

# Characterizing Access to Culture for People with Disabilities in EU Cultural Policy: European Identity, Market integration and Social Inclusion

di Neža Šubic\* and Delia Ferri\*\*

**Abstract:** This article discusses the emergence of access to culture for people with disabilities, among other underrepresented audiences, as an integral part of the EU ‘explicit’ cultural policy, and identifies and analyses its underlying justifications. It posits that this emerging disability dimension is not only linked to the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD), but can be traced back to the three main overarching functions of EU cultural policy, i.e. European identity building, market integration and social inclusion.

**Keywords:** Access to Culture for People with Disabilities - EU Cultural Policy - European Identity - Market Integration - Social Inclusion

## 1. Introduction

Culture is a ‘complex, fluid, omnipresent and extremely polymorphic phenomenon at the European level’.<sup>1</sup> Alongside an implicit cultural dimension of internal market integration,<sup>2</sup> scholars have recognised, since

---

<sup>1</sup>\* Post-doctoral researcher at the School of Law and Criminology of Maynooth University (Ireland).

<sup>\*\*</sup> Professor of Law at the School of Law and Criminology of Maynooth University (Ireland) – Principal Investigator of the DANCING Project ([delia.ferri@mu.ie](mailto:delia.ferri@mu.ie)).

This research article has been written within the remit of the project ‘Protecting the Right to Culture of Persons with Disabilities and Enhancing Cultural Diversity through European Union Law: Exploring New Paths - DANCING’ (<https://ercdancing.maynoothuniversity.ie/>). This project has received funding from the European Research Council (ERC) under the European Union’s Horizon 2020 research and innovation programme (Grant Agreement No 864182). The Authors are grateful to the anonymous reviewers for their insightful comments and positive criticism. The usual disclaimer applies.

C. Romainville, *Introduction. The Multidimensionality of Cultural Policies Tested by European Law*, in C. Romainville (ed.), *European Law and Cultural Policies. Droit européen et politiques culturelles*, Bern, 2015, 19-36, at 21.

<sup>2</sup> M. Niedobitek, *The Cultural Dimension in EC Law*, London-Boston, 1997; E. Psychogiopoulou, *The Integration of Cultural Considerations in EU Law and Policies*, Leiden, 2008.

1992, with the introduction, by the Maastricht Treaty, of a provision on culture - the then Article 128 EC, now Article 167 of the Treaty on the Functioning of the European Union (TFEU) - the existence of an 'explicit' cultural policy.<sup>3</sup> Over the last three decades, the role of the EU in the field of culture has become increasingly significant,<sup>4</sup> and EU 'explicit' cultural policy has evolved to pursue different overarching functions. Being originally aimed at enhancing popular support for the European integration process and shaping a European identity,<sup>5</sup> it has then turned into a tool to enhance economic competitiveness and cohesion, and support inclusive growth.<sup>6</sup>

At the heart of current EU cultural policy lies the broadening of access to culture as the opportunity for everyone to benefit from cultural offer,<sup>7</sup> with a view of increasing the reach of the cultural and creative sector, and enhancing social cohesion. In this context, access to culture for people with

---

<sup>3</sup> J. Ahearne, *Cultural policy explicit and implicit: a distinction and some uses*, in 15 *International Journal of Cultural Policy* 141, 2009.

<sup>4</sup> The literature on the topic is vast. Among others see R. Craufurd Smith, *Culture and European Union Law*, Oxford, 2004; R. Craufurd Smith, *The evolution of cultural policy in the European Union*, in P. Craig and G. de Búrca (eds.), *The Evolution of EU Law*, Oxford, 2011, 869-895; R. Craufurd Smith, *The Cultural Logic of Economic Integration*, in E. Psychogiopoulou, *Cultural Governance and the European Union. Protecting and Promoting Cultural Diversity in Europe*, London, 2015, 7-24; R. Craufurd Smith, *Article 167 and the European Union's competence in the cultural field: At the service of a European cultural identity or to promote national cultural policies?* in C. Romainville, *European Law and Cultural Policies*, cit.; E. Psychogiopoulou, *The Integration of Cultural Considerations in EU Law and Policies*, cit.; E. Psychogiopoulou, *Introduction*, in E. Psychogiopoulou, *Cultural Governance and the European Union*, cit., 1-4; D. Ferri, *La costituzione culturale dell'Unione Europea*, Padova, 2008; C. Gordon, *Culture and the European Union in a global context*, in 37 *The Journal of Arts Management, Law, and Society* 11, 2007; C. Gordon, *Great expectations - The European Union and cultural policy: fact or fiction?*, in 16 *International Journal of Cultural Policy* 101, 2010.

<sup>5</sup> C. Shore, *Building Europe. The Cultural Politics of European Integration*, London-New York, 2010; M. Sassatelli, *The Shaping of a European Cultural Identity through EU Cultural Policy*, in 5 *European Journal of Social Theory*, 435, 2002; M. Sassatelli, *The arts, the state, and the EU: Cultural policy in the making of Europe*, in 51 *Social Analysis* 28, 2007; M. Sassatelli, *Becoming Europeans. Cultural Identity and Cultural Policies*, London, 2009; K. Mattocks, *Uniting the Citizens of Europe? Exploring the European Union's Cultural Policy Agenda*, in D. O'Brien, T. Miller and V. Durrer (eds.) *Routledge Companion to Global Cultural Policy*, London, 2017.

<sup>6</sup> J. Delgado Moreira, *Cohesion and Citizenship in EU Cultural Policy*, in 38 *Journal of Common Market Studies* 449, 2000; R. Craufurd Smith, *Article 167 and the European Union's competence in the cultural field*, cit.; A. Littoz-Monnet, *Agenda-Setting Dynamics at the EU Level: The Case of the EU Cultural Policy*, in 34 *Journal of European Integration* 505, 2012; A. Littoz-Monnet, *Encapsulating EU Cultural Policy into the EU's Growth and Competitiveness Agenda: Explaining the Success of a Paradigmatic Shift in Brussels* in E. Psychogiopoulou (ed.), *Cultural Governance and the European Union*, cit., 25-36.

<sup>7</sup> European Parliamentary Research Service (author: Magdalena Pasikowska-Schnass), *Access to Culture in the European Union*, 2017, available at [www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS\\_IDA\(2017\)608631](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_IDA(2017)608631).

disabilities,<sup>8</sup> among other underrepresented audiences, has gained traction and emerged as a key issue after the conclusion by the EU of the UN Convention on the Rights of Persons with Disabilities (CRPD).<sup>9</sup> A report from the European Parliamentary Research Service, published in 2019, recalls the importance of allowing people with disabilities to participate in culture and to be able to enjoy cultural goods on equal grounds as other citizens and the role the EU has played and can play in that regard.<sup>10</sup>

Against this background, this article identifies and analyses the underlying justifications of a growing focus on access to culture for persons with disabilities, and aims to trace them back to the overarching functions of EU cultural policy. The article acknowledges that attention paid to cultural participation of people with disabilities as a particularly marginalised group facing structural inequalities has been propelled by CRPD, and aligns with the goals of current EU Strategy for the Rights of Persons with Disabilities 2021-2030.<sup>11</sup> However, it posits that the emerging disability dimension of EU cultural policy is not merely linked to the implementation of the CRPD. Rather, this article argues that access to culture for people with disabilities can be characterised by a European identity-building and an inclusive growth rationales. By offering a teleological reading of access to culture for people with disabilities within the EU cultural agenda, this article also revisits the debate on the interaction between the recognition of a European identity, market integration and social aims. While scholarship and grey literature on EU cultural policy and access to culture as such is copious,<sup>12</sup> and cultural rights of persons with

<sup>8</sup> In this article, we deliberately use person-first language in line with the UN Convention on the Rights of Persons with Disabilities (CRPD) and with a social-contextual understanding of disability (A. Broderick and D. Ferri, *International and European Disability Law and Policy. Text, Cases and Materials*, Cambridge, 2019, 5). Only occasionally and interchangeably we will use the term ‘disabled people’.

