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SCUOLA DI GIURISPRUDENZA
DIPARTIMENTO DI SCIENZE GIURIDICHE

UNESCO WORLD HERITAGE BETWEEN EDUCATION AND ECONOMY A LEGAL ANALYSIS

27-28 OCTOBER 2016 – RAVENNA SCHOOL OF LAW

CALL FOR PAPERS



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WITH THE COLLABORATION OF

Fondazione Flaminia - Ravenna (Fondazione per l'Università in Romagna), Department of Legal Sciences and School of Law - *Alma Mater Studiorum* Università di Bologna, Department of Cultural Heritage and School of Humanities and Cultural Heritage, Università di Bologna

SCIENTIFIC COMMITTEE

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CALL FOR PAPERS



La Scuola di Atene, Raffaello (The School of Athens, Raphael)

The Scientific Committee of the International Conference "UNESCO Heritage Between Education and Economy - A Legal Analysis" launches a call for papers. The papers should be written in English, unpublished and in an advanced stage of completion.

Paper proposals should address one of the following themes:

I. Cultural Heritage and its Meaning

The notion of "Cultural Heritage" has considerably evolved in International Law, as proven both by the changes in the conceptual approaches of the UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage (1972 World Heritage Convention) and by the elaboration of recent UNESCO Conventions dealing with "new dimensions" of Cultural Heritage. That is the case of the Convention for the Safeguarding of the Intangible Cultural Heritage (2003 Intangible Heritage Convention) - dealing with immaterial elements of heritage - and the Convention on the Protection and Promotion of the Diversity of



I pupi siciliani (Sicilian Puppets)

Cultural Expressions (2005 Convention on Cultural Diversity) – dealing with cultural heritage “contemporary” manifestations (namely with those transmitted through cultural products).

Important to note is that the notion of “Cultural Heritage” faces special challenges in its conceptualization due to its very interdisciplinary nature. Law in particular finds difficult to exhaustively deal with this evolving reality. Currently, International Law admits the “anthropological” concept of culture established in the Mexico City

Declaration on Cultural Policies (1982), in accordance to which culture is “the whole complex of distinctive spiritual, material, intellectual and emotional features that characterize a society or social group”. Following this concept, culture “includes not only the arts and letters, but also modes of life ... value systems, traditions and beliefs.” These dimensions are exposed to changes and transformations. Important as well is the process through which sites are included in the World Heritage Lists and their conservation and management. Complementary to this, the 2003 Intangible Heritage Convention has drawn attention towards the safeguard of "communities, groups and, in some cases, individuals" – rather than in Sciences and Fine Arts.

We invite proposal for papers dealing with questions such as: **What are the practical consequences of the diverse conceptions –implicit or explicit– of Cultural Heritage contained in the different UNESCO Convention? To what extent the recent UNESCO developments in the World Heritage Convention are in fact contributing to a more participatory management of the UNESCO Sites? How important are the differences in the conceptions of Cultural Heritage in National and International Law? What are their consequences? To what extent the conceptions of the World Heritage Convention adequately answer to the needs of World Heritage Sites other than the European ones? In that sense, is this legal instrument truly universal?**

The Scientific Committee welcomes proposals that will trigger case studies discussion.

II. Cultural Heritage & Investment Law

Although not often explicitly mentioned, culture is at the crossroad of law and politics. All countries consider both the public interest in the preservation of cultural heritage and private property rights as fundamental values worth safeguarding by domestic law. Every nation's legislation is structured in order to strike an appropriate balance between these two conflicting values. However, pertinent practice reveals that no uniform trend exists in this respect, as the degree of the restrictions imposed on private property rights that differ considerably in the various countries.

In practice, the safeguarding of cultural heritage collides with the protection of the prerogatives attached to property rights, including investors' rights. Foreign investors have often claimed that cultural policies negatively affected their investment, thereby amounting



I portici di Bologna (The arcades of Bologna)

to indirect expropriation. In other cases, the investors alleged discrimination and/or violation of the fair and equitable treatment standard. In sum, a variety of potential conflicts may arise between investor rights and cultural policies.

So far, international investment law has not developed any institutional machinery for the protection of world heritage through investment dispute settlement (“after all international investment law is not intended to protect cultural heritage”), but in recent years, a jurisprudential trend has emerged

towards greater consideration of cultural heritage.

We encourage submission on all interplayed aspects of cultural heritage and investment law and the issue of dispute settlement. Specifically, we welcome proposals relating to cross-cutting issues focused on: **the protection of built heritage against economic activities; disputes concerning world heritage and, more broadly, art law disputes; alternative dispute settlements in the art and heritage sector; heritage related arbitrations.**

III. UNESCO & World Trade Law

In the *Costa Rica v. Nicaragua* case the ICJ explained that the expression ‘trade and commerce’ in a treaty of 1858 should be today interpreted to include also tourism.

As far as the WTO system is concerned, beyond the topic of general exceptions concerning free trade when cultural goods are involved (see eg Article XX lett. f of GATT 1994), the relevance given to products and services generated by creative industries by the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005 Convention on Cultural Diversity) raises the issue of the interaction between the UNESCO system and the Geneva multilateral trade system. Providing for a very wide definition of cultural activities, goods and services (to be intended as referred to those activities, goods

and services which embody or convey cultural expressions, irrespective of the commercial value they may have), and underlining the very important contribution given by economic globalization to cultural exchanges, the 2005 Convention suggests an equilibrium between free trade and the protection of cultural diversity.



