



CULTURAL HERITAGE - THEORETICAL AND PRACTICAL ASPECTS CONSIDERATIONS REGARDING ITS INTERNATIONAL AND CONSTITUTIONAL REGULATIONS

Oana ȘARAMET*

Abstract

Unlike other beings, human being expresses his thoughts, ideas, values, his own identity or that of the community to which he belongs, also through culture. The preservation of the cultural values that have been transmitted to us by our ancestors and their transmission to our descendants must be considered true fundamental duties related to access to culture, as a fundamental right enshrined in fundamental international and national normative acts. Therefore, in this article, we aim to highlight, but also to make assessments on the international and constitutional regulations that configure the legal framework, at the highest legislative level, regarding the protection and conservation of cultural heritage. On the other hand, we consider it necessary to highlight that sustainable development - a concept, a principle that guides the development of current democratic societies - in no way implies the abandonment of cultural heritage, and achieving the objectives proposed by the 2030 Agenda for Sustainable Development, such as reduced inequalities, or quality education it is not possible by ignoring cultural heritage.

Keywords: heritage; culture; constitution; fundamental right; identity; sustainable development

JEL Classification: K38

1. Introduction

In a human society dominated by mercantile aspects, by the permanent, constant and continuous desire to make our daily lives as easy as possible, to ensure a more comfortable life by fully benefiting from scientific discoveries, especially those that facilitates the use of the Internet and even artificial intelligence, it would be painful to give up to our past, abandoning the preservation of the cultural heritage

* Senior Lecturer, PhD, Transilvania University of Brasov, Law Department, Faculty of Law, Romania, Corresponding author: oana.saramet@unitbv.ro.

transmitted, but also the present, through the same abandonment that would deprive our descendants of this heritage.

What we are today, how we are today - better or less good, closer or not to the environment, is determined, in our opinion, by how we understand to preserve and pass on to future generations our cultural heritage so diverse and consistent. In our opinion looking exclusively to the future, especially in the current context when technology and especially artificial intelligence are as tempting as they are deceptive, can lead us to forget, to ignore our humanity. And our most significant "charm" is this very humanity that sets us apart from the other species on this planet. Or, if this humanity will diminish more and more or even disappear, we believe that sustainable development, with its 17 goals for People, for Planet, will remain just a dream.

So, knowing what cultural heritage is, having the possibility to identify it in order to appreciate it, is, in our opinion, not only a right of any person, but also a duty of our governors, at the state, regional or international level. One of the dimensions of this duty of our governors is to create a legal framework that allows the knowledge, protection, preservation and transmission of cultural heritage to future generations.

2. Appreciations about the Concept of Cultural Heritage

Brief assessments of what is meant by cultural heritage, the content of this concept, we believe are necessary.

Thus, "cultural heritage includes artefacts, monuments, a group of buildings and sites, museums that have a diversity of values including symbolic, historic, artistic, aesthetic, ethnological or anthropological, scientific and social significance" (UNESCO Institute for Statistics, 2009, p. 25). "It includes tangible heritage (movable, immobile and underwater), intangible cultural heritage (ICH) embedded into cultural, and natural heritage artefacts, sites or monuments" (UNESCO Institute for Statistics, 2009, p. 25). "The definition excludes ICH related to other cultural domains such as festivals, celebration etc. It covers industrial heritage and cave paintings" (UNESCO Institute for Statistics, Glossary, Cultural heritage, Definition).

The doctrine appreciated that "[t]he concept of heritage has been characterised by a three-fold process of extension: a typological-thematic extension since objects that were not part of the traditional, chronological and geographical concept of heritage have been given the statue of heritage; furthermore, the monument is no longer considered alone, but also in its context, thus meaning the adoption of an integral

