

# **INVISIBLE ARTISTS: RECOGNITION AND SUPPORT FOR CULTURAL AND CREATIVE PROFESSIONALS IN THE BALTICS**

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## **Abstract**

The aim of this research is to define what kind of key challenges and implemented solutions regarding the artist status are common in Europe, and how to develop a systematic approach for artist recognition and support in the Baltic context. Using qualitative research methodology (desk research, qualitative interviews, focus group discussions) the authors analyse the current theoretical and empirical discussion in the European Union member states and especially in the Baltic countries, highlighting different practices and experiences in defining the status and recognition of the artist, and support systems that adjust for specific needs in different countries. Based on international experience, the authors develop suggestions relevant for forthcoming and long-awaited changes in different laws regarding the status of creative persons or professional creative organisations in several countries (Latvia, Estonia etc.).

**Keywords:** *the status of creative persons, the recognition of artists, support for arts, fair pay in culture, cultural policy.*

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## Introduction

The issue of the employment and social protection of creative persons has currently become topical on the level of the European Union. Meetings and discussions of member state working groups are convened to improve the situation of creative persons by means of amendments to normative acts; Estonia and Latvia envisage considerable changes in their laws regulating the status of creative persons (*The Law on the Status of Creative Persons and Professional Creative Organisations, entered into force in 2018* [Saeima 2018]). In addition, in the several last years an unprecedented crisis in support mechanisms for creative persons was caused by the Covid-19 pandemic and the need to take fast decisions on public support for the workers of various sectors (including the cultural and creative sector, henceforth the CCS), whose active employment was severely limited when the level of the disease spread was the highest.

For instance, in Latvia during the first crisis of Covid-19 global pandemic in the spring of 2020, when specific financial support grant programs for freelance workers were created, it turned out that part of the creatives could not qualify for them. The two main reasons for not being able to qualify for the support were (1) the special tax regime that is used for specific groups of creatives (e. g., photographers, videographers) where the State Revenue Service data do not show the real income of these artists, or (2) the portfolio careers, meaning that artists receive salary from mixed sources for their creative, pedagogical work or even the work that is not related to the cultural and creative sector. This caused confusion when support was supposed only to cover the decrease for freelance (e. g., artistic) work, not the work that remained state- or municipality-subsidized (e. g., pedagogical work), although the percentage of total income of an artist decreased radically [Fotokvartāls 2020]. This brought into sharp focus one of the ways in which the artist in the contemporary society can become *invisible* **from the point of view of tax policy and public support instruments.**

On the one hand, the “creative turn” and the instantly growing market with the rise of the digital market for arts, music, theatre and other cultural sectors has led to more opportunities to generate income than ever before. However, the fact that the market is growing does not mean that more artists are better off for it [Janssens 2018; De Wit 2018]. For some, streaming platforms have generated breakthroughs, but for most, it has become all the more difficult to earn anything through music [Janssens 2018]. On the other hand, this fast-growing market has shown another issue for (in)equality – that artists have to invest increasing time and energy in production, networking, administration and coordination – a multiplicity of individual initiatives. Flexibility, individual initiative and mobility between diverse clients have become core principles of the artists’ work [Forrier 2007]. Philosopher and writer

Dieter Lesage in his essay *Portrait of the Artist as a Worker* stresses the multiple activities that contemporary artists do – organisation, production, dissemination, networking, the presentation of the artwork and the artist him-/herself – besides the creation process of the artwork. In this way the difference between *artistic work* and *the artist's work* is emphasized [Lesage 2005].

Even taking into account the different roles an artist would take it still does not solve the problem with the precarious situation of artists. The artist's working territory and broad context does not necessarily lead to an improvement of their socio-economic position. Artists and creative persons are holding multiple jobs at the same time [Van Assche & Laermans 2015; Van Assche 2018]. Besides that, even by being virtuoso and managing multiple jobs as well as different roles of an artist, there is still a preconception in the society that creative work means "pure creation". "*Artistic work is at the core of the twisted ideological relationship between work and freedom; cynically, the work that comes across as the freest is the work that is completely fused with life. The work considered free is the kind whose level of dedication and intensity leaves no further room for life*" [Kunst 2015: 190]. This enforces the argument that **artists are more than ever before becoming invisible by the means of the (non) appreciation of their workload, diversity of the skills needed and fair pay.**

This has led to policy renewal on the working conditions and social welfare of artists and cultural professionals by the EU countries. The European Commission is currently increasing its focus on the topic of *the status and working conditions of artists and cultural and creative professionals*. A wide variety of studies has been carried out [Voices of Culture 2021; European Parliament Committee on Culture and Education 2021; Damaso and Culture Action Europe Directorate-General for Internal Policies 2021], stressing characteristics of employment of artists and cultural and creative professionals in the EU Member States with regard to: artist status and entitlements, social security, self-employment, support ecosystems and alternative financing, artistic freedom, career development and measures countering the Covid-19 crisis. Despite a lot of examples and practical advice concerning artists' working conditions, there is still a lack of a systematic approach which would allow identifying creative persons and setting a framework for criteria of recognition, sustainable coverage of social security and a better targeted support system. This leads to the **research questions** of this paper: (1) what kind of key challenges and applied solutions regarding the artist status are common issues in Europe? (2) how to develop a systematic approach for artist recognition and support in the Baltic context?

