

# The Fragile Triangle of Artistic Freedom

*A Study of the Documentation and  
Monitoring of Artistic Freedom in  
the Global Landscape*

Ole Reitov and Sara Whyatt



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# Abbreviations

AI	Artificial Intelligence
AR	Artists at Risk
AR - ENSH	Artists at Risk – A European Network of Safe Havens
ARC	Artists at Risk Connection
CDCPP	Council of Europe’s Steering Committee for Culture, Heritage and Landscape
CoE	Council of Europe
COVID-19	coronavirus disease 2019
CSOs	Civil Society Organisations
ECHR	European Convention on Human Rights
EEAS	European External Action Service
EFA	European Free Alliance
ENNHRI	European Network of National Human Rights Institutions
EU	European Union
EUR	euro(s)
FRA	European Union Agency for Fundamental Rights
HR	Human Rights
HRC	UN Human Rights Council
ibid	in the same source
ICORN	International Cities of Refuge Network
IESCR	International Covenant on Economic, Social and Cultural Rights
IFACCA	International Federation of Arts Councils and Culture Agencies
IMS	International Media Support
IP	Interviewed Person
ISF	Institute for Social Research
LDC	Least Developed Countries
MEP	Member of the European Parliament
n.d.	no date
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organisation
NHRI	National Human Rights Institution
NMFA	Norwegian Ministry of Foreign Affairs
NOK	Norwegian krone (crowns)
ODA	Official Development Assistance

OHCHR	Office of the United Nations High Commissioner for Human Rights
OMC	Open Method of Coordination
OSHA	European Agency for Safety and Health at Work
PANAF	Pan-African Network for Artistic Freedom
SAC	Swedish Arts Council
SDG	Sustainable Development Goals
SEK	Swedish krona (crowns)
SH FT	Safe Havens   Freedom Talks
Sida	Swedish International Cooperation Development Agency
QPR	Quadrennial Periodic Report
UN	United Nations
UN HRC	United National Human Rights Council
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNSR	UN Special Rapporteur
UPR	Universal Periodic Reviews
US	United States
USA	United States of America
USD	American dollars

# Foreword

Artistic freedom is an integral part of freedom of expression and is guaranteed by the Universal Declaration of Human Rights. It encompasses, among others, the right to freedom of creativity, participation in a cultural life of one's choice and enjoyment of the arts. In the European Union, the importance of cultural freedom and diversity is ingrained in the Charter of Fundamental Rights. On the national level, in some countries such as Germany, its protection forms an inherent part of the constitution. Support for the safeguarding of fundamental rights, such as the right to artistic freedom, is an essential part of supporting international democratic cooperation.

The authors of this study, Sara Whyatt and Ole Reitov, highlight the increasing importance of artistic freedom for the international community. On the one hand, they observe a growth in the understanding of this importance and, on the other, they identify insufficiencies pertaining to the system monitoring violations of and challenges to artistic freedom. The research sheds light on several reasons for this, among others the lack of data compilation and the existence of only very few donors. Violations of artistic freedom can take the form of censorship and repression in all stages of the artwork process, such as production, distribution and dissemination. Consequently, as the authors point out, not only artists and cultural practitioners but also institutions and the public can be affected.

Freedom of artistic expression is key for creativity and cultural production as well as the representation of diverse societies. It is the prerequisite for equal and sustainable partnerships with civil society actors. As mentioned by the authors, "CSOs, donors, and UN organisations must find ways to meet the present dependency on short-term policies and trends of support in these times of internal as well as international conflicts and new challenges brought upon traditional and societal values."

This study forms part of ifa's Research Programme "Culture and Foreign Policy", in which experts address relevant issues relating to culture and foreign policy with the aim of involving academics, practitioners, policymakers, and civil society. I would like to thank Sara Whyatt and Ole Reitov for their excellent work and commitment to this research. In addition, I would like to thank my ifa

colleagues Sarah Widmaier and Ivana Putri for their work on the conception, coordination and editing of this project.

We need research which examines the status quo of international cultural relations as well as its foundations in international law. The continuous evaluation and development of international cultural relations is crucial to ensure that societies around the globe connect constructively with one another and continue to hold open dialogues.

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# Abstract

This study addresses the lack of knowledge, data and awareness of the challenges of artistic freedom worldwide and explores the current status of systems which monitor and document violations of artistic freedom. By interviewing key actors in the landscape of artistic freedom and analysing available reports, this study portrays how donors, international organisations and civil society organisations (CSOs) understand the current challenges they face. It identifies gaps in the promotion and protection of artistic freedom, including what is needed to address them, and points to a number of positive developments as well as negative trends. The study explores the dependency of CSOs on funding and how donors, policymakers and UN bodies are, in turn, dependent on and benefit from information provided by CSOs as well as the fragility of this interdependency.

# Executive Summary

In its May 2023 report on ‘Defending Creative Voices: Artists in Emergencies, Learning from the Safety of Journalists’, the United Nations Educational, Scientific and Cultural Organisation (UNESCO) called for more protection for artists under attack. Citing the number of killings and attacks on artistic freedom documented by Freemuse and other international civil society organisations (CSOs) advocating artistic freedom, it stated that “the international community must provide greater protection to artists caught up in armed conflict, political instability, and natural disasters” and recommended “new monitoring and emergency assistance policies for artists at risk” (*UNESCO calls for more protection for artists under attack*, 2023).

This study aims at qualifying decision makers, donors, CSOs, and the public in their understanding of the current challenges facing the ‘artistic freedom landscape’. Although freedom of expression is supposedly guaranteed by several international conventions (which most states have ratified), a majority continue to violate these fundamental human rights principles and an increasing number of pressure groups threaten artistic freedom while, at the same time, promoting their own ideologies. By interviewing key actors in the landscape of artistic freedom and analysing available reports, this study portrays how donors, international organisations and CSOs understand the current challenges they face and points to a number of positive developments as well as negative trends.

There is a growing understanding in international fora of the importance of protecting artistic freedom and making accountable those who continuously censor, threaten and demonise artists and artistic expressions which challenge traditional values and worldviews. However, compared to the documentation of attacks against the media, violations and examples of censorship of artistic freedom are under-reported as there are few CSOs engaged in this field. These CSOs are mostly understaffed, negatively affected by insecure funding and face a variety of challenges in collecting, monitoring and analysing information.

Unlike media protection organisations, which receive verified documentation on attacks on media professionals from professional unions as well as individuals from all over the world, the CSOs documenting artistic freedom violations rarely receive any information from organisations representing artists. Added to this are the ‘under-the-radar’ examples of self-censorship by artists, curators, librarians, galleries, film distributors and producers, and others working across the cultural value chain.

Although an increasing number of democratic countries actively promote and support the defence of artistic freedom, there are concerns that such support is starting to decline. The report concludes that lack of interministerial consultations even negatively affect the impact of some of these initiatives and support programmes.

Although the existing artistic freedom landscape has established several constructive and trustful relations between CSOs, United Nations (UN) systems and donors, there is scope for more systematic, efficient and, not least, sustainable collaborations. However, sustainable policy requires courage and foresight. CSOs, donors and UN organisations must find ways to meet the present dependency on short-term policies and trends of support in these times of internal as well as international conflicts and new challenges brought upon traditional and societal values.

# 1. Introduction

Artists' rights to freedom of artistic expression and citizens' rights to access arts and culture are not only challenged by repressive states with censorship systems. Even civil society groups/organisations (CSOs) with specific religious, political, social, or cultural interests and backgrounds often campaign for censorship of artistic expressions. In some cases, artists are threatened directly by imprisonment, brought to court or attacked physically or through social media. Artists as well as large numbers of audiences have been killed by religious terror groups or politically motivated individuals.

As artistic expressions are visible in both the public domain and digital formats, certain expressions catch the eye of receivers worldwide, becoming a cause of transnational conflicts. While some groups in society may feel offended, some artistic expressions may even be exploited by regimes as part of their internal as well as external policies. Conflicts over artistic expressions mirror tensions within societies and between societies. New sensitivities put pressure on artists to self-censor and may negatively influence production companies and public institutions such as libraries and museums. Artists, producers and curators are generally ill-equipped to deal with threats and censorship.

While national, regional and international CSOs are increasingly promoting and defending artistic freedom by documenting violations and providing support to artists at risk, there are very few which have programmes dedicated to such work. In general, CSOs are financially dependent on a limited number of donors and therefore operate under fragile structures. Despite this, the human rights profile of these donors benefits from information, networking and analyses they receive from the CSOs.

This study addresses the profound lack of knowledge, data and awareness of the challenges of artistic freedom worldwide and explores the current status of monitoring and documentation systems. It identifies where there are gaps in the promotion and protection of artistic freedom and what is needed to fill them. In the past ten years, violations of artistic freedom have been debated in many international cultural and political fora, including the United Nations Human Rights Council, UNESCO and the Council of Europe. These international bodies mainly receive information and reports from CSOs on mechanisms of censorship, violations against and threats to artists and artistic freedom. Thus, this study focuses specifically on this triangle of actors in the 'landscape' of artistic freedom.

## 1.1 Methodology

This study is based on desk research, literature review and interviews with key members from organisations engaged in supporting and promoting artistic freedom in the period between 2019 and 2023. The interviews were based on a set of core questions for each of the focus groups, adapted and expanded as appropriate for each sector. Material based on interviews with CSOs working in the field of artistic expression has been anonymised to give the interviewees the freedom to speak openly.

The desk studies focused on publicly available material such as institutional reports, United Nations (UN), European Union (EU) and government reports, policy papers, CSO reports, statements, campaigns, panel and other public debates, and social media posts, among others.

While organisations which provide relocation support for artists at risk are included in this research, this study focuses on the documentation, monitoring and advocacy of artistic freedom and does not analyse their work on providing safe havens. For insights in this area, we recommend studies such as those published by the Martin Roth-Initiative and Safe Havens | Freedom Talks.<sup>1</sup>

## 1.2 Key Findings

### Positive developments

- There has been a growth in understanding in the international community regarding the importance of artistic freedom and its role in promoting and preserving democracy among human rights organisations, the culture and arts sector and the public.

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<sup>1</sup> More studies on the topic of safe havens are available from the Martin Roth-Initiative ([www.martin-roth-initiative.de/en](http://www.martin-roth-initiative.de/en)) and Safe Havens | Freedom Talks ([www.sh-ft.org](http://www.sh-ft.org)).

- Inter-governmental and regional bodies are now highlighting artistic freedom in their reporting and policy setting. For example, since 2019, UNESCO has made artistic freedom a reporting requirement for the state parties to the UNESCO 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The Council of Europe’s ‘Free to Create | Create to be Free’ programme was launched with its manifesto on artistic freedom in 2020. Reports from the Nordic Council of Ministers and the European Parliament also include artistic freedom.
- There are more CSOs monitoring and promoting artistic freedom within the cultural, media rights and human rights sectors, resulting in an increase in published reports focusing on national as well as topical, regional and global issues.
- There has been a notable increase in global, regional and national conferences on artistic freedom as well as inclusion of the topic as a key theme, in panel debates, workshops and other actions within their programmes, which was previously not the case.
- More artists have become aware of their rights and are participating in defending human rights. Research on artistic freedom is increasing: there has been a growth in reports published by CSOs, academic papers and arts and culture publications.

### **Negative developments**

- The deterioration of democracy and human rights across the world is a major threat to artistic freedom.
- The shrinking of public space, the drift towards right-wing politics and populism as well as the influence of religious and pressure groups (which seek to influence government policy or cultural organisations) have a major impact on creative freedom and the many stakeholders involved, from governments to funding bodies and public support.

- There has been an increase in the sophisticated means of repression, as a result of which violations remain undetected. These ‘under-the-radar’ means include the use of film certification, permission to hold public events, withdrawal of funding, and the banning of art events on spurious grounds, specifically those featuring LGBTQIA+ or minority issues.
- Self-censorship affects artists and institutions as well as agents, venue managers, artistic directors, and other gatekeepers in the cultural economy.
- The precarity of the profession leads artists to fear the tackling of difficult topics as this may result in losing essential support and funding.
- CSOs defending artistic freedom in authoritarian countries are being labelled ‘foreign agents’, based on the perception that human rights are a Western project meant to undermine governments and drive a regime change agenda.
- While funders and donors provide invaluable support for artistic freedom projects, the lack of long-term support, a focus on project funding rather than core activities, requirements to focus on particular topics, and overcomplex bureaucracy can also result in limitations and a lack of sustainability.

## 2. What is Artistic Freedom?

Freedom of expression is a key right protected by international human rights instruments which protect fundamental freedoms. Thus, in principle, everyone enjoys the right to freedom of expression and creativity, to participate in cultural life and to enjoy the arts. Artists do not have additional rights, but artistic freedom is recognised as falling under the category of freedom of expression and is thus similarly protected and guaranteed. International law has protected these rights since 1948, when the Universal Declaration on Human Rights was proclaimed.

The UNESCO 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions (hereinafter the UNESCO 2005 Convention) specifically mentions that “[c]ultural diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed” (UNESCO, n.d.2.). However, these rights are violated all over the world and negatively affect artists, cultural producers and institutions as well as the public.

There is no universal definition of ‘artistic freedom’ nor is there a universal definition of ‘artist’. However, since 1980, the term ‘artistic freedom’ or ‘freedom of artistic expression’ has increasingly been used in discourses within the UN and by organisations and institutions documenting, discussing and advocating artists’ right to freedom of expression. The UNESCO 1980 Recommendation concerning the Status of the Artist takes a holistic view of artists’ rights (UNESCO, 2022c). This is also reflected in the UNESCO 2005 Convention, which incorporates artistic freedom as an essential goal in the monitoring framework. Thus, in the UNESCO definition of ‘artistic freedom’ (UNESCO, 2018), these rights include six additional rights and can be summarised as:

- the right to create without censorship or intimidation;
- the right to have artistic work supported, distributed and remunerated;
- the right to freedom of movement;
- the right to freedom of association;
- the right to the protection of social and economic rights;
- the right to participate in cultural life.



The 1980 Recommendation stipulates that governments must take “all necessary steps to stimulate artistic creativity and the flowering of talent, in particular by adopting measures to secure greater freedom for artists, without which they cannot fulfil their mission, and to improve their status by acknowledging their right to enjoy the fruits of their work” (III. Guiding Principles in UNESCO, 2022c).

This study uses the UN and UNESCO definitions of ‘artistic freedom’ and focuses on the right to create without censorship, the right to participate in cultural life and the right to organise and move freely.

The full scope and understanding of the concept of ‘artistic freedom’, the mechanisms of censorship and how these affect artists are relatively recent. The first ever global conference on artistic freedom, ‘All That is Banned is Desired’<sup>2</sup>, was organised in 2012 by Freemuse and the Norwegian foundation Fritt Ord. The following year, the Special Rapporteur in the field of cultural rights, Farida Shaheed, published the first ever UN report on ‘The Right to Freedom of Artistic Expression and Creativity’ (UN OHCHR, 2013).