approach towards heritage.” (Vecco, 2010, p. 324). In another opinion it is appreciated that “cultural heritage includes the sites, things, and practices a society regards as old, important, and worthy of conservation” (Brumann, 2015, p. 414). Un alt autor definește cultural heritage ca fiind “[t]he legacy of physical artifacts and intangible attributes of society inherited from past generations”. (Willis, 2014, p. 145). According to the same author, if “[p]hysical artifacts include works of art, literature, music, archaeological and historical artefacts, as well as buildings, monuments, and historic places, whilst intangible attributes comprise social customs, traditions, and practices often grounded in aesthetic and spiritual beliefs and oral traditions. Intangible attributes along with physical artefacts characterize and identify the distinctiveness of a society”. (Willis, 2014, p. 145) By a more detailed definition, another author appreciates that “cultural heritage includes: cultures, customs, beliefs, rites, rituals, ceremonies, indigenous knowledge, social customs and traditions, arts, crafts, music, political and ideological beliefs that influence culture and behaviour, history, practices concerning the natural environment, religious and scientific traditions, language, sports, food and drink, calendars, traditional clothing, cybercultures in the digital world, and emerging new cultures which will become the heritage of the future” (Baker, 2013).

At the level of the European Union, it is stated about cultural heritage that “ [i]t [Europe’s cultural heritage] includes natural, built and archaeological sites, museums, monuments, artworks, historic cities, literary, musical and audiovisual works, and the knowledge, practices and traditions of European citizens” (European Commission, Culture and Creativity, Cultural Heritage).

At the national level, over time the ordinary legislator has adopted several normative acts regarding cultural heritage, and two of which are, in our opinion, the most relevant. Thus, by art. 1 paragraph (2) from Law no. 182/2000 on the protection of the movable national cultural heritage, republished, with subsequent amendments and additions, it is provided that “the national cultural heritage includes the set of assets identified as such, regardless of their ownership regime, which represents a testimony and an expression of values, beliefs, knowledge and traditions in continuous evolution; it includes all the elements resulting from the interaction, over time, between human and natural factors”, and by art. 3 paragraph (1), identifies the component elements of this heritage as “[goods] with historical, archaeological, documentary, ethnographic, artistic, scientific and technical, literary, cinematographic, numismatic, philatelic, heraldic, bibliophile, cartographic and epigraphic value, representing material testimonies of the evolution of the natural environment and of man's relations with it, of the human creative potential and of

the Romanian contribution, as well as of the national minorities, to universal civilization". On the other hand, art. 1 lit. a) from Law no. 26/2008 on the protection of intangible cultural heritage, with subsequent amendments and additions, defined the intangible cultural heritage as "the totality of practices, representations, expressions, knowledge, skills - together with the instruments, objects, artefacts and cultural spaces associated with them - that communities, groups or, as the case may be, individuals recognize them as an integral part of their cultural heritage", through the other provisions of the same article, the legislator defining the component elements of this definition.

3. Appreciations about International and European Regulations regarding Cultural Heritage

Although it may seem strange that at the national level there are the 2 laws mentioned above that regulate movable cultural heritage, respectively the intangible one, it does not represent an atypical approach given that this was also the approach at the international level. This perspective reflects the evolution of this concept of cultural heritage as new forms are identified through which we "express ourselves culturally" and we recognize the value thus expressed, wanting to protect it, preserve it, as is the case, for example, of "living human treasures" (According to art. 2 lit. c) from Law no. 26/2008, by living human treasures is meant that "honorary title that can be conferred on those persons who are recognized by the community as creators and transmitters of elements of a field of intangible cultural heritage, in the form and with the unaltered traditional means").

The last century can be considered, in our opinion, also the one in which a special emphasis was placed on the configuration of regulations regarding "the conservation of artistic and archaeological heritage" as they were Athens Charter (1931), or International Charter of Venice (1964), the latter being considered as "the first document through which a definition of the concept of cultural heritage was offered" (Vecco, 2010, p. 322). On the other hand, we cannot fail to notice the fact that, perhaps even paradoxically "[t]he concept of cultural property, used in various countries to mean heritage, appears for the first time in the Hague Convention of 1954, regarding the protection of cultural heritage in the case of armed conflict. The Convention states that it is necessary to protect the cultural heritage of all humanity" (Vecco, 2010, p. 322).

