

Denmark

THE ARTIST'S PLACE IN SOCIETY

The Danish Actor's Association estimates that 75% of its members do not need to work for money outside the sector. Only perhaps 15% are dependant on jobs outside the sector. The government plays an essential role in improving the condition of artists, notably by heavily funding the arts sector.

Cultural policies

Percentage (average) of the national budget allocated to culture

Public funding in the field of culture (as a percentage) is 75%. Concerning artistic education it is 95%; for centers devoted to the promotion of living arts it is 95%. With the development of new digital technologies, new possibilities for artistic work are created and improved.

INSTITUTIONAL AND LEGAL FRAMEWORK

Legal frameworks of employment

The legal frameworks within which artists and creators may be employed in Denmark are labour law and collective agreements, applicable to both public and private sector employees. 'Freelance workers' in the sector covered by the Danish Actors Association, i.e. actors, opera singers and dancers, are rare. The laws governing these legal frameworks are all general: Law on Salaried Employees; Law on Health and Safety; and Law on Salaried Employees' Insurance Foundation.

Effects

a) In the event of breach of contract or dismissal:

Compensation is usually paid.

b) The right to combine a permanent post as artist with another job (teacher for example):

As no legal regulations exist in this regard, it is possible to combine a permanent job as artist with another job.

c) On social welfare:

Performers have the right to social welfare, given on equal footing with other employees.

d) On intellectual property rights:

Intellectual property rights, based on the Danish Copyright Act, are granted to performers.

e) Right to form or join a trade union:

Performers have the right to form or join a trade union, on equal footing with other employees.

Recruitment of artists

Approximately 5% of members of the Danish Actors Association are connected with employment agencies. The status of these intermediaries is not regulated and the percentage retained as commission varies from 10 to 20 %.

Professional status

There is no formal professional status for artists. However, membership to the Danish Actors' Association is considered as a guarantee, due to the strict criteria for admission, which are: graduation from an acknowledged theatre school or documentation for 3 years of professional work in the sector (on terms recognized by the union). Membership gives access to the catalogue of professional actors, dancers and singers.

Amateurs do not have easy access to professional jobs, even though 'closed shops' (an establishment whose employees are required to be members of a specific union as a precondition to employment) do not exist in Denmark. Probationary membership is used. The system gives good protection to professional artists, and the flexibility (probationary membership) permits talented semi-professional to move into the professional area.

Form and content of contracts

Contracts are written, according to the EC Directive and collective agreement. All terms of a contract must observe the standard contract, which is part of the collective agreement. This will specify the rights that the employer has obtained. Salaries are subject to negotiation (above the minimum salary fixed in the collective agreement).

Minimum duration is set out (1 day in audio and audiovisual production; 75 days in theatre). In case of permanent employment, notice can be given (13 months). Short-term (casual) contracts or fixed-term contracts are used in 90% of all engagements.

In the case of breach (dismissal unprovoked by the employee), the employer will have to pay all lost earnings, and sometimes also compensation. Collective agreement and labour law provide an appeal process, but in most cases the intervention of the union is sufficient.

Danish artists work in an overall freelance or employee market, also known as short term contract market, and have done so for decades.

Duration of work

The National Law on Health and Safety sets the framework on the duration of work in Denmark:

- Daily rest: 11 hours
- Weekly rest: 1 day off
- Annual paid leave: 5 weeks

Collective agreement provides further regulation:

- Maximum weekly working hours 37-45
- Remuneration for overtime
- Annual paid leave of 6 weeks
- Travel expenses paid, etc.

In practice, these regulations are generally respected.

Health care system

Health and safety regulations include paid maternity leave, paid sickness leave, and compensation in case of work injuries. Provisions in the work environment are very detailed and comprehensive. These regulations are not specific to artists, but cover all workers.

Administrative inspections

Each work place is obliged to have a safety committee including employee representatives. Employees or unions can claim assistance from the public Health and Safety Supervising Committees. There is not a particular regime for artists with disabilities.

According to regulations on the work environment, the safety committee can inspect theatres and film studios, but it seldom happens. The safety committee inspects only safety and hygiene. On the other hand, the union and its local representatives ensure that other regulations are observed. In the case of failure to comply with norms of the administrative inspections, fines may be imposed.

SOCIAL WELFARE

a) Salaried artists (those with an employment contract)

Legal framework

For salaried employees to enjoy effective social welfare provision, their work contract must refer to the collective agreement or the Act on Salaried Employees. However, even without such references, an employee working under the direction of his/her employer grants him/her such rights.