## **2.1 The growth of artistic freedom as a concept/issue**

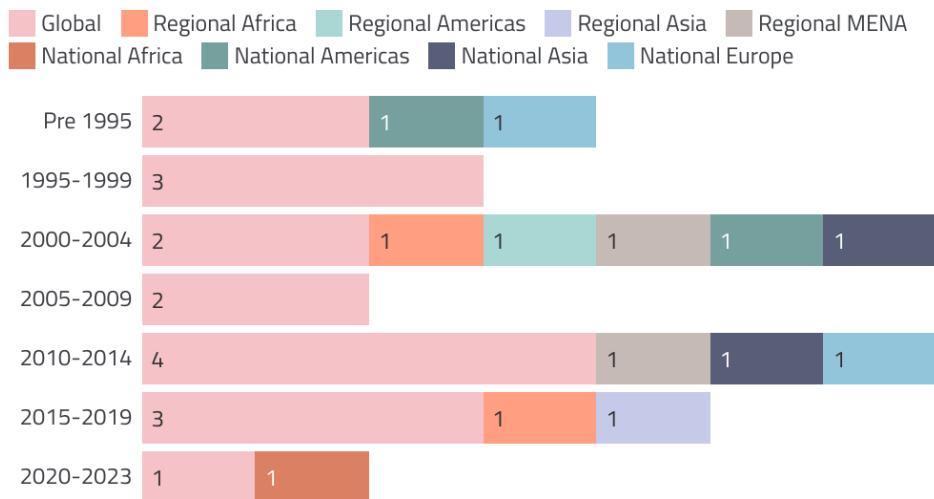
Artistic freedom is still in its infancy despite having received greater recognition, as shown notably in the past five years through the increase of organisations engaged in promoting creative freedom as their sole mission or, in part, as an agenda in legal fields and mobilisation. It should be noted that this greater recognition has been the result of several years of focus by Freemuse and PEN International in particular, working alongside the UN Special Rapporteur in the field of cultural rights and UNESCO. This focused work, along with the increase of programmes focusing on artistic freedom and more reporting done by CSOs, has made the issue more visible. In turn, CSOs state that they have been receiving more requests for assistance and information. This increased recognition and understanding is also reflected among the creative communities, where there is a

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<sup>2</sup> <https://www.youtube.com/playlist?list=PLLhIMovi4TmIQFUIckOqZtRe0s-pmDH7m> [Accessed on 2024-02-11]. See also Freemuse, 2017.

growing awareness among artists concerning their rights and how to guarantee them and about finding legal solutions to protect themselves and their work, often using artistic performance as a means of fighting for this right. All this has led to an increasing discussion on the issue of artistic freedom in the public arena and public urgency for the need to guarantee this right.

**Chart 1. Number of artistic freedom CSOs based on year established and geographical scope of work**



Most globally operating organisations on artistic freedom have been in existence for a long time, 43% for more than two decades. The growth of regional and national organisations has tended to take place between 2000 and 2019; only two organisations have been established since 2020.

Source: Authors' data gathered for this study. Data is based on all artistic freedom organisations known by the authors, not merely those interviewed for this study.

Yet there remains a broad range of definitions, and consequently a lack of understanding, as to what 'artistic freedom' entails. There is constant work to be done in training and explaining its fundamental precepts to a variety of audiences, from governments to the legal profession, the media and artists and cultural workers themselves. This is in part because artistic freedom means different

things to different people, and because the topic encompasses so many elements (not just political censorship), which has resulted in people interpreting it from different angles.

*“There is a growing movement—so that jointly with this side of the resistance, there is also not only a domain over the rights that are foreseen and that must be guaranteed and cannot be violated, but also over different possible ways of confrontation, mainly in the legal field and in the field of political social mobilisation.”<sup>3</sup>*

### **Latest Developments in Europe**

There has been a positive trend in recent years towards the abolition of blasphemy laws, which were often applied to works of art, notably in Ireland (2021), Greece (2019) and Malta (2016). In Ireland, a 2018 referendum on blasphemy laws voted overwhelmingly for its removal, with nearly 65% of voters calling for its abolition (Whyatt, 2023). Another positive move was made in Malta in July 2023 with the introduction of an artistic freedom law which stipulated provisions to ensure that the law “shall not hinder artistic, satirical or comic expression” and online statements would not be penalised if they were considered to be part of “artistic, satirical or comic expression and [did] not include credible and realistic threats to the personal liberty or security of any person or to a person’s property”. In a press release announcing the changes, the Maltese government stated:

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<sup>3</sup> From a report by Article 19 South America to the Swedish Arts Council as part of its submission to the Council’s Programme for Artistic Freedom. The report is not available in the public domain (only upon request). More information regarding the Council’s Programme for Artistic Freedom is available at: <https://www.kulturradet.se/en/our-operations/programme-for-artistic-freedom/our-partners/>.

*“The [Maltese] government believes that artists should be allowed to express themselves in the broadest possible manner when it comes to their cultural expression. [...] [T]he justice system should not become a tool in the hands of those who want to stifle the arts and freedom of thought.” (New Bill to Strengthen Freedom of Artistic Expression in Malta, 2023)<sup>4</sup>*

Again in Ireland in November 2023, it was announced that the country’s archaic laws banning ‘obscene’ or ‘indecent’ content would be scrapped (Lehane, 2023).

However, it should be noted that a reverse trend was seen at the end of 2023 when, as a consequence of public burnings of the Quran, a majority of the members of the Danish Parliament approved legislation which prohibits and criminalises the ‘inappropriate treatment’ of writings of significant importance for a religious community. In Sweden, the introduction of a similar ban was discussed in Parliament during the second half of 2023 (Naughtie, 2023). In both countries, arguments for such bans were based on security concerns and as a response to heavy criticism from Muslim organisations and pressure from other governments, such as the Turkish Government, which postponed its support for Sweden’s membership in NATO for several months (Bilginsoy, 2023).

## **2.2 CSO perspective on the state of artistic freedom today**

*“We are witnessing more and more solidarity from individuals. We have seen more and more incredible resistance to injustice in the world and this is something very unique and we need to build on it.” (IP1, 2023)*

All CSOs are deeply concerned about the shrinking of public space and a global drift towards authoritarianism as well as the erosion of democracy, which has a negative impact across the human rights spectrum and notably on artistic

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<sup>4</sup> In addition, note that Malta abolished its blasphemy law in 2016, as referred to in the Council of Europe (February 2023) Report (Whyatt, 2023).

freedom. Nationalists and conservative fundamentalists are forging alliances with governments, inserting their traditionalist and religious agendas into mainstream politics, heightening and making their threats against artists more complex. Even some countries which protect freedom of expression relatively well are now experiencing a disintegration in their capacity to protect this right for economic, political and sociocultural reasons, described by an interviewee as “sociocultural oblivion” (ibid.).

The Freemuse ‘State of Artistic Freedom Report 2022’ revealed that there are more than 1.200 recorded attacks against artists, 74% directly because of their creative works and 26% because they practise their civil and political rights. ‘Above-the-radar’ attacks, such as imprisonment and legal actions, are relatively easy to monitor and record. That year, 119 artists were imprisoned in 24 countries, a further 263 detained in 38 countries and 133 on trial while not in prison in 34 countries. The majority of these were clustered in countries such as Iran, Myanmar, Turkey, Russia, Israel and Cuba (Freemuse, 2022).

Commenting on the data, the report notes that monitoring and documenting of the state of artistic freedom is challenged by inconsistent coverage, notably in countries under conflict or where harsh authoritarian regimes limit access and dissemination of information. ‘Under-the-radar’ factors, such as fear of losing contracts, grants, denial of access to awards and performance space, etc., which may hinder artists from creating work or being politically engaged, make it difficult to know the full extent of limitations on artistic freedom.

Therefore, the nature of censorship and repression of freedom of expression makes it impossible to have a complete picture of the extent of the problem. The figures which appear in this study and other reports should be seen as an overview or a ‘temperature gauge’ of the state of artistic freedom today, what the main threats are, where they occur, and in which sectors (ibid.).

What can be seen from reports such as those by Freemuse is that, while imprisonment of and physical attacks against artists tend to cluster in certain countries, other forms of censorship—such as the abovementioned ‘under-the-radar’ threats—are experienced by artists across the globe. Artists in democratic countries report that they practise self-censorship or are subject to institutional

ensorship. In countries where human rights are severely curtailed, artists are doubly restricted, experiencing both these ‘above-the-radar’ attacks alongside more hidden censorship impacts.

Even in countries where democracy is at the core of their constitutions and their support for artistic freedom is publicly declared, this support can be seen, as one interviewee said, as cynical and pragmatic when it comes down to protecting artistic freedom, and it is more about political posturing than real action. The growing authoritarianism and public distrust in politics, including democracy itself, affects the political willingness to support artistic freedom. Across the board, culture is the least well-financed sector, and at times of economic decline tends to be the first to be cut back. This also reduces resources for artistic freedom. As Sverre Pedersen, Director of Freemuse, noted in an interview with the authors of this study, “They say that art and culture is the core blood of democracy, but when it comes to prioritising, culture is the first and easiest place to make cuts.” These negative effects are felt mostly by those who wish to exercise artistic freedom alongside systematically mistreated populations, such as LGBTQIA+, women, refugees, working class people, and the unemployed.

The situation for arts organisations working in conflict areas has become increasingly acute, notably in the Middle East, Sudan, Afghanistan, and Myanmar. An interviewee stated, “The situation on the [African] continent is desperate and dire. What exists is an environment punctuated by repression and extreme vulnerability.” (IP2, 2023) This makes the role of organisations there in providing tactics, knowledge and tools to meet the challenges especially important.

## **2.3 Blind spots: what we do not know and what cannot be measured**

Whereas it is relatively easy to understand that an artist who is censored loses access to a potential audience and income, it is more difficult to assess how this negatively affects societies as such. So far, no studies have been conducted to analyse exactly the multitude of these effects. The Council of Europe Manifesto on

Freedom of Expression of the Arts and Culture in the Digital Era, which was launched in November 2020, stated that:

*Restrictions on freedom of expression and artistic freedom affect the whole of society, bereaving it of its pluralism and the vitality of the democratic process. The ecosystem of artistic freedom affects education, cultural development, socio-economic standards, well-being, quality of life and social cohesion. (Andel et al., 2020)*

In general, actors in the artistic freedom landscape agree that restrictions, censorship and threats negatively affect societies, not least their artists and art producers. On top of the openly known examples of censorship and repression, a multitude of mechanisms negatively affect artistic freedom. The Council of Europe defined these as ‘under-the-radar’ mechanisms, encompassing the often difficult-to-measure effects that create self-censorship, exacerbated by the precarious professional, social and economic status of artists in an often unregulated sector lacking in protection across the board. This includes government intervention in museums’ and other cultural organisations’ decision making; art institutions refusing to take on work which could bring them into confrontation with governments or pressure groups; administrative measures such as refusal of certification and permits for spurious reasons; funders’ roles as open or inadvertent censors; and the special challenges faced by artists from under-represented communities.

It is important to recognise the artistic freedom of all people when they participate in cultural life or wish to engage in creative activities. As the report by Farida Shaheed explains, obstacles to artistic freedom impact on the enjoyment of rights for a wide range of stakeholders: the artists themselves, whether professionals or amateurs, as well as all those participating in the creation, production, distribution, and dissemination of artwork. They include authors, musicians and composers, dancers and other performers, comedians and playwrights, visual artists, editors, film producers, publishers, distributors, directors and staff working in libraries, galleries, museums, cinemas or theatres, curators and organisers of cultural events. Audiences may also be affected.

Restrictions on artistic freedom may target some categories of the population more specifically. Women artists and audiences are at particular risk in some communities and prohibited from solo performances in front of men or from performing arts altogether. In a number of countries, women who make a living as artists or wish to engage in artistic careers, particularly in the fields of cinema, theatre, dance, and music, continue to be labelled as ‘loose’ or ‘prostitutes’. Ethnic and religious minorities may also suffer from prohibitions, such as from using a language or artistic style specific to a region or people. People with disabilities may suffer particular prejudice when wishing to perform or display their work.

For the past decades, CSOs which documented violations advocated for artistic freedom and helped artists at risk to relocate to other countries, pointing out that the effects of censorship not only negatively affect the artists and audiences, but also the cultural industries. Having said that, to qualify these effects in terms of financial loss, cultural development and quality of life is a much more difficult task.

## 2.4 Censors

Censors and censor mechanisms exist and were also examined. In general, the decisions made by most censorship committees or censorship regulators are not transparent. There are exceptions, but generally, CSOs which document the censorship of artistic expressions are not regularly in contact with censorship boards as censorship boards seldom respond to requests or refrain from providing arguments for censoring specific artistic expressions.

When Freemuse organised the first World Conference on Music and Censorship in Copenhagen in 1998, a former censor from the South African Broadcasting Corporation agreed to discuss censorship during apartheid with two musicians who had experienced censorship (Freemuse, n.d., and Reitov, 2004). This dialogue, which took place in a ‘safe space’ (“we are here to learn, not to blame”), provided an insight into the hidden world of censorship and how even censors must manoeuvre in a changing political situation. They may have written rules, but the political agenda of the day can easily change those rules. During



consecutive conferences, censors from Egypt and Nigeria revealed how they operated within the systems and how they even considered themselves to be promoters of art, arguing that because they came from the art world, they could sometimes expand the scope of limitations.

In general, while the dialogue provided a sliver of insight into the role of a censor, as previously mentioned, the decisions made by censors and censorship boards are seldom described and analysed in detail. Thus, artists and art producers must manoeuvre in a non-transparent landscape, which frequently leads to self-censorship.

### 3. The Triangle of Actors Driving Artistic Freedom Issues

Promotion and defence of artistic freedom are interdependent with donors, CSOs and UN organisations—a ‘triangle of actors’ driving artistic freedom, which is fed into and informed by cultural sector organisations and artists themselves. Although interest in artistic freedom has increased in many organisations during the past four years, it is easy to single out particular donors and organisations which have significantly driven greater attention to artistic freedom issues. There is a range of possible reasons for this increased interest, from the post-COVID reassessment of the fragile situations of artists, their increasing visibility when fleeing from conflicts in Ukraine, Afghanistan and elsewhere, and the heightened sensibility of a world suffering from an erosion of democracy under a ‘polycrisis’.

The main donors for safeguarding artistic freedom are the Swedish International Cooperation Development Agency (hereinafter referred to as Sida), the Norwegian Ministry of Foreign Affairs (NMFA), and the US-based Mellon Foundation.<sup>5</sup> The CSOs are Freemuse, PEN International, Artists at Risk Connection (ARC—a PEN America project), the International Cities of Refuge Network (ICORN)<sup>6</sup> and the annual Safe Havens | Freedom Talks conference<sup>7</sup>. In the UN system, the key players are UNESCO’s 2005 Convention Secretariat and the office of the UN Special Rapporteur in the field of cultural rights.

Without funding, the CSOs would not be able to conduct their work. Without the work of the CSOs, neither the donors nor the UN organisations would receive relevant information nor would they be able to implement the intentions of their policies. This triangle of dependency is also the ‘Achilles’ heel’ of the artistic freedom landscape.

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<sup>5</sup> More information on the profile of these donors can be found on their respective websites:

- Sida: <https://www.sida.se/en/about-sida>
- NMFA: <https://www.regjeringen.no/en/topics/foreign-affairs/human-rights/id1160/>
- Mellon Foundation: <https://www.mellon.org/search/pen%20america>

<sup>6</sup> More information on ICORN is available at: <http://www.icorn.org>

<sup>7</sup> More information on ICORN the Safe Havens | Freedom Talks annual conference is available at: <https://sh-ft.org/safe-havens-conference/>.

## **3.1 International Organisations**

In the past four years, international networks of arts councils and culture institutes have increasingly taken an interest in understanding how artists and arts communities are affected by censorship, threats and defunding, among others. International experts on artistic freedom have been invited to workshops and conferences. However, few specific follow-up activities have emerged from these workshops. Once such workshops and conferences have taken place, the organisations move on to other topics and, to date, they have not established documentation or monitoring initiatives regarding artistic freedom violations. It is easy to single out particular actors which have significantly driven larger attention to artistic freedom issues.

### **3.1.1 The UN Special Rapporteur on Culture**

The Special Procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. The human rights experts are called ‘Special Rapporteurs’. For artistic freedom, the UN Special Rapporteur in the field of cultural rights (hereinafter referred to as ‘UNSR Culture’) deals with artistic freedom as one of the essential cultural rights.

