

Do we have the right to cultural rights?

This study investigates the accessibility of cultural rights and the reality of the citizens' right to participate in cultural life, particularly under the circumstances and events instigated by the COVID-19 pandemic.

This year marks the 55th anniversary of the signing and the 45th anniversary of the entry into force of the International Covenant on Economic, Social and Cultural Rights. The text explains the four generations of human rights, starting from political freedoms, to the second pillar of rights that requires the state to play an active role and provide funds in accordance with its available resources, to the third-generation human rights as a consequence of solidarity which include the right to a healthy environment, economic and social development, natural resources or the right to participate in cultural heritage and finally, the fourth, latest generation of rights related to information and communication technologies, bioethics and digital existence.

Different types of human rights are much more connected than they may seem at first glance. That is why we cannot observe cultural rights only through one generation of rights. They are closely linked to political rights such as, say, freedom of expression, but also to sustainable development, the environment and the digital revolution. Neglecting cultural rights would therefore leave a void that would make the struggle for human rights incomplete and without a connective tissue.

The year 2021, "promises" to take over a good part of the problems from the past year, but also faced with new challenges. When there are over two million deaths from COVID-19 in the world, millions of people around the world are losing their jobs, in Serbia the position of the most vulnerable groups is becoming even more precarious with a large number of people are left not only without jobs but also without any social protection, does it makes sense to ask about the state of our cultural rights?

Even in the midst of the fight against the devastating pandemic, it was not possible to neglect culture. The questions that have been asked continuously before, have gained even more significance. How does the state support the right of all to participate in cultural life as a basic human right? How does it remove barriers that hinder access to culture for women, youth, minorities, migrants and other vulnerable groups? Has it provided sufficient resources for the functioning of the public sector, as well as to support the independent and private cultural sector? What were the priorities in creating cultural policies and did citizens, artists and experts participate in the process in a democratic, meritocratic and transparent way? Lockdowns and physical distancing measures, brought up the issue of the social and economic position of artists and workers in culture. The need to save jobs, protect freelance artists as well as protect the institutions and organizations that create the cultural life in which we all want, or at least have the right to participate, has become a priority.

This year, the United Nations is marking the International Year of the Creative Economy for Sustainable Development. On this occasion, UNESCO advocates the increasing involvement of artists and cultural experts in putting the creative economy at the service of sustainable development. Serbia is a member of UNESCO and a signatory to important international

agreements of this organization, among which stand out the Convention for the Protection of World Cultural and Natural Heritage, the Convention for the Safeguarding of the Intangible Heritage, the Convention for the Protection and Promotion of the Diversity of Cultural Expressions.

The year 2021 will also be marked at the international cultural level with new experiences and reflections on the long-term consequences of the pandemic. In the early stages of the pandemic, UNESCO assessed its devastating effects on the cultural sector. That is why, as part of the ResiliArt program, it organized a series of 170 open-ended virtual debates in more than 65 countries. As a result of this project, and due to the speed with which the situation in the cultural sector around the world is changing, UNESCO came out with a comprehensive publication entitled "Culture in Crisis - a guide to a resilient creative sector". This text, provides us with a large number of examples of good practice in responding to the challenges posed by the crisis.

COVID-19 revealed the continuing need for improved mechanisms to protect the social, economic and working conditions of artists and cultural professionals. Artists are mostly self-employed, of precarious status and irregular income. As a result, it limits their access to social security, pensions and other social benefits. "Now, more than ever, the status of the artist must be supported, strengthened," the introduction to this document states. The time has also come for Member States to recall the UNESCO Recommendation on the Status of Artists (1980), which calls for the protection of their social and economic rights and the need for national legislation to more precisely define the status of artists.

This text also deals with the "Cultural Deal for Europe", a response to the demands of a wide range of European civil society organizations in culture and cultural representatives organized around this document. It also conveys the messages from a high level online conference organized by Culture Action Europe (CAE), the European Cultural Foundation (ECF) and Europa Nostra as coordinator of the European Heritage Alliance, with 500 participants and contributions by representatives of the European Commission, European parliamentarians, member states, the largest pan-European networks for culture and cultural heritage, as well as civil society organizations and individuals. Based on this discussion, a Joint Statement was launched under the full title "Cultural Agreement for Europe: a central place for culture in the post-pandemic future of the EU".

The Conference on the Future of Europe, which the EU is preparing for the next two years, is considered as an ideal opportunity to involve artists in the democratic debate of the future and the future direction of the EU. Artists, creatives, cultural workers, the independent sector, amateurs, non-profit organizations, volunteers and civil society organizations must be an integral part of the process, the statement said.

The European cultural sector also announced its participation in the development of the New European Bauhaus program, which was announced by the President of the European Commission, Ursula von der Layen. This initiative was presented as an environmental, economic and cultural project for Europe, linked to a long-term European strategy called the European Green Deal.

In the meantime, Serbia seems to be without a response to the crisis in the cultural sector. During the state of emergency, at first, Government measures to ease the effects of the crisis, did not include culture at all. Assistance was not provided for freelance artists, living from project to project, and the programs of cultural institutions were also reduced. However, due to the reactions of the public and art associations, with a delay in relation to other sectors, 90,000 dinars of non-refundable aid was paid to independent artists.

The text also explores the newly adopted budget for 2021 which shows that it is not focused on the most vulnerable points and does not indicate new priorities or any new directions in cultural policies, let alone the necessary solutions that would take into account the state of emergency in the cultural sector, the need to adapt to the new circumstances, new ways of living and artistic creation.

How we stand when it comes to cultural rights is perhaps best shown by the events that marked the beginning of 2021 and two controversial projects in the city of Belgrade: the monument to Stefan Nemanja in front of the former railway station, and a new announcement that the so called “gondola” project at the Belgrade Fortress will continue. Both of these projects are pursued despite obvious strong resistance from the profession and the citizens themselves. At a time when Europe is turning to the preservation of its natural and cultural heritage, creating strategies for a new time that is focused on humanity, society's adaptability to rapid social, economic, technological and climate change, cultural heritage in Serbia is treated as a political or commercial commodity.

The Council of Europe Framework Convention on the Value of Cultural Heritage for Society, better known as the Faro Convention, ratified by Serbia, recognizes the need for people and human values to be at the heart of the expanded concept of cultural heritage. It promotes the need and right of every individual to be involved in the ongoing process of defining and managing cultural heritage. This convention sees cultural heritage as a resource for sustainable development, and emphasizes in particular the right of everyone “to engage in respect for the cultural heritage of his or her choice, respecting the rights and freedoms of others, as a right to freely engage in cultural life. United Nations (1948) and guaranteed by the International Covenant on Economic, Social and Cultural Rights (1966) ”

In a world that is resisting the challenges of the ongoing crisis, our progress in achieving cultural rights in Serbia will be a measure of our adaptation to the demands of the times, and a measure of our true commitment to a value based process toward EU integration.

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