

**Study: working conditions and access to social protection in the
independent cultural sector in Moldova (SCI)**

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Introduction

Moldovan legislation employs different terms to define cultural workers. For example, the *Law on Culture* uses the term **cultural worker** to define any individual employed by a cultural organization (e.g. creative unions, guilds, associations, including public associations, organizations, institutions and enterprises performing cultural activity). *The Law on creative people* uses the term **creative people and professional creative people**. Creative people represent a broader category that includes all persons who create cultural values, interpret works of art and perform creative activities. Professional creative people are those holding a bachelor's degree in literature, art or journalism and creative activity is their main source of livelihood. At the same time, Article 11(3) of the Law on Culture stipulates that " Creative individuals, whether professional or non-professional, are entitled to equal rights concerning intellectual property, control over their creative output, and state assistance"

In this study we will use the term **cultural worker** as defined by UNESCO to refer to all persons engaged in cultural activities (A+B), as well as workers engaged in other activities within the cultural sector (C).

	Culture	Other sectors
Cultural activity	A	B
Other activities	C	D

Figure 1. UNESCO matrix on cultural employment

We will use the term **artist** as defined by UNESCO as any individual who creates, participates in the creation or re-creation of works of art through his or her interpretation, who considers his or her artistic creation an essential part of his or her life, who contributes to the development of art and culture, and who is recognized or seeks to be recognized as an artist, whether or not he or she is explicitly linked by certain relationships of employment or association¹.

The term **independent cultural sector** is understood as the cultural sector as distinct from the public and commercial cultural sector, made up of cultural actors who organize their work autonomously, either as individuals or in associative entities. The independent cultural sector (ICS) is characterized on the one hand by its **autonomy from the state**, in the sense that the entities in the ICS are created without any state contribution, are independently managed and autonomously determine their artistic and cultural content. On the other hand, a feature of the ICS is also the **autonomy of the sector from the commercial** and commodifying **logic of culture and art**, defined by the **non-profit character of cultural entities**. Therefore legal entities in the ICS can take the following forms of non-profit organization: public association, foundation, and private institution². At the same time, the independent cultural sector includes artists and cultural workers not affiliated to a legal entity, who work as freelancers. *The Eurostat European Union Labor Force Survey* defines

¹ Recommendation concerning the Status of the Artist, UNESCO, 1980

² According to Law No 86/2020 on non-commercial organizations

freelancers as "*persons who work in their own business, farm or carry out a professional activity for profit and who do not employ other persons*"³. As freelancers represent a rather broad category, in this study we refer to individuals who do not have an employer and who carry out independent cultural activities in various forms (e.g. service contracts, author's contracts, patents, selling their own cultural products, grants, residencies and artistic mobility). Beyond the form of organization of work, for Miki Braniște the red thread that defines the independent cultural sector is "a sense of inadequacy within the repertoire system, combined with a critical stance and a search for a personal aesthetic "⁴.

Workers in the independent cultural sector face specific challenges, such as atypical employment relationships, prevalence of freelancers, multiple jobs, structural instability, irregular and fluctuating remuneration, poor working conditions, high cross-border mobility - challenges that affect cultural workers' rights and access to social protection. Based on these trends of work in the cultural sector, the study aims to assess the working conditions and access to social protection measures of artists and cultural workers in the independent cultural sector in Moldova.

In order to assess working conditions, the direct experiences of artists and cultural workers were analyzed through a questionnaire and a series of interviews. **The questionnaire** was completed by 56 artists and cultural workers, 6 respondents were excluded from the sample because they work exclusively in the public or commercial sectors. Of the sample of **50** respondents, 72% identify themselves as part of the independent cultural sector, 18% do not know how to identify themselves and 10% identify themselves as part of the creative industries. As we did not identify significant differences in the way work and working conditions are organized, we analyzed the total sample of 50 participants. .

At the same time, **28 interviews** were conducted with visual artists, multimedia artists, writers, directors, curatorial managers and cultural workers from the independent cultural sector, **1 interview** with a member of the working group on the adoption of the Statute of Cultural Workers in Romania.

To assess access to social protection, data from the questionnaire and the interviews as well as **the review of relevant legislation** were analyzed. The study also maps **good practices** and examples of public policies to improve working conditions and social protection of cultural workers.

Profile of interviewees

Interview 1 - multimedia artist	Interview 16 - multimedia artist
Interview 2 - artist, curator, cultural worker	Interview 17 - cultural manager
Interview 3 - Cultural worker	Interview 18 - Cultural worker
Interview 4 - Cultural worker	Interview 19 - Cultural worker

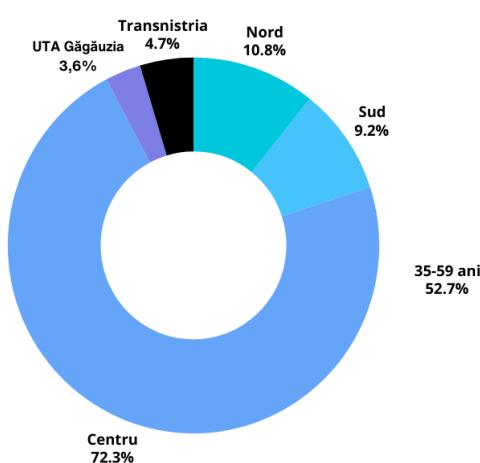
³ Eurofound (2019), Self-employed person, European Industrial Relations Dictionary, Dublin <https://www.eurofound.europa.eu/ro/node/23824>

⁴ Miki Braniște, Creativity as a commodity: a perspective from inside the independent cultural scene in Cluj 2009-2019, pp. 98, Idea, 2021

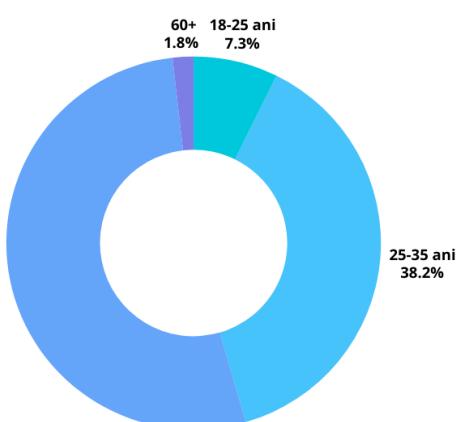
Interview 5 - actors and cultural workers	Interview 20 - artist and cultural manager
Interview 6 - writer and director	Interview 21 - multifunctional artist
Interview 7 - visual artist	Interview 22 - photographer
Interview 8 - artist and cultural worker	Interview 23 - photographer, cultural manager
Interview 9 - visual artist	Interview 24 - cultural manager
Interview 10 - director, screenwriter, movie producer	Interview 25 - documentary photographer
Interview 11 - curator and cultural manager	Interview 26 - Film director
Interview 12 - visual artist	Interview 27 - cameraman, photographer
Interview 13 - writer, cultural promoter	Interview 28 - cultural manager
Interview 14 - artist, curator, cultural manager	Interview 29 - Member of the working group for the adoption of the Artist Statute in Romania
Interview 15 - visual artist, cultural manager	

Demographic profile of respondents to the questionnaire

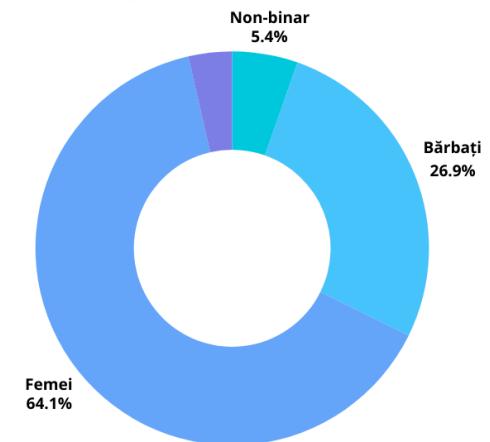
Arie geografică



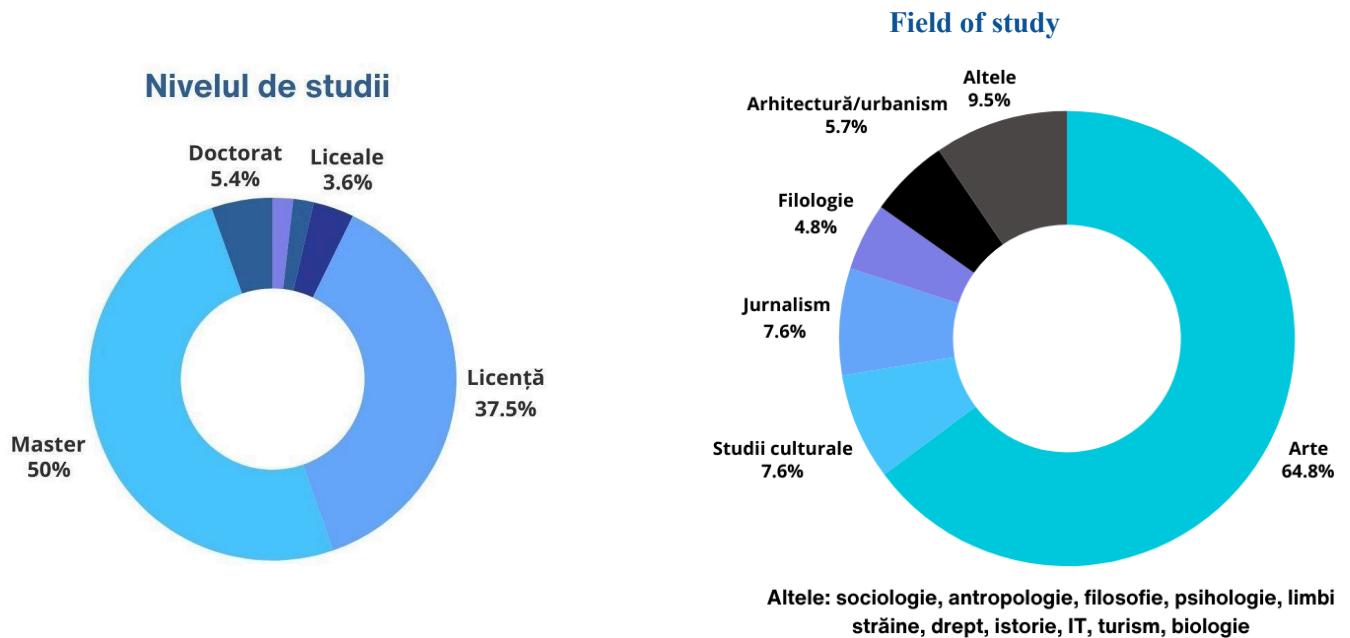
Vârstă



Gen



The occupational profile of the respondents to the questionnaire: cinematography, directing, dramaturgy, screenwriting, theater, contemporary art, visual arts, decorative arts, architecture and urbanism, graphic design, literature, sound design, music, acting, journalism, translation, curatorial work, cultural management.



I. Work and working conditions in the independent cultural sector

1.1 General trends

European studies show that the work of artists and cultural workers is characterized by **atypical employment relationships**, part-time work, second and third jobs, fixed-term work, jobs involving unpaid overtime, and work under atypical contracts (service contract, author's contract).⁵

Atypical work refers to employment relationships that do not conform to the standard or 'typical' pattern of full-time work, performed on a regular basis, under a contract of indefinite duration with a single employer. In addition, typical work implies a degree of job security, standard working hours, a regular income and, through the social protection schemes that cover employees, pension payments, coverage of medical treatment in case of sickness and unemployment benefit⁶ Employees who are employed under typical legal employment relationships are entitled to all employment rights and enjoy the social and economic protection guaranteed by the state through labor law. These rights are not ensured or are only partially respected in atypical employment relationships.

The sector is dominated by **self-employment**, short-term contracts or a combination of employment and self-employment. A large number of artists and cultural workers are self-employed, which leads to precarious working conditions, including lack of regular income (caused by periods of inactivity), relatively low levels of average income, low access to social security. In 2019, 32% of the cultural and creative sectors workers from EU-27 were self-employed compared to 14% of the total workforce.

The prevalence of freelancers in the independent cultural sector has important implications for understanding the precarious situation of many cultural workers. Self-employed cultural workers have limited access to the social protection system enjoyed by employees: e.g. the right to rest leave, childcare leave, sick leave, pension contributions.

