

CURATORS, LIBRARIANS, SOCIAL PARASITES: OUR LEGAL STATUS AS CLARIFIED BY A LAWYER

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In Belarus the relations in the field of culture are regulated by a large number of normative legal acts, which differ in their legal force. The main document is the Culture Code that came into action in 2017. It is symbolic that the Code was signed a year earlier, in 2016, which was announced as the Year of Culture.

The Culture Code is considered to be a unique document which is unprecedented across the Post-Soviet states. 150 legal acts, regulating the cultural sector, were redrafted and united under one document. As stated by the representatives of government entities, the 200 page document is a product of culture legislation codification. [According to](#) Boris Svetlov, former Minister of Culture of the Republic of Belarus: “This, undoubtedly, is not some kind of mechanical unification of existing documents. All of them were adapted and systematized. And, of course, this document has been edited in accordance with today’s standards.” Thus, the purpose of the adoption of the Code was not only to put in good order a pile of cultural legislation documents and form a single document, but also to revise them, taking into account today’s standards.

Despite the positive aspects, the Code contains a number of ambiguous provisions that actually introduce censorship to the quality of cultural products. For instance, the Code contains a number of grounds for the prohibition of cultural activities in general. The state will intervene if the artist’s activity promotes war, violence, and cruelty, insults the president or other officials and may harm the morality of others. The grounds for the prohibition of cultural activities are formulated as broadly and vaguely as possible to ensure there are basically no restrictions on their use.

Apart from the restrictions on the content of creativity, the Code also directly establishes the bureaucratic control over issuing the title of creative worker. For example, a state commission may refuse a freelance artist, who is not a member of the Union of Artists, to issue him or her a special certificate of a creative worker, if it does not recognize the artistic value of the works.

The concept of cultural and creative workers

The legislation in Belarus separates such concepts as ‘cultural worker’ and ‘creative worker’.

Cultural workers are the citizens who create, restore, preserve and protect, study, spread and popularize cultural values and aesthetically educate citizens (organize cultural activities). At the same time, the position they take must be named according to the manual of professional positions in the cultural sector. In this manual you can find job responsibilities and qualifications for cultural workers. Cultural workers in Belarus are considered to be workers of museums, libraries, club institutions, zoos, theaters, circuses, film industry, etc.

A creative worker is as a citizen who executes creative activity independently, on the basis of an employment contract or a civil law contract or as a member of a creative union. A creative worker may work on a professional or amateur basis, individually or as part of a collective. The outcome of creative activity is the emergence of a new, previously non-existent outcome of the intellectual activity in the field of culture.

According to the General Classifier of Economic Activities, activities in the field of artistic creation include organization and holding of exhibitions. Moreover, the Code of Culture itself contains contradictions. According to the code, the activities of the above specialists are considered to be cultural activity, which is not the same as creative activity. At the same time, the correlation of cultural and creative activities, except for the inclusion of the latter into the cultural activity, is not clear. Based on this, there is an obvious need to regulate the status of many professional activities (curators, art managers, and others), which so far remain outside the code and its definition of ‘creative activity’.

Cultural worker status

Cultural workers in Belarus must comply with the qualification requirements specified by law, as well as be officially certified at least once every five years.

A cultural worker can upgrade his or her qualification category in order to receive a supplemental payment, have longer holidays or receive other bonuses provided by law or a collective agreement. To do this an artist needs to undergo special training in an educational institution.

The Culture Code separately establishes a possibility for cultural workers to go on training and internships outside of Belarus. However, such internships are strictly regulated by law. For example, a cultural worker can undergo an internship only in foreign organizations, approved by the Ministry of Culture of Belarus. A training cannot last more than three months per year, and an internship – no more than five months. The leaders of cultural organizations are personally responsible for sending cultural workers outside of Belarus reasonably. Moreover, if by any chance a cultural worker does not return by the end of the internship period or does not fulfill the plan, then he or she will have to fully refund the money spent by the state on that trip.

Creative worker status

In Belarus creative workers can join a creative union or work independently. In the first instance, the status of a creative worker is approved by the creative union itself. If a creative worker is independent, he or she will have to apply to the expert commission under the Ministry of Culture to receive a professional certificate.

Experts can be representatives of creative unions, higher education institutions or the National Academy of Sciences of Belarus. The members of the expert commission remain unchanged throughout the years of its existence. Replacement of a member of the commission is accompanied by an order on behalf of the Ministry of Culture of Belarus. The frequency of the expert commission meetings depends on the number of applications. For example, from July 23, 2015 to March 31, 2016 ten meetings on confirming the status of a creative worker were held. The expert commission examined 47 applications and a professional certificate was issued to 26 applicants, who have confirmed the status of a creative worker. On the website of the Ministry of Culture there is neither open data on the current board of the commission nor statistics of incoming applications or decisions made about them. The up-to-date data is available only by a written request sent to the Ministry.

