

## PROBLEMS OF EXPOSITIONS AND PROTECTION OF BANKSY'S MURALS IN UKRAINE

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### Abstract

*The article examines the artistic value, legal and conservation aspects of Banksy's murals created during the war in Ukraine. Currently, there are conflicting opinions both on the artistic value of street art and on how to preserve works of this type as works of art. As Banksy's works have become commercially important, there is a need to assess them in Ukraine, regarding legal aspects and the possibility of displaying them. The authors analyzed the problems of using these murals from the point of view of the law and structural possibilities, since the murals are made on dilapidated buildings.*

**Keywords:** Keywords; Street art; Banksy; Ukraine; Legal aspects; Conservation; Use

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### Introduction

The acceleration of the pace of transformation of artistic and architectural trends caused by the intensification of globalization trends, intense social changes and the development of digital technologies has fundamentally changed the content of the very notion of "work of art" and elevated to the status of art many phenomena previously not included in it. The new form of art is described by Hans Belting as "post-historical and post-ethnic art" [1]. Posthistoricity breaks with the history of modern art developed in the Western world while post-ethnicity turns away from the local artistic tradition. Global art, therefore, is no longer modern art (derived from the Cubist tradition) or ethnic art, but contemporary art, which operates through the means of contemporary visual culture to analyze its own culture, its traditions and the present.

While in past centuries artists sought to aestheticize their surroundings through the artworks they created, since the first decades of the 20th century this paradigm has changed according to the principle that the social context: from a method of cultural and aesthetic education, art becomes a specific way of transmitting and conveying certain information and a certain message from the artist to the viewer, even in a thrashing, shocking or outrageous form.

The twentieth century became a turning point with respect to attempts to define the concepts of "art" and "artwork" with the emergence of radical theories that outright denied the possibility of evaluating newly emerging phenomena from the point of view of previously established evaluation criteria. Researchers were especially interested in the very nature of the concept of "art", hence the often-appearing question "What is art?". Many aestheticians since the 1950s and 1960s, standing on the ground of so-called anti-essentialism, believed that neither "art"

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itself nor "artwork" could be unambiguously defined. Advocates of such views claimed that "no satisfactory theory of art is possible at all" [2]. Morris Weitz believed that the concept of "art" is open-ended, chronologically variable and remarkably diverse. Moreover, he argued, the concept of a "work of art" is equally open in nature [3]. On the basis of the theory created, Morris Weitz questioned the very possibility of unambiguously defining the boundaries of the concept of "art" with a clear, unchanging definition of what can actually be attributed to art on the basis of fixed criteria. Therefore, according to Weitz's theory, there are no, and cannot be, fixed criteria for evaluating art, since the boundaries of art are constantly expanding and changing, as the concept includes phenomena that previously did not belong to the field of art.

The change in social tastes was caused, among other things, by the rejection of traditional art by certain social groups (youth, subcultures, informal groups), which led to the introduction into the rank of art and the category of artwork those works that were not previously considered art - street art, various performances and the like. At the same time, we should add that the change in the content of the term "art" was also caused by the transformation of cultural and artistic needs of a more egalitarian society of the 20th and 21st centuries.

According to Polish art critic *Paulina Sztabińska-Kałowska* [4], the cardinal transformations of the 1970s changed the approach to the perception of most cultural phenomena, and actually changed the theoretical and methodological canon developed over the centuries, which, as a result, led to the emergence of new criteria for evaluating works of art and a change in the attitude of society towards many cultural events. Changes in the cultural and artistic needs of society.

*Paulina Sztabińska-Kałowska* [4] characterizes these phenomena with the term "performative turn" and believes that, as a result, the relationship between the performing arts, which include theater, performance, and areas previously opposed to them, such as architecture, painting, sculpture, has become blurred.

The validity of this judgment is demonstrated by the fact that nowadays there is a tight fusion of architecture, street painting on facades and installation as a form of performance, architecture often itself acquires the properties and hallmarks typical of performance. This happens, for example, when a building changes its shape during the day, rotated or supplemented by the projection of multimedia images on the facade.

Since the 1970s, the transformation of the relationship between cultural phenomena and the criteria for evaluating phenomena classified as art has led to the inclusion in the concept of contemporary art of the phenomenon associated with the subculture referred to as – "street art".

