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Introduction

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Creativity and innovation. The unique and renewable resources that are fuelling our knowledge-based societies, generating new forms of revenue and employment, in particular among youth. This is what the data tells us. It shows that the industry sectors making up the creative economy generate annual revenues of US\$2.250 billion, global exports of over US\$250 billion, often generate up to 10% of national GDP, provide nearly 30 million jobs worldwide and employ more people aged 15-29 than any other sector. Nearly half of the people working in the cultural and creative industries are women and the majority have attained a tertiary level of education higher than the number of people in non-cultural occupations. Influencing income generation, job creation and export earnings, the cultural and creative industry sectors making up the creative economy have become a major driver of economies and trade strategies in developed and developing

Shaheed warned that a new form of “market censorship” imposed by corporate consolidation was reducing the diversity of funding sources that could guarantee artistic autonomy and open spaces for all creative productions.¹

Inspired by Shaheed's report, others have been published² that continue to uncover new challenges for artists and creators that need to be addressed by cultural policy makers around the world, especially in many countries of the global South where there continues to be a deep reliance on informal cultural systems, processes and institutions. Such environments leave many artists and cultural professionals beyond the reach of governance, regulation and investment opportunities, which is particularly harmful when considering the precarious state of artists' employment and social status.

As reported by UNESCO³

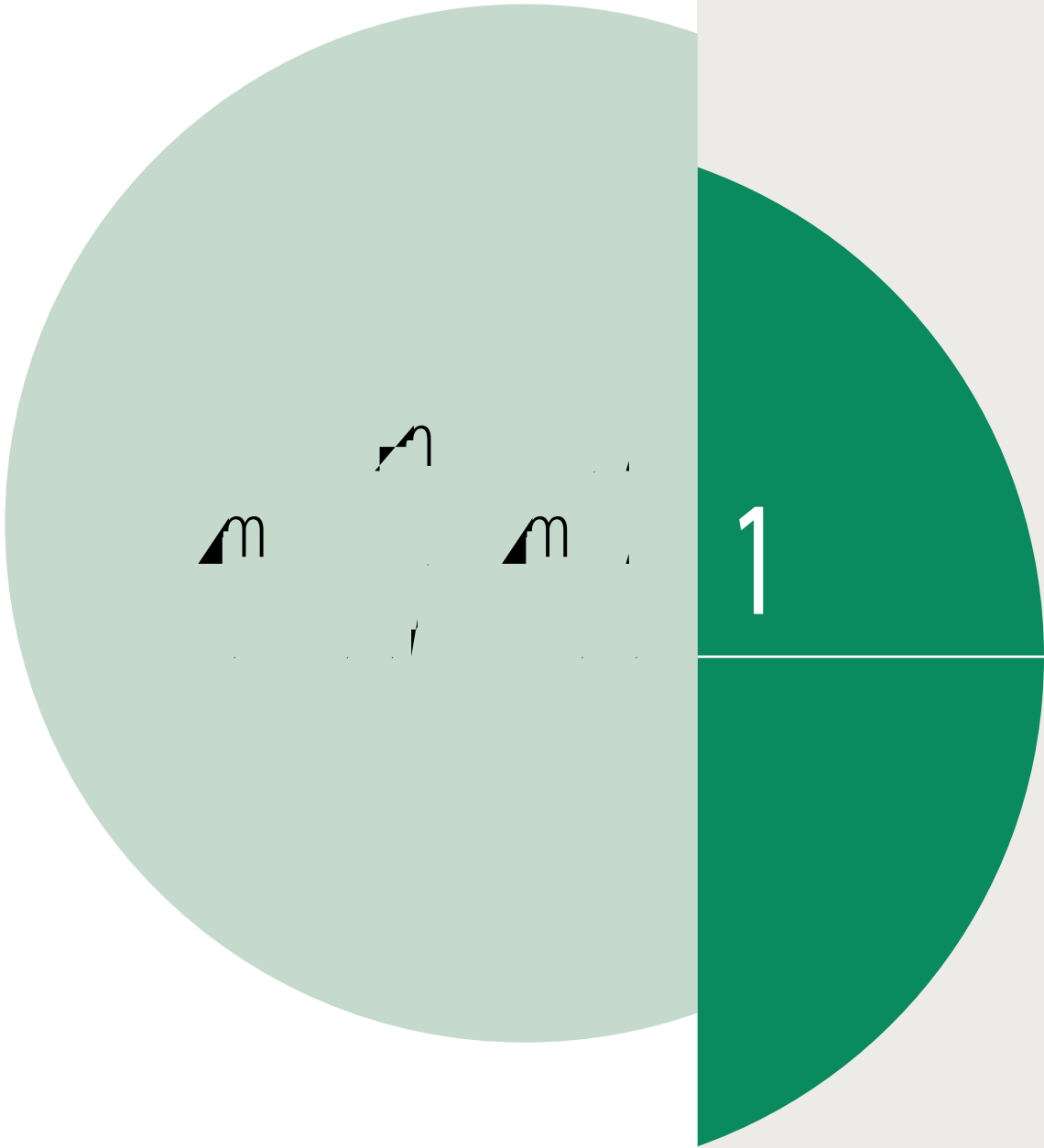
UNESCO undertook an investigation to track down such policy solutions or innovations through a global survey it launched in 2018.⁴ This global survey was designed to capture what UNESCO Member States are doing to address challenges artists and cultural professionals are facing in three areas: the digital environment; transnational mobility and human rights and fundamental freedoms including social and economic rights, gender equality

The response rate to the survey remains (too) modest and calls for caution in the analysis. One notes with great surprise,

Inspired by the Recommendation concerning the Status of the Artist adopted in Belgrade in October 1980 by the UNESCO General Conference, Senegal very early on embarked on the preparation of a legislative text aimed at providing the country with a legal framework regulating artistic creation and culture professions.

The Law on the Status of the Artist aims to complement achievements such as freedom of association and trade union rights, which are recognized by the Constitution. It intends to remedy the weak structuring of the cultural sector, which reflects the lack of status allowing artists and other cultural professionals to enjoy the benefits and advantages that the Labour Code grants to almost all other categories of professions in terms of social benefits, protection against risks or the right to health, among others.

While the determination of different governments to develop and introduce



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In 1980, 35 years prior to the adoption of the 2030 Agenda for Sustainable Development, UNESCO's Member States identified the need for a framework to create and sustain "a climate encouraging freedom of artistic expression" and "the material conditions facilitating the release of this creative talent" for arts "in their fullest and broadest definition" to become an

Some States group all measures explicitly targeting artists under a law dealing entirely with the status of the artist, others opt for targeted legislation establishing specific provisions for professional artists, and many devote distinct sections of their cultural policies to this issue. Dedicating a law specifically to the status of the artist, rather than scattering provisions in different legislation, is likely to reinforce the message sent by governments to

The general purpose of status of the artist laws is to define

and collective awareness; (ii) the effective contribution of cultural and creative industries to development; iii) the strong involvement of artists and cultural professionals in strengthening cultural rights, consolidating cultural diversity and developing creative and cultural industries. The 2016 amendments include several provisions which bring the 2003 law into line with the provisions of the Moroccan Labour Code. Main provisions extend social benefits protection for performing artists to other cultural professionals, in order to reduce their generally precariousness work situation, provide support for an artist who is in a difficult financial situation, and ensure freedom of artistic creation.

The 2011 Korean Artists Welfare Act was designed to protect the professional status and rights of artists as a means of contributing to the promotion of arts development. The endorsement of this law is significant in that it recognizes the contribution of professional artists to the development of society and guarantees their social benefits. The Artists Welfare Act calls on national and local authorities to design and implement measures for promoting artists welfare within their budgets. Oral contracts, still the most common contract in the art world, often put artists in a vulnerable position in protecting their rights and interests. In 2016, the Artists Welfare Act was amended to address this issue and requires those who use artistic services to enter into a written contract with artists. The Korean Ministry of Culture provides 56 model contracts in nine different artistic fields, which set out each party's obligations and responsibilities, the scope of work, and the agreement on compensation. The Korean survey on the status of the artist shows a significant improvement in the number of artists who have obtained a written contract for their services, increasing from 26% in 2015 to 37% in 2018.

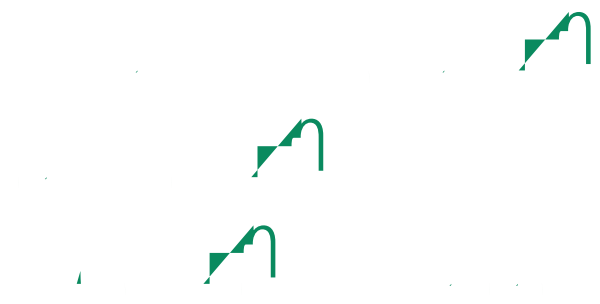
The Korean Artists Welfare Foundation was also established in 2013 under the Artists Welfare Act. In 2018, its annual budget of KRW 27,463 million (US\$23.4 million) made it possible to insure more than 3,000 artists and to provide individual subsidies for 4,500 unemployed artists. In June 2019, the government announced a resprmpm

The Ministry of Culture is reviewing the introduction of unemployment insurance for self-employed artists in close cooperation with the Ministry of Labour by granting special treatment under the Labour Insurance Law.

One of the most recent developments in status of the artist legislation is found in Spain. After a vigorous advocacy campaign spearheaded by leading artists' associations, in September 2018 the Congress of Deputies unanimously adopted 75 measures to improve the status of artists and other cultural professionals, particularly with regard to tax, labour and social protection issues. Measures were presented in the form of a report⁸, which included a detailed diagnosis of the sector's challenges. Royal Decrees 26/2018 and 302/2019 established urgent measures for artistic creation and cinematography. While Royal Decree 26/2018 recognizes the intermittence, heterogeneity and

In the past decade, many West African countries have developed Status of the Artist legislation that recognizes the artist's professional status and includes additional measures. Building on existing laws and following the creation of the Steering Committee for the Status of the Artist in 2013, Senegal is in the process of finalizing a Status of the Artist Law that will apply to artists and cultural professionals. The objectives of the law include recognizing the important role of artists, protecting their freedom of expression, recognizing the rights of artists' associations, implementing a new arts training policy, promoting copyright and neighbouring rights, improving the working conditions of artists, and ensuring artists have social rights equivalent to other workers through the extension of health and social systems. The main provisions of the law will focus on the introduction of the presumption of employee status, the creation of a social security scheme for artists, the creation of a "House of the Artist", a special tax system and a set of sanctions. A workshop was held in July 2019 with cultural professionals, and officials from the Ministry of Culture, the Presidency of the Republic of Senegal, the Economic, Social and Environmental Council, the National Assembly and other ministries to finalize a preliminary draft that will be presented to artists and cultural professionals before its transmission to the General Secretariat of the Government to initiate the institutional process.

The Republic of Mauritius' Ministry of Arts and Culture, with support from UNESCO, launched the Status of Artist Law Project in 2016 to draft new legislation enabling the professionalization of artists in Mauritius, Rodrigues and the outer islands. The draft legislation will: establish their professional status; improve their economic, social and working conditions through the introduction of preferential treatment measures; and recognize their role in the sustainable development of the islands. Supporting the country's cultural and creative industries to reach their full potential is key to the project's success. Another aim is to create an enabling environment for the professionalization of artists as they move from the informal to the formal economy. The draft law proposes the establishment of the National Body for Professionals in the Arts (NBPA) under the Ministry of Arts and Culture. NBPA would be independent in order to ensure that the registration and promotion of artists, as well as the allocation of funds, follow the 'arm's length' principle based on expertise and peer assessment, in a process involving both the artistic community and the Ministry of Arts and Culture.



While more States are passing omnibus legislation on the status of artists, the majority continue to develop legislation

States providing exemptions or special rates for artistic income including Algeria, Austria, Lithuania, Montenegro, Norway and Slovenia. Perhaps the most famous measure that benefits artists is Ireland's tax exemption for creative income, introduced in 1969. Prior to 2006, the exemption applied to all earned income, but it is now capped at €50,000 per annum. It applies to books and other writings, musical compositions, plays, paintings and sculptures that are original and creative, and that are recognized as having cultural or artistic merit. Earnings from these works are exempt from income tax from the year in which the claim is first made.

