

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

**Another report for which outcomes?**

on the move

Social Security and Mobility of Visual Artists in Europe  
A workshop by IAA and IGBK  
4 November 2016, Berlin, November 2016

# On the Move, the cultural mobility information network



## Information about cultural mobility opportunities

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

<http://on-the-move.org> > 'news' and 'funding'



## Information about administrative challenges related to cultural mobility

Via the expertise of its members, reports, information signposting and/or advocacy actions

<http://on-the-move.org> > 'hot topics'



## A network of 39 member-organisations + partners

Activities: workshop, training, information sessions, recommendations

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

# Background information

## Analytical report



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

# Background information

## Analytical report



What is your employment status?

Other  
(apprentice/un  
employed/  
Freelance/n.a)  
9%

Intermittent  
12%

Employed  
22%

Mixed-status  
25%

Self-  
employed  
32%

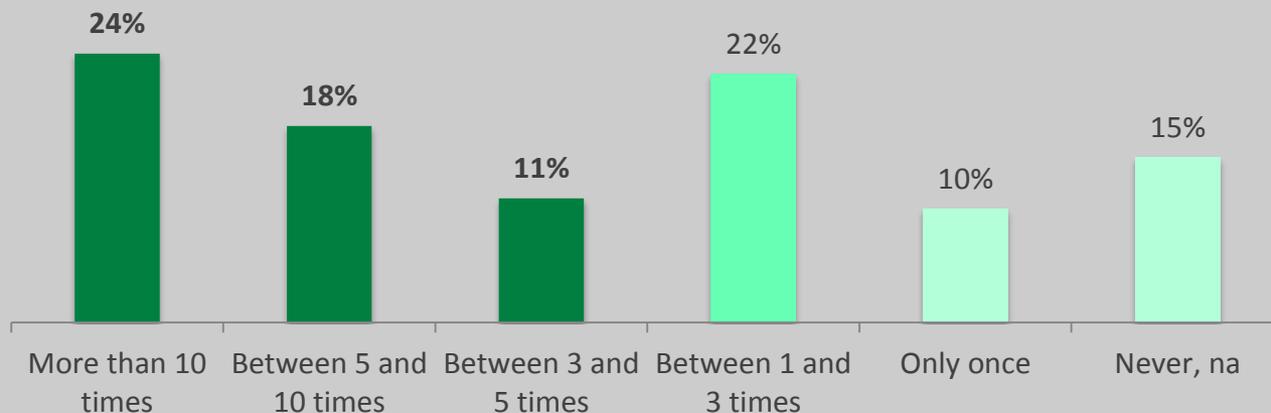
*approximated values*

# Background information

## Analytical report



In the past three years how often have you worked outside your country of residence?

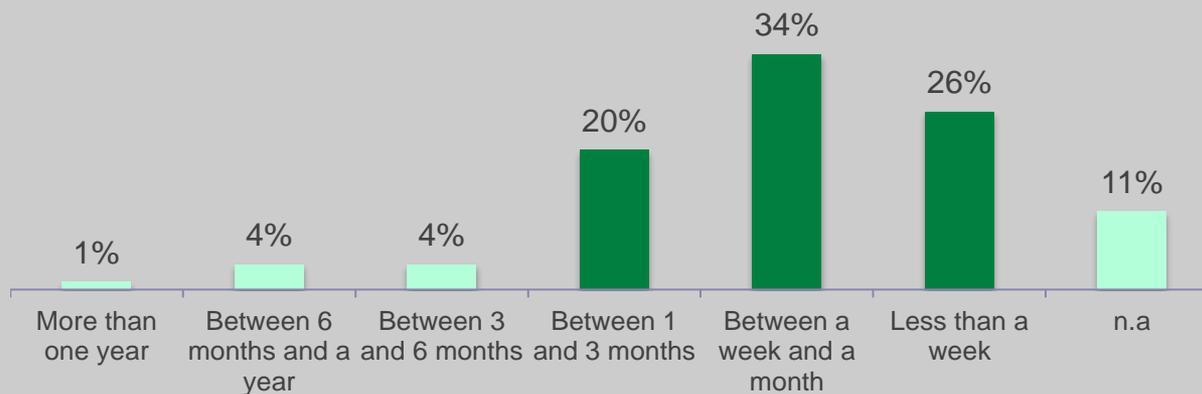


# Background information

## Analytical report



How long did you stay in the host country? (avg.)



# Background information

## Analytical report



Qualitatively representative sample:  
Artists with **mixed employment statuses**  
**Frequent** mobility  
**Short-term** mobility

# Reminder: social security in the EU



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



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



Artists and cultural professionals often combine **different working statuses** and their career patterns are **diverse, mobile and highly unpredictable**

# Regulatory obstacles - overview



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

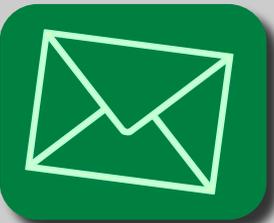
**Career patterns: employed / self-employed,** combination of different jobs, unpredictable career paths.



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



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



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

# Administrative obstacles - overview



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



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



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

# Practical obstacles - overview



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



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

# Reminder: taxation in the EU



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



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



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

# Regulatory obstacles - overview



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



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



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

# Administrative obstacles - overview



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



Difficulty for single artists employed by a company to obtain tax certificates (= **double taxation** either for the single artist or the company).

# Practical obstacles - overview



**Lack of easily accessible information** on applicable rules, need for paying legal advice.



**Foreign artists / companies are less attractive:**

-“global net fee” = risk of double taxation (withholding tax is paid twice)

-Non-deductibility of expenses leads foreign companies to ask higher fees, so they're more expensive = less competitive than local artists.

# Recommendations



## Information mobility points:

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

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

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

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



## Coordination:

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



## Cooperation?

IAA members

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*#culturemobility*