Annexes

Voices of the People

DEMOS Response to the European Commission

European Ombudsman Own Initiative Inquiry OI/4/2024/MIK

Annex A

Restrictions Imposed on the Voices of the People Initiative

Infringements of academic freedom include actions that hamper the free flow of ideas and information, by preventing or restricting efforts to publish, distribute and disseminate knowledge generated through scientific research, literary or artistic works.

These restrictions can be carried out in a direct or indirect mode. They can also vary in scale and intensity and involve complete or partial forms of censorship. The two variables combined provide a conceptual matrix that allows for a more nuanced and comprehensive understanding of the constraints imposed on the Voices of the People initiative.

Types of Restrictions on Academic Freedom

Mode	Scale & Intensity	
	Complete	***Partial***
Direct	**Overt**	**Limited**
Indirect	**Oblique**	**By-product**

Overt restrictions involve total and explicit prohibitions on the free flow of ideas and information. These can affect a specific oeuvre or a distinct set of viewpoints.

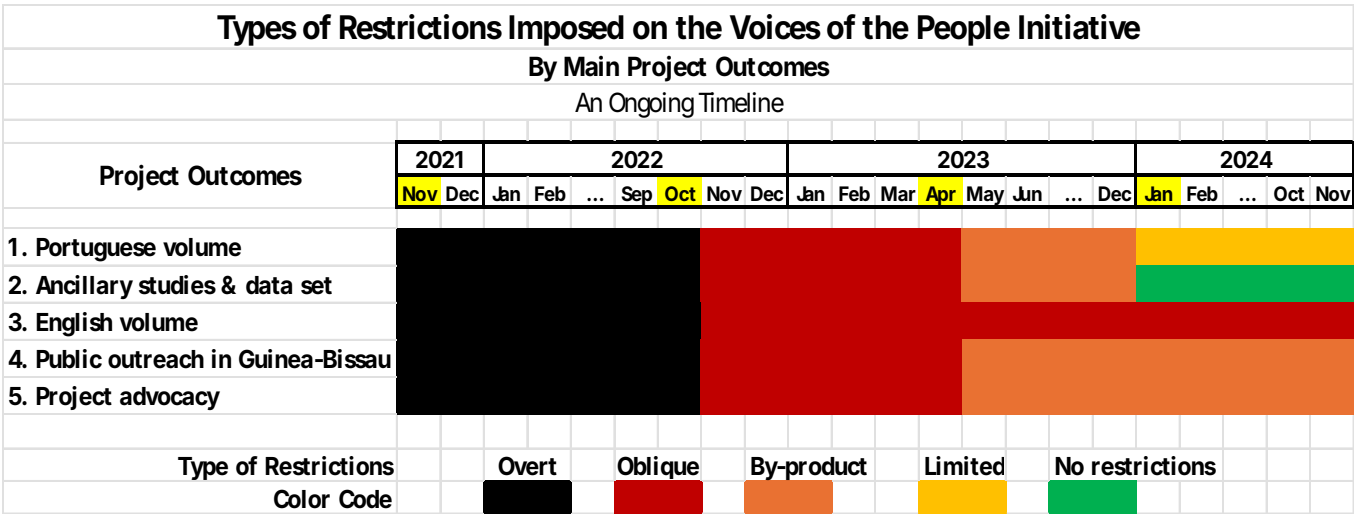
Oblique restrictions entail backdoor ways of curbing or suppressing freedom of expression. Outlets or authors are nominally free to share ideas, but added injunctions or constraints curtail tangible exercise of the right of freedom of expression.

Limited restrictions allow for partial freedoms of expression but restricts wider or fuller manifestations of this. Outlets or authors are allowed to publish. Yet are barred from using channels – often standard ones – that can enhance access to materials produced.

By-product restrictions are a hidden, informal, de facto form of suppression of knowledge and ideas. They is more diffuse and subtle, but no less effective. By-product restrictions do not rely on explicit injunctions or official constraints. Rather, they arise from conditions shaped by previous or existing acts of censorship.

By-product censorship generally affects outlets or authors that have suffered overt, oblique and/or limited forms of suppression, and are deprived of means to exercise their rights of freedom of expression, in a timely and effective manner. *Self-censorship* is a subset of by-product restrictions. Here too, direct forms of censorship – or the threat of this – cause fear, exhaustion, reputational loss and material depletion that lead to inhibition.[1]

We illustrate and explain how these developments took place, under different circumstances, in the timeline below. The chart covers five outcomes related to the Voices of the People initiative adversely affected by the 2021 decision to embargo our study, namely: (1) the Portuguese volume publication, (2) the publication of ancillary studies and data set produced as part of the research, (3) the English volume publication with a reputable academic press, (4) project outreach activities in Guinea-Bissau to present, promote and distribute the book, and (5) project advocacy in other countries. The first four outcomes were agreed contractually with the Commission. The fifth represents an anticipated result.



As the timeline shows, DEMOS encountered four periods in the struggle to lift all restrictions on the Voices of the People study.

First Period: Late November 2021 – October 2021. DEMOS was barred explicitly from publishing any results of the study in late November 2021. The Commission's *overt restrictions* persisted for *11 months*. No rationale was given for this drastic decision, nor was DEMOS accorded the opportunity to discuss or amend the study.

[1] The logic of events under by-product censorship is akin to that of the aftermath of a devastating storm, which causes distress and property damage. The aftershock will prevent survivors from picking up and continuing with their lives as if nothing happened. If they are unable to get any support to restore their loss, storm after-effects are apt to endure much longer. DEMOS is still picking itself up amid storm debris as it prepares this statement for the European Ombudsman.

