eastern Europe. Some country profiles are presented in greater detail than others. The inclusion or non-inclusion of countries was dependent on responses to the questionnaire and the quality of information available with the short research period. A comprehensive study would work with country representatives to ensure full representation of all countries.

### **1.3 Structure of the report**

The report is structured in two parts. Section I explores the context for self employment in Europe, current employment policy issues, statistics and areas of investigation, both within the cultural sector and more widely. Section II presents current frameworks for independent workers in the contemporary performing arts. This is organised as Country Profiles. There are nine detailed profiles and shorter versions for sixteen more, a total of 25 countries. Finally, the report compares the findings through analysis and discussion.

## **SECTION I**

### **2. SELF EMPLOYMENT: GENERAL ISSUES**

#### **2.1 Background**

Before looking at the specific situations of artists and cultural workers, it is important to explore the context for self employment in Europe. There is a considerable body of research into changing labour patterns, looking at increases in self employment and other forms of intermittent or irregular contract work. This is in the fields of social policy, industrial relations, economics, statistics and employment law, among others. While a complete overview of the research and publications in this field is beyond the scope of this study, it is relevant to present some of the main issues and trends.

Much of the research into self employment is broad based and covers all professions. Some is specific to the cultural sector and, within that, only a very small proportion relates to the performing arts. The cultural sector research initiatives are discussed in Chapter 3.

#### **2.2 Describing self employment**

There is some basic vocabulary to describe self employment, the self employed and their remuneration. Firstly, there is a distinction between individual self employed workers and those who employ other people:

- own account workers
- self employed with employees

Own account workers are also described as 'self employed without employees' and are equivalent in some countries to 'sole traders'. In the Netherlands, the expression for this, *zelfstandigen zonder personeel* or ZZP, has gained recognition as increasing numbers of such workers become organised through associations and unions.

The remuneration earned by a self employed worker is called a *fee, earnings* or *income*, rather than a salary. The distinction is clearer in the French language in which self employed workers are described as 'non-salaried workers' (*travailleurs non-salariés*). Self employed workers are considered to be running a business, therefore the gross annual income is called *turnover*; after deduction of professional expenses, it is called *profits*.

In the context of employment policies which value entrepreneurship, it is believed that self employed workers should grow a business which, as it becomes more successful, creates employment and generates increasing profits. This has been the model for many economic regeneration schemes where self employed businesses are supported in order to create jobs. This model does not generally reflect the situation of self employed workers in the performing arts, where most are sole traders and only occasionally employ others. Research into cultural industries has helped make the case that individual self employed artists and cultural workers are a valuable part of a sustainable economy.

## 2.3 Defining self employment

Each country has its own set of criteria to define whether a worker is self employed or an employee. This comes under national policy and legislation and is not harmonised across the European Union. In most EEA countries, the definition of a self employed person is "someone who has no employment contract, but who carries out an economic activity on a regular basis which guarantees an income<sup>1</sup>".

The Labour Force Survey (part of the EU social statistics) uses this definition: "'Self employed persons not employing any employees' are defined as persons who work in their own business, professional practice or farm for the purpose of earning a profit, and who employ no other persons."

Generally, self employed is not a fixed employment status in that the worker's situation can be assessed for each contract they undertake. However, for certain professions (none relevant for this study) in certain countries, all work is considered to be self employed. The criteria used to determine self employment broadly include:

- provision of professional services of a specialist nature
- a degree of autonomy/independence in organising and delivering the work
- responsibility for financial risk and investment
- clear separation of tasks from those undertaken by an employee
- place of work provided by and under control of worker
- tools & equipment provided by worker rather than employer

More complex requirements apply in some countries. In the Netherlands (country profile, 6.7) a would-be entrepreneur must fulfil a strict set of criteria covering aspects such as a self employed worker's commitment to the business, working hours and number of clients.

In some languages, the definition of self employed workers includes a reference to their autonomous or independent status. Assessing the degree of subordination between employer and employee is one of the key tools for the tax authorities to define whether a worker is self employed or should be treated as an employee for tax purposes.

A study by Roberto Pedersini in 2002, '*Economically dependent workers, employment law and industrial relations*' for the European Industrial Relations Observatory (EIRO), examines the boundaries between dependent employment and self employment. He notes the growing interest in 'economically dependent workers' - workers who are formally self-employed but depend on a single employer for their income. Economically dependent

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<sup>1</sup> From *Self-employment: choice or necessity?*, Gasparini, Giovanni et al, publ. European Foundation for the Improvement of Living and Working Conditions

workers normally work under a ‘service contract’ rather than a contract of employment but their working situation presents many of the characteristics of employees. Working under a service contract is of benefit to the employer since they pay lower employment costs (employer’s social security charges) and have fewer legal responsibilities but the worker is obliged to accept a reduced level of social and employment protection.

As part of the study, Pedersini presents definitions of ‘dependent employment’ used in the EU Member States and Norway to define a worker’s employment status. Different legal criteria apply in each country and four main approaches are identified. Criteria include subordination, authoritative relationship and case law is used in countries with no legal definition. It seems that a worker with one set of employment circumstances might be accepted as self employed in one European country but treated as an employee in another.

Determining employment status has important consequences and is likely to affect:

- how much tax and social security is payable (by employer and worker)
- a worker’s entitlement to social welfare benefits
- the level of labour legislation protection which applies to a worker.

## **2.4 Atypical employment and borderline employment frameworks**

Changes in the economy and labour markets in Europe over the past twenty years have resulted in a growth in self employment. This is accompanied by increases in situations on the borderline of self employment, commonly described as ‘atypical’ employment.

In some countries, ‘atypical’ refers to both legal self employment (particularly own account workers) and work situations on the boundaries of self employment or in the ‘informal’ economy. With a growing body of research and commentary on atypical work, one can see a paradox in the use of the word ‘atypical’ in the cultural sector where self employment, intermittent short contracts and hybrid freelance situations can be the norm.

An influential report *The Partial Renaissance of Self-Employment* was published by the OECD (Organisation for Economic Cooperation and Development) in the *OECD Employment Outlook 2000*. It presented statistics, working conditions, government schemes to encourage self employment (start up grants and assistance to unemployed), job satisfaction, social protection and trends. It drew attention to the phenomenon of ‘false’ self employment which it defines as “work situations which are classed as self employment primarily in order to reduce tax liabilities”. The OECD report points to “a number of indications that the borders between self employment and wage salary employment are becoming more blurred”, a comment often repeated in later studies.

Pedersini notes the calls from trades unions and others for the work of ‘economically dependent workers’ to be regulated and social security coverage and employment law protection to be provided. He states: “In certain countries (such as Austria, Finland, Germany, Ireland, Portugal and Spain), the trades unions are calling for a redefinition of the boundaries between dependent employment and self employment, in order to provide more protection to workers who they regard as economically dependent”. Pedersini also comments on the situation in other countries: the focus on social protection for self employed people without employees in the Netherlands, the “quite peculiar” situation in Italy with the phenomenon of ‘continuous and coordinated contractual relationships’, the so called ‘CoCoCo’ status (explained in Italy country profile, 7.8).

Another EIRO study in 2002 by Alexandra Scheele, *Non permanent employment, quality of work and industrial relations*, looked at work defined as “all employment which is not based on an open-ended and continuous employment contract, but which is limited in time”. This study focuses on fixed term contracts, temporary agency work, casual and seasonal work and reviews the implementation of the EU Directive on fixed-term work. It describes working conditions, pensions, access to unemployment benefits, representation, health and safety and other issues for non-permanent workers.

In the Annex to Scheele’s report, she analyses the term ‘atypical employment’, notes that the ‘typical’ secure, full time job of unlimited duration with standard hours and safeguards

has a certain gender-specific orientation in today's employment market and questions what is now the norm. Scheele adds that the categories of workers described as 'atypical' vary from country to country. This point emerged earlier in Emmerich Tálos's *Atypische Beschäftigung* (1999), an international review of trends and practice in atypical work.

A useful definition of atypical workers comes from Unison Scotland, the public service trades union: "This phrase ... tends to be used to describe anyone not employed on a conventional permanent basis. Examples include temporary workers, contract workers, agency workers, seasonal workers, term time workers, casual workers, sessional workers and so on. Atypical workers sometimes struggle to prove that they are working under employment contracts and that they have the requisite continuous service".

The Incomes Data Service, a UK independent research organisation, says: "there is no universally accepted definition of the term 'atypical' and it is an inaccurate description in the light of the growth in this type of employment". A search of the European Trade Union Institute online documentation centre (ETUI Online) finds around 400 current documents (articles, books, research reports) on 'atypical'.

There are many more expressions which describe new work frameworks and some of the borderline employment situations for self employed workers and employees:

- atypical work / atypical contracts
- economically dependent workers
- marginal workers
- bogus / false / ostensible / pseudo self employment
- discontinuous forms of self employment
- non permanent work / non permanent contracts
- fixed term contracts
- non standard employment
- contingent employment
- *intermittence* (in France)
- *Neue Selbständigkeit* (in Germany and Austria)

Many of these expressions accurately describe the circumstances for independent workers in the contemporary performing arts in Europe.

## 2.5 Flexibility and security

Central to the current debate and research into labour markets and employment policy in Europe are the concepts of flexibility and security.

In essence, flexibility is a key aim of employers in order to maintain an adaptable, responsive workforce, while security is the aim of workers, who seek job security and social protection. Reconciling flexibility and security has been one of the main issues of employment policy and debate in recent years in Europe. Both concepts have internal and external aspects and, viewed from different perspectives, are the goal of both employers and employees. It is the alignment of flexibility and security that is crucial.

A new term *flexicurity* first emerged in the Netherlands and Denmark. Presented at the EU Lisbon Summit in 2000, it is now used across Europe to "encapsulate the need to reconcile the flexibility required by the new economy with the legitimate job security interests of employees". This definition comes from a major report, *Flexibility and social protection*, published in 2003 by the European Foundation for the Improvement of Living and Working Conditions which examines social protection systems and flexible or atypical forms of employment. A simpler current definition of flexicurity is "the employment and social security of atypically employed, that is, other than permanent full-time<sup>2</sup>".

There has been an ongoing debate on this subject in the Netherlands since the introduction in 1999 of the law on non-permanent employment, the Flexibility and Security Act.

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<sup>2</sup> Defining the flexicurity index in application to European countries, 2004, Tangian, Discussion paper for WSI Hans-Böckler-Stiftung

Research institutes in the Netherlands, Germany and elsewhere are engaged in research on flexicurity. Reports (see references, 9.1) from the Flexicurity Research Programme at Tilburg University and the WSI Hans-Böckler-Stiftung in Düsseldorf present the concept in more detail and discuss its application in European economic policy.

## **2.6 Precariousness**

The concept of precariousness is also a key element of the debate on atypical work and social protection.

For Scheele, precariousness includes "dimensions of instability, lack of protection, insecurity and social and economic weakness. However, it is not each single dimension but the combination of them that influences the level of precariousness".

According to Tangian's flexicurity discussion paper, employment insecurity has significantly increased in Europe in recent years. He states: "In addition to unemployment, the number of atypically employed, like part-time, fixed term or self employed, has disproportionately grown since the 1980s". Such insecurity generates precariousness.

While precariousness is more associated with marginal employment situations such as seasonal work, temporary agency work and casual jobs, there is an awareness of the impact of precariousness on self employed and 'economically dependent' workers. Precariousness in the cultural sector is explored in 3.6 under 'precariat'.

## **2.7 Other research into self employment**

The European Foundation for the Improvement of Living and Working Conditions is a European Agency set up by the European Council which carries out research and development projects designed to contribute to better living and working conditions in Europe. Several of its publications and research areas are on the working conditions of self employed people and other aspects of their employment status.

The 'Second European Survey on Working Conditions' in 1996 led to a paper on *The Working Conditions of the Self-Employed in the European Union*<sup>3</sup>. A 1998 survey carried out by the Foundation into 'Employment Options of the Future', informed a paper entitled *Self-Employment: Choice or Necessity?*. This presented statistics, working hours, motivation and job satisfaction issues. A third study published by the European Foundation in 2002, *Employment status and working conditions*, was by Goudswaard and Andries. This compares statistics for self employed people without personnel against those for other employment statuses across the EU and examines working conditions for people on different types of employment status.

A project of the European Foundation for the Improvement of Living and Working Conditions, EIRO (European Industrial Relations Observatory) online is a monitoring instrument with news and analysis of European industrial relations. EIRO's database of articles and commissioned publications are from a network of leading research institutes.

MISSOC is another useful research source. The 'mutual information system on social protection' works under the European Commission's DG for Employment & Social Affairs. MISSOC collects and publishes on-line information on social protection in the EU and EEA. It produces comparative tables and country reports covering different elements of social protection. Self employed workers are included in appendices and the formats make it possible to directly compare the social protection for employees and the self employed.

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<sup>3</sup> Letourneau, 1997

### **3. SELF EMPLOYMENT: CULTURAL SECTOR**

#### **3.1 Overview**

Although self employment is widespread in the cultural sector in most European countries, especially in the performing arts, there has been little specific research into the subject. The difficulty of isolating this area for examination has been apparent during the course of this investigation. Artists and cultural operators in the contemporary performing arts form a minuscule tranche of the overall cultural employment market and are not easily separated from the whole.

One of the problems is the division between the situation of artists and that of cultural managers/operators. Independent artists and cultural operators might share the same employment frameworks but their needs and career patterns can be very different. The research that exists has usually followed specific occupational categories rather than employment status and, as a result, much of it excludes the self employed. In addition, studies of employment in the cultural sector sometimes cover a broad range of occupations, including for example librarians, architects and journalists.

In many countries, there are national cultural agencies and associations which provide tailored advice and information on employment status and social protection for independent workers. These organisations, referenced under country profiles, provide a valuable 'translation service' for the official legal, fiscal and social texts which are technical instruments and are not always written in plain language. What is less easily found for the cultural sector is research undertaken by employment specialists, as described in Chapter 2, examining precariousness, the consequences of atypical work, prevalence of non-permanent contracts, social protection levels, choice or necessity of self employed status and other issues for artists and cultural operators.

Nevertheless, some useful evidence can be found in existing studies. Self employment is very common in the cultural sector in many European countries and independent workers can often be identified within national cultural industries surveys and other investigations. This chapter presents the main lines with further detail in the country profiles.

#### **3.2 European Commission research**

Several studies have been commissioned by the European Commission that refer to self employment in the cultural sector.

The Commission's 1998 Staff Working Paper on *Culture, the Cultural Industries and Employment* comments on the predominance of self employment and small businesses in the cultural sector throughout the European Union. The report sets out the variety of employment statuses used by workers in the cultural sector and notes that "the demarcations between salaried employment and self employment are crumbling". The Paper comments on the intermittent nature of work in cultural projects, unemployment rates, transfers from one employment status to another and from one sector to another.

The European Commission's DG Employment & Social Affairs commissioned research from MKW Wirtschaftsforschung GmbH in Munich on *Exploitation and development of the job potential in the cultural sector in the age of digitisation*, published in 2001. The final report contains a section on 'Cultural entrepreneurs / freelancer cultures'. Several pertinent observations relate to the debate on atypical work and precariousness: "In almost all studies specific to the subject, it is pointed out that the arts, culture and media sector is heavily characterised by atypical forms of employment: flexibility, mobility, project work, short-term contracts and voluntary or very low-paid activities are the basic criteria for this. [...] these atypical forms of employment have become increasingly interesting for the government and business and are thus moving to the centre of labour market policy interests". Austrian economic researcher Norbert Geldner is quoted: he argues that "the rapid increase of self employed creators of culture can be seen as an indicator that the emergence of precarious working conditions in this sector dates back

further historically than it does in the economy as a whole". The issue of pseudo self employment in the cultural sector is also examined.

The European Commission's DG Education and Culture commissioned a *Study on the mobility and free movement of people and products in the cultural sector*, carried out by Olivier Audéoud in 2002. This mentions problems for people with self employed status who go to work in another EU country and need to justify their status with the tax authorities and difficulties in claiming social rights and benefits for mobile cultural workers.

### **3.3 European research & initiatives**

The most useful, up to date tool for identifying and comparing frameworks for artists across Europe is Compendium: Cultural Policies and Trends in Europe, a joint initiative of the Council of Europe and ERICarts (European Research Institute for Comparative Cultural Policy and the Arts). Chapter 5 of the country reports presents 'Legal frameworks for artists' while Chapter 4 gives information on 'Employment policies for the cultural sector'. The site is an online expanding information system with regular updates by a network of independent cultural policy researchers across Europe.

The Creative Europe project, 1999-2001, examined the changing conditions for artistic creativity and cultural innovation in Europe. The *Creative Europe Report* by ERICarts researchers presents public measures which promote artists and creativity in Europe. These include special legal provisions for artists' professional rights, social security guarantees, social security provisions and special legal provisions within social and economic frameworks. The report identifies different policy lines or models which support creativity. It recognises that "competing or even conflicting models, based on different cultural and legal traditions, will persist in the years to come". It calls for new designs for financing systems along with new criteria to assess creativity.

Several major research and policy initiatives focus on the situation for creative artists. A considerable body of research and commentary informed the 'Conditions for Creative Artists in Europe' EU Presidency Conference in Visby, Sweden in 2001 (reports published online). A background paper prepared by ERICarts drew on the Creative Europe research, presenting detailed country profiles and information on trends and current issues.

The European Council of Artists (ECA) published a report in 1999/2000 *Nobody promised you a living: overview on the position of the artists in ECA member countries*, with 'draft' country profiles for sixteen countries. Research was conducted by the national artists' organisations in each country. Although some of the findings are now out of date, this study presents the most complete examination, from the perspective of artists in all art forms, of the subject. There are useful statistics for numbers of professional artists and information on access to suitable unemployment benefits and social security.

Another useful international study *Artists, taxes and benefits – an international review* was made on behalf of the Arts Council of England in 2002 by Clare McAndrew. This presents the tax and social insurance frameworks for artists in five European countries, Australia and Canada. It makes comparisons and identifies examples of good practice which acknowledge the career patterns and working lives of professional artists. In describing the employment frameworks for self employed and freelance artists, the report includes, by extension, independent cultural operators.

Pearle\*, the European League of Employers' Associations in the Performing Arts sector, represents more than 3,000 employers within the performing arts sector. Its aim is "the establishing of a stable environment by supporting sustainability and promotion of the Performing Arts across Europe". Activities include the exchange of information, experiences and ideas of common interest to members working in the performing arts sector, obtaining information on European issues related to members' interests and facilitating collective decisions and lobbying in accord with these decisions. It jointly commissioned Richard Poláček write a conference working paper in 2004, the *Survey on the Situation of Social Dialogue in the Live Performance Sector in the Accession and Candidate Countries of the European Union*. The study contains information on the

structure of the live performance sector, employers' and workers' organisations and social dialogue for thirteen countries, although self employment is not highlighted in this context.

In 1986 the Arts Council of Ireland, with funding from UNESCO, engaged international accountants Coopers and Lybrand to conduct a survey of "European Tax Codes as they affect Creative and Interpretive Artists". *Tax and the Artist* was published in English and French with information on 29 countries. The initiative was in response to planned EU tax measures in the cultural sector although the publication is now out of date and out of print.

Other studies in the area of labour markets and cultural policy may be identified through the search facility of Cultural Policy Research Online (CPRO) on the Boekman Foundation's web site. The database includes both published and ongoing research.

### **3.4 National research & initiatives**

In some of the countries researched, studies were identified which provide useful background information on self employment in the cultural sector. Details can be found under country profiles. A full survey of the literature available in each country was not feasible and the lists are not exclusive. Also included are debate and lobbying actions by the cultural sector on issues concerning self employment and atypical work.

#### **Austria**

There are several recent reports on the cultural industries, labour surveys of the cultural sector and a specialist study on the careers of actors. Statistics are available for self employed artists in the performing arts and for small and one-person enterprises. There is a special term *Neue Selbständigkeit* to describe one person self employed enterprises. These are increasingly common in the cultural and other sectors in Austria and there is much debate on the subject. Atypical work, precariousness and the insecurity which arises from lower levels of social protection are also a concern. A new law on social security measures for self employed artists was passed in 2001 and membership associations of artists and arts professionals are monitoring its effects.

#### **Belgium**

Although no specific studies were quoted, the recent implementation of the Social Statute for Artists in 2003 has focused debate on social and employment protection of artists. The evolution of the social statute energised cultural sector discussions. Several organisations providing advice and information to artists are well placed to comment on the scheme. Evaluation of the functioning of the Social Bureaux for Artists which manage aspects of the system is planned. In Belgium, artists who work as employees can claim unemployment benefit. Trade unions distribute unemployment benefit in Belgium and are involved in defending the social and legal rights of the unemployed as well as employees.

#### **France**

France has seen an intense level of debate on *intermittence* in the past two years. Intermittent work patterns, the provision of social protection, precariousness and the safety net of unemployment benefit are part of these discussions. The Latarjet Commission's enquiry into the future of the performing arts in France, which reported in 2004, provides a detailed portrait of different sectors of the performing arts, artists' career paths, income and social contributions. The report presents statistical analysis of the evolution of the sector over the past ten years.

#### **Ireland**

A report published in 2000 into support for individual artists provides statistics for self employed and their employment patterns. Additional information is in the Theatre Forum's 2004 report on the economic impact of the professional performing arts. The Arts Council/An Chomhairle Ealaíon is commissioning research into the socio-economic status of performing arts practitioners in Ireland to establish the socio economic conditions of practitioners and determine effective interventions for improvement.

#### **Netherlands**

There is a vigorous debate at present over reforms in the social welfare system and their impact on the cultural sector. Measures which impose higher charges for cultural sector

employers have been implemented. Further proposals for a substantial increase in these charges, out of a principle of making employers pay for the innate precariousness of the cultural sector, has met with strong opposition. Lobbying by the cultural sector challenged proposed changes in the eligibility rules for unemployment benefit but the new rules will still exclude many artists previously covered. A review of the WIK system of income support for artists has generated much debate; new proposals will increase precariousness for those artists who cannot prove they are moving towards financial self sufficiency.

