

Call for Papers

Fundamental Cultural Rights in the Legal System of the European Union

Organized in the framework of the Jean Monnet Chair in EU cultural Policy and Law

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Symposium to be held in Nantes on 19 October 2018.

Deadline for submitting proposals: 15 March 2018

In the second half of the twentieth century, fundamental cultural rights focused on developing democratization and cultural democracy policies. The wording “cultural rights” is used in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which, in its Article 15, affirms the right of everyone to take part in cultural life, enjoy the benefits of scientific progress and its applications, benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production, and scientific and cultural freedom. However, the literature freely describes other “cultural rights” such as language rights, the right to education and freedom of religion.

In EU Law, cultural rights have been resoundingly acknowledged. Respect for fundamental rights is one of the EU’s founding values. According to *soft law* and the preambles of different legal instruments of EU law, cultural rights have a special place in the construction of Europe. As such, from its preamble, the Charter of Fundamental Rights of the European Union mentions respect for the cultures and traditions of the peoples of Europe, as well as the national identity of the Member States. The body of the text includes classical rights with the same cultural component as freedom of expression and information (art.11) and also emergent rights such as freedom of the arts and sciences (art. 13) or respect for cultural diversity (art. 22). The benefit of the right to take part in cultural life is only recognized for the elderly (art. 25). Fundamental cultural rights are not exclusive to the Charter; they also appear in other provisions of primary and secondary law.

This recognition of cultural rights by the EU legal system raises many questions. First, there are the issues of identifying these rights, of their legislative effects and also, more specifically, of their adaptation to digital technology. There is also the question of the general philosophy that underlies these cultural rights: are communitarian theories being put into practice with lifestyle and cultural identity rights, or is a broader approach being adopted that defends diversity and offers everybody a wide range of possible options for expression and participation? The consequences of this recognition vis-à-vis Member States and communities also raise questions. What is the impact of EU fundamental cultural rights on public cultural policies and minority policies? Can Member States enjoy fundamental cultural rights with, for example, the right to respect their cultural identity and if so, how is such a right organized?

This one-day symposium aims to bring together young and experienced researchers to reflect on the two main pillars of fundamental cultural rights: protection of collective identities (key area 1) and protection of the cultural rights of the individual (key area 2). Each of these key areas comprises two sub-themes:

Key Area 1: Fundamental cultural rights and collective identities

The first sub-theme focuses on how the EU defends collective identities and what this tells us about the role of the Member States, minorities or regions in the European project. The second deals with the recognition of a right to the protection of common heritage, whether this be European heritage or cultural diversity in Europe and worldwide.

Key Area 1.1: Protection of cultural, national, regional and minority identities

Communications can address, for example, the defence of Member States' national cultural identities and the idea of fundamental rights applicable to these States, the protection of minority cultures – especially in a context where the Member States, such as France and Spain, are traditionally opposed to giving special status to minorities –, or the special link between the protection of collective identities and internal market forces.

Key Area 1.2: Protection of common heritage and cultural diversity

Communications can address the EU's intention to protect, at the European and international level, European heritage or common cultural heritage of mankind, and the links with fundamental rights. Reflections on the notion of “the common good” come under this key area.

Key Area 2: Fundamental cultural rights of the individual

This key area will examine creation, diffusion and access rights to cultural expressions, heritage and to the knowledge enjoyed by individuals specifically in the European legal system, in a traditional context, but also, given the changes that this entails, in a digital context.

Key Area 2.1: Access, participation, creation and diffusion rights

Communications should identify the cultural rights of the individual recognized by the EU and consider the impact of such a specific environment (internal market, limited positive cultural policies, public space in formation) on these rights. Contributions can also, from a comparative perspective, question the legal catalogue and regime of these rights – notably in terms of positive obligations – in relation to those that exist in other international or national legal systems. The current call for projects also invites researchers to question the relationship between the national protection provisions of cultural policies represented by the positive

obligations derived from cultural rights, and internal market legislation. Proposals can also focus on a specific law rather than a cross analysis.

Key Area 2.2: Impact of digital technology

Proposals should focus on the consequences that digital technology has on fundamental cultural rights. It may be the breakdown or strengthening of the effectiveness of certain rights, needs for public policies to adapt or adaptations that have already taken place. Contributions can also focus on the horizontalization of cultural rights concerning the private operators that make up the major stakeholders in the digital world. They can also focus on the link between public policies and fundamental rights in an environment such as this, and on the split between cultural policies of the material and digital worlds. The issue of the emergence of new rights is also part of the scope.

Proposals must be no longer than 3,000 characters. Please submit your proposal by 15 March 2018 to: jean-christophe.barbato@univ-nantes.fr. Authors will be informed of the decision about their proposal on 15 May 2018, after it has been examined by the Scientific Committee.

The selected communications will be published.