### Theoretical framework

The first topic of the literature review concerns the understanding of the key challenges for an invisibility of artists and cultural and creative professionals. **The**

**first challenge concerns the status and definition of the artist:** whom should the policies address? Who is an active professional? Which fields of culture should be addressed? The title of an “artist” is given to workers who see themselves, and are seen by others, as producers of artistic objects and ideas. The inclination to treat the category as an occupation or profession has led some scholars to apply the same methods of definition and analysis as they would with doctors, lawyers, and other professionals [Lena, Lindemann 2014].

The artist as a professional has shifted from the artist as a creator to every person being creative in every position – embracing creativity in their everyday professional practices. They have the skills and competencies that could be embedded in a range of contexts in the corporate sector to yield significant benefits and value [Kouzmine-Karavaïeff, Hameed 2022]. It leads to the discussion whether a certain number of hours is dedicated to an artistic practice within a paid time framework excluding those who create or perform during their non-work time [Lena, Lindemann 2014].

The next issue concerns the status of “the professional” – the “professional artists” might be seen as the outcome of an identity process, rendering it the dependent rather than the independent variable [Lena, Lindemann 2014]. Scholars Andrea Baldin and Trine Bille in the study *Who is an artist? Heterogeneity and professionalism among visual artists* define an artist as follows: he/she is a person who meets at least one of the three criteria – possessing a professional qualification, being a member of an arts’ organisation or the status being granted by the state. The researchers emphasise that a professional artist is recognized by income, by working full time in arts practice and by being able to earn a sustainable income [Baldin, Bille 2021].

Thus, an artist, as a participant in the art market has an opportunity to gain higher status and prestige by exhibiting their artwork in recognized galleries in order to improve recognition, increase the value of works and increase their income [Mačianskaitė 2017]. The quality measurement is determined by three groups – the market (simple evaluation of quality, aesthetics and technique), recognition of contemporaries (evaluation and opinion of other artists) and experts (seeking for artistic innovations and trends and themselves being trendsetters) [Moureau, Sagot-Duvaurox 2012]. Samuel Fraiberger stresses that institutional recognition or prestige is a subjective evaluation due to determination of such factors as history, management, resources and geographical location [Fraiberger et al. 2018].

The issue of the status of artists and cultural and creative professionals has been part of the EU agenda for a long time. Already in 1980 UNESCO [*The 1980 Recommendation concerning the Status of the Artist*; UNESCO 1980] called upon its member states to improve the working conditions and welfare of artists, implementing measures that support artists’ training, social protection, employment, tax system, mobility and others, as well as their right to create organisations and to get involved

in trade unions or professional arts organisations for advocacy and protection of their interests. In the Recommendation UNESCO suggests a formal definition for all artists. [Snijders et al. 2020: 44–45]. However, in numerous EU member states, the definition of an artist is framed internally, leading to a lack of uniformity in the European definition of an artist. In 2013 the study by *Slovak Coalition for Cultural Diversity* identified and described five common and most widely-spread types of definitions used by the EU member states: **by membership, by committee, by authority, by output and by nature of activity** [Slovak Coalition for Cultural Diversity 2013: 72–73]. The **definition by membership** acknowledges the person as an artist if he/she belongs to a professional arts organisation [Slovak Coalition for Cultural Diversity 2013: 72]. Although the definition is easily applied in practice, it is still criticised: considering the diversity of the CCS, it is necessary to develop criteria for the characterisation of membership by artists of all branches, consequently, this makes the system considerably complex. A very similar definition is the **definition by committee**, which envisages that the artist is considered a professional and receives a status by a committee of experts of the branch of art. For instance, in the Netherlands the decisions on the conferral of the artist status are taken by an independent advisory body [Snijders et al. 2020: 45]. Definition **by authority** is a more formal approach, as the artist status is linked to the system of tax rebates, and it is conferred by the state authority in charge of the tax policy. Mostly it is the State Revenue Service, which receives an application for the tax rebates due to artists, to assess whether or not the person fits the status of the artist. Thus, a challenge faced by users of this definition is ensuring fairness in the decision-making process. Public servants have to be able to discern if the person is indeed considered a professional artist and fits the status. The definition **by artistic output** envisages that the artist is a person who produces and creates art/artworks. This definition is criticised on the grounds of the discussion of what is and is not art/artwork, thus they are often very extensive and descriptive. In addition, they are more focussed on the new art created which is protected by copyright, thus giving preference to artists who create new art rather than interpreting already existing one. This approach is used by the United Kingdom, and has been in force in France since 1936. Both artists and technicians there receive state benefits during unemployment, provided they have done creative work for 507 hours within 10 months. During Covid-19 pandemic from May 2020 to August 2021, unemployment benefits were conferred also on the CCS workers who did not achieve the specified number of hours [Snijders et al. 2020: 45–50]. Another way of defining the artist is **by nature of arts activity**. The definition acknowledges the artist as a professional if the artwork creation is a primary source of their income (from created artworks) [Slovak Coalition for Cultural Diversity 2013: 73]. Although each of the above definitions emphasises one feature/criterion for the recognition of the artist, they can also be combined.

