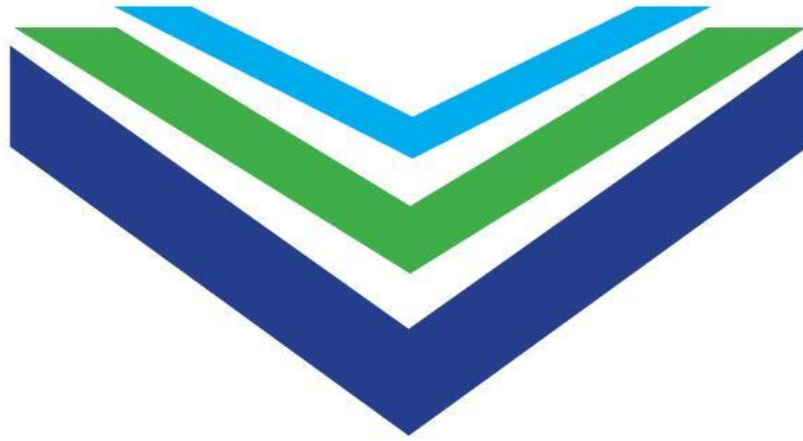


ACCESS TO CULTURE



A fundamental right of all citizens

PROPOSALS TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COMMISSION, EU MEMBER STATES, CIVIL SOCIETY GROUPS AND PRIVATE FOUNDATIONS

with respect to the report of the UN Special Rapporteur in the field of Cultural Rights, Farida Shaheed, “[The right to freedom of artistic expression and creativity](#)”¹

By Arts-Rights-Justice Working Group Access to Culture Platform | 2 October 2013

¹ See http://www.cdc-ccd.org/IMG/pdf/The_right_to_freedom_of_artistic_expression_and_creativity.pdf



PROPOSALS TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COMMISSION, EU MEMBER STATES, CIVIL SOCIETY GROUPS AND PRIVATE FOUNDATIONS

from the Arts-Rights-Justice Working Group of the civil society dialogue platform, Access to Culture (ACP), with respect to the report of the UN Special Rapporteur in the field of Cultural Rights, Farida Shaheed, "[The right to freedom of artistic expression and creativity](#)"²

The **ACP Working Group on Arts, Human Rights and Social Justice (ARJ)** was created at the end of 2011 as a Working Group of the civil society dialogue platform, "**Access to Culture**", with a mandate to make policy recommendations to the EC and the EU's Member States, and to highlight new trends pertinent to their policy making. In December 2012, it published a paper on strategic options for the promotion of arts and human rights through collaboration with EU and international institutions.

Like the other two working groups in the platform, ARJ achieves its mission by:

- a) commissioning research (into existing legislation, treaties, programmes and policies)
- b) collaboratively compiling policy recommendations
- c) collecting illustrative case studies and good practices.

ARJ is a cross-sector initiative, comprised of nearly 20 associations and NGOs dealing with free speech or human rights, and with the arts and culture. A list is found at the end of this document. The proposals found below represent ARJ members and also various allies from arts, free speech and human rights sectors.

The United Nations established the UN Special Rapporteur in 2009. Ms. Farida Shaheed's UN Special Report was formally presented to the UN on 31st May 2013. References to the Report are in parentheses below.

1. The Working Group 'ARJ' (Arts, Human Rights and Social Justice) of the Access to Culture Platform:

endorses all of the findings, conclusions and recommendations of the EU Special Report, "The Right to Freedom of Artistic Expression and Creativity".

- 1.1. and also draws attention to certain other aspects that civil society groups in the EU together with colleagues in Neighboring and Third Countries, have been highlighting for some years.

These issues are even more relevant now with widespread civil unrest in varying degrees due to economic instability and a lack of public faith in political processes. Artists who speak out on behalf of the rights of normal citizens are silenced by powerful, repressive elements.