#### **Sweden**

A government commissioned report into artists and social security systems published in 2003 examined problems faced by professional artists in the tax and social welfare systems. Problems affecting the contemporary performing arts sector were identified.

#### **United Kingdom**

The creative industries and their potential for growth and employment creation have been surveyed in the UK since the 1980s to build arguments for support. A complex mapping exercise of the creative industries provides detailed statistics. Recent studies were undertaken by the Institute for Employment Research at Warwick University and give statistics for self employment in different cultural professions including the performing arts. These permit comparisons of levels of self employment across different arts disciplines. The research has a qualitative element: issues of uncertainty, freedom and flexibility in relation to employment frameworks were explored through art form focus groups. Precariousness in career paths is identified through a study of the average length of time spent in continuous self employment. Levels of social protection and the inadequacies of the tax and benefit systems are also discussed.

### **3.5 Other international research & initiatives**

In 1980, the General Conference of UNESCO adopted the 'Recommendation concerning the Status of the Artist' which, given the changes in the artistic professions and in the status of the different categories of artists (authors, interpreters and performers), proposed an overall description of artists and outlined the conditions in which they can exist as creative persons. There are several comments on self employed artists, social security, tax and pensions in the Recommendation, for example:

"The social security system ... should take into consideration the special features of artistic activity, characterised by the intermittent nature of employment and the sharp variations in the incomes of many artists ... Member States are invited to consider the adoption of special means of financing social security for artists ..."

The UNESCO World Observatory on the Social Status of the Artist was established as a result of the World Congress on the implementation of the 'Recommendation concerning the Status of the Artist'. The World Congress met in 1997 and gathered artists, authors and performers from all regions of the world. Participants endorsed the setting up of the Observatory which acts as an on-line information resource, collecting information related to artists and other cultural workers. Themes include legislation and social status. One of the purposes of the Observatory is to create a database which will "serve as a basis for comparison of the status of the artist in different countries, thereby drawing attention to conditions which need to be changed". In 2004, UNESCO published the *Table Comparing and Contrasting Employment Regimes and Social Benefit Systems of Artists around the World*. A compilation of information from national sources, it lists legislation, rights, social protection and unemployment benefit systems for artists in 52 countries across the world.

IFACCA, the International Federation of Arts Councils and Culture Agencies, undertakes research on current subjects of enquiry through its members. In 2002, it asked its worldwide constituency how professional artists are defined for tax and benefit purposes. *D'Art 1: Defining Artists for Tax and Benefit Purposes* outlines the main approaches. The report gives an overview of various mechanisms used around the world to decide who benefits from any special measures for artists accorded by the tax and social benefit authorities.

Dole4Arts was a movement in 2003 to raise awareness in Australia of the need for access to unemployment benefit for artists; it produced a discussion paper comparing several national systems and a forum.

### **3.6 Precariat**

The debate on precariousness and atypical work outlined in Chapter 2 was taken up in 2004 by the European Institute for Progressive Cultural Policies in their multilingual web journal *Republicart*. Dedicating an issue to the concept, which they rename 'precariat', the journal contains provocative and informative writing, examining the collision of art and activism in recent disputes over precariousness in working and living conditions.

The Editorial defines their approach:

"Precariousness increasingly defines the conditions, under which people in all different fields pursue their work. Yet it is not only work, but also living conditions that have become precarious for more and more extensive portions of the European population. An issue of the republicart web journal deals with more recent attempts to counter non-self-determined precariousness with the means of art and activism, bringing a self-determined turn to the term. In the practices of the Precarias a la Deriva in Madrid, the Glücklichen Arbeitslosen in Berlin, the French Intermittents, the May Day Parades in Barcelona and Milan, or the Italian strike movement, there are components of a new concatenation of this movement being developed: we call this precariat."

Essays include a critical appraisal by Beat Weber of employment policy initiatives and their impact on the cultural sector. *Everyday Crisis in the Empire* examines the phenomenon of 'New Self-Employment' in Germany with reference to publications and projects by artists seeking new forms of creative expression for everyday realities of the atypically employed.

## **4. EU LEGISLATIVE & POLICY FRAMEWORKS**

### **4.1 European Union legislation**

Much of the EU legislation on employment, social protection and related issues applies to employees rather than self employed people. Self employed people have certain rights:

- *Right of establishment*: to set up in business in another EU country, either permanently or temporarily
- *Freedom to provide services*: services may be offered in another EU country, without the need to set up permanently there.
- *Right of residence*: working as a self employed person in another EU country gives you the right to work there
- *Recognition of diplomas*: as for employees, with proof of experience for occupations requiring special qualifications, in those countries where this applies
- *Social security*: on the same principle as for employees
- *Welfare benefits*: on the same principle as for employees
- *Taxes*: income is taxable in the country where you are resident or permanently established.

In general the EU regulations state that a self employed worker should be treated on an equal basis with a national of the country.

Among the Community legislation on employment and social protection, the following items are linked to employment frameworks for self employed people and their rights. Not all legislation has been enacted in each member state and not all legislation is enforced.

#### ***Free movement of workers: related rights***

**Movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services:** The objective is to abolish existing restrictions on the movement and residence within the Community of self-employed and salaried persons and their families.

This concerns the rights of self employed workers (among others) to move from one Member State and take up residence in another, with a view to setting up in business.

***Free movement of workers: related rights***

***Right to remain for self-employed people:*** The objective is to determine the conditions under which the right to remain arises and under which such a right may be exercised in the territory of a Member State after having pursued therein an activity in a self-employed capacity.

This concerns the rights of self-employed people to remain permanently in the territory where they have pursued their economic activity, when they retire or become unable to work. The right to remain is extended to members of their families.

***Free movement of workers: a European employment market***

***Free movement of workers following enlargement:*** The Act concerns the new member states which joined the European Union in 2004. Freedom of movement for workers, which is a fundamental aspect of the freedom of movement for persons and of the internal market, allows the nationals of any Member State to work in another Member State under the same conditions as nationals of that State. However, following the enlargement of the European Union on 1 May 2004, the freedom of movement of workers from, to and between the new Member States may be restricted. Under the transitional arrangements, the EU-15 Member States may allow total or partial freedom of movement for workers from the new Member States. Thus, they may restrict this freedom during the transitional period, which starts on 1 May 2004 and is due to last for a maximum of seven years.

In some countries, employees' free movement is restricted but different rules apply to self employed workers. The EURES Job Mobility Portal has a search facility to locate legislation for movement to and from new Member States.

***Employment rights and work organisation: organisation of working time***

***Fixed-term work:*** The objective is to establish a general framework encompassing general principles and minimum provisions relating to fixed-term work, to ensure equal treatment of workers.

The working conditions of workers under temporary or fixed-term employment contracts are defined under Council Directive [99/70/EC](#) of 28 June 1999 concerning the Framework Agreement on Fixed-term Work. This legislation:

- Forbids employers to treat fixed-term workers in a less favourable manner than employees
- Aims to prevent abuse arising from the use of successive fixed term contracts
- Proposes measures to be introduced by Member States to curb the repeated renewal of fixed term contracts
- States that employers must, as far as possible, facilitate access for fixed term workers to training opportunities

According to the Directive, Member States must bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 10 July 2001.

The 2002 EIRO report into *Non-permanent employment, quality of work and industrial relations* by Alexandra Scheele examined implementation of the EU Directive on Fixed-term Work. By then, legislation had taken the Directive into national legislation in seven of sixteen countries examined, with implementation well advanced in five more. The impact of the Directive varied considerably between different Member States.

***Social Protection: coordination of social security schemes***

***Social security schemes and the free movement of persons: basic Regulation:*** Regulation (EEC) No 1408/71 has the objective of coordinating national social security legislation in

order to protect the social security rights of persons moving within the European Union. It applies to workers, both employed and self-employed.

#### **4.2 European Union policy**

As part of the European Employment Strategy, the European Commission issued a Communication on 'Strengthening the implementation of the European Employment Strategy' (7/4/04: COM (2004) 239 final) in 2004. Relevant elements are the recommendation that Member States and social partners give priority to:

**Increasing adaptability of workers and enterprises.** Promote flexibility combined with security in the labour market by focusing on improving work organisation and the attractiveness – for employers and employees – of both standard<sup>4</sup> and non-standard labour contracts to avoid the emergence of two-tier labour markets.

### **5. STATISTICS**

A short note on statistics describes different national and international systems of classification and approaches to collecting statistics on the workforce. While a complete explanation of classifications and survey mechanisms is beyond the interests of this study, a need for more precise cultural sector statistics emerged in the course of this research.

#### **5.1 International & national classification systems**

Labour force surveys are the main instrument for assessing the characteristics and development of national labour markets. Eurostat, the EU statistical office, provides the European Union with statistics at a European level that enable comparisons between countries and regions, using information from national statistics offices. National census results are also used for some surveys.

There are two basic aspects to the collection of employment statistics: firstly, the classification of jobs into occupational categories and secondly, the classification by employment status. For the statistics to be meaningful in the context of this study, they must collect precise information on the occupational category of work and on the employment status. These two aspects intersect with a third factor: the area of economic activity, i.e. the work sector.

In the OECD report *The Partial Renaissance of Self-Employment*, a section on definitions and data sources sets out ways of defining and assessing levels of self employment. In OECD countries, the labour force survey definitions for self employment are part of the definitions of the "economically active" population. There is an international classification system for employment status: the International Classification of Status in Employment (ICSE-93) and one for occupational classification, the International Standard Classification of Occupations (ISCO-88). The latter has been adapted for European use, named the International Standard Classification of Occupations (for European purposes), 1988 version, ISCO-88 (COM). In the EU, the area of economic activity is determined according to the NACE European Community Classification of Economic Activities.

The international classification system for employment status has six groups: the main ones are employees, employers and own-account workers (self employed people without employees). It is normal to find that statistics for self employed people combine both employers and own-account workers (e.g. Eurostat cultural employment statistics).

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<sup>4</sup> The term ‘standard contracts’ includes contracts of unlimited duration, whether full-time or part-time.

The occupational categories in ISCO-88 (COM) include artistic professionals at two educational attainment levels. 'Writers and creative or performing artists' (various sub-categories by art form) come under 'Professionals' whereas 'artistic and entertainment associate professionals' come under 'Technicians and associate professionals'. Other professionals in the cultural sector do not have precisely described occupational categories and may be subsumed into general groupings of managers or administrative professionals.

As described earlier, research indicates that there is considerable complexity in the labour market for independents in the cultural sector and it can be difficult to obtain accurate statistics. Sub-categories for fixed-term and temporary workers do not feature under the ICSE-93 classification – they would either be employees or own account self employed workers. Many professionals in the cultural sector move between the two.

National studies of employment in the cultural industries and creative mapping exercises have examined this in greater detail. Labour force surveys and statistical tools such as the census and microcensus can give researchers more precision in identifying occupational categories. National classification systems may be more fine-tuned for occupational and employment status categories although this is not true in all European countries.

## **5.2 Eurostat statistics for cultural employment**

The Eurostat statistics for cultural employment, published in May 2004, cover employment in cultural occupations in the EU25 plus Iceland, Norway, Bulgaria and Switzerland. Under 'Cultural employment and working characteristics, 2002', workers are separated into:

- workers with temporary jobs
- workers with part-time jobs
- workers with a second job
- employers and self-employed

Eurostat comments on the high percentage of cultural workers who are either employers or self employed: 29%, compared with 14% of the total working population. There are particularly high numbers of self employed in Italy (47% of cultural employment), Austria (39%) and the Netherlands (32%). The lowest was in Estonia, Latvia and Lithuania (5 - 8%). Since the Eurostat statistics combine employers and self employed, the percentage of individual independent workers is not apparent.

In most countries, cultural sector workers are more likely to have a temporary job (i.e. a fixed term contract) than those in the total working population. Particularly high levels of cultural workers with temporary jobs are found in Portugal, Spain, France, Slovenia, Finland, Sweden and Greece – all with over 20% of cultural workers in temporary jobs.

On average, workers in the cultural sector are three times more likely to have a second job than workers in the general population. The highest figures for second jobs were in Iceland, Denmark, Latvia and Lithuania.

The Budapest Observatory gave a valuable commentary on Eurostat's cultural employment statistics with tables and analysis of different patterns in Eastern and Western Europe.

Accurate statistics are essential to build a picture of the complex area of self employment in the contemporary performing arts sector. It seems that national surveys in some countries have reached a reasonable level of precision although researchers often comment on the inadequacies of statistical tools for measuring cultural employment. The Eurostat statistics provide useful pointers to areas where more precise enquiry is required, notably the high levels of self employment, temporary employment and second jobs.

# SECTION II

## 6. COUNTRY PROFILES: IN DEPTH

This section contains nine detailed country profiles describing the employment frameworks for independent workers in the contemporary performing arts. Information is included on social protection, special measures for artists, current trends, references and resource organisations. The selection of countries for these in depth profiles depended on the availability of reliable, verifiable information from practitioners in the sector and official sources. It was also influenced in some cases by the desire to include countries with special support mechanisms for artists and workers in the performing arts.

### 6.1 AUSTRIA

#### 1. Overview

In Austria self employment translates as *Selbständigkeit*. The term *Neue Selbständigkeit* or 'new self employed' is used in the cultural and other employment sectors to describe one person enterprises. These have become more widespread in recent years and are becoming the norm for people working in the independent performing arts field in Austria.

The issue of atypical work is a topic of current debate in trade union politics. In this context one person self employed enterprises are considered atypical forms of employment although they are rather common in the cultural sector.

Freelance workers (*freier Mitarbeiter* or *freier Dienstnehmer*) are individuals who undertake to perform a continuous activity for a company without being personally dependent, i.e. they are not in a position of legal subordination (*persönliche Abhängigkeit*) to the employer's authority. This element of subordination is the deciding criterion which distinguishes freelances from employees. In general, freelances fall outside protective measures under labour law. Recently however (along with other forms of self-employment), they have been brought within the coverage of Austria's social insurance system, which means that they now enjoy social insurance protection against major risks.

In January 2001, a new law was passed on social security measures for self-employed artists, *Künstler-Sozialversicherungsfondsgesetz*. It gives all freelance artists the right to be treated the same as other self-employed professionals (previously there were restrictions on the type of contracted work they could take). The new law also established a social security insurance fund (*Künstlersozialversicherungs-Fonds*) to replace the *Künstlerhilfe Fonds* for visual artists.

The Eurostat statistics for cultural employment in 2002 found that 39% of cultural workers in Austria were either self employed or employers. This was the second highest rate among the 29 European countries surveyed and four times the percentage in the total working population of Austria.

The *First Report on Creative Industries in Austria*<sup>5</sup> presented statistics from 2000 for private enterprises in the cultural sector. Of these, only 8% were from the performing arts (music, theatre & dance), a total of 1700 small and/or one-person enterprises.

<sup>5</sup> *Erster Österreichischer Kreativwirtschaftsbericht*, 2003

The Summary of Research Results from the Equal-ARTWORKS study *Artistic Services in the Third Sector* presented statistics from the microcensus sample survey for 2001. Among performing artists and musicians, 7,300 were self employed, 70% of the total.

## **2. Establishment/Registration process**

When you set up, you must tell the tax and social security authorities that you are self employed. In order to be accepted by the Künstlersozialversicherungs-Fonds to get refunds for pension contributions, you must satisfy the eligibility criteria, either as a graduate of an art university or by presenting your work to a committee.

Independents in the performing arts who want to develop their own projects and apply for public funding must establish a company (*Verein*), in order to receive subsidies.

Freelance workers establish a contract with clients who employ them, either a *Werkvertrag* (contract for work) or a *Freier Dienstvertrag* (self employed contract of service) depending on the nature of the work. People who work under the '*Freier Dienstvertrag*' have more social protection than self employed workers but less than employees.

## **3. Tax and social insurance**

Professional expenses are tax deductible for self employed people.

Social security insurance is payable by freelance workers once they earn more than around 6,453 € per annum. A different rate is payable depending on the type of contract: 24% contributions are levied on the *Werkvertrag* (contract of work) assignments while 17.5% is levied on work carried out under a self employed contract of service.

Under the new law on social security for artists, freelance artists get the same treatment as other self employed professionals and must pay statutory social insurance on income over 6,453 € per year. The artists' social security insurance fund grants artists a pension contribution of up to 72 € per month, depending on their level of income. Artists must meet eligibility criteria to benefit from the fund, e.g. as a graduate of an art university.

## **4. Social protection schemes**

Social insurance divides into four branches: health insurance, industrial injuries insurance, pensions insurance and, for employees, unemployment insurance. Almost all economically active persons, both employees and the self-employed, are covered.

The self-employed have no entitlement to sickness benefit, although they can take out their own insurance against this risk. Some health care costs are not covered and 20% of the cost of medical care is paid by the patient.

Unemployment insurance provides protection against the risk of unemployment for employees but not for the self employed.

Self employed people qualify for the state pension. Many also pay into a private pension company for a second pension.

## **5. Special measures for artists**

As described above, there is a law on social security measures for self employed artists and a special social security insurance fund for artists, the Künstlersozialversicherungs-Fonds. Previous support measures were directed at visual artists only. The new measures introduced in 2001 cover all eligible artists, including those in the performing arts.

## **6. Current issues**

The position of freelancers who move between self employed contracts of service and salaried work is of concern to the authorities who want workers to have one employment status. Actors, for example, were formerly assumed to be salaried employees but full employment contracts with all the attendant costs and obligations for employers are no longer the reality of the contemporary performing arts sector. There is generally a mix of self employment and salaried work for artists and cultural operators in the performing arts.

## 7. References

ARTWORKS, *Artistic Services in the Third Sector*, 2003. [www.equal-artworks.at](http://www.equal-artworks.at)

Creativ Wirtschaft Austria, Zweiter *Österreichischer Kreativwirtschaftsbericht*, 2006. <http://www.wko.at/kreativwirtschaftsbericht>

Kulturdokumentation, Mediacult & WIFO, *Untersuchung des ökonomischen Potenzials der Creative Industries in Wien*, 2004. <http://www.creativeindustries.at/pdf/Endbericht.pdf>

Michenthaler, Georg, *Berufsbild von SchauspielerInnen*, 2003, (IFES). [www.ifes.at](http://www.ifes.at)

## 8. Resources

KÜNSTLERSOZIALVERSICHERUNGS-FONDS  
[www.ksvf.at/](http://www.ksvf.at/)

IG FREIE THEATERARBEIT – Austrian Association of Independent Theatre  
Service provider for artists in the field of independent theatre including information leaflet on social insurance in German.  
[www.freitheater.at/](http://www.freitheater.at/)

## 6.2 BELGIUM

### 1. Overview

There are two different employment statutes which may apply to workers in the contemporary performing arts in Belgium. Artists can choose to work under the *social statute for artists* as an employee. Cultural operators and artists may register as *independents* (whether as a consultant or as a business, as a main occupation or as a sideline, 'travailleur indépendant à titre complémentaire' in French).

The 2002 Eurostat statistics for cultural employment identified 29% of cultural workers in Belgium as self employed or employers; double the total working population percentage.

The official terms in Flemish and French for independent or self employed workers are *zelfstandigen* and *travailleurs indépendants*. 'Freelance' has a particular meaning in the performing arts in Belgium: it is not a synonym for self employed. Freelance describes a performer not exclusively linked to or employed by one company; it describes a situation of creative independence rather than a legal employment statute. When a small group of actors form a company, the company employs them on a freelance basis. This does not mean they are self employed as they often work as employees of the company.

Before the introduction of the social statute for artists in 2003, performing artists were automatically treated as employees. However, the administrative burden and high social security costs for employers were a deterrent to the employment of artists. This led to a semi-black economy where some artists were paid 'cash in hand' and had no effective health and social welfare cover. The new legislation offers an incentive to register periods

of employment legally; it ensures that social security payments are made and gives artists comprehensive social and employment protection as employees.

The high charges for social security (social insurance), the need to be legally employed in the system to secure healthcare and other social protection and a strongly regulated labour market with considerable benefits for employees all affect the choice of employment framework for workers in the performing arts in Belgium.

## **2. Establishment/Registration process**

A person who wants to become self employed must register with a 'guichet d'entreprises'. They are issued with a unique business number, used as VAT number and an identification number for the business. You can register as an independent consultant or as a business.

For payment of social security charges, you must also register with the National Institute for the Social Security of the Self Employed (INASTI/RSVZ) within 90 days of starting to work as self employed. Non Belgians must have a 'carte professionnelle'.

An 'artists committee' can check whether an independent artist operates fully independently and can issue a statement of independence to confirm this status.

## **3. Tax and social insurance**

### *3.1 Artists working under the social statute*

In Belgium employers pay a high rate of social security (around 33%) on employees' salaries, on top of the 13% paid by employees themselves to the National Office of Social Security (ONSS) to fund social welfare schemes and benefits. Under the social statute, the person who hires the artist still pays the employers' social security charges but these are reduced through exemptions on a proportion of the salary paid.

Artists employed under the social statute are deemed to be employees. Artists providing services for several one-off clients can appoint a designated social insurance body (Sociaal Bureau voor Kunstenares/Bureau Social pour les Artistes) to act as their employer and, as such, the Social Bureau takes on various legal obligations. The Social Bureau system is not obligatory. It is designed to assist employers with little experience of employing artists to fulfil their social security obligations. Employers can still employ artists direct and make the reduced social security charges applicable under the social statute.

### *3.2 Self employed independents*

Artists and cultural operators who register as self employed/independent are responsible for their own social security and tax payments. Social security charges are paid every three months and are calculated on the basis of the 'reference year', which is the annual professional income, less professional expenses, three years earlier. For self employed people, a basic professional income is assumed, resulting in a minimum social security charge, currently approximately €450 per quarter. This must be paid during the first three years of operation, until the reference year is reached. After the third full year, a rectification of social security charges is made, resulting in a refund or a charge. In the fourth year, a reduction of 15% is applied to allow for adjustment to paying the real level of charges. Social security charges for self employed people are 19.65% of professional annual income up to €43,587 with a reduced rate for the income band above this level.

The National Institute for the Social Security of the Self Employed (INASTI/RSVZ) is the public service responsible for functions connected to the social security of self employed, including pensions. Self employed people must register with them to pay social security.

