

# BRIEFING

Requested by the CULT Committee



## Research for CULT Committee - The Situation of Artists and Cultural Workers and the post-COVID-19 Cultural Recovery in the European Union : Policy Recommendations Concomitant expertise for INI report<sup>1</sup>

### KEY FINDINGS

- **The atypical nature of artistic and cultural work and its precarious characteristics cannot be fully addressed without taking into account broader structural vulnerabilities and challenges** faced by the European cultural and creative ecosystem. This is why, among other elements, the **European Framework introducing guidelines and principles for working conditions in the cultural and creative sectors and industries** would not only help to establish minimum standards and minimum requirements across the Union but also address structural fragilities and inequities that were reinforced by the COVID-19 crisis. This would support the long-term sustainability of the Cultural and Creative Sectors (CCS).
- Composed of principles and recommendations, **the Framework would trigger legislative and non-legislative activity on a set of issues directly and indirectly related to the work status and the socio-economic conditions of artists and cultural workers.**
- The development of a **European Framework** for working conditions in the cultural and creative sectors and industries could provide a **multidimensional and coherent policy instrument to support artists and cultural workers** and contribute to the sustainability of cultural and creative sectors and industries during and after the COVID-19 pandemic.
- This Policy Recommendation Briefing is based on the Background Analysis [“The Situation of Artists and Cultural Workers and the post-COVID Cultural Recovery in the European Union”](#).

<sup>1</sup> This Briefing complements the Background Analysis [‘The Situation of Artists and Cultural Workers and the post-COVID Cultural Recovery in the European Union’](#). These two research papers were commissioned by the Policy Department as a part of concomitant expertise aiming to support the work of the CULT Committee on its own-initiative report on [‘The situation of artists and the cultural recovery in the EU’](#).



The following recommendations present **medium- and long-term policy solutions to address the needs identified in the Background Analysis “[The Situation of Artists and Cultural Workers and the post-COVID Cultural Recovery in the European Union](#)”**. Its aim is to provide guidelines and principles to structure the contents of the European Framework, and hence improve the situation and working conditions of artists and cultural workers in the EU.

**1. Member States offer unequal protections and opportunities to artists and cultural workers. This results in structural inequities throughout the European cultural ecosystem that imperil cultural diversity.**

This could be addressed through policies such as:

- **Collecting information on the protections and support** offered to artists and cultural workers during the COVID-19 pandemic and exchanging best practices among Member States in relation to policies aimed to support the socio-economic situation and professional status of artists and cultural workers;
- Establishing a working group within the framework of the OMC through which Member States would exchange best practices and monitor progress in relation to improving the status and socio-economic situation of artists and cultural workers;
- Making this knowledge available and easily accessible to artists and cultural workers, cultural organisations and policymakers through an online “one-stop shop”;
- Continuing the assessment of **post-lockdown effects, identifying not only transversal needs of the cultural and creative ecosystem, but also specific needs of artists and cultural workers;**
- Ensuring a level playing field for artists and cultural workers by establishing minimum standards and minimum requirements regarding their working conditions (see points 3 and 4).

**2. Mapping existing definitions of ‘artist’ and ‘cultural’ workers across Member States and establishing an inclusive wording thereof in EU documents, by:**

- Developing a common and inclusive definition of terms such as ‘artist’ and ‘cultural work’ and applying it henceforth in the EU cultural policy sphere in light of the relevant UNESCO recommendations (notably, 1980 and 2005);
- Recommending that Member States expand the definitions used in their national frameworks and programmes by aligning themselves with the abovementioned EU initiative.

**3. The need for minimum standards and minimum requirements** regarding fair working conditions, among others, can be tackled at the EU level by:

- Supporting the role of **European sectoral social dialogue** in fostering and promoting collective bargaining and social dialogue within the cultural and creative sectors and industries, also at the Member State level. This would require **removing the existing competition law obstacles to collective bargaining agreements for the self-employed;**
- Including the modernisation of national social protection systems available to artists and cultural workers among the priorities of the upcoming Open Method of Coordination (OMC);
- Identifying and adopting **minimum standards and requirements** regarding working conditions and social security of artists and cultural workers **by means of directives**, as

provided for by art. 153 paragraph 2 letter b) of the Treaty on the Functioning of the EU (TFEU);

- **Embedding such minimum standards** by requiring proof of their fulfilment in EU direct grants and subsidies and/or by enforcing the application of relevant sectoral collective bargaining agreements therein;
- **Updating and adapting funding for culture** in line with the working patterns and needs of artists and cultural workers (see point 6).

**4. It is necessary to ensure that social protection systems allow artists and cultural workers to access benefit schemes such as unemployment allowance and pensions.** This would require a combination of general and sector-specific policies.

General policies could include:

- Ensuring that the rights that are accorded by the **Social Pillar** to workers and the self-employed, **such as fair and equal treatment regarding access to social protection**, are effectively granted to artists and cultural workers throughout the Union;
- Ensuring that the **rights and protections provided by EU Directives** and by the future outcomes of ongoing initiatives are effectively extended to artists and cultural workers.

Sector-specific policies could include:

- Recommending that **Member States review their social protection systems** to take into consideration the working patterns of artists and cultural workers and to ensure that they have better access to benefits such as unemployment, pensions, health protection and others;
- Adopting **minimum requirements** regarding simplified access to social security and other benefits associated with the working conditions of artists and cultural workers by means of directives, as mentioned above;
- Launching a pilot project introducing a **European electronic social security card** intended for **highly mobile European artists** and cultural workers. This is subject to the establishment of a minimum level of convergence between national systems.

