

Artistic Freedom and the Independence of Cultural Institutions

Keynote address by Sanjay Sethi at “Artistic Freedom Now!”

Sanjay Sethi, Co-Executive Director of the Artistic Freedom Initiative (AFI) and Initiative pour la Liberté Artistique (ILA), delivered this keynote address at *Artistic Freedom Now! A panel discussion on the European Artistic Freedom Act*, held on 23 September 2026 at the European Commission Representation in Berlin.

The event was jointly organised by **AFI-ILA, European Alliance of Academies / Akademie der Künste, and the RESISTANCE NOW TOGETHER Coalition**, bringing together artists, cultural leaders, policymakers and experts to discuss the role of legal and institutional safeguards in protecting artistic freedom and the potential development of a European Artistic Freedom Act.

Keynote address

Good afternoon, and thank you to our co-organizers, our hosts at the European Commission’s Representation, and everyone joining us. My name is Sanjay Sethi, and I am the Co-Executive Director of the Artistic Freedom Initiative (AFI) and Initiative pour la Liberté Artistique (ILA).

At AFI-ILA, we see restrictions on artistic freedom as both a symptom and a method of democratic backsliding. They are a symptom because they reveal that pluralism and democratic discourse are under pressure. And they are a method because control over culture helps governments reshape memory, identity, and dissent.

Over roughly fifteen years, our research has traced an increasingly recognizable pattern, particularly in Europe. In Hungary and Poland, we documented sustained changes to cultural governance. In Slovakia, similar interventions followed the change of government in 2023. Our work has also considered pressures in Georgia and Serbia. Developments in the United States demonstrate why this discussion cannot remain confined to Europe.

What concerns us is the normalization of political control as ordinary administration. Institutions can remain open. Performances can continue. Artistic freedom can remain

formally recognized. Yet the authority to make consequential decisions shifts away from professional bodies.

This is not an argument that cultural institutions should be exempt from accountability. Public authorities have legitimate responsibilities concerning budgets, access, and institutional performance. The question is whether that oversight leaves room for independent artistic judgment—or makes cultural decisions dependent on political approval.

Five connected mechanisms help explain the distinction.

The first is political interference in institutional leadership. Replacing directors or restructuring boards can change whom an institution answers to and where artistic authority ultimately sits. The issue is not simply whether a particular director loses a job; it is whether the institution retains the capacity to make independent decisions.

Hungary's 2020 restructuring of the University of Theatre and Film Arts transferred powers from its governing bodies to a government-appointed board. In the United States, changes to the Kennedy Center's trustees were followed by the board electing President Trump chairman and dismissing its president in February 2025. The examples are different, but the governance question is similar: who ultimately exercises authority over the institution, and what protects professional and artistic decision-making from political control?

The second is the politicization of arts funding. Funding determines which organizations can employ people, commission work, and reach audiences. When professional assessment can be overridden politically, it becomes possible to influence expression without banning it.

Slovakia's 2024 Arts Council reform increased political control over the body and reduced the authority of independent expert recommendations. The significance is not simply a change in spending priorities. It is a change in who has the final authority to decide. Governments can use that authority to fund the culture they favor and defund the culture they do not.

The third mechanism is control of public narrative. This concerns what institutions are allowed to say, not simply who runs them. Intervention in exhibitions, programming, and educational materials can determine which accounts of history receive institutional authority.

The White House's 2025 Smithsonian review requested exhibition texts, curatorial guidelines, and programming plans. The administration presented its objective as historical accuracy and national unity. But the institutional question remains: where does legitimate governmental oversight end, and where does political direction of historical interpretation begin?

The fourth mechanism is pressure on independent civil society. Many cultural organizations operate as NGOs. Foreign-agent laws, donor restrictions, and disproportionate administrative

requirements can therefore reach cultural organizations outside direct state control. Georgia's foreign-influence legislation provides a clear example of that mechanism.

And the fifth is the targeting of minority and dissenting voices. These powers are not necessarily applied uniformly. A cultural sector may continue functioning while particular communities lose access to funding, venues, or public institutions.

In Slovakia, our research documented restrictions affecting LGBTQ+ cultural programming, including the denial of support to the Drama Queer Festival despite an expert committee's recommendation.

The cumulative effect is central to the analysis we presented at the Human Rights Council in June.

The point is not that Hungary, Poland, Slovakia, Georgia, Serbia, or the United States are identical. They are not. The legal systems differ. The political histories differ. The severity differs.

And importantly, these mechanisms of suppression rarely end in themselves. Their purpose is not simply to control institutions. Their purpose is to shape behavior.