If you are registered as an independent, you must charge VAT at 21% or 6% (depending on the nature of services and goods) and fulfil the necessary VAT payments and administration for the tax authorities. Those with mixed independent/employee status must also register for VAT but may be exempted if their income from work as an independent falls below a certain threshold. Cultural organisations which are registered as an 'ASBL', non-profit association, may benefit from exemption from VAT.

Income tax is due as soon as income is received by an independent. Professional expenses are deductible but there are certain limitations for travel and subsistence expenses. This can create problems for independents with regular work abroad that accrue such expenses and cannot offset them against tax.

#### **4. Social protection schemes**

##### **4.1 Artists working under the social statute**

Once an artist is registered under the social statute, they work as an employee and enjoy comprehensive social security benefits (health insurance, annual leave, child benefit, old age pension, unemployment, sickness and disability benefits).

A number of different organisations manage these benefits on behalf of the National Office of Social Security. Unemployment benefit is managed by the 'Office National de l'Emploi', pensions by the 'Office National des Pensions', holiday pay by the 'Office National des Vacances Annuelles' and child and family benefits by the 'Office National des Allocations familiales pour Travailleurs salariés'.

Under the social statute, artists can claim unemployment benefit and holiday pay, with eligibility and level of payment dependent on the number of days worked. There are specific regulations which apply to unemployment benefit for artists. Details are available from the Office National de l'Emploi.

If you are registered unemployed, you must actively seek work. Artists have certain rights in terms of what work they must take. If artistic activity is your main profession and you have completed 156 days of this work in the previous 18 months, you are not obliged to take work in a non-artistic profession. Artists are not obliged to take a job which might impair the physical and mental aptitudes necessary to exercise their artistic profession.

Unemployment benefit is distributed by the trade unions in Belgium. The state authorities calculate and approve the claims and pay the funds over to the unions for them to disburse. This is seen as a faster and more efficient system for unemployed union members to receive their benefits. There are three main unions in Belgium although many younger artists choose not to join a union. Non-unionised culture professionals receive unemployment benefit through the state authority HVW/CAPAC.

To be eligible for unemployment benefit, you must work 12 months out of 18 months, with a different calculation applied to older workers. There is a 'règle du cachet' regulation specific to artists and technicians in the performing arts to determine whether they have accumulated the required number of days work. The unemployment benefit rate is a percentage of the worker's previous salary.

For performing artists and technicians, once eligibility is confirmed, unemployment benefit can be paid indefinitely at this level by undertaking one short contract per year. The length of a short contract is determined by the norms in the profession but it must not exceed three months. Other cultural workers must complete at least 156 days work in order to maintain the same unemployment benefit level. Without the qualifying work period, unemployment benefit is progressively reduced. It is difficult for younger freelance artists to build up enough work contracts to be eligible for unemployment benefit in contrast to artists who accumulated the required work record when longer employment contracts were more common.

##### **4.2 Self employed independents**

For the self employed, the level of social protection and basic healthcare is lower than that of employees. Registered independents cannot normally access unemployment benefit and receive some reduced health and other benefits.

Independents who have worked previously as an employee may qualify for an extension of their unemployment rights as an employee into the early years of their self employment. The period may be as long as nine years and is intended to encourage people into self employment and give them some protection as they build up the business.

Under the reduced health insurance, independents are not covered for so called 'small risks' like doctors and dentists fees and must take out supplementary insurance if they want these costs reimbursed. Private health insurance qualifies as a deductible professional expense. With additional insurance, an independent can claim sickness benefit but only after the first month of illness, earlier if they are hospitalised. The rates of sickness benefit paid under this scheme are low and are not related to earnings.

Maternity allowance is paid as a single payment (960 € currently). Independents do not have the salary-proportioned benefits of employees on maternity leave.

The state pension for the self employed is less than for former employees. Independents are advised to make payments into a private pension to top up the basic state pension.

#### **4.3 Mixed status**

Those with mixed employee/independent status may benefit from a higher level of social protection than full-time independents if their salary and employment records justify it. If the salaried work record is sufficient, they can register unemployed and claim benefit. Mixed status is common to the work patterns of some stage designers and technicians.

### **5. Special measures for artists**

Since July 2003, artists in Belgium can work under the social statute for artists (Sociaal Statuut voor de Kunstenaars or Statut Social pour les Artistes). This puts them on a par with all employees and offers them comprehensive social security (health insurance, annual leave, child benefit, old age pension as well as benefits when unemployed, sick or disabled). Artists still retain the right to register as self employed if they prefer.

Under the legislation, artists are deemed to be employees for social security purposes and, unlike the criteria to determine employment status in other sectors, proof of a relationship of subordination between the artist and the client is not required. In other words, it allows for a contract of employment which permits the autonomy of the artist in decisions about how the work is executed.

The definition of an artist for inclusion in the scheme is relatively broad in Belgium and covers artists in the audiovisual and visual arts, music, literature, performing arts, scenographic arts and choreography. It specifically includes both creative and interpretive artists, in contrast to definitions in other countries.

Copyright payments received by artists working under the social statute are not subject to social security charges if the artist already pays contributions but they are taxable.

### **6. Current issues**

Collective conventions do not apply to non-unionised independents but do apply to salaried workers. This is an important issue in the performing arts where conventions determine fundamental aspects of working conditions and allowances. As stated, many younger artists choose not to join a trade union. Independent contractors who work on the basis of a contract for services to perform work are excluded from the employment provisions of labour law that apply to employees, reducing their employment protection rights.

The Social Bureaux for Artists operate in some regions through interim agencies which can act as a SBA/SBK. Evaluation of their functions is planned after two years of the scheme.

### **7. Resources**

RSVZ: Rijksinstituut voor de sociale verzekeringen van de zelfstandigen  
INASTI: Institut national d'assurances sociales pour travailleurs indépendants  
Registration of independents and administration of social security for self employed people  
[www.rsvz-inasti.fgov.be](http://www.rsvz-inasti.fgov.be)

ONEM/RVA: Office National de l'Emploi/Rijksdienst voor Arbeidsvoorziening  
Unemployment benefit: see website for details of regime applicable to artists.  
[www.onem.be](http://www.onem.be)

SOCIAL SECURITY WEB PORTAL  
Links to HVW/CAPAC and other payment authorities for unemployment benefit.  
<https://www.socialsecurity.be>

SOCIAL SECURITY IN BELGIUM  
Information in several languages on the Belgian social security system  
[www.securitesociale.fgov.be/](http://www.securitesociale.fgov.be/)

FEDERAL FISCAL ADMINISTRATIONS  
Income tax, VAT and other tax issues  
<http://fisconet.fgov.be>

KUNSTENLOKET  
Artists' advisory service for the Flemish community: information on the social statute, self employment, benefits, copyright, legal advice and other issues.  
[www.kunstenloket.be](http://www.kunstenloket.be)

SMArt – Société Mutuelle pour Artistes/Steungevende Maatschappij voor Artiesten  
Administrative services and advice for artists and cultural operators  
[www.smartasbl.be](http://www.smartasbl.be)

OKO: Overleg Kunstenorganisaties  
Employers association for the Flemish performing arts (non-profit sector)  
[www.overlegkunsten.org](http://www.overlegkunsten.org)

NICC: NEW INTERNATIONAL CULTURAL CENTRE  
Membership association for visual artists; actively involved in the campaign for the artists' social statute. Website contains useful information on how the system works.  
[www.nicc.be](http://www.nicc.be)

## 6.3 DENMARK

### 1. Overview

In Denmark there is a relatively low level of self employment in the cultural sector according to the Eurostat 2002 statistics. However, the Council of Danish Artists reports that different forms of self employment and freelance work are rising among the different arts sectors represented by its membership.

Self employed people are called *selvstændige erhvervsdrivende* in Danish. There is an intermediate employment situation of 'freelancer'; while this is not a formal employment statute it is common practice in the cultural sector. Freelancers could be described as wage earners without any permanent employment who get successive short term contracts with different employers.

The Danish Actors' Association reports that artists and creators are generally employed as salaried employees, protected by labour law and collective agreements. The Association finds that freelance workers are very unusual in their sector, which includes actors and dancers. Nevertheless, it recognises that Danish artists work in an overall freelance or employee market (or short-term contract market) and have done so for decades. It is also estimates that most members of the Association do not need to do paid work outside the sector, only around 15% being dependent on non-cultural jobs to supplement income.

Work is carried out under contract with a minimum duration of 1 day in audio and audiovisual production, 75 days in theatre. Short-term (casual) contracts or fixed term contracts are used in 99% of all engagements. For permanent employment, notice of 9-13 months is required to end the contract.

Across all employment sectors, there are 220,000 self employed people in Denmark, the majority of whom are members of ASE, the association which acts as the unemployment benefit fund for the self employed. The general social protection system in Denmark extends to all people covered by national insurance which, in the case of workers includes both employees and self employed.

## **2. Establishment/Registration process**

You must tell the tax and social benefit authorities that you are self employed. You must be a member of an Unemployment Insurance Fund to qualify for unemployment benefits. There are some opportunities for advice and training for people setting up as self employed. The general rate of VAT is 25%.

## **3. Tax and social insurance**

Self employed people can deduct all their professional expenses from their income before it is assessed for tax. Freelancers, as well as other employees and self employed, pay 8% tax on their gross income, then deduct professional expenses and pay ordinary income tax on the remainder. Freelancers therefore pay more tax overall than self employed people.

Social insurance contributions are paid to the tax department under schemes representing the different areas of social protection.

## **4. Social protection schemes**

In Denmark general social protection includes paid maternity leave, paid sickness leave and compensation for work injuries. There are comprehensive provisions for the work environment. These regulations are not specific to artists, but cover workers in general.

There is a provision for welfare or benefits during periods of unemployment or inactivity. There is no specific regulation concerning intermittent workers. Workers qualify for unemployment benefit if they have worked at least 52 weeks full time (1924 hours) in the past three years. The current rate of benefit is around 430 € per week, payable for up to four years. Those on unemployment benefit must be available for and actively seek work. There is a mandatory 'activation' process where, after a certain period of unemployment, you may be obliged to take a job outside your professional field.

After an assessment of financial need, the social welfare can pay a minimum income when an artist is not covered by any insurance scheme, which in most cases will be at a lower rate than unemployment benefit. The average duration of total unemployment in the field of actors is 25% of their time.

For registered self employed people, one needs to have been a member of ASE or another unemployment benefit fund for at least 12 consecutive months in order to claim unemployment benefit. As a member, one also needs to have been in full-time work for at least 52 weeks in the preceding three years. To be regarded as unemployed - and hence gain the right to unemployment benefit - requires their business to have fully closed down.

The self-employed can claim allowances for the costs of child care, in line with employees. Allowances are awarded for periods from 13 up to 52 weeks. It is also possible to be compensated when attending training courses.

## **5. Special measures for artists**

There is no separate statute for artists. There are a few, limited special tax measures which apply. These include a reduced VAT rate for visual artists and a scheme for income averaging for creators.

## **6. Current issues**

The Council of Danish Artists provides a range of online information on tax for artists in different disciplines. This is found under 'Kunstnernes Beskatning', including the downloadable publication on tax for artists *Kunstnernes Beskatning 2004*. This advice is provided as a service to all members whose working patterns are intermittent. Some have set up companies as self employed or work freelance, combined with occasional contracts as employees. The Council finds that in some areas there is no clear ruling for tax treatment and regulations are interpreted differently depending on the tax office.

## **7. References**

Danish Actors' Association, for the UNESCO World Observatory on the Social Status of the Artist, 2003.

[http://portal.unesco.org/culture/en/ev.php-URL\\_ID=14923&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/culture/en/ev.php-URL_ID=14923&URL_DO=DO_TOPIC&URL_SECTION=201.html)

EIRO (European Industrial Relations Observatory), *Atypical employment grows among highly qualified*. Article reporting on study in 2000 into insecure employment conditions for highly educated people in Denmark:

[www.eurofound.europa.eu/eiro/2000/03/feature/dk0003171f.html](http://www.eurofound.europa.eu/eiro/2000/03/feature/dk0003171f.html)

McAndrew, Clare, *Artists, taxes and benefits – an international review*, 2002, Arts Council of England.

[www.artscouncil.org.uk/information/publication\\_detail.php?browse=title&id=132&page=2](http://www.artscouncil.org.uk/information/publication_detail.php?browse=title&id=132&page=2)

Skouby, Gitte & Juncker, Torben, *Kunstnernes Beskatning 2004*, Council of Danish Artists.  
[www.dansk-kunstnerraad.dk](http://www.dansk-kunstnerraad.dk)

## **8. Resources**

NATIONAL DIRECTORATE OF LABOUR

Responsible for unemployment insurance, sickness and other benefits.

[www.adir.dk/](http://www.adir.dk/)

ASE - Unemployment Fund for Self-Employed in Denmark

[www.ase.dk/](http://www.ase.dk/)

DANISH COUNCIL OF ARTISTS

[www.dansk-kunstnerraad.dk](http://www.dansk-kunstnerraad.dk)

DANISH ACTORS' ASSOCIATION

[www.skuespillerforbundet.dk/](http://www.skuespillerforbundet.dk/)

## **6.4**

## **FRANCE**

### **1. Overview**

There is a unique employment framework in France for artists, technicians and other workers in the contemporary performing arts as far as this study is concerned since French employment legislation does not easily permit such workers to operate as independents or freelancers. Instead, a special *régime* exists which takes into account the intermittent

nature of the work, usually short contracts undertaken for numerous different employers. They work under the '*intermittents du spectacle vivant*' statute. This system accumulates the short-term contracts worked and provides those who meet the qualifying requirements with social protection, access to unemployment benefit, training and other entitlements.

Employment law in France includes the option of self employment or *travail indépendant* for those who work for a range of clients but it is largely reserved for certain professional categories (e.g. architects, visual artists, authors). Within the performing arts, artists and workers are automatically treated as employees under the *présomption de salariat* regulation introduced in 1969. Independent arts consultancy businesses, offering a range of project management and other services, which are widespread in many other European countries, are uncommon in France. The few independent businesses that can be found in the cultural sector are in specialist areas such as marketing, IT services or graphic design.

Although the *présomption de salariat* is a basic principle in the performing arts, statistical surveys of the cultural labour market in France reveal a surprisingly high number of performing artists and technicians who work on a self employed basis. In the cultural sector as a whole, almost a third of all workers are self employed (*non salarié*)<sup>6</sup>. In the performing arts, 21% are independent workers: 24% of performing artists and 18% of technical professions. This still means that 79% are salaried employees and intermittents but the option for independent work does exist in the performing arts in France.

Much debate on employment frameworks in the cultural sector focuses on the difference between the situation for workers on CDI (*contrats à durée indéterminée* – permanent contracts) and for those on CDD (*contrats à durée déterminée* – fixed term or short contracts). There are different types of CDD contract. The *CDD d'usage* is most widespread and authorised for short term workers in the performing arts. Both CDI and CDD workers are employees (*salariés*) – they do not have the option of being freelance or self employed. CDD employees in the performing arts are considered to be intermittent workers and come under the special regime for unemployment benefit.

The situation of intermittent performing arts workers in France gained prominence in the public domain in recent years. Since the government first proposed reforms in 2002, heated debate, demonstrations, strikes, cancelled arts festivals and declarations by public figures on the subject of *intermittence* have dominated the news. The reforms were a response to the financial deficit in the system (850 million Euros in 2003, according to *Le Monde*) and perceived abuses. Since 2003 there have been intense negotiations, a public commission into the future of the performing arts in France and revised proposals from the new government including an emergency fund for those excluded by the previous changes. A new reduced scheme is in place for 2004/05 with changes in the qualifying period of work for unemployment benefit eligibility and other significant modifications.

Thus, although such workers fall outside the remit of this study since they are employees rather than self employed/independents, this country profile for France presents the employment frameworks for the *intermittents du spectacle vivant* or intermittent performing arts workers. They are the equivalent in France of independents in other countries although their level of social protection and other benefits are rather different from those found elsewhere in Europe.

The intermittent statute was created in 1936 for employees in the cinema industry. Since 1968 it has included artists and technicians in the performing arts and now covers a comprehensive list of professions: artists, technicians, designers, administrative workers and other specialists in the performing arts and audiovisual sectors. Workers and technicians are listed in Appendix VIII (Annexe VIII) and artists in Appendix X (Annexe X) of the UNEDIC Convention (Code of Unemployment Insurance). Each Appendix has different qualifying regulations for unemployment benefits.

In 2004, the Latarjet Commission, appointed by the Minister of Culture, reported on its enquiry into the future of the performing arts in France. The findings of the Commission included consideration of the employment paths of professionals in the performing arts,

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<sup>6</sup> *L'Emploi dans les professions culturelles en 2002*, Observatoire de L'Emploi Culturel, No. 36, 2004.

statistics for those under the statute for intermittent performing arts workers, a review of practices in other European countries and recommendations.

In 2002, there were 210,000 people employed in the performing arts in France, 100,000 as regular employees and 110,000 as intermittent workers. The intermittent workers comprised 60,000 artists, 30,000 technicians, 10,000 administrative workers and 10,000 in other jobs. In 2003, 93% of all performing artists were employed under the intermittent statute.

There has been a substantial increase in the number of people working under the intermittent statute, some 2.5 times more than in 1992. Over the same period, the average number of hours worked reduced considerably. For dancers, the average length of contract went from 28 days in 1987 to 7 days in 2000. In 1987 dancers were declared for an average of 95 days against 59 days in 2000. As this shows, many dancers cannot now build up the required number of hours to qualify for unemployment benefit. They have low, irregular earnings and no social protection safety net.

There is a separate system for 'artist-authors', creative artists such as writers, music composers and visual artists who are eligible for royalties. These register with AGEssa or La Maison des Artistes for social security purposes and other tax benefits.

## **2. Establishment/Registration process**

Intermittent performing arts workers do not register as such but are defined by being:

- Performing artists who work on CDD fixed term contracts
- Technicians and manual workers in the performing arts on CDD contracts

that undertake work for a defined category of employers (Ref: notice Assedic DAJ 168-1) and do specific jobs on a list of professional functions, including some administrative jobs.

Those who want to set up a business as a performing arts producer, promoter or tour manager must obtain a licence (*licence d'entrepreneurs de spectacles*), which involves certain professional eligibility criteria, and fulfil the necessary obligations in terms of tax and social security contributions for employees.

Creative artists (e.g. writers, visual artists, music composers) should declare that they are setting up by registering with the Maison des Artistes (visual artists) or AGEssa for other artist-author categories including producer (*metteur en scène*) of a play, musical or choreographic performance.

There is a process of registration for self employed workers which involves approval under the *régime des travailleurs non salariés* and obligatory VAT (TVA) registration, whatever the level of turnover. Self employed people in France are affiliated to one of three professional categories: commercial, artisan (e.g. manual trades) or *profession libérale*. Liberal professions are restricted to certain job categories.

## **3. Tax and social insurance**

Intermittent workers pay higher rates of social security than normal employees including a premium for unemployment insurance. Social security charges are deducted at source while income tax is calculated and payable at a later date. On average the total deductions for tax and social security on the gross salary amount to 50%. There are some reductions in social insurance charges for dancers and musicians.

For artist-authors registered with AGEssa, social security contributions are made to the agency on the basis of income. Part of the contribution is made by employers who deduct at source. Artist-authors on this scheme are covered for health insurance, sickness, maternity and other benefits but there is no cover for unemployment benefit.

#### **4. Social protection schemes**

As employees, intermittent performing arts workers qualify for social protection in the same way as other workers who pay social security contributions. The *CDD d'usage* form of short term contract is used widely in the performing arts. Under this, workers do not receive any compensation for end of contract, holiday pay is organised under the Congés-Spectacles system and there are other reductions in employment protection.

It is in the area of unemployment benefit that specific regulations apply to intermittent performing arts workers. There is recognition of the intermittent nature of the profession and the level of unpaid time required to generate the paid work; basically this translates into a reduction in the total number of hours required to qualify for unemployment benefit, as compared to employees in other professions.

From 2005, intermittent workers qualify for unemployment benefit by working 507 hours in the previous ten months (for technicians) or ten and a half months (for artists). The qualifying period was eleven months in 2004. They are then eligible for unemployment benefit for up to eight months. Periods of training count as work up to certain limits. Unemployment benefits in France are a percentage of the 'reference' salary, i.e. related to the worker's previous earnings rather than a fixed amount. The daily unemployment rate for an intermittent performing arts worker is calculated on the basis of their previous earnings, with a current minimum of 27€ and a maximum of 112€ per day. The rate cannot exceed 75% of the daily 'reference salary' calculated from their previous earnings. The regulations are very detailed and should be consulted for full information.

Workers who do not accumulate the 507 hours are not eligible for unemployment benefit. However, for those who fulfil 507 hours over 12 months, there is a provisional support fund established by the state in mid-2004 which can provide benefits.

Unemployment benefit is paid to those eligible under the same conditions as for other unemployed people in France. They must undertake a job search and prove they are available for and actively seeking work. A specialist branch of the national unemployment agency, the ANPE, advertises jobs in the cultural and performing arts sectors.

#### **5. Special measures for artists**

Training and professional development courses for intermittent performing arts workers are promoted and funded by AFDAS. Employers of intermittent workers pay an obligatory 2% charge into the ADFAS funds under the national policy for continuous professional development of all workers. There are conditions of access, depending on how many days employment has been accumulated and the area of work. Once approved, the worker can attend the training course, either free for an AFDAS approved (*conventionné*) course or by paying all or part of the cost (grants available from AFDAS) for non-approved courses. For training out of the local area, costs of travel and accommodation may be reimbursed.

Performing arts workers receive holiday pay, calculated in proportion to the number of days they have worked over a set 'reference period'. This is allocated by La Caisse des Congés-Spectacle (Paid Holiday Fund) to any artist or technician who has worked in France, with no minimum length of employment for those on CDD contracts. The Congés-Spectacles holiday pay is funded by an employers' charge of 14.45% (2003 rate).

