



Jean Monnet Module EU-GLOBACT



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Transnational Crime and EU Law: towards **Global Action** against **Cross-border** **Threats** to common security, rule of law, and human rights

1st Research Event

CULTURAL HERITAGE, TRANSNATIONAL CRIME AND GLOBAL SECURITY IN THE EU POLICIES AND LAW

March 22, 2024

Chair

GHERARDO MARIA MARENGHI

Full Professor of Administrative Law, University of Salerno; Member of the Italian Superior Council of Cultural Heritage

BIOGRAPHY

GHERARDO MARIA MARENGHI is Full Professor of Administrative Law at the Faculty of Law, University of Salerno, where he obtained a Ph.D in “*Comparative Law and Personal Rights*” and served as Researcher in Comparative Legal Systems. He is also an Administrative Lawyer since 2016 at Studio Marenghi, he is a member of the *Superior Council for Cultural and Landscape Heritage*.

Introductory Speakers

ANNA ORIOLO

Associate Professor of International Law and EU Law, University of Salerno, JMM EU-GLOBACT Leader

BIOGRAPHY

ANNA ORIOLO, Scientific Coordinator of the EU-GLOBACT Project, is Associate Professor of International Law and of European Union Law and European and International Criminal Law at the Department of Legal Sciences, University of Salerno. She is Founder and Director of the “*International and European Criminal Law*” on Cultural Issues, Human Rights, and Security (IECLO), based at the same University, where she is also Lecturer in Institutions of International Law and *Diplomatic and Consular Law* at the Department of Business Sciences - Management and Innovation Systems (DISAMIS). She has also been Lecturer in International Law and European Union Law at the University of Cagliari, at the Université Lumière Lyon 2, at the School of Specialisation for Legal Professions at the University of



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Salerno and is currently Visiting Professor at the University of Aix-Marseille. She is Scientific Coordinator for several research programmes funded by the University of Salerno (2006-2023) and her works (in Italian, English and French) covers a wide range of topics in the field of international and EU law, e.g. international criminal law and *crimina juris gentium*, human rights and fundamental freedoms, *cross-fertilisation*, cybersecurity, environmental and water protection, global law and policies, cultural heritage, ethics in international and EU law, corporate social responsibility.

ALFONSO AMENDOLA

Associate Professor of Sociology of Cultural Processes and Internet Studies, University of Salerno

BIOGRAPHY

ALFONSO AMENDOLA is an Associate Professor of Sociology of Cultural Processes at the DISA-MIS (Department of Business Sciences, Management & Innovation System) of the University of Salerno. He is the Delegate of the Rector of the "Radio d'Ateneo". He directs the University meetings "Open Class. Communication Professions" and co-directs the "Sociological Dialogues". His research paths move along three lines: *visual studies*, *media studies*, and *digital innovation*, on which he has published numerous essays, scientific articles, and critical interventions. He is involved in international Erasmus+ research projects and is a member of the scientific committee of several international journals (*Funes. Journal of Narratives and Social Sciences*; "Shift. International Journal of Philosophical Studies"; "Scenario. Visual Culture Studies"; *Im@go. Journal of the Social Imaginary*) and directs the series: "Multidisciplinary Approaches to Discourse and Sociology" (Cambridge Scholars); "La sensibilità vitale" (Rogas Editions, Rome) and "I pescatori di perle" (Meltemi Editions, Milan). Alongside his central university activity, he is a consultant and cultural manager for numerous festivals and reviews. He publishes for the daily newspaper "Il Mattino" and collaborates with Rai Radiotelevisione Italiana.

Keynote Speakers

PATRIZIA VIGNI (20 min.)

Associate Professor of International Law University of Siena

PRESENTATION TITLE

The International Responsibility of States for International and Transnational Crimes against Cultural Property

BIOGRAPHY



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Jean Monnet Module EU-GLOBACT



Transnational Crime and EU Law: towards **Global Action** against **Cross-border** **Threats** to common security, rule of law, and human rights

PATRIZIA VIGNI is Associate Professor of International Law since 2022, serving at the Department of Business and Legal Studies since 2018. She was a researcher in International Law at the Faculty of Law of the University of Siena from 2001 to 2018. She graduated in Law from the University of Siena in 1992, obtained a Master's degree in *European and Comparative Law (Magister Juris)* from the University of Oxford (UK), and a Ph.D in International Law from the University of Siena. Her main research topics are: law of international treaties, Antarctic treaty system, law of the sea, international dispute resolution, consular assistance in international and EU law, European citizenship, international protection of cultural heritage. From 2001 to 2018, she taught various courses at the Faculty of Law of the University of Siena, such as *International Organization, International Dispute Resolution, European Union Law*. Until 2014, she was a legal consultant at the Italian Ministry of Foreign Affairs for negotiations related to the *Antarctic*.

