

ARTS RIGHTS JUSTICE AUSTRIA

<http://www.kunstfreiheit.at/>

ARTISTIC FREEDOM AS AN INDICATOR FOR DEMOCRACY AND AS A PROTECTION FOR INDIVIDUAL ARTISTS

"Repression of artistic and cultural creation can manifest itself in many different ways." ARJ Austria¹

DOCUMENTATION | MONITORING

... of violations of artistic freedom.

Arts Rights Justice Austria is an open network platform putting its focus on artistic freedom and ensuring its security. It is open everyone dedicated to a democratic, discrimination-free and participatory stance.

Aims of the network platform:

- Contact and exchange point: networking individual participants and exchange of ideas about freedom of the arts in Austria and internationally.
- Connection to the international network Arts Rights Justice EuropeD
- Document and monitor infringement of artists' rights in Austria
- Consciousness raising and publicity
- Observation and examination of development in Austria and the EU

Since the beginning of 2019, the open network platform Arts Rights Justice Austria (ARJ Austria) has been developing a monitoring tool aiming at the systematic documentation of violations of artistic freedom in Austria, in order to understand the current state as well as changes in conditions better, to make those more visible and to be able to recognize and communicate trends and tendencies. ARJ Austria documents both interventions by state and private parties. Individual cases as well as structural abuses are collected. In doing so, the monitoring is not based exclusively on fundamental requirements regarding freedom of art, but seeks to include any restrictions on artistic creation, artistic and cultural diversity as well as access to art. This should take into account the different forms of repression, discrimination, censorship and influence. Furthermore, not only unlawful behavior can lead to restrictions of artistic freedom, which is why basically also "legally compliant" behavior in connection with restrictions is documented.

¹ <https://www.unesco.at/kultur/vielfalt-kultureller-ausdrucksformen/artikel/article/oesterreichische-ernetzungstreffen-zur-kunstfreiheit/> (5.12.2019)

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"Artistic freedom is a universal human right, and anchored as such, in Austrian law." (ARJ Austria)

Working definition underlying the documentation

Artistic freedom is the freedom to imagine, create and distribute diverse cultural expressions free of governmental censorship, political interference or the pressures of non-state actors. It includes the right of all humans to have access to these works and is essential for the wellbeing of societies.

The fundamental right to freedom of art is defined in the Austrian Constitution as follows: "Artistic work, the teaching of art and its teaching are free." (Article 17a of the Constitution).

According to the prevailing opinion, it encompasses both the "work area" and the "sphere of influence", which not only protects artistic creation itself, but also preparatory actions (for example, rehearsals of a play) and the transmission of art.

The European Union has also made itself known in its catalog of fundamental rights to the freedom of the arts (see Article 13 of the Charter of Fundamental Rights). Article 10 of the European Convention on Human Rights protects the right to freedom of expression. Although the freedom of art is not explicitly mentioned, interventions - according to settled case law - can also be asserted under this fundamental right.

Confessions on the freedom of art, cultural as well as artistic diversity can be found in other international treaties. Of particular note is the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 2005, which was adopted and ratified by Austria in 2007 (BGBl III No. 34/2007). It obliges the Member States in its guiding principles for respect for human rights and fundamental freedoms, sovereignty, recognition of equal dignity and respect for all cultures, international solidarity and cooperation, the complementarity of economic and cultural aspects of development, sustainable development and for ensuring equal access as well as openness and balance of cultural expressions (Article 2 of the Convention).

The ARJ Austria networking platform is also committed to this expanded definition of artistic freedom.

For artistic freedom is not only limited by state-imposed prohibitions or censorship, but the creation or access to the artwork (in the broader sense) also by missing entry permits or lack of residence options, the deprivation of livelihood or through other indirect measures limited.

In a marketing system determined by the private art market and promotion as well as by transnational corporations, private measures in particular can lead to interference in artistic freedom. In this sense, artistic freedom also serves as a measure of the admissibility or inadmissibility of interventions in relation to private persons. These can manifest in personal

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(verbal or physical) attacks, in the destruction of works of art, defamation, censorship, as well as other limiting behaviors.

In summary, the documentation should include limitations or violations of artistic positions of viewers, mediators as well as artists - regardless of which side - in order to give a broad overview of the current situation of artistic freedom in Austria. For the time being, the documentation will be carried out by organizations, initiatives and / or individuals working in the field of ARJ monitoring, documenting cases (using a common monitoring form). It is the documentation of cases that are reported to the documenting actor both from media coverage and from personal experiences of those directly affected. An initial test phase will start in spring 2020 and it is of course open to anyone interested to join the documentation exercise of such cases. The extent of documentation in the first testing phase is left to the respective actors/participants. To supplement the relevant documents, those interested will be sent a feedback form (online), so that after the test phase, the applied documentation form can be made even more effective and user-friendly – based on the feedback from participating experts.

A data protection framework in regards to the documentation testing phase will be made available for all those participating in beforehand.

Those interested are more than welcome to contact the ARJ-Monitoring&Documentation-Working Group at all times: info@kunstfreiheit.at