To get a certificate of a creative worker one must contact the expert commission and provide it with a statement drawn up in a special form and materials, approving the results of creative activity. Such materials may include works of literature and art, publications, reviews, etc. If a worker has been awarded with prizes or titles in the field of culture, he or she must provide the information about them. While examining the creative activity of a worker, the expert commission checks whether the works are new, previously non-existent and reach a high artistic level. It takes one month for a commission to make a decision. In case of a positive decision, you will receive a certificate free of charge valid for five years.

After receiving a certificate or joining a creative union, creative workers have a right to use a pseudonym, use the results of their practice and receive income from their activities. With the adoption of the decree “On the Prevention of Social Parasitism”, a creative worker, who has been admitted into a creative union or has received a certificate, cannot be considered a social parasite and is free from paying a parasitism tax.

Art collectives

Creative workers can unite not only into creative unions, but also into art collectives. Such groups can be professional, amateur (unprofessional) or authentic folklore. In the Culture Code you can find forms and genres according to which artists can create collectives. The following genres are accepted: theatre, decorative arts, applied art, design, visual arts and some others. The form can be: theater, orchestra, ensemble, studio or others. The legislation does not limit creative workers in their choice of genres and forms. Collectives themselves can be created in the form of a legal entity (its units) or club formations.

If a creative worker is a member of a professional art collective, he or she has to sign an employment or civil law contract. If a collective is amateur, a creative worker executes his or her activities on the basis of membership or admission.

Creative unions

Creative unions are public associations of creative workers and other citizens. The list of unions is set by the Ministry of Culture and can be found on the website of the Ministry of Culture. At the moment there are 16 creative unions. The field of fine arts in Belarus is represented by the Union of Artists. It organizes and holds exhibitions, plein-air and other creative events.

A particular feature of creative unions is state participation. For example, state bodies provide certain benefits for unions and their members; place social and creative orders; purchase works of fiction and art by members of the creative unions; provide buildings, spaces, equipment and other property and services; spread information on the activity through state media and provide sponsorship assistance. The creative unions can submit proposals to state bodies concerning not only the cultural issues, but also the social protection of the creative workers.

For example, members of the Belarusian Union of Artists, among other things, have a right to exhibit their works at all exhibitions, including auctions and salons (without a selection process);¹ use all types of creative material and legal assistance of the Union; work on the basis of an agreement and hand over the work to the customer without expert and artistic committee report; have a right for the artist studio.

Another advantage for an artist of participating in a creative union (Belarusian Union of Artists) can be an exemption from parasitism tax: artists who are members of unions and artists with certificates are considered employed in the economy.

The process of joining a creative union is governed by the statute of the union itself. For example, in order to enter the Belarusian Union of Artists, it is necessary to meet the following requirements: to reach the age of 18, have a higher professional art education, be an artist or art critic, create works of art or art history that have independent creative value. An artist without a degree who has proved professional significance and was recognized by the art community in exceptional cases can be accepted into the Belarusian Union of Artists.

To become a member of the Union, an artist must provide a chairman of the section or regional organization of the Union with the following documents:

1. written application
2. a copy of education certificate
3. CV
4. statement of residence
5. two color photos 3×4
6. a documented list of exhibitions (not less than 10), objects, publications, photographs of works with catalog data, a list of main works
7. recommendations given by at least three members of the Union with at least 5 years of membership
8. performance report and proof of employment (if an artist works)

The procedure does not finish with the submission of documents. If a section or regional organization of the Union recommends an artist for the membership, he or she will have to bring all the documents personally for consideration by a commission consisting of the Secretariat of the Union and members of the Revision Commission. After that the documents are reviewed by the Presidium and the Rada (Council) of the Union. An artist receives a membership card only after this multi-stage examination and only in case of a positive decision. By June 2019 the Belarusian Union of Artists had only 1019 members.

Registration and taxation of the activities of creative workers (artists)

