



34th GENERAL ASSEMBLY OF THE INTERNATIONAL MUSIC COUNCIL

ACTIVITY REPORT OF THE INTERNATIONAL FEDERATION OF MUSICIANS (2009-2011)

1. FIM MEMBERSHIP

FIM only affiliates performers' organisations (trade unions, guilds and associations), not individuals. Here is the list of its current members:

Argentina	SADEM	Ghana	MUSIGA	Peru	SIMCCAP
Australia	MEAA	Greece	PMU	Poland	Forum
Austria	KMSfB	Guinea	AMIG	Portugal	SMP
Belgium	ACOD	Hungary	MZTSZ	Romania	FAIR
Belgium	ACV-Transcom	Iceland	IMU	Senegal	AMS
Belgium	CSC-Transcom	India	MFI	Serbia	SMU
Benin	FMB	Iran	IMU	Slovakia	UNIA
Brazil	SINDMUSI	Ireland	MUI-SIPTU	Slovenia	GLOSA - SKG
Bulgaria	UBMD	Israel	IMU	Slovenia	SVIZ
Burkina Faso	SYNAM-BF	Italy	SLC-CGIL	South Africa	CWUSA
Cameroon	SYCAMU	Jamaica	JFM	South Korea	KAU
Canada	AFM	Japan	MUJ	Spain	FSC-CCOO
Central African Republic	UMCA	Latvia	LKDAF	Spain	UMC
Chile	SITMUCH	Liberia	MULIB	Sweden	SMF
Croatia	GHU	Malawi	MAM	Sweden	SYMF
Croatia	HUOKU	Malta	GWU	Switzerland	SMV
Cyprus	PASYNEK	Namibia	ONAU	Tanzania	TAMUNET
Denmark	DMF	Netherlands	FNV-Kiem	Togo	SARIAC
Finland	SML	Netherlands	KNTV	Uganda	UMU
France	SNAM	New Zealand	SFWU	United Kingdom	BMU
Gambia	MUSIGAM	Niger	ANACIMM	United States	AFM
Germany	DOV	Norway	MFO	Uruguay	FUDEM
Germany	Ver.di	Panama	SITMAS	Zimbabwe	TUMAI

• Cooperation agreements. The Chinese Musicians Association (CMA), which plays an important role in China in developing the intellectual property rights of musicians, does not meet the criteria for membership of FIM. In fact, CMA has little in common with a trade union body and in particular is not authorised to negotiate with the employers in the sector on behalf of the musicians. However, given the fruitful relations that have existed for several years between FIM and this organisation and the growing importance of China in many areas of international life, a cooperation agreement was signed in December 2006.

• Twinning agreements between FIM members. FIM encourages twinning partnerships between its members from developed and emerging/developing countries. To date, the existing agreements are the following:

- SNAM (France) and FAIR (Romania)
- SNAM (France) and ANACIMM (Niger)
- DMF (Denmark) and SINDMUSI (Brazil)
- SMF (Sweden) and MAM (Malawi)

- SMF (Sweden) and CWUSA (South Africa)
- BMU (United Kingdom) and JFM (Jamaica)
- FMU (Finland) and ORUJUANU (Namibia)
- SNAM (France) and AMS (Senegal)
- SMV (Switzerland) and UMU (Uganda)

• Alerts and requests for assistance from FIM members. The FIM Secretariat regularly receives requests for assistance from unions in crisis. On several occasions, the demonstrations of solidarity by FIM members, either towards other members, members of other federations or even non-unionised colleagues in great difficulty, have proved useful and effective. Unfortunately, sending letters or motions of support cannot always stop what is happening.

When a request for support reaches the Secretariat, a message is sent alerting all FIM members, together with a model letter and addresses of the recipients to which the letter of support or protest is to be sent.

