

## Switzerland

### *The Artist's Place in Society*

*In general, artists do not need to resort to another form of gainful employment if they can obtain unemployment benefits in the event of inactivity. However, several artists teach on the side. There has been no significant increase in public funding of the arts, and the attitude of employers in this regard has not improved much.*

## INSTITUTIONAL AND LEGAL FRAMEWORK

### Legal Frameworks of employment

Theatre and dance performers are seldom civil servants. As a rule, they are “salaried workers” with either a fixed-term or an indeterminate work contract. They can also have the status of “independent workers” with a fee contract for services.

### Laws

The Code of Obligations, Federal Law, 30 March 1911, Article 319 (general law for all workers). Covers fixed-term contracts and mission contracts. A number of associations propose standard mission contracts to their members.

### Effects

The *Conventions Collectives de Travail* (CCT) (collective work agreements) administer the following points:

- a) **Fixed-term contracts in the French-speaking area:** CCT between the *Union des Théâtres Romands* (UTR) (union of French-speaking theatres) and the *Syndicat Suisse Romand du Spectacle* (SSRS) (Swiss union of performing arts in the French-speaking area), visit: [www.ssrs.ch](http://www.ssrs.ch)
- b) **Fixed-term contracts in the German-speaking area:** for examples of standard contracts visit: [www.theaterschaffende.ch](http://www.theaterschaffende.ch)
- c) **The right to combine a permanent position as an artist with an additional function (e.g. teacher):** during the duration of the contract, the exercise of another form of gainful employment is subject to the employer’s prior agreement, it being understood that mornings remain free (see: CCT-UTR-SSRS. Article 11 CCT).
- d) **Intellectual property rights:** the legal framework does not affect intellectual property rights.
- e) **Concerning the right to join a trade union:** the legal framework does not affect the right to join a trade union.

### **Recruitment of artists**

For theatre and dance, there are virtually no agencies or offices in Switzerland to find work for artists. However, there are some for cabaret and variety show artists. The unions do not intervene in the placing of artists.

### **Work permit**

There is no work permit for artists and theatre and dance performers.

### **Professional status**

There is a definition of professional actors for the French-speaking area applied by the SSRS and the UTR (see CCT-UTR-SSRS on the website: [www.ssrs.ch](http://www.ssrs.ch)).

### **Form and content of contracts**

Oral contracts exist. For them to be valid, the duration, work time and the amount of the salary must be specified. It is, however, more customary to conclude written contracts. Standard contracts are drawn up by two collective work agreements (CCT), which are applied in both regions:

- French-speaking area: CCT, UTR and SSRS
- German-speaking area: CCT, *Union des Théâtres Suisses* (UTS) and *Schweizerischer Bühnenkünstlerverband* (SBKV)

These collective agreements are applicable and compulsory for the members of these associations. There are standard contracts for non-union members. For the compulsory clauses, see example: CCT-UTR-SSRS on the website: [www.ssrs.ch](http://www.ssrs.ch)

### **Duration of contracts**

The duration of contracts is not regulated. Casual or fixed-term contracts are used. These contracts cannot be terminated before their expiry date. Trends indicate a growing insecurity for the employment of artists. Fixed-term contracts are becoming increasingly frequent.

### **Duration of work**

Regulations on the duration of work applicable to artists are contained in the collective agreements (see CCT-UTR-SSRS on the website: [www.ssrs.ch](http://www.ssrs.ch)).

### **Health care**

The employer insures artists holding contracts that are open-ended (or for at least one year in the Swiss-German part Switzerland) in case of illness and accident. Artists holding fixed-term contracts are not, as a general rule, insured by the employer in the case of illness. They have private insurance coverage. There are no specific regulations on the health of artists.

### **Administrative inspections of working conditions**

The application decrees for the Labour Law (adopted 13 march 1964; revised 28 march 2006) comprise articles on safety and hygiene. Unions and professional associations have been consulted and have the right to make proposals on safety. There is no special regime for artists suffering from a disability. Inspections apply to all workers and cover: security;

salubrity; compliance with the Labour Law; and social declarations. They are carried out by various State services. When offences or irregularities are noted, the administrative services can impose fines on the offenders.

### **Vocational training**

The following forms of professional training are provided for artists, actors and dancers: university courses; continuing training; update of skills. Such training is financed either by the worker or by the State. Although the latter is rare, training can be financed through a body such as the unemployment office. It may be partially financed by a professional organization or a trade union.

## **SOCIAL WELFARE**

### **a) Salaried workers (with work contracts)**

#### **Legal framework**

Insurance schemes exist in:

- The private sector for health and accident insurance
- The public sector for disability and retirement.

For salaried workers, all these types of insurance are compulsory. Coverage depends on the scale of the contributions.

#### **Workers without steady employment**

The status of the “intermittent” worker does not exist in social insurance laws.

#### **Legal obligations of the employer**

To declare employment of foreigners, salary slips and payment of social contributions (paid by the employer and the employee).

#### **Salaried workers (with fixed-term work contracts)**

Are covered in the same way as salaried workers under open-ended contracts, except for retirement, disability and illness.

#### **Salaried workers residing abroad**

The legal status of salaried workers residing abroad is the same as those residing in Switzerland. No form of unfair competition by foreign productions on the national territory has been noted yet.

#### **Complementary and/or voluntary insurance**

Basic health care insurance is private and obligatory; complementary insurance is also private but voluntary. There are various private insurance schemes for retirement pensions.

#### **Disabled artists**

There is no special social coverage for artists suffering from a disability.

