



Maastricht University

Faculty of Law

CONFERENCE

Culture and International Economic Law

Convenors: Valentina Vadi and Bruno De Witte

Programme

Can states promote economic development without infringing their cultural wealth? Culture represents inherited values, ideas, beliefs, and traditions, which characterize social groups and their behaviour. Culture is not a static concept but rather a dynamic force, which evolves through time and shapes countries and civilizations. As such, culture has always benefitted from economic exchange. Nowadays globalization and international economic governance have spurred a more intense dialogue and interaction among nations: thus, they offer unprecedented opportunities for cultural exchange. In parallel, foreign direct investments can promote cultural diversity and provide the funds needed to locate, recover and preserve cultural heritage.

Nonetheless, globalization and international economic governance can also jeopardize cultural diversity and determine the erosion of the cultural wealth of nations. While trade in cultural products can lead to cultural homogenization and even cultural hegemony, foreign direct investments have an unmatched penetrating force with the ultimate capacity of changing landscapes and erasing memory. At the same time, the increase in global trade and foreign direct investment (FDI), has determined the creation of legally binding and highly effective regimes that demand states to promote and facilitate trade and FDI. Has an international economic culture emerged that emphasizes productivity and economic development at the expense of the common wealth?

This conference, funded by the European Union and Maastricht University, aims to explore the 'clash of cultures' between international economic law

and international cultural law. It is articulated into four parts: the first part introduces the main themes and challenges. Parts II, III and IV explore the interplay between culture and economic interests in international economic law, international intellectual property law and European law respectively.

Logistic information and registration

- ❖ More information and registration form are available at:
www.maastrichtuniversity.nl/law/conferences/
- ❖ For logistic information and queries, please contact:
Elke.Hundhausen[at]maastrichtuniversity.nl

Part I: Culture and Economic Interests in International Law

- Chair: Bruno De Witte, Maastricht University (UM)
- 14:30 Introduction
Bruno de Witte and Valentina Vadi, Maastricht University
- 14:50 Culture, Human Rights and International Law
Francesco Francioni, European University Institute
- 15:10 The Cultural Dimension of Economic Activities in International Human Rights Jurisprudence
Yvonne Donders, University of Amsterdam
- 15:30 Discussion
- 16:00 Break

Part II: Culture and Economic Interests in International Economic Law

- Chair: Francesco Francioni
- 16:30 The Cultural Wealth of Nations in International Economic Law
Valentina Vadi
- 16:50 The Trade v. Culture Discourse: Tracing its Evolution in Global Law
Mira Burri Nenova, University of Bern
- 17:10 International exchange and Trade in Cultural Objects
Ana Vrdoljak, University of Technology Sydney
- 17:30 Investment Projects Affecting Indigenous Heritage
Federico Lenzerini, University of Siena
- 17:50 What's in Name? The Contested Meaning of Free, Prior and Informed Consent in International Financial Law and Indigenous Rights
Sarah Sargent, University of Buckingham
- 18:10 Discussion
- 19:00 Dinner in restaurant Petit Bonheur (Achter de Molens 2)

Part III: Culture and Economic Interests in International Intellectual Property Law.

- Chair: Valentina Vadi
- 09:00 Traditional Knowledge: Cultural Heritage or Intellectual Property?
Antonietta Di Blase, University of Roma Tre
- 09:20 A Mirage on the Cultural Horizon: The Limits of Geographical
Indications in Protecting Cultural Heritage and Promoting Cultural
Diversity
Dalindybo Shabalala, University of Maastricht
- 09:40 Copyright and the Digitization of Cultural Heritage
Lucky Belder, University of Utrecht
- 10:00 Discussion

Part IV: Culture and Economic Interests in European Law

- Chair: Hildegard Schneider, Maastricht University
- 10:30 Market Integration and Cultural Diversity in EU Law
Bruno De Witte
- 10:50 Break
- 11:20 EU Media Law: Cultural Policy or Business as Usual?
Rachel Craufurd Smith, University of Edinburgh
- 11:40 Culture in the EU's External Economic Relations
Evangelia Psychogiopoulou, Hellenic Foundation for European and
Foreign Policy
- 12:00 Discussion
- 12:30 Conclusions
- 13:00 Lunch in restaurant Fameuse ('t Vrijthof 14)