If after the Second World War, the adoption of regulations to protect the cultural heritage of humanity was determined by the destruction that any conflict can cause, especially a military one of such scope, later it was necessary to configure more consistent regulations which allows the preservation and protection of the cultural heritage to shelter it even from some of us who do not understand or understand too little the value of this heritage transmitted by our forefathers and which we owe, in turn, to pass on to our descendants. Thus, in the Preamble of the Convention Concerning

the Protection of the World Cultural and Natural Heritage, adopted by the General Conference of UNESCO at its seventeenth session Paris, 16 November 1972, the need to adopt this convention is argued by the fact that “the cultural heritage and the natural heritage are increasingly threatened with destruction not only by the traditional causes of decay, but also by changing social and economic conditions which aggravate the situation with even more formidable phenomena of damage or destruction” (The World Heritage Convention, 1972, Preamble, para 1), and “deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world” (The World Heritage Convention, 1972, Preamble, para 2).

One aspect regarding this Convention that we would like to point out is the fact that this Convention contains provisions regarding not only cultural heritage, but also the natural one, which, in our opinion, reinforces what was stated above regarding the fact that members of the human species they are the ones from whom we must protect these heritages. However, such an approach does not contradict the concept of sustainable development around which we are currently striving to progress. An argument in support of the previously stated is even a mention by UNESCO according to which “[t]he integration of culture in development processes, strategies and policies at the national level is already well underway across the broad public policy spectrum, from reducing poverty through jobs, skills and employment in the cultural sector, to strengthening quality education for all and social justice, to providing context-relevant responses to foster environmental sustainability” (UNESCO, Culture & Sustainable Development). In order to reinforce the above mentioned, we consider it necessary to emphasize the fact that in one of the largest conferences organized by UNESCO and dedicated to culture, in the year 2022, in Mexico City, namely MONDIACULT, a Declaration was signed whereby, in point 9) it is reiterated, among others, “[t]he individual and collective responsibility, on behalf of future generations, to ensure the conservation, safeguarding and promotion of the entire cultural sector including cultural heritage, both tangible and intangible, as an ethical imperative, ensuring greater equity, geographical balance

and representativity of heritage across all regions, as well as the promotion of cultural and creative industries, as fundamental dimensions to sustain cultural diversity and pluralism, the respect of which constitutes, today more than ever, a ferment of peace and a force for creativity and innovation to build a more sustainable world" (UNESCO, Final Declaration - MONDIACULT, 2022).

We consider it appropriate to point out the fact that it was considered necessary to adopt other conventions to ensure, on the one hand, the protection and preservation of cultural heritage in certain areas, as is the case with the Convention on the Protection of the Underwater Cultural Heritage, adopted by the General Conference of the UNESCO, meeting in Paris from 15 October to 3 November 2001, at its 31st session, which, right at the first article defines the underwater cultural heritage, or the legal recognition of other forms of cultural heritage such as the immaterial, intangible one, as done by the Convention for the Safeguarding of the Intangible Cultural Heritage, adopted by the General Conference of the UNESCO, meeting in Paris, from 29 September to 17 October 2003, at its 32nd session, that at point 2) and 3) of the Preamble, recognized "the importance of the intangible cultural heritage as a mainspring of cultural diversity and a guarantee of sustainable development", as it had already done through other documents (UNESCO, Convention for the Safeguarding of the Intangible Cultural Heritage, 2003), but also "the deep-seated interdependence between the intangible cultural heritage and the tangible cultural and natural heritage" (UNESCO, Convention for the Safeguarding of the Intangible Cultural Heritage, 2003). Last but not least, UNESCO appreciated the need to protect the various forms of cultural expression, which is why it adopted in 2005, within the Conference of the UNESCO, meeting in Paris from 3 to 21 October 2005 at its 33rd session, the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, defining it thus, by art. 1 paragraph (1), as "refer[ring] to the manifold ways in which the cultures of groups and societies find expression,... [e]xpressions [which] are passed on within and among groups and societies". They are also identified by art. 2, and several guiding principles, including the principle of respect for human rights and fundamental freedoms, according to „[c]ultural diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed" or the principle of sustainable development, according to which "[c]ultural diversity is a rich asset for individuals and societies, [and] [t]he protection, promotion and maintenance of cultural diversity are an essential requirement for sustainable development for the benefit of present and future generations".