In Canada, the province of Québec, has an exemption for income derived from copyright royalties, including neighbouring rights and the public lending right. The exemption is a sliding scale to a maximum of CAD 60,000 and applies exclusively to Québec's income tax and not to the federal Canadian income tax. Above this amount, copyright income is taxed normally. Setting a reasonable upper limit of non-taxable copyright income ensures that only those professional artists most in need of the incentive benefit from the deduction.

In many States, grants paid to artists from public agencies and arts' councils are specifically exempt from income tax. In other countries, all public grants, including those received by artists, enjoy an exemption depending on their purpose and duration. Aside from Least Developed Countries, most States have public programmes that provide grants to artists.

Building on its 1996 Law on the status of an artist and the status of an organization of artists (amended in 2010), Lithuania implemented a range of legislative acts and programmes specifically targeting artists. These include tax relief for a studio/workshop, access to social benefits, the right to qualify for a special pension and the right to be sponsored by tax-free income from permanent residents in Lithuania. From January 2017, Lithuanian residents are thereby able to donate up to 2% of their income tax not only to organisations eligible for sponsorship, but also to individual artists. Eligible artists include writers, painters, composers, authors, translators, interpreters, designers, architects, popular artists and photographers. This sponsorship is tax-exempt and must be used for artistic creation.

The largest subsidy for the arts comes from governments, paid to artists themselves in the form of paid or derpaid labour

In a number of States, artists are exempted from consumption taxes (Value Added Tax, Goods and Services Tax, etc.) or may enjoy a preferential rate. However, there is no general pattern and the situation can be complicated. Artists may enjoy exemptions or special rates equivalent to other categories, such as small traders, or to socially beneficial goods or services. Artists may otherwise be exempted explicitly from the system. For some, this may not be advantageous, as they are still required to pay tax on supplies and services they acquire to create their work. The situation may even vary between cultural sectors within States.

The income of artists can fluctuate greatly from year to year. For example, a writer may spend several years researching and writing which will only generate income when it is later published or made into a movie. While this income is compensation for many years of research and writing, in many States it is fully taxed in the year it is received. As most income tax systems have progressively higher tax rates as income increases, the result is that artists pay more taxes than if the same total income had been divided into equal amounts over each of the years of research/writing and distribution. Income averaging can thus be a valuable mechanism to reduce the tax burden, in response to the atypical manner in which some artists earn their income. Australia, Bulgaria, Czechia, Estonia, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Taiwan, Thailand, United Kingdom, United States, and the Netherlands.

including maternity and parental leave, have been extended to artists and they may continue in the public benefit system on a voluntary basis even during periods of non-working.

Sweden's income averaging system is slightly different, whereby creative artists and writers with exceptionally high sales, or higher than normal royalties generated from copyright (greater than 50% higher than in either of the two preceding years), to open a special bank account and use this income in the following six years, with taxes paid only on withdrawal.

Social Benefits

Recognizing artists as workers means giving them comparable legal, social and economic benefits to those enjoyed by other workers, while considering the particular circumstances of their activity. In many countries, artists who are struggling can benefit from public systems that support all citizens, regardless of their occupations. In some cases, however, an artist's circumstances can be taken into consideration through special provisions that allow the artist to continue creating and selling their work or through special programmes that apply only to artists.

In Austria, improving the status of artists is included as a core principle in the Federal Arts Promotion Act's guidelines. The federal government has enacted two laws: the Artists' Social Security Fund Act (2000) and the Artists' Social Security Structure Act (KSVSG) (2011) which establish social security programmes for artists. These are funded by the State, the artist and their employer. The Artists' Social Insurance Fund (KSVF) was set up

In 2017, the Ministry of Culture of Albania released the report *Culture 2013-2017*.⁹ It provides an overview of projects supported by the Ministry in different cultural fields. Among the initiatives listed as contributing to the revitalisation of the cultural sector are a draft law on pensions for artists. Pension supplements would be given to artists recommended by a body of experts from the Ministry of Culture. Other initiatives include a new social benefits scheme and measures to facilitate the development of arts professions and to ensure a system of career progression and competitiveness for artists.

9. https://issuu.com/min_kultures/docs/layout_albiona

In accordance with the 1980 Recommendation concerning the Status of the Artist, the Spanish Government approved a set of measures to support artistic creation (Royal Decree Law 26/2018 of 28 December and Royal Decree 302/2019 of 26 April) in 2018. It establishes a legal framework that ensures the necessary conditions for the respect and development of artistic works, as well as the economic guarantees to which artists are entitled as cultural workers, as stipulated in the Recommendation.

This new framework addresses three main demands made by representatives of the cultural sector over the years: a taxation scheme within the sector, labour and social security protection and compatibility between pension benefits and copyright income. In so doing, it improves the living and working conditions of our creators while recognizing their contribution to the cultural identity and spiritual heritage of our societies.

For the first time, we have addressed the possibility of aligning the retirement pension with creative artistic activities for which intellectual property rights are collected, a legitimate claim that has been reiterated in recent years. In addition, among other fiscal measures, indirect taxes have been reduced on certain essential services in the cultural industries, in order to encourage artistic creation, the growth of the cultural industries and the dissemination of and access to culture for citizens.

We believe that these first steps are essential and mark the path we must follow for improving the working conditions of Spanish creators, for professionalizing the sector and for contributing to the development of our cultural and creative industries.

Adriana Moscoso del Prado Herández

Director General of Cultural Industries and Cooperation
Ministry of Education, Culture and Sport (Spain)

The current policy recognizes the need to provide artists with control of their own creations and revenues. It encourages the modernisation of centres/institutions responsible for professional training in the arts, and advocates international agreements to attract foreign expertise and investment in cultural industries. It also encourages partnerships with local and foreign artists, co-production agreements and residencies to develop Jamaican artists. The Jamaican Ministry of Culture, Gender, Entertainment and Sport provides an e-registry of entertainment practitioners and companies. Registration is not mandatory and its main purpose is to provide information on those registered, giving them greater exposure and facilitating contact with hiring and booking agents.

Colombia's 1997 General Culture Law establishes that the State shall consider the creator when it formulates cultural policies. The law contains articles related to social security and pensions for artists and cultural managers, as well as copyright and the right to share royalties for reproduction of works. One of the main strategies of Colombia's 2008 arts policy¹⁰ is the professionalization of artistic fields.

In this context, Colombia launched Colombia Creativa in 2008. It was a national programme, run by the Ministry of Culture, the Colombian Institute for Student Loans and Study Abroad (Icetex), the Ministry of Education, the National Training Service (Sena) and Acofartes (Colombian Association of Arts Faculties), that promoted the well-being of artists by recognizing their professional status, the dignity of the artistic professions and developing their capacity. In partnership with universities, the programme, which was designed to increase the opportunities of artists who do not have a professional degree but do have a recognized artistic career, through flexible curricula that allow students to remain connected to their work while increasing their quality of life, employability, and work alternatives. The professionalization component of the Colombia Creativa Programme relies on higher education adapting and adjusting their curricula to address the circumstances of cultural professionals, with a view to facilitating the training process. Thanks to curricular flexibility, and to forgivable educational loans and support grants, practicing artists had the possibility of

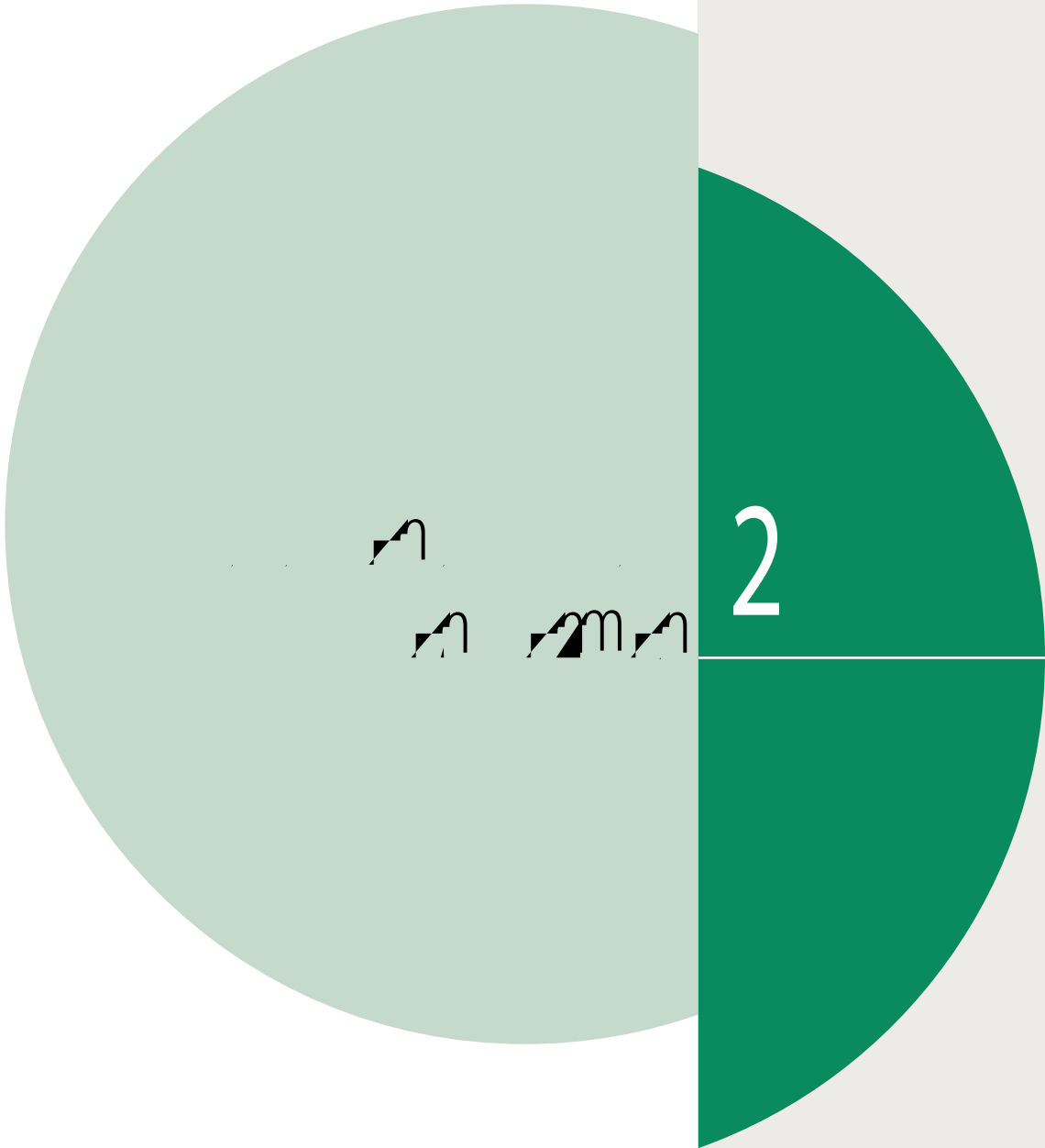
10. http://www.mincultura.gov.co/ministerio/politicas-culturales/politica-de-artes/Documents/01_politica_artes.pdf

which places the question of the status of the artist at the heart of the country's cultural policy. One of the three key messages is that "art is work and it must be treated as such". The report's proposals to improve the status of the artist include: progressively moving from a grants scheme to an employment scheme, increasing the number of artists receiving a pension, facilitating the compatibility of income from different sources, and promoting life-long opportunities, including in matters related to copyright. While Norway's most recent white paper on cultural policy *The Power of Culture: Cultural Policy for the Future*¹², 2018-2019 did not focus explicitly on the status of the artist, the Norwegian Ministry of Culture is committed to creating "conditions that allow individual artists and cultural institutions to continue improving the quality of their work" in order to promote a free and independent cultural sector.