We are also concerned that the Creative Europe funding programme, regulating European level funding for art and culture over the next 7 years, is arguably focused on economic growth and competition rather more than on issues of equal access to creative expression or support for the defense of basic human rights of artists and cultural workers, **as if these rights were already secured in and outside of the EU, a situation which, in some EU MS, is questionable.**

- 1.2. agrees with the Report that "laws and regulations restricting artistic freedoms as well as economic and financial issues significantly impacting on such freedoms. The "underlying motivations are most often political, religious, cultural or moral, or lie in economic interests, or are a combination of those." (summary)
- 1.3. agrees that censorship (including imposed self-censorship) generates economic and social losses, sterilizes public debate and hampers the functioning of democracy (IV Conclusions, art 86,87, 89 and 89(h)). **We note that within the EU, nationalistic policies, religious and social intolerance have led and are leading to growing direct and indirect censorship of art and culture and thus**

² See http://www.cdc-ccd.org/IMG/pdf/The_right_to_freedom_of_artistic_expression_and_creativity.pdf



closing down the public space for debate. We note, for similar reasons, growing instances of public nominations or juries based not on artistic merit but rather on political, religious or corporate affiliation.

- 1.4. fully supports the observation that artists and cultural workers, through their reflections on society, often de facto perform the work of activists and that “the nature of artistic creativity (as opposed to its value or merit), [must be taken into consideration] as well as the right of artists to dissent, to use political, religious and economic symbols as a counter-discourse to dominant powers, and to express their own belief and world vision. The use of the imaginary and fiction must be understood and respected as a crucial element of the freedom indispensable for creative activities...” (IV Conclusions, art 89 (d))
- 1.5. supports the demand that States - **including those in the EU as well as those with whom the EU has special accords**, must honour their “obligation to protect artists, participants to artistic events, artworks and arts events in the public space, from violence.” (art 89(e), 89 (f))
- 1.6. Visa policies are an essential component to respond adequately to the situation of artists in danger and develop shelter policies. In line with the continual improvements and attention to the free mobility of EU citizen artists, we call attention specifically to artists entering or residing in the EU and in that respect we wholly support article 89 (g) : “States should review their visa issuance system and adjust it to the specific difficulties encountered by touring artists, their host organizations and tour organizers...”
- 1.7. agrees and supports the Special Rapporteur’s insistence that, “the support provided to cultural industries should be revisited from the perspective of the right to artistic freedom” (IV, art 90) The bearing that this has on arts in education, artistic education and public support for arts and culture in correcting market-based inequalities and access issues must also be taken into account.
- 1.8. Finally, we call on the EP and the EC to follow the Special Rapporteur’s recommendations (IV art 91) by supporting international, European and national human rights institutions and NGOs to document violations of artists’ human rights including those linked to free expression and creativity and to support directly or indirectly thorough intermediaries, artists and culture workers who are threatened, tortured or imprisoned due to the content of their artistic work, via legal support, mobility support, shelters and safe havens, prevention, training and capacity building. **We highlight the urgent need for active, on-going monitoring, not only passive documenting, as the only means for progressively improving situations.**

2. European Parliament

We call on the European Parliament to:

- 2.1. officially **support the UN Report**, to include it as a **reference** in future Parliamentary reports and documents, as a **guideline** in negotiations with EU Member States, Candidates, Neighbors and Third Countries, to work closely with the office of the UN Special Rapporteur, and to support the execution of **recommendations** in the report, notably those highlighted in section 1 above.
- 2.2. establish a **Parliamentary intergroup or committee subgroup** to follow and ensure progress on these issues. *Relevant European Parliament committees include those on Human Rights (DROI); Foreign Affairs (AFET); Civil Liberties (LIBE); Cooperation and Development (DEVE) and Education and Culture (CULT).*
- 2.3. In particular, we call on the **EP Committees on Human Rights and on Culture** to work alongside the **EC’s EEAS and DG for Education and Culture** to:



- [Establish the Special Report as a **guideline** when negotiating accords and partnerships in a variety of fields, including trade, similar to the use of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions
- [Commission a **joint report on abuses** to the basic human rights of artists and cultural workers in countries with whom the EU has special accords or agreements, and recommending short, middle and long term solutions to address such abuses
- [Establish **appropriate and accessible financial and other practical support mechanisms for initiatives and civil society organisations** working at the intersection of arts, culture, and human rights in order to defend and protect artists and culture workers from human rights abuses and to monitor such abuses (see this document 5.8)