<sup>9</sup> Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities. *OJ L 23, 27.1.2010, 35-36*.

<sup>10</sup> European Parliamentary Research Service, *Access to Culture in the European Union*, cit.; European Parliamentary Research Service (author: Magdalena Pasikowska-Schnass), *Access to Culture for people with disabilities*, 2019, available at [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS\\_BR\\_I\(2019\)644200](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BR_I(2019)644200).

<sup>11</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030”, Brussels, 3.3. 2021, COM(2021) 101 final.

<sup>12</sup> A. Laaksonen, *Making culture accessible. Access, participation and cultural provision in the context of cultural rights in Europe*, Strasbourg, 2010; Access to Culture Platform, *Access to Culture: A fundamental right of all citizens. Policy Guidelines*, 2010, available at <http://www.interarts.net/descargas/interarts604.pdf>; C. Romainville, *The Right to Access Culture under EU Law*, in E. Psychogiopoulou (ed.), *Cultural Governance and the European Union*, cit., 165-176; D. Frau-Meigs, *Assessing the impact of digitisation on access to culture and creation, aggregation and curation of content*, 2013, available at <https://rm.coe.int/16806a2de5>; J. Primorac, N. Obuljen Koržinek and A. Uzelac, *Access*

disabilities are recognised as an emerging area of academic research,<sup>13</sup> as yet, little attention has been paid to persons with disabilities as a distinct cohort of people facing barriers in cultural participation. Scholarship on EU disability law and policy has either looked at the implementation of the CRPD in a general fashion,<sup>14</sup> at disability as one aspect of the broader EU agenda on equality or social cohesion,<sup>15</sup> or has focused on non-discrimination<sup>16</sup> or accessibility,<sup>17</sup> areas where the EU has shared competence to act, while cultural participation of persons with disabilities has so far been largely overlooked.

Further to these introductory remarks, this article first recalls the development of EU cultural policy and discusses its overlapping functions (section 2). It then moves on to examine access to culture as a key tenet of current EU cultural policy (section 3). The core of the article explores the distinct features of access to culture for persons with disabilities, and identifies and analyses its underlying justifications (section 4). Finally the article connects access to culture of persons with disabilities to the inherent functions of EU cultural policy (section 5).

## 2. EU Cultural Policy and its Evolving Functions

---

to culture in Croatian cultural policy: moving towards explicit policies, in 23 *International Journal of Cultural Policy* 562, 2017; EDUCULT, *Access to Culture – Policy Analysis. Final Report*, 2013, available at [https://educult.at/wp-content/uploads/2013/04/Final\\_Report\\_Print.pdf](https://educult.at/wp-content/uploads/2013/04/Final_Report_Print.pdf).

<sup>13</sup> P.Y.S Chow, *Cultural Rights*. In C. Binder, M. Nowak, J. A. Hofbauer and P. Janig (eds.), *Elgar Encyclopedia of Human Rights*, Cheltenham, 2022, *ad vocem*.

<sup>14</sup> L. Waddington, *The European Union*, in L. Waddington and A. Lawson (eds.), *The UN Convention on the Rights of Persons with Disabilities in Practice: A Comparative Analysis of the Role of Courts*, Oxford, 2018, 131-152.

<sup>15</sup> Among others H. Meenan (ed.), *Equality Law in an Enlarged European Union. Understanding the Article 13 Directives*, Cambridge, 2007; A. Lawson and D. Schieck (eds.), *European Union Non-Discrimination Law and Intersectionality: Investigating the Triangle of Racial, Gender and Disability Discrimination*, Aldershot, 2011.

<sup>16</sup> See *inter alia* M. Bell and L. Waddington, *The Employment Equality Directive and Supporting People with Psychosocial Disabilities in the Workplace: A Legal Analysis of the Situation in the EU Member States*, Brussels, 2016; L. Waddington and A. Lawson, *The Unfinished Story of EU Disability Non-Discrimination Law*, in A. Bogg, C. Costello and A.C.L. Davies (eds.), *Research Handbook on EU Labour Law*, Cheltenham, 2016, 474-494; L. Waddington, *Future Prospects for EU Equality Law. Lessons to Be Learnt from the Proposed Equal Treatment Directive*, in 36 *European Law Review* 163, 2011; L. Waddington, *Equal to the Task? Re-Examining EU Equality Law in Light of the United Nations Convention on the Rights of Persons with Disabilities*, in L. Waddington, G. Quinn and E. Flynn (eds.), 4 *European Yearbook of Disability Law*, 169, 2013; L. Waddington, *The Influence of the UN Convention on the Rights of Persons with Disabilities on EU Anti-Discrimination Law*, in U. Belavusau and K. Henrard (eds.), *About EU Anti-Discrimination Law Beyond Gender*, Oxford, 2018.

<sup>17</sup> D. Ferri, *The European Accessibility Act and the shadow of the “social market economy”*, in 45 *European Law Review* 660, 2020.

The Treaty on the European Economic Community, which did not confer upon the former EEC any specific competence in the field of culture, comprised only liminal references to culture.<sup>18</sup> The most important of those was included in Article 36 EC, which allowed Member States to restrict free movement of goods in order to protect their ‘national treasures possessing artistic, historic or archaeological value’. However, the scant references to culture in the Treaty did not hamper the development of a cultural policy discourse,<sup>19</sup> and did not prevent the *longa manus* of market integration from progressively attracting cultural matters under the scope of free movement and competition law.<sup>20</sup> Tretter recalls that ‘[b]y the late 1970s, a growing portion of the economy was the “cultural sector” and, as a response to this growth, ‘the Community’s role in cultural affairs grew’.<sup>21</sup>

A mounting awareness that culture was the main means to build a European identity, but also that cultural industry was an important pan-European asset, prompted the inclusion of Article 128 EC in the Maastricht Treaty. This provision provided that the former Community ‘shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore’ and allowed the Community to act in the field of culture with the aim of ‘encouraging cooperation between Member States and, if necessary, supporting and supplementing their action’. As Psychogiopoulou highlights, given the perception that ‘the market-orientated and politically-driven culture-related Community action’ could ‘erode domestic cultural powers’, Article 128 EC encapsulated the respect for cultural diversity and for domestic cultural policies as key tenets.<sup>22</sup> The latter remained the cornerstone of Article 167 TFEU, which confers onto the EU a merely supporting competence in the field of culture, excluding any harmonisation of the laws and regulations of the Member States.

Since 1992, an EU explicit cultural policy has taken shape, revolving around an array of cultural programmes - beginning with Kaleidoscope,<sup>23</sup>

<sup>18</sup> M. Cornu and I. de Lamberterie, *Les politiques culturelles dans l’Europe communautaire: l’évolution du cadre juridique*, in 27 *Études internationales* 743, 1996.

<sup>19</sup> C. Shore, *Inventing the “People’s Europe”: Critical Approaches to European Community “Cultural Policy”*, in 28 *Man* 779, 1993.

<sup>20</sup> N. Obuljen, *Why we need European cultural policies. The impact of EU enlargement on cultural policies in transition countries*, Amsterdam, 2005; E. Psychogiopoulou, *The Integration of Cultural Considerations in EU Law and Policies*, cit.

<sup>21</sup> E. Tretter, *The “Value” of Europe: The Political Economy of Culture in the European Community*, in 16 *Geopolitics*, 926, 2011, 930.

<sup>22</sup> E. Psychogiopoulou, *The Cultural Open Method of Coordination: A New Boost for Cultural Policies in Europe*, in 24 *Maastricht Journal of European and Comparative Law*, 264, 2017, 270.

<sup>23</sup> Decision No 719/96/EC of the European Parliament and of the Council of 29 March 1996 establishing a programme to support artistic and cultural activities having a European dimension (Kaleidoscope). *OJ L* 99, 20.4.1996, 20-26.

