## Contents

| 1 | Introduction |   |  | 1  |  |
|---|--------------|---|--|----|--|
|   | 1.1          | Justifi   | cation for Undertaking Research                      | 1  |  |
|   | 1.2          | Resear  | rch Theses   | 2  |  |
|   | 1.3          | The So  | cope of Research                                     | 4  |  |
|   | 1.4          | Source  | s and Literature                                     | 7  |  |
|   | 1.5          | Metho   | dology   | 9  |  |
|   | 1.6          | Struct  | ure of the Work                                      | 10 |  |
| 2 | Mig          | ration  | and Culture Within the European Union                |    |  |
|   | Framework    |   |  | 13 |  |
|   | 2.1          | Introductory Remarks                                    |  |    |  |
|   | 2.2          | Foreign Nationals in the European Union: Statistics and |  |    |  |
|   |              | an At   | tempt at Interpretation                              | 16 |  |
|   | 2.3          | 3 European Migration Law: Development and Current       |  |    |  |
|   |              | Challenges  |  |    |  |
|   |              | 2.3.1   | Law on Migration Before the Treaty of Amsterdam      | 20 |  |
|   |              | 2.3.2   | The Creation and Development of the Area of          |    |  |
|   |              |   | Freedom, Security and Justice                        | 22 |  |
|   |              | 2.3.3   | Migration Crisis and the Changes in European         |    |  |
|   |              |   | Union Migration Law                                  | 31 |  |
|   | 2.4          | Protec  | tion of Fundamental Rights in the Legal Order of the |    |  |
|   |              |   | can Union  | 38 |  |
|   |              |   | Shaping of the Protection of Fundamental Rights in   |    |  |
|   |              |   | the European Union: A Historical Perspective         | 38 |  |
|   |              |   |  |    |  |

|   |  | 2.4.2                                    | for the Protection of Fundamental Rights in the        |     |  |
|---|--|--|--|-----|--|
|   |  | 2 4 2                                    | European Union   | 3   |  |
|   |  | 2.4.3                                    | S J S S S S S S S S S S S S S S S S S S                |     |  |
|   |  | 2.4.4                                    | Human Rights for the EU System of Protection           | 4   |  |
|   |  | 2.1.1                                    | Charter of Fundamental Rights of the European<br>Union | 4   |  |
|   | 2.5  | Cultu                                    | ral Rights in the System of the Protection of          | *   |  |
|   |  | Fundamental Rights in the European Union |  |     |  |
|   |  |  | Introductory Remarks                                   | 53  |  |
|   |  |  | Concept of Cultural Rights                             | 55  |  |
|   | 2.6  |  | re in European Union Law and the Possibility of        | 5;  |  |
|   |  |  | tion of Cultural Rights in the EU Legal System         |     |  |
|   |  | 2.6.1                                    | Preliminary Observations                               | 62  |  |
|   |  | 2.6.2                                    | Current Regulatory Framework with Regard to            | 62  |  |
|   |  |  | Culture in European Union Law                          |     |  |
|   | 2.7  | Conclu                                   | iding Remarks  | 65  |  |
|   |  | Contra                                   | ming remarks   | 72  |  |
| 3 | Gua  | arantees                                 | of the Cultural Rights of Third-Country                |     |  |
|   | Nat  | ionals in                                | n European Union Primary Law                           | 75  |  |
|   | 3.1  | Cultur                                   | al Rights of Third-Country Nationals Within the        | , , |  |
|   |  | EU Les                                   | gal System: The Question of the Existence of the       |     |  |
|   |  | Legal (                                  | Catalogue  | 75  |  |
|   | 3.2  |  | al Rights in the Charter of Fundamental Rights and     | /3  |  |
|   |  | the Cul                                  | ltural Rights of Third-Country Nationals               | 78  |  |
|   |  | 3.2.1                                    | Protection of Cultural Diversity                       | 80  |  |
|   |  |  | Freedom of the Arts and Sciences                       |     |  |
|   |  | 3.2.3                                    | Right to Private and Family Life and the Right to      | 83  |  |
|   |  |  | Found a Family in View of the Cultural Rights of       |     |  |
|   |  |  | Third-Country Nationals                                | 0.5 |  |
|   |  |  | Freedom of Religion and the Cultural Rights of         | 85  |  |
|   |  |  | Third-Country Nationals                                | 00  |  |
|   | 3.3  |  | Protection Against the Culture of the Country          | 90  |  |
|   | of Origin and the Guaranteed Scope of Protection |  |  | 100 |  |
|   | 3.4  | Conclus                                  | sions  | 108 |  |
|   |  | Correras                                 |  | 118 |  |

