

WORKSHOP on ARTISTIC FREEDOM

EU Work Plan for Culture 2019-2022

DRAFT CONCEPT PROPOSAL

The Council conclusions on the Work Plan for Culture 2019 – 2022 highlight that: "Artistic freedom is central to democratic societies. Art can help overcome barriers connected to race, religion, gender, age, nationality, culture and identity, by providing a counter-discourse and contesting privileged narratives and perspectives." In this context, a workshop on artistic freedom is planned to address developments and challenges to artistic freedom as well as the importance of ensuring freedom of artistic expression for democratic societies. Possible courses of action/policy options will be identified with a view to improving the framework for protecting freedom of artistic expression in Europe.

The impact of the COVID-19 crisis on the cultural sector has been unprecedented and multi-faceted. It has also had repercussions on artists' freedom of artistic expression both directly and indirectly. The Freemuse report: "[Security, Creativity, Tolerance and their Co-existence: The new European agenda on freedom of artistic expression \(2020\)](#)" already provided evidence, prior to the pandemic, of a shrinking space for civil society, which is threatening freedom of artistic expression in Europe through the criminalisation of artists, various acts of censorship and the exertion of undue state control. This creates the risk of undermining the region's cultural diversity and democratic values and directly impacts the ecosystem within which artists, cultural and creative professionals operate. In the context of the COVID-19 crisis, these assertions resonate have an even stronger resonance.

The European Commission (DG EAC) has commissioned a study on the status and working conditions of artists and cultural and creative professionals, which has been identified as one of the five priority areas of the EU Culture Workplan 2019-2022. This includes a chapter on artistic freedom, recognising the inextricable link between artists' working conditions and freedom of artistic expression. The importance of the right to artistic freedom of expression has also been heavily documented in the ground-breaking UN report "The right to freedom of artistic expression and creativity" by Special Rapporteur in the field of cultural rights, Farida Shaheed¹.

The workshop on artistic freedom provides a unique opportunity to consider the value and the role of artistic freedom in Europe and to exchange views on the importance of this right and its cross-cutting impact and how this right, protected under international law, can best be preserved within the EU context.

The attached draft agenda and concept paper is proposed to allow for an open exchange on the importance of freedom of artistic expression in the broadest societal context, whilst recognising the necessity to create a forum where the above-mentioned challenges can be openly discussed in a constructive manner. It is recommended that the workshop should be

organised using interactive and participatory methodology with the possibility of parallel breakout sessions with a moderator and should include representatives of civil society organisations.

Speakers and guests should ensure representation of the following:

- Member States Permanent Représentations / Capitals
- European Parliament: LIBE/CULT committee members
- Representatives of Civil Society
- Artist advocates of freedom of artistic expression
- Academic Experts
- Agencies: FRA

The proposed concept for the workshop is designed as a one day event but can be adapted to two half days as appropriate.

DRAFT

DRAFT AGENDA

EUROPEAN COMMISSION WORKSHOP on ARTISTIC FREEDOM as part of the Work Plan on Culture 2019 – 2022

WELCOME AND OPENING REMARKS / European Commission

- Introduction
- Objectives for the workshop

SESSION 1: THE STATE OF ARTISTIC FREEDOM IN EUROPE

Panel with 2/ 3 Speakers (Artists / Civil Society Representatives / UN)
Discussion with Facilitator

SESSION 2: BEST PRACTICES FOR THE REALISATION, PROMOTION AND PROTECTION OF FoAE

1 speaker with example of best practice (state actor) e.g. Member State
1 speaker with example of best practice (non state actor) e.g. national NGO

Followed by Q&A and discussion with facilitator

SESSION 3: LEGAL FRAMEWORK AND RESTRICTIONS TO PROTECT, PROMOTE AND FULFIL FREEDOM OF ARTISTIC EXPRESSION

2/3 Speakers with expertise on legal framework (international/European/national)

Followed by Q&A discussion with facilitator

SESSION 4 – WRAP UP & CLOSING SESSION (with facilitator)

- Facilitated discussion on main conclusions and priority focus areas for proposed conference 2021

- Conclusions and Closing Remarks, European Commission

PROPOSED CONTENT OF ARTISTIC FREEDOM WORKSHOP SESSIONS

SESSION 1: THE STATE OF ARTISTIC FREEDOM IN EUROPE

Artistic Freedom is crucial in enabling the space for open and fearless debate in democratic societies. It is a right protected in international and regional law under the broader remit of freedom of expression as well as in the context of cultural rights. It is at the foundation of democracy, granting the right to all individuals, without any distinction, to create, receive and express ideas freely. Violations of FoAE carry a high cost for society, the economy, cultural life and ultimately for democracy. They undermine the fundamental freedoms of European citizens and the ideals of the European Union which celebrate cultural diversity and democracy.

