

2022/4

## REVUE DE DROIT COMPARÉ DU TRAVAIL ET DE LA SÉCURITÉ SOCIALE

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**Marcel ZERNIKOW** Employee representatives in France and Germany and the protection of workers' health: what lessons can be learned from the public health crisis?

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(COORDINATED BY ISABELLE DAUGAREILH AND MATHIEU DE POORTER)

**Timothée DUVERGER** The invention of the social economy in France and Europe, an unstable institutional compromise

**David HIEZ** 2011-2021: From one Communication from the European Commission to another

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ET DE LA SÉCURITÉ SOCIALE

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**INTERNATIONAL  
LEGAL NEWS**



**FILIP BOJIĆ**

UNIVERSITY OF BELGRADE, FACULTY OF LAW

## **RECOGNITION AWARD FOR OUTSTANDING CONTRIBUTION TO NATIONAL CULTURE, I.E. THE CULTURE OF NATIONAL MINORITIES**

In February 2022, after almost nine years since the last time in 2013, awards for outstanding contribution to national culture, i.e. the culture of national minorities, were awarded, the Government of the Republic of Serbia made a decision to give 20 awards for outstanding contribution to national culture, i.e. the culture of national minorities<sup>1</sup>. This award is given to artists and experts in culture, who have made a superb contribution to the culture of the Republic of Serbia, i.e. the culture of national minorities, through their long-term work. This year, among other things, the recipients of the Award were some of the most important Serbian poets, painters, actors, literary translators, composers, theater directors, ballet artists, musicians, film set designers, who with their long-term artistic work contributed to the affirmation of national culture at home and international level. Recognition for the outstanding contribution to national culture, that is, the culture of national minorities, is reflected in the monthly monetary income, which is provided to artists and experts in culture along with a regular pension and the same is paid to them for the rest of their lives. Despite the fact that this type of benefit is primarily a recognition for deserving individuals, it also provides a supplementary type of social security in old age, due to the fact that this institute is linked to pension, because according to domestic regulations, the right to recognition can only be exercised by an individual who has previously exercised the right to a pension. Bearing in mind the specifics of this institute, as well as the fact that the awards were given again this year, and based on the new Regulation on closer conditions and methods of awarding awards for outstanding contribution to national culture, i.e. the culture of national minorities, which was adopted by the Government of the Republic of Serbia in 2020, we find that it is necessary to analyze this source of law and point out the valid decisions on the basis of which the Government makes a decision on the award of Recognition.

It should be borne in mind that the main goal of the Regulation is to regulate more closely the provisions of the current Law on Culture of the Republic of Serbia, which provide that the Government, exceptionally, can award a recognition in the form of a lifelong monthly monetary income to an artist, i.e. an expert in culture, for outstanding

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1 In addition to recognition for outstanding contribution to national culture, i.e. the culture of national minorities, in the Republic of Serbia, based on the provisions of the Law on Sports, national sports recognition is also provided for winners of medals from relevant sports competitions, which are explicitly stated in the law itself. This recognition, which is also provided in the form of a lifetime monthly income, is paid from the moment the medal winner reaches 40 years of age. Law on Sports (« Official Gazette of the Republic of Serbia », no. 10/2016), art. 123, § 1.



contribution to national culture, that is, the culture of national minorities<sup>2</sup>. It is emphasized by the aforementioned legal provision that this award can only be granted to an artist who has exercised the right to a pension.

What is interesting is that neither the Regulation nor the Law on Culture determines which type of benefit is in question, and therefore it is concluded that the holder of the Award can become not only a beneficiary of an old-age or premature old-age pension, but also a beneficiary of the right to a disability pension and a member of the family of the deceased insured person, who was entitled to a family pension. Also, it is important to point out that the Law on Culture clearly establishes that this recognition is a personal and non-transferable right, which means that after the death of the artist, who previously received this Recognition, further payment of the same is suspended, and therefore family members cannot use this right after the death of the Award beneficiary<sup>3</sup>. Finally, it is established by law that the Recognition is paid from the budget of the Republic of Serbia.

It is important to state that for the first time in this century, the awarding of special awards for outstanding contribution to culture, i.e. the culture of national minorities, was foreseen by a special Regulation on awarding special awards to artists for outstanding contribution to national culture, i.e. the culture of national minorities adopted in 2007<sup>4</sup>. Based on this Regulation, in the same year a total of 257 Awards were awarded for outstanding contribution to national culture. In the following years, the number of Award winners is limited to a maximum of 50 per year. From 2007, when recognitions were awarded for the first time, until 2013, several Government Regulations were adopted, which regulated the conditions on the basis of which recognition can be granted, as well as the procedure for proposing and making a decision on recognition. In addition to this year's 20 holders of the right to recognition, a total of 523 recognitions were awarded. However, a large number of recipients of the award have died since 2007, and currently this award in Serbia receives a total of 236 artists and experts in culture<sup>5</sup>.