At the level of the European Union, by the Treaty on the European Union (hereinafter referred to as the TEU), more specifically by art. 3 paragraph (3) sentence IV, it is stipulated that the Union “watches over the protection and development of the European cultural heritage”, a role that allows it “to exercise powers to support, coordinate or the actions of the member states” as it provides, otherwise expressly, art. 6 lett. c) of the Treaty on the Functioning of the European Union (hereinafter referred to as the TFEU). In the same sense are the provisions of art. 167 para. (2) of the TFEU which emphasizes the role of the member states including “in the preservation and protection of the cultural heritage of European importance”, the Union intervening only “if necessary, to support and complement their action”. The European Union has been involved in the field of culture through a multitude of policies and actions (These can be consulted on the EU website: https://commission.europa.eu/live-work-travel-eu/culture-heritage-sport-eu_en), but we consider one of these notable actions in relation to our theme to be the one through which 2018 was declared the European Year of Cultural Heritage (Decision (EU) 2017/864 on the European Year of Cultural Heritage), its main objective being, according to art. 1 para (2) of Decision (EU) 2017/864, “[t]hat of encouraging the sharing and valuing of Europe's cultural heritage as a common resource, to raise public awareness of history and common values, as well as to strengthen the feeling of belonging to a common European space”.

The Charter of Fundamental Rights of the European Union mentions, right in its Preamble, paragraph (2), the “spiritual and moral heritage” of the European Union, and in paragraph (3) it emphasizes the fact that “the Union contributes to the preservation and development of ... values [their] common, respecting the diversity of cultures and traditions of the peoples of Europe, as well as the national identity of the member states” seeking “[to] promote a balanced and sustainable development”. Although the Charter does not enshrine, *expressis verbis*, a right to culture, through the provisions of art. 22 enshrines the respect by the European Union, including cultural diversity, and by art. 25 recognizes “the right of elderly people to participate [including] in cultural life”, as per art. 13 to be enshrined the freedom of the arts and scientific research.

4. Opinions about the Constitutional Regulations of some States regarding Cultural Heritage

Through national regulations, states have taken over and adapted elements from the international regulations mentioned above, and around 100 of them include provisions related to heritage or cultural heritage. How the constitutional legislators chose to “talk” about this heritage differs from one constitution to another. However, we can identify common elements that allow us to include them in various categories.

Thus, some states particularly appreciated the fundamental, supreme value of cultural heritage, which is why they even mentioned it in their preamble. In this sense, we could exemplify the Constitution of the Republic of North Macedonia, which mentions, at the very beginning, that one of the foundations of this state is represented by “the historical, cultural, spiritual and statehood heritage of the Macedonian people”. The North Macedonian constitutional legislator has also developed aspects regarding cultural heritage and in other provisions that can be considered as components of a genuine right to culture. Thus, according to art.56 para (2), “[t]he Republic guarantees the protection, promotion and enhancement of the historical and artistic heritage of the Macedonian people and of the nationalities and the treasures of which it is composed regardless of their legal status”. Also, the Constitution of Poland states, in paragraph (7) of the Preamble, that the establishment of the provisions of this constitution is based even on “[o]ur ancestors for their labours, their struggle for independence achieved at great sacrifice, for our culture rooted in the Christian heritage of the Nation and in universal human values”, and through other texts provisions regarding cultural heritage are developed. The Constitution of Slovakia mentions in its very first paragraph, the fact that its adoption was determined by the consideration by the Slovak nation of “[t]he political and cultural heritage of our ancestors and the centuries of experience from the struggles for national existence and our own statehood”, but also by “[t]he spiritual heritage of Cyril and Methodius and the historical legacy of Great Moravia”.

