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Annex 1: Main results of the online questionnaires (17 October-20 November 2013)

- Questionnaires for individual artists

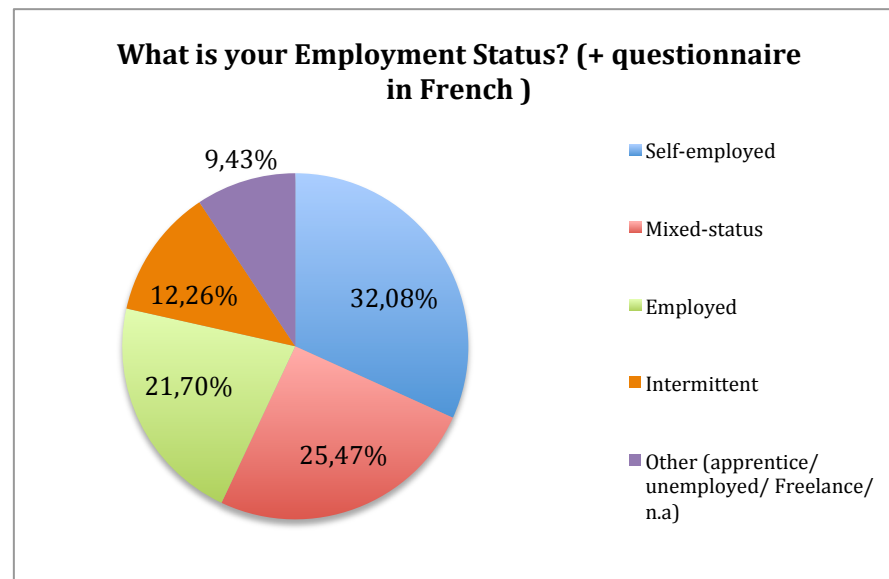
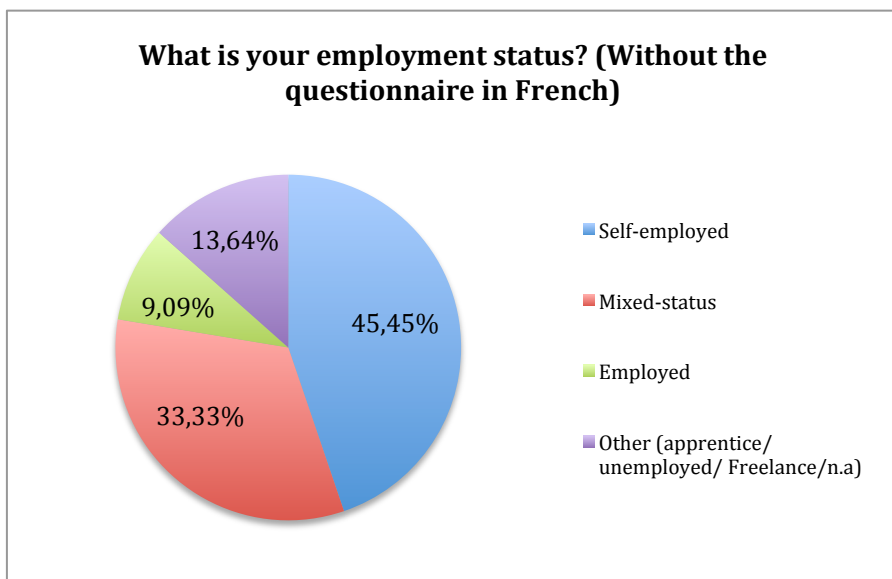
Questionnaire for artists and cultural professionals (EN):

<https://docs.google.com/forms/d/1fT9HwPagnX3GO1AbFdbDu2d3xAcZHv33-a3MgFL1Rvw/viewform>

Questionnaire pour les artistes et les professionnels de la culture (FR):

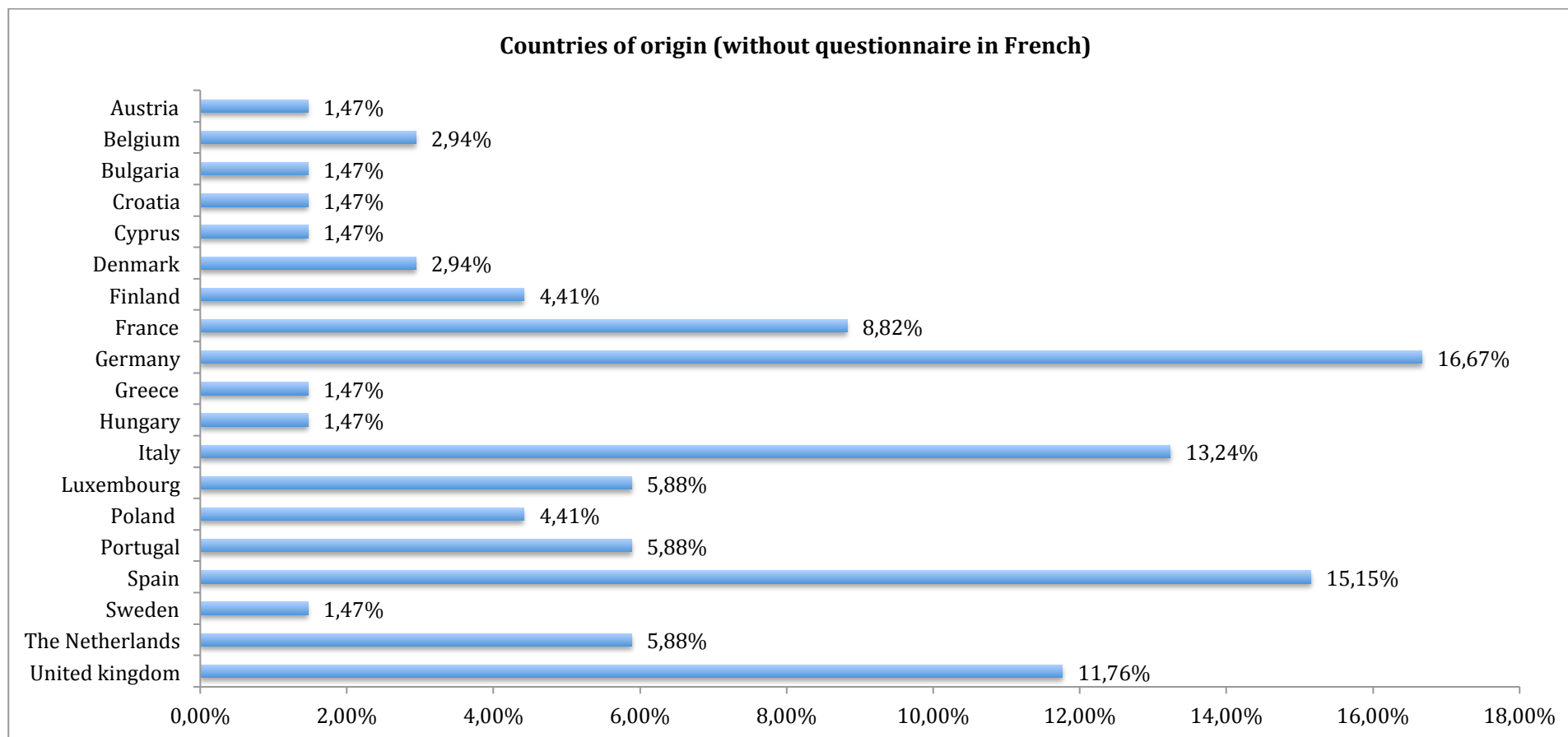
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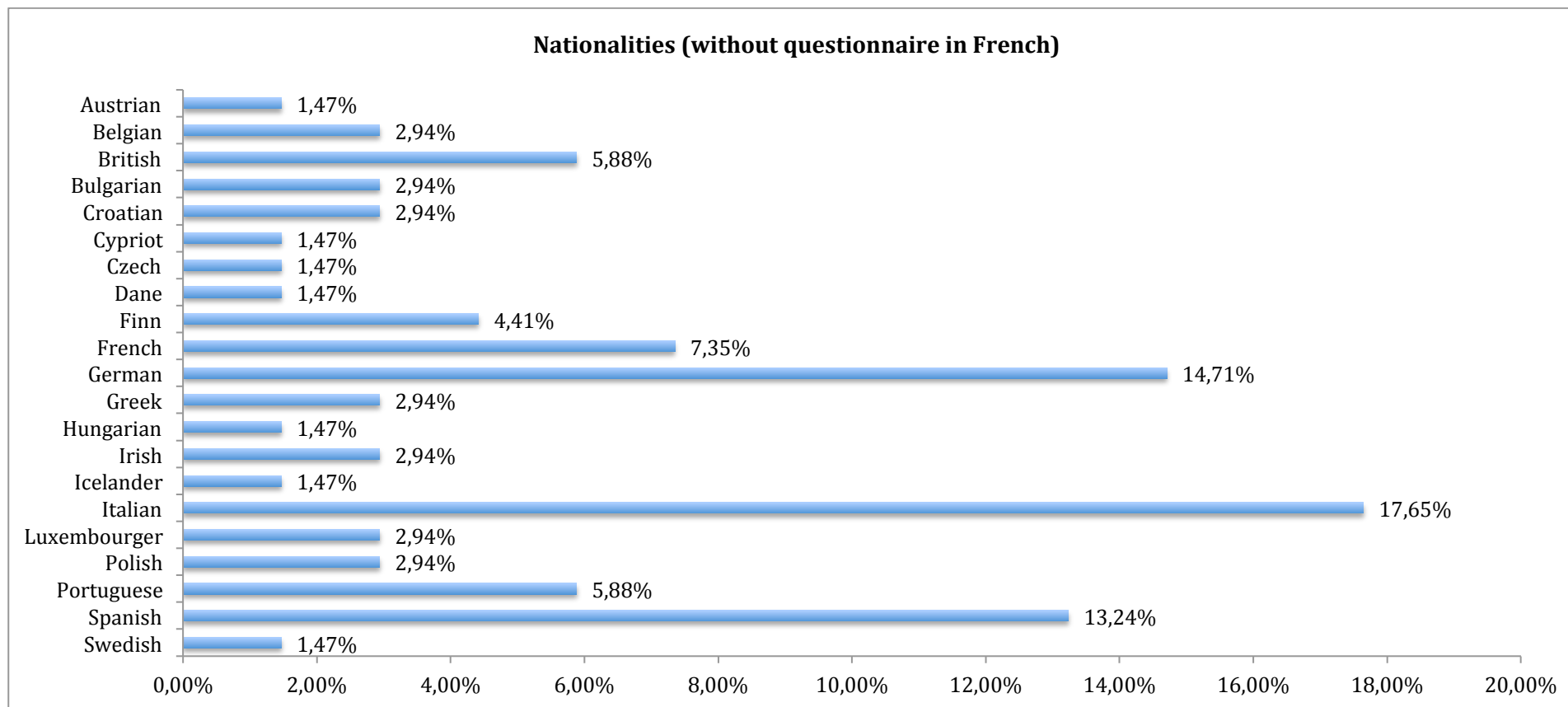
1. Status of the respondents (108 valid questionnaires)