- At the request of SMU (Serbia): meeting and press conference to protest against a new legislation introducing precariousness in cultural jobs (Belgrade, February 2010).
- At the request of STOART (Poland): letters sent to the Polish government in support to the Polish Radio Symphony Orchestra, the "Agnieszka Duczmal" Chamber Orchestra, the Krakow Radio Choir and the Katowice Radio Orchestra, who were threatened from being closed down (March 2010).
- At the request of SINDMUSI (Brazil): international protest campaign after the unfair dismissal of 33 musicians of the Brazilian Symphony Orchestra (Rio de Janeiro). Call for international boycott of the recruitment auditions organised in London, New York and Rio de Janeiro to replace the dismissed musicians (March 2011).
- Letters sent to the Dutch government to protest against its intention to close down the *Muziekcentrum voor de Omroep*, the *Radio Filharmonisch Orkest*, the *Radio Kamer Filharmonie*, the *Groot Omroepkoor*, the *Metropole Orkest*, the *Muziekbibliotheek van de Omroep* and the Utrecht orchestra (April 2011).
- International solidarity campaign and creation of a fund in support to Japanese musicians hit by the earthquake and tsunami (April 2011).
- At the request of the musicians of the Gayaquil Symphony Orchestra (Ecuador): letters sent to the management of the orchestra to protest against the intention to re-audition all musicians (June 2011).

Most of the campaigns above were either fully or partly successful. This shows the crucial role of international solidarity in the defence of professional musicians.

• FIM News. About once a month or an ad-hoc basis, FIM issues an information bulletin to its membership and partners by e-mail.

• FIM Congress. The FIM Congress is the highest expression of democracy within the federation. It is held every 4 years and brings together delegates from all member unions, in order to update its policy and adopts the resolutions that will govern its activity for the following 4 years. The 20th FIM Congress will be held in October 2012 in Buenos Aires (Argentina), hosted by SADEM, the national musicians' trade union.

2. REGIONAL ACTIVITIES

2.1 Europe

• Annual meeting of the FIM European group

- March 12th-13th 2010 – Madrid (Spain), meeting at the invitation of FSC-CCOO.
- May 5th-7th 2011 – Glasgow (UK), at the invitation of the BMU. This meeting was preceded by a 1-day international conference on the musician's health.

Main themes addressed by these regional meetings:

- The performers' IP rights and revenues. Monetisation of online contents. Update of EU copyright legislation.
- Protection of the musicians' health. Specific affections (musculoskeletal disorders, exposure to noise, performance anxiety, focal dystonia). Health and safety regulations. Protection against professional risks. Prevention and recognition of professional ailments.
- Status of the artist and implementation of the Unesco Recommendation of 1980.

Following the Glasgow health conference, a FIM working group on health was created. It is now working on the implementation of the action plan adopted on this occasion.

• European Sectoral Social Dialogue. FIM, via EAEA (European Arts and Entertainment Alliance), participates in two committees of the European Sectoral Social Dialogue under the auspices of the European Commission, alongside its sister federations FIA (International Federation of Actors) and UNI-MEI (Media and Entertainment Division of UNI). In addition to EAEA, the committee of the Audio-visual Sector also involves the European Federation of Journalists (EFJ). The aim of these committees is to promote social dialogue at EU level. The Live Performance and Audio-visual committees have intensified their work over the last two years: a formal agreement (Memorandum of Understanding) on gender equality is about to be concluded in the audio-visual sector. They also continue to work for the development of social dialogue throughout EU, particularly in the new or future member states and issue joint positions on industrial matters.

In the committee of the Live Performance Sector, employers are represented by PEARLE, a European grouping of national employer organisations in the field of the performing arts.

In the committee of the Audio-visual Sector, employers are represented by

- The European Broadcasting Union – EBU, a group of public broadcasters
- The International Federation of Film Producers Associations – FIAPF
- The European Coordination of Independent Producers – CEPI
- The Association of European Radios – AER, a grouping of private/ commercial radio stations
- The Association of Commercial Television in Europe – ACT.

