

Free to Create: Artistic Freedom in Europe

Update & Recommendations

Presentation to the Council of Europe – 16 November 2023

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Arts & culture are key to democracy

“With democracy under great pressure, the **key role of arts and culture as powerful means** for maintaining constructive dialogue in democratic, diverse and open societies becomes ever more evident. The **right to freedom of artistic expression is a key to this** and ensures the pluralism and vitality of the democratic process.”

Secretary General Marija Pejčinović Burić



Report 'Free to create: Artistic Freedom in Europe' – Feb 2023
Above the Radar

- **Anti terror** legislation
 - 'Mocking' the power mongers – **insult laws**
 - Laws on blasphemy and insult to **religion**
- **Violence** and intimidation by non-government groups
 - **Vulnerable groups** – women, LGBT, minorities
 - **On-line** dangers



Report 'Free to create: Artistic Freedom in Europe' – Feb 2023

Under the radar

- **Undue government interventions** – museums, cultural institutions, public broadcasters
 - Institutional **self-censorship**
 - **Under represented** groups
- **Status of the artist - precarity**, lack of status = self censorship
 - **Funders** as inadvertent censors



Recommendations to States

- **Adhere** to the regional and international mechanisms protecting freedom of expression and artistic freedom
- **Remove** blasphemy and criminal defamation laws and review anti-terror legislation
- **Investigate and prosecute** attacks on artists, and enable independent monitoring mechanisms
 - **Ensure** independence of cultural institutions



Recommendations to the Council

- **Extend** the implementation of Article 10 of the EDHR to include artistic freedom
- **Promote** the Manifesto on the Freedom of Expression of Culture and the Arts in the Digital Era
- **Facilitate** the Freedom to Create project by enabling a platform for debate and exchange on artistic freedom between member states, cultural and civil society organisations and artists themselves



Developments in 2023 – New Initiatives

May 2023 Reykjavík Principles

“...ensure the right to FREEDOM OF EXPRESSION, including academic freedom and artistic freedom, to hold OPINIONS and to receive and impart information and ideas, both online and offline. Free, independent, plural and diverse media constitutes one of the cornerstones of a democratic society and journalists and other media workers should be afforded full protection under the law.”



Developments in 2023 – New Initiatives

- **May 2023 European Conference on Democracy and Human Rights**, Kristiansand, Norway
 - **February 2023 – Free to Create Conference**, Umeå Sweden under the EU Swedish Presidency,
 - **February 2023 Salzburg Global Seminar – On the front lines: Artists at Risk, Artists Who Risk**
- **May 2023 International Federation of Arts Councils and Cultural Associations (IFACCA) World Summit**, co-hosted by the Swedish Arts Council, Stockholm
- **October 2023 Compendium of Cultural Policies and Trends, International Conference ‘Right to Culture’** host - Arts Council Malta, Valletta
 - expanding on artistic Freedom – survey to be published

..... **Others.....**



Malta expands right to artistic freedom and cultural rights

July 2023 - new provisions to the Criminal Code and the Electronic Communications Act:

The law *“shall not hinder artistic, satirical or comic expression”*.

No penalties if part of *“artistic, satirical or comic expression and do not include credible and realistic threat to the personal liberty or security of any person or to a person’s property”*.

“the [Maltese] government believes that artists should be allowed to express themselves in the broadest possible manner when it comes to their cultural expression”“the justice system should not become a tool in the hands of those who want to stifle the arts and freedom of thought”.



EU framework to improve the living and working conditions for cultural and creative workers

Adopted October 2023, - vote in November – Commission decision by early 2024

- 1) a **directive** on decent working conditions and clarification of employment status,
- 2) create a European **platform for exchange** of best practice among EU member states, and
- 3) adapt EU programs that fund artists to ensure **compliance** with EU, national or collective labour and social obligations.

States to **‘fulfil their responsibility and obligation to foster and defend ARTISTIC FREEDOM in order to uphold the fundamental right to freedom of expression and to ensure that EU citizens can freely enjoy artistic creations and participate in culture’.**



Developments in 2023 – Negative trends

- **Democratic backsliding >>> hostile public discourse**
- **Dangerous topics** - Anti-war, immigrant & minority rights, LGBTQI, climate change.....
- **Non government group attacks** - on-line/in person
- **Artists prosecuted - Concerts and public events banned- films censored**
- Fresh instances of governments attempts to control & strip away **independence of cultural institutions**



Ljubljana II – Some fresh Observations

- **Arbitrary laws** – unclear and arbitrarily applied = self-censorship
- **Historical revisionism** - direct censorship and shrinking of opportunities for work
- **Bannings, denial of access to performance space, temporary** arrests = loss of investment
- **Social media and artificial intelligence** as both positive and negative impacts, and need for more training
- **Association with dissenting artists** = other artists tarnished = refuse to collaborate in future
- Artists in **small states** are particularly prone to self censorship



Ljubljana II – Minority rights

- **Populist** and other **anti-minority** political influences = lack of representation in leadership and decision making in cultural institutions
- **Works exploring minority issues** struggle to find support or public space
- **Lack of representation** and communication between public and private sponsors = misrepresentation of minority communities
- **Infrastructural lacks** = undermine greater inclusion
- **Arts sector 'elitism'** = further negative impact on creative freedom.



Solutions

- **Collective actions** by artists themselves, sharing experiences
- An '**observatory**' of good practice
- An **ombudsman** or point of contact in the CoE
- On line and in person **places for exchange** of expertise and experience, training and knowledge building across the cultural and rights sectors
- **Education** on artistic freedom across sectors
- Study on **democratic governance**, including on minority extending to funders and others supporting the cultural sector
- **Ensure minority rights** featured in all actions and initiatives relating to artistic freedom.



Recommendations to States

Use opportunity of the **70th Anniversary of the European Cultural Convention** (July 2024) to enhance artistic freedom through actions including:

- promoting the **Manifesto** on artistic freedom
- taking part in the digital Free to Create exhibition
- welcoming and taking up the **recommendations** in the first report.



Recommendations to Council of Europe

- Establish an **observatory** or 'hub' to share good practices by States, intergovernmental and regional bodies, CSOs and others involved in promoting on freedom of expression and the arts
- Have a **contact point** within the Council of Europe to deal with artistic freedom issues.
- Enable **platforms** for artists to network and share experiences alongside human rights defence organisations, legal and academic, media and others.
- Consider a **study of good governance** relating to the cultural sector protections of artistic freedom



Author

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