Law or regulations governing these matters:

EU-directives; Act on Holiday; Act on Maternity Leave; Act on Salaried Employees.

Provisions

Provision depends on the scale of contributions only as concerns pension schemes/retirement.

There is a provision for welfare or benefits during periods of unemployment or inactivity.

The status of intermittent workers

There is no specific regulation concerning intermittent workers.

Employer's legal obligations

The employer has comprehensive obligations with regard to contracts (see above), tax deduction, insurances, payment of holiday allowances, etc.

Social welfare cover and contracts

Salaried employees with fixed-term contracts enjoy the same social welfare cover as salaried employees with open-ended contracts.

Legal status of salaried employees resident abroad

Salaried employees resident abroad working on the terms of collective agreements, have the same status as Danish performers.

Additional and/or voluntary insurance

Any employee can arrange additional insurances at his/her own cost.

Management of social welfare cover

The social welfare system is managed by governmental authorities. Artists don't need take any specific action with regard to this.

Social welfare cover for artists with disabilities

There is no any particular social welfare cover for artists with disabilities.

Financial aspects

Contributions paid by employer

The percentage (in relation to salary) of social security contributions paid by the employer is 2%, plus holiday payment 12%.

Contributions paid by employee

The percentage (in relation to salary) of social security contributions paid by the employee is 1%.

Administrative aspects

Body responsible for collecting contributions

The State is responsible for collecting contributions. It is responsible for paying benefits to artists.

Collective rights management society

No collective rights management society (copyright or neighbouring rights) exists involved in funding and managing social welfare cover.

State contributions

The State covers health costs and other welfare benefits when a salaried employee is no longer protected by an insurance scheme.

Law or regulations governing these matters:

Legislation on social pension (independent of individual contributions from labour); Act on compensation during leave (sickness, birth giving, etc., LBK 761 of 11-09-2002, Act on work injuries).

b) Non-salaried workers (those without an employment contract)

Legal framework

Obligations of 'employers' and non-salaried artists

Few performing artists are self-employed (independent contractors, non-salaried artists) and they fall outside the scope of any protection granted to employees.

Self-employed artists will be covered by any legislation concerning companies, shopkeepers, etc.

Government employees can be freelancers as well as permanently employed. The average unemployment rate covers all kinds members.

UNEMPLOYMENT

Legal framework

Unemployment insurance system

Non-salaried workers are not entitled to unemployment benefits. All other groups are subject to regulations covering general salaried workers. Any worker, who has been working for 1924 hours within the last 3 years, is entitled to receive unemployment compensation.

Financial aspects

Social contributions (as a percentage of salary or as a fixed sum) for the non-salaried artists

Compensation: 415 euros per week

Duration: See 4.2.

Law or regulations governing these matters:

Act on Unemployment Compensation, LBK 799, 24-09-2002.

Administrative aspects

Body responsible for collecting contributions

The Unemployment Compensation Office (body under State control) is responsible for collecting contributions and for paying benefits to artists. The individual artist is responsible for becoming a member of this body and for the timely payment.

Collective rights management society

There is no collective rights management society (copyright or neighbouring rights) involved in funding and managing social welfare cover.

State contributions

The State social welfare system pays a minimum income when an artist is not covered by any insurance scheme, which will be at a lower rate than the unemployment benefit. The average duration of total unemployment in the field of actors is 25%.

REMUNERATION

There is no regulation on the sum of the remuneration. This matter is covered by collective agreements and artists are paid directly by the employer.

Scale of income derived from intellectual property rights

Societies for collective rights management

There are two societies for collective rights management:

- GRAMEX, for published phonograms, of which the union is a member of the board.
- FILMEX, for audiovisual rights, established by the Danish Actors' Association. It manages the collection and distribution in close co-operation with the union.

Artists' benefit of rights distribution

Artists benefit in a large scale from the effective distribution of the rights collected by the collective management society. They do not have any problems in receiving rights collected in their name by the collective management societies. The union – representing the artists – ensures that artists benefit from an efficient collection of remuneration and royalties, as well as an effective individual distribution.

Artists' rights collected in their name

The income derived from intellectual property rights is a substantial share of the annual income for those artists that have performed in films, television drama, commercials and other. The union as well as FILMEX is permanently working on expanding the income. However, such income cannot be used to fund social welfare since it belongs to the individual artist.

Law or regulations governing this matter:

The law governing these matters is The Danish Copyright Act.

Source : *Dansk Skuespillerforbund* (Danish Actors' Association – NGO working in the field of theatre), September 2003.

For more information on the status of artists in Denmark, visit the website of the European Council of Artists:

<http://www.eca.dk/members/index.html>