Another type of aesthetic theory well suited to the study of the street art phenomenon is the so-called institutional theory. The most general view of its conception is given by George Dickie in his article entitled "Defining Art" (1969). Dickie reckons that: "A work of art. In a descriptive sense it is i) an artefact ii) on which some society or some sub-group of society has conferred candidate status for recognition" [5]. Summing up his theory in somewhat ironic terms, Dickie believes that: "A work of art is an object of which someone has said 'I baptise this object a work of art'" [5]. The above arguments by theorists such as: *B. Dziemidok* [2], *M. Weitz* [3], *G. Dickie* [5], as well as *G. Sztabiński* [6] make it impossible not to agree with the opinion of contemporary art theorists, that the phenomenon of street art cannot be objectively evaluated on the basis of the traditional criteria of past centuries, so it is reasonable to evaluate street art according to two criteria – spatial correspondence (since street art is located on objects in the current environment) and the quality of execution consistent with the criteria of artistic evaluation applicable to street art.

In this case, the contradiction is removed, referring to the fact that a given example of street art or muralism should be classified as a work of art, because the painting itself can be masterfully executed, although it does not correspond to the surrounding space.

The question of the aesthetic evaluation of street art and its importance to society in terms of its informational and aesthetic component is directly related to the more complex and

multifaceted concept of the now extremely broad semantic content of the term "art." Therefore, according to a group of Polish street art researchers, the rules of how this ephemeral art of modernity should be evaluated are still not established: "Predominantly, its position in the urban sphere is still unclear as regards political, commercial and legal aspects, as street art is extremely complex and difficult explicitly to valorise" [7].

## Materials and methods

In line with the research objectives, the methods of art historical analysis, the analytical method, as well as conservation technologies were analyzed. One of the article's authors conducted field research of Banksy's murals in Borodyanka to develop the possibility of their conservation and the possible relocation of the work to another location.

According to the tasks, sources were developed in the following areas:

a) the study and evaluation of the phenomenon of street art as an "art" as well *site-specific* art – the works of *M. Dyomin and O. Ivashko* [8, 9], *O. Ivashko* [10], *A. Pawłowska* [11], *A. Gralińska-Toborek* [12];

b) assessment of the phenomenon of "art" in modern society and restoration activities - works by *M. Weitz* [3], *P. Sztabińska-Kałowska* [4], *G. Sztabiński* [6], *P. Gryglewski et al.* [13], *M. Orlenko and Y. Ivashko* [14];

c) problems of the revitalization of territories - publications by *M. Dyomin et al.* [15, 16, 18], *Y. Ivashko et al.* [16], *A. Dmytrenko, et al.* [17], *M. Orlenko* [18];

d) Problems of preservation of the historic environment - the work of *P. Spiridon et al.* [19], *L. Pujia* [20];

e) the specifics of preservation of stone surfaces - articles by *L. Luvidi et al.* [21] and *M. Furtak et al.* [22].

The research was conducted in several aspects: artistic value of street art works, legal problems of street art ownership and conservation aspects of the preservation and display of street art works.

## Results and Discussions

### *Street art as an art*

Street art is an urban phenomenon, dating back to the roots of the graffiti movement in New York, but differs significantly from it in form, content, function and contexts. Graffiti is easily recognizable - it is colourful spray-painted letters arranged in tags - nicknames of their creators, illegible to the average viewer, semantically empty [23] often with an elaborate form (so-called "wilde style"). Painted first on trains and then on the walls of vacant buildings was a subcultural illegal activity. Today it has become part of popular culture and is largely reduced to visually appealing lettering. Street art, on the other hand, has expanded the techniques of creating images and inscriptions on walls - using stencils, stickers, paste-ups, knitting (so-called yean bombing), ceramics, as well as installations and interventions involving small changes that transform elements of urban space (such as interference with street signs). A particular form of street art is murals, or large-scale painting, which is not counted as street art by everyone [24-26], as they are created legally, with the permission of wall owners or owners, often commissioned, funded or as the fruit of festivals. Banksy's works are therefore not murals in most cases, as they are smaller in format, created illegally, usually in stencils. From the point of view of conservation, however, they can be called murals - because they are wall paintings made with spray paint.

Among the characteristics of street art is the specific location of the works. This is because they are site-specific [27, 28] i.e. by definition, they are created for a particular place - they comment on it, highlight it or change it significantly. Banksy creates a variety of works, some are autonomous works, while others show their meaning only in the context of the place chosen by

the artist. He chooses locations that are significant or representative of specific social or political issues, and often leaves traces of his work in areas affected by some conflict or disaster, such as New Orleans after the passage of Hurricane Katrina, Port Talbot as an example of a highly polluted environment, the West bank Wall separating the Israel area from Palestine, or the rubble of bombed-out houses in Kyiv and Borodyanka. The contextuality of these works means that moving them to another place, collecting and displaying them as museum objects and reproducing them deprives them of their basic meaning. This is also the performative aspect of street art. As Ulrich Blanché notes: "From 'classical' performance Banksy adopts/has adopted the importance of time - the spectator can see in what short time he made this work without getting caught - also the transience of ephemeral Street Art and the importance of space. His art is, like many performances, tailored for a certain location and loses its original condition when transferred elsewhere" [29].

