

mgr Marta Statkiewicz

Department of International and European Law

Faculty of Law, Administration and Economics

University of Wrocław

Abstract of the PhD Dissertation

Culture as an area of the European Union's activity

written under the supervision of dr hab. Bartłomiej Krzan, prof. UWr

The founding treaties of the European Communities, which focused on economic goals, treated culture as a non-economic area outside their competence. This does not mean that this matter was beyond their interest. The problems related to the cultural values of some goods and services have arisen in connection with the exercise of economic competencies by the Communities. Only when the Maastricht Treaty in 1993 came into force was the European Union allowed to take sanctioned actions in the field of culture. In accordance with the provisions of the Treaties, this area is regulated in Article 167 of the Treaty on the Functioning of the European Union (TFEU) and falls within the scope of supporting, supplementing and coordinating competencies of the activities of the Member States pursuant to Article 6 of the Treaty on European Union (TEU).

The activity of the European Union undertaken on the basis of Article 167 TFEU is to contribute to the flowering of the cultures of the Member States, with particular respect for their national and regional diversity, and to emphasize the importance of the common cultural heritage. Over the years, EU institutions have developed their own nomenclature in this area. The most capacious concept seems to be the term 'European/common cultural area', which has direct connotations with the European Economic Area - a form of deep economic integration. Compared to the EU's economic policies, the EU's cultural policy is subject to certain limitations in the form of e.g. the prohibition of harmonization of Member States' laws, which is, after all, a natural instrument of the former. However, the cultural aspects and the economic value of some goods and services are closely related.

The aim of the dissertation is to decode the normative essence of culture in EU law, as well as to determine its correlation with EU policies. For this reason, two selected EU economic policies are analyzed: the internal market and competition rules, as well as the EU cultural policy implemented on the basis of Article 167 TFEU. This goal is related to the main research

problem concerning the determination of the status of culture in the above-mentioned policies and the indication of the meaning of the European cultural area. In this context, it is also crucial to examine whether the protection of manifestations of cultural values should be considered as an important structural element of the European Union, which is also a binder of the analyzed policies, taking into account the differences in the legal instruments used by them.

The dissertation consists of four chapters. It also includes an introduction and conclusion.

The subject and research area of the dissertation are defined in the introduction. It also indicates the main research thesis and auxiliary questions, as well as the types of methodologies and sources used to verify them.

Chapter I attempts to define the concept of culture, as well as to determine its place in the law of the European Union. It contains the analysis of the development of EU's interest in this field, also in terms of its interaction with other EU policies. The cross-sectoral nature of culture means that it is subject to various standards and is regulated by various legal instruments. For this reason, the competences of the European Union to legislate in this area, as well as the institutional system of the Union, are also discussed, presenting the most important institutions, bodies and agencies that play an important role in defining the framework for the functioning of cultural activities in the EU.

Chapter II focuses on a comprehensive presentation of the rules of operation of the cultural sector within the internal market. It discusses the systemic conditions of performing cultural activity, including the problem of the collision of cultural values with freedoms. On this basis, a detailed analysis of EU regulations covering the movement of cultural goods as well as cultural services is carried out. A section of this chapter is devoted to a comprehensive discussion of the principles of functioning of audiovisual media services as specific services in the field of the cultural sector.

Chapter III presents the framework for the functioning of cultural goods and services in the light of EU competition rules. Legal regulations and relevant case law concerning the prohibition of concluding agreements restricting competition, the prohibition of abuse of a dominant position, control of concentrations and state monopolies were analyzed in terms of their application to enterprises from the cultural sector. This issue is also complemented by a discussion of EU regulations and current practice in the field of admissible state aid for various manifestations of cultural activity.

Chapter IV analyzes the mechanisms of implementing the EU cultural policy, the legal basis of which is found in Art. 167 TFEU. They include both cultural programs developed since

the late 1980s and other activities that can be described as soft power instruments. A section of this chapter discusses the cooperation of the European Union with selected third countries, as well as international organizations operating in the field of culture. The issue is illustrated further in the analysis of the activity of the Member States and a discussion of their role in including the matter of culture within the supranational framework of cooperation.

The presented structure of the dissertation allowed for the formulation of general and detailed comments relating to specific research problems. In the conclusion, the previously formulated research thesis was also verified.

Marika Stettin