

THE PRIME ROLE OF CULTURE AND THE ARTS IN SOCIETY

Joint statement by the European Social Partners
in the Live Performance Sector
February 2016

The European social partners in the live performance sector call upon the Member States of the European Union, the European Commission and the European Parliament, to endorse the prime role of culture and the arts in society and to demonstrate this in all policy areas.

The European sectoral social partners represented by Pearle*-Live Performance Europe and EAEA - the European Arts and Entertainment Alliance which represents workers through the trade unions of performers, musicians and technicians affiliated to FIA, FIM and UNI-MEI - have for many years discussed cultural policies, public funding and the impact of the economic crisis, at meetings of the European sectoral social dialogue, which are facilitated by the European Commission's DG Employment.

Having started in 2008 with an internal survey amongst social partners in the sector on the impact of the financial crisis which resulted in the ongoing austerity measures in Member States across Europe, the cuts in public finances for the performing arts and, in particular, the impact on employment, have remained a recurrent theme on the work programme since that time.

Following a joint statement of the European social partners 'live performance' ahead of the Employment summit of 7 May 2009 and as the Juncker Commission re-affirmed the goal to create jobs and growth, with this statement EAEA and Pearle call for urgent action to put in place specific measures, including investment in, and support for, the sector.

For the past years the sector has done its share and contributed to governmental initiatives to secure the national budgets. However, the measures taken, including reduced public funding for the arts, increase of VAT rates on culture in different Member States, the closure of a number of performing arts institutions and organisations resulting in loss of jobs, have an impact which is far greater than for those immediately involved in the performing arts sector itself. It has impacted on society as a whole.

Key Conclusions

For the live performance to continue to play its role in society and in particular to carry out the public interest mission it has in its relation with the citizen, public investment should be adjusted accordingly, through direct support and a wide set of other measures. This is essential to contribute to the goals of boosting growth and creating jobs – the top priority of the European Commission.

Therefore, the European sectoral social partners in the Live Performance sector, represented by Pearle*-Live Performance Europe and EAEA, call upon the EU and the Member States to :

- Invest in culture and the arts, as society needs a flourishing cultural environment to underpin for education, health and well being, cultural memory, creation and creativity;
- Provide for specific tax regimes, including the abolition of levying withholding taxes in the country of performance, as well as adapted social security, employment schemes and support to (re-)training to help boost the sector and develop incentive measures for corporate and individual giving. As outlined below, such schemes have to be tailored to the working reality of the sector, taking account of its flexible and intermittent nature and ensuring all workers can benefit from it;
- Continue to promote mobility: the EU has made significant progress and continues to work to better capture mobile workers and their needs in social security and fiscal regimes. The Arts and Culture sector values this work and encourages it to continue;
- Involve the sectoral social partners in the live performance sector in the policy process and drafting of measures and action plans and, where sectoral social dialogue in EU Member States (by which is meant autonomous dialogue between trade-unions and employers' organisations in the sector) is missing, to give priority and support to setting up the organisations and relevant fora for social dialogue;
- Ensure that different domains of legislation do not impede workers in the exercise of their rights, to freedom of association, and access to social dialogue and, where needed, that the EU assists Member States in the process to of adapting or improving legislation.

Culture and the arts and their place in society

The European social partners, Pearle* and EAEA, urge public authorities to endorse the fact that culture and the arts have a public mission in society. The arts and more particularly the performing arts reflect our European cultures and traditions; they are a valuable vector of our shared identity, as well as of our rich diversity. They are also a cradle of artistic creativity and expression, which is fundamental to the European identity, and which must be championed and protected by a strong commitment to freedom of artistic expression and the promotion of cultural diversity.

It is essential that people have a maximum of opportunities and chances to access the arts. Public authorities should facilitate this at all levels, from a European, through national, regional, local and municipal level; through infrastructure by making available art in public spaces and by supporting its (local) artistic institutions and groups.