### **Administrative aspects**

In the case of health care insurance and complementary pensions, employers and private bodies under State control deal with the collection of contributions. The State and private insurance companies are responsible for the payment of benefits to artists. There is no company for the collective administration of royalties (copyright and related rights) that intervenes in the financing and management of social security coverage. The State administers health expenses and the payment of other social benefits when a salaried worker is no longer covered by an insurance scheme, under certain conditions.

### **b) Non-salaried workers (without a work contract)**

#### **Legal framework**

The “employers”, i.e. those who use the services of artists (producer or organizer of shows; records; films; radio; television; gallery owner; editor; etc.), do not have social obligations, notably the payment of contributions when artists are not under a work contract.

It is compulsory for non-salaried artists to insure themselves for health care, retirement and invalidity funds. They are obliged to contribute for their social security coverage, in particular for illness, disability and retirement.

They may subscribe to a complementary insurance scheme, notably for health care and retirement.

The legal status of non-salaried artists residing abroad is the same as that for those living in Switzerland.

#### **Financial aspects**

The service user does not pay any amount linked to social contributions, be it a percentage or a lump sum.

On the other hand, the non-salaried artist must pay all contributions.

Non-salaried workers are not provided with social security coverage.

#### **Administrative aspects**

The State and private insurance companies collect contributions and pay benefits to artists. There is no company for the collective administration of royalties (copyright or related rights) that intervenes in the financing and management of social security coverage. The State takes charge of health care expenses and other social indemnities when a non-salaried artist is not covered by an insurance scheme.

## **UNEMPLOYMENT**

#### **Legal framework**

The law on unemployment insurance (*Loi sur l'assurance-chômage*, LACI, adopted 25 June 1982; amended 28 March 2006) concerns the unemployment insurance scheme applied to artists.

### **Financial aspects**

The scale and duration of the benefits allocated vary according to the amount of contributions paid in. The duration of the payment of benefits is 400 days.

### **Administrative aspects**

Employers collect the contributions, which they then pay to the State. The unemployment funds under State control administer the payment of benefits to artists. There is no company for the collective administration of royalties (copyright and related rights) that intervenes in the financing and management of social security coverage. The State pays a minimum income to an artist when he/she is not covered by any insurance scheme, as for any other worker.

## **REMUNERATION**

Artists are paid wages directly.

### **Minimum level of remuneration**

There is a minimum level of payment for artists subject to a collective work agreement (see CCT-UTR-SSRS on the website [www.ssrs.ch](http://www.ssrs.ch)). Artists' services are rarely rendered free of charge.

### **Income from intellectual property rights**

There are companies for the collective administration of royalties. Artists enjoy the effective distribution of the royalties received by the collective administration companies. Artists have no difficulty in recovering the royalties collected in their name by the collective administration company/companies.

## **TAX STATUS**

By and large, artists do not enjoy a particular tax status. In some cantons, however, deductions may be accepted for professional expenses. Royalties are treated by the tax system like any other form of income.

### **Exceptions or special provisions**

- There are no exemptions or special provisions regarding:
  - Temporary import duties on cultural products
  - Import duties on equipment and materials required for cultural production.
- There is no special tax regime for the marketing, import and export of cultural products.
- There are no regional or interregional customs duties agreements governing the circulation of cultural products.

## **ILLEGAL WORK**

### **Penalties**

Are imposed to counter illegal work in the form of:

- Fines for employers
- Prison sentences for repeated offences
- Expulsion from Switzerland of undeclared workers

### **Inspections**

Although there are administrative inspections, the law does not effectively penalize illegal work.

## **INTERNATIONAL MOBILITY OF ARTISTS**

### **Promotion of mobility**

Measures in place:

- Fellowships and financial aid to promote the mobility of artists
- Fellowships and financial aid to promote the mobility of works
- Networks catering for foreign artists
- Facilities for obtaining visas and residence permits
- Facilities for the importation and export of cultural products

### **Legal framework**

The only requirement imposed on foreign artists seeking to work on the national territory is the obtainment of a work permit. On the whole, the legal framework is respected.

Trade unions do not have secured compensatory measures, especially as regards imposing the employment of nationals.

### **Cultural protectionism**

In audiovisual production, there are cultural protectionist measures regarding the content of radio and television programmes, through quotas. A special tax regime on record and film productions is also applied.

## **COLLECTIVE REPRESENTATION**

### **Trade union freedom**

The Constitution of the Swiss Confederation contains legal provisions on the protection of trade union freedom. In practice, trade union freedom is the same for all citizens. There is no form of pressure on workers who wish to join a trade union.

### **Union prerogatives**

Unions are consulted by the State before they adopt reforms that affect the working practices of artists.

**Collective agreements**

There are collective agreements per sector and collective agreements guaranteeing a legal framework in the different sectors.

**Social dialogue**

As regards artists and theatre and dance performers in Switzerland, there is no body specifically concerned with the promotion of social dialogue. Nor are there bodies specifically concerned with mediation and/or appeals.

**Source:** *Syndicat Suisse Romand du Spectacle (SSRS), Schweizerischer Bühnenkünstlerverband (SBKV), Vereinigte Theaterschaffende der Schweiz (VTS), November, 2003.*

*Syndicat Suisse Romand du Spectacle, <http://www.ssrs.ch/>  
Schweizerischer Bühnenkünstlerverband, <http://www.sbkv.com/>  
Vereinigte Theaterschaffende der Schweiz, <http://www.theaterschaffende.ch/>*