French cultural professionals are increasingly alarmed about the deterioration of their economic and social conditions, and the rise of poverty. As a result of their advocacy, in March 2019 the French Ministry of Culture commissioned a reflection on the author and the act of creation over the next 20 years. Many artists are

Arts and culture serve as a source of happiness and consolation for many. It is also a sector that makes significant contributions to the national economy. The estimated value of the cultural industries in the global market is US\$2.3 trillion, and the Republic of Korea has 2.6% of the market share, which is the 7th highest in the world. In recent years, the arts and culture sector, including the cultural industries, has made remarkable progress in terms of both quality and quantity. However, many professional artists still experience hardships due to low wages, irregular income and unfair working conditions.

Artists are the foundation of a sustainable art ecosystem. With respect for the social role and value of the artist, the Korean government has implemented



In considering the contemporary situation of artists and how their economic and social status has evolved since the implementation of the 1980 Recommendation, it is critical to consider the impact of digital technologies on artists and cultural expressions.

With the digital shift, artists began to change the way they created cultural expressions. Musicians could use synthesisers, and no longer needed expensive equipment to record or store their work electronically rather than on physical media like vinyl records, cassettes or CDs. Sophisticated hand-held cameras, with digital sound and editing capacity, began simplifying filmmaking. New software reduced the time and cost of production in publishing and other cultural sectors.

More fundamentally, the Internet has changed fundamentally how cultural expressions are distributed and is rapidly becoming the leading conduit through which creative works of all kinds are made available to consumers. Music, books, periodicals, movies, television, radio programmes, video games, photographs and other creative works are now widely available in electronic format.

Australian academic Julianne Schultz writes about the profound cultural implications of this so-called Fang phenomenon (Facebook, Amazon, Apple, Netflix, and Google). She argues that technology companies are making unprecedented amounts of money from the marriage of culture with technology, creating an economic imbalance:

“As a result we are seeing a massive redistribution of wealth from the cultural sector, where meaning is created, to the technology sector, which has figured out how to market, distribute, reach and make money out of it in ways the cultural industries never imagined possible . . . in the Age of Fang there are a handful of global companies shaping tastes, distributing and exploiting information we didn’t even know we generated.”

The Internet has fundamentally changed how cultural expressions are distributed and is rapidly becoming the leading conduit through which creative works of all kinds are made available to consumers.

In the process creating a new world which generates unprecedented wealth, yet which gives us enough of an illusion of choice and being in control to feel we are free agents, global citizens even.”¹⁴

Below, we explore contemporary issues related to the impact of the digital environment on the economic and social



The first cultural sector to be dramatically affected by Internet distribution was the music industry. The old business model was based on the sale of a physical recording, pressed on vinyl, or recorded on a cassette tape or compact disc. Consumers bought all the songs on the album even if they were interested in only one or two tracks. Radio made the music widely available and the primary purpose of the artist's tour was to generate publicity to increase sales of their albums or CDs. This model changed with the development of the MP3 format, which greatly compressed the size of the digital music file, and allowed them to be easily copied and shared. The launch of the iPod in 2001 and the iTunes store two years later meant that one could legally acquire music, one song at a time, and at a low cost. Streaming services followed soon after, with Spotify launching in 2008.

The effect of this shift has been cataclysmic for the music industry. Between 1999 and 2014, global music

In 2016, the global music industry began referring to the

In most areas, writers are only beginning to experiment with writing directly for the e-book market. A recently announced initiative will use augmented reality to add value to Penguin Random House's vast collection of classic children's books for the digital screen.

The sector where the effect of the digital shift has undoubtedly been the most complex is the film and television industry. The obvious trend is that audiences are increasingly consuming audio-visual content online, either through computers or mobile devices. The past few years have witnessed the extraordinary growth of services exclusively distributed online, like Netflix and other on-demand movie/television services. Advertisers are gradually abandoning linear television and radio formats, while public service broadcasters must ensure their continuing relevance in the digital environment by adapting the way in which they offer their programming.

U.S. technology company Sandvine provides regular reports on Internet traffic. For these purposes, it divides the world by region: Americas (North and South America, and the Caribbean) – EMA (Europe, Middle East and Africa) – and Asia Pacific. In its October 2018 report, Sandvine highlighted that Netflix is now responsible for 15.0% of worldwide traffic by megabytes, followed by YouTube at 11.4%. While Netflix is first in the Americas, it is ranked second in EMA and third in Asia Pacific. YouTube is first in EMA and Asia Pacific.¹⁹ While consumer habits and infrastructure vary widely across the Asia Pacific digicry EMA Tmnsic c4idely Amea, a-26.e th

The 1980 Recommendation calls upon Member States to “assist artists and organizations of artists to remedy, when they exist, the prejudicial effects of new technologies on their employment or work opportunities”. While the consultation results from 2014 reflected a significant divergence of views about whether the digital shift has a positive or negative impact on the income received by artists, in the 2018 consultation, this balance has shifted to a global consensus that artists have lost income overall. On the civil society side, most now believe the digital shift has eroded the income of artists, particularly in artistic fields most susceptible to Internet-based distribution.

The Australia Council for the Arts has received comprehensive surveys of Australian artists’ incomes from Macquarie University for more than 30 years. In November 2017, the sixth survey was released. *Making Art Work: An economic study of professional artists in Australia*, showed that the median income received by all artists from their creative work fell 30 % between 2007-08 and 2014-15. The decline was 34 % for musicians and 40 % for composers. For those artists whose work is most likely to be moving to Internet-based distribution platforms (writers, directors, actors and musicians) average median income received by artists from their creative and arts-related income fell by 39 % in this same period²¹. There is also a growing consensus in the global South that artists have lost income.

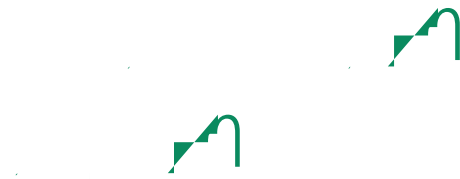
Although Colombia still faces challenges in terms of social security and working conditions for artists, Law 1403 (2010) and Law 1835 (2017) conferred artists, performers of audiovisual recordings and authors of cinematographic works the right to receive equitable remuneration for acts of public communication including the provision and commercial rental of the works.

The Kenyan Creative Economy Working Group²², a coalition of civil society organizations working in the culture and creative sectors, summarises the main challenges facing Kenyan artists in the digital environment. The increasing use of the

21. *An Economic Study of Professional Artists in Australia*, David Throsby and Katya Petetskaya, 2017, available at <http://www.australiacouncil.gov.au/workspace/uploads/les/making-art-work-throsby-report-5a05106d0bb69.pdf>

22. <https://www.wabunifu.org>

digital environment to distribute artistic works has not been accompanied by updated copyright policies, leaving artists unprotected from piracy and exposed to copyright



Appropriate copyright provisions can ensure that artists are fairly compensated for their work in the digital environment. There is evidence that improving copyright laws increases income for artists. The International Music Council reported that global royalty collections increased by 23 % from 2012 to 2017, although it was unequally distributed. Of the €9.6 billion collected in 2017, only 0.8 % went to African collecting societies, and 6.4 % to Latin American societies. Still, these regions saw greater growth rates in the previous year – 11.4 for Africa and 22.7 % for Latin America. It is important to note that these royalties are shared by all those with rights in music, including, more recently, algorithms registered with collecting societies.

Advocacy and awareness-raising programmes for artists, consumers and legislators on what copyright laws mean for the use and distribution of cultural content on the Internet and how they can be used to promote fair remuneration for artists in the digital environment are expanding all over the world. Yet, there remains a persistent concern about piracy and the largely unpaid dissemination of copyright works on content sharing platforms. Digital technologies make it easy to copy and manipulate creative works. Many feel that existing copyright laws are inadequate to deal with the new environment. According to piracy data specialist MUSO, there were more than 189 billion visits to piracy sites in 2018. While almost half the visits were to sites offering television programmes, the other leading sites provided access to films, music, publishing and software. The top 10 countries with the most visits to piracy sites, in ranking order were: United States, Russia, Brazil, India, France, Turkey, Ukraine, Indonesia, United Kingdom and Germany.²³ According to Google's transparency report, it has removed most of the 4.1 billion URLs that copyright owners have reported for containing infringing content from its search results.²⁴

23. <https://www.muso.com/>

24. <https://transparencyreport.google.com/copyright/overview?hl=en>

A relevant attempt to strengthen artists' bargaining power to help them increase their remuneration is the European Directive on copyright and related rights in the Digital Single Market²⁵ adopted in April 2019, whereby Member States must implement the necessary legislation within two years. The Directive includes measures that would require Facebook, YouTube, Google and similar platforms to ensure that copyright holders are compensated for cultural expressions or news content used or accessed on their sites, and to implement systems to detect and block unauthorized copyright material before it appears online. There are exemptions for small platforms, non-commercial online encyclopaedias, and open-source software platforms. Other Articles in the Directive seek to improve the bargaining power of authors and performers, particularly in cases where their remuneration is disproportionately low. The Fair Internet Coalition, representing more than 500,000 musicians, singers, actors, dancers and other performers, supported the Directive, noting that it is the "first encouraging step in the right direction," particularly because it establishes that "remuneration for performers must be proportionate to the revenues generated by the exploitation of their work".

Similar efforts to align copyright law with the current era of streaming can be found in other parts of the world. In October 2018, the United States' Music Modernization Act was signed into law. This act streamlines the process by which music rights holders are remunerated for streamed songs through a single mechanical licensing database overseen by music publishers and songwriters. The cost of creating and maintaining this database will be paid for by digital streaming services. It also includes an Allocation for Music Producers, which improves royalty pay-outs for producers and engineers from SoundExchange when their recordings are played on satellite and online radio. This is the first time producers have been mentioned in the United States' copyright law. Finally, it allows for payment of royalties for songs written before 1972, to both songwriters and performers.

On 30 December 2018, copyright protection in Japan was extended from 50 years to 70 years after the author's death. Extending the copyright term should allow rights holders to generate more income. The law also includes a piracy deterrent

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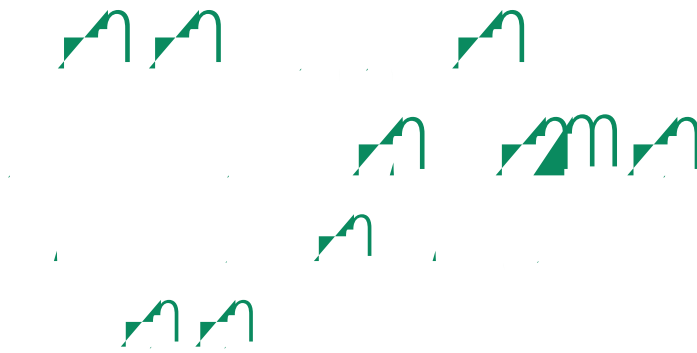
25. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2019.130.01.0092.01.ENG

measure, whereby anyone “with an interest” in a particular work – not necessarily the rights holder – can sue for “perceived” copyright violation.

In 2014, Morocco enacted a law on copyright and related rights, which supplemented the 2000 law and that instituted remuneration for private copying, making it possible to financially compensate copyright and related rights holders for the private and legal reproduction of their works for personal use. This contributes to fair remuneration for all creators and to the fight against counterfeiting and piracy. This resulted in an increase in the amounts granted by the Moroccan Copyright Office (BMDA) between 2017 and 2018. The year 2018 was marked by a significant increase in BMDA collections. The music, dramaturgy and literature sectors benefited from more than 13.9 million dirhams (US\$1.44 million), granted to 6,482 authors, against 5.4 million dirhams (US\$560,000) for 2,278 authors in 2017. African States such as Burkina Faso, Nigeria, and Côte d'Ivoire have also established a compensation system similar to Morocco's. In 2018, the African Union adopted an implementation strategy for the 2006 Charter of African Cultural Renaissance. Chapter 4 (articles 23 and 24) of the Charter aims specifically to promote the protection of the rights of artists, through copyright measures and encouraging artists to create Internet enterprises. But many collecting societies, especially from the global South, report that artists are insufficiently trained to correctly register metadata, which often prevents the societies from paying royalties.