Ariane,<sup>24</sup> and Raphael,<sup>25</sup> then replaced by Culture 2000,<sup>26</sup> and Culture 2007,<sup>27</sup> before developing into Creative Europe,<sup>28</sup> which is the current flagship programme - complemented by other initiatives such as the European Capitals of Culture.<sup>29</sup> The EU has also adopted several soft law and a series of initiatives mostly aimed to foster collaboration among the Member States.

A major stepping-stone in the development of EU cultural policy has been the 'European Agenda for Culture'.<sup>30</sup> Based on the view of culture as 'a set of distinctive spiritual and material traits that characterize a society and social group', which 'embraces literature and arts as well as ways of life, value systems, traditions and beliefs',<sup>31</sup> and the awareness that 'the EU has a unique role to play in promoting its cultural richness and diversity',<sup>32</sup> the 2007 Agenda explored 'the relationship between culture and Europe in a globalizing world'.<sup>33</sup> As Craufurd Smith posits, the 2007 Agenda was important because it identified three key overarching objectives of EU cultural policy: promotion of cultural diversity and intercultural dialogue; promotion of culture as a catalyst for creativity in the framework of the Lisbon Strategy for growth and jobs; and promotion of culture as a vital element in the Union's international relations.<sup>34</sup> Building on the 2007 Agenda, in 2018, the Commission adopted 'A New European Agenda for Culture'.<sup>35</sup> This is a response to 'the European Leaders' invitation to do

---

<sup>24</sup> Decision No 2085/97/EC of the European Parliament and of the Council of 6 October 1997 establishing a programme of support, including translation, in the field of books and reading (Ariane). *OJ L* 291, 24.10.1997, 26-33.

<sup>25</sup> Decision No 2228/97/EC of the European Parliament and of the Council of 13 October 1997 establishing a Community action programme in the field of cultural heritage (the Raphael programme). *OJ L* 305, 8.11.1997, 31-38.

<sup>26</sup> Decision No 508/2000/EC of the European Parliament and of the Council of 14 February 2000 establishing the Culture 2000 programme. *OJ L* 63, 10.3.2000, 1-9.

<sup>27</sup> Decision No 1855/2006/EC of the European Parliament and of the Council of 12 December 2006 establishing the Culture Programme (2007 to 2013). *OJ L* 372, 27.12.2006, 1-11.

<sup>28</sup> Regulation (EU) No 1295/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC. *OJ L* 347, 20.12.2013, 221-237; Regulation (EU) 2021/818 of the European Parliament and of the Council of 20 May 2021 establishing the Creative Europe Programme (2021 to 2027) and repealing Regulation (EU) No 1295/2013. *OJ L* 189, 28.5.2021, 34-60.

<sup>29</sup> B. Garcia and T. Cox, *European Capitals of Culture: Success Strategies and Long-term Effects. Study*, Brussels, 2013.

<sup>30</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "European agenda for culture in a globalizing world", Brussels, 10.5.2007, COM(2007) 242 final.

<sup>31</sup> *Ibid*, 2.

<sup>32</sup> *Ibid*, 3.

<sup>33</sup> *Ibid*, 3.

<sup>34</sup> R. Craufurd Smith, *The evolution of cultural policy in the European Union*, cit., 892.

<sup>35</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee

more, through culture and education, to build cohesive societies and offer a vision of an attractive [EU],<sup>36</sup> and aims to leverage the economic potential of the cultural and creative sectors. Being designed around three strategic goals - harnessing the power of culture and cultural diversity for social cohesion and well-being; supporting culture-based creativity in education and innovation, and for jobs and growth; and strengthening international cultural relations – it ostensibly brings together market integration goals with social goals. It recognises that the cultural and creative sectors can ‘improve lives, transform communities, generate jobs and growth, and create spill over effects in other economic sectors’.<sup>37</sup> It further envisions cross-cutting actions in the areas of digitalization of cultural goods and services (Digital4Culture).

These Commission’s Agendas have been complemented by Work Plans of the Council, in which discrete timeframes and priority areas for action were identified.<sup>38</sup> These Work Plans also set up Working Groups of EU Member States’ Experts, relying on the open method of coordination (OMC), a tool that was first proposed for the cultural field in the 2007 Agenda.<sup>39</sup> The most recent Council Work Plan for Culture 2019-2022, which aligns with the overall Von Der Leyen Commission goals, sets out five priorities: embedding sustainability goals in cultural heritage; cultural participation as a tool to improve health, well-being and social cohesion; creating an ecosystem supporting artists, cultural and creative professionals; enhancing gender equality in the cultural and creative labour market; and fostering international cultural relations.<sup>40</sup>

The priorities laid out in the Council Work Plan for Culture 2019-2022 inform, at least to a certain extent, the current cultural programme Creative Europe, which aims to safeguard and promote European cultural and linguistic diversity and heritage, and support Cultural and Creative Industries (CCIs).<sup>41</sup> This programme makes a strong pivot on competitiveness, especially in relation to the audiovisual sector.

---

of the Regions, “A New European Agenda for Culture”, Brussels, 22.5.2018, COM(2018) 267 final.

<sup>36</sup> Ibid, 1.

<sup>37</sup> Ibid, 1.

<sup>38</sup> Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the Work Plan for Culture 2008-2010. *OJ C 143/9*, 10.6.2008; Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the Work Plan for Culture 2011-2014. *OJ C 325/1*, 21.12.2010; Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on a Work Plan for Culture (2015-2018). *OJ C 463/4*, 23.12.2014; Council Conclusions on the Work Plan for Culture 2019-2022. *OJ C 460/12*, 21.12.2018.

<sup>39</sup> E. Psychogiopoulou, *The Cultural Open Method of Coordination*, cit.

<sup>40</sup> Council, “Work Plan for Culture 2019-2022”, cit.

<sup>41</sup> Regulation (EU) 2021/818 establishing the Creative Europe Programme (2021 to 2027), cit.

Scholars examining the ‘discursive journey’ of EU cultural policy<sup>42</sup> consistently observe that this policy area was initially linked to the idea of the EU as a ‘humanistic enterprise’ based on common values,<sup>43</sup> and to the construction of a distinctive European identity.<sup>44</sup> This is well exemplified by the programme Culture 2000 which states that ‘[c]ulture has an important intrinsic value to all people in Europe, is an essential element of European integration’.<sup>45</sup> According to Lähdesmäki, the main function of EU cultural policy was that of building a European identity with a view of creating a sense of belonging.<sup>46</sup> She argues that EU cultural policy produces ‘an imagined cultural community’ of Europe which is ‘united in diversity’.<sup>47</sup> This Author also notes that

[t]hrough various memory and heritage initiatives, construction projects, and branding campaigns, the EU has sought to influence Europeans’ views, notions, and feelings about the EU by framing the ideas of Europe and the EU with culture and concretising these ideas by attaching them to physical environments and locations.<sup>48</sup>

In a similar vein, Sassatelli conceives of EU cultural policy as mainly functional to the shaping of the identity of the Union, with a view to enhancing its legitimization.<sup>49</sup> Patel highlights how the EU cultural initiatives such as the European Capital of Culture have facilitated ‘debates and practices around Europeanness’, without defining this term.<sup>50</sup> With the advancement of EU cultural policy, the European identity-building function

---

<sup>42</sup> B. Valtysson, *Camouflaged Culture: The ‘Discursive Journey’ of the EU’s Cultural Programmes*, in 24 *Croatian International Relations Review* 14, 2018.

<sup>43</sup> C. Shore, *Inventing the “People’s Europe”*, cit., 785.

<sup>44</sup> J. Delgado Moreira, *Cohesion and Citizenship in EU Cultural Policy*, cit.; C. Barnett, *Culture, policy and subsidiarity in the European Union: from symbolic identity to the governmentalisation of culture*, in 20 *Political geography* 405, 2001; B. Karaca, *The art of integration: probing the role of cultural policy in the making of Europe*, 16 *International Journal of Cultural Policy* 121, 2010; E. Tretter, *The “Value” of Europe*, cit.; J. Meijen, *Exporting European values? Political myths of liberal democracy and cultural diversity in creative Europe’s literary translation projects*, in 26 *International Journal of Cultural Policy* 942, 2020.