2.

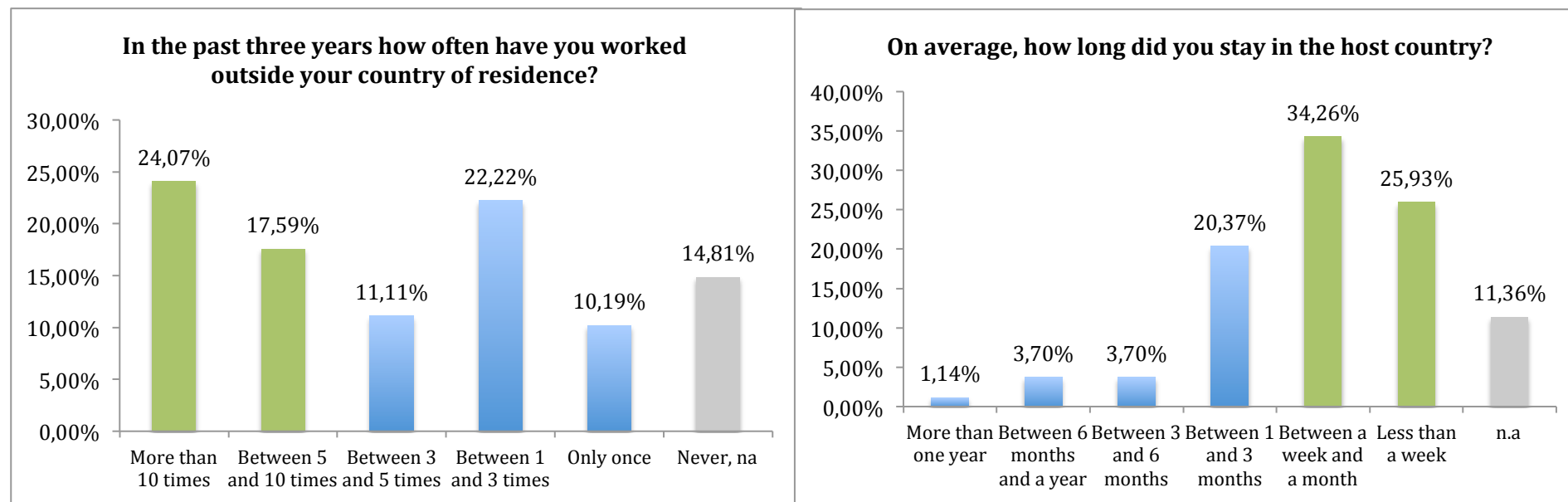
Countries of origins and nationalities of the respondents:





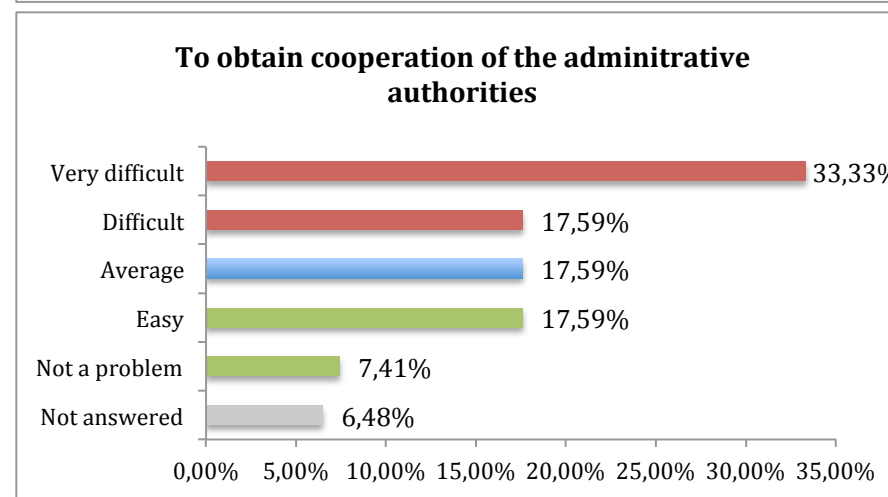
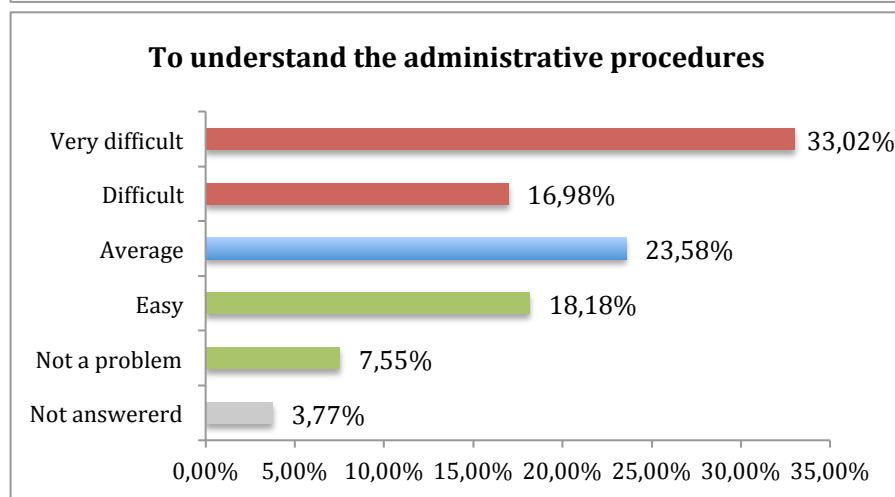
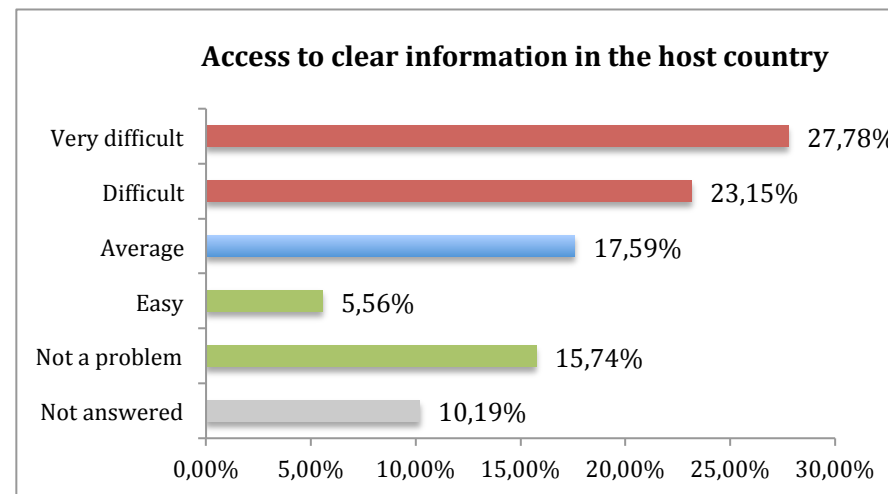
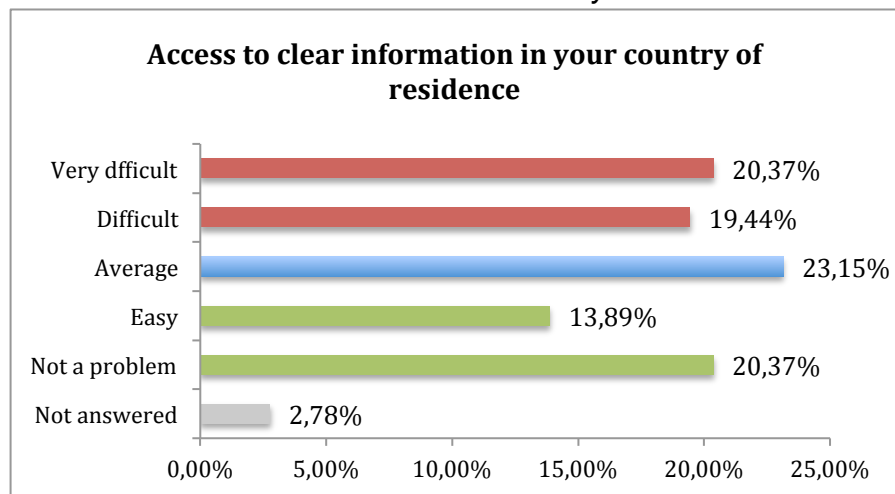
The results from the questionnaire in French are not directly included for the following reasons: out of 40 respondents, 33 live in France, 3 live in Luxembourg, 3 live in Belgium and 1 lives in Germany. 34 of them are French (out of who 3 also have the Swiss nationality), 2 are Spanish, 2 are Belgians and 2 are Luxembourger. The bias comes from the fact that the questionnaire was in French and therefore essentially attracted French-speaking respondents. Moreover the high amount of respondents originating from France would result of the same bias. Adding the answers of the questionnaires in French to the above charts on origins and nationalities result in having 42,05% respondents residing in France and 40,91% of the respondents having the French nationality. Due to limited time and resources the researchers could not afford to translate the questionnaire in more EU languages. Regarding the origins and nationalities of the respondents, the data of the questionnaire in English are therefore more representative but of course, the comments, feedbacks and specificities of the French cultural sector and regulations have fully been taken into account in the mapping as the numerous examples illustrate it.