Other constitutions have included provisions relating to cultural heritage in chapters or sections dedicated to general provisions stating the values, principles and fundamental features of that state. One such example is that of Armenia, which in Chapter I of its Constitution, titled chapter “The Foundations of Constitutional Order”, to the art. 15 dedicated to the “[P]romotion of Culture, Education, and Science, Protection of the Armenian language and Cultural Heritage”, in para (1),

provides that “[t]he Armenian language and the cultural heritage shall be under the care and protection of the state”. Another example is that of the Constitution of the People's Republic of China, which, by art. 22 para (2) of Chapter I dedicated to general principles, provides that “[t]he state protects places of scenic and historical interest, valuable cultural monuments and relics and other important items of China's historical and cultural heritage”. In the same sense, we can also mention the Constitution of Egypt which, by art. 50 of Chapter II dedicated to the basic components of society, provides, at the level of principle, with regard to “[the] [m]aterial and moral civilization and cultural heritage”, stating that “Egypt’s material and moral civilization and cultural heritage of all types and from all of the Pharaonic, Coptic, Islamic, and modern periods are a national and human heritage that the state commits to protect and maintain. The same applies to the modern architectural, literary and artistic cultural stock.” We also mention the provisions of the Italian Constitution which, by art. 9 para (1) of the Chapter dedicated to the fundamental principles, provides that “[t]he Republic promotes the development of culture and of scientific and technical research”. The same article, in paragraph (2) provides that “[i]t [the Republic] safeguards natural landscape and the historical and artistic heritage of the Nation”.

Starting from this last provision we will be able to mention another category, namely that of the constitutions that talk about cultural heritage within the same provisions that also mention natural heritage. One such example is that of the Constitution of Finland which, through Section 20 para (1) destined to the responsibility for the environment, provides that “[n]ature and its biodiversity, the environment and the national heritage are the responsibility of everyone”. Another such example is that of the Constitution of Zimbabwe which, speaking about the functions of traditional leaders, mentions, in art. 282 point 1) letter b), that they must as in their area of jurisdiction “to take measures to preserve the culture, traditions, history and heritage of their communities, including sacred shrines”.

Other Constitutions talk about cultural heritage within the right to culture or something similar to it. This is also the case of the Algerian Constitution which, by art. 80 dedicated to the right to culture, paragraph 3 provides that “[t]he State shall protect and work towards preserving the tangible and intangible national cultural heritage”. The Brazilian constitutional legislator proceeded similarly, which, by art. 216 of a section dedicated to culture, provided that “Brazilian cultural heritage includes material and immaterial goods, taken either individually or as a whole, that refer to the identity, action and memory of the various groups that form Brazilian society...”, “[t]he Government, with the collaboration of the community, shall

promote and protect Brazilian cultural heritage...”.

There are also constitutions that have chosen to regulate cultural heritage taking into consideration the principles of sustainable development. An example in this sense is that of the Constitution of Poland which, by art. 5, provided that “[t]he Republic of Poland shall safeguard the national heritage and shall ensure the protection of the natural environment pursuant to the principles of sustainable development”.

From just the few examples mentioned above, we can observe the variety of constitutional regulation regarding cultural heritage, legislators choosing to talk about it, as well as its protection and conservation, either in the very preamble of the fundamental law or in the chapter dedicated to general principles or fundamental bases of that state, thus emphasizing its importance, either within the framework of fundamental rights, such as the right to culture, or freedom of expression, or environmental protection, or only through identification as a field of legislation for the national legislative authority (One such example is that of the Argentine Constitution which, by art. 75 point 19) paragraph (4), provides that one of the powers of Congress is to enact “laws which protect cultural identity and pluralism, the unrestrained creation and circulation of the works of authors, the artistic heritage, and cultural and audiovisual spaces”). But, regardless of how one or another constitutional legislator chose to include provisions regarding cultural heritage, its conservation and protection, the essential conclusion is that most of the world's states have given due importance to this heritage and the relevant aspects related to it precisely through those constitutional provisions.