Even when cultural workers have an employment contract, it is atypical, **part-time, fixed-term, project-based**. Those employed on short-term, fixed-term contracts face unpredictable access to social security, unpredictable incomes and insecure job prospects compared to the average across the economy.

Project-based work is directly affected by the triangular relationship between *employer-employee-donor*, in particular by two conditions: the *financial sustainability* of organizations and the phenomenon called *the race to the bottom of the wage scale*.

By financial sustainability we refer to the **type of funding** (structural, long-term, or project-based with a short period of one month to one year) and the **organization's ability** to attract sources of income other than grants. The independent cultural sector is legally organized in not-for-profit entities, mostly public associations. They are not usually income-generating (like private sector entities) and do not have pre-established and ongoing annual budgets (like public sector institutions), but operate largely on a project basis, and this

⁵ EU framework for the social and professional situation of artists and workers in the cultural and creative sectors

[https://www.europarl.europa.eu/RegData/etudes/STUD/2023/747426/EPRS_STU\(2023\)747426_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/747426/EPRS_STU(2023)747426_EN.pdf)

⁶ European Industrial Relations Dictionary

<https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/atypical-work>

leads NGOs to replicate atypical forms of work, constrained either directly by the funders or simply because of the temporary nature of the funding, to conclude fixed-term employment contracts, part-time contracts or atypical contracts with their employees (service contracts, author contracts or working with some employees on a patent basis)⁷.

"There is no way to pay staff salaries, almost all the projects we apply for have funding for activities and not salaries." (questionnaire respondent)

"You have to have high project turnover to be able to hire staff. Many grants are purely deliverables-oriented and don't provide resources to cover labor." (Interview 4)

"The logic of projects is harmful and causes precariousness. At least that's what keeps me in my current job because there's funding for a few years and there's a certainty that my work can be paid full time." (Interview 19)

By **race to the bottom** we mean that in the absence of funding opportunities, organizations tend to reduce the *cost of their workforce as early as the project development phase, either by reducing budgeted working hours or by reducing salaries*⁸.

In this triangular relationship between funder-employer-employee, the funder has quite a lot of decision-making power over the organization and control of the work, in relation to the number of people paid, the amount of remuneration, the mechanism for controlling the work performed, the types of contracts that will govern these relationships, and the rights and guarantees that can be covered by the grant. *"It was only this year that we managed to negotiate with the donors a full time employment contract for one person in the organization."* (Interview 3)

Although the donor has an important role in how work is organized and controlled, it bears no legal responsibility for the workers employed on the projects it funds or for the respect of workers' rights.

Miki Braniște provides an overview of work and working conditions in the independent cultural sector in Cluj, mapping the features of work in SCI: fragmented, project-based, short term work, prevalence of atypical contracts (copyright and service contracts), precariousness due to low income and lack of social protection, multiple jobs as a survival mechanism, self-exploitation and professional exhaustion.

"In the case of AFCN funding, the duration of the project is usually around six to seven months. The most common forms of contract are royalties for the artists, and provision of services for the management/organization/production/communication team and the technical team, for very short durations... The amounts with which the implementation team is remunerated... were always calculated last, according to the artistic and production costs. The mode of remuneration... is very short term, with small amounts, and the payment of social security, pension and health insurance is paid by the collaborators themselves, from the same small amounts. To be able to support themselves and pay rent, freelancers have to work on several projects simultaneously, which lowers the quality of their work and leads to exhaustion, reduced motivation, etc. They inevitably fall into the trap of submitting projects continuously, to whatever funds are available, to ensure the existence of the space, activities

⁷ Nenescu L., Flexible, atypical, precarious: the specific nature of work in NGOs in the Republic of Moldova <https://platzforma.md/arkhive/392494>

⁸ Guga Ș., Atypical work in Romania since the crisis: an overview, Bucharest, 2016

and organization, which leads to a pace that is difficult to maintain after many years of working with the same intensity".⁹

1.2 Work in the Independent Cultural Sector (ICS) in the Republic of Moldova

For many cultural and artistic activities there are no jobs in the public or private sector. *"I'm a member of UAP and I don't know how many NGOs do, but they don't offer any jobs as a painter. There are no jobs in my line of work, as with many others."* (Interview 1). *"After I graduated, I wanted to be an artist and curator of contemporary art, but I understand that there are no such jobs."* (Interview 2)

In the absence of jobs, artists and cultural workers take jobs in other fields (sometimes in related fields, sometimes in other fields) in order to get a stable source of income and access to social protection, and the work of independent artists and cultural workers happens in their spare time. *"People need jobs in order to exist and therefore the impression is created that independent artists are integrated because they are employed at the museum, on TV or in the printing press. But they are not integrated as artists. They, in their own time, after their jobs, are in charge of their own cultural and artistic path."* (Interview 1)

At the same time, in the absence of suitable jobs in the public or private sector, artists and cultural workers are creating their own jobs, building the framework they need for professional development in the independent cultural sector. *"In SCI you don't find a job, you have to build it. In 2015 we registered a public association. The first years we were not paid for our work, we even invested our own money in the organization. In 2019 we started to receive some honoraria, but we had to do bookkeeping and production and play."* (Interview 3)

Analyzing the data from the questionnaire and interviews, we observe that the work patterns in the independent cultural sector in Moldova, outline several profiles of cultural workers.

1. Cultural workers **working exclusively in SCI**. According to the questionnaire only **15%** of the respondents have only one job.
2. Cultural workers for whom **the main job is in the SCI**, but who also work in other fields. The results of the questionnaire indicate that **49%** of the respondents have their main place of work in the SCI, but also work in other fields.
3. Cultural workers for whom **the main job is in another field**, but the artistic and cultural activity is in SCI. According to the questionnaire, **36%** of the respondents have a main job in a field other than SCI.

In general, very few cultural workers manage to survive solely from working in SCI. One artist admits that working exclusively in SCI is a privilege. *"It is a privilege that I only do cultural work to earn a living."* (Interview 6).

Some are able to work exclusively in SCI because the organization has obtained structural funding for a few years and this allows them for a fixed period to earn a living exclusively from SCI. *"In 2021 I started to work full time in SCI, until then I worked in different institutions to secure a stable income".* (Interview 3).

Others manage to have an SCI-only job, combining multiple functions within the organization to manage to earn a livelihood income. *"At the moment I function totally on*

⁹ Miki Braniste, Creativity as a commodity: a perspective from inside the independent cultural scene in Cluj 2009-2019, p. 145, Idea, 2021

financial insurance from SCI but it is difficult and I don't know if it will work in the long term. I have to cover several positions to have the necessary income." (Interview 4)

Due to the sporadic and unstable income in SCI, some cultural workers work in other areas in order to cover their needs in the SCI sector, such as work space or materials needed for artistic work. *"The basic work is in SCI, but I also look for other sources of livelihood because when we don't have funding, we can't even pay the rent, which we pay out of our own pocket." (Interview 14)*

Another cultural worker works in a public association and in parallel she has 3 other jobs, as an art teacher, a yoga instructor and an administrative job. *"I also have an administrative job also on the basis of a service contract, there the remuneration is still not high, but it helps me to cover my basic expenses and the expenses for cultural work. I also organize yoga classes so that I can pay the rent of the space where we carry out our cultural work." (Interview 15)*

One artist admits that in order to survive in SCI he also has to make commercial art, and from commercial art he supports himself and pays the rent of the studio and the independent art and culture space. *"My income comes from art but not from the art we promote in SCI. I work on commission, I do all kinds of things, installations, paintings, paintings, sculptures, butaphors. I mean I have to do commercial art to survive. From the money I make from commercial art, I support myself and pay the rent of the studio and the art space that I manage and where we make independent art." (Interview 7)*

For most of the interviewees the core work is equated with the main source of income which may change over the years, but their core professional identity and continuous professional path lies in their artistic and cultural work. *"The work in the cultural sector is not core in the sense of source of income, but it is core in the sense that I do cultural work permanently, for years, and the other jobs are constantly changing, the work as a teacher to the work as a consultant and so on." (Interview 5)*

An artist who has her main job in the public sector, but her artistic activity is carried out within an NGO and as a freelancer, states that the basic versus secondary work *"It's a controversial question because on the one hand, working as a cultural worker is the basic way of working, but on the other hand, as a cultural worker you cannot survive and you need other sources of livelihood because you cannot survive on artist fees." (Interview 2)*

Another cultural worker confesses that just because her main job as a main source of income is in another field, it does not mean that the time and workload dedicated to working in SCI is less. *"I started working in SCI initially as a volunteer, then part-time which for a long period of time I combined with a core job. So working in SCI was kind of secondary, although in terms of workload it was a lot, but I couldn't rely financially on sector work." (Interview 4)*

Another multimedia artist is employed at two jobs in state public institutions, which together make a full-time. The artist's basic income comes from public sector salaries, but her work as an artist is done outside of her jobs. *"I'm engaged in the labor field, but it's totally displaced, collateral, more a source of livelihood than my artistic activity, which is independent of any other structure." (Interview 1)*

In general, ICS work in the Republic of Moldova is characterized by the following features.

1. Lack of recognition that cultural work is work.

According to the interviewees, one of the biggest problems affecting working conditions in the independent cultural sector is the lack of recognition of the work of artists and cultural workers as work.

"The biggest challenge about working is that you feel like a splash of water in the ocean. Primarily because the work we do is not recognized as work. Without this recognition it is obvious that labor rights are not respected. You can't even say that these rights are violated, they simply don't exist." (Interview 5)

"Another challenge is that your work is not recognized, and you wonder if someone needs your painting or not!" (Interview 16)

"Our work is very specific, the state never knows how to integrate us because we basically don't exist, that's the biggest problem. We have no status. Our work is not recognized as work. I think it's very convenient that we don't exist, that nobody has the responsibility for our health and social insurance." (Interview 6)

"The state and international partners must recognize that cultural work is work and must be paid." (Interview 3)

2. Multiple jobs. According to the questionnaire, **41%** of the respondents work at 3+ jobs, **44%** work at 2 jobs and **15%** have only one job.

According to the survey, 31% of the respondents indicated that one of the mechanisms to survive as SCI workers is to work multiple jobs. *"I don't know anyone in Moldova who can make a living from writing or cultural events. Maybe there are writers who can have a job as close to writing as possible, a research job, in academia. But most of them work in IT, PR, copywriting, things that are far from the literary area." (Interview 13)*

3. Paid and unpaid work

Several artists interviewed recognized that the artistic projects that fall under the SCI are personal projects that artists work on by investing their own financial resources, voluntarily, in the free time left between their livelihoods.

"We put in so much work, and so much time and effort but as such we do everything for free. That's why we all have to earn our bread with something else, for us this is not a kind of hobby, but a job because we can't say, "Let's not do theater this month." People know that theater exists and it has to go out to the public every season." (Interview 21)

Some artists divide their work into artistic work that falls under the SCI, which they do voluntarily and unpaid (or very little paid), and commissioned artistic work, which provides a living.

"Usually everything related to my artistic activity is on my own, and I usually make money from services as a photographer, and that's not related to my artistic activity. My artistic activity covers 10-20% of my expenses." (Interview 22)

Some artists prefer to work on their personal projects without applying for grants because the grant has a rigid structure and imposes limits, including time limits, which limit creativity and the artistic process.

