

# EUROPEAN PARLIAMENT

2004



2009

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*Session document*

FINAL  
**A6-0199/2007**

23.5.2007

## REPORT

on the social status of artists  
(2006/2249(INI))

Committee on Culture and Education

Rapporteur: Claire Gibault

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the social status of artists (2006/2249(INI))

*The European Parliament,*

- having regard to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions,
- having regard to the Communication from the Commission entitled 'Non-discrimination and equal opportunities for all - a framework strategy' (COM(2005)0224),
- having regard to the Commission Green Paper entitled 'Modernising labour law to meet the challenges of the 21st century' (COM(2006)0708),
- having regard to its resolution of 22 October 2002 on the importance and the dynamism of the theatre and the performing arts in an enlarged Europe<sup>1</sup>,
- having regard to its resolution of 4 September 2003 on the cultural industries<sup>2</sup>,
- having regard to its resolution of 13 October 2005 on new challenges for the circus as part of European culture<sup>3</sup>,
- having regard to Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community<sup>4</sup>,
- having regard to Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems<sup>5</sup>,
- having regard to Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights relating to copyright in the field of intellectual property<sup>6</sup>,
- having regard to Council Directive 93/98/EEC of 29 October 1993 harmonising the term of protection of copyright and certain related rights<sup>7</sup>,

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<sup>1</sup> OJ C 300 E, 11.12.2003, p. 156.

<sup>2</sup> OJ C 76 E, 25.3.2004, p. 459.

<sup>3</sup> OJ C 233 E, 28.9.2006, p. 124.

<sup>4</sup> OJ L 149, 5.7.1971, p. 2.

<sup>5</sup> OJ L 166, 30.4.2004, p. 1.

<sup>6</sup> OJ L 346, 27.11.1992, p. 61.

<sup>7</sup> OJ L 290, 24.11.1993, p. 9.

- having regard to Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society<sup>1</sup>,
- having regard to its resolution of 9 March 1999 on the situation and role of artists in the European Union<sup>2</sup>,
- having regard to the judgment of the Court of Justice of 30 March 2000 in Case C-178/97, Barry Banks and others v Théâtre Royal de la Monnaie<sup>3</sup>,
- having regard to the judgment of the Court of Justice of 15 June 2006 in Case C-255/04, Commission of the European Communities v French Republic<sup>4</sup>,
- having regard to Rule 45 of its Rules of Procedure,
- having regard to the report of the Committee on Culture and Education (A6-0199/2007),
  - A. whereas art may also be considered as an occupation and a profession,
  - B. whereas the above-mentioned judgments and Directive 96/71/EC all specifically apply to activities of performing artists,
  - C. whereas to engage in top-level artistic activity it is necessary from a very early age to develop an interest in the performing arts and culture and hold the keys giving access to the major works forming part of our cultural heritage,
  - D. whereas in a number of Member States certain arts sector professionals do not enjoy any legal status,
  - E. whereas flexibility and mobility are indissociable in the context of professional artistic activity,
  - F. whereas no artists are ever at any moment in their career totally immune from job insecurity,
  - G. whereas it is essential for the unpredictable and sometimes precarious nature of the artistic profession to be offset by a guarantee of genuine social protection,
  - H. whereas today it is still practically impossible for a European artist to contemplate a change in career direction,
  - I. whereas it is necessary to provide artists with easier access to information concerning their working conditions, mobility, unemployment, health and pensions,

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<sup>1</sup> OJ L 167, 22.6.2001, p. 10.

<sup>2</sup> OJ C 175, 21.6.1999, p. 42.

<sup>3</sup> [2000] ECR I-2005.

<sup>4</sup> [2006] ECR I-5251.

- J. whereas artistic leanings, natural gifts and talent are rarely sufficient to open the way for a career as a professional artist,
- K. whereas contracts for the provision of training and/or qualifications adapted to each field of artistic activity have not yet been introduced sufficiently widely,
- L. whereas retraining opportunities for artists should be encouraged,
- M. whereas the free movement of workers in general, including artists, from the new Member States is still subject to certain restrictions due to the possible transitional arrangements as provided for in the accession treaties,
- N. whereas artistic productions frequently involve not only European but also third-country performers whose mobility is often restricted by difficulties in obtaining medium-term visas,
- O. whereas artists are generally present in a Member State for short periods only (less than three months),
- P. whereas all the problems relating to cross-border mobility, which is the principal feature of an artistic career, highlight the need for specific measures in this area,
- Q. whereas it is essential to make a distinction between amateur and professional artistic activity,
- R. whereas the teaching of artistic activities should be effectively incorporated in the Member State syllabuses,
- S. whereas the above-mentioned UNESCO Convention provides an excellent basis for recognition of the importance of the activities of professional creative artists,
- T. whereas Directive 2001/29/EC requires Member States which have not already done so to provide for fair compensation for authors in respect of exceptions or limitations regarding reproduction rights (reprography, private copying, etc.),
- U. whereas Directive 92/100/EEC sets out the exclusive rights of performing artists in particular and their rights to equitable remuneration, which cannot be waived,
- V. whereas copyrights and moral rights of authors and performing artists in this respect constitute recognition of their creative work and their contribution to culture in general,
- W. whereas artistic creation contributes to the development of the cultural heritage and draws on past works, conserved by the State, for inspiration in this respect,