In March 2013, the UNSR Culture, Farida Shaheed, submitted a report entitled ‘The Right to Freedom of Artistic Expression and Creativity’ (hereinafter referred to as ‘the Shaheed Report’) to the UN Human Rights Council. The Shaheed Report was to become one of the most important reference points for artists and organisations advocating and monitoring artistic freedom. The report does not define ‘artistic freedom’ but, like UNESCO documents, it places freedom of artistic expression and creativity in a larger context and, as described in the report’s preface, “addresses the multi-faceted ways in which the right to the freedom indispensable for artistic expression and creativity may be curtailed” (UN OHCHR, 2013, p. 3).

The report expresses a “growing worldwide concern that artistic voices have been or are being silenced by various means and in different ways” and addresses the laws and regulations restricting artistic freedoms. Shaheed also discussed the underlying motivations for these restrictions, which she described as “most often political, religious, cultural, or moral, or [they] lie in economic interests, or are a combination of those” (ibid., p. 1). Referring to challenges against artists from governments, religious groups and CSOs, the report established that:

*“Artists, like journalists and human rights defenders, are at particular risk as their work depends on visibly engaging people in the public domain. Through their expressions and creations, artists often question our lives, perceptions of ourselves and others, world visions, power relations, human nature and taboos, eliciting emotional as well as intellectual responses.” (ibid., p. 8)*

Developed in close collaboration with and inputs from CSO experts, the report immediately received massive coverage and has become one of the most important references for policy papers and statements from CSOs, governments, arts councils, etc., on artistic freedom. The report and promotion of artistic freedom has been followed up over the years by the consecutive UNSR Culture mandate holders (UN OHCHR, n.d.2.).

Before the report was published, UNSR Culture mandate holders had few contacts with CSOs and received very little information on violations. The report led to close contacts to the most important civil society organisations monitoring artistic freedom violations, which has since regularly reported violations to the UN office and suggested experts for workshops or establishing contact with affected persons. Furthermore, since the publication of the report, mandate holders have frequently participated in events organised by CSOs, governments and arts councils as well as regional ministerial conferences and events organised by the EU.

Soon after the presentation of the Shaheed Report in 2013, more than 50 countries from both the Global North and the Global South prepared a joint statement on artistic freedom in collaboration with CSOs.<sup>8</sup> As important as this resolution is, it should, however, be noted that violators of artistic freedom (such as Turkey, Hungary and Poland), were among the countries supporting the statement.

Ten years later, the Shaheed Report remains a seminal document on cultural and artistic freedom and a key reference point for everyone working on promoting these rights. The succeeding UN Special Rapporteurs in the field of cultural rights, Karima Bennouna and Alexandra Xanthaki, have continuously advocated artistic freedom and developed the legal argumentation further.

### **Mandate tasks**

The UN Special Rapporteurs are independent of government influence and selected from a group of nominated experts, many of whom were nominated by CSOs. Mandate holders tend to have legal backgrounds or are from other academic fields. In some cases, several rapporteurs collaborate on statements on important or critical issues. In the case of the UN Special Rapporteur in the field of cultural rights, such collaborations have taken place with other mandate holders such as the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the UN Special Rapporteur on freedom of religion or belief. The Special Rapporteurs' report is presented annually to both the UN Human Rights Council and the UN General Assembly. The tasks of the UNSR Culture mandate holder include:

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<sup>8</sup> The "Joint Statement – Reaffirming the Right to Freedom of Expression, Including Creative and Artistic Expression", which was presented at the 30<sup>th</sup> Session of the UN Human Rights Council, is available at: <https://www.dfa.ie/media/dfa/alldfawebstimedia/ourrolesandpolicies/int-priorities/humanrights/HRC30---JS-FOAE-creative-artistic-expression.pdf> (For more information, see also Article 19, 2015 and *At UN Human Rights Council, Latvia highlights the role of freedom of expression*, 2015).

- identifying best practices of promoting and protecting cultural rights at local, national, regional, and international levels;
- identifying obstacles to the promotion and protection of cultural rights and submitting recommendations to the Council on ways to overcome them;
- working with states to foster the adoption of measures—at local, national, regional, and international levels—to promote and safeguard cultural rights and make specific proposals to enhance cooperation at all levels in that regard. (UN OHCHR, n.d.1.).

### **Communications**

Individuals or organisations may forward a complaint on violations of their cultural/artistic freedom rights to the office of the mandate holder. The office will then jointly assess the complaint with the Special Rapporteur and can subsequently send a ‘Communication’ to the country which is charged with these violations. In these ‘communication’ letters, the experts report on allegations of human rights violations they have received (UN OHCHR, n.d.4.).

In an ideal world, all relevant complaints would be forwarded to the government responsible for the violation. In reality, this is not the case. There are several reasons for this. The office of the UNSR Culture, like all rapporteurs, has very limited staff. Additionally, the mandate holder must consider how to balance inputs and outputs. In other words, provided it had a much larger secretarial staff, the mandate holder could send dozens of communications monthly to countries such as China, Turkey, Afghanistan, Iran, and Egypt. However, the reality is different. Thus, the office ‘balances’ its communications between countries as well as the number of communications forwarded to those countries which systematically violate artistic freedom, prioritising the most urgent issues.

This may create frustration in CSOs submitting cases as well as in artists who hope to have their cases highlighted by the UN system. In reality, the organisations documenting violations are well aware of the systemic limitations and thus keep the UN office informed, while at the same time addressing the cases directly to the regimes responsible for the violations. The CSOs even inform other country representatives in Geneva if and when the CSOs believe this may influence the representatives of those countries which imprison or censor artists on dubious grounds, conflicting with the human rights conventions which the latter have ratified.

In some cases, artists were released from prison due to pressure from CSOs or a combination of CSOs' and UNSR Culture's actions. However, countries rarely reveal why they release artists. Most governments also do not respond publicly to the CSOs, whereas in principle they must reply to a communication from the UNSR. The Special Rapporteurs may request a 'country visit', but some countries reject such requests, whereas others have provided a 'standing invitation' to the UNSR. During such missions, the experts assess the general human rights situation in a given country as well as the specific institutional, legal, judicial, administrative, and de facto situation under their respective mandates. Apart from meeting with local and national authorities, the experts also meet NGOs, CSOs and victims of human rights violations, among others, as well as the press (UN OHCHR, n.d.3.).

### **CSOs' engagement with the UN**

Freemuse and PEN International are among the organisations with accreditation to the UN. They also collaborate with national and regional sister organisations which do not have that status to enable them to take part, make statements, and be part of debates within the UN. The UNSR Culture is the key rapporteur with which these organisations work, alongside the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. Occasionally, they also work with Special Rapporteurs mandated to focus on torture and freedom of religion as well as other relevant working groups, such as that on arbitrary detention.

Recognising that special rapporteurs are reliant on CSOs, these organisations are also providers of information and guidance to the UN system. The Special Rapporteur in the field of cultural rights, for example, can request advice from CSOs on issues concerning artistic freedom and suggestions for contacts prior to visiting a country.

CSOs collaborate on presenting submissions to the Universal Periodic Reviews (UPR), where states are required to come before the UN Council on Human Rights and answer questions on their adherence to the human rights charter.<sup>9</sup> Although accreditation is not required to submit to this mechanism, the joint activities around UPRs—usually led by CSOs which are accredited—enables greater insights, especially from those in the country under scrutiny, as well as a longer document (joint submissions result in more pages compared to single submissions), which also carry more weight. There is often collaboration regarding the observation of UPR sessions and the presentation of panel discussions during UPR debates at the Palais des Nations in Geneva.

### 3.1.2 UNESCO

The promotion and defence of artistic freedom within UNESCO is managed by the secretariat of the UNESCO 2005 Convention. In 2011, UNESCO established an Expert Facility consisting of experts from all over the world with expertise in the cultural sector. Since 2015, experts on artistic freedom have been incorporated and helped UNESCO to develop a training module offered to governments and civil society as well as the monitoring framework on artistic freedom. Also since 2015, a chapter on artistic freedom has been included as part of the triennial UNESCO Global Report on ‘Re|Shaping Cultural Policies/Re|Shaping Policies for Creativity’ (UNESCO, 2022a).

In the period 2023-2024, UNESCO is currently investing USD 1 million to finance 25 projects focusing on artistic freedom in over 30 countries. Thirteen of these projects are led by governments, public institutions and subregional inter-governmental organisations. The other twelve projects are led by NGOs. According to UNESCO, “Governments will benefit from technical assistance to develop laws, regulations or policies in favour of artistic freedom, decent works and enhanced status for artists and culture professionals” (UNESCO, 2023b).

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<sup>9</sup> The Universal Periodic Review (UPR) is a unique mechanism of the Human Rights Council which calls for each UN Member State to undergo a peer review of its human rights records every 4.5 years. More information is available at: <https://www.ohchr.org/en/hr-bodies/upr/upr-home>. See also UN OHCHR, n.d.5.



Although the UNESCO 2005 Convention has been ratified by 152 countries as well as the EU, it is mainly the Nordic countries (Norway and Sweden, among others) who have been the driving forces to get the artistic freedom agenda into the international arena and financially support CSOs such as Freemuse, PEN International, International Cities of Refuge Network (ICORN), and Safe Havens | Freedom Talks (SH|FT).

Norway is currently the only contributor to the UNESCO-Aschberg programme<sup>10</sup> and, through Sida, Sweden has been funding three distinct phases of the ‘Re|Shaping Policies for Creativity and Artistic Freedom’ project over the last nine years.

Financially, the culture section receives considerably less funding for protection of artistic freedom than the media section for promoting and protecting media freedom. Internally, media freedom has a higher priority in the organisation than artistic freedom, most significantly through the annual celebration of World Press Freedom Day, which was proclaimed by the UN General Assembly in December 1993, with 2023 marking its 30<sup>th</sup> anniversary. So far, no initiatives have been taken to proclaim a World Artistic Freedom Day. While the safety of journalists in emergency situations has received widespread attention over the past decades, resulting in the establishment of a strong body of international, regional and national laws and policies in this field, artists and cultural professionals lack the same opportunities and safety nets, despite facing many of the same threats to their safety and livelihoods which journalists endure.

In a written response which the authors received for this study, the UNESCO 2005 Convention Secretariat pointed out several reasons for the disparity of protection for journalists as compared to that for artists and cultural professionals:

- Although still considered civilians rather than a special protected group *per se*, journalists are referred to as a specific ‘group’ in international humanitarian law, which is not the case for artists.

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<sup>10</sup> The UNESCO-Aschberg Programme promotes the status of the artist by providing technical assistance and expertise for the revision of legal, policy and regulatory frameworks. More information is available at: <https://www.unesco.org/creativity/en/aschberg-programme>.

- A vast corpus of resolutions, decisions and declarations at international and regional level have further consolidated the protective regime for journalists and the adoption of the UN Plan of Action focused on this group is not paralleled with an equivalent UN-wide strategy for artists.
- Artists, on the other hand, often go unmentioned and are encompassed under the wider category of human rights defenders.
- There is no SDG target or indicator centred on either artistic freedom or artists' safety, as opposed to the case of press freedom and journalists.
- At the regional and state level, there is a tendency to conflate freedom of expression with media freedom, and this is also reflected in reporting and jurisprudence.
- Significant gaps remain in monitoring, research, advocacy, and international coordination focused on artistic freedom as compared to media freedom.
- Artists and cultural professionals have a lower awareness of and access to relocation schemes than journalists, and the availability of capacity-building opportunities and tools equipping them to enhance their safety is also limited.

Furthermore, in response to questions posed by the authors of this study, the UNESCO 2005 Convention Secretariat described several reasons which may account for this difference in treatment:

- It has only been relatively recently that the contours of the concept of artistic freedom started to be defined and that organisations have consistently begun calling attention to it.
- As a professional group, journalists are generally organised into unions at a national level which provide them with more significant collective bargaining power. Collective organisation is relatively less common among artists, who also tend to share fewer commonalities (as a very broad occupational group), which may negatively impact on the solidarity ties existing among them. In some countries and regions, artists are rarely part of strong unions connected to an international movement. Where they are members of robust professional associations which protect their interests, these generally do not focus on artistic freedom but instead prioritise other issues pertaining to intellectual property, royalty collections, access to funding, etc. Although definitional issues have often been at the centre of discussions on journalists'

protection, the determination of who is an artist and who is not is arguably more complicated.

In the report entitled ‘Defending Creative Voices: Artists in Emergencies, Learning from the Safety of Journalists’, UNESCO highlighted that there has been an increased engagement of some CSOs specialised in artistic freedom with the UN Human Rights Council (HRC), its Special Procedures and the Universal Periodic Review (UPR) in recent years (Soraide, 2023). This is demonstrated by Freemuse, PEN International and PEN America’s Artists at Risk Connection (ARC), which have been providing inputs to reports to the Special Rapporteurs and delivered statements during sessions of the HRC, shedding light on the situation of artists, cultural practitioners and cultural rights defenders in times of war and crisis. These CSOs, which are based in the Global North, have done so in close collaboration with CSOs based in the Global South.

However, the report also mentioned that many arts-focused organisations have shown some reticence in terms of interacting with UN human rights mechanisms, given that they lack the expertise, funds and time needed to devote to these actions. As described in the report:

*“Cultural institutions tend to depend on State or corporate funding and may be hesitant to take action that could affect such financing [...]. Similarly, artists, who most often lack the support of trade unions, may fear seeing their access to grants, venues to showcase their work and other forms of assistance limited if they are too vocal in their criticism against the State [...].”*

*Artists are also often unaware, or not keen to engage in the UPR and other UN processes because they do not feel their governments truly recognize or promote their rights despite having ratified international conventions for their enshrinement.” (ibid., p. 32)*

Donors, CSOs and UNESCO may share many views on trends and challenges, but internal structural problems may also affect the effectiveness of the work of UNESCO, which not only deal with freedom of expression for artists and media, but also for scholars.

## **The complaints process**

UNESCO has a ‘complaints mechanism’ through which a committee considers communications of alleged violation of human rights, known as the ‘104 Procedure’. The most recent statistics show that 618 communications were considered between 1978 and 2023, of which only just over 400 were regarded as ‘admissible’ (UNESCO, n.d.1.). Given the 33 years of its existence, these numbers are small. This may be because the committee works under strict confidentiality, which results in only general statistics being made public; the details of the outcomes of the committee’s scrutiny such as the countries of focus, what sector the allegations represented or even details of the type of issues which were raised are not publicly accessible.

The vast majority of human rights organisations have limited resources. Therefore, they are less inclined to put their resources into a mechanism which is so opaque and which also has, if any, limited means of exerting influence on states found to have been in violation. Other UN mechanisms—such as the Universal Periodic Review (UPR) of the Human Rights Council, which is more transparent than UNESCO’s 104 Procedure—seem more relevant to CSOs, as the actions taken by the UN do provide details of the abuses, often making strong public statements and issuing recommendations to states.

The ‘Critical Voices’ Report’, which was published by the Permanent Delegation of Denmark to UNESCO in 2022, proposed a renewed UNESCO vision of a cross-sectoral approach to freedom of expression for artists, journalists and scientific researchers. The report highlighted that “UNESCO has a number of instruments that can be further utilized to counter the increasing number of serious threats to members of these professional groups” (Permanent Delegation of Denmark to UNESCO, 2021). The report also described several initiatives which could improve the cross-sectoral approach within UNESCO.

