

Recommendation concerning the Status of the Artist

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Belgrade from 23 September to 28 October 1980 at its twenty-first session,

Recalling that, under the terms of Article I of its Constitution, the purpose of the Organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or relation, by the Charter of the United Nations,

Recalling the terms of the Universal Declaration of Human Rights, and particularly Articles 22, 23, 24, 25, 27 and 28 thereof, quoted in the annex to this Recommendation,

Recalling the terms of the United Nations International Covenant on Economic, Social and Cultural Rights, particularly its Articles 6 and 15, quoted in the annex to this Recommendation, and the need to adopt the necessary measures for the preservation, development and dissemination of culture, with a view to ensuring the full exercise of these rights,

Recalling the Declaration of the Principles of International Cultural Co-operation, adopted by the General Conference of UNESCO at its fourteenth session, particularly its Articles III and IV, which are quoted in the annex to this Recommendation, as well as the Recommendation on Participation by the People at Large in Cultural Life and their Contribution to it, adopted by the General Conference of UNESCO at its nineteenth session,

Recognizing that the arts in their fullest and broadest definition are and should be an integral part of life and that it is necessary and appropriate for governments to help create and sustain not only a climate encouraging freedom of artistic expression but also the material conditions facilitating the release of this creative talent,

Recognizing that every artist is entitled to benefit effectively from the social security and insurance provisions contained in the basic texts, Declarations, Covenant and Recommendation mentioned above,

Considering that the artist plays an important role in the life and evolution of society and that he should be given the opportunity to contribute to society's development and, as any other citizen, to exercise his responsibilities therein, while preserving his creative inspiration and freedom of expression,

Further recognizing that the cultural, technological, economic, social and political development of society influences the status of the artist and that it is consequently necessary to review his status, taking account of social progress in the world,

Affirming the right of the artist to be considered, if he so wishes, as a person actively engaged in cultural work and consequently to benefit, taking account of the particular conditions of his artistic profession, from all the legal, social and economic advantages pertaining to the status of workers,

Affirming further the need to improve the social security, labour and tax conditions of the artist, whether employed or self-employed, taking into account the contribution to cultural development which the artist makes,

Recalling the importance, universally acknowledged both nationally and internationally, of the preservation and promotion of cultural identity and of the role in this field of artists who perpetuate the practice of traditional arts and also interpret a nation's folklore,

Recognizing that the vigour and vitality of the arts depend, *inter alia*, on the well-being of artists both individually and collectively,

Recalling the conventions and recommendations of the International Labour Organization (ILO) which have recognized the rights of workers in general and, hence, the rights of artists and, in particular, the conventions and recommendations listed in the appendix to this Recommendation,

Taking note, however, that some of the International Labour Organization standards allow for derogations or even expressly exclude artists, or certain categories of them, owing to the special conditions in which artistic activity takes place, and that it is consequently necessary to extend their field of application and to supplement them by other standards,

Considering further that this recognition of their status as persons actively engaged in cultural work should in no way compromise their freedom of creativity, expression and communication but should, on the contrary, confirm their dignity and integrity,

Convinced that action by the public authorities is becoming necessary and urgent in order to remedy the disquieting situation of artists in a large number of Member States, particularly with regard to human rights, economic and social circumstances and their conditions of employment, with a view to providing artists with the conditions necessary for the development and flowering of their talents and appropriate to the role that they are able to play in the planning and implementation of cultural policies and cultural development activities of communities and countries and in the improvement of the quality of life,

Considering that art plays an important part in education and that artists, by their works, may influence the conception of the world held by all people, and particularly by youth,

Considering that artists must be able collectively to consider and, if necessary, defend their common interests, and therefore must have the right to be recognized as a professional category and to constitute trade union or professional organizations,

Considering that the development of the arts, the esteem in which they are held and the promotion of arts education depend in large measure on the creativity of artists,

