



Brussels, 25 September 2013

Proposals to the European Parliament, the European Commission, EU Member States, Civil Society groups and private foundations,

from the ARJ (Arts-Rights-Justice) Working Group of the civil society dialogue platform, Access to Culture, with respect to the report of the UN Special Rapporteur in the field of Cultural Rights, Ms Fareeda Shaheed, "The right to freedom of artistic expression and creativity" : [http://www.cdc-ccd.org/IMG/pdf/The\\_right\\_to\\_freedom\\_of\\_artistic\\_expression\\_and\\_creativity.pdf](http://www.cdc-ccd.org/IMG/pdf/The_right_to_freedom_of_artistic_expression_and_creativity.pdf)

The 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. Fareeda Shaheed's UN 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 UN 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 Neighbouring 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 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 Member States, is questionable.

1.2 agrees with the Report that addresses “ (...) *laws and regulations restricting artistic freedoms as well as economic and financial issues [are] 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 self-censorship imposed by external factors) 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 closing down the public space for debate. We note, for similar reasons, a growing number of 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 strongly recalls that Visa policies are an essential component to respond adequately to the situation of artists in danger and to 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 strongly endorses the Special Rapporteur’s consideration of the living and working conditions of artists and the impact that they may have on freedom of artistic expression. In particular, the recognition that freedom of artistic expression also relates to “*(b)the right to freedom of association including the right of artists and creators to form and join trade unions; (c) the right to benefit from the protection of the moral and material interests resulting from any literary or artistic production of which a person is the author (art 11). The ARJ commends the concrete suggestions in the report in order to improve these conditions, including the recommendations to “[improve] the social status of artists, in particular their social security, which seems to be a widely shared concern among them” (art 72); “Establish a clear national legal framework prohibiting coercive contracts under which creators sign*

*away their rights to their creation”; and to “Support the establishment of non-profit collective societies mandated to collect and distribute income from artistic creations and performances” (Art 90, recommendations d and e).*

1.8 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.

1.9 Finally, we call on the European Parliament and the European Commission 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 through 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, 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.

2.2 establish a Parliamentary intergroup or committee subgroup to follow and ensure progress on these issues. *Relevant European Parliament committees include the sub-committee on Human Rights (DROI) and committees such as Foreign Affairs (AFET), Civil Liberties, Justice and Home Affairs (LIBE); Development (DEVE) and Culture and Education (CULT).*

2.3 continue to further the work already undertaken in the European Parliament to improve the situation of artists as part of an overall approach to promoting artistic freedom. The political commitments to bettering the social situation of artists and to safeguarding their societal role outlined in the 2007 EP Resolution A6-0199/2007 / P6-TA-PROV(2007)0236 on the Social Status of Artists remain as relevant 6 years later. Equally the 2012 CULT committee regarding Online Distribution of Audiovisual Works (A7-0262/2012) contained an important commitment to fair contracts for creators (para 46 of the Cavada Report), which echoes the concerns of the Special Rapporteur regarding coercive contracts. This commitment needs to be closely followed up with the European Commission.

2.4 In particular, we call on the EP Committees on Human Rights and on Culture to work alongside the EEAS and the European Commission DG for Education and Culture to:

- Establish the 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 right abuses and to monitor such abuses (see this document 1.9)

### **3 European Commission**

We call on the European Commission to:

3.1 set up an inter-institutional team\* 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.

*\*Relevant European Commission directorates and service agencies include: Education and Culture (EAC); Enlargement (ELARG); EuropAid Development and Cooperation (DEVCO); Home Affairs (HOME); Humanitarian Aid (ECHO); Justice (JUST); ); Employment, Social Affairs and Inclusion (EMPL).*

*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).*

### **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 Creativity”.

4.3 fully support NGOs and other non-state actors that 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 and public foundations**

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

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

### **Members: ARJ Working Group of the Access to Culture Platform (with descriptions)**

Arterial Network (<http://www.arterialnetwork.org> network /culture / Africa)

Article 19 (<http://www.article19.org> free speech/NGO)

Circostrada/Hors les Murs (<http://www.circostrada.org> circus / street arts network)

EMC (<http://www.emc-imc.org> European Music Council)

European Academy of Yuste Foundation ([www.fundacionyuste.org](http://www.fundacionyuste.org) European cultural and social foundation)

EWC (<http://www.europeanwriterscouncil.eu> European Writers Council)

FERA (<http://www.filmdirectors.eu> Federation of European Film Directors)

freeDimensional (<http://freedimensional.org> international safe havens / Creative Resistance Fund)

IDEA (<http://www.idea-org.net> international theatre in education network)

ICORN (<http://www.icorn.org> International Cities of Refuge Network)

IETM (<http://ietm.org> international contemporary performing arts network)

FEP (<http://fep-fee.eu> Federation of European Publishers)

FIA (<http://www.fia-actors.com> International Federation of Actors)

FRC ([www.cimettafund.org](http://www.cimettafund.org) Roberto Cimetta Fund for Arts Mobility in the Mediterranean)

Art for Social Transformation (<http://artforsocialtransformation.blogspot.be> network/culture / Latin America)

On the Move (<http://on-the-move.org> artists’ mobility resource and advocacy / network)

ResArtis (<http://www.resartis.org/en/> network / international artists’ residencies)

TransEuropeHalles (<http://www.teh.net> network / independent cultural centres)

UTE (<http://www.union-theatres-europe.eu/home> Union des théâtres de l’Europe)

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

**Mme Marie-Christine Vergiat (GUE),**  
as well as:

Mme Mary Honeyball (S&D),

Mme Cecilia Wikström (ALDE)

Mme Marietje Schaake (ALDE)

Mme Malika Benarab-Attou (GREEN).

ARJ would also like to thank the partners to this initiative :

Index on Censorship (<http://www.indexoncensorship.org> - free expression)

Freemuse ([www.freemuse.org](http://www.freemuse.org) - free expression for musicians globally)

International Theatre Institute / Swedish Theatre Union, Sweden (Action Committee on Artists' Rights) <http://teaterunionen.se>

International Theatre Institute, Germany (Action Committee on Artists' Rights)  
<http://www.archiv.iti-germany.de>

FCCD (International Federation of Coalitions for Cultural Diversity) <http://www.cdc-ccd.org>