Works of street art are ephemeral and temporary because they are done very quickly, they are created with perishable materials, on unpainted ground and, as art in public space, they are exposed to various weather conditions as well as to human actions, sometimes destructive, sometimes creative. Many times, one street artist's work attracts other artists and the walls are filled with different works that dialogue or compete with each other. Susan Hansen, an Australian researcher, observed a wall in London for several years from which Banksy's work "Slave labor" was scraped and put up for auction. Immediately, other artists reacted to this and left their works on this wall, which wittily commented on the event by recognizing it as theft. [30] It was a reaction that generated art, generating even more interest in it. Hansen even risks stating that: the practices of removal that street art and graffiti are commonly subject to – whether concerned with 'restoring value' to a community, by its destruction and erasure, or with 'recognising value' by its preservation, protection and ultimately removal for private profit – yield divergent and differently recognized conditions of possibility for the public spaces they (re)generate [30].

Most artists and admirers of street art insist that its place is on the street and should not be taken from it either to museums and galleries or to private collections. At the same time, artists claim that the works "belong on the street" and are created for a wide audience: from casual passersby and local residents to tourists and street art connoisseurs. And it is indeed the case that urban residents often become accustomed to individual works and are opposed to their destruction, but at the same time they have no way to protect them themselves, so there are legal problems related to intellectual and property rights. Many times, the private owners of the houses on which the works of famous artists have been placed believe that they have the right to them and sell them on the art market, although it was only the material base-the wall-that was their legal property. This is what happened to Banksy's works from Lowestoft, Port Talbot or Nottingham. They were cut out of the walls along with their substrate and sold at auctions. However, each of these works was closely associated with the site or was a part of an installation, such as the girl hula-hooping with a bicycle tyre painted next to a bicycle without a front wheel pinned to a lamppost.

Some artists are reacting very harshly to the fact that their art is being commercialized. The most radical gesture was the painting over of his own murals by the Italian artist BLU in Bologna in response to the organization of an exhibition in that city: "Street Art: Banksy & Co: L'Arte allo Stato Urbano, Palazzo Pepoli" in 2006. The exhibition featured works taken from the street under the pretext of conservation, while some were already owned by private collectors [31].

It is also worth noting that although street art is public art operating in urban spaces, most of the public has access to it thanks to the Internet [12]. A huge number of websites, blogs and social media promote and showcase street art. Every artist has a page or account on FB or Instagram. Observers see not only the finished works, but also the process of their creation. Many works no longer exist in the physical space and are still viewed online. Thus, it can be said that street art exists in two parallel worlds, with the virtual one providing it with a longer life and

greater popularity than the urban space. At the same time, street art, which by definition is supposed to be public art, is subject to the laws of the art market, where it is not only the aesthetic value or the specific content of the work that counts but the name of its author. Banksy has become a brand [29], and it is for this reason that his works become the prey of thieves and an object sought after by art collectors. At the same time, the artist himself is constantly playing an elaborate game with the art world, he creates exhibitions, and his works are displayed at auctions, reaching very high prices numbering in the millions of dollars. The famous performance of self-destruction of the work "Girl with Balloon" when it was purchased at auction (2018), which was supposed to be a gesture aimed at the art market only drove up the price of the work. The owner of the half-destroyed painting obtained almost £15 million more after three years. Thus, it can be said that we are dealing here with the King Midas effect, which turned what it did touch into gold.

Concluding preliminary thoughts on the analysis of street artworks, we must take into account its universal dimension. The signifiers of global culture, often simply pop culture, in the case of this phenomenon are very clear. At the same time, the ambivalence of global and local is also reflected here. Certain features remain common to street art in different metropolises, but local accents are also marked - often other ideas and aesthetics generate street art environments in South America, South Africa, the United States [11, 12] and the former Eastern Bloc countries in Europe [32]. Similarly local is the dimension of the legal situation of the murals created and the conservation techniques used or not.