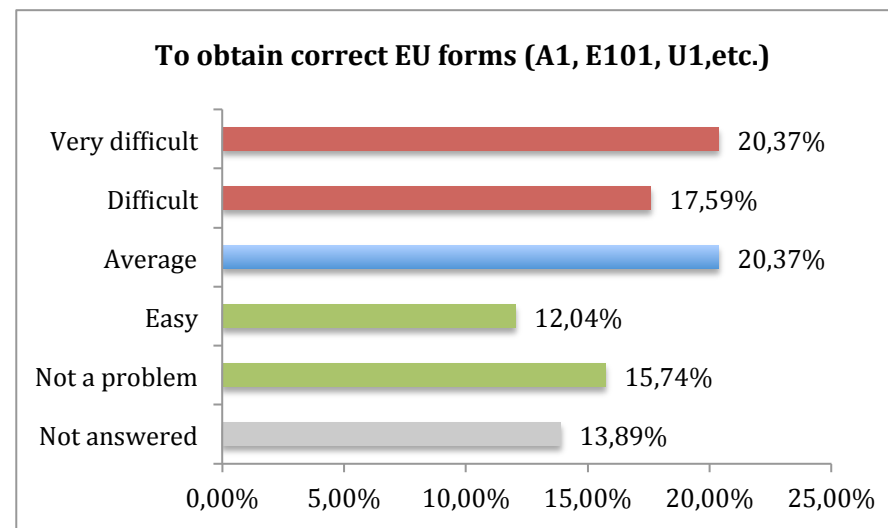
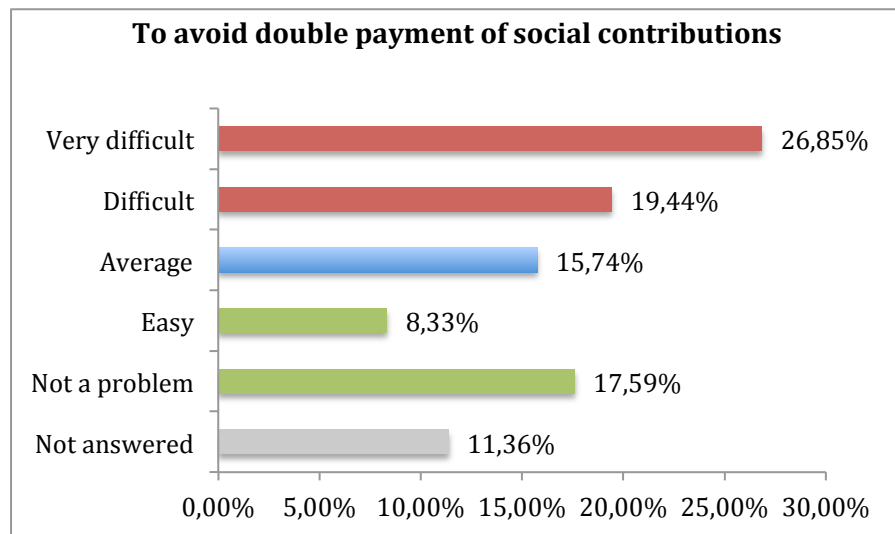
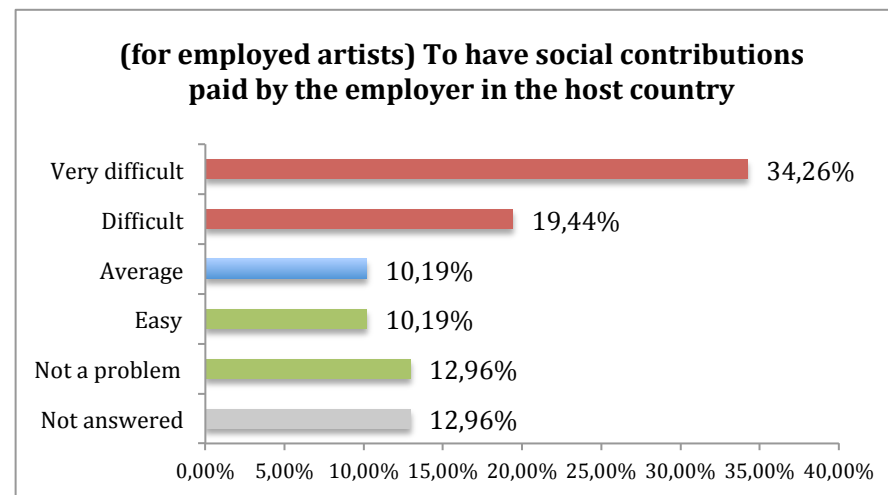
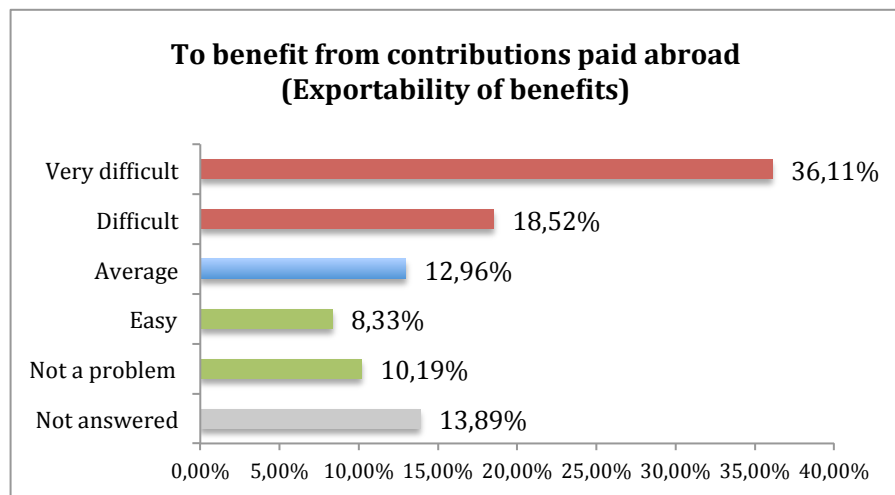
3. Mobility patterns



