

# Mapping social dialogue in the commercial live performance sector in Bulgaria, Czechia, Poland, Romania and Serbia

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# Executive summary

This report maps the social dialogue situation in the commercial live performance sector in five European countries: Bulgaria, Czechia, Poland, Romania and Serbia. The sector covers all music, theatre, dance, circus and similar live performance activities run by private for-profit or not-for-profit entities operationally not fully dependent on the public sector even if partly rely on public subsidies.

Precise statistics on the size of the sector in question are not available but existing data point to employment totalling around 100,000 in the five countries, while the number of entities concerned by far exceeds that of public institutions in the sector.

Live performance entities take on a variety of legal forms: from businesses registered under different regimes, to one-person companies, non-governmental organisations and informal groups. It is not uncommon to find the same organisation simultaneously using different legal forms. The large majority of organisations are small, both in terms of employment and financial resources.

Work relations between organisations and individual performers are governed by many different contract types. Regular employment contracts are rare, and the most commonly used contractual arrangements are the ones typical for project-based work, e.g. based on civil law or laws regulating intellectual property rights. The extent of voluntary work and informal work is substantial. Individual performers typically work with several organisations. The scarcity of regular employment contracts translates into often precarious situations concerning social insurance.

Business models vary substantially within the sector, reflecting an interplay of internal and external constraints and opportunities facing performers and performing arts organisations. Project-based work is dominant, leading to short planning horizons. Public funding is important for many organisations, though others use it only to a small extent. The sector has learnt to function and gradually expand despite the inherent instability of important sources of revenue. The sector's characteristics, and specifically its reliance on human interaction between performers and viewers, have made it very vulnerable to the Covid-19 pandemic.

A substantial share of individual performers are registered as self-employed. At the same time, many organisations active in the sector make no use at all of regular employment contracts, blurring any distinction between employers and workers. Indeed, many performers are unable to clearly identify with either.

Trade union membership is low in all countries analysed, and the characteristics of the commercial live performance sector make it yet more difficult to build up any effective trade union representation. Employer associations have been gradually building up their capacities, though membership remains low in the sector. The weakness of trade unions and employer organisations alike is mainly attributable to the prevalence of non-standard employment contracts and the small size of almost all performing arts organisations.

In such an environment the importance of other forms of self-organisation increases. Recent years have seen several attempts to create and strengthen such forms, with partial success. Flexibility to adapt to local conditions and focus on specific problems important to sector stakeholders, the lack of formal requirements on representativeness, and the ability to access funding from various sources are just some of the factors conducive to creating and developing such initiatives.

The weakness of traditional social partners translates into hardly existing formalised social dialogue in the commercial live performance sector. While collective agreements do exist in the live performance sector, e.g. in Bulgaria and Serbia, they apply mainly to the public side of the sector. In Serbia, one collective agreement covers the work of *estrada* musicians and performers in the hospitality sector. At the same time, interesting dialogue initiatives have emerged in recent years outside the formalised national social dialogue framework.

Key barriers to strengthening social dialogue are related to limited knowledge and awareness of its practical modalities, the lack of a culture of cooperation and trust, the weakness of existing bodies grouping individual performers and institutions active in the sector and the lack of time and other resources.

With many stakeholders declaredly interested in social dialogue, broad consensus would seem to exist on topics worth discussing. These relate to funding sources for the sector, pay, making it easier to bring organisations and individual performers together, flexible working arrangements, working conditions more broadly, and social security.

While constituting a major blow to the sector, the Covid-19 pandemic clearly illustrates the potential value of coming together to formulate realistic policy proposals. The sector's weak self-organisation capacity and its consequent inability to advance its interests in a policy dialogue with the government have become evident. In such an environment, the crisis has however stimulated self-organisation, with new organisations representing the sector emerging and membership of existing organisations increasing.

The pandemic has shown the importance of platforms to exchange information and develop practical solutions for the sector, while at the same time giving a strong boost to various forms of dialogue among stakeholders and with public institutions.

Fostering social dialogue is best done from within. Traditional social partners and newly emerging forms of self-organisation are key in this respect. Stakeholders need to be prepared to think out-of-the-box and to adapt to change. The legacy of the pandemic is likely to increase the pace of change impacting the sector. While the future development of work relations is difficult to foresee, the sector is likely to remain defined by the joint efforts of individuals and organisations bound together by diverse formal and less formal agreements. This reality needs to be better understood by those promoting and/or participating in social dialogue.

Traditional social partners will need to leave their comfort zones. At a minimum they will need to find ways to open their doors to stakeholders from the sector's commercial side. Social partners will also need to find ways to better understand and represent the interests of performers with atypical work arrangements and of organisations with complex formal statuses, yet not necessarily having many employees.

## Executive summary

Governments will have a large role to play. In the short term, measures focused on helping the sector to survive the pandemic are key. In the longer term, consistent efforts fostering social dialogue in the sector are necessary, albeit challenging. Consultation and cooperation on support schemes and on the development of post-Covid policies remain important.

European associations could support domestic institutions in the five countries by sharing good practices and specific solutions that have worked well in other countries.



# Introduction

This report is one of the final outcomes of the project initiated by and carried out for the European social partners in the live performance sector. The focus is on five European countries: Czechia, Bulgaria, Romania, Serbia and Poland.

The project and the report aim to:

- Describe the commercial live performance sector;
- Assess the state of social dialogue in the sector;
- Suggest ways for promoting and fostering social dialogue.

For the purpose of this study the commercial live performance sector is understood to cover a wide range of performances delivered in the physical presence of an audience, both for-profit and not-for-profit, fully or partially independent of public funding. It involves in particular theatre, music, dance, circus and other stage productions performed in specialised venues, in public spaces, in venues frequented by tourists, etc. Public-sector entities are excluded from the analysis. However, initiatives partly subsidised by public funds are covered, insofar as they do not fully rely on public funding and remain operationally independent of the public sector as regards e.g. management decisions and applications for funding.

The underlying country research was completed before the outbreak of the Covid-19 pandemic. Given its profound impact on the sector, this report also aims to assess how the crisis could affect social dialogue and to what extent strengthened social dialogue could help shape solutions for the sector's future.

The report is based on a variety of information sources. Building on five country reports, it draws on an extensive review of existing publications, documents and legal acts, the outcomes of five focus groups bringing together sector stakeholders in all analysed countries, several individual interviews, discussions during conferences as well as the outcomes of two online surveys: one for individual performers and the other for organisations active in the commercial live performance sector. The surveys, focus group meetings and individual interviews were conducted mainly between autumn 2019 and February 2020.

# Commercial live performance sector: **a brief overview**

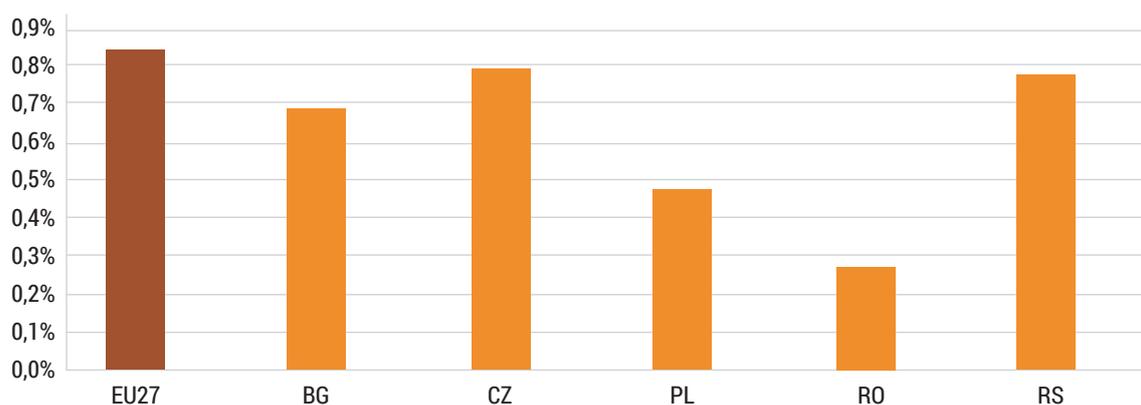


## Size

No comprehensive and reliable data is available that would allow any precise estimates to be made of the sector's size in terms of the numbers of people engaged and organisations. The weaknesses of existing statistics are in part hard to fix, given the sector's relatively small size and hence the difficulty to cover it via general surveys of workers or institutions. At the same time, the variety and flexibility of the sector's institutions mean that the available administrative data, e.g. based on registered sectors of economic activity, is not particularly useful.

As regards employment, labour force surveys provide information on a broader category defined as *persons working as creative and performing artists, authors, journalists and linguists*. Over the last decade, employment in this group has risen in all five countries, as well as in the EU as a whole. In 2018-2019, workers in these sectors accounted for 0.25% of total employment in Romania, 0.5% in Poland, and between 0.7% and 0.8% in Bulgaria, Serbia and Czechia, close to the EU average of 0.84% (Figure 1). There is no data on trends in commercial live performance sector employment, though anecdotal evidence suggests that it has also risen in recent years. Total employment in the sector as a whole rose strongly during the 2010s in all countries, with the possible exception of Serbia. The number of people employed in this broad sector increased by 15% -20% in Bulgaria, Czechia and Poland. Romania recorded a much greater rise, close to 40%, while in Serbia the data points to a mere 5% rise in employment<sup>1</sup>. Assuming that between one third and half of all those employed in the broader category work in the commercial live performance sector, we arrive at an estimated figure of around 100,000 people in the five countries as of 2019.

**Figure 1. The broad statistical category ("people working as creative and performing artists, authors, journalists and linguists") as a share of total employment in 2018-19**



Source: Eurostat, Labour force survey data.

Precise data on the relative size of subsectors is even more difficult to obtain. Existing evidence suggests that music is by far the largest subsector, followed by various forms of theatre. The circus subsector is very small in terms of employment.

<sup>1</sup> The numbers refer to the comparison of 2011-21 average and 2018-19 average. In the case of Serbia the starting point is 2013, as earlier comparable labour force data is not available.

Businesses, organisations and institutions active in the commercial live performance sector take on a variety of legal forms, and indeed are sometimes not formally registered at all. It is hence virtually impossible to precisely assess the number of entities active in the sector. One observation is that, given the very small average size of individual commercial institutions, they outnumber public entities active in the live performance sector by a large margin.

## Key characteristics

The commercial live performance sector is by no means homogeneous. Indeed, even self-identification poses certain challenges. In some countries and live performance subsectors, there appears to be a tension between, on the one hand, more ambitious performing work focused on artistic value and more likely to appeal to a narrow audience, and, on the other hand, performances designed to appeal to a broader public, often with a clearer focus on the commercial aspect. The very term “commercial” has negative connotations in certain parts of the sector.

Another divide is between live performance genres. While connections are clear, some performers and organisations may have little knowledge of and interest in the characteristics and challenges facing other genres. For example, circus performers appear to be outside the focus of many sector stakeholders, and indeed may even not be treated particularly seriously by some.

The commercial sector co-exists with the publicly-funded sector. The complexity of these linkages reflects the different relative public and commercial shares across subsectors or even specific types of performances (e.g. opera vs. pop music). Governments may also pursue policies targeting specific segments. At the same time, public funding plays a sizeable role for several commercial entities.



## Organisations

A feature common to all national sectors is the variety of legal forms of entities present in the market. Businesses registered under different regimes, one-person companies, non-governmental organisations and informal groups are all active in the commercial live performance sector. It is not uncommon to find the same organisations operating under more than one legal form, in most cases to meet formal requirements when applying for various forms of public and private support.

Cities, in particular the largest ones, are home to most organisations. This concentration is a natural reflection of economies of scale and network effects. Maintaining any larger institution requires access to a relatively large audience, which – except for seasonal events, such as festivals – is only possible in cities. Even so, smaller organisations are spread more evenly across the countries analysed. For example, Bulgaria is home to more than three thousand National Cultural and Community Centres "*Chitalishta*", non-profit organisations engaged inter alia in live performance activities. Some 80% of *Chitalishta* are located in rural areas.

From an organisational perspective, festivals play an important role. In Czechia, they are key players in the private performing arts sector, being some of the largest employers, inter alia with regard to regular employment contracts. This is possible thanks to regular public support for selected large festivals. Due to the high seasonality of their work, festivals also work with large numbers of volunteers.

Intermediaries, such as agencies representing performers, appear to primarily work with a relatively narrow group of well-known performers. Field research in the five countries did not allow for estimating the size of this market segment and hence its relative importance for the sector as a whole. One observation is that this segment appears to create several jobs related to organising events, to the technical aspects of performances, etc.

While exact data is not available, the large majority of institutions are small in terms of both employment and finances. For example, Serbian limited liability companies with registered profiles allowing them to be identified as belonging to the live performance sector on average employ fewer than two people. In Romania, the average 2018 headcount of for-profit enterprises in the main performing arts subsectors was around one.

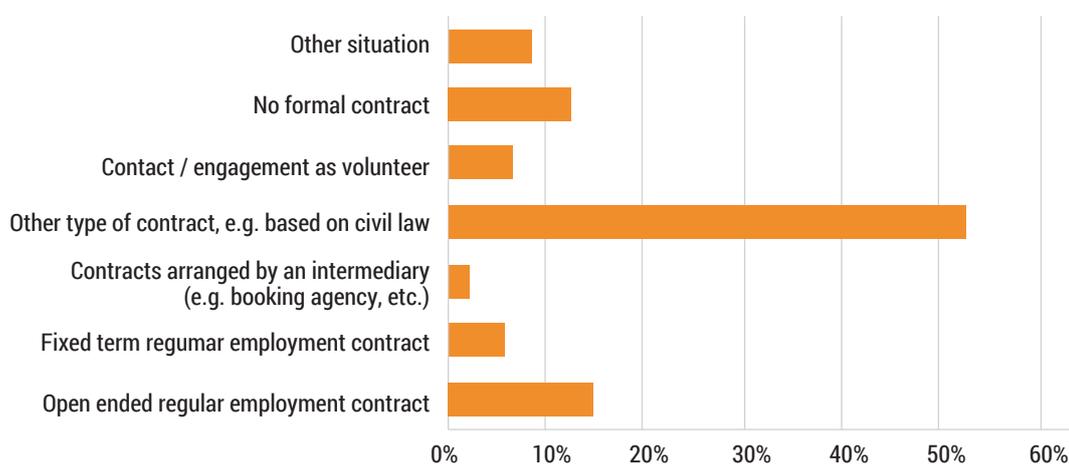
Organisations use different contracts to hire workers (Figure 2). On average, each of the institutions surveyed in the context of this project used two different types of contracts in 2019<sup>2</sup>. Regular employment contracts were rare. Among institutions surveyed, just over 10% indicated that this was a dominant way of hiring workers, while more than two-thirds didn't use such contracts at all. Contracts typical for project-based work (e.g. based on civil law, and related more to regulating copyrights than working conditions) dominated in around half of all institutions surveyed.

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**2** One project activity involved conducting closely synchronised surveys of institutions and individuals. The non-existence of relevant registers from which respondents could be randomly selected, in combination with budgetary constraints, means that the surveys cannot be treated as statistically representative. This is reflected in this report through its focus on qualitative findings. Furthermore, all percentages in the text are based on survey respondents (and not underlying populations) and cited as rounded numbers.

Voluntary work was also prevalent. Around a quarter of all surveyed institutions pointed to the absence of a formal contract as being the prevailing form of hiring workers in 2019, in contrast to 10% for formal contracts. Somewhat surprisingly, such responses were not confined to the smallest institutions, but covered all sizes, possibly reflecting a non-negligible scale of informal employment in the sector or other phenomena. The issue is worth further exploration.

**Figure 2. Incidence of prevailing contract type used by organisations in 2019 – survey results**



Source: Survey of institutions carried in five analysed countries.

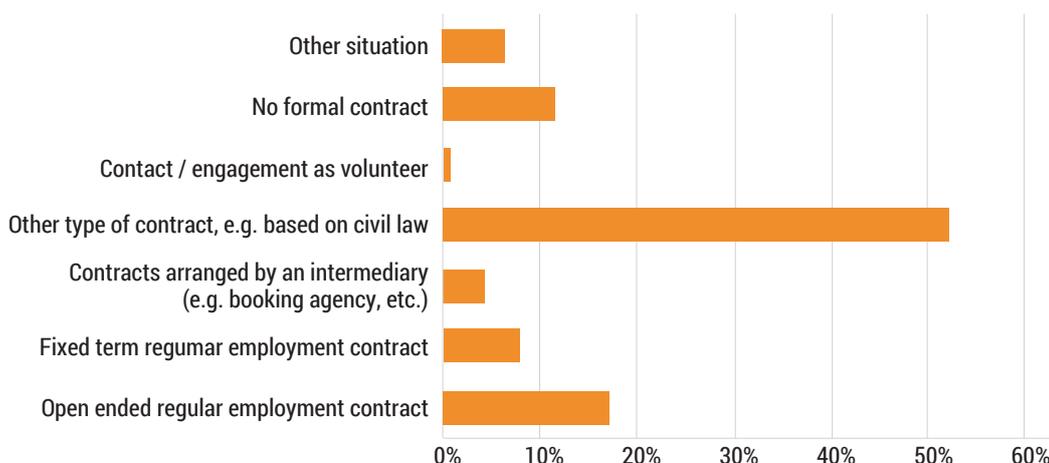
## Individual performers

The distinction between institutions and individual performers is often blurred. One third of performers surveyed indicated that in 2019 they were also registered as entrepreneurs in the live performance sector. This includes self-employment. This, together with the substantial variety of contract types discussed below, translates into a great diversity in the situations of individual performers.

Multiple workplaces are common. People often have a second job in another commercial live performance entity, whether public or private, or outside live performance, either related to the core activity (e.g. teaching music) or totally unrelated. Half of those surveyed indicated that in 2019 they worked for at least 4 different organisations. This includes close to one-third who worked for at least 7 different organisations.

Regular employment contracts in the sector are rare. Only around 15% of those surveyed indicated that they had an open-ended regular employment contract (Figure 3). For those on such contracts, it typically provided the main source of income. By far the most popular contract types were ones based on civil, copyright or other laws, i.e. not regulated by the labour code. Close to 80% of those surveyed had signed such contracts in 2019, and for just above half, they constituted the main source of income. Situations where no formal contract existed appeared to be quite common. Close to one-third of performers worked this way in 2019, while around 10% indicated that most of their income was generated this way. This is consistent with the results of the survey of institutions discussed above.

**Figure 3. Incidence of prevailing contract types used by individual performers in 2019 – survey results**



Source: Survey of individual performers carried in five analysed countries.

Given the low incidence of regular employment contracts (and country-specific rules for self-employment, free professions, etc.), the social security situation of many people can be described as precarious. They have few chances of securing decent pension benefits in the future, while in some cases, they also face issues with sickness or health insurance. The importance of issues related to social security was stated by several interviewees.

## Business models

Reflecting the diversity of the commercial live performance sector, business models differ widely, with no dominant model emerging from our analysis of the situation in all five countries. Combining various approaches is popular.

Project-based work is common for both individuals and organisations. In part this simply reflects the key characteristics of live performances, where certain circus, theatre or music programmes are first designed and then presented to the public in one or several locations before going off the scene. This implies that specific groups of performers often come together only for a given show. More importantly, for several institutions, funding is primarily linked to the success or failure of specific projects. This may reflect a show's popularity with the audience but also its relative success in securing funding from public or private sector sponsors. All this implies limited financial stability, a concomitant difficulty in making longer-term investments (e.g. in equipment, venues, etc.), and competition going beyond purely artistic criteria.

Even though by definition this report excludes 100% public-funded entities and with no operational autonomy, public subsidies play an important role for many institutions. Close to 40% of respondents in a survey reported that such subsidies accounted for the largest share of their 2019 budgets (Figure 4). There are major differences between institutions in the role played by subsidies, with a significant share of market participants not relying on them to any great extent.



Links to the hospitality sector are key for some segments. Performing at festivals (see below) or in restaurants, hotels and other venues frequented by tourists is an important source of income for many musicians. An illustrative example of this highly successful – also in financial terms – niche activity is the so-called black light theatre scene in Prague. Originating in Asia, this artistic form uses a darkened stage, ultraviolet light, fluorescent costumes and other techniques to create impressive visual illusions. It has become a popular tourist attraction in Prague, enabling this type of theatres to thrive and evolve without public subsidies. Another illustration of the importance of the link between the two sectors is the fact that, in Serbia, the only collective agreement directly involving the commercial live performance sector covers a popular segment of music and the hospitality sector.

Apart from often being important institutions and employers in their own right, festivals are an important element of the commercial live performance ecosystem. They are crucial venues for the circus and street theatre scene. Festivals also foster networking: bringing together many stakeholders, they create opportunities for the commercial live performance sector and beyond. This also helps secure financial support from the municipalities where they take place, as well as subsidies from the state, business and other stakeholders. The largest music and theatre festivals provide an important outlet for well-known groups and artists and act as a catalyst, attracting large audiences. By way of example, in certain years the Guča Trumpet Festival in Serbia was estimated to have attracted around half a million visitors, while the 2018 Open'er festival in Gdynia, a city in northern Poland, attracted some 140,000 people. The EXIT Festival in Novi Sad, Serbia, reports hosting some 600 performers annually. At the same time, hundreds of smaller festivals accessible to local audiences provide a venue for less well-known performers and groups to present themselves. These events often become important elements of local promotion strategies attracting tourists to a region, hence generating significant income for the regional economy and contributing to the promotion of the region.

In some segments, touring is an important element of commercial strategies. This is related to both linkages with the hospitality sector and the role of festivals. For example, some musicians regularly play at tourist spots abroad, mainly in the summer. While the aggregate scale of touring throughout the sector is difficult to assess, it is clearly an important element of the strategies of certain institutions and individual performers, for instance in the contemporary circus segment.

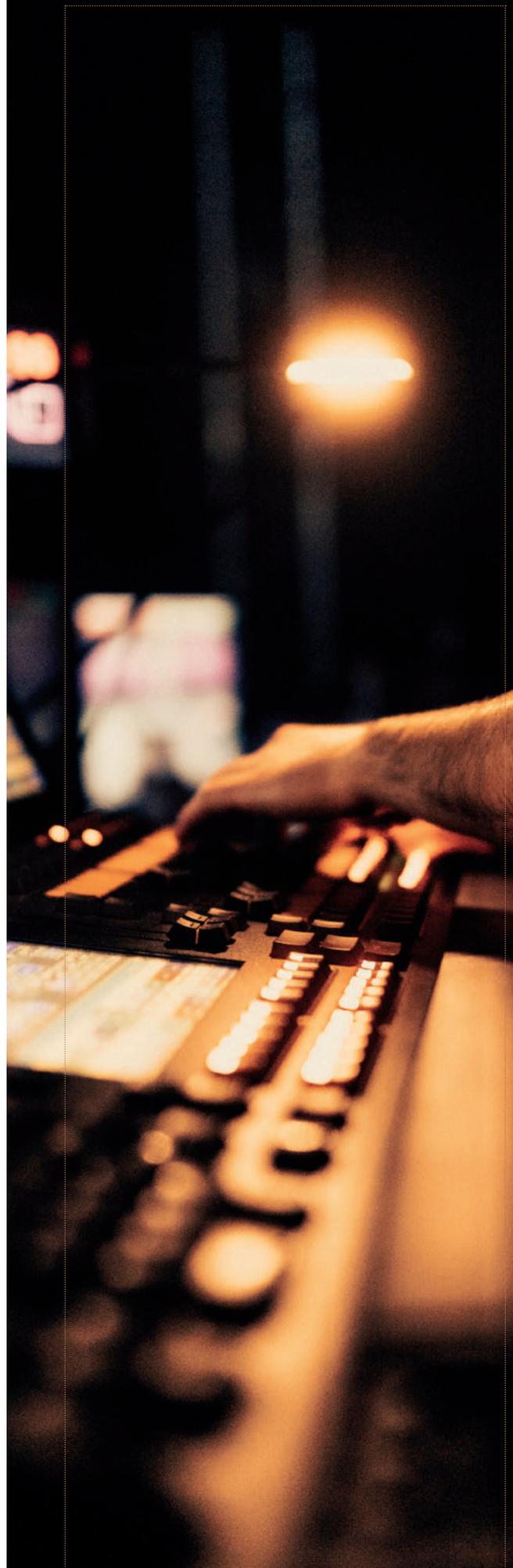
For individual performers, the search for a certain degree of work security and predictability is an important factor governing career decisions. One strategy reported by several people in all five countries is to secure regular employment in a workplace not belonging to the commercial live performance sector. This can be a public live performance institution (e.g. a philharmonic orchestra), a different public-sector cultural institution (e.g. a music school) or any other type of employer, not necessarily directly linked with live performance sector. In the survey of performers, around 40% of respondents indicated that the largest share of their 2019 income came from activities other than live performance, while only a quarter reported that live performance activities were their sole source of income. For some, combining a regular job with the freedom to perform live was considered the optimal solution.

There are several examples of successful private institutions, mostly in the music and theatre subsectors. Especially in music, they often build on the status of individual stars able to attract mass concert audiences.

Successful private theatres base their strategies on a combination of ticket sales and grants from various sources. Some also benefit from the involvement of well-known actors or directors, while others have built their reputation in a different way. Many theatres have "no fixed address", as a permanent venue incurs fixed costs, in turn necessitating a larger scale of operations, a model for sharing costs with other users, or their fixed-cost coverage by other sources.

Crowdfunding has started to make inroads in recent years. One important aspect of this innovative source of funding is that it builds new types of bonds with an audience, in many cases favourably impacting an institution's long-term prospects. Such initiatives are to be found particularly in Czechia and Poland. The Covid-19 pandemic has provided a boost to this type of funding, as it appears well-suited to online delivery models applying a *pay what you want* pricing strategy.

In summary, business models differ substantially within the commercial live performance sector, reflecting the interplay of internal and external constraints and opportunities facing performers and performing arts organisations. The sector has learnt to function and gradually expand despite the inherent instability of key sources of revenues. The very characteristics of the sector, i.e. its reliance on human interaction between performers and viewers, have made it very vulnerable to the pandemic crisis. At the same time, certain elements of popular business models (e.g. linkages with the hospitality sector) have further aggravated the crisis.



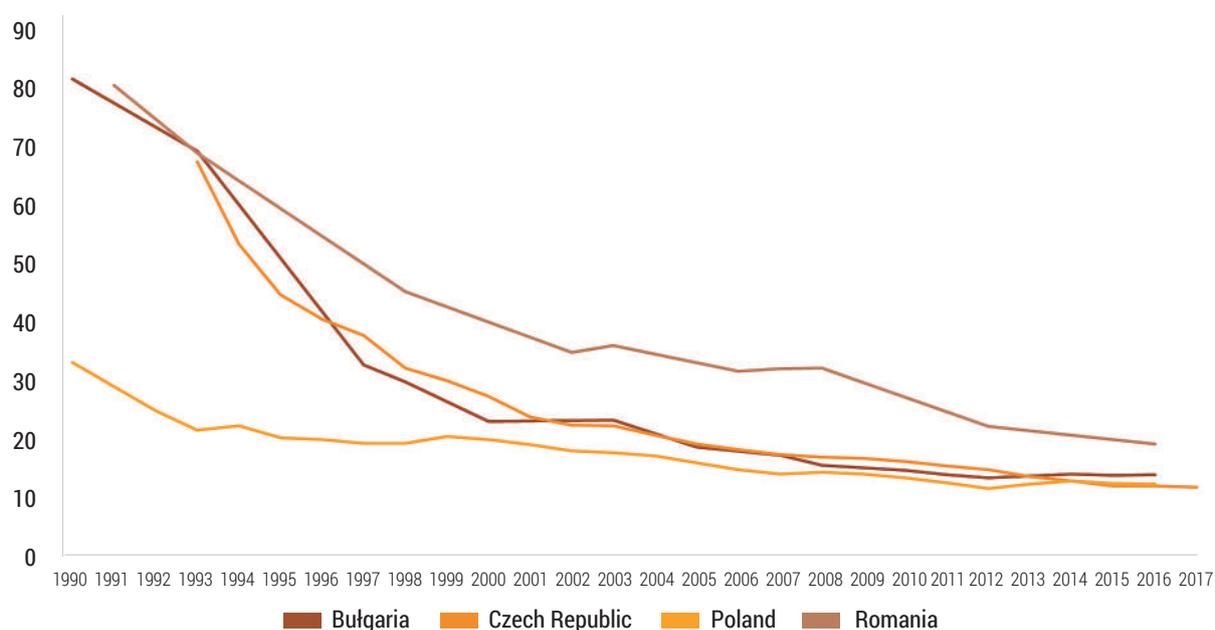
The image features several black silhouettes of dancers in various dynamic poses, set against a vibrant background. The background consists of a glowing tunnel of light, created by a series of concentric circles of small, bright yellow and orange lights that recede into the distance. The overall color palette is warm, with shades of gold, orange, and red. The text is centered in the upper half of the image.

**Social dialogue**  
in the commercial live  
performance sector

## Existing social partners

The five countries covered in this report share a broadly similar economic history, all having transitioned from socialist systems some 30 years ago. One element of this transition was a significant weakening of the role of trade unions, with membership levels falling rapidly in the 1990s. In more recent years, there have been a few weak signs of a trade union revival, though the unionisation rate has plateaued or continued to slowly decline (Figure 6).

**Figure 6. Overall unionisation trends 1990-2017 (% of wage and salary earners)**



*Note: Data for Serbia is not available in the source used. Source: J. Visser, ICTWSS Database, version 6.0. Amsterdam: Amsterdam Institute for Advanced Labour Studies (AIAS), University of Amsterdam. June 2019*

The rising roles of microenterprises and non-standard work arrangements are two important factors making conditions less conducive for the functioning of trade unions. These factors are particularly relevant in the commercial live performance sector. Of the individual performers who participated in the survey, just 10% declared that they belonged to a trade union. This share was even lower in Czechia. Moreover, given that several performers have multiple employment relationships, including with public-sector institutions, trade union membership may well be linked with such regular employment (e.g. in a national orchestra, at a public music school, etc.) rather than with the commercial live performance sector.

In some countries, existing legal provisions or prevailing practices make it difficult for people without a regular employment contract to join a trade union. Romania has had a lively discussion on this issue in recent years. In several countries, high thresholds exist for unions to gain representative status and hence to be allowed to participate in formal social dialogue processes at company, sectoral or national level. For example, current regulations in Romania require membership of more than half of a company's employees for a trade union to be allowed to negotiate collective agreements.

At sector level, the minimum threshold is 7%. In practice this is difficult to attain due to a combination of three factors. First, a minimum of 15 people from the same company are needed to set up a trade union. A second and strongly related point is that almost all entities active in the commercial live performance sector have less than 15 employees (in fact less than 10 employees). Third, the delineation of sectors at which sectoral dialogue can take place considers live performance as part of the much larger "culture and mass media" sector.

Among existing trade unions, membership is often largely confined to employees of public live performance institutions. Czechia and Romania are good examples of this, though it also applies to Poland. This is again due to the fact that regular employment contracts are rare in the sector. In other cases, membership may be relatively large in some subsectors, while low in others. By way of example, Serbia's autonomous trade union of *estrada* artists has around 7,000 members and the status of a representative trade union. At the same time, trade union representation of groups such as folk dancers or new circus performers remains weak.

On the part of the institutions, the political and economic transition of the 1990s created the right conditions for the emergence of meaningful employer associations. In most of the countries analysed, these institutions have been gradually building up capacity and learning to better represent their group interests. This also applies to the commercial side of the live performance sector.

At the same time, the above-discussed characteristics of the live performance sector create barriers to the emergence of any strong representation of entities active in the sector. The key factors are their very small average size and the fact that many focus on surviving or developing within an often narrowly perceived market. In addition, few of these institutions employ people on regular employment contracts and hence do not necessarily perceive themselves as employers. All this is not conducive to any meaningful engagement in employer associations.

Among organisations that participated in the survey, less than 8% declared that they belonged to an employer association. Most of these were based in Romania and Bulgaria, while in the other countries this share was minimal. Importantly, only below a quarter of institutions not belonging to an employer association declared interest in joining one.

One could argue that rigid and formalised modalities of legally defined social dialogue make it difficult to cater for the needs of such sectors as the live performance sector. To a certain extent, this also applies to the existence and functioning of trade unions and employer associations.

## Other forms of self-organisation

The weakness of traditional trade unions and employer associations in the sector increases the importance of other forms of self-organisation. In the countries analysed, several attempts have been seen in recent years to create and strengthen such institutions, with partial success. Flexibility to adapt to local conditions and to focus on specific problems important to sector stakeholders, a lack of formal representativeness requirements, an ability to access funding from various sources are factors conducive to creating and developing such initiatives. In some circumstances, a more favourable perception of non-governmental organisations compared to trade unions may also play a role in determining their ability to attract members. Even so, the lack of a formal social dialogue framework may limit the effectiveness of such institutions in achieving their labour market-related objectives.

The box below provides some examples of initiatives aimed at providing a forum for dialogue between sector stakeholders.

### **Box 1. Examples of organisations without formal trade union or employer association status that represent sector stakeholders and engage in social dialogue**

The Bulgarian Music Association established in 2012 has been involved in lobbying for legislative solutions and in other activities protecting the interests of professional musicians of all genres. In early 2020 it had around 600 members.

Another Bulgarian entity, the ACT Association for Free Theatre, represents both individual artists and non-profit organisations engaging in theatre and other forms of performing arts. The organisation has been lobbying for better conditions for freelance performing artists, higher public subsidies for the independent theatre and performing arts sector, and preferential treatment for independent companies to use the existing theatre infrastructure.

In Czechia, the Dance Career Endowment Fund established in 2015 is an example of a private initiative providing psychological and advisory services for dancers. It has also tried to engage in a dialogue with the government on alternatives for a pension fund for dancers.

In Poland, the Association of Polish Theatre, Film, Radio and Television Artists (ZASP) has been engaged in various forms of dialogue, mainly with public administrations responsible for cultural issues. In 2009, ZASP participated in the initiative of the International Federation of Actors (FIA) and the International Federation of Musicians (FIM) to develop the Manifesto on the Status of the Artist.

## Social dialogue - state of play

Not much formalised social dialogue takes place in the commercial live performance sector. This comes as little surprise given the weakness or non-existence of traditional social partners. Dialogue trends at country levels have had their ups and downs related to various factors, including domestic political developments.

There are examples of collective agreements in the live performance sector in Bulgaria and they largely apply to the sector's public side. In Serbia, there is a collective agreement defining the working conditions of *estrada* music artists and performers in the hospitality sector. However, its modalities and the way in which it is applied in practice are controversial. On the one hand, it sets minimum pay and provides for social insurance for performers. On the other hand, those wanting to perform in a hotel or restaurant need to have a freelancer status determined by two representative artists' associations or to possess certificates of their professionalism issued by an existing trade union. However, obtaining a certificate generally requires union membership, i.e. with performers thus incurring the associated annual fees. This leads to frustration for example among formally trained musicians and those interested in occasionally playing for fun in clubs or restaurants. Some performers seem to consider the hassle associated with obtaining this official status more cumbersome than any potential benefits deriving from the collective agreement.

Several interesting dialogue initiatives have emerged over the last few years involving various sector stakeholders. While their focus may sometimes be narrow and lacking the broader socio-economic perspective that established social partners may have, such initiatives deserve attention as their flexible dialogue formats seem well suited for the sector.

There appears to be broad interest in dialogue. Some two-thirds of the institutions participating in the survey saw a need for dialogue, while only 13% saw none. Among individual performers, support was even stronger, with close to 90% confirming such a need. Less than 5% saw no need.

## Key barriers to dialogue

The combination of relatively broad interest in dialogue with the limited extent of observed dialogue suggests the existence of certain barriers. Their identification is not always straightforward, even for sector stakeholders themselves. In particular, less than half of institutions responding to the survey indicated they saw no barriers to social partner dialogue. Around a third had no views as to whether barriers to dialogue existed, possibly suggesting that many people do not give much thought to the issue.

The broad picture emerging from the interviews and surveys is that key barriers to dialogue are related to limited knowledge and awareness, the lack of a culture of cooperation and trust, the weakness of the sector's existing representative bodies, and a lack of time and resources to engage in dialogue.

Several interviewees and respondents viewed conflicts of interests between representations of workers, institutions and other stakeholders as a barrier rather than a topic and opportunity for dialogue. This is often related to a lack of trust in the capacity of existing institutions and in the good will of other stakeholders.

Given the limited general knowledge on the functioning and potential of social dialogue, a lack of dialogue blueprints and low union/employer organisation membership, it is not surprising that several respondents indicated a lack of time as a barrier in itself. Few people are active members of social partner organisations and those who are find themselves overstretched and have difficulties in maintaining a balance between their own professional work and any organisational work. With many performers and representatives of performing arts institutions struggling to make ends meet, they have little time to spare to engage in activities bringing the sector together.

Combining the roles of performing arts managers and performers in one and the same person could be seen as a potential way of supporting dialogue. However, the interviews suggest that this also constitutes a barrier. Not seeing themselves as employers, several institutions saw no point in discussing issues relevant for work relations, as they do not see them as applying to their situation. This is also not necessarily a natural topic for numerous performers who are simultaneously self-employed and run micro enterprises or non-governmental organisations.

State and local public institutions are often seen as key players and interlocutors with the requisite power and capacity to solve some of the challenges facing the commercial live performance sector. This makes public-sector institutions a natural partner for dialogue. In some places this is organised in an inclusive format and could in principle become a good starting point for regular dialogue between performers and performing arts organisations. Certain Polish cities, including Warsaw, where regular meetings take place could serve as an example here. However, participants are mostly non-governmental organisations, thus limiting the possibilities to discuss topics more directly related to the labour market situation. Overall, there do not appear to be many positive spill-overs from such meetings with the public sector conducive to establishing broader dialogue forums involving all commercial live performance stakeholders. For now, the significant role played by the public sector in financing the commercial live performance sector, together with sector perceptions on public institutions' role, appear to act as barriers to the development of social dialogue.

## What could stimulate dialogue?

Given the attitudes towards dialogue and the perceived barriers hampering its development, it is important to identify possible factors conducing sector stakeholders to come together to openly discuss important issues and try to find solutions benefiting the sector in general. Several solutions appear to be promising in all analysed countries.

Discussed in greater detail below, economic developments directly affecting the sector clearly have an impact on attitudes towards social dialogue, as illustrated by the extreme case of the Covid-19 pandemic. A more general lesson stemming from this experience is that country-specific strategies promoting social dialogue should take into account socio-economic conditions prevailing at the time of their preparation.

Potential gains from dialogue need to be well understood by stakeholders before they become willing to invest time and other resources. Such understanding can be promoted in different ways. A good starting point is to publicise examples of practical solutions ("good practices") adopted in other countries or at a local scale in the same country. These would highlight specific dialogue results that have benefitted the parties involved and the sector as a whole. A related issue is to understand which rights could be agreed on as a result of such dialogue, both in a bilateral format and in a format involving the authorities responsible for culture. Many individual performers in the five countries do not appear to have a vision of what could change in their situation. Even when such visions exist, they are sometimes unrealistic, relying solely on public policy interventions difficult to implement in practice. This calls for educational action explaining the market forces at play, key rules for shaping social insurance and labour market policies, examples of solutions adopted elsewhere, and options for public policies and the associated constraints. As an illustration, demands concerning pension rights become more realistic when they take account of the rules governing national pension systems. In countries where pension benefits are dependent on contributions accumulated throughout a working career, solutions focused on increasing such contributions (including subsidies from public resources) may be more realistic than calls for establishing separate pension systems for performers.

Another key precondition is the sufficient capacity of social partners. This is difficult to achieve when certain size thresholds cannot be reached. Hence, the role of measures encouraging the self-organisation of institutions active in the sector as well as trade union membership. In the case of the latter, this would be also linked to a change in trade unions' focus. Their current membership structure sees them mainly representing the interests of performers employed in public-sector institutions, a fact unlikely to change without a visibly increased membership of performers from the commercial side of the sector.

Even with increased membership, effective dialogue hinges on the appropriate analytical, operational and administrative capacity of partners representing sector stakeholders. The existence of and access to basic data on relevant sections of the sector are important from this perspective. The development of skills directly applicable to the dialogue process itself, including negotiation skills, is also important.

The sector's characteristics make it unlikely that traditional social partners will be able to represent all stakeholders, even if trade union/employee association membership were to increase significantly. This calls for an open-minded approach to social dialogue, recognising various non-standard self-organisation forms, inter alia reflecting different formal statuses. The dialogue itself can also be organised in multiple formats practical and attractive for all involved.

Finally, the issue of trust is clearly of paramount importance, as it influences the ability of institutions and people to cooperate, select their representatives and be open about individual interests. It is also necessary to accept consensus solutions, and also to accept situations where no agreement could have been reached. Building such trust is not easy and problems in this sphere go well beyond any specific sector of economic or cultural activity.

## The dialogue topics most important to stakeholders

A sine qua non for any dialogue is that the parties involved want to or at least see a point in discussing certain issues. Without topics of common interest, it would clearly be difficult to expect any great involvement. In the case of the commercial live performance sector there appears to be a broad convergence of relevant topics. In fact, apart from certain exceptions, organisations and individual performers came up with broadly similar lists of issues where dialogue could be helpful. Table 1 illustrates this with a survey-based ranking, where institutions and individual performers were asked to indicate up to three topics that they considered most important or useful to discuss and negotiate.