Through its Director-General, UNESCO has frequently condemned attacks on media freedom in the past. The Danish delegation suggested that UNESCO should “[p]ublicly condemn verified cases of violence and attacks against artists, journalists and scientific researchers, and request governments to investigate such crimes and prosecute the perpetrators” (ibid., p. 88). This proposal is

considered radical as specific attacks on artists today are not condemned by UNESCO and complaints are dealt with in a closed forum which does not communicate its findings publicly. Furthermore, the report pointed out that

*“[i]n practice, this will call for intensified mapping by CSOs and others who can provide the necessary information to UNESCO, and the establishment of new partnerships on this, building on the good practice of the Communication and Information sector” (ibid.).*

### 3.1.3 The European Union

The European Union’s (EU) support for artistic freedom in international cooperation generally falls under actions covering human rights, democracy and freedom of expression. Funding has been granted to projects and organisations providing safe spaces and support to artists at risk who have been forced into exile or need to temporarily leave their countries due to existential threats. The support includes ‘Artists at Risk (AR) – A European Network of Safe Havens’ (AR-ENSH) as well as a Creative Europe-funded project focused on artists at risk and implemented by the cultural network Culture Action Europe.<sup>11</sup>

One of the main EU reference documents relevant for artistic freedom is the EU Action Plan on Human Rights and Democracy 2020-2024, which sets out the EU’s priorities in this field in its relations with all third countries. The plan mentions “respect for cultural rights, ensuring the expression of diversity and cultural identity”, but does not specifically mention ‘artistic freedom’, whereas ‘media and media workers’ are mentioned 24 times (European Union, n.d.).

Since then, the EU has developed several policy papers and action plans on human rights and freedom of expression. Some of these documents are more specific in terms of ‘artistic freedom and creativity’. They include the Council Resolution on the EU Work Plan for Culture 2023–2026, which explicitly mentions

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<sup>11</sup> See Cultural Action Europe, n.d.; more information about the AR – ENSH project is available at: <https://culture.ec.europa.eu/creative-europe/projects/search/details/607526-CREA-1-2019-1-FI-CULT-COOP1>.

the need to work on freedom of expression and creation and puts forward a proposal to work on artistic freedom (European Union, 2022). Furthermore, the 2022 European Parliament Resolution on the Implementation of the New European Agenda for Culture and the EU Strategy for International Cultural Relations called attention to artistic freedom. Point 12 of the Resolution states,

*“[The European Parliament] insists that freedom of artistic expression is a key component of creativity and cultural production, as it ensures that artistic works reflect the diversity and richness of our societies, and must therefore remain guaranteed for all creators; invites the Commission to integrate freedom of artistic expression as a self-standing indicator of respect for the rule of law in its annual reports; invites the Commission and the European External Action Service (EEAS) to explore concrete paths to uphold the freedom of artistic expression of artists at risk, especially as a consequence of wars and geopolitical instability.” (European Parliament, 2022)*

The ‘Opinion of the European Economic and Social Committee on “Cultural diplomacy as a vector of EU external relations – new partnerships and role of CSOs”’, adopted in 2022, recommended the creation of a significant dedicated structure within the EEAS, “centred around an ‘EU Special Envoy for Cultural Relations’, which would develop a comprehensive, recognised and powerful political direction”, be equipped with the necessary budget and capable of networking with the Member States and different organisations, as well as providing instruments and small-scale financial allocations to the EU Delegations for developing initiatives in their respective countries (European Economic and Social Committee, 2022). The creation of such a structure could further promote and defend artistic freedom by means of specific dialogues, action plans and financial allocations.

Artists who are active in promoting freedom of expression and human rights in theory fall under the official definition of the ‘human rights defenders’<sup>12</sup> and, as

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<sup>12</sup> The EU defines ‘human rights defenders’ as “individuals, groups and organs of society that promote and protect universally recognised human rights and fundamental freedoms. Human rights

such, can benefit from the support of the EU Human Rights Defenders Mechanism. The mechanism is managed by ProtectDefenders.eu, a consortium of twelve human rights NGOs.<sup>13</sup>

## **The EU & UNESCO**

The EU/UNESCO Expert Facility is the EU's first global project with UNESCO, dedicated to helping developing countries enforce the principles and objectives of the UNESCO 2005 Convention.<sup>14</sup> Entering the fourth cycle of the Facility in 2023, the experts are appointed for a four-year period. The EU has mainly supported the initiative financially, whereas the EU system still seems reluctant to play a more active role in documenting violations and/or actively promoting artistic freedom as part of its internal or external policies.

## **Documentation of artistic freedom violations within the EU**

The EU has repeatedly emphasised the importance of cultural freedom and diversity, for instance in Articles 13 and 22 of the Charter of Fundamental Rights of the European Union and in the 2017 Communication on Strengthening European Identity through Education and Culture (see European Commission, 2017). Despite this, neither the EU member states in the form of their national human rights institutes nor the EU as such systematically document threats against artistic freedom in Europe.

In the foreword to the 2023 EU Commission's report on culture and democracy, Margaritis Schinas, European Commission Vice-President for Promoting our European Way of Life, wrote, "It is essential that we continuously nurture our

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defenders seek the promotion and protection of civil and political rights as well as the promotion, protection and realisation of economic, social and cultural rights. Human rights defenders also promote and protect the rights of members of groups such as indigenous communities. The definition does not include those individuals or groups who commit or propagate violence." More information is available in the EU Guidelines on Human Rights Defenders at: [https://www.eeas.europa.eu/eeas/eu-guidelines-human-rights-defenders\\_en](https://www.eeas.europa.eu/eeas/eu-guidelines-human-rights-defenders_en).

<sup>13</sup> More information about ProtectDefenders.eu, the European Union Human Rights Defenders Mechanism, is available at: <https://www.protectdefenders.eu/>.

<sup>14</sup> More information about the Expert Facility is available at: <https://www.unesco.org/creativity/en/expert-facility>.

freedoms, our rights and our values. And an easy, and enjoyable way to do so is to enjoy culture: because cultural activities form the heart and the mind” (Hammonds & European Commission, 2023, p. 1). The report, which is seemingly inspired by the 2013 Farida Shaheed Report, further stressed the importance of artistic freedom:

*“[...] the active creation of art, in whatever form, is an essential vehicle for **freedom of expression**, which is a fundamental human need and a core EU value. Art can help overcome barriers related to race, religion, gender, age, nationality, culture and identity, by providing a counter-discourse and contesting privileged narratives and perspectives.” (ibid., p. 62)*

The report also stated that the EU—as is the case with several development donors and states—also considers culture to be a “powerful diplomacy tool [which] can create a safe, fair and open space where the EU values can be shared with partner countries in the rest of the world, through equal, sustainable partnerships, with a focus on civil society actors” (ibid.). The report mentioned that “a crucial challenge when integrating cultural participation into policy agendas includes **how to support and promote cultural diversity**, including minority or underrepresented cultural perspectives, **and creative freedom** in interventions and activities” (ibid., p. 106). However, the report neither refers to CSO reports on violations against artistic freedom in Europe nor does it point to the lack of data compiled by member states or relevant EU agencies or institutions.

One agency which monitors violations of human rights in Europe is the Vienna-based EU Agency for Fundamental Rights (FRA). To help safeguard the rights, values and freedoms enshrined in the EU’s Charter of Fundamental Rights, FRA collects and analyses laws and data, identifying trends and providing independent, evidence-based advice on rights. It aims to help improve law-making and implementation, supports rights-compliant policy responses and strengthens cooperation and ties between fundamental rights actors. Based on this description, safeguarding artistic freedom in the EU is not a priority area of FRA.

Having said that, there have been attempts at addressing artistic freedom. On 29-30 May 2017, the agency organised a high-level expert meeting in Vienna,



bringing together participants from different EU Member States and different sectors, including academics (i.e. human rights and fine arts scholars), museum staff, curators, representatives of CSOs focusing on artistic freedom, and artists from the fields of photography, visual arts, comics, choreography, literature, and music. The meeting produced several recommendations, including two on artistic freedom:

- *“FRA should prioritise to conduct a study on the scope of artistic freedom in the European Union. What is the meaning of ‘artistic freedom’? What are the relevant laws and regulations in the EU? A comprehensive comparative study would shed light on the current status of artistic freedom in the EU. The indicators of artistic freedom created by Freemuse form a sound baseline for such a study.*
- *FRA should study the main threats to artistic freedom, including from both state and non-state actors. For non-state actors, examples of sources of threats include religious extremists, morals’ campaigners, social media pressure and market censorship. Self-censorship should also be examined, including the substantive areas of self-censorship and the reasons motivating such self-censorship.”*  
*(European Union Agency for Fundamental Rights, 2017, pp. 18-19)*

Despite this recommendation, no such study has been conducted by FRA so far and neither the EU Commission nor other EU agencies and institutions have initiated or implemented initiatives regarding the documentation and monitoring of violations against artistic freedom in Europe.

The EU Commission claims that “[p]rotecting and promoting human rights and democracy is a key priority of EU external action and one of the founding values of the European Union [as enshrined in] (Article 21 of the EU Treaty). It is a pre-condition for sustainable development and for building more inclusive, open and resilient societies” (European Commission, n.d.). To shape a strong and effective human rights policy, the EU describes its actions, such as political dialogue, economic diplomacy, human rights dialogue with partner countries,

statements, public events, and human rights and democracy country strategies in coordination with EU member countries, among others. However, artistic freedom does not seem to be high on the priority list when human rights violations are discussed with partner countries. Having spoken with various EU agencies and institutions, the authors have not been able to identify any EU-driven campaigns in support of artists at risk nor any evidence of artistic freedom being discussed during bilateral negotiations with partner countries.

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

Despite this absence, in November 2023 a new legislative initiative to create an EU framework to improve the living and working conditions for cultural and creative workers was put to a vote before the European Parliament in Strasbourg (European Parliament, 2023).<sup>15</sup> In summary, the proposed framework mainly calls for a directive on decent working conditions and employment status, the creation of a European platform for the exchange of best practices and the assurance that EU programmes which fund artists comply with EU, national or collective labour and social obligations. Protection of artistic freedom was also mentioned, with member states urged 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” (European Parliament, 2021).<sup>16</sup>

A recommendation in the proposed framework is that states which do not comply with their obligations should be sanctioned, although it is not clear how. Finally, it calls for further study of artistic freedom, and that a programme be established for dialogue between artists, legal experts and other stakeholders “to determine common standards for freedom of artistic expression and [to] develop and implement relevant guidelines” (ibid.). Following the vote at the EU Parliament in November 2023, in a letter dated February 2024 and addressed to the

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<sup>15</sup> The European Parliament has been calling for such an initiative since 2021. Cf. the study conducted by Dâmaso, M. et al. See full reference under Dâmaso, M. et al, 2023.

<sup>16</sup> Recommendation 29 of the “European Parliament Resolution of 20 October 2021 on the situation of artists and the cultural recovery in the EU (2020/2261(INI)”. See full reference under European Parliament, 2021.

EU Parliament, the EU Commission “welcomes this resolution and shares the concerns over the working conditions of artists and workers in the cultural and creative sectors”.<sup>17</sup>

The letter does not specifically mention ‘artistic freedom’, but the Commission “commits to organising a High-level Round Table with relevant stakeholders in 2024 to better explore the best way forward to address the needs of the sector”. The Commission further described its intention to launch a number of initiatives in 2024, including one on the health and safety of artists and cultural and creative sector workers with the European Agency for Safety and Health at Work (OSHA). The question remains whether the Commission has understood the specific problems related to violations of artistic freedom within the EU. In the past, there were no records which indicated that OSHA has any prior experience in the arts sector nor with issues related to censorship or threats.

### **Creatives Unite: an EU platform on working conditions for artists and cultural workers**

In 2023, a new platform for the status and working conditions of artists and cultural professionals in the EU was launched by Creatives Unite, a project funded by the EU and the Goethe-Institut, among others.<sup>18</sup> Arising from the EU Work Plan for Culture in 2023-2026 and the recommendations in the report by the open method coordination (OMC) group of EU member states’ experts published in June 2023 (see European Commission, 2023), the platform includes a database which provides the basic outlines of legislation and administrative procedures, including artistic freedom. However, as of the end of 2023, the database contains only three items on artistic freedom in an otherwise extensive archive, two of which refer to the 2023 International Federation of Arts Councils and Culture Agencies (IFACCA) World Summit in Stockholm. The third item is a report presented by the Greens/European Free Alliance and Culture Action Europe commissioned by MEP Diana Riba I Giner (see Górski et al., 2021). While

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<sup>17</sup> The response letter signed by the Executive Vice-President of the European Commission Maroš Šefčovič to the President of the European Parliament (Ref. Ares(2024)1341332 – 21/02/04) is not available in the public domain.

<sup>18</sup> See “Creatives Unite – Mapping cultural and creative sector working conditions in the EU”, <https://creativesunite.eu/work-condition/>.

it is too early to judge, it appears as if creative freedom will become a subtopic, subsumed within the wider remit of working conditions.

### **3.1.4 Council of Europe**

Since it was founded in 1949, the Council of Europe has recognised the role of culture as a significant factor in the effective delivery of its core mission: to promote human rights, the practice of democracy and the rule of law among its member states. These aims are put into practical effect through the Council of Europe’s Steering Committee for Culture, Heritage and Landscape (CDCPP), which oversees projects ranging from studies on the contribution of culture to democracy to the impact of digitisation and Artificial Intelligence (AI) on culture and of COVID-19 on the culture and creative sector.

Concerned for the decline of democracy in Europe and aiming to preserve the right to artistic freedom, the Council launched the “Manifesto on the Freedom of Expression of Culture and the Arts in the Digital Era” in November 2020 to mark the 70<sup>th</sup> anniversary of the European Convention on Human Rights (ECHR) (see Andel et al., 2020). The manifesto spotlights the need for a concise and valid political commitment to safeguard artistic freedom in Europe today, to be used as a common basis for understanding the core value of democracy among member states. The launch of the manifesto was accompanied by “Free to Create, Create to be Free”, an online exhibition of works by artists from Council of Europe member states which reflected artistic freedom.<sup>19</sup> As part of the exhibition, member states of the Council of Europe contribute artistic works on a topic and in a format they feel is relevant to the overall issue.

The focus on artistic freedom falls within the ECHR which, as with the UN rights conventions, refers and adds to the protection within the 1948 UN Declaration on Human Rights. Key among these is the right to freedom of

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<sup>19</sup> More information about the online exhibition is available at: <https://freetocreate.art/>.

expression.<sup>20</sup> Complaints about breaches of the ECHR can be brought before the European Court of Human Rights. If the Court finds that a state has violated these rights, they are required to provide redress and compensation. The key convention article relevant to artistic freedom is Article 10, which protects freedom of expression in broad terms:

*“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.” (Article 10 of the ECHR)*

The Court rules on violations of the ECHR; political and civil rights are central to its work, notably the right to life, fair trial, freedom of thought, religion, and expression. As previously mentioned, Article 10 of the ECHR is a key article relevant to artistic freedom. Other articles which have been referred to in this context are Article 6 (the right to fair trial), Article 3 (prohibition of torture and ill-treatment) and Article 14 (prohibition of discrimination). Although artistic freedom is not specifically referred to, the Court has adjudicated on a number of cases where artistic freedom has been challenged over the years (though very few compared to those relating to media freedom, for example, possibly the most significant reason being the cost of legal defence and the many years which it takes for the Court to come to its conclusion). A lawyer interviewed for the Council of Europe Report noted that the process “is so expensive, that I think that it is a burden of censorship in itself” (Whyatt, 2023, p. 11). The lack of resources across the arts and cultural sector makes the problem more striking than in other sectors where support is greater.

In February 2023, the Council of Europe published its first report on the state of artistic freedom in Europe, “Free to Create: Artistic Freedom in Europe”, which reviewed the work of the Council of Europe and other regional and international bodies (ibid.). It focused on the ‘above the radar’ impacts such as litigation, at times leading to imprisonment, overt censorship and physical attacks,

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<sup>20</sup> While the UN International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR) do refer to the arts among freedom of expression rights, the European Convention of Human Rights does not make this explicit.

and on the ‘under the radar’ elements which create self-censorship and are often difficult to quantify. The instability of the arts sector makes artistry a precarious profession, additionally susceptible to hard-to-quantify factors ranging from discrimination in funding, access to performance space, blacklists, and so on. A follow-up Council of Europe “Free to Create” Report is due in 2024, which will provide recommendations for specific action by the Council and its member states.