FoAE violations can take different forms. They can be restricted through the misuse or misinterpretation of existing laws which are subject to broad regulatory discretion and powers, or which contain vague provisions open to interpretation. They can also be the result of undue political pressure or burdensome financial and administrative regulations. According to Freemuse's 2020 report "The New European Agenda on Freedom of Artistic Expression", five specific challenges to artistic freedom exist in Europe:

1. Anti-terrorism legislation used to silence dissent
2. Religious values overriding artistic freedom
3. The criminalisation of insult to the state and its symbols
4. Undue government influence on museums and arts institutions
5. The targeting of LGBTI artists and artworks

Whilst high profile cases do attract media attention more needs to be done to address the bigger picture, and to develop a more comprehensive approach which recognises the intersectionality of artistic freedom and the cross-cutting issues that affect artists at risk.

Questions to consider:

- What does an enabling environment for FoAE look like?
- Why is FoAE a cornerstone for thriving democracies?
- How does breaching artistic freedom affect economic, social, cultural rights?

SESSION 2 – BEST PRACTICES FOR THE REALISATION, PROMOTION AND PROTECTION OF FoAE

The EU Work Plan on Culture 2019 – 2022 recognises culture as key to building inclusive and cohesive societies, and art as an effective medium to overcome barriers within society. It underlines how, for the realisation of Artistic Freedom, diverse factors must be taken into account, creating and fostering an ecosystem supporting artists, cultural and creative professionals by involving a wide range of actors in different sectors.

Many good practices to ensure the fulfilment of FoAE have been implemented by civil society actors. Such actions take different forms, often based on partnerships between groups or

between groups and the State. However, few States have taken steps to amend their national legislation in order to strengthen the protection of FoAE.

Questions that could be addressed during this session:

- What are the best practices and structures that can support the fulfilment of FoAE?
- How can civil society and governments collaborate to promote and protect FoAE?
- How can cooperation between EU Member States be developed and structured to uphold FoAE?
- How can an intersectional approach be reinforced recognising that artistic freedom also encapsulates social and economic rights? What can be done at EU level in order to protect and promote FoAE?

Recommendations for the proposed 2021 Conference (priority focus, stakeholders, potential speakers)

SESSION 3 - LEGAL FRAMEWORK AND RESTRICTIONS TO PROTECT, PROMOTE AND FULFIL FREEDOM OF ARTISTIC EXPRESSION

The world of arts and culture is slowly but surely becoming a battlefield of ideas in an increasingly polarized world. Today this is unfortunately true even in Europe: what was yesterday taken for granted in terms of artistic freedom is contested today in many ways. As the world of arts and culture is essential to fostering creativity and critical thinking as well as a number of other values of the European project (as in Art 2 TEU), there seems to be no way around the necessity to address the framework within which artistic freedom is promoted and protected in order to identify strengths and weaknesses.

Questions that could be addressed during this session:

- Where does artistic freedom stand in the European project today?
- How free is artistic freedom and where are the limits of artistic creativity?
- Do we have/need a common language to discuss and understand different but still similar cases from different parts of Europe? Where are our guidelines?
- Could our unique legal ecosystem (EU Law and the European Convention on Human Rights) provide us with guidance?
- Can such guidance instigate a structured European dialogue on the matter?
- How could such guidelines look and who could provide them?

Recommendations for the proposed 2021 Conference (priority focus, stakeholders, potential speakers)

SESSION 4: WRAP UP AND CLOSING SESSION

- Facilitated discussion on conclusions and priority focus areas for proposed conference 2021
- Next steps

Conclusions and Closing remarks / European Commission