



HEURIGHT

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 European Union (EU) and in its neighbouring countries. Acknowledging the changing and often contested nature of the right to cultural heritage (or more precisely the right to access or enjoyment of cultural heritage), it endeavours to map how this right's evolving content affects the forms of protection, access to, and governance of cultural heritage, within the institutional, operational and legal structures of the EU. In particular, it will deal with the complex organizational and regulatory frameworks concerned with cultural heritage and human rights in place in the EU Members States, as well as their interaction, cross-fertilization, and possible overlaps. Accordingly, it attempts to answer to the following research questions: 1) how is cultural heritage defined within the EU, including EU law?; 2) is there a right to cultural heritage?; 3) how does cooperation work in the field of cultural heritage within the EU (including at the institutional and policy levels)?; 4) how is cultural heritage protected from a legal perspective (including within the human rights framework)?; how is access to cultural heritage realised and enforced?; 5) what funding is available (considering a top down approach)?; 6) how is individual, community and minority participation realised with regard to access to cultural heritage (considering a bottom up approach)?; 7) how do contemporary challenges within the EU (migration 'crisis', challenges to democracy and to the EU framework, etc.) impact on cultural heritage and human rights attached to it? 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 the 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 Project HEURIGHT14 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 six interlinked areas: i) EU constitutional law; ii) EU cultural heritage cooperation with other international (mostly regional) organizations; iii) the case law of the European Court of Justice and European Court of Human Rights 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; vi) the safeguarding of intangible cultural heritage in the EU ten years after the entry into force of the 2003 UNESCO Convention. It is also important to highlight that the British Team, as a result of the EU referendum in the UK, has added the impact of Brexit on cultural heritage within the remit of its research and has prepared a paper on the topic which is currently being reviewed for publication. The results of this research will be disseminated through the mean of working papers and research articles and Project's final peer-reviewed monograph by an international publisher. The Project's Teams has already elaborated a table of content of this edited volume and contacted several external experts to prepare sections on themes selected as a result of the Project's research. Most of them have accepted to join the Project for that purpose. The research conducted by this extended team will be presented and debated at the second HEURIGHT14 conference in Warsaw, 20-21 April 2017 [see <http://heuright.eu/news/save-the-date-cultural-heritage-in-the-european-union-legal-perspectives-and-cotemporary-challenges-20-21-april-2017-warsaw-poland>]. In addition, in 2015-2016, 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' was held on 21-22 March 2016, at the Institute of Art of the Polish Academy of Sciences in Warsaw. This event, co-organized with the Editorial Board of *Santander Art & Culture Law Review* (SAACLR). The aim of this conference was to debate the foundations, implementing process and future functioning of this important EU legal instrument, which is intended to further the approximation of laws under Article



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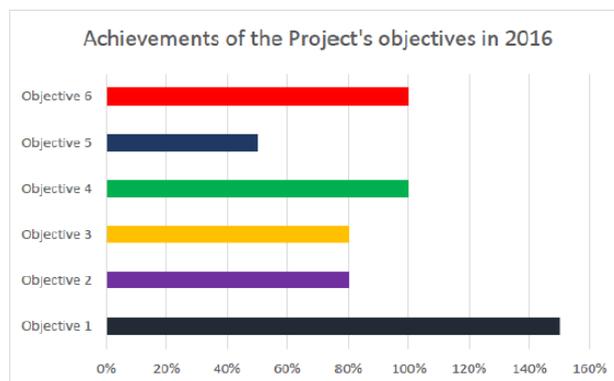
114 TFEU and the mutual recognition of relevant national laws. The event brought together over 80 participants from nine EU Member States, Switzerland, USA and Serbia, EU institutions and the Council of Europe, national public institutions, non-governmental organizations, students, academics and research. The debate was attended by 20 speakers, representing both the public administration and legal scholarship. A selection of the papers presented at the conference have been accepted for publication in the upcoming in *Santander Art & Culture Law Review* 2016 Vol. 2, issue 2. In relation to this publication, a limited Call for Papers has also been issued. The Project's PIs were responsible for the reviewing and editing process of this special issue of the journal. In addition to these activities, the works within the Project were successfully promoted and disseminated in 2016 through the means of public events, open seminars and guest lectures [see <http://heuright.eu/category/events>]. Furthermore, the Project's members participated in various international and national conferences in capacity of speakers, members of panels and committees [full list of these events is available at <http://heuright.eu/category/news>]. They also gave radio and TV interviews [see <http://heuright.eu/category/media>]. During the reporting period several research articles have been published within the framework of the Project, including papers published by important international peer-reviewed journals, such as *International Human Rights Law Review* and *International Journal of Cultural Policy* [see <http://heuright.eu/publications-2>].



Another key objective of the Project 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, ones dispersed amongst numerous collections worldwide, constitute today the main and most capturing testimony to a bygone cultural landscape. They are still barely 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 the re-contextualisation and digital access of such a cultural heritage. At the moment three galleries have been completed: 1) Jewish wooden synagogues, 2) Church bells of Eastern Europe; 3) Photographic types and the cultural identity of Eastern and Central Europe. They will serve as a starting point for discussion on the issues of repatriation, recovering and giving contemporary value to such a cultural heritage.

The Project's members were also committed to maintain and develop an external network of experts in the field of cultural heritage. In particular, the Italian Team strengthened its cooperation with UNESCO experts in Italy, Brussels and the Balkan countries, as well as with Italian, English, Serbian and Croatian scholars through an open seminar in Trieste and meetings in Italy and abroad. Similarly, the British Team successfully promoted the Project within a diverse milieu of stakeholders through its public seminars and through initial contacts with experts ahead of the workshops it will host in 2017. In addition, the Polish Team also commissioned an external expertise 'The Internal Market Information System (IMI) on the Return of Cultural Objects – Its Principles, Application, and Evaluation of Its Effectiveness for the Protection of Cultural Heritage' [see http://heuright.eu/wp-content/uploads/2016/01/olgierd_jakubowski_imi-study2016_heuright.pdf].

The completion of the remaining tasks and objectives of the Project for the years 2015-2016 is concisely described in the chart. Importantly, three objectives of the Project (2. Data gathering, archival and library research; 3. Evaluation of research results and outputs; 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 work plan.



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