<sup>45</sup> Decision No 508/2000/EC of the European Parliament and of the Council of 14 February 2000 establishing the Culture 2000 programme OJ L 63, 10.3.2000, p. 1–9

<sup>46</sup> T. Lähdesmäki, *Rhetoric of Unity and Cultural Diversity in the Making of European Cultural Identity*, in 18 *International Journal of Cultural Policy* 59, 2012.

<sup>47</sup> *Ibid.*, 59.

<sup>48</sup> T. Lähdesmäki, *Politics of belonging in Brussels’ European quarter*, in 26 *International Journal of Heritage Studies* 979, 2020, 979.

<sup>49</sup> M. Sassatelli, *The Shaping of a European Cultural Identity through EU Cultural Policy*, cit.

<sup>50</sup> K. K. Patel, *Integration by Interpellation: The European Capitals of Culture and the Role of Experts in EU Cultural Policies*, in 51 *Journal of Common Market Studies* 538, 2013, 539.



has become enmeshed to the idea of the protection and promotion of cultural diversity, intercultural dialogue, and human rights.<sup>51</sup>

The strengthening of the European identity has nonetheless progressively become a rather secondary function of EU cultural policy, with economic concerns and market considerations developing into its key driver. In fact, the 2007 Agenda, albeit still recalling the idea of European identity,<sup>52</sup> revolved around culture as a pivot for economic growth.<sup>53</sup> An economic discourse has then crystallised in the most recent 2018 Agenda. Economic concerns have increasingly come to the forefront of EU cultural programmes.<sup>54</sup> Castiñeira remarks that the Creative Europe programme, unlike previous programmes, 'is fundamentally economic in nature'.<sup>55</sup> Whilst it is well-known that, since its inception, EU cultural policy has been pragmatically anchored to the construction of the Internal market, Craufurd Smith notes a dramatic

shift from the early programmes, which combined overtly cultural (fostering cross-cultural understanding, a common identity and European values) with industrial concerns (professionalisation, capacity-building and development of the sector), to the most recent Creative Europe programme in which economic and technological development concerns now dominate.<sup>56</sup>

The economic turn of EU cultural policy is nonetheless accompanied by a growing social dimension, showing that the constitutional ideal of the 'social market economy',<sup>57</sup> while still blurred in itself, has trickled down into

---

<sup>51</sup> J. Meijen, *Exporting European values?*, cit.

<sup>52</sup> The incipit of the 2007 Agenda (*supra* n. 30) refers to Dario Fo's words: "As Dario Fo rightly pointed out, "even before Europe was united in an economic level or was conceived at the level of economic interests and trade, it was culture that united all the countries of Europe. The arts, literature, music are the connecting link of Europe". Indeed, Europeans share a common cultural heritage, which is the result of centuries of creativity, migratory flows and exchanges. They also enjoy and value a rich cultural and linguistic diversity, which is inspiring and has inspired many countries across the world".

<sup>53</sup> A. Littoz-Monnet, *Agenda-Setting Dynamics at the EU Level: The Case of the EU Cultural Policy*, cit.; A. Littoz-Monnet, *Encapsulating EU Cultural Policy into the EU's Growth and Competitiveness Agenda*, cit.

<sup>54</sup> J. Primorac et al., *Access to culture in Croatian cultural policy*, cit.; J. Primorac, N. Obuljen Koržinek and A. Uzelac, *The Place and Role of Culture in the EU agenda. Policy Implications of the Culture Sub-programme of the Creative Europe Programme*, in 23 *Medijska istraživanja* 5, 2017; R. Craufurd Smith, *The Cultural Logic of Economic Integration*, cit.; A. Littoz-Monnet, *Encapsulating EU Cultural Policy into the EU's Growth and Competitiveness Agenda*, cit.

<sup>55</sup> M.L.S. Castiñeira, *Bridging the competing views of European cultural integration: the transformative view of culture as a means to promote growth, employment and social cohesion*, in 12 *Challenges of the Knowledge Society* 1142, 2018, 1147.

<sup>56</sup> R. Craufurd Smith, *The Cultural Logic of Economic Integration*, cit., 17.

<sup>57</sup> R. Claasen, A. Gerbrandy, S., Princen and M. Segers M. (eds.), *Special Issue: Rethinking the European Social Market Economy*, 57 *Journal of Common Market Studies* 1, 2019.

EU cultural policy. It is worth recalling that the Lisbon Treaty included among the core objectives of the EU the creation of 'highly competitive social market economy' in Article 3(3) TEU, which tallies with ideals of sustainability, social progress and social justice. Notably Article 3(3) TEU is complemented by other cross-cutting social clauses, such as Article 9 and 10 TFEU which further embeds market-related values within social values.<sup>58</sup> In that regard, EU cultural policy is constituted as a tool to support the creation of a more inclusive European society, preventing and reducing poverty and social exclusion.<sup>59</sup> The 2018 Agenda took a step forward, setting out the social dimension as one of its three purposes, and explicitly tied economic aims with social cohesion. Recent soft law documents also confirm the interlinked 'social and economic impact' of culture.<sup>60</sup> In this regard, Verboord and Kristensen discuss of '(socio-) economic spillover' effects of culture.<sup>61</sup>

### 3. Access to Culture as a Key Tenet of EU Cultural Policy

According to Primorac *et al.*, access to culture has featured the EU cultural policy agenda for long 'through different documents, policy recommendations and actions'.<sup>62</sup> While a certain ambiguity surrounds the notion of access to culture, and a variety of definitions have been proffered, it is generally understood as 'the concrete opportunities available to everyone, in particular through the creation of the appropriate socio-economic conditions, for freely obtaining information, training, knowledge and understanding, and for enjoying cultural values and cultural property'.<sup>63</sup> In other words, access to culture 'corresponds to measures to help people understand what is on offer culturally and benefit from it',<sup>64</sup> and it is essential to democratic societies.<sup>65</sup> It entails reducing relevant obstacles to access, as well as fostering opportunities to participate.<sup>66</sup>

The Council of the European Union notably issued a Resolution on 'Access to culture for all' in 1996,<sup>67</sup> but it is the 2007 Agenda that placed

---

<sup>58</sup> D. Ferri and F. Cortese, *Introduction*, in D. Ferri and F. Cortese, *The EU Social Market Economy and the Law*, Routledge, 2019.

<sup>59</sup> Commission, "A European agenda for culture in a globalizing world", cit., 3.

<sup>60</sup> Council conclusions on the recovery, resilience and sustainability of the cultural and creative sectors. *OJ C 209, 2.6.2021, 3-9, 3.*

<sup>61</sup> M. Verboord and N. N. Kristensen, N.N., *EU cultural policy and audience perspectives: how cultural value orientations are related to media usage and country context*, in *27 International Journal of Cultural Policy* 528, 2021, 530.

<sup>62</sup> J. Primorac et al, *Access to culture in Croatian cultural policy*, cit., 564.

<sup>63</sup> UNESCO, "Recommendation on Participation by People at Large in Cultural Life and their Contribution to it". 26 November 1976.

<sup>64</sup> European Parliamentary Research Service, *Access to Culture in the European Union*, cit., 9.

<sup>65</sup> EDUCULT, *Access to Culture – Policy Analysis*, cit.

<sup>66</sup> J. Primorac et al., *Access to culture in Croatian cultural policy*, cit., 576.