The new Regulation on the detailed conditions and method of awarding recognition for outstanding contribution to national culture, i.e. the culture of national minorities, was adopted on 6 February 2020. The same regulates the closer conditions and method of awarding recognition for artists, i.e. experts in culture. According to this regulation, an artist or an expert in culture can acquire the right to recognition for the following areas of culture precisely defined by the Regulation: literary creativity, literary translation, musical creativity, musical interpretation, fine arts, applied and visual arts, design and artistic photography; film art and audio-visual creativity; theater art - stage creation and interpretation; opera, musical stage creation and interpretation; artistic dance (classical ballet, folk dance and contemporary dance), digital creativity and multimedia; architecture; translation

2 Law on Culture (« Official Gazette of RS » No. 72/2009, 13/2016, 30/2016-corrected, 6/2020, 47/2021 and 78/2021), art. 14, § 1.

3 Law on Culture, art. 14, § 3.

4 It is interesting that this institute has a long tradition in Serbian law and that meritorious individuals from that period, insurgents from the First and Second Serbian Uprisings, as well as the reformer of the Serbian language, Vuk Stefanović Karadžić, were provided with personal pensions based on the Decree of Prince Milos Obrenovic from 1835.

5 The data were obtained by the Ministry of Culture and Information of the Republic of Serbia. As of August 15, the total was 236 holders of the Award for outstanding contribution to national culture, that is, to the culture of national minorities.

of professional and scientific texts; performance of musical, speech, artistic and stage cultural programs; research, protection, use, collection and presentation of immovable cultural heritage; research, protection, use, collection and presentation of movable cultural heritage; film and television activities; scientific research and educational activity in culture; library and information activity; publishing and production of cultural programs and works<sup>6</sup>.

In order to avoid possible abuses, and when nominating candidates for these awards, the conditions that the artist, i.e. cultural expert must fulfill, in order to gain the right to the Award for outstanding contribution to national culture, i.e. the culture of national minorities, are clearly established.

First of all, it is stipulated that the artist, that is, an expert in culture, must be a citizen of the Republic of Serbia, who has made an outstanding contribution to the national culture, that is, the culture of national minorities. Also, it is necessary that the artist has contributed to the development of cultural values in the Republic of Serbia, i.e. to its international affirmation, as well as that he is the winner of the most important awards and recognitions, and according to the list established by the representative associations, each for his own culture, namely: awards for special contribution to the development of culture, awards for life's work, professional awards from international festivals, awards from festivals and events of republican importance, professional awards of associations, local awards and social recognitions and other professional international and domestic awards and recognitions in the field of culture<sup>7</sup>.

The stated conditions, on the basis of which an artist or cultural expert can become a holder of the Award, are evaluated by a special Commission, which has seven members who are appointed from among reputable and established artists and cultural experts, one of whom is a representative of national councils of national minorities<sup>8</sup>. The members of this Commission are appointed by the minister responsible for cultural affairs. The term of office for members lasts three years, with the possibility of re-appointment<sup>9</sup>.

It must be borne in mind that with the adoption of the new Regulation, the work of the Commission has been made much easier, because the earlier regulations, which regulated the conditions and manner of giving awards for outstanding contribution to national culture, provided that artists, i.e. experts in culture, could be nominated for recognition by artistic and professional associations, cultural institutions, national councils of national minorities, other legal and natural persons. However, according to the current Regulation, a reasoned proposal for awarding the Award can be submitted to the Ministry of Culture exclusively by a representative association in culture, after a joint session has been held for each area of culture<sup>10</sup>.

It is important to note that a maximum of three artists, i.e. experts in culture, can be proposed for each area of culture during the year by representative associations in culture.

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6 Regulation on the detailed conditions and method of awarding recognition for outstanding contribution to national culture, i.e. the culture of national minorities (« Official Gazette of RS », no. 11/20), art. 2.

7 Regulation on the detailed conditions and method of awarding recognition for outstanding contribution to national culture, i.e. the culture of national minorities, art. 3.

8 *Ibid.*, art. 4, § 2.

9 *Ibid.*, art. 4, § 3.

10 *Ibid.*, art. 6, § 1.

A somewhat different solution is provided for candidates who are members of national minorities, and according to the Regulation, the National Council of National Minorities can nominate one artist or cultural expert who is a member of a national minority within one year<sup>11</sup>.