**Table 1. Main topics for discussion indicated by organisations and individual performers – survey-based overview**

Responses of live performance organisations	Responses of individual performers
Funding sources for the live performance sector (61%)	Pay (62%)
Pay (52%)	Working conditions (50%)
Finding workers with adequate skills / finding employers (46%)	Funding sources for the live performance sector (39%)
Flexibility of work arrangements (29%)	Social security, pension contributions (37%)
Social security, pension contributions (27%)	Finding workers with adequate skills / finding employers (31%)
Working conditions (25%)	Equal opportunities (21%)
Equal opportunities (11%)	Flexibility of work arrangements (16%)
Working abroad (including double taxation problems) (10%)	Working abroad (including double taxation problems) (13%)

*Notes: percentages denote the share of all respondents in the respective group selecting a given topic among the most important. Up to three topics could be selected by each respondent. Source: online surveys of institutions and individual performers.*

The topics selected by at least a quarter of both individual performers and organisations active in the sector are almost identical. The differences in their rankings are generally intuitive, with institutions focused more on finding funding than individual performers, while the latter are focused more on pay and working conditions. Finding employers or workers with adequate skills was listed by large shares of both side, meaning that this could be a relatively easy and non-controversial topic to start with, given that interests converge and the underlying problem is the same for both sides.

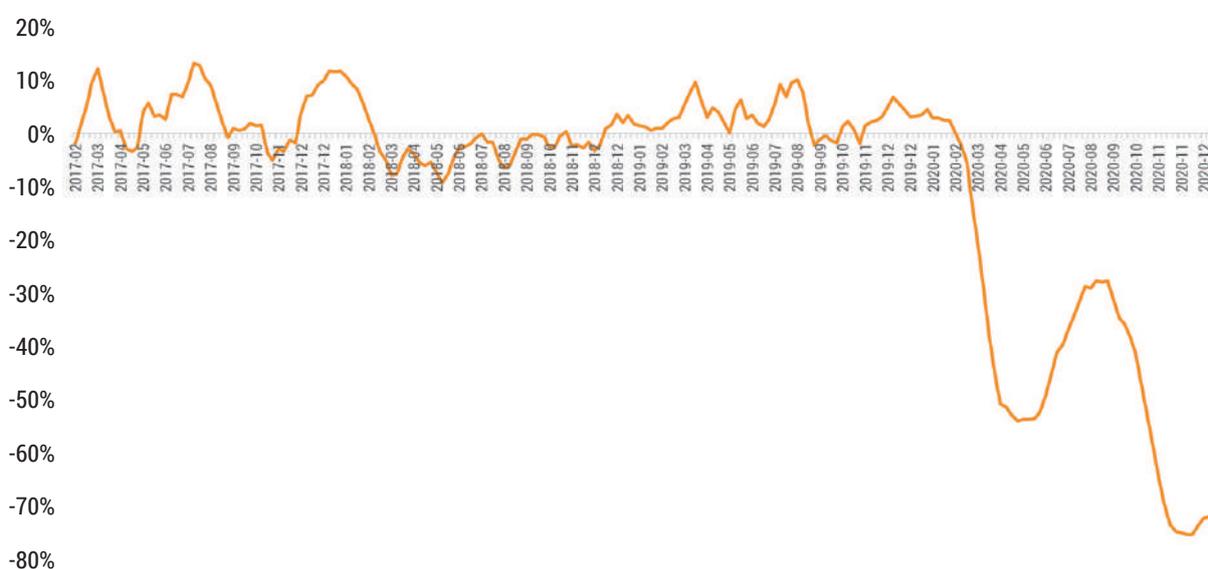
The interviews largely confirmed the survey findings. Similar topics were important to stakeholders from all five countries. Naturally, some country-specific issues were also mentioned. Among topics not covered by the survey questionnaire, issues related to the beginning and end of performers' careers were mentioned by stakeholders from Czechia and Bulgaria. More specifically, suggestions concerned support frameworks for young talents and support in re-skilling and starting a new career for performing jobs where careers are often short, such as some forms of dance and circus.

## The Covid-19 crisis and social dialogue

This report has no intention of describing in depth the impact of the COVID-19 pandemic on the commercial live performance sector, even if it was clearly among the most affected sectors, together with those where direct person-to-person interaction is key, such as the hospitality sector.

One way to illustrate the scale of the shock to the sector is to examine the online search data on such specific search terms such as "theatre" or "concert" (Figure 7), even if this is likely to underestimate the true impact, given that the pandemic generated increased demand for performances presented online.

**Figure 7. An illustrative example of the Covid pandemic's impact on the live performance sector: annual percentage change for Google searches of the term "theatre" in five countries, 2017-2021**



*Note: Percentages changes are calculated for six-week average values of the number of searches.  
Source: Own calculations based on Google trends data.*

At the time of finalising this report it was impossible to predict how long lockdowns, curfews and other Covid-19 measures will continue to affect audiences' interest in live performances. It is also difficult to predict what long-term effects they will have on the sector.

For example, going online involves both opportunities and risks. In the short term, the viability of such a strategy depends on existing legal provisions and standards, the technical quality of the audiovisual documentation collected so far, and the relative suitability of specific performance types to be offered online while maintaining their attractiveness for an audience.

The crisis has underlined the value of reliable information on the private performing arts sector. Limited information on its size, business models and modes of operation might have negatively affected the ability of governments to design effective and efficient measures supporting the sector. The situation in Poland serves as an illustration. A €90-million support programme was launched in October 2020. The recipients of the support were announced in mid-November, quickly resulting in a public scandal, followed by a decision to put the programme on hold and urgent review of all the payments. Weaknesses in the scheme's design were related to confused definitions of key economic concepts (lost revenue was taken as a criterion rather than lost income) taking no account of fixed costs and defining furlough-related conditions in a way advantageous to one-person companies<sup>1</sup>. One can only hope that reports like this one (and the country background reports) will be useful in filling information gaps.

The importance of the sector's ability to come together and formulate realistic and specific policy proposals has also become very clear. The developments in Romania (but also in other countries), especially at the beginning of the crisis, have revealed the sector's self-organisation weaknesses and their impact on its ability to advance its interests in a broader policy dialogue with the government.

It is clear that the crisis has greatly stimulated the self-organisation of stakeholders in the commercial live performance sector, whether in the establishment of new organisations representing the sector or in a significant increase in the membership of existing organisations. Examples of newly created organisations include the Platform for Independent Musicians and Classical Music Ensembles in Czechia, the Union of Independent Theatres in Poland, the Association of Workers in the Live Entertainment Industry in Romania, or the Association of Promoters and Ticketing Agencies in Serbia. The trend towards self-organisation appears to have been weaker in Bulgaria, though even there examples are to be found, such as the creation of the Union of Freelance Artists.

The pandemic has underlined the importance of platforms for exchanging information and working on practical solutions for the sector. It has also provided a strong boost to various forms of dialogue among stakeholders and between stakeholders and public institutions. Several examples illustrate this trend. The Czech ITI Centre, a platform bringing together existing professional organizations, representatives of theatre and dance education institutions and individual members has played a coordinating role in discussions with the state administration on COVID-related support measures. In Poland, an expert committee on the situation of theatres has been established, bringing together representatives of public and private theatres, non-governmental organizations, as well as trade unions, all with the aim of coming up with proposals for developing adequate support for the cultural sector. In Romania, the Association of Organizers of Concerts and Cultural Events has been among the key representatives of the sector voicing joint problems and needs in dialogue with the government.

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<sup>1</sup> For details see e.g. P. Słowik (2020), Kryteria Funduszu Wsparcia Kultury, czyli jak bracia Golec dostali od państwa prawie 2 miliony, (<https://bezprawnik.pl/bracia-golec-dostali-od-panstwa-prawie-2-miliony/>) and Ministry's responses at <https://www.gov.pl/web/kultura/fundusz-wsparcia-kultury/> that appear to confirm most of design problems.

Also worth mentioning are support measures initiated by sector stakeholders themselves and aimed at supporting those most affected by the pandemic. For example, in Serbia six non-governmental organisations set up the Solidarity Fund for Cultural Workers in July 2020, launching a call for applications for short-term financial aid for artists and cultural workers.

The potential to build the sector back better after the current crisis appears to depend largely on an open dialogue among sector stakeholders<sup>2</sup>. Though not attempting to develop foresight for the live performance sector and its commercial side, what is clear from this report is that certain changes to the sector's functioning are likely. Some commercial organisations will probably disappear from the market, while other performers may choose to or be forced to change their professional careers. Pandemic developments and potential behavioural changes in consumers' cultural practices are hence likely to lead to certain changes in the sector's structure. One important question concerns the future role of public funding in the performing arts. Following a significant expansion of the state's role in the sector during the pandemic-related lockdowns, it remains to be seen to what extent a level playing field will continue to exist for public and commercial entities during the expected recovery. In some countries, such as Poland, governments may be tempted to increase their role beyond nurturing and promoting culture, possibly trying to use their financial leverage to promote elements of their political agenda. On the other hand, greater transparency regarding commercial institutions' finances may make it easier for them to build business models relying on audiences and private sponsors. There are also many questions on the future role of online delivery channels for the commercial live performance sector.

The pandemic has made it easier for the sector to come together, engage in dialogue and come up with joint positions, in part due to the nature of the shock. Lockdowns have hit the sector hard, leading to job losses among performers. The particularly difficult positions of those without regular employment contracts and/or with subpar social insurance coverage have vividly come to light. The crisis has largely aligned the interests of individual performers and their employers. Though such a situation is unlikely to last long, it is to be hoped that the links established during these unprecedented times, the trust built between partners, and the analytical and organisation capacities developed rapidly will remain in place, helping to jointly shape solutions for the post-Covid commercial live performance sector.

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**2** The concept of building back better has entered the international discourse in the context of post-disaster support measures. It was e.g. used in United Nations work after the 2004 Indian Ocean tsunami. The key is to achieve resilience through stronger, faster, and more inclusive post-disaster reconstruction. See e.g. Hallegatte, Stéphane; Rentschler, Jun; Walsh, Brian (2020), *Building Back Better: Achieving resilience through stronger, faster, and more inclusive post-disaster reconstruction*, World Bank.



Recommendations:  
social dialogue **for a stronger**  
**live performance sector**

The project's original aim was to map social dialogue in the commercial live performance sector and to propose ways to improve it. While the sector itself had been generally developing robustly, the social dialogue picture was relatively static, as reflected in several sections of this report. The Covid-19 pandemic and policy response measures aimed at limiting its devastating health impact have wrought havoc on the sector, bringing it to a virtual halt since spring 2020. This new reality is reflected in the formulated recommendations for dialogue.

These recommendations are meant as an invitation for further reflection. They should not be seen as a one-size-fits-all magic formula. First, substantial uncertainty remains concerning the conditions facing the sector in the short and medium term due to the difficulty in predicting how the health situation will unfold. Second, other common and country-specific factors may be at play in individual countries, requiring strategies to be adjusted. Finally, and most importantly, fostering any dialogue is best done from within. Traditional social partners and newly emerging forms of self-organisation are the only ones able to engage in dialogue, hence they themselves need to be clear on their objectives and preferred ways of achieving them.

Balancing short- and long-term goals is important. This does not necessarily apply to dialogue formats, as in this case the pandemic has for the most part aligned the short-term interests of both sides. However, when thinking about the future role of social dialogue in the sector, this is an important consideration. For instance, focusing solely on “easy” dialogue topics with almost full convergence of views may lead to disillusionment later.

Stakeholders need to be prepared to think out-of-the-box, in the awareness that the sector cannot be viewed statically. It has undergone massive changes in recent times. Radio, TV, records, CD discs and then internet have all left their stamp on the live performance environment. Leading to lockdowns at a time of almost universal fast internet access, the pandemic has the potential to change the sector again – in ways difficult to predict. It can open up new opportunities, while at the same time creating new challenges.

One important challenge is to adapt social dialogue modalities to the changing world of work. The future remains uncertain: while some forces may act to encourage the regularisation of employment contracts in the sector, others may have the opposite effect. Whatever the case, the sector is likely to continue being shaped by the joint efforts of individuals and institutions bound by a whole range of formal and less formal agreements. This reality needs to be better internalised by proponents of social dialogue.

Building trust among stakeholders remains an important long-term challenge. In this particular sphere, the legacy of the pandemic may have some positive effects. In the face of a common shock, various stakeholders have realised that they need to join forces and work together. In many instances this has indeed happened. Experience gained through this cooperation is likely to build confidence in the value of cooperating. At the same time, trust-building is a process that can be expected to carry on for many years or decades, naturally with some reversals.

Fostering self-organisation in the sector remains important. Here again, the Covid-19 legacy may help to some extent. Ad-hoc organisation formats that have emerged during the pandemic may become a promising base to build on. The challenge remains to make these self-organisation initiatives more permanent and to broaden their agenda without losing the flexibility key to their initial creation. The potential for pitfalls in this area should not be underestimated.

The traditional social partners will need to leave their comfort zones. At a minimum they will need to find ways to become more inclusive and more open to stakeholders from the commercial side of the sector. In the post-pandemic world this will be closely related with another challenge: social partners will need to find ways to better understand and represent the interests of performers with atypical work arrangements and of institutions with complex formal statuses, not necessarily with many employees. This makes effective representation more difficult, hence the challenge of creating easy-to-use communication channels for reporting members' problems and ways of working out joint positions.

Governments have a large role to play. As documented in this report, they were already providing substantial financial support to the commercial live performance sector before the pandemic. The recent crisis has in many cases made governments the funders of last resort, similar to the situation in several other economic sectors. At the same time, the public sector has responsibility for many public-sector live performance institutions, most of which have also lost other sources of revenue. This creates a complex challenge for governments. They need to provide a lifeline for the live performance sector as long as necessary. At the same time, they need to ensure a level playing field between public and private entities and between different subsectors (hit to a somewhat different extent), a task that is particularly complex in a sector where the monetary value of products is no guide to their underlying value. Governments also need to resist the temptation to exploit their increased role in the sector to promote their own political agendas. In such an environment, implementing a consistent policy fostering social dialogue is certainly challenging. Yet this is precisely what needs to be done. Regularly seeking consultation and cooperation on support schemes and the design of policies for the post-Covid world and rewarding effective cooperation within the sector could be starting points.

European associations could support the institutions in the analysed countries through sharing good practices and examples of specific solutions that have worked well in other countries.

A woman in a red outfit is performing a high-wire act on a trapeze. She is suspended in the air, holding onto the trapeze with her right hand. The background is dark with a pattern of gold stars and a striped pattern. The text "Annexes: country reports" is overlaid on the image.

# Annexes: **country reports**



# Country report: Bulgaria

**Lidia Varbanova**

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# Introduction

This report presents the results of a mapping and analysis of social dialogue in the commercial live performance sector in Bulgaria. It is a part of a larger study also covering Czechia, Romania, Serbia, and Poland run by the social partners of the EU social dialogue committee in the live performance sector, namely PEARLE\* - Live Performance Europe and the EAEA (composed of EURO-MEI, FIA and FIM), and which is co-funded by the EU.

This report **aims** to:

- Describe the commercial live performance sector in Bulgaria
- Identify the sector's key characteristics and related challenges
- Present the situation of workers/performers and organisations active in the sector
- Assess the state of social dialogue in the sector, understand the possible obstacles to the sectoral dialogue
- Provide suggestions for promoting and fostering social dialogue in the sector

The report is based on the following **research methods**:

- Desk research: review of existing publications, documents and legal framework at the national level
- Three focus group meetings with key relevant national social partners and stakeholders in: Stara Zagora, Plovdiv and Sofia
- Individual interviews with relevant stakeholders
- Two online surveys for individual performers and organisations active in the commercial live performance sector

## Limitations

- With limited available time and resources, the research focuses on large cities and the capital city in particular, and does not fully describe the situation in the whole country.
- The research results from the online survey, focus groups and interviews with stakeholders from most but not all subsectors, namely: theatre, puppet theatre, music and dance.
- By design the online survey is not representative for the entire populations of interest. This is reflected in the way in which survey results are utilised to inform the analysis in the report.

The research work underlining the report was largely finalised in February 2020, i.e. before the outbreak of the COVID-19 pandemic. The resulting lockdown measures have profoundly affected the live performance sector across Europe and beyond, including the commercial live performance sector. At the time of finalising this report the timing and pacing of re-opening of live events was still uncertain.

On 12 March, 2020, UNI Global Union's Entertainment and Media sector, EURO-MEI, together with the International Federation of Musicians (FIM), the International Federation of Actors (FIA) and Pearle\* - Live Performance Europe urged governments to take emergency measures in support of the live performance sector following the impact of COVID-19. The adverse effects of the pandemic are still likely to have a significant impact in the months to come.

At the same time, the exceptional circumstance in which the sector has found itself offer a chance to rethink its mode of operation, to strengthen the sector's resilience and improve sustainability of work models of individual creators and performers, live performance workers, and performers and organisations.

Developing potential new solutions can be greatly advanced by engaging all stakeholders in social dialogue.

The country researcher is Prof. Dr. Lidia Varbanova<sup>1</sup>, Programme Director, Master programme in Management of Performing Arts and Industries, National Academy of Theatre and Film Arts, Sofia<sup>2</sup>.

## Commercial live performance sector

For the purpose of this study, the **commercial live performance sector** is understood to cover a wide range of performances presented in the physical presence of a public, both for profit and not-for-profit, **fully or partially independent from public funding**. This involves, in particular, activities such as theatre, music, dance, circus and other stage productions performed in specialised venues, in public spaces, in venues frequented by tourists, etc. This implies that public sector entities are excluded from the analysis. However, initiatives partly subsidised by public funds remain in the scope of research provided that they do not fully rely on public funding and that they remain independent from the public sector in terms of managerial decisions and applications for funding.

Bulgarian cultural society makes a strong differentiation between the three sectors in the field of performing arts:

- **Public, or state-subsidised** – covering all national, state and regional performing arts organisations that receive over 50% of their funding primarily from government sources, such as the Ministry of Culture and the municipalities, mainly in the form of budget subsidy. The subsidy is distributed based on specific methodology that motivates state theatres to have size of audiences and other criteria. Some of these state-subsidised organisations also apply for and successfully receive funding from EC programmes such as Creative Europe.
- **Third sector, or independent sector**. This includes associations, non-profit organisations, networks and other forms of stage activities that are registered as non-profit organisations under the Non-profit Legal Entities Law<sup>3</sup>. It is usually called the "independent sector" to underline that these organisations are not part of the state-subsidised sector and have diverse sources of incomes and revenues. Most of these organisations struggle to survive as they work on a project basis with a constant scarcity of external financing. Their key programming policy concerns experimental art forms and not-for-profit activities. In many sources and publications this sector is referred to as "the independent stage", or in the field of theatre – "the free theatre stage".

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<sup>1</sup> [www.lidiavarbanova.ca](http://www.lidiavarbanova.ca)

<sup>2</sup> NATFA: <http://en.natfiz.bg/>

<sup>3</sup> Non-profit Legal Entities Law: <https://www.lex.bg/laws/ldoc/2134942720>

- An important specificity in Bulgaria is that part of the third sector also involves the "**Chitalishta**" – **National Cultural and Community Centres** across the country. These formations have over 160 years of history and are self-governed associations. They are legally non-profit organisations with their main programming in the field of education, preservation of folklore and national traditions, and amateur stage activities such as theatre, dance, ballet, folklore, choral singing, etc. In 2017 there were 3321 active chitalishta in Bulgaria, of which 20% are in the cities and 80% in the villages.<sup>4</sup>
- The term "independent sector" differs from the "chitalishta" sector as it concentrates mainly on contemporary art forms, experimental and laboratory-type creative work and consists primarily of professionals in the performing arts, while the latter preserves the traditional culture and arts and also concentrates heavily on education and not only art forms.
- **Commercial sector** – covering organisations, artists, producers and agencies whose main aim is to offer programming and creative content for wider audiences in order to make a profit. The term "commercial" has a negative connotation in the country when related to performing arts: there is a long-standing prevailing opinion that in the field of arts the word "commercial" refers to something of low quality.

## State-subsidised sector

The **Strategy for the Development of Bulgarian Culture (National Cultural Strategy)** (2019-2029)<sup>5</sup> outlines the well-developed infrastructure of performing arts in Bulgaria, which includes 51 state-owned cultural organisations, 57 municipal and over 150 non-profit and private entities. Currently, there are 37 state theatres and 19 municipal ones. The number of private theatre entities is constantly changing.

The National Cultural Strategy outlines several sub-branches in the performing arts field based on their programming directions, such as: theatre, music, dance, contemporary performing arts, open air performances and performances in non-traditional spaces, and festivals (theatre, music and dance).

The overall number of buildings for theatre activities is 37 – twenty-five of them belong to the state, 10 are municipal, one is private and one does not have a clear status. In the other performing arts field, there are 12 state buildings, 10 of which are under public-private ownership, and two of which are municipal<sup>6</sup>.

There are currently 14 state organisations in the field of music and dance, one municipal opera, 4 municipal philharmonic orchestras, 7 chamber orchestral ensembles, municipal choirs, 24 brass bands and 20 folk ensembles.

According to data from the informational system APIS Register <sup>7</sup> and the official site of the Ministry of Culture of Bulgaria, the institutional infrastructure of performing arts includes 51 state and 19 municipal cultural organisations and this number excludes the cultural and community centres ("chitalishta", as well as private and non-profit organisations).

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<sup>4</sup> Source: National Statistical Institute:

<http://www.cross.bg/chitalishta-chitalishtata-ychastnitsi-1575204.html#.XlkDDagzY2w>

<sup>5</sup> Source: Strategy for Development of Culture in Bulgaria (2019-2029):

[http://mc.government.bg/files/5495\\_Strategy\\_culture\\_.pdf](http://mc.government.bg/files/5495_Strategy_culture_.pdf)

<sup>6</sup> Source: Strategy for Development of Culture in Bulgaria (2019-2029):

[http://mc.government.bg/files/5495\\_Strategy\\_culture\\_.pdf](http://mc.government.bg/files/5495_Strategy_culture_.pdf)

<sup>7</sup> Website: <https://www.apis.bg/en/product/apis-register-en>

Private theatres in Bulgaria number over 30 and 146 non-governmental organisations have “theatre” registered among their activities - 118 of these are associations and 28 are foundations.

State and municipal performing arts organisations operate on a “continuous basis” as “repertoire-type” theatres. The same applies to 20 private theatre entities, while other private organisations operate on a “cyclical basis” – they create a theatre product, perform in front of an audience only for a limited time period, and start working on a new project after accumulation of resources. The majority of independent performing arts organisations are small-scale, gathering their team around one theatre production only, and dissolving it once it finishes its run.

There is certainly a discrepancy between the statistical data of different institutions and bodies, and the national statistics in relation to the 3 sectors in the field of performing arts are not regularly updated, which is a serious limitation when it comes to the process of analysing data and drawing conclusions.

## Independent sector – Independent stage

There is no commonly agreed definition in the country about the meaning of “independent performing arts sector”. Such a definition is given for the term “Free Stage”, which relates mainly to theatre organisations: “Form of professional non-commercial practice in the theatre with a research focus. It aims to broaden the concept of theatre, incorporates contemporary dance and performance, develops new stage forms, often tests individually chosen methods of teamwork and experimenting with its main components (live presence, text, music, visual environment, and technical means). The Free Stage is based on the teamwork principle - like-minded people team up to come up with a specific idea, to investigate a problem or a phenomenon.

In the free theatre there are flexible artistic, organisational, administrative and management models of work involving maximum efficiency. The free scene is an integral part of the European theatrical context and has a significant share in defining the face of the contemporary performing scene, along with the state, municipal and private theatres.”

In the category “music and singing creativity”, the total number of groups was 4607, with 49796 participants within them and 37,188 performances during the year. The highest number of folk singing groups is 2778, with 30,816 participants and 22,411 performances. There were 3178 dance groups, with a total of 56,640 participants and 20,807 performances. The most popular in this category were Bulgarian folk dance groups - 2386, with 44,593 participants and 16,129 performances.<sup>8</sup>

The independent performing arts sector takes a tiny percentage in comparison with the subsidised sector in terms of annual turnover and people involved. Due to the lack of centralised statistics, it is impossible to calculate the exact share and provide numbers of people engaged in the sector, as well as the number of companies operating and the number of performing arts productions.

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**8** National Statistical Institute: <https://www.nsi.bg/bg>

## Commercial sector

In terms of terminology, it is important to emphasise again that there is a distinction between the “commercial” and “independent” sectors in Bulgaria – the majority of interviewees and focus group participants interpret the term “commercial” in the arts as meaning something of “low quality, for the masses, with a negative connotation of money-making activities”. The “Independent sector” is understood to mean the “free performing arts sector”, or “free stage” that provides high quality productions but does not fall under the umbrella of government funding. The prevailing opinion of professionals in the sector is that art is created for art's sake, and that business is altogether very different.

The research indicates that the “commercial” sector in the performing arts in Bulgaria is understood from three key viewpoints:

- In terms of financial outcomes, it covers all organisations that make a profit, increase revenues, and attract large audiences.
- In terms of the way they are registered - all organisations registered under the Trade Law<sup>9</sup>.
- In terms of artistic quality and perception - organisations that make programming to satisfy diverse audiences' tastes and exclude experimental and high-quality art forms.

The commercial performing arts sector consists mainly of the following types of companies:

- Commercial producers in the music business – record labels and production companies, such as Sofia Music Enterprises<sup>10</sup>, Virginia Records<sup>11</sup> and Payner<sup>12</sup>. They represent musicians and organise thousands of concerts in the field of rock, pop, folk, jazz and other genres of music.
- Agencies that organise or produce large events, such as Arena Armeec, Sofia<sup>13</sup>.
- Multi-purpose venues that are not only in the field of performing arts, such as the National Palace of Culture<sup>14</sup>, based on public-private partnership, or the large music production companies mentioned above.

## Festivals

Festivals in Bulgaria are another key player in the performing arts sector. They have long-standing traditions and a vast network of cultural organisations and independent artists are involved. Many of them are of high quality and international scope, as well as being catalysts for the local economic and social development of Bulgarian cities. Festivals represent a unique form of exchange of artistic practices, widening the scope of audiences involved, working with local communities, and garnering international attention. Festivals in Bulgaria cover many areas: film, culinary, music, dance, ballet, theatre, folklore, youth festivals, and hybrid forms. Around 90% of festivals in the field of performing arts in Bulgaria are supported by the respective municipalities, together with other stakeholders involved. Some festivals are institutionalised as non-profit organisations or foundations, accumulating support from a variety of sources. Music festivals are one of the most popular across many music genres - classical, rock, jazz, chamber music and others.

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9 Trade Law: <https://www.mi.government.bg/bg/library/targovski-zakon-267-c25-m258-1.html>

10 Sofia Music Enterprises: <http://www.sme.bg/en>

11 Virginia Records website: <https://www.virginiarecords.com/>

12 Payner website: <http://payner.bg/>

13 Arena Armeec website: <http://www.arenaarmeecsofia.com/en/>

14 Website: <http://ndk.bg/About+Us/About+NDK-55EN.html>

Some of the most prominent festivals in the field of music and theatre are: March Music Days<sup>15</sup>, Apollonia Festival<sup>16</sup>, Sofia Music Weeks<sup>17</sup>, International Music Festival "Varna Summer"<sup>18</sup>, International Jazz Festival Bansko<sup>19</sup>, International Children Ballet Festival Plivdiv<sup>20</sup>, Multi-genre Festival Muses<sup>21</sup>.

The Bulgarian Festival Association (BFA)<sup>22</sup> aims to establish favourable conditions and a favourable climate for development of festivals in Bulgaria. It works in four areas: lobbying and advocacy, networking, training and research activities. The involvement of BFA in the social dialogue is indirect - by advocacy activities through partnerships, councils, recommendations, advisory activities, high-level meetings and public speeches. Since its inception, BFA has been a key partner in building a constructive dialogue with the Ministry of Culture and the Ministry of Tourism.

## Key characteristics of the sector

The research results outline the following key characteristics of the CLPS in Bulgaria:

- CLPS is **highly concentrated** geographically, being mainly present in the capital Sofia, as well as in the other five big cities of Bulgaria- Plovdiv, Varna, Burgas, Ruse and Stara Zagora.
- The independent sector is **highly fragmented** - there are many small-scale companies, many of them consisting of one or two persons only. On the other hand, commercial producers are very dominant in some genres of music, as mentioned above.
- CLPS is very **diverse** in terms of types of organisations and covers: the independent sector, commercial organisations, "chitalishta", and forms of public-private partnership. Some of these organisations are officially registered under the Trade Law or the Law for non-profit organisations in the country, although others operate as non-formal gatherings of creative professionals and amateurs.
- CLPS is very **dynamic and changeable**. Small-scale companies appear and disappear because of diverse factors, mainly due to financial instability, an inability to deal with management and marketing aspects of the company, lack of sustainable partnership, lack of innovation and other factors.
- The outcomes of CLPS are **diverse forms of stage products and services**, mainly stage productions (e.g. concerts, dance productions, theatre productions etc.), but also educational programmes, masterclasses, research activities, forums and events, festivals and other additional and peripheral activities.
- The majority of organisations in CLPS consist of **small-scale teams**. In many cases the company is only one person who is an "artpreneur" or "musicpreneur" and is responsible for all activities- e.g. management, marketing, finances, operations, and so on.

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15 March Music Days: <https://www.marchmusicdays.eu/index.php/en/2018en>

16 Apollonia Festival: <https://www.apollonia.bg/>

17 Sofia Music Weeks: <http://www.sofiaweeks.com/>

18 International Music Festival „Varna Summer“: <http://www.varnasummerfest.org/>

19 International Jazz Festival Bansko: <https://www.banskojazzfest.com/en/>

20 International Children Ballet Festival Plovdiv: <http://ballet-fest-plovdiv.com/>

21 Muses: <https://muzite.org/en/>

22 Bulgarian Festival Association: <https://www.bfa.bg/>

- There is a high **differentiation** in the sector in terms of forms, genres, localisation and quality of offered performing arts products and services.
- Majority of organisations in the CLPS do not benefit from permanent streams of revenue or external support and work on the basis of **project subsidies on a national and municipal level**. This is one of the reasons for the payment of low fees and salaries, work on a sporadic part-time basis and difficulty in establishing standards for the hiring of professionals within the sector.
- The key **competitive dynamics and behaviour** are between this sector and the state-subsidised sector where the subsidised sector is more powerful, stable and organised, also having a well-developed infrastructure and stable (even if insufficient) sources of government subsidy. There is also competition between the organisations in one and the same sub-sector in the CLPS - e.g. theatre, ballet, music, etc. Competitive behaviour arises due to the scarcity of external sources of financing, as well as identical or similar audience segments which these organisations are targeting.
- **The barriers for entry for new emerging companies** in the sector are not very high, but it is really difficult for them to sustain their existence following the start-up phase of their business due to irregular sources of revenue and income. The majority of the new organisations in the sector are launched based on mutual belief, non-profit goals, the seeking of common creative ground and other non-commercial motivational factors. Many of them do not survive after the first few years of existence.
- The CLPS **easily attracts young talent** thanks to the high level of flexibility, freedom, absence of internal administrative rules and regulations, and opportunity for implementing innovative laboratory performing arts products.

## Main challenges

The results of the research (focus groups, individual interviews and the online survey) suggest the following key challenges facing the organisations in the CLPS:

- Absence of professional and well-equipped **spaces and stages for rehearsals and performing**. This is one of the main concerns of CLPS. These organisations perform mainly in non-conventional spaces and their partnership with the state-subsidised sector to use the state-funded infrastructure is very difficult due to the current inefficient methodology for distribution of the state subsidy, which is based on the number of tickets sold from self-generated activities. In this way, the independent performing arts companies cannot use the conventional theatre halls and spaces, because this is not considered a "self-generated" activity for state performing arts organisations, and they do not receive subsidies for that. State and municipal performing arts organisations occasionally provide spaces for performances by CLPS, but this happens rarely and not in an organised way. At the same time, there are many unused spaces within Bulgaria that require investment and an overall state or municipal strategy in order to be transformed into spaces for performing arts and contemporary culture.
- Lack of sufficient **financing for projects** in CLPS – a vast majority of these organisations are underfunded and constantly struggle to survive. There is also an absence of **structural support** for their budget and long-term financing in a strategic framework.

- Difficulty of **implementing a strategic approach** in terms of management practice, because of ongoing “project-to-project” operations and lack of both financial security and sufficient management competence for elaboration of strategic plans.
- Commercial live performance organisations **do not perform regular marketing surveys** to follow up trends in audience development and to respectively implement methods and tools to capture specific audience segments for their creative products in order to increase revenues over time. Most of them do not know who their audience is. This is due to lack of marketing capacity and resources, as well as lack of a long-term vision in terms of audience relations. The survey for the independent theatre stage in Sofia as part of the project Shared Vision (2018) shows that production is mainly targeted towards the domestic audience, although many independent organisations and teams demonstrate a high level of potential for international growth and expansion.<sup>23</sup>
- **Absence of sustainability** in CLPS strategies and management with regard to productions, work processes, long-term planning, talent development, audience involvement and infrastructural framework.
- Lack of entrepreneurial and **management competences** of employers and agents within the sector, especially in areas related to human resource management and social dialogue.
- Increasing **turnover of labour**. Many artists and creative professionals quit their jobs in the sector and switch to professions and branches outside the arts that are much better paid and offer much better working conditions.
- **Little (or no) partnership** between different sub-sectors, such as: theatre, ballet, music, and circus. The sector is extremely “departmentalised” and organisations act independently without showing long-term partnership strategies.
- **Lack of critical viewpoints and quality media coverage** that can help in creating an educated and demanding audience for performing arts in the country. The connection between audiences and performing arts organisations is often mediated by the critics and their role in the process is of utmost importance.
- Absence of national and regional **statistical information** about the CLPS which makes deeper research and analysis very difficult.

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<sup>23</sup> Source: [https://www.sofia.bg/documents/20182/890153/7-Spodelena\\_vizia\\_Teatyr.pdf/f0e55139-c118-446b-af27-a9b79165ba48](https://www.sofia.bg/documents/20182/890153/7-Spodelena_vizia_Teatyr.pdf/f0e55139-c118-446b-af27-a9b79165ba48)

## The situation of workers

There are no official and updated statistics in Bulgaria concerning the number of people engaged in the CLPS. The unofficial data show that there are around 2000 performers and other professionals engaged in the CLPS. Around 9000 creatives are on the payroll in the state-subsidised organisations, of which 4,800 are employed in municipal performing arts organisations. The overall number of people in the arts, culture and creative industries sectors is around 90,000.

Artists and performers in the CLPS in Bulgaria are mainly hired for contracts for specific projects or services, based on the Civil Law. There are very rarely permanent employment contracts in the sector. Based on the results of the current research, the majority of performing artists have a self-employed status. Many performers in Bulgaria are employed on a salary by state-subsidised or municipal performing arts organisations and participate in the commercial and independent sector occasionally on a project basis, or based on a "civil contract". Many performers juggle several jobs at the same time in order to make a living (in some cases also outside the performing arts field). Performing artists generate additional income by participating in advertising, TV shows, films, touring abroad, and co-productions, etc.

One of the key issues characterising relations between performers and their managers/agents is the building of trust. Many performers work even without a signed contract based on an "oral agreement" and expectations, rather than a written contract. In such cases, when the contract is not written, but oral, the respective trade unions who also have a syndicate role (UBMD) can't stand up for the rights of the artist and defend their position with regard to employers. Oral agreements are favourable for employers in the sector, but are of no benefit to workers.

Many organisations in the CLPS organise tours abroad (especially those involved in art forms where language barriers are not an issue) and this brings visibility as well as incomes for independent performing artists. Touring takes place mostly in the EU countries, but also globally. It is considered to be one of the main sources of revenue, especially in the field of puppet theatres, music, dance and other genres that are not affected by a language barrier. It is important to emphasise that the conditions of work during touring are not strictly regulated, with the exception of the insurance which employers need to arrange. The revenues from touring vary: some performers and independent organisations report that touring helps them fill in their budget gaps, while others state that touring is not a significant source of external revenue.

Powerful intermediary commercial agencies exist only in the field of popular music and pop-folk music. The biggest independent Bulgarian record label and production company is Payner LTD<sup>24</sup>, established in 1990, with 80 artists currently signed<sup>25</sup>. In other branches of performing arts this is not a common practice. There are no national or regional online or offline databases and platforms for performing artists in the country.

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<sup>24</sup> Payner website: <http://payner.bg/>

<sup>25</sup> Source: <https://en.wikipedia.org/wiki/Payner>

Royalties from intellectual property rights are an important source of incomes for some categories of performing artists. Among the key organisations for collective management of IP rights in Bulgaria in the field of performing arts are:

- **Artistauthor**<sup>26</sup> - established in 1998 and currently having over 340 professional Bulgarian performers as members. It defends the rights of theatre actors.
- **Musicauthor**<sup>27</sup> - an organisation of composers, authors and music publishers for copyright management. It offers over 95% of the world music repertoire for the Bulgarian market, representing nearly 3,000 Bulgarian authors and another 2,500,000 authors worldwide.
- **Prophone**<sup>28</sup> - having access to the best world practices in music licensing. Its mission is to protect and increase the value of the rights of music producers and performers, to maximise the return on their creative endeavours and to respect high technological standards for accuracy, transparency and efficiency.

The two associations for independent artists in the field of theatre and music are the Bulgarian Music Association<sup>29</sup> and ACT Association for Free Theatre<sup>30</sup>. They do not act as a trade union, but bring together independent freelance artists in the sectors of music and theatre in Bulgaria, and lobby to improve their status and the legislative framework surrounding their work. Besides this, they lobby and advocate just like any other NGO in the civil sector. The ACT association participates very actively in European projects and it co-produces theatrical stage performances.

- **The Bulgarian Music Association**'s main purpose is to represent professional musicians from all genres, to express their positions, and to protect them in areas related to their work. The association aims to support the promotion of Bulgarian music within the country and abroad through educational and other projects. It also has lobbying functions for legislative initiatives. Established in 2012, it currently has around 600 members<sup>31</sup>.
- **The Act Association for Free Theatre** represents individual artists and non-profit organisations working in the field of theatre and the performing arts in Bulgaria. Established in 2009, the Association aims to lobby and advocate for better conditions for freelance performing artists, higher levels of government subsidy for the independent theatre and performing arts sector, preferential treatment for independent companies to use the existing theatre infrastructure within Bulgaria, legalise the status of independent freelance artists, etc. Their key project was Shared Vision, supported by Sofia Municipal Programme Europe 2016 and run by "36 Monkeys – organisation for contemporary alternative art and culture". This was a key document in the attempt by the Bulgarian independent arts sector to define realistic short-term and long-term objectives in the field of visual arts, theatre, dance, music and literature in Sofia.

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26 **Artistauthor:** <https://www.artistauthor.bg/>

27 **Musicauthor:** <https://www.musicautor.org/>

28 **Prophon:** <https://www.prophon.org/>

29 **Bulgarian Music Association:** <https://bgma.bg/>

30 **ACT Association for Free Theatre:** <http://actassociation.eu/>

31 **Source:** <https://bgma.bg/history/>

## The situation of organisations

As already mentioned, there are two legal types of organisations active in the independent performing arts sector: organisations registered as non-profit organisations, and organisations registered as trade companies, or businesses. Organisations vary from small, to mid-size and large companies where small-scale companies and individual artists operating as freelancers prevail.

The overall financial model and operational methodology varies based on their different mission and aims, as well as internal economic process and operations.

### Business models, sources of revenue and financial stability

CLPS organisations do not have specific sustainable business models based on self-generated revenue or a long-term strategy due to their focus on working according to the “from project-to-project” principle. Their sources of revenue fluctuate and they depend on variables such as: types of projects, success in their applications for subsidies, touring, etc.

There are several external and internal sources of revenue for organisations in the CLPS:

- Project subsidies from the National Cultural Fund at the Ministry of Culture.
- Project subsidies from the respective municipality. In the five big cities in Bulgaria this is one of the key streams of external income for performing arts organisations in the targeted sector.
- Project grants from foundations and foreign agencies (British Council, Goethe Institute, etc.

These three sources apply mainly to independent and non-profit organisations rather than those registered under the Trade Law.

- Touring outside the country. As mentioned above, it is difficult to conclude whether touring helps CLPS organisations financially, or if they are mainly used to increase visibility, international contacts, and participation in festivals.
- Additional activities, mainly masterclasses with famous international guests.
- Self-contribution from the performers, managers and other people involved in the stage activity, such as: non-paid labour, donations, offering spaces or equipment for free (“in-kind support”).
- Ticket sales from performances and shows. For commercial organisations, this accounts for a significant portion of the overall budget, while for independent non-profit performing arts organisations it represents a very small portion of the budget.

The following sources of revenue are sporadically used in some cases, but are still not well exploited by the majority of organisations researched:

- Licensing of creative content.
- Crowdfunding.
- Merchandising and revenue based on branding of creative products.
- Innovations that bring additional revenues.
- Business angels and bank loans.

These five sources are rarely used because of the following influencing factors: insufficient understanding of how they could be related to a business model; lack of managerial and entrepreneurial competence; lack of innovative capacity and entrepreneurial climate within creative teams; absence of government support for creative businesses; lack of business culture for investing in creative start-ups in the field of arts; lack of skills for effective use of new technologies as a tool for fundraising in diverse directions.