All employees of artistic and cultural structures, whether intermittent performing arts workers or permanent employees, can benefit from the National Fund for Social Activities (*FNAS: Fonds national d'activités sociales*). The FNAS is equivalent to a works council and is shared by all employees of the cultural and artistic sector. Any structure bound by the collective agreement has, since 1994, the obligation to contribute to the financing of the FNAS by paying a subscription (1.25% of the payroll). Its principle is to mutualise these contributions and offer the same services to all. These include subsidised leisure activities, outings, holidays and gift vouchers for cultural goods and services.

Since 1977, 'artist-authors' benefit from a special social security scheme which stipulates: although they are self employed, after one year of activity, they become entitled to social

security benefits under the same conditions as salaried employees. This is not a separate fiscal statute for artists but it does accord special exemptions and dispositions for VAT, business taxes, income tax etc. in addition to the social security benefits. Unemployment insurance is not included.

## 6. Current issues

Many of the current issues have been explored in other sections of this country profile. Few professionals and practitioners in the sector believe that the issue of the regime for intermittent performing arts professionals has been resolved satisfactorily even though the wave of strikes and demonstrations that brought so much disruption in 2003 and 2004 seems to have retreated. The mobilisation of the sector raised debate on intermittent and other forms of precarious and atypical work, created new alliances and encouraged communication between intermittent workers in the cultural and other sectors.

For independent workers in the performing arts in other European countries, the regime which applies to the *intermittents du spectacle vivant* in France may seem a distant dream, compared to the reality in their own countries. In spite of its considerable benefits, the French system has proved to be far from ideal, a fact recognised by many intermittent workers themselves who deplore the process of chasing the requisite number of hours of work. As with all systems, it must be viewed in context. On the whole, artists in France are not accustomed to taking casual and part-time work in other sectors to supplement their income over 'lean' periods and the employment market does not facilitate this. There are many factors, historic and contemporary, which underpin the intermittent workers regime in France. These make it difficult to envisage a move towards the mixed freelance systems and liberalised self employment regimes which exist in other European countries.

## 7. References

Documents and legal texts downloadable from the various authorities, CND and CNT.

Latarjet Commission, *Pour un débat national sur l'avenir du spectacle vivant*, 2004.  
[www.debatpublic.net/2004/06/08/debat-national-sur-lavenir-du-spectacle-vivant/](http://www.debatpublic.net/2004/06/08/debat-national-sur-lavenir-du-spectacle-vivant/)

L'Observatoire de L'Emploi Culturel, *L'emploi dans les professions culturelles en 2002* (d'après l'enquête Emploi de l'Insee), Série: Données de cadrage, No. 36, octobre 2004  
[www.culture.gouv.fr/dep/](http://www.culture.gouv.fr/dep/)

Scarpetta, Guy, *Le grand retour des intermittents du spectacle*, May 2004, Le Monde Diplomatique. [www.monde-diplomatique.fr/imprimer/11184/b763c3719a](http://www.monde-diplomatique.fr/imprimer/11184/b763c3719a)

## 8. Resources

### ASSEDIC

Unemployment insurance authority for workers including *intermittents du spectacle*. Calculate and pay unemployment benefits  
[www.assedic.fr](http://www.assedic.fr)

### ANPE – Culture Spectacle

Specialist site of the ANPE, National Employment Agency with information for employers and employees in the culture and performing arts sector.  
[www.culture-spectacle.anpe.fr](http://www.culture-spectacle.anpe.fr)

### AFDAS

Insurance fund for training and professional development in the cultural sector, including management and distribution of funds for training of intermittent performing arts workers. Site also has a bulletin board Forum for intermittents.  
[www.afdas.com](http://www.afdas.com)

### CONGES-SPECTACLES

Authority responsible for collecting employers' contributions and paying holiday pay to intermittent performing arts workers.

[www.conges-spectacles.org](http://www.conges-spectacles.org)

FNAS – Fonds National d’Activités Sociales des Entreprises Artistiques et Culturelles  
[www.fnas.info/](http://www.fnas.info/)

AGESSA

Management of social security contributions for artist-authors (writers, music composers, photographers & film makers)

[www.agessa.org](http://www.agessa.org)

LA MAISON DES ARTISTES

Management of social security contributions and regime for visual artists.

[www.lamaisondesartistes.fr](http://www.lamaisondesartistes.fr)

LE MINISTERE DE LA CULTURE

‘Intermittence’ information under ‘dossiers thématiques’; how to apply for a licence as a producer/promoter under ‘infos pratiques’ - ‘fiches pratiques’.

[www.culture.gouv.fr](http://www.culture.gouv.fr)

CND – Centre National de la Danse

National resource centre providing information for dance professionals. Guide to setting up a company and the intermittent workers’ regulations under ‘Information Professionnelle’

[www.cnd.fr](http://www.cnd.fr)

CNT – Centre National du Théâtre

National resource centre for theatre professionals. Guide to *intermittent* regulations, contracts etc. under ‘Informations Juridiques’. Some texts are available in English.

[www.cnt.asso.fr](http://www.cnt.asso.fr)

DEBAT NATIONAL SUR L’AVENIR DU SPECTACLE VIVANT

National debate on the future of the performing arts. Latarjet Commission report.

[www.debatpublic.net/2004/06/08/debat-national-sur-lavenir-du-spectacle-vivant/](http://www.debatpublic.net/2004/06/08/debat-national-sur-lavenir-du-spectacle-vivant/)

L’ACCEUIL DES ARTISTES ETRANGERS EN FRANCE – Artists from Abroad

Employment regulations, tax, social security etc. for artists from abroad working in France. Information for artists with self employed status in own country. Most texts in French.

[www.artistes-etrangers.com](http://www.artistes-etrangers.com)

COORDINATION DES INTERMITTENTS ET PRECAIRES D’ILE DE FRANCE

Lobby group active in defending the situation of intermittent workers.

[www.cip-idf.org](http://www.cip-idf.org)

## 6.5

## HUNGARY

### 1. Overview

In Hungary an individual must set up a legal entity in order to be able to issue invoices and do business. A ‘natural person’ is not authorised to do so, unless registered as a sole trader. The business company structure used by the majority of artists and cultural operators in the performing arts is called a ‘*betéti társaság*’ or Bt. This limited partnership company is simple and cost effective to set up and run. It brings additional social benefits for the signatories who are often family members.

It is estimated that around 80% of actors are now self employed, generally through Bt companies. The system is also commonly used by dancers, musicians, arts organisers, technicians, designers and other cultural operators working for a variety of clients. It is also used by employees receiving a regular wage who do occasional freelance work.

It is common practice in many employment sectors in Hungary for people to have two income streams: to earn a minimum wage as an employee and do additional work on a self employed basis, often for the same employer although under a different job description, through one's own Bt company. The minimum wage takes care of the basic level of social insurance cover while the freelance earnings bring the income up to a better level. Employers paying the minimum wage make a low contribution for their percentage of social insurance, avoiding the charges on higher salaries which are seen as excessive. Such practices, however widespread, are not legal and a new employment law is in preparation to ban them and there are likely to be changes in the near future.

## **2. Establishment/Registration process**

You must tell the tax and social insurance authorities you are self employed and establish yourself as a company. A Bt must have at least two signatories, one 'internal' and one 'external'. An individual who want to do freelance work in the cultural sector would normally set up a Bt with one or more co-signatories being family members, whether for self employment or to carry out an additional occupation and earn extra income.

It is also possible to register as self employed (sole trader) under the normal statute. However, this is seen as more complicated, more expensive and adapted for higher paid self employed people with regular work and paying higher taxes.

VAT registration is obligatory. Individual tax exemptions are granted, for those with an annual turnover under four million HUF. The general VAT rate is 25%. Cultural activities are on a reduced rate of 15%, specifically 'performing artists' activities' and 'artistic and literary creations'.

## **3. Tax and social insurance**

A significant innovation in the fiscal system has radically simplified the administration and taxation of small enterprises (called EVA: simplified enterprise tax). This is beneficial for many artists and self-employed cultural operators.

Under EVA, small businesses such as Bts are not required to record their expenses but are taxed a flat rate of 15%. This compares favourably with the general income tax rate of 25% and eliminates the need for keeping receipts and accounting for deductible professional expenses. Since the introduction of EVA the amount of tax collected by the authorities has increased.

For VAT registered businesses, there is a special arrangement for businesses submitting their accounts through the EVA system; those who charge VAT are not able to reclaim VAT on their expenditure.

## **4. Social protection schemes**

Basic healthcare costs and maternity allowance are covered by the minimum social insurance payments.

Most independents in the cultural sector pay into a private pension fund to top up the state pension which was described by one cultural operator as "symbolic".

Independents are not able to claim unemployment benefit. Sickness benefit may be covered by paying into a private insurance policy.

## **5. Special measures for artists**

There are some provisions in the pensions system to permit performers to retire early, e.g. dancers and some other performing artists under certain circumstances.

There is a special tax measure to assist arts organisations in Hungary. When taxpayers submit their annual tax return, they can allocate 1% of their income tax to a non-profit company of their choice. The options include charities and some cultural organisations. Since the launch of this measure seven years ago, about 10% of the income goes to cultural organisations, a percentage which has disappointed many in the cultural sector.

## **6. Current issues**

Liberalisation of the economy and privatisation has affected the cultural sector with a strong move towards self employment through small Bt companies. Avoiding high social security costs is behind some of the increase in self employment (charges are approximately 13.5% for employers' and 32% for employees).

In many national cultural institutions a two-tier salary system operates with some artists on full time contracts, at a low salary (usually the legally established minimum monthly wage, currently HUF 50,000), and other artists self-employed and able to generate higher earnings in a variety of ways. New laws on self employment for artists have been drafted.

## **7. Resources**

APEH – Tax and Financial Control Administration  
Collection of income tax, VAT and social insurance contributions.  
[www.apeh.hu/](http://www.apeh.hu/)

ASSOCIATION OF THE ARTS UNIONS: Bureau for the Protection of Performers' Rights  
[www.eji.hu](http://www.eji.hu)

HUNGARIAN THEATRE WORKERS' UNION - MASZK  
[www.maszk.szhiniaz.hu](http://www.maszk.szhiniaz.hu)

## **6.6 I RELAND**

### **1. Overview**

Independent workers in the contemporary performing arts in Ireland are officially described as *self employed* and the term *freelance* is also widely used in the profession.

The Eurostat statistics for cultural employment in 2002 found that 28% of cultural workers in Ireland were either self employed or employers. This was more than double the percentage in the total working population.

Anecdotal evidence suggests that the increase in the number of freelance operatives in Ireland over the past five years, particularly in the areas of project management and production in the performing arts, may be due in part to the lack of career structures.

Many people in the cultural sector who are registered as self-employed also undertake work as an employee on an occasional or regular basis. The tax system allows people to interchange employment statutes depending on the nature of the work. A survey of artists (covering all arts disciplines) undertaken for a study<sup>7</sup> for The Arts Council/An Chomhairle Ealaíon in 2000 found that a quarter of all those registered self-employed also took on work as employees. Information specific to performing arts practitioners should be available once the research outlined below is completed.

<sup>7</sup> Annabel Jackson Associates, *Research into Support for the Individual Artist*

In 2004 Theatre Forum, which represents performing arts venues, companies and festivals in Ireland, published a report, *Economic Impact of the Professional Performing Arts in Ireland*, which estimates that 5,000 people work in the performing arts in Ireland (2003). A survey of their members found that 45% of workers were on contract (i.e. self employed). Among salaried employees, some 66% were part-time, compared to 20% part-time employment in the general population.

Much of the employment protection legislation in Ireland applies to employees only and the tax and social insurance system treats you very differently depending on whether you are employed or self employed. There is a reduced level of social protection for self employed workers and no access to unemployment benefit.

Ireland has a unique tax scheme for artists, the Artists Exemption, which allows creative artists to claim tax exemption on earnings from the sale of their works, under certain circumstances. It also offers tax-free annuities, called Cnuas, to artists who are members of the Aosdána, an elected body set up to honour the work of artists whose work has made a special contribution to the arts in Ireland. These schemes are directed to creative rather than interpretive artists, benefiting mainly writers, visual artists and composers, a situation which is currently contested by artists in the performing arts field.

## **2. Establishment/Registration process**

In order to register as self employed, you must advise your district revenue office when you start in business, using the forms on the Revenue Commissioner's website.

You also register for social insurance (PRSI) with the Department of Social and Family Affairs using the forms on their website.

The standard rate of VAT is 21%. You must register for VAT if you are a taxable person and your annual turnover (i.e. the amount of your receipts excluding VAT) exceeds or is likely to exceed the following annual limits (2004 figures):

- €51,000 in respect of the supply of goods
- €25,500 in respect of the supply of services

## **3. Tax and social insurance**

A Pay and File self-assessment tax system operates where self employed workers must submit an annual tax return to the Revenue Commissioners with details of their income and expenses. 'Revenue expenditure' describes the business expenses which may be deducted from gross profits and excludes personal expenses or business entertainment expenses. Capital allowances are made against equipment purchased for the business.

Social insurance payments (PRSI) are registered with the Department of Social and Family Affairs and collected by Revenue Commissioners. In most cases, self-employed people with earnings over €3,174 per annum are liable for Class S PRSI.

PRSI is calculated on all 'reckonable income' - this includes earned and unearned income, i.e. not just the profits from self-employed work. PRSI is levied at 3% of reckonable income or €253, whichever is the greater. In addition, if annual reckonable income exceeds €18,512, a 2% Health Contribution is payable on the whole of the income. Artists who have been granted an Artists Income Tax Exemption by the Inspector of Taxes may be liable to pay Class S PRSI Contributions.

## **4. Social protection schemes**

The Pay Related Social Insurance (PRSI) Class S scheme covers self employed people for pensions and maternity benefit and some other social insurance schemes, although often at a lower level than for employees.

Unemployment Benefit is not available to self employed people paying the Class S PRSI. However, they may be entitled to Unemployment Assistance, a means-tested benefit, depending on their income from the business. To qualify for Unemployment Assistance, you must at all times be capable of work, available for full-time work and genuinely seeking work. Independents in the contemporary performing arts who register for Unemployment Assistance may be obliged to seek work outside their creative field.

Self employed people are not covered for sickness benefits (Disability Benefit). They are entitled to Maternity Benefit, providing they qualify with sufficient payments into the PRSI scheme. A higher qualifying number of payments is required than for employees.

The health service in Ireland has moved towards a semi-private system and most workers, both employees and self employed, now subscribe to private health insurance, either through the VHI scheme or one of the many private companies. Free health care is available through a Medical Card to people solely dependent on social welfare payments.

## **5. Special measures for artists**

There is no separate statute for artists in Ireland. However, there are two unique schemes which offer tax exemption and other benefits for creative artists who qualify.

### *5.1 Artists Exemption*

Income earned by artists, writers, composers and sculptors from the sale of their works is exempt from tax in Ireland in certain circumstances.

The exemption was introduced in the 1969 Finance Act. Under Section 195, Taxes Consolidation Act, 1997 the Revenue Commissioners are empowered to make a determination that certain artistic works are "original and creative works generally recognised as having cultural or artistic merit". Earnings derived from such works are exempt from income tax from the year in which the claim is made.

Guidelines have been drawn up by the Arts Council and the Minister for Arts, Heritage, Gaeltacht and the Islands, with the consent of the Minister for Finance, for determining for the purposes of Section 195 whether a work meets these criteria. The Revenue Commissioners may seek expert advice to decide on entitlement to Artists Exemption.

Artists must submit a claim for the Artists Exemption (to qualify you must be resident, or ordinarily resident and domiciled, in Ireland). Writers claiming exemption for a play must submit the work and a production contract. Once the application has been accepted, income (including Arts Council bursaries, Cnuas payments, royalties and payments from sale of the work abroad) related to this work is exempt from tax.

### *5.2 Cnuas and Aosdána*

The Arts Council established Aosdána in 1981 to honour those artists whose work has made an outstanding contribution to the arts in Ireland, and to encourage and assist members in devoting their energies fully to their art.

Membership of Aosdána, which is by peer nomination and election, is limited to 200 living artists who have produced a distinguished body of work. Members must have been born in Ireland or have been resident there for five years, and must have produced a body of work that is original and creative. The current membership of Aosdána is creative artists, mainly visual artists and writers with some music composers.

Members of Aosdána who reside in Ireland are eligible to receive from the Arts Council a Cnuas - an annuity for a term of five years - to assist them in concentrating their time and energies in the full-time pursuit of their art. The value of the Cnuas (2004) is €12,179 and it is tax free under the Artists Exemption scheme.

A member may apply for a Cnuas at any time, with an outline of the general nature of creative work to be engaged in during the term, and with confirmation that the member's earnings do not exceed one and a half times the value of the Cnuas. The Cnuas may be

renewed for subsequent terms of five years under the same conditions, after demonstrating that a work of merit has been produced during the previous term.

An artists' pension scheme has been established for members. All members of Aosdána are eligible to join the scheme and the Arts Council pays half of the premium. In the case of Cnuas recipients, the member's contribution will be deducted from the Cnuas.

## **6. Current issues**

The Arts Council/An Chomhairle Ealaón is currently commissioning research into the socio-economic status of performing arts practitioners in Ireland. This will establish the socio-economic conditions of practitioners and determine effective interventions for their improvement in order to accord professional performing arts practitioners the basic conditions and status they deserve as workers and contributors to society. The need for the research was identified by practitioners who reported some difficulties in getting recognition from the social welfare and revenue authorities of the unique work patterns and practice of their professional life. The research is due to report in spring 2005.

The issue of eligibility for the Artists Exemption, membership of the Aosdána and access to Cnuas annuity is reported to be contentious among practitioners in the performing arts. To date, both schemes have benefited the creative rather than interpretive arts. Arguments have been put forward on behalf of choreographers and these may soon be added to the Aosdána membership list. Theatre artists such as directors and designers have also raised the issue of widening the definition of artist to broaden the schemes.

Another issue which is raised on a regular basis is the allocation of the Artists Exemption which reportedly gives the same tax exemptions to international artists with very high earnings and emerging artists with a fraction of their income.

Many artists and arts organisations have taken up training and employment schemes run by FÁS, Ireland's training and employment authority. These have offered unemployed artists work on community employment schemes (often arts-related), time to engage with their own creative work and a low remuneration, roughly equivalent to unemployment assistance. The current schemes are mostly for full-time work and open to those who have been on unemployment benefits for at least a year. For some schemes, a qualifying age of 35+ applies. FÁS schemes have effectively subsidised artists incomes and provided wages grants for arts employers for many years. However, the overall benefit of these schemes is a subject of controversy and debate in the sector.

## **7. References**

Annabel Jackson Associates, 2000, *Research into Support for the Individual Artist*, (The Arts Council/An Chomhairle Ealaón & The Arts Council of Northern Ireland).

[www.artscouncil.ie/Publications/Reseach\\_into\\_Support\\_for\\_the\\_Individual\\_Artist.pdf](http://www.artscouncil.ie/Publications/Reseach_into_Support_for_the_Individual_Artist.pdf)

Theatre Forum, 2004, *Economic Impact of the Professional Performing Arts in Ireland*, (Theatre Forum) [www.theatreforumireland.com](http://www.theatreforumireland.com)

Hibernian Consulting, 2005, *Study of the Socio-economic Conditions of Theatre Practitioners in Ireland* (The Arts Council/An Chomhairle Ealaón)

[www.artscouncil.ie/Publications/theatre\\_socio\\_study.pdf](http://www.artscouncil.ie/Publications/theatre_socio_study.pdf)

## **8. Resources**

THE IRISH REVENUE COMMISSIONERS

Income tax & VAT collection, registration of businesses and self employed people, Artists Exemption leaflet and application documents.

[www.revenue.ie/](http://www.revenue.ie/)

DEPARTMENT OF SOCIAL AND FAMILY AFFAIRS

[www.welfare.ie/](http://www.welfare.ie/)

VHI – Healthcare insurance  
[www.vhi.ie](http://www.vhi.ie)

FÁS – Ireland's National Training and Employment Authority  
[www.fas.ie/](http://www.fas.ie/)

THE ARTS COUNCIL/ AN CHOMHAIRLE EALAION  
[www.artscouncil.ie](http://www.artscouncil.ie)

AOSDÁNA / An affiliation of creative artists in Ireland  
<http://aosdana.artscouncil.ie/>

DANCE IRELAND  
[www.danceireland.ie/](http://www.danceireland.ie/)

THEATRE FORUM  
Membership of theatre companies and some freelance arts consultants  
[www.theatreforumireland.com](http://www.theatreforumireland.com)

IRISH THEATRE INSTITUTE  
Promotes Irish theatre in an international context, provides information for and about the Irish theatre sector.  
[www.irishtheatreinstitute.com](http://www.irishtheatreinstitute.com)

IRISH EQUITY  
Irish EQUITY represents Actors, Theatre Directors, Stage and Set Designers in Ireland.  
[www.irishequity.ie](http://www.irishequity.ie)

## 6.7

## NETHERLANDS

### 1. Overview

In the Netherlands, the tax system makes a basic distinction between employee and entrepreneur. Within the cultural sector, there is a policy emphasis on 'cultural entrepreneurship'. Self employed people (*zelfstandigen*) in the performing arts are considered to be entrepreneurs, setting up either as a one person business (*eenmanszaak* or *kleine zelfstandigen*) or under another form (company, partnership, foundation etc). The term *freelancer* is used to describe people with mixed careers, doing some work as a waged employee and some in a self employed capacity (in the 'profit system'). Different tax and social insurance systems apply to each employment statute.

Artists in the Netherlands can access a unique system called the WIK (WWIK from January 2005). Under the Income Provision for Artists Act, established in 1999, an artist can receive financial assistance for a maximum of 48 months within a period of ten years. Most of the artists who take up the WIK are visual artists but around 30% are in the performing arts.

The Eurostat statistics for cultural employment in 2002 found 32% of cultural workers in the Netherlands were either self employed or employers. This was one of the highest rates in the 25 countries surveyed and three times the rate in the total working population.

There are a number of interest groups representing self employed people without employees (sole traders). These are known as *zelfstandigen zonder personeel* in Dutch and commonly referred to as ZZPs. Some trades unions have sections for ZZPs and actively recruit such members.