### ***Street art as site-specific art and its architectural and urban context***

Artistic objects related to street art, as has been repeatedly emphasized, are inextricably linked to the urban organism. With its complex spatial, functional and social structure. Street art expression in such a context acquires a multi-layered meaning. Importantly, a variable one, resulting from the ephemeral nature of the work itself, as well as the dynamics of its environment. It seems that one of the key issues in the analysis of such objects is the question of their location. Taking into account the peculiarities of the place, both in terms of the location of the city and its specific part, the district. It is known that the microcosm of the place itself, the material specificity of a wall, a fragment of an installation, etc., matters. However, this topographic-material dimension is linked to the broader environment, its social and political context or historical references. This complex arrangement can to some extent be encapsulated in the traditional notion of *genius loci*, more recently defined by the concept of *site-specific*. The most important thing, however, is still the clear complementarity of the material and non-material meaning of place in this sphere. Modern technological possibilities have added a virtual dimension to this ensemble, making it possible to "peep" at urban art only through pictorial transmission, at the level of global activity. Interestingly, this possibility generates the important problem of confronting an art object created in a concretized local context with a more universal global reception. The latter is, on the one hand, deprived of the traditional experience of place and a set of complex local, and social information. On the other hand, the global virtual message significantly expands the audience, which mostly subsists on declarative, simplified contextual information.

This clear "location" of the work, which determines its set of meanings, its reception, is part of a long tradition of art research that takes into account location as one of the essential components of analysis. This tradition is not limited to the assumptions present in *Kunstgeographie* [32] art geography but takes into account more complex factors, also useful in relation to street art phenomena. It is worth noting at this point that in such a view also the artwork itself is a source of information about the place [33]. One of the themes that is taken up on this occasion is the issue of appropriation of public space in a political context, if only in relation to official monuments [33].

This type of work, therefore, prompts us to reach for tools typical of Art History as well as Visual Studies more broadly. Recently, a concept used on this occasion is *site-specific*. This model can be seen as a response to the modernist autonomy of the object and its utopian detachment from place. This re-rooting of the art object in a specific place, placed it once again

in the complex relations of work, place, viewer [27]. Such an assumption assumes, on the one hand, a definite "addressing" of the work to a specific place, and on the other hand, built on the wave of institutional criticism, an almost programmatic detachment of the exhibition from a specialized institution. Such an attitude must assume the ephemerality of such installations, which is particularly evident in creations typical of street art.

It should be emphasized that site specificity requires the development of the very concept of place (site) and location (place). The former is much broader and intangible, and thus more difficult to grasp. One attempt to organize the issue implies in the case of site specific one should consider three elements. The tangible location seen as a specific point in space. In addition, the significance of this place in connection with social relations, the perception of such a location. The third element is its reception on an emotional level, inscribed in a concretized situation [35].

Miwon Kwon [27] in her publications from the beginning of the century, focusing on the problems of site-specificity, tried to distinguish and discuss three models used when analyzing street art objects. This list included the phenomenological approaches [36, 37], from the position of institutional criticism [38] and the discursive model. Each of these approaches, appearing in contemporary reflection on art, including street art, carries a different approach to the issue of site-specificity and its relationship to the work itself. A number of important elements emerge in this juxtaposition. One of them is the problem of confronting the phenomenological and institutional models. The first, in a broader context, denies the autonomy of the work in the modernist sense. On the other hand, on the ground of so-called institutional criticism, which again assumes the autonomous value of the work itself, there are demands to exhibit it in an almost sterile environment. With this type of approach, contextual values have once again begun to disappear. It seems obvious that this "sterile" approach to street art objects is deceptive, taking them out of their actual environment. An environment is seen as a place that concentrates the factors that determined the creation and form of the work. Also important is the place where it began its dynamic existence, with all the changes and natural decay typical of street art. In the third, discursive approach, such a place is seen as an area of exchange of information, values, and cultural and social discussion. In such a situation, the activating, stimulating and defining factor in the complexity of these relations becomes the artwork itself.

Thus, in the researcher's view, place ceases to be a traditional, codified location, and becomes more of a virtual area of complex discourse, in which the art object itself plays an important role. At the same time, Kwon herself emphasizes that the research attitudes she analyzes are largely non-competitive, differently undertaken by the artists themselves [27].

In Banksy's works, there is a particular integration of many elements of the street space, which co-create the object, influence its perception and generate further interactions. This variability is the element that can distinguish the traditional perception of a place mainly in its physical dimension, volume, texture lighting, etc. To a large extent, it is seeing something stable, almost unchanging. Seeing a place in contemporary *site-specific* terms, however, is supplemented by an important dynamic component. Resulting from the dynamics of the urban organism itself, including in the material dimension, like the variability of the viewer himself. After all, such objects are immersed in the current of everyday life, functioning on the principles of an ever-accessible gallery.