Business models based on digital tools are also not used in most cases (e.g. live streaming, pay-per-click, online advertising, and affiliated models between websites, paid downloading of music, or theatre content and others). The online presence of the commercial live performance sector in the country is quite small. Most of these companies have static websites, containing information about programming, but not more than that. Very rarely is there an English version or a version in another language other than Bulgarian. In terms of social media, they mainly use Facebook - some of them only have Facebook pages, but not websites. They do not invest in an online presence or innovative ways to sell online, outside of ticket sales. The organisations in the sector do not have sufficient brand development that could become a source of revenue.

The current research has more quantitative data for the revenue sources of the free theatre stage in Sofia (2018)<sup>32</sup> and it outlines that there are four main sources of income for these organisations: state financing in the form of project subsidies coming from the National Cultural Fund at the Ministry of Culture, and Sofia municipality, personal contributions by the creators themselves, international grant-giving organisations and partnership with state and private sectors – mainly for securing a space for rehearsals and performing, technical equipment and materials. Sponsorship usually represents less than 5% of the overall budget required to perform activities. Self-generated income from selling theatre tickets covers less than 10%.

It is impossible to calculate the share of CLPS in the economy, as there are no statistics or research on this in Bulgaria. The sector is very unbalanced, because the small and mid-size non-profit organisations operate with small budgets and their incomes fluctuate a lot, while large commercial organisations, especially music promoters, operate with millions of euro. The results of the survey on the independent cultural sector in Bulgaria, conducted in March 2020<sup>33</sup> show that the average annual turnover of the organisations is relatively small, in most cases within around EUR 25,000. Around one third of the organisations researched do not have their own spaces, offices or stages with which to perform. Nearly 60% of the surveyed individuals are self-employed and 40% of them are full-time or part-time employees in organisations. This survey indicates that the annual incomes of independent artists fluctuate and are very low – only 11% of the people involved in the survey have incomes above EUR 10,000 annually, with the rest receiving much less income from arts and cultural activities.

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**32** Source: Shared Vision: Analysis of the Independent Creative Stage in Sofia for THEATRE (2018):

[https://www.sofia.bg/documents/20182/890153/7-Spodelena\\_vizia\\_Teatyr.pdf/f0e55139-c118-446b-af27-a9b79165ba48](https://www.sofia.bg/documents/20182/890153/7-Spodelena_vizia_Teatyr.pdf/f0e55139-c118-446b-af27-a9b79165ba48)

**33** Note: The majority of organisations included in the survey are in the field of theatre (43%) and music (29%), Source: <https://bgma.bg/wp-content/uploads/2020/04/Independent-Cultural-Sector-in-Bulgaria-Survey-March-2020.pdf>

# The state of social dialogue

## The state of social dialogue in the European Union

The European Union recognises social dialogue as one of the pillars of the European social model, and a tool of social cohesion. This was confirmed with the entry into force of the Lisbon Treaty.

According to the Commission's definition, cross-industry social dialogue "covers the whole economy and labour market" and its "purpose is to promote dialogue between trade unions and employers' organisations in key areas common to all fields of employment and social affairs".

At a European level, social dialogue takes two main forms: a bipartite dialogue between European employers and trade union organisations, and a tripartite dialogue involving interaction between the social partners and European public authorities. The tripartite cooperation at national level in Central and Eastern Europe was introduced in the first half of the 1990s. Tripartite bodies during the early years of transition were created, with mixed results. These bodies were formed in order to share responsibility between the government and the social partners for privatisation and social reforms, as well as to act as an alternative mechanism to regulate the labour market because of the weakness of collective agreements. They mainly performed an advisory function, representing a wide range of social interests.

The European sectoral social dialogue is an instrument of EU social policy and industrial relations at sectoral level. It consists of negotiations between the European trade union and employer organisations of a specific sector of the economy. The Commission has expressed the view that the sectoral level "is the proper level for discussion on many issues linked to employment, such as working conditions, vocational training and industrial change, the knowledge society, demographic patterns, enlargement and globalisation".

By engaging employers' and workers' representatives from Member States in a wider European debate, their cooperation has also had a beneficial impact on social dialogue at national level. The outcomes of the social dialogue are agreements, joint declarations, policy orientations, and joint work programmes.

## The state of dialogue in Bulgaria: a brief overview

### Brief Historical Overview

The trade union movement in Bulgaria emerged gradually after the Russian-Turkish War (1877-1878). At the end of the 19<sup>th</sup> and beginning of the 20<sup>th</sup> century, workers were associated on a territorial principle without remaining influential or significant. Shortly after the collapse of socialism and the historical large-scale political economic and social changes to Bulgarian society on 9<sup>th</sup> September 1944, the General Workers' Professional Union (ORP) was created, the main task of which was to protect the material and spiritual interests of all workers. In the period 1962-1989, the role of trade unions was completely changed – they functioned as a subordinate to the decisions of the ruling Party and became a silent satellite and the executor of the will of the Party.

In 1987, for the first time in the history of the trade unions, the new Statute gave some autonomy to the trade union organisation – for the first time it could make its own decisions about its tasks, forms and methods of work. The political changes in Bulgaria in 1989 led to changes in the social sphere as well. Social dialogue in the country based on trilateral cooperation (the state-employers' associations-employees' unions) was established gradually in a turbulent environment that has now lasted for over 30 years. Tripartism was one of the ways to foster tolerance, trust and democratic resolution of conflicts in society. The Constitution of the Republic of Bulgaria<sup>34</sup> states the free rights of citizens and the Labour Code establishes the requirements for forming trade union organisations and employers' associations in the country in such a way that they can have a representative status and participate in the tripartite social dialogue.

The privatisation process, the appearance of the business sector and private enterprises and the fundamental changes in the legal framework were key ingredients in the overall transition from a centrally planned economy towards market principles, including in the field of arts and culture. This pluralistic environment in the trade union movement resulted in the appearance of several trade union organisations that became institutionalised and increased their popularity. Gradually, the employers' associations appeared as well, replacing the government as the main employer and producer, also in the cultural field.

## Employment Relations in Bulgaria & Key Regulative Mechanism

The Labour Code is the main law that regulates industrial relations in Bulgaria. It was put into effect in 1987 and since then has been changed and modified over 60 times. The current Labour Code dates from 1992 and the most recent changes are from February 2010.<sup>35</sup> The Labour Code is the most important document of the labour-related legislative system and labour relations in Bulgaria. It regulates: all issues related to the general working conditions (Chapters I, XVIII, XIX), **individual employment contracts (Chapters V - XVII) and collective labour relations (Chapters III, IV and VI).**

The **key terminology** related to employment relations is also regulated by the Labour Code:

- **Employment relations** are the relationships between employer and employee, related to the performance of work/labour, and they are different from those arising from civil contracts for services (freelance work). The key responsibilities are that the employee must perform his/her work tasks and adhere to work disciplines established by the employer. On the other hand, the employer must provide appropriate working conditions and pay to the employee the remuneration agreed under the contract.
- There are **two types of employed persons**: blue-collar workers and white-collar employees. This is one of the challenges related to employment in the arts and culture sector - artists, performers and creative professionals fit neither of the two groups.
- **The social security system** aims to guarantee a stable standard of working conditions and life to everyone. It covers risks related to: general diseases, work-related accidents, occupational disease, maternity, unemployment, old age, and death.

<sup>34</sup> Constitution of the Republic of Bulgaria: <https://parliament.bg/en/const>

<sup>35</sup> Source: Bulgarian Labour Law: <http://www.bulgaria-labour-law.bg>

According to Bulgarian Labour Law, the employment relationship between an employer and an employee begins with the concluding of an employment contract. The legal provisions regarding the employment contract are stipulated in Chapter V, Section I of the Labour Code<sup>36</sup>.

## Key Players in Social Dialogue in Bulgaria

The EU accession process was a catalyst for undertaking major changes to the labour legislation in Bulgaria. The amendments to the 1986 Labour Code provided the establishment of tripartite and bipartite partnership bodies at different levels of the industrial relations system, as well as a comprehensive framework for all aspects of employment. The essence of the **Tripartite system in Bulgaria** is regulated by the Labour Code. It covers three key areas:

- Labour relations and related issues, for example working hours, payment schemes, working conditions, conditions of employment etc
- Social insurance issues
- Living standards

Social dialogue and the related tripartite system in Bulgaria are heavily institutionalised. There are two trade unions and six employers' organisations in Bulgaria that are officially recognised at the national level. This status gives them negotiation rights in the field of labour and social policy legislation through the tripartite council that brings together government officials, the businesses and the unions – the **National Council for Tripartite Cooperation (NCTC)**<sup>37</sup>, established in 1993.

It consists of equal numbers of government representatives (at least one of them should be a Deputy Prime Minister and the chair of the NCTC) and of representative organisations of employers and trade unions. The Council performs the following key tasks:

- Discussing and giving opinions on draft regulations related to issues such as: health and safety at work, employment and unemployment, social and health insurance, income and living standards, etc.
- Carrying out consultations and cooperation on national level on employment, social security, standards of living, etc.
- Coordinating the work of national programmes relating to issues of social dialogue.

There are five permanent commissions in the NCTC, covering income policy and living standards, social security issues, labour legislation, social consequences from restructuring, and privatisation and budget policy.

**The Economic and Social Council (ESC)** is a tripartite consultative body composed of employers, workers, and organised civil society that deals with the economic and social development. Since its establishment in 2003, the Council is the national forum for consultations, dialogue and information for civil society players.

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**36** Read more on employment contracts in Bulgaria here:  
<http://www.bulgaria-labour-law.bg/employment-contract.html>

**37** NCTC website: <https://en.bia-bg.com>

Businesses in Bulgaria can be nationally represented by six employers' organisations:

- Bulgarian Industrial Capital Association (BICA)<sup>38</sup>;
- Bulgarian Industrial Association (BIA)<sup>39</sup>;
- Bulgarian Chamber of Commerce and Industry (BCCI)<sup>40</sup>;
- Confederation of Employers and Industrialists in Bulgaria (KRIB)<sup>41</sup>;
- Union of Private Economic Enterprise (UPEE);
- Union of Private Bulgarian Entrepreneurs "Vazrazdane"<sup>42</sup>.

The two main trade unions in Bulgaria are as follows:

### Confederation of the Independent Trade Unions (CITUB/KNSB)

CITUB<sup>43</sup> was formed in February 1990 out of the Central Council of Trade Unions. It is the biggest non-profit organisation in Bulgaria with 275,762 members<sup>44</sup>. The Confederation covers 35 federations, syndicates and unions and many associated members. It represents and protects the rights and interests of Bulgarian employees both in respecting their rights and in providing individual advice. As a union, CITUB positions collective bargaining as a key instrument for effectively protecting the rights and interests of employees. The Confederation is affiliated with the International Trade Union Confederation and the European Trade Union Confederation.

### Confederation of Labour "Podkrepa"

The Confederation of Labour Podkrepa<sup>45</sup> was founded in 1989 and has approximately 150,000 members. Affiliated members of Podkrepa include 27 sectoral/branch federations with 2268 trade union sections at company level. The confederation has 143 municipal structures. The aim of the Confederation is to protect the rights, dignity, professional and social interests of the members of the organisation within the Confederation<sup>46</sup>. Podkrepa was the first labour union in Bulgaria that became a member of the International Confederation of Free Trade Unions since 1991, and in 1995 it was admitted as a full member to the European Confederation of Trade Unions. Podkrepa advocates for freedom, respect of human rights and dignity, a fair deal at work and social justice.

Priorities are the continuing improvement of living standards and working conditions through active protection of its members' common interests. The main objectives of the Confederation are<sup>47</sup>:

- to guarantee the full respect of labour and human rights through development and improvement of the national system of industrial relations; to influence Bulgarian social and economic policies with the aim of increasing the prosperity and well-being of Bulgarian citizens;
- to promote social partnership, dialogue and solidarity;
- to protect the health and material, public and cultural interests of its members and their families.

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38 BICA website: <http://bica-bg.org/?lang=en>

39 BIA website: <https://en.bia-bg.com/>

40 BCCI website: <https://www.bcci.bg/en.html>

41 KRIB website: <http://krib.bg/en/>

42 Source: <http://www.cidenet.eu/vuzrazdane/>

43 CITUB website: <https://old.knsb-bg.org/>

44 Source: <https://www.knsb-bg.org/index.php/za-nas-2>

45 Confederation of Labour "Podkrepa" website: <http://podkrepa.org/>

46 Source: <https://www.uni-svishtov.bg/en/about-university/the-podkrepa-labour-confederation>

47 Source: <https://www.salto-youth.net/tools/otlas-partner-finding/organisation/cl-podkrepa.11471/>

## Collective Bargaining in Bulgaria

Social dialogue in Bulgaria had a strong boost after the EU accession in 2007<sup>48</sup>. Social partners had closer connections to government due to the implementation of European social partner agreements and other factors.

According to the Labour Code, **collective bargaining** is a trade union right and employers' obligation. It takes place at branch/sectoral, municipal and company level. Since 2003, collective bargaining at sector/branch level also includes annual negotiations on minimal social security thresholds.

**Collective agreements** are a key method in Bulgaria for establishing labour and social security relations between employers and employees that are not part of the national legislation. Maintaining a position between state regulation and the individual contracting system of employment, they represent an efficient mechanism for overcoming and solving diverse conflicts in the workplace, and achieving social peace and workers' contributions to the decision-making process in the companies. Their role is especially important in terms of the trend towards deregulation, e.g. decreasing the role of the state in the labour relations system.

It is important to emphasise that a **collective agreement** is applicable to employees who are members of the respective trade union (syndicate, union of artists that have a syndicate role). The key topics covered by a typical collective agreement are: employment and job security; working conditions, compensation for night work and hazardous working conditions; paid annual leave; and supplementary pension and health insurance. In Bulgaria, collective agreements are valid only when they are written and signed by the representatives of the social partners. They also have to be registered at the respective regional labour inspectorate. Collective agreements of sectoral or national relevance also have to be registered with the 'General Labour Inspectorate' Executive Agency.

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**48** Source: *The Role of Social Partners in the Design and Implementation of Policies and Reforms*, European Commission, 2016

# The state of dialogue in the commercial live performance sector

## Key Players in the Tripartite System of Social Dialogue

Following the general framework and specificities of the tripartite system of social dialogue in Bulgaria, tripartite relations in the performing arts sector involve:

- the Bulgarian Association of Employers in the Field of Culture (“BAROK”);
- the Trade Unions – the Union of Bulgarian Actors and the Union of Bulgarian Musicians and Dancers,
- the Government - the Ministry of Culture of Bulgaria<sup>49</sup> as well as the Ministry of Labour and Social Policy<sup>50</sup>.

## Bulgarian Association of Employers in the Field of Culture “BAROK”

The mission of BAROK is to “ensure transparency, publicity and accountability of cultural management in Bulgaria in accordance with European requirements”<sup>51</sup> With the establishment of BAROK in 2008, the tripartite system of labour-management relations also entered the performing arts sector.

The main objectives, as formulated by the association are:

- To coordinate the activities of its members and develop their capacity to participate in social dialogue in the field of culture;
- To represent and protect the rights and interests of employers in social dialogue in the field of culture at municipal and national levels;
- To represent its members in collective bargaining in the field of culture;
- To represent its members in national and sectorial tripartite cooperation at municipal and national levels in the field of culture;
- To represent its members before the Ministry of Culture and other state and municipal bodies, as well as before Bulgarian, foreign and international employers and trade unions.
- To work towards the development of social dialogue in the field of culture.

BAROK has 54 members from all cultural sectors, including performing arts. Currently, there are 12 operas and philharmonic orchestras, 26 state theatres, 10 regional libraries (incl. the National Library), 3 museums, 2 chitalishta associations and one private producer.

There are eight Branch Committees within BAROK that exist in order to effectively represent employers from the various branches within the cultural sector:

- Branch Committee on Music and Dance;
- Branch Committee on Theatre;
- Industry Committee of the Audiovisual Industry;
- Industry Committee on Design;
- Branch Committee on Libraries and Book Publishing;
- Industry Committee on Cultural Animation;
- Branch Committee on Museums, Galleries and Fine Arts;
- Branch Committee of the Multicultural Industry.

<sup>49</sup> Ministry of Culture: <http://mc.government.bg/index.php?l=2>

<sup>50</sup> Ministry of Labour and Social Policy: [https://www.mlsp.government.bg/index.php?lang=\\_eng](https://www.mlsp.government.bg/index.php?lang=_eng)

<sup>51</sup> BAROK: <http://barok.bg/>

Branch committees elect their chairpersons to coordinate their activities and carry out their activities in accordance with the terms and conditions established by the BAROK Statute, approved by the National Council. The Branch Committees formed assist the activities of the National Council by participating in negotiations concerning bilateral and tripartite dialogue, clarification of contractual terms, consultations and opinions on branch issues and proposals for signing collective agreements and other documents directly affecting work in the respective field of culture. The current procedure is that the draft contracts prepared by the Branch Committees and other documents pertaining to the cultural/creative industries are approved by the BAROK National Council.

The key activities of BAROK, as stated in their public presentations and online, include:

- advocacy work on the development and promotion of social dialogue in the cultural sector;
- improvement of qualification of managers in the cultural sector;
- establishment of rules for professional ethics in the field of cultural management in accordance with international standards;
- promotion of policies to improve working conditions in the cultural sector;
- establishment of standards for customer services related to cultural products and services;
- establishment of quality management standards in the cultural sector;
- organisational and technological development in the cultural sector;
- addressing funding issues in the cultural sector;
- addressing the social problems of cultural employees;
- settlement of disputes that may arise in the cultural sector through the establishment of an independent arbitration panel at BAROK.

As mentioned above, the two key trade unions in the field of performing arts are the Union of Bulgarian Actors and the Union of the Bulgarian Musicians and Dancers.

## Union of Bulgarian Actors (UBA)<sup>52</sup>

UBA is an artistic trade union organisation that represents the interests of its members before their employers and the state authorities. Established in 1921, it is a legal entity registered in Sofia, represented by the Chairman of the Union. Its activities are both creative and syndicate (social). Their creative activities include organising the annual "Ikar"<sup>53</sup> awards and maintaining a specialised library with 7000 subscribers.

Membership in UBA is open to everyone who agrees with the mission and the aims, performs professional activities in the field of theatre and related arts, and pays the membership fee regularly. There is no official statistic on the number of artists that are members of UBA. The Union covers 11 guilds, such as: actors, theatre critics, playwrights, technical and administrative workers, circus artists, dubbing artists working, contemporary stage artists, theatre educators, music artists, puppet theatre artists, etc.

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52 UBA website: <https://uba.bg/en/home-page>

The social function of UBA focuses on the operation of 3 types of funds:

- Health Fund – this aims to assist Union members in life-saving and life-support operations and procedures that are not financed by the national healthcare system.
- Social Fund – this aims to assist fellow-pensioners receiving a pension below the national poverty line.
- Scholarship Fund, which supports students' education in higher university programmes in the field of theatre, based on specific criteria.

Accumulation of money in these three funds is raised by sponsors, membership dues and ticket sales without any state intervention.

## Union of Bulgarian Musicians and Dancers (UBMD)<sup>53</sup>

UBMD was established in 1901 and was one of the first trade unions in the country. Its mission is to defend members' interests and rights in the field of labour conditions and employment, such as: working conditions, professional development, performers' rights etc. It comprises over 2000 professionals - performers, teachers, conductors, musicologists, ballet and folk dancers, and jazz and pop musicians. UBMD is a member of CITUB and has the capacity of a syndicate organisation taking part in the negotiation process and signing the Collective Labour Contract in the "Music and Dance" sub-sector. UBMD also provides for its members diverse cultural and social services, as well as awards for artistic achievements.

The research results show that professionals working in the CLPS in Bulgaria do not have sufficient information (or have no information at all) about how the tripartite system in the sector works and what the key issues included in social dialogue are. This is indeed a disturbing finding, as the system cannot work effectively in a situation where the overall framework of tripartism in terms of legislative mechanisms, procedures, players and outcomes is not known or well understood by many individual operators within the sector.

In Bulgaria, the industry-level collective labour agreements (Art. 516 of the Labour Code<sup>54</sup>) are discussed and ultimately signed between the representative industry-level trade union and the employers' organisations in the respective industry, or industry branch, with the Ministry of Culture as the third party. There are two collective agreements in the live performing arts sector that are signed and currently in operation, as follows:

- Theatre" sub-sector – signed by the parties on 28/11/2018
- "Musical performing arts" sub-sector – signed by the parties on 06/06/2018<sup>55</sup>

They are valid for two years and need to be renewed and re-signed in 2020 as they have to be re-negotiated every two years. The two collective sub-branch agreements deal with issues related to labour relations in several areas, such as: labour employment, education and qualification, payment of labour, working time, social support, safety and health at work, social dialogue, and conditions for syndicate activities. These collective agreements are applicable only to the state-subsidised live performance sector, but not for the independent sector.

<sup>53</sup> Union of Bulgarian Musicians and Dancers website: <https://ubmd.bg/en/>

<sup>54</sup> Labour Code: <https://www.lex.bg/bg/laws/ldoc/1594373121>

<sup>55</sup> Source: Ministry of Labour and Social Policy Collective Agreements: <http://nipa.bg/%D0%B1%D0%B0%D0%B7%D0%B0-%D0%B4%D0%B0%D0%BD%D0%BD%D0%B8/>

## Topics of potential interest

There is very little, or no public discussion, or an ongoing media coverage in the field of social dialogue in CLPS. Stakeholders involved in the current research outline the following key topics in the social dialogue in CLPS in Bulgaria that are of potential interest for the three parties involved (employees, employers and the government):

- **Payment for work.** This is a crucial issue as independent performers involved in CLPS, especially in the non-profit arts organisations, are underpaid, as mentioned previously. They work on a project-to-project basis, receive part-time payment, and fluctuating incomes. Their overall annual incomes are low in comparison with the average incomes in many other sectors of the economy (with the exception of a few actors and musicians that participate in commercial activities). Remuneration for independent artists is one of the most controversial issues in terms of social dialogue, because employers prefer to hire non-unionised artists, because they are not protected with minimum fees for work.
- **Additional stimulus for work.** Employers and managers in CLPS are not interested in providing additional motivations for work in non-monetary forms, for example childcare support, life insurance, health and maternity insurance, recreation packages etc. This is because the commercial companies' main goal is to make a profit and these are expenses that decrease their profit margins, while the independent sector (the "free stage") organisations do not have sufficient funding even for their core activities to be able to secure additional benefits.
- **Social security and pension contributions.** Paying such contributions increases the costs in the business and therefore is not preferred by the majority of employers in CLPS. They prefer signing part-time contracts where the performer himself/herself pays the social security contributions.
- **Arranging tours.** Touring outside the country and participating in European and international festivals adds prestige to the organisations in CLPS, but not sufficient revenues. Engagement of performers during tours in CLPS is not regulated in terms of adhering to all the necessary rules for working conditions and requirements (with the exception of health insurance, in some cases).
- **Royalties from copyright and authorship.** As mentioned above, this is a stream of revenue for individual artists.
- **Emerging talents** that have just graduated from university - their status, payment schemes, employment - how to retain and develop individual talent is of concern to many organisations, especially in relation to "stars" that have proven their talent. Many of them diversify their working portfolio and participate in diverse productions and projects, also outside the performing arts sector, because of the average low remuneration in the sector.

## Key barriers and challenges to social dialogue

The current research result outlines several key strengths and weaknesses of the practices and trends in social dialogue in the live performing arts sector in Bulgaria, as follows:

Strengths	Weaknesses
<p>There is an already established and functioning tripartite social dialogue system on the national level, as well as respective institutions in all branches, including in the performing arts field.</p> <p>Creative trade unions understand the role of social dialogue as the main instrument to raise the common voice of the sector and negotiate with the other two parties in the tripartite system</p> <p>Social partners have already invested efforts to develop and improve sectoral and sub-sectoral social dialogue.</p> <p>Social dialogue is implemented in the country as a legitimate instrument supporting policy making on social matters, mainly through collective agreements in the state-subsidised sector.</p> <p>Lobbying and advocacy efforts of artists, managers and producers in the live performing arts sector are the key instrument of social dialogue.</p> <p>There are positive achievements in the country as a result of social dialogue, for example avoiding discrimination of part-time workers in many sectors, improving work-life-balance, gender equality and others, including also in the sector of live performing arts.</p> <ul style="list-style-type: none"> <li>• There is relatively well working guild of journalists, dealing with social issues, industrial relations, employment and unemployment, and occupational safety and health issues in many sectors and sub-branches.</li> </ul>	<p>There is no well consolidated long-term strategy for social dialogue between employers, trade unions and the government in the sector at a national level.</p> <p>The scope of social dialogue is still narrow, as some important issues still don't represent a significant part of social dialogue, such as: work-related stress, harassment and violence at work, migration of the labour force.</p> <p>There is insufficient coherence of actions between the two major employees' associations in the field of performing arts that are key partners in social dialogue.</p> <p>The independent associations of musicians and actors do not play strong advocacy and lobbying roles in the field of social dialogue.</p> <p>Social dialogue depends very much on the national conditions and political changes: if the government is not interested in signing the agreements, the national social partners do not have much influence in the overall process.</p> <p>The capacity-building programmes for the social partners in many areas covered by social dialogue (e.g. training, language courses, informational resources etc.) are not sufficient.</p> <p>There are insufficient measures for equal and visible opportunities for women to take leadership positions in the CLPS and in decision-making forums at all levels.</p> <p>As some performers are also directors and managers, their membership in both the respective union of artists and <b>BAROK as the union of employers is blurred and not sufficiently clear.</b></p>

The research results show that the key challenge to social dialogue in CLPS in general is that **collective agreements** are not relevant and not implemented in this sector. The difficulty is that it is not possible to sign a collective agreement for an independent or commercial organisation where there is no trade union formed and operating that represents employees, which is overwhelmingly true of small and medium-size companies in this sector. Big commercial companies in the sector are not interested in implementing collective agreements, because the more the labour conditions are settled and protected, the less profit they make (e.g. requirements for minimum wages, social and health benefits for employees, and others). The implementation of rules and conditions of employment "cut off" the profits and dividends of owners of commercial companies.

This is the reason why the overall system of labour relations in CLPS is mainly based only on individual contracts, but not on taking into consideration collective agreements.

The third important challenge is the **non-standardised and dynamic labour market** in the CLPS. The rise of “atypical” forms of employment presents an inherent risk. Temporary, part-time, or casual employment, even with a formal employment contract, is less guaranteed. Shortened periods of employment of performing artists in CLPS do not, in most cases, generate insurance rights and the length of service required for a pension.

## What could stimulate the dialogue?

The research results show that the key purpose of social dialogue in the CLPS in Bulgaria has to be to achieve a national reform in the overall support for the status of artists and performers in all aspects of their conditions of work, and to reconstruct public policy for culture in a way that also supports this sector in diverse ways that integrate it with the public sector, and that does not marginalise it further. The Ministry of Culture as the third part of the tripartite system needs to play a vital role, while the Ministry of Labour has the important task of ensuring compliance with and reinforcement of all legal provisions concerning working conditions in the sector.

The research results outline several important areas, actions and incentives for stimulation of the dialogue in the future:

## General Stimulus and Actions Required

Social dialogue represents a significant part of the overall ecosystem in which CLPS operates. It also depends to a huge extent on the financial stability and the strategic development of the organisations in the sector. Vulnerability, project-to-project work, and imbalance between the very big commercial companies and the small and mid-size NGOs in the sector makes the implementation of the social dialogue tools and methods very difficult. Below are some key stimuli and actions that are required at national and regional/local level to strengthen the financial and labour-related capacity of the sector:

- In order to be competitive in the market of performing arts products and services in the country, CLPS organisations require **access to specialised performing arts infrastructure** that belongs to the state - both for rehearsals and performances. There is a need to search, map, renovate and adapt **new spaces and places** to showcase the production of CLPS both in the country and abroad. The current project-in-making “Toplocentrala” – Center for Independent Arts and Culture in Sofia aims to solve this serious issue<sup>56</sup>. The former thermal power plant will be transformed into a municipal cultural institute with its own Board and team that will manage the programming. The project is initiated by the artistic community in Sofia and the ACT Association. It is supported by Sofia Municipality and will cost around 5.5 million Bulgarian leva. The reconstruction of the old building started in 2019 and the plan envisages two performance halls, residency for international artists and other spaces.<sup>57</sup>

<sup>56</sup> Source: [http://actassociation.eu/?page\\_id=1646](http://actassociation.eu/?page_id=1646)

<sup>57</sup> Source: <https://www.mediapool.bg/savremenno-izkustvo-v-starata-toplotsentrala-na-ndk-news292210.html>

- There is a need to **reconsider the current methodology for distribution of state subsidies** that is based on revenues coming only from self-generated incomes, and not from invited external companies and creative teams. Access to such spaces with adequate equipment and permanent administrative staff would increase the visibility of the CLPS in the country, and therefore their audiences and revenues.
- CLPS has to seek and implement **new models of internal organisation and management**, including online, that are in line with the 21<sup>st</sup> century intrapreneurial climate in the arts that requires innovative thinking and actions, an experimental laboratory-like way of managing arts organisations, seeking sustainable business models in the organisational settings.
- International partnerships need to be encouraged at all levels, and especially in the areas of social dialogue - looking at what other countries and organisations are doing and implementing. Establishment and development of strategic alliances of all kinds (equity and non-equity-related) is crucial for improving the visibility and financial sustainability of the Bulgarian CLPS organisations, and will allow them to also improve areas related to social dialogue, such as increase of fees for artists, providing additional work-related benefits and so on.
- CLPS needs to be much better recognised and supported by the **municipalities at the local level** – not only in Sofia and the major cities, but also in the medium-sized and small cities across Bulgaria. Establishment of specialised municipal funds to support organisations, projects and teams that are outside the government structure is of crucial importance. Financing such funds can be done by exploring a variety of local resources, e.g. a percentage of accommodation expenses paid by visitors to hotels.
- **Entrepreneurship practice and support of business models based on arts and creativity** needs to be recognised as a high priority by the state funding agencies and also supported with public money - mainly seed-money for start-up commercial activities, micro-credits for creative businesses, incubators and accelerators that support strategic business planning and implementation in CLPS.
- **Project subsidies** for the CLPS has to be clearly elaborated and much improved in terms of the financial framework and parameters for providing the support, including grants for co-productions and touring, loans and grants for start-up companies, and establishment and development of an incubator or accelerator for creative businesses in collaboration with other stakeholders.
- There is a strategic need to launch the development of a **creative cluster ecosystem** in the country where CLPS is not isolated, but works in partnership with diverse organisations from other sectors such as: health care, infrastructure, education, environment and other areas. Cross-over innovations would help in breaking up the “departmentalised approach” towards showcasing of stage production in the country.

## Specific Stimulus and Actions Required

### Performers and their unions

- Information sharing and direct consultations of artists by the respective trade union, or artists' association is of utmost importance. The Union of Bulgarian Actors and the Union of Bulgarian Musicians and Dancers have to play an active role in all forms of social dialogue in the future, including the increased role for lobbying and advocating for the status of the independent performer. The two unions of performers need to be stronger, and to possess technical capacity and competences to engage in meaningful social dialogue, not only related to the state sector, but also to the independent and commercial sector.
- The need to organise a trade union or a similar structure that protects the rights of independent artists, including ensuring their employment, is emphasised in the recent research on the Independent Cultural Sector in Bulgaria.<sup>58</sup>
- Unions and associations of performers need to lobby actively in order to clarify and defend the legal status of independent artists so that the government can support their insurance, provide paid holidays, pension benefits after certain years of service in the sector, and so on.
- Collective agreements could function in CLPS only in the case of increasing the financial stability in the non-profit organisations that are operating, because only then could they hire employees on the payroll and form syndicates at an organisational level to benefit from the sub-branches collective agreements signed by the three parties.
- Individual performers need to be convinced of the real need and benefits of becoming members of one of the two trade unions in the performing arts field and, as unionised artists, to defend their rights while signing working contracts with private employers (part-time, full-time, or based on the Civil Law). A larger membership base will also make the two unions more financially stable and able to improve their programming platform and better serve their members. Such a "win-win" situation is very important for a strong independent sector that stands behind the social rights of artists.
- The Union of Bulgarian Artists need to reconsider their strategy of having increased syndicate functions to be able to defend legally the rights of their members in case of labour conflict or unfair payment (as in the case of UBMD). Currently their functions are much more creative, social and operational through the three funds established (as mentioned above).

### Employers and their associations

- The Bulgarian Association of Employers in the field of Culture, "BAROK", has to improve its activities and actions in relation to social dialogue in the CLPS and to become a forum for employers in the sector to discuss and solve pressing issues related to stability of employment of performing artists, increase of remuneration for work and securing decent and stable working conditions and inclusion in the social security system.

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<sup>58</sup> Source: Bulgarian Music Association and Nelly Stoeva (Results of Survey): <https://bgma.bg/wp-content/uploads/2020/04/Independent-Cultural-Sector-in-Bulgaria-Survey-March-2020.pdf>

## The government

- The Ministry of Culture need to seriously consider and include social dialogue, employment relations, working conditions and the status of artists in the National Cultural Strategy (2019-2029), as it is not currently featured. The status of performing artists and conditions of employment in CLPS, as well as the overall support of the independent sector need to be equally prioritised, together with providing support and subsidies for the national and municipal cultural organisations.

## All three parties

- The purpose of social dialogue is to have a democratic decision-making framework in the live performance sector and this is why the three parties in the tripartite system, as well as all other bodies that are dealing with employment relations, should be actively and constantly involved in the actions and forms of social dialogue, and not only in the periods before re-signing of collective agreements every four years.
- Parties have to actively contribute to a cultural policy that has a strong social angle and deals with the status of independent performers and stage artists. It is also important to find mechanisms for replacing the tripartite system of collective bargaining in the CLPS as the collective agreements are not valid there in the majority of cases.
- The objective of social dialogue is not just to sign an agreement between the three parties every two years (as currently happens), but to have the social partners and the government participate in an ongoing process of sharing information and viewpoints.

## Other stakeholders

- **Media:** There is a strong need to have public debates and a media presence exploring the status of artists in the country: why are artists different to “blue-collar workers” and “white-collar employees”, what are the 21<sup>st</sup> century requirements for working conditions and all other areas related to employment of artists, and what are the ongoing responsibilities of the three parties in terms of social dialogue.
- **Educational institutions:** The subjects of social dialogue, conditions of employment and status of artists should be included in the curricula of higher education programmes related to arts management and cultural policy in the country. Disciplines on entrepreneurship, start-ups, business planning and related matters are of importance for the specialised secondary education in the field of performing arts in order to provide competence and skills on management of small-scale companies in the sector.

## Conclusion

The commercial live performance sector is highly concentrated, fragmented, dynamic and diverse. It consists of two types of organisations – on the one hand, prevailing small teams and “artpreneurs” (“musicpreneurs”), working on a project-to-project basis without stable and long-term government support, and on the other hand, large-scale commercial producers, especially in the field of pop and folk music. There is a discrepancy between the general stability in the state-subsidised sector and vulnerability of the independent sector in the live performance arts. The overall absence of conventional spaces for independent performing arts productions is also a key issue in the lack of financial stability in the sector, which is a factor when it comes to establishing a strong background for financial stability, and is therefore reflected in social dialogue issues.

CLPS is not fully consolidated, unionised, and its overall advocacy and lobbying role is quite weak. The two associations of independent musicians and independent freestage artists have undertaken diverse active efforts and steps in pushing for government reforms (including the platform “Shared Vision” in 2018), but due to the low level of representation and rather weak organisational structure, as well as lack of substantial financing, their efforts have not resulted in successful negotiations for improvement of the status of independent artists both in the legislative framework as well as in cultural practice.

The strength of social dialogue in the live performance sector in Bulgaria is that it is tripartite and the government plays a key role in the negotiation process. It covers the key issues in relation to conditions of work. The weaknesses are that social dialogue’s key instrument, collective agreements, function mainly in the state-subsidised performing arts sector, and are not present or applicable to the commercial sector, as well as the independent sector. In the former, private producers and managers of commercial organisations do not have the benefit of implementing any of the social security and working conditions measures. The latter is rather fragmented, unstable and without sufficient power to be influential.

## Key Recommendations

### Concerning National Cultural Strategy and Policy

- The Ministry of Culture needs to include the development of social dialogue, the status of artists and working relations both in the state-subsidised as well as the independent and commercial sectors as part of the National Cultural Strategy (2019-2029).
- Establishment of a special fund at national level to support independent artists’ health and insurance policies, pensions and other benefits would represent an important step forward.
- The National Cultural Fund needs to reshape the project-granting strategy in a way that supports small-scale organisations and start-ups, as well as creative businesses and creative industries in the forms of grants for business plans or loans with beneficiary interest (in collaboration with other partners such as banks and business organisations).
- The establishment and development of a healthy ecosystem for creative clusters in culture and creative industries, including CLPS, is of utmost importance for mapping local resources for developing and building up strong coalitions between diverse stakeholders, also outside the targeted sector for ensuring coherence and a holistic approach in all operations.

## Unions and Associations in the Sector

- The Union of Employers in the field of Culture, BAROK, has to be much more active in initiating, supporting and developing social dialogue in the country, not only during negotiating and signing of the collective agreements applicable only for the state-subsidised organisations, but also in terms of looking for methods and tools for effective employment relations in CLPS.
- The two unions of performing artists have to play strong syndicate roles and defend the rights of their members in the labour relations system in the country. Special emphasis needs to be paid to female artists, emerging artists, and to decreasing the turnover in the CLPS and the flow of talent outside the country.
- An important aspect of social dialogue in this sector should be the social security packages for freelancers and self-employed performing artists in order to get their benefits aligned with the mainstream system of artists on the payroll.
- There is a need to refresh and upgrade the websites of the key social partners and their presence on social media in order to increase visibility and provoke ongoing public debates on social dialogue in the country.

## Organisations and creatives in the sector

- Small-scale organisations in the independent and commercial live performance sector need to work on the development of strategic and modern approaches in their operations, considering a diversified financial portfolio from external and internal sources of revenues, innovative business models both online and offline, as well as business models based on international and local partnership.
- Further consolidation of the sector is of utmost importance so that it could play the role of a strong force in the tripartite system and social dialogue in the future through the two key unions, but also other stakeholders.
- Establishment of an online and offline national marketplace for showcasing performing arts companies, teams and individual artists is important for increasing employment opportunities in the sector.

## Other stakeholders and media

- University programmes in arts management and cultural policy across the country need to consider including in their curricula issues and disciplines related to social dialogue and the status of independent artists.
- Secondary schools need to pay attention to entrepreneurial disciplines with emphasis also on businesses based on creativity, as well as cultural and creative industries.
- Journalists from conventional media have to take on board the issues, barriers and opportunities for social dialogue in CLPS and the performing arts sector in general, not only during negotiations for collective agreements, but on an ongoing basis.

# Country report: Czech Republic

Pavla Petrova

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## Introduction

This report presents the results of a mapping and analysis of social dialogue in the commercial live performance sector in the Czech Republic. It is a part of a larger study also covering Bulgaria, Romania, Serbia, and Poland run by the social partners of the EU social dialogue committee in the live performance sector, namely PEARLE\* - Live Performance Europe and the EAEA (composed of EURO-MEI, FIA and FIM), and which is co-funded by the EU.

This report **aims** to:

- Describe the commercial live performance sector in Czech Republic
- Identify the sector's key characteristics and related challenges Present the situation of workers/performers and organisations active in the sector
- Assess the state of social dialogue in the sector, understand the possible obstacles to the sectoral dialogue
- Provide suggestions for promoting and fostering social dialogue in the sector

The report is based on the following **research methods**:

- Desk research: review of existing publications, documents and legal framework at the national level. Two focus group meetings with key relevant national social partners and stakeholders across the Czech Republic: in Prague.
- Individual interviews with relevant stakeholders.
- Two online surveys for individual performers and organisations active in the commercial live performance sector.

## Limitation

By design, the online survey is not representative for the entire populations of interest. This is reflected in the way in which survey results are utilised to inform the analysis in the report.

The research work underlining the report was largely finalised in February 2020, i.e. before the outbreak of the COVID-19 pandemics. The resulting lockdown measures have profoundly affected the live performance sector across Europe and beyond, including in the commercial live performance sector. At the time of finalising this report the timing and pacing of re-opening of live events was still uncertain. On 12 March, 2020, UNI Global Union's Entertainment and Media sector, EURO-MEI, together with the International Federation of Musicians (FIM), the International Federation of Actors (FIA) and Pearle\* - Live Performance Europe urged governments to take emergency measures in support of the live performance sector following the impact of COVID-19. The adverse effects of the pandemic are still likely to have a significant impact in the months to come. At the same time, the exceptional circumstance in which the sector has found itself offer a chance to rethink its mode of operation, to strengthen the sector's resilience and improve sustainability of work models of individual creators and performers, live performance workers, and performers and organisations. Developing potential new solutions can be greatly advanced by engaging all stakeholders in social dialogue.

## Commercial live performance sector

For the purpose of this study, **the commercial live performance sector** is understood to cover a wide range of performances presented in the physical presence of a public, both for profit and not-for-profit, **fully or partially independent from public funding**. This in particular involves activities such as theatre, music, dance, circus, and other stage productions performed in specialised venues, in public spaces, in venues frequented by tourists, etc.