"I worked 7 years on a project in which I invested a lot of money and time. When I started filming, I thought six months would be enough. And then three years passed and I realized that this is just the beginning. If I had gotten a grant I would have been very nervous

because I had to deliver, I had to report. I never looked for grants because this project is a marker for me." (Interview 25)

At the same time, the artists admit that it is very difficult to find free time and resources to continue their artistic projects because they are exhausted at the jobs they do to survive. "*I work on my art projects in my spare time and free time is not enough for me because working freelance it's very hard to keep my composure. Either there are no projects or I take on too many projects because I didn't have any projects before and I don't know when the next project is coming, so I take on them all until I realize it's too much and I can't do it anymore and I'm already in burnout.*" (Interview 22)

One artist says that especially as he gets older, he finds that he is no longer able to devote time to personal projects, because the work of survival, although limited in time, takes up all his mental space. "*In a recent project I had to document three stories, three stories about real people. I had to find the characters, find common language, etc. According to the project I worked for 8 days, but actually around these 8 days of photography there are several months of work where you can't concentrate on something, you're always thinking about it. That's probably the biggest difficulty in combining personal and work photography. Because in order to develop personal projects you have to have a clear mind and think about it. That doesn't happen because when you finally have time to think about your projects, it means you don't have any money and you can't think about anything because you're thinking about real life, utilities, loans and so on. So, if you're working on a personal project it means you've managed to find those crumbs of time but it's getting harder and harder to do that, partly because I'm not getting any younger. As I was working 6-7 years ago I already notice I can't anymore, I used to be able to take the bus and back and hitchhike, now I don't have the energy to travel like that. I used to be able to ignore proper food, I mean I could save money on everything. Now I realize it's about health. Of course, it gets harder as you get older.*" (Interview 25)

4. Prevalence of freelance work. The results of the questionnaire indicate that **46%** of the respondents carry out their cultural and artistic work as **freelancers** (of which 33% carry out their core work in the cultural sector as freelancers and 20% have a core work in another field and in SCI work as freelancers).

"I am part of the precariat because I have no security for tomorrow, because all I earn is freelancing. And to make a living I'm in a constant stress to make sure that I always have a scholarship, a residency, to always apply, to always produce something. Security tomorrow would help us make art without killing our mental and physical health." (Interview 6)

"For me as a freelancer it's very hard to work because some clients don't say concretely what the work schedule is going to be, from what time to what time they need the photographer. Or you find out a day or two before. Very rarely, for example, when I had orders from abroad, I felt respect for the work. I was told in writing about the work schedule, the place of work, the price of the work, I was asked if the price was ok." (Interview 22)

"Since freelancing I work more, because people take advantage of your enthusiasm and try to make the most of it, regardless of working hours, I can get work messages/sounds at night and weekends. I've also been on set for 16 hours with yelling and screaming." (Interview 26)

5. Multiple forms of work organization. In addition to freelancers, **36%** of the respondents carry out their work by being employed (with an employment or service contract) in a public association (of which **16%** combine work in a public association with freelancing), another **10%** work in artistic cooperatives, private institutions, sole proprietorships and LLCs (we have included commercial organizations because people self-identify themselves as part of SCI), **8%** have no legal form of organization.

6. Work in the informal economy. The results of the questionnaire indicate that **10%** of the respondents are working in the informal economy in SCI.

"I sell a painting for 200-300 euros, of which the expenses are 100 euros, the materials, the maintenance of the space. That leaves 200, probably if you officially sell 100 you would have to pay it to the state, for pension, insurance. I sell maximum 3 works a month, but sometimes none. I earn 400 euros in the best case if I sell 4 works, but sometimes you don't sell any and you have to stretch that money. I would like to sell legally, on contract, to pay the state so that I can have a pension, a pension, but how can I live on this money and still pay taxes?" (Interview 16)

"When I collaborate with an NGO, I work on an author's contract. But when I'm invited to take pictures at events, exhibitions, they simply ask me what the rate is and I get paid without a contract." (Interview 21)

7. Prevalence of atypical contracts (service contracts, author's contracts). The results of the questionnaire indicate that **35%** of the respondents work only under atypical contracts, of which 11% under author's contracts, 6% under service contracts and 18% under service and author's contracts. Another **55%** are employed at one of multiple jobs on the basis of an individual employment contract (of which 26% have an employment contract in SCI and another 29% have an employment contract in another field). However, only **15%** of the respondents work only on the basis of an individual employment contract, **40%** combine employment contracts with service contracts, author contracts, patenting and selling their own cultural products.

"Knowing how hard it is to financially secure labor contracts, we offer labor contracts when we succeed for those who have asked for labor contracts for example because the bank requires them for the mortgage, or because the state requires CIMs for the administrator. We prefer service contracts because the organization faces financial vulnerability." (Interview 17)

"In the organization we generally work on service contracts, I am more privileged because I have an employment contract." (Interview 3)

"I can't imagine the day when the whole team would have a contract of employment where we would have the security of tomorrow and be able to work." (Interview 18)

Even when cultural workers and artists are contracted by the state, they still work under atypical contracts. *"In the cultural sector I have never had an employment contract, about 50/50 I work on the basis of an author's contract and a service contract. I worked last year on a project as a photographer for a Ministry but still on a service contract"* (Interview 23).

"I worked for the state, but not directly, through communication companies that contracted me, which in turn were employed by state institutions. There I still worked on the

basis of an author or service contract. For example, I worked at the presidency but I was employed through another organization on the basis of a service contract." (Interview 27)

Because cultural workers work under atypical contracts, they do not contain clauses on work regulation and often contracts are signed after the work has been done.

"Often contracts don't even include clauses that would regulate the work. When working with local clients, I usually don't sign the contract until after I've delivered the products, and the contract doesn't include clauses about the specifics of the work, about my rights as a photographer, but it's mostly about the assignment of copyright. I usually work on patent, copyright and service contract." (Interview 22)

"I'm usually paid a few months after I'm on the job, so when I'm not working I wait for money from projects I've already done. In the meantime I work on my projects. Even the contract is often signed after the work has been done, because it is usually based on trust. " (Interview 27)

8. Prevalence of employment contracts with atypical clauses (e.g. fixed-term, part-time, or not providing for overtime pay, paid rest and sick leave, etc.).

Only 5% of the respondents indicated that in the organization they work for, all persons are employed on the basis of an individual employment contract and 60% indicated that no person is employed on the basis of an individual employment contract.

Employment contracts are usually concluded in the framework of grant agreements, during the implementation of a project, but the cultural and artistic work in SCI usually has a continuous character that goes beyond the time frame of projects and does not reflect the real workload. *"On average the contract duration I think is six months and depending on the project it can go up to 9-12 months but there are also situations when it lasts 3 months. We have never had the luxury of longer term contracts, I mean only in long term projects, they were still for one year but they were for three years. But so, when we have this project logic, the contracts don't reflect the real workload, even with the ministry, now this year we started working in June, the budget allowed us to cover the salaries for 3 months maximum, so we concluded 3 months work contracts so that we wouldn't be on a break altogether." (Interview 11)*

Of the total number of respondents employed on an individual employment contract, **65%** work on a fixed-term contract (of which 54% for periods of less than 1 year and 11% for periods between 1-3 years). A further **35%** work on permanent contracts in areas other than SCI. At the same time, **50%** of those employed on individual employment contracts are employed part-time. The prevalence of employment contracts with atypical clauses is a structural problem in the way project-based work is organized.

9. Low levels of median income.

Depending on the monthly income, **30%** of respondents indicated that their monthly income is insufficient to cover their basic needs, **60%** of respondents indicated that their monthly income is partly sufficient to cover their living needs but they are unable to save, **10%** indicated that their income is sufficient and they are able to save.

In 2024, the minimum wage in Moldova is 5000 lei and the average wage is 13700 lei. Respondents' incomes range from incomes below the minimum wage (up to 5000 lei) to incomes more than twice the average wage in the economy (more than 25000 lei).

Questionnaire data indicate that **10%** of the respondents have the lowest incomes, being lower than the minimum wage. People with incomes below 5000 lei work in the informal economy and their main source of income is from selling their own cultural products.

15% have monthly incomes between 5000-7000 lei, **37.5%** have incomes between 7000-10000 lei, **22.5%** have incomes close to the average wage in the economy between 10000-15000 lei, and **15%** have incomes higher than the average wage in the economy (5% between 15000-20000 lei and 10% have salaries higher than 25000 lei).

At the same time, **98%** of the respondents indicated that the monthly income needed to live decently in Moldova should be higher than the average salary in the economy. Thus, **42%** indicated an income up to 20000 lei, **41%** an income up to 30000 lei and **15%** an income above 30000 lei.

The low average monthly salary levels are also caused by the unstable and fluctuating nature of incomes and the lack of predictability as to when work will be paid. *"You don't get money all at once, it depends on the client, if the client is good it can take up to 40 days, so 2 months. You can't understand when the money arrives."* (Interview 22)

10. Unstable and fluctuating income.

According to the questionnaire, salary is the main source of income for **30%**, honoraria for **47%**, money from commercialization of own cultural products for **13%**, grants for artists **4%**, money from fundraising and crowdfunding for **4%** and donations for **2%**.

"My source of income is scholarships, residencies and performances. My privilege is that I don't pay a rent, because at least 50 percent of the money I earn would go on rent." (Interview 6)

Since salary is the only stable and predictable form of remuneration in the ICS, and the basic income for most respondents comes from a source other than salary, the majority of respondents report unstable and fluctuating incomes. **51%** of the respondents indicated that monthly income varies significantly each month, for **26%** income varies insignificantly and for **23%** income is stable.

"I have to make commercial art to survive but it's quite chaotic and unstable because I never know if I'm going to get a commission." (Interview 7)

At the same time, only **7%** of the respondents indicated that they always have a stable source of income, **49%** indicated that rarely/very rarely they do not have a stable source of income, and **44%** do not have a stable source of income frequently/very frequently.

"From a psychological point of view, it's very hard to live with total instability all the time. When there are big projects, I know there is some money for the next two to six months. They run out. With inflation, they run out much faster. You never know when the next project is coming up. Of course, experience says there will always be something. But we get tired, we all get tired of it." (Interview 25)

According to the interviews, fluctuating incomes in SCI also have a **seasonal character of artistic work**, as a rule, cultural workers report more income stability in the spring and fall seasons, and longer intervals without projects in the winter season (some also indicate summer).

"For a few years now I've been making my living mostly from painting, selling paintings. It's quite unstable, in summer for example painting is harder to sell, everyone

wants to rest and it's quite a hard period, not that fall is easy. Very rarely a small project happens where I have some honoraria." (Interview 16)

"In the spring it was better, then in the summer we had a break, and at the end of August the projects started again and it seems to be more or less stable." (Interview 22)

"It is very hard to say what is the interval between projects. This year we finished one project at the end of January, the next bigger project, i.e. not 1-2 days, we didn't have it until the summer, and the installment for the summer photos didn't come until the end of September." (Interview 25)

"In the summer for example I had a lot of work, there were many events. Although every day I work for my cultural project, the work is not always paid, for example in the autumn I worked financially for other organizations. Winter I don't know how it will be, I realize it will be harder. I don't want to imagine a scenario in which I go back to the state or work as a barista in a cafe." (Interview 24)

"There are no periods when I have no work at all, except in winter, in January-February I have no work at all. Even if I have a day or two of work I get paid by April, so that doesn't really save me. In winter I survive as best I can, sometimes I have savings, sometimes not." (Interview 27)

"Since the war, I think this concept that winter and summer is a dead period is no longer relevant. Work is unpredictable now. I don't know, maybe after the new year some bigger project will come." (Interview 25)

11. High level of transnational mobility.

50% of respondents carry out their artistic and cultural activity at international level (of which 15% exclusively at international level and 35% at both national/local and international level).

"My privilege consists in the fact that I have work abroad and I have no work in Moldova, but I am paid somewhat well, but this was also a process, in which I learned to negotiate my working conditions. But it is still somewhat of a privilege, because if you don't have a job, you can't afford to negotiate." (Interview 6)

59% of the respondents indicated that they were professionally trained also thanks to non-formal or formal education abroad, while **59%** indicated that they were professionally trained thanks to mobility programs and artistic residencies.

12. High qualification level of cultural workers.

93% of respondents have a university degree, of which 5% have a doctorate, 50% a master's degree and 38% a bachelor's degree. At the same time, **97%** of respondents consider that they need continuing professional education.

45% of respondents work in their formally acquired profession and 37% of respondents work partly in their formally acquired profession.

The majority of the respondents, **50%**, were professionally trained as cultural workers of the SCI due to **non-formal education** (35% were professionally trained due to non-formal education both in Moldova and abroad; 13% due to non-formal education only in Moldova and 2% due to non-formal education abroad).



63% indicated that non-formal education (mobilities and residencies,

courses, conferences and workshops, scholarships, volunteering, internships and mentoring programs) contributed significantly to their vocational training, 25% partially and 12% fully.

Figure 2. Forms of non-formal education that have contributed to the vocational training of cultural workers in SCIs

Due to **mixed education**, both formal and non-formal, **13%** of cultural workers in SCI were professionally trained (4% due to formal and informal education in Moldova; 7% due to formal and non-formal education in Moldova and abroad; 2% due to formal and informal education abroad).

