



CHARTER
FOR THE
STATUS
OF THE
ARTIST

DRAFT FOR PUBLIC CONSULTATION



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Charter for the Status of the Artist¹

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Preamble

Arts Council Malta, acknowledging and recognising that:

- ▶ Culture is a reflection of humanity;
- ▶ Culture is integral to the evolution and progress of society and democracy, empowering cultural participation;
- ▶ Culture in its various expressions is also a significant contributor to the economy and to sustainable development;
- ▶ Culture plays a significant role in the promotion of equality, justice, and the fight against all violence and discrimination;
- ▶ Culture is a right in itself, recalling the Council's own mission to protect and promote cultural rights for all;
- ▶ The Arts are, and should always be, an integral part of life for all;
- ▶ Artists deserve recognition for their artistic work and expression, which must also be recognised as cultural work of value;
- ▶ Such recognition must translate into also provide access to all social and economic benefits and safeguards necessary for the dignity and integrity of the status of the artist;
- ▶ Freedom of artistic expression is a fundamental human right;
- ▶ Modern crises, including the impact of the COVID-19 pandemic, but also the rapid change in climate, the rise of artificial intelligence, and the on-going conflict in Ukraine and Palestine, among others, can and have adversely impacted artists, requiring urgent targeted action;
- ▶ Economic, social, technological, and cultural shifts also impact the status of the artist, and it is crucial for government to regularly assess their status within this context;
- ▶ Action towards the strengthening of the status of the artist must be mainstreamed and intersectional, stemming from all relevant policy areas;

Mindful of the fact that:

- ▶ Arts Council Malta is the primary national entity duty-bound to advocate for Malta's cultural and creative sectors;
- ▶ The National Cultural Policy 2021 calls for, among others, the elevation of the status of the artist and professionals in the cultural, heritage, and creative sectors;
- ▶ Arts Council Malta's Strategy 2025 calls for the establishment of a Charter on the Status of the Artist in alignment with the National Cultural Policy 2021, resulting in a framework that protects, improves, and recognises an artist's right to express, practise, organise, and advocate for their status;

¹ Artist here is being used as an umbrella term and includes anyone whose qualifications, work and practice contributes to artistic work and cultural products.

The UNESCO's 1980 Recommendation Concerning the Status of the Artist adopts the following as a definition of 'Artist':
'Artist' is taken to mean any person who creates or gives creative expression to, or re-creates works of art, who considers his artistic creation to be an essential part of his life, who contributes in this way to the development of art and culture and who is or asks to be recognized as an artist, whether or not he is bound by any relations of employment or association.



General principles

1. Everyone has the right to artistic freedom.
2. This Charter calls for the promotion and safeguarding of the right to expression without restriction.
3. All artists shall enjoy the same treatment and access to structures and resources.
4. Artists shall be guaranteed rights of association and representation by unions, organisations and advocacy groups.
5. The interests of artists shall be safeguarded by relevant employment legislation and the promotion of good practices at the workplace.
6. The State shall streamline and facilitate the recognition of artistic qualifications.
7. Everyone has the right to enjoy and participate in cultural experiences.

CHARTER FOR THE STATUS OF THE ARTIST

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Article 1. Freedom of expression.

Freedom of expression is vital in the shaping and strengthening of democracy, in that it fosters multiple perspectives and cultural narratives that contribute to the general wellbeing of society.

Its protection from suppression or censure in any form is fundamental. Artistic freedom is also a core aspect to the enjoyment of cultural rights as human rights.

- 1.a** The concept of artistic freedom should be entrenched as a distinct, stand-alone right within the national human rights framework.
- 1.b** No artist should be hindered in the enjoyment of their freedom of artistic expression, taking particular care to safeguard all artists from governmental censorship or intimidation, or political or non-state actor interference or pressure.
- 1.c** The State shall safeguard the right of artists to create and distribute their artistic expressions, including their right to have such expressions supported and remunerated.
- 1.d** All individuals should have the right to access culture and artistic expressions without fear of governmental or political or non-state actor intimidation, fear, or harassment.
- 1.e** The State shall ensure that the right to artistic express and access to culture is tangibly implemented, ensuring that all individuals, irrespective of background, are able to enjoy such right.
- 1.f** The State shall ensure that the right to freedom of artistic expression is guaranteed to all artists, irrespective of age; belief, creed or religion; colour, ethnic or national origin, or race; disability; family responsibilities or pregnancy; family or civil status; gender expression or gender identity; genetic features; health status; language; nationality; political opinion; property; sex or sex characteristics; sexual orientation; or social origin.
- 1.g** All governmental policy practices, including state support and funding processes, should be devoid of undue influence on cultural expression, and are accessible to all artists equally.