This implies that public sector entities are excluded from the analysis. However, initiatives partly subsidised by public funds remain in the scope of research provided that they do not fully rely on public funding and that they remain independent from the public sector in managerial decisions and applications for funding.

### Key characteristics of the sector

The performing arts sector in the Czech Republic can be divided into three segments<sup>1</sup>:

1. The public sector, with theatres, orchestras, choirs and festivals that are founded or established and operated as organisations receiving contributions from state, regional or municipal sources;
2. The private sector, of a business nature with a commercial purpose (i.e. with the legal personality of a stock company; limited company or a trade certificate);
3. The non-profit sector, i.e. companies and organisations that are established as public benefit corporations, associations or companies transformed from what was an organisation receiving contributions from state or municipal resources, etc.

This report covers most of the entities from the last two segments. In terms of number of entities, private organisations clearly dominate, with a ratio of around 1:3, according also to a statistical survey by The National Information and Consulting Centre for Culture (NIPOS) (Table 1)<sup>2</sup>.

**Table1: Public and private organisations – live performing arts 2017 - NIPOS**

	2017
Number of public* theatres	39
Number of private theatres	136
Number of public music companies	12
Number of private music companies	30

\*Established by state and municipal administration.

Source: The author, based on NIPOS data – Basic Statistic Data on Culture in the Czech Republic in 2017, Part II Art: Theatres, Music Companies, Exhibition Activities and Festivals, Prague, 2019

- 1 For discussion see Boháčková, J. (Ed.) (2015), Mapping the Cultural and Creative Industries in the Czech Republic, vol. 2, Prague, Arts and Theatre Institute.
- 2 The results should be treated with some caution given the response rate in the NIPOS survey. However, it is sufficient for making a basic comparison.

The following sections of the report will provide more information about the size and characteristics of the workforce in the sector. The main point is that the workforce in the commercial live performance sector in the Czech Republic is based on self-employment. In terms of the different professional associations, we can estimate that there are around 15,000 self-employed people.

An important consideration concerns the use of the term 'commercial' to describe the sector as is done to ensure international comparability and consistency in this report. In the Czech context, it appears that at least for theatre and dance, any references to 'commercial' arts within the sector are regarded as pejorative. Subjects that apply for at least partial public support are careful about not being perceived as commercial. On the other hand, popular music does not deal with this aspect at all. Everybody understands that the major part of the music sector is commercial, including classical music.

When we look at differences among sub-sectors, the most fragmented one is the music sub-sector, speaking of genres, categories, organisations, and associations. Classical and non-classical music have nothing in common, after all. The theatre and dance sectors are more compact and have professional associations with a better structure.

In order for the subjects to garner public support, they operate with more than one legal subjectivity in all fields of the performing arts. They use legal subjectivities according to their current needs.

We can see some inequality inside the sector in term of public support. The Ministry of Culture primarily supports classical music or, in some cases, traditional music genres, such as jazz and folk. Other new genres or fields like street dance in the dance field have hard times receiving public support. On the other hand, even commercially successful new disciplines, such as contemporary circus, are sometimes successfully supported from public funds.

## Main challenges

The research showed that the private domain in performing arts in the Czech Republic is currently facing a generational shift, regardless of the discipline. The generational shift is linked to many other current shifts, such as a deeper interest in self-development and needs of artists, the possibility of joining professional associations, and/or green topics.

The music sub-sector also faces another challenge: the change of the market associated with the digital shift. More than half of the business is conducted online<sup>3</sup>, thus music is more accessible, yet there is no emerging live music audience. At the same time, contemporary circus and, to a smaller extent, contemporary classical music are experiencing a boom and have no problems with attendance.

Although each area in this sector has its specific needs, they also share some needs and problems, such as insufficient training for professional life in contemporary society for art school graduates, insufficient further education and capacity building, lack of data on art sub-sectors, big state red tape, and longstanding mistrust of stakeholders on the level of state or collective societies.

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**3** For discussion see FESTAS (2019), Festas Market Survey, [https://issuu.com/asociacefestas/docs/festas\\_digital\\_final\\_issuu](https://issuu.com/asociacefestas/docs/festas_digital_final_issuu)

## The situation of workers

Data about the workforce in the performing arts is monitored in the Czech National Culture Account. The latest available results are listed in the Czech National Culture Account from 2017<sup>4</sup> (Table 2).

**Table 2: Workforce in performing arts 2017**

	Jobs of a cultural nature performed, in an organisation with a dominant cultural activity	Jobs of a “non-cultural” nature, performed in an organisation with a dominant cultural activity	Number of working people in total*	Out of which		
				Entrepreneurs	Employees with regular work agreements	Full-time employees
<b>Performing arts in 2017</b>	10,906	7,191	18,097	5,860	12,057	9,604

\*The number of working people includes employees (with an employment contract or agreement), entrepreneurs (with or without employees) and assisting family members. .

Source: The author, based on the Outputs from the National Culture Account in 2017 (NIPOS and CSO, 2019)

The same statistical survey<sup>5</sup> for 2017 shows that full-time employees with regular work agreements in the performing arts had the average wage in performing arts at 25,400 CZK (989 EUR), i.e. around 80% of the average wage across all sectors.

In terms of employment<sup>6</sup> in different sub-sectors of the performing arts, specific data is available only for employment, wages and representation in labour unions of ballet dancers in public institutions<sup>7</sup>.

Employment based on regular employment contracts in the private sector is documented only rarely with regard to some of the administrative or managerial jobs in subjects with partial public support or in the case of large music festivals. All other relationships are based on different kind of contracts.

The monitoring of jobs based on agreements, volunteering, and engagement of self-employed people in the sector is at the same time the more problematic issue and it is not possible to provide any estimates. In the Czech Republic, the status of a freelance artist is not defined and there is no registration of this type of artist and cultural worker, so the exact number is not known.

<sup>4</sup> For discussion see NIPOS and CSO. (2019), *The results of the Culture Account 2017*, Prague, NIPOS.

<sup>5</sup> The number of working people includes employees (with an employment contract or agreement), entrepreneurs (with or without employees) and assisting family members.

<sup>6</sup> Employment – Working relationship based on a regular employment contract

<sup>7</sup> For discussion see Vašek, R. (2017), *Czech Dance in Data 2/ Ballet*, Prague, Arts and Theatre Institute.

From this research, we know that the most common type of work arrangement in the commercial live performance sector is in the form of contracts signed by self-employed people. The survey<sup>8</sup> shows that the majority of respondents (individual artists) work as self-employed people and more than half of them have contracts based on the Civil Code or Copyright Act. There is no regulation concerning minimum fees in the live performance sector. The youngest generation of musicians and dancers very often receive minimum or even no fees. Most contracts are short-term or per project. Organisations with bigger public support are more likely to offer longer-term contracts, e.g. for one year. Unregistered employment can also be observed in the music industry and other fields.

Fees also differ in various segments of the sector. Good conditions can be negotiated in contemporary circus, for drama stars and music soloists. This does not happen anywhere else. However, it is true that technicians in all areas of the performing arts are paid better than performers.

The interviews and focus groups<sup>4</sup> provided an overview of common average fees in this sector. In the music sector, jazz clubs pay 800-1,000 CZK (31 EUR – 39 EUR)<sup>9</sup> per evening, musicals pay 1,000 CZK (39 EUR) to musicians and 2,000-3,000 CZK (78 EUR - 117 EUR) to soloists per night. The standard fee per concert starts at 1,500 CZK (58 EUR), with the average being 3,000 CZK (117 EUR).

In ballet and dance, dancers in commercial theatres earn about 1,000 CZK (39 EUR) per performance. In black light and musical theatres up to 2,000 CZK (78 EUR) per performance can be earned. On the other hand, fees in a publicly subsidised dance theatre (non-profit theatre) are on average 2,000 CZK (78 EUR) per performance, which is above average in the field of dance. At festivals, the fees are even higher - 3,000-3,500 CZK (117 EUR - 136 EUR), with the average being 3,000 CZK (117 EUR). Interviews conducted as part of this research indicated that the most frequent phenomenon in private domains of the performing arts is the working of several jobs. In the classical music, theatre and dance sectors, it is rather common to simultaneously hold jobs in public institutions and commercial projects or do part-time work in other fields, such as art schools, etc.

Dancers from public theatres, including the National Theatre, are a good example, as they also work in advertising, presentation of goods, or they dance in musicals and/or black light theatres<sup>10</sup> at the same time. In the field of dance, it is also common that a dancer has a primary career in the public sector and a secondary career in black light theatres or musicals.

Musicians in the non-classical music sector often have to take holidays if they want to tour internationally because they are also employees in other jobs. In this regard, most of the sector is at the amateur level. Even from the Ministry of Culture's point of view, the only area which is truly based on a professional approach is classical music.

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**8** The survey was carried out at the end of the research after the series of interviews and focus groups and was focused on organisations (Line 1) and individual artists (Line2) in the private live performance sector. The survey was conducted using the SurveyMonkey system from 13 January to 15 February 2020. It included a combination of open-ended and closed-ended questions. The questions were answered by 180 organisations and 89 individual artists.

**9** The calculation of EUR equivalents of CZK values in the report applies an average exchange rate from 2019: 1 EUR = 25.672 CZK.

**10** Black light theatre is a type of theatre performance using black curtains, a darkened stage, UV light, and fluorescent costumes to create visual effects. Originating from Asia, it has become a speciality of the Prague theatre scene.

As far as commercial events are concerned, the commercial sector employs intermediaries, such as commercial event agencies or job agencies for seasonal workers at music festivals.

The situation of workers who are not employees with regular employment contracts is rather complex as they typically have no rights and protection in areas such as working conditions, working hours, and occupational safety. Lack of regular income also implies a worse situation in terms of common life conditions, such as acquiring a mortgage, taking a loan or placing a child in a public pre-school facility.

Specific findings demonstrate that dancers are not insured in musicals and black light theatre, the rehearsals are not paid, only reruns of performances are paid and there are no options for training.

## The situation of organisations

Since the private sector was established in the early 1990s, the relations between the public and private sector have remained complex. One of the areas where this is evident is competition for public support. Financial support from public funds for public arts institutions, established by the state administration or by a municipal/regional administration, greatly exceeds the overall support of the independent private sector. The same issues apply to the area of remuneration. The remuneration in the public part of the sector remains higher and more stable than in the private part of the sector. This is why performers often have more jobs and combine private and public sector jobs.

The discussion on professionalisation of the private sector remains linked to the possibility of employing artists on regular employment contracts, as with public institutions. Currently, the private sector does not have enough financial capacity and even big private organisations have very few employees.

The sub-sectors differ in genres and types of organisation – venues, festivals, etc. The basic difference is linked to the extent to which a particular organisation can access public support. Many organisations can maintain the basic team of associates with a long-term contract, although they will not be employees. Festivals often have permanent management teams and resort to seasonal workers when needed.

The survey 9 shows that most respondent organisations use another type of contract, such as those based on the Civil Code or Copyright Act and one third of respondents (organisations) use regular long-term employee contracts, and almost one third of these also make use of the informal relationships with workers where no contract is needed.

The strongest players in the private sector of the performing arts are undoubtedly festivals, both in music and theatre. Festivals are also the biggest employers both in terms of regular employment contracts and other types of contracts. Festivals also work the most with volunteers. Thanks to the systemic state support for big festivals, the theatre and dance sub-sectors have also started to develop other activities, such as residencies.

Organisations in this area of the performing arts typically employ 1-5 permanent workers (the core team – the manager, artistic director, etc.). Commercial theatre companies often have a permanent group of art workers, along with stars that are attractive to the audiences. Other organisations in music, dance, contemporary circus and theatre are based on cooperation with the permanent art team, whose remuneration is based on invoicing on a project-by-project basis.

The non-classical Czech music labels<sup>11</sup> have 10-15 permanent workers maximum, while booking agencies, venues and clubs have 1-2 permanent workers. Even big festivals which have 10-15 permanent workers use mostly freelance contractors.

Private theatres usually do not use agencies in castings; agencies are only used in film productions and musicals. Some agencies also arrange jobs in commercial events.

The prevailing business models reflect the financing conditions and access to public funds in particular. Only some organisations can rely on public support, yet this is still lower than for the public sector of the performing arts. One strategy then is for organisations in the commercial sector to have several legal personalities. The main reason for that is to use the correct legal personality for different financial reasons, which can optimise their costs (business entity) and also chances for public support (NGO entity).

When we look at segments in the private sector of the performing arts, the business model in non-classical music is based on revenues from ticketing, merchandising, sponsors, music used in movies, and music used for other purposes. Public funds top these up, but only in exceptional cases. The field of classical music has a similar structure in terms of income, yet the difference is that income generated from public support is a fundamental source of income. In theatre and dance, the business model is similar to that of classical music, with the exception that there are not so many opportunities for sponsorship in this field.

Touring (within the Czech Republic and internationally) is essential for non-profit organisations, as is international cooperation on European grants (the EU Programme Creative Europe).

As far as contemporary circus is concerned, the business plan is based on income from ticketing, public subsidies, commercial activities, and other secondary activities. The segment is also trying to look for sponsors. The important component is touring, especially abroad.

No public support is assigned to the segment of musicals and black light theatre in the Czech Republic. The business model is based on income from sponsors and ticketing, itself based on strong connections with travel agencies and their commissions. There is also an established system of benefits and cooperation. On the other hand, association with tourism is also linked to the effort to rent spaces in the historical centre, especially in Prague, where the rents are the highest.

Live performance organisations, which own or rent spaces, often exploit opportunities to receive income from other activities, such as restaurants, commercial rents, and educational courses for the public, etc.

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**11** Czech music labels or record companies were established after 1989 as small independent entities with the aim of helping the new independent Czech music sector to gain a foothold in the market. They represent an important part of the whole sub-sector, also in the sense of a counterweight to the big international record companies.

## The state of social dialogue

The dialogue takes place in two formats. The bipartite social dialogue, i.e. between employees' representatives (trade unions) and employers' organisations, is not institutionalised and collective bargaining modalities are left to social partners. The tripartite dialogue is institutionalised in the Council of Economic and Social Agreement of the Czech Republic (under the Ministry of Labour and Social Affairs). It provides a platform for collective voluntary negotiations and a dialogue forum between trade unions, employers and the government of the Czech Republic.

According to current legal provisions, only labour unions are authorised to prepare collective agreements. Other representatives of employees in the Czech Republic are only authorised to do so by informing employees or discussing issues explicitly stated in the Labour Code, but they cannot prepare legally enforceable agreements with employers.

The Civil Code recognises labour unions as a legal person *sui generis*, corresponding to the specific nature of the representatives of employees, defined in treaties the Czech Republic must obey, which provide for the freedom of association, i.e. it assigns them with the status of a labour union. Negotiations between labour unions and employers, also known as collective bargaining, has been provided for by several laws – Act No. 120/1990 Coll., on certain relations between labour unions and employers, and Act No. 2/1991 Coll., the Act on Collective Bargaining, which provides for collective bargaining between labour unions and employers or their organisations, with possible cooperation with the state and with the aim of concluding a collective agreement. When incorporating labour-law requirements in collective agreements, it is necessary to proceed from Civil Code No. 89/2012 Coll. and the Labour Code.

The biggest labour union in the Czech Republic is the Czech-Moravian Confederation of Trade Unions (CMCTU). The confederation members that are likely to gather live performance artists are: Trade Union of Orchestral Musicians of the Czech Republic, Trade Union of Professional Singers of the Czech Republic, Actors' Association, Trade Union of Workers of Cultural Facilities, and Trade Union of Workers of Culture and Nature Protection.

The second biggest labour union is the Association of Independent Labour Unions. Their member is Theatremakers' Labour Union.

It is important to note that, in practice, labour unions only associate trade unions from public art institutions. The private sector is not represented here. This is because employment in the private sector is not usually concluded with regular employment contracts and self-employed people prefer to negotiate individually and sometimes not at all. Only Actors' Association tries to represent the interests of individual artists and actors outside the public sector. And this is because actors very often work between the public and private sector.

The situation is slightly different in the segment of employer's associations. One of the biggest employers' associations is the Union of Employers' Associations. It also represents the field of culture and is active in most of the tripartite working teams.

The culture section of the Union has the following members from the field of performing arts:

- The Czech Association of Festivals,
- The Association of Professional Theatres in the Czech Republic,
- The Association of Symphony Orchestras and Choirs of the Czech Republic,
- The Association of Independent Theatres,
- The Association of Music Festivals of the Czech Republic.

Of these five unions, the Czech Association of Festivals and the Association of Independent Theatres and, to an extent, the Association of Music Festivals of the Czech Republic have members from the private sector of the performing arts. The other two exclusively focus on public art organisations. The Czech Association of Independent Theatres was founded as an open association of theatre entities, production houses and individuals in the field of theatre, which are not established by public administrative bodies across the country, to communicate with other theatre entities on common issues.

The Czech Association of Festivals was founded in 2015 and organises outstanding live arts festivals (14) across arts disciplines: classical music, alternative music, jazz, world music, opera, dance, and new circus.

The Czech Association of Music Festivals was founded in 1996 as a professional association of organisers of the most outstanding Czech music festivals of classical music in particular. It has 16 members. It is a member of the Union of Employers' Associations and a collective member of the European Festivals Association.

Generally speaking, the whole sector of commercial live performing arts is not much involved in any form of the regular social dialogue except the tripartite meetings at the Ministry of Culture. Nevertheless, the need for social dialogue has been increasing in the past few years. According to the survey<sup>9</sup>, almost half of respondents – individual artists – think that there is a need for dialogue between employers and workers, but more than one third of them do not know how it can be implemented.

In the last ten years, some new developments are evident which represent a natural overhaul of the official process of social dialogue in the private live performance sector. Since the needs of the private sector of performing arts has not previously been compatible with the official structures for social dialogue, the private sector started to form new professional associations or even new mechanisms to support its needs and requirements in terms of various stakeholders.

A very good example of this kind of initiative is the Dance Career Endowment Fund<sup>12</sup> which was set up in 2015. As a private initiative, it seeks to educate and has both psychological and advisory services. It has also been trying to negotiate with the state to find alternatives for a pension fund for dancers and other motion artists, yet with no success so far. Efforts have been made to establish a participative funding of second careers – 1,000 CZK from the dancer and 1,000 CZK from the state per month. After 20 years in a dancer's first career, the dancer would have enough money to pay for a retraining or a new job.

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<sup>12</sup> <http://tanecnikariera.cz/home-en/>

Only recently has the situation started to change even more rapidly with the generational shift, and with new associations like the International Music Managers Forum<sup>13</sup> or FESTAS<sup>14</sup>. In 2016, the Association of Independent Theatres was established as the first of these, and as a counterbalance to the Association of Professional Theatres (public theatres), with the aim of pushing through their interests at the tripartite level and other social negotiations.

But even despite some new movement, it is clear that the situation is changing very slowly. According to the survey<sup>9</sup>, the majority of respondents (organisations) stated that they are not members of any employers' associations and 2/3 of them have not even considered this option. A majority of all respondents – individual artists – are not members of any professional association. Interviews conducted as part of this research show substantial differences between segments in the private sector of the performing arts in terms of understanding the role of social dialogue and the approach to it. In non-classical music, there is no awareness of social dialogue and its benefits. This sector of the performing arts is not involved in any way at the tripartite level. On the contrary, the private classical music sector understands social dialogue, but interest has been shown in tripartite format only and only by employers within the sector. In private theatre, dance and contemporary circus, the Association of Independent Theatres participates in tripartite negotiations on behalf of employers. However, there is no other form of social dialogue and the terminology is lacking as well. There is no level of social dialogue in fully commercial theatres, musicals and black light theatre.

As the new member of the Union of Employers' Association, the Association of Independent Theatres sometimes attends the tripartite meetings at the Ministry of Culture. Its aim is to balance the situation between the public and private sub-sectors of theatre in terms of the amount of public support and remuneration of workers. Although the Association of Independent Theatres has been trying to represent the interests and needs of the commercial segment of the performing arts in the tripartite dialogue, it has not been understood by the other "older" representatives of culture in the Union of Employers' Association.

Also, the Ministry of Culture primarily sees tripartite negotiations as a platform for representatives of public employers. Although the private sector is also represented mostly through the Association of Independent Theatres, the Ministry sees the needs of both the public and private segments of the performing arts as completely different and incompatible. That's also why the Ministry of Culture prefers to create another informal format for social dialogue with the private sector, e.g. in the form of round tables taking place several times a year at the Deputy Minister of Culture level with participants from grant committees, where the discussion focuses on how funds should be distributed.

The two main topics currently discussed in the tripartite format are the gap in wages between public live performance institutions at the regional and municipal level on the one side and state institutions set up by the state on the other side, and public support for the performing arts. Wages in organisations established by the lower levels of state administration have remained well below those in organisations established by the central level of administration, and the gap has continued to widen.

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13 <https://www.musicdok.com/o-spolecnosti/spolupracujici-organizace/mmf/>

14 <https://www.festas.cz/>

## Topics of potential interest in social dialogue

From the research, we can summarise two topics for dialogue of potential interest to the commercial part of the sector. One topic is already being discussed - the balance in remuneration between the public and private sectors which is related to access to public subsidies. The surveyed respondents – organizations - listed funding of the sector in first place in the list of potential topics for discussion. The second most important topic was employees' salary and the third most important topic was the issue of labour market matching, i.e. the ability of employers to find workers with appropriate skills, and for workers to find good employers. All these topics are already included in the social dialogue discussion, but no concrete achievements have been made.

From the results of interviews and focus groups, we can identify other important topics of a social nature, including the lack of the legally recognised status of artists in the Czech Republic.

The proposed topics are:

- **Tax issues.** The main topics are electronic records of cash sales of goods and services<sup>15</sup>, the income tax of artists and other cultural workers, VAT on tickets, bilateral contracts on double taxation, or withholding tax (in the case of big international festivals).
- **Social insurance.** The biggest threat to the sector in the long run is pension insurance because individual artists pay only the minimum amount defined by law. The hidden phenomenon will reveal itself fully when the first generation born after 1989, who spent their whole professional life in self-employment, reaches retirement age.
- **Protection of artistic jobs performed by self-employed artists** without the status of employees. The issue stressed in interviews is that all benefits are linked to the status of an employee according to the Labour Code. Performers who are not employees, even if they are working on the same performance as an employee of the theatre, do not have the right to social insurance or insurance in case of job-related injury and they are not covered by regulations on working hours, compulsory breaks, refreshment, etc.
- **Accreditation** of some jobs that have not been defined in the national job system. An example of this may be an acrobat.
- **Artists' second career.** Contemporary circus is the only field in which performers give independent thought to their second career, e.g. the potential for education, teaching courses, choreographies, and they also seek an official authorisation for the two-year-long circus studies programme. From the interviews, it is clear that the tripartite meetings at the Ministry of Culture level have, for instance, only touched on artists' physical performances and the opportunities to shift to a retraining programme after the end of a career, which is something offered by the Labour Office, yet the fields of art are not specified. The second career of artists is still an open topic.
- **Professional help.** In dance, accidents occur very frequently and physical health is not cared for sufficiently. People working in the field of music often suffer from mental health issues – there are many cases involving mental illness, burnout, and depression.

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**15** In 2016, the Czech Republic introduced the system for electronic records of cash sales of goods and services - Czech abbreviation EET

## Key barriers and challenges to social dialogue

Official social dialogue in its current format has gradually emerged since the end of the communist era. In line with trends in many other post-communist countries, trade union membership has fallen sharply since early 1990. Moreover, new forms of work relations, different from regular employment contracts, have become more popular. The commercial live performance sector currently faces a situation where the traditional trade union membership is practically non-existent, in part due to lack of regular employment contracts in the sector<sup>16</sup>.

The representation of organisations active in the sector is also relatively weak. For various reasons related in particular to social trust in general, there has been little to no interest in associating and working together for common objectives over the past 30 years. However, as discussed above, there are signs of growing interest in collaboration and dialogue that can be partly linked to a generational shift among people active in the sector.

To understand the context, one should note that some live performance disciplines experience challenges with social dialogue even in the public sector. Ballet and dance artists are affected the most. Ballet does not benefit from strong labour unions even in publicly subsidised theatres. Dancers in public companies typically only have short-term employment contracts. This weakens the position of workers with regard to management. One of the reasons for this situation is the fact that the system of education in dance is based on the old principles of obedience, and there is also intense competition for work at ballet institutions. The career of dancers is very short, further weakening pressure to represent their interests in social dialogue.

The survey of organisations found that just over half of the organisations do not see any obstacles hindering the development of a dialogue between employers and workers. Yet one third of respondents did not answer the question. One possible reason for this could be lack of interest in social dialogue. Surveyed individual performers were also split on this issue. More than one third did not answer, while the rest was split into those perceiving and not perceiving limitations.

One of the key barriers is also the insufficient financial capacity of already established trade unions and employer's associations. The development and operation of these entities depends only on the membership fee of its members. Organisations that are professional associations operate mostly without any membership fees and without any public subsidy for the basic running costs and remuneration of the administration. Activities of these organisations are based mostly on the work of volunteers and the enthusiasm of their members.

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**16** Trade unions can be set up and have the right to negotiate in the Czech Republic only on condition that they have a minimum of three members who are employees with a regular employment contract provided by this concrete employer.

## What could stimulate dialogue?

The interviews and focus groups reveal some incentives which could stimulate future dialogue. For organisations, this would especially include support for capacity building of organisations and their financial stability. Private entities in the performing arts are currently dealing with the daily struggle for survival. And they don't have either the time or the financial capacity to focus on advocacy and further development. For individual artists and cultural workers, this would include the possibility of long-term education, support and advice on their rights. And, last but not least, rebuilding trust in stakeholders, which do not pay attention to the needs of the private sector.

## Conclusion

The overall condition of the commercial live performance sector is unstable and lacks much potential for long-term planning. The key sources of revenue differ depending on the sub-sector, but for many sub-sectors the possibility of greater access to public funds remains the key issue of interest. Work relationships are based on contracts that differ from regular employment contracts. The self-organisation of the sector remains very limited, especially on the worker's side, with some signs of increased interest in self-organisation. Social dialogue in its traditional forms is practically non-existent.

The commercial live performance sector is at a crossroads due to a generational shift among the people working within the sector and ongoing social and technological changes. The positive aspect of this is that the sector has slowly begun to develop a greater interest in its needs, working and social conditions, and remuneration. There is a growing interest in forming associations across all performing arts. Even fields like contemporary non-classical music feature emerging professional associations. This bodes well for the potential to develop social dialogue. On the other hand, the negative aspect is that the pace of change is rather slow, and not all fields are keeping pace. Importantly, key issues that stakeholders mention as potential topics for dialogue are related to labour market and social security regulations applicable to all sectors of the Czech economy, rather than being sector-specific. It remains to be seen to what extent this can constitute a good basis to start an effective dialogue within the sector. It appears that stakeholders expect the state to play an important role in dialogue, given that many of the topics raised would require legislative action.

An important feature is the emergence of organisations representing sector stakeholders that do not have the legal form of trade unions or employers' associations. This can be seen as encouraging, as this could help start a dialogue in the sector that overcomes some of the barriers existing in the legally institutionalised social dialogue (e.g. the effective lack of trade union representation). At the same time, this requires an open mind and attitude from all stakeholders, including the state, in embracing this broader and less formalised format of social dialogue.

There remain several risks. The change of attitude to cooperation and open dialogue may come very slowly. Indeed, it appears that not all key stakeholders are yet adopting these changes, in terms of the mindset of the past 30 years. It also remains to be seen whether sector stakeholders will be able to identify other barriers to dialogue and address them.

From this perspective, the results of a survey of the sector's organisations conducted as part of this research are not encouraging, since about 80% of respondents either see no obstacles or are not able to answer the question.

The selection of topics for discussion may be important in determining the potential for success. Here, a trade-off emerges between topics that are ambitious and require legislative intervention potentially beyond the live performance sector and ones that can be solved more easily. Also, certain topics are likely to antagonise workers and organisations, while for others common ground may be easier to find. Some topics mentioned by interviewers are the status of artists, gaps in remuneration between the public and commercial sectors, education, professionalisation, and second careers.

Recommendations are defined at three levels:

1. More intensive cooperation and openness between the organisations and associations that already exist in the social dialogue arena, with the aim of finding common goals and priorities between the public and private sectors and implementing specific needs of the private sector in their programmes.
2. Formation of new professional associations and platforms in the commercial live performance sector and more intensive cooperation among the existing ones.
3. Decision-making stakeholders (Ministry of Culture, other ministries) taking strategic measures aimed at the needs of the commercial sector.

# Country report: Poland

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Joanna Szulborska-Łukaszewicz

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# Introduction

This report presents the results of a mapping and analysis of social dialogue in the commercial live performance sector in Poland. It is a part of a larger study also covering the Czechia, Bulgaria, Romania, and Serbia run by the social partners of the EU social dialogue committee in the live performance sector, namely PEARLE\* - Live Performance Europe and the EAEA (composed of EURO-MEI, FIA and FIM), and which is co-funded by the EU.

This report **aims** to:

- Describe the commercial live performance sector in Poland
- Identify the sector's key characteristics and related challenges
- Present the situation of workers/performers and organisations active in the sector
- Assess the state of social dialogue in the sector, understand the possible obstacles to the sectoral dialogue
- Provide suggestions for promoting and fostering social dialogue in the sector

The report is based on the following **research methods**:

- Desk research: review of existing publications, documents and legal framework at the national level
- One focus group meeting with key relevant national social partners and stakeholders in Krakow
- Individual interviews with relevant stakeholders
- Two online surveys for individual performers and organisations active in the commercial live performance sector.

## Limitations

- With limited available time and resources, the research focuses on large cities and the capital city in particular, and does not fully describe the situation in the whole country.
- By design, the online survey is not representative for the entire populations of interest. This is reflected in the way in which survey results are utilised to inform the analysis in the report.

The research work underlining the report was largely finalised in February 2020, i.e. before the outbreak of the COVID-19 pandemic. The resulting lockdown measures have profoundly affected the live performance sector across Europe and beyond, including in the commercial live performance sector. At the time of finalising this report the timing and pacing of re-opening of live events was still uncertain. On 12 March, 2020, UNI Global Union's Entertainment and Media sector, EURO-MEI, together with the International Federation of Musicians (FIM), the International Federation of Actors (FIA) and Pearlle\* - Live Performance Europe urged governments to take emergency measures in support of the live performance sector following the impact of COVID-19. The adverse effects of the pandemic are still likely to have a significant impact in the months to come. At the same time, the exceptional circumstance in which the sector has found itself offer a chance to rethink its mode of operation, to strengthen the sector's resilience and improve sustainability of work models of individual creators and performers, live performance workers, and performers and organisations. Developing potential new solutions can be greatly advanced by engaging all stakeholders in social dialogue.

## Commercial live performance sector

For the purpose of this study the **commercial live performance sector** is understood to cover a wide range of performances presented in the physical presence of a public, both for profit and not-for-profit **fully or partially independent from public funding**. This in particular involves activities such as theatre, music, dance, circus and other stage productions performed in specialised venues, in public spaces, in venues frequented by tourists, etc.

This implies that public sector entities are excluded from the analysis. However, initiatives partly subsidised by public funds remain in the scope of research provided that they do not fully rely on public funding and that they remain independent from the public sector in terms of managerial decisions and applications for funding.

The structure of the commercial live performance sector in Poland is very different and the situation of employees and employers operating in this sector is poorly recognised. Though the organisations within the commercial live performance sector are formally dependent on the public sector, in reality the incomes of very few of them are dependent on public funds and are generated mainly from the sale of tickets or services.

### Key characteristics of the sector

The commercial live performance sector comprises organisations and individuals with different legal forms. The following classification may be useful:

1. Entities operating solely or mainly for profit, taking the legal form of sole proprietorships, limited liability companies, civil partnerships, (some) co-operatives, etc.
2. Entities with a mainly social mission, taking the legal form of foundations, associations, non-profit companies, (some) co-operatives, etc.
3. Individuals and informal groups.

There is no comprehensive data enabling precise estimates on the number of organisations and individuals engaged in commercial live performance. The assessment below combines multiple sources of information and should be seen as indicative only.

A nationwide register of business entities (REGON) has a subcategory 90.01.Z - Activities connected with artistic performances, where 7343 private sector entities were registered as of September 2019. Among these entities were:

- 6303 natural persons conducting a cultural activity,
- 721 entities without legal personality,
- 376 entities with legal personality, including 262 companies, 44 associations, 18 foundations, 1 entity identified within the "churches and religious associations" category, 4 co-operatives and 1 joint-stock company.

Groups of entities mentioned under the second item may benefit from subsidies for cultural activities from public funds (budgets of local governments and the Ministry of Culture).

According to the type of branch activity criterion, there are theatres, dance theatres, music organisations, people and companies that focus on new contemporary circus. Among the main players there are also entities that focus on organising and producing festivals (commercial and non-profit) and artistic schools of different levels.

The labour market for performers in the live performance sector is diverse but limited, and the private sector, despite the multitude of entities, is underdeveloped. The demand for artist-performer work is not proportional to the number of artists professionally active in the labour market, all the more so because professional performers often have to compete for work with amateurs who dump salary rates.

Information on the theatre sub-sector is collected by The Zbigniew Raszewski Theatre Institute<sup>1</sup>. These data indicate that in the 2017/2018 season, some 909 theatres operated in Poland, of which about 27% were public (243 theatres, including 121 public institutions and 122 operating in structures of public institutions). The majority of theatres (73%) were run by commercial entities (175), associations (147), foundations (103), informal groups, or had no legal personality (63). For 178 theatres, no precise information was available and these were classified as "other". These data suggest that in terms of the number of entities, around three quarters of all theatres in Poland could belong to the commercial live performance sector as defined in this study.

This list of theatres includes 65 dance and movement theatres. Only 5 of them were public institutions and another 13 were working within the structures of public institutions. The rest were run by associations (14), foundations (18), private/commercial entities (16), informal groups (11) and were classified in the "other" category. This number appears to include most active circus groups, at least around 45 of them<sup>2</sup>. The activity of new contemporary circus groups closely resembles the art of street theatre, and sometimes it is difficult to separate them<sup>3</sup>.

The largest number of theatres can be found in large cities, such as Warsaw, Krakow, Wroclaw, Poznan and Lodz. For example, Krakow was home to least 66 artistically active theatres, of which 11 were public. Some of the commercial theatres are very active. For example, in 2019 a private Nowy Theatre staged the most premieres in Krakow (12)<sup>4</sup>. The most important event integrating new circus groups and street theatres in Poland is the International Street Theatre Festival in Jelenia Góra (37 years of tradition)<sup>5</sup> and in Krakow (32 years of tradition)<sup>6</sup> and the festival *Carnaval Sztukmistrzów*, in Lublin, which has been organised since 2008<sup>7</sup>.

Warsaw is home to the largest number of non-public theatres. The data from The Zbigniew Raszewski Theatre Institute indicate that 153 commercial theatres were active in the city, including 29 operating as associations, 32 as foundations, 40 as private entities, 18 informal groups, 3 university theatres, and 31 theatres for which no information about their legal form was available<sup>8</sup>. In addition, there are groups and teams operating within the structures of public cultural institutions.

1 Theatre Institute (2019), *Theatre in Poland 2019. Documentation on the season 2017/2018*, Warsaw.

2 Grzegorz Kondrasiuk (2017), *Cyrk w świecie widowisk*, Lublin.

3 Małgorzata Leyko (2019), *Nie tylko klaun i cyrk*, Łódź.

4 For comparison, the public National Old Theatre of Helena Modrzejewska staged 10 premieres and Juliusz Słowacki Theatre staged 9 premieres in 2019. All Krakow's public theatres staged 52 premieres, while the thirteen most active non-institutional Krakow theatres had over 50 premieres during the same year. These data come from the Culture and National Heritage Department of the Municipality of Krakow.

5 See <https://teatrnorwida.pl/projekty/36-mftu-2/>

6 See <http://teatrkto.pl/pl/wydarzenia/32-ulica-festiwal-teatrow-ulicznych,77.html>

7 [www.sztukmistrze.eu](http://www.sztukmistrze.eu) [30.03.2020]

8 *Theatre in Poland* (2019), op. cit., p. 508-604.

However, if one looks at the 'non-public dramatic theatres' category, only 11 commercial theatres are listed here, including 4 run by associations, 3 run by foundations and 4 run privately. These theatres include those that already have a loyal audience and are successful in terms of attendance figures: the Polonia Theatre and Och-Theatre, run by The Krystyna Janda Foundation for Culture (each of them stages 3-4 premieres a season); The Kamienica Theatre, The Capitol Theatre, The Imka Theatre and The 6th Floor Theatre. All of them were founded and are run by famous actors. These theatres have their own stages. This group also includes the Montownia Theatre, which carries out its projects in co-production with other theatres, using their venues (e.g. in cooperation with the Polonia Theatre). There are also four commercial musical theatres in Warsaw, including two that are well known in Poland - The Studio Buffo (one of the oldest Polish private theatres) and The Sabat Theatre.

No aggregate data is available on the number of institutions active in the music sub-sector. The number of active entities likely extends into the high thousands, while their size and character differ substantially. As an example, one of the existing catalogues of bands offering their music performance services during weddings in the Warsaw area lists above 1,500 bands<sup>9</sup>. Existing online databases of business entities in Poland return some 1000-1700 records when entering "music" as a key word<sup>10</sup>. It is, however, very difficult to assess what fraction of these is really active in the live performance sector. When it comes to the NGOs active in the field of music, the largest national NGO database provides 264 records<sup>11</sup>. Again, it is difficult to verify how many of these are actively engaged in music live performances. Existing databases of music festivals in Poland list several hundred events in 2020, while certainly not being exhaustive<sup>12</sup>. One recently published study explicitly tried to estimate the number of individual performers in Poland in the theatre, dance theatre, circus and music sectors<sup>13</sup>. The calculations referring to 2018 suggest a number of just over 25,000 performers. The most numerous groups of artists-performers are musicians (above 18,000 people), theatre artists (close to 5,000) and dancers (above 2,000). No distinction between public and commercial sectors is possible based on this study. It is also important to note that this estimate only refers to artist-performers and does not take into account other people active in the sector, e.g. technicians, managers, etc. The estimates appear to be conservative, i.e. on the low side<sup>14</sup>.

It is difficult to estimate how many organisations active in the commercial live performance sector are employers or occasional employers. Based on the available information, this number appears to be low. It depends on an organisations' financial condition, which is often not stable. Non-governmental organisations and even private economic entities do not think of themselves as being included among categories of employers. Artist-performers usually work there on the basis of civil law contracts (mandate contracts, contracts to perform a specified task), contracts signed between economic entities (when artists are registered as one-person companies), and even without contracts.

<sup>9</sup> See <https://www.planujemywesele.pl/zespoly/warszawa>

<sup>10</sup> Panorama Firm <https://panoramafirm.pl/szukaj?k=muzyka&l=>, Aleo.com <https://aleo.com/pl/firmy?phrase=muzyk>, Bussines Navigator [https://www.baza-firm.com.pl/?vn=&vu=&vm=&vw=&vwn=&v\\_br\\_opis=&v\\_br=&vsk=muzyka&b\\_szukaj=szukaj](https://www.baza-firm.com.pl/?vn=&vu=&vm=&vw=&vwn=&v_br_opis=&v_br=&vsk=muzyka&b_szukaj=szukaj) access on 29/02/2020.

<sup>11</sup> Ngo.pl <https://spis.ngo.pl/?search=muzyka> access on 29/02/2020.

<sup>12</sup> See e.g. <https://www.kiwiportal.pl/festiwale>, <http://www.efest.pl/kategoria/festiwale/>, <https://www.ebilet.pl/muzyka/festiwale/>

<sup>13</sup> Ilczuk D. et al. (2018), Szacowanie liczebności artystów, twórców i wykonawców w Polsce, Warszawa. The report came out with estimates combining information data from different sources: statistical and registration data, data on membership in relevant organisations, data related to the labour market (e.g. royalties).

<sup>14</sup> For example, the reported number of folk dancers (just 120) or ballet dancers (none who would report this as a first profession) appear below what would be plausible. The number of circus artists (150) also appears too low.

## Main challenges

Poland appears to be lagging behind some other European countries in recognising the economic value of culture and creative industries, e.g. as innovation and creativity drivers. The strategic document of the government does mention an intention to develop a “system to support creative industries”, but the new initiatives in this area such as the government programme “Development of creative industries” have a budget that is merely symbolic – around EUR 1 million annually distributed through annual calls for proposals<sup>15</sup>. Also, the majority of these funds go to sectors other than the live performance sector (e.g. computer games, film).

At the same time, performers increasingly need entrepreneurial skills to function in the market. However, entrepreneurship is not among the strongly developed skills of live performers. A characteristic feature of people active in the commercial live performance sector is the need to work and cooperate with many organisations, to multitask, but also to take on other challenges (e.g. art-related). Still, the market and demand for live performance appears to be on the rise in line with improvements in the population's standards of living.

The main challenges facing the commercial live performance sector could be summarised as follows:

1. Unstable financial condition of most organisations.
2. Lack of social and health security for artists operating mainly in the commercial live performance sector.
3. Limited capacity of sector's stakeholders to self-organise and effectively pursue joint interests.
4. Weak position of performers when negotiating working conditions.
5. Limited cooperation with commercial sector employers and too weak representation and lobbying power at the central level.
6. Untapped potential for cooperation between private and public sectors, e.g. the public sector has access to facilities that many private institutions lack.