Aware of the complex nature of artistic activity and of the diverse forms it takes and, in particular, of the importance, for the living conditions and the development of the talents of artists, of the protection of their moral and material rights in their works, or performances, or the use made of them, and of the need to extend and reinforce such protection,

Considering the need to endeavour to take account as far as possible of the opinion both of artists and of the people at large in the formulation and implementation of cultural policies and for that purpose to provide them with the means for effective action,

Considering that contemporary artistic expression is presented in public places and that these should be laid out so as to take account of the opinions of the artists concerned, therefore that there should be close co-operation between architects, contractors and artists in order to lay down aesthetic guidelines for public places which will respond to the requirements of communication and make an effective contribution to the establishment of new and meaningful relationships between the public and its environment,

Taking into account the diversity of circumstances of artists in different countries and within the communities in which they are expected to develop their talents, and the varying significance attributed to their works by the societies in which they are produced,

Convinced, nevertheless, that despite such differences, questions of similar concern arise in all countries with regard to the status of the artist, and that a common will and inspiration are called for if a solution is to be found and if the status of the artist is to be improved, which is the intention of this Recommendation,

Taking note of the provisions of the international conventions in force relating, more particularly, to literary and artistic property, and in particular of the Universal Convention and the Berne Convention for the Protection of Literary and Artistic Works, and of those relating to the protection of the rights of performers, of the resolutions of the General Conference, of the recommendations made by UNESCO's intergovernmental conferences on cultural policies, and of the conventions and recommendations adopted by the International Labour Organization, listed in the appendix to this Recommendation,

Having before it, as item 31 of the agenda of the session, proposals concerning the status of the artist,

Having decided, at its twentieth session, that this question should be the subject of a recommendation to Member States,

Adopts this Recommendation this twenty-seventh day of October 1980:

The General Conference recommends that Member States implement the following provisions, taking whatever legislative or other steps may be required - in conformity with the constitutional practice of each State and the nature of the questions under consideration to apply the principles and norms set forth in this Recommendation within their respective territories.

For those States which have a federal or non-unitary constitutional system, the General Conference recommends that, with regard to the provisions of this Recommendation the implementation of which comes under the legal jurisdiction of individual constituent States, countries, provinces, cantons or any other territorial and political subdivisions that are not obliged by the constitutional system of the federation to take legislative measures, the federal government be invited to inform the competent authorities of such States, countries, provinces or cantons of the said provisions, with its recommendation for their adoption.

The General Conference recommends that Member States bring this Recommendation to the attention of authorities, institutions and organizations in a position to contribute to improvement of the status of the artist and to foster the participation of artists in cultural life and development.

The General Conference recommends that Member States report to it, on dates and in a manner to be determined by it, on the action they have taken to give effect to this Recommendation.

I. Definitions

For the purposes of this Recommendation:

1. 'Artist' is taken to mean any person who creates or gives creative expression to, or re-creates works of art, who considers his artistic creation to be an essential part of his life, who contributes in this way to the development of art and culture and who is or asks to be recognized as an artist, whether or not he is bound by any relations of employment or association.
2. The word 'status' signifies, on the one, hand, the regard accorded to artists, defined as above, in a society, on the basis of the importance attributed to the part they are called upon to play therein and, on the other hand, recognition of the liberties and rights, including moral, economic and social rights, with particular reference to income and social security, which artists should enjoy.

II. Scope of application

This Recommendation applies to all artists as defined in paragraph 1.1, irrespective of the discipline or form of art practiced by such artists. These include *inter alia* all creative artists and authors within the meaning of the Universal Copyright Convention and the Berne Convention for the Protection of Literary and Artistic Works, as well as performers and interpreters within the meaning of the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations.

III. Guiding principles

1. Member States, recognizing that art reflects, preserves and enriches the cultural identity and spiritual heritage of the various societies, constitutes a universal form of expression and communication and, as a common denominator in ethnic, cultural or religious differences, brings home to everyone the sense of belonging to the human community, should accordingly, and for these purposes, ensure that the population as a whole has access to art.
2. Member States should encourage all activities designed to highlight the action of artists for cultural development, including in particular 'activities carried out by the mass media and the educational system, and for the employment of leisure for cultural purposes.