5. Opinions about the Regulations regarding the Cultural Heritage of the Romanian Constitution

Unfortunately, in our Constitution we cannot identify consistent provisions regarding cultural heritage, its preservation and protection. Moreover, cultural heritage is not even appreciated, *expressis verbis*, as one of the supreme values of the Romanian people that should be guaranteed. However, we could draw the conclusion that he would have seen it this way if we resort to an extensive interpretation of the provisions of art. 1 paragraph (3) of the Constitution and which refers to the “free development of the human personality”, as well as the fact that the supreme values identified constitutionally are considered as such “in the spirit of the democratic traditions of the Romanian people”. Relevant for supporting the point of view mentioned above, we consider that there are other constitutional

provisions such as those regarding: freedom of conscience in the sense in which, according to art. 29 para. (1), “freedom of thought and opinions, as well as freedom of religious beliefs cannot be restricted in any way”; freedom of expression in the sense in which, according to art. 30 para. (1), “freedom of expression of thoughts, opinions or beliefs and freedom of creations of any kind, through live speech, through writing, through images, through sounds or through any other means of public communication, are inviolable”. Access to culture is also regulated in our Constitution, as a fundamental right guaranteed by the fundamental law, which recognizes the freedom of each person “to develop his/her spirituality and to get access to the values of national and universal culture”. On the other hand, the Romanian state must ensure itself “that spiritual identity is preserved, national culture is supported, arts are stimulated, cultural legacy is protected and preserved, contemporary creativity is developed, and Romania's cultural and artistic values are promoted throughout the world”. We appreciate that by consecrating this obligation incumbent on the Romanian state, constitutionally valuing the cultural heritage, but also the national cultural and artistic values, the constitutional legislator had in mind including the cultural heritage if we appreciate it to be a dimension of the cultural heritage.

6. Conclusion

Regarding the aspects revealed in the above, we could formulate some conclusions.

Compared to our constitutional regulations, we consider, therefore, as insufficient the consecration of the state's obligation to ensure including “the protection and preservation of cultural heritage”, as provided by art. 33 para. (3) of the Constitution. Taking into account the international and European Union regulations mentioned above, but also the regulatory attention given by the constitutional legislators of other states, we believe that a future constitutional review must also take into consideration the recognition as the supreme value, constitutionally guaranteed, of the national cultural heritage and, implicitly of its protection and conservation, maybe even in a preamble that, currently, is not found in our Constitution.

On the other hand, we consider it appropriate to write in the constitution itself the fact that the protection and preservation of cultural heritage is consistent with the development of the state centered on the concept of sustainable development. Moreover, our Constitution does not contain provisions regarding sustainable development, like other constitutions, so that the constitutional text that must be configured in this sense, may also refer to the protection and preservation of cultural

heritage.

We believe that the protection and preservation of cultural heritage cannot be an obstacle in the constitutional recognition and consecration of sustainable development, as well as in the implementation of specific actions configured including by our state to achieve the 17 Sustainable Development Goals (SDGs) established by Agenda 30 for Sustainable Development, also adopted by Romania in September 2015 (United Nations, *Transforming our world: The 2030 Agenda for Sustainable Development*, 2015). Through cultural programs such as the European Capital of Culture¹, or programs of a smaller scale, such as the *Musica Barcensis* Festival, through which the “cultural life of the fortified citadels of the Bârsa Country” is revived annually (Forum Arte, 2022), “through the concerts and events organized [bringing] a new breath to the evangelical churches in the Braşov area” are and can be achieved SDGs such as “Health and well-being”, “Quality education”, “Decent work and economic growth”, “Inequalities reduced”, or “Sustainable cities and communities”. Even if the starting point of the actions carried out within such programs is focused on cultural heritage, on its protection and preservation, on the proximity of any person to culture and its various forms of expression, the beneficial aspects generated by the economic nature cannot be ignored, such as the development of tourism, some crafts, the production of small producers, infrastructure, the diversification of education resources, etc.