Independents in the performing arts in the Netherlands work in a system characterised until recently by relatively high levels of social protection for employees and reduced levels of social protection for self employed people who must take out private insurance to cover many risks. Self employment and freelance work are increasing in the cultural sector and there are strict controls on who benefits from the tax advantages of self employed status. There is a rapid process of change at present in social security and welfare systems with a move to means-tested benefits, self-reliance and an undermining of solidarity practices in the cultural and other sectors.

## **2. Establishment/Registration process**

In order to set up as a self employed entrepreneur, you must convince the tax service (*Belastingdienst*) that you meet the criteria. As an entrepreneur you have a number of tax advantages (particularly the self-employment tax deduction).

The tax service investigates to make sure you are a real entrepreneur. The most important criteria are:

- 1) you aim to make a profit from your profession
- 2) you can reasonably be certain of achieving that goal within a few years
- 3) you accept the business risk
- 4) you sell yourself via publicity and promotional material
- 5) you have at least three clients
- 6) you work at least 1225 hours per year on your enterprise

The tax service generally prefers you to have a separate place of work, therefore rent for an office or studio space must be costed into business expenses.

Entrepreneurs are given a certain period by the tax authorities to become a profit-making enterprise, varying from one profession to another. Visual artists can take up to 15 years but the period is shorter for performing artists.

Self employed workers in the performing arts who wish to apply for subsidies to develop their own projects must set up a Stichting (non-profit Foundation). This may be created in parallel to the self employed business to separate non-profit and profit-making elements.

When you set up a business, you should also register with the Chamber of Commerce and, as a small turnover self employed person, you can choose whether to register for VAT (BTW) or not. If you have a certain level of business costs it is advantageous to register and reclaim VAT on purchases. The standard rate of VAT is 19%.

## **3. Tax and social insurance**

Freelancers must decide for each assignment whether work is done under the wage tax system (employer/client withholds tax, no deduction of expenses is allowed against tax) or the profit system. Under the latter, income is taxed as "returns from other activities" and the freelancer must keep accounts and may deduct most of the expenses to determine the operating profits on which income tax is payable.

Entrepreneurs pay income tax on their operating profits, after deduction of professional expenses. If registered, they must also account for VAT (BTW).

Self employed people must take out their own health insurance, pensions and can choose to take out extra insurance to cover them for periods of illness or disability. The cost of such insurance can be high relative to the earnings of self employed workers in the performing arts. Entrepreneurs with a low annual income are required to be insured by Ziekenfonds (national health insurance).

## **4. Social protection schemes**

The general social protection system applies as a rule to all residents of the Netherlands and is extended to insured self employed people for maternity benefits, old age pension and other family benefits. Self employed people are not covered for sickness or unemployment benefits but there are specific guidelines for freelancers who may be eligible for sickness benefits (ZW benefits). The Beroep Kunstenaar website has a useful comparative table of social insurance schemes for employees and self employed.

Unemployment benefit for employees who lose their jobs is normally 70% of their last salary, payable for up to 5 years depending on their employment record. Thus, self employed people who cannot find work are in a precarious position compared to the general working population. However, the social security benefits system is undergoing major changes at present with reductions in benefits and welfare provision for employees. The rules for the qualifying work period for artists are changing and artists on unemployment benefit may find they receive 70% of the minimum wage only.

An artist or cultural operator who applies for unemployment assistance benefits must undergo a job search. They may be required to take a job outside their creative field.

## **5. Special measures for artists**

The Wet Inkomensvoorziening Kunstenaars (WIK) was set up by an Act of Parliament in 1999. It is a means-tested income support scheme open to artists from all disciplines who are working professionally. An occupational assessment to determine whether an artist qualifies for the scheme is made by an independent body, Kunstenaars&CO.

An artist submits an application for the WIK and must prove entitlement by demonstrating that their income and capital (and that of any partner) are below the social minimum. In addition, they must show that their earnings from their artistic work in the previous year were at least € 1,089. Art academy graduates do not have to meet these conditions if they apply within a year of graduation.

Once accepted, an artist can receive benefits for a total of 48 months, over a period of 10 years, equivalent to 70% of social security payments. Payments are made by the social services (Sociale Dienst) through the municipality. Up to certain limits (125% of social security payments), artists can earn extra income but if this exceeds the limit, they must reimburse a proportion of the WIK benefit. The artist can opt in and out of the scheme, using the benefit to compensate for the intermittent nature of their work and earnings.

The WIK participant can apply for reimbursement of costs for building up a professional practice. At the moment the reimbursement of costs for visual artists are double those for performing artists. All WIK participants can apply for extra support based on a plan of work, to follow courses in setting up a professional practice, being coached or to participate in projects set up by Kunstenaars&CO to develop skills and competencies, such as arts education work in schools. This supporting policy scheme comes under the responsibility of the Department of Culture and amounts to some 3 million Euros a year.

In 2003, the number of artists taking up the WIK was 3,600. The amount of income benefits for these artists is approximately 30 million Euros. The majority of artists taking up the WIK are under 40 years old.

After a positive evaluation of the scheme, proposals have been sent to Parliament for a new law, named WWIK (Wet Werk en Inkomen Kunstenaars): Work and Income for Artists. If the proposals are accepted, the law will be in effect in January 2005.

Major changes proposed are that the new law states an explicit goal: on leaving the scheme the artist should be financially independent from income schemes, usually by earning an income from different sources (also outside the arts sector). This is called a mixed professional practice (*gemengde beroepspraktijk*). In reality a majority of all artists already have a mixed professional practice, since only 30% of performing artists (and 10% of visual artists) earn enough by making art to make a living.

Another change in the new law is a progressive income check. Every year a participant should earn more income to stay within the scheme. This requirement is intended to help them on their way to income independence. The reimbursement of professional setting up costs will be levelled to equal levels for visual and performing artists.

## **6. Current issues**

The changes in the social security system are having a major impact in the cultural sector, both for employees and self employed people. There is a move towards a means-tested system with minimal benefits, a strong emphasis on self reliance and a reduction in the responsibility of the state. As one commentator said, the safety net is being reduced to a small trampoline. The main changes due to take effect in 2005 include:

*Changes in the qualifying period and rules for artists applying for unemployment benefit.*  
The current requirement is to have worked 16 weeks in the previous 39 weeks. This will change to 26 weeks work in the previous 39. The original proposal was for 39 weeks work out of previous 52 but there was a strong lobby from the cultural sector who calculated that this would exclude 81% of artists currently on unemployment benefit. To qualify for the 70% of salary benefit, an artist must have worked for four years of the previous five. Otherwise benefits are reduced substantially to a proportion of the minimum wage.

*Changes in employers' social insurance charges*

Employers used to pay a premium of 2% for unemployment benefit as part of their social insurance charges, this has been increased in 2004 to 5.7% for employers in the cultural sector, out of a principle that they should pay for the higher level of unemployment benefit claims in the sector. There is a move to further penalise the employers for the intermittent nature of work patterns in the cultural sector and increase these charges. Current proposals are for an increase to 9.9% or for different rates to apply to different contracts. Short contracts, which generate more unemployment benefit claims, might be on 12 or 13% premium. Such a move would substantially increase the costs of employing workers in the cultural sector, force a restructuring and loss of many short term contracts.

Although these measures and other proposals mainly target employees, they will have a major impact on independents in the contemporary performing arts because of the high proportion of 'freelancers' who mix self employed and waged assignments.

The proposed changes in the WWIK scheme also reflect a stronger emphasis on self reliance and demonstrating proof of entrepreneurial success. If approved, it is likely that many artists will find it increasingly difficult to maintain eligibility to remain on the scheme.

## **7. References**

*WWIK: Work and Income Provision for Artists Act*

Factsheet in English

[http://cms.beroepkunstenaar.nl/content/Infoblad53\\_WWIK\\_EN.pdf](http://cms.beroepkunstenaar.nl/content/Infoblad53_WWIK_EN.pdf)

## **8. Resources**

BELASTINGDIENST

Tax service

[www.belastingdienst.nl/](http://www.belastingdienst.nl/)

KUNSTENAARS&CO

Information on WWIK income support scheme, coaching, training, advice and other projects to support professional artists.

[www.kunstenaarsenco.nl/](http://www.kunstenaarsenco.nl/)

BEROEP KUNSTENAAR – Profession Artist

Information sheets on tax and social security systems for artists, setting up as a self employed entrepreneur, WIK and other aspects of working as a professional artist.

[www.beroepkunstenaar.nl](http://www.beroepkunstenaar.nl)

FEDERATIE VAN KUNSTENAARS VERENIGINGEN

Federation of artists associations in the Netherlands, lobbying and advisory body.

[www.federatievkunstenaarsverenigingen.nl](http://www.federatievkunstenaarsverenigingen.nl)

TRANSMISSION

Project developing third sector projects with artists and extending employability and skills.

[www.transmissioninfo.nl](http://www.transmissioninfo.nl)

VNT – Vereniging van Nederlandse Theatergezelschappen en -producenten

Association of Dutch Theatre Companies, promotes the interests of the employers and lobbies for the sector.

[www.vnt.nl](http://www.vnt.nl)

FNV-KIEM – Union for the arts, information and media

Trades union for employees, freelancers, self employed and retired people in the arts,

information and media sectors. 45,000 members with around 8,000 in the arts section.

<http://www.fnv-kiem.nl/>

## 6.8

## PORTUGAL

### 1. Overview

In Portugal, a self employed worker is called a *trabalhador independente*. Independents are also described by the green receipts system used for payments: *profissional liberal – recibos verdes*.

There is a legal distinction between self-directed, independent work (*por conta própria*) and work which is *subordinado* (*por conta de outrem*), i.e. where the employee is in a position of subordination to another's authority. Another distinction is between 'contract for services' and 'contract of employment'. These factors determine whether full or partial labour legislation (employment protection law) and social protection apply to a worker.

*Contratação simulada* or 'ostensible self employment' is a factor in employment practice in Portugal. This describes situations where a contract for services has been agreed when, in reality, the work performed meets the conditions necessary for a contract for employment. Using a contract for services is a way of avoiding labour legislation (holiday pay, protection against dismissal etc) and reducing social insurance costs for employers. Research into precarious and atypical employment in Europe makes particular reference to ostensible or false self employment in Portugal. Eurostat employment statistics note that falsely self employed workers represent a high percentage of the economically active population. The small IETM survey suggests that the phenomenon may also be found in the cultural sector.

In the contemporary performing arts in Portugal, it seems that working as an independent is relatively common and administrative systems are fairly straightforward. Employers often prefer to employ independents to save on employment costs and legal obligations, and much cultural work is done on a project or contract basis. However, the level of social protection for independents is lower than for employees and earnings are not necessarily higher. When independents have similar earnings to employees, they cannot afford extra insurance and private pension payments to equalise their level of social protection.

### 2. Establishment/Registration process

When you set up, you must tell the tax and social insurance authorities that you are self employed. Independents register with the social security system under the Regime Geral de Segurança Social dos Trabalhadores Independentes. You can choose to set up a

business or work as a sole trader. One IETM respondent noted that it is difficult to determine the economic activity/occupational code for some workers in the arts: it is easy to register yourself as an artist but there is no code for producers or technicians.

VAT (IVA) registration is obligatory for independent businesses. If you are a sole trader, it is obligatory in some areas of work if your earnings are over a certain level. Performing artists are exempt from VAT.

Independent workers generally use '*Recibos Verdes*' or 'Green Receipts'. This is a system of official receipts which the worker gives to an employer on payment. They are used when declaring taxes.

For independents that set up a business, enterprise support measures may be available from the unemployment fund under certain conditions.

### **3. Tax and social insurance**

Social insurance contributions are payable on self employed income. There are two levels of payments: a minimum compulsory level with contributions of 25.4% that covers maternity, invalidity, old age pension and some other benefits; and a 32% voluntary level contribution with additional benefits (sickness and some other family benefits). There is a calculation to determine the base on which these contributions are levied with reference to the minimum wage. Self employed people must therefore pay a certain level of social insurance, even if their income is low. Social insurance contributions are due after the 12<sup>th</sup> month of self employed activity, allowing a year to build up the business.

For business companies, all professional expenses are tax deductible. For independent workers on the green receipts, a percentage deduction system is operated. One respondent stated that around 10 – 15% of earnings were tax-deductible as professional expenses, up to a certain limit. While simplifying bookkeeping for independents, the percentage system has its disadvantages for those whose work generates a higher level of expenses and who cannot offset these against tax.

### **4. Social protection schemes**

No unemployment protection system exists for the self employed. As in several other countries, there is some scope for claiming benefits if an entrepreneur closes the business and seeks other work in the employment market.

Several respondents to the IETM survey commented that the level of healthcare cover they had as a self employed person was inadequate and at a lower level than for employees. Insured independents have access to the Portuguese public health system. Additional payments may be made to buy a better level of cover with private health insurance.

Sickness benefit is paid to self employed people who contribute the higher voluntary level of social insurance. It is payable after 30 days sickness, compared to after 3 days for employees and for up to a year, compared to three years for employees. Compensation for hospitalisation is at the same level for both types of worker. Sickness benefit is paid proportionate to salary, 60% for the first period, increasing for longer periods of illness.

Experienced cultural managers and performing arts practitioners in Portugal observe that most artists live in socially unacceptable conditions and have no social security, unemployment benefit or pension.

### **5. Special measures for artists**

There is no special employment statute for artists although, as reported, performing artists who work as independents are exempt from VAT.

A law applies to performing arts professionals granting a social security benefit for 'professional conversion' or change of profession. Qualifying conditions include having worked professionally for at least ten years and being on an income below the minimum national salary (Profissionais de Espectáculos: Decreto-Lei nº 407/82, de 27 de Setembro).

## 6. Current issues

Several independents commented on the inequalities of employment practice in Portugal. Employers in the cultural sector at all levels (from national institutions to small companies) appear to benefit from the regular input of freelance workers, often on long or renewed contracts. Independents are concerned about their low level of social and employment protection and the common practice of offering freelance contracts of service with none of the benefits given to employees. It seems that organisations used to be able to employ independent workers for up to three years but this was recently increased to six years.

## 7. Resources

DIRECÇÃO-GERAL DOS IMPOSTOS  
[www.dgci.min-financas.pt](http://www.dgci.min-financas.pt)

SEGURANÇA SOCIAL  
[www.seg-social.pt/](http://www.seg-social.pt/)

MINISTRY OF CULTURE  
[www.min-cultura.pt](http://www.min-cultura.pt)

INSTITUTO DAS ARTES  
[www.iartes.pt](http://www.iartes.pt)

## 6.9

## UNITED KINGDOM

### 1. Overview

Officially described as *self employed*, the term *freelance* is also widely used within the profession. There is a high level of self employment in the UK with around 2.7 million workers (13%)<sup>8</sup>. Self employment is considered as an 'atypical' form of employment and workers do not qualify for many statutory employment protection rights and social protection schemes accorded to employees. Self employed workers in the UK benefit from certain tax advantages. Compared to many other countries, they pay relatively low rates of social insurance but the level of cover is not as extensive.

Self employment is widespread in the performing arts in the UK, and in the cultural sector in general. Actors, dancers, artists, designers, technicians, directors, producers and other stage professionals are often self employed; indeed it is the norm in many professions. Self employment is common within the independent theatre and dance sectors. It is the accepted way to start and develop one's career for many performing arts professions. The management, promotion and administration of cultural events and projects also draws heavily on the services of freelance arts consultants, a profession covering a broad range of activity which has seen substantial increases in the last 10-15 years.

There have been several major research reports into the creative industries with statistics on the levels of self-employment and examination of issues of particular concern in the cultural labour market.

<sup>8</sup> EMIRE statistics (European Employment and Industrial Relations Glossaries) from the European Foundation for the Improvement of Living and Working Conditions

In *A Balancing Act: artists' labour markets and the tax and benefit systems*<sup>9</sup> in 2002, researchers from the University of Warwick present a quantitative analysis of artists' labour markets. In 2001, among those with cultural occupations, almost 40% were self employed. This compares with just 12% self employed among those with non-cultural occupations. Employment status varies considerably across different professions in the cultural sector and is particularly high in the performing arts. The study found 60% self employment in the sector defined as "actors, entertainers and directors".

The *Creative Industries Mapping Document 2001*<sup>10</sup> noted the difficulty of measuring numbers of self employed within the profession since the Office of National Statistics' Annual Employment Survey does not include the self employed. This DCMS study used the Labour Force Survey (Summer 2000) which provides a sample survey of employment in creative occupations. Among "actors, entertainers, stage managers, producers and directors", 57% were self employed and 43% employees, out of a total of 74,300 people.

The *Theatre Technicians Occupational Map*<sup>11</sup> made an in-depth analysis of the work patterns of technicians in British theatre in 1999. Data from the 1991 Census showed 31,589 people employed in technical occupations in arts and entertainment with approximately 50% self employed or freelance. Technical occupations covers "costume makers, stage managers, lighting designers, recording engineers etc.".

Another feature of UK independents' working patterns is the frequency of a second job or complementary employment. The tax and social insurance frameworks make it relatively easy to mix self employment with occasional or regular periods of salaried employment. A 1999 survey of members of British Actors' Equity Association, the main trade union for actors, dancers and many stage management personnel, found the majority of members (60%) take additional employment in sectors outside their professional performing arts activity. The University of Warwick study also reported that the self employed in the cultural sector were twice as likely as self employed in other sectors to have a second job.

## **2. Establishment/Registration process**

Registering as self employed is generally a straightforward process. You must notify the Inland Revenue within three months of the end of your first month of self employed work. There are various criteria for determining whether you are self employed. Broadly, you are self employed if you are in business on your own account and bear the responsibility for the success or failure of that business. The Inland Revenue then issues you with a unique tax reference number.

As a self employed person you must keep financial records and pay your own tax and National Insurance (social insurance). You are not obliged to set up a registered company or a separate bank account. You are obliged to register with HM Customs and Excise for VAT only when your annual income exceeds the VAT threshold (currently £58,000 / €87,000), a level which excludes most independents in the contemporary performing arts. If you also work as an employee, whether in the same or a different professional field, the employer will deduct tax and National Insurance from your wages (PAYE system).

## **3. Tax and social insurance**

Self employed people are responsible for their tax and National Insurance payments. You must keep records of income and expenditure and supply details for the annual tax return.

Self employed people complete an annual tax return with details of business income and expenditure. Deductible expenses cover a wide range of day to day work-related running costs with allowances for equipment costs. Income tax is calculated on the final profits.

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<sup>9</sup> University of Warwick for the Arts Council of England, 2002

<sup>10</sup> Department for Culture Media and Sport, 2001

<sup>11</sup> Miller West for Metier, 1999

Self employed people pay tax in advance as an estimate of profits based on the previous year and any correction (charge or rebate) is made against results for the actual period.

Self employed workers pay basic (Class 2) National Insurance throughout the year at £2 / €3 per week. Additional (Class 4) National Insurance payments are due if you make more than a certain level of profit. The current rate is 8% on profits between a lower and upper level as calculated from the tax return.

#### **4. Social protection schemes**

UK case law makes a distinction between people under a contract for services (self employed workers) and those under a contract of service (employees). Employees enjoy statutory employment protection rights but the self employed fall outside their protection. Being self employed also affects your access to social protection and benefit schemes.

The National Health provides free medical care in the UK and access to the universal healthcare system is not dependent on one's level of earnings or employment status. Sickness benefit (Incapacity Benefit) and Maternity Allowance are available for self employed people but are allocated at a reduced level compared to employees.

Self employed people are not eligible for unemployment benefit in the same way as employees. The current UK system, called Jobseeker's Allowance, is open to people of working age who are available for and actively seeking work. Self employed people can access a means-tested ("income-based") version of the Jobseeker's Allowance which is only available to those with reduced or no savings. As a self employed person without work, if you have financial resources you must support yourself. Signing up for these benefits means that you must be available for work, actively pursue job opportunities whether they are in your field or not and effectively cease being self-employed.

There is a complex system of tax credits for workers and people with children with payments to people on low pay, whether employed or self employed.

The basic State Pension is available to everyone over retirement age, self employed or employee, who has made sufficient National Insurance contributions over their working life. It provides a below subsistence level of income and may be topped up with means-tested pension credits. A supplementary pension for employees (State Second Pension) increases this to a level relative to salary. The self employed are expected to make payments into a private or 'stakeholder' pension to build up a viable level of second pension. Few of the UK respondents to the IETM survey knew whether they would receive an old age pension and it seems likely that self employed people in the cultural sector have under-invested in private pensions. Pensions are a complicated area generating concerns for retired people, employees and self employed people in the UK.

It should be noted that, in terms of social protection, the self employed can broadly access the basic statutory minimum which, in the UK, is low and often means-tested. The Jobseekers Allowance scheme is particularly ill-adapted to the needs and intermittent working patterns of self employed people in the performing arts. Most benefit payments, whether unemployment, sickness or maternity allowance, are on subsistence level or lower and are not a percentage of previous earnings.

#### **5. Special measures for artists**

There is no special employment statute for artists in the UK.

There is a tax averaging mechanism for authors and artists who have fluctuating profits. If you make a high profit in one year through royalties or sales of art works you can average profits over two years, reducing the amount of tax due.

Self employment is a common career pathway for performing arts graduates; training and professional development is often provided within colleges and as part of post-graduate support. Across the UK there are a wide range of agencies, advisory services, training,

mentoring, grants and other professional development activity designed for artists. There are considerable variations in provision and resources between regions and cities.

The New Deal schemes encourage unemployed people to become self employed and have been taken up to an extent in the cultural sector. One scheme targets young people and provides an allowance (equivalent to the Jobseeker's Allowance plus a grant) for the first six months of test trading. The New Deal for Musicians covers people wanting a career in the music industry and provides a specialised training course and mentoring support.

## **6. Current issues**

The frameworks for self employment for performing arts professionals in the UK are relatively non-bureaucratic and offer a degree of freedom and flexibility which is generally valued. There is a paradox in that, lacking the benefits provided in some other countries, they also lack the constraints. Nevertheless the position of self employed artists and cultural operators is often precarious and does not have the safety net of employment rights and social protection offered by full-time employment.