Article 2.

Right to association and representation.

Employment types vary greatly in the Culture and Creative sector (CCSs), with a high number of self-employed artists and professionals spread through very diverse economic activities across the Maltese islands.

This makes association or unionisation difficult, on account of the fragmentation of the workforce and the increasing number of self-employed workers who are not represented by employee representatives, leaving them vulnerable to unfair working practices and conditions, as well as precarious forms of employment. Collective bargaining is a useful tool for artists who may feel isolated and almost forced into accepting unethical or unfair conditions, such as buy-out contracts, or very low remuneration.

- 2.a** Artists, irrespective of their nature of employment, shall have the right to freely associate. This includes the right to form or belong to trade or representative unions, groups or associations committed to the promotion and protection of their interests.
- 2.b** All international labour principles should be transposed within the CCS sector, recognising the role of collective bargaining and social partners.
- 2.c** Artists, irrespective of their employment status, should be empowered to access fundamental labour rights and freedoms.
- 2.d** Entities offering work to a unionised Artist, irrespective of the nature of the employment status, shall abide by collective agreements negotiated by the Artist's trade union or representative organisation.
- 2.e** Registered trade unions shall be invited by the State to participate in negotiations on draft legislation or policies affecting artists in any way, and they shall also be entitled to approach the relevant State authorities themselves with any proposal they wish to push forward.
- 2.f** The State shall promote fair practices through policy initiatives, including, for instance, making fair practices a compulsory condition for access to funding.

Article 3.

Social security.

The atypical nature of artistic work necessarily brings about atypical, or non-standard, forms of employment. While this fluidity may allow for greater flexibility, in terms of social security and protection, artists tend to miss out on access to benefits such as parental or special leave, unemployment benefits, or pensions due to such irregular work patterns.

These issues are compounded when one considers individual groups within CCSs which may be even more vulnerable to lack of protection, including, among others, older persons involved in artistic work (e.g. dance) which cannot extend into old age, leaving artists exposed to economic uncertainty at the end of their careers, given that they would have not yet reached the statutory pension age. Other groups include women facing the gender pay gap – an issue which then leads to gender pension gaps, as well as gender-based harassment and discrimination. Access to social protection is essential for workers, but also for the sustainability of the system itself in the long-term. This Charter lends status to artists as a means to level these inequalities and ensure, among others, access to social protection regimes and benefits.

- 3.a** Social security models should recognise the multifaceted nature of artistic work and should take into consideration non-standard forms of employment to ensure full access to social protection for artists, regardless of employment regime.
- 3.b** The State should consider measures to address access to pensions, dedicated tax systems, and specific contribution systems. This could include measures that provide for the settlement of social security payments on the basis of annual earnings versus universal pre-determined rates.
- 3.c** There should be measures to address intermittent work, for instance through the introduction of a basic income for the arts.

Article 4. Fair practices.

Due to the fluidity of jobs within the CCS, artists represent a particularly vulnerable segment of the workforce and are often victim to unjust practices.

Artistic and cultural work often entails processes that are invisible to audiences, patrons, and policy-makers alike, leading to poor appreciation and remuneration. Artists are also particularly vulnerable to exploitation due to the fact that most artists are self-employed, part-timers, or combine multiple forms of employment, not all of them necessarily in the CCSs. This results in labour legislation that is either inapplicable to their unique context, or inadequate. CCS professionals are also exposed to unique occupational safety and health risks. This Charter seeks ensure that statutory health and safety safeguards also protect CCS professionals, irrespective of employment status (including self-employed/freelance). The State should also strive towards ensuring that private insurance providers also offer economically feasible covers for artists.

- 4.a** Artists under this Charter have the right to work and express themselves creatively in an environment which is fair and safe, free from discrimination, harassment, or bullying.
- 4.b** All relevant employment legislation applicable to workers in other spheres should also apply and safeguard the rights of all artists irrespective of their employer or sub-sector.
- 4.c** Artists should have equal access to opportunities fairly, in a manner that is free from discrimination.
- 4.d** The State shall champion best practices across all of its programmes, initiatives and policies. Furthermore, the implementation of such practices should be complimented with measures in favour of accountability across the board.
- 4.e** All entities, employers and organisations, should ensure that they adopt and promote fair practices.

Article 5. Access to funding.

Artists often note that access to private loans or schemes is also next to denied to them.