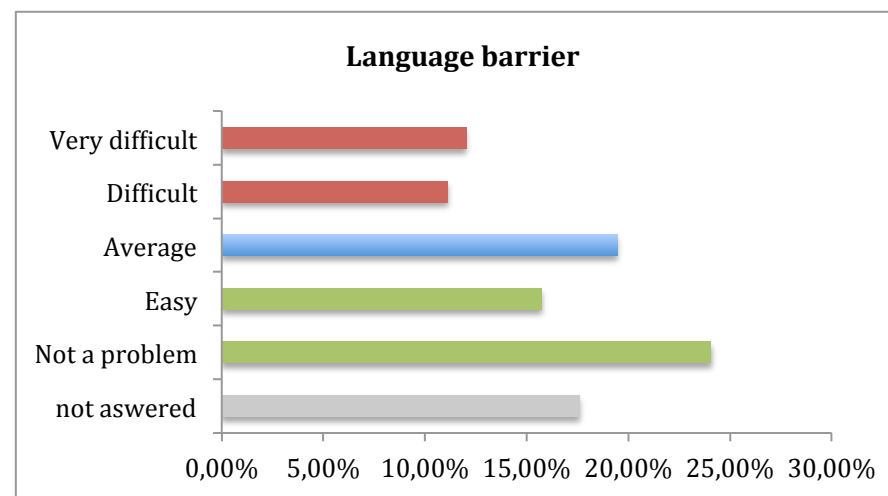
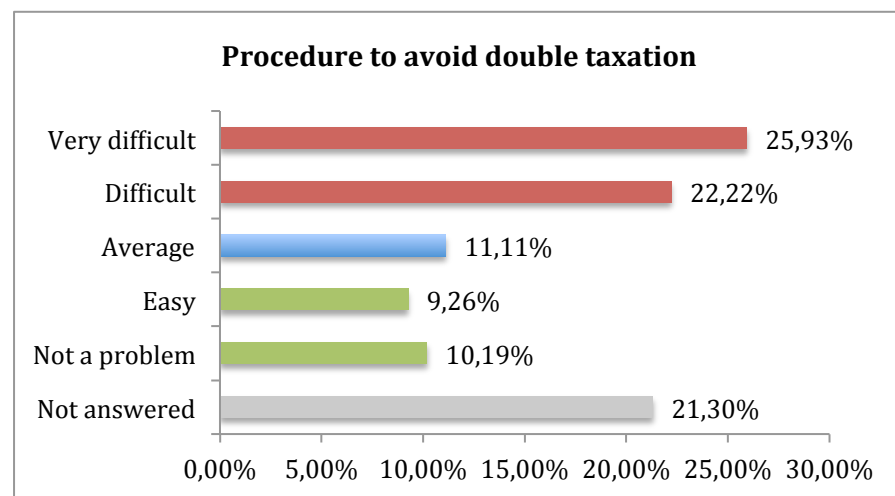
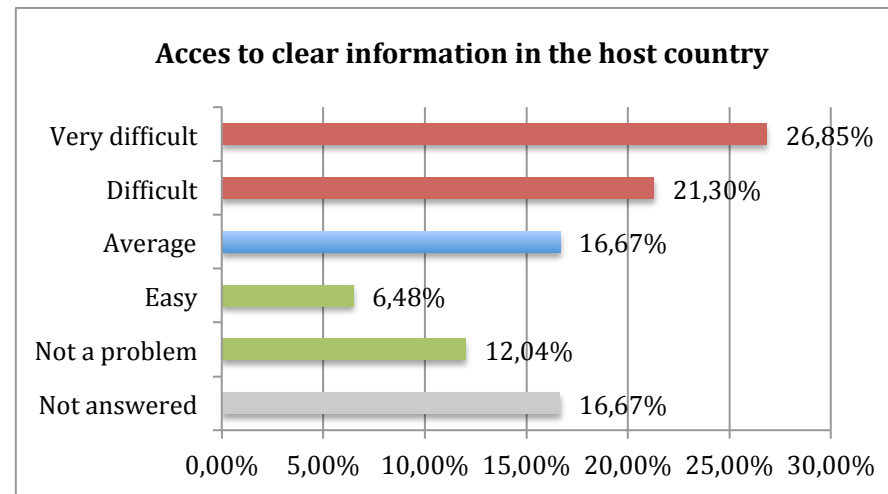
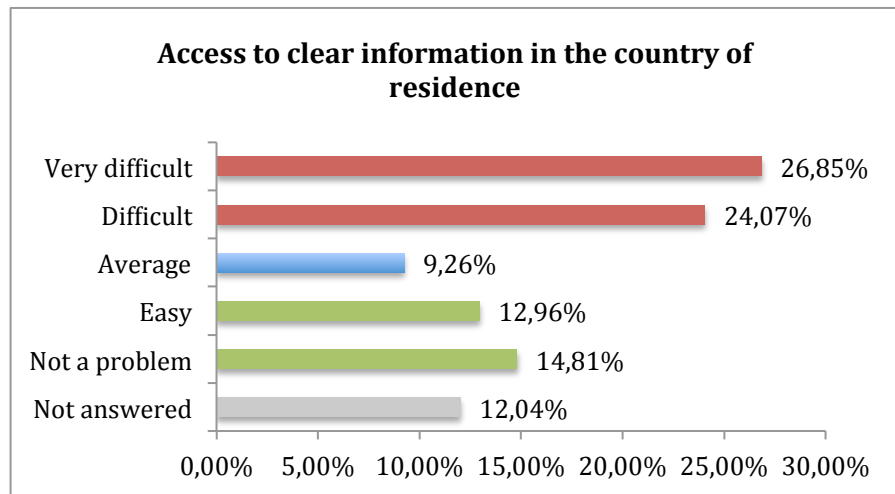
4. Overview of the obstacles:

4.1. Obstacles linked to social security:





4.2. Obstacles linked to taxation



- Questionnaires for organisations (39 valid questionnaires)

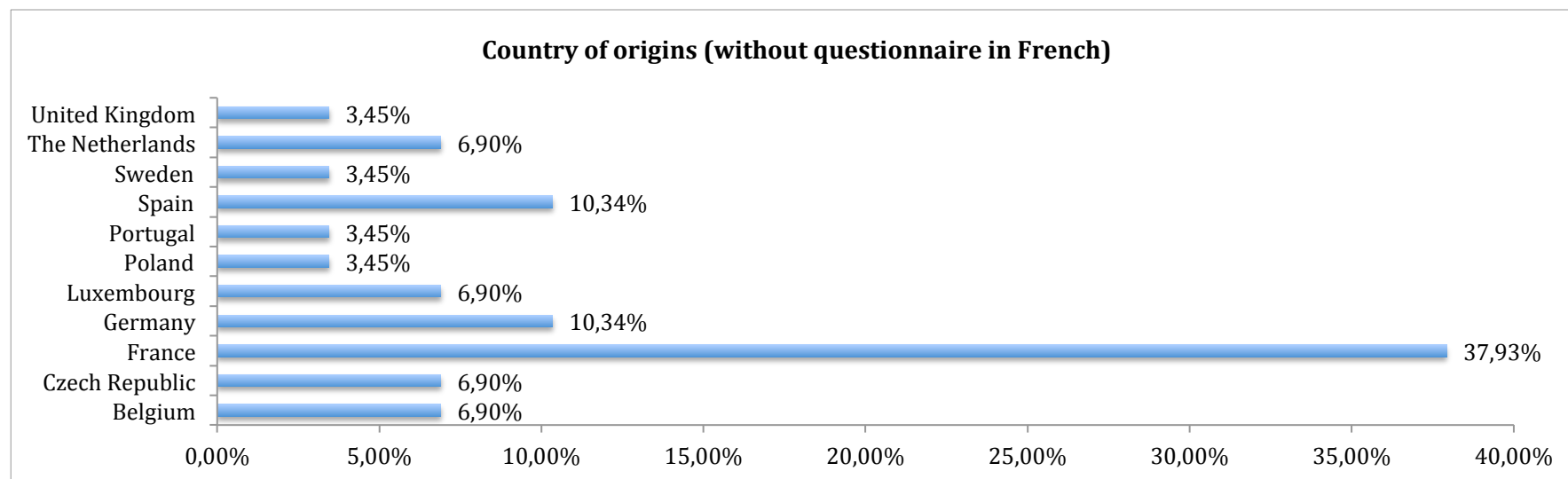
Questionnaires for cultural organisations and employers:

<https://docs.google.com/forms/d/1Hm3nL2JU5dw66wA0NYDntuqGozSAJB1KgtBvQ9iQf8/viewform>

Questionnaire pour les employeurs et organisations du secteur culturel:

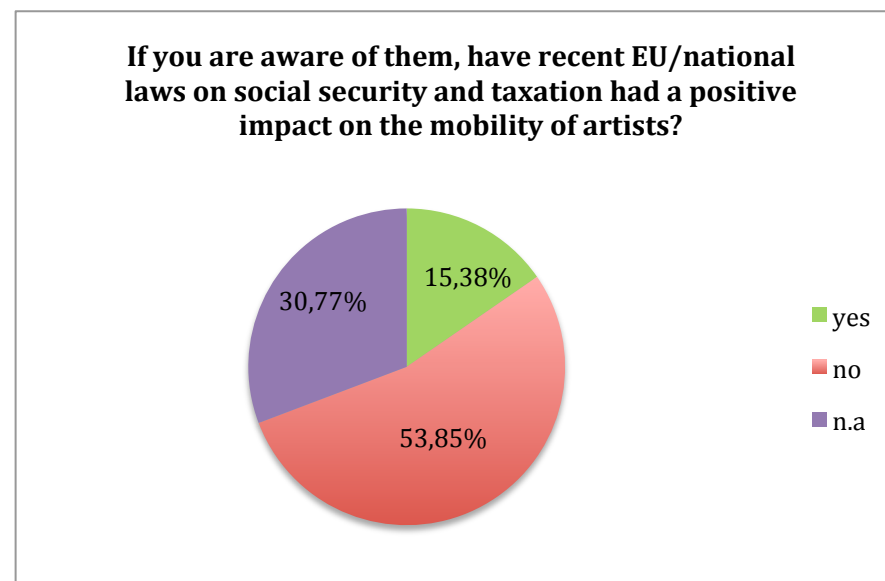
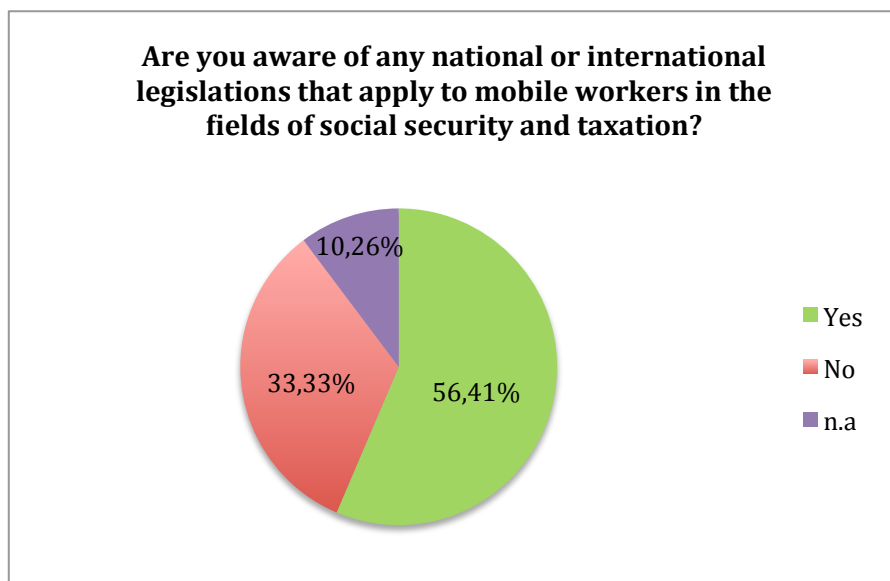
<https://docs.google.com/forms/d/1st8rOSXX7IF3Ch3lpVNirOkK60IloJkjcJfuCqq4qTY/viewform>

Countries of origins



Same remark as for the questionnaires for individual artists, 10 more answers were received from organisations through a questionnaire in French. Out of the 10 respondents, 8 are based in France, 1 in Luxembourg and one didn't specify her/his origin. If we add those answers to the above graph, France is even more represented with almost 50% of answers.

The questionnaire aimed at employers and organisations differ from the one aimed at individual artists. The results and data collected are more relevant on a qualitative (see the feedback from the sector in section I and section II) than on a quantitative basis. Yet the two charts below tend to show that employers and organisations are mostly (56.41%) aware of the legislations that govern social security and taxation despite, as stressed in this document, encountering different types of obstacles be they of regulative, administrative or practical nature.



Annex 2: On the Move brainstorming meeting (7 November 2013) and EURO-FIA training (13 November 2013)

OTM Brainstorming meeting
Intra-EU cultural mobility– Social security and taxation issues

Background of this meeting:

- Based on OTM's three years' action plan and advocacy mission to contribute to improve the conditions of mobile artists and cultural professionals (articulated around the OTM Charter), OTM has planned to focus on the questions of social security and taxation for mobile artists and cultural professionals through two meetings at the end of 2013:
 - >>> A brainstorming meeting with OTM members and associated partners in Brussels on 7 November 2013;
 - >>> A contribution to FIA members' meeting in Brussels on 13 November 2013 (on the issues of contracts, double taxation and social security systems within the EU).

Objectives of the brainstorming meeting:

- Share and exchange on the main first results of the online questionnaires launched by On the Move on 17 October 2013;
- Discuss potential ideas for future recommendations around two subjects: the question of double taxation and the issue of unemployment rights for mobile artists within the EU (this second subject can evolve according to the results of the questionnaire and the participants' requests);
- Start an internal discussion and sharing process among cultural mobility administrative information provision organisations (OTM members).

Programme:

Place: Brussels, Belgium

Dates: Thursday 7 November 2013

9.15-12.30:

Venue: Mundo-B – Fairtrade room, Rue d'Edimbourg 26, 1050 Bruxelles (Metro: Porte de Namur. Map of public transport: <http://www.mundo-b.org/en/Contact.html>)

9.15-10.00: Introduction to the meeting and preliminary results of the online survey

10.00-10.20: Q&A

10.20-11.10: Discussion around **the question of double taxation**

11.10-11.20: Coffee break

11.20-12.00: Discussion related to the **unemployment rights of mobile EU artists** (the subject can evolve based on the participants' request and/or questionnaires' results)

12.00-12.20: Questions related to **challenges faced by cultural mobility information providers**

12.20-12.30: Final words by Maria Tuerlings (President of OTM Board) and follow-ups

12.30-13.30: Lunch at Mundo-B covered by On the Move

Participants

OTM members:

Maria Tuerlings, Director, Trans Artists, The Netherlands

Anais Lukacs, Coordinator, BAAPE, France

Dearbhal Murphy, FIA, Belgium

Stanislas Ide, FIA, Belgium

Tobias van Royen, Kunstenloket, Belgium

Elisabeth Mayerhofer, IG-Kultur, Austria

Alvaro De Salvo, RES ARTIS, The Netherlands
Laëtitia van de Valle, IETM, Belgium

Associated partners:

Luca Bergamo and Julia Pouply, Culture Action Europe
Anita Debaere, PEARLE* and Társila Pérez, legal expert
Claire Damilano, European Citizens' Action Service (apologies)
Marie Hédin and Andreas Richter, FEVIS, France and Andreas Richter, FEVIS partner, Germany
Christoph Jankowski, Manager, EU Cultural Contact Point in the UK (apologies)
Evelyne Esterzon, Afschrift Lawyers, Belgium

OTM staff: Marie Le Sourd and Maxime Demartin

Annex 3: Treaty of the Functioning of the European Union: Provisions on social security and taxation

When referring to EU legislation or EU initiatives it is important to be aware of the legal basis upon which the EU can draft legislation. It is important to know about the different types of competence of the EU, in order to understand in which areas and how the Union can take action., which are **Exclusive competence, shared competence and supporting competence**. In the fields of **exclusive competence**, only the Union has the right to legislate. **Shared competence** means that the Union and Member States are both able to act. In policy areas of shared competence, the **principle of subsidiarity** applies, which means that the Union does not take action, unless it is more effective than action taken at national, regional or local level. In a third category of policy areas, the Union has the competence to carry out actions to **support, coordinate or supplement actions** of the Member States. Action by the Union in this field of supporting competence may include adopting incentive measures and making recommendations but shall not entail harmonisation of national laws (Article 2(5) TFEU).

In the articles listed below are highlighted the relevant parts which help to understand and clarify the issues raised through the examples and situations quoted in this report.

A) Social security

Article TFEU	Legal Provisions
Article 3	<p>1. The Union's aim is to promote peace, its values and the well-being of its peoples.</p> <p>2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.</p> <p>3. The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance. It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child. It shall promote economic, social and territorial cohesion, and solidarity among Member States. It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.</p> <p>4. The Union shall establish an economic and monetary union whose currency is the euro.</p> <p>5. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.</p> <p>6. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties.</p>
Article 9	<p>In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and</p>

	not replace national citizenship.
Article 19	<p>1. The Court of Justice of the European Union shall include the Court of Justice, the General Court and specialised courts. It shall ensure that in the interpretation and application of the Treaties the law is observed. Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.</p> <p>2. The Court of Justice shall consist of one judge from each Member State. It shall be assisted by Advocates-General. The General Court shall include at least one judge per Member State. The Judges and the Advocates-General of the Court of Justice and the Judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles 253 and 254 of the Treaty on the Functioning of the European Union. They shall be appointed by common accord of the governments of the Member States for six years. Retiring Judges and Advocates-General may be reappointed.</p> <p>3. The Court of Justice of the European Union shall, in accordance with the Treaties:</p> <ul style="list-style-type: none"> (a) rule on actions brought by a Member State, an institution or a natural or legal person; (b) give preliminary rulings, at the request of courts or tribunals of the Member States, on the interpretation of Union law or the validity of acts adopted by the institutions; (c) rule in other cases provided for in the Treaties.
Article 45	<p>1. Freedom of movement for workers shall be secured within the Union.</p> <p>2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.</p> <p>3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:</p> <ul style="list-style-type: none"> (a) to accept offers of employment actually made; (b) to move freely within the territory of Member States for this purpose; (c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action; (d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in regulations to be drawn up by the Commission. <p>4. The provisions of this Article shall not apply to employment in the public service.</p>
Article 46	<p>The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, issue directives or make regulations setting out the measures required to bring about freedom of movement for workers, as defined in Article 45, in particular:</p> <ul style="list-style-type: none"> (a) by ensuring close cooperation between national employment services; (b) by abolishing those administrative procedures and practices and those qualifying periods in respect of eligibility for available employment, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to liberalisation of the movement of workers; (c) by abolishing all such qualifying periods and other restrictions provided for either under national legislation or under agreements