They are designed to create an environment in which artists, curators, cultural workers, and institutions begin to regulate themselves. They are designed to create an environment of self-censorship.

Artists do not need to be formally censored in order to become silent. They need only believe that speaking openly may cost them funding, institutional support, exhibition opportunities, employment, or personal security.

Across the countries we have studied, artists and cultural workers repeatedly described modifying their work, avoiding certain themes, or declining public engagement because they feared professional consequences. Artists calculate risk before they create. Institutions avoid controversial work before anyone orders them to cancel it. Funders become cautious. Curators narrow their choices.

And the public sphere becomes smaller without a single formal act of censorship. This is the design of the illiberal model.

Direct censorship is costly. It generates lawsuits, public criticism, diplomatic pressure, and often draws greater attention to the very expression a government seeks to suppress. Self-censorship is far more efficient. The government can maintain the appearance of

respecting freedom of expression while the range of acceptable expression gradually narrows in practice.

So now the question shifts to what safeguards are needed?

The framework I've outlined in the slide has five connected layers.

The first is international human rights law: freedom of expression, association, cultural participation, and non-discrimination. The second is regional legal and institutional frameworks. The third is national legislation. The fourth is cultural policy and administrative practice. And the fifth is sectoral governance and professional codes—the standards museums, theatres, universities, broadcasters, festivals, archives, and funding bodies adopt themselves.

No single layer can do the work of all five. And changing political leadership does not, by itself, change the procedures through which cultural independence was weakened.

That is why I want to focus now on one particular part of that architecture: the regional layer.

That is where the proposed European Artistic Freedom Act comes in.

AFI and our partners have been working on the question of whether Europe can move from broad commitments to artistic freedom toward a more concrete set of legal safeguards. And importantly, this proposal did not begin as an abstract legal exercise. It grew directly out of what we were observing in cultural systems across Europe.

Slovakia brought that urgency into particularly sharp focus.

After the change of government in 2023, we saw a rapid series of interventions: leadership changes, restructuring of funding bodies, pressure on independent cultural organizations, and an increasingly explicit effort to reshape the direction of cultural policy.

We had seen many of these mechanisms develop gradually elsewhere. What was striking in Slovakia was the speed with which they could be deployed once the institutional safeguards were weak enough.

And that helped make the case that reacting after each dismissal, each funding decision, or each cancellation is simply not sufficient. The safeguards need to exist before the political pressure arrives.

That concern brought artists, cultural institutions, and civil society organizations together in Bratislava in May 2025.

The meeting culminated in the Bratislava Declaration. One of its central calls was for the European institutions to work with the cultural sector toward a European framework capable of providing more meaningful protection for artistic freedom.

That is the political and civil-society origin of the European Artistic Freedom Act.

There was also an obvious European precedent to examine: the European Media Freedom Act.

We need to be careful about the comparison. Journalism and culture are not the same sector. But the EMFA confronted an analogous problem.

The media sector is economic and cross-border, but it also performs a democratic function. Its independence and pluralism matter to the quality of public discourse. The EU concluded that those characteristics did not prevent legislation. They helped explain why common safeguards could be necessary.

And the substance is instructive.

The Media Freedom Act deals with editorial independence, governance of public-service media, transparency, market concentration, and protections against certain forms of political interference.

The important lesson for us is not that we should simply reproduce those provisions for culture. It is that Europe has already recognized that institutional independence can be translated from a democratic principle into concrete procedural safeguards.

So what would we actually be trying to protect through an EAFA?

There are several connected interests: institutional independence; the freedom of artists and cultural workers themselves; the ability of audiences to access a plurality of artistic content; and cross-border cultural cooperation.

That third element is particularly important. Artistic freedom is often described as a right belonging to the artist. It is. But the consequences of restricting artistic freedom also fall on the public.

When an exhibition disappears, a production is cancelled, or an institution begins avoiding certain subjects, audiences lose access to expression and ideas they might otherwise encounter.

And European cultural life is inherently transnational. Artists tour. Theatre companies co-produce. Festivals invite artists from across Europe. Museums lend works. Orchestras travel. Institutions collaborate.

So political interference in one national cultural system can have consequences well beyond one Member State. That is precisely why the regional layer matters.

Legally, however, this is not simple.

The EU has strong foundations on which artistic freedom rests. Article 2 of the Treaty on European Union establishes values including democracy, freedom, equality, and human rights. Articles 11 and 13 of the Charter protect freedom of expression and freedom of the arts and sciences. Article 167 requires the Union to contribute to the flowering of the cultures of the Member States.