<sup>67</sup> Council Resolution of 25 July 1996 on access to culture for all. *OJ C 242/1, 21.8.1996.*

access to culture at the core of EU action.<sup>68</sup> In 2008, the setting up of a Platform on Access to Culture, so as to establish a structured dialogue with the cultural sector and civil society, was a significant step aimed at devising a coherent and participatory policy vision and ultimately at enhancing access to culture for all, including those belonging to disadvantaged groups.<sup>69</sup> The emphasis placed by the Agenda on access to reflects (at least partially) the developments occurred in the EU, such as the proclamation of the Charter of Fundamental Rights (CFR). The CFR in fact includes a reference to freedom of the arts (Article 13), alongside a provision requiring the EU to respect cultural, religious and linguistic diversity (Art. 22 CFR), which aligned with references to cultural diversity included in the Treaty. Further, the Charter articulates an explicit right to participate in cultural life for the elderly. Notably, the Agenda also follows the conclusion by the EU of UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, which occurred in 2005.<sup>70</sup> This Convention places great emphasis to need to ensure access to a diverse range of cultural expressions. Alongside a general principle of equitable access (Article 2), Article 7 of the Convention requires Parties to ‘endeavor to create in their territory an environment which encourages individuals and social groups [...] to have access to diverse cultural expressions from within their territory as well as from other countries of the world’.

Since the 2007 Agenda, access to culture has become a political priority, featuring in all Council Work Plans.<sup>71</sup> A number of Working Groups of Experts dealing with access to culture through OMC processes were set up by these Work Plans, including on developing synergies with education, especially arts education;<sup>72</sup> on policies and good practices in the public arts and in cultural institutions to promote better access to and wider participation in culture;<sup>73</sup> and on promoting access to culture via digital means.<sup>74</sup> Among those, the Working Group on Better Access to and Wider Participation in Culture stipulated that ‘[p]olicies for access and participation aim to ensure equal opportunities of enjoyment of culture

<sup>68</sup> EDUCULT, *Access to Culture – Policy Analysis*, cit., 12.

<sup>69</sup> Access to Culture Platform, *Access to Culture: A fundamental right of all citizens*, cit.

<sup>70</sup> Decision 2006/515/EC on the conclusion of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions OJ L 201, 25.7.2006, p. 15.

<sup>71</sup> Council, “Work Plan for Culture 2008-2010”, cit.; Council, “Work Plan for Culture 2011-2014”, cit.; Council, “Work Plan for Culture (2015-2018)”, cit. Council, “Work Plan for Culture 2019-2022”, cit.

<sup>72</sup> Open Method of Coordination (OMC) Working Group on developing synergies with education, especially arts education, “Final Report”, June 2010.

<sup>73</sup> OMC Working Group on EU Member States’ Experts on Better Access to and Wider Participation in Culture, “A Report on Policies and Good Practices in the Public Arts and in Cultural Institutions to Promote Better Access to and Wider Participation in Culture”, October 2012.

<sup>74</sup> OMC Working Group of EU Member States’ Experts on Promoting Access to Culture Via Digital Means, “Promoting Access to Culture via Digital Means: Policies and Strategies for Audience Development”, June 2017.

through the identification of underrepresented groups, the design and implementation of initiatives or programmes aimed at increasing their participation, and the removal of barriers’, and indicated that access to culture should enable ‘new audiences to use the available culture on offer, by “opening doors” to non-traditional audiences so that they may enjoy an offer or heritage that has previously been difficult to access because of a set of barriers’.<sup>75</sup>

Within the current policy framework, access to culture is a key issue, being referred to in the 2018 Agenda and in the current Council Work Plan 2019-2022 at several junctures, as well as in most recent soft law.<sup>76</sup> Access to culture now fulfils primarily social and economic functions. In particular, the 2018 Agenda, by leveraging the potential of digitalization in order to foster access to heritage and cultural goods, makes access to culture functional to enhance competitiveness and innovation. The Work Plan 2019-2022 connects access to culture and participation in cultural life to ‘individual empowerment, democratic consciousness and social cohesion through exchanges with other people and civic engagement’, somewhat linking it to the social function of EU cultural policy. In line with the 2018 Agenda, the Work Plan also places a strong emphasis on digital technologies as an asset to develop innovative ways to participate in culture, with a view of fostering inclusion. The Creative Europe Programme 2014-2020 included among its objectives that of supporting audience development as a means of improving access to cultural heritage and cultural and creative works.<sup>77</sup> The successor programme for 2021-2027 aligns with the predecessor in placing emphasis on the need to ‘promote access to culture, active engagement of citizens and intercultural dialogue’.<sup>78</sup> It is underpinned by the idea of building new audiences as a vital route to boost EU cultural economy while enhancing social inclusion, in that tying market and social goals. In a similar vein, the 2022 Annual Work Programme for the implementation of the Creative Europe programme indicates, among the priorities to be tackled, that of ‘innovation and joint creations’, whereby innovation ‘can encompass a social or societal dimension such as audience engagement/development’.<sup>79</sup>

---

<sup>75</sup> OMC Working Group, “A Report on Policies and Good Practices in the Public Arts and in Cultural Institutions to Promote Better Access to and Wider Participation in Culture”, cit., 7.

<sup>76</sup> Eg European Parliament resolution of 19 May 2021 on artificial intelligence in education, culture and the audiovisual sector. Brussels, 19.5.2021, P9\_TA(2021)0238.

<sup>77</sup> Article 12 of the Creative Europe Programme (2014 to 2020), cit. See also G. Tomka, *Reconceptualizing cultural participation in Europe: Grey literature review*, in 22 *Cultural Trends* 259, 2013; C. Mercer, N. Obuljen, J. Primorac and A. Uzelac, *The culture strand of the Creative Europe Programme 2014–2020. Note*, Brussels, 2012.

<sup>78</sup> Article 3(4)(b) of the Regulation (EU) 2021/818 establishing the Creative Europe Programme (2021 to 2027), cit.

<sup>79</sup> Commission, “2022 Annual Work Programme for the implementation of the Creative Europe Programme”, available at <https://ec.europa.eu/culture/document/2022-annual-work-programme-creative-europe-programme>, 15.

On the whole, the reach of broad and diverse audiences, while being underpinned by a social rationale, also aligns with the economic function of cultural policy. By increasing demand for cultural goods and services, and, consequently, stimulating the removal of market barriers from the demand side, access to culture supports market integration. This approach to access to culture confirms that the EU has somewhat shifted towards a more economic instrumentalism, with European values pushed towards the ‘periphery’ of EU cultural policy,<sup>80</sup> although this utilitarian view is toned down by social goals which have become entrenched to market ones.

#### 4. Access to Culture for Persons with Disabilities: Its Significance and Underlying Justifications

Access to culture for persons with disabilities is emerging as a distinct theme in EU cultural policy. As the number of references to persons with disabilities in soft law and cultural programmes grows, we argue that the justifications underlying the promotion of access to culture for persons with disabilities can be discerned and traced back to the overarching functions of EU cultural policy: identity-building, market integration and social inclusion.

##### 4.1 Growing Focus on Disability

EU cultural policy increasingly pays attention to marginalised and underrepresented groups. This is not only implicit in the repeated references to inclusiveness in several soft law documents, but is often made explicit. For example, one of the OMC processes established under the Work Plan 2011-2014’s priority of ‘cultural diversity, intercultural dialogue and accessible and inclusive culture’ was to ‘identify policies and good practices of public arts and cultural institutions to promote better access to and wider participation in culture, including by disadvantaged groups and groups experiencing poverty and social exclusion’.<sup>81</sup> Persons with disabilities are often cited alongside young people, older people, minorities and, more generally, groups that have been considered underrepresented in the cultural domain. The Work Plan 2019-2022 suggests that ‘[a] stronger orientation towards the interests and needs of specific groups, such as young people, older people, people with disabilities, people with a migrant background and people living in poverty or material deprivation, is necessary’.<sup>82</sup> The Creative Europe programme 2021-2027, in a similar vein to its predecessor, but more ostensibly, aims to support initiatives that ‘ensure that people with disabilities, people belonging to minorities and

---

<sup>80</sup> B. Valtysson, *Camouflaged Culture*, cit.

<sup>81</sup> Council, “Work Plan for Culture 2011-2014”, cit.