	<p>previously concluded between Member States as imposed on workers of other Member States conditions regarding the free choice of employment other than those imposed on workers of the State concerned;</p> <p>(d) by setting up appropriate machinery to bring offers of employment into touch with applications for employment and to facilitate the achievement of a balance between supply and demand in the employment market in such a way as to avoid serious threats to the standard of living and level of employment in the various regions and industries.</p>
Article 47	Member States shall, within the framework of a joint programme, encourage the exchange of young workers.
Article 48	<p>The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure, adopt such measures in the field of social security as are necessary to provide freedom of movement for workers; to this end, they shall make arrangements to secure for employed and self-employed migrant workers and their dependants:</p> <p>(a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the several countries;</p> <p>(b) payment of benefits to persons resident in the territories of Member States.</p> <p>Where a member of the Council declares that a draft legislative act referred to in the first subparagraph would affect important aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:</p> <p>(a) refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure; or</p> <p>(b) take no action or request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted.</p>
Article 145	Member States and the Union shall, in accordance with this Title, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives defined in Article 3 of the Treaty on European Union.
Article 146	<p>1. Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in Article 145 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Union adopted pursuant to Article 121(2).</p> <p>2. Member States, having regard to national practices related to the responsibilities of management and labour, shall regard promoting employment as a matter of common concern and shall coordinate their action in this respect within the Council, in accordance with the provisions of Article 148.</p>
Article 147	<p>1. The Union shall contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. In doing so, the competences of the Member States shall be respected.</p> <p>2. The objective of a high level of employment shall be taken into consideration in the formulation and implementation of Union policies and activities.</p>
Article 148	<p>1. The European Council shall each year consider the employment situation in the Union and adopt conclusions thereon, on the basis of a joint annual report by the Council and the Commission.</p> <p>2. On the basis of the conclusions of the European Council, the Council, on a proposal from the Commission and after consulting the European</p>

	<p>Parliament, the Economic and Social Committee, the Committee of the Regions and the Employment Committee referred to in Article 150, shall each year draw up guidelines which the Member States shall take into account in their employment policies. These guidelines shall be consistent with the broad guidelines adopted pursuant to Article 121(2).</p> <p>3. Each Member State shall provide the Council and the Commission with an annual report on the principal measures taken to implement its employment policy in the light of the guidelines for employment as referred to in paragraph 2.</p> <p>4. The Council, on the basis of the reports referred to in paragraph 3 and having received the views of the Employment Committee, shall each year carry out an examination of the implementation of the employment policies of the Member States in the light of the guidelines for employment. The Council, on a recommendation from the Commission, may, if it considers it appropriate in the light of that examination, make recommendations to Member States.</p> <p>5. On the basis of the results of that examination, the Council and the Commission shall make a joint annual report to the European Council on the employment situation in the Union and on the implementation of the guidelines for employment.</p>
Article 149	<p>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, may adopt incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects.</p> <p>Those measures shall not include harmonisation of the laws and regulations of the Member States.</p>
Article 150	<p>The Council, acting by a simple majority after consulting the European Parliament, shall establish an Employment Committee with advisory status to promote coordination between Member States on employment and labour market policies. The tasks of the Committee shall be:</p> <ul style="list-style-type: none"> - to monitor the employment situation and employment policies in the Member States and the Union, - without prejudice to Article 240, to formulate opinions at the request of either the Council or the Commission or on its own initiative, and to contribute to the preparation of the Council proceedings referred to in Article 148. <p>In fulfilling its mandate, the Committee shall consult management and labour.</p> <p>Each Member State and the Commission shall appoint two members of the Committee.</p>
Article 151	<p>The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.</p> <p>To this end the Union and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union economy.</p> <p>They believe that such a development will ensue not only from the functioning of the internal market, which will favour the harmonisation of social systems, but also from the procedures provided for in the Treaties and from the approximation of provisions laid down by law, regulation or administrative action.</p>

B) Direct Tax

The EU has no legislative power in the field of direct taxation. It is up to national governments of the Member States to make decisions regarding tax. There is no specific provision in the Treaty allowing for taxation coordination at EU level. Direct Taxation is only indirectly taken into account by the EC Treaty. However, nearly all EU Member States apply the OECD Model tax treaty.

Article TFEU	Legal Provision
Article 115	The Council shall, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, issue directives for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment of functioning of the internal market

Annex 4: OECD Model Tax Convention on Income and on Capital

Article	Legal Provision
Article 7	<p>Profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on businesses in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State.</p> <p>For the purposes of this Article and Article [23 A] [23B], the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.</p> <p>Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting States shall if necessary consult each other.</p> <p>Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.</p>
Article 12	<p>Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.</p> <p>The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.</p> <p>The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.</p> <p>Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.</p>

Article 15	<p>Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:</p> <p>the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and</p> <p>the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and c) the remuneration is not borne by a permanent establishment which the employer has in the other State.</p> <p>Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.</p>
Article 17	<p>Notwithstanding the provisions of Articles 7 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.</p> <p>Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.</p>
Commentary on Article 17 Optional Article 17(3)	<p>Some countries may consider it appropriate to exclude from the scope of the Article events supported from public funds. Such countries are free to include a provision to achieve this but the exemptions should be based on clearly definable and objective criteria to ensure that they are given only where intended. Such a provision might read as follows:</p> <p>The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers artistes or sportsmen if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions or local authorities thereof. In such a case, the income is taxable only in the Contracting State in which the entertainer artiste or the sportsman is a resident.</p>

Annex 5: EU Legislation and policy documents on Employment and Social Security

Directive/Communication/Proposal/Resolution/Regulation	Description
Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 27 June 2007, entitled Towards Common Principles of Flexicurity: More and better jobs through flexibility and security	The flexicurity strategy has three objectives: achieving full employment, increasing productivity and quality at work and promoting cohesion. Flexicurity is about striking the right balance between flexible job arrangements and secure transitions between jobs, so that more and better jobs can be created.
Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Renewed social agenda: Opportunities, access and solidarity in 21st century Europe COM (2008) 0412 final	The European Commission adopted an ambitious agenda, aiming to respond effectively to today's economic and social challenges. The renewed social agenda brings together a range of EU policies in order to support action in seven priority areas: children and youth; investing in people: more and better jobs, new skills; mobility
Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services O.J. L 018 01; 21.01.1997 (Implementation > 17 December 1999)	To guarantee that the rights and working conditions of a posted worker are protected throughout the European Union, and to avoid "social dumping" where foreign service providers can undercut local service providers because their labour standards are lower, this Directive establishes a core of mandatory rules regarding the terms and conditions of employment to be applied to an employee posted to work in another Member State. These rules reflect the standards of local workers in the host Member State. The idea is that where a Member State has certain minimum terms and conditions of employment, these must also apply to workers posted to that State. However, there is nothing to stop the employer applying working conditions that are more favourable to workers such as, for instance, those of the sending Member State.
Proposal for Directive concerning the enforcement of the provision applicable to the posting of workers in the framework of the provision of services COM (2012) 131	The Enforcement Directive intends to improve the application of the 1996 Directive as it will set more ambitious standards for the information of workers and companies on their rights and obligations; it will clarify the elements of the notion of posting in order to avoid companies to circumvent the law; it will establish rules for cooperation between national authorities in charge of posting amongst other rules. The Directive is composed by a balanced package of measures, which include the following: awareness raising (better information); state enforcement mechanisms and private law enforcement mechanisms.
Directive 91/533/EEC of 14 October 1991 on an employer's	In view of the number of types of employment relationship, this Directive aims to provide

