

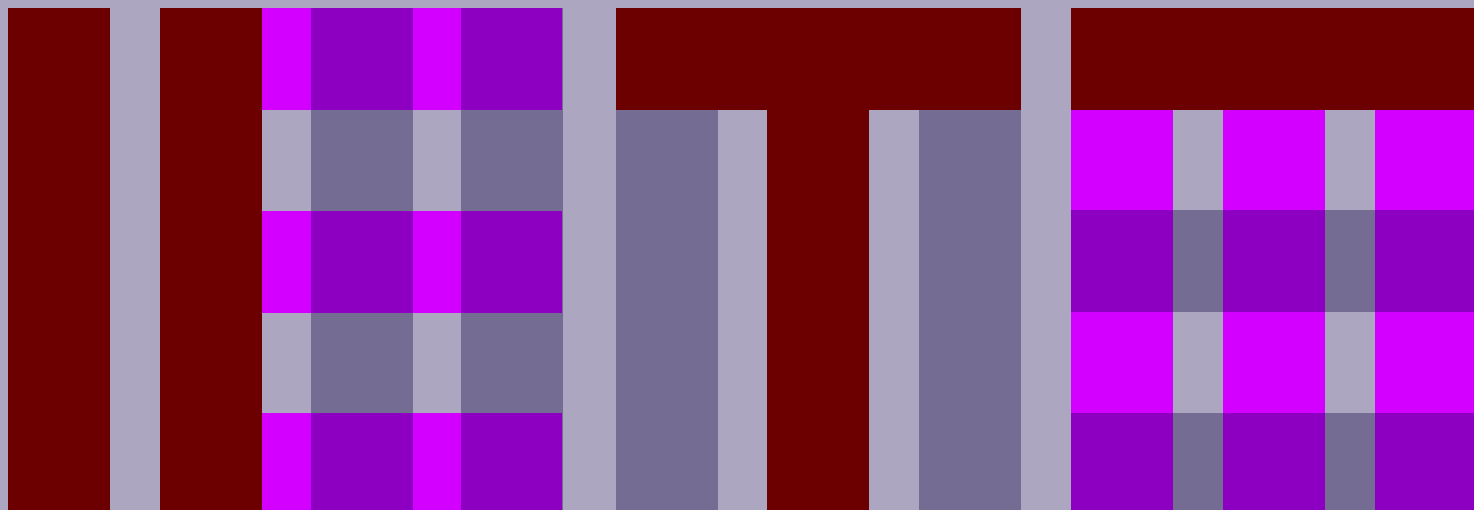


Report

How do we make it work?

A panel on working conditions and the status of the artist

From the IETM Sofia Plenary Meeting by Nan van Houte



**IETM Report:
How do we make it work?**

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Summary

Amidst the challenges magnified by the pandemic, the importance of the ‘status of the artist’ has become increasingly evident in both national and international dialogues. This concept has not only influenced numerous discussions but has also been incorporated into the names of new laws. The topic of working conditions in the cultural sector has gained momentum at the European Union level, and several national governments across the globe introduced new measures to tackle it.

However, UNESCO’s recent study investigated the global situation and concluded that despite the increase in various laws and measures to address artists’ status, conditions are worsening for many artists worldwide. What are the reasons? Is political will insufficient to effect change, especially in the face of rapid changes and constantly emerging global challenges? Are these measures too progressive for their rather conservative contexts? Or is there a lack of recognition of both old and emerging issues that artists really face today?

This panel was designed to make a breakthrough in the ongoing quest for better working conditions in the arts sector by gaining deeper insight into the types of solutions in place and the obstacles to their success and shedding light on the nuances crucial for advocating or designing policies in the field.

Moderator and presenter:
Elena Polivtseva, independent researcher, Belgium

Speakers:
Tom Fleming, director of Tom Fleming Creative Consultancy (TFCC), United Kingdom/Portugal
Katrien Reist, curator, researcher, art-worker, policy advisor, Belgium
Anna Videnova, chief expert at the Ministry of Culture of Republic of Bulgaria



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Introduction

'We cannot say that the problem of artists' socio-economic situation is new', Elena Polivtseva starts this session. What follows is an insightful presentation on the EU process for defining and improving working conditions in the cultural sector and the overview of artists' status types in Europe. (text below is based on Elena's notes, nvh = reporter):

How and under which conditions artists work and how art labour is understood in society has been debated for ages. UNESCO's recommendation on the status of the artist¹ was written in 1980, and data shows that the situation of artists in these 44 years since has not improved - if not become worse.