Despite the fast-growing market, where art has been seen as a luxury good, an object of asset and investments, several studies show that the income of artists' professional activity remains low and can be termed problematic [Snijders et al. 2020; Doerer 2018; IAA 2018]. This leads to **the second challenge for an invisibility of artists and cultural and creative professionals which is the lack of an advanced support system**. On the one hand, being an artist means having the courage to take on financial risks [Hesters 2017a]. On the other hand, works of art are created without the artists being structurally engaged with the producers (or managers, curators, communication managers etc.) for any significant length of time. Just an insubstantial part of artists is involved in long-term engagements in order to create continuity and stability in their mutual relationships. Scholars confirm that a narrow part amongst the artists can earn a living from the diverse kinds of work available within the artistic sector [Snijders et al. 2020]. The worst scenario is that even successful and recognized artists still find themselves below the poverty level [Hesters 2017b]. It highlights an important issue, that there is a lack of systematic approach of working, collaborating, recognizing and providing social protection to artists and cultural and creative professionals.

Besides the effort of the public sector and government institutions to understand the need for a sustainable and effective support system for the artists and creatives, all the stakeholders involved in creating, supporting and consuming artistic products should be aware of the need for equal and fair pay for the artists [EUNIC 2022]. The topic has become a relevant discussion in the field of arts and culture in the EU. One of the main questions is the availability of the social guarantees for the irregularly employed or freelancers with irregular income: accessibility of healthcare, risk of retirement-poverty and risks of tax-optimization. Growing from equal pay where *“employers must not pay an employee less, or give them terms and conditions that put them at a disadvantage, because of their disability, race, religion, sexual orientation, or another ‘protected characteristic’”* [Arts Council England 2022], fair pay deepens the discussion, especially in arts covering the topic of underrated value of the input in creating artistic work. *“When employing someone on a contract or freelance basis, you should agree on the number of hours necessary to complete the relevant activity, which should include research, development and planning as well as delivery. Fees and salaries for those aged 23 or over should match the National Living Wage as an absolute minimum”* [Arts Council England 2022]. Additionally in visual arts, the discussion about a remuneration for presenting artistic works in exhibitions, museums or events is arising marking the change in the system [Artists' Association of Finland 2021].

Primary research shows that key challenges covered in the EU are similarly topical in all the Baltic States, although at least in Latvia the discussion regarding the status of the artists mostly remains at the level of policy makers, field professionals

and practitioners rather than academics. The last all-encompassing study regarding the situation and status of creative persons was carried out more than 10 years ago [LAC 2012].

### **Research methodology**

The empirical part of the study uses a qualitative research strategy. The authors collected and analysed both primary and secondary data. To find out the key challenges and problems that are characteristic of the EU member states in the context of the artist and the CCS professional status, employment and social welfare, the authors conducted desk research of prior EU level studies and working group reports, as well as normative acts of all the three Baltic states.

For a deeper analysis of the Latvian case, the authors conducted two in-depth semi-structured interviews with senior public servants of the Ministry of Culture of the Republic of Latvia, that is, the Deputy State Secretary for Cultural Policy and the Implementation of Cultural Policy Advisor to the Minister for Culture on the issues of cultural policy implementation. Both interviews tackled the issues of the status of creative persons and topical challenges of Latvia. For the deeper analysis of the situation in Estonia and Lithuania authors have used an Estonian report “Freelance creatives, their economic models and access to social guarantees” by Koppel, Masso, Arrak and Michelson [2021], a presentation “Creative workers, artists and freelance professionals: practices and challenges in Estonia” by Heili Jõe Maria-Kristiina Soomre from Estonian Ministry of Culture [2021] and Lithuanian artists’ association National Annual reports.

To obtain a comparative overview of the status of artists and their current situation in the EU member states, as well as the artists’ employment-related challenges in each of the countries, the authors conducted a focus group discussion with representatives of EU member states delegated by Administration Générale de la Culture. The discussion took place on 3 May 2022, in the MS Teams online platform. Eight EU countries and organisations were represented in the discussion: Fédération Wallonie-Bruxelles (Belgium), Latvian Academy of Culture (Latvia), Cabinet of Minister of Culture and Media (Croatia), Ministry of Culture of the Slovak Republic (Slovak), Ministry of Culture (Lithuania), Arts Council Malta (Malta), Ministry of Culture (Bulgaria), and Ministry of Culture (Greece).

After the qualitative research authors have produced the recommendations for the Baltic States which will be presented in a line with the dissemination roadmap of the report prepared and edited for the Publications Office of the European Union on behalf of the Open Method of Coordination (OMC) group of Member States’ experts on the status and working conditions of artists and cultural and creative professionals (2023).

## Research results

The empirical part of the research focuses on the analysis and comparison of the status of artists and creative persons and the related issues and challenges in the Baltic States, and the results are examined in the context of the ongoing discussion in the EU. This chapter has three thematic strands: (1) the existence of a formal status of artists and cultural and creative professionals, (2) the means and criteria of status recognition, (3) the system and instruments of public support.