Regional activities organised under these committees

- Dubrovnik (Croatia), February 2010: conference on the social dialogue in the live performance sector of Southern European countries
- Bucharest (Romania), March 2010: national workshop on the social dialogue in the audio-visual sector
- Sofia (Bulgaria), May 2010: national workshop on the social dialogue in the audio-visual sector
- Budapest (Hungary), June 2010: national workshop on the social dialogue in the audio-visual sector
- Bratislava (Slovakia), July 2010: national workshop on the social dialogue in the audio-visual sector
- Ljubljana (Slovenia), September 2010: national workshop on the social dialogue in the audio-visual sector
- Sofia (Bulgaria), October 2010: conference on the social dialogue in the audio-visual sector of five EU countries.

Two subcommittees have been created, respectively on health and safety in the live performance sector and gender equality in the audio-visual sector. Concrete outcomes regarding H&S are still awaited, whereas social partners in the audio-visual committee are about to finalize an MOU on Gender Equality. Joint statements have been issued in relation to

- The impact of the financial crisis
- The need to maintain a high level of public funding of live performances within Europe
- The need to ease the visa procedure for European performers and productions touring in the US
- The need to firmly oppose piracy in the audio-visual sector.

Other European meetings or conferences at which FIM has been represented:

- Brussels, February 9th, 2010, European Economic and Social Committee, Hearing on the Gkofas report on intellectual property rights
- Brussels, June 9th-10th, 2010: Access to Culture and Cultural Industries European Platforms Plenary Meetings
- Brussels, January 26th, 2011: EU Commission meeting on skills council in the cultural sector
- Brussels, June 23rd, 2011: European Cultural Industry Platform workshop on mobility in the arts and culture sector

2.2 Africa: workshops, seminars and conferences

- Kampala (Uganda), July 20th–23rd 2010: FIM national workshop on capacity building (supported by LO-TCO)
- Nairobi (Kenya), Oct. 13th–16th 2010: FIM national workshop on capacity building (supported by LO-TCO)
- Abuja (Nigeria) October 17th-18th, 2010: WIPO regional seminar on audio-visual
- Johannesburg (South Africa), November 2nd to 4th 2010: SMF sub-regional workshop on copyright and collective management (South Africa, Malawi and Sierra Leone)
- Conakry (Senegal), June 29th–July 2nd 2011: FIM national workshop on capacity building (supported by LO-TCO)
- Ouagadougou (Burkina Faso), September 7th –10th 2011: FIM national workshop on capacity building (supported by LO-TCO).

2.3 Latin America and the Caribbean: workshops, seminars and conferences

- Caracas (Venezuela), October 21st 2010: national seminar on the musicians' rights (supported by the French and Austrian embassies and the association Jurisfraven)
- Rio de Janeiro (Brazil), October 23rd 2010: SINDMUSI national workshop on gender equality (supported by SMF-Sweden)

2.4 Asia: workshops, seminars and conferences

- Jakarta (Indonesia), March 2010: 2-day training seminar on collective management, hosted by PRISINDO and organised with a financial support from NORMA and SENA (Dutch collecting societies)
- Tokyo (Japan), Nov. 2010: meetings with the Ministers of Culture and Labour. Meeting with the management of the New National Theatre Tokyo (NNTT). Press conference in support of the MUJ campaign for the recognition of opera choir members as workers.

The Japanese case mentioned above reflects an issue of critical nature for all music performers around the world. The NNTT choir auditions its members every year before renewing their contracts. After a member of the choir (who also was a representative of the trade union) did not have her contract renewed although she had been working with this choir for several years, the trade union MUJ requested the NNTT to enter into collective negotiation, as provided by law. The NNTT refused, on the alleged ground that the singer concerned was not a worker and therefore was not eligible to trade union representation. After a long legal procedure, the Japanese Supreme Court eventually ruled that the members of the choir were workers, and that the trade union could legally represent them against their employer.

3. UNESCO

FIM entertains "operational" relations with UNESCO, a privileged status guaranteeing that the services of this intergovernmental organisation will lend an attentive ear. These relations are particularly useful and relevant when it comes to the status of the artist, cultural diversity, the establishing of musicians' cooperatives or intellectual property rights. Informal meetings with representatives of UNESCO take place regularly in Paris, at the initiative of UNESCO or FIM.