It seems only after the COVID-19 pandemic, which led to **10 million cultural jobs disappearing globally**², that we are discussing these issues more systematically and openly. Most importantly, we are observing some policy and legislative activity happening in many places in the world. The debate has become appropriate, justified. There is a window of opportunity, although the size of this window varies greatly from country to country.

What has been happening internationally?

At the European Union level, a bold attempt to discuss some concrete actions in this regard was made in 2007 with a European Parliament report on the social status of artists, which did not lead to any concrete measures at the EU level. The debate died quite soon after the report was issued - it wasn't the right time. Due to the pandemic, three European Parliament statements were produced between 2020 and 2023, all asking for a European Framework on working conditions in cultural and creative sectors (CCSs). The last statement, adopted in November 2023 is a real resolution, which demanded three things:

1. **New legislation:** a directive establishing decent working conditions for professionals working in the cultural and creative sectors and ensuring the accurate determination of their employment status;
2. **Information exchange:** the establishment of a European platform to enhance the exchange of best practices and mutual understanding among Member States;



3. **Fair funding:** adapting EU programmes supporting CCSs, such as Creative Europe, to reinforce social conditionality.

Although the European Parliament resolution is not a law, it is a *call* on the Commission to **initiate a legislative process**³. The Commission, according to official rules, must respond to this, and it did so earlier this year. Therefore, the door is not yet closed - but no big commitments were made, given the uncertainty of that period: the European elections were close, as was the end of the Commission term. Later this year, a new Commission will be formed and new five-year priorities will be announced.

Below is what the current Commission has said in its response to the Parliament's resolution (nvh: *we don't know yet to what extent it will be kept as a promise*):

- The topic of working conditions in the CCSs will be priority of the new strategic framework;
- The Commission intends to explore how social conditionality can be strengthened in the forthcoming cycle of EU programmes (2028-2034);

1 The cultural and creative industries are major drivers of social and economic development. The creative sector contributes significantly to the global economy, representing 3.1% of global GDP and 6.2% of all employment. Developing and retaining creative talent is at the core of this process and requires integrated policies and regulatory frameworks that ensure decent working conditions, fair remuneration and training opportunities for artists and cultural professionals. The 1980 Recommendation concerning the Status of the Artist calls upon all UNESCO Member States to improve the professional, social, and economic status of artists through the implementation of policies and measures related to training, social security, employment, income and tax conditions, mobility, and freedom of expression. It also recognizes the right of artists to be organised in trade unions or professional organisations that can represent and defend the interests of their members.'

2 UNESCO 2022, ReShaping Policies for Creativity – Addressing culture as a global public good, p. 44

3 Within the draft legislative initiative, adopted by 43 votes to five and three abstentions, MEPs highlight the precarious working conditions and uncertain legal status for artists and other professionals in the cultural and creative sectors (CCS) in several European countries, and request legislative tools to address the issue. MEPs say the work of CCS professionals is often characterised by high cross-border mobility, while at the same time there is no easy portability of their social security entitlements. They also stress that the gaps between national social systems, national definitions of artists and other rules create unfair conditions.

- The Commission is willing to assist Member States in utilising the Technical Support Instrument⁴ for implementing reforms to enhance artists' working conditions;
- Among other measures, the Commission will organise a High-level Round Table with sector stakeholders in 2024 to explore the best way forward to address the needs of the sector;
- More information exchange among Member States will be facilitated. Here it is important to mention that between 2019 and 2022, there was already a special process of discussing this issue between all 27 member states - the Open Method of Coordination⁵. It was concluded that indeed at this very moment, when many countries are reviewing their laws or initiating new reforms, exchange of best practices is very important.

Elena Polivtseva underpins that it is important for all advocates for arts and culture to keep an eye on the new [platform on working conditions](#) entitled 'This is How We Work', initiated in the framework of the EU Work Plan for Culture 2023-2026 and developed as part of the Creative FLIP project. This platform contains concise and comparable information on current legislative and policy frameworks regulating status of the artist in the 27 EU countries.