At the 4<sup>th</sup> Summit of Heads of State and Government of the Council of Europe held in Reykjavik, Iceland, in May 2023, the essential role of the Council of Europe in setting international standards on freedom of expression—notably on media freedom and the instrumentalisation of history—was identified as a priority (Council of Europe, 2023). It was the first time that artistic freedom was specifically referred to in a high-level meeting. While welcome, no other references were adopted in the Reykjavik Principles for Democracy at the conference, raising the question as to whether the issue is or has truly become a priority.

## 3.2 Funders

As mentioned earlier, the key donors for freedom of artistic expression are the Swedish International Cooperation Development Agency (Sida), the Norwegian Ministry of Foreign Affairs (NMFA) and the US-based Mellon Foundation. The contribution of donors to safeguarding artistic freedom is significant. If and when the main donors change their policies, this has an immediate effect on the landscape. Fewer financial resources mean less documentation and advocacy. More financial resources mean more initiatives or strengthening of existing structures (having said that, grants are mostly provided for three-year periods and sometimes less). Should a donor ‘fall out’, it may have dramatic consequences for the leading organisations, their staff and general capacity.

Change of government is a key factor for the policy of state donors. Such changes may happen over a period of three to four years, whereas some private foundations are able, in principle, to plan their interventions for longer periods. Change of government may not only affect the priorities of funding but may even signal a significant change of policies. During the war between Israel and Hamas, which

has intensified since 2023, several CSOs which focus their work on freedom of speech have expressed concerns that condemnation of the attacks on civil society in Gaza could negatively influence the funding of their activities.

The donor landscape is gradually expanding, with Germany playing a larger role. If a new single donor makes it a priority to enter the landscape, this could drastically change the balance between the actors, whether positively or negatively. Compared to other policy areas, a donor in the field of artistic freedom may have an influential impact even through relatively small amounts of funding, as demonstrated by the fact that the leading CSOs in this field operate with annual budgets which amount to less than EUR 1 million.

In general, donors require recipients to prove that they are not dependent on one single donor. Development agencies are also strict in their funding, in that they fund organisations which work with or are active in official development assistance (ODA) countries.<sup>21</sup> This means that CSOs have to find alternative funding to work in countries where there are significant challenges to artistic freedom, but which are not on the ODA lists.

As an example, the Swedish policy on artistic freedom, channelled through the development agency Sida or the Swedish Arts Council, focuses on ODA countries. In contrast, the NMFA has more freedom to support local, regional or global initiatives, as the ministry considers the support for artistic freedom to be a question of promoting freedom of expression globally and not just in ODA countries. The Mellon Foundation is an American philanthropic foundation which supports projects promoting humanities and the arts, mainly through organisations and projects based in the USA. It also supports several US-based projects which carry out work in other countries. The Foundation is a significant supporter, for example, of the activities of PEN America's Artists at Risk Connection (ARC). Some international (mostly US-based) donors prioritise the funding of CSOs based in the Global South. In some cases, organisations based

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<sup>21</sup> The list of Official Development Assistance (ODA) Recipients shows all countries and territories eligible to receive ODA. More information is available at: <https://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/daclist.htm>.

in the Global South are in a better position to attract a broader portfolio of donors than those based in the Global North.

It is beyond the framework of this study to analyse in depth the background and long-term effects of donor policies and how these affect CSOs and UN organisations, but the following are brief examples of policies and inputs from selected donors (representatives of which were also interviewed for this study).

### **3.2.1 Major donors and their motives**

Sida is Sweden's government agency for development cooperation. Through Sida and the Ministry of Foreign Affairs, Sweden has been promoting human rights and working towards the reduction of poverty for decades. Whereas Sida holds the financial and implementing role in regard to overseas development assistance (which includes support for UNESCO and CSOs), the Ministry of Foreign Affairs traditionally has had the leading role in promoting human rights in international fora, such as the Human Rights Council.

The Norwegian Ministry of Foreign Affairs (NMFA) manages and implements support for CSOs through funding as well as support at the policy level at UNESCO and the UN Human Rights Council.

A brief historical background provided by Sida to the authors of this study highlights how political priorities have changed the way the cultural sector and cultural actors are perceived by development agencies and the implications on Sida's support for artistic freedom:

*“Looking in a long-term perspective, Sida's support to culture has transformed. 20 years ago, Sida usually worked through a Swedish implementing partner, which over time shifted to support to organisations in our partner countries. Culture back then was often supported as a means to reach other objectives, such as human rights (HR), health, education, psycho-social trauma treatment etc. Nowadays, the main rationale for support is that artistic freedom is an important part of democracy, as well as a right and a means to*



*contribute to other SDGs. Cultural actors are more seen as actors for change, HR-defenders and as a counterforce to authoritarian trends. In conflict settings, Sida's support to culture has meant giving dignity and cohesion.*<sup>22</sup>

It could be argued that Sida considers the culture sector as a 'tool' for change rather than an important quality on its own merit. This is a view which has dominated in development agencies for decades. Arts and culture have frequently been supported as part of umbrella policies which aim towards other additional objectives beyond art per se, and donors are being criticised by CSOs for setting up criteria which do not necessarily take into account the original aims of the organisations (i.e. what these organisations were actually set up to work for). This is also reflected in Sida's own description of their support for artistic freedom:

*"Sida's support has contributed to [the fact] that artistic freedom was recognised as a UNESCO priority and thus included in the global development cooperation agenda, later as part of the SDGs. With [this] support, UNESCO developed indicator sets for policy advocacy and for monitoring culture's role for Agenda 2030 which was used in a number of countries. [...] Sida's support have led to strengthen global normative framework and legislation as well as monitoring mechanism, through recurring measuring and reporting such as UNESCO's global trend reports and Freemuse's State of the Artists reports, which in turn have been used to advocate and instruct policy." (ibid.)*

In terms of monitoring violations against artistic freedom, for Sida as well as other donor organisations and UN bodies the statistical data on attacks on artistic freedom compiled by Freemuse have become the most important point of reference, despite only covering around 80 countries. By entering into a collaboration with UNESCO through its funding, Sida contributed to the further

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<sup>22</sup> Excerpt from Sida's response to questions posed by the authors of this report (2023).

development of global monitoring frameworks, more specifically the UNESCO monitoring framework.<sup>23</sup>

It may be argued that, from the perspective of CSOs such as PEN International and Freemuse, the policies and formulation of donor policies in Sweden and Norway and the formulation of government policies regarding artistic freedom have been strongly influenced and driven by the CSOs. It was indeed collaborations between Freemuse and the office of the UNSR Culture in 2012-2013 which resulted in the formulation of the first UN report on artistic freedom (see UN OHCHR, 2013). Moreover, the result of a collaboration between Freemuse and UNESCO since 2013 has formulated the UNESCO monitoring framework for artistic freedom, which in 2019 led to 'artistic freedom' becoming a reporting requirement for all 152 parties to the UNESCO 2005 Convention.

It is obvious that a triangle of dependency (but also of inspiration) has led to the current understanding of the importance of artistic freedom. As described by the UNESCO Secretariat on the role of civil society actors:

*“Over the last decade, their role has only increased as countries design and implement new cultural policies. As agents of change, civil society organisations can drive the implementation of the [2005] Convention to ensure that the concerns of artists and cultural professionals are heard and that they have the means to create, produce, disseminate, distribute and access diverse cultural expressions. Civil society organisations can also influence global debates and processes by actively participating in the meetings of the governing bodies.”<sup>24</sup>*

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<sup>23</sup> More information on the UNESCO monitoring framework is found in: <https://www.unesco.org/en/articles/unesco-partners-sweden-launch-phase-iii-project-strengthen-policies-creativity-and-artistic-freedom> (Full reference in UNESCO, 2023d) and <https://www.unesco.org/creativity/en/policy-monitoring-platform/sida-funded-unesco-project-strengthen-national-and-global-capacities-promotion-diversity-cultural> (Full reference in UNESCO, 2016).

<sup>24</sup> Excerpt from UNESCO Secretariat's response to a questionnaire by the authors of this report (2023).

The increasing importance of artistic freedom has also been reflected in the Norwegian Government's support. For several years in the 2000s and the early 2010s, artistic freedom was supported by the Culture Section of the NMFA. Today, activities supporting artistic freedom are managed by the Ministry's Section for Human Rights and Democracy, a sign that the issue has been given higher political attention. Furthermore, Norway also has an independent Freedom of Expression Commission (Ytringsfrihetskommisjonen) which reports on artistic freedom, among other forms of freedom of expression (Ytringsfrihetskommisjonen, 2020).

### **3.2.2 Capacity and financial inputs by donors**

Among major donor countries and their support for artistic freedom, Sweden and Norway stand out the most. In Norway, apart from government funding for artistic freedom, several actors from civil society have been driving policies, promoting awareness as well as being involved in documentation.

Artistic freedom projects are financially small compared to, for example, media support. However, the CSOs conducting research and documentation require substantial staff capacity as the reporting requirements are large and demanding, regardless of whether a project is supported by EUR 500,000 or EUR 5 million. Therefore, major donors have delegated parts of their funding to external organisations, which must then fulfil obligations to run the operational work on artistic freedom, i.e. liaising with CSOs and dealing with reporting. Two examples of this are demonstrated by Sida's contract with the Swedish Arts Council and NMFA's contract with Mimeta, a Norwegian organisation working on cultural rights.

Before looking into these arrangements, it is important to understand that there are at least three implications from this practice. By delegating the funds, 1) the donor organisations reduce their own expert capacity in the field, but 2) they can reduce their own staff and cut costs. However, this also means that 3) the subcontracting donor organisations may require external expertise to assess the projects applying for funding. Whereas some CSOs do not necessarily see this development as positive, it opens up larger portfolios for the donors (although through rather limited financial support).

In 2021, Sida initiated such a collaboration with the Swedish Arts Council. In a written response sent to the authors of this report, Sida elaborated that the advantage of this collaboration was “[...] the possibility to broaden Sida’s support to Artistic Freedom, but also to be able to make use of the respective agency’s specific expertise and strengths” *because* Sida “did not have the capacity to support a larger number of ‘smaller’ organisations”.<sup>25</sup> Prior to this arrangement, the Swedish Arts Council (SAC) likewise had no capacity in dealing with international issues related to artistic freedom, nor did it have contacts to the existing international CSOs in the field. SAC therefore had to contract international experts to develop their programme as well as to assess applications.

*“No real disadvantage could be mentioned; however it was a learning curve for the Arts Council [to see] how to align with Sida’s rules and regulations and routines on how to work with development aid. With the collaboration with Swedish Arts Council and other Swedish stakeholders, including the Department for Culture, a forum for information exchange and synergies was created.” (ibid.)*

Furthermore, Sida has also channelled funding for a programme implemented by Hivos, an international development organisation based in the Netherlands. The programme is not specifically focused on the protection of artistic freedom but is meant to “expand the space for cultural expression and freedom of expression, strengthen citizens’ involvement in social processes and increase social debate and cultural dialogue” (ibid.). With this funding, Sida expands its donor portfolio by joining other donors on Hivos-administered programmes, which may include artistic freedom but are much broader in their definition and targets.

Sida and NMFA coordinate their co-funding of CSOs as well as with UNESCO, the latter being the largest beneficiary. As previously mentioned, there is a tendency for donors to perceive and/or prioritise arts and culture as a ‘tool’ compared to supporting the documentation and advocacy of artistic freedom. A few examples in Box 1 can help to understand this tendency further.

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<sup>25</sup> Excerpt from Sida’s response to a questionnaire by the authors of this report (2023).

### **Box 1. Size and nature of funding for artistic freedom programmes**

- In the period from 2016–2018, Freemuse (a CSO frequently referred to for statistical data on artistic freedom by Sida, UNESCO and other leading international bodies) annually received 3.8 million SEK (approx. 340,000 EUR); whereas between 2017–2019, Hivos received 45 million SEK (approx. 3.9 million EUR) for the “support [of] culture and media actors as agents of change through arenas for meetings, conversations, exercise of freedom of expression.”<sup>26</sup>
- In the period from 2016 to 2020, Sida’s regional support for Tamasi<sup>27</sup> was 55.6 million SEK (approx. 4.8 million EUR) to support “dance, theatre, film and storytelling, training of artists/culture as a tool to pursue rights issues and to offer people a platform for dialogue on important social issues”, focusing on women, children, young people, refugees, and marginalised groups.
- In comparison, the artistic freedom programme financed by Sida and managed by the Swedish Arts Council for the period 2021–2023 amounts to 89.3 million SEK (approx. 7.7 million EUR), which also includes SAC’s administrative costs.
- Sida estimates its support to UNESCO amounts to 62.5 million SEK (approx. 5.4 million EUR) in total (Hermansen & Cox, 2022).
- In comparison, in 2021, one single CSO defending media freedom—International Media Support (IMS)—had a turnover of 29.8 million EUR, 38% of which was contributed by Sweden and 12% by Norway.

Following the first ever global conference on artistic freedom, ‘All That is Banned is Desired’, which was organised by Freemuse and the Norwegian foundation Fritt Ord in 2012, the NMFA increased its engagement and support for artistic freedom through closer collaboration with the UNSR Culture, Freemuse and the Norwegian Centre for Culture and Development, Mimeta<sup>28</sup>. The Ministry started evaluating and reconsidering its support for Norwegian organisations, which focused mainly on cultural exchange programmes and only marginally on artistic freedom (Regjeringen.no, n.d.). This led gradually to a change in policy and support. Today, support for artistic freedom is no longer channelled through the Ministry’s culture division, but through the Section for Human

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<sup>26</sup> From Sida’s written response to the authors of this study.

<sup>27</sup> Tamasi is a network of cultural organisations in the performing arts field in the Middle East and North Africa/MENA region.

<sup>28</sup> More information on Mimeta is available at: <https://www.mimeta.org/>.

Rights, Democracy and Gender Equality. The safeguarding of artistic freedom has further been inscribed in Norwegian Government declarations.<sup>29</sup>

In 2022, NMFA entered into a new agreement with UNESCO to provide NOK 200 million (approx. EUR 17 million) to support efforts to promote freedom of expression, artistic freedom and protection of world heritage (UNESCO, 2022b). A minor portion of the funds was directed to a UNESCO call for projects for the UNESCO-Aschberg Programme, which aims to support initiatives aimed at protecting and promoting artistic freedom, including the status of the artist. The ceiling for financial assistance requests was set to USD 50,000. In 2023-2024, the programme is currently investing USD 1 million to finance 25 projects in over 30 countries, 13 of which are led by governments, public institutions, and subregional Intergovernmental Organisations, and 12 of which are led by NGOs. According to UNESCO, through these projects “governments will benefit from technical assistance to develop laws, regulations or policies in favour of artistic freedom, decent works and enhanced status for artists and culture professionals” (UNESCO, 2023b).

### 3.2.3 Donor policies under question

A recent debate in the Nordic countries has raised questions on how donors increasingly add new criteria for funding. Similarly, the ‘arm’s length principle’ has been questioned as some politicians increasingly express ideas about what they believe should not be supported by government allocations. Researchers and staff from donor agencies have pointed out a need for a more open and critical scrutiny of existing dependencies of artists on the surrounding structures. As a senior advisor at the Nordic Culture Fund described in an essay:

*“Several examples echo an increased policy-driven focus in many funding bodies. For example, funding programmes and criteria are increasingly framed in a way that favours projects that have societal*

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<sup>29</sup> Most recently in *Regjeringens mål for kunstnerpolitikken*, 2022, Regjeringen.no. Available at: <https://www.regjeringen.no/no/tema/kultur-idrett-og-frivillighet/innsiktsartikler/om-arbeidet-med-ny-kunstnermelding/regjeringens-mal-for-kunstnerpolitikken/id2912821/> [Accessed on 2024-02-11].