<sup>82</sup> Council, “Work Plan for Culture 2019-2022”, cit.

people belonging to socially marginalized groups have access to the cultural and creative sectors and that encourage their active participation in those sectors, including in both the creative process and audience development'.<sup>83</sup> A similar approach can be found in a number of relevant OMC reports.<sup>84</sup>

Yet, access to culture for persons with disabilities compared to other groups has gained particular prominence,<sup>85</sup> being mandated by the CRPD,<sup>86</sup> which now forms 'an integral part of the European Union legal order'<sup>87</sup> and has acquired a sub-constitutional status,<sup>88</sup> and featuring in EU disability policy.<sup>89</sup> Namely, following its ratification of the CRPD, the EU has an obligation to mainstreaming disability issues across the whole span of its policies, as required by Article 4 CRPD. Further, the EU must (albeit within the limit of its competences) implement *inter alia* Article 30 CRPD on Participation in cultural life, recreation, leisure and sport. On the whole, Article 30 CRPD places emphasis on both the freedom to enjoy culture, and 'the freedom to pursue and contribute to every aspect of cultural life'.<sup>90</sup>

---

<sup>83</sup> Article 3(5)(a) of the Regulation (EU) 2021/818 establishing the Creative Europe Programme (2021 to 2027), cit.

<sup>84</sup> OMC Working Group, "A Report on Policies and Good Practices in the Public Arts and in Cultural Institutions to Promote Better Access to and Wider Participation in Culture", cit., 21, 33, 97; OMC Working Group, "Promoting Access to Culture via Digital Means: Policies and Strategies for Audience Development", cit., 46 and 60; OMC Working Group of EU Member States' Experts on Fostering the Contribution of Culture to Social Inclusion, "From Social Inclusion to Social Cohesion – The Role of Culture Policy", September 2019, 35 and 60.

<sup>85</sup> See for example Decision (EU) 2017/864 of the European Parliament and of the Council of 17 May 2017 on a European Year of Cultural Heritage (2018). *OJ L 131, 20.5.2017, 1-9*.

<sup>86</sup> D. Ferri, *Is there a "Cultural Dimension" of EU Disability Policy? New Perspectives after the Accession to the UN Convention on the Rights of Persons with Disabilities*, in D. Constantini, F. Perocco and L. Zagato (eds.), *Transformazioni e crisi della cittadinanza sociale*, Venice, 2014, 241-268.

<sup>87</sup> Court of Justice, judgment of 11 April 2013, Joined cases C- 335/11 and C- 337/11, *HK Danmark*, para. 30.

<sup>88</sup> The Court of Justice has already confirmed that EU secondary legislation 'must, as far as possible, be interpreted in a manner consistent with [the CRPD]'. See Court of Justice, judgment of 11 April 2013, Joined cases C- 335/11 and C- 337/11, *HK Danmark*, para. 32. See also L. Waddington, *The European Union*, cit.; and D. Ferri, *The Unorthodox Relationship between the EU Charter of Fundamental Rights, the UN Convention on the Rights of Persons with Disabilities and Secondary Rights in the Court of Justice Case Law on Disability Discrimination*, in 16 *European Constitutional Law Review* 275, 2020, 281. However, it should be noted that the Court of Justice also held that 'the provisions of [the CRPD] are not, as regards their content, provisions that are unconditional and sufficiently precise [...], and that they therefore do not have direct effect in European Union law'. Therefore, EU secondary legislation cannot be found invalid for being incompliant with the CRPD. Court of Justice, judgment of 18 March 2014, Case C-363/12, *Z. v A Government department*, para. 90.

<sup>89</sup> Commission, "Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030", cit.

<sup>90</sup> I Bantekas et. *Participation in Cultural Life, Recreation, Leisure, and Sport*, in I. Bantekasketas, M. A. Stein, & D. Anastasiou (Eds.), *The UN Convention on the Rights of Persons with Disabilities: A Commentary*, Oxford, 2018, *ad vocem*.

Access to culture is encompassed by Article 30(1) CRPD. This provision stipulates that State Parties should ‘recognize the right of persons with disabilities to take part on an equal basis with others in cultural life’, and obliges State Parties to take measures to ensure persons with disabilities enjoy access to cultural materials and cultural activities (such as television programmes, films, and theatre) in accessible formats, as well as access to places for cultural performances or services, including monuments and sites of national cultural importance. In that regard, Article 30 CRPD must be read in conjunction with Article 9 CRPD on accessibility of cultural goods and services, whereby accessibility constitutes a precondition to realising the right to participate in culture.<sup>91</sup>

In line with Article 30 CRPD and the emphasis on accessibility, the existence of specific barriers faced by persons with disabilities, other than social and financial barriers which are common to marginalised groups,<sup>92</sup> has been recognized by the EU. In particular, physical and architectural barriers linked to inaccessibility of buildings or sites, or barriers related to the lack of accessible cultural content, i.e. content in a format that is not perceivable to them, have been identified and singled out.<sup>93</sup> In that regard, EU cultural policy dovetails access to culture for persons with disabilities to the concept of disability accessibility, which refers to the extent to which products, systems, services, environments and facilities can be used by people with the widest range of characteristics and capabilities.<sup>94</sup>

Explicit references to disability accessibility have been included in several documents. For example, an OMC report, released in 2012, overtly discusses physical barriers faced by persons with disabilities,<sup>95</sup> while the EU Access City Award is underpinned by the idea of rewarding ‘the efforts of small and bigger cities in the EU in granting access to physically disabled people’ including ensuring access to heritage.<sup>96</sup> Recent Council conclusions

<sup>91</sup> UN Committee on the Rights of Persons with Disabilities, “General comment No. 2 (2014). Article 9: Accessibility”. Geneva, 22 May 2014, CRPD/C/GC/2.

<sup>92</sup> Eg European Parliament resolution of 14 June 2018 on structural and financial barriers in the access to culture. Brussels, 14.6.2018, P8\_TA(2018)0262.

<sup>93</sup> European Parliamentary Research Service, *Access to Culture for people with disabilities*, cit.

<sup>94</sup> European Telecommunications Standards Institute, *Harmonised European Standard: Accessibility requirements for ICT products and services. EN 301 549 V2.1.2*, 2018, available at:

[https://www.etsi.org/deliver/etsi\\_en/301500\\_301599/301549/02.01.02\\_60/en\\_301549v020102p.pdf](https://www.etsi.org/deliver/etsi_en/301500_301599/301549/02.01.02_60/en_301549v020102p.pdf), 13; M. Mastrogiuseppe, S. Span and E. Bortolotti, *Improving accessibility to cultural heritage for people with Intellectual Disabilities: A tool for observing the obstacles and facilitators for the access to knowledge*, in 15 *ALTER, European Journal of Disability Research* 113, 2021.

<sup>95</sup> OMC Working Group, “A Report on Policies and Good Practices in the Public Arts and in Cultural Institutions to Promote Better Access to and Wider Participation in Culture”, cit., 39.

<sup>96</sup> Commission Staff Working Document, “A New European Agenda for Culture - Background Information Accompanying the document Communication from the European Commission to the European Parliament, the European Council, the Council,

also recognise the need to remove physical barriers with reference to synergies between the New European Bauhaus initiative, focused on culture, high-quality architecture and built environment, and accessibility.<sup>97</sup> The most recent Creative Europe programme shows awareness of the need to address the accessibility of cultural content by referring to the ‘adaptation of literature into accessible formats for people with disabilities’ and, in relation to access to audiovisual content, to ‘the use of subtitling, dubbing and, where applicable, audio description tools’.<sup>98</sup> Finally, in line with the evolving legislation in the field,<sup>99</sup> EU cultural policy also increasingly acknowledges the potential of digital access, and mentions different formats in connection to digitization. In this regard, Council Conclusions on promoting access to culture with a focus on audience development note that barriers to accessing culture which arise due to, *inter alia*, ‘special needs’, ‘may be overcome by using digital means’.<sup>100</sup> The OMC report on

---

the European Economic and Social Committee and the Committee of the Regions A New European Agenda for Culture”. Brussels, 22.5.2018, SWD(2018) 167 final, 21.

