Artists’ mobility and administrative practices related to social protection and taxation in the European Union

Another report for which outcomes?
On the Move, the cultural mobility information network

- **Information about cultural mobility opportunities**
  [http://on-the-move.org](http://on-the-move.org) > ‘news’ and ‘funding’

- **Information about administrative challenges related to cultural mobility**
  Via the expertise of its members, reports, information signposting and/or advocacy actions
  [http://on-the-move.org](http://on-the-move.org) > ‘hot topics’

- **A network of 39 member-organisations** + partners
  Activities: workshop, training, information sessions, recommendations
Background information

Analytical report

• 147 total valid responses
• 29 nationalities
• 18 EU Member States

What is your employment status?
- Self-employed: 32%
- Mixed status: 25%
- Employed: 22%
- Intermittent: 12%
- Other (apprentice/unemployed/Freelance/n.a): 9%

How often have you worked outside your country of residence?
- More than 10 times: 18%
- Between 5 and 10 times: 4%
- Between 3 and 5 times: 4%
- Between 1 and 3 times: 20%
- Only once: 26%
- Never, na: 11%

How long did you stay in the host country? (avg.)
- More than one year: 15%
- Between 6 months and a year: 11%
- Between 3 and 6 months: 20%
- Between 1 and 3 months: 11%
- Between a week and a month: 22%
- Less than a week: 9%
- Never, na: 4%
Reminder: social security in the EU

**Posting**: a person is sent by an employer to another Member State to perform work there as an **employee**, or a **self-employed** person posts him/herself in another country on a temporary basis.

**Pluri-activity**: a person pursues simultaneous activities in two or more Member States (part-time) or permanently alternates between several activities in two or more States.

Artists and cultural professionals often combine **different working statuses** and their career patterns are **diverse, mobile and highly unpredictable**.
Regulatory obstacles - overview

**Status of artists**: there is no general definition in EU law of what an artist is or how a person may prove to be one.

**Career patterns**: employed / self-employed, combination of different jobs, unpredictable career paths.

**Short-term duration of the posting**: in particular in the case of self-posting (self-employed/freelance artists), the period may be too short for an artist to have built up rights and to be entitled to access the local social security system.

**Conditionality of unemployment and pension benefits**: some countries impose a condition of residence to qualify for unemployment insurance and pension contributions and do not only calculate benefits on the basis of working time.

**Exportability of benefits** from a MS to another; particularly critical for self-employed and those alternating different working statuses.
Administrative obstacles - overview

Double payment of social contribution to the social system of both the residing and the host country, due to the slow release of portable documents.

Obtaining portable documents: need to have separate A1 forms for each job abroad - and sometimes even for each venue; expensive, time-consuming procedures. Documents not released on time; lack of relevant and efficient electronic service.

Goodwill of national administrations: refusal of the host country’s national authorities to recognise the status of a self-employed worker from other EU countries; civil servants not aware of / not willing to apply applicable legislation to foreign artists.
Practical obstacles - overview

**Information provision:** difficulty to get the necessary and specific information on mobile artists’ rights and obligations at the national level.

**Language barrier:** legislation and documents are not always available in a language other than the national language.
Reminder: taxation in the EU

The EU has no direct competence on tax harmonisation: each MS has full competence on taxation. In cross border situations countries operate according to double tax treaties.

The **OECD Model Convention** is the common framework for bilateral DTT within the EU in relation to **artists** and sportsmen (Art. 17) – only those appearing on stage.

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Taxation is the **most serious obstacle to artists’ mobility** within the EU:
→ Against economic competitiveness (**EU2020**)
→ Against freedom of movement
→ Against audience’s interests and cultural diversity
Regulatory obstacles - overview

Non deductibility of expenses: artists performing abroad cannot deduct expenses from their gross earnings → excessive taxation and discrimination compared to other foreign professionals and national artists.

Complex and non-uniform rules: Tax certificates are not standardised across the EU and are often only available in the national language of the country of performance. / Which rules for different nationalities working together? / Different withholding taxes.

Inconsistent application of OECD Art. 17 (3) and unequal treatment: Art 17(3) allows tax exemption for artists / companies mainly supported by public funds or having a non-profit activity.
Administrative obstacles - overview

**Burdensome and time-consuming procedures:** lack of multi-lingual forms, burdensome procedures to obtain tax exemption

Difficulty for single artists employed by a company to obtain tax certificates (≡ **double taxation** either for the single artist or the company).
Lack of easily accessible information on applicable rules, need for paying legal advice.

Foreign artists / companies are less attractive:
- “global net fee” = risk of double taxation (withholding tax is paid twice)
- Non-deductibility of expenses leads foreign companies to ask higher fees, so they’re more expensive = less competitive than local artists.
Recommendations

Information mobility points:

Touring-Artists (DE), Kunstenloket (BE), MobiCulture (FR)

DutchCulture / TransArtists (NL), Wales Arts International, TINFO (FI)

Polish Theatre Institute, Arts and Theatre Institute (CZ), IG Kultur Austria, Teaterunionen Sweden, Luxemburgish cultural agency, Polo Cultural Gaivotas / Baovisata (PT)

Coordination:

Advocacy for an EU support (P2P, expertise sharing, web-development) + training/awareness raising on artists’ specificities at the level of administrations.

Cooperation?

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