*relevance and impact that fit with priorities of governments or funders. Adjusting and amending artistic work to meet the interests and strategies of different funders have become an essential skill for artists and creative professionals to master.” (Syrjäläinen, 2023)*

A report published in 2022 by the Norwegian Commission for Freedom of Expression addresses the arm’s length principle from a different angle:

*“At the same time, there are relevant questions regarding how [the] arm’s length [approach] manifests itself internally in artistic communities. Artist organisations appoint members to several of the committees that allocate funds. These communities are often small. Those who award funds and those who apply for funds tend to know one another. This may contribute to a weak culture of independence and a low level of acceptance for critical discussion within artistic communities. Political opinions or ideological guidelines should not determine who is able to participate in debates or who is able to perform their art.” (Norwegian Ministry of Culture and Equality, 2022)*

CSOs now experience a more time-consuming process in applying for funds to protect artistic freedom. The criteria have become more extensive: for instance, they now include assessments on gender balance, environmental effects and policies on whistleblowing, among others. As a senior development expert expressed in an interview for this study, “Yes, maybe [the increase in the number of criteria has] gone too far, and that re-use of printed paper may not exactly have a great effect on the climate change.” The very detailed application formats, with the expected outcomes and impact of assessments, may in some cases be useful but can also be seen as a product of micromanagement and extensive control. This leads to some artists and organisations abstaining from applying for grants.

In 2020, in an unusual example of self-analysis, the Norwegian Government set up a Commission for Freedom of Expression (Ytringsfrihetskommisjonen) to assess and analyse the situation for freedom of expression in the country in general. Presented in 2022, the findings included a short chapter on artistic freedom which did not focus on specific cases of censorship, self-censorship or threats from social media, but referred to the funding system and the role of artist organisations in allocation processes.

### 3.2.4 ‘Sustainability’: rhetoric or practice?

The word ‘sustainable’ is used 451 times in the latest UNESCO Global Report ‘Re|Shaping Policies for Creativity’ (UNESCO, 2022a). Donors also use this term when requiring applicants to ensure and prove sustainability of the latter’s work. As with ‘artistic freedom’ or ‘diversity’, there is no universal definition of the word ‘sustainable’. One example comes from the 1987 UN Brundtland Commission, which defined sustainability as “meeting the needs of the present without compromising the ability of future generations to meet their own needs” (United Nations, n.d.). Another definition of sustainability refers to “the ability to maintain or support a process continuously over time. In business and policy contexts, sustainability seeks to prevent the depletion of natural or physical resources, so that they will remain available for the long term” (Mollenkamp, 2023).

In practice, sustainability is difficult to achieve because funding periods are often short term. Most donors supporting CSOs in the landscape of artistic freedom issue contracts for three (or even fewer) years. CSOs may be able to attract several donors within the same three-year period and consequently expand their staff capacities. However, due to the limited funding period, CSOs cannot guarantee employment stability and therefore risk losing competent staff, irrespective of their success in the field during such a period. Similarly, governments make sustainability a challenge due to the constant change of staff, be it in terms of ministers responsible for areas of human rights or frequent rotation of staff within either the ministries or their development agencies.

Thus, ‘internal advocacy’ for a particular issue may be very limited within ministries or development agencies. At the same time, the lack of employment stability due to the limited funding period motivates experienced staff in CSOs to jump ship to more stable—in this sense, more ‘sustainable’—jobs. This affects the landscape of artistic freedom negatively and differs immensely from the landscape of media freedom, which in general is well-funded, well-organised and viewed as a high political priority in many countries and by many donors.



### 3.3 Civil Society Organisations

In total, 30 organisations which are engaged in the defence of artistic freedom were surveyed for this study, based on their publicly available reports and online presence. Of these, representatives from 15 CSOs were interviewed by the authors of this study via telephone and e-mail.

Eight interview respondents were representatives of globally operating CSOs based in Europe, North America and Australia, and seven interview respondents were representatives from organisations based in the Americas, Asia, Africa, and MENA. The questions raised included: major tendencies in recent years in terms of political interest in artistic freedom; the main challenges they face in their work, both internally and externally; what gaps they saw in knowledge sharing and capacity; their collaboration with international agencies and other CSOs; and their relationship with donors. To enable greater openness in the responses, most of the interviewees remain anonymous.

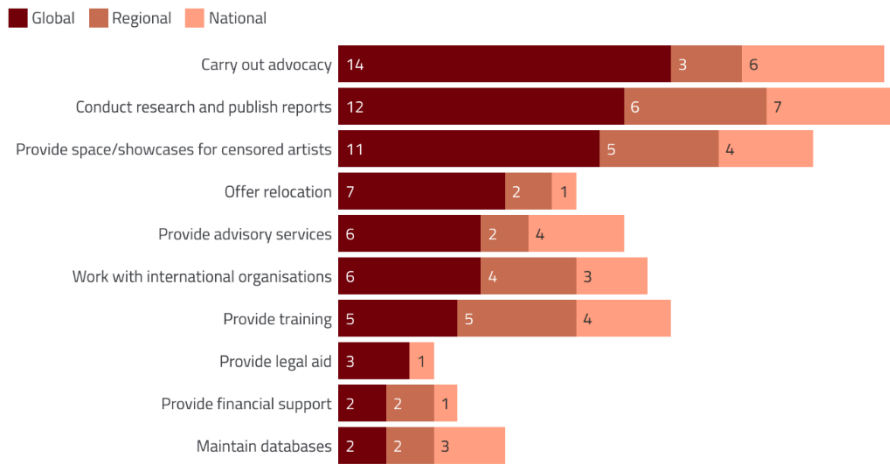
**Table 1. CSOs interviewed and surveyed for this study**

Global	17	<p>Global organisations, all based in Western Europe and North America, represent 58% of all organisations working for artistic freedom. There are a few organisations working with a regional remit: two each in the MENA and Africa regions, and one in the Americas (which no longer works for artistic freedom). Very few organisations work on a national level.</p> <p>More than half of the CSOs surveyed work on all art forms, with the remainder specifically working in particular sectors (music, film, literature, cartooning).</p>
Regional - Africa	2	
Regional - Americas	1	
Regional - Asia	1	
Regional - Europe	0	
Regional MENA	2	
National Africa	1	
National Americas	2	
National Asia	2	
National Europe	2	
National MENA	0	
<b>Total number of CSOs interviewed &amp; surveyed</b>	<b>30</b>	

Source: Authors' data gathered for this study.

Based on these interviews, Section 3.3. will elaborate on the activities that CSOs carry out in protecting and supporting artistic freedom as well as the challenges they face in monitoring it. The profiles of the CSOs surveyed are further elaborated on in Chart 2.

**Chart 2. Activities conducted by the CSOs surveyed for this study**



Nearly all of the 18 globally operating CSOs surveyed do some form of advocacy for artistic freedom and/or social and economic rights for artists and most conduct research. Across the board, research and advocacy are defining activities as well as providing space or showcases for censored artists (online or physical, including on panels and other formats). Training is also a core activity. Only a few maintain databases monitoring violations against artistic freedom and very few provide financial support or legal aid.

Source: Authors' data gathered for this study.

### 3.3.1 The challenge of documentation

For many years, Freemuse has published annual reports which supply global data on attacks against artistic freedom, providing a breakdown of statistics for regions, type of and reason for attacks, violator (government or non-government), sector, and gender. The latest available statistics were published in Freemuse's

2022 Annual Report, which reported a total of 1,200 violations of artistic freedom globally in 2021 (Freemuse, 2022, p. 8).

In 2022, Freemuse lost considerable financial support, which resulted in its inability to continue hiring regional experts to monitor the situation on artistic freedom in various regions. For this reason, its 2023 report (which covered events in 2022) was published without providing updated global data (Freemuse, 2023). Despite the reliance of a great many freedom of expression and arts monitors on this data for identifying trends and the background of individuals at risk, this resource was lost as no other CSO was able to take on this role.

### **Data collection and monitoring**

All of the CSO representatives interviewed for this study see data collection as vital for placing the plight of individuals who come to them into the wider context of artistic freedom, by verifying information and identifying individuals who may benefit from other organisations' support programmes. As interviewee Jan Lothe Eriksenn from Safemuse put it, these data "provide inspiration and also political motivation, identifying where work is needed." Another interviewee pointed out the preventive role of documentation by disclosing trends and patterns which may pre-empt problems and enable action before a situation becomes critical. Yet, as shown in Chart 2. **Activities conducted by the CSOs surveyed for this study** above, very few CSOs carry out consistent data collection, documentation and monitoring.

While there are a number of barriers to effective data collection, the key barrier affecting most CSOs is their limited capacity to comprehensively monitor and document violations. Unlike CSOs monitoring media violations, which automatically receive reports from numerous national journalist associations, CSOs working on artistic freedom do not receive such documentation from artists' unions. As previously mentioned, the complex nature of the obstacles in monitoring violations against artistic freedom (notably those which fall 'under the radar') make these cases especially difficult to identify and quantify. As defined by Matjaž Gruden, Head of the Directorate for Democracy of the Council of Europe in an interview with the authors of this study, these 'under-the-radar' cases include:

*“... self-censorship, repressive laws that are used as deterrence, sophisticated means of repression that guarantee that violations can go undetected, normalisation of being victims of violations, such that there is no urgency to report these or speak about them publicly and reluctance to speak about violations or report them, due to the belief that law enforcement systems are captured and incompetent.”*

Additionally, there are also challenges for organisations working in or with other organisations in areas of conflict or with complexities which require sensitivity and extra care.

Access to hard-to-reach communities can also be difficult, leaving disparities to full inclusion and causing lack of diversity. These difficulties could be due to distance, language, poor outreach to minority communities often with semi-literate oral cultures, along with a lack of trust from these groups due to their underrepresentation in the leadership and decision-making processes of the organisations carrying out the research and policy setting.

Data collection, analysis and monitoring require skills and resources which most CSOs lack, some to a greater and others to a lesser extent. Small organisations doing this work at the regional level often rely on volunteers, sometimes under hostile and complex situations. Although those with more capacity tend to be based in the Global North, this does not mean an absence of struggle. One CSO in the Global South mentioned that they were able to employ an experienced human rights expert to gather and analyse its data (IP5, 2023). However, this remains an exception; the majority rely on volunteers or can only find resources for short-term contracts, unable to retain staff with the necessary expertise. The overarching conclusion is that the day-to-day work of monitoring requires professional, paid staff as it is work which must be recognised and compensated as an expert task. One interviewee complained about the difficulty of getting support for this essential work, stating to the authors of this study that “data projects are not sexy. They are long term, and no one wants to support them. Archiving and monitoring are ‘boring technical stuff’” (IP3, 2023). This topic is covered in more detail below.

### 3.3.2 The ‘under-the-radar’ challenge

Arrests, trials, physical attacks, and direct censorship of the arts are relatively easy to document. More difficult to analyse and of special concern to CSOs are the complexities related to what is defined as ‘under the radar.’ These are the type of repressions which are often non-recordable, wide-ranging and contribute to anxiety, which in turn leads to self-censorship. An example of repression as mentioned by interviewees in countries where fundamentalist groups are significantly present was the banning of arts events, specifically those featuring LGBTQIA+ or minority issues, for spurious reasons of health and safety, claiming misuse of alcohol or drugs or fears of public unrest.

While these may ostensibly be legitimate reasons for closing down an event, the instrumentalisation of these reasons to target content which challenges the government or local political/religious sensibilities is perceived as a means of shutting down such artistic expressions without resorting to straightforward censorship. Similarly, actions such as the denial of film classification or permits to hold public events are forms of pre-censorship which are applied overly harshly to sensitive topics. That such actions are not necessarily recognised as censorship by the public, and often the artists themselves, adds to the difficulty of monitoring them.

An interview respondent, who had been monitoring attacks on artists and cultural centres in Poland and provided the authors of this study with data for 2022, noted that the number of ‘above-the-radar’/recordable attacks had dropped dramatically in the previous year. However, censorship in Poland is carried out predominantly ‘under the radar’, through blacklists and administrative actions which are difficult to monitor (IP6, 2023).<sup>30</sup> This is a trend which has also been observed in other countries. Some governments have, as described by one interviewee, “mastered the art of masking government-sponsored violations” (IP2, 2023) such as by verbally instructing broadcasters not to feature certain artworks or artists seen as being problematic, making it a challenge to identify the proof of violation.

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<sup>30</sup> In late 2023, the change of government (into one holding greater democratic values) led to an increased optimism in the improvement of the state of artistic freedom in Poland.

These tendencies exist not only in the governmental domain or among public officials, but also among non-governmental institutions. For instance, cultural institutions are also affected by a cancel culture and political correctness, heightening their sensitivity to particular populations, fearing to offend or traumatise their audience. Museums have taken down works and performances were withdrawn as a result of pressure from interest groups from across the political and social spectrum.

Historical revisionism is noted as one of the features of this trend, having a detrimental effect on what artists can create or for what they can receive support. For example, as noted at the Council of Europe ‘Free to Create’ meeting in July 2023, the focus on ‘ancient history’ is often portrayed through glorious victories, even creating new mythologies while erasing the suffering inflicted on others. This means that artists can only get support and resources if they create work which aligns with the dominant narrative and does not touch upon other (critical) perspectives.<sup>31</sup>

Often, direct censorship is not only conducted by governments or municipalities. Agents, venue managers, artistic directors, culture and arts governing boards, and even donors and other actors who act as gatekeepers may also act as censors. They may decide not to support or allow artworks and performances which, by their association, could bring upon them legal or other trouble, damage their public standing in the media and potentially lead to a loss of further opportunities and income. This can sometimes be explicit, but at other times it is not. Similarly, artists can be blacklisted, officially or informally, by being ostracised by their peers.

Social censorship as applied by society, family, religious leaders, and custom is the biggest threat in some societies, compared to ‘official’ censorship conducted by the government. As one interviewee described it, it is “people from your own community, the immediate society around you. In these situations, you cannot invoke a convention that has been signed by your government. In communities, it is much more informal” (IP3, 2023). Social censorship has an especially

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<sup>31</sup> Report due to be published by Council of Europe in 2024.

harmful impact on women, where ‘decency’ is a concern for artistic expression. Women are targeted for the content of their work, which explores the female experience, or are penalised for what they wear in performances or ‘inappropriate’ conduct in public. This is also true for LGBTQIA+ artists. Such pressures are a factor in women being unable to practice as artists at all. As a result, there is, as one artist described it, the “lobotomy, zombification of arts and culture” (ibid.).

Somewhere between ‘above’ and ‘under the radar’ are cases labelled as ‘open investigations’, where artists are arrested and then released pending trial, often on condition that they report regularly to the police (a condition which sometimes lasts for years). This is a strategic way of keeping artists under constant surveillance without attracting high-level scrutiny from the authorities.

Neither traditional nor social media are safe platforms for discussing critical work. One interviewed CSO mentioned their experience in developing a digital platform for discussion among artists, but found that participants felt they may be compromised by sharing that information. This platform changed its policy, making it a closed forum with admission by invitation only, vetted by partners.