<sup>97</sup> Council conclusions on culture, high-quality architecture and built environment as key elements of the New European Bauhaus initiative. *OJ C 501I*, 13.12.2021, 13-18.

<sup>98</sup> Annex 1 to Regulation (EU) 2021/818 establishing the Creative Europe Programme (2021 to 2027), cit.

<sup>99</sup> The EU ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (WIPO, Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, VIP/DC/8 REV., 2013), and implemented it via a Directive and a Regulation (Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society. *OJ L 242*, 20.9.2017, 6-13; Regulation (EU) 2017/1563 of the European Parliament and of the Council of 13 September 2017 on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled. *OJ L 242*, 20.9.2017, 1-5). It adopted a European Accessibility Act (Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services. *OJ L 151/7*, 7.6.2019, 70-115), which regulates the accessibility requirements for products and services, including, for example, a services providing access to audiovisual media services, e-books, and e-commerce. It also revised the Audio-visual Media Services Directive (Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities. *OJ L 303*, 28.12.2018, 69-92), and adopted a Web Accessibility Directive (Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies. *OJ L 327*, 2.12.2016, 1-15), which obliges websites and apps of public sector bodies to fulfil technical accessibility standards.

<sup>100</sup> Para 5 of the Council Conclusions on promoting access to culture via digital means with a focus on audience development. *OJ C 425/4*, 12.12.2017.



Promoting access to culture via digital means also argues that ‘[p]roviding accessible digital cultural services result in a better user experience for all, including users with disabilities’.<sup>101</sup> A number of recent soft law documents issued by the European Parliament additionally highlight the potential of Artificial Intelligence<sup>102</sup> and digital cultural heritage<sup>103</sup> in furthering the accessibility of cultural and creative content for persons with disabilities. The latter document for example notes that digital cultural heritage offers ‘an increasing number of people’ including persons with disabilities ‘unparalleled opportunities and equitable access for engaging with cultural materials’.<sup>104</sup>

While increasing in number due in particular to the influence of the CRPD, references to access to culture for persons with disabilities in EU cultural policy can also be traced back to the overarching functions of EU cultural policy— i.e. building a European Identity, market integration, and social inclusion.

#### 4.2 Building a European Identity

Access to culture for people with disabilities is entrenched to the identity-building function of EU cultural policy in two main ways.

First, it is undoubtedly linked to the protection of human rights, which is inherent to the complex concept of European identity as a *koine* of common values and principles,<sup>105</sup> and has emerged, as noted above, as a tenet of EU cultural policy.<sup>106</sup> In fact, EU policy documents are underpinned, albeit to varying degrees, by the idea of culture as a human right.<sup>107</sup> Especially with regard to external policies and relations with the wider world, the ‘Union has increasingly focused on promoting support for human rights, including the protection and promotion of cultural rights, the rights of indigenous peoples as well as the rights of persons belonging to minorities and socially

---

<sup>101</sup> OMC Working Group, “Promoting Access to Culture via Digital Means: Policies and Strategies for Audience Development”, cit., 19.

<sup>102</sup> European Parliament resolution of 19 May 2021 on artificial intelligence in education, culture and the audiovisual sector. Brussels, 19.5.2021, P9\_TA(2021)0238.

<sup>103</sup> European Parliament resolution of 20 January 2021 on achieving an effective policy legacy for the European Year of Cultural Heritage. Brussels, 20.1.2021, P9\_TA(2021)0008.

<sup>104</sup> Ibid, para 13.

<sup>105</sup> Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions, “Strengthening European Identity through Education and Culture. The European Commission's contribution to the Leaders' meeting in Gothenburg, 17 November 2017”. Strasbourg, 14.11.2017, COM(2017) 673 final, 9.

<sup>106</sup> J. Meijen, *Exporting European values?*, cit.

<sup>107</sup> OMC Working Group, “A Report on Policies and Good Practices in the Public Arts and in Cultural Institutions to Promote Better Access to and Wider Participation in Culture”, cit., 12; Paras 1 and 6 of the preamble to the Regulation (EU) 2021/818 establishing the Creative Europe Programme (2021 to 2027), cit.

marginalized people'.<sup>108</sup> On foot of the right to participate in culture for people with disabilities being mandated by the CRPD, access to culture for people with disabilities becomes a vital component of the European commitment towards human rights as a cornerstone of its identity. For example, the latest EU's disability strategy, adopted in 2021, is couched within the vision of the EU being 'anchored in values of equality, social fairness, freedom, democracy and human rights', and contains a specific section on measures to improve access to art and culture.<sup>109</sup> The connection between the CRPD and the EU cultural policy area has been made most explicit in the recent Creative Europe programme 2021-2027, which stipulates to be 'in line with' the CRPD.<sup>110</sup> Highlighting the disability dimension of EU cultural policy, hence, appeals to human rights and epitomizes shared values, contributing to what has been defined as 'Identity-Building Agenda in EU Cultural Policy'.<sup>111</sup> Moreover, it has been observed that EU Member States themselves are also utilising the CRPD to embrace a rights-based approach to their 'implicit' cultural policy,<sup>112</sup> reflecting their common commitment to human rights as a pillar of European identity.

Secondly, we argue that access to culture for people with disabilities is linked to the identity-building function of EU cultural policy in that it has the potential to strengthen the sense of European belonging of people with disabilities. Admittedly, the potential of this aspect of identity-building is not manifestly leveraged by EU cultural policy in respect of persons with disabilities. However, being intrinsically engrained in EU cultural policy, identity-building still occasionally comes through as a justification for access to culture for persons with disability. For example, disability accessibility measures in the Creative Europe programme 2021-2027, mentioned above, are primarily targeted at the accessibility of European literature and European media works,<sup>113</sup> and as such give an opportunity for recognition of a transnational identity beyond national borders. The initiatives within the remit of the 2018 European Year of Cultural Heritage, which focus on accessibility of cultural heritage 'by removing social, cultural and physical barriers', seem also linked to the idea of reinforcing 'the sense of belonging

---

<sup>108</sup> Commission, "A European agenda for culture in a globalizing world", cit., 7.

<sup>109</sup> Commission, "Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030", cit., 1 and 17-18.

<sup>110</sup> Para 61 of the preamble to the Regulation (EU) 2021/818 establishing the Creative Europe Programme (2021 to 2027), cit.

<sup>111</sup> T. Lähdesmäki, K. Mäkinen, V.L.A. Čeginskis and S. Kaasik-Krogerus, S., *Europe from Below. Notions of Europe and the European among Participants in EU Cultural Initiatives*, Leiden-Boston, 2021, 49.

<sup>112</sup> N. Šubic and D. Ferri, *National disability strategies as rights-based cultural policy tools*, in *International Journal of Cultural Policy*, 2022.

<sup>113</sup> Annex 1 to the Regulation (EU) 2021/818 establishing the Creative Europe Programme (2021 to 2027), cit.

to Europe'.<sup>114</sup> Furthermore, the emphasis placed on mobility of people with disabilities as workers in the cultural sector, most recently recalled in a European Parliament resolution,<sup>115</sup> appeals to the very idea of European integration.

On the whole, to echo Lähdesmäki *et al.*'s words, access to culture for persons with disabilities seems to be viewed as 'an instrument of integration for defining Europe and the EU as a community, for producing identity for this community'.<sup>116</sup>

#### 4.3 Market Integration and Social Inclusion

While access to culture for people with disabilities feeds into the European identity-building function, it is also linked to the idea of increasing consumption of cultural goods and services on the EU Internal market, and ties with the goal of enhancing fair market access to people that have been structurally disadvantaged for long. Widening the number of potential cultural cross-border consumers with disabilities means also to satisfy their specific consumption-related needs, stimulating market integration. For example, EU cultural policy promotes the accessibility of cultural tourism,<sup>117</sup> and making tourism accessible has not only a social purpose, but can also 'boost the competitiveness of tourism in Europe'.<sup>118</sup> These economic connotations are bolstered by the fact that disability accessibility more generally is primarily (although not exclusively) a market integration issue, as emerges from accessibility legislation.<sup>119</sup> Accessibility is also intertwined with digitalization, which is conceived of as a way to enable 'new ways to access, *consume* and monetise cultural content'.<sup>120</sup>

Importantly, access to culture for persons with disabilities ties also to the social inclusion function of EU cultural policy, somewhat accomplishing a social dimension of market integration. The 2018 Agenda specifically recognizes that 'social and financial barriers to cultural participation' still exist, and adopts a 'cultural capability' approach, 'making available a wide range of cultural activities, promoting opportunities for all to take part and to create, and strengthening links between culture and education, social

---

<sup>114</sup> Commission, "A New European Agenda for Culture - Background Information", cit., 21.