obligation to inform employees of the conditions applicable to the contract or employment relationship O.J. L 288 32; 18.10.1991 (Implementation > 30 June 1993)	employees with improved protection of their rights and to create greater transparency on the labour market.
Proposal for a Directive of the European Parliament and of the Council on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers. COM (2013) 236 final; 26.04.2013	It requires Member States to develop measures that ensure a better application and enforcement of the free movement of workers by creating national bodies to inform migrant workers about their rights, the provision of redress mechanisms at national level, and the possibility for civil society organizations to engage in administrative or judicial procedures on behalf of individual workers in cases of discrimination.
Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC O.J. L 14 20.01.1998 (Implementation > 20/01/2000)	In the framework agreement Social Partners consider the impact of part-time work on employment and set out general principles and minimum requirements relating to it, asking Member States to ensure equal treatment, to eliminate legal obstacles and fully develop the potential for part-time work.
Council Directive 94/33 of 22 June 1994 on the protection of young people at work O.J. L 216 12; 20.08.1994 (Implementation > 22 June 1996)	The Directive applies to all young people under the age of 18 who have an employment contract or an employment relationship.
Directive 2006/54/EC of the European Parliament and of the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation O.J. L 204 23; 26/07/2006 (Implementation by 15 August 2008 - review by 15 February 2013) (Consolidation of Directive 75/117/EEC; 76/207/CEE; 86/378/EEC; 97/80/EC)	To ensure the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, this Directive contains provisions in relation to access to recruitment, access to employment and self-employment, promotion and vocational training. In relation to social protection, they are treated equally under occupational social security schemes such as the contributions, the calculation of benefits, the conditions governing the duration and retention of entitlement, amongst others.
Directive 2003/88/EC of the European Parliament and the Council of 4 November 2003 concerning certain aspects of the organisation of working time O.J. L 299; 18.11.2003 (Implementation > 2 August 2004)	This Directive lays down minimum safety and health requirements for the organisation of working time. Also optional derogations regarding specific sectors or on agreement in collective agreements can be implemented by Member States. e.g.: derogation from minimum rest periods in case of activities involving the need for continuity of service or production as in cinematographic production.
Directive 2008/104/EC of the European Parliament and the Council of 19 November 2008 on temporary agency work OJ L 327; 5.12.2008 (Implementation by 5 December 2011)	This Directive aims at ensuring the protection of temporary agency workers and improving the quality of temporary agency work by ensuring the principle of equal treatment.

<p>European Parliament resolution of 6 July 2010 on atypical contracts, secured professional paths, and new forms of social dialogue (2009/2220(INI))</p>	<p>Parliament draws particular attention to the special position of independent freelance workers because this form of activity can represent a 'way in' or an alternative to the labour market. Given the growing popularity of this activity, Members call for measures to be taken to minimise the burden of regulation and to encourage and support independent freelancers in launching/growing independent freelance businesses and to promote lifelong learning for this group.</p>
<p>Council Directive 98/49/EC of 29 June 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community O.J. L 209; 25.7.1998 (Implementation > 29 June 2001)</p>	<p>This Directive sets out certain rights and obligations for members of supplementary pension schemes and constitutes a first step on removing obstacles to free movement relating to supplementary pensions</p>
<p>Regulation 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems O.J. L 200 1; 07.06.2004 (Application > 27 July 2009 – latest modifications > 1 May 2010)</p>	<p>This regulation aims to rationalise the concepts, rules and procedures concerning the coordination of the member states' social security systems. It stipulates that all persons residing in the territory of a member state are subject to the same obligations and enjoy the same benefits under the legislation of any member state as the nationals of that state.</p>
<p>Regulation 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation 883/2004 on the coordination of social security systems O.J. L 284 1; 30.10.2009 (APPLICATION > 1 MAY 2010)</p>	<p>The implementation of the Regulation on the coordination of social security systems is formalised in order to insure unique procedures all over Europe. The Regulation contains rules concerning cooperation and exchange of data; the determination of the applicable legislation; the calculation of the different benefits and some transitional rules.</p>
<p>Regulation No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality O.J. L 344; 29.12.2010 (Application > 1 January 2011)</p>	<p>As from 1 May 2010 the applicable social security scheme for nationals of EU member states is determined in the EU by the Regulations No 883/2004 and 987/2009. Modernized coordination is applicable to Members of the European Economic Area EEA Norway, Iceland, Lichtenstein by Decision 76/2011 of the EEA Joint Committee and; it is applicable to Switzerland as from April of 2012 by Decision 1/2012.</p>

Annex 6: Mobile workers and applicable legislation at the EU level in relation to social security

If a person works in two or more Member States, the applicable legislation on the coordination of social security operates as follows:

Condition	Applicable legislation
Employed person, with an activity in 2 or more Member States and does not pursue a substantial part of her/his activities in the Member State of Residence. (*)	→ Covered by the legislation of the Member State in which the person employing him/her is situated
Employed person, with an activity in 2 or more Member States and pursues a substantial part of his activity in that Member State or is employed by various employers whose registered office or place of business is in different Member States (*)	→ Covered by the legislation of the Member State of residence
Self-employed person with an activity in two or more Member States if s/he pursues a substantial part of his /her activity in the Member State of Residence	→ Covered by the legislation of the Member State of Residence
Self-employed person with an activity in two or more Member States if s/he does not reside in one of the Member States in which s/he pursues a substantial part of her/his activity	→ Covered by the legislation of the Member State in which the centre of interest of her/his activities is situated
Pursues an employed and a self-employed activity in different Member States	→ Covered by the legislation in which s/he pursues an activity as an employed person (if s/he pursues such activity in two or more Member States, the conditions marked as (*) apply)

The determination on the institution of the State in which the worker is affiliated is very important for several reasons such as:

- Benefits at work and occupational diseases. For example, the institution of the State in which the worker is affiliated will bear the costs of transporting the person towards its place of residence.
- Old-age pensions. The calculation will take into consideration the periods completed in another Member State, or also if it is entitled to benefits in several Member States. In this case, the total amount of the benefits shall never be less than the minimum that is provided in the legislation of the Member State where the person resides.

Annex 7: EU Legislation and Case law on Taxation

Directive/Communication/Proposal/Resolution/Regulation	Description
Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC; O.J. L 64/1; 11.3.2011.	The Directive introduces an enhanced cooperation in order to ensure a correct assessment of taxes and to combat tax fraud and tax evasion. It introduces the exchange of information on five categories of income and it ensures that the existing mechanisms are improved by introducing deadlines for exchange of information on request and spontaneous exchange of information. The scope of the Directive covers all taxes except those that are dealt under specific Community legislation.
Commission Implementing Regulation (EU) No 1156/2012 of 6 December 2012 laying down detailed rules for implementing certain provisions of Council Directive 2011/16/EU on administrative cooperation in the field of taxation. O.J. L 335/42; 7.12.2012	The Implementing Regulation includes provisions on standard forms and means of communication for Member States when exchanging information.
Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee. Removing cross-border tax obstacles for EU Citizens. COM (2010)	Rules on taxation on pensions may differ between Member States as there is no EU law that states how persons moving from one Member State to another one should be taxed. The specific areas of actions taken by the Communication are double taxation of income and capital; inheritance tax; taxation of dividends paid across borders; vehicle registration and circulation taxes and e-commerce.

Case Law from the European Court of Justice (see page 25 for the description of these rulings)

1) Arnoud Gerritse v Finanzamt Neukölln-Nord (C-234-01), 12 June 2003:

<http://curia.europa.eu/juris/liste.jsf?language=en&num=c-234/01>

2) Scorpio Konzertproduktionen GmbH v. Finanzamt Hamburg-Eimsbüttel (C-290/04). ECJ, 3 October 2006:

<http://curia.europa.eu/juris/liste.jsf?language=en&num=C-290/04>

3) Centro Equestre de Leziria Grande Lda case v Bundesamt für Finanzen (C345/04), 15 February 2007:

<http://curia.europa.eu/juris/liste.jsf?language=en&num=C-345/04>

Selected references and resources

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- PEARLE*, Resolution 24 November 2012, 44th General Assembly - *Double taxation should be removed*.
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http://ec.europa.eu/culture/policy/cultural-creative-industries/documents/cultural-mobility_en.pdf
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- Richard Poláček & Judith Staines, *In transit: a study on international law and the mobility of artists, art works, cultural goods and services* (2009)
<http://on-the-move.org/library/article/14492/in-transit-a-study-on-international-law-and-the/>
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2. Information portals and websites

2.1. EU-level Information portals and resources

Below is a non-exhaustive list of information-provision websites and services provided by the European Commission to inform about the mobility of workers, including artists and cultural professionals. Although the list focuses on information related to social security and taxation, most of the resources also address other topics (e.g. employment & work legislation, visas, etc.)

- **Your Europe:**

Your Europe Advice: <http://europa.eu/youreurope/advice/index.htm> (available in all EU languages)

Your Europe Advice is an EU **advice service for the public**, currently provided by legal experts from the **European Citizen Action Service (ECAS)** operating under a contract with the European Commission. It consists of a **team of lawyers** who cover **all EU official languages** and are familiar both with EU law and national laws in all EU countries.

Your Europe Citizens and Businesses: http://europa.eu/youreurope/citizens/index_en.htm (available in 22 languages for citizens and 23 for enterprises)

Information service on **the rights and obligations** of mobile citizens and businesses in Europe, and **practical tips** to help them move around the EU.