The important challenge for trade unions recruiting employees is to create an attractive offer for young and generally new members, as well as performers working in the private sector for live performances not related to the public sector. This offer should go beyond the traditionally understood functions of the union, consolidating the environment, creating development opportunities for members, facilitating their access to knowledge.

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**15** See Government of Poland (2017), *Strategia na rzecz odpowiedzialnego rozwoju do 2020*, <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WMP20170000260>. Information on the creative industries programme is available at <http://www.mkidn.gov.pl/pages/strona-glowna/finansowanie-i-mecenat/programy-ministra/programy-mkidn-2019/rozwój-sektorów-kreatywnych.php>.

## The situation of workers

There is no representative data that could allow precise estimates of the most common types of work contracts. The most popular form of employment in the commercial sector appears to be concluded based on civil law contracts (to perform specified work or contracts of mandate). Given the significant extent of self-employment, contracts between business entities are another popular form. Voluntary work is also common as indicated by a large share of organisations indicating that they make use of this type of arrangement.

With atypical work forms prevailing, performers often work for several different institutions. In the survey of individuals conducted as part of this project, just under half of the respondents indicated that in any given year they had contracts with multiple (up to seven) organisations.

With regular employment contracts being rare, the financial situation of performers depends on the number and attractiveness of orders they can obtain during a year and the extent of downtime. Uncertainty and instability of work is often normal. Many people have low average incomes<sup>16</sup>. For them, social and health security contributions are a substantial burden and hence they avoid paying them, with implications for their social security.

Professional success is not synonymous with economic success and financial stability. There are clearly large differences between the situation and revenues of an average performer and a relatively small group of highly popular star performers. Seniority and level of education is generally not much associated with remuneration. This is despite the fact that in many professions, a large amount of work and time is needed to achieve the desired quality. This especially applies to dancers and musicians, most of whom have been learning and practising since early childhood. For many individuals, their negotiating position in relation to job opportunities is very weak. In practice, many artists cannot meaningfully negotiate their contracts as high competition means that if they do not accept the conditions offered, other people will do get the work.

Live performance artists, who work as freelancers on the basis of civil contracts, can be members of existing trade unions. However, trade union membership is not really popular. Artists often do not see the benefits of being part of a union. Also, the union's role is not really clear to potential members and especially freelancers.

In the music sub-sector, most of the prevailing forms of employment relations within the commercial live performance sector differ starkly between the public and commercial sides. Musicians working in public institutions such as large orchestras, opera and music theatres are typically employed on the basis of a regular employment contract. In places with a short season, fixed-term employment contracts are also used, enabling employers to save on salaries in periods offering less performances (usually summer months).

On the commercial side, regular employment contracts hardly exist and musicians typically work on the basis of other contracts not regulated by the labour code, specific-task contracts and contracts of mandate, or sometimes with no formal contract at all. Contracts between organisers and sole proprietorships registered by musicians are also popular and arrangements including intermediaries such as impresarios or agencies also exist.

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**16** Grzełońska, U. (2007) *Ekonomia i zarządzanie w kulturze*, SGH, scientific seminar, 24th May, 2007. R. Towse (2011), *Ekonomia kultury. Kompendium*, Narodowe Centrum Kultury, Warszawa, p. 305-355.

This labour market duality motivates different strategies of musicians active in the commercial part of the sector. A significant group of musicians combines full or part-time employment in a public music institution (orchestra, music school, music academy, local cultural centre, etc.) with commercial activity. This situation is preferred by many musicians as it combines the benefits of a regular labour contract (annual leave, health and pension insurance, regular income etc.) with the advantages of working in the commercial sector, meaning extra money, freedom of artistic creation, the possibility to follow personal ideas and interests, and the potential for self-development, among other factors<sup>17</sup>. However, the number of positions in the public sector is broadly stable and new job openings are limited, creating a challenge especially for young people. Such jobs are also concentrated in large cities. A survey conducted in 2015 showed that around a third of musicians moved to another town in search for a stable employment<sup>18</sup>. Finally, wage levels in some public sector institutions might be very low, making commercial activity a necessity rather than a choice. This type of career is mostly characteristic to musicians having a classical music education.

Other musicians operate in a much more difficult but also dynamic labour market where finding an employer is very difficult. People tend to combine various roles, e.g. being an individual musician with being a member of one or more music bands, or managing an NGO or a company active in the field of cultural/musical education. Work relationships are typically based on specific-task contracts, contracts of mandate or contracts where musicians act as sole proprietorships while regular employment contracts are nearly non-existent. Informal work relationships are not uncommon but it seems that this phenomenon has been in decline<sup>19</sup>. Another version of this strategy is combining a music profession with a non-music job.

The commercial part of the labour market for musicians seems to be driven by several factors. Strong competition among individuals makes any kind of cooperation between musicians difficult.

For theatre artists, the public sector, including public cultural institutions, appears to be the main employer<sup>20</sup>. Total employment in public theatres with artistic groups (117 institutions) remained broadly stable between 2011 and 2018, at around 4,500 people, according to Theatre Institute data. Such an arrangement guarantees actors social security, including in relation to pensions and hence is attractive even if wages are not high. The role of intermediaries appears to be gradually growing but differs between sub-sectors and among groups of performers. Some musicians, especially representing the older generation, perceive intermediaries as redundant and see them as exploiting artists in search of profit. However, the majority of musicians value the role of agencies and impresarios in helping to identify opportunities, handling the necessary public relations, helping with the paperwork, and in some cases negotiating remuneration. For famous and successful musicians, it boosts their image to have an impresario or an agency that stands behind his/her name. For musicians entering the market, although sometimes expensive, it offers a way to find their place in the market as it is very difficult to enter the market as an individual without any support.

The role of intermediaries in the theatre sector is still marginal. Actors are too poor to pay for agents. Agencies concentrate on co-operating with the film and advertising sector, and on star performers.

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**17** Walczak, W. Wyrzykowska, K. Socha. Z (2016) *Dynamika karier muzyków w obszarze całego środowiska muzycznego*, Polska Rada Muzyczna, Warszawa.

**18** Ibid.

**19** Walczak, W. Wyrzykowska, K. Socha. Z (2016) *Dynamika karier muzyków w obszarze całego środowiska muzycznego*, Polska Rada Muzyczna, Warszawa.

**20** Theatre Institute (2019), *Theatre in Poland 2019. Documentation on the season 2017/2018*, Warsaw.

## The situation of organisations

The commercial music, theatre, dance and circus performance sub-sectors consist of very different entities. There are small and big firms, non-governmental organisations and individuals. Some business entities and NGOs perform in their own spaces (typically rented). They then need to earn or raise funds to support their own infrastructure.

Many large firms with a diverse activity profile (often going beyond live performances) have a fairly stable financial situation. The same applies to smaller but famous companies. Several micro and small companies are vulnerable to market fluctuations and often seek additional revenues by creating partnerships with NGOs (often these non-governmental organisations are established mainly for this purpose) and applying for public sector grants<sup>21</sup>. For non-government organisations, the public sector often provides the key source of funding, implying inter alia a short-term planning horizon (as funds are mostly available for short-term projects) and lack of financial stability. Revenue sources differ substantially between organisations – some entities finance themselves mainly from ticket sales, while others rely predominantly on public funds and individual sponsors.

The number of actively operating organisations varies. Some of them are ephemeral organisations that become active in specific projects and then disappear or suspend their activity. In several cases, access to public support becomes a condition that determines an institutions' survival in or exit from the market. Permanent uncertainty about the future and the need to fight to solicit funds and attract viewers with an environment marked by strong competition from the public sector often exhausts the enthusiasm of managers within the sector and leads to market exits<sup>22</sup>. Another strategy is to engage in cooperation with a public cultural institution, that can, for example, provide venues. In some cases, a transformation of commercial live performance entities into public ones can be observed<sup>23</sup>.

At the same time there are several success stories. A large group of private entities (for profit and non-profit) has been successfully functioning in the theatre market for many years, some of them providing employment to some of their staff and associates (see also Box 1)<sup>24</sup>.

**21** Kędziora A. (2018), *Krakowskie sceny nieinstytucjonalne [in:] A Kędziora, J. Szulborska-Łukaszewicz (eds.), Teatry w Krakowie*, Kraków.

**22** Kędziora, A., E. Orzechowski, J. Szulborska-Łukaszewicz, J. Zdebska-Schmidt (eds.) (2014), *Z kulturą o kulturze. Kultura pod ścianą*, Kraków.

**23** Examples include Łaźnia Theatre in Krakow, KTO Theatre or “Cracovia Danza” Court Ballet. The Łaźnia Theatre was established in 1996, registered as an association and successfully operated for nine years. In 2005, it started a new life as the municipal institution named Łaźnia Nowa Theatre. The theatre’s original founder was appointed as the head of a new public institution. For more information see Szulborska-Łukaszewicz, J (2007), *Polityka kulturalna w Krakowie*, Kraków, p. 131-133.

**24** Some popular examples include Biuro Podróży Theatre (Poznan, working since 1988, registered as an association), Korez Theatre (Katowice, established in 1990, first registered as a **three-person company**, and since 2001 operating as a sole proprietorship); Studio Buffo (Warsaw, music theatre established in 1992, registered as a **limited liability company**); **Montownia Theatre (Warsaw, active since 1996 as an independent artistic group**, in 2005 registered as a foundation), Pieśń Kozła Wrocław Theatre (Wrocław, registered as an association, operating since 1996); Mumerus Theatre (Krakow, registered as an association 21 years ago); Sabat Theatre (Warsaw, registered 19 years ago as a **limited liability company**); Barakah Theatre (Krakow, registered as a foundation 16 years ago), Polonia Theatre (Warszawa, registered as a foundation, 15 years of activity); Nowy Theatre (Krakow, registered as an association, 14 years of activity); Capitol Theatre (Warsaw, established in 2008, registered as a civil partnership), Kamienica Theatre (Warsaw, registered as a limited partnership, 11 years of activity); Och-Theatre (a foundation, active for 10 years); Imka Theatre (Warsaw, registered as a **limited liability company**), **6. Piętro Theatre (registered as a general partnership)**. They all offer high-quality performances and most of them do not have among the team star actors known from film and television.

### Box 1. Case Study – The Polonia Theatre and Och-Theatre

Both theatres are run by The Krystyna Janda Foundation for Culture. The Polonia Theatre was founded in 2005. Och-Theatre has been operating since 2010. Each of the theatres has two stages. The monthly operating costs (including maintenance of facilities) are in the range of PLN 1 million. The Foundation had 43 employees with regular employment contracts, all of them white-collar workers. Another 200 people, mainly artists, were employed on the basis of civil law contracts. In total, according to information provided by Krystyna Janda in 2019, about 400 actors from all over Poland cooperated with the theatres of the Foundation<sup>I</sup>.

In 2018, the salary costs at both theatres totalled PLN 5 million, while external services (including cooperation with actors running their own companies) totalled PLN 7.6 million. Ticket sales (PLN 15.6 million in 2018) were by far the dominant source of revenue. For comparison, public subsidies were below PLN 1 million.

The Polonia Theatre staged four premieres in the 2017/2018 season, including one prepared in co-production with the Montownia Theatre (a private theatre that does not have its own stage). The theatre repertoire included 30 performances, which were played 288 times. The theatre has presented its performances 27 times in other Polish cities<sup>II</sup>. Och-Theatre had 20 titles in its repertoire in the 2017/2018 season and staged 3 premieres. It showed 28 performances outside Warsaw<sup>III</sup>.

Warsaw private theatres founded and managed by famous Polish actors stand out from the background of private theatres in other cities. They are more successful in terms of turnout and box office takings because they are based on star casts and light repertoires. Despite this, their owners emphasise that the biggest challenge remains to maintain the venues and then to work out funds for the salaries of employees and associates, including artists.

The theatres constantly look for additional sources of income<sup>25</sup>. Sometimes they attract strategic sponsors, but in other cases such attempts fail (the situation of Imka Theatre or the theatres of the K. Janda Foundation). Audiences do not let them down (not only by purchasing tickets, but also by participating in the support of theatre productions through crowdfunding)<sup>26</sup>.

While some theatres main their own venues, other do not, focusing instead on presenting traditional or experimental performances in various spaces (see Box 2). Many commercial theatres have small audience halls (in the range of 40-100 seats). The majority of private organisations do not have their own space.

**25** For example, the Capitol Club was intended to support the activities of the Capitol Theatre. There is a restaurant at the Kamienica Theatre. Private theatres with their own space rent it out for other events. Studio Buffo and Kamienica theatres rent their recording studios. Some theatres benefit from grants and subsidies from the state budget and/or from local government budgets.

**26** For example, a 2017 premiere of Gogol's "Marriage" at the 6<sup>th</sup> Floor theatre in Warsaw was partly financed by a crowdfunding campaign.

### Box 2. Case study – Papahema

An example of a young, generally successful theatre is Papahema. The theatre was established in 2014 by a group of graduates of the puppetry theatre school in Białystok, a midsize town in the east of Poland. The group consists of 4 people who originally founded it, while some 18 other people cooperate with the theatre. They perform at different venues across the country, giving 2-3 premieres every season. They also engage in co-productions in guest spaces. The theatre takes the legal form of a foundation run by the four founding members. The annual report for 2018 provides a glimpse into their activities and financial situation. During this year, the group performed in more than 10 different locations in at least 9 different cities, mostly in Poland. The foundation's total revenues were in the range of EUR 75,000. No one worked with a regular employment contract, and all work-related expenditures of the foundation were paid on the basis of contracts of mandate.

Financial support from local governments plays an important role for many of the organisations. This also implies that economic cycles and policy measures affecting the financial stance of local governments have direct implications for the situation of organisations in the commercial live performance sector. For example, cuts in personal income tax introduced in the 2<sup>nd</sup> half of 2020 lowered revenue streams for local government. In interviews, representatives of organisations that received local government funding in 2019 but did not receive it in 2020 linked this to these tax policy measures (e.g. in Białystok, Poznań, Gdańsk, Lublin or Warsaw)<sup>27</sup>.

Importantly, the majority of organisations active in the sector do not perceive themselves as employers and are not considered as such by performers. This often reflects the actual situation, given the rarity of regular employment contracts. It also reflects the complexity of relations in the commercial sector, where the roles are often fluid – the same people may act as businesses signing contracts with other performers, representatives of NGOs applying for public grants and fellow performers.

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**27** See Union of Polish Cities (2019), Stan krytyczny. Raport ZMP o finansach samorządów, „Samorząd Miejski nr 7/262/lipiec-sierpień 2019, p. 2-3; Andrzej Porawski, Jan Maciej Czajkowski (2019/2020), State of finance of local government unit, Report for the Joint Commission of Government and Local Government for the meeting of 17 July 2019, supplemented after a debate at the meetings of the Commission and the Team, adjusted on the basis of data from the WFP of 20 January 2020, Poznan, <http://www.miasta.pl/aktualnosci/raport-o-stanie-finansow-jst>.

## The state of social dialogue

After the democratic transition of 1989, new institutional forms of social dialogue started in the early 1990s. Social dialogue is mentioned in the preamble to the Constitution of Poland. The institutional dialogue at the country level takes place in the Social Dialogue Council, which as of early 2020 consisted of three representative trade unions, four representative employer organisations and representatives of public institutions. There are also regional councils in all 16 voivodships. The dialogue also takes place at the level of individual firms and in many other non-institutionalised forms.

Membership in trade unions has been in decline since the early 1990s, from around 36-50% of all employees in 1990 down to 11-13% in 2016-17, depending on the source<sup>28</sup>. The largest decrease in unionisation took place between 1990 and 2000 when trade unions lost about 60% of their members. The three largest trade unions are "Solidarność", OPZZ and Forum Związków Zawodowych. In contrast, employer organisations have gradually strengthened in recent years. The capacity of social partners is still assessed as limited. Importantly, the quality of the legislative process has seen a clear deterioration in recent years with the government avoiding consultation with social partners on key legal acts related to social security and employment issues<sup>29</sup>.

The trade union representation of workers from the commercial live performance sector remains minimal. The regional "Artistic Institutions Section" deals exclusively with the affairs of public artistic institutions. The same applies to an informal NSZZ Solidarność structure "The Beggars of Culture" created in 2015. The Federation of Trade Unions of Culture and Arts Workers that is federated in OPZZ also mainly represent public sector employees. The Culture branch of the OZZ Inicjatywa Pracownicza represents a group of public cultural institutions<sup>30</sup>.

The Polish Actors' Trade Union (ZZAP) brings together actors working full-time in public cultural institutions and freelancers (currently 700 members). Established in 2001 as a nationwide structure, ZZAP undertakes its own initiatives but also cooperates closely with ZASP - the Association of Polish Artists of Theatre, Film, Radio and Television (which is not a trade union but a branch association and a collective management organisation for copyright or related rights). In 2019, ZZAP organised seminars devoted, for example, to atypical work arrangements in the sector, self-organisation of actors and collective agreements<sup>31</sup>. One initiative of ZZAP involved working out a model collective agreement, that could regulate work rights of actors at any given theatre, providing them with basic rights and privileges<sup>32</sup>. Given that private theatres do not employ actors on the basis of regular employment contracts, the project was addressed to public theatres.

Two trade unions integrate musicians in Poland: Związek Zawodowy Polskich Artystów Muzyków Orkiestrowych, created in 2013, and Związek Zawodowy Muzyków RP, established in 2016 as a continuation of the Musicians Trade Union that existed before WWII and was closed by the communist authorities in 1949. Since 2016, the second trade union has not been very active in attracting new members and it still has few members. It has no permanent staff and no office.

<sup>28</sup> Visser, J. (2019), ICTWSS Data base. version 6.1. Amsterdam: Amsterdam Institute for Advanced Labour Studies AIAS. October

<sup>29</sup> See e.g. European Commission (2020), European Semester: Poland country report 2020; Warski (2019), Naprawmy dialog społeczny w Polsce, Rzeczpospolita, 19.03.

<sup>30</sup> Kultura: <http://www.ozzip.pl/kontakty-branzowe> [date of access: 28/02/2020].

<sup>31</sup> See <http://zzap.aktorzy.org/2019/06/10/podsumowanie-sezonu-2018-2019/>

<sup>32</sup> See <http://zzap.aktorzy.org/wzorcowy-uklad-zbiorowy-2/>

Its main activity is a Facebook profile (with some 13,000 followers as of March 2020) where some important issues are discussed by musicians. Members of the board have declared their willingness to revive the activities of the union, including a campaign to attract new members.

People working on the basis of civil law contracts have the possibility of creating and joining existing trade unions. The regulation in this area changed from the beginning of 2019 and the overall effect of these changes is difficult to assess. On the one hand, the change in the definition of people who can join unions became broader, while on the other hand, a condition was added requiring that potential union members have work-related interests that unions can defend. Proving such an interest may be tricky in the case of short-term contracts. In practice, performers in the commercial sector hardly ever create or join trade unions.

There are hardly any existing forms of joint representation on the side of employers and other organisations in the commercial live performance sector. The Union of Polish Theatres has 13 members, but all of them are public theatres. The association's statutory provisions show that any theatre, regardless of its organisational form, may apply for membership status<sup>33</sup>. One format in which some organisations regularly meet are social dialogue commissions in the area of culture organised by some local governments<sup>34</sup>. However, there is no joint representation of live performance (or, more broadly, cultural) entities in this format. It also appears that existing institutions do not really identify common interests that could motivate them to self-organise.

Given the above, it is not surprising that there is in practice no institutionalised social dialogue within the sector. Without agreed common interests in the sector, there is also little sign of dialogue between the sector and public authorities at a central or local level. In fact, the state of institutionalised dialogue even in the public part of the sector appears rather weak. The 2016 attempt to establish a "culture table" alongside the structures of the central Social Dialogue Council in practice largely failed<sup>35</sup>.

While trade union membership is very rare, other organisations grouping performers do exist, including those active in the commercial sector. An important example is ZASP - the Association of Polish Artists of Theatre, Film, Radio and Television, an organisation with more than 100 years of tradition and more than 1,900 members. ZASP is engaged in various forms of dialogue, mainly with public administrations responsible for cultural issues. In 2009, ZASP participated in the initiative of the International Federation of Actors (FIA) and the International Federation of Musicians (FIM) to develop the Manifesto on the Status of the Artist<sup>36</sup>. Later, ZASP popularised the Manifesto's ideas in different ways, trying to increase the awareness of decision-makers in Poland of the situation and needs of artists, the need to strengthen artists' status (including regulating artists' old-age and disability pensions). ZASP has been lobbying to develop new legal solutions, taking into account the specific conditions of work of live performers, providing them with access to social, health and sickness insurance, and separate, more flexible tax rules and retirement benefits, regardless of the nature of the contracts under which artists do their job. Another point has been to provide artists with elementary employee rights, regardless of the actual type of contract<sup>37</sup>.

<sup>33</sup> Art. 8, <http://www.uniapolskichteatrow.pl/o-nas/statut/> [date of access: 27/02/2020].

<sup>34</sup> An example from Warsaw is Branżowa Komisja Dialogu Społecznego ds. Kultury, <http://ngo.um.warszawa.pl/komisje/komisja-dialogu-spolecznego-ds-kultury?page=4>

<sup>35</sup> Information based on an interview with a representative of NSZZ Solidarność.

<sup>36</sup> See <https://www.zasp.pl/index.php?page=Pages&id=40>

<sup>37</sup> An appeal regarding artists' status and card, see: Biuletyn Zarządu Głównego ZASP (2016), Olgierd Łukaszewicz, Jarosław Fret (2019), The letter to Piotr Gliński, the Ministry of Culture, No. 39/2016, Warsaw, p. 9-11.

However, the proposals discussed by ZASP and some other representatives of the music sector during the Nationwide Culture Conference in Wrocław<sup>38</sup> appear to have either been related to the practice of collective agreements in other countries or to the solutions existing in Poland during communist times, when the private sector hardly existed and the state organised all culture institutions in the country. The current realities are different and with the multitude of independent organisers of live performances, top-down introduction of collective agreements looks unrealistic. This also applies to an introduction of unified remuneration rates, a solution that received particularly strong support from musicians during the Wrocław conference.

The discussion on the situation within the sector has continued in various formats, e.g. during the European ZASP Forum 2016 in Wrocław, organised under the slogan "Social dialogue in the live performances sector"<sup>39</sup>. This was an important event in terms of building a modern lobby for culture and the live performance sector. It provided an opportunity to introduce two important topics to the debate: the status of the artist and the issue of regulating employment relations in theatres.

Another event important for development of social dialogue in the sector was a series of meetings during 2017-19 under the heading of National Conference on Culture. The purpose was to create a forum for debate and to develop proposals for solutions responding to the key needs of artists and organisers of artistic life in Poland. Special meetings focused on the problems of music (4-5/09/2017, Wrocław), theatre (12/09/2017, Gdansk) and dance (18/09/2019, Bytom). One important aspect that was discussed was an idea to formalise the status of professional artists in Poland. The outcome of this dialogue involving several organisations, trade unions and representatives of the Ministry of Culture is a project involving a draft law on the status of professional artists<sup>40</sup>.

Another format where some form of dialogue takes place involves culture commissions providing a forum for discussion between local governments (mostly large cities) and local organisations active in the field of culture, predominantly NGOs. As an example, in Warsaw, such meetings have been taking place for several years and on a regular basis (up to once per month)<sup>41</sup>. Several NGOs active in the commercial live performance sector are involved alongside the city government representatives. The key topics discussed are related to public (local government) funding for live performance and other cultural activities. This is important for the sector as a whole. At the same time, topics more directly related to the labour market situation within the sector cannot be meaningfully debated and there is no representation of individual performers, unless some of the participating NGOs occasionally assume such a role.

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**38** 4<sup>th</sup> September 2017, discussion with participation of Andrzej Kosendiak (Narodowe Forum Muzyki), Géza Kovács (Pearle\* Live Performance Europe) and Grzegorz Michalski (Polska Rada Muzyczna) and others, see: <http://konferencjakultury.pl/conferences/music> [access on 11/04/2020].

**39** See "Biuletyn Zarządu Głównego ZASP" (2016) Paulina Iłska, *Aktor – chudy literat?*, No. 39, p. 13-16. The European ZASP Forum was held in Wrocław on 27-28 August 2016. It was organised as part of the Wrocław ECC 2016 programme under the Honorary Patronage of the European Commission.

**40** A draft version of the law on the status of professional artists in Poland, 11/09/2019. <http://www.zasp.pl/index.php?page=Pages&id=1973>

**41** See <http://ngo.um.warszawa.pl/komisje/komisja-dialogu-spolecznego-ds-kultury?page=4>

## Topics of potential interest

Among employers, one potential dialogue topic that was mentioned by interviewees was the issue of social insurance in the sector. There appears to be a relatively wide understanding that a situation where many performers are not covered by insurance comes with substantial risks. Health and safety and work issues also fall under this category. This topic appears to be one where both performers and representatives of institutions could find common ground. At the same time, solutions in this sphere might need to involve the government and regulatory changes.

Both employers and individual performers express their interest in discussing topics related to remuneration of employees, working conditions and funding for the sector. The issue of equal opportunities has also often been mentioned by both organisations and performers. However, this topic may mean something slightly different to both sides. For organisations, key issues include creating a level playing field with public sector institutions, and problems when the “political correctness” that has developed over the last few years apparently becomes an important criterion for some local governments (especially in smaller towns) in terms of their funding decisions. For individual performers, the key issues are more likely to be related to equal treatment when applying for a job, remuneration for work, scope of duties, etc.

Performers themselves indicate a number of other topics where they would like to see improvements in their situation. Some people expect that regulation of fees should be introduced, e.g. in the form of minimum rates or in some other way. This is sometimes seen as a measure to counteract price dumping by amateurs. The somewhat related topic concerns earnings disparities within the sector, with a relatively good position for creators of performances and low pay for performers.

Performers also express interest in dialogue that would help improve the popular perception of artistic professions. In their view, many people, including some institutions, see them as hobbyists rather than people working in a serious artist-performer profession. This topic appears to be particularly important for circus artists who are often treated as animators and not artists, and this has implications for their fees. This contrasts with the lofty ambitions and high artistic value of some contemporary circus and circus art performances.

## Key barriers and challenges to social dialogue

A number of barriers limit the scope of social dialogue and its capacity to address some of the challenges facing the sector. Very limited self-organisation of individual performers and institutions active in the sector is clearly an important obstacle. This applies to lack of trade unions and employers' associations representing the commercial sector. Given the scarcity of regular employment contracts, few people in institutions think of themselves as employers or employees and hence are less likely to take up discussions on topics that are traditionally related to work relations. However, the problem appears to be broader than that, as other forms of self-organisation within the sector are also rather weak, even if some improvement could be observed in recent years. The limited analytical and administrative capacity of existing organisations is a problem in itself.

Lack of time to engage in activities identifying common interest and engagement in dialogue is another important barrier. It is related to limited self-organisation, since with weak or non-existing institutional structures, engagement in social dialogue activities is more difficult and time-consuming. With dynamic changes and high competition in the sector, people are busy developing their own organisations or fighting for good individual contracts.

Another problem appears to be linked to limited awareness of the potential gains to be had from dialogue and resulting scepticism. While some representatives of performers and institutions active in the sector do see the benefits of dialogue, this is not the case for many of their potential allies and counterparts.

Both performers and organisations indicated a lack of trust and lack of a common language conducive to communication and dialogue as another group of important barriers. This may partly reflect general attitudes in Polish society and partly reflect factors specific to the commercial live performance sector<sup>42</sup>. Specifically, the position of individual performers vis-à-vis institutions is often weak due to competition from amateurs or other professional performers. The position of many institutions is also weak due to their dependence on short-term project funding and public authorities lack insights into the sector's characteristics. This results in many stakeholders focusing on their own narrowly-defined interests.

Various barriers to effective co-operation between commercial and public institutions are also important. In the opinion of some respondents, relations between private entities and public institutions and local government scarcely exist. Despite provisions appearing in many strategic documents supporting cross-sectoral cooperation, there are no specific tools or programmes that would really stimulate such cooperation. In practice, some public institutions are seen as not really open to cooperation with new entities and prefer sticking to formats that have been tested for years, e.g. cooperation with the same entities.

## What could stimulate the dialogue?

A range of different actions has a potential to stimulate social dialogue. Sharing knowledge on potential gains to be had from dialogue, including practical examples of achievements (e.g. from other countries or other sectors), could help establish a vision of the potential benefits for performers and organisations.

Another important prerequisite is a clear identification of the challenges and problems that the commercial live performance sector has to face. This would include areas where interests and problems are similar for individual performers and the institutions offering them work as well as those where positions differ significantly. Such an evidence-based, factual description of the situation would help to motivate cooperation.

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<sup>42</sup> Relatively low level of trust in other people in Poland is confirmed e.g. in data from EVS (2019): European Values Study 2017: Integrated Dataset (EVS 2017). GESIS Data Archive, Cologne. ZA7500 Data file Version 2.0.0, <https://doi.org/10.4232/1.13314>.

This last point is linked to the need to build the capacity of partners participating in social dialogue. In order to be able to effectively represent the interests of different stakeholders from the sector, the organisations involved need certain analytical and administrative capacity, access to data on the performance of relevant parts of the sector, and skills directly applicable to the dialogue process itself – including negotiation skills.

Given that many issues related to the development of the commercial live performance sector are strongly affected by public policies, there is a large potential role for central, regional and in some instances even local authorities in creating conditions for social dialogue in the sector. This could take different forms. Public authorities could explicitly try to encourage the sector's representatives to engage in dialogue on regulatory measures that are considered important for the sector's future. Such actions would need to have a long time-horizon, while promises of meaningful dialogue would need to be credible to facilitate self-organisation of the sector, a precondition for effective dialogue. The rules and practice concerning distribution of public resources for the live performance sector could also be determined with stronger involvement of the commercial sector's representatives. Given the role of public funds for many entities in the sector, this could constitute an important motivation to self-organise. Finally, there could be scope for sharing EU-level good practice on engagement of local authorities in dialogue with the commercial live performance sector. EURO CITIES network, and similar organisations could play a role in this.

## Conclusion

The overall condition of the commercial live performance sector used to be relatively good in Poland, until the sector's activity came to a virtual halt in relation to the COVID-19 pandemic in March 2020. Access to public funds was an important source of revenue for many entities. Atypical work contracts dominate, while regular employment contracts remain very rare. From the performers' perspective, important issues and challenges include access to social insurance, uncertainty of work and extended periods without paid jobs. Average incomes are low, with substantial differences between individual performers. From the perspective of institutions, challenges include high competition and, in the case of many entities, a lack of financial stability and predictability.

The self-organisation of the sector remains very limited. Existing trade unions do not really group together or represent performers from the commercial sector, in part due to the effective lack of regular employment contracts within these entities. There appears to be a gradually increasing interest in membership in performers' associations and in their activities representing performers as workers. Given that regular employment contracts are highly unlikely to become a norm within the sector and given that there are no signs of the impending revival of traditional trade unions, at least in the short- and medium-term perspective the functioning of other types of associations bringing together workers and institutions in the sector will remain key for the future of the dialogue.

The representation of institutions in the sector also hardly exists. Thus, social dialogue in its traditional forms is practically non-existent. There is dialogue between individual institutions (often NGOs) and local authorities and it mostly focuses on the rule of public funding. Another important element of dialogue is an on-going discussion on the status of professional artists. This involves numerous stakeholders.

Many potential topics for social dialogue in the sector, as indicated by stakeholders, are related to social security regulations. Another group of topics is related to funding for the sector. It would hence appear necessary that public authorities engage in the dialogue.

Key barriers to dialogue, apart from weak self-organisation, include lack of administrative and analytical capacity of existing organisations, difficulty in identifying and formulating joint interests, lack of information on practical ways in which social dialogue could take place and resulting scepticism to its possible positive effects. Limited mutual trust also appears to be an important barrier.

In view of the above, emerging recommendations include, first, raising awareness of the potential role of trade unions and other performers' associations. This step would need to focus especially on young people. With rising membership, these institutions could become a stronger voice on behalf of the sectors' performers, also in forums, where so far only employees from the public live performance sector are represented. Similarly, lobbying for and supporting the creation of associations grouping institutions from the sector appears necessary to make it possible to engage the employers' side in the debate.

Stronger involvement by public authorities appears necessary. This could help address several weaknesses. One is the problem of limited coverage of social insurance for many performers. In this area, the broad interests of performers and the institutions for which they work may be closely aligned, but coming up with well-designed regulatory solutions may be challenging. In any case, this appears to be an important potential topic where tripartite dialogue would be necessary. The state and local authorities could also be engaged in actively supporting the self-organisation of the sector and in helping to build the capacity of organisations representing individual performers and institutions. Finally, a larger portion of public funding for live performance could be allocated in a competitive format allowing for direct competition between public and commercial entities.

# Country report: Romania

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## Team

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## Introduction

This report presents the results of a mapping and analysis of social dialogue in the commercial live performance sector in Romania. It is a part of a larger study also covering Bulgaria, the Czech Republic, Poland, and Serbia run by the social partners of the EU social dialogue committee in the live performance sector, namely PEARLE\* - Live Performance Europe and the EAEA (composed of EURO-MEI, FIA and FIM), and which is co-funded by the EU.

This report **aims** to:

- Describe the commercial live performance sector in Romania
- Identify the sector's key characteristics and related challenges
- Present the situation of workers/performers and organisations active in the sector
- Assess the state of social dialogue in the sector, understand the possible obstacles to sectoral dialogue
- Provide suggestions for promoting and fostering social dialogue in the sector

The report is based on the following **research methods**:

- Desk research: review of existing publications, documents and legal framework at the national level
- Individual interviews with relevant stakeholders
- Two online surveys for individual performers and organisations active in the commercial live performance sector<sup>1</sup>.

## Limitation

By design the online survey is not representative of the entire populations of interest. This is reflected in the way in which survey results are utilised to inform the analysis in the report.

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**1** The survey was carried out online from 10 July – 4 August 2020 using the Google Forms platform and targeted organisations and professionals active in the private performance sector. It included a combination of open-ended and closed-ended questions. The respondents included 91 professionals and 43 organisations.

## Commercial live performance sector

The notion of 'social dialogue', as defined by Romanian society in the post-communist decades, inherited a number of legacies which are still to be addressed today, especially for the private creative sectors (performing arts included).

Thus, arts in general are still seen as a “**service**” to be provided and artists in the public sector are remunerated according to the number of years of employment, and the labour legal system never redefined the creative worker as a special category in terms of income, health insurance, etc. This state of affairs created, especially for the freelance creative sector, a situation of great vulnerability, lack of clear specific legal status and the general attitude that the ‘illegitimate child’ represented by the independent creative sector applied to the artistic domain in general – one that is still strongly dominated by plethoric public cultural institutions.

Democratic western societies had social dialogue instruments that the former communist countries regarded as ‘results’ rather than processes. The alliances, coalition models, long-term strategies and advocacy processes, and the culture of dialogue needed for such effective instruments to be put in place were ignored and never really explained to the members of creative communities who wanted to go independent after the fall of communism. The result was a weak capacity to identify and implement effective ways in which social dialogue could take a useful, pragmatic form. The private performing arts sectors, like other independent creative areas, knew what they wanted as a result for the employer–employee relationship, but did not know how to engage the complex and strategic process to get this result. Also, in a heavily state-run country like Romania, administration and public authorities were perceived as the ‘obstacle’ to gaining rights, not the patron or the direct employer. This situation is now slowly evolving for the better, with a new generation, a much better circulation of information and a superior civil culture developing, as well as with the emergence of strong independent cultural events and their resourceful and vocal communities.

Last, but not least, politics and the arts remain strongly interlinked, and using artists as ideal propaganda instruments, in a society that only gradually achieved freedom of expression in relation to democratic values, is an important lingering trend. Many successful freelance artists will access resources not in order to improve the level of democratic understanding, tolerance, European values for the citizen, but in exchange for responding to political and ideological interests. Failure to combine the political control of public resources with development of a strong public policy in favour of creative diversity of expression led to a weak development of the independent creative sector and an even weaker encouragement of these sectors to advocate for their labour rights.

It is within this general context that we looked into social dialogue within the private performing arts sector.

For the purpose of this study the **commercial live performance sector** is understood to cover a wide range of performances presented in the physical presence of a public, both for-profit and not-for-profit, **fully or partially independent from public funding**. This in particular involves activities such as theatre, music, dance, circus and other stage productions performed in specialised venues, in public spaces, in venues frequented by tourists, etc.

This implies that public sector entities are excluded from the analysis. However, initiatives partly subsidised by public funds remain within the scope of research provided that they do not fully rely on public funding and that they remain independent from the public sector in terms of managerial decisions and in applying for funding.

## Key characteristics of the sector

The first remark to be made is that the exact dimension of the overall live performance sector, and of the private one in particular, is difficult to ascertain, given the lack of consistent data gathering for its various sub-sectors. Secondly, its structure and functioning vary greatly from one discipline to the other, given its specificity, history and the weight of the public organisations.

The performing arts sector can in principle be divided into three categories of stakeholders:

1. **The public sector**, with institutions (theatres, operas, philharmonics, orchestras and choirs, ballet and dance centres and companies, circuses, folk ensembles, local cultural centres, etc.) established by national, county or local authorities and whose activities are subsidised overwhelmingly from public funds. They are established and function according to a specific legislation<sup>2</sup>.
2. **The non-governmental and non-profit sector**, often referred to as the “NGO sector” or “independent sector”, encompasses mainly associations and foundations<sup>3</sup> active particularly in the fields of theatre, dance, classical music or jazz. As private initiatives in fields and types of activities for which the market alone cannot provide sustainability, they usually complement what the public sector offers, and the tension between public and “independent” has remained a consistent reality of the past 30 years, related particularly to the latter’s legitimacy (or perceived lack thereof) and access to public funds.
3. **The for-profit sector**, which includes mainly companies (usually limited liability companies)<sup>4</sup>, active particularly in the field of music, but also in theatre, or circus. Often referred to as “commercial”, “business” or “private” sector, it has been growing for the past ten years, along with the increase in the purchase power of Romanians.

The **distinction** between the last two sectors, which form the focus of this report, is sometimes unclear, as many performing arts initiatives operate with both legal entities in order to adapt to existing administrative and fundraising constraints.

**Terminology** is also blurry: what one understands by “commercial”, “private”, or “independent” varies, as they are often used in regard to arts practices too, regardless of legal status – commercial can be perceived as a derogatory term, even anti-artistic, just as independent can imply more experimental artistic practices or lack of public support.

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- 2 Governmental Emergency Ordinance (GEO) no. 21/2007 on institutions providing performances and concerts, as well as the exercise of artistic business management activity, GEO no. 189/2008 on the management of cultural public institutions, and Law no. 153/2017 on wages of personnel paid from public funds (Unique Pay Law in the public sector).
  - 3 Established in accordance to Government Ordinance no. 26/2000 on associations and foundations.
  - 4 Established on the basis of Law no. 31/1990 on companies (in Romanian “societăți comerciale”).

We have therefore opted in our inquiries for the more neutral term "private" to describe the scope of our research, and will hereinafter refer to *the non-profit/NGO sector* and *for-profit/business sector* to address its two components.

The public sector is the one for which most **data** is available nationally in terms of dimension, structure and employment (but not compounded budget or subsidies), while the NGO sector is the least known, as the National Institute of Statistics (NIS) does not pool and make data available about NGOs (unless subject to regulation, such as health or social services). The most recent data available for **NGOs** dates back to 2015<sup>5</sup>, when a total of 5,310 NGOs were active in the cultural field, representing 12% of the total number of active NGOs, and marking one of the largest sectorial increases among NGOs since 2010: 94%. Within this pool of cultural organisations, there is no specific data about the percentage of those active in the performing arts. Revenues of cultural NGOs almost doubled from 2012 to 2015, to over 175 million euro in 2015, yet the assets of NGOs in the cultural field remain lower compared to other fields, testament to the precariousness in which the sector finds itself.

For the **for-profit sector**, statistical data show a significant increase through 2018, for which the latest data is available: the number of enterprises and their turnover almost tripled compared to seven years before, to 2,772 entities and a turnover of almost 175 million euros<sup>6</sup>, and their profit increased by 600%<sup>7</sup>. It has to be noted that official statistical data also includes among "enterprises" authorised self-employed persons (PFAs), so the number of companies probably accounts for less than half – see more details in the following two chapters.

More than half of the entities are active in performing arts activities (events); those active in support activities (logistics, equipment, sets and costumes etc.), however, have a larger turnover (see Charts 1&2). The market is concentrated among a few large players, within both the events and the support segments: the first three companies bring in almost 16% of the turnover, with the next four gathering some 8%<sup>7</sup>. This considerable growth of the sector in the past decade was brought about by the increased purchasing power of Romanians and investments in logistics and promotion, leading to a meaningful change in consumption behaviour. This professionalisation of the sector also shows in increased international recognition, with 5 festivals in Romania nominated in the European Festival Awards 2019 in all categories.

The largest number of companies operate in Bucharest (959)<sup>7</sup>, where the most events are being organised, though large non-classical music festivals (such as Untold, Electric Castle or Neversea) all take place outside the capital. Cluj, Constanța, Sibiu, Timișoara and Iași are also important centres, due primarily to the concentration of population, the higher purchasing power and the logistics solutions available. As KeysFin (2019) reports, in these cities, perhaps even more than in the capital, the local authorities have understood the touristic and business potentials of organising concerts and festivals, and supported it.