There have recently been renewed efforts to implement the WIPO Internet Treaties as a primary response to the rapid expansion of digital distribution, although the WIPO Audio-visual Performances (Beijing) Treaty has not come into force seven years after it was signed. There are also new efforts to educate artists, consumers and legislators in what copyright laws mean for the use of cultural expressions on the Internet and how these laws can be used to promote fair remuneration for artists whose work is now regularly circulated online.

As copyright protection becomes more robust, the data for ensuring musical artists, composers and record labels are compensated should be widely available. Official music charts in Argentina, Brazil, Chile, Colombia, Malaysia, Mexico and Singapore are now provided by BMAT (bmat.com) a private data company focusing exclusively on music. It monitors one trillion digital transactions yearly on behalf of its clients, primarily collecting societies, record labels and music publishers.



For artists to be fairly compensated for their work in the digital environment, it must be accessible. In a context where online platforms have become the primary intermediaries for the dissemination of cultural content, issues related to copyright and remuneration call for targeted measures.

In most developed countries, national audio-visual contents, particularly films and television programmes, and public service broadcasters, are widely available online. Some national suppliers are turning to on-demand services to compete with Netflix.

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A 2018 amended European Union Directive on audiovisual media services²⁶ requires each Member State to enact, by 2021, the necessary regulations to ensure that each digital on-demand service has no less than 30 % European content in its catalogue, which means that Amazon, Netflix and others will have to acquire European content and hopefully contribute to its production. France has already established rules requiring that this content be highlighted appropriately on the relevant webpage. Member States are free to raise this requirement to 40 %, and they may include sub-quotas for productions from their own countries. The European Union Member States will also be free to follow the German and French models of applying a levy on revenues to support national production. Netflix has announced that it will reluctantly adhere to the new European rules respecting taxes, contributions to local production and European content. The logic behind such reforms is that if web-based services are replacing television broadcasting and competing for the same audiences, they should be subject to obligations analogous to the legacy broadcasters.

Amazon, Netflix and

The continued growth of e-commerce and the boom in the provision of cross-border digital services around the world has led States to establish mechanisms and rules to ensure effective collection of VAT. Against this background, the Organization for Economic Cooperation and Development/G20 Base Erosion and Profit Shifting Project (BEPS) prioritises the tax challenges raised by digitisation. In order to implement a consistent and coherent system to tax services in the digital economy, the VAT/GST Guidelines provide that the destination principle should apply, i.e. the obligation should be imposed on non-resident suppliers to register, declare and pay VAT/GST in the jurisdiction of consumption. A number of European States have also begun to apply corporate taxes on digital giants based on revenues earned in the relevant jurisdiction. Where such tax is applied to cultural services, it could represent a source of additional revenue for domestic cultural expressions.

26. Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities available at <https://eur-lex.europa.eu/eli/dir/2018/1808/oj>.

In the global North, most traditional granting bodies will provide funding for projects that incorporate an Internet distribution strategy. In its 2018 Tailored Review Implementation Plan, Arts Council England encouraged all funded organizations to increase the presence of creative digital media content and to increase the access of audiences to that content. Those organizations receiving more than £250,000 per year will be required to include clear commitments and objectives related to the creation and distribution of creative media (including creative content, captured content or cultural learning content).

The Canada Council for the Arts' Digital Strategy Fund encourages an overall approach that supports artists and arts organizations in understanding and engaging with the digital world, and responding to the cultural and social changes it produces. Québec has a digital media plan and offers grants to artists in various sectors to create new material or to repurpose existing material in a digital format. In Denmark, artists with a digital distribution strategy are more likely to secure grants, while Lithuania sets aside 25 % of the private copying levy for digital programmes.

core group, composed of policy makers from different agencies of federal and State governments, academics and stakeholders from different cultural sectors, to create in 2018 a *Roadmap for Digital Creative Industries*³⁰ that has been guiding federal institutions in supporting and reflecting on new creative forms.

In Colombia, the *Crea Digital* programme has provided incentives for artists from across the country since 2012. The annual call includes economic incentives to support the production of digital content. The programme offers monitoring and tutoring for production processes, and advice on marketing so that productions can be monetized or travel through various cultural and educational circuits. In the last four years, US\$4.57 million were granted for the production of digital content for cultural, educational and entertainment purposes, resulting in 56 videogames, 28 eBooks, 31 media projects, 5 inclusive tools for people with disabilities and 33 animation series. These processes led to creation of 315 business initiatives and, most importantly, to the increasing take-up of information technologies and the generation of new contents production logic in the digital environment.

In Brazil, within the framework of the National Living Culture Policy, instituted by Law in 2014 and known as the Living Culture Law, the government launched the *Digital Culture Action* programme that consists of equipping more than 4,000 *Culture Points* in 1,000 municipalities that allow for the creation of audio-visual works. These centres are non-profit entities, groups or communities that implement cultural activities in the local community.

The Jamaica Film Commission has a mandate to promote investment opportunities and export opportunities in the film industry. In addition to facilitating national productions and international co-productions, the Film Commission also runs assistance programmes for filmmakers such as the Youth Employment in the Digital Animation Industry (YEDAI) Project, implemented through the Office of the Prime Minister, to support youth employment in the digital and animation industries in Jamaica. The programme provides

**Many existing
funding
programmes
have expanded to
support the creation
and distribution
of digital works**

30. <http://agendadigital.cultura.gob.mx/documentos/mapaderutaicd.pdf>

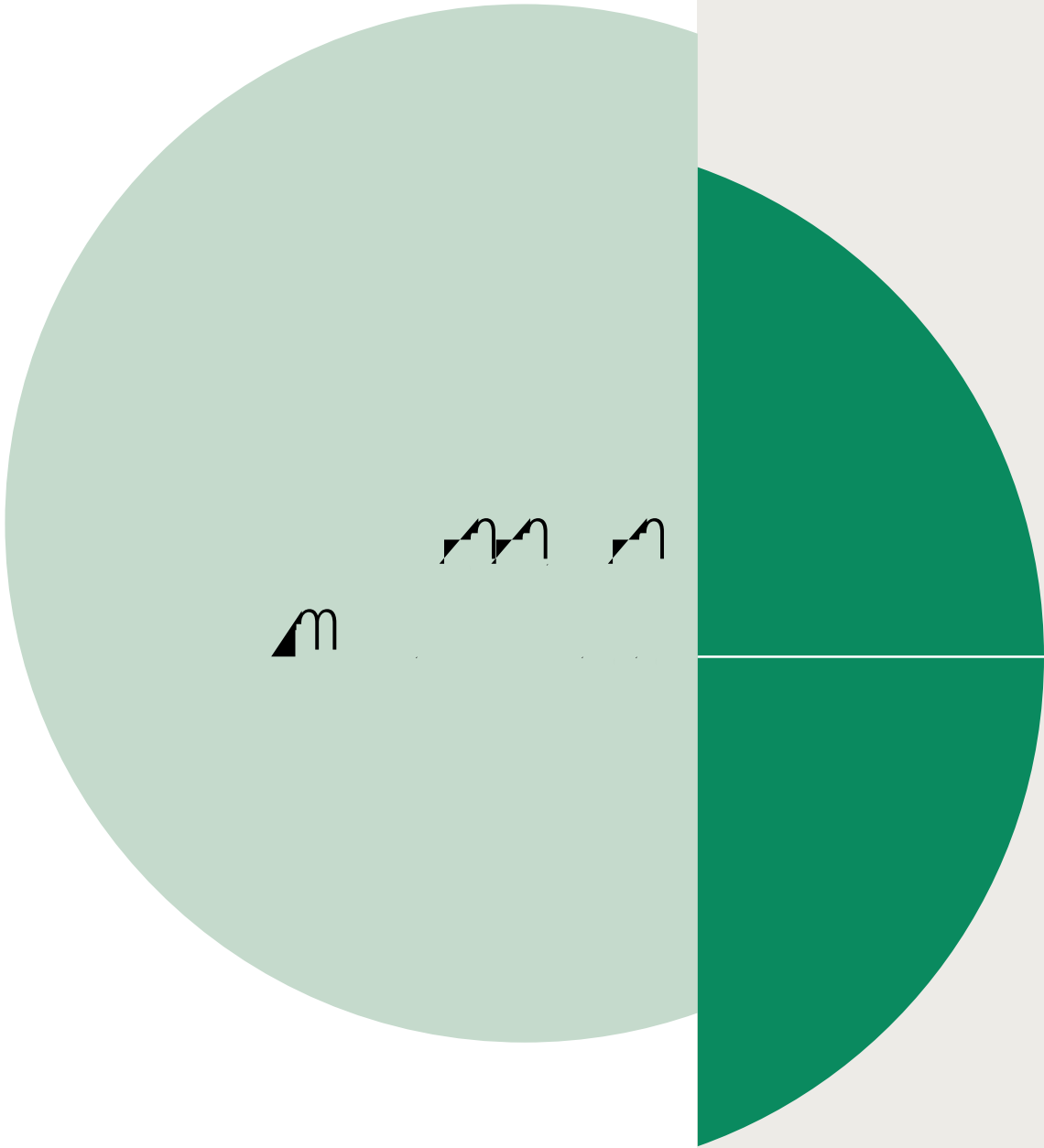
access to equipment and spaces for digital experimentation, collaboration and training on the protection and monetisation of intellectual property shared through the Internet.

Artists are beginning to explore the possibilities of virtual reality, augmented reality, extended reality (VR/AR/XR) and the longer-term potential of artificial intelligence (AI). In addition to Penguin's children's book augmented reality initiative, several story-writing applications use analytics that track a range of data about plots, audience profiles and sales. One of these, Wattpad, with 65 million users worldwide, is a space where writers can create stories online and the public can comment on these stories as they develop. Recent television productions on Netflix and Hulu originated as stories on this site. There are also early efforts in the music industry to harness artificial intelligence to compose new music by studying patterns in existing compositions and recombining the chords, notes and timing in novel ways.

Supporting artists' training and professional development on emerging technologies, or incubators, seems essential to maximizing the use of the latest technology as tools to create a rich diversity of cultural expressions.

Finland reports that studios at Aalto University use VR/AR and AI in films and television, games and animation, including user experience testing and sensor data analysis. Barbados' Mirror Image Media and Innovation Labs (MMIL) provide training in animation, filmmaking, app design, coding, robotics, artificial intelligence and computer-aided design for young artists aged 13-19.

Since 2014, the Republic of Korea's Government has run 10 incubators called *Content Korea Lab*, which provide artists/creators with mentorship, technical equipment, recording studios, editing suites and office spaces. It also plans to open production facilities in Seoul for VR, XR, etc. In September 2019, the Korean government invested in the immersive content industry, which capitalizes on 5G networks, AI, and virtual and augmented reality. They will also launch a co-investment venture worth US\$375 million from 2019 to 2022, targeting independent artists and early stage SMEs in digital media.



The 1980 Recommendation calls on Member States “to provide those engaged in artistic activities with all the means, in particular, travel and study grants, likely to enable them to establish lively and far-reaching contacts with other cultures” and “to take all appropriate steps to promote the free international movement of artists”. Yet, challenges to the transnational mobility of artists remain very present and artists continue to face a number of administrative and financial barriers to travel. Despite commitments made by many Parties under *Preferential treatment for developing countries*, Article 16 of the 2005 Convention³¹, there are few cases of preferential treatment granted to artists and cultural professionals from developing countries in the context of major international migration flows. Inequality in mobility undermines the status of the artist. For example, an average (Western) European passport allows an artist to travel to more than 150 countries without a visa, while an average African passport will restrict an artist to less than 75 visa-less countries.³² While not yet available, the African Union Passport which was announced in 2016 will be a common passport that will replace existing national passports issued by the 55 AU Member States. It shall permit visa-free travel for the continent’s one billion people.

While the expansion of regional cooperation agreements has made it easier for some artists to travel to and within the global South, the past decade has added new challenges for artists from the global South who wish to travel and work in the global North. The forces that are making it more challenging for global South artists are also restricting North-to-North movement for artists. International stars have always been able to cross borders. But even these few, and other artists who can work abroad, are confronted with practical challenges, including complicated and expensive application processes, ever-changing visa requirements that vary from country to country; myriad tax rules, regulations and treaties that can lead to disadvantageous treatment, including double taxation on earned income; high travel costs; difficulties travelling with instruments, essential equipment and supplies, and; challenges related to social benefits and pensions, even in economic integration areas such as the European Union that provide complete labour mobility.