Conference Organizers

•Valentina Vadi

Dr. Valentina Vadi is currently a Marie Curie Postdoctoral Fellow at the Faculty of Law at Maastricht University, The Netherlands (until August 31st, 2013); an Emile Noël Fellow at the Jean Monnet Centre for International and Regional Economic Law, at New York University for the academic year 2013/2014 (Fall semester); and a Reader (Associate Professor) in international economic law at Lancaster University, in the U.K. (from October 1st, 2013 onwards). Dr. Valentina Vadi has also lectured at Hasselt University (Belgium), the University of Rome III (Italy), the China EU School of Law (P.R. China) and Maastricht University (The Netherlands). Dr. Valentina Vadi's main areas of research are in international economic law, including international investment law and world trade law, as well as international cultural law. She has published more than sixty articles in these areas in top journals, including the *Stanford Journal of International Law*, the *European Journal of International Law*, and others. She is the co-editor (with Hildegard Schneider) of *Art, Cultural Heritage and the Market: Legal and Ethical Issues* (Springer: Heidelberg forthcoming 2013), and *Art and Heritage Disputes*, Transnational Dispute Management (forthcoming 2013). Valentina Vadi is the author of *Public Health in International Investment Law and Arbitration* (Routledge, Abingdon 2012).

•Bruno De Witte

Bruno de Witte is Professor of European Union law at Maastricht University, and part-time professor at the Robert Schuman Centre of the European University Institute (EUI) in Florence. He is co-director of the Maastricht Centre for European Law. Previously, from 2000 to 2010, he was professor of EU law at the EUI, and co-director of the Academy of European Law there, and prior to that, he was professor at Maastricht University from 1989 to 2000. He studied law at the University of Leuven and the College of Europe and obtained a doctorate at the European University Institute in 1985, on 'The Protection of Linguistic Diversity through Fundamental Rights'.

Bruno De Witte's principal interest is the constitutional law of the European Union, with a particular focus on the relation between international, European and national law, the protection of fundamental rights, law-making and treaty revision procedures, and internal market law and non-market values. His second main field of interest is the law of cultural diversity, with a particular focus on language law, the protection of minorities and the relation between market integration and cultural diversity in European Union law.

Bruno is also a member of the Ius Commune Research School. He is a member of the editorial board of the *European Law Journal*, the *European Human Rights Law Review*, the *Revista Española de Derecho Europeo*, and the *Revista de*

Llengua I Dret. He is a member of the advisory board of the European Journal of International Law, the European Constitutional Law Review, the Maastricht Journal of European and Comparative Law, the European Journal of Law Reform, and the Zeitschrift für öffentliches Recht, and correspondent of the Rivista Italiana di Diritto Pubblico Comunitario. He currently teaches the course of Advanced EU law in the Master programmes of Maastricht University. He has supervised some 35 doctoral dissertations, partly at the European University Institute and partly at Maastricht University.

Selected representative publications: Editor of the volume *Ten Reflections on the Constitutional Treaty for Europe* (2003) and co-editor of the volumes, *Social Rights in Europe* (2005), *Constitución Europea y Constituciones nacionales* (2005), *Genesis and Destiny of the European Constitution* (2007), *The Framework Convention for National Minorities - a Useful Pan-European Instrument?* (2008), and *EU Foreign Relations Law – Constitutional Fundamentals* (2008).

List of Speakers

•Lucky Belder

Lucky Belder is Assistant-Professor at the Centre of Intellectual Property Rights (CIER) of the Molengraaff Institute for Civil Law, University of Utrecht. She is a member of the working group on Culture, Communication and Information of the Dutch UNESCO Commission and advisor on intellectual property, cultural heritage, information policies and cultural diversity. In that capacity she was a member of the Dutch delegation to several Sessions of the Committee of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions and the Convention on the Safeguarding of Intangible Heritage. She is also member of the expert-group on Cultural Diversity, hosted by the Dutch UNESCO Commission, that is to initiate and evaluate present and future projects regarding the Convention on the Protection and Promotion of Cultural Expressions. She is secretary to the board of editors of the leading Dutch journal on Intellectual property law IER published by Kluwer. L. Belder is initiator, project coordinator and researcher in the three year HERA/EU-FP7 funded Research project “Cultural Heritage Institutions, Copyright and Cultural Diversity”, which is part of the international and interdisciplinary CULTIVATE project. (2010-2013)

•Mira Burri-Nenova

Mira Burri is a Senior Research Fellow at the Swiss National Centre of Competence in Research (NCCR): Trade Regulation, and a lecturer in international media law at the University of Bern. At the NCCR, she leads the research cluster on new technologies and trade governance.