### *1. Existence of a formal status of artists and cultural and creative professionals*

Since the early 21<sup>st</sup> century, the EU member states have increasingly chosen to introduce a law determining the status of artists and cultural/creative persons, with the aim of defining what persons are to be considered professional artists, and recognising their distinctive employment models, as well as creating a registration system of such persons. Alongside with the conditions of obtaining the status of creative persons, such laws often specify the support measures available to artists [Neil 2019: 16].

The issue of an official status of artists became especially pertinent during the Covid-19 pandemic, when the epidemiological restrictions meant that a part of those employed in the CCS had only limited opportunities for working and earning. For instance, in 2020 the EU lost a total of about 31% of the income of the cultural and creative economy [EY Consulting 2021: 6]. The crisis caused by the pandemic re-ascertained that artists and creative professionals, as compared with those employed in other sectors, are often socially and economically unprotected. On the EU level it has already caused concern over the preservation of the diversity of the CCS and its sustainability, since it is foreseen that in response to lack of stability, a part of CCS workers might decide to leave the sector [Voices of Culture 2021: 4; European Parliament 2021: 4].

To guarantee social protection and access to social benefits for artists and CCS professionals, many EU states have defined an official status of the artist. However, as demonstrated by studies in the last years, the status of artists and CCS professionals is identified by law only in some of the member states. Thus, artists often have to adjust to other legal statuses existing in the state, and these are not suitable for their diversified model of employment, being attuned to long-term employment [Voices of Culture 2021: 9]. In addition, the situation is exacerbated by the fact that in the states where such a status exists, it is considerably differing. These differences hinder the creation and introduction of a joint and suitable-for-all support system and its application, as well as it limits the employment opportunities for CCS professionals in the EU as a whole, for example, with regard to artists' mobility [Slovak Coalition for Cultural

Diversity 2013: 72–73; De Voldere et al. 2021: 66]. The focus group discussion confirmed that, showing that of the eight states represented, an official artists' status has been introduced in three states (Latvia, Lithuania and Croatia), while in Belgium, Bulgaria, Greece, Malta and Slovakia such status does not exist; however, most states are planning to introduce it shortly [Focus group discussion 2022].

The Baltic States are among the EU states where an official artists' status has been introduced. In Latvia the status was legally acknowledged in 2018, by the *Law of Creative Persons and Professional Creative Organisations* [Saeima 2018]. In Lithuania a similar law was introduced and came into force much earlier – in 1994 (*Law on Artistic Creators and their Organisations* [Seimas 1994]), while in Estonia – in 2005 (*Creative Persons and Artistic Associations Act* [Riigikogu 2005]). In Latvia the Law was adopted with the goal of promoting and strengthening the professional artistic and scientific creative work, as well as legal determination of the status of creative persons, its criteria and the right to support measures [Saeima 2018].

## **2. Recognition and criteria for the status of artist or creative person**

So far, a common and all-encompassing artists' definition on the EU level has not been introduced; however, the discussion on the development of a shared umbrella definition and its inclusion in the EU cultural policy documents continues to be active [Damaso and Culture Action Europe Directorate-General for Internal Policies 2021: 2]. In 2021, The European Commission, in the framework of the *Open Method of Coordination*, established a working group for the exchange of experiences and sharing best practices of the member states regarding the status of artists and their working conditions, as well as for overseeing the course and progress of this process [Cultural policy cooperation at the EU level, European Commission 2021; Damaso and Culture Action Europe Directorate-General for Internal Policies 2021: 2], as the European Commission believes that the strengthening of that status in legislation can provide a greater weight for the status, as well as resolve several problems related to the recognition of the artists' non-typical work manner, working conditions, and strengthen the system of their social protection [Snijders et al. 2020: 45].

As noted by the *Slovak Coalition for Cultural Diversity*, in most states the status of artist/ creative person is granted by applying two criteria – professional education and assessment of peers, who deem the artist to be a professional – in the manner it is implemented in, for example, Austria, Denmark, Latvia, Lithuania and other states. In some states, for example, Finland, Sweden and Estonia, the recognition depends only on peer evaluation. In specific cases, for example, in Germany and France, the recognition is based on peer evaluation and an administrative decision, while in the Netherlands and Belgium – only on an administrative decision [Slovak Coalition for Cultural Diversity 2013: 38].

Diverse approaches to the defining of the status of artists and creative persons are also confirmed by the participants of the focus group discussion [Focus group discussion 2022]. Most often (in Belgium, Croatia, Malta and Slovakia) the artists and the creative professionals are defined by nature of arts activity – they are regarded as a natural person involved in the creation, implementation and/or interpretation of artworks in one of the CCS branches. Several states demonstrate a wish to include in the definition the aspect of education. For instance, in Slovakia, professional artists are also the persons who have received education in the arts branches; Bulgaria wishes to introduce a similar approach, suggesting that professional experience might be an alternative to education. Thus, the definition would not exclude professionals who have not received academic education in the branches of arts, yet have been working in that branch for a considerable time [Focus group discussion 2022]. Additionally, most of the states participating in the discussion recognise creative professionals through membership in professional creative organisations or by authority (national-level arts councils, arts commissions) which evaluate applications by creative professionals for receiving the status of the artist. Such an approach is used in Croatia, Latvia, Lithuania, Slovakia, and in the case of freelancers without contractual relations – in Belgium [Focus group discussion 2022].