- Convention on the Protection and Promotion of the Diversity of Cultural Expressions. This Convention was adopted by the member states of UNESCO on 20 October 2005. FIM was represented at all the preparatory meetings at which NGOs could be present. It was not always possible to take the floor, for procedural reasons and because of the intensity of the debates among the governmental delegations. Sometimes, NGOs were requested to adopt joint positions present them collectively.

As of May 26th, 2011, 117 states were parties to the convention in addition to EU, which joined in December 2006 as a regional economic integration organisation. It is essential to keep on lobbying actively with a view to encouraging other states to join and reaching a better balance between developed countries and emerging or developing countries. But above all, it is important to ensure that the principles adopted are translated into appropriate policies. FIM member unions have an important role to play vis-à-vis their governments in this regard.

- Status of the artist and World Observatory on the Social Status of the Artist. The *UNESCO Recommendation concerning the status of the artist* is a unique and fundamental text at international level. Adopted unanimously by the member states in October 1980 at the UNESCO General Conference in Belgrade (former Yugoslavia), it has since become a reference for all actions and initiatives in favour of the recognition of adequate status for artists. FIM, which has recently issued together with FIA a joint *Manifesto on the Status of the Artist (which is available in about ten languages)*, is back in touch with UNESCO on the subject.

In addition, the UNESCO website has for several years had special pages recapping the situation of artists country by country, based on a number of criteria (legislation, social rights, freedom of association, trade union rights, etc.): the *World Observatory on the Social Status of the Artist*. The architecture of these pages was designed in cooperation with the IMC and FIM, which was invited during 2008 to assess the instrument and suggest changes where necessary.

UNESCO Creative Cities Network. UNESCO invited FIM to help to examine the applications of would-be members of the *Creative Cities Network*. This network brings together "creative" cities to enable a sharing of experience, ideas and good practice in the field of cultural, social and economic development. Cities can ask for support from the network and join the programme in order to perpetuate their role of centres of excellence and

help other cities, especially in the developing world, to further develop their own creativity. Applications are sent to FIM so that experts from the countries concerned can give their view based on a certain number of criteria.

- Participation program 2010-2011. UNESCO is supporting the organisation of a regional seminar in Mumbai (India) on Nov. 14-16, 2011. PPL (UK) and the British Musicians Union are co-sponsors of this project whose purpose is as follows:

Over the last two years, FIM activity in relation to UNESCO has mainly consisted in taking part in the official bodies created by the Convention on the Protection and Promotion of the Diversity of Cultural Expressions as well as the copyright treaties managed by UNESCO.

- Paris (France), June 7th-9th, 2010: Intergovernmental committee on copyright
- Paris (France), November 29th-December 3rd, 2010: Intergovernmental Committee of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions
- Paris (France), June 14th-17th 2011: Conference of the Parties to the Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

- Co-operation with the International Music Council. In the framework of its co-operation with the IMC, FIM is involved in the Fairmusic project under the leadership of MICA (Austria). The objective is to develop an international label for productions that respect fair contractual terms for performers.

4. INTERNATIONAL LABOUR ORGANISATION (ILO) – COUNCIL OF GLOBAL UNIONS (CGU)

FIM is the only International trade union federation recognised by the ILO in its field of jurisdiction, which allows a close cooperation between the two entities on a number of topics and activities.

FIM, as part of the International Arts and Entertainment Alliance, is also a member of the Council of Global Unions (<http://www.global-unions.org>), which represents all global trade union federations, plus the Trade Unions Advisory Committee to the OECD and the International Trade Union Confederation. This involves a number of meetings, campaigns and working groups.

In 2010, the CGU organised an international conference on Quality Public Services in which FIM took a concrete part, and launched a global campaign on this critical issue (see website: <http://www.qpsactionnow.org>).

5. EUROPEAN PARLIAMENT, EUROPEAN PRESIDENCY, EUROPEAN COMMISSION

Links with the institutions of the European Union are numerous and give rise to frequent formal and informal meetings. The main topics involving these various institutions are the Sectoral Social Dialogue and the audit and review of the *acquis communautaire* relating to copyright and related rights. FIM also takes part in the consultation platforms that have been established by DG Education and Culture for NGOs under the "open coordination method".