Publicly supported organisations and funded cultural institutions are the vital foundation for European cultural life and they cannot survive without a proper public service commitment to maintaining them and shielding them from constant cost-cutting measures that chip away at their viability. They are vital to maintaining standards of excellence and keeping ambitious repertoire alive. They provide the training which safeguards the immaterial heritage of the performing arts. They are also a lifeblood in the sector as they can still offer stable employment and opportunities to its highly qualified workers. They are necessary also for the non-subsidised sector, which thrives where there is a good publicly funded sector, resulting in a leverage effect across the entire live performance. Everywhere across the EU we see swingeing cuts having an impact on production and employment, of which the ramifications will continue to be felt in the sector far into the future.

- in first instance measures should include, the safeguarding of cultural institutions and ensuring their continuation in the future.
- in addition, measures should also include:
Making available new infrastructure, or giving buildings a new destination for arts organisations, providing support to comply with the newest energy standards; policies which include arts education for young people with the aim to enjoy the arts and understand cultural history, as well as explore creation and creativity (adding a fifth skill to the STEM skills); policies which allow for arts organisations to explore new creations and for further researching the intangible heritage of music and performing arts works; enable arts organisations to expand their use of new technologies with the aim to access the wider society; etc.
- To promote freedom of artistic expression, authorities should critically review their legislation and practices imposing restrictions on the right to freedom of artistic expression and creativity, taking into consideration their obligations to respect, protect and fulfil this right¹.

Social partners and economic governance: which place for the live performance?

The EU invited social partners to take part in meeting the challenges to re-establish a stable economic climate. The live performance sector, which is a highly labour-intensive sector, has a workforce of some 1,1 million. This is a conservative figure, as many related occupations and adjacent sectors flourish where there is a vibrant live performance scene, for example: instrument makers, companies manufacturing wireless microphones and suppliers of technical equipment, etc. In the wake of the reduced funding in various EU Member States, there is a need to focus on the quality and sustainable employment, including valuing permanent employment to permit long-term and robust artistic relationship and repertoire to built-up and maintained.

TAKING
PROPER
ACCOUNT
OF SECTORAL
COMPLEXITIES

There is also a pressing need to take better account of the reality of the majority of highly flexible workers in the sector. Alongside the major institutions, there are a plethora of small and micro enterprises, often operating on a project-basis, who have no permanent employees for technical or artistic roles. Thus many of the workers in the sector are active through multiple engagements, often combining different employment statuses and even moving across different countries and national employment regimes. In practice, such workers may encounter difficulties in accessing their social and labour rights and are hard to capture through social dialogue structures.

Nonetheless, as highlighted in the 2014 ILO Global Dialogue Forum on Employment Relationships in the Media and Entertainment Sector, "fundamental principles and rights at work apply to all workers in the media and culture sector, regardless of the nature of their employment relationship." (Points of Consensus, point 3)². In February 2015, this principle is reaffirmed by the ILO tripartite Meeting of Experts on non-standard forms of employment (Conclusions, para.3)³: "Non-standard forms of employment should meet the legitimate needs of workers and employers and should not be used to undermine labour rights and decent work, including freedom of association and the right to collective bargaining, equality and non-discrimination, and security of employment." Ensuring such access requires social security and employment regimes to take account of the specific nature and unique value of work in the sector. The 1980 UNESCO Recommendation on the Status of the Artist and the recent 2015 Analytic Report on its implementation are a valuable reference in this area⁴.

Maintaining high standards of excellence and quality skills in the sector also means ensuring access to training programmes, including life-long learning.

- **Specific and targeted measures** need to be taken by public authorities to restore economic and financial stability. These measures will be different from country to country. They may include: specific tax regimes, reduction of VAT, tax incentives, incentives and schemes supporting employment, tax reduction for corporate and individual giving, specific schemes for training to increase the chances for employability, accompanying schemes for older workforce, etcetera.

Social partners and economic governance: which place for the live performance?

They may also include measures to promote autonomous bi-partite social dialogue in the sector between management and workers, such as the recognition of the value of social dialogue as the mechanism to regulate working terms and conditions in the sector regardless of the nature of the working relationship, and this in partnership with government in specific tri-partite meetings.