**5. To ensure that artists and cultural workers have equal access to the EU Single Market, it would be important to address the persistence of non-tariff barriers to trade within the EU as well as information asymmetries.** Doing so would require, for example:

- Establishing **Impact Assessment** processes evaluating the persistence and the removal of non-tariff barriers to trade and competition in the EU Single Market, such as the non-recognition of diplomas;
- The **removal of information asymmetries** such as those faced by artists planning to develop cross-border work (e.g. via a comprehensible practical handbook for European artists and cultural workers and the authorities dealing with them). This could take place via new or updated handbooks and toolkits (see point 9).

**6. It is necessary to align funding policies and programmes to the needs of artists and cultural workers and to the specificities of their work and projects.** Policies to support this process could include:

- Recognising the **labour intensity of the creative process** (which includes, for example, continuous learning, research, rehearsals, mobility, residencies, visits, etc.) **that underlie the delivery of cultural outcomes**, and ensuring that funding for culture is in line with this

specificity.<sup>2</sup> This would require reshaping the design of cultural funding programmes and funding allocation;

- Evaluating the possibility of **new European funding mechanisms** to support artists and cultural workers and the sector after the pandemic. These could include: research grants to support the sector's transformation and resilience, a digital levy<sup>3</sup>, direct cash transfers<sup>4</sup> to artists working in the Euro area, and/or a time-limited basic income to support the recovery of the sector after the pandemic;
- Considering the **inclusion of artists** and cultural workers **as beneficiaries of future EU resources** set up in the context of the Commission's digital tax framework;
- Strengthening mechanisms to support **visa waiver programmes** for artists and cultural workers in agreements with third countries, recognising their specific working conditions and mobility needs.

**7. Improving the capacity of artists and cultural workers to benefit financially from the Intellectual Property Rights attached to their creation and performance.** Policies to support this process could include:

- Evaluating **the impact** of the transposition of the **Copyright in the Digital Single Market** Directive provision on appropriate and proportionate remuneration for authors, performers, and artists, and, when needed, suggesting follow-up initiatives to **establish appropriate and proportionate remuneration mechanisms** for their works and its exploitation throughout the EU. Special attention should be given to the implementation at national level of Articles 18 to 23 (which include the right to a proportionate remuneration) to ensure that they are not bypassed by third countries' legislation, for example through buy-out contracts (the one-off purchase of a song – for instance – with a lifetime license, meaning that no further royalties are paid to its author henceforth).

**8. Equally recognising multiple forms of artistic and cultural work including the activities that are not (or barely) monetised, among others.** This could be addressed through policies such as:

- **Expanding the definition of artistic work** so that it also supports a process-oriented approach, e.g. by including research and preparation;
- Supporting Member States in extending this process to the national level by **encouraging a mapping exercise** and the exchange of good practices.

**9. Providing increased and consistent information on mobility** through policies such as:

- Supporting the publication of updated **toolkits** and **handbooks** and the revision of existing ones<sup>5</sup>;
- Increasing the capacity and the number of **Mobility Information Points** (information centres and websites addressing administrative challenges that artists and cultural professionals often face when working across borders) to offer free and tailored support.

<sup>2</sup> Joint Statement of the European social partners on the prime role of culture and art in society, February 2016.

<sup>3</sup> For example, in Germany digital platforms can be required to pay a levy to the German Federal Film Board (FFA), supporting the local film industry. This levy varies between 1.8% and 2.5%. For more details see: <https://www.ffa.de/film-levy.html>.

<sup>4</sup> Commonly known as helicopter money, an aggressive form of fiscal and monetary easing. See, for example, CEPS (2020): <https://www.ceps.eu/helicoptering-money-into-europe/>.

<sup>5</sup> Such as, among others, the Mobility Information Standards issued by a dedicated Expert Group (2011); the Open Method of Coordination Policy Handbook on Artists' Residencies (2014); the guides compiled by EFA and Pearle\* (2016).

**10. Providing access to lifelong education and training** through policies such as:

- Supporting **training and mentoring programmes** adapted to the needs of artists and cultural professionals throughout their careers;
- Supporting the development of **EU-wide training material** to bridge more efficiently the transition between student and professional lives;
- Facilitating skills' development paths by **supporting cooperation** between art schools, universities and professional art organisations, networks, arts and skills councils, as well as across disciplinary domains, such as with the humanities, science and technology.

**11. Addressing imbalances within the cultural and creative ecosystem in terms of gender, ethnicity, socio-economic** background and other interrelated dimensions through policies such as:

- **Monitoring progress towards gender balance** throughout the cultural value chain at the Member State level and its intersection with other variables (such as age, ethnicity and class);
- Adopting measures to support and complement the actions of Member States and the exchange of good practices in **the fight against social exclusion and inequalities**;
- Upholding **artistic freedom**, e.g. by including it as an indicator of the respect of the rule of law in the EU, and by developing a strategic research and implementation agenda (including a roadmap) to achieve better protection of the freedom of artistic expression in Europe.

**12. Providing political impetus to a European Framework for working conditions in the cultural and creative sectors and industries** and the cultural recovery in the EU by, for example:

- Setting up a **consultation of European social partners**, as suggested in Art. 154 TFEU, on the possible adoption of a European Framework for the working conditions in the cultural and creative sectors and industries. The consultation should be as inclusive as possible.

## Further information

This briefing is available in summary, with option to download the full text, at: <https://bit.ly/32TIDsl>

More information on Policy Department research for CULT: <https://research4committees.blog/cult/>

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