But Article 167 also reflects the fact that cultural policy remains principally a Member State competence. It does not give the EU a general power to harmonize national cultural policy.

So the difficult question becomes: what is the basis for binding European legislation?

Our analysis turns primarily to Article 114—the internal-market provision. The legal work behind the EAFA is therefore not simply about identifying the right we want to protect; it is about identifying the EU competence that can support an effective and legally defensible instrument.

This is where the internal-market argument becomes important.

The case cannot simply be that artistic freedom is important. Of course it is. But that alone does not establish EU legislative authority.

We have to demonstrate that divergent national rules and practices can create genuine obstacles to the functioning of the cultural and creative internal market.

If an artist cannot work across borders because of discriminatory rules; if a politically motivated funding decision disrupts an international co-production; if access to venues or cultural institutions is restricted in ways that affect touring, distribution, employment, or audiences elsewhere—then the consequences are not purely national. They can become cross-border and internal-market consequences.

This is why one of the next stages of the work is evidentiary: documenting those blockages in a systematic way.

The deck puts the argument very simply: discriminatory or restrictive measures can limit cultural and creative activity and mobility across the region, and those restrictions can distort the effective functioning of the internal market.

On that basis, we have begun developing a model European Artistic Freedom Act.

And I want to emphasize the word model. This is a civil-society proposal. It is not yet a legislative proposal from the European Commission.

Our task at this stage is to demonstrate what such an instrument could contain, establish the legal case for it, and identify where binding European safeguards could make a meaningful difference.

At present, we envisage something closer to an EAFA package.

One element would be a narrowly defined regulation focused on minimum procedural safeguards where there is a genuine market or cross-border connection. The second would be a recommendation or guidelines capable of addressing broader aspects of artistic freedom that may not fit comfortably within the legal basis for a binding regulation.

That distinction is important. We do not want to overreach legally.

And the purpose is certainly not to have Brussels determining what should hang in a museum, what should appear on a stage, or which artistic judgments are correct.

The objective is almost the opposite. It is to create procedures that protect space for independent artistic judgment.

Article 1 shows how we are approaching that balance.

The current model would establish common rules for the proper functioning of the internal market for the cultural and creative sectors, while safeguarding artistic freedom and the independence of those sectors across the European Union.

That formulation is deliberate. It puts the internal-market basis of the regulation up front while making clear the public-interest value the safeguards are designed to protect.

Article 2 then defines the scope.

The model is intended to cover the breadth of artistic practice—visual arts, performing arts, literature, music, film, digital and interdisciplinary arts.

And critically, its scope does not stop with individual artists. It encompasses artists and cultural workers, cultural institutions, and publicly funded bodies and funding mechanisms.

That reflects the central premise of everything I discussed in the first half of this speech: contemporary restrictions on artistic freedom frequently operate through the institutions surrounding the artist rather than through a formal prohibition addressed directly to the artist.

The rest of the developing model begins to translate that idea into concrete protections.

There are rights for recipients of artistic expression—to have access to a plurality of independent artistic content. There are protections for artists and cultural workers to create, interpret, express, and share artistic work without censorship, self-censorship, or discrimination. There are safeguards for cultural institutions: independence, transparency, non-discrimination, and reviewability.

And there are provisions we are continuing to develop around internal-market cooperation and the protection and safety of artists at risk.

For me, the procedural dimension is particularly important.

Transparency means criteria are known in advance. Reason-giving means a decision has to be explained. Conflict-of-interest rules constrain the people exercising authority. And reviewability means there is somewhere to go when those standards are violated.

These can sound like technical administrative rules. But they go directly back to the problems I described at the beginning.

If a government can dismiss the director of a cultural institution without meaningful process; if it can disregard an independent funding panel without explanation; if it can change institutional governance without transparency—then artistic independence ultimately depends upon political restraint.

And political restraint is not a sufficient safeguard.

The purpose of law is to create structures that continue to function when restraint disappears.

That is what we are trying to build.

A European Artistic Freedom Act will not solve every problem affecting artistic freedom. It cannot.

A regional instrument cannot replace national legislation. It cannot replace independent funding bodies. It cannot replace professional standards within museums, theatres, universities, festivals, and cultural organizations. And it cannot replace the willingness of artists and institutions themselves to defend their independence.

That is why I keep returning to the idea of layers.

International human-rights standards. Regional protections. National legislation. Administrative safeguards. Institutional governance.

Each protects a different point at which political control can enter a cultural system. And each becomes stronger when the others are already in place.

If democratic backsliding works by capturing institutions layer by layer, then democratic resilience must be built layer by layer as well.

Thank you.