3. Member States, recognizing the essential role of art in the life and development of the individual and of society, accordingly have a duty to protect, defend and assist artists and their freedom of creation. For this purpose, they should take all necessary steps to stimulate artistic creativity and the flowering of talent, in particular by adopting measures to secure greater freedom for artists, without which they cannot fulfill their mission, and to improve their status by acknowledging their right to enjoy the fruits of their work. Member States should endeavour by all appropriate means to secure increased participation by artists in decisions concerning the quality of life. By all means at their disposal, Member States should demonstrate and confirm that artistic activities have a part to play in the nations' global development effort to build a juster and more humane society and to live together in circumstances of peace and spiritual enrichment.

4. Member States should ensure, through appropriate legislative means when necessary, that artists have the freedom and the right to establish trade unions and professional organizations of their choosing and to become members of such organizations, if they so wish, and should make it possible for organizations representing artists to participate in the formulation of cultural policies and employment policies, including the professional training of artists, and in the determination of artists' conditions of work.

5. At all appropriate levels of national planning, in general, and of planning in the cultural field, in particular, Member States should make arrangements, by close co-ordination of their policies relating to culture, education and employment among other things, to define a policy for providing assistance and material and moral support for artists and should ensure that public opinion is informed of the justification and the need for such a policy. To that end, education should place due emphasis on the encouragement of artistic awareness, so as to create a public capable of appreciating the work of the artist. Without prejudice to the rights that should be accorded to them under copyright legislation, including resale rights (droit de suite) when this is not part of copyright, and under neighboring rights legislation, artists should enjoy equitable conditions and their profession should be given the public consideration that it merits. Their conditions of work and of employment should be such as to provide opportunities for artists who so wish to devote themselves fully to their artistic activities.

6. Since freedom of expression and communication is the essential prerequisite for all artistic activities, Member States should see that artists are unequivocally accorded the protection provided for in this respect by international and national legislation concerning human rights.

7. In view of the role of artistic activity and creation in the cultural and overall development of nations, Member States should create conditions enabling artists fully to participate, either individually or through their associations or trade unions, in the life of the communities in which they practice their art. They should associate them in the formulation of local and national cultural policies, thus stressing their important contribution in their own society as well as towards world progress in general.

8. Member States should ensure that all individuals, irrespective of race, colour, sex, language, religion, political or other opinion, national or social origin, economic status or birth, have the same opportunities to acquire and develop the skills necessary for the complete development and exercise of their artistic talents, to obtain employment, and to exercise their profession without discrimination.

IV. The vocation and training of the artist

1. Member States should encourage, at school and from an early age, all measures tending to strengthen respect for artistic creation and the discovery and development of artistic vocations, and should bear in mind that, if it is to be effective, the stimulation of artistic creativity calls for provision of the necessary professional training of talent to produce works of outstanding quality. For this purpose, Member States should:

- a. take the necessary measures to provide an education designed to stimulate artistic talent and vocation;
- b. take all appropriate measures, in association with artists, to ensure that education gives due prominence to the development of artistic sensitivity and so contributes to the training of a public receptive to the expression of art in all its forms;
- c. take all appropriate measures, whenever possible, to institute or develop the teaching of particular artistic disciplines;
- d. seek by means of incentives, such as the granting of fellowships or paid educational leave, to ensure that artists have the opportunity to bring their knowledge up to date in their own disciplines or in related specialities and fields, to improve their technical skills, to establish contacts which will stimulate creativity, and to undergo retraining so as to have access to and work in other branches of art; for these purposes, Member States should see that appropriate facilities are provided and that those already existing are, where necessary, improved and developed;