PROMOTING SOCIAL DIALOGUE IN THE SECTOR

As recommended at the 2014 Global Dialogue Forum on media and culture, measures to help improve business and employment prospects should be able to rely on legislation which “does not obstruct the right of media and culture workers to freedom of association or to engaging in social dialogue with their social partners. Government and social partners need to develop strategies on training which will respond in a timely manner to current and future skills needs in the sector. Training should help address diversity in the sector and focus not only on people who want to find work in the sector, but also on existing media and culture workers. Another key strategy is fostering media and culture in education curricula, wherever possible, with the aim of developing future media and culture workers, as well as educating people about media and cultural goods and services. Social security schemes should take into account the particular needs of media and culture workers.”⁵

It is essential to include employers and workers when preparing for and when developing measures. The European social partners underline the need for autonomous bipartite social dialogue in different EU Member States. Where social dialogue it exists, it has given proof of good collaboration between the sector and the respective ministries of culture and of labour. Social partners are best placed to respond to the challenges of their sector, thereby taking into consideration its great diversity (including large public institutions, non-profit organisations receiving subsidies or live performance enterprises operating without public support). Expanding and reinforcing social dialogue in the sector also creates a more level playing field and reduces unfair competition between structures engaged in social dialogue and those that may drive down costs at the expense of labour and social rights of workers in the sector.

Live performance today, tomorrow and in future

MOBILITY:

The performing arts have existed for thousands of years and great works are still performed, whilst many new ones are created today. Artists have toured the world through centuries and audiences have got to know the artistic expressions of other countries and parts of the world and as such embraced cultural diversity before it was acknowledged in the Treaty of the EU.

AN

ONGOING

CHALLENGE

Yet the EU and its Member States are making it more and more difficult to exercise the freedom to move, adding burdens and administrative requirements to do so: musicians struggle to take their musical instruments on airplanes as airline companies in Europe refuse to facilitate this, or they need a musical instrument certificate to comply with the CITES convention. Performers are still subject to withholding tax in a country of performance which may result in a loss of income, highly mobile performers also experience difficulties in receiving clarity on social security rights being built up.

- **Measures can include:** specific rules for travelling cultural workers, better rules to address and eliminate double taxation, establishment of mobility info points, travel grants, exchange programmes, support to tours, etc.

¹ The 2013 Report on Freedom of Artistic Expression by then UN Special Rapporteur for cultural rights Farida Shaheen is a valuable reference in this regard.

² Tripartite meeting, including government, workers and employers representatives http://www.ilo.org/sector/activities/sectoral-meetings/WCMS_243842/lang--en/index.htm

³ Tripartite meeting of experts appointed by governments as well by representative workers' and employers' organisations : http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_354090.pdf

⁴ 1980 Status of the Artist Recommendation: <http://unesdoc.unesco.org/images/0011/001140/114029e.pdf#page=144>
2015: Full Analytic Report on the Implementation of the Status of the Artist Recommendation: https://en.unesco.org/creativity/sites/creativity/files/analytic-report_g-neil_sept2015.pdf

⁵ http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/meetingdocument/wcms_243842.pdf (points 7-10)



THE PRIME ROLE OF CULTURE AND THE ARTS IN SOCIETY

The European sectoral social dialogue 'live performance'

The European social partners are represented by **PEARLE*-Live performance Europe**, the Performing Arts Employers Associations League Europe, and the workers in the sector represented by the **EAEA**, the European Arts & Entertainment Alliance, composed of FIM (International Federation of Musicians), FIA (International Federation of Actors) and UNI-MEI (Global Union of Media, Entertainment & Arts).

Pearle*-Live Performance Europe, represents about 7,000 theatres, theatre production companies, orchestras, operas, ballet and dance companies and other professional organisations in the performing arts in Europe. The EAEA represents about 600,000 workers in the sector.

The European Social partners meet in their sectoral social dialogue committee Live Performance, facilitated by the European Commission Directorate-General Employment, Social Affairs and Inclusion – Social Dialogue Unit.

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