<sup>115</sup> Para 10 in European Parliament resolution on achieving an effective policy legacy for the European Year of Cultural Heritage, cit.

<sup>116</sup> T. Lähdesmäki et al, *Europe from Below*, cit., 50.

<sup>117</sup> Para 28 in European Parliament resolution on achieving an effective policy legacy for the European Year of Cultural Heritage, cit.

<sup>118</sup> Commission, "Accessible Tourism", available at [https://ec.europa.eu/growth/sectors/tourism/offer/accessible-tourism\\_en](https://ec.europa.eu/growth/sectors/tourism/offer/accessible-tourism_en)

<sup>119</sup> D. Ferri, *The European Accessibility Act and the shadow of the "social market economy"*, cit.

<sup>120</sup> Commission, "A New European Agenda for Culture", cit., 8. Emphasis added.

affairs, urban policy, research and innovation’.<sup>121</sup> The link between access to culture for people with disabilities and the social goals of the EU cultural agenda emerges very clearly in the Creative Europe programme 2021-2027, which addresses persons with disabilities with regard to broader social inclusion goals and the idea of redressing the disadvantage faced by them. Namely, in its preamble, it affirms that ‘[i]n order to contribute to an *inclusive society*, the Programme should promote and increase cultural participation across the Union, in particular with regard to people with disabilities and people from disadvantaged backgrounds’.<sup>122</sup> This Regulation also stipulates that ‘[t]he objectives of the Programme shall be pursued in a way that encourages inclusion, equality, diversity and participation’, in particular through specific incentives that, *inter alia*, ensure that people with disabilities, among other socially marginalised groups, ‘have access to the cultural and creative sectors and that encourage their active participation in those sectors, including in both the creative process and audience development’.<sup>123</sup> A number of projects funded by Creative Europe maintain the emphasis on social inclusion through the removal of barriers to access to culture for persons with disabilities: examples include Outreach Europe<sup>124</sup> and Creative Accessibility Network.<sup>125</sup> Those references confirm that, as Verboord and Kristensen suggest, EU cultural policy ‘bear[s] traces of symbolic, societal and socio-economic ambitions’.<sup>126</sup> These socio-economic ambitions are arguably reflected in other more general measures furthering social inclusion of persons with disabilities outside explicit EU cultural policy. An example is the EU disability card, which ensured ‘equal access to benefits across borders for people with disabilities, mainly in the areas of culture, leisure, sport and transport’.<sup>127</sup> The Card was designed as an EU pilot initiative, running from 2016 to 2018, in which eight Member States (Belgium, Cyprus, Estonia, Finland, Italy, Malta, Romania, Slovenia) voluntarily participated. These Member States mutually recognized each

---

<sup>121</sup> Commission, “A New European Agenda for Culture”, cit., 3.

<sup>122</sup> Para 20 of the preamble to the Regulation (EU) 2021/818 establishing the Creative Europe Programme (2021 to 2027), cit. Emphasis added.

<sup>123</sup> Article 3(5)(a) to the Regulation (EU) 2021/818 establishing the Creative Europe Programme (2021 to 2027), cit.

<sup>124</sup> Commission, “Outreach Europe”, available at <https://ec.europa.eu/programmes/creative-europe/projects/ce-project-details/#project/EACEA-536076>.

<sup>125</sup> Commission, “Creative Accessibility Network”, available at <https://ec.europa.eu/programmes/creative-europe/projects/ce-project-details/#project/607525-CREA-1-2019-1-NL-CULT-COOP1>.

<sup>126</sup> M. Verboord and N.N. Kristensen, N.N., *EU cultural policy and audience perspectives*, cit., 529.

<sup>127</sup> Commission, “EU disability card”, available at <https://ec.europa.eu/social/main.jsp?catId=1139>; see also C. van Dijck, Case Study—The European Disability Card, in T. Brandsen, T. Steen and B. Verschuere (eds.), *Co-Production and Co-Creation Engaging Citizens in Public Services*, New York, 2018, 145-147)

other's Cards, but it was up to each Member State to decide the eligibility criteria for receiving the Card, as well as the benefits offered to their holders. The Commission's study on the implementation of the EU disability card found *inter alia* that the Card increased the participation persons with disabilities in the culture and leisure sectors; that service providers that participated in the measure achieved high economic and social returns, as well as improved the accessibility of their services; and that the Card removed barriers to cross-border mobility of persons with disabilities, contributing to the objective of social inclusion.<sup>128</sup> In its latest Strategy on the Rights of Persons with Disabilities, the Commission announced that it will 'build on the experience' of the EU disability card to create a European Disability Card which would be recognised in all Member States and would 'expand the scope of the mutual recognition of disability status in areas such as labour mobility and benefits related to conditions of service provision'.<sup>129</sup>

On the whole access to culture for persons with disabilities is functional to a socially balanced market integration, and tallies with the constitutional ideal of the 'social-market economy'.<sup>130</sup>

## 5. Conclusion

Psychogiopoulou posits that culture is 'arguably one of the most puzzling policy domains that the EU has entered'.<sup>131</sup> Being one of the fields in which EU action has been longstanding and speckled, EU cultural policy has evolved across time, fulfilling a range of different, yet entrenched, functions, ranging from identity-building to market integration and social inclusion, and more recently moving towards a more social-market ideal.

This article has showed that access to culture for persons with disabilities is an emerging theme in EU cultural policy, gaining prominence in soft law and cultural programmes. Attention to disability has been propelled by the ratification of the CRPD. However, our analysis has highlighted that the growing focus on disability also links back to the overarching functions of EU cultural policy. While in general, the identity-building function of EU cultural policy looks to be giving way to socio-economic considerations, we argue that access to culture for persons with disabilities is in fact essential to buttress the legitimacy of the European integration project. Being inextricably linked to the protection of human rights as a feature of European identity, access to culture for people with

---

<sup>128</sup> Commission, Study assessing the implementation of the pilot action on the EU Disability Card and associated benefits, Luxembourg, 2021.

<sup>129</sup> Commission, "Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030", cit., 6.

<sup>130</sup> D. Ferri, *The European Accessibility Act and the shadow of the "social market economy"*, cit.

<sup>131</sup> E. Psychogiopoulou, *The Cultural Open Method of Coordination*, cit., 269.

disabilities also resonates with the idea of a Union which entails an inclusive and non-discriminatory community of people.

Further, we suggest that, in the policy discourse and in the most recent Creative Europe programme, increased focus on access to culture for persons with disabilities, while being certainly linked to market integration, fulfils an explicit social objective. The potential for social change of the broadening of access to culture for people with disabilities links strongly to the social inclusion function of EU cultural policy. As the economic rationale of EU cultural policy gains traction generally, there is the risk of making social objectives instrumental (and thus 'secondary') to economic imperatives. However, access to culture for persons with disabilities increasingly appears an essential element for a balanced socio-economic growth. In that regard, it could be viewed functional to construction of the EU social market economy which conceives of market integration as intertwined to non-economic goals.

Neža Šubic  
School of Law and Criminology  
Maynooth University  
[neza.subic@mu.ie](mailto:neza.subic@mu.ie)

Delia Ferri  
School of Law and Criminology  
Maynooth University  
[delia.ferri@mu.ie](mailto:delia.ferri@mu.ie)