Apart from being updated on what is happening in other countries and identifying good practices, arts professionals should also be aware of which measures have not worked and why.

The types of status of the artist are very diverse. We refer to the 'status of the artist' as a notion encompassing the various frameworks and policies that regulate artists' positions in the fields of social security, taxation, employment, artistic freedom, and skill development. Generally, such frameworks imply that one must qualify as an 'artist', or equivalent, in order to access certain rights and benefits.

The national approach depends on many factors, such as historical background, the existence of a 'social contract' related to the recognition of both the value and challenges faced by the cultural sectors, as well as the efficiency and flexibility of broader policy and regulatory frameworks.

Here are a few observations we can make based on the information presented on the 'This is How We Work' platform⁶:

- Some of the existing frameworks consist of comprehensive laws that address multiple facets of artists' status (cf. Spain, Portugal, Belgium, Romania);
- Others focus on specific legislative branches, such as social security, labour regimes, artistic freedom, or education (cf. Germany, Austria);
- In certain countries, focus on artists' working conditions is incorporated into general legislation through specific provisions or exemptions;
- Finally, (*nvh: in the majority of countries*) the rights of cultural workers are regulated by general legislative systems that are not tailored to artists.

Another fundamental aspect of the status of the artist is the 'why' – why grant a special status? Is it in response to the unique challenges faced by those in the cultural sectors, or is it based on the specific achievements and values they contribute, or perhaps a combination of both? The answer to this question shapes the path towards defining the benefits associated with the status and the conditions for obtaining it.

The diversity of policy approaches across various EU countries is evident even in the basic terminologies used in laws and programmes – 'art worker' in Belgian law, 'artistic creator' in Lithuania, 'professional in culture' in Portugal, the list goes on.

Even if these different denominations also mean (sometimes slightly) different things, there appears to be a tendency to expand these definitions to encompass a *broader spectrum of professions and artistic disciplines*. This is because it has been increasingly acknowledged that challenges faced by artists are similar to those encountered by other professionals in creative sectors, and the talent drain is a negative trend affecting the entire cultural ecosystem.

A noteworthy development in recent years, with a possible continuation into the future, is the emergence of comprehensive national laws addressing various facets of artists' status – from labour contracts and unemployment benefits to education and mobility programmes. For instance, such national laws were adopted in Spain, Portugal, Belgium, and Romania'.

⁴ The Technical Support Instrument (TSI) is the EU programme that provides tailor-made technical expertise to EU Member States to design and implement reforms. The support is demand driven (requests should be sent in by the end of October each year) and does not require co-financing from Member States. It is an important pillar of the EU's initiative to help Member States mitigate the economic and social consequences of the outbreak of the COVID-19 crisis. The support can take the form of, for example, strategic and legal advice, studies, training and expert visits on the ground. It can cover any phase in the reform process. From preparation and design to development and implementation of the reforms.

⁵ The Open Method of Coordination (OMC) is an EU policy-making process, or regulatory instrument, formally initiated by the Lisbon European Council in 2000. The OMC does not result in EU legislation, but is a method of 'soft governance' which aims to spread best practice and achieve convergence towards EU goals in those policy areas which fall under the partial or full competence of Member States. Since binding EU rules cannot be used as the means to achieve convergence among Member States in such cases, OMC relies on other mechanisms. These mechanisms involve establishing guidelines, quantitative and qualitative indicators and benchmarks, and national and regional targets, backed by periodic evaluations and peer reviews.

⁶ A more detailed analysis can be found in the paper 'What do you mean by 'status of the artist'?' published by Creative FLIP in early 2024



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The ‘status of the artist’ domain is multifaceted and complex, spanning different policy fields, legislative branches and varied labour regimes. The situation is complicated by the inclination of art workers to transition between these regimes and take on multiple jobs. This complexity, coupled with notorious gaps across countries, poses particular challenges for artists working internationally. **That is why the trend of consolidating legislative tools, at least at the national level, seems to be logical and will hopefully bring about a positive change.**

It sounds like a lot has been done in this diverse and versatile domain. But how do we make it work? How can we build a solid bridge between all the policy debates, processes, measures and frameworks and the real life of artists? How can we, as the sector, stay vigilant that measures are not just actions meant to check boxes?