- **SOLVIT:** http://ec.europa.eu/solvit/site/index_en.htm (available in 24 EU languages as well as Icelandic and Norwegian)

SOLVIT is an on-line problem solving network in which EU Member States work together to solve - without legal proceedings - problems caused by the misapplication of Internal Market law by public authorities. There is a SOLVIT centre in every European Union Member State, as well as in Norway, Iceland and Liechtenstein. SOLVIT Centres can help with handling complains from both citizens and businesses. They are part of the national administration and are committed to provide real solutions to problems within ten weeks. Using SOLVIT is free of charge.

- **Social Security Coordination and Social Security Rights For EU Citizens moving inside the EU:** <http://ec.europa.eu/social/main.jsp?catId=849&langId=en>
Provides detailed information about the social security benefits of EU citizens who work or are on holidays in another EU country or who have worked in more than one EU country.
The website also offers a detailed description of social security rights within each EU Member State:
http://ec.europa.eu/employment_social/social_security_schemes/national_schemes_summaries/bel/1_general_en.htm
- **EURES:** <https://ec.europa.eu/eures/home.jsp?lang=en>
(Available in the 23 EU official languages)
The purpose of EURES is to provide information, advice and recruitment/placement (job-matching) services for the benefit of workers and employers as well as any citizen wishing to benefit from the principle of the free movement of persons.
- **European Health Insurance Card:** <http://ec.europa.eu/social/main.jsp?langId=en&catId=509>
(Available in the 23 EU official languages)
The European Health Insurance Card makes it easier for people from the European Union's 28 Member States plus Iceland, Liechtenstein, Norway and Switzerland to access health care services during temporary visits abroad. The card is available free of charge through local health authorities.
- **Missoc – Mutual Information System on Social Protection:** <http://ec.europa.eu/social/main.jsp?catId=815&langId=en>
(Available in English, French, and German)
It provides detailed, comparable and regularly updated information about national social protection systems in all 28 Member States, the three countries of the European Economic Area - Iceland, Liechtenstein and Norway - as well as Switzerland.
- **Electronic Exchange of Social Security Information (EESSI):** <http://ec.europa.eu/social/main.jsp?catId=869&langId=en>
EESSI is an IT system that will help social security bodies across the EU exchange information more rapidly and securely – as required by EU regulations on social security coordination.
- **European Commission: Taxation and Customs Union:** http://ec.europa.eu/taxation_customs/index_en.htm
This website includes as well links to tax and custom sites in EU member states and publications.

2.2 Information portals and resources at a European and/or international level

Below is a list of organisations, institutions, networks, and information pools and services across Europe focusing on artists' mobility. For the purpose of this list the focus lies on portals of information and services in the field of social security and taxation.

- **CLEISS, Centre des Liaisons Européennes et Internationales de Sécurité Sociale:** <http://www.cleiss.fr/>

(available in French, English, German, Spanish, Italian and Portuguese)

Interface for France and Europe with an international legal framework for the coordination of national social security systems in the context of international mobility. CLEISS mediates between French institutions and foreign social security institutions, individuals and enterprises. It also offers information about the French social security system.

- **European Citizen Action Service (ECAS):** <http://www.ecas-citizens.eu/>

A non-profit organisation working for international NGOs, independent from political affiliation, commercial interests, and the EU institutions. Its mission is to enable NGOs and individuals to make their voice heard within the EU by providing advice on how to lobby, fundraise, and defend European citizenship rights.

- **Training and Reporting on European Social Security (trESS):** <http://www.tress-network.org/>

NB: The **trESS** project came to an end in December 2013.

In the current transition phase, the **trESS** website and its contents will be kept online.

- **On The Move's Charter for a Sustainable and Responsible Cultural Mobility:** <http://on-the-move.org/charter>

On the Move is the cultural mobility information network with more than 35 members in over 22 countries across Europe and beyond, facilitating artists' mobility through information, advocacy and capacity-building. In January 2013 On the Move launched its Charter, an online tool targeted at policy makers, funders and cultural organisations in order to improve the way they support, fund or practice cultural mobility, including on social and administrative matters.

Infotools produced in the context of the EU funded project (2008-2011) *Practics* can also be viewed on the On the Move website: <http://on-the-move.org/practicsinfotools/>

2.3. Resources and/or information points at national level

Austria

- Information for foreign artists in Austria: <http://www.artistmobility.at/home-english.html>

Belgium

- **Kunstenloket:** <http://www.kunstenloket.be/>

Provides information about commercial and legal aspects; advice and answers about social status of the artist, income tax, VAT, copyright, forms of organisation, insurance, etc.

- **SMart Société Mutuelle pour artistes:** <http://www.smartbe.be> and <http://smart-eu.org/>

Provides information and paid services on administrative or legal aspects for artists in Belgium and other European countries.

Denmark/Sweden

Kompas1: <http://www.kompas1.dk/om-kompas1-45-77-78/>

Tools of navigation for touring and co-producing theatres in Denmark and Sweden.

Finland

- *Mobility Infopoint Mapping* carried out by the Finnish Theatre Information Centre, partner to the EU mobility pilot project Practices:
<http://on-the-move.org/library/article/14377/mobility-infopoint-mapping-finland-practices/>

Germany

- **Touring artists** website: <http://www.touring-artists.info>

And in particular the resourceful web-links below:

<http://www.touring-artists.info/sozialversicherung-in-de.html?&L=1#c936> and <http://www.touring-artists.info/europaweite-infoportale.html?&L=1>

Luxembourg (Grande region)

- The website **Culture.lu** with the support of the Ministry of Culture: <http://www.culture.lu/en/50/cultural-practice/mobility.html>

Sweden

- Social security: [https://www.forsakringskassan.se/wps/portal/sprak/eng/in_brief_about_social_insurance_\(for_those_who_have_recently_arrived_in_sweden\)!ut/p/b1/hZDZUoNAEEW_JR9gMcPOlwMTmGIREInCCzVgIGMgxLAY_HrR8kVTxn7rqtO37mku41luO9GJ1XRg3Yk2n3sm5yoPPISgDh5IUQREW_sQuS4BG4FLuDQo56vZkxot83Dm8TF0WPLSFyLCyhCOSTckJDZM6Ff26NfalLvFA4UonGOoxE6wITKn8KA4hQON0tJJeEOewoz6a5R7zcWUmuq4P8j7VgBTXcmX8RVbbRuUqRoB9m4dBOohBjCbQ4Vlz-6Md41Fr3peJHaKkJYaAngr55ap4iKzW2TAH6ODu66u9H1_B_j3V9kXcq_Bzwx1C9Qlw9bwWuMtPRJuAF2GgED7CYY-2piO9Bu4LenbXbvnu3kuPIGV_pq9QENPmJ5/dl4/d5/L2dJQSEvUUt3QS80SmtFL1o2XzgyME1CQjFBME82NDQwSTIGTjFCTExJOEg0/](https://www.forsakringskassan.se/wps/portal/sprak/eng/in_brief_about_social_insurance_(for_those_who_have_recently_arrived_in_sweden)!ut/p/b1/hZDZUoNAEEW_JR9gMcPOlwMTmGIREInCCzVgIGMgxLAY_HrR8kVTxn7rqtO37mku41luO9GJ1XRg3Yk2n3sm5yoPPISgDh5IUQREW_sQuS4BG4FLuDQo56vZkxot83Dm8TF0WPLSFyLCyhCOSTckJDZM6Ff26NfalLvFA4UonGOoxE6wITKn8KA4hQON0tJJeEOewoz6a5R7zcWUmuq4P8j7VgBTXcmX8RVbbRuUqRoB9m4dBOohBjCbQ4Vlz-6Md41Fr3peJHaKkJYaAngr55ap4iKzW2TAH6ODu66u9H1_B_j3V9kXcq_Bzwx1C9Qlw9bwWuMtPRJuAF2GgED7CYY-2piO9Bu4LenbXbvnu3kuPIGV_pq9QENPmJ5/dl4/d5/L2dJQSEvUUt3QS80SmtFL1o2XzgyME1CQjFBME82NDQwSTIGTjFCTExJOEg0/)
- Taxation: <http://www.skatteverket.se/otherlanguages/inenglish.4.3a2a542410ab40a421c80006827.html>

Switzerland

- Social security: <http://suisseculturesociale.ch./index.php?id=101&L=2>
<http://www.ssrs.ch/faq>
<http://www.suisseculture.ch/fr/securete-sociale.html>
- Office of migration: <https://www.bfm.admin.ch/content/bfm/fr/home/themen/einreise.html>

United Kingdom

- International info point by Wales Arts International: <http://www.wai.org.uk/practices>
- Information provision in the UK: dedicated webpages in relation to taxation: "foreign entertainers unit": <http://www.hmrc.gov.uk/feu/feu.htm>

>>> Additional resources **on CLEISS website**: introduction in French but websites can be available in English, depending of the countries.
<http://www.cleiss.fr/docs/index.html>