PRESENTATION ABSTRACT

Despite several international norms imposing obligations for the protection and conservation of cultural heritage on States and individuals, there are still limited, if not absent, provisions recognizing international responsibility for the violation of such obligations, especially when such violation should be attributed to a State. Even more difficult is to draw a clear and unequivocal distinction between the State's responsibility for the commission of "ordinary" international law wrongs and the responsibility arising from the perpetration of crimes against cultural heritage. Although general international law norms on State responsibility may partly contribute to resolving this uncertainty, questions remain unresolved within the international legal order concerning which entities have the right to challenge a State's responsibility for wrongful acts against cultural heritage and what legal consequences may arise against the State following the recognition of its responsibility. The international legal order does not seem to have adequate tools to protect rights that are not attributable to a single subject, whether public or private, but belong to the entire humanity.

MASSIMILIANO CROCE (35 min.)

Commander of the Carabinieri Cultural Heritage Protection Unit in Naples

PRESENTATION TITLE

International Theft and Recovery of Archaeological Heritage. The Role of the Carabinieri Command for the Protection of Cultural Heritage

BIOGRAPHY

MASSIMILIANO CROCE is an officer of the Carabinieri, commander of the *Cultural Heritage Protection Unit in Naples*. He graduated in Modern Literature and History and conservation of artistic and



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Jean Monnet Module EU-GLOBACT



Transnational Crime and EU Law: towards **Global Action** against **Cross-border** **Threats** to common security, rule of law, and human rights

archaeological assets at the University of Calabria, and obtained a second-level master's degree in Experts in the evaluation and protection activities of cultural heritage at the University "Roma Tre" of Rome. He is currently specializing in *Architectural and Landscape Heritage* at the Polytechnic of Bari. In the field of cultural heritage protection, he has published articles, monographs, and art catalogs.

ABSTRACT

Italy was the first country in the world to establish a police unit specifically tasked with combating this specific criminal sector, anticipating by a year the recommendation contained in the UNESCO Convention signed in Paris on November 14, 1970, which invited member states to adopt appropriate measures to prevent the acquisition of illicitly exported goods and promote the recovery of stolen ones. Thanks to the experience and expertise acquired, the TPC Command is at the forefront internationally in the field of cultural and landscape heritage protection, operating through prevention and repression of crimes, training activities, cultural diplomacy, public awareness, and international cooperation. The TPC also serves as an operational model for other states and collaborates constantly with international organizations for the protection and study of cultural heritage such as UNESCO, ICCROM, ICOM, UNIDROIT, and ICOMOS for the development of training activities and the sensitization of the public and sector operators.

CRISTIANO ALIBERTI (20 min.)

Senior Researcher of Comparative Public Law, University "Roma Tre"

PRESENTATION TITLE

The Protection of Cultural Heritage in the Italian Legal System: Reconstructive and Evolutionary Profiles from the Perspectives of EU Fight against Transnational Crimes

BIOGRAPHY

CRISTIANO ALIBERTI is Lecturer in Regional Law at the Department of Political Sciences at the University "Roma Tre" of Rome. He is a confirmed researcher in *Comparative Public Law* at the Department of Political Sciences of the University of Rome Tre, and he teaches *Legislation of cultural heritage* at the Department of Humanities of the University "Roma Tre" since 2013. His research activity mainly focuses on the themes of denialism and memory preservation, cultural heritage, environmental protection. Dr. Aliberti is also a member of the *Scientific Committee of the Master's Degree in Experts in the evaluation and protection activities of cultural heritage*, second level master (and of the *Scientific Committee of OGiPaC, Legal Observatory on the protection of cultural heritage*) at the University "Roma Tre".

ABSTRACT



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Article 10 of Legislative Decree no. 42 of 2004 (the so-called Cultural Heritage Code) gives cultural property a definition open to societal evolutions, being not crystallized on a specific category of goods. The main characteristics of cultural property, according to the Code, are two: materiality (*res que tangi possunt*) and destination for public enjoyment. Based on these guidelines, the Cultural Heritage and Landscape Code develops a series of articulated legal institutes aimed at protecting and enhancing both cultural goods and the landscape. In an evolutionary view, the discussion focuses, always with the aim of preserving Italian cultural heritage, on expanding protection to include even intangible cultural assets and on a tighter connection between Italian law and international and European law.

MORGANE CANO DOMINGUEZ (15 min.) **presentation in English**

Researcher at the Research Center in Criminal Law of the Université libre de Bruxelles

PRESENTATION TITLE

International Criminal Law and Cultural Property: A Source of Inspiration for EU Law?

BIOGRAPHY

Morgane Cano Dominguez is researcher at the *Research Center in Criminal Law* of the Université libre de Bruxelles, specializing in international criminal law and children's rights. She obtained her Master's degree in Law from the Université Saint-Louis Bruxelles and is currently pursuing a Specialization *Master's degree in Interdisciplinary Approach to Children's Rights*. During her career, she undertook an internship at the law firm *Loyens & Loeff*, where she became a legal secretary, and was a legal intern at the *Municipality of Schaerbeek*. Her research work has focused on various fields of international criminal law, such as universal jurisdiction and the prohibition of torture.