The issue was explored in focus groups as part of the University of Warwick study. The report describes uncertainty as "the central ingredient of artists' employment" and states, "Even where participants had spoken of the 'freedom' or the 'flexibility' of being self employed, they also spoke of this being one of the main pitfalls of self employment".

This precariousness is reflected in the average length of time spent in self employment. The University of Warwick study found that, among actors, entertainers, directors, stage managers and producers, the average length of time spent continuously self employed was 121 months. This compared to 131 months for all cultural occupations and 140 months for non-cultural occupations. Job insecurity often leads to professional diversification and taking on other jobs, whether in the cultural sector or not.

The University of Warwick study also commented on the difficulty of sustaining professional development for self employed artists, stating that training costs are not tax deductible. Current advice from the Inland Revenue suggests that this is an area open to interpretation. Basically, training costs to update or maintain professional skills are tax deductible but the cost of acquiring new skills is not. This creates a problem since acquiring new skills is necessary to remain up to date with the requirements of any profession, particularly when selling one's skills as a freelance operator. Few grants are available and self employed people in the cultural sector find it hard to commit the time and money required for professional development.

In spite of its prevalence, self employment is still considered an 'atypical' form of working. This employment status can affect an independent's access to financial services such as loans and mortgages. Another example comes from the Independent Theatre Council (ITC), which provides various advisory and training services to a membership of employees and freelances in the performing arts; it reports that self employed people working in the arts often have to pay higher rates for car insurance.

## **7. References**

Davies, R. and R. Lindley, 2003, *Artists in figures: a statistical portrait of cultural occupations*, (University of Warwick: Institute for Employment Research, London, Arts Council England).  
[http://www.artscouncil.org.uk/information/publication\\_detail.php?browse=title&id=353&age=2](http://www.artscouncil.org.uk/information/publication_detail.php?browse=title&id=353&age=2)

Department for Culture Media and Sport, 2001, *The Creative Industries Mapping Document 2001*, (London, Department for Culture Media and Sport).  
[www.culture.gov.uk/Reference\\_library/Publications/archive\\_2001/ci\\_mapping\\_doc\\_2001.htm](http://www.culture.gov.uk/Reference_library/Publications/archive_2001/ci_mapping_doc_2001.htm)

Galloway, S., R. Lindley, R. Davies and F. Scheibl, 2002, *A balancing act: artists' labour markets and the tax and benefit systems*, (University of Warwick: Institute for Employment Research, London, Arts Council of England).  
[www.artscouncil.org.uk/information/publication\\_detail.php?browse=title&id=124&page=3](http://www.artscouncil.org.uk/information/publication_detail.php?browse=title&id=124&page=3)

## 8. Resources

### DEPARTMENT FOR WORK AND PENSIONS

Information on benefits and pensions

[www.dwp.gov.uk](http://www.dwp.gov.uk)

### HM REVENUE & CUSTOMS

HMRC is responsible for collecting the bulk of tax revenue as well as paying tax credits and child benefit, and strengthening the UK's frontiers.

[www.hmrc.gov.uk/](http://www.hmrc.gov.uk/)

### JOBCENTRE PLUS

Social security offices, unemployment and other benefits

[www.jobcentreplus.gov.uk](http://www.jobcentreplus.gov.uk)

### THE PENSION SERVICE

[www.thepensionservice.gov.uk](http://www.thepensionservice.gov.uk)

### NEW DEAL FOR MUSICIANS

New Deal for Musicians (NDfM) is a Government programme intended to help aspiring unemployed musicians into a sustainable career in the music industry.

[www.jobcentreplus.gov.uk/JCP/Customers/New\\_Deal/New\\_Deal\\_for\\_Musicians/index.html](http://www.jobcentreplus.gov.uk/JCP/Customers/New_Deal/New_Deal_for_Musicians/index.html)

## 7. COUNTRY PROFILES: IN BRIEF

### Introduction

The research for this study generated full Country Profiles for a number of countries. This section contains brief information on employment frameworks and social protection for independent workers in the contemporary performing arts, including special measures for artists, for many more European countries. A round up of relevant, recent information for these additional countries was felt to be a useful contribution to the review. These Country Profiles vary in length and content. In some cases reports from practitioners outline how frameworks are currently implemented on the ground. The information has been gathered from various sources, including:

- IETM 2004 survey of independents working in the contemporary performing arts
- Compendium: Cultural Policies in Europe, [www.culturalpolicies.net/](http://www.culturalpolicies.net/) (Legislation for self employed artists, Chapter 5)
- UNESCO World Observatory on the Social Status of the Artist, [http://portal.unesco.org/culture/en/ev.php-URL\\_ID=8084&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/culture/en/ev.php-URL_ID=8084&URL_DO=DO_TOPIC&URL_SECTION=201.html)
- MISSOC: Mutual Information System on Social Protection in EU Member States and the EEA, [http://europa.eu.int/comm/employment\\_social/missoc/index\\_en.html](http://europa.eu.int/comm/employment_social/missoc/index_en.html)
- *Creative Artists, Market Developments and State Policies*, Background paper for 'Conditions for Creative Artists in Europe' EU Presidency Conference in Visby, Sweden, 2001, prepared by European Research Institute for Comparative Cultural

Policy and the Arts (ERICarts).  
<http://www.eu2001.se/culture/eng/docs/ericarts.pdf>

- *Artists, taxes and benefits – an international review*, Clare McAndrew, 2002, Arts Council of England.  
[www.artscouncil.org.uk/information/publication\\_detail.php?browse=title&id=132&page=2](http://www.artscouncil.org.uk/information/publication_detail.php?browse=title&id=132&page=2)

## 7.1 BULGARIA

### Tax measures

- Artists pay tax under the Personal Income Tax Act, which allows them to deduct 50% as expenses for the creation of works of art and copyright royalties.
- An income averaging mechanism allows artists to spread income across up to four tax years.

### Social protection

- Social security for artists is regulated by the Labor Code and the 'Ordinance on Social Security of Persons Who Practice a Liberal Profession or Engage in Trade, or Work without Entering into an Employment Relationship'. Artists practising a liberal profession are treated equally with those who have registered companies as sole traders or partners in commercial corporations under the Commercial Code.
- Artists have two options. There are compulsory social security contributions for all types of retirement insurance at the rate of 22% of an income of their choice, not less than two or more than eight times the national minimum wage. Or they can choose to pay voluntary contributions at the rate of 32% for all types of social insurance (pensions, sickness benefits, monthly child benefits).
- Artists (like all other employees) who have signed a contract of employment are subject to compulsory social security contributions at the rate of 37% of their gross salary, payable by the employer, and 2% payable by the employee. Another contribution is due to the Occupational Training and Unemployment Fund.
- In view of the specific nature of artists' work, the amended 'Transitional and Final Provisions of the Protection and Development of Culture Act' entitle artists who have worked for at least 4 of the past 12 months (without entering into an employment relationship in artistic associations) to unemployment benefits.

Source: UNESCO World Observatory on the Social Status of the Artist & Compendium: Cultural Policies in Europe

## 7.2 CZECH REPUBLIC

In order to register as a self employed worker, you must inform the tax and social insurance authorities. As a cultural worker, you apply for a 'concession' which means that you can set up as self employed in a field where there is no official approved training or qualifications. You must establish yourself as a business unit, paying monthly contributions for health and social insurance. VAT registration is only required for businesses earning over a certain amount per year. All professional expenses are tax deductible. Unemployment benefit can be paid at the minimum level for up to six months and there are low level sickness benefit payments available for self employed people.

## 7.3 CROATIA

- In the Republic of Croatia, the status of artists is regulated by the Law on the Rights of Self-employed Artists and Promotion of Cultural and Artistic Work. This

- provides for social security of artists and regulates issues of pension, disability and health insurance of self-employed artists.
- This Law defines self-employed artists as those who do not hold jobs with an employer and to whom artistic work is the only and main vocation.

### **Social protection**

- The Republic of Croatia attaches particular significance to the protection of the social and professional status of artists, providing self-employed artists with the right to have their pension, disability and health insurance contributions paid out of the state budget upon the artist's written request. The procedure and conditions of granting this right are determined by the Regulations.
- Self-employed artists who do not enjoy the right to paid contributions for pension, disability and health insurance from the state budget of the Republic of Croatia can pay these contributions themselves
- For specific artistic professions (classical ballet dancers, contemporary dancers, ballet masters, opera soloists, folk dancers & singers) the years of service for pension insurance purposes are calculated by counting 12 months of service as 18 and lowering the age limit (one for every three years).

Source: UNESCO World Observatory on the Social Status of the Artist

Independent artists have the right to retirement and disability insurance and to health insurance on the basis of their artwork, and the contributions are paid from the state budget. They also receive specific tax benefits. An income of less than HRK 20 000 (approximately 2 740 €) a year is not taxed. Compensation for per diems and travelling expenses is not considered part of the income. 25% of authors' fees are not taxed, and 40% of these fees are recognised as business expenses.

Source: Compendium: Cultural Policies in Europe

A freelance artist can join the Croatian Freelance Artists' Association (HZSU) on the basis of his or her creative work. As a member, the artist has the right to have contributions for retirement, disability and medical insurance paid out of the National Budget, as long as he or she meets the criteria laid down in the 'Regulations about the procedures and conditions for the recognition of the rights of artists to have their retirement, disability and medical insurance paid out of the national budget of the Republica Croatia'. Applications are considered by an Expert Commission, considering the creative work and public recognition of the applicant for the past five years, and decisions are confirmed by the Ministry of Culture. HZSU has a high proportion of visual artists in its membership and around 200 members (14%) are in the Performing Arts category.

### **Resources**

CROATIAN FREELANCE ARTISTS' ASSOCIATION  
[www.hzsu.hr/](http://www.hzsu.hr/)

## **7.4 ESTONIA**

A 2002 proposal for an Act on Creative Artists and Creative Artists' Unions has been drafted. Provisions include a new role for creative unions and new measures to strengthen social security measures for self-employed artists. An individual artist may work as an employee or as an individual entrepreneur. An entrepreneur may claim tax deductions of professional expenses.

Source: Compendium: Cultural Policies in Europe

It is estimated that around 60% of theatre professionals in Estonia work on regular contracts as employees.

## **7.5 FINLAND**

There is no special professional statute for artists. There is a system of state artists' pensions – 35 artists pensions are awarded annually by application. For theatre artists, there is a special foundation providing assistance.

A general pension system is available for artists and freelancers. An additional pension system also exists for artists: an extension of the civil service pension system to cover the recipients of longer term/accumulated artists grants. Legislative clauses apply to the entrepreneurs' social security and pension system to accommodate better the unique nature of artistic work.

Self employed people cannot register for unemployment benefit. There have been attempts to improve the unemployment insurance and social security system for artists. Some progress has been made but most reform proposals are pending.

Sources: Compendium: Cultural Policies in Europe & UNESCO World Observatory on the Social Status of the Artist

The *Preliminary Findings from a Survey on the Economic and Labour Market Situation of Finnish Artists* (2002) presents labour market statistics for 2000. It differentiates between employed, freelance, free artist and entrepreneur. 'Free artists' are defined as those who work without an employment contract but are not entrepreneurs. The authors mention the difficulty of using the term 'self-employed' since it includes many groups, freelancers, entrepreneurs and free artists.

Surveyed artists could choose more than one category of employment status to describe their situation. Among theatre artists, 41% worked as employees against 35% freelance. Among dance artists, 38% worked as employees against 50% freelance. 10-12% of dance and theatre artists also described their employment status as free artists and 21% also were unemployed or not working as artists at times. According to the findings, dance artists showed the highest proportion of unemployed (34%), with 20% among theatre artists, both significantly higher than the general unemployment rate in Finland.

## References

*Preliminary findings from a survey on the economic and labour market situation of Finnish artists* (2002) Rensujeff, K. / Karhunen, P., Arts Council of Finland.  
[www.taiteenkeskustoimikunta.fi/](http://www.taiteenkeskustoimikunta.fi/)

## 7.6 GERMANY

A special law on social insurance for freelance artists and journalists/authors provides comprehensive social security coverage (health and old age). Self employed artists and authors can join the Artists' Social Insurance Fund (Künstlersozialkasse/KSK), providing statutory health care and pension insurance. As with employees, the artists pay half the fees while the employer's 50% share is divided between the state (20%) and the remaining 30% by a mix of organisations (e.g. collecting societies, cultural industries such as publishing houses, galleries etc) through a levy on remuneration and royalties.

Source: Compendium: Cultural Policies in Europe

The Eurostat statistics for cultural employment in 2002 found that 30% of cultural workers in Germany were either self employed or employers. This was more than three times the percentage in the total working population.

In order to be accepted into the KSK Artists' Social Insurance Fund, artists have to prove that they are self employed and that they earn at least 5,000 € per year. There are special rules for professional newcomers such as graduates. In 2004, 15,459 performing artists were registered with KSK, 11% of the total. The KSK is open to actors, singers, dancers, directors, composers, musicians, writers and artistic managers.

VAT registration is obligatory if you earn more than a certain amount per year. There is a reduced rate for artists of 7%.

There is no unemployment benefit scheme or sickness benefit for self employed people. Health insurance under the general scheme funded through KSK contributions does not cover all costs. Self employed workers in the cultural field who do not qualify for the KSK scheme may make payments to a number of organisations: social insurance authorities, mutual insurance scheme, private health insurance, private pension to bring their level of health and pension insurance up to that of employees.

Self employed people working in the contemporary performing arts who wish to apply for funding from public sources for projects must set up a registered company (*Einbetragene Verein* or E.V.) to have the legal status required.

### **Resources**

BUNDESVERBAND FREIER THEATER  
Association of independent theatres.  
[www.th-net.de/buft/](http://www.th-net.de/buft/)

KUNSTLERSOZIALKASSE (KSK)  
Social insurance for self employed artists.  
[www.kuenstlersozialkasse.de](http://www.kuenstlersozialkasse.de)

## **7.7 | ICELAND**

As soon as a worker's self employed earnings exceed a certain limit (approximately €3,000), you must report it to the tax authorities on a monthly basis, submitting the estimated tax and social security contributions due. There are exemptions in the cultural field for VAT registration, including art work, arts consulting and teaching.

Unemployment benefits (approximately € 900 per month) are available for those without work. After a certain period, you must take a course to widen your skills or lose benefits.

Self employed people are eligible for some sickness benefits from their municipality. Private insurance is necessary to cover longer periods of illness. If you are self employed you pay around 15% of your earnings for social insurance. 10% goes into the pension fund and 5% for maternity leave, sickness and other benefits. Pensions for self employed people are funded by 10% contributions into the general scheme, equivalent to the total paid for employees (4% by employee + 6% by the employer).

There are tax advantages for self employed people working in the arts who set up their own limited companies. These pay only 18% income tax (the general rate is 38%) so that artists can receive a salary from the company and pay less tax overall. However, there are strict regulations and added administrative burdens in running such a company.

## **7.8 | ITALY**

### **Overview**

Respondents to the IETM survey report that independent workers are not common in the contemporary performing arts and employment systems are not adapted to this form of working. Performing artists are automatically treated as employees for tax purposes.

However, the Eurostat statistics for cultural employment in 2002 found that 47% of cultural workers in Italy were either self employed or employers. This was the highest rate observed in the 29 European countries surveyed and more than twice the percentage in the total working population in Italy.

### **Registration**

It is possible to register as self employed or under a special definition '*collaboratore coordinato e continuativo*', also called CoCoCo. This defines workers who are *parasubordinato* and have quasi-subordinate status. They are similar to employees in many ways but work under a different type of contract. The nature of the contractual relationship between worker and employer affects the level of social protection and labour legislation which applies. According to a study by the European Foundation for the Improvement of Living and Working Conditions, this semi-subordinate work accounts for more than 40% of new jobs created in Italy, with the most important of these types of work being under the CoCoCo system of 'employer-coordinated freelance work'. The IETM survey did not reveal how prevalent this is in the cultural sector.

VAT (IVA) registration is obligatory for all independent businesses if you earn over a certain amount per year but is not required if the work is irregular. Some large structures (e.g. TV companies) only offer contracts to VAT-registered artists. Self employed people are commonly referred to as *il popolo delle partite IVA* (people under the VAT code).

### **Social protection**

Unemployment insurance, *l'addizionale desoccupazione*, is an optional payment (0.5% employers' charge) in addition to other statutory social security charges. Employees in the cultural sector must negotiate this as part of their contract of employment. Social charges are payable to E.N.P.A.L.S. and are obligatory for medical cover, accident and retirement pension, for both employees and self employed workers.

To qualify for unemployment benefit, artists must work 78 days per year for the past three years. They are then eligible for a low level benefit which is payable for up to 180 days. There is no unemployment benefit for self employed workers.

### **Special measures for artists**

There is no comprehensive system in support of self employed artists in Italy. Performing artists are covered by E.N.P.A.L.S. (Ente Nazionale per la Previdenza e Assistenza dei Lavoratori dello Spettacolo) social security institute for artistic workers.

### **Resources**

E.N.P.A.L.S.

[www.enpals.it/](http://www.enpals.it/)

## **7.9 LATVIA**

There is no "professional" status for artists, but a law on professional artists and their organisations is in preparation.

Artists like all other participants of the system can receive social support including unemployment insurance only if they have paid social insurance tax. Self employed people are subject to compulsory social insurance and this must be paid if their income exceeds the minimum base for compulsory contributions.

Source: Latvian National Commission for UNESCO, 2003, for the UNESCO World Observatory on the Social Status of the Artist

## **7.10 LITHUANIA**

The full provision of social insurance is offered to artists and other cultural workers who work under employment contracts (i.e. as employees) and to those paying their own social insurance contributions as self employed or freelance workers. Voluntary social insurance contributions can be paid by those who receive an income under copyright contracts.

The 'Law on Artists and their Organisations' determines social guarantees for the professional artists, the fundamental principles of the activities of their organisations, material rights and State support.

Source: Lithuanian National Commission for UNESCO, 2003, for the UNESCO World Observatory on the Social Status of the Artist

The new Draft Law on Art Creators and their Organisations (2003) provides new legal premises to introduce measures that would improve the legal status of artist organisations and the social and economic status of self-employed artists.

Source: Compendium: Cultural Policies in Europe

## 7.11 NORWAY

### **Employment frameworks**

Norway has general laws for all workers, the most important being the 'Working Environment Act'. It provides laws on workers' environment, the duties of employer and employee, rights to maternity/paternity leave, working hours, dismissal notice, etc. There is a paragraph in the Act mentioning artists that allows for temporary employment.

### **Social protection**

In Norway, actors employed in public theatres enjoy the benefits of social welfare, pension schemes, and the protection of labour legislation. For actors working outside the public sector, tariff agreements with public broadcasters and film producers ensure employment status and social welfare. Some actors that have their own firm (freelance workers) prefer to use service provider contracts but this does not offer them protection under labour law.

The Working Environment Act does not apply to self-employed actors or actors with their own company. Self-employed actors must insure themselves against accidents and for sickness benefits.

The Working Environment Act recognises the status of intermittent worker. In the case of 'intermittent' employees unemployment benefits are paid when a person has been without work for 3 of the last 10 days. In general terms, an actor can draw unemployment benefit for 3 years, and the amount paid depends on what the actor has earned in the preceding period. Health care is provided through the national social security system. It is also possible to receive support for living costs if the income is very low.

### **Current issues**

More than half of actors who are members of Norwegian Actors' Equity Association need to supplement their income with other forms of work.

The situation for freelance actors is deteriorating, mainly because of increased numbers, while state funding for this sector has been at a standstill for many years. The trend in public theatres is a decrease in lifelong employment and an increase in short-term contracts. In the overall theatre sector there are an increasing number of freelance actors, and also more actors without jobs. Actors are employed by public or private theatres on short-term contracts, and often have to live off unemployment money between jobs.

Source: Norwegian Actors' Equity Association, 2003, for the UNESCO World Observatory on the Social Status of the Artist.

## 7.12 POLAND

There is no comprehensive social security/labour relations framework for artists. The State has implemented a provision of 50% tax-free income for artists (1991) which allows creative artists to deduct 50% of their income as expenses for income tax purposes.

Source: Compendium: Cultural Policies in Europe

## **7.13 SERBIA**

The legal status of artists has been defined in the freelance artist and cultural workers law.

In Serbia artists in the performing arts are treated as employees. The new theatre law envisages the introduction of the new model in which the artists will be engaged on a contractual basis. For freelance artists the law stipulates social security and retirement funds to be paid by municipalities.

Source: UNESCO World Observatory on the Social Status of the Artist

## **7.14 SLOVENIA**

There are specific measures for self-employed persons in the cultural sector including recognition of their freelance status for tax and social security purposes. Slovene cultural policy aims to increase numbers of self employed in the cultural sector. Labour statistics for 2002 state that 20% of people employed in the cultural sector were self employed.

There are special socio-economic privileges for selected artists and cultural workers. The basis for granting these privileges is exceptional achievements and the government's decision to encourage growth in the number of professional artists. This special status is awarded for three years and may be extended. In 2003, 1,300 self-employed artists out of 2,500 registered were given special socio-economic status.

Source: Compendium: Cultural Policies in Europe

### **Registration & special measures for artists**

There are official regulations (Article 4 of the Legislation realising the public interest for culture) governing who may register as artists/cultural workers. These include:

- Proof of place of residence in Republic of Slovenia
- Proof of nationality
- Valid residency permit
- Evidence of professional education OR evidence of qualification for artistic activity
- CV, biography and list of works plus any critical reviews of art work

A commission then decides whether to grant you the official status of artist. Many people also work under 'Author Contract' without being registered but there are disadvantages in terms of social security payments and benefits.

There are three ways for cultural operators to work as self employed:

1. You can establish an s.p. (*samostojni podjetnik*), as an independent business person. You go to the tax office, complete forms, pay a tax and they approve your application. You then open a special business bank account and issue invoices for your work. If you earn over 5m SIT (20,800 Euros) gross per year you must register for VAT.