As already pointed out, the field of tools useful for studying street art creations requires prudent adaptation to the specifics of this type of object. This is influenced by their variability and ephemerality, their diverse presence in a complex urban space. One of the promising elements of the analysis is also the question of the very location of such activities, the criteria for site selection and the related results. It also requires a more careful analysis of the urban-architectural context. The role of architecture and urbanism in such a complex system of place valuation seems particularly important. On the one hand, this relates to the classical way of looking at architectural objects, in their purely material dimension. It is known that many of the objects of street art are inextricably linked to buildings, or defined in their immediate context. The most obvious place

for many compositions are walls with their specific architectural function. With interactions between parts of the building, details and the secondarily introduced plastic composition. No less important are the architectural and urban contexts. The former is related to neighbouring buildings, their scale, form, they form, in connection with the building used by the artist, a kind of frame, a larger composition, sometimes of crucial importance for the reception of artistic activities. No less important are issues related to the broader urban context, the sequence of built-up places and open spaces that can hide or from a distance expose street art composition. The sequence of urban views preceding the composition itself can also influence its perception, operating with similarities or contrasts.

It is worth noting that this traditional way of viewing urban planning and architecture in relation to contemporary street art phenomena is not the only interpretive proposal. As in the *site-specific* approach, perceptions of the architectural environment can shift to more intangible areas. One such proposal was attempts to situationally redefine the function, and perception of urban spaces through artistic activities. Within the framework of creating certain unusual situations, the existing architectural fabric could acquire new meanings, breaking the established conventions. Coming from a position of criticism of capitalist societies, the leftist approach to a large extent reflected the socially engaged activities of street artists [39]. This type of attitude has recently been used in urban spaces also in conjunction with pro-environmental activities.

The work of street art perceived as an element of provocation is a serious challenge. On the one hand, already its creation, placement, and context carry an informational and interpretive assembly, with a clear separation of "live" reception and "voyeuristic" reception of the work through online tools. This distinction is already a challenge in itself. For the referenced *site-specific* considerations actually make sense in the case of "on-site" reception, with an understanding of the entire urban, historical, social and emotional environment. Circulation cropped to the level of electronic transmission loses most of these primary values, starting an independent life in a completely different reality. Either as an intriguing aesthetic creation, or (this is especially true in Banksy's case) as yet another endeavour by a well-known artist. In such a situation, the mass viewer does not need information about all the specificity, and uniqueness of the location to value it, contenting itself with simplistic, globalized plots.

This provocative dimension is also relevant to the discussion of their preservation, protection or relocation. Such ideas seem to negate the basic assumptions of street art programmatically freed from the framework of institutions and conventions. As already pointed out, this specificity determines the research methodology of such artistic activities, but also affects potential conservation practices, or rather the question of their legitimacy. Perhaps it is more important to pose this problem differently. Perhaps it is not so much the preservation of these works unaltered that is important, but rather proper documentation that takes into account their variability and broader spatial context. This, however, is difficult when confronted with traditional notions of art conservation and the parallel commercialization of these objects, whose growing popularity and value stimulate the need for ownership.

In this case, the context in which such objects are created is also a challenge. Banksy's Ukrainian works were created in a very specific, dramatic situation fitting into a complex context. They are not an example of typical rebellious, anti-system activity within street art. The place and time of the creation of these works are more universal, but also local at the same time. The obvious opposition to the drama of the war, at the level of the everyday life of the city entangled in it significantly, changes the meaning of these works. They rise to the status of a testimony of support, and interest, almost to the rank of national heritage.

#### ***Evaluation of Banksy's murals as works of art***

The works, whose authorship Banksy confirmed by posting their photographs on his website and on Instagram, are an ironic, often bitter commentary on the situation of people living in Ukraine during the war. The artist repeatedly uses the motif of childish, innocent play juxtaposed with the most serious problems of the adult world. In Kyiv's Maidan Nezalezhnosti

(Independence Square), he placed on a barricade of concrete blocks the silhouettes of children - a girl and a boy, swinging on a seesaw, the beam of which is one of the arms of a tank trap [anti-tank hedgehog] (Fig. 1). Both elements of the ground - the concrete blocks and the iron tank trap - are part of this work and give it meaning, as the photograph posted on CNN's website, where the tank trap is missing, makes clear [41]. Children are also the protagonists of other Banksy works: in Borodyanka it is a young gymnast standing on her hands on a concrete fragment of a demolished building, and a boy in a martial arts uniform knocking down an adult opponent, done on the wall of the ruined boiler room of the "Pinocchio" kindergarten. According to BBC commentator Adam Durbin, the man resembles the Russian president-an avid judoka [42] (Fig. 2). Thus, the mural may symbolize the overthrow of the aggressor. Another depiction of a child is found in Irpin; it is a gymnast, wearing an orthopedic collar around her neck, dancing on the edge of a hole in the wall of a bombed building. The other two murals depict adults. In Hostomel, it's a woman in a bathrobe, with rollers on her head and wearing a gas mask holding a fire extinguisher. She is looking toward a burned-out window and her feet are resting on an old chair standing against the wall. Importantly, the feet are painted not on the wall, but on the upholstered furniture, so again it is part of the work. On December 2 the mural disappeared from the wall, the thieves removed the layer of plaster with the drawing, but a small fragment of the work (the woman's foot) remained on the wall. The painting was recovered, but it is not known what happened to the chair, which was part of the installation [41].



