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New regulations in Cuba to comprehensively control artists and their expression

Cadal and Freemuse call for urgent intervention from the international community to save free speech and cultural expression

On 10 July 2018, the government of Cuba published a new decree that institutionalizes censorship of independent art and culture. Decree 349/2018, which will come into force in December, establishes violations for artistic services that are not regulated and recognized by the official cultural institutions in Cuba. This is a clear breach of what is established in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

CADAL and Freemuse call on the international community to raise concern to Cuban President Miguel Díaz-Canel that the new decree is inconsistent with international human rights standards, and sends a strong signal that failure to comply with human rights principles may force the international community to withdraw its economic support from Cuba.

Anyone who provides commercial artistic services or pays or facilitates payment to an artist for such services without having been approved and contracted by the corresponding cultural institution will be in violation of the new decree, which modifies decree 226 from 1997.

In this way, artists will not be able to work independently unless authorized by a cultural state institution because they would be committing violations that will be considered “severe” or “very severe” and sanctioned accordingly. They could be fined up to 2,000 pesos (70 euros), have their equipment confiscated and/or have their show or performance suspended.

Visual media violations include content such as:

- a) using national symbols that infringe the current legislation;
- b) pornography;
- c) violence;
- d) sexist, vulgar and obscene language;
- e) discrimination based on skin color, gender, sexual orientation, disability or any other trait detrimental to human dignity;
- f) infringing upon childhood and youth development; and
- g) any other that violates the legal provisions that regulate the normal development of our society in terms of culture

Other violations include:

- a) spreading music or holding artistic performances in which violence is generated through sexist, vulgar, discriminatory and obscene language;
- b) establishing spaces to commercialize visual arts without having the corresponding authorization or without being enrolled in the National Registry of the Creator for Visual and Applied Arts;
- c) not subscribing to the established contracts for artistic presentations;
d) not complying with the signed contracts by the corresponding institution with regards to the regulation of the sound level for the production of live performances and activities of any nature; 

e) not complying with the current provisions with regards to copyright; and 

f) marketing books with content detrimental to ethical and cultural values”

With these regulations, the government of Cuba will contravene Article 19 of the International Covenant on Civil and Political Rights that states everyone has the right to freedom of expression and hold opinions without interference, as well as Article 15 of the International Covenant on Economic, Social and Cultural Rights that states everyone has the right to take part in cultural life.

Forcing artists to belong to a national registry is a control mechanism that breaches article 20 of the Universal Declaration of Human Rights, where it is acknowledged that everyone has the right to freedom of peaceful assembly and association and no one may be compelled to belong to an association.

Further, according to the UN Human Rights Committee, any restriction on freedom of expression must be proportionate and necessary, which this new decree does not comply with.

The development of creative diversity needs the full realization of cultural rights. Everyone should have the right to express themselves, create and spread their artworks and participate in the cultural life of their choice. This new decree represents a clear restriction on the exercise of the right to take part in Cuban cultural life.

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