Below we will present several of these challenges in more detail and share some of the emerging policy responses from States and regional institutions.



The need to integrate the mobility of artists and cultural professionals into national and regional cultural programmes is becoming increasingly apparent. The European Union is well aware of the need to facilitate the mobility of artists within and outside its borders, as evidenced by its 2017 *Towards an EU strategy for international cultural relations*³³. In this text, Member States recognize the need to establish mechanisms to facilitate access to visas for artists and cultural professionals and call for the development of a visa policy specifically for them. They also call for the creation of a cultural visa programme, along the lines of the existing Scientific Visa Programme, for third-country nationals, artists and other professionals in the cultural field. Similarly, the *2019-2022 Work Plan for Culture*, adopted on 27 November 2018, includes the creation of “an ecosystem supporting artists, cultural and creative professionals and European content” as one of the five main priorities for European cooperation in cultural policy-making. It also recognizes the mobility of artists and cultural professionals as an issue “of specific interest for research and exchange at European level”, together with “the circulation and translation of European content, training and talent development, fair pay and working conditions, access to finance and cross-border cooperation”³⁴.

The need to integrate the mobility of artists and cultural professionals into national and regional cultural programmes is becoming increasingly apparent.

33. http://www.europarl.europa.eu/doceo/document/TA-8-2017-0303_FR.html

34. Draft Council conclusions on the Work Plan for Culture 2019-2022 available at <http://data.consilium.europa.eu/doc/document/ST-13948-2018-INIT/en/pdf#http://data.consilium.europa.eu/doc/document/ST-13948-2018-INIT/en/pdf>.

In this context, the French Institute and the Goethe Institute are supporting the European Union throughout 2019 in conceiving and testing a system that can support artistic mobility in Europe. The two institutions were commissioned to carry out a study on mobility policies within the European Union and the implementation, on an experimental basis, of a first programme for European mobility³⁵.

Since 2009, the *Agreement on Residence for Nationals of States Parties to Mercosur, Bolivia and Chile* provides citizens, including artists, a right to live and work in another of these countries for two years. Since mid-2018, the Mercosur Parliament plenary has been considering a draft recommendation that seeks to simplify migration procedures to facilitate the mobility of artists and the circulation of artistic works in Mercosur countries. The draft recommends that the Common Market Council (CMC) generate regional strategies to promote the mobility of artists and foster professional exchanges between cultural workers in MERCOSUR. Although the recommendation has not yet been implemented, the joint Communiqué of the

44

In 2015, the East African Community *Creative Industries Bill* established the Creative and Cultural Industries Fund to provide artists and cultural entrepreneurs with grants to participate in local and international events, workshops and seminars, and to provide training for marketing, export and product development. Although much hope was placed in the Bill's ability to support artists, the Fund has not been established to date.

The ASEAN Economic Community (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam) was created in 2015 with the ultimate goal of supporting the "free movement of goods, services and investments, as well as a freer flow of capital and skills." Mobility is offered to professionals in eight economic sectors: accounting, architecture, dentistry, engineering, medicine, nursing, surveying and tourism. But it continues to be limited by labour market tests, requirements for minimum years of experience and health clearances, and does not yet cover artists.

Similar patterns are also found at the level of bilateral cooperation. A significant number of countries have reciprocal relationships and cultural cooperation agreements that facilitate the movement of artists between partners. One example: Kenya has signed bilateral agreements with China, Ghana, India, Nigeria, the Republic of Korea and Venezuela (Bolivarian Republic of), among other countries, to foster cultural cooperation and promote the mobility of artists. These include provisions to support the mobility of artists and cultural professionals to and from Kenya, as well as the flow of cultural goods, notably film and music production equipment, through tax reductions.

A significant number of countries have reciprocal relationships and cultural cooperation agreements that facilitate the movement of artists between partners



Restrictions, arising from public security concerns and ongoing terrorism threats and the global refugee crises, most particularly the flow of people across the Mediterranean Sea to Europe, are making it harder for artists to travel and work abroad. The growing restrictions on mobility to and within the

Many artists encounter problems when applying for visas because consulates are not always present in the artist's locale, the nearest may be many hours travel in a distant city. Artists also report unfair treatment as consular staff consider their profession to be economically insecure. Visa costs also pose

In France, for artists who are not exempt, three types of visas exist: a short stay visa, a long stay visa and a residence permit, with the mention “talent passport”, given on the basis of the artist’s international reputation (“a foreigner whose international reputation is established who comes to France to exercise an activity in a scientific, literary, artistic, intellectual, educational or sporting field”), or a visa for performing artists under certain conditions (including the duration of contracts, financial resources, etc.). France set up an Artists’ Visa Committee in 2009 to respond to the growing difficulties in obtaining visas encountered by professional organizations in the music sector working at international level. The Committee comprises trade unions, networks, resource centres, international organizations, such as the International Organization of the Francophonie, and works closely with the Ministry of Europe and Foreign Affairs and the Ministry of Culture. It is worth noting that the Ministry of the Interior joined the Committee in 2015. In December 2016, Zone Franche, the world music network mandated to manage the Committee, launched the first edition of the *Practical Guide to Visas for Cultural Professionals*³⁶, which reports, among other things, on recent legislative and regulatory developments related to the adoption of the 2016 law on the *Rights of Foreigners in France* that simplifies administrative measures with a direct impact on the practice of professionals working with foreign for professional artists.

In Austria, any activity by a foreign artist, by way of employment or similar contractual relationship (e.g. quasi-freelancers, ‘freier Dienstnehmer’), requires authorization under the *Act Governing the Employment of Foreign Nationals* (Ausländerbeschäftigungsgesetz, AuslBG). Under the Act, foreign nationals who are concert or stage artists, or members of such occupational groups as variety artists, film, radio and television workers or musicians, may be employed without an employment permit for one day, or for up to four weeks within an overall artistic production to ensure the presentation of a concert, an event, a performance, an ongoing film production, or a television live broadcast. Such employment shall be notified by the event organizer and/or producer on the first day of work to the competent regional office of the public employment service.

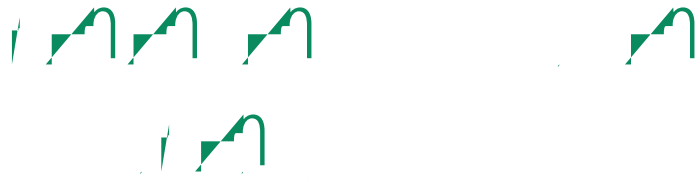
36. Available at <http://www.zonefranche.com/fr/comite-visas-artistes/guide-pratique-des-visas-practical-guide-to-visas>.

Some countries offer special treatment for various classes of applicants which may include artists and cultural professionals. New Zealand allows performers and their immediate support crews who are invited to take part in an officially designated arts or music festival to travel on an Arts and Music Festival Visitor Visa for up to three months, without a work permit. For an arts or music festival to be approved, its organizer must submit a proposal to Immigration New Zealand showing that the festival has been hosted in New Zealand for three or more years, and ten or more overseas performers and/or crew will take part.

Importantly, a number of countries in every region have special rules for those working in performing arts companies. Most have simplified and less expensive arrangements for actors, directors and other artists in movies, as it is a highly mobile industry that can generate positive economic benefits to the host country.

Administrative and financial challenges linked to customs regulations, Value Added Tax and income taxation have become barriers for artists when operating internationally. In addition, some measures taken to overcome such constraints may trigger adverse effects. For example, in West Africa, the efforts of the West African Economic and Monetary Union have resulted in bank borrowing facilities for cultural entrepreneurs, particularly in the film sector. However, the removal of customs barriers for cultural products between these countries seems to favour multinationals more than local cultural entrepreneurs.

The Performing Arts Employers' Associations League Europe (PEARLE) maintains a body of texts that cover the administrative and legal aspects that artists and cultural managers need to know in relation to mobility in or to the Schengen area and/or the European Union. While PEARLE publishes practical guides for artists and cultural professionals, more consistent administrative support to artists from the global South is needed to address the diverse and varied challenges they face. Similarly, the ATA Carnet is an international customs document that replaces import and export papers, and duties and taxes, in the roughly 75 countries which participate. This system is of real value for artists who travel with equipment and musical instruments, and for touring companies, but the fees attached to the system are an impediment for some less established artists.



Virtually all States have public programmes to support their artists when working abroad, across the full spectrum of cultural activity. However, in a few Least Developed Countries, artists rely primarily on private funds, or on foreign entities that have invited them abroad. Fiji's Department of Heritage and Arts and the Fiji Arts Council provide financial support to performing artists who travel overseas to participate in events and exhibitions, mainly in Australia and New Zealand. However, funds are limited and both agencies also work to facilitate sponsorships from the private sector or other public organizations.

There are a large number of foundations and development initiatives that provide funding for artists, particularly from the global South. Specific mobility funding schemes in certain regions of the world are key to supporting the mobility of artists. Africa Art Lines is a mobility fund, exclusively supported by African Funds, that allows artists and cultural operators developing artistic projects between Morocco and other African countries to benefit from grants for travel expenses. First dedicated to the music sector, Africa Art Lines later expanded to the performing arts. Art Moves Africa is a civil society organization that facilitates exchanges by providing travel funds to artists, and cultural professionals living and working in Africa, to allow them to travel within the African continent. MuseAfrica, based in Ghana, works to showcase urban music to African millennials. IGODA (Zulu word for "bind together") is the Southern African Music Festival Circuit that facilitates the movement of artists and supports collaboration among them, while celebrating music and culture.

In 2017, to commemorate its 20th anniversary, the Asia-Europe Foundation (ASEF) launched Mobility First! This cultural mobility

wide range of cultural activities, including networking, capacity building (training, study visits, partnership meetings), creation (artistic and writing residencies) and public presentations (festivals, biennales, conferences). An equal number of men and women were supported from various sectors, including film, visual arts, contemporary dance, and theatre.

While artists and cultural professionals who face the most significant barriers are those from the global South seeking to travel and work in the global North, there are significant and growing challenges to travel within the global North or across the global South. There have been minor improvements in travel and work opportunities as a result of economic development and multilateral agreements, and there are important initiatives in virtually every region, including Latin America, Asia and throughout Africa. Yet, in addition to the challenges confronting all artists, those from the global South face additional travel costs. In some instances, it can be more convenient and less expensive for African artists to travel to Europe, and Latin America artists to travel to North America, than to travel to a neighbouring country in the global South.

The Arab region is no exception and the mobility of its artists is increasingly hampered by restrictions. *Al Mawred al Thaqafy (Cultural Resource)* has been awarding the *Tajwaal Mobility Grant* since 2016. This grant provides up to US\$8,000 for artists to present their creations internationally. The *Mawa3eed* programme also provides mobility grants of up to US\$5,000. In 2019, the two programmes were merged under the *Wijhat (Destinations)* programme, which was designed to support artists and cultural actors in the Arab region to travel within and outside the Arab region, thus enabling beneficiaries to present their work to new audiences and participate in new and diverse cultural exchanges between and within Arab countries. The programme offers 25-30 grants per year in three rounds and it covers the cost of tickets, visas, and accommodation and living expenses. It also includes a recommendation letter to the relevant embassy in order to support the visa application.

Cultural entrepreneurship is essential to international artistic cooperation today. Indeed, most artistic development policies now mention the indispensable role of cultural entrepreneurship. The mobility of cultural entrepreneurs is thus an essential condition for the development of equitable

There are a large number of festivals and development initiatives that provide funding for artists, particularly from the global South

international cultural and artistic exchanges. In this context, the *Roberto Cimetta Fund* opened a fund in March 2017 dedicated to the mobility of cultural entrepreneurs from Europe, North Africa and the Middle East as part of the Creative Tracks global collaboration programme, an initiative launched by the European Parliament and financed by the European Union. Twenty cultural professionals have already been supported.