Self-censorship is by nature difficult to identify and measure. A great deal of self-censorship is personal, and many artists do not speak out when it happens to them. They know that, in some spaces, they are unable to do certain things without triggering negative reactions. The precarity of creative work underlies the tendency for artists to avoid tackling difficult topics, as this may result in losing essential support and funding. As such, many artists and cultural workers admit to significant self-censorship, fearing to speak out in public to avoid potential retribution from the government as well as non-government groups. It can be difficult to identify the point at which pragmatism and compliance with norms slip into self-censorship. On an institutional level, these boundaries can also be blurred, for example by simply deciding not to take on an issue so as to avoid dealing with possible backfire. These types of self-censorship go undocumented and are often unrecognised by the artists themselves.

At the time of writing and as the horrific events in Israel and Gaza unfold, artists and cultural centres across Europe, North America and elsewhere in the Western

world suffer from cancellations of exhibitions, withdrawal of contracts, and attacks in public and social media for their comments and works in support of Palestinian civilians under bombardment, calls for a ceasefire, and condemnation of Israeli government actions. Comments seen to support the Israeli offensive have met with similar reactions, although to a lesser degree. Most of these cancellations and withdrawals were carried out by galleries, cultural institutions and other actors such as sponsors and funders. In November 2023, four UN Special Rapporteurs issued a statement of alarm about the reprisals against people who speak out on the conflict, identifying artists as being particularly targeted. The statement reads:

*“Calls for an end to the violence and attacks in Gaza, or for a humanitarian ceasefire, or criticism of Israeli government’s policies and actions, have in too many contexts been misleadingly equated with support for terrorism or antisemitism. This stifles free expression, including artistic expression, and creates an atmosphere of fear to participate in public life. [...] In other contexts, we also see a rise in anti-semitic speech as well as intolerance, for those who support or are perceived to support Israel, or who express mere sympathy for Israeli suffering in the aftermath of the 7 October attack. [...] This leaves little space for moderate views.” (UN OHCHR, 2023)*

All these factors make the monitoring of artistic freedom an extremely complex task, and this poses a challenge for documentation and monitoring.

### 3.3.3 Documentation centres and hubs

Most interviewees considered the idea of an information-sharing hub to be compelling, and that an observatory which tracks and documents policies on artistic freedom would “[address] *the gap*”.<sup>32</sup> It could provide information on the fundamentals, such as what artistic freedom entails and the rights mechanisms which protect it, for sharing good practices in the areas of legislation, advocacy, activities by other CSOs working on similar issues, and so on. It could be useful

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<sup>32</sup> Interviewee’s own emphasis.



as an advocacy tool, serving as an archive and historical memory of the activities conducted so far to support artistic freedom. Such a hub would be increasingly important as more actors are monitoring freedom of artistic expression but usually lack an understanding of human rights frameworks and of the need to develop a consistent monitoring methodology.

Furthermore, the hub could be a place where more established organisations share the experiences they have gained over the years. Not keeping a continuous record of experiences and information will result in a loss of continuity. Such a hub may also be the solution for keeping a record of information which otherwise has so far been stored and lost in social media feeds and discontinued websites. A respondent saw the potential hub as “a source of building alliances and actions towards solidarity and justice” (IP1, 2023). One interview respondent mentioned that the aim of the observatory/hub should “not just [be] about taking these people’s data and amplifying it [...] so that this becomes a community of practice”. Another respondent mentioned:

*“More than a hub, I would think of [it as] a solidarity system, [something] collaborative. [The terms of] accessibility should be discussed. [...] [The hub could be a] system that would benefit those who do basic research, [and enable] sharing—maybe not publicly but to other NGOs—to allow others to focus on advocacy. I have the feeling that we do a bit of everything, and that is quite inefficient. More than a hub, [it] should be a network, or a ‘club’—a system in which NGOs give and take.” (IP7, 2023)*

However, to have a central information-sharing hub or observatory poses challenges: it raises questions on ownership and responsibility to administer, and it requires significant resources. For instance, who will oversee the hub and do they have the relevant expertise and understanding? Would this input benefit the host organisation more than the suppliers of the information? Who decides what content would be included on this platform? Would the creation of such a hub place an additional burden on CSOs to feed it information?

It was clear to all of the respondents as well as the authors of this study that such a hub could never be all-encompassing or include everyone and every

organisation, so there will still be a reliance on personal contacts and relationships. One suggestion was that the hub could be conceptualised as a ‘network of networks’.

### 3.3.4 Collaboration networks

Platforms, information hubs and networks are greatly valued for sharing experiences and expertise as well as for collecting inspiration, ideas on good practice and guidance for positive action, all of which are helpful for planning activities ahead. CSOs are already networking and sharing information; this is demonstrated most notably by Freemuse, PEN International and the PEN America ARC network as well as associated organisations working on relocations, such as ICORN and Safe Havens | Freedom Talks. Some interviewees welcomed the prospect of discussing the idea of developing transregional or global initiatives, although they expressed some cautions, including the tendency for larger, better-resourced organisations, principally in the Global North, to become the dominant, controlling partner.

Networks are also seen by the interviewees as an important source for getting artists and cultural institutions to rally in support of artists at risk. The exchange of ideas and positive actions taken by arts and cultural institutions to counter repression can inspire ways to build new structures, such as to create parallel institutions, find free and safe spaces for alternative arts, and work around and challenge censorship. Not least, networking is essential in life-threatening cases, especially in obtaining assistance through joint advocacy or advice on risk assessment and asylum-seeking processes.

*“A delegate [who attended] the IFACCA Sweden meeting said that she thought it would just be a meeting where people spilled out their troubles then went home. But she didn’t know that there were so many people fighting for her rights and she was almost shocked by that, and [the fact] that governments came to the table to discuss these issues, that there are so many international mechanisms that people are trying to advance.” (IP3, 2023)*

Organisations such as Freemuse and Artists at Risk Connection (ARC) have run workshops, provided training and produced handbooks which have been useful for smaller CSOs, which adapted these to meet their local contexts and needs. For instance, a CSO in the Global South interviewed for this study valued the ARC artistic freedom manual, translating it into Arabic and adding to it the complexities and particularities of the Arab context, which included commentaries and interviews from the Arab world.

### **3.3.5 Working with media and human rights groups**

The challenges faced by artists in exercising their right to freedom of expression are similar to those faced by journalists, human rights defenders, academics, and people in other sectors. Media and human rights defence organisations are often comparatively well-resourced and well-equipped with knowledge of these matters, such as the legal response to attacks and advocacy both at national and international levels. One arts CSO interviewed for this study pointed out that, despite the common concerns those working for media freedom and those working for artistic freedom share, the way the cultural sector works is different from that of the media. They noted that there is a danger of mixing the two as this could lead to generalisation, which would mean that a lot of nuances specific to artistic freedom would be lost along the way.

Suggestions that artists should be classified as human rights defenders to afford them a higher status, notably within the UN, could be seen as being very useful, providing recognition and legitimacy. On the one hand, it could provide access to greater support from certain quarters by aligning artistic freedom as part of the human rights defenders' 'basket of rights'. Yet, on the other hand, many artists are not activists and do not define themselves as such, nor do they wish to do so.

Attracting media attention can be a struggle, especially as many publications are cutting their reporting coverage on culture and the arts. Media attention tends to be fixated on high profile cases; those who do not fit this profile often do not

receive media attention at all. Furthermore, there is also the problem of consistent follow up and reporting on cases of violation against artistic freedom. The lack of details, such as arrests, charges, etc., render them unusable as reliable sources, making it difficult for media outlets to report the stories to the public.

### 3.3.6 Collaboration challenges

All interviewees see collaboration between CSOs as central to protecting artistic freedom, given the limited resources available. Yet many have experienced challenges in collaboration for a number of reasons: interviewees noted that artists tend to work in silos, restricted to their own sectors, and that the contrasts between different arts/cultural sectors' working practices and networks can hinder collaboration. Furthermore, interviewees mentioned that mutual collaboration works best; projects should not be 'owned' by one single organisation, but should instead be an alliance of networked and collective action. Some CSOs perceived others to be adversarial in competing for funding and suggested that ideas are being appropriated without acknowledgement.

Sverre Pedersen of Freemuse noted that when an organisation takes a strategic approach which benefits its own needs rather than those of its partners, it creates an imbalance between the organisation and its partners, and this results in a loss of trust between them. As an interview respondent from a CSO based in the Global South noted,

*"The system right now is competitive. There aren't [any] benefits or stimulus policies for knowledge sharing. In many cases, the information is gathered, documented, analysed by local NGOs, and then used in advocacy or campaigning actions by international NGOs. The second group of actions usually receives more funding and allows the NGOs to do fundraising among private stakeholders. In this process the local small NGOs just survive." (IP7, 2023)*

It is interesting to note that some CSOs in the Global South perceive those based in the Global North as receiving more support. In reality, obtaining consistent funding for CSOs in the Global North is also a challenge, with the current

exception of the USA, where there is a trend towards greater support for projects on freedom of expression. Other CSOs have had more positive experiences, such as a CSO representative in the Global South who praised a northern European arts initiative they had worked with for their “collegiate and open attitude”, further describing the cooperation as “a concrete example of where we can pool our knowledge resources and be complementary in our work together” (IP1, 2023).

Overall, the importance of investing in local partners for advocacy and research was seen as essential and beneficial for the work on safeguarding artistic freedom as a whole, be it in monitoring, reporting, advocacy, or protective work. This investment should be seen and shared as a resource for the whole community fighting for artistic freedom.

*“As more organisations show interest in arts freedom work, working in collaboration [with other CSOs and funders] requires that there be close cooperation and understanding, and also the level of resources required to do this, and to be sure to stay true to their own mission.”  
(ibid.)*

### **3.3.7 CSOs’ perspectives on funders**

*“... it is very important to stress here that networking, whether regional or international, is a capacity issue and most of the organisations working in this field are small. Especially but not only in the Global South, networking and collaboration mean working time and effort, in other words, money.” (Safe Havens, 2020)*

Unsurprisingly, given the challenges described in the previous subsections, the question of funding and resources is paramount in most CSO representatives’ minds. During the interviews, comments were made regarding perceived disparities in resources between those in the Global North and the Global South, the agendas which often accompany funding and short-term, irregular support.

Unreliable, inconsistent and insufficient funding is a problem across the board, causing insecurity and a lack of sustainability, affecting the capacity to plan

ahead. One-off project funding is often detrimental as it mitigates the sustained work which is necessary to effect change. Most funding is project-based and some funders do not allow for core funding or administrative costs. As one interviewee put it, “The scarcity of funds and the fluidity of funds is a problem. The money is for a short period, then suddenly it no longer exists” (IP1, 2023). This accounts for the reliance of CSOs on volunteers to carry out essential core activities, having no office space or only being able to afford space outside city centres, and others covering the cost of essential items from their own pockets. Financial insecurity also contributes to the difficulty in hiring and retaining staff with the necessary skills, further undermining capacity.

Data collection, data analysis and monitoring are long-term projects. These are day-to-day activities which are, by their very nature, low-profile, often producing material which cannot be made public for various reasons ranging from security to complexity. Such activities require consistent, long-term funding, which is not supported by funders who have a project-related approach. One CSO which has developed an excellent and sophisticated data project may not be able to continue and make it permanent as it was funded with a one-off grant which may not be renewed. Moreover, there are challenges in finding another funder. This problem was raised by several interviewees, with one noting that there was “no point” in starting a database if it cannot be sustained. As one interviewee stated, “Without core and continuous funding, these projects will be abandoned because you can only do so much” (IP3, 2023).

The interviewees also referred to the problem of the scale of funding. Smaller grants can best benefit small initiatives; however, these local initiatives are sometimes considered not to be cost-effective for the funders, even if they can be crucial for actors in the field. Some donors only provide comparatively large grants, which can be too substantial for a smaller CSO to manage. These large grants are sometimes given to the larger Global North-based CSOs, with the expectation that the resources will be shared with partners in smaller organisations. This can work well, but it can also exacerbate the perception that artistic freedom is a Western concept, widening the gap between the larger organisations and those working closer to the grassroots.

At a meeting hosted by the Council of Europe in October 2023, artists from around Europe noted that access to funding (or lack thereof) for certain types of work and communities acts as a censorship tool. Often, this reflects the policies of governments, whether through overt suppression—by excluding support for works which do not align with the political doctrine—or, inadvertently, by demanding focuses which may not align with those of the creators.<sup>33</sup> This experience is shared globally. One interview respondent noted that this “risks the mission of our organisation” (IP1, 2023).

Conflicts which have emerged in recent years, such as in Syria, Ukraine, Afghanistan and, more recently, in Palestine/Israel, have led international organisations and funders to focus their support on these countries, reducing their capacity in others. Furthermore, development agencies which support human rights and freedom of expression (which extend to artistic freedom) often limit their support to issues in the Least Developed Countries<sup>34</sup>, using the ODA list as criteria. This practice can lead to gaps. In an interview for this study, one organisation working regionally said that most of the countries in their region are on the ODA list. However, one country in such a region, which happens to be a comparatively wealthy and developed country, is not on the list despite being a systematic and long-term, acute abuser of freedom of expression. Therefore, it is difficult to find financial support to address freedom of expression issues in that country because it is not on the ODA list. Another barrier described by a CSO working in the Middle East is the caution funders exercise due to their financial and political instability in many countries in the region.

Despite this, the important role of Western funders in enabling art freedom projects is recognised. One interviewee stated, “Of all the projects I have been involved in to date, particularly those relating to artistic freedom research and

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<sup>33</sup> From a forthcoming Council of Europe “Free to Create | Create to be Free” report, to be published in 2024.

<sup>34</sup> The “Least Developed Countries” (LDC) category was established in 1971 by the UN General Assembly as an acknowledgment by the international community that special support measures were needed to assist the least developed among the developing countries. More information is available at: <https://www.un.org/ohrlls/content/lcd-category>.

advocacy, they definitely would not have been implemented without donor funding and support from Global North [-based] organisations” (IP2, 2023).

While essential for ensuring against misspending and corruption, heavy bureaucracy and high expectations as well as stringent reporting requirements can also hinder applications, and in some cases can lead to CSOs being discouraged from applying to calls for funding. One example which was raised was that the requirement for absolute transparency of sources and recipients lacks the understanding of the sensitivity of the situation, because to provide such details could pose a life-threatening risk to the individuals they are trying to support.

The global drift to right-wing politics and populist governments, notably in Western Europe, also affects the type and amount of funding which can be provided. This is either due to the tendency to cut back on financing in the cultural sector as a whole (which often characterises populist governments’ approach) or to both public and private funding agencies and donors fearing repercussions themselves because they support certain projects which are out of favour with the political leadership of the countries where they are based. As the abovementioned interviewee put it, “Government-owned or -funded establishments are predominantly the ones which have to subject themselves to self-censorship in order to maintain political correctness” (ibid.).

There is a very different landscape in the United States, where organisations working on freedom of speech are often well funded. One CSO interviewed for this study saw the political divisions around free speech in the USA as ‘lucrative’, in the sense that the political climate has created an urgency for organisations working in this area to expand their work, including that on artistic freedom. They referred to artistic freedom as being part of the political ‘cutting edge’ in the battle for free speech, with some donors wanting to support free speech while others wanting to curtail it. As one interviewee stated, “It’s a political battle and the Americans resolve political battles by throwing money at them” (IP8, 2023).

The few sources of funding for artistic freedom and the competitive application processes result in a scarcity and inevitably lead to cutthroat competition among CSOs. This can have a corrosive effect on collaboration, despite many funders requiring collaboration as a central condition for funding.



There is a perception among some of the CSOs based in the Global South that those based in the Global North have better access to funding sources. To some extent this is true, but even the more established CSOs in the Global North receive the same short-term funding, struggle with restrictive reporting requirements and are affected by limitations on the kind of work deemed eligible for support. One of these CSOs noted that they found it relatively easy to find one-off project funding to work with organisations in the Global South, but they also struggle to acquire the necessary core funding for their essential long-term activities, which consequently hinders proper collaboration with partners. Another CSO based in the Global North also noted how the arts and culture sectors as a whole are often the first to experience cuts when a country or donor is facing economic difficulties.