FIM responds to numerous consultations of interested parties organised by the General Directorates. The consultations consist of submitting a substantive document drafted by the services of the DG concerned and collecting the reactions of civil society NGOs, generally through a certain number of targeted questions.

Term of protection of performers' IP rights and action directed at the European Parliament. Since 2007, the relationship with the DG Internal Market Copyright Unit has intensified because of the plan to extend the term of related rights that the Commission has been working on for about two years. This project, which has taken on board a number of the basic concerns of performing musicians, led in the summer of 2008 to a proposed directive.

This directive reached a remarkable consensus at European Parliament level, following the patient explanatory work undertaken by performers' organisations, FIM in particular. Since June 2009, a compromise proposal has been awaiting a Council decision. At the heart of this proposal, an extension of the term of protection from 50 to 70 years, accompanied by innovative measures ensuring that performers draw concrete benefit, whether backing musicians or featured artists.

The adoption of the compromise text by the European Council can reasonably be expected during the EU Polish Presidency in the second half of 2011.

6. COUNCIL OF EUROPE (COE)

FIM is one of the NGOs that have a formal relationship with the Council of Europe and is as such involved in NGOs working groups addressing its field of competence. Its participation in COE activities remained limited over the last 2 years, due to the overlapping with other events.

Beside its affiliation as an NGO with participative status, FIM also holds the capacity to file collective complaints against COE member states in breach of the European Social Charter.

COE Events attended since 2009:

- Strasbourg, January 26th-27th, 2010: Council of Europe NGO's Conference.

7. ORCHESTRAS

• 2nd FIM International Orchestra Conference (IOC) – Amsterdam, 7-9 March 2011

After a very successful 1st edition in 2008 in Berlin, the second edition of the IOC brought together about 200 participants representing orchestras from 40 countries on all continents. Alongside the musicians or representatives of their unions, orchestra leaders and administrators took part in the panels and the debate. The IMC was represented at the 2nd FIM IOC by Silja Fischer, IMC General Secretary.

The conference addressed 3 main topics:

1. Orchestra financing (public / private)
2. The musicians' health and the prevention of risks
3. The musician's working relationship.

More information can be found on the website of the conference: <http://www.fim-ioc.org>.

• International survey on orchestras. FIM is currently undertaking an online international survey on orchestras, whose results should be available by the end of 2011.

• Other activities on orchestral matters

- FIM permanent orchestra working group
- Dec. 13th, 2010 (Metz, France): Conference on French orchestras organised by the French musicians' union SNAM.

• Unfair dismissals at the Brazilian Symphony Orchestra (Rio de Janeiro). Since the beginning of 2011, the entire musical world has followed the situation at the OSB, where the musical director decided to replace the orchestra musicians through an arbitrary re-auditioning procedure. Following this decision, 33 musicians of the OSB were dismissed, among which the President of the musicians' union of Rio de Janeiro (SINDMUSI).

FIM organised an international solidarity campaign, including a successful boycott of the auditions held in New York, London and Rio to replace the unfairly dismissed musicians.

FIM will soon undertake an initiative aiming at promoting faire guidelines in respect to the use of auditions in orchestras. Auditioning a musician to establish low performance on the job is placing the performer in a situation that does not reflect normal working conditions and is inevitably distorted by an exceptional level of stress. Such procedure is simply illegal in countries of longstanding orchestra tradition like Germany.

8. INTELLECTUAL PROPERTY RIGHTS

• Internet. An enormous part of net activity is devoted to exchanging copyright protected files with no financial return for the performers. While technological protection measures are gradually being abandoned by those who were promoting them the most ardently little time ago, the remuneration paid to artists for the downloading of files or for other subscriptions for unlimited use is little more than symbolic.

Moreover, there must be a question mark over the transparency of models under which access to whole catalogues is offered free of charge along with a mobile telephone contract or purchase of a train ticket. FIM remains strongly involved in order to keep abreast of current developments and prevent agreements being reached to the detriment of the artists and the sole profit of the majors or big global telecommunications operators.

