Access to Knowledge on the Move(ment)

How a Fifth Freedom for Research, Innovation, and Education Could Enhance the Right to Access Knowledge

Jonathan Renaux

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Strasbourg, 10 September 2025. In her annual State of the Union address before the European Parliament, the President of the European Commission set the tone for the year ahead. Against the backdrop of global uncertainty, she made one thing clear: Europe's independence in an increasingly multipolar world depends on its ability to compete with continental heavyweights, such as the United States and China. Among the key priorities she outlined, one unmistakably stood out as a core objective: strengthening the EU Single Market. And there it was again – resurfacing with growing political weight – the call for a "fifth Freedom": the free movement of knowledge and innovation.

This idea was famously articulated by former Italian Prime Minister Enrico Letta – although in slightly different wording – in his 2024 report "Much More than a Market". Letta contended that the traditional concept of the Single Market – built around the four Freedoms of movement for people, goods, services, and capital – has shown its shortcomings in addressing the challenges of the 21st century. He proposed adding a *fifth Freedom to enhance research, innovation, and education* within the EU treaties, thereby creating an ecosystem where knowledge diffusion drives economic vitality, societal advancement, and cultural enlightenment. Among the anticipated benefits he identified were the creation of a European Knowledge Commons, the development of European data spaces in key sectors, greater mobility for researchers and innovators, and the improvement of digital skills and literacy across the Union.

Following the guiding thread of this blog series, this contribution examines the legal implications that a new Freedom of movement – formally incorporated in the EU Treaties – could have on the *right to access knowledge in the fields of research and education*. This requires paying particular attention to the digital dimension of this right and therefore a broad understanding of access to knowledge as encompassing "the right to participate in the creation, distribution, and acquisition of raw information, secondary analyses of data, and knowledge-embedded tools and services".

Realising the freedom to access (digital) knowledge requires viewing it through the dual lens of fundamental rights protection and internal market law.

Access to knowledge in the European fundamental rights realm

Access to knowledge can already be understood as falling within the scope of existing fundamental rights protections under both the European Convention on Human Rights (ECHR) and the Charter of Fundamental Rights of the European Union (the Charter), as argued by Geiger and Jütte. However, this protection remains fragmented and indirect. The absence of an explicitly codified right to access knowledge – particularly in the domains of research and education – limits both the legal certainty and normative force that such a recognition could provide within the European legal order.

The right to access knowledge *for educational purposes* is neither in the Charter nor in the ECHR explicitly recognised as a standalone right. Arguably, it could be inferred from the right to education, enshrined in Article 2 of Protocol 1 to the ECHR and Article 14 of the Charter. Relevant case law, however, remains limited. The right to education has been mainly seen as the right for individuals to access educational institutions. Yet, the European Court of Human Rights (ECtHR) considers the "transmission of

knowledge" to fall within the scope of that right (*Djeri v. Latvia*, para. 106).

Similarly, the right to access knowledge *in the field of research* – often framed as the right to academic research – is not explicitly enshrined in binding human rights instruments. Nonetheless, other recognised fundamental rights could provide a "solid foundation" for a right to research.

The first is the freedom of expression. Both the ECHR (Article 10) and the Charter (Article 11) stipulate that the freedom of expression includes the right "to receive and impart information and ideas without interference by public authority". The informatory function of the freedom of expression can play an important role in protecting access to knowledge in the field of education and research. The ECtHR does recognise the necessity of a high level of protection for academic researchers, but primarily when they act as public watchdogs (e.g., *Magyar Helsinki Bizottság v. Hungary*, para. 168), not when it comes to knowledge sharing in general. The link between access to knowledge and freedom of expression can be illustrated by the example of copyrights, which regularly restrict access to knowledge. The ECtHR (e.g., *Ashby Donald v. France*, para. 40) and Court of Justice of the European Union (CJEU) *Advocate General Szpunar* consider copyrights as "bound to clash with freedom of expression" (*C-469/17*, para. 35).

The second is the freedom of the arts and sciences, explicitly enshrined in Article 13 of the Charter. Being essential for advancing knowledge and a precondition for the right to participate in scientific progress, the freedom of scientific research constitutes an important ground on which access to knowledge can be protected. As pointed out by Galloux, it encompasses access to the necessary means and conditions for its effective exercise, but also the freedom to inform the public and disseminate research findings as openly and independently as possible.

Finally, academic freedom – formally included in Article 13 of the Charter and recognised in the case law of the ECtHR – also constitutes a legal ground in which access to knowledge can be protected, both in the field of research and education, as academic freedom guarantees "freedom to disseminate information and freedom to conduct research and distribute knowledge and truth without restriction" (*Mustafa Erdoğan v. Turkey*, para. 40).