**Fig. 1.** Mural Banksy at Majdan Niezaleznisci in Kyiv



**Fig. 2.** Mural Banksy in Borodyanka.



In Horenka near Bucha, a shell destroyed the front wall of a four-story house so that the interiors of apartments were exposed. In one of them, an image of an elderly man with a long beard bathing in a bathtub was painted on the wallpaper that covered the bathroom wall. The use of a variety of substrates and additional elements in Banksy's works further emphasizes the intrusion of war into the ordinary, outright intimate lives of Ukrainian residents.

The contrast between children's play or everyday activities captured in the form of a flat, shadow-like black-and-white image and the reality, the physicality of war's devastation is what makes the artist's works so moving and pertinent. They reach a mass audience through photographs reproduced on the Internet and highlight the horror and absurdity of war. Banksy's latest stencil painted in Kyiv has a slightly different message. He turns a previously painted primitive drawing of a penis into a nuclear warhead lifted on a truck marked "Z." (Fig. 3). War terror is ridiculed here and reduced to vulgar, blunt force. Interestingly, it is the use of this vulgarity that makes the drawing ambiguous and not always acceptable. At the end of a video documenting the work in Ukraine and shared on Instagram, the author included a statement by a passerby about an unknown artist: "I would knock his teeth out and break his legs for that." [43].



**Fig. 3.** Mural Banksy at Velyka Zytomirska street in Kyiv

As you can see, the content of Banksy's works is closely related to the place and even the ground. They should therefore be protected in the place where they were created. However, this poses further problems. After all, it is possible to shield them temporarily with a sheet of Plexiglas or a layer of varnish, although this does not protect them from theft attempts. The most important question remains, however, should they remain in the same place after the war is over? Will residents want to preserve the ruins of their homes in order to protect the murals? Or will they then be able to move them to a museum? And should it be a historical museum or an art museum? Should they be in one place as a series of works, or remain scattered? What function will they serve then? Today they are meant to be a sign of solidarity with the people of Ukraine and an attempt to make visible the tragedy that is unfolding in Ukraine. At the same time, they are a

hallmark of the artist, who is gaining even more popularity by attaching such great importance to his works. Thus, one may fear that regardless of the artist's own intentions, his paintings of the war in Ukraine may be commercialized whether in the form of popular mass-produced souvenirs, pop-cultural clichés or as originals they will be a serious investment of capital.

### ***Legal Issues***

During the war in Ukraine in November 2022, Banksy created seven murals related to the current situation in the country. Now questions arise as to how these works should be preserved and properly displayed. We will analyze this question from several important aspects - art history, law and restoration.

The legal issue is an important one, given how often there are court battles between companies and "street artists." According to one legal position, the authorship of a work belongs solely to the artist himself, since Banksy has confirmed it on social networks. Creating works under a pseudonym provides for their owners with respect to their creator under Article 11 of the Law of Ukraine "On Copyright and Related Rights." At the same time, the mural was created without the permission of the homeowner, so it is unclear whether the artist can dispose of it.

The question arises whether the owner of the property on which it is painted has a right to the mural. Here the legal question is raised, whose right becomes dominant? Is it the one with the ownership of the property or the intellectual property? If so, can the owner take any action on his property without the artist's permission? A separate legal question is whether the drawing can be considered a gift from the artist to the property owner. Since the ownership of the property expires with its destruction, the question arises as to who owns the rights to Banksy's murals if they are painted on nearly demolished buildings. From this point of view, the owners of the destroyed building do not have the right to Banksy's work, only the artist himself. Another legal case is that the real author under the pseudonym Banksy is unknown, so legally, according to the court's decision, these works can become communal property. Moreover, the artist himself has not indicated anywhere on social networks how exactly his works should be used. Banksy's representative Pest Control Office prohibits the use of his works for commercial purposes. To protect Banksy's rights, several trademarks have been registered for Banksy's most popular works, but none of them extends to the territory of Ukraine. Given the controversial legal aspects, Ukrainian lawyers believe that Banksy's representative of the Pest Control Office (POC) [44] should be contacted. It is the only official body that can authenticate a genuine artwork by Banksy. This site is operated by Moonstar Fine Arts Advisors, LLC, a consulting firm specializing in art investing. With the current legal status of the murals, and the war conflict still ongoing, it seems that it would be advisable for an institution like POC to agree, for example, to sell the Ukrainian murals to charity or donate them to a museum (where they would be protected, but no longer fulfil the role of a street art piece).