| 4 |        | tural Rights of Third-Country Nationals in the   |     |  |
|---|--------|--|-----|--|
|   |        | ration Process: Entry and Return   | 121 |  |
|   | 4.1    | Introductory Remarks   | 121 |  |
|   | 4.2    | Cultural Rights of Third-Country Nationals in View   |     |  |
|   |        | of the Procedure of Entry into the Territory of the  |     |  |
|   |        | European Union   | 122 |  |
|   |        | 4.2.1 Guarantees of a Cultural Character in the  |     |  |
|   |        | Schengen Borders Code  | 122 |  |
|   |        | 4.2.2 Visa Law and Cultural Entitlements   |     |  |
|   |        | of Third-Country Nationals   | 126 |  |
|   |        | 4.2.3 Policy on Family Reunification   | 131 |  |
|   |        | 4.2.4 Case-Law on Family Reunification   | 135 |  |
|   |        | 4.2.5 Right to Family Reunification of Citizens of   |     |  |
|   |        | Turkey in the Case-Law of the CJEU   | 142 |  |
|   | 4.3    | Return Policy and Cultural Rights of Third-Country   |     |  |
|   | 2.0    | Nationals  | 149 |  |
|   |        | 4.3.1 Preliminary Observations   | 149 |  |
|   |        | 4.3.2 Rights of a Cultural Character in the Return   | 117 |  |
|   |        | Procedure  | 150 |  |
|   |        |  | 153 |  |
|   |        | 4.3.3 Cultural Rights and Detention of Migrants  |     |  |
|   |        | 4.3.4 Voluntary Return and Cultural Rights   | 161 |  |
|   |        | 4.3.5 Undocumented Migrants and the Exercise of  | 100 |  |
|   |        | Cultural Rights in the "Grey Area"   | 164 |  |
|   | 4.4    | Conclusions  | 169 |  |
|   |        |  |     |  |
| 5 |        | sibilities of Protection and Exercise of the Cultural<br>hts of Third-Country Nationals Within the |     |  |
|   | -      | Framework of the Common European Asylum System   |     |  |
|   | 5.1    | Introductory Remarks   | 173 |  |
|   | 5.2    | Eligibility of Third-Country Nationals for International   |     |  |
|   |        | Protection: Qualification Provisions of a Cultural Nature  | 176 |  |
|   | 5.3    | Procedure for Granting Protection in View of Third-  |     |  |
|   | 0.0    | Country Nationals' Rights of a Cultural Nature   | 182 |  |
|   | 5.4    | Reception of Persons Seeking International Protection in   | 102 |  |
|   | - W- X | View of the Possibility of Protection of Cultural Rights   | 187 |  |
|   | 5.5    | Cultural Rights Guaranteed to the Beneficiaries of   | 107 |  |
|   | 0.0    |  |     |  |
|   |        | International Protection Within the Framework of the   | 102 |  |
|   |        | CEAS   | 192 |  |

|   |      | 5.5.1  | Educati    | ional Rights                                   | 193        |  |  |
|---|------|--|------------|--|------------|--|--|
|   |      | 5.5.2  |            | tion Rights of the Beneficiaries of            |            |  |  |
|   |      |  | _          | tional Protection                              | 195        |  |  |
|   | 5.6  | Questi   | ion of the | Choice of the Place of Residence and           |            |  |  |
|   |      |  |            | s Within the Framework of the CEAS             | 199        |  |  |
|   | 5.7  |  |            | struments Impactful in the Exercise of         |            |  |  |
|   |      |  |            | s by Persons Seeking International Protection  | 205        |  |  |
|   | 5.8  | Conch  |            |  | 208        |  |  |
| 6 | Cult | tural R  | ights of   | Third-Country Nationals: Regular               |            |  |  |
| Ē |      | Migrants   |            |  |            |  |  |
|   | 6.1  |  | uctory R   | emarks   | 211<br>211 |  |  |
|   | 6.2  |  |            |  |            |  |  |
|   |      | of Cultural Rights                                     |            |  |            |  |  |
|   | 6.3  | Cultural Integration and Its Significance in Political |            |  |            |  |  |
|   |      | and Strategic Documents of the European Union          |            |  |            |  |  |
|   | 6.4  | Cultural Rights with Regard to Third-Country           |            |  |            |  |  |
|   |      | Nationals' Stay in the Territory of the EU             |            |  |            |  |  |
|   |      |  |            | rm Residents                                   | 226<br>226 |  |  |
|   |      |  |            | l Rights of Other Groups of Third-Country      |            |  |  |
|   |      |  |            | als Legally Residing in the Territory of       |            |  |  |
|   |      |  | the EU     |  | 239        |  |  |
|   |      | 6.4.3  |            | l Entitlements of Members of Families          |            |  |  |
|   |      |  | of EU C    |  | 241        |  |  |
|   |      | 6.4.4  | -          | l Rights of Students and Academics             | 244        |  |  |
|   |      |  |            | Foreign Students and Their Role in             |            |  |  |
|   |      |  | Timula n   | Building Academic Culture in EU                |            |  |  |
|   |      |  |            | Member States                                  | 246        |  |  |
|   |      |  | 6.4.4.2    |  |            |  |  |
|   |      |  |            | Participate in the Academic and                |            |  |  |
|   |      |  |            | Cultural Life                                  | 248        |  |  |
|   | 6.5  | Financial Instruments Facilitating the Exercise of     |            |  |            |  |  |
|   |      | Integrative Cultural Rights                            |            |  |            |  |  |
|   | 6.6  | Conch  |            | thirtimized and demonstrated the discountries. | 253<br>259 |  |  |
|   |      |  |            |  |            |  |  |

| 7  | Conclusion |  |     |  |
|----|------------|--|-----|--|
|    | 7.1        | The Scope of the Guaranteed Protection and the Structure of the Catalogue of the Cultural Rights of Third-Country  |     |  |
|    |            | Nationals  | 264 |  |
|    | 7.2        | The Basic Features of the Catalogue  | 268 |  |
|    | 7.3        | The Limits of Exercising Cultural Rights by Third-Country<br>Nationals   | 269 |  |
|    | 7.4        | The Effectiveness of the Activities of the Union in the<br>Area of Strengthening the Protection of Cultural Rights<br>and the Protection of European Culture | 271 |  |
|    | 7.5        | The Essence and Significance of Integrative Cultural<br>Responsibilities   | 272 |  |
|    | 7.6        | The Right to Protection Against the Culture of the<br>Country of Origin  | 273 |  |
|    |            |  |     |  |
| Se | lected     | Bibliography   | 277 |  |
| In | dex        |  | 287 |  |