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**5** Foundation for Civil Society Development (FDSC) (2017), *The Nongovernmental Sector in Romania 2017*, Bucharest

**6** All data referenced hereinafter is based on the National Institute of Statistics Tempo database (<http://statistici.insse.ro>) [INS], unless otherwise noted, and includes companies registered under the following NACE (Rev.2) class codes which form the core of the scope of our report: R.9001 - Performing arts (events), 9002 - Support activities for performing arts, and 9004 - Operation of performing arts facilities. The real number of companies is larger as there are other classes relevant to our survey, such as 9003 - Artistic creation or 7490 - Other professional activities, which include the activities of agents, bookers and other intermediaries, but it is difficult to extract data specific to performing arts only.

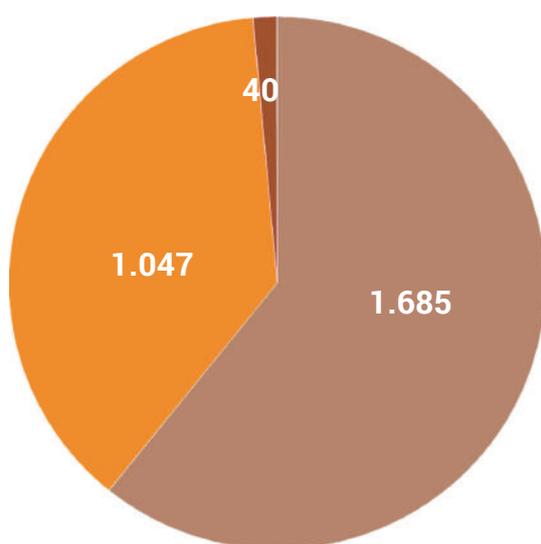
**7** KeysFin (2019), *The Romanian business of going out: Gambling halls, sports events, concerts and lastly museums and tourist objectives (based on the financial data of the companies active in the area)*

**Table 1: Number of entities, employees<sup>8</sup>, turnover/revenues for the three main sectors**

Year	For-profit enterprises active in performing arts			NGOs active in all cultural fields (not limited to performing arts) <sup>I</sup>			Public institutions active in performing arts	
	No of enterprises	Turnover (lei thousand)	No of employees	No of active organisations	Revenues (lei thousand)	No of employees	No of institutions	No of employees
2012				3,713	428,532	4,325	168	11,165
2015	1,337	421,768	1,898	5,310	784,500	6,984	254	11,701
2018	2,772	813,996	2,491				223 [153 legal entities] <sup>I</sup>	12,695

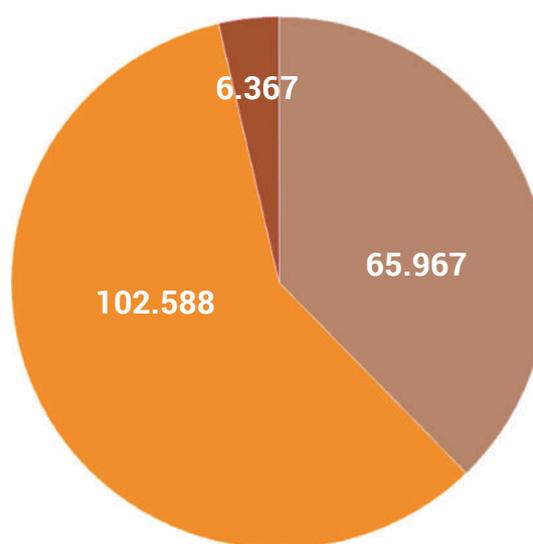
Source: Compiled by the author based on NIS<sup>8</sup>, KeysFin 2019<sup>9</sup>, FDSC 2017<sup>8</sup>, Social Economy Atlas 2014<sup>II</sup>

**Chart 1: Number of commercial entities in key NACE classes in 2018**



Source: NIS

**Chart 2: Turnover of commercial entities in 2018 (EUR thousand)**



Source: Author, based on NIS

- Performing Arts (events, concerts, festivals)
- Support activities to performing arts (event logistics)
- Operation of performing arts facilities

<sup>8</sup> NS data for employees list exclusively those working with a labour contract.

<sup>I</sup> One legal entity can be an umbrella for more companies, ensembles, etc.

<sup>II</sup> It lists the associations and foundations active in the entire cultural field and all disciplines, not just performing arts, as these are the only compounded figures available at the national level. 2015 figures from FDSC 2017 and 2012 figures from Cristina Barna (2014), The Social Economy Atlas, Institute of Social Economy - FDSC, Bucharest.

Besides the legal status, there are **specificities among the different fields**. Within operas, operetta, ballet, philharmonics, orchestras, ensembles, the public sector reigns supreme, with a few notable private classical music festivals, choirs or ensembles. The private non-classical music sector, on the other hand, is the largest and most diverse, displaying the largest development and impact in recent years. A real industry has been developing with the rising success of the indie rock and electronic music festivals, sparked by a generational shift in terms of professionals and audiences alike, supported by coalitions and self-organisation, and a more balanced relationship between success and the market.

Theatre organisations are, by comparison, smaller in number and in scale, as they operate in a system very much dominated by the public performing arts institutions. One important remark is that the audience is increasingly misled, especially in Bucharest, by the total lack of a real programming policy of public theatres, mixed with a superficial tendency to open independent spaces for performing arts, who programme anything; all types of theatre performances are possible both in public theatre and independent theatre. It creates a dangerous context for theatre as such; the border between entertainment, amateur theatre and serious performance becomes totally blurred.

Contemporary dance has a small community and a particular situation given its history; the National Dance Center, born out of and with pressure from the independent sector, is the only public institution in the performing arts whose projects are produced exclusively with independent artists.

Beyond the specificities, one of the traits the various fields have in common is their "festivalisation". Almost 80% of organisations surveyed carry out their activities on an event basis and without regular programming/activities, and this seems to be the case in general. This trend is influenced by consumption practices, but also by funding opportunities; and it translates into the shape and structure of working relations.

## Main challenges

This year's closure of events due to the pandemic looms large as the critical challenge to the sector, and the interviews and survey showed that despite the government's good intentions and openness, so far support measures for many actors in the field, be they individuals or organisations, are not sufficient. What the pandemic also brought to the fore was the lack of reliable information about existing creative resources, and how little public authorities know about the scale, structure and specificities of each of the sub-sectors, in order to tailor mechanisms for support<sup>9</sup>. The pandemic also highlighted how difficult it is for the various domains to defend and advance their interests when coalitions and representation are lacking.

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<sup>9</sup> The National Institute for Cultural Research and Training (INCFC, [www.culturadata.ro](http://www.culturadata.ro)), the public institution with a mandate in cultural research, has produced in the past few years a series of reports on the cultural and creative sectors and their economic contribution, but there are still many gaps that have not been covered, as the available information detailed above shows, particularly in relation to the non-profit sector and the number of people working in the cultural sector, as well as specificities for various sub-sectors. INCFC also administers the Performing Arts Register (<https://www.registrulartelor.ro>), established as per GEO no. 21/2007 on institutions providing performances and concerts, as well as the exercise of artistic business management activity, but while it is a reliable source of information on the public institutions in the field and on the companies and individuals registered as artistic impresarios, its listing of private companies is extremely limited, given the lack of an incentive to register and penalty for non-compliance.

Beyond the pandemic, for the non-profit sector, the biggest challenge is considered to be the **extremely low level and the inadequate forms of public support**<sup>10</sup>, which keep the sector in a chronic state of precariousness. Regular open calls at the local level are still not the norm, though many cities have become more transparent and supportive in the past few years. Direct public funding is awarded exclusively on a project basis and is administratively taxing, and there is no structural support, be it financial or, with rare exceptions, infrastructural. While there have been many improvements, the legitimacy of the sector continues to be a challenge; and the aforementioned lack of data about the sector, its scale and impact hinder its recognition.

The **lack of adequate cultural infrastructure** (and infrastructure in general) at all levels and **limited access to public infrastructure** has come up constantly as another key challenge for the entire private sector. For the companies active in the music and events business, this ranks as probably the biggest problem: Bucharest is the only E.U. capital lacking a 10,000+ multifunctional venue, and in general small and medium-size performing arts venues or cultural hubs are lacking in the capital and throughout the country, thus considerably limiting opportunities beyond the outdoor summer festivals season.

The **pervasive practice of local festivals or “city days” organised by local authorities free of charge** has been largely considered by those interviewed as another key challenge for the live performance industry. Usually bringing together pop, folkloric and rock musicians, they continue to be a staple of the field, both as a source of income for a part of the sector, and a target of criticism for their populist drive, frequently low level of artistic quality, and the negative impact on the development of the industry and of audiences. Moreover, as some interviewees and survey respondents noted, connections to politics or other informal power networks favour access to funds, opportunities and media channels for some, especially in theatre, rock and pop music, adding another challenge.

**Inadequate legislation for the live performance sector**, and **lack of social protection** are also mentioned among the biggest challenges for the sector, along with lack of qualified personnel, scarcity of professional development opportunities, lack of practical information and advice on legal and tax issues, and the general unpreparedness of recent graduates for the realities of the field. Excessive red tape, corruption, and the political dependency of managers of public institutions on the public authority also impact the private sector.

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**10** Data is chronically missing, but for example in 2015, when the public support for NGOs in Bucharest was expanded due to the city’s bid for European Cultural Capital, public funds awarded to projects of cultural NGOs in the city by the two local and national funds amounted to only 1.63% from the subsidies awarded to the public cultural institutions in Bucharest. See *The Cultural Strategy for the City of Bucharest 2016-2026*, p. 33, available at <http://strategiaculturalabucuresti.ro>

## The situation of workers

In terms of the **number of people working in the private performing arts sector**, there is **no data to estimate it**. The figures in Table 1 above list only the number of those working based on an employment contract, and they show that within private organisations, whether for-profit or not-for-profit, employment contracts are rare, be they permanent or fixed-term (see more in next chapter too). Moreover, many of those employed within the public sector also work in the private one, making assessments all the more difficult.

Freelance work is the norm in the private sector, with many **accumulating various collaborations**, usually on a project basis. 40% of survey respondents coming from the creative, technical and administrative fields alike worked in 2019 with more than 7 organisations and about the same number worked with 1-3 organisations.

There are a **variety of non-standard arrangements for carrying out activities in the performing arts**, from different types of individual contracts to organising as legal entities. The only one that is specific for the creative professions is 1) the licensing of author's rights and neighbouring rights<sup>11</sup>. Because overall taxation for such revenues is lower<sup>12</sup> than regular employment and other arrangements, it has become the usual form for carrying out an activity as an individual artist, and has been extensively used (and sometimes abused) for any form which involves a creative component.

Other frequently used arrangements, depending on type of work and sub-sector include: 2) Individual Civil Law contracts for service provision for the administrative or technical professions, which has become less used in the past two years, following changes in the Fiscal Code which limit its application; 3) Registering as an authorised self-employed person (PFA)<sup>13</sup> for various professions and trades; 4) Establishing a company, often a single member limited liability company without any employees and with dividends as a form of revenue, more frequently used in the music sector for both creative and technical professions; 5) There is also a high incidence of voluntary work, which often is not formalised in a contract. And of course, 6) the practice of no contracts (which 13% of survey respondents declare having been subject to in 2019), or 7) an ad-hoc system, especially for theatre and dance, where one performer acts de facto as an intermediary and concludes a contract on their behalf, then splits the fee with the rest of the people involved.

The choice of legal arrangements (which is usually not made by workers but employers) is influenced by taxation, and the numerous and frequent changes of the Fiscal Code have translated into migration from one form to another. Recent increases in a PFA's fiscal burden have led to the establishment of a company as a more favourable and frequent option at the moment. Given that the licensing of author's and neighbouring rights carries no other taxes/compulsory contributions (for health insurance or social security) when it is combined with an employment contract, the practice of using an employment contract at minimum wage to offset charges for the former is frequent.

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<sup>11</sup> Regulated by Law no. 8/1996 on author's rights and neighbouring rights and the Fiscal Code.

<sup>12</sup> With a fiscal status of royalties, such revenues also enjoy a 40% deduction.

<sup>13</sup> Carrying out an activity as an authorised self-employed person ("Persoana fizică autorizată" or PFA in Romanian) is regulated by GEO no. 44/2008.

The employment arrangements also depend on the degree of celebrity and welfare one has as a creative. Those creatives who also work in film production, a TV series or advertising, some of whom are juggling individual contracts, self-employment, companies or NGOs, are not submitted to the same kind of volatile situation than the rest, who are obliged to accept whatever formula is proposed to them.

Almost half of the respondents have used at least two type of contracts; indeed, as interviews have also shown, **many workers combine not just collaborations with numerous organisations, but also various types of work arrangements.** The survey responders list service provision contracts as the most often used, followed by copyright and neighbouring rights contracts and permanent employment contracts; the results can be explained by the fact that more than 50% are active in the technical professions. The survey also shows that those active in the technical professions are far more likely to manage a company; those with an artistic profile are far more likely to be members of an NGO; and the self-employed status is used by all three categories of respondents (artistic, technical or administrative). While the survey was not designed to be representative for the target group, it captures well what also emerged from the interviews.

Both the survey and interviews show that for the technical and logistical professions, the number of collaborations is larger, it ranges across sub-sectors or in other related sectors (audiovisual, tourism), and is based less on collaborations with public institutions; the nature of the work and the scale of the sector forces them to multiply collaborations. Excessive diversification and the work asymmetries in the various fields can also have a negative impact on creative processes.

Artists, on the other hand, receive on average a higher percentage of revenue from collaborations with public institutions, which can be project-based, short-term or permanent contracts. It is particularly within the theatre field that actors, directors or designers work with both public institutions and private organisations. To be employed in a public theatre is much sought after by young actors, as it provides security and the opportunity of larger productions, while also allowing for independent project-based work. The large number of collaborations for actors (and the corresponding large number of non-employed actors in theatres, both private and increasingly, also public), particularly in Bucharest where most opportunities within and outside the field are available, has also become in the past few years a real hurdle in scheduling repertory shows (which is the way most public and private theatre organise their programming).

There is no **regulation concerning minimum fees** in the performing arts, and working for fees that are too low has been mentioned by some as a challenge to the profession. The only legal provisions relate to the level of salaries within the public institutions<sup>2</sup>, and it is within the public sector that the freedom to set licence fees for authors' and neighbouring rights was used to pay fees larger than what might otherwise have been permissible for public institutions.

What the existing legal instruments fail to offer is **security and social protection** adapted to the sector, even when contributions are being paid. PFAs are required to pay social security contributions, and so are licensors of author's and neighbouring rights when they do not also hold an employment contract, but they do not cover unemployment insurance. While there is a general mechanism of opt-in contribution-based public unemployment insurance for PFAs and other non-employment arrangements, it is not adapted to the specificities of what unemployment can mean in terms of independent, atypical work in the performing arts and the artistic sector in general.

It must be said that the Romanian public pensions system offers two types of **special retirement indemnities** for artists and interpreters in the performing arts, which are antiquated and need revision. Thus, an **additional retirement indemnity from the public pension fund, amounting to 50% of the contribution-based pension (with a cap), was set up in 2006<sup>14</sup>, but eligibility is conditioned by membership in the traditional creators' and performers' unions (see more on page 18) and limited to those enrolled in the public pension system.** A retirement indemnity was set up in 2005<sup>15</sup> for interpreters and performers active as freelancers until 1999 or for those affected by occupational illness, but the application process is daunting and the monetary level available is very low.

The current non-employment arrangements also provide limited or no **rights and protection in areas such as working hours, working conditions, or occupational safety**, which are in general taken very lightly by many in the sector. Born in the aftermath of the tragic Colectiv club fire in 2015, The Romanian Association of Concerts and Cultural Events Organisers (AROC) has established as one of its missions to set a bar for professionalism in the sector including in terms of contractual relations and occupational safety.

These various arrangements have thus tried to optimise atypical and unstable work within an inadequate legal framework and a sector characterised by a scarcity of resources. What many people are asking for is a **specific legal status** which would both accommodate the specificity of artistic, technical and administrative work in the performing arts, while also offering a greater level of social security and protection. The "intermittence du spectacle" system in France is often referenced, and discussions about establishing a "status of the artist" have been ongoing for decades, yet concrete proposals on how such a mechanism could work within the specificity of the Romanian legal system are still to take shape. A recent grassroots initiative developed an "Alternative public policy proposal on the Consolidation of a societal status for the artist, author and creator in Romania"<sup>16</sup>, but it has not engendered concrete follow-up proposals.

Most performers in theatre and dance find their jobs by networking within the sector. In music there are several successful booking agencies and management companies; the musical sector is, from this point of view, more efficient and active.

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**14** As per Law no. 8/2006 for the establishment of the indemnity for the beneficiaries of the public pension system, members of legally established creators' unions recognised as public utility legal entities.

**15** As per Law no. 109/2005 for the establishment of the indemnity for the freelance activity for interpreters and performers in Romania

**16** <https://statutulartistului.ro>

## The situation of organisations

As noted in the first chapter, the size of organisations in theatre and dance is usually small, whereas within the music field they range from small to large, with a few large companies bringing in a large proportion of the turnover. Statistical data (see also Table 1) show an extreme disparity between the public and private sectors in terms of employment scale and structure. Whereas a small number of public institutions operate with a large number of employed personnel (on average more than 50), both for-profit companies and NGOs have on average around one employee.

Thus, for the **non-profit sector**, in 2012, 78% of cultural NGOs didn't have any employee, with 20% having between 1-5, 4% between 6-20 and only 1% over 25 employees<sup>17</sup>.

For **private companies**, there is no company with 50 employees or more, and those with more than 10 amount to less than 1% of the total. The majority of entities have no employee, and it is particularly in the sub-sector of performing events that the largest number of entities have no employee (see Table 2 below). One of the reasons for this is statistical: under the enterprises listed in INS data, all legal entities carrying out a commercial activity, including all registered self-employed persons (which we can estimate at more than 50% of all enterprises<sup>18</sup>), are compounded. Small single member limited liability companies, as noted in the previous chapter, have also gained traction in the past years.

**Table 2: Employment in for-profit enterprises in the main performing arts sub-sectors in 2018**

	Number of enterprises	Average number of employees in an enterprise (overall/sub-sectors)		
Enterprises with 0-9 employees	2753	0.75	Performing arts	0.65
			Support to performing arts	0.90
			Operation of arts facilities	1.92
Enterprises with 10-49 employees	19	22.84		
Enterprises with 50+ employees	0			

Source: The author based on INS Tempo database (<http://statistici.insse.ro>)

Beyond these data adjustments, the level of employment based on labour contracts within the private sector remains low. Among organisations which responded to our survey (which are probably more active and established than the average, and come to a greater degree from the music sector), 40% had between 1-5 employees, and almost the same percentage had none.

<sup>17</sup> Cristina Barna (2014)

<sup>18</sup> Based on the total number of registered self-employed persons versus companies in the overall Events, Culture and Entertainment sector, which also includes museums, libraries, sports, gambling (54% vs. 46% in 2018), as per INS database.

At the same time, 95% of survey respondents had **other types of work arrangements**, with almost 40% of them working on a non-employment basis with 6-24 people, and over 30% with more than 25. The main and most frequently used non-employment arrangements are those for service provision (based on Civil Law or with PFAs) and author's and neighbouring rights licensing. 25% of survey respondents admit to the "no contract" practice, while many interviews indicate that the practice of receiving payments 'under the table' circulating for all the sectors covered by the study, to avoid taxation and bureaucracy, might be even more widely spread. Work via intermediaries is limited usually to large events, such as the big music festivals, for artists' booking and the provision of stagehands, usually by a few established companies.

In recent years, **public institutions in the performing arts have also multiplied their non-standard employment arrangements**; to bypass restrictive legislation which limits the number of people they can employ, many theatres have also opted to work with intermediaries (temporary work agencies) for technical or admin staff, as well as short-term contracts, particularly for younger actors. When budgets were cut, some of these were among the first let go, bringing a sense of instability to work in the public sector itself.

The low level of regular employment in both NGOs and for-profit enterprises is based to a great degree in the atypical nature of the work in the performing arts sector, the heavy fiscal burden for employment, and the precariousness and chronic lack and inadequacy of resources, particularly for the non-profit sector. As Ștefan Guga noted<sup>19</sup>, talking about the non-profit sector in general, both the atypical type of work and the precariousness of work are structurally embedded in the way the sector functions in Romania. With public funding being allocated exclusively on a project basis, for instance, salaries of employed personnel are usually not eligible for support, prompting other types of arrangements.

The great majority of organisations in the sector are project-based and are also exclusively financially dependent on the frequency and regularity of live performances. It is an exhausting and risky environment for all, as the sources of revenue are constantly dependent on events and, as such, they are sometimes volatile and insecure; 40% of survey respondents experienced large fluctuations in the number of workers in the past 3 years.

The **business models and revenue sources** depend on the sub-sector and the corresponding legal status, and many performing arts initiatives operate with both for-profit and not-for-profit legal entities in order to adapt to existing administrative and fundraising constraints. NGOs funding comes from a mix of national, county or municipal public funds (awarded exclusively on a project basis and seldom based on regular open calls, with the notable exception of the National Cultural Fund, which has however a limited budget), sponsorship, donations, grants from private foundations, voluntary work, as well as revenues from their activities (ticketing, etc.), including economic activity within their field, which is subject to a business-like fiscal environment.

Companies are based mainly on business revenue, though for some public funds also play an important role. If the latter can take the form of grants or loans for SME start-ups, development or investment, it is particularly the aforementioned practice of local music or folkloric events organised or supported by local authorities, usually free of charge for audiences, that makes the public sector an important actor – as a source of business income for many companies, as well as what is considered to be unfair competition for the "purely private" sector.

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**19** Ștefan Guga (2016), *Atypical Work in Romania from the Outbreak of the Crisis. An Overall Perspective*, Bucharest, p. 40

The amount of revenue coming from public sources is difficult to estimate, but it is probably a minority. The survey indicated that 65% of organisations received in 2019 less than 20% of revenue from public funding.

Cluj Cultural Center (CCC)<sup>20</sup> has launched in the past few years a programme of research into the cultural and creative sectors and their impact, including work relations in the field, which confirms the above-mentioned trends at the level of the cultural sector as a whole and provides additional useful information<sup>21</sup>.

## The state of social dialogue

In Romania, the landscape of social dialogue was reshuffled in 2011 with the adoption of a new law<sup>22</sup>, in conjunction with new labour legislation, which aimed to make the labour market more attractive to investors. **The new legislation negatively impacted social dialogue**, particularly in the private sector<sup>23</sup>: tripartite social dialogue became a mere formality, collective bargaining at national level was banned, and bipartite level collective bargaining agreements at branch/sector level dropped suddenly and significantly, disappearing completely from the private sector and being severely diminishing in the public sector (from 47 contracts signed between 2005-2010 to only 5 within 2011-2017). The number of collective bargaining agreements at group level has dropped too, even if not as dramatically.

These are due to the **more limiting requirements to associate and reach representative status**, and the structural shift from branches to sectors<sup>24</sup> brought about by the 2011 law: at unit level, a trade union can only be set up by a minimum of 15 people within the same company/entity, which in an economy relying on small and medium-sized enterprises effectively limits the freedom of association<sup>25</sup> (previously 15 employees working in the same economic branch or profession could set up a union). At least 50%+1 of the total number of employees from the same company are needed to reach social partner representative status and negotiate a collective agreement (up from 30% previously). At sector level, trade unions should include at least 7% of the total number of employees in the sector, and employers' organisations at least 10%, in order to become representative (given the high number of enterprises with fewer than 15 employees, the thresholds of representation in some sectors are in practice significantly higher). For a sector-level agreement, company members of the signatory employers' associations should include more than half of the total number of employees in that sector.

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- 20 CCC has also initiated the Cluj Future of Work Project aiming at rethinking and innovating work practices in the cultural sector. Details at <https://cccluj.ro>
  - 21 Pop Cristian et al. (2019), *Work in culture and the culture of work. The changing trends in how work is organised. Case studies with regard to the work in culture and informal work.*
  - 22 Law no. 62/2011 on Social Dialogue
  - 23 Ștefan Guga, Camelia Constantin (2017), *Analysis of the Impact of the Social Dialogue Law Adopted in 2011 – Sociological and Legal Research*, 2nd Edition", Bucharest, which we reference in this introduction.
  - 24 The 2011 law provides that collective bargaining between unions/federations and employers or their representative associations' can be carried out at three levels: unit (legal entity), group of units, and sector, with specific representativeness requirements. The shift from branches to sectors (defined as per NACE class codes), did not take into account the existing organisational realities, with extreme variations within sectors. For our purposes, the shift was from the Culture branch to the Culture & Mass Media sector.
  - 25 This is all the more true for the private performing arts sector, in which the average number of employees is far lower than the national average (see Table 2).

These limitations are compounded by the **narrow definition of what an employee is**: a person working based on an individual labour contract, as defined by the Labour Code. The result was that the new legislation “placed certain categories of short-term and freelance worker squarely outside [the scope] of social dialogue and the protections that it might afford, rather than facilitating their inclusion. Thus, the challenge trade unions face is to establish representativeness and to challenge the race to the bottom that freelance workers now face, without the benefit of union protection”<sup>26</sup>.

## The state of dialogue in the commercial live performance sector

Indeed, **in the performing arts private sector, there are no dedicated trade unions or employers’ organisations.**

While legally registered employers’ associations are missing **in the public sector as well**<sup>27</sup>, **the unions are in a different situation**: Most public institutions have their own union at unit level and unions do matter. There are several national unions and federations within the Culture and Mass Media sector, which are in turn affiliated to one of the five large confederations at national level. **FAIR-MediaSind Culture and Mass Media Federation**<sup>28</sup> is the leading federation in the sector and, with 30 organisations affiliated and approximately 8,000 members, it is the only federation legally recognised as representing the “Culture and Mass Media” sector (passing the threshold of 7% of all employees in the sector). It is affiliated with the CNSLR Frăția national confederation, as well as with the International Federation of Musicians (FIM), International Federation of Actors (FIA), the International and European Federations of Journalists (IFJ/EFJ), UNI Global Union and its Media, Entertainment and Arts Alliance UNI MEI. The **Associated Unions of Performing Establishments (USIS)**<sup>29</sup>, a FIA affiliate, is recognised as representing the public institutions in the performing arts sector in the country, while the more recent **Federation of Unions in Cultural Institutions**<sup>30</sup> addresses public institutions in all cultural fields.

While there are legal restrictions for setting up a union, which clearly hamper unionising in the small-scale-entity and fragmented private sector, employees and freelance workers in the private sector can join existing national trade unions, which can provide assistance on legal, tax, insurance matters, support in case of a labour conflict, and training, and could help bring up issues relevant for the private sector on the agenda. The FAIR culture national union does have members working in the private performing arts sector, though exact figures are not available. The research however showed that most professionals are not aware of its existence and the support it can offer, or seeing it as mainly dedicated to those working in the public field.

<sup>26</sup> Pascale Charhon, Dearbhal Murphy (2016), *The Future of Work in the Media, Arts & Entertainment Sector. Meeting the Challenge of Atypical Working*, p. 61

<sup>27</sup> Within the Culture & Mass Media sector, there are employers’ associations within the media field.

<sup>28</sup> Bringing together the two national unions in the fields of culture – FAIR (established in 1990), and mass media – MediaSind. Details at <http://www.mediasind.ro>

<sup>29</sup> <https://www.facebook.com/usis.ro/>

<sup>30</sup> <http://fsic.ro>

Where entity-level unions do not exist or do not have representative status, national unions and federations can negotiate collective agreements at unit level<sup>31</sup>. Moreover, what FAIR-MediaSind Federation has been advocating for is the conclusion of a sector-level collective agreement, which would impact workers in the private sector as well, which is hampered by the lack of a representative organisation of employers in the cultural field (and consequently in the culture-mass media sector as a whole). Since the 2011 move from branch to sector, no collective agreements have been concluded for the culture and mass media sector, or at group level. Previously, the last collective agreement for the culture branch was signed for in 2006-2008.

Although the private sector has no registered unions or employers' associations, **various professional associations and coalitions** have been established or at least attempted, with various degrees of success and representation.

The oldest ones are the **artists' or "creators" unions** or guilds, which inherited the entities administering the (mostly) freelance artistic professions during the communist regime<sup>32</sup>. After 1989, the six guilds evolved to varying degrees, having a varied and sometimes unclear mandate, representativeness and recognition within sectors that have considerably changed. Two of them are active in the performing arts: **UNITER (The Theatre Union of Romania)**<sup>33</sup>, with over 2,100 members, out of which 350 do not have a permanent contract with a public institution and 665 are retired, and the **Union of Composers and Musicologists in Romania (UCMR)**<sup>34</sup>, with over 400 members. They enjoy a special legal treatment which grants them earmarked public funding in the form of a percentage surcharge on field-specific cultural goods and services ("cultural stamps"). They offer services and support for members (which have traditionally included exclusively artists, i.e. "creators", and not performers) and initiate and fund projects in their field. Membership gives artists the right to the additional 50% retirement indemnity from the public pension fund (detailed on page 12). Their advocacy efforts have been carried out mainly through **The National Alliance of the Creators' Unions (ANUC)**<sup>35</sup>, which was the first to propose, in 1998, a manifesto for a Status of Artists and Performers in Romania, but has become less active lately. A similar approach (and benefits) is/are enjoyed by the **Romanian Creative Performance Union of Musicians (UCIMR)**<sup>36</sup> established in 1995, which claims to have over 10,000 performers in the musical field as members.

The **non-profit sector** or various communities within it have made various attempts at coalition within the past three decades, many times around specific objectives, from public funding to recognition and legitimacy. Though many did provoke visible advancements (from the establishment of the National Cultural Fund or the National Dance Center), they did not coalesce into long-term platforms representing the field. There were also several attempts at creating unions (such as a guild of freelance actors and directors) or associations of employers, such as the **Association of Independent Theatres in Romania** established in 2016 by a number of leading private theatres in the country, but they either could not be established or at not active.

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**31** FAIR-MediaSind has done so for several public institutions, but none so far for a private entity, also given that very few employing more than 21 people (the limit beyond which starting collective negotiation is demanded by law) exist.

**32** See the recent Caterina Preda (2020), *The Role of the Romanian Artists' Union in the Production of State Socialist Art*, ARTMargins

**33** <https://www.uniter.ro>

**34** <http://www.ucmr.org.ro>

**35** <https://www.anuc.ro>

**36** The Author's translation of *Uniunea de Creatie Interpretativă a Muzicienilor din România*. Details at <https://www.ucimr.ro>.

The pandemic provoked a reactivation of the Association of Independent Theatres in Romania, part of a larger informal coalition within the non-profit sector which aims to advocate for concrete measures of support for a sector at risk of collapse.

Initiatives involving information, assistance, capacity building and advocacy support have also taken shape – from the regional and very impactful Policies for Culture programme in the early 2000s<sup>37</sup> to the more recent ZonaD Platform<sup>38</sup> or the **Trans-sectorial Association of Cultural Independents (ATIC)**<sup>39</sup> – but platforms of representation are still lacking.

A series of efficient recent initiatives within **the live performance industry** show that the music industry in particular seems to be more aware of the administrative and legal system and more cohesive in terms of a common platform to protect and advance its interests. The **Romanian Association of Organisers of Concerts and Cultural Events (AROC)**<sup>40</sup> is the largest such organisation founded in 2016 by 12 of the leading actors in the concerts and festival market in Romania, currently numbering 21 members. It aims to defend and advance the common interests of its members, to become the main institution of legitimate and authorised representation in the field nationally and internationally, as well as to increase the professionalism and recognition of its members. In the context of the dramatic impact of restrictions on cultural and entertainment activities due to the COVID-19 pandemic, the association has so far been a key representative of the sector in voicing the problems and needs of its members in dialogue with the government.

The pandemic has prompted other initiatives, among them the establishment this summer of the **Association of Workers in the Live Entertainment Industry (A.L.I.S.)**<sup>41</sup> and the initiative of creating a national federative **Association of Independent Musicians (UNMIR)**, with 100 founding members inviting musicians to join (currently in the process of gaining legal status)<sup>42</sup>. These helped advocate early in the pandemic for extending the initial subsidised monthly indemnity to PFAs and individuals with revenues exclusively based on author's rights and neighbouring rights. Aiming to provide representation, as well as various services for its members, A.L.I.S. has also managed to advocate for the inclusion of companies in certain NACE classes relevant to the sector among those eligible for pandemic-related government support.

## Topics of potential interest

In responding to our survey, workers pointed to **pay for workers** and **social security and pension contributions** as the main topics which social dialogue should address, followed by **funding sources for the live performance sector** (particularly for theatre and dance professionals and for those working based on licensing of rights), and **working conditions** (which list highly, particularly for those in the music industry and among technical professions). Survey findings match what the interviews highlighted: social security and pay list the highest among those working in all fields, though feedback is mixed on the need and feasibility of establishing minimum fee levels for various professions.

<sup>37</sup> A collaboration between ECUMEST Association and the European Cultural Foundation. Details at [www.policiesforculture.org](http://www.policiesforculture.org).

<sup>38</sup> A programme provided by the Gabriela Tudor Foundation, which recently carried out research on the contemporary dance scene in Romania. Details at <https://dans.ro/resurse/>

<sup>39</sup> ATIC aims to provide independent workers in the cultural field with assistance and information on legal and tax matters. Details at <http://atic.org>.

<sup>40</sup> <https://www.aroc.ro/en/>

<sup>41</sup> <https://alis.org.ro/>

<sup>42</sup> <https://www.facebook.com/UniuneaMuzicienilorIndependenti/>

While the sector's sole representative union FAIR-MediaSind set a collective agreement as a key priority, the opportunity and relevance of it for workers in the private sector seems to be little addressed, or neglected (see more below).

Understanding one's rights and **information about legislation** are also considered very important, and all the recent initiatives at coalitions (ALIS, UNMIR) list these as key areas of support for their members. Gaining an understanding of the scale of each sub-sector and its impact has also emerged as a crucial factor in being able to find the right mechanisms for support.

Employers, on the other hand, consider **social security** and **funding sources** as the top issues, followed by **finding workers with adequate skills** (particularly for those in the music fields and those working in event-based roles).

Equal opportunities and working abroad (including double taxation problems) were also mentioned, but as a lesser priority. In a context that is already atypical and precarious, the **flexibility of work arrangements** was rated lowest as a key topic.

## Key barriers and challenges to social dialogue

Interviewees and survey respondents overwhelmingly agree that instances of social dialogue are highly needed, but **it is mainly in relation to public authorities, and less with employers/workers, that a need for social dialogue is stated**. Those interviewed see themselves, workers and organisations alike, as struggling in the same way; as Romania is still heavily influenced by public administration, those aiming for flexibility are still bound by the limits of burdensome bureaucracy.

Thus, in describing existing barriers to social dialogue, the majority of survey respondents indicate that there are barriers to dialogue with public authorities. When it comes to appraisal of whether obstacles exist in the dialogue between employers and workers, the percentage is considerably lower – almost 50% of workers and some 37% of employers do consider that there are barriers. What is particularly telling is the high number of those who don't know how to answer the latter question, which in the case of employers is even larger than those answering in the affirmative. This seems to indicate that the nature and mechanisms for social dialogue among organisations and workers are both lesser known, and also less relevant for the respondents. Moreover, in a sector where many professionals create legal entities (be they for-profit or non-profit) in order to carry out their activities, the tandem worker/employer is often less relevant.

As noted above, **existing legislation on social dialogue** is a crucial barrier in formal associating and achieving representation; yet the overwhelming majority of survey and interview respondents did not mention it specifically. They pointed however to the **lack of or inadequacy of legislation specific to the performing arts**, and a **poor knowledge of existing legislation in general of those in the field** (given the complex, sometimes vague or contradictory legal provisions, the constantly changing legislation, and a lack of legal assistance and education).

There seem to exist both ignorance and/or **lack of trust** between the different actors within the system, and a disregard for longer term improvement in favour of more immediate benefits. **Cohesion is in general low** within the various subsectors, which have difficulty, as noted above, to coagulate platforms of representation and assistance.

Cohesion seems to be the weakest in the theatre field, due in part also to co-existence with the strong public sector. A constant striving for individual survival leaves little room for collective action when resources and capacity are scarce.

As far as public authorities are concerned, with their disproportionate focus on public institutions, the greatest obstacle is considered **their lack of understanding of how the private sector and its various sub-sectors work, and of the economic and societal impact of the private sector**. Lack of transparency and professionalism, excessive bureaucracy, corruption and political influence are also considered to hinder the dialogue with many authorities at a central and local level.

The pandemic crystallised within the sector a realisation that perhaps the largest short-term obstacle is lack of representation and that **building representation** is crucial in making one's needs known and defending one's interests.

## What could stimulate the dialogue?

Changing the restrictive legislation on social dialogue and labour could remove barriers and provide better instruments. Since 2011, there have been numerous initiatives to modify the law on social dialogue, and there are currently five such proposals on the table. The chances of adoption are however slim, due to political instability and the lack of a common position on the part of social partners, in a context constrained by the pandemic.

There are however means to stimulate social dialogue within the existing legal framework: one could be offering **impetus and support to existing trade unions to invite membership from the private sector**, to offer advice and assistance, and to represent their interests by putting on the public agenda (including the formalised tripartite dialogue) issues of relevance to this category of workers.

**Legal and policy information, assistance, training** for professionals in the private performing arts sector could equip professionals to better understand their rights and opportunities, could better identify issues of common concern and raise awareness on the need for collaboration.

**Provide support to existing coalitions and for the creation of new ones** (capacity building, financial and human resources, etc.) **and encourage collaboration between the various professional organisations. Offering legitimacy to these professional/ sectoral coalitions** is also crucial. While such coalitions cannot take the legal form of trade unions or employers' associations, it is important that they are recognised as legitimate partners of dialogue with the various stakeholders. In attempting to design support mechanisms for the current pandemic, the Romanian Government has created numerous ad-hoc opportunities for dialogue with the representatives of all sectors involved, regardless of their legal status; these could take a more regular and rigorous format in the future, thus encouraging coalitions to take shape and allowing for true impact and continuity when political changes occur, as they too often do. And most importantly, as many in the sector noted, it is also crucial for this dialogue to produce results, so that these interactions do not just remain a form of performing dialogue.

## Conclusion

The exact scale of the overall live performance sector, and of the private one in particular, is difficult to ascertain, given the lack of data or the inconsistency of its collection with regard to its various sub-sectors. Engaging in a multi-layered mapping of the sector, realised with transdisciplinary teams, and adapting data collection mechanisms are critically needed; INCFRC, the public institution with a mandate in cultural research, could spearhead this process.

The structure and functioning of the sector vary greatly from one discipline and sub-sector to the other, given its specificity, history and the importance of the public organisations. What is common is that employment contracts are rare overall, and freelance work is the norm, in a variety of non-standard arrangements, none of which are specific to the field. Many workers combine not just collaborations with numerous organisations, but also various types of work arrangements. These various arrangements have tried to optimise for atypical and unstable work within an inadequate legal framework and a sector characterised by a scarcity of resources.

What many people seek is a specific legal status which would both accommodate the specificity of artistic, technical and administrative work in performing arts, while also offering greater social security and protection. The "intermittence du spectacle" system in France is often referenced, and discussions about establishing a "status of the artist" have been ongoing for decades, yet concrete proposals on how such a mechanism could work within the specificity of the Romanian legal system are still to take shape.

The low level and the inadequate forms of public support keep the non-profit sector in particular in a chronic state of precariousness, which has a ripple effect when it comes to working relationships. Given the main challenges perceived by both workers and organisations, it is particularly in relation to public authorities that social dialogue is understood. The nature and mechanisms for social dialogue among organisations and workers seem to be both lesser known, and also less relevant. While solidarity and collaboration have not been the strong suit of the sector, there is a growing understanding that representation is needed in order to defend the interests of different professions or fields. Social dialogue in the traditional sense is non-existent for the private sector, and there are no dedicated trade unions or employers' organisations, which the current restrictive legislation on social dialogue make almost impossible to be established. Various professional associations and coalitions have been established or at least attempted, with some hurried in by the pandemic itself. The most successful platforms are in the live performance industry, which seems to be more aware of the administrative and legal system and more cohesive in terms of a common platform to protect and advance its interests.