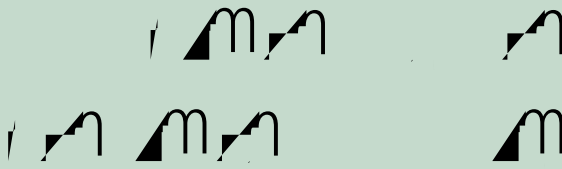
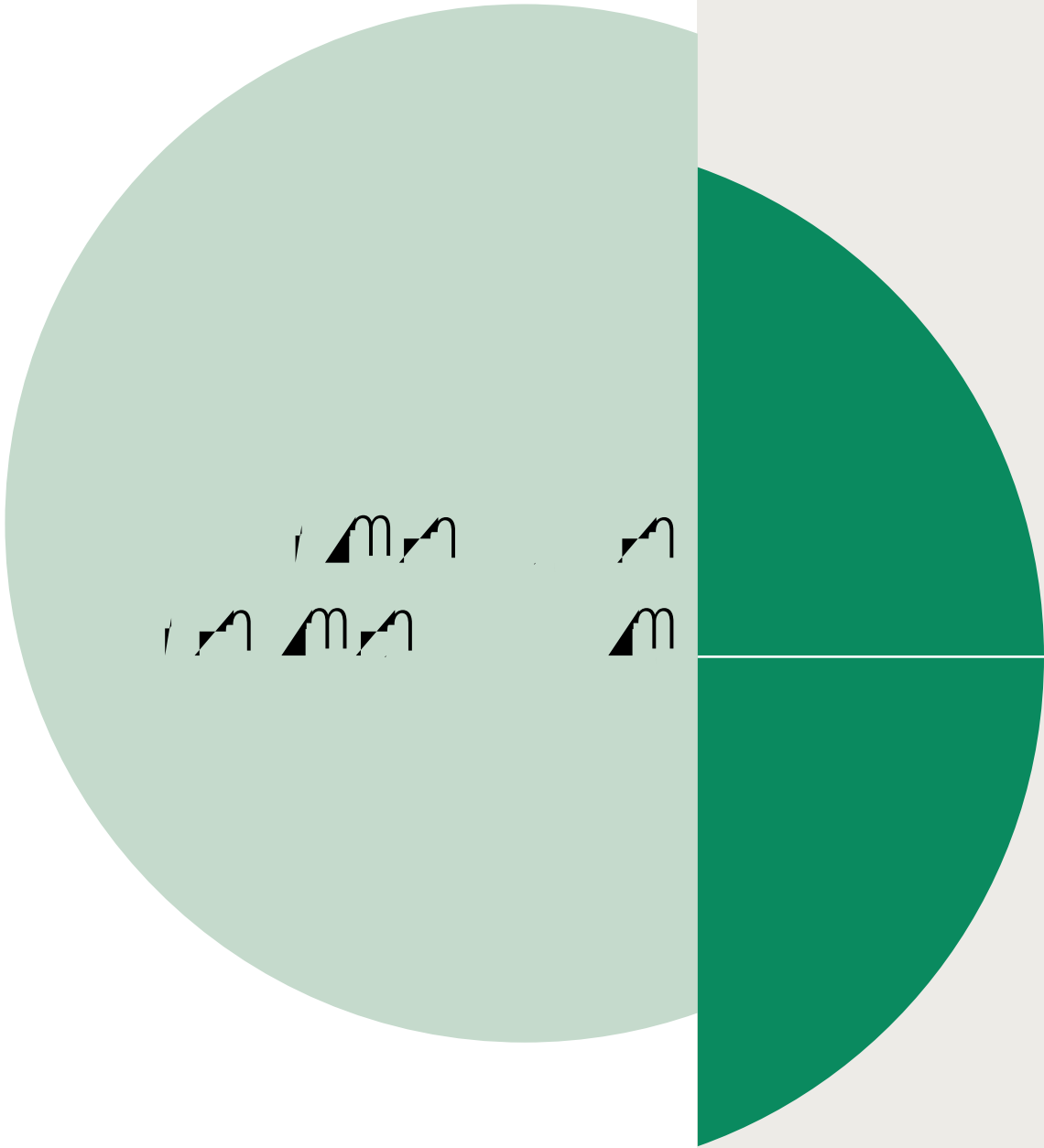
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Working with *On the Move* and *Dutch Culture*, the International Network for Contemporary Performing Arts (IETM) published, in 2018, a valuable toolkit³⁷ that promotes fairer international collaboration in the arts by considering the often substantially different working methods and expectations in the global South and global North.

ResArtis, a worldwide network of artist residencies, brings together more than 650 centres, organizations and individuals in 70 countries dedicated to representing and supporting the needs of residency programmes. Since 2011, ResArtis has undertaken the task of comprehensively mapping residencies. It also gathers information about grants and funding resources from regional and international organizations that provide structural help and resources for artist residencies.

This type of collaborative and free tool can also be found at the regional level. The Mercosur Map of Artistic Residences³⁸ contributes to the development of creative processes across Latin America, through the socialization of experiences and knowledge as a form of exchange. Both public and private organizations (ministries, foundations, agencies, etc.) can upload information about their aid programmes and mobility policies to the platform. Registered artists and cultural professionals have the possibility of establishing dynamic searches according to their profiles and interests.

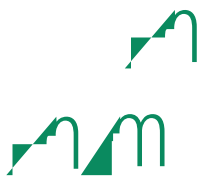
Civil society organizations in the global South are creating new knowledge sharing platforms and are advocating for the development of legal frameworks and professional infrastructure that they consider imperative at a time when many freedoms, including freedom of movement, are at stake. While all global North countries have international exchange programmes and grants to support the outward and inward mobility of artists, and many of them have comprehensive online platforms where foreign artists can obtain information on the conditions of entry to their territories, it is difficult or impossible to find programmes targeted at artists from developing countries, as required of Member States from the global North, who are Parties to the 2005 Convention, in accordance with Article 16.



The 1980 Recommendation aims to ensure that artists benefit from “the rights and protections provided for in international and national legislation relating to human rights”. Moral, economic and social rights form part of the bundle of human rights provided for in the preamble of the 1980 Recommendation with particular reference to income and social security that would grant professional artists “the same rights as are conferred on a comparable group of the active population by national and international legislation in respect of employment and living and working conditions”.

When assessing the 1980 Recommendation’s state of implementation, ensuring that there is a continuous improvement to the social situation of artists is crucial. Artists face important social challenges: low and fluctuating income, job insecurity, insufficient or non-existent social protection and little or no access to benefits normally provided to employees. It is also important to acknowledge that, in some countries and regions, artists do not have social benefits of any kind, either because the State lacks the economic capacity to provide programmes, or because war or insecurity prevent them from being developed or maintained.

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to human rights”***



Artists as citizens and workers

As citizens, artists are entitled to universal benefits. Accordingly, in many countries artists are covered by the



needs of artists and cultural professionals in rural areas and in the informal sector. These mutual health insurance companies operate on the basis of an annual fee of 7,000 CFA per person (approximately US\$12). The contribution is subsidized up to 50% by the State, with artists and cultural professionals receiving a second subsidy from the Ministry of Culture.

Kenya faces a similar situation. The National Social Security Fund (NSSF) and the National Hospital Insurance Fund (NHIF) have been in place since the 1960s. Both the government and individual workers make monthly contributions. For the NSSF, workers make monthly contributions, while the employer contributes a certain percentage of the employee's monthly contribution; for the NHIF, both the government and individual workers make monthly contributions at a fixed percentage. The Kenyan Government has recognized the need to extend social security and health insurance to informal sector workers and increase the range and adequacy of NSSF benefits, including maternity, unemployment insurance, and work injury⁴⁰. Unlike salaried workers, informal sector workers, which includes most artists, can join the NHIF on a voluntary basis through low contributions.

In Nicaragua, artists have the right to basic medical care provided by the public health system, which is free throughout the country. In the case of artists who work for a public or private institution, they must be registered with Social Security and receive medical coverage through this system. However, there are no illness, paternity/maternity leave or disability insurance systems for artists and the artists employed must subscribe to special regimes.

The establishment of a social security system for artists and cultural workers is one of the main axes of Venezuela's 2014 *Integral Social Protection of the Artist and National Cultural Practitioners Law*. The law gives artists access to the same social protection as other workers. The law also calls for the creation of a National Fund for the Development and Social Protection of Cultural Workers, to facilitate the entry of low-income cultural workers into the Social Security System.

Strategies to develop or sponsor a comprehensive parallel programme, or implement special provisions for artists

40. Ministry of Gender, Children, and Social Development, Republic of Kenya: *Kenya National Social Protection Policy* (Nairobi, 2011) available at <https://www.socialprotection.or.ke/images/downloads/kenya-national-social-protection-policy.pdf>.

The legal framework also promotes the creation of a registry system to collect data on all cultural workers. This registry can identify artists and cultural professionals who may be in vulnerable situations, provide access to information on the country's various cultural and artistic groups, and promote their direct and active participation in cultural public policymaking. Public consultations on the law's regulations began in January 2019.

Costa Rica's social insurance system, which is managed through the Costa Rican Social Security Fund (Caja Costarricense de Seguro Social), is also universal. For many years, only a few types of insurances existed for: salaried employees, independent workers or voluntary insured. Many workers, including artists, were unable to enter the system due to its inflexibility. Recent studies report that 25% of artists in Costa Rica have no insurance. For the remaining 75%, a large part consists of insurance from other types of employment (e.g. teaching) or is accessible through their spouse or family. Social insurance for artists and cultural professionals often relies on their capacity to pay premiums as independent workers, and the system is not designed for discontinuous work. In 2016, the Fund agreed to explore new formulas that would allow the protection of groups that are difficult to insure, such as agricultural workers, coffee pickers, micro-entrepreneurs and domestic workers. These specific regimes are unsuitable for artists, mainly because of the diversity of their working conditions and environments (discontinuity, multiplicity of projects and tasks, and diversity of employers). But, this openness to targeted approaches allowed the Ministry of Culture and Youth to engage in a dialogue with the Social Security Fund concerning the challenges of the cultural sector. One of the models currently in discussion, inspired by other Latin American countries, would be to delegate the management of the social security scheme to a cooperative. Artists would be required to make payments only when they are working and these would be lower than the standard rates over a period of five years.

Benefits are extended to artists in many European countries such as Cyprus, Denmark, Finland, Luxembourg and Sweden, through universal systems that are adapted, as necessary, to the particular circumstances of professional artists. As well as basic health and pensions, artists are eligible for support if their income is low, and some may qualify for income protection during periods in which they are without a contract. The Latvian *Law on the*

Status of Creative Persons and Professional Creative Organizations provides State support for creative persons who may be without income or temporarily disabled, as well as medical expenses for retired artists. Self-employed artists with “creative person” status may apply for a grant for up to 10 days of illness. In 2015, 4,000 persons in 28 creative organizations were entitled to this benefit.

Pensions are also an important element of standard social benefits systems. There are many countries in the Middle East, Europe, North America and Latin America that provide at least some pension for artists. General pension programmes in Finland, Norway and Sweden provide a basic pension and artists who have contributed may be entitled to higher retirement income. Freelance artists in Canada participate in the public system, although they are required to pay both the employer and employee premiums. There is also a means-tested supplemental pension for all poor seniors, including artists.

In Japan, artists qualify for the universal, public and national social protection regardless of their employment relationship, but according to some Japanese artists’ associations, this is not enough to ensure a reasonable living. As most artists are not able to participate in voluntary schemes, due to low and unstable income, they are only entitled to small pensions.

State-sponsored parallel systems

Writers and creative artists have analogous programmes. These schemes are administered by *La Maison des Artistes* (for visual artists) and the *Association pour la Gestion de la Sécurité Sociale des Auteurs* (Association for the Management of Social Security for Writers). The scheme covers illness, maternity, disability and pensions, with contributions coming from both artists and their employers.

Belgium has a social security system for all professional artists, offering a comprehensive range of benefits (sickness, disability, health care, family benefits, unemployment, vacation, pension, employment injuries and occupational diseases). A 13% deduction is applied to the Ma (ha)6.a (ha)takr theTf0(a (ha)fional7192 T (ha)th

about 60,000 professional artists. The *Réseau prévoyance culture* network offers cultural entrepreneurs the possibility of paying pension contributions for the artists from whom they commission work or with whom they agree a mandate. It also allows intermittent and independent artists who are members of one of the professional associations of the network to join a pension institution and to insure the full amount of their income.