Thus, “cultural heritage is a concept which offers a bridge between the past and the future with the application of particular approaches in the present” (Central European University, *Cultural Heritage Studies, The Concept and History of Cultural Heritage*, p. 1). And although this opinion is expressed in the framework of a work that aims, including, to identify a definition of cultural heritage “[a]pplicable in the context of museums, archives and libraries” (Baker, 2013, p. 1), we agree with the opinion that “the meaning [of the cultural heritage] is fluid, complex and evolves constantly” (Baker, 2013, p. 1). However, we consider that these three features of this concept are specific to it not only in the mentioned context, but refer to the concept in general. Besides, “the systematic destruction or losses of [different] objects led to phrases such as “outstanding universal value” and to the declaration that these objects belong to “humanity” (Central European University, *Cultural Heritage Studies, The Concept and History of Cultural Heritage*, p. 1). Even if the desire to protect and preserve the cultural heritage was determined and materialized,

¹ https://youth.europa.eu/get-involved/intercultural-understanding/being-european-capital-of-youth-or-of-culture_ro.

through the adoption of numerous conventions at the international level, by the destruction of some of its components, especially during wartime, “states must protect cultural heritage in all its forms, whether in time of war or peace and in case of natural disasters” (Ringelheim, 2017, p. 10), meaning in which provisions were adopted as we mentioned in the preceding ones. But, in the doctrine it is stated, an opinion with which we agree, that “[t]hese conventions are not human rights instruments: their object is to secure the protection of cultural heritage, not to confer rights to individuals. Yet given that cultural heritage – whether tangible, intangible, or natural – includes resources that are indispensable to allow individuals to enjoy their cultural rights, its preservation is of major importance to make these rights effective” (Ringelheim, 2017, p. 10). This is why we share the opinion that we can talk about the “possible establishment... of a new branch of law or, at least, of a new area of concern and specific regulation, on the way to being established in the form (the name) of “cultural and natural heritage law” (Duțu, 2017, p. 8). The necessity of setting up such a branch of law or just a sub-branch is reinforced, on the one hand, by the fact that “[c]ultural heritage is not just a set of cultural objects or traditions from the past. It is also the result of a selection process: a process of memory and oblivion that characterizes every human society constantly engaged in choosing – for both cultural and political reasons – what is worthy of being preserved for future generations and what is not.” (Franchi, 2017, p. 8). On the other hand, because we have already mentioned that cultural heritage, its conservation and protection must be looked at, analyzed and regulated in the context of sustainable development, as they are one of the components of culture and the right to culture, we appreciate that they are also targeted by the statement according to “recognis[ing] culture as a global public good with an intrinsic value to enable and drive sustainable development” (UNESCO, MONDIACULT 2022, Final Declaration).

References

UNESCO Institute for Statistics, *2009 UNESCO Framework for Cultural Statistics*, available at: <https://uis.unesco.org/en/glossary-term/cultural-heritage>, accessed on: 31.05.2023.

UNESCO Institute for Statistics, *Glossary, Cultural heritage, Definition*, available at: <https://uis.unesco.org/en/glossary-term/cultural-heritage>, accessed on: 31.05.2023.

Vecco, M. (2010). A definition of cultural heritage: From the tangible to the intangible. *Journal of Cultural Heritage*, Volume 11, Issue 3, July–September, 321-324, <https://doi.org/10.1016/j.culher.2010.01.006>, available at: <http://orcp.hustoj.com/wp-content/uploads/2016/01/2010-A-definition-of-cultural-heritage-From-the-tangible-to-the-intangible.pdf>, accessed on: 31.05.2023.

Brumann, C. (2015). Cultural Heritage. *International Encyclopedia of the Social & Behavioral Sciences* (Second Edition), 414-419. <https://doi.org/10.1016/B978-0-08-097086-8.12185-3>, available at: <https://www.sciencedirect.com/topics/social-sciences/cultural-heritage>, accessed on: 31.05.2023.

Willis, K. G. (2014). *Handbook of the Economics of Art and Culture*. Vol. II. Elsevier. <https://doi.org/10.1016/B978-0-444-53776-8.00007-6>, available at: <https://www.sciencedirect.com/topics/social-sciences/cultural-heritage>, accessed on: 31.05.2023.

