

HEURIGHT

HEURIGHT14 - The Right to Cultural Heritage Its Protection and Enforcement through Cooperation in the European Union

This Project investigates how human rights guarantees in relation to cultural heritage are being understood and implemented in the EU and in its neighbouring countries. It focuses on Poland, the United Kingdom and Italy - countries representing different cultural, political and legal traditions - and their relations with other states and non-state cultural communities. Acknowledging the changing nature of the right to cultural heritage, the Project is designed to map how this right's evolving content affects the forms of protection, access to and governance of cultural heritage. The added value of the project consists in combining an analysis of the relevant laws, their implementation and enforcement. Firstly, it provides a theoretical re-conceptualization of the right to cultural heritage, focusing not only on positive law and jurisprudence, but also on soft-law rules, diplomacy and cultural cooperation as possible alternative devices for fostering inter-cultural dialogue and understanding. Secondly, in its practical perspective, the project analyses how the technical tools used to manage and protect cultural heritage, in particular digitization processes with the development of databases, virtual museums, etc., are currently considered and how they could be further developed to strengthen the enforcement of the right to cultural heritage throughout the EU, including its external action.

The transnational consortium of the Project was established on 15 June 2015 and comprises three research teams (Poland, the United Kingdom, Italy), associate partners and experts. The consortium is chaired by Dr. Andrzej Jakubowski, the Project Leader (PL), based in Poland, and managed by two other Principal Investigators (PIs): Kristin Hausler (United Kingdom) and Prof. Francesca Fiorentini (Italy). The University of Fine Arts in Poznan (Poland) is an institutional leader of the Project and forms a national consortium with two research centres of the Polish Academy of Sciences in Warsaw: the Institute of Law Studies and the Institute of Art. The British Institute of International and Comparative Law in London and the Department of Legal Science, Language, Interpreting and Translation Studies of the University of Trieste are the two other institutional members of the transnational research consortium.

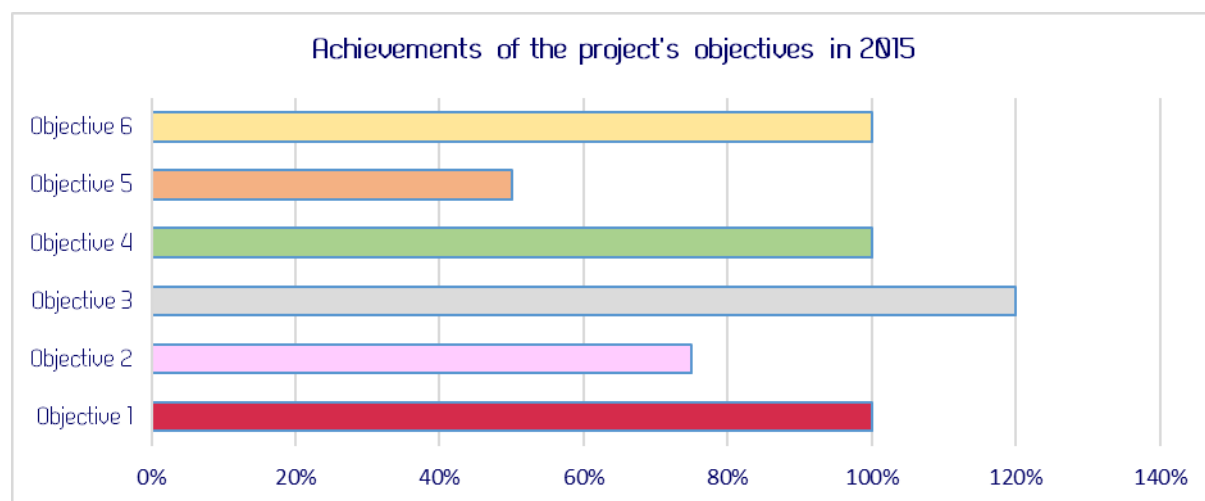
The first phase of the HEURIGHT14 overall Project aimed at underlining how the right to cultural heritage is understood and protected within the EU legal framework and in the relationships of the EU with other regional and global actors. In such a guise, the members of the transnational consortium have conducted research in five interlinked areas: i) EU constitutional law; ii) EU cultural heritage cooperation with other international (mostly regional) organizations; iii) the case law of the CJEU in relation to cultural heritage and the rights attached to it; iv) cultural heritage and EU investment agreements; v) cultural heritage within the EU's External Action. Each team has already completed draft reports on these themes. The results of the research will be published in 2016. It will be an important source of information for both epistemological communities and the wider public.