In Lebanon, a law providing for the establishment of a Mutual Aid Fund for Artists was passed in 2012. The Fund was to be run by trade unions and government representatives and members were required to belong to one of the specified unions and fulfil other technical and financial conditions. The Fund resources were to consist of annual subscription fees from members, 2% deducted from tickets for all cultural and artistic performances, and a 10% fee on contracts with foreign artists, collected by the Ministry of Finance. However, the law has not yet entered into force.


Some State-sponsored parallel systems apply to certain artists on the basis of excellence criteria or their contribution to their country's creativity. This is the case with the Aosdána Register run by the Arts Council of Ireland for artists who have created a significant body of work (in the field of visual arts, literature or music), and who have been an Irish resident for at least five years. Such eligibility criteria imply that membership is not done by application but rather by peer nomination. The Arts Council determines the total number of Aosdána members, currently limited to 250. An artist is elected to Aosdána by peers and carries that honour for life. Members have the right to pay into a special pension fund, and their contributions are matched by the Aosdána programme with the Arts Council paying half the premium. Pensions paid out to artists are based on the number of years they have subscribed to the scheme. Members of Aosdána are also eligible to apply to the Arts Council for a *Cnuas*, a means-tested annual stipend, exempt from income tax, provided to Aosdána members with the objective of honouring and supporting individual artists who would otherwise not be able to earn a living from their artistic work. The annual stipend is capped at €17,180 per annum offered to Aosdána members whose total income (including *Cnuas*) does not exceed €42,000.

Some state-sponsored parallel systems apply to certain artists on the basis of excellence criteria or their contribution to their country's creativity

Some are funded by governments, some are funded by members or by contributions from philanthropists and artists' associations and others rely on a mix of public/private revenue sources. All IOTPD members offer specific programmes to support professional dancers. This can include extensive career counselling services, support for the development of parallel careers, funding for university or professional career training, and other concrete measures.

Although this study does not claim to assess the effectiveness of the different forms of social protection for employed, self-employed or freelancers artists, it is clear that artists worldwide do not enjoy the same social security benefits, including unemployment insurance, sick leave and retirement pensions as other workers. Declining income has a direct impact on the social protection of artists in terms of health benefits, parental leave and retirement. In general, most artists live in insecurity about their future income and their ability to make a living from their work. But, as many countries are dealing with the rise of the "gig economy" and "precarious work", some are beginning to look again at the situation of artists.

The Swedish Ministry of Culture highlights another noteworthy consequence on the diversity of the social economic backgrounds of artists. In the 2018 Swedish Government public inquiry report entitled 'Artist – whatever conditions?'¹⁴² the recruitment bias of arts professions is addressed. The report *Artists in Sweden: Demographics, Earnings and Social Status 2016* describes that the artist group has at least one parent with a high level of education to a considerably greater extent than the entire population. While 22% of the Swedish population are of non-Swedish background (born abroad or with two parents born abroad), the proportion in the artist group is 16%. These figures clearly show that recognizing the specificity of the artists' despe8/ (eclque



Gender equality was not at the forefront of the global cultural policy agenda when the *Recommendation concerning the status of the artist* was adopted in 1980. However, UNESCO Member States had the foresight in the Recommendation to call upon States to support equal opportunities for women in the arts and culture sector, as well as their access to education and vocational training programmes. Twenty- ve years later, the 2005 Convention further advanced the responsibilities of governments around the world to pay particular attention to the special circumstances and needs of women as creators and producers of diverse artistic expressions and facilitate their participation and access to cultural life. Policies and measures that States may develop on the basis of these two standard setting instruments bring them closer to achieving the targets set under the Sustainable Development Goal #5 on gender equality by combating all forms of discrimination and ensuring equal rights and equal opportunities for artists irrespective of their gender.

While it is widely recognized that a gender gap exists in the creative and cultural sectors, reports from Europe and North America indicate there is a rough equality in the number of women and men working as professional artists. In Sweden, women hold 47.5% of jobs and 32% of board positions in listed companies, which is higher than the 23% average in the European Union.⁴³ In looking at all cultural occupations, a report published by UNESCO's Institute of Statistics in 2017⁴⁴ has revealed that in 58% of countries for which data were available, more women were employed in cultural occupations compared to non-cultural occupations. It was also noted that in 2015, women accounted for more than 50% of those employed in cultural occupations in Eastern Europe and South-Eastern Asia.

UNESCO Member States had the foresight to call upon States to support equal opportunities for women in the arts and culture sector, their access to artistic education and vocational training programmes

43. <https://www.theguardian.com/world/2017/jan/12/sweden-rejects-quotas-women-boardroom-listed-company>.

44. <http://uis.unesco.org/sites/default/files/documents/fs47-precious-situation-women-working-eld-culture-2017-en.pdf>.

However, while artists are covered in these cultural occupations data, the conclusions cannot be automatically transposed to this subset. Reports from Europe and North America tend to indicate overall that there is a rough equality between women and men working as professional artists. In these reports, the proportion of women to men who are professional artists is generally in the 45-55 per cent range, with some important differences for certain cultural sectors and artistic categories.

In *Making Art Work: An Economic Study of Professional Artists in Australia*, researchers found that, of the 48,000 professional artists in Australia in 2016, 51% were women, the same figure as in 1993⁴⁵. In 2013, it was estimated that 433,000 people worked in the Australian cultural and creative industries. Thus, artists represent 11-12% of that total. In Germany, of the 186,220 artists who were, at the beginning of 2018, members of Germany's Kunstlersozialkasse, 48% were women. There is rough equality between women and men across the 30-60 age groups. In 2016, it was estimated that 1.6 million people worked in the German cultural and creative industries and thus artists once again are 11-12 % of that total. A 2016 study in Sweden found that 48 % of artists in 2014 were women, up from 45 % a decade earlier, and across the 20-66 age categories the results showed virtual equality.

Significant imbalances can be found within sector-specific data. In the Australian and German data, women were under-represented in the music category (45% in Australia, 40% in Germany) and over-represented in the writing category (65% in Australia, 54% in Germany). The Swedish data show a similar underrepresentation of women in music, but showed virtual equality in the writing category. Data submitted by Denmark reveals an even greater imbalance in the music industry, where only 2% of albums released in 2017 involved women, a significant decline from 24% a decade earlier. Billboard's list of

employed for their art. They work on a freelance, independent or contractual basis. Even those who spend all of their work-time on their art are *not* employed for this purpose, except in rare circumstances. The gender gap among artists is not primarily about the numbers of practicing professional artists – where it appears there is a rough overall balance between men and women – but rather about other key indicators such as income inequality, inequality in decision-making, gender portrayal, and sexual harassment and personal safety.

It should be noted that the 2018 UNESCO Global Survey on the implementation of the 1980 Recommendation asked countries to review gender issues for the first time and the data provided was limited to the female and male genders, and thus did not cover the multiplicity and fluidity of gender.

A multi-faceted inequality

In the cultural sector, women consistently earn less than men. In North America, female museum directors earn only US\$0.75 for every dollar earned by a male museum director⁴⁶. The same

The Australian income data are similar, with the average annual income of female professional artists 25% lower than their male counterparts for all arts-related income. The Swedish data show that the median income of female artists was 15% lower than their male counterparts, which is less than Sweden's 19% wage gap across all employment. It is important to note that, in the World Economic Forum Global Index, Sweden was the 9th most equal country in terms of economic participation and opportunity. In that category, Germany ranked 26th and Australia 46th

According to Women and Hollywood, an initiative and website that educates, advocates, and agitates for gender diversity and inclusion in Hollywood and the global film industry, of the top 100 grossing films of 2018, women represented only 18% of producers/executive producers and only 15% of writers⁵². In September 2018, the European Platform of Regulatory Authorities presented a report to the European Commissioner for Digital Economy and Society that examined the representation of women in the audio-visual media industry today⁵³. The report clearly shows that women appear less on-screen across a range of genres and are typically subject to more stereotypical

Another initiative is Women in Music Index by the Music Cities Network⁵⁵, which provides an overview of initiatives for and from women in music. It maintains an updated index of studies, panels, research, networks, conferences, events, policies, festivals, mentoring, funding programmes, and collectives with a female focus in the creative and music industries.

Policies promoting gender equality

National policies and initiatives that promote women's empowerment, including in the cultural and creative sectors, vary significantly across Member States. We find measures ranging from national legislation promoting gender equality, including in the cultural sector, to more targeted measures mandating equal pay for equal work, and some working to achieve a 50-50 balance in decision-making positions in the cultural and creative industries.

Ranked as the 5th most equal country by the World Economic Forum Global Gender Gap Index, Nicaragua has been promoting equal opportunities in the cultural and creative sectors through the implementation of its 2008 law on equal rights and opportunities. This legislative framework includes a chapter dedicated exclusively to the cultural field that requires both the State and the regional and municipal governments to promote equal opportunities for women and men in three areas: (1) technical and financial support for the development of creativity and artistic talent and for the presentation of cultural or artistic works, publications, exhibitions and concerts; (2) real and equal access to promotion and training in all cultural and artistic disciplines; (3) wide dissemination of knowledge of women artists. Several programmes by the Ministry of Family Economy and the Nicaraguan Institute of Culture are dedicated to prioritizing women in artistic activities where they have not had a leading role, as for example in the field of music. Moreover, in Nicaragua, 50% of public funds are allocated to female artists and cultural producers; there must be equality in decision-making positions in the public cultural and media institutions and a minimum of 40% of artists exhibited and screened in major arts and cultural industries festivals (cinema, book publishing, music, etc.) must be female artists.

55. <https://www.musiccitiesnetwork.com/projects-details/women-in-music>

Countries such as Mali have taken similar initiatives. In 2015, Mali's National Assembly adopted a National Gender Policy to promote a gender approach across policies and programmes, to recognize women's rights in all socioeconomic and professional spheres, including the role played by women artists – craftswomen, musicians and choreographers, storytellers, writers – in creation, production, staging, transmission, dissemination and marketing. The policy considers women artists as key partners in promoting

In the field of film, many programmes have been created in the recent past. One of the first was the policy of the Swedish

Sexual harassment and personal safety

Abuses of power in the arts and the different forms they may take in terms of harassment and personal security have attracted increased attention at the international level. Sexual harassment and bias intersect with other experiences of oppression, influenced by gender, among other factors.

The audio-visual and performing arts sectors in many countries have led campaigns to address gender inequalities, and to expose sexual misconduct and harassment and glass ceilings. Examples include the Guerrilla Girls, and the #MeToo and #MaintenantOnAgit movements. Unions and professional associations are playing a leading role globally. In the last few years, film festivals have been important spaces for advancing these campaigns and exposing specific issues.

At the 2018 Cannes Festival, a group of 82 women (symbolically representing the total number of female filmmakers whose movies had appeared in competition in its 71-year history – compared to 1,645 male directors) walked in silence along the red carpet before stopping halfway up the steps of the entrance to the Palais des Festivals. The gesture symbolized the difficulties for women to climb the professional ladder. A collective statement from the group called for institutions to provide safer working conditions for women, and for governments to uphold equal pay laws. Responding to this movement, the Cannes Film Festival counted the number of directors who had submitted to the festival in 2019. There were 1,845 feature film submissions from 39 countries, of which 26 % were directed by women. In its official selection of 69 films (both features and shorts), 27.5 % were directed by women. In the same year, the Toronto International Film Festival (TIFF) responded with a wide range of initiatives including the *Share Her Journey*⁵⁹ women's rally, a 24-hour hotline and an emphatic and highly visible code of conduct, prominently displayed not only in every venue but on adjacent city streets, making it clear that TIFF is an inclusive

Sexual harassment and bias intersect with other experiences of oppression, influenced by gender, among other factors

59. <https://shareherjourney.org/>

Freemuse is an organization that advocates for freedom of artistic expression, initially in the field of music but now in every artistic genre. In a recently released report, entitled *Privatising Censorship, Digitising Violence: Shrinking space of women's rights to create in the digital environment*,⁶⁰ which is based on interviews with 16 artists who have experienced censorship and/or online harassment, Freemuse documents how women artists interact within the digital environment. The report examines the worrying nature and frequency of threats directed towards women artists who are bTw Thms the wg-88ē82

significant efforts in this direction. The Secretariat of Planning for the Ministry of Culture and Youth measures indicators by gender, both on attendance at cultural activities and the number of artists by cultural sector. In Mexico, the Secretariat of Culture has been monitoring the distribution of the support granted by the National Fund for Culture and the Arts (FONCA) by gender since 2013. From 2013 to 2018, of the incentives granted by the National System of Art Creators programme, which grants economic incentives for artists to devote themselves exclusively to creation, only 33% went to female artists. The rate of successful applications by women was a dismal 11.5%. More work needs to be done to support women in designing projects submitted to FONCA if gender parity in the distribution of incentives is to be achieved. Such parity is the first step towards

Historically, the creative and cultural sector has played a crucial role in cultural diversity. In recent years, the sector has experienced accelerated progress in trade relations and, consequently, in the structuring of the labour market.