Regarding the procedure itself, it should be noted that first of all, the Ministry of Culture issues a public invitation to submit a reasoned proposal for awarding recognition. This call, which lasts 30 days, is advertised on the Ministry's website and in one daily newspaper that is distributed throughout the territory of the Republic of Serbia<sup>12</sup>. After selecting a candidate, the representative association in culture must submit to the Ministry of Culture, along with evidence of fulfillment of the requirements for Recognition and a short biography of the proposed candidate, a reasoned assessment of the value of the contribution in the field of culture, as well as a list of awards and recognitions that the Candidate has received<sup>13</sup>.

The aforementioned Commission has the obligation to consider the submitted proposals, and then to make a short selection, and finally, within 60 days from the end of the public call, to propose a list of candidates for the Award<sup>14</sup>. The Ministry of Culture, based first of all on the Commission's proposal and financial resources provided in the budget of the Republic of Serbia, proposes to the Government of the Republic of Serbia an act on the awarding of Awards for up to 20 artists, i.e. experts in culture for each year in which a public call is announced<sup>15</sup>. On the basis of the above proposal, the Government adopts a decision on the awarding of recognition for outstanding contribution to national culture, i.e. the culture of national minorities. It is important to note that there is no obligation to announce a public invitation every year, i.e. to award these Awards to artists, and this is confirmed by the fact that for nine years there was no public invitation to award the Award for the highest contribution to national culture.

The recognition is awarded and paid to the artist, i.e. an expert in culture in the form of a lifelong monthly income, in the amount of one average salary without taxes and contributions in the Republic of Serbia for the month of July of the previous year, according to the data of the republican authority responsible for statistics<sup>16</sup>. Finally, this Regulation also stipulates that the Award will be paid through the Ministry of Culture, starting from the first month following the month in which the decision was made, on the basis of which the artist is given the Award for outstanding contribution to national culture, i.e. the culture of national minorities.

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11 *Ibid.*, art. 6, § 2.

12 *Ibid.*, art. 5.

13 *Ibid.*, art. 6, § 3.

14 *Ibid.*, art. 7.

15 *Ibid.*, art. 8, § 1.

16 *Ibid.*, art. 9, § 1.

REVUE

DE DROIT COMPARÉ  
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Manuscripts submitted for publication in the **Comparative Law Review of Labour and Social Security** [Revue de Droit Comparé du Travail et de la Sécurité Sociale] should be sent by e-mail or by post before **February, the 1<sup>st</sup>** of each year (for the Studies, the Comparative Social Jurisprudence and the International Social Jurisprudence) and before **June, the 1<sup>st</sup>** of each year for the Thematic Chapter. About the contributions to the International Legal News, they must be sent before **February, the 1<sup>st</sup>** (for the first issue) and before **September, the 1<sup>st</sup>** (for the third issue).

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Every manuscript is submitted, without mentioning the name of the author, to two readers for evaluation and publication notice.

A subsequent publication in another journal would require authorization express of the Direction of the Review.



#### CONTACT

**COMPTRASEC - UMR 5114**

Mme Marie-Cécile CLÉMENT

Université de Bordeaux

16, avenue Léon Duguit - CS 50057 - 33608 PESSAC cedex FRANCE

Tél : 33(0)5 56 84 54 74

[marie-cecile.clement@u-bordeaux.fr](mailto:marie-cecile.clement@u-bordeaux.fr)

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# ABBREVIATIONS LIST

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AuR = Arbeit und Recht (Germany)  
AJLL = Australian Journal of Labour Law (Australia)  
AJP/PJA = Aktuelle juristische Praxis - Pratique juridique Actuelle (Suisse)  
BCLR = Bulletin of Comparative Labour Relations (Belgium)  
CLELJ = Canadian Labour & Employment Law Journal (Canada)  
CLLPJ = Comparative Labor Law & Policy Journal (United States)  
DRL = Derecho de las Relaciones Laborales (Spain)  
DLM = Diritti Lavori Mercati (Italy)  
E&E = Employees & Employers: Labour Law & Social Security Review (Slovenia)  
EuZA = Europäische Zeitschrift für Arbeitsrecht (Germany)  
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ILR = International Labour Review (ILO)  
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LD = Lavoro e Diritto (Italy)  
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RDS = Revista de Derecho Social (Spain)  
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RDT = Revue de Droit du Travail (France)  
RGL = Rivista Giuridica del Lavoro e della Previdenza Sociale (Italy)  
TL = Temas Laborales (Spain)  
ZIAS = Zeitschrift für ausländisches und Internationales Arbeits und Sozialrecht (Germany)

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**Marie-Cécile CLÉMENT**

COMPTRASEC - UMR CNRS 5114 - University of Bordeaux  
16, avenue Léon Duguit - CS 50057 - 33608 PESSAC cedex - France

E-mail : [marie-cécile.clement@u-bordeaux.fr](mailto:marie-cécile.clement@u-bordeaux.fr)

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