In addition, the Project's agenda also covered the protection of national cultural treasures within the EU Common Market. In particular, an international research conference, entitled 'The Return of Cultural Objects within the European Union – Implementing the Directive 2014/60/EU', is currently being organized. This event, co-organized with the Editorial Board of *Santander Art & Culture Law Review (SAACLR)*, a new law journal, will be held on 21-22 March 2016, at the Institute of Art of the Polish Academy of Sciences in Warsaw. The aim of this conference is to debate the foundations, implementing process and future functioning of the Directive 2014/60/EU of the European Parliament and of the Council of 15 May 2014 on the return of cultural objects unlawfully removed from the territory of a Member State and amending Regulation (EU) No 1024/2012. This important EU legal instrument is intended to further the approximation of laws under Article 114 TFEU and the mutual recognition of relevant national laws. In the first place, it extends the scope of the Directive to include cultural objects other than those classified or defined as national treasures, provided that they are in accord with the relevant provisions of Article 36 TFEU, as well as cultural objects unlawfully removed before 1 January 1993. Moreover, such objects do not have to belong to categories or comply with thresholds related to their age or financial value in order to qualify for return. Secondly, it increases cooperation between Member States through the use of the Internal Market Information (IMI) system specifically customized for cultural objects. Thirdly, it extends the time-limit for determining whether an object found in another Member State is a cultural one, as well as for bringing return proceedings. It also sets out criteria to determine a uniform concept of due care and attention in the acquisition of cultural objects, with the burden placed on the possessor to provide proof of due care for the purpose of compensation. The conference is designed to clarify the reform of the EU system for the return of cultural objects unlawfully removed from the territory of a Member State and analyze it within the wider

context of international trade and cultural heritage. Papers presented at the conference will be published in *SAACLR* 2016 Vol. 2, issue 2. In relation to this publication, a limited Call for Papers has also been issued. The topics presented at the conference and subsequently published in Open Access will be of interest to scholars, practitioners, non-governmental organizations, public authorities, and policy makers, dealing with the legislation applicable to the protection and management of cultural heritage.

Another key objective of the Project at its initial phase was to launch a new website, as well as the associated webpages set up by each partner to the project. This was successfully completed. In addition, the Polish research team has launched a new digital platform on historical survey photography collections documenting the non-existent cultural heritage of Europe's Eastern Borderlands. The fragile and fading nature of the cultural landscape of this region, such as the peculiar wooden synagogues and churches or the extinguishing ethnic groups, had been recognized already in the second half of the 19th century with the emergence of various cultural movements and initiatives aimed at its discovery, description, protection and photographic documentation. The outcomes of such photographic surveys dispersed amongst numerous collections worldwide constitute today the main and most capturing testimony to a bygone cultural landscape. They are still hardly known to the world of scholars and they have been almost unused in projects and initiatives addressed to a larger public. The aim of this initiative is to consider photography as a source and digitalization as a means of restitution through re-contextualisation and digital access of such cultural heritage. The project will consist of six on-line thematic exhibitions collections: the Jewish wooden synagogues, the wooden Orthodox and Greek Catholic churches, East Prussia's Protestant heritage, the WWI bell documentation and the Polishchuk region survey. They will serve as a starting point for discussion on the issues of repatriation of, recovering and giving contemporary value to such a cultural heritage. During this reporting period the first version of the synagogues' exhibition was presented on-line.

The completion of the remaining tasks and objectives of the Project for the year 2015 is concisely described in the chart. Importantly, two objectives of the Project in its initial phase (2. Data gathering, archival and library research; 5. Team capacity building) have been partially achieved, due to the fact that the Italian research team has not yet received any funding within the HERITAGE PLUS Programme. Irrespective of this unfavourable situation most of the tasks of the Project have been completed according to the original schedule and workplan.



1. Research agenda, internal cooperation and dissemination of the project's results
2. Data gathering, archival and library research
3. First drafts of the research reports
4. Project website and Digitalised Heritage platform
5. Team capacity building
6. Outreach

www.heuright.eu
<http://www.biicl.org/culturalheritage>
<http://www2.units.it/heuright>

Contact: [heuright\(at\)gmail.com](mailto:heuright(at)gmail.com)