I mosaici di Ravenna (Mosaics of Ravenna)

The very limited WTO case-law on the relation between the multilateral trade system and the 2005 Convention on Cultural Diversity developed until now, together with the way in which the two treaty-systems should be read together need to be carefully explored, in order to more concretely define the interaction between the protection of cultural diversity and the promotion of free trade.

Original approaches seem to come from the recent 'mega-regional' agreements, insofar as they include protection and promotion of cultural diversity among

regulatory State powers, thus confirming a trend already traced by UNESCO Conventions and, in principle, by investment arbitral tribunals. The European Union in particular, has adopted as a basic principle of its international action the promotion of the 2005 Convention on Cultural Diversity, including this essential element in its free trade agreements, already negotiated or currently under negotiation –such as the CETA with Canada; and the TTIP with the United States.

We hope to explore the implications of legal imports from one field into another. We welcome paper proposal related to: **fair trade in indigenous cultural heritage; free trade and the cultural exception; WTO and cultural heritage protection; the contribution of culture to sustainable development; cultural property and international trade; UNESCO and the new mega-regional agreements.**

IV. Education & Tourism

UNESCO World Heritage Sites are an important source of economic income thanks to the high number of tourist they attract. States, however, can be tempted to overlook the sustainable dimension of cultural tourism. The statements concerning this issue made by the World Heritage Committee in application of the reactive monitoring mechanism are quite frequent. The launch of the UNESCO World Heritage and Sustainable Tourism Program by the World Heritage Centre proves how important the design of adequate tourism policies is in order to avoid “exotic” visions of Cultural Heritage, which very often attract economic inputs in the short term, but can be lethal for the meaning of Cultural Heritage. Cases of best practice show how it is possible to improve local and national development through tourism policies respectful with Cultural Heritage. Vital for such respectful cultural heritage policies is the design of adequate diffusion and educational programs.

The educational aspects of Cultural Heritage go beyond the issue of tourism. The 1972 World Heritage Education involves other national policies which are at the heart of the construction of the citizenship. This is especially relevant in cultural diversified societies or in those with a history of conflicts. Several policies focused on World Heritage Education have been developed by UNESCO – the World Heritage Education Programme initiated in 1994 is one of them. But there are also initiatives by United Nations bodies, such as the reports elaborated by the Independent Expert on Cultural Rights, where a human rights



Cattedrale di Cefalù (Cefalù Cathedral)

approach to Cultural Heritage Education has been adopted.

Cultural Heritage Tourism Sites also rise a relevant issue for the purposes of this Conference: how to regulate tourism services operating around World Cultural Heritage Sites. Such services fall within the scope of the General Agreement on Trade in Services (GATS). But, due to their cultural implications, they fall as well within the scope of the UNESCO Convention on Cultural Diversity, which deals with cultural products. Whilst International Law scholars have deeply studied

the issue of conflicts between WTO Law and the UNESCO Convention concerning cultural products such as TV programs, music services or films, the issue of tourism services has not yet been analyzed. Curiously, they were referred to in the *travaux préparatoires* as an example of services falling within the scope of the UNESCO Convention. Here again, it is important to note the relevance of distinguishing between the diverse scopes of the UNESCO Conventions: Whereas the cultural expression as such falls into the World Heritage Convention or into the Intangible Heritage Convention, the services linked to them would fall, instead, within the 2005 UNESCO on Cultural Diversity.

We invite proposal for papers presenting **successful cases or compilations of best practices, as well as lists of practices to avoid. The themes listed above are illustrative only and non-exhaustive. Papers offering different perspectives related to the topics of this session are also welcome.**

Paper Submission Procedure

Senior and junior scholars (including PhD students) are invited to participate to the call for papers of the International Conference "UNESCO Heritage Between Education and Economy - A Legal Analysis". Papers will be selected on the basis of the submitted abstracts. Only one abstract per author will be considered.

Abstracts must not exceed 800 words, and have to be submitted to the following mail addresses:

elisa.baroncini@unibo.it ; mfedorova@law.uni-kiel.de ; pstoll@gwdg.de ;
beatriz.barreiro@urjc.es ; sabrina.urbinati@unimib.it .

In addition to the abstract, each submission should contain a separate file containing information on:

- The section of the call for papers for which the abstract is submitted
- The author's name and affiliation
- A short (one page) author's CV, including a list of relevant publications
- The author's contact details, including email address and phone number

Timeline

- The deadline for the submission of abstracts is **19 August 2016**
- Successful applicants will be informed by 2 September 2016
- The deadline for the submission of the papers of accepted abstracts for the International Conference is 16 October 2016
- The deadline for the submission of final papers for publication is 31 December 2016

We are very pleased to announce that we would like to publish a book collecting papers from the Conference, subject to selection by the Scientific Committee. Further information about the publication process will be conveyed to selected proposal authors in due course.

For any further information please contact Maria Laura Marceddu:

maria_laura.marceddu@kcl.ac.uk