- e. adopt and develop co-ordinated, comprehensive vocational guidance and training policies and programmes, taking into consideration the particular employment situation of artists and enabling them to enter other sectors of activity if necessary;
- f. stimulate artists' participation in the restoration, conservation and use of the cultural heritage in the widest sense of the term, and provide artists with the means of transmitting to future generations the knowledge and artistic skills which they possess;
- g. recognize the importance in arts and craft training of the traditional ways of transmitting knowledge and in particular of the initiation practices of various communities, and take all appropriate measures to protect and encourage them ;
- h. recognize that art education should not be separated from the practice of living art, and see that such education is reoriented in such a way that cultural establishments, theatres, art studios, radio and television broadcasting organizations, etc., play an important part in this type of training and apprenticeship ;
- i. give particular attention to the development of women's creativity and the encouragement of groups and organizations which seek to promote the role of women in the various branches of artistic activity;
- j. recognize that artistic life and the practice of the arts have an international dimension and accordingly provide those engaged in artistic activities with all the means and, in particular, travel and study grants, likely to enable them to establish lively and far-reaching contacts with other cultures;
- k. take all appropriate steps to promote the free international movement of artists, and not to hinder the freedom of artists to practice their art in the country of their choice, while ensuring that these do not prejudice the development of endogenous talents and the conditions of work and employment of national artists;
- l. give special attention to the needs of traditional artists, in particular by facilitating their travel inside and outside their own country to serve the development of local traditions.

2. As far as possible and without prejudice to the freedom and independence of both artists and educators, Member States should undertake and support initiatives to ensure that artists, during their training, are made aware of their community's cultural identity, including traditional and folk cultures, thereby contributing to the affirmation or revival of that identity and those cultures.

V. Social status

Member States should promote and protect the status of artists by considering artistic activity, including innovation and research, as a service to the community. They should make it possible for them to enjoy the esteem necessary for the full development of their work and provide the economic safeguards to which artists are entitled as people actively engaged in cultural work. Member States should :

- 1. Grant artists public recognition in the form best suited to their respective cultural environments and establish a system, where it does not already exist or is inadequately designed, to give artists the prestige to which they are entitled.
- 2. See that the artist benefits from the rights and protection provided for in international and national legislation relating to human 'rights'.
- 3. Endeavour to take the necessary steps to see that artists enjoy the same rights as are conferred on a comparable group of the active population by national and international legislation in respect of employment and living and working conditions, and see that self-employed artists enjoy, within reasonable limits, protection as regards income and social security.
- 4. Recognize the importance of international protection of the rights of artists under the terms of existing conventions and in particular of the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention, and the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, and take all necessary steps to extend the field of application, scope and effectiveness of those instruments, particularly - in the case of Member States which have not already done so - by considering the possibility of adhering to them.
- 5. Recognize the right of trade union and professional organizations of artists to represent and defend the interests of their members and give them the opportunity to advise the public authorities on suitable measures for stimulating artistic activity and ensuring its protection and development.

VI. Employment, working and living conditions of the artist; professional and trade union organizations

1. Being aware of the need to improve the social recognition of artists by according them the moral and material support required to remedy their difficulties, Member States are invited to:

- a. consider measures for supporting artists at the beginning of their careers, in particular during the initial period when they are attempting to devote themselves completely to their art;
- b. promote the employment of artists in their own disciplines, particularly by devoting a proportion of public expenditure to artistic works;
- c. promote artistic activities within the context of development and stimulate public and private demand for the fruits of artistic activity in order to increase opportunities of paid work for artists, *inter alia* by means of subsidies to art institutions, commissions to individual artists, or the organization of artistic events at the local, regional or national levels, and by establishing art funds;
- d. identify remunerative posts which could be given to artists without prejudice to their creativity, vocation and freedom of expression and communication, and in particular:
 - i. give artists opportunities in the relevant categories of the educational and social services systems at national and local levels and in libraries, museums, academies and other public institutions;
 - ii. increase the participation of poets and writers in the overall effort towards the translation of foreign literature;
- e. encourage the development of the necessary facilities (museums, concert halls, theatres and other forums) conducive to fostering the dissemination of the arts and the meeting of artists with the public;
- f. study the possibility of establishing, within the framework of employment policies or public employment services, effective machinery to assist artists to find jobs and that of adhering to the Fee-Charging Employment Agencies Convention (revised) (No. 96) of the International Labour Organization, which is listed in the appendix to this Recommendation.