In sum, European fundamental rights already offer meaningful grounds to protect access to knowledge, and there is scope to further develop this right, especially as the increasing digitalisation of society challenges and redefines the scope of fundamental rights.

Switching realm: the added value of a fifth Freedom for access to knowledge

Additionally, the Single Market could act as a powerful "normative corridor" in which access to knowledge could thrive. By shifting from the sole realm of fundamental rights to the realm of free movement law through the recognition of a fifth Freedom for innovation, research, and education in the Treaties, access to knowledge – in its fundamental right form – can be both (i) better protected and (ii) enhanced.

First, access to knowledge could be *better protected* because the Treaty Freedoms can serve as vessels for the application of the Charter. The CJEU considers that when a Member State restricts one of the four Treaty Freedoms based on an EU-recognised ground of general interest, its justification for doing so must be assessed in light of the rights guaranteed by the Charter. More precisely, it considers that "the use by a Member State of exceptions provided for by EU law in order to justify an obstruction of a fundamental Freedom guaranteed by the Treaty must [...] be regarded as 'implementing Union law' within the meaning of Article 51(1) of the Charter" (C-55/22, para 29).

This "constitutional finesse" was employed by the Court in the context of higher education in its judgement of 6 October 2020, *Commission vs. Hungary* (C-66/18), to achieve two objectives: first, to invoke the application of the Charter through the violation of the freedom of establishment under Article 49 TFEU; and second, to strike down – for violations of Articles 13, 14 (3) and 16 of the Charter – a Hungarian law requiring, *inter alia,* foreign universities, including those

established in another Member States, to offer education activities in their state of origin.

It is therefore clear that the right to access knowledge – in its various forms and as indirectly protected by several provisions of the Charter – would play a stronger role in EU judicial review if a 'fifth Freedom' were incorporated in the Treaties, in sharp contrast to the application of other fundamental rights where the CJEU has been far more hesitant. This effect could gain in strength if, as suggested by Advocate General Sánchez-Bordona (*C-78/18*, paras 74-81), the respect for the Charter would be directly integrated into the interpretation of the Treaty Freedoms, rather than applied only at the stage of reviewing the validity of potential restrictions on them.

Secondly, a fifth Freedom could *enhance* access to knowledge in two ways. On the one hand, the Freedom of research, innovation, and education would interact with the rights enshrined in the Charter. It is foreseeable that the CJEU, applying a teleological interpretation of the Charter, might interpret the rights identified above in the light of the new fifth Freedom, thereby shaping the broader landscape of the relevant fundamental rights.

On the other hand, while the Treaty Freedoms do not themselves create direct legal bases that automatically confer new powers or competences beyond those granted by the Treaties, their significance cannot be underestimated. Beyond establishing a legal framework to prevent unjustified or disproportionate restrictions on certain EU constitutional principles, the Treaty Freedoms also serve as major political lodestars, having inspired numerous EU legislative initiatives aimed at advancing an ever closer Union. Undoubtedly, introducing a fifth Freedom would prompt the Commission to adopt an action plan to make it a reality. This would in turn include the promotion of better access rights for researchers and educators.

Concluding remarks

A legal framework (broadly defined) ensuring better access to knowledge for researchers and educators is essential to realise the newly defined Single Market that promotes the free movement of knowledge.

However, implementing such a framework also requires addressing the opportunities and risks digitalisation brings to the accessibility and integrity of knowledge. Once this new paradigm is embraced, it quickly becomes apparent that serious risks may arise that may limit online access and enable governments to significantly shape public opinion by manipulating access to knowledge. Recent events across the Atlantic have shown how universities and educators can quickly become the target of an authoritarian shift. In this context, fundamental rights play a crucial role in safeguarding democratic society.

When it comes to the fundamental Freedoms, their common goal is to establish a European common space through the protection of a transnational right to mobility. This space, while primarily economic in nature, also encompasses financial, social, and democratic dimensions. The legal nature of the free movement rights has evolved in parallel with the transformations of European society. Following goods, services, people, and capital, ensuring the free movement of *knowledge* would certainly be an important step toward creating a more innovative and democratically resilient European Union.

While the four traditional Freedoms were originally designed to serve a pre-digital economy, the proposed freedom of research, innovation, and education could address the digital and technological challenges of our time. This is especially relevant for access to knowledge as it is increasingly mediated through digital technologies. Universities and educators, therefore, must be among the primary beneficiaries of this new Treaty Freedom.

The views expressed in this publication are solely those of the author and do not represent the official position of the European Parliament.

ABOUT THE AUTHOR

Jonathan Renaux

Jonathan Renaux is a researcher in Constitutional law and member of the CIRC (Centre interdisciplinaire de recherches en droit constitutionnel) at the UCLouvain Saint-Louis Bruxelles. He is also a policy advisor at the European Parliament.

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