*“It is all too easy to see one another as threats instead of potential partners. For some, this is [apparent in] seeking competitive funding or achieving the visibility needed to convince funders. Funder education is also needed to ensure providing what is best for those who they are supporting to achieve the desired goals.” (Safe Havens, 2020)*

### **3.4 Inter-ministerial Collaborations and Government Policies**

When CSOs which advocate for artistic freedom are dealing with governments, they may very well have good relations with one or two ministries, but this does not necessarily lead to interventions from or collaborations with other ministries. This is even the case for UN organisations or UN Special Rapporteurs.

For example, over the years, Freemuse and PEN International—in partnership with local organisations as well as with lawyers—have developed several Universal Periodic Reviews (UPRs) on various countries and submitted these to the Human Rights Council. The reports were also submitted to the country under review as well as being made available to specific UN member states which

traditionally advocate freedom of expression within the UN (the colloquially so-called ‘friendly countries’). The CSOs may have good relations with the ‘friendly countries’, but these countries also have their own priorities and have only two minutes to present their key concerns on the full range of human rights issues in bullet-point form during the half-day session allocated to each state review. Artistic freedom will typically not be a top priority as it competes with other potentially more pressing issues such as political, religious and media freedoms, gender issues, etc. In addition, the overall government policy may prioritise good trade relations over the state of artistic freedom and may, therefore, minimise its criticism of the country under review, for example in appealing to them to generally ‘respect human rights and freedom of expression’ rather than criticising very specific topics.

Another example of priorities and collaboration between ministries are the UNESCO reporting requirements for governments. Parties to the UNESCO 2005 Convention have an obligation to submit a quadrennial periodic report (QPR) on their implementation of the Convention to UNESCO (UNESCO, 2023a). Since 2019, the reporting requirements have included an explicit obligation for parties to report on the state of artistic freedom and measures for its promotion and protection. Since that time, the QPRs also feature a section on measures implemented by civil society, aimed at making the data collection process more participatory.

Additionally, all UNESCO Member States have an obligation to report on their implementation of the UNESCO 1980 Recommendation concerning the Status of the Artist every four years by responding to a Quadrennial Global Survey sent out by the UNESCO Secretariat. This survey is also sent to NGOs to gather additional information and make the process more participatory. The 5<sup>th</sup> Global Survey was launched in 2022, covering eight thematic areas, including artistic freedom. The 2023 UNESCO Report on ‘The Status of the Artist’ summed up some of the findings on artistic freedom:

*“Among Member States participating in the global consultation, 78% (53) responded that they have in place specific policies, legal and regulatory frameworks, measures, and initiatives to promote artistic freedom. However, in an increasingly fragile global context and with*

*the acceleration of digital technological developments, this fundamental right is in peril and is actively denied in many countries.”*  
(UNESCO, 2023c, p. 47)

In an ideal world, governments will invite all relevant ministries to contribute to the QPR and Status of the Artist reports, as well as to consult with the relevant CSOs in the country. In reality, the reports will typically be written by staff members from the ministry which normally deals with UNESCO Conventions (e.g. the Ministry of Culture, Ministry of Education or ministries responsible for sports, culture, youth, religion, and heritage), with minimal consultation with CSOs.

In most countries, these ministries are considered ‘junior ministries’ and therefore do not receive as much prioritised attention as those at the top of the ‘ministerial hierarchy’, such as the office of the President or the Prime Minister, or the foreign, financial, and justice ministries. The development of these reports frequently lacks substantial inputs from all relevant ministries because some Ministries of Culture are understaffed and culture-related issues do not have a high priority in the ‘top ministries’.

This is where CSO reports can and do play an important role. In response to the questions the authors of this study posed to the UNESCO Secretariat, UNESCO admitted that they are well aware that not all state party submissions are substantial or, at worst, provide a false image:

*“In their reports on the implementation of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005 Convention), Parties confirmed that constitutional or legal protections for artists’ rights to express themselves and freely distribute their work were in existence, along with the public’s right to unhindered access to cultural life and enjoyment of art. Yet, in practice, these guarantees are often not upheld. Few States have reported on recent steps taken to enhance freedom of artistic expression, though in some cases measures taken are underreported due to insufficient understanding of the notion of artistic freedom. In some cases, this can also be linked to the lack of clarity in the*

*governance of the sector, whereby no one authority feels responsible for the advancement of artistic freedom. Local monitoring and concrete implementation mechanisms must therefore be in place for legislation protecting artists to be effective.*<sup>35</sup>

The lack of interministerial collaboration/consultation is further highlighted in the chapter on artistic freedom in the UNESCO 2022 Global Report, which states:

*“The lack of reporting on similarly commendable measures from other States could be due to limited interministerial cooperation and communication. For example, a ministry of justice may put de-criminalization of defamation high on its agenda, but this may not be considered a measure that protects artistic freedom. Thus, States with robust measures to protect freedom of expression are not necessarily reflected within the data. Conversely, the fact that a State’s constitution specifically protects artistic freedom, although an important measure, is unfortunately not a guarantee that this fundamental freedom will not be violated. These factors complicate analysis, making it difficult to paint a clear picture of the state of freedom of artistic expression today.” (UNESCO, 2022a, pp. 270-271)*

## **National reports**

National Human Rights Institutions (NHRIs) are state-mandated but independent bodies with a constitutional or legal mandate to protect and promote human rights at the national level. NHRIs address the full range of human rights, including civil, political, economic, social, and cultural rights (ENNHRI, n.d.). However, very few, if any, NHRIs systematically document violations against artistic freedom.

A good example of systematic monitoring of freedom of expression, including artistic freedom, comes from Norway. ‘The Status of Freedom of Expression in Norway’ is a research project led by the Institute for Social Research (ISF) on behalf of the Fritt Ord Foundation (Fritt Ord, n.d.). The project, which is now

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<sup>35</sup> UNESCO Secretariat’s response to the authors of this report.

in its third round, maps the Norwegian population's as well as individual groups' experiences with and attitudes towards freedom of expression, including limits for what can be acceptably expressed among the Norwegian public. Reports on artistic freedom have been published since 2014 and seminars and conferences were convened on this topic. One of the examples is a report published in 2020, composed with inputs from arts organisations, which portrayed a landscape with a diminishing scope for artistic freedom, increased threats on social media and pressure from foreign states (Slaatta & Okstad, 2021).

### 3.5 Concluding Comments

Whereas annual global reports on media freedom cover most of the world's countries, violations against artistic freedom continue to be underreported. As this study has described, there are various reasons why organisations monitoring artistic freedom are not able to provide similar extensive global documentation, the main reasons being the lack of reporting violations by artists and artists' associations to monitoring organisations together with irregular and limited funding of monitoring organisations. As a result, the artistic freedom landscape is constantly changing. New actors enter the field and others leave, donors disappear or change policy direction, staff rotation in ministries and UN systems affect institutional memory, and CSOs struggle to ensure consistent, long-term funding to maintain staff and expertise. The artistic freedom landscape is fragile and depends, to a large degree, on highly motivated and dedicated individuals working with constrained resources.

As substantial global documentation and monitoring of artistic freedom is limited and research on the negative effects of censorship and repression are marginal, it is time for those who may influence and decide on supporting a more sustainable landscape to sit together with artistic freedom CSOs to find long-term solutions. As one interviewee commented when reflecting on the views of several others, "There have been panels, conferences, reports, etc. [...] Now is the time for more permanent solutions." It is the hope of the authors that this study may inspire such solutions to be found.

## 4. Recommendations

Artistic freedom can only be advocated and protected if governments and related institutions, legal systems, relevant UN mechanisms, and civil society join forces. They have both common as well as different roles in doing so, as reflected in the recommendations proposed below. It is only through having a mutual understanding of problems related to the threats to artistic freedom and the will to stand up for this fundamental—and universal—right that this can work.

### 4.1 Recommendations for Governments

Governments should:

- fully implement all international human rights instruments for protecting artistic freedom without reservation and abolish and amend legislation, executive orders and by-laws which prohibit and restrict artists from taking part in any dimension of artistic life and the performance of their respective art forms;
- abolish censorship boards and replace these with independent classification bodies, which include representatives from the cultural sector. Rules for procedure and activities should be made public and transparent appeal mechanisms should be put in place;
- ensure that artist syndicates/unions and other professional bodies (can) act independently from government influence;
- ensure that hate speech and threats against artists and cultural organisations are investigated immediately and reporting mechanisms are set up by the relevant authorities;
- hold social media companies accountable for implementing policies which respect the right to free expression as well as authors' and performers' rights;
- actively involve relevant CSOs in the qualification and submission of national reports to UNESCO and the Human Rights Council.

## **4.2 Recommendations for the European Union**

The European Union should:

- financially support the establishment of a system which monitors artistic freedom violations in member states and annually address its main findings in relevant EU forums;
- oversee gaps and overlaps in current support initiatives on artistic freedom;
- address violations against artistic freedom in bilateral negotiations on development cooperation and cultural exchange programmes;
- actively involve and support relevant CSOs in the development of programmes documenting, monitoring and advocating artistic freedom as well as expert input into and submission of QPRs to UNESCO, e.g. by providing a funding scheme for small CSOs to monitor violations against artistic freedom and/or capacity building and by supporting collaboration networks or (the creation of) unions/interest groups for artists to have a better stake and a voice.

## **4.3 Recommendations for the Office of the United Nations High Commissioner for Human Rights**

The Office of the United Nations High Commissioner for Human Rights should:

- consider how the offices of Special Rapporteurs relevant to artistic freedom could be strengthened to further promote and defend artistic freedom through communication and country visits;
- more actively engage in statements condemning violations against artistic freedom;
- consider how mechanisms of international covenants relevant to violations against artistic freedom could more actively monitor such violations.

## 4.4 Recommendations for UNESCO

UNESCO should:

- more actively encourage member states to not only bring their legislation in line with international standards but also implement in practice the principles of artistic freedom;
- more actively promote the knowledge of UNESCO’s procedure for dealing with alleged violations against human rights<sup>36</sup>, and consider how civil society can report such violations more actively to UNESCO;
- remind states of their obligations to submit periodic reports and more actively involve civil society in the qualification and submission of these reports;
- more actively condemn violations against artistic freedom by means of statements from the Director General.

## 4.5 Recommendations for Funding/Donor Organisations

Funding/donor organisations should:

- ensure that funding strategies directed towards organisations defending artistic freedom assure sustainable core funding, and that funding does not interfere with artistic freedom in individual projects;
- consider how funding may actively stimulate the creation of networks;
- actively involve specialised CSOs and experts in the development of their funding programmes;
- simplify application and reporting systems and adjust these to applicants’ realities.

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<sup>36</sup> <https://unesdoc.unesco.org/ark:/48223/pf000021540> (UNESCO, 2022d).



## **4.6 Recommendations for Artists' and Creators' Unions/Associations and Copyright Associations**

Artists' and creators' unions/associations and copyright associations should:

- actively document violations and threats, including mechanisms and effects of self-censorship in their respective countries;
- actively promote and defend artistic freedom, including offering safe spaces for artists at risk;
- engage more actively in relevant reporting mechanisms;
- actively educate members on how to deal with threats and censorship and prepare them for this.

## **4.7 Recommendations for CSOs working on Artistic Freedom**

CSOs working on artistic freedom should:

- analyse how a more efficient global monitoring and advocacy system could be established;
- analyse how current political and donor trends affect their work and whether such trends might lead to self-censorship on specific topics;
- consider how global trends affecting artistic freedom could be analysed through interdisciplinary methodologies and networks.

## **4.8 Recommendations for Academia**

Academia should:

- consider how scholars from various disciplines could collaborate on academic work on censorship, artistic freedom and other related issues, and how such work could benefit organisations defending artistic freedom;
- analyse the effects of suppression of artistic freedom on society as a whole;
- analyse the difference between public debate and under-the-radar censorship in times of heated challenges, such as in times of conflict.

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# Appendix 1: List of Organisations Working on Artistic Freedom

Disclaimer: The following list consists of organisations working on artistic freedom which are known to the authors up until the publication of this study (May 2024). It does not claim to be an exhaustive list of all existing organisations in this field.

## CSOs working on Artistic Freedom

Organisation Name	Scope of Work	Headquarters (Country)
al-Mawrad Al-Thaqfy	Regional	Lebanon
Article 19	National	Brazil
Artists at Risk	Global	Finland
Artistic Freedom Initiative	Global	USA
Arts Equator	Regional	Singapore
Arts Rights Connection	Global	USA
Arts Rights Justice	Global	Germany
Avant Garde Lawyers	Global	France
CADAL	Regional	Argentina
Cartooning for Peace	Global	France
Cartoonists Rights International	Global	USA
Ettijahat Cultural Centre	Regional	Lebanon
Freedom Film Network	National	Malaysia
Freemuse	Global	Norway
Index on Censorship	Global	UK
International Arts Critics Association	Global	France
International Cities of Refuge Network	Global	Norway
International Coalition of Filmmakers	Global	Netherlands
International Federation of Arts Councils and Cultural Agencies	Global	
Koalisi Seni	National	Indonesia
Martin Roth Initiative	Global	Germany

National Coalition on Censorship	National	USA
Nhimbe Trust	Regional	Zimbabwe
Panaf/Selam	Regional	Sweden
PEN Belarus (arts focus)	National	Belarus
PEN International	Global	UK
Safe Havens Initiative	Global	Norway
SafeMuse	Global	Norway
Susma24	National	Turkey
Tanzania Arts Freedom Organisation	National	Tanzania

Source: Authors' data gathered for the study.

## Ministries & Donors Supporting Artistic Freedom

Institution	Country
Council of Europe	CoE Member States
European Commission	EU Member States
Norwegian Ministry of Foreign Affairs	Norway
Sida	Sweden
Svenska Postkodlotteriet (Swedish Postcode Lottery)	Sweden
Swedish Arts Council	Sweden
UN Special Rapporteur in the field of cultural rights, Secretariat	International
UNESCO	International

Source: Authors' data gathered for the study.

## About the Authors

**Ole Reitov** co-founded Freemuse, the world's leading organisation defending artistic freedom, and was the Executive Director in 2013-2017. During this period, he was the Freemuse representative to the UN Human Rights Council and served as an expert consultant to the UN Special Rapporteur in the field of cultural rights, Ms. Farida Shaheed. Since 2015, he has been appointed as an artistic freedom expert by UNESCO and conducted numerous workshops on artistic freedom all over the world.

**Sara Whyatt** is a campaigner and researcher on the freedom of artistic expression and human rights, notably as the director of PEN International's freedom of expression programme (1990-2013). Since 2013, she has been working with numerous arts freedom organisations including Freemuse, PEN, the Swedish Arts Council, and the Council of Europe's Free to Create | Create to be Free project. She has been serving as an expert on artistic freedom for UNESCO since 2019.

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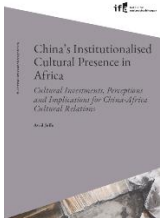


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# The Fragile Triangle of Artistic Freedom

## *A Study of the Documentation and Monitoring of Artistic Freedom in the Global Landscape*

This study addresses the lack of knowledge, data and awareness of the challenges of artistic freedom worldwide and explores the current status of artistic freedom monitoring and documentation systems. By interviewing key actors in the land-scape of artistic freedom and analysing available reports, this study portrays how donors, international organisations and civil society organisations (CSOs) understand the current challenges they face. It identifies gaps in the promotion and protection of artistic freedom, including what is needed to address them, and points to a number of positive developments as well as negative trends. The study explores the dependency of CSOs on funding and how donors, policymakers and UN bodies are, in turn, dependent on and benefit from information provided by CSOs as well as the fragility of this interdependency.