***Improving the situation of artists in Europe***

***Contracts***

1. Calls on the Member States to develop or implement a legal and institutional framework for creative artistic activity through the adoption or application of a number of coherent and comprehensive measures in respect of contracts, social security, sickness insurance, direct and indirect taxation and compliance with European rules;
2. Stresses the need to take account of the atypical nature of an artist's working methods;
3. Stresses in addition the need to take into consideration the atypical and precarious nature of all professions relating to the performing arts;
4. Urges the Member States to introduce contracts for the provision of training or qualifications in artistic professions;
5. Recommends accordingly that Member States encourage recognition of the professional experience acquired by artists;

*Protection for artists*

6. Calls on the Commission and the Member States, after consultation with the sector, to introduce a Europass-type 'European professional register' of artists, containing details regarding their status and the nature and successive duration of their contracts and details concerning their employers or the service providers recruiting them;
7. Encourages Member States to coordinate more effectively with better exchanges of good practices and information;
8. Urges the Commission, in cooperation with the sector, to draw up a comprehensible standard practical handbook for European artists and the authorities dealing with them, containing information on all current sickness insurance, unemployment and pension provisions at national and European level;
9. Calls on the Commission and Member States, on the basis of the applicable bilateral agreements, to consider possible measures to ensure the transfer of the pension and welfare entitlements acquired by artists from third countries when they return to their countries of origin and to ensure that their work experience in a European Union Member State is taken into account;
10. Urges the Commission to launch a pilot project introducing on an experimental basis a European electronic social security card specifically intended for European artists;
11. Takes the view that such a card containing all relevant information concerning the artist would resolve a number of problems inherent to his profession;
12. Stresses the need to distinguish between mobility specifically relating to artists and that relating to workers in general in the European Union;

13. In this respect calls on the Commission to assess what progress has been made regarding mobility in this specific area;
14. Calls on the Commission formally to identify the areas of cultural activity facing the greatest risk of creativity drain and talent loss and urges the Member States to provide incentives for their artists to remain within or return to the European Union;
15. Moreover, calls on the Member States to give particular attention to the recognition at Community level of diplomas and other qualifications issued by all European conservatoires, arts academies and other official schools for the performing arts enabling their holders to work and study in all Member States, in accordance with the Bologna Process; in this connection urges the Member States to promote formal arts studies providing high-quality personal and vocational training not only enabling students to develop their artistic talents but also equipping them with general skills in other professional fields; stresses also the importance of proposing measures at European level to facilitate the recognition in the European Union of diplomas and other qualifications issued by national conservatoires and arts academies in third countries so as to facilitate mobility for artists seeking to enter European Union Member States;
16. Calls on the Commission to adopt a European charter for activity in the field of artistic creation and the conditions for engaging therein, on the basis of an initiative such as that adopted by UNESCO, so as to reaffirm the importance of professional artistic activity and facilitate European integration;
17. Calls on the Member States to eliminate all types of restriction regarding access to the employment market for artists from the new Member States;
18. Calls on the Member States which have not already done so to organise effectively, in accordance with Directive 92/100/EEC and Directive 2001/29/EC, the payment of all equitable compensation in respect of reproduction rights and equitable remuneration owing to holders of copyrights and associated rights;
19. Urges the Commission to carry out a survey analysing measures by the Member States effectively to ensure that holders of copyrights and associated rights receive equitable compensation owing for the legal exceptions applied by the Member States in accordance with Directive 2001/29/EC and for the legal exploitation of their rights under Directive 92/100/EEC;
20. Urges the Commission to carry out a survey analysing measures by the Member States to earmark some of the revenue generated by the payment of equitable compensation owing to the holders of copyrights and associated rights for aid to creative activity and the social and financial protection of artists and to analyse the legal instruments and tools which could be used to contribute to funding for the protection of living European artists;

*Visas: mobility and employment of third-country nationals*

21. Stresses the need to take account of the difficulties currently being encountered by a number of European and third-country artists as a result of visa requirements with a view to obtaining work permits and the attendant uncertainties;
22. Points out that artists with short-term employment contracts currently find it difficult to fulfil the conditions for obtaining visas and work permits;
23. Calls on the Commission to reflect on current visa and work permit arrangements applicable to artists and begin to draw up Community rules in this area which could lead to the introduction of a specific temporary visa for European and third country artists such as already exists in some Member States;

***Lifelong training and retraining***

24. Calls on the Member States to create specialised training structures for those working in the cultural sector with a view to developing a genuine employment policy in this area;
25. Calls on the Commission to gather all research and publications that already exist, and to make a survey evaluating the current situation regarding provision in the European Union for work-related illnesses, specifically relating to artistic activities;
26. Recalls that all artists are permanently involved in their activity which is not limited to the time taken by their artistic renditions or performances;
27. Observes in this respect that time spent by artists on rehearsals is to all intents and purposes effective working time and that it is essential to take into consideration all such periods of activity in establishing their career histories both during periods of unemployment and for pension purposes;
28. Urges the Commission to assess the real level of European cooperation and exchanges regarding vocational training in the performing arts and promote such measures under the programmes for Lifelong Learning and Culture 2007 and European Year for Education and Culture in 2009;

