



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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REFERENCE: Cultural rights/2012/MB

The Office of the High Commissioner for Human Rights presents its compliments to all United Nations Member States, specialized agencies, intergovernmental organizations, national human rights institutions and non-governmental organizations and has the honour to transmit the letter and questionnaire attached on the right to artistic freedom, elaborated by the Special Rapporteur in the field of cultural rights, Ms. Farida Shaheed, pursuant to Human Rights Council resolution 19/6.

The Office of the High Commissioner for Human Rights would be grateful if the submissions could be sent electronically to [srculturalrights@ohchr.org](mailto:srculturalrights@ohchr.org) no later than **7 January 2013**. Kindly limit your responses to 2,500 words and attach annexes where necessary. Please also indicate if you have any objections with regard to your reply being posted on the OHCHR website.

The Office of the High Commissioner for Human Rights avails itself of this opportunity to renew to all United Nations Member States, specialized agencies, intergovernmental organizations, national human rights institutions and non-governmental organizations the assurances of its highest consideration.



24 October 2012



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**Mandate of the Special Rapporteur in the field of cultural rights**

REFERENCE: Cultural rights/2012/06/MB

24 October 2012

Excellency,

I have the honour to address you in my capacity as the United Nations Special Rapporteur in the field of cultural rights, pursuant to Human Rights Council resolution 19/6.

In my first report to the Human Rights Council (A/HRC/14/36), I indicated that I intended to study in depth the rights of all persons to benefit from scientific progress and to access cultural heritage, together with issues related to freedom of scientific research and creative activity. Following my reports devoted to the right to enjoy and access cultural heritage (A/HRC/17/38) and on the right to benefit from scientific progress and its applications, (A/HRC/20/26), I propose to explore *the right to artistic freedom* (as enshrined in article 15 of the International Covenant on Economic, Social and Cultural Rights and in article 19 of the International Covenant on Civil and Political Rights), in my forthcoming report to the Human Rights Council, to be submitted in June 2013.

In order to assess achievements and challenges related to the right to artistic freedom, I have prepared a questionnaire on the implementation of this right (attached), which I am hereby sending to States, United Nations agencies, academics and civil society organizations for their consideration.

I wish to thank you in advance for your cooperation and I hope to continue a constructive dialogue on issues related to my mandate.

Please accept, Excellency, the assurances of my highest consideration.

Farida Shaheed  
Special Rapporteur in the field of cultural rights

## QUESTIONNAIRE ON THE RIGHT TO ARTISTIC FREEDOM

1. Is the right to artistic freedom expressly protected under the Constitution in your country? If so, please provide the relevant provisions, or if needed, a translation of these provisions.
2. If relevant, please provide a brief summary of important decisions relating to artistic freedom adopted by judicial authorities in your country over the last ten years.
3. Has your country adopted any official policy relating to art and artistic freedom? If so, please provide a summary of the main elements included in such a policy.
4. Is there a legal definition of "artist" in your country? If so, does this definition have any bearing on the status of artists, as well as their artistic freedom? Do organizations of artists agree with such definition?
5. Is there an official legal definition of 'artisans' and craftsmen/women? If so, which consequences does this definition have on the status of artisans and craftspeople in terms of their artistic freedom? Do organizations of artisans/craftswomen agree with such definition?
6. In your view, what are the main impediments encountered by artists in their work in your country?
7. In this regard, what measures are required to combat these impediments?
8. What support is provided by State authorities, including public institutions and semi-autonomous bodies to artists, in particular financial support for artistic creations and exhibitions? What are the specific mechanisms to ensure that those benefiting from State support enjoy artistic freedom and that all artists compete equally for State resources, without discrimination based on, for example, gender, ethnic origin, location in State territories, political opinion or belief?
9. Under national law, what kind of legitimate restrictions can be imposed on artistic freedoms? Please provide information on most recent relevant cases in your country, if any.
10. Are there any legal provisions or traditions in your country which restrict certain art forms, including the use of instruments and songs, or public display/performances? If so, do such restrictions apply to certain categories of people, for example on the ground of, gender, ethnic origin or age?



11. Please indicate whether specific bodies or institutions, either state or non-state, are mandated to decide on possible restrictions to be imposed on artworks (e.g. film censor boards). If so please
  - (a) provide information about the membership, terms of reference and appointment procedures of these bodies;
  - (b) indicate whether these bodies disclose information publicly and to what extent they are held accountable for their decisions and to whom; and
  - (c) indicate whether an appeal mechanism judicial, quasi-judicial or other, is in place.
12. Please provide information on the possibilities for artists to perform street art and/or to use public spaces in general for their artistic performances, such as public gardens. What are the approval procedures for this?
13. Please provide a short summary of any public debates that may have taken place at the level of legal / policy making bodies relating to the impact of free market policies on artistic freedoms, and/or on achieving the balance between private / public sponsorship.
14. Does your country have an independent artists' council, representing professional artists? If so, does the State consult the council on matters related to the status of artists or has the State developed channels of regular communication (through for instance consultations, debriefings, public hearings, etc.) between relevant authorities and independent organizations representing artists?
15. Are there any State or artists' organizations in your country established to collect the income from artistic creations/performances for re-distribution to artists? What is the annual in-and outflow of money to and from such organizations?

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