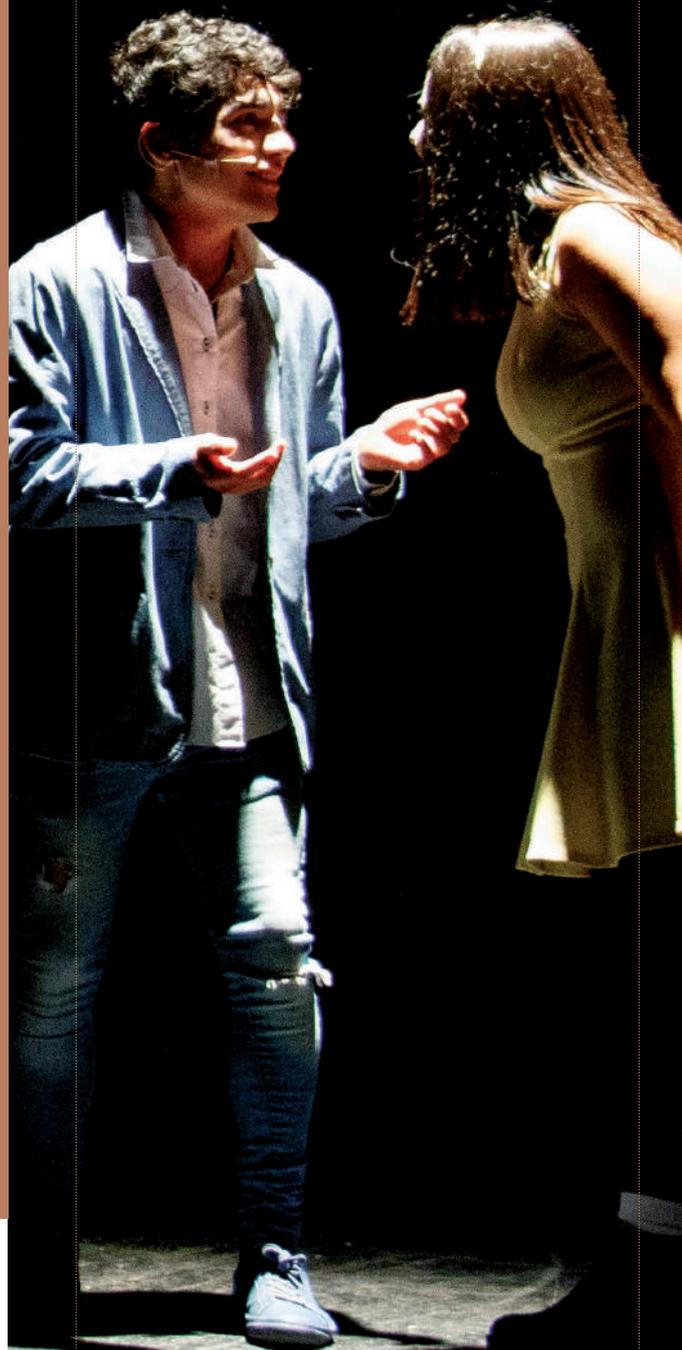
Changing the restrictive legislation on social dialogue and labour is crucial in removing barriers to association and representations. There are however means to stimulate social dialogue within the existing legal framework: One could be offering impetus and support for existing trade unions to invite membership from the private sector, to offer advice and assistance, and to represent their interests by putting on the public agenda (including the formalized tripartite dialogue) issues of relevance to this category of workers. Another one would be to offer legitimacy to the professional/sectorial coalitions, even if not established as social partners, by recognising them as legitimate partners of dialogue with the various stakeholders and formalising regular interactions with them.

Providing legal and policy information, assistance, and training for professionals in the private performing arts sector is also key, as is support to existing coalitions and for the creation of new ones.

# Country report: Serbia

Svetlana Jovičić

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## Introduction

This report presents the results of a mapping and analysis of social dialogue in the commercial live performance sector in Serbia. It is a part of a larger study also covering Czechia, Bulgaria, Romania, and Poland run by the social partners of the EU social dialogue committee in the live performance sector, namely PEARLE\* - Live Performance Europe and the EAEA (composed of EURO-MEI, FIA and FIM), and which is co-funded by the EU.

This report **aims** to:

- Describe the commercial live performance sector in Serbia
- Identify the sector's key characteristics and related challenges
- Present the situation of workers/performers and organisations active in the sector
- Assess the state of social dialogue in the sector, understand the possible obstacles to the sectoral dialogue
- Provide suggestions for promoting and fostering social dialogue in the sector

The report is based on the following **research methods**:

- Desk research: review of existing publications, documents and legal framework at the national level
- Two focus group meetings with key relevant national social partners and stakeholders in Belgrade
- Fifteen individual interviews with relevant stakeholders
- Two online surveys for individual performers and organisations active in the commercial live performance sector

## Limitations

- With limited available time and resources, the research focuses on the capital city, and does not fully describe the situation in the whole country.
- The research results from the online survey, focus groups and interviews with stakeholders from most but not all subsectors, namely: theatre, music and dance.
- By design, the online survey is not representative for the entire populations of interest. This is reflected in the way in which survey results are utilised to inform the analysis in the report.

The research work underlining the report was largely finalised in February 2020, i.e. before the outbreak of the COVID-19 pandemic. The resulting lockdown measures have profoundly affected the live performance sector across Europe and beyond, including in the commercial live performance sector. At the time of finalising this report the timing and pacing of re-opening of live events was still uncertain. On 12 March, 2020, UNI Global Union's Entertainment and Media sector, EURO-MEI, together with the International Federation of Musicians (FIM), the International Federation of Actors (FIA) and Pearle\* - Live Performance Europe urged governments to take emergency measures in support of the live performance sector following the impact of COVID-19. The adverse effects of the pandemic are still likely to have a significant impact in the months to come. At the same time, the exceptional circumstances in which the sector has found itself offer a chance to rethink its mode of operation, to strengthen the sector's resilience and improve sustainability of work models of individual creators and performers, live performance workers, and performers and organisations. Developing potential new solutions can be greatly advanced by engaging all stakeholders in social dialogue.

## Commercial live performance sector

For the purpose of this study, **the commercial live performance sector** is understood to cover a wide range of performances presented in the physical presence of a public, both for profit and not-for-profit, **fully or partially independent** from public funding. This in particular involves activities such as theatre, music, dance, circus, and other stage productions performed in specialised venues, in public spaces, in venues frequented by tourists, etc.

This implies that public sector entities are excluded from the analysis. However, initiatives partly subsidised by public funds remain in the scope of research provided that they do not fully rely on public funding and that they remain independent from the public sector in terms of managerial decisions and applications for funding.

### Key characteristics of the sector

The commercial live performance sector in Serbia consists of **at least 20,000 individual performers** and an unknown number of organisations, institutions, firms and other entities. Those 20,000 performers are members of representative artists' associations and larger associations that are not representative (such as the Association of rock musicians of Serbia that has over 3,800 members), but since many artists and other workers are not members of any association, the sector is probably three times that size (about 60,000 people), even larger.

In the Register of freelancers (kept by the Ministry for Culture and Information), there are 1341 freelancers in performing arts. In the Serbian Business Registers, in the statistical groups for performing arts (90.01 and 90.02), there are 1685 entrepreneurs, 158 limited liability companies (LLCs), and 86 citizens' associations. **However, performing artists, related occupations and organisers (producers) of live performances are present in other groups of activities like music production, music publishing and many more (consulting, marketing, film and TV production, etc.),** plus there are hundreds of associations of citizens that are offering performances but that are not registered specifically for performing arts (but generally for "activities of associations based on membership"). Therefore, it cannot be said exactly how many legal entities is active in the sector. The largest part of the sector consists of music interpreters who are performing popular music and their employers which are not only cultural operators but catering operators too. In 2018, 6744 contracts between interpreters and their employers was signed, and in 2019 the number of such contracts increased to 6974.<sup>1</sup> Compared to musicians and their employers, other commercial live performance subsectors are much smaller in terms of numbers, but very important in terms of artistic achievement and cultural function, especially when it comes to contemporary dance and new circus which exist almost only in the third (or civil) sector.<sup>2</sup>

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**1** Source of information is Serbia's Tax Administration.

**2** Public universities do not offer higher education for these disciplines. In public theatres there is one ensemble for contemporary dance (Bitef Dance Company) which offers performances only occasionally. In the Serbian National Theatre (in Novi Sad) ballerina Olivera Kovačević Crnjanski started the Forum for New Dance in 2002. Since she is now retired and the theatre management is not interested in this Forum, its survival is in question.

As for a **clear group of major players**, in the world of formal music education, the most important venues are the Kolarac Endowment (1932), that has the best old-school concert hall in the country (with 883 seats), and the Opera & Theatre Madlenianum (1998), which has 504 seats and is member of the Opera Europa.<sup>3</sup>

The multipurpose Kombank Hall (built in 1957 as the Hall of Home of Trade Unions but known as the Kombank Hall since 2018) has a seating capacity of 1382 and is equally important for all musicians. Therefore, if we exclude public enterprises like the Belgrade Arena and Sava Centre, it is probably the most important commercial venue in the country (not only for music but for other performing arts too).

As for the music genres where formal music education is not a precondition for performing, the majority of musicians (around 10,000 of them in active trade unions) is active on the so-called estrada scene (folk, pop-folk, folk-house, domestic pop, and other popular music genres like jazz and rock)<sup>4</sup>. The most successful individual performer, the pop singer Zdravko Čolić, who was already among the biggest stars in Yugoslavia, played six concerts in November 2019 for a combined audience exceeding 100,000 people. Here the major players are Grand Production, City Records, and Music Star Production (the concert agency that is active in other music genres as well). Being in partnership with the two very commercial TV stations (TV Prva and TV Pink), Grand Production and City Records are producing and broadcasting prime-time TV programmes (singing competitions, auditions and other music shows) where “Stars of the Grand” and “Pink’s Stars” are being made and further promoted as the most popular singers in the country. Both companies are music publishers too.

On the urban music scene, which is quite fragmented (jazz, pop, rock, electronic, etc.), the important clubs include Novi Bitez Art Café, Soul Society, Fest, Elektropionir, etc. The largest concert agencies are Long Play and Music Star Production.<sup>5</sup> Festivals play a very important role, the biggest being the EXIT festival (with 40 stages and zones) that now has the whole family of festivals<sup>6</sup>, while the other ones are Belgrade Beer Festival, Arsenal Fest (in Kragujevac), Musicology Barcaffe Sessions Festival, Love Fest (in Vrnjačka Banja), Upgrade Festival (and Central Dance Event), Ring Ring, Todo Mundo World Music Festival, Supernatural, Indirekt, Enter, Music Week (Cloud Festivals platform), etc.

Since technical stage equipment is now crucial for the success of concerts as audio-visual spectacles, rental companies, Sky Solutions and Chameleon are key players in the music subsector as a whole, for all music genres.

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- 3** There are only a few concert agencies like My Way and Natan, and some of the most visible festivals (outside the public sector) are the Guitar Art Festival (that has summer and winter editions), and the Belgrade Chopin Fest. BUNT Festival was also very important but it seems that it is no longer active.
  - 4** In English there is no proper word for “estrada” which refers to the performance of popular forms of music, usually of lower aesthetic quality. In some dictionaries “estrada” is translated as “low scene”. However, many of these artists are of the highest quality and some of them (like Željko Joksimović and Marija Šerifović) have represented Serbia in the Eurovision Song Contest.
  - 5** Other smaller ones include Mascom, Metropolis, Odličan hrčak, Lampshade Media, Kontra, Charmenko from Istanbul, Avalon Production from Skopje, Ammonite Records, GMR, BARD, Rock Svirke, Linia Contra, Bad Music For Bad People, One Records, Black planet records, Balkanrock records, Tribal rajber label. etc.
  - 6** EXIT Family includes five events: Sea Star Festival in Umag (Croatia), EXIT Festival in Novi Sad (Serbia), Revolution Festival in Timisoara (Romania), Sea Dance Festival in Budva (Montenegro), and No Sleep Festival in Belgrade (Serbia).

When it comes to theatres (as organisations that have their own stage with auditorium), there are four private theatres for adult audiences<sup>7</sup> and three for children<sup>8</sup>. The key players are the Theatre “Slavija”, already mentioned Opera & Theatre Madlenianum and Akademija 28, which are very different from each other. Theatre “Slavija” is the oldest theatre in the private sector. Founded in 1995, it has regular repertoire since 1999. This theatre is unique because, throughout a season (from 1<sup>st</sup> of September to 1<sup>st</sup> of July, with an exception of few days of New Year’s and Christmas celebrations), it offers performances every night. Madlenianum was opened in 1998 as the philanthropic endeavour of Mrs. Madlena Zepter, and the first private opera in this part of the world. It is organised as a model for a new musical-scenic theatre in our country, without its permanent ensemble, but with permanent organisation and administration apparatus, and a technical team. Madlenianum has two stages (504 and 160 seats) and offers its own productions of opera, operetta, ballet, drama, musicals and concerts. On the other side, Akademija 28, part of the stock corporation Đuro Salaj (Gjuro Sallay)<sup>9</sup>, is well recognised as the spot for commercial theatre in Belgrade. Its business model is based on the rental of their stage with a 408-seat auditorium and production of their own performances for children. Many colourful small posters in their shop windows advertise for performers who are super stars as well as beginners – anybody that has the funds to rent the stage. Around 30 plays for adults and even more for children are circulating on the repertoire of Akademija 28 at the moment.<sup>10</sup> As for theatre festivals outside the public sector, key players would be the Shakespeare Festival (in Čortanovci near Novi Sad) managed by Nikita Milivojević, a well-known theatre director, and the ASSITEJ Serbia’s festival of theatre for children and young people, which only started to be organised in 2019 but has the backing of the ASSITEJ Serbia association (Association du Theatre pour l’Enfance et la Jeunesse).<sup>11</sup>

In dance, sport dances, since they don’t require formal education, are most popular. The Dance Sport Federation of Serbia (DSFS) has 39 clubs as members, and organises six national competitions (and there are dozens of dance schools all over the country that are not members of the DSFS). Folk dancers are active only in the public and third sector (there are no entities in the private sector)<sup>12</sup>, and a key commercial player is the Una Saga Serbica. In classical ballet there are no troops in the private or civil sectors and, outside the public sector, ballet dancers are invited to perform (live) only in the Opera & Theatre Madlenianum. In contemporary dance, major commercial players are the organisers of the three festivals – the Festival of Choreographic Miniatures organised since 1997 by the Ballet Artists’ Association of Serbia; the Belgrade Dance Festival organised since 2003 by the ballerina and choreographer Aja Jung; the Get the Rhythm Festival organised since 2005 by the Belgrade Dance Centre (which is popularising hip hop, street, show, jazz, and break dance much more than contemporary dance). The Kondenz Festival organised since 2008 by Station – service for contemporary dance is equally important but, since it insists on politicality as an aspect of dance artwork, it is of an anti-commercial nature and therefore mentioned here separately.

**7** Theatre “Slavija”, Opera & Theatre Madlenianum, KPGT, and Teatar na brdu meaning Theatre on the Hill

**8** Theatre “Petar Pan”, Akademija 28 & Theatre 78, and Theatre “Lane” in Kikinda

**9** This stock corporation came into being through the transformation of ownership of the first workers’ university founded by Đuro Salaj (Gjuro Sallay) in 1952 (1958). In 1990 this institution was transformed into a public enterprise, and in 2002 into a stock corporation.

**10** In the theatre subsector, there are about 45 to 60 various groups (limited liability companies, citizens’ associations, informal groups) and entrepreneurs that are active in theatre production: Klan production, FaVI, As You Like It, Reflektor, Prizor, Emotion, Beoart, Troublemaker, Mafin, MoniCart, My Art 011, GMR, Impresario & Colonna, Tri za groš, Dramart teatar, Artisti, Theatre 78, Little theatre Jelenica, Troop Zozo, Hajde obraduj dan, Theatre troop U.R.A., Čiča Miča’s theatre, DAH Theatre, Theatre Mimart, Blue Theatre, Dorćol’s National Theatre, Le Studio, Hleb teatar, Hop.La!, PATOS, POD Theatre, Teatar ulica, Theatre Čarapa, Okret teatar, Fast Forward, etc.

**11** Other festivals are the International Theatre Festival “Slavija”, New Fortress Theatre (also in Čortanovci near Novi Sad), Patosoffiranje (in Smederevo), and Mater terra.

**12** Public institutions are the Folk dance and dance ensemble of Serbia KOLO, and the “Venac” ensemble for folk dances and songs, which are public institutions. There are about 300 active amateur associations.

As for new circus, Nemanja Jovanović in Novi Sad has been active in contemporary circus and street performing art since 1989, and there are two associations in Belgrade (Cirkusfera, and Inex Circus Theatre), and two in Novi Sad (Kreativni Pogon, and NS Acrobalance). All of them could be considered as major players, but special recognition might be given to the Cirkusfera because it co-organises and hosts the Cirkobalkana – a regional travelling festival.

As for the **relative position of the commercial live performance sector compared to the public sector**, what could be said in general is that there are many more music performers and organisations in the private sector than in the public sector, that there are many more theatres in the public sector than in the commercial sector, and that contemporary dance and new circus organisations exist almost only in the third sector.

The commercial sector is at least five times larger than the public sector. In the public live performance sector, 58 organisations employ around 3,700 people, while in the commercial sector there are more than 250 organisations (not including catering operators which are also offering live performances) and at least 20,000 individual performers. At the end of 2013, the government banned employment in the public sector because it is too large, costly and not so efficient, so jobs in the commercial sector became more important. It is expected that this ban on employment will be abolished this year (2020).<sup>13</sup>

Another thing is that commercial and public sectors greatly overlap. According to several of our interviewees, 40 to 70% of performing artists employed in public cultural institutions are active in the commercial sector as well. It is not unusual for actors employed in public theatres to be registered as entrepreneurs (to have their sole proprietorships) at the same time. On the other hand, performers who are not employed in the public sector outside Belgrade have nowhere to perform but in public cultural institutions, usually in local cultural centres (except for musicians who can perform in catering institutions). In music, except for the Kombank Hall and the Kolarac Endowment, other concert venues are public property (there are music clubs, but most of them, given their size, can offer only gigs).

The two sectors compete for the same audience, especially for music performances, but they also cooperate so commercial festivals are often held in public venues (i.e. Belgrade Dance Festival, Guitar Art Festival, Chopin Fest, etc.). The public sector with its public enterprises takes the lion's share of the revenue from commercial live performances. The Belgrade Arena hosts 18,000 people, the Sava Centre has 3670 seats<sup>14</sup>, the SPENS in Novi Sad can accommodate 11,500 people, Čair Hall in Niš has 6,500 seats, and the Belgrade Festivals Centre (CEBEF) organises five international festivals and New Year's celebrations, and functions as a concert agency too.

Although all cultural operators, no matter whether they are part of the public, private or third sector, are equal before the Law on Culture (2009), in practice that is not so because the public institutions are still very much privileged. Compared to cinematography (where there is the Film Center Serbia), public policy instruments and measures for music, theatre, dance and circus in the private and third sectors are poorly developed

<sup>13</sup> In some public sectors like health care, employment was allowed but with strict control by the government.

<sup>14</sup> SC is a member of the International Society of the Performing Arts, and the International Live Music Conference.

## Main challenges

A key challenge for all performing arts actors in the private and third sector would be establishment of the National Centre for Performing Arts, which would introduce instruments and measures of support for performing arts popularisation (animation), education, creation, production, distribution and archiving in these two sectors. Such a centre could offer solutions to the current issues of sustainability of contemporary dance and new circus NGOs, better distribution of all sorts of performances throughout the country and the region (creation of a network of venues), and other developmental needs of each subsector.

## The situation of workers

In the commercial live performance sector in Serbia permanent employment of performing artists is very rare. In cases where they are permanently employed, they have some other function, i.e. work as programme editors, production supervisors or their own company managers. Permanent employment of non-artistic staff is more common.

For stage technicians and stage workers, the most relevant centre of knowledge is the department for the studies of stage architecture, technique and design at the Faculty for Technical Sciences (in Novi Sad). According to the leading professor in this department, the number of stage technicians and workers in the country is unknown. These workers have no association or a trade union. About 40 to 50% of stage technicians and workers employed in the public sector (theatres, cultural centres, etc.) is active in the commercial sector too. This is also because their salaries in the public sector are very low. The market need for competent stage technicians is huge. Three years of copious research has shown that more than 90% of technical staff in public cultural institutions have no proper qualifications (knowledge and skills) and are interested in formal education. Therefore, the most critical issue for these workers would be their training and education. Now there are many production and rental companies that offer production of stage events (on very different levels) and employ stage technicians and stage workers. Festivals and big public events are major opportunities for work. Working conditions are very poor (price for work, working hours, safety at work, etc.), but the primary topic for discussion with employers would be salaries and fees.

The majority of performing artists permanently employed in the public sector is active in the commercial live performance sector. They are the most competitive in the market because permanent employment in a public institution is the best guarantee of their artistic competences. Self-employment is possible in two ways. One way is to obtain the status of a freelancer which is determined by an appropriate representative artists' association (for a discussion of these associations see the Social dialogue section below). The Law on Culture introduces the notions of a freelance artist, a freelance cultural professional (or expert), a freelance performer, a freelance associate, an outstanding artist, and an outstanding cultural professional.

The difference between the statuses of a freelance artist and a freelance performer is significant. To those awarded the status of a freelance artist, local authorities are obliged to pay social, pension and health insurance each month, while freelance performers have to pay those insurances by themselves.

Typical profiles of freelance performers are singer, instrumentalist, comedian, reciter, pantomimist, imitator, magician, announcer, and model. In ten representative artists' associations that are relevant for performing arts, there are 686 freelance artists (30% of all freelance artists in the country)<sup>15</sup> and 655 freelance performers, so 1,341 freelancers in performing arts in total.

It is not easy to obtain the status of a freelancer, meaning that one must prove that one is making a living from performing his or her art. For instance, an instrumentalist in a chamber ensemble has to have at least 40 public performances (concerts, operas, operettas, ballets or musicals, performances on TV) or to have a recording of his/her performance for radio or TV which is at least 80 minutes long. An actor who wants to be recognised as a freelancer needs to have two new main roles or four big roles or eight side or episodic roles or 16 small roles in theatre and related media (TV or film); or 16 big and 32 small roles on radio; or 80 acting engagements in media productions where acting is necessary (synchronisation, narration, book nights, commercials, promotions, etc.). In all cases (for all requests), a commission is made considering the quality of art work, continuity of performing, positive critique, public availability of art work, and contribution to the cultural life of a community. Standards and criteria like these are based on the proposal of a representative association and prescribed by the Minister for Culture.

To have enough contracts and credits is only possible if you are part of the cultural life of Belgrade or Novi Sad, which are close to each other and offer enough opportunities for artists' engagement. There are about 2380 freelance artists in Serbia and the City of Belgrade is paying for social, pension and health insurance for about 2300 of them (97%). Artists from other cities frequently travel to Belgrade or Novi Sad in order to be part of the urban cultural life there and to stay connected with potential employers. If they cannot afford that, because of their family life for instance, they develop their own projects, forming citizens' associations (because only legal entities can get public and usually all other funding), fundraising by any means they can think of, and performing in their county.

The other way to become self-employed is to register as an entrepreneur (sole proprietorship). An entrepreneur has to pay for his or her pension contribution and health insurance (which is around 200 euros per month in Belgrade and significantly less in other towns), but tax is only paid at the flat rate of 10% of annual revenue. As long as he is earning less than 6 million dinars (50,000 euros) annually, bookkeeping is not required. An annual revenue of 50,000 to 68,000 euros requires bookkeeping, and an annual revenue exceeding 68,000 euros requires payment of VAT. Entrepreneurs are favoured by employers because employers don't have to pay for tax and contributions, just for the price of services provided. Entrepreneurs like their affairs because they are easy to manage. The status of an entrepreneur can be (un)frozen meaning that in a period of inactivity (due to sick leave, a vacation, lack of business opportunities or similar) entrepreneurs don't have to pay pension contributions and health insurance.

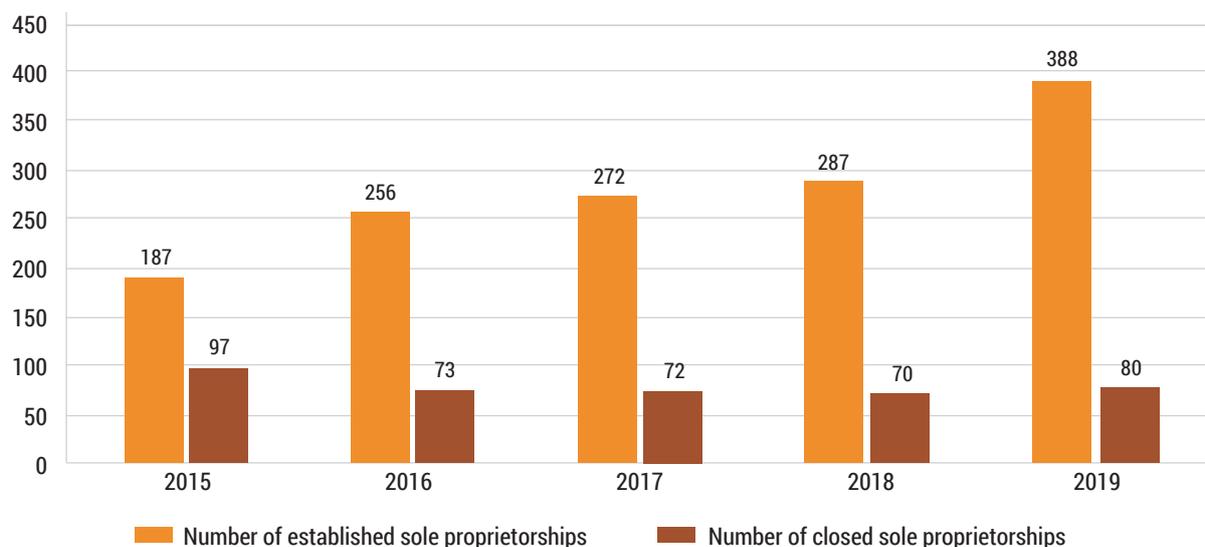
As of March 2020, there are 830 entrepreneurs in performing arts (activity code 90.01) and 855 entrepreneurs in activities related to performing arts (code 90.02), so 1,685 in total<sup>16</sup>. Over 80% of them have been registered (established) during the last five years (see Figure 1). That is probably because employers have recently been demanding that artists and other workers are registered as entrepreneurs because that way they are much cheaper for employers.

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**15** The source of this information is an informal document provided by the Ministry for Culture and Information. The document has been made only recently, on 24 March 2020, by the Coordination board of representative artists' associations and sent to the Ministry.

**16** Source: Serbian Business Registers, March 2020

**Figure 1. Number of newly registered and closed sole proprietorships for performing arts in the period 2015-2019**



Source: Serbian Business Registers, February 2020

Those who do not want to bother with administration of a sole proprietorship favour the type of contract called Contract for the Supply of Author's (or Interpreter's) Services. Such services are least burdened with tax and insurance, and employers like it for that reason. This is also indicated by the results of our online survey – that this type of contract is most frequent, equally as engagement of entrepreneurs (meaning that roughly equal numbers of performers have indicated these two types of their engagement as the most frequent and most important for their income in 2019). Information about the number of contracts signed between performers (interpreters) and their employers in 2018 and 2019, given in the introductory paragraph of the first chapter of this report, is also based on the counting of Contracts for the Supply of Author's (or Interpreter's) Services. Both cases – working as an author/interpreter or as an entrepreneur – are considered as work outside the scope of employment (Labour Law, Articles 197-204).

Many artists that are members of different associations exploit the credibility and administrative capacities of these associations in order to apply for funding for their projects and realise them (contracts, payments, etc.). For instance, in 2019, the Dramatic Artists' Association of Serbia applied for funding from the Ministry for Culture and Belgrade's Secretariat for Culture for around 60 theatre productions and projects of its individual members, and received funding for around 30 of them<sup>17</sup>.

When it comes to **characteristics of work**, solo musicians and bands are strongly connected to their publishers who often also organise their concerts, but music instrumentalists tend to work for as many employers as possible. Actors, folk dancers and new circus artists perform wherever they can. Ballet dancers, aside the mentioned dance festivals, have only Opera & Theatre Madlenianum as a professional performance venue and a few very alternative (improvised) venues as opportunities for live performance.

<sup>17</sup> From the Annual report of the Dramatic Artists' Association of Serbia for 2019 (page 7): <https://www.udus.org.rs/images/obavestjenja%20za%20clanove/IZVESTAJ%20%20RADU%20UDUS-a%20I%20MEDJU%20DVE%20SKUPSTINE%20DO%2015.12.2019..pdf>

As for accumulation of various employment or work statuses, it is typical for the most ambitious workers. In more than a few cases, people are combining the statuses of an owner of a limited liability company, founder of a citizens' association, and an entrepreneur. Many musicians, especially in urban genres where the market is rather small, have "a real job" as a permanent source of income and perform occasionally, for fun.

All artists are using all opportunities to tour within Serbia, as well as other countries in Europe and even outside Europe. The majority of performers cannot afford to have a manager to book and organise their performances, so the majority of performances are offered only in Belgrade. In Serbia there are about 160 cultural centres (in cities, municipalities, for youth, students, etc.) with performance spaces<sup>18</sup>, but they are not connected so each venue has to be contacted separately. The best chances to go on tour are reserved for musicians who are promoted in prime-time TV programmes (estrada stars). After them, the most wanted are folk associations and choreographers of folk dances (who are being invited to stage performances of folk associations of the Serbian diaspora). In general, thanks to information and communication technologies, performing artists are more and more frequently collaborating with their colleagues, especially in the region (where practically the same language is spoken in Croatia, Bosnia & Herzegovina, Montenegro, and Serbia) and in Europe. As for their work in other sectors, performing artists are the key factor in the audio-visual industry and therefore are frequently contracted for films, TV series, TV shows, commercials, etc.<sup>19</sup>

**The role of intermediaries** is significant in music. Hotels and restaurants prefer to work with booking agencies because then they don't have to worry about how to get in touch with a performer, if he/she has proper and valid permission to perform (certificate), or what sort of contract they have to make and sign. That is especially characteristic of the massive estrada scene. Recently, klubmuzicara.com appeared as the marketing tool of Grand Production, the leading commercial publisher and concert organiser. This website is advertised as the Largest Database of Balkans Musicians, and the tool to find the ideal music for every occasion (wedding, birthday celebration, important business event, etc.). It also enables musicians to find colleagues (for gigs and concerts) and providers of services such as renting and maintenance of music instruments and technical equipment, production, and sale.

A similar idea existed a few years ago (2011-2014) in theatre. Namely, within some larger network project, the British Council gave support to the creation of a web platform for people working in and around theatre. The focus was not on a theatre but the community and its self-organisation. The idea was that each person (a member of a widely defined theatre community) maintains his/her own profile and freely explores, communicates and collaborates with other members. The whole thing worked while the coordinators and web administrators were paid but later, when there was no one to lead and when it came to self-organisation, the platform stagnated and finally was shut down. At the same time the same method was applied in Bristol and there it worked perfectly.<sup>20</sup>

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18 Milanović V., Subašić B., Opačić B. (2018) "Žene u javnim ustanovama kulture" ("Women in public cultural institutions"), Center for Studies in Cultural Development, page 41, publication is available (in Serbian) at <https://zaprokul.org.rs/2018/03/08/v-milanovic-b-subasic-b-opacic-zene-u-javnim-ustanovama-kulture/> (accessed on 3 April 2020)

19 The Serbia Film Commission, a non-profit association of professionals and suppliers in the film industry in Serbia (which has around 70 companies and entrepreneurs as members), is well-positioned in Europe and many foreign producers are using local incentives and human, technical, natural and other resources.

20 See how at <https://theatrebristol.net/support-theatre-bristol> (accessed on 1 September 2019).

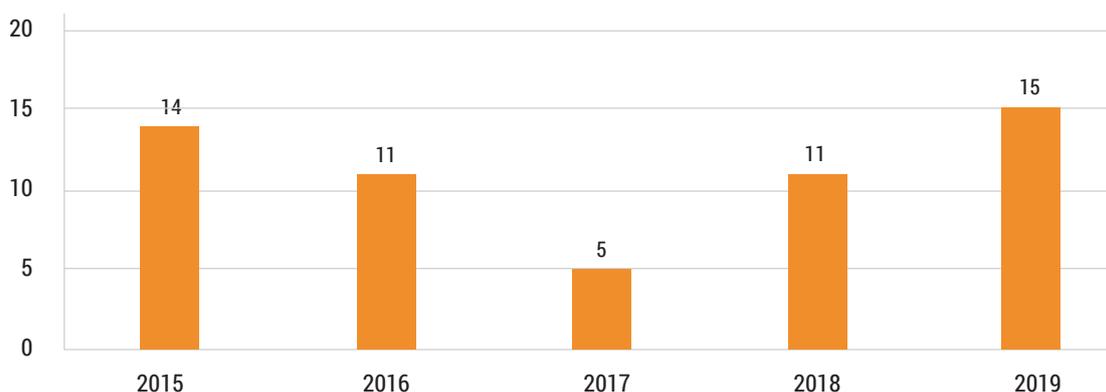
It is too early to say if the Grand Production's web platform klubmuzicara.com will be successful or not, but it is quite probable that where the market is huge, as it is for music entertainment, musicians and their associates are finding interest to create and maintain their online profiles, while in other subsectors they rely on familiar surroundings (they know about a few venues where they can perform) and word of mouth as an advertising technique. Therefore, outside the world of popular music, the services of intermediaries are not developed. Representation of actors and dancers is more usual when it comes to their right to royalties from broadcasting of their recorded performances, meaning that the Organisation for Collective Administration of Performers' Rights (PI, since 2007), and the Serbian Music Authors' Organisation (1950) are able to assist in the collective management of authors and performers' rights in our country.

## The situation of organisations

According to the Serbian Business Registers, in the statistical groups for performing arts (90.01 and 90.02), there are 158 limited liability companies (LLCs), and 86 citizens' associations.<sup>21</sup> There are many more LLCs in the sector but these are registered for other activities like music publishing (i.e. Music Star Production, which is the leading company for concerts of popular music), catering (like Bitef art cafe), or advertising (like Belgrade Cultural Network, that organises the Belgrade Beer Fest that has a massive live music programme), not specifically for performing arts. At the same time, some LLCs registered for performing arts are actually music publishers or TV content producers.

During the last five years (2015-2019), 58 new limited liability companies for performing arts were established (38% of all active companies – see Figure 2).

**Figure 2. Number of newly registered limited liability companies for performing arts, 2015-2019**



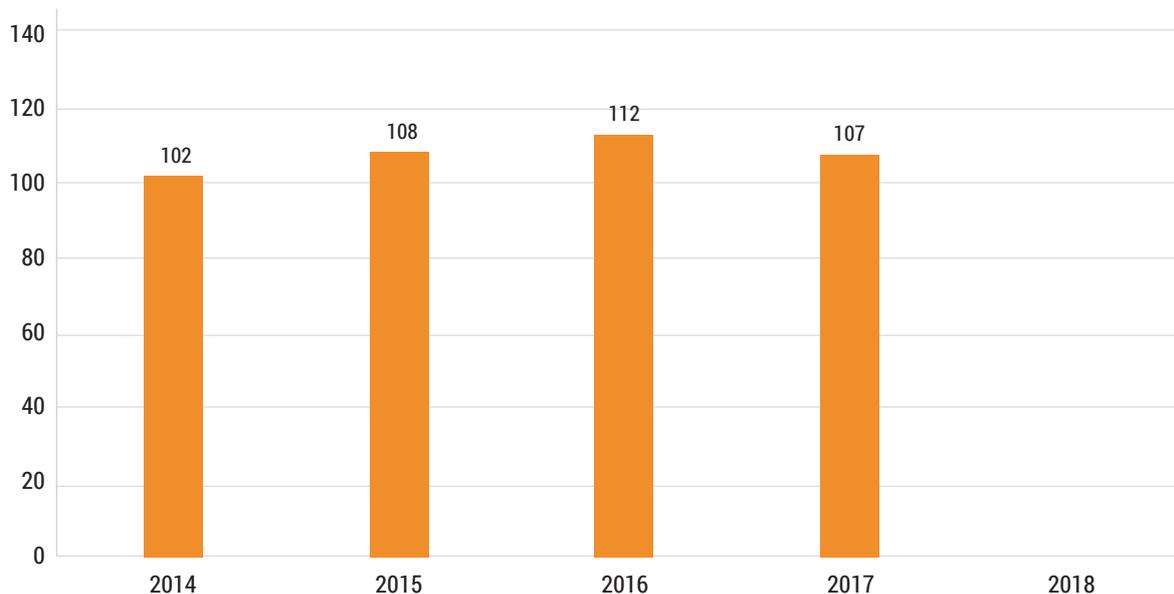
Source: Serbian Business Registers Agency (February 2020)

**21** Organisations and sole proprietorships are statistically classified in two groups - group number 90.01 and group number 90.02. Group 90.01 includes: staging of theatre, opera and dance programmes or shows, preparation of music performances (concerts), as well as other scenic performances: a) activities of theatre troops, companies, orchestras or music bands and circus; and b) activities of freelancers such as actors, dancers, musicians and comperes. Group 90.02 includes: side activities related to performing arts: a) activities of theatre directors, producers, scenographers and stage workers, sound and lighting designers, and b) activities of producers or organisers of art events, with or without stage equipment. These two groups of activities do not encompass the activities of agents or agencies representing artists (that would be group 74.90) and activities related to organisation of auditions (group 78.10). These two groups of activities include many things (like forecasting weather and outsourcing workers), so it would be hard to extract artists' agents, agencies and auditions' organisers.

In total, these 158 LLCs employ less than 300 people, or less than three employees per company, on average. In the period from 2014 to 2018, three companies have had more than 10 employees - Opera and theatre Madlenianum (32 each year), Hall of Home of Trade Unions, now known as the Kombank Hall (23), and Megaton (13). As for the other 155 companies, 4% of them have had 7 to 10 employees, 9% of them have had 4 to 6 employees, and 85% of them have had up to 3 employees.

In 2014, the average revenue of all active companies was around EUR 100,000 per company, rising to around EUR 125,000 in 2018 (Figure 3). Revenue trends can hence be described as favourable.

**Figure 3. Average revenue per LLC for performing arts (2014-2018)**  
(in 000 EUR)



Source: Serbian Business Registers Agency (February 2020)

As for citizens' associations, they are usually registered for "activities of associations based on membership", so those 86 that have specified that they are associated with performing arts could be considered as the most dedicated to live performance. There are more than 1000 citizens' associations offering live performances to audiences. The vast majority of them are dedicated to nurturing some kind of folk tradition.

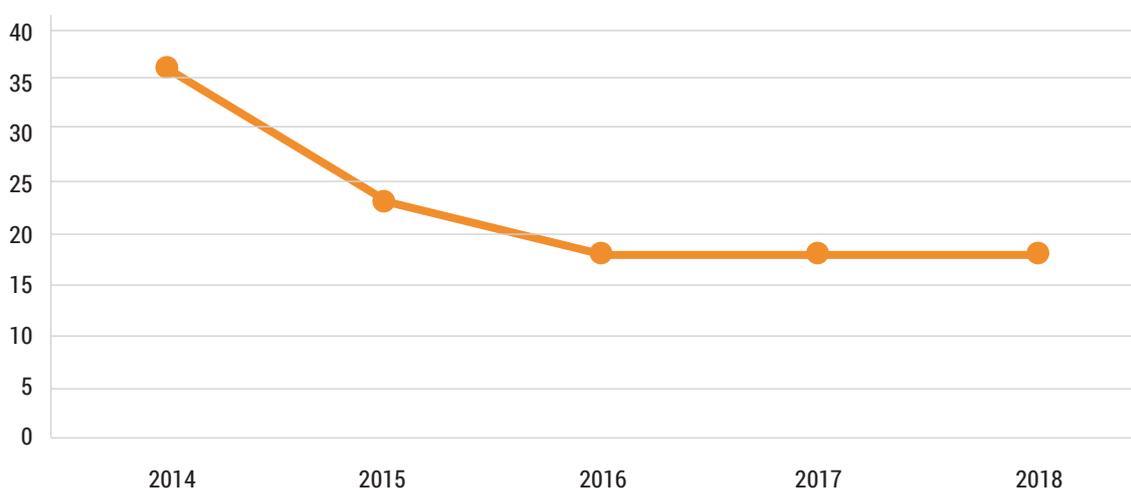
A citizens' association is a very popular form of organisation in performing arts because, as a non-for-profit entity, it is least controlled by the state in terms of financing and administration. Therefore, the majority of performing arts initiatives start out as citizens' associations, and transform into limited liability companies only in rare cases of commercial success. Some of the most complex initiatives in the commercial live performance sector (such as festivals) are at the same time represented by a citizens' association, and a limited liability company.

Since 2016, the total number of active associations for performing arts has increased by 25% - from 68 organisations in 2016 to 86 organisations in April 2020.

In 2018, all active associations together have had 32 employees. Three organisations with the largest number of employees were the Dramatic Artists' Association of Serbia (5 employees), the Hungarian Cultural Center "Népkör" in Subotica (5), and the Jeunesses Musicales Belgrade (4). Only 18% of all organisations have had 1 or 2 employees, while the large majority of them (77%) had no employees.

In the period from 2014 to 2018, the average annual revenue per association has significantly decreased – from EUR 36,000 in 2014 to EUR 18,000 in 2018 (see Figure. 4). In the same period, four associations have had annual revenue exceeding EUR 100,000. Six associations (8% of all active associations) have had an average annual revenue from EUR 50,000 to 78,000. Thirteen associations (16%) have had from EUR 16,000 to 44,000, while 42 associations (53%) have had from EUR 1,000 to 14,000. Fourteen associations (17%) had no revenue.

**Figure 4. Average annual revenue per association for performing arts (2014 - 2018) (in 000 Eur)**



Source: Serbian Business Registers Agency (April 2020)

As for **sources of revenue**, companies and associations are earning money from organising events like concerts and festivals (selling tickets), renting their stage, other spaces and technical equipment; selling music instruments and professional equipment; and from music publishing. Important sources of revenue are also sponsors (telecom companies, coffee, soda, beer and alcohol manufacturers, etc.), governments (national, regional, local, and European, such as Creative Europe), and foundations.

