

Self-employment in the Audiovisual Industry

- **Definition**

The film worker and the audiovisual worker not under a long-term contract to a production company or to a broadcaster as a full time employee are regarded as self-employed.

The main characteristics of the self-employment are based on the «provision of services» during a certain period of time which is usually completed once the production is over. The self-employed will be without employment and income while looking for another production. This period of unemployment can vary from weeks to months.

For tax and social contribution purposes the self-employed are obliged to carry the costs of: Personal contribution to State taxation.

- Social tax contribution.
- Own insurance.

When the self-employed are under contract the employer has no obligation to pay for any social or labor contribution. This is due to the fact that the self employed is undertaking a «provision of services» as if a company. However this is not regarded as being an employer. The self-employed, the “ free lancer “is included for tax purposes in three main ways:
-Registered as a self-employed as a provisional services as artist (with or without VAT).
-As a sole trading company including VAT.
- Under contract for provision of services as any business transaction.

The three situations of the self employed offer no protection under the Labor Code or under any collective agreement. It is the Business Law and Civil Law which deprives these workers from working under the Labor Code and thereby results in the loss of protection from the Labor Code.

The self-employed in the film and in the audiovisual industry are the majority of the workers. In many cases and especially in the film industry the number of workers regarded as self-employed are approaching saturation. In the rest of the cases only a small number of workers are employed. These cases are those hired by the production company for office work.

- **The social and tax implications for the self-employed (freelancer) and its consequences.**

As the employee is regarded as self-employed the film worker involved is not eligible to receive social benefits in cases of need. The self-employed are not entitled to receive:

- Unemployment insurance
- Sick insurance
- Pregnancy leave
- Vacation payment

Such events are covered by Statutory Health Insurance.

- The self-employed are obliged to cover their personal taxation.
- The self- employed is obliged even without subsequent benefits to make social security contributions.

- **Relationship with Unions**

Because such workers are considered self-employed/free lancers they become disqualified from establishing a union in their professional area. The exceptions are in Denmark, Sweden, Finland and France, where these countries have regulated the free lancers into a collective agreement negotiated by their respective Unions. In fact in the rest of Europe (the World) the situation is complex because Unions have no regulation to protect these workers under the Labor Code which throws them into the Civil Code to resolve any dispute.

- **Results of this practice**

Considering that workers are self-employed/freelancers and not regarded as workers the results are a total deregulation of the labor code, resulting in:

- Long working days (normal working day is considered at least 10 hours and in cases can extend to 18 hours a day). Covered by the employer.
- No extra remuneration for vacation
- No travel costs covered.
- No insurance
- No sick leave covered.
- Disregard of moral rights.
- No regulation on paid over time.
- No collective agreements in practice.

- **Conclusions**

The film and audiovisual worker is wrongly regarded as self employed. It is considered by any European labor law that work performed under subordination is considered to be a worker and not as self-employed.

- The film and audiovisual worker performs his/her duty under subordination of the producer (employer);
- Works under a time period established by his employer.
- He/she is instructed to be in a certain location.

So therefore it is obvious that the film and the audiovisual worker should not be regarded as self-employed or indeed be considered a provisional service person or company taking in consideration that his/her work has to be performed under a time and a location established by the employer.

- **IMAGO position**

IMAGO the European Federation of Cinematographers is an organization that gathers 47 National Societies of Cinematographers.

IMAGO is not a Union organization but a Federation that defends and upholds the outmost of technical and artistic quality of cinematography. The members composing the Federation are cinematographers that are concerned with the quality of work and the well being of their crew.

The cinematographer in order to perform his duty he is supported by a team of several workers:

- Camera Assistants
- Electricians
- Grip

In order to preserve the image as its best technically and artistically the cinematographer is responsible for the well being of his collaborators with whom he works closely as a team. The working conditions is one the most important issues of IMAGO, in order to pursue more civilized working hours, social integration and legislation for film workers in the European Union.

IMAGO defends:

- Introduction of basic rights for self-employed/freelance workers to be represented in social partner negotiations and to benefit from collective bargaining.
- Respect for decent working hours.
- Social dialogue in the audiovisual sector on European level should be intensified and all relevant stakeholders and professional organizations must be part of the dialogue.
- An agreement including regulations concerning the mobility of workers in the EU.
- The rules for self-employed should be under the same framework as that for employed creative workers.

- **LINKS of interest – SOCIAL DIALOGE and WORKING CONDITIONS:**

EUROPEAN UNION:

Self-employed workers: industrial relations and working conditions: March 2009

<http://www.eurofound.europa.eu/comparative/tn0801018s/index.htm>

Canadian Cultural Labor in the Era of the Creative Economy

Work Flows and Flexicurity:

<http://www.ccarts.ca/en/advocacy/publications/documents/WorkFlowsandFlexicurity.pdf>

Who can have self-employed status in the film, television and production industries UK?

<http://www.freelanceadvisor.co.uk/legal-advice/who-can-have-self-employed-status-in-the-film-television-and-production-industries>

EURO FOND

Denmark: Self-employed workers

<http://www.eurofound.europa.eu/comparative/tn0801018s/dk0801019g.htm>

Self-employed workers: industrial relations and working conditions

http://www.eurofound.europa.eu/comparative/tn0801018s/tn0801018s_6.htm

IMAGO WEBSITE

WORKIN CONDITIONS

<http://www.imago.org/index.php?page=29>

FLEXISECURITY

<http://en.wikipedia.org/wiki/Flexicurity>