

**Mandates of the Special Rapporteur in the field of cultural rights and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

REFERENCE:  
AL KOR 1/2017

8 June 2017

Excellency,

We have the honour to address you in our capacities as Special Rapporteur in the field of cultural rights and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 28/9 and 34/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations about a **blacklist by the Republic of Korea's Ministry of Culture containing names of South Korean artists, representing undue restrictions to their freedom of artistic expression.**

According to the information received:

In January 2017, former presidential Chief of Staff, [REDACTED], former culture minister, [REDACTED], and former culture minister, [REDACTED], were arrested on charges of allegedly enforcing an artist blacklist. The Special Prosecutor in the case charged the former officials for abuse of power, coercion and perjury. No explicit charge concerning the artist blacklist was brought forward.

Allegedly, the Ministry of Culture began the blacklist of artists in 2013. In 2015, media outlets reported about a blacklist that included actors, directors, artists, musicians, writers and publishers who were deemed to be critical of the Government or "left-leaning". Thus far, two versions of the blacklist have been reported through news media. Although the list has not yet been officially released, officials including the Special Prosecutor have confirmed the existence of a blacklist.

Under the blacklist, the Ministry of Culture allegedly barred those named on the list from receiving government funds. In addition, others have been prevented from exhibiting their works at certain venues or festivals.

A class-action lawsuit against the government and the impeached former President Park has been filed by over 400 artists on the blacklist. The artists are suing for breach of their basic rights to privacy and freedom of expression.

Since the arrest of the former government officials, the Constitutional Court has upheld former President Park's impeachment on 10 March 2017. While the blacklist was briefly mentioned in the decision, the Court stated that it would not rule on the issue of the blacklist.

While cognizant of the change of Government in May 2017, we express concern at the alleged Government blacklist of artists which represents an undue interference with and restriction on artists' right to freedom of expression and their freedom of artistic expression and creativity. In particular, we express concern at the use of the blacklist to prevent certain artists from receiving funding or access to venues to express their art.

While we do not want to prejudge the accuracy of these allegations, they appear to be in contravention of the rights to freedom of expression and freedom of artistic expression and creativity, guaranteed under article 19 of the International Covenant on Civil and Political Rights, and article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), both acceded to by the Republic of Korea on 10 April 1990. We would like to bring to your attention that, as stressed by the Special Rapporteur in the field of cultural rights, State cultural policies need to take artistic freedoms into consideration, in particular when establishing criteria for selecting artists or institutions for State support.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information about the justification and the legal basis for the creation of the artist blacklist, and how such a list complies with international human rights law.
3. Please provide information about the names on the list, and explain why the list has not been officially released.
4. Please provide information about the status of the complaint lodged by or on behalf of the alleged blacklisted artists.
5. Please kindly indicate what measures have been taken to prevent blacklists in the field of art and culture in the future.
6. Please indicate what steps are being taken to redress the impact of the blacklist and compensate the artists affected by it.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Karima Bennoune  
Special Rapporteur in the field of cultural rights

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

**Annex**  
**Reference to international human rights law**

We would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Republic of Korea on 10 April 1990, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

We would also like to appeal to your Excellency's Government to secure the right to freedom of artistic expression and creativity protected under article 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded to by the Republic of Korea on 10 April 1990, which provides that "the State Parties to the Present Covenant undertake to respect the freedom indispensable for ...creative activity".

With respect to the use of blacklist to prevent artists from accessing government funds, we would like to refer to the report of the Special Rapporteur in the field of cultural rights, underlining that "state cultural policies need to take artistic freedoms into consideration, in particular when establishing criteria for selecting artists or institutions for State support" (A/HRC/23/34).