• Private copying. There are private copying remuneration systems in a number of countries, and in the great majority of European countries in particular, as an exception to the exclusive right of reproduction. They account for a significant share of the revenue received by the collection societies on behalf of performers and, thanks to a

levy on this revenue by the collection societies, they allow supporting action for the sector to be undertaken, especially the promotion of live performances.

These arrangements are regularly attacked, either by the companies and importers who pay the levy on a certain number of media (blank CDs and DVDs in various formats, hard discs embedded in MP3 players), or by consumers to whom the levy is passed on. In UK, one of the most active musical markets on the planet, the government is currently considering a solution whereby right holders would be recognised the right to benefit from a private copying compensation equal to... zero!

FIM remains strongly involved in coalitions and campaigns supporting and promoting fair compensation systems that allow performers to receive a payment when their performances are reproduced.

• International Protection of Performers in respect to their Audio-visual Performances. The WPPT Treaty (1996) brought a number of advances to performers' intellectual property rights, particularly with regard to sound performances. Unfortunately, the process of drafting a comparable instrument for audio-visual performances ended in failure twice, in 1996 and 2000, mainly due to a disagreement between Europe and the United States about the question of the presumption of transfer of performers' rights to producers. In fact, the producers saw no problem in recognising performers' rights, as far as these rights are automatically transferred to them.

A more flexible approach from AV producers recently paved the way for significant progress on this issue. The WIPO General Assembly, meeting in Geneva from Sept. 26th to Oct. 5th, 2011, is thus expected to follow the recommendation of the WIPO SCCR and convene a Diplomatic Conference by the end of 2012.

FIM's position was always to avoid any reference to the presumption of transfer in an AV treaty. Should such reference be made, it should also be made clear that proper compensation must be paid to the artist. The current compromise includes a reference to transfers but also mentions written contracts and the right of performers to a remuneration.

• World Intellectual Property Organisation (WIPO). FIM has been attending WIPO meetings for decades as an accredited NGO. It is regularly invited to take part in international training and awareness-raising workshops and seminars organised by WIPO. Since 2009, the committees attended by FIM (as an observer) were:

- The Standing Committee on Copyright and Related Rights (SCCR), which since 2009 has dedicated much more time to the question of the adoption of a treaty protecting performers in respect to their audio-visual performances. This process is expected to result in a new international treaty by the end of 2012.
- The PCIPD and CPDA committees devoted to development related to intellectual property
- The Committee on Genetic Resources, Traditional Knowledge and Folklore (GRTKF).

FIM is keen to show the role that copyright can play in the economic development of emerging or developing countries. It endeavours to bring the governmental delegations of developing countries to an awareness of the possibility of substantially improving the economic and social situation of artists by adopting and implementing adequate legislation.

Since 2009, FIM has been represented at the following WIPO meetings:

- Singapore, October 29th-30th: WIPO Asia & Pacific seminar
- Geneva (Switzerland), December 14th-17th 2009: SCCR meeting
- Geneva (Switzerland), June 21st-24th 2010: SCCR meeting
- Geneva (Switzerland), Sept. 24th - 29th 2010: General Assembly of WIPO Member States
- Abuja (Nigeria), October 19th 2010: regional meeting
- Beijing (China), Nov. 18th-19th 2010: International Copyright Forum
- Geneva (Switzerland), April 13th-14th 2011: informal consultations on the protection of AV performances
- Geneva (Switzerland), June 15th-24th 2011: SCCR meeting
- Geneva (Switzerland), Sept. 26th - Oct. 5th 2011: General Assembly of WIPO Member States.

• Cooperation with collecting societies and their international organisations. FIM maintains a close relationship with national collecting societies administering performers' rights, as well as with their international organisations, such as AEPO-ARTIS or SCAPR. FIM takes part in meetings, working groups and activities undertaken either by these bodies or jointly with FIM. Together, they promote and support the intellectual property rights of performers at regional and global level, thus allowing them to receive a remuneration for the various uses made of their recorded performances.