[PL] Work on the law on professional artists

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Legislative work on the Law on Professional Artists is nearing completion. A new draft has been published on the pages of the Government Legislation Centre. The draft is expected to go to the Parliament (*Sejm*) in the near future.

The aim of the draft is to provide the lowest-earning artists with a subsistence minimum. Among other things, the draft provides for a surcharge on mandatory social and health insurance premiums. The surcharge is to be a social benefit. Funds for the surcharge are to come from the reprographic fee. This fee has been in operation in Poland since 1994 and is collected from manufacturers of devices that allow the permitted (fair) use of protected works. It is intended as a kind of lump-sum compensation for artists. In Poland, the list of devices has not been updated for more than a dozen years and the fee still covers only tape recorders and VCRs, as well as audio and VHS cassettes. As such, the revenue from this fee is constantly decreasing. After the change, it will cover modern devices (computers, tablets, smartphones) and storage media (disks, flash drives).

The rules for collecting the reprographic fee are also to be changed. The fee will vary in amount depending on the device. However, it will not exceed 4% of its price. In addition, it is envisaged that the collection of the fee will be transferred to the Tax Offices, which will further transfer it to copyright collective organisations. This solution is expected to improve the low collection rate. According to the estimates in the Regulatory Impact Assessment, after the change, revenues from reprographic fees are expected to amount to around PLN 273 million. As a result of the adopted changes, it is also expected that the revenues from social and health insurance contributions for artists as a professional group will also increase. Currently, a large number of artists do not pay contributions at all. During the legislative process, consumer organisations signalled concerns about the effect the new regulation might have on the price paid for these devices by consumers.

Moreover, a consequence of the adoption of the new law is expected to be an introduction of a 50% deductible cost for all professional artists when calculating their profit. The act assumes that all artistic activity is creative in nature, regardless of whether under copyright law the artist is entitled to copyright or related rights (as a "performer"). In this way, the problem with differences in the interpretation of tax laws regarding this professional group will need to be resolved.

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