30% of the respondents were professionally trained thanks to **formal education** (17% thanks to formal education in Moldova, 9% thanks to formal education abroad and 4% thanks to formal education both in Moldova and abroad). **7% of the** respondents were professionally trained as **self-taught**.

13. Occupying multiple functions and roles.

62% of respondents indicated that the size of the team does not match the work needs of the organization. Respondents indicated that they need financial resources to hire more people (58%), to conclude full-time contracts (51%) and to pay full salary entitlements (60%).

"It is very difficult for me to be both artist and accountant and administrator and curator and journalist and art critic. Very few people write about cultural events and I have to write about the exhibitions I organize myself. You have to be a one-man-orchestra that fulfills all these roles." (Interview 2)

"Now I have to cover several positions to have the necessary income. I have an employment contract, but for the other positions I work on the basis of a service contract in order to have an income that will cover my living needs." (Interview 4)

The interviewees acknowledge that working in SCI organizations means a lot of voluntary work related to the management and administration of the organizations: accounting, fundraising, communication. Newly founded organizations may do this work exclusively on a voluntary basis in the first years of activity.

"Although the organization was founded in 2013, it was very difficult to access funding. For almost 10 years I was volunteering with the organization to bring the organization out of the invisible zone. We didn't have an accountant, I used to go twice a year to the tax office and file the return on 0." (Interview 2)

"In 2015 we registered the organization. The first years we didn't get paid for our work, we even invested our own money in the organization. In 2019 we started to receive some honoraria, but we had to do bookkeeping and production and playing." (Interview 3)

"The team is quite small, but because we work on a voluntary basis, everyone contributes what they can. It would be good to have a fundraiser, a project coordinator to do this more technical work of writing projects, reporting, so that we have time for artistic and cultural activities. When we don't have projects, about 50% of our time is dedicated to creation and artistic work and 50% to logistical work, organization, accounting, communication, space maintenance. When we have projects I think only 30% we manage to do artistic work." (Interview 15)

14. Lack of balance between work and rest.

The work regimen in SCI is also atypical, rarely the work schedule coincides with the usual 9-5 work schedule.

"What is ignored is that our work is very specific. In the theater you don't work on Monday, but you work on Saturday and Sunday, you work at night. The show is on at 8, you can finish work at 11 at night." (Interview 6)

"I get up in the morning, take the kids to school, lead yoga class, then I go to draw, right now I have a small commissioned project to paint a wall, come home and make lunch, then go to painting school, in the evening we have theater rehearsals, zoom, email. The hardest question is estimating how many hours I work a day or a week." (Interview 15)

Due to financial precariousness, cultural workers in the ICS tend to have a continuous working regime with no balance between work and rest.

"Rest doesn't really exist. On vacation there's usually a camp. Otherwise I work until about after midnight. It's a continuum, one job changes to another and work happens in the transition from one job to another." (Interview 9)

"It's still very difficult for me to separate free time from work. I wish I had a job that I could leave in my spare time." (Interview 19)

"My work hours are from 8-9. I didn't have a weekend off, when I caught a cold I canceled my activities and picked up the hay. I don't know when I will have weekends off this year." (Interview 3)

"I work 10-12 hours a day and one day off a week." (Interview 4)

"In terms of work, I don't think I have a day off from morning till night. I either have rehearsal, text work or other work." (Interview 5)

Beyond the negative effects on health and well-being, lack of a healthy rest regime affects the very process of working and creating.

"To work intellectually you need time and space to read and develop. And that's difficult when you constantly have to survive or manage projects to survive. Now it's a luxury to have a day off to read or write, but for a creative process you need more than a day." (Interview 8)

"I work 1.5 hours a week at the museum, to the detriment of my quality as an artist because I have less time to be an artist." (Interview 9)

For people working in the independent cultural sector, there is often a continuum between actual working time and rest time, or so-called '**hidden working time**' (for research, rehearsals, etc.).¹⁰ Cultural workers' contracts often do not include these periods as 'work'.

"This project contains a lot of research work. I do the interviews, process them, write, edit the publication. The exhibition still required a lot of research. When I applied for the projects, I didn't even realize it would be so time consuming compared to the remuneration. It's a lot of volunteer work because you don't always realize what the work process is going to be and the amount of work and time." (Interview 2)

"The contract for the production of the shows is strictly for the period when we are rehearsing in Germany and the contract is already made when we actually perform the show. The months of research, writing, rehearsal work that happens in Moldova is not paid. If we were to report the whole period of work, we would have to be paid sums that the funder couldn't even afford." (Interview 18)

¹⁰ IOM, The future of work in the arts and entertainment sector, 2023

"The fact that after the show you have to stay, because a guest from another theater has come and you have to talk to him, that's not considered work, but you have to do it anyway." (Interview 6)

Questionnaire data indicate that **50%** of respondents work overtime (21% up to 48 hours per week, 29% more than 48 hours per week). At the same time, **83% of** respondents do not receive any remuneration for working overtime.

At the same time, **62%** of employed respondents do not take paid annual leave. Of these, **33%** do not organize their rest in any way, **40% take 'forced' rest between projects, 27% take conscious breaks between projects.**

15. Self-exploitation and burnout.

Financial precariousness, fluctuating and unstable incomes, multiple jobs and lack of rest create a work environment prone to self-exploitation and burnout.

"I haven't had a classic vacation in the last 3 years. I went to the seaside but with work. It affects me not having a stable, classic vacation. I felt burnout in 2018, and I dragged it by the tail in 2019 when I also had a major crisis and I was thinking that in 2020 I had to rethink professionally and personally my life and the pandemic happened and then the war. Now I'm trying to understand what that burnout was, how my mental problems affected me and how that relates to my practice as a photographer when I'm simply collecting money and my artistic practice. In a way I can't stop and I lose connection with reality because somehow I'm always on the job and I'm always doing-do-do-do, producing-producing-producing, but what am I producing? Even in artistic activity there's again this thought that you have to constantly produce something." (Interview 22)

"I have three jobs as a teacher, an artist, an NGO administrator and a mom. It's very complicated, you get tired, you burn out. It's very difficult to juggle different types of work. When you work as an artist on a project basis, there are times when projects overlap, but there are also times when you don't have any projects. Right now I'm working on two art projects in parallel, plus my work as a teacher, and as a mother, a wife...it's very difficult. (Interview 2)

"I had burnout moments at least once a year after bookfest." (Interview 13)

"I had a tense situation because of this film, power relationships, emotional violence, not recognizing my work, uncertainty about my role, and it took me a year and a bit of therapy to figure out what my role is in this project. Once at a workshop, a person who filmed about military conscription in Belarus said that a budget line on the movie should be for therapy because when you get to make these personal movies it's very difficult. And in our movie I think we would have needed therapy." (Interview 26)

16. Lack of separation between private and work space.

Survey data indicates that **46%** of respondents use their home space for work. *"It's quite a living space where I live. It's a very small space, just one room and I do everything here. But for a decent living it is important to have the bedroom separate from the kitchen." (Interview 9)*

Working at home for artists and cultural workers does not correspond to their needs and the specifics of their work.

"If I start working with oils I'm going to get hard, because it's bedroom and home and table. You can work like that for a while, but sleeping in these colors, I don't know how healthy it is in the long run." (Interview 16)

"We need separate space from the house because my work consists of body movement and voice or instrumental sound." (questionnaire respondent)

Working from home can be a source of stress if workers constantly have to meet the simultaneous needs of work and family. It also causes social isolation and affects the capacity for solidarity, collective action and unionization.

"If I don't have a residence that allows me to have a workspace, I work from home. It is worrying that we have started to normalize working from home, especially after the pandemic. We're going to end up that we're going to do all the things from home and we're not going to need any kind of communication, and that's problematic because people need communication. I think it's very important to have a workspace where you can meet other people and exchange ideas, develop ideas together, that's how you develop communities, solidarity, ideas and projects." (Interview 6)

17. Insufficient social protection

95% of respondents consider that the degree of access to social protection measures is insufficient or partly sufficient (65% - insufficient; 30% - partly sufficient). People working in the informal economy and freelancers are the most vulnerable in terms of social insurance.

"The biggest challenge is survival. Bills, rent, money for production materials. You can't create, grow and develop if you're constantly spinning to survive (belka v koleso). The biggest struggle for SCI workers is the struggle with poverty." (Interview 6)

Interviews show that young people are more likely to accept to work in precarious conditions without any social protection. *"I remember how I started my career as an artist, we often accept to work for free, without any contract, because we need to build a portfolio, to grow our reputation as artists. There are different situations when you don't get paid, or you don't get paid fully, when you have no social protection." (Interview 2)*

"When I graduated from college I was working without a contract and I came across a few rakes, so now I only work on a service contract." (Interview 7)

"Many in SCI are still young, full of life and probably still not thinking about what awaits them in 20-30 years that pass in an instant and you find you have no workshop, no house, no pension, nothing." (Interview 18)

Only **8%** of the respondents indicated that they would receive a pension for a full contribution period (at least 34 years), **6%** would receive a pension for an incomplete contribution period (less than 15 years), **2%** would receive a social allowance (less than 15 years). In general, the majority indicated that they either had no plans for retirement or that they would work as long as they could because they could not rely on a pension.

The same trend is also observed in the interviews, cultural workers are worried about the lack of social protection for retirement, attitudes are pessimistic, some refuse to think about retirement because they are still young, others have no perspective for the future because they are preoccupied with survival in the present.

"I have no plans about retirement. Now it seems to me it won't be so soon. Maybe it's a trait of our generation, those who grew up in the '90s and saw their parents trying to survive after working hard and honestly all their lives, and suddenly found themselves with nothing." (Interview 25)

"I don't really have enough perspective on the future to think about retirement, I think I'm too caught up in the anxiety of the present to think about the future. At how fucked up the pension system is I think everyone's going to be on their own." (Interview 19)

"The attitude about retirement, it oscillates, sometimes I'm calm, sometimes I have all kinds of thoughts. Either way it's getting worse. In my case my eyesight is already deteriorating, I don't have high expectations. I don't sit idle, I'm saving my pennies in this boot for retirement. My pension as a cultural worker will be miserable." (Interview 9)

"I find the pension thing really weird. It's a black hole, I don't know what I'm going to do, I plan to work as long as I can. I don't know what could be done, but maybe out of the royalty contracts a percentage could be taken to go into the pension fund." (Interview 10)

"More and more I think about retirement and how I'm going to manage. In a happy scenario people live to 80-90. Valentina Rusu Ciobanu lived 101 years. If you don't have a pension, you don't know what you are living on for 30 years. What should we do?" (Interview 16)

Some cultural workers work in fields other than SCI in order to obtain socially insured status and to accumulate internships.

"Thoughts of retirement worry and scare me. From working in SCI you are not socially insured, you have to have another job for your contribution." (Interview 5)

"I'm afraid to think about retirement, I don't know what it will be. I'm only banking on the idea that soon my child will go to school and I'll be able to get an official job, until retirement I'll be able to collect internships. I think I will have to get a job somewhere outside the independent cultural sector because in SCI you don't have a secure income." (Interview 21)

Cultural workers' plans for retirement oscillate, some plan to work continuously, to migrate to unskilled jobs, others hope to raise their profile as artists and manage to secure their old age from artistic projects, some plan to become food resilient or to manage to learn a new trade that will provide them with a stable income from manual labor. Although it varies, in the absence of social protection mechanisms for cultural workers, plans for retirement are individual, no one relies on the social protection that the state is supposed to provide.

"I'm in a pretty fatalistic mood about the pension. I don't believe in optimistic scenarios. If I think about the future, the only scenario is to grow my own food, tomatoes, potatoes." (Interview 8)

"I would like at some point to have enough money coming from writing so that I don't have to work and can pay into a private pension fund. I still have a few years working in Romania, I hope that will accumulate when I retire. I also thought about it when I joined the Romanian Writers' Union, where you get a 50% pension bonus." (Interview 13)

"The fear of old age and poverty scares me a lot, but I reassure myself that if all Moldovan migrant women can manage, somehow I will manage too. I will migrate and do unskilled work like many people do." (Interview 18)

"I realize that when I retire, I don't know what will happen. I'd like to think that I'll be able to do something big that will bring me an income but again it's very difficult, because most probably you have to do something on a very large scale, and for that you need money here and now, because any project depends on the budget you have." (Interview 25)

"My deep conviction for the future is that I need to develop myself in ceramics because I believe that I can only have a secure future directly through manual labor. For retirement I

think my only hope is myself, to be able to make something with my hands, something I can sell." (Interview 23)

In the absence of a framework to support ICS workers and to regulate self-employment, together with funding programs that set wage expenses as ineligible or limit them to a low ceiling, some interviewees work under individual employment contracts at the minimum wage to guarantee their insured status, and supplement their income from author or service contracts.