**Permanent structures** are typical for theatres, multipurpose venues, dance when organisations have dance schools, music publishers, rental companies, and for catering operators. Project-based structures are organisations that are organising festivals, as well as many citizens' associations that handle occasional projects. Live performance is the core activity for theatres, the Kolarac Endowment, and festivals' organisers. Other organisations offer occasional live performances while their core activities are recording and publishing music, renting stage and technical equipment, screening films, and conducting various sorts of projects (organising events, fair presentations, seminars, etc.).

Typical **pop up initiatives** are those of local governments. When they have money and want to gain political points, they usually organise free concerts on the squares of main cities. Of a similar nature are local events to celebrate important historical dates, local traditions (i.e. Rajac Scythe Festival), local food specialties, local wines, as well as summer fests (Belgrade Summer Festival, Šabac Summer Festival), New Year's celebrations, and fairs. There are around 1000 such celebrations each year in Serbia<sup>22</sup>.

As for **access to the workforce**, popular music stars can be booked via the already mentioned website klubmuzicara.com. When asked what they should discuss with artists and other associates that they are hiring, employers which have participated in our online survey (representatives of 13 organisations active mostly in theatre and music) have cited sources of financing of live performances (70%), working conditions (30%), and then, as third and fourth on the list, working abroad (23%) and finding workers with adequate skills (23%). Therefore, access to the workforce appears to be easy for the most part.

When it comes to contracting for work, employers favour entrepreneurs and freelancers. After them come those with whom they can sign a Contract for the Supply of Author's (or Interpreter's) Services, which are least burdened with tax and insurances. A template of such a contract is part of the Special collective agreement on engagement of estrada music artists and performers in the catering industry. Therefore, performers and caterers are advised and obliged to sign such a contract. For caterers, acceptance and implementation of this collective agreement's provisions is certainly one of the **key challenges** (for more detailed discussion about this see the next chapter's paragraph about the impact of existing social dialogue). As for others, the Serbian Association of Employers, as the member of the national Social and Economic Council, is constantly asking for taxation to be reformed so as to reduce individual income taxes.

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<sup>22</sup> Jokić B., Mrđa S. (2014) "Posetioci jesenjih beogradskih manifestacija i festivala" ("Visitors of Belgrade's Autumn Manifestations and Festivals"), Belgrade: Centre for Studies in Cultural Development, publication in Serbian available at [https://zaprokul.org.rs/wp-content/uploads/2015/01/Beogradski\\_festivali.pdf](https://zaprokul.org.rs/wp-content/uploads/2015/01/Beogradski_festivali.pdf), page 3 (accessed on 26 January 2020)

## The state of social dialogue

In 2018, the Confederation of Autonomous Trade Unions of Serbia (CATUS) celebrated 115 years from the establishment of the first trade union in Serbia. As of early 2020, there are five confederations (or central offices) of trade unions, of which two – the Confederation of Autonomous Trade Unions of Serbia (CATUS), and the Trade Union Confederation “Nezavisnost” (TUC “Independence”) - are representative and, as such, have four and two (six in total) representatives as members of the Social and Economic Council of the Republic of Serbia, an independent public body of tripartite nature established by law (2001/2004) in order to develop a social dialogue in Serbia<sup>23</sup>. On the side of employers, there are four national associations, and since the Serbian Association of Employers has the best infrastructure it has six representatives as members of the national Social and Economic Council, representing employers in Serbia. Another six members of the Council are members of the government<sup>24</sup>. In 2010, the budget of the national Council was EUR 200,000, in 2016 it was EUR 161,000, and in 2018 and 2019 it was more than EUR 460,000. The budget has doubled because the Ministry for Labour has donated EUR 255,000 to be distributed to social partners in order to build their capacities for social dialogue at the local, sectoral and national level.<sup>25</sup>

There are 20 signed collective agreements. Six are valid for cities<sup>26</sup>, and 14 agreements are valid for the whole territory of Serbia.

The three weakest points of social dialogue in Serbia can be described as follows:

1. lack of social dialogue on the level of sectors;
2. lack of collective bargaining and collective agreements in the private sector; and
3. lack of funding for the functioning of local social and economic councils<sup>27</sup>.

The development of social dialogue is driven by the process of Serbia's accession to the EU. An important policy instrument is the Ministry for Labour's Action plan for Social Policy and Employment (2019) which is dedicated to the closing of chapter 19 of the acquis<sup>28</sup>.

<sup>23</sup> In addition to this national Council, there is the Social and Economic Council of the Autonomous Province of Vojvodina (northern region of Serbia), and there are 20 registered local councils.

<sup>24</sup> On the SEC's sixth meeting in 2018 “the Social and Economic Council of the Republic of Serbia members' and deputy members' meeting attendance in 2018 was discussed. Dissatisfaction regarding the fact that a significant number of Council members from the Government of the Republic of Serbia does not attend the meetings was expressed.” WORK REPORT Social and Economic Council of the Republic of Serbia 2018, page 6 <http://www.socijalnoekonomskisavet.rs/eng/aktiviti%20report/activity%20report%202018.pdf> (accessed on 19 February 2020)

<sup>25</sup> The SEC has four working groups: for legislation; for economic affairs; for safety and health at work; and for collective bargaining and peaceful settlement of labour disputes. In 2019 the SEC's Working group for collective bargaining and peaceful settlement of labour disputes suggested to the SEC to organise a discussion about the state of collective bargaining in Serbia, in order to enhance the processes of collective bargaining, especially in the private sector. This group has asked the SEC to provide a typical example of a special collective agreement for the public and private sectors. As part of those efforts, the methodology for analysis of special collective agreements is currently being discussed.

<sup>26</sup> Pančevo, Požarevac, Belgrade, Novi Sad, and Niš

<sup>27</sup> In many cases local authorities cannot provide adequate space for a local council, finance its operational costs and pay for the salary of a local council's secretary.

<sup>28</sup> The acquis in the social field includes minimum standards in the areas of labour law, equality, health and safety at work and anti-discrimination. The Member States participate in social dialogue at European level and in EU policy processes in the areas of employment policy, social inclusion and social protection. The European Social Fund is the main financial tool through which the EU supports the implementation of its employment strategy and contributes to social inclusion efforts (implementation rules are covered under Chapter 22, which deals with all structural instruments).

According to this plan that aims to strengthen social dialogue, all regulation in the Labour Law related to collective bargaining, conditions for representativeness of social partners, process of determining representativeness, as well as the work of the Board to determine representativeness will be re-examined in close cooperation with social partners.<sup>29</sup>

The Social and Economic Council is being slowly integrated into the system of Serbia's governance. According to the Law on the Social and Economic Council of the Republic of Serbia (2004), the government cannot consider laws related to labour before the SEC gives its opinion about them. However, each year, in its annual report, the Council provides a list of laws which were put into force without the Council's opinion but, for the better, that list is becoming shorter and the list of drafts of laws and by-laws for which the SEC's opinion is requested is getting longer. In 2018, within the ILO's ESAP platform, the SEC has been promoted in the National Parliament (because it seems that many members of the Parliament are not familiar with its existence and work). The SEC has a positive role in translating into Serbian all relevant documents made by the ILO and other relevant organisations, and distributing those documents to social partners in Serbia<sup>30</sup>. It is envisaged that the SEC should meet at least once per month, but over the last ten years it has met an average of seven times per year.

Representatives of the other three central offices are criticising the fact that those trade union activists that are members of the SEC are paid to perform that function from the State budget, which is contrary to the principles of workers self-organisation, and which makes them obedient toward the government. But they are self-critical too, claiming that if representatives of the CATUS and the TUC "Independence" would leave their positions in the SEC, people from other central offices would gladly take their places. According to a representative of the United trade unions "Unity" ("Sloga"), for the last 15 years no tests have been conducted to confirm the representativeness of the CATUS, TUC "Independence" and the Serbian Association of Employers.

Representatives of all five central offices are citing the same examples of their mutual cooperation which has delivered good results, but are saying that they are not cooperating often and enough. All of them are confirming that citizens' interest in trade unions has significantly decreased. In 2000, around 80% of employees were members of trade unions, while today barely 25% of them are members. Those are mostly employees in public companies and institutions where they have small benefits from membership in trade unions like paying for some goods and services in instalments, getting a loan, having right to a bath treatment, and similar.<sup>31</sup>

Before addressing the state of social dialogue in the commercial live performance sector, it would be expedient to present the provisions of the Labour Law which are affecting social dialogue in this sector and showing how atypical worker artists in this sector are.

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**29** The Law on social and economic council will be also re-examined and harmonised with the European directives in this area, and the new Law on labour will be adopted by 2021. What is also planned is the adoption of the Law on the involvement of employees (i.e. information, consultation and participation in the supervisory board or board of directors) in enterprises adopting the European Company Statute or the European Cooperative Society Statute.

**30** i.e. the ILO Centenary Declaration for the Future of Work (2019), or the ILO's Violence and Harassment Recommendation (2019)

**31** From the interviews with the presidents of five biggest trade union offices in Serbia published on the website of the TUC "Independence" on 28 Feb 2020, <http://nezavisnost.org/razgovori-sa-predsednicima-pet-najvecih-sindikalnih-centrala-u-srbiji-2/> (accessed on 1 March 2020)

In Article 6, a trade union is understood to be an autonomous, democratic and independent organisation of **employees (...)** and, in Article 5, an employee is understood to be a natural person employed with an employer. So, the Law is mostly concerned with how a trade union is established in one particular organisation. Only representative trade unions can collectively bargain and sign collective agreements, and a trade union is representative if it has a minimum 15% of employees as its members.

In Article 220, other types of representative trade unions are explained – a trade union for the territory of Serbia and/or of a territorial autonomous unit or local self-government, as well as a trade union for a branch, group, subgroup or line of business. Such trade unions are representative if joined by a minimum of 10% of the total number of employees in the branch, group, subgroup or line of business, and/or in the territory of a specific territorial unit.

The point of these Labour Law provisions is that trade unions can be formed only by employees and, as stated, the work of artists in the live commercial performance sector is characterised as "work outside the scope of employment". They are engaged as self-employed people (entrepreneurs and freelancers) or as authors/interpreters with whom employers are signing Contracts for the Supply of Author's or Interpreter's Services. In all these cases, employers are not establishing an employment relation with them, so they are not becoming employees (who can form trade unions).

In Section XX of the Labour Law, devoted to collective agreements, the third paragraph of Article 246 states that a special collective agreement relating to freelance artists can be concluded between a representative association of employers and a representative trade union. This should mean that freelance artists can form trade unions.

The new Labour Law that should be brought in 2021 could be viewed as an opportunity for better positioning of artists in the regulation of labour, self-organisation of workers, and in social dialogue.

As for the state of **social dialogue in the commercial live performance sector**, there are five trade unions of performing artists - Autonomous trade union of estrada artists and performers of Serbia (founded in 1990), Trade union of music artists of Serbia (2003, member of the FIM), Trade union of actors of Serbia SINGLUS (2003), Trade union of ballet dancers of Serbia (2004), and Trade union of the association of musicians of jazz, pop and rock music of Serbia (2005). These trade unions have around 10,000 members, the biggest being the Autonomous trade union of estrada artists and performers (7,000 members), and the smallest being the Trade union of ballet dancers (126). Three more trade unions for culture in general (branch trade unions) – Trade union of culture of Serbia; Branch trade union of culture, arts and media "Independence"; and Branch for science, education and culture; each belonging to a different confederation of trade unions (central) - are highly relevant for social dialogue in the public sector and indirectly for the commercial sector (because artists employed in the public sector are active in the commercial sector too). For the commercial sector the most relevant would be the Autonomous trade union of estrada artists and performers of Serbia (7000 members), and the Trade union of the association of musicians of jazz, pop and rock music of Serbia (1550 members), while the other three trade unions cater to performing artists employed within the public sector. Performing artists whose interests are not represented by these five trade unions are folk dancers and new circus artists who are not employed in the public sector (interests of those who are employed are represented by the three mentioned branch trade unions for culture).

These five trade unions of performing artists are members of the two confederations of trade unions (central offices). The Autonomous trade union of estrada artists and performers is a member of the Confederation of Autonomous Trade Unions of Serbia (CATUS), while the other four trade unions are members of the Confederation of Free Trade Unions within which they are gathered as the Union of Serbian Performers Association – UNSIS. UNSIS was formed in 2008 as an independent initiative of the Trade union of music artists of Serbia, the Trade union of actors SINGLUS and the Trade union of ballet dancers. In 2009, UNSIS campaigned against the new Law on Culture, and in 2010, together with the FIM and the FIA, it organised the international meeting “Why the Law on Culture is Undermining Culture”, where Benoît Machuel, Beat Santschi (FIM), and Jorge Bosso (FIA) were among the key speakers. After that, UNSIS joined the Confederation of Free Trade Unions, which provided it with administrative and technical support. In the meantime, the Trade union of the association of musicians of jazz, pop and rock music has also joined the Confederation of Free Trade Unions and UNSIS, while the Trade union of actors of Serbia SINGLUS has ceased being active (but formally remains part of UNSIS and the Confederation of Free Trade Unions).<sup>32</sup>

The Autonomous trade union of estrada artists and performers has held official status as a representative trade union since 2005, which means that it can collectively bargain and sign collective agreements, which it has done. The trade unions of music artists, ballet dancers and actors are representative for artists employed in public cultural institutions and, as such, participate in the collective bargaining between employees in public cultural institutions and these institutions' founders (the state, province, cities and municipalities). The Trade union of the association of musicians of jazz, pop and rock music of Serbia has in 2007 applied for status as a representative trade union but never received any response from the Ministry for Labour.

It was not easy to determine which trade unions are relevant for the commercial live performance sector and what kind of representation they have. The Registry of Trade Unions, kept by the Ministry for Labour, is offered on the Ministry's website and lists more than 22,000 trade unions. Information about their level of establishment (options are: second level, for a branch, for activity, for a unit of local self-governance, for a unit of territorial autonomy, for the territory of the Republic, and at an employer) is provided for 30% of them, while in all other cases this information is missing. During this research, the Ministry for Labour was twice asked for assistance (to provide the list of representative trade unions of performing artists, and to attend the meeting of stakeholders), but it didn't respond. The Ministry for Culture has offered an informal list (for their internal usage) of trade unions registered in the public cultural institutions founded by the State. They had nothing else.

Apart from the trade unions, important social partners are representative artists' associations. They can be established in 14 cultural fields, among which are 1) music interpretation, 2) theatre art – creation for scene and scenic interpretation, 3) opera, musical-scenic creation and interpretation, 4) classical ballet, folk dance, and contemporary dance, and 5) other stage expressions. The status of a representative cultural association is determined by the Minister for Culture, based on the proposal of the Commission for Determination of Representativeness of Cultural Associations. In one cultural activity the status of representative cultural association can be given to up to two associations. One association can be representative for more than one cultural activity.

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**32** The UNSIS website exists (<http://www.unsis.org.rs/English/index.html>, accessed on 20 March 2020), but the last news about their activities is from 2010. Within the scope of this research, the representatives of the two out of four trade unions that are forming this initiative have been asked to say something about UNSIS's activities in the last ten years, but they have not responded.

Currently, there are 10 representative associations in performing arts which all together have around 12,500 members. The largest are the Alliance of Estrada Music Artists of Serbia (7000 members), Association of Musicians of Jazz, Pop and Rock Music of Serbia (3000 members), and Dramatic Artists' Association of Serbia (1200 members). Members of these 10 representative associations are at the same time members of the five trade unions of performing artists (to a lesser extent, since the trade unions have about 10,000 members).

Representative artists' associations determine the status of a freelancer, issue certificates of such status (free of charge), administer the Register of freelancers, and notify the Tax Administration about freelancers. They perform these tasks as delegated jobs – delegated by the Ministry for Culture. Therefore, these associations have to make an annual working plan each year, based on which these delegated jobs are financed by the Ministry. Aside from these obligatory activities, representative associations advocate for social and other policy solutions relevant for their members, giving many awards, publishing art magazines (like *LUDUS* and *Pro Musica*), producing and promoting art production<sup>33</sup>, supporting mobility of artists and experts, giving legal and financial advice and service to their members, and actively participating in cultural life (delegating members of various juries and commissions, publishing recommendations and opinions, cooperating with other institutions). Newer associations, like Station – service for contemporary dance, and World Music Association of Serbia, have more complex projects that explore critical issues concerning the life and work of performing artists (education, labour market, etc.)<sup>34</sup>.

As for employers, there are no employers' associations specifically for arts or culture in general, so all employers are represented by the Serbian Association of Employers. Performing arts organisations in the third (or civil) sector are participants in the Independent Culture Scene of Serbia, a joint platform of 75 organisations, initiatives and individuals in the fields of culture and arts in Serbia which do not consider themselves as employers but rather agents of social change. Due to their increasing significance for the development of arts and culture, these associations, that closely cooperate and often jointly address media and general public, are now considering different possibilities that could enable their members and associates to exercise their social and economic rights, including the possibility of establishing a trade union.

As for current collective bargaining, there is one collective agreement of immediate relevance for the sector - the *Special collective agreement on employment of estrada music artists and performers in the catering industry (or hospitality industry)*<sup>35</sup> – and there are two more for the public sector - the *Special collective agreement for cultural institutions founded by the Republic of Serbia, autonomous province and local self-governing unit*, and the *Special collective agreement for cultural institutions founded by the City of Belgrade*. The last two are important because social and economic rights of performing artists who are employed in public theatres (drama, opera, ballet, musical) and orchestras, and who are also very active in the commercial sector, are taken into consideration and protected. The *Special collective agreement for cultural institutions founded by the Republic of Serbia, autonomous province and local self-governing unit* is currently being annexed in order to enable 200 people who have been working in public cultural institutions for 40 years to receive proper jubilee awards.

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**33** The World Music Association of Serbia publishes music, as does the Balkan world music Chart (with the idea of attracting world music experts and an audience to the Balkan scene). Since its foundation in 1946, the Music Artists' Association of Serbia has organised 3500 concerts, and the Dramatic Artists' Association of Serbia, as has already been stated, is enabling its individual members to apply for funding for their projects and realise them by leveraging the associations' credibility, bank account and legal services.

**34** <http://www.dancestation.org/station/gallery/projects/> (accessed in April 2020)

**35** Catering or hospitality industry is about providing services of lodging, preparation and serving of drinks and food, and organising events such are birthday celebrations, weddings, etc., in hotels, motels, flotels, inns, resorts, bars, cafes, nightclubs, pubs, restaurants, and similar.

The *Special collective agreement on employment of estrada music artists and performers in the catering industry* is registered as the 41st in the Ministry's Register with the decision number 112-07-58/2015-02 on 23 February 2015. It was signed between the Serbian Association of Employers and the Autonomous trade union of estrada artists and performers of Serbia. It is concluded on the level of the territory of the Republic of Serbia. It has been extended and is in force until 22 February 2021. With the two Government's decisions<sup>36</sup>, this collective agreement has been expanded in order to include and impose obligations upon all caterers. Prior to this, it was not clear whether this agreement imposes obligations only upon caterers that are members of the Serbian Association of Employers.

The Ministry of Culture and Information has played an important role in the expansion of this collective agreement. Namely, in accordance with Article 257 of the Labour Law, the Government may determine that a collective agreement or some of its provisions also applies/apply to employers who are not members of the association of employers - participator in the collective agreement - but the request for such a decision has to come from the ministry responsible for the activity in which the collective agreement was concluded which, in this case, was the Ministry for Culture.

The role of the Ministry for Culture is also important because it closely collaborates with the representative artists' associations that are doing the delegated job of administering the Ministry's Register of freelancers in culture. Among 18 representative cultural associations, ten cater to performing artists. What is planned is an analysis of the social conditions of freelance artists and articulation of an initiative to solve identified problems. At the moment, the social position of ballet dancers and specific conditions for their retirement are being discussed. Soon, all representative associations will have to have an accurate electronic database of their members, which would be the first step towards counting of artists and developing relevant statistics (currently, many associations are certain only about the number of freelancers among their individual members). Since March 2019, 18 representative associations have their Coordination Board in an effort towards better communication and collaboration with the Ministry and between themselves. Given their role in self-employment of performing artists (explained in the chapter about the Situation of workers), the ten representative performing artists' associations should be considered as equally important social partners as the existing five trade unions.

In addition to representativeness, other topics of existing social dialogue are those that are present in the *Special collective agreement on employment of estrada music artists and performers in the catering industry*. This agreement regulates:

- a) certification or verification of an artist's ability to perform;
- b) the minimum price of work; and
- c) a contract that must be signed between a performer and an employer (caterer).

On the one hand, this agreement applies to people who perform folk, domestic pop, jazz, pop and rock music; folk and other dances; and other music, vocal and scenic performances of cultural programmes (content), as well as to experts and people associated with estrada music activities (further referred to as performers). More simply stated, this agreement applies to all sorts of entertainers (singers, instrumentalists, DJs, dancers, comedians, announcers, magicians, imitators, etc.) but also to their associates, such as organisers, producers, managers, sound and lighting designers. On the other hand, it applies to catering and tourism operators as employers (further referred to as employers).

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**36** Number 110-6466/2017 from 20 July 2017 and number 11-4153/2018-1 from 10 May 2018

The agreement applies to a performer who can prove his/her occupation by having a certificate issued by one of the two representative artists' associations – the Alliance of Estrada Music Artists of Serbia (that includes 33 associations of estrada music artists and performers), or the Association of musicians of jazz, pop and rock music of Serbia – verifying his/her status as a freelance artist or a freelance performer. Those who are not freelancers have to have a verification (certificate) from the Autonomous trade union of estrada artists and performers of Serbia of their performing competencies and be members of this trade union. These verifications are issued by local offices of this trade union which are parts of 33 associations that are members of the Alliance of estrada music artists of Serbia. In both cases, certificates are valid for the current year. The number of a certificate must be included in the contract between a performer and an employer (or an intermediary/agency). Foreign performers can be contracted if they possess adequate verification of their status as a professional entertainer issued by an appropriate organisation in their country. Foreign performers are obliged to make such documents available to an employer (or agency) and to the Autonomous trade union of estrada artists and performers of Serbia.

This agreement further regulates the minimal price of labour and how it is calculated. It obliges employers to pay income tax on behalf of performers, and, in case of a monthly agreement, allows performers to have one day off from work. This agreement obliges performers and employers to sign a Contract for the Supply of Interpreter's Services and the template of such a contract is attached to it. Important elements of such a contract are: the price of work, the payment deadline, the type and scope of job which a performer must perform for the arranged price, the period of time for which the contract is being concluded, the conditions in case of cancellation of the contract, elements of safety and health at work, insurance and material responsibility. An employer is obliged to secure a performer's musical instruments and other props that a performer uses. On the other hand, a performer is obliged to do his/her job professionally, to relate to both jobs being arranged and employers responsibly and in good faith, as well as to strive to contribute to the quality of content in terms of their performance. Finally, employers are obliged to keep a copy of a contract in his/her catering object, in case of labour inspection's or the trade union's control of how this collective agreement is implemented.

The signatories to this special collective agreement also form the Committee for Social Dialogue, which has six members, three of which are delegated by each signatory. This committee is obliged to: monitor the implementation of this special collective agreement; suggest changes or additions to this special collective agreement; give opinions about the enforcement of this special collective agreement and guidelines for its enforcement; and consider current issues concerning the material and social position of performers and employers in the music entertainment industry. This committee adopts its own rules of conduct and is financed by the signatories to this collective agreement.

Stakeholders' views on this collective agreement are different. The Autonomous trade union of estrada artists and performers of Serbia is starting from the premise that before this collective agreement, and even now when it is in force, a great majority of people performing in catering objects have been and still are engaged without any form of written contract. Therefore, this agreement has introduced protection of workers while, at the same time, contributing to the cutback of a grey economy. It is also claimed that over 95% of these performers are people who are employed elsewhere, or small entrepreneurs, farmers, craftsmen, pensioners, so not musicians in terms of their vocation.

The opinions of caterers have not been included in this research (the representative of the club well-known for rock gigs was asked for an interview but was not interested). According to the trade union of Estrada musicians and some musicians who have participated in this research, caterers are still not fully informed and enabled to properly implement the provisions of this collective agreement. It is not easy for them to distinguish between the three trade unions of musicians, and all of the trade unions issue a wide variety of certificates. Until recently, it was sufficient for many caterers to see some paperwork with a logo, signature and stamp, but since the control of implementation of this collective agreement is now more frequent and the penalties for not respecting it are high (up to EUR 17,000), many caterers now prefer to refrain from offering musical entertainment than to face punishment. In many cases, some form of a contract between caterer and performer is signed, but without proper paperwork (certificate) provided by the performer and without respect for the minimal price of the performer's work. As for caterers, they are controlled by labour inspectors and controllers engaged by the Autonomous trade union of estrada artists and performers of Serbia.

In addition to the Autonomous trade union of estrada artists and performers of Serbia, there are two more trade unions of musicians that cannot issue certificates to members who are not freelancers and who wish to perform in catering objects. Such members have to obtain a certificate from the Autonomous trade union of estrada artists and performers of Serbia. Both of these trade unions claim that this collective agreement deprives a great majority of their members from the right to work. The Trade Union of Music Artists represents musicians who are employed in public cultural institutions as members of artistic ensembles. These musicians, since they are permanently employed, cannot be freelancers so they have to apply to the Autonomous trade union of estrada artists and performers of Serbia and request permission to work. Estrada musicians are usually self-taught, so formally educated musicians who are working in public institutions claim that it is not logical to ask for an evaluation of their music knowledge and skills from those who are less competent than them. These two trade unions accuse the Autonomous trade union of estrada artists and performers of Serbia of having nothing but a financial motivation (charging for membership) in all of this, while the Autonomous trade union of estrada artists and performers of Serbia counters by claiming that the collective agreement provides performers with basic protection, and that highly educated musicians should have no business performing in restaurants.

Besides the two representative musicians' associations whose freelancers can, among other things, perform in catering objects, there is the Music Artists' Association of Serbia (for classical musicians). This is also a representative association but its members who are freelancers cannot perform in catering objects if they are not members of the Autonomous trade union of estrada artists and performers of Serbia.

Finally, there are musicians that want to perform in their spare time, for the sake of self-expression and self-actualisation, or simply for fun. Now they cannot arrange a gig just by talking to a club owner, but have to be members of the Autonomous trade union of estrada artists and performers of Serbia and pay about 40 euros for annual membership.

Recent social dialogue trends:

- a) Due to the renewal and expansion of the existing collective agreement between estrada performers and caterers, it could be said that social dialogue in the commercial live performance sector is being enhanced. Aside from that, the collective agreement valid for employees in public cultural institutions is in the process of being supplemented and will provide even more privileges to those performing artists who are employed in public cultural institutions but who are also very active in the commercial sector. On the other hand, it could be said that social dialogue in the sector is becoming weaker because the Trade union of actors SINGLUS has been inactive for a considerable period.
- b) The Autonomous trade union of estrada artists and performers has made constant requests to the Serbian Association of Employers to form an association of concert organisers so that proper collective agreements between estrada musicians and concert organisers can be signed.<sup>37</sup>
- c) It is evident that trade unions are sustainable and strong when they are closely connected to a representative artists' association. They share members, offices, information, etc.
- d) On the side of employers, it is evident that most commercial music festivals are collaborating and forming new joint initiatives like the Cloud Festivals Platform that connects Belgrade Beer Fest, Belgrade Music Week, and Music Night into one massive music event. The five festivals organised by the Exit Team are founded on a similar rationale. These festivals share performers (programme), technical resources, sponsors, audience, and associates (workers).
- e) New stakeholders in the commercial live performance sector are citizens' associations (or NGOs) dedicated to performing arts that are members of the Independent Culture Scene of Serbia – platform for collaboration of more than 70 organisations and other initiatives. These organisations constitute a very important part of cultural life, gathering together highly competent artists and cultural professionals and, in the cases of contemporary dance and new circus, performing a public sector's function. Although these people do not see themselves as commercial players, special attention should be devoted to the improvement of conditions for their work.

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**37** Before the Serbian Association of Employers became representative of all employers, the Autonomous trade union of estrada artists and performers of Serbia signed a general collective agreement with the Serbian Chamber of Commerce in 1997 for the engagement of estrada artists and performers in the catering industry, discography and concerts. After 2000, when the official political and economic transition of Serbia (toward full membership in the EU) started, the ownership structure of music publishers and concert organisers changed. Public companies were closed, privatised and restructured and new small private companies began to appear and disappear.

## Topics of potential interest

Based on the desk research, 15 interviews with representatives of stakeholders in social dialogue in the commercial live performance sector conducted in November and December 2019, and responses provided by 68 performing artists and 13 employers in the sector in the online surveys conducted over a three-week period in February and March 2020, the following topics have emerged as potentially important ones that could be debated in Serbia's social dialogue fora.

- a) Trade unions of jazz, pop and rock musicians and ballet dancers seek to attain the status of a representative trade union (ballet dancers seek the status of a trade union representative for the group or subgroup of activities which would go beyond their current level of representation).
- b) Musicians employed in the public cultural institutions, freelancers in classical music, and musicians who want to perform occasionally for fun seek solutions which would enable them to perform in catering objects freely, without having to be freelancers in the two representative musicians' associations, and/or without having membership in the Autonomous trade union of estrada artists and performers of Serbia, which is now not possible due to the existing collective agreement.
- c) Performing artists active in the third sector are interested to see how people working in the third (or civil) sector can form a trade union and that way exercise their social and economic rights.
- d) Labour rights of folk dancers, new circus artists, stage technicians and stage workers working outside the public sector should be discussed because there are no trade unions that represent them.
- e) According to our online survey, performing artists (the majority of whom are active in theatre) are mostly interested in their working conditions (59%), price of work (35%), and ease of finding employers (31%). Some respondents have said that a trade union should enable them to buy musical instruments at a discount (as a basic means for work), and to negotiate with banks so that musicians can get a loan (in Serbia, only permanently employed people can get a loan). As for working conditions, interviews have indicated that artists are interested in technical standardisation of performing spaces in terms of their technical equipment. One interviewee said that musicians should have the right to take a break during performance and a bottle of water. Another interviewee, with rich experience in commercial theatre, said that the price of a theatrical play should not be dictated by famousness of actors but by its overall artistic quality.
- f) According to the same survey, employers (mostly active in theatre and music) are interested in discussing sources of financing of live performances (70%), and working conditions (30%).

## Key barriers and challenges to social dialogue

According to the same sources, key barriers and challenges to social dialogue in the live performance sector include the following:

- a) Lack of knowledge about social dialogue in culture – the current Cultural Development Strategy of the Republic of Serbia doesn't contain "social dialogue" as a notion but is concerned with the social status of artists and cultural professionals. No sociologists, economists or lawyers have expertise in artists' social and economic rights.
- b) Lack of artists' knowledge about their social and economic rights. They are not educated in that.
- c) Lack of belief in collective efforts, except in the third sector where citizens' associations advocate for mutual cooperation and sharing of existing resources (but they don't see themselves as commercial players).
- d) There are four performing artists' trade unions that are more or less active but without representativity which would enable them to collectively bargain on behalf of artists working in the private and third sector.
- e) Lack of willingness to talk and cooperate. During this research project, representatives of the three trade unions of musicians met for the first time. The meeting very quickly descended into a big quarrel over the existing collective agreement which regulates musicians' right to work, showing that the trade unions need to meet and engage with each other more often.
- f) There are no employers' associations in the sector (caterers as employers are covered by the existing collective agreement).
- g) Among 11 respondents who commented on barriers to dialogue between employers and artists, five said that politics represent a key barrier. This means that a significant number of artists think that belonging to or being affiliated to the ruling parties is paramount, above everything, including the rights of artists and their employers.
- h) One of the two representatives of employers, who said the same thing, claimed that due to the working hours and nature of jobs, it is not easy to organise regular meetings of producers (employers), artists and other staff, so that they can all discuss the problems of production and solve them together.

## What could stimulate the dialogue?

There are practical and concrete moves that could be made in order to improve social dialogue in the live performance sector in Serbia (such as dissemination of proper information), but the most important thing in this sense would be to raise the interest of local experts and researchers who would do further research and produce facts that could be used by different stakeholders in social dialogue for the purpose of achieving their aims. Therefore, the following actions could stimulate dialogue:

- a) The results of this research could be presented to our research centres (the Centre for Studies in Cultural Development and the Centre for the Empirical Cultural Studies of South-East Europe) as an invitation for them to start an on-going discussion about social dialogue in the commercial live performance sector, involve all stakeholders, and develop and implement projects that would enhance social dialogue in the sector.<sup>38</sup>
- b) Dissemination of information about the privileges performing artists enjoy in the commercial live performance sector in different European countries would increase the interest of performing artists in Serbia in social dialogue. Special attention should be paid to the privileges of actors, folk dancers and new circus artists, stage technicians and stage workers because they are least represented by appropriate trade unions.
- c) Dissemination of information about how employers in the commercial live performance sector in different European countries are cooperating would increase the interest of employers in Serbia in social dialogue. PEARLE\* - Live Performance Europe could promote some of its members (i.e. Dutch live music venues and festivals) in Serbia.
- d) Presentation of collective agreements and other regulation in Europe regarding live music entertainment in hotels, restaurants, bars, clubs, etc., would show our musicians and caterers that their problems are shared by many colleagues in Europe, and would encourage their mutual cooperation and joint consideration of current and future provisions of the existing collective agreement.
- e) Presentation of collective agreements in Europe which are relevant for performing artists working in the third (or civil) sector would be of great help and motivation to artists and professionals active within the Independent Culture Scene of Serbia who intend to form their own trade union.

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**38** Aside from national institutions like the Social and Economic Council or the ministries for labour and for culture, some of the following organisations could be asked to support future initiatives to strengthen social dialogue in the commercial live performance sector in Serbia (they have been identified in ten annual reports by the national Social and Economic Council between 2009 and 2019): SOLIDAR Suisse (formerly Swiss Labour Assistance), Friedrich-Ebert-Stiftung, European Economic and Social Committee, European Movement Serbia, UN Development Fund for Women (UNIFEM), UN Women, ILO Central and Eastern Europe (Budapest), and Olof Palme International. Since the Ministry of Labour, Employment, Veteran and Social Affairs has been admitted to the EU's European Programme for Employment and Social Innovation, organisations from Serbia can get funding for projects promote a high level of quality and sustainable employment, guarantee adequate and decent social protection, combat social exclusion and poverty and improve working conditions.

## Conclusion

The commercial live performance sector in Serbia is very heterogeneous and includes truly commercial performers who are selling 100,000 tickets in one go, as well as those who deliberately make their artwork impossible to sell or consume. If we consider the numbers of entrepreneurs and limited liability companies in the performing arts sector, the overall condition of the commercial live performance sector seems rather good. In the last five years, the number of entrepreneurs has increased from 295 to 1685, the number of limited liability companies has increased from 100 to 158, and the average annual revenue per company has risen by 25%. At the same time, there is no proper physical space for contemporary dance and new circus, and the majority of live performances is offered only in Belgrade, meaning that their distribution throughout the country is very weak.

The key sources of revenue differ depending on the subsector. Revenues are highest in music and are generated by rental of stage technical equipment, sponsors (of festivals), and ticket sales. Commercial theatre (comedies) also relies on ticket sales, while experimental theatre, dance and new circus are financed through public funds. In all subsectors, (even the most commercial) festivals are partially financed by public funds.

Relations between the commercial and public sector are very close and the two sectors overlap. Between 40 and 70% of people employed in the public sector are active in the commercial sector too. Outside Belgrade, artists have nowhere to perform except in public venues like theatres and local cultural centres (if catering objects, where usually only interpreters of most popular music perform, are excluded). Commercial festivals are often held in public cultural institutions.

As for social partners, musicians are best organised into three strong unions, actors have only started (and stopped) unionising, ballet and contemporary dancers are represented by one trade union, while folk dancers and new circus artists have no trade unions that advocate for their rights. Only one trade union – the Autonomous trade union of estrada artists and performers of Serbia - has the kind of representativeness that allows it to negotiate on behalf of all estrada musicians (performing popular music genres) in the country, while the other trade unions are not representative, or are representative only for artists employed in the public sector. On the side of employers there are no associations of employers that regularly contract performing artists, so the Serbian Association of Employers represents all employers. The situation is different in the third sector, where over 75 citizens' associations (dedicated not only to performing arts) have gathered together to form the Independent Culture Scene of Serbia as a platform for cooperation, but these organisations see themselves not as employers but rather as agents of social change and are not interested to associate as employers. The Ministry for Culture and Information is in close cooperation with representative artists' associations to improve the social and economic position of performing artists. Since these associations decide whether a local government should pay for an artist's health, social and pension insurance, they are important social agents and should be considered as stakeholders in social dialogue too.

As for collective bargaining, there is one collective agreement that concerns estrada artists and performers (majority of which perform popular music) and the catering operators as their employers; and two collective agreements exist for those employed in public cultural institutions (one for all institutions in Serbia, and one for institutions founded by the City of Belgrade) which take into consideration and respect the rights of performing artists employed in public theatres and orchestras but who are very active in the commercial sector too. And if we exclude the public sector and caterers, there are about 15 commercial venues left, and there are festivals. Given the aesthetical and material differences between them, any thoughts of their future association (as employers) seem quite farfetched. More realistic would be the creation of a network of all performance venues in all three sectors (public, private and third).

One of the key challenges for social dialogue in the sector is the implementation of the existing collective agreement between estrada performers and caterers. Performers are slowly accepting the fact that they need proper paperwork, while the Trade union of estrada artists and performers is cooperating with the Labour Inspectorate (seminars are being held) and training inspectors so that they can recognise which catering operators are (dis)respecting the agreement. Criticism of this collective agreement between estrada performers and caterers is widespread and negative, especially among (formally educated) classical musicians, musicians who are employed in public cultural institutions, and those who want to perform only occasionally, for fun or the sake of self-actualisation (self-expression). Among the three major provisions of this agreement (certification of performer's ability to perform, price of work, and necessity of a written contract between artist and employer), the most criticised is certification of an artist's ability to perform.

As for institutional support for social dialogue, there is the national Social and Economic Council, an independent public body of tripartite nature established by law (2001/2004) in order to develop social dialogue in Serbia. Equally important and encouraging is the Ministry for Labour with its current *Action plan for Social Policy and Employment* (in accordance with Chapter 19 of the EU acquis).

## Key emerging recommendations

- Given the current state of public policy for social dialogue, and public policy for culture (evaluation of collective bargaining in the country, re-examination of decision-making about the status of representativeness, development of methodology for evaluation of collective agreements, the new Labour law in 2021, financing of social partners' capacities building, planned analysis of the social conditions of freelance artists and articulation of solutions for identified problems), the time is right for a wider public discussion about performing artists' social and economic rights, their chances for decent work and the benefits they can accrue from social dialogue. Since there are no academics researching social dialogue in the performing arts or culture in general (sociologists, economists, lawyers), the results of this research could be presented at the Centre for Studies in Cultural Development and the Centre for the Empirical Cultural Studies of South-East Europe (CESK) in order to increase the interest of researchers in social dialogue in the performing arts. These two centres could also play an important role in overcoming barriers to social dialogue – they could produce and disseminate evidence, organise presentations of existing trade unions to a wider cultural public, facilitate their communication (because some of them are in conflict), enable an on-going discussion about topics of interest introduced here and elsewhere, and foster the creation of appropriate policy solutions.

- In all further efforts towards the development of social dialogue in the commercial live performance sector in Serbia, ten representative performing artists' associations should be considered social partners as equally important as the existing trade unions.
- Since there are no trade unions representing folk dancers and new circus artists, information about such trade unions in Europe and their achievements so far could be translated into Serbian and made available to relevant associations. Same applies on stage technicians and stage workers that have no professional / vocational association, nor a trade union.
- In order to motivate actors to continue to develop the Trade union of actors of Serbia SINGLUS, the only trade union of actors in Serbia, which has been neglected for a while, information about actors' trade unions in Europe and their achievements could be presented to actors.
- Special attention should be given to the needs of performing artists active in the third sector and their intention to unionise (this is a joint intention of all cultural workers in this sector, not only of those in the performing arts). Existing initiatives like the Government's Office for Cooperation with Civil Society, the Opinion of the European Economic and Social Committee on the role of civil society in EU-Serbia relations, and the national Social and Economic Council could form the political framework for discussion and action. Given the bilateral agreement of France and Serbia to cooperate in development of social dialogue, France's rich experience in cultural development could be very useful in this regard.
- As for existing collective agreements between estrada performers and catering operators, information on analogous solutions in other European countries (i.e. the Live Music Bill in the UK, maybe licence *d'entrepreneur du spectacle vivant* in France) would be useful. Such information should be shared with stakeholders in Serbia in order to help them find solutions which would acknowledge all musicians' lifestyles, which is not the case at the moment.
- Due to the commercial live performance sector's characteristics (great differences between commercial venue owners, and great overlapping of the public and commercial sectors), a good solution for Serbia could involve the creation of a network of scenic spaces that would include all venues (50 professional theatres and 160 scenic spaces in local cultural centres, students' cultural centres, houses of culture and youth centres). That way, more than 200 performance spaces could network and be presented to performers in the form of a searchable database. Increased circulation of live performances would be good for everyone – artists, local communities, and venue managers.
- Finally, the EAEA and PEARLE\* could produce the Compendium of cultural policy instruments and measures for the development of live performance in the private and third sector in Europe, and widely present and distribute it. Such a publication would inspire further development of the sector.

## Credits

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