The normative act regulation on defining the status of creative persons in the Baltic States, declare that the artist is defined by combining the definition by nature of arts activity and the definition by membership. Until currently, for example, in Latvia the creative person is the author or performer (a natural person) who in the understanding of the Copyright Law creates or performs an interpretation of an artwork in the creative branches, and their artworks in the previous three years have been publicly accessible for audiences, as well as that person is a member of a professional creative organisation and provides contribution to the development of professional art and culture, which is evidenced by that professional creative organisation in the manner stipulated by the Law [Saeima 2018]. The Lithuanian and Estonian definitions are very similar, with the key difference in the CCS branches they include. In Latvia the Law acknowledges professional artistic and scientific work in the creative branches of architecture, design, theatre, music, visual art, dance, literature and film, excluding amateur art and crafts. In the Lithuanian case the law also includes journalism, circus, interdisciplinary arts, photography, ethnic art and crafts (*Law on Artistic Creators and their Organisations* [Seimas 1994]). In Estonia, the law includes sound art (*Creative Persons and Artistic Associations Act* [Riigikogu 2005]). In other EU states, the status mostly refers to audio-visual art, architecture, literature, performing art, music, visual art, design, and photography; however, different other branches may appear as well. The regulation in Belgium and Slovakia includes the following professions: creators, technicians, sound mixer,

agent, while the law in Malta includes cultural heritage and media [Focus group discussion 2022].

On the Latvian and Estonian cultural policy level, in the previous year there has been a discussion on the expanding of the definition of the creative person, as the implementation of the law has demonstrated several practical boundary cases on recognising who could be considered creative persons [Matulis 2022; Joe and Soomre 2022]. In Latvia several groups of CCS representatives currently encounter challenges in receiving the status of the creative person, namely workers in advertising, science, journalism, circus and theatre art (illusionists), and interdisciplinary creative persons [Matulis 2022].

Differences in the diversity of arts branches and professions correspond to the joint EU discussion on the expanding of the artists' definition. EU reports call on member states to create the sorts of definitions that reflect the diversity of the CCS work (not only in terms of branches and professions, but also employment modes) and they support a process-oriented approach. This approach means giving recognition to the actual scope of creative work, which includes research and preparation, and harmonising it with the UNESCO 1980 recommendations on the status of the artist [Voices of Culture 2021: 9; European Parliament Committee on Culture and Education 2021: 90; Damaso and Culture Action Europe Directorate-General for Internal Policies 2021: 4].

The focus group discussion has highlighted the diversity and complexity of recognition criteria. Often the criteria for the recognition of the artist are the professional activity of the artist in the previous 2–3 years (Belgium, Latvia, Lithuania, Slovakia, Croatia), creative work as a basic occupation (Malta, Croatia, Belgium, Latvia), the contribution to the development of the national art and culture (Latvia, Lithuania, Croatia). In Belgium, the criteria for the recognition of the art are the specific CCS branch and the length of experience, while in Croatia and Slovakia economic criteria (financial indicators) have a considerable role. For instance, in Slovakia, the recognition depends on the person's declaration of taxable income by the Copyright Act in the previous year. In the states where the artists' status is defined by law, candidate applications are reviewed based on the specific criteria and decisions on the awarding of the status are taken mostly by an expert commission of an Arts Council alone or in collaboration with the Minister of Culture (for example, in Croatia). A similar process of decision-making is envisaged for introduction in Bulgaria, Malta, and Slovakia [Focus group discussion 2022].

When analysing the criteria for the artists' recognition in the Baltic States, the authors conclude that each of the states has chosen a different approach (see the comparison in Table 1). The more specific and distinct criteria for receiving the creative person status in each Baltic State have been highlighted in bold.

## The criteria of artists' recognition and granting the status of creative person

Country	Title of the law	Cultural branches covered	Approach for the recognition of creative person status	Criteria for the recognition of creative person status
Latvia	Law on the Status of Creative Persons and Professional Creative Organisations, 2008	architecture, design, theatre, music, visual art, dance, literature and film art	through membership, by committee	<ol style="list-style-type: none"> <li>1. Creates/performs professional artworks (products) in a specific creative branch.</li> <li>2. Has professional education.</li> <li>3. The artworks created have been publicly available at least 3 years before the awarding of the status.</li> <li>4. <b>Remuneration for creative work is the main source of income.</b></li> <li>5. The creative activity provides contribution to the development of professional art and culture (as acknowledged by the relevant professional creative organisation).</li> <li>6. Is a member of a professional creative organisation.</li> </ol>
Lithuania	Law on Artistic Creators and Their Organisation, 1994	architecture, design, visual art, photography, film, literature, dance, interdisciplinary art, ethnic culture, crafts, journalism, circus, theatre	by nature of activity, through membership, by committee	<ol style="list-style-type: none"> <li>1. The person's individual or collective artwork is positively assessed as professional art in the published monographs, reviews or articles by professional artistic evaluators, thus is recognised as a professional work of art.</li> <li>2. The person's artwork is included, in the order prescribed by the law, in general comprehensive education programmes, professional education programmes and higher education programmes.</li> <li>3. The person's individual or collective <b>artwork has been awarded the Lithuanian National Culture and Art award</b>, the arts award of the Republic of Lithuania, the art award of the Ministry</li> </ol>