Baker, K. (2013). Information literacy and cultural heritage: a proposed generic model for lifelong learning. *Information Literacy and Cultural Heritage*. Chendos Publishing, pp. 117-133. <https://doi.org/10.1016/B978-1-84334-720-0.50005-2>, available at: <https://www.sciencedirect.com/topics/social-sciences/cultural-heritage>, accessed on: 31.05.2023.

European Commission. Culture and Creativity. *Cultural Heritage*, available at: <https://culture.ec.europa.eu/cultural-heritage>, accessed on: 31.05.2023.

UNESCO, *Culture & Sustainable Development*, available at: <https://www.unesco.org/en/sustainable-development/culture?hub=365>, accessed on: 31.05.2023.

UNESCO, World Conference on Cultural Policies and Sustainable Development – MONDIACULT 2022 (28-30 September 2022, Mexico City), *Final Declaration*, available at: https://www.unesco.org/sites/default/files/medias/fichiers/2022/10/6.MONDIACULT_EN_DRAFT%20FINAL%20DECLARATION_FINAL_1.pdf accessed on: 31.05.2023.

UNESCO, Convention for the Safeguarding of the Intangible Cultural Heritage, 2003, available at: <https://www.unesco.org/en/legal-affairs/convention-safeguarding-intangible-cultural-heritage?hub=66535>, accessed on: 31.05.2023.

UNESCO, Convention Concerning the Protection of the World Cultural and Natural Heritage, General Conference of UNESCO, Paris, 16 November 1972, available at: <https://whc.unesco.org/archive/convention-en.pdf>, accessed on: 31.05.2023.

UNESCO, Convention on the Protection of the Underwater Cultural Heritage, 2001, available at: <https://www.unesco.org/en/legal-affairs/convention-protection-underwater-cultural-heritage?hub=66535>, accessed on: 31.05.2023.

UNESCO, Convention on the Protection and Promotion of the Diversity of Cultural Expressions, 2005, available at: <https://www.unesco.org/en/legal-affairs/convention-protection-and-promotion-diversity-cultural-expressions?hub=66535>, accessed on: 31.05.2023.

Decision (EU) 2017/864 of the European Parliament and of the Council of 17 May 2017 on the European Year of Cultural Heritage (2018), JO L 131, 20.5.2017, available at:

<http://data.europa.eu/eli/dec/2017/864/oj>, accessed on: 31.05.2023.

United Nations, Department of Economic and Social Affairs, Sustainable Development, *Transforming our world: The 2030 Agenda for Sustainable Development*, 2015, available at: <https://sdgs.un.org/2030agenda>, accessed on: 31.05.2023.

Forum Arte. Festivalul Musica Barcensis/Arts Forum. Barcensis Musical Festival. 2022, available at: <https://www.forumarte.ro/>, accessed on: 31.05.2023.

Central European University. *Cultural Heritage Studies*. The Concept and History of Cultural Heritage, available at: <https://culturalheritagestudies.ceu.edu/concept-and-history-cultural-heritage>, accessed on: 31.05.2023.

Ringelheim, J. (2017). The rise of cultural rights in international human rights law. *CRIDHO Working Papers* 2017/3, 3–23, available at: <https://sites.uclouvain.be/cridho/documents/Working.Papers/CRIDHO-WP-2017-3-J.Ringelheim-CulturalRights.pdf>, accessed on: 31.05.2023.

Duțu, M. (2017). *Patrimoniul cultural și natural și Dreptul său. Juridice/Cultural and natural heritage and its Law. Legal. Essentials*, 1–11, available at: <https://www.juridice.ro/essentials/1247/patrimoniul-cultural-si-natural-si-dreptul-sau>, accessed on: 31.05.2023.

Franchi, E. (2015). *What is cultural heritage? Smarthistory – The Centre for Public Art History*. Available at: <https://smarthistory.org/what-is-cultural-heritage/>, accessed on: 31.05.2023.