Mira's research focus has been on the interaction between digital technologies and the law, in particular, in shaping new media and cultural policies. She has published pieces in peer-reviewed journals, such as the *Journal of International Economic Law*, the *Journal of World Trade* and the *Common Market Law Review*. Mira is the author of *EC Electronic Communications and Competition Law* (Cameron May, 2007) and *Classification of Services in the Digital Economy* (Springer, 2012; together with Weber). She has co-edited the publications: *Free Trade versus Cultural Diversity* (Schulthess, 2004); *Digital Rights Management: The End of Collecting Societies?* (Staempfli et al., 2005); *Intellectual Property and Traditional Cultural Expressions in a Digital Environment* (Edward Elgar, 2008); *Governance of Digital Game Environments and Cultural Diversity* (Edward Elgar, 2010); and *Trade Governance in the Digital Age* (Cambridge University Press, 2012).

Mira is a member of the editorial board of the *International Journal of Communication Law and Policy* and of the *International Journal of Cultural Property*. She has acted as a consultant to the European Parliament on cultural diversity matters.

•Rachael Craufurd Smith

Dr. Rachael Craufurd Smith is a Senior Lecturer at the University of Edinburgh, specialising in media, the regulation of culture and European Union law. In 2003/4 she was a Jean Monnet Fellow at the European University Institute, Florence. She is a qualified solicitor and has worked both in the International and Policy and Planning Departments of the BBC, focussing on the impact of European Community Law on the public broadcasting sector. Rachael also worked as a trainee in the Internal Market DG of the European Commission and was a Fellow for a number of years at Trinity, Corpus Christi and St. John's Colleges, and a University Lecturer at the University of Oxford.

She has written widely on media law and currently heads the University of Edinburgh team working on the EU funded Mediadem project, which seeks to promote free and independent media. Rachael was a co-founding editor of *The Journal of Media Law*, launched by Hart Publishing in 2009.

- Antonietta Di Blase

Professor Di Blase is Full Professor of International Law in the University of Rome 'Roma Tre' Law School. She is a Member of the editorial board of the *Rivista di Diritto Internazionale Privato e Processuale* and of the Board of teachers of the International Doctoral School "Tullio Ascarelli" at the University of Roma Tre. She is also a member of the Scientific Committee of the International Centre of Studies on Alberico Gentili (S. Ginesio). Professor Di Blase holds an honours J.D. Degree from the University of Rome "La Sapienza", Law School (Italy). Before joining the University of 'Roma Tre', Professor Di Blase held professorships of international law and/or international economic law at the University of Bologna Law School (1st November 2002- 1st November 2006), the LUISS University-Guido Carli of Rome (1996-2001); and the University of Camerino (1994-2002). She also was former Director of the Department of Public Law of the University of Camerino (1995-1996), where she was also Dean of the Law School (1996-2001). She has published widely in the area of international law and international economic law.

- Yvonne Donders

Prof. Dr. Yvonne Donders is Professor of International Human Rights and Cultural Diversity and Executive Director of the Amsterdam Center for International Law (ACIL) at the Faculty of Law of the University of Amsterdam. She graduated from Utrecht University in international relations and has done her PhD at the Law Faculty of Maastricht University on cultural human rights and the right to cultural identity. Her research interests include public international law; international human rights law, in particular economic, social and cultural rights and human rights and cultural diversity. She teaches courses on international law and international human rights law and gives lectures on cultural rights and cultural diversity.

