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COMITE PROFESSIONNEL DES ARTS (CPGA) BRINGS A FREEDOM ACTION BEFORE THE COUNCIL OF STATE UNDER THE SUMMARY PROCEDURE

On Thursday March 25, the French Professional committee of art galleries (CPGA) filed a freedom action with the Council of State under the summary procedure in reaction to the provisions of Decree no 2021-296 of March 19, 2021, so that, on the one hand, art galleries are included among the institutions authorised to welcome the public – in the same way as the voluntary sales companies – and, on the other hand, so that their activity falls within those allowed to welcome the public like bookshops and music shops.

Since the November 28, 2020, art galleries art have been some of the very few places to participate in the maintenance of artistic and cultural life in France at the service of greater accessibility to culture. The CPGA thus denounces a general and absolute ban on art galleries *that seriously infringes several fundamental freedoms such as both the freedom of expression and the free communication of ideas, freedom of artistic creation and dissemination and freedom of access to cultural and artistic work and free enterprise and freedom of trade and industry as well as the right to freely exercise a profession, all supported by the principle of equality.*

The action has been drafted by the Cabinet Spinosi, SCP Lawyers at the Council of State who represents the Committee in this litigation on the advice of Master Hervé Témime.

Areas naturally adapted to health measures - For art galleries, authorised until March 19 to welcome the public according to a reinforced protocol, the imperative of health safety was and remains to this day a primary consideration. These places are accessible without passing through a ticket office, are designed to promote the circulation of the public, and the works exhibited and sold do not involve handling unlike bookstore or music stores.
The activity of gallery owners lends itself perfectly to the making of appointments, the normal way of welcoming outside of the context of the health crisis, which allows the epidemic risk to be reduced all the more so.

The opening of the sales rooms: unfair competition – However, in the art market sector, only the sale rooms, the main competitors of art galleries, have been allowed to remain open and can continue to present pre-sale exhibitions under the Decree of March 19, 2021 Furthermore, since 2011 the law authorises auctioneers to make use of private treaty sales detached from any sale at prior public auctions.
Even though the action brought by the Professional Committee of Art Galleries is in no way intended to deprive the voluntary sales companies of the freedom to exercise their activities, this right granted by the Prime Minister to the sale rooms should also be extended to art galleries. This difference in treatment leads to an intolerable distortion of competition which directly affects art galleries, knowing that 88% of those represented by the Professional Committee of Art Galleries are located in Île-de-France.

PROFESSIONAL COMMITTEE OF FRENCH ART GALLERIES
11 rue Berryer, 75008 Paris

The "*click and collect*" system unsuited to art galleries - The uniqueness of the artwork requires, from the professional who sells it, to be able to show it to a potential customer before purchase. Thus, unlike in other areas, the sole digital solutions and "*click and collect*" system are not suitable for sales in art galleries. The closing of the galleries *de facto* prevents any potential sales on which the visual appreciation of the works, in actual size, depends. In addition, the challenge for gallery owners, during this period of health crisis, lies in maintaining the link that they have with their clients, and in reaching new buyers.

A difference in treatment with serious economic consequences for gallery owners and artists - As sales of works of art represent almost all of a gallery's turnover, the closure to the public has economic consequences, recognised as considerable by the public authorities themselves since August 2020 art galleries are part of the "S1 list" of sectors the most weakened by the crisis because they are directly dependent on global economic conditions.

Such a measure, which is likely to last for several weeks, comes in a context where the cancellation of all exhibitions has already prevented gallery owners, artists and crafts from maintaining the visibility and contacts essential to their development, which has seriously affected the cultural and commercial activities around the works. The impact can also be fatal for many artists selling works as their primary source of income, far ahead of copyright or emergency aid.

To this day, since the competent authorities have remained deaf to this justified and rational argument made on many occasions by the Committee on Professional Committee of Art Galleries, it is forced to bring action before the Council of State so that art galleries are included in the list of establishments authorised to welcome the public in the same way as voluntary sales companies; or, *as a minimum*, given the evolution of the pandemic, to authorise art galleries to welcome the public on an individual basis by way of appointment for the purposes of allowing the presentation of the works and their marketing.

In fact, by taking up and adapting the reasoning established by the Council of State in its Order of November 13, 2020 relating to booksellers, it is indisputable that, ***given in particular the role played by art galleries in the communication of ideas and opinions and the importance of art and therefore of artistic works for the population, these works, even though they cannot be regarded as basic necessities in the same way as foodstuffs or products essential for the maintenance of economic activity itself, they are essential and should be given special consideration in the context of the confinement and de-confinement measures associated with the health crisis***.

Since 1947, the CPGA has represented art galleries in France and defended their interests with politicians, institutional representatives and administrative authorities. It takes part in the elaboration of art market regulations and contributes to cultural policies favouring the development of the whole sector. The Committee informs and advises its 310 member galleries, from antique dealers to contemporary art galleries, on the specificities of their status and obligations, and assists them in technical matters. For several years, the CPGA has been involved in major cultural events in order to build a better visibility for art galleries, true partners of artistic creation. It also works to develop the French art scene internationally.

President : Marion Papillon (Papillon gallery) - Vice-presidents: Isabelle Alfonsi (Marcelle Alix gallery) - Benoît Sapiro (Le Minotaure gallery) - Treasurer: Philippe Charpentier (mor charpentier)
General Manager : Géraldine de Spéville - Legal Manager : Gaëlle de Saint-Pierre