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Update

Intellectual Property

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The new Statute of Professionals in the Area of Culture

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On the 1st of January 2022, the **Statute of Professionals in the Area of Culture** came into force: **Decree-Law no. 105/2021, dated of the 29th of November.**

This Statute covers all professionals that work in the performing arts, audio-visual, visual arts and literary creations sector, provided that they carry out an authorial, artistic or technical-artistic activity.

In stark contrast with the previous regime, Law no. 4/2008, of the 7th of February, the new Decree-Law is applicable regardless of the labour or service provision regime, seeking to regulate autonomous labour relations without legal subordination.

Rather than being a mere revision of the previous regime, this innovative legal framework for work in the cultural sector brings with it the **social protection of unemployed workers** through access to a **special contributory regime** and the granting of a **benefit for the suspension of cultural activity**, similar to the unemployment benefit.

It is divided into three main parts:

- a) The register of professionals in the area of culture ("RPAC");
- b) The employment contract and service provision regime; and
- c) The social protection regime.

The Decree-Law establishes that **registration in the RPAC**, although optional, is necessary for professionals in the field of culture to benefit from the implementation of the new special social protection regime, including the subsidy for suspension of artistic activity, if certain requirements are met.

In addition to the creation of the new benefit for the suspension of cultural activity, the Statute includes other measures, namely:

- Extension of social protection to **all eventualities** (suspension, parenthood, illness and occupational diseases);
- Adoption of the **presumption of an employment contract** in the cultural sector, with different contribution rates being created to discourage more precarious contracts;
- **Combating false “green receipts”** by creating a new contribution rate to be paid by entities that choose to enter into contracts for the provision of services, accompanied by a new declaratory obligation to substantiate that choice;
- Establishment of a **specific inspection regime** for situations of contracts for the provision of services;
- **Simplification of the delivery of contributions** through tax withholdings and the possibility that, in cases where this is not possible, the cultural professional may pay through the entity receiving the service.

With regards to **intellectual property rights** arising from the authorial and artistic activity of workers and service providers covered by the Statute, it is important to note that the RPAC **does not** apply to contracts for editing, fixing, authorising, licensing, transmitting or any other form of disposition of copyright and related rights.

Regarding the transitional period and entry into force of the Statute, the following dates should be considered:

- **1st of January 2022** for the purposes of registration in the RPAC and enforcement of the new employment and service provision rules.
- **1st of July 2022** for the purposes of: (i) the start of counting the guarantee period for access to the cultural activity suspension subsidy; (ii) the entry into force of the contribution regime; (iii) exemption for 3 months from the new contribution rates.
- **1st of October 2022** for the purposes of: (i) entitlement to the cultural activity suspension subsidy and (ii) start of implementation of the new contribution rates.

This Statute will be reviewed within two years, i.e. on the **1st of January 2024**.

