

Regarding the Introduction of the New Antidiscrimination Clause by the Berlin Senate - An Appeal

Art and cultural institutions are critical spaces for democratic discourse and thus places to prevent and fight against racism and antisemitism. Numerous cultural institutions, artists and culture workers have positioned themselves against discrimination and racism over the last years and decades, have built bridges using artistic working methods and projects as well as created space for negotiation and the formation of opinions. By signing the Berlin Declaration of the Many, they have clearly taken on a corresponding responsibility in the struggle against discrimination in any form. The work of the artists and culture workers in Berlin also supports the Allgemeine Gleichbehandlungsgesetz (AGG, the German Law on Equal Treatment) and the Berlin Landes-Antidiskriminierungsgesetz (the Berlin State Antidiscrimination Law).

In this sense, we welcome the measures to combat antisemitism as well as measures against every form of discrimination and racism.

According to initial legal analyses, however, the current form of the new antidiscrimination clause (ADC) of the Berlin Senate misses its intended goal. It collides with the German constitution and entails legal uncertainty, doubtful practicability and the risk of discrimination. This primarily results from the close connection of the clause with the IHRA definition of antisemitism, which was formulated exclusively for monitoring purposes. The implementation of the clause raises many questions that must be answered with legal certainty as they can involve significant legal consequences both for institutions as well as artists, even if the Senate has said it is declarative in nature.

How will compliance with the clause be monitored and ensured? What position or function will this task be entrusted to? Under which aspects will an investigation in the field of culture take place in light of significant conflicting basic rights (e.g. artistic freedom, freedom of opinion, the freedom not to have an opinion, et cetera)? If a protection is going to be put in place, transparency regarding precisely when and in what case the clause will be applied, who will monitor this and draw the corresponding consequences is absolutely essential. Leaving this issue unanswered and vague could establish a monitoring system that can be abused.

We, Rat für die Künste, Koalition der Freien Szene, bbk berlin, LAFT Berlin, inm berlin, festiwelt - Netzwerk Berliner Filmfestivals and ZMB are calling on the Berlin Senate - especially Senator for Culture Joe Chialo - and the cultural policy spokespeople of all parties to an open dialogue with us to revise this anti-discrimination strategy. We believe that art and existing cultural spaces are especially capable of opening platforms that meaningfully engage with the problems of discrimination in our country, while respecting our constitution.

Therefore, we call for an open, transparent and profound discourse and collaboration in developing more effective and precise solutions against antisemitism and other forms of discrimination together with experts, associations and affected individuals and institutions. We would gladly be available for this important task towards a better togetherness.

RAT FÜR DIE KÜNSTE

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