Lithuania	Law on Artistic Creators and Their Organisation, 1994	architecture, design, visual art, photography, film, literature, dance, interdisciplinary art, ethnic culture, crafts, journalism, circus, theatre	by nature of activity, through membership, by committee	<p>of Culture or an international award, an award given by other artists' organisation or a diploma of an international professional art creators' or performers' competition (except for school students' and higher education students' competitions).</p> <p>4. The person's <b>artwork has been purchased by Lithuanian or foreign national museums or galleries.</b></p> <p>5. The person has been publishing for no less than five years arts evaluation articles or reviews in Lithuanian or foreign publications, as well as a person who has been granted the Doctoral degree in science or arts for research in a relevant arts branch.</p> <p>6. <b>The person who teaches subjects of arts studies and occupies the position of a professor or associate professor in a higher education institution</b>, that educates professional artists in accordance with arts study programmes.</p> <p>7. <b>The person is selected to individually or collectively represent Lithuania in internationally recognised events of professional art.</b></p>
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Estonia	Creative Persons and Artistic Associations Act, 2005	architecture, audiovisual arts, design, performing arts, sound arts, literature, visual arts, scenography	through membership by authority	<ol style="list-style-type: none"> <li>1. The author/performer in the sense of the Copyright Act, who is active in the specified CCS branches.</li> <li>2. <b>Does not have a permanent work position.</b></li> <li>3. A member in at least one arts association, in which there are at least 100 members and which has the status of a professional creative organisation. In that organisation at least 50 members in the previous 3 years are active in creative activities in the specific arts branch and their artworks are publicly accessible.</li> <li>4. A self-employed creative person who is <b>included in the Commercial Register.</b></li> </ol>
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Table 1. Summary by the authors. Sources: Saeima 2018, Seimas 1994, Riigikogu 2005, Focus group discussion 2022, Matulis 2022.

To receive the status of a creative person, artists in Latvia have to be proactive, as they themselves have to initiate the application for the status either by becoming a member of a professional creative organisation, or by applying to the Commission of the Latvia Creative Associations' Council and receiving a letter of confirmation [Saeima 2018]. Another criterion, which is taken into account in the evaluation process, is professional education. The artist's application for the evaluation process should include not only a portfolio of creative work, but also information on the education completed [CCUL 2022a; Matulis 2022].

In Lithuania, there are seven criteria for granting of the status of a creative person, and the law stipulates that the artist has to meet at least one of them [Seimas 1994]. Decisions on the granting of the status to natural persons are made by the Council for Granting the Status of Art Creator and the Status of Art Creators Organisations, which works under the Lithuanian Ministry of Culture, while for legal persons the status is awarded by Councils of Art Creators Organisations [Focus group discussion 2022].

In Estonia the criteria for the status of creative persons are determined by an association that joins at least 100 registered members – professionals of the given branch [Riigikogu 2005]. In 2021, the professional creative organisation's status was granted to 17 arts associations which join 6500 members [Joe and Soomre 2022].

Organisations submit their applications for the status to the Estonian Ministry of Culture, and the Minister of Culture takes decisions on the granting of that status [Riigikogu 2005].

The Baltic States maintain registers of creative persons on a national level. In Latvia, the law envisages that the artists' registers are developed and renewed regularly by the organisations that have the status of professional creative organisations, which join the artists working in the concrete creative sphere. Till 2023, 15 organisations have received this status [Ministry of Culture of the Republic of Latvia 2023]. The task of these organisations is to collect data and information on their members (including their creative activity, the created artworks), and at the beginning of every year submit an updated list of members to the Ministry of Culture of the Republic of Latvia [Saeima 2018]. In 2022 the database held information on 3074 artists [CCUL 2022b]. Professional creative organisations may receive a delegation contract from the Ministry of Culture, to assess the correspondence to the creative person's status and register the artists who are not members of any professional creative organisation [Saeima 2018]. Lithuania and Estonia have a similar system of registering artists. In Lithuania, it is carried out by a government-authorized institution that includes the councils, which make decisions on the granting of the status of creative persons and organisations and collect the information on the creative persons provided by creative associations, except for freelance artists [Seimas 1994; Focus group discussion 2022]. In 2021, in Lithuania the status of creative persons was enjoyed by 6976 artists [Kregždaite, Godlevksa et al. 2021: 11]. In Estonia, the register of creative persons is the responsibility of the Boards of creative organisations; they also maintain registers of self-employed artists, who receive state support for their artistic activity [Riigikogu 2005]. The focus group discussion demonstrates that state registers are important for the stocktaking of artists, although the existence of registers does not mean that the social situation and support mechanisms for the artists are better than in countries without the register. Such registers exist in Belgium, Greece and Slovakia; however, in countries like Bulgaria, Croatia and Malta there is no such register, or there is only a register for cultural organisations. At the same time, the introduction of a register is planned for the near future [Focus group discussion 2022].