Yvonne Donders worked from March 2011 to October 2012 as project manager (1 day per week detachment) at the National Human Rights Institute of the Netherlands (College voor de Rechten van de Mens), assisting the transformation from Equal Treatment Commission to NHRI. Previously Yvonne Donders worked as Programme Specialist on Economic, Social and Cultural Rights in the Division of Human Rights and Struggle against Discrimination of UNESCO's Secretariat in Paris. Yvonne Donders is a member of the European Expert Network on Culture (EENC), the National Commission for UNESCO and Chair of the Dutch United Nations Association (Nederlandse Vereniging voor de Verenigde Naties, NVVN).

• Francesco Francioni

Francesco Francioni holds the Chair of International Law at the European University Institute in Florence and the University of Siena, and is a Visiting Professor at the University of Texas Law School. He has been legal advisor of the Italian Ministry of Foreign affairs in many international negotiations concerning the cultural heritage and the environment. He was president of the World Heritage Committee of the UNESCO in 1997 and 1998. He is a graduate in law from the University of Florence and from Harvard University.

• Federico Lenzerini

Professor Federico Lenzerini holds a Juris Doctor *magna cum laude* from the University of Siena (Italy) and a Ph.D. in international law from the University of Bari (Italy), 2003. He is a Professor of Public International Law, Private International Law, European Union Law and the Law of Cultural Property at the University of Siena. Occasionally, he has worked as a consultant to the United Nations Educational, Scientific and Cultural Organization (UNESCO) and as Legal Advisor of the Italian Ministry of Foreign Affairs at international negotiations concerning the protection of cultural heritage. He is a member of the Committee on Biotechnology of the International Law Association (ILA), Rapporteur of the ILA Committee on the Rights of Indigenous Peoples, and member of the ILA Committee on Cultural Heritage Law. In addition, he is Visiting Professor at the Tulane University of New Orleans and at the St. Thomas University Law School, Miami (FL), USA, in the context of the LL.M. Programme on Intercultural Human Rights, 2009-2012. He is a Professor at the “European Master for the Conservation and Management of Cultural Property”, organized by the Faculty of Literature of the University of Siena and a Professor at the Tulane-Siena Summer School on International Law and the Arts, 2009-2012; and was a Visiting Professor at the Academy of European Law, European University Institute, Session on Human Rights Law, June-July 2011. His main areas of research include the international protection of human rights; the rights of indigenous peoples; the international protection of cultural heritage; the rights of refugees and the right of asylum; international environmental law and international trade law.

• Evangelia Psychogiopoulou

Dr Evangelia Psychogiopoulou is a lawyer and research fellow at the Hellenic Foundation for European and Foreign Policy (ELIAMEP). A graduate from the Faculty of Law of the Kapodistrian University of Athens, she holds a DEA in European and Community Law from the University of Paris I, Panthéon-Sorbonne (2001), and a Master of Research in Law from the European University

Institute (2003). In 2007, she successfully defended her PhD thesis on the accommodation of cultural diversity considerations in EU law and policies (Art. 167.4 TFEU) at the European University Institute. Her research interests lie in the fields of EU law, with emphasis on EU cultural and media policies, and human rights protection. She has held research and management positions at the Academy of European Law (Florence, Italy), the Directorate General Education and Culture of the European Commission and UNESCO. Her articles have appeared, among others, in *European Foreign Affairs Review*, *European Law Journal*, *European Law Review*, and *Legal Issues of Economic Integration*. Her recent publications include: *The Integration of Cultural Considerations in EU Law and Policies* (Martinus Nijhoff Publishers, 2008); *The European Court of Human Rights and the Rights of Marginalised Individuals and Minorities in National Context* (Martinus Nijhoff Publishers, 2010, ed.); and *Understanding Media Policies: A European Perspective* (Palgrave Macmillan, 2012, ed.).

•Sarah Sargent

Dr Sarah Sargent is currently a Lecturer at the University of Buckingham, United Kingdom. She holds a Bachelor of Arts (*cum laude*) degree from Kansas State University, a Juris Doctor degree from the University of Denver, an LL.M (with distinction) from the University of Leicester and a PhD from De Montfort University. She has previously practiced law in the United States, and was involved with the issues on the rights of indigenous children in state fostering and adoption. She is a co-founder and past president of the not-for-profit organisation of the Kansas Association of Counsel for Children, which is an affiliate of the National Association of Counsel for Children. Dr Sargent was also a member of an Advisory Committee of the Kansas Judicial Council that studied and proposed statutory changes for fostering and juvenile offender laws.