Commission authorities in Brussels have used different euphemisms to describe this period, saying the publication was "put on hold" or "delayed." Retroactive justifications, however, cannot alter the EC's blanket prohibition to publicize any and all parts of study. An actual "delay" would have involved a deadline. Yet the embargo had no end date.

Second Period: Late October 2022 – April 2023. In early October, DEMOS started an online petition drive and sent the EC another letter protesting its breach of contract and embargo of our study. Authorities in Brussels responded a few weeks later and advised DEMOS to "go ahead" with the publications. The Commission's decision was not spontaneous. But the situation appeared to be on the mend. Assurances given by Mr. Stausboll, on November 25, 2022, added to this impression.

Still, saying is one thing, doing is another. The months that followed led to a growing state of uncertainty. The EC remained evasive on the instruments needed to publish the study. Its officers took nearly three months to declare it was too complicated to transfer the study's copyright to DEMOS. Without knowing the copyright status, we could not go to print.

Thereafter, DEMOS proposed a licensing agreement. The EC, then, announced that our publishers could not sell any copies of the book. This was a backhand way of telling DEMOS that it could not take the English volume to a "reputable academic publisher," as agreed in our contract. No publisher of scholarly texts that we know of would consent to bear the costs of production and distribution of a book it could not sell. This constraint limited our ability to distribute the Portuguese book as well. The EC did not provide funds to pay for printing cost in English. The Commission subsequently rebuffed our attempts to resolve issues through formal mediation and blocked further negotiations (see section 11).

Hence, the second period displayed a pattern of *oblique restrictions*. DEMOS was nominally free to publish but experienced hurdles – created by the Commission – that made it essentially impossible to do so.

Third Period: May to December 2022. During these eight months, DEMOS faced ongoing constraints. It was clear we could not publish the English volume with an academic press. The Commission's backdoor restrictions amounted to an *oblique restriction* of an agreed project outcome.

Other aspects of the project suffered a more subtle form of constraint: *by-product censorship*. The Commission's opposition to dialogue and formal mediation, compelled us to seek legal counsel in Belgium. This took time and effort. The lawyers said we had a solid case. But the cost of taking the EC to court in Brussels was simply prohibitive for a modest NGO like ours.

It was difficult to regain momentum. Given the circumstances, DEMOS was forced to update and relaunch its public relations campaign and online petition, to press for the English language publication and wider distribution of the Portuguese volume. It prepared an account of the saga to publish the Voices of the People to explain the volume's two-year delay in Portuguese and ongoing restrictions in English. Publishing the ancillary reports proved to be cumbersome as well, since DEMOS did not have support staff hired to upload the studies in December 2021, as originally planned.

The struggle to overcome the Commission's overt and oblique forms of restrictions exacted a significant toll. It deprived DEMOS and its associates of time, energy and other resources needed to exercise full rights to freedom of expression. This was the after-effect or by-product of censorship: a mostly hidden, informal, de facto barrier to the free flow of ideas and a distinct form of restriction itself.

Fourth Period: January 2024 to the Present (November 2024). This period reflects a mixed batch of achievements and ongoing restrictions. In January, DEMOS published the ancillary studies on the DEMOS website, printed the Portuguese volume and uploaded a digital copy of the book on the DEMOS and Voices of the People websites. Though publicly available, volume access remains restricted. DEMOS cannot distribute it the way most scholars manage their books, through publishers and retailers. As such, it remains in a state of *limited censorship*. Because of this, to date, only a handful of print copies have reached Guinea-Bissau. More than 300 copies remain in Paraguay, where the book was printed, per a contract signed in 2021.

DEMOS lost all the investments made to distribute and disseminate the Voices of the People study in Guinea-Bissau, as a result of the November 2021 embargo. This situation undercut all the public outreach activities set in the contract signed with the Commission, which have lingered in a condition of *by-product censorship*. Finally, efforts to promote our initiative in other countries remain handicapped as well, due, in no small part, to the *oblique restrictions* of our English volume. It is hard to export a scientific project that remains unpublished in English.

Over the last three years, various forms of restriction imposed on the Voices of the People initiative have harmed DEMOS, its associates and citizens of Guinea-Bissau. They have also raised dismay among scholars worldwide, who have signed our petition in defense of academic freedom and ratified the letter to EU authorities sent by the African Studies Association, in November 2024.

Annex B

Points of Clarification

How many contracts and amendments were signed between the Commission and DEMOS?

Two contracts and one amendment. The first contract was signed in April 2018. The second contract was endorsed in June 2019 and amended in August 2020. The Commission's response includes two inaccuracies on this matter, hence the need for clarification.

The EC claims the second contract was "modified by signing two amendments" (bottom of page 2). Yet the truth only amendment was signed, in August 2020. The EC proposed a second amendment in December 2021, which was not signed by DEMOS. This modification would have restricted DEMOS' ability to publish and disseminate our study, hence the rejection.[2] DEMOS explained its rejection in a January 17, 2022, email addressed to Commission reps.

Another need for clarification. The document signed in August 2020 was not "the second amendment" to our contract (see page 2) but the first and only amendment.[3]

[2] See DEMOS email to EU Delegation in Bissau, dated January 17, 2022, provided in Exhibit 6, of the original complaint to the Ombudsman.

[3] The Ombudsman report states that "Commission representatives shared this amendment with the Ombudsman inquiry team after meeting." DEMOS understands this to be the August 2020 addendum, included in the package of documents submitted to the European Ombudsman on April 29, 2024, as Exhibit 4, "Addenda DEMOS-EU". If the Commission presented another document, please let DEMOS know. DEMOS did not sign any other contract amendment.