Panel

1. Setting the scene: depicting global and national realities

UNESCO monitors the status of the artist every five years globally. **Tom Fleming** led the development of UNESCO’s report 2023 on the implementation of the Status of the Artist Recommendation. During this panel, he is asked to reflect on the statement that there has been significantly more legislative activity in this field over the past three to five years, as well as to answer the question of whether he thinks there is any global progress in the working conditions in the cultural sector.

Tom explains the increase in legislative activity. Since 1980 - when the Recommendation was made - there have always been changes and crises in the landscape.

Today, there are nation states that did not even exist when the Recommendation was issued. But there is certainly momentum now: the COVID-19 pandemic and the poly-crises in a wider context led to more fragility and fragmentation. Moreover, the transformations caused by digital technology led to new challenges faced by artists. Simultaneously, we can witness an increased recognition of the importance of artists’ work. On the global level, there is an increased promotion of embedding culture in the Sustainable Development strategy, as a fourth pillar of the Sustainable Development Goals (nvh: alongside the Economic, Environmental, and Social pillars).

The statement by UNESCO that culture is a foundation for Sustainable Development, should foreground the discussion on what the status of the artist is. When rhetoric meets reality, the fragility of the artists triggers a policy response. Indeed, many new laws have come out recently, like the ones in Spain, Portugal, Belgium, Romania and Ireland - but also in the Global South and in Middle Eastern countries.

However, Tom is not overly optimistic: there is a lot of movement in terms of setting goals, designing policies and laws, but the critical word is implementation. There is also a structural gap: despite the adoption of new policies and programmes of investments, there are still strong obstacles to progress, such as the lack of money, insufficient enforcement of law, or the lack of political will.

In Belgium a ‘Working in the Arts’ reform has been in effect since the beginning of this year. The reform, triggered by the COVID-19 pandemic, has brought legislative changes in artists’ status. The status itself had been already secured in Belgian law since 2003.

Katrien Reist was a member of the working group that advised on the design of the law, as she is currently member of the commission responsible for executing the law.

Katrien recognises that she is talking from a very privileged position. Since 2003, Belgium has had a Status of the Arts-framework implemented within the unemployment regime, offering a social framework to artists during gaps between work contracts. The allowance was based on the conditions and length of contracts. However, since 2003, due to decreasing budgets and austerity measures, artists' contracts have become shorter and far more people in the sector have been forced into self-employment or worked on voluntary contracts, with which they did not build up any social rights. Access to these specific rules became increasingly impossible. Therefore, since 2012 there was already a strong call for reform, but nobody dared to open the Pandora's box, afraid to lose these rules as a whole. Defending the exceptional situation for artists to people with little knowledge about the social economical situation of artists was a continuous struggle and challenge.

Then, three things happened:

1. In 2019, Flanders got a new government that cut 60% of the budget for culture, which - as a result - united the voices of the artists;
2. The COVID-19 pandemic kicked in and it became apparent, that artists were far less well protected than assumed;
3. Around the same time, a new Federal Government included new reforms in their coalition agreement, with the specific support of the socialist party, that had been pivotal for the implementation of the rules in earlier years.

The elephant in the room begged the question: if we create more flexible conditions, who should have access to these new regulations?

There are several questions to be answered - or problems to be solved:

- How to include people working in the arts, but not being an artist themselves;
- How to do away with the existing imbalance between Flanders and Wallonia in the implementation of the regulations;
- And - why should there be exceptions for people working in arts?

Before Katrien delves deeper into these questions, **Anna Videnova**, an artist herself and chief expert "Performing arts and Art Education" Directorate in the Bulgarian Ministry of Culture, is asked to talk about the discussions on artist's status and working conditions in Bulgaria during the pandemic and ever since.

Bulgaria has no system of social security or health insurance for independent artists.

The independent artist's income is based on **copyright contracts** mostly, so there was no special social security system at hand to help them during the COVID-19 pandemic. During the pandemic, all state funded institutes (51 in total, of which 37 are theatres) were able to keep their personnel and pay their wages even when they were not working. However, due to a lack of a social security system for the independent artists, the only way to support the independent sector during this period was to enable funding programmes for creative projects. Therefore, the National Culture Fund at the beginning of the pandemic was raised from €617,000 to €4 million and subsequently to €13 million. However, this was clearly not a sustainable budget for the sector, and it has gone down dramatically since. According to Anna, there is however enough money in the system. With the current Minister of Culture, a new legislation is soon to be expected.