***Towards a restructuring of amateur activities***

29. Stresses the need to support all artistic and cultural activities targeted at those who are socially deprived with a view to involving them more closely;
30. Stresses the importance of amateur artistic activities as a crucial element in bringing together local communities and in building a citizen's society;
31. Stresses that artists without special formal training who aspire to a professional artistic career should be well informed about certain aspects of the profession;
32. Accordingly urges the Member States to encourage and promote amateur activities with constant reference to professional artists;

***Guaranteeing artistic and cultural training from the earliest possible age***

33. Calls on the Commission to draw up a survey of art education in the European Union (content, nature of the training provided - formal or otherwise - results obtained and career opportunities) and to forward to it the findings thereof within two years;
34. Urges the Commission to encourage and promote mobility for European arts students by stepping up programmes for the exchange of students from national conservatoires and arts academies both inside and outside Europe;
35. Calls on the Commission to provide funding for measures and pilot projects making it possible to identify appropriate models for art education at school through the introduction of a European system for the exchange of information and experiences for the benefit of arts teachers;
36. Calls on the Member States to step up training for arts teachers;
37. Asks the Commission and Member States to investigate the possibility of creating an Erasmus-type European mobility fund for the exchange of teachers and young artists; recalls in this connection its concern to increase the European budget for culture;
38. Calls on the Commission and Member States to launch an information campaign as a guarantee for the quality of art education;
39. Instructs its President to forward this resolution to the Council, the Commission and the Parliaments and Governments of the Member States.

## EXPLANATORY STATEMENT

### Towards a European statute for artists

The question of regulating access to employment in the performing arts sector is complex and controversial. However, the problems caused by lack of regulation have now become impossible to conceal.

It is not enough to argue that the absence of a 'filter' has its advantages, enabling everyone to express themselves freely since this would simply mean leaving things to be settled by market forces to the detriment of artistic considerations and the question of social justice.

Even for the more talented, careers in the performing arts continue to be an uncertain and chaotic succession of periods spent in the wilderness, dwindling earnings, undeclared working hours, unfavourable working conditions and as many attendant disappointments.

It is therefore necessary to strike balance between the scope for artistic dissemination and the number of people seeking careers as artists.

Furthermore, it is clear that artistic performances today frequently involve European and third country artists whose mobility is frequently restricted by the failure of the Member States to transpose European legislation and by their poor knowledge of national legislation.

However, European rules do exist and simply need to be implemented, while artists themselves are unfamiliar with the laws of host Member States and do not know how to ensure compliance with European rules.

Most of the difficulties encountered by artists are not so much cultural in nature as linked to mobility, visa requirements, health, social security, unemployment and pensions and it is on these very specific points that we have attempted to find the beginnings of a response.

A number of Member States have reviewed the situation concluding that it is essential to improve matters so as to enable European artists to secure an adequate level of recognition and integration in the course of their professional activity.

It is for this reason that the drafting of a '*European Charter for activity in the field of artistic creation and the conditions for engaging therein*' seems to us to provide an excellent point of departure.

The first step towards improving the situation of artists is to assess their needs. However, this in itself is not sufficient.

The challenge to be met by European cultural policy consists of developing a dynamic, creative and innovative cultural environment in all artistic spheres which cannot be achieved without providing artists with the social guarantees we give to all other European workers as a counterpart to the guarantee of the artistic freedom which is indispensable to them.

## PROCEDURE

<b>Title</b>	The social status of artists
<b>Procedure number</b>	2006/2249(INI)
<b>Committee responsible</b> Date authorisation announced in plenary	CULT 26.10.2006
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	
<b>Not delivering opinion(s)</b> Date of decision	
<b>Enhanced cooperation</b> Date announced in plenary	
<b>Rapporteur(s)</b> Date appointed	Claire Gibault 3.10.2005
<b>Previous rapporteur(s)</b>	
<b>Discussed in committee</b>	29.1.2007      10.4.2007
<b>Date adopted</b>	7.5.2007
<b>Result of final vote</b>	+: -: 0: 18 0 0
<b>Members present for the final vote</b>	Ivo Belet, Marie-Hélène Descamps, Věra Flasarová, Milan Gařa, Claire Gibault, Vasco Graça Moura, Manolis Mavrommatis, Ljudmila Novak, Karin Resetarits, Pál Schmitt, Nikolaos Sifunakis, Tomáš Zatloukal
<b>Substitute(s) present for the final vote</b>	Gyula Hegyi, Erna Hennicot-Schoepges, Mary Honeyball, Jaroslav Zvěřina, Tadeusz Zwiefka
<b>Substitutes under Rule 178(2) present for the final vote</b>	Philippe Morillon
<b>Date tabled</b>	23.5.2007
<b>Comments (available in one language only)</b>	...