



İKSV OPINION ON THE DRAFT LAW FOR THE ESTABLISHMENT OF THE
ART INSTITUTION OF TURKEY TO SUPPORT ARTS

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We see it as a positive development that the draft law on the establishment of the Art Institution of Turkey (TÜRSAK) prepared by the Republic of Turkey Ministry of Culture and Tourism was presented to the evaluation of the relevant parties at a workshop organised on March 3, 2014 in Ankara; however, we think it is more appropriate for such institutional regulations, which will have great impact across the country, to be shaped by preparatory processes with the participation of experts from the civil society and through discussions with broad participation.

If the aforementioned draft law is devised in line with the considerations required for the development of artistic production and cultural activities in Turkey, then it will constitute an important step towards the identification of a national cultural strategy as well. However, in order for this process to operate effectively, firstly it is essential to abolish the regulations that destroy the institutional identities of state art institutions by annulling their special founding laws. If a regulation will be introduced on the restructuring of these institutions, then the subject should be addressed as a separate heading and in a participatory, transparent manner based on the largest possible consensus, and should not be evaluated within a draft law like TÜSAK that stipulates state funding for all fields of art.

The long-established arts institutions that subsist on public funds such as the State Theatres, State Opera and Ballet, and State Symphony Orchestras contribute to the culture and arts production and presentation in Turkey and the cities they are located in, and are indispensable also in terms of the added value they create in numerous fields such as social development, creativity, international relations, preservation of culture and expansion of cultural activities. The administrators of the relevant institutions also express the need to work on a new administration model in order for these institutions under the Ministry of Culture and Tourism to continue their activities. However, discussions on reorganisation require a civilian model of dialogue with the effective participation of all actors of the subject, namely the administrators of these institutions along with the artists, non-governmental organisations, universities, state and local governments. Conducting this process with a participatory, meticulous and long-term effort will also strengthen the dialogue among the stakeholders and enable the realisation of new approaches to cultural governance as necessitated by the present day and age.

In scope of TÜSAK on the other hand, the subjects that should be discussed in detail are essentially the provision of support for all culture and arts disciplines and institutions irrespective of their state or private sector status, the distribution of this support in line with transparent and impartial principles, and most importantly the administrative and financial autonomy of the funded

institutions. Because the safeguarding of the freedom of expression and artistic creation, and the autonomy of culture and arts institutions and organisations should be the fundamental principles of TÜSAK's contribution to the development, diversification and enrichment of the culture and arts life in Turkey. In light of the demands and suggestions made to date, the main headings that should be taken into consideration in the Draft Law can be enumerated as follows:

✓ **The structure of the institution**

In defining the operational rules of TÜSAK, it is stated that the decision-making body will be a board of 11 people and that the institution will have an administratively and financially autonomous structure. At this point, it is important to determine both the scope and the safeguarding criteria and conditions of this autonomy. According to the draft law, TÜRSAK is the organ that determines the support to be given to culture and arts projects; and the members of TÜRSAK are appointed by decision of the Council of Ministers, which acts upon the proposals made by the Minister. However, in order to guarantee the full independence of the Board, it can be stipulated that the Minister makes the appointment from among the names suggested by professional societies and chambers and relevant institutions and organisations. Establishing a system in which the expert institutions and organisations working in the field of culture and arts determine and suggest their own candidates to the Minister would also contribute to the improvement of the process of dialogue within the civil society.

✓ **Freedom of expression**

The justification of this draft law, which includes a detailed account of the financial conditions of state support for the arts, should also underscore the regulations concerning the freedom of artistic creation and expression.

✓ **Artists' rights**

The distribution of authorities and duties between the Ministry of Culture and Tourism and TÜRSAK concerning the status of the artists, employment conditions, social securities (social security rights) and copyrights should be clarified.

✓ **Definitions**

Interdisciplinary fields of art are not included in the draft law article that explains the aim of the law and the definitions it employs. Taking into consideration the specificities of different art disciplines on one hand, and making broader definitions that are inclusive of all disciplines on the other, may help prevent the problems experienced in implementation. Mindful of the fact that this draft law will constitute the basis of a legal regulation in the

field of culture and arts over the long run, it would be opportune to introduce in the text especially those definitions that are not in the Law on Intellectual and Artistic Works and ensure a unity of terminology among relevant laws.

✓ **Decentralised management**

Even though it is a positive development that the draft law makes it necessary for the local governments to allocate resources to culture and arts, it should also stipulate legal regulations for the necessary delegation of authority so that these resources can be used in an auditable and transparent manner by not-for-profit culture and arts organisations, artists or artist initiatives. The responsibilities should be clearly defined to guarantee the operation of TÜSAK at the level of local governments.

✓ **Principles and procedures of support**

The state to envision providing support on a regular basis to the field of culture and arts with a view to transform cultural wealth into economic value is an important development that has come to the agenda with this draft law. However, in structuring this financial support, the mechanisms of distribution as well as the criteria and operational rules of the funds should be established in line with the needs of the field and certainly in accordance with the international standards.