According to the Costa Rica Satellite Account, it is estimated that 2% of the working population are employed in the cultural sector. It is in this context that the Ministry of Culture and Youth (MCJ), with the support of the UNESCO-Aschberg Programme for Artists and Cultural Professionals, has carried out an analysis of social security coverage for workers in the sector.

In Costa Rica, for the most part, artists and cultural professionals are informal or self-employed workers who are therefore not covered by the social security system. The analysis revealed that more than 25% of workers are in this situation.

This reality is now leading the country towards the adoption of a special insurance system that responds to the particular characteristics of artists and cultural professionals and defines a coverage regime that addresses the specificities, causes and implications of cultural work. To this end, it is necessary to identify eligible professions, the State's capacity to cover the economic cost and viable contribution periods for workers; to establish a regulatory base for average income as well as to assess the sector's capacity to form unions and perform administrative functions.

It is in this sense that it is necessary to promote public policies. The MCJ has set up a working group with the Costa Rican Social Security Fund and the Ministry of Labour and Social Security to design, within the framework of existing legislation, an appropriate coverage solution to meet these challenges. It is a process that takes time because of the complexity of finding solutions, but there is no doubt that having a clear understanding of the sector now allows us to establish and build effective inter-institutional dialogue.

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Both the 1980 Recommendation and the 2005 Convention are recognized as standard-setting instruments that “help to create and sustain a climate encouraging freedom of artistic expression and the material conditions facilitating the release of creative talents”⁶². The 1980 Recommendation stresses that artists must benefit from the rights and protection provided for in international and national legislation relating to human rights, in particular in the area of freedom of expression and communication. In turn, the 2005 Convention understands promoting respect for human rights and fundamental freedoms of expression, information and communication as a pre-requisite for the creation, distribution and enjoyment of diverse cultural expressions.

Legal and policy frameworks relating to freedom of artistic expression

In most States, freedom of expression is guaranteed in the Constitution or other significant legal instrument. Most States base their protections on Article 19 of the Universal Declaration of Human Rights:

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According to Article 16 of the Finnish Constitution, “the freedom of science, art and higher education is guaranteed.” Freedom of art is considered as a primary tool to increase citizens’ welfare⁶³. The rationale behind freedom of art is that art creates a platform for discussions within civil society, and civil society dialogue prepares the way for further development of the democratic constitutional rights. Freedom of art prevents the State from interfering in artistic processes (production, distribution and consumption); it obligates the State to protect this against interference by a third party and; on a general level, it obligates the State to secure the availability of adequate material resources for the production, distribution and consumption of art. Freedom of art prohibits prior censorship and other types of State manipulation, with the exception of censorship of children’s films, which is authorized by a special restrictive constitutional provision relating to freedom of expression. Freedom of art also limits legislators’ power to enact criminal sanctions that seek to regulate the form, shape or content of artistic expressions (e.g. legislation concerning obscene or blasphemous expressions).

In Germany, artistic freedom is anchored in Article 5 (3) of the Basic Law. The Federal Constitutional Court sees artistic freedom as one of the fundamental rights of communication and so its scope cannot be restricted. It is therefore prohibited to interfere in artistic methods, content or trends. The 2018 German coalition government agreement expressly underlines artistic freedom:

“Policy on culture and science, the media and education is a policy for an open society, for freedom of opinion and for scientific and artistic freedom. Given the danger to artists, intellectuals, journalists, scientists and scholars worldwide who dare to voice criticism, but also owing to our historical responsibility, we support an initiative to ensure artistic and scientific freedom, freedom of the press and freedom of opinion and expression, including with regard to exiles’ experiences.”

63. Pauli Rautiainen, Freedom of the arts as a fundamental right under the Finnish constitution, 2007, Arts Council of Finland, Publication No. 34.

This commitment was reinforced by the German Association of Cities, which in a 2018 position paper *Eintreten für eine offene Gesellschaft – mit Kultur und Kulturpolitik Demokratie stärken* (Advocating for an Open Society – Strengthening Democracy through Culture and Cultural Policy), emphasised that

“... art and culture not only have an artistic and aesthetic dimension; they have always also been political. The task of cultural policy is to create and preserve (free) spaces and possibilities for development. The presidency emphatically rejects all attempts to exploit art and culture for political purposes of any kind. Artistic freedom documents the value of a free, open and pluralistic so cresschafurthicesscha8 ()2ndTJO.002 i

A comparative study of the Constitutions of 21 countries in Asia, Africa, America and Europe that mention the principle of freedom of creation was presented to the French Senate in January 2016⁶⁴. The study observes differences between

Furthermore, even where constitutional provisions concerning freedom of artistic expression exist, they are not necessarily articulated in cultural policies and cultural policy actors do not often make use of them. Exceptions include Sweden's national cultural policy, established in 2009, which reads "Culture is to be a dynamic, challenging and independent force based on the freedom of expression. Everyone is to have the opportunity to participate in cultural life.

Creativity, diversity and artistic quality are to be integral parts of society's development". The Swedish Government also adopted an Action Plan in July 2017 entitled *Defending free speech – measures to protect journalists, elected representatives and artists from exposure to threats and hatred* which aims to enhance knowledge, offer support to victims and strengthen the justice system. In line with this action plan, the Swedish Government has increased efforts to prevent and manage threats against journalists, politicians and artists, as key actors in the democratic debate.

*"In culturally diverse societies, artistic freedom translates into the diversity of cultural expressions. Protecting and promoting the diversity of cultural expressions is to maximize culture's contribution to democracy and development."*⁶⁵

**The issue of economic
security and access
to social benefits for
artists and cultural
professionals is
inextricably linked
to freedom of artistic
expression**

Mechanisms for transparent decision-making

is an autonomous body working at "arm's length" from the

*The most timely gift
for bartenders
freedom is the low
advertising
income of
professionalists*

Insecurity may also affect both the diversity amongst artists and the artists' ability and willingness to take risks and fully use their freedom of expression. The lack of employment protection can also be compounded by the lack of legal protection when it comes to hatred and harassment.

Various civil society organizations report growing restrictions, and fears of expanding censorship, in every region. Many of these groups are concerned about how governments, religious authorities and violence can limit freedom of expression and lead to self-censorship. Others report how there is a reluctance in some societies to question authority, and this limits the scope of artistic expression. In 2014, Pen America conducted an international survey of writers that investigated how government-led mass surveillance influenced them. The report found that the levels of self-censorship reported by writers living in liberal democracies were similar to those living in countries with histories of widespread state surveillance. Self-censorship was high, ranging

vandalism based on professional practice: authors/journalists and visual and design artists. The report found that one in six authors/journalists and visual artists had been exposed to threats, harassment, theft, violence or vandalism over the past year. Almost one in five authors had been exposed to threats or harassment, and about half of all threats were received via the internet. The Swedish Arts Grants Committee's report *Working environment of artists*⁶⁹ (2017) examined the situation of artists within all areas: visual arts and design, dance, film, music, publishing and theatre. It concluded that almost one in ten artists had been exposed to sexual harassment, threats or physical violence in the past year. Among those exposed, more than one-third had refrained from artistic activities such as performances, publication and participation.

Most States have laws that deal with criminal behaviour, including hate speech that incites violence, and laws that protect children. Other laws, such as those dealing with libel, slander and insult; blasphemy; and more recent ones dealing with terrorism and security, can be problematic for artists, particularly as populist and nativist sentiments rise. It is thus positive that a number of States have recently repealed insult laws, and several have repealed blasphemy laws. Since 2016, PEN International and PEN Centres in Africa have carried out a focused campaign to repeal criminal defamation and insult laws in Africa, as they are a serious barrier to freedom of expression across the continent.

Importantly, as former Rapporteur in the field of cultural rights, Farida Shaheed, points out, "a wide range of actors may create obstacles or impose restrictions to freedom of artistic expression and creativity. These include States, but also non-State actors in their own spheres of influence, such as mass media; broadcasting, telecommunications and production companies; educational institutions; armed extremists as well as organized crime; religious authorities; traditional leaders; corporations; distribution companies and retailers; sponsors; as well as civil society groups such as parents' associations"⁷⁰.

Most States have laws that deal with criminal behaviour, including hate speech that incites violence, and laws that protect children

69. Available at <https://www.konstnarsnamnden.se/Sve/PDFer/A%20study%20of%20artists%20working%20environment.pdf>.

70. Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed, The right to freedom of artistic expression and creativity, 2013, A/HRC/23/34, paragraph 44, available

Threats to artists can arise not only from governmental authorities, but also from others, as highlighted by the violent attacks on performances in Paris, Manchester, Las Vegas, Istanbul and Kabul carried out by individuals or non-State groups. While there is universal condemnation of such brutal acts, some governments have in turn used security laws against artists who are exploring controversial ideas, or issues of social injustice, democracy, or minority rights. In its 2017 report, *Dangerously Disproportionate: The ever-expanding national security state in Europe*⁷¹, Amnesty International cites “the criminalisation of various forms of expression that fall short of incitement to violence and threaten legitimate protest, freedom of expression, and artistic freedom” as one of key common features of counter-terrorism initiatives in Europe. A debate about artistic freedom was launched in the U.K. in January 2019, when two drill rap artists were sentenced to a (suspended) nine month jail sentence for performing one of their songs at a London concert the previous month. While drill rap is associated with gang violence in the city and some rappers have been jailed for criminal conduct, this is the first time in British legal history that a jail sentence was imposed for performing a song, according to the NGO Index on Censorship.

In its 2019 report, Freemuse examined 673 violations of artistic freedom in 80 countries. It reported that four artists were killed and a further 14 were attacked in 2018 while at least 157 artists were imprisoned or detained in 29 countries. Censorship was practised in at least 60 countries, affecting 1,807 artists and art works. The Freemuse 2019 report *Privatising Censorship, Digitising Violence: Shrinking space of women's rights to create in the digital environment*⁷² also shows how the combined impact of online anonymity, along with the consistency, frequency and nature of threats, can impose forms of self-censorship on women's creativity.

at <https://www.ohchr.org/EN/Issues/CulturalRights/Pages/ArtisticFreedom.aspx>.

71. Available at <https://www.amnesty.org/download/Documents/EUR0153422017ENGLISH.PDF>

72. <https://freemuse.us3.list-manage.com/track/click?u=2bad7529ee81d0af3b80ef4ce&id=16f4855641&e=727817521a>

Initiatives to protect artists at risk

Through their work, artists can potentially put themselves at risk. Sweden has created a specialized body within its police force to receive complaints from artists that suffer from threats and hatred and to monitor violations of artistic freedom. The Swedish Arts Grants Committee has also

*Through their work,
artists can potentially
put themselves at risk*

to provide relief and safe-haven to threatened artist. The Fund makes fellowship grants to threatened artists by collaborating with hosts including academic institutions, arts organizations, and cultural centres from around the world.

Artists may entertain people, but they also contribute to social debates, sometimes bringing counter-discourses and potential counterweights to existing power centres. The vitality of artistic creativity is necessary for the development of