2. Within the context of a general policy to encourage artistic creativity, cultural development and the promotion and improvement of conditions of employment, Member States are invited, wherever possible, practical and in the interest of the artist, to :

- a. encourage and facilitate the application of the standards adopted for various groups of the active population to artists, and ensure that they enjoy all the rights accorded to the corresponding groups in respect of working conditions ;
- b. seek means of extending to artists the legal protection concerning conditions of work and employment defined by the standards of the International Labour Organization, in particular the standards relating to:
 - i. hours of work, weekly rest and paid leave in all fields of activities, more particularly, in the case of performers, taking into consideration the hours spent in travelling and rehearsal as well as those spent in public performance or appearances;
 - ii. protection of life, health and the working environment;
- c. take into consideration the particular problems of artists, in respect of the premises where they work, while at the same time ensuring the preservation of the architectural heritage and the environment and upholding regulations pertaining to safety and health, when administering regulations relative to the alteration of artists' premises where this is in the interest of artistic activity;
- d. make provision when necessary for appropriate forms of compensation for artists, preferably in consultation with organizations representing artists and their employers, when, for reasons connected with the nature of the artistic activity undertaken or the artists' employment status, the standards relating to the matters referred to in paragraph 2(b)(i) of this section cannot be observed;
- e. recognize that profit-sharing systems, in the form of deferred salaries or shares in the profits of production, may prejudice artists' rights vis-a-vis their real incomes and social security entitlement and take appropriate measures in such cases to preserve these rights.

3. With the object of giving specific consideration to the child artist, Member States are invited to take account of the provisions of the United Nations Declaration of the Rights of the Child.

4. Recognizing the part played by professional and trade union organizations in the protection of employment and working conditions, Member States are invited to take appropriate steps to:

- a. observe and secure observance of the standards relating to freedom of association, to the right to organize and to collective bargaining, set forth in the international labour conventions listed in the appendix to this Recommendation and ensure that these standards and the general principles on which they are founded may apply to artists;
- b. encourage the free establishment of such organizations in disciplines where they do not yet exist;
- c. provide opportunities for all such organizations, national or international, without prejudice to the right of freedom of association, to carry out their role to the full.

5. Member States are invited to endeavour within their respective cultural environments to provide the same social protection for employed and self-employed artists as that usually granted respectively to other employed and self-employed groups. Provision should likewise be made for measures to extend appropriate social protection to dependent members of the family. The social security system which Member States may find it well to adopt, improve or supplement should take into consideration the special features of artistic activity, characterized by the intermittent nature of employment and the sharp variations in the incomes of many artists without, however, this entailing a limitation of the artist's freedom to create, publish and disseminate his work. In this context, Member States are invited to consider the adoption of special means of financing social security for artists, for example by resorting to new forms of financial participation either by the public authorities or by the business undertakings which market or which use the services or works of artists.

6. Recognizing in general that national and international legislation concerning the status of artists is lagging behind the general advances in technology, the development of the media of mass communication, the means of mechanical reproduction of works of art and of performances, the education of the public, and the decisive part played by the cultural industries, Member States are invited to take, wherever necessary, appropriate measures to:

- a. ensure that the artist is remunerated for the distribution and commercial exploitation of his work, and provide for the artist to maintain control of his work against unauthorized exploitation, modification or distribution;
- b. provide, to the extent possible, for a system guaranteeing the exclusive moral and material rights of artists in respect of any prejudice connected with the technical development of new communication and reproduction media, and of cultural industries; this means, in particular, establishing rights for performers, including circus and variety artists, and puppeteers; in doing so, it would be appropriate to take account of the provisions of the Rome Convention and, with reference to problems arising from the introduction of cable diffusion and video grams, of the Recommendation adopted by the Intergovernmental Committee of the Rome Convention in 1979;
- c. compensate any prejudice artists might suffer in consequence of the technical development of new communication and reproduction media and of cultural industries by favouring, for example, publicity for and dissemination of their works, and the creation of posts ;
- d. ensure that cultural industries benefiting from technological changes, including radio and television organizations and mechanical reproduction undertakings, play their part in the effort to encourage and stimulate artistic creation, for instance by providing new employment opportunities, by publicity, by the dissemination of works, payment of royalties or by any other means judged equitable for artists;
- e. assist artists and organizations of artists to remedy, when they exist, the prejudicial effects on their employment or work opportunities of new technologies.

7.

- a. Convinced of the uncertainty of artists' incomes and their sudden fluctuations, of the special features of artistic activity and of the fact that many artistic callings can be followed only for a relatively short period of life, Member States are invited to make provision for pension rights for certain categories of artists according to length of career and not the attainment of a certain age and to take into account in their taxation system the particular conditions of artists' work and activity;
- b. in order to preserve the health and prolong the professional activity of certain categories of artists (for example ballet dancers, dancers, vocalists) Member States are invited to provide them with adequate medical care not only in the event of incapacity for work but also for the purpose of preventing illness, and to consider the possibility of research into the health problems peculiar to artistic professions;
- c. taking into account the fact that a work of art should be considered neither as a consumer good nor as an investment, Member States are invited to consider the possibility of alleviating indirect taxation on works of art and on artistic performances at the time of their creation, dissemination or first sale, and this in the interest of artists or of development of the arts.

8. In view of the growing importance of international exchanges of works of art, and contacts between artists, and the need to encourage, them, Member States separately or collectively, without prejudice to the development of national cultures, are invited to :

- a. assist freer circulation of such work by, inter alia, flexible customs arrangements and concessions in relation to import duties, particularly as regards temporary importation;
- b. take measures to encourage international travel and exchange by artists, giving due attention to visiting national artists.

VII. Cultural policies and participation

Member States should endeavour, in accordance with paragraphs 111.7 and V.5 of this Recommendation, to take appropriate measures to have the opinions of artists and the professional and trade union organizations representing them, as well as of the people at large, in the spirit of UNESCO's Recommendation on Participation by the People at Large in Cultural life and their Contribution to It, taken carefully into account in the formulation and execution of their cultural policies. To this end, they are invited to make the necessary arrangements for artists and their organizations to participate in discussions, decision-making processes and the subsequent implementation of measures aimed, inter alia, at:

- a. the enhancement of the status of artists in society, for example measures relating to the employment and working and living conditions of the artist, to the provision of material and moral support for artistic activities by the public authorities, and to the professional training of the artist;
- b. the promotion of culture and art within the community, for example measures relating to cultural development, to the protection and effective presentation of the cultural heritage, including folklore and the other activities of traditional artists, to cultural identity, to relevant aspects of environmental issues and the use of leisure, and to the place of culture and art in education;
- c. the encouragement of international cultural co-operation, for example measures relating to the dissemination and translation of works, to the exchange of works and of persons, and to the organization of regional or international cultural events.

VIII. Utilization and implementation of this Recommendation

1. Member States should strive to extend and supplement their own action in respect of the status of the artist by co-operating with all the national or international organizations whose activities are related to the objectives of this Recommendation, in particular with National Commissions for UNESCO, national and international artists' organizations, the International Labour Office and the World Intellectual Property Organization.

2. Member States should, by the most appropriate means, support the work of the above-mentioned bodies representing artists and enlist their professional co-operation to enable artists to benefit from the provisions set forth in this Recommendation and to obtain recognition of the status described herein.

IX. Existing advantages

Where artists enjoy, in certain respects, a status which is more favourable than that provided for in this Recommendation, its terms shall not in any case be invoked to diminish the advantages already acquired or directly or indirectly to affect them.