"Artist work is pretty sporadic and unstable. I think basically it's museum work where I have a contract, medical policy, internship, paid vacation." (Interview 9)

"If there was better protection for cultural workers, I would leave the library. If I had a guarantee and seniority, I'd go into literature. It's a matter of compromise, even if my jobs have something to do with literature, I can't say I make a living from literature." (Interview 13)

1/3 of the respondents are Not medically insured and 1/3 are individually medically insured, i.e. they buy their own health insurance policy.

"I don't have health insurance, but after the pandemic I started to buy my own health insurance." (Interview 18)

"I don't have health insurance, I bought a policy when I got quite seriously ill and I had to buy it, because otherwise it would have been very expensive to treat. My biggest fear is that I'll be sick and I won't even be able to buy medicine." (Interview 6)

"I am medically insured with a private fund because my mom at work can provide for the whole family." (Interview 19)

"I combine my work in the cultural sector with a job in the creative industries, taking photos and commercials. I work on a freelance basis. In recent years I had a contract job but it was not in the cultural sector. I don't have a medical policy, if I get sick I pay." (Interview 10)

One SCI cultural worker admits that in the absence of financial stability and predictability, they resort to signing employment contracts well below the minimum wage, but enough to provide medical care for the core team members. *"We try exactly in the first months of the year when you don't have confirmed funding or when it's late to conclude an employment contract on a minimum wage of about 1500 lei to cover the policy." (Interview 11)*

Only 34% of respondents take paid sick leave. Even when SCI cultural workers benefit from sick leave at their main place of work, they do not always manage to make use of this entitlement as intended. For example, one SCI artist and cultural worker mentions that she never takes sick leave when she falls ill because she takes leave when she has artistic residencies and therefore cannot afford to miss work due to illness. *"I recently had an artist residency and took leave on my own, now I'm not allowed to be absent or sick. I recently had an accident but I couldn't rehab at home, I went to work." (Interview 2)*



Figure 3. Health insurance for ICS workers

Three interviewees admitted that they had faced medical emergencies and, in the absence of medical insurance, had resorted to fictitious employment contracts in order to activate medical insurance.

18. Lack of unionization of SCI cultural workers and artists.

There is currently no union of SCI cultural workers and artists, although the current legal framework allows the unionization of SCI cultural workers. According to the *Law 1129/200 on Trade Unions*, SCI cultural workers, whether they are employed on the basis of an employment contract or are self-employed, can form and associate in trade unions. Article 7 paragraph (1) of the Law stipulates that persons who are not employed or who have lost their job, as well as those who are legally engaged in self-employment, may organize themselves into a trade union or join a trade union. According to the Law, trade unions have the right to represent their members and to participate in the formation of public policies in the field of labor, drafting of social and economic development programs, draft laws and other normative acts in the field of remuneration of work, social insurance, health protection, etc.

II. Social protection of cultural workers

1. General trends

Social protection is a fundamental right and can be defined as a set of policies and programs designed to reduce and prevent poverty and vulnerability throughout the life course. The ILO Convention on Minimum Standards of Social Security states that social security includes benefits for children and families, maternity, maternity, unemployment, employment injury, old age, disability, sickness and health care¹¹. Social protection systems consist of both **contributory** (social insurance) and **non-contributory mechanisms**, including social assistance.

At the international level, the need to address the status of professionals in the cultural and creative sector dates back to 1980 when UNESCO adopted the Recommendation concerning the Status of the Artist and recognized "*the need to improve the social, social security, working and fiscal conditions of the artist, whether employed or self-employed, taking into account the contribution of the artist to cultural development*".¹²

In a 2020 report, the ILO recognizes the need to strengthen the social protection of the self-employed and advocates for achieving universal access to social protection systems¹³. In the conclusions of the 2023 technical meeting on the future of work in the arts and entertainment sector, the ILO reiterated the need to guarantee universal access to social protection systems for all workers in the cultural and creative sector, complemented by bilateral cooperation agreements on the cross-border portability of social benefits and professional status.¹⁴

The study The Status of the Artist in Europe¹⁵, starts from the premise that artists form a specific socio-professional group that shares similar risks and needs to be addressed by special rules in line with other professional categories of workers with specific problems. **Cultural policies should therefore take into account the atypical nature of the working practices of artists** and cultural works, which require special social protection measures.

Most artists face **structural instability** in their conditions of employment, with no social guarantees to compensate for this instability. Project-based work and inconsistent working patterns are a key characteristic of the work of artists and cultural and creative professionals. Many cultural workers have **multiple jobs** to supplement sources of income and for better access to social protection.¹⁶

¹¹ ILO Convention No 102 of June 28, 1952, concerning Minimum Standards of Social Security.

¹² Recommendation concerning the Status of the Artist, UNESCO, 1980

http://www.unesco.org/culture/creativity/wc-artist/html_eng/index_en.shtml

¹³ ILO, Ensuring better social protection for self-employed workers, 2020

¹⁴ ILO, Report for the Technical Meeting on the Future of Work in the Arts and Entertainment sector, 2023

¹⁵ Study on the Status of Artists in Europe, European Parliament, 2006

https://www.andeal.fr/doc_root/ressources/enquetes-et-rapports/51b5afb01bb8d_The_status_of_artists_in_EU.pdf

https://www.andeal.fr/doc_root/ressources/enquetes-et-rapports/51b5afb01bb8d_The_status_of_artists_in_EU.pdf

¹⁶ European Expert Network on Culture and Audiovisual, The status and working conditions of artists and cultural and creative professionals

<https://cultureactioneurope.org/wp-content/uploads/2020/12/Study-on-the-status-and-working-conditions-of-artists-and-cultural-and-creative-professionals-Conclusions-and-recommendations.pdf>

Cultural workers tend to combine short-term employment, self-employment and other modes of work, interrupted by periods of study, rehearsals, residencies, etc. This **diversity and fluidity of employment relationships** means sporadic social security contributions, which results in partial and insufficient social security coverage. In some cases, cultural workers may have periods where they are not legally covered by existing contributory schemes, which affects access to social security benefits, including unemployment, sickness, maternity benefits.

While some cultural workers are employed on the basis of an individual employment contract and wages are paid on a regular basis, other cultural workers earn income from multiple sources and remuneration may be irregular. **Irregular and fluctuating remuneration** may affect the ability to pay contributions, as well as the regularity of contribution payments, which affects access to social protection. Sporadic contributions or work outside the contributory system (e.g. author's contract) affect income security in old age, which could mean that cultural workers need to **continue working as long as possible after retirement**.

Given the atypical nature of work, **trade unions may face difficulties in organizing cultural workers**. In particular, it is difficult to organize self-employed cultural workers. Cultural workers who are not represented by trade unions cannot participate in social dialogue and collective bargaining as a means of improving social protection and working conditions.

The classic social insurance system is modeled on the classic worker: employed for an indefinite period, full-time on the basis of an employment contract. The reality of work shows that classic employment relationships are steadily shrinking and being replaced by atypical employment relationships. However, **the social insurance system is not adapted to include the new forms of work**, with the result that many categories of workers - including cultural workers, self-employed, atypical forms of employment - are excluded or only partially covered by social insurance schemes. Therefore, the existing legal framework is not sufficiently adapted to include the work particularities of cultural workers, such as irregular income which affects the ability to pay social security contributions.

Adapting social protection systems to the characteristics of cultural workers is essential, in particular by ensuring that **contribution mechanisms are more flexible and adapted** to the realities of cultural workers. The amount and frequency of contributions should be adapted to the situation of cultural workers, according to their income patterns. For example, annual or quarterly rather than monthly contributions, and the option to defer contributions during breaks in employment. For example, in Uruguay's old-age pension system, a full year of contributions is accrued when an artist has contributed for at least 150 working days. In the case of less than 150 days, a full contribution year can be calculated for those who had at least four contracts during the year. Similarly, in Argentina, any artist who has worked 120 consecutive or non-consecutive days can accumulate a full contribution year .

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At the same time, in order to protect vulnerable and low-income people from poverty and social exclusion, the national social protection system should include **non-contributory** mechanisms as well as contributory ones. This would ensure that people on low incomes and

¹⁷ Extending social protection to the cultural and creative sector, ILO, 2021
https://www.social-protection.org/gimi/Media.action;jsessionid=sPlZ0D0D6DZaxCVddQrOdnGulxny2P6_0DeJyy1QXdEKwjYRi8DqSf!1393577045?id=18405

not covered by existing contributory mechanisms have access to basic health care and social protection.

At the same time, taking into account the diversity and fluidity of employment relationships and sources of income, the **social protection system needs to be harmonized** in such a way as to recognize, facilitate and integrate these different forms of contributions. At the same time, in view of the high degree of mobility of cultural workers, Member States need to ensure **coordination mechanisms for** social protection systems through bilateral and multilateral agreements.

2. Legal framework in the field of culture regarding the social protection of cultural workers in Moldova

Apart from the general regulations of the Constitution and the general provisions of the *Law on Culture* and the *Law on Creative People and Creative Unions*, there are no special laws in Moldova on social security for artists and cultural workers, especially not regulations that include self-employed cultural workers. For example, until 1999, an important social guarantee for cultural workers was that the artistic activity of members of creative unions was included in the period of contribution.

According to the Cultural Policy Compendium's country report, there are no laws in Moldova that include "*concrete support and funding mechanisms, this is a very significant and common gap between legislation and practice in the Republic of Moldova. Thus, the current legislation does not stimulate the creative act, does not support artists and does not create equal and diverse opportunities to develop creativity and business in the arts sector.*"¹⁸

Law No. 1421/2002 on theatres, circuses and concert organizations, stipulates in Article 2 lit. f) that one of the aims of the Law is to create a legal framework for the economic-financial activity as well as a **system of social protection of** the staff in the field. However, the Law does not provide any legal mechanism for the social protection of the staff. Article 25 states that the working conditions and remuneration of staff shall be determined in accordance with the general legal framework. And Art. 27 stipulates that staff are entitled to a pension in accordance with the general legal framework (Law No 156-XIV of October 14, 1998 on state social insurance pensions).

Article 18 of the Law on Culture stipulates **the state's obligation to ensure social protection of creative people, and perfects the system of social protection for them**. The same article stipulates that the state supports creative people regardless of their membership in any creative organization. At the same time, Article 6 of the Law on Creative People and Creative Unions only stipulates that **creative people are liable for social insurance** in the compulsory state social insurance system and compulsory health insurance in accordance with the legislation. Therefore, the Law on Culture stipulates **the obligation of** the state to provide social protection, while the Law on Creative People stipulates only the **possibility of** access to social protection.

On the basis of Article 18 of the Law on Culture, which stipulates the state's obligation to ensure social protection of creative people and to improve the system of protection for them, we have sent a request to the Ministry of Culture, asking for information on how the social protection system has been improved and what are the existing social protection

¹⁸ <https://www.culturalpolicies.net/database/search-by-country/country-profile/category/?id=26&q1=4>

measures for artists and cultural workers and how artists and cultural workers in the independent cultural sector can benefit from these social protection measures.

The MC reply no. 03/1-09/3920 of 25-10-2024 states that the existing social protection measures are:

- **funding programs for cultural projects** available through the Culture Fund;
- **merit allowances;**
- **professional development programs** for employees of public cultural institutions;
- normative copyright acts designed to protect the **autor autor rights of** artists by egaly promoting innovation and cultural diversity in the creatorilor environment and society.