The new directive will conceive a status of the artist, which will be based on the electronic registration of **every professional artist and art specialist in the country**. Until now, the independent sector is still non-existent on an official level by a lack of mapping. Around 90% of the artists have already supported the implementation of the new directive, including their registration.

2. Delving deeper: nuances and obstacles

After the pandemic, many new measures were adopted to improve the status of artists globally. However, data suggests that the situation of the cultural sector remains very fragile. **Tom Fleming** has a broad experience in the design and evaluation of government strategies and policy interventions worldwide, and shares his insights on the key reasons why some reforms and policy agendas fail.

The definition challenge brought to the table by Katrien and Anna is first: who is an artist? Who is a cultural worker? And how do you get a consensus around that? Those are fundamental questions to be answered for the application of laws and access to funding; it's also critical for demonstrating the value distribution of arts in society, justifying intervention and investment in the arts. The second definition challenge is around the definition of the Status of the Artist. UNESCO in its global survey had eight different areas that contribute to the status of the artist. These relate to the presence of regulation / laws which support the status of the artist, fair remuneration and access to finance, social and economic rights, digital transformation, preferential treatment, inclusion and diversity of expressions, the impact of Covid-19, and the massive issue of artistic freedom and freedom of expression. Tom refers to the case of Saudi Arabia subscribing to the UNESCO treaty on diversity and inclusion in 2005 while censoring artists at the same time.

Tom stresses again the clear division between **policy, implementation and impact**.

'We have witnessed more insight in the importance of status of the artists in the Ministries, we have seen artists mobilising, working collectively and being recognized, starting to work together with authorities as a shared investment. But then you have the material disconnect between policies and implementations or you see inconsistencies or governments pick only bits and pieces of the proposal, causing erosion of trust and things start to fall apart. These are questions of political will, investment, finance, and transparency.'

Besides, the arts are a sector that is in continued reform. The main framework is formulated based on the dialogue between policy makers and artists in their mid-career, not the emerging and diverse community which is the near future of the arts. Therefore, these young artists may end up cached in frameworks based on the quite narrow notions of arts and culture and identity of the former generation which lack the inclusivity **their** practices ask for.

'So, we may see a discursive revolution taking place but, when it comes to practice, little materialises and if it does, it doesn't necessarily end up in the inclusive and forward-looking directive the sector hoped for.'

According to Katrien, in Belgium, the arts sector was well involved in the design of the new directive. The three involved ministries realised that - given their distance to the sector - they needed the artists' in depth knowledge of this complex field to decide on what is art and who is an artist. A commission of 78 people was installed, half of them were people from the arts field. Judgement on 'who is an artist' was handed over to that commission.

'The new law was written very fast, with political compromises, leading to controversies and loose ends.'

The commission is therefore not only responsible for implementing the new rules, but also in the process of shaping them within the limits of the letter of the laws. To be able to do this the commission now installed internal working groups to discuss the remaining challenges.

One of the traps they tend to avoid is to make the law too precise, aspiring to keep a window open for future development in the sector.

'But it remains a challenge that there is only one law to serve the whole sector, while the context of an independent dancer is very different from that of a filmmaker or an actor. Also, the commission is not allowed to base her judgement on the quality of artistic work. We're looking for objective criteria in a very subjective environment. But there are clear victories, like the recognition of artists' time investment – the period of research and conception etc. which has never been taken into account before.'



Overall, the new rules provide a far better system for young artists by making it much easier to enter the system and being secured with an attest for three or even five years. The law is executed under the Social Ministry, but also Belgium will have upcoming elections and the discussions about the **why** of privileges for artists are again subject to criticism by those opposing the new rules. This scepticism and hard core assumptions about artists being profiteers and subsidy slackers, leaves no more room for an open discussion.

The situation in Bulgaria is quite different. With seven or eight governments in the last three years, there has been no possibility of proper artists' status policies to gain weight until recently. The recent change in legislation is considered a big victory both by the Ministry and the sector. Of course, the new policy line on independent artists had to be sneaked in the law and thanks to some good connections in Parliament it got accepted. The registration of the professional artists and specialists in arts enables the development of a common policy for the artists in the institutions and those in the independent sector. It is also the first step to establish a status of the artist and to map who's who in the independent sector.