3. European Commission

We call on the European Commission to:

- 3.1. **set up an inter-institutional team³** to officially **support the UN Report**, to include it as a reference in future Commission reports and documents, as a **guideline** in negotiations with EU Member States, Candidates, Neighbours and Third Countries, to work closely with the office of the UN Special Rapporteur, and to support the execution of **recommendations** in the report, notably those highlighted in section 1 above.
- 3.2. enter into a **structured dialogue with civil society organisations** regarding the highlighted points in section 1 above.
- 3.3. ensure that the **EEAS includes artists** in their protection mechanisms.
- 3.4. ensure that sufficient **emergency funds and mechanisms exist for artists and culture workers at risk** due to their artistic practices serving in defense of human rights.
- 3.5. work closely with the **Council of Europe**, whose long years of experience in this domain will provide special benefit.

4. EU Member States

We call on EU Member States to:

- 4.1. include artistic freedom in **their reporting** in the Universal Periodic Review system, and any similar reporting such as that to the UN Committee on Economic Cultural and Social Rights.
- 4.2. ensure that their **own national policies and procedures fully respect** the recommendations found in the UN report, "The Right to Freedom of Artistic Expression and Creation".
- 4.3. fully **support NGOs and other non-state actors who address, nationally or internationally, the issues** in the UN Report and those highlighted in section 1 above, including monitoring as well as protecting.

5. Civil Society groups, private foundations

We call on private and public foundations, civil society NGO's and organisations to:

- 5.1. **Network and work collaboratively** to support the recommendations in the report, notably those highlighted in the section 1 above.

³ *Relevant European Commission directorates and service agencies include: Education and Culture (EAC); Enlargement (ELARG); EuropaAid Development and Cooperation (DEVCO); Home Affairs (HOME); Humanitarian Aid (ECHO); Justice (JUST).*

As well as: Service for Foreign Policy Instruments (FPI) and European External Action Service (EEAS); Trade (TRADE); European Asylum Support Office (EASO); European Agency for Fundamental Rights (EFR).



Members, ARJ Working Group of the Access to Culture Platform

Arterial Network	Network /culture / Africa	www.arterialnetwork.org
Article 19	Free speech/NGO	www.article19.org
Circostrada/Hors les Murs	Circus / street arts network	www.circostrada.org
EMC	European Music Council	www.emc-imc.org
EWC	European Writers Council	www.europeanwriterscouncil.eu
FERA	Federation of European Film Directors	www.filmdirectors.eu
freeDimensional	International safe havens / Creative Resistance Fund)	freedimensional.org
IDEA	International theatre in education network	www.idea-org.net
ICORN	International Cities of Refuge Network	www.icorn.org
IETM	International contemporary performing arts network	www.ietm.org
FEP	Federation of European Publishers	www.fep-fee.eu
FIA	International Federation of Actors	www.fia-actors.com
LANet Art for Social Transformation	Network/ culture / Latin America	www.artforsocialtransformation.blogspot.be
On the Move	Artists' mobility resource / work	www.on-the-move.org
ResArtis	Network / international artists' residencies	www.resartis.org
TransEuropeHalles	Network / independent cultural centres	www.teh.net
UTE	Union des Théâtres de l'Europe	www.union-theatres-europe.eu

The ARJ members would like to thank the **Members of the European Parliament** who have sponsored this event. We are especially grateful to our main sponsor :

Mme Marie-Christine Vergiat (GUE),

as well as:

Mme Mary Honeyball (S&D),

Mme Cecilia Wickström (ALDE)

Mme Marietje Schaake (ALDE)

Mme Malika Benarab-Attou (GREEN).

ARJ would also like to thank the **co-organisers** to this initiative :

Index on Censorship	free expression	www.indexoncensorship.org
Freemuse	free expression for musicians globally	www.freemuse.org
International Theatre Institute / Swedish Theatre Union, Sweden	Action Committee on Artists' Rights	www.teaterunionen.se
International Theatre Institute, Germany	Action Committee on Artists' Rights	www.archiv.iti-germany.de
IFCCD	International Federation of Coalitions for Cultural Diversity	www.cdc-ccd.org