ABSTRACT

In International Criminal Law, several legal instruments concern the protection of cultural property. In this regard, it is interesting to analyze some of the legal instruments that provide for individual criminal responsibility for offenses against cultural property. A specific focus is dedicated to the *Al-Mahdi* case at the International Criminal Court – not only for its impact as the first conviction for attacks against cultural property, but also for the criticisms that it has raised. In particular, the unaddressed issue of qualifying the destruction of cultural property as a crime against humanity. This will highlight the current shortcomings of international criminal law and the potential anticipated evolution for the future, which may also involve EU law.

CARMINE RENZULLI (15 min)



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Jean Monnet Module EU-GLOBACT



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Lecturer in International Law of Intellectual Property, University of Salerno

PRESENTATION TITLE

The Safeguard of Cultural Identity in Armed Conflict Involving Transnational Crimes: The SUCHO Initiative, The 2023 Reform of Intellectual Property Rights and the UE Support to Ukraine's Creative Sectors.

BIOGRAPHY

CARMINE RENZULLI is Lecturer in International Law of Intellectual Property at the Department of Legal Sciences (School of Law) of the University of Salerno. At the same University, he obtained his Ph.D in *International Law and International Internal Law* in 2012. He is a lawyer registered at the Salerno Bar Association, and he is currently an honorary fellow in International Law at the University of Salerno. He also has been honorary fellow in *Advanced International Law*, *International Law of Armed Conflicts*, and *International Criminal Law* at the University of Salerno, as well as in *International Criminal Law* at the University of Sannio. His research activity mainly focuses on intellectual property law, competition, and trade in the European and international context, with particular attention to the publishing industry and companies active in the field of culture and media. He has authored several publications on these topics and has participated in conferences as a speaker, gaining training experiences both in Italy and abroad.

ABSTRACT

Starting from the concern of international institutions, dating back in time but sadly never contradicted by practice, to prevent the risks of destruction and illicit removal of cultural property in times of war, the intervention intends to provide an overview of the measures implemented at various levels to protect Ukrainian culture following the Russian offensive. The Saving Ukrainian Cultural Heritage Online (SUCHO) campaign is, in fact, an initiative with unprecedented features in the field of cultural heritage safeguarding and received the European Heritage Award in 2023. Parallely, in 2023, Ukraine – despite extremely difficult conditions in various areas of social life – has enacted a significant reform in the field of intellectual property; while the European Commission has allocated significant economic resources for the mobility of Ukrainian artists and cultural professionals within the Member States, for the translation of literary works never before translated into EU languages, and for other relevant cultural dissemination purposes. The observation of these initiatives once again testifies how the protection of culture is undergoing a progressive expansion to the media, creativity, and intellectual property rights sectors.

EMANUELE SORGENTE

Graduate Student in Law, University of Salerno

PRESENTATION TITLE



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Jean Monnet Module EU-GLOBACT



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EU-UNESCO Partnership to Fight Crimes Against Cultural Heritage.

BIOGRAPHY

Emanuele Sorgente is Student of the single-cycle Master's Degree in Law at the Department of Legal Sciences (School of Law) of the University of Salerno. He attended the Jean Monnet Module "EU-Western Balkans Cooperation on Justice and Home Affairs" where he was selected for the final presentation of the paper entitled "Cross-Border Horizons: Between Drug Trafficking and Seizure. The Economic Dimension of Transnational Crimes in EU". He is a Member of the Secretariat of the "International and European Criminal Law Observatory", at the Department of Legal Sciences of the University of Salerno. He is a member of several Research Projects funded by the University of Salerno as part of 60% funds, with Prof. Anna Oriolo as the scientific supervisor. Developing his interest in International and European law, he recently published an article in the legal journal *Altalex* entitled: "Gender Pay Gap: New Forms of Protection".

ABSTRACT

The collaboration between UNESCO and the EU in the fight against the illicit trafficking of cultural property represents a tangible example of how the joint action of international institutions (universal and regional) can significantly contribute to the safeguarding of global commons, such as cultural heritage. UNESCO and the European Union have established a decade-long collaboration on numerous matters of common interest. One of the sectors where this partnership takes on particular importance is the fight against the illicit trafficking of cultural property. UNESCO, as the leading international organization dedicated to promoting culture and diversity, has played a crucial role in guiding the adoption of EU policies aimed at preventing and suppressing crime related to cultural property and has actively supported the development and implementation of strategies to enhance the security and monitoring of cultural property within the Union. The intense partnership between the two institutions has thus favored the implementation of inventorying and cataloging systems, the promotion of security measures at cultural sites and museums, as well as cross-border cooperation between competent authorities to combat illicit trafficking.

Final Debate



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