Tom joins the conversation by stating that there are structural reasons why some people don't want to be registered as an artist. Within Europe, the landscape may be diverse including independents, micro and small enterprises, but in other countries everyone is an independent artist unless you're in a state institution. Coming forward to be registered as a professional artist is not something everybody knows how to do or even wants to do. It may imply that you're considered an enterprise and forced to pay taxes, or it may expose you resulting in censorship.

3. Finding the way out: solutions and pathways

The last part of the session is dedicated to discussing solutions. How to overcome obstacles and challenges, and to advance policies aimed at enhancing artists' working conditions?

Tom Fleming puts his trust in the intermediary and development institutions, arts councils and membership organisations, which are in his opinion key for sector-led discussions. These enable the sector to come forward with smart strategic ideas, demands, and recommendations. Their ongoing lobbying, critical scrutinising of laws and policies and development of trustworthy partnerships is vital.

Then, he listed the three conditions to cement the Status of the Artist:

1. New UN-Recommendations;
2. Culture to become the fourth pillar of the Sustainable Development Goals;
3. Countries build infrastructure to close the gap between goals and their implementation.

Katrien Reist believes at this moment that solidarity is key. The sector should open up and recognise their privileged position within a much larger group of fragile people in society. After a period during which the agile sector that arts is adapted to smaller and smaller budgets, came the moment to say 'stop'. However, she warns that the sector should not lay back, but use what has been reached in favour of others. It's their task to make opportunities accessible to everyone. Katrien's call to action is clear: speak up, stand out, don't be too cautious, break out of the institutions.

Anna Videnova ends with a plea for a larger investment by the artists in the creation of cultural policies:

'I am an artist working within the Ministry and we need more artists not only as administrators but who are in any way willing to sacrifice part of their practice to help change the conditions for the arts. We have to start a conversation based on trust. And I can tell you, the government doesn't trust artists and the artists don't trust the government either. The development of the Register for professional artists and other specialists in culture is an important step forward to better working conditions and fair wages. A key for mutual trust and future development in the cultural sector in Bulgaria.'

Q&A

Q1. The first statement was addressed to **Tom Fleming** from a participant who identifies as a queer artist from Egypt, who recognised the double standard in the EU when it comes to Global South: *'It's not just about you thinking how these countries in the Global South function, you should also realise that the EU elections affect us as well, not just you.'* His second remark is a question about defining the artist: *'Who is making the definition of what art is? Shouldn't we let the other people decide on that, not us, the artists?'*

Tom replies: *'There's a lot of hypocrisy when it comes to cultural relations, especially around the concept of 'democracy' in the EU. But next week EUNIC, the network of European national institutes of culture, will gather in Bucharest and will focus on mutual relations between artists instead of using arts as a tool for diplomacy. Let's see if that will contribute to fighting double standards.'*

Katrien Reist contributes: *'Regards the question of who should decide on who's an artist: the commission that makes such decisions now in Belgium contains many artists. This was already a huge change from before, more voices and diverse voices from experts who are not paid for it. But yes, it is important to include more people to define artistic programmes and have citizens decide on programmes and subsidies.'*

Q2. Another participant notes that in the UK, the *'Status of the Arts has gone down, not up. Since 2018, there have been nine Ministers of Culture, and we witness an increasing pressure on the artist to be instrumental and to prove you're an artist.'*

Tom replies: *'The instrumentalisation of the arts puts pressure on artists and influences the status of the artist. On the other hand, it also has helped artists to develop stronger social engagement practices and expressions.'*

Q3. An additional comment comes from a participant, who says: *'Most people here will agree culture is valuable, but the problem is how to translate this to the next EU commission/national governments given the recent elections – how to translate this notion into the language of the future power.'*

Tom *'What is needed is that we co-design and co-create the programmes instead of getting them imposed from above. We have witnessed a shift towards precarity, but equally important is the shift from 'culture war' towards 'sleepwalk' towards 'culture being censored' or 'culture as a tool to invest' for the right wing. We'll have to join forces to protect artists who are in real danger.'*