### **3. Public support system and instruments**

It has been emphasised on the EU level that “*art is work and it must be treated as such*” [Ministry of Education and Culture of Finland 2018], pointing out the need to give official recognition of the value and importance of the work of those employed in the CCS for the society and economy in the same way as it is with other sectors, so that artists and CCS professionals have rights and welfare benefits the same as other employed persons. However, the EU and its member states still

need to agree and introduce suitable regulation and support mechanisms for the CCS professionals, as well as improve collaboration and coordination between member states. The determining of an official artists' status is directly related to the creation and strengthening of a support system that is suitable for artists. Currently this issue has acquired a new urgency in the EU – the necessity to ensure that artists and CCS professionals have an equal level of social protection, including the right to paid illness and childcare leave, unemployment benefit, health and accident insurance, included in the national social protection systems. It is also being recommended to strengthen other roles of the artist (e. g., the role of the manager, marketing specialist, entrepreneur, etc.), envisaging and allocating stipends for research, training, mentoring programmes which would promote the development of other skills needed for artists (e. g., management and administrative skills) [Voices of Culture 2021: 11–12].

Different approaches and instruments are used in the EU member states for the support of those employed in the CCS, for example, tax relief, earmarked subsidies, grants, donations, sponsorship, loans [Snijders et al. 2020: 11].

In Latvia, the support system for creative persons is stipulated in the Law on the Status of Creative Persons and Professional Creative Organisations. Every year the State Culture Capital Foundation administers the funds from the state budget within its programme of Support for Creative Persons, which is implemented to promote the creative activity of artists. The Programme provides three kinds of support grants to creative persons, in the following cases: the person (1) temporarily has not received income for further creative activity because of the nature of that creative activity, (2) has short-term stoppage of activity, (3) is of the age of old-age pension and his/her monthly income cannot cover everyday expenditures (e. g., medical and utilities). To receive this stipend, the artist has to submit an application to the State Culture Capital Foundation, confirming the status of the creative person and providing information on the artworks created and made public in the previous three years. Old-age pensioners are required to provide documents demonstrating the incurred medical and utility expenditures. The stipend to a self-employed creative person may be used also for making state social insurance payments [Saeima 2018].

In the beginning of 2022, a working group was set up by the Ministry of Culture of the Republic of Latvia to focus on enhancing the support mechanisms related to the status of creative persons and state support. The working group developed a proposal describing a way of providing systematic support to all creative persons in Latvia, to offer help not only to the artists in difficult financial circumstances, but also to promote the professional growth and development of the most active creative persons [Ministry of Culture of the Republic of Latvia 2022]. As a result, the proposal includes three different support mechanisms: (1) social support, (2) support for growth, and (3) support for commercial activity. Social support would be the body of measures

that are already in place: support to old-age pensioners, minimum social payments and the stoppage benefit. Since the roles of artists are changing, as demonstrated by the theoretical framework, and they include not only creative activities, but also administrative work, marketing, producing and other related activities, support is needed also for the strengthening of these multiple roles. Therefore, the second kind of support, or growth support, would include grant systems to ensure support for creative or artistic activity, for example, creative trips, training and other activities and projects. In its turn, the commercial activity support is targeting only active creative persons, to support creative entrepreneurship, simplifying procedures and envisaging exceptions to these procedures and tax relief [Zariņš 2022; Ernštreits 2022].

In Lithuania and Estonia, normative acts also stipulate support to creative persons. In Estonia the Ministry of Culture through recognised professional artists' association allocates state subsidy to creative persons who are (1) engaged in a liberal profession, who have (2) temporarily lost income for the promotion of creative activity, and (3) for professional training (in-service training) [Riigikogu 2005]. A study carried out in 2021 on the access of freelance artists to social guarantees in Estonia, concludes that the social guarantees meant for persons employed in project-based work, are not sufficient, as they cannot cover the actual expenses [Koppel, Masso, Arrak and Michelson 2021: 93].

The Lithuanian law determines that the artists enjoying the status of creative persons have the right to receive support from the state-funded Social Security Programme for Artists, which envisages support during a temporary creative stoppage, and support to artists with low and irregular income [Focus group discussion 2022]. Support for artists is also legally fixed in other laws, for instance, the Law on State Social Insurance defines that the artists who have the status of a creative person have the right to a pension, health insurance, maternity benefit, provided their income is not insured. For the social protection of the artists whose annual income is smaller than the state-determined 12 minimum monthly wages, the state provides social insurance payments from the state budget. The Law on Health Insurance states that the persons who receive income from Authors' Contracts, or performing activity, have to make compulsory health insurance payments, while the state-funded Programme of Social Protection of Arts Creators stipulates that these payments are made on behalf of artists with the status of creative persons. Meanwhile, the Law on Professional Performing Arts defines the social protection for the staff of professional theatre art institutions [Compendium of Cultural Policies & Trends 2019; Lithuanian artists' association 2019: 2–3].