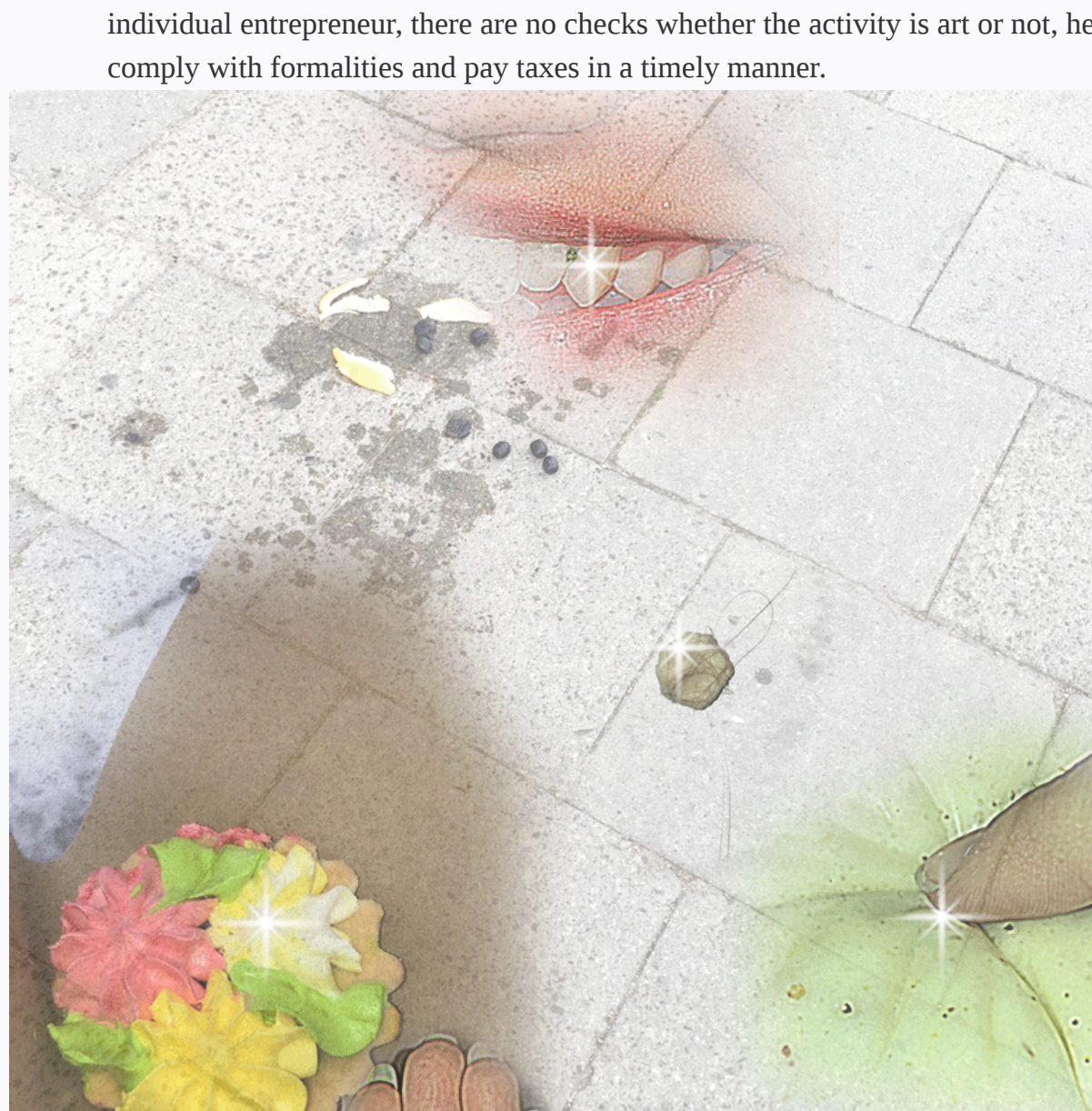
If a creative worker acts independently without making a labor or civil law contract with an art collective, cultural organization or other entity, then he or she must register his or her activities and pay taxes independently as a craftsman or individual entrepreneur.

If an artist wants to work as a craftsman, then he or she:

1. must be registered in the tax office at the place of residence
2. must pay tax once a year (1 base value. By April 2019 – 25,5 rubles. Moreover, if the annual income is more than tax x100, a worker needs to pay 10% of the excess)
3. must use only personal labor (it is forbidden to hire other people)
4. can actualize the manufactured art objects only in order to satisfy the household needs of citizens in special places: markets, fairs, workshops, online or by mail / via courier delivery, as well as by concluding agreements with other legal entities or individual entrepreneurs
5. can teach other people for free (max. 3 people at a time) for 2 years on the basis of craft training agreements

If an artist prefers to register as an individual entrepreneur, he or she must go through state registration in a local government administration, which can be a city or district executive committee. To be registered as a private entrepreneur, an artist must bring his or her passport to the registration authority, an application, a 3×4 photo, a receipt of state fee payment, and a file for the documents. The next day after submitting the documents to the registration authority, an artist receives a certificate of state registration of an individual entrepreneur with a photo, address, and state number. After that, an artist should register in the tax office at the place of residence. As an artist in this case pays a single tax, he or she does not have to open a bank account or go through other formalities. A single tax is paid once a month, and it is necessary to submit reports to the tax office.

Registration of an individual entrepreneur can be beneficial if an artist is going to attract other people to his work on a contract basis, as well as if his annual income is substantial. While registering as an individual entrepreneur, there are no checks whether the activity is art or not, hence the main point is to comply with formalities and pay taxes in a timely manner.



Am I a Parasite? Illustration: [Anna Kaznyeva-Kaya](#)

1. The regulations for certain exhibitions, auctions, etc. may indicate that artists are admitted to them by decision of the jury. Thus, the work of members of the Union can participate without additional procedural delays. ↴