Her research interests are of culture and cultural heritage with a focus on children's, indigenous and human rights in public international law. She has published articles on children's rights and indigenous rights, and is the editor of a forthcoming book on the impact of the United Nations Declaration on the Rights of Indigenous Peoples on indigenous rights.

•Hildegard Schneider

Hildegard Schneider is Professor of European Union Law at the Faculty of Law at Maastricht University. She studied law, political science and art history in Freiburg (Breisgau), London, Paris and Münster. She completed the '1. Staatsexamen' in 1980 and the '2. Staatsexamen' in 1986 (after working at the Westfälische Wilhelmsuniversität in Münster and at a solicitor's office in Hong Kong). Since 1986, she has worked at Maastricht University, lecturing in European Union law and art law among other courses. She obtained her PhD

defending a thesis entitled 'Die Anerkennung von Diplomen in der Europäischen Gemeinschaft' at Maastricht University. From 1997 to 2001, she served as Director of Studies of the Magister Iuris Communis programme. Today she is a scholar of the Maastricht Centre for European Law and a member of the Ius Commune research school. She is involved in various international networks and in the coordination of European Union substantive law. She lectures, inter alia, European internal market law and law and art. She has been Dean of the Faculty of Law since September 2011, as well as member of the Management Team of Maastricht University.

In her research she is particularly interested in art law, the free movement of natural and legal persons and migration issues, the recognition of diplomas and EU policies in the field of education and culture, international trade law and comparative law. She has authored a number of articles in the area of cultural heritage and co-edited (with Peter Van den Bossche) *Protection of Cultural Diversity from a European and International Perspective* (Antwerpen/Oxford: Intersentia 2008).

•Dalindyebo Shabalala

Dalindyebo Shabalala is Assistant Professor, International Economic Law (Intellectual Property) at Maastricht University Faculty of Law. He is Academic Coordinator for the Institute for Globalization and International Regulation (IGIR). His research focuses on Climate Change and Intellectual Property issues on one hand and on IP and Development issues on the other. He focuses in particular on the role of Brazil, India and China in the regulation of international technology transfer and intellectual property. Previously, Mr. Shabalala was the managing attorney of CIEL's Geneva office, and Director of CIEL's Intellectual Property and Sustainable Development Project. He focused on issues at the intersection of Intellectual Property and Climate Change, Human Health, Biodiversity and Food Security, as well as addressing systemic reform of the international intellectual property system. Mr. Shabalala was a Research Fellow in the Innovation, Access to Knowledge, and Intellectual Property Programme at the South Centre (2005–2006), an intergovernmental organization of developing countries in Geneva, Switzerland. Before this, Mr. Shabalala worked as an intern at the South Centre with Dr. Carlos Correa in the Intellectual Property Policy Research and Development Project, researching patent policy in developing countries.

•Ana Vrdoljak

Ana Filipa Vrdoljak is the author of *International Law, Museums and the Return of Cultural Objects* (Cambridge: Cambridge University Press, 2006) and numerous academic articles on international law, cultural heritage and human rights. She is currently completing a European Commission funded book project entitled 'Law and Cultural Heritage in Europe'. She has taught courses and been invited to present at international conferences on these issues in Asia Pacific, Europe and North America. Dr Vrdoljak is also a Visiting Professor, Legal Studies Department, Central European University, Budapest. She is a member of the Cultural Heritage Law Committee and Rights of Indigenous Peoples Committee, International Law Association, and Board Member of the International Cultural Property Society (U.S.) and Advisory Board, International Journal of Cultural Property (CUP). She is co-General Editor of the Cultural Heritage Law and Theory: International and Comparative book series. She was a Marie Curie Fellow and Jean Monnet Fellow at the Law Department of the European University Institute, in Florence; and a visiting scholar at the Lauterpacht Centre for International Law, at the University of Cambridge; at the Global Law School, New York University, and the Faculty of Law of the University of New South Wales. She holds a Doctor of Philosophy (in Law) from the University of Sydney.