The EU member states consider that a stable and relatively successful approach in the sphere of social protection of artists has been implemented by Germany. Since 1983 a dedicated social protection mechanism for artists has been in force in

Germany, with the aim to obtain payments for the use of art from enterprises that are indirect employers. The national law on social protection states that every employer who receives benefit from art and creative activity has to pay 30% payments of all artists' payments to the Artists' Fund. The remaining part is subsidised by the state (20%) and the person employed in the CCS (50%). The state guarantees that the artists who pay the required social payments and are participants of the Artists' Fund, have pensions of old-age, disability and loss of provider, as well as health insurance and long-term care insurance, as well as limited insurance for periods of no work, provided the person has made additional payments for at least two years. The payments to the Fund are a compulsory requirement. Self-employed artists, who carry out their creative activity with commercial purposes and do not employ more than one person, and who according to their artistic activity in the interpretations of the Artists' Social protection Law are considered professional artists and who have annual income of at least 3900 euro, have to make the stipulated payments and have to become members of the Fund. In 2018, according to the data of OECD the Artists' Fund included 35% of all Germany's CCS self-employed persons (a total of 1.3 million). Although the system has shown itself to be stable over decades, as since the early 1990s the total payments (including those from the state) for self-employed artists have increased four times, this system has challenges, too. One of those is the relatively low coverage of artists, another is not ensuring compensation in the case of work-related accidents, as well as performers tend to lose the right to the social guarantees from the Artists' Fund, as they combine self-employed work with temporary contracts [Galian et al. 2021: 33–35].

In recent years in Europe, new practices of artists' support are being discussed. In the autumn of 2021, the *Artists' Association of Finland* organised the *Fair Pay for Artists exhibition payment symposium*, in which visual art organisations from Finland, the Netherlands, the UK and the USA shared their experience and debated various exhibition payment models. The exhibition payment model envisages compensation to the artist for the preparatory work for a museum exhibition, for example, exhibition planning, placement of artworks, transportations, marketing, participation in related events and other tasks. This model not only promoted the societal recognition of the artists' work and its many roles, but also the receiving of suitable and fair pay for the hours worked by the artist in preparing the exhibition. To strengthen fair pay in Finnish visual art, The Artists' Association of Finland, Designers' Association Ornamo and Finnish Museums Association had worked for several years to introduce this model and in 2021 the Finnish government allocated 1 million euro for its establishment [Artists' Association of Finland 2021].

Other European states strive to support fair pay in CCS. In early 2022, the Arts Council England published an information material on the principles of evaluation

in the *Arts Council England's 2023–26 Investment Programme*. It is stated in the new grant system that only projects in which those employed in the CCS will receive sufficient and fair pay, matching the practice codes and guidelines in the given art branch, will be supported. Project leaders have to ensure that artists are paid in accordance with all hours worked by the artist, and all roles accomplished (including research, planning, supplying, etc.), and in the case of mobility – the expenditures of the stay [Arts Council England 2022].

Meanwhile, in the Netherlands a Fair practice Code was developed several years ago. It stipulates the principles of fair practices in the CCS and offers a catalogue of fair remuneration. Since the introduction of the Code, many cultural organisations in the Netherlands have signed the declaration of intent on the observation of the Code. In 2022 the EU National Institutes for Culture cluster started a new discussion cycle Fair P(L)ay, to discuss on the European level a fair system of CCS pay, copyright and mobility and to collect existing practices, initiatives, and to promote understanding, information and fair attitude to the artists' work both in the sector itself and in the broader public [EUNIC 2022].

### Conclusions and suggestions

- The study findings bring to the forefront the *invisibility* of artists from two perspectives – from the point of view of tax policy and public support instruments, by means of the appreciation of their workload, diversity of skills needed and fair pay. The existing precarious work combined with a lack of knowledge and competences decrease the potential for artists to gain regular income.
- The study findings show that in order to provide fair pay for artists and creative professionals there is a need for improved cooperation among policy makers, advisors, state institutions, private entities and NGOs to resolve the questions of fair pay rates.
- Overall, the EU member states use different approaches of recognition of the status of creative persons (through membership, by authority, by committee, by nature of arts activity, by artistic output) and their combinations. Each state has stipulated various criteria for the identification of professional artists (economic activity, creative activity, education, etc.).
- Artists' registration and stocktaking systems have considerable differences – some states have introduced national-level artists' registers, overseen by a state-delegated cultural organisation, while other states have no such register. Although the existence of registers in part makes it easier to identify artists, yet the authors cannot conclude that the registers make artists *visible*.

- When considering support mechanisms on the EU level, it is important to acknowledge that merely financial support is not sufficient. There is a need for other kinds of support as well – to strengthen the other roles of the artist and all artist's work, for example, providing education and training, involvement of producers, an umbrella legal organisation to seek project funding, etc.
- It is necessary to discuss and address the issue of fair pay on the level of the EU. This discussion should appear on the agenda of all member states, and it has to become a part of the support system. Gradually the states have to abandon the idea that the artist loves all that he/she does and therefore can do it for a lower remuneration. Project budgets have to prioritise artists' pay and not technical expenditures – it is high time this out-dated approach changed.
- To develop a systematic approach for artist recognition and support in the Baltic context, the authors highlight three main directions: (1) Systematic approach to support creative practice not only during periods of low or no-income, but to create stability and security within the CCS. There should be various support mechanisms such as social support, growth support and commercial support. (2) Sustainable coverage of social guarantees for all artists and cultural professionals. Social guarantees for the irregularly employed or freelancers with irregular income: accessibility of healthcare, options to decrease a risk of retirement-poverty and the risks of tax-optimization. (3) Better targeted cultural funding, which emphasizes the artist's work, which includes multiple and different additional skills and roles, a much greater input of time and energy than merely pure creativity. Accordingly, support by those three directions has to be a focus of various cultural policy instruments.

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