

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

News, opportunities, guides. Cross-disciplinary. Europe + international.

<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> > 'hot topics'



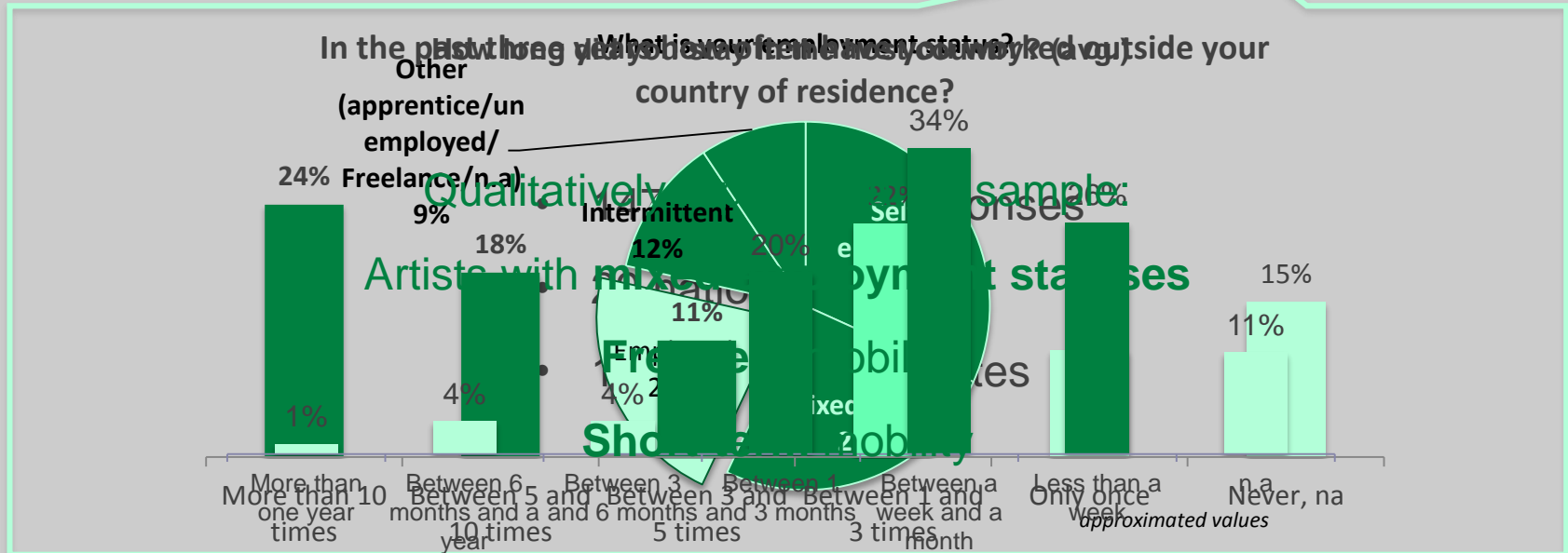
A network of 39 member-organisations + partners

Activities: workshop, training, information sessions, recommendations

<http://on-the-move.org> > 'On the Move's own news'

Background information

Analytical report



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**.



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).

Practical obstacles - overview



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



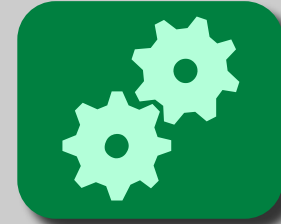
Information mobility points:

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)

ECAS, PEARLE*, FIA and European
networks (EFA? IETM etc.) /associations



Coordination:

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



Cooperation?

IAA members

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#culturemobility