

The status of the artist: available instruments and national examples László Gyimesi (Hungary)

The UNESCO Recommendation (Belgrade, 1980) about the Status of Artist, and the Memorandum of the UNESCO World Conference (Paris, 1997) declared the same: it's very important to implement on international and national level the principles' what we call simple: the status of artist. In this brief comment I'll talk by some examples about the influence of these documents on our legal and union work.

But what is the status of the artist? Is it a medicine against all the sicknesses that musicians and other artist are used to get? Yes, it's a legal medicine, but not for sickness, rather can it be very useful for those politicians and employers, who simulate and don't understand the importance of arts and artists.

It's a legal instrument that can offer better conditions and legal status on the colourful field of arts.

Let's look at this instrument. The expression "status of the artist" can generate a theoretical debate: is it a sociological or legal question?

I don't want to open this debate; therefore I'll address it only from a legal point of view.

Legally, if we say "status" it means a legal category for a person. In most countries, there is no such individual category for artists. Of course, there are "important" professions that have a recognized status. For example in Hungary the bodyguards, the hunters or the lawyers have their own legal status, but not artists.

Without an specific legal status, an artist can be an employee or a non-employee (it may mean a lot of possible forms like free-lance or self-employed etc.). To understand the legal content of both cases, we must compare it by some important points of the instrument.

Let's take a few examples:

- The artist, when he/she is employee, working under the rules of labour law, his/her protection is at least the same as what is guaranteed by the general provisions of labour rules, and can be extended through individual or collective contracts. It means that working conditions, working time, salary and so on are guaranteed.
- The artist, when he/she is a non-employee working under the rules of civil law, his/her protection is guaranteed only by the individual contract or in some cases by collective agreements. It means that working conditions, working time, salary mainly depends on the company. The artist's influence on the working conditions is, in most cases, very poor.
- The social security and the retirement systems are different, but most of the cases the employee and the employer has the obligation to pay fees to secure the social benefits and the pension for the employee.
- The social security and the retirement systems are different but, in most cases, only the non-employed artist has an obligation to pay the social fees to secure the social benefits and the pension for himself, but in some cases this possibility is not open for the non-employed artist.
- The taxing systems are also different but, in most cases, the employed artist has the same, or nearly the same duties, as the other workers.
- The taxing systems are also different, but in most of the cases the non-employed artist can deduct his expenses of his income, and pay less tax, like the employed artist.

What could change with respect to the above if the status of artist was implemented in the legislation?

I think that the following would happen:

The working rules could recognize all the special conditions of the artistic works. This rules would give definitions for the difference between employee and non-employee artists and could define the cases where is it reasonable to contract the artist as a non-employee.

The rules about the social security and the taxing system may open new possibilities for artists. It means, they can deduct their expenses wildly if they are employee, or they can get a special flat rate in taxing. In the social security payment system there are similar possibilities, of course the changing

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must be different, because the systems generally are different country by country.

Finally, I inform you that in Hungary we tried to follow these ways. Since 2005 we have an act about the special taxing and social security payment system for artists. These days a draft of the law about the performing arts is on the table of the government, and there is a real hope that it can be recognized by the parliament, and enters into force soon.

Thank you.