We note that none of the measures mentioned by the Ministry of Culture is actually a social protection mechanism, these are measures to encourage cultural projects, forms of support for cultural projects, vocational training, recognition of outstanding merits in the field of culture. The Ministry of Culture has therefore refused to acknowledge that there is currently no social protection mechanism for artists and cultural workers. At the same time, the Ministry notes that *in ceea cea ce regarding the actions planned for the near future by the Ministry to ame amprove the system of social protection a for artists and cultural workers, we would like to mention elaborarea a noue draft law on the status of creative man. This project will have ca main objective ca improving working and living conditions for creators in various fields, ensuring them adequate rights and benefits.*

If we analyze the general legal framework regarding social protection as well as the legal framework regarding culture, we observe that the state has not fulfilled its obligation to improve the system of social protection of cultural workers. In general, the forms of support provided by law for cultural workers are as follows:

- **reduced contribution period** for certain categories of employees in national state and municipal cultural and arts institutions: at least 20 years in service for ballet and professional dance ensemble performers and at least 25 years in service for circus performers and wind (wind) instrumentalists.¹⁹
- **merit allowance.** Starting with 2014, the state grants a merit allowance for outstanding achievements in culture (musical creation, performing creation, cinematographic creation, literary creation, visual arts, theater arts, architecture, movable and immovable national cultural heritage). The allowance is awarded to well-known personalities who have reached the age of 60 and are resident in the Republic of Moldova. The proposals for the award of the merit allowance are drawn up annually by the Ministry of Culture on the basis of the proposals of the creative unions and are submitted for nomination to the National Commission for the Award of the Merit Allowance. The allowance is a form of monthly financial support for life. The amount of the allowance is equal to the average salary on the economy, in 2024 it will amount to 13 700 MDL. 250 people currently benefit from this form of support.²⁰
- **allowances for young graduates of** higher and professional-technical educational institutions who, in the first year after graduation, are employed, by the Ministry of Culture, in public institutions in the field of culture and in structural subdivisions of local public authorities that carry out cultural activity in municipalities, towns or

¹⁹ Law No 156/1998 on the public pension system

²⁰ Law No 21/2013 on creative people and creative unions

villages. Graduates of higher education institutions benefit from a one-time allowance of 120 000 MDL for the first 3 years of activity and graduates of technical education institutions benefit from 90 000 MDL.²¹

- **non-taxation of royalty income** of individuals aged 60 and over in the field of literature, arts and science.
- **creative workshops.** According to the Law, this form of support is accessible only to *professional creative people*, which would contradict art. 11 (3) paragraph (3) of the Law on Culture, which stipulates that professional and non-professional creative people are equal in terms of the right to state assistance. At the same time, according to the interviews conducted within the framework of this study, cultural workers stated that only persons who are members of a Creative Union can apply for and benefit from a creative workshop. This practice is contrary to Art. 18 lit. h) of the Law on Culture which states that the state supports creative people regardless of their membership in any creative organization. At the same time, according to Art. 11 paragraph (2), professional creative people who do not have a creative studio and use part of their living space for their creative activity have the right to include in their employment contract the amount of utilities payment for the living space of up to 20 m² used for creative purposes.²²
- **Financial support** for cultural organizations and cultural workers. In 2024, the Law on the National Fund of Culture was approved, which aims to develop culture through specific mechanisms of financial support for cultural programs and projects as well as for creators, artists and professionals in the field. In the absence of a regulation on the implementation of cultural projects, it is difficult to estimate to what extent the Culture Fund will support independent artists and cultural workers not affiliated to an organization, or to what extent it will support cultural organizations (what will be the eligible costs for expenses such as salaries, etc.).

If we look at all forms of state support for cultural workers, we see that they do not apply / or only partially apply to workers in the independent cultural sector. The possibility to benefit from a reduced contribution period and allowances for young graduates only apply to people employed in public cultural institutions. Creative workshops are partially accessible on the basis of membership of Creative Unions. Although according to the reply of the Ministry of Culture all artists can benefit from the *merit allowance on the basis of seniority in the creative field, national and international awards, awards of creative unions, state awards*²³, however, according to the law only creative unions can submit proposals for nomination for the merit allowance. Therefore, financial support for cultural projects is the only form of support available for all cultural workers and artists (affiliated to a cultural organization). At the same time, of all forms of support, only the one related to the application of a reduced contribution period is a social protection mechanism, the others are forms of support for artistic creation, encouragement of employment, recognition of outstanding merits in the field of culture.

At the registration stage of the draft law on creative people, the initial version provided for more social rights for cultural workers than the final version of the law. According to the information note of the draft Law, registered on September 27, 2012, the

²¹ Culture Law No 413/1999

²² Law No 21/2013 on creative people and creative unions

²³ Answer of the Ministry of Culture No. 03/1-09/3302 of 28.10. 2024

*purpose of the draft Law is to create legal guarantees for ensuring the social rights of creative people, as well as to regulate the legal relations, connected with the peculiarities of the founding and activity of creative unions and associations of creative unions. At the same time, the informative note states that unlike other public organizations, creative unions are a form of multifunctional professional trade unions, which bring together only professionals.*²⁴

The original draft law recognized the atypical nature of cultural workers' employment relationships and extended specific employment contract rights to cover these atypical forms of cultural workers' employment. The draft, in its original form, could have served as a basis for developing the status of the artist, except that this status would have been mediated through the Creative Unions, and social rights would have been conditional on membership of a Creative Union. The draft law envisaged a number of social rights for creative people which are not included in the final version of the law: extension of the right to **social insurance** for all types of contracts under which artists work (including the copyright contract), ensuring the right to **pension** by including the creative period in the period of employment, extension of the right to **unemployment benefit** in case of creative activity on the basis of civil contracts, ensuring the right to rest and **vacation**, as well as **tax facility of 7%** of the amount of taxable income on the basis of the copyright contract.

The opinion of the Committee on Culture, Education, Research, Youth, Sport and the Media supported the draft law, noting that *"the draft law targets for the first time the category of self-employed artists (self employed artists, freelancers) and are in line with the recommendations of Unesco, the European Council of Artists, the Council of Europe, the Maastricht and Lisbon Treaties on the creative process, creative people and the development of creativity."*

The opinion of the Legal Directorate was negative, concluding that the draft law *"calls for a huge number of unjustified exemptions, creative people do not belong to the category of people who need special support from the state."*

If we look at the summary of the amendments, we can see that the amendments from public authorities were accepted (most of them from the Government and the Legal Directorate). Almost all recommendations of the Creative Unions were rejected. Among them are the following recommendations: additional pension allowance for members of Creative Unions, right of legislative initiative for Creative Unions, financing of projects of Creative Unions from a different fund than for NGOs, state support in the form of creative scholarships, grants, subsidies, purchases, awards, state distinctions, pensions, monthly allowances, merit allowances, free medical care, free social assistance, tax exemptions.

3. General legal framework on social protection

Social protection is a human right and can be defined as a set of policies and programs designed to reduce and prevent poverty and vulnerability throughout the life course.

The social protection system in Moldova consists of the social insurance system and the social assistance system. **Social insurance** is designed to support people who are unable to earn an income from their own activity due to loss of employment or temporary or permanent loss of working capacity (incapacity for work, unemployment, maternity and childcare, sickness and disability). Only persons who have contributed to the state social

²⁴ Draft Law on creative people and creative unions

<https://www.parlament.md/ProcesulLegislativ/Proiectedeactenormative/tabid/61/LegislativId/1366/lang/usage/ro-RO/Default.aspx>

insurance fund are eligible for social insurance benefits (in comparison, social assistance benefits are not conditional on the person's previous contributions).

Insured persons are entitled to social insurance benefits if they have a total contribution period of at least 3 years or a contribution period of at least 9 months during the previous 24 months. The monthly calculation basis for each employee may not be lower than the minimum monthly wage in the country as set by law, in proportion to the time worked. *The law on the public social insurance system* provides for two ways in which persons can be socially insured.

1. persons are **compulsorily** socially insured. Although there are several categories of persons who are compulsorily insured, the following categories apply to persons in the independent cultural sector:
 - are employed under an **individual employment contract**.
 - are in a service relationship on the basis of an administrative act or on the basis of a **contract for the provision of services** or the execution of works.
 - are holders of an entrepreneur's **license**.
 - are **founders of sole proprietorships**.
2. persons are **voluntarily** insured. Persons who do not fall into one of the categories eligible for compulsory state social insurance under *Law No 489/1999 on the public social insurance system* may conclude a social insurance contract with CNAS. Please note that persons working on the basis of the **author's contract** - are not socially insured.

The law provides for different rates and bases for calculating the state social insurance contribution.²⁵ For example:

- The general rule is that in the private sector (and the tertiary sector, including the independent cultural sector) employers pay compulsory state social insurance contributions amounting to **24% of the individual employment contract and the contract for the provision of services**.
- **Patent** holders as well as founders of sole proprietorships pay a one-off fee of 17 522 lei per year. Patent holders pay no less than 1/12 of this amount per month, depending on the duration of the activity carried out on the basis of the patent.
- **Individuals who take out voluntary insurance** pay a fixed annual fee of 17 522 lei.

Although all the above categories of people have social insurance status, they have access to different social insurance benefits:

- **access to all social insurance benefits** (temporary incapacity for work allowance, sickness prevention allowance; benefit for recovery of working capacity; maternity allowance; one-off allowance for the period of custody of the adoptable child; one-off allowance for the child adopted or placed in foster care; allowance for raising a child up to the age of 3; allowance for raising a child over the age of 3 adopted or placed in guardianship/guardianship; allowance for caring for a sick child; death grant; paternity allowance) - persons employed on the basis of an individual employment contract, administrative act, contract for the provision of services and the execution of works.

²⁵ Law No. 489/1999 on the public social insurance system and Law No. 419/2023 on the state social insurance budget for 2024

- **Reduced access to old-age pension and death grant only:** patent holders, founders of sole proprietorships and people who take out voluntary insurance.

Cultural workers in the independent cultural sector have access to full social security rights only if they work on the basis of an individual employment contract. Persons working on the basis of a contract for the provision of services have access to all social insurance entitlements if they have stable contracts and income. Persons working on the basis of a patent have partial access to social insurance and persons working on the basis of an author's contract are not socially insured.

3.1 Pension entitlement

According to the law, in 2024 the retirement age for men is 63 and for women 61. From 2028, the retirement age will be 63 for both men and women. Depending on their contribution period, people who reach retirement age can benefit from:

- **a full old-age pension** if you have completed 34 years of full contributory service.
- **an incomplete old-age pension**, if you have at least 15 years of incomplete contributions.
- **social allowance.** Persons who, on reaching the standard retirement age, have less than 15 years of contribution, are entitled to social allowance, under the Law no. 499 of July 14, 1999 on state social allowances for certain categories of citizens.

The size of the pension depends on the total contribution period and the average insured income. **The contribution period** is expressed in years and is calculated by adding up the months for which contributions have been paid into the state social insurance budget and dividing the result by 12. We note that there is no special regulation on how to calculate the social insurance contributions from the service provision contract. Art. 22 of *Law 489/1999 on the public social insurance system* regulates the way of calculating the monthly contributions in the case of individual part-time employment contracts (part-time or reduced activity regime) and establishes that the calculation basis cannot be less than 25% of the social insurance contribution calculated on the basis of the minimum monthly wage in the country. Therefore, in 2025, since the minimum wage in the country is 5500 MDL, the wage for a part-time employment contract must be at least 1375 MDL to be considered a full month of contribution. We can deduce that, in the case of service contracts, the minimum monthly base must also be 1375 MDL.

Therefore, in 2025, persons working on the basis of service contracts will realize a **full contribution year** if they have a service contract of at least 1375 MDL each month from which social insurance contributions are deducted. Persons who have service contracts for only a few months during the year, irrespective of the amount of their fees, will not register a full contribution year. **Twelve months of social insurance contributions must be paid in order to realize a full year's contribution.**

3.2 Right to health insurance

The status of insured person in the AOAM system (compulsory health insurance) is attributed to the following categories of persons:²⁶

²⁶ point 6 of the Regulation on granting/suspension of the status of insured person in the compulsory health care insurance system

- **persons employed** under an individual employment contract from which 9% is withheld for health insurance;
- **persons insured by the government;**
- **individually insured persons.** Persons who are neither employed nor insured by the government are required to pay the premium individually for the first three months of the year. In 2024, the medical policy costs 12,636 lei.

Therefore, self-employed cultural workers are only medically insured if they are working on the basis of an individual employment contract or buy their health insurance policy individually. The right to health is seriously affected in the case of cultural workers working under a service contract.