### ***Research on the technical condition and public perception of the murals***

Banksy created seven murals in Kyiv, Horenka, Irpin, Gostomel and Borodyanka between November 11 and 22, 2022. The artist uses "mtn 94" paints made in Spain, and utilizes black, gray and white colours under trafalets made of thick cardboard. Each of his artworks in the demolished cities of Ukraine has a specific context related to the place, so the location of the murals in a specific point of the locality is significant. Banksy makes stencils by colour, cutting out those sections that need to be covered with spray paint, and alternates coloured patches of images that are generally largely monochromatic. The artist, like other street artists, from the beginning did not assume the long-term existence of his works, so he painted them on an unprimed surface. What's more, in accordance with the adopted formal style, he interprets his paintings not as a work of art, but as a kind of underground performance on a current political or social topic. In the case of Banksy's works made in Ukraine during the war, it is not only the painting itself that becomes important but also the context in which it is placed since what the artist wanted to express becomes clear only in the environment in which the painting is painted. Banksy's works are unique not so much because of the workshop skills of their creator, but

because of the context of the place in which they are located. That is why the same wartime murals transferred to an art gallery or museum will be perceived quite differently from those on the dilapidated walls of Horenka and Borodyanka.

During the active military operations of the Russian Federation, an air bomb was dropped on a multi-story residential building at 353 Central Street (Tsentralna) in the town of Borodyanka. As a result, the central part of the building in question was destroyed, and the side parts were severely damaged. As a result, it became an emergency situation. After the destruction of the central part, the surface of the inner wall was exposed, on which the famous British street art artist Banksy painted graffiti depicting a gymnast leaning on a fragment of the destroyed board. The building structures on which the graffiti was applied represent three reinforced concrete panels, which are the interior load-bearing walls of the house. At the same time, two of the panels are placed in the same plain, while the third is mounted perpendicular to them and the end passes between them, forming one common plane. The adjacent perpendicular panel, located in the foreground, was destroyed, and it remains in the form of fragments of reinforced concrete blocks formed the base on which the gymnast "rests." A cracked piece of concrete hung on a rebar above the rest of the panel. Dimensional dimensions of the wall: length - about 10.0m, height - 2.8m. Dimensions of the graffiti: width - 0.9m, height - 1.2m (Fig. 4).



**Fig. 4.** Dimensions and research of Banksy's mural in Borodyanka

Upon inspection, it was determined that the surfaces of the slabs have cracks spreading in different directions, some of which go through the graffiti itself. Fragmentary traces of burn marks are visible on the surfaces of the panels. The wall panels are resting on the floor covering panels, on which fragments of building structures that have fallen from the upper floors have accumulated. At the moment, the building's emergency condition poses a danger to both the people and the surrounding building and transportation facilities. In the same way, the building's emergency condition poses a danger to the mural itself, which could be damaged or destroyed by the collapse of the structures above. In addition, graffiti is constantly exposed to an aggressive external environment: temperature changes, humidity changes, precipitation, dynamic effects of installation and dismantling work of neighbouring buildings, vandalism, gas pollution, etc.

Considering the ambiguous issue of evaluating murals and street art from the point of view of their artistic value, the authors analyzed both the opinions of artists who practice this type of art and ordinary viewers of Banksy's art in Ukraine. According to mural artist "Tigo" from JBC Crew, street art, as the name suggests, belongs to the streets, neighborhoods, blocks. Some of the street paintings, whether they are street art or graffiti, can certainly be counted as works of modern art. Then, too, such paintings should be protected to some extent. However, they cannot be transferred or removed from the walls to art galleries, the artist created work fragments of walls or other urban spaces because their meaning as street art is lost. In his opinion, as much as

possible, pictures of painted walls or graffiti/street art paintings made by established artists from this community can be shown in art galleries.