The s.p. system is reported as advantageous for a foreigner working in Slovenia. You take the s.p. permit to apply for a work permit and with this can apply for temporary residence. You can then apply for insurance which is mandatory for those on a temporary residence permit. After three consecutive years, you can apply for a three-year residence permit. You file your income and expenditure as a business and pay tax accordingly.

2. For certain types of creative or cultural work, you can be paid under the Author Contract or author honorarium (*avtorski honorar*). A creative contribution must be proved to operate under this system, for example, you can do so as a sound designer but not as a sound technician. You are then liable for 25% tax on 60% of your earnings although

changes in the percentages are planned. You do not need to establish a separate business account to be paid in this way.

3. If working actively under the Author Contract, after some experience you can apply for status as an independent cultural worker. This accords either status only or, for selected artists and cultural workers as determined by exceptional achievement, having all your health insurance and social security/pension contributions paid by the state. There is a maximum earnings limit per year. In 2003 it was approximately 4.5m SIT (18,800 Euros). The list of artists and cultural workers is published on the Ministry of Culture web site.

### **Social protection**

Under the s.p. system, you pay approximately 42,000 SIT (175 Euros) per month for the lowest earnings level towards your health insurance, pension and social security. There is a basic mandatory payment and supplementary voluntary payments to improve the level of cover. Independents are covered for sickness benefit.

For around half the artists and cultural workers with special status under the national statute, social insurance contributions are paid by the state.

### **Current issues**

Changes are in the pipeline for the Author Contract system. This may increase the number of artists and cultural operators with status but it may also increase the level of competition among them to gain special status. The ceiling on earnings for artists and cultural operators with status makes it difficult for some people.

### **Resources**

MINISTRY OF CULTURE: SLOVENIA  
[www.mk.gov.si](http://www.mk.gov.si)

## **7.15 SPAIN**

### **Overview**

*Trabajo autonomo* describes self employment in Spain and is defined by the non-subordinate relationship between worker and employer. In Spain around 16% of the employed population is self employed and, according to Eurostat figures for 2002, in the cultural sector it is 25%.

### **Special measures for artists**

There is no specific legislation for self-employed artists in Spain.

There are, however, a few tax provisions available for self-employed artists related to income tax deductions, income averaging, company tax benefits and reduced levels of value-added tax. In addition, artists benefit from a tax exemption on important literary or scientific prizes (*Article 7.1 of the 40/1998 Income Taxes Act* and *Article 10 of the Decree 214/1999* approving the Income Tax Regulations).

The *Intellectual Property Act (23/2006)* 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. Some companies, such as SGAE and the VEGAP have set up special foundations to fulfil these obligations - these are the Authors' Foundation, the Art and Law Foundation and the AISGE Foundation

Source: Compendium: Cultural Policies in Europe

### **Registration**

You must tell the tax and social insurance authorities that you are self employed. VAT registration is obligatory for all independent businesses and applies to all services except teaching.

### **Social protection**

Independent workers make contributions to the social insurance authorities (there is a fixed minimum payment) and also to mutual insurance companies and private pension firms for additional cover. There is no unemployment benefit for self employed people. Sickness benefit may be paid after 60 days illness.

### **References**

*Changing face of self employment in Spain* (article, 2001), European Foundation for the Improvement of Living and Working Conditions  
[www.eurofound.eu.int/ewco/2004/06/ES0406NU05.htm](http://www.eurofound.eu.int/ewco/2004/06/ES0406NU05.htm)

Law published to establish a new statute for autonomous workers, 2007  
[www.mtas.es/destacados/es/280607aprobaciondefinitivaautonomos.htm](http://www.mtas.es/destacados/es/280607aprobaciondefinitivaautonomos.htm)

## **7.16 SWEDEN**

### **Overview**

A government commissioned study in 2003 states that of 25,000 professional artists in Sweden surveyed in 1997, 50% were freelance workers and 40% self employed. Often artists are obliged to be self employed since this is preferable for employers. This can create problems in relation to social insurance, tax and unemployment insurance systems.

The report mentions specific problems for the contemporary performing arts sector. Professional dancers, qualifying at around 20 years old, encounter difficulties when they register unemployed. Under 25s are considered to be 'long term unemployed' after just 100 days unemployment and must sign up for schemes to increase and broaden their labour market skills. This means that young dancers have little opportunity of starting a career, given the intermittent nature of work and short contracts in the dance profession.

The Union for Theatre, Artists and Media (which covers actors, dancers, technicians and others in theatre professions, including self employed) represents and advises its members. Members of the union also join TAK, Teaterverksammars A-kassa (The Theatrical Unemployment Insurance Fund).

The Eurostat statistics for cultural employment in 2002 found that 27% of cultural workers in Sweden were either self employed or employers. This was three times the percentage in the total working population.

Social security charges for self employed professionals are reported to be high in Sweden.

The Kulturpoolen is a six month course to help you market yourself better and organise your business as an artist. It covers many art forms and provides advice and information on how to work as a self employed artist.

### **Special measures for artists**

Income averaging mechanisms are available. Grants and scholarships are tax free although this creates some difficulties with pensions (see below).

### **Current issues**

Self employed artists face a number of problems within the current system. Basic pensions are calculated on the income generated over a worker's lifetime. Since most grants and scholarships are not taxable, they are not included in the lifetime income.

Unemployment insurance is available for both employed and self employed artists. However, there are certain difficulties in judging when a self employed artist is out of work and, to be considered unemployed, they must, in principle, stop their professional activities and close their self employed business.

Source: Compendium: Cultural Policies in Europe

## **Reference**

*Konstnärerna och trygghetssystemen*, 2003, Statens offentliga utredningar (SOU) A government commissioned report *Artists and the social security systems* examines problems faced by professional artists in the Swedish social security, unemployment insurance and tax systems. [www.regeringen.se/sb/d/108/a/1500](http://www.regeringen.se/sb/d/108/a/1500)  
Commentary and review in English:  
[www.eiro.eurofound.eu.int/2003/07/feature/se0307102f.html](http://www.eiro.eurofound.eu.int/2003/07/feature/se0307102f.html)

'New form of employment security for professional actors', 1988, article  
[www.eiro.eurofound.eu.int/1998/07/feature/se9807197f.html](http://www.eiro.eurofound.eu.int/1998/07/feature/se9807197f.html)

## **Resources**

SWEDISH UNION FOR THEATRE, ARTISTS & MEDIA  
[www.teaterforbundet.se/](http://www.teaterforbundet.se/)

TAK - Teaterverksammas arbetslöshetsskassa  
Theatre Workers Unemployment Insurance Fund  
[www.teaterverksammasakassa.se](http://www.teaterverksammasakassa.se)

## **8. COMPARATIVE REVIEW**

### **8.1 Overview**

This study incorporates detailed country profiles for nine countries and shorter synopses for sixteen more. What emerges is a picture of entirely different systems and frameworks for independent workers in the contemporary performing arts across Europe. There are certain similarities but many more differences. It is difficult to make useful comparisons between these systems since each was set up and has evolved in the context of the country's history, legislation and current economic and employment policy.

There are many positive examples of special measures for artists. Occasionally these extend to other cultural workers. Some measures were set up decades ago and others are more recent, responding to current realities of career patterns and working structures in the cultural sector. Whether the policy is historic or contemporary, the existence and extent of such measures are an indication of a state's relationship to its artists.

Cultural policy, socio-economic research and lobbies by practitioners, organisations and trades unions help build arguments for such policies, revise and refine proposals. Nevertheless, it must be acknowledged that economic policy is a major influence on the scope and generosity of such measures for artists.

As a rule, where no special measures apply, independent cultural operators and artists work within statutory frameworks applying to all self employed workers. The level of social protection and other benefits is largely dependent on national employment policy, state legislative systems and social welfare. There are a few examples where the specific nature of work in the cultural sector or the performing arts is recognised by state authorities (e.g. special pension and retraining options for dancers with short careers), but much of the employment frameworks for independents is not specific to the cultural sector.

Rather than make direct comparisons, it seems more appropriate for this study to examine, in the context of each country, whether the systems in place for independents create advantages or disadvantages for them as compared to regular employees. The survey of practitioners and other evidence from the sector indicates national trends and current issues which are explored under each country profile. It is useful to note whether working as an independent is a growing phenomenon in the contemporary performing arts and in the cultural sector as a whole in each country. Also to explore whether increases in self employment are seen as a positive move towards a more flexible, varied and independent work structure or are forced on practitioners as a result of inadequate career

paths, fragmented project-oriented budgets within cultural organisations and the high charges on permanent salaries for employers.

Although it varies from country to country, the self employed are broadly disadvantaged in terms of *security and protection*: reduced social insurance, ineligibility for unemployment and other benefits and decreased employment protection legislation. With variations, the advantages include tax benefits from the deduction of professional expenses and many practitioners appreciate the *flexibility and freedom* of working as an independent.

However, these advantages and disadvantages are set against the background of a growing independent/self employed/freelance sector in many countries (e.g. **Ireland** and **Austria**) and reforms in social insurance, pensions and welfare systems reducing social insurance benefits and employment protection, especially for non-salaried workers (e.g. **Netherlands**, **Denmark** and, for intermittents, **France**). The widespread use of short term, temporary contracts and low overall earnings, often below the national average, are a source of concern for independents in the contemporary performing arts.

All these factors combine to create a culture of precariousness for independents who may find themselves marginalised through their low level of earnings and reduced social and employment protection. Although it has not been widely researched, there are some indications that a career as an independent worker in the cultural sector is time-limited and ultimately not sustainable under current arrangements.

In several of the countries surveyed, independent workers are relatively common in the contemporary performing arts (e.g. **Portugal** and **United Kingdom**). But although they enjoy some solidarity in their numbers, there are few signs of an associative movement to argue for better employment frameworks, social protection, career structures, access to training and other benefits. In most, if not all, countries independent workers are excluded from collective agreements and employers' negotiating platforms. This might confirm suggestions from some quarters that a larger self employed workforce starts to fragment the sector and erode solidarity. The reality is that independent workers have to focus on the next contract and their responsibility to clients to survive financially. There may be benefits in creating alliances with other sectors of 'precarious' and 'atypical' workers and there are some signs that this is happening.

Across the countries surveyed several points stand out:

- *Hybrid systems*  
An intermediate employment situation (not a separate statute), often described with the English word 'freelancer'; this allows a worker legally to undertake a mix of self employed and salaried work. Examples: **Netherlands**, **Denmark**, **Austria**
- *High financial and legal obligations for employers*  
The cost of social security contributions for salaried employees was mentioned as a factor in the growth of independent workers in the cultural sector in several countries. Examples: **Belgium**, **Portugal**, **Sweden**
- *Proof of entrepreneurial success*  
Employment policy, support measures and stringent evaluation designed to encourage sustainable self employment for artists and others. Evidence of work hours, number of client and (for artists) growth in income required.  
Example: **Netherlands**.
- *Semi-freelance work - grey zones of self employment*  
Concerns about semi-subordinate, para-subordinate and quasi-freelance work (often undertaken for a sole employer) abound. The relationship of authority between worker and employer is crucial to which charges and obligations apply. A proliferation of alternative solutions and practices reduce employers' costs by outsourcing work to freelancers. Examples: **Portugal**, **Italy**, **Hungary**

## 8.2 Survey of IETM members

The survey was carried out in two stages, as detailed in Appendix B and Appendix C.

*Stage I*

From the first general survey of all IETM members: a high percentage of respondents work as independents (40%). Perhaps more significant was that across all respondents, both self employed and employees, the large majority employ independents in their organisations. 96% of respondents employ independents on a regular or occasional basis. The types of jobs offered (see Appendix B) are:

- Artists, designers and other creative professionals
- Stage management, technical professions and manual trades
- Management, administration, professional and support staff
- Education, outreach & hospitality

The occupations of the independents who responded to the survey also fall into these categories, although the survey of IETM members reached few artists and did not include any technicians or manual trade workers in the performing arts.

The majority of independents who responded are full time workers (75%). Although some undertake other work as an employee, the majority (59%) do not.

The survey asked how easy or difficult it was to work as an independent. The responses were split evenly between ease and difficulty, most falling in the middle. There were no significant geographical patterns identifying particular countries with easier or more difficult systems for independents.

*Stage II*

The second, detailed survey of independents gathered information on how the systems worked in practice. Several questions focused on attitudes and career patterns.

Length of career:

- 40% of respondents have worked as an independent for over 10 years
- Most respondents have worked as an independent for over 6 years

Main advantages:

- Independence
- Flexible working hours/more control over time (50% of respondents)
- Variety: projects, people, situations, different fields
- Freedom: choice of work, how to do work, working environment
- Own boss
- Mobility
- Adaptability to different working situations

Main disadvantages:

- No social security safety net (unemployment, sickness, pension)
- Financial insecurity: low earnings, can't plan for future
- Job insecurity
- Precariousness
- Increased responsibility
- Long hours, no payment for overtime, no holiday pay
- Too much project-based work: chasing funding, short term perspective
- Pressure to perform 100%, promote yourself, be constantly productive
- Some work basic and not very interesting
- Working conditions sometimes poor
- Difficulty of self motivation/no support structures
- Lack of communication with colleagues/can be isolated
- Difficult to raise bank loan
- Difficult to have normal family life
- Lack of recognition for work

Two respondents could identify no advantages at all. Respondents provided a very long list of disadvantages, most focused on insecurity, precariousness, low social protection and

inability to plan for the future, as well as some comments on the type of project based work undertaken by independents in the contemporary performing arts.

Future for independent workers:

- The majority (69%) think there will be more independents in 10 years time
- A quarter (27%) think there will be fewer independents in 10 years time
- Nearly half the respondents expect to be self employed for most their working life.
- Nearly half expect to move between self employment and salaried work.

### **8.3 Establishment/registration & fiscal administration**

For independent workers setting up in business, few difficulties were reported in the registration and establishment systems. In some countries, establishing yourself as self employed can be a simple phone call, in others the worker must register with several different organisations for tax and social security purposes, form a company, join the Chamber of Commerce, register for VAT etc. The main problems would be experienced as a culture clash where someone from a country with fairly simple administrative systems tries to set up in a country where there is a high level of state bureaucracy, or vice versa.

Most countries apply criteria to determine who is and is not authorised to work as self employed. There is an underlying concern about tax evasion and the authorities wish to control who can be self employed and enjoy certain tax advantages. The basic criteria in most places explore the relationship between worker and employer, as described in 2.3. In the **Netherlands** there is a detailed list of criteria which prescribes working hours, number of clients and other aspects. In some countries, authorisation to set up as self employed is determined by one's profession. Notably in **France** artists and cultural managers in the performing arts find it difficult to be self employed.

As a rule, a person who is registered as self employed can deduct their professional expenses before their income is assessed for tax. While this study could not get much detail on this point, several variations were observed. In **Belgium**, there are restrictions on deductible expenses for travel and accommodation which penalise artists who work abroad regularly. In **Portugal**, independents working under the 'Green Receipts' system can only deduct a small percentage in lieu of expenses (10-15%), not necessarily all professional expenses particularly for those with a lot of overseas touring work. **Denmark** has a special system of deductions which applies to freelancers who mix self employed and salaried work. In **Hungary**, under the simplified enterprise tax (EVA), small businesses can opt for a flat 15% tax rate on gross income, rather than accounting for individual expense items. **Poland, Croatia and Bulgaria** are reported to have percentage systems for expenses deductions on artists' incomes of 40-50%.

The regulations for VAT (Value Added Tax) vary considerably from one country to another. In several countries, a threshold system applies. A business is only obliged to register and account for VAT on sales of goods and services when their annual turnover exceeds a certain level. The level is high enough to exclude most independents in the cultural sector. The threshold system applies in **United Kingdom, Ireland**. Independents may choose to register, even if their turnover is below the level. There are differences in the regulations concerning what common business expenses can be submitted for VAT refunds.

In other countries, registration is obligatory for all independent workers, whatever their level of earnings and this imposes an added layer of administration. Obligatory registration applies in: **Belgium, Italy & Spain**.

VAT exemptions for certain activities are found in several of the countries surveyed. Here, even though registration is obligatory as a general rule, performing artists' activities are exempted or at a reduced rate. Examples: **Hungary, Portugal & Germany**.

### **8.4 Social protection**

The reduced levels of social protection which apply to independent workers are a major concern to all IETM members surveyed. Insecurity, precariousness, inability to plan for the future and lack of access to social security benefits dominate the long list of disadvantages quoted by respondents (Appendix C & 8.2).

Reform in social insurance and welfare systems is ongoing in several countries surveyed with major changes imminent. Apart from in **Denmark** where the general social protection scheme extends to both employees and self employed, the other countries surveyed in detail provide a reduced level of social protection for self employed workers compared to employees. There are some extreme differences, notably between countries with an earnings-related scheme (for unemployment, sickness or disability) and those with a basic subsistence level payment. Means-testing is also common, particularly with the subsistence payment schemes. If you or your partner have any savings, you may be expected to spend these before you qualify for benefits.

Current details should always be checked but some of the main aspects identified are:

- *Unemployment (self employed/independents and artists outside special schemes)*  
No unemployment benefit in: **Austria, Hungary, Germany, Ireland, Netherlands, Portugal, United Kingdom.**

Access to unemployment benefit in: **Belgium** (under special conditions for some new businesses only), **Denmark**.

- *Unemployment benefit (artists registered under special schemes/statutes)*  
Unemployment benefit/income support for artists in: **Belgium, Bulgaria, France, Netherlands, Sweden.**

Conditions for unemployment benefit payments to artists:

**Belgium:** artists work as employees, must have worked 12 months out of 18 months, benefit relates to salary, payable for 12 months, renewable on certain conditions.

**Denmark:** must have worked 52 weeks out of previous 3 years, low wage level benefit payable for 12 months to insured workers, employees & self employed.

**France:** intermittent statute, artists and performing arts workers must have worked 507 hours in previous 10.5 months, benefit relates to salary, payable for 8 months.

**Netherlands:** WWIK means-tested benefit payable 48 months over 10 years, income support @ 70% of social welfare payments.

During periods of unemployment, artists must be available for and actively seeking work, apart from under the WWIK scheme in the Netherlands which is an income support system rather than unemployment benefit. Job search requirements may oblige cultural workers to seek work in other fields although in Belgium artists have certain rights over the work they must take if unemployed.

In extremis, there is access to means-tested income support or unemployment assistance (less than minimum wage), generally on condition of abandoning self employment and seeking other work in: **Ireland, United Kingdom.**

- *Sickness benefit*

No access to sickness benefit under general social protection scheme for self employed in: **Austria, Hungary, Ireland, Netherlands.**

Access to a reduced sickness benefit scheme: **Belgium** (delayed start), **Bulgaria** (if additional social insurance paid), **Portugal** (if additional social insurance paid, delayed start), **Spain** (delayed start), **United Kingdom** (subsistence level, means-tested).

- *Health insurance*

Special arrangements for artists and some cultural workers with part-payment of some contributions: **Austria, Croatia, Germany, Slovenia.**

- *Pensions*

Special arrangements for some artists and cultural workers with contributions through special schemes: **Austria, Croatia, Finland, Germany, Ireland, Slovenia.**

The need for additional optional payments into a private pension scheme was highlighted by self employed workers to top up inadequate state pension: **Belgium, Germany, Hungary, Netherlands, Spain, United Kingdom**

## 8.5 Special measures for artists

There are general measures such as income averaging (spreading one's income across several years for tax purposes) and reduced VAT rates on certain cultural goods and services. Legislation applies in some countries for dancers in recognition of their short careers, inability to build up enough pension contributions and need for professional re-integration: partial aspects apply in **Croatia, Hungary & Portugal.**

Schemes for artists are described more fully under the country profiles. Brief details for those countries which provide special measures for artists

**Austria:** social security insurance fund for self employed artists. Grants to top up pension contributions. Scheme established in 2001.

**Belgium:** social statute for artists enables artists working for several employers to be treated as an employee, with reduced social security charges for employers. Access to full range of social security benefits, provided enough contributions made. National scheme offers holiday pay for artists. Social statute established in 2003.

**Croatia:** state payment of health insurance, pension and other contributions for self employed artists who qualify (on basis of quality of work and reputation).

**Finland:** state artists' pensions (in a limited quantity for artists of merit)

**France:** statute for intermittent performing arts workers' has special qualifying rules for claiming unemployment benefit. Intermittent workers have access to training grants and paid holidays through state funded schemes. Intermittent workers statute established in 1936; several revisions and major changes in 2004. Social security schemes for artist-authors (established in 1977) to enable self employed creative artists to access social security benefits on same basis as employees after a year of insured professional activity.

**Germany:** Artists' Social Insurance Fund (KSK) subsidises social insurance contributions for self employed artists and other cultural workers. Fund established in 1983.

**Ireland:** Artists Exemption accords tax free income to creative artists on sale of work. Aosdána (200 artists selected as members for their outstanding contribution to arts in Ireland) offers Cnuas annuities to members for up to five years, renewable. Artists pension scheme for members. Artists Exemption established in 1969, Aosdána in 1981.

**Netherlands:** WIK offers means-tested income support to artists over first ten years of career. Artists can claim a subsistence level benefit for up to 48 months plus some professional development costs. Proof of increasing earnings will be a new requirement from 2005 for artists to remain on the scheme. WIK established in 1999, revised in 2005.

**Slovenia:** policy aimed at increasing self employment in cultural sector. Special status accorded to 1,300 (approximately half all registered artists) with socio economic privileges.

**Sweden:** tax exemption for grants and scholarships for artists. Theatre Workers' Unemployment Insurance Fund collects contributions and distributes benefits.

## 8.6 References & Resources

In some countries, research and studies into the career patterns and earnings of workers in the contemporary performing arts sector provide insight and statistical evidence. This can be used to build arguments for changes in policy. National references are found under the country profiles. Noteworthy examples include:

- Research into cultural industries: **Austria, Finland & United Kingdom**
- Research into artists and social security systems: **Sweden**
- Research into socio economic status of performing artists (forthcoming): **Ireland**
- Information on taxes for artists: **Denmark**

Research for Compendium: Cultural Policies in Europe and the UNESCO World Observatory on the Social Status of the Artist provides useful information and comparisons on frameworks for artists in many countries.