According to accounting practices in the Republic of Moldova, the taxes withheld from service contracts are the same as for individual employment contracts: 24% social fund contribution, 12% income tax and 9% health insurance premium. Although persons working on the basis of a contract for the provision of services pay health insurance contributions, **they do not acquire the status of insured person in the AOAM system.**

Law no.1593/2002²⁷ sets out the situations in which only employees are obliged to pay compulsory health insurance premiums in the form of a percentage contribution. Also, the law clearly specifies in Article 1 that "employee" is the person employed by the employer through an individual employment contract, in accordance with the Labor Code, regardless of the term of employment and the form of remuneration for the work.

The law does not in any case provide for the obligation of the natural person to contribute and of legal persons to deduct compulsory health care insurance premiums as a percentage contribution from service provision contracts. The absence of this obligation is also confirmed by the Regulation on granting/suspension of the status of insured person in the AOAM system, approved by Government Decision no. 1246 of 19.12.2018, where service providers are not included as persons eligible to be registered in the Register of insured persons in the compulsory health insurance system .²⁸

4. Good practices in the field of social protection of artists and cultural workers

In 2007, the European Parliament adopted the '*Resolution on the social status of artists*', which states that Member States should adopt measures or laws to improve the situation of artists at European level. However, the Parliament's Resolutions are not legally binding and therefore they have not been transposed into all national laws. At present, according to the Cultural Policy in Europe Compendium: 14 EU countries have adopted a law on social security for artists or public social insurance schemes covering artists (Austria, Belgium, Bulgaria, Croatia, Estonia, Finland, France, Germany, Hungary, Latvia, Lithuania, the Netherlands, Slovenia, Romania, Estonia, Finland, France, Germany, Hungary, Latvia, Lithuania, the Netherlands, Romania, Slovenia), 18 Member States offer tax deductions for

²⁷ Article 4 of Law no. (1) that the categories of payers of compulsory health care insurance premiums in the form of a percentage contribution to the salary and other rewards are set out in Annex no.1.

²⁸ Report on the monitoring of respect for the rights of refugees in the context of the armed conflict in Ukraine for the period January - June 2024, Office of the Ombudsman <https://ombudsman.md/post-document/raport-privind-monitorizarea-respectarii-drepturilor-persoanelor-refugiate-in-contextul-conflictului-armat-din-ucraina-pentru-perioada-ianuarie-iunie-2024-2/>

self-employed artists; 10 stipulate an average income; 8 countries offer unemployment benefits and 13 countries offer adapted pension schemes.²⁹

I. Good practice: special social security fund for artists (Germany)

Artists have no special legal status in Germany. There are two main distinct categories: performing artists and creative artists, who are either self-employed or employed. Employed artists are socially insured according to the general rules, while self-employed artists and journalists are insured under the **Artists' Social Insurance Fund (KSK)**.

The KSK Fund is the result of an empirical study among self-employed artists, initiated in the early 1970s by the German Federal Parliament, which led to the development of a specific social insurance scheme for self-employed artists.

The Fund was introduced in 1983, and by derogation from the general legal framework, freelance artists and journalists pay only half of the social security contributions. Freelance artists and journalists pay a total of 14.95% of their projected income for the current year to the KSK Fund (half of the 18.6% of income for pension, half of the 7.3% for health insurance, half of the 4% for long-term care services).

The other half of the contributions is funded by a grant from the federal government and a fee paid by businesses that use any artistic or written works created on a self-employed basis. In 2024 the size of the fee is about 5%. Any business may be required to pay this fee if, for the purpose of earning income, it uses the artistic or written works of a freelance artist/journalist more often than occasionally. Commissioning is considered occasional only if the total amount of all remuneration paid in a calendar year does not exceed €450.

All enterprises that work with freelance artists and journalists and that are part of the group of entities obliged to pay social insurance tax are obliged to register with the Artists' Social Security Fund. According to the Act, these enterprises have to inform the KSK Fund about all remuneration paid to freelance artists and journalists during the course of a year. The amount of remuneration for the previous year is used to calculate the monthly advance payments for the current year (one twelfth of the total remuneration for the previous year multiplied by the 5% tax rate).

The KSK Fund includes entitlement to three types of insurance: **pension, health insurance and long-term care services**. Under the pension system, they are entitled to receive an old-age pension or a disability pension, as well as access to medical and vocational rehabilitation benefits (including convalescence treatments, vocational training) and a state-funded supplementary pension scheme known in Germany as the "Riester Pension". Under the statutory health insurance scheme they are entitled to all benefits (inpatient and outpatient medical treatment, medicines, medical devices and

²⁹ Compendium of Cultural Policies & Trends in Europe
<https://www.culturalpolicies.net/statistics-comparisons/comparisons/funding-and-support/#1563285082410-6042145a-9e7c>

sickness benefit in the event of incapacity for work). Long-term care insurance covers benefits for home care and institutional care.³⁰

The eligibility criteria are as follows:

- is engaged in artistic or journalistic activity (a portfolio of artistic activity is attached on request).
- do not employ more than one employee (with the exception of trainees and mini-jobbers),
- main income as an artist is at least EUR 3 900.00 per year or EUR 325.00 per month. New and emerging artists are granted access to the social security fund for the first three years without a minimum income condition.

II. Good practice: special social insurance fund for artists (Austria)

In Austria, there is a special fund (KSVF) which collects fees to finance **subsidies** for artists' social insurance contributions and emergency benefits.

To benefit from the subsidy that reduces their social insurance contribution, artists must be socially insured through the Social Insurance Institution for Self-Employed Persons (SVS).

In emergency situations, the Artists' Social Insurance Fund (KSVF) can provide artists with financial support of up to €5,000, either as a one-off payment or in the form of a recurring monthly benefit.

III. Good practice: special unemployment insurance scheme for artists (France)

In France, the principle of "presumption of salaried status" applies to performing artists. According to this principle, performing artists are considered to be employees, even if they are only employed for a very short period of time, for example, for a single performance.

Artists working in the performing arts, film and audiovisual sector benefit from a special unemployment insurance scheme: **intermittence regime**³¹. This special scheme entitles performing arts workers to unemployment benefit for artists who accumulate 507 hours of work over a 12-month period. The mechanism compensates for the discontinuity of periods of work in these professions and guarantees a stable income in the periods between contracts throughout the year. At the same time, the possibility to have an income between contracts gives artists time to explore new artistic practices and subjects, or to compensate for dimensions of work that are usually unpaid such as documentation, reading and research to expand the artist's knowledge of a subject.

IV. Good practice: special law regulating the status of professional cultural workers (Romania)

"For a very long time in Romania we have had a major problem related to the social protection of people working in culture. In public institutions, jobs are practically blocked forever, and outside, a kind of parallel system is developing of people working in three

³⁰The Artists' Social Security Insurance Levy - A Brief Summary

https://www.kuenstlersozialkasse.de/fileadmin/Dokumente/Mediencenter_Unternehmer_Verwerter/Informationsschriften/Info_26_-_Kurzinformation_zur_K%C3%BCnstlersozialabgabe_englische_Version.pdf

³¹ The art of managing the intermittent artist status in France, European Trade Union Institute https://www.etui.org/sites/default/files/special-report-6_casse-Hesamag_21_EN_WEB.pdf

ways: setting up a commercial company; working exclusively on royalties; or as an authorized individual. In this situation, obviously there has always been a big problem always how it is with the payment of royalties, how it is with health insurance, pension insurance and so on." (Iulia Popovici, member of the working group for the adoption of the Statute for Cultural Workers in Romania)

To this end, Romania adopted in 2023 the Statute of the professional cultural worker.³² **The Statute was anchored in the legal and fiscal reality specific to Romania.** Thus, at the time of the adoption of the Statute in Romania there were already **tax and legal rules to regulate independent activities**, which unlike the Moldovan legislation is not limited to the activity of trade, but includes production activities, organization of performances and cultural events, publishing and printing, provision of services, etc.³³. According to the Romanian Tax Code, independent activity is any activity carried out by an individual for the purpose of obtaining income, which meets at least 4 of the following criteria:

- the natural person has the freedom to choose the place and the manner of carrying out the activity, as well as the working hours;
- has the freedom to work for multiple clients;
- has the freedom to carry out the activity directly, with hired staff or in collaboration with third parties;
- the risks inherent in the activity are assumed by the natural person carrying out the activity;
- the activity is carried out using the assets of the natural person who carries it out;
- the activity is carried out by the natural person using his intellectual capacity and/or physical performance;
- the natural person is part of a professional body/body with the role of representation, regulation and supervision of the profession.

At the same time, **self-employment had special tax rules**. In Romania, the basis for calculating social security contributions from self-employment is based on several income ceilings. If the estimated annual income is less than 12 minimum wages, the person is not obliged to pay social security contributions. If the estimated annual income is between 12 and 24 times the minimum wage, the person is obliged to pay social insurance contributions amounting to 25% of 12 times the minimum wage. If the estimated income is higher than 24 minimum wages, the amount of the social insurance contribution is 25% of 24 minimum wages. Similarly, if the estimated annual income is less than 6 times the minimum wage, the person does not have to pay health insurance contributions. However, if the estimated income is between 12 and 24 minimum wages, the health insurance contribution will be equal to 10% of 12 minimum wages and 10% of 24 minimum wages if the annual income is higher than 24 minimum wages.

"You are insured from the moment you file your return, even if you don't pay. That's the advantage that the state gives you, that the state credits you for a year, because you file your return by May 25 of the current year and you pay by May 25 of the following year. Which means that you are insured for 12 months without having paid." (Iulia Popovici, member of the State Adoption Working Group)

³² Emergency Ordinance No 21/2023 on the status of professional cultural worker

³³ Guide Tax treatment of self-employment income for which net income is determined in the real system, ANAF, Romania https://static.anaf.ro/static/10/Bucuresti/Seminar_web_tfai.pdf

At the same time, the **Statute is anchored in the pre-existing regulations on the tax treatment of** income from self-employment based on **copyright**. Thus, in Romania, income from copyright benefits from a special tax regime, with a non-taxable flat-rate of 40% of gross income. The following tax rates are withheld from the 60% of taxable income: 10% income tax; 25% social security contribution and 10% health insurance contribution. If, in addition to royalty income, the person is an employee or pensioner, no social security contributions are withheld. At the same time, the **Statute takes** as a model for a **specific contract for cultural activity**, the already existing model contract for sports activity.

"The status of the professional cultural worker is a legal-fiscal arrangement that is midway between employment and self-employment. Respectively, it offers rights similar to the employment contract, while retaining the taxation of self-employment. " (Iulia Popovici, member of the working group for the adoption of the Statute)

1. First of all, the Statute is not limited to artists but operates with a more general category of cultural workers, providing a legal-fiscal framework for identifying and defining cultural workers, who are the de facto beneficiaries of the Statute.

"The problem is that there is no legal-fiscal mechanism to identify who are the people of culture. Because you had this mix of firms that were just a tax vehicle, people who were employed on a two-hour contract on their own firm, meaning they were using two tax vehicles to get out of some taxes. Our formula is linked to some ideological convictions such as that the state should not say who is an artist, who is not an artist, what is good and what is not good, nor even what cultural profession is needed or not. We do not want to give artist certificates and we do not want the state to say who is an artist and who is not an artist. As a result, the philosophy of this statute is based on the definition given by the UNESCO recommendation that the artist is the one who considers himself as such and is perceived as such by others, i.e. as a matter of self-definition and recognition, and that we are only interested in the fiscal-legal component." (Iulia Popovici, member of the working group for the adoption of the Statute)

The eligibility criteria for obtaining the status of professional cultural worker are therefore:

- cultural activities, as set out in the Annex to the Statutes;
- at least 50% of the income earned during the tax year preceding the application for registration, derived from cultural activities (from the assignment of copyright or related rights, self-employed activities listed in the Annex, individual fixed-term employment contracts for cultural activities and activities in the cultural field)

Professional cultural worker status is obtained for a period of 3 years and can be renewed every 3 years.

2. Second, the Statute introduces, in addition to the contract for the assignment of economic rights, **a special type of contract** that cultural workers will use - the contract for the performance of cultural activity. The contract must necessarily contain the date of registration of the professional cultural worker in the special register and the unique registration number; and the conditions for ensuring health and safety at work during or in the course of the activity.