In terms of protecting walls covered with street art, the only sensible way, according to "Tigo," is to coat them with a special clear varnish. Simply applying glass to a mural, for example, will not protect it from fading. The low quality of spray paint is also a disadvantage. According to the muralist, even the paints of leading manufacturers are of inferior quality from year to year. The result is that they dull very quickly and the painting on the wall fades just as quickly. In addition, it is extremely important to secure the area around the mural, as in street culture painting over the works of other artists is the order of the day.

As for Banksy himself, "Tigo" believes that he is a true artist and is not afraid to show social problems through art. Thanks to this, a lot of social problems swept under the rug by politicians and by the system get publicized. He concludes the interview with the statement "Respect for Banksy and for street art" [45].

Relevant statements from Ukrainian residents interacting with Banksy's murals can be found via Instagram. Immediately after the publication of Banksy's video showing the behind-the-scenes creation of the works on his Instagram, Ukrainian social media users began commenting and thanking the artist for his support of Ukraine, stressing that they appreciate it very much. "Thank you for support and solidarity! That means a lot to us ♡"; "Brave Banksy, Brave Ukrainians!!! Thank you for your solidarity, Great Artist of our times!"; "Thank you for support Ukraine!"; "Дякую! Завжди мріяла побачити ваші роботи вживу. А робота з дзюдоїстами то взагалі шедевр! Дуже символічно!" [43]. Also very telling are the words of another Internet user "Бенксі змінив моє уявлення про жанр, який я раніше не любив" [Banksy has changed my perception of this genre that I used to dislike]."

Oksana, a 19-year-old resident of Bucza near Kyiv, went to Borodyanka after the first publications about the appearance of the famous artist's works on the walls of demolished buildings to see them with her own eyes. She later reported the event on her Facebook as follows, "I didn't expect to see so many people, who already came in large numbers to this street exhibition in the ruins on Saturday" [43].



**Fig. 5.** Kaligrafija, Author "Tigo" from JBC Crew (Poland), 2022



**Fig. 6.** Kaligrafija, Author "Tigo" from JBC Crew (Poland), 2022.

Based on different research methods, the authors of the article have not reached a common conclusion on how Banksy's works should be secured in Ukraine. Perhaps it would be appropriate to ask the artist himself to support the POC on how the works should be secured. After all, considering the positions outlined above, the phenomenon of street art today is, firstly, that some high-quality paintings have evolved from works of informal street art to fully-fledged works of modern art. This phenomenon applies to murals and, for example, calligraphy, which can also be found in the form of street drawings and are sometimes exhibited on canvases in galleries (Figs. 5 and 6). There are also full-fledged street art exhibitions such as the famous 2008 exhibition at the Tate Modern in London entitled 'Street Art.' This show commissioned works from well-known artists to be displayed directly on and against the walls of the gallery.

In Kiev, there was also the idea of preserving a wall with a mural on the model of fragments of the Berlin Wall. The remaining bombed houses should be demolished and replaced by a new housing estate [46].

The authors of the article, together with the Kiev academics supporting their work, agree that, regardless of the choice of how to deal with Banksy's murals, these anti-war works will have a very different meaning after the war than they do now.

## Conclusions

Starting from the idea of creating works of art exhibited outside (street) to beautify the surroundings through which the social context is offered a specific artistic approach of cultural and aesthetic education that allows the transmission of often very hard information.

Given these facts and the unstable situation surrounding the ongoing war in Ukraine, a legitimate solution seems to be to protect Banksy's works as outstanding works of contemporary art by dismantling them and temporarily placing them in a secure museum space, and then re-installing them in similar locations to the original when the conflict ends.

Another possible solution, however, would be to leave the works in place, even if they were to be destroyed, as a sign of the artist's clear support for the struggling Ukraine. This solution is also supported by the fact that the works were created for all citizens of the embattled country and, as a typical work of Street Art, have the transience of existence written into their artistic DNA. The murals left on the walls could be protected with Plexiglas (as was already done in Kyiv) and then marked with the added information that theft is punishable by imprisonment. Still another proposed concept would be to leave high-resolution photographs of Banksy's works at a scale of 1:1 on the walls of the building. And to make the original works inaccessible in a special public gallery.

## Acknowledgments

This article was prepared as part of the realisation, at the University of Lodz (Poland), of Yulia Ivashko's Research Fellowship (Agreement No. 5/1DUB/SNU/2022, dated 27.06.2022), within the framework of the Competition for Fellowships for Ukrainian Scientists funded within the 2% increased grant for universities that entered the Excellence Initiative - Research University competition. The supervisor of the research carried out in Ukraine by Professor Ivashko is Aneta Pawlowska from the University of Lodz.

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*Received: November 10, 2022*

*Accepted: March 2, 2023*