

Freedom of Art as Freedom of Expression in Modern Times

Freedom is walk the way your talents show you - Henri **Matisse**

The Principle of the Constitutionally Guaranteed Freedom of Art

The principle of the constitutionally guaranteed freedom of art is based on the German Constitution of Weimar Republic in 1919. In particular, in Article 142, paragraph 1, it is defined that:

Art, Science, as well as teaching of Art and Science, are free. The State provides protection and participates in their development.

The ultimate goal is the advancement of the personality of the individual in all aspects –social, political, spiritual, and of course artistic ones.¹

Unfortunately, it was not long before the most hideous censorship considering the plastic works of the European art took place in the very same country that defended freedom of art constitutionally. Although the Constitution was not officially abolished, the rise of the National Socialist Party under the leadership of Hitler labeled modern art in various ways, one of which was called “Degenerate Art” (Entartete Kunst). On 10th July 1939, 730 works of art of prominent artists were exhibited in an anti-exhibition in Munich. The organizers of the anti-exhibition altered the works of art before the latters were “burned at stake”.

As a result, the victims of the European art by the end of the World War II amounted to 70,000 works of art, while a lot of artists were forced to flee from Germany. The ones that remained in Germany were deprived of the right of free expression and creativity². The infringement of the personality of the individual along with the encroachment of property was part of the ideological background of the Nazis, which had as a result the infringement of art.

¹ see Theodosios, 2000: 17-18.

² see Charalampidis, A. 2002:119-128 V. II

Freedom of Art in Greece

In Greece, freedom of art was constitutionally guaranteed for the first time in 1925 and 1927. Then, in the revised Constitution of 1975³, clause 16, paragraph 1 defines that:

*Art, Science, Research, and Teaching are free; the state is obliged to develop and advance them. Academic freedom, as well as the freedom of teaching, does not stand over the obligation to abide by the Constitution*⁴.

We should not fail to mention two very important points in the above mentioned definition. The first one has to do with the definition of art. The Constitution does not give a priori any kind of definition of art, may it be a general or a special one.

The second one is the constitutional foundation of art, which links the production of the works of art with their presentation to the public⁵. It is obvious that, based on the Constitution, the ultimate goal of art is communication and there is no mention whatsoever about “art for art”.

In addition, Article 5, paragraph 1, of the Constitution defines that:

*All persons shall have the right to develop freely their personality and to participate in the social, economic and political life of the country, insofar as they do not infringe the rights of others or violate the Constitution and the good usages*⁶.

According to the legislator, all citizens are free to express their personalities up to the point they do not infringe the rights of others. It is obvious that the above mentioned definition is advantageous for the status quo, in contrast to the minorities that may exist. We should not fail to mention that the above mentioned clause is not only restricting but also inconsistent to Article 16, paragraph 1⁷. Furthermore, according to the legislator, *good usages* are referred to applied moral concepts, which are defined by the law within the limits of the Constitution⁸.

³ It should be noted that the Greek Constitution was also revised in 1986 and 2001.

⁴ See the website http://lawdb.intrasoftnet.com/nomos/2_nomothesia_artl_current.php (accessed at: 15.06.2010)

http://lawdb.intrasoftnet.com/nomos/2_nomothesia_artl_current.php (accessed at: 15.06.2010)

⁵ See Dagtoglou, 2005: 738 V. A

⁶ See the website: http://lawdb.intrasoftnet.com/nomos/2_nomothesia_artl_current.php (accessed at: 15.06.2010)

⁷ See Theodosis: op. cit., p. 81.

⁸ See Dagtoglou, 2005: 1339, V. B.

Moreover, Article 14, paragraph 1, of the Constitution defines that:

Every person may express and propagate his thoughts orally, in writing and through the press in compliance with the laws of the State.

What is more, **Law 1291/1982 paragraph 3** establishes the freedom of speech in the works of art and science, stating that the characteristic *obscene* cannot be applied to them⁹.

Art and Censorship

The etymology of the Greek word for art “τέχνη” goes back to the verb “τίκτω”, which means the humans’ ability to create¹⁰. Besides, it is expressed in various ways, which leads to the conclusion that there are many kinds of art, according to the feelings that are expressed through them, i.e. theatrical arts, the art of poetry, the seventh art, plastic arts etc.

The fact that there is no particular definition for art, from the very first time art appeared in our lives until today, is to be attributed to the sui generis nature of art. It is common knowledge that the question concerning the concept of art has troubled all the people that, one way or another, are linked to art: plastic artists, philosophers, art historians, critics, as well as those who produce and defend cultural politics.

Most aesthetic theories that have been developed until today with a view to examining the concept of art refer to the two basic philosophical trends:

According to Plato, art is the imitation of real nature (transcendental forms)¹¹. On the contrary, Aristotle suggested that art had cognitive value, i.e. an ultimate goal. Examining tragedy in particular, he defined that goal as the catharsis of the soul¹². All philosophical theories, despite their different approaches, converge to the primary need of the individual to express their personalities through various forms of art. Artistic creation is the fruit of this expression as an action of thought on the issues people have to face, particularly the ones referred to their deeper emotions. Emotions such as rage and anger, sorrow and loneliness, expectation and joy, trigger human imagination creating images that people feel the need to express.

⁹ See in detail Law 5060/ 1931 paragraph 30 as replaced by Law 1291/1982 paragraph 3 http://lawdb.intrasoftnet.com/nomos/2_nomothesia_artl_current.php (accessed at:20.06.2010)

¹⁰ See Pelegrinis, 2009:618

¹¹ See Scouteropoulos, 2003: 708-716

¹² See Beardsley, 1989: 47-52

However, what can be considered extreme in artistic creation leading to the censorship of a work of art? Up to which point is art free?

Censorship of art is not something new; there have been numerous cases in the past. Without doubt, the first audience of a work of art is its creator. According to the theory of receiving, a work of art is not a formed entity but in the course of time it receives new concepts and explanations. What today is considered extreme by the public opinion, insulting our personalities, in the future it may not only be acceptable but also the landmark of an art movement. Besides, modern art does not aim at depicting natural beauty but rather truth, subjective truth, since it is common knowledge that there is not only one and absolute truth.

However, what happens when the artistic creation derives from personal desperation or from a will to be provocative?

In order to give an answer to these questions, we should examine the era of the French revolution between 1830-1848, when people read daily newspapers to learn what was happening in the country. This is the era when art critique is prominent. As Charles Baudelaire stated: "*Critique! The fact that an artist is pretending to be important so easily happens because the critic is without doubt one of the many*"¹³. Even though this was stated so much time ago, these words seem to apply to the current situation. Art is said to generate culture, which in turn ennobles the soul. In some occasions, plastic works of art communicate with the audience by provoking or by shocking. In that way it seems that the artistic creation is deprived of any kind of invention, in which case art is only the echo of these voices that serve aesthetics, of these voices that consider art as a means of impressing and achieving economic and personal goals.

¹³ See Baudelaire, 2005:25

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