3. Thirdly, the **Statute provides self-employed cultural workers with rights similar to an employment contract.** The statute of the professional cultural worker operates on the contributory principle, following the model of payment of social and health insurance contributions according to the income ceilings set for self-employment. The Statute extends the preferential tax regime granted for copyright to other forms of income of cultural workers, i.e. 40% of the income is non-taxable and does not count towards the ceiling for social and health insurance contributions. The Statute guarantees cultural workers access to pension, health insurance, rest leave, sick leave, maternity allowance, sick child care allowance, unemployment benefit. The period during which the natural person is registered as a professional cultural worker represents seniority in employment and specialty.

4. Fourth, the **Statute regulates the possibility of creating professional associations in the field of culture.** *"One thing that is very important, the possibility of association for the purpose of collective rights. In Romania you cannot negotiate minimum remuneration, minimum collective working conditions, unless you are a trade union. You can only form a union with employees, i.e. with those who have an employment contract in a particular company. Everyone else cannot unionize."* (Iulia Popovici, member of the working group for the adoption of the State)

The statute provides that professional associations have the right to represent members in court and to initiate and participate in collective bargaining.

Adopt minimum standards for the remuneration of cultural workers along the lines of Austria's Pay the artists now model³⁴

In Austria

In addition to international practices, the Moldovan legal framework presents at least **3 models** that could serve as a benchmark for improving the legal framework on social protection of cultural workers in the independent cultural sector.

1. **Partial coverage of social insurance costs from the state budget**, following the model of persons employed in agriculture. According to the law, employers in agriculture pay **18% of the social insurance contribution** for persons employed under individual employment contracts or other contracts for the performance of work or the provision of services, while **6% is covered from the state budget**. Social insurance contributions cover all types of state social insurance benefits.
2. The possibility of paying a **single social insurance tax** guaranteeing access to all social benefits, along the lines of the model for people employed in IT parks. For example, people working under a contract of authorship pay a 12% income tax but are not socially insured, while at the same time employers in IT parks pay a flat tax of 7% of the income from sales, and more than half of this flat tax (54.7%) is paid into the state social insurance budget. Persons employed in IT Parks receive all types of state social insurance benefits based on the insured income (which is 68% of the average wage in the economy, as stipulated by Law No. 77/2016 on IT Parks)³⁵. We note that several

³⁴ <https://www.kuveti.at/en/paytheartistnow/>

³⁵ Particulars of the calculation and payment of compulsory state social insurance contributions in 2024, Annex to the CNAS Order no. 17-A of 05.02.2024

services provided for in the Law on IT parks cover the field of creative industries, special effects obtaining services, animation film obtaining services, specialized design activities, digital color correction and reconditioning services, sound editing and design services, audio recording making activities and music editing activities exclusively for the computer games industry.

3. The possibility of paying a **single** social insurance **tax** guaranteeing access to all social benefits, following the model of the self-employed in the field of justice. By way of comparison, people employed on the basis of a patent pay a single fee of 17 522 lei per year and have access only to the old-age pension and death grant. At the same time, self-employed professionals in the field of justice pay income tax at the rate of 12% (similar to author's contracts) and additionally pay a one-time tax of 27 772 lei per year and receive all types of state social insurance benefits.

CONCLUSIONS

The study shows that the independent cultural sector in Moldova **is dominated by atypical employment relationships**: part-time work, second and third jobs, fixed-term work, jobs involving unpaid overtime, work under atypical contracts (service provision contract, copyright assignment contract, as well as contracts based on the entrepreneur's patent), as well as contracts with atypical clauses (especially related to paid annual leave) - and this **affects working conditions, the rights of SCI workers and access to social protection measures**. The study highlights several specific features and challenges faced by cultural workers and artists, including:

1. **Structural instability** due to project-based work and inconsistent working patterns. In addition, most work in multiple jobs at the same time and combine paid and voluntary work. Many cultural workers have **multiple jobs** to supplement their sources of income and for better access to social protection.
2. **Diversity and fluidity of atypical employment relationships.** The majority of cultural workers are employed on atypical contracts (copyright, service contracts), which do not guarantee stable working conditions or social protection. 35% of respondents work only on **atypical contracts** (copyright, service contracts) and 40% combine employment contracts with service contracts, copyright, patent and selling their own cultural products.
3. **Continuous work**, with no balance between work and rest. Thus, 50% of respondents frequently work overtime, and for the majority (83%) overtime is unpaid. In addition, 62% of respondents who have an employment contract do not take paid annual leave.
4. **Transnational mobility and high qualification:** Almost 50% of the respondents work internationally and 93% of them have a university degree, of which 50% have a Master's degree.
5. **Unstable and low income:** 35% of respondents work only on atypical contracts and 60% have insufficient income to cover living needs. Income fluctuates, with 51% of respondents reporting that their income varies significantly on a monthly basis.
6. **Financial precariousness and insufficient social protection:** 95% of cultural workers consider that their access to social protection measures is either insufficient or partially satisfactory. Only 8% of them believe that they will receive a pension for a full contribution period, and many choose to work in fields other than culture in order to gain social insurance status and to accumulate a period of work. Given the lack of social protection mechanisms specific to the cultural sector, most of them plan for retirement on their own, with little trust in the social protection system provided by the state. In addition, $\frac{1}{3}$ of respondents are not medically insured and $\frac{1}{6}$ are individually medically insured. In addition, only **34%** of respondents receive paid sick leave.

The diversity and fluidity of employment relationships means sporadic social security contributions, which results in partial and insufficient social insurance. In some cases, cultural workers may have periods where they are not legally covered by existing contributory schemes, which affects access to social security benefits, including unemployment, sickness, maternity benefits. **Irregular and fluctuating pay** can affect the ability to pay contributions,

as well as the regularity of contribution payments, which affects access to social protection.

At the same time, the legal framework in the **Republic of Moldova** is not adapted to address the specific features and challenges faced by cultural workers and artists in the SCI. The current social protection system, modeled on the classical worker with a stable employment contract and income, is not adapted to protect cultural workers and artists employed in atypical or freelance employment relationships. Apart from the general regulations of the Constitution and the general provisions of the *Law on Culture* and the *Law on Creative People and Creative Unions*, there are no specific laws in Moldova on social security for artists and cultural workers, let alone regulations covering the independent cultural sector.

Although *the Law on Culture*, *the Law on Creative People and Creative Unions and the Law on Theatres, Circuses and Concert Organizations* provide for the right to social protection and the obligation of the state to ensure the protection of cultural workers and artists - they do not provide for any mechanism to implement the Law and ensure the social protection of cultural workers and artists. Therefore, the State has not fulfilled its obligation under the Law to improve the system of social protection of cultural workers.

The only measure that represents a special social protection rule for artists is the provision on **reduced contribution period** for some categories of artists in public cultural institutions. The other measures are rather forms of support for artistic creative activities, encouragement of employment or recognition of merit in the cultural field. The current legal framework does not include any special rules to protect cultural workers and artists in the SCI. Cultural workers in the independent cultural sector have access to all social insurance rights only if they work on the basis of an individual employment contract. At the same time, the right to health is severely affected for cultural workers working on the basis of a service contract. Although persons working on the basis of a service contract pay health insurance contributions, **they do not acquire the status of an insured person in the AOAM system.**

Thus, cultural workers and artists constitute a **specific socio-professional group** with common risks and work particularities that need to be addressed by special rules. Due to the **atypical** nature of work practices, **cultural policies** need to take these particularities into account and provide for **special social protection measures**. These measures should respond to the flexibility and diversity of incomes, periods of inactivity or job instability in order to ensure adequate and fair protection for artists.

Therefore, **the State** should regulate as comprehensively as possible the field of employment relations specific to the independent cultural sector and provide for measures to extend the mechanisms to guarantee employee security for atypical employment relations in the ICS. The state should improve the social protection system by developing special contributory mechanisms (tailored for ICS) and non-contributory mechanisms to ensure access to basic health care and social protection for those on low incomes or those who cannot contribute consistently. This mixed system could better protect vulnerable cultural workers who are not sufficiently covered by contributory mechanisms. **ICS organizations** need to critically reflect on their role as an employer and develop resilience and even resistance mechanisms as a sector to influence donor funding practices that guarantee and respect the wage rights of ICS cultural workers and artists.

Donors need to understand that they are currently contributing to and perpetuating the precariousness of cultural workers in SCIs and should take full responsibility in the triangular legal employment relationship between donor-employer-employee.

public policy recommendations

- 1. Adoption of a special law, such as the Romanian Cultural Workers' Statute**, which would provide the legal-fiscal framework for identifying and defining cultural workers and which would increase the social protection of cultural workers, offering similar rights and guarantees to employees employed under employment contracts.
- 2. Adopt a special unemployment insurance mechanism for cultural workers and artists.** It is recommended to amend Article 43, paragraph (4), letter b of *Law No. 105/2018 on employment promotion and unemployment insurance*, so that the unemployment benefit does not depend on the realization of a 12-month contribution period in the last 24 calendar months, but to provide for a formula for calculating the contribution period in days, following the French model.
- 3. Adopt a special unemployment insurance mechanism for cultural workers and artists.** It is recommended to amend Article 43, paragraph (4), letter b of *Law No. 105/2018 on employment promotion and unemployment insurance*, so that unemployment benefit does not depend on the realization of a 12-month contribution period in the last 24 calendar months, but to provide for a formula for calculating the contribution period in days, following the French model.
- 4. Adoption of a special social insurance fund for artists and cultural workers on the model of the Artists' Social Insurance Fund (KSK) in Germany**, whereby cultural workers and SCI artists pay only half of the social security contributions and the other half of the contributions are financed by a state subsidy and a fee paid by companies using any artistic or written works created on a self-employed basis.
- 5. Adoption of a flexible mechanism for paying social contributions.** Currently, in Moldova, a full year's contribution is calculated if social contributions have been paid for 12 months, but it is essential that the social protection system be adapted to the new atypical, precarious and unstable employment relationships and provide mechanisms for less frequent contributions, adapted to the irregular income of cultural workers. International examples, such as those from Uruguay and Argentina, show that a full contribution year can be accumulated even with sporadic presence on the labor market, through contributions for a minimum number of working days. These models could also be integrated into national schemes to support cultural workers.
- 6. Adopt the concept of a living wage and a methodology for calculating the living wage and set a minimum wage as close as possible to the living wage.**
- 7. Negotiate and conclude international agreements for the portability of social rights.** In view of the increased mobility of cultural workers, States should develop bilateral and multilateral agreements that ensure the portability of social protection rights and benefits for cultural professionals working in more than one country. Such agreements would contribute to a more uniform coverage of social risks.

8. Modify the merit award mechanism to allow proposals for merit awards to be submitted by SCI cultural organizations, cultural workers and independent artists.

Recommendations for SCI cultural organizations

1. Recognizing and assuming the role of the **employer** in employment relations and respecting all employee rights and guarantees.
2. Negotiation of grant agreements that provide for the possibility to respect all salary rights and guarantees.
3. Compliance with the procedure for concluding contracts regulating work, by negotiating the contractual clauses and concluding the contract in two copies before the work is performed.
4. Avoiding the practice of concluding other contracts (author's contract, provision of services, etc.) in cases where the work provided falls within the legal employment relationship regulated by the individual employment contract.
5. Regulating salaries in the internal policies (Internal Regulation or Salary Policy) that provide for salary thresholds based on the estimated living wage for the Republic of Moldova, with a minimum of **26 524,74** lei for the year 2024 .³⁶

Recommendations for donors

1. Revision of the conditions of funding of ICS organizations, based on their responsibility in the triangular employer-employee-donor labour relations and establishing as a funding principle the clause on the respect of all employees' rights and guarantees and decent remuneration.
2. Elimination or substantial increase of the eligible threshold for administrative costs, to include costs for decent pay and other wage entitlements (vacation, etc.).

Recommendations for SCI cultural workers

The creation of a union of SCI cultural workers to represent and defend the professional, social, economic, labor, social and labor rights and interests of SCI cultural workers before both public authorities and donors in order to negotiate and put forward proposals to improve the status of SCI cultural workers and to increase their social protection.

³⁶ Living wage <https://platzforma.md/salariul-de-trai>