Most, therefore, remain dependent either on employment outside of CCSs, or state or EU funding.

Such financial aid can mean direct grants, but also low VAT or taxation rates, tax incentives or subsidised or altered social security models. Successive crises have led to significant cuts to many national budgets for culture, and both national and EU funding remain temporary and project-based in their nature, leading to instability and uncertainty. This Charter proposes a commitment towards improved stability and preferential taxation models.

- 5.a** The State shall ensure that funding opportunities and processes are accessible, reliable, transparent, and free from undue interference.
- 5.b** This Charter promotes a balanced regime of short- and long-term funding, with a view to improving the sustainability of the arts and creative enterprise.

Article 6. Intellectual property.

Intellectual Property (IP) must also be free from exploitative working conditions, and this Charter tries to ensure that artists receive fair compensation for their IP.

The rise of new platforms, such as streaming platforms, are creating scenarios where artists are not remunerated, or poorly so, for their IP. Moreover, artists often lack awareness of their own rights in terms of IP. This severely affects their ability to negotiate fair remuneration conditions related to IP, as well as just contractual terms in relation to IP retention.

- 6.a** The State shall take all appropriate measures to tangibly protect artistic intellectual property rights.
- 6.b** The State shall ensure that its entities promote and implement best practices to safeguard artistic intellectual property rights.
- 6.c** The State shall promote awareness raising and education on the importance of intellectual property to artists.
- 6.d** All artists should be guaranteed protection of their moral and material interests stemming from their work.

Article 7. Recognition of skills.

Artists' skills are often undervalued and go unrecognised. The constantly evolving nature of CCSs means that recognition of new skills by formal frameworks, such as the EQF, is not always rapid enough.

This situation leads to a considerable drain from CCSs, with most leaving the sector within a few years, seeking stability elsewhere. Artists are often not as conversant with skills pertaining to administrative work, marketing, accounting, or digital skills and need to outsource such services when required. Artists often seek to expand their skills, but there is also little awareness as to what opportunities are available. Access to courses is also a challenge in terms of high fees, as well as uncertainty as to whether such investment would eventually be fruitful or not.

- 7.a** The State shall adopt a systemic approach to skills-building for CCSs, ensuring the availability, findability and accessibility of relevant technical knowledge.
- 7.b** The State shall support academic institutions in their investment in CCSs and relevant or ancillary topics.
- 7.c** The State shall take all appropriate measures to support education designed to stimulate and develop disciplines that contribute directly or indirectly to the artists' professional growth and enrichment of the CCS.
- 7.d** The State shall take all appropriate measures to support artists during their training or re-training.
- 7.e** The State shall endeavour to streamline and facilitate the recognition of formal, non-formal, informal skills and artistic qualifications.

Charter overview

This Charter is meant to serve as a frame of reference for any legislation, policy, or initiative which directly or indirectly impacts artists and CCSs, ensuring that any action is aligned with the ultimate long-term vision of elevating the status of artists in Malta in line with their tangible value to society.

This document outlines general principles and specific articles. Every article is to be viewed and assessed as a component of a wider transversal theme.

Definitions

An Artist is any person who, as creator, performer, or contributor, creates artistic work, which work is created as a result of the artist's unique abilities, or contributes to the creation of such artistic work. This Charter also addresses ancillary cultural workers whose contribution makes the artists' work possible and who are an integral part of the CCS. Consequently, this Charter addresses all cultural workers who either possess relevant academic qualifications, or produce or contribute to artistic work which generates, in whole or in part, their taxable income, or are registered as cultural workers with the relevant competent authority or body.

Background

Artists are key contributors to the wellbeing and economy of the Maltese islands. Their professional status is indicative of the socio-economic health of a nation.

Societies, as well as individuals, flourish when artists are guaranteed a social, economic, and legal place in society that creates a stable professional environment. Notwithstanding this, artists often face job insecurity, precarity, and financial instability. This is often blamed on lack of adequate structures which should enable creative enterprise, professionalisation in the sector and monetisation on artistic practice in a dignified manner.

The National Cultural Policy (NCP 2021) sets out to, among others, "elevate the status of the artist and professionals in the cultural, heritage, and creative sectors." This echoes the increasing awareness of the importance of artists and CCSs beyond local shores, with international and European initiatives highlighting their value, as well as the need for urgent action addressing the challenges faced.

This Charter seeks to outline cohesively the social, economic, and legal status of the Artist in Malta, and the ideal standards, frameworks, and legislative and policy actions required for the protection and empowerment of such status in the Maltese islands.



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