At national level, the existence of a specialist representative body for self employed artists and/or workers in the cultural sector can be a definite asset for independents in the contemporary performing arts. Membership bodies and networks provide advice, information, specialist services and lobby government agencies and ministries on the needs of the sector. There are associations representing the independent theatre sector and independent performing arts workers in **Austria** and **Germany**. In the Nordic countries, Central and Eastern Europe there is a long tradition of Artists Councils and specialist trades unions who have a specific negotiating and representative role. Examples can be seen in **Denmark, Finland** and **Croatia**, among others.

At the European level, the European Council of Artists and international cultural networks such as IETM act on behalf of their constituency and in collaboration with their membership in various ways.

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## **9.2 Resources**

Additional country-specific resources are listed under each Country Profile.

### **CULTURAL SECTOR**

#### **Boekman Foundation – study centre for arts, culture and related policy**

Boekmanstichting is a centre where information about arts and cultural policy is collected and disseminated. The Cultural Policy Research Online (CPRO) and RECAP facilities allow researchers to search for ongoing and completed studies. [www.boekman.nl](http://www.boekman.nl)

#### **Compendium: Cultural Policies in Europe**

Information system on cultural policies and trends in Europe. Country reports with details of 'Social and Economic Frameworks or Measures for Freelance Artists' (chapter 5).  
[www.culturalpolicies.net/](http://www.culturalpolicies.net/)

#### **European Institute for Progressive Cultural Policies (EIPCP)**

Publishes studies, stimulates debate, on-line web journal Republicart. [www.eipcp.net](http://www.eipcp.net)

#### **ENICPA – European Network of Information Centres for the Performing Arts**

The main goal of the ENICPA network is to distribute and to make available a broad range of information about the performing arts to arts professionals world wide.  
[www.enicpa.net](http://www.enicpa.net)

#### **ERICarts**

The ERICarts-Institute works with an interdisciplinary network of research fellows on different aspects of cultural policy. One of its main areas of research is the status of arts and media professionals and their changing working practices. [www.ericarts.org](http://www.ericarts.org)

#### **IETM – international network for contemporary performing arts**

Membership of over 400 professional performing arts organisations from more than 45 different countries. [www.ietm.org](http://www.ietm.org)

#### **IFACCA: International Federation of Arts Councils and Culture Agencies**

IFACCA is a source of information and global research. [www.ifacca.org](http://www.ifacca.org)

#### **Pearle\***

The European League of Employers' Associations in the Performing Arts sector, Pearle\* represents more than 3,000 employers from theatres, orchestras, opera houses, ballet and dance companies, festivals, and other organisations within the performing arts sector.  
[www.pearle.ws](http://www.pearle.ws)

#### **UNESCO World Observatory on the Social Status of the Artist**

Part of UNESCO's Culture section set up in response to debate on the Recommendation concerning the Status of the Artist. Database of legislation and country profiles.

[http://portal.unesco.org/culture/en/ev.php-URL\\_ID=8084&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/culture/en/ev.php-URL_ID=8084&URL_DO=DO_TOPIC&URL_SECTION=201.html)

## **OTHER RESOURCES**

#### **EURES – European Job Mobility Portal**

The EURES site has information on the transitional rules that govern the free movement of workers from, to and between the new member states of the European Union.  
<http://europa.eu.int/eures/>

#### **European Commission**

The policy areas of Culture, Employment & Social Affairs and Enterprise, each represented by different Directorates General, have a relevance to the subject of self employment in the cultural sector. [http://europa.eu.int/comm/index\\_en.htm](http://europa.eu.int/comm/index_en.htm)

**European Foundation for the Improvement of Living and Working Conditions**

European Agency set up by the European Council to contribute to the planning and design of better living and working conditions in Europe. The Foundation carries out research and development projects and has a network of experts throughout Europe.

[www.eurofound.eu.int](http://www.eurofound.eu.int)

**European Industrial Relations Observatory (EIRO)**

EIRO is a monitoring instrument offering news and analysis on European industrial relations, a project of the European Foundation for the Improvement of Living and Working Conditions. EIRO online provides a database of articles and commissioned publications from its network of leading EU research institutes.

[www.eiro.eurofound.eu.int/](http://www.eiro.eurofound.eu.int/)

**European Trade Union Institute (ETUI- REHS)**

ETUI-REHS Research department conducts research into precarious employment and mobility. [www.etui-rehs.org/](http://www.etui-rehs.org/)

**Eurostat**

The EU statistical office provides the European Union with statistics at a European level that enable comparisons between countries and regions.

<http://epp.eurostat.ec.eu.int>

**International Institute for Labour Studies (IILS)**

Centre for advanced studies in the social and labour field, established by the International Labour Organization (ILO).

[www.ilo.org/public/english/bureau/inst/](http://www.ilo.org/public/english/bureau/inst/)

**MISSOC: Mutual Information System on Social Protection in EU Member States and the EEA**

Comparative tables of social protection rights and payment systems. Social protection of the self employed is provided as an appendix to the main reports.

[http://europa.eu.int/comm/employment\\_social/missoc/index\\_en.html](http://europa.eu.int/comm/employment_social/missoc/index_en.html)

**SCADplus – summaries of EU legislation**

Employment & Social policy – general: <http://europa.eu.int/scadplus/leg/en/s02300.htm>

Free movement of workers: <http://europa.eu.int/scadplus/leg/en/s02305.htm>

Social protection: <http://europa.eu.int/scadplus/leg/en/s02309.htm>

Employment rights and work organisation (Fixed-term work under 'Organisation of working time'): <http://europa.eu.int/scadplus/leg/en/s02306.htm>

## **APPENDIX A**

### **Methodology**

Independent consultant, Judith Staines, was commissioned to undertake the research and write the report. Research took place in spring/summer 2004 with a survey of IETM members via e-mail questionnaires. This was followed up with telephone and personal interviews with practitioners and specialists, and desk research (review of literature, on-line research).

As the foremost European network of professionals in the contemporary performing arts, IETM regularly raises debate on issues of concern to the independent theatre and dance sectors. The IETM membership includes both practitioners (actors, choreographers, dancers, other artists) and cultural operators (including producers, managers, directors, event organisers, promoters, programmers), some who work in a self employed capacity, others as employees. As such, the membership was taken as the natural starting point for the first survey of this kind within the sector.

In April 2004, a short questionnaire<sup>12</sup> was circulated to 654 IETM members requesting basic information about employment status, patterns of work and attitudes. The research sample was extended in some countries where professional associations circulated the questionnaires to their members. 106 questionnaires were returned (16% approx.).

To gain more detailed information about the conditions of and attitudes to self employment in different countries, a longer follow-up questionnaire<sup>13</sup> was sent to 43 respondents with independent status. 26 questionnaires were returned (60%) and the responses from independents in 15 different countries contributed to the country profiles (Section II).

The time allowed for research allowed for what can be described as a preliminary survey of the sector. Among other things, it confirmed the complexity of the subject. Experiences of individual practitioners are a valuable tool to help understand employment frameworks for independents. However, substantiating this evidence with information from official sources is not always straightforward, given there is no one model of organisation for national employment systems, social protection mechanisms and state institutions.

In some countries, there are national agencies and associations in the cultural sector which provide tailored advice and information. They provide a valuable 'translation service' for the official legal, fiscal and social texts which are technical and may be difficult even for native speakers to understand. On-line research and interviews with some of the relevant organisations identified sources of specialist information, sometimes provided in several languages, aimed at performing arts professionals.

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<sup>12</sup> Appendix B

<sup>13</sup> Appendix C

## APPENDIX B

### Short questionnaire: distribution

A short questionnaire in English and French was distributed by email to 654 IETM members in April 2004.

1. Your employment status – are you:
  - a) Independent status (also described as freelance or self-employed)
  - b) An employee (whether you are on a fixed or long-term contract)

2. If you are an employee, does your organisation employ independent workers?

- a) Yes – frequently
  - b) Yes – sometimes
  - c) No – never

If you answered 'Yes' – what are the jobs for which you employ independent workers? e.g. dancers, light technicians

3. If you have independent, freelance or self-employed status – what type of work do you do?

4. As an independent, how much time do you spend doing this work?

- a) All the time
  - b) Half time
  - c) Very little time

5. As an independent, do you do other paid work as an employee?

- a) Yes – regularly
  - b) Yes – sometimes
  - c) No

If you answered 'Yes', what type of work do you do?

6. How do you find working as an independent in your country?

- a) Relatively easy
  - b) OK if you know how the system works
  - c) Quite difficult and complicated
  - d) Very difficult

7. Would you be willing to fill in a longer questionnaire or give a short phone interview?

Questionnaire	YES / NO
Telephone interview	YES / NO

### Short questionnaire: results & analysis

106 questionnaires were returned (16%) with compiled results as follows:

1. *Employment status*

Independent status	43 (40%)
Employee	56 (53%)
Mixed (independent/employee)	5
Other <sup>14</sup>	2

Independents from: Austria, Belgium, Czech Republic, Denmark, Germany, Hungary, Italy, Latvia, Netherlands, Norway, Portugal, Slovakia, Slovenia, Spain, Sweden, UK

Independents who responded to the survey were: 56% female, 44% male.

<sup>14</sup> Employment status specific to France (Intermittent du spectacle vivant & Emploi Jeune contract)

**Comment:** A high proportion of those who responded to the survey have independent status. This may reflect the make-up of IETM membership. It is also likely to reflect the higher motivation of independents to respond and make their views heard. The largest numbers of independents who responded came from the UK, Portugal, Italy and Hungary.

**2. Does your organisation employ independents?**

Yes – frequently	44 (60%)
Yes – sometimes	26 (36%)
No – never	3

Types of jobs where independents are employed:

- ARTISTS, DESIGNERS & OTHER CREATIVE PROFESSIONALS  
Dancer, choreographer, actor, performer, musician, composer, writer, video artist, film maker, aerialist, singer, photographer, dramaturg, director, designers (stage, sound, lighting, costume, video, set, graphic, web), scenographer, stylist, cutter, dresser, prop maker
- STAGE MANAGEMENT, TECHNICAL PROFESSIONS & MANUAL TRADES  
Stage manager, location manager, production manager, producers, floor manager, technical director, sound engineer, technicians (lighting, sound, audio-visual & aerial), builder, carpenter, painter, rigger, electrician, health & safety expert, structural engineer
- MANAGEMENT, ADMINISTRATION, PROFESSIONAL AND SUPPORT STAFF  
Administrator, project manager, project coordinator, conference manager, event manager, accountant, translator, interpreter, researcher, market research consultant, press/publicity/marketing/PR, fundraising consultant, box office staff, IT & data management
- OTHER: EDUCATION WORK & HOSPITALITY STAFF  
Teacher, outreach worker, workshop leader, bar staff, chef, hostess, guide

**Comment:** Independents are employed in a wide variety of professions by the large majority of individuals and organisations who responded to the survey. 96% employ independents on a regular or occasional basis. Only 4% never employ independents. The contemporary performing arts sector represented by IETM membership relies to a great extent on the skills of independents in creative, technical, manual, managerial and administrative professions. It would be useful to quantify this contribution.

There are some major differences in practice between countries: in the UK and Portugal, most such jobs are done by self-employed workers while in France there is a legal presumption of employee status ("présomption de salariat") and performing arts professionals do not have the option of independent status.

**3. Independents: type of work**

Job titles/types of work done by independents who responded to the survey:

- ARTISTS, DESIGNERS & OTHER CREATIVE WORK  
Artistic director, poet, writer, costume designer, lighting designer, stage designer, choreographer, performer, actor, artistic curator, director
- STAGE MANAGEMENT  
Stage director
- MANAGEMENT, ADMINISTRATION, PROFESSIONAL AND SUPPORT STAFF  
Festival director, managing director, theatre director, company manager, management (tour, production, event, festival, project), conference organiser, programme manager, programmer, production, cultural events organiser, network coordinator, arts

consultant, research, fundraising, administration (financial, arts, theatre), marketing, budgeting, promotion, public relations, sales, webmaster

- OTHER: EDUCATION & TRAINING  
Teacher, workshop leader, staff training expert, conference speaker

**Comment:** Most of the independents who responded to the survey are involved in the management, administration, organisation and co-ordination of events, festivals, theatres, productions, companies and artistic projects. Some have specialist skill areas such as fundraising, financial administration and marketing. A smaller number work as artists and other creative professionals.

4. *Independent status: amount of time worked*

Full-time	33 (75%)
Part-time	9
Very little time	2 (employees with occasional work as independents)

**Comment:** The majority of respondents work full-time. Some commented on the variety in pace with full-time work when engaged on a project or festival and half-time at other periods. Independents may not be under contract at all times but are "available in the market" or "searching the market" full-time.

5. *Independent status: do you do other work as an employee?*

Yes – regularly	7
Yes – sometimes	9
No	23 (59%)

Other work done by independents:

Teaching (dance, commedia dell'arte, English language), acting, production, technician, lighting design, visual art, webmaster, tour management, festival programmer, management, administration, bar work

**Comment:** 41% of those with independent status work regularly or occasionally as employees to supplement their income as independents. Most of this work is within the performing arts sector (creative, technical, administrative) and skilled. Nevertheless, the majority of independents who responded to the survey (59%) do not do any other work as an employee.

6. *How easy or difficult is it to work as an independent?*

Relatively easy	5
OK if you know how the system works	23
Quite difficult and complicated	19
Very difficult	8

**Comment:** This question was answered by independents and some employees with a view on the subject. Responses were split evenly between the two poles of ease and difficulty. Few strong geographical patterns emerged in the responses – independents from the same country might find it very difficult or relatively easy. Given the low sample, patterns cannot be taken as statistically significant. Nevertheless, the majority of respondents from Hungary and the UK found it "relatively easy" or "OK" while the majority of respondents from Austria, Italy, Spain and Portugal found it "quite difficult" or "very difficult".

## APPENDIX C

### Long questionnaire: distribution

A long questionnaire was sent as a follow-up to the short survey (Appendix B) to 43 people with independent status.

### Questionnaire 2 for independents

#### 1. Your details

Name:  
Organisation:  
Country:  
What work do you do:

#### 2. How long have you worked as an independent?

- a) Less than 2 years
- b) 3 - 5 years
- c) 6 - 10 years
- d) More than 10 years

#### 3. How do you become self-employed?

As an artist/cultural operator, how do you become self-employed in your country?

Please list all the relevant answers and add any others which apply

- a) You must tell the tax and social benefit authorities that you are self-employed
- b) You must apply to the tax and social benefit authorities and they decide if you are eligible to be self-employed
- c) If you are an artist, you must be eligible to be self-employed. (What are the criteria?)
- d) You must establish yourself as a business / company
- e) It is very difficult to become self-employed as a cultural worker in my country.
- f) Don't know
- g) Other (please give details):

#### 4. Special conditions for cultural independents

Are there any special measures or statutes for independents in the cultural sector?

What are the benefits?

#### 5. Setting-up/encouragement schemes

When you first became self-employed, was there any special financial scheme or training to encourage you to work as an independent? (Please give details)

#### 6. The legal and administrative side of your business

##### 6.1 What is your business structure?

- a) sole trader (I work on my own)
- b) sole trader (I also work in partnership with others)
- c) legally established partnership (how many partners?)
- d) non-profit organisation
- e) registered business company
- f) other:

##### 6.2 Do you employ any other people? YES / NO

##### 6.3 Do you charge VAT? YES / NO

What is the VAT registration system in your country:

- a) It is obligatory for all independent businesses
- b) It is obligatory if you earn more than a certain amount per year
- c) It is not obligatory but there are advantages if you register
- d) VAT does not apply to the kind of work I do
- e) Don't know

##### 6.4 Do you use an accountant? YES / NO

##### 6.5 Do you rent an office, studio or other business space?

- a) Yes
- b) No – I work from home
- c) No – I work in various places (employer's offices, theatres etc)
- c) Other (please describe):

#### 7. Your working life

##### 7.1 How do you find work? (please list all relevant answers)

	a) I apply for jobs which are advertised openly b) Employers know me – I am invited to apply for jobs c) Employers know me – I am offered work direct d) Employers find me through my professional association e) I propose projects to organisations f) I raise funds to realise my own projects g) I advertise my services h) I network actively to make sure people know me and my skills i) I attend a lot of interviews/auditions in order to get work j) Other (please give details):
7.2	In an average year, approximately how many different contracts do you have?
7.3	In an average year, approximately how many different employers do you have?
7.4	How long is an average contract for you? a) 1 - 10 days b) 11 - 30 days c) 1 – 3 months d) 4 – 6 months e) 6 – 12 months f) other (please give details):
<b>8.</b>	<b>Being self-employed – tax and social insurance</b>
8.1	When the authorities calculate how much tax you must pay, what professional expenses are permitted (deductions)? a) all professional expenses b) a percentage of my total income c) don't know <u>or</u> choose from following list: a) business costs (office rent, equipment, phone, stationery etc) b) travel for work purposes in your own country c) travel abroad for work purposes d) hotel & subsistence (food & drink) for work purposes – home e) hotel & subsistence for work purposes - abroad f) professional membership subscriptions g) other:
8.2	Do you earn any royalties or payments from copyright? YES / NO If 'Yes', is there a lower tax rate? YES / NO / Don't know
8.3	If you had a high income in one year (e.g. from royalties), is there a system of 'income averaging' to spread your income across several years for tax purposes? a) Yes b) No c) Don't know
8.4	How do you pay for your social insurance / social security / national insurance / pension? a) I make regular payments to the social benefit authorities b) I make regular payments to a mutual insurance company c) I make regular payments to a private health company d) I make regular payments to a private pension company e) The payments are made by my employers f) The payments are made by another organisation (name?) g) There is a special system for artists/cultural workers (please explain) h) Don't know
8.5	<b>Healthcare</b> Do your social insurance payments give you an adequate level of healthcare cover? a) Yes – I have the same level of healthcare cover as other employees b) No – some healthcare costs are not covered c) No – I have a very basic level of healthcare cover, it is not adequate
8.6	Unemployment: if you could not find work, would you receive any unemployment benefit payment? a) Yes b) No c) Don't know
8.7	Sickness: if you were ill or had an accident and were unable to work, would you receive any payment? a) Yes b) No c) Don't know
8.8	Maternity/Paternity leave: if you took time off from work to have or care for a baby, would you receive any payment? a) Yes

	b) No
	c) Don't know
8.9	Old age pension: as an independent worker, do you expect to receive an old age pension?
	a) Yes – state pension
	b) Yes – private pension
	c) No
	d) Don't know
9.	<b>Being self-employed: advantages and disadvantages</b>
	Can you list up to three advantages and disadvantages of being an independent?
10.	<b>The future for independent workers</b>
10.1	In ten years time, do you think there will be more or less independent workers in the contemporary performing arts sector?
	a) More
	b) About the same
	c) Less
10.2	How do you see your own future?
	a) I expect to be independent/self-employed for most of my working life
	b) I expect to move between independent status and paid employment
	c) I expect I will get a job as a paid employee
	d) I hope to get a 'proper' job as a paid employee – being an independent worker is very difficult and insecure.

### Long questionnaire: results & analysis

26 questionnaires were returned (60%). Apart from the factual information gathered, responses to the following questions were of note:

#### 2. Length of career as an independent

Less than 2 years	5
3-5 years	6
6-10 years	5
More than 10 years	10

#### 9. Being self employed: advantages and disadvantages

##### Advantages

- Independence (9)
- Flexibility
- Freedom to change organisations
- Work on projects I like/freedom to choose own projects (6)
- Flexible working hours & more control over my time (13)
- Freedom to decide how I do the work
- Flexible working conditions/work from home (2)
- Variety of projects, people & situations (9)
- Experimental and research work on projects
- Work on interdisciplinary projects
- Cooperation with a wide range of independent artists, NGOs etc
- Tax advantages
- Can earn a fair daily rate compared to other work as employee
- Being own boss (4)
- Geographical mobility (2)
- Get an open mind from understanding different organisations' needs
- Don't want to be a slave
- Not possible to get a 'proper' job at my age (40+)
- Greater capacity to adapt job to life changes
- Don't split life between job & spare time – less schizophrenic
- Don't need to compromise and think about what sells
- Self employment a simpler, more autonomous system if one is a foreigner
- Excitement
- None (2)

##### Disadvantages

- No security for unemployment/no unemployment benefit (2)
- No security for sickness/no sickness benefit (7)
- No job security
- Financial insecurity
- Social insecurity (2)
- Insecurity/Precariousness/No safety net/Instability (5)
- Insecure/uncertain future (6)
- More responsibility: need to be self reliant and self sufficient
- No pension scheme
- No holiday pay (3)
- No monthly salary
- Low income (5)
- More financial responsibility
- Don't know how much you will earn each year
- Difficult to plan because of lack of financial continuity
- No payment for extra hours
- Social benefit costs are not shared with employers
- Having to accept the market price for my work, the same as for regular employees who have other advantages
- Unable to claim all professional expenses
- Having to be 100% open to new opportunities
- Longer working hours as a freelance
- Too much project based work: not enough continuity and you can lose the long-term perspective (2)
- Lots of pressure to perform 100%
- No down time, have to be constantly productive
- Having to constantly promote oneself
- No investment for training and professional development
- Lots of basic work/having to take less interesting work (2)
- Limitations of working with small companies with no resources
- Poor working conditions (no office space, work at home)
- Dependent on raising project funding for work (2)
- Difficulty of getting a bank loan
- Dependent on cultural policy
- Need for self discipline
- Difficult to keep motivated
- No support structures/Have to create and maintain own infrastructure (2)
- Lack of daily exchange with colleagues/ can get isolated (2)
- Work in different fields
- No time or opportunity to change things
- Stress
- Children incompatible with insecure job prospects
- Lack of recognition for work
- No choice: this is the only way to work in my field
- Bureaucracy

#### **10. The future for independent workers**

10.1 In 10 years time, in the contemporary performing arts, there will be:

More independents	18
About the same number	1
Less independents	7

10.2 How do you see your own future?

Expect to be self employed for most of my working life	12
Expect to move between self employment and salaried work	14
Expect to get a salaried job	-
Hope to get a 'proper' job as a paid employee – being an independent worker is very difficult and insecure	4